



WATERHEN LAKE FIRST NATION

Box 9, Waterhen Lake, SK S0M 3B0

Telephone: 306.236.6717

Fax: 306.236.4866

July 19, 2024

RE: Land Designation

Tansi Waterhen Lake First Nation Membership,

I am pleased to address the commercial Land Designation process for the Waterhen Lake First Nation on our reserve lands.

The process of Designation of Reserve Lands requires a vote of our Waterhen Lake Band members. The vote will be conducted by ballots and mailout ballots for off-Reserve Band members. All Band members who are 18 years or older on the date of the Vote are eligible to vote on this Designation.

The Purpose of the vote is to Designate Reserve Land on our Home Reserve, so we can lease these lands for commercial development. Our first project pending successful vote will be to relocate and build our Waterhen Lake General Store on the commercial designated lands. This is a major step for the Waterhen Lake First Nation in our economic development efforts.

For further information please contact:

Joyce Woolhether (the Electoral Officer)

(306) 501 – 4620

Email: joyce.woolhether@sac-isc.gc.ca

OR

Judy Abraham (the Deputy Electoral Officer)

(306) 304 - 7286

Email: jabraham.wlfn@sasktel.net

On behalf of the WLFN Leadership, we invite you to learn more about the land designation process and our intentions.

Best regards,

Chief Blaine Fiddler
Waterhen Lake First Nation

NOTICE OF REFERENDUM VOTE

TO: THE ELECTORS OF THE WATERHEN LAKE FIRST NATION

TAKE NOTICE that a referendum vote of the **electors** of the Waterhen Lake First Nation (the “First Nation”) pursuant to subsection 38(2) and section 39.1 of the *Indian Act*, R.S.C. 1985, c. I-5 and subsection 3(1) of the *Indian Referendum Regulations*, C.R.C., c. 957 relating to Reserve lands, will be held on the **18th** day of **September, 2024** on Waterhen Lake First Nation, Waterhen Lake I.R. 130., 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 Reserve Lands, for leasing purposes as set out in the attached Designation Document.

The following question will be placed before the electors by secret ballot:

BALLOT NO. 1 – Waterhen Lake First Nation Designation Document: Reserve Lands (Surface) Waterhen Lake Indian Reserve No. 130

As an elector of the Waterhen Lake First Nation, having had the opportunity to consider and review the **Waterhen Lake First Nation Designation Document: Reserve Lands (Surface) Waterhen Lake Indian Reserve No. 130**, the lands described therein and related information, **ARE YOU IN FAVOUR OF THE SAID DESIGNATION?**

DETAILS OF INFORMATION MEETINGS AND REFERENDUM VOTE

| | Location | Address | Date & time |
|---------------------|--|---|---|
| Information Meeting | Saskatoon Inn & Conference Centre | 2002 Airport Dr. Saskatoon SK S7L 6M4 | August 14, 2024 6:00 pm – 8:30 pm |
| Information Meeting | The Blue Building | Waterhen Lake First Nation Waterhen Lake, SK S0M 3B0 | August 15, 2024 6:00 pm – 8:30 pm |
| Information Meeting | River Cree Resort and Casino – Enoch A | 300 East Lapotac Boulevard, Enoch, AB T7X 3Y3 | August 22, 2024 6:00 pm – 8:30 pm |
| Referendum Vote | The Blue Building | Waterhen Lake First Nation Waterhen I.R. 130 | September 18, 2024 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
Alvin Hamilton Building
1783 Hamilton Street, Room 098
Regina SK S4P 2B6
Joyce.Woolhether@sac-isc.gc.ca

Telephone Number: (306) 501-4620

Judy Abraham, Deputy Electoral Officer
Jabraham.wfn@sasktel.net

Telephone Number: (306) 304-7286

DATED at Regina, in the Province of Saskatchewan, this 18th day of July, 2024.



Joyce Woolhether
Electoral Officer

INFORMATION DOCUMENT

WATERHEN LAKE FIRST NATION

DESIGNATION VOTE

COVERING SURFACE RESERVE LANDS

VOTING DAY: SEPTEMBER 18, 2024

INFORMATION MEETINGS & DESIGNATION VOTE

| LOCATION | ADDRESS | DATE & TIME |
|--|--|---|
| Information Meeting: Saskatoon, SK | Saskatoon Inn & Conference Centre - Manitoba Room 2002 Airport Drive, Saskatoon, SK S7L 6M4 | August 14, 2024 6:00 PM – 8:30 PM |
| Information Meeting: Waterhen Lake First Nation | The Blue Building Waterhen Lake, SK S0M 3B0 | August 15, 2024 6:00 PM – 8:30 PM |
| Information Meeting: Edmonton, AB | River Cree Resort - Enoch A 300 East Lapotac Boulevard, Enoch, AB T7X 3Y3 | August 22 nd , 2024 6:00 PM – 8:30 PM |
| Designation Vote: Waterhen Lake First Nation | The Blue Building Waterhen Lake, SK S0M 3B0 | September 18, 2024 9:00 AM to 8:00 PM |

INFORMATION DOCUMENT

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1. Background

Waterhen Lake First Nation (“**Waterhen**”) is a signatory of Treaty 6. Pursuant to the terms of Treaty 6, Her Majesty the Queen in Right of Canada, as she was at the time, now His Majesty the King in Right of Canada (“**His Majesty**”), set apart lands as reserve for the membership of Waterhen. 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 Waterhen as a signatory to Treaty 6.

2. What is a Designation Vote?

The *Act* limits the granting of leases or other interests in reserve land. A designation of reserve lands by Designation Vote of a First Nation under sections 38(2) and 39.1 of the *Act* is a process through which a First Nation authorizes His 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 by the First Nation’s eligible members can be held with respect to land that is part of an existing reserve. This is land with legal title vested in His Majesty and that has been set apart by His Majesty for the use and benefit of a First Nation. Since the reserve land is legally held by His Majesty, the First Nation, through an affirmative Designation Vote by its eligible members, authorizes His Majesty to enter into leases or other interests with respect to that reserve land.

4. Land Status Maintained

Under section 38(2) of the *Act*, a conditional or unconditional designation, by way of a surrender that is not absolute, may be made to His Majesty. In the case of reserve lands, the lands that are subject to a 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 with respect to those 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 the designated lands. For example, section 28(2) of the *Act*, which allows the Minister of Indigenous Services to permit a non-Waterhen member to exercise rights to occupy or use reserve lands, will no longer apply to the designated lands. Instead, the Minister is authorized to grant permits under s. 53(1)(b) of the *Act*.

5. This Designation Vote

His Majesty still has administration over the management and control of the designated reserve lands. Any interest to be granted must be consented to by the Council and any proposed activities must be consistent with those purposes and activities identified in the Designation Document (summary of which is set out below). In other words, the Council will still be involved in

reviewing, negotiating and approving any lease agreements that His Majesty grants or any sub-lessee wishes to enter into.

There will be ONE (1) Designation Document to vote on, with a single corresponding ballot:

(a) **Ballot – Waterhen Lake First Nation Designation Document - Reserve Lands (Surface) Waterhen Lake Indian Reserve No. 130**

for the reserve lands to be leased for commercial and retail purposes, including a gas and service station and convenience store, and institutional, educational and recreational purposes.

The Waterhen Lake First Nation Designation Document - Reserve Lands (Surface) Waterhen Lake Indian Reserve No. 130 with the applicable reserve land description attached thereto as Appendix “A” is enclosed as part of our information package.

The voter chooses either "Yes" or "No" on the ballot 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 elector.

6. Who Can Vote

An eligible voter (“elector”) for a Designation Vote is determined by the provisions of the *Indian Referendum Regulations*, 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 September 18, 2024; and
- are not disqualified from voting at a Band election.

7. Voting

A "mail-in ballot" will be included in an information package that will be mailed to the electors for whom the First Nation has a current mailing address or hand-delivered to electors who live on reserve at least 42 days before September 18, 2024, the Voting Day. If an elector does not receive their information package, such person should immediately contact Joyce Woolhether (the Electoral Officer) or Judy Abraham (the Deputy Electoral Officer) and request an information package.

An elector may vote in one of three ways:

- (a) By mail-in ballot that is mailed in using the stamped and self-addressed envelope;
- (b) By mail-in ballot that is hand delivered to the electoral officer or deputy electoral officer at an Information Meeting or other in-person meeting; or

- (c) In person on Voting Day at the polling station described in the Notice of Referendum Vote, being the Blue Building located in Waterhen Lake, SK S0M 3B0, on the Waterhen Lake First Nation No. 130, between 9:00 a.m. and 8:00 p.m.

8. Voting Threshold - Simple Majority Required

For the Designation Vote, the voting threshold is as follows:

If 50% plus one of those eligible voters who cast a ballot at the referendum are in favour of the proposed Designation, then the Designation is considered assented to by a majority of the electors. This is often referred to as a “Yes” vote.

In the event of a "Yes" vote, the Council will sign the Designation Document 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 Designation Document.

In the event of a "No" vote, the Designation Document will not be signed by Council and the reserve land described in Appendix “A” attached hereto will not be designated for the purposes set out in the Designation Document.

9. The Designation Document Being Voted On and Its General Purpose

The reason why Waterhen requires a Designation Vote is to provide for future leasing and development on the reserve lands for commercial and retail purposes, including a gas and service station and convenience store, and institutional, educational and recreational purposes.

For example, a simple majority “YES” vote to the Designation Document would mean that a surface lease for some or all of the Designated reserve land could be granted for commercial or retail purposes, including a gas and service station and convenience store, or institutional, educational or recreational purposes by His Majesty to a Council-requested lessee, including a Waterhen controlled company. All leasing arrangements would also require the approval of Council.

If the simple majority vote is “NO” in respect to the Designation Document, then leasing under the *Indian Act* would not be possible. A designation of reserve land would require a new and successful Designation Vote by Waterhen.

A. Length of Designation

It is intended that the identified portion of Waterhen Indian Reserve No. 130 shall be designated for ninety-nine (99) years. Notwithstanding the length of the designation term, Waterhen is not required to request that His Majesty grant leases for the full ninety-nine (99) years. In other words, leases could be granted for shorter terms (e.g. 25 or 50 years).

B. Revocation of Designation

In the event that the Designation Document is no longer appropriate for the designated reserve lands, Council shall be authorized to request, by Council Resolution, that His Majesty revoke the designation from all or part of the reserve lands, if necessary. A designation revocation can only be made if there are no existing rights or interests in existence on the reserve lands to which the revocation will apply.

10. Specific Issues

A. Rent

Rent under an *Indian Act* head lease is payable to the Receiver General for Canada. That rent qualifies as "Indian Moneys" and is deposited into Waterhen's revenue trust account, which is administered by Indigenous Services Canada.

If the Council requests that His Majesty grant a lease to a legal entity (which could be a corporation, limited partnership or other entity) that is 100% owned and controlled by Waterhen, 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". If the lease is for nominal rent, then Waterhen's legal entity can sub-lease to another person or corporation and the sublessee must pay fair market rent to Waterhen's legal entity (the lessee).

Rent paid at the sub-lease level is not payable to the Receiver General for Canada and is not "Indian Moneys." The lessee, subject to any terms and conditions of any agreement (sublease, trust agreement, etc.) applicable thereto, has the right to receive and use the sublessee rent payments. There is no requirement for a lessee to sublease the leased lands. Therefore, there is a possibility that the Waterhen legal entity (the lessee) may not sub-lease these lands to another person or corporation for many years, or at all. If there is no immediate subleasing, fair market rent might not be paid to the Waterhen legal entity (the lessee) for many years, or at all.

In order to be eligible for nominal rent at the head lease level, a lessee must remain 100% owned and controlled by Waterhen ("Waterhen controlled entity"). This Waterhen controlled entity is separate from Waterhen, in law, and has different rights, responsibilities and obligations. In the case of a nominal rent head lease, His Majesty does not monitor the collection, use or distribution of any sublease rent payments received by the Waterhen controlled entity. As such, the Waterhen controlled entity will have to ensure that the rent collected under the sub-leases is put to good use for the benefit of Waterhen.

Accordingly, before approving a head lease for a nominal rent to an entity that is 100% owned and controlled by Waterhen, Waterhen membership together with the Council may wish to consider entering into an appropriate trust agreement with the Waterhen controlled entity that will regulate its access to and use of the sublease rent payments.

B. Specific Reasons For The Designation Vote

The Council considers that present and future generations will be able to enjoy taking advantage of the economic development opportunities that will be associated with the designated land. Waterhen will have the ability to develop the economic potential of the designated reserve land.

C. Environment

A key aspect of *Indian Act* leases and any subleases will be a requirement for all parties to follow all applicable environmental laws in force and to ensure that the reserve lands are protected. In this regard, when considering a proposed lease and activities on the leased lands, His Majesty conducts impact assessments in accordance with section 82 of the *Impact Assessment Act* (the “IAA”) Under the IAA the Minister of Indigenous Services makes determinations about whether the carrying out of a project is or is not likely to cause significant adverse environmental effects.

10. More Information

(a) Contacts

For more information on the specific documents, contact:

- (1) **Joyce Woolhether** (the Electoral Officer)
(306) 501 – 4620
Email: joyce.woolhether@sac-isc.gc.ca
- (or) (2) **Judy Abraham** (the Deputy Electoral Officer)
(306) 304 - 7286
Email: jabraham.wlfn@sasktel.net
- (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, First Nation members are invited to attend one or more of the following information meetings (only eligible voters are able to vote in the Designation Vote):

| LOCATION | ADDRESS | DATE & TIME |
|--|--|---|
| Information Meeting: Saskatoon, SK | Saskatoon Inn & Conference Centre - Manitoba Room 2002 Airport Drive, Saskatoon, SK S7L 6M4 | August 14, 2024 6:00 PM – 8:30 PM |
| Information Meeting: Waterhen Lake First Nation | The Blue Building Waterhen Lake, SK S0M 3B0 | August 15, 2024 6:00 PM – 8:30 PM |
| Information Meeting: Edmonton, AB | River Cree Resort - Enoch A 300 East Lapotac Boulevard, Enoch, AB T7X 3Y3 | August 22 nd , 2024 6:00 PM – 8:30 PM |
| Designation Vote: Waterhen Lake First Nation | The Blue Building Waterhen Lake, SK S0M 3B0 | September 18, 2024 9:00 AM to 8:00 PM |

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

1. Designation Document:

Waterhen Lake First Nation Designation Document - Reserve Lands (Surface)
Waterhen Lake Indian Reserve No. 130

2. Ballot:

Ballot – Waterhen Lake First Nation Designation - Reserve Lands (Surface)
Waterhen Lake Indian Reserve No. 130

If you are not in receipt of the above documents, please contact the Electoral Officer, Joyce Woolhether, or the Deputy Electoral Officer, Judy Abraham, to obtain copies.

Appendix "A"

Waterhen Lake First Nation - Designation

| Reserve Lands (Surface) | | | | | | | |
|-------------------------|--------------|-------------|-------|------------------|------------------|--------------------|--------------------|
| Line No. | Reserve Name | Reserve No. | Lot | Survey Plan CLSR | Survey Plan SLSD | Surface Area (ac.) | Surface Area (ha.) |
| 1 | Waterhen | 130 | Lot 6 | 111810 | 102304707 | 18.80 | 7.610 |

**WATERHEN LAKE FIRST NATION
DESIGNATION DOCUMENT:**

**RESERVE LANDS (SURFACE)
Waterhen Lake Indian Reserve No. 130**

WHEREAS:

- A. The Waterhen Lake First Nation (“First Nation”) is a band within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5 (“*Indian Act*”);
- B. The Waterhen Lake Indian Reserve No. 130, in the Province of Saskatchewan, is a reserve within the meaning of the *Indian Act* and has been set apart for the use and benefit of the First Nation;
- C. Pursuant to subsection 38(2) of the *Indian Act*, the First Nation desires to conditionally designate to His Majesty the King in right of Canada (“His Majesty”), the First Nation’s rights and interests in the lands as more particularly described in the attached Appendix “A” entitled “Reserve Lands (Surface) Waterhen Lake Indian Reserve No. 130” (“Designated Lands”), for leasing and related purposes, as set out in this document (“Designation”);
- D. By Band Council Resolution 402013-2022/23 CO dated November 15, 2022, the First Nation’s chief and council of the band, as defined in the *Indian Act* (collectively, “Council”) requested that the Minister of Indigenous Services order a referendum to determine if the majority of electors of the First Nation voting at the referendum are in favour of the proposed Designation; and
- E. This Designation has been assented to by a majority of the electors of the First Nation who voted at the referendum in accordance with *the Indian Act* on the 18th day of September, 2024;

I. DESIGNATION:

NOW THEREFORE, pursuant to subsection 38(2) of the *Indian Act*, the First Nation hereby conditionally designates to His Majesty all the rights and interests of the First Nation and its members in the Designated Lands required to carry out the purposes of this Designation; and

SUBJECT TO any third party encumbrances and interests in existence in, to or against the Designated Lands at the date of the acceptance of this Designation by His Majesty.

II. TERM:

This Designation is for a term of 99 years that begins upon the date of acceptance of this Designation by His Majesty.

III. PURPOSE - HIS MAJESTY MAY AND IS AUTHORIZED TO:

1. Grant, in accordance with the *Indian Act*, leases and other rights or interests available at law and amendments to same, for all or any portion or portions of the Designated Lands for the development, occupation and use of the Designated Lands for commercial and retail purposes, including a gas and service station and convenience store, and institutional, educational and recreational purposes; and
2. Grant, in accordance with the *Indian Act*, any and all such leases, permits, easements, rights of way, licences and other rights or interests available at law and amendments to same, to enable all projects, works and activities that may be:
 - i. necessary or ancillary to the furtherance of the primary purpose(s) of any lease granted in accordance with this Designation in paragraph 1 above; or
 - ii. necessary for utility companies to provide services.

IV. UPON THE CONDITIONS THAT:

1. The terms and conditions of every lease, permit, easement, right of way, licence and other rights or interests available at law to be issued pursuant to this Designation and any amendments to same shall be approved, in advance, by resolution, made in writing, and in accordance with paragraph 2(3)(b) of the *Indian Act* ("Resolution") by the Council;
2. All moneys collected, received or held by His Majesty under any leases, permits, easements, rights of way, licences and other rights or interests granted in accordance with this Designation shall be credited to the First Nation as Indian moneys as defined in the *Indian Act*;
3. All leases shall be at fair market rent; however, where the lessee is 100% owned and controlled by the First Nation, a lease may be for nominal rent of one dollar (\$1.00), provided that if the First Nation ceases to own and control 100% of the lessee entity, then the rent shall be increased to fair market rent at that time;
4. Where a lease granted in accordance with this Designation is at less than fair market rent, all subleases granted pursuant to such lease shall be for fair market rent. For greater certainty, this does not apply to any sub-subleases or transactions lower in the leasing chain;

5. Fair market rent payable under a lease, sublease, or other transactions, as the case may be, granted in accordance with this Designation, shall be determined by a qualified independent appraiser, and shall require periodic rent reviews;
6. Subject to the *Indian Act*, a lease, permit, easement, right of way, licence or other right or interest granted in accordance with this Designation may allow assignments, subleases and mortgages, and may be used as security to obtain financing and to secure the performance of any other obligations;
7. His Majesty may enter into agreements with lenders, sublessees, or the holders of other rights or interests so that, in certain circumstances, the lender, sublessee, holders of other rights or interests or other designated entities could be the direct lessee or direct interest holder of His Majesty;
8. A grant of any right or interest in, to or against the Designated Lands may not extend beyond the term authorized by this Designation;
9. His Majesty may, upon request of Council by way of Resolution, revoke this Designation or amend Appendix “A” of this Designation to remove any portion of the Designated Lands, provided that there are no rights or interests, legal or equitable, vested or contingent, then in existence for that portion or those portions of the Designated Lands to be affected by the proposed revocation or amendment; and
10. His Majesty may, with the approval of Council by way of Resolution, amend this Designation for the purpose of correcting a clerical omission, mistake, or manifest error or to make other minor amendments in order to give full effect to the intent of this Designation, all of which shall be determined by His Majesty.

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V. POWER CONFERRED ON THE BAND:

Pursuant to paragraph 2(3)(a) of the *Indian Act*, the electors of the First Nation authorize the Council to act on behalf of the First Nation to exercise all such powers and provide any such further consents and approvals as may be necessary to fulfill the purposes of and to carry out any transactions contemplated by this Designation, including the above conditions.

IN WITNESS WHEREOF the undersigned have on behalf of the First Nation set their hands this ____ day of _____, 2024.

**SIGNED ON BEHALF OF THE
WATERHEN LAKE FIRST NATION
BY A QUORUM OF THE COUNCIL:**

IN THE PRESENCE OF:

Chief Blaine Fiddler

Signature

Councillor Carolyn Bernard

Printed Name

Councillor Peter Bouvier

Position

Councillor Gordon Ernest

Councillor Karnella Fiddler

Councillor David Fleury

Councillor Dean Martell

4

Quorum

APPENDIX “A”

Reserve Lands (Surface)
Waterhen Lake Indian Reserve No. 130

| Reserve Lands (Surface) | | | | | | | |
|-------------------------|--------------|-------------|-------|------------------|------------------|--------------------|--------------------|
| Line No. | Reserve Name | Reserve No. | Lot | Survey Plan CLSR | Survey Plan SLSD | Surface Area (ac.) | Surface Area (ha.) |
| 1 | Waterhen | 130 | Lot 6 | 111810 | 102304707 | 18.80 | 7.610 |

Appendix "A"

Waterhen Lake First Nation Designation Map

Reserve Lands (Surface)

SGB Project: 2022-12-116

THIS MAP IS NOT TO BE USED FOR DEFINING BOUNDARIES
It is a guide to surveys and documents affecting the Indian Reserves.
Administrative decisions should be based on legal documents and legal survey plans.
Current transaction information should be obtained from Indian Reserve abstracts.

Legend

- Appendix A - Reserve Lands (Surface)
- Cadastral Fabric
- Reserve Boundary

