

PIMICIKAMAK LAW
Pimicikamak Okimawin Onasowewin

The Pimicikamak NFA Implementation Law
UNOFFICIAL OFFICE CONSOLIDATION

This Law is made by Pimicikamak:

Whereas the Creator gave Pimicikamak responsibility to govern itself, its lands, its people and its traditional resources;

And Whereas the Nation governed itself in the tradition of the Cree people during time beyond memory;

And Whereas the Nation exercises inherent jurisdiction, including jurisdiction in respect of Treaties made or to be made by the Nation, and Treaty rights and aboriginal rights of its people;

And Whereas in 1875 the Cree people, including the ancestors of the Nation, made Treaty with Her Majesty Queen Victoria;

And Whereas in 1930 His Majesty King George V gave Royal Assent to the British North America Act, 1930, affirming an agreement between Canada and Manitoba dated December 14, 1929, which transferred Crown lands in Manitoba to the Province without the knowledge or consent of the Nation;

And Whereas in or about 1970, Manitoba Hydro undertook the Lake Winnipeg, Churchill and Nelson Rivers project;

And Whereas in 1970 the government of Manitoba granted to Manitoba Hydro an interim licence to proceed with the project;

And Whereas Manitoba Hydro proceeded to construct the project, including a dam at Jenpeg, without prior consultation with the Nation;

And Whereas in 1974 the Cross Lake Band of Indians and four other Bands established the Northern Flood Committee to protect the interests of their communities;

And Whereas in 1975 the Band discovered that the project would use shorelines and lands of the community for water storage;

And Whereas Canada holds these lands in trust for the use and benefit of the Band;

And Whereas representatives of Manitoba Hydro assured the Band that the project would have little or no adverse effect on the community and the livelihood of the Nation;

And Whereas the NFC negotiated with Canada, Manitoba and Manitoba Hydro for four years on behalf of the Bands;

And Whereas Canada advised the Bands to conclude an agreement with Manitoba and Manitoba Hydro, failing which Canada could give Manitoba Hydro the right to use their reserve lands without their consent;

And Whereas Manitoba and Manitoba Hydro offered a partnership whereby the project would use traditional lands of the Nation to mutual benefit;

And Whereas Manitoba Hydro promised to fully remedy every adverse effect of the project;

And Whereas the parties promised to address mass poverty and unemployment in the communities;

And Whereas the parties promised rights and benefits in addition to existing rights and benefits under Treaty #5;

And Whereas in 1977 the promises of the parties were recorded in the Northern Flood Agreement and signed on behalf of the NFC and the parties, Canada, Manitoba and Manitoba Hydro;

And Whereas in the Cree culture such promises are sacred, and a matter of honour;

And Whereas the obligations of the parties were to continue for the lifetime of the project;

And Whereas the membership of necessity placed their trust in the parties to keep their promises in good faith;

And Whereas in 1978 the membership ratified the Agreement;

And Whereas after the Agreement was ratified the parties failed and refused to implement the Agreement, and Manitoba Hydro denied responsibility for adverse effects of the project;

And Whereas Manitoba Hydro's assurances about the project were found to be untrue;

And Whereas the project reversed the state of nature on Cross Lake, ruined the beauty of the community, and destroyed the livelihood of the Nation;

And Whereas in 1979 the project caused, on Cross Lake, the worst water level fluctuation ever recorded on any lake in Manitoba;

And Whereas in 1982 the Bands and their members filed numerous claims with the Arbitrator to preserve their rights under the Agreement;

And Whereas the NFC incurred costs as a result of the failure and refusal of the parties to implement the Agreement;

And Whereas the Arbitrator ordered the parties to reimburse these costs by reason of their refusal and failure to implement the Agreement;

And Whereas the Manitoba Court of Appeal reversed the Order of the Arbitrator because the Agreement did not specifically provide for the parties to reimburse costs of the NFC;

And Whereas the parties used this opportunity to destroy the NFC and to frustrate implementation of the Agreement;

And Whereas the NFC and the Band were approached by consultants who offered to obtain the financial support needed to implement the Agreement;

And Whereas Canada provided financial support for the costs of retaining these consultants;

And Whereas the consultants prepared a document which came to be known as the Proposed Basis of Settlement;

And Whereas the consultants advised that the Proposed Basis of Settlement would implement the Agreement;

And Whereas it became clear that the Proposed Basis of Settlement would effectively extinguish the Agreement in exchange for certain monies;

And Whereas the Proposed Basis of Settlement was rejected by the membership;

And Whereas in May, 1993, representatives of the parties met with the membership in Cross Lake and proposed to negotiate implementation of the Agreement;

And Whereas in November, 1993, the parties undertook in writing to negotiate and agree upon comprehensive implementation of the Northern Flood Agreement;

And Whereas the parties agreed that negotiations would not delay implementation of the Agreement;

And Whereas the membership expressed, through the Red Book, their wish for implementation to be based on renewed self-governance;

And Whereas in June, 1994, the parties entered into an Interim Implementation Agreement with

the Nation, providing for implementation of the Agreement subject to certain specified exceptions;

And Whereas Manitoba Hydro acknowledged that more than twenty million dollars in compensation was outstanding for adverse effects of the project on the Nation, the Band, and the membership;

And Whereas the parties refused to discuss implementation of the Agreement and insisted upon a Settlement of their own devising;

And Whereas the Settlement proposed by the parties would not truly implement, but would effectively extinguish, most of the Agreement;

And Whereas Manitoba Hydro refuses to pay the compensation which it has acknowledged is owing, unless the Settlement is accepted;

And Whereas the Settlement would provide only pennies per day for each member for effects of the project on their life and livelihood, and would remove the security provided by the Agreement for the future;

And Whereas the government of Manitoba has a long-outstanding obligation to transfer thousands of acres of exchange land for the use and benefit of the Band;

And Whereas for twenty years the government of Manitoba has failed and refused to transfer any exchange land for the use and benefit of the Band;

And Whereas mass poverty and unemployment in Cross Lake continue at levels which are not acceptable in Canada;

And Whereas the Nation has been a good neighbour to Manitoba Hydro for twenty years;

And Whereas Manitoba Hydro and Manitoba have taken the benefits of the Agreement while refusing to meet their obligations;

And Whereas Manitoba Hydro is operating the project unlawfully, using lands set aside for the use and benefit of the Band;

And Whereas the project has caused deaths in the community;

And Whereas many of the Elders most directly affected by the project have died without receiving the compensation due to them under the Agreement;

And Whereas a whole generation has grown up with little opportunity to understand the effects of the project on their lives, and with little hope for the future;

And Whereas it now appears that the parties had no intention of implementing the Agreement;

And Whereas the parties have threatened that, if the Settlement is not accepted, they will not implement the Agreement except as they may be ordered under process of law;

And Whereas the Nation is facing cultural genocide at the hands of the parties;

And Whereas the parties refuse to recognize the Agreement as a Treaty;

And Whereas the Settlement would affect Treaty rights, and the exercise of aboriginal rights;

And Whereas representatives of Canada asserted their right to authorize the Settlement by conducting a referendum of members of the Band under arbitrary rules;

And Whereas the intended referendum has aroused deep concerns within the community;

And Whereas conducting such a referendum may create deep divisions within the community, and so cause great and lasting damage;

And Whereas such a referendum is not authorized by any law;

And Whereas under traditional law of the Nation decisions are made by consensus, not by referendum;

And Whereas traditional law of the Nation reflects the wisdom of many generations;

And Whereas representatives of the parties have refused to recognize or be governed by traditional law;

And Whereas representatives of the parties have conducted themselves in a manner which is not in accord with the standards of civilized peoples;

And Whereas this conduct threatens the survival of the Nation;

And Whereas the Nation has the right to determine its own decision-making process;

And Whereas it is desirable to allay fears, to preserve peace and order, and to resolve uncertainties;

Therefore the Nation, with approval of the Council of Elders and acceptance of the membership, makes this Law:

Name

1. This Law shall be known as the Pimicikamak NFA Implementation Law.

Definitions

2. In this Law, unless a contrary intention appears:

“the Agreement” means an agreement between Canada, Manitoba, Manitoba Hydro and the NFC dated December 16, 1977, known as the Northern Flood Agreement and as Treaty #12;

“the Band” means the Cross Lake Band of Indians, as defined pursuant to the Indian Act, whether known by that name or by the name “Cross Lake First Nation”;

“Canada” means Her Majesty the Queen in Right of Canada;

“compensation monies” means monies received on account of adverse effects of the project;

“Manitoba” means Her Majesty the Queen in Right of the Province of Manitoba;

“Manitoba Hydro” means the Manitoba Hydro-Electric Board;

“the Nation” means Pimicikamak, also known as Pimicikamak Cree Nation and the Cross Lake Nation;

“NFC” means the Northern Flood Committee Inc.;

“the parties” means Canada, Manitoba and Manitoba Hydro;

“the project” has the same meaning as “the project” as defined in the Agreement;

“the referendum” means a plebiscite proposed by the parties to be conducted in respect of the Settlement;

“Resource Area” means the traditional homelands of the Nation;

“the Settlement” means an agreement proposed by the parties, and known as the Comprehensive Implementation Agreement, which would terminate rights under the Agreement.

Settlement

3. The Comprehensive Implementation Agreement is denounced as fraudulent, and Chief and Council are directed not to sign it.

Referendum

4. Representatives of Canada are directed not to conduct the referendum.

No release

5. For greater certainty, nothing in this Law releases any of the parties in respect of any obligation under the Agreement, past, present or future.

Implementation

6. The Nation and the Band shall continue to pursue implementation of the Agreement, according to its spirit and intent, in good faith.

Accountability

7. The parties are hereby called upon to investigate and account for misconduct of their representatives in respect of their fiduciary duties under the Agreement.

National emergency

8. The Nation apprehends a course of conduct involving systematic denial, by representatives of the parties, of rights under the Agreement, amounting to a conspiracy to commit

genocide by depriving the Nation and its citizens of their human rights, their aboriginal and Treaty rights, and their means of survival as a people.

9. A National emergency is hereby declared and shall continue until such time as the Chief and Council by resolution may report to the Nation that it is ended.

10. The declaration of National emergency is a call to place the interests of the Nation ahead of personal interests and to speak with one voice.

Fiduciary duties

11. Every person who has a fiduciary duty by reason of exercising authority or discretion in respect of implementing the Agreement is called upon to exercise that authority or discretion conscientiously and without regard to any conflicting interest.

Conflicts of interests

12. Every person who exercises authority or discretion in respect of implementing the Agreement, or who advises any such person, and who has or may have a conflict of interests in that respect, is called to publicly declare their conflict or potential conflict of interests and, if necessary, to disqualify themselves.

Authorization

13. Chief and Council may by resolution authorize such action as they deem advisable in respect of any person who may act or may have acted contrary to a fiduciary duty or in conflict of interests in respect of the Agreement, to the detriment of the Nation.

Implementation

14. Subject to section 15, every discussion or decision in respect of implementation of the NFA shall be done in the name of the Nation and shall be subject to its express approval by Law.

15. Subject to any other Law of the Nation, every discussion or decision in respect of exchange lands under the NFA may be done in the name of the Band and may be subject to its express approval in accordance with the Indian Act.

Compensation

16. Compensation monies may be paid only to persons who were adversely affected by the project and shall be, to the extent possible, proportioned to the degree of adverse effect.

17. It is not lawful to distribute compensation monies on a per capita basis.

Preamble

18. The making of this Law by the Nation is evidence of the matters set forth in the preamble.

Taking effect

19. This Law takes effect when adopted.

Proposed by Chief and Council: 8 December, 1997;

Referred to the Elders Council: 11 December, 1997;

Referred to the Womens Council: 11 December, 1997;

Referred to the Youth Council: 18 December, 1997;

Approved by the Council of Elders: 18 December, 1997;

Accepted by Special Assembly: 19 December, 1997;

Adopted by Chief and Council: 30 December, 1997;

Took effect: 30 December, 1997.