

## **APPENDIX 8**

### **First Nations Consultation**

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## 1.1 FIRST NATIONS CONSULTATION

As part of the Public Consultation effort for the St. Columban Environmental Screening, First Nations (FN) communities with a potential interest in the Project were identified and contacted.

Correspondence with federal and provincial agencies reviewed the potential for land claims within the project area as well as FN communities in the vicinity of the project that may be interested in participating in the consultation for the project. Both the Ministry of Aboriginal Affairs (MAA) and Indian and Northern Affairs Canada (INAC) confirmed that there are no land claims within the project area. It was noted that 3 land claims had been registered in the vicinity of the project, as discussed in the body of the ESR. The MAA review also identified the Six Nations and the Haudenosaunee as communities in the area who may have interest in providing comment on the project.

The FN communities identified above were sent a Notice of Commencement in hard and electronic copy as well as phoned. No responses were received. INAC also indicated potential for Métis interest in the project and a review of potential Métis communities in the area was requested from a specialist in INAC. Follow up calls to INAC were placed but no response was received.

## 1.2 CONSULTATION MATERIALS

Materials circulated to FN groups included the NOC and cover letter, Invitation to the Public Open House and NOComp. Copies of these consultation materials have been included in *Appendix 6: Public Consultation*.

## 1.3 AGENCY CORRESPONDENCE

Copies of original communications attached below.

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### ***INAC - Assessment and Historical Research Department***

Nicole Cheechoo <Nicole.Cheechoo@ainc-inac.gc.ca>  
Wed, Apr 8, 2009

Hi Vanessa, here's a copy of the ltr. I'll follow-up with our mailroom and get back to you.

Re: Notice of Commencement of an Environmental Screening - Proposed Wind Power Projects  
- Municipality of Huron West, Huron County

Dear Ms. Heeney:

I am responding to your email sent to the Assessment and Historical Research Directorate by mail, on February 03, 2009.

We can confirm that there are no special claims in regards to the project area located northeast of the community of Seaforth and north of St. Columbian, Municipality of East Huron as identified in your email.

We cannot make any comments regarding potential or future claims, or claims filed under other departmental policies. These include claims under Canada's Specific Claims Policy or legal action by a First Nation against the Crown. For more information on these, I suggest you contact the Specific Claims Branch at (819) 994-2323 and/or the Litigation Management and Resolution Branch at (819) 934-2185.

Sincerely,

Maureen McPhee, Director General

Negotiations - Central  
Treaties and Aboriginal Government

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***INAC - Litigation Management and Resolution Branch***

Marc-André Millaire  
February 10, 2009

Dear Mr. Menedez:

I am writing in response to your letter of November 27, 2008 inquiring about any claims that may affect the subject property. I regret that we were unable to respond earlier.

We can advise that our inventory includes active litigation (cases) in the vicinity of this property. It is entitled: Walpole Island First Nation, Bkejwanong Territory v. Attorney General of Canada, Her Majesty the Queen in Right of Ontario, Ontario Superior Court of Justice, filed in Toronto, court file #00 CV 189329.

I am unable to comment with respect to the possible effect of this claim as the case has not yet been adjudicated and any statement regarding the outcome of the litigation would be speculative at this point. It is recommended that you consult legal counsel as to the effect this action could have on the lands you are concerned with.

If you are interested in further details about the claim, a copy of the pleadings can be obtained from the Court for a fee; please contact the appropriate Court Registry Office and make reference to the court file number listed above.

We cannot make any comments regarding claims filed under other departmental policies. For information on any claims you should also contact Don Boswell of the Specific Claims Branch at (819) 953-1940 to inquire about any Specific Claims, and Guy Morin of the Comprehensive Claims Branch at (819) 956-0325 to inquire about any current Comprehensive Claims.

If you have any further questions please do not hesitate to contact me at (819) 994-1947.

Sincerely,

Marc-André Millaire

Litigation Team Leader  
Litigation Portfolio Operations East  
Litigation Management and Resolution Branch

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***INAC - Litigation Management and Resolution Branch***

Marc-André Millaire <MarcAndre.Millaire@ainc-inac.gc.ca>  
Fri, Mar 13, 2009

Hi Vanessa,

I just verified with my team that handles the research for this correspondence. I can advise that a mistake was made in our original response that the later litigations. The response I provided to you this morning is the correct version based on the location you provided to us.

I apologize for any inconvenience this may have caused.

Regards,

Marc-André Millaire

Litigation Team Leader  
Litigation Portfolio Operations East  
Litigation Management and Resolution Branch

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***INAC - Litigation Management and Resolution Branch***

Marc-André Millaire <MarcAndre.Millaire@ainc-inac.gc.ca>  
Fri, Mar 13, 2009

Dear Ms. Heeney:

I am writing in response to your email of February 5, 2009 inquiring about any claims that may affect the subject property. I regret that we were unable to respond earlier.

We can advise that our inventory includes litigation cases in the vicinity of this property. They are entitled:

Chippewas of Kettle and Stoney Point v. Her Majesty the Queen in Right of Canada as represented by Attorney General of Canada and Minister for Department of Indian Affairs and Northern Development, Corporation of Township of Bosonquet, Paul Hendrick Wilmink, Joanne Cecilia Wilmink, Joyce Van Geel, Martha Jean Morrison, Paul L. Winger, Agnes J. Winger, Leon Edward, St. John, Margaret J. St. John, Daniel Albert Vincent Rusciolelli, Rachel Emma Rusciolelli, Domenico Abrogio, Maurina Ambrogio, William Walter Ellison, Gail Ann Ellison, National Trust Company, Joseph John Huybers, Joanne Maria Huybers, Karl Huetter, Inge Huetter, Annie Jeanette Dunston, Grace Marie Lasenby, Jack Harold Lasenby, Amin Mussani (in Trust), Donald Bruce Gray, Juliaan Alfons D'Hanyns, Simonne Clara D'Hanyns, Brian Bernard McGowan, Margaret Ann McGowan, Mary Lou LaPratte, Christopher Thomas Allan King, William John Harkness, Frances Curry Harkness, Barbara L. St. Louis, Eugene M. Sorin, Bank of Montreal, Frank Thoren, Cynthia Marie Thoren, The Toronto Dominion Bank, Daniel Leo Bosnak, Ellen J. Bosnak, Edward G. Paschalidis, Veronika E. Paschalidis, Jack Malcolm Galbraith, Margaret Irene Galbraith, John Archibald Pedden, Dorothy Harriet Pedden, Gloria Ann Redmond, Carolyn Jane Sheprak, Diana Mary Susan Sheprak, Lotte Nachtnebel, Josef Szela, Erika Szela, Roy Francis Giroux, Madonna Giroux, Derek Leslie Barker, Nan Francis Barker, George C. Wallis, Janet Wallis, Bernardus Josephus Veel, Hendrika Petronella Veel, St. Willibrord Community Credit Union Limited, David A. Voll, Diane M. Voll, CIBC Mortgage Corporation, Pierre Conrad Morisset, 876709 Ontario Ltd., Ontario Superior Court of Justice, filed in London, Ontario, court file #C22725;

Walpole Island First Nation, Bkejwanong Territory v. Attorney General of Canada, Her Majesty the Queen in Right of Ontario, Ontario Superior Court of Justice, filed in Toronto, court file #00 CV 189329; and

Chippewas of Sarnia v. CN Railway, CN Realties, Great Western Railway, Attorney General of Canada, Supreme Court of Canada, court file #95-CU-92484.

I am unable to comment with respect to the possible effect of these claims as the cases have not yet been adjudicated and any statement regarding the outcome of the litigation would be speculative at this point. It is recommended that you consult legal counsel as to the effect these actions could have on the lands you are concerned with.

If you are interested in further details about the claims, copies of the pleadings can be obtained from the Court for a fee; please contact the appropriate Court Registry Office and make reference to the court file numbers listed above.

We cannot make any comments regarding claims filed under other departmental policies. For information on any claims you should also contact Don Boswell of the Specific Claims Branch at (819) 953-1940 to inquire about any Specific Claims, and Guy Morin of the Comprehensive Claims Branch at (819) 956-0325 to inquire about any current Comprehensive Claims.

If you have any further questions please do not hesitate to contact me at (819) 994-1947. Also, for any future inquiries into the presence of litigation claims in a project area, please contact:

Marc-André Millaire, Litigation Team Leader, Ontario  
Indian and Northern Affairs  
LITIGATION MANAGEMENT AND RESOLUTION BRANCH  
10 Wellington Street  
Gatineau, Quebec  
K1A 0H4  
[MarcAndre.Millaire@ainc-inac.gc.ca](mailto:MarcAndre.Millaire@ainc-inac.gc.ca)

Sincerely,

Marc-André Millaire

Litigation Team Leader  
Litigation Portfolio Operations East  
Litigation Management and Resolution Branch

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***INAC - Consultation and Accommodation Unit***

Dale Pegg <Dale.Pegg@ainc-inac.gc.ca>  
Thu, Mar 12, 2009

Please refer to the attached query from Vanessa Heeney and provide input directly to her (& cc. me) regarding any Aboriginal groups, rights assertions or established rights that you are aware of that may be relevant for her client, CASA Engineering & Construction, and their proposed engagement with Aboriginal groups who may be affected by wind projects in the Municipality of Huron East, Huron County. (Let me know if you don't get Vanessa's attachment which includes a description of the projects, their location and a map of the area.)

If there is someone else who should have received this in your stead, please forward the request and cc. Vanessa and me.

Vanessa: listed below is the contact information for those INAC officials I've included in this e-mail, fyi. I have cc'd those who have already provided input & I think this message covers all of the remaining relevant branches within INAC.

Thank you all for your cooperation in this matter.

**Dale Pegg**

Sr Policy Advisor  
Consultation and Accommodation Unit  
613-944-9313  
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Guy Morin  
Policy Analyst  
ASSESSMENT AND HISTORICAL RESEARCH  
10 Wellington Street  
Gatineau, Quebec K1A 0H4  
Telephone: (819) 997-3499  
Fax: (819) 934-1366  
[MorinGA@ainc-inac.gc.ca](mailto:MorinGA@ainc-inac.gc.ca)

Jean-Pierre Morin  
Historian  
ASSESSMENT AND HISTORICAL RESEARCH  
10 Wellington Street  
Gatineau, Quebec K1A 0H4  
Telephone: (819) 953-8253  
Fax: (819) 934-1366  
[MorinJ@ainc-inac.gc.ca](mailto:MorinJ@ainc-inac.gc.ca)

Chris Beninger  
Environmental Management Officer  
ASSETS AND ENVIRONMENTAL MANAGEMENT SECTION  
10 Wellington Street  
Gatineau, Quebec K1A 0H4  
Telephone: (819) 956-1601  
Fax: (819) 953-7721  
[BeningerC@ainc-inac.gc.ca](mailto:BeningerC@ainc-inac.gc.ca)

Gregg Dahl  
Sr Policy Analyst  
OFFICE OF THE FEDERAL INTERLOCUTOR  
66 Slater Street  
Ottawa, Ontario K1A 0H4  
Telephone: (613) 992-3705  
Fax: (613) 996-1737  
[DahlG@ainc-inac.gc.ca](mailto:DahlG@ainc-inac.gc.ca)

Anne Murphy  
Senior Government Relations Officer  
25 St Clair Avenue East, 8th Floor  
Toronto, ON M4T 1M2  
Telephone: (416) 973-0404  
Fax: (416) 954-3190  
[MurphyA@inac-ainc.gc.ca](mailto:MurphyA@inac-ainc.gc.ca)

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***INAC - Specific Claims Branch***

Don Boswell <boswelld@ainc-inac.gc.ca>  
Tue, Dec 9, 2008 at 4:00 PM

I am writing in response to your email of December 8, 2008, regarding claims in the above noted area.

We have conducted a brief search of our records and determined that there are no First Nation Specific Claims in the vicinity of the above noted projects.

For more information, you may wish to consult a "Public Information Status Report" on all claims which have been submitted to date. This information is available to the public on the Indian and Northern Affairs Canada (INAC) website and can be found at [http://www.ainc-inac.gc.ca/ps/clm/pis\\_e.html](http://www.ainc-inac.gc.ca/ps/clm/pis_e.html).

It should be noted that the reports available on the INAC website are updated quarterly and therefore, you may want to check this site at regular intervals for updates. In accordance with legislative requirements, confidential information has not been disclosed.

Please rest assured that it is the policy of the Government of Canada as expressed in Outstanding Business: A Native Claims Policy that "in any settlement of specific native claims the government will take third party interests into account. As a general rule, the government will not accept any settlement which will lead to third parties being dispossessed."

We can only speak directly to claims filed under the Specific Claims Policy in the Province of Ontario. We cannot make any comments regarding potential or future claims, or claims filed under other departmental policies. This includes claims under Canada's Comprehensive Claims Policy or legal action by a First Nation against the Crown. You may wish to contact the Assessment and Historical Research Directorate at (819) 994-6453, the Consultation and Accommodation Unit at (613) 944-9313 and Litigation Management and Resolution Branch at (819) 934-2185 directly for more information.

You may also wish to visit <http://www.ainc-inac.gc.ca/nr/iss/acp/acp-eng.aspon> the INAC website for information regarding the Federal Action Plan on Aboriginal Consultation and Accommodation.

To the best of our knowledge, the information we have provided you is current and up-to-date. However, this information may not be exhaustive with regard to your needs and you may wish to consider seeking information from other government and private sources (including Aboriginal groups). In addition, please note that Canada does not act as a representative for any Aboriginal group for the purpose of any claim or the purpose of consultation.

I hope this information will be of assistance to you. I trust that this satisfactorily addresses your concerns. If you wish to discuss this matter further please contact me at (819) 953-1940.

Sincerely,

Don Boswell

Senior Claims Analyst  
Specific Claims Branch

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**Ministry of Aboriginal Affairs**

Scanned letter attached here.

**Ministry of Aboriginal Affairs**

720 Bay Street  
4<sup>th</sup> Floor  
Toronto, ON M5G 2K1

Tel: (416) 326-4741  
Fax: (416) 326-4017

**Ministère des Affaires autochtones**

720, rue Bay  
4<sup>e</sup> étage  
Toronto, ON M5G 2K1

Tél: (416) 326-4741  
Télé: (416) 326-4017



website: [www.aboriginalaffairs.gov.on.ca](http://www.aboriginalaffairs.gov.on.ca)

Reference: AMRB 624  
0809-619

Vanessa Heeney, MES  
89 Isabella St., Suite 908  
Toronto, ON M4Y 1N8

Re: Two Proposed MW Wind Generation Project: Huron County

Dear Ms. Heeney:

Thank you for your inquiry dated December 9, 2008 regarding the above noted project.

The responsibilities of the Ministry of Aboriginal Affairs (MAA) include conducting land claim and related negotiations on behalf of the Province. MAA can provide you with information about land claims that have been submitted to the Ministry, are currently in active negotiations, or are being implemented. We can also advise as to whether there is any litigation with an Aboriginal community that may be relevant to your project.

You should also be aware that many First Nations and Métis communities either have or assert rights to hunt and fish in their traditional territories. These territories often include lands and waters outside of a First Nation reserve. As well, in some instances project work may affect archaeological and burial sites. Aboriginal communities with an interest in such sites may include communities other than those in the vicinity of the proposed project.

With respect to your project, we have reviewed the brief materials you have provided, and can advise that this project does not appear to be located in an area where First Nations may have existing or asserted rights that could be impacted by your project.

For your information, MAA notes that the following First Nations may be interested in your project given the proximity of their community or reserve lands to the area of the proposed project:

|                          |         |                       |
|--------------------------|---------|-----------------------|
| Chief William K. Montour | - and - | Chief A. MacNaughton  |
| 1695 Chiefswood Road     |         | RR 2                  |
| PO Box 5000              |         | Ohswéken, ON, NOA 1M0 |
| Ohswéken, ON, NOA 1M0    |         | PH: (519) 755-2769    |
| PH: (519) 445-2201       |         |                       |

MAA is not the approval or regulatory authority for your project. You should consider the information provided in this letter in light of the statutes and guidance materials provided by the appropriate approval or regulatory authority for consultation requirements with Aboriginal communities on a project such as you are proposing. Should you have questions on the process please contact the appropriate ministry.

The Government of Canada sometimes receives claims that Ontario does not receive, or with which Ontario does not become involved. For information about possible claims in the area, MAA recommends the proponent contact the following federal contacts:

Ms. Janet Townshend  
A/Senior Claims Analyst  
Research and Policy Directorate  
Indian and Northern Affairs Canada  
10 Wellington St.  
Gatineau, QC K1A 0H4  
Tel: (819) 953-4667  
Fax: (819) 997-9873

Mr. Kevin Clement  
A/Director,  
Financial Issues and Cost-Sharing  
Indian and Northern Affairs Canada  
10 Wellington St. 8<sup>th</sup> Floor  
Gatineau, QC K1A 0H4  
Tel: (819) 997-3369  
Fax: (819) 997-9147

For federal information on litigation contact:

Jonathan Allen  
Litigation Team Leader for Ontario  
1430-25 Eddy Street  
Gatineau, QC K1A 0H4  
Tel: (819) 956-3181  
Fax: (819) 953-6143

You should also be aware that information upon which the above comments are based is subject to change. First Nation or Métis communities can make assertions at any time, and other developments can occur that might require additional communities to be notified.

Yours truly,

***Original Signed By***

Pam Wheaton

Director

Aboriginal and Ministry Relationships Branch