SHOAL LAKE BAND NO. 40

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PRESS RELEASE
For immediate release
January 11th, 2012

Prime Minister Harper Asked to Uphold Legal Obligations to First Nation in Response to Winnipeg's Water Sale Scheme

In an open letter to Prime Minister Harper, Chief Erwin Redsky of Shoal Lake #40 First Nation has asked for an assurance that Canada will uphold its legal obligations to Shoal Lake #40 in respect to the City of Winnipeg's plan to sell Shoal Lake water.

Chief Redsky's letter is in response to Winnipeg's decision to seek an expedited decision from the International Joint Commission to allow it to sell Shoal Lake water to neighbouring municipalities. Winnipeg is resolved to ask the government of Canada to support its request.

"It's unfortunate Winnipeg is trying to do a political end-run around us instead of sitting down with us and working this out, as we've requested over and over again," said Chief Redsky from Ottawa on Thursday as he prepared for Friday's meeting between the Prime Minister and Chiefs. "It places the Prime Minister in an uncomfortable position. He has been a big promoter of CentrePort Canada which wants to buy Shoal Lake water. But the City has no authority to use our reserve land or the natural resources of our territory for profit. And the Prime Minister, as federal government leader, has a fiduciary obligation to ensure that Canada acts in our best interests, not Winnipeg's."

Matters came to a head on December 12, 2012 when Winnipeg City Council decided to seek an expedited decision from the International Joint Commission allowing it to enter into water service agreements with surrounding municipalities and to seek support from the governments of Canada and Manitoba.

"There are fundamental rights at stake here, rights that are the very foundation of this country," said Chief Redsky. "Winnipeg might want to throw its political weight around but I am counting on Prime Minister Harper to respect his constitutional obligation to uphold our Treaty."

Shoal Lake #40's letter to the Prime Minister requests that Canada live up to its legal obligations and that it insist on a process at the International Joint Commission that is open and transparent. Shoal Lake #40's position is that if Winnipeg wants to change the purpose of its diversion of Shoal Lake water, it must make a formal application to the Commission.

“Our Treaties set the rules by which we share this land. Just because those rules happen to be inconvenient at some point doesn’t mean you get to call up your friends in Ottawa and have those rules ignored," said Chief Redsky. "My community has suffered for decades from Winnipeg playing that card. I expect the Prime Minister to show he is a man of honour by respecting our Treaty and also insisting that Winnipeg follow the Commission's rules.”

For more information contact:

Chief Erwin Redsky -- (204) 891-1765

Letter to Prime Minister Harper

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January 10, 2013

Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2
E-mail: pm@pm.gc.ca

Dear Prime Minister Harper:

Re: Winnipeg's Proposed Sale of Shoal Lake Water

As Chief of Shoal Lake #40 First Nation, I am writing to bring an issue of significant and urgent concern to my community to your attention.

Shoal Lake #40 is a Treaty 3 First Nation with reserve lands in Manitoba and Ontario on the shores of Shoal Lake. For almost 100 years, our community has been severely impacted by the City of Winnipeg's diversion of water from Shoal Lake for its water supply.

In 1915, without our consent, Canada authorized the expropriation of 3,355 acres of our reserve so that Winnipeg could construct its water works on our land at Indian Bay. The expropriation and construction of this water works displaced our traditional settlement, divided our reserve lands and isolated us on a man-made island without access to the mainland (map attached). Nearly 100 years later, we are still isolated without road access and the situation has eliminated virtually all normal economic opportunities. The past and ongoing consequences for our community have been devastating.

Shoal Lake normally drains toward Ontario and the Lake of the Woods, so Winnipeg's original permission to divert water out of the international Lake of the Woods basin is based partly on an approval issued in 1914 by the International Joint Commission. On December 12, 2012, Winnipeg adopted a recommendation from its Executive Policy Committee to request an expedited decision from the Commission to allow Winnipeg to sell Shoal Lake water to neighbouring municipalities, a use and distribution that is not included in the Commission's existing order of approval.

We are deeply concerned that Winnipeg's plan to sell water from Shoal Lake and the resultant imposition of other outside interests on our traditional area will further negatively impact our community and our Treaty rights. Our legal counsel has written to the Commission informing them of our opposition to Winnipeg's proposal and requesting that Winnipeg be required to make a formal application to amend its authorization if it wants to sell Shoal Lake water. A copy of that letter is attached for your convenience.

At its December 12, 2012 meeting, Winnipeg declared its intention to ask for Canada's support when it makes its submissions and request to the Commission. Because Canada approved the expropriation and use of our lands, Canada has an ongoing fiduciary obligation to act in our best interests should any change in the authorization or Winnipeg's use of water from Shoal Lake be proposed. Canada's support for Winnipeg before the Commission would be inconsistent with its legal obligations to Shoal Lake #40.

We appreciate that you might sense a conflict in this matter as you and your government have been strong proponents of CentrePort Canada, the project which stands to benefit the most from Winnipeg's plan to sell Shoal Lake water. However, we trust that you will direct your government to be guided by Canada's legal obligations to Shoal Lake #40 and not support Winnipeg's submissions to the Commission.

Further, as our fiduciary, we expect Canada to support Shoal Lake #40's position at the Commission that Winnipeg's request to divert water for sale to neighbouring municipalities be treated as an application to which the full rules and processes of the Commission should apply. We are confident that you will agree that an open and transparent process based on established rules of procedure is necessary to protect our rights and interests.

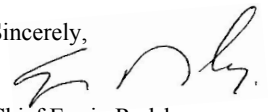
We feel that clarification of Canada's position on this matter is of some urgency because Winnipeg has declared that it will be pressing the Commission for an "expedited" decision. We therefore respectfully request your timely assurance that Canada will not be yielding to political pressure from Winnipeg and will, instead, be upholding its fiduciary obligations and standing with our First Nation in our insistence on due process.

We believe the obligations of the Crown to ensure the protection of our rights extends to both Manitoba and Ontario, so we are reminding them of their obligations by including them in this correspondence.

If you would like further information on this matter we would be pleased to provide it.

Thank you for your timely attention to this urgent request.

Sincerely,



Chief Erwin Redsky
Shoal Lake #40 First Nation

Cc:

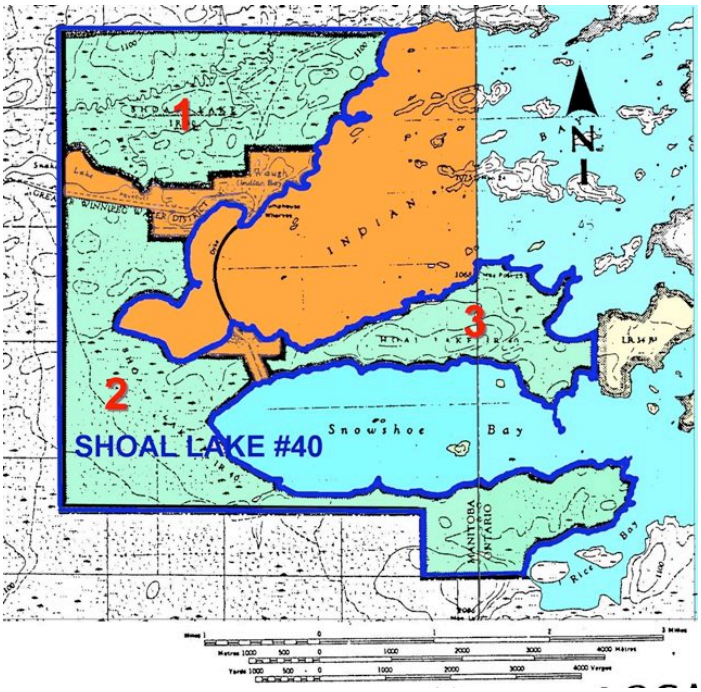
Joseph Comuzzi, Chair
International Joint Commission
Canadian Section

Lana Pollack, Chair
International Joint Commission
U.S. Section

Premier Salinger
Minister Eric Robinson
Premier McGuinty
Minister Michael Gravelle
Mayor Katz
Grand Chief Warren White
Chiefs of Ontario

Encl.

Shoal Lake #40 FN is located a short distance south of the Trans Canada highway on the Ontario/Manitoba border



Orange area indicates the portion expropriated for Winnipeg's water works