

July 2021

July 2021

Peerless Trout First Nation

Trust Update

Who are the
Trust
Beneficiaries?

“Beneficiaries”
means collectively,
the present and fu-
ture Members and
Affiliates of PTFN,
regardless of the
residence of such
Members and Affil-
iates.

**“Voting
Beneficiaries”**
means the Benefi-
ciaries that are
eighteen (18) years
of age or older.

Trust Agreement Amendments

The PTFN Trust was established to manage the compensation Peerless Trout First Nation received under the Bigstone Cree Nation Treaty Land Entitlement Agreement with Canada. The Trust Agreement sets out the terms and conditions for managing the Trust funds (also referred to as the “Trust Property”). Some of the terms and conditions that were initially agreed to in the Trust are not very clear, such as voting thresholds for decisions on Trust Programs and amendments, and what is considered a ‘good’ investment for the Trust Property.

Over the past 10 years the PTFN Trust loaned money to several businesses expecting to make money for the Trust from interest payments on those loans. Unfortunately, the loans did not make any money for the Trust and most of the original amounts loaned were

never paid back when the businesses closed or went bankrupt. Because of this the Trustees decided that loans should never again be considered a good investment of Trust Property. One of the proposed amendments makes it so that the PTFN Trust can not loan money as an investment, no matter what the situation is. More information on the Trust Loans is provided later in the newsletter.

The Trust Agreement was originally part of the Treaty Land Entitlement Settlement Agreement referendum vote that established Peerless Trout First Nation. Any amendment to the Trust must be approved by the Trust Beneficiaries that are 18+ years old living in Peerless, Trout and off-reserve. The Trust also requires the Voting Beneficiaries to approve the pro-



grams and services budgets for all Trust Programs. The Trustees have proposed amendments to clarify the voting thresholds for all Trust votes and to establish a minimum voter participation level for Trust Amendment votes.

The proposed changes to the Trust Agreement are discussed in more detail in the remainder of this article.

TRUST
VOTE
**Monday
Oct 4, 2021**

SECTION 4.1 - USE OF THE TRUST PROPERTY

“PTFN Trust” means the trust established and administered pursuant to the terms of the Peerless Trout First Nation Trust Agreement dated December 18, 2009.

“Trust Property” refers to the money in the PTFN Trust fund account that is managed by Scotia Wealth as directed by the Trustees.

“Trustees” means the Trustees of the PTFN Trust comprised of all of the members of Council and the Independent Trustee.

“Prudent” means acting with or showing care and thought for the future.

Section 4.1 of the PTFN Trust deals with how the money held in the Trust, or “Trust Property” can be used for the benefit of the Trust *Beneficiaries*. Currently, the Trust allows for payments to cover expenses relating to the management of the PTFN Trust and PTFN's Children's Trust; to pay costs relating to the implementation of the TLE Settlement Agreement, if any; and to invest the Trust Property with the goal of generating income for the Trust that can be used to run programs and services for PTFN Members or be reinvested in the Trust.

One of the proposed Trust amendments will change sub-section 4.1.5 in the Trust Agreement to clarify that the Trust Property may not be used to loan money or secure loans to earn income for the Trust. This type of investment is not considered to be a reasonable or “prudent” investment for the Trust, as demonstrated by the significant losses the Trust has accumulated over the past 10 years by loaning money to different companies. The proposed change will add the following to the current subsection 4.1.5. paragraph: *“The Trustees are strictly prohibited from using the Trust Property to provide loans or as security or collateral to obtain loans.”* The remainder of the subsection generally describing investments and obligations of the Trustees will remain the same in the Agreement.

DEFINING “MAJORITY OF VOTING BENEFICIARIES”

The PTFN Trust sets out situations when a vote of the Trust Beneficiaries is required.

Section 6 of the Trust deals with approval of Trust programs and services and requires the approval of a majority of Voting Beneficiaries for any newly proposed programs and budgets. Section 11 of the Trust allows amendments to the Trust if a majority of the Voting Beneficiaries approve in a referendum vote.

PTFN's lawyer recommended that a definition of “majority of Voting Beneficiary” be added to the Trust so that the requirements for approval of Trust programs and services and Trust amendments are very clear. The PTFN Trust will be around for generations to come, and it is important that the terms and conditions are as clear as possible for future Trustees and Beneficiaries.

The proposed definition of “majority of Voting Beneficiaries” is 50%+1 of the Voting Beneficiaries who cast a ballot and have voted in favour of either the proposed program and services budget or Trust amendment. This means that if 500 people vote, more than half of them (or 251) must vote ‘YES’ for the budget or amendment to be considered approved.

AMENDMENT OF SECTION 11

– AMENDMENTS TO AND ACCEPTANCE OF TRUST

Section 11 deals with the ability to amend the Trust Agreement as long as the Voting Beneficiaries approve of the changes through a referendum vote. Subsection 11.1.4. of the Trust says that Section 11 can not be amended, which may limit the ability to add conditions and make improvements or clarifications to the Trust Agreement in the future. PTFN's lawyer suggested a small change to this subsection so that Section 11 can be amended but not deleted. This leaves protections in place to ensure the Trust can not be cancelled or the Beneficiaries changed, while allowing flexibility to improve or clarify the conditions in Section 11 of the Trust if needed.



ADDITIONAL CLAUSES FOR CLARIFICATION

PTFN's lawyer recommended that the Trust sets a minimum level of vote participation when an amendment to the Trust is proposed. To do this we will add a clause to section 11 that says at least 25%+1 of the Voting Beneficiaries have to cast a ballot in a referendum for that referendum vote result to be accepted. For example, if there are 600 voting members, at least 151 eligible voters (25%+1) must show up to vote or the referendum results do not count.

It was also recommended that we allow the Trustees to set a minimum voter participation level at a higher percentage than 25%+1 should they decide it is necessary to do so. For example, if there is a major amendment to the Trust, the Trustees could decide that at least 50% of the Voting Beneficiaries must participate in the vote for the results of be considered acceptable. This clause will be included in proposed Trust Agreement amendment.

TRUST AMENDMENT DOCUMENT

A copy of the proposed "PTFN Trust Agreement Amending Agreement #1" will be available at the PTFN Administration building for members to access. If you would like a copy of the original Trust Agreement and/or proposed PTFN Trust Agreement Amending Agreement emailed or mailed to you directly please contact Carie Santo at carie@santoconsulting.com or by phone/text at 780-257-9079.



...Let's get back to beneficial trust programs!

PEERLESS TROUT FIRST NATION

Trust Fund Vote: Proposal Overview

PROPOSALS ARE IN FOR THE JULY 17TH VOTE!

The community has put their best ideas forward for this year's trust fund vote! A total of nine proposals were submitted and all were reviewed and approved to be put forward to the community vote by Chief and Council. Council would like to sincerely thank all those individuals who took the time and effort to develop the proposals for this year's vote.

Inside this issue please find the detailed breakdown of each of the proposals as submitted by their voters. These are the proposals that will be voted on, please take the time to familiarize yourself on the benefits of each program.

The Community Trust vote is being held in accordance with the Trust Agreement that was included in the clause settlement that our community voted YES to in March of 2010.

Approval of proposals is based on your vote so be sure to come out to the voting stations in the Peerless Sub Office or the Trust community hall on July 17th.

Proposal Cost	Program Name	Term Length
A - \$14,300	Cemetery Housing Renovation	ON GOING
B - \$10,000	Excorts for City Medical Trips, Appointments and Non-fundamental supplies (PTFN funding Member 60+ years)	ON GOING
C - \$9,120	Homeowner (for rent or double)	ON GOING
D - \$80,000	Housing Minor Renovations Program	5 years
E - \$12,945	Literacy	ON GOING
F - \$6,000	Medical Emergency (addition to original proposal)	ON GOING
G - \$15,400	School Field Trips	ON GOING
H - \$26,705	Trapper Education	ON GOING
I - \$20,000	WVCARD (Student Attendance Improvement)	ON GOING

TRUST PROGRAMS

POST-SECONDARY EDUCATION/HIGH SCHOOL PROGRAM

We are currently accepting applications for 2013/14 Academic Year. Program must be a minimum of 8 months to be eligible for sponsorship. Deadline for applications is June 15, 2013. We will not accept applications after the date. Acceptance letter along with Fee Estimate should be included with your application.

All Applications can be picked up at the Sub office in Trust Lake, Sub office in Peerless Lake and Northern Lakes College in Peerless Lake.

BRUSHING PROGRAM

For our student Brushing program we will be accepting 5 students from Trust Lake and 5 students from Peerless Lake. Summer work will start in the month of July and will go to the month of August. Post Secondary/College High school students have first priority but in the event we fall short we can include Northern Lakes students, as long as they are 18 years of age or over. Deadline for applications is June 01, 2013. Applications can be picked up at the Trust sub office and Peerless Sub Office.

RECREATION PROPOSAL

You can apply for sports tournaments entry for sponsorship through PTFN recreation program. As long as you are on the PTFN members list or families but you are eligible. You will need to send your request letter along with a point of the tournament members but no families but you are eligible. You will need to send your request letter along with a point of the tournament members but no families but you are eligible. You will need to send your request letter along with a point of the tournament members but no families but you are eligible.

For Peerless Lake residents we have the Trust Proposal policies and applications at the Peerless Sub office. If you need copies of any of the policies or applications, Sherry Cardinal will be able to help you.

For Trust Lake residents we have the Trust Proposal policies and applications at the Trust Sub office. If you need copies of any of the policies or applications, you can talk to Norma Scudry, Elizabeth Cardinal or Wilma Suckale.

Your Trust Fund Programs –Updates

PTFN membership, propose programs, that benefit the community and vote to approve which initiatives are funded through the PTFN trust fund.

Wolf Control Program

Peerless Trout Wolf Bounty Control has been active since 2014. All of the \$8,400.00 that was approved from the Trust has been utilized by our First Nation members. Since 2014, the total number of wolves killed were 21 at \$200/wolf.

This proposal was successful because of our awesome and skilled hunters within our community. Since all approved funding for this proposal has been used the wolf bounty program is now complete as of October 2016. Thank you to all the hard working hunters and all the help the Trust Department –doing our necessary paperwork.

Cemetery Renovation Program

The renovations for the two main cemeteries in the Peerless and Trust communities are almost complete. We have renovated a total of 85 cemetery houses: 36 in the Trust cemetery and 49 in the Peerless cemetery.

We did the best we could to identify the gravestones in each cemetery, but some we could not identify and those are painted white. The ones that are painted blue are

TRUST AMENDMENT VOTING PROCESS

The Voting Beneficiaries must approve the proposed Trust Amendments through a referendum vote. We are planning to hold the Trust Amendment vote on **October 4, 2021**.

To ensure the greatest amount of Voting Beneficiaries have a chance to vote we will hold advance polls at designated off-reserve locations from September 30, 2021, to October 2, 2021 and can provide mail-in ballots to members upon request. The Trust vote is open to all members 18 years of age or older as of October 4, 2021, living both on and off-reserve.

POLL DATES AND TIMES

Advance Polling Stations will be open to everyone and will be conducted as follows:

- Edmonton - Thursday, September 30, 2021: 6:30 p.m. - 9:00 p.m.
- Slave Lake - Friday, October 1, 2021: 6:30 p.m. - 9:00 p.m.
- Peace River - Saturday, October 2, 2021: 3:00 p.m. - 8:00 p.m.

Regular voting day will be conducted on Monday, October 4, 2021, from 9:00 a.m. - 8:00 p.m. at the following locations:

- Red Earth Creek - Voting at this poll is only for off-reserve members
- Peerless Lake - Voting at this poll is only for Peerless Lake residents
- Trout Lake - Voting at this poll is only for Trout Lake residents

The address and location of each poll station will be confirmed and provided in the notice of vote that will be posted at the end of August. Mail in ballots will also be available on request by contacting the Designated Officer once the notice of vote is posted.

The ballot count will be conducted at the Band office on Wednesday, October 5, 2021. A minimum of 25%+1 of the Voting Beneficiaries must participate in the vote for the results to be accepted.

GIVING THANKS



Your vote is important. As a 'thank you' for taking the time to vote in this referendum, each Voting Beneficiary who casts a ballot will receive a \$150 gift card AND will have their name entered into a raffle for a \$1000 pre-paid Mastercard. You must either vote in person or by official mail-in ballot to receive this gift and enter the draw.

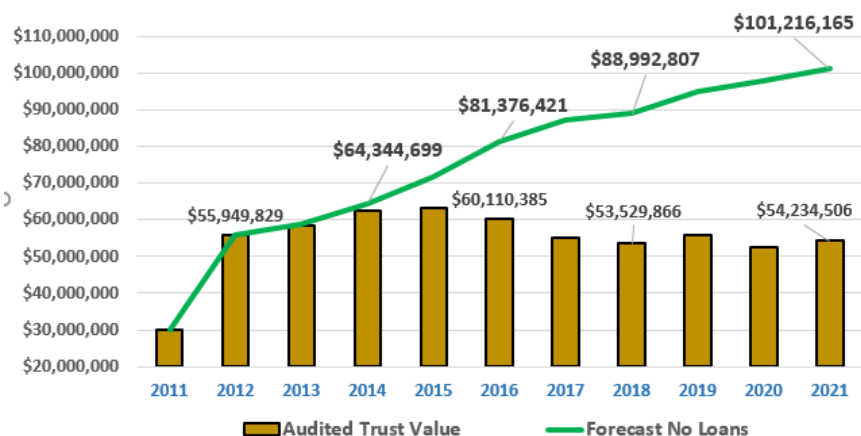
PTFN Trust Update – Impact of Trust Loans on the Trust Property

The PTFN Trust was created as part of the Bigstone Treaty Land Entitlement Settlement Agreement which included the creation of Peerless Trout First Nation. The purpose of the Trust is to act as a long-term asset that will grow in value over time and generate income to support PTFN programs and services. One of the key features of the Trust Agreement originally approved by PTFN members is to set out how Trust Property could be invested to earn this income. When the TLE Settlement compensation was fully paid by Canada the Trust value was \$55.9 million in 2012; after 10 years of investing the value of the Trust this spring sits at \$54.2 million, just below the original base value.

When complicated agreements such as the PTFN Trust Agreement are drafted, the authors (usually lawyers working with the Trustees) try to be as clear as possible about what is and is not allowed under the terms and conditions of the agreement. Sometimes, terms and conditions that seem very straightforward to everyone involved in the drafting end up leaving uncertainty or too much room for interpretation in the future. This can result in the agreement being implemented in a way that was not considered by the authors or those who approve and benefit from the final agreement. An example of unclear terms and conditions is found in Section 4 of the PTFN Trust, which sets out how Trust Property may spend and used to generate investment income.

Regarding investments, Section 4.1.5. of the PTFN Trust Agreement says the Trust Property should be used for the purpose of investing as a prudent, or reasonable, person would. It also says that the Trustees are to invest with the goal of generating sufficient net income to meet their responsibilities under the Trust; and that they are to use reasonable efforts to ensure the value of the Trust Property does not fall below the base Trust fund amount. Unfortunately, there are no limitations on what a good or reasonable investment is, leaving too much flexibility and room for errors in judgement.

What Could have happened with No Trust Loans

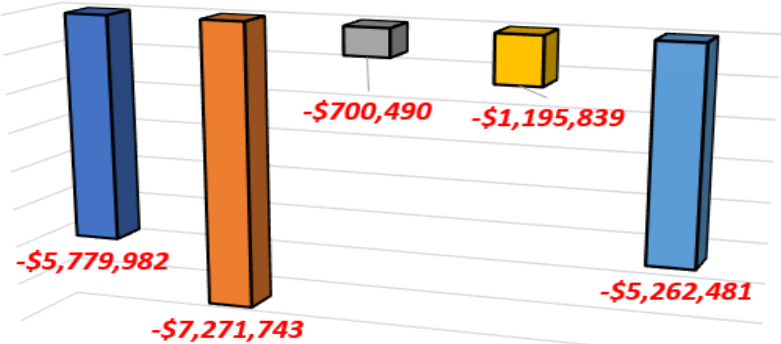


As mentioned, the Trust value in 2012 was \$55.9 million. Over the past 10 years, traditional investments made by Scotia Wealth providing on average a 5.7% rate of return. This rate of return is good for a medium to low-risk investment strategy. Thankfully, these good investment returns is how the PTFN Trust has maintained most of its base value over time. However, during this same time Trustees decided to use some of the Trust Property to loan money to several different PTFN affiliated companies as investments which resulted in devastating losses of Trust funds in the amount of \$22.1 million. To put that amount in perspective, almost half of the original Trust funds were lost to bad investments. The most devastating loss is illustrated in the graph entitled “*What Could Have Happened with No Trust Loans*”. This graph shows the projected value of the Trust in 2021 had the funds stayed in traditional investments with Scotia Wealth instead of being invested as loans – a staggering loss of \$47 million dollars.

-continued Impact of Trust Loans on the Trust Property

Another unfortunate thing about the loss of Trust Property through the Trust loans was the loss of income that could have supported PTFN Trust programs and services for members. There were several years where loans were written off, resulting in a net income loss for the year. The chart titled “*Summary of Audit Trust Loan Loss Provision*” shows the losses incurred over the past five years. During the years shown on the chart the level of net income of the Trust was not enough to adequately meet the needs of the community programs that were proposed by administration and approved by membership. This resulted in much needed programs for Elders, youth and all PTFN members being underfunded or not funded at all.

Audit Trust Loan Loss Provisions last 5 Years



Today, Peerless Trout First Nation is fortunate to have strong leadership that are committed to making sure the same mistakes that were made with the Trust over the past 10 years are not repeated. Many discussions about the future of the Trust have taken place between the Trustees, Scotia Wealth Advisors, PTFN lawyers and administration staff. These discussions have resulted in a strong recommendation to amend subsection 4.1.5 of the PTFN Trust so that loans from the Trust and using Trust Property as an asset to secure a loan are strictly forbidden. The Trust Amendment process, which is described in this Trust Newsletter, is the first step in the road to ensuring a healthy PTFN Trust for generations to come. All adult Peerless Trout First Nation Trust Beneficiaries are being called upon to make this important decision by voting in the Trust Amendment referendum this Fall. Every vote can make a difference for the future of Peerless Trout First Nation.

For more detailed information on the Trust loans and their impact on the Trust Property value please watch the PTFN website and Facebook page for the newsletter on the PTEI Divestiture Plan.

**TRUST
LOANS**
**TOTAL
LOSS
\$22.1
MILLION**

