

February 6, 2025

Blueberry River First Nations Council Statement on Judicial Reviews

As the democratically elected Council for Blueberry River First Nations, we have taken an oath to uphold and comply with Blueberry's bylaws and fulfill our duties and responsibilities as elected officials on behalf of our family groups and Nation.

Part of this oath is: *"...[to] carry out my duties and responsibilities faithfully, honestly, impartially and to the best of my ability; keep confidential all personal information I collect in carrying out my duties as Councillor; and always act in the best interests of Blueberry River in carrying out my duties and responsibilities."*

It is with this oath in mind that we strive to carry out our duties in the best interests of our entire community.

Over the past few months, Blueberry's former Chief, Judy Desjarlais, and members Clarence Apsassin and Joseph (Joe) Apsassin, have sought judicial reviews on decisions made by the Council. Both cases are currently before the courts, and Blueberry's Council continues to participate in the legal proceedings related to these reviews.

During this time, confidential and incomplete information about internal governance issues have been released to the media and the public. It is Council's opinion that this is being done in an attempt to intentionally create further division within our already divided community, and to misrepresent Council's conduct. These repeated legal actions harm and hinder the Nation's ability to engage in business and make progress on meaningful work that will benefit all Blueberry members. We believe the recent actions of these individuals serve their own personal interests, and do not consider what is best for our whole community.

Until now, Council has refrained from responding to each accusation or issue publicly, particularly those which are now before the courts. It does not serve our community, nor the important work we are doing with our industry partners and other governments, to participate in mudslinging in the media.



Blueberry is at a crucial point in our history, where we are in the early days of enacting the Implementation Agreement with the province. The court filings and judicial reviews being brought by these few members are a distraction from all of our collective efforts and energies to serve our members and collaborate with industry and governments. Over the years, some of these individuals have demonstrated a pattern of bringing forward unfounded and self-serving legal cases, only to be dismissed in court.

On Tuesday, January 28, 2025, CJDC-TV aired a story and published an accompanying web article ('Blueberry River First Nations Elders file motion for judicial review of band's council') which contains several misleading and/or incorrect statements. Below includes some clarification and further information to some of these statements:

1. *"Clarence and Joe Apsassin, have filed a motion calling for a judicial review of the band's council."*

Clarification:

- This is not a new 'motion'; the document that is being referenced relates to one of two separate judicial reviews currently ongoing.
- This document being referenced relates to the judicial review first filed by Clarence Apsassin and Joe Apsassin on April 10, 2024. It includes the applicants' legal argument and other materials such as affidavits, and is a required document for this legal process.
- This does not relate to the removal of the former Chief Judy Desjarlais. There is another, separate, ongoing judicial review filed by former Chief Judy Desjarlais on October 15, 2024 regarding her removal. This is currently inactive while Desjarlais' legal team files the required documents.

2. *"Among other requests, they seek declarations for regular council meetings..."*

Clarification:

- Council has regular meetings which are open to Blueberry members via Zoom.
- When these meetings are scheduled, all Blueberry members receive the information and are welcome to attend.
- Like all governments, Blueberry's Council holds in-camera meetings when confidential issues need to be addressed; due to confidentiality, these meetings are not open to band members.
- Council members also make regular communications with their family group members - as they have always done and will continue to do.

3. *“The Elders claim that the investigation against former Chief Judy Desjarlais was conducted without consultation and lacked supporting documentation. They also allege that important decisions regarding the Implementation Agreement with the province, and the firing of their band manager were made behind closed doors.”*

Clarification:

- There are 40 pages of documentation of the independent investigation into the misconduct of the former Chief, published publicly on Blueberry’s website on Sept 17, 2024, which [can be read in full here](#).
- Blueberry’s governance is based on a democratic system; Council members are elected by Blueberry members, which provides Councillors the authority to make decisions that follow Blueberry’s bylaws.
- Under Blueberry’s bylaws, there is no requirement for members to be involved in every decision; it is the elected Councillors’ fiduciary duty to act in the best interests of and on behalf of Blueberry’s members and the Nation as whole.
- Similarly, under Blueberry’s bylaws, human resource decisions do not require consultation with members.

Further, Council wishes to address a 5-part series from CJDC-TV that aired in January 2025, which focused largely on an interview with former Chief Judy Desjarlais. This series featured a number of misleading comments from Desjarlais. We have addressed some of them below, in order to provide balanced and accurate information for both Blueberry members and the general public.

In September 2024, the majority of Blueberry’s elected Council members voted to remove Desjarlais from her Council-appointed role as Chief. This decision came after an independent investigation found that Desjarlais had failed to act honestly, impartially or in good faith; engaged in conduct that violated Blueberry’s bylaws; and caused substantial harm to the Nation’s ability to conduct business. A summary of the Investigation Report, which includes the Council’s reasons and rationale behind this decision, can be found [here](#) (excerpts from this summary can be found at the end of this statement). The process for the removal of a member of Chief and Council is laid out in Blueberry’s bylaws and was followed correctly.

We want to respond to the following incorrect information published in the CJDC-TV series:



1. *"The permits approved by Desjarlais in 2023, without the consent of Council, created employment opportunities and brought in nearly \$54 million to the Nation."*

Clarification:

- Blueberry's Council does not know where this number came from and can find no evidence to support this claim.

2. *"One company that benefited financially from these permits is Blu-Water LP, a company partially owned by Councillor Wayne Yahey."*

Clarification:

- Blu-Water LP did not receive any work as a result of the permits Desjarlais improperly granted.

3. *"Many within the Nation, among them elders, now say that progress has led the BRFN to become a 'lawyer-run nation.'"*

Clarification:

- Governments seek legal advice on legal matters and Blueberry is no different.
- Lawyers do not make decisions for Blueberry, and they do not 'run' Blueberry. Rather, lawyers advise and protect Blueberry against legal action, especially involving government and private companies.
- Blueberry's lawyers give advice and take direction from the majority of the democratically elected leadership (i.e. the quorum of Councillors).
- All important decisions are made by a majority vote by Council.
- Further, there is not and has never been an 'Elders' Council' at Blueberry.

4. *"The implementation agreement didn't say that we're going to say no to development all step [sic] of the way. It says we're going to find a balanced approach into production of our traditional territories,' said Desjarlais."*

Clarification:

- There has been no stop to development in Blueberry's territory since the signing of the Implementation Agreement in January 2023.
- Over 700 permits were reviewed by Blueberry's Lands department between October 2023 and the first week of November 2024.



- Importantly, these reviews ensure that sensitive areas of Blueberry's territory are being protected, and balance industrial development with Blueberry's Treaty Rights, as per the 2023 Implementation Agreement.
- Extraction in Blueberry's territory for the new LNG Canada facility in Kitimat is already underway. In 2024 alone, Shell undertook drilling on 73 wells in B.C. - nearly the same number it had drilled in the combined six years prior (according to industry publication [BOE Report](#)).

Since the removal of former Chief Desjarlais, both staff and Blueberry members report improvements in the work environment at Blueberry. Staff have reported less stressful working conditions, and that their work is able to continue with clarity and without unnecessary roadblocks.

Council is currently in the process of setting up protections to ensure that no future leaders can take advantage of their position to benefit themselves and/or those close to them.

Blueberry continues to work with all partners and stakeholders to advance industrial development in its traditional territory, while also balancing these interests with Blueberry's constitutionally protected Treaty Rights.

Council will not be commenting further on documents related to these judicial reviews until the courts make their decisions.

Councillor Sherry Dominic
Councillor Troy Wolf
Councillor Shelley Gauthier
Councillor Wayne Yahey

Background Information - Excerpts from the [summary of the independent Investigation Report](#) by Sugden, McFee & Roos LLP into the conduct of former Chief Judy Desjarlais:

- Chief Desjarlais had no authority to act unilaterally but did so regardless.



- Acting contrary to the wishes of the majority of Council, the Chief granted the Petronas/Town East Permit Approvals [in 2023].
- The Investigation Report concluded that the Chief failed to act honestly, impartially or in good faith and that she can be disciplined.
- The Investigation Report also concluded that the misconduct of the Chief caused substantial harm to BRFN's ability to conduct business.
- As a result of these findings, the Investigation Report concluded that Chief Desjarlais breached her obligations to BRFN in a serious way.