

Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 2777	Subject: Costs associated with the defense of Mi'gmaq Aboriginal Rights in Gespe'gewa'gi	Originated by: Fred Vicaire
The Council of the Listuguj Mi'gmaq Government		District Gespe'gewa'gi
Date of duly convened meeting	D 0 6	M 0 2
	Y 2 3	Province Gepeg

WHEREAS: two Mi'gmaq citizens were charged by the Québec Director of Criminal and penal Prosecutions, having been served a statement of offence, for alleged infractions to existing Provincial Legislation.

WHEREAS: In one case, the Mi'gmaq citizen was charged for not having paid the administrative fees required to access a provincial park and in the other case, the individual was charged for having sold salmon to Québec citizens, an activity categorized as illegal under the Act respecting the conservation and development of wildlife.

WHEREAS: Both individuals were summoned to appear in front of the Québec Court, Penal division at the New Carlisle Court House for the instruction of the charges.

WHEREAS: At their appearance, both individuals pleaded not guilty and obtained a copy of the evidence gathered by the Crown in support of the charges that were laid against them.

WHEREAS: In light of the fact that both citizens were under the impression that the activities they exercised in accordance with their Aboriginal Rights as Mi'gmaq citizens living in Gespe'gewa'gi, they approached their local band council to obtain legal support to argue their defense.

WHEREAS: following their request, the CEC asked that MMS retained the services of Borden Ladner Gervais Law Firm to appear on their behalf and confirm their mandate to act as their defense lawyers. Me André asked the court to postpone the file to later date in order to study the evidence disclosed. Following the Court appearance, it was also convened that BLG would provide a legal opinion pertaining to both files and more specifically, on the chances of obtaining an acquittal based on the exercise of Constitutionally Protected Mi'gmaq Aboriginal Rights.

Moved: Kevin Methot

Seconded: Chad Gedeon

Abstain: Ali Barnaby

Opposed: -

Status: Passed Defeated Tabled

Quorum 7

Councillor Ali Barnaby	Councillor Gordon Jr. Isaac	Councillor Wendell Metallic
Councillor Annette Barnaby	Councillor Dr. Cathy Martin	Councillor Kevin Methot
Councillor Erwin Peter Moley	Councillor George Martin	Councillor Alexander Morrison
Councillor Chad Gedeon	Councillor Sky Metallic	Councillor Sheila Swason

Mi'gmaq Nation

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WHEREAS: the legal opinion provided in both files concluded that the facts surrounding the activities considered illegal by the Crown were not favorable therefore, an acquittal based on Mi'gmaq Aboriginal Rights arguments would be unlikely to occur. Consequently, it was recommended that the citizens enter a guilty plea in the Québec Court, following a plea bargaining with the Crown for the purpose of reducing the fine associated with the judgement.

WHEREAS: a second legal opinion was requested from Mr. Zachary Davis, lawyer from Pape Salter Teillet law firm in regards to the citizen charged for not having paid the administrative fees required to access a provincial park

WHEREAS: the shareholders had agreed in the past to contribute to a fund for the purpose of defending Mi'gmaq citizens that could be charged for exercising Aboriginal Rights in Gespe'gewa'gi, we are requesting that the shareholders support the payment of legal fees associated to both files.

BE IT RESOLVED THAT: the legal and administrative fees incurred by the MMS in relation to the files described in the present, be reimbursed by the MMRLP following reception of the invoices for an amount of \$88,885.57.