

15 NOV. 2006

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PAR COURRIEL ET POSTE

Me Véronique Dubois
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Le 15 novembre 2006
DOSSIER: R-3595-2006
PIÈCE NO: B-32
Date: 15/11/2006

Objet : Demande de révision de l'Assemblée des Premières Nations du Québec et du Labrador de la décision D-2005-201 rendue dans le dossier de l'approbation de la grille de pondération des critères non monétaires relative à l'appel d'offres pour un second bloc d'énergie éolienne - R-3595-2006 – AFFIDAVIT DE JOHN MARTIN

N/D : 2301-004

Chère consoeur,

Veillez trouver ci-joint l'affidavit de John Martin ainsi que les pièces y afférentes.

Vous constaterez que, malgré tous nos efforts, nous n'avons reçu l'affidavit que ce matin et les pièces, que cet après-midi.

Nous avons bien reçu la copie de la lettre qui vous a été adressée par notre confrère, Me Fréchette, ce jour. Malgré la position qu'il prend à l'égard du dépôt de cet affidavit, nous vous demandons par la présente la permission de le produire hors délai. Le procureur soussigné avait engagé dès le mois de septembre des démarches spécifiques afin d'obtenir l'affidavit du représentant du Migmawei Mawiomi en l'occurrence le chef John Martin. Toutefois, leur processus interne étant très lourd et les enjeux très importants, nous n'avons pu obtenir la version finale que ce matin.

Dans les circonstances du dossier, nous vous soumettons respectueusement que l'importance de recevoir les preuves offertes par les participants autochtones pèse plus lourd que les inconvénients éventuels par sa production à la veille de l'audience. Nous vous soumettons également

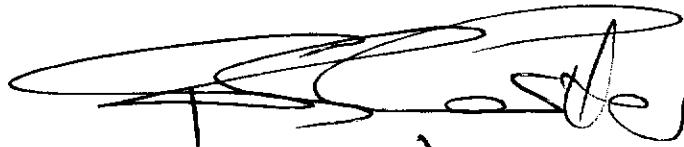
respectueusement qu'il serait hasardeux pour la Régie de ne pas tenir compte de la preuve venant de l'organisme regroupant, les communautés autochtones de la péninsule gaspésienne, vu qu'il s'agit d'une région au très fort potentiel d'éoliennes où il y aura sans nul doute des projets dans le cadre de l'appel d'offres de 2000 MW en cours.

Nous avons bien noté que Hydro-Québec n'entend pas contre-interroger les autres affiants. Toutefois, si malgré cela, Hydro-Québec désire interroger le chef John Martin, celui-ci pourra se rendre disponible le 17 novembre prochain, ou au cours de la semaine prochaine, durant les jours réservés au dossier R-3595-2006.

En conclusion, l'APNQL soumet respectueusement qu'en vertu des articles 49 à 50 du *Règlement sur la procédure de la Régie de l'énergie*, et en vertu des pouvoirs généraux de la Régie pour l'exercice de ses pouvoirs, cette preuve doit être reçue.

Veuillez agréer, chère Me Dubois, l'expression de nos sentiments les meilleurs.

FRANKLIN GERTLER & ASSOCIÉS



par: Franklin S. Gertler, avocat

FSG/om

P.J.

c.c. (par courriel uniquement)

- Corporation métisse du Québec et de l'Est du Canada, M^e Pierre Montour
- Procureur général du Québec, M^e Francis Demers
- Hydro-Québec, M^e Yves Fréchette
- M. Ricky Fontaine (Gestion GSF)
- M. Tim Weis

Affidavit of John Martin R-3595 Regie v 1 MM 08 11 06 12h30

I, the undersigned, John Martin, Sagamaw, having my offices at 100 Perron Boulevard, Gesgapegiag, solemnly declare as follows:

1. I am Sagamaw or Chief of the Gesgapegiag First Nation;
2. I am also Chair of the Migmawei Mawiomi;
3. The Migmawei Mawiomi was formed in August 2000, bringing together the Mi'gmaq First Nations of Listuguj, Gesgapegiag and Gespeg, as appears from the Political Accord attached hereto as exhibit JM-1;
4. The mission and mandate of the Migmawei Mawiomi includes the protection and promotion of Mi'gmaq rights, title and interests, economic development and access to and governance of lands and resources in our traditional territory of Gespegewagi, the Seventh District of Mi'gmagi, which includes portions of what are now known as Quebec and New Brunswick, including surrounding islands, waters and resources;
5. At the center of this work is the protection, assertion, promotion and exercise of our Aboriginal and Treaty rights as Aboriginal peoples, which Rights are recognized and affirmed under section 35 of the *Constitution Act, 1982*;
6. The Government of Quebec and Hydro Quebec are aware, as a result of the various matters herein, of assertions of Aboriginal Rights and Title in our territory by the Mi'gmaq of Gespegewagi;
7. Attached as exhibit JM-2 is a letter from me to Minister Remy Trudel dated November 19, 2002;
8. On February 6, 2003, I presented the brief of the Migmawei Mawiomi entitled "The Natural Resources of Gespegewagi: Counting the Mi'gmaq in on Decisions and Benefits" to the La Commission d'étude sur la maximisation des retombées économiques de l'exploitation des ressources naturelles dans le regions ressources, as appears from the French and English texts attached hereto as exhibit JM-3;
9. On April 3, 2003, Brenda G. Miller, Executive Director of the Migmawei Mawiomi, wrote to Hydro Quebec, a copy of which letter is attached hereto as exhibit JM-4;
10. On March 23, 2005, I appeared with other representatives of the Migmawei Mawiomi before the Commission permanente de l'economie et du travail of the National Assembly in its hearings on the document titled *Le secteur énergétique au Québec - Contexte, enjeux et questionnements* and presented the brief dated January 11, 2005 attached hereto as exhibit JM-5;

11. On June 21, 2005, I appeared on behalf of the Mi'gmawei Mawiomi at the BAPE hearings on the 3Ci Inc. wind power project in Murdochville as appears from the brief attached hereto as exhibit JM-6;
12. On June 22, 2005, the duly elected Chiefs of the Mi'gmaq of Gespegewagi met in Listuguj and issued the Joint Proclamation of the Gespé 'gawa 'gigewei Saqamawuti on the Duty to Consult and Accommodate the Mi 'gmaq attached hereto as exhibit JM-7;
13. On June 24, 2005, the Mi'gmawei Mawiomi made public a map showing our primary claim area asserting Aboriginal title and a further secondary title claim area for which further research is still required, as appears from the map attached hereto as JM-8;
14. Barry Leblanc of the Secretariat aux Affaires Autochtones representing the Government of Quebec received copies of the Joint Proclamation and the map on or about the same time as they were issued;
15. We did not receive notice of and were not aware in a timely fashion of the application filed on October 18, 2005, by Hydro-Quebec with the Regie de l'energie regarding the approval of the bid criteria applicable for the second block of wind energy of 2000 MW;
16. The same circumstances prevail with respect to:
 - the administrative decision of the Regie to treat Hydro-Quebec's application byway of paper hearing and without a public hearing;
 - the receipt and consideration of the submissions of interested municipal and regional parties between October 19 and 28, 2005;
 - the exchange of correspondence with respect to these matters between Hydro-Quebec and the Regie de l'energie on this subject between the 27th and 28th of October, 2005;
 - the decision of the Regie D-2005-201 rendered on October 28, 2005.
17. The erection of wind towers in the context of the call for tenders for the second block of 2000 MW of wind energy will almost inevitably be on lands subject to Aboriginal rights and title, to Mi'gmaq Treaty rights and the claim of the Mi'gmawei Mawiomi and therefore involves a potential for adverse effects on those rights and title;
18. The possibility of wind power development on our territory is confirmed by the fieldwork and wind measurement now underway on our territory and the presence of technicians and promoters in our area, including for Cartier Wind Power's project in Carleton-sur-Mer that is currently before the BAPE.

I solemnly affirm that all of the facts said out in my affidavit are true.

AND I HAVE SIGNED at Gesgapegiag, this 15 day of November, 2006

John Martin
JOHN MARTIN

SOLEMNLY AFFIRMED BEFORE ME IN

Gesgapegiag, this 15th day of November, 2006

Carolyn LaRoque
Commissioner of Oaths
for the district of Bonaventure

