

NO. 1 - REQUEST FOR REVIEW: RA21030 / Curtis McKelvie

Filed By:	Samson Cree Nation (c/o Kaylyn Buffalo)
Deadline for RFRs:	October 6, 2022
Date RFR received:	October 14, 2022
Status of Party as per Decision Summary:	Directly Affected Party

**REQUEST FOR BOARD REVIEW OF AN
APPROVAL OFFICER DECISION**
Submitted to the Natural Resources Conservation Board

NRCB Application No.	
Name of Operator or Operation	
Type of application (if known)	<input type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (<i>legal land description</i>)	
Municipality	

**I hereby request a Board review (RFR) of the approval officer's decision.
I have the right to request a Board review because:
(review the options and check one)**

- I am the operator.
- I represent the operator.
- I represent the municipal government.
- I am listed as a "directly affected party" in the approval officer's decision.
- I am not listed as a "directly affected party" in the approval officer's decision and would like the Board to review my status.

IMPORTANT INSTRUCTIONS

1. You must meet the deadline specified in the approval officer's decision letter or your request will not be considered.
2. Section 1 of this form must be completed only if you are requesting that the Board review your status as "not directly affected". Sections 2 to 5 must be completed by all applicants.
3. Requests for Board review are considered public documents. Your request will be provided to all directly affected parties and will be posted on the NRCB website.
4. For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.

1. Party Status

(IF YOU ARE NAMED A NOT DIRECTLY AFFECTED PARTY IN THE APPROVAL OFFICER'S DECISION, YOU MUST COMPLETE THIS SECTION)

Party status (either "directly affected" or "not directly affected") is determined pursuant to the provisions of the *Agricultural Operation Practices Act (AOPA)* and regulations. Upon receipt of an operator's application, the approval officer must notify any affected parties. "Affected parties" includes municipalities and owners or occupants of land as determined by the AOPA regulations. To obtain "directly affected" status, the owner or occupant must provide a written submission to the approval officer by the deadline specified in the published notice. The approval officer will then determine who the "directly affected parties" to the application are and include this determination in their decision.

Under its legislation, the Board can only consider requests for Board review submitted by "directly affected parties". If you are not listed as directly affected in the approval officer's decision, you must request that the Board reconsider your status. The Board cannot reconsider the status of a party who has not previously made a submission to the approval officer during the application process.

In order to request your status be reconsidered, you must explain why your interests are directly affected by the review decision of the Board.

My grounds for requesting directly affected status are:

2. Grounds for Requesting a Review

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to approve an operator's application, approval officers must ensure the requirements of AOPA have been met. Your grounds for requesting a Board review should identify any AOPA requirements, or other specific issues, that you believe the approval officer failed to adequately address in the decision.

My grounds for requesting a review of the approval officer's decision are:

3. Reasons you are Affected by the Decision

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to support your reasons for requesting a Board review, explain how you believe you would be affected by the approval officer's decision.

I believe that, as a result of the approval officer's decision, the following prejudice or damage will result:

4. Action Requested

(ALL PARTIES MUST COMPLETE THIS SECTION)

I would like the Board to take the following actions with respect to the approval officer's decision:

- Amend or vary the decision
- Reverse the decision

Please describe why you believe the Board should take this action:

If the Board decides to grant a review of the approval officer's decision (*in the form of either a hearing or a written review*), all "directly affected parties" are eligible to participate.

The Board may consider amending the approval, registration, or authorization on any terms and conditions it deems appropriate. The Board cannot make amendments unless it first decides to grant a review of the approval officer's decision. Are there any new conditions, or amendments to existing conditions, that you would like the Board to consider?

5. Contact Information

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of person(s) requesting the review:

Name:

Address in Alberta:

Legal Land Description:

Phone Number:

Fax Number:

E-Mail Address:

Signature: _____ Date: _____

This form must be received by the deadline specified in the approval officer's decision letter or your request will not be considered.

If you will be represented by legal counsel or another party, provide their contact information. Correspondence from the Board will be directed to that person.

Name:

Address:

Phone Number:

Fax Number:

E-Mail Address:

**When you have completed your request form email it,
along with any supporting documents, to:**

Laura Friend
Manager, Board Reviews
Natural Resources Conservation Board

Phone: 403-297-8269

Email: laura.friend@nrcb.ca

Requests for Board Review (RFRs) are considered public documents. Your request will be provided to all directly affected parties and will be posted on the NRCB website.

For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.



SAMSON CREE NATION CONSULTATION

P.O. Box 159
Hobbema, Alberta
T0C 1N0
(780) 585-3793
Direct Line 421-4926
Fax (780) 585-2256
1-800-661-2579

October 14, 2022

Natural Resources Conservation Board
Attn: Laura Friend, Manager of Board Reviews

Dear Laura Friend,

Re: Application RA 21030 – Notice of Decision – Samson Cree Nation Requests for NRCB Board Review

Please accept this letter and statements on behalf of Samson Cree Nation (“SCN”, “Samson Cree”, and/or the “Nation”), Samson Cree Nation Consultation and Samson Cree Peoples. Samson Cree Nation acknowledges the deadline of October 6th, 2022 and has emailed Laura Friend on October 6th seeking an extension. I was tasked to oversee the rebuttal request and was on bereavement during that time and was unable to present the response to leadership for approval.

Samson Cree Nation is of the view that the Natural Resources Conservation Board’s practices and processes are highly inadequate and completely disrespectful to the Inherent and Treaty Rights of our Nation, its citizens, our lands and waters, and wildlife that call our lands home. There is no recognition for the sovereignty of Nations signatories of Treaty No. 6 within Alberta, the Confined Feeding Operations Act, and Indigenous Nations are viewed under the guise of a municipality which completely undermines and diminishes Indigenous rights and sovereignty.

Samson Cree Nation Overview:

Nipisihkopawiyiniwak (the people of the Land of the Willows, also known as the people of Samson Cree Nation), have identified inherent, and possess Treaty No. 6, rights within their territory.

Samson Cree has governed themselves since time immemorial, in accordance with their laws, jurisdiction, and responsibilities, which has included the protection of their culture, territories, and their right to self-determination as Indigenous Peoples within Canada.

In 1877, the Crown and Samson Cree entered into Treaty No. 6 at Blackfoot Crossing, on a nation-to-nation basis, which established a sacred relationship for the peaceful co-existence and shared use and management of the lands, waters and resources within the Treaty No. 6 territory.

Samson Cree Nation abides by and honours the Treaty Principles as set out by the Maskwacis Elders in 1977:

1. **Kikpaktinkosowin:** The Inherent Right to Self-determination and Cree Government;
2. **Ketchi Oyichikaywina:** The original spirit and intent of Treaty, treaties as sacred agreements and Cree understanding;
3. **Taypilmowin:** Mutual consent; and,
4. **Witaskiwin:** Peaceful co-existence and mutual responsibility to honour the International Treaties.

Unaddressed Issues:

SCN has not been able to carry out any engagement activities with the Proponent. During the time Samson was granted an extension the main point of contact had tested Covid positive and was unable to conduct door to door visits with affected residents within the 1.5km radius. The majority of the comments in this document are a result of a desktop and the initial project review. These comments may contribute to, but in no way should be treated as a replacement for, further community-based studies and assessments that should be undertaken. Additional work with SCN is required to assess effects and to develop recommendations for appropriate mitigation or redress for impacts.

First Nation reserves (within the meaning of the *Indian Act*) are implicitly not part of any municipality, and it is an inadequate and problematic for the Approval Officer to consider Samson Cree Nation to function as municipalities. If the NRCB does not have adequate process to deal with First Nations issues, specifically Samson Cree Nation

No historical information pertaining to SCN has been incorporated into the Project due to capacity constraints. The NRCB requested for further quantitative and qualitative historical data without providing the adequate for the SCN Consultation Office to collect the data sought. The Government of Alberta has historically underfunded all indigenous nations within Alberta. The form of requested information was inconsiderate to Samson Cree Nation when no capacity funding to support those type of requests was ever provided to Samson Cree Nation. The increase in funding the SCN Consultation Office receives only covers the costs of operations. Any fee's provided through the Government of Alberta's Indigenous Consultation Capacity Program are intended to assist nations through operational costs to conduct consultation, baseline data collection is not considered to be an operational cost.

The loss of this landscape will ultimately deplete and change the history we will be telling our grandchildren and generations to come. The water we use for ceremonial purposes and wish for the protection of residential drinking water for the 60+ Samson Cree Nation homes and for the health of possibly hundreds of residents that surround the project and those whom use the Battle River to sustain themselves. Samson Cree Nation has app. 900. Homes within the reservation boundaries with a population of app. 9177 members. It is common practice for multiple families to reside within a single-family structure on reserve as housing is extremely ltd.

Historically Nipisihkopawinawak used the Battle River to conduct trade amongst other tribes and build relations across the plains. The entire reserve landscape has been used within oral history for many generations before us. Many battles were fought and won along the banks of the Battle River, relationships with Kise Manito (Creator) and Okawimaw Askii (Mother Earth) are founded in their beauty. The rich, vibrant history behind those battles is why the river is named Battle River.

Samson Cree Nation membership and housing information has only recently undergone an upgrade of a new housing management system. All housing/resident information has not been updated since the 1980's. Homes remain within the family's and are only handed down by the former homeowner or through the

homeowner's estate. This makes it difficult to keep up to date information. Where it may seem that Samson is being uncooperative by not providing information, SCN is in fact underfunded, short staffed and are only now catching up to information technology gap. There is still much work to be done with residential data collection. All the homes within the 1.5 km vicinity are connected to wells; any impact to the aquifer will be detrimental to the health and well-being of all the residents, their domestic animals, and to the health of the land they reside on.

It is noted in Appendix A that Samson Cree Nation has received a courtesy letter; the Samson Cree Nation Consultation office has not received the notice from the NRCB as indicated in Appendix A, the SCN Consultation office was only provided a notice of the project from a concerned SCN member who shared the notice from Ponoka News and not from the Natural Resources Conservation Board or Mr. McKelvie himself. Samson Cree Nation was advised by the NRCB that the Cattle was increased prior to the NRCB approval decision and Mckelvie was only advised to fix his property up to NRCB standards and compliance, no fines were issued.

Samson was approached after the meeting with the NRCB by our business arm Samson Management Ltd. where we had met with a relative of the McKelvie family whose partnership proposed a Gravel pit operation with the same land description who was also unaware and verbally opposed of the proposed increase in cattle. The cumulative effects and impacts of the 2 applications (Proposed gravel operation and increased cattle operation) combined would devastate the health of Battle River, the aquifer and the livelihoods of many traditional land users who call the riverbanks home.

Samson Cree Nation was not approached by Ponoka County to participate within the Municipal Development plan, and the inherent and Treaty #6 rights were not considered when the plan was developed.

The Ponoka-Wetaskiwin Inter-municipal Development Plan has Maskwacis in a grey area between Ponoka and Wetaskiwin Counties. Former Samson Cree Nation Band Administrator Cody Bruno was present at the hearing and did oppose that plan as Samson Cree Nation was not considered in any portion of the document. Samson Cree did not receive any follow-up from either municipality to remedy the situation.

Conclusion:

SCN citizens have constitutionally protected Aboriginal and Treaty Rights to hunt, fish, trap, governance rights and environmental stewardship rights incidental to Samson Cree's ability to meaningfully exercise their established Treaty No. 6 Rights within SCN's Territory. Indigenous nations were put on reservations specifically so we can practice those rights without interference from the government agents, settlers, or Police. SCN practice of rights is inextricably tied to the health of the land. The ability to practice rights relies on sufficient quantity and quality of tangible resources including fish, culturally important plants, water and game and intangible resources such as language, spiritual sites, cultural landscapes and the transmission of knowledge. SCN's Treaty and Aboriginal Rights practice have not been considered for the Project at this time.

The ability to practice rights relies on sufficient quantity and quality of resources including fish, culturally important plants, water and game and intangible resources such as language, spiritual sites, cultural landscapes, and the transmission of knowledge.

I trust this letter of comment shall suffice. Should you require any further information please contact both Kaylyn Buffalo and Kyra Northwest.

- Kaylyn Buffalo, P.O. Box 159 Maskwacis, Alberta T0C1N0 (780)335-1842
SCNConsultation.pc@gmail.com

- Kyra Northwest, P.O. Box 159 Maskwacis, Alberta T0C1N0 (780)655-0904
Kyra@consultsamson.com

Respectfully,

A rectangular area containing a handwritten signature in black ink. The signature is cursive and appears to read "Kaylyn Buffalo".

Kaylyn Buffalo
Samson Cree Nation
Consultation Project Officer