

July 5, 2020

BY EMAIL

The Rt. Hon. Justin Trudeau, Prime Minister
House of Commons
Ottawa, ON
K1A 0A6

Dear Prime Minister Trudeau:

RE: PROPOSED GAZODUQ PROJECT – REQUESTED REGULATION TO ENABLE AGREEMENT WITH KEBAOWEK FIRST NATION UNDER SECTION 114(1)(e) OF THE *IMPACT ASSESSMENT ACT*

Please be advised that the Canadian Environmental Law Association (CELA) has been retained as counsel for Kebaowek First Nation in relation to the above-noted matter.

Over the past year, Chief Lance Haymond of Kebaowek First Nation has frequently written to the Minister of the Environment and Climate Change and the Impact Assessment Agency of Canada to request the immediate passage of a regulation under section 109(d)(iii) of the *Impact Assessment Act (IAA)*.

This regulation is the necessary precondition to enable the Minister to enter into an agreement under section 114(1)(e) of the *IAA* to designate Kebaowek First Nation as a “jurisdiction” within the meaning of the Act, and to authorize Kebaowek First Nation to exercise certain powers, duties or functions in relation to assessment of the Gazoduq Project’s potential impacts on the traditional territory of our client.

Unfortunately, despite Chief Haymond’s repeated requests, this key regulation has not been made to date, and, to our knowledge, there are no clear targets or timelines for making the regulation. In the meantime, the impact assessment for the Gazodoq Project continues to proceed over the jurisdictional objections of Kebaowek First Nation, as noted in the attached letter to Minister Wilkinson.

In these circumstances, any further delay in the promulgation of the regulation is both unjustifiable and unconscionable. In our opinion, the federal Cabinet’s continuing failure or refusal to make this regulation potentially jeopardizes our client’s rights under section 35 of the *Constitution Act, 1982*.

Moreover, the ongoing regulatory delay is inconsistent with the 2019 mandate letter that you provided to Minister Wilkinson (and other Cabinet Ministers) in which you highlight the importance of Canada’s relationship with Indigenous peoples, and require further progress to be made in “supporting self-determination, improving service delivery and advancing reconciliation.”

Canadian Environmental Law Association

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Accordingly, we have been instructed by our client to request that you and your Cabinet colleagues take all necessary steps to ensure that this important regulation is made forthwith under the *IAA*.

If it is your government's intention to develop and consult upon generic "Indigenous Cooperation Regulations" that apply broadly across Canada, then we see no compelling reason why a project-specific regulation cannot be made in the interim to ensure that Kebaowek First Nation is promptly designated and empowered as a "jurisdiction" under the *IAA* before the planning phase has been completed in the Gazoduq impact assessment.

We look forward to your timely reply to our client's urgent request. Please contact the undersigned if you require any further information about this matter.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Kerrie Blaise
Northern Services Counsel



Richard D. Lindgren
Counsel

- cc. The Hon. Chrystia Freeland, Deputy Prime Minister
The Hon. Johnathan Wilkinson, Minister of the Environment and Climate Change
The Hon. Seamus O'Regan, Minister of Natural Resources
The Hon. Carolyn Bennett, Minister of Crown-Indigenous Relations
The Hon. Marc Miller, Minister of Indigenous Services
The Hon. David Lametti, Minister of Justice and Attorney General of Canada
Chief Lance Haymond, Kebaowek First Nation