

**Briefing Note
Cabinet Secretariat**

Title: Consultation with Aboriginal Stakeholders in the Lower Churchill Project (the “Project”)

Issue: The Province and the federal government have initiated discussions and are at various stages with each of the Innu Nation, Labrador Metis Nation (LMN), Nunatsiavut Government and Quebec Innu in order to determine the extent of each group’s involvement in the environmental assessment (EA) of the Project.

Background:

- The Department of Justice (JUS), in consultation with the Departments of Environment & Conservation (ENVC) and Labrador & Aboriginal Affairs, have, in accordance with the Cabinet direction enunciated in MC2007-0468, designed a multi-tiered process for consultation with Aboriginal organisations/governments throughout the EA process.
- This process envisions the Innu Nation as occupying the highest tier, and all other Aboriginal stakeholders occupying the second tier. [REDACTED]
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- Whilst those funds are anticipated to be allocated to JUS for the purposes of administration of the funds, JUS advises that should such funds be approved, JUS will provide the funds to the Canadian Environmental Assessment Agency to be used upon the exhaustion of current federal allocations for Participant Funding.
- The public review period for the draft Environmental Impact Statement Guidelines (the “Draft Guidelines”) ended 27 February 2008. Comments from certain Aboriginal stakeholders were provided after this date, but were accepted by the provincial and federal governments. As per the terms of the negotiated, but unsigned, Consultation Agreement with the Innu Nation, this organisation provided their comments on 12 March 2008, the last Aboriginal stakeholder to do so.
- The provincial and federal governments are currently reviewing all submitted comments, and making determinations as to what, if any, changes are required to the Draft Guidelines. ENVC advises that the Draft Guidelines are anticipated to be finalised (the “EIS Guidelines”), and provided to the Proponent, by the end of May 2008.
- The Proponent has advised that it will be in a position to submit the Environmental Impact Statement (EIS) to the Joint Review Panel (the “Panel”) in a timely manner following receipt of the EIS

Guidelines. Following such submission of the EIS, the EIS will be made publicly-available for review and comment for a period of seventy-five (75) days.

- During the public review period, the Panel will conduct its own review and analysis of the EIS to determine whether it is sufficient to proceed to public hearings, or whether it is deficient, and if so, the extent and manner in which it is so deficient. The Proponent will be required to rectify any identified deficiencies to the satisfaction of the Panel.
- Following the Panel being satisfied that the EIS is sufficient to proceed to public hearings, the Panel will arrange and schedule such hearings. Following completion of the public hearings, the Panel will review all information and opinions submitted during the EA process, and prepare its Report. The Panel is required to provide this Report to the federal and provincial governments within ninety (90) days of the completion of the public hearings. The governments are then expected to take a decision on the Report, and whether to Release the Project from the EA process, within sixty (60) days of receiving the Report.

Current Status:

Innu Nation

- The Province and federal government have reached a Consultation Agreement with the Innu Nation, subject to the Province providing funding to facilitate its involvement and subject to Cabinet approval. This issue is currently being brought forward for Cabinet consideration on 17 April 2008.
- The Innu Nation has requested total funding of \$708,000, despite the Canadian Environmental Assessment Agency's assessment that their need is no greater than \$170,000.
- The Innu Nation acknowledged receipt of the Draft Guidelines in November 2007, has provided comments to the Province and the federal government, and is otherwise participating in the EA as if the Consultation Agreement were in place.

LMN

- The Province and the federal government have presented the LMN with the framework of the consultation process, in the form of a jointly-written letter. As noted, a consultation agreement with the LMN is not envisioned.
- The consultation process for the LMN is the same as for the Innu Nation, with the two exceptions being, firstly, that the LMN will be invited to propose nominees to the EA's Joint Review Panel, although the governments are not obliged to select any of such nominees. Secondly, the LMN faces the same deadlines for submissions in each instance of the EA as members of the general public, whilst the Innu Nation enjoys an additional fourteen days following the end of each period of public review in which to prepare and provide its submissions.
- The LMN has not responded to the joint-letter, but has provided comments on the Draft Guidelines to the governments, and is otherwise conducting itself in accordance with the terms of the letter.

Nunatsiavut Government

- Consultation with Nunatsiavut Government will proceed as per the Labrador Inuit Land Claims Agreement; as such, a consultation agreement is not contemplated. The provincial and federal governments have opened a dialogue with the Nunatsiavut Government, and will imminently be sending a letter outlining the consultation process during the EA. This process will be identical to that outlined, above, for the LMN.
- Nunatsiavut Government was provided with the Draft Guidelines in October 2007 for their review, has provided their comments thereupon to the governments by the end of the public review period, and is otherwise conducting itself in accordance with the envisioned consultation process.

QC Innu

- Provincial and federal officials met with representatives from six Innu communities in Quebec in February 2008: Schefferville, Sept-Iles, La Romaine, Mingan, Natashquan and Saint-Augustin. These meetings consisted of discussion of the EA and identification of opportunities for engagement and consultation.
- A Consultation Agreement is not anticipated with any QC Innu organisation. Rather, the provincial and federal governments have drafted correspondence to each of these communities prescribing the EA process and the opportunities for consultation of, and participation by, each of the six communities in that process. The consultation process for the QC Innu will be identical to that of the LMN and the Nunatsiavut Government.
- The Draft Guidelines were provided to the QC Innu groups in December 2007, and the period of public review was correspondingly extended to late-February 2008 in order to provide these groups sufficient time to review and comment on the Draft Guidelines. All of the communities provided such comments, and are participating in the EA in accordance with the envisioned consultation process.

Other – QC Metis

- Questions remain regarding the potential involvement of Quebec Metis individuals or groups. The governments are assessing their positions to determine whether it is appropriate to similarly engage these groups.

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