

Immediate Objectives for the Crown-First Nation Consultation and Accommodation Process

- ✓ First, that Manitoba (and Canada) and York Factory will jointly develop a comprehensive Crown-First Nation Consultation Agreement that will guide and provide for the consultation and accommodation process and that will set out how York Factory will be involved in developing solutions to accommodate our aboriginal and Treaty rights and to minimize any adverse effects of these authorizations and decisions.
- ✓ Second, that Manitoba and Canada will engage York Factory in a meaningful process of consultation, justification and accommodation regarding the Kelsey Rerunning Project, issued Mineral Exploration Licence 367B, the designations of the Kaskatamagan and Kaskatamagan-Sipi Wildlife Management Areas, Manitoba Hydro's request for a Final Licence for Churchill River Diversion Project and the low water levels on Split Lake.
- ✓ Third, that Manitoba and Canada agree that any existing authorizations, designations or decisions can be amended or even cancelled if the consultation process shows that our rights are being impacted or infringed.
- ✓ Fourth, that no further activities or changes in land use will take place while Manitoba consults York Factory on any matter subject to the Crown's Duty to Consult and a consultation process.
- ✓ Finally, that Manitoba will fund all of the costs of each consultation and accommodation process and that the consultation process would include the significant participation of our Elders' Council and will provide for the documentation and management of our traditional land use information by York Factory. As part of this objective, York Factory is also looking for Manitoba's commitment to the development of the Land Use Plan and the Resource Management Plan under Article 4 of our 1995 Comprehensive Implementation Agreement as a practical way to capture and benefit from First Nation and Crown investments in traditional land use studies and other land use information and to facilitate future consultation and accommodation processes.

Community Program Updates Meeting

Date: September 15, 2010

Time: 6:00 p.m.

Place: George Saunders Memorial School



Chief and Council and York Factory First Nation program coordinators and staff will be presenting updates on the status of the Crown-First Nation consultation and accommodation processes between the York Factory First Nation, the Government of Manitoba and the Government of Canada. There will be presentations and a question and answer period. Chief and Council invite all community members to attend the meeting.



Message from Chief and Council

September 15, 2010

Tansi!

This is a follow up to our newsletter of July 20, 2010 on the issue of The Crown's (The Province of Manitoba and Canada) Duty to Consult and to honor our commitment to provide updates to you. We continue to very busy conducting business on behalf of our community members. We do our best to maintain a schedule that allows us to be in the community as much as possible. We schedule meetings outside of the community on a bi-weekly basis.



This newsletter is to provide up to date information on the issue of the two levels of governments' duty to consult on any infringement of your aboriginal and treaty rights by any government action. It is intended to keep all our members informed of developments we are currently engaged in with the Province of Manitoba and Canada. We hope you will read the information and if you have questions please feel free to contact any one of the Council members and we will do our best to advance your concern.

Once again, the Chief and Council hold steadfast that any infringement of our rights will not be tolerated and governments will be held accountable for trespasses in our traditional territory . We will hold them to the principle that the federal and provincial governments must consult with all our members on any and all licences, permits, or activities within our traditional territory and we must protect our lands and resources for future generations. Governments will no longer be allowed to issue licences, permits, or authorize any activity or free entry into our traditional territory without the express consent of the York Factory First Nation.

Ekosi,

Chief and Council

The York Factory First Nation is pursuing the following initiatives or has issued a formal “Notice of Demand for the Conduct of a Crown-First Nation Consultation” or has requested engagement regarding the following matters:

Comprehensive Crown-First Nation Consultation Agreement

Manitoba has agreed in principle to engage York Factory in the development of a Comprehensive Crown-First Nation Consultation Agreement to guide the conduct of the consultation and accommodation process between Manitoba and York Factory. The development of this agreement will be in accordance with a process agreed to between York Factory and Manitoba and supported with funding provided by Manitoba to York Factory. As part of York Factory’s strategic consultation plan, York Factory’s approach to the development of the basic document “package” for the comprehensive Crown-First Nation Consultation and Accommodation arrangements is:

- ▶ An “**Accord**” or similar arrangement to confirm how Manitoba will settle or seek to reconcile each action or decision that was unlawfully made by Manitoba without first consulting York Factory, for example, the issuance of Mineral Exploration Licence 367B. The Accord would outline means to strengthen the government-to-government relationship, outline joint objectives that would include environmental protection, economic benefits, specific projects of community interest, legislative reform and land use planning, as well as any joint working groups or committees that will plan, oversee and ensure these objectives are achieved.
- ▶ A **Consultation and Accommodation Agreement** or **Consultation Protocol** that will set out the overall terms, objectives and expectations of the basic commitment between Manitoba (and Canada, where applicable) and York Factory and to engage in consultation and accommodation processes.
- ▶ **Consultation Guidelines** which are attached to and form part of the Consultation Agreement and which set out the specific principles and processes that will be applied to consultations.
- ▶ A **Consultation Plan** that is attached to the Agreement that will set out and guide the specific step-by-step activities to be carried out for each consultation and accommodation process.
- ▶ A **Consultation Budget** that is attached to the Agreement that will identify the costs of each consultation process and how these costs will be funded by Government.

Manitoba Hydro Kelsey Rerunning Project

On November 19, 2007, the York Factory First Nation issued a “Notice of Demand for the Conduct of a Crown-First Nation Consultation” regarding the Kelsey Rerunning Project. In July, 2010, Manitoba approved interim revisions to the authorizations for the Kelsey Rerunning Project, subject to the conduct and outcome of consultations. York Factory has requested and has received detailed information, including on fish passage and fish mortality. Manitoba has agreed to engage York Factory in a consultation and accommodation process that Manitoba wishes to conclude by December, 2010. Documenting York Factory’s Traditional Knowledge and Traditional Land Use is

key to understanding the potential impacts of the Kelsey Rerunning Project on York Factory’s rights. A Consultation Plan and Consultation Budget is being developed by York Factory.

Mineral Exploration Licence No. 367B

On October 24, 2008, the York Factory First Nation issued a demand for the conduct of a Crown-First Nation consultation regarding an application for Mineral Exploration Licence 367B. However, Manitoba issued Mineral Exploration Licence 367B effective October 15, 2009 without having first consulted and accommodated York Factory. On May 21, 2010, the York Factory First Nation demanded that MEL 367B be immediately *rescinded, revoked or withdrawn due to Manitoba’s failure of the Crown to have first engaged the York Factory First Nation in a process of consultation, justification and accommodation*. The holder of Mineral Exploration Licence 367B has also applied for Work Permits, which are also subject to the Crown-First Nation Consultation process. York Factory has conducted initial consultation activities and has prepared a draft a Consultation Agreement and Consultation Guidelines and is developing a Consultation Plan and Budget which includes a Traditional Land Use Study. York Factory is also working on an Accord document.

Designation of the Kaskatamagan Wildlife Management Area

Designation of the Kaskatamagan-Sipi Wildlife Management Area

The Assistant Deputy Minister of Conservation has been assigned by the Minister to engage York Factory in a consultation process to address and to seek to reconcile Manitoba’s unilateral designations of the Kaskatamagan and Kaskatamagan-Sipi Wildlife Management Areas and the establishment of protective regulations in the fall of 2009. York Factory is writing the Minister to confirm York Factory’s position and the scope of the consultations. A Consultation Plan and Consultation Budget is being developed by York Factory.

Manitoba Hydro Request for a Final Licence for the Churchill River Diversion Project

Manitoba Water Stewardship has engaged York Factory in a Crown-First Nation consultation regarding Manitoba Hydro’s request for a Final Licence for the Churchill River Diversion Project. York Factory has held preliminary meetings with Manitoba’s consultation team and is working to confirm the scope of the consultation and accommodation process, which Manitoba plans to conduct and conclude in 2010-2011. A Consultation Plan and Consultation Budget is being developed by York Factory.

Low Water Levels on Split Lake

The Assistant Deputy Minister of Conservation has been assigned by the Minister to engage York Factory in a Crown-First Nation consultation regarding the infringements of York Factory’s aboriginal and Treaty rights that resulted from Manitoba Hydro causing low water levels on Split Lake which, in turn, resulted in the cancellation of York Factory’s annual spring Goose Camp Days and pickerel fishery. As an accommodation measure, York Factory seeks changes to Manitoba Hydro’s operating licences requiring minimum water flows and levels to ensure the conduct of cultural events and the exercise of aboriginal and Treaty rights. York Factory is completing correspondence to the Minister to formally confirm York Factory’s position. York Factory is working to confirm the scope of these consultations and to develop a Consultation Plan and Consultation Budget.