

THE LABRADOR INUIT LAND CLAIMS AGREEMENT

Implications for Subsurface Exploration and Development

BACKGROUND

The Labrador Inuit Land Claims Agreement (Agreement) between the Labrador Inuit Association, the Government of Canada and the Government of Newfoundland and Labrador came into effect on December 1, 2005. The Agreement settles all claims of the Labrador Inuit to land, resources and self-government rights in Labrador, based on aboriginal rights and title. The Agreement is legally binding and protected under section 35 of the *Constitution Act, 1982*, and can only be amended by agreement of the three parties.

The Agreement creates two categories of land: the Labrador Inuit Settlement Area (Settlement Area) and Labrador Inuit Lands. The Settlement Area consists of 72,520 square kilometres of land and 48,690 square kilometres of ocean (referred to as the Zone). Within that area there will be 15,800 square kilometres of Inuit-owned land referred to as Labrador Inuit Lands. Inuit will have the most substantial rights and benefits in Labrador Inuit Lands but will also have certain rights and benefits throughout the rest of the Settlement Area.

A new Inuit regional government known as the Nunatsiavut Government will have law-making powers under the Agreement, primarily on Labrador Inuit Lands and with respect to Inuit.

A draft regional land use plan will be developed for the Settlement Area scheduled to be completed within three years of December 1, 2005. The plan will come into effect through Nunatsiavut Government legislation with respect to Labrador Inuit Lands, and provincial legislation with respect to the Settlement Area outside Labrador Inuit Lands.

OWNERSHIP OF LAND, MINERALS AND QUARRY MATERIALS

Within **Labrador Inuit Lands**, Inuit will own:

- surface title
- all Carving Stone (serpentinite and soapstone)
- all Specified Materials on 3,950 square kilometres of Labrador Inuit Lands referred to as Specified Materials Lands. Specified Materials are quarry materials and are defined as “stone including stone suitable for dimension stone use, labradorite, chert, sand, gravel, clay, topsoil soil, marl, peat and peat moss when these substances are used for construction or agricultural purposes only”.

- a 25% ownership interest in all other subsurface resources (minerals, quarry materials, oil and gas) which entitles the Inuit to a 25% share of provincial subsurface revenues as well as a number of rights specified in the Agreement. These rights include authorities related to exploration and quarrying in **Labrador Inuit Lands**, outside Specified Material Lands, as outlined below.

Surface title to land and all subsurface resources in the **Settlement Area** outside of Labrador Inuit Lands will remain with the Province.

MINERALS AND QUARRY MATERIALS EXPLORATION

- Exploration in the **Settlement Area** outside Labrador Inuit Lands will continue under present provincial regulations. Until the land use plan comes into effect, the Province will consult the Nunatsiavut Government regarding exploration approvals.
- The process for acquiring mineral or quarry materials rights throughout the **Settlement Area** will be governed by provincial law, subject to the requirements of the Agreement, but the Inuit will control Carving Stone in **Labrador Inuit Lands** and Specified Materials in Specified Material Lands.
- If persons with rights in **Labrador Inuit Lands** acquired before December 1, 2005, wish to amend or renew their exploration plan or quarry lease or permit, or change the location of their operation, they must comply with all the requirements applicable to a new operation.
- Exploration in **Labrador Inuit Lands** initiated after December 1, 2005 will be subject to the joint approval of the Province and the Nunatsiavut Government. Joint Standards for exploration in **Labrador Inuit Lands** outside Specified Material Lands will be developed and made legally binding.
- Prior to the Standards being in effect, exploration in **Labrador Inuit Lands** and quarrying in Labrador Inuit Lands outside Specified Material Lands may proceed with the approval of both the Nunatsiavut Government and the Province.
- The Nunatsiavut Government may develop a schedule of fees for exploration in **Labrador Inuit Lands** and quarrying in Labrador Inuit Lands outside Specified Material Lands. These fees will be uniformly applied, made public, and appended to the Standards.
- Exploration and quarrying in **Labrador Inuit Lands** outside Specified Material Lands initiated after December 1, 2005 must be conducted pursuant to a Work Plan. The Work Plan, which will cover all aspects of exploration, will be assessed by the Province and the Nunatsiavut Government for compliance with the Standards and must be jointly approved. If the Work Plan is rejected by either government, a revised plan may be submitted. Disputes can be referred to a binding arbitration process.

Specified Material Lands

- The Nunatsiavut Government will be responsible for permitting and any regulations associated with exploration and quarrying Specified Materials in Specified Material Lands, including developing fee schedules.
- Where there is an interest operating under a Nunatsiavut Government Specified Material permit, and a subsurface interest authorization issued by the Province in the same location, they must avoid operational conflict as much as possible.
- If there is a dispute arising from a conflict in operations, it can be resolved under the Dispute Resolution chapter of the Agreement.

ACCESS TO LABRADOR INUIT LANDS

- Access by holders of existing minerals and quarry materials rights in **Labrador Inuit Lands** is guaranteed providing that they use means and routes of travel used on December 1, 2005.
- Persons wishing to explore in **Labrador Inuit Lands** or quarry in Labrador Inuit Lands outside Specified Material Lands, must obtain permission from the Nunatsiavut Government to access Labrador Inuit Lands, in addition to submitting a Work Plan.
- The Nunatsiavut Government can establish conditions of access respecting exploration and quarrying rights on **Labrador Inuit Lands** acquired after December 1, 2005. Conditions of access can include designation of routes, stipulation of fees, authorization of users, and restoration measures. The conditions of access will be published and appended to the Standards for exploration and quarrying.
- The approval of the Nunatsiavut Government is required if it is necessary to cross **Labrador Inuit Lands** (other than by air) to reach a property that is not on Labrador Inuit Lands. If approval is withheld or the terms are not acceptable, the matter can be referred to a binding arbitration process under the Dispute Resolution chapter of the Agreement.

CARVING STONE

- The Nunatsiavut Government is responsible for permitting Carving Stone extraction from **Labrador Inuit Lands**.
- The Nunatsiavut Government will consult the Province if it intends to issue a Carving Stone permit in the same location where the Province has issued a subsurface interest, with the objective of allowing the Carving Stone extraction to proceed, while respecting the rights of the subsurface interest holder.

- If there is a dispute between a Carving Stone permit holder and a Subsurface Interest holder, it can be resolved under the Dispute Resolution chapter of the Agreement.
- In the **Settlement Area**, outside Labrador Inuit Lands, extraction of Carving Stone continues under Provincial regulation, subject to Inuit rights under the Agreement.

DEVELOPMENT OF MINES AND QUARRIES

- “Development” as applied to this section means a commercial or industrial undertaking but excludes exploration and map staking.
- The Province will continue to be the permitting authority for mining and quarry developments within the **Settlement Area**, including **Labrador Inuit Lands**, with the exception of permits for Specified Material in Specified Material Lands. The Nunatsiavut Government will be the permitting authority for Specified Material in Specified Material Lands.
- The Mineral Act and the Quarry Materials Act do not apply to Specified Materials in Specified Material Lands.
- The Province will consult with the Nunatsiavut Government regarding conditions to be attached to a subsurface interest (e.g. a mining lease) in **Labrador Inuit Lands**.
- There can be no mine development in **Labrador Inuit Lands** without a negotiated Impact and Benefits Agreement (IBA) between the developer and the Nunatsiavut Government. IBA’s may include a variety of subjects related to the development, including compensation, environmental rehabilitation, performance bonds, monitoring, employment opportunities, participation in corporate ownership and income sharing. A quarry on **Labrador Inuit Lands**, outside Specified Material Lands, is exempt from the requirement of an IBA.
- All major developments in the **Settlement Area** (including the Zone) require negotiation of an IBA. A major development is a development that involves either more than 150 person years of employment or capital expenditures of more than \$40 million dollars in constant 1998 dollars during any five year period. This could include mines and quarries. Disputes will be resolved by a binding arbitration process.
- If a development in the **Settlement Area** will substantially affect waters in or adjacent to **Labrador Inuit Lands**, the developer must enter into a Water Compensation agreement with the Nunatsiavut Government, or include such provisions in an IBA with the Nunatsiavut Government.
- Developers must compensate Inuit for any loss of wildlife, fish or habitat or harvesting activities which is caused by a development in **Labrador Inuit Lands** or a major development in the **Settlement Area**, outside Labrador Inuit Lands. Liability will also

apply to marine transportation in the Zone which is directly associated with a development in **Labrador Inuit Lands**, a major development in the **Settlement Area** outside Labrador Inuit Lands, or with petroleum exploration and development in the Zone. Liability will be imposed without proof of fault or negligence. Disputes may be resolved by a binding arbitration process. A developer and the Nunatsiavut Government may enter into an IBA that would define the developer's liability in relation to harvesting compensation.

- The Nunatsiavut Government may make laws respecting environmental assessment in **Labrador Inuit Lands**. The Nunatsiavut Government may only require an environmental assessment of mineral and quarry exploration activities if that exploration would ordinarily trigger federal or provincial assessment requirements. Wherever possible, the federal, provincial and Nunatsiavut Government assessments will be harmonized.

EXEMPT MINERAL LANDS

- In **Labrador Inuit Lands**, areas exempt from mineral exploration on the north coast of Labrador (areas in Paragraphs F to L of Schedule A to the Province's *Mineral Regulations*) will remain Exempt Mineral Lands until the land use plan for the Settlement Area comes into effect, unless consent of the Nunatsiavut Government is obtained.
- In the **Settlement Area** outside Labrador Inuit Lands, areas exempt from mineral exploration on the north coast of Labrador (areas in Paragraphs F to L of Schedule A to the Province's *Mineral Regulations*) will remain Exempt Mineral Lands until at least six months after December 1, 2005.

NOTE

In the event of any conflict between this mining industry bulletin and the Labrador Inuit Land Claims Agreement, the Agreement shall have paramountcy.

FURTHER INFORMATION

The Agreement, including map appendices, may be viewed on the Department of Labrador and Aboriginal Affairs web site: www.gov.nl.ca/laa

For additional information , please contact:

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