

Lheidli T'enneh

Final Agreement


your Voice. your Choice.

our Future

Eligibility & Enrolment Update


August 27, 2016

Overview

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- We talked about Eligibility & Enrolment at a community meeting in Prince George in May 2016 and subsequently with other members across BC
 - Members must enrol in the Final Agreement to vote even if they enrolled last time
 - You do not have to enrol if you do not want to
 - Lheidli T'enneh has started enrolment but is encountering significant issues




What happens if I do not enrol?

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- As we have discussed enrolment, many members have asked what happens if I do not enrol, especially with regard to the tax exemption, hunting and fishing rights and Indian Act benefits
 - Unfortunately the Final Agreement is a bit unclear especially considering current federal policy
 - The remainder of the presentation will attempt to show why it is difficult to give members proper answers to this question




Non-Enrolment & Tax Exemption

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- Current federal policy is that members who do not enrol in a treaty keep their tax exemption at least for the purposes of other Indian Reserves (keep in mind that Lheidli T'enneh would no longer have Reserves if it ratified the treaty)
 - We believe that during negotiations in 2006, Canada may have meant for the Final Agreement to apply to members whether they enrolled or not with regard to taxes
 - Federal policy can be changed by the government, and so it is important to know what the Final Agreement says




Non-Enrolment & Tax Exemption

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- Unfortunately, the Final Agreement is unclear and inconsistent with current federal policy with regard to this matter
 - In particular, paragraph 33 of the General Provisions chapter and paragraph 15 of the Taxation chapter along with the definitions of “Lheidli T’enneh” and “Lheidli T’enneh Citizen” make it difficult to properly advise members of implications for them if they do not enrol
 - Upon discovery of this issue, Lheidli T’enneh contacted federal representatives for clarification in writing
 - Canada is yet to respond to these written requests as they engage in internal policy discussions




Non-Enrolment and Hunting & Fishing

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- What happens to hunting and fishing rights for members who do not enrol?
 - Paragraph 1 of the Wildlife chapter and Paragraph 1 of the Fisheries chapter strongly suggest that members who do not enrol would be able to hunt and fish but only in accordance with the Final Agreement and Lheidli T'enneh laws
 - Again there are some inconsistencies within the drafting




Non-Enrolment and Indian Benefits

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- Members are also asking what happens to my Indian Act benefits if I do not enrol (not including taxes already discussed)?
 - Under the Fiscal Financing Agreement, a Lheidli T'enneh treaty government would be responsible to deliver its programs and services to status Indians living on their treaty lands whether they enrolled or not, and they will receive funding for them
 - For any other programs and services that are not delivered by Lheidli, a member can expect to be eligible for those like any other status Indian whether they enrol or not
 - Based on the Constitutions of Canada, those people cannot be denied basic programs and services, and so INAC would have to ensure they receive those one way or another or risk legal challenges



Non-Enrolment & Lheidli T'enneh Governance

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- A brief review of law-making provisions also suggests that with regard to some subject matters, Lheidli T'enneh may have issues passing laws that would apply to members who do not enrol
 - This could create challenges for the Lheidli T'enneh government to manage its programs and services and its resources, especially if many local members do not enrol




Non-Enrolment & Ratification

- Can the Final Agreement be ratified even if only a small number of Lheidli T'enneh members enrol and most of those members vote yes?
- The Final Agreement does not provide a minimum number for enrolment, so strictly speaking a small number of Lheidli T'enneh members could approve the Final Agreement for Lheidli T'enneh
- However, Canada and BC would still have to ratify the Agreement and would be increasingly less likely to approve it with a smaller turn out
- Also, such a ratification would be at risk from various legal challenges
- Lheidli T'enneh has established a Ratification Committee in accordance with the Final Agreement whose primary purpose is to ensure the vote is fair




Next Steps

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- We need Canada to commit in writing to their long term intentions with regard to these issues
 - We have started the enrolment process but have been explaining the issue to members before giving them a chance to enrol and understandably members have not been enrolling
 - Lheidli T'enneh is also experiencing significant challenges from other First Nations with regard to shared territories and takes some issues with how the federal government is handling the consultations
 - Being able to hold a proper vote in October continues to be increasingly more of a challenge



Vote Date Extension

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- For all of these reasons, Lheidli T'enneh has asked Canada and BC for an extension to the vote date
 - Lheidli T'enneh will be holding band elections in March 2017
 - The provincial government will be holding an election in May 2017
 - The parties are thinking that June 2017 would probably be best for a ratification



Thank You



Lheidli T'enneh Administration Office

Phone: 250-963-8451

Toll-Free: 1-877-963-8451

Fax: 250-963-6954

Email: info@lheidli.ca

Address: 1041 Whenun Road
Prince George, BC, V2K 5X8

