

PRESS RELEASE – FOR IMMEDIATE RELEASE

Mosquito Grizzly Bear’s Head Lean Man First Nation’s Award from Specific Claims Tribunal Increased to \$141 million as Compensation for Illegal Surrender of Reserve Lands

On January 18, 2021, the Specific Claims Tribunal of Canada awarded the Mosquito Grizzly Bear’s Head Lean Man First Nation (“MGBHLM” or “the First Nation”) **\$126,933,972** as compensation in relation to the unlawful surrender of 14,670 acres (the “Claim Lands”) in 1905. While this was the largest such award ever made by the Tribunal, the expert studies of all parties all supported a much higher amount so the First Nation filed a review of the decision with the Federal Court of Appeal.

In March of 2021, Canada and the First Nation agreed to adjust this amount to a final award of **\$141,000,000** plus interest to account for the present value of the Claim Lands and compensation for loss of use in light of established principles of law and equity.

Background to the 1905 Surrender Claim

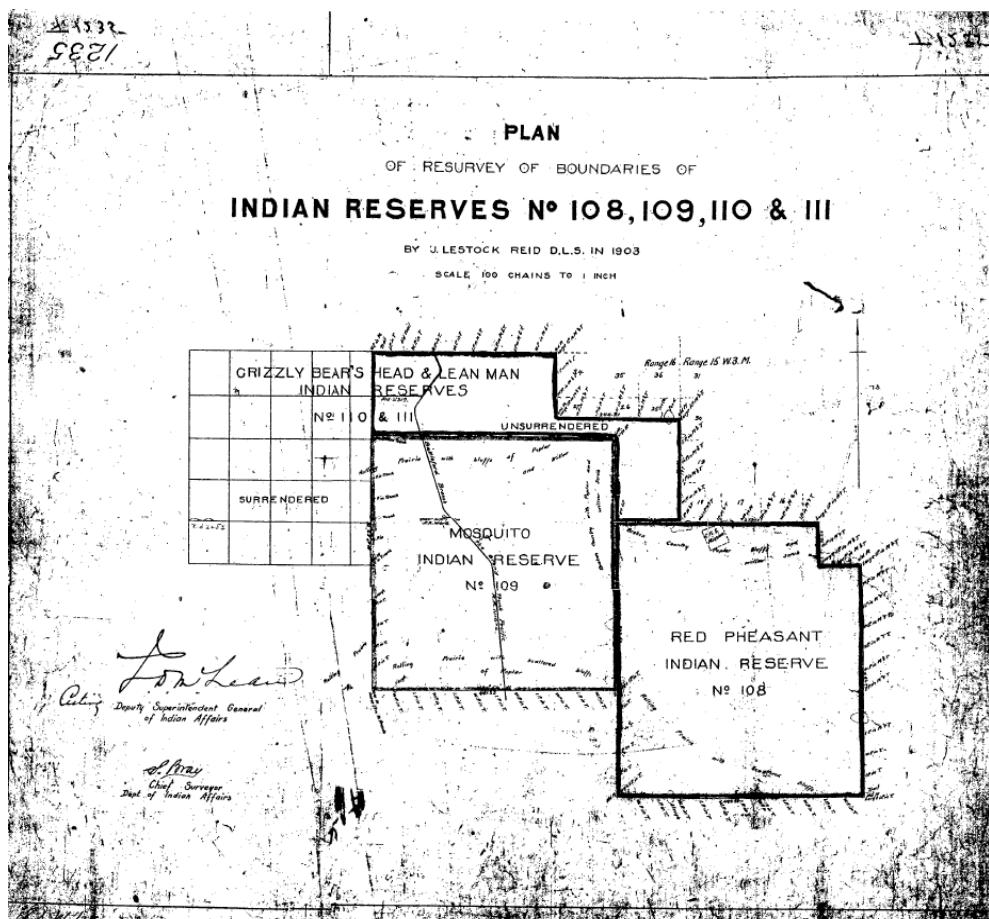
In 1884, Canada surveyed and set aside reserve land for the Grizzly Bear’s Head and Lean Man Bands at Eagle Hills, south of what is now Battleford, Saskatchewan. The two reserves (IRs 110/111) were surveyed as a single, undivided block. IR 110/111 was surveyed and set aside right beside the Mosquito Band’s reserve, IR 109.

The Grizzly Bear’s Head and Lean Man Bands were often treated as a single band by the Department of Indian Affairs for “administrative convenience”. Because Chiefs Grizzly Bear’s Head, Lean Man, and Mosquito were all Nakoda bands, the Department eventually began to treat all three bands as one and referred to them collectively as the “Stony Bands”. By 1905, the three bands were finding success in farming operations, and made a decent living from selling hay and timber.

In May 1905, approximately 22.5 sections of the IR 110/111 were unlawfully surrendered to the Crown and sold to local land speculators at prices that can only be described as improvident and exploitative. At the time of the surrender, there were three separate and distinct bands – an issue that ultimately rendered the surrender invalid and contrary to the *Indian Act* and the Crown’s fiduciary duties. In November 1909, some four years after the surrender, the Department of Indian Affairs issued the first cash distribution to all three Bands, including the Mosquito Band (whose members were not entitled to vote on the surrender of land owned by the Lean Man and Grizzly Bear’s Head Bands), **in a total amount of \$180**. From that time forward, interest was to be paid every fall, but the Department made it clear that the distribution of interest money would result in a proportional reduction of Government assistance, which left the Bands with no net benefit at all from the surrender and sale of their lands.

In 1949, the three Bands ultimately voted to amalgamate and to be treated as one united First Nation of Stoney Nakoda peoples. In 1951, the *Indian Act* was amended to provide for “registered” bands and the amalgamated bands were formally recognized by Canada

as a single band. Since that time, the amalgamated bands have had one elected Chief and Council to represent their collective interests, including the assertion of this specific claim for the unlawful surrender and sale of IR 110/111 in 1905. The Specific Claims Tribunal held in its reasons for decision that the Mosquito, Grizzly Bear's Head, Lean Man First Nation is the successor in interest to the Claim against Canada as a result of the surrender.



A Major Step Forward for Reconciliation – 26 Year Legal Battle Ended with a Final Award Agreed to by Canada and the First Nation

The First Nation filed a specific claim with the Minister of Indian Affairs about the unlawful surrender of 22.5 sections of land in 1995. Supplemental submissions were filed with Canada in 1998, 2001, and 2009. Finally, in 2011, Canada advised the First Nation that it would not accept the claim for negotiation.

In April of 2014, the First Nation filed a Declaration of Claim with the Specific Claims Tribunal of Canada. After lengthy proceedings, Canada eventually conceded that the Crown was at fault. A joint statement regarding validity was filed with the Tribunal by the Parties on December 21, 2017 confirming that the surrender was “invalid”. However, the amount of compensation that should be awarded to the First Nation as a result of the invalid surrender was still in dispute. Both parties provided expert evidence on an appropriate award of compensation to the Specific Claims Tribunal. In July 2020, the

Tribunal heard final submissions from the parties regarding the First Nation's long-awaited compensation arising from Canada's failure to meet its legal and fiduciary duties when it unlawfully approved the surrender and sale of 14,670 acres.

On January 18, 2021, the Tribunal released its decision. In recognition of the fact that the surrender was invalid and that the Crown had breached its duties to the First Nation, the Tribunal determined the current unimproved market value of the Claim Lands to be \$15,500,000 as of September 21, 2017. Additionally, the Tribunal calculated the present value of loss of use of the lands to December 31, 2019 at \$111,433,972. This resulted in a total award of **\$126,933,972** for the First Nation.

Included in the judgement was an instruction that this award was subject to adjustment to account for the passage of time from the date of the appraisal and loss of use reports to the date of judgment. Following an exchange of views between legal counsel for the parties, Canada and the First Nation agreed on an upward adjustment of \$14,066,028, bringing the total award to **\$141,000,000**. Although the First Nation was disappointed in the Tribunal's reasons for decision and the initial award of \$126.9 million, the First Nation is extremely pleased with Canada's agreement to adjust the award to \$141 million and commends Canada for its approach on this issue.

Chief Tanya Aguilar-Antiman said "The award of \$141 million is a huge success for the Mosquito Grizzly Bear's Head and Lean Man First Nation. Our people have been seeking a fair and just settlement for the unlawful taking of our lands for more than 26 years. This claim was first filed with Canada in 1995 and has finally reached conclusion a result of the dedication and commitment of our current Chief and Council. We also commend all past Chiefs and Councils, Elders, and Members for their patience and perserverence. This result sets a new record and is the largest ever award ordered by the Specific Claims Tribunal to a First Nation."

"Although the facts in this claim were egregious, the Chief and Council are proud that Canada and the First Nation have taken a meaningful step towards reconciliation, as reflected in the agreement of the parties. Most importantly to our people, although the decision of the Tribunal brings finality and closure to this claim, the Mosquito Grizzly Bear's Head Lean Man First Nation has never surrendered its land to Canada; not in 1905, nor through agreement with Canada today!"

MGBHLM plans to put the full amount of its compensation into an independently managed trust that will provide a sustainable source of income for the use and benefit of future generations of the First Nation. This much needed compensation will assist the First Nation in community development, housing, education, Elders and youth initiatives, and responding to the Covid-19 pandemic.

Ron S. Maurice, founder and Senior Partner of Maurice Law stated that "we are extremely pleased with the final result achieved for the Mosquito Grizzly Bear's Head Lean Man First Nation. This has been a long time coming and the Consent Order issued by the Specific Claims Tribunal for a total award of \$141,000,000, plus interest, will provide closure for this sad chapter in the history of the First Nation. Maurice Law has

represented the First Nation in advancing this Claim since 2004, and we are proud that MGBHLM has finally received a fair and just award. We applaud the current Chief and Council, and the previous Chiefs and Councils and Elders for their patience and dedication to this Claim. In recognition of our long standing relationship with Mosquito Grizzly Bear's Head Lean Man First Nation, Maurice Law has committed to donate \$2,820,000 to the First Nation over the next ten years. We understand that the First Nation will use these charitable donations to support recreation, youth, and other important initiatives for the benefit of the community."

If you have any questions, you may direct your inquiries to:

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