



NEWS

Algonquins one step closer to Ontario's first modern treaty

By Ainslie Cruickshank | Feb 29, 2016 12:51 pm |



The settlement area boundary of the Algonquins of Ontario land claim. Algonquin voters will decide this week if they support a proposed agreement in principle that could guide the final round of negotiations for Ontario's first modern treaty. Photo courtesy of the Algonquins of Ontario.

Algonquin people in Ontario are voting this week on a framework that could guide the final stretch of negotiations for the province's first modern treaty.

The land claim, which is the largest under negotiation in the province, covers 9 million acres in eastern Ontario – and is home to more than 1.2 million people.

“We’re playing out a piece of history here that was long overdue,” said Robert Potts, the principle negotiator and senior legal counsel for the Algonquins of Ontario.

The land claim is “an opportunity to have some greater recognition and further protection of rights,” said Kirby Whiteduck, the chief of the Algonquins of Pikwakanagan First Nation, the only band recognized by the Indian Act involved in the claim.

Over the course of this week Algonquin voters will decide whether to ratify a proposed agreement-in-principle reached between the Algonquins of Ontario, and the governments of Ontario and Canada. After the vote the agreement will also have to be approved by the federal and provincial governments. The agreement in principle itself would not be legally binding.

About 7,600 Algonquin people from 10 communities across the region will vote on the 200-page proposed agreement, which covers topics ranging from how a person of Algonquin descent could become a beneficiary of a final agreement, to settlement lands, financial transfers, harvesting rights, and forestry.

Under the proposed agreement the Algonquins of Ontario would receive fee simple ownership of at least 117,500 acres of crown lands (which includes mineral rights) and a financial transfer of \$300 million dollars (based on 2011 values). The parties have agreed that no land will be expropriated from private owners.

Unique context

The Algonquins of Ontario land claim is relatively unique in Canada, said Ken Coates, a professor of public policy at the University of Saskatchewan and an expert on indigenous land claims in Canada.

Most of Canada's modern treaties are in isolated areas, like Nunavut, the Yukon, and northern Quebec, he explained. The Ontario claim, in contrast, is taking place in the context of a large non-indigenous population where a lot of development has already taken place, he said.

"The best farmland is already gone, the best timber properties have already been leased, the best mining properties have already been developed...and so it really limits the scope of what a treaty negotiation can actually look like," he said.

In these cases the government will usually give more money than land, "which then gives the communities an opportunity to build an economic future. And that's really, really, important," said Coates.

While the claim covers 9 million acres, only a million acres are available crown land that could be transferred to the Algonquin, said Potts, the principal negotiation for the Algonquin. The concern is that available land will keep shrinking the longer negotiations take.

The territory is also claimed by Algonquin in Quebec, but the proposed agreement states that it will not impact any rights or claims of other indigenous people including the Algonquin in Quebec.

"This is a very, very important negotiation because it shows the parameters and the scope of what governments are prepared to do for indigenous peoples who are living in developed areas," said Coates.

“First Nations who live in an area that met a lot of development early on deserve a treaty as much as anybody else, it’s not their fault that they happen to live in a valley near Ottawa where the country put their capital as opposed to living in Nunavut and Ellesmere Island,” he said.

Addressing issues of status

The Algonquins of Ontario have never had a treaty with a Canadian government, said Potts, even though they’ve been trying to negotiate one since 1772.

Since that time the Algonquin people were gradually moved from their harvesting area into smaller communities so “what you ended up with is a diaspora of Algonquins in Ontario,” and most are not registered under the Indian Act, he said.

“These are people who culturally, socially, and in terms of genealogy are often pretty much exactly the same as status Indians,” said Coates.

“The Algonquin have already made a huge and absolutely vital contribution to Canadian policy by insisting on the inclusion of status and non-status,” he said.

The roughly 7,600 voters who will decide whether to ratify the proposed agreement include Algonquin people who are considered status and non-status Indians under the Indian Act.

But the process hasn’t been without conflict. At one point 1,000 people were removed from the voters list after having their heritage challenged through an arbitrated process, said Potts.

While Potts said he thinks they've built up a strong set of criteria, there's still more work to be done to sort out who could ultimately enroll as a beneficiary under a final agreement.

Self-government

Some within the Pikwakanagan First Nation are leery about provisions in the proposed agreement that couples a final land claim for the Ontario Algonquins as whole with Pikwakanagan self-government.

Greg Sarazin, a previous negotiator for the First Nation, asked for self-government to be on the negotiating table. But now he's speaking for a group within the community that's raising concerns about what that provision, and others, will mean for the First Nation's future.

While Sarazin said he's not opposed to self-government in principle, he's concerned that the government process for negotiating it is assimilationist. On Sunday, some of those concerned community members staged a protest on the reserve. They want the chief and council to take Pikwakanagan out of the ratification process until the group's concerns are addressed.

Chief Whiteduck sees negotiating self-government as a chance to ensure greater protection of the First Nation in part because they could create their own membership criteria.

"The concern with the Indian Act is that there are children and grandchildren being born who are not eligible for status because of the Indian Act," he said.

The fear is that sometime in the future there will be very few status members of Pikwakanagan First Nation.

Whiteduck said he wants to try to address some of the concerns of the membership to hopefully reach an agreement that's acceptable to a majority if not the whole community.

“We're in here to protect and look after and try to improve things for the First Nation and we wouldn't accept an agreement that's going to do anything otherwise,” he said.

Coates said it's common to only get 60-70 per cent agreement in a community during these negotiations. The federal government can help an “awful lot by expediting implementation and by not dragging their heels on it and by not creating new barriers,” he said.

“It's a question of whether you honour the spirit of the agreement or whether you honour the text of the agreement...” he said.

The vote starts today and runs until March 4. The results are expected March 17.

Neither Ontario's Minister of Aboriginal Affairs or Canada's Minister of Indigenous and Northern Affairs could be reached for comment this weekend.