



# Ozîja Thiha Legacy Trust

## Basic Facts

December 2020

# CONTENTS

## PURPOSE OF TRUST FUND

- Introduction
- General Overview of a Trust
  - General Overview
  - Trust Deed
  - Trustees and Beneficiaries
- Key Terms of the Ozija Thiha Legacy Trust
  - Trusts Deed
  - Trustees
  - Beneficiaries and Distributions
  - Administration
- How Moneys are Administered and Invested
- Risks
- Indigenous Services Canada
- First Nation Trust Funds

# PURPOSE OF OZÎJA THIHA LEGACY TRUST INTRODUCTION

- The establishment of our own Trust represents many years of hard work and persistence by the leadership of Bearspaw Chief and Council with the support of our Elders and members.
- In the past, the Stoney people were unprepared for the tremendous influx of royalty revenue that was paid to us. In attempting to help our members in the most direct way possible, hundreds of millions of dollars have been paid out to our members for per capita distributions, housing and other purposes.
- It appears that we forgot about saving and investing a portion of the royalty money from our non-renewable resources (natural gas) for our future generations. However, it is not too late.

# PURPOSE OF OZÎJA THIHA LEGACY TRUST INTRODUCTION (CONTINUED)

- Our Nation intends to invest the money we have saved from the sale of our non-renewable resources, so that when the resources are gone, we will continue to enjoy the social, economic and financial wealth we have been blessed with.
- The Bearspaw Nation's goal to achieve economical self-sufficiency will be significantly advanced and enhanced with the establishment of the Ozîja Thiha Legacy Trust.
- The transfer of Capital Moneys to Ozîja Thiha Legacy Trust will stand for the protection and growth of Bearspaw First Nation assets for Bearspaw children, grandchildren and children yet to be born.

# THE NATURE OF A TRUST

## GENERAL OVERVIEW

A “**Trust**” is a relationship established when:

- 1) a “**Settlor**” (the person who provides the Trust with capital in this case Bears paw Chief and Council),
- 2) transfers property (generally money) to another person or entity (the “**Trustees**”) of the Ozija Thiha Legacy Trust,
- 3) for the benefit of one or more “**Beneficiaries**” (the Bears paw First Nation and its members)

# GOVERNING DOCUMENT – THE TRUST DEED

## The Trust Deed:

- Describes the capital moneys contributed to the Trust for the benefit of the Bearspaw First Nation
- In this case capital moneys means Bearspaw's per capita share of the Stoney Nakoda Capital Moneys currently administered by Canada (INAC)
- Describes the beneficiary of the Trust – the Bearspaw First Nation
- Describes the Trustees' duties and obligations to the beneficiary
- Establishes the rules the Trustees must follow when investing the Trust Capital and making distributions to the beneficiary (Bearspaw First Nation)

# TRUST DEED (CONTINUED)

## The Trust Deed:

- Provides that there are to be a Board of three (3) trustees with the option to grow up to five (5) Trustees
- No trustee can be a member of Chief and Council, or the Bearspaw Administration
- The initial trustees will be selected and appointed by resolution of Bearspaw First Nation Chief and Council
- Trustees will be professionals with extensive experience with trusts, financial matters and institutional investing
- The Trustees must act honestly and in good faith with a view to the best interest of the Trust, keeping in mind the beneficiaries of the Trust are both present and future generations of the Bearspaw First Nation.

# TRUSTEES

The Board of Trustees are charged with:

- Managing and investing the capital of the Trust in a prudent way
- Growing the value of the Trust over the long term
- Providing ongoing annual distributions to the Nation to promote and encourage the cultural, social, economic and civic improvement of the current and future members of the Bearpaw First Nation in perpetuity in accordance with the terms of the Trust Deed

# TRUST CAPITAL

- Under the terms of the Ozija Thiha Legacy Trust, trust deed no encroachment on Trust Capital would be permitted. This means the capital moneys of the trust cannot be spent but rather grow to produce greater income each year.
- This would be the largest change to the Bearspaw Nation and Stoney Tribal Administration in its operations going forward
- Encroachment on Trust Capital would become a thing of the past and Trust Capital would begin to grow rather than decline as it has for many years. As Capital grows, so will the annual Revenue to Bearpaw Nation

# BENEFICIARIES AND DISTRIBUTIONS

## Beneficiaries

The “beneficiaries” of the Trust will be the Bearspaw First Nation and its members present and future

## Distributions

The Trust would make annual (or quarterly) distributions of money to the Nation on in accordance with the distribution formula fixed by the Trust Deed

These distributions of money would replace the current semi-annual interest payments made by INAC and spending of capital moneys

# BENEFICIARIES AND DISTRIBUTIONS (CONTINUED)

## Distributions, Continued

- Distribution (Revenue) is defined as the amount the Board of Trustees shall paid out according to the formula the Trust Deed to Bearspaw First Nation as the beneficiary
- The distribution is made to the Nation as beneficiary of the Trust, not to individual members (ie: these are not per capita distributions)
- The moneys are automatically distributed to the Nation, Chief and Council use the moneys under its own discretion for the Nation's annual budgets and projects

# BENEFICIARIES AND DISTRIBUTIONS

## (CONTINUED)

### Loans

The Trustees could lend money to the Bearspaw Nation, subject to the strict terms of this provision in the Trust Deed

No loans could be made unless the majority of the Trustees agree and additional restrictions may apply

No loans could be accessed by the Bearspaw First Nation until the fifth anniversary of the establishment of the Ozija Thiha Legacy Trust

# ADMINISTRATION

## Investment Policies and Procedures

The Board of Trustees will develop a “Statement of Investment Policies and Procedures” (SIP&P) and retain professional investment managers to assist in investing the capital of the Trust

The Trustees are required to continuously monitor and at least annually review and report on the investment return of the Trust Fund to the Bears paw First Nation

## Published Report

The Trustees are required to publish a report of the activities of the Trust on an annual basis to the members of the Bears paw First Nation with audited financial statements

# ADMINISTRATION

## Books and Records

- The Board of Trustees will be required to maintain all necessary books and records

## Annual Audit

- The Trust will be audited annually by an independent external auditor
- The auditor will, among other things, review the books and records of the Trust

# ADMINISTRATION

## What is an audit?

- Performed by an independent accounting firm who is accredited to perform audits by their provincial professional institute
- Trustees will be required to prepare the financial statements in accordance with the relevant accounting rules; the auditor performs various procedures to obtain reasonable assurance that the financial statements are presented fairly, in all material respects, with the relevant accounting standards.

# INCOME TAX CONSIDERATIONS

- Generally, the Trust is subject to individual income tax in the province in which it is resident
- First Nations Trusts are administered in a manner that does not result in the payment of any income tax
- No income tax has been paid by the Kisoniyaminaw, Neyaskweyahk, WSAP and Nunavut Trust Funds

# HOW MONEYS ARE ADMINISTERED AND INVESTED

## Role of the Trustee(s)

- The Trustees are required to manage and invest the capital of the Trust in a prudent way and grow its value
- As Trustees are not necessarily professional investment advisors, they will hire professional money managers and a custodian to safe guard assets on their behalf
- Trustees must develop a Statement of Investment Policies and Procedures ("SIP&P") for the professional investment managers to follow and review the strategy on an annual basis

# HOW MONEYS ARE ADMINISTERED AND INVESTED

## Role of the professional investment manager(s)

- Responsible for determining where to invest the Trust's financial assets in accordance with the requirements outlined by the Trust agreement and SIP&P
- Develop and investment strategy that adheres to the SIP&P developed with the Trustees
- Must follow their relevant professional rules; are regulated by the Investment Dealers Association, CFA Institute, etc...

# HOW MONEYS ARE ADMINISTERED AND INVESTED

## Role of the Custodian

- Responsible for safeguarding the Trust's financial assets
  - Holds the assets of the Trust in safekeeping
  - Arranges settlements and trades in financial securities (stocks)
  - Collects information on the related income from the assets held and reports to the Trust
- Typical custodians would be the major banks RBC, TD, CIBC, etc.
- Regulated by the Office of the Superintendent of Financial Institutions

# RISKS TO BE CONSIDERED

## Market risk

- The risk that the fair value or future cash flows of the moneys held in the Trust will fluctuate because of changes in financial market prices (currency risk, interest rate risk and other price risk)
- This risk is inherent with any investment and not just with investments held in a Trust – any investment is subject to risk
- According to the Ozija Thiha Lecacy Trust, Trust Deed, the Trustees are to consider the importance of diversification of the investment portfolio to help minimize market risks

# RISKS TO BE CONSIDERED

## Other risks

- The current administration of Bearspaw/Stoney – Nakoda Capital moneys by the Federal Government (INAC) is not exempt from risk
- Historically low rates of return is a risk as inflation would cause money to become less valuable over time
- Currently Federal Government pays less than 1% per annum on Indian Capital Moneys. Inflation in Canada is currently 2.3%. Therefore Bearspaw Nation is currently losing money by leaving it with Federal Government as the purchasing power of money grows less each year due to inflation
- Revenue stream (annual income) of the trust could fluctuate depending on the financial markets overall

# DEPARTMENT OF INDIGENOUS AFFAIRS (INAC)

- INAC maintains control of Indian Moneys pursuant to the Indian Act since the late 1890's
- INAC collects royalty payments from companies producing natural gas on the Stoney – Nakoda Reserve lands. Canada (INAC) credits the Stoney Capital Trust account with these payments in Ottawa
- INAC sets the rate of interest on Indian Moneys through an Order-in-Council. The rate of return on Indian Moneys paid by INAC has been inferior for long-term moneys like those of the Stoney-Nakoda Nation since at least the early 1980's.
- Under the Indian Act, INAC easily permits the expenditure of Capital Moneys which has depleted the trust account significantly over time.
- In the case of the Stoney-Nakoda Nation large amounts of Trust Capital has received very low rates of return even though INAC has held the moneys for the long term.

# DEPARTMENT OF INDIGENOUS AFFAIRS (INAC) - CONTINUED

- Currently the rate of interest paid by INAC on Indian Moneys is less than 1% per year (0.96%)
- This means that the Bearspaw and the other Stoney-Nakoda Nations are losing money due to the fact that the official rate of inflation in Canada is currently 2.3%. The purchasing power of Bearspaw and Stoney-Nakoda Moneys are being eroded by inflation
- In addition, INAC has never provided a proper audit of the Bearspaw/Stoney Capital Moneys or annual report with the details of their management and administration of the Capital Moneys

# FIRST NATIONS TRUST FUNDS

- There are many examples of First Nations establishing trust funds to protect their assets and provide financial stability for present and future generations in Canada (especially when a non-renewable resource like oil and gas is being depleted – such as the case with the Stoney-Nakoda Nation)
- Nunavut, Samson, Ermineskin, and Onion Lake Nations and others established large trust funds many years ago and they serve as good case studies for other First Nations looking at starting their own
- All these Trusts have earned significantly more money than would have been earned had the moneys been left under the control of the Government of Canada (INAC)

## FOR FURTHER INFORMATION:

Bearspaw First Nation  
P.O. Box 1050  
Morley, AB T0L 1N0

Signatory of Treaty 7, 1877

Email: [Robs@bearspawfirstnation.com](mailto:Robs@bearspawfirstnation.com)  
[otltrust@bearspawfirstnation.com](mailto:otltrust@bearspawfirstnation.com)