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For Immediate Release

Supreme Court rules in favor of Nunatsiavut Government on Voisey's Bay royalties

The Supreme Court of Newfoundland and Labrador has decided in favor of the Nunatsiavut Government following a legal dispute with the Government of Newfoundland and Labrador over royalties from the Voisey's Bay nickel project.

The Nunatsiavut Government filed a Statement of Claim with the Supreme Court in May 2016, arguing against the Government of Newfoundland and Labrador, that expenses incurred by Vale (the owner of the Voisey's Bay mine) related to the Long Harbour processing plant on the island of Newfoundland, should not be taken into account in the calculation of revenue paid to the Nunatsiavut Government under the Labrador Inuit Land Claims Agreement.

The Nunatsiavut Government also argued that Inuit should be entitled to five (5) per cent of payments Vale made to the Government of Newfoundland and Labrador in exchange for amendments to the Voisey's Bay Development Agreement which permitted the company to export nickel concentrate outside of the province for processing in order to allow it to fully commission its Long Harbour facility.

As well, the Nunatsiavut Government argued that the Government of Newfoundland and Labrador failed to discharge its duty to consult and its fiduciary duty in relation to payments from Vale, under the terms of the Labrador Inuit Land Claims Agreement and in accordance with the common law principles developed by the Supreme Court of Canada in *Haida Nation*.

The case was tried at St. John's in May of last year. Final arguments were presented last October.

In his decision, handed down today, Justice Vikas Khaladkar granted the following declarations:

1. The Nunatsiavut Government's share of mineral taxation revenues is to be calculated without reference to any costs incurred by the developer outside of the Labrador Inuit Settlement Area. In particular, the costs of construction, depreciation and operation of the refining facility in Long Harbour, on the island of Newfoundland, shall not be used in calculating the 5% share payable to the Inuit on account of processed ore shipped from Voisey's Bay.

2. The Nunatsiavut Government is entitled to receive a 5% share of the amounts received by the province of Newfoundland and Labrador as a result of the fifth and sixth amending agreements entered into with the developers in 2013 and 2014, and the Nunatsiavut Government is entitled to receive a 5% share of the Community Investment Fund that was negotiated in the sixth amending agreement.
3. The Province breached its fiduciary duty to the Inuit by failing to advise them of a decline in mineral taxation revenues as a result of the Province's insistence that the refining plant be located on the island of Newfoundland and, furthermore, the Province breached its fiduciary and contractual duty by failing to consult with the Nunatsiavut Government in advance of negotiating the Fifth and Sixth amending agreements. The duty to consult is a proactive duty that requires meaningful exchanges of information with the result that the parties can enter into a dialogue that will result in meaningful negotiations. An *ex post facto* delivery of information that the Province has concluded an agreement with the developer without any Aboriginal participation is a breach of the treaty, a breach of the Province's ongoing fiduciary duty and impairs the honour of the Crown.

“We are pleased with this decision today, as it reaffirms what we have been saying for years that the Government of Newfoundland and Labrador willfully violated the Labrador Inuit Land Claims Agreement for failing to consult with the Nunatsiavut Government prior to granting amendments to the Voisey's Bay Development Agreement,” says Finance, Human Resources and Information Technology Minister Tony Andersen. “Those amendments basically cheated Labrador Inuit out of millions of dollars of revenue, and strained relations between our two governments. With today's decision, we are hopeful we can put this all behind us and work towards a renewed relationship with the Government of Newfoundland and Labrador.”

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