

Memorandum

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To: Teme-Augama Anishnabai and Temagami First Nation
From: First Peoples Law LLP
Subject: Resource Revenue Sharing Agreement
Date: September 27, 2022

This memorandum provides an overview of key aspects of the resource revenue sharing agreement between Temagami and Ontario.

Background

In spring 2022 Temagami negotiated and entered into a Resource Revenue Sharing Agreement with Ontario under which Temagami will receive a percentage of the province's gross revenues from forestry, mining and aggregate operations within and approximate to n'Daki Menan (Agreement). The Agreement is currently being put to a community ratification vote.

Summary

The Agreement does not adhere Temagami to the Robinson-Huron Treaty – The Agreement confirms Temagami's position that it never adhered to the Robinson Huron Treaty regardless of the Supreme Court's finding in the *Bear Island* decision (see Section 4.2(a)).

The Agreement does not prejudice Temagami's position in the Restoule litigation – The Agreement outlines the procedural history of the *Restoule* litigation in order to provide context for certain provisions in the Agreement. The Agreement does not contain prejudicial statements regarding the parties' litigation positions (see Section 4.2(a)).

Temagami may terminate the Agreement at any time – Temagami may terminate the Agreement at any time with no penalty upon 30 days' notice to Ontario. Temagami will not be required to pay back monies received under the Agreement if it chooses to terminate. However, Ontario's future obligations to Temagami will immediately cease (see Sections 8.3-8.5).

Future awards may be set-off against funds paid under the Agreement – If Temagami is awarded a future judgement against Ontario for compensation related to resource revenue which was received by the Ontario during the term of the Agreement, the funds payable to Temagami under the Agreement will be set-off against the award. This means the award will be reduced by the amount Ontario paid to Temagami under the Agreement. A set-off will only apply to years subject to both the Agreement and the award, and only if the award relates to resource revenue (see Section 4.2(f)-(h), 11.4).

