

# NFAT

## Final Argument of the Keeyask Partner First Nations

May 26, 2014

## **Introduction**

*"The land and waters and the resources have provided for us in the past. We can't exercise our traditional pursuits as in the past because the waters have changed. Yet these waters and their power could once again help to provide for our people."*

- Tataskweyak Cree Nation Elder William Beardy

The words of Tataskweyak Cree Nation Elder William Beardy, made in reference to potential future hydroelectric development on the lower Nelson River, represent an important shift in perception regarding the need for the in-vicinity Manitoba First Nations affected by hydroelectric development to seek a new way forward for the long-term betterment of our communities and members. In choosing to partner with Manitoba Hydro in the Keeyask Project, the members of Manitoba's society most affected by hydroelectric development – the Cree Partners of Keeyask – have made a progressive decision to join the mainstream of Manitoba's economy with the intent of strengthening the socio-economic fabric of our communities.

The Partner First Nations in the Keeyask Generation Project include Tataskweyak Cree Nation and War Lake First Nation, acting together as the Cree Nation Partners, Fox Lake Cree Nation, and York Factory First Nation. In the course of the Needs For and Alternatives To hearings, we made brief presentations to the Public Utilities Board, represented by Mr. Victor Spence (Cree Nation Partners), Ms. Karen Anderson (Fox Lake), Mr. Ted Bland (York Factory) and Mr. Gordon Wastesicoot (York Factory).

The following includes a summary of the main themes discussed by our representatives during these proceedings, including: a brief discussion of hydroelectric development in our Resource Management Areas and traditional territories; the effects of hydroelectric development on our First Nations; our respective First Nations' approvals of a Partnership with Manitoba Hydro to construct, own and operate the Keeyask Generation Project; and the socioeconomic benefits we anticipate from the Keeyask Generation Project.

### ***Hydroelectric Development in our Traditional Territories***

Our decisions to partner with Manitoba Hydro in the Keeyask Generation Project are best understood in the context of past hydroelectric development. Our history with hydroelectric development is well documented – for detailed histories of our respective First Nations, we recommend a review of our Environmental Evaluation Reports, prepared and submitted by us as an equal part of the Keeyask Environmental Impact Statement and approved and relied on by the Clean Environment Commission. In addition to our unique histories, these reports include our respective environmental evaluations of past damages from hydroelectric development and our assessment of the anticipated effects of the Keeyask Project on our communities. They tell the complete story of our participation in the Keeyask Project and how each of our First Nations came to approve it. They were the result of thorough and wide spread consultations with and efforts of our citizens, notably our Elders and resource users.

Each of our First Nations possesses its own history. As Cree people living in the shadows of the hydro dams, however, we have a shared history with hydroelectric development and a mutual understanding of how we experience the impacts of such developments. We note also that while we do not devalue the claims of other Aboriginal groups, it is the Cree Partners of the KHLF which will experience the direct and indirect effects of the projects. Other individuals, for example the limited number of Métis people in the area, may experience some limited impacts. Those limited impacts will be experienced on an individual basis since there are no other organized communities within the impact area of Keeyask which will be adversely impacted. The Clean Environment Commission, in its report, has made that clear. It was this understanding which allowed us to move forward as partners in Keeyask and to speak here regarding these impacts and also of the benefits that will accrue to our First Nations because of Keeyask.

Although there are a variety of historical influences which affected our customs, practices and traditions, none had a greater effect than hydroelectric development. While testifying during these proceedings and discussing the Cree way of life prior to hydroelectric development, Karen Anderson said:

*“Here the lands and waters sustained our communities and provided for all our needs to ensure our survival and well-being. We hunted game for food and used our resources to make products to assist in our daily lives.”*

– Karen Anderson (Pg. 3541 NFAT Transcripts)

We have a long and difficult history with hydroelectric development in our traditional territories, beginning with construction of the Kelsey Generating Station on the Nelson River in 1957. Since then, we have been directly impacted by the effects of four more generating stations on the Nelson River, the diversion of the Churchill River, regulation of Lake Winnipeg and the construction and operation of a network of transmission lines and associated facilities. The environmental effects from these developments were almost entirely unmitigated and had far-reaching effects on our ability to perpetuate our lifestyle in a greatly altered environment. While describing these effects during these proceedings, Ted Bland said:

*“Damming and water regulation caused devastating changes to our world: erosion; siltation; unclean water; destruction of fish and animal habitat; unsafe navigation; impacts on trapping, fishing; impacts on our culture, customs and traditions.”*

– Ted Bland (Pg. 3555 NFAT Transcripts)

It is difficult to overstate the effects of these developments on our people. Hydroelectric development in our territory made it very difficult for us to practice our traditional lifestyle and, as a result, all aspects of our culture have suffered. With little economic opportunity, our people began to fight for recognition of our rights to the lands and waters we have utilized for thousands of years and to search for a new way forward for our people. In the case of our First Nations, this search culminated in the opportunity to explore a potential partnership with Manitoba Hydro to construct, own and operate the Keeyask Project

and to ensure that no project will ever be built again without the free, informed and prior consent of the First Nations in the shadow of that project who are primarily affected by such projects.

### ***Keeyask Will Assist in Socio-Economic Development***

Our four First Nations have actively participated in the negotiation and development of the Keeyask Project for over a decade. Our participation has not been cursory – in fact, we have been involved in developing all facets of the project, including:

- Negotiation of the Joint Keeyask Development Agreement (JKDA) from 2001 to 2009, which includes the commercial terms for constructing, operating, and owning the project;
- Negotiation of individual Adverse Effects Agreements, which include the mitigation measures designed to address effects on the customs, practices and traditions of our First Nations;
- Contributing to and altering to our needs the design of the physical features of the Project;
- Extensive consultation with our respective Memberships for over a decade, culminating in community referendums in 2009 which allowed our Chiefs and Councils to sign the JKDA and our respective AEAs and begin to implement the terms of our Agreements;
- The incorporation of Aboriginal Traditional Knowledge and the Cree worldview in the Environmental Assessment Process;
- Meaningful participation in long-term environmental mitigation and monitoring of environmental effects;
- Negotiation of unprecedented business opportunities to help build a stronger economic foundation in our communities;
- Negotiation of and benefits from significant training and employment opportunities;
- Negotiating long-term jobs at Manitoba Hydro for our Members (Operational Jobs); and
- Annual revenue resulting from our investments in the project which, in the low case is predicted to return 20% on our cash investments and, taking into account all benefits, a return which rises as high as 83%.

Some evidence was provided in the course of the hearing from a small number of members of our communities who have some questions about the project and the processes used by our communities in obtaining free, prior and informed consent of our community members as a whole. In that regard, Karen Anderson spoke to that issue sensitively and properly as follows:

*“But I do want to affirm that we, at Fox Lake, valued and encouraged debate and critical descent. We always try to find consensus and we get as close as we can to a consensus when we – when we can. We did so in our approval of Fox Lake entry into the Keeyask partnership. In fact, after many decades of my own experience, it is my view that, to the extent that some people did not choose to vote in the referenda (sic) at Fox Lake, we would consider that may – there may be two (2) reasons for the abstention.*

*One (1) would be that the member did not care one way or the other. And the other would be that the member was not objecting to the outcome, leaving it instead to the leadership of our community, which – which had been interested (sic: invested) with a duty to do so to the best that could be done for the community.”*

– Karen Anderson (Pgs. 3551-3552 NFAT Transcripts)

When speaking about the extensive consultation of community members which preceded the community referendums to approve the JKDA and AEAs in each First Nation, Ted Bland offered the following:

*“We have negotiated the terms of the JKDA over many years. We have many, many meetings with our members. We spoke with each other about the project, what it means to us as individuals and as people, what it means for our children and generations not yet born.*

*We discussed the potential environmental and social impacts of Keeyask, and the potential benefits of the project. We made our decision with open eyes, understanding the environmental and social changes Keeyask will bring. We chose to support Keeyask because we believe it’s the best interest of our nation.*

*Before Chief and Council signed the JKDA and our Adverse Effects Agreement, we held a vote...; 87 percent of the ballots cast supported Chief and Council signing the agreements. While this was a strong majority of voters, we recognize the choice was not unanimous. Others voted yes and did so with mixed feelings. It is important to acknowledge and respect the perspectives of all of our members.”*

– Ted Bland (Pgs. 3557-3558 NFAT Transcript)

Similarly, in regards to community consultation processes, Victor Spence offered the following:

*“Our people have rights to choose yes to development, or no to development; that was given. That opportunity was provided. We had over two thousand (2000) meetings to deal with the path we chose in relation to Keeyask development.”*

– Victor Spence (Pg. 3566 NFAT Transcript)

We believe that with careful management, Keeyask can become a key component future economic development in our communities. By investing in a Project of this magnitude, our communities will join the mainstream economy of Manitoba. Given the average life of a hydroelectric project is approximately 100 years, we anticipate sufficient revenue over this time period to address many of the socioeconomic challenges we currently face. While testifying during these proceedings, Ted Bland reinforced this idea:

*“The benefits of the Keeyask Project include training and employment opportunities that would not otherwise be available to our community. There will also be financial*

*benefits from business opportunities and investment income. The increased capacity and income will empower York Factory to improve our communities' socioeconomic conditions, which will ultimately benefit generations to come."*

– Ted Bland (Pg. 3558 NFAT Transcript)

It is important to note that our Nations have already begun to receive economic benefits from the Keeyask Infrastructure Project. Through this preliminary construction work, our Members have acquired additional training and employment, and our businesses have taken advantage of additional opportunities, resulting in significant revenues. This is a promising signal that we have negotiated meaningful opportunities and potential benefits soon to be realized through the Direct Negotiation Contracts described in the JKDA.

In addition to the economic benefits flowing from the JKDA, our First Nations have negotiated respective Keeyask Adverse Effects Agreements with Manitoba Hydro. Each agreement is designed to address the specific needs our First Nations, but a common theme is that they provide annual funding for programs which address adverse effects on the customs, practices and traditions of each First Nation by providing appropriate replacements for these lost opportunities. The programs can be altered to respond to the needs of our communities and are generally focused on cultural and offsetting activities and other important aspects of Cree culture. Details of the specific purpose of each program can be found in our respective agreements. These programs include:

- Tataskweyak Cree Nation:
  - Keeyask Centre
  - Access Program;
  - Land Stewardship Program;
  - Healthy Food Fish Program;
  - Traditional Lifestyle Experience Program;
  - Traditional Knowledge Learning Program;
  - Cree Language Program;
  - Traditional Foods Program; and
  - Museum and Oral Histories Program.
- War Lake First Nation:
  - Community Fish Program;
  - A Distribution Centre;
  - Improved Access Program;
  - Traditional Learning/Lifestyle Program;
  - Cree Language Program; and
  - Museum and Oral Histories Program
- Fox Lake Cree Nation:
  - Youth Wilderness Traditions Program;
  - Cree Language Program;
  - Graveside Restoration Program

- Alternative Justice Program
- Crisis Centre and Wellness Counselling Program;
- Lateral Violence and Where Do We Go From Here Program; and
- Resource Users Access Program.
- Additionally, Fox Lake will also have continued participation in the Harmonized Gillam Development Initiative which seeks to end the marginalization of Fox Lake people in Gillam and unhealthy racial relations in the area (Pages 3548-9 - NFAT Transcripts);
- York Factory First Nation:
  - Resource Access and Use Program;
  - Environmental Stewardship Program; and
  - Cultural Sustainability Program.

### ***A New Way Forward***

It is not just the tangible benefits discussed above which are important to us. Not all successes can be measured in training dollars, person years of employment, and annual revenue figures. Our partnership with Manitoba Hydro in the Keeyask Project represents more than this – it represents a new way forward. When speaking to this idea, Victor Spence said the following:

*“This is why TCN chose the path it did in regards to this development. If it was based solely on economics...we would have said no to Keeyask or any development, but it gave more. It provides hope. An opportunity to say, ‘we are involved.’ We continue to be involved. There’s a new vision.”*

– Victor Spence (Pg. 3565 NFAT Transcripts)

In relation to hydroelectric development beyond Keeyask, Victor Spence said the following on behalf of Tataskweyak and War Lake:

*“At this time...we are not at the table in regards to Manitoba on Conawapa. I am fairly certain we will be provided that opportunity and as these forward months come, years come, we will be there. But we will be there in the sense that it will be a meaningful process.”*

– Victor Spence (Pg. 3567 NFAT Transcript)

Having endured the devastating effects of previous hydroelectric development on our lives and livelihood for over five decades, the long-term vision and determination of our Elders, members and leadership has ensured that we have reached a new era of participation which demands our approval and active involvement in developing any major resource which affects our lands and waters. In reference to this change, Ted Bland said:

*“York Factory has taken a long view that further development of hydroelectric projects in northern Manitoba can only proceed with the direct involvement of the First Nation people directly affected. York Factory has also determined that any*

*future hydro developments with our ancestral lands must advance our community and economic interests.”*

– Ted Bland (Pg. 3557 NFAT Transcripts)

The representatives who appeared on behalf of our First Nations in this proceeding explained what our expectations are as Manitoba Hydro moves forward with its Preferred Development Plan. The processes and mechanisms used to develop the Keeyask Project were key to our successful involvement and we expect that they will be carried forward into any other proposed future development in our traditional territories.

*“We have taken control of our lives and our future. We are beginning to do something that outside agencies and governments have not been able to do, and that is to empower our people.”*

– Karen Anderson (Pg. 3538 – NFAT Transcripts)

And, she continues:

*“We see Manitoba Hydro’s Preferred Development Plan, which includes Keeyask in 2017, Conawapa in 2026, and a 750 megawatt line as an essential and vital to our interest. Hydro power is one (1) stone -- a cornerstone of our plan to live mino pimatisiwin where our people can enjoy and maintain our land-based pursuits, as well as enjoying and pursuing opportunities that the non-First Nation community takes for granted.*

*Because Conawapa will be built in our resource management area, the approval and development of Conawapa is of huge importance to us and to our future generations.”*

– Karen Anderson (Pg. 3553 - NFAT Transcripts)