

Mi'kmaq Communities and Non-indigenous Allies Uniting to Protect the Sipekne'katik River



Photo credit: Halifax Media Coop, 2014.

Mi'kmaq communities have known the Sipekne'katik River, also known as the Shubenacadie River, since time immemorial as their expressway, as a source of food and medicines, and as a significant part of the Mi'kmaq cultural identity.

Mi'kmaq communities and non-indigenous allies have been standing together to protect this river since 2014, when locals noticed mining equipment being trucked through their communities in the Stewiacke region of Mi'kma'ki (Nova Scotia). It turned out that Calgary based AltaGas had been quietly acquiring the approvals needed to proceed with a proposed underground natural gas storage project (Alton Gas) adjacent to the river since 2007. A provincial environmental assessment was completed in 2007 without meaningfully consulting Mi'kmaq communities and their non-indigenous neighbours.

The Alton Gas project will create two underground salt caverns through solution mining, each the size of an office building, in order to store natural gas. Flushing the caverns will create an enormous amount of salt brine wastewater, which Alton Gas is planning to dump into the Sipekne'katik River (Shubenacadie) estuary at a peak rate of between 1,400 and 3,000 tonnes of hard salt per day. Dumping salt brine wastewater into the Sipekne'katik River places the estuary ecosystem at risk. The potential adverse impacts to fish and other organisms living in the river, including endangered Atlantic salmon and Striped Bass, are not

clear. Some of these species may not be able to survive such high salinity levels. The estuary is a sensitive ecosystem that relies on a balance of fresh river water and tidal seawater, and the threshold of salinity tolerance for all organisms in the ecosystem is not well understood.

Any threat to an ecosystem is also a threat to the Indigenous and settler communities that rely on it for their health, livelihoods and cultural identity. The Alton Gas project undermines the inherent and treaty rights of Mi'kmaq peoples to access and use the Shubenacadie River for food, livelihood and ceremony. Further, once the caverns are created, there is a risk that these structures could leak, introducing methane into the water table and endangering the general safety of surrounding communities.

Before our government approves a project we believe it should meet certain basic societal expectations. We expect a full assessment of current and future environmental impacts; we expect free, prior, and informed consent to be given by affected communities; and we expect the approval process to be transparent to the public so that they can be fully informed of the project's development.

The Department of Environment issued final approvals to Alton Gas to proceed with the project in January 2016. The Sipekne'katik Band and others appealed that decision to the Minister who dismissed the appeals. This left the Sipekne'katik Band with one option, to appeal to the Nova Scotia Supreme Court (NSSC), which they did. The decision of Justice Hood of the NSSC was released in January 2017 with a finding that the decision of the Minister should be quashed because it was not procedurally fair in the circumstances. The judge found that the government treated the Band unfairly when they refused the band's request to review and respond to reports on the project.

A faulty approval process has forced the many voices that seek to protect the Sipekne'katik River to the courtrooms, the megaphone and to the riverside. Sipekne'katik and Millbrook First Nations, Mi'kmaq community members, local fishers, members of the Alton and Brentwood communities, and environmental groups like the Ecology Action Centre have been critical of the project and the approval process. While Sipekne'katik First Nation appealed the province's decision to approve the Alton Gas project at the Supreme Court of Nova Scotia, growing numbers of Mi'kmaq and non-indigenous allies have also vocally resisted the Alton Gas project at marches and public events, through social media, and by asserting the Peace and Friendship treaties along the Sipekne'katik River alongside the proposed Alton Gas brining site.

What if Nova Scotia had an Environmental Bill of Rights?

The approval process for the Alton Gas project was a failure in three key areas: consultation, environmental assessment, and transparency.

A key finding by Justice Hood in the appeal of the Minister's decision on Alton Gas by the Sipekne'katik First Nation was that the Band was not given an opportunity to review and comment on relevant information. The failure of government to share relevant information with concerned citizens, even those directly impacted by those decisions, is a common challenge faced by communities and environmental organizations.

The Environmental Bill of Rights includes a robust Environmental Rights Registry to include all information held by government that relates to the substantive and procedural environmental rights enshrined in the Act. Access to information is a key element of good government and good decision-making. Access to information and independent oversight lead to accountability.

The EBR provides independent oversight through the appointment of an independent Environmental Commissioner and an Environmental Tribunal. Both of these roles provide administrative avenues to address concerns and resolve them before matters end up in court.

The EBR also seeks to create better public engagement before a proposal goes forward. There is no doubt that the decision making process for Alton Gas fundamentally failed to engage with the communities impacted by the decision in a way that reflected a genuine commitment to addressing their concerns.

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