



Bearspaw Capital Trust Money Transfer Newsletter

A Publication of the Bearspaw First Nation

January 2021

Message from Bearspaw Chief and Council

To all members of Bearspaw First Nation
Subject: Bearspaw Capital Moneys Transfer Issue

Dear Members:

The Chief and Council are pleased to announce that the Bearspaw First Nation has been successful in negotiating with the Minister of Indigenous Services Canada ("ISC") in setting out a process for the transfer of the Bearspaw First Nation per capita share of the Stoney Capital Moneys (the "Bearspaw Capital Moneys") from Canada to an independent trust fund established by the Bearspaw First Nation.

This development represents the culmination of many years of hard work and persistence by the leadership of Bearspaw, our Elders and numerous Bearspaw members. The desire of the Bearspaw First Nation as a sovereign Treaty Nation to gain control over its own moneys in order to establish a heritage fund for present and future generations goes back to as early as the 1980's. Over the years the Bearspaw leadership, with the assistance and wisdom of our Elders, have worked hard towards this desired goal for the benefit of our people.

The Chief and Council of the Bearspaw First Nation are proud to announce the proposed transfer of Bearspaw Capital Moneys to the Ozija Thiha Legacy Trust. The transfer will be an exercise of our treaty right as a self-determining Treaty Nation. Bearspaw, through an independent trust, would also have the opportunity to obtain a higher rate of return compared to the very low rate of return paid on Stoney's Capital Moneys by Canada through



the Department of Indigenous Affairs over many years.

The Bearspaw First Nation established the Ozija Thiha Legacy Trust as an independent trust to accept Bearspaw Capital Moneys. The Trust Fund will be governed by a Board of independent persons who must exercise their duties prudently and in the best interests of present and future generations of the Bearspaw First Nation. The Board of Trustees will be responsible for investing trust moneys, hiring professional investment managers and a custodian, ensuring strict investment policies are followed, monitoring performance of the funds, providing an annual report on the activities of the Trust with audited financial statements and making an annual report available to all Bearspaw members.

Chief and Council believe this initiative will be in the best interests of present and future generations of Bearspaw First Nation. The Ozija Thiha Legacy Trust will help ensure Bearspaw First Nation will grow its wealth and has operating revenue that is sustainable for our present and future generations.

Information about the Bearspaw Capital Moneys transfer will be provided to all members of the Bearspaw First Nation. Information cards, newsletters and other documents will be circulated to the membership. The COVID-19 Pandemic creates a number of challenges to the Nation in the consultative process. Health Canada is restricting travel and the attendance of

the number of people that can attend public or private meetings. In order to deal with the restrictions, the Bearspaw Nation has created a website specifically for this project www.bearspawfirstnation.ca. The website contains information about the trust deed, the Trust investment policy, presentations from professionals, videos from Indigenous leaders, reports from other Indigenous trust funds and related matters. Members can contact the coordinator directly for additional information or if they have any questions.

In closing, the Chief and Council are confident that the transfer of Bearspaw Capital Moneys to the Ozija Thiha Legacy Trust is in the best interests of the Bearspaw First Nation and all of our members. Over the last four decades, various Chiefs, Councillors and members have been dissatisfied with the Government of Canada's control and management of Stoney's Capital Moneys. We wish to grow not deplete our heritage moneys coming from a non-renewable resource. The transfer of Bearspaw Capital Moneys will ensure that our moneys will be held in trust for future generations while a providing stable flow of operating revenue for Bearspaw First Nation in the present. This milestone represents the latest achievement in our struggle to assert our self-determining status as a Treaty Nation.

Respectfully submitted,
The Chief and Council of the Bearspaw First Nation



Left to Right: Councillor Anthony Bearspaw, Councillor Rex Daniels, Chief Darcy Dixon, Councillor Pierre Lefthand and Councillor Rod Hunter.



Moses Bears paw, Headchief (1908)



Left to Right: Chief Walking Buffalo's sister Esther. and Diane Rider's father's sister Chima (ca 1910's)

Financial Considerations for the Ozîja Thiha Legacy Trust

Bears paw Capital Moneys are currently held by the Federal Government, and interest is paid pursuant to the provisions of the Indian Act. All of the yearly interest paid to Bears paw First Nation has typically been spent in the annual budget. None of the interest is reinvested back into the Capital Moneys account administered by the Federal Government. As such, the Capital Moneys do not grow with inflation.

Additionally, the Capital Moneys are reduced further when Chiefs and Council request withdrawals from the Capital Moneys account. Under the provisions of the Indian Act, the Tribal Council continue to make withdrawals from the Capital Moneys account if their request is approved by the Minister of Indigenous Services. This seriously impairs the ability to grow these Capital Moneys.

Inflation is the ongoing rise in the average price of every day goods and services (gasoline, food, vehicles, etc). It is important that these funds keep pace with inflation to avoid a decrease in the real purchasing power of the Capital Moneys over time.

The financial difference between transferring the money into an independent trust or leaving the moneys with the Federal Government is significant. Under the current Indian Act system there is no opportunity to grow the Capital Moneys. However, by transferring the Capital Moneys into trust and actively managing the fund as contemplated under the trust deed, it may be possible to obtain a higher rate of return in order to grow the trust fund over time.

The yearly payment to Bears paw First Nation from the trust will be a minimum of \$3.6 million. The yearly payment will grow with an increase in the total value of the trust fund going forward into the future.

As Bears paw's population is rapidly increasing, the demands on the Nation will continue to grow. As such, it is necessary to ensure the growth of Bears paw's funds through safe investment strategies and restrictions on how Bears paw First Nation may make withdrawals from the fund. The Ozîja Thiha Legacy Trust is a method to achieve this growth and protect these trust funds for the benefit of both present and future generations.



King George and Queen Elizabeth visiting Treaty 7 Chiefs at Calgary, AB (May, 1939)

Ozîja Thiha Legacy Trust Trust Deed

A "trust" is a relationship which arises whenever a person (the "trustee") is required to hold and deal with property (usually money) for the benefit of some other persons (the "beneficiaries"). The Ozîja Thiha Legacy Trust deed identifies the Bears paw First Nation, including its present and future members, as the beneficiaries of the Ozîja Thiha Legacy Trust.

The creation of the Ozîja Thiha Legacy Trust deed is one of the necessary conditions required under the Indigenous Services Canada ("ISC") Policy on the transfer of Capital Moneys under Section 64(1) (k) of the Indian Act. The Ozîja Thiha Legacy Trust deed is the governing document in regard to all major actions undertaken by the Ozîja Thiha Legacy Trust. The trust deed is composed of numerous articles or sections. These articles describe everything from definitions, to protection of treaty rights, to the appointment of trustees and operation of the trust.

The Ozîja Thiha Legacy Trust has been established pursuant to and in conformity with Treaty No. 7. Article 7 of the trust deed confirms that "The Trust shall not impair, reduce or negatively affect" the treaty rights of Bears paw and its members now, or in the future."

"The Trust shall not impair, reduce or negatively affect the treaty rights of Bears paw and its members now, or in the future."

Articles 5 and 6 of the trust deed identify the responsibilities of the trustees. They are to manage and invest the trust fund as a prudent person would. The prudent person clause is a legal concept that ensures that the trustees must make decisions to the best of their ability and in the best interests of the Ozîja Thiha Legacy Trust and its beneficiaries.

In managing and investing as a prudent person would, the trustees must implement a safe investment strategy having regard to the purpose of the trust. In order for the trust to meet its mandate, the trust moneys must be invested in a diversified portfolio. A diversified portfolio ensures the trust can maximize the return on investments, minimize the risk over the long-term, ensure the value of the trust grows with inflation and provide a stable source of revenue for operating Bears paw First Nation's programs and services.

Article 14 of the trust deed outlines the rules governing the annual distribution (payment) to the Bears paw First Nation. The yearly distribution will be directed by Chief and Council of Bears paw First Nation to fund, in part, its administrative affairs in order to provide certain programs and services for Bears paw members



OUR FUTURE GENERATIONS

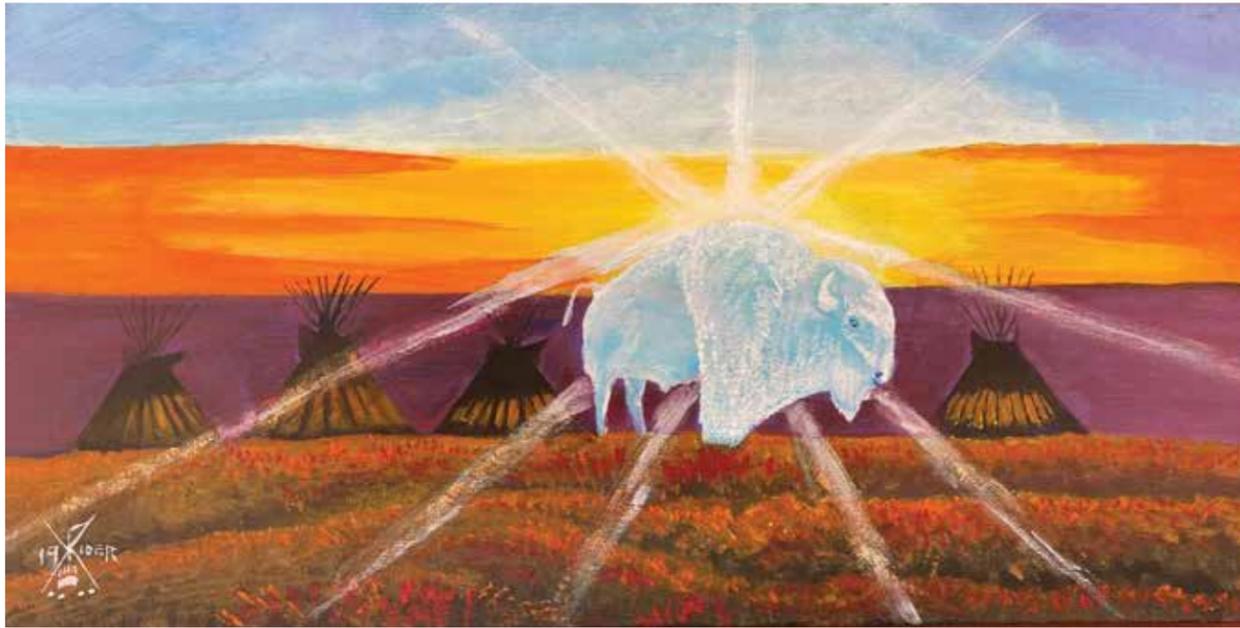
Ocean Dixon

Ozîja Thiha Legacy Trust

Board of Trustees

One of the conditions set out by the ISC Policy for the transfer Capital Moneys is that Bearspaw First Nation must establish an “independent” trust with Board of Trustees.

Since the Ozîja Thiha Legacy Trust is an independent trust, no member of Bearspaw Chief and Council can become a trustee. In addition, no officer, employee or agent of the Bearspaw First Nation are eligible to become a trustee. Under the trust deed only one (1) member of Bearspaw who is not a member of the Bearspaw Chief and Council or an officer, employee or agent of Bearspaw may be appointed to hold office as a trustee but not until the fifth anniversary of the trust. None of the other trustees can be a member of the Bearspaw Nation.



Kevin Rider

Given the importance of the trust fund to the present and future generations of Bearspaw, Chief and Council will appoint only the most qualified individuals as trustees. Bearspaw Chief and Council will appoint individuals of outstanding ability and vision to ensure the long-term success of the Ozîja Thiha Legacy Trust. It is also important the first trustees are individuals

who have extensive experience and knowledge in the establishment of trusts and the handling of very large amounts of money.

All of the Trustees are highly skilled professionals with considerable collective experience in financial, accounting, investment, legal and governance matters. They are widely and highly respected in their own areas of expertise.

The following individuals have been appointed as the first trustees of the Ozîja Thiha Legacy Trust:

Julian Leong

Mr. Julian Leong is a financial expert and actuary. He was a Partner at Morneau Shepell Inc. the largest Canadian-owned firm providing human resource and financial consulting. Mr. Leong joined Morneau Shepell through their acquisition of his firm Leong & Associates – Actuaries and Consultants in 2008. At the time, Leong & Associates was the largest independent actuarial and consulting firm in Western Canada founded in 1989.

Julian has extensive experience with a wide variety of trust, endowment and pension funds including the areas of investment policy, investment manager selections, asset-liability analysis and investment performance evaluation.

Since his retirement he has served as a trustee of the Neyaskweyahk Trust (Ermineskin) beginning in 2011 and sits as a member of their Investment Committee. In 2016 he was appointed to the Wicekaskosiw Sahkahkan Askiwi-Pimiy Heritage Trust Fund (Onion Lake) as a trustee and is the Audit Chair and a member of their Investment Committee.

Mr. Leong was a Fellow of the Canadian Institute of Actuaries (“FIA”), Fellow of the Society of Actuaries (“FCIA”) and was a member of the Canada Revenue Agency Pension Advisory Committee. He is a graduate of the University of British Columbia with a B.Sc. in Honours Mathematics.

Michele R. Horne

Michele Horne is a retired investment management professional with over 30 years of experience in the industry. Prior to retirement she was a Senior Portfolio Manager with Alberta based Mawer Investment Management Ltd. where she oversaw \$2 billion of assets under administration, servicing clients such as pension plans, trust funds, not-for-profits and endowments.

Previously, Michele was with the well-known Investment firm, Bissett Investment Management (now Franklin Bissett) where she worked for over a decade in various roles including President, Senior Vice-President and Senior Lead Manager of the Bissett Institutional Balanced Trust and Mutual Fund. Michele had direct participation in investment management decision making process including Chair of the Investment Policy Committee and member of the Asset Mix Committee.

Before and after her retirement Michele has kept busy with a number of organizations including member of the Board of Directors and the Audit and Finance Committee of the Calgary Humane Society, Investment Committee Member of the Calgary Foundation and Winsport.

Michele Horne is a graduate of the University of Alberta earning a Bachelor of Arts degree. She obtained her Chartered Financial Analyst (“CFA”) charter designation in 1993 and is a member of the CFA Institute. She is also a member of the ICD Institute of Corporate Directors.

William R. MacLachlan

William (“Bill”) MacLachlan is a retired Director, Chairman and Senior Portfolio Manager of Mawer Investment Management Ltd. (Calgary). Mawer is a Canadian independent investment management firm managing over \$78 billion in assets for a broad range of clients. The firm serves foundations, trusts, (many First Nations), pension plans and not-for-profit organizations.

Previously, he was a Partner at Bissett and Associates Investment Management Ltd. from 1990 to 1993. In 1980, Bill joined the Treasury Department of the Bank of Montreal, rising to become Chief Trader, Cash Markets for Canada from 1986 to 1990. Prior to joining the Bank of Montreal, he was a stockbroker at McLeod Young Weir in Toronto, which he joined in 1977.

Bill earned an Honours Bachelor of Arts degree from Carleton University and is a Chartered Financial Analyst (“CFA”) charterholder with institutional investment experience of over 35 years. He is also a past President of the Calgary Society of Financial Analysts.

Since his retirement Bill MacLachlan has focused on a number of Boards and Committees, including the Hull Foundation’s Investment Committee, and the Corcovado Foundation where he is currently President. In 2015 he joined the Board of Trustees of the Wicekaskosiw Sahkahkan Askiwi-Pimiy Heritage Trust Fund (Onion Lake Cree Nation) and is the Chair of the Investment Committee. He was a regular commentator on investment issues for CBC Newsworld, BNN the Business News Network, and Bloomberg.



Peter Bearspaw (ca 1920's)



(1910)



Stoney tepees, Banff Indian Days (ca 1930's)

Questions and Answers on the Proposed Transfer of Bearspaw Capital Moneys

1 What is the Bearspaw Capital Moneys Transfer about?

The essence of the Capital Moneys Transfer is for Bearspaw Nation to transfer its Capital Moneys, currently held by the Federal Government, to an independent trust fund managed by a board of trustees who are financial experts.

Bearspaw First Nation has discussed transferring its moneys since 1990's. This development represents many years of hard work and persistence by the leadership of Bearspaw with the support of our Elders and members.

Bearspaw 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 economic self-sufficiency will be significantly advanced and enhanced with the establishment of the Ozija Thiha Legacy Trust.

2 When will the transfer of Capital Moneys occur?

Once Bearspaw First Nation has completed all the requirements under ISC Policy for the transfer of Capital Moneys including consultations with the membership, the Minister of ISC will authorize the transfer of Bearspaw's per capita share of Stoney-Nakoda Capital Moneys to the Ozija Thiha Legacy Trust established by the Bearspaw First Nation. The transfer of Bearspaw Capital Moneys to the Ozija Thiha Legacy Trust is planned to occur in the Spring of 2021.

The Transfer Issue in a Nutshell

For over six decades the Stoney-Nakoda Nation has earned significant amounts of royalty revenue from the extraction and production of natural gas on its lands.

These royalty payments are considered to be Capital Trust Moneys under the Indian Act by the Government of Canada and are administered by the Department of Indigenous Services Canada ("ISC") Ottawa. Interest is paid on the moneys based on a formula set by ISC.

Since the 1990's the Stoney-Nakoda Nation and its leadership have vigorously complained that the Government of Canada has failed to act as a proper trustee in relation to its Capital Moneys and resources. The amount of interest currently paid by Canada on Stoney-Nakoda Capital Moneys is less than 1% per year. The current rate of inflation in Canada is 2.2%, which means the Stoney-Nakoda Capital Moneys are losing value when left with the Government of Canada. Under the system set by ISC, there is no possibility to grow the Capital Moneys or to produce greater income in order to leave a legacy for future generations.

In the 1990's, Samson Cree Nation sued the federal government for breach of trust with one aspect of their legal proceedings to gain complete control of their Capital Moneys (\$345 M). INAC lawyers fought against them, however, a judge granted Samson's Application for the transfer of all their Capital Moneys, present and future, to an independent trust fund controlled by the Nation itself.

In 2006 with majority of members in favor, Samson established the Kisoniyaminaw Heritage Trust Fund. The trust fund has been managed for the last 16 years by a Board of Trustees made up of professionals who exercise their duties and responsibilities carefully for both present and future generations of the Samson members.

The Ermineskin Cree Nation followed in 2011 with the establishment of the Neyaskweyahk Trust (\$240 M) in a manner similar to Samson's. In 2016 the Onion Lake Cree Nation established the Wicekaskosiw Sahkahikan Askiwi-Pimiy Heritage Trust Fund (\$45 M).

All of these First Nations through their independent trust funds have earned significantly more money than would have been earned had all their money been left under the control of the Government of Canada (ISC). This additional money has assisted their communities in many positive ways.

After discussing this matter for many years, the Bearspaw First Nation was successful in negotiating for the transfer of Bearspaw's Capital Moneys, present and future, to the Ozija Thiha Legacy Trust. This will only be for Bearspaw's per capita share of the Stoney-Nakoda Capital Moneys currently being administered by the Government of Canada. The trust will be managed by independent professional trustees. Detailed audit reports and other information will be provided to the membership each year.

The transfer of Bearspaw's Capital Money to the Ozija 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.

3 What moneys are subject to the transfer?

The only moneys involved are Bearspaw's per capita share of amounts credited to the Capital Account of the Stoney Indian Band administered by ISC. Bearspaw's per capita share will be approximately \$53 Million.

4 Is there an agreement among the Chiniki, Bearspaw and Wesley Nations for the transfer of Bearspaw's share of the Stoney Capital account?

Yes. On October 15, 2020 Stoney Tribal Council Resolution #2020-019 was unanimously passed authorizing the Bearspaw First Nation to transfer its per capita share of the Stoney-Nakoda Capital Moneys to an independent trust.

5 Will this proposed Capital Moneys Transfer affect our Treaty and Aboriginal rights?

No. The transfer of Bearspaw's Capital Moneys will not impair, reduce, derogate or negatively affect the aboriginal and treaty rights of the Bearspaw First Nation and its members or the Treaty obligations of Canada under Treaty No.7. Article number 7 of the Ozija Thiha Legacy Trust deed specifically affirms this principle.

6 Will this proposed Capital Moneys Transfer affect programs and services from Canada?

No. The transfer of Bearspaw's Capital Moneys to the Ozija Thiha Legacy Trust will not negatively affect the eligibility of the Bearspaw or Stoney Nations for federal programs and services, and the level of those programs and services will not be affected by the transfer of the Capital Moneys. Sections of the trust deed reflect the principle that the operation of the Trust Fund will not impair the Bearspaw First Nation or any Bearspaw member from receiving any support service or funding from the provincial or federal governments. The transfer deals only with Bearspaw Capital Moneys and does not affect treaty and other rights to programs and services. In fact, the transfer is an exercise of these rights.

7 What is the purpose of the Ozija Thiha Legacy Trust?

The purpose of the Ozija Thiha Legacy Trust is to allow Bearspaw First Nation to realize the economic potential of its Capital Moneys. No growth of the moneys can occur under the ISC system. As well, the Bearspaw First Nation Trust will end the consistently low rates of return that the Federal Government has paid on Stoney Capital Moneys. This action will benefit present and future generations of the Bearspaw First Nation. The Trust Fund is meant also to assist Bearspaw on the road to economic security. Initially, the Trust Fund would consist of Bearspaw Capital Moneys and at a later date, moneys from other trusts and other Bearspaw initiatives could be added to the trust fund.

8 Can the capital of trust be encroached upon and spent by the Bearspaw Nation?

Under the terms of the Ozija Thiha Legacy Trust, Bearspaw will receive a yearly payment (paid quarterly) from the Trust, which will primarily consist of the revenues earned by the trust fund. Bearspaw will not be able to access Capital Moneys of the trust beyond the annual distribution. This helps to ensure that, over the long-term the fund will grow and keep pace with inflation. However, the yearly payment will help support a yearly budget and can be used to support various programs and services for members.

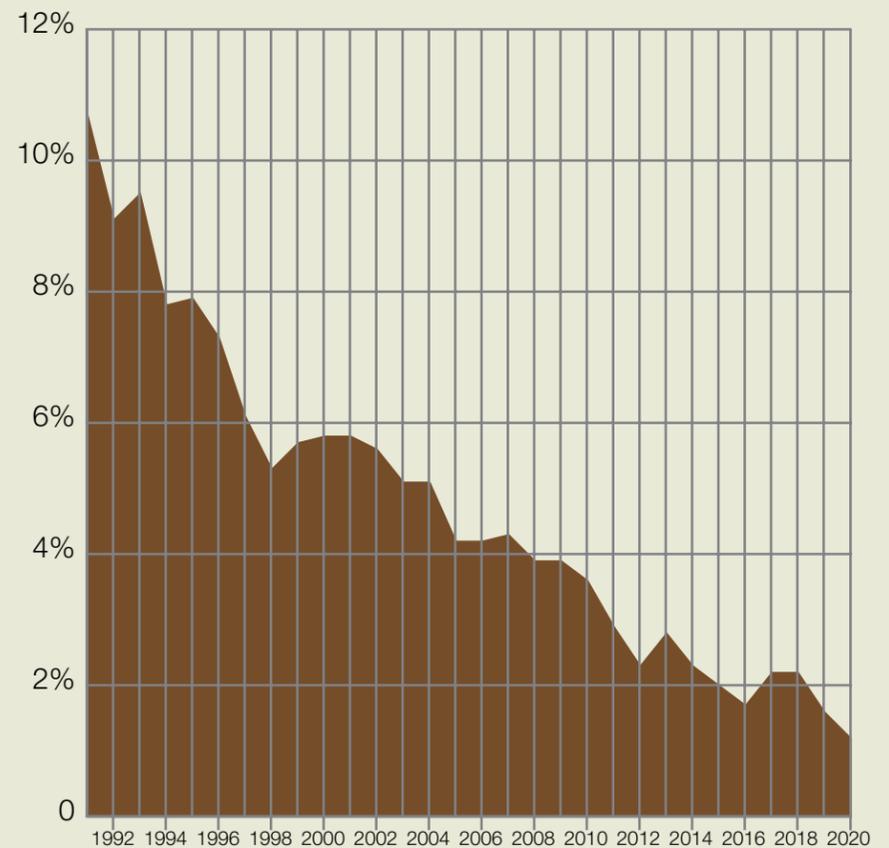
9 Is the Government of Canada in favour of the transfer of Bearspaw Capital Moneys?

The government of Canada through the Indigenous Services Canada is in support of the Bearspaw's initiative to have their Capital Moneys transferred to an independent trust.

The Minister of the Department of Indigenous Services Canada, Mark Miller provided a letter dated February 2021 to Bearspaw Chief and Council approving of the process to transfer Bearspaw's Capital Moneys.

Annual Rate of Return Paid by Canada on "Indian Capital Moneys"

1990-2020



10 Can members of Chief and Council be Trustees?

No. In accordance with the Ozija Thiha Legacy Trust - trust deed it states that the Chief and the Councillors of the Bearspaw First Nation or any officer, employee or agent of the Bearspaw First Nation are not eligible to be appointed as trustees. However, the trust deed does provide for the possible appointment of one (1) Bearspaw member as a trustee so long as they are not a member of Chief and Council, an officer, employee or agent of Bearspaw and not before the fifth anniversary of the trust. None of the other trustees may be a member of Bearspaw.

11 Is the Ozija Thiha Legacy Trust similar to other trust funds?

The Ozija Thiha Legacy Trust is similar to the Kisoniyaminaw Heritage Trust Fund established 16 years ago by the Samson Cree Nation, the Neyaskweyahk Trust established 10 years ago and the Wicekaskosiw Sahkahikan Askiwi-Pimiy Heritage Trust Fund established 4 years ago. The three trust funds have many similar features. Other trust funds have been established by Indigenous people in Canada including the Inuit with the Nunavut Trust established in 1990 which now has over \$1.8 billion in assets and provides an average yearly payment of close to \$75 million.

12 What is the role of the Board of Trustees?

Under the Trust Deed, the Ozija Thiha Legacy Trust shall have a board of trustees consisting of 3 persons who shall manage and invest the Trust Fund on behalf of and for the benefit of the Bearspaw First Nation and its members.

The trustees must exercise their duties prudently and in the best interests of the Bearspaw First Nation for both present and future generations. The board of trustees are responsible for accepting, holding and investing trust property, retaining investment counsel and a custodian, ensuring that investment policies are strictly followed, monitoring performance of the trust fund, providing financial reporting and accounting of trust property, providing an annual report on the activities and results of the trust fund and making reports available for the Bearspaw membership.

Continued on page 6...

13 Will the Bearspaw Capital Moneys be safe?

The board of trustees will manage and invest the trust moneys to earn the best possible rate of return consistent with a moderate level of risk. The trust deed itself sets out the boundaries and limits for the types of authorized investments that can be made. In addition, the board of trustees must adopt a Statement of Investment Policies and Procedures that provide clear rules and restrictions for investments. Highly qualified professional investment managers will be hired by the board of trustees to handle the Ozija Thiha Legacy Trust portfolio of investments. A diversified balanced portfolio approach will be used to minimize risk. In addition, the board of trustees will utilize a custodian who will be responsible for the safekeeping of the assets of the trust fund. The board of trustees will consist of a group of professional people who have a great deal of experience and success in managing large trust funds.

14 Can Chief and Council Spend the Capital Moneys if they are transferred to the Ozija Thiha Legacy Trust?

No, Chief and Council will not be able to access the Capital Moneys held by the Ozija Thiha Legacy Trust. In comparison, Stoney Tribal Council can currently spend Capital Moneys held and controlled by the Federal Government if approved by the Minister of Indigenous Services Canada at any time.

15 Will there be reports made to Bearspaw members about the operation of the Trust Fund?

Yes. Article 15.8 of the Trust Deed states that the trustees shall publish an annual report and make it available to all members of Bearspaw First Nation. The report must describe the activities of the trust and include audited financial statements of the trust fund. The trustees are also required to meet annually with and provide a report to Bearspaw Chief and Council. This has never been done by ISC officials for Bearspaw/Stoney-Nakoda Nation for moneys held in trust by the federal government for 150 years.

16 Will the annual income earned by the Ozija Thiha Legacy Trust be taxable?

No. The income generated by the Ozija Thiha Legacy Trust is not taxable as long as it is paid to the Bearspaw First Nation each year. Moreover, the income paid to the Bearspaw First Nation is exempt from taxation under the Income Tax Act.

Furthermore, the tax exemptions of Bearspaw under Treaty No. 7 and the Indian Act remain. Bearspaw can also rely on other exemptions. The trust is situated on the Stoney-Nakoda Reserve.

17 Is a Release to Canada required from the Stoney-Nakoda Nation if the Transfer of Bearspaw Capital Moneys is approved?

Yes, prior to the transfer, the Stoney-Nakoda Nation (Bearspaw, Chiniki, Wesley) will provide a Release to Canada from any future liability with respect to the management of the trust funds after the transfer. This is part of the written policy of ISC for the transfer of Capital Moneys. However, it is important to stress that this Release only related to the per capita share of Capital Moneys of Bearspaw for the future. It does not release Canada from any other duty or responsibility of Canada towards the Stoney-Nakoda Nation or its members.



John Bearspaw and girl (1904)



18 What are some of the advantages of transferring Bearspaw Capital Moneys to the Ozija Thiha Legacy Trust?

There are a number of advantages associated with the transfer of Bearspaw Capital Moneys. First, if transferred, Bearspaw Capital Moneys would no longer be dealt with under the Indian Act and administered by Canada. Rather, these moneys would be subject to all the rules of Ozija Thiha Legacy Trust deed established by the Bearspaw First Nation. This would free Bearspaw Nation from the moneys section of the outdated, paternalistic and colonial Indian Act.

The Bearspaw First Nation, through an independent trust, would have the opportunity to seek a higher rate of return compared to the inferior rates currently paid on Stoney Capital Moneys by Canada. Through the Ozija Thiha Legacy Trust Fund, Bearspaw would have the opportunity to have the Trust Fund grow in order to take into account the rapidly increasing population of the Bearspaw First Nation and protect the funds from inflation. Annual revenue could also increase.

19 What are the disadvantages to transferring Bearspaw Capital Moneys to the Ozija Thiha Legacy Trust?

One of the disadvantages to the transfer would be that the trust deed does not allow Bearspaw to make withdrawals of Capital Moneys from the trust in the same way as was permitted when Canada held and administered the Capital Moneys. Under the trust, Bearspaw is entitled to receive a yearly distribution (payment) generally comprised of the revenue of the trust or, in certain circumstances, of a limited portion of the capital of the trust. Accordingly, Bearspaw will not be able to make large capital withdrawals from the trust as has been done in the past.

One perceived risk is that the growth of the Trust is based on the assumption that financial markets will continue to grow indefinitely into the future. However, over the long-term, a diversified portfolio approach has historically produced very good returns with relatively low risk.

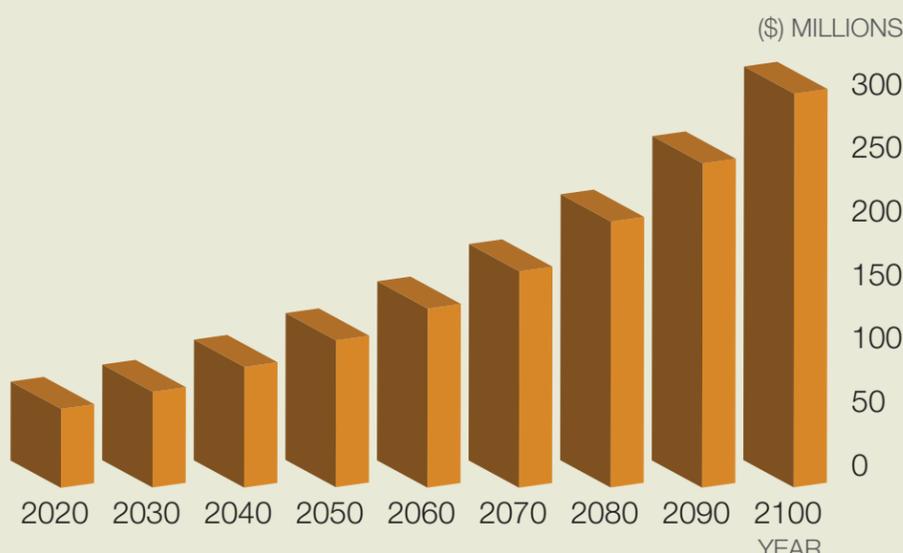
The revenue stream could also fluctuate, depending on the financial markets. However, the trust deed provides for a minimum yearly payment for Bearspaw in order to fund programs and services at a similar level that they are presently.

Bearspaw has followed the model set by other First Nations establishing their own trust fund all whom have enjoyed successful results for their people.

Projected Growth – Ozija Thiha Legacy Trust

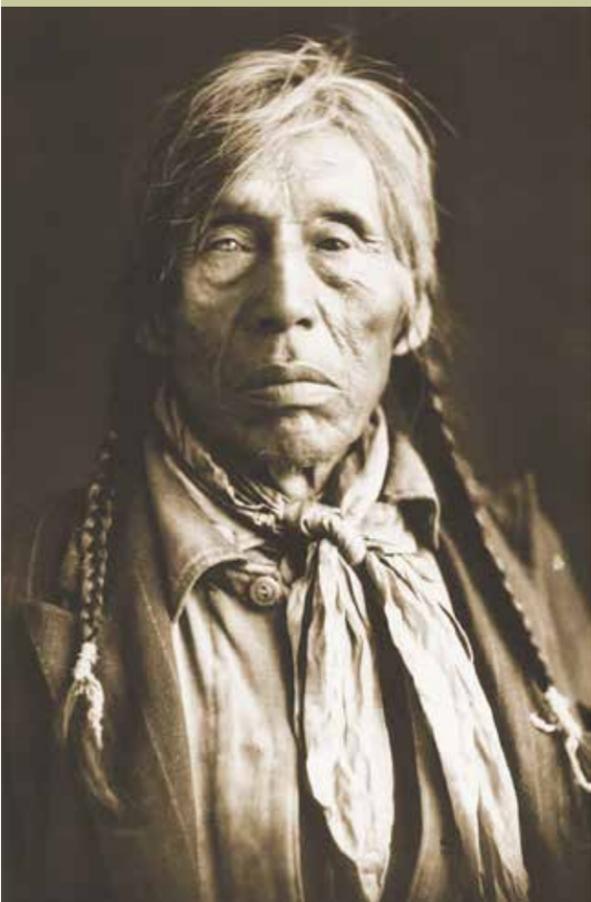
Leaving a legacy for future generations

The Ozija Thiha Legacy Trust is expected to double every 35 years to maintain purchasing power (Assuming 2% inflation, 6.5% net return rates and Annual Payments to the Nation). Amounts will increase if any additional moneys are transferred to the Trust.



Key Points

- Bearspaw Capital Moneys will be managed by the independent Trustees and cannot be spent by Chief and Council allowing them to grow over time to produce additional capital and revenues to operate the Nation.
- No member of Chief and Council, now or in the future, can become a trustee or be involved with the day-to-day operation of the Ozija Thiha Legacy Trust.
- The independent trustees of the Ozija Thiha Legacy Trust will be highly qualified people with experience in the safe and proper management of large sums of money. The trustees are legally required to make decisions to the best of their ability and in the best interest of the trust.
- Bearspaw will have the opportunity of earn a higher rate of return on the trust moneys compared to very low rate of return currently paid by the Department of Indigenous Services Canada (now less than 1% per year).
- Bearspaw will not pay tax on the investment income of the trust.
- The Ozija Thiha Legacy Trust will benefit present and future generations of the Bearspaw First Nation and provide stable operating revenue for a variety of programs and services.
- The operation of the Ozija Thiha Legacy Trust will not negatively affect the Treaty or aboriginal rights of the Bearspaw Nation or any of its members. In fact, it is an exercise of those inherent rights.



Sam Rider, Eden Valley, Alberta

Government of Canada's Management of Indian Capital Moneys

History of Stoney Capital Moneys

In 1877, the Government of Canada, on behalf of the Queen of Great Britain, signed Treaty No. 7 with five First Nations including Stoney-Nakoda (Chiniki, Bearspaw, Wesley). Chief Jacob Bearspaw was a signatory to Treaty No. 7 on behalf of his people. Treaty No. 7 is understood by the people of Bearspaw as establishing the basis of the relationship between Bearspaw First Nation and the Government and people of Canada.

Soon after the setting up of Indian Reserves, Canada established a Capital and a Revenue Account for each Indian Band which still exist today. The Federal Government has maintained complete control of these accounts since inception. The paternalistic and colonial manner in which Capital and Revenue Moneys are administered is set out in the Moneys Sections of the Indian Act. Canada and INAC held themselves out as a trustee for the Indians and their moneys.

This has been understood by Bearspaw and others to mean that the Government of Canada would hold and grow Capital Moneys on behalf of signatories to Treaty No. 7. Furthermore, a Surrender of Mineral Interests was signed between the leaders of Stoney Nakoda and the Government of Canada that allowed the Government of Canada to hold and grow trust moneys that was derived from natural gas production on the Stoney Reserves.

Stoney Capital Moneys are considered by Canada to be "Indian Moneys" under the Indian Act. When oil and gas companies produce natural gas from Stoney lands they make royalty payments directly to the Government of Canada in trust for the Stoney Nation pursuant agreements, to Treaty No. 7 and the Indian Oil and Gas Act. The government transfers Stoney Capital Moneys to the Consolidated Revenue Account ("CRF"), which is the main operating account of the Federal Government and then credits the Capital Account of the Stoney Indian Band.

Under the Indian Act, Canada decides itself through an Order-in-Council what rate of interest it will pay on Indian Moneys. Canada does not manage the Stoney Capital Moneys

in a way that would result in a higher return than the rate set by the Order-in-Council. From 1969 to the present, interest has been calculated based on a formula tied to government-issued bonds that have a maturity date of 10 years or more but calculated quarterly. The rate of interest has fallen consistently since the early 1980's. Interest rates on "Indian Moneys" paid by Canada has fallen from 16.1% in 1982 to 1.1% in 2020. These low rates are likely to persist in the foreseeable future.

“Stoney Capital Moneys are considered by Canada to be "Indian Moneys" under the Indian Act.”

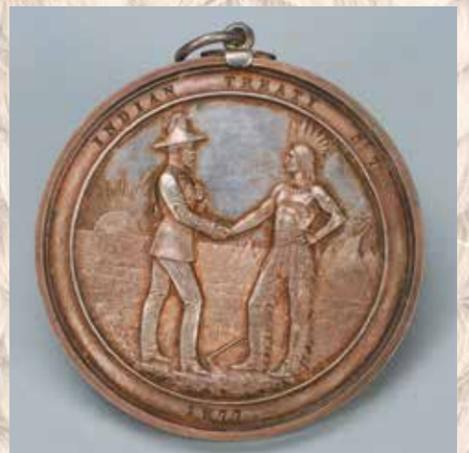
From a technical standpoint, the interest rate is determined from the quarterly average of market yields of Canada bond issues which have maturity dates of 10 years or over and are calculated quarterly and paid semi-annually. ISC quarterly interest rate for "Indian Moneys" from October 1st to December 30th, 2020 was at a new all-time low of 0.237%. If maintained, this would mean an annual rate of 0.95% (less than 1%).

Once transferred to the CRF, Stoney moneys are not segregated from all other moneys belonging to Canada. Stoney Capital Moneys have been "borrowed" by Canada and used for its own operations. Stoney Capital Moneys have over the years represented approximately 20% of all "Indian Moneys" of the First Nations in Canada. Under the Indian Act, the method used to calculate interest on Indian Moneys does not take into consideration the balance of the account. The same rate of interest is paid to a First Nation if it has \$1 or \$100 million in its account. In summary, the Government of Canada has for many decades borrowed all of Stoney's Capital Moneys without the permission or consent of Stoney and has paid a short term, inferior, rate of interest on what are essentially long-term capital heritage moneys belonging to the present and future members of the Stoney-Nakoda Nation.

Continued on page 8...

Treaty No. 7

... as long as the sun shines, rivers flow and sweetgrass grows...



...continued from page 7.

Canada has not actively managed Stoney-Nakoda Capital Moneys in a manner that would result in a growth of those funds and the payment of a long-term rate of return. Instead, Canada has simply paid interest based on a floating formula which has not changed in 52 years and which Canada fixed on its own. Bearspaw First Nation has always held that it has an inherent right to self-determination including control of its own moneys.

Reportedly due to the excessive spending of Capital Moneys by the Stoney-Nakoda Nation, in 1996 ISC officials negotiated an agreement with Stoney to create a "Heritage Account" so a certain percentage of the royalty moneys would not be spent but rather saved for the future. The agreement included that the interest would be added back to the Capital to grow the account.

No other First Nation in Canada has had such an agreement with ISC. However, in 2009 the then Stoney Tribal Council requested by Council Resolution access to the Heritage Trust Account. Indigenous Affairs Canada breached its solemn duty as our trustee and authorized the expenditure of \$40 million of "heritage trust moneys".

In addition, ISC officials in 1999 and 2006 unilaterally and without the consent of the Stoney Tribal Council withdrew moneys in the Stoney account for over \$3 million dollars for payments they stated the Stoney-Nation owed.

During the 1990's the Stoney-Nakoda Nation participated in the ISC sponsored Lands, Revenues and Trusts Review. This comprehensive, multi-year review, examined various ways that a higher rate of return could be achieved on Indian Moneys and methods whereby First Nations could exercise more control over their Capital Moneys. Despite the work and formal recommendations from the Review, the Government of Canada did nothing to change the Indian Moneys system under

the Indian Act and it remains unchanged today.

Since the 1990's the Nakoda-Nation including Bearspaw has been examining ways to transfer its Capital Moneys out of the control of Canada and into an independent trust for the benefit of present and future generations. During the last decade a trust fund was explored by the Wesley Nation and supported by Bearspaw and Chiniki Nations but it did not result in the establishment of a heritage trust fund.

“Stoney Tribal Council passed a Resolution authorizing Bearspaw to transfer its Capital Moneys to an independent trust”

In 2005 the Federal Court of Canada held that the Federal Government was not bound to pay market returns on the Capital Moneys and that paying returns on the Capital Moneys at rates determined by the Government was sufficient. Both the Federal Court of Appeal and the Supreme Court of Canada upheld the ruling ending the legal recourse Samson and Ermineskin Cree Nations had within the Canadian legal system on this specific issue.

These decisions indicate that, so long as the Capital Moneys are held by the Federal Government and managed pursuant to rules set by the government under the Indian Act, Bearspaw's funds will not grow, as Canada does not have a duty to protect and grow these funds in the same way as a professional, prudent trustee would.

Before their case had ended in 2005, Samson Cree Nation filed a Motion to transfer its Capital Moneys into an independent trust fund. The trial judge granted the Motion, and in November 2005 Samson members voted in favour of transferring its Capital Moneys to their Kisoniyaminaw Heritage Trust Fund.

Ermineskin Cree Nation pursued the control

of their Capital Moneys and in January 2011 a Court Order was issued setting out the conditions needed to transfer moneys to the Neyaskweyahk Heritage Trust Fund. In May 2011 Ermineskin members agreed to transfer their funds from the Federal Government to the Neyaskweyahk Trust.

After protracted discussions and applications to the Federal Court, the Onion Lake Cree Nation (Saskatchewan) received from Federal Government a Ministerial Order for the transfer of their Capital Moneys, present and future, to their Wicekaskosiw Sahkahkan Askiwi-Pimiy Heritage Trust Fund in 2016.

In 2018 Indigenous Services Canada amended their Policy on the Transfer of Capital Moneys through Paragraph 64(1) (k) of the Indian Act.

In 2019 ISC conducted a study; Stoney-Nakoda Capital Trust History 2010-2019 that demonstrated the overall decline in the Stoney Capital Account through primarily deficient spending. ISC stated that the Stoney Nation was facing two major challenges, lower royalty payments due to the lower sale price of natural gas and encroachment on (spending) Capital Moneys to offset expenditures for operating budgets. The ISC report indicated the current path the Stoney Nakoda Nation was on was not financially sustainable.

The Bearspaw Chief and Council determined the time to act was now.

In 2020 Bearspaw First Nation announced that it had been successful in negotiating with officials of the Department of Indigenous Services for the transfer of Bearspaw's per capita share of the Stoney Capital Moneys to the Ozija Thiha Legacy Trust.

On October 15, 2020 the Stoney Tribal Council unanimously passed a Resolution #2020-019 authorizing the Bearspaw First Nation to transfer its Capital Moneys to an independent trust.



CONTACT INFORMATION

Capital Moneys Transfer Issue

Please note, the Trust Deed, Investment Policy, Videos, Reports, Policies, Presentations and all other written materials in relation to the Ozija Thiha Legacy Trust are made available to all Bearspaw members. This and additional information can be found on website

WWW.BEARSPAWFIRSTNATION.CA

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