



May 15, 2020

The Honourable Scott Moe  
Premier of Saskatchewan  
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Dear Mr. Premier Moe,

**Regarding: Indigenous Government and Provincial Government Relations**

As you may remember, there is an important initiative championed by a number of committed First Nations Leaders in the Battlefords Regional Community. Your governments, both municipal and provincial, through SUMA in February 2020, recognized the work in relationship building we have done at the conference we all attended with many of your Saskatchewan constituents. In fact, we were the recipients of the first-place award.

We have come together as community, Leaders in the Battlefords region and citizens, to find a collaborative way forward in building a healthier and more prosperous regional community; building a better Battlefords regional community builds a better province. I personally am reaching out and once again asking you and your government to do the same.

Your policy states: "The Government of Saskatchewan will consult with and accommodate, as appropriate, First Nations and rights-bearing Métis communities in advance of decisions or actions which may adversely impact Treaty and Aboriginal rights." Although the focus of this policy is on consultation as it applies to Treaty and Aboriginal rights associated with lands and renewable resources, it does not exclude application to other Treaty and Aboriginal rights.

Yet recent headlines in the news and jurisdictional issues continue to find federal, provincial and First Nations governments at odds.

May 13,14, 2020 News Headline:

**Saskatchewan Premier Scott Moe says there should be no exceptions to the public health order against gatherings after members of a First Nation said the RCMP interrupted a sun dance ceremony on Sunday.**

Little Pine

Lucky Man

Poundmaker

May 14, 2020 News Headline:

### **Ottawa, Moe differ on Indigenous ceremonies during pandemic**

I am taking the time to send you this letter which contains information in a brief I recently provided the groups we are working with because I believe in the importance of and need for a healthier and better relationship between your provincial government and our First Nations governments has never been greater with the unprecedented times we as one nation, and one world of nations, face.

The federal government is responsible for matters that affect the whole country. The provincial government is responsible for matters that affect the well-being of people in the province, and Indigenous government is responsible for matters that affect the rights of First Nations, Inuit, and Métis citizens.

Indigenous Jurisdiction: Indigenous Peoples are also sovereign. Sovereignty over land was given to us by the Creator and predates the Crown in Canada. The Inherent Jurisdiction of that authority extends over our communities (peoples) and their traditional territories (land and resources).

**“Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.” – United Nations Declaration on the Rights of Indigenous Peoples**

***“Traditional ceremonies and spiritual practices...are precious gifts given to our people by the Creator. These sacred ways have enabled us as Indian people to survive – miraculously – the onslaught of five centuries of continuous effort by non-Indians and their governments to exterminate us by extinguishing all traces of our traditional ways of life.***

Today, these precious sacred traditions continue to afford all our First Nations the strength and vitality we need in the struggle we face every day; they also offer us our best hope to survive this pandemic as we did small pox, tuberculosis, measles and other diseases that were brought onto us over the last 300 years.

***“Our hope for a stable and vibrant future. These sacred traditions are an enduring and indispensable ‘life raft’ without which we would be quickly overwhelmed by the adversities that still threaten our survival. Because our sacred traditions are so precious to us, we cannot allow them to be restricted or desecrated and abused.”***

### **Charter and Constitution Act**

***Section 25 of the Charter[517] and section 35[518] of the Constitution Act, 1982 recognize and affirm the constitutional rights of Indigenous peoples in Canada. This includes but is not limited to enforcing treaties and Aboriginal land titles, and the right to preserve traditional cultural practices and activities such as fishing, logging, hunting and other customary and sacred traditions.***

**In *R. v. Van der Peet*, the Supreme Court of Canada discussed the underlying legal basis for aboriginal rights:**

***...the doctrine of aboriginal rights exists, and is recognized and affirmed by s. 35(1), because of one simple fact: when Europeans arrived in North America, aboriginal peoples were already***

*here, living in communities on the land, and participating in distinctive cultures, as they had done for centuries. It is this fact, and this fact above all others, which separates aboriginal peoples from all other minority groups in Canadian society and which mandates their special legal, and now constitutional, status.*

**United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states:**

*Canadian laws and human rights provisions affecting Indigenous peoples should be interpreted in light of, and uphold the provisions of, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Endorsed by the Government of Canada in 2010,[522] UNDRIP provides an internationally recognized framework for measuring the human rights of Indigenous peoples,[523] setting the “minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.”[524] Several provisions directly relate to rights associated with practicing Indigenous Spirituality, including but not limited to[525]:*

**Article 12(1):**

*Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.*

**Article 25:**

*Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*

**Article 34:**

*Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.*

**Organizations under your provincial jurisdiction have a duty to accommodate Indigenous peoples’ spiritual beliefs and practices – including ceremonies and sacred customs.**

**Access to and use of sacred sites and objects**

“Our relationship to the land defines who we are; we are the caretakers of Mother Earth. What is sacred then is more than a single burial location. The location of medicines, ceremonies, stories, burial sites, traditional harvesting and hunting grounds, villages and trading areas are all locations that are ‘sacred. The locations of these sites are living; they are not ‘artefacts’ relegated to antiquity. As well, instruments created to celebrate stories and ceremonies, protect medicines and honor our ancestors are sacred...[T]he definition of what is ‘sacred’ is determined by the First Nation community itself and [is] reflective of the community’s values of what is sacred.”

**Sacred sites**

**Since Indigenous peoples have been recorded to be living in Saskatchewan for over 11,000 years and many Indigenous sacred sites are often located outside reserve boundaries.**

Access to, use and preservation of ancestral burial grounds, sacred ceremonial sites and other sacred sites are integral to Indigenous Spirituality. The courts have recognized the territorial aspect to the exercise of religious rights and customs of Indigenous peoples

Government and regulatory bodies involved in development and planning activities (including policy or law-making) that may have a negative impact on Indigenous peoples' ability to practice Indigenous Spirituality should consider, prevent, and mitigate such impacts.

**Indigenous peoples must be consulted and involved in decision-making processes to further prevent and mitigate negative impacts and facilitate inclusive design.**

**Most recently the numerous stories covered in the media and through various interfaces with ISC and the province have amplified the need for Provincial and Federal Governments to honor the rights of our people to practice our spirituality and to acknowledge that they do not have the jurisdictional authority to enforce legal restrictions to religious practices of our people.**

**The criminal code of Canada states:**

**Obstructing or violence to or arrest of officiating clergyman**

176 (1) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction who

(a) by threats or force, unlawfully obstructs or prevents or endeavors to obstruct or prevent an officiant from celebrating a religious or spiritual service or performing any other function in connection with their calling, or

(b) knowing that an officiant is about to perform, is on their way to perform or is returning from the performance of any of the duties or functions mentioned in paragraph (a)

(i) assaults or offers any violence to them, or

(ii) arrests them on a civil process, or under the pretense of executing a civil process.

**Our Elders, Medicine holders, Spiritual Leaders and Shaman are the clergyman of our Nations and are protected under this law as well, and we as First Nations continue to work as one people to protect our traditions, ceremonies and ways of life given to us by Creator.**

**Ceremonial practices and customs are being interrupted and/or banned and Orders are being issued to restrict and stop sacred ceremonies (Federal April 29, 2020 Dr, Kahn letter, BTC Response attached).**

The right to practice ceremonies when prayer for communities is most needed is being interrupted and threatened by you and your government. Our nations challenge this jurisdictional issue and all issues that impact our rights under treaty collectively, with one voice and as one people, the First Peoples of this Canada.

Both the Federal and Provincial Governments must acknowledge First Nations Governments rights which include respectful engagement and consultations with and our Nations as equitable participants in decisions that impact all our Nations.

We all need to lead in creating an effective Government to Government forum to address ongoing issues during and after this pandemic. We need the Federal and Provincial governments to participate in a process that is inclusive, not exclusive.

I invite you, the current provincial leader and Justin Trudeau, the Federal Leader, to come work with us to foster health, growth and well-being for the residents in the Regional Community of the Battlefords. I, as a champion for change through education, addressing indifference and building better relations for all our Nations, ask today that you reconsider your position presented in the news with respect to our ceremonies, culture and traditions.

I ask both the provincial and federal governments to provide a decision maker from your government to come and sit so we may jointly find a better road forward. We wish to be consulted on all matters which could adversely impact Treaty and Aboriginal rights. This pandemic should only emphasize the immediate need for change and action.

In closing, letters I have sent to governments often wind up in the governments 'file 13'. I am asking you to formally respond and acknowledge the letter I send today.

Chief Wayne Semaganis



Battlefords Tribal Chief, Battlefords Tribal Council

cc:

The Right Honourable Justin Trudeau, Prime Minister of Canada

Marc Miller, Minister of Indigenous Services

National Chief Perry Bellegarde, Assembly of First Nations

Chief Bobby Cameron, Federation of Sovereign Indian Nations

BTC Chiefs

BATC Chiefs

Mayor Ryan Bater, City of North Battleford

Mayor Ames Leslie, Town of Battleford

Patricia Whitecalf-Ironstand, Battle River Treaty 6 Health Authority

Lee Gardipy, Director Saulteaux Health Authority

Tammy Lidguerre, Director Red Pheasant Health Authority