

Chief Coreen Sayazie, Black Lake  
Presentation to EA Review Panel

Tuesday September 20, 9:00 to 5:00 PM

Radisson Hotel Saskatoon  
405 20th Street East  
Room: Michelangelo A  
Saskatoon, Saskatchewan

Greetings to Madame Chair Gélinas and the Panel, my name is Diane McDonald, ED of Yathi Nene Lands and Resource Office, I will be presenting on behalf of Chief Coreen Sayazie of the Black Lake First Nation in northern Saskatchewan.

Chief Sayazie in her presentation will talk about recognizing and protecting Treaty Rights in the federal EA process. She is unable to attend due to the short notice of the Panel's review process and unable to travel from a remote community due travel issues.

When you're trying to determine impacts to Treaty rights of a project, you need to understand whose Treaty Rights you are referring to. This requires taking the proper steps to get to know our people, our lands, and what is important to us.

The estimations of significance on impacts to Treaty Rights are being done by the hired consultants to the company based on a narrow and limited viewpoint. These estimations don't live up to the standards and promises of protecting the land and our communities because there is no ground truthing of the data or the estimations of impact in the communities. This

requires day to day monitoring and follow up to see how we the impacts really occur in our communities. One of the things that is troublesome is that even when we share our concerns about the impacts to our communities, governments rely too heavily on industry's data and do not give equal weight to our deep knowledge of the land that comes from generations and generations of living here. Too often, the cultural, social, and Treaty rights effects of projects are treated as a "tick the box" afterthought on federal EAs. Even though the proponent must collect this data, they need federal guidance on the spirit and intent of Section 5(1)(c) of the Canadian Environmental Assessment Act 2012. And this guidance needs to be informed by Aboriginal communities.

There is no guidance for understanding how treaty rights are being impacted. There is guidance on consultation, but there is no technical guidance on how to conduct an effect assessment of a project on our Treaty rights. The guidance on consultation is simply about how to work and speak with us but not on how to assess impacts on Treaty rights. There needs to be clear guidance on this, not open to interpretation, and clearly articulated. When there are impacts, we need to find ways to accommodate those impacts, or reject projects, because Treaty rights should be prioritized.

It doesn't do us any good to monitor caribou or water quality or food safety if there are no plans in place to act on what you find. In the monitoring plans, there has to be a defined point that will trigger action to make things right if you find something is wrong. Instead of assuming

a project won't have a significant effect, there also needs to be a plan for how you will measure those effects, and how you will manage any negative outcomes.

On the topic of caribou, the numbers have declined in most regions, and we have a very hard time answering the question of what it was that caused the decline. If you lived off the land for 12 months of the year, and now you're not able to use that wildlife for subsistence, how do you prove why they have declined? Not only is it harder and harder for our harvesters to find wildlife for subsistence, there's no way for us to know if the ones that do remain are safe for us to eat. Our confidence in the food we have traditionally relied on is getting smaller and smaller because there is no certainty in what is going to happen to our wildlife. These impacts to caribou, fish, water levels, and so on, are all impacts to our Treaty rights because we rely on these things for our individual subsistence and for our communities and cultures to thrive.

One solution to this problem of uncertainty is to involve us at the community level in review of projects, and then setting in place measures we can track. We have a hard time having faith in second hand science that says there will be no significant impacts when we see the evidence of impacts all around us. It seems like we get left out of the equation because even when we see these impacts, we have a very hard time proving it in the ways that are accepted. If we were involved in each project ahead of time, we could have an understanding between the parties about which impacts matter, how they will be measured, and what needs to happen to make the impacts right. By engaging with us in this way, we can bring all of the knowledge we have of our territory to make the process stronger, and it will help maintain trust and faith in the

process. Not only that, but we need to be engaged in the assessments of Treaty rights impacts because they are OUR rights being impacted. No one knows our rights better than we do, and no one feels the impacts more clearly than us.

Improving the federal EA process to recognize Treaty rights also includes having clear guidelines on traditional use and occupancy. There is no consistency in the way use and occupancy is assessed, which really undermines the process. Sometimes a consultant is hired by a company, and they interview a few people and then table a traditional use study without understanding the protocol and methodology, we need to set the parameters and methodology protocols in place when industry is conducting studies, utilizing local experts to assist in these matters. We as First Nations, sometimes find funding to do proper descriptions of our traditional use and knowledge when making our voices heard for such projects in the past.

The goal should be to get a full picture of how the land is used and valued by the nation, not to check a box saying it's been done. The use and occupancy guidelines are critical for the protection of our Treaty rights, and they need to be rigorously applied to every project. Not only that, but the results have got to be used to make real changes to the projects to protect the areas of importance that have been identified by the communities. A process that asks for our input, but then goes ahead anyway, destroys the confidence we have in the assessment, and violates our rights. You have to be ready to hear what we have to say, and you have to be ready to act on what we tell you.

The last point I want to make is about court cases. If your process is done in a way that respects aboriginal and treaty rights, there wouldn't be a lot of court cases where we have to prove our rights. That is the last resort that we have when we feel our arguments to the regulatory processes are not strongly considered. That part of that process needs to change. You have to weigh that information in the balance. We need to avoid those decisions and approaches by the agencies so that aboriginal people are respected.

We are not against economic development, but it needs to be a balanced approach. Part of that approach needs to include recognizing our Treaty rights as fundamentally important, involving us in monitoring any impacts to those rights, and having guidance on determining traditional use and occupancy. We would like you, the Panel, to take this review seriously because the changes you make or don't make have real impacts on us. We want to see the process changed so that our Treaty rights are given due weight and consideration in making project decisions so that we don't have to compromise our rights in the name of development.

Thank you to Madame Chair and the Panel for this opportunity to present.