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## **Tenth Session 16-27 May 2011 UNPFII United Nations Headquarters, New York**

**Agenda Item 7: May 24 10:00 a.m. – 1:00 p.m.**

### **Water issues faced by First Nations People in Manitoba, Canada**

First Nations people of Southern Manitoba, Canada have maintained strong spiritual and cultural relationships with their lands, waters, forests and other natural resources. Water and Forests continue to be an important industry for first nation peoples although we continue to face significant barriers in both of these sectors. These barriers have included, but are not limited to the enactment of provincial and federal legislation and regulation that further confines and prohibits active participation of southern Manitoba First Nations people in investing in the local economy. The legislative control limits First Nation access, traditional uses, practice and exercise of treaty rights and creating severe restrictions to economic development.

One of the most significant examples of Manitoba and Canada's contempt of First Nations peoples' rights is exemplified in the licensing practices of the current and existing water development projects or hydro dams. The government of Manitoba, supported by the Canadian Government continues to allow for exclusion for consultation and accommodation on these major projects. Without an opportunity for our first nation peoples to have access to all relevant, current and existing information on the impacts, cumulative impacts and adverse affects that have been created over the previous years over our traditional territory. We have examined the destruction of these projects. We have experienced the devastation to our peoples, property and communities.

The government of Manitoba, which manages the crown utility (Manitoba Hydro) that builds, owns and operates the Dams, continually allows the use of less than open and transparent governance, licensing and permitting practices for advancing project development and its public processes. The former Premier

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Gary Doer of Manitoba, who now sits as Canadian Ambassador to the United States continues to advocate and promote this unnatural destruction.

The lack of respect and deliberate exclusion of participation in attaining free, prior and informed consent regarding first nations interests is demonstrative of the perception that first nations' sovereignty, rights and title in Canada are significant.

### **International Developments**

International developments are emerging which provide a key role for indigenous peoples in the management of forests and water. Key recommendations include that states should recognize Indigenous peoples rights to forests and waters and should review and amend laws that are not consistent with the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP). Other recommendations advocate that states should develop national legislation to ensure that the engagement of corporations with Indigenous peoples is consistent with the UNDRIP regarding forests and water resource use and extraction activities taking place on their traditional territories and lands. Such activities must be undertaken only with the free, prior and informed consent and they must share in any benefits that accrue.

The International renowned Dr. David Suzuki through his Canadian Broadcast Corporation (CBC) program the Nature of Things completed a documentary "Save My Lake" that highlights the deterioration of the 10<sup>th</sup> Largest Freshwater Lake on our Mother Earth.

The "Green Energy Campaign" advanced by Manitoba Hydro to secure International Export contracts with U.S. utilities does not tell the honest truth. The conversion of our fresh water Lakes and Rivers to reservoirs has accelerated the growth of Blue-Green Algae blooms or Cyanobacteria that is poisoning our water. The management of water flows that create artificially high water levels on our lakes and rivers has resulted in displacing over 1300 indigenous peoples in the last couple of months and annually for over 15 years. While our southern First Nation communities are flooded out and peoples evacuated from their homes year after year, while Manitoba Hydro refers to the artificially high waters as "Energy In Storage" with a monetary value to the crown utility.

As Indigenous peoples we are not opposed to development, but it must be done right, we must be included through a First Nation driven consultation process – not Government prescribed.

The UNDRIP was ratified by Canada on November 12, 2010, which set out international standards in relation to addressing first nations and matters respecting their interests. Most notably, this includes the free, prior and informed consent of determining activities that will take place within their territories.

The following specific articles that are highly relevant when considering Indigenous people and provide a framework for addressing matters related to forestry and water resources. Article 25 Indigenous peoples shall have the right

to maintain and strengthen their relationship to their territories, Article 26 provides that Indigenous peoples have the right to own and develop the lands, territories and resources, which they have traditionally owned. Similarly, Article 29 provides their rights to conserve and protect the environment.

In addition, the Convention on Biological Diversity in its articles recognizes the role of Indigenous peoples in the conservation and sustainable use of biodiversity. The CBD has established several programs of work, which implement these articles. Despite these developments, Indigenous peoples in Canada continue to be challenged by the lack of recognition to their traditional land rights. Unfortunately, Canada has failed to meet the international commitments enshrined in international treaties and indigenous rights that are subject to protection of the Canadian constitution.

The continued application and prescribed governmental processes to water, forests and other natural resources have resulted in genocidal and apartheid symptoms in our communities. These practices are not in keeping with honoring and respecting Human Rights of Indigenous peoples in Southern Manitoba.

The worst Human Right violation occurs when another peoples or nation takes away your Independence by offering to look after you and your nation and creating a dependency cycle while your inherent way of life is being depleted at a faster rate than your natural resources. Our colonizers show no respect to life as we knew it, only their own.

#### **Recommendations to the UN Permanent Forum to address the issue:**

1. Work closely with the CBD Secretariat to advance the full and effective participation of indigenous peoples in the implementation of the CBD forestry provision;
2. Invitation from Southern Chiefs Organization to Special Rapporteur Mr. James Ayana to visit our Leaders in Southern Manitoba and tour our communities to see first hand the impacts and adverse affects of Water projects in Manitoba.
3. Support from Special Rapporteur to reinforce to the Governments of Manitoba and Canadian Governments that International law recognizes the rights of Indigenous Peoples to:
  - Self-determination
  - Ownership, control and management of our traditional territories, lands and natural resources
  - Exercise our customary law
  - Representation through our own institutions
  - Require Free, Prior and Informed consent to developments on our land
  - Control and share in the benefits of the use of, our traditional knowledge.

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4. Invitation from Southern Chiefs Organization to the Chief Wilton Littlechild as committee member on the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) to visit Southern Manitoba Indigenous Peoples to hear the concerns with the forest and the water first hand.
5. EMRIP to conduct an investigation, fact find and develop recommendations to accommodate southern Manitoba Indigenous people's rights and concerns with the impacts and adverse affects.
6. UN Permanent Forum On Indigenous Peoples to strongly support the recommendations of the World Commission on Dams (WCD) on water and energy development. That includes the WCD report's core values, strategic priorities, the "rights and risks framework" and the use of multi-criteria assessment tools for strategic options assessment and project selection. Its rights-based development framework, including the recognition of the rights of Indigenous Peoples in water development is a major contribution to decision-making frameworks for sustainable development.