



The Agricultural Benefits Claim:

Frequently Asked Questions

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Introduction

The following fact sheet is meant to provide information about the Agricultural Benefits claim known as “**Cows & Plows**”, the Specific Claims Tribunal and Settlement Agreements.

What is the “Cows & Plows” Claim About?

This Claim relates to Canada’s failure to honour the Treaty at the time it was signed. The Treaty right in issue in this Claim is the right to **agricultural benefits** and assistance:

It is further agreed between Her Majesty and the said Indians that the following articles shall be supplied to any band thereof who are now actually cultivating the soil, or who shall hereafter settle on their reserves and commence to break up the land, that is to say: two hoes, one spade, one scythe and one axe for every family so actually cultivating, and enough seed wheat, barley, oats and potatoes to plant such land as they have broken up; also one plough and two harrows for every ten families so cultivating as aforesaid, and also to each Chief for the use of his band as aforesaid, one yoke of oxen, one bull, four cows, a chest of ordinary carpenter's tools, five hand saws, five augers, one cross-cut saw, one pit-saw, the necessary files and one grindstone, all the aforesaid articles to be given, once for all, for the encouragement of the practice of agriculture among the Indians.

The text of the Treaty states that certain agricultural implements were to be provided to “Bands,” and the formula to determine the implements that were owing is calculated by reference to “families,” “every three families,” the “Band,” and “for each Chief for the use of his Band.” These implements were to be provided “once for all” upon the signing of the Treaty over 100 years ago.

*The present negotiations are the fruit of over **15 years** of active research, litigation and negotiation on this long-outstanding breach between Canada and Treaty signatories.*



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Will a Settlement Agreement terminate or alter our Treaty Rights or entitlement to other Federal programs and funding?

No. Specific Claim Settlement Agreements cannot alter Treaty rights. Treaty rights are **constitutionally protected** and are not up for renegotiation. When Canada has breached a Treaty right, the Nation must pursue legal action to hold Canada accountable and **enforce** that right. The Nation's Claim is doing exactly that – holding Canada accountable for failing to provide the one-time suite of agricultural benefits promised under Treaty.

The Non-Derogation clause in every specific claim settlement clearly states in black and white that Treaty rights cannot not be altered by the agreement. The First Nation can continue actively pursuing any and all other claims against Canada. The First Nation can also go to court to seek validation or enforcement of any other Treaty or Inherent rights that have not been recognized, affirmed, or honoured by Canada.

Additionally, **the Programs & Services clause** states that Canada **cannot** rely on compensation paid in a specific claim settlement agreement to **reduce existing funding** to the Nation or federal programs that are available to its members.

*The Nation will not lose any Treaty rights, rights to land, or any existing right to any ongoing payments from Canada. The Specific Claim Policy is meant to bring resolution to long-standing Treaty breaches that cannot be advanced in traditional courts. This process **cannot alter** Treaty Rights.*

What does Canada get out of a Settlement Agreement?

If the Claim proceeded to trial, the decision of the Tribunal would be **final**, and the Nation could not bring the same claim before another court in the future. Likewise, in a settlement agreement with Canada, they would seek release & indemnity clauses to prevent the Nation from bringing the same claim against Canada in the future.



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The Release clause prevents the Nation from suing Canada again for the same thing – namely the failure to fulfill the one-time promise of agricultural benefits after the Treaty was signed.

The Indemnity clause provides a process in the event that someone were to sue Canada again for the same claim. In that case, the First Nation would be notified of the claim and can choose whether and how to participate. If the Nation chose to do nothing and Canada ultimately settled such a claim, this clause states that Nation could be liable to pay some or all of Canada's costs. This scenario is highly unlikely given that the release clause would prevent such a claim in the first place, but it is standard in any settlement agreement even outside of specific claims.

***What the Nation gains** is compensation for Canada's breach of its Treaty right. The compensation is meant to give the Nation a means to thrive as long as the sun shines.*

Can an Individual file a claim for "Cows & Plows"?

No. Individuals are not entitled to file specific claims or entitled to be paid compensation from Canada under the Specific Claims Policy because Treaty Rights are collective rights. **Specific Claims can only be advanced by Nations.** A Nation is far more than the individuals who happen to appear on the membership list at any given moment in time. The Nation existed and signed Treaty long before any of the members alive today were born, and it will remain a Nation long after all of the members alive today have passed on.

Can the Nation do a 100% payout of "Cows & Plows" money?

No. Chief and Council have **fiduciary obligations** to act as prudent stewards of the Nation's rights and interests. As the duly elected representatives of the Nation, the Chief and Council have a responsibility to consider the best interests of *all* members, including those unborn. This forward "**seven-generation**" thinking is the foundational principle that underpins the basis of the Claim, and the basis on which Treaty was signed.



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In the **Representation & Warranties clause**, the Nation represents as a condition to the agreement to use the money for the long-term investment and sustainable benefit of the Nation.

The Agricultural Benefits provisions of the Treaty were specifically and extensively negotiated by our ancestors as the means to establish a **long-term and sustainable** economic base for the signatory Nations and future generations. It is therefore appropriate and necessary that compensation for Canada's breach of Treaty in this claim be similarly **protected and grown** so it can provide opportunities for the Nation as it exists today, and as it will continue to exist for generations to come.

A **per-capita distribution** from the Settlement proceeds must balance the needs of the members today, tomorrow, those who are unborn and their children. A full payout today would be the equivalent of selling the cows and plows immediately after receiving them, instead of using them so the Nation could provide for its members in perpetuity.

Would you rather have a fish or a fishing net?

Êkosi - Nanâskomowin,

Logan Newlove, J.D.

Maurice Law

Maurice Law is a national law firm with over 20 years of practice in Treaty rights litigation and Specific Claims advocacy. Our firm has four key values: access to justice, persistence, a multidisciplinary approach to legal issues, and the creation of community legacies.

Access to Justice: *Maurice Law recognizes the fundamental need of First Nations to have access to justice without having to expend their limited resources to do so.*

Persistence: *Maurice Law believes in persistence and commitment. We are open to negotiate in good faith, but always prepared to advocate.*

Multidisciplinary Approach: *Maurice Law values the importance of historical research and uses history and facts to take emotionally charged situations and turn them into fair results. Our in-house research department works closely with our lawyers at each step.*

Creation of Community Legacies: *After Maurice Law secures an award or settlement for its clients, we encourage clients to think about the future of their communities. Maurice Law values helping and protecting future generations through the creation of legacies for First Nations communities. By helping our clients to navigate the management of their settlements and awards, we can help our clients protect the rights of future generations.*