

Impacts within Federal Jurisdiction

Assessment Framework

Section 35 of the *Constitution Act*, 1982 recognizes and affirms existing Aboriginal and Treaty rights. For the Mi'kmaq of Nova Scotia, these rights include hunting, fishing, gathering, travelling throughout traditional territory, accessing culturally significant places, and sustaining practices necessary to maintain Mi'kmaq culture and way of life. The exercise of these rights depends not only on continued physical access to the land but also on the continued availability, quality, safety, and ecological integrity of the resources upon which those rights depend.

Accordingly, the central question for this review is not whether the Project allows continued access to the landscape, but whether the Project maintains the environmental conditions necessary for Mi'kmaq rights to be meaningfully exercised over the long term. While, the Initial Project Description does recognize ongoing Mi'kmaq use of the project area it gives comparatively little consideration to how environmental effects interact to influence the exercise of rights. This lack of an integrative approach to effects assessment is precisely the reason a federal assessment is required. A synthesis of potentially adverse effects and their relationship to impacts on Mi'kmaq communities cannot be achieved through a provincial only assessment, or various federal regulatory processes acting on silos.

Effects on the Exercise of Harvesting Rights

The Mi'kmaq Ecological Knowledge Studies document ongoing fishing, hunting, trapping and gathering within or immediately adjacent to the Project Development Areas. The Project Description emphasizes maintaining physical access to harvesting areas, yet access alone does not ensure that rights remain meaningfully exercisable.

The continued exercise of harvesting rights depends upon healthy fish and wildlife populations, safe country foods, ecological integrity, and the continued transfer of harvesting knowledge between generations. These broader considerations receive comparatively little attention and give the impression that the proponent is not approaching this assessment in a holistic manner informed by Etuaptmumk (Two-Eyed Seeing).

Country Foods as a Rights Issue

Country foods are central to the exercise of Mi'kmaq rights. Although the Project Description acknowledges harvesting of fish, berries, mushrooms and medicinal plants while also acknowledging historic contamination, it provides little assessment of contaminant pathways into country foods.

The proponent does not supply evidence that they will adequately assess bioaccumulation, dietary exposure, or the implications of contamination for Indigenous harvesting practices.

Compliance with site-specific environmental guidelines alone does not demonstrate that country foods will remain safe or culturally acceptable. **The only way to properly assess these pathways and potential adverse effects to community members health and wellbeing is through a co-developed, co-led study with Health Canada and Sipekne'katik.** A federal impact assessment is the designated process to conduct these types of studies and meaningfully integrate the results into binding conditions that the proponent must adhere to.

Long-Term Availability of Traditional Lands

The Project Description repeatedly characterizes impacts to traditional land use as temporary because access may be restored following reclamation. However, the proposed mine life extends over approximately two decades, during which landscapes, watercourses and ecosystems will be permanently altered.

A prolonged interruption of access may affect intergenerational knowledge transfer and cultural continuity even if access is eventually restored. **A methodology for assessing these long-term cultural effects is not presented by the proponent and should be co-developed with Sipekne'katik.**

7.4 Water Quality and the Exercise of Treaty Rights

The continued exercise of Mi'kmaq fishing rights depends upon healthy aquatic ecosystems. While the Project Description discusses water treatment and engineering controls, it focuses primarily on regulatory compliance rather than whether aquatic ecosystems will continue to support Mi'kmaw harvesting. Two things can be true in this case: water can meet regulatory compliance thresholds and still have impacts in the aquatic environment through increased temperature and sediment. Salmon and American Eel are both present within the potentially impacted areas and would be vulnerable to changes in water quality and quantity which will impact harvesting rights.

Additional assessment is required regarding fish tissue quality, contaminant pathways, cumulative effects on fisheries and long-term confidence in harvested fish. **Mi'kmaq community-based monitoring programs should form part of this assessment.** Given the lack of interaction with Sipekne'katik by the Province, this can only happen through the federal impact assessment where proponents are encouraged and supported to partner on these types of initiatives.

7.5 Archaeological Resources and Cultural Continuity

Archaeological investigations identified areas of elevated archaeological potential, possible Mi'kmaq resources and potential burial locations. Despite this, the document concludes that no confirmed Mi'kmaw archaeological sites have been identified.

Given that several investigations remain incomplete, additional archaeological work undertaken with Mi'kmaq participation should occur before irreversible project decisions are made.

7.6 Cumulative Effects on the Exercise of Rights

The combined effects of contamination, habitat alteration, transportation, landscape change, archaeological uncertainty and reduced confidence in country foods may collectively diminish the ability of present and future generations to exercise Mi'kmaq rights.

A rights-based cumulative effects assessment should evaluate these interactions rather than considering each environmental effect in isolation. **Sipekne'katik requests to undertake this assessment and expects support from IAAC to do so.**

7.7 Pathways of Effect on Mi'kmaq Rights and Health

The pathways below illustrate how environmental and socio-economic changes associated with the Project may interact to affect the exercise of Mi'kmaq Aboriginal and Treaty rights, as well as physical, mental, cultural, and spiritual health.

Pathway of Effect	Mechanism	Potential Effects on Mi'kmaq Health and Rights
Environmental Contamination	Contamination of surface water, groundwater, air, soils, fish, wildlife, medicinal plants, and country foods through mine effluent, dust, tailings, spills, acid rock drainage, metal leaching, and legacy contamination.	Increased exposure to contaminants; reduced confidence in country foods; potential respiratory, gastrointestinal and chronic health effects; diminished ability to safely exercise harvesting rights; reduced food sovereignty and food security.
Loss or Alteration of Traditional Lands and Resources	Restricted access resulting from mine infrastructure, exclusion zones, habitat loss, altered waterways, road development, and long-term landscape modification affecting hunting, fishing, trapping, gathering, and ceremonial activities.	Reduced ability to exercise Aboriginal and Treaty rights; decreased access to country foods; diminished cultural continuity; reduced physical activity; impacts on spiritual well-being, identity, and intergenerational knowledge transfer.
Cultural, Spiritual, and Psychosocial Effects	Disturbance of culturally significant places, archaeological resources, potential burial sites, and culturally important landscapes; disruption of relationships with the land; cumulative environmental change.	Anxiety, grief, ecological distress, loss of cultural identity, reduced community cohesion, intergenerational trauma, diminished resilience, and adverse effects on mental, emotional, spiritual, and cultural well-being.
Socio-economic and Community Well-being	Increased cost of living, housing pressures, changing	Family stress, economic inequities, community

	community dynamics, unequal distribution of economic benefits, workforce influx, and increased demand on community services.	conflict, pressure on health and social services, reduced social cohesion, and potential widening of health disparities.
Community Safety and Infrastructure	Increased industrial traffic, including frequent movement of 38-tonne B-train trucks on public roads, construction activities, noise, dust, emergency response demands, and increased interactions between industrial operations and community travel routes.	Increased risk of traffic collisions and injuries; reduced safety for land users; increased dust and noise exposure; disruption of traditional travel routes; reduced access to harvesting areas; heightened concerns regarding community safety and quality of life.

Cross-cutting Consideration

These pathways are interconnected and should not be assessed independently. Collectively, they may affect the exercise of Mi'kmaq Aboriginal and Treaty rights by influencing the availability, quality, safety, and cultural integrity of lands, waters, and resources relied upon for harvesting, cultural practices, and intergenerational knowledge transfer.

7.8 Overall Assessment

The redesigned project appears to reduce several environmental impacts compared with earlier concepts. However, from a Mi'kmaq rights perspective, the assessment remains incomplete because it largely equates the continued exercise of rights with physical access and regulatory compliance.

A robust assessment should demonstrate that the quality, abundance, safety and cultural integrity of lands, waters and resources necessary to exercise Mi'kmaq Aboriginal and Treaty rights will be maintained throughout the life of the project and after closure. The provincial environmental assessment process and stand-alone federal permitting processes, as typically applied, lack the tools, supports and time to support rigorous, intersectional assessment such that Sipekne'katik can make informed decisions.