

PICTOU LANDING FIRST NATION

INFORMATION
FOR BAND MEMBERS
ON A PROPOSAL FOR
IMPROVEMENTS TO AND
THE FUTURE OF
BOAT HARBOUR



Table of Contents

1. Open Letter to Band Members
2. Summary of Memorandum of Understanding
- land mapping
3. Questions and Answers
4. ENSR International - Tidal Modeling

Pictou Landing Band Council

May 6, 2002

All Members of the Pictou Land Indian Band
entitled to vote in the Referendum on this matter

During the mid-1960's, Canada, Nova Scotia and Scott Paper made certain agreements with respect to the treatment of effluent resulting from the operation of the Scott Paper mill at Abercrombie Point. The operation of the system adversely impacted the lands and the life style of our members. Compensation in the amount of \$65,000 was provided by the Province of Nova Scotia.

When it became apparent that the impacts of the treatment process were substantially more adverse than what had been represented to us by Canada and Nova Scotia, our First Nation attempted, from the late 1960's through 1982 to negotiate with Canada, Nova Scotia and Scott Paper in an attempt to achieve a just and reasonable settlement for the grief endured by our people. Our negotiation efforts were unsuccessful, and in 1984, legal proceedings were commenced against Canada. After many years of incurring legal costs and a number of court appearances, Canada agreed to negotiate. After four years of intense negotiations, a settlement was arrived at with Canada. The Settlement Agreement assumed that the Boat Harbour treatment system would continue to operate for the benefit of the mill with a pipeline into the

Northumberland Strait. Closure of Boat Harbour was not part of the Settlement Agreement.

The First Nation membership was fully compensated for all of the impacts of "Boat Harbour" except for unforeseen health problems when Canada paid \$20,000,000 as specific compensation with a further \$15,000,000 provided so that if necessary, or even desirable, we could relocate our Reserve to an area (or areas) not impacted by the Boat Harbour treatment system. Also, Canada undertook to employ reasonable efforts to see whether or not the area could be cleaned up. Nova Scotia undertook in 1994 to stop flooding the shoreline of Reserve land and to work with Canada and our First Nation to ensure that the area and Boat Harbour were cleaned up.

Not only has the area been substantially cleaned up, but Nova Scotia has already transferred approximately 900 acres of land around Boat Harbour to our First Nation, which land is ours to do with as we please. We can now transfer portions into Reserve status and thereby reap the benefits by way of infrastructure, housing, etc. that is provided to Reserve lands. Although we have accepted the terms of the 1993 Settlement Agreement as full compensation for any and all claims resulting from the use of Boat Harbour as a treatment facility, with the assistance of legal counsel, we have been able to persuade the Province of Nova Scotia that Boat Harbour should be closed on or before December 31, 2005 unless we agree to terms which will permit its continued use. In the event of closure of the facility, we would have our original

Reserve of approximately 450 acres plus the lands around Boat Harbour that were transferred by the Province of Nova Scotia in the amount of approximately 900 acres for total land holdings of approximately 1,350 acres. Part of the commitment of the Province of Nova Scotia is that the dam at the mouth of Boat Harbour will be removed so that Boat Harbour would once again become a tidal inlet with boat access as it was in the early and mid 1960's.

Over the last two years, Kimberly-Clark, the current operator of the mill, has been in discussions with our First Nation and on September 27, 2001, a Memorandum of Understanding was executed by Chief and Council and Kimberly-Clark. This Memorandum of Understanding lays out what our First Nation will receive if Boat Harbour continues to operate, and Chief and Council have agreed to present it to you, our membership. It is a non-renewable arrangement which will allow Kimberly-Clark to operate the aerated stabilization basin at the top of Boat Harbour with a pipeline buried under Boat Harbour and discharging into the Northumberland Strait. It is equivalent to our First Nation granting a license to Kimberly-Clark. It will allow for Boat Harbour to be tidal with boat access and for a price, provide some accommodations to Kimberly-Clark.

The benefits to our First Nation if this process is approved is that Kimberly-Clark will make an immediate cash payment of \$950,000 to our First Nation as reimbursement for postponing whatever plans we could have for Boat Harbour until the year 2030.

Also, Kimberly-Clark will pay a minimum of \$200,000 per year to our First Nation during the prescribed term during which it continues the use of the aerated stabilization basin at the top of Boat Harbour. Further, Kimberly-Clark will provide, as additional compensation, 4,000 acres of land which has been jointly selected by our representatives and Kimberly-Clark. The cash component of this term agreement is \$7,870,000 to be paid to us by Kimberly-Clark.

We have reviewed the Memorandum of Understanding as signed by the former Chief and Council, and we endorse it without reservation. We believe that this is a good deal which provides very positive opportunities for Pictou Landing membership, now and in the future. Accordingly, we present it to you, our membership, and indicate to you that as your elected members, and thinking of the best interests of our entire Band, we believe that there are substantial advantages (and limited, if any, disadvantages) to approving the limited use of the facility as set out in the Memorandum of Understanding.

Although we personally believe in the merits of the Memorandum of Understanding, we recognize that it is you, the members of Pictou Landing First Nation, who must make the final decision. We have asked our legal counsel to coordinate with Kimberly-Clark, the Province of Nova Scotia and Canada, a number of information meetings so that as and when there is a vote on whether or not to accept

and approve the Memorandum of Understanding, you, our membership, will be fully informed.

Respectfully,

Chief Ann Francis-Muise
Chief Ann Francis-Muise

Robert Francis
Councillor Robert Francis

Wayne Denny
Councillor Wayne Denny

Rodderick Francis
Councillor Rodderick
Francis

Aileen Francis
Councillor Aileen Francis

Barry Francis
Councillor Barry Francis

SUMMARY OF THE MEMORANDUM OF UNDERSTANDING

Kimberly-Clark has negotiated with the Chief and Council of the Pictou Landing First Nation and have settled on a Memorandum of Understanding which has the following key features:

1. Kimberly-Clark will release its rights to use the stabilization basin as a portion of the system thereby permitting the Pictou Landing First Nation and Province of Nova Scotia to pursue a range of options for its future use;
2. The Pictou Landing First Nation will recognize and respect any rights granted to Kimberly-Clark by the Province of Nova Scotia for the continued use of the remaining portion of the system. Kimberly-Clark has requested that the Province of Nova Scotia renew its lease for the remaining portion of the effluent treatment facility for a 25-year term commencing at the end of 2005;
3. Kimberly-Clark will transfer to the Pictou Landing First Nation a total of approximately 4,000 acres of land located in Pictou County, Antigonish County and Cumberland County;
4. Kimberly-Clark will pay to the First Nation \$950000 as full compensation for expenses incurred by First Nation concerning the facility up to the commencement of negotiations of the Memorandum of Understanding;
5. Kimberly-Clark will pay for the benefit of the Pictou Landing First Nation, annual amounts as compensation for the ongoing costs and expenses of the First Nation in relation to the continued operations of the facility. The annual amount will be:
 - \$200,000.00 per year until 2007;
 - \$220,000.00 per year from 2008 to 2013;
 - \$240,000.00 per year from 2014 until 2019;
 - \$260,000.00 per year from 2020 to 2025; and
 - \$280,000.00 from 2026 to 2030.
6. In the Memorandum of Understanding, Kimberly-Clark has committed to establishing a pipeline which bypasses the stabilization basin thereby making it available for other uses, as may be determined by the Province of Nova Scotia and the Pictou Landing First Nation;
7. Kimberly-Clark and a committee of Council shall communicate regularly regarding the operation of the facility and Kimberly-Clark will provide to the First Nation monthly reports regarding facility performance during continued operation of the effluent treatment facility;

8. Kimberly-Clark has committed to complying with all applicable environmental laws and operating the facility in accordance with good environmental management practices.

Although the continued operation of the facility does not require Kimberly-Clark to make use of any portion of the lands of the Pictou Landing First Nation, Kimberly-Clark has agreed to make the above-noted arrangements with the Pictou Landing First Nation so that in renewing the lease of Kimberly-Clark, the Province of Nova Scotia can be confident that the Pictou Landing First Nation and its members have consented to the arrangement.

LIST OF LANDS TO BE TRANSFERRED

The following is the list of land that will be transferred. They are listed as Kimberly-Clark Nova Scotia compartment numbers along with approximate location and size in acres. Total acreage is slightly over 4000 acres. See attached maps and aerial photos for location. Please note that one hectare equals 2.47 acres.

<u>Compartment Number</u>	<u>Approx. location</u>	<u>Approx. Size (acres)</u>
<u>Pictou Co.</u>		
117	Boat Harbour	177.8
1231	Alma	59.3
119	Anderson Mountain	402.6
121	Thorburn	348.3
123	Granton	86.5
124	Mt. William	177.8
<u>Antigonish Co.</u>		
15	Afton	649.6
<u>Cumberland Co.</u>		
414	Near Sanctuary	2109.4

March 22, 2002

Effluent Treatment at Kimberly-Clark Nova Scotia

In January 1996, Kimberly-Clark assumed the operating responsibility for the effluent treatment system at Boat Harbour. Since that time the quality of treated waste water leaving the system has improved by over 90%. The system is now one of the best operated effluent treatment systems in the country. Due to improved operations, various forms of life have returned to the system and surrounding areas as well as increasing in abundance.

The system has been recognized as depending on life to support the proper treatment in a similar manner to a well-operated composting pile. The intent is for natural processes to consume the carbon in the waste, to generate living organisms and then to develop a food chain within the system to promote a balanced living community or ecosystem.

Plants

The plant community is represented by algae and bull rushes growing in the liquid effluent, healthy looking trees and shrubs moving down to the edge, and the appearance of duck weed on the surface of both the Aerated Stabilization Basin (ASB) and the Stabilization Basin (SB).

Animals

The forest around the system has held a population of white tailed deer for the six years. The following animals have been noticed more in the last three or four years as the visual health of the plant life in the area improved: beaver, muskrat, mink, weasel, rabbits, ducks, ruffed grouse, red tailed hawk, eagles, yellow bellied flicker, blue heron, red winged blackbird, sand piper, kingfisher, American bittern, foxes, coyote, bobcat, skunk, groundhog, squirrel, porcupine, raccoon, seals, and a pine marten noted on the security video. Bear and cougar have been reported by others but not seen by the treatment plant staff. The recent appearance of more of the higher predators is likely due to improved food availability.

Result

The increased diversity, different types of living organisms in the treatment plant liquid and the observation of the increased life around the site have accompanied better treatment results. Color has been reduced (to about one half of 1995 levels) and odor that became an issue when hardwood use resumed at the mill, in the past two years, is now being better controlled. Improvements have occurred and continue as concerns are encountered and knowledge of the operation improves.