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Wolastoqiyik and Mi'kmaq Grandmothers - Land/Water Defenders Sharing and Learning Circle: Generating Knowledge for Action

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Wolastoqiyik and Mi'kmaq Grandmothers - Land/Water Defenders Sharing and Learning Circle: Generating Knowledge for Action

Report by
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In collaboration with
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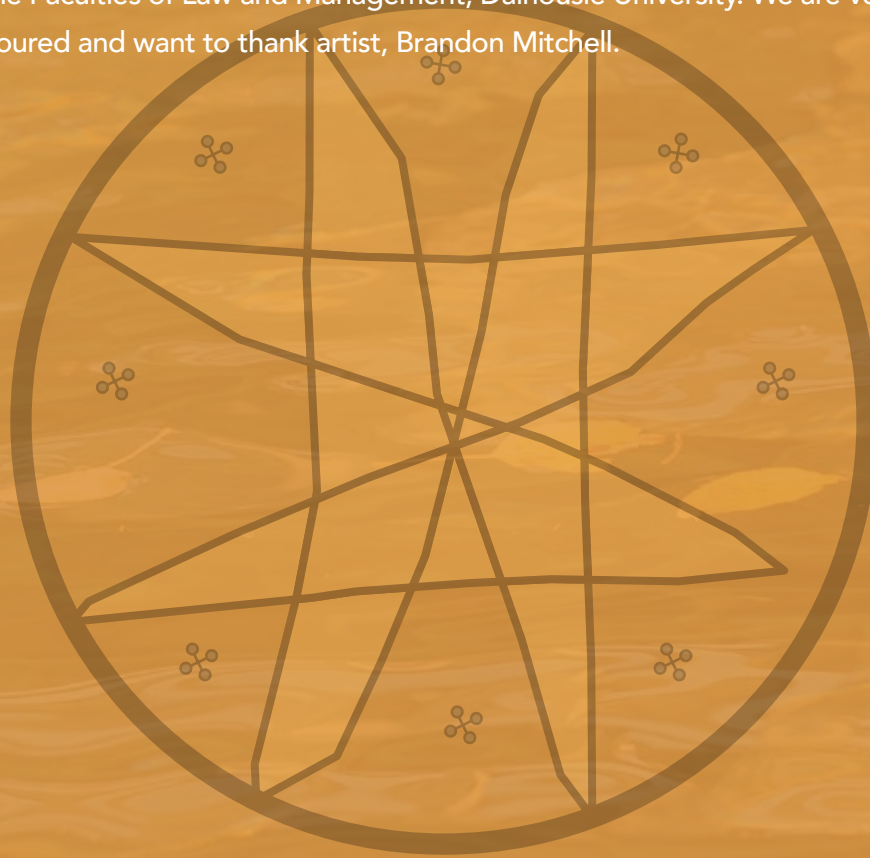


2021



Acknowledgements

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Introduction

The Wolastoqiyik¹ (People of the beautiful and bountiful river) and Mi'kmaq² (L'nu) People have been practicing their land-water based lifeways in the northeastern part of Turtle Island (Atlantic Provinces) for 12,000 to 13,000 thousand years. Central to their ancestral homelands are vital river systems that were key mobile waterways for accessing food, enabling trade, and communicating with allies as indicated by the formation of the Wabanaki Confederacy (Dawn People or People of the Dawn) by the Wolastoqiyik and Mi'kmaq along with the Passamaquoddy, Abenaki, and Penobscot people. The Wolastoq (River), known today as the Saint John River and its water systems in New Brunswick (NB), served the Wolastoqiyik People (hence: the name) and their allies. In Nova Scotia (NS), the Sipekne'katik River (Sipekne'katik translates as the area of the wild potato or groundnut), known as the Shubenacadie River system, connects the seven Mi'kmaw fishing and hunting districts that comprised the Grand Council governance system throughout the Atlantic, and their allies.

Post – European contact, Wabanaki members became signatories to a Covenant Chain of Peace and Friendship Treaties from 1725-1779 marking a mutual treaty relationship between Wabanaki members and the “Crown”. There was no surrender of land or waterways including the oceans that continue to serve as sources of food and livelihood. Though the treaties were for the most part ignored and violated by (pre- and post-confederation) governments, the James Mathew Simon (from Sipekne'katik) Supreme Court of Canada (SCC) case upheld a 1752 Peace and Friendship Treaty right to hunt for food in 1985 (Simon v. The Queen, 1985 SCC). The 1752 Treaty was upheld again in 1990 with the David Denny, Lawrence Paul (both from Eskasoni) and Thomas Sylliboy (from Paqtnkek) case (NS Supreme Court) in 1990 with the right to fish for food (R. v. Denny, 1990). Then in 1999 the Donald Marshall Jr. (from Membertou) SCC Case upholding a treaty right to fish for livelihood based on the 1760 and 1761 Peace and Friendship Treaties (R. v. Marshall 1999, No. 1 & No. 2) became a watershed moment for triggering negotiations for implementing treaty rights with the federal government. Since then, however, treaty negotiations processes have become mired in legal and bureaucratic processes for consultation stemming from a legal obligation for governments to consult on issues and development projects that may hinder treaty and Indigenous rights propelled by another SCC case, the 1997 Delgamuukw case (Delgamuukw v. British Columbia, 1997).

It is important to point out, that while Mi'kmaq and Wolastoqiyik Treaty Rights are based on the Peace and Friendship Treaties, there are also Indigenous (Aboriginal) Rights to Title as demonstrated by the

1 Wolastoq translates into the “beautiful and bountiful river”; Wolastoqew or Wolastoqewi refers to singular “Person of the Beautiful and Bountiful River.” Wolastoqiyik or Wolastoqiyik - plural “People of the Beautiful and Bountiful River”. Wolastoqewi Grand Chief spasaqsit possesom - Ron Tremblay (Personal Communication 8, Sept. 2020).

2 Mi'kmaq (plural) and Mi'kmaw (singular) meaning L'nu (the people).

3 Aboriginal Title is a legal term based on proof of pre-contact land usage. Both Treaty and Aboriginal Rights are protected by Section 35 of the 1982 Canada Constitution. The Wet'suwet'en Hereditary Chiefs were instrumental in winning the Delgamuukw case based on title (see Pasternak 2020).



Wet'suwet'en Hereditary Chiefs that informed the Delgamuukw Decision in British Columbia.³ However, most consultation processes about treaty and title are state and corporate driven and limited to Chief and Councils as prescribed by the Indian Act, often excluding their constituencies or the grassroots people. Moreover, various forms of agreements are often concluded with Chiefs and Councils and used by governments as an indication of consent, giving the impression that that environmental issues are being addressed. Yet these agreements are mostly with companies or corporations and the true environmental impacts are often buried beneath governmental mitigation or monitoring processes. Thus when it was discovered that a proposed open-pit tungsten and molybdenum mine known as the Sisson Mine in NB and the Alton Gas Project (extracting salt caverns to store natural gas) on the Shubenacadie River in NS stood to threaten critical land and water systems, Wolastoqiyik and Mi'kmaq Women known as the "Grandmothers" or "Defenders" came to the forefront to protect these systems central to their food and lifeways—and they have been defending their ancestral homelands and waterways against these development projects ever since.

Wolastoqiyik Grandmothers/Defenders against the Sisson Mine (NB) and Mi'kmaq Grandmothers against the Alton Gas project (NS) came together to share stories about their experiences at a sharing-learning circle as part of a research project, "Indigenous Grandmothers Sharing and Learning Circle: Generating Knowledge for Action," that took place at the Tatamagouche Centre in Nova Scotia January 26-27, 2020.

They shared their experiences, challenges, successes, and strategies for building capacity toward transforming legislation and policies to take into account the impacts of resource extraction on gender. Moreover, they shared strategies for asserting Indigenous approaches to governance and decision-making systems. The learning-sharing circle was deeply guided by ceremony and storied practice about all of our relations (human and all of Creation) or "All of our Relations"— M'sit No'kmaq (Mi'kmaw) and Psi-te ntolonapemok (Wolastoqiyik).

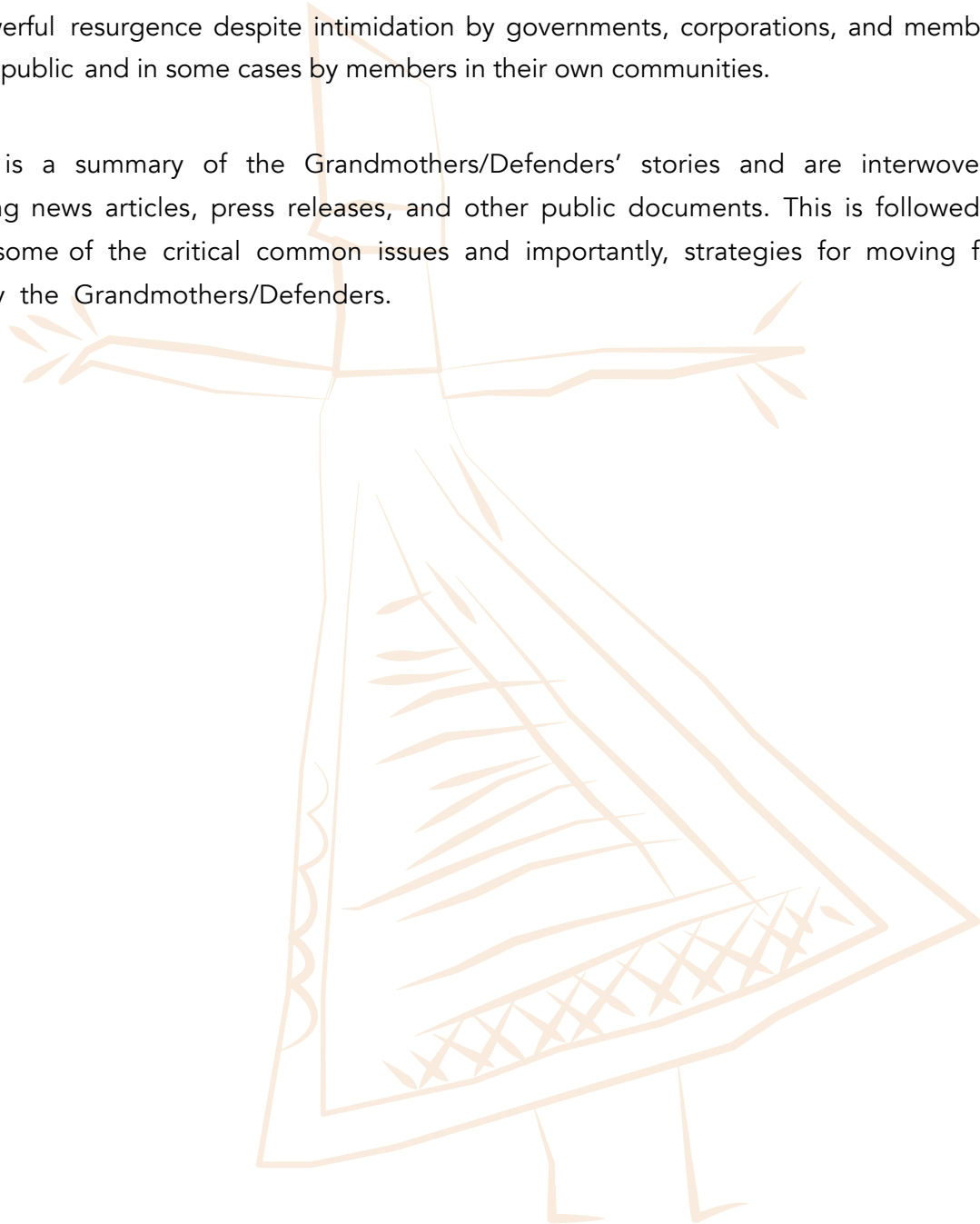
While the two land and water defense stories of the Wolastoqiyik and Mi'kmaq Grandmothers are somewhat different, collectively some key messages emerge exposing how:

- there is an overriding pattern of collusion by governments and corporations to advance development projects that undermine Indigenous self-determination and treaty rights through various forms of coercion.
- governance structures imposed through the Indian Act are very colonial and patriarchal and ignore how resource projects negotiated through treaty and land claim processes can impact Indigenous women in vary discriminatory and violent ways. Yet just as important, the Grandmothers/Defenders' stories reveal:



- how Indigenous laws, knowledge, ceremony and treaty rights are central in informing strategies for protecting the land, water and all our relations (human and non-human).
- enacting treaty rights through grassroots leadership by women demonstrates a powerful resurgence despite intimidation by governments, corporations, and members of the public and in some cases by members in their own communities.

This report is a summary of the Grandmothers/Defenders' stories and are interwoven with corresponding news articles, press releases, and other public documents. This is followed by an overview of some of the critical common issues and importantly, strategies for moving forward proposed by the Grandmothers/Defenders.



The Wolastoqiyik Grandmothers and the Sisson Mine

In 2008 Geodex Minerals⁴ notified the Province of New Brunswick (NB) of their intention to develop an open-pit tungsten and molybdenum mining operation (Noble 2016; Sisson Partnership 2021) on the traditional and unceded territory of the Wolastoqiyik people. The location of the proposed mine is approximately sixty kilometres northwest of Fredericton in the Napadogon Brook watershed, which is part of the greater upper Nashwaak River watershed (Government of NB Final Environmental Impact Assessment Report). The Nashwaak river is an important tributary for the Wolastoq River (Saint John River).

The proposed project was required to undergo both provincial and federal environmental assessment processes, including an independent panel review mandated under NB's Environmental Impact Assessment (EIA) regulations and a transitional comprehensive study under the 1992 Canadian Environmental Assessment Act. However, questions were raised about consultation

and the process of notifying rights holders. Two Wolastoqiyik grandmothers explain how they found out about the proposed mine, when working together (2014 or earlier, also see NB Environmental Network):

We immediately went after Federal and Provincial Government. They cannot transfer responsibility to a third party. They have a fiduciary responsibility to consult.

Wolastoqew participant #1: We were invited to an EA [Environmental Assessment] webinar about brooks and offsetting as part of the mine design and EA; they were talking about destroying two major brooks that hold fry (baby salmon). Where is the consultation and why are we just learning about this now? Why weren't we notified before the EA started?

When I raised concerns, Ottawa got concerned because there had been no consultation. Despite the Duty to Consult.

We found out the provincial government had transferred the responsibility for consultation to the Chiefs' organizations. At the time it was AFNCNB chiefs (Assembly of First Nations' Chiefs in New Brunswick.)

We immediately went after Federal and Provincial Government. They cannot transfer responsibility to a third party. They have a fiduciary responsibility to consult.

⁴ In 2010, Northcliff Resources signed an agreement with Geodex, and in 2013, Todd Corporation of NZ became a financing partner. The current "Sisson Partnership," responsible for this proposal is owned by Northcliff Resources (Vancouver) and Todd Minerals (New Zealand).



Being on the frontlines, I see a lot. I see a lot of mistakes. I study people. When I'm on the frontlines, I watch, think, before I act. We were very strategic. We waited until the election. We had to meet with all the deputy ministers that were involved with the project. All were called into a room. We had this meeting and we had them map out their process. Their mistake was issuing permits before consultation. We decided to challenge that because we have underlying title. Can't transfer it away. Then we looked at the consultation process and challenged them on it.

That was all before we went out on the land. We let them do their EIA. Their archaeology. That was as far as we let them go. We stopped everything after that and built the camp.

The provincial and federal processes were harmonized⁵—although the federal environmental impact process did not officially begin until April 2011 (CEAA July 23, 2013). One issue (of many) identified with the EIA process was the archaeology study and missing artifacts (also see CBC March 24, 2015).

Wolastoqew participant #1: [referring to Wolastoqew participant # 2] was invited to a meeting... discovered they were taking artifacts. Artifacts were disappearing. Recorded by technicians, but they [the artifacts] weren't getting to where they need to go.

Wolastoqew participant #2: So, I got home from this meeting, and wrote down issues and gave them to Wolastoqew participant #1. She calls government and says I want to discuss.

Wolastoqew participant #2: That's when they formed the SPAAG... [Sisson Project Archaeological Advisory Group, an advisory group comprised of government and First Nations representatives, fraught with disfunction (AFNCNB, 2015)]

Wolastoqew participant #2: Even though there was a bad history with Stantec, the province did a lot of work to get the archaeology back into their own hands.

Sherry Pictou (S.P.): They took these pieces and they disappeared?

Wolastoqew participant #2: 8000 years for [one] particular piece...

Even though there was a bad history with Stantec, the province did a lot of work to get the archaeology back into their own hands.

⁵ The 'harmonized' term refers to a type of Environmental Assessment where both provincial and federal governments are required to conduct, but rather than do them separately, some of the steps were taken jointly. However, after receiving public feedback, each government came up with their own separate decisions.



Northcliff Resources submitted its environmental impact statement to the province of NB in July of 2013. The technical review committee, a committee of the New Brunswick Department of Environment and Local Government required additional information, and a final environmental impact statement was received in March 2015 (NB of Environment and Local Government 2015). Stantec prepared the environmental assessment on the proponent's behalf.

We said NO, they won't make the decision for us.

After the final EIA report was received in March 2015, the provincial government released it to the public on April 16, 2015 and announced a ninety-day period for public feedback. In addition to written submissions, a public meeting was held in Stanley on June 26, 2015, facilitated by the independent panel review board. Over 300 people attended the meeting in Stanley (Ibid.). On-reserve community meetings were held from May to late June in Madawaska, Elsipogtog, Tobique, Saint Mary's and Woodstock, with a range of 20-40 attendees per meeting. In written submissions to the expert review panel and the environmental impact assessment, mothers and grandmothers from Tobique, several band council chiefs and the *Wolastoqiyik* Grand Council expressed opposition to the project and concerns about inadequate consultation.

The independent panel review board submitted their final report to the province in late 2015. In December 2015, the Minister of Environment and Local Government announced that the EIA was approved provincially, subject to forty conditions and federal approval.

In 2016, the Sisson Partnership and Woodstock First Nation negotiated an Impact and Benefit Agreement (IBA) for the mine project. On January 9, 2017, Woodstock First Nation held a referendum on the Impact and Benefit Agreement.

Wolastoqew participant #3: It's when they divided the Maliseets and got Woodstock to go out on a vote. They put out the notice right after someone who died in the community...the day [of] the vote. People in [the] community didn't even know the vote was happening...

Wolastoqew participant #1: That happened.... News went out about Woodstock's referendum [vote]. Tobique women immediately stood up and said, they're one of the smallest communities, they're not making this decision for the nation. They went to Woodstock because they considered it to be the closest to the mine as the crow flies.

Wolastoqew participant #1: We said NO, they won't make the decision for us. We use it, too. Government was going around hiring our own people to work in the mine. Then we said no, we'll tell our children to go home. And that's what we did.



In February 2017, all six of the Wolastoqiyik chiefs signed an agreement with the province about the mine, which was referred to by the province as an “accommodation agreement” and part of the “duty to consult” (Poitras, 2017). Several chiefs continued to say that this did not indicate support for the mine. Instead, they say that they were threatened with the removal of tax deals with the province, revenues that the bands rely on for programs and services for their community members, as described here:

Wolastoqew participant #1: Province of NB was holding back the gaming and tobacco tax unless they signed the accommodation. Bribery. Extortion. Though we proved in Court in the early 90s that you could run a Casino without their [provincial government] permission. You don't have to get a gaming license. You can sell cigarettes and gas. So, it isn't illegal... They were holding those [agreements] over Chiefs.

Wolastoqew participant #3: Divide and conquer.

Following the meeting between the Chiefs and the province, Patricia Bernard, the Chief of Madawaska Maliseet First Nation said: “The province wanted the chiefs to sign off on Sisson and made it pretty clear that if the Sisson agreements are not signed, they would not sign tax agreements with the First Nations” (Ibid). In response to the CBC article, five of the six chiefs submitted a statement of clarification about the agreement, stating the following: “For most of the Maliseet communities, the Sisson Accommodation Agreement does not reflect comfort with or acceptance of the Mine. Rather, it reflects the hard reality of a Canadian legal system that, on its 150th birthday, remains fundamentally inadequate in respecting and meaningfully protecting our Treaty rights, Aboriginal rights, and Aboriginal title.” They also clarify the wider view of the mine in their communities: “to this day, most of the Maliseet communities and our members oppose the Sisson Mine.” At this point, and after engaging with established processes to no avail, Wolastoqiyik grandmothers and mothers with another community member, decided to set up camp on their ancestral territory, on the proposed site of the mine.

Province of NB was holding back the gaming and tobacco tax unless they signed the accommodation. Bribery. Extortion.

Wolastoqew participant #1: When they signed that we said you're not getting the message. We're going to have to go out on the land. First year [2016] we were on the ore body. Just to make a point. Next year we stayed up and it's been there ever since. Always somebody there. We have water rights, a well, full camps are warm...

Wolastoqew participant #2: We set up a longhouse and ceremony space on the ore body, where they found one of the stone tools....we want to stay close to that archaeology.



Wolastoqew participant #1: I started preparing myself to go out in the woods a year before.

Wolastoqew participant #3: Over \$500 a week in gas to keep warm (with a generator) ... 30 below...

Wolastoqew participant #1: I knew we weren't going to get the bodies out there. Just too hard. People don't want to do that anymore. So, we did a ceremony. We asked the universe, the weather, and birds, bugs, everything, "Help us?" Cause this would be a fight like no other fight.

We were scheduled to go up in May, I went up on June 1 [2017]. We were camped out on a helicopter pad.

The federal government issued a decision statement on the project on June 23, 2017 (CEAA 2017). The approval acknowledged that the project would "cause significant adverse environmental effects on the current use of lands and resources for traditional purposes by Maliseet [Wolastoqiyik] First Nations," and that "the Project, combined with other projects and activities, is likely to result in significant cumulative adverse environmental effects on the current use of lands and resources for traditional purposes by Maliseet First Nations." However, the federal government approved the EIA on the condition that the project would be referred to the Department of Fisheries and Oceans (DFO) and Department of Natural Resources (DNR), to determine if the environmental effects could be adequately mitigated and justified in the circumstances. On June 20, 2017 the decision from the responsible authorities said that despite the risks of the project, they "can be justified in the circumstances" (Ibid.) While government processes were continuing to facilitate the project's movement forward, the camp received support and donations from supporters and allies. As Wolastoqew participant # 1 states: "Our men were there too. When we need them, all we gotta do is ask." The women at the camp also engaged in a number of other strategies.

...let stakeholders know that there is an Indigenous occupation going on...

Wolastoqew participant # 1: The other thing we always did was keep an eye on their stocks. To let stakeholders know that there is an Indigenous occupation going on.... We would send emails to their stockholders. We women who were at the camp....

Wolastoqew participant #2: We had [a speaker from BC] out and got involved with MiningWatch to keep an eye on the company. That was a big help.

The women's stories also reveal how they received support at times from all of their relations or Psi'te ntolonapemok (All My Relations):



Wolastoqew participant #3: Any time we needed anything, we have been down and out, and you know the next day it was there.

Wolastoqew participant #1: We're up there, it's in June [2017]. Announcement came out that Catherine McKenna [Environment Canada Minister] approved the project. Passed on something to the fisheries minister. Because it was an infringement [to the Fisheries Act], they had to justify it. Transferred that to the fisheries minister. We...were talking. We were sitting around the campfire, talking about the decision. About how they transferred justification over to DFO. We're going to have to cut down the trees and block the roads so they can't get in. Next day, over coffee, the guys are like do you have a chainsaw? No...He goes, there are trees down...on the road. What?? The beavers had brought the trees down across the road!!

Participant #3 And when we needed rain, we were like in our own little bubble... we had our little ray of sunshine.

Participant #1: We are in the camper...we were on a helicopter pad [and received a call]. ... "Tornado heading your way." I said what? we're the only two up there how are we going to tie things down?...

Participant #3: We could see it coming

Participant #1: And then it just went around us.... it just split and went right round us.⁶

Wolastoqew participant #1: when they came up to do work, they put up their rain fall and wind measurement thingy...we were like, we could use that windmill to produce power. But we can't get around the electrical wire. I want to show you this...We didn't touch anything, but we noticed the animals took down the fence.

Wolastoqew participant #1: So, we left, further down, a platform, barrels filled with rocks. Tailings to test acidity. We found it all in the woods! Full of rocks. We left it. September, a bunch of youth from Tobique came up and they went up there. They come back with barrels! I'm like, how did you get the rocks out? They were all dumped out and just sitting there!!! We now use the barrels for greywater.

Wolastoqew participant #1: Finally, we were at the camp. We said, we need a lawyer. Gotta raise some money. We drove into Woodstock. Go check your Facebook...we got a lawyer!! We got 3!! A lawyer contacted me and said we'd like to represent you for free!!

⁶ See Quon, A. (2017).



It's also important to note that the mine is not the only industrial activity in the project area, and so the camp and land occupation were also serving to protect the forest.

It was about food security. It was about protecting the water.

Wolastoqew participant #2: this is when were still on the helicopter pad, wide open. Bear was often there to help us. He would sit behind them in the woods. Bear and her cub came with us when we moved.

Wolastoqew participant #1: we could hear development going on.... [Land defender's] son came up, and they went to see what they were doing. It's a pretty good road!! We go down and look at it. Frig, this would make a really good camp. Yup, we're moving. To where the camp is now. Monday morning, we're having our coffee. Here they all come. What's going on? We made a camp here. I know but we're scheduled to cut all these trees. Not today!

Wolastoqew participant #3: no cutting in the project area

Wolastoqew participant #1: We stopped their access. So, the boss came. And he's like, this is scheduled to be cut, we have a license to cut here. [I said], there will be no cutting in the project area.... You don't want to fight with us...or be caught in crosshairs.

Wolastoqew participant #3: Last year... forestry guy said to me.... they want us to cut the wood there. I said, you're not cutting that wood...He said, well...we don't want to have anything to do with that.

Wolastoqew participant #1: Project area now protected under Wolastoqiyik law. No activity taking place in this area.

Wolastoqew participant #2: They did threaten to spray this year.

Wolastoqew participant #1: It was about food security. It was about protecting the water. There is a lot of deforestation going on in NB right now.... If we don't have forest, we don't have animals, if we don't have animals, we don't have food....

Wolastoqew participant #3: Plus, they kept spraying for the berries...They were using these right big skidders with right big tanks on the back...They are taking out all of the other species [hardwood] of the trees and replacing with only Pine.



Wolastoqew participant #1: When we stopped the spraying, you wouldn't believe the amount of ladybugs. They eat the bugs that eat the trees. The universe was cleaning itself. For us.

S.P.: Spirituality, connection. If you call on those ancestors, they come.

However, not everyone supported the women. There were multiple stories about acts of violence and intimidation by non-Indigenous folks. Also, with an influx of male workers for resource companies, there is often an increase in violence against women, and in particular for Indigenous women (MMIWG 2019). In this case some of the violence and intimidation included the RCMP and men who were promised jobs.

Locals would hide in the woods and watch us.

Wolastoqew participant #3: [One of the women] was out there alone one day. They asked her if she was here alone. And she told them the men were all around, watching. Told them they had a gun, watching you.

Wolastoqew participant #1: Locals would hide in the woods and watch us. One day, there was a 69-year old older woman there with me. A whole bunch of 4 wheelers parked above us, sat there, drank their beer, and just sat and watched us. I told [her], don't worry, I've got my hatchet! Eventually they left. I started thinking, we gotta move. About 8-10 men. All drinking. All looking at you. Trying to intimidate us. I was still working in my garden, cooking supper.

Wolastoqew participant #1: During hunting season, we asked, DNR, will you come put up no hunting signs around the camp?? They said no. I called everyone. They said, he's destroying habitat. He got mad and came to our camp with a gun.

Wolastoqew participant #3: He drove right in, sat right there in his truck.

Wolastoqew participant #1: I immediately ran out, started taking pictures, He turned around. wouldn't show his face. That's how women protect themselves. Put a phone backwards, with the camera facing out. As soon as they see the camera, they'll ask you to turn it around.

Wolastoqew participant #2: We had a visit from [the] RCMP. She had this position, and they made the visit to the camp... They called a bunch of times, they went in... We had talked to the lawyer about it. As soon as she came in, we gave them the phone with the lawyer already on the call, and said talk to our lawyer. This was how we protected ourselves, cause it was mostly women. We weren't afraid. But our lawyer would have whatever he needed to go after anyone who hurt us.



In March 2018, Environment and Climate Change Canada held a public meeting on whether it was appropriate to put Sisson Brook, McBean Brook, Bird Brook, Lower Napadogan Brook and an unnamed tributary to the West Branch of Napadogan Brook referred to as Schedule 2 of the Metal

There is a lot of deforestation going on in NB right now...

Mines Effluent Regulations (MMER). Using fish-bearing waterbodies for mining effluent is prohibited under the Fisheries Act unless exempted through the Schedule 2 provision. Placing these water bodies on the aforementioned Schedule 2 would allow the use of these water bodies for mining waste disposal, and the meeting in the community of Stanley was intended to receive public feedback on this proposal, as well as the proponent's plan to off-set the damages by relocating fish and compensating for the fish habitat elsewhere. In the proponent's study of the situation, they state that using these waterways for mining effluent would directly result in "serious harm" and "permanent direct habitat loss," among other indirect implications (Stantec 2019).

The meeting on this proposal in Stanley was well-attended, despite it being on a cold evening in March, with snowbanks more than two metres high. Over 250 people packed the room and every single individual who made a statement was not in favour of the plan. Alma Brooks, Wolastoqew clanmother, made a statement on behalf of the Wolastoqiyik Nation and said: "You do not have permission from the Wolastoqiyik Grand Council and our citizens to damage, alter or molest Wolastoqiyik Maliseet homeland and waterways" (Glynn 2019). This was also when the public opinion in the wider non-native community shifted:

Wolastoqew participant #2: they had a meeting in March 2018, putting brooks on the schedule 2. Even people who had wanted to get jobs. That's when the community and people around started saying, we're not going to let that happen. Even people who wanted it at the beginning.

On June 25, 2019, the waterways were placed on the Schedule 2, amending the Metal and Diamond Mining Effluent Regulations to allow for these brooks to be used for mining waste. This was a major permit hurdle for the proponent. However, the proponent must still meet the other forty legally-binding conditions of the proposed project, and they have until December 2020 to do so (5 years from the original approval of the provincial EIA). The status of all of these conditions is not clear; although it is widely understood that many of the conditions are unlikely to be met within this timeline and the project's approval will thereby expire in December 2020.⁷

⁷ The Sisson Mine was still granted a two-year extension (see Northcliff Resources Ltd. 2020, December 3).



The Mi'kmaw Grandmothers and Alton Gas

In 2007, Alton Natural Gas Storage Limited Partnership, a subsidiary of AltaGas based in Calgary, Alberta, proposed to the Nova Scotia (NS) government to develop an underground hydrocarbon high-pressure storage facility of nearly 4 billion cubic feet capacity, involving two/three (and up to 15) engineered salt caverns to store natural gas. To prepare them to store gas, the caverns will have to be engineered using large amounts of river water to flush them of salt. The project involves building 12 km of buried pipeline between Shubenacadie river estuary and the facility near Alton, N.S., which will carry water to the caverns and back to the river. The project involves drawing 10,000 cubic metres of water daily from the estuary. The water, which will become salinated during this process, would be pumped back to a mixing pond near the estuary and then gradually discharged back into the river. 1.3 million cubic metres will be discharged over 2-3 years (Campbell, Feb 11, 2011). The water protectors say this will mean 10 million litres of brine per day (3170 tonnes of hard salt) at the height of the project (StopAltonGas).

...we saw a clearcut going through on this land and thought they must be building a new power line. Next thing we know, we see them laying pipe...

The salt brine, along with drilling fluids and other sub-surface elements, will be discharged into Shubenacadie river near the mouth of the Stewiacke River, which is breeding ground for striped bass and habitat for endangered Atlantic salmon, among other species. The Sipekne'katik and Millbrook First Nations have been concerned about the effects of the brine on the water and wildlife, and oppose the project. The company argues that salinity will be within the normal range of the tidal river (Campbell, June 10, 2019). Through investigation by the Mi'kmaq land defenders (water protectors) and their allies, it has been clarified that the brine will also contain heavy metals, trace minerals, arsenic, among other chemicals (Poulette quoted in Campbell, Feb. 11, 2019). Water protectors also argue that salt cavern gas stores have a 40% failure rate globally, and 65% in US, and are a serious threat to ground water (StopAltonGas).

Sherry Pictou (S.P.): ... At what point did it become clear that the river was threatened by the salt?

Mi'kmaw Participant #1: In 2014, August, I was at a healing ceremony in Maine, at Prescott Powwow... we were driving along a highway in 2014, and we saw a clearcut going through on this land and thought they must be building a new power line. Next thing we know, we see them laying pipe... holy shit! When did we get pipelines in Nova Scotia? What's going on anyway?! That was in 2014. Then we found out that those pipes were putting this project in. It was already happening. They had permits and everything. They had bought the land from the farmers to put that pipeline through. Seven years in the making.



Mi'kmaw Participant #5: They were at KMKNO.⁸

Mi'kmaw Participant #1: We didn't know anything about it.

Mi'kmaw Participant #5: That's always been our argument.

Mi'kmaw Participant #1: In 2014, was when they were given the environmental permit. That was the only thing that was holding them up from getting the water. But they were already digging. In August, I went to Maine. They were still digging. When we got back there, there was a gazebo there, on the dike. They even had a fire pit. It stayed like that, we never used it. If we want to make a sacred fire, we'll put it where we want to. But we did meet there several times, trying to figure out what people were doing. The cops would come, join us, standing around... we did not know what was happening, but we knew the project was there. We had already gone out to the highway by then, had our tipi out there...

We weren't in on the [band council] meetings. We weren't in on their strategy, because it seemed like the [Sipekne'katik] band council knew what they were doing at the time.

Alton Gas registered the project for environmental approval in July 2007. NS Minister of Environment and Labour conditionally approved Alton Gas's plan for the facility (i.e., the caverns) in December 2007. Official consultation began between the company and the Mi'kmaq in 2006-07 under the Made in NS/ Mi'kmaq Rights Initiative negotiation process administered by KMKNO (Googoo Feb 18, 2016; also see Minister of NS Environment 2016). There is no provision for consultation with members of Indigenous communities, only with the Chiefs through the KMKNO process.

Mi'kmaw Participant #1: We [water protectors] had already gone out to the highway. We weren't in on the [band council] meetings. We weren't in on their strategy, because it seemed like the [Sipekne'katik] band council knew what they were doing at the time. Cheryl [Cheryl Maloney, then President of the NS Native Women's Association and council member for Sipekne'katik] was on Council and the Council, a majority of Council, was fighting this [Alton Gas project] at that time. Council knew about it. When Rufus came in as Chief, this project came across his desk. It was being negotiated by KMKNO. KMKNO gets money to do consultation. They're the ones they [Alton Gas] are consulting with. When Rufus got it, he brought it to the people. That's how we found out that Alton Gas was coming onto our territory and they were going to do this.

⁸ KMKNO (Kwilmu'kw Maw-klusuaqn Negotiation Office): a support organization to the Assembly of Nova Scotia Chiefs/First Nations and under the direction of the Chiefs, that does research and brings a variety of expertise, skills and capacities to staffing legally-mandated negotiation process around implementation of treaty rights with Canada and Nova Scotia. It administers the official consultation processes within a legally-established negotiated framework for consultation. It supports co-ordination and consensus-seeking among Mi'kmaq First Nations in pursuit of Mi'kmaq rights. Decision-making rests with the Assembly of Chiefs. The provincial and federal governments have a legal duty to consult with the Mi'kmaq on resource projects with potential environmental impact. Since 2004 KMKNO has been active in over 300+ consultations as per the website www.mi'kmaqrights.com (Accessed May 20, 2021. This website has been revised since the time of writing this initial report).



NS Minister of Environment and Labour appears not to have requested consultation with KMKNO until April 2012. However, according to an Assembly of NS Chiefs/KMKNO Press Release, consultation did not begin until 2014 (Jan. 22 2016; also see Sipekne'katik v. Alton Natural Gas Storage). The pipeline aspect of the project was approved in 2013 by NS Minister of Environment (Sipekne'katik press release, Jan 2016; Woodford, Feb 2020).

Mi'kmaw Participant #1: There was an election. Rufus got in... and some new councilors. They were not doing the status quo. They said: what?! no friggin' way! That's when ... Rufus went to KMKNO and asked them for support to fight this. And they did not back him up at that point. I read that they said: if this project works like it is supposed to, we have no problem with it... That's not good enough! He [Rufus] withdrew from KMKNO. You can't just withdraw from there. It takes a whole year process... We are the only ones that aren't with KMKNO. And Millbrook.... so, we did not have the backing of our chiefs.

In March 2013, Sipekne'katik First Nation withdrew from the KMKNO consultation process over opposition to the Alton Gas project (but the then Chief, Rufus Copage, remained a member of Assembly of NS Chiefs). Millbrook First Nation also subsequently withdrew in May of 2016 (Googoo May 20, 2016).

Mi'kmaw Participant #1: He [Rufus] was opposed, he fishes there and his whole family fished in that river. They had connections to that river for generations...he represents our voices. He's a fisherman and a hunter... He found out about [the Alton Gas project] when he became chief. He had been a band council member for seven years. He was Councillor during that whole time and he didn't know about it. That goes to show you that even though you're on the Council, they can still make backroom deals without the whole Council knowing about it.

Once we found out, and then we started doing that, they're still trying to get that information... they went back to KMKNO, said we don't agree, you're consulting with the wrong people. So once the band left that process, they didn't get any more information from all these other proponents of projects that affected our territory.

By 2014, Sipekne'katik and Millbrook FN (Woodford 2020) and their allies were publicly opposing the Alton Gas project. From late summer and throughout the fall of 2014, public protest by the Mi'kmaq and their allies was beginning to gather steam with highway slow-downs (Peaceful protest of slowing down traffic to engage with the public as a way to create awareness).

Mi'kmaw Participant #2: in the beginning, five and a half years ago, we put a tipi up on the highway...first awareness to the public. Cheryl Maloney...has lots of connections.... We did pipe ceremony, had a sacred fire.



Mi'kmaw Participant #1: Cheryl was trying to do this in a good way. Tobacco comes first. We asked the ancestors for that help.

Mi'kmaw Participant #5: I have pictures of [my daughter], with sign saying "what about the fish?"

We were doing these slowdowns, passing out flyers, talking to our allies, going to their communities to show them, what visuals so people could actually see it.

Mi'kmaw Participant #5: In August, [a Grandmother] put the post up on Facebook, went down to the ceremony and they told her to leave. We [went] down there and stayed. Another Grandmother ended up moving...to Cole Harbour to be there. We knew about the project, Cheryl's leadership helped galvanize the community and the political network, etc.

Mi'kmaw Participant #1: We were doing these slowdowns, passing out flyers, talking to our allies, going to their communities to show them, what visuals so people could actually see it. Someone bought in a box the size of a cubic foot and said there's millions of these going into the river. How is that not going to kill the fish. We got them thinking about it. Awareness.

They [Alton Gas] went to all these towns around and built the playground, etc. bribing them so they wouldn't go against them.

At that time, what was happening down at Brentwood. It was a two-prong project. One is 12km away, a pipeline comes from the river down to Alton, that brings the brine down. Their cause is about the land; ours is about the water, but it's all connected. They're telling us: we need help. Our families are here. We bought the land, homes. We're living here. Now, they want to build these gas caverns right underneath our ass here, underneath the ground. They expropriate our land. We can't even sell our land, she said. They sold their house for way under value because they already know these things are going in. They said, we can't fight, but you guys have a treaty. You guys can fight. You gotta help us. But we told them, we're all in this together. It's the same project. It's not separate. We supported them. They supported us. They were kind of afraid. They backed off after a while. They're silent now, but they support us. But something scared them enough that they're silent.

Me and another Grandmother went up there and taught them how to block the gate. Then we find out that those trucks stopped coming. [When the truckers saw the blockade] they just turned around. We figured, there must be a back way to get in and out of here... sure enough, there was another logging road back there. We were only there for that day, we made a point.



After that, we had a couple of highway slowdowns. We still had a lot of people come, too. A lot of the people from Truro to Halifax had no idea this was happening, and once they did people started talking about it.

We had a lot of help from students, NGOS (Ecology Action Centre; Council of Canadians). All kinds of people wanted to know how they could help. We have Lenore Zann. She was very helpful. She was provincial NDP at the time. Now Fed MP liberal.

Mi'kmaw Participant #5: Dr. Ingrid Waldron developed the Environmental Bill of Rights, and she wrote a book called "There is something in the water" about environmental racism and the Alton Gas resistance was one of the stories. But the Bill didn't get passed.

In November 2014, two Sipekne'katik councillors called on the Assembly of NS Chiefs to halt to project. According to the KMKNO account, the Assembly supported this, and with the participation of Sipekne'katik Chief Rufus Copage, called for 3rd Party Review mentioned earlier, which forced the proponent Alton Gas, Province and Minister to the table and effectively stopped work on the project. However, Sipekne'katik First Nation remained an observer in this process rather than a direct participant (Sipekne'katik FN Press Release, Jan 21, 2016; and Letter Jan 25, 2016). Three years on, in April 2019, the Assembly of NS Chiefs stated that they respected the communities' decisions and their own consultation processes and instructed KMKNO to support and work in concert with all Mi'kmaq entities. Sipekne'katik now [2020] working with KMKNO.

All kinds of people wanted to know how they could help.

The Grandmothers/Defenders dispute KMKNO's statement that they supported the communities opposing the project.

Mi'kmaq Participant #5: Here's the truth. Because Shubie [short name for the Shubenacadie, now referred to Sipekne'katik First Nation] and Millbrook opted out, KMKNO was trying to wash their hands of the file and give the file to Shubie and Millbrook and they had to do it by BCR [Band Council Resolution].

Throughout this period, it seems that Sipekne'katik and Millbrook leadership were insisting on community-based consultations and referenda involving community members (which exceeds the terms of the made-in-NS, KMKNO-administered process) (Assembly of NS Chiefs/KMKNO Press Release April 11, 2019; also see Nation Talk 2019).



In response to the Grandmothers/Defenders, claims of inadequate consultation and this Third Party consultation, the Alton Gas project was put on hold in late 2014, and no further work permits were issued by the Nova Scotia government. Despite the receipt of the Third Party report in July 2015 and KMKNO's response in December 2015 outlining concerns, the government quickly proceeded with further permits. Permits were issued in January 2016 for the operation of a brine storage pond, for lease of Crown land for a discharge channel, and agreement to construct a dike (Doucette, Jan 2016; also see: Sipekne'katik v. Alton Natural Gas Storage).

In the Third Party report, four major areas of concern were identified. KMKNO stated that it was not able to evaluate risk, yet declared that if the project functions as intended, it should not have significant impacts on Mi'kmaq of Nova Scotia.

Mi'kmaw Participant #1: In 2015, January I think, they [KMKNO] filed on the grounds of lack of consultation. They need funds to research this, hire people to help them on this little consultation. The government came back to KMKNO and reviewed what they did, and then they did a SECOND environmental assessment.

They put some accommodations, they can't brine during spawning months for the bass, the tommycod...The first environmental assessment... they had Dalhousie students hired... they counted only two tommycod [a species of fish]. They lacked traditional knowledge. If they had come to the reserve and asked the fisherman when do they spawn, they would have said you're not going to find tommycod in May, you'd better look in January. They didn't look at the right time of year to count the tommycod.

We saw so many flaws in their research, in their environmental assessment, how they got that science. One of their boats got stranded! They didn't know when the tide was going out, when the tide was coming in! They just didn't have any real knowledge of the river.

They had bass in a tank at Dalhousie, adding salt to the water to see how long they would last. You can't check salinity that way. They're talking about 26-28 background salinity from the tidal bore [tidal wave that comes into a river] coming in from the ocean. 30 would kill them. You have 260 not 26, 28.

Anyway, what happened is that new EA they did, with those accommodations in it, they said, ok now it's good. So, while this was happening, they [Alton Gas] went to Stewiacke, all these towns around us and they were giving them \$10,000 for fire equipment, built the playground, doing all this stuff, bribing them so they wouldn't go against them. But they didn't come to Shubie.



In their response to the Third Party Review, KMKNO called for further consultation stating that the government's approval granted in 2007 did not meet standards of adequate consultation. The Assembly stated explicitly that the project did not have their consent (Assembly of Chiefs Resolution respecting third party review, MRI Dec. 17, 2015; also see: Sipekne'katik v. Alton Natural Gas Storage 2020). However, granting of the 2016 permits triggered a public break between Sipekne'katik FN and KMKNO in January 2016 followed by Millbrook in May 2016. At issue was the inability to involve community band members in the consultation process (Googoo May 20, 2016) and the Grandmothers/Protectors took action.

Mi'kmaw Participant #1: May 2016, we were doing the water walk [an action for raising awareness about the importance and need for protecting the water and involves related ceremonies] I found out they were going to brine by beginning of June. I said we'd go from Indian Brook to the [Alton Gas] gate. And when we got there, we stayed there.

Dale was living by the river So finally, he's got a bench and he's sitting there, beside the gate. Someone's gotta do something, cause they're going to start brining by first of June. So, when we get down there and finished our water walk, that's when they put up the camp. We borrowed a little trailer.

Mi'kmaw Participant #3: Isabelle Knockwood was there. And Annabel, She's an ally, lives down Indian Road.

Mi'kmaw Participant #5: Elderly women, in their 80s. They had a camper out there.

Mi'kmaw Participant #7: One thing I want to say is that Alton Gas fight, yes, the INAC chiefs are trying to do their best, but under this government system. That's not what we follow. We follow our treaty laws... we don't follow their rules and regulations. We follow our own. So, when we took over the gate, the straw bale [house], like when Elder Isabelle Knockwood told us to, we listen to our Elders. That's part of the Seven Sacred Teachings. When she told us to take over and build right there, that's what we did. Against Alton Gas injunction. That's what we're fighting in court. How that land is unceded Mi'kmaq territory.

We took direction from Elders, Wise Council, Isabelle Knockwood, for direction, who to see next, and what are our next steps. Isabelle said, if I were you guys, I'd sit right up in there inside the fence. We were outside the fence. This is our territory. And so that's when she put up her tent and the strawbale house.



In September 2016, Mi'kmaq water protectors set up the Treaty Truck House⁹ near the entrance gate to the Alton Gas work site. Their strategy was to build infrastructure to engage in trade, which would invoke treaty rights and protections as per their treaty rights and specifically noted in the 1752 Peace and Friendship Treaty (StopAltonGas).

Mi'kmaw Participant #5: So, when [a Grandmother] put the post asking for people to come. We read the treaty, we were like fuck it, we're building a truckhouse... We knew what to do, it's our kids that actually followed through. We didn't want to disrespect [anyone] ...our kids did it. At that moment was when the other people, said that's ok.

One day in August was when our daughters took the wood over... there was a trail to go all the way around to take the wood over. Because they would stand on the dikes saying you can't do that. The wood carrying happened for hours.... when the kids went under the tape, everyone there knew that that changed something. That we would just go and do this.

... Someone brought sweetgrass...traded earrings....we did it symbolically but purposefully. Exercise our right of trade.

Mi'kmaw Participant #7...me, [another Grandmother] and our daughters were down at the truckhouse...

Mi'kmaw Participant #7: been trading there ... Someone brought sweetgrass...traded earrings.... we did it symbolically but purposefully. Exercise our right of trade. As well as dropping eel traps. The island, we dropped 7 traps to demonstrate the 7 districts. Always intended to be connected right to the treaty to exercise our rights.

Mi'kmaw Participant #2: Cheryl [Former President of the Native Women's Association and Councillor for Sipekne'katik] had arranged for the boat and the eel traps. To show traditional land use. They did teachings out there...how to build an eel weir.

Always trying to educate. Always a reason. Eel, subsistence. Fishing because people pay attention to fishing.

Mi'kmaw Participant #7: And they [Alton Gas security] were telling us, you can't cross the dike, you can't cross the dike. I said: what d'ya mean? You can't tell me where to go on Mi'kmaq territory. That's when our daughters spoke up...they were only 10 and 8. They grabbed those

⁹ The Treaty Truck House recalls 18th century Peace and Friendship treaties between the Crown and the Mi'kmaq in which a truck house, or trading post, will be established for use by the First Nations as part of their exercise of (stopaltongas.wordpress.com/whyoppose/treaties/).



two “no trespassing” yellow tape signs [no trespassing]. They lifted them up. You guys can get under, mom. OK, we’re going under...Like I said, we don’t follow those [rules and regulations] that were set on us...in my head, knowing what I know from my uncles how it’s unceded territory. We don’t follow their laws.

Mi’kmaw Participant #5: in that first driveway, there was a trail to go all the way around to take the wood over. Because they would stand on the dykes saying you can’t do that. The wood carrying happened for hours....when the kids went under the tape, everyone there knew that that changed something. That we would just go and do this.

S.P.: What sparked it for you?

Mi’kmaw Participant #7: The water, my children. I was looking at my son. What if he wants to fish on this river. My grandkids, what if they want to fish on this river? So, I went down. It was emotional and heartbreaking to see what’s going on. We can’t let this happen. So, I had my whole heart set into it. We already did that in Elsipogtog. Laiek Ainslie. I basically been growing up this way of life, our children and grandchildren are watching us and are going to be asking us questions. My son was 16 when he hitchhiked down to the Alton Gas site cause his mother was there.

The direct action by the water protectors proceeded, while the Sipekne’katik First Nation (and a number of other groups) appealed the January, 20, 2016 approval by NS Environment Department of Alton Gas’s brine storage pond, on the grounds that the Mi’kmaq were not properly consulted, given the risks presented by the project to their Aboriginal and Treaty Rights, especially the right to fish for food. This permit allowed for the construction of a discharge channel and a dike. NS Dept of Environment denied 6 appeals over three months from the project’s opponents, and the Sipekne’katik First Nation subsequently appealed to the Supreme court of NS in Jan. 2017 (See Campbell, Dec. 17, 2019).

Meanwhile, by October 2016, the river filled in the mixing channel that had been dug by Alton Gas as part of the project, which forced them to need a new set of permits (StopAltonGas).

Mi’kmaw Participant #5: When nature filled in that mud. That was so victorious. Because you know what

Mi’kmaw Participant #3: She healed herself.

Mi’kmaw Participant #5: We put the sign there “protected treaty area” and put an eagle feather



there. When we went there in a boat, the eagle feather was there in the water, waiting for us at the shore. She tied it to the sign, it was so spiritual, we did a ceremony... At that time, you could literally go all around treaty island [an island in the river created by the digging of the mixing channel]. When the River healed itself, it was beautiful, magical. It was a victory. To us, it was like the ancestors were saying "we got you." It was like the trees and the beavers. It was one of those moments when we knew they were with us, and we're not letting them down. That was in 2016.

Mi'kmaw Participant #2: They [Alton Gas] cut the natural dike that went across and made a horseshoe shape.

Mi'kmaw Participant #3: The mixing channel.

Mi'kmaw Participant #7: It happened after we fished, after seven days, right after we put our traps in. The next week, she filled right in.

In August 2019, Margaret Miller is back in as Minister of Environment. She decides "I think we consulted enough."

Mi'kmaw Participant #1: Three months into it, from August, Labour Day, to October-November, it was already full.

Mi'kmaw Participant #2: In spring, it grew green grass.

In January 2017, NS Supreme Court Justice Suzanne Hood rendered a decision based on an appeal launched by Sipekne'katik in April 2016 (Doucette, Jan. 30, 2017).

Mi'kmaw Participant #1: So Shubie went to court in November [2016], judge made a decision in January 2017 that it wasn't procedural fairness, based on lack of consultation, which really meant they needed to take the permit back and consult. The minister [of Environment] was shuffled out of cabinet. Margaret Miller. She's from Shubie, the town. She went to Natural Resources. Ian Rankin got in, but never touched it. In August 2019, Margaret Miller is back in as Minister of Environment. She decides "I think we consulted enough." She re-issued the permits.

Mi'kmaw Participant #3: But their permits are all illegal.

Mi'kmaw Participant #1: The band still has an appeal going on this. With all the evidence that we have gathered, it should be enough. We sat down with Ministry of the Environment.



Mi'kmaw Participant #5: We took over the DFO office in New Brunswick, when Rufus was still Chief and he was on our side.

Mi'kmaw Participant #2: We were not going to leave. The Minister was not even there. They had to get him on the phone. He committed to come and meet with us—because we said we were not going to leave, so they promised that they [the Minister] would come meet with us at the Truckhouse. But then he didn't come. He sent a representative.

Mi'kmaw Participant# 5: He [Minister Romeo LeBlanc] sent his deputy minister to the Truckhouse. We had a circle meeting there... They were given the directions from all of us there about what we [the Grassroots water protectors] wanted done. [Our directions were] that there was no adequate consultations, no consent. We all said no, it is not going to happen, no brining the river. We had taken the highway multiple times, back to 2013.

We took over the DFO office in New Brunswick, when Rufus was still Chief and he was on our side.

In the meantime, Sipekne'katik FN did its own consultation within its own community, and they and Millbrook continued calling for community referenda on the project. These demands were dismissed by Minister of Energy as not part of the established negotiation/consultation process (Doucette, Jan 21, 2016). Within Sipekne'katik FN, a corner was also turned when Chief Rufus was voted out.

Mi'kmaw Participant #5: By then, November 2016, with elections, the chief changed. When Rufus was voted out, it turned a whole corner... The next time Cheryl ran, she didn't get into Council and then lost the president NSNW. The change of leadership was challenge for me, because Cheryl was connected. Then there was a change in Council. That changed a lot, because Rufus was so on board [in 2016].

This was perceived by the Grandmothers/Defenders as a loss of support because it appeared that the new Chief & Council was reluctant to support them. For example, the Grandmothers/Defenders described what occurred later as a faulty referendum or meeting about a "potential mutual benefit agreement" in a community building with limited participation of only 78 out a several hundred potential voters. However, the number of those who voted against the agreement outnumbered those for the agreement.

Mi'kmaw Participant #2: I remember I went to that too, band members only. Some people came up and they wouldn't let them in.



Mi'kmaw Participant#5: They escorted me out by security, even though my father, we're from Shubie. Are you kidding me?! Me and my daughter... but we're from Shubie.... He told the security guard, take her out, like he didn't even know me. I was so offended. I was cursing and swearing. We were furious... we were drumming outside. We were loud and proud... It turned a corner, because it was the real moment when we seen their real face.

Mi'kmaw Participant #1: ...it started a conversation, we do need jobs, we do need stuff. Don't give up your children's future for temporary solutions. Look at the sand and gravel mine, do you see any Indians working there? It's been there for 55 f-ing years, right on top of our aquifer. It's killing us. Highest rates of cancer. Anyway, I was saying, there's nobody working there. You guys need to wake up. We gotta protect that water too. That's our ground water. What are we doing?!

The January 2017 court decision overturned the appeal denial by the Dept of the Environment and ruled that the Minister's decision was not procedurally fair. In April 2019, the Minister (by now, Margaret Miller) subsequently amended the approval with some new conditions. Around this time in 2019, the federal government announced it would make new regulations to address the brining of the river, essentially lowering the regulatory bar (Tress with Council of Canadians, quoted in Campbell, Feb. 11, 2020). Importantly, water protectors had been arguing that the province's industrial permit should not have been granted because the terms of the project violated the federal fisheries act and was not in compliance with Environment Canada, who is a regulator. Activists Dale Poulette and Rachel Greenland-Smith ultimately showed that brining was in violation of Federal Fisheries Act, according to Government of Canada's own documents obtained through Freedom of Information requests (Campbell, Feb 11, 2020).

Sipekne'katik First Nation appealed this 2019 ministerial decision—arguing that there is a case for Aboriginal title over the land, that treaty rights were at stake, which requires more extensive consultation than just environmental consultations. Moreover, the First Nation argued that the Minister had not taken into account the limited resources and capacity of Sipekne'katik First Nation to engage in consultation, although it lost the argument to introduce new evidence of this (Campbell Jan 25, 2020). The appeal hearing was February 18-19, 2020, and the decision came down in March 2020, which they won.

SP: There's never been any clear indication of how the grassroots or the everyday native on the rez or off reserve are to be consulted. It stops at the Chiefs... And this is where my question is: who made that analysis on consultation? At what point did corporate rights supersede Indigenous rights?

Multiple voices in response: They don't! They don't!



Wolastoqew participant #1: We had the same issues... We asked the government to see their consultation process. What they did is take Delgamuukw [SCC], took what they wanted, ripped it apart. We sat down with their consultation people, the Aboriginal Affairs Secretariat [NB], Deputy Minister of Environment...They take half of the Supreme Court Ruling and leave the other part out. You have to include the whole ruling. You can't just put in what you want.

SP: There's an issue here about consultation falling through the cracks of the INAC¹⁰ system.

Wolastoqew participant #1: When they came out with the Tsilhogt'in ruling, that judge and panel was very clear. They realized that governments were taking the decisions and spinning them. They were very clear as to how consultation, treaty, ancestral homelands, how to prove it. For grassroots people and others.

SP: We have to find a way to make that clear...

Wolastoqew participant #1: Who has money?! More often than not, the Indigenous people fighting don't have the money to take them to court, so they go on the land.

Mi'kmaw Participant #5: I think it is both the process and the systems that are in place. We do have a viable route to go with the District System, as far as the structure of traditional governance goes. It's something we're always talking about, trying to resurrect. We're told by the Elders that it is the most powerful route, it's the people and it's the women. Our stories correlate. It's the women who's been doing this. But in a structural way, it's the Seven Districts. If every district organized in the same capacity like the 7th District has, we could do it. Gary Metallic, Sr., he's Chief of the 7th District, they went to court in Quebec and they won on this whole basis. So, it's more than doable. It's proven that it works.

The two court cases that we have now, one is with the Shubie band. The other is with the Grandmothers who got arrested just on property law injunction, which is civil. Our rights supersede that, so we're not too concerned about it being a heavy hitter thing on title because it's being argued as a constitutional challenge on title... the treaty aspect has to be protected, our constitutionally protected rights.

Mi'kmaw Participant #3: It's hard to get a lawyer (for the [civilians]). No one wants to touch it.

¹⁰ INAC refers to the former Indigenous and Northern Affairs Canada department, which was divided into two separate entities in 2017: Crown Relations and Northern Affairs (CIRNA) and the Department of Indigenous Services Canada (DISC). See King and Pasternak (2018). Now was a "Crown Document" pertaining to consultation with the Chief & Council on the MRI website; also see Pictou 2018).



Mi'kmaw Participant #2: Every time someone mentions suing or court to the Band, they complain. The court costs.

Mi'kmaw Participant #1: You got to realize that the money they are spending is for housing, social costs...

Everyone suffers when they take that money to pay for court costs.

Mi'kmaw Participant #2: Everyone suffers when they take that money to pay for court costs.

This followed with a discussion about whether the band would support further legal costs. The Band wants input on consultation process however it is perceived that the Band lawyer doesn't even want to engage with the Grandmothers/Defenders. Further, the Grandmothers/Defenders feel it is them and not the Chiefs asserting title; challenging the legitimacy of Environmental Impact Assessments and demanding that the governments engage with them and not just KMKNO.

Mi'kmaw Participant #1: ...I remember going down to the fisheries office and asking what was going on. They said they were talking about what our own consultation was going to look like... and they're writing things down. We were supposed to look at the draft. This was supposed to be things that we wanted. The things I wanted weren't put in there. And then that process [was only] two evenings.... So, there is no one over there we can talk to.

S.P.: Here is the thing, fundamentally, we have never ever given up one inch of land, one bit of water, this is Peace and Friendship Treaties... and that is your fundamental right, we have never given that up. Land or water. So, when we get back to the consultation, we have to go after that. The government has interpreted consultation to end with Chief and Councils, the Indian Act system, plus Impact Benefit Agreements... This is a challenge and we need a strategy.

In addition to navigating the consultation and court system, in May 2017 the Grandmothers/Defenders erected a Treaty Camp, a straw bale house inside the main gate of the Alton Gas site where they established a (near) permanent presence, with Dale Poulette (Mi'kmaw from Eskasoni and partner, Rachel Greenland-Smith) living there with the support of the Grandmothers/Defenders who also spent a lot of time there facilitating various events to raise awareness and conducting ceremonies. From the time the Grandmothers/Defenders established a presence on the site in Fall 2016 to court injunctions demanding the protesters leave, arrests and eventual destruction of the straw bale house in the spring of 2019, the Grandmothers/Defenders have many stories of the camp as a site of ceremony, witness, resistance and solidarity, as well as receiving threats and experiences of intimidation (by the Company and by local settlers). There were also divide and conquer tactics carried out by the Company vis-a-vis Mi'kmaq people, gender-based threats. For example, at one point the company hired a couple of Mi'kmaw men (known as warriors) to be the security for the company.



At the same time these stories of the Grandmothers also reveal how the site is a place of powerful presence of the ancestors, Wise Council, ensuring safe travels and full provision of whatever was needed.

Mi'kmaw Participant #3: I was given death threats. He got someone to threaten my life. [This person] is back in Shubie. He was literally threatening me... It came out that he met with the Alton Gas people. He wanted to get paid. Company hired our people to be security against us.

*S.P.: divide and conquer not just between chief and people, but **Ceremony and water kept us grounded!** between families etc.*

Wolastoqew Participant #3: [Leadership] has no respect for women. [Doesn't] listening to you.

Mi'kmaw Participant #3: they think of us as less...they don't understand the grandmother rules.

Mi'kmaw Participant #1: they don't always respect us. Sometimes it was personalities... they didn't respect us, like lighting a joint in front of us when you have the bundle on the table. They'd send people in from Ontario...cause a lot of problems... [One man] Whoa, I don't feel safe around this guy. I didn't feel safe while he was there. He carried long knives.

Mi'kmaw Participant #5: It also caused issues, because people would see the knives. And also went against the rules and established protocols.

Mi'kmaw Participant #1: But we always kept the water, why am I here. This where the fight is, and the camp control....it was a struggle.

Mi'kmaw Participant #5: Ceremony and water kept us grounded! [Mi'kmaw Participant# 5, also explained how the teachings of the late Josephine Mandamin, an Anishinaabe Grandmother, Elder and Founding Member of the water protectors' movement helped them learn more water ceremonies such as honouring the first Thunderstorm of the Year].¹¹

Mi'kmaw Participant #1: I called Seven and asked him to come down. He said, I will be here when you call. It was really important to us. I was there, he listened. Uncle Seven was the greatest Warrior Chief...¹²

¹¹ Josephine Mandamin died in February 2019. She was well known for her long water walks to raise awareness about the scaredness of water. She attended a Mi'kmaki Water Symposium, October 9-12, 2016. Summary notes compiled by Sadie Beaton, Ecology Action Centre.

¹² Peter Alexander Bernard from We'kogma'q First Nation was referred to as "Seven" or "Uncle Seven" and was known well as an activist for Indigenous Rights and supporter of Traditional life-ways. He passed away in September 2018.



S.P.: You were very strategic and clarified to other leaders, warriors... etc. who need to know... that you welcomed allies, particularly your own people, but couldn't be people, particularly men [who had] abused women or children... That was a very good strategy out of this story.

Mi'kmaw Participant#4: We got attacked one day, I was there with [allies- friends]. I was with the fire all the time, playing... I'm cleaning up...doing the dishes, etc. and went to empty a cup of water in the ground [on our side of the road]...Went over dumped the cup at the edge of the roadway. A man came out of the swamp yelling at me; a woman yelling at me. Another man with a 2 by 4... yelling. I'm tired of you guys throwing stuff on my property etc... I whistled [to warn my allies] One came bouncing down the path [who had went fishing earlier]. [Another picked up an axe as]. His guy was coming toward us with a two by four... We [just kept saying] Water is Life!...

Mi'kmaw Participant #2: Locals would slam on horns every day at 6am.

Mi'kmaw Participant#8: it was about 2-3 years ago. Me, Dale and [another friend] was at the truckhouse. Dale was outside. He was getting bored, so there is a fence that's all. Gee, [Name withheld], the security is drunk. So, he said, I'm going to keep an eye on them. Then he said [the security person], there is something wrong. So, I went outside, hear generator, [see] fog was just above the dike, and so I asked him, do you need help...he didn't respond. Can we cross the fence? Had to go to where the rocks are. [He told us to], call 911! So we called the 911. So, first responders came and they (the Company) wouldn't open the gate. They walked through the dike, wouldn't open it. He had carbon monoxide poisoning. Exhaust was turning back into the shed. Almost died. 20 years old-ish. They refused to open the gate for ambulance, even for their own people. Dale threw the gate over. Saved his life.

Mi'kmaw Participant#8: Next day they tried to start the generator...I was mad at them to have no safety for their workers. No proper training at all. One of the security guards told me they want to be smudged. I said come over. I smudged them. Four of them. They even asked for permission to come on other side!!

S.P.: What was their reaction after they smudged?

Mi'kmaw Participant#8: yes, I saw them again.... probably just thinking about that boy who almost died. They came and brought coffee and said thank you for saving his life.

Mi'kmaw Participant#1: Alton Gas wrote in the paper that he had the flu.



Mi'kmaw Participant #2: they settled with him so he left....

Wolastoqew participant #3: [If] other way around and it was one of the grandmothers dying, they would of done nothing.

Mi'kmaw Participant #3: we were there (straw bale house) on day, between court dates. And so, we kept them out. We locked the door. I said no you're not coming in. They said: who said!?

I said the grandmothers.... I've been here the whole time, you want to show up for the last court date.... we did different ceremonies to see if they'd lay their arms down, to see if the RCMP would be willing to work with our traditions...

The camp essentially blocked the company from working on the project. Dale Poulette and the Grandmothers/Defenders sustained a near-three-year presence. In March 2019, Alton Gas obtained an order that the water protectors move away from their front gate. This followed a NS Supreme Court decision granting a temporary injunction against Dale and Rachel (and unspecified "others") who had been living in the straw bale house at the company's main gate, and near its guard house, ordering them to move away from the property. The temporary injunction noted that it was against this in particular because it purportedly blocked the company's access to the site, and its ability to maintain the site, and the safety of its workers (due to alleged verbal threats and physical intimidation by Dale).

Mi'kmaw Participant #5: Water Protectors [Dale and Rachel] were arrested, charged....And while in [they were] in court...they [Grandmothers] they stayed... and one of those days they were out there, the DLT [RCMP Division of Liaison Team] came over. That was a court date when Dale and Rachel were still in court...then the three Grandmothers were arrested and were added to the first injunction [Dale and Rachel]

A week later, what Grandmothers/Defenders say was not part of the injunction, the straw bale house was bulldozed by the company (mid-April 2019).

Mi'kmaw Participant #7: Rob Turner, high up with Alton Gas...He is ex-RCMP. Rob Turner also owns a consulting company. When Dale was given a warning, he ate it, said "it tastes like treaty".

Mi'kmaw Participant #3: We have straight up gangsters working with [the company]. Being at the truckhouse, I took pictures...them getting heavy materials etc. They [Three Grandmothers] had just got out of jail. They [company] removed contents....



Mi'kmaw Participant #2: I was there that day, when they emptied it. And I put in the book that they were removing the stuff, and Joe Mike [a Sipekne'katik Elder] from Shubie gave me a ride down and they had brought their truck in. We had been giving 2 weeks to take our stuff out.

We knew they were taking it over.... but when that happened, they cleaned it out....no one was there. The police wouldn't let us take anything.... I said [to an ally] can you it those panels in. They said we need someone to sign for this property.

Mi'kmaw Participant #7: They didn't respect any of our protocols

Mi'kmaw Participant #2: They tore down the house when only [Grandmother there] there

Mi'kmaw Participant #5: They literally tore down the strawbale house. They were supposed to tear down the fence. So, there's not a 24 hour presence right now.

The court order [injunction] allowed for a designated, fenced-in protest zone nearby, which [a Grandmother] likened to an internment camp and the Grandmothers refused to use it (Campbell, April 10, 2019). As noted above, three Grandmothers, Madonna Bernard (Kukuwes), Darlene Gilbert, and Paula Isaac were arrested on April 10, 2019 and released without charges. The three were arrested again in early June 2019 and charged with contempt of the injunction order by the RCMP for failing to move away from the gate. Their names were to be added to the original injunction against Poulette and Greenland-Smith. In their defense, their lawyer has been arguing that they are abiding by Mi'kmaq law on what is unceded Mi'kmaq land.

A major court decision in Nova Scotia Supreme Court in March 2020 stated that Nova Scotia Minister of Environment did not sufficiently consult with Sipekne'katik First Nation and ordered the government to begin new consultations. The judge agreed with Sipekne'katik that the underlying issues of title and treaty rights had not been addressed and ordered 120-day period (or as agreed) during which time work is halted. The judgment recognized that Sipekne'katik has a credible claim to title to that part of the river and the dike (Ritchie, March 24, 2020).



Teachings from Land and Water Defense Stories

Emerging from these Wolastoqiyik and Mi'kmaq stories about defending unceded ancestral lands and waterways is an overarching concern by the Grandmothers/Defenders for the well-being of all their relations (human and non-human) that include ancestral and traditional lands, water, and forests as sources of food and lifeways. As mothers, daughters, grandmothers, aunts, and sisters, in both cases they describe the necessity of protecting the health and vitality of land and water in order to ensure the well-being for future generations. This determination to defend and to protect ancestral homelands and waters is deeply rooted in the linguistic concept of M'sit No'kmaq (Mi'kmaw) and Psi-te ntolonapemok (Wolastoqiyik) or “all-of-my-relations” (human and non-human). Here the stories give witness to how two worldviews, Indigenous and non-Indigenous, intersect and collide. However, it is the Indigenous worldview that is often neglected, excluded from, or distorted in the media and in other various forms of knowledge production practices like Environmental Assessment reports, etc. As one of the Wolastoqew Grandmothers/Defenders states: **“They take our words”** (politicians) as rights holders and distort or coopt them. There are exceptions, however, where allies offer support especially when they learn about potential environmental harms to where they too also live.

While all-my-relations encompass a reciprocal relationship of sustainable harvesting and protection of lands/waters in exchange for overall well-being of both human and non-human worlds, exploiting the land and waters for economic development often does not—even when environmental science indicates likely ecological harm. Thus, settler colonial governments and corporations will often mount a number of diverse strategies to distort, undermine or coopt Treaty and Indigenous (Aboriginal) rights to ensure resource extraction projects move forward. These stories also reveal divide and conquer tactics within and between Indigenous communities and with non-Indigenous communities who are promised employment and economic benefits. In this broader context, we learn about some of the challenges encountered by the Grandmothers/land-water defenders while at the same time we also learn about some of the important strategies they have employed and their recommendations for social justice and change.

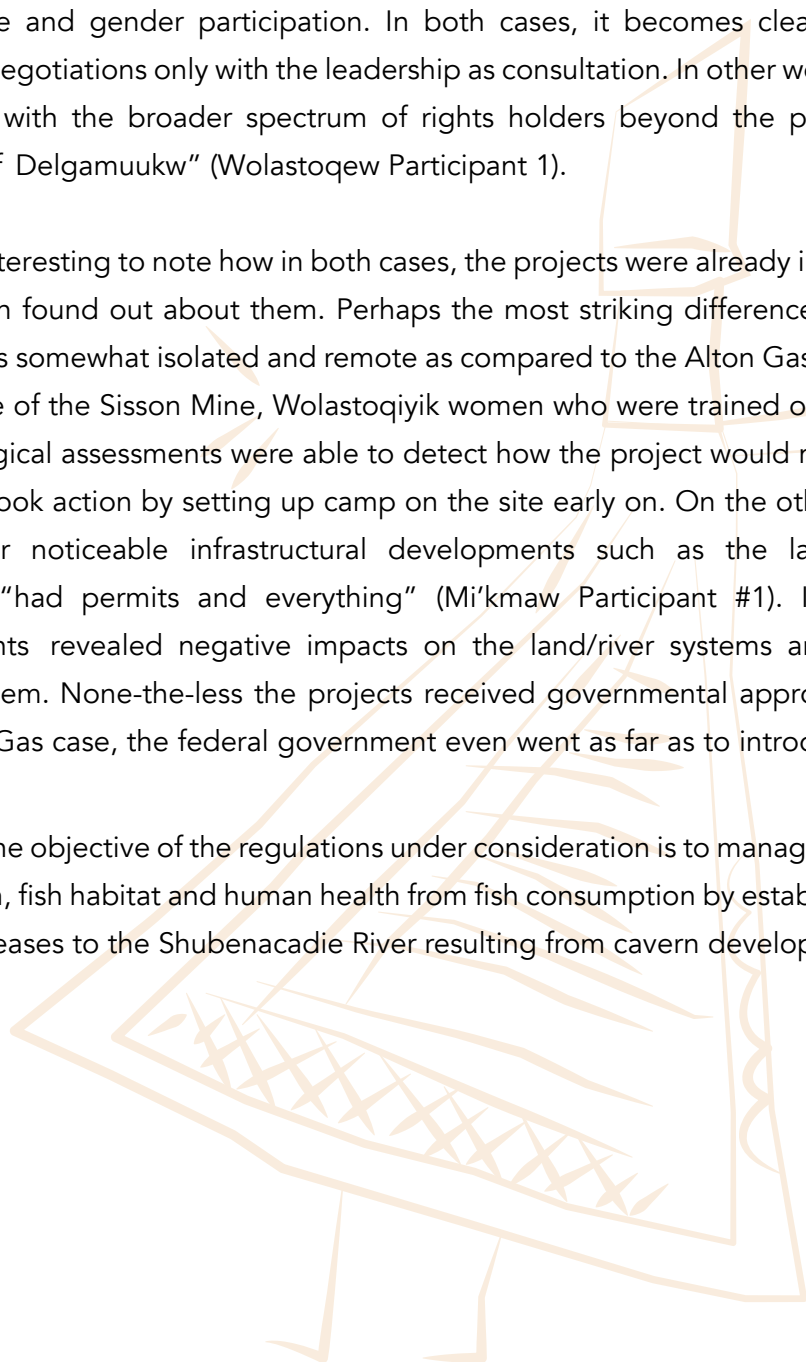


The Challenges: Consultation and the Issue of Consent

As explained in the introduction of this report, consultation processes create enormous barriers for diverse and gender participation. In both cases, it becomes clear how state driven processes consider negotiations only with the leadership as consultation. In other words, there is no mechanism for consulting with the broader spectrum of rights holders beyond the political level. It is “a selected reading of Delgamuukw” (Wolastoqew Participant 1).

It is also interesting to note how in both cases, the projects were already in process for some time before the women found out about them. Perhaps the most striking difference is marked by how the Sisson Mine site is somewhat isolated and remote as compared to the Alton Gas site, which is more accessible. In the case of the Sisson Mine, Wolastoqiyik women who were trained or worked in environmental and archaeological assessments were able to detect how the project would negatively impact river systems and thus took action by setting up camp on the site early on. On the other hand, with Alton Gas there were clear noticeable infrastructural developments such as the laying of pipe indicating the company “had permits and everything” (Mi'kmaw Participant #1). In both cases, Environmental Assessments revealed negative impacts on the land/river systems and the natural ecologies that support them. None-the-less the projects received governmental approval to move forward. And in the Alton Gas case, the federal government even went as far as to introduce legislation to manage the project:

“The objective of the regulations under consideration is to manage the risk of potential threats to fish, fish habitat and human health from fish consumption by establishing conditions on any brine releases to the Shubenacadie River resulting from cavern development activities” (ECCC 2019).



Environmental Assessments and Impact Benefit and Accommodation Agreements (Communication and Legal Issues)

Though Environmental Assessments (now Impact Assessments under the Impact Assessments Act 2019) are a critical part of the consultation process, and the language of “mitigation” is used to act as offsetting any environmental concerns or that environmental concerns will be addressed, the real game changer appears to lie with Impact Benefit Agreements (IBAs) or Accommodation Agreements. In the report, “Landback: A Yellowhead Institute Red Paper,” Hayden King and Shir Pasternak (2019: 37-38), describe these agreements as a way of unloading governmental duty to consult onto private industry involving:

private commercial contracts that are increasingly being negotiated between Indigenous peoples and industry in the accommodation phase of a project. IBAs go by many names, including partnership agreements, benefits agreements, access and benefit sharing agreements, accommodation agreements, participation agreements, exploration agreements, or mutual understanding agreements.

IBAs certainly complicate the consultation process because most often corporate negotiations and agreements are considered confidential and cannot be shared with the broader public or in the case of Indigenous communities – with the rightful rights holders. IBAs therefore can divide a community as in the case of Sisson Mine where the women were told by one of the Chiefs who was a signatory to an “accommodation agreement” involving monetary benefits, that the IBA was conditional on the Council agreeing to not helping the land defenders. Wolastoqiyik stories further reveal how some councils even received threats that other sources of economic benefits would be prohibited if they did not agree to the project. Divisional tactics also occur even between communities and their organizations such as with the community of Sipekne’katik where limited consultation became a deciding factor for withdrawing from the broader official consultation process under the Mi’kmaq Rights Initiative and Assembly of Nova Scotia Chiefs. Moreover, these agreements are often used to imply or assert that consent has been given, which has been the case of the Transmountain Pipeline in British Columbia (Pictou 2018). For example, legitimate concerns of land defenders are often downplayed and overshadowed by government and industry representatives making inferences to the “official” First Nations who have signed IBAs. For Grandmothers/Defenders, these agreements undermine Indigenous Title and Treaty Rights and are used to criminalize anyone protecting those rights even when they are the rightful rights holders (see Gender violence and criminalization below). Further, the violation of existing laws or the alteration of laws and policies that undermine treaty and aboriginal rights, and the limitation of consultation and consent processes, further complicate how communities communicate or are communicated with. The Grandmothers/Defenders identified a lack communication or miscommunication as a great challenge mainly due to multi-bureaucratic layers of environmental assessments, project approval processes, consultation and negotiation processes.



Gender Dimensions: Gender violence and criminalization

The gender dimensions of resource extraction are also multi-layered. They range from settler violence—especially settlers who are already working or have been promised employment by resource companies—to lateral violence within communities to criminalization of defenders—all to the advantage of the resource extractive industry. The Grandmothers/Defenders’ stories provide testimony about being watched and intimidated with guns by men driving off-road vehicles and in another case a man in a truck in Wolastoqiyik to men shouting out of vehicle windows or honking their horns as they pass by or with direct confrontation (by a man and woman) in Mi’kmaki. In other cases, the Grandmothers/Defenders felt that their own leadership did not respect them because they were women and because they were going against the development project. Most often because of the long legacy of legislated gender discrimination in the Indian Act, Indigenous women find themselves having to navigate through on-going colonial patriarchal governance practices in both Indigenous and non-Indigenous societies. These practices overlap with the resource extractive industry that is mainly dominated by male owners and workers, which further extend into weaponizing law to criminalize dissenters who are often Indigenous women. This is mostly operationalized through “court injunctions” filed by corporations and enforced by the police (Kruse and Robinson 2019), which was the case for three Grandmothers/Defenders defending against Alton Gas. Yet, both government and corporations will portray land/water defenders as special interest groups or unlawful protestors in the media. It is also important to note how the Grandmothers/Defenders are deeply aware of emerging evidence linking resource extraction to the Missing and Murdered Indigenous Women, Girls, Two-spirit and gender diverse persons. Yet while these cases are often neglected by government and the police, regulatory laws are enacted to expedite resource projects. In both cases, the experiences of the Grandmothers/Defenders indicate that police interventions were to protect the industry and not them or their treaty and Indigenous rights. Moreover, while pro-bono legal services were offered to Wolastoqew Grandmothers/Defenders, Mi’kmaw Grandmothers/Defenders found themselves having to raise money for legal representation when arrested for violating court injunctions. Thus, how the legal system prioritizes resource extraction over the treaty and inherent rights of Indigenous peoples, and Indigenous Women in particular, becomes apparent and raises another challenge for Grandmothers/Defenders.



Family

One of the greatest challenges for Grandmothers/Defenders is having to leave their families to defend their lands/waters from exploitation, especially if they are the main care takers and/or income earners. In some cases, they are constantly worried about their families at home and in turn, their families are worried about them on the frontlines especially when injunctions are filed and their mothers, grandmothers, sisters, and aunts are at risk or are actually charged and jailed. For others, they have left jobs and sacrificed their income. Yet, though they find the choice to defend their ancestral homelands/waterways difficult, they do so because they determine this is what is needed. Thus, it is important to underscore how underlying their availability to defend or stay at camp is tied to also being able to secure extra support for their families. In other words, these gender dimensions generate ripple effects throughout entire families and communities.

Successful Strategies and Resilience

While the Grandmothers/Defenders have experienced many challenges they also tell stories of perseverance and resilience rooted in teachings from Elders (Wise Council), their own knowledge systems about treaty rights and responsibilities—all grounded in ceremony with intergenerational relations to the very land/waters they are defending. Though highlighted as themes here, it is useful to remember that they are all interrelated—M'sit No'kmaq/Psi-te ntolonapemok.

Ceremony and land/water speaking back

In the course of their storytelling the Grandmothers/Defenders reveal how ceremonies and prayer guided their actions and strategies. In fact, one Mi'kmaw Grandmother recalls returning from a healing ceremony when she first noticed a clear-cut making way for a pipeline. Whether it be offering tobacco, water walks and ceremonies, drum songs, sacred fires, and various other ceremonies including smudging company security guards, "Ceremony and water kept us grounded" (Grandmothers/Defenders). A relationship between the generations and their ancestral homelands are deeply connected to the ceremonies. In other words, there is no separation between human and non-human life-forms. A testament to this worldview are stories about how they received what was most needed to defend their lands and waters. At times this was material necessities and other times it was land/water speaking back. Stories about a storm going around the campsite or deciding to block the road to discover the beavers have already done so in Wolastoqiyik territory or the river healing itself in Mi'kmaki represent stories of how land/waters will speak back when defense strategies are rooted in ceremony and prayer.



Treaty Rights and Responsibilities – ancestral governance

As stated in the introduction of this report, both the Wolastoqiyik and Mi'kmaq are signatories to a series of Peace and Friendship treaties that did not cede any land/waterways. And though for the most part those treaties were ignored or dismissed by governments, they were finally upheld by Canada's own judicial system. The Grandmothers/Defenders are deeply aware of their treaty and Indigenous (Title and Inherent) rights to their ancestral homelands beyond the reserve. They are further aware that with those rights come responsibilities for protecting the lands and waters from overexploitation, pollution and degradation as way to ensure the well-being of future generations. The concept of interdependency with land and waters as a life source for the well-being of all of our relations marks a fundamental principle of ancestral governance throughout generations that greatly differs from how the treaties are currently being viewed and interpreted by governments and corporations. Intertwined with treaty rights and responsibilities are the ceremonies and prayers noted above and it is from these ancestral forms of governance and Indigenous law that Grandmothers/Defenders derive their authority to defend and protect their ancestral homelands and waterways.

Setting up camp

Guided by the Elders and ancestral laws of governance and treaty, Grandmothers/Defenders set up camps as a defense against the threats of resource extraction. Today there is a permanent camp at the Sisson Mine in Wolastoqiyik territory and though the strawbale house on the Sipekne'katik River in Mi'kmaki was destroyed by the company once the injunctions were granted, the Treaty Truckhouse still stands. This truckhouse represents both a geographical marker and a reminder that the Mi'kmaq have a right to trade as a fundamental principle of the Peace and Friendship Treaties as specified in the 1752 treaty:

Members and Delegates of the said Tribe, for themselves and their said Tribe their Heirs, and the Heirs of their Heirs forever, Begun made and concluded in the manner, form and Tenor... have free liberty of Hunting & Fishing as usual: and that if they shall think a Truckhouse needful at the River Chibenaccadie or any other place of their resort, they shall have the same built and proper Merchandize lodged therein, to be Exchanged for what the Indians shall have to dispose of, and that in the meantime the said Indians shall have free liberty to bring for Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage (Archives, NS).

Thus, through these strategies and actions, the Grandmothers/Defenders are not only defending and protecting, but also mapping new treaty relations by educating the broader public and their allies about the Peace and Friendship Treaties.



Allies

Through ceremonies, film documentaries, and various other public forms, the Grandmothers/Defenders continue to educate and raise public awareness about the Sisson Mine and Alton Gas environmental harms and about Indigenous Treaty and Inherent Rights. In the course of doing so, they have garnered several critical allies as well as some untrustworthy ones. The Grandmothers/Defenders therefore set up certain protocols for accepting or rejecting allies as a way to protect themselves and other women at camp. For example, no one with a criminal record or known for having committed a sexual assault or violence was allowed to be on site. At the same time, they managed to be successful in gaining critical support from various communities, organizations, individuals and students. In Wolastoqiyik territory, the community of Stanley became a very important ally once they learned how the Sisson mine would also impact them. The Grandmothers/Defenders further identified researchers, groups, students and others as key allies over only a few years, which is quite remarkable. Some of these include:

- Ecology Action Centre, Halifax Nova Scotia
- Council of Canadians
- MiningWatch Canada
- Canadian Federation of Students
- Catherine Donnelly Foundation
- The David Suzuki Foundation
- Ellen Page (Actress)
- Dr. Ingrid Waldron, Dalhousie
- KAIROS Canada

Future Directions Research (Granting of Permits)

Resource extraction and development projects in both Wolastoqiyik and Mi'kmaki (or the provinces of NB and NS) go through provincial environmental departments to obtain approval. How these departments are coordinating with the Department of Natural Resources and Energy Development (NB) and Department of Energy and Mines (NS), and how in turn the province is coordinating with the federal Environmental Impact Assessment Agency make this a difficult process for ordinary citizens to navigate. This process is further complicated by consultation and negotiation processes with Indigenous peoples, especially where they are most often confidential and limited to the leadership. These issues and these processes are what the Grandmothers/Defenders would like to have further researched in order to better understand how those decisions are being made and to inform how to advocate for more transparency and monitoring.



Rejuvenating a network of ancestral governance systems (Tribal/Grand Councils and Wabanaki Confederacy)

Both the Wolastoqiyik and Mi'kmaq have ancestral governance systems that have withstood the test of time, though not without the complication of colonial and patriarchal impacts. These ancestral systems have been known in both contexts as the Grand or Tribal Council. And while the Wolastoqiyik have managed to restore their Tribal Council encompassing Wolastoqiyik worldviews, engaging with the Mi'kmaw Grand Council has had some mixed results. This is largely due to the influence of Catholicism over generations and as with most ancestral systems, the political powers of the Mi'kmaq Grand Council were greatly diminished by the Indian Act. However, in January 2019, Keptin¹³ Gary Metallic on behalf of the 7th District Tribal Council of Gespegewagi (Last Land) issued a declaration with the support of Clan Mothers from all seven districts in asserting the 7th District's Sovereignty against the federal governments' Indigenous Rights Framework agreement being proposed at the time. The Grandmothers/Defenders were deeply aware of the declaration pointing out how state-led processes serve to undermine Indigenous sovereignty and how any agreement has to be "legitimized by all Indigenous Rights holders" and their "Original Ancestral Governing systems throughout Canada" (January 2019)¹⁴. Moreover, the declaration outlines in Article 1: "That all Mi'gmaq¹⁵ women and men are by nature equally free and independent and have certain equal inherent collective rights, of which, when they enter into the Mi'gmaq Nation, they cannot, by any compact, deprive or divest their prosperity, namely, the enjoyment of life, liberty and happiness".

For the Grandmothers/Defenders, both councils as well as the Wabanaki Confederacy as a whole are important ancestral governance systems for protecting our treaty and inherent rights. Underscoring these systems is the concept of collective responsibility for protecting those rights rooted in all my relations (human and non-human). Therefore, the Grandmothers/Defenders are recommending to re-assert these traditional forms of governance by adding our nations and if at all possible all nations represented by the Wabanaki Confederacy. A study on how our ancestral governance systems have changed is further recommended to help better understand how to engage with these systems. For example, the Grand Chief and Keptins appointed to the Grand Council (7 traditional hunting and fishing districts) are currently all male. Therefore, the declaration of the 7th district was welcomed by Grandmothers/Defenders and it was recommended further discussions take place to have this declaration declared throughout Wabanaki.

13 Keptin (Captain) – honorary member of the Grand Council.

14 See: photos of declaration on <https://www.facebook.com/7thdistricttribal/photos/615418402205153>; and Declaration by Garry Metallic on <https://www.youtube.com/watch?v=iVxH-6-yF6E&feature=share>

15 The use of the K and q in Mi'kmaq is from the Smith and Francis Orthography 1974 whereas Mi'gmaq (in the declaration) is in from the Listuguj Orthography, Quebec.



Rights to access and protect water systems: Personhood rights

The Grandmothers/Defenders are quite aware of legal progress being made around the globe in respect of non-human relations obtaining legal status in having human or personhood rights. For example, in March 2017, the Te Awa Tupua (Whanganui River Claims Settlement) Act 2016 was passed in the New Zealand legislature, officially granting legal personhood to the Whanganui River in New Zealand. Shortly after, the Ganges and Yamuna Rivers in India were also granted legal personhood (Safi 2018). The Grandmothers/Defenders see this as another avenue that could be pursued as a way to protect ancestral homelands and waterways from over exploitation or unsustainable development. Therefore, they recommend that this be a strategy for protecting ancestral homelands and water systems and as a way to offset the legal inequities that favour corporate access over Indigenous rights. This is in keeping with M'sit No'kmaq/Psi-te ntolonapemok.

Public Support (Allies) and KAIROS

The Grandmothers/Defenders spoke about how important their allies mean to them in their defense against resource extraction. The Mi'kmaw Grandmothers/Defenders emphasized how students have been important in helping them to organize a petition to evict Alton Gas with over 3500 signatures.¹⁶ Therefore, they noted that it was important to maintain these relationships going as well as build new ones through various public awareness campaigns such as networking with KAIROS Canada.

As noted above the Grandmothers/Defenders have already established several networks of allies. At the time of this gathering, Dr. Sherry Pictou in partnership with KAIROS Canada initiated a research project to create a network with Indigenous women land/defenders across Northern Turtle Island as well as with Latin and North America. A digital platform was launched, the Mother Earth Resource Extraction, MERE Hub, "in consultation with women land and water defenders who are at the forefront in the protection of the environment, in Canada and across the globe" for supporting research, advocacy and sharing information about the gender impacts (KAIROS 2019). To facilitate the Grandmothers/Defenders participation, a conference was planned to be held in Mi'kmaki but due to COVID-19 the platform was modified to facilitate "Stories of Courage" as a digital story project. Most of the Grandmothers/Defenders have participated in telling their stories through videos which they produced themselves. These clips along this report will be hosted on the MERE Hub.¹⁷ It is hoped networks like the MERE Hub will assist in the research and advocacy strategies of the Wolastoqiyik and Mi'kmaq Grandmothers/Defenders.

¹⁶ See: <https://www.change.org/p/benita-bunjun-evict-alton-gas-i-support-the-treaty-beneficiary-2>

¹⁷ See: <https://scalar.usc.edu/works/mere-hub/stories-of-courage>



Summary

This report summarizes the stories of Wolastoqiyik and Mi'kmaq Grandmothers/Defenders against resource extraction projects, the Sisson Mine in Wolastoqiyik lands and the Alton Gas project in Mi'kmaki. Though somewhat different contexts, collectively their stories reveal how there is a pattern of collusion between governments and resource companies to advance projects that undermine Treaty and Indigenous Inherent Rights through various means of coercion. Further, there are gender impacts of colonial and patriarchal governance structures imposed on Indigenous communities that exclude broader communities of rights holders, especially Indigenous women, from decision-making processes. This raises tremendous challenges including limitations of consultation and consent processes to only the leadership; miscommunication or lack of communication and legal issues with environmental approval processes and IBAs; gender dimensions of violence and criminalization, and supporting family.

At the same time, their stories also reveal an extraordinary degree of resilience and leadership informed by Elders, Indigenous laws, knowledge, ceremony and treaty rights that facilitated successful strategies that include: the natural worlds or land and water speaking back with ceremony, ancestral governance practices, setting up camp, and nurturing critical relationships with allies. Through these strategies the Grandmothers/Defenders also created public awareness about the negative impacts of these projects and about Treaty Rights in general.

Thus, it is no surprise that their recommendations for moving forward build on these successes that propose further research on the environmental approval and granting permits for resource projects to proceed. Moreover, restoring ancestral governance systems are very important especially those that honour women's leadership. It is also important to maintain and build new allied relationships for enacting their strategies. And just as important, in the spirit of M'sit No'kmaq/Psi-te ntolonapemok, work toward having river systems having personhood rights.



REFERENCES

Court Cases Cited:

Sipekne'katik v. Alton Natural Gas Storage LP, 2020 NSSC 111

Simon v. The Queen, 1985 CanLII 11 (SCC), [1985] 2 SCR 387,

R. v. Denny, 1990 CanLII 2412 (NS CA)

R. v. Marshall, [1999] 3 S.C.R. 456 (No.1)

R. v. Marshall, [1999] 3 S.C.R. 533 (No.2)

The Assembly of First Nations' Chiefs in New Brunswick. (2015, July). *Submission to Sisson Review Panel from the Assembly of First Nations' Chiefs in New Brunswick*. AFNCNB.

Assembly of Nova Scotia Mi'kmaq Chiefs/KMKNO (Jan. 22, 2016). Press release: Assembly speaks out about Sipekne'katik's involvement in consultation on the Alton Natural Gas project, www.mikmaqrights.com Accessed May 27, 2020.

Assembly of Nova Scotia Mi'kmaq Chiefs. (April 11, 2020). Media Release: Statements Made about KMKNO on Alton Gas are False. Accessed June 11, 2020

Assembly of Nova Scotia Mi'kmaq Chiefs. (December 17, 2015). Resolution Respecting Alton Natural Gas Storage 3rd Party Review. File 12-17-15 R#1.

Archives, N. S. (n.d.). *Nova Scotia Archives - Mi'kmaq Holdings Resource Guide*. Nova Scotia Archives. <https://archives.novascotia.ca/mikmaq/archives/?ID=623&Transcript=1>

Campbell, F. (2019a, March 18). *Alton Gas protesters ordered off site, ending two-year occupation*. Local | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/alton-gas-protesters-ordered-off-site-ending-two-year-occupation-293138/>

Campbell, F. (2019b, April 10). *Three women arrested at Alton Gas site*. Local | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/three-women-arrested-at-alton-gas-site-300237/>

Campbell, F. (2019c, April 17). *Protesters' straw-bale shelter at Alton Gas site bulldozed*. Local | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/protesters-straw-bale-shelter-at-alton-gas-site-bulldozed-302615/>

Campbell, F. (2019d, June 10). *Alton Gas battle continues in two Supreme Court hearings*. Local | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/alton-gas-battle-continues-in-two-supreme-court-hearings-320759/>



Campbell, F. (2019e, June 10). *Alton Gas battle continues in two Supreme Court hearings* | Saltwire. Saltwire. <https://www.saltwire.com/atlantic-canada/news/alton-gas-battle-continues-in-two-supreme-court-hearings-320759/>

Campbell, F. (2019, December 17). *Contempt, constitutional cases of Mi'kmaq women arrested at Alton Gas site set for new year*. Local | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/contempt-constitutional-cases-of-mikmaq-women-arrested-at-alton-gas-site-set-for-new-year-389052/>

Campbell, F. (2020a, January 25). *Sipekne'katik motion in Alton Gas case dismissed*. Chronicle Herald. <https://www.thechronicleherald.ca/news/provincial/sipeknekatik-motion-in-alton-gas-case-dismissed-402705/>

Campbell, F. (2020b, February 11). *Alton Gas opponents say documents show project would violate Fisheries Act*. Provincial | News | The Chronicle Herald. <https://www.thechronicleherald.ca/news/provincial/alton-gas-opponents-say-documents-show-project-would-violate-fisheries-act-409790/>

Campbell, F. (2020c, February 19). *Nova Scotia failed to consult Sipekne'katik band on Alton Gas plan, lawyer argues*. The Chronicle Herald. <https://www.thechronicleherald.ca/news/local/nova-scotia-failed-to-consult-sipeknekatik-band-on-alton-gas-plan-lawyer-argues-412633/>

Canada Environmental Assessment Agency. (2013, July). *Sisson Project Environmental Impact Assessment Report July 2013*. CEAA. <https://www.ceaa-acee.gc.ca/050/evaluations/document/93967>

Canada Environmental Assessment Agency. (2017, June 17). *Environmental Assessment Decision Statement Sisson Project (Tungsten and Molybdenum Mine), New Brunswick*. CEAA. <https://www.ceaa-acee.gc.ca/050/evaluations/document/119329?culture=en-CA>

CBC News. (2015, March 24). *Rare artifact at Sisson mine site dates back 8,500 years*. <https://www.cbc.ca/news/canada/new-brunswick/rare-artifact-at-sisson-mine-site-dates-back-8-500-years-1.3006681>

Doucette, K. (2017, January 31). *N.S. judge sides with Mi'kmaq band on gas-storage project appeal*. Atlantic. <https://atlantic.ctvnews.ca/n-s-judge-sides-with-mi-kmaq-band-on-gas-storage-project-appeal-1.3263309?cache=yes%3FclipId%3D64268>

Glynn, T. (2018, March 17). *"You do not have our permission": Crowd opposes Sisson's plan to use brooks with fish for mine waste*. NB Media Co-Op. <https://nbmediacoop.org/2018/03/17/you-do-not-have-our-permission-crowd-opposes-sissons-plan-to-use-brooks-with-fish-for-mine-waste/>

Googoo, M. (2016a, February 18). *Sipekne'katik files appeal against Alton Gas project*. Ku'ku'kwes News. <http://kukukwes.com/2016/02/18/sipeknekatik-files-appeal-against-alton-gas-project/>



Googoo, M. (2016b, May 20). *Millbrook second NS First Nation to leave Mi'kmaq Rights Initiative* . Ku'ku'kwes News. <http://kukukwes.com/2016/05/20/millbrook-second-ns-first-nation-to-leave-mikmaq-rights-initiative/>

Googoo, M. (2019, November 11). *Sipekne'katik ready to protest over approvals for Alton Gas Storage to construct salt caverns*. Ku'ku'kwes News. <http://kukukwes.com/2016/01/21/sipeknekatik-ready-to-protest-over-approvals-for-alton-gas-storage-to-construct-salt-caverns/>

KAIROS Canada. (2019). *Mother Earth and Resource Extraction (MERE Hub)* . <https://www.kairoscanada.org/what-we-do/gender-justice/gendered-impacts-of-resource-extraction-overview/mere-hub>

King, Hayden, and Pasternak, Shiri. (2018). *Canada's Emerging Indigenous Rights Framework: A Critical Analysis*, June 5, 2018. Toronto, Yellowhead Institute. yellowheadinstitute.org/wp-content/uploads/2018/06/yi-rights-report-june-2018-final-5.4.pdf.

Kruse, M., & Robinson, C. (2019, November 14). *Injunctions By First Nations: Results Of A National Study* . Yellowhead Institute. Retrieved March 27, 2021, from <https://yellowheadinstitute.org/2019/11/14/injunctions-by-first-nations-results-of-a-national-study/>

MMIWG Inquiry. (2019, June 28). *Final Report* . <https://www.mmiwg-ffada.ca/final-report/>

Minister of NS Environment. (2016). *Environmental Act Appeal Form: Sipeknekatik Section 137 of Environmental Act - Appeal Jan. 20, 2016 approval decision of Brad Skinner*. Nova Scotia Environment. http://sipeknekatik.ca/wp-content/uploads/2016/03/FINAL_AltonGasAppeal-editsFeb17.16.pdf

Nation Talk. (2019, April 12). *Statements Made About KMKNO on Alton Gas are False* . <https://nationtalk.ca/story/statements-made-about-kmkno-on-alton-gas-are-false>

Noble, B. (2016, July). *Learning to Listen: Snapshots of Aboriginal Participation in Environmental Assessment* . MacDonalld Laurier Institute. https://www.macdonaldlaurier.ca/files/pdf/Noble_StewardshipCaseStudies_F_web.pdf

New Brunswick Environment and Local Government. (n.d.). *Sisson Project*. Sisson Project. https://www2.gnb.ca/content/gnb/en/departments/elg/environment/content/environmental_impactassessment/comprehensive_reviews/sisson.html

New Brunswick Environment and Local Government. *Sisson Project - Final Environmental Impact Assessment Report - February 2015*. (2015, February). https://www2.gnb.ca/content/gnb/en/departments/elg/environment/content/environmental_impactassessment/sisson.html

New Brunswick Environmental Network. (n.d.). *2012-2014 - Sisson Brook Mine 2008-2013*. <https://nben.ca/en/2012-2014-sisson-brook-mine-2008-2013>

Northcliff Resources Ltd. (2020, December 3). Northcliff Announces Two-year Extension Granted for New Brunswick Environmental Impact Assessment Deadline. CISION. <https://www.newswire.ca/news-releases/northcliff-announces-two-year-extension-granted-for-new-brunswick-environmental-impact-assessment-deadline-866634283.html>

Pasternak, S. (2020, February 12). *No, those who defend the Wet'suwet'en territory are not criminals* . The Globe and Mail. <https://www.theglobeandmail.com/opinion/article-no-those-who-defend-the-wetsuweten-territory-are-not-criminals/>

Pictou, S. (2018, September 18). *Mi'kmaq and the Recognition and Implementation of Rights Framework* . Yellowhead Institute. <https://yellowheadinstitute.org/2018/06/05/mikmaq-rights-framework/#1532310281891-7f50ca17-2f9f>

Postras, J. (2017, February 13). *How province pressured 6 First Nations to accept Sisson deal* . CBC News. <https://www.cbc.ca/news/canada/new-brunswick/first-nations-sisson-mine-agreement-1.3980330>

Quon, A. (2017, June 28). *Wild weather hits New Brunswick, including a rare tornado warning* . Global News. <https://globalnews.ca/news/3561555/wild-weather-hits-new-brunswick-including-a-rare-tornado-warning/>

Ritchie, S. (2020, March 24). *Judge overturns approval for Alton Gas project, orders new consultations*. Global News. <https://globalnews.ca/news/6725459/alton-gas-approval-overturned/>

Safi, M. (2018, February 14). *Ganges and Yamuna rivers granted same legal rights as human beings* . The Guardian. <https://www.theguardian.com/world/2017/mar/21/ganges-and-yamuna-rivers-granted-same-legal-rights-as-human-beings>

Sipekne'katik First Nation. Letter To Sipekne'katik Band MEMBERS Assembly of Nova Scotia Chiefs/ KMKNO, January 25, 2016. <http://sipeknekatik.ca/wp-content/uploads/2016/03/296611865-Assembly-Km-Kno.pdf>

Sipekne'katik First Nation. Press Release, Alton Natural Gas Storage Facility Project. January 21, 2016. <http://sipeknekatik.ca/wp-content/uploads/2016/03/296175855-Press-Release.pdf>

Sisson Partnership - The Sisson Project - Tue Apr 13, 2021. (2021) . Sisson Partnership. <http://www.sissonpartnership.com/s/sisson-project.asp>

Stop Alton Gas. (n.d.). *Stop Alton Gas* . <https://stopaltongas.wordpress.com/>

Woodford, Z. (2020, February 26). *What's the deal with Alton Gas and the Shubenacadie River?* Salt | The Chronicle Herald. <https://www.thechronicleherald.ca/salt/whats-the-deal-with-alton-gas-and-the-shubenacadie-river-415975/>



