December 19, 2018

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FLR/121/2018

On November 27, 2018, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

"Briefing materials - in any and all formats, including paper and electronic - prepared on proposals, plans, and/or technology related to Active Energy or Timberlands or other affiliated companies. Request includes information notes and decision notes. Date range of request is Oct. 1, 2018 to the present."

Please be advised that a decision has been made by the Deputy Minister for FLR to provide access to the requested information. Redactions have been made under Section 34 - Intergovernmental relations or negotiations and Section 29 - Policy advice or recommendations Privacy of the Access to Information Protection of Privacy Act, 2015. You will find a copy of responsive material attached.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John's, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that this letter will be published following a 72 hour period after the response.
is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-3730 or by email at HollyWarford@gov.nl.ca.

Sincerely,

Holly Warford
ATIPP Coordinator

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.
(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to
(a) a request that is disregarded under section 21;
(b) a decision respecting an extension of time under section 23;
(c) a variation of a procedure under section 24; or
(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days
(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).
Decision/Direction Note
Department of Fisheries and Land Resources

Title: Providing authority to harvest under two five year Commercial Cutting Permits to Timberlands International Limited Newfoundland and Labrador (TIL(NL)).

Decision/Direction Required:
• Whether to issue a five year cutting permit to Active Energy Group.

• It is recommended that the Department of Fisheries and Land Resources (FLR) be directed to:
  o award two five year Commercial Cutting Permits totaling 100,000 cubic meters (m³) (65,000m³ in Forest Management District (FMD) 17, and 35,000m³ in FMD 18) to TIL(NL) in support of a wood pellet plant to be established in Hawkes Bay, NL;
  o amend the Cutting Allocation Policy to provide that a 5 year cutting permit may also be issued to a person who is constructing and operating a timber processing facility, in addition to the current conditions.
  o A condition of AEG 5 year permits be that 25% of the harvest be available for first right of refusal to commercial sawmills.

Background and Current Status:
• TIL(NL), a subsidiary company of Active Energy Group (AEG) Plc., has applied to FLR for a five year cutting permit in FMD 17 (65,000m³ annually) and a five year cutting permit in FMD 18 (35,000m³ annually) in support of their proposed wood pellet plant.

• Under the Forestry Act, the minister, or a forestry official, may issue a cutting permit to a person to cut timber on or remove timber from Crown lands or public lands.

• The proposed pellet plant in Hawkes Bay, would produce 74,000 metric tonnes of CoalSwitch wood pellets for export to Poland through the local port.

• CoalSwitch is a patented product used to replace coal in coal fired electrical facilities and in domestic heating applications still utilizing coal.

• Wood fibre for the plant would be in the order of 148,000 m³ and would be provided from the proposed cutting permits as well as the purchase of fibre from existing forest operators situated on the Northern Peninsula.

• The total capital cost of the proposed plant is in the order of $19.7 Million CAD with all funding for this project provided by external investors associated with AEG.

• Approximately 25 full time positions will be associated with the operation of the plant, with an additional 30-50 in the harvesting and trucking operations.

• Construction is expected to take nine months with full plant production and harvest levels achieved by year three.
• TIL(NL) has identified the residential heating market in Poland for its primary offtake market (COBANT is the identified purchaser for all pellet production). The coal industry in Poland is large and there are a vast number of households who utilize coal for heating and cooking. There is a substantial pressure from the European Union for Poland to reduce its reliance on coal and as such many energy providers are provided with an incentive to blend wood pellets with coal for residential use.

• TIL(NL) has requested that FLR allow 75% of their permit volume be directed towards the plant production. Saw logs sales will be encouraged where economics make sense, but in lieu of no large scale sawmill in the area, TIL(NL) will use all available fibre in their process.

• Due to current limited markets for saw logs and pulpwood, the total commercial harvest of fibre on the Northern Peninsula is underutilized and has been limited to 30% of the total annual allowable cut (AAC) for the past 10 years. With no outlet for fibre, the industry has stagnated.

Analysis:

• There is sufficient volume in FMD 17 and 18 to support a wood pellet plant. All proposed harvesting areas are included in the five year plan (2018-2022) and several areas are have accessible roads to facilitate immediate harvest.

• Holson Forest Products Limited (HFPL) have indicated they are working with investors as well as TIL(NL) in trying to restart the sawmill in Roddickton, offering a potential market for saw logs. If HFPL does not become operational again, then the saw logs will be available to other sawmills.

• There has been no proposals or ideas from the current local sawmilling sector in regards to utilization of the resource on the Northern Peninsula or interest in participating in re-start of the sawmill in Roddickton.

• The current sole existing sawmill on the Northern Peninsula – Coates Lumber – has been consulted and they support this proposal by AEG. Coates Lumber will have an opportunity to purchase logs and an outlet for their small diameter wood.
• TIL(NL) has provided a letter confirming that there is no request now or at any time in the future to GNL for any form of financial assistance towards infrastructure, potential upgrades to shipping port facilities or other wharf facilities.

• The Business Analysis Division of TCII have reviewed this request independently of any previous requests from AEG and state:
  - TCII does not have sufficient information to comment on the viability of the project.
  - Based on the last public information available at December 31, 2017, AEG had accumulated losses of US $35.95 million, an equity deficit of US $2.5 million and working capital of only US $140,000.
  - TCII notes that AEG claims to have investors for the entire $19.7M cost.

• The current Cutting Permit Allocation Policy provides for 5 year permits, subject to the following conditions:
  - Only available to existing permit holders who harvest between 5000m³ and 50,000m³.
  - Only available to existing harvesters who have a demonstrated history of harvesting their allocations.
  - Allocated in Districts which have sufficient resources.
  - Must be within the 5 year plan
  - Must harvest at least 25% of volume by half way point, failing this, the company will lose their permit allocation.
  - If they harvest 25 to 40 percent, the permit volume will be scaled back to the actual annual harvested amount.
  - If they harvest 40 percent or more, the permit holder will retain the volume of the original 5 year permit.
  - Any circumstance beyond the control of the permit holder that prevents attaining the production threshold will be addressed in writing.

• The Cutting Permit Allocation Policy does not address a new entrant who constructing and operating a timber processing facility in the province. This provision will need to be added to the current policy, to facilitate the issuance of the AEG 5 year permits.

• TIL(NL) has committed to make 25% of the saw logs directed toward saw log sales. This will be required to be a condition of the 5 year permit issued by FLR.

• It is noted that the two five year commercial permits are part of the approved five year operating plan on the Northern Peninsula.
Alternatives:
1. Award two five year commercial cutting permits totaling 100,000 m³ derived from forest management districts 17 and 18 to TIL(NL) and amend the current Cutting Permit Allocation Policy. (Recommended)
   - **Advantages**
     - Provides the necessary long term fibre security to establish a 74,000 tonne per year wood pellet plant in Hawkes Bay.
     - Restarts the forest sector on the Northern Peninsula and provides much need employment throughout FMD 17 and 18.
     - Provides an outlet for small diameter trees as well as use of existing saw mill residue piles.
     - Increases the availability of saw logs for potential market consumption.
     - Provides opportunities for synergies with the idled sawmill in Roddickton.
     - Issuance of the 5 year permits will be in compliance with the Cutting Permit Allocation Policy.
   - **Disadvantages**

2. Do not award a five year permit to TIL(NL) in Forest Management Districts 17 and 18.
   - **Advantages**
   - **Disadvantages**

**Prepared/Approved by:**
E. Young/ G. Forward/ C. Carroll/ S. Balsom/ L. Companion

**Ministerial Approval:**
November 16, 2018
Information Note  
Department of Fisheries and Land Resources

Title: Providing authority to harvest under two five year Commercial Cutting Permits to Timberlands International Limited Newfoundland and Labrador (TIL(NL)).

Issue: To provide an update on new forestry activity on the Northern Peninsula by TIL(NL), a subsidiary of Active Energy Group. This note has been prepared at the request of the Minister of Fisheries and Land Resources.

Background and Current Status:
• TIL(NL), a subsidiary company of Active Energy Group (AEG) Plc., applied to FLR for a five year cutting permit in FMD 17 (65,000m³ annually) and a five year cutting permit in FMD 18 (35,000m³ annually) in support of their proposed wood pellet plant in Hawkes Bay.

• Under the Forestry Act, the minister, or a forestry official, may issue a cutting permit to a person to cut timber on or remove timber from Crown lands or public lands.

• The proposed pellet plant would produce 74,000 metric tonnes of CoalSwitch wood pellets for export to Poland through the local port. CoalSwitch is a patented product used to replace coal in coal fired electrical facilities and in domestic heating applications still utilizing coal.

• Wood fibre for the plant is in the order of 148,000 m³ and will be provided from the proposed cutting permits as well as the purchase of fibre from existing forest operators situated on the Northern Peninsula. The total capital cost of the proposed plant is in the order of $19.7 Million CAD with all funding for this project provided by external investors associated with AEG.

• Approximately 25 full time positions will be associated with the operation of the plant, with an additional 30-50 in the harvesting and trucking operations. Construction is expected to take nine months, with full plant production and harvest levels achieved by year three.

• TIL(NL) has identified the residential heating market in Poland for its primary offtake market (COBANT is the identified purchaser for all pellet production). The coal industry in Poland is large and there are a vast number of households who utilize coal for heating and cooking. There is a substantial pressure from the European Union for Poland to reduce its reliance on coal and as such many energy providers are provided with an incentive to blend wood pellets with coal for residential use.

• TIL(NL)'s request is that FLR allow 75% of their permit volume be directed towards the plant production. Should TIL(NL) not be able to sell the remaining 25% to existing sawmill operators on the island, TIL(NL) will use all available fibre in their process.

• Due to current limited markets for saw logs and pulpwood, the total commercial harvest of fibre on the Northern Peninsula is underutilized and has been limited to 30% of the total annual allowable cut (AAC) for the past 10 years. With no outlet for fibre, the industry has stagnated.
Analysis:

- There is sufficient volume in FMD 17 and 18 to support a wood pellet plant. All proposed harvesting areas are included in the five year plan (2018-2022) and several areas are have accessible roads to facilitate immediate harvest.

- Holson Forest Products Limited (HFPL) have indicated they are working with investors as well as TIL(NL) in trying to restart the sawmill in Roddickton, offering a potential market for saw logs. If HFPL does not become operational again, then the saw logs will be available to other sawmills.

- There has been no proposals or ideas from the current local sawmilling sector to utilize the resource on the Northern Peninsula or interest in participating in re-start of the sawmill in Roddickton.

- The current sole existing sawmill on the Northern Peninsula – Coates Lumber – has been consulted and they support the proposal by AEG. Coates Lumber will have an opportunity to purchase logs and have an outlet for their small diameter wood.

- TIL(NL) has provided a letter confirming that there is no request now or at any time in the future to GNL for any form of financial assistance towards infrastructure, potential upgrades to shipping port facilities or other wharf facilities.

- The Business Analysis Division of TCII have reviewed this request independent of any previous requests from AEG and advise

- The current Cutting Permit Allocation Policy provides for 5 year permits, subject to the following conditions:
• Only available to existing permit holders who harvest between 5000m³ and 50,000m³.
• Only available to existing harvesters who have a demonstrated history of harvesting their allocations.
• Allocated in Districts which have sufficient resources.
• Must be within the 5 year plan.
• Must harvest at least 25% of volume by half way point, failing this, the company will lose their permit allocation.
• If they harvest 25 to 40 percent, the permit volume will be scaled back to the actual annual harvested amount.
• If they harvest 40 percent or more, the permit holder will retain the volume of the original 5 year permit.
• Any circumstance beyond the control of the permit holder that prevents attaining the production threshold will be addressed in writing.

- The Cutting Permit Allocation Policy does not address a new entrant constructing and operating a timber processing facility in the province. This provision will be added to the current policy, to facilitate the issuance of the TIL(NL) 5 year permit.

- TIL(NL) will be required to make 25% of the saw logs directed toward saw log sales as a condition of the 5 year permit. There will not be any ability to accommodate any new entrant requests into these districts upon issuance of the five year permits.

Action being taken:

- FLR will notify TIL(NL) of the intent to award two five year Commercial Cutting Permits totaling 100,000 cubic meters (m³) (65,000m³ in Forest Management District (FMD) 17, and 35,000m³ in FMD 18) to TIL(NL) in support of a wood pellet plant to be established in Hawkes Bay, NL. A condition of AEG 5 year permits be that 25% of the harvest be available for first right of refusal to commercial sawmills.

- FLR will amend the Cutting Allocation Policy to provide that a 5 year cutting permit may also be issued to a person who is constructing and operating a timber processing facility, in addition to the current conditions.

- FLR is developing communications material related to this project.

Prepare/Approved by: E. Young/S. Balsom/L. Companion
Ministerial Approval: Received from the Honourable Gerry Byrne
November 16, 2018

Sec 30 (1)(a)
Sec 29 (1)(a)

It is noted that the two five year commercial permits are part of the approved five year operating plan on the Northern Peninsula.