

ADDENDUM TO EXTEND ENVIRONMENTAL STUDY REPORT
Nanticoke Water Treatment Plant

Appendix J

2023 Impact on Rights
(A.L.L. Professional
Services)

**Nanticoke WTP
Impact on Rights
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Rights held by the original peoples of this land, are not rights given by the Crown or any other external government. The rights they have are passed through their sovereignty as Nations. These rights have been recognized by International agencies, Canadian and Provincial governments, but the rights are not granted by these external bodies.

When considering the impacts on Rights within the study area, it is important to consider, not only Aboriginal Rights, as defined by Section 35 of the Constitution Act (1982), but also these inherent rights as recognized by the United Nations Declaration on the Rights of Indigenous Peoples and Canada's commitment to implement them under UNDRIP Act (UNDRIPA).

These inherent rights were recognized through treaties signed between the Nations and the Crown. Treaties such as:

- Nanfan Treaty (1701)
- Between the Lakes Treaty No. 3 (1792)
- Haldimand Proclamation (1784)
- Simcoe Patent (1793)

Other Treaties, include:

- The Royal Proclamation (1763)
- The Treaty of Niagara (1764)

In addition to treaties there have been a number of foundational courts decisions that have further refined Canada's recognition of "Aboriginal Rights".

It is also important to remember that rights are not frozen in time but evolve with the socio-economic and socio-political influences of the time. These rights should be viewed within the system that the people and culture living within. The impact on rights from the Nanticoke Water Treatment Plant have been viewed through the lens of these collective rights.

Potential Impact Score

The impact assessment score has been developed to guide the assessment of potential impacts on rights.

Type of Impact	Description
Positive Impact	Impacts that will benefit the affirmation or protection of Indigenous Rights
Major Negative Impact	High level impacts that are long term, beyond a 4-season cycle after construction.
Minor Impact	Low level impacts that can be mitigated or reversed within a 4-season cycle after construction.
Zero Impact	No impacts
Short Term Impact	Impacts during construction that can be mitigated.
Irreversible Impact	Impacts that will not be able to be mitigated or reversed.

Forested Region

“The study area lies within the deciduous forest region, which is the southernmost forest region in Ontario and is dominated by agricultural and urban areas. This region generally has the greatest diversity of tree and vegetation species, while at the same time having the lowest proportion of forest. It has most of the tree and shrub species found in the Great Lakes – St. Lawrence forest – and also contains black walnut, butternut, tulip, magnolia, black gum, many types of oaks, hickories, sassafras and red bud.” – Archeological Assessment Review Page 6

Rights Considered:

Nanfan Treaty Territory

Section 35, Canadian Constitution Act

Treaty 13-8 – Mississauga of the Credit

UNDRIP Article 11.1 – Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

UNDRIP Article 24.1.- Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.

Impact Considerations:

- Research has shown that historic settlement areas were influenced by the location of stands of hardwood trees and nut bearing trees, as these trees were a primary source of fuel and nutrition. Hardwood ash is known to be a staple in the food preparation of white corn, grown as primary sustenance (food and trade) for the Haudenosaunee. Hardwood ash is used as lye and prepares the food for consumption and provides essential vitamins and minerals through this process. This food preparation is still practiced today. Hardwood ash was also used as a cleaner.
- Given the abundant of biodiversity within this area and the impact of cumulative development within regions that these species flourish, care and consideration should be given to protect the existing lots and to provide buffers for new growth.
- As recognized by the Supreme Court of Canada, there is an existing right to hunt, fish, and harvest, which were considered a socio-economic activity to the Nations within this territory.
- The construction of permanent building are located in previously disturbed areas. Connecting pipe infrastructure can be rehabilitated with native plant species after construction.

Impact Mitigation:

It is recommended to work with First Nations to walk the property to identify species of interest for harvest and transplant if appropriate. Protection of these species may be integral to continued cultural practice.

Impact Score:

Minor Impact	Low level impacts that can be mitigated or reversed within a 4-season cycle after construction.
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Registered or Known Archaeological Sites

Table 4: Registered or Known Archaeological Sites

“None of these previously identified sites are located within or immediately adjacent to the subject lands; accordingly, they have no potential to traverse the study area. All of the sites are located over 300m away and represent distant archaeological resources.”
Archeaological Assessment Review Page 7

However, two other studies have recommended further studies be conducted.

Rights Considered:

Nanfan Treaty Territory

Section 35, Canadian Constitution Act

Treaty 13-A – Mississauga of the Credit

UNDRIP Article 25 - Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Impacts Considered:

- While there have been no registered finds within the study area, given the relatively close proximity of site types that could inform cultural and historic understandings of the Nations through time, the lack of registered finds within the area does not mean there is not significance.
- The identification of at least 4 camp/campsites within different time periods indicate within a 1km area shows that the area was used over a long period of time and could indicate a specific use.
- It is important to keep in mind that Canada’s enactment of the Indian Act in 1876 would have created barrier to leaving the established reserve system. So the assumed absence of ‘modern’ usage or presence does not mean there was not a historic relevance to these lands, it just indicates that there were colonial socio-political influences that were impeding its continued use.
- As recognized by the Supreme Court of Canada, there is an existing right to hunt, fish, and harvest, which were considered a socio-economic activity to the Nations within this territory. It can be assumed that these practices were taken in this specific region due to the archaeological presence of historic campsites.

Impact Mitigation:

To further understand the impacts on rights, it is recommended that a plan be made with the Nations to walk the site location for further investigation and dialogue to understand the Nations concerns within the area.

Impact Score:

Minor Impact	Low level impacts that can be mitigated or reversed within a 4-season cycle after construction.
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