



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"

February 25, 2008

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Dear Sirs:

Further to your request issued in the Media Release of January 23, 2008, the Native Council of Nova Scotia, representing the traditional ancestral homelands Community of Mi'kmaq/Aboriginal Peoples, the off-reserve Treaty beneficiaries provides OEER with a written submission on the Report.

Although our submission is addressed to the Minister of Energy, it equally is a submission to OEER. We accordingly request that the OEER accept the written submission, and respond to it. We need to know what the OEER considers the Report to be, how will it be used, and who will use it.

The Report is not a socio-economic environmental impact analysis (ESIA), and if OEER considers it to be such, it is a deficient report and deficient filing. The report excludes information about our NCNS communities, and most definitely does not disclose any current issues or matters about NCNS Community uses of resources and the area.

I anticipate your early response.

Going Forward
To A Better Future


Grace Conrad
Chief & President

CG

cc. Roger Hunka
Franz Kesick, NCNS RT Member



Aboriginal/Treaty Rights
Negotiations Facilitating
Directorate

Education & Student
Services

Rural & Native
Housing Group

Aboriginal Peoples
Training & Employment
Commission (APTEC)

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)

Netukulimkewe'l
Commission



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The Honourable Richard Hurlburt
Government of Nova Scotia
Minister of Energy
5151 George Street
Halifax, Nova Scotia
B3J 3P7

Dear Mr. Minister:

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RE: TIDAL POWER POTENTIAL OF THE BAY OF FUNDY

On April 2, 2007, the Minister of Energy, the Honourable Bill Dooks, confirmed that the Province of Nova Scotia signed an agreement with the OEER Association to conduct a Strategic Environmental Assessment (SEA). An SEA is a necessary step towards the demonstration of tidal energy technology in the Bay of Fundy.

The objective of the SEA is to assess the social, economic and environmental effects and factors associated with this potential energy development.

In August of 2007, the OEER promulgated a "Request for Proposals (RFP)" for an Environmental and Socio-Economic Impact Assessment Report (ESIA), to support the anticipated SEA. The RFP projected the level of effort to produce the ESIA in terms of dollars would be valued at \$120,000.00. Among other issues to consider, the ESIA should focus on: commercial fisheries, recreation, tourism, other coastal resources uses, community economic development, supporting services and resources, to name but a few issues.

We assume that the Department of Energy and the OEER expected and required to have a Report by December which would inform and support the development of an SEA - an SEA that would draw information from: an ESIA, the Round Table, the TAG, the Communities and Public Participation throughout the SEA Process. An SEA which would inform, identify, and compile public knowledge and views, note unique considerations among other matters, and facilitate the decision making process by decision makers for the good of Nova Scotians.

Worthy of repeat:

“a good-quality Strategic Environmental Assessment (SEA) process informs planners, decision makers and affected public on the sustainability of strategic decisions, facilitates the search for the best alternative and ensures a democratic decision making process. This enhances the credibility of decisions and leads to most cost and time effective EA's at the project level.”

On January 23, 2008, the OEER released a Final Report to the public titled, “Background Report for the Fundy Tidal Energy Strategic Environmental Assessment”. The OEER invited public comment on the Report to be submitted by February 29, 2008.

A Report without any public or community participation. Why is there not one measure of any effort to invite or include public or community participation to supply and provide direct socio-economic or environmental input to produce this Report?

Dr. Joshua Leon, of the Technical Advisory Group (TAG) several months ago stated:

“Our intention from the outset of the SEA was to maintain an open and transparent process, encouraging everyone to get involved”.

“Public input throughout the process is vital in order to better understand the issues and challenges before decisions are made on this tidal energy project”.

Mr. Minister, who can explain this? If public comments can be sought on the Report after it is produced and released, then why couldn't public comments and input be invited and sought during the writing of the Report?

The Native Council of Nova Scotia (NCNS) has, for thirty-four years, been an organizing force, advocate, representative, and a “Voice to the Councils of Government” for the traditional ancestral homeland community of Mi'kmaq/Aboriginal Peoples. The Native Council of Nova Scotia also provides some vital services to the large community of Mi'kmaq/Aboriginal Peoples continuing off-reserve to help the direct heirs and descendants of Treaty Rights “Going forward to a better future”.

Recent released Statistics Canada Census data reveal, for Nova Scotia, that for every one person living on an Indian Act controlled reserve (7,980), there are two persons continuing to live off-reserve (15,720). The off-reserve or traditional ancestral homelands Mi'kmaq/Aboriginal Peoples, represented by the NCNS manage to live in two worlds, without the Department of Indian and Northern Affairs.

The NCNS extended its hand to the Department of Energy and OEER at outset of the announcement.

Because the Native Council of Nova Scotia administers a comprehensive “natural life management” regime province wide for the community, we expressed the need to have information about our community compiled and considered, and we requested to be involved throughout the SEA Process.

We nominated a member to participate at the Round Table. We clearly indicated that we have a lot of information to share about our communities’ uses of the Bay and life along the Bay. We also shared the observation about the purpose and role of the Technical Advisory Group (TAG), the Round Table and the SEA. We thought that the TAG could be perceived as censoring or overshadowing significant public input, which could hinder the democratic transparent SEA process.

In short, the Native Council of Nova Scotia extended an open invitation to all consultants or interests involved to visit, learn and factually report the reality, interests, needs, aspirations, concerns, and issues expressed by the off-reserve Aboriginal Peoples in Nova Scotia as rights holders, treaty beneficiaries, and the continuum of a long history directly associated with these lands, waters, ecology for thousands of years.

We submitted a proposal to the first round of OEER projects as a not for profit organization to secure some support to enable us to inform the Community about the initiative, and to create a SEA Process and NCNS to and fro information link. The project was not supported. How is the SEA to gather and receive direct valuable and necessary information, knowledge, about the traditional ancestral homelands (off-reserve) Mi’kmaq/Aboriginal Peoples uses of resources, our Communal Commercial Fisheries, our Food Social and Ceremonial fishing, harvesting, fowling, gathering, and our other uses? How is the SEA to learn about our connection and other information about our communities of Mi’kmaq/Aboriginal Peoples continuing on traditional ancestral homelands of the Bay?

Information not available in a book, or a reference library. We would provide social, economic and environmental information to help the SEA drafters to show the true picture of Aboriginal Peoples and the Bay. This, together with other Bay Community profiles, uses, issues, concerns and information, would help to produce the best possible SEA for everyone’s benefit, and most notably decision makers.

On reading the Final Report of January 2008 presented for public comment by the OEER, the Native Council of Nova Scotia must advise you and the OEER, that the Report is deficient, and a deficient filing.

Also, the January 2008 Report is not an ESIA. The January 2008 Report did not intend to have, nor did its authors intend to make, any effort to invite or include any socio-economic, and environmental impact or otherwise information from the Bay Communities, or Bay Nova Scotians.

The Round Table Meeting of February 4, 2008, minutes confirm a great deal of dissatisfaction with the Report. There were many views clearly expressed by many Round Table Members about this

Report, as well as other matters surrounding the SEA Process. The feeling of being used, the intense preoccupation with a time line, pre-determined announcements, and more, contributing to a growing shadow over the Process. What is the merit, worth or capacity of the Round Table? Monumental information gaps were identified. The general consensus about the Report, to quote the minutes, "there is very little on socio-economic impact".

Was this an ESIA?

The Native Council of Nova Scotia Community, as Aboriginal Rights holders, and Treaty Beneficiaries, using the Bay, and its resources, need to know, what is this report? What is its purpose? Who will use it? How will it be used?

Last week, I requested and delegated Mr. Roger Hunka, to attend the Round Table with our representative to ask the question. What is the Report? What is its purpose? Why is there little or nothing about the present day Aboriginal Peoples continuing to live on traditional ancestral homelands off-reserve by the Bay, Bay History, the Evolution of Community settlement, economic development, relationships between communities and the Mi'kmaq/Aboriginal Peoples, community past, present and future aspirations for social progress, economic development and environmental integrity? What are the People saying?

Where is there information about the many uses of the Bay, it's influence and significance on shaping communities - communities older than Halifax, or any other part of Nova Scotia? Where is the socio-economic information to at least help drafters with the SEA. The report is absent about Communities, People and how the Bay has been used for thousands and hundreds of years.

On February 18, 2008, at Wolfville, Nova Scotia, Mr. Hunka asked the questions, and was told "OEER can best answer that question". The TAG are treating it as a background information report.

Information about what? Some geography, water flow rates, and some spot fisheries data, and brochures and write ups from "tidal energy developers and fabricators of equipment"? Does that satisfy the social, economic and environmental analysis of impacts?

To be fair to the Report authors, they fairly note thousands of hours of work still required to fill in countless information gaps.

Mr. Minister, what OEER tendered for and what Nova Scotians received is quite off the mark. Simply put, what did the expenditure of \$120,000.00 produce to advance the SEA process?

We suggest that the SEA process, time table, public input, views of Bay Communities, and vital community information are further pressed out against a pressing time line. The SEA may fall victim to assumptions and recommendation by the TAG by reason of a time line, without TAG having the ability of identifying, exploring or presenting community options and alternatives for

decision makers.

The Round Table of February 18 clearly identified obvious gaps which should be examined. The Round Table shared good highlight feedback relating to report voids. The Round Table members raised many encouraging perspectives, suggestions, views, information, reasons and issues relating to assisting in the production of an SEA. Most exciting, Round Table Members openly shared highlights of new, innovative, and fresh issues and matters to consider, as well as approaches.

On February 18, the Round Table Members resonated several fresh themes, which I paraphrase to be; “First Benefit From Tidal Bay Energy Must Be For Tidal Bay Communities” ; “Proposed Demonstration or Development Must clearly Consider Community Scale Development as Options as well as Mega developments”; “Tidal Energy Development Must Foremost Reflect and Respect Bay Communities aspirations for social progress, economic development and environmental integrity”; “Tidal Bay Energy Development must not be for foreign shareholder, or export energy trade interests”. And there was much more, which the minutes will more accurately reflect.

All of us lost almost four months waiting for a report which, at end, simply told us how much more we need to find out. Imagine if during those four months, the public was invited to participate and have input. Imagine the volumes of information, views, ideas, solutions, alternatives, options, community needs, and socio-economic and environmental impact assessment preliminary findings or gaps which could have issued in the Report had the public Bay communities been able to share them during those four months. Imagine, if what the Round Table Members highlighted in less than four hours in one day is an indicator of the knowledge and information available at the community level. Think of what the TAG, Consultants, and ultimately Decision makers have lost, and now, will have to try and capture somehow?

An SEA to provide decision makers with real Nova Scotian approaches and solutions for the benefit of Bay Communities as Nova Scotians. How to approach and how to begin to use Tidal Bay Energy respecting and promoting; Bay Communities, Bay Economies, and Bay Environments.

Has the democratic SEA process been compromised? The TAG retain the responsibility to make recommendations in the SEA. The TAG participate at the Round Table Members meetings. The TAG hear highlight views, issues, knowledge, interests, needs, and aspirations as expressed by a few Community representatives for a few Bay Communities.

Only Bay Communities, Bay Peoples, can explain their knowledge and experience with the Bay. As an “in-fill tidal Bay”, every works, activity, undertaking, development does have an effect and impact which only Bay Communities and Bay Peoples can best reflect on, explain and express.

For Mikmaq/Aboriginal Peoples, we have a six thousand year history with the Bay. For settlers now Nova Scotians, a four hundred years history - to all of us living and working with the Bay, the Bay is an integral part of our ecumene.

Decision makers, in Halifax, cannot ignore this reality. You have to reach out to us, you have to ensure our full, democratic, transparent participation in the SEA.

There are 13 TAG members, 9 are Government Employees. Of the 13, only 4 are independent TAG members, where 1 is a lead OEER Consultant. What has OEER or the Department of Energy put in place to ensure that there is no room for the Perception of government weighting, or government favoured recommendations to overshadow Community input into the SEA?

Bay Community Voices, Bay Community values for social progress, Bay Community economic development opportunities, and Bay Community environmental integrity aspirations, and approaches to Bay Tidal Energy Development must form an integral part of the SEA, and form the basis for decision making.

To close, I request a response to the following:

1. The Native Council of Nova Scotia maintains that the January 28, 2008 Report is not an ESIA. What does OEER consider the report to be?
2. The Native Council of Nova Scotia considers the Report unacceptable and a deficient filing on social, economic and environmental impacts. What is OEER's position?
3. The Native Council of Nova Scotia requests that the TAG, at this stage in the SEA process, permit the NCNS to introduce in the SEA Report an appropriate dissenting note about findings and recommendations if they are based on the January 28, 2008, Report, and no effort is made to collect views, information, issues, concerns and needs directly from the Native Council of Nova Scotia.
4. The Good Offices of the Minister of Energy must assure the NCNS that the January 28, 2008, Report is not an ESIA and will not be promoted as such, nor represented in any forum or document to be an ESIA.
- 5.. The Nova Scotia Department of Energy shall ensure and instruct the OEER to advise its consultants to meet with the NCNS to gather specific information about the NCNS Natural life Management Regimes, NCNS Communal Commercial Fisheries, NCNS harvesting and other traditional ancestral homelands Community social, economic, and environmental information to be included in the SEA.
6. TAG members should schedule a convenient time with the NCNS at both the pre SEA Report release stage and in the post SEA Report release stage in the SEA Process to hold a consultation with the NCNS. TAG will note and understand several items of interest which the NCNS Community may wish to have noted and considered by decision makers.

- I increasing economic opportunities, including training and employment incentives to reverse the under representation of off-reserve Aboriginal Peoples in the energy field.
- II work with the NCNS and develop protocols to advise about and protect historic and cultural artifacts encountered during tidal energy activities, works, undertakings and development.
- III support an information vehicle to increase awareness with Tidal Energy Developers and Department of Energy about the NCNS natural life management regimes, Communal Commercial Fisheries and the NCNS Community as Treaty and Aboriginal Rights Beneficiaries.
- IV develop a protocol for advising the NCNS about any activities, works, undertakings, associated with development of Bay Tidal Energy.
- V develop, with the NCNS, a compensation plan where NCNS Communal Commercial Fisheries and Food Social and Ceremonial Fisheries will be compensated for losses resulting from either the denial of preferred access, loss of fish, loss or damage to gear, equipment or boats.
- VI arrange introductory contact opportunities between the NCNS and Bay Tidal Energy Interests, to promote greater understanding of each other, and explore private sector relationships, venture opportunities or other mutually beneficial relationships.
- VII establish a scholarship or some training set asides dedicated to Aboriginal persons interested to train or develop skills for employment in the tidal energy field.
- VIII Establish a process between the NCNS and the Department of Energy, where the parties can annually review the Progress of Tidal Energy Development and note issues, concerns, interests and needs expressed by the parties, as well as action plans mutually developed to address same.

Thank you for your kind interest. I remain determined to keep the NCNS hand extended in friendship, and to work towards developing an SEA which serves all our relations now and into the future.

Going Forward To a Better Future


Grace Conrad
Chief & President

GC

cc OEER
NCNS Board of Directors