



**Environment  
Office of the Minister**

PO Box 442, Halifax, Nova Scotia, Canada B3J 2P8 • [www.novascotia.ca/nse](http://www.novascotia.ca/nse)

Our File number: 23000-30-121

**APR 18 2016**

Sipekne'katik First Nation  
c/o James Michael, Solicitor

**Re: Notice of Appeal Form (February 18, 2016)**

Approval No. 2008- 061384-A03 dated January 20th, 2016 to Alton Natural Gas Storage LP (the "Industrial Approval "or IAA03)

I am writing regarding your Notice of Appeal Form dated February 18, 2016 respecting Approval No. 2008-061384-A03, dated January 20th, 2016 to Alton Natural Gas Storage LP.

After careful review of the "grounds for appeal", the information you submitted in support of your appeal, and the applicable statutory provisions, I hereby render my decision pursuant to Section 137 of the Environment Act to dismiss your appeal.

The reasons for my decision to dismiss your appeal are provided as follows, with reference to the grounds documented in the Notice of Appeal:

- 1. The Province failed to fulfill its legal obligations of consultation and accommodation before granting the necessary approval for the operation of the Alton Gas Brine Storage Pond Project in Sipekne'katik traditional territory. An accompanying submission ("Form A") was also provided, which contains introductory information, statements of facts (as understood by the Appellant), issue under appeal, 28 statements, a conclusion, and relief sought.**

This review acknowledges the duty to consult on the brine storage component of the project. The Province has consulted directly with Sipekne'katik First Nation since July 31, 2014. Prior to this, the Province consulted with Sipekne'katik First Nation through the Assembly of Nova Scotia Mi'kmaq Chiefs under the Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, of which Sipekne'katik First Nation was a signatory. Consultation was initiated October 11, 2007.

The Province invited Sipekne'katik First Nation representatives to all consultation meetings and conference calls, despite Sipekne'katik First Nation's refusal to participate in some instances. In addition, the Province offered to hold, and held, meetings with Sipekne'katik Chief and Council and representatives separate from the KMKNO/Assembly, when requested. All information, reports, and documentation was provided to Sipekne'katik by the Province in the same manner and timing as to the Assembly/KMKNO.

The Province provided significant opportunities for Sipekne'katik First Nation to understand the project and identify potential adverse impacts to Aboriginal and Treaty rights. Furthermore, concerns raised by Sipekne'katik First Nation regarding potential adverse impacts to Aboriginal and Treaty rights were carefully considered and accommodated where appropriate, resulting in changes to the Industrial Approval, as well as changes in the design, operations and management of the project.

It is also noted that the Office of Aboriginal Affairs responded to concerns regarding community engagement on January 20, 2016 and detailed the extent to which the Province had consulted and accommodated Sipekne'katik First Nation. Furthermore, the letter from the Office of Aboriginal Affairs provided to Sipekne'katik First Nation noted the position that the duty set out in recent Supreme Court of Canada decision does not extend to consent-based decision making.

Both the environmental assessment and industrial approvals related to the project have requirements for conflict resolution and the establishment and operation of a community liaison committee (CLC). This includes the development and operation of an Issues Resolution System to track and resolve concerns in a timely manner. In addition, the purpose of the CLC is to share information with the community and provide a forum to identify community concerns that can be subsequently addressed by the Approval Holder or any government department, as appropriate. These requirements, along with responding to any complaints made directly to NSE demonstrate an on-going commitment to consult with Sipekne'katik First Nation, and accommodate where possible, regarding any concerns brought to NSE for consideration.

**2. Further, Sipekne'katik is generally in support of the scientific and technical concerns and questions raised by the other Appellants including the**

No additional information was provided to support this ground. All assessment and decisions relating to the Ecology Action Centre and "other Appellants" are provided in their respective response letters.

Pursuant to Section 138 of the *Environment Act*, you have thirty (30) days to appeal my decision to the Supreme Court.

Sincerely,



Margaret Miller, MLA  
Minister