



April 3, 2014

Mr. Laurent Jonart
A/Director of Consultation
Nova Scotia Office of Aboriginal Affairs
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Sent via email : JONARTLA@gov.ns.ca

Dear Mr. Jonart:

I am writing to thank you again for your time on March 28 when we met to discuss the draft Mi'kmaq consultation policy and guidelines, and to provide our feedback on the document.

We support the general thrust of the proposed policy and guidelines and the "Made-in-Nova Scotia process" for consulting aboriginal communities about mine and quarry projects. Our main concern is that the policy be implemented reasonably and appropriately by both the Office of Aboriginal Affairs and by Nova Scotia Environment (NSE). Specifically, our concerns fall into three categories:

Certainty of Rules

The mining and quarrying industry is always concerned that the process and rules around project approvals be clear, i.e. that the proponents' responsibilities are laid out clearly, that the rules are applied fairly and consistently by government officials and that the approval process be managed in an efficient fashion.

The proposed policy and guidelines provide a generally clear understanding of the roles and responsibilities of the various players in the process, including proponents, government departments and Mi'kmaq communities. We support the efforts of the Office of Aboriginal Affairs to continue to clarify the rules around consultation for the benefit of all parties.

Facilitating Projects

While it is the government's responsibility to ensure that the interests of Nova Scotians, aboriginals and otherwise, are respected and protected in the project approval process – something our members take very seriously as well – we also believe that the fundamental goal of the approvals process needs to be facilitating projects.

We support the duty to consult with Mi'kmaq communities and believe in working constructively with all stakeholders when planning and operating mines and quarries. At the same time, it is vital that the consultation process not be used to unreasonably block mines/quarries or otherwise impede the development of new job-creating projects. The shared goal of all Nova Scotians should be to create jobs and economic opportunity. Consultation with aboriginals, like other parts of the regulatory process, needs to be focussed on this goal.

The draft policy and guidelines, and the Office of Aboriginal Affairs' overall approach, seem to generally support this key principle.

Additional Studies and Proponent Funding

Our comment above about the importance of the policy being implemented in a reasonable and appropriate fashion applies most directly to our concern that project proponents not be obligated to fund studies that, in some cases, do not serve the proponent's or Province's best interests, or are simply not necessary.

For example, we are concerned that:

- Mi'kmaq Ecological Knowledge Studies (MEKS) can be required in cases where an MEKS has already been conducted in the area. A new MEKS is generally not necessary if one has already been conducted so requiring an additional study serves no purpose and increases costs for proponents.
- MEKS have been required by NSE for projects on private land which, we understand from our March 28 meeting with you, should not be happening since concerns about impacts on aboriginal communities generally only apply to Crown lands.
- I am aware of at least two cases in which an MEKS was required by NSE as a Condition of an Environmental Assessment. However, since NSE was at the same time giving its EA approval for the project, requiring that an MEKS be conducted after the fact did not serve any practical purpose except to generate more paperwork for the file.

These are examples of the duty to consult being implemented poorly, in ways that generate unnecessary paperwork and costs for project proponents. While the draft policy and guidelines clearly do not intend to cause these sorts of issues, we flag that appropriate and reasonable implementation of the policy is vital. We respectfully recommend that the Office of Aboriginal Affairs and NSE work together to ensure studies, such as MEKS, are only required when necessary and appropriate.

Conclusion

Nova Scotia's mining and quarrying industry is a key creator of jobs and prosperity for Nova Scotians. It provides 5,500 jobs, mostly in rural areas, and contributes \$420 million dollars to the province's economy each year. The Ivany Commission said traditional industries like mining and quarrying "will provide the essential foundations for Nova Scotia's rural economy."



Thank you for your kind consideration.

Yours truly,

A handwritten signature in black ink, appearing to read "Sean Kirby", written in a cursive style.

Sean Kirby, Executive Director
Mining Association of Nova Scotia

Cc: Mr. Don James, Executive Director, DNR
Ms. Lorrie Roberts, Executive Director, NSE