



ALEXANDER FIRST NATION

March 20, 2018

Senate Standing Committee on Aboriginal Peoples
Government of Canada
OTTAWA, Ontario.
Attention: Lillian Dyck – Chair

Dear Senator Dyck:

Re: Treaty Relationship Approach

Thank you for the invitation to informally meet with you this evening in Treaty Six territory and on Enoch Cree Nation lands. I understand the Senate Standing Committee would like an opportunity to discuss with Treaty Chiefs on a new, meaningful relationship between the Crown and Indigenous peoples.

While I appreciate the opportunity for meaningful discussions with you, I must unequivocally state that any discussions and/or presentations made to you will be based strictly on the treaty relationship between Her Majesty the Queen of Great Britain and the Alexander First Nation entered into on August 21, 1877 at Fort Edmonton. Our adhesion to Treaty No. 6 created a special trust relationship setting out many understandings and promises that have been passed on by our Elders from generation to generation.

Furthermore, there appears to be a misconception that there is a need to create a new relationship between Alexander and Her Majesty the Queen in Right of Canada. We have made it clear to Canada, on many occasions, that our sacred Treaty created a relationship that has yet to be given the recognition within their legislative frameworks.

We agree that recognition and implementation of rights are absolutely required, but not in the manner as being proposed by Canada today. It must be done in a manner that is premised strictly on Treaty.

Our Elders have reminded us that no recognition and implementation of our Treaty and treaty rights can occur without first understanding the original spirit and true intent of Treaty No. 6, as confirmed by our Grandfathers.

As a matter of courtesy, and for your perusal, I have attached a copy of the *Alexander First Nation Position Respecting Treaty No. 6* that was developed and ratified by our Elders in 1991. This position serves as a benchmark reminder to our peoples, to the Government of Canada, and to other political interest groups, on what our Elders understood our Treaty to be based on. No relationship can be created outside of this position that presumes to create a new one when the historical treaty relationship created by Treaty No. 6 still exists. This message has been repeatedly shared with Canada.

I do not want to sound disrespectful, but I must refrain from using the terminology 'indigenous' because it would imply consent to Canada's reconciliation efforts and related initiatives. Our non-consent to all of Canada's recent initiatives is perpetual because of their failure to discuss our Treaty matters on a strict stand-alone bilateral treaty basis. Having said that, we need to remind the Senate Standing Committee on Aboriginal Peoples that our Treaty No. 6 is with the Imperial Crown of Great Britain, and that Canada assumed administrative responsibility to fulfill the treaty obligations contained therein. This undertaking also needs to be upheld in an ongoing manner through the *Constitution Act, 1867 – Section 91(24): Indians and Lands Reserved for Indians*.

Very clearly then, we merely ask for Canada to begin to respect, recognize and implement strict bilateral treaty discussions that will set the framework for understanding the original spirit and true intent of our treaty, to give recognition of these understandings within their legal frameworks, and to implement these treaty obligations in a mutually acceptable arrangement. Therefore, and to reaffirm, no other relationship can be developed and implemented that deviates from this approach.

I hope that you take this message in the context it is provided. We must take whatever action we need to protect our sacred Treaty No. 6 from being changed, altered, diminished, affected, or extinguished. Canada's reconciliation efforts by the creation of a crown-indigenous framework and imposing it on us, has the potential of doing just that.

Once again, thank you for the invitation to meet and greet. We look forward to making a more formal response to you on what we as a Treaty No. 6 First Nation expect for a Crown-Treaty Relations framework.

Respectfully submitted;


Chief Kurt Burnstick

cc: Alexander Council
Honourable Carolynn Bennett – Minister DIAND
Chiefs – Treaty No. 6 First Nations
Chiefs – Treaty No. 7 First Nations
Chiefs – Treaty No. 8 First Nations

**THE UNALTERABLE PRINCIPLES OF TREATY NO. 6 AS REAFFIRMED
AND DECLARED BY THE ELDERS OF THE ALEXANDER FIRST NATION
IN NOVEMBER 1991:**

Alexander firmly believes:

1. That the Creator created our people and gave us our land, our culture, and our traditional way of life. No man or government can grant or take away what the Creator has given.
2. The historic fact that our forefathers had the authority to enter into Treaty No. 6 with the Imperial Crown of Great Britain.
3. That Treaty No. 6 recognizes our Indigenous peoples living in harmony with the Laws of Mother Earth.
4. That Treaty No. 6 is a sacred trust, which cannot be broken. Any change to the sacred Treaty relationship would need our consent.
5. That Treaty No. 6 is to exist for "*as long as the sun shines, the grass grows, and the rivers flow*". Treaty No. 6 has no end, it is forever. The Treaty is not static, but it evolves over time.
6. That Treaty No. 6 guarantees to all of our people the protection of our traditional way of life, the protection of our lands and resources, and the assurance of our social and economic advancement.
7. That Treaty No. 6 sets out the special relationship between, and the obligations of, the two Nations who entered into Treaty No. 6.
8. That Treaty No. 6 is an alliance between two Nations to live side by side in peace and coexistence. Treaty No. 6 recognizes the values of Alexander and the values of the Canada. Treaty No. 6 is an agreement between two Nations to understand one another and not to interfere.
9. That the Imperial Crown assumed, by Treaty No. 6, binding obligations to preserve and protect Alexander as a Treaty No. 6 First Nation. These sacred trust obligations were placed in the hands of the Canadian State unilaterally by the Imperial Crown of Great Britain.
10. That Treaty No. 6 recognizes the continuing treaty making powers of Alexander.

ALEXANDER CONSTITUTIONAL POSITION

| Alexander Position | Public Perception [Including AFN] |
|--|---|
| 1. Bilateral Treaty Process arises from Treaty No. 6. | 1. Bilateral Process set out in Constitution. |
| 2. Treaty No. 6 confirms inherent right to determine own laws and government. | 2. Negotiated inherent right to self-government within constitution [delegated jurisdiction and authority] |
| 3. Any tribunals must be comprised of Treaty people and the federal government. | 3. Canadian courts interpret inherent right to self-government. |
| 4. Collective rights are paramount to any individual rights. | 4. Charter of Rights applies [individual over collective rights]. |
| 5. All powers remain with Treaty First Nations [including Alexander]. | 5. More power will be granted to national organizations. |
| 6. Treaty No. 6 sets out relationship with Canadian government. | 6. Within Canadian confederation [Senate and House of Commons participation]. |
| 7. 91(24) originally set out to protect the trust relationship with the Canadian government. | 7. 91(24) to include all aboriginal people [including Metis rights]. |
| 8. Alexander as a Treaty First Nation is distinct. | 8. Treaty First Nations would be grouped with all aboriginal people such as Metis, Inuit & Non-status [melting pot approach]. |
| 9. Treaty No. 6 retains international status | 9. Domestication of Treaty. |
| 10. Treaty acknowledges sharing of land and resources [depth of the plow] | 10. Territorial integrity compromised [provinces claim ownership]. |
| 11. Financing [funding] arises from Treaty No. 6 commitments. | 11. Financing will be negotiated through process set out through constitutional direction [AFN - 3 rd Order of Government agenda]. |



ALEXANDER FIRST NATION POSITION

RESPECTING TREATY NO. 6

ALEXANDER FIRST NATION - POSITION RESPECTING TREATY NO. 6.

The Alexander First Nation is situated approximately 40 miles northwest of the City of Edmonton. The First Nation membership of Alexander consists of Cree and Stoney descendency with the larger percentage of the population speaking the Cree language. The Alexander First Nation Chief and Council are selected according to the custom of the First Nation that governs approximately 1800 members. Alexander has a proud heritage of progress, and a strong sense of Treaty protection.

The Alexander First Nation entered into Treaty No. 6 in August of 1877 at Fort Edmonton. By entering into Treaty No. 6, Alexander agreed to peacefully coexist with the Queen's subjects, and the understanding that our people would be taken care of, forever.

We are Original Peoples Plus because of Treaty No. 6. We are the original Nations of People that existed at the time of Treaty No. 6, pursuing our traditional way of life. Alexander is an evolving Nation that was promised the means by which to advance our social and economic needs, and to continue to exist as an inherent Treaty First Nation.

Alexander views the protection of Treaty No. 6 as extremely critical, in light of the efforts of the Queens' representatives to the contrary. Treaty No. 6 is a solemn promise between Treaty First Nations and the Queen to live side by side for "*as long as the sun shines, the grass grows, and the rivers flow*". Treaty No. 6 is the recognition of the inherent First Nation's exclusive authority and jurisdiction over our lands and our people. Treaty No. 6 guarantees our traditional way of life including the promises of full social and economic advantages guaranteed by the Queen.

Alexander is in a situation of confirming that the promises made by the Queen to our Grandfathers have not been kept, insofar as there is no recognition of the inherent status of First Nations to develop and enforce laws on their territory. The Queen has unilaterally forced her own laws of interpretation on our Treaty No. 6, even while we maintain those

views consistent with our Grandfathers understandings as our supreme testimony and understanding.

Our Grandfathers understood Treaty No. 6 in their way and passed this understanding down through successive generations. The Queen must always make every effort to understand the unwritten meanings and interpretations of these laws. Solutions to this ambiguity do not evolve out of established systems, but rather in the teachings of our Elders and their understandings of Treaty.

We now see the efforts by the Queen's representatives on the constitutional protection of "treaty rights", the *Royal Proclamation of 1763*, Federal/Provincial agreements, the *Indian Act*, and such other issues impacting on our Treaty No. 6, only to find their interpretations as being the supreme law over any other. These are not our laws; we must not be subjected to or expected to continually adhere to these foreign concepts.

We continually find ourselves in a position of arguing for, and justifying our Treaty No. 6 under these laws. As a result, we find these laws to be a complete denial of the recognition of our inherent rights and existence as a Treaty First Nation.

Never before, as is now the case, have we had to justify our Grandfathers authority to enter into Treaty No. 6. The Great Spirit created our existence, our nationhood, our land, and our laws. The Great Spirit gave our Grandfathers all the authorities necessary to enter into Treaty No. 6. The Queen did not give them the authority. She merely recognized this authority. The source of Indian title is in the First Nations occupation of land since time immemorial, and not the Crown.

Throughout our existence as a Treaty First Nation, we have experienced the Queen's legal system to deny the recognition of our capacity as a Treaty First Nation to be empowered by the Great Spirit. Yet, this is exactly the way in which non-First Nation laws derive their authority. The *Canadian Charter of Rights and Freedoms* in the *Constitution Act of 1982*, a non-First Nations declaration, opens with the statement:

"Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:"

Our Treaty First Nation is founded upon the basis of those very same principles, which recognize the supremacy of the Great Spirit and the laws given to us. Despite repeated attempts by the Queens representatives to destroy our Treaty First Nations, we have managed to survive. While the laws of another Nation have been imposed upon us, we never gave up our laws. The Alexander First Nation maintains their existence by continuing to emphasize that the Treaty guarantees our inherency for the future.

To begin to acknowledge the wisdom of our Grandfathers, we must construe Treaty No. 6 in the way our Grandfathers understood it by taking us beyond the strict technical meaning of the written word. There must be acceptance that Treaty No. 6 is sacred and is the supreme law of Alexander First Nation. Section 52 (1) of the *Constitution Act 1982*, reads:

"the Constitution of Canada is the supreme law of Canada, and any laws that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect."

The Queen made this law supreme by writing it into words. On the other hand, we confirm the supremacy of our laws by the sacredness of the pipe. Because the sacred pipe was present at the Treaty negotiations, only the truth was to be spoken by those present. The sacredness of our pipe is the great seal, which ensured our commitment in Treaty negotiations. Any promises made or words spoken while in the presence of the pipe must be respected and honored. It is for this reason that the oral testimony of our respected Elders is our law and our interpretation.

Our Grandfathers saw that our territory was being settled and developed by other Nations. They saw the need to guarantee our survival as an inherent Nation to protect our territory and our means of securing a livelihood. Our Grandfathers sought to retain control of our

vast territory, and our future existence as an inherent First Nation. Our Grandfathers do not view Treaty No. 6 as a deed of sale, but rather as an alliance of peace and co-existence between the Alexander First Nation and the Queen, that is the foundation this country was built upon. Treaty No. 6 was premised on the understanding that the Queen would have laws for their territory, while we maintained our laws on our territory.

Our Grandfathers understood the protection of our territory as a guarantee under Treaty No. 6 by maintaining jurisdiction over this area. In the wisdom of our respected Elders, and as a responsibility to the Great Spirit, the protection of the lands is crucial. Our lands are a gift from the Great Spirit. Our Grandfathers did not have the intention, nor perception, of selling land and breaking it into small pieces. It is the common legacy of all, that the true owners of the lands are the unborn children. Our laws are founded in nature as a means to bridge the spiritual and physical worlds.

In discussions of Treaty No. 6 by the Queens representatives, much focus and attention has to be paid to the rights that accrue to an individual Treaty First Nation member. It is our understanding that the focus of our Grandfathers was on the protection and survival of the collective First Nation and our territory. However, many of the protections now found in the other Nations laws and legal processes focus on the protection of individual Rights.

Even the wording of the *Constitution Act 1982*, Section 35 (1) which reads that "*The existing aboriginal and treaty rights of the aboriginal people of Canada are hereby recognized and affirmed.*" could be construed to mean that individual rights are protected rather than the collective rights of the Alexander First Nation. It is not surprising, therefore, that the legal systems of the other Nation would protect the individual rights over the collective rights of the Alexander First Nation. We perceive that this system does not see the world the same way that the Alexander First Nation does wherein the collective is always more than the individual. Nevertheless, individual Treaty Rights must be protected within the larger context of Alexander's inherent jurisdictions.

To reiterate our position, Alexander entered into Treaty No. 6 with Her Majesty the QUEEN and not Canada. It is our position therefore that the Treaty is an alliance between two Nations and that Her Majesty the Queen has an obligation to ensure that the terms set out in Treaty No. 6 are honoured. Her Majesty the Queen may choose to have Canada act as her agent in the honouring of the promises made through Treaty No. 6, but Her Majesty the Queen must set up a forum to ensure that this happens.

It is Alexander's position that the Treaty No. 6 already recognizes that we were, and continue to be, a First Nation with our own form of government. Treaty No. 6 also outlines the way in which we are to interact with the Queen's government, and very clearly. It is now purely a matter to recognize these contents of the Treaty and protecting them. Treaty No. 6 places us in a different position than other aboriginal people. Under Section 35 of the *Constitution Act 1982*, Indian, Inuit and Metis are grouped together. Treaty No. 6 already established our constitutional relationship with the Queen. This may not be the case with other aboriginal people.

It is also Alexander's position that, as a Treaty First Nation, we must have our own separate discussions with Canada on any matter of constitutional reform. Section 35 (1) of the *Constitution Act 1982* commits governments to the principle that aboriginal peoples will participate in discussions relating to amendments of the provisions of the Constitution of Canada which relate directly to them. As the Alexander Treaty First Nation, we demand that governments discuss these issues directly with our Treaty First Nation alone. We are not only now beginning discussions as other aboriginal people may be; we are reaffirming and understanding the constitutional relationship that was set out in Treaty No. 6 over one hundred years ago.

However, we are not talking about provisions of the Constitution which governments believe relate to us. We are talking about the restructuring of the Constitution to reflect the agreements already made in our Treaty No. 6. The existing Treaty rights recognized and affirmed under Section 35 of the *Constitution Act 1982* do not even begin to address the

nature and status of Treaty No. 6. It is Alexander's position that Treaty No. 6, as a whole, is not protected.

Specifically, Canada cannot give us the right to govern ourselves. We have always had this right. Treaty No. 6 between the Alexander First Nation and the Queen was set up so that our traditional ways would not be disturbed. This included our traditional governments and laws. It is purely a matter of what was agreed to by Treaty No. 6 being reaffirmed and recognized. The constitutional recognition of the right to our own government, in the way it is currently understood by governments only undermines Treaty No. 6. No government can give us this right to govern ourselves.

As a result of the way in which the amending formula is currently set up, government can amend at their pleasure. This would place Alexander, including all other Treaty No. 6 First Nations, in a place beneath government when in reality Treaty No. 6 made us equal Nations. Even more damaging, the Courts of Canada would interpret our right to govern ourselves. These courts are not our courts. These people do not understand our governments and our laws. As the Alexander First Nation, we state strongly that in Treaty No. 6, two nations agreed to understand one another. One Nation cannot unilaterally interpret for another Nation. This is what the courts do. This is not acceptable to us and we state that this is a violation of the Treaty No. 6 promise not to interfere.

Clearly, then, we cannot be subject to the *Canadian Charter of Rights and Freedoms* in federal and provincial laws of general application. This is interference. The Queen made promises in Treaty No. 6 to protect our traditional way of life, to protect our land, and to ensure our social and economic advancement. Only laws with these objectives can apply to us and only when there is agreement on the nature of these laws by Alexander. This is clearly in Treaty No. 6. Alexander states again that we have our own laws and governments that emphasize different principles and values than the Canadian government. Specifically, the *Canadian Charter of Rights and Freedoms* protects individual rights. In our way, collective rights take priority over individual rights.

A constitution sets out the rules by which peoples govern themselves. A constitution also sets out the values of the people. As the Alexander First Nation, we state that our values are different than those of the Canadian Constitution. Treaty No. 6 recognizes our values. Treaty No. 6 also recognizes the values of Her Majesty the Queen. Treaty No. 6 was an agreement of two nations to understand one another and to peacefully co-exist. Alexander cannot agree to any constitutional amendment that reflects anything less than this. To do this would be to breach our Treaty No. 6.

The Treaty is sacred. Such a breach would offend something much greater than man. It is in this spirit that we must now reaffirm discussions on Treaty No. 6 that was conducted a long time ago.