



Votre référence - Your file

Notre référence - Our file

NCR-E 5440-2/L240 PRB

DELIVERED BY E-MAIL; ORIGINAL BY HAND

October 17, 2008

WITHOUT PREJUDICE

Chief Allison Metallic
Listuguj Mi'gmaq Government
P.O. Box 298
Listuguj QC G0C 2R0

Dear Chief Metallic,

**Re : *Listuguj Mi'gmaq First Nation and al. v. Canada* (hereinafter
the *Listuguj* litigation), Federal Court file no.: T-2478-03**

**And re: *William B. Busteed vs. Restigouche Indian Band et al.*
(hereinafter the *Busteed* litigation),
Superior Court file no.: 105-05-000231-973**

I am writing pursuant to my letter of September 11, 2008 and the subsequent e-mail of September 19, 2008 to confirm that Indian and Northern Affairs Canada (INAC) has received its mandate to negotiate with the Listuguj Mi'gmaq Government (LMG) an out of court settlement of the above mentioned two court actions.

As agreed earlier with Me Gertler, and prior to our meeting now set for October 21, 2008, I would like to provide you with the main elements of INAC's offer.

INAC hereby makes a global offer inclusive of all interests and costs, including negotiating costs, to LMG of Twenty-One Million Dollars (\$21,000,000.00) and, in the event INAC can agree with Mr. Busteed on the purchase by Canada of his lands, the total of the lands bought from him. In that same eventuality, Canada is committed to adding the Busteed lands to LMG's reserve, subject to the provisions of INAC's Addition to Reserve (ATR)

Policy. Canada is also ready to consider further LMG proposals for addition to reserve, again subject to the ATR policy.

In consideration for these commitments, INAC will require that specific administrative and legal conditions be agreed upon by LMG. Those conditions remain to be negotiated between the parties, but I would like to introduce immediately the most significant legal conditions:

- A Discontinuance without costs of the *Listuguj* litigation by the Listuguj Mi'gmaq First Nation of Gespegewagi and all individual Plaintiffs;
- At the time Canada purchases the Busted lands, Discontinuances without costs for the two Counterclaims (« demandes reconventionnelles ») in the *Busted* litigation by the Restigouche Indian Band (known today as the Listuguj Mi'gmaq First Nation of Gespegewagi), the Restigouche Band Council (known today as the LMG), the Tribal Council of Restigouche of Mi'gmaq Nation – Gespegewaqi District, Jigug Enterprises Inc. and all individual Defendants-Cross Plaintiffs;
- A full and final release from the Listuguj Mi'gmaq First Nation of Gespegewagi and all individual Plaintiffs of all claims against Canada relating to the five parcels of land concerned in the *Listuguj* litigation (specifically, the areas known as the Mann-Fraser lands, the Mission lands, the Historical Busted lands, Highway 132 and the interprovincial bridge approach);
- An indemnity from the Listuguj Mi'gmaq First Nation of Gespegewagi and the LMG in favour of Canada for all claims that members of the Listuguj Mi'gmaq First Nation of Gespegewagi or the Tribal Council of Restigouche of Mi'gmaq Nation – Gespegewaqi District, or members of the Tribal Council of Restigouche of Mi'gmaq Nation – Gespegewaqi District (to the extent that they are not also members of Listuguj Mi'gmaq First Nation of Gespegewagi), have had, may now have or may in future have respecting any acts or omissions of Canada stemming from any dealings by any party affecting the said five parcels of land at any time up to and including the date of settlement;
- An agreement by LMG to submit the settlement to a referendum vote under referendum procedures to be generally prescribed in the settlement and at voting thresholds to be negotiated, but which in any case must be acceptable to Canada having regard to the content of the final Agreement and the ratification guidelines of INAC's Litigation Management and Resolution Branch (LMRB); and

- Certificates of independent legal and financial advice respecting the final terms of settlement.

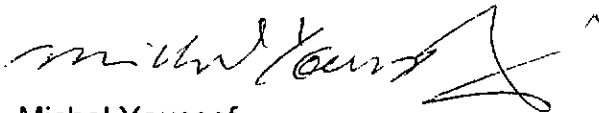
I must be clear in addressing the scope of the matters INAC is hoping to settle in our particular negotiations. INAC's intent and mandate in these negotiations is to resolve all allegations of breach of fiduciary obligations and related damages for loss of use and lost land value affecting the five above-mentioned areas of land.

The settlement of LMG aboriginal rights and title claims is outside of our mandate. However, INAC's intent in these negotiations is also to determinatively "quiet" all titles – individual, municipal, provincial or federal – in and to any non-reserve lands in the five above-noted areas of land. INAC wishes to avoid later being embroiled or brought in to any future dispute pitting private titles vs. LMG rights to the same five parcels for which we are now negotiating the settlement.

Finally, as stated in my letter to you of September 11, 2008, we are eager to determine as soon as possible whether any possibility now exists for a joint LMG/Canada offer to Mr. Busted along the lines shared with you in my e-mail of July 21, 2008. Canada firmly believes an offer to Mr. Busted must be made as soon as possible and that its acceptance stands a much better chance if Canada and LMG present a joint offer. As such, we would welcome your early response to this part of the proposals made in this letter.

We look forward to our October 21, 2008 meeting to explain this offer further.

Sincerely,



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