Submission to the Shale Gas Commission of New Brunswick from Residents of Kent County

October 15, 2015

We wish to thank you for allowing us to present our position on the development of Unconventional Oil and Gas In New Brunswick in general and in our region in particular.

Local context of shale development in Kent County

In April of 2011 a small add appeared in the Moncton Times and Transcript announcing that South Western Resources (SWN) an American oil and Gas company would be hosting an open house in the Rexton Lions Club. This meeting was where the people of Kent County first learned that our Government had given SWN a lease to explore and exploit natural gas trapped in the shale deposits under our homes, communities, farms forests and waterways. This lease allowed this company to come on our land to explore and drill for natural without our consent. Our only choice was whether or not we would accept the payment offered by the company for the surface access to the site where SWN planned to drill. The Minister of Natural Resources had granted himself the final decision in any dispute between the landowner and SWN. The Government Of New Brunswick insisted that they the legal right to do this because they and not the citizens of N.B. own the mineral rights in the province. They had essentially given our land to SWN. We retained the rather dubious right to live in our homes, pay property tax and experience whatever risks and impact, this industry would bring to us.

What is unique to UNGD and by far its greatest problem is the scale of development required to access the oil or gas. This industry is unlike other mining projects where exploration is done to select the most promising site to access whatever mineral is being sought. UNGD requires that wells be drilled everywhere in order to access the gas or oil trapped in the shale.

Even without fully understanding all of the implications of Undg in their communities, it was natural and predictable that the people directly impacted by this decision would be upset. Compounding their anger and distress was the failure, of the N.B. Government to consult and prepare the public in any way for Unconventional Natural Gas development (UNGD) in their communities before the leases were signed. In the face of a massive public outcry, the government eventually relented and promised that the companies would not be allowed on private land without the owners' permission. But this was too little too late.

The SWN "Public Consultations" inflicted on Kent County residents were a requirement of the lease agreements and they moved to various communities in the province where they had been granted leases. Other companies also received leases to explore and exploit natural gas or oil in other sections of the province and held similar meetings in those communities. Not surprisingly, the public reaction to these events, were very similar. Local anti-shale groups sprang up wherever the SWN and the other UNGD companies "consulted" local residents.

Beyond the contempt for its citizens demonstrated by the N.B. Government in secretly granting these leases, they allowed the companies' public presentations to conceal the known implications of living in a shale play (the round the clock traffic, noise, vibrations, lights, noxious odors, diesel fumes and dust related to well pad preparation, drilling, hydraulic fracturing and production and all the other necessary facilities associated with the treatment and transportation of the gas, such as compressor stations, holding tanks and pipelines etc.) In Rexton (and everywhere else we assume), the company spokespeople scoffed at the notion that their activities posed potential risks to the environment or to the health of residents. Rexton residents were told unequivocally that that Fracking Fluid was completely benign and contained no toxins that could harm people. Furthermore, we were assured that there had never been a case of water contamination caused by

hydrofracking. There would be money and jobs and all good things.

Despite these assurances, the populace of Rexton reacted very badly to the news that SWN had imparted to them. This was no doubt communicated to the N.B. Government because at the next "Public Consultation" in Rogersville, officials of the New Brunswick Departments of Natural Resources and Environment (Mr. Griggs, Mr. Vanderloon figured most prominently)) undertook the roles of spokespersons for SWN. They repeated the company talking points to perfection and managed to convince most of the local residents that they were all a pack of liars. It was also flagrantly evident that a conflict of interest existed when the Government officials who were meant to regulate and police the industry were the same people who were expected to promote it.

The effect of this astonishingly incompetent presentation UNGD to the New Brunswick public was to mobilize resistance. But it did something far more important, it made people pay attention to what was happening in shale plays elsewhere. In 2011, there were already signs of significant risks and impacts that went far beyond the already dreadful nuisance and disruption of the quality of life of local residents.

The Conservative Government's response to this public resistance was inadequate, insulting and counter-productive. There was the Louis LaPierre Public Consultation fiasco, the 2012 launching of the "World Class Regulations" that mirrored every other inadequate regulatory protocol on the planet. As these regulations were being launched with great fanfare, the Alward Government clumsily attempted to suppress the thorough and reasoned report and recommendations of the Chief Medical Officer of Health on Shale development. Finally, in Oct 2013, the Government and industry engineered an RCMP response to a peaceful blockade of thumper trucks that was so extreme that it led to multiple arrests and ultimately to a massive investigation by the Citizens' Review and Complaint Commission of the RCMP. The CRCC had initially planned to treat the many complaints that they had received individually but, early in the investigation, the Commissioner realized that the entire RCMP response to the all of the protests of seismic testing in 2013 should be investigated. He subsequently lodged his own complaint to the RCMP, which allowed him to declare that there would be a public Interest investigation, which would ensure that the public was made aware of the results of this investigation. This investigation is ongoing, as investigators continue to interview witnesses. Finally, the Conservative Party of New Brunswick made the 2014 provincial election a referendum on Fracking and the majority of voters said no.

Why are we still talking about this?

The research examining the impacts of UNGD has accelerated significantly over the past 2 years. Currently, the current body of evidence overwhelmingly refutes industry assurances that UNGD is safe. Industry continues to challenge the conclusions of each and every report that demonstrates environmental or health impacts and, when they can't find fault with the actual study, they attack the motives of the researchers or of the organizations that funded the researchers. (They responded to the recent Jamielita Health Impact study from Pennsylvania by stating that some of the collaborators in the study were anti-frackers implying that this somehow rendered their study invalid.))

Although there remain huge gaps in knowledge and many unanswered questions regarding the environmental and health impacts of UNGD, we, the residents who would be forced to experience the reality of these impacts, have to weigh the motives and veracity of those who are presenting us with different points of view.

Our past experience with Industry spokespeople has not induced us to believe anything they say. To some extent, their denial of any and all problems is understandable since any admission that their activities are causing environmental or health impacts would make them legally liable to compensate for these problems. Furthermore, admitting that the growing body of evidence showing that the proximity to wells and other infrastructure or that the density of development is leading to negative environmental and health outcomes

for local residents could cost them huge tracts of accessible drilling land. These constraints make it very difficult for residents to take their any of their statements seriously.

Unfortunately, the New Brunswick Government's past actions have also tainted their credibility. The Government's desperation to sell and later to impose this industry on us at any cost, despite the credible warnings and concerns expressed by scientific and medical communities, convinced us that our welfare was the least of their concerns. Although the current Government has not been directly involved in creating this situation a previous Liberal Government was involved in bringing this industry to the province.

In contrast, the environmental and public health scientists who have been working to catch up with the unfettered development of this industry are merely doing their jobs. They don't have hidden agendas or unscrupulous motives. Their conclusions or methods may not always be perfect, their studies do not always answer all questions or take all variables into account. These issues are a normal part of the scientific process, which requires that study results can be replicated and where one study builds on another. But their motives, goals are clear and honest. What the scientific and medical community need is time to carefully examine the connections between the toxins that are clearly present in the environment and their impacts on the people and all the creatures that depend on a healthy environment to live. The continuation of the New Brunswick moratorium gives the scientists who are currently working on these questions the time to better understand these. This could prevent significant environmental degradation and untold human suffering in New Brunswick.

The rush to drill, the exaggerated promises of jobs and money and the ongoing pressure to accept this industry or face financial Armageddon is alarming in the extreme to us. Nowhere in any of these public and media pronouncements are the concerns about the environment or human health discussed or considered. The people have simply been removed from the landscape and the discussion.

The International Charter of Human Rights and the Canadian Charter of Rights both guarantee the Security of the Person as a fundamental right. Where this security is threatened Governments have an obligation to employ the precautionary principle. That UNGD poses significant risks and impacts to the environment and the people who are living in proximity to their installations is no longer legitimately deniable. It would therefore be a violation of our Right to Security to lift the moratorium on UNGD development when even the most fundamental questions are un- answered. For example, what is a safe set back or is there such a thing as a safe setback? How many wells are too many wells? Is it possible and realistic to prevent wells from leaking? Is there a realistic and effective way to safely dispose of the huge quantities of liquid and solid waste?

Social License

One of the questions that this Commission was mandated to examine was the question of whether a Social License exists to develop UNGD. This term was created by the UNGD Industry to describe their acceptance in a given community and it is not clearly defined. It is alarming to us that an industry term would substitute for the clear term of consent. Does it mean consent or something else? If we are asked if this industry has the consent of the population to operate in Kent County, we can say with absolute certainty that the answer is no. It would be possible to find a few individuals with land to lease who would be happy to deny this but the overwhelming feeling here is that this would be very dangerous for us and would have a terrible impact on our quality of life and our environment.

Can others decide for us what we must live with? Is that social license? If a simple majority of voters or a majority of people answering a telephone poll can decide that we the residents of a shale development area

must submit to this industry for the sake of others, then our security and welfare really have no meaning or value in this society.

In the face of the existing uncertainties related to the health impacts of UNGD in our communities, the imposition of this industry on local populations would be tantamount to forcing residents to become unwilling subjects in an uncontrolled experiment. However, the instant one asks the question, "Does this pose a risk to the people living nearby?" an ethical and legal obligation has been created to answer it. This would prove to be very awkward for the government, regulators and the industry. The laws of Canada do not permit the use of human subjects without their free, prior, written and informed consent.

The otherwise inexplicable exclusion of public health or toxicological expertise from every single body responsible for drafting the regulatory regimens that govern this industry (and every other polluting industry) probably reflects this legal and ethical dilemma. They simply couldn't afford to ask this question because if they did they would then be required to obtain the free, prior, written, and informed consent of every singly person who could be impacted prior to drilling any wells anywhere.

Consequently, neither near neighbours, nor citizens who live farther afield can consent to actions or activities that can have poorly understood impacts on another person who hasn't consented.

An equally important factor, which must be weighed when considering the issue of social license for UNGD, is the scale of development. Today we are talking about Kent County and its impact on a relatively limited population. But what the UNGD inevitably means is that large numbers of wells will have to be drilled over a vast territory in order to access the oil or gas trapped in the shale, and this could ultimately directly impact approximately 1/3 of this province's population. This has been the pattern everywhere else that UNGD has been developed and there is nothing to suggest that it wouldn't happen here. We have attached an estimate of the population living inside the leased areas, based the New Brunswick Government's interactive map of the leased areas. (This map and the entire shale file disappeared as soon as the Liberal Government was elected) As you can see, very densely populated areas are included in these leased areas.

Many of those who could today be expressing support for this industry probably have no idea that, in the not so distant future, they could also be directly impacted. Neither UNGD companies, nor Government officials appear to have felt the need to explain this reality very clearly to those who could eventually be impacted. Those who today believe that others (like us) should stop making such a fuss and allow UNGD to bring them the promised jobs and prosperity, would probably react very differently to the trucks rolling into their own neighborhoods. For consent to be valid, it must be informed. Citizens should not be asked to make decisions based on incomplete, inaccurate, faulty or false information.

Summary

We understood very quickly that we did not have the necessary information to make and impact on Government decisions related to UNGD. Information is power and it became necessary that we educate ourselves, and our neighbours as quickly and thoroughly as we could. We have weighed the of the possible benefits of UNGD and balanced these against the known and suspected risks and impacts of this industry and have come to the conclusion that it is not in the best interest of this province and its citizens. Because we have taken this position, we have characterized as misinformed.

We contend that individuals who believe that this can be done safely in populated areas without substantially harming the quality of life of residents and imposing unacceptable risks and impacts to the health and welfare of the population are uninformed.

Unfortunately, the actions of our previous Government in this file, has led to mistrust and has made dialogue

with our new Government very difficult. We are hoping that this Commission will prioritize the social, human health and the environmental issues that are paramount to us. Money is nice, but breathing is better. We will never accept that harm to the environment and the people and other creatures that depend on a healthy environment is an acceptable cost to doing business. If this industry can't be proven to improve the lives of the people of New Brunswick, who is it for? Until the real impacts are clear, predictable and proven to be safe, we feel that it is immoral, unethical and illegal to allow this industry to operate here.