

**APPENDIX J**

**MI'KMAW KNOWLEDGE STUDY**

# ***INTERIM MI'KMAW KNOWLEDGE STUDY***

Mi'kmaq Environmental Services Ltd  
May 2004

Prepared for Jacques Whitford Environment Limited  
For the Bear Head LNG Terminal Project  
Bear Head, NS



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## 1.0 INTRODUCTION

### 1.1 Mi'kmaq Environmental Services Limited

Mi'kmaq Environmental Services Limited (MESL) is an environmental consulting company administered by the Confederacy of Mainland Mi'kmaq (CMM), a Tribal Council that provides advisory services to six Mi'kmaq communities in the province of Nova Scotia - Paq'tnkek First Nation, Annapolis First Nation, Bear River First Nation, Glooscap First Nation, Millbrook First Nation, and Pictou Landing First Nation. The Chiefs of the member communities form the CMM's Board of Directors. The CMM maintains close operational and political ties with the other tribal council in Nova Scotia, the Union of Nova Scotia Indians, and provides administrative and policy support to the Assembly of Nova Scotia Chiefs and the Made-in-Nova Scotia Negotiation process.

### 1.2 Project Description

Mi'kmaq Environmental Services Limited was hired by Jacques Whitford Environment Limited to prepare a Mi'kmaq Knowledge Study (MKS) for the proposed Bear Head Liquefied Natural Gas Terminal (the Project) in the Point Tupper/Bear Head Industrial Park in Richmond County, Nova Scotia. The Project includes the construction and operation of a Liquefied Natural Gas terminal that includes three major components: ship unloading facilities, LNG storage tanks, and regasification areas.

## 2.0 DEFINITION OF TERMS

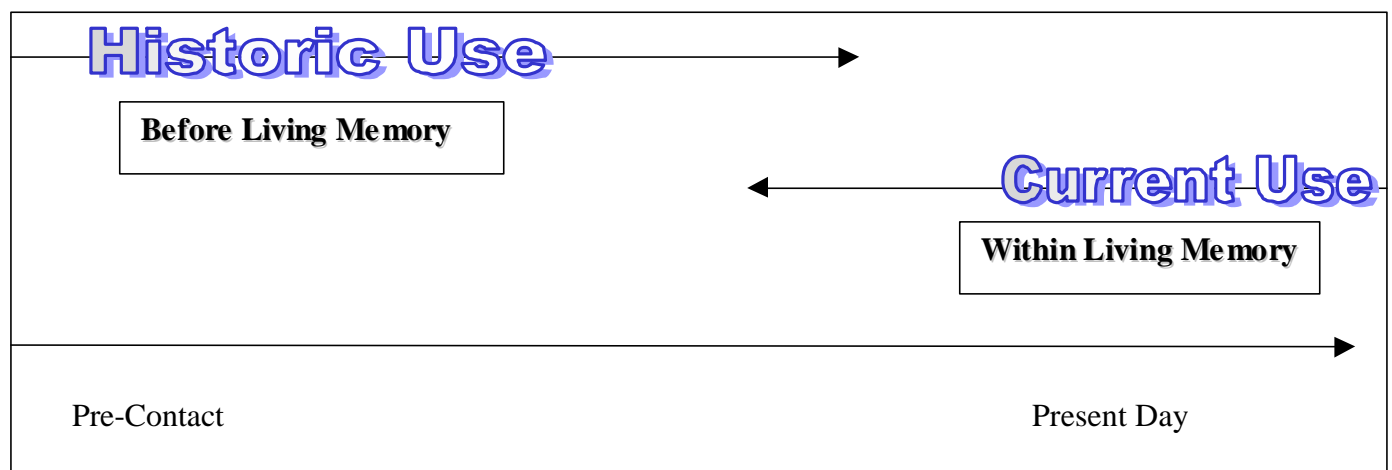
**CMM/UNSI Technical Committee** is chaired by Dan Christmas and comprises representatives from various Mi'kmaq organizations including the Negotiations Office. The role of the Technical Committee is to advise the Assembly of Nova Scotia Mi'kmaq Chiefs on all rights-based issues.

**Living Memory** is the memory of living Mi'kmaq. The period of time included in living memory varies from knowledge holder to knowledge holder. Living memory often extends to the father and grandfather of the knowledge holder and can be estimated at 3 to 4 generations.

**Current Mi'kmaq Land and Resource Use** occurred within living memory or is occurring at the present day (Figure 1).

**Historic Mi'kmaq Land and Resource Use** occurred before living memory (Figure 1).

Figure 1: Historic and Current Use Timeline



**Mi'kmaq Ecological Knowledge** is the collective body of knowledge which Mi'kmaq possess based on their intimate relationship with their natural surroundings, which involves exploitation, conservation and spiritual ideologies, and has been passed on from generation to generation “*kisaku kinutematel mijuijij*”, elder to child.

**Mi'kmaq Land and Resource Use Sites** are locations where Mi'kmaq land and resource use activities have taken place or are taking place at present day. These sites may or may not display physical evidence of Mi'kmaq use.

**Mi'kmaw/Mi'kmaq** *Mi'kmaq* means the Family and is an undeclined form. The variant form, *Mi'kmaw*, plays two grammatical roles: 1) it is the singular of Mi'kmaq and 2) it is an adjective in circumstances where it precedes a noun.

**Mi'kma'ki** is the Mi'kmaw homeland (Atlantic provinces and Gaspé peninsula).

**Specific Land Claim** arises when a First Nation alleges that the federal government has not honoured its treaties, agreements or legal responsibilities. According to federal policy, a valid specific claim exists when a First Nation can prove the government has an "outstanding lawful obligation". The Mi'kmaq are currently pursuing several specific land claims in Nova Scotia.



## 3.0 PURPOSE AND SCOPE OF THE MI'KMAW KNOWLEDGE STUDY

### 3.1 Purpose of the Mi'kmaw Knowledge Study

The purpose of the Mi'kmaw Knowledge Study is to support the integration of Mi'kmaw knowledge of use and occupation of Mi'kma'ki into development decisions via the environmental assessment process.

### 3.2 Scope of the Mi'kmaw Knowledge Study

The MKS includes:

- 1) a study of historic and current Mi'kmaq land and resource use;
- 2) an evaluation of the potential impacts of the Project on Mi'kmaq use and occupation and constitutionally based rights;
- 3) an evaluation of the significance of the those impacts; and
- 4) recommendations to proponents and regulators that may include recommendations for mitigation measures, further study, or consultation with Mi'kmaq.

### 3.3 Not included in the scope of the Mi'kmaw Knowledge Study

#### *3.3.1 Section 35 Consultation*

This study is not consultation for justification of the infringement of constitutionally protected aboriginal and treaty rights. If the project involves possible infringements of Mi'kmaq constitutional rights, the MKS recommends further action.

### *3.3.2 Archaeological Screening and Resource Impact Assessment*

The study is not an Archaeological Screening or Archaeological Resource Impact Assessment. Results presented in the study can inform and be informed by archaeological screenings and assessments.

### *3.3.3 Notification of Mi'kmaw individuals or communities of the Project*

The study is not intended to inform or notify Mi'kmaw individuals or communities of the Project, solicit the opinions or concerns of Mi'kmaw individuals or communities on the Project, or promote the Project to Mi'kmaw individuals or communities.

## 4.0 METHODOLOGY

### 4.1 Historic Mi'kmaq Land and Resource Use

Historic Mi'kmaq land and resource use occurred before living memory. The study of historic land and resource use paints a broad portrait of Mi'kmaq use and occupation of Mi'kma'ki in centuries past.

#### *4.1.1 Study Area*

The study area of historic Mi'kmaq land and resource use is the broad region in which the Project is located within the Mi'kmaq region of Unama'kik (Cape Breton).

#### *4.1.2 Methods*

CMM's research department utilized internal sources including index sheets, historical documents, church records, cemetery records and external sources including the Nova Scotia Archives and Records Management, the Archdiocese, Nova Scotia Museum, local archives, area and university libraries, the UCCB Mi'kmaq Resource Centre, and local historical societies to research historical use.

#### *4.1.3 Limitations*

Recorded documents are the primary source of information for the study of historic Mi'kmaq land and resource use. There are no recorded documents in the pre-contact period and recorded documents in the post-contact period are not comprehensive.

## **4.2 Current Mi'kmaq Land and Resource Use**

Current Mi'kmaq land and resource use occurred within living memory or is presently occurring. The MKS includes a study of:

- 1) Current Mi'kmaq land and resource use sites
- 2) Plants of significance to Mi'kmaq

### *4.2.1 Study Areas*

The study areas are described in Figure 2.

#### **4.2.1.1 Current Mi'kmaq Land and Resource Use Sites**

The study area for current Mi'kmaq land and resource use sites is a 5km radius surrounding the plants of significance study area.

#### **4.2.1.2 Plants of Significance to Mi'kmaq**

The study area for plants of significance to Mi'kmaq will be the 47 ha ANE property boundary described in the Project Description document of October 31<sup>st</sup> 2003.

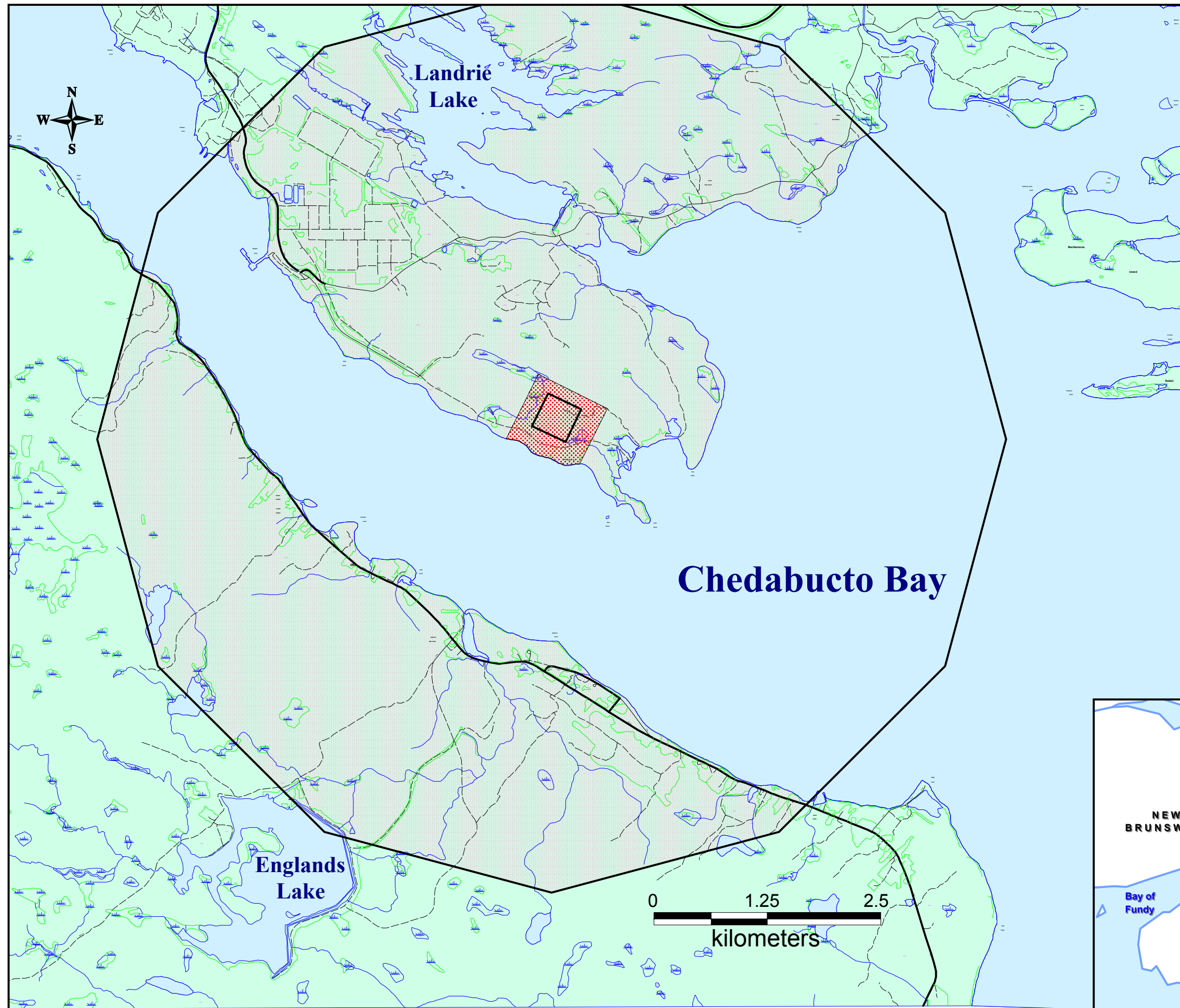
### *4.2.2 Methods*

#### **4.2.2.1 Current Mi'kmaq Land and Resource Use Sites**

Mi'kmaq knowledge on current land and resource sites was gathered through oral interviews with Mi'kmaw individual knowledge holders in accordance with the *Mi'kmaw Ecological Knowledge Protocol*. CMM partnered with the Union of Nova

# Figure 2

## Current Mi'kmaq Land and Resource Use Study Areas



### Study Area 1

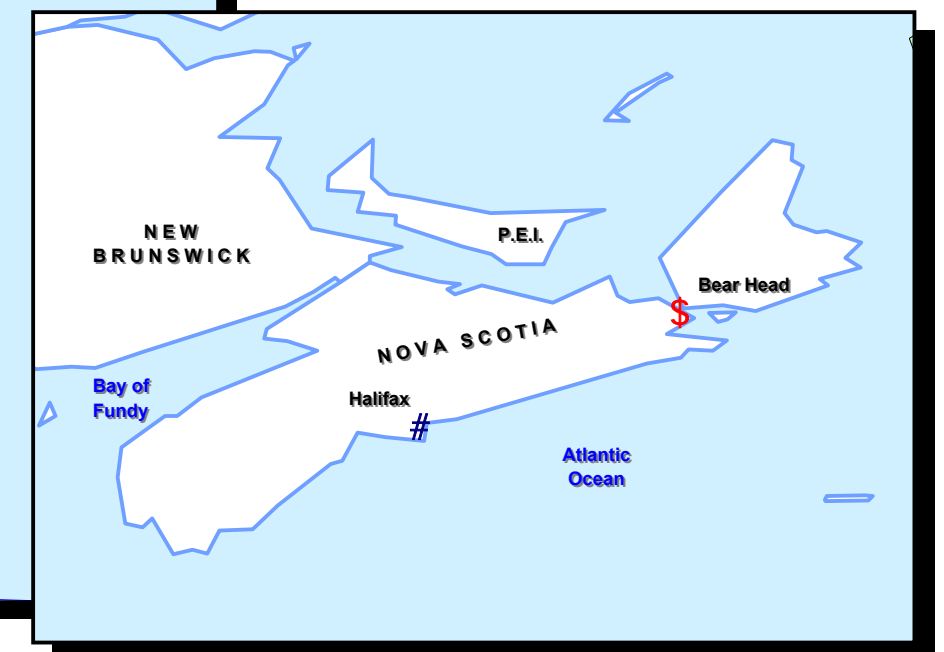
Current Mi'kmaq Land & Resource Use Sites

### Study Area 2

Plants of Significance to Mi'kmaq

### Legend

- Project Footprint
- Treed Area
- Access Roads
- Local Highway
- Local Road or Street
- Swamp or Marsh
- Swamp, River or Brook
- Lake or Bay



Scotia Indians to complete the information gathering process in Unama'kik (Cape Breton).

#### 4.2.2.2 Plants of Significance to Mi'kmaq

A system of stratified random sampling will be employed to identify plants present in the study area of significance to Mi'kmaq. The study will be carried out in the summer of 2004.

#### 4.2.3 *Limitations*

While every attempt was made to document all available Mi'kmaw knowledge, some available Mi'kmaw knowledge may not have been captured by the knowledge gathering process. It is also recognized that over generations of cultural and political suppression, much Mi'kmaq knowledge has been irretrievably lost.

## 5.0 RESULTS

Results of the study are divided into two categories:

- 1) historic land and resource use, that is, use that occurred before living memory, and
- 2) current land and resource use, or use that occurred within living memory or is occurring at the present day.

Land and resource use may be for hunting, burial/birth, ceremonial, gathering, or habitation purposes.

### 5.1 Historic Mi'kmaq Land and Resource Use

#### 5.1.1 *Pre-contact Mi'kmaq use and occupation*

The Mi'kmaq called the Bear Head area Red Rock Bank or Mekwa'sikewe'jk.<sup>1</sup> A variation of this name is Mekuasikewe'jk.<sup>2</sup>

The soil in the Bear Head area is a sedimentary lowland type, which promotes the growth of spruce and mixed hardwood common in the coastal areas of Nova Scotia.<sup>3</sup> The acid content of this soil type would not facilitate the preservation of any organic Mi'kmaw artifacts,<sup>4</sup> thereby likely leaving little if any archaeological evidence.

Geographical factors suggests that long-term occupation by the Mi'kmaq of the Bear Head area would be unlikely. It is relatively exposed to winds in every direction except out of the north. The site is accessible by land only from the north, thereby limiting its connection to any inland resources through overland methods. Climate conditions contribute to the unsuitability of the location for

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<sup>1</sup> Arlene Stevens, **Mi'kmaq Place Names**. (DocuShare). p. 30.

<sup>2</sup> Helen Sylliboy, **Mi'kmaw Place Names in Cape Breton**. (Mi'kmaq Resource Centre).

<sup>3</sup> Derek S. Davis and Sue Browne, eds., **The Natural History of Nova Scotia: Theme Regions Volume 2**. (Halifax: Nimbus/The Nova Scotia Museum, 1996). pp. 216-217.

<sup>4</sup> Stephen A. Davis, **Mi'kmaq**. (Halifax: Nimbus Publishing, 1997). p. 4.

historic Mi'kmaq use and occupation. The heavy rain and fog in conjunction with the exposed conditions at Bear Head suggests that it would have proved to be an inhospitable habitat.

The area to the east of Bear Head consisting of the Basque Islands and Isle Madame provided a more attractive site for Mi'kmaq use and occupation. This area is the breeding ground for winter grey seals, which was a mainstay in the diet of the Mi'kmaq.

St. George's Bay, the Strait of Canso, Chedabucto Bay, Lennox Passage, and St. Peters Bay formed an important travel way between the mainland and Unama'kik (Cape Breton).

### *5.1.2 Post-European contact Mi'kmaq use and occupation*

European fishermen visited Cape Breton's shores in the sixteenth century to cure fish and trade with the Mi'kmaq. However, these were seasonal visits and it was a few years before any serious attempts were made to form more permanent settlements: "The extremes of climate, scarcity of good level farmland, and heavy forest cover discouraged agricultural settlement."<sup>5</sup> Another description states that the "south-east coast, from Bear Head at the entrance to the Strait of Canso to Scatarie Island, is a tattered, ragged edge of land."<sup>6</sup>

Nicholas Denys established a trading post at St. Peters around 1650.<sup>7</sup> It was located close to what is now the St. Peters Canal access to the Bras d'Or Lakes. "It was a strategic location for trade with the Indians, for this portage was used by most of the peripatetic groups of Micmac who came and went between the Acadian mainland and the interior of the island."<sup>8</sup> The Mi'kmaq constantly travelled throughout the area and their numbers fluctuated greatly although they did tend to camp on the shores of the Bras d'Or Lakes when they stayed during

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<sup>5</sup> A. A. MacKenzie, **The Irish In Cape Breton**. (Wreck Cove: Breton Books, 1999), p. 11.

<sup>6</sup> Jim and Pat Lotz, **Cape Breton Island**. (Great Britain: Latimer Trend & Co. Ltd., 1974), p. 21.

<sup>7</sup> Phyllis Christena Wagg, **Families in Transition: Richmond County, Nova Scotia, 1871-1901**. Ph.D Thesis (Halifax: Dalhousie University, 1996), p. 43.

<sup>8</sup> Andrew Hill Clarke, **Acadia: The Geography of Early Nova Scotia to 1760**. (Madison: University of Wisconsin Press, 1968), p. 264.



the winter.<sup>9</sup>

The spot that Denys chose to build his settlement was more conducive to long-term habitation. This area had a considerably wider diversity of wildlife and resources that attracted settlers. By 1745 the Mi'kmaq had established a burial ground at Port Tholouze<sup>10</sup>. This was likely Port Toulouse, which was also known as St. Peters. The Mi'kmaq brought their furs to St. Peters to exchange them for European commodities. Approximately 450 Mi'kmaq lived in Cape Breton in 1800.<sup>11</sup> Several mentions are made to Mi'kmaq encampments especially in the Bras d'Or Lakes area in several places on the seashore. One author noted that he watched Mi'kmaq spearing eels from their canoes along the shallows of the Bras d'Or Lakes.<sup>12</sup>

European countries were not interested in establishing a permanent colony in the Canso area until well into the eighteenth century. Between 1770 and the early 1800s, approximately 17,000 Highland Scots and Irish immigrated to Cape Breton Island.<sup>13</sup>

In Thomas Chandler Haliburton's account of Nova Scotia he notes that Bear Island Point at the southern entrance of the Straits of Canso was the termination point for the series of French fishing, coasting and boat-building settlements.<sup>14</sup>

The closest reserve is located at Chapel Island, which is about seven miles from St. Peters. It was also known as Christmas Island, Indian Island, Isle Famille and Island of the Holy Family.<sup>15</sup> Father Maillard preached his first sermon to the Mi'kmaq of Chapel Island in 1735.<sup>16</sup> In 1766 there were four or five Mi'kmaq families that lived on Chapel Island. During the summer months they moved

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<sup>9</sup> Andrew Hill Clarke, p. 267.

<sup>10</sup> Ruth Holmes Whitehead, **The Old Man Told Us: Excerpts from Micmac History 1500-1950**. (Halifax: Nimbus Publishing, 1991), p. 105.

<sup>11</sup> Robert Morgan, **Early Cape Breton: From Founding to Famine 1784-1851**. (Wreck Cove: Breton Books, 2000), p. 83.

<sup>12</sup> Brian Tennyson, **Impressions of Cape Breton**. (Windsor: Lancelot Press, 1973), p. 189.

<sup>13</sup> Derek S. Davis and Sue Browne, eds., **The Natural History of Nova Scotia: Topics and Habitats, Volume 1**. (Halifax: Nimbus/The Nova Scotia Museum, 1996), p. 313.

<sup>14</sup> Thomas Chandler Haliburton, **An Historical and Statistical Account of Nova Scotia: In Two Volumes**. (Halifax: J. Howe, 1829), pp. 223-224.

<sup>15</sup> Brian Tennyson, **Impressions of Cape Breton**, pp. 18 & 30.

<sup>16</sup> Jim and Pat Lotz, p.146.

around the Bras d'Or Lakes for hunting purposes.<sup>17</sup>

Chapel Island was granted in 1792 to the Mi'kmaq so that they could establish a Church. The first church built on Chapel Island was started soon after and Mi'kmaq men from nearby St. Peters were employed during its construction.<sup>18</sup> Father Vincent estimated that five to six hundred Mi'kmaq would arrive at the Chapel Island Mission upon the arrival of a missionary.<sup>19</sup> The Feast of St. Ann is held annually at Chapel Island on July 25-26. During this time marriages and baptisms were performed. The burying ground was located here as well.<sup>20</sup> The Mi'kmaq assembled here yearly, put up wigwams for the occasion and spend a week in reviving games and ceremonies.<sup>21</sup>

The area around the Bras d'Or Lakes was more suited to agriculture. An account of the Indians within the County of Richmond taken on July 26<sup>th</sup>, 1841 at Chapel Island notes that several of the Mi'kmaq on Chapel Island were farmers.<sup>22</sup> Writers of the period noted that the Mi'kmaq had some very fine farms in the Bras d'Or area.

## 5.2 Current Mi'kmaq Land and Resource Use

The study of current Mi'kmaq land and resource use is comprised of a study of current Mi'kmaq land and resource use sites and plants of significance to Mi'kmaq.

### 5.2.1 *Current Mi'kmaq Land and Resource Use Sites*

Current Mi'kmaq Land and Resource Use activities are divided into five categories:

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<sup>17</sup> D. C. Harvey, ed., **Holland's Description of Cape Breton Island and Other Documents**. (Halifax: Public Archives of Nova Scotia, 1935), p. 67.

<sup>18</sup> Ruth Holmes Whitehead, pp. 180-1.

<sup>19</sup> Ruth Holmes Whitehead, pp. 206-7.

<sup>20</sup> Brian Tennyson, **Impressions of Cape Breton**, p. 116.

<sup>21</sup> Brian Tennyson, **Impressions of Cape Breton**, p. 188.

<sup>22</sup> MG 15, vol.3, #65.

- 1) kill/hunting
- 2) burial/birth
- 3) ceremonial
- 4) gathering food/ medicinal
- 5) occupation/habitation

In order to protect sensitive information, the exact locations of current Mi'kmaq land and resource use sites are not recorded. Table 1 records the number of sites in the study area. Table 2 provides a description of activities undertaken at the sites.

**Table 1: Number of Current Mi'kmaq Land and Resource Use Sites by Type**

<b>TYPE OF SITE</b>	<b>LAND</b>	<b>MARINE</b>
<b>HUNTING/KILL</b>	3	10
<b>BURIAL/BIRTH</b>	1	
<b>CEREMONIAL</b>		
<b>GATHERING</b>	2	
<b>HABITATION</b>	3	

**Table 2: Description of Activities Undertaken in Current Mi'kmaq Land and Resource Use Sites**

<b>TYPE OF SITE</b>	<b>LAND</b>	<b>MARINE</b>
HUNTING/KILL	Deer hunting, trapping	Eel, scallop, urchin, rock crab, and jonah crab harvesting. Eel and scallop harvesting for food is occurring at the present day.
BURIAL/BIRTH	Burial site	
CEREMONIAL		
GATHERING	Firewood harvesting	
HABITATION	Overnight site, group campsite	

*5.2.2 Plants of Significance to Mi'kmaq present in study area*

A stratified random sampling of the Study Area will be undertaken in June 2004. Results of the sampling will be integrated into the MKS once available.

## 6.0 POTENTIAL PROJECT IMPACTS ON MI'KMAQ LAND AND RESOURCE USE

The following table presents potential project impacts on historic and current Mi'kmaq land and resource use.

**Table 3: Potential Project Impacts on Mi'kmaq Land and Resource Use**

POTENTIAL IMPACTS ON HISTORIC USE	POTENTIAL IMPACTS ON CURRENT USE
None identified.	Eel and scallop harvesting for food is occurring at the present day in the study area. Temporary loss of access to fishing grounds as a result of vessel traffic is a potential impact of the Project.
	The study of plants of significance to Mi'kmaq will be completed in June 2004; it is as yet unknown if the Project will impact any plants of significance to Mi'kmaq.

## 7.0 SIGNIFICANCE OF POTENTIAL PROJECT IMPACTS ON MI'KMAQ LAND AND RESOURCE USE

The concept of significance in the Mi'kmaq Knowledge Study is distinct from the concept of significance under the *Canadian Environmental Assessment Act* or the *Nova Scotia Environmental Assessment Regulations*. Significance to Mi'kmaq is evaluated only in accordance with the criteria listed below. The MKS evaluation of the significance of the potential project impacts on Mi'kmaq should be used by regulators to inform their determination of the significance of the environmental effects of the Project.

### 7.1 Significance Criteria

The following criteria are used to analyze the significance of the potential project impacts on Mi'kmaq use:

- 1) Uniqueness of land or resource
- 2) Culture or spiritual meaning of land or resource
- 3) Nature of Mi'kmaq use of land or resource
- 4) Mi'kmaq constitutionally protected rights in relation to land or resource

## 7.2 Evaluation of Significance

**Table 4: Significance of Potential Project Impacts on Mi'kmaq Land and Resource Use**

<b>SIGNIFICANCE OF POTENTIAL PROJECT IMPACTS ON MI'KMAQ LAND AND RESOURCE USE</b>	
<b>POTENTIAL IMPACT</b>	<b>EVALUATION OF SIGNIFICANCE</b>
Eel and scallop harvesting for food is occurring at the present day in the study area. Temporary loss of access to fishing grounds as a result of vessel traffic is a potential impact of the Project.	Eel and scallop harvesting are aboriginal rights enshrined under section 35 of the Constitution. All infringements of aboriginal rights are significant. Because the increase in vessel traffic owing to the project is modest, within the capacity of existing shipping lanes, and within the existing marine industrialized area, the impact of increased vessel traffic on Mi'kmaq resource use is evaluated as not likely significant.
The study of plants of significance to Mi'kmaq will be completed in the summer of 2004; it is as yet unknown if the Project will impact any plants of significance to Mi'kmaq.	Significance of any impacts on plants of significance to Mi'kmaq will be evaluated in the final version of the Mi'kmaw Knowledge Study to be submitted in the summer of 2004. A significant impact of the Project on a plant or plants of significance to Mi'kmaq would be the destruction of a plant or plants that do not exist in the surrounding area and that have been identified in the MKS as in current or present day use by Mi'kmaw.

## 8.0 RECOMMENDATIONS

- 1) In the event that Mi'kmaw archaeological deposits are encountered during construction or operation of the Project, all work should be halted and immediate contact should be made with David Christianson at the Nova Scotia Museum and with Don Julien at The Confederacy of Mainland Mi'kmaq.
- 2) Eel and scallop harvesting for food is occurring at the present day in the study area. Increased vessel traffic as a result of the Project could result in a temporary loss of access to fishing grounds. Eel and scallop harvesting are aboriginal rights enshrined under section 35 of the constitution. It is recommended that the Proponent maintain good communications with Mi'kmaw fishers throughout the planning, construction, and operation of the Project in order to address any rights-based issues that could result from loss of access to fishing grounds in the future. The CMM/UNSI technical committee advises the Assembly of Nova Scotia Mi'kmaq Chiefs on all rights-based issues. It is not thought to be necessary to discuss the potential impacts of the Project on aboriginal rights with the CMM/UNSI Technical Committee at this time. Any rights-based issues identified via communications between the Proponent and Mi'kmaw fishers in the future would be referred to the CMM/UNSI Technical Committee. The CMM/UNSI Technical Committee and the Proponent would negotiate necessary next steps to resolve the issues.
- 3) The study of plants of significance to Mi'kmaq will be completed in the summer of 2004 and the final MKS submitted to regulators. It is anticipated that any mitigative measures related to plants of significance to Mi'kmaq will be considered for further action by the Proponent and regulators at that time. If a plant or plants of significance to Mi'kmaq is identified within the study area the following recommendations would likely be provided:
  - a. If the identified plant or plants of significance to be impacted by the Project are available to potential users in the surrounding area, no mitigative measures would be proposed
  - b. If the identified plant or plants of significance to be impacted by the Project are not available to potential users in the surrounding area, a recommendation would be made to explore possible design changes to the Project to protect the plant or plants of significance. If no design changes were possible, a recommendation for restitution measures would be made



(ex. harvesting the plant or plants of significance and providing them to the community or replanting the plant or plants of significance in another location)

- c. If the identified plant or plants of significance to be impacted by the Project are identified in the MKS as in current or present day use by Mi'kmaq and are not available in the surrounding area, a recommendation for mitigative measures that would allow Mi'kmaq to continue to access the plant or plants of significance would be made. In the event that no mitigative measures would be successful in protecting Mi'kmaq access to the plant or plants of significance, a recommendation that the Proponent consult with the Mi'kmaq via the CMM/UNSI Technical Committee would be made.

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