

the Métis
Nation *of*
Ontario

SIGNED ON THE 29TH OF NOVEMBER IN THE YEAR 2014

CONSULTATION
PROTOCOL
for
Region 8



the Métis Nation *of* Ontario

Consultation Protocol for Region 8

This Protocol is executed in triplicate this 29th day of November in the year 2014.

BETWEEN:

Metis Nation of Ontario
[“MNO”]

AND:

The Toronto and York Region Métis Council
a Chartered Community Council of the Métis Nation of Ontario
[“Toronto and York Region Métis Council”]

AND:

The Credit River Métis Council
a Chartered Community Council of the Métis Nation of Ontario
[“Credit River Métis Council”]

AND:

The Oshawa Durham Region Métis Council
a Chartered Community Council of the Métis Nation of Ontario
[“Oshawa Durham Region Métis Council”]

WHEREAS the Metis people joined together long ago to form a new nation – the Métis Nation;

AND WHEREAS the Metis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Metis, as one of the constitutionally recognized Aboriginal peoples of Canada, have the inherent right of self-determination and self-government;

AND WHEREAS the citizens of the Métis Nation who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and healthy economic well-being, have created the MNO to be their representative body;

AND WHEREAS the MNO, as the representative government of the Métis people and rights-bearing Métis communities in Ontario, negotiates and enters into Community Charter Agreements with Community Councils, which authorize democratically elected Community Councils to represent MNO citizens, within a defined geographic territory, pursuant to the roles and responsibilities set out in those Charter Agreements;

AND WHEREAS there are MNO citizens, who live in locations throughout Ontario, who are not currently represented by a MNO Chartered Community Council, but whose local and regional interests continue to be represented by the MNO’s overall governance structure;

AND WHEREAS MNO Charter Agreements are negotiated and executed for internal governance purposes, and, do not define, constrain or limit the geographic scope of rights-bearing Métis communities in Ontario or the traditional territories of those communities;

AND WHEREAS the Crown has a duty to consult, and, where appropriate, accommodate rights-bearing Métis communities on planning, developments, projects and policies that have the

potential to affect Métis rights, interests and way of life, flowing from the honour of the Crown and s. 35 of the *Constitution Act, 1982*;

AND WHEREAS the MNO, along with its Chartered Community Councils, want to work together to ensure that the Crown fulfills its duty to consult and accommodate the rights, interests and way of life of rights-bearing Métis communities and that all Metis citizens, as members of those rights-bearing Métis communities, have opportunities to be engaged and consulted;

AND WHEREAS the MNO, along with its Chartered Community Councils, want to work together to ensure that Métis citizens living in MNO Region 8 have opportunities to be engaged and consulted on projects, developments and policies that may impact Métis citizens living in the region;

NOW THEREFORE in consideration of the above, the Parties agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Metis Nation of Ontario – Consultation Protocol for Region 8* [hereinafter referred to as “the Protocol”].

2. Definitions

2.1 All words and phrases in this Protocol have the same meaning as in the MNO’s by-laws and the MNO Community Council Charter Agreements. To the extent of any conflict, the definitions in the by-laws of the MNO and the Charter Agreement shall prevail.

2.2 “Community Charter Agreement” means the agreements executed between the MNO and the MNO Chartered Community Councils, which set out the Parties respective jurisdiction, roles and responsibilities.

2.3 “Crown” means Her Majesty the Queen in Right of Canada and Ontario.

2.4 “Crown’s consultation duties” means the Crown’s constitutional obligations flowing from s. 35 of the *Constitution Act, 1982* and the honour of the Crown to consult, and, where appropriate, accommodate rights-bearing Métis communities on projects, developments and policies that have the potential to affect Métis rights, interests and way of life.

2.5 “Métis Traditional Territory” means a Métis traditional territory, which is set out as a part of the MNO Harvesters Policy and have been recognized and accommodated by the Crown.

2.5 “MNO-Ontario Harvesting Agreement” means the four point agreement reached between the MNO President and the Ontario Minister for Natural Resources in July 2004.

2.5 “MNO” means the Métis Nation of Ontario, as the representative government of the Métis people in Ontario.

2.6 “MNO Region 8” means the region recognized by the MNO Bylaws and set out in the attached map as Schedule A to this agreement.

2.6 “Community Councils” means the Credit River Métis Council, and the Oshawa and Durham Region Métis Council, which democratically represent the interests of MNO citizens within the geographic territories defined by the respective Community Charter Agreements.

2.7 “Parties” means the MNO, the Credit River Métis Council and the Oshawa and Durham Region Métis Council.

2.8 “Projects” means all projects or developments that are being considered, planned, pursued, reviewed and/or implemented within MNO Region 8.

2.9 “Rights-Bearing Métis Community” means a group of Métis who live together in the same territory, share a collective identity as a part of the Métis Nation, and who have occupied or used that territory since prior to effective control, consistent with the Supreme Court of Canada’s decision in *R. v. Powley*.

3. Purpose

3.1 The purpose of this Protocol is to:

- a) ensure MNO citizens that reside in MNO Region 8, who are living outside of the traditional territory of their home Métis community on a temporary or permanent basis, have the opportunity to be made aware of and engage in Crown consultation and accommodation processes occurring within the traditional territory of their home Métis community,
- b) facilitate the ability of the Councils in MNO Region 8 to work together on engagement and consultation initiatives that are occurring within MNO Region 8 and that are of importance to Métis citizens living in the region.
- c) assist MNO Region 8 in undertaking the necessary historical and contemporary research on Métis presence in the region in order to support Métis rights assertions in all or parts of the region in the future;
- d) establish a mutually agreeable process between the Parties which ensures all MNO citizens living within MNO Region 8 are made aware of Projects occurring in the region in order to determine whether and how MNO citizens and its Community Councils would like to be engaged,
- e) build the capacities of the MNO Chartered Community Councils in relation to research and consultation relevant to MNO Region 8,
- f) strengthen the MNO’s overall self-government structures and representativeness through collaboration and cooperation between the various levels of Métis government, including, MNO Chartered Community Councils, MNO Regional Councilors, Metis Women, Youth, Senator, Veterans, the MNO Captains of the Hunt and the Provincial Council of the Métis Nation of Ontario.

4. Responsibilities of MNO and Community Council

4.1 The Parties assert that the Crown’s consultation duties apply to Métis rights-holders, regardless of where they live, and that these Métis citizens have the right to be equally engaged with respect to consultation on Projects that have the potential to affect Métis rights, interests and way of life.

4.2 The MNO, as the representative government of the Métis Nation in Ontario, which includes its governance structures at the local, regional and provincial levels, has the ultimate responsibility to ensure that all MNO citizens and rights-bearing Métis communities in Ontario are consulted on the Projects.

4.3 The Community Councils, through their democratic mandates and their Charter Agreements with the MNO, have the responsibility to work with the MNO to the best of their ability in order to ensure the MNO citizens they represent are effectively consulted on the Projects occurring within the traditional territory of a MNO citizen’s home Métis community as well as with respect to Projects that are occurring within MNO Region 8 that are important to MNO citizens as stakeholders and Ontario citizens.

4.4 The Parties have the responsibility to collaborate and cooperate in order to ensure the abovementioned responsibilities are met.

4.5 The Parties have the responsibility to work together in order to ensure the democratically elected local, regional and provincial governance structures of the Métis people in Ontario are consulted and respected by the Crown, proponents and other relevant groups where MNO citizens may have participatory rights and interests as Ontario citizens in MNO Region 8.

5. Consultation Committee and Consultation Workplan

5.1 A five person Consultation Committee shall be established, which will include the MNO Regional Councilor and one representative designated by each of the MNO Community Councils who is a MNO citizen.

5.2. The regional Captain of the Hunt shall be an ex-officio member of the Consultation Committee to provide advice and support to the Committee.

5.3 The MNO Regional Councilor shall act as the Chair of the Consultation Committee and shall only vote if consensus is not achieved or in the event of a tie.

5.4 The Consultation Committee shall strive for all decisions to be made by consensus.

5.5 The Consultation Committee will work together to develop and implement a mutually agreeable Consultation Workplan on Projects of interests to the region where MNO citizens may have rights and interests in MNO Region 8 as well as identify opportunities for MNO citizens, living outside of the traditional territory of their home Métis community, can be engaged and consulted on Projects occurring within those territories. This Consultation Workplan will include, but will not be limited to, the following:

- a) an overview of the Projects occurring in MNO Region 8;
- b) terms of reference for the Consultation Committee,
- c) opportunities for Métis participation and consultation in MNO Region 8;
- d) consultation priorities for Métis in MNO Region 8;
- e) processes that would enable MNO citizens living in MNO Region 8 to become aware of, and, if they so chose, be engaged and consulted on Project being planned or occurring in the traditional territory of their home Métis community,
- f) activities, timelines, roles and responsibilities of the Parties,
- g) a local and regional MNO citizen engagement plan, which would include meetings with MNO Chartered Community Councils, public meetings, etc.,
- h) the identification of historical, environmental and other research and/or studies required,
- i) staffing and administration requirements for the Community Councils,
- j) a communications plan, and
- k) appropriate budgets.

5.6 The Consultation Committee shall meet in person or via conference call as required and determined by the Consultation Committee.

5.7 Members of the Consultation Committee shall be remunerated for their work based on the MNO's policies and procedures, by the MNO Secretariat, with the exception of Consultation Committee members who are employees of the MNO.

6. Communications with MNO Citizens

6.1 The Parties will work to ensure that all potentially affected MNO citizens are engaged and communicated with in a fair, transparent and open manner.

6.2 In order to ensure all MNO citizens have access to information related to Projects, the Parties agree to use the MNO's print and on-line communications tools.

6.3 The Consultation Committee shall report regularly to all MNO citizens and their respective Community Councils through Council meetings, local meetings as well as regional meetings.

7. Communications with the Crown and Proponents

7.1 The Consultation Committee shall provide direction for all written letters and submissions to the Crown, regulatory bodies and/or proponents in relation to any Projects.

7.2 Written letters and submissions in relation to any Project or consultation related issues, on behalf of MNO Region 8, shall be drafted and prepared by the MNO Lands, Resources and Consultation Branch and signed by the Chair of the Consultation Committee or his/her designate.

7.3 All written letters and submissions shall be provided to all members of the Consultation Committee as well as the Presidents of the Parties, including, the President of the MNO.

8. Dispute Resolution

8.1 Any dispute or inquiry that arises out of this Protocol shall first be referred to Presidents of the Community Councils for resolution.

8.2 If resolution is not possible under paragraph 8.1, an Inquiry Panel may be called.

8.3 The Inquiry Panel will be composed of a Chair who is a Senator and mutually agreed to by the Parties, an appointee by the MNO Executive Council, and an appointee by the Community Councils.

8.4 Where a dispute is referred to an Inquiry Panel, the MNO Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.

8.5 At any inquiry, called pursuant to paragraph 8.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.

8.6 Upon termination of the inquiry the panel shall either:

- a) issue a recommendation as to costs
- b) issue a recommendation regarding the substantive issue in dispute; or
- c) issue a recommended procedure on how to resolve the dispute; or
- d) issue a judgment on the merits of the issue in dispute.

8.7 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

8.8 All decisions of the Inquiry Panel shall be final.

9. Communications Between The Parties

9.1 For the purposes of this Protocol, the contact information below will be used by the Parties,

For the MNO:
Gary Lipinski, President
500 Old St. Patrick Road
Ottawa, Ontario, K1N 9G4
P: 613-798-1488
F: 613-722-4225

For MNO Regional Councilor:
Anita Tucker, Region 8 Councillor
609-141 Woolwich St.
Guelph, ON N1H 8M5
P: 519-856-0328
E: anitat@metisnation.org

For Toronto and York Region Métis Council:
Tera Beaulieu, President
106 Edgecoft Rd.
Toronto, ON M8Z 2C3
P: 416-889-6918
E: tera_beaulieu@yahoo.ca

For Credit River Métis Council:
Richard Cuddy, President
2213 Meadowland Drive
Oakville, ON L6H 6H2
P: 905-582-5178
E: rcuddy@hotmail.com

For Oshawa and Durham Region Métis Council:
Kristin Randall, President
1288 Ritson Road North
Suite # 356
Oshawa, ON L1G-8B2
P: 289-240-8182
E: kristinmrandall@gmail.com

10. No Prejudice or Effect on Métis Rights or Future Rights Assertions

10.1 Nothing in this Protocol limits, abrogates, derogates, effects or extinguishes the existing Aboriginal rights of Métis citizens or communities in the region that are protected within the meaning of s. 35 of the *Constitution Act, 1982*.

10.2 For greater certainty, nothing in this Protocol prejudices, limits or affects the ability of future Métis rights assertions to be made in these areas based on historic research and studies being completed which establish a rights-bearing Métis community or communities in the region, consistent with the Supreme Court of Canada's decision in *R. v. Powley*.

11. General

11.1 This Protocol may be amended in writing at any time by agreement of the Parties.

11.2 This Protocol may be terminated by either Party by sending written notice to the other Party. Termination shall take effect thirty (30) days after receipt of said written notice.

11.3 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the MNO President, the MNO Executive Council or the Provisional Council of the Métis Nation of Ontario to represent the interests of all MNO citizens in bilateral or tripartite discussions with governments, agencies or other organizations.

11.4 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the Community Councils in representing the interests of the MNO citizens they represent or leading and engaging in consultation related discussions with the Crown on Projects and developments that are within the geographic scope of the Community Council, which do not have potential regional impacts on the MNO citizens living in MNO Region 8.


11.5 Nothing in this Protocol amends, limits or alters the mandates, roles, responsibilities and jurisdictions set out in the MNO's by-laws, existing and future MNO Community Council Charter Agreements, the MNO Rules or Order or other MNO policies and procedures, as amended from time to time.

11.6 This Protocol shall ensure to the benefit of and be binding upon the Parties and their respective successors and assigns.

11.7 This Protocol is not transferable to any other party.

11.8 This Protocol comes into effective upon its execution and shall remain in place until amended or terminated pursuant to the terms set out in this Protocol.

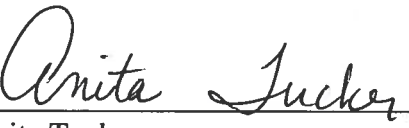
IN WITNESS WHERE OF Parties have executed this Protocol on the 29th day of November, 2014.




Gary Lipinski
President
Metis Nation of Ontario




Witness



Anita Tucker
Region 8 Councillor
Métis Nation of Ontario



Witness



Tera Beaulieu
President
Toronto and York Region Métis Council




Witness




Richard Cuddy
President
Credit River Métis Council



Witness



Kristin Randal
President
Oshawa and Durham Region Métis Council



Witness