

**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN

ANISHNAABEG OF NAONGASHIING FIRST NATION

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

**November 12, 2010
(date for reference purposes)**

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THIS AGREEMENT made in duplicate this ____ day of _____, 20__.

**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN:

ANISHNAABEG OF NAONGASHIING FIRST NATION, as represented by their Chief and Council (hereinafter called the “Anishnaabeg of Naongashiing First Nation” or the “First Nation”)

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, (hereinafter called “Canada”) as represented by the Minister of Indian Affairs and Northern Development (hereinafter called “the Minister”)

(“the Parties”)

WHEREAS the Framework Agreement on First Nation Land Management was signed by Canada and fourteen first nations in 1996 (the “Framework Agreement”) and was ratified and brought into effect by the *First Nations Land Management Act*, S.C. 1999, c. 24 (the “Act”);

AND WHEREAS the First Nation has been added as a signatory to the Framework Agreement by an adhesion signed by the First Nation and Canada on June 18, 2008;

AND WHEREAS ten reserves have been set apart for the use and benefit of the First Nation, namely Big Island Mainland Indian Reserve No. 93, Saug-A-Gaw-Sing Indian Reserve No.1, Big island Indian Reserve No. 31D, Big Island Indian Reserve No. 31E, Big Island Indian Reserve No. 31F, Lake of the Woods Indian Reserve No. 31, Lake of the Woods Indian Reserve No. 31B, Lake of the Woods Indian Reserve No. 31C, Lake of the Woods Indian Reserve No. 31G, Lake of the Woods Indian Reserve No. 31H and Shoal lake Indian Reserve No. 31J;

AND WHEREAS the First Nation wishes to establish a land management regime for tow of its reserves, namely Big Island Mainland Indian Reserve No. 93 and Saug-A-Gaw-Sing Indian Reserve no. 1, as provided for in subsection 6(2) of the Act;

AND WHEREAS the First Nation and Canada wish to provide for the assumption by the First Nation of responsibility for the administration of Anishnaabeg of Naongashiing First Nation Land, as defined in this Agreement, in accordance with the Framework Agreement and the Act;

AND WHEREAS clause 6.1 of the Framework Agreement and subsection 6(3) of the

Act require the First Nation to enter into an individual agreement with the Minister for the purpose of providing for the specifics of the transfer of administration;

AND WHEREAS subsection 6(3) of the Act further requires that the individual agreement provide for the date and other terms of the transfer to the First Nation of Canada's rights and obligations as grantor of interests and licenses in or in relation to the land, the environmental assessment process that will apply to projects until the enactment of applicable First Nation laws, and any other relevant matter;

AND WHEREAS clause 6.1 of the Framework Agreement further requires that the individual agreement settle the actual level of operational funding to be provided to the First Nation;

NOW THEREFORE, in consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree as follows:

1. INTERPRETATION

1.1 In this Agreement,

"Act" means the *First Nations Land Management Act*, S.C. 1999, c.24, as amended;

"this Agreement" means this Individual Agreement on First Nation Land Management, including the Annexes attached hereto, and any documents incorporated by reference, all as amended from time to time;

"Anishnaabeg of Naongashiing First Nation Land" means the land to which the Land Code will apply and more specifically means the Reserves known as Big Island Mainland Indian Reserve No. 93 and Saug-A-Gaw-Sing Indian Reserve No. 1 as described in Annex "G" and includes all the interests in and resources of the land that are within the legislative authority of Parliament;

"Fiscal Year" means Canada's fiscal year as defined in the *Financial Administration Act*, R.S.C. 1985, c. F-11, as amended;

"Framework Agreement" has the same meaning as in the Act;

"Funding Arrangement" means an agreement between Canada and the Anishnaabeg of Naongashiing First Nation, or between Canada and a Tribal Council of which the First Nation is a member, for the purpose of providing funding, during the Fiscal Year(s) identified in that agreement, for the programs and services referred to in that agreement;

"*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5, as amended;

“Land Code” means the Anishnaabeg of Naongashiing First Nation Land Code, developed in accordance with clause 5 of the Framework Agreement and section 6 of the Act;

“Minister” means the Minister of Indian Affairs and Northern Development and his or her duly authorized representatives;

“Operational Funding” means the resources to be provided by Canada to the Anishnaabeg of Naongashiing First Nation pursuant to clause 30.1 of the Framework Agreement to manage First Nation lands and make, administer and enforce its laws under a land code;

“Operational Funding Formula” means the method approved by Canada for allocating to First Nations such Operational Funding as may have been appropriated by Parliament for that purpose.

- 1.2 Unless the context otherwise requires, words and expressions defined in the Framework Agreement, the Act or the *Indian Act* have the same meanings when used in this Agreement.
- 1.3 This Agreement is to be interpreted in a manner that is consistent with the Framework Agreement and the Act.
- 1.4 In the event of any inconsistency or conflict between the wording in any Article set out in the main body of this Agreement and the wording in any Annex attached hereto, the wording set out in the Article shall prevail.

2. INFORMATION PROVIDED BY CANADA

- 2.1 In accordance with clause 6.3 of the Framework Agreement, the Minister has provided the First Nation with the following information:
 - (a) a list, attached as Annex “C”, and copies, or access to copies, of all the interests and licences granted by Canada in or in relation to the Anishnaabeg of Naongashiing First Nation Land that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register;
 - (b) a list, attached as Annex “D”, and copies of all existing information in Canada’s possession, respecting any actual or potential environmental problems with the Anishnaabeg of Naongashiing First Nation Land; and
 - (c) a list, attached as Annex “E”, and copies of any other information in Canada’s possession that materially affects the interests and licences mentioned in clause 2.1(a).
- 2.2 The First Nation hereby acknowledges that it has received or been provided access to all the documents referred to in clause 2.1.

3. TRANSFER OF LAND ADMINISTRATION

- 3.1 The Parties acknowledge that, as of the date the Land Code comes into force, the First Nation shall have the power to manage the Anishnaabeg of Naongashiing First Nation Land in accordance with section 18 of the Act and clause 12 of the Framework Agreement.
- 3.2 As provided in subsection 16(3) of the Act, Canada hereby transfers to the First Nation all of the rights and obligations of Canada as grantor in respect of the interests and licences in or in relation to Anishnaabeg of Naongashiing First Nation Land that exist on the coming into force of the Land Code.
- 3.3 As of the date the Land Code comes into force, the First Nation shall be responsible for, among other responsibilities identified in this Agreement, the Framework Agreement and the Act, the following:
- (a) the collection of all rents and other amounts owing, payable or accruing pursuant to any instrument granting an interest or a license in or in relation to Anishnaabeg of Naongashiing First Nation Land; and
 - (b) the exercise of any power and authorities, and performance of any covenants, terms and conditions, under the instruments referred to in paragraph (a) which, but for the transfer, would have been Canada's responsibility.
- 3.4 The Parties acknowledge that the transfer of administration referred to in this Agreement is subject to section 39 of the Act, which provides for the continuation of the application of the *Indian Oil and Gas Act*.
- 3.5 Without affecting or limiting the foregoing, Canada agrees to resolve those issues affecting Anishnaabeg of Naongashiing First Nation Land as specifically listed in Annex "E" where Canada is identified in such Annex as the person/entity responsible.

4. ACCEPTANCE OF TRANSFER OF LAND ADMINISTRATION

- 4.1 The First Nation hereby accepts the transfer of land administration described in Article 3 of this Agreement, including, without limitation, the transfer of all the rights and obligations of Canada as grantor of the interests and licenses referred to in clause 3.2 of this Agreement.
- 4.2 As of the date the Land Code comes into force, and in accordance with the Framework Agreement and section 18 of the Act:
- (a) the land management provisions of the *Indian Act*, as listed in clause 21 of the Framework Agreement and section 38 of the Act, cease to

apply and Canada retains no powers and obligations in relation to Anishnaabeg of Naongashiing First Nation Land under these provisions;

- (b) the First Nation shall commence administering Anishnaabeg of Naongashiing First Nation Land pursuant to its Land Code.

5. OPERATIONAL FUNDING

- 5.1 In accordance with clause 30.1 of the Framework Agreement, Canada shall provide the First Nation with Operational Funding in accordance with Annex "A" for the period commencing on the date that the Land Code comes into force and ending March 31, 2011.
- 5.2 Subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Operational Funding for Fiscal Years after the end date set out in clause 5.1 will be calculated and provided in accordance with the Operational Funding Formula in effect at that time.
- 5.3 The Operational Funding referred to in clauses 5.1 and 5.2 will be incorporated by the Parties into the First Nation's Funding Arrangement in effect in the year in which the payment is to be made. For greater certainty, payment of Operational Funding will be subject to the terms and conditions of the Funding Arrangement into which it is incorporated.

6. TRANSFER OF REVENUES

- 6.1 Following the date that the Land Code comes into force, Canada shall transfer the revenue moneys referred to in section 19 of the Act and clause 12.8 of the Framework Agreement to the First Nation in accordance with the provisions set out in Annex "B".
- 6.2 Revenue moneys transferred pursuant to clause 6.1 shall be deposited in the First Nation's account at such financial institution as the First Nation may direct by notice in writing.
- 6.3 For greater certainty, the transfer of the revenue moneys does not release the First Nation from its commitment to reimburse Canada for any amount paid as a result of a default under any loan entered into by the First Nation or any of its members and guaranteed by Canada in accordance with the terms and conditions relating to ministerial loan guarantees.
- 6.4 For greater certainty, all Indian moneys deemed to be capital moneys pursuant to section 62 of the *Indian Act* are not to be transferred to the First Nation pursuant to this Agreement.

7. NOTICE TO THIRD PARTIES OF TRANSFER OF ADMINISTRATION

- 7.1 Immediately following approval of the Land Code and this Agreement by the members of the First Nation, the First Nation shall give written notice (the "Notice of Transfer of Administration"), by registered mail, to each holder of an interest or a licence in or in relation to Anishnaabeg of Naongashiing First Nation Land that is recorded in the Reserve Land Register or the Surrendered and Designated Lands Register.
- 7.2 The Notice of Transfer of Administration must state that
- (a) the administration of Anishnaabeg of Naongashiing First Nation Land and Canada's rights in Anishnaabeg of Naongashiing First Nation Land, other than title, have been transferred to the First Nation effective the date the Land Code comes into force;
 - (b) the holder of the interest or license must pay to the First Nation, all amounts owing, payable or due under the interest or licence on or after that date; and
 - (c) as of that date, the First Nation shall be responsible for the exercise of the powers and authorities, and the performance of any covenants, terms and conditions, under that instrument which, but for the transfer of administration, would have been Canada's responsibility.
- 7.3 The Anishnaabeg of Naongashiing First Nation shall deliver to Canada a copy of every Notice of Transfer of Administration and a copy of every acknowledgement of receipt of the Notice of Transfer of Administration received by the First Nation within 30 days of the issuance or receipt of the same.
- 7.4 The Notice obligations set out in this Article do not apply in respect of a holder of an interest or license who is a member of the First Nation.

8. INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

- 8.1 As of the date the Land Code comes into force, the environmental assessment process set out in Annex "F" will apply to projects on Anishnaabeg of Naongashiing First Nation land until the coming into force of First Nation laws enacted in relation to that subject.

9. AMENDMENTS

- 9.1 This Agreement may be amended by agreement of the Parties.
- 9.2 Any amendment to this Agreement must be in writing and executed by the duly authorized representatives of the Parties.

10. NOTICES BETWEEN THE PARTIES

- 10.1 Any notice or other official communication under this Agreement between the Parties must be in writing addressed to the Party for whom it is intended.
- 10.2 The notice referred to in clause 10.1 will be effective using any one of the following methods and will be deemed to have been given as at the date specified for each method:
- (a) by personal delivery, on the date upon which notice is delivered;
 - (b) by registered mail or courier, the date upon which receipt of the notice is acknowledged by the other party; or
 - (c) by facsimile or electronic mail, the date upon which the notice is transmitted and receipt of such transmission by the other party can be confirmed or deemed.
- 10.3 The addresses of the Parties for the purpose of any notice or other official communication are:

Canada:

Director, Lands and Trust Services
Department of Indian Affairs and Northern Development
Ontario Region
25 St. Clair Ave. East, 8th Floor
Toronto, Ontario
M4T 1M2

Facsimile: (416) 954-4328

Anishnaabeg of Naongashiing First Nation
Band Manager
Box 335
General Delivery
Morson, Ontario
P0W 1J0

Facsimile: (807) 488-5942

11. DISPUTE RESOLUTION

11.1 For greater certainty, any dispute arising from the implementation, application or administration of this Agreement may be resolved in accordance with the Dispute Resolution provisions set out in the Framework Agreement.

12. DATE OF COMING INTO FORCE

12.1 The Parties acknowledge that the Land Code and this Agreement must be approved by the members of the First Nation in accordance with the Framework Agreement and the Act.

12.2 Articles 7, 9 and 10 of this Agreement shall come into force as of the day the First Nation and the Minister sign this Agreement.

12.3 The remainder of this Agreement shall come into full force and effect on the date the Land Code comes into force.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

MINISTER:

CHIEF

Minister John Duncan

Chief Wesley Big George

Councillor

Councillor

Councillor

ANNEX "A"

FUNDING PROVIDED BY CANADA

- (a) Operational Funding for the first Fiscal Year has been calculated in accordance with the Operational Funding Formula. The amount before proration is set out in the table below.
- (b) The amount of the Operational Funding for the first Fiscal Year shall be prorated based on the number of months from the date that the Land Code comes into force to the end of the first Fiscal Year.
- (c) Subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Operational Funding for Fiscal Years after the end date set out in clause 5.1 of this Agreement will be calculated and provided in accordance with the Operational Funding Formula in effect at the time.

OPERATIONAL FUNDING	
1 st FISCAL Year	\$ 85,051.00 (This amount shall be prorated accordance with (b) above.)
Subsequent FISCAL Years	Subject to (c) above, Operational Funding will be calculated and paid each Fiscal Year based on the Operational Funding Formula in effect at the time.

ANNEX “B”
DETAILS FOR THE REVENUE MONEYS TRANSFER

1. **Definition:** In this Annex, “Consolidated Revenue Fund” has the same meaning as in the Financial Administration Act, R.S. 1985, c. F-11,
2. Revenue Amount in the CRF. As of the 25th day of October , 2010, Canada is holding \$14,122.68 of revenue moneys for the use and benefit of the First Nation or its members, in the Consolidated Revenue Fund. This amount is included for information purposes only and is subject to change.
3. **Initial Transfer of Revenue.** Within thirty (30) days of the Land Code coming into force, Canada shall transfer to the First Nation all revenue moneys collected, received or held by Canada at the time and derived from those lands described in Annex “G” (Big Island Mainland Indian Reserve No. 93 and Sau-A-Gaw-Sing Indian Reserve No. 1). The Parties acknowledge that there may be no revenue moneys being held by Canada in relation to those lands at the time, and, in such event, no revenue moneys will be transferred to the First Nation.
4. **Subsequent Transfer of Revenue.** The Parties acknowledge that interest that is earned on the capital moneys of the First Nation is deposited into the First Nation’s revenue account in the Consolidated Revenue Fund. The Parties further acknowledge that neither party keeps a record of the amount of interest earned from the capital derived from each of the First Nation’s ten reserves, and that it would therefore be difficult or impossible to determine the amount of interest to be transferred to the First Nations from time to time as it is earned. Accordingly, Anishinaabeg of Naongashiing hereby authorizes Canada to retain all interest earned after the date the Land Code comes into force on capital moneys derived from Big Island Mainland Indian Reserve No. 93 and Saug-A-Gaw-Sing Indian Reserve No. 1, and to treat such interest as if it were Indian moneys (revenue moneys) in the same way as any interest earned from capital moneys derived from Big Island Indian Reserve No. 31D, Big Island Indian Reserve No. 31E, Big Island Indian Reserve No. 31F, Lake of the Woods Indian Reserve No. 31, Lake of the Woods Indian Reserve No. 31B, Lake of the Woods Indian Reserve No. 31C, Lake of the Woods Indian Reserve No. 31G, Lake of the Woods Indian Reserve No. 31H and Shoal lake Indian Reserve No. 31J. Such interest (to the extent that it is held by Canada at that time) shall be transferred to the First Nation if and when a land code (as defined in the Act) comes into force with respect to Big Island Indian Reserve No. 31D, Big Island Indian Reserve No. 31E, Big Island Indian Reserve No. 31F, Lake of the Woods Indian Reserve No. 31, Lake of the Woods Indian Reserve No. 31B, Lake of the Woods Indian Reserve No. 31C, Lake of the Woods Indian Reserve No. 31G, Lake of the Woods Indian Reserve No. 31H and Shoal lake Indian Reserve No. 31J.

ANNEX "C"

LIST OF REGISTERED INTERESTS AND LICENCES GRANTED BY CANADA

All interests and licenses granted by Canada in or in relation to Anishnaabeg or Naongashiing First Nation Land that are recorded in the Reserve Land Register and Surrendered and Designated Lands Register are listed in reports that are available for review at the Anishnaabeg of Naongashiing First Nation Administration Office:

- § Reserve General Abstract Reports for:
 - § Big Island Mainland Indian Reserve No. 93
 - § Saug-A-Gaw-Sing Indian Reserve No. 1

- § Lease or Permits Reports for:
 - § Big Island Mainland Indian Reserve No. 93
 - § Saug-A-Gaw-Sing Indian Reserve No. 1

The above reports identify all interests or licenses granted by Canada that are registered in the Indian Lands Registry System (ILRS).

Please note: Not all reserves contain lawful possessors, leases, or permits. Therefore, these reports are limited to reserves where these interests are present.

ANNEX “D”

LIST OF ALL EXISTING INFORMATION IN CANADA’S POSSESSION RESPECTING ANY ACTUAL OR POTENTIAL ENVIRONMENTAL PROBLEMS WITH THE FIRST NATION LANDS

1. Executive Summary. Environmental Site Assessment (ESA) Phase1 prepared by Neeqan Naynowan Jacques Whitford Lp on March 16, 2009.

Issues of concern: No issues which may pose a potential environmental concern to the Anishnaabeg of Naongashiing land were identified as a result of the Phase1 Environmental Site Assessment.

ANNEX “E”

LIST OF OTHER INFORMATION PROVIDED BY CANADA THAT MATERIALLY AFFECTS INTERESTS AND LICENSES

1. Anishnaabeg of Naongashiing First Nation Outstanding Land Issues Chart (to be attached to this Annex)

ANNEX “F”

INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

(1) The Parties agree that the provisions on environmental assessment in this Annex are without prejudice to any subsequent environmental assessment process they may agree upon in accordance with Clause 25.1 of the Framework Agreement for incorporation in First Nation laws respecting environmental assessment. The provisions in this Annex apply until replaced by First Nation laws respecting environmental assessment.

(2) When the First Nation is considering the approval, regulation, funding or undertaking of a project on Anishnaabeg of Naongashiing First Nation Land that is not described in the exclusion list as defined in the Canadian Environmental Assessment Act (the “CEA Act”), the Council of the First Nation shall ensure that an environmental assessment of the project is carried out, at the expense of the First Nation or the proponent, in accordance with a process that is consistent with that of the CEA Act. Such assessment shall be carried out as early as practicable in the planning stages of the project before an irrevocable decision is made.

(3) The First Nation shall not approve, regulate, fund, or undertake the project unless the Council has concluded, taking into consideration the results of the environmental assessment, any economically and technically feasible mitigation measures identified as necessary during the assessment, and any public comments received during the assessment, that the project is unlikely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances.

(4) If the First Nation approves, regulates, funds, or undertakes the project, the First Nation shall ensure that all mitigation measures referred to in clause (3) are implemented at its expense or it is satisfied that another person or body will ensure their implementation. The Council shall also consider whether a follow-up program, as defined in the CEA Act, is appropriate in the circumstances and if so, shall design a follow-up program and ensure its implementation.

ANNEX "G"

LEGAL DESCRIPTION OF ANISHNAABEG OF NAONGASHIING FIRST NATION LAND

Big Island Mainland Indian Reserve No. 93

Legal Description of the extent of Reserve Lands that will be subject to the Land Code of Anishinaabeg of Naongashiing under the First Nations Land Management Act.

Reserve Lands within the Township of Morson, now in the Municipality of the Township of Morson, District of Rainy River, Province of Ontario, Canada, described as follows:

Comprised of the following Lands, including Mines and Minerals:

A parcel bounded by the exterior boundaries of Bid Island Mainland Indian Reserve No. 93, being the west half of Lot 7, Concession 6, as shown on Plan 79924 (C.L.S.R.), Canada Lands Surveys Records.

Subject to:

- 1) An indeterminate Permit in Instrument No. 84348 Indian Lands Registry System (I.L.R.S.), granted to Ontario Hydro, now Ontario Power Generation, for the construction, operation and maintenance of power distribution lines on the Reserve, which authorizes a right-of-way of 17.5 feet on either side of centreline;
- 2) A reservation in Certificate of Ownership Instrument No. X11702 (I.L.R.S.), dated April 12, 1955, of any public or Colonization roads or any Highways crossing the said lands at the date of the Letters of Patent S-4306 by the Province of Ontario on February 22, 1955;
- 3) A five per cent reservation of the acreage granted for roads, and the right to lay out the same where the Crown or its officers may deem necessary, in Certificate of Ownership Instrument No. X11702 (I.L.R.S.), dated April 12, 1955;
- 4) A reservation in Certificate of Ownership Instrument No. X11702 (I.L.R.S.), dated April 12, 1955, of the right to overflow and flood the said lands to elevation 1064 feet above mean sea level;
- 5) The condition contained in Certificate of Ownership Instrument No. X11702 (I.L.R.S.), imposed by virtue of Chap. 33, Sec.58(10 R.S.O. 1937, and all subsequent amendment, requiring that all ores or minerals raised or removed therefrom shall be treated and refined within Canada, and is subject also to the provisions of Section 59 of the Public Lands Act;
- 6) The reservations and exceptions contained in Certificate of ownership Instrument no. X11702 (I.L.R.S.), dated April 12, 1955, according to the original patent from the Crown, namely, the free use, passage, and enjoyment of, in, over, and upon all navigable waters which shall or may hereafter be found on or under or be flowing through or upon any part of the said land, and also the right of access to the shores of all rivers, streams, and lakes for all vessels, boats, and persons.

Total Lands, including Mines and Minerals, containing 42.6 hectares (105.27 acres) more or less.

Saug-A-Gaw-Sing Indian Reserve No. 1

Legal Description of the extent of Reserve Lands that will be subject to the Land Code of Anishinaabeg of Naongashiing under the First Nations Land Management Act.

Reserve Lands within the Township of Morson, now in the Municipality of the Township of Morson, District of Rainy River, Province of Ontario, Canada, described as follows:

Comprised of the following Lands, including Mines and Minerals:

All of Part 1, Plan 67082, being the south half of Lot 8, Concession 9;

Together with: An easement and right-of-way over Part 1, Plan 67081;

Subject to:

- 1) An indeterminate Permit in Instrument No. 94191, granted to Ontario Hydro, now Ontario Power Generation, for the construction, operation and maintenance of power distribution lines in accordance with the Agreement in instrument No. 95088;
- 2) A five per cent reservation of acreage for roads in Free Grant S2294 dated September 13, 1916;
- 3) An implied easement of free use, passage, and enjoyment of, in, over, and upon all navigable waters as described in Free Grant S2294, dated September 13, 1916;
- 4) A reservation of right of access for fishery purposed not to exceed one chain from the water's edge as described in Free grant S2294, dated September 13, 1916.

Total Lands, including Mines and Minerals, containing 61.6 hectares (152.22 acres) more or less.

NOTE: All plans referred to in this section are recorded in the Canada Lands Surveys Records in Ottawa.