
Standing Committee on Legislative Affairs
Legislative Assembly of Manitoba

IN THE MATTER OF
BILL 6, The East Side Traditional Lands Planning and Special Protected Areas Act

Submission of the
Island Lake First Nations
June 8, 2009

The Island Lake First Nations (Wasagamack, St. Theresa Point and Garden Hill) have carefully reviewed Bill 6, The East Side Traditional Lands Planning and Special Protected Areas Act, that Minister Struthers introduced and gave first reading in the Manitoba Legislative Assembly on December 1, 2008. The Island Lake First Nations has also reviewed the letters to the Minister of January 19, 2009 and January 22, 2009 from the God's Lake First Nation and MKO as well as the Minister's March 24, 2009 responses to these letters.

The Island Lake First Nations has been working toward full implementation of the April 3, 2007 Wabanong Nakaygum Okimawin Council of Chiefs Accord and has looked forward to Manitoba's implementation of the letter, spirit and intent of the Accord. However, The Island Lake First Nations agrees with the position of the God's Lake First Nation and with the observation of MKO that the provisions of Bill 6 were not jointly developed on a "government-to-government basis" under Article 1.1 of the Accord nor with "First Nations governments' participation and approval" under Article 3.8.

Firstly, the provisions of Bill 6 were developed completely in isolation from the WNO First Nations and contrary to the provisions of Article 1.1 and Article 3.8 of the Accord. There were no joint technical working sessions to explore the principles and processes that would implement the Accord's objectives of exercising joint land use planning and resource management between the WNO First Nations and Manitoba. There were no joint legal working sessions to review the existing legislative framework in accordance with Article 3.8 to see how our joint management relationship could be achieved. There were no workshops with leadership to explore the findings of joint technical and legal working groups.

Manitoba has unilaterally determined that "no current act was suitable for what the WNO First Nation were requesting of government" and has acted in isolation from the WNO First Nations to develop new legislation.

Secondly, The Island Lake First Nations do not accept the suggestion presented in the Minister's letters to Chief Andrews and Grand Chief Garrioch and in the Minister's February 12, 2009 comments during the MKO Forum that the single discussion of Bill 6 that took place in February, 2008 satisfies either the WNO Accord or represents meaningful consultation on Bill 6 between Manitoba and the WNO First Nations.

Providing the WNO leadership a single brief glance at a proposed legislative framework that was developed by Manitoba in isolation from the WNO First Nations cannot satisfy any recognized standard for government-to-government relations. Similarly, the single discussion of Bill 6 in February, 2008 followed by Manitoba's recovery during the meeting of all copies of Manitoba's presentation cannot meet any standard that measures the "participation and approval" of First Nations.

As well, Bill 6 is not consistent with Manitoba's duty to consult, justify and accommodate. As one example, s. 22 of Bill 6 effectively establishes a prerequisite that a participating First Nation must first accept all existing licences and permits within that First Nation's Traditional territory whether or not these authorizations may be unlawful due to Manitoba's failure to have previously engaged in a First Nation-Crown consultation process.

The Island Lake First Nations shares the concerns of the God's Lake First Nation and MKO that Bill 6 will modify the principle established between First Nations and Manitoba that land use and resource management planning relationships over First Nation Traditional Territory will be founded on a co-decision authority that is jointly exercised between Chief and Council and Manitoba. It is also the position of The Island Lake First Nations that any provincial legislation affecting the planning and management of the Traditional Territory of The Island Lake First Nations must be jointly developed and must be, at a minimum, based on the principle of a co-decision authority such as those established under the Northern Flood Agreement.

The Island Lake First Nations agrees with the Minister's comments that Bill 6 is incomplete and, at a minimum, should be further amended. In the Minister's letters to Chief Andrews and to Grand Chief Garrioch the Minister states that the Minister "remain(s) committed to engaging the WNO First Nations to complete Bill 6".

In the Minister's letter to Chief Andrews the Minister also confirms that the Minister is "considering including a non-derogation clause so that it is explicitly clear that Bill 6 will not affect Aboriginal or Treaty rights and have directed departmental staff to review implementing this recommendation".

The Island Lake First Nations request that Manitoba defer or withdraw Bill 6 in order to provide the opportunity for the concerns of the WNO First Nations to be addressed either through new legislation or through amendments that are developed through a government to government process that results in the full participation and approval of the WNO First Nations, is consistent with Manitoba's commitments under the WNO Accord and upholds Manitoba's duty to consult, justify and accommodate.