



**THE ASSEMBLY OF FIRST NATIONS' CHIEFS IN NEW
BRUNSWICK INC.**

STATEMENT ON ENERGY

September 30, 2010

We, the Mi'gmaq and Wolastoqiyik Peoples, retain a Sacred Trust over our Traditional Territories. Since time immemorial we have embraced the solemn task of protecting the Environment and ensuring that the use of our Natural Resources is in keeping with values and beliefs of our Ancestors. The Creator has given us the duty to protect the rights and interests of future generations, including their rights to Lands, Waters and Resources. We have lived here for thousands of years and for all of that time we have very carefully managed our Traditional Territories.

Until recently this was a rich and highly diverse place. Its beauty and its treasures drew people from across the world as traders, settlers and immigrants. We welcomed the newcomers by entering into Sacred Treaties. It was our generosity that enabled Acadian society to flourish. It was our Covenant Chain of Treaties with Britain that permitted the wider settlement of Atlantic Canada. We were willing to share our Traditional Territories for the benefit of all. However in the past century our Lands, Waters and Resources have been increasingly exploited to the point where the environment and all it embraces are in peril. This degradation must stop.

Our First Nations are extremely concerned by the inappropriate development of Natural Resources and the irresponsible production and use of energy. Habitat loss, pollution, the burning of fossil fuels and the emissions of greenhouse gases are causing massive damage. Climate change and global warming continue to increase, with major impacts on the loss of biodiversity on the planet.

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1 INTRODUCTION

This document is an outline of the energy concerns of the First Nation Peoples of New Brunswick. While being presented in the context of the Province of New Brunswick, this Statement on Energy transcends current political boundaries. It is presented to the Premier of New Brunswick with the understanding that First Nations intend to engage in a dialogue with residents of New Brunswick and the Atlantic Region, elected representatives at all levels, the public sector and to members of the energy industry. Our approach to energy will continue to grow and to develop as we work to reach out to the people of New Brunswick and the Atlantic Region.

Because of climate change issues, the emergence of renewable energy, the possibilities offered by smart grid technologies, and the extraction of Natural Resources for the production of energy, the way the energy sector is administered must take new directions. In addition, the management and future of NB Power appears uncertain and chaotic. Neither the Government of New Brunswick nor the Official Opposition has set out a clear and comprehensive policy on energy or on NB Power.

This Statement on Energy is based on the fundamental values and rights of the Mi'gmaq and Wolastoqiyik Peoples. It is intended to assure a sustainable development of our Region, while protecting the environment and First Nations' rights. Again, it is presented for discussion. We are prepared to work with you to secure our Lands, Waters and Resources and to ensure that the ethics of sharing, enshrined in our Sacred Treaties, may continue to provide sustainable benefits to all.

2 OUR RIGHTS

Government and industry have tried to ignore our rights as they exploit our Lands, Waters and Resources and damage the environment. This practice must cease.

We hold inalienable rights as Peoples in accordance with natural law and international law. We hold Aboriginal and Treaty rights that are affirmed and protected by the Constitution of Canada and the common law. Our rights to Lands, Waters and Resources are concrete, legal rights.

Aboriginal Title remains in effect throughout Atlantic Canada, including across all of New Brunswick. We, the Mi'gmaq and the Wolastoqiyik Peoples, possess Title to the land, to surface and subsurface waters, to the ocean and its bays and estuaries, the sea-bed and sea-ice and the air space above them all. Our Title to this continuum includes all Natural Resources, whether animate or inanimate.

Our Sacred Treaties require the Crown to work with us as full partners in all aspects of environmental and energy policy.

Nothing in this document shall be construed so as to deny, limit, abrogate or derogate from the Aboriginal or Treaty Rights of the Mi'gmaq and Wolastoqiyik Peoples.

Nothing in this document shall be construed as a waiver of the Crown's duty to consult with the Mi'gmaq and Wolastoqiyik Peoples and accommodate our rights and interests.

3 OUR VISION FOR THE SUSTAINABLE DEVELOPMENT OF NATURAL RESOURCES

Natural Resources are an integral part of the Traditional Lands and Waters of the Mi'gmaq and Wolastoqiyik Peoples. Those Resources belong to Mother Earth. We may use them but we are also their custodians. Natural Resources are not simply here for the taking, rather they must be managed carefully so as to provide benefits today while guaranteeing the rights and needs of generations yet to come. This requires truly sustainable development.

There are four pillars to sustainable development:

- environmental sustainability;
- social sustainability;
- cultural sustainability; and
- economic sustainability.

Each pillar supports the others. They must be kept in balance. The Mi'gmaq and Wolastoqiyik Peoples are committed to the cultural, spiritual and social importance of Lands, Waters and Natural Resources.

Unfortunately government and industry in New Brunswick have made economic concerns dominant while ostensibly promoting sustainable development. This narrow and ultimately destructive perception is made even worse by the continued focus on short term answers to complex issues.

First Nations believe that Natural Resource related policies must be based on truly sustainable development and therefore those policies must:

- Understand that Lands, Waters and Natural Resources are integral to the well being of humanity and are not simply commodities to be exploited;
- Seriously take into account the short and long term ecological costs of Natural Resource extraction and see those costs as potentially debilitating debts;
- Honour the precautionary principle (in that lack of scientific certainty must not impede conservation efforts and must not enable irresponsible development);
- Guarantee that the benefits of Natural Resource development are shared equitably with those most in need;
- Protect the environment;
- Ensure biological diversity;
- Maintain ecological balance;
- Commit to the rehabilitation of habitat and species that have been damaged by current and past Natural Resource extraction practices; and
- Place the needs of future generations on at least an equal footing with the needs of our time.

Natural Resource extraction will only take place with First Nations involvement. Government and industry must work with First Nations on all aspects of Natural Resource management and development. Mere consultation is inadequate. The Mi'gmaq and Wolastoqiyik Peoples will not be spectators in our own Land.

4 GUIDING PRINCIPLES FOR THE ENERGY SECTOR

Based on our Rights and our vision for sustainable development, we set out the following guiding principles for the energy sector:

The protection and implementation of Aboriginal and Treaty rights shall be central to all energy developments;

The sharing and mutual benefit enshrined in our Sacred Treaties shall guide all energy developments;

First Nations shall be meaningfully involved in all aspects of energy production and resource extraction;

All energy projects shall be environmentally sustainable and socially equitable;

All energy projects shall include the meaningful participation of First Nation Peoples;

With First Nations directly involved, Comprehensive Land Use Management Plans shall be developed and implemented throughout New Brunswick. Those Plans shall be based on watersheds and linked with similar efforts in adjacent jurisdictions, where they exist;

All energy production and transmission, and resource extraction shall be in keeping with strong, ethical principles of conservation and the protection of biodiversity and the environment. Energy production and

transmission, and resource extraction shall be an integral part of Comprehensive Land Use Management Plans;

All energy developments shall address global warming and climate change; and

All facets of this Energy Policy shall be reviewed on an ongoing basis in relation to environmental issues and energy needs and may be revised as a result.

5 ATLANTIC ELECTRICITY TRANSMISSION AUTHORITY AND ATLANTIC ENERGY PARTNERSHIP

We invite all Atlantic First Nations and the Atlantic Provinces to work cooperatively and expeditiously with us in partnership to establish an Atlantic Electricity Transmission Authority and an Atlantic Energy Partnership both of which would promote environmental, social, cultural and economic sustainability.

The Atlantic Electricity Transmission Authority would address issues related to the transmission and export of electricity within and beyond the Atlantic Region.

The Atlantic Energy Partnership would help coordinate the efforts of First Nations, other governments, industry and post-secondary institutions in order to assist in the improvement and implementation of policy, regulation, innovation and technology related to all forms of energy.

6 ENVIRONMENTAL PROTECTION

No new nuclear power plants should be built. The extraordinary financial costs of construction, maintenance and decommissioning of these undertakings, the problems associated with long term nuclear waste management and the potential for extremely negative environmental and human health impacts caused by nuclear power preclude building any more of these plants in the Atlantic Region.

No uranium exploration or mining should take place. Again, the potential negative environmental and human health impacts preclude uranium exploration or mining.

The Point Lepreau nuclear facility refurbishment must be reconsidered. Due to the current costs overruns, the delays, the technology uncertainties and the various future risks in the refurbishment of the Point Lepreau plant, the Province should impose a six month moratorium on the refurbishment project. Within that time it must engage with First Nations and invite the public to become involved in an open, transparent enquiry to assess whether the refurbishment project should continue or if the nuclear facility should be decommissioned.

First Nations and the Crown should also jointly engage with the public in an open, transparent and comprehensive review that will help determine whether permanent nuclear waste disposal sites are to be established on our Traditional Territories.

The same kind of process of First Nations and the Crown jointly engaging with the public in an open, transparent and comprehensive review must be undertaken for: natural gas processing plants; liquefied natural gas plants, receiving terminals or regasification facilities; and oil or gas refineries.

All new electricity generation projects shall target zero net greenhouse gas emissions. Where environmentally appropriate, natural gas should replace oil and coal as an interim step in the move to zero net emissions.

Existing thermal generation power plants must be closed or converted to clean or renewable energy sources by 2016 so as to significantly reduce greenhouse gas emissions in electricity generation. Oil and coal fired plants shall be decommissioned in a manner that protects the environment from potential pollution from toxins, heavy metals and other environmentally damaging substances.

Building on the experience of other jurisdictions, notably within Europe, legislation and programs must be implemented in order to support the development of small, local, community-based combined heat and power plants and electricity generation plants. Those plants would use sustainable indigenous biomass and natural gas or renewable energy sources as a significant component of the energy portfolio.

Working with First Nations, the Crown must develop, implement and enforce strict regulatory controls with significant penalties for non-compliance with regard to oil and gas exploration, development, extraction, refining and transportation in order to protect the environment, particularly the air, water quality and soils.

We require all Natural Resource developers and power plant proponents to enter into detailed environmental agreements with First Nations and the Province that deal with exploration, development, extraction, operations, transport and the decommissioning of sites (including remediation and reclamation), prior to being permitted. Where not already required, those developers should post significant bonds to cover the costs related to potential damage caused by the undertaking at all its stages.

The existing environmental impact assessment and review process in New Brunswick requires major revision to ensure that the Aboriginal and Treaty rights of the Mi'gmaq and Wolastoqiyik Peoples are protected. We must be directly involved in revising that process.

7 CONSERVATION AND EFFICIENCY

In implementing meaningful conservation and efficiency policies and programs, the Crown must work with First Nations and respect our rights. In partnership with us, the Crown should:

Establish and legislate aggressive conservation targets in order to significantly reduce carbon and greenhouse gas emissions by 2020;

Ensure a coordinated approach to conservation and efficiency;

Increase the participation of local and regional governments in energy efficiency programs;

Establish advanced utilities' rates (such as time-of-day rate structures combined with smart metering) that encourage energy efficiency and conservation;

Be prepared to charge higher interim rates for clean energy for long term economic, social and environmental benefits;

Establish aggressive energy efficiency standards for all buildings, with government buildings leading by example;

Evaluate how municipalities are using energy in areas such as heating and operating mass transit, and seek increased sustainable energy use by municipalities;

Promote solar powered hot water heaters and solar heating systems; provide incentives for their installation and use to replace standard electric hot water heaters and standard heating systems;

Legislate to ensure that all new home construction will have sustainable geothermal heating systems or heat produced from renewable energy sources; geothermal energy processes shall be strictly regulated to avoid release of environmentally damaging substances;

Ensure that the electricity transmission and distribution technology and infrastructure can deliver power efficiently and reliably, in keeping with the protection of the environment;

Support the integration of smart grid demonstration projects, with the objectives of being a leader in smart grid development in the electricity sector and promoting sustainable economic development;

Upgrade or replace existing power plants and transmission lines in accordance with conservation targets;

Ensure that the electricity sector continues to be managed by a public utility, but one that operates in partnership with First Nations and in an open and transparent manner; An early goal of this partnership would be to implement a program to assure that all First Nation communities become energy self-sufficient

through community based renewable energy projects; These projects would form the basis of a First Nations' electricity utility that managed the production, transmission and sale of electricity for First Nations' communities.

Improve the procurement process for electricity to promote local innovation and economic benefit, both for projects developed by the larger utility and for community based projects; and

Ensure that no ratepayer subsidies, whether perpetual or temporary, and paid by the residential, commercial and small or medium sized business ratepayers, will be provided to the large industrial consumers of electricity.

8 RENEWABLE ENERGY

In implementing renewable energy policies and programs, the Crown must work with First Nations and respect our rights. In partnership with us, the Crown should:

Legislate that all future electricity generation facilities in the province will be based on renewable energy sources or New Brunswick extracted natural gas, once sustainable gas extraction methods are achieved;

Legislate that at least fifty percent of all electricity projects are developed through community based initiatives;

Establish a standing offer contract and feed-in-tariff for clean electricity projects of up to 25 megawatts; the feed-in-tariff should have a technology and regional tariff differentiation;

Establish a Clean Energy Fund to support the development of clean energy projects in the province; this Clean Energy Fund could be created with Crown financing and through an Investment Fund for the citizens of the province who would obtain fiscal benefits (e.g. RRSP deductions and tax credits) for their investments;

Support small hydro, solar, clean thermal, tidal, wind, combined heat and power, bio-gas, biomass and other alternative energy technologies;

Develop and implement a bio-energy strategy that takes into account global food needs and greenhouse gas sequestration demands as well as energy requirements;

Subject biomass energy generation to strict regulatory controls in order to limit the release of greenhouse gases; and

Develop and implement a biomass policy that ensures sustainable harvesting of the biomass and ensures that any use of forest biomass does not impair biodiversity and forest soil productivity.

9 OIL AND GAS

In implementing oil and gas related policies and programs, the Crown must work with First Nations and respect our rights. In partnership with us the Crown should:

Develop and implement a comprehensive community engagement program in order to establish a framework for a benefits sharing agreement resulting from oil and gas development for First Nations and local non-Native communities;

Eliminate routine flaring at oil and gas wells and processing facilities;

Through an open and transparent review process, determine whether shale gas development is permitted to take place;

Part of that review must study the ecological and environmental impacts of onshore shale gas resource development taking place in other jurisdictions; and

Anticipate that the review may find that the potential for negative environmental impacts due to the development of shale gas requires establishing strict environmental regulatory controls;

Due to the spiritual, cultural, ecological and financial value of the off-shore waters, establish a moratorium for offshore oil and gas exploration and development:

Review the moratorium every 10 years; and

Establish a program to monitor and study the ecological and environmental impacts of offshore resource development taking place in other jurisdictions to inform the maintenance of the moratorium;

Review all oil and gas regulatory and fiscal regimes to ensure that being competitive with other jurisdictions does not limit conservation and social development goals. Anticipate that this review may propose:

Enhancing infrastructure to support the sustainable development of oil and gas;

Supporting the sustainable growth of a local and regional oil and gas service sector;

Encouraging the development and adoption of new and environmentally sound technologies;

Developing natural gas processing facilities within the province;

Utilising indigenous natural gas for the generation of electricity with a commitment to the co-generation of heat and power;

Promoting local economic and social development by making domestic use preferred to the export of gas;

Using best practices to reasonably estimate the volume and value of natural gas in the province and manage it to achieve policy goals; and

Limiting export so that natural gas can be made available to all major communities of the province, once long term and sustainable supply and extraction of natural gas are secured.

10 TRANSPORTATION

The current forms of public and private transportation are not sustainable. They burn far too much fossil fuel and create far too many negative environmental and social impacts. Current policies and practices are too focused on short term costs and without adequate consideration of the massive longer term financial burdens created by the irresponsible use of fossil fuels and the building and maintenance of infrastructure to support the existing transportation network.

Our vision for sustainable development should be central in re-assessing and implementing transportation policies and programs.

A comprehensive review of transportation needs must be undertaken immediately. In partnership with First Nations, the Province of New Brunswick should engage with the federal government, municipal governments, the private sector and the public in that comprehensive review. Highways and roads, air, rail, ports and ferries, inter-urban and municipal public transit, the hauling of goods and private transport all require modification for environmental protection and true economic sustainability.

In the interim, the provincial government should take aggressive steps to improve matters by:

Converting its vehicles to electric or hybrid forms of power;

Encouraging the public to do the same by providing financial incentives and tax credits;

Encouraging and providing the infrastructure for greater car pooling possibilities;

Assisting municipalities to develop and maintain cycling trails;

Promoting walking and cycling as healthy alternatives to short distance vehicle use;

Examining the benefits of constructing and improving rail systems rather than twinning highways;

Promoting and supporting inter-urban public transportation (bus and light rail, for example);

Providing greater financial support and incentives for public transit to municipalities and individuals;

Subjecting urban sprawl to closer environmental scrutiny and regulation; and

Electrifying truck stops to enable truckers to plug in to the grid rather than idle engines.

11 SUMMARY

As Mi'gmaq and Wolastoqiyik Peoples we are gravely concerned over the impacts that energy production and use are having on the environment, society, culture and the economy.

The Assembly of First Nations' Chiefs in New Brunswick issues this Statement on Energy with the intent of beginning a meaningful dialogue with people living in New Brunswick and the Atlantic Region. We invite the provincial government to work with us to change the way Natural Resources and energy are developed and utilised. We propose that together we invite the federal government, the energy industry, municipalities and concerned citizens to engage with us in that work.

Our goal is to continue the spirit of sharing enshrined in our Sacred Treaties. Our Ancestors were wise enough to protect the environment and secure our well being. We must do the same for our children, grandchildren and the generations yet to come.



Amlamgog First Nation, (Fort Folly)
Elsipogtog First Nation, (Big Cove)
Esgenoôpetitj First Nation, (Burnt Church)
Kapskuksisok First Nation, (Madawaska)
L'nui Menikuk First Nation, (Indian Island)
Metepenagiag Mi'kmaq First Nation, (Red Bank)
Natoaganeg First Nation, (Eel Ground)
Neqotkuk First Nation, (Tobique)
Oinpegitjoig First Nation, (Pabineau)
Pilick First Nation, (Kingsclear)
Tjipôgtôtjig First Nation, (Bouctouche)
Ugpi'ganjig First Nation, (Eel River Bar)
Wolamuktuk First Nation, (Oromocto)

Chief Joseph Knockwood
Chief Jesse J. Simon (Mi'gmaq Co-Chair)
Chief Wilbur Dedam
Chief Joanna Bernard (Wolastoqiyik Co-Chair)
Chief Ken Barlow
Chief Freeman Ward
Chief George H. Ginnish
Chief Stewart Paul (Ambassador)
Chief David Peter-Paul (Secretary-Treasurer)
Chief Paul Tomer
Chief Ann Mary Simon
Chief T. Everett Martin
Chief Roger Atwin

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