

MUSHKEGOWUK COUNCIL

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July 6, 2011

Attawapiskat
First Nation

The Honourable Peter Kent
Minister of Environment (Canada)
10 Wellington Street
25th Floor, Les Terrasses de la Chaudiere
Gatineau, PQ K1A 0H3

The Honourable John Wilkinson
Minister of Environment (Ontario)
77 Wellesley Street, West
11th Floor, Ferguson Block
Toronto, ON M7A 2T5

Kashechewan
First Nation

Dear Honourable Kent and Honourable Wilkinson:

Fort Albany
First Nation

I am writing as the elected Grand Chief of Mushkegowuk Council, the regional government of seven Mushkegowuk First Nations on the western shores and the waterways of James Bay, in Ontario. I am writing to advise that the Mushkegowuk First Nations of Mushkegowuk Council intend to participate fully in decision making and Environmental Assessment processes relating to the major new mines being proposed on the western edge of our territory, specifically in the area sometimes referred to as the "Ring of Fire", and in particular the mines described in the Project Descriptions recently filed by Noront and Cliffs Resources. The Mushkegowuk Chiefs have determined that we will work on a collective and unified basis on Ring of Fire issues, research, decision making and negotiations.

Moose Cree
First Nation

Taykwa Tagamou
Nation

Chapleau Cree
First Nation

I will describe below why we as the Mushkegowuk are concerned about the proposed Ring of Fire mines, and then I will respectfully and briefly explain why we believe that, according to the sacred Treaty agreement between our peoples a century ago, your governments do not have the legal right to proceed with these mines without First Nation consent. I will then describe our request for an environmental assessment joint panel (because a so-called "comprehensive study" is inadequate), and our request that the panel have a majority of northern First Nation members (including at least one Omushkego individual). I will then describe our request for immediate funding so that the Mushkegowuk people can begin to study the potential impacts of these proposed mines on our territory and our people. Finally, I will point out that we are preparing a funding application for study resources as an Aboriginal group under the CEAA Participant Funding Program (and requesting additional continuing supplemental funding from the Ontario Ring of Fire Secretariat, INAC, Cliff's Resources and NORONT to continue alongside such participant funding).

Missanabie Cree
First Nation

1. *Why the proposed “Ring of Fire” mining projects concern the Mushkegowuk First Nations*

The proposed Noront and Cliffs mines, if they proceed, will be extremely large mines operating at the headwaters of two of the last major undeveloped rivers in Ontario, the Attawapiskat River and the Ekwan River, which flow for hundreds of kilometers through the heart of our traditional Mushkegowuk homeland. One of our communities, Attawapiskat First Nation, is located at the mouth of the Attawapiskat River, on its banks. Attawapiskat First Nation also has a reserve on the Ekwan River. Furthermore, farther south, the planned roads, bridges, and possible railway to the mines will cross the inland headwaters of the Albany River, likely affecting everything downriver on the Albany. Creating new access to all of these rivers will have lasting impacts including increased pressure on fish and wildlife populations, increased impact from recreational use and encouragement of further development. Two other Mushkegowuk communities, Fort Albany and Kashechewan, are located at the mouth of the Albany River.

The proposed Cliffs mine alone, as an example, is gigantic in scale. Two open pits are planned, and *each open pit would be more than a kilometer in length* (one 1,500 metres, one 1,300 metres). The waste rock piles are expected to cover 600 hectares (2.3 square miles) to a height of 30 metres. The tailing ponds will occupy an area of 250 hectares – approximately one square mile. And according to the project description, “preliminary testing has indicated a potential for metal leaching of tailings”. All of this is planned to be located precisely at the origins of several of the rivers on which we live.

Our People continue to travel these rivers as we have for thousands of years. The fish, moose, geese, caribou and other animals that we harvest from the rivers and the land are an important source of food for us. Our communities are on the banks of these rivers and they are precious and sacred to us. These proposed mining projects, planned directly upriver from us, will affect the rivers, the land, the animals and birds, our lives, history, culture, children and grandchildren in many and unknown ways.

The proposed mines will create some employment, but we do not know for whom. Maybe hundreds or thousands of outsiders will flood our territories, without knowing or caring about our communities, our history, our rights. Maybe some jobs will be available for our community members, but our experiences with the Victor diamond mine has shown that there will be significant and long term impacts on our families, communities, economy and culture.

These are things that concern us greatly.

2. *We do not accept the jurisdiction of your Environmental Assessment Acts or Mining Act*

While we intend to be fully involved in the environmental assessment processes, you must understand that we do not accept the legal or moral validity of the laws that they are based on, because they are contrary to the sacred Treaty promises and agreements which our people and your people entered into a century ago. These laws give your governments the power to approve these mines, even without our consent, when the treaty agreements say the opposite.

Your governments say that the sacred Treaty that your people and our people entered into allows your governments to approve mines such as these in our homelands because the written Treaty document that you asked our elders to sign has a written clause – the so-called “taken up” clause which says that the Crown can “take up” our land for mining if it wishes. Our elders have always disagreed with those claims, because that is not the history passed down among us. Of course, our elders, who spoke Cree, could not read the English document which they were asked to sign.

Now we all, our people and your people, can understand the truth, because after a hundred years of silence, the hand written diaries of the official Ontario Treaty negotiator have recently been found, and the detailed recordings of this eyewitness and participant, show that our elders have been right, because they record key oral promises which were not included in the written treaty document, and which contradict the written “taken up” clause. The laws that you rely on for these mines and environmental assessment approvals are not in accord with what we all agreed to, as confirmed by the evidence of these written Treaty commissioner diaries.

Here is an example. These mines are proposed for the lands just a few kilometres from Marten Falls, just outside our Mushkegowuk territory, where one of the many Treaty negotiations took place in 1905. Let me remind you, based on the handwritten records of the official government negotiator, of the promises that were made at Marten Falls.

Oral Promises/Agreements as Described and Written by the Treaty Commissioners & Secretary

MARTEN FALLS Date: July 25, 1905

Source: Diary of Commissioner Daniel MacMartin

☞ “When it was explained to them that they *could hunt and fish as of old* and they were *not restricted as to territory*” ...*they gladly accepted the situation ...*”

☞ “Again it was put forcibly before them ... *that [the reserve] was a home for them that was being provided & not a hunting reserve and that they could hunt wherever they pleased, [upon which] they signified their assent*

NEW POST Date: Aug. 21, 1905

Source: Diaries of Daniel MacMartin and Samuel Stewart.

☞ “As usual, the point on which the Indians desired full information as to the effect the treaty would have on *their hunting and fishing rights*. On being assured that *these would not be taken from them*, they expressed much pleasure and their willingness to sign the treaty....”

☞ “[the band] had terms of treaty explained to them ... that they were .. *allowed as of yore to hunt and fish where they pleased ...*

☞ Angus Weenusk replied that they *accepted the terms as stated...*”

MOOSE FACTORY Date: Aug. 9, 1905

Source: Diaries of Daniel MacMartin and Samuel Stewart.

☞ “they *could follow their custom of hunting where they pleased*”

☞ Fred Mark replied that they *...concurred in all that had been said...*”

3. *Request for a Panel Review (rather than a “comprehensive study”) under CEAA/OEAA*

We are aware that Noront and Cliffs have asked that a “comprehensive study” be carried out, to meet the requirements of the federal and provincial Environmental Assessment Acts. We do not think that is adequate. These are enormous projects. They require a “panel review”, and Mushkegowuk Council hereby requests a Joint Panel Review.

4. Request that a majority of panel members be First Nation members from Northern Ontario

These are our homelands, and have been for thousands of years. How could a panel of non-native outsiders possibly understand this environment and make a decision about these mines? We are asking that a majority of panel members for a Panel Review be First Nation individuals from Northern Ontario, and that one panel member be a member of one of the Mushkegowuk First Nations. We would be pleased to discuss with you some candidates from Mushkegowuk First Nations who we believe would be well suited for such a role.

5. Request for immediate capacity funding to begin to prepare for the Environmental Assessments

We are hereby requesting, immediate funding to build our capacity to fully consider the mines and begin studying the proposed mining projects, so that the Mushkegowuk people can consider possible impacts and possible benefits from the mines.

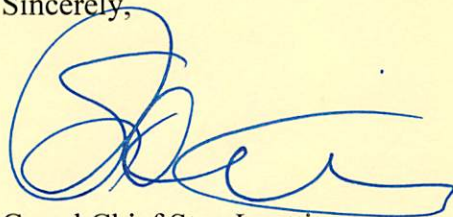
Although we seem to be far apart right now on important issues, we are asking for immediate capacity funding, to see if there is a way to take some steps forward together, to see where that takes us.

Attached to this letter is an interim budget proposal that outlines the capacity that will be needed for this current fiscal year at the First Nations level, at a regional level (Mushkegowuk Council) and for First Nations based research through the Mushkegowuk Environmental Research Centre (MERC). This unified budget is in keeping with the direction of the Mushkegowuk Council of Chiefs to establish a collective and unified approach to the Ring of Fire. By March 2012 we will be in a much better position to determine what long term funding will be required.

In addition to the above request for immediate funding, we are separately preparing an application for Aboriginal Group Funding for Mushkegowuk Council which we will be submitted to the Participant Funding Program in due course. In addition, we will be requesting further supplementary funding from the Ontario Ring of Fire Secretariat, Aboriginal Affairs & Northern Development, Cliff's Resources and NORONT (proposal attached) to continue after 2011. The CEAA Participant Funding request and the Ontario Ring of Fire Secretariat funding requests (both for 2011 and for thereafter) are independent but will be co-ordinated and are both essential for the Mushkegowuk people to better understand the potential effects of these gigantic mining projects – which are set to proceed on our rivers without our consent and contrary to the Treaty.

The Chiefs of Mushkegowuk would be pleased to meet with you soon to discuss the elements of this letter and proposal.

Sincerely,



Grand Chief Stan Louttit

cc. Mushkegowuk Council of Chiefs

The Honourable John Duncan, Minister of Aboriginal Affairs and Northern Development Canada

The Honourable Joe Oliver, Minister of Natural Resources Canada

The Honourable Keith Ashfield, Minister of Fisheries and Oceans Canada

Dr. Christine Kaszycki, Assistant Deputy Minister, Ring of Fire Secretariat, Ontario Ministry of Northern Development, Mines and Forestry

Ms. Leigh Jessen, Associate Regional Director General, Aboriginal Affairs and Northern Development, Ontario Region

Ms. Louise Knox, Director, Canadian Environmental Assessment Agency, Ontario Region

Grand Chief Stan Beardy, Nishnawabe-Aski Nation

Chief, Spokesman, Matawa Chiefs Council