

LONG FORM Pre-Approval Notice

**2011 LAKE MANITOBA FLOOD CLASS ACTION
NOTICE OF SETTLEMENT APPROVAL HEARING**

**To: Any person that owned real or personal property off reserve that was
damaged by the flooding of Lake Manitoba in 2011:**

A Class Action Lawsuit May Affect Your Legal Rights

BACKGROUND

On March 15, 2013, a lawsuit was commenced in the Manitoba Court of Queen's Bench alleging that the Government of Manitoba caused damage to areas surrounding Lake Manitoba by way of causing flooding through the operation of provincial water control works in 2011. The Courts certified the lawsuit as a class proceeding, rather than having each class member bring a separate lawsuit. Following trial and judgment, but prior to any appeal, the parties entered into negotiations and have reached a settlement of the lawsuit.

SETTLEMENT APPROVAL

The settlement must be approved by the Court before settlement benefits can be paid to Class members. If the settlement is approved by the Court, another notice will be published with details on how to make a claim for settlement benefits. The Settlement Approval Hearing is scheduled to occur in the Manitoba Court of Queen's Bench on Thursday, January 13, 2022 at 10:00 a.m. via video hearing.

As a result of the COVID-19 pandemic, the Court of Queen's Bench has restricted in-person hearings. Class members may attend the Settlement Approval Hearing via video conference, subject to the COVID-19 restrictions and protocols established by the Court of Queen's Bench. If you are intending on attending the hearing scheduled for January 13, 2022, whether on your own behalf or through a lawyer, you must email class counsel by December 31, 2021 with the following information:

Name of person(s)
attending: _____

Telephone number: _____

Email address: _____

yes no Are you a lawyer attending on behalf of a class member?

yes no Are you intending on providing comments in respect of the settlement agreement?

yes no If you are providing comments in respect of the settlement agreement, do you wish to make brief submissions at the Settlement Approval Hearing?

By requesting to attend the hearing, the person(s) making the request undertake that they will abide by the rules of decorum governing the hearing and understand that any breach of this undertaking may result in sanctions against them. It is to be understood that the presiding judge may also order that the person abide by the rules governing the hearing and that any breach of these rules may result in a legal sanction including proceedings for contempt of court.

The Court of Queen's Bench has established rules that will apply to virtual court proceedings, including the Settlement Approval hearing. Those rules can be found at:

[http://www.manitobacourts.mb.ca/site/assets/files/1994/notice - public viewing - attendance at virtual hearings 2021 feb 26.pdf](http://www.manitobacourts.mb.ca/site/assets/files/1994/notice_-_public_viewing_-_attendance_at_virtual_hearings_2021_feb_26.pdf)

These rules are subject to the discretion of the presiding judge.

Class members who do not provide written comments or submissions by December 31, 2021 may not be entitled to provide comments or submissions at the January 13, 2022 hearing.

SETTLEMENT SUMMARY

Without admitting any wrongdoing, the Government of Manitoba has agreed to pay \$85.5 million to settle the lawsuit. This amount includes a contribution towards lawyer ("Class Counsel") fees and expenses as well as toward the costs of administering the settlement.

All members of the Class are eligible to make Claims for settlement benefits. Those claims may include settlement benefits for damage or loss respecting:

A. Primary Residence, Seasonal Residence, Business or Farm Property

- A.1 Principal and Non-Principal Residences
- A.2 Business and Farm Property
- A.3 Property Devaluation
- A.4 Developers' Subdivision Land Devaluation
- A.5 Vehicles, Farm, Recreational and Other Equipment

B. Farmland Damage and Herd Loss

- B.1 Crop Production (Annual and Perennial) – 2011 and Subsequent Years
- B.2 Herd (Animals)

C. Business / Not-for-Profit Entities Net Income Losses

D. Flood Cleanup and Mitigation

- D.1 Flood Cleanup and Mitigation

E. Moving / Storage / Accommodation Rental Expenses

Based on a Claimant's eligibility to be assessed, the Claims Process will provide for two options for settlement benefits, as follows:

OPTION ONE: To accept a fixed Class Action Settlement Amount from a pool of fifteen million dollars (\$15,000,000) by submitting the applicable supporting documents/evidence to the Class Administrator with confirmation of compensation payments received.

OPTION TWO: To participate in a more detailed Claim Assessment Process from a fund of approximately forty-nine million dollars (\$49,000,000), by submitting applicable/additional supporting documents/evidence to the Class Administrator and, if applicable, confirmation of compensation payments received. This is a more detailed process and may take at least two years for review and payment.

Because payments under the settlement will be based on the total amount of the claims submitted and approved, it is not possible to estimate the amounts that eligible Class Members may receive. Any amounts that Class Members have received under any provincial assistance programs will be deducted from any eligible claim.

Information on the timing and the process for making a claim and receiving payment under the settlement will be made available in another notice if the settlement is approved by the Court.

WHAT YOU NEED TO DO:

Do Nothing. By doing nothing, you will be entitled to participate in the settlement, if it is approved by the Court and if you are an eligible Class Member.

You have the right to submit comments in writing on the proposed settlement, including the amount of proposed legal fees and disbursements payable to Class Counsel, for consideration by the Court at the Settlement Approval Hearing. If you wish to make a written comment, you must submit it to Class Counsel (DD West LLP) no later than **December 31, 2021**, either by email to one of the addresses listed below, or by mail to the address below with a postmarked date no later than December 31, 2021.

LEARNING MORE

The Court office will not be able to answer questions about the matters in this Notice. If you have any questions regarding the settlement or the Settlement Approval Hearing, you may contact Class Counsel (DD West LLP) at:

DD West LLP

Website: <https://www.ddwestllp.com/>

Email: flood@ddwestllp.com

300 - 305 Broadway

Winnipeg, Manitoba R3C 3J7

Fax: 204-421-8566

Additional Contact Information:

Brian Meronek, Q.C.:

Email: bmeronek@ddwestllp.com

Phone: 204-480-6687

William S. Klym:

Email: wklym@ddwestllp.com

Phone: 204-480-6687

Mark Intertas:

Email: mintertas@ddwestllp.com

Phone: 204-480-6687

DD West LLP (General Line)

Phone: 204-421-8655

This Notice is approved by Order of the Court of Queen's Bench of Manitoba.