

# Manitoba First Nation suing for \$800M over flooding caused by SaskPower dam

Mathias Colomb Cree Nation says Island Falls power station destroys habitat, disrupts traditional livelihoods

By Cameron MacLean, [CBC News](#) Posted: Mar 02, 2018 5:25 PM CT



SaskPower's Island Falls Hydroelectric Station on the Churchill River has been blamed for decades of flooding on Mathias Colomb Cree Nation around Pukatawagan. The First Nation is suing for \$750 million in general damages, plus \$50 million in punitive damages. (SaskPower)

A northern Manitoba First Nation is suing Saskatchewan's Crown power corporation, the Province of Manitoba and the Canadian government over decades of flooding caused by a hydroelectric generating station blamed for disrupting traditional livelihoods.

Mathias Colomb Cree Nation filed a statement of claim in Manitoba Court of Queen's Bench on Feb. 22 seeking \$750 million for damage to the land and water, loss of use of the land and infringement of treaty rights. The lawsuit is also seeking \$50 million in aggravated and punitive damages.

The lawsuit names SaskPower — the Saskatchewan Power Corporation — Canada's attorney general and the Government of Manitoba.

The flooding is caused by the Island Falls Hydroelectric Station and Whitesand Dam on the Churchill River, the statement of claim says.

Deputy Chief Richard Dumas said for the last 80 years, the power station has routinely caused flooding around his home community of Pukatawagan, roughly 700 kilometres northwest of Winnipeg and part of Mathias Colomb First Nation.

"The dam has caused the water to wash away fish nets, the boats, traps, rice harvesters.... It has caused the ice conditions that destroy docks," said Dumas.

"It destroys the habitats — the stable shoreline habitat is essential for different kinds of plants and fish," he said.

"Generations of people haven't been able to exercise their treaty rights to hunt, fish, trap, rice harvest. Those are the ones who haven't been able to teach their children about the livelihood has been going on here prior to the dam."

Construction of the power station started in 1929 and it was expanded several times over the next few decades, the last time in 1959. It was originally built by the Hudson Bay Mining and Smelting Company to power mining operations in Flin Flon, Man. SaskPower bought it in 1981.

According to the statement of claim, water levels within the First Nation's territory can fluctuate between four and 15 feet, or roughly one to five metres.

"MCCN members have suffered stress, distress, anguish, anxiety and worry as a result of the damage to the land, waters, plants and animals on which they rely," the statement of claim reads.

Leaders from the First Nation have tried, without success, to work with SaskPower to find a solution, Dumas said.

"We're ... basically taking it to the courts and hopefully [we'll] have



Flooding on the Churchill River in the First Nation has disrupted traditional fishing and harvesting practices and interfered with treaty rights, the lawsuit claims. (Submitted by Richard Dumas)

some sort of a tangible result."

## **SaskPower, province haven't been served**

A spokesperson for SaskPower said it hasn't been served notice of the lawsuit. "SaskPower does not comment publicly on matters that may be before the courts," the spokesperson wrote in an email.

The Province of Manitoba also hasn't been served a copy of the statement of claim.

"Once the government of Manitoba has been formally served, the statement of claim will be reviewed to determine next steps. We are unable to provide further comment at this time," a provincial spokesperson wrote in a statement.

The \$750 million amount was calculated based on estimated loss to the First Nation's 3,200 registered members, Dumas said.

SaskPower will send them notifications by fax whenever they plan to change the flow out of the generating station, but it's hard to relay that information in the community where cellular service is limited, Dumas said.

"Our people are out there on the land trying to harvest and they don't know if the water level's about to change. And when they're out there, it's harder for us to communicate with them," he said.

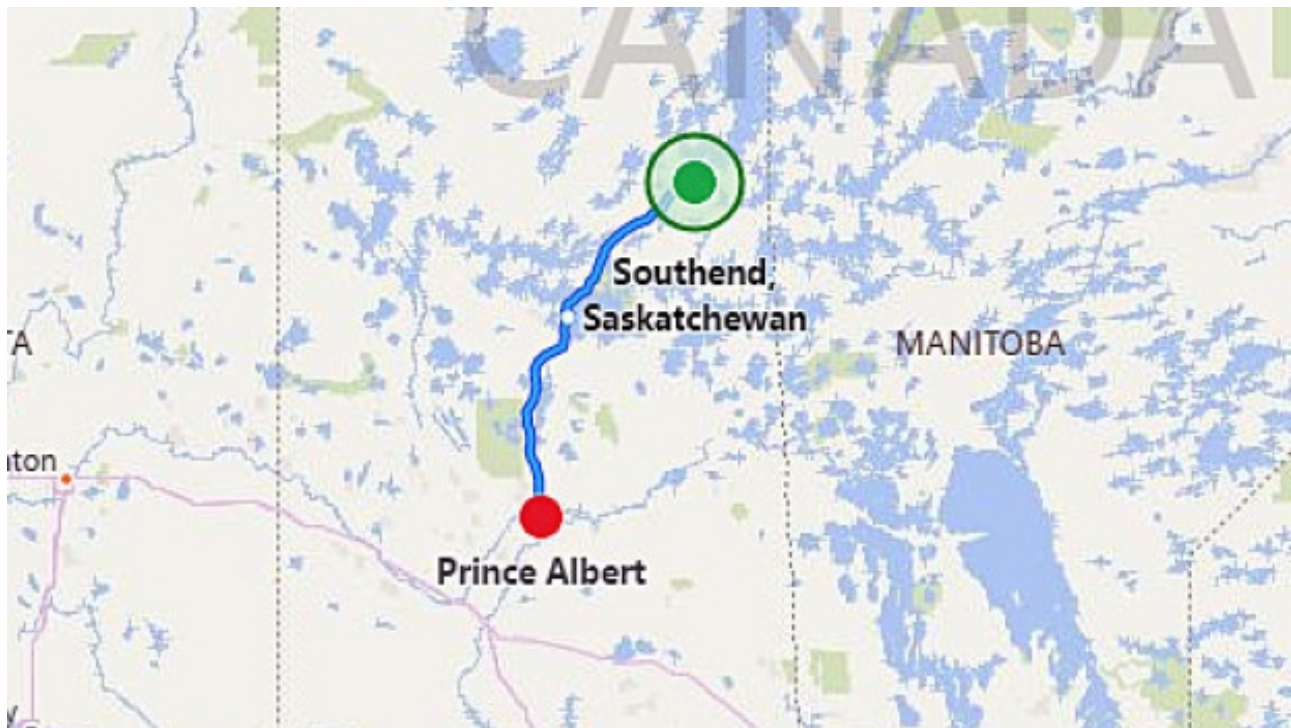
No statements of defence have yet been filed.

## **2016 lawsuit**

This is not the first lawsuit connected to the Whitesand Dam.

[Peter Ballantyne Cree Nation in Saskatchewan sued](#) the federal government, the Province of Saskatchewan, SaskPower and two third parties — Hudson Bay Mining Co. and Churchill River Power Corp — saying that up to 600 acres of its Southend reserve, 460 kilometres northeast of Prince Albert, is regularly flooded.

Under Treaty 6, the reserve land was to be used by members of the First Nation for hunting, fishing and trapping.



Southend, Sask., is located about 460 kilometres northeast of Prince Albert. A lawsuit filed by Peter Ballantyne First Nation argued the area is regularly flooded because of the Whitesand Dam. (Bing Maps)

However, thanks to flooding caused after the 1943 construction of the Whitesand Dam, those rights have been infringed upon, Peter Ballantyne argued.

A 2016 Saskatchewan Court of Appeal decision dismissed the lawsuit with respect to the federal government and the third parties, but said the claim against the Saskatchewan government and SaskPower was valid in that they continue to trespass on First Nations territory.