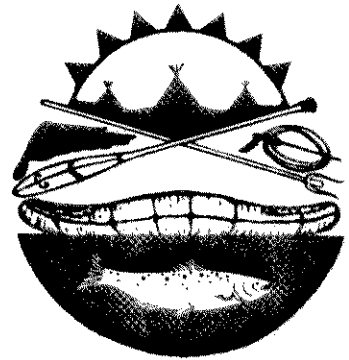


Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 1786	Subject: Negotiations Regarding Land Grievances, Compensation Duty & Damages; Settlement	Originated by: on for Breach of Fiduciary of Litigation (Busteed)
The Council of the Listuguj Mi'gmaq Government		District Gespe'gewa'gi
Date of duly convened meeting	D M Y 1 6 0 2 0 9	Province Gepeg

WHEREAS the Listuguj Mi'gmaq have unaddressed grievances regarding lands lost in the immediate vicinity of Listuguj;

WHEREAS these grievances are notably as regards the lands known as the Busteed Estate, the Mann-Fraser Estate and additional acreage, the Mission lands, the corridor of Highway 132 and the Interprovincial Bridge approach;

WHEREAS the Listuguj Mi'gmaq have the right to be compensated by Canada for breach of fiduciary duty, loss of use and economic, political, social, community-development and psychological damages associated with the loss of these lands, denial of access going back in some cases as much as 220 years and failure of Canada to assist in remedying these injustices;

WHEREAS the Listuguj Mi'gmaq have devoted their energies over many years to researching these matters, preparing historical reports and documents and to making representations to the Crown;

WHEREAS this work resulted in the submission of the Mission claim to the DIAND Specific Claims Branch and to the return of a large part of the Mission lands to Listuguj;

WHEREAS the other grievances have not been submitted as specific claims;

WHEREAS the exercise in 1997 of Listuguj Mi'gmaq rights as regards lands of the Busteed Estate for the purpose of removal of sand to built housing, resulted in legal action for trespass, an injunction and a claim for damages by the Busteeds (*Busteed v. The Restigouche Indian Band and others*, Superior Court Bonaventure no. 105-05-000231-973);

Moved: Patricia Martin
 Seconded: Wendell Metallic
 Abstain: 0
 Opposed: 0
 Status: Passed Defeated Tabled

Quorum 7


 (Chief)

 (Councillor)

 (Councillor)

 (Councillor)

 (Councillor)

 (Councillor)

 (Councillor)

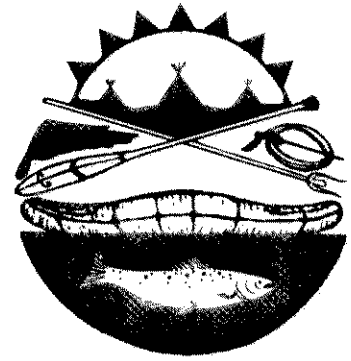
 (Councillor)

 (Councillor)

 (Councillor)

Mi'gmaq Nation

Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 1786	Subject: Negotiations Regarding Land Grievance, Compensation for Breach of Fiduciary Duty & Damages; Settlement of Litigation (Busteed)	Originated by:
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WHEREAS all of the Listuguj parties in that case counterclaimed denying that the Busteeds ever had any valid title and for declaration of Mi'gmaq Aboriginal title to those lands;

WHEREAS in 2003 Listuguj initiated proceedings in the Federal Court against the federal Crown for breach of fiduciary duty, compensation and damages as regards the five parcels of land mentioned above (*Listuguj Mi'gmaq First Nation v. The Queen in right of Canada*, Federal Court file no. 2478-03);

WHEREAS since 2004 Listuguj Mi'gmaq have pursued a strategy of addressing these various matters through preliminary talks between the Listuguj Mi'gmaq Government and the Government of Canada to reach creative and effective solutions;

WHEREAS Canada has mandated a team lead by Senior Negotiator Michel Youssef to engage in negotiations to settle both of the above-mentioned Court cases;

WHEREAS by letter of October 17, 2008, Mr. Youssef confirmed that the Department of Indian and Northern Affairs has received the mandate to negotiate the out of court settlement of the two court actions;

WHEREAS the same letter transmitted the Government of Canada's global offer to settle both court actions by: 1) Canada acquiring the lands known as the Busteed Estate and adding them to the Listuguj Reserve; and 2) paying compensation as regards breach of fiduciary duty, loss of use and all other damages and costs;

WHEREAS the mandate and offer letter was shared with Listuguj community at a public meeting on October 30, 2008 and with individuals named as parties in the two Court actions;

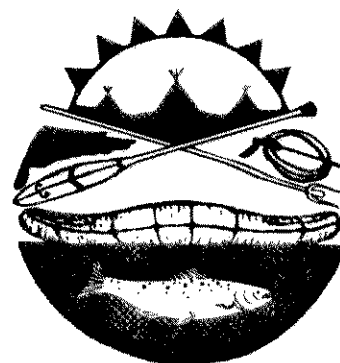
WHEREAS certain aspects of addressing these matters may require dealings with the Government of Quebec, including as regards the status of the highway 132 and Interprovincial Bridge approach corridors, the cultural property designation of the Busteed house and municipal issues involving Cross Point.

WHEREAS the negotiations in question do not involve the broader Aboriginal rights, title and Treaty rights of the Listuguj Mi'gmaq, including as covered by the mandate of the Mi'gmawei Mawiomi;

WHEREAS the negotiations in question do not affect other grievances regarding lands in the vicinity of Listuguj, including as regards the river islands in the Restigouche River, Old Mission Point and the site of Jigug now largely occupied by the Atholville mill, as well as other sites in New Brunswick and Quebec.

WHEREAS the negotiations in question do not imply any renunciation of rights of legal action against the Government of Quebec for breach of fiduciary duty or otherwise;

Listuguj Mi'gmaq Government Order-In-Council



Chronological no.:
1786

Subject: ~~Negotiations Regarding~~ Originated by:
~~Land Grievances, Compensation for Breach of Fiduciary~~
~~Duty & Damages; Settlement of Litigation (Busteed)~~

NOW THEREFORE, the Chief and Council of the Listuguj Mi'gmaq Government (LMG) in a duly convened meeting hereby resolve and order as follows:

1. The preamble is an integral part of this Order-in-Council.
2. Subject to the interests and concerns of the Listuguj Mi'gmaq as referred to in the preamble and subject to the requirements of information sharing, consultation and approval of any draft settlement by referendum, the LMG is mandated to engage in out-of-court settlement negotiations with Canada.
3. Subject to the same limitations, the LMG is mandated to engage in negotiations with the Government of Quebec with a view to reaching a complete and just resolution of the issues addressed in this Order-in-Council.
4. The negotiations shall be conducted by the LMG negotiating team now composed of Chief Allison Metallic, Councillor Patty Martin, Director of Finance Robert Smith, Jeff Basque, Troy Jerome and Me Franklin Gertler.
5. The LMG shall take steps to consult with members of the community, including those with particular concerns and knowledge, as regards the matters referred to in this Order-in-Council, including the assessment of economic, political, social, community-development and psychological damages.
6. The negotiations shall be conducted in a transparent manner, including information sharing and consultation with the people of Listuguj, and any proposed settlement agreement shall be subject to approval in a public referendum.