

For IAIA22

St. Lawrence River Regional Assessment: Planning with Indigenous partners

Authors:

Mohawk Council of Kahnawà:ke: Chief Ross Montour, Patrick Ragaz, Francis Walsh

Impact Assessment Agency of Canada: Mélanie Sanschagrin, Erin Stapleton¹

Mohawk Council of Kahnawà:ke Request for a Regional Assessment and perspectives

In July, 2020, the Mohawk Council of Kahnawà:ke (MCK) submitted a request² to the Minister of Environment and Climate Change (the Minister) for a Regional Assessment (RA) of the St. Lawrence River Area following the process established as per the relevant provision of the *Impact Assessment Act* and associated regulations³.

For many years prior to this request, the MCK had been expressing concerns with the established processes for evaluating project impacts to the traditional territory and rights of the Mohawks of Kahnawà:ke. With the support of provincial and federal governments, numerous large projects, including five port expansion projects were moving through project level environmental assessments (PEAs) as part of a push to increase the economic output of the St. Lawrence River.

MCK participation in consultation activities on PEAs revealed numerous shortcomings with this approach. For one, project reviews focused on impacts within narrowly designated study areas. Related impacts, such as increases in the number of shipping vessels passing through the St. Lawrence River were considered outside the scope of responsibility of the port project proponents. Consideration of cumulative effects was also inadequate, as acknowledged by all parties involved in the process. To fully understand the impacts of the projects within the context of the regional system, including in light of past, present and future development on the landscape, was beyond the scope and capacity of individual project proponents. This was and continues to be a significant challenge for the MCK, as we are unable to get a comprehensive understanding of how numerous new projects might impact the rights and interests of the Mohawks of Kahnawà:ke. Furthermore, the Mohawks of Kahnawà:ke find themselves at a point in time where existing impacts to their rights and interests have already surpassed tolerable thresholds and continue to have major impacts on their way of life.

Kahnawà:ke: A brief history

The Mohawk community of Kahnawà:ke is located on the south shore of the St. Lawrence River, across from the City of Montreal in Quebec, Canada. The St. Lawrence River is an integral part of Mohawk territory, and has been since time immemorial. The Mohawk Nation's historical connections to the river extend deep into pre-contact history.

The boundary of the community, currently limited to 12,000 acres, is surrounded by urban development, agricultural lands and industry. The riverfront may be the most impacted, as the

¹ With the collaboration of Jamel Chauret, Jacinthe Bélec, Sarah Devin, Domitien Mugemana, Laurence Provençal-Vincent and Isabelle Turcotte

² See the full [request](#)

³ See sections 92, 93 and 97(1) of the [Impact Assessment Act](#) and section 8 of the [Information and Management of Time Limits Regulations](#)

construction of the St. Lawrence Seaway shipping canal cut off the community's access to the river, expropriated approximately 10 % of the community's land mass, and significantly altered how the community fished and navigated the St. Lawrence River in detrimental ways. The Seaway continues to illicit a visceral, emotional response among community members.

Large scale industry established since the turn of the 20th century have polluted the waters of the St. Lawrence, altered flow regimes, disrupted and / or eliminated fish migration pathways and contaminated local food sources.

Much of this development occurred with no consultation with Indigenous communities and no consideration for the significant associated environmental impacts. Many of the alterations and damaging inputs to the river continue to this day, despite a clear recognition that such practices would never be considered appropriate in a modern context.

The combination of these significant historic and on-going impacts to the rights and interests of the Mohawks of Kahnawà:ke and the shortfalls evident in Project Based Environmental Assessment, led to the decision by MCK to request an RA.

MCK's vision for an RA for the St. Lawrence River

In making the RA request, the MCK is seeking a planning document that will work towards restoring the St. Lawrence and enable the full exercise of the rights and interests of the Mohawks of Kahnawà:ke. The RA should identify acceptable environmental and social thresholds, assess current conditions, and identify key actions that can create movement to meet and exceed these threshold targets. As noted above, existing infrastructure and industry along the St. Lawrence River in many cases creates environmental impacts far beyond what would be considered acceptable for a new project. By identifying what these impacts are and how they may be addressed, MCK envisions collaborative activities between new project proponents and existing entities that both ensure optimal avoidance and mitigation measures at the new facilities and compensation and restoration activities that significantly improve the overall health of the river system. The RA should also identify the most significant and sensitive regions within the project study area and consider measures to ensure that these locations continue to serve identified ecological and social functions.

MCK recognizes the complexities involved in undertaking an assessment of this nature. Collaboration with many stakeholders will be required to determine an appropriate scope and scale for the RA. To begin this discussion, the MCK proposed a geographic scale that mimics the range of one management unit of Lake Sturgeon (DU4, MU12)⁴. This has the advantage of providing a relatively compact study area (a short distance up river from Montreal to a short distance downriver from Quebec City), while also providing an indicator species that could serve as a useful metric throughout the RA. Lake sturgeon are also a very important species to the Mohawks of Kahnawà:ke, both pre-historically, with fossil records within camps in proximity to Kahnawà:ke dating back to at least 1450-1400 BCE through to present day. Community members harvest the species for commerce, recreation and sustenance. Lake sturgeon are also relatively sensitive to environmental disturbance. As a weak swimmer, even small dams often completely cut off upstream habitat for the species and fish ladders implemented to date have had little success in facilitating passage for Lake Sturgeon. Sturgeon are primarily bottom feeders, consuming

⁴ See [COSEWIC Assessment and Status Report, 2017](#)

mussels, small fish, leeches and other soft-bodied organisms, and are therefore susceptible to bioaccumulation of pollutants. Conversely, the species is evolutionarily ancient, present in the area for millions of years. This population is also relatively abundant and well studied.

The MCK recognizes that the purpose of an RA is to study the entirety of an ecosystem to grasp how past, current and future activities impact habitats, species and their interactions. However, it is also understood that a thorough assessment of every interaction would be extremely challenging and could quickly eclipse the overall purpose of the study. By focusing primarily on Lake Sturgeon, a keystone species, the ecosystem as a whole and those within it will also benefit. For example, the American Eel, another migratory species, is also significantly constrained by dams and pollution. The Hickorynut Mussel requires Lake Sturgeon to carry out part of their life cycle. Endangered fish such as the Striped Bass, Copper Redhorse, and Bridle Shiner benefit from reductions in pollution levels and habitat restoration.

Similarly, enhancements to the environment and the health of the Lake Sturgeon population will further enable the ability of the Mohawks of Kahnawà:ke to exercise their rights.

The MCK is pleased that the Minister has accepted the request to conduct an RA⁵. The ultimate benefit of the initiative will largely depend on the openness of all project stakeholders to embrace a new way of operating that recognizes and embraces the value of the St. Lawrence ecosystem. MCK believes that a successful RA will help the MCK assess impacts (including cumulative effects) to Aboriginal and treaty rights, including fishing rights and stewardship rights and responsibilities towards the St. Lawrence River. Meaningfully assessing impacts to Aboriginal rights is required to achieve the purpose and objectives of the Impact Assessment Act (sections 3, 6(1g), 9(2), 16(2c), 22(1c), 36(2d), 63d, and 84(1a) of the Act). It is also required for the Crown to meet its constitutional duty to consult and accommodate Indigenous peoples. MCK looks forward to participating in this process.

What the Impact Assessment Agency of Canada (the Agency) did following MCK's request and Agency's perspectives

In October 2020, following the submission of the request for an RA by the MCK and prior to deciding to conduct a regional assessment, the Minister directed the Agency to initiate an engagement process to discuss the need for and purpose of the RA and if one were to be conducted, to seek input on its possible nature, scope, objectives and outcomes. The Minister requested that the Agency provides the results of the pre-decision engagement process by Spring 2021⁶.

The Agency was given the flexibility to design the engagement process. To inform the design, the Agency contacted likely interested First Nations to confirm their participation and to get their input on engagement activities. The Agency obtained feedback on session format (e.g., having some with representatives from First Nations only and other open to all participants, such as environmental non-governmental and research organizations; simultaneous translation in English and French; having an independent facilitator, topics, etc.) and timing (dates, duration, time between sessions).

⁵ See Minister's [acceptance letter](#)

⁶ See the [What We Heard](#) document for a summary of the pre-decision engagement process

Representatives from all engaged First Nations attended the sessions, and discussions and written submissions⁷ yielded valuable results. All comments submitted to the Agency during the pre-decision engagement process were supportive of a RA.

First Nations clearly expressed their expectation to collaborate with the Agency throughout the RA process should one occur. This is important to ensure the RA considers Indigenous knowledge, cultural elements and customs, and respects the uniqueness of each community. First Nations also shared valuable information on the geographical scope, potential objectives and outcomes. On July 15, 2021, the Minister determined that a Regional Assessment of the St. Lawrence River Area would proceed. The Agency is now planning the RA, in collaboration with the MCK and other First Nations, the Government of Québec and other interested parties. This phase will establish the objectives, the scope, the intended outcomes as well as the governance structure and administrative procedures of the RA. These elements will be defined in the terms of reference of the independent committee that will eventually be appointed by the Minister to conduct the RA.

Using the input gathered during the pre-decision engagement process, the Agency initiated the planning phase by sharing questions and having meetings with First Nations to discuss their involvement and other views. This feedback and ongoing discussions will help the Agency identify and plan the engagement activities throughout the planning and the conduct phases of the RA. It will also inform the drafting of the terms of reference and other materials before sharing a first version for review.

Key principles

From the Agency's perspective, based on the RA process to date, key principles regarding engagement and planning with First Nations include:

- We have much to learn from First Nations and must provide the time and space in our processes to hear their stories, learn their history, and listen to their perspectives.
- Collaborate with First Nations from the very beginning to help design a meaningful engagement process that ensures their valuable perspectives are included from the onset. This improves results.
- Flexibility to tailor the RA under the *Impact Assessment Act* is key: remain flexible to adapt to preferred ways of involvement. It results in better outcomes.
- Establish and foster good relationships: in this process, the Agency benefited from existing relationships with most of the First Nations involved. Mutual trust and respect contributed to the success of the pre-decision engagement process. As we progress in this RA, the Agency looks forward to continued meaningful dialogue with the First Nations and Indigenous organizations involved.

There is no perfect engagement and/or consultation process, but the important thing is to keep learning from each other, from each process, and make the next one better.

The Agency would like to thank all First Nations and Indigenous organizations who are involved in the RA process for the valuable perspectives and information regarding this RA.

⁷ See submissions received on the [IAAC Registry page](#)