



KITIGAN ZIBI ANISHINABEG

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July 24, 2020

Mélanie Sanschagrín,
Crown Consultation Lead,
Crown Consultation Operations Directorate,
Impact Assessment Agency of Canada,
700, Leigh-Capreol Place
Dorval, Quebec
H4Y 1G7

Dear Ms. Sanschagrín,

RE:Comments of the Kitigan Zibi First Nation to the Impact Assessment Agency of Canada Re: Draft Integrated Review Panel Terms of Reference-GAZODUQ Project

Part I: Introduction

The Gazoduq project proposes to construct and operate a natural gas pipeline approximately 780 kilometres long between northeastern Ontario and Saguenay, Quebec. This proposed project would connect TC Energy Limited's existing main natural gas transmission system near Ramore, Ontario to the proposed Énergie Saguenay natural gas liquefaction facility by GNL Quebec in Saguenay, Quebec. The Project would also include three compressor stations, one metering station, approximately 25 block valves and a dedicated control center.

The proposed route is not located within Kitigan Zibi Anishinabeg's unceded traditional territory but is located within the Algonquin Nation unceded traditional territory and the portions of the proposed route passing through the northern limit of the Ottawa watershed, which is at the heart of our Kitigan Zibi Anishinabeg Aki. Currently, there estimated 3500 registered Kitigan Zibi Anishinabeg members, with approximately half of the population living on-reserve. Kitigan Zibi Anishinabeg (KZA) is a member of the Algonquin Anishinabeg Nation Tribal Council. By submitting comments on the Draft Terms of Reference for the Integrated Review Panel Terms of Reference, does not infer we agree with the consultation process or the proposed project.

PART II – Comments

Section 2. Description of the Project

In our comment submission of the Draft Tailored Impact Statements guidelines, KZA has commented that there is a fundamental flaw in the scope and description of the project. The project must be assessed on its entirety, both up-stream and down-stream components, so that the true impacts and implications can be assessed. The description of the proposed project should encompass the existing TC Energy Limited's existing main natural gas transmission system near

Ramore, Ontario and the proposed Énergie Saguenay natural gas liquefaction facility by GNL Quebec in Saguenay, this would ensure that the assessment and review is robust when determining potential threats and/or claimed benefits, such as sustainability of project.

Section 3. Scope of Assessment by the Review Panel

3.1.ii. any cumulative effects that are likely to result from the Project in combination with other physical activities that have been or will be carried out,

As noted Section 2, the definition of the proposed project must include the existing TC Energy Limited's existing main natural gas transmission system near Ramore, Ontario and the proposed Énergie Saguenay natural gas liquefaction facility by GNL Quebec in Saguenay. Cumulative effects must also specifically address the relationship and over-all up-stream and down stream processes.

Section 4. Mandate of the Review Panel

4.2 The Review Panel will ensure that an impact assessment takes into account scientific information, Indigenous knowledge, and community knowledge.

The Review Panel must do more than “ensure” the information is taken into account; the Review Panel must be able to demonstrate that they were fully informed and how this information was taken into account in their recommendations and decisions. Furthermore, their recommendations must be traceable back to this information/evidence, specifically how Indigenous Knowledge will be taken into account.

4.10. The Review Panel will ensure that Indigenous communities and Nations are provided an opportunity to meaningfully participate in the impact assessment process, including, but not limited to the following:

It must be defined better of how the Review Panel will ensure “meaningful” participation. This degree of participation must be determined at First Nation community level and not by the physical distance to the project. Furthermore, this participation and level of participation must not be an undue hardship on the community, but rather a benefit, through studies and community capacity.

Cooperative Process

4.14. Through these Terms of Reference, the Review Panel is mandated to work collaboratively with the Bureau d'audiences publiques sur l'environnement (BAPE) to coordinate joint public participation opportunities as per article 7.4 of the Quebec Agreement.

Although information sessions will be held jointly, it is unclear how the separate process will be carried out. This will prove to be confusing and an undue hardship on the community participating in two separate processes with potentially differing requirements. Furthermore, since the review panel and decision making process are separate, the process needs to be defined or clarified if there are opposing recommendations or decisions.

5. Cooperation Principles

5.5 The Parties recognize the importance of opportunities for meaningful public participation in the environmental and impact assessment processes.

The First Nation consultation process should be addressed specifically, and that all documentation be available in the community's requested language.

7. Coordination of the Environmental and Impact Assessment Processes

7.2 At the stage that consists mainly in determining the conformity of the impact statement with the guidelines issued by the Agency, the Directive of the Quebec Minister of the Environment and the Fight Against Climate Change (the Directive) and the document on the comments and issues raised by the public on the Directive, the Parties agree to cooperate with a view to exchanging information, coordinating their communications with Gazoduq Inc. on this subject and, where possible, harmonizing their requests.

If there are specific concerns raised by Kitigan Zibi Anishinabeg, harmonization measures should not go against these concerns, and furthermore Kitigan Zibi Anishinabeg should be apart of these discussions.

Section 5. Impact Assessment Process

5.10. The Agency will undertake an initial review of the Impact Statement to determine whether any major deficiencies would prevent the Review Panel and participants from starting their review of the Impact Statement. In doing so, the Agency may consult with federal and provincial authorities as well as Indigenous communities and Nations. This initial review will be completed within 30 days.

The timeline for the initial review is too restricted/limited if further consultations would be required. This is especially true in light the current COVID-19 pandemic. Additional methods and timelines would need to be introduced to allow Kitigan Zibi Anishinabeg to meaningfully participate and contribute.

Public Hearing

5.35. The Review Panel will release a list of potential conditions that could be included in any certificate issued under the CERA and in a Decision Statement under IAA, should the Project be allowed to proceed. Participants and the proponent will be given the opportunity to provide comments on whether the potential conditions are sufficient to address identified effects impacts or issues and concerns arising from the Project.

The Review Panel should initially release the list of potential conditions to the participants, i.e., Kitigan Zibi Anishinabeg and the proponent and give them the opportunity to provide comments on whether the potential conditions are sufficient to address identified effects impacts or issues and concerns arising from the Project. The Review Panel could then in turn, consult upon its list of potential conditions, taking into consideration comments from the participants.

Section 7. Principles of Indigenous Engagement and Participation

7.1. The Review Panel will be responsible for designing its approach to Indigenous engagement and participation taking into consideration the principles regarding meaningful engagement

included in the Indigenous Engagement and Partnership Plan developed by the Agency, in collaboration with Indigenous communities and Nations, as well as requirements of the Quebec Agreement.

The Terms of Reference need to specify which principles and objectives regarding “meaningful” engagement it will utilize when designing its approach to Indigenous engagement or how the Review Panel will assess the proposed project’s potential impacts on our inherent rights. The Review Panel must develop this step in full collaboration with the First Nation.

Section 9. Specialist Advisors to the Review Panel

9.2. The Review Panel may also retain the services of independent non-government experts, including Indigenous knowledge holders, to provide advice on certain subjects within these Terms of Reference. Any such information received will be posted to the Public Registry.

This clause must include that any independent, non-government expert or specialist retained must be individuals have no vested interested in the outcome of the project personally, professionally or financially.

Section 11. Record of the Impact Assessment

11.5. As per article 8 of the schedule of the Quebec Agreement, all documents filed in the context of the public hearing will be accessible simultaneously by the BAPE and the Review Panel.

The Terms of Reference must include all documents relating to the project that are posted on the BAPE’s hearing registry also be included in the IAAC public registry.

PART 3: Conclusion

As noted in the above commentary, Kitigan Zibi Anishinabeg considers the Draft Integrated Review Panel Terms of Reference-GAZODUQ Project seriously flawed. Recommendations include the agency take into consideration all comments and re-drafting the Terms of Reference with a follow-up comment period. In light of the current Covid-19 pandemic, serious consideration should be taken in the postponing of the process under the Agency can ensure that all hearing and information sessions are carried out to ensure the health and safety of the public.

Sincerely, 

<Original signed by>

Wayne Odjick
Councillor
Kitigan Zibi Anishinabeg