



November 10, 2016

Ms. Pamela Monroe  
New Hampshire Site Evaluation Committee  
c/o N.H. Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH  
03301-2429

Re: Petition to intervene - SEC Docket 2015-06

Dear Ms. Monroe,

The Pessamit Innu First Nation (Première Nation Innue de Pessamit) respectfully submits its motion to intervenepursuant toRSA 541-A: 32,I, in the SEC's Proceedings under Docket 2015-06 relating to the proposed Northern Pass Project (the Project).The Pessamit Innu First Nation is composed of the Pessamitu Innu (±4,000 registered members), jointly represented by the Pessamit Innu Band Council (Pessamit).

The Pessamitu Innuhave been living for 8,000 years in their Nitassinan (traditional territory) and still have the aspiration to respectfully prosper in harmony in this natural heritage. However, Hydro-Québec production activities have profoundly affected the integrity of our Nitassinan and have directly collided with our ancestral rights.

In relation to the Project:

- Pessamit can demonstrate that its rights and substantial interests will be affected by the proceedings due to the undeclared impacts that the Project will have on its Nitassinan (traditional territory). Pessamit also aims to demonstrate the detrimental and irreversible nature of such impacts in terms of its customs, traditional activities and rights guaranteed undertheUnited Nations Declaration on the Rights of Indigenous Peoples.
- Pessamit can demonstrate that the Project will infringe two international conventions ratified by Canada and the United States:
  - Convention for the Conservation of Salmon in the North Atlantic Ocean;
  - United Nations Convention on the Law of the Sea.
- Pessamit can demonstrate that the Project will have an indirect and long-term impact on the Gulf of Maine Atlantic salmon listed in the U.S. Fish and Wildlife Service as an endangered species.
- Pessamit can demonstrate that success of the "Atlantic Salmon Priority Action Plan 2016-2020," developed by the National Oceanic and Atmospheric Administration (NOAA)

in order to stabilize and prevent extinction of the distinct Maine salmon population, is directly linked to the implementation and enforcement measures for the conservation, restoration, enhancement and rational management of salmon stocks in Quebec's rivers.

- Pessamit can demonstrate that 29% of Hydro-Québec's installed capacity has been illegitimately acquired to the detriment of the Pessamitu Inuit. These facilities (13 power stations and 11 reservoirs) were built without impact assessment studies, without Pessamit's consent and without compensation.
- Pessamit can demonstrate that the impacts on the Betsiamites River are devastating for the salmon population and its habitat downstream of the Hydro-Québec power stations.
- Pessamit can demonstrate that the massive export of electricity to New England will involve the contribution of peak-load power stations and that the Bersimis-2 Plant, located on the Betsiamites River, is being used for this purpose.
- Pessamit can demonstrate that massive exports to the New England States will increase the degradation of the salmon habitat on the Betsiamites River, and that this specific salmon population faces very short-term extinction.
- Pessamit can demonstrate that no survival criteria for Atlantic salmon have been established regarding the management of Hydro-Québec's hydropower facilities.

The intervention of Pessamit will be in the interest of justice and based on:

- International Rights of Indigenous Peoples;
- International Conventions involving Canada and the United States;
- The Atlantic Salmon Priority Action Plan 2016-2010, developed by NOAA;
- Atlantic salmon survival in the Northern hemisphere.

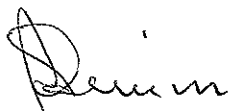
The intervention of Pessamit will not impede the orderly and prompt conduct of the SEC proceedings.

As noted above, Pessamit's rights and substantial interests, as well as other stakeholders' interests, will be affected by the Proceedings. Therefore, we respectfully request that New Hampshire SEC grant us with an intervener status in the Proceedings.

In order to provide a more complete view of the situation, we have attached a presentation with significant background information.

Thank you for your consideration of this petition.

Pessamit Innu Band Council



Chief René Simon

c.c: SEC distribution list as of the date of this letter, for Docket 2015-06. Copies sent by email.

Attachment: Pessamit's presentation at Plymouth State University on September 29, 2016

# An indefensible privilege

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WIPING OUT SALMON IN THE BETSIAMITES RIVER  
TO LIGHT UP CITIES



Pessamit Innu First Nation – September 29, 2016



# An indefensible privilege

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PRESENTED BY THE PESSAMIT INNU FIRST NATION



Pessamit Innu First Nation – September 29, 2016





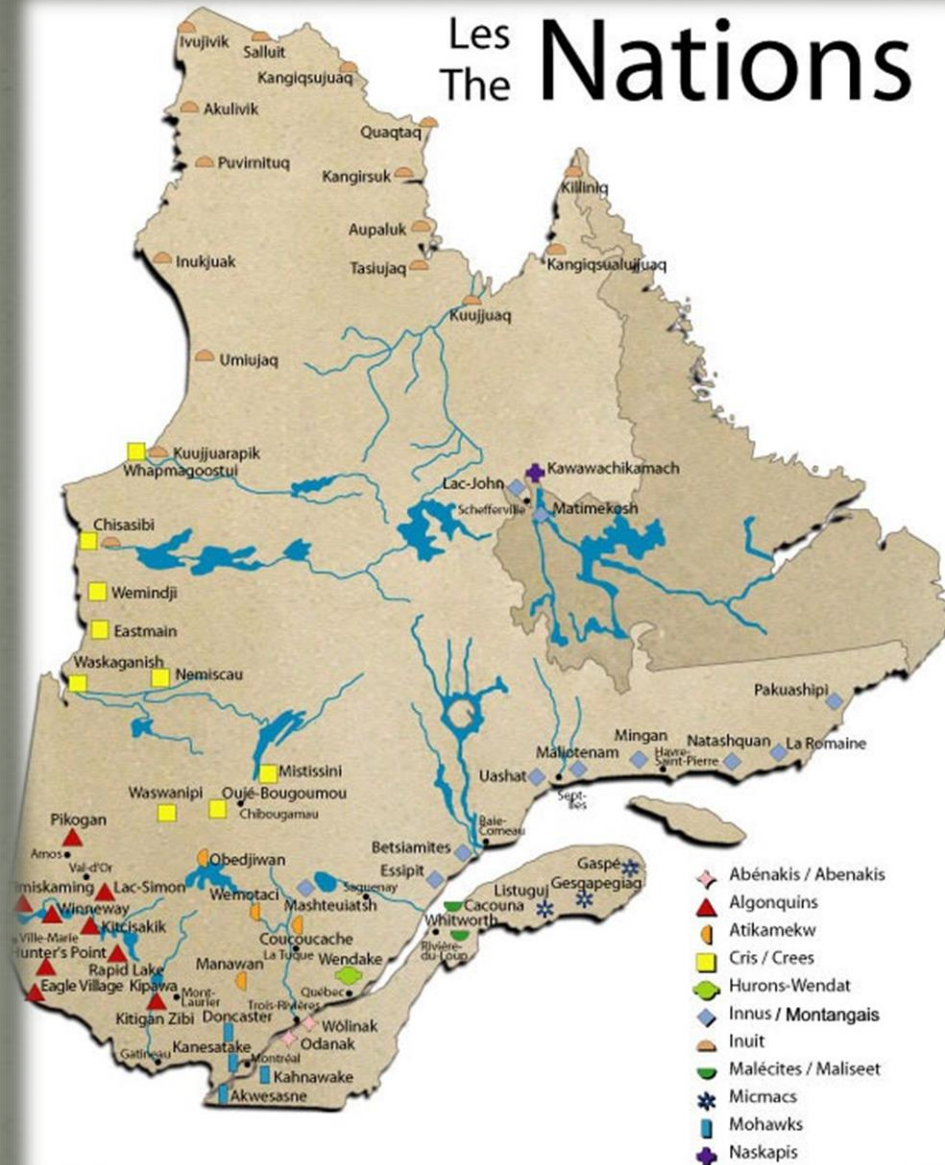
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WHO ARE THE INNU?



# Les Nations The Nations



Affaires indiennes  
et du Nord Canada

Indian and Northern  
Affairs Canada

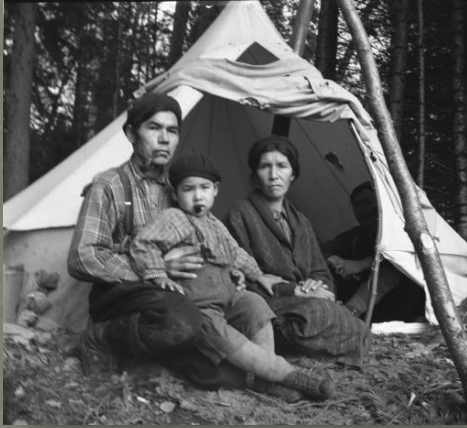
Canada

WHO ARE THE INNU?

THE INNU NATION IS  
ONE OF ELEVEN  
ABORIGINAL NATIONS  
LIVING IN THE  
PROVINCE OF QUEBEC.

THERE ARE 10 INNU  
RESERVATIONS  
LOCATED IN  
NORTHEASTERN  
QUEBEC.





## THE INNU AND THEIR NITASSINAN

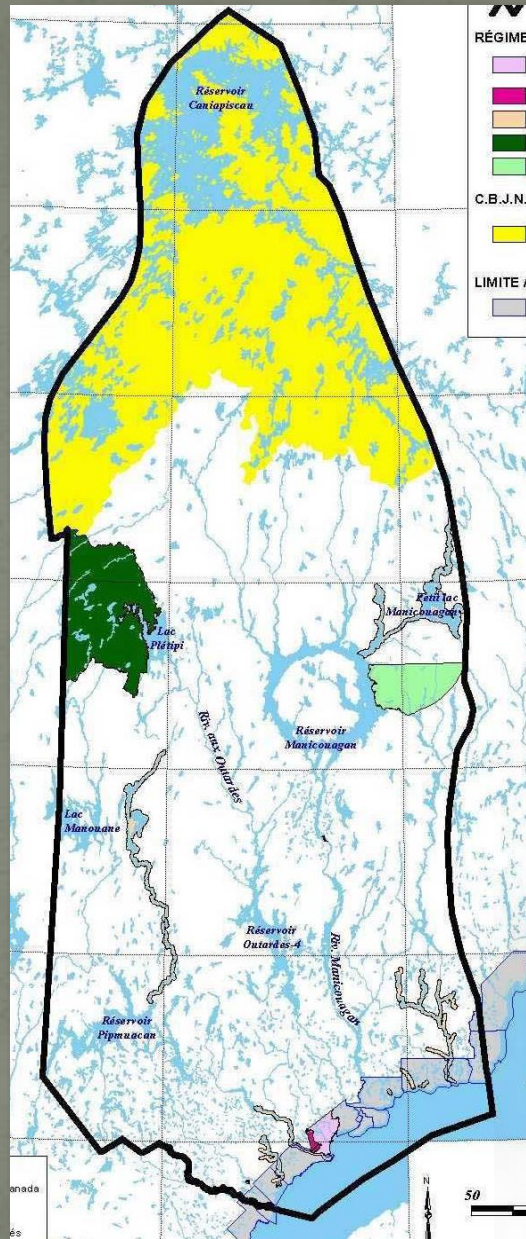
- THE INNU BELONG TO THE ALGONQUIAN LINGUISTIC FAMILY, AS DO ALGONQUIN, CREE, NASKAPI, MICMAC, ATIKAMEKW AND MALISEET.
- *INNU-AIMUN* IS THE INNU MOTHER TONGUE, STILL CURRENTLY SPOKEN.

## THE INNU AND THEIR NITASSINAN



- THE INNU HAVE BEEN ESTABLISHED IN EASTERN CANADA LAURENTIAN AND BOREAL FORESTS FOR THOUSAND OF YEARS.
- THE INNU ARE NOMADS BY NECESSITY: PREDICTABLE ANNUAL CYCLE BASED ON AVAILABILITY OF SEASONAL FOOD RESOURCES.
- INNU COMMUNITIES: TEN (10) IN QUEBEC AND TWO (2) IN LABRADOR: ± 21,000 MEMBERS.
- *NITASSINAN*: INNU TRADITIONAL TERRITORY, WHICH MEANS « OUR LAND ».





## PESSAMIT'S NITASSINAN

- 53,400 sq. mi.  
FROM 48.5<sup>th</sup> to 55<sup>th</sup>  
NORTHERN  
PARALLELS.



## PESSAMIT'S NITASSINAN

- 53,400 sq. mi.  
FROM 48.5<sup>th</sup> to 55<sup>th</sup>  
NORTHERN  
PARALLELS

8 000 YEARS OF  
RESPECTFULL  
RELATIONS WITH  
THE MOTHER  
LAND.







# PESSAMIT RESERVATION

- SETTLED ON THE ST-LAWRENCE RIVER'S NORTH SHORE, AT THE MOUTH OF THE BETSIAMITES RIVER.
- 390 MILES NORTHEAST OF MONTREAL AND 560 MILES, NORTH-NORTHEAST OF CONCORD N.H.

## PESSAMIT AND THE PESSAMIULNUAT



- THE PESSAMIT INNU RESERVE WAS ESTABLISHED IN 1861 AT THE CONFLUENCE OF THE ST-LAWRENCE AND BETSIAMITES RIVERS.
- THE PESSAMIT INNU FIRST NATION IS GOVERNED BY AN ELECTED BAND COUNCIL COMPOSED OF THE CHIEF AND SIX COUNSELORS.
- THE PESSAMIULNUT ARE REGISTERED MEMBERS OF THE PESSAMIT INNU FIRST NATION.
- PESSAMIT IS THE SECOND MOST IMPORTANT INNU COMMUNITY WITH ± 4 000 REGISTERED PESSAMIULNUT.





## PESSAMIT SALMON FISHING RIGHTS A TROUBLING HISTORICAL CONTEXT

**1821:**

BRITISH CROWN AWARDED EXCLUSIVE COMMERCIAL SALMON FISHING RIGHTS TO HUDSON BAY COMPANY (HBC) ON PESSAMIT'S NITASSINAN. A SUSTAINABLY HARVESTED TRADITIONAL FOOD BECAME A COMMERCIAL RESOURCE. HBC PROHIBITED OR AT LEAST SEVERELY RESTRAINED SURVIVAL FISHING ACTIVITIES.

**1821 to 1859:**

MULTIPLE FAMINE EPISODES CAUSED DEATHS IN THE INNU POPULATION.



## PESSAMIT SALMON FISHING RIGHTS A TROUBLING HISTORICAL CONTEXT

**1844 to 1850:**

FACING STARVATION AND ILLICIT NITASSINAN OCCUPATION, THE INNU ADDRESSED CLOSE TO 10 PETITIONS TO CANADA'S SUCCESSIVE GOVERNORS GENERAL .

**1859:**

WIDE-SCALE SALMON OVERFISHING RESULTED IN THE LOSS OF HBC EXCLUSIVE COMMERCIAL RIGHTS. FROM THAT YEAR ONWARDS, THE LOWER CANADA AND QUEBEC GOVERNMENTS SUCCESSIVELY ESTABLISHED EXCLUSIVE SPORT FISHING POLICIES ON PESSAMIT'S NITASSINAN. WEALTHY BUSINESSMEN AND FOREST COMPANIES TOOK OVER THE HBC MONOPOLY. PESSAMIULNUAT WERE DOUBTLESSLY DRIVEN FROM SALMON RIVERS.





## PESSAMIT SALMON FISHING RIGHTS A TROUBLING HISTORICAL CONTEXT

**1864:**

THE CANADIAN GOVERNMENT GRANTED THE PESSAMIULNUAT WITH EXCLUSIVE SALMON FISHING RIGHTS FOR TRADITIONAL PURPOSES ON THE SOLE BETSIAMITES RIVER . THESE RIGHTS HAVE NEVER BEEN REVOKED. IN PRACTICE, THESE RIGHTS ARE NOW FUTILE DUE TO THE DESTRUCTION OF THE SALMON POPULATION.





## INFRINGEMENT OF PESSAMIT RIGHTS HISTORICAL CONTINUETY AS A PRESENT- DAY DIRECTION

### BEGINNING OF THE 1950s:

REPEATED GOVERNMENTAL PRESSURE TO FORCE THE PESSAMIULNUAT PERMANENT SETTLEMENT. FOR EXAMPLE, FAMILIES BRINGING THEIR CHILDREN ON THE NITASSINAN FOR TRADITIONAL ACTIVITIES WERE DEPRIVED OF FAMILY ALLOWANCES, AND BY COINCIDENCE....

### 1952:

LAUNCHING OF NUMEROUS MEGA HYDROELECTRIC PROJECTS ON PESSAMIT'S NITASSINAN : BERSIMIS -1 & 2, HART-JAUNE, MANIC- 1, 2, 3 & 5, OUTARDES 2, 3 & 4, ALL COMPLETED IN 1978





## INFRINGEMENT OF PESSAMIT RIGHTS HISTORICAL CONTINUITY AS A PRESENT- DAY DIRECTION

- PESSAMIULNUT SYSTEMATICALLY DRIVEN FROM THEIR NITASSINAN.
- BETSIAMITES SALMON RIVER RUINED.
- 1033 SQUARE MILES OF FLOODED LANDS: 2.2 TIMES THE SURFACE AREA OF LOS ANGELES.
- FORESAID PROJECTS IMPLEMENTED WITHOUT PRIOR NOTICE, WITHOUT IMPACT ASSESSMENTS, WITHOUT PESSAMIT'S AGREEMENT AND WITHOUT COMPENSATION.
- 29 % OF HYDRO-QUEBEC'S INSTALLED CAPACITY ILLEGITIMATELY ACQUIRED TO THE DETRIMENT OF PESSAMIT.



## INFRINGEMENT OF PESSAMIT RIGHTS HISTORICAL CONTINUITY AS A PRESENT- DAY DIRECTION

- IN COUNTERPART OF WEALTH GENERATED FOR HYDRO-QUEBEC, PESSAMIT HAS ENDURED LONG TERM ECONOMIC, CULTURAL AND SOCIAL DISRUPTIONS.



THIS CONSTITUTES A PRECEDENT IN QUEBEC!





THE GOVERNMENT OF QUEBEC AND HYDRO-QUEBEC  
HAVE PROFOUNDLY UPSET THE PESSAMIULNUT'S FAMILY  
UNIT AND SOCIO-ÉCONOMIC BALANCE, WITHOUT ANY  
COMPENSATION WHATSOEVER.

- THE BEAVER, OTTER AND MINK HAVE COMPLETELY DISAPPEARED FROM RIPARIAN ECOTONES.
- THE NEW WATER COURSES CREATED ARE DANGEROUS TO NAVIGATE.
- TRADITIONAL FOOD FROM HUNTING AND FISHING IS NO LONGER ACCESSIBLE .
- THE ECONOMICALLY SUSTAINABLE ACTIVITIES OF HUNTING, FISHING AND TRAPPING HAVE BEEN ELIMINATED AND REPLACED BY SOCIAL PAYMENTS TRANSFERS.



# An indefensible privilege

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NEXT: THE FINAL COUNTDOWN









# AN INDEFENSIBLE PRIVILEGE:

WIPING OUT THE BETSIAMITES RIVER SALMON  
TO LIGHT UP CITIES

Pessamit Innu First Nation  
September 29, 2016





# THE FINAL COUNTDOWN

Pessamit Innu First Nation  
September 29, 2016

# THE PESSAMIULNUT WERE DISPOSSESSED AT THE PROFIT OF HYDRO-QUEBEC





# THE GOVERNMENT'S REMARKABLE EFFICIENCY IN OVERSTEPPING PESSAMIT'S ANCESTRAL AND TREATIES RIGHTS TO PROMOTE ECONOMIC DEVELOPMENT

Until 1973: It was strictly forbidden for First Nations to hire lawyers to defend their rights in court.

1990: Aboriginal rights to fish for food and for cultural purposes were finally recognized by the Supreme Court of Canada. Infringement of aboriginal rights could be justified if:

- The least amount of harm is done.
- Fair compensation is paid to the aboriginal group.

THE GOVERNMENT OF QUEBEC AND HYDRO-QUEBEC HAVE NEVER MET THESE  
CONDITIONS. MOREOVER, QUEBEC REGARDED THE JUDGMENT AS NOT  
RELEVANT TO THE PROVINCE

# THE GOVERNMENT'S REMARKABLE EFFICIENCY IN OVERSTEPPING PESSAMIT'S ANCESTRAL AND TREATIES RIGHTS TO PROMOTE ECONOMIC DEVELOPMENT

1996: The Supreme Court of Canada contradicted Quebec's historical position and confirmed that First Nations possess ancestral rights in the Province.

2016: Quebec's chronic reluctance to negotiate a fair-minded settlement.





## THE BETSIAMITES RIVER:

*A former renowned  
productive  
salmon river.*

*Salmon has been the  
Pessamiulnt's main  
traditional summer  
food since time  
immemorial.*



## THE BERSIMIS HYDROELECTRIC COMPLEX –HQ

- Bersimis-1 completed in 1956: 1178 MW
- Bersimis-2 completed in 1959: 869 MW

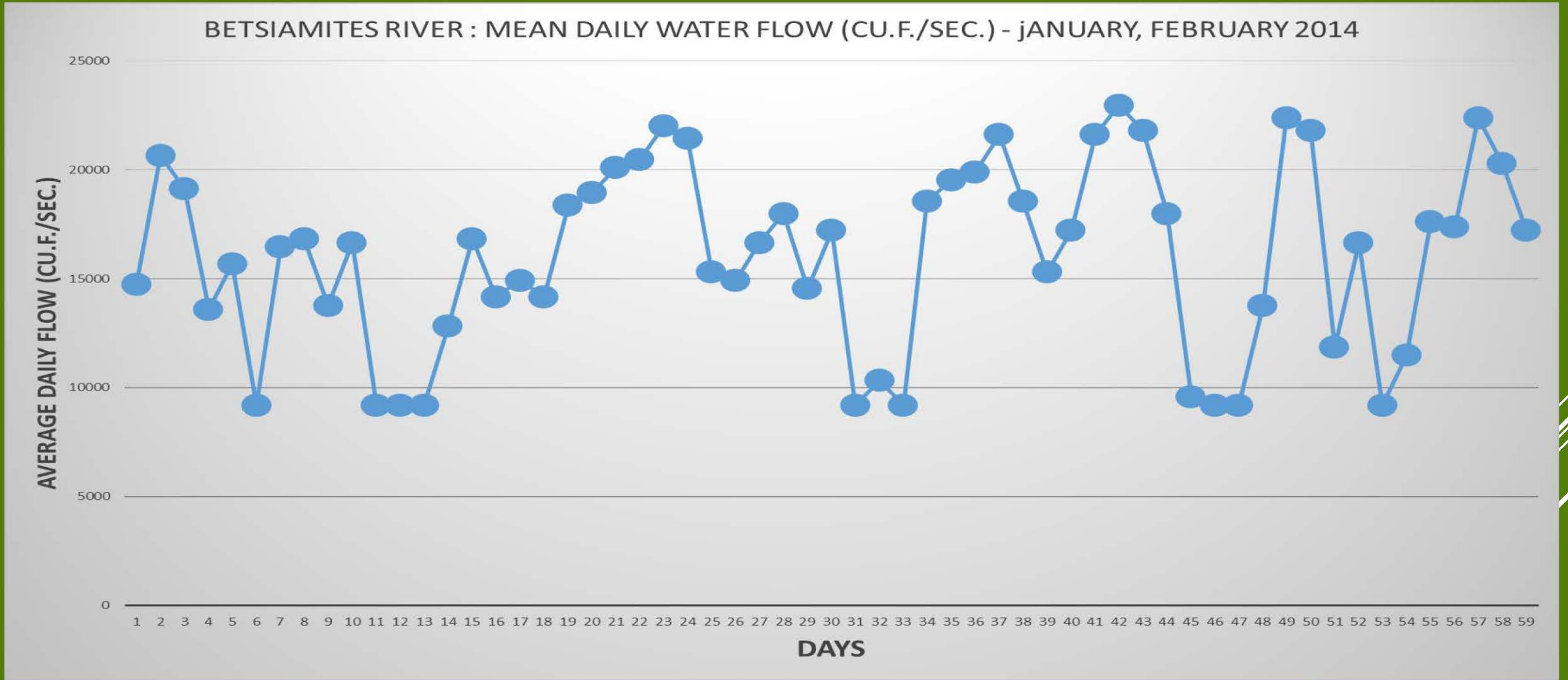
### BOTH FACILITIES BUILT:

- Without impact assessment studies.
- Without Pessamit's consent.
- Without compensation.
- Flooding 168 miles<sup>2</sup> of hunting grounds.
- Disrupting 43.5 linear miles of prime salmon habitat.
- Causing loss of sustainably exploited traditional food.
- Infringing Pessamit's cultural values.
- Beaching constitutional obligations and treaties.





**BERSIMIS-2  
POWER  
STATION AND  
DAM AT  
MILE 43.5 OF  
BETSIAMITES  
RIVER**

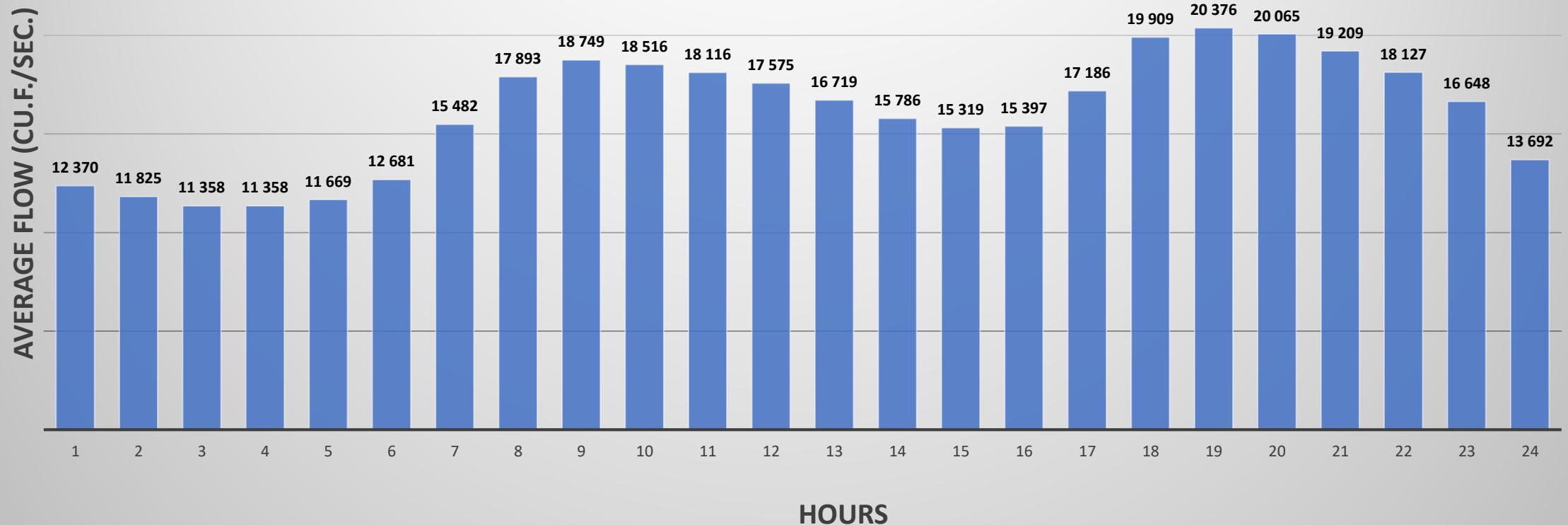


MEAN DAILY WATER FLOW VARIATION:  
TOTAL INCOMPATIBILITY WITH BASIC SALMON HABITAT REQUIREMENTS



## BETSIAMITES RIVER: MEAN HOURLY WATER FLOW

JANUARY, FEBRUARY 2014



A SALMON RIVER EXCLUSIVELY MANAGED FOR PEAK LOAD PRICING:  
SPRING FLOOD TO WINTER LOW FLOW CONDITIONS IN A SINGLE DAY

# BETSIAMITES RIVER, WATER FLOW REGIME:

SALMON PRECARIOUS SURVIVAL CONDITIONS - JANUARY, FEBRUARY 2014

- ▶ River flow variation occurrences: 1 to 7 times / 24 hrs.
- ▶ Mean frequency of river flow variation: 4.03 times / 24 hrs.
- ▶ Five turbines and their related pre-established surging flow range:

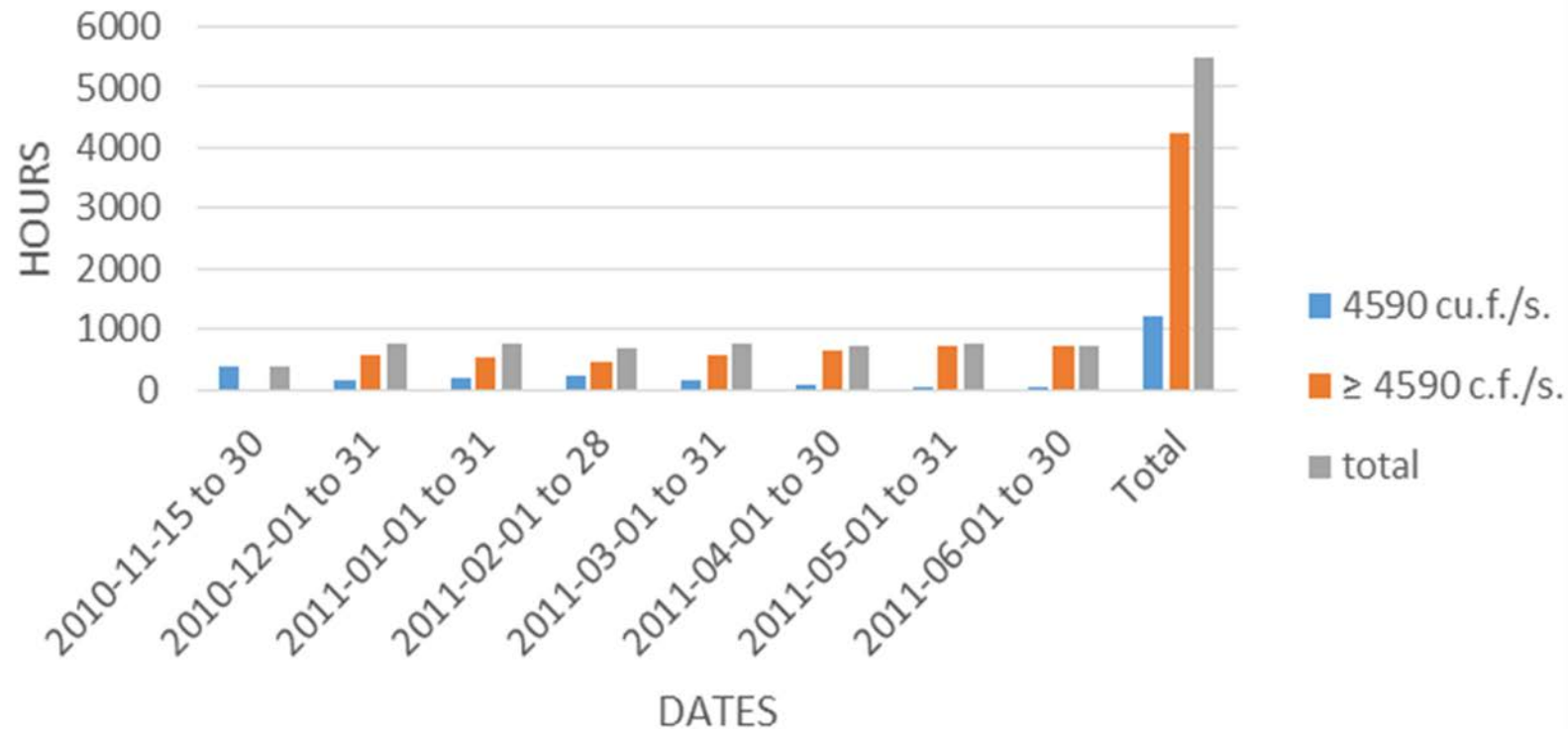
- ▶ 4 590 cu.feet / sec
- ▶ 9 180 cu.feet/sec
- ▶ 13 770 cu.feet/sec
- ▶ 18 360 cu.feet/sec
- ▶ 22 950 cu.feet/sec



- ▶ Five different water levels varying from 1 to 7 times daily ( $\pm 5$  feet).
- ▶ Current velocity varying from 1 to 7 times daily.



# Salmon Sensitive Life Stages : Spawning, Egg, Alevin, Fry (Nov. 15 to June 30)



Nov. 2010 to June  
2011: Occurrence of  
4,590 cu. feet/sec.

Water flow: 22% of  
salmon's most  
sensitive life period

AT 4,590 CU. FEET/SEC: 40% OF THE SPAWNING GROUNDS  
ARE DRIED UP



ACTIVE EROSION PROCESS ON RIVER BANKS CAUSED 5 FEET  
FLUCTUATION OF THE DRAWDOWN ZONE MANY TIMES DAILY





DESTRUCTION OF THE RIVER SHORE ECOTONE:  
ACTIVE CLAY BANK SLUMPING INTO BETSIAMITES SALMON RIVER



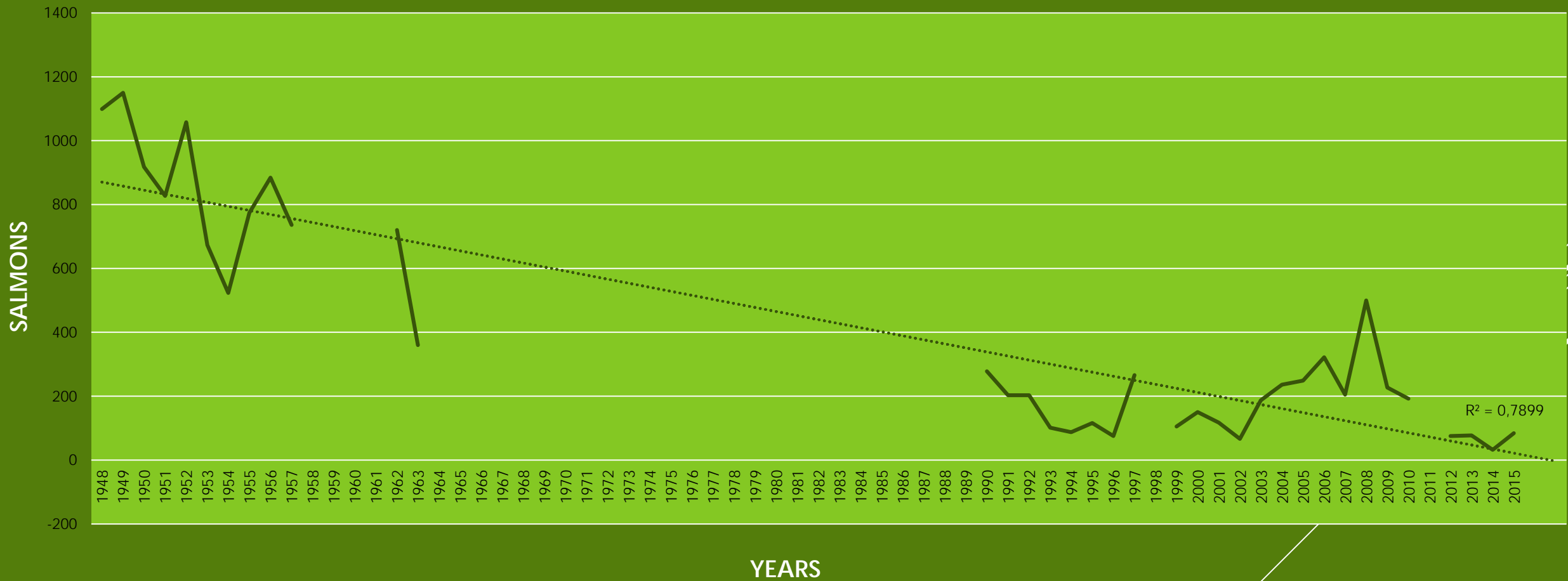


## CLOGGED SALMON SPAWNING GROUND

UNSTABLE CLAY CLIFFS CREATED BY 5 FEET FLUCTUATION OF THE  
DRAWDOWN ZONE MANY TIMES DAILY



## ANNUAL CATCHES



BETSIAMITES RIVER: SALMON CATCHES FROM 1948 à 2015

## AN UNAFFORDABLE LEGAL BATTLE TO SAVE THE BETSIAMITES RIVER SALMON: THE IDEAL STATUS QUO SCENARIO FOR QUEBEC & HYDRO-QUEBEC

- Predicted length and cost of legal proceedings against Quebec & Hydro-Quebec: far beyond Pessamit's financial capacity.
- Pessamit's budget imperatively bound to population's first line services .
- Pessamit & Quebec socioeconomic development indexes: -8.07 vs 0.
- Pessamit & Quebec unemployment rates: 47.5 % vs 7.2 %.
- Pessamit & Quebec adults on social security programs: 37 % vs 7.4 %.
- Pessamit & Quebec available income per capita: 12 214 CAD\$ vs 27 444 CAD\$.



# AN UNAFFORDABLE LEGAL BATTLE TO SAVE THE BETSIAMITES RIVER SALMON: THE IDEAL STATUS QUO SCENARIO FOR QUEBEC & HYDRO-QUEBEC

- A young population: 50 % < 25 years old experiencing a suicide rate 5 times higher than Canadians from the same age group.



HOPE FOR OUR CHILDREN MUST TAKE ROOT IN SOCIAL FAIRNESS

# BETSIAMITES SALMON:

## NATIONAL & INTERNATIONAL STATUS (1 OF 2)

### CANADA SPECIES AT RISK PUBLIC REGISTRY

*Quebec's western North Shore Atlantic salmon population is designated as a special concern . The population may become threatened or endangered due to a combination of biological factors and identified threats.*



# BETSIAMITES SALMON:

## NATIONAL & INTERNATIONAL STATUS (1 OF 2)

### CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN & NASCO

In addition to the United States, Canada is signatory to the Convention. Performance of member countries is, among other things, assessed according to the following criteria:

- Measures taken and other factors, both inside and outside the commission area, that affect the salmon stocks concerned.
- Efforts of states of origin to implement and enforce measures for the conservation, restoration, enhancement and rational management of salmon stocks in their rivers and areas of fisheries jurisdiction.

# BETSIAMITES SALMON:

## NATIONAL & INTERNATIONAL STATUS (2 OF 2)

### UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

#### ARTICLE 61 – CONSERVATION OF LIVING RESSOURCES :

« Such measures shall also be designed to maintain and restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities...»

#### ARTICLE 66 – ANADROMOUS STOCKS :

« States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks. »



# BETSIAMITES SALMON: NATIONAL & INTERNATIONAL STATUS (2 OF 2)

## DESPITE OPINION OF CANADIAN EXPERTS AND INTERNATIONAL AGREEMENTS

- Hydro-Quebec and its sole shareholder, the Quebec Government, pay absolutely no regard to the risk status of salmon and literally trample two international conventions.
- Through Hydro-Quebec and Quebec's complacency, Canada's performance stands well below its international commitments.

# CANADA'S INTERNATIONAL COMMITMENTS IN REGARD TO PESSAMIT ANCESTRAL RIGHTS

## UNITED NATIONS DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLES

### ARTICLE 8 (EXCERPT) :

« States shall provide effective mechanisms for prevention of, and redress for : any action which has the aim or effect of dispossessing them of their lands, territories or resources.»

### ARTICLE 20 (EXCERPT) :

« Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.»



# CANADA'S INTERNATIONAL COMMITMENTS IN REGARD TO PESSAMIT ANCESTRAL RIGHTS

FROM NOW ON, SUSTAINED INTERNATIONAL ACTION IS IMPERATIVE TO  
CHANGE THE COURSE OF HISTORY

- Pessamit's societal relationship with Quebec, based on common aspirations and shared values since the XVI<sup>th</sup> century, fell into unilateralism by the mid XIX<sup>th</sup> century.
- Since then, Pessamiulnut collective rights are considered as an historical mistake by Quebec.

WWW.NORTHERPASS.US (1 OF 2)

WWW.HYDROFORTHEFUTURE.COM:

## THE MISSING LINK

The Northern Pass website has recently been changed.

The link that was created with Hydro-Quebec, entitled [www.hydroforthefuture.com](http://www.hydroforthefuture.com) disappeared into cyber space.

In it, Hydro-Quebec had made the following remarkable statements:

*« Hydro-Quebec does not build a hydropower project unless it is favorably received by the communities. In addition the company takes all the necessary steps to ensure that the host communities, including Aboriginal communities, are involved in development and benefit from economic spinoffs in all stages of its projects.»*

*«Hydro-Quebec endeavours to develop mutually beneficial partnerships with Aboriginal communities through formal agreements.»*



*« Hydro-Quebec is among the Canadian companies that maintain particularly close ties with aboriginal communities. The Company ensures that they participate in even the first phases of its projects, and considers them to be front-line players. This approach is based on relationships that respect the interests, values and culture of the various aboriginal communities. Fulfillment of commitments and ongoing dialogue are also essential for mutual understanding.»*

*« For over 50 years, Hydro-Quebec has harnessed and developed this potential (hydropower resources) with a view to profitability and with due respect for the environment and host communities.»*

**Hydro-Quebec's withdrawal of their questionable statements  
coincides strangely with Pessamit's new media positioning**

CONSIDERING THAT: The Betsiamites river has been and still is the subject of illegal, repeated and harmful actions with total disregard to Pessamit's rights and international conventions;

CONSIDERING THAT: The Betsiamites river is exploited by Hydro-Quebec to meet short term peak demand needed for exportation despite anticipated extinction of its salmon population;

CONSIDERING THAT: Neither the Government of Quebec and Hydro-Quebec are taking into consideration the anticipated and undeclared aforementioned impacts of the exportation project;

THE PESSAMIT INNU FIRST NATION REQUIRES: The respect of its rights, the strict observance of related international conventions and confirms its firm opposition to the «Quebec – New Hampshire Interconnection Project».

*Our duty of remembrance to our ancestors and our moral obligation to give hope back to our children, no longer allows us to accept the prevailing party's detrimental decision.*

*Chief René Simon September 29, 2016*



THANK YOU FOR YOUR ATTENTION

TSHINASHKUMITIN

ALL QUESTIONS ARE WELCOME, PARTICULARLY  
THE MOST DIFFICULT ONES

PESSAMIT INNU FIRST NATION

