

O-PIPON-NA-PIWIN CREE NATION PRESENTATION
TO THE
MANITOBA CLEAN ENVIRONMENT COMMISSION
PUBLIC HEARING
WUSKWATIM GENERATION AND TRANSMISSION PROJECTS

EXHIBIT #
 WUSKWATIM GENERATION
 & TRANSMISSION PROJECT
 P. Baker
 CLEAN ENVIRONMENT COMMISSION
 OPEN-1001

INTRODUCTION:

Good afternoon, My name is Chris Baker and I am the officially elected Headman of the O-Pipon-Na-Piwin Cree Nation in South Indian Lake.

First let me recognize the Nisichawaysihk Cree sovereignty within their traditional lands, which are today known as their Resource Management Area. The Chief and Council have been working many long years on a proposed business partnership with Manitoba Hydro regarding the development of the Wuskwatim Generating Station, and I congratulate them. I am certain they have the best interests of their Nelson House Community members at heart when they pursue all of their undertakings and business ventures.

The Nisichawaysihk Cree make decisions that they feel are best for their Nelson House people and their future economy and the O-Pipon-Na-Piwin Cree Nation respects that. It is not an easy decision to propose to your community that they become partners with the same Corporation that developed the Churchill River Diversion; the project that had such devastating effects on their people, and in fact Cree Nation people throughout Northern Manitoba. Ultimately they decide to do what they feel is best for their people in Nelson House, and I do the same for the O-Pipon-Na-Piwin Cree in South Indian Lake.

The Nisichawaysihk Cree at Nelson House are involved in this process via their Future Development relationship with Manitoba Hydro that was confirmed in Article 8 of their 1996 NFA Comprehensive Implementation Agreement. The O-Pipon-Na-Piwin Cree do not yet have a similar relationship with Manitoba Hydro respecting future hydro developments.

Why doesn't the Cree Nation on the banks of South Indian Lake have a relationship with Manitoba Hydro? The concept seems to run counter to Manitoba Hydro's new objective of Hydro-First Nation partnerships, that they explained at these CEC hearings many times. Well primarily it is because there are many unaddressed matters relating to past projects that need attention, before the O-Pipon-Na-Piwin Cree at South Indian Lake can possibly trust Manitoba Hydro enough to talk about the future.

As we have told you during cross examination, the O-Pipon-Na-Piwin Cree Nation has been recognized by every First Nation in Canada, and specifically by the Nisichawaysihk Cree. (1) The Nisichawaysihk Cree have been very supportive of our formal independent recognition by Canada. Over the years, the Nisichawaysihk Cree Nation have held positive community votes, they have petitioned the Minister of Indian Affairs, they have moved resolutions at MKO and AMC, they have signed Memorandums of Understanding, and they have attended our negotiation meetings, they have approved and administered Federal funding for the Headman position to

specifically work on recognition, and our independent land selection study. They have also passed Council resolutions confirming treaty land entitlement selections on behalf of the O-Pipon-Na-Piwin Cree Nation (2) and confirming a division of the Treaty lands, assets, and trusts.(3) They also ensured that their 1996 Agreement included a 2,000 acre reserve land credit for the O-Pipon-Na-Piwin Cree in South Indian Lake. The next step is for them to confirm these arrangements in a legally binding form to facilitate recognition by Canada.

While we respect the NCN right of self government, their sovereignty, and of their right to decide what is best for their future; no one's sovereignty should negatively impact on that of another.

On March 25th Chief Primrose addressed this Commission in The Pas. He referenced the pent up hurt, anger, and mistrust over the CRD that he had heard at these hearings. He also asked people to listen closely to the voices of a people who have not been in control of their own lives, people who have had things done to them and who have not had an opportunity to do for themselves in their own way. Chief Primrose's comment accurately describes the O-Pipon-Na-Piwin Cree Nation people at South Indian Lake. O-Pipon-Na-Piwin Cree Nation believes that we are best able to represent and protect our interests.

With all due respect, Chief Primrose is not the Chief of South Indian Lake, and he does not make plans for our community or speak for our people. The duly elected Headman speaks on behalf of the Treaty people in South Indian Lake.

We maintain our own rights of self determination, our own sovereignty, and our own right to decide what is best for the future of our community, our people, and our traditional lands. Mr. Osler confirmed in his testimony that different communities experience effects differently.(4) The people of South Indian Lake voted 81 % against the Wuskwatim AIP as clear evidence of this. This is markedly different than the AIP voting results in Nelson House, because we have unique interests and will be effected differently. Mr. Osler testified that the pathways of effects will be different. (5)

Therefore while we respect the rights of the Nisichawaysihk Cree to pursue their independent goals within their resource area, that is quite different from speaking for the O-Pipon-Na-Piwin Cree and representing our interests. The Chief and Council of Nisichawaysihk Cree Nation naturally prioritize their own community interests in Nelson House. While we respect Nisichawaysihk's rights, we feel it is critical and respectful that the rights, interests, economies, lands, environments, and cultures of all other First Nations, Metis, and other communities, are not adversely effected by projects they pursue with their proposed Manitoba Hydro partners. We still live with the effects from Manitoba Hydro's past projects that were imposed on us, and are very sensitive to this. What was done was not right, and should never be repeated. The proponents survey confirmed that "fully two thirds (67%) of South Indian Lake respondents are distrustful of Manitoba Hydro with nearly half (49%) completely distrusting the Provincial Crown Corporation."(6)

The O-Pipon-Na-Piwin Cree Nation is very concerned with the effects of Wuskwatim on our unique resource area, our lives, our culture, our community, our economy, and our treaty and aboriginal rights.

We are also concerned that the EIS has so poorly described our socio-economic, environmental, and cultural setting, and so minimally considered the effects of the proposed project on our lives, society, economy, environment, and culture. In this respect, not much has changed since Manitoba Hydro developed the CRD. Manitoba Hydro has discussed a new way of doing business throughout these hearings but I do not feel this new approach in my heart. For the O-Pipon-Na-Piwin Cree, it feels like the same old way of doing business. We feel the same frustrations as our mothers and fathers felt. These are the matters of concern to the O-Pipon-Na-Piwin Cree, that I would like to present to you in detail today.

In order for the Clean Environment Commission to meet its mandate in this regard, we feel strongly that adequate baselines need to be established, specific traditional knowledge from each community potentially effected must be incorporated, and proper monitoring and mitigation implemented.

The CEC HEARING MANDATE is to:

- Consider potential environmental, socio-economic, and cultural effects from the construction and operation of the projects.
- Give consideration to environmental, socio-economic and cultural effects.
- Consider the EIS and public concerns with regard to the potential environmental, socio-economic, and cultural effects
- Recommend on if an Environment Act licence should be granted, and
- If positive, propose measures to mitigate any adverse environmental, socio-economic, and cultural effects, and
- Propose measures to manage residual adverse effects, including future monitoring and research as required.

In Volume 8 of the EIS entitled Socio-Economic Environment on page 8-1 it states that, "Socio-economic studies consider people, their lifestyles, and their communities. In so doing, they take into account the array of interrelated factors that contribute to the social and economic welfare of individuals, families, and communities. Such factors include:

- the ways people cope with life through their economy, social systems, and cultural values, and,
- The ways people use the natural environment for subsistence, recreation, spiritual activities, and cultural activities.”

On page 8-2, it goes on to say that, “How socio-economic effects are experienced differs for individuals, families, and communities, and varies with the degree to which the people are connected to the direct or indirect pathways of change from the Project. Socio-economic effects can also be affected by personal, family, and community perspectives about the current situation, their goals and aspirations, and how the Project affects their vision for the future.”

We agree with Mr. Osler that socio-economic effects can be experienced differently by individuals, families, and communities. As you have heard, the O-Pipon-Na-Piwin Cree have family in Winnipeg, Thompson, Brandon, Pukatawagan, Cross Lake, Brochet, and Nelson House and it is to be anticipated that different individuals and family members will feel differently about the project depending on the degree to which the people are connected to the direct or indirect pathways of change from the proposed Project.

It is also anticipated that different communities will feel differently about the proposed project depending on the ways our people cope with life through our economic activities, social systems, and cultural values, and the ways our people use the natural environment for subsistence, commerce, recreation, spirituality, and cultural activities.

It is our position that the CEC cannot fulfil their mandate because of incomplete information. Specifically,

In order to determine potential effects, one needs to first establish a baseline of understanding, with respect to that which may be affected. The proponent’s consultants have not included the socio-economic and/or cultural base line for our community and lands, and therefore cannot measure the effects or propose ways and means to manage it. The principle assumption that has led to this error, is thinking that there is one culture within the Local Region.(7) This error led the study off track and resulted in no base line for the distinctive culture of the O-Pipon-Na-Piwin Cree. The consultants have amalgamated our local perspectives with those of NCN members resident in Nelson House. The proponent’s consultants wrote that our culture was the same as Nisichawaysihk’s. They testified that they didn’t spend much time differentiating between South Indian Lake and Nelson House, and in fact, “didn’t have enough knowledge to elaborate on their distinctions.” (8) The CEC is mandated to propose mitigation measures on adverse environmental, socio-economic, and cultural effects and the consultant’s didn’t even provide them with the base line of our culture, in order to measure unanticipated effects, or determine effects at all.

Cree culture is strongly linked to the land and traditional land uses. While the base line of traditional land use and domestic and commercial harvesting patterns was studied in some detail for the portion of the Local Region lying within the Nisichawaysihk Cree RMA, it was disrespectfully ignored for the portion of the Local Region occupied by the O-Pipon-Na-Piwin Cree from South Indian Lake.

Our land use, economy, and culture may potentially be effected by OPCN members opting for training and employment rather than traditional practices. To keep hearing from the proponents that effects will not extend geographically upstream of Early Morning Rapids is simply wrong in the socio-economic context. Yet the analysis is not done and therefore the CEC is without this information. Information that is required to know the base line, and to determine the potential effects, and to make recommendations on; a) mitigation of adverse socio-economic and cultural effects, b) management of residual effects, and on c) future monitoring and research.

Mr. Osler testified that this was not done out of disrespect, as it was not done elsewhere either. The fact is that it was inconsistently done within the Local Region for the co-proponents interests only. The fact that they didn't consider these effects elsewhere either, does not make it right.

The only project effect deemed to be significant is the revenue stream from the partnership, and the consultants determined that this significant effect would flow to the Local Region. We believe the only significant effect of the project can be more precisely identified as applying to the Nelson House reserve land and community only, with possible application beyond their community boundaries, but within their RMA. It is a proposed investment by the Nisichawaysihk Cree at Nelson House and there is no reason to believe or portray this differently. Why was the extent of this significant effect not described as precisely as possible for the CEC? It made us doubt the findings of the entire Environmental Impact Statement. If the consultants could not more accurately describe where the only significant effect would be felt, how could we trust the other statements regarding lesser effects?

The history of the O-Pipon-Na-Piwin Cree and the Nisichawaysihk Cree are similar and yet completely different. The cumulative results of the historical differences have resulted in different perspectives, different attitudes, different resource areas, different opportunities, different goals, different lifestyles, and different cultures.

It is generally accepted that Canadian culture has evolved as the population became more urban based and less farm based. Members of the same families - city cousins and country cousins - developed different attitudes, perspectives, goals, lifestyles, concerns, and responses to different events and opportunities. What is important for the city cousins may be of little consequence to the country cousins and vice versa.

The cultures of individual Cree communities have also evolved at different rates and in different directions from different experiences, development patterns, effects, and opportunities. The

cultures are not the same. The consultant's decision to not study, analyse, or portray our culture accurately and in a more detailed fashion is not good enough. It is not sufficient to put the information required to determine effects before this Commission. Today, I would first like to briefly describe historical events that distinguish the two Cree Nation communities of Nelson House and South Indian Lake. The O-Pipon-Na-Piwin Cree have a distinct and unique past, present, and future.

The earliest written references to the people of South Indian Lake have been found in the journal of Captain James Knight. (9) Between July 14 to September 13, 1717 Knight attempted to establish a Hudson's Bay trading post at the mouth of the Churchill River. During this time Knight's journal refers to visits by the "Meshinnepee Indians", or Great Water Indians; and confirms through very accurate description of portages that they lived at Southern Indian Lake.(10)

In addition to our trading trips to Churchill, it is documented that we became intensively involved in the fur trade as early as 1803 when the Hudson's Bay Company established a post on South Indian Lake. These traditional lands provided for our every need, and there was little reason to travel from the Churchill River drainage basin to the Nelson River drainage basin to trade, so long as the companies maintained their posts on South Indian Lake and Opachuanau Lake.(11)

When the companies closed their posts, usually for financial reasons, we had to travel further to trade. Travelling to trade was an event that people undertook once or twice a year. People lived on their land, not at the trading post. It was much more important to be on our land and near our resources to survive. People who decided to work for the HBC in freighting, or other HBC jobs, began to modify their culture, and live more regularly near their employer at the post. Those who preferred bush life remained on the land, and followed our traditional social and cultural values to survive. People on the land reached their day to day decisions by themselves. Since everyone came to the trading posts to trade sooner or later, these were the locations where Canada discussed Treaty with First Nations.

It is critical in analysing the socio-economic environment of First Nation people that you understand our Treaty relationship, because it governed how the subsequent years would unfold.

Prior to Treaty One, the Canadian Government appointed Wemyss Simpson as Indian Commissioner and he was instructed to secure the cession of the lands upon terms as favourable as possible to the Government. This is an important theme that has been consistently followed by Government and their Corporations ever since. The Government officials were fully aware that the terms of their early dealings with First Nations would set the standard for all Treaty arrangements to come. Lieutenant Governor Archibald confirmed this in his July 19, 1871

report to the Secretary of State Howe.

“In fact the terms we now agree upon will probably shape the arrangements we shall have to make with all the Indians between the Red River and the Rocky Mountains.” (12)

For this reason, it is important that we understand this background of early Treaty negotiations in Manitoba which lead to the entering into Treaty by aboriginal nations throughout the future Prairie Provinces as well as the Cree people of South Indian Lake.

The present circumstances of the O-Pipon-Na-Piwin Cree Nation in South Indian Lake can be traced back to Canada's policy to amalgamate bands at the time of Treaty, and make one band's leader the Chief, and to convert the other Chiefs and Headmen into Councillors of an amalgamated Treaty band. In 1875, the Deputy Minister of the Interior, E.A. Meredith instructed Treaty Commissioner W.J. Christie as follows,

“The Minister thinks the reserves should not be too numerous, and that, so far as is practicable, as many of the Chiefs of Bands speaking one language, as will consent, should be grouped together on one reserve.” (13)

This well documented policy was based on a federal objective to save costs related to administration, annual annuities, one time Treaty presents, and ongoing treaty promises. OPCN's history with the indivisible Crown and their corporations has always been characterized by concerns over their costs and the Government trying to secure access to our lands upon terms as favourable as possible to Government.

The post Treaty history was also characterized by the subsequent demands of these amalgamated Nations to; be led by their own local leaders, recognized appropriately by Canada, and have their own reserve land in their own homelands. Essentially to return to the social, political, economic, and cultural relationships that had existed before being amalgamated by Canada at Treaty. As this “sorting out” took place, the people usually lived “off reserve” on their traditional lands in their traditional manner, and continued to travel to the posts to trade. This matter of residency had little if any bearing on Canada's relationship with the various communities, or on if the community would qualify for the programs and services available through the Department.

Northern Manitoba is very typical of how this relationship between the First Nations and Canada evolved throughout the numbered Treaty areas. The Treaty Five adhesions were the last of the numbered Treaties and the “process” was consistent and firmly entrenched by Canada by this time.

In 1907, Reverend Semmens, Inspector of Indian Agencies travelled through Northern Manitoba to check out Indian feelings with respect to Treaty. (14)

In the early 20th century the Hudson's Bay Company was restructuring for economic reasons,

fisheries were collapsing, and scarcity and hunger were commonplace. We on the other hand were doing relatively well. At South Indian Lake we enjoyed a very rich resource area and our Lake would become the largest commercial fishery in Northern Manitoba.

In 1908 Reverend Semmens was appointed Treaty Commissioner and returned to Northern Manitoba with directions to secure adhesion to Treaty #5 from the Indians trading at the Split Lake and Nelson House posts. (15)

The 1908 Treaty adhesion negotiations were virtually non existent as Semmens had no discretion and was specifically instructed that there would be no outside promises. (16) Only the text written on the Treaty Five adhesion document he brought with him was acceptable. In addition, he was only authorized to negotiate with two bands - the "band" trading out of the Split Lake HBC Post and the "band" trading out of the Nelson House HBC post. (17)

The future reserve locations were not included in this Treaty adhesion. This separated the issues for the Government, as they had found that this method of negotiation reduced the opposition to the size and location of the reserves until after the Treaty had been finalized. The Treaty documents confirm that the Treaty Commissioners knew they were dealing with more than one band at each location. (18)

On July 30, 1908, the bands trading out of Nelson House adhered to Treaty #5. It should have surprised no one that while my people adhered to Treaty at Nelson House, we never left our hunting and resource harvesting livelihoods at South Indian Lake. South Indian Lake is where we always lived and where the resources that sustained us were plentiful.

The Indian Claims Commission has remarked in its reports dealing with Treaty Land Entitlement, that Treaty paylists record names of families and family numbers, but were not intended to provide accurate census records and are not necessarily reliable indicators of band structures or the places of residence of individuals or groups. (19)

At the time of the 1908 Treaty Five adhesions in Nelson House and Split Lake, the only Northern Manitoba Nations who had previously signed Treaty and received reserves were located at The Pas, Moose Lake, Norway House, and Cross Lake. These four Treaty bands had divided into eight bands prior to the 1908 adhesions.(20)

Treaty Five reserves were to be selected in consultation with the band leaders. This was not possible at Nelson House. (21)

When the surveyor finally showed up five years later in 1913, he had not even completed the survey, before the people expressed their displeasure with the reserve location. Despite documented requests for the reserves of the amalgamated Nelson House Band to be in more than one location to accommodate the needs of the bands of people amalgamated by the Treaty Commissioner, and specific requests for fishing facilities at Wuskwatim Lake and South Indian

Lake; the surveyor did not call a consultation meeting with the band prior to survey as was the norm.

When the surveyor reported on his trip to Nelson House he advised that "he was not able to convene a meeting with the Indians in the usual manner", or to consult on the location for the reserve, as they were away freighting for the Hudson's Bay Company (HBC), (22) while those from South Indian Lake were at South Indian Lake.

By 1914 the surveyor recommended that should the location have to be changed, some land should be surveyed for the band at South Indian Lake. The requests for individual reserve land and independent recognition of the band resident at South Indian Lake, have gone on continuously ever since.

Between the time of Treaty and the late 1960's, Indian Affairs Agents met with us in our community, treated our leaders as the legitimate authority in the community, and provided services and financing for projects in South Indian Lake directly, rather than through the Chief and Council at Nelson House.

There has always been a general reluctance on the part of the Department of Indian Affairs to establish reserves and incur the costs that went hand in hand with the establishment of reserves. This led to the reality that even by the late 1960's very few reserves existed in Northern Manitoba, and many, if not most communities receiving Indian Affairs services and programs were located off reserve. This included: the Sayisi Dene in Churchill, the Fox Lake First Nation in Gillam, the War Lake First Nation in Ilford, the York Factory First Nation in York Landing, the Northlands First Nation in Lac Brochet, the Marcel Colomb First Nation in Lynn Lake, the O-Pipon-Na-Piwin Cree in South Indian Lake and First Nations in Granville Lake, Red Sucker Lake, Shamattawa, and Gods River.(23)

In 1943, Harold Wells, Inspector of Registered Traplines in the North proposed that all of Northern Manitoba north of the 53rd parallel be declared an RTL district, with sections to be allotted to each band. It was carefully explained that the system would not result in dividing the country into trapping grounds but simply demarcate the trapping grounds as they existed at the time. In case of dispute, the boundaries were to be settled by the trappers and through negotiation between the Chiefs and Councillors of neighbouring bands. (24)

In 1944 Harold Wells was joined by Hugh Conn, a fur specialist with Indian Affairs, and they undertook a joint study towards expanding the system throughout the north. The Wells-Conn report became the basis for a 10 year Canada/Manitoba cost shared agreement. Between the time of ratification of the Canada/Manitoba Agreement and the subsequent 1945 Provincial legislation, meetings to establish community boundaries were held with representatives of the Indian Bands who were to be included in the new plan. While there were some disputes, most were settled quickly. The boundaries were settled in negotiation with all surrounding bands and all agreed that the area defined as the South Indian Lake Registered Trap Line Block was not

their resource area, but that of the band resident in South Indian Lake. (25)

The O-Pipon-Na-Piwin Cree Nation people living at and around South Indian Lake have always acted independently and shared a history unique from all other First Nation people. This includes the economic development of our South Indian Lake commercial fishery; and our independent trapping and trading initiatives within our distinct South Indian Lake Trapline Zone. Our history was also characterized by repeated documented requests and petitions for our reserve land. These were sent by the Nelson House Chief and Council, as well as by the Headman and Councillors of the band who lived at South Indian Lake.

Indian Commissioner Simpson and Lieutenant Governor Archibald had on July 27, 1871, explained the concept of reserves as follows:

“ Your Great Mother, therefore, will lay aside for you “lots” of land to be used by you and your children forever. She will not allow the white man to intrude upon these lots. She will make rules to keep them from you, so that as long as the sun shall shine, there will be no Indian who has not a place that he can call his home, where he can go and pitch his camp, or if he chooses, build his house and till his land.”(26)

This treaty promise was provided to the Nisichawaysihk Cree at Nelson House, but not to the O-Pipon-Na-Piwin Cree at South Indian Lake.

As the CRD planning began to really take shape in the 1960's and early 1970's, the Government view of our people changed. The Government suddenly wanted us to move and they were opposed to finalizing negotiation for our reserve at South Indian Lake.

The reserve which was to protect us from encroachment and dispossession was not there to do just that in the early 1970's when Government proceeded with their project to harness the hydro power potential of our territory. As part of the Churchill River Diversion and Lake Winnipeg Regulation Project; our Churchill River was dammed, the flow of our lake was reversed to flow southward, we were branded as squatters, our houses and fish camps were burned, our community was relocated, the waters on our Lake were raised 10 feet, our lands were flooded, and our once thriving economy and commercial fishery was devastated. These drastic effects were felt by the O-Pipon-Na-Piwin Cree at South Indian Lake only, and forever changed our perspectives and attitudes.

The time of the relocation of the Community of South Indian Lake was a time of profound change for the community for a number of reasons. Of course the most devastating was the Government's decision to proceed with the CRD.

In addition however, the Ruttan Mine was developed and Leaf Rapids was constructed bringing many more outsiders into our territory. Manitoba also passed the Northern Affairs Act in 1970, and so began the system of elected Mayors and Councils for Northern Affairs Communities.

This also altered the traditional manner of electing leaders in South Indian Lake, and no longer were the elections pursuant to the Indian Act, and no longer was our Chief elected to sit on the Nelson House First Nation Council. The First Nation government was dismissed and replaced with a Mayor and Council elected pursuant to Provincial legislation. This effect was only felt by the O-Pipon-Na-Piwin Cree at South Indian Lake, not the Nisichawayasihk Cree at Nelson House.

Suddenly and coincidentally, Canada reduced our regular programming at South Indian Lake to social assistance, health care, and education only. Canada no longer considered the interests of the Treaty people living at South Indian Lake as they did the Treaty people living in on reserve communities impacted by the Churchill River Diversion, or another off reserve community in the case of York Landing.

Another profound change that began at the time of the Churchill River Diversion and community relocation, was Canada's decision to amend the manner of financing the limited services that they did continue to provide to our community by either cancelling our people's eligibility for services and programs all together, or funnelling service and program funding through the Nelson House Council. Sometimes Nelson House Council reduced the funding by a 10% administration fee and forwarded the balance, and other times the entire sum or the majority of the budget was retained, and expended for the betterment of the Nisichawayasihk Cree people in Nelson House only. (27)

The proponent's consultant acknowledged during testimony (April 14th) that finances are a very important component of a socio-economic environment and the past helps to explain to a culture, what is likely to happen in the future. (28)

While we were still considered by Canada to be Nelson House Band members, we were not eligible for independent membership in the Northern Flood Committee which was incorporated to protect the impacted communities from adverse hydro development impacts. They told us the resulting Northern Flood Agreement (NFA) would not address adverse impacts that the O-Pipon-Na-Piwin Cree suffered at South Indian Lake. To be told by Government that the NFA was not to address CRD impacts to our homes and traditional lands was our unique experience alone. The O-Pipon-Na-Piwin Cree Nation was not a formal party to the NFA, as the Indian Reserve land that was to protect our homes and our lands was not there to do just that when we needed it most.

The Nisichawayasihk Cree in Nelson House and the O-Pipon-Na-Piwin Cree in South Indian Lake have always lived in adjacent but distinct resource areas. While we share a Cree culture, we have made different social and economic decisions that we felt best for our individual communities alone. We were both affected by the CRD, but the impacts each band experienced from the CRD were unique and distinct. We were treated completely differently by Government, our common fiduciary. The socio-economic environment and the cultural distinctions within our communities have grown wider over the years.

Ironically, because Canada considered us members of Nelson House and because we are thereby legal interest holders in the reserve land that Canada surveyed at Nelson House, we were eligible to vote at the March 15, 1978 NFA ratification as members of Nelson House, but only if we travelled to the polling station which was set up at Nelson House. Our people did not vote. Eventually only 121 people out of 833 eligible voters voted yes to the NFA. A simple majority of 14.5%. (29) Even though we were recognized as eligible voters with a say in what happens to the Treaty lands set apart for our ancestors at Nelson House, we were told that we were not to share in the compensation benefits contained in the NFA.

In 1989, approximately twelve years after the Northern Flood Agreement, the Arbitrator ruled that we were "persons" as defined in the Northern Flood Agreement. Further, the Northern Flood Agreement contemplated that there would be adverse effects not covered in the Agreement, and therefore provided an Arbitration process that would deal with the adverse effects covered in the Agreement as well as those adverse effects not covered. (30)

The arbitrator ruled that the NFA applied to our people. You would think that by 1989 after our rights had been affirmed in the Constitution in 1982, that Government would respect this decision. Instead Manitoba challenged the arbitrator's ruling in the Manitoba Court of Appeal.

Two weeks ago during the MMF presentation, when the Metis testified that the Manitoba Government had intervened in the Powley Supreme Court decision, it didn't sound like much had changed at all.

Subsequently Manitoba, Manitoba Hydro, and our South Indian Lake people entered into a December 29, 1989 Memorandum of Understanding, pursuant to which extensive negotiations were conducted, during which the hearing of the said appeal to the Manitoba Court of Appeal was postponed. (31)

The 1992 Settlement Agreement was negotiated, and through our Community Association we signed a compensation agreement. Within this Agreement, Manitoba committed 8,500 acres of land for the band at South Indian Lake, and Manitoba Hydro was included in the reserve establishment process.

Another 12 years have now past and not one acre has transferred. Last week Hydro testified that they are still determining severance lines 12 years after committing long outstanding reserve land for our benefit and protection. Of course both Manitoba and Manitoba Hydro now tell us that they can't set apart the 8,500 acres as reserve because the Federal Government has not recognized us independently. My people want to know why promises were committed by Manitoba and Manitoba Hydro that they cannot fulfil unilaterally? The Crown is indivisible; so create our reserve. Only financial responsibility holds them back.

The Augmented Flow Program, that the people of South Indian Lake accepted when we signed our 1992 Settlement Agreement, contains two very important conditions for my people.

The Minister of Conservation annually permits this deviation from the Churchill River Diversion for a further one year period provided in all cases that;

- 1) "Manitoba Hydro fully mitigate any effects of the altered levels and flows"; and
- 2) "That the maximum draw down on Southern Indian Lake of 4.5 feet be staged over a period of time and in such a manner so as to minimize adverse impacts on Southern Indian Lake residents." (32)

In order for Manitoba Hydro to fully mitigate the adverse effects of the altered flows and levels, we believe they would need to first develop a comprehensive plan. They would need to consult with us on the adverse effects that we as a community have experienced. They would have to set up a monitoring program to gather data on the various environmental parameters of concern. A remedial works plan could then be established, which would identify mitigative works that could be undertaken to address and fully mitigate the adverse effects.

We believe consultation with our members should be an integral component of fully mitigating these adverse effects. Manitoba and Manitoba Hydro have long understood our goals, in fact committed reserve land for our Cree Nation over 12 years ago. They would certainly understand the importance of including the O-Pipon-Na-Piwin Cree leadership in the development of a monitoring program and plan to fully mitigate the adverse effects on Southern Indian Lake.

However, we are not aware of a comprehensive plan, and to us the adverse effects are not "fully mitigated". Does anyone here believe the adverse effects of the Augmented Flow Program are fully mitigated, or that the Augmented Flow Program is operated in a manner to minimize these impacts? I am sure it would be tricky for Manitoba Hydro to meet their committed flow requirements at Churchill and Nelson House, and at the same time operate the CRD in a manner to minimize the impacts on South Indian Lake. So what exactly does Manitoba Hydro mean when they assert that with Wuskwatim they will not change the manner in which they operate the CRD and regulate South Indian Lake? We believe the Minister of Conservation should be ensuring that the conditions the Minister of Conservation attaches annually to Manitoba Hydro's AFP are fulfilled. Mr. Adams testified many times that Hydro is in compliance with all licence conditions, so he must believe the adverse effects at South Indian Lake are fully mitigated. I guess we will have to agree to disagree.

One of the noteworthy commitments by Canada, NCN, and Manitoba to formally recognize the O-Pipon-Na-Piwin Cree Nation at South Indian Lake and establish the reserve occurred nine years ago. The 1995 Memorandum Of Understanding, in which all parties committed to use their best efforts to ensure the success of the process leading to the recognition of the band at South Indian Lake, in an expeditious manner. (33) How did this MOU come about one might ask, and why has it not been acted upon nine years later? The MOU resulted from Canada unilaterally deciding to no longer finance social assistance services off reserve and dropping the program at South Indian Lake. Our people protested and marched towards Thompson. At Nelson House, Canada, and Manitoba and Nelson House met with the First Nations people of South Indian Lake and the MOU was signed. The Federal social assistance program was reinstated on the condition

that progress continue to be made in an expeditious manner towards establishing the reserve and independently recognizing the O-Pipon-Na-Piwin Cree Nation.(34) Being treated by Canada and Manitoba as pawns in their ongoing disputes over the portability of Treaty rights was front page news in the Winnipeg Free Press, and another unique experience felt only by the O-Pipon-Na-Piwin Cree at South Indian Lake, and not the Nisichawayasihk Cree.

We were not offered a Resource Management Area like the other bands impacted by the CRD, although we were likely impacted more than all the others, and were the only community to be relocated.

We did not receive provisions in our compensation agreement dealing with future hydro development in our traditional South Indian Lake territory, similar to Article 8 of the NCN NFA Comprehensive Implementation Agreement. The relationship that Manitoba Hydro has developed with our Community is skewed through their policies of only dealing directly with First Nations recognized by Canada. Manitoba Hydro recognizes the critical role South Indian Lake has on the operations of their entire Churchill River Diversion hydro electric power system, but yet O-Pipon-Na-Piwin Cree and South Indian Lake have no future power development relationship with Manitoba Hydro. Hydro maintains that the Chief and Council of Nisichawayasihk Cree Nation adequately represent the people of South Indian Lake. To us, this is not a solid cornerstone for an improved relationship with Cree Nations that Hydro has repeatedly referenced during these hearings.

So we carry on without a formal resource management agreement on our traditional lands, without the reserve land that Canada committed at Treaty and Manitoba and Manitoba Hydro committed in 1992, and without a relationship to guide us when Manitoba Hydro's future developments are planned around us, and are dependent upon the water in our Lake.

So, as you can easily see, our life experiences and those of our parents and ancestors have been much different from those of the Nisichawayasihk Cree who have lived on reserve, with different laws, different governance, different legislation, different Settlement Agreements with different provisions, a different economy, different goals, and a different culture with different customs.

The socio-economic history of the O-Pipon-Na-Piwin Cree Nation is critical for the CEC to understand the base line of this environmental component. It is essential to understanding the unique and distinct perspectives and culture of the O-Pipon-Na-Piwin Cree Nation. We expected it to be reflected in the Environmental Impact Statement's socio-economic component, but instead the proponent's consultants amalgamated us in the Local Region and described the Nelson House culture and goals as applying to us as well. The proponents gave this work their blessing. As you have just heard, our historical relationship with the proponents is long, and they know better than that.

The proposed Wuskwatim development can potentially affect the O-Pipon-Na-Piwin Cree economy, society, and culture.

If our traditional land use and harvesting patterns change, so too will our culture. If our commercial fishing harvesters opt for training and employment, as they did after the CRD was first developed, the O-Pipon-Na-Piwin Cree fishermen's quotas may not be harvested, our fish plant may have to lay off staff and close, the semi trailers hauling fish to Freshwater Fish Corporation may no longer be economically viable. Some individuals will gain through training, work experience and cash in their pockets. Our socio - economic environment may suffer however, our fish plant workers may suffer, and other fishers from inland lakes and other Cree Nations may find the new transportation costs uneconomical. Ultimately all of these changes may effect our community economy and culture. In fact the consultants confirmed this on page 8-59 of Volume 8, section 3.1.4. The consultants testified however, that they do not think the effects will extend to the O-Pipon-Na-Piwin Cree who live at SIL, so they only analysed these possible effects for the proponents members who live at Nelson House. They also testified that they couldn't reach more certain conclusions on this potential effect anyway, so they didn't recommend study or monitoring, or mitigation. This leaves the O-Pipon-Na-Piwin Cree and the CEC panel in a bad way, because that is part of what the CEC panel has been mandated to do. The proponent's EIS leaves our concerns, our culture, and the possible socio-economic effects out of their analysis. This concerns us a great deal.

We disagree with Mr. Osler when he testified that they didn't complete their analysis uniformly within the Local Region because he didn't know how to predict that specific resource users would be in any material way change their activities as a result of employment opportunities on the project. (Transcript Page 4862) That does not make sense. Mr. Wojczynski described their EIS reports as leading edge and state of the art. It is a very simple exercise to conduct this analysis with a greater degree of confidence than we presently have respecting these types of effects, by simply caring enough to ask the resource users, the quota holders, the appropriate questions.

Handout Exhibit

We have brought the Commission some exhibits of our resource area that illustrate the portion the proponents, a) included in the Local Region, and b) didn't analyse.

Our exhibits confirm that what the proponent's EIS neglected to mention to you, or portrayed to you erroneously, is that within the small portion of our resource area that they included in the Local Region we have; 7 full trap lines, and 4 partial trap lines; 19 Treaty Land Entitlement selections totalling 18,533 acres; and 7 commercially fished lakes with a 483,500 kg quota. The O-Pipon-Na-Piwin Cree commercial fishing quota in just this small portion of our resource area is over double the size of the quota in the entire NCN RMA. (35) While we can potentially be effected significantly more than Nelson House due to the potential impacts on our commercial fishery, neither the proponents or their consultants feel these possible effects should be studied, or even referenced in their analysis. Why are my people always treated as second class citizens in this Province? How will the CEC complete their mandate in absence of this analysis? Do you understand what I mean when I say the frustration feels just like that experienced by my elders during the development of the CRD ?

Mr. Osler testified on day one of these hearings, that the environmental component called socio-economic, essentially means in layman's language the "people environment". (36) He stated that their assessment incorporated local and traditional knowledge as well as scientific information. Mr. Osler went on to explain that Traditional Knowledge "involves an attitude of respect by those doing the work to the local and traditional views, and knowledge of the people in the areas that are going to be potentially affected." (37) He stated that "it also deals with people's view of the world, their spirituality, how they see relationships between and among themselves and the environment, and the elements of the environment that they want to see protected." (38)

What kind of respect is shown when OPCN, who is recognized by every First Nation in Canada, is not acknowledged in the analysis. What kind of respect is shown when our specific culture and community perspectives are amalgamated in the Local Region that includes the proponents much larger community? No other community - Cree, Metis, or white - ever experienced what we have experienced from the CRD; or from Canada, Manitoba, and Manitoba Hydro's treatment of our community since Treaty. None.

Mr. Osler testified that "cumulative effects" is essentially an EIS done properly and well, taking into account how the environment may be changing due to past, current, and future projects that we are reasonably certain will be carried out." (39) These cumulative effects are obviously different for the Nisichawaysihk Cree at Nelson House and the O-Pipon-Na-Piwin Cree at South Indian Lake. NCN as used in the EIS is understood to be one band, but it is two distinct Cree Nation communities, and that is the first principal error that takes the analysis off the rails. The two Cree Nation communities have a different history, different economy, different impacts, different people, different culture, different Settlement Agreements, different legislation and laws, and different Governments.

Mr. Osler also testified with respect to "future activities", that they did not need to be those already licensed. Instead he stated that "applications have been made in sort of the basic requirement." (40) Commitments have been made by all parties to recognize the O-Pipon-Na-Piwin Cree and applications have been made, but this is given but passing acknowledgement and no analysis of how this relates to cumulative effects, or to how each of the two Cree Nation communities will be effected.

The CEC is mandated to investigate the changes which will be experienced by the cultures effected by the proposed project, yet you are essentially being told by the proponent's consultants, that Canada thinks the people from these two Cree Nation communities are all the same, so we do too. In fairness to Mr. Osler he testified that he did focus on Nelson House, (41) and he also testified that the culture of the many Cree communities in Northern Canada (42) are not the same. He also testified that he didn't have sufficient knowledge to comment on the distinctions between the two Cree Nation communities that he grouped in the Local Region. (43)

The questions we are left with then is, a) why were we amalgamated in the Local Region where pathways of effects were generalized across a broad Local Region in which we are a minority

instead of being specifically described for each distinct culture, and b) why wasn't the research completed to acquire the knowledge of distinctive cultures and socio-economic conditions that the CEC requires?

With respect to socio-economics Mr. Osler testified that the Guidelines say "you have to look at the zones within which there may be regional or global effects from these projects." By zones he gave an example, "If you are going to affect some caribou and they range over a much bigger range, then you better take account of all the things that are going on inside the areas where they are ranging, or you may miss something that will be critical to them." (44) The O-Pipon-Na-Piwin Cree range over a much bigger range than the area defined within the Local Region. This Local Region leaves out the vast majority of our traditional lands and thereby our economy. The quotas and value of our commercial fishery and trapping grounds cannot be found in the report, and their relationship to project effects is lacking. While the proponent's comment on the effect of Wuskwatim employment patterns on NCN RMA commercial fishing and trapping and domestic harvesting, they do not do the same analysis with respect to our resource area? They call us NCN members, but they treat us differently with respect to traditional resource area analysis.

Mr. Osler also testified that people are not fish. He testified that people have perspectives, goals, and values, and that these are very, very important to understand, in order to comprehend how they get affected by a project. That is why people are not fish. Mr. Osler agreed that the two main communities within the Local Region will experience the effects differently as the pathways of effects will be different. He acknowledged that the people at South Indian Lake are looking at the situation in many instances differently, and that this will affect and is affecting our concerns and issues that have arisen from our unique personal objectives and personal perspectives arising from our history. (45) The effects however, are not analysed.

In energy lingo, "clean energy" seems to imply that it is harmless. This energy isn't harmless. You are invited to visit my community and witness clean harmless energy in the making. There are externalities everywhere - health, social, incarceration, poverty, loss of cultural education, water quality, erosion, floating debris and islands, despair, and hopelessness.

We heard Manitoba Hydro advise that they had conducted a "sensitivity analysis" on a reduced water flow scenario whereby the annual deviation from the CRD known as the Augmented Flow Program was not extended, and that this scenario would reduce the water flows on the Burntwood River by 10%. (Actually 8.6%) Sensitivity analysis is a funny term to me. Our experience has been that Manitoba Hydro has not been very sensitive - to our environment or to our people.

We heard Manitoba Hydro project a Wuskwatim revenue stream of \$50 - \$100 million annually, and simple mathematics tells us that a 10% drop in flows will cost the proponents approximately \$5 - 10 million annually. (46) We also heard Manitoba Hydro testify that even in this scenario, the financial feasibility of Wuskwatim would be just fine. The elders do not understand this. The AFP that causes so many adverse effects on our community will make the proponents a great deal of money, and the Nisichawayasihk Cree Chief and Council who purport to represent us and promote this project say this is good?

Something is wrong when; a) the adverse effects are experienced by my people, b) there is no watch dog to ensure that Manitoba Hydro fully addresses the Provincial Government conditions they attach to the annual AFP deviation; c) the increased revenues that are not required to maintain the feasibility of the project are not used to address the adverse impacts, and d) the revenues accrue to proponents down river. While we respect NCN's sovereignty, as I said at the beginning, the exercise of their sovereignty should not adversely impact that of another.

These facts that are truly part of the socio-economic and cultural environment in which the proposal proceeds, are complicating the proposal. This is not the fault of the O-Pipon-Na-Piwin Cree Nation. We would have preferred to have been recognized independently a long time ago. In fact it is the reverse. The proposal brought forward by the project proponents is complicating our lives yet again, and the potential effects on the O-Pipon-Na-Piwin Cree are not analyzed.

We will keep seeking our rightful independent recognition forever. We will keep pushing Manitoba Hydro to honour the conditions attached by the Manitoba Minister of Conservation to the AFP deviation to the interim license for the Churchill River Diversion. We formally request Manitoba to explain why it is that the impacts are not fully mitigated and our lake operated in a manner to minimize adverse effects as stipulated year after year after year? The AFP that is so very lucrative to Hydro and the proponents of Wuskwatim, is also full of adverse effects on our lake, and on our resource area, that continue endlessly.

The proponents cannot ignore the potential effects on our society, our economy, and our culture again. The CEC mandate is to ensure this does not happen. We ask that you fulfil your mandate. We ask that you extend hope to the people of South Indian Lake, by proving to them that there is truth in Hydro's assertion that there is a new way of doing Hydro development business in Manitoba.

The O-Pipon-Na-Piwin Cree Nation respectfully recommends the following:

- 1) The CEC should ensure that the O-Pipon-Na-Piwin Cree culture and socio-economic setting in South Indian Lake is accurately portrayed in the EIS, so that we are able to monitor change and determine effects, especially in relation to our commercial fishery, other traditional harvesting, and culture. We need this base line established.
- 2) That the proposed employment monitoring within the Local Region,(47) needs to separate the effects experienced by South Indian and Nelson House, so that we can precisely analyse the results and determine appropriate and targeted mitigative measures and follow up.
- 3) To recognize that a social and cultural effect of the proposed project is the further division of communities and families, and increased financial disparity between communities. At present there is no recognition of this effect or analysis. If the equity cash flow to a community is a significant effect, so too is the social disparity that will be created between communities.
- 4) That the AFP conditions set out by the Minister of Conservation every year for the past 12 years should be enforced.

5) Recognition that adverse effects from the CRD are ongoing, outstanding business that needs to be dealt with, to protect the Honour of the Crown and their Crown corporations, and to restore the lost trust between Cree Nation communities and the utility.

6) That Manitoba Hydro's conversion of South Indian Lake into a reservoir, necessitates that they develop a relationship with the O-Pipon-Na-Piwin Cree immediately, to add reality to their First Nation partnership strategy.

7) Finally, recognition that the Cree Nation community of South Indian Lake has unique interests and cannot be accurately represented by the proponents who have different interests, aspirations, and goals.

Thank you for providing me with an opportunity to address this Commission today. Thank you for listening to the concerns of the O-Pipon-Na-Piwin Cree from South Indian Lake.

FOOTNOTES FOR PRESENTATION:

1a) July 18, 2002 - Assembly of First Nations resolution # 16/2002 moved by Chief Morris Shannacappo, Rolling River FN and seconded by Ted Quewezance, Keeseekoose FN recognizes that there are First Nations who are not recognized by the Indian act but who are recognized by their citizens as First Nations, and resolves that the O-Pipon-Na-Piwin Cree are recognized by their citizens and is a member of the AMC with full privileges, and resolves that the AFN supports the acceptance of the O-Pipon-Na-Piwin Cree Nation as a member of AFN..

1b) July 22, 1998 - Manitoba Keewatinowi Okimakinak in a resolution moved by NCN Councillor Jimmy Spence, numbered 98-07-14 and dated July 22-24, resolved to recognize the South Indian Lake First Nation and directed Grand Chief Francis Flett to lobby INAC Minister Stewart and the Provincial Government for the creation of a reserve in South Indian Lake;

1c) September 24, 1998 - The Assembly of Manitoba Chiefs in a resolution moved by NCN Councillor David Spence, numbered and dated September 98.24, resolved to recognize the South Indian Lake First Nation and directed Grand Chief Rod Bushie to lobby INAC Minister Stewart and the Provincial Government for the creation of a reserve in South Indian Lake;

1d) On September 17, 1997 NCN Chief Primrose and MKO Grand Chief Francis Flett wrote to Indian Affairs Minister Jane STEWART and advised; that Chief Primrose had presented a resolution requesting the MKO Chiefs in Assembly to recognize the First Nation at South Indian Lake. They noted that the O-Pipon-Na-Piwin Cree Nation members of Nisichawaysihk Cree Nation have been living as a separate community at South Indian Lake since at least 1875; that more than 22% of the NCN members reside at South Indian Lake and this has created considerable complications in virtually all aspects of government administration; and that almost all federal and provincial government agencies insist on communicating and negotiating directly with Nelson House First Nation Chief and Council at Nelson House on matters related to the rights, interests, and objectives of the First Nation members at South Indian Lake, instead of resolving these matters directly with the independent First Nation at South Indian Lake. They also advised that;

“The Chief and Council of the Nelson House First Nation have recognized the membership at South Indian Lake as the South Indian Lake First Nation, and MKO has now recognized the South Indian Lake First Nation as the 27th member MKO First Nation.”

In summary they conclude,

“It is evident that the South Indian Lake First Nation should be immediately recognized by you and your Department as a band within the meaning of the Indian Act, and that reserve lands should be established for the use and benefit of the South Indian Lake First Nation. Such actions by your Department would support the South Indian Lake first Nation as an existing, viable, and ongoing community, and would provide for the jurisdiction of the South Indian Lake first Nation government over the affairs of its members.”

- 2) BCR #313-29-03-038 dated July 28, 2003 reiterates the agreement to a division of lands of the TEA, and will transfer (22.25%) 17,674.29 acres for the use and benefit of O-Pipon-Na-Piwin Cree Nation; on the understanding that additional lands may be transferred once the Manitoba easements calculations are completed pursuant to the terms of the TEA. The BCR further confirms the crown land selections made by O-Pipon-Na-Piwin Cree Nation, and confirms that these should be set apart for the use and benefit of the OPCN. NCN also confirms the selections only and does not wish for Canada or Manitoba to process them beyond step 2.08 of the "Land Transfer and Reserve Creation Process Manual" (which manual was produced by the TLEC, Canada, and Manitoba as mandated by section 6.04 of the FA, and as executed by the Senior Advisory Committee in November, 1999), and NCN requests that a crown land use permit be issued granting the NCN members living on or near SIL the exclusive right to use and occupy the land selection prior to them being set apart as reserve for the OPCN.
- 3) BCR #313-291, dated October 23, 1995 This BCR resolves that NHFN Council supports the separation of the band members identifying SIL as their home community, from the members identifying NH as their home community for purposes of recognizing the members from SIL as a distinct band within the meaning of the IA subject to conditions.
- 4) Transcript Page 4914 line 24 and 25
- 5) Transcript Page 4914 - line 1-25.
- 6) NCN Opinion survey Results - Members residing in South Indian Lake, page 34.
- 7) EIS, Volume 8, page 8-268
- 8) April 14, Transcript Page 4829, line 24.
- 9) Knight was very experienced having worked for the HBC at posts on James Bay since at least 1676. In 1714, when he was approximately 75 years old, he was the Governor in Chief for the HBC at York Fort, and here he recorded the first HBC records from a post in what is now Manitoba. His Deputy was Henry Kelsey.
- 10) In addition, he recorded that they preferred not to cross out of the Churchill River drainage basin into the Nelson River drainage basin and travel to York Factory to trade. The journal confirms that a Cree Nation occupied the Great South Indian Lake in 1717 and for an undetermined period prior to the Knight journal.
- 11) *The North West Company opened a competing trading post in 1805. The resource area was rich, the fishery was the largest in the northern Manitoba, and the caribou herds were plentiful. It was only when the trading companies relocated for financial reasons that our people were required to travel further to trade. We are connected through marriage to the other Cree bands*

around us, but our Nations functioned independently, each in their own traditional homeland and resource area.

12) Treaty Research Report: Treaty One and Treaty Two by w.E. Daugherty, Treaties and Historical Research Centre, INAC, 1983, page 8

13) Indian Claims Commission, Gambler First Nation Inquiry, Treaty Land Entitlement Claim, October, 1998, page 12.

14) Treaty Research Report: Treaty Five, (1875-1908) by Kenneth S. Coates and William R. Morrison for Treaties and Historical Research Centre, INAC, 1986, page 48.

15) Ibid, page 52-53, 60. - Both posts were located outside Manitoba in the North West Territories at the time. He was authorized to pay up to a \$5.00 per person gratuity, and paid this to Split Lake. At the Nelson House negotiation only \$3.00 was offered and when the Chief requested the same as Split Lake, he was told that he spoke up too late and was refused. Semmens had specific instructions to try and negotiate the lowest possible annuity. Minimizing the costs to Government that would arise through this Treaty "negotiation" was clearly an objective of the Treaty Commissioner. The Treaty negotiation was virtually non-existent as Semmens had no discretion and was specifically instructed that there would be no outside promises. Only the text written on the Treaty Five adhesion document he brought with him was acceptable. In addition, he was only authorized to negotiate with two bands - the "band" trading out of the Split Lake HBC Post and the "band" trading out of the Nelson House HBC post.

16) Treaty Research Report: Treaty Five, (1875-1908) by Kenneth S. Coates and William R. Morrison for Treaties and Historical Research Centre, INAC, 1986, page 53.

17) Ibid, page 50. The fact that Treaty Commissioner Semmens had no discretion is underscored by his actions the following year at the 1909 adhesions to Treaty #5. Here he refused to make Treaty with the Sucker Lake Band who refused to be amalgamated with the bands trading out of the Island Lake HBC post. (Ibid, page 61)

18) Treaty Five Adhesion Documents - The signature blocks for each of Split Lake and Nelson House read similarly. The Nelson House signature block reads;

"In witness whereof, His Majesty's Special Commissioner and the Chiefs (plural) and Councillors of the Bands (plural) hereby giving their adhesion to the said Treaty have hereunto subscribed and set their hands at Nelson house this thirtieth day of July in the year of our Lord one thousand nine hundred and eight."

This confirms that each signing represented a number of bands, as had earlier been the norm at many Treaty signings. The document signed by Split Lake was separate from that signed by Nelson House and was actually the wrong document. (Ibid, pages 54 and 55)

- 19) Indian Claims Commission, Kahkewistahaw First Nation Treaty Land Entitlement Inquiry, 1998.
- 20) The Pas Nation had lived in four main communities at Treaty (*The Pas, Birch River, The Pas Mountain, and File Lake*) and in short order divided into four bands (Red Earth, Shoal Lake, and Birch River being the other three); Norway House was formally divided and a separate band of members moved to Fisher River; Moose Lake lived at both Moose Lake and Cedar Lake and the band was subsequently divided and Chemawawin recognized. Cumberland House who also signed Treaty #5, had lived in six main communities (*Cumberland Island, Sturgeon River, Angling River, Pine Bluff, Beaver Lake, and the Ratty Country*) and, abandoned their assigned reserve, and moved to a site near Fort a la Corne in the Treaty Six area. Only Cross Lake stayed intact.
- 21) As early as the December 1, 1909 annual report by W. J. McLean who was paying Officer for Treaty #5 in that year, there are references to a reserve location for the Nelson House Band. He refers to discussions with Nelson House Band whereat he was advised that it would not suit them to have their reserve land laid out in one block, and that fishing facilities would have to be considered. On February 11, 1911, J. Semmens, Inspector of Indian Agencies writes to the Secretary of the Department of Indian Affairs and advises that in nearly every case the Indians preferred to have a meeting with the surveyor prior to him commencing the surveys. In 1913 when the surveyor arrived to survey the reserve for the Nelson House Band, the vast majority of the people were away.
- 22) May 20, 1914 Surveyors report from Donald Robertson. The reserve survey was completed in one block of four parcels at Nelson House despite the Treaty paying officer's report in 1909 which stated that the Indians did not want their reserve in one place but instead to have fishing facilities considered. Immediately some of the band members were upset with the location of the reserve land. The surveyor reported that agitation arose to the location before the surveyor was even finished the survey.
- 23) Canada defined a relationship with the South Indian Lake people that was identical to many of these other relationships. The leaders of the South Indian Lake community were elected pursuant to the Indian Act, held a place on the Nelson House Council and were the Chief spokesmen for their people and community on all matters. Indian Affairs went into the community regularly, met with the Headman / Councillors, and conducted business on a full range of topics and programs which were identical to those topics discussed in all other communities of Treaty people. {For example, in January, 1960, a meeting was held in South Indian Lake to discuss; summer commercial fishing, (equipment for which was provided by the Department), conservation of caribou, (requests to only feed fish to dogs made by Department), relief assistance (individual's situations reviewed and addressed by Indian Agent), housing (materials for repairs and new housing requested and committed to by the Indian Agent), as well as the ongoing community request for their own reserve.} The topics of independent band recognition and reserve land status in South Indian Lake were of course as old as the initial

survey of the reserve at Nelson House in 1913, and had been negotiated with the Province and consistently recommended by the Indian Affairs Regional Office to Ottawa throughout the intervening years.

24) Innovation and Enterprise: A History of Fur conservation in Northern Manitoba, 1935-1948, R.G. Carmichael, June 1973, page 23.

25) In summary;

- 1) The northern RTLs were formed for each band (not initially individuals), and administered by a Head Trapper for that community,
- 2) The boundaries were settled in negotiation with all surrounding bands and all, (including Nelson House), agreed with the area defined as the SIL RTL, was not their resource area, but that of the band in SIL.
- 3) Both Indian Affairs and Manitoba were involved in the implementation of this scheme to ensure conservation became the foundation of the trapping industry. Indian Affairs funds 65% of the first 5 years of the Agreement and 50% of the remaining 5 years.
- 4) This 1945-1955 time period is the time that there is a great deal of information on establishing the reserve in SIL, exchange of maps, and Indian Agent meetings in SIL on all subjects normally the subject of Indian Agent - band meetings (without any representatives from the Community of Nelson House) etc. The natural resource opportunities, concerns, and challenges of the band at South Indian Lake were addressed by both Manitoba and Canada independently and uniquely.
- 5) The Crown established an exclusive area to trap (the SIL RTL excepting a few lines for established white trappers) for the band living in SIL collectively, not individually,
- 6) While not interests in land, the SIL band held exclusive rights to hunt and trap within a geographic area to the exclusion of all others, including Treaty Indians from all other communities.

26) Treaty Research Report: Treaty One and Treaty Two, W.E. Daugherty, 1983 for the Treaties and Historical Research Centre Research Branch, Corporate Policy, INAC, page 8 and 9.

27) Headman Baker October 25, 2002 letter and analysis to Regional Director General.

28) Transcript Page # 4809, line 8-12.

29) Official Count of the Results of Referendum Held March 15, 1978.

30) Northern Flood Agreement Arbitrator, Campbell Mac Lean QC decision dated March 23, 1989 in the matter of Claim #47 and the application of the Northern Flood Agreement.

- 31) In the 1992 CASIL Agreement preambles, page 4 and 5, it is referenced that Manitoba Hydro appealed the decision of the Arbitrator to the Manitoba Court of Appeal. But subsequently the parties entered into a December 29, 1989 Memorandum of Understanding, pursuant to which extensive negotiations were conducted and the hearing of the said appeal to the Manitoba Court of Appeal was postponed.
- 32) Augmented Flow Program Deviation extended to Manitoba Hydro by the Minister of Conservation dated April 14, 2003.
- 33) April 4, 1995 - Manitoba, Canada, the First Nation Peoples of South Indian Lake, and the Nisichawayasihk Cree Nation (NCN) agreed in an MOU to use their best efforts to ensure the success of a process leading to the recognition of the First Nation in South Indian Lake, which is known as the O-Pipon-Na-Piwin Cree Nation (OPCN), and the setting apart of the 1992 Settlement Agreement compensation lands as a reserve for the use and benefit of OPCN;
- 34) Ministerial letters followed which clarified that this MOU represented a commitment on behalf of the Crown. Minister Irwin also wrote to Manitoba in 1995, and requested that the Province transfer the Community of South Indian Lake to Canada for purposes of the new reserve. When Manitoba did so, only to have Canada not accept the Manitoba Order in Council, the South Indian Lake Community was shocked and again disillusioned. With the signing of the 1995 MOU and the confirming letters from DIAND Minister Irwin that this MOU was a commitment of the Federal Crown, Federal policy with respect to South Indian Lake changed yet again. The Federal Social Assistance program was confirmed to continue until the band was recognized or the proposal rejected. Subsequent Federal Indian affairs Minister Stewart and Nault reconfirmed the Federal commitments.
- 35) NCN's total RMA commercial fish quota is 220,700 kg from Table 3-1 in volume 7.
- 36) Transcript Page 182.
- 37) Transcript Page 184.
- 38) Transcript Page 184.
- 39) Transcript Page 201.
- 40) Transcript Page 199.
- 41) Transcript Page 4823.
- 42) Transcript Page 4821.

- 43) Transcript Page 4829-4830.
 - 44) Transcript Page 204.
 - 45) Transcript Page 4914.
 - 46) Transcript Page 731.
 - 47) EIS, Volume 8, page 8-111, section 3.2.6.
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