



The Ogichidaakwe (Grand Chief) and Chiefs of Treaty 3 file Judicial Review related to five north west Ontario hydro generating plants.

Calm Lake, Sturgeon Falls, Fort Frances, Kenora, and Norman hydroelectric generating station are the focus

(Queen's Park/Toronto, Sept.1, 2011) An application for Judicial Review was filed earlier today with the Divisional Court of the Ontario Superior Court of Justice on behalf of all members of the Anishinaabe Nation in Treaty 3 against the Province of Ontario as represented by the Ontario Minister of Energy and the Ontario Power Authority (OPA).

The Judicial Review is being initiated by Grand Council Treaty #3, Ogichidaakwe (Grand Chief) Diane Kelly of the Onigaming First Nation, Chief Lorraine Cobiness of the Ochiichagwe'babigo'ining First Nation, Chief Janice Henderson of the Mitaanjigamiing First Nation, Chief Kimberley Sandy-Kasprick of the Northwest Angle #33 First Nation, and Chief Earl Klyne of the Seine River First Nation. Collectively the Chiefs have been authorized to bring this application on behalf of all members of the Anishinaabe Nation in Treaty 3.

The Grand Council and the Chiefs seek to judicially review the government's failure to consult and accommodate the Anishinaabe's Aboriginal and treaty harvesting rights in developing and implementing the Province's Hydroelectric Contract Initiative (HCI). The OPA awarded a HCI contract to ACH (Calm Lake, Sturgeon Falls, Fort Frances, Kenora, and Norman Generating Stations), and consented to a change in control of ACH Limited Partnership (ACH) under ACH's HCI Contract. As of May 2011, ACH is owned by Calgary-based BluEarth Renewables Inc.

The Judicial Review alleges that the government owed constitutional duties to consult with and accommodate the Anishinaabe Nation before it took these actions, because these actions have the potential to cause new adverse impacts to Aboriginal and treaty harvesting rights.

Treaty 3 Ogichidaakwe (Grand Chief) Diane Kelly contends, "The Province and the OPA were aware of the Anishinaabe Nation's Aboriginal and Treaty Rights. They also knew that operations of the ACH Generating Stations and related dams had caused damage. It was reasonable to expect that terms of the HCI agreements would lead to new and potentially increased damages, such as more deleterious flooding related impacts on Lake Sturgeon (listed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and on a traditional staple of the Anishinaabe culture, Manomin (commonly

called Wild rice, *Zizania palustris*) which has altered our way of life and our ability to take part in our traditional economy.”

Chief Janice Henderson of the Mitaanjigamiing First Nation stated, “The impact of dam operations and expansion on our wild rice, fishing, and trapping is of significant importance to the Anishinaabe Nation in Treaty 3. We feel we are a crucial period in our history and must stand up and protect our rights, claims and interests to govern, manage and ensure the sustainability of the traditional practice of *ricing* within all Treaty 3 communities. Especially, within the Lake of the Woods and Rainy Lake watersheds.”

Chief Earl Klyne of the Seine River First Nation outlined how, “On May 27, 2011 Abitibi’s dams in Treaty 3 were sold without meaningful consultation with the Anishinaabe Nation in Treaty 3, or any Crown efforts to protect, accommodate or compensate Treaty 3 Anishinaabe communities for new impacts caused by the sale of the dams made possible by the HCI contract.” He went on to explain, “Treaty 3 communities have become more and more difficult to administer and manage, in part because of the expense of home heating and electricity. This situation exists despite there being large hydro-electric generating dams within Treaty 3 territory.”

Grand Chief Kelly observed, “We are very concerned that the Minister of Energy and the OPA intervened on behalf of the Abitibi dams to cause new impacts to our rights and interests. The government action should not have occurred without consulting us. The HCI contract set the stage for new ownership and new impacts from these dams. She concluded by saying, “The Minister of Energy acted dishonorably by ignoring our claims, rights and inherent jurisdiction. This is why we have retained lawyers, David Estrin and Scott Smith of Gowlings and are seeking the judicial review of the decisions and actions of the Minister of Energy and the OPA at the Ontario Divisional Court in this matter.”

For more information, or to arrange interviews, please contact: Donna Anderson (807) 548-4214 x. 2241, email: donna.anderson@treaty3.ca.

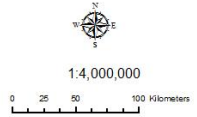
Map available.

ACH dams: Calgary based BluEarth Renewables Inc. announced it had acquired ACH Limited Partnership stocks in May 2011. Previously owned by Abitibi Bowater and the Caisse de depot et placement du Quebec, the ACH suite of dams includes eight hydroelectric plants (five in Treaty 3 territory) that supply a total capacity of 131 megawatts in Ontario. These plants have approximately 19 years remaining in a 20-year power purchase agreement with the Ontario Power Authority, and will generate long-term stable cash flows for BluEarth.

Grand Council Treaty #3 is the historic government of the Anishinaabe Nation in Treaty 3 and is the political government for the 28 First Nations in the treaty area. The area of Treaty 3 within the Province of Ontario can be described in general terms as the lands and waters in and about Lake of the Woods watershed, including the Rainy River and the lands below the height of land separating the Hudson Bay and Lake Winnipeg watershed.

The treaty area includes 26 First Nations in Northwestern Ontario and 2 First Nations in Manitoba.

Treaty 3 Power Generating Stations



Legend

- Treaty 3 Boundary
- First Nations
- Power Generating Stations
- Hydrolines
- railway

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
 Projection: Mercator Auxiliary Sphere
 Datum: WGS 1984

This illustrative map was produced by the
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