

Manitoba Court of Queen's Bench File No.: CI-19-01-24661

Federal Court File No.: T-1673-19

**SETTLEMENT AGREEMENT**

***THE QUEEN'S BENCH, Winnipeg Centre***

BETWEEN:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE, on her own behalf and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**Class Proceeding commenced under  
*The Class Proceedings Act, CCSM. c. C. 130***

- and -

***FEDERAL COURT***

BETWEEN:

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**Class Proceeding commenced under Part 5.1 of the  
*Federal Court Rules, SOR/98-106***

## SETTLEMENT AGREEMENT

THIS AGREEMENT is made as of September 15, 2021

BETWEEN:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE, on their own behalf and on behalf of all INDIVIDUAL CLASS MEMBERS (as defined herein)**

(together, the “**Manitoba Action Plaintiffs**”)

AND:

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG, on their own behalf and on behalf of all INDIVIDUAL CLASS MEMBERS (as defined herein)**

(together, the “**Curve Lake First Nation Plaintiffs**”)

AND:

**NESKANTAGA FIRST NATION and CHIEF WAYNE MOONIAS and FORMER CHIEF CHRISTOPHER MOONIAS, each on his own behalf and on behalf of all INDIVIDUAL CLASS MEMBERS (as defined herein)**

(together, the “**Neskantaga First Nation Plaintiffs**”, and collectively with the Curve Lake First Nation Plaintiffs, the “**Federal Action Plaintiffs**”)

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

(“**Canada**”)

**WHEREAS:**

- A. The Federal Action Plaintiffs commenced the action styled as *Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation and Chief Christopher Moonias on his own behalf and on behalf of all members of Neskantaga First Nation v Attorney General of Canada*, Court File No. T-1673-19 in the Federal Court on October 11, 2019 (the “**Federal Action**”);
- B. The Manitoba Action Plaintiffs commenced the action styled *Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation v Attorney General of Canada*, Court File No. CI-19-01-24661 in the Manitoba Court of Queen’s Bench on November 20, 2019 (the “**Manitoba Action**”, and together with the Federal Action, the “**Actions**”);

- C. The Manitoba Court of Queen’s Bench certified the Manitoba Action as a class proceeding on July 14, 2020, and the Federal Court certified the Federal Action as a class proceeding on October 8, 2020;
- D. The “**Class**” in each of the Actions is as follows:
  - (a) all persons, other than Excluded Persons, who:
    - (i) are members of a First Nation;
    - (ii) had not died before November 20, 2017; and
    - (iii) during the Class Period ordinarily resided in an Impacted First Nation for at least one year while it was subject to a Long-Term Drinking Water Advisory; and
  - (b) Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other First Nation that gives notice of Acceptance in accordance with the terms of this Agreement;
- E. Notice of the certification of the Actions was given in the form approved by the Courts and in the manner directed by the Courts. Individual Class Members were given the opportunity to Opt Out of the Class for a period of one hundred and twenty (120) days following the first publication of notice of certification (the “**Opt-Out Period**”);
- F. The Opt-Out Period expired March 29, 2021. None of the Individual Class Members Opted Out of the Actions;
- G. The Class has suffered considerable hardships as a result of being deprived of safe drinking water and such hardships have seriously harmed both individuals and their communities;
- H. Canada acknowledges the hardships faced by Class Members and wishes to support Class Members in securing regular access to safe drinking water;
- I. Class Counsel and Canada concluded an agreement in principle dated June 20, 2021, which set out in principle the terms on which Canada was prepared to settle the Actions, and which Class Counsel would recommend to the Manitoba Action Plaintiffs and the Federal Action Plaintiffs (together, the “**Representative Plaintiffs**”);
- J. Chief Wayne Moonias has succeeded Christopher Moonias as Chief of Neskantaga First Nation and will seek leave of the Federal Court to replace him as a Representative Plaintiff;
- K. The Representative Plaintiffs and Canada concluded an agreement in principle dated July 29, 2021 which set out the principal terms of their agreement to settle the Actions, and which forms the basis for this Agreement;
- L. In drafting this Agreement, the Parties:

- (a) intend there to be a fair, comprehensive and lasting settlement of claims related to Class Members' deprivation of safe drinking water and their hardships resulting therefrom;
- (b) desire the implementation of concrete measures to prevent a recurrence of the harms suffered by Class Members;
- (c) acknowledge the importance of providing First Nations with funding for projects related to water and wastewater, economic development, and cultural activities, and respect the autonomy of First Nations to choose the use to which such funds are directed;
- (d) desire to promote healing, education, commemoration, and reconciliation; and
- (e) intend to include Modern Treaty First Nations, as applicable, but recognize the uniqueness of each Modern Treaty First Nation, its lands, peoples, and relationship with Canada, and therefore agree that the specific details of the participation of any Modern Treaty First Nation will be developed in consultation with the Parties and the applicable Modern Treaty First Nation.

**NOW THEREFORE**, in consideration of the mutual agreements, covenants, and undertakings set out herein, the Parties agree as follows:

## **ARTICLE 1 – INTERPRETATION**

### **1.01 Definitions**

In this Agreement, the following definitions apply:

**“Acceptance”** means acceptance of this Agreement by a First Nation Class Member:

- (a) pursuant to a Band Council Acceptance Resolution that is provided to the Administrator; or
- (b) otherwise in accordance with the Settlement Approval Orders;

**“Acceptance Deadline”** means the date two hundred and seventy (270) days after the Implementation Date or such other date as the Parties may agree;

**“Action Plan”** means Indigenous Services Canada’s Long-Term Drinking Water Advisory Action Plan detailing corrective measures to be undertaken by Canada to end Long-Term Drinking Water Advisories, attached as Schedule J, as it may be amended from time to time to reflect the addition of new commitments or the completion of existing commitments;

**“Actions”** has the meaning set out in the Recitals, and **“Action”** means either of them;

**“Administrator”** means the administrator appointed by the Courts and its successors appointed from time to time pursuant to the provisions of Section 3.01;

**“Advisory Body”** means a federal, provincial, territorial, regional, municipal, or First Nation government or governmental authority, chief, band council, health authority, or any executive,

judicial, regulatory or administrative body or similar body or its delegate, in each case that issues Drinking Water Advisories;

**“Advisory Year”** has the meaning set out in Section 8.01(1);

**“Aggregate Specified Injuries Compensation Amount”** has the meaning set out in Section 8.02(4);

**“Agreement”** means this Settlement Agreement, including the Schedules attached hereto;

**“Agreement in Principle”** means the Agreement in Principle dated July 29, 2021, attached hereto as Schedule A;

**“Auditors”** means the auditors appointed by the Courts and their successors appointed from time to time pursuant to the provisions of Section 17.01;

**“Band Classification Manual”** means the 2005 Band Classification Manual published by the Corporate Information Management Directorate Information Management Branch of Indigenous and Northern Affairs Canada;

**“Band Council Acceptance Resolution”** means a band council resolution of a First Nation Class Member confirming Acceptance, substantially in the form set out in Schedule D, or another form acceptable to Canada and Class Counsel;

**“Band Council Confirmation”** means an optional declaration by a First Nation Class Member that identifies Individual Class Members and the dates during the Class Period that they were Ordinarily Resident on a Reserve of such First Nation Class Member while a Long-Term Drinking Water Advisory was in effect on that Reserve, substantially in the form set out in Schedule E or another form acceptable to Canada and Class Counsel, and is provided to the Administrator;

**“Base Payment”** has the meaning set out in Section 8.03(1)(a);

**“Boil Water Advisory”** means a notification issued by an Advisory Body to warn the public that they should bring their tap water to a rolling boil before they drink the water or use the water for other purposes such as to cook, feed pets, brush their teeth, and similar activities, and that tap water should not be used to bathe those who need help, such as infants, toddlers and the elderly, who should instead be given sponge baths, or some similar advisory;

**“Business Day”** means a day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the province or territory in which the person who needs to take action pursuant to this Agreement is ordinarily resident or a holiday under the federal laws of Canada applicable in the said province or territory;

**“Canada”** has the meaning set out in the preamble;

**“Claim”** means a claim for compensation made by (a) an Individual Class Member, or by an Estate Executor, Estate Claimant or Personal Representative on behalf of an Individual Class Member or their estate, by submitting a Claims Form to the Administrator in accordance with this Agreement, or (b) a band council on behalf of an Individual Class Member, by identifying that Individual Class Member in a Band Council Confirmation;

**“Claimant”** means (a) a person who makes a Claim by completing and submitting a Claims Form to the Administrator, or on whose behalf a Claim is made by such Class Member’s Estate Executive, Estate Claimant or Personal Representative, or (b) a person identified as an Individual Class Member in a Band Council Confirmation;

**“Claims Deadline”** means the date that is one (1) year following the Implementation Date or such other date as the Parties agree and the Courts approve, and any reference to the Claims Deadline includes any extension thereto;

**“Claims Form”** means a simplified written declaration in respect of a Claim by an Individual Class Member, in the form attached hereto as Schedule I, or such other form as may be recommended by the Administrator and agreed by the Parties, without supporting documentation except as agreed upon by the Parties;

**“Claims Process”** means the process outlined in this Agreement, including in Schedule F and related forms, or such other process as may be recommended by the Administrator and agreed by the Parties, for the determination of Class membership, submission of Claims, and assessment, determination and payment of compensation to Class Members;

**“Class”** has the meaning set out in the Recitals;

**“Class Counsel”** means, together, McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP;

**“Class Member”** means an Individual Class Member or a First Nation Class Member, as applicable, and **“Class Members”** means all of them, collectively;

**“Class Period”** means the period from and including November 20, 1995, to June 20, 2021;

**“Commitment”** has the meaning set out in Section 9.02(1);

**“Commitment Dispute Resolution Process”** has the meaning set out in Section 9.07;

**“Commitment Expenditures”** has the meaning set out in Section 9.02(2);

**“Confirmed Individual Class Member”** has the meaning set out in Section 7.02(5);

**“Constitution Act, 1982”** means the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982 (UK), 1982, c. 11*;

**“Courts”** means, collectively, the Federal Court and the Manitoba Court of Queen’s Bench;

**“Curve Lake First Nation Plaintiffs”** has the meaning set out in the preamble to this Agreement;

**“Deceased Individual Class Member”** has the meaning set out in Section 13.01(1);

**“Dispute”** has the meaning set out in Section 19.01(1);

**“Do Not Consume Advisory”** means a notification issued by an Advisory Body to warn the public that they should not use their tap water to cook, drink, feed pets, brush their teeth, and/or similar activities, and that tap water should not be used to bathe those who need help, such as

infants, toddlers and the elderly, who should instead be given sponge baths, or some similar advisory;

**“Do Not Use Advisory”** means a notification issued by an Advisory Body to warn the public that they should not use their tap water for any reason, or some similar advisory;

**“Drinking Water Advisory”** means a Boil Water Advisory, Do Not Consume Advisory, Do Not Use Advisory, or similar advisory with respect to the use of drinking water;

**“Eligibility Decision”** has the meaning set out in Section 7.02(1);

**“Eligible Class Member Address Search Plan”** means the Eligible Class Member Address Search Plan attached hereto as Schedule Q;

**“Estate Claimant”** has the meaning set out in Section 13.02(1);

**“Estate Executor”** means the executor, administrator, trustee or liquidator of a deceased Individual Class Member’s estate;

**“Estate Representation Claim”** has the meaning set out in Section 13.02(1);

**“Excluded Person”** is any member of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, and the Okanagan Indian Band, and Michael Darryl Isnardy;

**“Federal Action”** has the meaning set out in the Recitals;

**“Federal Action Plaintiffs”** has the meaning set out in the preamble to this Agreement;

**“Federal Certification Order”** means the order of the Federal Court dated October 8, 2020, certifying the Federal Action as a class proceeding, a copy of which is attached at Schedule B;

**“Financial Administration Act”** means the *Financial Administration Act*, R.S.C., 1985, c. F-11;

**“First Nation”** means a band, as defined in subsection 2(1) of the Indian Act, the disposition of whose lands is subject to that Act or the First Nations Land Management Act, or a Modern Treaty First Nation;

**“First Nation Class Member”** means an Impacted First Nation that provides the Administrator with notice of Acceptance in accordance with this Agreement;

**“First Nation Damages”** has the meaning set out in Section 8.03(1)(b);

**“First Nation Water and Wastewater Systems”** means water and wastewater systems on Reserves;

**“First Nations Advisory Committee on Safe Drinking Water”** or **“FNAC”** has the meaning set out in Section 9.04(1);

**“First Nations Economic and Cultural Restoration Fund”** has the meaning set out in Section 6.01(2);

**“First Nations Land Management Act”** means the *First Nations Land Management Act*, S.C. 1999, c. 24;

**“First Nations Lands”** means lands of a First Nation, the disposition of which is subject to the Indian Act, the First Nations Land Management Act or a Modern Treaty;

**“Fund”** has the meaning set out in Section 16.02(a);

**“Funds Held in Trust for Ongoing Fees”** has the meaning set out in Section 18.02(1);

**“Impacted First Nations”** means First Nations whose First Nations Lands were subject to a Drinking Water Advisory that lasted at least one year between November 20, 1995 and June 20, 2021;

**“Implementation Date”** means the later of:

- (a) the day following the last day on which a Class Member may appeal or seek leave to appeal the Settlement Approval Orders; and
- (b) the date on which the last of any appeals of the Settlement Approval Orders is finally determined;

**“Income Tax Act”** means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp);

**“Indian Act”** means the *Indian Act*, R.S.C. 1985, c. I-5;

**“Individual Class Member”** means a natural person who is a member of the Class and has not Opted Out of the Actions, and **“Individual Class Members”** means all such persons collectively;

**“Individual Damages”** has the meaning set out in Section 8.01(2);

**“Individual Damages Formula”** has the meaning set out in Section 8.01(2);

**“Joint Committee”** means a committee of three (3) persons appointed by the Courts in accordance with Section 15.01 and composed of one (1) Class Counsel representative from Olthuis Kler Townshend LLP and two (2) Class Counsel representatives from McCarthy Tétrault LLP;

**“Late Claims Period”** has the meaning set out in Section 4.03(3)(c);

**“Late Opt-Out”** means the right to Opt Out in accordance with Section 12.02;

**“Long-Term Drinking Water Advisory”** means a Drinking Water Advisory for a Reserve or a part of a Reserve that lasted at least one (1) year;

**“Manitoba Action”** has the meaning set out in the Recitals;

**“Manitoba Action Plaintiffs”** has the meaning set out in the preamble to this Agreement;

**“Manitoba Certification Order”** means the order of the Manitoba Court of Queen’s Bench dated July 14, 2020, certifying the Manitoba Action as a class proceeding, a copy of which is attached at Schedule C;

**“Member”** has the meaning set out in Section 14.01(1);

**“Missing Eligible Class Member”** has the meaning set out in Schedule Q;

**“Modern Treaty”** means a land claims agreement within the meaning of section 35 of the Constitution Act, 1982, entered into on or after January 1, 1973;

**“Modern Treaty First Nations”** means aboriginal peoples of Canada, other than the Inuit or Métis aboriginal peoples of Canada, with a Modern Treaty;

**“Neskantaga First Nation Plaintiffs”** has the meaning set out in the preamble to this Agreement;

**“Non-Remote First Nation”** means every Reserve that is not a Remote First Nation;

**“Notice Plan”** means the Notice Plan substantially in the form attached as Schedule L or as otherwise recommended by the Administrator and agreed by the Parties;

**“Ongoing Fees”** has the meaning set out in Section 18.02(1);

**“Opt Out”** means (a) the delivery by an Individual Class Member to CA2 Inc., being the administrator for notice of certification and notice of settlement, of an opt-out coupon or a written request to be removed from the Actions within the Opt-Out Period; (b) after the Opt-Out Period, an Individual Class Member obtaining leave of the Courts to opt out of the Actions; or (c) a Late Opt-Out, any of which has the effect of excluding an Individual Class Member from the Actions, and **“Opted Out”** has a corresponding meaning;

**“Opt-Out Period”** has the meaning set out in the Recitals and such period expired on March 29, 2021;

**“Ordinarily Resident”** has the meaning set out in Section 8.01(1);

**“Parties”** means:

- (a) prior to the Implementation Date, the Manitoba Action Plaintiffs and the Federal Action Plaintiffs, on behalf of the Class, and Canada; and
- (b) after the Implementation Date, the Class Members, as represented by the Joint Committee, and Canada;

**“Person Under Disability”** means:

- (a) a minor as defined by the legislation of that individual’s province or territory of residence; or
- (b) an individual who is unable to manage or make reasonable judgments or decisions in respect of their affairs by reason of mental incapacity and for whom

a Personal Representative has been appointed pursuant to the applicable provincial or federal legislation;

**“Personal Representative”** means the Person appointed pursuant to the applicable provincial or federal legislation to manage or make reasonable judgments or decisions in respect of the affairs of a Person Under Disability and includes an administrator for property;

**“Recitals”** means the recitals to this Agreement;

**“Releasees”** has the meaning set out in Section 10.03(1);

**“Releasors”** has the meaning set out in Section 10.03(1);

**“Remediation Plan”** has the meaning set out in Section 9.06(4);

**“Remote First Nation”** means every Reserve that is classified as Zone 3 or 4 in the Band Classification Manual, being Reserves deemed either “Remote” or “Isolated and require Special Access”, respectively, or if a Reserve is not classified in the Band Classification Manual, it is either (i) more than 350 kilometers from the nearest service centre with year round road access; or (ii) without year round road access to a service centre;

**“Replacement Legislation”** has the meaning set out in Section 9.03(1)(b);

**“Representative Plaintiffs”** has the meaning set out in the Recitals;

**“Reserve”** means a discrete tract of First Nations Lands that has been set apart by Her Majesty the Queen in Right of Canada for the use and benefit of one or more First Nations, or an analogous discrete tract of land that is subject to a Modern Treaty;

**“Restoration Fund Account”** has the meaning set out in Section 6.01(1);

**“Safe Drinking Water Trust”** has the meaning set out in in Section 16.01;

**“Schedule I Canadian Bank”** means a Canadian chartered bank listed on Schedule I to the *Bank Act*, S.C. 1991, c. 46;

**“SDWFNA”** has the meaning set out in Section 9.03(1)(a);

**“Settlement Approval Hearing”** means a joint hearing of the Courts to determine a motion to approve this Agreement and Class Counsel’s fees;

**“Settlement Approval Orders”** means the orders of the Courts approving this Agreement, substantially in the form set out in Schedule O;

**“Settlement Implementation Committee”** or **“Settlement Implementation Committee and its Members”** means the committee established pursuant to Section 14.01 and the persons who are appointed as members thereof, being two (2) representatives of the Joint Committee, two (2) representatives of Canada, and two (2) representatives of the FNAC;

**“Source Water”** means untreated water from surface water sources such as lakes, ponds, or rivers;

**“Specified Injuries”** has the meaning set out in Section 8.02(1);

**“Specified Injuries Compensation”** has the meaning set out in Section 8.02(2);

**“Specified Injuries Compensation Account”** has the meaning set out in Section 5.01(1);

**“Specified Injuries Compensation Fund”** has the meaning set out in Section 5.01(2);

**“Specified Injuries Compensation Grid”** means the Specified Injuries Compensation Grid set out in Schedule H attached hereto, or such other Specified Injuries Compensation Grid as the Courts may approve;

**“Specified Injuries Decision”** has the meaning set out in Section 7.02(1);

**“Third-Party Assessor”** means the person or persons appointed by the Courts to carry out the duties of the Third-Party Assessor as specified in this Agreement and in the Claims Process and their successors appointed from time to time pursuant to the provisions of Section 3.03;

**“Trust Account”** has the meaning set out in in Section 4.01(1);

**“Trust Fund”** has the meaning set out in in Section 4.01(2);

**“Trust Fund Surplus”** has the meaning set out in Section 4.03(1);

**“Trustee”** means the trustee appointed by the Courts for the purposes of this Agreement;

**“Ultimate Claims Deadline”** has the meaning set out in Section 13.02(1);

**“Underserviced First Nation”** has the meaning set out in in Section 9.06(1); and

**“Water Governance Fund”** has the meaning set out in in Section 9.05(1).

## 1.02 Headings

The division of this Agreement into paragraphs and the use of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

## 1.03 Extended Meanings

In this Agreement, words importing the singular number include the plural and *vice versa*, words importing any gender or no gender include all genders and words importing persons include First Nations. The term “including” means “including without limiting the generality of the foregoing”. Any reference to a government ministry, department or position shall include any successor government ministry, department or position.

## 1.04 Interpretation

The Parties acknowledge that they have reviewed and participated in settling the terms of this Agreement and they agree that there shall be no presumptive rule of construction to the effect that any ambiguity in this Agreement is to be resolved in favour of any particular Party.

### 1.05 **Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as enacted on the date of such reference and not as the statute may from time to time be amended, re-enacted, or replaced, and the same applies to any regulations made thereunder.

### 1.06 **Day For Any Action**

Where the time on or by which any action required to be taken hereunder expires or falls on a day that is not a Business Day, such action may be done on the next succeeding day that is a Business Day.

### 1.07 **Currency**

All references to currency herein are to lawful money of Canada.

### 1.08 **Compensation Inclusive**

The amounts payable to Class Members under this Agreement are inclusive of any prejudgment or post-judgment interest.

### 1.09 **Schedules**

The following Schedules to this Agreement are incorporated into and form part of this Agreement:

- Schedule A Agreement in Principle
- Schedule B Federal Certification Order
- Schedule C Manitoba Certification Order
- Schedule D Form of Band Council Acceptance Resolution
- Schedule E Form of Band Council Confirmation
- Schedule F Claims Process
- Schedule G Individual Damages Compensation Grid
- Schedule H Specified Injuries Compensation Grid
- Schedule I Claims Form
- Schedule J Indigenous Services Canada's Long-Term Drinking Water Advisory Action Plan
- Schedule K Commitment Dispute Resolution Process (and Appendix)
- Schedule L Notice Plan

Schedule M	Notice of Settlement Approval Hearing (Long and Short Forms)
Schedule N	Notice of Settlement Agreement Approval (Long and Short Forms)
Schedule O	Form of Federal Court Approval Order and Manitoba Court Approval Order
Schedule P	Form of Band Council Acceptance Resolution Approving Private Water Systems on Reserve
Schedule Q	Eligible Class Member Address Search Plan

#### **1.10 No Effect on Treaties or Existing Agreements**

Nothing in this Agreement shall cancel or supersede any treaty between Canada and any one or more Class Members, or any existing agreement between Canada and any one or more Class Members with respect to First Nation Water and Wastewater Systems, Long-Term Drinking Water Advisories, or similar matters, save and except for the Agreement in Principle, which this Agreement shall supersede.

#### **1.11 No Derogation from Constitutional Rights**

This Agreement is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the Constitution Act, 1982, and not as abrogating or derogating from them.

#### **1.12 Benefit of the Agreement**

This Agreement will inure to the benefit of and be binding upon the Parties, and for Canada and First Nation Class Members, upon their respective successors, and for Individual Class Members, upon their estates, heirs, Estate Executors, Estate Claimants, and Personal Representatives.

#### **1.13 Applicable Law**

This Agreement will be governed by the laws of Canada together with the laws of Manitoba, as applicable, or alternatively, at the election of a Class Member, the laws of Canada together with the laws of the province or territory where the Class Member is ordinarily resident, as applicable.

#### **1.14 Counterparts**

This Agreement may be executed electronically and in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same Agreement.

### **1.15 Official Languages**

Class Counsel shall prepare a French translation of this Agreement for use at the Settlement Approval Hearing. Following the Settlement Approval Orders, such French version shall be of equal weight and force at law.

### **1.16 Ongoing Supervisory Role of the Courts**

Notwithstanding any other provision of this Agreement, the Courts shall maintain jurisdiction to supervise the implementation of this Agreement in accordance with its terms, including the adoption of protocols and statements of procedure, and the Parties attorn to the jurisdiction of the Courts for that purpose. The Courts may give any directions or make any orders that are necessary for the purposes of this Section.

## **ARTICLE 2 – EFFECTIVE DATE OF AGREEMENT**

### **2.01 Date when Binding and Effective**

On the Implementation Date, this Agreement will become binding on all Individual Class Members. This Agreement will become binding on all First Nation Class Members on the later of (a) the date of their Acceptance and (b) the Implementation Date. If a First Nation Class Member does not give notice of Acceptance by the Acceptance Deadline, this Agreement will not bind the First Nation Class Member and the First Nation Class Member will not be entitled to any benefit hereunder unless the Courts order otherwise.

### **2.02 Effective Upon Approval**

Subject to Section 2.03, none of the provisions of this Agreement will become effective unless and until the Courts approve this Agreement.

### **2.03 Legal Fees Severable**

Class Counsel's fees for prosecuting the Actions have been negotiated separately from this Agreement and remain subject to approval by the Courts. The Courts' refusal to approve Class Counsel's fees will have no effect on the implementation of this Agreement. In the event that the Courts refuse to approve the fees of Class Counsel set out in Section 18.01, (a) the remainder of the provisions of this Agreement shall remain in full force and effect and in no way shall be affected, impaired or invalidated, and (b) Section 18.01 shall be modified to reflect such Class Counsel fees as are approved by the Courts, while otherwise effecting the original intent of the Parties as closely as possible.

## **ARTICLE 3 – ADMINISTRATION**

### **3.01 Designation of Administrator**

On the recommendation of the Parties, the Courts shall appoint an Administrator to administer the Claims Process with such powers, rights, duties and responsibilities as are set out in Section 3.02 and such other powers, rights, duties and responsibilities as are determined by the Joint Committee and approved by the Courts. On the recommendation of the Parties, or of their own motion, the Courts may replace the Administrator at any time.

### 3.02 Duties of the Administrator

The Administrator's duties and responsibilities include the following:

- (a) developing, installing, and implementing systems, forms, information, guidelines and procedures for processing Claims and making decisions on Claims in accordance with this Agreement;
- (b) developing, installing, and implementing systems and procedures for making payments of compensation in accordance with this Agreement;
- (c) receiving funds from the Safe Drinking Water Trust and the Trustee to make payments to Class Members in accordance with this Agreement;
- (d) providing personnel in such reasonable numbers as are required for the performance of its duties under this Agreement, and training and instructing those personnel;
- (e) retaining community liaisons in Impacted First Nations and liaisons at tribal councils to facilitate the implementation of the Notice Plan and the Claims Process;
- (f) keeping or causing to be kept accurate accounts of its activities and its administration and preparing such financial statements, reports, and records as are required by the Courts;
- (g) reporting to the Settlement Implementation Committee on a monthly basis respecting:
  - (i) Claims received and determined;
  - (ii) Claims deemed ineligible and the reason(s) for that determination;  
and
  - (iii) appeals from the Administrator's decisions and the outcomes of those appeals;
- (h) responding to inquiries respecting Claims and Claims Forms,
- (i) reviewing Claims Forms and Band Council Confirmations, and determining, subject to Section 7.02(2) in the case of a Band Council Confirmation:
  - (i) a Claimant's membership in the Class;
  - (ii) the dates and places a Claimant was Ordinarily Resident;
  - (iii) a Claimant's entitlement to Individual Damages, if any; and
  - (iv) a Claimant's entitlement to Specified Injuries Compensation, if any;

- (j) reviewing Acceptances and determining whether a First Nation submitting an Acceptance is eligible to be a First Nation Class Member and each First Nation Class Member's entitlement to First Nation Damages, if any;
- (k) giving notice of decisions made in accordance with this Agreement;
- (l) communicating with Claimants in either English or French, as the Claimant elects, and if a Claimant expresses the desire to communicate in a language other than English or French, making best efforts to accommodate such Claimant; and
- (m) such other duties and responsibilities as the Courts or the Parties may from time to time direct.

### **3.03 Appointment of the Third-Party Assessor**

On the recommendation of the Parties, the Courts shall appoint one or more Third-Party Assessors. On the recommendation of the Parties, or of their own motion, the Courts may replace a Third-Party Assessor at any time. The Third-Party Assessor shall perform the duties of the Third-Party Assessor set out in this Agreement.

### **3.04 Responsibility for Costs**

Canada shall pay:

- (a) the costs of giving notice in accordance with the Notice Plan and any additional notice ordered by the Courts;
- (b) the costs and reasonable disbursements of the Administrator, the Third-Party Assessor, the Trustee, the Auditors, and the Settlement Implementation Committee (except Joint Committee Members), up to a maximum of fifty million dollars in the aggregate (\$50,000,000), and thereafter the Administrator shall pay such costs out of the Trust Fund on approval by the Courts;
- (c) the costs of the First Nations Advisory Committee on Safe Drinking Water in accordance with Section 9.04;
- (d) the costs of the Water Governance Fund in accordance with Section 9.05;
- (e) the costs of technical advice relating to the Commitment in accordance with Section 9.06(3); and
- (f) the costs of the Commitment Dispute Resolution Process in accordance with Section 9.08.

## **ARTICLE 4 – TRUST FUND**

### **4.01 Establishment of the Trust Fund**

(1) As soon as practicable after its appointment and after the settlement of the Safe Drinking Water Trust in accordance with Section 16.01, the Trustee shall establish an interest-

bearing trust account at a Schedule I Canadian Bank for purposes of the Trust Fund (the “**Trust Account**”).

(2) No later than sixty (60) days following the Implementation Date, and in accordance with the terms of Article 16 , Canada shall make a contribution to the Safe Drinking Water Trust by paying one billion four-hundred and thirty-eight million dollars (\$1,438,000,000) into the Trust Account, with such payment being a distinct fund (the “**Trust Fund**”) within the Safe Drinking Water Trust.

#### 4.02 **Distribution of the Trust Fund**

The Trustee shall authorize the Administrator to, and the Administrator shall, distribute the Trust Fund for the benefit of the Class Members in accordance with this Agreement, including by paying Individual Damages in accordance with Section 8.01(2)(a).

#### 4.03 **Trust Fund Surplus**

(1) On the advice of an actuary or a similar advisor, the Joint Committee may determine at any time or from time to time that it is more likely than not that there are unallocated or surplus funds in the Trust Fund (a “**Trust Fund Surplus**”).

(2) The Joint Committee shall propose a distribution of any Trust Fund Surplus for the direct or indirect benefit of the Class Members in accordance with this Section 4.03.

(3) A distribution of a Trust Fund Surplus shall include distributions to effect one or more of the following, in descending order of priority, and such other uses as the Joint Committee may determine in consultation with the FNAC:

- (a) transferring up to four hundred million dollars (\$400,000,000) to the First Nations Economic and Cultural Restoration Fund, as needed;
- (b) paying Specified Injuries Compensation if the Specified Injuries Compensation Fund is insufficient to pay the Aggregate Specified Injuries Compensation Amount;
- (c) paying Individual Damages or First Nation Damages to Claimants who filed valid Claims during a specified period after the Claims Deadline, if any (a “**Late Claims Period**”), as the Joint Committee considers appropriate;
- (d) paying increased Individual Damages or First Nation Damages, as the Joint Committee considers appropriate; and
- (e) funding programming to promote education, cultural or spiritual practices, study, or healing in connection with Long-Term Drinking Water Advisories, as the Joint Committee considers appropriate.

(4) The Joint Committee shall propose any distribution of Trust Fund Surplus and bring motions in the Courts for approval of the proposed distribution of any Trust Fund Surplus.

(5) An allocation of a Trust Fund Surplus shall require approval of both Courts, and it shall be effective on the later of:

- (a) the day following the last day on which a Class Member may appeal or seek leave to appeal either of the approval orders in respect of such allocation; and
  - (b) the date on which the last of any appeals of either of the approval orders in respect of such allocation is finally determined.
- (6) For greater certainty, in no event shall any amount from the Trust Fund, including any Trust Fund Surplus, revert to Canada, and Canada shall not be an eligible recipient of any Trust Fund Surplus.

## **ARTICLE 5 – SPECIFIED INJURIES COMPENSATION FUND**

### **5.01 Establishment of the Specified Injuries Compensation Fund**

(1) As soon as practicable after its appointment and after the settlement of the Safe Drinking Water Trust in accordance with Section 16.01, the Trustee shall establish an interest-bearing trust account at a Schedule I Canadian Bank for purposes of the Specified Injuries Compensation Fund (the “**Specified Injuries Compensation Account**”).

(2) No later than sixty (60) days following the Implementation Date, and in accordance with the terms of Article 16, Canada shall make a contribution to the Safe Drinking Water Trust by paying fifty million dollars (\$50,000,000) into the Specified Injuries Compensation Account, with such payment being a distinct fund (the “**Specified Injuries Compensation Fund**”) within the Safe Drinking Water Trust.

### **5.02 Distribution of the Specified Injuries Compensation Fund**

(1) The Trustee shall authorize the Administrator to, and the Administrator shall, pay Specified Injuries Compensation from the Specified Injuries Compensation Fund in accordance with Section 8.02.

(2) If, following the Ultimate Claims Deadline and the payment of the Specified Injuries Compensation as set out in Section 8.02, any funds remain in the Specified Injuries Compensation Fund, the Trustee shall transfer such remaining funds into the Trust Fund.

(3) For greater certainty, in no event shall any amount from the Specified Injuries Compensation Fund revert to Canada, and Canada shall not be an eligible recipient of any amount from the Specified Injuries Compensation Fund.

## **ARTICLE 6 – FIRST NATIONS ECONOMIC AND CULTURAL RESTORATION FUND**

### **6.01 Establishment of the First Nations Economic and Cultural Restoration Fund**

(1) As soon as practicable after its appointment and after the settlement of the Safe Drinking Water Trust in accordance with Section 16.01, the Trustee shall establish an interest-bearing trust account at a Schedule I Canadian Bank for purposes of the First Nations Economic and Cultural Restoration Fund (the “**Restoration Fund Account**”).

(2) No later than sixty (60) days following the Implementation Date, and in accordance with the terms of Article 16, Canada shall make a contribution to the Safe Drinking

Water Trust by paying four hundred million dollars (\$400,000,000) into the Restoration Fund Account, with such payment being a distinct fund (the “**First Nations Economic and Cultural Restoration Fund**”) within the Safe Drinking Water Trust.

(3) The purpose of the First Nations Economic and Cultural Restoration Fund is to provide First Nation Class Members with funds to use on projects related to water and wastewater, economic development, and cultural activities. The Parties respect the autonomy of First Nations to choose the use to which funds distributed from the Restoration Fund Account are directed.

#### **6.02 Distribution of the First Nations Economic and Cultural Restoration Fund**

(1) The Trustee shall authorize the Administrator to, and the Administrator shall, pay First Nation Damages from the First Nations Economic and Cultural Restoration Fund in accordance with Section 8.03(1).

(2) If, following the Ultimate Claims Deadline and the payment of the First Nations Damages set out in Section 8.03(1), any funds remain in the First Nations Economic and Cultural Restoration Fund, the Trustee shall transfer such remaining funds into the Trust Fund.

(3) For greater certainty, in no event shall any amount from the First Nations Economic and Cultural Restoration Fund revert to Canada, and Canada shall not be an eligible recipient of any amount from the First Nations Economic and Cultural Restoration Fund.

### **ARTICLE 7 – CLAIMS PROCESS**

#### **7.01 Principles Governing Claims Administration**

(1) The Claims Process is intended to be expeditious, cost-effective, user-friendly, culturally sensitive, trauma-informed, and non-traumatizing to participants. The Administrator shall identify and implement service times for the Claims Process no later than sixty (60) days after the Implementation Date.

(2) The Administrator, the Third-Party Assessor, and the Settlement Implementation Committee and its Members shall, in the absence of reasonable grounds to the contrary, assume that a Claimant is acting honestly and in good faith with respect to any Claim.

(3) In considering a Claims Form or a Band Council Confirmation, the Administrator, the Third-Party Assessor, and the Settlement Implementation Committee and its Members shall draw all reasonable and favourable inferences that can be drawn in favour of the Claimant.

#### **7.02 Eligibility Decisions and Specified Injuries Decisions**

(1) The Administrator shall review each Claims Form, Band Council Confirmation, and/or such other information as the Administrator considers relevant to determine, subject to Section 7.02(2) in the case of a Band Council Confirmation, whether each Claimant is an Individual Class Member and the period of time that they were Ordinarily Resident on a Reserve during a Long-Term Drinking Water Advisory (an “**Eligibility Decision**”) and, if applicable, the validity of a Claim for Specified Injuries Compensation (a “**Specified Injuries Decision**”). For greater certainty, the Administrator may provide a Claimant with an Eligibility Decision or a

Specified Injuries Decision before the Administrator has calculated the Claimant's entitlement, if any, to Individual Damages or Specified Injuries Compensation.

(2) A Band Council Confirmation is intended to be optional. Where provided, and in the absence of evidence to the contrary, a Band Council Confirmation shall constitute sufficient evidence of the Individual Class Members identified therein being Ordinarily Resident on a Reserve during a Long-Term Drinking Water Advisory for the purpose of an Eligibility Decision and shall be sufficient to make Claims for Individual Damages on behalf of such Individual Class Members without such Individual Class Members being required to submit Claims Forms. Notwithstanding the foregoing, an Individual Class Member identified in a Band Council Confirmation, or an Estate Executor, Estate Claimant or Personal Representative on their behalf, shall be entitled to submit a Claims Form, and a Band Council Confirmation is not intended to override any Claims Form submitted by or on behalf of an Individual Class Member, whether or not such Individual Class Member is identified in a Band Council Confirmation. In the event of a conflict between a Band Council Confirmation and a Claims Form, the Claims Form shall prevail. Any Claimant who desires to make a Claim for Specified Injuries Compensation shall be required to submit a Claims Form in respect of their Specified Injuries.

(3) The Administrator shall give written notice to each Claimant setting out the results of its Eligibility Decision and, if applicable, Specified Injuries Decision. If the Administrator determines that the Claimant is an Individual Class Member, the Eligibility Decision will state the period of time that such Claimant was Ordinarily Resident on an applicable Reserve during a Long-Term Drinking Water Advisory, what kind of Drinking Water Advisory applied, and whether the Reserve was in a Remote First Nation.

(4) The Administrator shall provide written reasons to a Claimant in any case of:

- (a) an Eligibility Decision that a Claimant is not an Individual Class Member, or that the Claimant was not Ordinarily Resident on an applicable Reserve for the entire period claimed in the Claimant's Claims Form; or
- (b) a Specified Injuries Decision that a Claimant is not eligible for the Specified Injuries Compensation claimed in the Claimant's Claims Form.

(5) Only a Claimant confirmed by an Eligibility Decision (including, for greater certainty, by being identified as an Individual Class Member in a Band Council Confirmation) to be an Individual Class Member (a "**Confirmed Individual Class Member**") may be entitled to compensation pursuant to Section 8.01 and, if applicable, Section 8.02.

(6) A Claimant shall have sixty (60) days to commence an appeal to the Third-Party Assessor in accordance with the Claims Process after receiving:

- (a) an Eligibility Decision that a Claimant is not an Individual Class Member or that the Claimant was not Ordinarily Resident on an applicable Reserve for the entire period claimed in the Claimant's Claims Form or a Band Council Confirmation; or
- (b) a Specified Injuries Decision that a Claimant is not entitled to the Specified Injuries Compensation claimed in the Claimant's Claims Form.

(7) The Third-Party Assessor's decision on an appeal pursuant to Section 7.02(6) will be final and not subject to appeal or review.

(8) Class Counsel shall assist Claimants or their representatives, as reasonably requested, in making Claims for Specified Injuries Compensation or in appealing a Specified Injuries Decision at no cost to Canada or the Claimant other than, for certainty, Class Counsel's fees as separately negotiated or as approved by the Courts and payable in accordance with Section 18.02.

### 7.03 First Nation Damages Decisions

Within thirty (30) days following receipt by a First Nation Class Member of the Administrator's determination of its eligibility for a Base Payment or the Administrator's calculation of its First Nation Damages in accordance with the Claims Process, the First Nation Class Member may appeal such decision(s) in accordance with the Claims Process. The decision of the Third-Party Assessor on such an appeal will be final and not subject to appeal or review.

### 7.04 Referrals to Settlement Implementation Committee

(1) The Administrator shall refer a Claims Form to the Settlement Implementation Committee where the harms described in the Claims Form are not contemplated in the Specified Injuries Compensation Grid, and where the Settlement Implementation Committee has not already declined to extend Specified Injuries Compensation in substantially similar circumstances.

(2) The decision of the Settlement Implementation Committee on a Claims Form referred under this Section 7.04 will be final and not subject to appeal or review.

### 7.05 Finality of Decisions

Except as set out in this Article 7 and in the Claims Process, all decisions of the Administrator are final and binding upon a Claimant and not subject to appeal or review.

## **ARTICLE 8 – RETROSPECTIVE COMPENSATION**

### 8.01 Individual Damages

(1) In determining where a Claimant was Ordinarily Resident for the purpose of this Agreement, the Administrator shall consider each year during the Class Period that a Reserve was subject to a Long-Term Drinking Water Advisory, beginning on the date that the advisory was imposed (each such year, an "**Advisory Year**"), and a Claimant shall have been "**Ordinarily Resident**" on an affected Reserve, for the purposes of this Agreement, if:

- (a) the Claimant lived on the affected Reserve for a greater portion of an Advisory Year (or, after the first Advisory Year, the applicable portion of such subsequent Advisory Year that a Long-Term Drinking Water Advisory was in effect if the Long-Term Drinking Water Advisory terminated before the end of the Advisory Year) than the Claimant lived elsewhere; and
- (b) notwithstanding the foregoing, in the case of any Claimant who was eighteen (18) years of age or younger at the applicable time, such Claimant habitually lived on an affected Reserve but lived elsewhere for a portion of the Advisory Year to attend an educational facility.

(2) The Administrator shall calculate damages for each Confirmed Individual Class Member (“**Individual Damages**”) in accordance with the following formula (the “**Individual Damages Formula**”):

(a) in the case of a Confirmed Individual Class Member who had not yet reached the age of eighteen (18) years on November 20, 2013, for:

(i) every Advisory Year; and

(ii) after the first Advisory Year, every portion of an Advisory Year in accordance with Section 8.01(4),

during the Class Period that such Confirmed Individual Class Member was Ordinarily Resident on a Reserve where a Long-Term Drinking Water Advisory was in effect;

(b) in the case of a Confirmed Individual Class Member who had reached the age of eighteen (18) years before November 20, 2013, but was incapable of commencing a proceeding in respect of their Claim because of their physical, mental or psychological condition, for:

(i) every Advisory Year (and, after the first Advisory Year, every portion of an Advisory Year in accordance with Section 8.01(4)) prior to November 20, 2019, for which the Confirmed Individual Class Member had reached the age of eighteen (18) years and had been capable of commencing a proceeding in respect of that Advisory Year (or portion thereof) for a cumulative period of less than six (6) years as of November 20, 2019; and

(ii) every Advisory Year (and, after the first Advisory Year, every portion of an Advisory Year in accordance with Section 8.01(4)) subsequent to November 20, 2019,

during the Class Period that such Confirmed Individual Class Member was Ordinarily Resident on a Reserve where a Long-Term Drinking Water Advisory was in effect; or

(c) in the case of a Confirmed Individual Class Member who had reached the age of eighteen (18) years before November 20, 2013, other than a person described in Section 8.01(2)(b), for:

(i) every Advisory Year; and

(ii) after the first Advisory Year, every portion of an Advisory Year in accordance with Section 8.01(4),

between November 20, 2013, and the end of the Class Period that such Confirmed Individual Class Member was Ordinarily Resident on a Reserve where a Long-Term Drinking Water Advisory was in effect.

(3) The Joint Committee, acting on the advice of an actuary or a similar advisor, shall determine the rates at which Individual Damages will be paid. Subject to (a) the availability

of sufficient funds in the Trust Fund and (b) the availability of sufficient funds in the First Nations Economic and Cultural Restoration Fund to pay First Nation Damages in an amount equal to fifty percent (50%) of the Individual Damages, Individual Damages shall be paid at the rates set out in Schedule G, or as close to those rates as the sufficiency of the Trust Fund and the First Nations Economic and Cultural Restoration Fund allows.

(4) Individual Damages for any partial Advisory Years after the first Advisory Year shall be calculated for each Confirmed Individual Class Member by multiplying:

- (a) the Individual Damages such Confirmed Individual Class Member would have been entitled to for a full Advisory Year, calculated in accordance with Section 8.01(2); by
- (b) a fraction, the numerator of which is the number of days in the applicable partial Advisory Year after the first Advisory Year during which a Long-Term Drinking Water Advisory remained in effect on a Reserve where the Class Member was Ordinarily Resident and the denominator of which is three hundred and sixty-five (365).

(5) Except as otherwise provided in this Agreement, within one hundred and twenty (120) days following the Claims Deadline, the Administrator shall pay Individual Damages in Accordance with this Agreement. The Administrator shall request such funds from the Trustee, the Trustee shall provide such funds to the Administrator, and the Administrator shall pay such funds in accordance with this Agreement.

## 8.02 Specified Injuries Compensation

(1) In addition to Individual Damages, an Individual Class Member may indicate on their Claims Form that they claim damages for one or more of the specified medical conditions listed on Schedule H that were caused by using treated or tap water in accordance with a Long-Term Drinking Water Advisory on a Reserve where such Individual Class Member was Ordinarily Resident, or by restricted access to treated or tap water caused by a Long-Term Drinking Water Advisory on a Reserve where such Individual Class Member was Ordinarily Resident (“**Specified Injuries**”). For greater certainty, medical conditions caused by using water in a manner that is contrary to an applicable Long-Term Drinking Water Advisory or using Source Water will not constitute Specified Injuries.

(2) Confirmed Individual Class Members will be entitled to compensation for Specified Injuries in the amount set out in Schedule H (the “**Specified Injuries Compensation**”), provided that the Claimant establishes that the injury was caused by using treated or tap water in accordance with a Long-Term Drinking Water Advisory, or by restricted access to treated or tap water caused by a Long-Term Drinking Water Advisory, in accordance with the Claims Process and Schedule H.

(3) Confirmed Individual Class Members must establish a Specified Injury by the means set out in Schedule H and the Claims Process, unless the Settlement Implementation Committee directs otherwise. Each amount set out in in Schedule H will be paid only once to a particular Claimant, even if the Claimant suffered multiple Specified Injuries of the same nature or kind.

(4) Within one hundred and twenty (120) days following the Claims Deadline, the Administrator shall determine whether there are sufficient funds in the Specified Injuries Compensation Fund to pay the aggregate Specified Injuries Compensation for each valid and established Claim for Specified Injuries Compensation (the “**Aggregate Specified Injuries Compensation Amount**”) established in accordance with the Claims Process, and:

- (a) if there are sufficient funds in the Specified Injuries Compensation Fund to pay the Aggregate Specified Injuries Compensation Amount, the Administrator shall pay Specified Injuries Compensation in accordance with this Agreement; or
- (b) if there are insufficient funds in the Specified Injuries Compensation Fund to pay the Aggregate Specified Injuries Compensation Amount, the Administrator shall pay each Confirmed Individual Class Member in accordance with this Agreement their *pro rata* share of the Specified Injuries Compensation Fund in proportion to the Specified Injuries Compensation to which such Confirmed Individual Class Member would be entitled if the Aggregate Specified Injuries Compensation Amount was equal to the Specified Injuries Compensation Fund; and
- (c) in either case, the Administrator shall request such funds from the Trustee, the Trustee shall provide such funds to the Administrator, and the Administrator shall pay such funds in accordance with this Agreement.

### 8.03 **First Nation Class Member Damages**

(1) The Administrator shall calculate First Nation Class Members’ damages in accordance with the following entitlement of each First Nation Class Member:

- (a) a base payment of five hundred thousand dollars (\$500,000) (the “**Base Payment**”); and
- (b) an amount equal to fifty percent (50%) of the Individual Damages paid to Confirmed Individual Class Members who were Ordinarily Resident on such First Nation Class Member’s Reserve or Reserves during a Long-Term Drinking Water Advisory on such First Nation Class Member’s Reserve or Reserves (“**First Nation Damages**”).

(2) The Administrator shall pay the Base Payment to each First Nation Class Member from the First Nations Economic and Cultural Restoration Fund within ninety (90) days following the later of (a) the Implementation Date, and (b) the date on which such First Nation Class Member gives written notice of Acceptance to Class Counsel. The Administrator shall request such funds from the Trustee, the Trustee shall provide such funds to the Administrator, and the Administrator shall pay such funds in accordance with this Agreement.

(3) Every six (6) months after the Base Payment is made pursuant to Section 8.03(2), the Administrator shall pay each First Nation Class Member from the First Nations Economic and Cultural Restoration Fund, without duplication, any accrued but unpaid First Nation Damages to date for such First Nation Class Member. The Administrator shall request such funds from the Trustee, the Trustee shall provide such funds to the Administrator, and the Administrator shall pay such funds in accordance with this Agreement.

## **ARTICLE 9 – PROSPECTIVE RELIEF**

### **9.01 Action Plan for First Nation Class Members**

(1) Canada shall make all reasonable efforts to support the removal of Long-Term Drinking Water Advisories that affect Class Members, including by taking the steps set out in the Action Plan within the project timeframes set out therein.

(2) Canada shall update the Action Plan regularly, and no less than quarterly, so as to reflect progress against the Action Plan.

(3) The Action Plan shall be amended to reflect additional commitments made by Canada, including commitments in Remediation Plans.

(4) Within thirty (30) Business Days following any update or amendment to the Action Plan, Canada shall provide the Joint Committee with a copy of the updated or amended Action Plan.

(5) For greater certainty, nothing in this Agreement limits Canada to taking the measures set out in the Action Plan or prevents Canada from taking additional measures not contemplated in the Action Plan for the benefit of Class Members.

### **9.02 Commitment to Additional Measures**

(1) In addition to the measures set out in the Action Plan, Canada shall make all reasonable efforts to ensure that Individual Class Members living on Reserves have regular access to drinking water in their homes, whether from a public water system or a private water system approved by a band council resolution substantially in the form set out in Schedule P, or another form acceptable to Canada and Class Counsel, including on-site systems, that meets the stricter of the federal requirements or provincial standards governing residential water quality (the “**Commitment**”). For greater certainty:

- (a) such “regular access” shall be of a nature and quantity sufficient to permit all usual and necessary uses of water in a similarly situated Canadian home, including but not limited to drinking water, bathing and personal hygiene, food preparation and dishwashing, sanitation, and laundry;
- (b) the Commitment is limited to Canada’s reasonable efforts, including the provision of actual cost funding, training, planning, and technical assistance;
- (c) if, despite Canada making all reasonable efforts, such regular access cannot be achieved, Canada is not required to warranty such regular access in an Individual Class Member’s home; and,
- (d) factors that may be considered in any determination of reasonable efforts include, but are not limited to:
  - (i) the views of the particular First Nation;
  - (ii) any federal requirements or provincial standards and protocols relating to water;

- (iii) whether monitoring and testing are performed on the water system; and
- (iv) the physical location of the home, including proximity to centralized water systems and remoteness.

(2) Canada shall spend at least six billion dollars (\$6,000,000,000) between June 20, 2021, and March 31, 2030, to meet the Commitment, at a rate of at least four hundred million dollars (\$400,000,000) per fiscal year ending March 31, by funding the actual cost of construction, upgrading, operation, and maintenance of water infrastructure on Reserves for First Nations ("**Commitment Expenditures**").

(3) Canada shall provide the Joint Committee with an annual statement of all Commitment Expenditures actually made each fiscal year through March 31, 2030, which statement shall be provided no later than ninety (90) days after the end of the applicable fiscal year.

(4) Upon request, Canada shall promptly provide any First Nation Class Member with a statement of the Commitment Expenditures in respect of such First Nation Class Member's Reserves.

### 9.03 **Repeal and Replacement of *Safe Drinking Water for First Nations Act***

- (1) Canada shall make all reasonable efforts to:
  - (a) introduce legislation repealing the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21 (the "**SDWFNA**") on or before March 31, 2022;
  - (b) develop and introduce replacement legislation for the *SDWFNA* ("**Replacement Legislation**"), in consultation with First Nations; and
  - (c) introduce the Replacement Legislation by December 31, 2022.
- (2) The objectives of the Replacement Legislation shall be to:
  - (a) ensure sustainable First Nation Water and Wastewater Systems, premised upon:
    - (i) defining minimum standards of water quality for First Nation Water and Wastewater Systems, with reference to standards that are directly applicable to First Nation communities; and
    - (ii) defining minimum capacity standards for the delivery of water to First Nation communities, in terms of volume per individual community member;
  - (b) create a transparent approach to building, improving, and providing drinking water and wastewater services for First Nations;
  - (c) confirm adequate and sustainable funding for First Nation Water and Wastewater Systems; and
  - (d) support the voluntary assumption of water and wastewater infrastructure by First Nations.

(3) Notwithstanding Canada's commitment to introduce the Replacement Legislation, Canada shall support the development of First Nations governance initiatives as described in Section 9.05, below.

#### 9.04 **First Nations Advisory Committee on Safe Drinking Water**

(1) Canada shall provide twenty million dollars (\$20,000,000) in funding through the fiscal year ending March 31, 2026, for the creation of the First Nations Advisory Committee on Safe Drinking Water (the "**FNAC**").

(2) The FNAC's membership shall reflect Canada's diversity of First Nation Class Member communities, languages, genders, geographies, skills, expertise, and experience with water insecurity.

(3) The members of the FNAC shall be appointed by agreement of the Parties, on the recommendation of the Joint Committee, and failing agreement, the members shall be appointed by the Courts. The Parties may agree to remove any member of the FNAC, and such removal will be effective upon approval of the Courts.

(4) The primary functions of the FNAC shall be to:

(a) work with First Nation Class Members to provide oversight, guidance, and recommendations to Indigenous Services Canada to support the development and implementation of forward-looking policy initiatives, including:

(i) the development of Indigenous Services Canada's Long Term Strategy for Water and Wastewater on First Nation Class Members' Reserves; and

(ii) the development of the Replacement Legislation;

(b) contribute strategic advice and perspectives to Indigenous Services Canada in order to advance the long-term sustainability of safe drinking water in First Nation communities; and

(c) support the identification and prioritization of funding for water and wastewater in First Nations communities.

(5) The terms of reference for the FNAC shall be developed jointly by the Parties.

#### 9.05 **First Nations Governance Initiatives**

(1) Canada shall provide nine million dollars (\$9,000,000) in funding for First Nations to pursue governance initiatives and by-law development through the fiscal year ending March 31, 2026 (the "**Water Governance Fund**"). Indigenous Services Canada shall administer the Water Governance Fund in accordance with its terms of reference.

(2) The funding for the Water Governance Fund shall continue through the fiscal year ending March 31, 2026, regardless of whether the Replacement Legislation is enacted within the anticipated time frame or at all.

(3) The Water Governance Fund shall assist First Nation Class Members that wish to develop their own water-related governance initiatives, including by funding:

- (a) research;
- (b) technical advice;
- (c) by-law drafting; and
- (d) the implementation of pilot projects on Reserves.

(4) The terms of reference for the Water Governance Fund shall be developed jointly by the Parties.

#### 9.06 **Agreement on Required Measures**

(1) If a First Nation determines that the Commitment is not met or ceases to be met on its Reserve or Reserves or if a First Nation determines that Canada is not complying with a Remediation Plan (each such First Nation is an “**Underserviced First Nation**”), it shall give written notice to Canada, directed to the Deputy Minister of Indigenous Services, describing the way in which the Commitment is not met or ceases to be met or the way in which Canada is not complying with a Remediation Plan.

(2) Canada shall promptly consult with each Underserviced First Nation, with a view to meeting the Commitment as soon as possible.

(3) Canada shall pay the reasonable cost of an Underserviced First Nation obtaining technical advice to determine what steps are required to meet the Commitment on the Underserviced First Nation’s Reserve or Reserves.

(4) Canada shall make all reasonable efforts to reach an agreement with the Underserviced First Nation detailing the steps that are required to meet the Commitment (a “**Remediation Plan**”).

(5) Canada and the Underserviced First Nation shall each comply with the Remediation Plan.

#### 9.07 **Dispute Resolution for Required Measures**

If Canada does not comply with an existing Remediation Plan or Canada and an Underserviced First Nation fail to agree upon a Remediation Plan within three (3) months following the Underserviced First Nation delivering notice as set out in Section 9.06 or such other time period as the Parties may agree, the Underserviced First Nation may invoke the dispute resolution process set out on Schedule K (the “**Commitment Dispute Resolution Process**”), in which case Canada and the Underserviced First Nation shall submit the existing Remediation Plan or their respective proposed forms of Remediation Plan to the Commitment Dispute Resolution Process.

#### 9.08 **Costs of Commitment Dispute Resolution Process**

(1) Canada shall pay fifty percent (50%) of the reasonable costs and disbursements of any Underserviced First Nation Class Member's participation in the Commitment Dispute Resolution Process, including reasonable legal fees and disbursements, provided that Canada shall pay one hundred percent (100%) of the reasonable costs of convening collaborative negotiations, mediations, and arbitrations in accordance with the Commitment Dispute Resolution Process, together with the reasonable fees and disbursements of any mediator or arbitrator appointed in accordance with the Commitment Dispute Resolution Process; and

(2) For greater certainty, the costs and disbursements set out in Section 9.08(1) are separate and distinct from the fees and disbursements payable to Class Counsel and the Joint Committee pursuant to Article 18 .

### **ARTICLE 10 – EFFECT OF AGREEMENT**

#### 10.01 **No Provision for Continued Damages**

This Agreement makes no provision for any damages that may accrue to Class Members in respect of Long-Term Drinking Water Advisories that begin or continue after June 20, 2021, and Class Members shall not release any claims to any such damages.

#### 10.02 **Canada's Liability**

The Parties specifically agree that once Canada has complied with the terms of this Agreement, it shall have no further liability to Class Members for damages that they incurred prior to June 20, 2021 in respect of or arising from Canada's failure to provide, or fund the provision of, safe drinking water on the Reserve or Reserves of such First Nation Class Members, or on which such Individual Class Members were Ordinarily Resident during a Long-Term Drinking Water Advisory.

#### 10.03 **Releases**

(1) The Settlement Approval Orders issued by the Courts will declare that, except as set forth in Section 10.01 and Section 10.04, and in consideration for Canada's obligations and liabilities under this Agreement, each Individual Class Member or their Estate Executor, Estate Claimant, or Personal Representative on behalf of such Individual Class Member or their estate and each First Nation Class Member (hereinafter collectively the "**Releasors**") has fully, finally and forever released Canada and its servants, agents, officers and employees, predecessors, successors, and assigns (hereinafter collectively the "**Releasees**"), from any and all actions, causes of action, claims, and demands of every nature or kind available, whether or not known or anticipated, which the Releasors had, now have or may in the future have against the Releasees in respect of or arising from Canada's failure to provide, or fund the provision of, safe drinking water on the Reserve or Reserves of such First Nation Class Member, or on which such Individual Class Member was Ordinarily Resident during a Long-Term Drinking Water Advisory, in each case prior to the conclusion of the Class Period.

(2) The Releasors are deemed to agree that if they make any claim or demand or take any actions or proceedings against another person or persons in which any claim arises against the Releasees for contribution or indemnity or other relief over, whether by statute,

common law, or Quebec civil law, in relation to the claims released in Section 10.03(1), above, the Releasors shall expressly limit their claims so as to exclude any portion of Canada's liability.

(3) Upon a final determination of a Claim made under and in accordance with the Claims Process, the Releasors are also deemed to fully and finally release:

- (a) the Parties, Class Counsel, counsel for Canada, the Settlement Implementation Committee and its Members, the FNAC and its members, the Joint Committee and its members, the Administrator, and the Third-Party Assessor with respect to any claims that have arisen, arise, or could arise out of the application of the Claims Process, including any claims relating to the calculation of Individual Damages, Specified Injuries Compensation, and First Nation Damages, the sufficiency of the compensation received, and the allocation and distribution of Trust Fund Surplus;
- (b) any band council that submitted a Band Council Confirmation in respect of any claims that have arisen, arise, or could arise out of the Band Council Confirmation, including any claims in respect of the completeness or accuracy thereof; and
- (c) any band council that adopts a band council resolution approving private water systems, substantially in the form set out in Schedule P or in another form acceptable to Canada and Class Counsel, in respect of any claims that have arisen, arise, or could arise out of the band council resolution approving private water systems, including any claims in respect of the completeness or accuracy thereof, and the adoption or failure to adopt a band council resolution approving private water systems shall not have the effect of making a First Nation or its band council responsible or liable for any water system described therein.

(4) The Parties, Class Counsel, counsel for Canada, the Settlement Implementation Committee and its Members, the FNAC and its members, the Joint Committee and its members, the Administrator, and the Third-Party Assessor shall have no liability to a Missing Eligible Class Member with respect to any claims that have arisen, arise, or could arise in respect of the payment or non-payment of any amount in accordance with this Agreement once the Administrator has complied with the Eligible Class Member Address Search Plan set out in Schedule Q.

(5) For greater certainty:

- (a) any living Individual Class Member who does not submit a valid Claims Form to the Administrator, or on whose behalf a valid Claim is not made in the form of a Band Council Confirmation, or, in the case of a Class Member who is a Person Under Disability, on whose behalf a valid Claims Form is not submitted by such Class Member's Personal Representative; and
- (b) any Deceased Individual Class Member who did not submit a valid Claims Form prior to their death, or whose Estate Executor or Estate Claimant does not submit a valid Claims Form on behalf of such Deceased Individual Class Member, together with any other information required by this Agreement,

in each case on or prior to the Ultimate Claims Deadline shall have no right to Individual Damages or Specified Injuries Compensation under this Agreement, and the Administrator shall reject any Claim submitted following the Ultimate Claims Deadline. Each Individual Class Member shall continue to be bound by the release set out in this Section 10.03 notwithstanding their failure to submit a valid Claims Form on or prior to the Ultimate Claims Deadline.

(6) For greater certainty any Impacted First Nation that does not give notice of Acceptance by the Acceptance Deadline shall forfeit any right to any benefit under this Agreement, including First Nation Damages, and the Administrator shall reject any notice of Acceptance submitted following the Acceptance Deadline.

#### **10.04 Continuing Remedies**

(1) The Parties acknowledge and agree that, notwithstanding Section 10.03 or any other provision of this Agreement, Class Members do not release, and specifically retain, their claims or causes of action for any breach by Canada of this Agreement.

(2) The Parties acknowledge and agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event Canada failed to perform its obligations under Section 3.04, Article 4 Article 5 Article 6 or Article 9 . It is accordingly agreed that, subject to the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, the Parties shall be entitled to injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief, this being in addition to damages and any other remedy to which the Parties may be entitled at law or in equity.

#### **10.05 Canadian Income Tax and Social Benefits**

(1) Canada shall make best efforts to ensure that any Class Member's entitlement to federal social benefits or social assistance benefits will not be negatively affected by receipt of any payment in accordance with this Agreement, and no such payment will be considered taxable income within the meaning of the Income Tax Act.

(2) Canada shall make best efforts to obtain agreement with provincial and territorial governments to the effect that the receipt of any payment in accordance with this Agreement will not affect the amount, nature, or duration of any social benefits or social assistance benefits available or payable to any Class Member.

### **ARTICLE 11 – IMPLEMENTATION OF THIS AGREEMENT**

#### **11.01 Settlement Approval Orders**

(1) The Parties agree that the Settlement Approval Orders will be sought from the Courts substantially in the form attached as Schedule O.

(2) The Parties shall consent to the entry of the Settlement Approval Orders.

(3) The Parties shall take all reasonable measures to cooperate in requesting that the Courts issue the Settlement Approval Orders.

(4) The Parties shall schedule the Settlement Approval Hearing as soon as practicable considering the requirements of the Notice Plan and the Courts' availability.

#### 11.02 Notice Plan

(1) The Parties agree that they shall jointly seek approval from the Courts of the Notice Plan as the means by which Class Members will be provided with notice of settlement and settlement approval, as well as the Late Opt-Out, as applicable.

(2) Canada agrees to fund the implementation of the Notice Plan and any subsequent notice ordered by the Courts.

### **ARTICLE 12 – OPTING OUT**

#### 12.01 Opting Out

No Individual Class Member may Opt Out of the Actions without leave of the Courts, and each Individual Class Member shall be bound by this Agreement if it is approved by the Courts.

#### 12.02 Late Opt-Out

Notwithstanding Section 12.01, Individual Class Members who are Ordinarily Resident in Mitaanjigaming First Nation, North Caribou Lake, Ministikwan Lake Cree Nation, Oneida of the Thames, and Deer Lake First Nation shall have a right to Opt Out by providing the Administrator with written notice within forty-five (45) days of the date on which notice of settlement is first published. The First Nations named in this Section 12.02 first experienced a Long-Term Drinking Water Advisory after the commencement of the Opt-Out Period. Save and except for the Late Opt-Out in this Section 12.02, Individual Class Members shall have no right to Opt Out under this Agreement and may only exclude themselves from the Actions with leave of the Courts in accordance with Section 12.01.

#### 12.03 Automatic Exclusion for Individual Claims

Any Individual Class Member who does not, before the expiry of the time to Opt Out, discontinue a proceeding that raises questions of law or fact that are common to the Actions, is deemed to have Opted Out.

### **ARTICLE 13 – PAYMENTS FOR DECEASED INDIVIDUAL CLASS MEMBERS AND PERSONS UNDER DISABILITY**

#### 13.01 Compensation if Deceased: Grant of Authority or the Like

(1) If an Individual Class Member died or dies on or after November 20, 2017 (any such Individual Class Member, a "**Deceased Individual Class Member**"), and:

- (a) the Deceased Individual Class Member has been identified in a Band Council Confirmation;
- (b) a Claims Form has been submitted to the Administrator by such Deceased Individual Class Member or their Personal Representative prior to their death; or

- (c) a Claims Form has been submitted to the Administrator by their Estate Executor after their death,

and the Estate Executor of such Deceased Individual Class Member has submitted the evidence required by Section 13.01(2) to the Administrator, the Administrator shall pay such Deceased Individual Class Member's Estate Executor the compensation to which such Deceased Individual Class Member was entitled under the Claims Process, with such payment made payable to "the estate of" such Deceased Individual Class Member.

(2) In support of a Claim made pursuant to Section 13.01(1), the Estate Executor for the Deceased Individual Class Member shall submit to the Administrator, in each case in a form acceptable to the Administrator:

- (a) a Claims Form (if a Claims Form was not submitted by such Deceased Individual Class Member or their Personal Representative prior to their death and such Deceased Individual Class Member was not identified in a Band Council Confirmation);
- (b) evidence that such Deceased Individual Class Member is deceased and of the date on which such Deceased Individual Class Member died; and
- (c) evidence in the following form identifying such representative as having the legal authority to receive compensation on behalf of the estate of the Deceased Individual Class Member:
  - (i) if the claim is based on a will or other testamentary instrument or on intestacy, a copy of a grant of probate or a grant and letters testamentary or other document of like import or a grant of letters of administration or other document of like import, purporting to be issued by any court or authority in Canada; or
  - (ii) if the claim is based on a Quebec notarial will, an authenticated copy thereof.

### 13.02 Compensation if Deceased: No Grant of Authority or the Like

(1) If a Claims Form has been submitted to the Administrator by a Deceased Individual Class Member or by their Personal Representative prior to their death, or by their Estate Executor or another representative of such Deceased Individual Class Member (an "**Estate Claimant**") after their death, but the estate of such Deceased Individual Class Member has not submitted all of the evidence required by Section 13.01(2) to the Administrator, the Estate Executor or Estate Claimant must submit the evidence required by Section 13.01(2)(a) and Section 13.01(2)(b) to the Administrator, together with evidence identifying the basis on which the Estate Executor or Estate Claimant represents the estate of such Deceased Individual Class Member in accordance with Section 13.02(3) (in totality, an "**Estate Representation Claim**"), by the date that is the later of the Claims Deadline and the end of any Late Claims Period (the "**Ultimate Claims Deadline**") and otherwise in accordance with this Agreement, and:

- (a) if only one Estate Representation Claim has been submitted in respect of such Deceased Individual Class Member on or prior to the Ultimate Claims Deadline,

the Administrator shall pay the compensation to which such Deceased Individual Class Member is entitled to the Estate Executor or Estate Claimant identified in the Estate Representation Claim on behalf of the estate; or

(b) if more than one Estate Representation Claim has been submitted in respect of such Deceased Individual Class Member on or prior to the Ultimate Claims Deadline, the Administrator shall:

(i) if the Estate Executors or Estate Claimants identified in all such Estate Representation Claims submit to the Administrator a signed agreement directing the payment of the compensation to which such Deceased Individual Class Member is entitled and provide a release in a form acceptable to the Administrator, pay such compensation to the estate in accordance with such agreement; or

(ii) if the Estate Executors or Estate Claimants identified in all such Estate Representation Claims do not submit to the Administrator an agreement in accordance with Section 13.02(1)(b)(i), require one of the Estate Executors or Estate Claimants identified in one of the Estate Representation Claims to submit to the Administrator the evidence set out in Section 13.01(2)(c) and pay such person on behalf of the estate the compensation to which such Deceased Individual Class Member is entitled, provided that if no person submits to the Administrator the evidence set out in Section 13.01(2)(c) within two (2) years of the Ultimate Claims Deadline, the Claim on behalf of such Deceased Individual Class Member and their estate will be extinguished, the Administrator will have no further obligation to make any payment in respect of such Deceased Individual Class Member or to their estate, and all Claims by or on behalf of such Deceased Individual Class Member and their estate shall be deemed to be released and discharged in accordance with Section 10.03.

(2) If a Claims Form is submitted to the Administrator by, or on behalf of, a Deceased Individual Class Member but no Estate Representation Claim is submitted to the Administrator in respect of such Deceased Individual Class Member in accordance with Section 13.01(1) within ninety (90) days of the Administrator receiving the Claims Form, the Administrator shall make reasonable efforts to send a notice to the last known address of the Deceased Individual Class Member or the Estate Executor or Estate Claimant of such Deceased Individual Class Member, as applicable, requiring the submission of an Estate Representation Claim. If no person submits to the Administrator an Estate Representation Claim in respect of a given Deceased Individual Class Member within two (2) years of the Ultimate Claims Deadline, the Claim on behalf of such Deceased Individual Class Member and their estate will be extinguished, the Administrator will have no further obligation to make any payment in respect of such Deceased Individual Class Member or to their estate, and any Claim by or on behalf of such Deceased Individual Class Member and their estate shall be deemed to be released and discharged in accordance with Section 10.03.

(3) In support of an Estate Representation Claim made pursuant to Section 13.02(1), the Estate Executor or Estate Claimant for the Deceased Individual Class Member, as applicable, shall submit to the Administrator the following evidence that they represent the estate of such Deceased Individual Class Member, in each case in a form acceptable to the Administrator:

- (a) if the Deceased Individual Class Member had a will:
    - (i) a copy of the will appointing the Estate Executor or Estate Claimant, as applicable, to represent the estate of such Deceased Individual Class Member; and
    - (ii) an attestation or declaration signed by the Estate Executor or Estate Claimant, together with one other person who knew the Deceased Individual Class Member personally, confirming that they believe the will to be valid, do not know the will to have been revoked, know of no later will of the Deceased Individual Class Member, and know of no executor, administrator, trustee, or liquidator that has been appointed by a court; or
  - (b) if the Deceased Individual Class Member did not have a will:
    - (i) an attestation or declaration signed by the Estate Executor or Estate Claimant, together with one other person who knew the Deceased Individual Class Member personally, confirming that they do not know such Deceased Individual Class Member to have had a will and that no executor, administrator, trustee, or liquidator has been appointed by a court;
    - (ii) proof of the relationship of such Estate Executor or Estate Claimant, as applicable, to the Deceased Individual Class Member in a form reasonably acceptable to the Administrator;
    - (iii) an attestation or declaration signed by the Estate Executor or Estate Claimant, together with one other person who knew the Deceased Individual Class Member personally:
      - A. confirming that they know of no higher priority heir of such Deceased Individual Class Member in accordance with Section 13.02(4); and
      - B. either:
        - (I) confirming that they know of no equal priority heir of such Deceased Individual Class Member in accordance with Section 13.02(4), or
        - (II) if there is any equal priority heir of such Deceased Individual Class Member in accordance with Section 13.02(4), listing the persons at the same priority level; and
    - (iv) if there are heirs of such Deceased Individual Class Member of equal priority to the Estate Executor or Estate Claimant in accordance with Section 13.02(4), all such persons' signed consent for such Estate Executor or Estate Claimant, as applicable, to act for the estate of such Deceased Individual Class Member.
- (4) For purposes of Section 13.02(3)(b), the priority level of heirs shall follow the provisions of the Indian Act in respect of distribution of property on intestacy, and such priority level of heirs from highest to lowest priority is as follows:
- (a) surviving spouse or common-law partner;

- (b) children;
- (c) grandchildren;
- (d) parents;
- (e) siblings; and
- (f) children of siblings.

All terms in this Section 13.02(4) used but not defined in this Agreement have the definitions set out in the Indian Act.

### 13.03 **Person Under Disability**

If an Individual Class Member who submitted a Claims Form to the Administrator prior to the Claims Deadline, or was identified in a Band Council Confirmation, is or becomes a Person Under Disability prior to their receipt of compensation, and the Administrator is advised that such Individual Class Member is a Person Under Disability prior to paying compensation, the Administrator shall pay the Personal Representative of such Individual Class Member the compensation to which the Individual Class Member would have been entitled under the Claims Process, and if the Administrator is not so advised, the Administrator shall make such payment payable to such Individual Class Member. If an Individual Class Member is or becomes a Person Under Disability prior to submitting a Claims Form to the Administrator, the Personal Representative of the Individual Class Member may submit a Claims Form on behalf of such Individual Class Member prior to the Claims Deadline and the Personal Representative of the Individual Class Member shall be paid the compensation to which the Individual Class Member would have been entitled under the Claims Process.

### 13.04 **Canada, Administrator, Class Counsel, Joint Committee, Third-Party Assessor, Settlement Implementation Committee, and FNAC Held Harmless**

Canada and its counsel, the Administrator, Class Counsel, the Joint Committee and its members, the Third-Party Assessor, the Settlement Implementation Committee and its Members, and the FNAC shall be held harmless from any and all claims, counterclaims, suits, actions, causes of action, demands, damages, penalties, injuries, setoffs, judgments, debts, costs, expenses (including legal fees and expenses) or other liabilities of every character whatsoever by reason of or resulting from a payment or non-payment to or on behalf of a Deceased Individual Class Member or a Person Under Disability, or to an Estate Executor, Estate Claimant, estate, or Personal Representative pursuant to this Agreement, and this Agreement shall be a complete defence.

## **ARTICLE 14 – SETTLEMENT IMPLEMENTATION COMMITTEE**

### 14.01 **Settlement Implementation Committee**

(1) There shall be a Settlement Implementation Committee appointed by the Courts consisting of two (2) members of the Joint Committee, two (2) representatives of Canada, and two (2) members of the FNAC, each of whom is herein defined as a “**Member**” for the purposes of this Agreement. One of the members of the Joint Committee will be appointed as President of the Settlement Implementation Committee.

(2) The Settlement Implementation Committee shall endeavour to reach consensus. If consensus is not possible, the Settlement Implementation Committee shall decide by majority. If majority cannot be reached, the President shall cast the deciding vote.

(3) Any of the Members of the Settlement Implementation Committee may be substituted by the Courts or by agreement of the Parties so long as the composition of the Settlement Implementation Committee remains as set out in Section 14.01(1) above.

(4) The Settlement Implementation Committee is a monitoring body established under this Agreement with the following responsibilities:

- (a) monitoring the work of the Administrator and the Claims Process;
- (b) receiving and considering reports from the Administrator, including on administrative costs;
- (c) giving such directions to the Administrator or the Third-Party Assessor as may, from time to time, be necessary in accordance with the mandate of the Settlement Implementation Committee;
- (d) receiving and deciding requests for an extension to the Claims Deadline, which extension shall require an order of the Courts;
- (e) proposing for the Courts' approval such protocols as may be necessary for the implementation of this Agreement;
- (f) considering Claims Forms referred to it by the Administrator; and
- (g) addressing any other matter referred to the Settlement Implementation Committee by the Courts or any one of them.

(5) For greater certainty, the Settlement Implementation Committee has no jurisdiction to consider appeals or applications or similar process from a Claimant or Class Member. No Class Member or other person may apply to the Settlement Implementation Committee for relief of any sort and the Settlement Implementation Committee shall not entertain any such applications or similar process.

#### **14.02 Decisions Are Final and Binding**

The decisions of the Settlement Implementation Committee shall be final and binding and shall not be subject to appeal or review.

#### **14.03 Costs of Settlement Implementation Committee**

In accordance with Section 3.04(b), Canada shall pay the costs of participation in the Settlement Implementation Committee of Members who are not also members of the Joint Committee. The costs of members of the Joint Committee shall be paid in accordance with Section 15.01(8). Canada shall pay the reasonable disbursements that all Members incur to participate in the Settlement Implementation Committee.

## **ARTICLE 15 – JOINT COMMITTEE**

### **15.01 Joint Committee**

(1) There shall be a Joint Committee of three (3) members recommended by Class Counsel and appointed by the Courts, with such powers, rights, duties and responsibilities as are required to perform its obligations under this Agreement. The Joint Committee shall consist of one (1) Class Counsel representative from Olthuis Kleer Townshend LLP and two (2) Class Counsel representatives from McCarthy Tétrault LLP.

(2) Subject to Section 15.01(1), on the recommendation of the Joint Committee, or of their own motion, the Courts may substitute any member of the Joint Committee in the best interests of the Class.

(3) The Joint Committee shall make reasonable efforts to reach consensus. If consensus is not possible, the Joint Committee shall decide by majority.

(4) The Joint Committee shall represent the Class Members and act in the best interests of the Class Members as a whole in performing the functions set out in this Agreement.

(5) The Joint Committee shall consult with the FNAC and Class Members, or a subset of them, as required by this Agreement or as the Joint Committee considers appropriate.

(6) The Joint Committee may bring or respond to whatever motions or institute whatever proceedings it considers necessary to advance the interests of Class Members.

(7) The Joint Committee may divide its work among its members and their law firms, or retain other counsel, in which case the fees and disbursements of such other counsel, together with applicable taxes, shall be a disbursement of the Joint Committee.

(8) The Joint Committee's fees and reasonable disbursements shall be paid in accordance with Section 18.02, unless there are insufficient Funds Held in Trust for Ongoing Fees, in which case the Administrator shall pay the Joint Committee's fees and reasonable disbursements from the Trust Fund on approval by the Courts.

(9) If any member of the Joint Committee believes that the majority of the Joint Committee has taken a decision that is not in the best interest of the Class, that member may refer the decision to confidential and binding arbitration to determine, on a balance of probabilities, whether the majority's decision is not in the best interest of the Class, with a determination to be rendered expeditiously and summarily, and without a right of appeal. If the members of the Joint Committee cannot agree on an arbitrator, they may ask the Courts to appoint one. The costs of the arbitration shall be a disbursement of the Joint Committee.

(10) The Joint Committee shall meet quarterly, or more frequently as required.

## **ARTICLE 16 – TRUSTEE AND TRUST**

### **16.01 Trust**

No later than thirty (30) days following the appointment by the Courts of the Trustee, Canada will settle a single trust (the “**Safe Drinking Water Trust**”) with ten dollars (\$10), to be held by the Trustee in accordance with the terms of this Agreement.

### **16.02 Trustee**

On the recommendation of the Joint Committee, the Courts will appoint the Trustee to act as the trustee of the Safe Drinking Water Trust, with such powers, rights, duties and responsibilities as the Courts direct. Without limiting the generality of the foregoing, the duties and responsibilities of the Trustee will include:

- (a) to hold each of the Trust Fund, the Specified Injuries Compensation Fund and the First Nations Economic and Cultural Restoration Fund (each, a “**Fund**”) in the Safe Drinking Water Trust;
- (b) if the Trustee determines that it is in the best interests of Class Members, to invest the funds of each Fund (or any of them) with a view to achieving a maximum rate of return without material risk of loss, having regard to the ability of the Safe Drinking Water Trust and each Fund to meet its financial obligations;
- (c) to provide such amounts from the Safe Drinking Water Trust to the Administrator and any other person described in Section 3.04 and Section 15.01(8), as required from time to time in order to give effect to any provision of this Agreement, including the payment of Individual Damages, Specified Injuries Compensation, and First Nation Damages;
- (d) to engage the services of professionals to assist in fulfilling the Trustee’s duties;
- (e) to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
- (f) to keep such books, records and accounts as are necessary or appropriate to document the assets held in the Safe Drinking Water Trust and each Fund, and each transaction of the Safe Drinking Water Trust and each Fund;
- (g) to take all reasonable steps and actions required under the Income Tax Act as set out in the Agreement;
- (h) to report to the Administrator and Canada and the Joint Committee on a quarterly basis the assets held in the Safe Drinking Water Trust and each Fund at the end of each such quarter, or on an interim basis if so requested; and
- (i) to do such other acts and things as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the activities of the Safe Drinking Water Trust or to carry out the provisions of this Agreement.

### 16.03 **Trustee Fees**

Canada shall pay the fees, disbursements and other costs of the Trustee in accordance with Section 3.04(b).

### 16.04 **Nature of the Safe Drinking Water Trust**

The Safe Drinking Water Trust will be established for the following purposes:

- (a) to acquire the applicable funds payable by Canada;
- (b) to hold the Trust Fund, the Specified Injuries Compensation Fund and the First Nations Economic and Cultural Restoration Fund, as separate funds in the Safe Drinking Water Trust;
- (c) to make any necessary disbursements;
- (d) to invest cash in investments in the best interests of Class Members, as provided in this Agreement; and
- (e) to do such other acts and things as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry out the provisions of this Agreement.

### 16.05 **Legal Entitlements**

The legal ownership of the assets of the Safe Drinking Water Trust, including each Fund, and the right to conduct the activities of the Safe Drinking Water Trust, including the activities with respect to each Fund, will be, subject to the specific limitations and other terms contained herein, vested exclusively in the Trustee, and the Class Members and other beneficiaries of the Safe Drinking Water Trust have no right to compel or call for any partition, division or distribution of any of the assets of the Safe Drinking Water Trust except in an action to enforce the provisions of this Agreement. No Class Member or any other beneficiary of the Safe Drinking Water Trust will have or is deemed to have any right of ownership in any of the assets of the Safe Drinking Water Trust.

### 16.06 **Records**

The Trustee shall keep such books, records and accounts as are necessary or appropriate to document the assets of the Safe Drinking Water Trust and each transaction of the Safe Drinking Water Trust. Without limiting the generality of the foregoing, the Trustee shall keep, at its principal office, records of all transactions of the Safe Drinking Water Trust and a list of the assets held in trust, including each Fund, and a record of each Fund's account balance from time to time.

### 16.07 **Quarterly Reporting**

The Trustee shall deliver to the Administrator, Canada and the Joint Committee, within thirty (30) days after the end of each calendar quarter, a quarterly report setting forth the assets held as at the end of such quarter in the Safe Drinking Water Trust and each Fund (including

the term, interest rate or yield and maturity date thereof) and a record of the Safe Drinking Water Trust's account balance during such quarter.

#### **16.08 Annual Reporting**

The Auditors shall deliver to the Administrator, the Trustee, Canada, the Joint Committee, and the Courts, within sixty (60) days after the end of each anniversary of the date that the Safe Drinking Water Trust was funded, which date shall be the fiscal year-end for the Safe Drinking Water Trust:

- (a) the audited financial statements of the Safe Drinking Water Trust, segmented by each Fund, for the most recently completed fiscal year, together with the report of the Auditors thereon; and
- (b) a report setting forth a summary of the assets held in trust as at the end of the fiscal year for each Fund and the disbursements made by the Safe Drinking Water Trust during the preceding fiscal year.

#### **16.09 Method of Payment**

The Trustee shall have sole discretion to determine whether any amount paid or payable out of the Safe Drinking Water Trust is paid or payable out of the income of the Safe Drinking Water Trust or the capital of the Safe Drinking Water Trust.

#### **16.10 Additions to Capital**

Any income of the Safe Drinking Water Trust not paid out in a fiscal year will at the end of such fiscal year be added to the capital of the Safe Drinking Water Trust.

#### **16.11 Tax Elections**

For each taxation year of the Safe Drinking Water Trust, the Trustee shall file any available elections and designations under the Income Tax Act and equivalent provisions of the income tax act of any province or territory and take any other reasonable steps such that the Safe Drinking Water Trust and no other person is liable to taxation on the income of the Safe Drinking Water Trust, including the filing of an election under subsection 104(13.1) of the Income Tax Act and equivalent provisions of the income tax act of any province or territory for each taxation year of the Safe Drinking Water Trust and the amount to be specified under such election will be the maximum allowable under the Income Tax Act or the income tax act of any province or territory, as the case may be.

#### **16.12 Canadian Income Tax**

(1) Canada shall make best efforts to exempt any income earned by the Safe Drinking Water Trust from federal taxation, and Canada shall have regard to the measures that it took in similar circumstances for the class action settlements addressed in section 81(g.3) of the Income Tax Act.

(2) The Parties agree that the payments to Class Members are in the nature of personal injury damages and are not taxable income and Canada shall make best efforts to

obtain an advance ruling to this effect, or failing that a technical interpretation to the same effect, in either case from the Income Tax Rulings Directorate of the Canada Revenue Agency.

### 16.13 Investment Advisors

On request of the Trustee, the Joint Committee may ask the Courts to appoint investment advisors to provide the Trustee with advice on the investment of the funds held in each Fund of the Safe Drinking Water Trust. The Trustee shall pay the reasonable fees of any investment advisors out of the applicable Fund of the Safe Drinking Water Trust.

## **ARTICLE 17 – AUDITORS**

### 17.01 Appointment of Auditors

On the recommendation of the Joint Committee, the Courts shall appoint Auditors with such powers, rights, duties and responsibilities as the Courts direct. On the recommendation of the Parties, or of their own motion, the Courts may replace the Auditors at any time. Without limiting the generality of the foregoing, the duties and responsibilities of the Auditors will include:

- (a) to audit the accounts for the Safe Drinking Water Trust in accordance with generally accepted auditing standards on an annual basis;
- (b) to provide the reporting set out in Section 16.08; and
- (c) to file the financial statements of the Safe Drinking Water Trust together with the Auditors' report thereon with the Courts and deliver a copy thereof to Canada, the Joint Committee, the Administrator, and the Trustee within sixty (60) days after the end of each financial year of the Safe Drinking Water Trust.

### 17.02 Payment of Auditors

Canada shall pay the reasonable fees, disbursements and other costs of the Auditors in accordance with Section 3.04(b).

## **ARTICLE 18 – LEGAL FEES**

### 18.01 Class Counsel Fees

Subject to approval by the Courts, and within sixty (60) days of the Implementation Date, Canada shall pay Class Counsel the amount of fifty-three million dollars (\$53,000,000), plus applicable taxes, in respect of their legal fees and disbursements for the prosecution of the Actions to the date of the Settlement Approval Hearing, together with advice to Class Members regarding the Agreement and Acceptance.

### 18.02 Ongoing Fees

(1) Subject to approval by the Courts, within sixty (60) days after the Implementation Date, Canada shall pay to Class Counsel the additional sum of five million dollars (\$5 million), plus applicable taxes, in trust ("**Funds Held in Trust for Ongoing Fees**") for fees and disbursements for services to be rendered by Class Counsel and the Joint Committee in accordance with this Agreement, including the implementation and administration of this

Agreement, for a period of four (4) years after the Settlement Approval Hearing (“**Ongoing Fees**”).

(2) Class Counsel shall maintain appropriate records and seek Court approval for payment of the Ongoing Fees from the Funds Held in Trust for Ongoing Fees.

(3) Class Counsel shall report the balance of the Funds Held in Trust for Ongoing Fees to the Courts and Canada on a semi-annual basis.

(4) Class Counsel shall apply to the Courts for orders directing the payment of any Funds Held in Trust for Ongoing Fees that remain in trust four (4) years after the Settlement Approval Hearing.

### **18.03 Ongoing Legal Services**

(1) Class Counsel shall divide the work of providing ongoing legal services to Class Members among themselves, or otherwise as directed by the Joint Committee.

(2) To the extent that Class Counsel’s fees, disbursements, and applicable taxes are paid pursuant to Section 18.01 or Section 18.02, they shall not charge Class Members any additional amounts for legal services rendered in accordance with this Agreement.

(3) Following the Implementation Date, responsibility for representing the interests of the Class as a whole (as distinct from assisting a particular Class Member or Class Members, as reasonably requested) will pass from Class Counsel to the Joint Committee, and Class Counsel shall have no further obligations in that regard.

(4) For greater certainty, the Joint Committee and its members, and counsel appointed by the Joint Committee, shall be paid their fees, applicable taxes, and disbursements in accordance with Section 15.01(8).

(5) Neither Class Counsel nor the Joint Committee will be responsible for representing First Nation Class Members in the Commitment Dispute Resolution Process unless they are separately retained for that purpose, in which case they may represent First Nation Class Members in the Commitment Dispute Resolution Process, but their fees will not be paid pursuant to Section 18.01 or Section 18.02.

### **18.04 Choice of Counsel**

Nothing in this Agreement prevents a Class Member from retaining separate counsel, other than Class Counsel, at their own cost. However, no such separate counsel shall be entitled to any payment under this Article 18. Furthermore, no such separate counsel shall be entitled to receive any payment of any kind from any Class Member in connection with this Agreement, whether direct or indirect, unless the payment is approved by the Courts.

## **ARTICLE 19 – GENERAL DISPUTE RESOLUTION**

### **19.01 Initial Referral to Third-Party Assessor**

(1) Subject to Section 19.03, where a dispute arises regarding any right or obligation under this Agreement except a dispute regarding the Claims Process or a dispute to which

Section 9.07 applies (each such dispute other than a dispute regarding the Claims Process or a dispute to which Section 9.07 applies, a “**Dispute**”), the parties to the Dispute shall meet and make reasonable, good-faith efforts to resolve the Dispute within thirty (30) days.

(2) If a Dispute cannot be resolved within thirty (30) days, Canada, the Joint Committee, or any Class Member may refer the Dispute to the Third-Party Assessor.

(3) The Third-Party Assessor shall decide the referred Dispute summarily and issue written reasons.

#### **19.02 Subsequent Referral to the Courts**

(1) Canada and the Joint Committee may appeal a decision rendered under Section 19.01(3) to the Courts, and the Courts shall review the decision of the Third-Party Assessor on a standard of reasonableness.

(2) A decision of the Courts may be appealed in accordance with the rules of each Court.

#### **19.03 Claims Process Decisions and Remediation Plans Excluded**

For greater certainty, Article 19 shall not apply to disputes regarding the Claims Process, including eligibility for membership in the Class and the compensation due to any Class Member, or in respect of a Remediation Plan, including its content or Canada’s compliance, and any such disputes shall be resolved in accordance with this Agreement.

### **ARTICLE 20 – TERMINATION AND OTHER CONDITIONS**

#### **20.01 Termination of Agreement**

(1) Except as set forth in Section 20.01(2), this Agreement shall continue in full force and effect until all obligations under this Agreement are fulfilled.

(2) Notwithstanding any other provision in the Agreement:

(a) the Commitment shall survive the termination of this Agreement and shall continue in force, together with Section 9.06, Section 9.07, and Section 9.08 and the Commitment Dispute Resolution Process; and

(b) Section 10.02 and Section 10.03 shall survive the termination of this Agreement; and

(c) Article 21 shall survive the termination of this Agreement.

#### **20.02 Amendments**

Except as expressly provided in this Agreement, no amendment may be made to this Agreement unless agreed to by the Parties in writing, and if the Courts have issued the Settlement Approval Orders, then any amendment shall only be effective once approved by the Courts.

### **20.03 No Assignment**

(1) No amount payable under this Agreement can be assigned and any such assignment is null and void except as expressly provided for in this Agreement.

(2) Subject to Section 20.03(3) and Section 18.04, any payment to which a Claimant is entitled will be made to such Claimant in accordance with the direction that such Claimant provides to the Administrator unless a court of competent jurisdiction has ordered otherwise.

(3) Any payments in respect of a Deceased Individual Class Member or a Person Under Disability will be made in accordance with Article 13 .

## **ARTICLE 21 – CONFIDENTIALITY**

### **21.01 Confidentiality**

Any information provided, created or obtained in the course of implementing this Agreement will be kept confidential and will not be used for any purpose other than this Agreement unless otherwise agreed by the Parties.

### **21.02 Destruction of Class Member Information and Records**

Two (2) years after completing the payment of Individual Damages, Specified Injuries Compensation, and First Nation Damages, the Administrator shall destroy all Class Member information and documentation in its possession, unless a Class Member or their Estate Executor or Estate Claimant specifically requests the return of such information within the two (2)-year period. Upon receipt of such request, the Administrator shall forward the Class Member information as directed. Before destroying any information or documentation in accordance with this Section, the Administrator shall prepare an anonymized statistical analysis of the Class in accordance with Section 39 of the Claims Process.

### **21.03 Confidentiality of Negotiations**

Save as may otherwise be agreed between the Parties, the undertaking of confidentiality as to the discussions and all communications, whether written or oral, made in and surrounding the negotiations leading to the Agreement in Principle and this Agreement continues in force.

## **ARTICLE 22 – COOPERATION**

### **22.01 Cooperation on Settlement Approval and Implementation**

Upon execution of this Agreement, the Representative Plaintiffs in the Actions, Class Counsel and Canada shall make best efforts to obtain approval of this Agreement by the Courts and to support and facilitate participation of Class Members in all aspects of this Agreement. If this Agreement is not approved by the Courts, the Parties shall negotiate in good faith to cure any defects identified by the Courts.

### **22.02 Public Announcements**

Upon the issuance of the Settlement Approval Orders, the Parties shall release a joint public statement announcing the settlement in a form to be agreed by the Parties and, at a

mutually agreed time, will make public announcements in support of this Agreement. The Parties will continue to speak publicly in favour of the Agreement as reasonably requested by any Party.

*[The remainder of this page is left intentionally blank. Signature pages follow.]*

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of this 15<sup>th</sup> day of September, 2021.

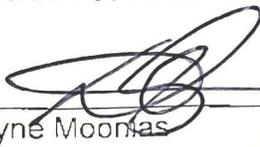
FOR THE PLAINTIFFS TATASKWEYAK CREE  
NATION and CHIEF DOREEN SPENCE

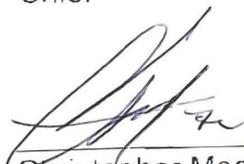
By:   
Doreen Spence  
Chief

FOR THE PLAINTIFFS CURVE LAKE FIRST NATION  
and CHIEF EMILY WHETUNG

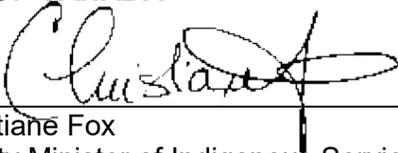
By:   
Emily Whetung  
Chief

FOR THE PLAINTIFFS NESKANTAGA FIRST  
NATION, CHIEF WAYNE MOONIAS and FORMER  
CHIEF CHRISTOPHER MOONIAS

By:   
Wayne Moonias  
Chief

By:   
Christopher Moonias  
Former Chief

**FOR THE DEFENDANT HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA**

By:   
Christiane Fox  
Deputy Minister of Indigenous Services

**FOR CLASS COUNSEL**

By:  \_\_\_\_\_  
Michael Rosenberg  
Partner, McCarthy Tétrault LLP

By:  \_\_\_\_\_  
Senior Counsel, Olthuis Kleer Townshend LLP

**SCHEDULE A**  
**AGREEMENT IN PRINCIPLE**

*See attached.*

Manitoba Court of Queen's Bench File No.: CI-19-01-24661

Federal Court File No.: T-1673-19

***THE QUEEN'S BENCH***

***Winnipeg Centre***

BETWEEN:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**Class Proceeding commenced under  
*The Class Proceedings Act, CCSM. c. C. 130***

- and -

***FEDERAL COURT***

BETWEEN:

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and  
on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST  
NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all  
members of NESKANTAGA FIRST NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**Class Proceeding commenced under Part 5.1 of the  
*Federal Court Rules, SOR/98-106***

**AGREEMENT IN PRINCIPLE (the "AGREEMENT")**

**WHEREAS** the Plaintiffs commenced the action styled as *Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation and Chief Christopher Moonias on his own behalf and on behalf of all members of Neskantaga First Nation v Attorney General of Canada*, Court File No. T-1673-19 in the Federal Court on October 11, 2019 (the "**Curve Lake Action**") and the action styled *Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation v Attorney General of Canada*, Court File No. CI 19-01-24661 in the Manitoba Court of Queen's Bench on November 20, 2019 (the "**Tataskweyak Action**", and with the Curve Lake Action, the "**Actions**");

**AND WHEREAS** the Manitoba Court of Queen's Bench certified the Tataskweyak Action as a class proceeding on July 14, 2020 and the Federal Court certified the Curve Lake Action as a class proceeding on October 8, 2020;

**AND WHEREAS** the "**Class**" in the Actions is defined as follows:

- (a) All persons who:
  - (i) are members of a band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c. I-5 ("**First Nation**"), the disposition of whose lands is subject to that Act or the First Nations Land Management Act, S.C. 1999, c. 24 ("**First Nations Lands**"), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to June 20, 2021 ("**Impacted First Nations**");
  - (ii) had not died before November 20, 2017; and
  - (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (b) Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other First Nation that elects to join this action in a representative capacity;

"**Excluded Persons**" are members of Tsuu T'ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, and the Okanagan Indian Band, and Michael Darryl Isnardy.

**AND WHEREAS** the Class has suffered considerable hardships as a result of being deprived of clean drinking water and these hardships have seriously harmed both individuals and their communities;

**AND WHEREAS** the Class has moved for summary judgment on the first common issue concerning the existence and scope of Canada's obligation to provide Class Members with clean drinking water;

**AND WHEREAS** none of the Individual Class Members have opted out of the Actions and some one-hundred-and-twenty-two (122) First Nation Class Members have opted into the Actions;

**AND WHEREAS** the Defendant ("**Canada**") acknowledges the hardships faced by Class members and wishes to support them in securing regular access to clean drinking water;

**AND WHEREAS** Canada is prepared to settle the Actions on the terms set out below, subject to negotiating a definitive settlement agreement (the "**Settlement Agreement**");

**AND WHEREAS** Chief Doreen Spence, Tataskweyak Cree Nation, Chief Emily Whetung, Curve Lake First Nation, Former Chief Christopher Moonias, and Neskantaga First Nation (together, the "**Representative Plaintiffs**") are prepared to settle the Actions on the terms set out below, subject to incorporating them into the Settlement Agreement, and recommend that First Nation Class Members accept these terms;

**NOW THEREFORE** Canada and the Plaintiffs shall negotiate in good faith and make all reasonable efforts to execute the Settlement Agreement no later than August 27, 2021, subject to the Parties' agreement to any extension.

## ARTICLE 1 GENERAL

### 1.01 Definitions

(1) **Acceptance:** Indication of acceptance of the Settlement Agreement by a First Nation Class Member in a form to be agreed upon by the Parties and before a date certain to be agreed upon by the Parties.

(2) **Action Plan:** Indigenous Services Canada's Long-Term Drinking Water Advisory Action Plan, attached as **Schedule "A"**, detailing the corrective measures to be undertaken by Canada to end the Long-Term Drinking Water Advisories.

(3) **Administrator:** An appropriately qualified claims administrator selected by agreement of the Parties, or failing that by the Courts, to perform the duties set out in the Agreement.

(4) **Band Council Confirmation:** A declaration by a First Nation Class Member identifying the Individual Class Members ordinarily resident on its Reserve and the dates that such Individual Class Members were ordinarily resident on its Reserve while a Long-Term Drinking Water Advisory was in effect.

(5) **Base Payment:** Five-hundred thousand dollars (\$500,000).

(6) **Canada:** The Defendant.

(7) **Class Counsel:** McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP.

(8) **Claims Deadline:** Two (2) years following the resolution of appeals or such other date agreed upon by the Parties.

(9) **Claim Form:** A simplified written declaration to be completed by Individual Class Members and submitted to the Administrator, without supporting documentation except as agreed upon by the Parties.

(10) **Class:**

(a) All persons who:

- (i) are members of a band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c. I-5 ("**First Nation**"), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 ("**First Nations Lands**"), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present ("**Impacted First Nations**");
  - (ii) had not died before November 20, 2017; and
  - (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (b) Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other First Nation that elects to join this action in a representative capacity;
- (11) **Class Period:** November 20, 1995 to June 20, 2021.
- (12) **Commitment:** has the meaning set out in Section 3.02(1).
- (13) **Commitment Dispute Resolution Process:** has the meaning set out in Section 3.07.
- (14) **Commitment Expenditures:** has the meaning set out in Section 3.02(1)(d)(iv).
- (15) **Courts:** The Manitoba Court of Queen's Bench and the Federal Court.
- (16) **Curve Lake Action:** The action styled as *Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation and Chief Christopher Moonias on his own behalf and on behalf of all members of Neskantaga First Nation v Attorney General of Canada*, Court File No. T-1673-19 in the Federal Court commenced on October 11, 2019.
- (17) **Eligibility Decision:** has the meaning set out in Section 1.05(1).
- (18) **Excess Funds:** has the meaning set out in Section 1.04(4).
- (19) **First Nation:** A band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c. I-5, the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24.
- (20) **First Nation Class Member:** A First Nation that meets the definition for membership in the Class and provides Class Counsel with notice of Acceptance.
- (21) **First Nation Damages:** has the meaning set out in Section 2.04.
- (22) **First Nation Damages Formula:** has the meaning set out in Section 2.04.
- (23) **First Nations Advisory Committee on Safe Drinking Water or FNAC:** has the meaning set out in Section 3.04.

(24) **First Nations Economic and Cultural Restoration Fund:** has the meaning set out in Section 1.04.

(25) **Fund Transfer:** Monies transferred from the Trust Fund to the First Nations Economic and Cultural Restoration Fund.

(26) **First Nations Lands:** Lands subject to the *Indian Act*, R.S.C. 1985, c. I-5 or the *First Nations Land Management Act*, S.C. 1999, c. 24.

(27) **Individual Class Members:** natural persons who are members of the Class and have not opted out of the Actions.

(28) **Individual Damages:** has the meaning set out in Section 2.01(2).

(29) **Individual Damages Formula:** has the meaning set out in Section 2.01.

(30) **Long-Term Drinking Water Advisory:** A drinking water advisory for a Reserve or a part of a Reserve that lasts for more than one (1) year.

(31) **Parties:** The Plaintiffs, on behalf of the Class, and Canada, each one of which is a "Party".

(32) **Plaintiffs:** Doreen Spence, Tataskweyak Cree Nation, Emily Whetung, Curve Lake First Nation, Christopher Moonias, and Neskantaga First Nation.

(33) **Remediation Agreement:** has the meaning set out in Section 3.06(2).

(34) **Remote First Nation:** Every Reserve that is classified as Zone 3 or 4 by Indigenous and Northern Affairs Canada in the 2005 Band Classification Manual published by the Corporate Information Management Directorate Information Management Branch, being Reserves deemed either "Remote" or "Isolated and require Special Access".

(35) **Replacement Legislation:** has the meaning set out in Section 3.03(2).

(36) **Reserve:** lands whose disposition is subject to the *Indian Act*, R.S.C. 1985, c. I-5 or the *First Nations Land Management Act*, S.C. 1999, c. 24.

(37) **Restoration Fund Account:** has the meaning set out in Section 1.04(2).

(38) **Settlement Agreement:** A final, legally binding settlement agreement to be executed by the Defendant and the Plaintiffs no later than August 27, 2021, or such other date as the Parties may agree, which incorporates terms of the Agreement, except as otherwise agreed by the Parties.

(39) **Specified Injuries:** has the meaning set out in Section 2.03(1).

(40) **Specified Injuries Compensation:** has the meaning set out in Section 2.03(2).

(41) **Specified Injuries Compensation Account:** has the meaning set out in Section 2.03(3).

(42) **Specified Injuries Compensation Fund:** has the meaning set out in Section 2.03(4).

(43) **Specified Injuries Decision:** has the meaning set out in Section 2.03(5)(b).

(44) **Surplus:** has the meaning set out in Section 1.03(3).

(45) **Tataskweyak Action:** The action styled as *Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation v Attorney General of Canada*, Court File No. CI 19-01-24661 in the Manitoba Court of Queen's Bench commenced on November 20, 2019.

(46) **Trust Account:** has the meaning set out in Section 1.03(1).

(47) **Trust Fund:** has the meaning set out in Section 1.03(2).

(48) **Underserviced First Nation:** has the meaning set out in Section 3.06(1).

(49) **Water Governance Fund:** has the meaning set out in Section 3.05(1).

## 1.02 Administration

(1) The Parties shall agree to the selection of the Administrator. If the Parties cannot reach agreement, any Party may bring a motion for directions in the Courts.

(2) The Administrator shall be appointed by the Courts.

(3) Canada shall be solely responsible for paying the Administrator's reasonable fees and disbursements, including any applicable taxes.

## 1.03 Trust Fund

(1) As soon as practicable after its appointment, the Administrator shall establish an interest-bearing trust account at a Schedule I Canadian Bank (the "**Trust Account**").

(2) Canada shall settle the **Trust Fund** by paying one billion four-hundred and thirty-eight million dollars (\$1,438,000,000) into the Trust Account within sixty (60) days of the date on which the orders approving the Settlement Agreement become final, including any appeals.

(3) If Class Counsel, on the advice of an expert actuary, determine that there are unallocated funds in the Trust Fund (the "**Surplus**"), those funds shall be distributed for the direct or indirect benefit of the Class.

(4) Class Counsel, with the guidance of Class Members or a representative committee thereof, shall propose an allocation of the Surplus, which may include the following:

- (i) Transfer of up to four hundred million dollars (\$400,000,000) to the First Nation Economic and Cultural Restoration Fund;
- (ii) Increased Individual Damages or First Nation Damages;

- (iii) Individual Damages or First Nation Damages for late claimants who filed valid claims after the Claims Deadline;
  - (iv) Specified Injuries Compensation if the Specified Injuries Compensation Fund was insufficient to pay the Specified Injuries Compensation for all valid claims; or
  - (v) Programming to promote education, cultural or spiritual practices, study, or healing in connection with Long-Term Drinking Water Advisories.
- (b) Class Counsel shall bring motions for directions in the Courts for approval of the proposed distribution of the Surplus.
- (5) For greater certainty, there shall be no reversion to Canada from the Trust Fund and Canada shall not be an eligible recipient of the Surplus.

#### 1.04 **First Nation Economic and Cultural Restoration Fund**

(1) The Parties acknowledge the importance of providing First Nations with funds for use on projects related to water and wastewater, economic development, and cultural activities. The Parties respect the autonomy of First Nations to choose the use to which funds are directed.

(2) As soon as practicable after its appointment, the Administrator shall establish an interest-bearing trust account at a Schedule I Canadian Bank (the "**Restoration Fund Account**").

(3) Canada shall fund the **First Nation Economic and Cultural Restoration Fund** by paying four-hundred million dollars (\$400,000,000) into the Restoration Fund Account within sixty (60) days of the date on which the orders approving the Settlement Agreement become final, including any appeals.

(4) If funds remain in the Restoration Fund Account after the Claims Deadline has passed and the Administrator has paid all of the First Nation Damages (the "**Excess Funds**"), those funds shall be distributed for the direct or indirect benefit of the Class.

(5) Class Counsel, with the guidance of Class Members, shall propose an allocation of the Excess Funds, which may include the following:

- (i) Enhanced Individual Damages or First Nation Damages;
- (ii) Individual Damages or First Nation Damages for late claimants who filed valid claims after the Claims Deadline;
- (iii) Specified Injuries Compensation if the Specified Injuries Compensation Fund was insufficient to pay the Specified Injuries Compensation for all valid claims; or
- (iv) Programming to promote education, cultural or spiritual practices, study, or healing in connection with Long-Term Drinking Water Advisories.

(b) Class Counsel shall bring motions for directions in the Courts for approval of the proposed distribution of the Excess Funds.

(6) There shall be no reversion to Canada from the First Nation Economic and Cultural Restoration Fund and Canada shall not be an eligible recipient of the Excess Funds.

#### 1.05 **Eligibility**

(1) The Administrator shall review each Claim Form, Band Council Confirmation, or such other information as the Administrator considers relevant, to identify eligible Individual Class Members (the "**Eligibility Decision**"). The Administrator shall issue written reasons when it determines that a claimant is not a Class Member.

(2) Within thirty (30) days of the receipt of an Eligibility Decision denying membership in the Class, the claimant and any Party may appeal the Eligibility Decision.

(3) The procedure for an appeal from an Eligibility Decision shall be decided by the Parties.

### **ARTICLE 2 RETROSPECTIVE COMPENSATION**

#### 2.01 **Calculation of Individual Class Member damages**

(1) The Administrator shall calculate Individual Class Members' damages in accordance with the information set out in a valid Claim Form, Band Council Confirmation, or such other information as the Administrator considers relevant, pursuant to the formula set out below (the "**Individual Damages Formula**").

(2) Individual Class Members shall be paid damages ("**Individual Damages**") for:

- (a) If the Individual Class Member had not yet reached the age of 18 on November 20, 2013, every year during the Class Period that they were ordinarily resident on a Reserve while a Long-Term Drinking Water Advisory was in effect; or
- (b) If the Individual Class Member had reached the age of 18 before November 20, 2013, every year from November 20, 2013 to the end of the Class Period that they were ordinarily resident on a Reserve while a Long-Term Drinking Water Advisory was in effect.

(3) Individual Damages shall be paid at approximately the following rates, with the actual rates to be determined by Class Counsel on the advice of an expert actuary:

- (a) One-thousand three-hundred dollars (\$1,300) per year for a Boil Water Advisory that is not in a Remote First Nation;
- (b) One-thousand six-hundred and fifty (\$1,650) per year for a Do Not Consume Advisory that is not in a Remote First Nation;
- (c) Two-thousand dollars (\$2,000) per year for a Do Not Use Advisory that is not in a Remote First Nation; and

(d) Two-thousand dollars (\$2,000) per year for any Drinking Water Advisory in a Remote First Nation.

(4) Individual Damages shall be paid *pro rata* for any portion of a year for which they are due.

## 2.02 Payment of Individual Class Member Damages

(1) Within a reasonable period to be determined by the Parties in consultation with the Administrator, the Administrator shall pay each Individual Class Member the Individual Damages from the Trust Fund in accordance with the Individual Damages Formula.

## 2.03 Specified Injuries Compensation Fund

(1) In addition to Individual Damages, Individual Class Members may indicate on their Claim Form that they claim damages for specified medical conditions that were caused by a Long-Term Drinking Water Advisory on a Reserve where they were ordinarily resident ("**Specified Injuries**"). For greater certainty, the claimant must establish that the injury was caused by using water, other than source water, in accordance with a Long-Term Drinking Water Advisory or by a lack of clean water during a Long-Term Drinking Water Advisory.

(2) The Parties shall determine the list of Specified Injuries, together with the compensation for each Specified Injury (the "**Specified Injuries Compensation**").

(3) The Administrator shall establish an interest-bearing trust account at a Schedule I Canadian Bank (the "**Specified Injuries Compensation Account**").

(4) Canada shall settle the **Specified Injuries Compensation Fund** by paying fifty million dollars (\$50,000,000) into the Specified Injuries Compensation Account within sixty (60) days of the date on which the orders approving the Settlement Agreement become final, including any appeals.

(5) The Parties shall agree upon:

(a) The means of proving a Specified Injury in a non-adversarial, culturally sensitive manner that is designed so as not to re-traumatize claimants;

(b) Appropriate timelines for the Administrator to determine the validity of a Specified Injuries Compensation claim (a "**Specified Injuries Decision**"); and

(c) An appropriate appeal mechanism and timeline;

(6) Class Counsel shall assist Individual Class Members or their representatives, as requested, in making a claim for Specified Injuries Compensation or in appealing a Specified Injuries Decision at no cost to Canada or the Individual Class Member.

(7) Within ninety (90) days following the Claims Deadline, the Administrator shall determine whether there are sufficient funds in the Specified Injuries Compensation Fund to pay the Specified Injuries Compensation for each valid claim.

- (a) If there are sufficient funds in the Specified Injuries Compensation Fund, the Administrator shall pay Individual Class Members their Specified Injuries Compensation; or
  - (b) If there are insufficient funds in the Specified Injuries Compensation Fund, the Administrator shall pay Individual Class Members their *pro rata* share of the Specified Injuries Compensation Fund, in proportion to the Specified Injuries Compensation that they would be due.
- (8) There shall be no reversion to Canada from the Specified Injuries Compensation Fund.
- (9) If any funds remain in the Specified Injuries Compensation Fund after paying all of the claims for Specified Injuries Compensation, the Administrator shall pay such funds into the Trust Fund.

#### 2.04 Calculation of First Nation Class Member Damages

- (1) The Administrator shall calculate First Nation Class Members' damages pursuant to the formula set out below (the "**First Nation Damages Formula**").
- (2) Each First Nation Class Member shall be paid a base payment of five-hundred thousand dollars (\$500,000) (the "**Base Payment**").
- (3) In addition to the Base Payment, First Nations shall be paid an amount equal to fifty percent (50%) of the Individual Damages paid to Individual Class Members in respect of Drinking Water Advisories on the First Nation Class Member's Reserve or Reserves ("**First Nation Damages**").

#### 2.05 Payment of First Nation Class Member Damages

- (1) The Administrator shall pay the Base Payment and the First Nation Damages from the First Nation Economic and Cultural Restoration Fund.
- (2) The Administrator shall pay the Base Payment to every First Nation Class Member within ninety (90) days of the later of the approval of the Settlement Agreement by the Courts, including all appeals, and a First Nation Class Member giving notice of Acceptance to Class Counsel.
- (3) Every six (6) months after the Base Payment is made pursuant to Section 2.05(2) the Administrator shall pay the First Nation Class Member the First Nation Damages that have accrued to date.

#### 2.06 No provision for continued damages

- (1) The Agreement makes no provision for any damages that may accrue to Class Members in respect of Long-Term Drinking Water Advisories that begin or continue after June 20, 2021, and Class Members shall not release any claims to any such future damages.

## 2.07 **Canada's Liability**

(1) The Parties specifically agree that upon making the payments contemplated in the Settlement Agreement, Canada's liability to Individual Class Members and First Nation Class Members that have accepted the Settlement Agreement for damages to June 20, 2021, arising from Canada's failure to provide clean drinking water is at an end.

(2) The Parties shall agree on specific release language for the Settlement Agreement.

## ARTICLE 3 PROSPECTIVE RELIEF

### 3.01 **Action Plan for First Nation Class Members to be implemented**

(1) Canada shall make all reasonable efforts to support the removal of Long-Term Drinking Water Advisories that affect Class Members, including by taking the steps set out in the Action Plan, within the Project timeframes set out therein.

(2) The Action Plan may be amended on consent of the Parties, in addition to being regularly updated by Canada as progress is made.

(3) Nothing in the Agreement bars Canada from taking additional measures to benefit Class Members, which measures are not contemplated in the Action Plan.

### 3.02 **Commitment to additional measures**

(1) In addition to the Action Plan, the Defendant shall make all reasonable efforts to ensure that Individual Class Members living on Reserves have regular access to drinking water in their homes, whether from a public water system or a private water system approved by a Band Council Resolution, including on-site systems, that meets the stricter of the federal requirements or provincial standards governing residential water quality (the "**Commitment**"). For the sake of greater certainty:

- (a) regular access shall permit all usual and necessary uses of water in a similarly situated Canadian home, including but not limited to drinking water, bathing and personal hygiene, food preparation and dish washing, sanitation, and laundry;
- (b) the Commitment is limited to Canada's reasonable efforts, including the provision of actual cost funding, training, planning, and technical assistance;
- (c) if, despite Canada's reasonable efforts, regular access cannot be achieved, Canada is not required to warranty regular access in an Individual Class Member's home; and,
- (d) Factors that may be considered in any determination of reasonable efforts include, but are not limited to:
  - (i) the views of the First Nation;
  - (ii) any federal requirements or provincial standards and protocols relating to water;

- (iii) whether monitoring and testing are performed on the water system; and
- (iv) the physical location of the home, including proximity to centralized water systems and remoteness.

(2) Canada shall spend at least six billion dollars (\$6,000,000,000) through 2030 as contemplated by Indigenous Services Canada's Main Estimates, at a rate of at least four hundred million dollars (\$400,000,000) per year, to meet the Commitment by funding the actual cost of construction, upgrading, operation, and maintenance of water infrastructure on reserve for First Nations ("**Commitment Expenditures**").

- (a) Canada shall provide Class Counsel with an annual statement of all Commitment Expenditures through 2030.
- (b) Upon request, Canada shall provide any First Nation Class Member with a statement of the Commitment Expenditures that it has received.

### 3.03 **Repeal and replacement of *Safe Drinking Water for First Nations Act***

(1) Canada shall make all reasonable efforts to introduce legislation repealing the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21 (the "**SDWFNA**") on or before March 31, 2022.

(2) Canada shall make all reasonable efforts to develop and introduce replacement legislation for the *SDWFNA* ("**Replacement Legislation**"), in consultation with First Nations, and to introduce this legislation by December 31, 2022.

- (3) The objectives of the Replacement Legislation shall be:
  - (a) Ensure sustainable First Nation Water Systems, premised upon:
    - (i) Defining minimum standards of water quality for First Nation Water Systems, with reference to standards that are directly applicable to First Nation communities, and;
    - (ii) Defining minimum capacity standards for the delivery of water to First Nation communities, in terms of volume per individual community member;
  - (b) Create a transparent approach to building, improving, and providing drinking water and wastewater services for First Nations;
  - (c) Confirm adequate and sustainable funding for First Nation Water and Wastewater Systems; and,
  - (d) Support the voluntary assumption of water and wastewater infrastructure by First Nations.

(4) Notwithstanding Canada's commitment to introduce the Replacement Legislation, Canada shall support the development of First Nations governance initiatives as described in Article 3.04, below.

### 3.04 **First Nations Advisory Committee**

(1) Canada shall provide twenty million dollars (\$20,000,000) in funding through the 2025/2026 Fiscal Year for the creation of the First Nations Advisory Committee on Safe Drinking Water ("FNAC").

(2) The FNAC's membership shall reflect Canada's diversity of First Nation Class Member communities, languages, genders, geographies, skills, expertise, and experience with water insecurity.

(3) The primary functions of the FNAC shall be to:

(a) Work with First Nation Class Members to provide oversight, guidance, and recommendations to Indigenous Services Canada to support the development and implementation of forward-looking policy initiatives, including, without limitation:

(i) The development of Indigenous Services Canada's Long Term Strategy for Water and Wastewater on First Nation Class Member's Reserves;

(ii) The development of the Replacement Legislation.

(b) Contribute strategic advice and perspectives to Indigenous Services Canada in order to advance the long-term sustainability of safe drinking water in First Nation communities; and,

(c) Support the identification and prioritization of funding for water and wastewater in First Nations communities.

(4) The terms of reference for the FNAC shall be developed jointly by the Parties.

### 3.05 **First Nations governance initiatives**

(1) Canada shall make available nine million dollars (\$9,000,000) in funding for First Nations to pursue governance initiatives and by-law development through the 2025/2026 Fiscal Year (the "Water Governance Fund").

(2) The funding for the Water Governance Fund shall continue through the stated period, regardless of whether the Replacement Legislation is enacted within the anticipated time frame or at all.

(3) The Water Governance Fund shall assist First Nation Class Members that wish to develop their own water-related governance initiatives, including for research, technical advice, by-law drafting, and the implementation of pilot projects in First Nation communities.

(4) The terms of reference for the Water Governance Fund shall be developed jointly by the Parties.

3.06            **Agreement on required measures**

(1)        Canada shall promptly consult with each First Nation Class Member that gives notice to Canada that the Commitment is not met or ceases to be met (each an "**Underserviced First Nation**") with a view to meeting the Commitment.

(2)        Canada shall make all reasonable efforts to reach an agreement with the Underserviced First Nation detailing the steps that are required to meet the Commitment (a "**Remediation Agreement**").

(3)        Canada and the Underserviced First Nation shall comply with the Remediation Agreement.

3.07            **Dispute resolution for required measures**

(1)        If Canada fails to reach a Remediation Agreement with an Underserviced First Nation after six (6) months, Canada and the Underserviced First Nation shall each submit their proposed form of Remediation Agreement to a dispute resolution process (the "**Commitment Dispute Resolution Process**").

(2)        The Commitment Dispute Resolution Process shall be developed jointly by the Parties, and it shall incorporate Indigenous dispute resolution practices.

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**THE PARTIES AGREE TO THE TERMS ABOVE**, and they will negotiate in good faith and make all reasonable efforts to execute the Settlement Agreement no later than August 27, 2021, or such other date as the Parties may agree.

**Tataskweyak Cree Nation**



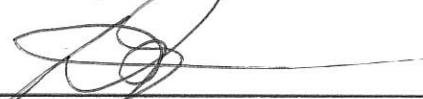
Chief Doreen Spence on her own behalf and  
on behalf of Tataskweyak Cree Nation  
Date: July 21 2021

**Curve Lake First Nation**



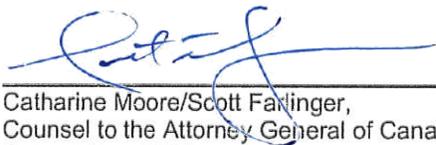
Chief Emily Whetung on her own behalf and  
on behalf of Curve Lake First Nation  
Date: July 19 2021

**Neskantaga First Nation**



Chief Wayne Christopher Moonias on his own behalf and on  
behalf of Neskantaga First Nation  
Date: July 27 2021

**Attorney General of Canada**



Catharine Moore/Scott Farlinger,  
Counsel to the Attorney General of Canada  
Date: July 29 2021

# SCHEDULE "A"

## Long-Term Drinking Water Advisory Action Plan: Bi-Weekly Status Update

Updated: June 25, 2021

Long-term DWA Progress Since November 2015							
Region	LT DWAs in effect	No. of Communities affected by LTDWAS	LT DWAs added since Nov. 2015	LT DWAs lifted since Nov. 2015	No. of LT DWAs Deactivated since November 2015	DWAs that have been in effect for 2-12 months	Lifted DWAs that had been in effect for 2-12 months
ATL	0	0	2	7	0	1	8
QC	0	0	0	3	0	0	3
ON	44	26	31	43	3	3	54
MB	2	2	11	13	0	1	19
SK	5	4	12	17	2	3	48
AB	0	0	1	4	0	0	30
BC	0	0	2	20	0	1	20
YK	0	0	0	0	0	0	0
<b>Total</b>	<b>51</b>	<b>32</b>	<b>59</b>	<b>107</b>	<b>5</b>	<b>9</b>	<b>182</b>

### Legend

LT DWAs with Other Considerations
ST DWA expected to become long-term
DWA lifted since last report

### Long-Term Drinking Water Advisories in Effect on Public System on Reserve

\*Number of homes and community buildings affected are estimates and should be confirmed before being used in reporting.

\*\*New target dates are rough estimates only and subject to change as impacts from the pandemic evolve. Target dates will be re-assessed as projects progress.

Region	First Nation	System Name	Date Set (YYYY/MM/DD)	Date Advisory Became a Long-Term DWA (YYYY/MM/DD)	Number of homes affected*	Number of community buildings affected*	Issue	Corrective Measure(s)	Current Status	Target Date**
ON	Bearskin Lake	Bearskin Lake Community Centre/Youth Centre Semi-Public Water System (#17218) <i>Do Not Consume Since March 2006</i>	2006/03/21	2007/03/21	0	1	Uranium levels exceed Ontario guidelines.	<p><u>Long-term</u>: Major plant upgrades, extension of piped network</p> <p><u>Short-term</u>: Truck to cistern at the community centre</p>	<ul style="list-style-type: none"> <li>- First Nation has agreed to interim solution (installation of cistern at community centre); project approved</li> <li>- Restrictions limited implementation of interim solution</li> <li>- ISC officials advised by Council Jan 18, 2021 that new cistern was installed at arena; delivery of cistern for Youth Centre delayed; equipment delivered Feb 2021</li> <li>- End of March 2021, contractor advised 50% of plumbing work completed; Contractor recommended 3750L tank, rather than three 1,100L tanks (smaller tanks to be used as replacements for cisterns served by truck-haul); Project Management Team (PMT) agreed</li> <li>- April 2021, new tankage on-site; at request of community, contractor postponed mobilization to May 12, 2021; Contractor mobilized to site on June 8, 2021, work on the water system expected to begin the week of June 14, 2021; Contractor advised work to require 7 to 14 days to complete</li> <li>- Regional officials continue outreach, respecting community's other priorities including public health through pandemic</li> <li>- Long-term solution total project estimated at over \$60M to address water, wastewater and servicing recommendations; currently an unfunded project estimated at 3 - 4 years to complete; discussions in April / May 2021 with community leadership agreed on multi-phase approach: PMT, with Windigo Tribal Council as lead, working to develop approval documentation for detailed design of WTP upgrades and wastewater lagoon with aim to begin design activities in 2021-2022</li> <li>- Operational supports provided to community through ISC funded Hub being delivered by Windigo Tribal Council</li> </ul>	2021/07

ON	Bearskin Lake	Bearskin Lake Nursing Station Semi Private Water DWA since February 2020	2020/02/26	2021/02/26	0	1	Groundwater well with no treatment or disinfection	<p><u>Long-term:</u> Installation of a treatment system for the building</p> <p><u>Short-term:</u> n/a</p>	<ul style="list-style-type: none"> <li>- Bearskin Lake declared a State of Emergency due to COVID-19 with subsequent restrictions on travel into the community</li> <li>- An initial meeting between ISC and Windigo Tribal Council occurred July 28, 2020; Windigo worked with the community to develop a proposal for assessment of the well, design of an appropriate treatment system, and on-going maintenance/monitoring</li> <li>- ISC working with the First Nation and Windigo Tribal Council Water Hub for the design, installation and operation of a stand alone water treatment system for the Nursing Station and Residence</li> <li>- ISC received funding submission from First Nation that outlines scope, schedule and cost of proposed project; funding has been approved and Windigo First Nation's Council advised ISC officials that an engineering firm has been engaged to begin work to define the treatment system for the existing groundwater source; project schedule to come</li> <li>- PMT has been established; funding has been provided; Windigo emailed the Chief on April 12th to confirm approval for project kick-off; on May 5, 2021 ISC was informed community has provided consulting engineer authorization to proceed; Consultant working with PMT to make arrangements to mobilize to community to complete site assessment; on-site assessment scheduled for June 17, 2021; revised project schedule will then be developed</li> <li>- Local WTP operator providing support to complete raw water quality testing</li> <li>- Challenges with coordination and communication continue</li> </ul>	2021/09
ON	Chippewas of Nawash	Cape Croker Public Water System DWA since January 2019	2019/01/21	2020/01/21	264	20	System does meet minimum treatment requirements.	<p><u>Long-term:</u> New treatment plant and distribution system extension</p> <p><u>Short-term:</u> Rejected by First Nation</p>	<ul style="list-style-type: none"> <li>- <b>Long-term:</b> 99% design submission of distribution work received; 99% design of treatment that was expected July 2021 has been received by ISC and is under review; treatment supplier selected, evaluation of pre-qualification for General Contractors for distribution completed, pre-qualification for General Contractors for WTP underway</li> <li>- First Nation requested scope of project be expanded to extend distribution system and fire flows beyond ISC LOSS and approve funding to support; discussions with First Nation to bring project scope in-line with ISC LOSS held; ISC met with community Jan 2021; cost estimate increased from \$22M to \$63M</li> <li>- 99% Design submission for distribution was submitted to ISC on March 29, 2021, has been reviewed and comments issued</li> <li>- ISC and Chief met Feb 2021 to discuss First Nation's request for ISC to approve new TEC of \$63M and fund all components of project that are outside LOSS; follow-up meeting occurred where community advised that they would support a partial cost-share for scope outside of LOSS; community has indicated can contribute \$700,000</li> <li>- Revisions to Change Request based on Tier 1 national review, and revised cost estimates from consulting engineer, shared with community and endorsed; Regional officials have submitted for approval consideration; Project scheduled to be presented in June 2021</li> <li>- <b>Interim:</b> containerized plant investigated; initially First Nation opted not to pursue, but then agreed to implement; First Nation provided ISC with formal correspondence on August 27, 2020 confirming their request to forgo interim solution to apply funding to long-term project.</li> </ul>	2023/10
ON	Deer Lake	Deer Lake Public Water System DWA since October 2019	2019/10/15	2020/10/15	225	5	Inconsistent sampling	<p><u>Long-term:</u> To be determined through feasibility study</p> <p><u>Short-term:</u> Improved operations and monitoring</p>	<ul style="list-style-type: none"> <li>- DWA in place due to operational inconsistencies; operators must submit 4 weeks of bacteriological samples to EPHO before conducting back-to-back samples for laboratory analysis</li> <li>- Community receives operational support through ISC funded Hub delivered by Keewaytinook Okimakanak (K/O) Tribal Council</li> <li>- ISC senior officials met with Chief and Council Sept 17 &amp; 24, 2020 to encourage improved operations</li> <li>- Hub provided training to operators in sampling techniques; Hub reported water quality monitoring and other operational duties improved in Jan 2021; in Feb 2021, water quality monitoring not completed with needed frequency</li> <li>- K/O Hub advised ISC officials on May 12, 2021 there are no technical issues in the short-term; filter media and flow control valve successfully replaced; testing on April 29, 2021 showed plant producing water meeting applicable guidelines; sampling/testing must occur weekly to be in compliance; on-going operational issues</li> <li>- ISC working with community to advance feasibility study for long-term needs; funding for this and immediate repairs to existing system (filter media replacement) approved by ISC Dec 2020; competitive procurement for feasibility closed; proposal evaluations completed and consultant selected April 2021; Kick-off meeting held April 20; Background/Needs Report expected to be delivered in July 2021</li> <li>- ISC regional officials working with Hub to discuss with community need for monitoring and to offer support</li> </ul>	TBD

ON	Eabametoong First Nation	Eabametoong Public Water System (#7132) DWA since August 2001	2001/08/01	2002/08/01	267	12	Treatment process and distribution system are unreliable and do not meet guidelines.	Long-term: Expansion and upgrades to water treatment plant Short-term: N/A	<ul style="list-style-type: none"> <li>- Expansion, upgrades, commissioning complete</li> <li>- MECP inspection Oct 2019; operational deficiencies addressed</li> <li>- First Nation requested funding for additional WTP work and to clean existing wastewater system prior to lifting DWA; Funding approved Oct 2020; work remains outstanding due to supply chain challenges</li> <li>- Warranty inspection Nov 16th, 2020; portions of wastewater work completed prior to Jan 2021; restrictions due to COVID hindered work; Contractor has advised that scheduling to address final deficiencies (bag breaker, hoist, minor civil works) will occur week of June 14, 2021</li> <li>- Sampling shows 4 quarterly THM and HAA results in 2020-2021 below MAC for quarterly average</li> <li>- Matawa EPHO advised May 7, 2021 that back to back samples and resolution of operational issues needed before recommendation will be issued</li> <li>- O&amp;M funding raised as an issue in Jan 2020; First Nation intended to operate for 1 year prior to lifting; has requested 100% O&amp;M funding; community has not shared findings of O&amp;M costs; correspondence from ISC to Chief and Council issued Dec 2020</li> <li>- Meeting March 29, 2021; community open to outside workers; regular PMT meetings occurring; meeting held May 10, 2021 to discuss wastewater issues; tied to LTDWA removal; First Nation preparing funding submissions to initiate a study/assessment</li> <li>- Contractor for wastewater cleaning work advised materials/equipment scheduled to arrive April 23; a status update has not been shared with ISC</li> <li>- Correspondence from Chief to ISC indicates interest in resolving LTDWA once a plan to address operations and construction deficiencies is established</li> <li>- Due to sewage system issues, WTP is intermittently shut down to control WW flow; community requested provision and reimbursement for bottled water; ISC has approved funding to support bottled water provision for 2021-2022</li> <li>- Operational supports being provided through ISC funded Hub being delivered by Matawa Tribal Council</li> </ul>	TBD
ON	Marten Falls	Marten Falls Public Water System (#7135) DWA since July 2005	2005/07/18	2006/07/18	91	6	Treatment system produces water that does not meet guidelines.	Long-term: Treatment system replacement at existing plant and upgrades to facility Short-term: N/A	<ul style="list-style-type: none"> <li>- Construction complete March 2019; third round of commissioning successfully completed June 2019</li> <li>- Distribution system flushing completed July 2019</li> <li>- MECP assessment report (July 2019) identified operational deficiencies; issues addressed Nov 2019</li> <li>- Sampling meets requirements, however lift not yet recommended by Matawa EPHO</li> <li>- EPHO advised four sets of quarterly samples for THM and HAA testing (Aug, Oct and Dec 2020, Feb 2021) were within applicable regulatory limits, well below running quarterly average MAC</li> <li>- Warranty inspection completed; as of March 29, 2021, all WTP deficiencies confirmed as addressed; completion report submitted March 19, 2021</li> <li>- Jan 2021 Chief advised letter outlining community's concerns with respect to O&amp;M, operations, and Asset Management Approach forthcoming</li> <li>- Meeting held April 22, 2021 where the Chief advised of letter issued to Minister dated April 8, 2021 seeking commitments for: a) 100% O&amp;M based on actuals, b) an asset management system, c) Matawa's proposal for 24/7 Operations by Hub</li> <li>- In correspondence from Matawa EPHO dated Mar 5, 2021, First Nation was advised DWA would remain until two consecutive bacteriological water samples taken 24 hours apart comply with applicable requirements; sampling has not occurred and likely not to occur until concerns of Chief and Council with respect to O&amp;M funding, Asset Management Approach and operations are addressed</li> <li>- Operational supports provided through ISC funded Centralized Water and Wastewater Hub delivered by Matawa Tribal Council</li> </ul>	TBD
ON	Mishkeegogamang	Mishkeegogamang Ten Houses Systems (63A) (#7189) DWA since June 2019	2019/06/10	2020/06/10	30	2	Treatment system does not meet requirements for GUDI. Operation and maintenance issues.	Long-term: New water treatment plant Short-term: Upgrades to treatment system	<ul style="list-style-type: none"> <li>- <b>Interim</b> - New UV system completed Nov 2020</li> <li>- EPHO advised 4 weeks of sampling needed to confirm safety; ORO supporting operators; operational challenges persist</li> <li>- EPHO sampled Jan 25, 2021; adverse results for manganese Feb 2, 2021; OFNTSC actively involved</li> <li>- Feb 2021, COVID delayed Hub's on-site support; operational challenges continue</li> <li>- Chief advised staff March 2021 of importance of regular monitoring; OFNTSC reiterated willingness to work directly with local operators</li> <li>- Operational supports through ISC funded Hub delivered by OFNTSC; ORO returned to site week of April 26, 2021 for two week period</li> <li>- May 5, 2021, ORO confirmed testing showed conformance for manganese; ORO reported improved water monitoring practices with 3 rounds of in-house bacteriological testing completed; May 17, 2021 ORO reported that through tweaks to the treatment system, very good results achieved; ORO plans to return to site on June 7, 2021</li> <li>- May 28, 2021 EPHO reported that with oversight, test results submitted for 3 weeks</li> <li>- June 1, 2021, ORO reported regular bacterial samples not being taken as required</li> <li>- <b>Long-Term</b> - Design phase of long-term WTP upgrade complete; TEC escalated from \$5.75M to \$9M; First Nation received funding approval for construction phase; competitive tendering for construction complete; all bids exceeded approved project budget; ISC approved funding to support new TEC \$11.2M</li> <li>- Construction phase underway; expected completion November 2021; construction reported on-schedule</li> </ul>	2021/07

ON	Mississaugas of Scugog Island First Nation	Scugog Community Water System 1 Public Water System (#15899) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	9	0	Treatment systems do not meet requirements for GUDI.	<u>Long-term:</u> New treatment plant, elevated storage and distribution system <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Construction of new wells and treatment plant, elevated storage, pumphouse upgrades, and distribution system complete; minor landscaping and other deficiencies were expected to be addressed spring 2021</li> <li>- EPHO engaged and commissioning samples meet contractual requirements</li> <li>- Final inspections of WTP and Distribution contract are underway; several civil deficiencies remain (landscaping, etc.) and action plan being developed by contractor to address; warranty period expired May 22, 2021</li> <li>- First Nation requires 55 homes currently on private wells to be connected to new system before lifting advisory; involves work inside homes; COVID-related delays have been experienced</li> <li>- Meeting with Chief and Council Dec 2020; advised contract awarded for servicing connections to 2 public and 2 semi-public buildings, as well as 55 homes; work was to be completed by Mar 31, 2021; Chief requested ISC funding support for the construction contract of approximately \$750,000; ISC approved the additional funding</li> <li>- Construction delays due to COVID restrictions; Chief and Council postponed work until February 11, 2021 due to safety concerns about work inside homes; PMT meeting held Feb 24, 2021 to confirm start-up schedule and health and safety parameters; work was not expected to be completed until July 2021</li> <li>- Construction has begun with contractor conducting directional drilling at various properties in the community and installing water service connections to curb stops</li> <li>- April 22, 2021 Chief and Council advised contractor that due to Provincial COVID restrictions, no work can be performed in homes until stay-at-home lockdown lifted; due to previous contractual commitments, contractor's return to site will not occur until August 2021</li> <li>- Operational supports are being provided through the ISC funded Centralized Water and Wastewater Hub being delivered by the Ogemawahj Tribal Council</li> </ul>	2021/09				
ON	Mississaugas of Scugog Island First Nation	Scugog Community Water System 2 Public Water System (#15900) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	6	0			Shutdowns required to support construction work to upgrade the facility	<u>Long-term:</u> Upgrades to treatment and disinfection processes, structural improvements to building, electrical and mechanical upgrades <u>Short-term:</u> n/a	<ul style="list-style-type: none"> <li>- Meeting with Chief and Council Dec 2020; advised contract awarded for servicing connections to 2 public and 2 semi-public buildings, as well as 55 homes; work was to be completed by Mar 31, 2021; Chief requested ISC funding support for the construction contract of approximately \$750,000; ISC approved the additional funding</li> <li>- Construction delays due to COVID restrictions; Chief and Council postponed work until February 11, 2021 due to safety concerns about work inside homes; PMT meeting held Feb 24, 2021 to confirm start-up schedule and health and safety parameters; work was not expected to be completed until July 2021</li> <li>- Construction has begun with contractor conducting directional drilling at various properties in the community and installing water service connections to curb stops</li> <li>- April 22, 2021 Chief and Council advised contractor that due to Provincial COVID restrictions, no work can be performed in homes until stay-at-home lockdown lifted; due to previous contractual commitments, contractor's return to site will not occur until August 2021</li> <li>- Operational supports are being provided through the ISC funded Centralized Water and Wastewater Hub being delivered by the Ogemawahj Tribal Council</li> </ul>	2021/09		
ON	Mississaugas of Scugog Island First Nation	Scugog Band Office Semi-Public Water System (#17224) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	0	1					Shutdowns required to support construction work to upgrade the facility	<u>Long-term:</u> Upgrades to treatment and disinfection processes, structural improvements to building, electrical and mechanical upgrades <u>Short-term:</u> n/a	<ul style="list-style-type: none"> <li>- Meeting with Chief and Council Dec 2020; advised contract awarded for servicing connections to 2 public and 2 semi-public buildings, as well as 55 homes; work was to be completed by Mar 31, 2021; Chief requested ISC funding support for the construction contract of approximately \$750,000; ISC approved the additional funding</li> <li>- Construction delays due to COVID restrictions; Chief and Council postponed work until February 11, 2021 due to safety concerns about work inside homes; PMT meeting held Feb 24, 2021 to confirm start-up schedule and health and safety parameters; work was not expected to be completed until July 2021</li> <li>- Construction has begun with contractor conducting directional drilling at various properties in the community and installing water service connections to curb stops</li> <li>- April 22, 2021 Chief and Council advised contractor that due to Provincial COVID restrictions, no work can be performed in homes until stay-at-home lockdown lifted; due to previous contractual commitments, contractor's return to site will not occur until August 2021</li> <li>- Operational supports are being provided through the ISC funded Centralized Water and Wastewater Hub being delivered by the Ogemawahj Tribal Council</li> </ul>	2021/09
ON	Mississaugas of Scugog Island First Nation	Scugog Health Centre Semi-Public Water System (#17225) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	0	1							Shutdowns required to support construction work to upgrade the facility	<u>Long-term:</u> Upgrades to treatment and disinfection processes, structural improvements to building, electrical and mechanical upgrades <u>Short-term:</u> n/a
ON	Mitaanjigamiing	Mitaanjigamiing Public Water System <i>DWA since May 2020</i>	2020/05/15	2021/05/15	49	5	Shutdowns required to support construction work to upgrade the facility	<u>Long-term:</u> Upgrades to treatment and disinfection processes, structural improvements to building, electrical and mechanical upgrades <u>Short-term:</u> n/a						

ON	Mohawks of the Bay of Quinte	All MBQ Semi-Public Water System (#17226) DWA since June 2008	2008/06/06	2009/06/06	64	6	Groundwater supply at risk of contamination.			2021/09
ON	Mohawks of the Bay of Quinte	MBQ Airport Public Water System (#17227) DWA since October 2003	2003/10/17	2004/10/17	10	0	Insufficient disinfection.			2021/09
ON	Mohawks of the Bay of Quinte	MBQ Bayview Variety Apartments Public Water System (#17228) DWA since June 2008	2008/06/06	2009/06/06	6	0	Groundwater supply at risk of contamination.	<p><u>Long-term:</u> Upgrades to Deseronto water treatment plant, water main extension and water tower (Phase 2), water main extension (Phase 3)</p> <p><u>Short-term:</u> N/A</p>		2021/09
ON	Mohawks of the Bay of Quinte	MBQ Clifford Maracle's Well Public Water Supply (#17229) DWA since January 2012	2012/01/20	2013/01/20	unknown	unknown	E. Coli and total coliform are present. Treatment system not being maintained.			2021/09
ON	Mohawks of the Bay of Quinte	MBQ Trailer Park Public Water System (#17230) DWA since June 2008	2008/06/06	2009/06/06	6	0	Groundwater supply at risk of contamination.			2021/09
ON	Mohawks of the Bay of Quinte									
ON	Mohawks of the Bay of Quinte									
ON	Muskat Dam Lake	Muskat Dam Public Water System (#6542) DWA since October 2003	2003/10/24	2004/10/24	88	5	Filtration system inadequate and plant has insufficient capacity.	<p><u>Long-term:</u> Upgrades to filtration and disinfection systems</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Upgrades to filtration and disinfection systems complete; commissioning started July 2019; halted March 2020 due to COVID; re-started and completed July 2020</li> <li>- Sept 2020 EPHO issued letter to Chief and Council recommending resolution of LTDWA</li> <li>- Oct 2020 Chief indicated support for resolution of DWA; October 7 new Chief and Council were elected; following meeting with Deputy Chief on Nov 5th, EPHO re-sent recommendation to resolve DWA to new Chief and Council</li> <li>- Dec 16, 2020, at request of First Nation, ISC discussed resolution of DWA; Chief advised that under previous term (2012-2015) he wanted a new WTP (and new location) due to risk of contamination from Diesel Generating Station; Chief requested ISC cease to pressure DWA resolution</li> <li>- ISC previously funded project to remediate contaminated soils</li> <li>- Correspondence sent from ISC offering congratulations and support of resolution of DWA; Follow-up by ISC in March 2021, community advised they will contact department when ready</li> <li>- May 28, 2021 EPHO advised ISC test results not received since fall 2020; EPHO recommendation to lift from September 2020 requires another round of testing to confirm water meets guidelines</li> <li>- June 7, 2021, 24/7 Technical Support requested by Chief, local operator experiencing issues that required shut-down; operator had been working with treatment supplier to adjust process to accommodate fluctuations in raw water quality; progress was being made, water production restored, however at the request of First Nation, ISC approved on-site support</li> <li>- Warranty phase expires July 27, 2021, ISC requested consultant provide dates for inspection</li> <li>- Operational supports provided through ISC funded Hub delivered by IFNA Tribal Council</li> </ul>	TBD
ON	Neskantaga	Neskantaga Public Water System (#7137) DWA since February 1995	1995/02/01	1996/02/01	76	6	Treatment system does not meet guidelines; chlorine residual inadequate.	<p><u>Long-term:</u> Upgrade and expansion of existing treatment plant</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Due to delays, First Nation terminated contract for upgrades Feb 2019; new contractor hired</li> <li>- Construction completed; First Nation to operate 1 year prior to lifting; requested 100% O&amp;M funding; letter received Feb 2020 outlining requests</li> <li>- Dist. system and WW work required; approved Oct 7, 2020; increase of \$4,197,305; revised TEC \$16,436,740</li> <li>- Oct 19, 2020 sheen on reservoir water noted; concluded mineral oil (non-toxic) from pump; distribution system flushed; water sampling confirmed no traces of oil/grease remain</li> <li>- Community evacuated; returned Dec 20, 2020; new system operational since Nov 12, 2020</li> <li>- Testing Dec 13, 2020; water meets requirements; ISC funding full-time on-site support delivered by OCWA</li> <li>- Work continues on WW issues; new pumping truck to support interim management of WW flows; work on lift station completed, pumps replaced; airlocks flushed; lift station able to pump to lagoon; Consultant recommended replacement of forcemain; funding approved; Bid prices exceeded consultant's estimate and approved budget by \$1.34M; Region supports additional cost; contractor hired, replacement forcemain pipe is in community, installation was to start in late May and completed end of Sept 2021</li> <li>- First Nation in lock-down; all contractors departed except OCWA; as of June 11, 2021, lock-down remains and no work to address wastewater or performance of WTP is being undertaken; June 8, 2021 First Nation advised that a decision on restrictions being lifted is expected by June 11, 2021</li> <li>- Cost overrun for \$4M submitted, increasing TEC from \$16.5M to \$20M; ISC officials preparing to advance to appropriate approval authorities once any concerns are addressed</li> </ul>	TBD

ON	Nibinamik	Nibinamik Public Water System (#7138) DWA since February 2013	2013/02/05	2014/02/05	101	5	System is inadequate and does not meet Ontario guidelines. Capacity upgrades required.	<p><u>Long-term:</u> Upgrade and expansion of the existing plant, and distribution work</p> <p><u>Short-term:</u> Rejected by First Nation</p>	<ul style="list-style-type: none"> <li>- <b>Long-term:</b> Design of plant upgrade and expansion complete; Design change in Nov 2019 delayed completion</li> <li>- Equipment pre-purchased; construction contract awarded; materials and equipment shipped to site winter 2020</li> <li>- First Nation closed March 2020 due to COVID-19</li> <li>- Construction not started; First Nation prioritized diesel plant project on an emergency basis</li> <li>- Options analysis completed by consultant to advance water project construction in 2020, First Nation provided correspondence July 2020 notifying contractor that construction delayed until Spring 2021 due to community access restrictions</li> <li>- ISC issued correspondence Dec 2020 acknowledging First Nation's decision to delay water project by a year, due to COVID-19 and availability of accommodations</li> <li>- Accommodations related materials and equipment mobilized over the 2021 Winter Road</li> <li>- PMT meeting April 20, 2021; contractor to be on-site until May 5 for camp preparation; Construction anticipated to start May 10, 2021 instead of May 25, 2021</li> <li>- Construction kick-off meeting May 6, 2021; Contractor confirmed foundation construction to begin on May 14</li> <li>- First Nation in full lockdown in response to COVID and two deaths in community; contractor scheduled to return May 25, 2021, however under direction of First Nation postponed return</li> <li>- PMT met June 7, 2021, First Nation accepted General Contractor's revised COVID-19 protocol and supported resumption of construction; contractor coordinating remobilization to site, target date of June 14, 2021; revised project schedule to follow</li> <li>- <b>Interim:</b> Interim solution previously identified (membrane treatment unit to replace existing treatment) was not accepted by First Nation</li> <li>- Operational supports provided to community through ISC funded Hub being delivered by Matawa Tribal Council</li> </ul>	2022/03
ON	North Caribou Lake	North Caribou Lake Public Water System DWA since March 2020	2020/03/03	2021/03/03	291	7	System cannot meet demand and does not meet treatment requirements.	<p><u>Long-term:</u> Plant expansion and replacement of treatment system</p> <p><u>Short-term:</u> TBD</p>	<ul style="list-style-type: none"> <li>- Feasibility study for long-term needs for water and wastewater completed, no interim solutions provided; main issue is capacity; difficult to fix due to age and inability to repair due to age of equipment</li> <li>- First Nation completed distribution system leak detection and repair including residential plumbing repairs to reduce consumption; community repaired 3 sections of distribution system; leak detection did not identify further issues; water treatment plant operating 24/7 to produce quantity to meet demands, with distribution repairs executed by community, no longer required to shut-down distribution to allow reservoirs to fill</li> <li>- First Nation requires commitment for unfunded water and wastewater long-term solution in order to consider a potential interim solution for the water treatment plant</li> <li>- Work to advance design of long-term solution for water based on the Feasibility Study's recommendations is underway with approval pending; project documentation has been shared with the First Nation, for their review and endorsement</li> <li>- Interim options identified, recommending rental of containerized treatment system(s), however increasing reservoir storage capacity deemed not technically or financially feasible through an interim solution</li> <li>- Meeting held May 14, 2021; First Nation focused on review of Project Approval Request (PAR) for WTP upgrades; interim solution being considered as separate project; First Nation has not yet confirmed willingness to lift advisory through an interim approach</li> <li>- Comments based on the First Nation's review of PAR received May 26, 2021; Final review by First Nation and ISC underway; Draft PPM and Design consultant ToR shared with First Nation in preparation for next steps</li> <li>- Approval documentation for interim solution is under development</li> </ul>	TBD - Project schedule not yet defined
ON	North Spirit Lake	North Spirit Lake Public Water System (#7128) DWA since April 2019	2019/04/05	2020/04/05	90	5	Water distribution system leaks; water plant failure and capacity issues. Operation and maintenance issues.	<p><u>Long-term:</u> Plant and distribution system maintenance and repairs; operational improvements</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Difficulty retaining local operators; First Nation hired new uncertified water operator</li> <li>- Hub increased frequency of community visits and remote support</li> <li>- Additional repairs to dist. system, replacement of high lift pumps and installation of a transfer switch for back-up power system required; 3 new high-lift pumps installed October 2020</li> <li>- Installation of transfer switch for emergency generator/fire pumps delayed due to availability of contractor (result of COVID); contractor mobilized but additional parts required</li> <li>- Work includes commissioning two chlorine trim units and fire protection system for community's school; K/O Hub reported automation of 3 high lift pumps and PLC programming completed; distribution system flushing has been delayed</li> <li>- Feb 2021 no access to community due to COVID; April 16, 2021 revised schedule not established; April 28, 2021 community indicated would like feasibility study on long-term solution (plant at end of life); ISC drafted funding submission on behalf of community and shared for review and endorsement May 5, 2021; meeting scheduled for May 19, 2021 rescheduled to May 27</li> <li>- ISC advised by K/O Hub that week of May 19, 2021 transfer switch and commission back-up generator work completed; ozone generators received and expected to be installed week of May 31, 2021; distribution flushing program scheduled for week of May 31, 2021; ISC has not been provided an update</li> <li>- Wastewater lift stations functioning through work completed by local operators, with tele-support from Hub</li> <li>- K/O Hub advised that they cannot confirm plant is being monitored; testing is not occurring; K/O continues to advise Chief and Council that operational issues need to be addressed</li> </ul>	TBD

ON	Northwest Angle No. 33	East Pump house Plant Public Water System (part of Angle Inlet Public Water System) (#7126) <i>DWA since April 2011</i>	2011/04/11	2012/04/11	17	3	East Pump house: insufficient disinfection.		<ul style="list-style-type: none"> <li>- Interim options to alleviate advisory explored and determined to be neither feasible, nor cost-effective</li> <li>- Design and tendering for new plant complete; equipment pre-purchased and mobilized to site</li> <li>- Community closed in March 2020; construction halted due to COVID-19; limited re-opening in May &amp; construction resumed</li> <li>- Construction continues to progress on WTP; COVID-19 delays resulted in cost increase of \$1.2M</li> <li>- March 2021, contractor indicated that they are on-track for July 2021 completion; given that the building had yet to be closed in, ISC regional officials advised there was a high risk that work would not be completed as per schedule</li> <li>- April 12, 2021, contractor issued revised schedule calling for substantial completion in Oct 2021; Contractor cited non-performance of sub-contractors (concrete) as well as other issues not at fault of the First Nation or COVID as reasons for delays; Contractor made aware of contractual terms that outline costs for on-going engineering, project management and First Nation administration are to be covered by the contractor; Contractor advised they are working to identify means by which to accelerate</li> <li>- At April 26 PMT meeting contractor advised of new site safety coordinator and site supervisor; Contract administrator advised that production and on the ground organization has improved</li> <li>- At request of ISC, PMT agreed to institute bi-weekly meetings to support issues management; meetings were previously monthly; PMT meeting occurred June 10, 2021, and project reported to remain on-track to revised schedule</li> <li>- Operational supports are being provided to the community through the ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council; Community working with Hub to train primary operator to advance from Class II to Class III certification, and 2 other candidates to achieve OIT</li> </ul>	2021/11
ON	Northwest Angle No. 33	West Pump house Plant Public Water System (part of Angle Inlet Public Water System) (#7126) <i>DNC since February 2016</i>	2016/02/12	2017/02/12	unknown	unknown	West Pump house: radionuclides above guidelines.	<p><u>Long-term:</u> New centralized water treatment plant at Angle Inlet</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- April 12, 2021, contractor issued revised schedule calling for substantial completion in Oct 2021; Contractor cited non-performance of sub-contractors (concrete) as well as other issues not at fault of the First Nation or COVID as reasons for delays; Contractor made aware of contractual terms that outline costs for on-going engineering, project management and First Nation administration are to be covered by the contractor; Contractor advised they are working to identify means by which to accelerate</li> <li>- At April 26 PMT meeting contractor advised of new site safety coordinator and site supervisor; Contract administrator advised that production and on the ground organization has improved</li> <li>- At request of ISC, PMT agreed to institute bi-weekly meetings to support issues management; meetings were previously monthly; PMT meeting occurred June 10, 2021, and project reported to remain on-track to revised schedule</li> <li>- Operational supports are being provided to the community through the ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council; Community working with Hub to train primary operator to advance from Class II to Class III certification, and 2 other candidates to achieve OIT</li> </ul>	2021/11
ON	Northwest Angle No. 33	Elsie Blackhawk Pump house Public Water System (#17223) <i>DWA since April 2011</i>	2011/04/11	2012/04/11	5	0	Does not meet the minimum recommendations for disinfection.		<ul style="list-style-type: none"> <li>- Training and physical work to rehabilitate/repair wells completed through CRTP March 2019; sampling showed bacteriological presence</li> <li>- Consultant assessment Nov 2019 recommended new well and treatment units for each affected building; detailed design completed January 2021</li> <li>- New wells drilled for community buildings in Oct 2020; pumps and plumbing work completed</li> <li>- Testing indicates good quality raw water with slight exceedances for manganese aesthetic objective</li> <li>- Quotes requested from contractors February 19, 2021; contract awarded, equipment and parts on order, contractor advised some materials delayed; supply chain issues hindering schedule of construction work; shop drawings being reviewed by consulting engineer; PMT met week of April 5, 2021; contractor advised work requires 4 weeks to complete</li> <li>- May 13, 2021, contractor has not received materials, suppliers advised delivery expected by end of May</li> <li>- Contractor advised waiting arrival of key materials, including needed tankage that must be installed first; other parts, including a pump are a month overdue, little information on delivery provided by supplier</li> <li>- Contractor confirmed mobilization to site scheduled for June 14 for installation of Health Centre Water System; anticipating to require a week to complete; equipment [chlorine contact tanks] required to complete School and Multiplex point-of-entry systems on backorder and, at best, forecasted to become available mid-to-end of June</li> <li>- Full chemical analysis will be required, along with other testing to resolve the LTDWA</li> <li>- First Nation concerned with residential wells and has sought funding from Investing in Canada - Green Stream program administered by Province of Ontario; First Nation has sought contribution from ISC to support project should they receive approval</li> <li>- Operational supports provided to community through the ISC funded Hub being delivered by OFNTSC</li> </ul>	2021/11
ON	Ojibway Nation of Saugeen	Saugeen Health Clinic Semi-Public Water System <i>DWA since April 2018</i>	2018/04/26	2019/04/26	0	1	Turbidity levels exceed guidelines.		<ul style="list-style-type: none"> <li>- Training and physical work to rehabilitate/repair wells completed through CRTP March 2019; sampling showed bacteriological presence</li> <li>- Consultant assessment Nov 2019 recommended new well and treatment units for each affected building; detailed design completed January 2021</li> <li>- New wells drilled for community buildings in Oct 2020; pumps and plumbing work completed</li> <li>- Testing indicates good quality raw water with slight exceedances for manganese aesthetic objective</li> <li>- Quotes requested from contractors February 19, 2021; contract awarded, equipment and parts on order, contractor advised some materials delayed; supply chain issues hindering schedule of construction work; shop drawings being reviewed by consulting engineer; PMT met week of April 5, 2021; contractor advised work requires 4 weeks to complete</li> <li>- May 13, 2021, contractor has not received materials, suppliers advised delivery expected by end of May</li> <li>- Contractor advised waiting arrival of key materials, including needed tankage that must be installed first; other parts, including a pump are a month overdue, little information on delivery provided by supplier</li> <li>- Contractor confirmed mobilization to site scheduled for June 14 for installation of Health Centre Water System; anticipating to require a week to complete; equipment [chlorine contact tanks] required to complete School and Multiplex point-of-entry systems on backorder and, at best, forecasted to become available mid-to-end of June</li> <li>- Full chemical analysis will be required, along with other testing to resolve the LTDWA</li> <li>- First Nation concerned with residential wells and has sought funding from Investing in Canada - Green Stream program administered by Province of Ontario; First Nation has sought contribution from ISC to support project should they receive approval</li> <li>- Operational supports provided to community through the ISC funded Hub being delivered by OFNTSC</li> </ul>	2021/07
ON	Ojibway Nation of Saugeen	Saugeen School Semi-Public Water System <i>DWA since April 2018</i>	2018/04/27	2019/04/27	0	1	Total coliform and e-coli present in water from the well.	<p><u>Long-term:</u> Point-of-entry treatment units on the two wells</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Training and physical work to rehabilitate/repair wells completed through CRTP March 2019; sampling showed bacteriological presence</li> <li>- Consultant assessment Nov 2019 recommended new well and treatment units for each affected building; detailed design completed January 2021</li> <li>- New wells drilled for community buildings in Oct 2020; pumps and plumbing work completed</li> <li>- Testing indicates good quality raw water with slight exceedances for manganese aesthetic objective</li> <li>- Quotes requested from contractors February 19, 2021; contract awarded, equipment and parts on order, contractor advised some materials delayed; supply chain issues hindering schedule of construction work; shop drawings being reviewed by consulting engineer; PMT met week of April 5, 2021; contractor advised work requires 4 weeks to complete</li> <li>- May 13, 2021, contractor has not received materials, suppliers advised delivery expected by end of May</li> <li>- Contractor advised waiting arrival of key materials, including needed tankage that must be installed first; other parts, including a pump are a month overdue, little information on delivery provided by supplier</li> <li>- Contractor confirmed mobilization to site scheduled for June 14 for installation of Health Centre Water System; anticipating to require a week to complete; equipment [chlorine contact tanks] required to complete School and Multiplex point-of-entry systems on backorder and, at best, forecasted to become available mid-to-end of June</li> <li>- Full chemical analysis will be required, along with other testing to resolve the LTDWA</li> <li>- First Nation concerned with residential wells and has sought funding from Investing in Canada - Green Stream program administered by Province of Ontario; First Nation has sought contribution from ISC to support project should they receive approval</li> <li>- Operational supports provided to community through the ISC funded Hub being delivered by OFNTSC</li> </ul>	2021/07
ON	Oneida of the Thames	Oneida Public Water System (#7176) <i>DWA since September 2019</i>	2019/09/26	2020/09/26	546	22	Treatment system does not meet requirements for GUDI.	<p><u>Long-term:</u> To be determined through feasibility study</p> <p><u>Short-term:</u> Interim options to be assessed</p>	<ul style="list-style-type: none"> <li>- Feasibility Study kick-off meeting held Sept 2020; interim option(s) could not be designed and constructed prior to March 2021</li> <li>- Project cost increases approved to determine long-term viability of current groundwater source; results indicated groundwater well/aquifer cannot meet forecasted demands</li> <li>- Consultant initiated investigations of connections to municipal systems in area</li> <li>- Consultant advanced investigations into interim solutions; options include rental of mobile membrane system, concerns of wastewater capacity to handle backwash and significant electrical and mechanical retrofits of existing water treatment facility; interim solution may not be technically or financially feasible</li> <li>- PMT meeting held Feb 3, 2021 to discuss options analysis; consultant advised that municipal connection could be constructed as quickly as an interim solution, First Nation expressed support for municipal connection; there are two municipal connection options, one has potential to support needs for some homes in other nearby First Nation communities; connection to other communities has not been fully explored</li> <li>- Consultant presented options to Chief and Council Feb 2021 to determine preference on two connection options, gauge interest in interim solution; details of discussion and outcomes not shared with ISC</li> <li>- Through conversations with community project representatives, ISC advised that Chief and Council are leaning toward an MTSA solution; First Nation reviewing Final Feasibility Study, May 26, 2021 shared with ISC; technical review underway and comments expected to be issued by June 18, 2021</li> <li>- ISC working to schedule meeting to advance project; follow-up continues</li> </ul>	TBD - Project schedule not yet defined

ON	Sachigo Lake	Sachigo Lake Public Water System <i>DWA since October 2018</i>	2018/10/19	2019/10/19	165	5	Water treatment plant tank is leaking; safety of the water cannot be guaranteed.	<p><u>Long-term:</u> Expansion of existing plant</p> <p><u>Short-term:</u> Installation of new treatment units in existing plant as early as possible</p>	<ul style="list-style-type: none"> <li>- Long-term solution: expansion and upgrade of existing WTP; shipped via 2019 winter road</li> <li>- Interim solution: install one treatment train early in existing plant - initially supported by First Nation; installation of equipment and upgrades to existing facility to be completed under one contract for cost-savings</li> <li>- Restricted access in March 2020 due to COVID-19; August 19, 2020, First Nation supported return to site; negotiated with contractor, including delay claim costs</li> <li>- WTP contractor on-site Nov 24, 2020; commissioning of interim treatment train was priority; membranes damaged during idle time</li> <li>- First Nation, under advisement from Hub, informed PMT that LTDWA cannot be resolved until second treatment train installed</li> <li>- EPHO advised exceedances of manganese MAC from new treatment train; unit functioning as designed, with support from ORO, pH adjustment effective to manage seasonal manganese</li> <li>- Samples sent to lab; several performance parameters not met; unit's production into distribution on-hold; caused delays to decommission old treatment unit in order to install second train; May 5, 2021 PMT meeting, contractor advised that treatment supplier has solution to manganese and pH issues; work continues to address</li> <li>- May 25, 2021, contractor issued new schedule for DWA to be resolved in Sept, due to delays with operation of 1st treatment train; substantial completion of WTP upgrades and expansion Feb 2022</li> <li>- Contractor submitted samples from new treatment train for testing and awaits results; if requirements met, water from new unit will be diverted to reservoirs for distribution, decommissioning of existing treatment unit will begin; First Nation supports this approach</li> <li>- Installation of water/sewer pipe upgrades/extensions temporarily suspended due to reports of an unmarked burial site; forensic team on-site June 9, 2021 to investigate</li> <li>- Operational support provided through ISC funded Hub delivered by Windigo Tribal Council</li> </ul>	2021/09
ON	Sandy Lake	Sandy Lake Public Water System (#7179) <i>DWA since October 2002</i>	2002/10/10	2003/10/10	400	15	System is inadequate and does not meet guidelines. Capacity upgrades required.	<p><u>Long-term:</u> Water treatment plant upgrades and expansion</p> <p><u>Short-term:</u> Repairs and optimization of the plant, repairs and cleaning of distribution system; operational improvements</p>	<ul style="list-style-type: none"> <li>- Interim solution (repairs and optimization of WTP and distribution system) complete; additional repairs completed July 2020</li> <li>- Operational challenges preventing EPHO from recommending lift</li> <li>- OFNTSC Hub providing support to prepare operators for upgraded facility</li> <li>- Chief indicated lifting DWA is priority; Dec 11 operators advised want to complete monitoring with support from OFTNSC; ISC letter week of Dec 14, 2020 encouraged use of supports to improve operations</li> <li>- Construction of long-term solution began Jan 2020; access restrictions due to COVID March 2020, contractor re-mobilized Sept 2020; completion date of long-term project revised to June 2022 (COVID impacts)</li> <li>- Construction resumed, production slowed due to COVID; materials for construction mobilized to community via winter road network, except a load of fuel; contractor working to make arrangements for air freight of fuel</li> <li>- OFNTSC advised staff can enter community, rapid test with negative result required prior to flying via charter and isolation prior to working; OFTNSC advised these protocols limit ability to deliver approved level of service; April 13, 2021 OFTNSC received permission to mobilize to community in June 2021 ; no update yet on whether Hub has mobilized to the community</li> <li>- PMT meeting April 27, 2021; First Nation advised no changes to COVID protocols; Contractor advised of 2 week delay as result of COVID and cold weather, contractor working to restore schedule throughout remainder of project</li> <li>- At May 25, 2021 PMT meeting contractor issued a revised schedule, calling for 3 week extension; Consultant and PMT completing analysis against contractual obligations; First Nation confirmed no changes to COVID mitigation protocols, and that an agreement with OFTNSC has been signed to deliver Hub support to local operators; as of June 11, 2021, construction of long-term solution continues as planned and on schedule</li> <li>- Operations and monitoring remain inconsistent</li> </ul>	2022/07

ON	Shoal Lake No. 40	Pump house No. 1 Public Water System (#6534) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	1	Treatment processes are inadequate and produce water that does not meet guidelines.	<u>Long-term:</u> New centralized water treatment plant and distribution system <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Detailed design from 2010 was updated to ensure it meets current regulatory requirements and community's long-term needs</li> <li>- At request of First Nation, project was included in the Indigenous Specific Tendering Pilot Project, which enabled competitive procurement of an Indigenous-owned qualified contractor</li> <li>- Construction underway, with below grade reservoirs constructed, blasting and trenching for new distribution piping and raw water intake complete, as well as marine lines; filter beds placed, masonry work underway; building closed in and biological layer on filter media developing; Electrical and mechanical work inside plant underway; Contractor schedule calls for start-up and performance testing be completed by end of June 2021</li> <li>- First Nation supports the project with strict COVID-19 health and safety precautions in place, which has slowed progress, and contractor has advised of a minor project delay pushing completion to July 2021</li> <li>- At February 26, 2021 PMT meeting community raised concerns with the ability of septic systems at some homes to handle the increased usage anticipated; assessment and options being explored by First Nation and their consulting team to develop an action plan; First Nation has received funding approval through ICIP-Greenstream to support upgrades to septic systems</li> <li>- Construction meetings held monthly; at PMT meeting May 19, 2021 contractor advised of potential schedule slippage as motor control systems did not function upon delivery; if not corrected by manufacturer in timely manner planned commissioning for mid June 2021 will be delayed; Consultant and contractor working to identify options to complete other work to keep critical path somewhat on-track; next meeting scheduled for June 23, 2021 where any schedule changes will be more fully known</li> <li>- Operational supports provided through the ISC funded Hub being delivered by the Bimose Tribal Council</li> </ul>	2021/07
ON	Shoal Lake No. 40	Pump house No. 2 Public Water System (#17125) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	1				2021/07
ON	Shoal Lake No. 40	Pump house No. 3 Public Water System (#17126) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	20	3				2021/07
ON	Shoal Lake No. 40	Pump house No. 4 Public Water System (#17127) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	8	4				2021/07
ON	Shoal Lake No. 40	Pump house No. 5 Public Water System (#17128) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	10	0				2021/07
ON	Shoal Lake No. 40	Pump house No. 9 Public Water System (#17129) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	10	0				2021/07
ON	Shoal Lake No. 40	School Pump house Public Water System (#17217) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	0				2021/07
ON	Washagamis Bay	Washagamis Bay East Public Water System (#6532) <i>DWA since December 2008</i>	2008/12/19	2009/12/19	34	2	Poor groundwater quality; insufficient treatment; inadequate capacity.	<u>Long-term:</u> New treatment plant and distribution system upgrades <u>Short-term:</u> New wells and interim repairs to plant, distribution system cleaning and repairs	<ul style="list-style-type: none"> <li>- New wells drilled; interim plant repairs complete; plant producing potable water</li> <li>- Dist system cleaning complete; damage from pressure testing occurred; repairs completed</li> <li>- Intake work to address quantity issues completed</li> <li>- Work halted due to community lock-down Oct 1, 2020 (confirmed COVID case); lock-down lifted Oct 6, 2020</li> <li>- EPHO sampled week of December 14th and provided recommendation to lift LTDWA on January 4, 2021</li> <li>- Sodium levels in treated water slightly elevated; causing concern for community</li> <li>- EPHO provided information session to Chief and Council; Chief advised ISC that community will not accept recommendations to resolve the DWAs until the long-term solution is completed</li> <li>- Construction of long-term solution (new WTP) underway; First Nation worked with contractor to establish COVID-19 protocols that allow construction activities to continue</li> <li>- Contractor has advised of schedule delay; start-up and commissioning scheduled for May with training and sampling to follow; full chemical analysis required and will be coordinated by contractor; KCA EPHO will coordinate bacteriological sampling following commissioning, and is actively involved in project team discussions</li> <li>- Commissioning had been planned for May 17, 2021; Consultant informed by contractor that performance and commissioning delayed as a result of issues with SCADA programming and backwash reject tank pump failures; revised schedule yet to be issued</li> <li>- At PMT meeting held June 9, 2021, contractor advised that start-up procedures were scheduled to begin on June 11, 2021</li> <li>- Community has hired two operators from Bimose WaterFirst initiative (working with construction team and trying to achieve OIT certification); Community also receives operational supports through ISC funded Bimose Hub</li> </ul>	2021/07
ON	Washagamis Bay	Washagamis Bay West Public Water System (#17132) <i>DWA since December 2008</i>	2008/12/19	2009/12/19	6	0			<ul style="list-style-type: none"> <li>- Interim solution (pumphouse upgrades) complete</li> <li>- Sampling and testing lift plan developed in collaboration with EPHO</li> <li>- EPHO collected samples on June 2, 2020; chlorine residuals not within required parameters</li> <li>- Corrective measures have been completed</li> <li>- Kenora Chiefs Association EPHO collected samples for testing July 23 and 24, 2020; testing showed water meeting all regulatory requirements and a letter was issued on August 12, 2020 by the EPHO to Chief and Council recommending resolution of the DWA at this system; Chief and Council deferred acceptance of the recommendation until the East System is also producing safe drinking water</li> <li>- Long-term solution and operator support as above for the East system</li> </ul>	2021/07

MB	Shamattawa	Shamattawa Public Water System (#6601) <i>DWA since December 2018</i>	2018/12/06	2019/12/06	163	14	Plant beyond lifecycle and capacity upgrades required. Operation and maintenance issues.	<u>Long-term:</u> Upgrade / expansion of plant <u>Short-term:</u> Interim repairs and operational improvements	<ul style="list-style-type: none"> <li>- Repairs to plant completed; work on hold due to COVID; resumed April 23, 2020</li> <li>- Enhanced operator support through CRTP; two back-up operators being trained</li> <li>- Issues at control panel on Sept 8; raw water pumps stopped causing reservoirs to empty; hydro capacity for community an issue; CRTP repaired control panel, water throughout distribution system with adequate chlorine residuals</li> <li>- Issues with wiring to some valves; CRTP, EPHO and contractor addressed electrical/pressure loss at nursing station Oct 2020; 11 defective shut off valves at station were replaced; pressure and chlorine residual acceptable Dec 4, 2020</li> <li>- Low chlorine residuals persist whenever main operator is absent; Jan 2021, Chief wanted to start process to lift; FNIHB advised Chief that DWA should remain in place until 2 consecutive samples confirm results and ensure adequate residuals in distribution system</li> <li>- CRTP in community Feb 19 to work with operator; met with Chief to discuss importance of having trained and committed back-up operators; contractor returned to community Feb 18; valves and pumps installed, problems continue with a modulating valve and a water line break needs to be located and repaired; samples indicate issues with chlorine residual persists</li> <li>- CRTP in community April 21 to 28; several leaking hydrants and burnt house where water not shut off identified; CRTP has identified individual interested in working in WTP; chlorine residuals remain an issue in the distribution system</li> <li>- Work began on long-term solution; construction of major upgrades, expansion and new intake to WTP to be completed Fall 2022; target date updated to align with long-term solution given on-going issues with existing plant</li> </ul>	2022/09
MB	Tataskweyak Cree Nation	Tataskweyak Cree Public Water System (#6602) <i>DWA since May 2017</i>	2017/05/17	2018/05/17	361	5	First Nation issued advisory due to contamination concerns during spring flooding, not based on EPHO recommendation.	<u>Long-term:</u> Upgrades to water treatment plant (filtration and UV); Source water assessment and THM study; update to feasibility study underway for longer-term solution; design and construction of a pipeline to source water from Assean Lake <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Water quality meets guidelines; repairs and upgrades completed to enhance treatment; source water study completed in January 2019, recommending Assean Lake as the preferred source and an upgrade to the treatment plant; extra THM study completed</li> <li>- Letters provided to First Nation regarding good quality of water (most recent sent Feb. 2019) but First Nation has not lifted</li> <li>- Funding being provided for bottled water and to conduct further assessment of current source water with respect to cyanotoxins; Cyanotoxin assessment goes beyond testing requirements of Canadian guidelines and provincial regulations</li> <li>- A source water study has been completed and an update to the 2019 feasibility study is being contracted to assess the options to meet the community's long-term drinking water needs; following the feasibility study, the project to source water from Assean Lake will proceed to design and construction</li> <li>- ISC is committed to funding design and construction of pipeline to source First Nation's water from Assean Lake</li> </ul>	TBD
SK	Little Pine	Little Pine Public Water System <i>DWA since November 2018</i>	2018/11/14	2019/11/14	300	10	Plant is in poor condition and beyond its lifecycle. Operation and maintenance issues.	<u>Long-term:</u> Upgrade water treatment plant <u>Short-term:</u> Repairs to plant; operational improvements	<ul style="list-style-type: none"> <li>- Short-term repairs to bring system back into proper operation are complete; plant is producing adequate supply of safe drinking water</li> <li>- In early August 2020 E.Coli was reported in one of the raw water wells; the affected well was super-chlorinated on August 10th, 2020</li> <li>- Initially there were some water supply issues; however, some wells were serviced and new wells have been drilled and connected</li> <li>- First Nation is currently without a certified operator; ISC Regional office will be working closely with the First Nation to secure another operator, in the meantime CRTP trainers will be providing support; operator is experiencing difficulty completing the necessary training due to the COVID-19 pandemic; DWA is expected to remain in place until the operator is certified; operator training continues</li> <li>- Design of long-term solution underway, tendering to close end of June, with construction expected to begin in July 2021; long-term solution is not required in order to address advisory, but First Nation may not be receptive to lifting the LT DWA prior to completion of the long-term solution; ISC working to provide assurance to First Nation that construction of the long-term solution will continue; Project Brief was signed on September 1, 2020</li> </ul>	2021/08
SK	Peepeekisis	Peepeekisis Main Public Water System (#6669) <i>DWA since February 2015</i>	2015/02/05	2016/02/05	174	10	Treatment processes for both systems require maintenance and upgrades. Operation and maintenance issues.	<u>Long-term:</u> Upgrade water treatment plant; expand distribution system <u>Short-term:</u> Repairs complete; EPHO has recommended advisories be revoked	<ul style="list-style-type: none"> <li>- Repairs complete; lift recommended in July 2018, but First Nation reluctant to lift advisory until long-term upgrades to WTP complete</li> <li>- ISC offered to cost share a low-pressure distribution system; to date First Nation has not agreed to this approach</li> <li>- Construction of long-term upgrades is substantially complete and the upgraded water treatment plant is producing potable water and is now servicing the community</li> </ul>	TBD
SK	Peepeekisis	Poitras Well (#17166) <i>DWA since April 2013</i>	2013/04/10	2014/04/10	6	0				TBD

Short-Term Drinking Water Advisories on Public Systems Financially Supported by ISC (i.e. Advisories that have been in effect for 2 to 12 months)										
Region	First Nation	System Name	Date Set (YYYY/MM/DD)	Date Advisory Could Become a Long-Term DWA (YYYY/MM/DD)	Number of homes affected*	Number of community buildings affected*	Issue	Corrective Measure(s)	Current Status	New Target Date**
ON	Big Grassy	Big Grassy Public Water System <i>DWA since March 2021</i>	2021/03/09	2022/03/09	90	7	Water loss and distribution pressure loss	<p><u>Long-term:</u> Upgrades and expansion to existing treatment plant</p> <p><u>Short-term:</u> n/a</p>	<ul style="list-style-type: none"> <li>- Community experiencing challenges with current plant, and have experienced 3 DWAs in the past 10 months; current DWA due to pressure loss in distribution, suspected leak</li> <li>- Leak detection completed, and addressed, however other issues as a result of upgrade work and tie-ins of new treatment equipment and systems continues to present unforeseen challenges in maintaining safe drinking water production</li> <li>- First Nation leadership has decided to keep the DWA in place until upgrades and expansion project is completed; under construction since March 2020</li> <li>- Contractor schedule calls for substantial completion in August 2021, with commissioning planned to commence on July 5, 2021</li> <li>- PMT meetings occur monthly, with most recent on May 21, 2021, and next scheduled for June 15, 2021; at May PMT meeting contractor advised that supply chain challenges for variable frequency drives (VFD) and motor control centre (MCC) are affecting critical path; start-up of new filter train planned for June 21, 2021, pending receipt of back-ordered MCC</li> <li>- Operational issues exist and the First Nation has advised that they are working on a succession plan with aim to have new operators hired in time for commissioning</li> <li>- Operational supports being provided through ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council.</li> </ul>	2021/08
ON	Mishkeegogamang	Ace Lake Public Water System <i>DWA since September 2020</i>	2020/09/08	2021/09/08	unknown	unknown	Treatment system does not meet log removal requirements; inadequate sampling and testing	<p><u>Long-term:</u> Upgrades to treatment system</p> <p><u>Short-term:</u> n/a</p>	<ul style="list-style-type: none"> <li>- Boil water advisory in place as treatment system does not meet log removal requirements; water quality information is not supported by adequate water sampling and testing routines</li> <li>- Long-term design of upgrades to treatment system completed as part of the Mishkeegogamang Ten Houses Systems project.</li> <li>- Current construction schedule identifies upgrades to be completed by July 2021 ; ISC officials have requested an updated schedule from the contractor to be issued; contractor provided updated schedule on May 28, 2021 indicating the date for completion of the Ace Lake system remains the same.</li> </ul>	2021/07
ON	Mishkeegogamang	Mishkeegogamang 63B Public Water System <i>DWA since January 2021</i>	2021/01/07	2022/01/07	77	6	No plant or water quality monitoring - operational issues	<p><u>Long-term:</u> Upgrade and expansion of plant</p> <p><u>Short-term:</u> Address maintenance deficiencies identified through plant assessment (pumps, filters, electrical and automation) and improve operations</p>	<ul style="list-style-type: none"> <li>- Operational challenges, inconsistent plant and water quality monitoring are reason for DWA</li> <li>- Assessment of plant identified maintenance deficiencies (pumps, electrical, automation, filter); ISC has approved funding to support estimated costs to address these maintenance issues</li> <li>- Call for proposals for a consulting engineer completed, and contract awarded; on-site visit by consultant occurred during the week of March 20, 2021; Engineer's Assessment report received noting issues with nano-filtration membranes; treatment supplier to assess week of May 17, 2021; updated assessment report that includes findings and recommendations of treatment supplier expected to be issued May 31, 2021; As of June 11, 2021, report yet to be received by ISC, as consulting engineer has reported that treatment supplier (Napier Reid) has yet to submit its assessment and recommendations; Repair work anticipated to be complete by end of August 2021, however given the delays by the treatment supplier, schedule at medium risk of slipping</li> <li>- Operational supports provided by ISC funded Centralized Water and Wastewater Hub delivered by OFNTSC</li> <li>- Evolving COVID situation hindering Hub progress in supporting improved operations</li> <li>- Long-term solution determined through feasibility study; project is currently unfunded</li> </ul>	2021/09

**OTHER RELATED INITIATIVES**

Region	First Nation	Project	Current Status
ON	Curve Lake First Nation	Curve Lake New Water Treatment Plant	<ul style="list-style-type: none"> <li>- Curve Lake First Nation does not currently have a drinking water advisory in effect. In June 2018, the LTDWA on the Curve Lake Seniors Administration Building was lifted.</li> <li>- Curve Lake is serviced with groundwater drawn from roughly 308 individual wells for each home, plus the Nishnawbeke Subdivision that is serviced with a communal groundwater supply system (Curve Lake (Nishnawbeke) Water Supply Treatment System - serving 59 homes); this system will be demolished once the new water treatment plant is operational and the existing water distribution system for the Nishnawbeke Subdivision will be incorporated into the new system. There are 208 rental income properties on the reserve also serviced by individual wells. These units will not be served through the new water treatment and distribution system.</li> <li>- Individual wells in Curve Lake are unreliable in both quantity and quality with poor yields/water shortages and contamination from on-site septic systems. Previous test results show that high levels of sodium, turbidity, iron and nitrate were present in numerous groundwater supplies. The National Assessment (Neegan Burnside Ltd., December 2010) assessed four private wells and noted water quality issues concerning coliforms, nitrates and nitrites, hardness and total dissolved solids. A hydrogeological report issued November 2018 (Oakridge Environmental Ltd.) noted that four wells that had originally been intended to supply a communal water treatment plant exhibited high concentrations of total dissolved solids (TDS), hardness and sodium, as well as variable dissolved organic carbon (DOC) concentrations.</li> <li>- The Nishnawbeke Subdivision pumphouse runs short of water frequently and does not have the capacity to meet current demands. The latest Asset Condition Reporting System (ACRS) Report (year 2018-2019) recommended major renovation or replacement. A new water treatment and distribution system capable of conforming to Ontario drinking water regulations is needed to ensure that the First Nation is supplied with safe, potable water, for at least the next 20 years.</li> <li>- ISC provided funding to Curve Lake First Nation to update an existing feasibility study. The updated study recommended, and the community prefers, a surface water treatment plant with membrane filtration and extended distribution system with fireflow at an estimated cost of just over \$50 million. - ISC is committed to funding construction of the Curve Lake water treatment system as defined in the Project Approval Request approved by Chief and Council on June 2, 2020 and ISC on June 22, 2020, subject to further growth identified in the design study in the First Nation membership living on reserve.</li> <li>- ISC received the final feasibility study on May 29, 2020. The design phase of the project was approved on July 15, 2020 at a cost of \$2.3 million. The First Nation is working with a Project Manager and a Design Consultant to complete the design by end of March 2022.</li> </ul>
ON	Neskantaga	Trust the Taps	<ul style="list-style-type: none"> <li>- FNIHB ON region funded the "Trust the Taps" proposal for \$200K in Neskantaga, which is a Community Wellness/Healing Plan that focuses on collective healing, cultural education, building self esteem, and identifying other community appropriate wellness strategies. This proposal arose from the need to address psychological and physical impact of the LTDWA which only compounds the ongoing trauma and mental health challenges experienced by the community.</li> <li>- FNIHB ON's initial funding will be used mainly for community engagement and capacity support to develop the Community Wellness/Healing Plan, as well as direct mental health support for the community engagement and issues that may arise from those sessions.</li> <li>- The initial community engagement (approved in February 2021) will be implemented by the First Nation; FNIHB continues to be available to support the First Nation as they advance the implementation of the project</li> <li>- FNIHB ON is committed to funding the implementation and delivery of the Community Wellness/Healing Plan that is developed through the community engagement process in consultation with FNIHB.</li> </ul>

**SCHEDULE B**  
**FEDERAL CERTIFICATION ORDER**

*See attached.*

Federal Court



Cour fédérale

Date: 20201008

Docket: T-1673-19

Ottawa, Ontario, October 8, 2020

**PRESENT:** The Honourable Mr. Justice Favel

**BETWEEN:**

**CURVE LAKE FIRST NATION AND CHIEF EMILY WHETUNG ON HER OWN  
BEHALF AND ON BEHALF OF ALL MEMBERS OF CURVE LAKE FIRST NATION  
AND NESKANTAGA FIRST NATION AND CHIEF CHRISTOPHER MOONIAS ON  
HIS OWN BEHALF AND  
ON BEHALF OF ALL MEMBERS OF NESKANTAGA FIRST NATION**

**Plaintiffs**

**and**

**ATTORNEY GENERAL OF CANADA**

**Defendant**

**ORDER**

**THIS MOTION** for certification, brought by the Plaintiffs, was heard on September 16, 2020.

**ON READING** the motion record of the Plaintiffs and the consent of the Defendant.

1. **THIS COURT ORDERS** that this action be and is hereby certified as a class proceeding pursuant to the *Federal Courts Rules*, 334.16 and 334.17.
2. **THIS COURT ORDERS AND DECLARES** that the Class is defined as:

- (a) *All persons other than Excluded Persons who:*
- (i) are members of a band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c, I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);
  - (ii) had not died before November 20, 2017; and
  - (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (b) *Curve Lake First Nation, Neskantaga First Nation, and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).*

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, and the Okanagan Indian Band, and Michael Darryl Isnardy.

3. **THIS COURT ORDERS AND DECLARES** that until the claims asserted in this class proceeding are fully and finally decided, settled, discontinued, or abandoned, including the exhaustion of all rights of appeal, leave of the Court is required to commence any other proceeding on behalf of any member of the Class in respect of the claims asserted in this action, save and except for proceedings commenced on behalf of those members of the Class who opt out of this class proceeding in the manner prescribed below.

4. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of the Class as a whole:

- (a) *From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or*

*ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?*

5. **THIS COURT ORDERS AND DECLARES** that a sub-group be and is hereby recognized for the members of each Impacted First Nation, and the First Nation itself, if it is a Participating Nation;

6. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of each sub-group:

- (a) *If the answer to common issue 4(a) is “yes”, did Canada breach its duties or obligations to members of the sub-group?*
- (b) *If the answer to common issue 6(a) is yes, is any breach of the Charter of Rights and Freedoms (“**Charter**”) saved by s. 1 of the Charter?*
- (c) *If the answer to common issue 6(a) is yes, did the Defendant’s breach cause a substantial and unreasonable interference with Class members’ or their First Nations’ use and enjoyment of their lands?*
- (d) *If the answer to common issue 6(a) is “yes” and the answer to common issue 6(b) is “no”, are damages available to members of the sub-group under s. 24(1) of the Charter?*
- (e) *Can the causation of any damages suffered by members of the sub-group be determined as a common issue?*
- (f) *Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?*
- (g) *Does the Defendant’s conduct justify an award of punitive damages, and if so, in what amount?*

(h) *Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?*

(i) If so, what measures should be ordered?

7. **THIS COURT ORDERS AND DECLARES** that Chief Emily Whetung, Curve Lake First Nation, Chief Christopher Moonias, and Neskantaga First Nation are hereby appointed as Representative Plaintiffs for the Class.

8. **THIS COURT ORDERS AND DECLARES** that McCarthy Tétrault LLP and Olthuis Klerer Townshend are hereby appointed as class counsel ("**Class Counsel**").

9. **THIS COURT ORDERS AND DECLARES** that the Plaintiffs and the Defendant shall make reasonable efforts to agree on the appointment of an administrator for the purpose of giving notice of the certification of this class proceeding (the "**Administrator**"). The Parties shall advise the Court of the appointment of the Administrator within sixty (60) days of the date of this Order, failing which the Court shall appoint an appropriately qualified Administrator.

10. **THIS COURT ORDERS** that class members shall be notified that this action has been certified as a class proceeding as follows, which shall be and is hereby deemed adequate notice:

(a) *by posting the Short Form Notice set out in **Schedule "A"** and Long Form Notice set out in **Schedule "B"**, and the French language translations of these documents, as agreed upon by the parties, on the respective websites of Class Counsel, the Defendant, and the Administrator;*

(b) *by the Administrator publishing the Short Form Notice in the newspapers set out in **Schedule "C"** attached hereto, in ¼ of a page size in the weekend edition of each newspaper, if possible;*

(c) *by the Administrator distributing the Short Form Notice to all offices of Curve Lake First Nation, Neskantaga First Nation, and the Assembly of First Nations;*

- (d) *by the Administrator forwarding the Short Form Notice and Long Form Notice to any Class member who requests them;*
- (e) *by the Administrator forwarding the Short Form Notice and Long Form Notice to the Chiefs of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons;*
- (f) *by the Administrator forwarding the Short Form Notice and Long Form Notice to the band office or similar office of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons, together with a request that they be posted in a prominent place;*
- (g) *by the Administrator establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.*

11. **THIS COURT ORDERS** that the Defendant shall be responsible for the cost of giving notice of the certification of a class proceeding as set out in paragraph 10, above.

12. **THIS COURT ORDERS** that within 30 days of the date of this Order, the Plaintiffs and the Defendant shall exchange a list setting out their best information on the names of the First Nations that are eligible to opt into the Class, and taken together these lists shall constitute the means of identifying the First Nations that are entitled to direct notice for the purpose of paragraphs 10(e) and 10(f), above.

13. **THIS COURT ORDERS** that a class member may opt out of this class proceeding by delivering a signed opt-out coupon, a form of which is attached as **Schedule “D”**, or some other legible signed request to opt out, within one-hundred-and-twenty (120) days of the date on which notice is first published in accordance with paragraph 10(b), above (the **“Opt Out Deadline”**), to the Administrator. The Short Form Notice and Long Form Notice shall state the Opt Out Deadline and the address of the Administrator for the purpose of receiving opt-out coupons.

14. **THIS COURT ORDERS** that no Class Member may opt out of this class proceeding after the Opt Out Deadline, except with leave of the Court.

15. **THIS COURT ORDERS** that the Administrator shall serve on the parties and file with the Court, within sixty (60) days of the expiry of the Opt Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any.

16. **THIS COURT ORDERS** that any Impacted First Nation may opt into this class proceeding by retaining Class Counsel no fewer than one-hundred-and-twenty (120) days before the disposition of any of the common issues (the “**Opt In Deadline**”), to Class Counsel, at the address set out in paragraph 11, above.

17. **THIS COURT ORDERS** that no Class member may opt into this class proceeding after the Opt In Deadline, except with leave of the Court.

18. **THIS COURT ORDERS** that Class Counsel shall serve on the parties and file with the Court, within sixty (30) days of the expiry of the Opt In Deadline, a list of all the Impacted First Nations that have opted into the class proceeding.

19. **THIS COURT DECLARES** that the Litigation Plan attached hereto as Appendix 1 is a workable method of advancing the class proceeding on behalf of the Class.

20. **THIS COURT ORDERS** that each party shall bear its own costs of the within motion for certification of this class proceeding.

“Paul Favel”

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Judge

## Schedule A

### Legal Notice

## **Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?**

*A Lawsuit May Affect You and Your First Nation. Please Read this Carefully.*

You could be affected by class action litigation regarding the lack of access to clean drinking water on First Nations reserves.

The Manitoba Court of Queen's Bench and the Federal Court of Canada decided that a class action on behalf of a "Class" of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. There is no money available now and no guarantee that the class action will succeed.

The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.

### **What is this case about?**

This class action asserts that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The class action asserts that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The class action asserts that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Court has not decided whether any of these assertions are true. If there is no settlement, the Plaintiffs will have to prove their claims in Court.

If you have questions about this class action, you can contact **Eric Khan** 1(800) 538-0009 or [info@classaction2.com](mailto:info@classaction2.com).

### **Who represents the class?**

The Court has appointed McCarthy Tétrault LLP and Olthuis Kler Townshend LLP to represent the Class as "Class Counsel". You do not have to pay Class Counsel, or anyone else, to participate. If Class Counsel obtains money or benefits for the Class they may ask for lawyers' fees and costs, which would be deducted from any money or benefits recovered for Class members.

### **Individuals Class Members: Who is included and who is excluded?**

**Band Members Included:** The Class includes band members (as defined by the *Indian Act*): (a) whose reserve was subject to a drinking water advisory (such as a boil water advisory, etc.) that lasted at least one year at any time from November 20, 1995 to the present; (b) had not died before November 20, 2017; and (c) ordinarily lived on their reserve.

**Band Members Excluded:** Members of the Tsuu T'ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Michael Darryl Isnardy are excluded from this class action.

### **Individuals: What are your options?**

**Stay in the Class:** To stay in the Class, you do not have to do anything. If the Class obtains money or benefits, Class Counsel will give notice about how to ask for your share. You will be legally bound by all orders and judgments, and you will not be able to sue Canada about the legal claims in this case.

**Staying in the Class will not impact the supports received from community-based agencies that are funded by any government.**

**Get out of the Class:** If you do not want to participate in this class action litigation, you need to remove yourself by opting out. If you opt out, you cannot get money or benefits from this litigation. To opt out, please visit [NTD: Insert Administrator's website for this action] to obtain an opt out coupon, or write to CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 requesting to be removed from this class action. Please include your name, address, telephone number, and signature. **Your request to opt out must be sent by [NTD: 90 days from the date of the first publication of notice].**

### **First Nations: What are your options?**

**Elect to join the Class:** First Nations that wish to join the Class and assert claims on behalf of their community must take action to opt in. To opt in, or to seek more information, please contact the Administrator at 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel Stephanie Willsey (toll free:1-877-244-7711; [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Class Counsel Kevin Hille ((416) 598-3694; [khille@oktlaw.com](mailto:khille@oktlaw.com)). **Your request to opt in must be sent no later than 120 days before Class members' claims are determined.**

### **How Can I Get More Information?**

**Name of Administrator:** CA2

**Contact Information:** 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com)

### **Getting Information To People Who Need It**

The representative Plaintiffs and Class Counsel ask for the help of health care workers, social workers, First Nations community leaders, family members, caregivers and friends of Class members in getting information to Class members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator. Please show this notice to people who may be impacted by this lawsuit or their caregivers.

**Schedule B**

**Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?**

If YES, A Class Action May Affect Your Rights and the Rights of First Nations

A court authorized this notice

- You could be affected by a class action involving access to clean drinking water in your First Nation Communities.
- The Manitoba Court of Queen’s Bench and the Federal Court of Canada has decided that class actions on behalf of a “Class” of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.
- The Courts have not decided whether Canada did anything wrong, and there still has to be a Court case about whether Canada did anything wrong. There is no money available now and no guarantee there will ever be any money. However, your rights are affected, and you have a choice to make now. This notice is to help you and your First Nation make that choice.

<b>INDIVIDUAL BAND MEMBERS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>DO NOTHING: KEEP YOUR RIGHTS UNDER THE CLASS ACTION</b>	<b>Stay in these lawsuits and wait for the outcome. Share in possible benefits from the outcome but give up certain individual rights.</b> By doing nothing, you keep the possibility of receiving money or other benefits that may come from a trial or settlement. But, you give up any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>REMOVE YOURSELF (OPT OUT)</b>	<b>Get out of these lawsuits and get no benefits from it. Keep rights.</b> If you ask to opt out and money or benefits are later awarded to Class members, you won’t get a share. But, you keep any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>FIRST NATIONS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>CHOOSE TO JOIN THE CLASS (OPT IN)</b>	<b>Join the Class. If you join, your First Nations might share in money and benefits from the outcome.</b> By joining the Class (opting in), First Nations might receive money or other benefits, including water infrastructure, that may come from a trial or settlement in the Class Action. Opting in is an easy process, and there is no cost to opt in.

**QUESTIONS? CALL TOLL-FREE 1-800-538-0009 OR VISIT [HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**DO NOTHING:  
LOSE YOUR  
FIRST  
NATION'S  
RIGHTS  
UNDER THE  
CLASS  
ACTION**

**By doing nothing, your First Nation will lose the possibility of receiving money and other benefits if the Class Action succeeds.**

If First Nations do not join the Class (opt in) and money or benefits are later awarded, your First Nation won't share in those.

By not opting-in, your First Nation may keep any rights to sue Canada about the same legal claims in this litigation.

- Lawyers must prove the claims against Canada at a trial or a settlement must be reached. If money or benefits are obtained you will be notified about how to ask for your share.
- Your options are explained in this notice. To be removed from the litigation, individual band members must ask to be removed by [**NTD: 90 days from the first publication of notice.**]. To join the Class Action, First Nations must send their opt in notice no later than 120 days before Class members' claims are to be determined.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION**

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1. Why was this notice issued?
2. What is this litigation about?
3. Why are these class actions?
4. Who is a member of the Class?
5. What are the Plaintiffs asking for?
6. Is there any money available now?

**YOUR RIGHTS AND OPTIONS**

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7. What happens if I do nothing?
8. What if I don't want to be in the Class?
9. If a former resident remains in the Class will that impact their current placement?

**THE LAWYERS REPRESENTING YOU**

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10. Do I have a lawyer in the case?
11. How will the lawyers be paid?

**A TRIAL**

**Page 6**

12. How and when will the Court decide who is right?
13. Will I get money after the trial?

**GETTING MORE INFORMATION**

**Page 6**

14. How do I get more information? How to I get this information to people who need it?

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## BASIC INFORMATION

### 1. Why is there a notice?

The Courts have “certified” Class Actions. This means that the lawsuits meets the requirements for class actions and may proceed to trial. If you are included, you may have legal rights and options before the Courts decide whether the claims being made against Canada on your behalf are correct. This notice attempts to explain all of these things.

Chief Justice Joyal of the Manitoba Court of Queen’s Bench is currently overseeing the case known as *Tataskweyak Cree Nation and Chief Doreen Spence v. Canada*. Justice Favel of the Federal Court of Canada is currently overseeing the case known as *Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias v. Canada*. The persons who sued are called the Plaintiffs. Canada is the Defendant. A link to the latest version of the Statement of Claim (the legal document that makes the allegations against Canada) can be found here: <https://www.mccarthy.ca/en/class-action-litigation-drinking-water-advisories-first-nations-0>

### 2. What is this litigation about?

These Class Actions assert that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The Class Actions also assert that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The Class Actions assert that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Courts have not decided (and Canada has not admitted) that any of these assertions are true. If there is no settlement with Canada, the Plaintiffs will have to prove their claims in Court.

**If you are having a difficult time dealing with these issues, or have questions about the Class Action, you can call 1 (800) 538-0009 for assistance.**

### 3. Why is this a class action?

In a class action, the “representative plaintiffs” (in this case, Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias) sued on behalf of individual band members and First Nations who have similar claims. All of these individual band members are part of the “Class” or “Class Members”, as are First Nations who choose to join the Class Action. The Court resolves the issues for all Class Members in one case, except (in the case of individual band members) for those who remove themselves from (opt out of) the Class and (in the case of First Nations) for those that do not join (opt into) the Class Action.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
HTTPS://CLASSACTION2.COM/**

#### 4. Who is a member of the Class?

The Class includes and excludes the following:

All persons, other than “Excluded Persons” who:

- (i) are members of a band, as defined in subsection 2(1) of the Indian Act, R.S.C. 1985, c. I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);
- (ii) were not dead two years prior to the commencement of this action (that is, by November 20, 2017); and
- (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (iv) Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Okanagan Indian Band and Michael Darryl Isnardy.

#### 5. What are the Plaintiffs asking for?

The Plaintiffs are asking for money and other benefits for the Class, including water infrastructure. The Plaintiffs are also asking for legal fees and costs, plus interest.

#### 6. Is there any money available to Class Members now?

No money or benefits are available now because the Court has not yet decided whether Canada did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If money or other benefits become available, notice will be provided about how to ask for your share.

### YOUR RIGHTS AND OPTIONS

Individual band members must decide whether to stay in the Class, and you have to decide this by **[NTD: 90 days from the first publication of notice]**. First Nations must decide whether they want to join the class by **no later than 120 days before the Class members’ claims are determined.**

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**7. What happens if I do nothing at all? What happens if the First Nation does nothing at all?**

**Individuals Band Members:** if you do nothing, you will automatically remain in the Class Action. You will be bound by all Court orders, good or bad. If any money or other benefits are awarded, you may need to take action after notice to you to receive any benefits.

**First Nations:** First Nations must chose to join the Class Action to receive the potential benefits and to be bound by all Court orders, good or bad.

**8. What if I don't want to be in the Lawsuit? What if a First Nation wants to join the Lawsuit?**

**Individual Band Members:** If you do not want to be in the lawsuit, you must remove yourself – this is referred to as “opting out.” If you remove yourself, you will not receive any benefit that may be obtained from the Class Action. You will not be bound by any Court orders and you keep your right to sue Canada as an individual regarding the issues in this case.

To remove yourself, send a communication that says you want to be removed from the Class in *Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias v. Canada* Court File No. CI-19-01-2466. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [insert Administrator web link]. You must deliver your removal request by [NTD: 90 days from the first publication of notice] to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 or [info@classaction2.com](mailto:info@classaction2.com).

Call **1 (800) 538-0009** if you have any questions about how to get out of the Class Action.

**First Nations:** First Nations that wish to join the Class Action and assert claims on behalf of their band or community must take action to join – this is referred to as “opting in.” To opt in, or to seek more information, please contact the Administrator **1(800)538-0009** or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694. **Requests by First Nations to opt in must be sent no later than 120 days before Class members' claims are determined.**

**THE LAWYERS REPRESENTING YOU**

**10. Do Individual Band Members have a lawyer in the case?**

Yes. The Court has appointed McCarthy Tétrault LLP and Olthuis Kler Townshend LLP to represent you and other Class Members as “Class Counsel.” You will not be charged legal or other fees or expenses for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

### 11. How will the lawyers be paid?

Class Counsel will only be paid if they win judgement or if there is a settlement. The Court has to also approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class, or paid separately by the Defendant.

### A TRIAL

### 12. How and when will the Court decide who is right?

If the Class Action is not dismissed or settled, the Plaintiffs must prove their claims at a motion for summary judgement or a trial that will take place in Ottawa, Ontario. During the motion or trial, the Court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or Canada is right about the claims in the Class Action. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

### 13. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of a trial or settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Important information about the case will be posted on the website [NTD: insert Administrator website] as it becomes available.

### GETTING MORE INFORMATION

### 14. How do I get more information? How to I get information to people who need it?

You can get more information at <https://classaction2.com/> by calling toll free at 1(800)538-0009, by writing to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2, or by emailing: [info@classaction2.com](mailto:info@classaction2.com).

First Nations and Individual Band Members may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca) or 66 Wellington Street West, Toronto, Ontario, M5K 1E6) or Class Counsel Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694 or 250 University Avenue, 8<sup>th</sup> floor, Toronto, Ontario, M5H 3E5.

**Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, Chief Christopher Moonias, Tataskweyak Cree Nation, Chief Doreen Spence, and Class Counsel kindly ask for the help of health care workers, social workers, First Nation community leaders, family members, caregivers and friends of Class members in getting information to Class Members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator or Class Counsel. Please show this notice to people who may be impacted by this lawsuit or their caregivers.**

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## Schedule C

### **List of Newspapers**

Globe and Mail  
National Post  
Winnipeg Free Press  
Vancouver Sun  
Edmonton Sun  
Calgary Herald  
Saskatoon Star Phoenix  
Regina Leader Post  
Thunder Bay Chronicle-Journal  
Toronto Star  
Ottawa Citizen  
Montreal Gazette  
Montreal La Presse (digital edition)  
Halifax Chronicle-Herald  
Moncton Times and Transcript  
  
First Nations Drum

**Schedule D**

**FORM OF OPT OUT COUPON**

To: **[Insert Claim Administrator Address]**  
**[Insert Administrator Email Address]**

This is **NOT** a claim form. Completing this **OPT OUT COUPON** will exclude you from receiving any compensation or other benefits arising out of any settlement or judgment in the class proceeding named below:

***Note: To opt out, this coupon must be properly completed and sent to the above-address no later than [INSERT DATE THAT IS 90 DAYS FROM THE FIRST NOTICE PUBLICATION]***

Court File No.: T-1673-19

**CURVE LAKE FIRST NATIONAL and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiff

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**I understand that by opting out of this class proceeding, I am confirming that I do not wish to participate in this class proceeding.**

I understand that any individual claim I may have must be commenced within a specified limitation period or that claim will be legally barred.

I understand that the certification of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.

I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period legal steps to protect any claim I may have.

Date: \_\_\_\_\_

Name of Class Member: \_\_\_\_\_

---

Signature of Witness

---

Signature of Class Member Opting Out

Name of Witness:

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**Appendix 1**

Court File No. T-1673-19

**FEDERAL COURT**

BETWEEN:

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Proceeding under *Federal Courts Rules, 334.16 and 334.17*

**LITIGATION PLAN**

**FOR COMMON ISSUES, CERTIFICATION AND SUMMARY JUDGMENT MOTIONS**

1. Attached as **Schedule “A”** is the parties’ consent timetable. This Litigation Plan is intended to address the Plaintiffs’ motions for certification and summary judgement.
2. If the motion for summary judgement is successful, a further plan will be proposed to address any remaining issues, depending on the outcome.
3. Alternatively, if the motion for summary judgement is not successful, the Plaintiffs will propose a further plan for the trial of the common issues.
4. The Plaintiffs seek certification of the following common issue to be resolved on behalf of the class as a whole (“**Stage 1 Common Issue**”):
  - (a) From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?

5. If the Defendant consents to certification of a class proceeding, the Plaintiffs will negotiate with the Defendant to resolve the common issues. If the negotiations fail, the Plaintiffs will require the delivery of a Statement of Defence, following which they will deliver a record in support of a motion for summary judgement on the Stage 1 Common Issue. At a pre-trial conference following delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule a hearing of their motion.

6. If the Defendant opposes the certification of a class proceeding, the Plaintiffs will require the Defendant to deliver a Statement of Defence. The Plaintiffs will then deliver a record in support of motions for certification and summary judgement on the Stage 1 Common Issue. At a pre-trial conference following the delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule the hearing of their motion for summary judgement together with the hearing of their motion for certification.

7. At the certification motion, the Plaintiffs will also seek certification of the following common issues to be resolved on behalf of each Impacted First Nation sub-group, being the members of that First Nation and the First Nation itself, if it is a Participating First Nation ("**Stage 2 Common Issues**"):

- (a) If the answer to common issue 4(a) is "yes", did Canada breach its duties or obligations to members of the sub-group?
- (b) If the answer to common issue 7(a) is yes, is any breach of the *Charter of Rights and Freedoms* ("**Charter**") saved by s. 1 of the *Charter*?
- (c) If the answer to common issue 7(a) is yes, did the Defendant's breach cause a substantial and unreasonable interference with Class members' or their First Nations' use and enjoyment of their lands?
- (d) If the answer to common issue 7(a) is "yes" and the answer to common issue 7(b) is "no", are damages available to members of the sub-group under s. 24(1) of the *Charter*?
- (e) Can the causation of any damages suffered by members of the sub-group be determined as a common issue?
- (f) Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?

- (g) Does the Defendant's conduct justify an award of punitive damages, and if so, in what amount?
- (h) Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?
  - (i) If so, what measures should be ordered?

8. If the Stage 1 Common Issue is determined in favour of the Plaintiffs, the parties will conclude a discovery plan to manage the Defendant's timely production of relevant documents in respect of the Stage 2 Common Issues for each Impacted First Nation sub-group.

9. Upon assessing the Defendant's productions, the Plaintiffs will decide whether to bring motions for summary judgement on the Stage 2 Common Issues for some or all of the Impacted First Nation sub-groups, or alternatively, to schedule a trial of these common issues.

#### **NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE**

10. On the motion for certification, the Plaintiffs will ask that the Court settle the form and content for notification of the certification of this action (the "**Notice of Certification**"), the timing and manner of providing Notice of Certification ("**Notice Program**") and set out an opt-out date as being three (3) months following the date of the Certification Order ("**Opt-Out Date**"), and an opt-in date as being six (6) months prior to the commencement of the determination of the Stage 2 Common Issues.

11. If a motion for summary judgement is being heard together with a motion for certification, the Plaintiffs will ask the court to render its decision on certification first, direct that notice issue if a class proceeding is certified, and then render its decision on the Stage 1 Common Issue following the Opt-Out Date.

12. The Plaintiffs will ask the Court to order that the defendant pay the costs of the Notice Program, including the cost of the Administrator.

13. The Plaintiffs will seek an order for the distribution of notice of certification as follows:

- (a) posting the notice on the respective websites of Class Counsel, the Defendant, and the Administrator;

- (b) publishing the notice in designated newspapers;
  - (c) distributing the notice to all offices of Tataskweyak Cree Nation and the Assembly of First Nations.
  - (d) forwarding the notice to any Class member who requests it and the Chiefs of every First Nation that is eligible to opt into the class, as well as each band office;
  - (e) establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.
- (a) And by such other notice as the Court directs.

14. The Plaintiffs will ask the Court to approve opt-out and opt-in forms to be used by class members wishing to opt out of, or opt into, the class action, which will require the Class member to provide sufficient information to establish their membership in the Class.

## **LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS**

### **Notice of Resolution of Common Issues**

15. The Plaintiffs will ask that the Court settle the form and content for notification of the resolution of the Stage 1 and Stage 2 Common Issues (“**Resolution Notice Plan**”) and the means by which Class members will file claims (“**Claim Forms**”) by a fixed date with the Administrator. The Plaintiffs will also ask that the Court settle an appropriate process to determine any remaining individual issues.

### **Valuation of Damages**

16. If the Common Issues are resolved in favour of the Plaintiffs, the Plaintiffs propose two (2) methods for assessing and distributing damages for the class members as follows:

- (a) Aggregate damages that accrue to individual Class members on a *pro rata* basis or on a *pro rata* basis within a sub-group;
- (b) Aggregate damages that accrue to Participating First Nations on a community basis;  
and

17. Following the determination of aggregate damages, including punitive damages, additional damages may be awarded in individual issues proceedings.

**Assessment of Number of Claimants**

18. After the deadline for submitting Claim Forms has expired, the Administrator shall calculate the total number of claimants for the purpose of any *pro rata* distribution of aggregate damages.

19. The Parties may also retain an actuary to assist with the determination of Class size and the demographics of the Class.

**Global Punitive Damages Distribution**

20. Should the Court award aggregate damages to the Class or a sub-group, the total amount of damages will be apportioned to the class in a manner to be determined by the Court within a fixed period of time set by the Court from the Notice of Resolution.

**Funds not Distributed**

21. Any monies not distributed will be distributed *cy-près* as the Court directs. The Plaintiffs propose that any residual amounts be distributed *cy-près* to community organizations that assist with water infrastructure in Impacted First Nations.

**Resolution of the Individual Issues**

22. Within thirty (30) days of the issuance of the judgment on the common issues, the parties will convene to settle a protocol to resolve any individual issues. If the parties cannot settle such a protocol, the Plaintiffs will move for directions from the Court within sixty (60) days.

**MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN****Funding**

23. Class Counsel have entered into an agreement with the Representative Plaintiffs with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class proceeding is successful or costs are recovered from the Defendant.

24. Class Counsel's legal fees are subject to court approval.

**Claims Administration**

25. The Administrator will provide the claims administration for any settlement or judgement achieved. The Administrator will distribute notice in accordance with the Resolution Notice Plan. If a settlement is achieved and a settlement fund is provided, or if judgement results in an award in favour of Class members, the Administrator will administer payments out of the fund to claimants based on the procedures set out above, after approval and/or modification by the Court.

**Class Action Website**

26. From time to time, Class Counsel will post relevant pleadings and court filings, the latest documents and summaries of the latest developments, anticipated timelines, frequently asked questions and answers, and contact information for class counsel for the information of class members.

**Conflict Management**

27. Class Counsel and the Plaintiffs have taken appropriate measures to determine that no conflict of interest exists among the members of the Class, and no such conflict is anticipated. Should a conflict arise, McCarthy Tétrault LLP will represent one sub-group, and Olthuis Klerer Townshend LLP will represent the other. Should any conflict arise as between First Nations and their members, which is not anticipated given their commonality of interest, McCarthy Tétrault LLP will represent the members and Olthuis Klerer Townshend LLP will represent the First Nations.

**Applicable Law**

28. The applicable law is the *Constitution Act, 1982*, the *Constitution Act, 1867*, the *Charter of Rights and Freedoms*, the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21, the *Indian Act*, R.S.C. 1985, c. I-5, the *First Nations Land Management Act*, S.C. 1999, c. 24, *The Federal Courts Act*, R.S.C., 1985 c. F-7 as well as applicable regulations, the common law and the law of Canada.

**Coordination of proceedings**

29. On July 14, 2020 the Manitoba Court of Queen's Bench certified a related class proceeding in the matter styled *Tataskweyak Cree Nation v. Canada*, Court File No. 19-01-24661 (the

“**Tataskweyak Action**”). The representative plaintiffs in the Tataskweyak Action have pledged to work collaboratively with the Plaintiffs to advance their common interests. Pursuant to the *Canadian Judicial Protocol for the Management of Multi-jurisdictional Class Actions and the Provision of Class Action Notice*, the Plaintiffs will ask the Federal Court and the Manitoba Court of Queen’s Bench to convene joint case management conferences, as appropriate, to ensure coordination between the two proceedings and to promote efficiency. In order to ensure consistent results, the Plaintiffs may ask that the Federal Court and the Manitoba Court of Queen’s Bench sit together to hear any motion for summary judgement or any trial of the Tataskweyak Action and this action.

**Schedule A**

**Timetable**

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Statement of Defence	Defendant	To be delivered on 60 days' notice by the Plaintiffs
Delivery of Reply, if any	Plaintiffs	To be delivered 15 days after delivery of Statement of Defence
Delivery of Summary Judgement Record	Plaintiffs	June 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Pre-trial to assess summary judgement	All parties	July 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Responding Record	Defendant	October 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Reply Record, if any	Plaintiffs	December 16, 2020 (or 45 days after delivery of Responding Record, whichever is later)
Cross-examinations	All parties	To be completed 75 days after delivery of Reply Record, if any, or 120 days after delivery of Responding Record
Refusals Motions, if any	All parties	To be completed 30 days after completion of cross-examinations
Delivery of answers to undertakings	All parties	To be completed 15 days after refusals motion

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Moving Factum	Plaintiffs	To be delivered 45 days after completion of answers to undertakings
Delivery of Responding Factum	Defendant	To be delivered 45 days after delivery of Moving Factum
Delivery of Reply Factum	Plaintiffs	To be delivered 15 days after delivery of Responding Factum
Hearing of possible Summary Judgement Motion	All parties	July-August 2021

Court File No. T-1673-19

**FEDERAL COURT**

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**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

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**LITIGATION PLAN**

(Filed this 8<sup>th</sup> day of September, 2020)

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**McCarthy Tétrault LLP**

Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

[jbrown@mccarthy.ca](mailto:jbrown@mccarthy.ca)

**Eric S. Block** LSO#47479K

[eblock@mccarthy.ca](mailto:eblock@mccarthy.ca)

**H. Michael Rosenberg** LSO#58140U

[mrosenberg@mccarthy.ca](mailto:mrosenberg@mccarthy.ca)

**Stephanie Willsey** LSO#77866J

[swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)

Tel: 416-601-7831

Fax: 416-868-0673

**OLTHUIS KLEER TOWNSHEND LLP**

250 University Avenue, 8th Floor

Toronto ON M5H 3E5

**The Honourable Harry S. LaForme** LSO#19338D

[hlaforme@oktlaw.com](mailto:hlaforme@oktlaw.com)

**Bryce Edwards** LSO# 48271E

[bedwards@oktlaw.com](mailto:bedwards@oktlaw.com)

**Kevin Hille** LSO# 57439S

[khille@oktlaw.com](mailto:khille@oktlaw.com)

Tel: 416-981-9330

Fax: 416-981-9350

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Lawyers for the Plaintiffs

**SCHEDULE C**  
**MANITOBA CERTIFICATION ORDER**

*See attached.*

**THE QUEEN'S BENCH  
Winnipeg Centre**

B E T W E E N:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Proceeding under *The Class Proceedings Act*, C.C.S.M.c. C. 130

**ORDER**

**THIS MOTION** for certification, brought by the Plaintiffs was heard on July 14, 2020 at 408 York Ave in Winnipeg, Manitoba.

**ON READING** the motion record of the Plaintiffs and the consent of the Defendant.

**AND ON BEING ADVISED** that the parties consent to this order.

1. **THIS COURT ORDERS** that this action be and is hereby certified as a class proceeding pursuant to *The Class Proceedings Act*, C.C.S.M.c. C. 130.

2. **THIS COURT ORDERS AND DECLARES** that the Class is defined as:

(a) All persons other than Excluded Persons who:

- (i) are members of a band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c. I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject

to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);

- (ii) had not died before November 20, 2017; and
  - (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (b) Tataskweyak Cree Nation and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, and the Okanagan Indian Band, and Michael Daryl Isnardy.

3. **THIS COURT ORDERS AND DECLARES** that until the claims asserted in this class proceeding are fully and finally decided, settled, discontinued, or abandoned, including the exhaustion of all rights of appeal, leave of the Court is required to commence any other proceeding on behalf of any member of the Class in respect of the claims asserted in this action, save and except for proceedings commenced on behalf of those members of the Class who opt out of this class proceeding in the manner prescribed below.

4. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of the Class as a whole:

- (a) From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?

5. **THIS COURT ORDERS AND DECLARES** that a sub-group be and is hereby recognized for the members of each Impacted First Nation, and the First Nation itself, if it is a Participating Nation;

6. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of each sub-group:

- (a) If the answer to common issue 4(a) is “yes”, did Canada breach its duties or obligations to members of the sub-group?
- (b) If the answer to common issue 6(a) is yes, is any breach of the *Charter of Rights and Freedoms* (“*Charter*”) saved by s. 1 of the *Charter*?
- (c) If the answer to common issue 6(a) is yes, did the Defendant’s breach cause a substantial and unreasonable interference with Class members’ or their First Nations’ use and enjoyment of their lands?
- (d) If the answer to common issue 6(a) is “yes” and the answer to common issue 6(b) is “no”, are damages available to members of the sub-group under s. 24(1) of the *Charter*?
- (e) Can the causation of any damages suffered by members of the sub-group be determined as a common issue?
- (f) Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?
- (g) Does the Defendant’s conduct justify an award of punitive damages, and if so, in what amount?
- (h) Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?
  - (i) If so, what measures should be ordered?

7. **THIS COURT ORDERS AND DECLARES** that Chief Doreen Spence and Tataskweyak Cree Nation are hereby appointed as Representative Plaintiffs for the Class.

8. **THIS COURT ORDERS AND DECLARES** that McCarthy Tétrault LLP and Olthuis Kleer Townshend are hereby appointed as class counsel ("**Class Counsel**").

9. **THIS COURT ORDERS AND DECLARES** that the Plaintiffs and the Defendant shall make reasonable efforts to agree on the appointment of an administrator for the purpose of giving notice of the certification of this class proceeding (the "**Administrator**"). The Parties shall advise the Court of the appointment of the Administrator within sixty (60) days of the date of this Order, failing which the Court shall appoint an appropriately qualified Administrator.

10. **THIS COURT ORDERS** that class members shall be notified that this action has been certified as a class proceeding as follows, which shall be and is hereby deemed adequate notice:

- (a) by posting the Short Form Notice set out in **Schedule "A"** and Long Form Notice set out in **Schedule "B"**, and the French language translations of these documents, as agreed upon by the parties, on the respective websites of Class Counsel, the Defendant, and the Administrator;
- (b) by the Administrator publishing the Short Form Notice in the newspapers set out in **Schedule "C"** attached hereto, in ¼ of a page size in the weekend edition of each newspaper, if possible;
- (c) by the Administrator distributing the Short Form Notice to all offices of Tatakweyak Cree Nation and the Assembly of First Nations;
- (d) by the Administrator forwarding the Short Form Notice and Long Form Notice to any Class member who requests them;
- (e) by the Administrator forwarding the Short Form Notice and Long Form Notice to the Chiefs of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons;
- (f) by the Administrator forwarding the Short Form Notice and Long Form Notice to the band office or similar office of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons, together with a request that they be posted in a prominent place;

(g) by the Administrator establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.

11. **THIS COURT ORDERS** that the Defendant shall be responsible for the cost of giving notice of the certification of a class proceeding as set out in paragraph 10, above.

12. **THIS COURT ORDERS** that within 30 days of the date of this Order, the Plaintiffs and the Defendant shall exchange a list setting out their best information on the names of the First Nations that are eligible to opt into the Class, and taken together these lists shall constitute the means of identifying the First Nations that are entitled to direct notice for the purpose of paragraphs 10(e) and 10(f), above.

13. **THIS COURT ORDERS** that a class member may opt out of this class proceeding by delivering a signed opt-out coupon, a form of which is attached as **Schedule “D”**, or some other legible signed request to opt out, within one-hundred-and- twenty-days (120) days of the date on which notice is first published in accordance with paragraph 10(b), above (the “**Opt Out Deadline**”), to the Administrator. The Short Form Notice and Long Form Notice shall state the Opt Out Deadline and the address of the Administrator for the purpose of receiving opt-out coupons.

14. **THIS COURT ORDERS** that no Class Member may opt out of this class proceeding after the Opt Out Deadline, except with leave of the Court.

15. **THIS COURT ORDERS** that the Administrator shall serve on the parties and file with the Court, within sixty (60) days of the expiry of the Opt Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any.

16. **THIS COURT ORDERS** that any Impacted First Nation may opt into this class proceeding by retaining Class Counsel no fewer than one-hundred-and-twenty (120) days before

the disposition of any of the common issues (the “**Opt In Deadline**”), to Class Counsel, at the address set out in paragraph 11, above.

17. **THIS COURT ORDERS** that no Class member may opt into this class proceeding after the Opt In Deadline, except with leave of the Court.

18. **THIS COURT ORDERS** that Class Counsel shall serve on the parties and file with the Court, within sixty (60) days of the expiry of the Opt In Deadline, a list of all the Impacted First Nations that have opted into the class proceeding.

19. **THIS COURT DECLARES** that the Litigation Plan attached hereto as Appendix 1 is a workable method of advancing the class proceeding on behalf of the Class.

20. **THIS COURT ORDERS** that each party shall bear its own costs of the within motion for certification of this class proceeding.

July 14 , 2020

**G.D. JOYAL**

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The Honourable Chief Justice Joyal

**CONSENTED TO AS TO FORM AND CONTENT:**

Per: \_\_\_\_\_  
Stephanie Willsey for Catharine Moore/Scott Farlinger  
The Attorney General of Canada

Per: \_\_\_\_\_  
Stephanie Willsey  
Tataskweyak Cree Nation and Chief Doreen Spence

## Schedule A

### Legal Notice

## **Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?**

*A Lawsuit May Affect You and Your First Nation. Please Read this Carefully.*

You could be affected by class action litigation regarding the lack of access to clean drinking water on First Nations reserves.

The Manitoba Court of Queen's Bench and the Federal Court of Canada decided that a class action on behalf of a "Class" of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. There is no money available now and no guarantee that the class action will succeed.

The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.

### **What is this case about?**

This class action asserts that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The class action asserts that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The class action asserts that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Court has not decided whether any of these assertions are true. If there is no settlement, the Plaintiffs will have to prove their claims in Court.

If you have questions about this class action, you can contact **Eric Khan** 1(800) 538-0009 or [info@classaction2.com](mailto:info@classaction2.com).

### **Who represents the class?**

The Court has appointed McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP to represent the Class as "Class Counsel". You do not have to pay Class Counsel, or anyone else, to participate. If Class Counsel obtains money or benefits for the Class they may ask for lawyers' fees and costs, which would be deducted from any money or benefits recovered for Class members.

### **Individuals Class Members: Who is included and who is excluded?**

**Band Members Included:** The Class includes band members (as defined by the *Indian Act*): (a) whose reserve was subject to a drinking water advisory (such as a boil water advisory, etc.) that lasted at least one year at any time from November 20, 1995 to the present; (b) had not died before November 20, 2017; and (c) ordinarily lived on their reserve.

**Band Members Excluded:** Members of the Tsuu T'ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Michael Darryl Isnardy are excluded from this class action.

### **Individuals: What are your options?**

**Stay in the Class:** To stay in the Class, you do not have to do anything. If the Class obtains money or benefits, Class Counsel will give notice about how to ask for your share. You will be legally bound by all orders and judgments, and you will not be able to sue Canada about the legal claims in this case.

**Staying in the Class will not impact the supports received from community-based agencies that are funded by any government.**

**Get out of the Class:** If you do not want to participate in this class action litigation, you need to remove yourself by opting out. If you opt out, you cannot get money or benefits from this litigation. To opt out, please visit [NTD: Insert Administrator's website for this action] to obtain an opt out coupon, or write to CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 requesting to be removed from this class action. Please include your name, address, telephone number, and signature. **Your request to opt out must be sent by [NTD: 120 days from the date of the first publication of notice].**

### **First Nations: What are your options?**

**Elect to join the Class:** First Nations that wish to join the Class and assert claims on behalf of their community must take action to opt in. To opt in, or to seek more information, please contact the Administrator at 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel Stephanie Willsey (toll free:1-877-244-7711; [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Class Counsel Kevin Hille ((416) 598-3694; [khille@oktlaw.com](mailto:khille@oktlaw.com)). **Your request to opt in must be sent no later than 120 days before Class members' claims are determined.**

### **How Can I Get More Information?**

**Name of Administrator:** CA2

**Contact Information:** 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com)

### **Getting Information To People Who Need It**

The representative Plaintiffs and Class Counsel ask for the help of health care workers, social workers, First Nations community leaders, family members, caregivers and friends of Class members in getting information to Class members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator. Please show this notice to people who may be impacted by this lawsuit or their caregivers.

## Schedule B

### Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?

If YES, A Class Action May Affect Your Rights and the Rights of First Nations

A court authorized this notice

- You could be affected by a class action involving access to clean drinking water in your First Nation Communities.
- The Manitoba Court of Queen's Bench and the Federal Court of Canada has decided that class actions on behalf of a "Class" of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.
- The Courts have not decided whether Canada did anything wrong, and there still has to be a Court case about whether Canada did anything wrong. There is no money available now and no guarantee there will ever be any money. However, your rights are affected, and you have a choice to make now. This notice is to help you and your First Nation make that choice.

<b>INDIVIDUAL BAND MEMBERS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>DO NOTHING: KEEP YOUR RIGHTS UNDER THE CLASS ACTION</b>	<b>Stay in these lawsuits and wait for the outcome. Share in possible benefits from the outcome but give up certain individual rights.</b> By doing nothing, you keep the possibility of receiving money or other benefits that may come from a trial or settlement. But, you give up any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>REMOVE YOURSELF (OPT OUT)</b>	<b>Get out of these lawsuits and get no benefits from it. Keep rights.</b> If you ask to opt out and money or benefits are later awarded to Class members, you won't get a share. But, you keep any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>FIRST NATIONS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>CHOOSE TO JOIN THE CLASS (OPT IN)</b>	<b>Join the Class. If you join, your First Nations might share in money and benefits from the outcome.</b> By joining the Class (opting in), First Nations might receive money or other benefits, including water infrastructure, that may come from a trial or settlement in the Class Action. Opting in is an easy process, and there is no cost to opt in.

**QUESTIONS? CALL TOLL-FREE 1-800-538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**DO NOTHING:  
LOSE YOUR  
FIRST  
NATION'S  
RIGHTS  
UNDER THE  
CLASS  
ACTION**

**By doing nothing, your First Nation will lose the possibility of receiving money and other benefits if the Class Action succeeds.**

If First Nations do not join the Class (opt in) and money or benefits are later awarded, your First Nation won't share in those.

By not opting-in, your First Nation may keep any rights to sue Canada about the same legal claims in this litigation.

- Lawyers must prove the claims against Canada at a trial or a settlement must be reached. If money or benefits are obtained you will be notified about how to ask for your share.
- Your options are explained in this notice. To be removed from the litigation, individual band members must ask to be removed by **[NTD: 120 days from the first publication of notice.]**. To join the Class Action, First Nations must send their opt in notice no later than 120 days before Class members' claims are to be determined.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION**

**Page 3-5**

1. Why was this notice issued?
2. What is this litigation about?
3. Why are these class actions?
4. Who is a member of the Class?
5. What are the Plaintiffs asking for?
6. Is there any money available now?

**YOUR RIGHTS AND OPTIONS**

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7. What happens if I do nothing?
8. What if I don't want to be in the Class?
9. If a former resident remains in the Class will that impact their current placement?

**THE LAWYERS REPRESENTING YOU**

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10. Do I have a lawyer in the case?
11. How will the lawyers be paid?

**A TRIAL**

**Page 6**

12. How and when will the Court decide who is right?
13. Will I get money after the trial?

**GETTING MORE INFORMATION**

**Page 6**

14. How do I get more information? How to I get this information to people who need it?

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## BASIC INFORMATION

### 1. Why is there a notice?

The Courts have “certified” Class Actions. This means that the lawsuits meets the requirements for class actions and may proceed to trial. If you are included, you may have legal rights and options before the Courts decide whether the claims being made against Canada on your behalf are correct. This notice attempts to explain all of these things.

Chief Justice Joyal of the Manitoba Court of Queen’s Bench is currently overseeing the case known as *Tataskweyak Cree Nation and Chief Doreen Spence v. Canada*. Justice Favel of the Federal Court of Canada is currently overseeing the case known as *Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias v. Canada*. The persons who sued are called the Plaintiffs. Canada is the Defendant. A link to the latest version of the Statement of Claim (the legal document that makes the allegations against Canada) can be found here: <https://www.mccarthy.ca/en/class-action-litigation-drinking-water-advisories-first-nations-0>

### 2. What is this litigation about?

These Class Actions assert that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The Class Actions also assert that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The Class Actions assert that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Courts have not decided (and Canada has not admitted) that any of these assertions are true. If there is no settlement with Canada, the Plaintiffs will have to prove their claims in Court.

**If you are having a difficult time dealing with these issues, or have questions about the Class Action, you can call 1 (800) 538-0009 for assistance.**

### 3. Why is this a class action?

In a class action, the “representative plaintiffs” (in this case, Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias) sued on behalf of individual band members and First Nations who have similar claims. All of these individual band members are part of the “Class” or “Class Members”, as are First Nations who choose to join the Class Action. The Court resolves the issues for all Class Members in one case, except (in the case of individual band members) for those who remove themselves from (opt out of) the Class and (in the case of First Nations) for those that do not join (opt into) the Class Action.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
HTTPS://CLASSACTION2.COM/**

#### 4. Who is a member of the Class?

The Class includes and excludes the following:

All persons, other than “Excluded Persons” who:

- (i) are members of a band, as defined in subsection 2(1) of the Indian Act, R.S.C. 1985, c. I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);
- (ii) were not dead two years prior to the commencement of this action (that is, by November 20, 2017); and
- (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (iv) Ttaskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Okanagan Indian Band and Michael Darryl Isnardy.

#### 5. What are the Plaintiffs asking for?

The Plaintiffs are asking for money and other benefits for the Class, including water infrastructure. The Plaintiffs are also asking for legal fees and costs, plus interest.

#### 6. Is there any money available to Class Members now?

No money or benefits are available now because the Court has not yet decided whether Canada did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If money or other benefits become available, notice will be provided about how to ask for your share.

### YOUR RIGHTS AND OPTIONS

Individual band members must decide whether to stay in the Class, and you have to decide this by [NTD: 120 days from the first publication of notice]. First Nations must decide whether they want to join the class by no later than 120 days before the Class members’ claims are determined.

QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)

**7. What happens if I do nothing at all? What happens if the First Nation does nothing at all?**

**Individuals Band Members:** if you do nothing, you will automatically remain in the Class Action. You will be bound by all Court orders, good or bad. If any money or other benefits are awarded, you may need to take action after notice to you to receive any benefits.

**First Nations:** First Nations must chose to join the Class Action to receive the potential benefits and to be bound by all Court orders, good or bad.

**8. What if I don't want to be in the Lawsuit? What if a First Nation wants to join the Lawsuit?**

**Individual Band Members:** If you do not want to be in the lawsuit, you must remove yourself – this is referred to as “opting out.” If you remove yourself, you will not receive any benefit that may be obtained from the Class Action. You will not be bound by any Court orders and you keep your right to sue Canada as an individual regarding the issues in this case.

To remove yourself, send a communication that says you want to be removed from the Class in *Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias v. Canada* Court File No. CI-19-01-2466. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [insert Administrator web link]. You must

deliver your removal request by [NTD: 120 days from the first publication of notice] to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 or [info@classaction2.com](mailto:info@classaction2.com).

Call 1 (800) 538-0009 if you have any questions about how to get out of the Class Action.

**First Nations:** First Nations that wish to join the Class Action and assert claims on behalf of their band or community must take action to join – this is referred to as “opting in.” To opt in, or to seek more information, please contact the Administrator 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694. **Requests by First Nations to opt in must be sent no later than 120 days before Class members' claims are determined.**

**THE LAWYERS REPRESENTING YOU**

**10. Do Individual Band Members have a lawyer in the case?**

Yes. The Court has appointed McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP to represent you and other Class Members as “Class Counsel.” You will not be charged legal or other fees or expenses for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

### **11. How will the lawyers be paid?**

Class Counsel will only be paid if they win judgement or if there is a settlement. The Court has to also approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class, or paid separately by the Defendant.

## **A TRIAL**

### **12. How and when will the Court decide who is right?**

If the Class Action is not dismissed or settled, the Plaintiffs must prove their claims at a motion for summary judgement or a trial that will take place in Ottawa, Ontario. During the motion or trial, the Court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or Canada is right about the claims in the Class Action. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

### **13. Will I get money after the trial?**

If the Plaintiffs obtain money or benefits as a result of a trial or settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Important information about the case will be posted on the website [NTD: insert Administrator website] as it becomes available.

## **GETTING MORE INFORMATION**

### **14. How do I get more information? How to I get information to people who need it?**

You can get more information at <https://classaction2.com/> by calling toll free at 1(800)538-0009, by writing to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2, or by emailing: [info@classaction2.com](mailto:info@classaction2.com).

First Nations and Individual Band Members may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca) or 66 Wellington Street West, Toronto, Ontario, M5K 1E6) or Class Counsel Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694 or 250 University Avenue, 8<sup>th</sup> floor, Toronto, Ontario, M5H 3E5.

**Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, Chief Christopher Moonias, Tataskweyak Cree Nation, Chief Doreen Spence, and Class Counsel kindly ask for the help of health care workers, social workers, First Nation community leaders, family members, caregivers and friends of Class members in getting information to Class Members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator or Class Counsel. Please show this notice to people who may be impacted by this lawsuit or their caregivers.**

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## Schedule C

### List of Newspapers

Globe and Mail  
National Post  
Winnipeg Free Press  
Vancouver Sun  
Edmonton Sun  
Calgary Herald  
Saskatoon Star Phoenix  
Regina Leader Post  
Thunder Bay Chronicle-Journal  
Toronto Star  
Ottawa Citizen  
Montreal Gazette  
Montreal La Presse (digital edition)  
Halifax Chronicle-Herald  
Moncton Times and Transcript  
  
First Nations Drum

Schedule D

FORM OF OPT OUT COUPON

To: [Insert Claim Administrator Address]  
[Insert Administrator Email Address]

This is **NOT** a claim form. Completing this **OPT OUT COUPON** will exclude you from receiving any compensation or other benefits arising out of any settlement or judgment in the class proceeding named below:

*Note: To opt out, this coupon must be properly completed and sent to the above-address no later than [INSERT DATE THAT IS 120 DAYS FROM THE FIRST NOTICE PUBLICATION]*

Court File No.: T-1673-19

**CURVE LAKE FIRST NATIONAL and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiff

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**I understand that by opting out of this class proceeding, I am confirming that I do not wish to participate in this class proceeding.**

I understand that any individual claim I may have must be commenced within a specified limitation period or that claim will be legally barred.

I understand that the certification of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.

I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period legal steps to protect any claim I may have.

Date:

\_\_\_\_\_

Name of Class  
Member:

\_\_\_\_\_

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Class Member Opting Out

Name of Witness:

\_\_\_\_\_

**Appendix 1**

File No. CI-19-01-24661

**THE QUEEN'S BENCH  
Winnipeg Centre**

B E T W E E N:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Proceeding under *The Class Proceedings Act*, C.C.S.M.c. C. 130

**LITIGATION PLAN**

**FOR COMMON ISSUES, CERTIFICATION AND SUMMARY JUDGMENT MOTIONS**

1. Attached as **Schedule "A"** is the parties' consent timetable, as ordered by the Court. This Litigation Plan is intended to address the Plaintiffs' motions for certification and summary judgement.
2. If the motions are successful, a further plan will be proposed to address any remaining issues, depending on the outcome.
3. Alternatively, if the motion for summary judgement is not successful, the Plaintiffs will propose a further plan for the trial of the common issues.
4. At the certification motion, the Plaintiffs will seek certification of the following common issue to be resolved on behalf of the class as a whole ("**Stage 1 Common Issue**"):

- (a) From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?

5. If the Defendant consents to certification of a class proceeding, the Plaintiffs will negotiate with the Defendant to resolve the common issues. If the negotiations fail, the Plaintiffs will require the delivery of a Statement of Defence, following which they will deliver a record in support of a motion for summary judgement on the Stage 1 Common Issue. At a pre-trial conference following delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule a hearing of their motion.

6. If the Defendant opposes the certification of a class proceeding, the Plaintiffs will require the Defendant to deliver a Statement of Defence. The Plaintiffs will then deliver a record in support of motions for certification and summary judgement on the Stage 1 Common Issue. At a pre-trial conference following the delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule the hearing of their motion for summary judgement together with the hearing of their motion for certification.

7. At the certification motion, the Plaintiffs will also seek certification of the following common issues to be resolved on behalf of each Impacted First Nation sub-group, being the members of that First Nation and the First Nation itself, if it is a Participating First Nation ("**Stage 2 Common Issues**"):

- (a) If the answer to common issue 4(a) is "yes", did Canada breach its duties or obligations to members of the sub-group?
- (b) If the answer to common issue 7(a) is yes, is any breach of the *Charter of Rights and Freedoms* ("**Charter**") saved by s. 1 of the *Charter*?
- (c) If the answer to common issue 7(a) is yes, did the Defendant's breach cause a substantial and unreasonable interference with Class members' or their First Nations' use and enjoyment of their lands?

- (d) If the answer to common issue 7(a) is “yes” and the answer to common issue 7(b) is “no”, are damages available to members of the sub-group under s. 24(1) of the *Charter*?
- (e) Can the causation of any damages suffered by members of the sub-group be determined as a common issue?
- (f) Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?
- (g) Does the Defendant’s conduct justify an award of punitive damages, and if so, in what amount?
- (h) Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?
  - (i) If so, what measures should be ordered?

8. If the Stage 1 Common Issue is determined in favour of the Plaintiffs, the parties will conclude a discovery plan to manage the Defendant’s timely production of relevant documents in respect of the Stage 2 Common Issues for each Impacted First Nation sub-group.

9. Upon assessing the Defendant’s productions, the Plaintiffs will decide whether to bring motions for summary judgement on the Stage 2 Common Issues for some or all of the Impacted First Nation sub-groups, or alternatively, to schedule a trial of these common issues.

#### **NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE**

10. On the motion for certification, the Plaintiffs will ask that the Court settle the form and content for notification of the certification of this action (the “**Notice of Certification**”), the timing and manner of providing Notice of Certification (“**Notice Program**”) and set out an opt-out date as being three (3) months following the date of the Certification Order (“**Opt-Out Date**”), and an opt-in date as being six (6) months prior to the commencement of the determination of the Stage 2 Common Issues.

11. If a motion for summary judgement is being heard together with a motion for certification, the Plaintiffs will ask the court to render its decision on certification first, direct that notice issue if a class proceeding is certified, and then render its decision on the Stage 1 Common Issue following the Opt-Out Date.

12. The Plaintiffs will ask the Court to order that the defendant pay the costs of the Notice Program, including the cost of the Administrator.

13. The Plaintiffs will seek an order for the distribution of notice of certification as follows:

- (a) posting the notice on the respective websites of Class Counsel, the Defendant, and the Administrator;
  - (b) publishing the notice in designated newspapers;
  - (c) distributing the notice to all offices of Tataskweyak Cree Nation and the Assembly of First Nations.
  - (d) forwarding the notice to any Class member who requests it and the Chiefs of every First Nation that is eligible to opt into the class, as well as each band office;
  - (e) establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.
- (a) And by such other notice as the Court directs.

14. The Plaintiffs will ask the Court to approve opt-out and opt-in forms to be used by class members wishing to opt out of, or opt into, the class action, which will require the Class member to provide sufficient information to establish their membership in the Class.

## LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS

### Notice of Resolution of Common Issues

15. The Plaintiffs will ask that the Court settle the form and content for notification of the resolution of the Stage 1 and Stage 2 Common Issues (“**Resolution Notice Plan**”) and the means by which Class members will file claims (“**Claim Forms**”) by a fixed date with the Administrator. The Plaintiffs will also ask that the Court settle an appropriate process to determine any remaining individual issues.

### Valuation of Damages

16. If the Common Issues are resolved in favour of the Plaintiffs, the Plaintiffs propose two (2) methods for assessing and distributing damages for the class members as follows:

- (a) Aggregate damages that accrue to individual Class members on a *pro rata* basis or on a *pro rata* basis within a sub-group;
- (b) Aggregate damages that accrue to Participating First Nations on a community basis; and

17. Following the determination of aggregate damages, including punitive damages, additional damages may be awarded in individual issues proceedings.

### Assessment of Number of Claimants

18. After the deadline for submitting Claim Forms has expired, the Administrator shall calculate the total number of claimants for the purpose of any *pro rata* distribution of aggregate damages.

**Global Punitive Damages Distribution**

19. Should the Court award aggregate damages to the Class or a sub-group, the total amount of damages will be apportioned to the class in a manner to be determined by the Court within a fixed period of time set by the Court from the Notice of Resolution.

**Funds not Distributed**

20. Any monies not distributed will be distributed *cy-près* as the Court directs. The Plaintiffs propose that any residual amounts be distributed *cy-près* to community organizations that assist with water infrastructure in Impacted First Nations.

**Resolution of the Individual Issues**

21. Within thirty (30) days of the issuance of the judgment on the common issues, the parties will convene to settle a protocol to resolve any individual issues. If the parties cannot settle such a protocol, the Plaintiffs will move for directions from the Court within sixty (60) days.

**MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN****Funding**

22. Class Counsel has entered into an agreement with the Representative Plaintiffs with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class proceeding is successful or costs are recovered from the Defendant.

23. Class Counsel's legal fees are subject to court approval under the *Class Proceedings Act*.

**Claims Administration**

24. The Administrator will provide the claims administration for any settlement or judgement achieved. The Administrator will distribute notice in accordance with the Resolution Notice Plan. If a settlement is achieved and a settlement fund is provided, or if judgement results in an award in favour of Class members, the Administrator will administer payments out of the fund to claimants based on the procedures set out above, after approval and/or modification by the Court.

**Class Action Website**

25. From time to time, Class Counsel will post relevant pleadings and court filings, the latest documents and summaries of the latest developments, anticipated timelines, frequently asked questions and answers, and contact information for class counsel for the information of class members.

**Conflict Management**

26. Class Counsel and the Plaintiffs have taken appropriate measures to determine that no conflict of interest exists among the members of the Class, and no such conflict is anticipated. Should a conflict arise, McCarthy Tétrault LLP will represent one sub-group, and Olthuis Kleer Townshend LLP will represent the other. Should any conflict arise as between First Nations and their members, which is not anticipated given their commonality of interest, McCarthy Tétrault LLP will represent the members and Olthuis Kleer Townshend LLP will represent the First Nations.

**Applicable Law**

27. The applicable law is the *Constitution Act, 1982*, the *Constitution Act, 1867*, the *Charter of Rights and Freedoms*, the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21, the

*Indian Act*, R.S.C. 1985, c. I-5, the *First Nations Land Management Act*, S.C. 1999, c. 24, *The Class Proceedings Act*, C.C.S.M. c. C130, as well as applicable regulations, the common law and the law of Manitoba.

## Schedule "A"

Timetable

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Statement of Defence	Defendant	To be delivered on 60 days' notice by the Plaintiffs
Delivery of Reply, if any	Plaintiffs	To be delivered 15 days after delivery of Statement of Defence
Delivery of Certification/Summary Judgement Record	Plaintiffs	June 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Pre-trial to assess summary judgement	All parties	July 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Responding Record	Defendant	October 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Reply Record, if any	Plaintiffs	December 16, 2020 (or 45 days after delivery of Responding Record, whichever is later)
Cross-examinations	All parties	To be completed 75 days after delivery of Reply Record, if any, or 120 days after delivery of Responding Record
Refusals Motions, if any	All parties	To be completed 30 days after completion of cross-examinations
Delivery of answers to undertakings	All parties	To be completed 15 days after refusals motion

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Moving Factum	Plaintiffs	To be delivered 45 days after completion of answers to undertakings
Delivery of Responding Factum	Defendant	To be delivered 45 days after delivery of Moving Factum
Delivery of Reply Factum	Plaintiffs	To be delivered 15 days after delivery of Responding Factum
Hearing of Certification and possible Summary Judgement Motion	All parties	July-August 2021

**THE QUEEN'S BENCH  
Winnipeg Centre**

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BETWEEN:

TATASKWEYAK CREE NATION and CHIEF  
DOREEN SPENCE on her own behalf and on  
behalf of all members of TATASKWEYAK CREE NATION

Plaintiffs

- and -

ATTORNEY GENERAL OF CANADA

Defendant

Proposed Class Proceeding commenced under Proceeding  
under *The Class Proceedings Act*, C.C.S.M. c. C. 130

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**LITIGATION PLAN**

(Filed this 2<sup>nd</sup> day of July, 2020)

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McCarthy Tétrault LLP  
Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

[jbrown@mccarthy.ca](mailto:jbrown@mccarthy.ca)

**Eric S. Block** LSO#47479K

[eblock@mccarthy.ca](mailto:eblock@mccarthy.ca)

**H. Michael Rosenberg** LSO#58140U

[mrosenberg@mccarthy.ca](mailto:mrosenberg@mccarthy.ca)

**Stephanie Willsey** LSO#77866J

[swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)

Tel: 416-601-7831

Fax: 416-868-0673

Lawyers for the Plaintiffs

**THE QUEEN'S BENCH**  
**Winnipeg Centre**

---

BETWEEN:

TATASKWEYAK CREE NATION and CHIEF  
DOREEN SPENCE on her own behalf and on  
behalf of all members of TATASKWEYAK CREE NATION

Plaintiffs

- and -

ATTORNEY GENERAL OF CANADA

Defendant

Proposed Class Proceeding commenced under Proceeding  
under *The Class Proceedings Act*, C.C.S.M. c. C. 130

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**ORDER**

(July 14, 2020)

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McCarthy Tétrault LLP  
Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

[jbrown@mccarthy.ca](mailto:jbrown@mccarthy.ca)

**Eric S. Block** LSO#47479K

[eblock@mccarthy.ca](mailto:eblock@mccarthy.ca)

**H. Michael Rosenberg** LSO#58140U

[mrosenberg@mccarthy.ca](mailto:mrosenberg@mccarthy.ca)

**Stephanie Willsey** LSO#77866J

[swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)

Tel: 416-601-7831

Fax: 416-868-0673

Lawyers for the Plaintiffs

**THE QUEEN'S BENCH**

**Winnipeg Centre**

**BETWEEN:**

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Proceeding under *The Class Proceedings Act*, C.C.S.M.c. C. 130

**ORDER**

**THIS MOTION** for certification, brought by the Plaintiffs was heard on July 14, 2020 at 408 York Ave in Winnipeg, Manitoba.

**ON READING** the motion record of the Plaintiffs and the consent of the Defendant.

**AND ON BEING ADVISED** that the parties consent to this order.

1. **THIS COURT ORDERS** that this action be and is hereby certified as a class proceeding pursuant to *The Class Proceedings Act*, C.C.S.M.c. C. 130.

2. **THIS COURT ORDERS AND DECLARES** that the Class is defined as:

(a) All persons other than Excluded Persons who:

- (i) are members of a band, as defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985, c. I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject

to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);

- (ii) had not died before November 20, 2017; and
- (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and

- (b) Tataskweyak Cree Nation and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, and the Okanagan Indian Band, and Michael Daryl Isnardy.

3. **THIS COURT ORDERS AND DECLARES** that until the claims asserted in this class proceeding are fully and finally decided, settled, discontinued, or abandoned, including the exhaustion of all rights of appeal, leave of the Court is required to commence any other proceeding on behalf of any member of the Class in respect of the claims asserted in this action, save and except for proceedings commenced on behalf of those members of the Class who opt out of this class proceeding in the manner prescribed below.

4. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of the Class as a whole:

- (a) From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?

5. **THIS COURT ORDERS AND DECLARES** that a sub-group be and is hereby recognized for the members of each Impacted First Nation, and the First Nation itself, if it is a Participating Nation;

6. **THIS COURT ORDERS AND DECLARES** that the following common issues be and are hereby certified for resolution on behalf of each sub-group:

- (a) If the answer to common issue 4(a) is “yes”, did Canada breach its duties or obligations to members of the sub-group?
- (b) If the answer to common issue 6(a) is yes, is any breach of the *Charter of Rights and Freedoms* (“*Charter*”) saved by s. 1 of the *Charter*?
- (c) If the answer to common issue 6(a) is yes, did the Defendant’s breach cause a substantial and unreasonable interference with Class members’ or their First Nations’ use and enjoyment of their lands?
- (d) If the answer to common issue 6(a) is “yes” and the answer to common issue 6(b) is “no”, are damages available to members of the sub-group under s. 24(1) of the *Charter*?
- (e) Can the causation of any damages suffered by members of the sub-group be determined as a common issue?
- (f) Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?
- (g) Does the Defendant’s conduct justify an award of punitive damages, and if so, in what amount?
- (h) Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?
  - (i) If so, what measures should be ordered?

7. **THIS COURT ORDERS AND DECLARES** that Chief Doreen Spence and Tataskweyak Cree Nation are hereby appointed as Representative Plaintiffs for the Class.

8. **THIS COURT ORDERS AND DECLARES** that McCarthy Tétrault LLP and Olthuis Kleer Townshend are hereby appointed as class counsel ("**Class Counsel**").

9. **THIS COURT ORDERS AND DECLARES** that the Plaintiffs and the Defendant shall make reasonable efforts to agree on the appointment of an administrator for the purpose of giving notice of the certification of this class proceeding (the "**Administrator**"). The Parties shall advise the Court of the appointment of the Administrator within sixty (60) days of the date of this Order, failing which the Court shall appoint an appropriately qualified Administrator.

10. **THIS COURT ORDERS** that class members shall be notified that this action has been certified as a class proceeding as follows, which shall be and is hereby deemed adequate notice:

- (a) by posting the Short Form Notice set out in **Schedule "A"** and Long Form Notice set out in **Schedule "B"**, and the French language translations of these documents, as agreed upon by the parties, on the respective websites of Class Counsel, the Defendant, and the Administrator;
- (b) by the Administrator publishing the Short Form Notice in the newspapers set out in **Schedule "C"** attached hereto, in  $\frac{1}{4}$  of a page size in the weekend edition of each newspaper, if possible;
- (c) by the Administrator distributing the Short Form Notice to all offices of Tataskweyak Cree Nation and the Assembly of First Nations;
- (d) by the Administrator forwarding the Short Form Notice and Long Form Notice to any Class member who requests them;
- (e) by the Administrator forwarding the Short Form Notice and Long Form Notice to the Chiefs of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons;
- (f) by the Administrator forwarding the Short Form Notice and Long Form Notice to the band office or similar office of every Impacted First Nation identified in accordance with paragraph 12, below, except for Excluded Persons, together with a request that they be posted in a prominent place;

(g) by the Administrator establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.

11. **THIS COURT ORDERS** that the Defendant shall be responsible for the cost of giving notice of the certification of a class proceeding as set out in paragraph 10, above.

12. **THIS COURT ORDERS** that within 30 days of the date of this Order, the Plaintiffs and the Defendant shall exchange a list setting out their best information on the names of the First Nations that are eligible to opt into the Class, and taken together these lists shall constitute the means of identifying the First Nations that are entitled to direct notice for the purpose of paragraphs 10(e) and 10(f), above.

13. **THIS COURT ORDERS** that a class member may opt out of this class proceeding by delivering a signed opt-out coupon, a form of which is attached as **Schedule “D”**, or some other legible signed request to opt out, within one-hundred-and- twenty-days (120) days of the date on which notice is first published in accordance with paragraph 10(b), above (the “**Opt Out Deadline**”), to the Administrator. The Short Form Notice and Long Form Notice shall state the Opt Out Deadline and the address of the Administrator for the purpose of receiving opt-out coupons.

14. **THIS COURT ORDERS** that no Class Member may opt out of this class proceeding after the Opt Out Deadline, except with leave of the Court.

15. **THIS COURT ORDERS** that the Administrator shall serve on the parties and file with the Court, within sixty (60) days of the expiry of the Opt Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any.

16. **THIS COURT ORDERS** that any Impacted First Nation may opt into this class proceeding by retaining Class Counsel no fewer than one-hundred-and-twenty (120) days before

the disposition of any of the common issues (the “**Opt In Deadline**”), to Class Counsel, at the address set out in paragraph 11, above.

17. **THIS COURT ORDERS** that no Class member may opt into this class proceeding after the Opt In Deadline, except with leave of the Court.

18. **THIS COURT ORDERS** that Class Counsel shall serve on the parties and file with the Court, within sixty (60) days of the expiry of the Opt In Deadline, a list of all the Impacted First Nations that have opted into the class proceeding.

19. **THIS COURT DECLARES** that the Litigation Plan attached hereto as Appendix 1 is a workable method of advancing the class proceeding on behalf of the Class.

20. **THIS COURT ORDERS** that each party shall bear its own costs of the within motion for certification of this class proceeding.

July 14 , 2020

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The Honourable Chief Justice Joyal

**CONSENTED TO AS TO FORM AND CONTENT:**

Per: \_\_\_\_\_  
Stephanie Willsey for Catharine Moore/Scott Farlinger  
The Attorney General of Canada

Per: \_\_\_\_\_  
Stephanie Willsey  
Tataskweyak Cree Nation and Chief Doreen Spence

## Schedule A

### Legal Notice

## **Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?**

*A Lawsuit May Affect You and Your First Nation. Please Read this Carefully.*

You could be affected by class action litigation regarding the lack of access to clean drinking water on First Nations reserves.

The Manitoba Court of Queen's Bench and the Federal Court of Canada decided that a class action on behalf of a "Class" of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. There is no money available now and no guarantee that the class action will succeed.

The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.

### **What is this case about?**

This class action asserts that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The class action asserts that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The class action asserts that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Court has not decided whether any of these assertions are true. If there is no settlement, the Plaintiffs will have to prove their claims in Court.

If you have questions about this class action, you can contact **Eric Khan** 1(800) 538-0009 or [info@classaction2.com](mailto:info@classaction2.com).

### **Who represents the class?**

The Court has appointed McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP to represent the Class as "Class Counsel". You do not have to pay Class Counsel, or anyone else, to participate. If Class Counsel obtains money or benefits for the Class they may ask for lawyers' fees and costs, which would be deducted from any money or benefits recovered for Class members.

### **Individuals Class Members: Who is included and who is excluded?**

**Band Members Included:** The Class includes band members (as defined by the *Indian Act*): (a) whose reserve was subject to a drinking water advisory (such as a boil water advisory, etc.) that lasted at least one year at any time from November 20, 1995 to the present; (b) had not died before November 20, 2017; and (c) ordinarily lived on their reserve.

**Band Members Excluded:** Members of the Tsuu T'ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Michael Darryl Isnardy are excluded from this class action.

#### **Individuals: What are your options?**

**Stay in the Class:** To stay in the Class, you do not have to do anything. If the Class obtains money or benefits, Class Counsel will give notice about how to ask for your share. You will be legally bound by all orders and judgments, and you will not be able to sue Canada about the legal claims in this case.

**Staying in the Class will not impact the supports received from community-based agencies that are funded by any government.**

**Get out of the Class:** If you do not want to participate in this class action litigation, you need to remove yourself by opting out. If you opt out, you cannot get money or benefits from this litigation. To opt out, please visit [NTD: Insert Administrator's website for this action] to obtain an opt out coupon, or write to CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 requesting to be removed from this class action. Please include your name, address, telephone number, and signature. **Your request to opt out must be sent by [NTD: 120 days from the date of the first publication of notice].**

#### **First Nations: What are your options?**

**Elect to join the Class:** First Nations that wish to join the Class and assert claims on behalf of their community must take action to opt in. To opt in, or to seek more information, please contact the Administrator at 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel Stephanie Willsey (toll free:1-877-244-7711; [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Class Counsel Kevin Hille ((416) 598-3694; [khille@oktlaw.com](mailto:khille@oktlaw.com)). **Your request to opt in must be sent no later than 120 days before Class members' claims are determined.**

#### **How Can I Get More Information?**

**Name of Administrator:** CA2

**Contact Information:** 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com)

#### **Getting Information To People Who Need It**

The representative Plaintiffs and Class Counsel ask for the help of health care workers, social workers, First Nations community leaders, family members, caregivers and friends of Class members in getting information to Class members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator. Please show this notice to people who may be impacted by this lawsuit or their caregivers.

## Schedule B

### Are You a Member of a First Nation That Has Been Subject To A Long-Term Drinking Water Advisory?

If YES, A Class Action May Affect Your Rights and the Rights of First Nations

A court authorized this notice

- You could be affected by a class action involving access to clean drinking water in your First Nation Communities.
- The Manitoba Court of Queen's Bench and the Federal Court of Canada has decided that class actions on behalf of a "Class" of both First Nations and band members may proceed. Band members can choose whether to stay in the Class. First Nations can choose whether to join the Class. The Courts appointed Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias to act as representative Plaintiffs for the Class.
- The Courts have not decided whether Canada did anything wrong, and there still has to be a Court case about whether Canada did anything wrong. There is no money available now and no guarantee there will ever be any money. However, your rights are affected, and you have a choice to make now. This notice is to help you and your First Nation make that choice.

<b>INDIVIDUAL BAND MEMBERS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>DO NOTHING: KEEP YOUR RIGHTS UNDER THE CLASS ACTION</b>	<b>Stay in these lawsuits and wait for the outcome. Share in possible benefits from the outcome but give up certain individual rights.</b> By doing nothing, you keep the possibility of receiving money or other benefits that may come from a trial or settlement. But, you give up any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>REMOVE YOURSELF (OPT OUT)</b>	<b>Get out of these lawsuits and get no benefits from it. Keep rights.</b> If you ask to opt out and money or benefits are later awarded to Class members, you won't get a share. But, you keep any rights to sue Canada on your own about the same legal claims in this lawsuit.
<b>FIRST NATIONS: YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE</b>	
<b>CHOOSE TO JOIN THE CLASS (OPT IN)</b>	<b>Join the Class. If you join, your First Nations might share in money and benefits from the outcome.</b> By joining the Class (opting in), First Nations might receive money or other benefits, including water infrastructure, that may come from a trial or settlement in the Class Action. Opting in is an easy process, and there is no cost to opt in.

**QUESTIONS? CALL TOLL-FREE 1-800-538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**DO NOTHING:  
LOSE YOUR  
FIRST  
NATION'S  
RIGHTS  
UNDER THE  
CLASS  
ACTION**

**By doing nothing, your First Nation will lose the possibility of receiving money and other benefits if the Class Action succeeds.**

If First Nations do not join the Class (opt in) and money or benefits are later awarded, your First Nation won't share in those.

By not opting-in, your First Nation may keep any rights to sue Canada about the same legal claims in this litigation.

- Lawyers must prove the claims against Canada at a trial or a settlement must be reached. If money or benefits are obtained you will be notified about how to ask for your share.
- Your options are explained in this notice. To be removed from the litigation, individual band members must ask to be removed by **[NTD: 120 days from the first publication of notice.]**. To join the Class Action, First Nations must send their opt in notice no later than 120 days before Class members' claims are to be determined.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## WHAT THIS NOTICE CONTAINS

### **BASIC INFORMATION**

**Page 3-5**

1. Why was this notice issued?
2. What is this litigation about?
3. Why are these class actions?
4. Who is a member of the Class?
5. What are the Plaintiffs asking for?
6. Is there any money available now?

### **YOUR RIGHTS AND OPTIONS**

**Page 5**

7. What happens if I do nothing?
8. What if I don't want to be in the Class?
9. If a former resident remains in the Class will that impact their current placement?

### **THE LAWYERS REPRESENTING YOU**

**Page 6**

10. Do I have a lawyer in the case?
11. How will the lawyers be paid?

### **A TRIAL**

**Page 6**

12. How and when will the Court decide who is right?
13. Will I get money after the trial?

### **GETTING MORE INFORMATION**

**Page 6**

14. How do I get more information? How to I get this information to people who need it?

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

## BASIC INFORMATION

### 1. Why is there a notice?

The Courts have “certified” Class Actions. This means that the lawsuits meets the requirements for class actions and may proceed to trial. If you are included, you may have legal rights and options before the Courts decide whether the claims being made against Canada on your behalf are correct. This notice attempts to explain all of these things.

Chief Justice Joyal of the Manitoba Court of Queen’s Bench is currently overseeing the case known as *Tataskweyak Cree Nation and Chief Doreen Spence v. Canada*. Justice Favel of the Federal Court of Canada is currently overseeing the case known as *Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias v. Canada*. The persons who sued are called the Plaintiffs. Canada is the Defendant. A link to the latest version of the Statement of Claim (the legal document that makes the allegations against Canada) can be found here: <https://www.mccarthy.ca/en/class-action-litigation-drinking-water-advisories-first-nations-0>

### 2. What is this litigation about?

These Class Actions assert that Canada breached its obligations by failing to ensure that First Nations communities had adequate access to clean drinking water. The Class Actions also assert that members of these communities and the communities themselves were harmed emotionally, physically, financially, and spiritually. The Class Actions assert that Canada has breached its fiduciary duties, its duty of care, and the *Charter of Rights and Freedoms*. The Courts have not decided (and Canada has not admitted) that any of these assertions are true. If there is no settlement with Canada, the Plaintiffs will have to prove their claims in Court.

**If you are having a difficult time dealing with these issues, or have questions about the Class Action, you can call 1 (800) 538-0009 for assistance.**

### 3. Why is this a class action?

In a class action, the “representative plaintiffs” (in this case, Tataskweyak Cree Nation, Chief Doreen Spence, Curve Lake First Nation, Chief Emily Whetung, Nesktanaga First Nation, and Chief Christopher Moonias) sued on behalf of individual band members and First Nations who have similar claims. All of these individual band members are part of the “Class” or “Class Members”, as are First Nations who choose to join the Class Action. The Court resolves the issues for all Class Members in one case, except (in the case of individual band members) for those who remove themselves from (opt out of) the Class and (in the case of First Nations) for those that do not join (opt into) the Class Action.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

#### 4. Who is a member of the Class?

The Class includes and excludes the following:

All persons, other than “Excluded Persons” who:

- (i) are members of a band, as defined in subsection 2(1) of the Indian Act, R.S.C. 1985, c. I-5 (“**First Nation**”), the disposition of whose lands is subject to that Act or the *First Nations Land Management Act*, S.C. 1999, c. 24 (“**First Nations Lands**”), and whose First Nations Lands were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year from November 20, 1995 to present (“**Impacted First Nations**”);
- (ii) were not dead two years prior to the commencement of this action (that is, by November 20, 2017); and
- (iii) ordinarily resided in an Impacted First Nation while it was subject to a drinking water advisory that lasted at least one year; and
- (iv) Tatakweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation, and any other Impacted First Nation that elects to join this action in a representative capacity (“**Participating Nations**”).

“**Excluded Persons**” are members of Tsuu T’ina Nation, Sucker Creek First Nation, Ermineskin Cree Nation, the Blood Tribe, Okanagan Indian Band, and Okanagan Indian Band and Michael Darryl Isnardy.

#### 5. What are the Plaintiffs asking for?

The Plaintiffs are asking for money and other benefits for the Class, including water infrastructure. The Plaintiffs are also asking for legal fees and costs, plus interest.

#### 6. Is there any money available to Class Members now?

No money or benefits are available now because the Court has not yet decided whether Canada did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If money or other benefits become available, notice will be provided about how to ask for your share.

### YOUR RIGHTS AND OPTIONS

Individual band members must decide whether to stay in the Class, and you have to decide this by **[NTD: 120 days from the first publication of notice]**. First Nations must decide whether they want to join the class by **no later than 120 days before the Class members’ claims are determined.**

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

**7. What happens if I do nothing at all? What happens if the First Nation does nothing at all?**

**Individuals Band Members:** if you do nothing, you will automatically remain in the Class Action. You will be bound by all Court orders, good or bad. If any money or other benefits are awarded, you may need to take action after notice to you to receive any benefits.

**First Nations:** First Nations must chose to join the Class Action to receive the potential benefits and to be bound by all Court orders, good or bad.

**8. What if I don't want to be in the Lawsuit? What if a First Nation wants to join the Lawsuit?**

**Individual Band Members:** If you do not want to be in the lawsuit, you must remove yourself – this is referred to as “opting out.” If you remove yourself, you will not receive any benefit that may be obtained from the Class Action. You will not be bound by any Court orders and you keep your right to sue Canada as an individual regarding the issues in this case.

To remove yourself, send a communication that says you want to be removed from the Class in *Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, and Chief Christopher Moonias v. Canada* Court File No. CI-19-01-2466. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [insert Administrator web link]. You must deliver your removal request by [NTD: 120 days from the first publication of notice] to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2 or [info@classaction2.com](mailto:info@classaction2.com).

Call 1 (800) 538-0009 if you have any questions about how to get out of the Class Action.

**First Nations:** First Nations that wish to join the Class Action and assert claims on behalf of their band or community must take action to join – this is referred to as “opting in.” To opt in, or to seek more information, please contact the Administrator 1(800)538-0009 or [info@classaction2.com](mailto:info@classaction2.com). First Nations may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)) or Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694. **Requests by First Nations to opt in must be sent no later than 120 days before Class members' claims are determined.**

**THE LAWYERS REPRESENTING YOU**

**10. Do Individual Band Members have a lawyer in the case?**

Yes. The Court has appointed McCarthy Tétrault LLP and Olthuis Kleer Townshend LLP to represent you and other Class Members as “Class Counsel.” You will not be charged legal or other fees or expenses for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

**QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)**

### 11. How will the lawyers be paid?

Class Counsel will only be paid if they win judgement or if there is a settlement. The Court has to also approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class, or paid separately by the Defendant.

## A TRIAL

### 12. How and when will the Court decide who is right?

If the Class Action is not dismissed or settled, the Plaintiffs must prove their claims at a motion for summary judgement or a trial that will take place in Ottawa, Ontario. During the motion or trial, the Court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or Canada is right about the claims in the Class Action. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

### 13. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of a trial or settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Important information about the case will be posted on the website [NTD: insert Administrator website] as it becomes available.

## GETTING MORE INFORMATION

### 14. How do I get more information? How to I get information to people who need it?

You can get more information at <https://classaction2.com/> by calling toll free at 1(800)538-0009, by writing to: CA2 Inc., 9 Prince Arthur Avenue, Toronto, Ontario M5R 1B2, or by emailing: [info@classaction2.com](mailto:info@classaction2.com).

First Nations and Individual Band Members may also contact Class Counsel and ask for Class Counsel Stephanie Willsey (toll free: 1-877-244-7711 or [swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca) or 66 Wellington Street West, Toronto, Ontario, M5K 1E6) or Class Counsel Kevin Hille at [khille@oktlaw.com](mailto:khille@oktlaw.com) or (416) 598-3694 or 250 University Avenue, 8<sup>th</sup> floor, Toronto, Ontario, M5H 3E5.

Curve Lake First Nation, Chief Emily Whetung, Neskantaga First Nation, Chief Christopher Moonias, Tataskweyak Cree Nation, Chief Doreen Spence, and Class Counsel kindly ask for the help of health care workers, social workers, First Nation community leaders, family members, caregivers and friends of Class members in getting information to Class Members who would have trouble reading or understanding this notice. More information about this lawsuit is available at the website or by contacting the Administrator or Class Counsel. Please show this notice to people who may be impacted by this lawsuit or their caregivers.

QUESTIONS? CALL TOLL-FREE 1(800)538-0009 OR VISIT  
[HTTPS://CLASSACTION2.COM/](https://classaction2.com/)

## Schedule C

### List of Newspapers

Globe and Mail  
National Post  
Winnipeg Free Press  
Vancouver Sun  
Edmonton Sun  
Calgary Herald  
Saskatoon Star Phoenix  
Regina Leader Post  
Thunder Bay Chronicle-Journal  
Toronto Star  
Ottawa Citizen  
Montreal Gazette  
Montreal La Presse (digital edition)  
Halifax Chronicle-Herald  
Moncton Times and Transcript  
  
First Nations Drum

**Schedule D**

**FORM OF OPT OUT COUPON**

To: [Insert Claim Administrator Address]  
[Insert Administrator Email Address]

This is **NOT** a claim form. Completing this **OPT OUT COUPON** will exclude you from receiving any compensation or other benefits arising out of any settlement or judgment in the class proceeding named below:

*Note: To opt out, this coupon must be properly completed and sent to the above-address no later than [INSERT DATE THAT IS 120 DAYS FROM THE FIRST NOTICE PUBLICATION]*

Court File No.: T-1673-19

**CURVE LAKE FIRST NATIONAL and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

Plaintiff

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

**I understand that by opting out of this class proceeding, I am confirming that I do not wish to participate in this class proceeding.**

I understand that any individual claim I may have must be commenced within a specified limitation period or that claim will be legally barred.

I understand that the certification of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.

I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period legal steps to protect any claim I may have.

Date: \_\_\_\_\_

Name of Class  
Member: \_\_\_\_\_

---

Signature of Witness

---

Signature of Class Member Opting Out

Name of Witness:

---

**Appendix 1**

File No. CI-19-01-24661

**THE QUEEN'S BENCH**

**Winnipeg Centre**

B E T W E E N:

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK CREE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Proceeding under *The Class Proceedings Act*, C.C.S.M.c. C. 130

**LITIGATION PLAN**

**FOR COMMON ISSUES, CERTIFICATION AND SUMMARY JUDGMENT MOTIONS**

1. Attached as **Schedule "A"** is the parties' consent timetable, as ordered by the Court. This Litigation Plan is intended to address the Plaintiffs' motions for certification and summary judgement.
2. If the motions are successful, a further plan will be proposed to address any remaining issues, depending on the outcome.
3. Alternatively, if the motion for summary judgement is not successful, the Plaintiffs will propose a further plan for the trial of the common issues.
4. At the certification motion, the Plaintiffs will seek certification of the following common issue to be resolved on behalf of the class as a whole ("**Stage 1 Common Issue**"):

- (a) From November 20, 1995 to the present, did the Defendant owe a duty or an obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from barring, adequate access to water that is safe for human use?

5. If the Defendant consents to certification of a class proceeding, the Plaintiffs will negotiate with the Defendant to resolve the common issues. If the negotiations fail, the Plaintiffs will require the delivery of a Statement of Defence, following which they will deliver a record in support of a motion for summary judgement on the Stage 1 Common Issue. At a pre-trial conference following delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule a hearing of their motion.

6. If the Defendant opposes the certification of a class proceeding, the Plaintiffs will require the Defendant to deliver a Statement of Defence. The Plaintiffs will then deliver a record in support of motions for certification and summary judgement on the Stage 1 Common Issue. At a pre-trial conference following the delivery of the Plaintiffs' record, they will ask the Court to determine that this matter is appropriate for summary judgement and schedule the hearing of their motion for summary judgement together with the hearing of their motion for certification.

7. At the certification motion, the Plaintiffs will also seek certification of the following common issues to be resolved on behalf of each Impacted First Nation sub-group, being the members of that First Nation and the First Nation itself, if it is a Participating First Nation ("**Stage 2 Common Issues**"):

- (a) If the answer to common issue 4(a) is "yes", did Canada breach its duties or obligations to members of the sub-group?
- (b) If the answer to common issue 7(a) is yes, is any breach of the *Charter of Rights and Freedoms* ("**Charter**") saved by s. 1 of the *Charter*?
- (c) If the answer to common issue 7(a) is yes, did the Defendant's breach cause a substantial and unreasonable interference with Class members' or their First Nations' use and enjoyment of their lands?

- (d) If the answer to common issue 7(a) is “yes” and the answer to common issue 7(b) is “no”, are damages available to members of the sub-group under s. 24(1) of the *Charter*?
- (e) Can the causation of any damages suffered by members of the sub-group be determined as a common issue?
- (f) Can the Court make an aggregate assessment of all or part of any damages suffered by members of the sub-group?
- (g) Does the Defendant’s conduct justify an award of punitive damages, and if so, in what amount?
- (h) Should the Court order that the Defendant take measures to provide or ensure that members of the sub-group are provided with, or refrain from barring, adequate access to clean tap water?
  - (i) If so, what measures should be ordered?

8. If the Stage 1 Common Issue is determined in favour of the Plaintiffs, the parties will conclude a discovery plan to manage the Defendant’s timely production of relevant documents in respect of the Stage 2 Common Issues for each Impacted First Nation sub-group.

9. Upon assessing the Defendant’s productions, the Plaintiffs will decide whether to bring motions for summary judgement on the Stage 2 Common Issues for some or all of the Impacted First Nation sub-groups, or alternatively, to schedule a trial of these common issues.

#### **NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE**

10. On the motion for certification, the Plaintiffs will ask that the Court settle the form and content for notification of the certification of this action (the “**Notice of Certification**”), the timing and manner of providing Notice of Certification (“**Notice Program**”) and set out an opt-out date as being three (3) months following the date of the Certification Order (“**Opt-Out Date**”), and an opt-in date as being six (6) months prior to the commencement of the determination of the Stage 2 Common Issues.

11. If a motion for summary judgement is being heard together with a motion for certification, the Plaintiffs will ask the court to render its decision on certification first, direct that notice issue if a class proceeding is certified, and then render its decision on the Stage 1 Common Issue following the Opt-Out Date.

12. The Plaintiffs will ask the Court to order that the defendant pay the costs of the Notice Program, including the cost of the Administrator.

13. The Plaintiffs will seek an order for the distribution of notice of certification as follows:

- (a) posting the notice on the respective websites of Class Counsel, the Defendant, and the Administrator;
  - (b) publishing the notice in designated newspapers;
  - (c) distributing the notice to all offices of Tataskweyak Cree Nation and the Assembly of First Nations.
  - (d) forwarding the notice to any Class member who requests it and the Chiefs of every First Nation that is eligible to opt into the class, as well as each band office;
  - (e) establishing a national toll-free support line, to provide assistance to Class members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.
- (a) And by such other notice as the Court directs.

14. The Plaintiffs will ask the Court to approve opt-out and opt-in forms to be used by class members wishing to opt out of, or opt into, the class action, which will require the Class member to provide sufficient information to establish their membership in the Class.

## LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS

### Notice of Resolution of Common Issues

15. The Plaintiffs will ask that the Court settle the form and content for notification of the resolution of the Stage 1 and Stage 2 Common Issues (“**Resolution Notice Plan**”) and the means by which Class members will file claims (“**Claim Forms**”) by a fixed date with the Administrator. The Plaintiffs will also ask that the Court settle an appropriate process to determine any remaining individual issues.

### Valuation of Damages

16. If the Common Issues are resolved in favour of the Plaintiffs, the Plaintiffs propose two (2) methods for assessing and distributing damages for the class members as follows:

- (a) Aggregate damages that accrue to individual Class members on a *pro rata* basis or on a *pro rata* basis within a sub-group;
- (b) Aggregate damages that accrue to Participating First Nations on a community basis; and

17. Following the determination of aggregate damages, including punitive damages, additional damages may be awarded in individual issues proceedings.

### Assessment of Number of Claimants

18. After the deadline for submitting Claim Forms has expired, the Administrator shall calculate the total number of claimants for the purpose of any *pro rata* distribution of aggregate damages.

**Global Punitive Damages Distribution**

19. Should the Court award aggregate damages to the Class or a sub-group, the total amount of damages will be apportioned to the class in a manner to be determined by the Court within a fixed period of time set by the Court from the Notice of Resolution.

**Funds not Distributed**

20. Any monies not distributed will be distributed *cy-près* as the Court directs. The Plaintiffs propose that any residual amounts be distributed *cy-près* to community organizations that assist with water infrastructure in Impacted First Nations.

**Resolution of the Individual Issues**

21. Within thirty (30) days of the issuance of the judgment on the common issues, the parties will convene to settle a protocol to resolve any individual issues. If the parties cannot settle such a protocol, the Plaintiffs will move for directions from the Court within sixty (60) days.

**MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN****Funding**

22. Class Counsel has entered into an agreement with the Representative Plaintiffs with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class proceeding is successful or costs are recovered from the Defendant.

23. Class Counsel's legal fees are subject to court approval under the *Class Proceedings Act*.

**Claims Administration**

24. The Administrator will provide the claims administration for any settlement or judgement achieved. The Administrator will distribute notice in accordance with the Resolution Notice Plan. If a settlement is achieved and a settlement fund is provided, or if judgement results in an award in favour of Class members, the Administrator will administer payments out of the fund to claimants based on the procedures set out above, after approval and/or modification by the Court.

**Class Action Website**

25. From time to time, Class Counsel will post relevant pleadings and court filings, the latest documents and summaries of the latest developments, anticipated timelines, frequently asked questions and answers, and contact information for class counsel for the information of class members.

**Conflict Management**

26. Class Counsel and the Plaintiffs have taken appropriate measures to determine that no conflict of interest exists among the members of the Class, and no such conflict is anticipated. Should a conflict arise, McCarthy Tétrault LLP will represent one sub-group, and Olthuis Kleer Townshend LLP will represent the other. Should any conflict arise as between First Nations and their members, which is not anticipated given their commonality of interest, McCarthy Tétrault LLP will represent the members and Olthuis Kleer Townshend LLP will represent the First Nations.

**Applicable Law**

27. The applicable law is the *Constitution Act, 1982*, the *Constitution Act, 1867*, the *Charter of Rights and Freedoms*, the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21, the

*Indian Act*, R.S.C. 1985, c. I-5, the *First Nations Land Management Act*, S.C. 1999, c. 24, *The Class Proceedings Act*, C.C.S.M. c. C130, as well as applicable regulations, the common law and the law of Manitoba.

## Schedule "A"

Timetable

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Statement of Defence	Defendant	To be delivered on 60 days' notice by the Plaintiffs
Delivery of Reply, if any	Plaintiffs	To be delivered 15 days after delivery of Statement of Defence
Delivery of Certification/Summary Judgement Record	Plaintiffs	June 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Pre-trial to assess summary judgement	All parties	July 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Responding Record	Defendant	October 30, 2020 (may be adjourned up to 5 months if Defendant consents to certification and engages in exploratory settlement discussions)
Delivery of Reply Record, if any	Plaintiffs	December 16, 2020 (or 45 days after delivery of Responding Record, whichever is later)
Cross-examinations	All parties	To be completed 75 days after delivery of Reply Record, if any, or 120 days after delivery of Responding Record
Refusals Motions, if any	All parties	To be completed 30 days after completion of cross-examinations
Delivery of answers to undertakings	All parties	To be completed 15 days after refusals motion

<b>PROPOSED LITIGATION TIMETABLE</b>		
<b>Steps To Be Completed</b>	<b>By Which Party</b>	<b>Date To Be Completed By</b>
Delivery of Moving Factum	Plaintiffs	To be delivered 45 days after completion of answers to undertakings
Delivery of Responding Factum	Defendant	To be delivered 45 days after delivery of Moving Factum
Delivery of Reply Factum	Plaintiffs	To be delivered 15 days after delivery of Responding Factum
Hearing of Certification and possible Summary Judgement Motion	All parties	July-August 2021

**THE QUEEN'S BENCH  
Winnipeg Centre**

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BETWEEN:

TATASKWEYAK CREE NATION and CHIEF  
DOREEN SPENCE on her own behalf and on  
behalf of all members of TATASKWEYAK CREE NATION  
Plaintiffs

- and -

ATTORNEY GENERAL OF CANADA

Defendant

Proposed Class Proceeding commenced under Proceeding  
under *The Class Proceedings Act*, C.C.S.M. c. C. 130

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**LITIGATION PLAN**

(Filed this 2<sup>nd</sup> day of July, 2020)

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McCarthy Tétrault LLP  
Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

[jbrown@mccarthy.ca](mailto:jbrown@mccarthy.ca)

**Eric S. Block** LSO#47479K

[eblock@mccarthy.ca](mailto:eblock@mccarthy.ca)

**H. Michael Rosenberg** LSO#58140U

[mrosenberg@mccarthy.ca](mailto:mrosenberg@mccarthy.ca)

**Stephanie Willsey** LSO#77866J

[swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)

Tel: 416-601-7831

Fax: 416-868-0673

Lawyers for the Plaintiffs

**THE QUEEN'S BENCH  
Winnipeg Centre**

---

BETWEEN:

TATASKWEYAK CREE NATION and CHIEF  
DOREEN SPENCE on her own behalf and on  
behalf of all members of TATASKWEYAK CREE NATION

Plaintiffs

- and -

ATTORNEY GENERAL OF CANADA

Defendant

Proposed Class Proceeding commenced under Proceeding  
under *The Class Proceedings Act*, C.C.S.M. c. C. 130

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**ORDER**

(July 14, 2020)

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McCarthy Tétrault LLP  
Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

[jbrown@mccarthy.ca](mailto:jbrown@mccarthy.ca)

**Eric S. Block** LSO#47479K

[eblock@mccarthy.ca](mailto:eblock@mccarthy.ca)

**H. Michael Rosenberg** LSO#58140U

[mrosenberg@mccarthy.ca](mailto:mrosenberg@mccarthy.ca)

**Stephanie Willsey** LSO#77866J

[swillsey@mccarthy.ca](mailto:swillsey@mccarthy.ca)

Tel: 416-601-7831

Fax: 416-868-0673

Lawyers for the Plaintiffs

**SCHEDULE D**  
**FORM OF BAND COUNCIL ACCEPTANCE RESOLUTION**

*See attached.*

**[Name of First Nation]**

**Band Council Resolution**

*Regarding the Settlement Agreement for the  
Class Action Litigation on Drinking Water Advisories on First Nations Lands*

**WHEREAS** certain plaintiffs commenced a court action styled as *Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation and Chief Christopher Moonias on his own behalf and on behalf of all members of Neskantaga First Nation v Attorney General of Canada*, Court File No. T-1673-19, in the Federal Court on October 11, 2019 (the “**Federal Action**”);

**AND WHEREAS** certain plaintiffs commenced a court action styled *Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation v Attorney General of Canada*, Court File No. CI-19-01-24661, in the Manitoba Court of Queen’s Bench on November 20, 2019 (the “**Manitoba Action**”, and together with the Federal Action, the “**Actions**”);

**AND WHEREAS** the Actions were certified by the respective courts as class proceedings;

**AND WHEREAS** the Attorney General of Canada and the plaintiffs in the Actions have negotiated a settlement agreement (the “**Settlement Agreement**”) in respect of the Actions;

**AND WHEREAS** the Settlement Agreement provides that a First Nation that is a member of the class described in the Actions (the “**Class**”) may provide the administrator appointed by the courts under the Settlement Agreement (the “**Administrator**”) with notice of acceptance by that First Nation of the Settlement Agreement and thereby become entitled to certain compensation and benefits under the Settlement Agreement available to First Nation Class members;

**AND WHEREAS** **[Name of First Nation]** is a member of the Class and the **[Name of First Nation Council]** (the “**Council**”) wishes to confirm and approve the acceptance of the Settlement Agreement by **[Name of First Nation]** by passing this Band Council Resolution at a properly constituted meeting called for this purpose;

**BE IT HEREBY RESOLVED THAT:**

1. The Council hereby directs and authorizes Chief **[Name of Chief]**, on behalf of the **[Name of First Nation]**, to approve and accept the Settlement Agreement, a copy of which was reviewed by the signatories below on behalf of the Council, and the Council hereby further directs and authorizes such signing authority to deliver an executed copy of this Band Council Resolution to the Administrator to confirm acceptance of the Settlement Agreement by **[Name of First Nation]**. The Council hereby acknowledges and confirms that no further actions are required by Council to accept the Settlement Agreement.
2. The Council hereby directs and authorizes the Chief, on behalf of the **[Name of First Nation]**, from time to time, to execute and deliver these resolutions and such further documents and instruments and do all acts and things as may be reasonably necessary

to carry out and give effect to the Settlement Agreement, including, if the Chief determines appropriate, a confirmation of the individual class members resident on a **[Name of First Nation]** reserve while a long-term drinking water advisory was in force on that reserve during the period applicable to the Settlement Agreement.

3. These resolutions may be signed by the Chief and Council members in as many counterparts as may be necessary, in original or electronic form, each of which so signed shall be deemed to be an original, and such counterparts together shall constitute one and the same resolution.

The signatories below hereby certify and warrant that a quorum of Council has signed this Band Council Resolution as evidenced by their signatures below.

**DATED** as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
[insert name]

**SCHEDULE E**  
**FORM OF BAND COUNCIL CONFIRMATION**

*See attached.*

**[Name of First Nation]**

**Band Council Confirmation**

*Regarding the Settlement Agreement for the  
Class Action Litigation on Drinking Water Advisories on First Nations Lands*

Reference is made to the settlement agreement (the “**Settlement Agreement**”) dated September [●], 2021, between the Attorney General of Canada (“**Canada**”), Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation; Chief Wayne Moonias and Former Chief Christopher Moonias on their own behalf and on behalf of all members of Neskantaga First Nation, and Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation. Capitalized terms used but not defined in this Band Council Confirmation have the meanings given to them in the Settlement Agreement.

In accordance with the Settlement Agreement, a First Nation Class Member may provide the Administrator with a declaration identifying Individual Class Members who were ordinarily resident on a Reserve of that First Nation Class Member between November 20, 1995, and June 20, 2021 while a Long-Term Drinking Water Advisory was in place on that Reserve (collectively, the “**Identified Class Members**”). Ordinarily resident means that a person lived on the Reserve more than that person lived anywhere else, or a person who was eighteen (18) years of age or younger at the applicable time and habitually lived on an affected Reserve but lived elsewhere for a portion of the year to attend an educational facility. Identified Class Members must have been ordinarily resident on the Reserve for at least one year during a period in which a Long-Term Drinking Water Advisory was in effect.

**[Name of First Nation]** is a First Nation Class Member. **[Name of First Nation Council]** (the “**Council**”) hereby declares that attached to this Band Council Confirmation as **Appendix “A”** is a list of Identified Class Members at **[Name of First Nation]**.

**DATED** as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
**[insert name]**

\_\_\_\_\_

\_\_\_\_\_





**SCHEDULE F**  
**CLAIMS PROCESS**

**CLAIMS FORMS**

1. Upon the appointment of the Administrator, the Parties shall provide to the Administrator a list or lists in electronic spreadsheet format (the “**List**”) identifying, to the best of the Parties’ knowledge:
  - (a) the First Nations eligible to become First Nations Class Members should they accept the Agreement by the Acceptance Deadline;
  - (b) the contact information for the band office or similar office of the First Nations in subsection (a);
  - (c) the Reserve(s) affected, and the dates on which Drinking Water Advisories that lasted at least one (1) year were in effect for each First Nation in subsection (a);
  - (d) whether each of the Drinking Water Advisories in subsection (c) was a Boil Water Advisory, Do Not Consume Advisory, or Do Not Use Advisory; and
  - (e) whether the First Nations in subsection (a) are Remote or Non-Remote First Nations.
2. Promptly after receipt of the List, the Administrator shall send a Claims Form to each band office or similar office identified in subsection 1(b) with a request that a copy of the Claims Form be provided to members of that First Nation. The Administrator shall send the Claims Forms by email or, if no email address is provided, by regular mail if an address is provided. If an email is undelivered or undeliverable, the Administrator shall send the Claims Form by regular mail. If regular mail is undelivered or undeliverable, the Administrator shall have no further obligation to make efforts to provide a copy of the Claims Form to that First Nation.
3. Promptly after receipt of the List, the Administrator shall use all reasonable efforts to retain a community liaison from each First Nation on the List, or an appropriate tribal council, for the purposes of making all reasonable efforts to:
  - (a) provide Claims Forms to members of that First Nation;
  - (b) encourage eligible members of that First Nation to submit Claims Forms;
  - (c) assist members of that First Nation with the completion and submission of their Claims Forms, including by referring them to the Administrator;
  - (d) advise First Nation Class Members that they must give notice of Acceptance if they wish to participate in the Agreement; and

- (e) advise First Nation Class Members that they can submit a Band Council Confirmation, if they wish.
- 4. The Administrator shall make the Claims Form available on its website and shall email or mail a Claims Forms to any person who requests one.
- 5. The Administrator shall include a postage paid return envelope with every Claims Form sent by mail.
- 6. The Administrator shall maintain a database of all Claims Forms and Band Council Confirmations it receives. If the Parties receive Claims Forms or Band Council Confirmations, they shall immediately forward them to the Administrator.
- 7. Upon receipt of a Claims Form or Band Council Confirmation, the Administrator shall examine the Claims Form or Band Council Confirmation, as applicable, to determine if it is complete, and if it is not complete, the Administrator shall make all reasonable efforts to contact the Claimant or First Nation Class Member, as applicable, to obtain further information to complete the Claims Form or Band Council Confirmation. However, the Administrator will have discretion to accept minor deficiencies and if the Administrator accepts a Claims Form or Band Council Confirmation with minor deficiencies, the Administrator need not contact the Claimant or First Nation Class Member for more information. Claimants and First Nation Class Members will have ninety (90) days from the date on which they are contacted to address any identified deficiencies, failing which the Administrator will provide to the Claimant or the First Nation Class Member, as applicable, in writing its refusal to accept the Claims Form or the Band Council Confirmation and the reason for its refusal. Notwithstanding the foregoing, the Administrator may accept such part of an incomplete Band Council Confirmation that provides sufficient information to make an Eligibility Decision.
- 8. Where a Claims Form or Band Council Confirmation contains minor omissions or errors, the Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Administrator.
- 9. Each Claimant may only submit one (1) Claims Form in respect of all such Claimant's Claims, and an Estate Executor, Estate Claimant, or Personal Representative may submit only one (1) Claims Form on behalf of a particular Claimant.

#### **ELIGIBILITY DECISIONS FOR INDIVIDUAL CLASS MEMBERS**

- 10. Promptly on receipt of a Claims Form, the Administrator shall make an Eligibility Decision in accordance with the Agreement with reference to the Claims Form, the List, any relevant Band Council Confirmation, any other information received from the Parties, and other information the Administrator considers appropriate. Promptly on receipt of a Band Council Confirmation, the Administrator shall make Eligibility Decisions in accordance with the Agreement (including Section 7.02(2)) with respect to the Claimants identified therein, with reference to the Band Council Confirmation, any Claims Forms received in respect of the Claimants listed in the Band Council Confirmation, the List, any other information received from the Parties, and other information the Administrator considers appropriate.

11. If a Claims Form or Band Council Confirmation indicates that the Claimant was Ordinarily Resident on a Reserve that is on the List for at least one (1) year during a Long-Term Drinking Water Advisory, but the Claimant is a member of a First Nation that is not an Impacted First Nation, the Claimant is nevertheless eligible for inclusion in the Class. If a Claims Form or Band Council Confirmation indicates that the Claimant was Ordinarily Resident on a Reserve that is not on the List, and which the Administrator has not previously considered, the Administrator:
  - (a) shall consult with the Settlement Implementation Committee before determining whether the Reserve should be added to the List on the basis that it was subject to a Long-Term Drinking Water Advisory during the Class Period, and if so, when the Reserve was subject to a Long-Term Drinking Water Advisory; and
  - (b) may request further information or evidence before making an Eligibility Decision.
12. If the Administrator determines that that the Claimant is not an Individual Class Member, the Administrator shall promptly inform the Claimant:
  - (a) of the Administrator's decision;
  - (b) the reasons for the Administrator's decision that the Claimant is not an Individual Class Member; and
  - (c) that the Claimant may appeal the Administrator's decision to the Third-Party Assessor in accordance with this Claims Process and the Agreement.

#### **INDIVIDUAL CLASS MEMBER COMPENSATION**

13. If the Administrator makes an Eligibility Decision that a Claimant is an Individual Class Member in accordance with the Agreement, the Administrator shall quantify the amount payable to that Individual Class Member from the Trust Fund in accordance with Section 8.01 and Schedule G of the Agreement, the Administrator shall request such funds from the Trustee, the Trustee shall pay such funds to the Administrator, and the Administrator shall pay such funds in accordance with the Agreement.
14. When the Administrator pays compensation in accordance with Section 8.01 of the Agreement and Section 13 of this Schedule F, the Administrator shall also inform the Individual Class Member:
  - (a) how the amount paid was calculated; and
  - (b) that the Individual Class Member may appeal the Administrator's quantification of the amount payable to the Third-Party Assessor in accordance with this Claims Process and the Agreement.

#### **SPECIFIED INJURIES COMPENSATION**

15. On reasonable request, Class Counsel shall assist a Claimant with their claim for Specified Injuries Compensation or their appeal from a Specified Injuries Decision at no

additional cost to the Claimant, and Class Counsel's fees shall be payable in accordance with Section 18.02 of the Agreement.

16. A Confirmed Individual Class Member is eligible for Specified Injuries Compensation if they meet the criteria in Section 8.02 of the Agreement.
17. To support their claim for Specified Injuries Compensation, a Claimant may, at their option, submit some or all of the following to the Administrator with their Claims Form:
  - (a) medical records of the injury and its cause;
  - (b) other records, including written records, photographs, and videos, of the injury and its cause;
  - (c) a written statement; and
  - (d) oral testimony.
18. For greater certainty, the process of claiming compensation for Specified Injuries is intended to be non-traumatizing and Section 17 of this Schedule F does not prevent a Claimant from establishing their eligibility for Specified Injuries Compensation on the basis of their Claims Form alone.
19. If a Claimant claims Specified Injuries Compensation but the Administrator determines that said Claimant is not entitled to Specified Injuries Compensation for the injuries claimed because the injuries are not contemplated in the Specified Injuries Compensation Grid, the Administrator shall promptly comply with Section 7.04 of the Agreement.
20. If a Claimant claims Specified Injuries Compensation but the Administrator determines that said Claimant is not entitled to Specified Injuries Compensation for the injuries claimed for any reason other than the fact that the injuries are not contemplated in the Specified Injuries Compensation Grid, the Administrator shall promptly inform said Claimant:
  - (a) of the Administrator's decision;
  - (b) the reasons for the Administrator's decision that the Claimant is not entitled to Specified Injuries Compensation; and
  - (c) that the Claimant may appeal the Administrator's decision to the Third-Party Assessor in accordance with this Claims Process and the Agreement.
21. If the Administrator determines that a Confirmed Individual Class Member is entitled to Specified Injuries Compensation, the Administrator shall quantify the amount payable to that Confirmed Individual Class Member from the Specified Injuries Compensation Fund in accordance with Section 8.02 of the Agreement and Schedule H.
22. Payment of Specified Injuries Compensation will be made as provided in Section 8.02 of the Agreement. The Administrator shall request such funds from the Trustee, the

Trustee shall pay such funds to the Administrator, and the Administrator shall pay such funds in accordance with the Agreement.

23. When the Administrator pays Specified Injuries Compensation to a Confirmed Individual Class Member in accordance with Section 8.02 of the Agreement and this Schedule F, the Administrator shall also inform the Confirmed Individual Class Member:
  - (a) of how the amount paid was calculated; and
  - (b) that the Individual Class Member may appeal the Administrator's quantification of the amount payable to the Third-Party Assessor in accordance with this Claims Process and the Agreement.

#### **FIRST NATIONS CLASS MEMBER DAMAGES**

24. Upon receipt of an Acceptance, the Administrator shall determine whether the First Nation is eligible to be a First Nation Class Member. Inclusion on the List is conclusive proof that the First Nation is eligible to be a First Nation Class Member. If the First Nation is not on the List, the Administrator:
  - (a) shall consult with the Settlement Implementation Committee before determining whether the First Nation is eligible to be a First Nation Class Member; and
  - (b) may request additional information or evidence before making the determination as to whether a First Nation is eligible to be a First Nation Class Member.
25. If the Administrator determines that that a First Nation is not a First Nation Class Member under Section 24 of this Schedule F, the Administrator shall promptly inform the First Nation:
  - (a) of the Administrator's decision;
  - (b) of the reasons for the Administrator's decision that the First Nation is not a First Nation Class Member; and
  - (c) that the First Nation may appeal the Administrator's decision to the Third-Party Assessor in accordance with this Claims Process and the Agreement.
26. If the Administrator determines that a First Nation that has submitted an Acceptance is a First Nations Class Member, the Administrator shall pay the Base Payment and First Nation Damages in accordance with Section 8.03 of the Agreement. The Administrator shall request such funds from the Trustee, the Trustee shall pay such funds to the Administrator, and the Administrator shall pay such funds in accordance with the Agreement.
27. Whenever the Administrator pays First Nation Damages to a First Nation Class Member, the Administrator shall inform the First Nation Class Member:
  - (a) of how it calculated the amount paid; and

- (b) that the First Nation Class Member may appeal the Administrator's quantification of the amount payable to the Third-Party Assessor in accordance with this Claims Process and the Agreement.

## **APPEALS**

- 28. When a Claimant, Individual Class Member, First Nation, or First Nation Class Member, as the case may be (an "**Appellant**"), wants to appeal a decision of the Administrator, the Appellant shall within sixty (60) days of receiving the Administrator's decision provide to the Administrator a written statement identifying the decision the Appellant wants to appeal and the reasons why the Appellant believes that the Administrator erred.
- 29. The Administrator shall immediately forward the materials it receives under Section 28 of this Schedule F to the Third-Party Assessor for determination.
- 30. When considering an appeal, the Third-Party Assessor may consult the Appellant, the Administrator, and the Settlement Implementation Committee. Without limitation, the Third-Party Assessor may request evidence from the Appellant and the Administrator.
- 31. The Third-Party Assessor shall adjudicate an appeal as soon as practicable.
- 32. Upon making a decision, the Third-Party Assessor shall promptly inform the Appellant and the Administrator:
  - (a) of the Third-Party Assessor's decision; and
  - (b) the reasons for the Third-Party Assessor's decision.
- 33. A decision of the Third-Party Assessor is final and not subject to appeal or review.
- 34. For greater certainty, there is no right of appeal to the Third-Party Assessor where an Individual Class Member claims Specified Injuries Compensation for injuries that the Administrator determines are not contemplated in the Specified Injuries Compensation Grid. Instead, Section 7.04 of the Agreement applies.

## **GENERAL**

- 35. Unless otherwise specified in the Agreement or this Claims Process, the standard of proof in all cases shall be a balance of probabilities in accordance with the Agreement, and the Third-Party Assessor shall apply a standard of review of correctness in accordance with the Agreement. For greater certainty, for the Administrator or Third-Party Assessor to conclude that a Claimant or First Nation is eligible for compensation, in accordance with the Agreement and unless otherwise specified in the Agreement or this Claims Process, the Administrator or Third-Party Assessor must conclude that it is more likely than not that the Claimant or First Nation is eligible for compensation on the information available to the Administrator or Third-Party Assessor.
- 36. To determine whether (i) a Claimant is an Individual Class Member and eligible for compensation under the Agreement or (ii) a First Nation is a First Nation Class Member, the Administrator and Third-Party Assessor may:

- (a) request more information from a Claimant, a First Nation or the Parties; and
  - (b) interview a Claimant or representative of a First Nation.
37. The Parties may amend this Claims Process on consent to make procedural changes, such as the extension of time, and to adopt protocols and procedures, without obtaining Court approval, so long as such amendments do not substantively affect the rights and remedies set out in the Claims Process. The Parties shall obtain the Courts' approval of substantive changes to this Claims Process.
38. The Administrator shall provide a bilingual (English and French) toll-free support line to assist Claimants, their families, their guardians, or other persons who make inquiries on behalf of Claimants.
39. After the distribution, in accordance with this Agreement, of the:
- (a) Trust Fund, including any Trust Fund Surplus;
  - (b) Specified Injuries Compensation Fund; and
  - (c) First Nations Economic and Cultural Restoration Fund,
- the Administrator shall apply to be discharged and shall file with the Courts a report in accordance with Section 21.02 of the Agreement, containing its best information respecting the following:
- (d) the total number of Individual Class Members and First Nation Class Members;
  - (e) the number of Claimants who submitted a Claims Form and the number who were paid Individual Damages;
  - (f) the number of Claimants who applied for Specified Injuries Compensation and the number who were paid Specified Injuries Compensation;
  - (g) the number of First Nations Class Members who provided Acceptance of the Agreement;
  - (h) the amounts distributed to Class Members or on behalf of Class Members, as Individual Damages, Specified Injuries Compensation, or First Nation Damages, and a description of how the amounts were distributed;
  - (i) the number of Claims by First Nation and the amounts paid by First Nation; and
  - (j) the costs associated with the Administrator's work.
40. Any Party or the Administrator may move to have any part of the report contemplated by Section 39 of this Schedule F placed under seal.
41. Upon being discharged as Administrator, the Administrator shall retain in hard copy or electronic form all documents relating to a Claim for two (2) years, after which the Administrator shall destroy the documents.

## SCHEDULE G

### INDIVIDUAL DAMAGES: COMPENSATION GRID

**Joint Committee to determine actual figures on the advice of an actuary or a similar advisor**

	Compensation
Long-Term Drinking Water Advisory – Remote First Nation	\$2,000 per year
Long-Term Drinking Water Advisory: Do Not Use Advisory – Non-Remote First Nation	\$2,000 per year
Long-Term Drinking Water Advisory: Do Not Consume Advisory – Non-Remote First Nation	\$1,650 per year
Long-Term Drinking Water Advisory: Boil Water Advisory – Non-Remote First Nation	\$1,300 per year

**SCHEDULE H**

**SPECIFIED INJURIES: COMPENSATION GRID**

<b>Category</b>	<b>Specified Injury</b>	<b>Exemplar Symptoms</b>	<b>Level 1</b>	<b>Level 2</b>
			<p><i>Significant and prolonged disruption to health, well-being and/or daily activities that: (a) persisted for a minimum of one month; (b) impaired the Claimant's quality of life; and (c) for which the Claimant sought treatment from a health practitioner, including traditional healers, medicine-people, elders, community health leaders, shamans, or knowledge keepers (total compensation for all such injuries)</i></p>	<p><i>Level 1 effects that: (a) persisted for a minimum of one year; (b) seriously impaired the Claimant's health and daily activities; and (c) for which the Claimant sought and received treatment from a health practitioner, including traditional healers or medicine-people (total compensation for all such injuries)</i></p>

Gastroenterological	<p>Ingestion of bacteria (<i>Escherichia coli</i>, <i>Salmonella</i>, <i>Shigella</i>, <i>Campylobacter jejuni</i>, <i>Cholera</i>, <i>Giardia lamblia</i>, <i>Cryptosporidium</i>, <i>Cyanobacteria</i> (blue-green algae) toxins, <i>Total coliforms</i>, <i>Helicobacter pylori</i>)</p> <p>Viral infection (<i>rotavirus</i>, <i>norovirus</i>, <i>hepatitis A</i>)</p> <p>Ingestion of chemicals in quantities harmful to human health: <i>arsenic</i>, <i>atrazine</i>, <i>diquat copper</i>, <i>lead</i>, <i>fluoride</i>, <i>glyphosate</i>, <i>nitrite</i>, <i>nitrate</i>, <i>phorate</i>, <i>chromium</i>, <i>sulphate</i></p> <p>Stomach ulcers</p>	Stomach cramps, nausea, diarrhea, vomiting, abdominal pain, dehydration, constipation	\$5,000	\$20,000
Respiratory/ Breathing	<p>Chlorine toxicity</p> <p>Ingestion of chemicals in quantities harmful to human health: <i>nitrite</i>, <i>nitrate</i></p>	Significant trouble breathing, painfully irritated airways or lungs (may be accompanied by irritated eyes), significant chest pain, shortness of breath, blue skin	\$20,000	\$50,000
Dermatological	<p>Skin infections (<i>Staphylococcus aureus</i>, <i>Streptococcus pyogenes</i>)</p> <p>Dermal lesions</p>	Cellulitis, boils (furuncles), dermal lesions, skin pigmentation,	\$10,000	\$25,000

	Chlorine toxicity	necrotizing fasciitis		
Mental Health	Major depressive disorder; persistent depressive disorder (dysthymia); panic disorder; alcohol use disorder; cannabis use disorder; tobacco use disorder; sedative, hypnotic, anxiolytic use disorder; post-traumatic stress disorder; specific phobia; adjustment disorder; generalized anxiety disorder	See Appendix "H-1"	\$15,000	\$30,000
Liver	<p>Viral Infection (<i>hepatitis A</i>)</p> <p>Ingestion of bacteria (<i>cyanobacteria (blue-green algae) toxins</i>)</p> <p>Liver damage (<i>cysts, lesions, toxicity</i>)</p> <p>Ingestion of chemicals in quantities harmful to human health: <i>antimony, bromoxynil, carbon tetrachloride, copper, dicamba dichloromethane, 1,1-dichloroethylene, 2,4-dichlorophenol, diclofop-methyl, ethylbenzene, haloacetic acids (HAAs), metachlor, metribuzin, paraquat, pentachlorophenol, perfluorooctane sulfonate, perfluorooctanoic acid, picloram, vinyl chloride, benzo(a)pyrene, metachlor, trifluralin trihalomethanes (THMs)</i></p>	Discolouration of eyes and skin, swelling in legs and ankles, chronic fatigue, loss of appetite, abdominal pain, liver inflammation, liver failure	\$35,000	\$80,000 (if liver failure)

Neurological	Ingestion of chemicals in quantities harmful to human health: <i>azinphos-methyl, chlorite, dimethoate, lead, malathion, manganese, mercury, phorate, toluene</i>	Irritability, poor attention span, headache, insomnia, dizziness, memory loss, IQ deficits, behavioral effects in children	\$20,000	\$50,000
Kidney	Ingestion of chemicals in quantities harmful to human health: <i>antimony, barium, bromate, cadmium, copper, 2,4-dichlorophenoxy acetic acid, 2-methyl-4-chlorophenoxyacetic acid, diquat, malathion, nitrilotriacetic acid, paraquat, pentachlorophenol, picloram, trihalomethanes (THMs), uranium</i>	Kidney damage, kidney lesions, kidney failure	\$25,000	\$65,000 (if kidney failure)
Bloodstream infections, including infective endocarditis	Infections contracted from using water for injections/syringes/needles	Aching joints and muscles, chest pain, fatigue, flu-like symptoms, night sweats, shortness of breath, lower body swelling, heart murmurs	\$20,000	\$80,000 (if infective endocarditis )
Tumors/Cancer	Ingestion of chemicals in quantities harmful to human health	Tumors, cancer	\$40,000	\$100,000

**Appendix H-1**  
**Mental Health Exemplar Symptoms**

<ul style="list-style-type: none"> <li>• Major Depressive Disorder</li> </ul>	<p>A. Five (or more) of the following symptoms have been present during the same 2-week period and represent a change from previous functioning; at least one of the symptoms is either (1) depressed mood or (2) loss of interest or pleasure.</p> <p>Do not include symptoms that are clearly attributable to another medical condition.</p> <ol style="list-style-type: none"> <li>1. Depressed mood most of the day, nearly every day, as indicated by either subjective report (e.g., feels sad, empty, hopeless) or observation made by others (e.g., appears tearful). (Note: In children and adolescents, can be irritable mood.)</li> <li>2. Markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation).</li> <li>3. Significant weight loss when not dieting or weight gain (e.g., a change of more than 5% of body weight in a month), or decrease or increase in appetite nearly every day. (Note: In children, consider failure to make expected weight gain.)</li> <li>4. Insomnia or hypersomnia nearly every day.</li> <li>5. Psychomotor agitation or retardation nearly every day (observable by others, not merely subjective feelings of restlessness or being slowed down).</li> <li>6. Fatigue or loss of energy nearly every day.</li> <li>7. Feelings of worthlessness or excessive or inappropriate guilt (which may be delusional) nearly every day (not merely self-reproach or guilt about being sick).</li> <li>8. Diminished ability to think or concentrate, or indecisiveness, nearly every day (either by subjective account or as observed by others).</li> <li>9. Recurrent thoughts of death (not just fear of dying), recurrent suicidal ideation without a specific plan, or a suicide attempt or a specific plan for committing suicide.</li> </ol> <p>B. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.</p> <p>C. The episode is not attributable to the physiological effects of a substance or another medical condition.</p>
<ul style="list-style-type: none"> <li>• Persistent Depressive Disorder (Dysthymia)</li> </ul>	<p>This disorder represents a consolidation of DSM-IV-defined chronic major depressive disorder and dysthymic disorder.</p> <p>A. Depressed mood for most of the day, for more days than not, as indicated by either subjective account or observation by others, for at least 2 years.</p> <p><b>Note:</b> In children and adolescents, mood can be irritable and duration must be at least 1 year.</p> <p>B. Presence, while depressed, of two (or more) of the following:</p> <ol style="list-style-type: none"> <li>1. Poor appetite or overeating.</li> <li>2. Insomnia or hypersomnia.</li> <li>3. Low energy or fatigue.</li> </ol>

	<ul style="list-style-type: none"> <li>4. Low self-esteem.</li> <li>5. Poor concentration or difficulty making decisions.</li> <li>6. Feelings of hopelessness.</li> </ul> <p>C. During the 2-year period (1 year for children or adolescents) of the disturbance, the individual has never been without the symptoms in Criteria A and B for more than 2 months at a time.</p> <p>D. Criteria for a major depressive disorder may be continuously present for 2 years.</p> <p>E. There has never been a manic episode or a hypomanic episode, and criteria have never been met for cyclothymic disorder.</p> <p>F. The disturbance is not better explained by a persistent schizoaffective disorder, schizophrenia, delusional disorder, or other specified or unspecified schizophrenia spectrum and other psychotic disorder.</p> <p>G. The symptoms are not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition (e.g., hypothyroidism).</p> <p>H. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.</p>
<ul style="list-style-type: none"> <li>• Panic Disorder</li> </ul>	<p>A. Recurrent unexpected panic attacks. A panic attack is an abrupt surge of intense fear or intense discomfort that reaches a peak within minutes, and during which time four (or more) of the following symptoms occur:</p> <p><b>Note:</b> The abrupt surge can occur from a calm state or an anxious state.</p> <ul style="list-style-type: none"> <li>1. Palpitations, pounding heart, or accelerated heart rate.</li> <li>2. Sweating.</li> <li>3. Trembling or shaking.</li> <li>4. Sensations of shortness of breath or smothering.</li> <li>5. Feelings of choking.</li> <li>6. Chest pain or discomfort.</li> <li>7. Nausea or abdominal distress.</li> <li>8. Feeling dizzy, unsteady, light-headed, or faint.</li> <li>9. Chills or heat sensations.</li> <li>10. Paresthesias (numbness or tingling sensations).</li> <li>11. Derealization (feelings of unreality) or depersonalization (being detached from oneself).</li> <li>12. Fear of losing control or “going crazy.”</li> <li>13. Fear of dying.</li> </ul> <p><b>Note:</b> Culture-specific symptoms (e.g., tinnitus, neck soreness, headache, uncontrollable screaming or crying) may be seen. Such symptoms should not count as one of the four required symptoms.</p> <p>B. At least one of the attacks has been followed by 1 month (or more) of one or both of the following:</p> <ul style="list-style-type: none"> <li>1. Persistent concern or worry about additional panic attacks or their consequences (e.g., losing control, having a heart attack, “going crazy”).</li> <li>2. A significant maladaptive change in behavior related to the attacks (e.g., behaviors designed to avoid having panic attacks, such as avoidance of exercise or unfamiliar situations).</li> </ul>

	<p>C. The disturbance is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition (e.g., hyperthyroidism, cardiopulmonary disorders).</p> <p>D. The disturbance is not better explained by another mental disorder (e.g., the panic attacks do not occur only in response to feared social situations, as in social anxiety disorder; in response to circumscribed phobic objects or situations, as in specific phobia; in response to obsessions, as in obsessive-compulsive disorder; in response to reminders of traumatic events, as in posttraumatic stress disorder; or in response to separation from attachment figures, as in separation anxiety disorder).</p>
<p>• Alcohol Use Disorder</p>	<p>A. A problematic pattern of alcohol use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:</p> <ol style="list-style-type: none"> <li>1. Alcohol is often taken in larger amounts or over a longer period than was intended.</li> <li>2. There is a persistent desire or unsuccessful efforts to cut down or control alcohol use.</li> <li>3. A great deal of time is spent in activities necessary to obtain alcohol, use alcohol, or recover from its effects.</li> <li>4. Craving, or a strong desire or urge to use alcohol.</li> <li>5. Recurrent alcohol use resulting in a failure to fulfil major role obligations at work, school, or home.</li> <li>6. Continued alcohol use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol.</li> <li>7. Important social, occupational, or recreational activities are given up or reduced because of alcohol use</li> <li>8. Recurrent alcohol use in situations in which it is physically hazardous</li> <li>9. Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol</li> <li>10. Tolerance, as defined by either of the following: <ol style="list-style-type: none"> <li>a. A need for markedly increased amounts of alcohol to achieve intoxication or desired effect.</li> <li>b. A markedly diminished effect with continued use of the same amount of alcohol</li> </ol> </li> <li>11. Withdrawal, as manifested by either of the following: <ol style="list-style-type: none"> <li>a. The characteristic withdrawal syndrome for alcohol (refer to DSM-5 for further details).</li> <li>b. Alcohol (or a closely related substance, such as a benzodiazepine) is taken to relieve or avoid withdrawal symptoms.</li> </ol> </li> </ol>
<p>• Cannabis Use Disorder</p>	<p>A. A problematic pattern of cannabis use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:</p> <ol style="list-style-type: none"> <li>1. Cannabis is often taken in larger amounts or over a longer period than was intended.</li> </ol>

	<ol style="list-style-type: none"> <li>2. There is a persistent desire or unsuccessful efforts to cut down or control cannabis use.</li> <li>3. A great deal of time is spent in activities necessary to obtain cannabis, use cannabis, or recover from its effects.</li> <li>4. Craving, or a strong desire or urge to use cannabis.</li> <li>5. Recurrent cannabis use resulting in a failure to fulfil major role obligations at work, school, or home.</li> <li>6. Continued cannabis use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of cannabis.</li> <li>7. Important social, occupational, or recreational activities are given up or reduced because of cannabis use.</li> <li>8. Recurrent cannabis use in situations in which it is physically hazardous.</li> <li>9. Cannabis use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by cannabis.</li> <li>10. Tolerance, as defined by either of the following: <ol style="list-style-type: none"> <li>a. A need for markedly increased amounts of cannabis to achieve intoxication or desired effect.</li> <li>b. A markedly diminished effect with continued use of the same amount of cannabis.</li> </ol> </li> <li>11. Withdrawal, as manifested by either of the following: <ol style="list-style-type: none"> <li>a. The characteristic withdrawal syndrome for cannabis (refer to DSM-5 for further details).</li> <li>b. Cannabis (or a closely related substance) is taken to relieve or avoid withdrawal symptoms.</li> </ol> </li> </ol>
<ul style="list-style-type: none"> <li>• Tobacco Disorder</li> </ul>	<p style="text-align: center;">Use</p> <p>A. A problematic pattern of tobacco use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:</p> <ol style="list-style-type: none"> <li>1. Tobacco is often taken in larger amounts or over a longer period than was intended.</li> <li>2. There is a persistent desire or unsuccessful efforts to cut down or control tobacco use.</li> <li>3. A great deal of time is spent in activities necessary to obtain or use tobacco.</li> <li>4. Craving, or a strong desire or urge to use tobacco.</li> <li>5. Recurrent tobacco use resulting in a failure to fulfill major role obligations at work, school, or home.</li> <li>6. Continued tobacco use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of tobacco (e.g., arguments with others about tobacco use).</li> <li>7. Important social, occupational, or recreational activities are given up or reduced because of tobacco use.</li> <li>8. Recurrent tobacco use in situations in which it is physically hazardous (e.g., smoking in bed).</li> <li>9. Tobacco use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by tobacco.</li> <li>10. Tolerance, as defined by either of the following:</li> </ol>

	<ul style="list-style-type: none"> <li>a. A need for markedly increased amounts of tobacco to achieve the desired effect.</li> <li>b. A markedly diminished effect with continued use of the same amount of tobacco.</li> </ul> <p>11. Withdrawal, as manifested by either of the following:</p> <ul style="list-style-type: none"> <li>a. The characteristic withdrawal syndrome for tobacco (refer to Criteria A and B of the criteria set for tobacco withdrawal).</li> <li>b. Tobacco (or a closely related substance, such as nicotine) is taken to relieve or avoid withdrawal symptoms.</li> </ul>
<ul style="list-style-type: none"> <li>• Sedative, Hypnotic, or Anxiolytic Use Disorder</li> </ul>	<p>A. A problematic pattern of sedative, hypnotic, or anxiolytic use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:</p> <ul style="list-style-type: none"> <li>1. Sedatives, hypnotics, or anxiolytics are often taken in larger amounts or over a longer period than was intended.</li> <li>2. There is a persistent desire or unsuccessful efforts to cut down or control sedative, hypnotic, or anxiolytic use.</li> <li>3. A great deal of time is spent in activities necessary to obtain the sedative, hypnotic, or anxiolytic; use the sedative, hypnotic, or anxiolytic; or recover from its effects.</li> <li>4. Craving, or a strong desire or urge to use the sedative, hypnotic, or anxiolytic.</li> <li>5. Recurrent sedative, hypnotic, or anxiolytic use resulting in a failure to fulfill major role obligations at work, school, or home (e.g. - repeated absences from work or poor work performance related to sedative, hypnotic, or anxiolytic use; sedative-, hypnotic-, or anxiolytic-related absences, suspensions, or expulsions from school; neglect of children or household).</li> <li>6. Continued sedative, hypnotic, or anxiolytic use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of sedatives, hypnotics, or anxiolytics (e.g. -arguments with a spouse about consequences of intoxication; physical fights).</li> <li>7. Important social, occupational, or recreational activities are given up or reduced because of sedative, hypnotic, or anxiolytic use.</li> <li>8. Recurrent sedative, hypnotic, or anxiolytic use in situations in which it is physically hazardous (e.g. - driving an automobile or operating a machine when impaired by sedative, hypnotic, or anxiolytic use).</li> <li>9. Sedative, hypnotic, or anxiolytic use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the sedative, hypnotic, or anxiolytic.</li> <li>10. Tolerance, as defined by either of the following; <ul style="list-style-type: none"> <li>a. A need for markedly increased amounts of the sedative, hypnotic, or anxiolytic to achieve intoxication or desired effect.</li> </ul> </li> </ul>

	<p>b. A markedly diminished effect with continued use of the same amount of the sedative, hypnotic, or anxiolytic.</p> <p><b>Note:</b> This criterion is not considered to be met for individuals taking sedatives, hypnotics, or anxiolytics under medical supervision.</p> <p>11. Withdrawal, as manifested by either of the following:</p> <ol style="list-style-type: none"> <li>a. The characteristic withdrawal syndrome for sedatives, hypnotics, or anxiolytics (refer to Criteria A and B of the criteria set for sedative, hypnotic, or anxiolytic withdrawal).</li> <li>b. Sedatives, hypnotics, or anxiolytics (or a closely related substance, such as alcohol) are taken to relieve or avoid withdrawal symptoms.</li> </ol>
<ul style="list-style-type: none"> <li>• Posttraumatic Stress Disorder</li> </ul>	<p><b>Note:</b> The following criteria apply to adults, adolescents, and children older than 6 years. For children 6 years and younger, see corresponding criteria below.</p> <p>A. Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:</p> <ol style="list-style-type: none"> <li>1. Directly experiencing the traumatic event(s).</li> <li>2. Witnessing, in person, the event(s) as it occurred to others.</li> <li>3. Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.</li> <li>4. Experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (e.g., first responders collecting human remains; police officers repeatedly exposed to details of child abuse).</li> </ol> <p><b>Note:</b> Criterion A4 does not apply to exposure through electronic media, television, movies, or pictures, unless this exposure is work related.</p> <p>B. Presence of one (or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred:</p> <ol style="list-style-type: none"> <li>1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).</li> </ol> <p><b>Note:</b> In children older than 6 years, repetitive play may occur in which themes or aspects of the traumatic event(s) are expressed.</p> <ol style="list-style-type: none"> <li>2. Recurrent distressing dreams in which the content and/or affect of the dream are related to the traumatic event(s).</li> </ol> <p><b>Note:</b> In children, there may be frightening dreams without recognizable content.</p> <ol style="list-style-type: none"> <li>3. Dissociative reactions (e.g., flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings.)</li> </ol> <p><b>Note:</b> In children, trauma-specific re-enactment may occur in play.</p> <ol style="list-style-type: none"> <li>4. Intense or prolonged psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).</li> </ol>

	<ul style="list-style-type: none"><li>5. Marked physiological reactions to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).</li><li>C. Persistent avoidance of stimuli associated with the traumatic event(s), beginning after the traumatic event(s) occurred, as evidenced by one or both of the following:<ul style="list-style-type: none"><li>1. Avoidance of or efforts to avoid distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).</li><li>2. Avoidance of or efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).</li></ul></li><li>D. Negative alterations in cognitions and mood associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:<ul style="list-style-type: none"><li>1. Inability to remember an important aspect of the traumatic event(s) (typically due to dissociative amnesia, and not to other factors such as head injury, alcohol, or drugs).</li><li>2. Persistent and exaggerated negative beliefs or expectations about oneself, others, or the world (e.g., "I am bad," "No one can be trusted," "The world is completely dangerous," "My whole nervous system is permanently ruined").</li><li>3. Persistent, distorted cognitions about the cause or consequences of the traumatic event(s) that lead the individual to blame themselves or others.</li><li>4. Persistent negative emotional state (e.g., fear, horror, anger, guilt, or shame).</li><li>5. Markedly diminished interest or participation in significant activities.</li><li>6. Feelings of detachment or estrangement from others.</li><li>7. Persistent inability to experience positive emotions (e.g., inability to experience happiness, satisfaction, or loving feelings).</li></ul></li><li>E. Marked alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:<ul style="list-style-type: none"><li>1. Irritable behavior and angry outbursts (with little or no provocation), typically expressed as verbal or physical aggression toward people or objects.</li><li>2. Reckless or self-destructive behavior.</li><li>3. Hypervigilance.</li><li>4. Exaggerated startle response.</li><li>5. Problems with concentration.</li><li>6. Sleep disturbance (e.g., difficulty falling or staying asleep or restless sleep).</li></ul></li><li>F. Duration of the disturbance (Criteria B, C, D and E) is more than 1 month.</li><li>G. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.</li></ul>
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	H. The disturbance is not attributable to the physiological effects of a substance (e.g., medication, alcohol) or another medical condition.
• Specific Phobia	<p>A. Marked fear or anxiety about a specific object or situation (e.g., flying, heights, animals, receiving an injection, seeing blood).  <b>Note:</b> In children, the fear or anxiety may be expressed by crying, tantrums, freezing, or clinging.</p> <p>B. The phobic object or situation almost always provokes immediate fear or anxiety.</p> <p>C. The phobic object or situation is actively avoided or endured with intense fear or anxiety.</p> <p>D. The fear or anxiety is out of proportion to the actual danger posed by the specific object or situation and to the sociocultural context.</p> <p>E. The fear, anxiety, or avoidance is persistent, typically lasting for 6 months or more.</p> <p>F. The fear, anxiety, or avoidance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.</p> <p>G. The disturbance is not better explained by the symptoms of another mental disorder, including fear, anxiety, and avoidance of situations associated with panic-like symptoms or other incapacitating symptoms (as in agoraphobia); objects or situations related to obsessions (as in obsessive-compulsive disorder); reminders of traumatic events (as in posttraumatic stress disorder); separation from home or attachment figures (as in separation anxiety disorder); or social situations (as in social anxiety disorder).</p>
• Adjustment Disorder	<p>A. The development of emotional or behavioral symptoms in response to an identifiable stressor(s) occurring within 3 months of the onset of the stressor(s).</p> <p>B. These symptoms or behaviors are clinically significant, as evidenced by one or both of the following:</p> <ol style="list-style-type: none"> <li>1. Marked distress that is out of proportion to the severity or intensity of the stressor, taking into account the external context and the cultural factors that might influence symptom severity and presentation.</li> <li>2. Significant impairment in social, occupational, or other important areas of functioning.</li> </ol> <p>C. The stress-related disturbance does not meet the criteria for another mental disorder and is not merely an exacerbation of a pre-existing mental disorder.</p> <p>D. The symptoms do not represent normal bereavement.</p> <p>E. Once the stressor (or its consequences) has terminated, the symptoms do not persist for more than an additional 6 months.</p>
• Generalized Anxiety Disorder	<p>A. Excessive anxiety and worry (apprehensive expectation), occurring more days than not for at least 6 months, about a number of events or activities (such as work or school performance).</p> <p>B. The person finds it difficult to control the worry.</p> <p>C. The anxiety and worry are associated with three (or more) of the following six symptoms (with at least some symptoms having been present for more days than not for the past 6 months):</p>

**Note:** Only one item is required in children.

1. Restlessness or feeling keyed up or on edge.
  2. Being easily fatigued.
  3. Difficulty concentrating or mind going blank.
  4. Irritability.
  5. Muscle tension.
  6. Sleep disturbance (difficulty falling or staying asleep, or restless unsatisfying sleep).
- D. The anxiety, worry, or physical symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- E. The disturbance is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition (e.g., hyperthyroidism).
- F. The disturbance is not better explained by another mental disorder (e.g., anxiety or worry about having panic attacks in panic disorder, negative evaluation in social anxiety disorder [social phobia], contamination or other obsessions in obsessive-compulsive disorder, separation from attachment figures in separation anxiety disorder, reminders of traumatic events in posttraumatic stress disorder, gaining weight in anorexia nervosa, physical complaints in somatic symptom disorder, perceived appearance flaws in body dysmorphic disorder, having a serious illness in illness anxiety disorder, or the content of delusional beliefs in schizophrenia or delusional disorder).

**SCHEDULE I  
CLAIMS FORM**

*See attached.*

[●Settlement Website URL]

## DRINKING WATER CLASS ACTION CLAIMS FORM

### Caution:

**Filling out this Claims Form may be emotionally difficult or traumatic for some people.**

If you are experiencing emotional distress or need assistance completing this Claims Form, **please contact the Hope for Wellness Help Line** toll-free at 1-855-242-3310 or connect to the online chat at [hopeforwellness.ca](http://hopeforwellness.ca).

Free assistance with the Claims Form is available from the Administrator. Please contact [●].

This is the Claims Form for **individuals** claiming personal compensation.

**First Nations governments** that want compensation for the community as a whole must give notice that they accept the Settlement and should not complete this form. Please visit [●URL] or contact [●] for more information.

# **DRINKING WATER CLASS ACTION CLAIMS FORM**

You may be eligible for compensation if:

1. you are a member of a First Nation; and
2. for at least one year between November 20, 1995, and June 20, 2021, you ordinarily resided on First Nation lands that were subject to a drinking water advisory that lasted at least one year while the drinking water advisory was in effect.

Additionally:

1. You may claim compensation on behalf of an eligible family member who died after November 20, 2017.
2. You may be eligible even if your First Nation does not accept the Settlement.

**If you meet the above criteria, please complete this Claims Form to the best of your ability.**

Free assistance with the Claims Form is available from the Administrator. Please contact [●].

**You must submit your Claims Form by [● Date].**

# INSTRUCTIONS

1. Please
  - a. ensure that you complete all sections of the Claims Form that apply to you;
  - b. read all questions carefully before answering; and
  - c. write clearly and legibly.
2. You may submit additional documents and information with this Claims Form to support your claim. If you need assistance submitting additional documents or information—or want to make an oral statement—please contact the Administrator at [●].
3. If you need to make changes to any information in your Claims Form after you have sent it to the Administrator, please do so as soon as possible. Examples of important changes include a change of address and corrections to any information.
4. Do not send original documents to the Administrator. Clear photocopies will be accepted.
5. If your Claims Form is incomplete or does not contain all of the required information, you will be asked to provide more details. This may delay the processing of your claim. The information you provide in your Claims Form is a very important part of what will be considered when deciding whether to pay you money and if so, how much money.
6. You may submit your Claims Form
  - a. online at [● URL]
  - b. by mail at [● Address]

**Part 1: Identifying Information**  
**Everyone must complete this part**

**Information about the Claimant**

First Name:	
Middle Name(s):	
Last Name:	
Other Names:	
Date of Birth	
If Claimant has died, Date of Death	
Indian Status Card number or Beneficiary Number	
Social Insurance Number:	
<b>Contact Information</b>	
Street Address	
City/Town/Community	
Province/Territory	
Postal Code	
Country	
Telephone Number	
Email Address (if any)	

**Part 2: Eligibility Information**  
**Everyone must complete this part**

**What First Nations have you been a member of?**

Use additional rows only if you have been a member of more than one First Nation.

First Nation		Dates of Membership	
First Nation		Dates of Membership	
First Nation		Dates of Membership	

**When did you live on a Reserve during a Long-Term Drinking Water Advisory?**

A temporary absence from your ordinary residence does not end a period of ordinary residence. Your ordinary residence changes only if you spend more time living somewhere else in a given year. If you were 18 years old or younger and ordinarily resided on a Reserve during a Long-Term Drinking Water Advisory, but were away from that Reserve for a portion of the year to attend an educational facility, you can still count that Reserve as your ordinary residence. Complete the dates below for the time that you were ordinarily resident on a Reserve during a Long-Term Drinking Water Advisory on that Reserve. Use additional rows if you were ordinarily resident on more than one Reserve that was subject to a Long-Term Drinking Water Advisory.

Reserve		Dates of Residence	
Reserve		Dates of Residence	
Reserve		Dates of Residence	
Reserve		Dates of Residence	

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**Part 3: Representation Information**  
**Everyone must complete this part**

**Are you representing someone else?**  
 Are you making a claim on behalf of someone else as their legally authorized representative?  
 Please mark the appropriate box.

	Yes, I'm making a claim on behalf of someone else.		No, this is my claim.
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**If you are making a claim on behalf of someone else, please complete this section and attach any documents you may have that confirm your ability to represent the Claimant.**

Representative Name	
Basis of Representation	

**Part 5: Declaration and Consent**  
**Everyone must complete this part**

I acknowledge and agree that:

1. the Administrator may contact me to obtain information;
2. the Administrator may provide the information I submit in this Claims Form to Canada, Class Counsel, and the Settlement Implementation Committee to evaluate my Claim;
3. Canada may provide information about me to the Administrator for the purpose of evaluating my claim.

I confirm that all the information provided in this Claims Form is true to the best of my knowledge. Where someone helped me complete this Claims Form, that person has read to me everything they wrote and included with this Claims Form.

I understand that free legal advice is available from Class Counsel at [●].

I understand that by signing this Claims Form and submitting it to the Administrator, I am consenting to the above, and to the disclosure of my personal information to be used and disclosed in accordance with the settlement.

Signature	
Name of Person Signing	
Date of Signature	

**Consent to Contact (Optional)**

The Administrator may try to contact you for more information. The Administrator will try to contact you using the information you provide above. If the Administrator does not reach you, is there someone else the Administrator should contact who can get in touch with you?

Contact Person's Name	
Contact Person's Contact Information (Phone, Email, Address, etc.)	

## **Part 6: Specified Injuries Compensation**

**This part is optional**

### **Eligibility for Specified Injuries Compensation**

You are eligible for additional compensation if you have suffered one of the Specified Injuries on the list below. To receive money for those injuries, you must establish that your Specified Injury caused by:

1. using treated or tap water in accordance with a Long-Term Drinking Water Advisory; or
2. by restricted access to treated or tap water caused by a Long-Term Drinking Water Advisory.

List of Specified Injuries:

[●]

You may establish your claim through this Claims Form or through additional documents or records of the Specified Injury or its cause, such as medical records. If you want to provide an oral statement about your Specific Injury and its cause, please contact the Administrator at [●].

You must complete an additional declaration with a witness at the end of this Claims Form to be eligible for Specific Injuries Compensation.

It is optional to claim Specified Injuries Compensation. You may be eligible for compensation just for living through a Long-Term Drinking Water Advisory on a Reserve. But if you do not claim Specified Injuries Compensation now, you will not have another chance.

Class Counsel can help you claim Specified Injuries Compensation. There is no charge to you. Please contact [●].

The Specified Injuries eligible for compensation are serious and the symptoms must persist for at least one month. Specified Injuries Compensation is paid in addition to Individual Damages for the ordinary hardships of living through a Long-Term Drinking Water Advisory.

### **Do you want to claim Specified Injuries Compensation?**

Check the appropriate box.

Yes, I want to claim Specified Injuries Compensation and will	No, I do not want to claim Specified Injuries Compensation.

	complete the rest of the Claims Form.		I will not complete the rest of this Claims Form.
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**Part 6: Specified Injuries Compensation**  
**This part is optional**  
**but required to claim Specified Injuries Compensation**

**Instructions**

Please complete this form once for each Specified Injury you suffered. To support your Specified Injury Claim, you may attach any relevant documents to this Claims Form, including a further written statement. You may also tell your story to the Administrator by contacting [●].

Specified Injury (must be on the list)	
When did you start suffering from the Specified Injury?	
When did you stop suffering from the Specified Injury?	
What symptoms did you have from the Specified Injury?	
What, if any, treatment did you seek or receive for the Specified Injury?	
What caused the Specified Injury? How do you know that it caused the Specified Injury?	
What, if any, records do you have of the Specified Injury or its cause? Relevant records include photographs and videos.	

**Part 6: Specified Injuries Compensation**  
**This part is optional**

**Instructions**

Please complete this form once for each Specified Injury you suffered. This form is a duplicate of the previous page. If you only have one Specified Injury to claim and you completed the previous page, you do not need to complete this page. To support your Specified Injury Claim, you may attach any relevant documents to this Claims Form, including a further written statement. You may also tell your story to the Administrator by contacting [●].

Specified Injury (must be on the list)	
When did you start suffering from the Specified Injury?	
When did you stop suffering from the Specified Injury?	
What symptoms did you have from the Specified Injury?	
What, if any, treatment did you seek or receive for the Specified Injury?	
What caused the Specified Injury? How do you know that it caused the Specified Injury?	
What, if any, records do you have of the Specified Injury or its cause? Relevant records include photographs and videos.	

**Part 7: Specified Injuries Sworn Declaration**  
**You must complete this part only if applying for Specified Injuries**

**Instructions**

You must swear this declaration before anyone of the following Guarantors:

1. the Administrator;
2. a Notary Public or Commissioner of Oaths (including Class Counsel);
3. an elected official or community leader, including a Chief or Councillor; or
4. another professional (e.g., a lawyer, doctor, accountant, or police officer).

**Declaration**

I declare that the information I have provided is true to the best of my knowledge.

Signature	
Name of Person Signing	
Date of Signature	
<b>Guarantor</b>	
The Guarantor needs to see the Claimant sign this page and verify the Claimant's identity. The Guarantor does not need to read this Claims Form or verify the information in it. The Guarantor must complete the rest of this section.	
Signature	
Name of Guarantor	
Date	
Guarantor Title/Position	
Address	
Telephone Number	
Email Address	

**SCHEDULE J**

**INDIGENOUS SERVICES CANADA'S LONG-TERM DRINKING  
WATER ADVISORY ACTION PLAN**

*See attached.*

Long-Term Drinking Water Advisory Action Plan: Bi-Weekly Status Update

Updated: September 8, 2021

Long-term DWA Progress Since November 2015							
Region	LT DWAs in effect	No. of Communities affected by LTDWAS	LT DWAs added since Nov. 2015	LT DWAs lifted since Nov. 2015	No. of LT DWAs Deactivated since November 2015	DWAs that have been in effect for 2-12 months	Lifted DWAs that had been in effect for 2-12 months
ATL	0	0	2	7	0	0	9
QC	0	0	0	3	0	0	3
ON	44	25	31	44	3	4	56
MB	2	2	11	13	0	1	19
SK	6	5	13	18	2	4	52
AB	0	0	1	4	0	0	32
BC	0	0	2	20	0	1	21
YK	0	0	0	0	0	0	0
Total	52	32	60	109	5	10	192

Long-Term Drinking Water Advisories in Effect on Public System on Reserve

\*Number of homes and community buildings affected are estimates only.

\*\*Target dates by which the advisory may be lifted are rough estimates only and subject to change as impacts from the pandemic evolve. In some cases, target dates are to be determined (TBD) due the nature of the issue or the early stage of the project. Target dates will be re-assessed as projects progress. All efforts are being made to address all remaining LT DWAs as soon as possible.

Region	First Nation	System Name	Date Set (YYYY/MM/DD)	Date Advisory Became a Long-Term DWA (YYYY/MM/DD)	Number of homes affected*	Number of community buildings affected*	Issue	Corrective Measure(s)	Current Status	Target Date**
ON	Bearskin Lake	Bearskin Lake Community Centre/Youth Centre Semi-Public Water System (#17218) <i>Do Not Consume Since March 2006</i>	2006/03/21	2007/03/21	0	1	Uranium levels exceed Ontario guidelines.	<u>Long-term</u> : Major plant upgrades, extension of piped network <u>Short-term</u> : Truck to cistern at the community centre	<ul style="list-style-type: none"> <li>- First Nation has agreed to interim solution (installation of cistern at community centre)</li> <li>- COVID-19 restrictions limited implementation of interim solution</li> <li>- ISC was advised by Council on Jan 18, 2021 that new cistern was installed at arena; delivery of cistern for Youth Centre delayed; equipment delivered in Feb 2021</li> <li>- On April 27, 2021 contractor advised that new tankage is on-site; at request of community, contractor mobilized to site June 8, 2021</li> <li>- All work completed early August 2021</li> <li>- ISC continues outreach, respecting community's other priorities including public health through pandemic and public safety due to nearby forest fire activity; Windigo Hub and First Nation Contractor both confirmed work is complete and existing well connection decommissioned; Windigo working with environmental public health officer to confirm testing requirements to recommend lift of advisory, however delays experienced due to forest fire activity</li> <li>- Long-term solution will address water, wastewater and servicing recommendations; currently estimated at 3 - 4 years to complete; discussions in April / May 2021 with community leadership agreed on multi-phase approach; Project Management Team, with Windigo Tribal Council as lead, working to develop approval documentation for detailed design of water treatment plant upgrades and wastewater lagoon; draft project documentation developed and shared with community leadership in August 2021 for review and approval</li> <li>- Operational supports provided to community through ISC funded Hub being delivered by Windigo Tribal Council</li> </ul>	2021/09

ON	Bearskin Lake	Bearskin Lake Nursing Station Semi Private Water <i>DWA since February 2020</i>	2020/02/26	2021/02/26	0	1	Groundwater well with no treatment or disinfection	<u>Long-term:</u> Installation of a treatment system for the building <u>Short-term:</u> n/a	<ul style="list-style-type: none"> <li>- Bearskin Lake declared a State of Emergency due to COVID-19 with subsequent restrictions on travel into the community</li> <li>- An initial meeting between ISC and Windigo Tribal Council occurred July 28, 2020</li> <li>- ISC working with the First Nation and Windigo Tribal Council Water Hub for design, installation and operation of a standalone water treatment system for the Nursing Station and Residence</li> <li>- ISC received funding submission from First Nation with scope, schedule and cost of proposed project; funding has been approved and engineering firm engaged to begin work to define the treatment system for the existing groundwater source</li> <li>- Project Management Team has been established; funding has been provided; on-site assessment occurred on June 17, 2021; revised project schedule will be developed based on findings and recommendations; during assessment issues with well pumps were identified, affecting water supply to Health Centre and Nurses' Residences; an interim solution was implemented, and permanent repairs were completed on June 24, 2021</li> <li>- ISC informed by Windigo First Nations' Council that options analysis and design of treatment system is underway; report is pending; forest fires in the area may affect timeline</li> </ul>	2021/12
ON	Chippewas of Georgina Island	Georgina Island Public Water System (#7157) <i>DWA since April 2017</i>	2017/04/24	2018/04/24	81	5	Disinfection is inadequate.	<u>Long-term:</u> Upgrades to the existing water treatment plant <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Upgrades to water treatment plant completed Dec 2019; treated water meets requirements</li> <li>- Certified overall responsible operator (ORO) contracted to provide operational oversight</li> <li>- In Feb 2021, First Nation advised that the local operator achieved site specific Class 2 certification; ORO advised regular monitoring and maintenance of operational records required prior to lift recommendation</li> <li>- Additional funding issued in Feb 2021 for upgrades to the existing distribution system</li> <li>- Jan 2021, ISC discussed lift plan with First Nation who requested an expansion of the distribution system</li> <li>- Feasibility Study (funded by First Nation) determined piped water is the most cost-effective solution over 20 years; design (funded by First Nation) underway, and will not be tendered until ISC funding is confirmed; approval documentation is under development; consultant targeting September 2021 for completion of design and construction tendering, which will incorporate upgrades to existing distribution system along with extension; construction activities planned for Spring 2022</li> <li>- Operational supports available through ISC funded Hub delivered by Ogemawahj Tribal Council</li> </ul>	TBD
ON	Chippewas of Nawash	Cape Croker Public Water System <i>DWA since January 2019</i>	2019/01/21	2020/01/21	264	20	System does meet minimum treatment requirements.	<u>Long-term:</u> New treatment plant and distribution system extension <u>Short-term:</u> Not preferred by First Nation	<ul style="list-style-type: none"> <li>- Design of distribution work and water treatment plant complete; treatment supplier selected; pre-qualification for General Contractors for distribution system and water treatment plant complete</li> <li>- ISC and Chief met in Feb 2021 to discuss First Nation's request for project elements outside ISC level of service standards (LOSS); community advised that they support partial cost-share for scope outside of LOSS</li> <li>- Project approved by ISC</li> <li>- Tenders for distribution system and water treatment plant closed end of August 2021; Consultant completing bid analysis, with project management team scheduled to meet in September 2021 to discuss findings and options</li> </ul>	2023/10
ON	Deer Lake	Deer Lake Public Water System <i>DWA since October 2019</i>	2019/10/15	2020/10/15	225	5	Inconsistent sampling	<u>Long-term:</u> To be determined through feasibility study <u>Short-term:</u> Improved operations and monitoring	<ul style="list-style-type: none"> <li>- DWA in place due to operational inconsistencies</li> <li>- Community receives operational support through ISC funded Hub delivered by Keewaytinook Okimakanak (K/O) Tribal Council</li> <li>- ISC met with Chief and Council in Sept 2020 to encourage improved operations</li> <li>- K/O Hub provided training in sampling techniques</li> <li>- K/O Hub advised on May 12, 2021 that there are no technical issues in short-term; filter media and flow control valve successfully replaced; testing April 29, 2021 indicated water meeting guidelines</li> <li>- Community fully evacuated July 16, 2021 due to nearby forest fires</li> <li>- K/O Hub on site July 22, 2021 to address water system issues; K/O ordered parts and equipment and returned to site August 1, 2021 to complete repairs and monitor operations; as of August 20, 2021 repairs to treatment unit complete as well as new plant instrumentation; water quality reported as good; K/O Hub remained on-site until community returned from evacuations</li> <li>- ISC working with community to advance feasibility study for long-term needs; funding for this and immediate repairs to existing system (filter media replacement) approved by ISC in Dec 2020; competitive procurement completed; kick-off meeting held April 20, 2021; delays to Needs Report experienced due to community evacuations</li> <li>- ISC working with Hub to discuss with community the need for monitoring and to offer support</li> </ul>	TBD

ON	Eabametoong First Nation	Eabametoong Public Water System (#7132) <i>DWA since August 2001</i>	2001/08/01	2002/08/01	267	12	Treatment process and distribution system are unreliable and do not meet guidelines.	<u>Long-term:</u> Expansion and upgrades to water treatment plant <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Expansion, upgrades, commissioning complete</li> <li>- MECP inspection conducted Oct 2019; operational deficiencies addressed</li> <li>- First Nation requested funding for additional water treatment plant work and to clean existing wastewater system; funding approved Oct 2020</li> <li>- Warranty inspection conducted Nov 2020; portions of wastewater work completed prior to Jan 2021; restrictions due to COVID hindered work; work on final deficiencies (bag breaker, hoist, minor civil works) needed</li> <li>- Matawa environmental public health officer advised May 7, 2021 that back to back samples and resolution of operational issues needed before recommendation will be issued</li> <li>- Meeting May 10, 2021 to discuss wastewater issues; funding request for Wastewater System Assessment received July 2021</li> <li>- Correspondence to ISC indicates interest in resolving LTDWA once a plan to address operations and construction deficiencies established; contractor unable to mobilize to community until November 2021 to address deficiencies; Project Manager has requested a project update meeting in September 2021</li> <li>- Operational supports provided through ISC funded Hub being delivered by Matawa Tribal Council</li> </ul>	TBD
ON	Marten Falls	Marten Falls Public Water System (#7135) <i>DWA since July 2005</i>	2005/07/18	2006/07/18	91	6	Treatment system produces water that does not meet guidelines.	<u>Long-term:</u> Treatment system replacement at existing plant and upgrades to facility <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Construction complete March 2019; third round of commissioning successfully completed June 2019</li> <li>- Distribution system flushing completed July 2019</li> <li>- MECP assessment report (July 2019) identified operational deficiencies; issues addressed Nov 2019</li> <li>- Sampling meets requirements, however lift not yet recommended by Matawa environmental public health officer</li> <li>- Warranty inspection completed; as of March 29, 2021, all water treatment plant deficiencies confirmed as addressed; completion report submitted March 19, 2021</li> <li>- Correspondence from Matawa environmental public health officer dated Mar 5, 2021, First Nation was advised DWA would remain until two consecutive bacteriological water samples taken 24 hours apart to comply with applicable requirements; Hub following up with Chief and Council to gain support</li> <li>- Through Community Centered Approach, ISC working to meet with Chief and Council for in-person meeting, expected to occur in September 2021 pending COVID situation; discussions on lift-plan on agenda</li> <li>- Operational supports provided through ISC funded Centralized Water and Wastewater Hub delivered by Matawa Tribal Council</li> </ul>	TBD
ON	Mishkeegogamang	Mishkeegogamang Ten Houses Systems (63A) (#7189) <i>DWA since June 2019</i>	2019/06/10	2020/06/10	30	2	Treatment system does not meet requirements for GUDI. Operation and maintenance issues.	<u>Long-term:</u> New water treatment plant <u>Short-term:</u> Upgrades to treatment system	<ul style="list-style-type: none"> <li>- <b>Interim</b> - New UV system and backup power completed Nov 2020</li> <li>- Environmental public health officer (EPHO) advised 4 weeks of sampling needed to confirm safety; Overall Responsible Operator (ORO) supporting operators</li> <li>- Sample results in January 2021 indicated adverse results for manganese; OFNTSC ORO was on-site for 3 weeks; May 2021, ORO confirmed manganese levels in conformance - through treatment adjustments very good results achieved</li> <li>- Chief advised staff in March 2021 of importance of regular monitoring; operational supports through ISC funded Hub delivered by OFNTSC with regular monthly site-visits</li> <li>- ORO submitted in-house testing to EPHO June 15-16, 2021; OFNTSC Hub ORO on-site July 5 to 26, 2021 to provide support for all water systems in community; EPHO visited community on July 21, 2021; EPHO reported that following discussions with local operator, and Chief and Council, operations have improved, and that both operator and Chief agreed that should sampling show water meeting applicable requirements, a recommendation to lift would be supported; EPHO collected samples; test results received, chlorine residual at one point in distribution insufficient; EPHO advised on August 19, 2021, that operator no longer comfortable with lifting DWA</li> <li>- Operational issues improving with support from OFNTSC Hub</li> <li>- <b>Long-Term</b> - Design phase of long-term water treatment plant upgrade complete; First Nation received funding approval for construction phase</li> <li>- Construction underway; expected completion August 2022; construction delays experienced due to supply chain issues, with pre-fabricated building scheduled for delivery in September and installation to occur in October</li> </ul>	TBD

ON	Mishkeegogamang	Ace Lake Public Water System <i>DWA since September 2020</i>	2020/09/08	2021/09/08	unknown	unknown	Treatment system does not meet log removal requirements; inadequate sampling and testing	<u>Long-term:</u> Upgrades to treatment system <u>Short-term:</u> n/a	<ul style="list-style-type: none"> <li>- Boil water advisory in place as treatment system does not meet log removal requirements</li> <li>- Long-term design of upgrades to treatment system completed as part of the Mishkeegogamang Ten Houses System project</li> <li>- Initial construction schedule identified upgrades to be completed by July 2021; contractor provided updated schedule on May 28, 2021 indicating the date for completion of the Ace Lake system remains the same; as of June 25, 2021, construction was reported to remain on-track, with work on mechanical systems underway; back-up generator delivered to site and installation pending</li> <li>- Sub contractor delays have been incurred with completion now anticipated in September 2021; a revised schedule has yet to be issued</li> <li>- ISC has engaged the environmental public health officer (EPHO) to establish testing requirements, and anticipated scheduling of those activities; EPHO visited community on July 21, 2021 reporting improvement in operations</li> <li>- Test results showed water meeting requirements, however, local operator not confident to lift DWA</li> <li>- Operational supports provided through ISC funded Hub delivered by OFNTSC</li> </ul>	2021/10
ON	Mississaugas of Scugog Island First Nation	Scugog Community Water System 1 Public Water System (#15899) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	9	0	Treatment systems do not meet requirements for GUDI.	<u>Long-term:</u> New treatment plant, elevated storage and distribution system <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Construction of new wells and treatment plant, elevated storage, pump house upgrades, and distribution system complete; minor landscaping and other deficiencies remain outstanding; consultant working to engage contractor to fulfill contractual obligations</li> <li>- Environmental public health officer (EPHO) engaged and commissioning samples meet contractual requirements</li> <li>- First Nation requires 55 homes to be connected to new system; involves work inside homes; COVID-related delays have hindered completion of this work</li> <li>- Construction began, contractor conducted directional drilling at various properties in community and installed water service connections to curb stops</li> <li>- On April 22, 2021 Chief and Council advised contractor that due to Provincial COVID restrictions, no work can be performed in homes until stay-at-home lockdown lifted; due to previous contractual commitments, contractor's return to site could not occur until August 2021</li> <li>- Contractor began work to complete connections on August 16th with all servicing connections expected to be completed by the end of September 2021; expected total contract completion in October 2021; given Chief and Council's preference for all work to be completed prior to resolving the DWA, target dates to resolve may slip into October</li> <li>- Operational supports are being provided through the ISC funded Hub being delivered by the Ogemawahj Tribal Council</li> </ul>	2021/09
ON	Mississaugas of Scugog Island First Nation	Scugog Community Water System 2 Public Water System (#15900) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	6	0			2021/09	
ON	Mississaugas of Scugog Island First Nation	Scugog Band Office Semi-Public Water System (#17224) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	0	1			2021/09	
ON	Mississaugas of Scugog Island First Nation	Scugog Health Centre Semi-Public Water System (#17225) <i>DWA since October 2008</i>	2008/10/23	2009/10/23	0	1			2021/09	
ON	Mohawks of the Bay of Quinte	All MBQ Semi-Public Water System (#17226) <i>DWA since June 2008</i>	2008/06/06	2009/06/06	64	6	Groundwater supply at risk of contamination.	<u>Long-term:</u> Upgrades to Deseronto water treatment plant, water main extension and water tower (Phase 2), water main extension (Phase 3) <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- First Nation considers all affected systems as one system</li> <li>- Deseronto plant upgrades meet municipal-type service agreement (MTSA) requirements</li> <li>- Phase 2 water main extension and water tower complete; system commissioned Nov 10, 2020; substantial completion issued to contractor</li> <li>- Phase 3 (water main extension) tender for construction closed Sept 2020; cost exceeded approved budget</li> <li>- In Oct 2020, First Nation advised delays were impacting MTO Skyway Bridge Project and requested project advance with securing ISC funding approval; project approved and contract awarded; construction underway; Phase 3 work will address all 5 LTDWAs in the community</li> <li>- Soil contamination (fuel) found on construction route; contractor to install water main with insulating plastic wrapping around pipe; negotiations with polluter underway to reclaim project costs associated with contamination</li> <li>- Following some delays, boring and pipe work at Salmon River and Hwy 2 were completed</li> <li>- Consultant/contractor concerned regarding condition of existing Johnson's Lane watermain; in early July 2021 options analysis completed calling for replacement of all iron sections of pipe; replacement work is now complete</li> <li>- As of September 3, 2021, construction continues, however contractor has issued a revised schedule calling for completion on October 31, 2021; delays are in part due to unforeseen soil conditions (drilling, hydrocarbon contamination etc.)</li> </ul>	2021/11
ON	Mohawks of the Bay of Quinte	MBQ Airport Public Water System (#17227) <i>DWA since October 2003</i>	2003/10/17	2004/10/17	10	0	Insufficient disinfection.		2021/11	
ON	Mohawks of the Bay of Quinte	MBQ Bayview Variety Apartments Public Water System (#17228) <i>DWA since June 2008</i>	2008/06/06	2009/06/06	6	0	Groundwater supply at risk of contamination.		2021/11	
ON	Mohawks of the Bay of Quinte	MBQ Clifford Maracle's Well Public Water Supply (#17229) <i>DWA since January 2012</i>	2012/01/20	2013/01/20	unknown	unknown	E. Coli and total coliform are present. Treatment system not being maintained.		2021/11	
ON	Mohawks of the Bay of Quinte	MBQ Trailer Park Public Water System (#17230) <i>DWA since June 2008</i>	2008/06/06	2009/06/06	6	0	Groundwater supply at risk of contamination.		2021/11	

ON	Muskrat Dam Lake	Muskrat Dam Public Water System (#6542) DWA since October 2003	2003/10/24	2004/10/24	88	5	Filtration system inadequate and plant has insufficient capacity.	<p><u>Long-term:</u> Upgrades to filtration and disinfection systems</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Water treatment plant commissioning halted March 2020 due to COVID; re-started and completed July 2020</li> <li>- In Sept 2020, environmental public health officer (EPHO) issued letter recommending resolution of LTDWA; in Oct 2020 Chief indicated support; new Chief elected shortly after and provided with lift recommendation and related information</li> <li>- Dec 16, 2020, at request of First Nation, ISC discussed resolution of DWA; community raised previous concerns related to potential soil contamination in the vicinity of the treatment plant</li> <li>- Previous ISC-funded project to remediate contaminated soils successfully completed</li> <li>- ISC offered congratulations and support of resolution of DWA; in response to follow-up by ISC in March 2021, community advised that they will contact ISC when ready; as of September 2021, no change in status</li> <li>- May 28, 2021 EPHO advised test results not received since fall 2020; recommendation to lift from September 2020 requires another round of testing</li> <li>- June 7, 2021, 24/7 Technical Support requested by First Nation and approved by ISC; local operator experiencing issues</li> <li>- 24/7 Service Provider noted operational issues; ISC working with IFNA Hub to establish work plan for additional training supports</li> <li>- Warranty phase expired July 27, 2021; Consultant advised that Warranty Inspection and Training Sessions completed August 4 to 6; water samples collected with test results showing that water quality meets all applicable requirements from plant and throughout distribution</li> <li>- ISC requested guidance from EPHO on whether or not test results support a new letter of recommendation to resolve; response pending</li> <li>- Operational supports provided through ISC funded Hub delivered by IFNA Tribal Council</li> </ul>	TBD
ON	Neskantaga	Neskantaga Public Water System (#7137) DWA since February 1995	1995/02/01	1996/02/01	76	6	Treatment system does not meet guidelines; chlorine residual inadequate.	<p><u>Long-term:</u> Upgrade and expansion of existing treatment plant</p> <p><u>Short-term:</u> N/A</p>	<ul style="list-style-type: none"> <li>- Due to delays, First Nation terminated contract for upgrades Feb 2019; new contractor hired</li> <li>- Construction completed; First Nation to operate 1 year prior to lifting</li> <li>- Distribution system and wastewater work required; approved Oct 7, 2020</li> <li>- Oct 19, 2020 sheen on reservoir water noted; concluded mineral oil (non-toxic) from pump; distribution system flushed; water sampling confirmed no traces of oil/grease remain</li> <li>- Community evacuated; returned Dec 20, 2020; new system operational since Nov 12, 2020</li> <li>- Testing Dec 13, 2020; water meets requirements; ISC funding full-time on-site support delivered by OCWA</li> <li>- Work on lift station completed, pumps replaced; airlocks flushed; lift station able to pump to lagoon; Consultant recommended replacement of forcemain; funding approved; replacement forcemain pipe is in community</li> <li>- Due to lock-down in April 2021, all contractors departed except OCWA; on June 16, 2021 ISC received updated COVID-19 protocols established by community; contractors required to have proof of full vaccinations, and proof of negative test; both water and wastewater projects were halted due to this new requirement</li> <li>- Contractor for sewage forcemain replacement now on site, work is underway and expected completion in September 2021; treatment supplier scheduled to return to site end of September 2021 to confirm system meets design specifications</li> <li>- Contractors to address deficiencies at water treatment plant yet to return citing issues with meeting First Nation's vaccination requirements</li> <li>- Cost overrun submitted; ISC preparing to advance to appropriate approval authorities once any concerns are addressed</li> </ul>	TBD
ON	Nibinamik	Nibinamik Public Water System (#7138) DWA since February 2013	2013/02/05	2014/02/05	101	5	System is inadequate and does not meet Ontario guidelines. Capacity upgrades required.	<p><u>Long-term:</u> Upgrade and expansion of the existing plant, and distribution work</p> <p><u>Short-term:</u> Not preferred by First Nation</p>	<ul style="list-style-type: none"> <li>- Design of plant upgrade and expansion complete; design change in Nov 2019 delayed completion</li> <li>- Equipment pre-purchased; construction contract awarded; materials and equipment shipped to site in winter 2020</li> <li>- First Nation closed borders in March 2020 due to COVID-19</li> <li>- First Nation notified contractor in July 2020 that construction would be delayed until Spring 2021 due to community access restrictions and availability of accommodations</li> <li>- Accommodations related materials and equipment mobilized over the 2021 Winter Road</li> <li>- Construction kick-off meeting held May 6, 2021; Contractor indicated that foundation construction was to begin on May 14, 2021</li> <li>- First Nation was in full lockdown in response to COVID in April / May 2021; contractor scheduled to return May 25, 2021, however under direction of First Nation postponed return</li> <li>- Construction resumed June 14, 2021; excavation is on-going (reservoir, watermain re-routing); revised schedule submitted shows substantial completion anticipated for April 28, 2022</li> <li>- Contractor has advised project management team of potential for delay in the completion as a result of previous suspensions of works (COVID lockdown/revised preventative measures)</li> <li>- Operational supports provided to community through ISC funded Hub being delivered by Matawa Tribal Council</li> </ul>	2022/07

ON	North Caribou Lake	North Caribou Lake Public Water System <i>DWA since March 2020</i>	2020/03/03	2021/03/03	291	7	System cannot meet demand and does not meet treatment requirements.	<u>Long-term:</u> Plant expansion and replacement of treatment system <u>Short-term:</u> TBD	<ul style="list-style-type: none"> <li>- Feasibility study for long-term needs for water and wastewater completed, no interim solutions provided; main issue is capacity; difficult to fix due to age and inability to repair equipment</li> <li>- First Nation completed distribution system leak detection and repair including residential plumbing repairs to reduce consumption; community repaired 3 sections of distribution system; leak detection did not identify further issues; water treatment plant operating 24/7 to produce quantity to meet demands; with distribution repairs executed by community, no longer required to shut-down distribution to allow reservoirs to fill</li> <li>- First Nation requires commitment for water and wastewater long-term solution in order to consider a potential interim solution for the water treatment plant</li> <li>- Work to advance design of long-term solution for water based on the Feasibility Study's recommendations is underway with approval pending; project documentation has been shared with the First Nation, for their review and endorsement</li> <li>- Interim options have been identified, recommending rental of containerized treatment system(s), however increasing reservoir storage capacity has been deemed not technically or financially feasible through an interim solution</li> <li>- First Nation has not yet confirmed willingness to lift advisory through an interim approach</li> <li>- First Nation and Windigo Hub reviewing project approval documentation</li> <li>- Approval documentation for interim solution is under development in partnership with Windigo; currently awaiting information on costing from First Nation's consultant</li> </ul>	TBD - Project schedule not yet defined
ON	North Spirit Lake	North Spirit Lake Public Water System (#7128) <i>DWA since April 2019</i>	2019/04/05	2020/04/05	90	5	Water distribution system leaks; water plant failure and capacity issues. Operation and maintenance issues.	<u>Long-term:</u> Plant and distribution system maintenance and repairs; operational improvements <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- In Oct 2019 community issued state of emergency citing significant social challenges</li> <li>- Difficulty retaining local operators; First Nation hired new uncertified water operator; Hub increased frequency of visits and remote support</li> <li>- Three new high-lift pumps installed in October 2020; installation of transfer switch for back-up power delayed due to availability of contractor (result of COVID)</li> <li>- Work includes commissioning two chlorine trim units and fire protection system for community's school; K/O Hub reported automation of 3 high lift pumps and PLC programming completed</li> <li>- In Feb 2021, no access to community due to COVID</li> <li>- On April 28, 2021 community indicated would like feasibility study on long-term solution; funding submission for water and wastewater feasibility study under review by Chief and Council; delayed due to forest fires</li> <li>- K/O Hub advised transfer switch and back-up generator work completed week of May 19, 2021; ozone generators received and installed; distribution flushing program completed week of July 5, 2021; all wastewater lift stations functioning through work completed by local operators, with tele-support from Hub; Hub collected samples for compliance testing however was unable to get to lab due to forest fires.</li> <li>- K/O Hub advised forest fire activity in the region forced cancellations of sampling; in-house testing over 2 days showed water meeting all applicable requirements; community executing partial evacuations due to forest fire smoke and risk; lift plan placed on hold pending end of forest fire emergencies and ability for K/O Hub to safely return to community; local operators remained in place as essential workers</li> <li>- K/O Hub on-site in early September to collect samples for testing by accredited lab; results pending</li> <li>- K/O continues to advise Chief and Council that operational issues need to be addressed</li> </ul>	TBD
ON	Northwest Angle No. 33	East Pump house Plant Public Water System (part of Angle Inlet Public Water System) (#7126) <i>DWA since April 2011</i>	2011/04/11	2012/04/11	17	3	East Pumphouse: insufficient disinfection.		<ul style="list-style-type: none"> <li>- Interim options to alleviate advisory explored and determined to be neither feasible, nor cost-effective</li> <li>- Design and tendering for new plant complete; equipment pre-purchased and mobilized to site</li> <li>- Community closed in March 2020; construction halted due to COVID-19; limited re-opening in May 2020 &amp; construction resumed</li> <li>- Construction continues to progress on water treatment plant</li> <li>- April 2021, contractor issued revised schedule for substantial completion in Oct 2021; Contractor cited non-performance of sub-contractors (concrete) as well as other issues not at fault of the First Nation or COVID as reasons for delays</li> <li>- At April 26, 2021 project management team meeting contractor advised of new site safety coordinator and site supervisor; contract administrator advised that production and on the ground organization has improved</li> <li>- July 13, 2021, contractor reported larger crews on-site performing work, and that schedule remains on-track</li> <li>- Based on work remaining, there is a risk that LT DWAs will not be lifted in November as currently targeted; ISC continues to monitor, and adjustments to target dates will be made, if and when necessary</li> <li>- Operational supports are being provided to the community through the ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council; Community working with Hub to train primary operator to advance from Class II to Class III certification, and 2 other candidates to achieve Operator-in-Training (OIT)</li> </ul>	2021/11
ON	Northwest Angle No. 33	West Pump house Plant Public Water System (part of Angle Inlet Public Water System) (#7126) <i>DNC since February 2016</i>	2016/02/12	2017/02/12	unknown	unknown	West Pumphouse: radionuclides above guidelines.	<u>Long-term:</u> New centralized water treatment plant at Angle Inlet <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- April 2021, contractor issued revised schedule for substantial completion in Oct 2021; Contractor cited non-performance of sub-contractors (concrete) as well as other issues not at fault of the First Nation or COVID as reasons for delays</li> <li>- At April 26, 2021 project management team meeting contractor advised of new site safety coordinator and site supervisor; contract administrator advised that production and on the ground organization has improved</li> <li>- July 13, 2021, contractor reported larger crews on-site performing work, and that schedule remains on-track</li> <li>- Based on work remaining, there is a risk that LT DWAs will not be lifted in November as currently targeted; ISC continues to monitor, and adjustments to target dates will be made, if and when necessary</li> <li>- Operational supports are being provided to the community through the ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council; Community working with Hub to train primary operator to advance from Class II to Class III certification, and 2 other candidates to achieve Operator-in-Training (OIT)</li> </ul>	2021/11
ON	Northwest Angle No. 33	Elsie Blackhawk Pump house Public Water System (#17223) <i>DWA since April 2011</i>	2011/04/11	2012/04/11	5	0	Does not meet the minimum recommendations for disinfection.		<ul style="list-style-type: none"> <li>- Interim options to alleviate advisory explored and determined to be neither feasible, nor cost-effective</li> <li>- Design and tendering for new plant complete; equipment pre-purchased and mobilized to site</li> <li>- Community closed in March 2020; construction halted due to COVID-19; limited re-opening in May 2020 &amp; construction resumed</li> <li>- Construction continues to progress on water treatment plant</li> <li>- April 2021, contractor issued revised schedule for substantial completion in Oct 2021; Contractor cited non-performance of sub-contractors (concrete) as well as other issues not at fault of the First Nation or COVID as reasons for delays</li> <li>- At April 26, 2021 project management team meeting contractor advised of new site safety coordinator and site supervisor; contract administrator advised that production and on the ground organization has improved</li> <li>- July 13, 2021, contractor reported larger crews on-site performing work, and that schedule remains on-track</li> <li>- Based on work remaining, there is a risk that LT DWAs will not be lifted in November as currently targeted; ISC continues to monitor, and adjustments to target dates will be made, if and when necessary</li> <li>- Operational supports are being provided to the community through the ISC funded Centralized Water and Wastewater Hub being delivered by the AKRC Tribal Council; Community working with Hub to train primary operator to advance from Class II to Class III certification, and 2 other candidates to achieve Operator-in-Training (OIT)</li> </ul>	2021/11

ON	Ojibway Nation of Saugeen	Saugeen Health Clinic Semi-Public Water System <i>DWA since April 2018</i>	2018/04/26	2019/04/26	0	1	Turbidity levels exceed guidelines.		<ul style="list-style-type: none"> <li>- Training and physical work to rehabilitate/repair wells completed through the Circuit Rider Training Program (CRTP) in March 2019; sampling showed bacteriological presence (possible impact by septic)</li> <li>- Consultant assessment Nov 2019 recommended new well and treatment units for each affected building; detailed design completed January 2021</li> <li>- February 19, 2021, contract awarded; some materials delayed; supply chain issues hindered schedule of construction work</li> <li>- May 13, 2021, contractor awaiting arrival of key materials, including needed tankage that must be installed first; other parts, including a pump are a month overdue, little information on delivery provided by supplier</li> <li>- Contractor completed installation of Health Centre Water System June 14, 2021; equipment [chlorine contact tanks] required to complete School and Multiplex point-of-entry systems on backorder</li> <li>- July 6, 2021, ISC was advised that delivery of mixing tanks remains unknown; delay is reflective of supply chain issues due to COVID and other factors; other options explored, however none meet design parameters</li> <li>- Contractor confirmed mixing tanks arrived on site; Contractor returned to site week of August 9th and completed equipment installation; mixing tank for Health Centre determined to have manufacturing defect, new tank installed during the week of August 23, 2021; inspection of newly installed systems occurred August 26, 2021 with samples collected for full chemical analysis; results and inspection report pending from consulting engineer</li> <li>- Operational supports provided to community through the ISC funded Hub being delivered by OFNTSC</li> </ul>	2021/09
ON	Ojibway Nation of Saugeen	Saugeen School Semi-Public Water System <i>DWA since April 2018</i>	2018/04/27	2019/04/27	0	1	Total coliform and e-coli present in water from the well.	<p><u>Long-term:</u> Point-of-entry treatment units on the two wells</p> <p><u>Short-term:</u> N/A</p>		2021/09
ON	Oneida of the Thames	Oneida Public Water System (#7176) <i>DWA since September 2019</i>	2019/09/26	2020/09/26	546	22	Treatment system does not meet requirements for GUDI.	<p><u>Long-term:</u> To be determined through feasibility study</p> <p><u>Short-term:</u> Interim options to be assessed</p>	<ul style="list-style-type: none"> <li>- Feasibility Study kick-off meeting held in Sept 2020; interim option(s) could not be designed and constructed prior to March 2021</li> <li>- Project cost increases approved to determine long-term viability of current groundwater source; results indicated groundwater well/aquifer cannot meet forecasted demands</li> <li>- Consultant initiated investigations of municipal-type service agreements (MTSAs); advanced investigations into interim solutions; options include rental of mobile membrane system, concerns related to wastewater system capacity to handle backwash and significant electrical and mechanical retrofits required at existing water treatment facility; interim solution may not be technically or financially feasible</li> <li>- At project management team meeting Feb 3, 2021 consultant advised that municipal connection could be constructed as quickly as an interim solution; First Nation expressed support for connection; there are two options, one has potential to support needs for some homes in other nearby First Nation communities</li> <li>- Community project representatives advised that Chief and Council are leaning toward an MTSA solution; meeting held June 24, 2021 to discuss technical comments with First Nation and their consulting engineers</li> <li>- Final Report submitted August 30, 2021 to First Nation and ISC for final review; ISC requested a meeting date from First Nation to discuss next steps</li> <li>- First Nation has indicated reluctance to consider an interim solution without confirmation of funding for long-term solution</li> </ul>	TBD - Project schedule not yet defined

ON	Sachigo Lake	Sachigo Lake Public Water System <i>DWA since October 2018</i>	2018/10/19	2019/10/19	165	5	Water treatment plant tank is leaking; safety of the water cannot be guaranteed.	<p><u>Long-term:</u> Expansion of existing plant</p> <p><u>Short-term:</u> Installation of new treatment units in existing plant as early as possible</p>	<ul style="list-style-type: none"> <li>- Long-term solution: expansion and upgrade of existing water treatment plant; treatment unit shipped via 2019 winter road</li> <li>- Interim solution: install one treatment train early in existing plant</li> <li>- Restricted access March 2020 due to COVID-19; August 19, 2020, First Nation supported return to site</li> <li>- Nov 24, 2020; contractor present; membranes damaged during idle time</li> <li>- First Nation, under advisement from Hub, informed project management team that LTDWA cannot be resolved until second treatment train installed</li> <li>- Environmental public health officer (EPHO) advised exceedances of manganese MAC from new treatment train; unit functioning as designed, with support from Overall Responsible Operator (ORO), pH adjustment effective to manage seasonal manganese fluctuations</li> <li>- May 25, 2021, contractor issued new schedule for DWA to be resolved in Sept 2021, due to delays with operation of 1st treatment train; substantial completion of water treatment plant upgrades and expansion expected in Feb 2022</li> <li>- Samples from new treatment train show water meets requirements</li> <li>- June 29, 2021 water from new treatment train directed to reservoir and distribution and work has begun to decommission existing treatment train and install second new treatment train; contractor advised work expected to occur over 8 weeks</li> <li>- Second treatment train scheduled for commissioning in early September; following this work, first train will be positioned in its final location; ISC has been advised of concerns from Chief and Council on lifting DWA following commissioning of second train, citing potential for intermittent DWAs providing disruption and negatively impacting community confidence in water; preference voiced to resolve DWA once all work is completed and target date has been adjusted accordingly</li> <li>- Operational support provided through ISC funded Hub delivered by Windigo Tribal Council</li> </ul>	2021/12
ON	Sandy Lake	Sandy Lake Public Water System (#7179) <i>DWA since October 2002</i>	2002/10/10	2003/10/10	400	15	System is inadequate and does not meet guidelines. Capacity upgrades required.	<p><u>Long-term:</u> Water treatment plant upgrades and expansion</p> <p><u>Short-term:</u> Repairs and optimization of the plant, repairs and cleaning of distribution system; operational improvements</p>	<ul style="list-style-type: none"> <li>- Interim solution (repairs and optimization of water treatment plant and distribution system) complete; additional repairs completed July 2020</li> <li>- Operational challenges preventing environmental public health officer (EPHO) from recommending lift; OFNTSC Hub providing support</li> <li>- Chief indicated lifting DWA is priority; ISC letter week of Dec 14, 2020 encouraged use of operational supports</li> <li>- Construction of long-term solution began Jan 2020; access restrictions due to COVID March 2020; contractor re-mobilized Sept 2020; completion date of long-term project revised to June 2022 (COVID impacts)</li> <li>- Construction has resumed, production slowed due to COVID; materials for construction mobilized to community via winter road network</li> <li>- OFNTSC has been advised that staff can enter community, negative COVID test result required prior to flying via charter and isolation prior to working; First Nation yet to confirm permission for OFNTSC to attend site; OFNTSC has encouraged local operators to partake in virtual Circuit Rider Training Program (CRTP) training and continues to seek permission to mobilize to site</li> <li>- ISC-EPHO engaged to complete analysis on sampling and testing to better understand operational trends in 2021</li> </ul>	2022/07

ON	Shoal Lake No. 40	Pump house No. 1 Public Water System (#6534) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	1	Treatment processes are inadequate and produce water that does not meet guidelines.	<u>Long-term:</u> New centralized water treatment plant and distribution system <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Detailed design from 2010 was updated to meet current regulatory requirements and community's long-term needs</li> <li>- Indigenous Specific Tendering Pilot Project enabled competitive procurement of Indigenous-owned qualified contractor</li> <li>- Construction meetings held monthly; June 23, 2021 project management team meeting, contractor advised of schedule delay due to late delivery of functioning motor control systems; schedule called for manual start-up on July 12, 2021 and all work anticipated to be completed by August 23, 2021; consulting team working with contractor to accelerate where possible; other issues affecting commissioning include coordination of various suppliers and sub-contractors to be present on-site for target start-up date (due to COVID-19 protocols and overwhelmed marketplace), and delays by Bell Canada to install broadband internet connections to new water treatment plant; Bell has advised that broadband construction work not expected to be completed until end of September 2021</li> <li>- ISC was advised that due to various deficiencies, manual start-up has been difficult, limited testing has occurred; performance testing set to begin early September 2021; current sampling and testing shows plant producing and distributing water meeting all applicable requirements</li> <li>- Total contract completion expected end of September / early October</li> <li>- Operational supports provided through the ISC funded Hub being delivered by the Bimose Tribal Council</li> </ul>	2021/09
ON	Shoal Lake No. 40	Pump house No. 2 Public Water System (#17125) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	1				2021/09
ON	Shoal Lake No. 40	Pump house No. 3 Public Water System (#17126) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	20	3				2021/09
ON	Shoal Lake No. 40	Pump house No. 4 Public Water System (#17127) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	8	4				2021/09
ON	Shoal Lake No. 40	Pump house No. 5 Public Water System (#17128) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	10	0				2021/09
ON	Shoal Lake No. 40	Pump house No. 9 Public Water System (#17129) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	10	0				2021/09
ON	Shoal Lake No. 40	School Pump house Public Water System (#17217) <i>DWA since February 1997</i>	1997/02/18	1998/02/18	15	0				2021/09
ON	Washagamis Bay	Washagamis Bay East Public Water System (#6532) <i>DWA since December 2008</i>	2008/12/19	2009/12/19	34	2	Poor groundwater quality; insufficient treatment; inadequate capacity.	<u>Long-term:</u> New treatment plant and distribution system upgrades <u>Short-term:</u> New wells and interim repairs to plant, distribution system cleaning and repairs	<ul style="list-style-type: none"> <li>- New wells drilled; interim plant repairs complete; plant producing potable water</li> <li>- Distribution system cleaning complete; damage from pressure testing occurred; repairs completed</li> <li>- Intake work to address quantity issues completed</li> <li>- Work halted due to community lock-down Oct 1 2020 (confirmed COVID case); lock-down lifted Oct 6, 2020</li> <li>- Environmental public health officer (EPHO) sampled week of December 14, 2020 and provided recommendation to lift LTDWA on January 4, 2021</li> <li>- Sodium levels in treated water slightly elevated, causing concern for community</li> <li>- EPHO provided information session to Chief and Council; Chief advised ISC that community will not accept recommendations to resolve the DWAs until long-term solution completed</li> <li>- Construction of new water treatment plant completed; following several delays from May to June 2021, performance testing successfully completed June 30, 2021; First Nation worked with contractor to establish COVID-19 protocols that allowed construction activities to continue</li> <li>- Full chemical analysis and bacteriological testing of plant production met all requirements; EPHO collected bacteriological samples for testing on July 19, and 20, 2021; results acceptable, letter of recommendation to resolve LTDWAs issued by EPHO on July 27, 2021 for consideration of Chief and Council</li> <li>- Work and commissioning on decentralized units completed, test results showed all meeting requirements except one (high turbidities); Consultant to re-review and inspect, then identify options/deficiencies; EPHO has issued recommendation to lift advisory for new plant and decentralized systems as of August 23, 2021</li> <li>- Community hired two operators from Bimose WaterFirst initiative (working with construction team to achieve OIT certification); Community receives operational supports through ISC funded Bimose Hub</li> </ul>	2021/09
ON	Washagamis Bay	Washagamis Bay West Public Water System (#17132) <i>DWA since December 2008</i>	2008/12/19	2009/12/19	6	0				<ul style="list-style-type: none"> <li>- Interim solution (pump house upgrades) complete</li> <li>- Sampling and testing lift plan developed in collaboration with environmental public health officer (EPHO)</li> <li>- EPHO collected samples on June 2, 2020; chlorine residuals not within required parameters</li> <li>- Corrective measures have been completed</li> <li>- Kenora Chiefs Association EPHO collected samples for testing July 23 and 24, 2020; testing showed water meeting all regulatory requirements and a letter was issued on August 12, 2020 by the EPHO to Chief and Council recommending resolution of the DWA at this system; Chief and Council deferred acceptance of the recommendation until the East System is also producing safe drinking water</li> <li>- Long-term solution and operator support as above for the East system</li> <li>- EPHO provided recommendation to rescind LTDWA on July 27, 2021</li> </ul>

MB	Shamattawa	Shamattawa Public Water System (#6601) <i>DWA since December 2018</i>	2018/12/06	2019/12/06	163	14	Plant beyond lifecycle and capacity upgrades required. Operation and maintenance issues.	<u>Long-term:</u> Upgrade / expansion of plant <u>Short-term:</u> Interim repairs and operational improvements	<ul style="list-style-type: none"> <li>- Repairs to plant completed; work was on hold due to COVID; resumed April 23, 2020</li> <li>- Enhanced operator support provided through Circuit Rider Training Program (CRTP); two back-up operators being trained</li> <li>- Numerous issues experienced at existing plant and distribution system; repairs completed; CRTP, environmental public health officer (EPHO) providing support</li> <li>- Low chlorine residuals persist whenever main operator absent</li> <li>- CRTP in community Feb 19, 2021 to work with operator; met with Chief to discuss importance of having trained and committed back-up operators</li> <li>- Issues with total coliform and chlorine residual at school and nursing station in April-July; June 28, 2021 elevated turbidity and lack of chlorine residual in distribution system continue; bacteriological sample results good</li> <li>- CRTP on site late August 2021; discovered fire damaged the waterline; repairs underway; heavy rains knocked out one of two raw water pumps; electrician to go to site to address</li> <li>- Work ongoing on long-term solution; construction of major upgrades, expansion and new intake to the water treatment plant to be completed Fall 2022; target date to lift LTDWA aligns with long-term solution given on-going issues with existing plant</li> <li>- Region met with Chief and Council August 4, 2021; operator to provide oversight of reservoir at school; water treatment plant project will install additional telemetry at school reservoir, will allow operator to see chlorine levels remotely from existing plant; CRTP to provide additional training and change valve orientation at school and nursing station (in conjunction with long-term solution); this should provide chlorine residual at school and nursing station in interim; once water treatment plant is expanded should alleviate pressure issue at nursing station</li> <li>- Meeting planned with Chief for October 2021 where operations for updated and expanded water treatment plant will be discussed</li> </ul>	2022/09
MB	Tataskweyak Cree Nation	Tataskweyak Cree Public Water System (#6602) <i>DWA since May 2017</i>	2017/05/17	2018/05/17	361	5	First Nation issued advisory due to contamination concerns during spring flooding, not based on EPHO recommendation.	<u>Long-term:</u> Upgrades to water treatment plant (filtration and UV); Source water assessment and THM study; update to feasibility study underway for longer-term solution; design and construction of a pipeline to source water from Assean Lake <u>Short-term:</u> N/A	<ul style="list-style-type: none"> <li>- Water quality meets guidelines; repairs and upgrades completed to enhance treatment; source water study completed in January 2019, recommending Assean Lake as the preferred source and an upgrade to the treatment plant; extra THM study completed</li> <li>- Letters provided to First Nation regarding good quality of water (most recent sent Feb. 2019) but First Nation has not lifted</li> <li>- Funding being provided for bottled water and to conduct further assessment of current source water with respect to cyanotoxins; Cyanotoxin assessment goes beyond testing requirements of Canadian guidelines and provincial regulations</li> <li>- A source water study has been completed and an update to the 2019 feasibility study is being contracted to assess the options to meet the community's long-term drinking water needs; following the feasibility study, the project to source water from Assean Lake will proceed to design and construction</li> <li>- ISC is committed to funding design and construction of pipeline to source First Nation's water from Assean Lake</li> </ul>	TBD
SK	Little Pine	Little Pine Public Water System <i>DWA since November 2018</i>	2018/11/14	2019/11/14	300	10	Plant is in poor condition and beyond its lifecycle. Operation and maintenance issues.	<u>Long-term:</u> Upgrade water treatment plant <u>Short-term:</u> Repairs to plant; operational improvements	<ul style="list-style-type: none"> <li>- Short-term repairs complete; plant is producing adequate supply of safe drinking water</li> <li>- In early August 2020 E.Coli was reported in one of the raw water wells, and the Advisory was updated to an Order; the affected well was super-chlorinated on August 10th, 2020; the advisory has now been downgraded to a Boil Water Order</li> <li>- Initially there were some water supply issues; however, some wells were serviced and new wells have been drilled and connected</li> <li>- First Nation is currently without a certified operator; ISC working closely with the First Nation to secure another operator, in the meantime circuit rider trainers will be providing support; operator is experiencing difficulty completing the necessary training due to the COVID-19 pandemic; DWA is expected to remain in place until the operator is certified; operator training continues with logging hours towards certification</li> <li>- Long-term solution is the construction of a new water treatment plant; project is currently in construction</li> </ul>	TBD
SK	Peepeekisis	Peepeekisis Main Public Water System (#6669) <i>DWA since February 2015</i>	2015/02/05	2016/02/05	174	10	Treatment processes for both systems require maintenance and upgrades. Operation and maintenance issues.	<u>Long-term:</u> Upgrade water treatment plant; expand distribution system <u>Short-term:</u> Repairs complete; EPHO has recommended advisories be revoked	<ul style="list-style-type: none"> <li>- Repairs complete; lift recommended in July 2018, but First Nation reluctant to lift advisory until long-term upgrades to water treatment plant are complete, and possibly until a piped distribution system extension is constructed</li> <li>- ISC offered to cost share a low-pressure distribution system; to date First Nation has not agreed to this approach</li> <li>- Construction of long-term upgrades is substantially complete and the upgraded water treatment plant is producing potable water and is now servicing the community</li> </ul>	TBD
SK	Peepeekisis	Poitras Well (#17166) <i>DWA since April 2013</i>	2013/04/10	2014/04/10	6	0				TBD

**Short-Term Drinking Water Advisories on Public Systems on Reserve (i.e. Advisories that have been in effect for 2 to 12 months)**

Region	First Nation	System Name	Date Set (YYYY/MM/DD)	Date Advisory Could Become a Long-Term DWA (YYYY/MM/DD)	Number of homes affected*	Number of community buildings affected*	Issue	Corrective Measure(s)	Current Status	Target Date**
ON	Animakee Wa Zhing #37	Windigo Island Public Water System <i>DWA since June 2021</i>	2021/06/22	2022/06/22	12	4	Adverse bacteriological test results and failure of disinfection equipment	<u>Long-term:</u> Complete construction (already underway) of new water treatment plant and distribution upgrades <u>Short-term:</u> n/a	- Adverse bacteriological test results and failure of disinfection triggered the issuance of the DWA; at the direction of Chief and Council, no further investments in interim solutions were to be made, as the long-term solution is near completion - Long-term solution to construct a new water treatment plant and to complete distribution upgrades is well underway with performance testing scheduled to be completed in early September 2021 and substantial completion of the contract expected in late-September 2021; KCA environmental public health officer (EPHO) is aware of project status and prepared to support sampling and testing - Operational supports being provided through ISC funded Hub being delivered by the AKRC Tribal Council	2021/10
ON	Big Grassy	Big Grassy Public Water System <i>DWA since March 2021</i>	2021/03/09	2022/03/09	90	7	Water loss and distribution pressure loss	<u>Long-term:</u> Upgrades and expansion to existing treatment plant <u>Short-term:</u> n/a	- Challenges with current plant, experienced 3 DWAs in the past 10 months; current DWA due to pressure loss in distribution, suspected leak - Leak detection completed, and leaks addressed, however other issues as a result of upgrade work and tie-ins of new treatment equipment and systems continue to present unforeseen challenges - First Nation leadership decided to keep DWA in place until upgrades and expansion project is complete; under construction since March 2020 - Contractor advised in June 2021 that supply chain delays due to COVID have affected their commissioning plan; MCC is with manufacturer to address wiring issues and has yet to be delivered to site; startup and commissioning was not expected to commence until late July 2021; commissioning plan yet to be provided by contractor to consultant for review - Contractor advised in July 2021 of delays to planned start-up as a result of supply chain challenges due to COVID; revised schedule issued called for performance testing to begin at the end of August 2021, with all work to be completed by end of September 2021; Consultant estimated that the contractor is approximately 1 month behind this schedule - ISC continues to monitor project and support the community; new schedule expected to be issued in September 2021 - Operational issues exist and First Nation advised they are working on a succession plan with aim to have new operators hired in time for commissioning - Operational supports being provided through ISC funded Hub being delivered by the AKRC Tribal Council	2021/10
ON	Mishkeegogamang	Mishkeegogamang 63B Public Water System <i>DWA since January 2021</i>	2021/01/07	2022/01/07	77	6	No plant or water quality monitoring - operational issues	<u>Long-term:</u> Upgrade and expansion of plant <u>Short-term:</u> Address maintenance deficiencies identified through plant assessment (pumps, filters, electrical and automation) and improve operations	- Operational challenges, inconsistent plant and water quality monitoring are reason for DWA - Assessment of plant identified maintenance deficiencies (pumps, electrical, automation, filter); ISC has approved funding to support estimated costs to address these maintenance issues - Call for proposals for a consulting engineer completed, and contract awarded; on-site visit by consultant occurred during the week of March 20, 2021; Engineer's Assessment report received noting issues with nano-filtration membranes; treatment supplier assessed May 2021; updated assessment report that includes findings and recommendations of treatment supplier shared with ISC; 99% Design expected to be issued in September 2021 - Repair work was anticipated to be complete by end of August 2021, however delays have hindered progress; new target date will be established once a revised construction schedule provided - Operational supports provided by ISC funded Centralized Water and Wastewater Hub delivered by OFNTSC - Long-term solution determined through feasibility study; ISC working with First Nation to develop project approval documents to advance project to design phase	2021/12

OTHER RELATED INITIATIVES

Region	First Nation	Project	Current Status
ON	Curve Lake First Nation	Curve Lake New Water Treatment Plant	<ul style="list-style-type: none"> <li>- Curve Lake First Nation does not currently have a drinking water advisory in effect. In June 2018, the LTDWA on the Curve Lake Seniors Administration Building was lifted.</li> <li>- Curve Lake is serviced with groundwater drawn from roughly 308 individual wells for each home, plus the Nishnawbeke Subdivision that is serviced with a communal groundwater supply system (Curve Lake (Nishnawbeke) Water Supply Treatment System - serving 59 homes); this system will be demolished once the new water treatment plant is operational and the existing water distribution system for the Nishnawbeke Subdivision will be incorporated into the new system. There are 208 rental income properties on the reserve also serviced by individual wells. These units will not be served through the new water treatment and distribution system.</li> <li>- Individual wells in Curve Lake are unreliable in both quantity and quality with poor yields/water shortages and contamination from on-site septic systems. Previous test results show that high levels of sodium, turbidity, iron and nitrate were present in numerous groundwater supplies. The National Assessment (Neegan Burnside Ltd., December 2010) assessed four private wells and noted water quality issues concerning coliforms, nitrates and nitrites, hardness and total dissolved solids (TDS), hardness and sodium, as well as variable dissolved organic carbon (DOC) concentrations.</li> <li>- The Nishnawbeke Subdivision pumphouse runs short of water frequently and does not have the capacity to meet current demands. The latest Asset Condition Reporting System (ACRS) Report (year 2018-2019) recommended major renovation or replacement. A new water treatment and distribution system capable of conforming to Ontario drinking water regulations is needed to ensure that the First Nation is supplied with safe, potable water, for at least the next 20 years.</li> <li>- ISC provided funding to Curve Lake First Nation to update an existing feasibility study. The updated study recommended, and the community prefers, a surface water treatment plant with membrane filtration and extended distribution system with fire flow.</li> <li>- ISC is committed to funding construction of the Curve Lake water treatment system as defined in the Project Approval Request approved by Chief and Council on June 2, 2020 and ISC on June 22, 2020, subject to further growth identified in the design study in the First Nation membership living on reserve.</li> <li>- ISC received the final feasibility study on May 29, 2020. The design phase of the project was approved on July 15, 2020. The First Nation is working with a Project Manager and a Design Consultant to complete the design by end of March 2022.</li> </ul>
ON	Neskantaga	Trust the Taps	<ul style="list-style-type: none"> <li>- FNIHB ON region funded the “Trust the Taps” proposal for \$200,000 in Neskantaga, which is a Community Wellness/Healing Plan that focuses on collective healing, cultural education, building self esteem, and identifying other community appropriate wellness strategies. This proposal arose from the need to address psychological and physical impact of the LTDWA which only compounds the ongoing trauma and mental health challenges experienced by the community.</li> <li>- FNIHB ON’s initial funding will be used mainly for community engagement and capacity support to develop the Community Wellness/Healing Plan, as well as direct mental health support for the community engagement and issues that may arise from those sessions.</li> <li>- The initial community engagement (approved in February 2021) will be implemented by the First Nation; FNIHB continues to be available to support the First Nation as they advance the implementation of the project</li> <li>- FNIHB ON is committed to funding the implementation and delivery of the Community Wellness/Healing Plan that is developed through the community engagement process in consultation with FNIHB.</li> </ul>

**SCHEDULE K**  
**COMMITMENT DISPUTE RESOLUTION PROCESS**  
**(AND APPENDIX)**

*See attached.*

## 1. Fixing Things Together: Commitment Dispute Resolution Process

### 1.1. General

- 1.1.1. This Schedule applies to disagreements that arise between Canada and Underserved First Nations about whether Canada is meeting its Commitment under the Agreement and about proposed plans for meeting the Commitment (collectively, “**Disagreements**”).
- 1.1.2. Canada and the Class share the following objectives:
  - 1.1.2.1. to cooperate with each other to ensure that the Commitment is always met;
  - 1.1.2.2. to strive for consensus and harmony;
  - 1.1.2.3. to agree on plans to meet the Commitment in a timely and expeditious fashion (“**Remediation Plans**”);
  - 1.1.2.4. to identify Disagreements quickly and resolve them in the most expeditious and cost-effective manner possible;
  - 1.1.2.5. to resolve Disagreements in a non-adversarial, collaborative and informal atmosphere;
  - 1.1.2.6. to resolve Disagreements in a manner which reflects and incorporates the legal traditions and protocols of the Underserved First Nation;
  - 1.1.2.7. to locate the process for resolving Disagreements within the communities of the Underserved First Nations and conduct those processes in a way that is accessible to and respectful of those communities.
- 1.1.3. Except as otherwise provided, Canada and any Underserved First Nation may agree to vary a procedural requirement contained in this Schedule, as it applies to a particular Disagreement.
- 1.1.4. Canada and the Class desire and expect that most Disagreements will be resolved by informal discussions without the necessity of invoking this Schedule.
- 1.1.5. Except as otherwise provided in this Agreement, Disagreements not resolved informally will progress, until resolved, through the following stages:
  - 1.1.5.1. Stage One: formal, unassisted efforts to reach agreement on a Remediation Plan between Canada and the Underserved First Nation, in collaborative negotiations in accordance with Appendix K-1;

- 1.1.5.2. Stage Two: structured efforts to reach agreement between or among the Canada and the Underserved First Nation in a mediation in accordance with Appendix K-2; and
- 1.1.5.3. Stage Three: final adjudication in arbitral proceedings in accordance with Appendix K-3.
- 1.1.6. Except as otherwise provided in this Agreement, no one may refer a Disagreement to final adjudication in Stage Three without first proceeding through Stage One and Stage Two as required in this Schedule.
- 1.1.7. Nothing in this Schedule prevents Canada or an Underserved First Nation from commencing arbitral proceedings on an urgent basis at any time:
  - 1.1.7.1. to address an urgent loss of regular access to water; and/or
  - 1.1.7.2. to obtain interlocutory or interim relief that is otherwise available pending resolution of the Disagreement under this Schedule,and the Arbitrator shall have the power to hear such hearings on an urgent basis and grant such interlocutory or interim relief.

## **1.2. Stage One: Collaborative Negotiations**

- 1.2.1. If a Disagreement is not resolved by informal discussion and an Underserved First Nation wishes to invoke this Schedule, that Underserved First Nation will deliver a notice to Canada, requiring the commencement of collaborative negotiations.
- 1.2.2. Upon receiving the notice, Canada and the Underserved First Nation shall participate in the collaborative negotiations.
- 1.2.3. Collaborative negotiations must be conducted in a manner which:
  - 1.2.3.1. is in good faith;
  - 1.2.3.2. creates a safe and respectful space for members of the Underserved First Nation participating;
  - 1.2.3.3. promotes mutual understanding and transparency about the issues in the Disagreement, by, among other things, Canada providing sufficient information and sufficiently explaining those issues in a way that is accessible to members of the Underserved First Nation;
  - 1.2.3.4. enables and promotes the use of Indigenous languages;

- 1.2.3.5. is located within the community of the Underserved First Nation and is accessible to its members;
- 1.2.3.6. respects the legal traditions and protocols of the Underserved First Nation, including:
  - 1.2.3.6.1. seating arrangements;
  - 1.2.3.6.2. order of speaking;
  - 1.2.3.6.3. prayers, speeches and acknowledgments;
  - 1.2.3.6.4. exchange of gifts;
  - 1.2.3.6.5. the wisdom of elders;
  - 1.2.3.6.6. the importance of traditional teachings;
  - 1.2.3.6.7. the experience of the community;
  - 1.2.3.6.8. the community's understanding of the issues in the Disagreement; and
  - 1.2.3.6.9. the community's protocols for decision-making.

1.2.4. Collaborative negotiations terminate in the circumstances described in Appendix K-1.

### **1.3. Stage Two: Mediation**

- 1.3.1. Within fifteen (15) days of termination of collaborative negotiations that have not resolved the Disagreement, an Underserved First Nation may require the commencement of a facilitated process by delivering a notice describing the Disagreement and including any Remediation Plans from Canada and the Underserved First Nation.
- 1.3.2. Within thirty (30) days after delivery of a notice, the Canada and the Underserved First Nation engaged in the Disagreement (the "**Participating Parties**") will use mediation to attempt to resolve the Disagreement.
- 1.3.3. The Parties shall establish a Roster of Mediators available to facilitate negotiations who have knowledge of:
  - 1.3.3.1. The conditions of life on First Nations reserves; and
  - 1.3.3.2. First Nations languages, customs and legal traditions.

1.3.4. The mediator and the Participating Parties must conduct the facilitated process in a manner which:

- 1.3.4.1. creates a safe and respectful space for members of the Underserved First Nation participating;
- 1.3.4.2. promotes mutual understanding and transparency about the issues in the Disagreement, by, among other things, Canada providing sufficient information and sufficiently explaining those issues in a way that is accessible to members of the Underserved First Nation;
- 1.3.4.3. enables and promotes the use of Indigenous languages throughout the process;
- 1.3.4.4. is located within the community of the Underserved First Nation and is accessible to its members;
- 1.3.4.5. respects the legal traditions and protocols of the Underserved First Nation, including:
  - 1.3.4.5.1. seating arrangements;
  - 1.3.4.5.2. order of speaking;
  - 1.3.4.5.3. prayers, speeches and acknowledgments;
  - 1.3.4.5.4. exchange of gifts;
  - 1.3.4.5.5. the wisdom of elders;
  - 1.3.4.5.6. the importance of traditional teachings;
  - 1.3.4.5.7. the experience of the community;
  - 1.3.4.5.8. the community's understanding of the issues in the Disagreement;
  - 1.3.4.5.9. the community's protocols for decision-making.

1.3.5. The Underserved First Nation may designate a representative knowledge keeper or elder to provide guidance to the mediator on legal traditions and protocols.

1.3.6. The Underserved First Nation may develop guidelines outlining its legal traditions and protocols for use by the mediator and the Parties.

1.3.7. The Participating Parties may or may not request a report from the mediator.

1.3.8. A mediation terminates in the circumstances described in Appendix K-2.

#### **1.4. Stage Three: Adjudication – Arbitration**

1.4.1. After the later of termination of collaborative negotiations, or of a required facilitated process, the Disagreement will, on the delivery of a notice to arbitrate in accordance with Appendix K-3, be referred to and finally resolved by arbitration in accordance with that Appendix.

1.4.2. Accompanying the notice to arbitrate shall be:

1.4.2.1. any Remediation Plans prepared by the Participating Parties;

1.4.2.2. any neutral evaluation report;

1.4.2.3. any mediator's report that the Parties have agreed may be provided to the Arbitrator.

1.4.3. The Parties shall establish a Roster of Arbitrators available to hear arbitration of Disagreements.

1.4.4. Arbitrators on the Roster of Arbitrators shall have knowledge of:

1.4.4.1. The conditions of life on First Nations reserves; and

1.4.4.2. First Nations languages, customs and legal traditions.

1.4.5. The Arbitrator shall consider the Remediation Plans proposed and the reasonableness of Canada's efforts to ensure regular access as defined in the Commitment. Relevant factors include:

1.4.5.1. the views of the Underserviced First Nation, including:

1.4.5.1.1. the physical, social and cultural importance of water;

1.4.5.1.2. the legal traditions of the Underserviced First Nation as they relate to water use, protection and access;

1.4.5.1.3. the historic and ongoing effects of lack of access to water within the Underserviced First Nation;

1.4.5.1.4. the history of Canada's efforts with respect to ensuring regular access to water;

1.4.5.1.5. the urgency of the Underserviced First Nation's water needs.

- 1.4.5.2. any federal requirements or provincial standards and protocols relating to water;
- 1.4.5.3. whether monitoring and testing are performed on the water system; and
- 1.4.5.4. the physical location of the home, including proximity to centralized water systems and remoteness.

1.4.6. The Arbitrator shall conduct the arbitration proceedings in a manner which:

- 1.4.6.1. creates a safe and respectful space for members of the Underserviced First Nation participating;
- 1.4.6.2. promotes mutual understanding and transparency about the issues in the Disagreement;
- 1.4.6.3. enables and promotes the use of Indigenous languages throughout the process;
- 1.4.6.4. is located within the community of the Underserviced First Nation and is accessible to its members;
- 1.4.6.5. respects the legal traditions and protocols of the Underserviced First Nation, including:
  - 1.4.6.5.1. seating arrangements;
  - 1.4.6.5.2. order of speaking;
  - 1.4.6.5.3. prayers, speeches and acknowledgments;
  - 1.4.6.5.4. exchange of gifts;
  - 1.4.6.5.5. the admissibility and relevance of evidence, including:
    - 1.4.6.5.5.1. the wisdom of elders;
    - 1.4.6.5.5.2. traditional teachings;
    - 1.4.6.5.5.3. the experience of the community;
    - 1.4.6.5.5.4. the community's understanding of the issues in the Disagreement; and
    - 1.4.6.5.5.5. the community's protocols for decision-making.

- 1.4.7. The Underserviced First Nation may recommend a representative knowledge keeper or elder, who may, at the discretion of the Arbitrator, sit with the Arbitrator to provide guidance on legal traditions and protocols.
- 1.4.8. The Underserviced First Nation may develop guidelines outlining its legal traditions and protocols for use by the Arbitrator and the Parties.
- 1.4.9. After reviewing the Remediation Plans proposed and hearing from the Participating Parties, the Arbitrator shall make an arbitral award as follows:
  - 1.4.9.1. ordering the Underserviced First Nation's Remediation Plan if it is reasonable in all the circumstances;
  - 1.4.9.2. ordering Canada's Remediation Plan if it is reasonable and the Underserviced First Nation's Remediation Plan is not reasonable; or
  - 1.4.9.3. remitting the matter back to the Participating Parties with directions in the event that neither Remediation Plan is reasonable.
- 1.4.10. An Arbitral Award, as defined in Appendix K-3, is final and binding on all Participating Parties whether or not a Participating Party has participated in the arbitration.
- 1.4.11. The Parties shall maintain a public registry of arbitral decisions for use by Canada, Underserviced First Nations, and Arbitrators.

## Dispute Resolution Procedures

### GENERAL

(1) If, in the circumstances set out in Section 9.07 of the Agreement, an Underserviced First Nation wishes to invoke the dispute resolution process set out in this Schedule in respect of an applicable dispute (each a "**Disagreement**"), the Underserviced First Nation may give Canada a Negotiation Notice, and the Parties shall resolve the Disagreement using the procedure set out in this Schedule.

(2) The "**Schedule**" means this Schedule K: Dispute Resolution.

[Appendix K-1: Collaborative Negotiations](#)

[Appendix K-2: Mediation](#)

[Appendix K-3: Arbitration](#)

### **APPENDIX K-1** **Collaborative Negotiations**

### GENERAL

(3) Collaborative negotiations commence on the date of delivery of a written notice by an Underserviced First Nation requiring the commencement of collaborative negotiations (a "**Negotiation Notice**").

### NOTICE

(4) A Negotiation Notice will include the following:

- (a) the names of the Participating Parties
- (b) a summary of the particulars of the Disagreement;
- (c) a description of the efforts made to date to resolve the Disagreement;
- (d) the names of the individuals involved in those efforts; and
- (e) any other information that will help the Participating Parties.

### REPRESENTATION

(5) A Participating Party may attend collaborative negotiations with or without legal counsel or other advisors.

(6) At the commencement of the first negotiation meeting, each Participating Party will advise the other Participating Parties of any limitations on the authority of its representatives.

## **NEGOTIATION PROCESS**

(7) The Participating Parties will convene their first negotiation meeting in collaborative negotiations within twenty-one (21) days after the commencement of the collaborative negotiations.

(8) Before the first scheduled negotiation meeting, the Participating Parties will attempt to agree on any procedural issues that will facilitate the collaborative negotiations.

(9) The Participating Parties will make a serious attempt to resolve the Disagreement by:

- (a) identifying underlying interests;
- (b) isolating points of agreement and disagreement;
- (c) exploring alternative solutions;
- (d) considering compromises or accommodations; and
- (e) taking any other measures that will assist in resolution of the Disagreement.

(10) No transcript or recording will be kept of collaborative negotiations, but this does not prevent an individual from keeping notes of the negotiations.

## **CONFIDENTIALITY**

(11) In order to assist in the resolution of a Disagreement, collaborative negotiations will not be open to the public, but this paragraph does not prevent leadership of the Underserved First Nation and their representatives from attending.

(12) The Participating Parties, and all persons, will keep confidential:

- (a) all oral and written information disclosed in the collaborative negotiations; and
- (b) the fact that the information has been disclosed.

(13) The collaborative negotiations will be without prejudice to the rights of the Participating Parties, and nothing disclosed in the collaborative negotiations may be used outside of the collaborative negotiations.

## **RIGHT TO WITHDRAW**

(14) A Participating Party may withdraw from collaborative negotiations at any time.

## **TERMINATION OF COLLABORATIVE NEGOTIATIONS**

(15) Collaborative negotiations are terminated when any of the following occurs:

- (a) the expiration of sixty (60) days;

(b) a Participating Party withdraws from the collaborative negotiations under paragraph (14);

(c) the Participating Parties agree in writing to terminate the collaborative negotiations; or

(d) the Participating Parties sign a written agreement resolving the Disagreement.

## **COSTS**

(16) Canada shall pay the reasonable costs of collaborative negotiations conducted under this Appendix in accordance with Section 9.08 of the Agreement.

## **APPENDIX K-2** **Mediation**

## **GENERAL**

(17) A mediation may commence at any time after the conclusion of collaborative negotiations, in accordance with Appendix K-1, when an Underserved First Nation delivers written notice requiring the commencement of mediation (a "**Mediation Notice**").

(18) A mediation begins on the date the Participating Parties directly engaged in the Disagreement have agreed in writing to commence mediation in accordance with 1.3.2 of the Schedule.

## **NOTICE**

(19) A Mediation Notice will include the following:

(a) the names of the Participating Parties

(b) a summary of the particulars of the Disagreement;

(c) a description of the efforts made to date to resolve the Disagreement;

(d) the names of the individuals involved in those efforts; and

(e) any other information that will help the Participating Parties.

## **APPOINTMENT OF MEDIATOR**

(20) A mediation will be conducted by one mediator selected by the Underserved First Nation from the Roster of Mediators established in accordance with the Schedule.

(21) Subject to any limitations agreed to by the Participating Parties, a mediator may employ reasonable and necessary administrative or other support services.

## **REQUIREMENT TO WITHDRAW**

(22) At any time a Participating Party may give the mediator and the other Participating Parties a written notice, with or without reasons, requiring the mediator to withdraw from the mediation on the grounds that the Participating Party has justifiable doubts as to the mediator's independence or impartiality.

(23) On receipt of a written notice in accordance with paragraph (22), the mediator will immediately withdraw from the mediation.

## **END OF APPOINTMENT**

(24) A mediator's appointment terminates if:

- (a) the mediator is required to withdraw in accordance with paragraph (23);
- (b) the mediator withdraws from office for any reason; or
- (c) the Participating Parties agree to the termination.

(25) If a mediator's appointment terminates, a replacement mediator will be appointed in accordance with paragraph (20).

## **REPRESENTATION**

(26) A Participating Party may attend a mediation with or without legal counsel or other advisor.

(27) If a mediator is a lawyer, the mediator will not act as legal counsel for any Participating Party.

(28) At the commencement of the first meeting of a mediation, each Participating Party will advise the mediator and the other Participating Parties of any limitations on the authority of its representatives.

## **CONDUCT OF MEDIATION**

(29) The Participating Parties will:

(a) make a serious attempt to resolve the Disagreement by:

- (i) identifying underlying interests;
- (ii) isolating points of agreement and disagreement;
- (iii) exploring alternative solutions; and
- (iv) considering compromises or accommodations; and

(b) cooperate fully with the mediator and give prompt attention to, and respond to, all communications from the mediator.

(30) A mediator shall conduct a mediation with reference to Indigenous legal traditions and protocols, as set out in the Schedule, and may otherwise take any steps

the mediator considers necessary and appropriate to assist the Participating Parties to resolve the Disagreement in a fair, efficient and cost-effective manner.

(31) Within seven (7) days of appointment of a mediator, each Participating Party may deliver a written summary to the mediator of the relevant facts, the issues in the Disagreement, and its viewpoint in respect of them and the mediator will deliver copies of the summaries to each Participating Party at the end of the seven-day period.

(32) A mediator may conduct a mediation in joint meetings or private caucus convened at locations the mediator designates after consulting the Participating Parties.

(33) Disclosures made by any Participating Party to a mediator in private caucus will not be disclosed by the mediator to any other Participating Party without the consent of the disclosing Participating Party.

(34) No transcript or recording will be kept of a mediation meeting but this does not prevent a person from keeping notes of the negotiations.

## **CONFIDENTIALITY**

(35) In order to assist in the resolution of a Disagreement, mediations will not be open to the public, but this paragraph does not prevent leadership of the Underserved First Nation and their representatives from attending.

(36) The Parties, and all persons, will keep confidential:

- (a) all oral and written information disclosed in the mediation; and
- (b) the fact that this information has been disclosed.

(37) The Participating Parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the mediation, any oral or written information disclosed in or arising from the mediation, including:

- (a) any documents of other Participating Parties produced in the course of the mediation that are not otherwise produced or producible in that proceeding;
- (b) any views expressed, or suggestions, or proposals made in respect of a possible settlement of the Disagreement;
- (c) any admissions made by any Participating Party in the course of the mediation, unless otherwise stipulated by the admitting Participating Party;
- (d) any recommendations for settlement made by the mediator; and
- (e) the fact that any Participating Party has indicated a willingness to make or accept a proposal or recommendation for settlement.

(38) A mediator, or anyone retained or employed by the mediator, is not compellable in any proceeding to give evidence about any oral and written information acquired or opinion formed by that person as a result of the mediation, and all

Participating Parties will oppose any effort to have that person or that information subpoenaed.

(39) A mediator, or anyone retained or employed by the mediator, is disqualified as a consultant or expert in any proceeding relating to the Disagreement, including any proceeding that involves persons not a Participating Party to the mediation.

## **REFERRAL OF ISSUES TO OTHER PROCESSES**

(40) During a mediation the Participating Parties may agree to refer particular issues in the Disagreement to independent fact-finders, expert panels or other processes for opinions or findings that may assist them in the resolution of the Disagreement, and in that event, the Participating Parties will specify:

- (a) the terms of reference for the process;
- (b) the time within which the process will be concluded; and
- (c) how the costs of the process are to be allocated to the Participating Parties.

(41) The time specified for concluding a mediation will be extended for fifteen (15) days following receipt of the findings or opinions rendered in a process described in paragraph (40).

## **RIGHT TO WITHDRAW**

(42) A Participating Party may withdraw from a mediation at any time by giving notice of its intent to the mediator.

- (43) Before a withdrawal is effective, the withdrawing Participating Party will:
- (a) speak with the mediator;
  - (b) disclose its reasons for withdrawing; and
  - (c) give the mediator the opportunity to discuss the consequences of withdrawal.

## **TERMINATION OF MEDIATION**

- (44) A mediation is terminated when any of the following occurs:
- (a) subject to paragraph (41), the expiration of sixty (60) days after the appointment of the last mediator appointed to assist the Parties in resolving the Disagreement, or any longer period agreed by the Participating Parties;
  - (b) the Participating Parties have agreed in writing to terminate the mediation or not to appoint a replacement mediator in accordance with paragraph (25);
  - (c) a Participating Party withdraws from the mediation in accordance with paragraph (42); or
  - (d) the Participating Parties sign a written agreement resolving the Disagreement.

## **MEDIATOR RECOMMENDATION**

(45) If a mediation is terminated without an agreement between the Participating Parties, they may jointly request that the mediator give a written non-binding recommendation for settlement, but the mediator may decline the request without reasons.

(46) Within fifteen (15) days after delivery of a mediator's recommendation in accordance with paragraph (45), the Participating Parties will meet with the mediator to attempt to resolve the Disagreement.

## **COSTS**

(47) Subject to paragraph (40), Canada shall pay for the reasonable costs of mediations conducted under this Appendix in accordance with Section 9.08 of the Agreement.

## **APPENDIX K-3** **Arbitration**

## **DEFINITIONS**

(48) In this Appendix:

(a) "**Court**" means the superior court of the province where the Reserve of the Underserviced First Nation underlying the Disagreement is located;

(b) "**Applicant**" means the Participating Party that delivered the notice of arbitration;

(c) "**Arbitral Award**" means any decision of the Arbitrator on the substance of the Disagreement submitted to it, and includes:

(i) an interim award; and

(ii) an award of interest;

(d) "**Arbitral Agreement**" includes

(i) the requirement to refer to arbitration Disagreements in accordance with this Schedule; and

(ii) an agreement of the Participating Parties to arbitrate a Disagreement;

(e) "**Arbitrator**" means a single arbitrator appointed in accordance with this Appendix;

(f) "**Respondent**" means a Participating Party other than the Applicant;

(49) A reference in this Appendix, other than in paragraph (96) or (118)(a), to a claim, applies to a counterclaim, and a reference in this Appendix to a defence, applies to a defence to a counterclaim.

(50) Notwithstanding any other provision in the Schedule, the Participating Parties may not vary paragraphs (63) or (108) of this Appendix.

## **COMMUNICATIONS**

(51) Except in respect of administrative details, the Participating Parties will not communicate with the Arbitrator:

(a) orally, except in the presence of all other Participating Parties; or

(b) in writing, without immediately sending a copy of that communication to all other Participating Parties.

## **EXTENT OF JUDICIAL INTERVENTION**

(52) In matters governed by this Appendix:

(a) no court will intervene except as provided in this Appendix or the Schedule; and

(b) no arbitral proceeding of an Arbitrator, or an order, ruling or Arbitral Award made by an Arbitrator will be appealed, questioned, reviewed, or restrained by a proceeding under any law except to the extent provided in this Appendix.

(c) the Participating Parties, to the greatest extent permitted by law, waive any right to appeal, question, review, or restrain arbitral proceeding of an Arbitrator, or an order, ruling or Arbitral Award made by an Arbitrator.

## **COMMENCEMENT OF ARBITRAL PROCEEDINGS**

(53) The arbitral proceedings in respect of a Disagreement commences on delivery of the notice of arbitration by the Applicant to the Respondents ("**Arbitration Notice**").

## **NOTICE OF ARBITRATION**

(54) An Arbitration Notice will be in writing and contain the following information:

(a) a statement of the subject matter or issues of the Disagreement;

(b) a requirement that the Disagreement be referred to arbitration;

(c) the remedy sought; and

(d) any preferred qualifications of the arbitrators.

(55) An Arbitration Notice may contain the names of any proposed arbitrators, including the information specified in paragraph (58).

## **ARBITRATOR**

(56) In each arbitration, there will be one arbitrator.

## **APPOINTMENT OF ARBITRATORS**

(57) The Participating Parties will make good faith efforts to agree on the Arbitrator from the Roster of Arbitrators. If the Participating Parties fail to agree on the Arbitrator within fifteen (15) days after the commencement of the arbitration, the Participating Parties will ask the Courts or any one of them to appoint an arbitrator from the Roster of Arbitrators.

(58) In appointing an Arbitrator, the Courts will have due regard to:

(a) any qualifications required of the Arbitrator as set out in the Arbitration Notice or as otherwise agreed in writing by the Participating Parties; and

(b) any other considerations that are likely to secure the appointment of an independent and impartial Arbitrator.

## **TERMINATION OF MANDATE AND SUBSTITUTION OF ARBITRATOR**

(59) The mandate of an Arbitrator terminates:

(a) if the Arbitrator withdraws from office for any reason; or

(b) by, or pursuant to, agreement of the Participating Parties.

(60) If the mandate of an Arbitrator terminates, a replacement arbitrator will be appointed in accordance with paragraph (57).

## **INTERIM MEASURES ORDERED BY ARBITRAL TRIBUNAL**

(61) Unless otherwise agreed by the Participating Parties, the Arbitrator may, at the request of a Participating Party, order a Participating Party to take any interim measure of protection as the Arbitrator may consider necessary in respect of the subject matter of the Disagreement.

## **EQUAL TREATMENT OF PARTIES**

(62) The Participating Parties will be treated with equality and each Participating Party will be given a full opportunity to present its case.

## **DETERMINATION OF RULES OF PROCEDURE**

(63) Subject to the Schedule and this Appendix, the Participating Parties may agree on the procedure to be followed by the Arbitrator in conducting the proceedings.

(64) Failing any agreement in accordance with paragraph (63), the Arbitrator, subject to the Schedule and this Appendix, may conduct the arbitration in the manner they consider appropriate with due regard to the Indigenous legal traditions and protocols of the Underserved First Nation.

(65) The Arbitrator is not required to apply the legal rules of evidence, and may determine the admissibility, relevance, materiality and weight of any evidence. In accordance with the Schedule, the Arbitrator shall have due regard to the Indigenous legal traditions and protocols of the Underserved First Nation in determining the presentation and admission of evidence.

(66) Subject only to the Schedule and the Indigenous laws and protocols of the Underserved First Nation, the Arbitrator will make all reasonable efforts to conduct the arbitral proceedings in the most efficient, expeditious and cost effective manner as is appropriate in all the circumstances of the case.

(67) The Arbitrator may extend or abridge a period of time:

- (a) set in this Appendix, except the period specified in paragraph (109); or
- (b) established by the Arbitrator.

### **PRE-HEARING MEETING**

(68) Within ten (10) days after the Arbitrator is appointed, the Arbitrator will convene a pre-hearing meeting of the Participating Parties to reach agreement and to make any necessary orders on

- (a) any procedural issues arising in accordance with this Appendix;
- (b) the procedure and community protocols to be followed in the arbitration;
- (c) any elders or knowledge keepers who will sit with and advise the Arbitrator on community protocol and Indigenous law;
- (d) the time periods for taking steps in the arbitration;
- (e) the scheduling of hearings or meetings, if any;
- (f) any preliminary applications or objections; and
- (g) any other matter which will assist the arbitration to proceed in an efficient and expeditious manner.

(69) The Arbitrator will prepare and distribute promptly to the Participating Parties a written record of all the business transacted, and decisions and orders made, at the pre-hearing meeting.

(70) The pre-hearing meeting may be conducted by conference or videoconference call.

### **PLACE OF ARBITRATION**

(71) As far as practicable the place of the arbitration shall be on or near the reserve of the Underserved First Nation.

(72) An Arbitrator may

(a) with the consent of the Participating Parties, may meet at any other place it considers, for hearing witnesses, experts or the Participating Parties; and

(b) attend any place for inspection of documents, goods or other personal property, or for viewing physical locations.

## **LANGUAGE**

(73) As far as practicable the conduct of the arbitration will promote the use of the Indigenous language of the Underserviced First Nation.

(74) Canada shall bear the costs of translation of oral presentations and proceedings, and of such documents as the Arbitrator may direct in the circumstances of a particular Disagreement.

## **STATEMENTS OF CLAIM AND DEFENCE**

(75) Within twenty-one (21) days after the Arbitrator is appointed, the Underserviced First Nation, as Applicant will deliver its Remediation Plan and a written statement to Canada, the Respondent, stating the facts supporting its claim or position, the points at issue and the relief or remedy sought.

(76) Within fifteen (15) days after receipt of the Applicant's statement, the Respondent will deliver a written statement to all the Participating Parties stating its defence or position in respect of those particulars.

(77) Each Participating Party will attach to its statement a list of documents:

(a) upon which the Participating Party intends to rely; and

(b) which describes each document by kind, date, author, addressee and subject matter.

(78) The Participating Parties may amend or supplement their statements, including the list of documents, unless the Arbitrator considers it inappropriate to allow the amendment, supplement or additional pleadings having regard to:

(a) the delay in making it; and

(b) any prejudice suffered by the other Participating Parties.

(79) The Participating Parties will deliver copies of all amended, supplemented or new documents delivered in accordance with paragraph (78) to all the Participating Parties.

## **DISCLOSURE**

(80) The Arbitrator may order a Participating Party to produce, within a specified time, any documents that:

(a) have not been listed in accordance with paragraph (77);

(b) the Participating Party has in its care, custody or control; and

(c) the Arbitrator considers to be relevant.

(81) Each Participating Party will allow the other Participating Parties the necessary access at reasonable times to inspect and take copies of all documents that the Participating Party has listed in accordance with paragraph (77), or that the Arbitrator has ordered to be produced in accordance with paragraph (80).

(82) The Participating Parties will prepare and send to the Arbitrator an agreed statement of facts within the time specified by the Arbitrator, failing which the Parties will identify their differences and ask the arbitrator to decide the facts.

(83) Not later than twenty-one (21) days before a hearing commences, each Participating Party will give the other Participating Party:

(a) the name and address of any witness and a written summary or statement of the witness's evidence; and

(b) in the case of an expert witness, a written statement or report prepared by the expert witness.

(84) Not later than fifteen (15) days before a hearing commences, each Participating Party will give to the other Participating Party and the Arbitrator an assembly of all documents to be introduced at the hearing.

## **HEARINGS AND WRITTEN PROCEEDINGS**

(85) Unless the Participating Parties have agreed that no hearings will be held, the Arbitrator will convene a hearing if so requested by a Participating Party.

(86) The Arbitrator will give the Participating Parties sufficient advance notice of any hearing and of any meeting of the Arbitrator for the purpose of inspection of documents, goods or other property or viewing any physical location.

(87) All statements, documents or other information supplied to, or applications made to, the Arbitrator by one Participating Party will be communicated to the other Participating Parties, and any expert report, evidentiary document or case law on which the Arbitrator may rely in making its decision will be communicated to the Participating Parties.

(88) Unless ordered by the Arbitrator, all hearings and meetings in arbitral proceedings, other than the Arbitrator's meetings, are open to the public.

(89) The Arbitrator will schedule hearings to be held on consecutive days until completion.

(90) All oral evidence will be taken in the presence of the Arbitrator and all the Participating Parties unless a Participating Party is absent by default or has waived the right to be present.

(91) The Arbitrator may order any individual to be examined by the Arbitrator under oath or on affirmation in relation to the Disagreement and to produce before the Arbitrator all relevant documents within the individual's care, custody or control.

(92) The document assemblies delivered in accordance with paragraph (84) will be deemed to have been entered into evidence at the hearing without further proof and without being read out at the hearing, but a Participating Party may challenge the admissibility of any document so introduced.

(93) If the Arbitrator considers it just and reasonable to do so, the Arbitrator may permit a document that was not previously listed in accordance with paragraph (77), or produced in accordance with paragraph (80) or (84), to be introduced at the hearing.

(94) If the Arbitrator permits the evidence of a witness to be presented as a written statement, the other Participating Party may require that witness to be made available for cross examination at the hearing.

(95) The Arbitrator may order a witness to appear and give evidence, and, in that event, the Participating Parties may cross examine that witness and call evidence in rebuttal.

#### **DEFAULT OF A PARTY**

(96) If, without explanation, the Applicant fails to communicate its statement of claim in accordance with paragraph (75), the Arbitrator may terminate the proceedings. If, without explanation, a Respondent fails to communicate its statement of defence in accordance with paragraph (76), the Arbitrator will continue the proceedings without treating that failure in itself as an admission of the Applicant's allegations.

(97) If, without showing sufficient cause, a Participating Party fails to appear at the hearing or to produce documentary evidence, the Arbitrator may continue the proceedings and make the Arbitral Award on the evidence before it.

(98) Before terminating the proceedings contemplated by paragraph (96), the Arbitrator will give all Parties written notice providing an opportunity to provide an explanation and to file a statement of claim in respect of the Disagreement within a specified period of time.

(99) For greater clarity, termination under paragraph (96) is without prejudice to the Applicant's ability to initiate new arbitration proceedings, without first returning to Stage 1 and 2 processes.

#### **EXPERT APPOINTED BY ARBITRAL TRIBUNAL**

(100) After consulting the Participating Parties, the Arbitrator may:

(a) appoint one or more experts to report to it on specific issues to be determined by the Arbitrator; and

(b) for that purpose, require a Participating Party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other personal property or land for inspection or viewing.

(101) The Arbitrator will give a copy of the expert's report to the Participating Parties who will have an opportunity to reply to it.

(102) If a Participating Party so requests, or if the Arbitrator considers it necessary, the expert will, after delivery of a written or oral report, participate in a hearing where the Participating Parties will have the opportunity to cross-examine the expert and to call any evidence in rebuttal.

(103) The expert will, on the request of a Participating Party:

(a) make available to that Participating Party for examination all documents, goods or other property in the expert's possession, and provided to the expert in order to prepare a report; and

(b) provide that Participating Party with a list of all documents, goods or other personal property or land not in the expert's possession but which were provided to or given access to the expert, and a description of the location of those documents, goods or other personal property or lands.

## **LAW APPLICABLE TO SUBSTANCE OF DISPUTE**

(104) An Arbitrator will decide the Disagreement in accordance with the law, including Indigenous law, and the Schedule.

(105) If the Participating Parties have expressly authorized it to do so, an Arbitrator may decide the Disagreement based upon equitable considerations.

(106) In all cases, an Arbitrator will make its decisions in accordance with the spirit and intent of the Agreement.

## **SETTLEMENT**

(107) If, during arbitral proceedings, the Participating Parties settle the Disagreement, the Arbitrator will terminate the proceedings and, if requested by those Participating Parties, will record the settlement in the form of an Arbitral Award on agreed terms.

(108) An Arbitral Award on agreed terms:

(a) will be made in accordance with paragraphs (110) to (112);

(b) will state that it is an Arbitral Award; and

(c) has the same status and effect as any other Arbitral Award on the substance of the Disagreement.

## **FORM AND CONTENT OF ARBITRAL AWARD**

(109) An Arbitrator will make its final Arbitral Award as soon as possible and, in any event, not later than sixty (60) days after:

(a) the hearings have been closed; or

(b) the final submission has been made, whichever is the later date.

(110) An Arbitral Award will be made in writing, and be signed by the Arbitrator.

(111) An Arbitral Award will state the reasons upon which it is based, unless:

(a) the Participating Parties have agreed that no reasons are to be given; or

(b) the award is an Arbitral Award on agreed terms contemplated by paragraphs (107) and(108).

(112) A signed copy of an Arbitral Award will be delivered to all the Participating Parties and the Joint Committee by the Arbitrator.

(113) At any time during the arbitral proceedings, an Arbitrator may make an interim Arbitral Award on any matter with respect to which it may make a final Arbitral Award.

(114) An Arbitrator may award interest.

(115) Unless an Arbitrator orders otherwise, Canada shall pay for the costs of an arbitration under this Appendix in accordance with Section 9.08 of the Agreement.

## **TERMINATION OF PROCEEDINGS**

(116) An Arbitrator will close any hearings if:

(a) the Participating Parties advise they have no further evidence to give or submissions to make; or

(b) the Arbitrator considers further hearings to be unnecessary or inappropriate.

(117) A final Arbitral Award, or an order of the Arbitrator in accordance with paragraph (118), terminates arbitral proceedings.

(118) An Arbitrator will issue an order for the termination of the arbitral proceedings if:

(a) the Applicant withdraws its claim, unless the Respondent objects to the order and the Arbitrator recognizes a legitimate interest in obtaining a final settlement of the Disagreement;

(b) the Participating Parties agree on the termination of the proceedings; or

(c) the Arbitrator finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(119) Subject to paragraphs (120) to (125), the mandate of an Arbitrator terminates with the termination of the arbitral proceedings.

#### **CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD**

(120) Within thirty (30) days after receipt of an Arbitral Award:

(a) a Participating Party may request the Arbitrator to correct in the Arbitral Award any computation errors, any clerical or typographical errors or any other errors of a similar nature; and

(b) a Participating Party may, if agreed by all the Participating Parties, request the Arbitrator to give an interpretation of a specific point or part of the Arbitral Award.

(121) If an Arbitrator considers a request made in accordance with paragraph (120) to be justified, it will make the correction or give the interpretation within thirty (30) days after receipt of the request and the interpretation will form part of the Arbitral Award.

(122) An Arbitrator, on its own initiative, may correct any error of the type referred to in sub-paragraph (120)(a) within thirty (30) days after the date of the Arbitral Award.

(123) A Participating Party may request, within thirty (30) days after receipt of an Arbitral Award, the Arbitrator to make an additional Arbitral Award respecting claims presented in the arbitral proceedings but omitted from the Arbitral Award.

(124) If the Arbitrator considers a request made in accordance with paragraph (123) to be justified, it will make an additional Arbitral Award within thirty (30) days.

(125) Paragraphs (110) to (112), and paragraphs (114) to (115), apply to a correction or interpretation of an Arbitral Award made in accordance with paragraph (121) or (122), or to an additional Arbitral Award made in accordance with paragraph (124).

#### **NO APPEAL**

(126) An Arbitral Award shall be final and binding on the Participating Parties and not subject to any appeal or review.

#### **RECOGNITION AND ENFORCEMENT**

(127) An Arbitral Award will be recognized as binding and, upon application to the Court, will be recognized and enforced.

(128) Unless the Court orders otherwise, the Participating Party relying on an Arbitral Award or applying for its enforcement will supply the duly authenticated original Arbitral Award or a duly certified copy of it.

## SCHEDULE L

### NOTICE PLAN

#### I. OVERVIEW

*Objective:*

To provide clear, concise, plain-language information to the greatest practicable number of Class Members and their family members regarding:

- a. the Settlement Agreement and their rights to receive compensation under it; and
- b. the Claims Process and timeline.

*Class Members:*

The Class Consists of the following:

- Individual Class Members, consisting of an estimated 142,300 individuals who are members of the Class and have not Opted Out of the Actions.
- First Nation Class Members, consisting of First Nations that are members of the Class and provide the Administrator with notice of Acceptance. There are up to a total of 258 Impacted First Nations that could deliver notices of Acceptance and become First Nation Class Members.

*Known Factors:*

Known factors considered in designing this Notice Plan include:

1. The Reserves subject to Long-Term Drinking Water Advisories during the Class Period include Reserves in remote areas, posing additional communication challenges (for example, delays or limitations in delivery of mailed notice materials).
2. Education levels of Class Members vary widely, from members who have not completed high school to members with graduate-level university education.
3. Class Members speak a variety of languages, including English, French, and a number of Indigenous languages.
4. Impacted First Nations are geographically dispersed across Canada's provinces, with particular concentration in Ontario, British Columbia, and Manitoba.
5. 2016 census data indicates that approximately two thirds of First Nation people do not reside on Reserves.<sup>1</sup> Class Members who lived on impacted Reserves during the Class

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<sup>1</sup> Aboriginal Identity (9), Residence by Aboriginal Geography (10), Registered or Treaty Indian Status (3), Age (20) and Sex (3) for the Population in Private Households of Canada, Provinces and Territories, 2016 Census - 25% Sample Data (table), Statistics Canada, 2016 Census- of Population, Statistics Canada Catalogue no. 98-400-X2016154. Ottawa: Released October 25, 2017.

Period may no longer reside on the Reserve with which their Claim is associated or in the same province or territory. Some Class Members may reside outside of Canada.

*Strategies:*

1. CA2 will give the “**Settlement Notice**” using the same notice plan that it used to give Certification Notice, as particularized further below. The form of the Settlement Notice will be substantially as set out in Schedule M, with such reasonable modifications as CA2 may suggest, and as approved by the Courts. CA2 will disseminate the Settlement Notice in a manner that is substantially similar to the way in which it disseminated the notice of certification of the Actions.
2. The Administrator will give the “**Settlement Approval Notice**” substantially in the form set out in Schedule N, with such reasonable amendments as the Administrator may suggest, and as approved by the Courts. The Settlement Approval Notice will advise Individual Class Members of the Claims Deadline and First Nation Class Members of the need to accept the settlement agreement. The Settlement Approval Notice will be disseminated by the following methods, as particularized further below:
  - a. Direct mailed notice to Class member First Nations;
  - b. A national press release;
  - c. Live in-person and virtual community meetings for interested First Nation Class Members;
  - d. Creation of an informational website providing access to copies of the Settlement Agreement, Claims Form, FAQs, and other informational resources, to be referenced in all notice materials and advertisements;
  - e. Establishment of a national toll-free support line for Class Members, family, guardians, or other persons who make inquiries on their own behalf or on behalf of Class Members to call for further information and support with Claims, to be cited in all notice materials and advertisements.
  - f. Publication in newspapers and First Nation publications across the country
  - g. Placement of 30- and 60-second television advertisements on APTN;
  - h. Placement of 30- and 60-second radio advertisements on leading First Nation radio stations in all relevant regions;
  - i. Social media/online advertisements to run on popular platforms, including Facebook, Twitter, and YouTube;
  - j. Translation of the notice into French, and all reasonable efforts to translate notice into Indigenous languages, as requested by Class Members; and
  - k. Toll-free support line to assist members in making Claims.

3. The Administrator will give a “**Reminder Notice**” eight months after first publication of Settlement Approval Notice, using the same notice plan. The Reminder Notice will be in a form to be agreed by the Parties, acting reasonably, on the advice of the Administrator, and approved by the Courts.
4. The Administrator will give a “**Late Claims Notice**” in the event that late claims are permitted. The Late Claims Notice, if any, will use the same notice plan as the Settlement Approval Notice and the Reminder Notice, modified as the Administrator advises and the Courts approve to target those First Nations where participation has fallen below expectations.
5. Canada will be responsible for the cost of giving notice in accordance with this Notice Plan.

## II. SETTLEMENT NOTICE PLAN

### Websites

Class Counsel, the Defendant, and CA2 shall post on their respective websites the Short Form Notice set out in Schedule M and the Long Form Notice set out in Schedule M, and the French language translations of these documents, as agreed upon by the parties;

### Print Media Advertising

CA2 shall publish the Short Form Notice set out in Schedule M, in the following publications in ¼ of a page size in the weekend edition of each newspaper, if possible: Globe and Mail; National Post; Winnipeg Free Press; Vancouver Sun; Edmonton Sun; Calgary Herald; Saskatoon Star Phoenix; Regina Leader Post; Thunder Bay Chronicle-Journal; Toronto Star; Ottawa Citizen; Montreal Gazette; Montreal La Presse (digital edition); Halifax Chronicle-Herald; Moncton Times and Transcript; First Nations Drum.

### Direct Mailed Notices

CA2 shall forward the Short Form Notice set out in Schedule M and Long Form Notice set out in Schedule M to the Assembly of First Nations and the Chiefs of every Impacted First Nation identified in accordance with, except for Excluded Persons;

CA2 shall forward the Short Form Notice set out in Schedule M and Long Form Notice set out in Schedule M to the band office or similar office of every Impacted First Nation, except for Excluded Persons, together with a request that they be posted in a prominent place.

### Toll-Free Support Line

CA2 shall establish a national toll-free support line, to provide assistance to Class Members, their family, their guardians, or other persons who make inquiries on their own behalf or on behalf of Class members.

### III. SETTLEMENT APPROVAL NOTICE PLAN

#### Direct Mailed Notices

Print notices to be mailed by regular postal mail to each of the following:

- The band office or similar office of all Impacted First Nations, requesting that the notices be posted in prominent locations, with sufficient copies of notice materials to distribute to community residents;
- The Chief of each Impacted First Nation;
- Friendship Centres associated with Impacted First Nations;
- Tribal council or similar for each Impacted First Nation;
- Head office and regional offices of the Assembly of First Nations;
- To the extent that their addresses are known, all Individual Class Members who are identified to the Administrator by a First Nation in a Band Council Confirmation or otherwise; and
- Any person who requests a copy of the Settlement Approval Notices,

Where mailed to a community hub, mailer to be accompanied by request to post the notice in a prominent location.

#### Print Media Advertising

Print notices in Court-approved short form to run twice, 60 days apart, on the best circulation day, in 1/4 page size and placed to maximize visibility and readership, in each of the following publications, or such reasonable substitutions as the Administrator may advise:

<b>Publication</b>	<b>Geographical Scope</b>
<i>Globe &amp; Mail</i>	National
<i>National Post</i>	National
<i>Vancouver Sun</i>	British Columbia
<i>Vancouver Province</i>	British Columbia
<i>Calgary Sun</i>	Alberta
<i>Calgary Herald</i>	Alberta
<i>Edmonton Journal</i>	Alberta
<i>Edmonton Sun</i>	Alberta

<i>Saskatoon Star Phoenix</i>	Saskatchewan
<i>Winnipeg Free Press</i>	Manitoba
<i>Winnipeg Sun</i>	Manitoba
<i>Regina Leader Post</i>	Manitoba
<i>Thunder Bay Chronicle-Journal</i>	Northwestern Ontario
<i>Toronto Star</i>	Ontario
<i>Ottawa Citizen</i>	Southeastern Ontario
<i>Montreal Gazette</i>	Québec
<i>Montreal La Presse (digital edition)</i>	Québec
<i>Halifax Chronicle-Herald</i>	Nova Scotia and Atlantic Canada
<i>Moncton Times and Transcript</i>	New Brunswick and Atlantic Canada
<i>First Nations Drum</i>	National
<i>NationTalk</i>	National
<i>Turtle Island News</i>	National
<i>Windspeaker</i>	National
<i>BC Raven's Eye</i>	British Columbia
<i>Alberta Sweetgrass</i>	Alberta
<i>Saskatchewan Sage</i>	Saskatchewan
<i>Ontario Birchbark</i>	Ontario

#### Radio and Television Advertisements and Public Service Announcements

Radio advertisements providing content substantially similar to the Court-approved Short Form Notice in Schedule N, to be run on the following radio stations serving areas in which Impacted First Nations are situated, with ads to be run at times of high listenership (e.g., morning and afternoon drive times):

Station	Language	Approximate Duration	Number of Broadcasts per Week	Total Number of Spots
CBC	English	0:60	1	52
Radio-Canada	French	0:60	1	52
CKUR-FM 106.3 (Terrace, BC)	English	0:30	2	52
CFNR Network (BC)	English	0:30	2	52
CJWE-FM 88.1 FM (Calgary)	English	0:30	2	52
CIWE-FM 89.3 FM (Edmonton)	English	0:30	2	52
ELMNT Radio 106.5 (Toronto)	English	0:60	2	52
ELMNT Radio 95.7 FM (Ottawa)	English	0:60	2	52
Administrator to identify additional targeted radio stations	[•]	[•]	[•]	[•]

Television advertisements providing content substantially similar to the Court-approved Short Form Notice in Schedule N, to be run on the following national networks focused on First Nations audiences and local television stations serving regions in which Impacted First Nations are located, at times of high viewership (e.g., evening news time, prime time, or CBC News Indigenous):

Station	Language	Approximate Duration	Number of Broadcasts per Week	Total Number of Spots
APTN	English	0:60	2	104
CBC News Indigenous	English/French	0:30	2	104
Administrator to identify additional	[•]	[•]	[•]	[•]

targeted television stations				
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Websites

- Administrator to create informational website providing access to copies of the Settlement Agreement, Claims Form, FAQs, and other informational resources. Website to be referenced in all notice materials and advertisements.
- Notice materials to be posted on websites of Class Counsel, Canada, and the Administrator.

Social Media Advertising

- Targeted online advertisements, including short videos, to run on popular social media platforms, including Facebook, Instagram, Twitter, Google Ads, TikTok, YouTube.
- Impressions to be geo-targeted to Class Members and persons searching for information about drinking water class actions.
- Minimum 3.5 million impressions, to be allocated as advised by the Administrator.

Community Meetings

- Administrator to host in-person and online community meetings, both independently, and in collaboration with First Nation Class Members.
- Administrator to offer a meeting to any First Nation Class Member that requests it.
- Meetings to provide details of Settlement Agreement and Claims Process and provide time for attendee Q&A.
- Printed notice materials and Claims Forms to be made available at all in-person community meetings.

Press Release

- Administrator will issue a national press release by Canadian Newswire (CNW) to press outlets across Canada announcing settlement approval, if granted, to attract unpaid news coverage.
- The press release will include the toll-free number and website information.

Toll-Free Support Line

The Administrator shall establish a national toll-free support line, to provide assistance to Class members, their families, their representatives, and other who make inquiries about the Agreement, or who request assistance in making Claims.

**SCHEDULE M**

**NOTICE OF SETTLEMENT APPROVAL HEARING  
(LONG AND SHORT FORMS)**

*See attached.*

## Short Form Notice of Settlement

### Affected by Drinking Water Advisories on a Reserve?

**A proposed settlement may affect you. Please read this notice carefully.**  
**Pour lire cet avis en français: [●Settlement Website URL]**

The Court of Queen's Bench of Manitoba and the Federal Court of Canada approved this notice. This is not a solicitation from a lawyer.

First Nations and their members affected by drinking water advisories since November 20, 1995 sued Canada for compensation in two class actions. The representative plaintiff First Nations and their members and Canada have reached a proposed settlement.

If approved by the courts, the proposed settlement would compensate eligible First Nations and their members. Eligible individuals may receive a payment for the years they ordinarily resided on First Nations Lands during a long-term drinking water advisory. It is expected that the per-year amount will vary from approximately \$1,300 to \$2,000 for eligible years. Additional amounts may be available to eligible individuals who suffered certain specified injuries as a result of using treated or tap water in accordance with a long-term drinking water advisory, or by restricted access to treated or tap water caused by a long-term drinking water advisory.

Each eligible First Nation that accepts the settlement will receive \$500,000 plus half the amount paid to eligible individuals who ordinarily resided on that First Nation's reserve during a long-term drinking water advisory. Additionally, Canada will commit to make reasonable efforts to help ensure that eligible individuals have regular access to safe drinking water in their homes, and Canada will spend at least \$6 billion on water and wastewater infrastructure on reserves.

If the settlement is approved by the courts, individuals and First Nations will give up their right to sue Canada for failing to provide safe drinking water on their reserves. Subject to court approval, the lawyers will be paid by Canada from a separately negotiated fund and not the money available for compensation.

The courts must approve the proposed settlement before there is any money or any other benefit available.

If you are eligible for compensation, your legal rights will be affected even if you do nothing.

#### **You have three options:**

- 1. Object in writing:** Write to the courts if you do not like the proposed settlement or the lawyers' fees and do not want them approved. If the settlement is not approved, no one will get any benefits under the settlement.
- 2. Object in person:** Ask to speak in court about why you do not like the proposed settlement or the lawyers' fees on [●date] by [●videoconference]. If the settlement is not approved, no one will get any benefits.
- 3. Do Nothing:** Give up any right you have to object to the proposed settlement.

If you want to object or go to a hearing, you must act by [●date].

**If you are a resident of the following First Nations: Oneida of the Thames; Deer Lake; Mitaanjigaming First Nation; North Caribou Lake; and Ministikwan Lake Cree Nation** you may be able to exclude yourself from these class actions by writing to the Settlement Administrator by [●date].

**To learn more about your options and determine if you or your First Nation is included, please visit: [●Settlement Website URL] or call [●Administrator phone number]**

**Additional Information for First Nations:**

Eligible First Nations will not receive compensation unless they accept the proposed settlement by [●date]. First Nations who do not accept the proposed settlement by [●date] are not eligible for any benefits under the settlement agreement.

**For more information about how to a First Nation can accept the settlement agreement, please visit [●Settlement Website URL] or call [●Administrator phone number].**

## Long Form Notice of Settlement

### Affected by Drinking Water Advisories on First Nations Lands?

**A proposed settlement may affect you. Please read this notice carefully.**  
**Pour lire cet avis en français: [●Settlement Website URL]**

The Court of Queen's Bench of Manitoba and the Federal Court of Canada approved this notice. This is not a solicitation from a lawyer.

First Nations and their members affected by drinking water advisories since November 20, 1995 sued Canada for compensation in two class actions. The representative plaintiff First Nations and their members and Canada have reached a proposed settlement.

If approved the courts, the proposed settlement would compensate eligible First Nations and their members. Eligible individuals may receive a payment for the years they ordinarily resided on First Nations Lands during a long-term drinking water advisory. It is expected that the per-year amount will vary from approximately \$1,300 to \$2,000 for eligible years. Additional amounts may be available to eligible individuals who suffered certain specified injuries as a result of using treated or tap water in accordance with a long-term drinking water advisory, or by restricted access to treated or tap water caused by a long-term drinking water advisory.

Each eligible First Nation that accepts the settlement will receive \$500,000 plus half the amount paid to eligible individuals who ordinarily resided on that First Nation's reserve during a long-term drinking water advisory. Additionally, Canada will commit to make reasonable efforts to help ensure that eligible individuals have regular access to safe drinking water in their homes, and Canada will spend at least \$6 billion on water and wastewater infrastructure on reserves.

If the settlement is approved by the courts, individuals and First Nations will give up their right to sue Canada for failing to provide safe drinking water on their reserves. Subject to court approval, the lawyers will be paid by Canada from a separately negotiated fund and not the money available for compensation.

The courts must approve the proposed settlement before there is any money or any other benefit available.

If you are eligible for compensation, your legal rights will be affected even if you do nothing.

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- 3. Do Nothing:** Give up any right you have to object to the proposed settlement.

If you want to object or go to a hearing, you must act by [●date].

**If you are a resident of the following First Nations: Oneida of the Thames; Deer Lake; Mitaanjigaming First Nation; North Caribou Lake; and Ministikwan Lake Cree Nation** you can exclude yourself from these class actions by writing to the Settlement Administrator by [●date].

### **Additional Information for First Nations:**

Eligible First Nations will not receive compensation unless they accept the proposed settlement by [●date]. First Nations who do not accept the proposed settlement by [●date] are not eligible for any benefits under the settlement agreement.

**This notice explains your rights and options and how to exercise them.**

## **BASIC INFORMATION**

### **WHY DID I GET NOTICE OF THIS PROPOSED SETTLEMENT?**

The Court of Queen's Bench of Manitoba and the Federal Court of Canada approved this notice to let you know about the proposed settlement and your options before the courts decide whether to approve the settlement. Notice was provided to First Nations and their members who may be affected by the proposed settlement.

### **WHAT IS A CLASS ACTION?**

In a class action, one or more people called "**Plaintiffs**" or "**Representative Plaintiffs**" sue on behalf of people who have similar claims. All of those people are called a "Class" or "Class Members". The courts resolve the issues for everyone affected.

The Representative Plaintiffs in the Court of Queen's Bench of Manitoba are Tataskweyak Cree Nation and Chief Doreen Spence.

The Representative Plaintiffs in the Federal Court of Canada are (i) Curve Lake First Nation and Chief Emily Whetung and (ii) Neskantaga First Nation, Chief Wayne Moonias and Former Chief Christopher Moonias.

Canada is the defendant in both class actions. Canada is represented by the Attorney General of Canada.

### **WHAT ARE DRINKING WATER ADVISORIES?**

Drinking water advisories mean that something is unsafe about drinking water. Drinking water advisories include boil water advisories, do not consume advisories, and do not use advisories.

### **WHAT ARE THE CLASS ACTIONS ABOUT?**

The representative plaintiffs allege that Canada failed to address long-term drinking water advisories on First Nations reserves across Canada. The key allegation is that Canada breached its obligations to First Nations and their members by failing to ensure that reserve communities have safe water.

### **WHY IS THERE A PROPOSED SETTLEMENT?**

The Representative Plaintiffs and Canada have agreed to a proposed settlement. By agreeing to a proposed settlement, the parties avoid the costs and uncertainties of a trial and delays in obtaining judgment and Class members receive the benefits described in this notice (if the courts approve the proposed settlement).

The Representative Plaintiffs and their lawyers believe that the proposed settlement is in the best interests of all Class Members.

## **WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?**

### **WHICH INDIVIDUALS ARE INCLUDED?**

Individuals are included in the Class if:

1. they were alive on November 20, 2017;
2. they are members of a band, as defined in the *Indian Act*, or aboriginal peoples of Canada, other than the Inuit or Métis aboriginal peoples of Canada, who are parties to a modern treaty (a “**First Nation**”), the disposition of whose lands is subject to that Act, the *First Nations Land Management Act*, or a modern treaty (“**First Nations Lands**”); and
3. for at least one year between November 20, 1995, and June 30, 2021, they ordinarily resided on First Nations Lands that were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year between November 20, 1995, and June 30, 2021 (“**Impacted First Nations**”) while such a drinking water advisory of at least one year was in effect.

Individuals who are included are eligible for compensation even if their First Nation, or the First Nation on whose First Nation Lands they resided, does not accept the settlement.

### **WHO SHOULD INDIVIDUALS WITH QUESTIONS CONTACT?**

The Settlement Administrator at [●Administrator email] or [●Administrator phone].

### **WHICH FIRST NATIONS ARE INCLUDED?**

Impacted First Nations are eligible for compensation only if they accept the proposed settlement. Every Impacted First Nation that wants to participate must approve the settlement in a band council acceptance resolution and provide a copy of that resolution to the Settlement Administrator at [●Administrator email] or [●Administrator mailing address].

First Nations must accept the proposed settlement by [●date for Acceptance Deadline] to participate. The Settlement Administrator can provide you with the form of band council acceptance resolution that is required to accept the proposed settlement.

### **WHO SHOULD FIRST NATIONS WITH QUESTIONS CONTACT?**

The Settlement Administrator at [●Administrator email] or [●Administrator phone].

## **WHAT ARE THE BENEFITS OF THE SETTLEMENT?**

## **WHAT COMPENSATION WILL BE PAID UNDER THE PROPOSED SETTLEMENT IF THE COURTS APPROVE IT?**

Individuals may receive a payment for each year they ordinarily resided on First Nations Lands while under a drinking water advisory. The per-year amount is expected to vary from \$1,300 to \$2,000 depending on the type of advisory and the remoteness of the First Nation Lands. These amounts are subject to limitation periods: individuals who reached the age of 18 before November 20, 2013, are eligible for compensation only back to November 20, 2013, unless they were incapable of commencing a proceeding in respect of their claim before November 20, 2013, because of their physical, mental or psychological condition.

Individuals with specific injuries may be eligible for additional compensation.

Impacted First Nations who accept the proposed settlement will receive \$500,000 plus 50% of the amounts paid to individuals for drinking water advisories on their reserves.

For more details, please consult the proposed settlement available here: [●URL].

## **WHAT ARE THE OTHER BENEFITS FOR FIRST NATIONS AND THEIR MEMBERS IN THE PROPOSED SETTLEMENT?**

1. Canada has agreed to make all reasonable efforts to support the removal of long-term drinking water advisories that affect the Class.
2. Canada has agreed to make all reasonable efforts to ensure that class members living on reserves have regular access to drinking water in their homes. Canada will spend at least \$6 billion by March 31, 2030 to implement that commitment by funding the actual cost of construction, upgrading, operation, and maintenance of water infrastructure on reserves.
3. Canada has agreed to an alternative dispute resolution framework to decide what additional measures are reasonably required to help individuals get regular access to safe drinking water in their homes.
4. Canada has agreed to make all reasonable efforts to repeal the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21 by March 31, 2022 and replace it with legislation that improves drinking water on First Nations reserves.
5. Canada has agreed to provide \$20 million to create the First Nations Advisory Committee on Safe Drinking Water.
6. Canada has agreed to make available \$9 million to fund First Nations governance initiatives and by-law developments.

For more details, please consult the proposed settlement available here: [●URL].

## **WHEN WILL INDIVIDUALS AND FIRST NATIONS RECEIVE COMPENSATION?**

Nothing will be paid unless the courts approve the proposed settlement. Payment of the base payment to First Nations will be made within 90 days of the settlement approval order becoming

final. The remaining payments to individuals and First Nations will begin to be paid one year after the settlement approval order becomes final.

### **HOW WILL INDIVIDUALS AND FIRST NATIONS RECEIVE COMPENSATION?**

Individuals and First Nations eligible for compensation must submit their claims to the Settlement Administrator to receive payment. No claims forms will be available until the courts approve the proposed settlement.

### **HOW WILL THE LAWYERS BE PAID?**

The lawyers who represent the plaintiffs will ask the courts to agree that Canada can pay them from a separately-negotiated fund that will not be deducted from the money available to pay individuals or First Nations. The amount of the fund is \$53 million for fees and disbursements, inclusive of taxes, plus \$5 million for ongoing legal services.

The lawyers will not be paid until the courts decide that the fees requested are fair and reasonable. The courts will decide how much the lawyers should be paid.

### **WHAT AM I GIVING UP IN THE PROPOSED SETTLEMENT?**

If the courts approve the settlement, you will give up your right to sue Canada for the claims resolved by the proposed settlement. That means you will not be able to sue Canada for damages incurred before June 20, 2021 that arise from Canada's failure to provide safe drinking water on your reserve.

First Nations who do not accept the proposed settlement are not bound by it (though their Members will be).

### **CAN I REMOVE MYSELF FROM THE PROPOSED SETTLEMENT?**

Individuals cannot remove themselves from the settlement without court approval. Class counsel will not help individuals opt out. Individuals who want to opt out should consult a different lawyer.

**However, if you are a resident of the following First Nations: Oneida of the Thames; Deer Lake; Mitaanjigaming First Nation; North Caribou Lake; and Ministikwan Lake Cree Nation** you may be able to exclude yourself from these class actions by writing to the Settlement Administrator by [●date].

First Nations do not need to agree to the proposed settlement. If a First Nation does not accept the proposed settlement, the proposed settlement will not affect that First Nation.

## **WHO REPRESENTS ME?**

### **WHO ARE THE LAWYERS REPRESENTING ME?**

The Representative Plaintiffs and the Class are represented by McCarthy Tétrault LLP and Olthuis Kleer Townsend LLP ("**Class Counsel**"). You may contact class counsel at [● contact address].

### **DO I HAVE TO PAY CLASS COUNSEL?**

No. Class counsel will ask the courts to approve their fees.

### **WHAT IF I WANT MY OWN LAWYER?**

If you want to hire your own lawyer, you may do so at your own expense.

### **HOW DO I OBJECT TO THE PROPOSED SETTLEMENT?**

### **HOW DO I TELL THE COURTS I DO NOT LIKE THE PROPOSED SETTLEMENT?**

If you do not like some part of the proposed settlement, including the lawyers' fees, you may object. The courts will consider your views. To object, you must submit an objection form that includes the following:

1. your name, address, phone number, and email address;
2. a statement saying you object to the proposed settlement;
3. the reasons you object to the proposed settlement;
4. the First Nation you are a member of and the reserve on which you ordinarily reside; and
5. your signature.

You must mail or email your objection by [●date] to [●Administrator email address] or [●Administrator mailing address].

### **WHEN AND WHERE WILL THE COURTS DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT?**

The courts will hold a joint hearing on [●date] at [●time]. You may attend by [●videoconference or teleconference].

### **DO I HAVE TO ATTEND COURT TO OBJECT?**

No. If you send an objection you do not have to talk about it in court. The courts will consider objections received in time even if you do not attend the hearing. You or your lawyer may attend by [●videoconference or teleconference] at your own expense.

### **MAY I SPEAK AT THE HEARING?**

You may ask the courts for permission to speak at the approval hearings. To do so, you must file a notice of objection and indicate you wish to speak.

### **WHAT IF I DO NOTHING?**

Individuals who are eligible for the proposed settlement who do nothing will be bound by the settlement if the courts approve it. Those individuals will be eligible for compensation but will give up their right to object to the settlement.

First Nations who are eligible for the proposed settlement who do nothing will not be bound by the proposed settlement if the courts approve it. Those First Nations will not be eligible for compensation and will give up their right to object to the settlement.

If the settlement is approved, individuals, together with First Nations that accept the settlement, will give up their right to sue Canada for failing to provide safe drinking water on their reserves.

## **HOW DO FIRST NATIONS ACCEPT THE PROPOSED SETTLEMENT?**

### **HOW DO FIRST NATIONS ACCEPT THE PROPOSED SETTLEMENT?**

First Nations who are eligible for the proposed settlement must approve it in a Band Council Acceptance Resolution and provide a copy to the Settlement Administrator by [●date].

More information—including a draft Band Council Acceptance Resolution is available here: [●URL].

You may also consult Class Counsel at [● contact address].

### **WHO DO FIRST NATIONS CONTACT TO JOIN THE PROPOSED SETTLEMENT?**

First Nations with questions should ask Class Counsel at [● contact address].

First Nations who have a Band Council Acceptance Resolution should provide a copy to the Settlement Administrator by [●date] at [●Administrator email address] or [●Administrator mailing address].

## **WHAT IF I NEED MORE INFORMATION?**

### **WHO DO I CONTACT FOR MORE INFORMATION?**

You may contact the Settlement Administrator at [●Administrator email address] or [●phone number].

You may also contact Class Counsel at [● contact address].

**SCHEDULE N  
NOTICE OF SETTLEMENT APPROVAL  
(LONG AND SHORT FORMS)**

*See attached.*

## Short Form Notice of Settlement Approval

# Settlement of First Nation Drinking Water Advisory Class Actions

**You may be eligible for compensation. Please read this notice carefully.**  
**Pour lire cet avis en français: [●Settlement Website URL]**

The courts have approved a settlement between Canada and certain First Nations and their members who were subjected to long-term drinking water advisories from 1995 to 2021.

### Who is included?

Individuals are included in the Class if:

1. they were alive on November 20, 2017;
2. they are members of a band, as defined in the *Indian Act*, or aboriginal peoples of Canada, other than the Inuit or Métis aboriginal peoples of Canada, who are parties to a modern treaty (a “**First Nation**”), the disposition of whose lands is subject to that Act, the *First Nations Land Management Act*, or a modern treaty (“**First Nations Lands**”); and
3. for at least one year between November 20, 1995, and June 30, 2021, they ordinarily resided on First Nations Lands that were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year between November 20, 1995, and June 30, 2021 (“**Impacted First Nations**”) while such a drinking water advisory of at least one year was in effect.

Individuals who are included are eligible for compensation even if their First Nation, or the First Nation on whose First Nation Lands they resided, does not accept the settlement.

Impacted First Nations are included if they accept the settlement by [●date]. Impacted First Nations who do not accept the settlement by then will not be compensated.

### What does the settlement provide?

Individuals will receive a payment for each year they ordinarily resided on First Nations Lands while under a drinking water advisory. The per-year amount is expected to vary from \$1,300 to \$2,000 for eligible years, depending on the type of advisory and the remoteness of the First Nation Lands. These amounts are subject to limitation periods. Individuals with specific injuries may be eligible for additional compensation.

Impacted First Nations who accept the proposed settlement will receive \$500,000 plus 50% of the amounts paid to individuals for drinking water advisories on their reserves.

Canada must also take other steps to lift long-term drinking water advisories and help individuals get regular access to safe drinking water in their homes. Canada will spend at least \$6 billion on water and wastewater infrastructure on reserves. There is an alternative dispute resolution process available where individuals are unhappy with Canada’s efforts.

### How do I claim money?

Individuals must submit a claims form, or their band council can submit a resolution, confirming that they were ordinarily resident on that First Nation's First Nations Lands during a long-term drinking water advisory. First Nations must accept the settlement and inform the Settlement Administrator. To view and submit claims forms please visit [●URL].

**For more information, please visit [●Settlement Website URL] or call [●Administrator phone number].**

## Long Form Notice of Settlement Approval

# Settlement of First Nation Drinking Water Advisory Class Actions

**You may be eligible for compensation. Please read this notice carefully.  
Pour lire cet avis en français: [●Settlement Website URL]**

The courts have approved a settlement between Canada and certain First Nations and their members who were subjected to long-term drinking water advisories from 1995 to 2021.

First Nations and their members affected by drinking water advisories since November 20, 1995 sued Canada for compensation in two class actions. The Court of Queen's Bench of Manitoba and the Federal Court of Canada approved a settlement in the class actions. The settlement compensates eligible First Nations and their members.

**This notice explains who is eligible for compensation and how to claim it. Individuals who do not claim compensation by [●date] and First Nations who do not accept the settlement by [●date] will not be compensated.**

## BASIC INFORMATION

### WHY DID I GET NOTICE OF THE SETTLEMENT?

The Court of Queen's Bench of Manitoba and the Federal Court of Canada approved the settlement on [●date]. They also approved this notice to let you know about the settlement and how to claim compensation.

### WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

### WHICH INDIVIDUALS ARE INCLUDED?

Individuals are included in the Class if:

1. they were alive on November 20, 2017;
2. they are members of a band, as defined in the *Indian Act*, or aboriginal peoples of Canada, other than the Inuit or Métis aboriginal peoples of Canada, who are parties to a modern treaty (a "**First Nation**"), the disposition of whose lands is subject to that Act, the *First Nations Land Management Act* or a modern treaty ("**First Nations Lands**"); and
3. for at least one year between November 20, 1995, and June 30, 2021, they ordinarily resided on First Nations Lands that were subject to a drinking water advisory (whether a boil water, do not consume, or do not use advisory, or the like) that lasted at least one year between November 20, 1995, and June 30, 2021 ("**Impacted First Nations**") while such a drinking water advisory of at least one year was in effect.

Individuals who are included are eligible for compensation even if their First Nation, or the First Nation on whose First Nation Lands they resided, does not accept the settlement.

### WHO SHOULD INDIVIDUALS WITH QUESTIONS CONTACT?

The Settlement Administrator at [●Administrator email] or [●Administrator phone].

### **WHICH FIRST NATIONS ARE INCLUDED?**

Impacted First Nations are eligible for compensation only if they accept the proposed settlement. Every Impacted First Nation that wants to participate must accept the settlement in a Band Council Acceptance Resolution and provide a copy of that resolution to the Settlement Administrator at [●Administrator email] or [●Administrator mailing address].

Impacted First Nations must accept the proposed settlement by [●date] to participate. The Settlement Administrator can provide you with the form of Band Council Acceptance Resolution that is required to accept the proposed settlement.

### **WHO SHOULD FIRST NATIONS WITH QUESTIONS CONTACT?**

Class Counsel at [● contact address].

### **HOW DO I GET COMPENSATION?**

#### **WHAT CAN CLASS MEMBERS GET?**

Individuals may receive a payment for each year they ordinarily resided on First Nations Lands while under a long-term drinking water advisory. It is expected that the amount will vary from approximately \$1,300 to \$2,000 for each eligible year, depending on the type of advisory and the remoteness of the First Nation Lands. These amounts are subject to limitation periods: individuals who reached the age of 18 before November 20, 2013, are only eligible for compensation going back to November 20, 2013, unless they were incapable of commencing a proceeding in respect of their claim before November 20, 2013, because of their physical, mental or psychological condition.

Individuals with specific injuries may be eligible for additional compensation.

Impacted First Nations who accept the proposed settlement will receive \$500,000 plus 50% of the amounts paid to individuals for drinking water advisories on their reserves.

For more details, please consult the proposed settlement available here: [●URL].

#### **WHAT ARE THE OTHER BENEFITS FOR FIRST NATIONS AND THEIR MEMBERS IN THE PROPOSED SETTLEMENT?**

1. Canada has agreed to make all reasonable efforts to support the removal of long-term drinking water advisories that affect the Class.
2. Canada has agreed to make all reasonable efforts to ensure that class members living on reserves have regular access to drinking water in their homes. Canada will spend at least \$6 billion by March 31, 2030 to implement that commitment by funding the actual cost of construction, upgrading, operation, and maintenance of water infrastructure on reserves.

3. Canada has agreed to an alternative dispute resolution framework to decide what additional measures are reasonably required to help individuals get regular access to safe drinking water in their homes.
4. Canada has agreed to make all reasonable efforts to repeal the *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21 by March 31, 2022 and replace it with legislation that improves drinking water on First Nations reserves.
5. Canada has agreed to provide \$20 million to create the First Nations Advisory Committee on Safe Drinking Water.
6. Canada has agreed to make available \$9 million to fund First Nations governance initiatives and by-law developments.

For more details, please consult the proposed settlement available here: [●URL].

### **WHEN WILL INDIVIDUALS AND FIRST NATIONS RECEIVE COMPENSATION?**

Individuals can submit claims forms until [● date]. After the claims period ends, the Settlement Administrator will pay valid claims for compensation.

First Nations will be paid the \$500,000 base payment within 90 days of their acceptance or the Courts' approval of the settlement agreement, whichever comes first. Every six months, each First Nation will receive an installment of 50% of the amounts paid to eligible individuals who ordinarily resided on that First Nation's reserve during a long-term drinking water advisory.

### **HOW WILL INDIVIDUALS AND FIRST NATIONS RECEIVE COMPENSATION?**

Individuals must submit a claims form, or their band council can submit a resolution, confirming that they were ordinarily resident on that First Nation's First Nations Lands during a long-term drinking water advisory.

First Nations must accept the settlement and inform the Settlement Administrator. To view and submit claims forms please visit [●URL].

Individuals can receive compensation even if their First Nation, or the First Nation on whose First Nation Lands they resided, does not accept the settlement agreement.

Claims forms are available here [●URL] and may be submitted to the Settlement Administrator at [●Administrator email] or [●Administrator mailing address].

### **DO I NEED MY OWN LAWYER TO MAKE A CLAIM?**

No. Class Counsel represent you. You may contact class counsel at [● contact address].

### **HOW WILL THE LAWYERS BE PAID?**

Canada, rather than class members, will pay the Class Counsel's fees for prosecuting the class actions and continuing to assist individuals and First Nations. The courts have approved the lawyers' fees and you do not have to pay any money to make a claim.

### **WHAT AM I GIVING UP IN THE PROPOSED SETTLEMENT?**

Class members are giving up their right to sue Canada for the claims resolved by the proposed settlement. That means you will not be able to sue Canada for damages incurred before June 20, 2021 that were caused by Canada's failure to provide safe drinking water on your reserve.

First Nations that do not accept the proposed settlement will not be not bound by it, although their members' individual claims will be covered by the settlement.

### **CAN I REMOVE MYSELF FROM THE PROPOSED SETTLEMENT?**

Individuals generally cannot remove themselves from the settlement without court approval. Class Counsel are not able to help individuals opt out. Individuals who want to seek leave of the Courts to opt out should consult a different lawyer.

First Nations do not need to agree to the settlement. If a First Nation does not accept the settlement, the settlement will not resolve the collective or communal claims of that First Nation.

You are not required to submit a claim but if you do not opt out and do not submit a claim, and a band does not provide the Settlement Administrator with confirmation of your residence, you will not receive compensation and you will still give up your right to sue Canada.

### **WHO REPRESENTS ME?**

#### **WHO ARE THE LAWYERS REPRESENTING ME?**

The Representative Plaintiffs and the Class are represented by McCarthy Tétrault LLP and Olthuis Kler Townsend LLP ("**Class Counsel**"). You may contact Class Counsel at [●contact address].

#### **DO I HAVE TO PAY CLASS COUNSEL?**

No. The courts approved Class Counsel's fees.

#### **WHAT IF I WANT MY OWN LAWYER?**

If you want to hire your own lawyer, you may do so at your own expense.

#### **HOW DO FIRST NATIONS ACCEPT THE SETTLEMENT?**

First Nations who are eligible for the settlement must accept it in a Band Council Acceptance Resolution and provide a copy to the Settlement Administrator by [●date].

More information—including a draft Band Council Acceptance Resolution is available here: [●URL].

You may also direct questions to Class Counsel at [● contact address].

#### **WHO DO FIRST NATIONS CONTACT TO ACCEPT THE SETTLEMENT?**

First Nations with questions should contact Class Counsel at [● contact address].

First Nations who have a Band Council Acceptance Resolution accepting the settlement agreement should provide a copy to the Settlement Administrator by [●date] at [●Administrator email address] or [●Administrator mailing address].

**WHO DO I CONTACT FOR MORE INFORMATION?**

You may contact the Settlement Administrator at [●Administrator email address] or [●phone number].

You may also contact Class Counsel at [● contact address].

**SCHEDULE O**

**FORM OF FEDERAL COURT APPROVAL ORDER  
AND MANITOBA COURT APPROVAL ORDER**

*See attached.*

FEDERAL COURT

Date: [●]

Docket: T-1673-19

Ottawa, Ontario, [●date]

Present: The Honourable Mr. Justice Favel

**BETWEEN:**

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

**Plaintiffs**

and

**ATTORNEY GENERAL OF CANADA**

**Defendant**

**ORDER**

**(Class Proceeding commenced under Part 5.1 of the *Federal Courts Rules*, SOR/98/106)**

**THIS MOTION** made by the Plaintiffs for judgment approving the settlement of this action in accordance with the terms of the Settlement Agreement entered into on [●date] was heard on [●date] at [●location]

**UPON READING** the Motion Record of the parties and the facts of the parties;

**AND UPON HEARING** the motion made by the Plaintiffs for an order approving the terms of the Settlement Agreement dated [●date] and attached to this Order as **Schedule “A”** (the **“Settlement Agreement”**) including the oral submissions of counsel for the Plaintiffs and the Defendant as well as the oral submissions of Class Member supporters and Class Member objectors or in the case of the latter, counsel designated by such objectors to make oral submissions on their behalf;

**THIS COURT ORDERS that:**

1. For the purposes of this Order, the definitions in the Settlement Agreement apply to and are incorporated into this Order.
2. The Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and the Class.
3. The Settlement Agreement (including all of its Schedules) is expressly incorporated by reference into this Order and has the full force and effect of an order of this Court.
4. The Settlement Agreement shall be and hereby is approved and shall be implemented in accordance with this Order and such further orders of this Court.
5. Notice of settlement approval shall be given in accordance with the Notice Plan attached to this Order as **Schedule "B"** which will constitute adequate notice, and which is the best practicable notice that can be given in the circumstances.
6. The persons listed in **Schedule "C"** have Opted Out and shall have no further participation in this action.
7. First Nation Class Members and Individual Class Members who have not Opted Out are bound by the releases in s. 10.03(1) of the Settlement Agreement and this Court declares that:

Except as set forth in the Settlement Agreement, and in consideration for Canada's obligations and liabilities under the Settlement Agreement, each Individual Class Member or their Estate Executor, Estate Claimant, or Personal Representative on behalf of such Individual Class Member or their estate and each First Nation Class Member (hereinafter collectively the "**Releasors**") has fully, finally and forever released Canada and its servants, agents, officers and employees, predecessors, successors, and assigns (hereinafter collectively the "**Releasees**"), from any and all actions, causes of action, claims, and demands of every nature or kind available, whether or not known or anticipated, which the Releasors had, now have or may in the future have against the Releasees in respect of or arising from Canada's failure to provide, or fund the provision of, safe drinking water on the Reserve or Reserves of such First Nation Class Member, or on which such Individual Class Member was Ordinarily Resident

during a Long-Term Drinking Water Advisory, in each case prior to the conclusion of the Class Period.

8. This Order and the Settlement Agreement, including the releases referred to in paragraph 7 above are binding on all Individual Class Members who have not Opted Out, including those persons who are under a disability.
9. This Order and Settlement Agreement, including the releases referred to in paragraph 7 above are binding on all First Nation Class Members who have provided notice of Acceptance.
10. This Court, without in any way affecting the finality of this Order, reserves exclusive and continuing jurisdiction over this action, the Plaintiffs, all Individual Class Members who have not Opted Out, all First Nations Class Members that have provided notice of Acceptance, and the Defendant for the purpose of implementing the Settlement Agreement.
11. Save as set out above, this action is discontinued against the Defendant without costs and with prejudice.
12. This court may issue such further and ancillary orders, from time to time, as are necessary to implement the Settlement Agreement and this Order.

[●date]

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**The Honourable Justice Favel**

**FEDERAL COURT**

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**BETWEEN:**

**CURVE LAKE FIRST NATION and CHIEF EMILY WHETUNG on her own behalf and on behalf of all members of CURVE LAKE FIRST NATION and NESKANTAGA FIRST NATION and CHIEF CHRISTOPHER MOONIAS on his own behalf and on behalf of all members of NESKANTAGA FIRST NATION**

**Plaintiffs**

**and**

**ATTORNEY GENERAL OF CANADA**

**Defendant**

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**ORDER**

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**McCarthy Tétrault LLP**

Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

jbrown@mccarthy.ca

**Eric S. Block** LSO#47479K

eblock@mccarthy.ca

**H. Michael Rosenberg** LSO#58140U

mrosenberg@mccarthy.ca

**Patrick Williams** LSBC#510862

pwilliams@mccarthy.ca

**Stephanie Willsey** LSO#77866J

swillsey@mccarthy.ca

**Alana Robert** LSO#79761P

alrobert@mccarthy.ca

Tel: 416-601-7831

Fax: 416-868-0673

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**OLTHUIS KLEER TOWNSHEND LLP**

250 University Avenue, 8th Floor

Toronto ON M5H 3E5

**Harry S. LaForme** LSO#19338D

hlaforme@oktlaw.com

**Bryce Edwards** LSO# 48271E

bedwards@oktlaw.com

**Kevin Hille** LSO# 57439S

khille@oktlaw.com

**Jaclyn McNamara** LSO# 66694B

jmcnamara@oktlaw.com

Tel: 416-981-9330

Fax: 416-981-9350

Lawyers for the Plaintiffs

**THE QUEEN’S BENCH**

**Winnipeg Centre**

THE HONOURABLE	)	[•]	,	[•]
	)			
CHIEF JUSTICE JOYAL	)	DAY OF	[•]	,
	)			[•]

B E T W E E N :

**TATASKWEYAK CREE NATION and CHIEF DOREEN SPENCE on her own behalf  
and on behalf of all members of TATASKWEYAK REE NATION**

Plaintiffs

- and -

**ATTORNEY GENERAL OF CANADA**

Defendant

Class Proceeding commenced under *The Class Proceedings Act*, CCSM. c. C. 130

**ORDER**

**THIS MOTION**, made by the Plaintiffs for made by the Plaintiffs for judgment approving the settlement of this action in accordance with the terms of the Settlement Agreement entered into on [•date] was heard on [•date], at [•location] attached to this Order as **Schedule “A”** (the “**Settlement Agreement**”).

**ON READING** the Motion Record of the parties and the facta of the parties and on hearing the submissions of counsel for the Plaintiffs and the Defendant as well as the oral submissions of class member supports and class member objects or in the case of the latter, counsel designated by such objectors to make oral submissions on their behalf;

**AND UPON HEARING** the oral submissions of counsel for the Plaintiffs and the Defendant as well as the oral submissions of Class Member supporters and Class Member objectors or in the case of the latter, counsel designated by such objectors to make oral submissions on their behalf;

**THIS COURT ORDERS that:**

1. For the purposes of this Order, the definitions in the Settlement Agreement apply to and are incorporated into this Order.
2. The Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and the Class.
3. The Settlement Agreement (including all of its Schedules) is expressly incorporated by reference into this Order and has the full force and effect of an order of this Court.
4. The Settlement Agreement shall be and hereby is approved and shall be implemented in accordance with this Order and such further orders of this Court.
5. Notice of settlement approval shall be given in accordance with the Notice Plan attached to this Order as **Schedule "B"** which will constitute adequate notice, and which is the best practicable notice that can be given in the circumstances.
6. The persons listed in **Schedule "C"** have Opted Out and shall have no further participation in this action.
7. First Nation Class Members and Individual Class Members who have not Opted Out are bound by the releases in s. 10.03(1) of the Settlement Agreement and this Court declares that:

Except as set forth in the Settlement Agreement, and in consideration for Canada's obligations and liabilities under the Settlement Agreement, each Individual Class Member or their Estate Executor, Estate Claimant, or Personal Representative on behalf of such Individual Class Member or their estate and each First Nation Class Member (hereinafter collectively the "**Releasors**") has fully, finally and forever released Canada and its servants, agents, officers and employees, predecessors, successors, and assigns (hereinafter collectively the "**Releasees**"), from any and all actions, causes of action, claims, and demands of every nature or kind available, whether or not known or anticipated, which the Releasors had, now have or may in the future have against the Releasees in respect of or arising from Canada's failure to provide, or fund the provision of, safe drinking water on the Reserve or Reserves of such First Nation Class Member, or on which such Individual

Class Member was Ordinarily Resident during a Long-Term Drinking Water Advisory, in each case prior to the conclusion of the Class Period.

8. This Order and the Settlement Agreement, including the releases referred to in paragraph 7 above are binding on all Individual Class Members who have not Opted Out, including those persons who are under a disability.

9. This Order and Settlement Agreement, including the releases referred to in paragraph 7 above are binding on all First Nation Class Members who have provided notice of Acceptance.

10. This Court, without in any way affecting the finality of this Order, reserves exclusive and continuing jurisdiction over this action, the Plaintiffs, all Individual Class Members who have not Opted Out, all First Nations Class Members that have provided notice of Acceptance, and the Defendant for the purpose of implementing the Settlement Agreement.

11. Save as set out above, this action is discontinued against the Defendant without costs and with prejudice.

12. This court may issue such further and ancillary orders, from time to time, as are necessary to implement the Settlement Agreement and this Order.

[●date]

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The Honourable Chief Justice Joyal

**MANITOBA COURT OF QUEEN'S BENCH**

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TATASKWEYAK CREE NATION and CHIEF  
DOREEN SPENCE on her own behalf and on  
behalf of all members of TATASKWEYAK CREE NATION  
Plaintiffs

- and -

ATTORNEY GENERAL OF CANADA  
Defendant

Class Proceeding commenced under *The Class  
Proceedings Act*, CCSM. c. C. 130

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**ORDER**

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**McCarthy Tétrault LLP**

Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

**John P. Brown** LSO#22635H

jbrown@mccarthy.ca

**Eric S. Block** LSO#47479K

eblock@mccarthy.ca

**H. Michael Rosenberg** LSO#58140U

mrosenberg@mccarthy.ca

**Patrick Williams** LSBC#510862

pwilliams@mccarthy.ca

**Stephanie Willsey** LSO#77866J

swillsey@mccarthy.ca

**Alana Robert** LSO#79761P

alrobert@mccarthy.ca

Tel: 416-601-7831

Fax: 416-868-0673

**Olthuis Kler Townshend LLP**

8<sup>th</sup> Floor, 250 University Avenue  
Toronto ON M5H 3E5

**Harry LaForme** LSO# 19338D

hlaforme@oktlaw.com

**Bryce Edwards** LSO# 48271E

bedwards@oktlaw.com

**Kevin Hille** LSO# 57439S

khille@oktlaw.com

**Jaclyn McNamara** LSO# 66694B

[jmcnamara@oktlaw.com](mailto:jmcnamara@oktlaw.com)

Tel: 416-981-9330

Fax: 416-981-9350

Lawyers for the Plaintiffs

**SCHEDULE P**

**FORM OF BAND COUNCIL ACCEPTANCE RESOLUTION APPROVING PRIVATE WATER  
SYSTEMS ON RESERVE**

*See attached.*

**[Name of First Nation]**

**Band Council Resolution**

*Approving Private Water Systems on Reserve*

**WHEREAS** certain plaintiffs commenced a lawsuit styled as Curve Lake First Nation and Chief Emily Whetung on her own behalf and on behalf of all members of Curve Lake First Nation and Neskantaga First Nation and Chief Wayne Moonias and Former Chief Christopher Moonias on their own behalf and on behalf of all members of Neskantaga First Nation v Attorney General of Canada, Court File No. T-1673-19, in the Federal Court on October 11, 2019 (the "**Federal Action**");

**AND WHEREAS** certain plaintiffs commenced a court action styled Tataskweyak Cree Nation and Chief Doreen Spence on her own behalf and on behalf of all members of Tataskweyak Cree Nation v Attorney General of Canada, Court File No. CI-19-01-24661, in the Manitoba Court of Queen's Bench on November 20, 2019 (the "**Manitoba Action**", and together with the Federal Action, the "**Actions**");

**AND WHEREAS** the Actions were certified by the respective courts as class proceedings;

**AND WHEREAS** the Attorney General of Canada and the plaintiffs in the Actions have negotiated a settlement agreement (the "**Settlement Agreement**") in respect of the Actions;

**AND WHEREAS** the Settlement Agreement provides that Canada shall make all reasonable efforts to ensure that Individual Class Members (as defined in the Settlement Agreement) living on Reserves (as defined in the Settlement Agreement) have regular access to drinking water in their homes, whether from a public water system or a private water system approved by a Band Council resolution including on-site systems, that meets the stricter of the federal requirements or provincial standards governing residential water quality (the "**Commitment**");

**AND WHEREAS [Name of First Nation Council]** (the "**Council**") wishes to approve the private water systems listed below for the purposes of the Commitment by passing this Band Council Resolution;

**AND WHEREAS** this Band Council Resolution is not an acknowledgment that the Council is responsible in any way for the private water systems listed below;

**BE IT HEREBY RESOLVED THAT:**

1. For the purposes of the Commitment only, and without hereby confirming or accepting responsibility, the Council hereby approves the following water systems:
  - a. **[Identify or describe private water systems, including wells]**
2. The Council hereby declares that the approval set out in Paragraph 1, above, may be revoked by the Council at any time.
3. The Council hereby declares that the approval set out in Paragraph 1, above, may be supplemented by the Council at any time to incorporate additional water systems.
4. These resolutions may be signed by the Chief and Council members in as many counterparts as may be necessary, in original or electronic form, each of which so signed

shall be deemed to be an original, and such counterparts together shall constitute one and the same resolution.

The signatories below hereby certify and warrant that a quorum of Council has signed this Band Council Resolution as evidenced by their signatures below.

**DATED** as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
[insert name]

## SCHEDULE Q

### ELIGIBLE CLASS MEMBER ADDRESS SEARCH PLAN

1. If the Administrator receives a Band Council Confirmation or a Claims Form that does not provide a legible mailing address for an Individual Class Member, or an Individual Class Member has not deposited a cheque or claimed a payment made in accordance with the Agreement within one hundred and eighty (180) days of such cheque or payment being issued, such Individual Class Member will be a **"Missing Eligible Class Member"**, and the date of becoming a Missing Eligible Class Member will be the **"Search Commencement Date"**.
2. For each Missing Eligible Class Member, the Administrator will conduct or cause to be conducted all of the following searches in order to find the Missing Eligible Class Member's current contact information:
  - (a) Canadian national change of address database;
  - (b) reverse phone number lookup;
  - (c) Canada 411;
  - (d) consult any contact information for such Missing Eligible Class Member in a Band Council Confirmation, if any, and make a written or telephonic request for such Missing Eligible Class Member's contact information from the band office of the First Nation where such Missing Eligible Class Member ordinarily resides or last resided, if any; and
  - (e) make a written or telephonic request for such Missing Eligible Class Member's contact information from the band office of the First Nation of which such Missing Eligible Class Member is a member, if different than paragraph 2(d), above.
3. The searches identified in paragraph 2, above, will be conducted within forty-five (45) days of the Search Commencement Date.
4. If the Administrator locates more than one new mailing address for a Missing Eligible Class Member, the Administrator will make reasonable inquiries to determine which address is correct.
5. If the Administrator locates a new mailing address for a Missing Eligible Class Member, the Administrator will issue and mail a new cheque or other form of payment to the Missing Eligible Class Member for any amount payable in accordance with this Agreement, which cheque or payment will be stale dated within ninety (90) days of issuance. If a cheque or other form of payment had been previously issued to the Missing Eligible Class Member but not deposited or claimed, the Administrator will cancel or rescind such prior payment prior to issuance of the new cheque or other payment.
6. If the Administrator does not locate a new mailing address for a Missing Eligible Class Member, but such Missing Eligible Class Member's Claims Form indicates that they are currently resident on a Reserve, the Administrator will issue and mail to such Missing Eligible Class Member, care of the band office or similar place on such Reserve, a new cheque or other form of payment for any amount payable in accordance with this Agreement, which cheque or payment will be stale dated within ninety (90) days of issuance. If a cheque or other form of

payment had been previously issued to the Missing Eligible Class Member but not deposited or claimed, the Administrator shall cancel or rescind such prior payment prior to issuance of the new cheque or other payment.

8. If the Administrator remains unable to locate a Missing Eligible Class Member despite complying with this Eligible Class Member Search Plan, and any cheque or payment to such Missing Eligible Class Member has become stale dated, the Administrator shall wait for a period of one hundred and eighty (180) days (the conclusion of which is the “**Search Cancellation Date**”). If the Administrator is still unable to locate the Missing Eligible Class Member on the Search Cancellation Date, the Missing Eligible Class Member’s Claim will be fully and finally extinguished and discharged, the Administrator shall have no obligation to make any payment to such Missing Eligible Class Member, and the Administrator, Canada, counsel for Canada, Class Counsel, the Joint Committee and its members, the Settlement Implementation Committee and its Members, the Trustee, and the FNAC will be released from any liability.