

# Why Pictou Landing First Nation cannot agree to extend the deadline for closing the Boat Harbour Treatment Facility – A Time Line

**1966** – Canada, as legal owner of Pictou Landing First Nation's reserve lands adjacent to Boat Harbour, issues Order-in-Council No. 1996-1669 transfers property rights associated with Boat Harbour to Province of Nova Scotia without proper authorization under Indian Act. Transfer has no legal effect.

**1967** – Province builds pipeline to Boat Harbour from Scott Maritimes new mill and begins "treating" effluent from the mill at Boat Harbour. Effluent interferes with PLFN's aboriginal and treaty rights.

**1991** - Province acknowledges that it has no right to interfere with waters of Boat Harbour. Province promises to close Boat Harbour Treatment Facility when agreement with Scott Maritimes ended on December 31, 1995.

**1992** – Province repeats promise to close the Boat Harbour Treatment Facility on December 31, 1995.

**1995** – Province decides to allow Scott Maritimes (then owner of the mill) to operate Boat Harbour Treatment Facility for 10 more years. Gives Scott Maritimes a lease and an indemnity agreement.

**1997** – Province promises to transfer treatment facility land at Boat Harbour to PLFN once treatment facility is closed and remediated.

**2000** – Agra Simons (engineers hired by Province and Kimberly Clark - then the new owner of the mill) identifies options for treating effluent including AST technology on site next to mill with pipeline to Pictou Road just off Lighthouse Beach. Cost estimate is \$67 million.

**2001** – Kimberly Clark agrees to build a short by-pass pipeline within Boat Harbour by December 31, 2005 so dam at mouth of Boat Harbour can be removed returning Boat Harbour to a natural tidal state and so Boat Harbour can be cleaned by Province. Treatment facility would remain in place at upper reaches of Boat Harbour and effluent piped through by-pass pipeline and discharged at mouth of Boat Harbour until 2030. In exchange PLFN agrees not to oppose treatment facility operating until December 31, 2030.

**2002** – Without consulting with PLFN, without waiting until the lease had ended (still more than three years to go to December 31, 2005) and without waiting to make sure the promised by-pass pipeline was built, the Province extends lease for Boat Harbour Treatment Facility to year 2030 – instead of ending on December 31, 2005 lease will now end on December 31, 2030.

**2003** – Kimberly Clark/Province's engineers "discover" that by-pass pipeline is not feasible due to environmental concerns (eutrophication) from effluent being pushed back into Boat Harbour with the incoming tide. Instead of revoking the lease extension given to Kimberly Clark - which was only be granted because PLFN agreed not to oppose the treatment facility if Kimberly Clark built the promised by-pass pipeline by December 31, 2005 - the Province leaves the lease extension in place.

**2005** – Kimberly Clark misses December 31, 2005 deadline to build by-pass pipeline and Kimberly Clark and Province ask PLFN to extend the deadline to build the by-pass pipeline to December 31, 2008 to give more time to find another solution.

**2006** - PLFN agrees to extend deadline for building the by-pass pipeline to December 31, 2008.

**2008** – As December 31, 2008 deadline approaches, PLFN asked by Province and Northern Pulp (then the new owner of the mill) to extend the deadline again. PLFN refuses and insists treatment facility be closed. Province agrees in letter of December 4, 2008 to close the treatment facility but says this will take time and offers to compensate PLFN for waiting until new treatment facility closes. Northern Pulp misses December 31, 2008 (second deadline) to complete by-pass pipeline.

**2009** – PLFN repudiates 2001 agreement because Northern Pulp has not built by-pass pipeline as promised despite extension of 3 years. Province does not revoke lease extension. Province appoints negotiator to negotiate terms of continued use of Boat Harbour Treatment Facility while new treatment facility is built. In June 2009 general election PC government defeated and NDP elected. Province discontinues negotiations and decides to "study" the matter.

**2010** – Amec engineers report on options for effluent treatment. Includes same option identified by Agra Simons in 2000 - AST system on mill site with pipeline discharge point off Lighthouse Beach. Cost of AST treatment facility estimated at \$91 million. Province breaks promise to PLFN and decides not to close Boat Harbour Treatment Facility. Instead lends \$75 million to Northern Pulp to buy 475,000 acres of forest land for long term benefit of Northern Pulp and then pays another \$16.5 million to buy 55,000 acres of the same 455,000 acres from Northern Pulp for a total of \$91 million paid to Northern Pulp in the deal (see <https://novascotia.ca/natr/land/neenah-2010/>).

**2011** – ADI engineering, hired by PLFN, reports that adding tertiary (third level) treatment to AST system at mill site was feasible with cleaner water and potential cost savings if shorter pipeline used.

**2014** – Existing effluent pipeline (installed in 1967) finally leaks at Indian Cross Point on lands known to be Mi'kmaq burial grounds. Mill shuts down and PLFN blockades site. In June 2014 Province agrees to negotiate a closure date for Boat Harbour Treatment Facility with PLFN and to fix the closure date in legislation so that it cannot be changed. Northern Pulp is fully aware of this agreement.

**2015** – Boat Harbour Act passes in March 2015. Fixes January 31, 2020 as date for closure of Boat Harbour Treatment Facility.

**2017** – Northern Pulp and Province hire KHI engineers to design new treatment facility – 4 ½ years after Province agrees to close Boat Harbour Treatment Facility and 2 ½ years after Boat Harbour Act becomes law. KHI recommends AST system at mill site – same system Agra Simons identified in 2000 and Amec in 2010. Province dismisses PLFN suggestion to add tertiary treatment as identified by ADI in 2011.

**2019** – By January 23, 2019 Northern Pulp has not filed an application for environmental approval of new treatment facility.