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May 10, 2012

File No. 11-0015

The Honourable Rick Bartolucci
Minister of Northern Development and Mines
99 Wellesley Street West
Whitny Block, Room 5630
Toronto, ON M7A 1W3

Dear Hon. Bartolucci:

Re: Cliffs' Chromite Project – Ring of Fire Development

We are legal counsel for the Neskantaga First Nation. We enclose a copy of a letter to you from our client. We write to you as the representative of the Provincial Crown.

The Neskantaga, along with the other Matawa First Nations, is in litigation in respect of the Cliffs' project, and the need for a full Joint Panel Review. Neskantaga has indicated to your Ministry and your officials a desire to negotiate a proper regional environmental assessment process that would harmonize Federal, provincial and First Nation reviews. [We refer to Matawa Chiefs Council letters of October 21, 2011 and April 25, 2012]. To date, your officials have shown no serious willingness to negotiate or address our concerns.

Further, your Ministry and the project proponent, Cliffs Natural Resources Inc., have been well aware that the proposed project and its related infrastructure will have significant adverse impacts on the Neskantaga lands, culture and aboriginal interests. Despite this knowledge, Ontario has proceeded with discussions with the proponent and other First Nations to the exclusion of Neskantaga. We are now advised that your Ministry has announced that Ontario intends to proceed with the project, and to provide funding to the proponent for infrastructure, without having fulfilled the duty of consultation and many other First Nations directly affected.

A News Release from Cliffs on May 9 states:

Cliffs stated that its discussions with the Government of Ontario have resulted in an **agreement in principle** for key elements of its chromite project, including development of provincial infrastructure. The Company is satisfied and confident in naming Ontario as the future location for its intended ferrochrome processing facility. Both parties will continue to work toward a definitive agreement.

In *Rio Tinto Alcan v Carrier Sekani Tribal Council* (SCC 2010 43), the Supreme Court of Canada confirmed “*the duty to consult extends to strategic, higher level decisions that may have an impact on Aboriginal claims and rights*” and “*is not confined to government exercise of statutory powers*”. In *Kwikwetlem v. BCUC* (2009 BCCA 68), the BC Court of Appeal found that the duty extends “*at every stage of a Crown activity that has the potential to affect their Aboriginal interests*” and applies to the choice of options, well before statutory decisions have been applied for or made.


It would appear that Ontario is already in breach of their legal duties towards Neskantaga. It will be difficult for you to reconcile this lack of prior consultation with decisions already apparently made.

We ask that Ontario take no further steps to support this project until adequate consultation with my client has been achieved, and until full discussion has been held with northern First Nations towards a proper environmental assessment and regional decision-making forum.

We ask that you confirm that no agreement in principle has been made, and that no choice in terms of infrastructure (the North-South road) has been made. My client respectfully requests that you meet on behalf of the Crown with Neskantaga, and expects that within 30 days your officials will have resolved these issues with them, or we will be seeking instructions to take further action.

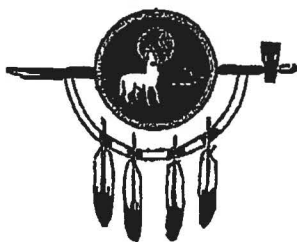
Yours truly,

RATCLIFF & COMPANY LLP



GREGORY J. MCDADE, Q.C.
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cc. Jim Bradley, Minister of Environment
Kathleen Wynne, Minister of Aboriginal Affairs



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May 11, 2012

The Honourable Rick Bartolucci
Minister of Northern Development and Mines
99 Wellesley Street West
Whitny Block, Room 5630
Toronto, Ontario
M7A 1W3

Dear Hon. Bartolucci:

We are deeply disappointed to learn – through a media announcement from your office on May 9, 2012 – that Ontario has made the decision to support the Cliffs' chromite project, and the proposed north-south all-season road. These decisions will have significant adverse impacts on our lands, environment and way of life. Your Government has made these decisions without adequate consultation with Neskantaga, in breach of your legal duties and the Honour of the Crown.

To suggest you will now work with First Nations to 'partner' on this development presupposes the project and the road will proceed. To have made this decision already precludes good faith consultation. To have made this decision without our input is unconscionable.

The proposed north-south road will cross the Attawapiskat River in the heart of our territory, and the airport and the project are within our traditional lands. This project will open up development in the North in a way that threatens our culture and our way of life.

You have announced you plan to enter into a Framework Agreement with Webequie and Martin Falls. You seem to be misinformed about the strength of the aboriginal rights and claims of Neskantaga. Your willingness to ignore us is not responsible, and not legal. You seem to want to separate and divide First Nations, rather than dealing honorably.

We cannot accept this development within Neskantaga territory without a full regional process that properly considers First Nation infrastructure needs, our participation in decision-making, and the true environmental, social and cultural impacts of new developments in the north.



Minister Bartolucci
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Ontario must understand that it has no right to make these decisions without our participation. Accordingly, on behalf of the Neskantaga First Nation, we must advise you that we will be opposing the Cliffs' project. We intend to use every lawful means at our disposal in doing so.

SIGNED ON BEHALF OF NESKANTAGA FIRST NATION

A handwritten signature in black ink, starting with a large, stylized loop and extending into a long, horizontal line that ends in a small hook.

Chief Peter Moonias