Community Information Package

Edition 2, June 2024

Negotiations

Table of Contents

List of Appendices

Preface

This document is an updated version of the previous information package issued in March 2024. Some information remains the same. New items have been added to respond to questions arising from the March Information Session and April Community Meeting. It is a collection of information related to various elements of negotiations the TAA/TFN Joint Council are working on and have been working on over the past few years.

1. Introduction

The Teme-Augama Anishnabai and Temagami First Nation are not a Party in the Robinson Huron Treaty legal action or the negotiations between the Robinson Huron Treaty Litigation Fund (RHTLF), Canada and Ontario.

We have no option to become part of their agreement.

Our Assembly and Community Meetings directed the Joint Council to Intervene in the on-going court case because we have an interest in the outcome, how it relates to N'dakimenan, and how it may impact the negotiation of our own independent agreement that would acknowledge our unique history and position. (See Appendices on pages 29 to 34 regarding Community Meeting Resolution votes leading to this decision.)

There has been increased interest in the Robinson Huron Treaty (RHT) and the Robinson Superior Treaty (RST) annuities legal actions since the June 17, 2023 announcement by the RHT Chiefs of an agreement for compensation totalling $10 billion. The negotiations were between Canada, Ontario and the 21 RHT First Nations that filed the Notice of Claim in September 2012. [Restoule v. Ontario and Canada]. The 12 RST First Nations did not reach an agreement in their negotiations and so continued on with Stage Three of the court case to determine what level of compensation is owed to the RST First Nations, due to the Crown's breach of the treaty.

The $10 billion agreement negotiated by the 21 RHT First Nations, Canada and Ontario, is compensation for losses of past annuities that should have increased over the years, according to an Augmentation Clause in the 1850 Treaty. In 1875, the annuity was increased from $1.70 to $4.00. There have been no increases since.

2. Robinson Huron Treaty - *Restoule* Case

Recent history

We were approached by Mike Restoule, Chairman of the Robinson Huron Treaty Litigation Fund, (RHTLF), to join the RHTLF as a party to their court action. The annuities court case and negotiations for the 21 RHT First Nations is managed by the Robinson Huron Treaty Litigation Fund and its Trustees. Under Chief Roxane Potts's administration, the RHTLF proposal to join them was rejected with the understanding that we would be supportive of the RHTLF efforts on behalf of the 21 First Nations, and that they would be supportive of our independent efforts in dealing with the Crown. The TFN first considered intervening in the RHT case under Chief Arnold Paul's administration. The motions, first to join and then to intervene, were not passed. Many TFN members said they did not want to participate in Robinson Huron Treaty business as our position had always been that we did not sign the RHT in 1850, that we never had consented to being part of it, and that we would negotiate our own agreement with the Crown.

The motion to intervene was considered by the TFN again after it became clear that the RHTLF, Canada, and Ontario were including N'dakimenan and the historically extracted resources in their calculations. It was then deemed unacceptable for us not to have a voice in the RHT case. If they were considering aspects of our lands, we needed to be there to defend N'dakimenan and our interests.

In response to the above-mentioned new concerns, the TFN, then under the administration of Chief Shelly Moore-Frappier, determined to support defending our interests as Intervenors at a Community Meeting. Our legal counsel was then directed to apply for Intervenor status. We were granted Intervenor status by the court. As an Intervenor we could now speak for ourselves to inform the court of any concerns. In this way we could protect our interests rather than just letting things happen without our input. Previously, under Ogimaa Randy Becker's administration, the TAA in Assembly had passed a motion to intervene.

3. Intervenor Status

Being an Intervenor in the case, rather than joining as a Party, is not an admission by us or an acceptance of the 1850 RHT or the 1991 Supreme Court of Canada decision that many believe was unjust.
We did not sign the RHT. That is a true statement that is not in dispute. At no point in time did our people consent to joining the RHT. Nonetheless, the Supreme Court of Canada "adhered" us to the Treaty in 1991, 141 years after the fact:

> *"…the Indians exercised sufficient occupation of the lands in question throughout the relevant period to establish an aboriginal right. It was unnecessary, however, to examine the specific nature of the aboriginal right because that right was surrendered, whatever the situation on the signing of the Robinson-Huron Treaty, by arrangements subsequent to the treaty by which the Indians adhered to the treaty in exchange for treaty annuities and a reserve."*

> *"The Crown breached its fiduciary obligations to the Indians by failing to comply with some of its obligation under this agreement; these matters currently form the subject of negotiations between the parties. These breaches do not alter the fact that the aboriginal right was extinguished."*

TAA/TFN did meet with the RHT Chiefs and, consistent with community direction, declined to be a Party in the Robinson Huron Treaty legal action or the negotiations between the Robinson Huron Treaty Litigation Fund (RHTLF), Canada and Ontario. TAA/TFN Chief and Council decided to enter into separate negotiations with Canada and Ontario for all the reasons discussed in this document. The mandate to do this came from the Resolution. (see Appendix C) Any discussion in these matters was subject to the same level of confidentiality as described above.

Any agreement if and when it occurs must be ratified by the TAA/TFN community at large. We have a constitution and historical protocols to make decisions collectively through the Community Meetings and Assemblies processes. This takes time, but it is intended to ensure that the direction taken by the Joint Council has been authorized by the people in a duly convened meeting.

4. Confidentiality Part 1

A confidentiality agreement is a legal agreement that binds one or more parties to non-disclosure of confidential or proprietary information. A confidentiality agreement was required by us and the Robinson Huron Treaty Litigation Fund (RHTLF) so we could participate in legal discussions and sharing of information. A confidentiality agreement is generally used in situations wherein sensitive information or proprietary knowledge is not to be made available to the general public. Violating a confidentiality agreement could result in legal and reputational repercussions for the party breaching it. The following relevant portion of the confidentiality agreement speaks to our obligations to the RHT Chiefs with regard to the legal case.

WHEREAS litigation was commenced on behalf of the beneficiaries of the Robinson Huron Treaty of 1850 against Canada and Ontario in the Superior Court of Justice concerning treaty annuity benefits provided for in the Treaty, being Restoule et al. v. Canada (Attorney General) et al., Court File Nos.: C-3512-14, C3512-14A in Sudbury (the "Claim");

AND WHEREAS on December 21, 2018, the Ontario Superior Court found that the Crown has a mandatory and reviewable obligation to increase the Robinson Huron and Robinson Superior Treaties' annuities if the net Crown resource-based revenues from the Treaties' territories permit the Crown to increase the annuities without incurring a loss, and this decision was upheld by the Ontario Court of Appeal;

AND WHEREAS on February 25, 2022 the Ontario Superior Court endorsed the motion by the Teme-Augama Anishnabai to be granted leave to intervene as an added party in the Claim;

AND WHEREAS the Parties have agreed to enter into out of court negotiations in relation to the Teme-Augama Anishnabai's interests in the Claim;

AND WHEREAS the Parties have granted their respective representatives' authorization to enter into negotiations regarding the Claim;

Confidentiality part 1, continued

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

PART A. PURPOSE

1. The purpose of this Agreement is to outline the issues to be addressed by the Parties in the negotiations and the process through which those negotiations will be undertaken, with a view to achieving settlement in accordance with the above provisions.

PART B. DISCUSSION PRINCIPLES

2. The Parties undertake to make all reasonable efforts to participate in the negotiations regarding the litigation in good faith, and in the spirit of good will and cooperation.

3. The negotiations will be conducted on the basis that they are confidential to the Parties, privileged and without prejudice. In particular, the Parties agree that any documents or communications shared in the negotiations shall be shared on a privileged and without prejudice basis and shall be kept confidential. The Parties acknowledge that such documents may be subject to applicable access to information and privacy legislation, including any exemptions from disclosure set out in that legislation.

4. Notwithstanding paragraph 3, the Parties acknowledge that documents and communications shared and produced in the context of these negotiations may be relevant to negotiations with the Robinson Huron Treaty Trust concerning settlement of the Claim. On written consent of all of the Parties, any Party may share information about these negotiations with the Robinson Huron Treaty Trust on condition that the Robinson Huron Treaty Trust also agrees to the confidentiality of those communications/documents.

5. Notwithstanding paragraph 3, the Parties acknowledge that documents and communications shared and produced in the context of these negotiations may be relevant to any negotiations that may occur towards a resolution of the Red Rock/Whitesand litigation. On written consent of all of the Parties, any Party may share information about these negotiations with the Parties to the Red Rock/ Whitesand litigation on condition that the parties to the Red Rock/Whitesand litigation also agree to the confidentiality of those communications/documents.

6. This Agreement, the negotiations and any related communications shall not be construed in any way as an admission of fact, law or liability.

7. This Agreement shall be held in confidence and considered settlement privileged, subject to access to information and privacy legislation to the extent that it may be applicable.

4. Confidentiality Part 2

Clarification from First People's Law on a few matters recently raised by TFN members

Bruce McIvor and Nico Mckay

Q: Why were confidentiality agreements signed for negotiations/meetings between Ontario, Canada, and TAA/TFN?

A: Signing confidentiality agreements was one of Canada and Ontario's conditions for entering negotiations. Confidentiality agreements are standard in these types of negotiations because parties generally do not want the content of the negotiations to be public. If a tentative agreement is reached, TAA/TFN will be able to share information with membership since membership will need to be involved in the final decision.

Q: Why is it beneficial to not make public all aspects of negotiations, including numbers?

A: Canada and Ontario would not have agreed to negotiate without the confidentiality agreement which prevents making all aspects of the negotiation public. Additionally, making this information public may mean that non TFN/TAA members could obtain information that is private to TFN/TAA, including information TFN/TAA members are considering related to a potential agreement.

Q: Re: Are there any pitfalls to sharing publicly an initial offer number?

A: It's standard in negotiations to make an initial offer which is significantly higher (or lower, depending on who is making the offer) than what the party might agree to settle for. This is a common negotiating strategy. Sharing the initial offer numbers may increase the risk of some individuals feeling disappointed if the final settlement amount is lower than the initial offer, even though initial offers are often not accepted and change through the course of negotiations. There is a negotiation protocol in place between Temagami, Ontario and Canada. All information exchanged is privileged and confidential. It's important it stays confidential because we might end up back in court if we don't reach a settlement. We don't want a judge to know what numbers were discussed. This is how the RHT Chiefs also handled their negotiations--they didn't tell members the number until they had an initialled agreement. If we get to an initialled settlement the members will be told the number and will have a final say on whether to accept the settlement or not.

4. *Confidentiality Part 2, continued*

Q: TFN passed a resolution in 2021 to intervene in the Restoule litigation. At the meeting where the community made this decision, there were references to where intervening could lead to negotiating if the opportunity arose, and, provide us with the option to appeal any decision from the court that we did not agree with. Why negotiate and make an offer to settle early on in talk?

A: Many TFN/TAA members are interested in arriving at a settlement. To arrive at a settlement, TFN/TAA must participate in negotiations, which often involve making offers. Making an offer does not bind TFN/TAA to a certain outcome and it advances negotiations towards a settlement. It's often preferable to make an initial, reasonable offer to start the conversation rather than waiting for Canada to make an initial offer which may be significantly lower than is fair or reasonable.

Q: In what ways have the Hennessy decisions re: the Robinson Treaties offered new interpretations of the treaty as had been expressed in the Steele decision (1984) that impact us?

A: Justice Hennessy speculated that the RHT was not a cede, release, and surrender Treaty, unlike Justice Steele. However, Justice Hennessey ultimately concluded she didn't need to decide this point, so her comments on this point are not considered binding. While Justice Hennessey's comments are not binding, they do represent a potential leverage point TFN/TAA could attempt to utilize to support its position regarding the Treaty.

Q: There have been suggestions from community that TFN go forward on this alone because of the treaty issue etc, is this a viable option?

A: Both TAA and TFN are parties to the intervention, so it's unlikely Canada or Ontario would settle without TAA. This supports leadership's desire to maintain unity between TFN and TAA.

Q: There was a concern expressed about being Status vs. Treaty Beneficiary and expressing a fear that "non-status" or "non-treaty" would not be a part of a settlement of Restoule and perhaps ought not have a say on what happens to settlement money.

A: The expectation is that entitlement to settlement proceeds will be based on TFN/TAA membership/citizenship criteria.

Q: Does FPL have any examples of issues a First Nation could consider when assessing how to approach investing and distributing a large settlement award?

A: When receiving large settlement awards, First Nations usually set up a trust. The trust identifies what the money can be used for, for example: education, elders, supporting cultural and linguistic revitalization, defending rights, etc. Trustees are appointed to administer the trust and their role is to decide how to spend the trust money. The trustees have a fiduciary obligation to the beneficiaries to manage and distribute the trust funds in accordance with the trust document which sets out the purposes of the trust.

Regarding individual compensation, there are many ways to approach the situation. One example is a one-time payment to individuals based on a formula. Another potential idea with respect to annuities payments is creating a formula based on age, since individuals who are older would have been entitled to annuities for a longer period.

We assist clients with setting up trusts for large settlements and considering how to structure community individual compensation in a way that reflects the Nation's values, minimizes harm and would be pleased to discuss the examples and considerations above in more detail.

5. Negotiating Jurisdiction is Part of Our Global Approach

Jurisdiction Definition: Jurisdiction is a lawmaking and decision-making authority.

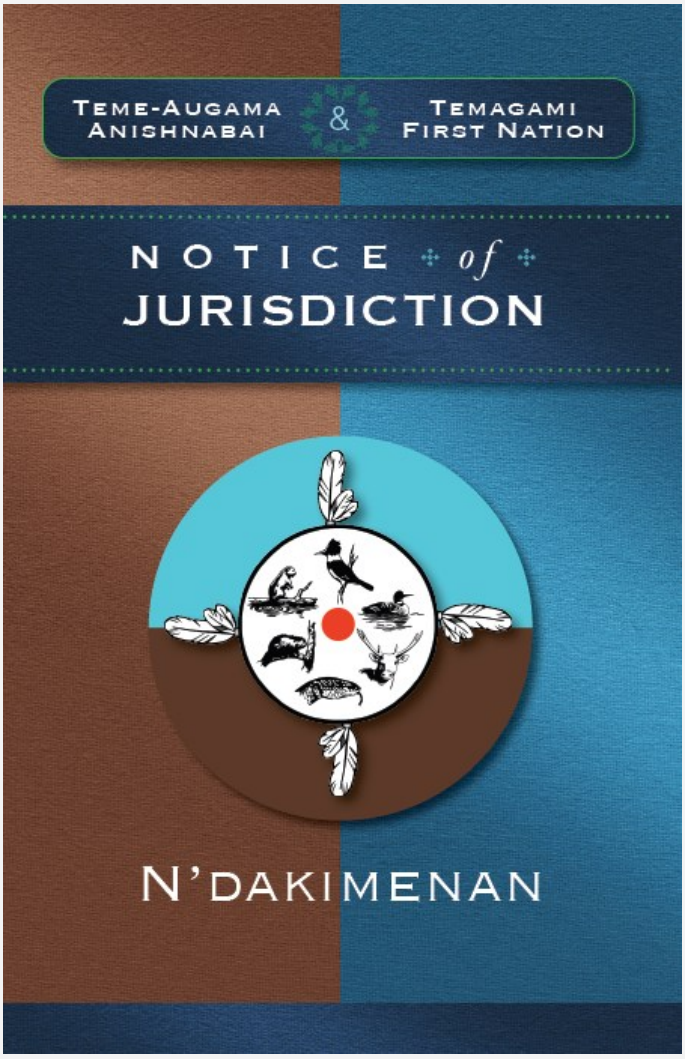
We have inherent jurisdiction and a collective right and responsibility for stewardship of N'dakimenan. The Global Approach in our negotiations includes the recognition by Ontario and Canada of our inherent jurisdiction over N'dakimenan. Therefore, the Relationship Agreement would include recognition and implementation of our inherent jurisdiction and would be a living, open agreement that evolves and renews over time. This was the spirit and intent of pre-confederation treaties; they were Nation- to- Nation relationships.

The Teme-Augama Anishnabai Temagami First Nation Notice of Jurisdiction was issued in 2023. It is a public declaration of our inherent collective right to oversee and steward N'dakimenan.

Below left: Cover page of "Notice of Jurisdiction", issued September 2023:

Below right: Page 3 of Notice of Jurisdiction

Next page: Purpose of Notice of Jurisdiction, page 2



UPON PUBLICATION OF THIS NOTICE OF JURISDICTION, ALL PARTIES SEEKING ACCESS TO N'DAKIMENAN AND ITS RESOURCES HAVE A DUTY TO SECURE THE CONSENT OF THE TEME-AUGAMA ANISHNABAI AND TEMAGAMI FIRST NATION, AND TO INQUIRE, CONSULT, AND ACCOMMODATE THE RIGHTS AND INTERESTS OF THE TEME-AUGAMA ANISHNABAI AND TEMAGAMI FIRST NATION.

CHIEF LEANNA FARR,
TEME-AUGAMA ANISHNABAI

CHIEF SHELLY MOORE-FRAPPIER,
TEMAGAMI FIRST NATION

Dated February 7, 2023

PURPOSE OF THE NOTICE OF JURISDICTION

By this Notice of Jurisdiction, the Original People of N'dakimenan, the Teme-Augama Anishnabai, give formal notice to Canada and the Province of Ontario, other governments, land and resource users, corporations, developers, and the general public, that the inherent, sovereign, inalienable, and unsurrendered rights of the Teme-Augama Anishnabai, including the rights accrued by the Temagami First Nation, continue to be asserted over N'dakimenan, our ancestral homeland and traditional territory.

Our land, N'dakimenan, and the inherent rights of the Teme-Augama Anishnabai were bequeathed by the Creator. These rights include authority and jurisdiction to steward N'dakimenan for future generations and the right of self-determination and self-government.

The Teme-Augama Anishnabai were placed on N'dakimenan by the Creator, along with four sacred gifts to look after: Earth, Water, Air and Fire. The Creator also gave us Seven Grandfather Teachings to guide us.

Our inherent rights are recognized and affirmed, not created, by the Constitution Act, 1982, Section 35, and the United Nations Declaration on the Rights of Indigenous Peoples, Articles 25 and 26.

The Teme-Augama Anishnabai and the Temagami First Nation will continue to enforce protection and sovereignty within our traditional territory based on our inherent rights and jurisdiction.

The Notice of Jurisdiction can be viewed here:

https://temagamifirstnation.ca/land-and-resources/

Negotiating a Global Approach means not only obtaining payment for past losses, but also legally hammering out what powers of jurisdiction we have that the Crown must recognize and affirm inlaw, specific to N'dakimenan.

What could a Global Approach entail? It may mean many things including but not limited to having jurisdiction to green light (or not) new resource extraction projects with a standard approach. We would strive to protect and restore N'dakimenan while create sustainable employment through active jurisdiction work.
Some practical possibilities with tangible long-term benefits could include:

- Declaration on water / watershed protection enshrined in law.
- Food sovereignty and food security assertions
- Assumption of management and administration of parks and conservation reserves. (i.e. Lady Evelyn Smoothwater Park)
- Build an outpost cabin network throughout N'dakimenan – including work plan for permanent operations and maintenance.
- Cultural and ecological ecotourism
- Economic development via ecosystem protection and conservation based on 3 Rs: Land Reclamation, Remediation, and Restoration, including Environmental Assessments.
- Withdrawal of areas from mineral extraction claims and extraction
- Fundamental changes to how logging occurs throughout N'dakimenan, including banning of aerial spraying. Conversion to First Nation-led sustainable forestry, such as is done with Tribal Forestry in the USA (Menominee Forest, Yurok Tribal Forestry Management)
- Models of land stewardship based on Indigenous jurisdiction and the international Rights of Nature movement:
  - -Indigenous Protected and Conserved Areas (IPCAs)
  - -Management of Parks such as Haida Gwaii
  - -Declaration of waterbodies and or waters having the rights of personhood as the Innu Council of Ekuanitshit declared for the Magpie River in Quebec and the Tuhoe Māori enacted for Te Urewera Rainforest in New Zealand.

6. Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIME-LINES	TABLE
Meetings with Canada and Ontario	Meet with the larger negotiations table to review outlines prepared by the Working Groups, co-develop a negotia-tions mandate, and address issues related to the *Twain and Restoule* litigations. Issues will include interim measures, land tenure, jurisdiction, compensation for the past, future revenue sharing, the loss of use of proposed set aside lands under the 2008 Draft Settlement Agreement, and what Canada refers to as a self-government agreement and TFN/TAA refers to as a relationship agreement. As part of these discussions, the parties will jointly design the process for co-developing a negotiation mandate on issues related to the *Twain* and *Restoule* litigations.	TAA/TFN: Legal counsel Canada: Canada legal counsel Ontario: Ontario legal counsel	7 meetings with Canada and Ontario (3 in 2024-25, 4 in 2025-26) 7 TAA/TFN meetings with legal counsel to prepare for negotia-tions meetings (3 in 2024-25, 4 in 2025-26)	April 2024 – March 2026	Restoule RIRSD

RIRSD: Recognition of Indigenous Rights and Self Determination

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIMELINES	TABLE
TAA/TFN Internal Preparation	Meet with TFN/TAA Joint Council and the Director of Negotiations to discuss issues contemplated at the negotiations table and make decisions on TFN/TAA's position on these issues. Meet with legal counsel to discuss issues contemplated at the negotiations table and seek legal advice on these issues. Conduct legal research on issues contemplated at the negotiations table, including compen-sation owed for the past and options for resource revenue sharing on a go forward basis. TFN/TAA Joint Council and the Director of Negotiations meet to determine BATNA and strategies around the various issues.	TAA/TFN Director of Negotiations Legal Counsel Communica-tions Team Economics Expert	24 TAA/TFN Joint Council meetings (In-person on Bear Island) 16 TAA Council Meetings/Assemblies (in-person) 6 meetings with legal counsel (3 via video, 3 in-person on Bear Island) Development of TAA/TFN position on priority issues Bi-Weekly Communications Team meetings	April 2024 - March 2026	Restoule RIRSD

BATNA: Best Alternative to a Negotiated Agreement. Learn more about BATNA here:

https://www.pon.harvard.edu/daily/batna/translate-your-batna-to-the-current-deal/

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIMELINES	TABLE
Working Group Meetings	Form the Global Approach Working Group and the Interim Measures Working Group, comprised of members from TAA/TFN, Canada and Ontario to focus on how the parties can move discussions forward under a global approach, and how to implement interim measures identified by TAA/TFN. Meet with the Working Groups to co-develop an outline that will inform each parties' mandate-seeking process on issues related to the *Twain* and *Restoule* negotia-tions.	TAA/TFN Legal Counsel Canada Ontario	6 Global Approach Working Group meetings (via video conference unless scheduled with larger negotiations table meeting) 6 Interim Measures Working Group meetings (via video conference unless scheduled with larger negotiations table meeting) 6 TAA/TFN internal meetings (via video conference) to prepare for the Working Group meetings	April 2024 – March 2025	Restoule RIRSD

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIMELINES	TABLE
TAA Citizenship Law	The Citizenship Committee extended their community engagement efforts into 2024-2025 and moved the ratification date to 2024. The activities outlined below reflect the expanded engagement process and the final steps in bringing the Citizenship Law to a vote. The Citizenship Committee has planned several engagement sessions for winter and spring 2024 leading up to the vote. Organize and attend monthly Citizenship Committee Council meetings leading up to and after the vote. Meetings post-vote will involve planning for the implementa-tion of the Law and coordination of organizing the citizenship list. Organize and attend Elders' discussion groups.	TAA/TFN	8 Citizenship Committee Council meetings (one per month April - Decem-ber) 2 Elders Citizenship Law Discussion (one in North Bay on April 18/19, one in Toronto in April or May) 1 Presentation at the Spring Assembly May 25-26 3 Zoom sessions for all members (May-June) 1 Citizenship Law Vote (June 2024)	April 2024 – December 2024	RIRSD

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIMELINES	TABLE
TAA Citizenship Law, continued	Organize and attend presentations for the Spring Assembly and evening Zoom sessions. Develop and distribute ongoing communica-tions regarding the engagement process and information about the Citizenship Law, including print materi-als, videos, social media posts, commu-nity letters, etc. Organize and host the Citizenship Law vote, including by preparing a notice of vote and voter packages. Ratify the TAA Citizenship Law, subject to results of the vote.	TAA/TFN	8 Citizenship Committee Council meetings (one per month April - December) 2 Elders Citizenship Law Discussion (one in North Bay on April 18/19, one in Toronto in April or May) 1 Presentation at the Spring Assembly May 25-26 3 Zoom sessions for all members (May-June) 1 Citizenship Law Vote (June 2024)	April 2024 – December 2024	RIRSD

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSI-BLE PARTIES	DELIVERABLES	TIMELINES	TABLE
Community Engagement	Host community information sessions to ensure membership is informed of the status of negotia-tions and to seek feedback on issues contemplated at the negotiations table Host community votes to seek mandate and inform TAA/TFN's position on key issues contemplat-ed at the negotia-tions table. Legal counsel to participate in the community meetings as necessary.	TAA/TFN Legal counsel	12 community meetings 1 community vote Community members informed about progress at the negotiations table Mandates sought by leadership from the community	April 2024 – March 2026	Restoule RIRSD

Work Plan

OBJECTIVE	SPECIFIC ACTIVITIES	RESPONSIBLE PARTIES	DELIVERABLES	TIMELINES	TABLE
Traditional Governance Structures	Retain historical governance consultant to conduct research on traditional TAA governance structures. Research work will include: Meetings with TFN/ TAA Governance Committee; Meetings with TFN and TAA Chief and Council; Interviews with Elders; and Review of existing archival materials. Develop a vision for integrating traditional TAA governance protocols into present day governance structures. This will support the process of developing a unified TAA/ TFN government as TAA/TFN works toward a relationship agreement with Canada and Ontario.	TAA/TFN Historical Governance Consultant	Research completed on traditional governance structures Report on findings from historical research TAA governance vision	April 2025 – March 2026	RIRSD

7. Joint Council Approach

Members of the Teme-Augama Anishnabai and Temagami First Nation Joint Councils convened for a Strategic Session to discuss and develop a Resolution in support of a mandate to pursue a Relationship Agreement model for Negotiations. This was facilitated by Director of Negotiations Guy Ginter and guest Facilitator Marvin Hare. Joint Council Administrator Natasha Fortin and Negotiations Communications Officer Daisy Fannin assisted.

The sharing by each Joint Council member of "What is your dream for our people?" demonstrated common themes of sovereignty, independence, self-sufficiency, meaningful jurisdiction, protection of N'dakimenan, and nation-building for coming generations. It set the tone for a productive discussion as we recognized our common purpose.

There was discussion of each point in the current draft Resolution in breakout groups and whole group format. Bruce McIvor of First People's Law joined the group for Saturday and Sunday to assist. The Relationship Agreement Mandate Resolution will be brought to the Citizens for a vote.

The Strategic Session commenced with a talk by Doctor Alan Corbiere, who spoke to the history of treaty-making via Wampum and how the traditions of Anishinaabe governance and diplomacy can apply to modern-day negotiation. Teme-Augama Anishnabai Aanike Ogimaa John Turner and Teme-Augama Anishnabai Councillor Mary Laronde expanded on Dr. Corbiere's lecture, speaking to specific events in our history: "Historical Context for a Relationship on N'dakimenan". This knowledge informed Joint Council's discussion for the Retreat work.

Each numbered item in the draft Relationship Agreement Mandate Resolution was discussed in breakout groups and whole group formats. The numbered item recommendations and key points of discussion are as follows:

1. Fast-tracking an interim agreement for the development of the community site known as Shiningwood Bay: Joint Council unanimously supports fast-tracking development of Shiningwood Bay due to the acute need for community space on land. A specific communications strategy to inform Citizens will be developed as part of the Relationship Agreement once the vote has occurred.

2. N'dakimenan Table as an interim co-management body with planning and regulatory authority for land stewardship leading to Teme-Augama Anishnabai - led stewardship arrangement for N'dakimenan:
Joint Council unanimously supports interim use of the N'dakimenan Table for these purposes.
Asserting jurisdiction throughout N'dakimenan is a key aspect of negotiations.
Our stewardship is urgently needed.

3. Determining the Land Tenure for the Remaining Set Aside Lands: Deciding on which land tenure options are best for each area of the Set Aside Lands is a complex topic. More time is needed to examine pros and cons and discuss this further with the community. Reserve land agrees to underlying Crown title. 91(24) Lands may be favourable if the taxation issue is negotiated. A 4th unique-to-N'dakimenan option will be explored.

7. Joint Council Approach, continued

4. Revenue framework including but not limited to future economic opportunities: Ensuring irrevocability on the part of the Crown, economic independence, sustainability, and opportunity were identified among key principles. Existing revenue models such as our IBA and those used by other First Nations can be examined to build our own framework.

Negotiating outstanding fiduciary obligations:

- · Annuities versus resource extraction
- · Loss of use
- · Compensation package for past losses
- · Lands for our exclusive use and benefit (Set Aside Lands)

Jurisdiction over N'dakimenan: Recommendations were not made for this point; instead, discussion identified various points and concerns. Loss of use is a complex subject to quantify for compensation due to the myriad historic factors. Jurisdiction over N'dakimenan was identified of primary importance.

5. Discussion on the Robinson Huron Treaty Annuities Case and taking an independent position from the Restoule action in negotiating any compensation for resources extracted from N'dakimenan: It was noted that some Citizens do not understand that, as we are not part of the RHTAC but are acting as Intervenors, we are not entitled to part of the $10billion settlement that was reached. We are entitled to a different amount that we will negotiate. The Robinson Superior Annuities Case outcome may have some bearing on our outcome. It was unanimously agreed that It was unanimously agreed that meaningful jurisdiction over N'dakimenan ought to be achieved as a part of any agreement on compensation. Various formulas for calculating compensation were discussed, such as per capita or geographic area. Passing the Citizenship Law is an imperative to prevent fraudulent entitlement claims. A spending plan will be drafted prior to accepting a financial settlement. Any agreement will be Without Prejudice, meaning that accepting a settlement in no way means that the Crown can state that we accept the Steele ruling on land rights. We do not accept it and we never will.

6. Relationship Agreement Mandate Next Steps: The Mandate Resolution will be re-drafted with recommended changes. The Temagami First Nation, March 7 Community meeting is the target date for introduction of the draft Resolution. A Mandate vote is tentatively to be held in early June. The vote format will be the Constitution– prescribed 1st and 2nd vote for TFN and Assembly vote for TAA. Early June was chosen in consideration of lake travel conditions, the need to ensure adequate time to inform voters, and additional important issues such as the Citizenship Law that require resources and attention. It is important that all Joint Council members share this information at every opportunity and our Communications Team will support these efforts by creating and implementing a communications plan.

7. Joint Council Approach, continued

The Community will determine how the funds will be distributed individually and collectively.

We are not in any way obligated to follow the RHT Settlement Disbursement Formula.

The agreement will include but not be limited to the following:

- Compensation for the loss of use of a reserve since 1850;
- Compensation for the loss of resources and revenues taken from N'dakimenan in the past (This is essentially one outstanding fiduciary obligation regarding "past annuities", as in the RHT/RST cases. However, in our negotiations, the amount would be determined based on the evaluation of resources extracted specific to N'dakimenan);
- Compensation for historical grievances;
- A resource revenue sharing framework for the future, in perpetuity;
- An evaluation of resources extracted from N'dakimenan (in-progress);
- Exercise of our inherent jurisdiction to fulfill our sacred responsibility to take care of N'dakimenan (decision-making authority and a management role over **ALL** of N'dakimenan);
- Our relationship to Canada, Ontario, and the people who have settled here and now share N'dakimenan with us; (Citizenship Law);
- Other matters such as review and renewal, as times and circumstances change.

Important Consideration: The current federal government is likely to be much more cooperative than a Conservative government would be. It is possible that there will be a conservative majority in the next federal election, to be held by October 2025 at the latest. Campaigning and the election period itself will further shorten the timeline to get work completed with the current government. As a result, there is an urgency to get things accomplished so the work cannot be reversed. There is a lot of work to do in a short period of time.

8. Compensation Considerations

In a recent article in BAYTODAY Nipissing First Nation Chief Scott McLeod shared the following historical perspective.

“Since the $4 annual payment from well over a century ago, people feel that the compensation is 100 per cent theirs, and somehow we are taking money from them,” for the proposed community fund. “When in fact,” he continued, “if they understood the treaty, how it was written, what our legal arguments were, and how that decision was upheld in court, they would understand that the treaty itself was not merely an individual payment.”

“Rather,” McLeod explained, “it was a communal payment to a Nation that first started in 1850 as a lump sum to the Chiefs.” This payment “took care of the communal needs at that time,” he continued, “the rest was dispersed to the individual, which became the $4 payment.”

Taking over revenue and dispersing to individuals was the first step to undermining Anishinaabe Ogimaag, and making the people reliant on the Indian Agent.

Restoule v Ontario and Canada Supports a Relationship Agreement

Essentially, Justice Patricia Hennessey of the Superior Court of Ontario said what First Nations had said all along about the spirit and intent of the treaties:

“The Treaties represent unique agreements by the Crown and the First Nations of the Lake Huron Territory and the Lake Superior Territory whose long-term goal was peaceful and respectful co-existence in a shared territory.”

The following is from a communique from the Robinson Huron Treaty organization:

“The Court gave equal weight to the Anishinaabe and the Crown perspectives relating to the interpretation of the treaty. The court examined the terms of the treaty and the historical context, including the history of the Anishinaabe-Crown relationship from 1756 up to the Treaty Council in 1850.
The Court characterized the relationship as a nation-to-nation relationship – one that was respectful of the sovereignty and land rights of the Anishinaabe – and that this was the basis upon which the parties entered into Treaty in 1850.”

8. Compensation Considerations, continued

With regard to the Anishinaabe perspective, the Court recognized Anishinaabe principles of governance and Anishinaabe law, including the organizing principles of pitmatisiwin (sacredness of life) and gizhewaadiziwan (the way of the Creator, generosity), which encompass the Seven Sacred Laws of Creation. The Court underlined the importance of relationships under Anishinaabe law, and that the principles of respect, responsibility, reciprocity and renewal were fundamental to the Anishinaabe understanding of relationships, including the treaty relationship with the Crown.

In the decision, there are many statements from the judge that confirm the reality that the treaty is an agreement between two sovereigns.

In reality, the Robinson Treaties were relationship agreements that Canada and Ontario breached shortly after they were signed. With the first *Indian Act* in 1876, the Crown's agenda to control, contain, and eradicate "Indians" began:

"When he [Duncan Campbell Scott, Superintendent of Indian Affairs] mandated school attendance in 1920, he stated, "I want to get rid of the Indian problem. I do not think as a matter of fact, that the country ought to continuously protect a class of people who are able to stand alone. Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill."
Scott summarized the prevailing attitudes of Canadian officials: the First Peoples, despite many agreements with the Crown that guaranteed their independence, were to be eradicated as distinct nations and cultures."

9. N’dakimenan Relationship Statement

The Teme-Augama Anishnabai (Deep Water by the Shore People) were gifted n’Daki Menan (Our Lands) and the responsibility for its stewardship by the Creator. From time immemorial, we have lived with the lands, waterways and all life upon n’Daki Menan, protecting, nurturing, and receiving our sustenance.

Historically, the Teme-Augama Anishnabai made decisions based on our traditional governance structures. Today, we are one people represented by two elected governing bodies: the Teme-Augama Anishnabai Chief and Council and the Temagami First Nation Chief and Council. In keeping with our traditional ways, decisions are informed by the input and wisdom of our clan relations and knowledge-keepers.

The Teme-Augama Anishnabai Chief and Council and the Temagami First Nation Chief and Council work together as a Joint Council to protect the rights and interests of our citizens (the People of n’Daki Menan). The People of n’Daki Menan hold and exercise inherent and constitutionally protected rights within n’Daki Menan.

We, as Joint Council, are committed to fulfilling our sacred stewardship obligations and protecting the integrity of n’Daki Menan for past, present and future generations.

RECENT NEGOTIATIONS HISTORY

Our struggle for justice began in 1877 by Chief Tonene and Chief Kane’cj’c.

More recently, the Teme-Augama Anishnabai have been engaged in negotiations with Ontario and Canada to resolve issues related the Crown’s obligations since 1990. Most recently, the Joint Council negotiated a Draft Settlement Agreement, dated 2008, with Ontario and Canada. The negotiations table has been re-established and exploratory discussions are underway.

Since 1990, Canadian law, policy and societal attitudes, in general, have evolved, making elements of the 2008 Draft Settlement Agreement unacceptable and creating opportunities for a new approach.

PROPOSED NEW APPROACH

Joint Council is proposing a new approach to negotiating an agreement that respects our inherent right to self-government and our stewardship responsibilities to n’Daki Menan.

This new approach would lead to the development of a relationship agreement with Ontario and Canada.

The relationship agreement would be a living, open agreement that evolves and renews over time.

The relationship agreement would respect our inherent jurisdiction and law-making processes, including the right to define who we are as the People of n'Daki Menan and to exercise our decision-making authority over n'Daki Menan.

The relationship agreement would recognize our collective rights and responsibilities to protect the lands and waterways of n'Daki Menan.

The relationship agreement would honour our responsibility to uphold the principle of Mino-Bimaadiziwin (Wellbeing).

COMMITMENT TO THE PEOPLE OF N'DAKI MENAN

Joint Council is committed to keeping the People of n'Daki Menan informed and involved throughout the negotiation process with Ontario and Canada, ensuring that our collective vision is honoured.

This is an opportunity to build on the work done on the Draft Settlement Agreement and previous work by creating a relationship agreement that grows and changes as we grow and change.
This living relationship agreement would help us reach our goals of self-determination and protection of n'Daki Menan.

We will be seeking a mandate for a new approach in negotiations to pursue a living, relationship agreement. We look forward to determining a direction for our nation together.

We need to build a strong relationship of trust and respect among our people as we build a government-to-government relationship with Ontario and Canada based on mutual respect and mutual responsibility.

10. DRAFT Relationship Agreement Mandate Resolution

Whereas the Teme-Augama Anishnabai (People of the Deep Water by the Shore) were gifted N'dakimenan, (our land) and the responsibility for its stewardship by the Creator.

Whereas from time immemorial, we have lived with the lands, waterways, and all life upon N'dakimenan, protecting, nurturing, and receiving our sustenance.

Whereas we, as a People, are committed to fulfilling our sacred stewardship obligations and protecting the integrity of N'dakimenan for past, present, and future generations.

Whereas we negotiated the Draft Settlement Agreement (DSA) of 2008.

Whereas in consideration of a more progressive social and political climate, a renewed mandate under a Relationship Agreement rather than a Settlement Agreement will better serve our requirements.

Whereas a Relationship Agreement with Ontario and Canada would lead to a living, open agreement that can renew and evolve over time.

Whereas a Relationship Agreement would be in the same spirit as pre-confederation treaties which essentially were nation-to-nation agreements to coexist and share the land.

Whereas the Relationship Agreement will respect our inherent jurisdiction and law-making processes to exercise our authority over N'dakimenan.

Whereas the Relationship Agreement will take an independent position from the Restoule action in negotiating any compensation for resources extracted from N'dakimenan in the past (which reflects our unique history).

Whereas the Supreme Court of Canada (1991) stated "It is conceded the Crown has failed to comply with some of its obligations under this agreement, and thereby breached its fiduciary obligations to the Indians. These matters currently form the subject of negotiations between the parties."

Whereas we, as a People, will co-create a Relationship Agreement with our elected Joint Council.

Whereas the Relationship Agreement negotiations will consider the following:

- Revenue sharing framework for the future, including but not limited to economic opportunities;
- Determining the land tenure for the remaining set aside lands;
- Fast-tracking an interim agreement for the development of the community site, identified as Shiningwood Bay;
- N'dakimenan Table as an interim co-management body with planning and regulatory authority for land stewardship leading to Teme-Augama Anishnabai - led stewardship arrangement for N'dakimenan;
- Outstanding fiduciary obligations.

Therefore, be it resolved that the Temagami First Nation and Teme Augama Anishnabai support a Relationship Agreement Mandate for a renewed approach to negotiations.

Appendix A– 2017 TFN Resolution Declining to Participate in RHT Litigation

TFN Resolution 2017-08-21 (1)

Re: *Restoule* Action (Robinson-Huron Annuities Litigation)

Whereas Robinson Huron Treaty beneficiaries are plaintiffs (Mike Restoule, et al) to the Restoule Action (Robinson-Huron Annuities Litigation); and

Whereas TFN legal consultation recommended and outlined four (4) options:

Excerpt from legal counsel, A Pratt:

There are essentially four main options:

The first is to join fully with the plaintiff group.
7 need to be represented by a Under the *Rules of Civil Procedure*, the plaintiffs single solicitor of record. This would mean passing a BCR authorizing the First Nation to consent to the representation order, which at the moment excludes TFN. This would also likely mean making a commitment to make regular contribution of funds to the Litigation Trust. From earlier discussions with Dianne Corbiere, I understand that those First Nations who are operating through the plaintiff group are not allowed to have independent legal advice in order to streamline their decision-making.
The costs implications of this step are significant, but the costs are divided among many First Nations your First Nation. You would be expected to bear a proportionate share of the ongoing costs, presumably for the work done to date and the work going forward. I am not privy to the exact financial arrangements, however.

The second is to apply to be added as an intervener.
This can be done by having the plaintiffs or one of the defendants apply to the court to add your First Nation as a party, or by applying yourself. The most appropriate approach would be to apply to intervene as an added party under the Rules of Civil Procedure. You could be represented by a lawyer of your own choosing and would have all the rights of a full party.
As an intervener, you would have to demonstrate a somewhat different perspective on the issues before the court and would have the right to participate fully in the trial.
From a practical perspective, it is not realistic to think that we could materially influence the evidence and arguments in the case without a very significant investment of time and money. In particular the cost of preparation and having a lawyer attend a trial of this magnitude would be very significant.

The third is to seek relief against joinder.
The Rules of Civil Procedure provide that a necessary party can be relieved against the requirements of joinder. Presumably this means that you can seek to be exempted from the requirement to be regarded as a necessary party.
I have not been able to find any decided case-law on this option, and on the basis of the *Kelly* decision I doubt such relief would be granted, since it appears that on an issue of Treaty interpretation all First Nations who are party to that Treaty are considered necessary parties. 8 Relief from joinder would mean that you were given the right not to participate in the trial but in my view it would likely not prevent your First Nation from being bound by the reasoning of an ultimate court decision.

The fourth is to do nothing.
If you do nothing, the other parties will almost certainly seek an order adding you as a defendant in the case. This would have the effect of ensuring that you are bound by the outcome but would not necessarily impose any obligation to participate in the trial.

Acknowledgement by _____this 6TH day of September 2017

Appendix A pg. 2– 2017 TFN Resolution Declining to Participate in RHT Litigation

Therefore be it resolved that Temagami First Nation is following the legal counsel recommendation to proceed with the fourth option; resulting in adding TFN as a defendant in the case; and

Further be it resolved that Temagami First Nation prepare a letter with Teme Augama Anishnabai outlining the unresolved negotiations status to the Federal and Provincial governments and press release formalizing the TFN/TAA position in the RHTAC process; and

Finally be it resolved that should this resolution require a second & final vote in accordance with TFN Tribal Constitution; that be done by Secret Ballot on September 5th/2017.

FIRST VOTE RESULTS Aug 21/2017

Moved: **Jesse Paul**
Seconded: **Raymond Katt**
In Favour: **16**
Opposed: **0**
Abstained: **1**

SECOND & FINAL VOTE RESULTS Sept. 5/2017

In Favour: **20**
Opposed: **0**
Abstained: **0**

RESOLUTION #2017-0821 (1) CARRIED

In accordance with TFN Tribal Constitution.

Acknowledgement by _____this 6TH day of September 2017

TFN Community Meeting May 26, 2019
Resolution: Intervenor Status Robinson Huron Treaty Case
Resolution #2019-0526-01

DRAFT RESOLUTION

May 26, 2019

Be it Resolved:
That the Temagami First Nation Community, direct the Chief and Council to bring a motion to participate with intervener status in the Restoule Appeal, regarding Robinson-Huron Treaty Annuities, to ensure that our interests are protected.
This participation in the litigation and negotiations will take place on a without-prejudice basis to our position, that we did not adhere to the Robinson-Huron Treaty, or surrender Aboriginal Title to our Ancestral Lands.

Further be it resolved: that $50,000.00 be allocated out of our IBA dollars to fund this initiative.

Moved By: Virginia McKenzie
Seconded by: Cathy Metcalfe

First Vote Results: May 26/2019 LMLC, Bear Island, ON

In Favour: 16
Opposed: 0
Abstensions: 5

Appendix C– 2021 TFN Resolution in Support of Intervening in RHT Litigation

TEMAGAMI FIRST NATION COMMUNITY RESOLUTION

INTERVENTION APPLICATION

RESTOULE v. CANADA (ATTORNEY GENERAL)

WHEREAS representatives on behalf of all Robinson-Huron Treaty signatories have commenced the *Restoule* proceeding against Canada and Ontario;

AND WHEREAS the *Restoule* proceeding has been divided into three stages;

AND WHEREAS the Ontario Superior Court of Justice held in Stage One that the Crown has an obligation to increase annuity payments to the Anishinaabe treaty beneficiaries, and in Stage Two that Ontario cannot rely on the doctrine of Crown immunity or provincial limitations legislation to avoid its obligations regarding increased annuity payments;

AND WHEREAS the Ontario Court of Appeal will hear Ontario's appeal of the Stage One decision and Stage Two decisions in 2021;

AND WHEREAS the Stage Three hearing is scheduled to commence in September 2021;

AND WHEREAS the Stage Three hearing will address issues related to compensation for the Crown's failure to fulfil its treaty obligations to the Anishinaabe treaty beneficiaries;

AND WHEREAS Temagami First Nation (TFN) and Teme-Augama Anishnabai (TAA) (collectively, Temagami) were not named as parties to the *Restoule* proceeding;

AND WHEREAS in 2019, TFN decided not to participate in the *Restoule* proceeding while TAA decided to participate;

AND WHEREAS by letter dated December 3, 2020, the Chiefs of the Robinson Huron Treaty Anishinaabek advised Temagami that the Stage Three hearing may address issues which could directly affect Temagami, including the geographic boundary of n'Daki Menan and the value of the resources extracted from within n'Daki Menan.

AND WHEREAS the Stage Three hearing will have significant implications for Temagami's rights and interests, notwithstanding Temagami's position that it did not adhere to the Robinson-Huron Treaty or surrender Aboriginal title to n'Daki Menan;

AND WHEREAS the TFN wishes to participate in the Stage Three hearing to protect Temagami's rights and fulfil Temagami's stewardship responsibilities in respect of n'Daki Menan;

NOW THEREFORE BE IT RESOLVED THAT:

TFN Chief and Council are hereby directed to make application to intervene in the Stage Three hearing of the *Restoule* trial proceedings, on a without-prejudice basis to Temagami's position regarding the Robinson-Huron Treaty.

Moved by: Leanna Farr

Seconded by: John Turner

For: 34

Against: 22

Abstensions: 0

} Results from Vote #1

Vote: February 28th, 2021 - Held @ LMLC

Vote #2: March 14th, 2021 - To be held @ Minowaabandan gamiing Maawanjiiyiwining

These results are verified by:

Desiree Senf,
Temagami First Nation
Electoral Officer

On this 28th day of February, 2021.

Appendix C– 2021 TFN Resolution 2nd Vote in Support of Intervening in RHT Litigation

TEMAGAMI FIRST NATION
BEAR ISLAND,
LAKE TEMAGAMI, ONTARIO P0H 1C0
TEL 1.888.737.9884 | 705-237-8943
FAX 705.237.8959

RESULTS

2ND & FINAL VOTE - SECRET BALLOT

Saturday, March 20, 2021
10:00 AM to 4:00 PM

Resulting from the community meeting held February 28, 2021 - the following Resolution requires a second & final vote in accordance with Temagami First Nation Tribal Constitution:

Resolution #2021-0228-001

Be it Resolved:
That TFN Chief and Council are hereby directed to make application to intervene in the Stage Three hearing of the Restoule trial proceedings, on a without-prejudice basis to Temagami's position regarding the Robinson-Huron Treaty.

Moved by: Leanna Farr
Seconded by: John Turner

First Vote occurred on February 28, 2021 LMLC, Bear Island, ON

SECOND VOTE: MARCH 20, 2021
RESULTS:

85 in favour
52 against
2 cancelled
137 voters
139 used ballots

Motion carried.

ADMINISTRATION DEPARTMENT
705.237.8943 ext.101
tfn@temagamifirstnation.ca | www.temagamifirstnation.ca

Appendix D

More Information:

https://thetaa.ca/negotiations/

https://www.youtube.com/watch?v=_ZvhjZ1RQO8&t=20s

Contact:

Teme-Augama Anishnabai / Temagami First Nation

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