

## MONTHLY CONSULTATION NEWSLETTER: TOBIQUE FIRST NATION



### COMMUNITY EVENTS

There will be a community meeting on Saturday, February 6<sup>th</sup> from 1 pm to 4 pm at the Mah-Sos School.

The session will include members of Han Martin Associates Inc., who have been hired to help the 6 Wolastoqiyik communities develop the Wolastoqiyik Consultation Protocol.

Members are encouraged to attend the meeting, so they can provide input to help develop consultation protocols for the Maliseet communities.

The protocol is being developed in response to the future developments of the Mactaquac Generating Station, in which NB Power is exploring 3 options for the current Mactaquac Dam: (1) repowering station, (2) retain the Head Pond and (3) river restoration (for more information see: <http://www.mactaquac.ca/>).

However, although the protocol is being developed in response to Mactaquac, it is hoped that the protocols developed through these sessions will help guide future discussions; especially in relation to internal protocols (i.e., how the Maliseet communities work together on future projects).



Lunch will be provided, as well as door prizes (2 x \$50 gift cards).

Hope to see you there!

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### WHO ARE THE OTHER RESOURCE DEVELOPMENT CONSULTATION COORDINATORS?

Each of the Maliseet communities now has a consultation coordinator, they include:

- Russ Letica—Madawaska Maliseet First Nation
- Amanda McIntosh—Woodstock First Nation
- Sydney Paul—Kingsclear First Nation
- Shlya O'Donnell/Megan Fullarton—Saint Mary's First Nation
- Fred Sabattis—Oromocto First Nation

Although, we have only been working together for short while, I'm pleased to say that we have been collaborating well and using our different strengths to work as a team!

## THE PROPOSED SISSON PROJECT—UPDATE

On January 8th, 2016, Dominique Nouvet (the Maliseet's legal counsel on the project) and Sarah Hechtenthal (Lead Science Advisor) met with Chief and Council to discuss the proposed Sisson Project. Both also attended a community meeting on January 14th, 2016 at the Bingo Hall.

Sarah's presentation focused on key concerns related to the project including:

- Discharge water from the water treatment plant to Sisson Brook may still have several contaminants that will exceed water quality guidelines for drinking water and aquatic health.
- There will be seepage from the Tailings Storage Facility into groundwater. The seepage would equal a 22% loss during operations and 33% loss during closure.
- There will be a direct loss of fish habitat for Bird Brook, Sisson Brook, McBean Brook and a tributary of the West Branch of Napadogan Brook (a Fish Habitat Offset Plan would have to be developed).
- The mine will result in an altered landscape and the tailings will need to be stored underwater to reduce the risk of acid and metals leaching.



Picture shows the conceptual model of the mine at Year 5.

Sarah also discussed the Environmental Assessment Approval Conditions released by the provincial government.

- 10% of the 40 EA Approval Conditions specifically mention First Nation involvement, e.g., Condition 29 (j) "Adaptive monitoring programs must be developed that compare monitoring results to predicted values, as well track changes in data over time. These programs are to be developed in consultation with First Nations, stakeholders and appropriate regulatory agencies."

A copy of Sarah's presentation will be posted on the community website and her report can be provided upon request (webpage address: <http://www.tobiquefirstnation.ca/communityEngagement.html>)

Dominique (Woodward and Company LLP) presented the Maliseet's legal options in regards to the proposed mine development. She also discussed the progress of accommodation negotiations with the province, including: a training and employment strategy, a mining accident/malfunction compensation fund, revenue-sharing on mine profits and the protection of other lands in Maliseet Territory from future development.

It should be noted that the federal government has not made a decision on the proposed mine. They are expected to release their draft Comprehensive Study Review (CSR) in early February and make a decision by late July/early August 2016.



## The Proposed Energy East Project -Update



Figure taken from Energy East Pipeline website (not a finalized version)  
Green routes indicate proposed new construction

On January 8, 2016, Chief and Council passed a Band Council Resolution (BCR) allowing Tobique to be involved in a Communications and Engagement Funding Agreement (CEFA) with Energy East Pipeline Ltd (EEP).

Signing the CEFA does not mean consent for the project.

The CEFA establishes a framework for information sharing and communication between the Maliseet and Energy East to identify potential impacts of the project and possible ways of preventing or minimizing the impacts. All 6 Maliseet communities have now signed BCRs allowing them to enter the CEFA with EEP.

The CEFA provides community funding for a Traditional Land Use (TLU) study (currently underway), community engagement (funding for meetings etc), technical working groups, scientific review of environmental documents, legal fees and general administrative costs associated with the work plan.

Tobique is represented by Renee Pelletier and Gillian Paul (Olthuis Kleer Townshend LLP) on this project. We are hoping to bring our legal counsel in the community within the coming weeks to discuss the CEFA, the TLU and the National Energy Board (NEB) process. *Community notices will be posted once the date is set.*

On January 14, 2016, EEP hosted an information session on the 2015 Archaeology Field Program. The program was conducted at the proposed Marine Terminal Complex (Saint John), Young's Cove and Grande Riviere. A total of 10 Indigenous technicians, 6 Indigenous observers and 1 Indigenous archaeologist were involved in the 2015 program. The Indigenous observers and archaeologist also presented on the program and stated that it was important to bring Indigenous archaeology to the program because "Indigenous people have a right, to re-examine archaeology through Indigenous eyes" and "we have to define what our roles are going to be in collecting and transmitting the knowledge of the ancestors." A preliminary discussion of the 2016 field program was also presented, which is expected to start in Spring.

Presentations will be posted on the community website: [www.tobiquefirstnation.ca](http://www.tobiquefirstnation.ca)

## THE NATIONAL ENERGY BOARD

The National Energy Board (NEB) represents the Crown on the proposed Energy East Pipeline project, as they are responsible for regulating:

“The construction, operation, and abandonment of pipelines that cross international borders or provincial boundaries, as well as the associated pipeline tolls and tariffs” (NEB website: <https://www.neb-one.gc.ca/bts/whwr/index-eng.html>).

Tobique First Nation has applied for, and is now listed as an “Aboriginal Intervenor” for the Energy East project, as we would be directly affected by the project (Appendix II, List of Aboriginal Intervenor, 03 December 2015). Intervenor status is the most involved level of participation in the NEB hearings. As an Intervenor, Tobique has the right to receive all documents filed during the hearing process.

Additionally, intervenors can provide written evidence, question others written evidence, cross-examine other witnesses at the oral portion of the hearing and give a final argument. First Nation intervenors can also provide oral traditional evidence.



Recently, the federal government announced that changes will be made on how pipeline projects are assessed. The new interim environmental assessment process includes:

- Decisions will be based on science, traditional knowledge of Indigenous peoples and other relevant evidence;
- The views of the public and affected communities will be sought and considered;
- Indigenous peoples will be meaningfully consulted, and where appropriate, impacts on their rights and interests will be accommodated; and
- Direct and upstream greenhouse gas emissions linked to the projects under review will be assessed.

(Natural Resources Canada)

The proposed Energy East Pipeline project will not have to restart its process based on the new principles, but “the new process will be separate from the existing NEB, and take place after the regulator has completed its review of the proposed projects” (CBC News, Pipeline projects to face new environmental regulations, January 27, 2016, <http://www.cbc.ca/news/politics/environmental-regulations-pipelines-1.3422129>).

For more information on the proposed projects please visit the website:  
<http://www.tobiquefirstnation.ca/communityEngagement.html>

Or contact Deana Sappier at:  
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