

Chapleau Cree First



Nation

TREATY LAND ENTITLEMENT CLAIM

November 8th, 2014
Chapleau, ON

Briefing prepared by

OKT OLTHUIS KLEER
TOWNSHEND - LLP

Summary

1. BACKGROUND

2. NEGOTIATIONS

- Amount of Land
- Locations of Land
- Compensation/Valuation
- Land Transfer Process



3. Beyond NEGOTIATIONS

- What to do with settlement money
- CCFN Community Trust Fund
- CCFN outreach

BACKGROUND

the TREATY promise:

1 square mile per family of 5 [128 acres/person]

- CCFN's band list (in 1906): **64 people**
- CCFN's land entitlement (as of 1906): **8 192 acres**
- What CCFN received:
 - **267 acres** in 1907
 - **2 512 acres** in 1991
- TOTAL TO DATE: **2 779 acres**
- Acres are still owed



BACKGROUND

- CCFN retains OKT in 2008 & forms a negotiating team
- Team meets with Ontario & Canada regularly
- **Goals:**
 - **More reserve land** to accommodate the shortfall [from Ontario]
 - **Financial compensation** for not having been able to use the lands since 1906 [from Canada]



Negotiations

Focus on...

1. **AMOUNT** of land
2. **LOCATIONS** of land
3. **COMPENSATION/VALUATION** (“loss of use”)
4. **LAND TRANSFER Process** (“addition to reserve”)

Amount of LAND

The numbers...

- To determine land owing: count # of people at “date of treaty”
- CCFN’s entitlement under Treaty 9: **10 880 acres**
 - 128 acres/person x 85 people = 10 880
- What CCFN has received: **2 779 acres**
 - 267 (original reserve) + 2 512 (Fox Lake Reserve) = 2 779
- What CCFN is owed (shortfall): **8 101 acres**
 - 10 880 – 2 779 acres = 8 101

Amount of LAND

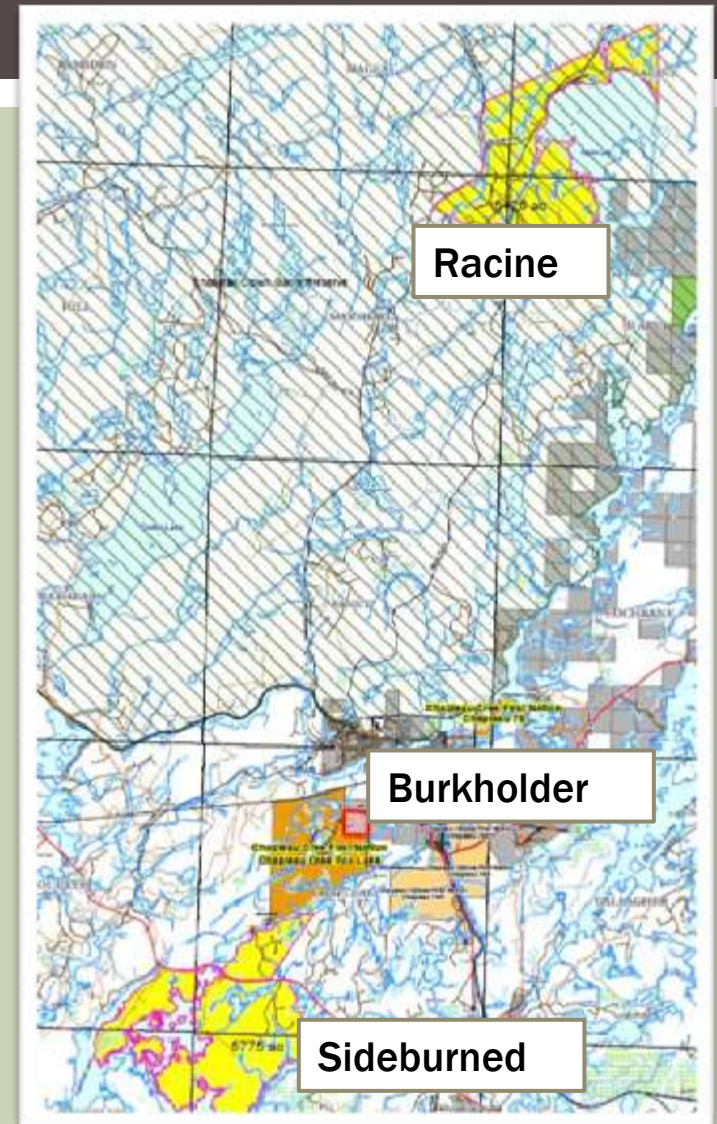
Recent **update**: extra acres

- Negotiated extra acres for lands under water, roads, and portions of the old reserve
- Negotiated an extra 1036 acres arising out of the Borden Lake selection area mix-up
- **+1600 acres over and above the DOT entitlement (shortfall)**

Location of LAND

Overview of Land Selections

1. Sideburned Lake
2. Racine Lake
3. The “Burkholder Lands”
(already owned by CCFN)
4. Possible Urban Reserve



Location of LAND

A note about Racine...

- Existing permit on 4 acre portion (Racine Lake Campground)
- CCFN TLE team prevented permit from becoming a lease
- Ontario insists it remain a public campground

CCFN is ensuring the campground's uses do not interfere with CCFN's uses of the land.

Compensation/Valuation

Compensation is based on determining the value of loss of use of the land since 1906

■ 3 ways to calculate loss of use:

1. Present-day land purchase model

- \$ based on cost of land for present-day population

2. Historical reconstruction model

- \$ that would have been received based on how the land likely would have been used

3. Rental model **

- \$ based on profits made had land been rented out on the open market
- What we're working with – likely to provide more \$



Compensation/Valuation

Calculating loss of use:

$$\text{Loss of use} = \left(\text{value of land each year} \right) \times \left(\text{rental rate of return} \right)$$

■ Need:

- Value of land in each year
- The “real rental rate of return”

■ What also affects valuation/compensation:

- Interest
- Periodic “spikes” in land value (urban, residential, forest)
- Land category allocations

Year	\$/acre	Loss of use (3.5%)
1	20.94	0.7329
2	21.62039	0.756714
3	22.32288	0.781301
4	23.0482	0.806687
5	23.79709	0.832898
6	24.57031	0.859961
7	25.36866	0.887903
8	26.19294	0.916753
9	27.04401	0.94654
10	27.92273	0.977295
11	28.83	1.00905

A sample loss-of-use calculation

Compensation/Valuation

Recent **updates**:

- Historical & present-day land appraisals are complete
- Real rental rate of return
 - Canada favours 2.5%
 - CCFN research supports closer to 3%
 - Canada agrees to a rate of “quite close to 3%”



Compensation/Valuation

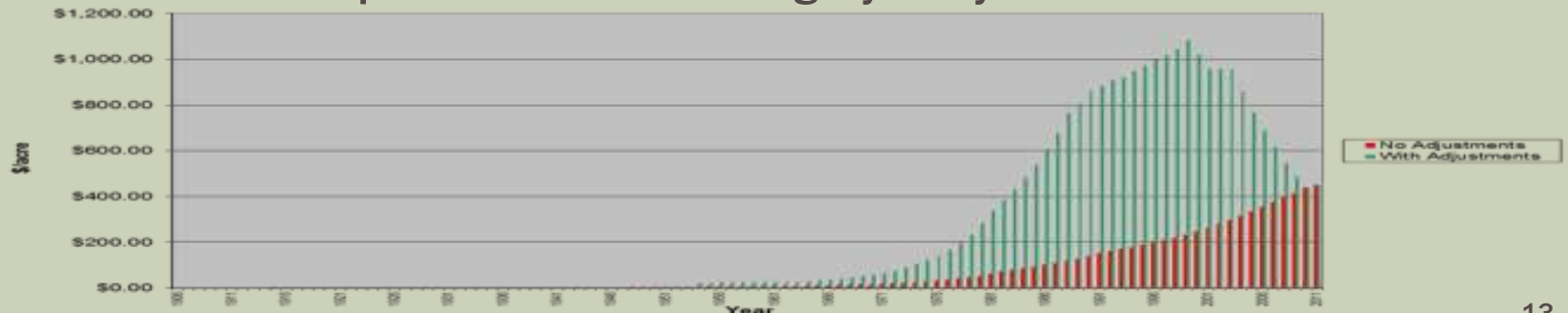
Recent **updates** (cont'd):

■ Land value

- Canada accepts CCFN's research supporting **higher forestry value**
- Canada accepts CCFN's research supporting **higher urban land value**
- Canada's valuation **above** the high end of range of possible values (!)

■ Land category allocations

- Canada agrees with CCFN's research supporting proposition that lands go into the “developable shoreline” category early on in the calculation



Land Transfer (ATR)

Land issues & third party uses

Land Issues: **updates**

- Cultural heritage sites at Racine – **archaeological assessment**
 - A “narrow” archaeological assessment conducted on portions of the Racine Lake selection area in summer 2013.
 - Fieldwork completed by **Dr. Hamilton** (co-author of 2003 study on cultural history of Chapleau Cree) & monitored by **Donna Augustine** (Mi'kmaq spiritual leader)

- **Findings:**
 - No indication of any burial sites
 - Areas with artifacts suggesting 20th century encampments
 - Flakes and projectile points suggesting tool production/re-sharpening
 - Report accepted by MTCS in March 2014

Land Transfer (ATR)

Land issues & third party uses

Land Issues:

■ Environmental Assessments

- **Canada** Environmental Site Assessment (ESA) Phase 1 & 2 complete (final reports done – no concerns)
- **Ontario** Environmental Assessment
 - Public consultations complete
 - Received letters of support from all local First Nations
 - **Remaining work:**
 - quality-checking, paperwork
 - Permit for private road
 - **Final steps:** Notice of Completion and Statement of Completion
 - Possibility of a “bump up” request



Land Transfer (ATR)

Land issues & third party uses

Land Issues:

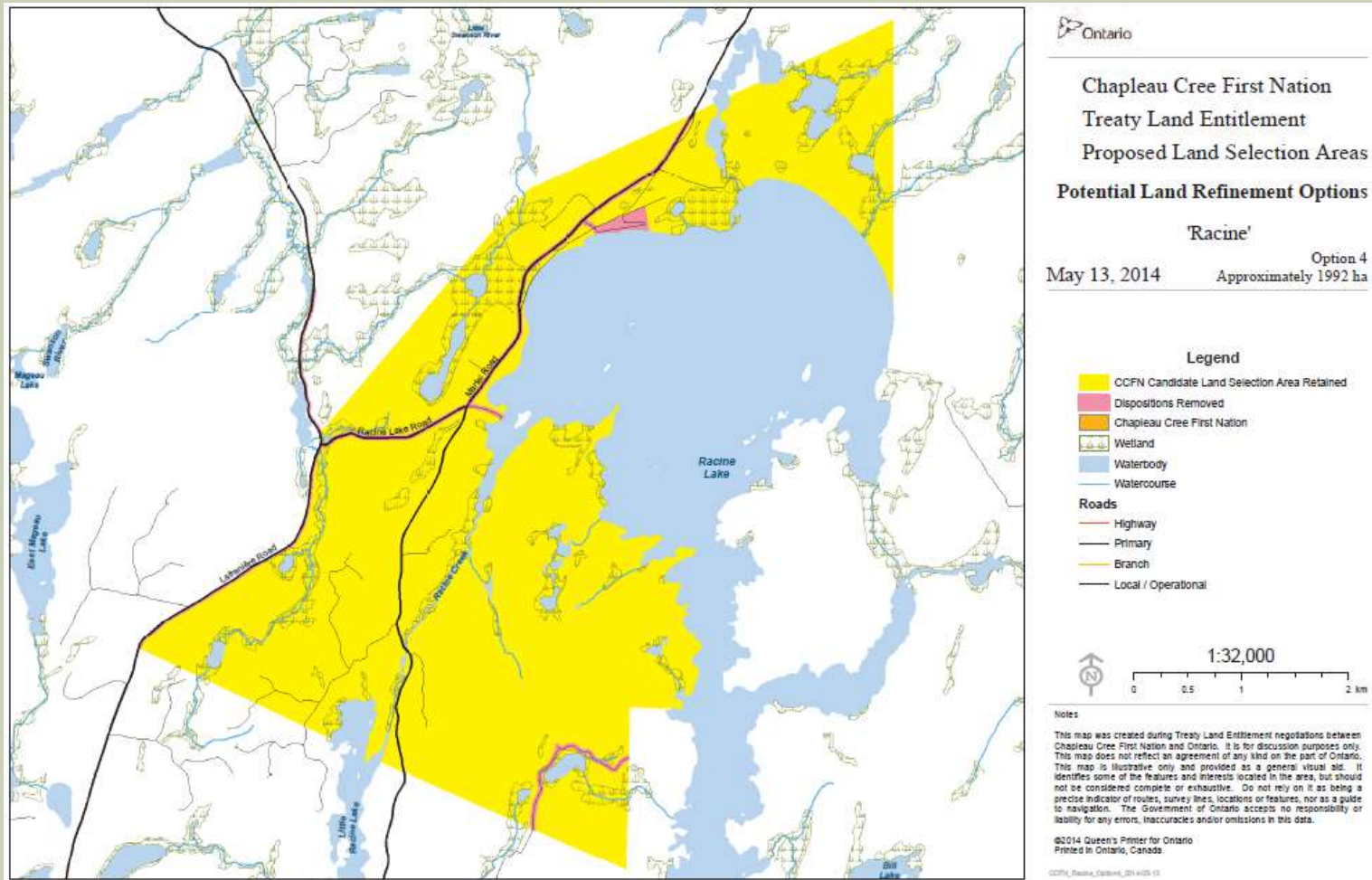
■ Land Refinement : complete

- Land selection areas are now finalized with Ontario
- **TOTAL** acreage of land to be ATR'd = **9 884 acres (+1 600 acres over DOT entitlement)**
- Canada has agreed to the total ATR acreage
- **Final selection areas:**
 1. Racine Lake parcel (less the campsite)
 2. Sideburned parcel
 3. Burkolder parcel
- **Some roads to be carved out, with...**
 - compensation (acres in lieu, new Crossover North road, maintenance funding from Ontario, Sideburned Dam road gated w. access only to CCFN and MNR)
 - legal obligation to add roads to reserve if they are no longer needed as public roads

Land Transfer (ATR)

Land issues & third party uses

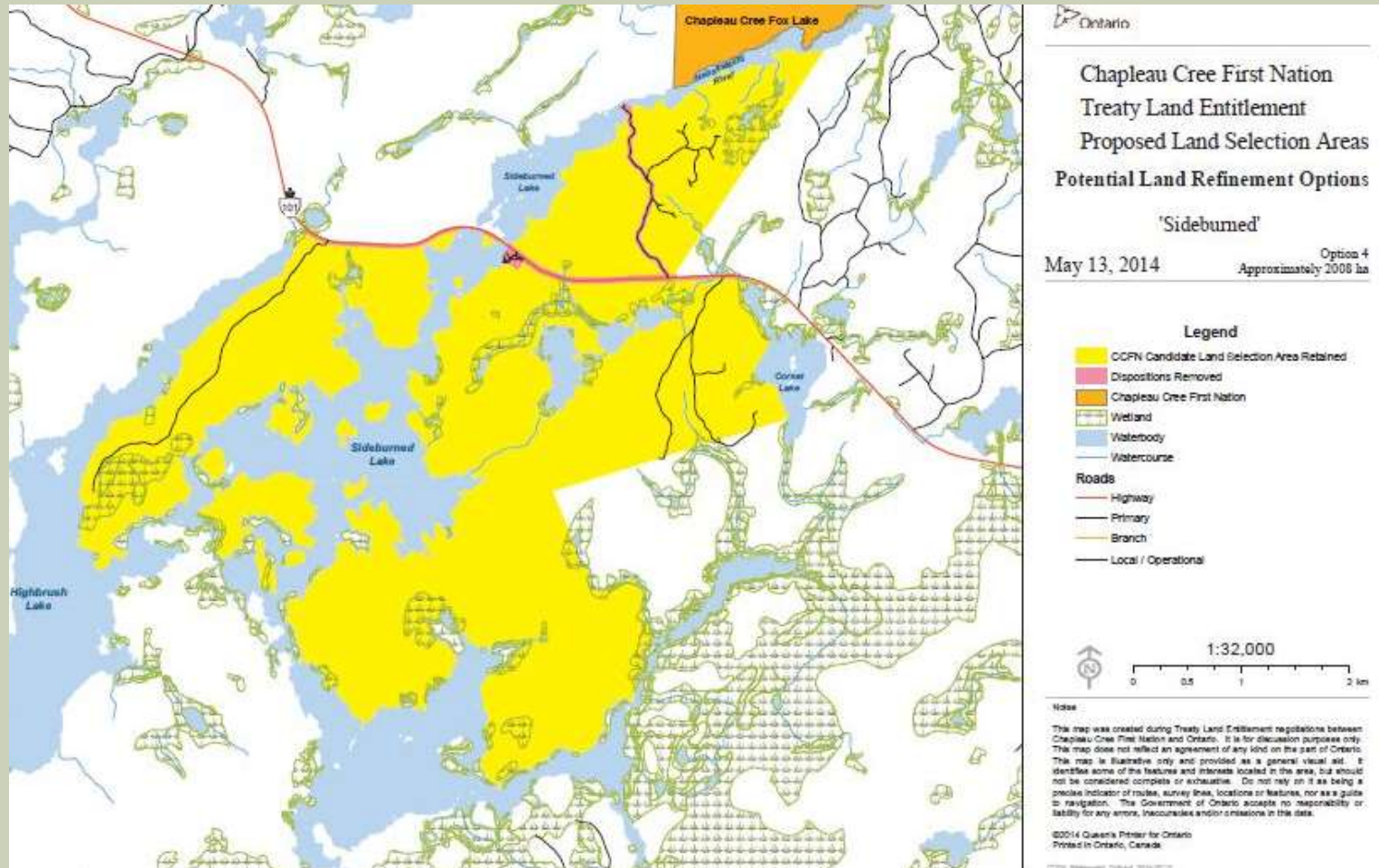
Racine final selection area:



Land Transfer (ATR)

Land issues & third party uses

Sideburned final selection area:



Land Transfer (ATR)

Land issues & third party uses

Land Issues:

■ Land Survey

- Identifies boundaries of reserve
- To begin post-settlement
- Paid for by Canada in settlement
- Currently working with Ontario Surveyor General (OGS) and Natural Resources Canada (NRCAN) to complete the descriptive mapping and survey instructions
- Surveyor is engaged (Tulloch) and ready to begin

Land Transfer (ATR)

Land issues & third party uses

Land Issues:

■ Interim Uses

- CCFN team working on ensuring land is available for use immediately post-settlement
 - Ontario Permits and Licenses to be wound down
 - CCFN uses may be permitted by Ontario
 - AANDC consultation
- Canada agrees that loss of use calculations need to be run to end of 2015
- Eventually, land will be granted reserve status through an Order in Council (OIC) but this can take years

■ Urban Reserve

- Option for CCFN to acquire X acres for ATR in urban area
- Exercisable in future, 30-year window?

■ Names for new Reserves

Trust Fund

Managing settlement \$

■ Community Trust Fund

- Used in land claim settlements
- Similar to a bank account, with rules about how \$ is used
- Blend of funding for ongoing needs, and growth over long term through investments and interest
- Managed by trustees
- Flexible structure
- CCFN Priorities Survey – **results:**

CCFN Community Priorities Survey: Results Jan 2013

Priority Area	Very Important	Important	Weighted Score*
Education	26	4	290
Economic Development	19	12	280
Promtion/Protection of Culture	19	9	258
Improving Health	17	11	253
Services	16	9	228
Enforcing CCFN Rights	15	10	225
Emergency Assistance	17	7	223
Housing Off Reserve	16	6	205
Sports	10	14	205
Recreation	9	15	203
Housing On Reserve	10	12	190
Infrastructure	11	10	185
Assitance with Funeral Costs	14	5	178
Larger Reserve	8	10	155
\$ for band members	2		20
Language Education	2		20
Elders stories, journey	2		20
\$ for members	1		10
Religion beliefs before Europeans	1		10
Community Centre	1		10
Long Term Care Facility	1		10
Others			0

■ **Community Trust Committee**

- Call for applications: end of June 2014
- Members appointed: end of July 2014
- **Members:**
 - Wade Cachagee
 - Brian Ritchie
 - Kelly McAulay
 - Erin Corston
 - Larry Cachagee
- **Task:** provide **recommendations** to Chief & Council and membership re. trust structure, corporate trustee, etc.
- Committee has begun its work, once the best approach identified and approved it is presented to community as part of settlement package

Settlement

■ Settlement is approaching

- Drafting settlement agreement – ongoing: do not anticipate any significant issues
- Formal offer from Canada is imminent – will include amount for CCFN losses, as well as full reimbursement for CCFN's negotiating costs

■ What happens next?

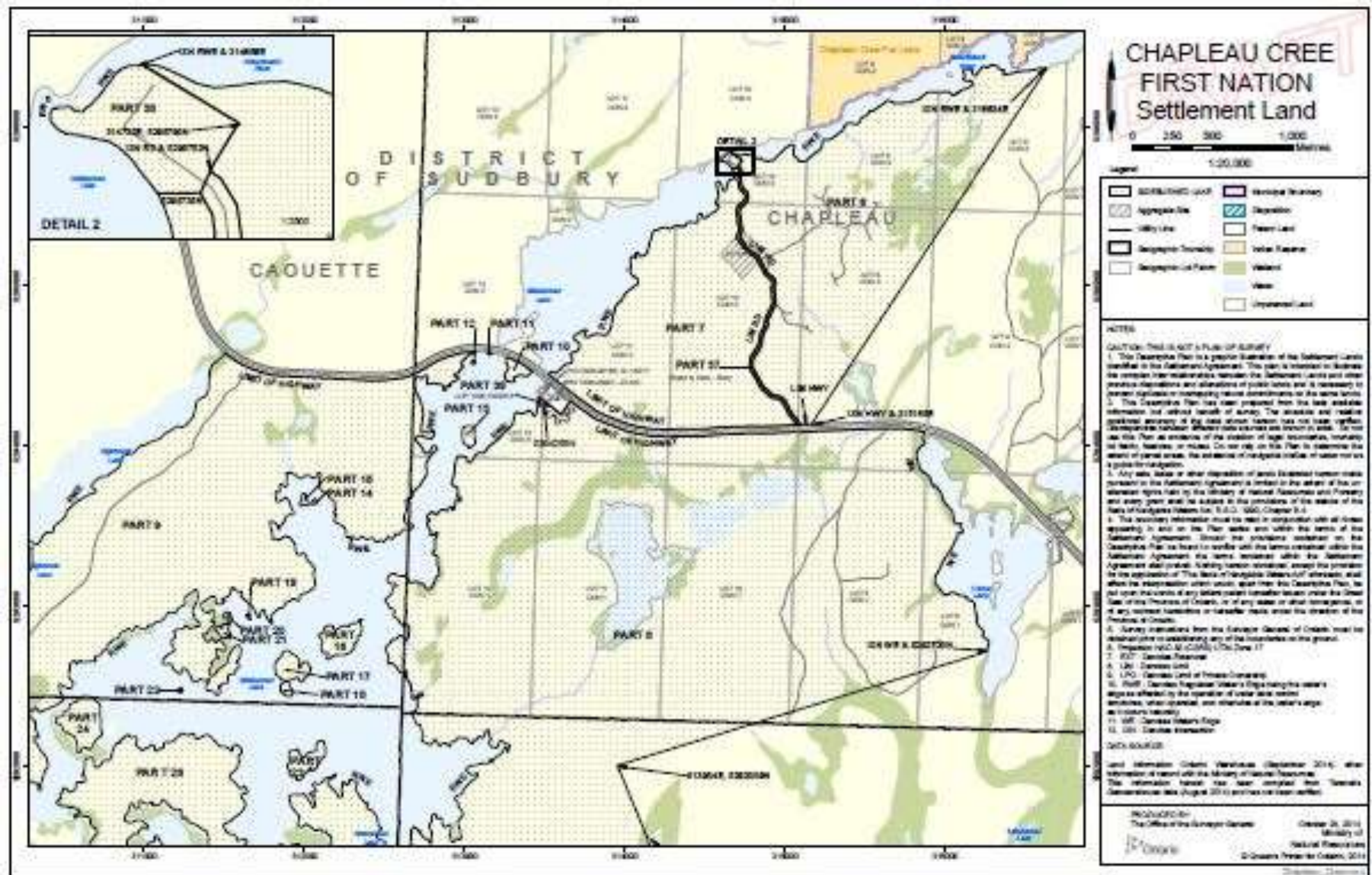
- Canada will send a letter of offer, CCFN will communicate to membership
- In due course CCFN Membership will get the settlement package for review
- Meetings and discussions will take place in order to consider it and address questions
- Ratification vote gives membership the final say
- If accepted, planning for settlement ceremony

CCFN Outreach

- Further community meetings
- Documentary film on TLE in progress, helmed by Sherry Huff
- Trust committee recommendations for community trust
- Information packages
- Ratification vote



Descriptive Mapping: Sideburned 1



Descriptive Mapping: Sideburned 2

