



Deborah Richardson
Senior Principal – National Initiatives

Ishkonigan Consulting and Mediation

**Ontario Association of Impact Assessments
Conference**

***Collaboration and Innovation in Impact
Assessment: Achieving Positives Outcomes***

October 22, 2014

Agenda

- Background – Ishkonigan Inc.
- Energy East Pipeline (TransCanada) – Project Details
- Benefits to First Nations and Metis
- First Nation and Metis Engagement
- Key Considerations for Engagement
- Aboriginal Engagement Strategy/Objectives
- Pre Engagement *Important*
- Aboriginal Engagement Process
- What We've Heard So Far
- The Duty to Consult

Ishkonigan Inc.

- Based out of Akwesasne Mohawk Territory, near Cornwall, ON
- Established in 2009 by Phil Fontaine, former National Chief
- 35 employees
- Senior Management Team:
 - Phil Fontaine, President
 - Scott Patles-Richardson, Managing Partner
 - Mike Fontaine, Vice President
 - Deborah Richardson, Senior Principal – National Initiatives
- **Ishkonigan is responsible for Aboriginal Engagement for the Energy East Project in Saskatchewan, Manitoba, Eastern Ontario, Quebec and New Brunswick, Nova Scotia.**

Energy East Pipeline



- **\$12 billion investment, excluding transfer value of Mainline natural gas assets**
- **1.1 million bbl/d of capacity with ~900,000 bbl/d of firm, long-term contracts**
- **Anticipated to commence deliveries to Québec in 2018, with service to New Brunswick expected in late 2018**

Project Details

- Energy East proposes to construct and operate a 4,500 km crude oil pipeline system from Hardisty, Alberta to Saint John, New Brunswick (Project)
- This will be a batch crude oil pipeline to transport oil from Western Canada to Eastern Canadian & export markets
 - Sources from Western Canada include Oil Patch & Bakken
 - The pipeline will transport all types of crude
 - Markets include eastern Canada, U.S. East Coast, U.S. Gulf Coast & global markets
- Target early 2018 in-service to Quebec and late 2018 to New Brunswick
- Capacity 1.1 million barrels per day
 - Eastern Canada currently imports approximately 700,000 bpd
- Total Capital & development cost approximately \$12 billion

First Nation and Métis Engagement

- TransCanada is committed to not only meeting legal obligations, but ensure First Nations and Métis communities are heard and their concerns are responded to
- Our approach is to work with communities to ensure all aspects of the project are understood, questions are answered and concerns are addressed
- We want to work with all communities to identify any adverse impacts that may result from the Energy East Pipeline Project so as to mitigate such impacts



TransCanada fully intends to undertake a comprehensive engagement program that will ensure an open and transparent engagement process so that First Nations and Métis communities are informed and actively engaged in all aspects of the project.



Key Considerations for Engagement



- **Relationships** – Establishing honest and credible relationships are key to doing business with First Nations and Métis communities. Indigenous people prefer to deal with people they know.
- **Trust** – Indigenous communities are mistrustful of resource development companies, government, and non-native people in general due to historical circumstances. Building trust in the Project and Project Team are central objectives.
- **Culture** – Many First Nations have community-specific and nation-specific protocols that are not written down.
- **Respect** – For leadership, protocols, culture, history, Aboriginal and Treaty rights and interests to land, water, traditional activities, and the right to determine a position on the Project, are key
- **Environment** – First Nations and Métis people have a strong, spiritual connection with the natural Earth, it's flora and fauna and the water.
- **Lack of Capacity** – First Nations and Métis groups do not have the extra human resources, fiscal or advisory capacity to work with project proponents. They rely on development companies for capacity funding.

Aboriginal Engagement Strategy



- Significant Scope: 6 provinces, potentially up to 198 First Nations, Métis communities, Tribal Councils, Provincial Territorial Organizations, Political Organizations.
- Different Approach: Most of TransCanada's Aboriginal Relations work has traditionally been done in house. Energy East marks the first time TCPL has contracted out Aboriginal Engagement to work alongside Aboriginal Relations.
- Aboriginal Engagement Goals:
 - Similar to all Stakeholder Engagement Goals
 - To build and maintain a positive reputation for the Project
 - Build trust
 - Educate and share knowledge
 - Influence perceptions of oil pipelines
 - Take steps to ensure the project is permitted, approved and constructed

Aboriginal Engagement Objectives

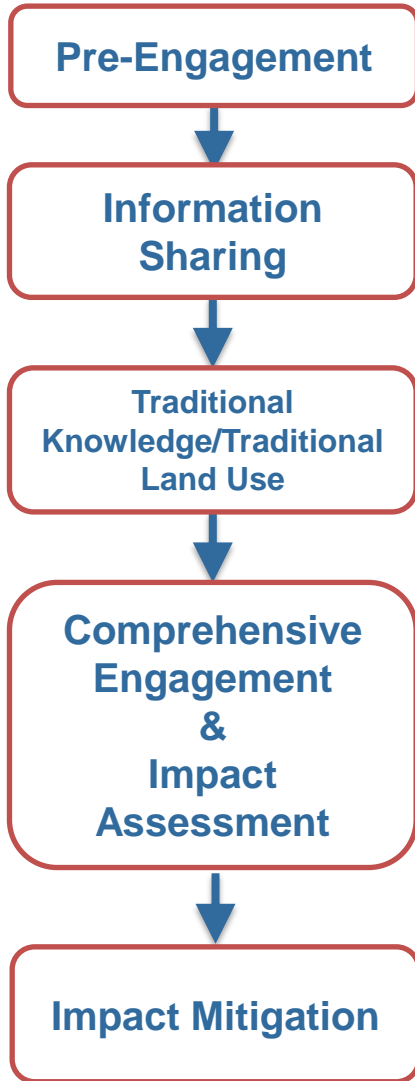


- Engage, inform as many First Nation and Métis groups as possible in an effective and meaningful way
- Provide timely, honest and accurate information about the Project
- Proactively engage Indigenous communities in:
 - Disseminating project information
 - Scoping project-related issues
 - Defining potential effects
- Contribute to the development of mitigation measures to minimize potential negative effects and enhance benefits
- Inform First Nation and Métis groups on how they can become involved in the regulatory process

Pre Engagement

- One of the most profound criticisms from First Nations and Métis communities is that they are not properly informed of potential projects
- First Nations in particular want to be informed: “what we know, when we know it”
- Providing timely notice is considered respectful, and helps to build trust
- **Prior to the announcement of the Open Season, the Aboriginal Engagement team moved to provide pre-engagement messaging and direct contact to nearly all Tier 1 First Nation communities in scope of the project**
- **This simple step has garnered significant respect and trust from communities**

Aboriginal Engagement Process



Energy East has made it a priority to engage First Nations and Métis communities in a way that is respectful and meaningful. Even before the project was announced, community leaders were kept informed through a **Pre-Engagement process**.

First Nations and Métis communities are continuously being kept informed of all project milestones. Project background information and community presentations were provided. Initial capacity was provided through a **Letter of Agreement (LOA)**.

Energy East may have impacts on the traditional territory as well as current and historical land use. **Traditional Knowledge/Traditional Land Use (TK/TLU) protocols** and TK/TLU workplans are being negotiated with communities that will result in studies to document the potential impacts.

Comprehensive engagement and Impact Assessment may include implementing communications protocols, information sharing, analysis of regulatory documents, community information sessions, leadership meetings, committee work, impacts analysis, project benefits and economic opportunities analysis.

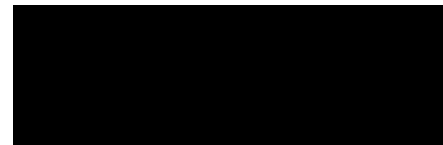
Comprehensive engagement and impact assessment support funding is being provided through a 2 year **Communications and Engagement Funding Agreements (CEFA)**.

When project-related impacts arise from the Traditional Knowledge/Traditional Land Use study, comprehensive engagement evidence, and the impact assessment report, Energy East will work to mitigate those impacts through project changes as well as **Project Agreements or Mitigation Agreements**.

What We've Heard So Far



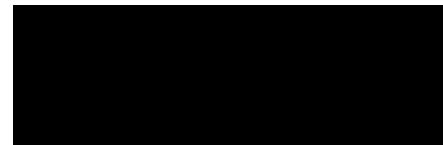
- Concern for the environment, fresh water and watersheds
- Impacts in the event of a spill
- Pipeline safety
- Integrity of the converted pipeline
- Emergency Response Planning
- Ensuring that Crown consultation is undertaken regarding existing and asserted claims to Aboriginal rights and title



What We've Heard So Far (Cont'd)



- Concerns regarding proper impact mitigation measures
- Expectations for project participation: economic benefits (IBAs), contracting, employment opportunities
- Benefit Sharing: First Nation and Métis communities' need for new sources of revenue resulting from the pipeline travelling through traditional territory



The Duty to Consult



- The Crown has stated that it will rely on the NEB process to meet its duty to consult with First Nations and Métis communities
- The NEB requires Energy East to engage with potentially impacted First Nations and Métis communities early in the project planning and design phases, when it is easiest for the company to respond to concerns raised
- Concerns about a project may also be raised at the the NEB through the public hearing process. These could include concerns about how the Project may impact Indigenous communities, the use of traditional territory, and any potential or established Treaty or Aboriginal rights
- The NEB must consider all relevant concerns when determining whether to recommend to the Governor in Council that the project ought to proceed, and under what conditions

Source: <http://www.neb-one.gc.ca/clf-nsi/rthnb/pblcprtctn/brgnlppl/brgnlppl-eng.html>