



Affaires indiennes
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Indian and Northern
Affairs Canada

Sous-ministre adjoint

Assistant Deputy Minister

Ottawa, Canada
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March 2, 2011

Mr. Brendan Sheppard
President
Federation of Newfoundland Indians
P.O. Box 956
CORNER BROOK NL A2H 6J3

Amendment to the Agreement for the Recognition of the Qalipu Mi'kmaq Band in relation to Conne River

Dear Mr. Sheppard:

Further to the discussions held at the Joint Canada/Federation of Newfoundland Indians (FNI) Implementation Committee, I am writing to confirm that the Parties to the Agreement for the Recognition of the Qalipu Mi'kmaq Band (the Agreement) intend to amend it with a view to clarifying their intention with respect to the addition of the community of Conne River to the list of geographic locations of Mi'kmaq groups of Indians on the Island of Newfoundland found at Annex B to the Agreement.

Background and Rationale

It has come to our attention that at least one applicant in the Qalipu Enrolment process has claimed to be accepted as a member of the Mi'kmaq Group of Indians of Newfoundland (s. 4.1(d)(ii) of the Agreement) through a substantial connection with the community of Conne River, which is not listed on Annex 'B' to the Agreement as one of the location of a Mi'kmaq group of Indians on the Island of Newfoundland.

The Enrolment Committee has the authority under section 1.14 of the Agreement to add a geographic location to Annex B, in accordance with section 26 of the Enrolment Committee Guidelines, if it receives sufficient evidence that a Mi'kmaq group of Indians exist at that location. The various Mi'kmaq groups of Indians on the Island of Newfoundland listed on Annex B collectively make up the Mi'kmaq Group of Indians of Newfoundland to be recognized as a band for the purposes of the *Indian Act*. The authority to add localities to Annex B was granted to the Enrolment Committee in case the Parties were unaware of existing Mi'kmaq groups located elsewhere.

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While there is a Mi'kmaq community at Conne River, this community was already recognized for the purposes of the *Indian Act* when the Miawpukek Band was established by the Governor in Council in 1984. The purpose of the Agreement, as stated in its preamble, is to provide for a process leading to the recognition by the Governor-in-Council of a landless band for the Mi'kmaq Group of Indians of Newfoundland. The situation of Conne River was already dealt with when it was recognized by the Governor-in-Council as a band for *Indian Act* purposes in 1984, and provided with reserve lands in 1987. Conne River, as a Mi'kmaq group, left the organization of the FNI and participated in a process of recognition in the early 1980s. It cannot also form part of the Mi'kmaq Group to be recognized as a result of the current process. This would be a duplication of an earlier process and lead to a second recognition of that collective.

Moreover, the addition of Conne River to Annex B would allow individuals who have been validly denied registration because of the application of the registration criteria of section 6 of the *Indian Act* to circumvent that Act and become entitled pursuant to s. 6(1)(b). There is a general rule under the *Indian Act* according to which Indian status is not transmissible after two generations of mixed parentage. Concretely, individuals who have only one parent entitled to registration cannot be registered if that parent is entitled to registration under subsection 6(2) of the *Indian Act*. Allowing such persons to become Founding Members because they are able to show a substantial connection with Conne River members would circumvent the *Indian Act* and this would be contrary to s. 2.17 of the Agreement which states that the Agreement "shall be governed by the applicable laws of Canada and the province of Newfoundland", including the *Indian Act*.

Amendments to the Agreement

For the above reasons, and in accordance with s. 2.15 of the Agreement, the Parties wish to amend the Agreement so to avoid the conflicts or inconsistencies referred to above with the *Indian Act* (R. S. C. 1985, c. I-5) and with the *Miawpukek Band Order* (SOR-89-191) which replaced the 1984 Order that had initially recognized the Community of Conne River as a Band for the purposes of the *Indian Act*.

To that effect, the Parties agree to amend s. 1.14 of Agreement with the addition, at the end, of the following sentence: **It is understood that the Mi'kmaq Group of Indians of Newfoundland shall not include a body of Indians already recognized as a band for the purposes of the *Indian Act*.**

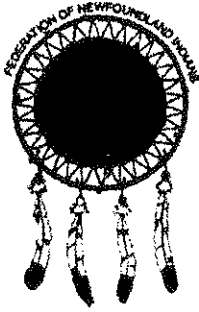
Moreover, the Parties agree to amend s. 26 of the Enrolment Committee Guidelines (Annex 'A') with the addition, at the end, of the following sentence: **Notwithstanding the above, the Enrolment Committee shall not add to Annex 'B' the geographic location of a body of Indians already recognized as a band for the purposes of the Indian Act, and shall not, in particular, add Conne River to Annex 'B'.**

I hereby confirm that the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-status Indians, on behalf of Her Majesty in right of Canada, agrees with the above. Please confirm in writing that the Federation of Newfoundland Indians also agrees with the amendments proposed above.

Yours sincerely,



Élisabeth Châtillon
Resolution and Individual Affairs



Federation of Newfoundland Indians

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April 04, 2011

Indian and Northern Affairs Canada
Ottawa, Ontario
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Attention: **Elisabeth Chatillon**
Assistant Deputy Minister
Resolution and Individual Affairs

Amendment to the Agreement for the Recognition of the Qalipu Mi'Kmaq Band in relation to Conne River

Dear Ms. Chatillon

Further to your 2 March 2011 correspondence, I am pleased to confirm that the Board of Directors of the Federation of Newfoundland Indians has passed the following Resolution:

1. to amend s. 1.14 of the 23 June 2008 Agreement to form the Qalipu Mi'Kmaq First Nation with the addition, at the end, of the following sentence:


It is understood that the Mi'Kmaq Group of Indians of Newfoundland shall not include a body of Indians already recognized as a band for the purposes of the *Indian Act*.

2. to amend s. 26 of Annex 'A' of the Agreement with the addition, at the end, of the following sentence:

Notwithstanding the above, the Enrolment Committee shall not add to Annex 'B' the geographic location of a body of Indians already recognized as a band for the purposes of the Indian Act, and shall not, in particular, add Conne River to Annex 'B'

I therefore confirm through this letter that the Federation of Newfoundland Indians agrees with the amendments proposed in your correspondence.

Yours truly,


Brendan Sheppard
President