

# MONTHLY CONSULTATION NEWSLETTER: TOBIQUE FIRST NATION



## COMMUNITY EVENTS

There will be a community meeting on March 3rd (5 pm) at the Mah-Sos School.

Our legal counsel (Renee Pelletier) for the proposed Energy East Pipeline (EEP) project will be in Tobique on March 3rd, 2016, to present on:

- The Communications and Engagement Funding Agreement (CEFA);
- The Traditional Use (TU) Study; and
- The National Energy Board (NEB) Process.

Renee is the managing partner at Olthuis Kleer Townshend LLP (OKT) and is of Maliseet ancestry.

Her practice includes work on Aboriginal and treaty rights litigation and specific claims.

More information on OKT can be found at: <http://www.oktlaw.com/>



Dinner and refreshments will be provided.

Chance to win door prizes (2 x \$50 gift cards).

Hope to see you there!

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#### *What is the CEFA?*

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.

Signing the CEFA does not mean consent for the project.

#### *What is a Traditional Use study?*

A TU study documents "living memory" and present-day traditional use of land by First Nations. It details the use of the environment, including knowledge about past and current use of the environment and documents historical matters (e.g., hunting restrictions) that affected traditional use and rights.

#### *Who is the National Energy Board?*

The National Energy Board (NEB) represents the Crown on the proposed Energy East Pipeline project as they regulate pipelines that cross international borders or provincial boundaries.

## THE PROPOSED SISSON PROJECT—UPDATE

The federal government (Canadian Environmental Assessment Agency or "CEAA") released their draft Comprehensive Study Review (CSR) to the Maliseet, Mi'gmaq and the proponent (The Sisson Partnership) on February 3, 2016. The draft CSR does not yet include a significance determination on the project. The decision will likely come in late July or early August 2016. The project can not go through without federal approval (the provincial approval was granted in December 2015, subject to 40 conditions).

The release of the draft CSR started the 21 day review period for comments by First Nations. On February 24, 2016, the Maliseet communities responded with their comments (prepared by MSES) which included comments on:

- Use of land by Aboriginal peoples—the Maliseet have commented that the federal government should recognize in the CSR that the Sisson Project would result in significant adverse environmental effects on the current use of lands and resources for traditional purposes, and that this project in combination with other activities (cumulative effects) are also likely to be significant.
- Heritage resources—the Maliseet report states that the CSR should recognize that excavation of sites is not considered adequate mitigation from the Maliseet perspective.
- The uncertainty associated with the effectiveness of mitigation— one example is that baseline data (pre-construction data) is still needed to reduce uncertainty associated with assessing the total tailings pond seepage loss.
- The uncertainty associated with adaptive management plans— for example, what would the Sisson Partnership do should fish tissue monitoring indicate high metal concentrations?
- The ambiguity in the Government of New Brunswick's Environmental Impact Assessment (EIA) Approval Conditions—10% of the EIA Approval Conditions have First Nation involvement, but there is the potential for differences in interpretation (i.e., what the Maliseet believe is meaningful involvement vs. what the proponent thinks).

Any members who wish to have the full report titled "Review of the Draft Federal Comprehensive Study Report Prepared by CEAA for the Sisson Mine Project" (MSES, January 2016), should contact Deana Sappier at (506) 273—5544 or [deana.sappier@tobiquefirstnation.ca](mailto:deana.sappier@tobiquefirstnation.ca). Additionally, the draft CSR can be sent to any members wishing to review it.



Picture shows the conceptual model of the mine at Year 27.



## The Proposed Energy East Project -Update



As mentioned on pg. 1, there will be a meeting with Tobique's legal counsel on the proposed Energy East Pipeline on March 3rd, 2016 (5 pm) at the Mah-Sos school.

In NB, there is 412 km of proposed new pipeline, 5 pump stations (Saint Leonard, Plaster Rock, Stanley, Cumberland Bay, Hampton), 1 tank terminal (Saint John, NB) and 1 marine terminal (Saint John, NB).

The proposed pipeline would cross a total of 961 waterways from Alberta to New Brunswick, and potentially 281 waterways would be crossed in New Brunswick. Those waterways include: Madawaska, Tobique, Canaan, the Kennebecasis—all of which are major tributaries of the St. John River.

TransCanada would like to present a general overview of the project in Tobique in early Spring. Flyers will be posted once a date is set.

## NB COMMISSION ON HYDRAULIC FRACTURING

On February 26, 2016, the final report of the NB Commission on Hydraulic Fracturing was released.

Volume 1 (The Findings), states that the "Government of New Brunswick needs to work with Indigenous leadership in New Brunswick to adopt a nation-to-nation consultation process for hydraulic fracturing" and that "Mi'gmaq and Maliseet (Wolastoqiyik) people told the Commission they don't want to talk about hydraulic fracturing until more work is done to improve the relationship between these two Indigenous nations and the Government of New Brunswick."

The commission says that New Brunswick has 5 options:

1. Implement a legislated ban on hydraulic fracturing;
2. Maintain the moratorium;
3. Maintain the moratorium until there is in place an enhanced regulatory system, an independent research and monitoring program and sufficient public support to proceed;
4. Remove the moratorium all or in part, with an enhanced regulatory system; or
5. Remove the moratorium with no changes to current regulations.

A CBC article released the same day said that "supporters and opponents of shale gas development are saying...extraction may never happen in New Brunswick" (<http://www.cbc.ca/news/canada/new-brunswick/shale-gas-fracking-moratorium-1.3466309>).



### Commission's final reports

The final report can be found at: <http://www.nbchf-cnbfh.ca/documents>

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

Or contact Deana Sappier at:  
Deana.Sappier@tobiquefirstnation.ca  
Office: 506-273-5544



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