



May 5<sup>th</sup>, 2021

Mr. Dean Fuleihan  
First Deputy Major  
The City of New York  
City Hall  
New York NY 10007

Dear Mr. Fuleihan,

We are writing to you from Northern Québec, Canada, on behalf of the Innu First Nation of Pessamit, the Atikamekw First Nation of Wemotaci and the three Anishnabek First Nations of Pikogan, Lac Simon and Kitcisakik, in reference to your April 19 2021 letter to Ms. Doreen Harris, President and CEO of New York State Energy Research and Development Authority.

We are grateful for the emphasis put on human rights in this letter by the City of New York. We are particularly impressed with New York City's political authorities' persistence in considering the viewpoint of the Pessamit Innu First Nation regarding the potential impacts of New York City purchasing Hydro-Québec's electricity, following the visit to Pessamit by your representatives in July 2019.

The information in the present letter pertains to the obligation set by New York City that Canadian hydropower selected projects have to respect the rights of our First Nations, our ancestral territories and obtain our free prior and informed consent.

#### CHAMPLAIN HUDSON POWER EXPRESS PROJECT (CHPE)

Pessamit, Wemotaci, Kitcisakik, Lac Simon and Pikogan denounce and strongly condemn the detrimental effects of the Hertel-New York Interconnection Project and its US counterpart, the Champlain Hudson Power Express transmission line, on our lives and our traditional territories. In fact, a large part of the electricity that Hydro-Québec would use as part of its export project to the United States would come from facilities already in place on our ancestral territories. These facilities were set up without consultation and therefore in an unconstitutional manner.

There is a direct relation between the increased demand for electricity initiated by this export project, the operating methods of production facilities and their impact on our traditional activities and our rights. The said project would additionally cause serious and, possibly, irreversible damage to the natural environment on which our communities depend and on which our culture is based. The following information is verifiable and known to Hydro-Québec.

## DECLINE OF THE DOMESTIC MARKET AND EXPORTATION STRATEGY

Despite the constant decline in the domestic market since 2004, Hydro-Québec has re-equipped several of its power plants, while increasing their overall power by 1,000 MW. These works were carried out on the ancestral territories of our First Nations. We were never consulted for any of the aforementioned cases, that come in total contradiction to the constitutional obligations of the Provincial Crown. What is more, the additional power acquired between 2004 and 2021 on our traditional territories was never needed to fulfill Québec's requirements since, throughout this period, Hydro-Québec experienced growing surpluses after meeting internal demand. All of this power was and still is intended for export markets as long as the Crown Corporation's supply remains greater than domestic demand, a situation which, according to its own projections, will not occur before 2026.

Hydro-Québec's fundamental strategy is to increase its profits by accelerating its export activities without regard for the consequences on our First Nations and our ancestral territories. Hydro-Québec has embarked on a relentless race to increase its profitability at our expense, with the benevolent support of the Québec Government. Stated as proof are the Québec Government decrees 59-2009 of January 28, 2009 and 579-2015 of June 30, 2015, which require the involvement of Hydro-Québec in foreign markets where the benefits are significantly higher than those of the basic markets. While from 2004 onwards, the internal demand for electricity collapsed, during this same period, the power and available energy was increased in nine power plants located in our traditional territories. Starting in 2021, Hydro-Québec intends to increase production in five other power stations also located in our traditional territories. This additional power on fourteen power stations is solely needed for exportation.

Until now, our titles and ancestral rights, which should in fact be prevalent, have not held weight against the prospects of recurring gains anticipated and achieved by Hydro-Québec and the Provincial Government. This context, in which we became involved against our will, and which continues to involve us, justifies the present letter. By re-equipping nine power plants in our territories, Hydro-Québec has in fact placed us at the heart of its export projects. In addition, if we consider that the Crown Corporation plans to increase the power of five other power stations in our territories in the near future, there is no doubt that we will continue to be entangled for a long time in this cross-border saga.

## CLIMATE CHANGE

We also want to address the issue of the anachronistic nature of Hydro-Québec's water management models with regard to climate change. Their inability to adapt to new potential climatic events has led to an increase in the severity and frequency of extreme situations, posing unacceptable risks to ecosystems as well as to our traditional activities. Indeed, it is clear that certain parameters, in particular those related to the environment, are either completely absent from Hydro-Québec's water management models or, at least, could benefit from huge improvements. Case in point: the damage to our living environment, occurring with increasing frequency. As long as Hydro-Québec's management models are not specifically adapted to the current issue of climate change, our First Nations will directly suffer from the environmental, social and economic impacts of hydroelectric production, in increasingly brutal ways. Reservoir management methods must therefore be reviewed from top to bottom with a view to integrating production objectives with the imperatives of protecting habitats, our property and our constitutional rights. The state-owned company itself acknowledges this in its 2019 Annual Report, which includes the following statement from its President: *"The ongoing climate changes and the weather conditions that we have experienced recently have led us to implement initiatives aimed at reducing the vulnerability of our infrastructures and consequently modifying our approaches."*

This therefore reveals that Hydro-Québec has real concerns about the overall impact of climate change on all of its assets and activities. The Crown Corporation confirms very clearly that its models of reservoir management must be questioned. It also specifies that appropriate measures will be included in the first adaptation plan, which should be produced at the end of 2021. Since this document is still in the making and will not be incorporated into Hydro-Québec's management methods before 2022, the announcement of new projects, in particular the massive export of electricity to the United States is of great concern in terms of its impact on our territories and our rights.

These new projects are all the more hazardous as Hydro-Québec is primarily concerned with the protection of its production equipment. Nowhere is there any intention of applying the principle of due diligence in relation to our rights when it comes to production operations. Hydro-Québec, although it never intended to, is no longer technically in a position to apply the precautionary principles with regard to our rights. The proof being that Hydro-Québec dams now overflow regularly throughout Québec.

## A PRECARIOUS CONTEXT FOR AQUATIC WILDLIFE

In a context of growing climatic instability, a number of aquatic species that are important for our culture and still contribute significantly to our diet, are experiencing increasingly difficult conditions for survival, in hydrographic networks subject to the imperatives of hydroelectric production. In these artificial environments formed by Hydro-Québec reservoirs, the primary productivity of aquatic species is systematically lower, the complexity of the food chain is reduced, as is the biomass available per unit volume of habitat.

As a result, the survival of aquatic species that evolves in these artificial environments is even more uncertain. This situation is well documented for lake sturgeon, lake trout, Atlantic sturgeon and American eel. These four species are already evolving under unfavorable conditions. They must now face the consequences of the modifications in the annual water cycle due to climate change. In this context, their future is highly hypothetical and their disappearance from specific hydrographic networks is entirely possible due to Hydro-Québec's management.

## OUR TRADITIONAL AND CONSTITUTIONAL RIGHTS

In its 2016-2020 Strategic Plan, Hydro-Québec states that it intends to: *“undertake new projects to increase the capacity of certain installations in our hydroelectric generating fleet and enter into agreements with the regional and Indigenous communities concerned.”* Although such undertakings, in the Anishnabeg, Atikamekw and Innu territories projects were initiated or finalized during this same period, no agreement was reached between Hydro-Québec and the communities concerned. What is more, Hydro-Québec has never attempted to do so. Hydro-Québec's policy has always been to ignore the rights of First Nations not covered by a modern convention. This is consistent with the Crown Corporation's historical attitude, as it has never deigned to consult our First Nations, while increasing overall power of their production facilities even after 1996, when the Supreme Court recognized our rights in Québec.

Not a single impact assessment has been carried out for the construction of thirty-three (33) power stations in our traditional territories, which generate 36% of Hydro-Québec's total installed capacity. The over-equipment of fourteen (14) of these plants has been or will be carried out without any environmental approval. Operating procedures for these plants are or will be modified without being disclosed. All this in a context where the flow regime of the rivers is modified by climate change. The current ecological balance will be altered both upstream and downstream of these “steroid boosted” power stations. The impacts of the work on aquatic fauna and the new operating methods are unknown. The same is true of the impacts on traditional activities and aquatic wildlife (flora and fauna) in general. All of this occurring in the context of climate change, while Hydro-Québec is experiencing reliability problems with its water management models. Our First Nations are asking, without success, to know the nature, extent and duration of the anticipated impacts in the areas affected by these uplifted power plants.

From a biological perspective, specific and genetic diversity is already reduced in the hydrographic networks exploited by Hydro-Québec. The same goes for biological productivity. Will the changes underway exacerbate these deficiencies? What is more, the precariousness of endangered species has also increased in our territories. The chronic pressures they were already under in artificial environments have significantly increased and will accelerate in the foreseeable future. Several species on which we depend now risk reaching their ultimate tolerance threshold, and thus disappear from the hydrographic networks artificialized by Hydro-Québec. In addition, another question that remains unresolved is that of the replacement costs of the wildlife resources on which we depend and the financial capacity of our First Nations members to bear these losses. There is a fundamental conflict here between Hydro-Québec and the Provincial Crown's mercantile point of view and our constitutional rights.

What is more, the general over-equipment of power plants in our territories was carried out in the absence of Hydro-Québec's "Climate Change Adaptation Plan" (*Plan d'adaptation aux changements climatiques*), the implementation of which will not begin until 2022. The impact on our territories of the massive export of 8.3 TWh of electricity per year to New York, which corresponds approximately to the needs of half a million households, is another variable in the management of production facilities for which we have no answer. The same goes for the impact of exporting 9.45 TWh annually to Massachusetts. The ensured synergy of the aforementioned factors now poses unacceptable risks to our living environment, our traditional activities and our rights.

While on territories covered by modern conventions, any modification in the production equipment and operating methods of the power plants are subject to the approval of the First Nations concerned, and while integration measures are systematically put in place to protect their rights, absolutely no attempts are made to understand the impacts of Hydro-Québec's interventions on our traditional territories; absolutely no attempts are made to consult us; absolutely no attempts are made to mitigate the impacts of Hydro-Québec projects. As such, Hydro-Québec and the Province are imposing an irreversible dynamic of biological impoverishment to our lands. This constitutional carelessness, which dates back several decades, has left deep marks on our living environment and our culture.

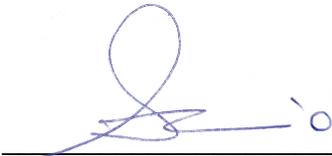
The precautionary principles not applied to us, the climatic contingencies and Hydro-Québec's profit imperatives have now forced us into an adventure whose outcome is completely unpredictable. However, it seems implicitly agreed that we shall bear the costs. To confirm this, we underline that the Government of Quebec has, since December 31, 2020, exempted the revamping of power plants from the approval process provided for by its own Environment Quality Act, regardless of the power added. Such behaviour is particularly disgraceful in a context where all the hydropower plants targeted in our territories have never even been subjected to any environmental impact assessment whatsoever during their construction.

Exports have been carried out by Hydro-Québec since decades. We contributed to these exports, despite ourselves, without any consideration or compensation. This has allowed Hydro-Québec to benefit from an uninterrupted and unparalleled enrichment streak. And, once again, Hydro-Québec is preparing to use us as part of its export projects to the United States.

Hydro-Québec and Quebec Government long lasting violation of our rights is such as our First Nations are slowly being destroyed, as Canadian government socio-economic statistics indicate. Our socio-economic indicators are comparable to those of third-world countries.

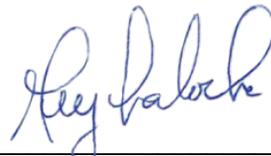
In summary, Hydro-Québec is far from meeting the criteria set in point 3 of your April 19, 2021 letter to the New York State Energy Research and Development Authority.

Many thanks for your time and consideration. In the hope that we may soon discuss this issue with you, please accept our best regards.



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Gérald Hervieux  
Deputy Chief  
Innu First Nation of Pessamit



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Guy Laloche  
Elected Counselor  
Atikamekw First Nation of Wemotaci



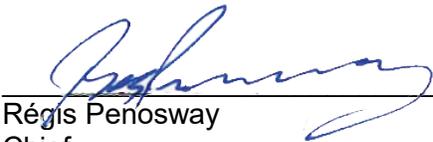
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James Cananasso  
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Lucien Wabanonik  
Elected Counselor  
Anishnabeg First Nation of Lac Simon



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Régis Penosway  
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