



**Conseil des Innus
de Pessamit**
Bureau politique

August 30th, 2017

11 SEP '17 AM 11:31

Mr. Brian Mills
Senior Planning Advisor
Office of Electricity Delivery and
Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Ave. SW
WASHINGTON, DC 20585

Re: Application for presidential permit OE Docket No 371
Final Environmental Impact Statement– Northern Pass Transmission LLC

Dear Mr. Mills,

The Pessamit Innu First Nation respectfully wishes to submit comments on the Northern Pass Project Presidential Permit Application. The Pessamit Innu First Nation includes some four thousand Pessamiuilnut (registered members), jointly represented by the Pessamit Innu Band Council (Pessamit).

The Context of Pessamit's Intervention

It is not Pessamit's intention to take a position on the specific impacts of the Northern Pass Project in New Hampshire. However, we want to shed some light on our experience with regard to the source of electricity and its environmental and social legitimacy, subjects that are not addressed in the final EIS.

Pessamit Ancestral and Treaty Rights

Our ancestors lived and prospered for 8,000 years on a large part of the territory that is now the Province of Québec. When the Europeans first came into contact with our ancestors in the 16th century, the Pessamiuilnut occupied a specific territory in Northeastern Québec and formed an organized society. We still occupy this same territory, known as "Nitassinan", which means "our land". The Pessamit Nitassinan covers more than 53,000 square miles. The recognition by both Federal and Provincial governments of our continued occupation of the Nitassinan before and after the period of contact with Europeans is the basis of our "Ancestral Rights".

In 1603, Innu Chief Anadabijou concluded a treaty with Samuel de Champlain, which gave permission to the French to settle on the Innu lands. In 1763, during the conquest of Canada by England, the territorial rights of the Innu were again recognized by the "Royal Proclamation", which came from the King of England, George III. These two main historic events are the foundation of our "Treaty Rights".

4, rue Metsheteu, Pessamit (Québec) G0H 1B0

Telephone : 418 567-8488 • Télécopieur : 418 567-2868 • Courriel : bureau.politique@pessamit.ca

www.pessamit.ca

It goes without saying that the Government of Québec and Hydro-Québec are, directly and with impunity, violating several historic treaties¹, provincial and federal laws², and three international conventions³, including the United Nations Declaration on the Rights of Indigenous Peoples.

The Northern Pass Project

Pessamit wishes to respectfully confirm that the DOE decision regarding the Northern Pass Project will have a major, albeit indirect, effect on both our Aboriginal Rights and the environment. In fact, the DOE decision could support Hydro-Québec's failure to comply with principles enshrined in the "*United Nations Declaration of the Rights of Indigenous Peoples*" and two international conventions ratified by Canada and United States concerning the protection of salmon.

We are concerned that the Final Environmental Impacts Statement lacks important information about the cross-border environmental impacts of the Northern Pass Project.

In relation to the Northern Pass Project, Pessamit can demonstrate:

- Detrimental and irreversible impacts will affect Pessamit's rights as well as international conventions jointly signed by Canada and U.S.A.;
- Prevailing Québec Government's disregard for the Betsiamites River salmon survival criteria;
- Degradation of the salmon habitat on the Betsiamites River by Hydro-Québec's activities;
- Success of the Atlantic Salmon Priority Action Plan 2016-2020, developed by the NOAA to stabilize and to prevent extinction of the Maine salmon population, counteracted by the failure to implement and enforce measures for the conservation, restoration, enhancement and national management of salmon stocks in Québec's rivers;
- Major modifications and operational changes to Hydro-Québec existing production facilities will be required for Northern Pass;
- Modifications and operational changes to the production facilities have not been evaluated by Hydro-Québec and no measures are planned to mitigate the impacts;
- 29% of the electricity contemplated to be exported to New England by Hydro-Québec still constitutionally belongs to Pessamit.

Status of Hydro-Québec's planned modifications and operational changes to the existing production facilities on Pessamit's Nitassinan

Hydro-Québec confirmed, at page 7 of its Strategic Plan 2016 – 2020 ("Plan stratégique 2016 – 2020")⁴, that they may not have enough existing surplus winter capacity to cope with the combined domestic and exportation demand. In order to address the situation, Hydro-Québec

¹ Historic treaties : « La Grande Alliance – 1603 » - « Royal Proclamation – 1763 »

² Provincial laws : « Act respecting the conservation and development of wildlife » section 128.6 - « Environment Quality Act » section 20 - « Charter of Human Rights and Freedoms » section 46.1 – Federal laws: « Migratory Birds Convention Act » paragraph 5(1) - « Fisheries Act » sections 34(1), 35(1) and 36(3) - « The Constitution Act » 1982 section 35

³ « Convention for the Conservation of North Atlantic Salmon » - « United Nations Convention on the Law of the Sea » - « Declaration on the Rights of Indigenous Peoples »

⁴ www.hydroquebec.com/publications/fr/docs/plan-strategique/plan-strategique-2016-2020.pdf

parties proceed to holding hearings on the issue of a permanent injunction. The Court decision on a permanent injunction will presumably be taken in winter 2017-2018. Should such a permanent injunction be granted, Hydro-Québec would have to re-establish the water level below the upper limit of the drawdown zone observed in the early 1980's (± 350 m) instead of bringing it up to 359,66, as planned.

The Manicouagan reservoir has a surface area of 750 square miles. The raising of the reservoir from its historical maximum level of ± 350 meters to 359,66 meters (29,5 feet) represents ± 22.5 billion cubic yards of additional water in the reservoir.

There are six powerstations in the Manicouagan Hydroelectric Complex:

Manic-5	1 576 MW	(Manicouagan reservoir)
Manic-5 PA	1 064 MW	(Manicouagan reservoir)
René-Lévesque	1 326 MW	(Manic-3 reservoir)
Jean-Lesage	1 259 MW ⁶	(Manic-2 reservoir)
McCormick	235 MW	(Manic-1 reservoir)
Manic-1	184 MW	(Manic-1 reservoir)
Total capacity	5 664 MW	

The water from the Manicouagan reservoir is turbined in sequence at five powerstations which have installed capacity of 5634 MW and a planned capacity of 5664 MW with the modifications contemplated by Hydro-Québec at Jean-Lesage powerstation.

The information needed to evaluate what the additional capacity (MW) would be of adding 22.5 billion cubic yards of water into the Manicouagan reservoir is unavailable to Pessamit. However, it is obvious that a significant portion of the contemplated 500 MW incremental capacity would be generated by the Manicouagan Hydroelectric Complex within Pessamit's Nitassinan.

- The Micoua-Saguenay transmission line, the raising of the Manicouagan Reservoir, the upgrading of Jean-Lesage powerstation and the Northern Pass Project

There is a direct link between the Micoua-Saguenay 735 KV Transmission line, the raising of the Manicouagan reservoir, the replacement of one turbine at Jean-Lesage powerstation, and the incremental capacity that Hydro-Québec has to demonstrate to qualify for base load electricity exports in Massachusetts.

Pessamit will never agree to the proposed transmission line for power from La Romaine 3 and 4 unless Hydro-Québec demonstrates that the proposed transmission line is taking the least damaging route for the threatened "*Woodland Caribou*". If necessary and in due course, Pessamit is ready to file an injunction against Hydro-Québec on this specific question.

The issue of the Manicouagan Reservoir has already been brought to the Court and the final decision is not expected before the end of winter 2017-2018. The planned upgrading of Jean-Lesage powerstation will necessitate consulting with and accommodating Pessamit.

⁶ There are 30 additional MW planned by the replacement of one production unit at the Jean-Lesage generating station.

decades, huge public consultation program with the various communities concerned, both Native and non-Native, have been undertaken. The projects are also covered by formal agreements with the Native communities on the impacts and benefits."

"We would like to point that hydropower projects carried out in Québec are subject to a very thorough environmental and social impact assessment by two levels of government, provincial and federal. Canada's environmental regulations are among the most stringent in the world."

In the June 6, 2016 correspondence, Hydro-Québec writes:

"Hydro-Québec develops its hydropower resource in an environmentally acceptable way and only after it "undergoes rigorous environmental assessment". http://hydroquebec.com/publications/en/sd_action_plan/pdf/plan_actiondd.pdf at 4. The company is renowned around the world for its environmental approach to developing projects and avoiding, mitigating or compensating a project's impacts."

In the May 23, 2017 correspondence, Hydro-Québec writes:

"In all HQ hydroelectric projects, the mercury issue is carefully evaluated during the environmental impact assessment phase. Our project authorizations include obligations related to monitoring and mitigation measures to ensure not to expose the public to health risks."

In the case of Pessamit, we assert that all of the statements above are unfounded.

Thirteen hydroelectric power plants and eleven reservoirs were, with one exception, implanted on our Nitassinan without impact studies, without our consent, and without compensation. All together, there is 29% of Hydro-Québec's installed capacity illegally acquired at Pessamit's expense. These facts totally contradict Hydro-Québec's official statements cited above.

Hydro-Québec's last statement on the mercury issue, with one exception, does not correspond to Pessamit's experienced reality. Moreover, the present-day raising of the Manicouagan reservoir by some 30 feet has never been subject to an EIA and the mercury issue has received any consideration.

The preceding Hydro-Québec statements are misleading to government regulatory agencies like the DOE, as well as New England residents.

As an additional illustration of misleading information, in a letter published on January 16, 2016 in the *Concord Monitor* newspaper in New Hampshire, Hydro-Québec writes:

"The displacement of Indigenous populations as part of Hydro-Québec projects is a myth. Hydro-Québec and Aboriginal peoples have developed various partnerships in order to provide economic spinoffs of its projects to communities (...)."

New Hampshire

Senator Jeanne Shaheen
Senator Margaret Hassan
Congresswoman Ann McLane Kuster
Congresswoman Carol Shea-Porter

Governor Chris Sununu
Ms. Pamela G. Monroe
Mr. Chris Aslin

Massachusetts

Senator Elisabeth Warren
Senator Edward Markey
Congressman Richard Neal
Congressman James McGovern
Congresswoman Niki Tsongas
Congressman Joseph Kennedy III
Congresswoman Katherine Clark
Congressman Seth Moulton
Congressman Michael Capuano
Congressman Stephen Lynch
Congressman William Keating

Governor Charlie Baker
Attorney General Maura Healey
Senator Harriette Chandler
Speaker Robert DeLeo
Secretary Matthew Beaton
Commissioner Judith Judson

Appalachian Mountain Club
Conservation Law Foundation
Sierra Club
Society for the Protection of New Hampshire Forests