

SAUGEEN OJIBWAY NATION TREATY & TITLE LITIGATION MEMBERSHIP UPDATE | SUMMER 2025



In April, Joint Council held meetings to hear your feedback on how to move forward with Saugeen and Nawash's Aboriginal Title Claim and which remedies to pursue in the Treaty Claim. This handout summarizes what we heard from you.

THE ABORIGINAL TITLE CLAIM UPDATE

In the Aboriginal Title Claim, Saugeen and Nawash claimed Aboriginal title to portions of the Lake Huron and Georgian Bay lakebed. The trial judge dismissed SON's claim – she said Saugeen and Nawash could not prove Aboriginal title to the entire claim area. On appeal, the court agreed with the trial judge. However, it also said the trial judge should have considered whether Saugeen and Nawash could prove Aboriginal title to smaller areas, or portions of the claim area. The appeal court sent this question back to the trial judge. This process is called a “remit”.

The Supreme Court of Canada did not hear the appeal of the title case. This means the trial and appeal decisions still apply. This means that it is no longer possible to claim Aboriginal title in a Canadian court to the entire claim area.

We are in the remit process now. The question in the remit is narrow – can Saugeen and Nawash establish Aboriginal title to smaller “portions” of the waters in your Territory?



TREATY CLAIM UPDATE

In 1836, under Treaty 45 ½, Saugeen and Nawash agreed to open 1.5 million acres of land and in exchange the Crown promised to protect the Saugeen Peninsula from encroachment of whites “forever.” The Crown did not keep its promise. Timber thieves and settlers entered the Saugeen Peninsula. In 1854, the Crown pressured SON to surrender the Saugeen Peninsula under Treaty 72.

In the Treaty Claim, Saugeen and Nawash claimed that the Crown breached Treaty 45 ½, the honour of the Crown and its fiduciary duty by failing to protect the Saugeen Peninsula from encroachment. The Treaty case is moving through the courts in two phases. Phase 1 is complete. Saugeen and Nawash were mostly successful in phase 1, with the courts agreeing that the Crown breached its treaty promise and the honour of the Crown because it failed to do what it could have and should have done to protect the Peninsula.

We are now starting phase 2 which is about what Canada and Ontario need to do to remedy the Crown’s breaches. Do Canada and Ontario need to pay compensation to Saugeen and Nawash? If so, how much? Should a remedy include getting back some lands that are still owned by Canada and Ontario?



WHAT WE HEARD - NEXT STEPS IN THE ABORIGINAL TITLE REMIT

All members were frustrated and upset about the court process. Members expressed anger about how limited the Aboriginal title test is under Canadian law. It is a colonial test that does not recognize their worldview or ways of living. Members also shared frustrations with how the trial judge interpreted the evidence at the trial and with the limits of the process to identify a smaller area in the remit. Some members would like to keep fighting in court for a declaration of Aboriginal title to a smaller portion of the water territory. Others do not want to move ahead with the remit, see the process as flawed, and feel that community resources could be put to other uses.

"I'm a fighter I like to fight. I'm pissed off. We are using colonial courts to bring just resolution to our issues. Half assed backwards. The frustration for me on the legal side is we are dealing with a flawed test. That's the problem. Some of the claims or findings that she made - had no basis."

"I'm sick of being given crumbs and being told it's a full cake."

"We had to stand alone, even before the title case came around. Looks like we will have to go back to that and claim it [by] being out on the water...We still have fight in us. Its just the stupid court system keeps us in handcuffs."



VISION AND PRIORITIES FOR THE TERRITORY

We asked members about their vision for the lands and waters of the Territory, looking 50 to 100 years into the future. We heard that many members envision a future where lands are returned to Saugeen and Nawash, where lands and waters are healthy and thriving, where Saugeen and Nawash have greater decision-making authority throughout the Territory, more housing and job opportunities and receive revenue from settlers using the lands and waters.

Members hope for a stronger connection to the lands throughout the Territory. Some members would like a place to go do ceremony on the land. Others hoped for greater opportunities for land-based learning and empowerment for youth to go out onto the land. Some members envision a future where they have freedom to move throughout the lands and waters around the Peninsula. We heard that some members would like Saugeen and Nawash to have influence on how history and the treaties are taught in schools in the Territory.

"If we get this land back, use it for cultural purposes. Not building big buildings. Teach our kids more cultural so we can identify better. We do teachings in this community. If we had places to go to do ceremony for this and that, that would be great. Everyone, including youth – doing ceremony on the land."

"Maybe extending our reserve so we can accommodate all these people that are wanting to move home."

"Position ourselves as leadership and stewards of the land. If we get land back, great. We want to preserve and we still have to develop at the same time. How do we balance that."



LAND USE AND PROTECTION

We asked members about which lands are most important to them to have returned to Saugeen and Nawash. Members highlighted many different areas of particular importance in the Territory. Members emphasized the importance of protecting wetlands, waters including rivers and creeks and lands along the shoreline. We are working on creating a map that shows the results from your input.



Legend

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| Orange line | Treaty No. 45 1/2, 1836 | Blue line | Federal Marine Park |
| Purple line | Treaty No. 67, 1851 | Grey box | Federally managed park lands owned by Canada |
| Red line | Treaty No. 72, 1854 | Light green box | Federally managed park lands owned by Ontario |
| Dark green line | Treaty No. 82, 1857 | Light purple box | Lands co-owned by Ontario and private individuals managed or regulated as a Provincial Park |
| Light green line | Treaty No. 93, 1861 | Light green box | Provincial lands managed or regulated as a Provincial Park |
| | | Yellow box | Provincial Lands, excluding parks |
| | | Pink line | Municipal Road Allowance |

“Land back is the priority. With land, as we know, with it being taken away, resources and financial sustainability comes along with that. Land back means the ability to make sovereign decisions about our financial future as well. Money is great but securing healthy lands is even better.”



“Both. Land is a priority for me. Greater acknowledgement when there’s a combo of both. Rather than performative.”

WHAT REMEDIES SHOULD WE PRIORITIZE IN THE TREATY CLAIM?

Members consistently told us that land is the priority. Some members expressed that they only want land back, and do not want money. However, most members were supportive of pursuing compensation, in particular because money could be used to buy land.

We also heard that many members would be interested in negotiating remedies beyond just land or money. We heard if we pursued that kind of agreement, members would like Saugeen and Nawash to have decision-making authority over matters that affect the health of waters and lands in the Territory. Members were clear that they would like consent-based decision making – consultation is not enough.

“It should be both. To reflect what has been done to our people as a whole. Loss of economy – where could we be now, if we had the big land base? For my granny after getting back from the residential school, for veterans coming back after the war. It shown that we all lived here – reflected in the treaties. The paper trail is there. I think that compensation has to reflect that. Right down to me and my kids, we would be in a better spot right now.”



“A Mix of both. Getting land back and having some sort of compensation...Ensuring that we have our voices heard in any decision-making that goes on with those lands that could potentially be given back.”