

Algonquin Nation Secretariat

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May 3, 2016

Dr. Mark Kristmanson
Chief Executive Officer
National Capital Commission
202 – 40 Elgin Street
Ottawa, Ontario K1P 1C7

By Fax: (613) 239-5039

Re: Algonquin Nation Secretariat-Council of Chiefs Request for Separate NCC Consultation Process

Dear Dr. Kristmanson:

This letter is further to our meeting on March 24, 2016, our letter of April 7, 2016, and your April 26, 2016, response.

First of all, we apologize for the e-mail address error, which delayed NCC's receipt of our joint September 30, 2015, letter addressed to Crown governments and the NCC giving official notice our three Algonquin First Nations are jointly asserting Aboriginal Rights to our Algonquin sacred area and that we were not consulted by the governments of Canada, Quebec or Ontario, or the National Capital Commission or the municipalities of Gatineau or Ottawa regarding changes to the status of lands and islands within our Algonquin sacred area Akikodjiwan (Chaudiere waterfalls and the adjacent Ottawa River waterfront and islands).

Secondly, we note you are still planning on the next meeting being organized as an "Algonquin Chiefs-NCC roundtable meeting". This is not what we requested in our letter of April 7, 2016. We requested a separate consultation process between our ANS Council of Chiefs and the NCC. As we informed you in our last letter we are not members of the Algonquin Anishinabeg Nation Tribal Council (AANTC).

Political Representation Within the Algonquin Nation

In order to consult properly, the NCC needs to be aware of the realities of political representation within the Algonquin nation. The Algonquin Nation Secretariat (ANS) represents the First Nations of Timiskaming, Barriere Lake and Wolf Lake. Our communities have not mandated any other entity to negotiate or represent our interests with respect to our Aboriginal title and rights, or consultation matters within our territories. If the NCC intends to engage in meaningful consultation with our communities, it must do so through the ANS.

The Algonquin Anishnaabe Nation Tribal Council (AANTC) works with a number of other Algonquin First Nations, some of whom have interests in Ontario and Quebec. The “Algonquins of Ontario” (AOO) is a group that is neither a First Nation, nor a band, although it’s membership does include one recognized First Nation, the Algonquins of Pikwakanagan. We have serious concerns, which we have stated publicly, about the AOO’s lack of legitimacy, and it’s lack of capacity to address issues arising from Aboriginal title and rights, based on the extremely loose membership criteria that they have adopted.

Our communities have unique and substantive interests in both Ontario and Quebec, and they have not mandated any other organization (including the AANTC and / or the AOO) to negotiate or consult on their behalf. The NCC needs to be respectful of this reality, and conduct itself accordingly. This is why we have requested a bilateral consultation process between the ANS and the federal government on these issues.

Federal Duty to Consult and Accommodate

The federal government has known for at least 21 years that there are overlapping territorial interests among the Algonquins on both sides of the Ontario - Quebec boundary, but the Crown Canada has failed to fulfil its duty to consult us properly on this matter which stands to have a direct and substantial impact on our Aboriginal rights and title.

Unlike the AANTC Chiefs, our ANS Council of Chiefs has specific demands of the Crown governments and the NCC, which are set out in our joint letter of September 30, 2015, and our community Chief & Council August 2015 Resolutions regarding our Algonquin sacred area **Akikodjiwan** (Chaudiere waterfalls and the adjacent waterfront and islands).

Following the October 2015 Federal Election the overarching Indigenous Policy objectives of the Trudeau government have been set out in the 2015 Liberal Platform. We believe the relevant commitments to our discussions with the NCC are that a Liberal government will:

- Immediately re-engage in a renewed nation-to-nation process with Indigenous Peoples to make progress on the issues most important to First Nations. . .
- Recognize and respect Aboriginal title and rights in accordance with Canada's Constitutional obligations, and further those enshrined in the UN Declaration on the Rights of Indigenous Peoples.
- Enact the recommendations of the Truth and Reconciliation Commission, starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.
- Undertake a full review of regulatory law, policies, and operational practices, in full partnership and consultation with First Nations to ensure that the Crown is fully executing its consultation, accommodation, and consent obligations, including on resource development and energy infrastructure project reviews and assessments, in accordance with our constitutional and international human rights obligations.

In our September 30, 2015 letter we have already cited some of the relevant Truth & Reconciliation recommendations and UNDRIP Articles regarding Indigenous Peoples heritage sites and the right of Indigenous Peoples to maintain spiritual and cultural traditions related to our Algonquin Sacred Area **Akikodjiwan**.

On December 8, 2015, Prime Minister Justin Trudeau opened his speech to the AFN Special Chiefs' Assembly by acknowledging the Algonquin Nation by saying:

I'd like to recognize the Algonquin Nation, on whose traditional territory we are gathering. We acknowledge them as the past, present and future caretakers of this land.

As we have pointed out above the Algonquin Nation has two Tribal Councils and for your information, the location of the AFN Assembly where the Prime Minister made his remarks was in Gatineau, part of the National Capital Region and part of the Ottawa River Valley.

We also note that the Mandate Letter from the Prime Minister to the Canadian Minister of Heritage, Madame Mélanie Joly, states:

No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.

You are expected to do your part to fulfill our government's commitment to transparent, merit-based appointments, to help ensure gender parity and that Indigenous Canadians and minority groups are better reflected in positions of leadership.

Review current plans for Canada 150 and champion government-wide efforts to promote this important celebration.

Work in collaboration with the Minister of Indigenous and Northern Affairs to provide new funding to promote, preserve and enhance Indigenous languages and cultures.

We believe that the discussions around the Algonquin sacred area and LeBreton Flats will likely have to involve the Ministries of Indigenous & Northern Affairs and Public Services & Procurement if the federal government's overarching objectives are to be properly fulfilled. For your information, the position of our Three Algonquin First Nations has been supported by the Assembly of First Nations of Quebec and Labrador and the Assembly of First Nations (see attached AFNQL & AFN Resolutions).

National Capital Commission Consultations with Algonquin Nation

We have reviewed a number of documents in our possession, which give rise to a number of concerns for us respecting how the NCC has conducted itself regarding consultations with the member communities of the Algonquin Nation regarding developments in the National Capital Region in general and the Chaudiere, Albert, Coffin and Victoria Islands, in particular.

We acknowledge the NCC has only recently received our September 30, 2015 letter addressed to Crown governments and the NCC, but we believe the federal Public Works & Government Services and/or the NCC should have made greater efforts to contact all member communities of the Algonquin Nation before the December 4, 2013, Agreement of Purchase and Sale between Domtar Inc. and Windmill Green Fund LP V—the early stage of the change in the federal leases and status of the lands held by Domtar Inc. along the Ottawa River in Ottawa and Gatineau.

We have reviewed a heavily redacted version of the July 7, 2014, Memorandum of Understanding (MOU) between the National Capital Commission, the Windmill Development Group Ltd. and Domtar Inc. acquired by an associate through an access to information request.

We note that Article 2 of the MOU is on the subject of “Aboriginal Consultations” and states:

2.1 The conveyance of real property Interests in all or any part of the Subject Lands by the NCC may be considered a Crown conduct that triggers the duty to consult aboriginal groups.

2.2 Any consultations must be conducted with the appropriate Aboriginal groups, including without limitations, the Algonquins of Ontario (referred to as the AOO) and the Algonquin Anishinabeg Nation Tribal Council

2.3 Windmill has already met with the aboriginal groups referred to in section 2.2 to discuss the Project and its Impact on the Subject Lands

Clauses 2.5, 2.5, 2.6 of Article 2 of the MOU are redacted. We would be interested in receiving a full uncensored copy of this MOU or at least these three redacted clauses under Article 2 of the MOU.

Even with the redactions, what we can see confirms that our ANS member communities were excluded from the consultation process undertaken by the NCC as per this July 7, 2014, MOU, and we have not been properly consulted about the changes in federal leases and status of lands on Chaudiere and Albert Islands, which impact on our rights and interests. This is entirely inappropriate.

It also appears from this MOU that NCC has delegated aspects of federal Crown's duty to consult to the project proponent, Windmill Development Group. This raises a number of serious concerns, including the fact that subsequently, the proponent has proceeded to meddle in the internal affairs of the Algonquin nation by promoting their Zibi Urban Development Project on our sacred area, and bypassing our legitimate leadership.

There are also concerns about how the NCC's own organization and capacity to address issues arising from Algonquin rights and interests. We understand that the NCC's Aboriginal Liaison, Mr. Rene Tensaco, has been involved in the consultations regarding Windmill Development Group's Zibi Urban Development Project with the AANTC and the so-called "AOO", even though his wife is Chair of the Memengweshii Council, an Algonquin and First Nations Women's group, which appears to have been established primarily to promote Windmill Development Group's Zibi Urban Development Project on Chaudiere and Albert Islands. This Council appears to have been created to be a cheerleader for the Zibi development. (See attached)

This situation puts the NCC's Aboriginal Liaison Mr. Rene Tensaco in a conflict of interest. We want to make it clear we do not want Mr. Tensaco involved in our consultations with the NCC on any matter.

We also have concerns about the April 28, 2016, NCC announcements regarding the Canada 150 Celebrations, particularly the projects at Victoria Island and LeBreton Flats. As you very well

know, Victoria Island is a place our member communities continue to use when we travel to the Ottawa area. In fact, the Algonquins of Barriere Lake have camped on Victoria Island in recent years and all of our member ANS communities use Victoria Island as a gathering place for ceremonies and Assemblies. As with the LeBreton Flats announcement, we are in discussions and would have liked to have been informed before the NCC announcement.

We want to discuss the upcoming Canada 150 Celebrations and the implications for our ANS member communities of the Algonquin Nation.

By way of our September 30, 2015 letter to the Crown governments and the NCC we have given notice that we assert Aboriginal rights and interests at our Algonquin sacred area but also along the Ottawa River Valley.

We do not want our ANS-NCC consultation process to be considered a token process. If we are to engage in a formal consultation process with the NCC we will need to discuss the details of the process. This will involve not only meaningful engagement with duly mandated bodies (in our case, the ANS), but also the provision of adequate financial resources in order to enable us to engage effectively.

In light of the foregoing comments we request once again for a bilateral consultation process between our ANS Council of Chiefs and the NCC, regarding the Chaudiere, Albert, Coffin and Victoria Islands, as well as, LeBreton Flats. This process will need to be properly funded so that we can engage with your government in a meaningful way.

We propose March 11, 2016, for the ANS-NCC meeting and the following agenda items:

- Proposed Developments at Chaudiere, Albert Islands.
- Proposed Developments at Coffin and Victoria Islands.
- Proposed Developments at LeBreton Flats.
- Proposed Canada 150 Celebrations.
- Next Steps (ANS-NCC Consultation Process)

We look forward to your timely response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Harry St. Denis', with a large, stylized flourish extending to the right.

Chief Harry St. Denis
Wolf Lake First Nation
On Behalf of ANS Council of Chiefs

Cc. Rt. Hon. Prime Minister Justin Trudeau, Government of Canada
Hon. Mélanie Joly, Minister of Canadian Heritage
Hon. Judy M. Foote, Minister of Public Services & Procurement Canada
Hon. Carolyn Bennett, Minister of Indigenous & Northern Affairs Canada
Hon. Jody Wilson-Raybould, Minister of Justice & Attorney-General of Canada
Hon. Catherine McKenna, Minister of Environment & Climate Change, Lib.M.P.Ottawa
Centre
Mr. Greg Fergus, Lib. M.P. Hull-Aylmer
Mr. William Amos, Lib. M.P. Pontiac
Mr. Anthony Rota, Lib. M.P. Nipissing-Timiskaming
Ms. Natalie Page, Executive Director, Public & Corporate Affairs, NCC