



FRIENDS OF THE NORTHUMBERLAND STRAIT

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December 14, 2020

Holly Palmer  
Monitor of the Petitioners  
Ernst & Young Inc.  
[Holly.palmer@ca.ey.com](mailto:Holly.palmer@ca.ey.com)

Dear Ms. Palmer:

**Re: Northern Pulp Nova Scotia Corporation et al**

I am writing on behalf of Friends of the Northumberland Strait (FONS) in relation to Northern Pulp Nova Scotia Corporation's (NP) application for creditor protection, to provide our perspective on statements in Bruce Chapman's Affidavit #8 (December 4, 2020) and the 5<sup>th</sup> Report of the Monitor (December 8, 2020.)

In particular we would like to address:

- a) Statements relating to the Community Liaison Committee (CLC), [now renamed Environmental Liaison Committee (ELC)] established by Northern Pulp that we believe to be inaccurate or misleading. These statements could lead the court to draw overly optimistic conclusions about the potential of the ELC to unblock barriers to the approval of a new effluent treatment facility or to build community trust in Northern Pulp's proposed new facility.
- b) The omission of information relating to Dale Paterson (Section 42, Affidavit #8) which we believe may be relevant to the court,
- c) The fact that Nova Scotia has an established, legislated Environmental Assessment process through which Northern Pulp's replacement ETF must be approved before it is built and the mill re-opened.

**1. Who is not participating in the ELC?**

According to the Monitor's report, S. 11,

**"the ELC was designed to engage and solicit key stakeholder commentary** to broaden the discussions surrounding environmental, community involvement, fishing and marine issues ... with respect to ... the development and construction of a replacement effluent treatment facility (the "R-ETF")."

In our October 16, 2020 [letter](#) to the Monitor, I explained FONS' concerns about the goals and functioning of Northern Pulp's CLC. FONS first became aware of Northern Pulp's proposed committee in August, through reading court documents. At that time, we raised our concerns [publicly](#). We urged Northern Pulp to engage openly and transparently through the provincial environmental assessment process and address the issues raised by the public through that process. After our public critique of the committee, FONS was never contacted about our concerns or about participating in the committee, and we heard nothing from Mr. Paterson about the CLC until I received a phone call from him on December 2, 2020.

FONS is not the only key stakeholder organization absent from Northern Pulp's ELC. It is our understanding that the Mayor of the Town of Pictou was invited but declined to participate in the CLC/ELC. The Town of Pictou actively engaged in the environmental assessment process of Northern Pulp's proposed new ETF. The Town addressed issues with the proposed effluent pipe running through the Town's watershed and air quality issues relating to emissions from Northern Pulp. We understand that the Town still considers themselves to be a key stakeholder, whether or not there continue to be plans to run an effluent pipe through the Town's watershed.

We are aware that the court has heard from counsel for Pictou Landing First Nation (PLFN) that the community has also declined to participate in the ELC. The following excerpts from a December 9, 2020 statement from Chief Andrea Paul of Pictou Landing First Nation present a very different picture than Affidavit #8 and the report of the monitor.

“The relationship between NP and PLFN is broken. There is no trust. ...

Since NP told us it did not intend to proceed with the current design, in order to restore trust and demonstrate its sincerity PLFN advised NP that we would not participate in any discussions unless, among other things, NP:

- 1) withdrew the current application for environmental approval of the current design of the proposed new effluent treatment facility.
- 2) withdrew its application to the Nova Scotia Supreme Court for judicial review of the December 17, 2019 decision to the Minister of Environment requiring a full environmental assessment report for the current design. ...

However, NP has done neither. ...

There was no reason for PLFN to participate in the committee unless NP met PLFN’s terms. We will not be used as an opportunity for NP to appear as being sincere. We never asked for minutes of the committee meetings and have asked Northern Pulp not to provide us with any further minutes. We have not agreed to review any results from the committee or any further proposals.”

The full statement from Chief Paul is attached as Appendix A.

Also missing from the CLC/ELC is any representative of the Fishermen’s Working Group (FWG). This group represents over 3,000 fishermen from three provinces and was formed specifically to address concerns about NP’s plan to pipe its effluent into the Northumberland Strait. The FWG prepared submissions and retained expert witnesses in both rounds of the Environmental Assessment. Northern Pulp met with representatives of the FWG over the course of the EA process. Our understanding is that the interim president of the Northumberland Fishermen’s Association (NFA), who is also a representative of the Fishermen’s Working Group, returned a phone call from Mr. Paterson in October. He was told by Mr. Paterson that the committee already had enough fishermen. According to our information, during that phone call Mr. Paterson was made aware that the persons he had selected for the committee did not represent any fishing organization or the fishing industry and Paterson acknowledged that they had been invited as individuals. We will provide additional details relating to the individuals selected by Northern Pulp in the next section.

The bottom line is that four key organizations/communities, all of which were deeply involved for more than two years in the environmental assessment of NP’s proposed new facility, all of which retained independent experts to study and respond to NP’s proposal and all of which are potentially deeply impacted by NP’s proposed new ETF **either declined to participate, were not asked to participate or were refused participation in Northern Pulp’s Community Liaison Committee, now renamed ELC.**

This information should not be ignored when assessing the potential of the ELC in “engaging and soliciting key stakeholder commentary” and unblocking barriers to approval of a new ETF.

## **2. Who is participating in the ELC?**

In early November, an individual from our organization contacted Mr. Chapman to ask who was sitting on the CLC. She was referred to Mr. Paterson, who told her that the membership would be announced “in due course.” As the court has heard, the committee membership remains confidential. However, FONS was informed about most of the committee membership from other sources. What we learned confirmed our concerns that there is a disproportionate number of committee members with ties to the mill or the forestry industry.

We will leave it to Northern Pulp or the members of the ELC to decide when to make the committee membership public. We will provide only general information here. The “civic leaders” referred to in Bruce Chapman’s Affidavit #6 are two Councillors from one of the other municipalities in Pictou County. Both have mill or forestry connections. The father of one councillor was an employee of Northern Pulp. The other councillor owns woodlands and represents a constituency with a high percentage of forestry workers. Our understanding is that these councillors’ participation in the ELC committee has not been discussed with their Council. They do not represent

their Council on the ELC and they do not inform Council of the committee's discussions. The information in Chapman Affidavit #8 stating that composition of the ELC remains confidential appears to confirm this.

While there are fishermen participating in the ELC, they do not represent any fishing organizations or the fishing industry. One worked at Northern Pulp and also fishes. The second is a pipefitter who also fishes. A third person has been retired from fishing for 10 years. There is no one on the ELC who fishes out of Caribou or Pictou Harbour, the fishing areas closest to and most impacted by Northern Pulp's plans. None of the fishers selected by NP to participate in the ELC had been involved in the fishing community's in-depth discussion and evaluation of Northern Pulp's two EA reports over the past years. It is our understanding that, unlike the Fishermen's Working Group, the individuals on the committee do not have access to independent scientific experts with the background to evaluate the complex potential impacts of Northern Pulp's proposed new ETF. They do have access to professionals provided to the ELC by Northern Pulp.

In addition to the persons mentioned above, there are other members of the ELC with ties to the mill or the forestry industry, including :

- three business owners in the forest industry, including one who is a party to Northern Pulp's application for judicial review of the Minister of Environment's decision to require an environmental assessment report;
- a Northern Pulp pensioner, and the spouse of a Northern Pulp pensioner.

Secrecy does not build trust. In the past, the names of people serving on Northern Pulp's Citizen Liaison Committees were also kept secret from the community. Community members were only able to raise issues with the committee by contacting NP's communications officer and receiving replies through her. We are concerned that the secret committee membership of Northern Pulp's present ELC, including elected councillors, will be another source of division and increased mistrust.

This raises questions about statements made in the Monitor's report that this committee will be helpful in restoring trust between NP and the community.

### **3. Was KSH Solutions (KSH) "independently retained"?**

We note in Affidavit #8 that Mr. Chapman states "as part of the ELC assessment process, the ELC has independently retained an engineering firm, KSH Engineering ("KSH") (S. 41.) The Monitor's report, S.14, states "The ELC has also engaged and has been actively working with KSH Solutions Inc."

FONS was informed well over a month ago that at one of the earliest meetings of the (then) CLC, participants were informed by Mr. Paterson that Northern Pulp had a new proposal for effluent treatment, and they had hired a firm (now identified as KSH) to help with design.

KSH has worked with Northern Pulp on their proposed new ETF **since at least 2015** – a fact which is not mentioned in Affidavit #8.

It appears that KSH was retained by NP prior to any decision of the ELC to do so. Further, given that the ELC was created by Northern Pulp (Affidavit #8 S. 38, and S. 4 (b)) and is chaired by a person selected by and paid by Northern Pulp (Monitors Report #5, Appendix A, p. 30), it does not seem quite accurate to say that KSH is "independently hired."

Further, although it is stated that starting January 2021, Northern Pulp will retain KSH at a cost of \$50,000 per month for 4 months and longer (Affidavit #8 (s. 46 (f)(iii)), we cannot find any record of who is paying KSH at the present time. We wonder whether the court has confirmed the source of funding for this expense.

#### 4. Mr. Dale Paterson

Section 42 of Affidavit #8 states:

“The Chair of the ELC is Dale Paterson (“**Mr. Paterson**”) of Benton Services Inc. Mr. Paterson is a pulp and paper consultant who has been engaged by Northern Pulp.”

Mr. Paterson is not only a pulp and paper consultant. He is a past VP Operations with Paper Excellence Canada.

<https://www.pulpandpapercanada.com/paper-excellence-ditches-dissolving-pulp-plans-1002829126/>

We are surprised that Mr. Paterson’s connection to Paper Excellence was not brought to the Court’s attention, especially as Paper Excellence is a major creditor of Northern Pulp. Mr. Paterson’s connection with Northern Pulp and Paper Excellence would also appear to be relevant to any claimed “independence” of the ELC from Northern Pulp. The Monitor’s Report #5 show that Mr. Paterson’s company, Benton Services Inc, is paid over \$20,000 monthly. (Appendix A)

#### 5. Environmental Assessment Process

In Affidavit #8, S. 4(b), Mr. Chapman states “The Petitioners will attempt to re-engage with the Province in January 2021 to identify an environmental assessment process to seek approval for the New Replacement ETF Project.”

We would like to draw your attention once again to the fact that there is an established legislated environmental assessment process in Nova Scotia. Northern Pulp, like any other company, must go through this established process to gain approval. Northern Pulp claims to have “paused” the process but this is not an option under the law and the clock is ticking.

#### 6. Conclusion

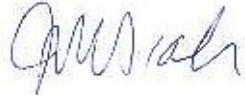
We would like to point out to you as Monitor, and to the court, that it is risky to accept Northern Pulp’s rosy picture of progress at face value.

As residents of this area, we are all too familiar with rosy pictures painted by Northern Pulp. We have found that when examined, these rosy pictures often turn out to be lacking in substance. Two quick examples for your information: first, NP’s claim that the company’s proposed new ETF (that has now twice failed to gain environmental approval and possibly will be set aside by the company) would produce the best effluent in Canada, although the company never, in two rounds of environmental assessment, provided the full chemical composition of the effluent they planned to discharge, and second, the easily disproven claim that the mill’s daily release of 80 million litres of bleached kraft effluent, containing 4 tonnes of solids and numerous contaminants, would “go away,” a claim made by one of NP’s consultants at a meeting with fishermen.

In our letter of October 16, we raised some of the same issues we have discussed here, in particular concerns about the proposed CLC, and concerns that there seemed to be a misrepresentation of the legislated environmental assessment process in Nova Scotia. We were disappointed that the information presented in our earlier letter did not merit attention in the Monitor’s 4<sup>th</sup> report, and that some of the same inaccuracies are repeated again in report #5.

We believe that to accurately evaluate the information presented to you by the Petitioner it is important that you understand the context and history of the Petitioner's actions. We hope we have provided some useful insight into these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jill Graham-Scanlan', with a stylized flourish at the end.

Jill Graham-Scanlan  
President  
Friends of the Northumberland Strait (FONS)

## Appendix A

### Chief Andrea's Information Page

9 December at 18:40 ·

I have been getting some media requests with regards to recent Northern Pulp media announcements so I will just write a post:

Back in May of 2020, Northern Pulp (NP) told us that it wants to redesign the proposed treatment facility - end goal ==> no impact to the environment. NP advised the Band that it does not want to proceed with treatment facility plan that was submitted to NS Environment (which is the plan in the current EA process).

What we were told: NP would like to participate in a process with PLFN that would explore technology to have the mill and treatment facility operate to a point of almost NO IMPACT to the ENVIRONMENT. Once technology was identified NP was to explore the costs of this investment and if it wasn't doable then they would abandon the plans and not reopen the Mill. NP would not proceed with a design that PLFN had concerns about.

How we responded: The relationship between NP and PLFN is broken. There is no trust. In fact, after December 20, 2019 we witnessed the harmful retaliation towards PLFN from Mill employees and supporters. NP did nothing to address the historical and present day comments and misinformation being shared by it's employees.

This conversation was had repeatedly with NP and it's parent company, Paper Excellence in numerous meetings. PLFN advised NP that currently, participating in this process would be a waste of time unless the community could be convinced of NP's sincerity. Since NP told us it did not intend to proceed with the current design, in order to restore trust and demonstrate its sincerity PLFN advised NP that we would not participate in any discussions unless, among other things, NP:

- 1) withdrew the current application for environmental approval of the current design of the proposed new effluent treatment facility.
- 2) withdrew its application to the Nova Scotia Supreme Court for judicial review of the December 17, 2019 decision to the Minister of Environment requiring a full environmental assessment report for the current design.

If NP was sincere in relationship building, it would take these steps since it told us it was not proceeding with the current treatment facility proposal. However, NP has done neither. Instead, we learned through the CCAA proceedings that NP had been approved to borrow money to finance its legal fees for the judicial review application. ELC Committee: There was no reason for PLFN to participate in the committee unless NP met PLFN's terms. We will not be used as an opportunity for NP to appear as being sincere. We never asked for minutes of the committee meetings and have asked Northern Pulp not to provide us with any further minutes. We have not agreed to review any results from the committee or any further proposals.