

Appendix K
**Correspondence with the Assembly of
Nova Scotia Mi'kmaq Chiefs, PLFN, and the
Native Council of Nova Scotia**

Correspondence with the Assembly of Nova Scotia Mi'kmaq Chiefs



Kwilmu'kw Maw-klusuaqn Negotiation Office
Mi'kmaq Rights Initiative

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www.mikmaqrights.com

Our Rights. Our Future.

July 2nd, 2019

Joanna Tombs

Senior Consultation Analyst – Atlantic Region

Canadian Environmental Assessment Agency

1801 Hollis Street, Suite 200

Halifax, NS B3J 3N4

Joanna.Tombs@canada.ca

Re: Participant Funding for the Environmental Assessment of the Boat Harbour Remediation Project

Ms. Tombs,

This letter is intended to notify you that the Assembly of Nova Scotia Mi'kmaq Chiefs passed a resolution dated April 25th, 2019 authorizing Pictou Landing First Nation to lead the consultation on the Boat Harbour Remediation Project of behalf of the Assembly under the Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process. Further, the Assembly recognizes Chief Andrea Paul as the duly authorized signatory on behalf of the Pictou Landing First Nation for the purposes of signing the application for funding, the contribution agreement, and any payment claims, reports, or any other documents required under the contribution agreement.

Yours in recognition of Mi'kmaq Rights and Title,

Derek Peters, Mines and Energy Advisor, on behalf of Twila Gaudet, Director of Consultation

cc:

Chief Andrea Paul

andrea.p@plfn.ca

Beata Dera

Beata.Dera@novascotia.ca

Correspondence with PLFN

From: [Christine Skirth](#)
To: [Sarah Shields](#)
Cc: [Blair Shoniker](#); [Peter Oram](#)
Subject: FW: Boat Harbour Remediation Project
Date: Monday, February 03, 2020 5:29:45 PM
Attachments: [2020-01-31 letter to Chief Augustine.pdf](#)
[Executive Summary Project Description Boat Harbour Remediation Project.pdf](#)

From: Swain, Ken <Ken.Swain@novascotia.ca>
Sent: February 3, 2020 10:50 AM
To: chiefaugustine@ncns.ca
Cc: Swaine, Angela <Angela.Swaine@novascotia.ca>; Fewer, Jo Ann <JoAnn.Fewer@novascotia.ca>; Lucas, Chad G <Chad.Lucas@novascotia.ca>
Subject: Boat Harbour Remediation Project

Good morning Chief Augustine. I am attaching a letter and an Executive Summary of a Project Description for the Boat Harbour Remediation Project in the interest of informing the Native Council of Nova Scotia about the Project.

The Province of Nova Scotia and Pictou Landing First Nation have been in continued discussions and working together since May 2015 on the remediation of Boat Harbour. As the project proponent, Nova Scotia Lands Inc. (NSLands) would like to provide the Native Council of Nova Scotia with information about the project.

We welcome input from the Native Council of Nova Scotia and would be happy to meet with you to further discuss the details of this project. We would very much appreciate a response to this letter by March 4, 2020.

If you have any questions or require clarification on the Project or related issues, then I can be reached by this email or by phone at 902-403-9744.

Regards.

Ken Swain
Project Leader, Boat Harbour Remediation Project

This e-mail has been scanned for viruses

Correspondence with Native Council of Nova Scotia

- February 3, 2020 Letter Sent to Native Council of Nova Scotia
- March 9, 2020 Meeting Follow-up Letter
- March 9, 2020 Meeting Summary



Suite 412, Centennial Building
1660 Hollis Street
PO Box 397, Stn Central
Halifax, NS B3J 2P8

February 3, 2020

Chief Lorraine Augustine
Chief and President
Native Council of Nova Scotia
PO Box 1320
Truro, NS B2N 5N2

Dear Chief Augustine:

RE: Boat Harbour Remediation Project

The purpose of this letter is to inform you of the Boat Harbour Remediation Project.

As you may be aware, the Province of Nova Scotia and Pictou Landing First Nation have been in continued discussions and working together since May 2015 on the remediation of Boat Harbour. As the project proponent, Nova Scotia Lands Inc. (NSLands) would like to provide the Native Council of Nova Scotia with information about the project.

The Boat Harbour Effluent Treatment Facility (BHETF) was constructed in 1967 and reconfigured several times since its construction. The use of the BHETF for the reception and treatment of effluent from Northern Pulp Mill must cease no later than January 31, 2020, in accordance with the Boat Harbour Act. Boat Harbour, formerly known as A'se'k in Mi'kmaq, was originally a tidal estuary connected to the Northumberland Strait and is currently a closed effluent stabilization basin, operated under a lease agreement with the Province by the Northern Pulp Mill owner. Once the effluent treatment operations in Boat Harbour have ceased and environmental approvals and permits have been obtained, the Province will remediate Boat Harbour and lands associated with the BHETF and will restore Boat Harbour to a tidal estuary. As part of the remediation work, the existing causeway along Highway 348 and the existing dam will be removed and replaced with a bridge that will permit boat access to Boat Harbour.

The main components of the BHETF include: the wastewater effluent pipeline (over 3 km in length) that extends from the Northern Pulp Mill eastward, below the East River of Pictou (East River), to the BHETF property; twin settling basins and an Aeration Stabilization Basin (ASB) west-southwest of Boat Harbour; and the stabilization lagoon (Boat Harbour). Effluent from Boat Harbour discharges through a dam (northeast of Boat Harbour) into an estuary before being released to the Northumberland Strait. Prior to the construction of the twin settling basins and ASB, effluent was routed by open ditch from the pipeline on the east side of Highway 348 to a natural wetland area (Former Ponds 1, 2, and 3) before being discharged into the stabilization lagoon.

The area for this project spans from the effluent pipeline, described above, from the first standpipe on the mill property, through existing and historic BHETF lands, Boat Harbour and its banks, extending to Northumberland Strait. A plan showing the area is provided in Figure 1 in the attached **Executive Summary Project Description, Boat Harbour Remediation Project**.

The total project site is approximately 546 hectares (ha) of which 141 ha is Boat Harbour. Boat Harbour contains approximately 385,000 m³ of sludge overlying native sediment. The sludge layer is an average of 20 cm thick, with thickness ranging from 10 cm to 1 m. The sludge is impacted with metals, polycyclic aromatic hydrocarbons, and dioxins/furans. Areas adjacent to Boat Harbour, including wetlands and the estuary at the Northumberland Strait also require remediation as outlined below:

- Management of residual mill effluent within the BHETF
- Risk management and/or removal, treatment, and disposal of impacted sediments/sludge and dewatering effluent from former effluent ditch and natural wetlands, twin settling basins, ASB, Boat Harbour, and potentially the estuary
- Remediation of impacted groundwater, soils, and surface water
- Refurbishment, use and closure of the existing waste containment cell
- Decommissioning of BHETF infrastructure including the pipeline, causeway, dam, and support facilities
- Restoration of Highway 348 including construction of a bridge in the location of the existing causeway

Please refer to the attached **Executive Summary Project Description, Boat Harbour Remediation Project** for further detail.

The project requires a federal environmental assessment from the Impact Assessment Agency of Canada (IAAC), as well as approvals from Indigenous Services Canada and other federal regulators. Nova Scotia Environment (NSE) has advised that a provincial environmental assessment is not required, however, other permits will be required from NSE.

Chief Lorraine Augustine
February 13, 2020
Page 3

We welcome input from the Native Council of Nova Scotia and would be happy to meet with you to further discuss the details of this project. We would very much appreciate a response to this letter by March 4, 2020.

Sincerely,

A handwritten signature in blue ink that reads "Ken Swain". The signature is written in a cursive style with a vertical line to the left of the name.

Ken Swain
Project Leader
Boat Harbour Remediation Project
Nova Scotia Lands

Attachment



NSLands
nova scotia lands

4th Floor, Centennial Building
1660 Hollis Street
PO Box 186
Halifax, Nova Scotia
B3J 2N2

October 16, 2019

Chief Andrea Paul
43 Maple Street
RR# 2, Box 55, Site 6
Trenton, NS B0K 1X0

Dear Chief Paul and Council:

**RE: Continuing Consultation on the Boat Harbour Remediation Project
Confirming the Continuing Role of the Province in the Crown Consultation
Process**

The purpose of this letter is to continue consultation on the Boat Harbour Remediation Project (the Project) with Pictou Landing First Nation, under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference and to specifically provide information about the coordinated federal-provincial Aboriginal consultation process for the Project.

On September 24, 2019, the Impact Assessment Agency of Canada (IAAC) sent you the Consultation Work Plan for the Project, for your review and comment. This letter and attachments are intended to provide additional information regarding the ongoing role of the Province of Nova Scotia in Aboriginal consultation for this Project.

Nova Scotia Lands (NSLands) formally initiated consultation on this Project in April 2018, in anticipation of a provincial Environmental Assessment (EA). At that time, the decision regarding a federal EA had not yet been made. When a project triggers both the federal and provincial EA processes, the standard approach is to harmonize the EAs and their associated Aboriginal consultation between the federal and provincial governments.

As you are aware, in April 2019 Nova Scotia Environment (NSE) decided a provincial EA is not required for the Project and is confident that environmental impacts can be addressed through the federal EA. NSE staff will continue to provide expertise through the federal EA process. Given this context, I would like to confirm the continued role of the Province in Crown consultation to ensure that we are fulfilling our duty to consult during the federal EA process. I would also like to confirm that consultation will continue after the federal EA process has concluded and throughout the life of the Project.

IAAC will continue to lead Aboriginal consultation at the federal level and coordinate the process with any departments (federal or provincial) that will be involved for the duration of the federal EA. During this time, NSLands will continue our role leading Crown consultation on behalf of the Province and will rely fully upon the federal IAAC process to meet our requirements for our duty to consult until such time as provincial authorization may be required. The Nova Scotia Office of Aboriginal Affairs will continue to participate in the consultation process to facilitate communication and ensure consistency amongst provincial regulators. NSLands will continue to engage with PLFN, just as we have over the last several years, regarding community engagement in planning activities and opportunities associated with the Project.

As well, NSLands has had, and will continue, ongoing discussions with the following regulatory and advisory departments relative to any and all permits and approvals required for the Project:

- Nova Scotia Office of Aboriginal Affairs
- Indigenous Services Canada
- Fisheries and Oceans Canada
- Impact Assessment Agency of Canada
- Environment and Climate Change Canada
- Transport Canada
- Health Canada
- Nova Scotia Environment
- Nova Scotia Transportation and Infrastructure Renewal
- Nova Scotia Department Lands and Forestry
- Nova Scotia Communities, Culture and Heritage

Chief Andrea Paul
October 16, 2019
Page 3

The attached document provides further detail on the roles of all involved parties.

If you have any questions or concerns about the approach outlined above, please feel free to contact me to discuss further.

Sincerely,



Ken Swain
Executive Director, Boat Harbour Clean Up

Encl. Crown Consultation Roles Chart

cc.

Twila Gaudet, Consultation Director, Kwilmu'kw Maw-klusuaqn Negotiation Office

Justin Huston, Deputy Minister, Nova Scotia Office of Aboriginal Affairs and Communities, Culture and Heritage

Frances Martin, Deputy Minister, Nova Scotia Environment

Paul LaFleche, Deputy Minister, Nova Scotia Transportation and Infrastructure Renewal

Julie Towers, Deputy Minister, Nova Scotia Lands and Forestry

Mike Atkinson, Atlantic Regional Director, Impact Assessment Agency of Canada

Jo Ann Fewer, Vice President, Nova Scotia Lands

**Roles Related to Engagement and Formal s. 35 Consultation
with Pictou Landing First Nation concerning the Boat Harbour Remediation Project
September 2019**

Representative	Role	Details
Impact Assessment Agency of Canada	EA Coordination and Crown Consultation Lead	<ul style="list-style-type: none"> • Develop and implement a Crown consultation plan that is consistent with a Whole of Government approach to Crown consultation by the federal Crown through close collaboration with regulatory departments and agencies and with support from other federal authorities, as appropriate • Coordinate the involvement of regulatory departments and agencies, including Nova Scotia Office of Aboriginal Affairs, and federal authorities regarding federal Crown consultation activities with Pictou Landing First Nation as it relates to the EA; • Represent the Crown with regulatory departments and agencies during consultation activities, and work with those authorities to appropriately consider and address issues raised by Pictou Landing First Nation; • Compile the Crown consultation record, including a tracking table for those issues, and coordinate input from the regulatory departments and agencies and federal authorities, where appropriate; • Relay information and concerns to relevant authorities and/or jurisdictions that are raised but fall outside the scope of the EA; • Coordinate discussions amongst the regulatory departments and agencies for the purposes of identifying a lead Crown consultation coordinator for activities related to the regulatory phase, if required.
Nova Scotia Lands	Lead Provincial Department and Project Proponent	<ul style="list-style-type: none"> • Lead Crown consultation on behalf of the Province. • Provincial Crown Agency responsible for the implementation of the project. • Responsible for all project-related engagement activities with PLFN. • Share all project information with all parties through Sharepoint site.
GHD	Project Consultant	<ul style="list-style-type: none"> • Collect, analyze, and present project information. • Coordinate EA submission. • Provide technical advice and support.
Pictou Landing First Nation	Mi'kmaq Community Representative	<ul style="list-style-type: none"> • Advise Proponent and Crown on consultation process with input from the Mi'kmaq. • Communicate impacts to Aboriginal and Treaty Rights resulting from the Project. • Share Indigenous knowledge to assist in developing appropriate accommodations as needed. • Review and provide feedback on project information.
Office of Aboriginal Affairs	Provincial Consultation Advisor	<ul style="list-style-type: none"> • Participate in IAAC-led consultation process.

**Roles Related to Engagement and Formal s. 35 Consultation
with Pictou Landing First Nation concerning the Boat Harbour Remediation Project
September 2019**

		<ul style="list-style-type: none"> • Coordinate consultation and communication related to Crown consultation with provincial departments.
Nova Scotia Environment	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Participate in Crown consultation where department authorizations are required.
Department of Lands & Forestry	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Participate in Crown consultation where department authorizations are required.
Department of Communities, Culture and Heritage	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Participate in Crown consultation where department authorizations are required.
Indigenous Services Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Contribute to federal Crown consultation activities.
Environment and Climate Change Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Contribute to federal Crown consultation activities.
Health Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Contribute to federal Crown consultation activities.
Fisheries and Oceans Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Contribute to federal Crown consultation activities.
Transport Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> • Provide technical advice. • Contribute to federal Crown consultation activities.



Native Council of Nova Scotia

The Self-Governing Authority for Mi'kmaq/Aboriginal Peoples residing Off-Reserve in Nova Scotia throughout traditional Mi'kmaq Territory

"Going Forward to a Better Future"

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Aboriginal/Treaty Rights
Negotiations Facilitating
Directorate

NCNS Citizenship
Information Office

Education & Student
Services

Rural & Native
Housing Group

Aboriginal Peoples
Training & Employment
Commission (APTEC)

Netukulimkewe'l
Commission

Wenjikwom Housing
Commission

Social Assistance
Recipient Support for
Employment & Training
(SARSET)

Micmac Language
Program

Native Social
Counselling Agency

Child Help Initiative
Program (CHIP)

E'pit Nuji Ilmuet
Program (Prenatal)

Aboriginal Homelessness
Program

Parenting Journey
Program

Youth Outreach Program

Mi'Kma'ki Environments
Resource Developments
Secretariat (MERDS)

March 9, 2020

Ken Swain
Project Leader
Boat Harbour Remediation Project
Nova Scotia Lands

Dear Mr. Swain,

Re: Boat Harbour Remediation Meeting

Thank you for coming to our office today to meet with us and discuss the plan for cleaning up Boat Harbour. We will make sure that the information you shared is passed on to Chief Lorraine Augustine and the NCNS Board of Directors, as well as community members who may be interested in the project.

This cleanup is long overdue and I'm happy to see that the people leading this project appear to be taking the community's opinions into account. After so many false starts, it seems that the rehabilitation of A'se'k may finally be underway. I look forward to seeing the full submission when it is available.

Progress through consultation, accommodation
and participatory involvement and partnerships

Dan Jewell
Habitat Impact Assessment Manager
Maritime Aboriginal Peoples Council

Subject: NS Lands Overview of Boat Harbour Remediation Project and Environmental Impact Assessment Outcomes with Native Council of Nova Scotia

Date/Time: March 9, 2020: 9:00 AM to 11:00 AM

Location: 172 Truro Heights Road, Truro NS

Attendees: Daniel Jewell, Native Council of Nova Scotia
Roger Hunka, Native Council of Nova Scotia
Ken Swain, Nova Scotia Lands Inc.
Angela Swaine, Nova Scotia Lands Inc.

Summary of Discussion Points:

- Project initiated due to 2014 breach of pipeline near Indian Cross Point and subsequent negotiations culminating in the Boat Harbour Act (2015)
- PLFN's vision was to return Boat Harbour to a tidal environment which became project objective
- NS Lands is Project Proponent on behalf of the Province of NS
- Project subject to CEAA 2012
- GHD is design engineer/Proponent's consultant
- There has been a complete characterization of the contaminants in and around Boat Harbour; NCNS indicated they were aware of mercury contamination in the area and asked specifically about those results
- Largest technical challenge is to remove contaminants off the bottom of Boat Harbour and leave the clean bottom behind
- Largest social challenge is the containment cell where the contaminated material will be stored long term
- Discussion around decision to use existing containment cell, what alternatives were considered, how it is constructed now, the proposed upgrades and long-term monitoring plans and perpetual liability to be maintained by the province
- Discussion around Geotube dewatering process, construction sequencing, water treatment and the need for good hydrology and hydrogeology studies so water inputs are known prior to construction
- Proposed timing of EIS, EIS Summary Document and Plan Language Summary which will be translated into Mi'kmaq and upcoming opportunities for document review and public comment
- Discussion around particular VCs of concern to NSNC- Air quality, archaeological resources, birds, mammals, fish, wetlands, potential for contamination to reach Northumberland Strait.
- Discussion around project funding, federal and provincial contributions and in particular the \$15M set aside for future site use
- NCNS questioned if there are opportunities for an outside entity to take on the long-term maintenance and monitoring; NS Lands replied yes
- Discussion around decisions the Proponent left up to PLFN, regarding bridge and pipeline removal near Indian Cross Point
- NCNS are generally supportive of what PLFN has chosen to do but they question why the entire on land portion of the pipeline would not be removed; response- NS Lands is trying to limit disturbance to habitat/soils where possible

Follow up:

NCNS to consider what has been presented and follow up with NS Lands if questions arise.

NS Lands offered availability at any time to respond to any issues, questions and concerns which may arise from NCNS

NS Lands to forward a map of the study area showing topography