



Thunderchild First Nation

Treaty Six

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www.thunderchild.ca



September 17, 2020

CHIEF'S LETTER

RE: DESIGNATION

The Process of a Designation Vote requires a vote to take place. Ballots and Mail-in Ballots will be used for Off-Reserve Band Members.

The Main purpose of the Designation Vote is to Designate properties that were purchases by Thunderchild First Nation for the purpose of business. These properties will be added to the Additions to Reserve process to be set aside as Reserve creation

All Thunderchild First Nation Members who are 18 years or older can vote on the Vote date.

IMPORTANT NOTICE FOR PREVIOUS VOTERS AT PREVIOUS INFORMATION MEETINGS

Given the unexpected delay in the designation process due to the COVID-19 pandemic, the designation process has had to be restarted from the beginning. As such, all ballots received at the previous Information Meetings of Saskatoon, SK and Edmonton, AB, will no longer be valid and accepted. Those voters are advised to re-vote at the Voting Location on the Vote date.

For further information:

Joyce Woolhether, ISC (Electoral Officer)

Phone: (306) 501-4620

Norma Sunchild and Leonard Sapp (Thunderchild Lands

Department)

Phone: (306) 845-4300

DATED this 18th day of Sept., 2020.

Chief James Snakeskin

NOTICE OF REFERENDUM VOTE

TO: THE ELECTORS OF THE THUNDERCHILD FIRST NATION

TAKE NOTICE that a referendum vote of the **electors** of the Thunderchild First Nation (the “First Nation”) pursuant to subsection 38(2) and section 39.1 of the *Indian Act* and the *Indian Referendum Regulations* relating to Reserve lands, and pursuant to section 5 of the *Addition of Lands to Reserves and Reserve Create Act S.C. 2018, c.27, s. 675* (the “*ALRRCA*”) relating to Pre-Reserve Lands, will be held on the 18th day of November, 2020 on Thunderchild First Nation to seek the assent of the majority of electors of the First Nation to the Designation of the First Nation’s potential future rights and interests in certain portions of the Pre-Reserve lands, for leasing purposes as set out in the attached Designation Document.

The following three (3) questions will be placed before the electors by secret ballot:

BALLOT NO. 1 – Thunderchild First Nation Gas Station and Convenience Store (Retro-Petro) Urban Reserve Lands (Surface)

As an elector of the Thunderchild First Nation, having had the opportunity to consider and review the **Designation Document: Thunderchild First Nation Gas Station and Convenience Store (Retro-Petro) Urban Reserve Lands (Surface)**, the lands described therein and related information, **ARE YOU IN FAVOUR OF THE SAID DESIGNATION?**

BALLOT NO. 2 – Thunderchild First Nation Pre-Reserve TLE Lands (Surface) in the Municipality in the Town of Battleford

As an elector of the Thunderchild First Nation, having had the opportunity to consider and review the **Designation Document: Thunderchild First Nation Pre-Reserve TLE Lands (Surface) in the Municipality of the Town of Battleford**, the lands described therein and related information, **ARE YOU IN FAVOUR OF THE SAID DESIGNATION?**

BALLOT NO. 3 – Thunderchild First Nation Wellness Centre and Highway #3 Reserve Lands (Surface)

As an elector of the Thunderchild First Nation, having had the opportunity to consider and review the **Designation Document: Thunderchild First Nation Wellness Centre and Highway #3 Reserve Lands (Surface)**, the lands described therein and related information, **ARE YOU IN FAVOUR OF THE SAID DESIGNATION?**

DETAILS OF INFORMATION MEETING AND REFERENDUM VOTE

	Location	Address	Date & time
Information Meeting	Thunderchild First Nation, SK	Chief James Okanee Memorial Centre, Thunderchild First Nation, SK	November 17, 2020 1:00 PM – 4:00 PM
Referendum Vote	Thunderchild First Nation, SK	Chief James Okanee Memorial Centre, Thunderchild First Nation, SK	November 18, 2020 9:00 AM – 8:00 PM

The *Indian Referendum Regulations* state that the electoral officer or deputy electoral officer shall confirm whether the name of the person is on the voters list. You may contact either of them as listed below to confirm your name is on the voters list, or to obtain a copy of the Notice of Referendum Vote, mail-in ballot package, information package, the *Indian Referendum Regulations* and additional information. An application to change the voters list shall be made, at any time, to the Electoral Officer.

The *Indian Referendum Regulations* also state that an elector may vote either in person at a polling station or by mail-in ballot, but not both.

Joyce Woolhether, Electoral Officer

Indigenous Services Canada
1827 Albert Street
Regina SK S4P 2S9
Joyce.Woolhether@canada.ca

Telephone Number: (306) 501-4620

Norma Sunchild and Leonard Sapp, Deputy Electoral Officers

norma.sunchild@thunderchild.ca
leonard.sapp@thunderchild.ca

Telephone Number: (306) 845-4300
(ext. 22)

DATED at Regina, in the Province of Saskatchewan, this 17 day of September, 2020.


Joyce Woolhether
Electoral Officer

INFORMATION DOCUMENT

THUNDERCHILD FIRST NATION

DESIGNATION VOTES

**COVERING SURFACE RESERVE LANDS, TLE RESERVE LANDS AND
TLE PRE-RESERVE LANDS**

VOTING DAY: November 18, 2020

INFORMATION MEETINGS & DESIGNATION VOTE

LOCATION	ADDRESS	DATE & TIME
Information Meeting: Thunderchild First Nation	Chief James Okanee Memorial Centre, Thunderchild First Nation	November 17, 2020 1:00 PM – 4:00 PM
Designation Vote: Thunderchild First Nation	Chief James Okanee Memorial Centre, Thunderchild First Nation	November 18, 2020 9:00 AM – 8:00 PM

INFORMATION DOCUMENT

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1. Background

Thunderchild First Nation (“TCFN”) is a signatory of Treaty 6. Pursuant to the terms of Treaty 6, Her Majesty the Queen in Right of Canada (“Her Majesty”) set aside lands for the membership of TCFN. These lands, referred to as “reserve lands” are administered pursuant to the *Indian Act*, R.S.C., 1985, c. I-5 (the “*Act*”). Neither the administration of the reserve lands, pursuant the *Act*, nor the proposed designation affect the Treaty status of the reserve lands nor do they affect legal status of TCFN as a signatory to Treaty 6.

2. What is a Designation Vote?

The *Act* limits the grant of leases or other interests in reserve land. A Designation Vote of a First Nation under section 38(2) and 39.1 of the *Act* is a process through which a First Nation may manage reserve land and lawfully authorize Her Majesty to grant a lease or other interest in reserve land, with the consent of the First Nation’s Chief and Council (the “**Council**”).

3. Reserve Land May Be Designated

Under the *Act*, a Designation Vote of First Nation members can be held with respect to land that is part of an existing reserve. This is land with legal title currently vested in Her Majesty and that has been set apart by Her Majesty for the use and benefit of a First Nation. Since the reserve land is legally held by Her Majesty, the First Nation, through an affirmative Designation Vote of its members, authorizes Her Majesty to enter into leases or other interests in reserve land. A similar process exists for the Treaty Land Entitlement Trust purchased lands (the “**TLE Trust Lands**”).

This would not be TCFN’s first designation of reserve lands. Previous designations were as follows:

- 1) 2006 Designation of TCFN reserve lands.

4. Treaty Land Entitlement Trust Lands May Be Designated

TCFN, Her Majesty and Her Majesty in Right of Saskatchewan entered into the Saskatchewan Treaty Land Entitlement Framework Agreement on September 22, 1992. TCFN and Her Majesty entered into the Thunderchild Band Specific Agreement (the “**Band Specific Agreement**”) dated May 11, 1993. Pursuant to the Band Specific Agreement, TCFN as settlor, created the Thunderchild First Nation Treaty Land Entitlement Trust. The Thunderchild Treaty Land Entitlement Trust Agreement (the “**TLE Trust Agreement**”) dated May 11, 1993, outlines the relationship between TCFN and the Trustees for the administration of the Trust by the Trustees on behalf of members as beneficiaries. Both agreements set out the process and use of trust funds to acquire lands and minerals and to convert those acquired lands and minerals to reserve status under the *Act*.

TCFN, by way of Council Resolution dated September 22, 1992, consented to the application of the *Claims Settlement (Alberta and Saskatchewan) Implementation Act*. On August 27, 2019 the

new *Addition of Lands to Reserves and Reserve Creation Act* came into force to apply in replacement of the *Claims Settlement Implementation Act*. In certain circumstances the *Addition of Lands to Reserves and Reserve Creation Act* extends the option of a Designation Vote to pre-reserve lands. TCFN holds certain TLE Trust Lands that have yet to become reserve land. (hereinafter collectively referred to as “Pre-Reserve Land”).

Section 5(a) of *Addition of Lands to Reserves and Reserve Creation Act* extends the designation option further by permitting pre-reserve designation votes for “any right or interest” in the lands the First Nation has requested the Minister of Crown-Indigenous Relations to set apart under the TLE Agreement. This option is available regardless of whether at the time of the designation vote such right or interest exists and/or whether title to the lands has been transferred to Her Majesty. A designation under this section takes effect for a given parcel of land when it becomes part of the First Nation’s reserve land.

5. Land Status Maintained

Under section 38(2) of the *Act* a surrender by way of a designation vote is not absolute and in the case of reserve lands, the lands covered by the vote for designation do not lose their status as reserve land by reason of the designation. However, the designation does allow for certain leases and other interests to be granted in the reserve lands which would not otherwise be permitted under the *Act* without the designation. Furthermore, while designated reserve lands retain their reserve status, certain sections of the *Act* will no longer apply to designated lands. For example, section 28(2) of the *Act*, which allows the Minister Indigenous Services to permit a non-TCFN member to exercise rights to occupy or use a reserve does not apply to the designated lands.

On the other hand, Pre-Reserve Lands covered by an approved designation vote do not by reason of a designation gain reserve status. Regardless of the outcome of the designation vote, such land must still meet the conditions for gaining reserve status before it can become reserve land.

6. This Designation Vote

Since a designation applies to reserve land, Her Majesty still has authority over the management and control of the designated lands. Any interest to be granted must be consented to by the Council so long as these activities are consistent with the designation documents (summaries of which are set out below). In other words, the Council will still be involved in reviewing, negotiating and approving any lease agreements that Her Majesty or any sub-lessee wishes to enter into.

There will be THREE (3) Designation Votes, each with a separate ballot, to be voted upon at the same time:

- (a) **Ballot No. 1 - Thunderchild First Nation Designation Thunderchild First Nation Gas Station and Convenience Store (Retro Petro) Urban Reserve Lands (Surface)**

For the TLE Reserve lands to be leased for 99 years as a Gas Station and Convenience Store for commercial use. The Thunderchild First Nation Designation Document:

Thunderchild First Nation Gas Station and Convenience Store (Retro Petro) Urban Reserve Lands (Surface) with the applicable TLE Reserve land descriptions attached thereto as Appendix "A" are enclosed as part this information package.

(b) **Ballot No. 2 - Thunderchild First Nation Designation Thunderchild First Nation Pre-Reserve TLE Lands (Surface) in the Town of Battleford**

For the TLE Pre-Reserve lands to be leased for commercial, industrial, retail, recreational, educational, institutional, agricultural and residential purposes. The Thunderchild First Nation Designation Document: Thunderchild First Nation Designation Thunderchild First Nation Pre-Reserve TLE Lands (Surface) in the Town of Battleford with the applicable TLE Pre-Reserve Land descriptions attached thereto as Appendix "B" are enclosed as part of our information package.

(c) **Ballot No. 3 - Thunderchild First Nation Designation Thunderchild First Nation Wellness Centre & Highway #3 Reserve Lands (Surface)**

For the Reserve lands to be leased for commercial, industrial, retail, recreational, educational, institutional, agricultural and residential purposes. The Thunderchild First Nation Designation Document: Thunderchild First Nation Thunderchild First Nation Wellness Centre & Highway #3 Reserve Lands (Surface) with the applicable Reserve Land descriptions attached thereto as Appendix "C" are enclosed as part of our information package.

The voter votes either "Yes" or "No" for each of the three (3) ballots by placing an "X", check mark or other mark in the "Yes" or "No" Box in the Ballot, so as to clearly indicate the response and intent of the Voter.

7. Who Can Vote

An eligible voter for a designation vote is determined by the provisions of the *Indian Act*, and includes all persons who at the time of the vote:

- have their name on the Band's Membership List;
- are at least eighteen (18) years of age on or before November 18, 2020; and
- are not disqualified from voting at a Band election.

8. Voting

A "mail-in ballot package" including three (3) ballots will be mailed or hand-delivered to the Band Members eligible to vote at least 42 days before **November 18, 2020**, the Voting Day. If an Eligible Voter does not receive his or her mail-in ballot package, such person should immediately contact Joyce Woolhether (the Electoral Officer) or Norma Sunchild or Leonard Sapp (the Deputy Electoral Officers).

An Eligible Voter may vote in one of two ways:

- (a) By mail-in ballot; or
- (b) In person on voting day at the voting station described in the Notice of Vote, being the Chief James Okanee Memorial Centre, on the Thunderchild First Nation No. 155, between 9:00 a.m. and 8:00 p.m.

9. COVID-19 Protocol and Impact

Strict compliance with Covid-19 protocols shall be adhered, ensuring full compliance with the most recent Public Health Order of Saskatchewan. The voting procedure shall be determined in accordance with strict social distancing protocols, permitting limited eligible voters to enter the voting location at a time.

Any previous Ballots submitted at any previous Information Meeting, which includes Saskatoon, SK and Edmonton, AB, shall no longer be valid. Those Voters with Mail In Ballots from the previous scheduled vote that was cancelled shall receive a new Mail In Ballot.

10. Simple Majority Required

For each of the THREE (3) designation votes, the following applies to each individually:

- (a) Vote

If 50% plus one of those eligible voters who cast a ballot are in favour of the designation, the designation passes.

In the event of a "Yes" vote, the Council will sign the applicable "Designation Document" covered thereby, in the same or similar form as the Designation Document included in your Information Package. The Council will then have to submit a Council Resolution asking the Minister of Indigenous Services to accept the successful Designations. If the required simple majority is met for only one or two of the three (3) designation votes, that one or two designation(s) for which the majority is met will pass while the other(s) will fail.

In the event of a "No" vote, the "Designation Document" covered thereby will not be signed and the land described in the Appendix thereto will not be designated for the purposes set out in that Designation Document.

11. The Designation Document Being Voted On and It's General Purpose

The reason why TCFN requires a designation vote is to provide for the gas station and convenience store for commercial use on TLE Reserve Lands and for future commercial, industrial, retail, recreational, educational, institutional, agricultural and residential development on Reserve lands and TLE Pre-Reserve Lands. A designation vote can be held in order to deal with an existing

third-party interest; however, federal legislation also allows a designation vote in order to grant to Her Majesty authorization on behalf of TCFN to enter into certain types of agreements in the future.

For example, a “YES” vote to ballot 1 means that a surface lease for commercial purposes for a gas station and convenience store may be entered into for the TLE Reserve Land between Her Majesty and certain other parties, including TCFN controlled companies such as Retro Petro Ltd., as the general partner for Retro Petro Limited Partnership, without requiring a further designation vote for TCFN. Any such arrangements could be for the purposes of leasing for either commercial, industrial, retail, recreational, education, institutional, and residential. Any such arrangements would also require the approval of Council.

For example, a “YES” vote to ballot 2 would designate the TLE Pre-Reserve Lands for purposes of leasing for either commercial, industrial, retail, recreational, educational, institutional, agricultural and residential uses. This would mean that in the future TCFN would not be required to hold a designation vote each and every time TCFN wished Her Majesty Canada to enter into a lease on those TLE Pre-Reserve Lands.

If the vote is “NO” in respect to ballot 1, and/or 2, and/or 3 any arrangements to be entered into in respect to the lands described in Appendix “A” and/or “B”, and/or “C”, respectively, would require a further designation vote of the TCFN.

Under the *Indian Act*, a designation vote may only be carried out with respect to existing reserve lands. In other words, a designation vote could not be carried out prior to the land being created as a reserve. The *Addition of Lands to Reserves and Reserve Creation Act* takes the *Indian Act* one step further by authorizing a band to designate an existing interest in TLE Pre-Reserve Land (such is the case with ballot 2), notwithstanding that the TLE Pre-Reserve Land is not reserve land. Therefore, for example if there is an existing oil and gas lease on Pre-Reserve Land, TCFN could designate a replacement agreement for that oil and gas lease by way of a designation vote even though the Pre-Reserve Land was not yet reserve land.

The approach authorized in the *Addition of Lands to Reserves and Reserve Creation Act*, was assented by TCFN by way of Council Resolution assenting to the implementation of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*.

A. Length of Designation

It is intended that all lands described in Ballots 1, 2 and/or 3 shall be designated for a period of no less than ninety-nine (99) years. Notwithstanding the length of the designation, TCFN (and Her Majesty) are not required to enter into leases for the length of the designation. In other words, leases could be shorter terms (i.e. 25 or 50 years).

B. Revocation of Designations

In the event that the lands designation thereunder are no longer appropriate (for example lands designation for oil and gas would be better used for commercial or residential use), Council shall

be authorized to revoke the designation from all or part of the lands so designation by way of Council Resolution is made in accordance with the *Act*. Such revocation shall be subject to the approval of the Minister of Indigenous Services provided there are no existing rights or interests in existence on the affected lands.

12. Specific Issues

A. Rents

Rent paid under a Head Lease to Her Majesty on behalf of TCFN qualifies as "Indian Moneys" and is payable to Her Majesty as "revenue monies" and will be deposited into TCFN's Revenue Account in Ottawa (which is administered by Indigenous Services Canada).

If the Council requests a lease from Her Majesty to an entity (which could be a corporation, limited partnership or other entity) 100% owned and controlled by TCFN the rental payment may be One Dollar (\$1.00) per year. This "minimal" or "below fair market" amount of rent is also called "nominal rent". TCFN's entity can then sub-lease to another person or corporation that would pay fair market rent to TCFN's entity.

Rent paid under such a sub-lease is not payable to Her Majesty and is not "Indian Moneys." The right to access and use of such moneys will depend on the content of any agreement (lease, sub-lease, trust agreement, etc.) applicable thereto. There is a possibility that the TCFN entity may not sub-lease these lands to another person or corporation for many years, or at all. If so, fair market rent might not be paid to Canada or to the TCFN entity for many years, or at all.

The restriction on a TCFN controlled entity paying only One Dollar (\$1.00) per year is that it must remain 100% owned and controlled by TCFN. This TCFN controlled entity shall be separate from TCFN, in law, and has different rights, responsibilities and obligations. In the case of nominal rent arrangement regarding the Head Lease, Canada does not monitor the collection, use or distribution of any lease payments received by the TCFN entity under any subleases. As such, the TCFN entity will have to ensure that the rent collected under the sub-leases is put to good use for the benefit of TCFN.

Accordingly, before approving a head lease for a nominal rent to a wholly owned entity TCFN, TCFN membership together with the Council may wish to consider an appropriate trust agreement that will regulate access to and use of the rents to follow under any sub-lease.

B. Specific Reasons For The Designation Vote

The Council considers that present and future generations will be able to enjoy take advantage of the economic development opportunities that will be associated with the designated lands.

Other than the activities referred to in the respective Designation Documents there are no immediate agreements which should be considered in the leasing of TLE Reserve Lands and TLE Pre-Reserve Lands. By designating substantial TLE Reserve Lands and TLE Pre-Reserve Lands for these purposes at this time, the Band will:

- (a) avoid the cost and delay of having to have multiple designation votes in the future;
- (b) have the flexibility to plan and develop the economic potential of the lands covered by these designations; and
- (c) be better able to take advantage of opportunities for the economic development of these lands as and when they arise in the future.

C. Environment

A key part of the head lease or any subleases will be a requirement for all parties to follow all applicable environmental laws in force and to ensure that TLE Reserve Lands and the TLE Pre-Reserve Lands are protected. In this regard, the *Impact Assessment Act* requires that the Minister of Indigenous Services make a determination stating that any projects not be likely to cause significant adverse environmental effects prior to the issuance of any Head Lease on the TLE Reserve Lands or the TLE Pre-Reserve Lands.

10. More Information

(a) Contacts

For more information on the specific documents, contact:

- (1) **Joyce Woolhether** (the Electoral Officer)
(306) 501 – 4620
Fax: (306) 780 – 6128
Email: joyce.woolhether@canada.ca
- (or) (2) **Norma Sunchild and Leonard Sapp** (the Deputy Electoral Officers)
(306) 845-4300
Fax: (306) 845 – 3230
Email: norma.sunchild@thunderchild.ca or leonard.sapp@thunderchild.ca
- (or) (3) **Dusty T. Ernewein** (Legal Counsel for the Vote)
McKercher LLP
374 Third Avenue South
Saskatoon, SK S7K 1M5
Phone: (306) 653-2000
Fax: (306) 653-2669

(b) Information Meetings

For a discussion of the Designation Vote, eligible voters are invited to attend one or more of the following information meetings:

	LOCATION	ADDRESS	DATE & TIME
Information Meetings			
	Thunderchild First Nation	Chief James Okanee Memorial Centre	November 17, 2020 1:00 – 4:00 PM
Designation Vote	Thunderchild First Nation	Chief James Okanee Memorial Centre	November 18, 2020 9:00 AM – 8:00 PM

In addition to this Information Document, the following documents should also be included in your information package:

1. Designation Documents:

- (A) Thunderchild First Nation Designation Document: Gas Station and Convenience Store;
- (B) Thunderchild First Nation Designation Document: TLE Pre-Reserve Lands in the Municipality of the Town of Battleford;
- (C) Thunderchild First Nation Designation Document: Reserve Lands on Home Reserve for Wellness Centre and Highway #3 land.

2. Ballots:

- (A) Ballot No. 1 – Thunderchild First Nation Designation Thunderchild First Nation Gas Station and Convenience Store (Retro Petro) Urban Reserve Lands (Surface);
- (B) Ballot No. 2 – Thunderchild First Nation Designation Thunderchild First Nation Pre-Reserve TLE Lands (Surface) in the Municipality of the Town of Battleford;
- (C) Ballot No. 3 – Thunderchild First Nation Designation Thunderchild First Nation Wellness Centre & Highway #3 Reserve Lands (Surface)

If you are not in receipt of the above documents, please contact the Electoral Officer, Joyce Woolhether, or the Deputy Electoral Officers, Norma Sunchild and/or Leonard Sapp , to obtain copies.

Appendix "A"

Thunderchild First Nation						
Urban TLE Pre-Reserve Lands (Surface)						
Gas Station & Convenience Store (Retro Petro)						
Legal Land Description						
Line No.	Surface Parcel No.	Within Quarter Section	Lot	Block	Plan	Municipality
1	120012398	NE-32-36-5-3	40	29	106914 CLSR (G4296 SLSD)	SASKATOON
2	120012387	NE-32-36-5-3	41	29	106914 CLSR (G4296 SLSD)	SASKATOON
3	203365425	NE-32-36-5-3	42 (Part)	29	106914 CLSR (G4296 SLSD)	SASKATOON

Appendix "B"

Thunderchild First Nation Pre-Reserve Lands (Surface) Town of Battleford

Legal Land Description

Line No.	Surface Parcel No.	Within Quarter Section	Lot	Block	Plan	Municipality
1	203238468	SE-1-44-17-3		B (Part)	107279 CLSR (101316574 SLSD)	BATTLEFORD
2	148893609	NW-1-44-17-3		B (Part)	107279 CLSR (101316574 SLSD)	BATTLEFORD
3	203238424	SW-1-44-17-3			107279 CLSR	BATTLEFORD

Appendix "C"

Thunderchild First Nation							
Wellness Centre & Highway #3 Reserve Lands (Surface)							
Legal Land Description							
Line No.	Surface	Legal Land Description	Lot	Block	CLSR Plan	SLSD Plan	Reserve Creation OIC
1		West 1/2 Sec 15 Tp52- R20- W3M	33		108880 CLSR	102326464 SLSD	PC 2356
2		West 1/2 Sec 15 Tp52- R20-W3M	34		108880 CLSR	102326464 SLSD	PC 2356
3		West 1/2 Sec 15 Tp52- R20-W3M	35		108880 CLSR	102326464 SLSD	PC 2356
4	135927 254	Part of SE-28-51- 20-3			98153 CLSR	Tp Plan 51- 20-3	MO 2005- 014