

MEMO

TO: Minister Pottle

FROM: Maeve Baird

DATE: April 24, 2008

Re: Letter to Minister Strahl re Labrador Metis Nation Land Claim

As you are aware, Rob requested that I prepare a letter to the federal Minister of Indian Affairs and Northern Development for your signature, asking the federal government to move ahead with their decision regarding the land claim submitted by the LMN. Rob has reviewed and approved the enclosed, subject to any comments you have.

Sent - ~~1~~ Apr. 129/08



Government of Newfoundland and Labrador
Aboriginal Affairs
Office of the Minister

April 24, 2008

The Honourable Chuck Strahl
Minister of Indian and Northern Affairs
10 Wellington Street, North Tower
Hull, Quebec
K1A 0H4

Dear Minister Strahl:

As you are aware, the Labrador Metis Nation (LMN) has asserted a land claim over large portions of Labrador. That land claim has been re-submitted by the LMN several times, but has never been accepted for negotiation by the federal government.

The province of Newfoundland and Labrador has, on a number of occasions, urged the federal government to make a final decision with respect to this land claim. The ongoing uncertainty with respect to this matter is problematic for the Province, the LMN and the federal government. We therefore urge a timely resolution to this outstanding issue.

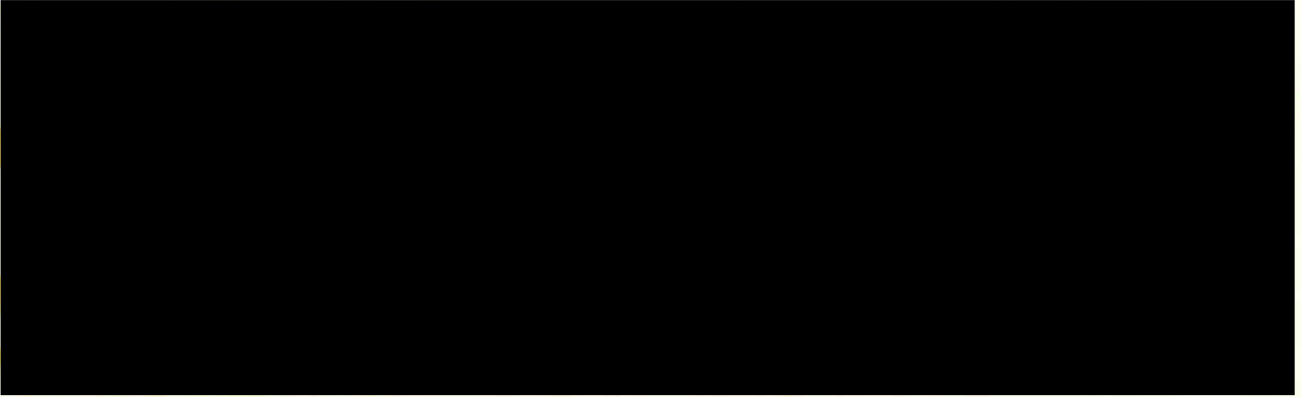
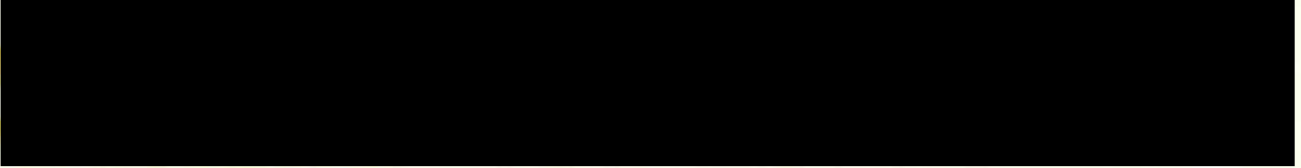
I welcome the opportunity to work with you to resolve this issue, and other issues of particular importance to Aboriginal peoples in Newfoundland and Labrador.

Sincerely,

Patty Pettie
Minister of Aboriginal Affairs
M.H.A for Torngat Mountains

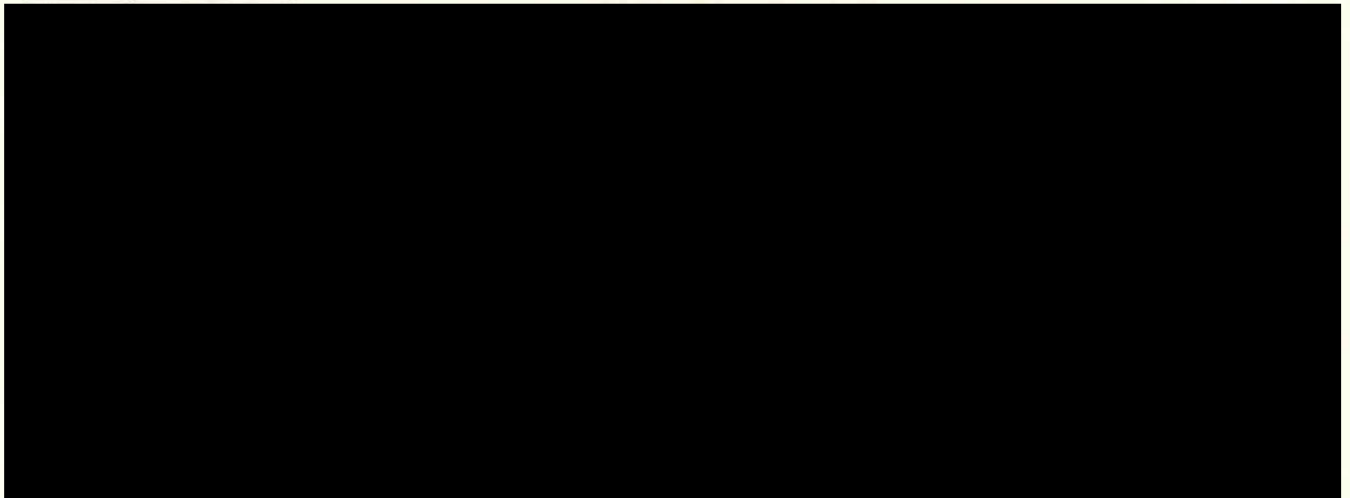
**Department of Labrador and Aboriginal Affairs
Labrador Metis Nation**


Background:

- The Labrador Metis Nation has a membership in excess of 5,000 who claim Aboriginal ancestry and live primarily in Happy Valley-Goose Bay and the coastal Labrador communities south of Hamilton Inlet.
- The LMN claim Aboriginal rights and title to large areas of central and southern Labrador. The LMN wants the Province to treat it in the same manner as the Innu Nation and the Nunatsiavut Government, whose land claims were accepted by the federal government and with whom the Province and federal government are negotiating or have settled land claims.
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- The Province's policy in day-to-day dealings with the LMN is to leave aside the question of the claim and to treat the LMN as an important stakeholder group with interests in the development of Labrador similar to other significant stakeholder groups in the region.

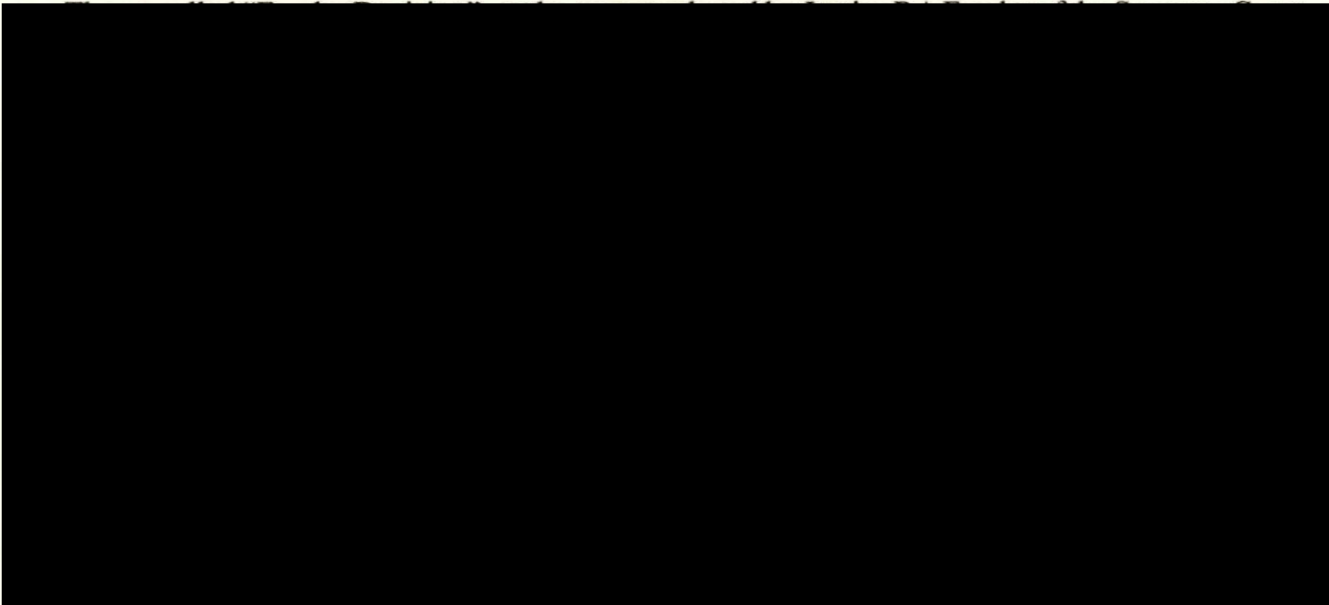
Recent Developments:


The Duty To Consult



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- The Premier, in a letter to the President of the LMN dated 8 October 2003, pledged that a “Progressive Conservative government [would] acknowledge that the ... Powley case applies to Métis in Newfoundland and Labrador, and [would] participate with the federal government and the [LMN] in negotiations to define and enforce the specific rights affirmed in the Powley decision and ... under section 35”.
 - Following a more detailed review of the issue, the Premier wrote a subsequent letter to the LMN, dated 24 November 2003, in which he indicated that the Province was reviewing the *Powley* decision, and noted that the letter of 8 October 2003 was written prior to the release of the *Powley* decision. Since then, a legal review of the *Powley* decision has shaped the Province’s policy that members of the LMN do not meet the criteria to determine who is a Métis under section 35, as those criteria were established in the *Powley* decision.
 - Members of the LMN have continued to assert *Powley* hunting rights without regard for provincial regulation. Wildlife officials have been directed to gather photographic evidence of violation, but not to seize guns and equipment unless the alleged offence threatens public safety, conservation measures or endangered species. Any file will be sent to the Special Prosecutions Branch of the provincial Department of Justice to determine whether to prosecute. Recently, the Department of Justice proceeded with prosecution of six (6) such hunters in Labrador.

LMN v. Newfoundland and Labrador



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- The federal Minister of INAC wrote the Minister responsible for Aboriginal Affairs on 25 January 2007 to assure the Province that the Fowler Decision does not adjudicate the substantive Aboriginal rights and title claims of the LMN, and will not affect the federal government's assessment of the LMN claim submission.

TLH-III Environmental Permits

- As noted above, the LMN demanded a level of consultation in excess of what the province is providing to the Innu Nation in respect of the further development of the TLH. Minister Rideout responded on 18 September 2006 proposing a process for an appropriate level of consultation which would be in keeping with the decision and consistent with consultation with the Innu. A 23 January 2007 letter from Minister Rideout to the LMN advised that the Province intended to commence the ordered consultation with the LMN on TLH-III environmental permits.
- The Province and the LMN negotiated an agreement of consultation on the TLH-III on 12 October 2007 that is virtually identical to a similar agreement between the Province and the Innu Nation.

Lower Churchill

- The LMN continues to demand consultation on the Lower Churchill Project. In October 2005, the LMN wrote to the Premier seeking a Memorandum of Understanding on an interim consultation and accommodation process related to that development. In that letter, the LMN outlined an extensive 9-step process which included requirements for LMN consent at various stages.
- This would go far beyond the Province's existing consultation policy with the Labrador Innu and Inuit, and any legal precedents.
- Since the Lower Churchill Project will be subject to a joint federal-provincial environmental review, federal and provincial officials have developed a framework for the LMN's involvement in the environmental assessment of the Lower Churchill Project. Officials from both governments met with officials from the LMN in order to provide them copies of the draft Environmental Impact Statement Guidelines for their review and comment, and to discuss the LMN's further involvement. The federal government and the Province are seeking to conclude a Memorandum of Understanding with the LMN regarding consultation on the Lower Churchill Project.

Forest Management

- The LMN has agreed to a new forestry agreement with the Province, with the previous agreement having expired 31 March 2006. This agreement facilitates the LMN's participation in the forest management planning process in certain districts of Labrador. The Province first entered into such an agreement with the LMN in 2002, and again in 2004.

Status:

- Pending a federal decision on the LMN land claim application, provincial policy concerning the LMN land claim remains unchanged: the Province will continue to urge the federal government to take a decision on whether to accept or reject the LMN's claim, will, in the interim, continue to support the LMN in accessing federal programs and services, and adhere to all legal obligations to engage and consult the LMN.
- The LMN has proposed that Canada, the Province and the LMN enter into a tripartite agreement that would allow Canada and the Province to cost-share funds to hire LMN members as wildlife guardians and/or forestry officers. The Province does not support providing funds for LMN wildlife guardians or forestry officers and funds no Aboriginal-specific programs.
- Other jurisdictions have entered into such agreements with Métis organisations represented by the Métis National Council as a means to provide capacity-building funding for eventual self-government. There are no such discussions on self-government contemplated with the LMN because the LMN has not substantiated a claim.

DLAA**22 April 2008**