



February 9, 2026

Jeremy Higgins
Environmental Assessment Officer
Environmental Assessment Branch
Nova Scotia Environment and Climate Change
jeremy.higgins@novascotia.ca

Mr. Higgins,

Re: Fast Acting Natural Gas Power Generation Facility – Marshdale, Pictou County

I write in response to your letter dated December 22, 2025, in which the province has declined to adhere to its consultation obligations pursuant to the *Constitution Act, 1982* and the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process (ToR)* as ratified on August 31, 2010, on the above noted project. This letter will also serve as a response to the Impact Assessment Agency of Canada's (IAAC) letter dated January 5, 2026.

The Mi'kmaq Nation in Nova Scotia has a general interest in all lands and resources in Nova Scotia as the Mi'kmaq Nation has never surrendered, ceded, or sold the Aboriginal title to any of its lands in Nova Scotia. The Mi'kmaq have a title claim to all of Nova Scotia and as co-owners of the land and its resources it is expected that any potential impacts to rights and title shall be addressed.

It is our expectation that Consultation will be forthcoming. With this Environmental Assessment being “engaged” on alongside the federal Impact Assessment Agency of Canada (IAAC) assessment being conducted in parallel, it is disappointing there is no offer to consult at this time and being classified as “engagement”.

Contrary to the statement in your previous letter that “the nature of this project is not likely to lead to appreciable adverse impacts to credibly asserted or established Mi'kmaq Aboriginal or Treaty rights,” it is the understanding of the Kwilmu'kw Maw-Klusuaqn (KMK) that this project has significant potential to impact salmon, moose and black ash, at a minimum. Accordingly, it has the potential to cause appreciable adverse impacts to the Mi'kmaq's established and asserted fishing, hunting and harvesting rights. This finding is supported by information presented in the Environmental Assessment Registration Document (EARD) as well as information presented by IAAC in a technical session dated January 22, 2026. The denial and delay in acknowledging the Crown's duty to consult appears to be unsupported by its own technical information, and we expect this shortcoming to be remedied as soon as possible. We are concerned that the Crown's

delay in initiating consultation will prejudice the Mi'kmaq, as we have already been prejudiced by the province's oversight in not sending us notice of this project until January 14, 2026, when the notice letter was dated December 22, 2025. These are impossibly short deadlines to operate within.

Atlantic salmon (*Salmo salar*) within the Southern Gulf of St. Lawrence Designatable Unit are currently listed federally as Threatened, and as of December 5, 2025, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) recommended that the population be uplisted to Endangered, consistent with the species designation in the Inner Bay of Fundy. The proposed Fast Acting Natural Gas Power Generation Facilities intersect with a species undergoing heightened regulatory scrutiny and recovery obligations at both the federal and provincial levels.

The two proposed fast-acting natural sites carry ecological risk, the Salt Springs location presents a substantially higher risk due to its direct overlap with critical Atlantic salmon habitat that supports population persistence at watershed and regional scales.

The Salt Springs facility is located at the confluence of Eight Mile Brook and Six Mile Brook, immediately upstream of Salt Springs Provincial Park and in close proximity to the West River main stem. These tributaries constitute two of the most ecologically significant salmon habitats in Nova Scotia. The West River supports one of the few remaining relatively stable Atlantic salmon populations in the province, and Eight Mile Brook functions as a keystone cold-water tributary within this system.

Eight Mile and Six Mile brooks provide essential thermal refugia that sustain juvenile salmon survival during periods of elevated summer temperatures. Sustained exposure to higher-than-average temperatures, is well established to cause physiological stress, reduced growth, and increased mortality in Atlantic salmon, particularly at juvenile life stages. The proposed projects directly affect the tributaries that currently buffer these temperature extremes and maintain recruitment within the West River population. These conditions are further compounded by recent weather trends such as the previous drought experienced in the last several summers. According to the project documentation presented in the EARD, groundwater would be withdrawn from local aquifers for cooling purposes, treated, stored in tailings ponds, and subsequently discharged into the river system. Groundwater extraction at this scale risks reducing cold-water discharge that sustains thermal refugia in Eight Mile and Six Mile brooks. This risk is compounded by the thermal limitations of tailings ponds, which cannot cool effluent below ambient surface temperatures prior to release. Discharging warmed effluent into a temperature-limited system would further degrade habitat suitability for Atlantic salmon and other cold-water species.

The combined effects of groundwater withdrawal and elevated effluent temperatures would be expected to increase during summer water temperatures, reduce the spatial extent and effectiveness of thermal refugia, and decrease juvenile salmon survival. Given the West River population's reliance on these tributaries during annual thermal stress events, the proposed projects are likely to result in population-level effects, including reduced recruitment and increased mortality during warm-water years.

The proponent's site-selection rationale identifies proximity to the Maritimes Pipeline, high-voltage transmission infrastructure, and what is described as "low ecological importance" as key factors. However, available biological data indicate that the Salt Springs site supports Atlantic salmon (Endangered under COSEWIC), brook trout, American eel (Special Concern under COSEWIC), and additional species at risk, as well as provincially significant riparian habitat. Characterizing this sites as low ecological value is inconsistent with accepted ecological assessment criteria.

Furthermore, pipeline and transmission infrastructure intersect at multiple locations across northeastern Nova Scotia. Alternative locations therefore exist that would allow you to meet energy-generation objectives while substantially reducing ecological risk and regulatory exposure.

Atlantic salmon are of great importance to the Mi'kmaq of Nova Scotia and are considered sacred to our culture and way of life. This species remains a foundational food source across Mi'kma'ki and would historically feed our people year-round. Loss of access to salmon threatens Mi'kmaq food security, self-determination, and rights-based harvesting practices. It is imperative Nova Scotia Environment and Climate Change (NS-EC works towards ensuring the future of this species for the next seven generations in perpetuity.

As mentioned in the EARD, "the Project Area is located approximately 2 km north of Core Habitat for mainland moose", any habitat adjacent to Core Habitat for mainland moose must be considered general moose habitat. Industrial activity within moose habitat must be approached with caution and mitigated responsibly. The cumulative effects from continued development, including natural gas projects, other renewable energy developments, forestry, mining, agriculture, and road construction, risk long-term and potentially irreversible impacts to moose populations. These impacts include water degradation and the immediate and future loss of secure habitat and safe food sources.

While all species deserve to coexist in balance, the invasive nature of human activity has made harmony within our forests increasingly difficult. As our demands on these ecosystems intensify, so too does the stress on wildlife and the environment. Greater consideration must be given to

the forest's original inhabitants, those who rely on its integrity for survival. Habitats for this endangered species are becoming increasingly fragmented as industry continues to intrude. NS-ECC continues to approve projects at an alarming rate with little consideration given to the local species in the area, and accordingly, little consideration given to the Mi'kmaq rights that rely on these species.

Mainland moose populations are continuing to decline in Nova Scotia. With the moratorium on harvesting moose remaining in place in the Cape Breton Highlands, sustained efforts are needed to protect the remaining population in Mainland Nova Scotia for the next seven generations of harvesters and beyond. Again, it is deeply disturbing that Nova Scotia is denying its obligation to consult with the Mi'kmaq regarding these potential impacts to s. 35 harvesting rights in relation to moose.

With the EARD stating that there are four Wisqoq (Black Ash) observed within the Project Area, our office has yet to be consulted on impacts to this culturally- and historically significant species, to which the Mi'kmaq assert harvesting rights. We also query what direction the province has provided to the proponent regarding the importance of collaborating with the Mi'kmaq on the protection and management of this species. In the past, our team has collaborated with other proponents to great success regarding this species and yet there have been no such invitations to collaborate on this occasion., There should be a requirement for a Wisqoq Management Plan to be developed with our office to ensure the species is handled with respect and care.

KMK's Archaeology and Research Division (ARD) is unable to provide comments on the Archaeological Resource Impact Assessment (ARIA) at this time, due to delays in the ARIA being shared with our office by NS-ECC. This resulted in insufficient time for KMK to review and comment. Our comments pertaining to potential archaeological concerns will be forwarded as soon as possible upon the completion of the ARIA review.

The Assembly of Nova Scotia Mi'kmaw Chiefs expects a high level of archaeological diligence with evidence-based decisions grounded in an understanding of the subsurface environmental data. The Maw-lukutijik Saqmaq (Assembly of Nova Scotia Mi'kmaw Chiefs) expects subsurface data, adequate to eliminate concern for presence, protection, and management of Mi'kmaw archaeological and cultural heritage as part of assessment of potential in advance of any development. We assert s. 35 rights in relation to such archaeological and cultural heritage and fully expect to be consulted regarding potential impacts to the same.

As soon as possible, the province needs to begin its consultation with the Mi'kmaq of Nova Scotia regarding this proposed Natural Gas Facility. The Office of L'nu Affairs was in error when it failed to identify concerns or conduct an adequate assessment of impacts to rights.

Appropriate time needs to be accorded for consultation and discussion with communities who may have an interest in this project. With Pictou Landing being the nearest Mi'kmaw Community and having a dark history of large-scale industrial developments adjacent to their community, such as the Boat Harbor Project, it is imperative that the local Mi'kmaw Communities are adequately informed well in advance of large-scale projects such as this.

It is disappointing that this is another EARD being presented by NS-ECC with no final Mi'kmaq Ecological Knowledge Study (MEKS) completed at the time of the EARD being released for review and comment. The MEKS remains a crucial tool in accessing how projects may impact the Mi'kmaq's section 35 Rights. KMK expects the MEKS will be provided to our office for review and comment upon its finalization.

While it is encouraging to see this project support the transition off fossil fuels by allowing natural gas to help diversify Nova Scotia's electrical grid, this project appears to also contribute to greenhouse gas emissions. Our office is seeking clarity on emission outputs of this proposed project and the mitigations proposed by NS-ECC and the proponent. We recognize that more needs to be done to transition away from fossil fuels and we would be encouraged to see the Mi'kmaq at the forefront of various renewable energy projects. With the provincial and federal governments making NetZero targets to transition Mi'kma'ki (Unceded land of the Mi'kmaq of Nova Scotia) away from fossil fuels, and with Nova Scotia's primary source of electricity being coal generation, the Mi'kmaq of Nova Scotia recognize that other sources of energy and fuels are needed to help meet these targets.

Our office would like to stress again the importance of the Crown meeting its consultation obligation, which it has yet to acknowledge and initiate.

In the Impact Assessment Agency of Canada's previous correspondence, the Agency stated its intent to "initiate a dialogue on the consultation process that would be meaningful to the Mi'kmaq of Nova Scotia about the project." We would like to remind both the provincial and federal governments that they are signatories to the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process* (ToR) as ratified on August 31, 2010, the mechanism that implements the Mi'kmaq Consultation Process in Nova Scotia.

KMK therefore emphasizes that a thorough, good faith consultation process must now be initiated both provincially and federally, consistent with the duty to consult and with the established ToR. Comparable projects handled by the Impact Assessment Agency of Canada, such as the Fifteen Mile Stream Gold Project, the Beaver Dam Gold Project, and the Regional Assessment of Offshore Wind Development in Nova Scotia, all involved meaningful Mi'kmaq participation and resulted in stronger, more defensible processes and improved project outcomes.

KMK does not represent the communities of Millbrook and Sipekne'katik First Nations. Please contact Patrick Butler, Senior Mi'kmaq Energy & Mines Advisor at KMK, with any questions.

Yours in Recognition of Mi'kmaq Rights and Title,

<Original signed by>

Twila Gaudet, B.A., LL. B. _____
Director of Consultation
Kwilmu'kw Maw-Klusuaqn

C.C.:
Kristina Burman, Kwilmu'kw Maw-klusuaqn
Patrick Butler, Kwilmu'kw Maw-klusuaqn
Marshdale NG Power Generation Project, Impact Assessment Agency of Canada
Joanna Tombs, Impact Assessment Agency of Canada