

Routing Slip**Docket Number:** 2006-17636

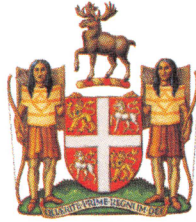
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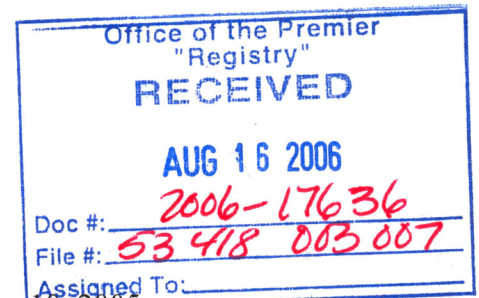
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Record Type: GOVERNMENT
Class: 53 - PROVINCIAL
Primary: 53 418 - PROV P&P ABORIGINAL AFFAIRS
Secondary: 003 - ASSOCIATIONS & SOCIETIES
File No: 53 418 003 007**Subject:**PREMIER WILLIAMS RESPONDS TO CHRIS MONTAGUE CONCERNING THE PROPOSED
LOWER CHURCHILL HYDRO DEVELOPMENT.**Contact:**CHRIS MONTAGUE
PRESIDENT
LABRADOR METIS NATION
PO BOX 460, STN. C.
HAPPY VALLEY-GOOSE BAY, NL
A0P 1C0**Assigned Date:** 8/16/2006
Assigned To: REGISTRY
Task: FILE



THE PREMIER
GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR



November 10, 2005

Mr. Chris Montague
President
Labrador Metis Nation
P.O. Box 460, Station C
Happy Valley-Goose Bay, NL
A0P 1C0

Dear Mr. Montague:

This is in response to your letter of October 31, 2005 concerning the proposed Lower Churchill hydro development.

You have already acknowledged receipt of the Honourable Tom Rideout's October 4, 2005 letter to you. In that letter, Mr. Rideout communicated Government's position to you concerning the LMN's earlier request for a special consultative process on this proposed project. That position remains unchanged.

The consultation process you outlined in your letter would go far beyond any legal precedence or any current or past practice our Government has undertaken with respect to the Innu Nation or Labrador Inuit Association. Given the status of the LMN, you must recognize that the LMN's proposal does not represent a basis for fruitful negotiations.

As Minister Rideout indicated to you, we remain at a very early stage in the process. I have just recently publicly reiterated my intention and commitment to consult with Labradorians on this potential development, which could provide tremendous benefits to the people of the Province and to Labrador residents in particular. I hope you and your colleagues in the LMN will participate in these consultations, as I am anxious to hear all perspectives on this vitally important matter.

Sincerely,

DANNY WILLIAMS, Q.C.

**Department of Labrador and Aboriginal Affairs
Labrador Metis Nation and the Lower Churchill**

Issue:

The Labrador Metis Nation (LMN) has demanded consultation on the proposed Lower Churchill development.

Background:

On October 31, 2005, LMN President Chris Montague wrote to the Premier concerning the proposed Lower Churchill hydro development, seeking a Memorandum of Understanding with the Province on an interim consultation and accommodation process.

Mr. Montague outlined a nine-step process which the LMN has adopted for consultation. This included requirements for LMN consent at numerous steps in the process, which would go beyond the Province's existing consultation policy vis-à-vis Innu Nation and the Labrador Inuit Association (LIA), not to mention legal precedents.

On June 5 and 7, 2005, then-LMN Vice-President Bernard Heard wrote to the Premier concerning a similar but less specific demand for consultation on the Lower Churchill. Mr. Montague wrote to the Premier on the same matter on September 9, 2005.

On October 4, 2005, Minister Rideout responded to the LMN's letters, indicating:

- the Province's longstanding policy has been to consult Innu Nation and LIA on developments within their claim areas, as they are the only groups in the Province with land claims accepted for negotiation;
- the Province continues to call upon the federal government to make a decision on the LMN land claim application;
- the Province has considered recent case law concerning consultation, and determined that existing, public processes such as environmental assessment are sufficient for the reception of the views and consideration of the interests of LMN members regarding proposed development activities;
- the Expressions of Interest (EOI) process is at a very early stage and no decisions have been taken as to whether to proceed with the Lower Churchill development or the specific nature of the project;
- Government remains committed to develop the Lower Churchill in a way that maximizes benefits for the people of the Province;
- LMN members will have an advantage in qualifying for Labrador adjacency benefits plus federal training and business development programs for people of Aboriginal descent;
- the Province welcomes the views of the LMN on the Lower Churchill; and
- the LMN will likely qualify for intervener funding in any environmental assessment of the project.

Mr. Montague's recent letter does not provide any new information that would cause the Province to reconsider its position for policy or legal reasons.

The LMN is also asserting in court that there is a duty to consult them on proposed developments. Mr. Montague's recent letter alludes to the matter between the LMN and the Ministers of Transportation and Works and Environment and Conservation, in which the

LMN are seeking consultation on all construction permits for Phase III of the Trans-Labrador Highway. The matter is scheduled to go to trial on November 21, 2005. [REDACTED]

[REDACTED]

The LMN also launched an action against Canada, the Province and the LIA with respect to the Labrador Inuit Land Claims Agreement. Mr. Montague wrote to both Canada and the Province seeking written commitments that implementation of the Agreement would have no negative effect on consideration of the LMN's land claim. Ministers Andy Scott and Rideout provided these responses. To date the action has not been withdrawn, though it seems unlikely that it will proceed to trial.

[REDACTED]

[REDACTED] A decision is unlikely in the near future given the political fallout the federal government would face in Labrador.

Assessment:

DLAA does not recommend entering an MOU with the LMN on consultation, as we do not consider there to be a basis in law for a special consultation process beyond existing public processes in which other, non-Aboriginal stakeholders could also take part. What is more, such a decision could strengthen the LMN's resolve and argument for not just consultation, but also compensation and, ultimately, an Impacts and Benefits Agreement.

The optimal solution would be to have either a federal decision on the LMN land claim (unlikely) or a ruling by a court of last resort (necessary but time-consuming) as to whether the LMN members have Aboriginal rights. In relation to assessment of the best approach to the Trans-Labrador Highway case, advice will also be provided imminently on the best approach to resolving the LMN rights question in court in as timely a manner as possible.

Failure to resolve the legal uncertainty surrounding the LMN could have a negative effect on Lower Churchill development, should the LMN seek an injunction against the project.

Key Messages:

Minister Rideout has already responded on behalf of Government to the LMN. Government's position remains unchanged. Reiterate points made in Minister Rideout's October 4, 2005 letter, while emphasizing Premier's public commitment to conducting consultations in Labrador.

S. Dutton, DLAA
November 2, 2005

*Response*

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FACSIMILE TRANSMISSION

TO:	CHRIS MONTAGUE	DATE: NOVEMBER 12/05
FAX:	709. 896. 0594	No. of Pages 2 (Incl. cover sheet)
FROM:		

MESSAGE

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