

FREQUENTLY ASKED QUESTIONS
2011 MANITOBA FLOOD CLASS ACTION

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1. What is the status of the settlement?

As of May 31, 2017, the parties have agreed to the preliminary terms of what will form the basis of a Settlement Agreement resolving this class action. This agreement does NOT resolve or impact any other litigation (i.e. by the CSAs) involving the Four First Nations of Lake St. Martin, Dauphin River, Little Saskatchewan, and Pinaymootang.

These preliminary terms have been negotiated and agreed to by the parties in the form of a signed “Memorandum of Understanding”. A formal Settlement Agreement is being drafted on the basis of these terms.

That Settlement Agreement must be approved by the Court in order for it to be implemented. The parties are working diligently to move forward with the Settlement Agreement and approval process (we hope to be before the Court within six months).

A Notice will be issued/published in the coming months setting out the details of the Settlement Agreement and Class Members' rights to participate in the Settlement and/or provide their comments for the Court's consideration at the Approval Hearing.

If the Settlement is approved it will be managed by a third-party Claims Administrator, appointed by and under the supervision of the Court. Claims will be made directly to the Claims Administrators and payments will flow directly from the Claims Administrators to Eligible Claimants.

2. What is the amount of the settlement?

The total settlement is \$90,283,000. This includes payments to Class Members (members of the Four First Nations: Lake St. Martin, Dauphin River, Little Saskatchewan, and Pinaymootang, who were ordinarily resident in Manitoba during the flooding in the spring of 2011), payments towards legal costs, and payments for notice and claims administration.

3. How does the settlement work?

The settlement will be administered by a Claims Administrator who is an independent, third party organization. All claims and payments will be between the Claims Administrator and the Class Member.

In order to receive compensation under the Settlement, individuals must file a claim.

That claim must firstly satisfy the Claims Administrator that the claimant is a member of one of the Four First Nations and that they were ordinarily resident in Manitoba during the 2011 flooding and therefore entitled to compensation under the Settlement.

Next, the Claims Administrator will review the eligible claim against the remaining compensation criteria, which will be set out in the Settlement Agreement, and determine how much each eligible claimant is to receive as payment.

Payments

There are two types of payments available under the settlement: (1) Disruption Payments which are available to all eligible claimants; and (2) Special Circumstances which are additional payments that may be available for additional damages not otherwise covered by the Disruption Payment or other compensation, for such things as personal property loss/repair, income loss, and personal injury/health care costs.

Disruption Payments

Disruption Payment amounts will be calculated based on a Points System. The Claims Administrator will award “points” to each such eligible claimant based upon the agreed upon settlement criteria (i.e. whether and how long an eligible claimant was either evacuated or living under adverse conditions). Once the final number of total eligible claimants is known, a monetary value will be determined by the Claims Administrator on a per-point basis and payments will be calculated and paid out accordingly.

The payments received by each eligible claimant will be different depending upon their circumstances. The Disruption Payment categories under the Settlement take into account the common and varying impacts caused by the flooding on eligible claimants (i.e. whether or not the individual was evacuated from their home or remained in their home under adverse conditions and for how long).

Special Circumstances

There will be a fixed fund of money set aside out of the Class Member Amount for additional damages, not otherwise covered by the Disruption Payment or other compensation, for such things as personal property loss/repair, income loss, and personal injury/health care costs.

This process will require proof of loss and will be assessed by the Claims Administrator whose determinations will be final.

If the fixed sum funding the special circumstances fund is not adequate to pay all eligible claimants their assessed losses, the payments will be pro-rated downward. Alternatively if the total fund set aside for special circumstances payments is not taken-up, then any remainder will be distributed, pro-rata, to all eligible claimants (who received Disruption Payments).

4. Who can make a claim in the settlement?

All Class Members can make a claim. A Class Member is any individual who is/was a member of one of the Four First Nations and was ordinarily resident in Manitoba during the flooding in the spring of 2011, including children.

5. Can a claim be made on behalf of deceased class members?

Yes, a claim can be filed with the Claims Administrator seeking payment on behalf of the estate of a deceased class member. The claim forms will include detailed instructions on this process and what documentation is required to be submitted to the Claims Administrator.

6. Do claimants require a lawyer to make a claim?

Claimants can file claims on their own by completing the claim form and providing all of the required documentation. The Claims Administrator will be able to answer questions about the claim form and the required documentation, but they are not able to assist the claimant in obtaining any documentation required for the claim.

If Claimants require any further assistance, they can contact any of the law firms involved in the settlement or any other lawyer of their choice. If the Claimant decides to enlist the assistance of a lawyer to complete and file the claim on their behalf, that lawyer will likely charge a fee for this assistance and the Claimant will be responsible for the payment of that fee.

7. What information do I need?

Class Members who want to make claims will be required to prove membership in one of the four First Nations and that they were resident in Manitoba at the time of the 2011 flood.

If a claim is made under the Special Circumstances fund, additional information will be required, as requested by the Claims Administrator.

8. Where can I find the claim form?

The claim form will be available in paper form and online, if the Court approves the Settlement.

9. How do I file a claim?

If the Court approves the Settlement, Claims Forms will have to be completed and sent to the Claims Administrators within a certain timeframe, after which they will not be accepted. This timeframe and deadline date have not yet been set.

10. How will payments to individuals be determined under the settlement?

Disruption Payments

For qualifying claims, Disruption Payment amounts will be calculated based on a Points System. The Claims Administrator will award “points” to each such eligible claimant

based upon the agreed upon settlement criteria (i.e. based on whether and how long an eligible claimant was either evacuated or living under adverse conditions). Once the final number of total eligible claimants is known, a monetary value will be determined by the Claims Administrator on a per-point basis and payments will be calculated and paid out accordingly.

The total amount of monetary compensation payments received by each eligible claimant will be different depending upon individual their circumstances. The Disruption Payment categories under the Settlement settlement criteria will take into account fairness and a recognition of the common and varying impacts caused by the flooding on each eligible claimants (i.e. whether or not the individual was evacuated from their home or remained in their home under adverse conditions and for how long).

Special Circumstances

There will be a fixed fund of money set aside out of the Class Member Amount for additional damages, not otherwise covered by the Disruption Payment or other compensation, for such things as personal property loss/repair, income loss, and personal injury/health care costs.

This process will require proof of loss and will be assessed by the Claims Administrator whose determinations will be final.

If the fixed sum funding the special circumstances fund is not adequate to pay all eligible claimants their assessed losses, the payments will be pro-rated downward. Alternatively if the total fund set aside for special circumstances payments is not taken-up, then the remainder will be distributed, pro-rata, to all eligible class members (who received Disruption Payments).

11. When will I receive payment?

. If the Settlement is approved by the Court in the fall/winter of 2017, we anticipate that the first round of payments may begin to flow as early as spring 2018.