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Published By: NEWS COMMUNICATIONS since 1977

Saturday August 16th, 2014

MI'KMAQ UNANIMOUS IN OPPOSITION TO FRACKING

Nova Scotia Mi'kmaq will never support fracking in this province, their representatives say.

The Native Council of Nova Scotia has left no room for misunderstandings. In recent months the province's expert panel on fracking set up a meeting with the council, which speaks for all Mi'kmaq living off-reserve in Nova Scotia.

The council members arrived with a statement and asked for it to be included word for word, in the panel's final report, expected out later this month.

The people they represent "oppose the practice of hydraulic fracturing for oil and gas in Nova Scotia," said the statement.

Throughout the meeting, they "were clear that the Mi'kmaq are opposed to all activities associated with hydraulic fracturing taking place on their traditional lands," panel member Constance MacIntosh, a professor at Dalhousie's Schulich School of Law, wrote in a discussion



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paper the panel released last month.

With strong land rights among Canada's First Nations, it's a near certainty that Mi'kmaq would legally need to be consulted in some depth if Nova Scotia authorities wanted to give a green light to the controversial method of oil and gas extraction.

However those consultations are

done, the answer will probably be the same: "We're against fracking, period," said one Nova Scotia chief.

And if that answer didn't stop the process, protests are likely, said Chief Rufus Copage of the Sipekne'katik band, the province's second-largest, known until recently as the Shubenacadie band.

Many concerns in his community are about the availability of clean drinking water, since fracking requires heavy use of local water, Copage said. The band lives on part of the swath of the province identified as potentially rich in frackable gas.

"Two years ago, we lost every bit of our water here in our community,"



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Copage said. "We didn't have one bit of water for almost six months."

He doesn't know of anybody within the Sipekne'katik band who is open to the idea, he said.

"I haven't heard anybody that's for fracking, other than the people that are trying to get rich off it."

When it comes to reserve land, the law is in flux right now, but "it seems extremely unlikely that hydraulic fracturing could take place on reserve land without the explicit consent of the affected First Nation," MacIntosh wrote in the paper.

With the province's wider obligations to consult Mi'kmaq on activities that could affect them, a firm "no" could prevent fracking entirely, or it could modify a plan to frack, only allowing it in certain areas or with certain restrictions.

The province's final decision could land it in court if Mi'kmaq rights had not been properly respected along the way.

Nova Scotia Mi'kmaq have an unusual situation: centuries ago, when they reached a political agreement with white settlers, they never gave up their land rights in the process.

Today they maintain that they hold title rights to their traditionally used land, which includes the right to control and profit from the land. For the most part, that claim hasn't been confirmed in court, wrote MacIntosh.

A similar claim by the Tsilhqot'in First Nation in British Columbia over a 1,750-square-kilometre piece of land was upheld by the Supreme Court of Canada in a July ruling.

In cases in B.C. and Alberta, the Supreme Court of Canada also ruled that aboriginal title rights included ownership of subsurface mineral rights.

Title rights aside, under established Nova Scotia treaty rights — for example, rights to hunt and fish — consultation becomes necessary when a proposal could have a high impact on those activities, wrote MacIntosh.

"A direct impact could arise if a fish spawning ground was harmed by an access road being built near it," she wrote as an example. "An indirect impact could occur if an increase in noise due to hydraulic fracturing activity resulted in game animals fleeing the area, or if hydraulic fracturing resulted in waters or other aspects of the ecosystem being compromised."

Mi'kmaq would need to be consulted "if a hydraulic fracturing company asked the province to grant them a permit to withdraw water from a lake where Mi'kmaq people have a right to fish."

If fracking were allowed, Mi'kmaq would also likely need to be involved in the process of setting up a regime to oversee the industry, she wrote.

"In the big, big picture, it's hard to imagine them avoiding consultation," said Jamie Baxter of the Schulich School of Law, another expert in aboriginal law.

"That seems quite clear. But I guess the question is really about, what is the content of the duty at the end of the day? And depending on what

kind of activity is going to happen, that's potentially going to vary."

The consultation can be less intensive, becoming more of a one-way information session, when a proposal is expected to have a very minimal impact. But those cases are rare, said Naomi Metallic of Burchells law firm in Halifax.

The vast majority of consultations involve "more than just giving the other side, the First Nations, an opportunity to vent," Metallic said.

Last year, when protesters in

Rexton, N.B., physically stopped shale gas exploration, lawyers for nearby Elsipogtog First Nation argued that New Brunswick hadn't properly consulted the band.

Molly Peters, a Mi'kmaq woman from Paq'tnekek First Nation in Antigonish County, followed what happened in Rexton, and she said she wouldn't be surprised to see the same thing if Nova Scotia lifted its moratorium on fracking.

"There's definitely going to be protests. I can guarantee ... based on what

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we're seeing in the past," she said. Mi'kmaq who protest fracking are defending water and the fish that live in it, she said, "and pretty well our livelihood, because a lot of Mi'kmaq people still rely on hunting and fishing to sustain their families."

Peters said there's a perception among many Mi'kmaq that fracking is just "a quick buck." But there's also a spiritual element to their opposition.

"Mi'kmaq consider water sacred, so that's why it's so important," she said. "It's the lifeblood of Mother Earth. It's the only thing that can sustain us."

"Our Earth can cleanse itself in many ways, and if we're not careful of what we do to it, then we might just be cleansed with it. You mess with that balance, there will be consequences, beyond all of our control, really."

NEWFOUNDLAND AND LABRADOR ANNOUNCES INDEPENDENT REVIEW INTO FRACKING

Newfoundland and Labrador is launching an external review into hydraulic fracturing after the results of an internal government analysis came back inconclusive.

Natural Resources Minister Derrick Dalley says the information gathered through the internal review isn't enough to make a final decision about fracking in the province.

Dalley says an independent panel of experts will now be tasked with examining the issue, specifically the industry's potential impact in western Newfoundland.

He says the panel will be charged with sharing information and receiving input from the public.

Fracking blasts pressurized water and chemicals into underlying rocks to release trapped natural gas and oil.

Last November, the province said it wouldn't accept any applications for fracking, effectively imposing a temporary ban on the industry.

INUIT WANT A SAY IN CANADIAN OFFSHORE SEABED CLAIM

"Inuit need to remain the deciders as to whether or not any extraction will happen"

As two Canadian icebreakers travel north on a survey mission to bolster the federal government's claim to Arctic offshore resources, Inuit leader Terry Audla has a message: "Inuit need to remain the deciders as to whether or not any extraction will happen... there's a need for a lot more consultation and information and knowledge-sharing."

Audla, president of the Inuit Tapiriit Kanatami, told Nunatsiag News that ITK supports potential developments of Arctic resources, so long as these are based on sound consultation and respectful of land claims in each Inuit area.

The icebreakers — the CCGS Terry Fox and CCGS Louis S. St-Laurent — left Newfoundland last weekend to collect information needed for Canada's submission on the Law of the Sea process

for extended seabed rights. Under UNCLOS, nations with Arctic Ocean coastlines — like Canada, Russia, the United States, Denmark and Norway — can claim economic rights to offshore territory beyond the 200-nautical-mile limit if they can prove that underwater geology shows the seabed is actually an extension of their land base, the continental shelf.

Canada filed a claim with UNCLOS in December 2013, but only for the North Atlantic portion of its continental shelf extension.

Prime Minister Stephen Harper wants

Canadian scientists to do more work on the Arctic portion of its claim this year and next to prove Canada owns rights extending to the North Pole.

At stake is control over potentially huge oil, natural gas, and mineral reserves that scientists believe lie under polar waters.

The vessels will survey the eastern side of the Lomonosov Ridge, which extends from northern Ellesmere Island and Greenland to Siberia, a news release from the department of Foreign Affairs, Trade and Development said Aug. 8.

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"If ice conditions permit, this survey will include areas in the vicinity of the North Pole," DFAIT said.

A second survey will be done in 2015, the news release said.

The Canadian government signed UNCLOS in 2003, with a 10-year window for claims to extend the undersea continental shelf. Canada submitted a preliminary application for an extension this past December — although a 2012 Foreign Affairs report said a ruling from the UN could take as long as 2030.

As for the need for consultation and Inuit involvement in UNLCOS, Audla pointed out that the National Energy Board's decision in June to grant a five-year permit for seismic testing in Baffin Bay near Clyde River didn't include adequate consultation, Audla said.

"The NEB had mistakenly tried to open the Baffin Bay area without having thoroughly consulted with the Inuit of the area," he said.

The permit is currently under review at the Federal Court of Appeal.

THE ICC: FRACTURED ARCTIC, UNCERTAIN FUTURE?

"The people of the Arctic are badly divided over oil and gas development"

The Inuit Circumpolar Council: does anyone care anymore?

A few people, perhaps. It's evident these days that only tiny numbers of regular people in Nunavut and Nunavik pay much attention to the ICC, which

wrapped up its latest general assembly in Inuvik late last month.

We know this because of website analytics. Only 247 of you even bothered to click on our July 25 story about the ICC's Kitigaaryuit Declaration, the centre-piece of their Inuvik gathering. Just four days later, 21,267 people lapped up a story about a Nunavik woman who plucked a ptarmigan inside a Montreal subway train.

The ICC, sadly, is becoming irrelevant to the grassroots Inuit it seeks to represent.

At the same time, governments, especially the Arctic Council's eight member states, still take the ICC seriously, or at least pretend they do. Because of its status as a permanent participant on the Arctic Council, the ICC must be consulted on the Arctic Council's agendas and they may also propose their own agenda items. As well, it's represented on the United Nations's permanent forum on indigenous issues.

This means the ICC still wields some influence. And that means what they say and what they talk about has the potential to affect your life.

So it's still useful to look at the claims that ICC makes about itself and examine whether those claims reflect reality — especially in connection with Inuvik assembly's overarching theme: One Arctic, One Future. That's because you don't have to look very deeply to see that on the most divisive issue now facing Arctic peoples, offshore oil and gas development, the ICC has a continuing problem on its hands.

In an ICC panel discussion on resource extraction held July 23 in Inuvik, an Alaskan Inupiat leader called Rex Rock Sr. had this to say about oil and gas development:

"Our communities have come to realize, and accept, that our survival depends on a healthy natural environment and ongoing resource development. Safe, responsible oil and gas development is the only industry that has remained long enough to foster improvements to our remote communities."

Seismic testing and marine

mammal hunters? In Alaska, they've been co-existing for more than 30 years, he said.

"The Alaska Eskimo Whaling Commission has been a leader in creating partnerships with the industry to protect our whaling activities," Rock said.

Rock is the president and chief executive officer of an Inupiat birthright company called the Arctic Slope Regional Corp. Just six days after his ICC speech, on behalf of his corporation, Rock signed a deal with a subsidiary of

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Royal Dutch Shell that creates a new firm called Arctic Inupiat Offshore, with an option to participate with Shell in drilling for oil and gas in the Chukchi Sea, in exchange for future royalty payments.

On the other side of the North American Arctic, it's a different story. The people of Clyde River, Arctic Bay and other north Baffin communities have categorically rejected a five-year plan to do seismic testing in Baffin Bay and Davis Strait.

They've railed against it on the radio, protested it in the streets of their communities and taken the issue to the Federal Court of Canada, where they seek a permanent injunction. And that's just seismic testing. No one is yet proposing to drill for oil and gas anywhere on the Canadian side of Baffin Bay and Davis Strait.

Who can blame them? The project promises great risks and few benefits.

And that's the big problem. In Canada, there's no clear process for ensuring that Inuit benefit from offshore oil and gas exploration.

"The offshore does not in itself have a policy by government to say what is the share of the risk and the benefit to Inuit," Nellie Cournoyea, the chair of the Inuvialuit Regional Corp., told CBC this past July 24.

Meanwhile, ICC Canada and its related organizations — such as Inuit Tapiriit Kanatami, Nunavut Tunngavik Inc., Qikiqtani Inuit Association — have so far kept their distance from the issue: no public statements and in the case of QIA and NTI, a couple of quiet resolutions passed

last fall that they did not publicize. And they've so far kept their distance from Clyde River's court case. The Hamlet of Clyde River acted on its own, with moral and financial help from Ecojustice and — believe it or not — the once-reviled Greenpeace.

We have no way of knowing if Clyde River's lawyers will win or lose. But their case raises national constitutional issues that are vital to the interests of Inuit and other aboriginal peoples in Canada.

At some point, ICC, ITK, NTI and QIA will have to talk about these issues in a more forthright manner. If they don't, they run the risk of being left on the sidelines, confirming the skepticism of those who already believe that on the issues that matter, those organizations are slipping into irrelevance.

That, however, could be easier said than done. The people of the Arctic are badly divided over oil and gas development, and other forms of industrial development. The leaders of many Inuit associations and birthright corporations see profit for themselves, jobs for everyone else and economic self-sufficiency. Many others see environmental degradation and the loss of wildlife, country food and cherished ways of living.

In itself, that's natural. People everywhere else in the world are divided over the same issues.

But the ICC and its constituent organizations have yet to create a true consensus on development, despite the well-meaning declaration

on non-renewable resource development they issued in 2011.

And the "one Arctic" they seek to establish is still fractured, its future uncertain.

NUNAVUT MP LEONA AGLUKKAQ RESPONDS TO SEISMIC TESTING PROTESTS

"I have been and will continue to monitor this situation very closely" Nunavut MP Leona Aglukkaq has responded, in a statement emailed to

Nunatsiaq News Aug. 11, to protests against seismic testing in Baffin Bay and Davis Strait, referring to what she called "misconceptions about the regulatory system in Canada."

"The National Energy Board is an independent agency that makes its decisions based on science and facts, void of political interference," her statement said.

Nunavut artist Lucy Tulugarjuk recently told Nunatsiaq News that she refused to perform for Aglukkaq, at the request of a

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Fort Smith-area chief, to protest what she described as the MP's lack of leadership on the issue.

Aglukkaq's statement listed expectations she has for any company wanting to do seismic testing off Nunavut's coast:

- that the NEB consider and mitigate environmental impacts through an environmental assessment;
- that meaningful consultation by the NEB and the company is carried out with affected Inuit communities;
- that Inuit traditional knowledge be incorporated;
- that Inuit benefit from the activity; and,
- that appropriate conditions are attached to any permit granted by the NEB to ensure environmental and community safety.

An open letter from Clyde River resident Niore Iqalukjuak called on Aglukkaq to respond to community concerns.

"I have been and will continue to monitor this situation very closely to ensure that the interests of northern Canadians are protected," Aglukkaq's statement said.

CANADA IGNORES CLIMATE WARNINGS IN DRIVE FOR TAR SANDS OIL

Report says forests will suffer more due to climate change, but neglects to mention own role in global emissions

Having repudiated the Kyoto Protocol on reducing fossil fuel use,

Canada is still exploiting tar sands for oil – despite accepting that climate change is destroying its forests.

Detailed evidence that Canada's vast natural areas are undergoing major changes because of climate change is produced in a new report by Natural Resources Canada.

The government body describes problems with disappearing glaciers, sea level rise, melting permafrost and changing snow and rainfall patterns. One of the country's most important natural resources, the forests that cover more than 50% of its land area, is under pressure because of pests, fire and drought.

There may, the reports says, be some pluses for Canada in climate change – at least in the short term – because some staple cereal crops will also be able to be grown further north because of warmer weather, assuming that the soil is suitable.

The report, Canada in a Changing Climate, concentrates on impacts and adaptation, but does not mention the causes, or the fact that Canada is now an international pariah in the environmental community because of its exploitation of tar sands for oil.

The country does attempt, for economic reasons, to be more energy efficient, but has repudiated the Kyoto Protocol and international efforts to curb fossil fuel use. The country had accepted a target of cutting emissions on 1990 levels by 5% by 2012, but the government backed out in 2011.

Average greenhouse gas emissions for oil sands extraction and upgrading are estimated to be 3.2 to 4.5 times as intensive per barrel as for conventional crude oil produced in Canada or the US.

If Alberta, where the oil is produced from tar sands, was a country and not a merely a province of Canada, it would have the highest per capita greenhouse gas emissions in the world.

The only mention the report makes of tar sands extraction is the problem caused by its large use of water, and it makes the point that the industry is recycling as much as possible.

Mitigation is not on the agenda, as the country's politicians are intent on exploiting as much of the country's oil and gas as possible.

A study of forests says that 224,410 people are directly employed in the sector, although it makes up only 1.1% of GDP. About 5% of the forests are damaged annually because of outbreaks of pests and fire.

Temperatures in the forest areas have risen far more sharply than on the rest of the planet, with far-reaching consequences for the future, the report says.

In 2009, over three million hectares of forest were destroyed by fire in a single year. The number of fires is expected to increase, with the area being burned being three to five times as much in Western Canada by the end of the century.

Large fires are raging again this

year, but the quantity of the damage has yet to be assessed.

Severe outbreaks

One of the pests moving north and devastating mature trees is the mountain pine beetle. The beetle is endemic, but is killed by winter temperatures below 35°C, thus limiting its numbers from year to year.

However, winter temperatures in many areas now fail to drop below this level, leading to larger and more severe outbreaks of the pest.

A report in 2012 concluded that 18.1 million hectares of forest dominated by mature Lodgepole pine (*Pinus contorta*) had been affected. Scientists conclude that productivity of the forests will decline rapidly in British Columbia, and thousands of jobs will be lost.

Meanwhile, the beetle is continuing to move north and east.

One advantage of the increased temperatures in Canada is that trees can grow further north and higher up mountains than previously and there is a longer growing season.

Trees that live 100 years cannot migrate fast enough to take advantage, so local governments are going in for assisted migration.

This involves planting the seeds of suitable species 100 to 200 metres above the existing tree line on mountains, and in some cases two degrees of latitude northwards (about 100 miles) of the existing forests into what is currently tundra or scrub.

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