

**CLOSING COMMENTS TO THE CLEAN ENVIRONMENT COMMISSION
ON LAKE WINNIPEG REGULATION
BY
PEGUIS FIRST NATION**

**WINNIPEG, MANITOBA
APRIL 15, 2015**

GOOD MORNING TO THE CHAIR AND COMMISSIONERS OF THE CLEAN ENVIRONMENT COMMISSION, MANITOBA HYDRO REPRESENTATIVES, OTHER PARTICIPANTS INVOLVED IN THESE HEARINGS AND THE GENERAL PUBLIC.

ON MARCH 19, 2015 CHIEF GLENN HUDSON AND COUNCILLOR MIKE SUTHERLAND MADE PRESENTATIONS TO THE COMMISSION AND WE WILL PROVIDE A BRIEF SUMMARY WITH FOLLOWING RECOMMENDATIONS.

AT THE OUTSET, IT IS DIFFICULT TO MEASURE THE FOOTPRINT ON LAKE WINNIPEG SINCE THE DAM AT JENPEG BEGAN OPERATING IN THE 1970'S. SUFFICE IT TO SAY, MOST OF THE PARTICIPANTS AT THESE HEARINGS DID EXPRESS CONCERN IN A NUMBER OF WAYS AND EACH HAS OR WILL SHARE RECOMMENDATIONS ON MATTERS CONCERNING LAKE WINNIPEG. TO PROVIDE A BETTER ASSESSMENT ON THE FOOTPRINT ANALYSIS, IT WOULD BE PRUDENT TO CONDUCT FURTHER STUDIES IN ALL AREAS TO MAKE IT MEANINGFUL AND COMPLETE.

CHIEF HUDSON EXPRESSED CONCERN ABOUT DEVELOPMENTS THAT ARE OCCURRING ON LANDS WHICH PEGUIS HAS ASSERTED ABORIGINAL TITLE AND ACCORDINGLY SOME FORM OF RECONCILIATION MUST BE ADDRESSED BEFORE FURTHER DEVELOPMENTS ARE UNDERTAKEN.

CHIEF HUDSON SPOKE OF THE ANACHRONOUS TIMING OF THESE HEARINGS. TO BE FAIR, THE HEARINGS MUST FOLLOW A PROPER SEQUENCE AS OUTLINED IN THE SUPREME COURT OF CANADA. IF THE WHOLE PROCESS IS COMPARED TO A FOUR PERSON RELAY RACE WHERE THE BATON IS PASSED ON TO THE NEXT LEG, THE FIRST LEG IN THIS PROCESS IS MISSING. THE FIRST LEG IS THE CROWN'S DUTY TO CONSULT AND ACCOMMODATE. THAT IS WHY CHIEF HUDSON STATED THAT FAULTY TIMING CAN LEAD TO FAULTY OUTCOMES.

CHIEF HUDSON REFERRED TO ABORIGINAL TRADITIONAL KNOWLEDGE (ATK) AND THE LACK OF IT ESPECIALLY AROUND LAKE WINNIPEG. CERTAINLY ATK MAY HAVE BEEN USED IN THE NELSON RIVER AREA BUT IS ALARMINGLY ABSENT IN THE NORTH AND SOUTH BASIN OF LAKE WINNIPEG.

CHIEF HUDSON DESCRIBED LAKE WINNIPEG AS A GIANT RESERVOIR WITH ELEVATED WATER LEVELS THAT ARE MAINTAINED AT A HIGHER LEVEL WITH CONSEQUENCES TO THE PEGUIS FIRST NATION. HE STATED THAT SINCE THE MIDDLE OF THE 1970'S HIS COMMUNITY HAS SUFFERED MASSIVE FLOODING CAUSING EVACUATIONS AND FLOOD DAMAGE TO HOUSING UNITS.

ON A FURTHER NOTE ON RECONCILIATION, CHIEF HUDSON STATED THAT HE WAS NOT CONVINCED THAT MANITOBA HYDRO WAS NOT COMMITTED TO THE CONCEPT OF RECONCILIATION WITH FIRST NATIONS AROUND OR NEARBY LAKE WINNIPEG. HE QUOTED THE MIKISEW CASE OF THE SUPREME COURT OF CANADA STATED THERE IS A REQUIREMENT FOR CONTINUED RECONCILIATION.

IN COUNCILLOR SUTHERLAND'S PRESENTATION HE REFERRED TO THE 1971 ENVIRONMENTAL AND SOCIAL IMPACTS STUDIES DONE IN THE NELSON RIVER AREA BUT NO STUDIES WERE CONDUCTED AROUND LAKE WINNIPEG.

COUNCILLOR SUTHERLAND REFERRED TO THE NORTHERN FLOOD AGREEMENT (NFA) AND THE COMPREHENSIVE IMPLEMENTATION AGREEMENTS (CIA) FOR THE NELSON RIVER AREA AND NOTED THERE WERE NO AGREEMENTS FOR FIRST NATIONS AROUND LAKE WINNIPEG.

COUNCILLOR SUTHERLAND ALSO NOTED THERE WERE STUDIES AND CONSEQUENT AGREEMENTS ON COMMERCIAL AND DOMESTIC FISHING ON THE NELSON RIVER AREA BUT NO STUDIES OR AGREEMENTS ON LAKE WINNIPEG.

IN THE AREA OF HUNTING, TRAPPING AND GATHERING THERE WERE A NUMBER OF SETTLEMENT AGREEMENTS WITH COMMUNITIES SUCH AS PIKWITONEI, THICKET PORTAGE, AND WABOWDEN AND AGAIN NO SUCH AGREEMENTS AROUND LAKE WINNIPEG.

COUNCILLOR SUTHERLAND REFERRED TO SACRED SITES ALONG LAKE WINNIPEG AND THAT NO PROTECTIVE ACTION WAS UNDERTAKEN TO PRESERVE THESE CULTURAL, RELIGIOUS AND TRADITIONAL SITES. WOULD ANY FORM OF REDRESS THAT IS FAIR AND JUST BE CONSIDERED FOR THIS LOSS?

IN THE AREA OF FISHING, COUNCILLOR SUTHERLAND STATED THAT THE GREATER OUTFLOWS AT THE NORTH END OF LAKE WINNIPEG HAS ACCELERATED THE CURRENT THAT AFFECTS THE SPAWNING GROUNDS OF LAKE WINNIPEG FISH. THIS HAS ALSO AFFECTED THE ICE THICKNESS ON LAKE WINNIPEG MAKING ICE FISHING MORE HAZARDOUS. THE ELEVATED WATER LEVELS HAS INCREASED EROSION WHERE ISLANDS SUCH AS BIG TAMARACK AND LITTLE TAMARACK ARE VISIBLY AFFECTED.

THE NETLEY-LIBAU MARSH AREA IS GREATLY AFFECTED BY THE HIGH WATER RESULTING IN LOSS OF CATTAILS, BULLRUSHES AND GIANT REEDS. THESE PLANTS ACT AS FILTERS OF THE WATER AND WHEN FILTERS ARE GREATLY COMPROMISED MORE TOXINS ARE FOUND IN THE LAKE. MEDICINES IN AND AROUND THE NETLEY MARSH ARE AFFECTED BY THE ELEVATED WATER RESULTING IN LOSS OF TRADITIONAL MEDICINES.

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES WAS SIGNED ON SEPTEMBER 13, 2007 AND CANADA SIGNED ON IN NOVEMBER 12, 2010. SOME OF THE ARTICLES IN THAT DECLARATION ARE APPROPRIATE AND ARE NOTED.

ARTICLE 19: STATES SHALL CONSULT AND COOPERATE IN GOOD FAITH WITH THE INDIGENOUS PEOPLES CONCERNED THROUGH THEIR OWN REPRESENTATIVE INSTITUTIONS IN ORDER TO OBTAIN THEIR FREE, PRIOR AND INFORMED CONSENT BEFORE ADOPTING AND IMPLEMENTING LEGISLATIVE OR ADMINISTRATIVE MEASURES THAT MAY AFFECT THEM.

ARTICLE 24: INDIGENOUS PEOPLES HAVE THE RIGHT TO THEIR TRADITIONAL MEDICINES AND TO MAINTAIN THEIR HEALTH PRACTICES, INCLUDING THE CONSERVATION OF THEIR MEDICINAL PLANTS, ANIMALS AND MINERALS.

ARTICLE 25: INDIGENOUS PEOPLES HAVE THE RIGHT TO MAINTAIN AND STRENGTHEN THEIR DISTINCTIVE SPIRITUAL RELATIONSHIP WITH THEIR TRADITIONALLY OWNED OR OTHERWISE OCCUPIED AND USED LANDS, TERRITORIES, WATERS AND COASTAL SEAS AND OTHER RESOURCES AND TO UPHOLD THEIR RESPONSIBILITIES TO FUTURE GENERATIONS IN THIS REGARD.

ARTICLE 26: (1) INDIGENOUS PEOPLES HAVE THE RIGHT TO LANDS, TERRITORIES AND RESOURCES WHICH THEY HAVE TRADITIONALLY OWNED, OCCUPIED OR OTHERWISE ACQUIRED. (2) INDIGENOUS PEOPLES HAVE THE RIGHT TO OWN, USE, DEVELOP AND CONTROL THE LANDS, TERRITORIES, AND RESOURCES THAT THEY POSSESS BY REASON OF TRADITIONAL OWNERSHIP OR OTHER TRADITIONAL OCCUPATION OR USE.

ARTICLE 28: INDIGENOUS PEOPLES HAVE THE RIGHT TO REDRESS, BY MEANS THAT CAN INCLUDE RESTITUTION OR, WHEN THIS IS NOT POSSIBLE, JUST, FAIR AND EQUITABLE COMPENSATION, FOR LANDS, TERRITORIES AND RESOURCES WHICH THEY HAVE TRADITIONALLY OWNED OR OTHERWISE OCCUPIED OR USED, AND WHICH HAS BEEN CONFISCATED, TAKEN, OCCUPIED, USED OR DAMAGED WITHOUT THEIR FREE, PRIOR AND INFORMED CONSENT.

ARTICLE 32: (2) STATES SHALL CONSULT AND COOPERATE IN GOOD FAITH WITH THE INDIGENOUS PEOPLES CONCERNED THROUGH THEIR OWN REPRESENTATIVE INSTITUTIONS IN ORDER TO OBTAIN THEIR FREE AND INFORMED CONSENT PRIOR TO THE APPROVAL OF ANY PROJECT AFFECTING THEIR LANDS OR TERRITORIES AND OTHER RESOURCES, PARTICULARLY IN CONNECTION WITH THE DEVELOPMENT, UTILIZATION OR EXPLOITATION OF MINERAL, WATER OR OTHER RESOURCES.

RECOMMENDATIONS

- 1. THAT A FINAL LICENCE NOT BE ISSUED UNTIL THERE ARE FURTHER STUDIES TO PROVIDE A FOOTPRINT ANALYSIS OF LAKE WINNIPEG REGULATION.**
- 2. THAT PEGUIS WILL NOT PROVIDE ANY FORM OF CONSENT TO FURTHER DEVELOPMENTS ON LAKE WINNIPEG REGULATIONS.**
- 3. THAT A COMPREHENSIVE STUDY OF ABORIGINAL TRADITIONAL KNOWLEDGE (ATK) BE CONDUCTED AROUND LAKE WINNIPEG.**
- 4. THAT ANY RECOMMENDATION BY THE CLEAN ENVIRONMENT COMMISSION BE DEFERRED UNTIL THE PROVINCIAL CROWN HAS MET ITS DUTY TO CONSULT AND ACCOMMODATE FIRST NATIONS IN AND AROUND LAKE WINNIPEG.**
- 5. FURTHER STUDIES ARE REQUIRED TO ASSESS THE FLOODING OF FIRST NATION COMMUNITIES WITH THE ELEVATED LEVELS OF LAKE WINNIPEG.**

6. THE PROCESS OF RECONCILIATION MUST BEGIN AND BE CONTINUED WITH FIRST NATIONS AROUND LAKE WINNIPEG.
7. ENVIRONMENTAL AND SOCIAL IMPACT STUDIES BE CONDUCTED FOR FIRST NATIONS AROUND LAKE WINNIPEG.
8. FURTHER STUDIES ARE REQUIRED FOR COMMERCIAL AND DOMESTIC FISHING ON LAKE WINNIPEG.
9. FURTHER STUDIES ARE REQUIRED ON HUNTING, TRAPPING AND GATHERING.
10. FURTHER STUDIES ARE REQUIRED IN ASSESSING SACRED SITES, LOSS, DESTRUCTION AND ANY FORM OF REDRESS.
11. ADOPTING THE RECOMMENDATION OF DR. GOLDSBOROUGH ON THE NETLEY-LIBAU MARSH THAT THE WATER LEVEL IN LAKE WINNIPEG BE DECREASED BY TWO FEET FOR UP TO TWO YEAR PERIODS ON CYCLES OF TEN YEARS.
12. THAT THE CLEAN ENVIRONMENT COMMISSION ADOPT THE ARTICLES IN THE UNITED NATIONS DECLARATION OF RIGHTS OF INDIGENOUS PEOPLES PARTICULARLY ARTICES 19, 24, 25, 26, 28 AND 32.
13. PEGUIS ADOPTS THE RECOMMENDATIONS ISSUED BY THE CONSUMER'S ASSOCIATION OF CANADA.
14. PEGUIS ADOPTS THE RECOMMENDATIONS ISSUED BY MANITOBA WILDLANDS.
15. TO FURTHER THE STUDIES REQUIREMENTS AND TO PROVIDE A MEANINGFUL PRODUCT, THE ISSUE OF CAPACITY MUST BE CONSIDERED.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
PEGUIS FIRST NATION

