

Date : 6/23/2010 4:52:29 PM

From : "Gover, Aubrey"

To : "Cleary, Bas"

Cc : "Dutton, Sean" , "Thompson, Robert" , "Burrage, Don" , "Wardle, Richard" , "Carter, Paul" , "Mellor, Justin S. C."

Subject : FW: NunatuKavut (LMN) Reply Letter to Chris Montague

Attachment : Revision1LMN Montague Response12June 2010.doc;

I am ok with this reply.

From: Cleary, Bas

Sent: Tuesday, June 22, 2010 2:37 PM

To: Gover, Aubrey

Cc: Carter, Paul A.

Subject: FW: NunatuKavut (LMN) Reply Letter to Chris Montague

Aubrey,

In my last email I mistakenly indicated that the NCC could not nominate a member to the panel – however, they could indeed nominate. The difference (which was afforded to the Innu) was they could not appoint to the panel as we were under no obligation to accept any of their nominees. So the letter is fine as is. If you are ok with the attached version, then we will advance to Bill.

Regards, Bas

From: Carter, Paul A.

Sent: Tuesday, June 22, 2010 2:22 PM

To: Cleary, Bas

Subject: NunatuKavut (LMN) Reply Letter to Chris Montague

Updated draft

Paul

Tel. 729-0188

EA File No. 1305

Mr. Chris Montague
President
NunatuKavut Community Council Inc.
PO Box 460 Stn C
Goose Bay NL A0P 1C0

RE: Lower Churchill Generation Project Consultation and Accommodation

Dear President Montague:

I am replying on behalf of Minister Johnson to your letter of 8 June 2010. While I fully appreciate the NunatuKavut Community Council's (NCC) concerns over the potential impact of the Lower Churchill Generation Project (Project) on its member's interests, I must take issue with the comment that your organization "has no direct knowledge of the provincial government's intention in relation to its duty to consult and/or accommodate" your member's interest. This comment is surprising in light of the extensive funding and participation of your organization in the environmental assessment (EA) process. The process in which your organization is now participating was specifically modified by the Department of Environment and Conservation (ENVC) and the Canadian Environmental Assessment Agency (CEAA) to recognize the unique interests of aboriginal communities and facilitate consultation with groups such as the NCC.

Given that the NCC claims no knowledge of any provincial consultation initiative or plans, I must take this opportunity to briefly outline how the NCC has been consulted up to this point. But first, I would note that your organization is not entirely unfamiliar with the project since you note in your letter that you have had discussions with Nalcor. Also, the membership of the NunatuKavut in the Labrador Aboriginal Training Partnership (LATP) has been noted. The mandate of the LATP, as you are aware, is to oversee a comprehensive Training-to-Employment Plan that will prepare individuals affiliated with the partners of the LATP for employment opportunities created through resource development throughout Labrador. One such development is the Lower Churchill. You stated in relation to LATP that "We are pleased to be part of a team that will initiate education and training programs to enrich and enhance the skills and opportunities of all Aboriginal people in Labrador." So efforts are being made to prepare your membership to find employment on this project.

The Province determined very early in the EA process that there was a possibility that the Project could impact NCC member's asserted but unproven rights. Based on that initial assessment, we engaged your organization early in the process. Consultation capacity funding was made available to NCC by CEAA as early as 27 August 2007 as part of the

joint environmental assessment. Following this initial provision of funding, a meeting was held on 11 October 2007 in Happy Valley-Goose Bay. At that meeting, CEAA and ENVC provided your organization with a draft copy of the Environmental Impact Statement (EIS) Guidelines before they were made available to the general public with a request for comments. These draft EIS Guidelines were important because they formed the basis on which the Proponent developed its EIS. Much to our surprise, the NCC did not utilize the funding and provided no comments on the draft document before it was made available to the general public. The draft EIS Guidelines were eventually distributed to the general public on 19 December 2007. The final Guidelines provide, among other things,

“The EIS shall demonstrate the Proponent’s understanding of the interests, values, concerns, contemporary and historic activities, Aboriginal traditional knowledge and important issues facing Aboriginal groups, and indicate how these will be considered in planning and carrying out the Project. The Aboriginal groups and communities to be considered include, in Newfoundland and Labrador, the Innu Nation, the Labrador Métis Nation and the Nunatsiavut Government and, in Quebec, the Innu communities of Uashat Mak Mani-Utenam, Ekuanitshit, Nutaskuan, Unamen Shipu, Pakua Shipi and Matimekush-Lake John.

To assist in ensuring that the EIS provides the necessary information to address issues of potential concern to these groups, the Proponent shall consult with each group for the purpose of:

- (a) Familiarizing the group with the Project and its potential environmental effects;
- (b) Identifying any issues of concern regarding potential environmental effects of the Project; and
- (c) Identifying what actions the Proponent is proposing to take to address each issue identified, as appropriate.

If the Proponent is not able or should not address any particular issue(s), the EIS should include supporting reasons.

The results of those consultations are to be presented in a separate chapter of the EIS with individual section for each of the affected Aboriginal groups. The Proponent must refer readers to the relevant sections of the EIS, as appropriate.”

The Province was sufficiently concerned about the lack of NCC comment that it initiated a meeting on 21 January 2008 between the NCC, CEAA and provincial officials, for the purpose of discussing the process for consultation. As you will recall, the meeting was at the NCC’s legal counsel’s office in Halifax. I should point out that the NCC’s expenses for that meeting were borne entirely by the provincial Department of Justice. At the meeting, officials from CEAA and ENVC gave a presentation outlining each step of the EA process and the unique opportunities for input that were available only to aboriginal groups. Your organization made two requests at that meeting. The first was for an extension of the public review period for the EIS in order to give NCC time to comment. The second was a request to outline in writing the consultation process that was discussed at the meeting. Both requests were honoured by the Province and CEAA.

Shortly after the Halifax meeting, I wrote to your organization “breaking down the environmental assessment process into its constituent parts and indicating how specifically the [NCC] would be consulted at each stage of the process”. In my 1 February 2008 letter I stated that the Province’s position was that the process outlined exceeded any common law or constitutional duty to consult. That position remains unchanged today.

Since that letter, the NCC has received additional \$120,000 dollars in consultation funding and has been fully engaged in the consultation through the EA process. We were pleased that the NCC commented on the draft EIS Guideline and other significant documents related to the Project as well as nominating a member for appointment to the EA Joint Review Panel. Given all of the above, ENVC is unable to accept your position that the NCC has no knowledge of the Province’s intentions regarding consultation.

We look forward to continuing to work with the NCC throughout the EA process and your organization can rest assured that once the EA is complete, the Province will continue to consult on permitting matters that could have an adverse impact on the NCC members’ asserted but unproven rights.

Sincerely,

Bill Parrott
Deputy Minister
(Environment & Conservation)

CC: Mr. Steve Chapman, CEAA
Mr. Sean Dutton, Labrador & Aboriginal Affairs