

BEARSPAW FIRST NATION

Presentation on Ozîja Thiha Legacy Trust

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PRESENTATION OVERVIEW

1. Introduction
2. What is a trust?
3. Trust Formation
4. Key Decisions



TO DECIDE

- A TRUST CAN BE SET UP TO RECEIVE, HOLD, INVEST AND DISTRIBUTE SOME OR ALL OF THE CAPITAL MONIES FOR THE BENEFIT OF PRESENT AND FUTURE GENERATIONS OF BEARSPAW FIRST NATION MEMBERS.
- YOU, YOUR CHILDREN, YOUR GRANDCHILDREN AND THEIR GRANDCHILDREN.
- DOES CHIEF AND COUNCIL WANT TO SET ASIDE THESE MONIES FOR THIS PURPOSE?

WHY SETTLE A TRUST?

- BFN Capital Moneys are from non renewable resources that come around once in a generation
- BFN Capital Moneys are depleting. No focus on saving. Some FN's Capital Moneys are gone.
- Interest earned from INAC on Capital Moneys is less than inflation.
- As time goes on, unless something is done, BFN will be able to afford LESS rather than MORE services for BFN members.
- A well managed Trust for BFN Capital Monies can lead to MORE services to members in future.

WHY SETTLE A TRUST?



WHAT IS A TRUST?

- Examples: Nunavut Trust,
Kisoniyaminaw and Neyaskweyahk Trusts of Alberta,
RRSP's
- The trust is not a "person"
- A trust is the relationship between a trustee, beneficiary and property



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TRUST FORMATION

- A Trust Deed (a written document) is used to evidence:
 - Intention
 - Subject matter
 - Purposes and Beneficiaries
- Settlor – who will or can contribute property or money to the Trust?
- Trustees – who will be responsible for management of the Trust property?
- Property – what is or will be managed?

FORMATION OF OZÎJA THIHA LEGACY TRUST

- Settlor – Bearspaw First Nation by resolution of Chief and Council
- Property
 - Initial contribution [\$100]
 - BFN per capita share of Stoney-Nakoda Capital Moneys held by Canada – Estimated \$52 MM
- Trust Deed Document Identifies
 - Beneficiary
 - Objects
 - Trustees

BENEFICIARIES

- Consider
 - Bearspaw First Nation as represented by Chief and Council – *Least Complicated*
 - As others are introduced, they get too complicated.
- **RECOMMEND: KEEP IT SIMPLE!**



BENEFICIARIES

- The Purposes You Want to Serve will define who Should be Beneficiary
- **Possible Purposes**
 - Fund BFN annual budget.
 - Annual Payment to Nation - incorporated into BFN's budget to offset costs of BFN programs and services.
- RECOMMEND: BEARSPAW FIRST NATION AS REPRESENTED BY CHIEF AND COUNCIL

WHAT PROPERTY WILL BE CONTRIBUTED?

- Some or All of Capital Monies held by Canada proceeds
- Other?
- Tax Considerations



TRUSTEES

- What is their job?
 - protect, be honest, administer and account to BFN for Trust monies,
 - set a written Investment Policy for funds
 - hire/monitor/fire investment managers
 - file tax returns
 - make/monitor distributions to Beneficiary
 - hire auditors
 - interpret Trust Deed

DUTIES OF TRUSTEE

- Special duties imposed by law on a Trustee include:
 - a duty to invest the trust moneys properly
 - a duty not to profit from the use of the trust moneys
 - a duty to avoid any conflict of interest
 - a duty to accurately account to the beneficiaries
- Trustee may hire other people/companies to assist in carrying out these duties (e.g. a custodian)
- "Standard of Care" makes certain all safeguards in place for growth and security of Trust funds.



TRUSTEES

TYPES:

Corporate Trustee – Financial Institution

Individuals who are Professionals - Experts

QUALIFICATIONS:

- Individuals - Professional Designation (Accounting, Actuarial, Legal, Other)
- Individuals : BFN Members and/or Non-BFN Members
- Residency

OTHER CONSIDERATIONS:

- Should Elected Officials be Allowed to be Trustees?
- What About Employees of Bearspaw First Nation?

DISTRIBUTIONS FROM THE TRUST

- Trust will distribute money earned from investment of Trust funds to Beneficiary
 - To BFN Chief and Council to spend on Nation budget or special projects as it sees fit.
- How Often? Once a Year? Monthly? Quarterly?
- Will it be taxable?
- Trustees do NOT monitor use of Funds by Beneficiary.

AMENDMENT

- Power to amend the Trust Deed is reserved to:
 - Bearspaw First Nation Chief & Council
 - Trustees
 - Members of Nation?

RECOMMEND: ON APPLICATION TO A COURT WITH SUPPORT OF MAJORITY VOTE OF BEARSPAW FIRST NATION CHIEF AND COUNCIL AND MAJORITY VOTE OF TRUSTEES

TERMINATION

- How "permanent" is the Trust settlement?
- Termination Considerations:
 - The Trust Can Never Be Terminated
 - The Trust Can Be Terminated by Trustees' Resolution
 - The Trust Can Be Terminated by Chief & Council Resolution
- **RECOMMEND: EARLIER OF UNANIMOUS VOTE OF TRUSTEES AND 21 YEARS AFTER DEATH OF BFN MEMBER ALIVE TODAY**

- QUESTIONS?

