

1 Q. **Re: IN-NLH-278**

2 With respect to discussions with respect to Natuashish becoming an *Indian Act*  
3 reserve in 2003, NLH in IN-NLH-278 stated:

4 “There was no specific impact on those discussions with respect to Natuashish  
5 becoming a reserve although Hydro was aware that it could have an effect upon the  
6 parties’ roles and obligations with respect to providing electrical service and as to  
7 the ownership or funding of the facilities.”

8 Please elaborate on Hydro’s awareness of the effect that Natuashish becoming a  
9 reserve might have upon the parties’ roles and obligations with respect to providing  
10 electrical service and the ownership or funding of the facilities. Please include any  
11 documentation and correspondence in your possession that is related to this  
12 awareness.

13

14 A. [ ]

15

16 When Hydro became aware that Natuashish was to become a reserve, it  
17 commenced discussions with the Federal Government and the Mushuau Innu First  
18 Nation as to rights it might need to operate electrical facilities upon the reserve  
19 lands. Hydro was aware that the Federal Government would be the land owner  
20 with rights to deal in those lands because the lands that were to become the  
21 reserve had been assigned to Canada by the Province of Newfoundland and  
22 Labrador. Hydro also understood that a Mushuau First Nation Band Council  
23 Resolution would be required in support of that permit. A copy of a Permit from  
24 the Minister of Indian and Northern Affairs Canada, together with the  
25 corresponding Band Council resolution, are found in IN-NLH-312 Attachment 1.



Indian and Northern  
Affairs Canada  
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et du Nord Canada  
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*Your file - Votre référence*

April 25, 2005

*Our file - Notre référence*

E5643-9-09529(Wells,S)  
CIDM # 142244

Wayne D. Chamberlain  
Senior Legal Counsel, Legal Department  
Newfoundland and Labrador Hydro  
Hydro Place, Columbus Drive  
PO Box 12400  
ST JOHN'S NL A1B 4K7

Dear Mr. Chamberlain:

**Permit negotiations**

This is in reference to our previous correspondence and our interim permit issued on February 24, 2004 and May 18, 2005 for authority for Newfoundland and Labrador Hydro (NLH) to operate the diesel generating facility and distribution system on the Natuashish Indian Reserve No. 2. These interim permits were issued pending the finalization of the terms of a transition agreement and formal permit being negotiated between Indian and Northern Affairs Canada (INAC) and NLH.

As requested by the Mushuau Innu First Nation Band Council Resolution (BCR) dated March 25, 2005, please accept this correspondence as authority from the Minister, pursuant to section 28(2) of the *Indian Act*, for NLH to continue the operation of the works from January 1, 2005 until December 31, 2005 or until INAC and NLH and the MIFN have agreed upon the terms of a replacement permit, which ever comes first.

The Minister authorizes:

1. Newfoundland and Labrador Hydro to:
  - a. Continue to manage, on behalf of the Department of Indian Affairs and Northern Development, the operation and maintenance of the diesel generating plant and associated facilities (excluding the fuel storage and fuel transfer systems) ("System") on the Natuashish Indian Reserve No. 2 lands; and
  - b. use the area of reserve land specified in the annexed BCR.

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- 2 -

2. Newfoundland and Labrador Hydro and its employees and agents to:
  - a. occupy, use and enjoy temporary residences required to manage the operation and maintenance of the System; and
  - b. access all public facilities on the reserve
3. It is further confirmed and agreed that Newfoundland and Labrador Hydro shall have the right to cross over, where it deems necessary, any reserve lands in order to manage the operation and maintenance of the System in accordance with good utility practices.
4. This interim permit will be valid until December 31, 2005, or until the parties can agree upon the final terms and conditions of the more detailed permit, whichever comes first.
5. Consideration for the issuance of this interim permit will be at the rate of one dollar (\$1.00) per year, as requested in the annexed BCR.

Please sign this letter in the space provided as an acknowledgement of this permit and return the same to our office.

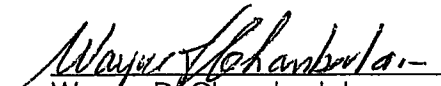
Should you have any questions or require any further information please contact me at this office.

Yours sincerely,



Stephen Wells  
Manager, Lands Environment and Natural Resources  
Lands and Trust Services  
Indian and Northern Affairs Canada (Atlantic)  
PO Box 160  
AMHERST NS B4H 3Z3  
Telephone (902) 661-6368  
Fax (902) 661-6237  
e-mail: [wellss@inac.gc.ca](mailto:wellss@inac.gc.ca)

May 3, 2005  
Date



Wayne D. Chamberlain  
Senior Legal Advisor  
Newfoundland and Labrador Hydro

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**Mushuau Innu First Nation Band Council Resolution – Permission for  
Newfoundland and Labrador Hydro (NLH)**

MADE this 25 day of March, 2005

WHEREAS by Band Council Resolution dated November 20, 2003, the Mushuau Innu First Nation Band Council ("Council") requested the Minister of Indian Affairs and Northern Development ("Minister") to exercise the Minister's authority under subsection 18(2) of the Indian Act to set aside for the purpose of operating a diesel generating plant and associated facilities on the following lot:

Lot #13 as shown on a plan of survey which is recorded in the Canada Lands Survey Records at Ottawa under number 87714 and which is also recorded in the Crown Lands Records Office at St. John's, Newfoundland and Labrador, under number SP 316;

AND WHEREAS the Council, by the same BCR as above, requested the Minister to exercise the Minister's authority under subsection 28(2) of the Indian Act to permit NLH to have access to the Reserve including access as required for the operation, maintenance, occupation and use by NLH of a diesel generating plant (located in the lot as identified above), distribution system and associated facilities (the "System"), and to permit the operation, maintenance, occupation and use by NLH of the said System and of a residence for its employees;

AND WHEREAS the Council, by the same BCR as above, authorized an annual fee for the occupancy and use of the System of \$1, and authorized the fee for occupancy and use of the residence for employees of NLH as set out in the occupancy agreement with Natuashish Housing Authority Inc. or its successors or assigns;

AND WHEREAS the Minister issued an interim permit to NLH on February 24, 2004 to expire on March 31, 2004, pending finalization of a transition agreement and formal permit being negotiated between INAC and NLH, which interim permit was extended to December 31, 2004 by letter dated May 18, 2004 to NLH from Stephen Wells of INAC;

AND WHEREAS the interim permit has expired, and no transition agreement (as above) has yet been finalized, but INAC and MIFN both wish NLH to continue operation of the System until some permanent transfer of the System, or more permanent permit for same, can be effected.

**NOW THEREFORE BE IT RESOLVED** that the Council of the Mushuau Innu First Nation hereby requests the Minister of Indian Affairs and Northern Development in relation to the lands on the Natuashish Indian Reserve No. 2 as set out below:

1. To extend the interim permit to NLH to and including December 31, 2005 or until INAC and NHL and MIFN can agree upon the final terms and conditions of a more detailed permit or other arrangement, whichever comes first, to continue to have use

and occupancy of the portion of the Reserve identified below for the purpose of operating and maintaining the diesel generating plant and associated facilities (the "System"), and to occupy, use and enjoy temporary residences required to manage the operation and maintenance of the System, and to have access to public facilities on the Reserve, and further, as set out in the attached draft letter from Stephen Wells of INAC to NLH.

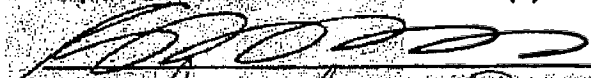
2. The portion of the Reserve which is referenced in no. 1 above, is as follows:

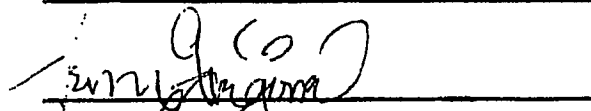
Lot #13 as shown on a plan of survey which is recorded in the Canada Lands Survey Records at Ottawa under number 87714 and which is also recorded in the Crown Lands Records Office at St. John's, Newfoundland and Labrador, under number SP 316

This resolution was made at a duly convened meeting of the Council of the Mushuau Innu First Nation, dated March 25, 2005.

Those in favour of the resolution:

A quorum of the band council is four (4) members.

  
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Mary Anne Nive  
\_\_\_\_\_  
Rose M. Pokue

  
\_\_\_\_\_  
Jim Angim