

August 27, 2015

An Open Letter from concerned New Brunswick Groups to:

Russ Girling, CEO, TransCanada Corporation

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Peter Watson, Chair and CEO, National Energy Board

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The Honourable Leona Aglukkaq, Environment Canada

(Minister responsible for Species at Risk Act (SARA), North American Waterfowl Management Plan, Migratory Birds Convention Act)

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The Honourable Gail Shea, Minister of Fisheries and Oceans, Government of Canada

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The Honourable Denis Landry, Minister of Natural Resources, Government of New Brunswick
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The Honourable Premier Brian Gallant, Government of New Brunswick

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**RE: BOREHOLE TESTING OFF RED HEAD, NEW BRUNSWICK BY TRANSCANADA
PLANNED TO START AUGUST 27, 2015**

A 6-page work plan has come to our attention which shows TransCanada is days away from borehole testing off the shore of Red Head, New Brunswick in the Bay of Fundy.

The local residents, to our knowledge, were not notified about this work plan. This procedure is invasive and has the potential to hurt residents' foundations and drinking water, along with the natural environment that we all value and protect. Why are boreholes being drilled before this project is approved without consultation with residents and others affected? We had understood that there would be a review process of the Energy East proposal through the National Energy Board, followed by an application for all necessary Federal and Provincial approvals and permits. To our knowledge, none of these first significant steps have happened. It would appear that no such review and approval/permit process is being followed.

Borehole testing could have significant impacts that must be addressed prior to any approval or work being conducted. Will there be any foot or vehicle traffic on Anthony's Cove Road? If yes, this needs to be described and quantified. Offshore borehole testing forms part of the land use application for this project and cannot be done until all approvals/permits have been issued by the City for the use of this land. Will baseline testing be conducted (predrilling survey and well water testing) prior to any work so that there is reference information in case a problem is reported by a homeowner? It is well known that this land area is clay-based and pounding will transmit through this clay and (a) could cause vibration to homes resulting in damage and (b) could accelerate the movement of Anthony's Cove Road towards the sea and cause damage to homes, road and shoreline. Will noise be quantified and what times will the work be conducted? In particular, our concern about the noise from this work is (a) the effect on shorebirds – sandpipers gather and stop this time of year on their migration to South America, and Canadian Geese and ducks are beginning to gather for their migration and (b) the effect that this potential noise could have on residential property.

We emphasize again that the Energy East pipeline project has not been approved; Energy East is only a proposal and a significant number of residents and groups in New Brunswick are still awaiting word from the National Energy Board on their intervenor status in the review process. Furthermore, this shore and seabed is on unceded Wolastoq territory. There has been no free, prior, and informed consent obtained from the Indigenous communities.

The secrecy around this work plan, including what consultation, permits, and approvals have been carried out, is troubling. Is this an indication of how Trans Canada plans to conduct this entire project? Still fresh in our collective memory is the deaths of 5,000-10,000 migratory birds were killed in September 2013 at the Canaport LNG terminal around the corner from the Red Head work area. Why would TransCanada conduct this work just as migratory birds and whales are coming into the Bay of Fundy in increasing numbers in August & September?

Attached we have outlined our concerns and questions with this work plan. Given the lack of consultation and long list of concerns we are requesting that all work on borehole testing be stopped until these concerns are addressed.

Please send all responses to this letter to the following contact:

Mark D'Arcy and Caroline Lubbe-D'Arcy, Council of Canadians - Fredericton Chapter
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Sincerely,

Canaan-Washademoak Watershed Association

Citizen's Coalition for Clean Air

Concerned Citizens of Penobsquis

Council of Canadians – Fredericton Chapter

Council of Canadians - Kent County NB Chapter

Council of Canadians - Moncton Chapter

Council of Canadians – Saint John NB Chapter

Ecology Action Centre

Friends of Musquash

Green Light

Maliseet Nation Conservation Council

Memramcook Action

New Brunswick Anti-Shale Gas Alliance

New Brunswickers Against Fracking

PEACE NB

Penniac Anti-Shale-Gas Organization

Public for the Protection of the Forests of New Brunswick (PPFNB)

Red Head-Anthony's Cove Preservation Association

Sentinelles de la rivière Petitcodiac / Petitcodiac Riverkeepers

Sierra Club Canada Foundation – Atlantic Canada Chapter

Sustainable Energy Group – Woodstock

Tantramar Alliance Against Hydro-Fracking

Voices for Sustainable Environments & Communities

Julie Guillemot, Professeure en gestion de l'environnement, Université de Moncton, Campus de Shippagan (UMCS)

Alain Patoine, Professeur en gestion de l'environnement, Université de Moncton, Campus de Shippagan (UMCS)

André Robichaud, Professeur de géographie, Université de Moncton, Campus de Shippagan (UMCS)

Background

Our understanding of the impacts of borehole testing comes in part from this document:

<http://www.canlii.org/en/qc/qccs/doc/2014/2014qccs4398/2014qccs4398.pdf>

DECISION - Province of Quebec Superior Court, 28pp

SEPTEMBER 23, 2014

(page 11) *"[45] Last April, TransCanada performed seismic work. To do so, it obtained the DFO's authorization at the federal level but not, it would appear, from the government of Quebec. The seismic work produced pulsating noise (from blasting), whereas the geotechnical work will produce continuous noise."*

(page 12) *"[48] - The area in which there may be negative behavioural reactions ranging from subtle behaviour modification to complete avoidance is vast (several dozens of kilometres from the source);"*

(page 12) *"[49] Pursuant to the federal species at risk statute, Mr. Kemp of the Species at Risk Division of the DFO completed an initial analysis of the geotechnical work. Then, following the decision of TransCanada to use two barges to drill simultaneously, he prepared a second analysis."*

Concerns

Some of our concerns include the following:

1. There has been no proper community consultation and notification of the project.

Less than a month ago, TransCanada officials held a community liaison meeting (closed to the public) with five (5) Red Head residents on July 15, 2015, but only made a very brief reference to this project without giving any details or timeframe. The wider community did not learn of the work plan and August 27th start date until a document was delivered a week ago a Red Head resident by an anonymous source.

2. Early work will set the stage for how little or thorough the review and regulatory process is.

With the magnitude of this proposed Energy East project in Red Head - a 150-hectare tank farm capable of housing 7.6 million barrels of oil and a 183-hectare marine terminal complex - this project needs to undergo a complete and thorough information gathering, consultation process, and review process. This includes protection/conservation plans for migratory birds, fisheries, marine mammals, federal government acts and regulations, provincial government acts and regulations, and port authority and municipal procedures.

3. This shore and seabed is on unceded Wolastoq territory. There has been no free, prior, and informed consent obtained from the Indigenous communities.

The Saint John River Basin are the traditional lands of the Wolastoqiyik, which translates to mean 'the people of the beautiful bountiful river', and is the present location of six (6) Wolastoq (Maliseet) First Nations; the Saint John River Basin in New Brunswick is territory where

aboriginal land title and rights have never been ceded or surrendered by the Wolastoqey Nation. Instead, both New Brunswick and Indigenous people are bound by pre-Confederation treaties called the Peace and Friendship treaties.

4. Impact and mitigation measures to property owners with homes along the shore of Anthony's Cove.

5. Impact and mitigation to fisheries (e.g. lobster and groundfish).

6. Impact and mitigation measures to diving birds.

The Bay of Fundy receives a large number of species of waterfowl, shorebirds and seabirds, the highest bird species richness in the Canadian Atlantic. These include iconic birds such as the Atlantic Puffin, Razorbill Auk, and Semipalmated Sandpiper;

7. Impact and mitigation measures to migratory birds.

The salt marshes, and vast stretches of mudflats of the Bay of Fundy exposed twice a day during low tide, are a critical feeding stopover area along the eastern seaboard of North America for 34 species of fall migrating birds on their way to Central and South America, including hundreds of thousands of sandpipers and plovers, making it one of six (6) Canadian sites in the Western Hemisphere Shorebird Reserve Network.

8. Impact and mitigation measures to marine mammals, including harbour porpoises.

9. Impact and mitigation measures to marine mammals designated as endangered under Federal and Provincial Species-at-Risk legislation, including the North Atlantic Right Whale.

The rich zooplankton, krill, and fish in the Bay of Fundy which attracts over a dozen whale species (<http://new-brunswick.net/new-brunswick/whales/>), including each summer, two-thirds of the 350-400 remaining population of North Atlantic Right Whales, one of the most endangered marine mammals in the world;

Questions

Our questions and request for the following information:

1. Why is this work being conducted before the Energy East project has been approved? There is a large number of approvals and permits that are required by both the Federal Government and Provincial Governments.

2. What steps have TransCanada and the Government of New Brunswick taken to consult and gain consent from the Indigenous communities for this specific project?

3. Will there be any foot or vehicle traffic on Anthony's Cove Road? If yes, this needs to be described and quantified. Offshore borehole testing forms part of the land use application for this project and cannot be done until all approvals/permits have been issued by the City for the use of this land.

4. Will baseline testing be conducted (predrilling survey and well water testing) prior to any work so that there is reference information in case a problem is reported by a homeowner? It is well known that this land area is clay-based and pounding will transmit

through this clay and (a) could cause vibration to homes resulting in damage and (b) could accelerate the movement of Anthony's Cove Road towards the sea and cause damage to homes, road and shoreline. All homes adjacent to this work should have a predrilling survey done and well water testing done – quality/quantity - to determine a baseline for future reference if a problem is reported by a homeowner.

5. Will noise above the water be quantified and what times will the work be conducted? Our concern is for noise travelling through the air and (a) the effect to shorebirds – sandpipers gather and stop this time of year on their migration to South America, and Canadian Geese and ducks are beginning to gather for their migration and (b) the effect that this potential noise could have on residential property.

6. Will noise in the water be quantified and what times will the work be conducted? Our concern is for noise travelling through the water, particularly (a) the effect on the fisheries (e.g. lobster, sturgeon), and (b) the effect on marine mammals (e.g. harbour porpoises, whales).

7. Have you asked government departments and whale researchers about the potential disruption and impact that this borehole testing will have on marine mammals in the Bay of Fundy, including the North Atlantic Right Whale?

8. If so, what information have you received from government departments and whale researchers? What additional mitigating measures have been advised that would reduce the disruption or impact to acceptable levels?

9. Have you requested and received a permit to conduct this borehole testing from the New Brunswick Minister responsible for the provincial Species at Risk Act? The North Atlantic Right Whale is listed as an endangered marine mammal under this Act.

10. Have you requested and received a permit to conduct this borehole testing from the Canadian Minister responsible for the federal Species at Risk Act? The North Atlantic Right Whale is listed as an endangered marine mammal under this Act.

11. What are the Government of New Brunswick current and future commitments to reduce greenhouse gas emissions (CO₂ and methane)? Are you meeting those targets? Note that the Provincial Premiers in Ontario and Quebec have just recently adopted carbon pricing.

12. Will these greenhouse gas reduction steps be counteracted by increased greenhouse emissions from increased oil-by-rail infrastructure at Red Head, and Energy East infrastructure such as the proposed pipeline through unceded territory in New Brunswick, and the proposed tank farm and marine terminal at Red Head?