



**WOODWARD & CO.
LAWYERS LLP**

REPLY TO: JENNY BIEM
Victoria Office
email: jenny@woodwardandcompany.com

ASSISTANT: ERIN HACKENBERG
erin@woodwardandcompany.com

Monday, August 19, 2013

File: 4733

Office of the Minister
Environment and Sustainable Resource Development
204 Legislature Building
10800 - 97 Avenue
Edmonton, AB
T5K 2B6

E-mail: diana.mcqueen@gov.ab.ca

Land Use Secretariat
9th floor, Centre West Building
10035-108 Street
Edmonton AB T5J 3E1

Fax: 780-644-1034
Email: LUF@gov.ab.ca

Attention: Honourable Diana McQueen, Stewardship Minister

Dear Ms. McQueen:

Re: Request for Review of the Lower Athabasca Regional Plan (“LARP”) pursuant to section 19.2(1) of the Alberta Land Stewardship Act, the Alberta Land Stewardship Regulation, and Form LUS-01

Please find below ACFN’s Request for Review of LARP. Electronic copies are being emailed and couriered to each of yourself and the Land Use Secretariat from Woodward and Company’s offices in Victoria. Originally signed copies of Form LUS-01 will arrive by separate courier from the ACFN IRC office in Fort McMurray. All materials will be delivered to yourself and the Land Use Secretariat by noon, Tuesday August 20, 2013.

Overview

As you know, Athabasca Chipewyan First Nation (“ACFN”) holds Treaty 8 and Aboriginal Rights, and exercises those rights within the Lower Athabasca Regional Planning Area. ACFN is also the beneficial owner of lands within the Lower Athabasca Regional Planning Area, including without limitation Chipewyan Indian Reserves No. 201 and 201A-201G inclusive.

VICTORIA OFFICE:
844 COURTNEY STREET, 2ND FLOOR
VICTORIA, BC V8W 1C4

WHITEHORSE OFFICE:
3059 3RD AVENUE, 2ND FLOOR
WHITEHORSE, YT Y1A 1E2

TEL: 250-383-2356; FAX: 250-380-6560
WEBSITE: www.woodwardandcompany.com

TEL: 867-633-5940; FAX: 867-633-5945
WEBSITE: www.woodwardandcompany.com

ACFN actively participated in the LARP process all the way from the RAC stage through to reviewing and providing comment on the draft LARP in June 2012. ACFN, along with MCFN, proposed a Traditional Lands and Resource Use Management Plan to assist the government of Alberta in meeting its constitutional obligations to ACFN within the LARP. Unfortunately, ACFN's good faith participation and dedication did not bear fruit. LARP as it is today does not address, nor provide protections for, ACFN's Treaty and Aboriginal Rights, traditional lands use, use and enjoyment of reserve lands, and culture. On July 9, 2013 the Joint Review Panel for the Jackpine Mine Expansion issued its report, wherein it explicitly agreed with ACFN's evidence that LARP does not address Treaty and Aboriginal rights, or traditional land use. The Joint Review Panel recommended that the government of Alberta develop a framework to address Treaty and Aboriginal Rights and traditional uses, with the Aboriginal peoples whose rights are being affected by significant adverse cumulative impacts within the planning region.

Overview of ACFN's Rights, Property and Interests in the Planning Region

ACFN constitutes an "Aboriginal people" within the meaning of section 35 of the *Constitution Act, 1982* (U.K.), 1982, c. 11. ACFN is also a "band" under the *Indian Act*, with eight reserves set aside for the use and benefit of its members: Chipewyan No. 201 and 201A-201G inclusive. ACFN's traditional lands radiate north, east, west and south from the Peace-Athabasca Delta (the "**Delta**"), including but not limited to the Lower Athabasca River and lands to the south of Lake Athabasca, extending to the lands around Fort McMurray and Fort MacKay (the "**Traditional Lands**").

ACFN is the successor to an Aboriginal group that entered Treaty No. 8 (the "**Treaty**") with the Crown at Fort Chipewyan in 1899. ACFN and its members continue to hold and exercise the rights guaranteed by the Treaty, as modified by the *Natural Resources Transfer Agreement, 1930* (enacted by the *Constitution Act, 1930* (U.K.) 20-21 George V, c. 26), including rights to hunt, trap, fish, and gather on all unoccupied Crown lands in the province and other lands to which they have rights of access (the "**Treaty Rights**"). The Treaty Rights include the right to harvest specific species in specific locations, as well as incidental rights essential to the meaningful exercise of the Treaty Rights such as:

- routes of access and transportation;
- sufficient water quality and quantity;
- sufficient quality and quantity of resources in preferred harvesting areas;
- cultural and spiritual relationships with the land;
- abundant berry crops in preferred harvesting areas;
- traditional medicines in preferred harvesting areas;
- the experience of remoteness and solitude on the land;
- construction of shelters on the land to facilitate hunting, trapping, gathering and/or fishing;
- use of timber to live on the land while hunting, trapping, gathering and/or fishing (e.g. to build shelters and fires);
- the right to instruct younger generations on the land;

- access to safe lands within which to practice rights;
- the right to feel safe and secure in the conduct of such practices and activities;
- lands and resources accessible within constraints of time and cost;
- socio-cultural institutions for sharing and reciprocity; and
- spiritual sites and associated practices.

ACFN and its members have maintained their distinctive identity and culture as an Aboriginal people by maintaining their cultural, social and spiritual connection to the Traditional Lands throughout generations. This connection is maintained, in part, by exercising the Treaty Rights that define and sustain ACFN as a distinctive people. The Traditional Lands continue to provide food and other resources to ACFN.

Under the Treaty, among other entitlements, ACFN secured protection for the continuity, *in perpetuity*, of traditional patterns of activity and occupation within its Traditional Lands. As a constitutional imperative, the Treaty protects the core entitlement of ACFN members to the meaningful exercise of their Treaty Rights on their Traditional Lands.¹ The province of Alberta cannot constitutionally infringe this core Treaty Right by depriving ACFN of the meaningful opportunity to exercise its Treaty Rights on its Traditional Lands.

Although the Crown secured the right to “take up” lands from time to time under the Treaty, this right is itself subject to the Crown’s duty to consult and accommodate ACFN’s interests before reducing the area over which ACFN members may continue to pursue their hunting, trapping and fishing rights.² This duty to consult and accommodate extends to ACFN’s concerns about the cumulative impacts of development on its Traditional Lands and the meaningful exercise of its Treaty Rights.³

ACFN members reside primarily in Fort Chipewyan, Fort MacKay, and Fort McMurray. ACFN members continue to actively exercise their Treaty Rights on their Traditional Lands and continue to rely on the Traditional Lands for: travel to and from ACFN reserve lands; social, cultural and spiritual purposes; economic development; traditional use and occupation; and the health and vibrancy of their communities and their distinctive way of life.

The Athabasca River is the lifeblood of ACFN Traditional Lands. The ability to use the River is central to sustaining ACFN’s identity, culture and well-being. The health of the Athabasca River is inextricably linked to the ability of ACFN members to exercise their Treaty Rights within a significant portion of their Traditional Lands. The Athabasca River provides a vital transportation corridor, access to Reserve lands, access to traditional hunting, trapping, fishing and gathering areas, and supports the traditional resources required for the meaningful exercise of ACFN’s Treaty Rights and the continuity of ACFN’s distinctive culture.

¹ *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] 3 S.C.R. 388, paras. 47-48.

² *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] 3 S.C.R. 388, para. 56.

³ See, e.g., *West Moberly First Nations v. British Columbia (Chief Inspector of Mines)*, 2010 BCSC 359, paras. 54-55.

ACFN's Traditional Lands, including the Athabasca River north of Fort McMurray, have undergone rapid and momentous change in recent decades. This change has significantly reduced ACFN members' ability to exercise their Treaty Rights on their Traditional Lands proximate to the places where the vast majority of ACFN members reside. While several factors have contributed to this change, a significant contributing factor has been oil sands exploration and development.

Form LUS-01 Part 1: Details of Request for Review

- A. *Clearly identify the specific provision of the Regional Plan that you believe is directly and adversely affecting you, or will directly and adversely affect you.*

Please note that ACFN requests a review of and amendment to the LARP in its entirety, as the plan as a whole fails to address or protect ACFN's Treaty Rights, traditional land uses, peaceful use and occupation of its reserve lands, and its culture. We have listed the most critical specific provisions below.

Regulatory Details Plan Part 1 General

1. Section 1(e) – exclusion of a Regulatory Details Plan Part for Traditional Land Use and Treaty Rights, including limits, triggers and thresholds.
2. Sections 4 -7; to the extent that the Plan is intended to guide, inform, or bind the Crown, decision makers, local government bodies and all other persons in the absence of measures that are protective of ACFN's Treaty and Aboriginal rights, traditional land uses, and culture.
3. Section 10(2) to the extent that it requires decision making bodies to make changes or implement new initiatives to comply with LARP in the absence of measures that are protective of ACFN's Treaty and Aboriginal rights, traditional land uses and culture.

Regulatory Details Plan Part 2 Conservation Areas

4. Section 13-17. Conservation Areas have not been selected nor designed, nor their objectives set, in a manner consistent with ACFN's treaty rights and traditional land uses, or with ACFN's ability to access and peacefully use and occupy its reserve lands.

Regulatory Details Plan Part 3 Conserved Lands

5. Section 19 – does not allow for a conservation purpose that addresses ACFN's Treaty rights, traditional land use, or access and peaceful enjoyment of its reserve lands.

Regulatory Details Plan Part 4 Air Quality

6. Sections 22, 24, 25-26 to the extent that these sections incorporate by reference the Air Quality Management Framework. See also Schedule A. Air quality triggers and limits have not been set with reference to the health of ACFN members, with regard to their ability to use and enjoy their property, or with regard to the need to maintain certain areas for the exercise of Treaty Rights and traditional uses.

Regulatory Details Plan, Part 5 Surface Water Quality

7. Section 29 (a)(e) and sections 30-34 to the extent that these sections incorporate the Surface Water Quality Framework. See also Tables B-1 and B-2 and Schedules B and C.

Regulatory Detail Plan Part 6 Groundwater

8. Sections 36(a) and 37-38 to the extent that they incorporate the Groundwater Management Framework.

Regulatory Details Plan Part 7 Recreation and Tourism

9. Sections 39(a)(b) and 42-45.

Regulatory Detail Plan Part 8 Monitoring and Reporting

10. Sections 46 and 48, to the extent that they incorporate the Implementation Plan, as the Implementation Plan does not address not protect ACFN's Treaty and Aboriginal Rights traditional uses, culture, and ability to access and use and peacefully enjoy its reserve lands.

Strategic Plan

The Strategic Plan excludes any consideration of ACFN's Treaty and Aboriginal Rights, traditional land use or culture, and prioritizes activities that are inconsistent with ACFN's current and continued ability to exercise its Treaty and Aboriginal Rights, traditional land uses, and culture. Specific examples include, but are not limited to:

11. Alberta's statement of commitment to optimizing the economic potential of the resource and general endorsement of the prioritization of development of the oil sands above all else (pages 14-15).
12. The Regional Vision presented on pages 22-23 where developing oil sands reserves are prioritized above all else, and there is no goal to protect Treaty and Aboriginal rights, traditional land use and culture.

13. The peripheral/token role given to Aboriginal peoples in implementing sub plans under a regional plan that does not include their Treaty and Aboriginal Rights, traditional land use and culture i.e. see pages 23 and 69. The opportunity to provide information does not translate into any government commitment to take actions or require decision makers to exercise their functions in a manner consistent with the continued ability of Aboriginal Peoples to exercise Treaty and Aboriginal rights, engage in traditional land use, practice their culture or to access, peacefully use and occupy their reserve lands.
14. Page 23 - explicitly contemplates future mine development in the Richardson conservation area, which is the Richardson Backcountry “if approvals are granted in the future for a mining development in the new Richardson PLART. . .” or park “the boundaries for this area will be re-examined, if deemed necessary and acceptable as a result of the regulatory review for the mining development”.
15. Page 25 – Strategic Directions for the region – clearly oil sand development is expected and encouraged as being the dominant activity in the region.
16. Page 26 – Encouraging Timely and Progressive Reclamations section – reclamation required only to an equivalent land capability (rather than to a state consistent with aboriginal traditional land use and the exercise of Treaty Rights), to date this approach has not mitigated impacts on traditional land use in the oil sands.
17. Page 27 – “Managing Air, Water and Biodiversity, and Minimizing Land Disturbance” – there is no management framework - including limits, triggers and thresholds - for Aboriginal and Treaty Rights and traditional land use.
18. Page 29 – “Creating New Conservation Areas” – areas were not created or set aside to be consistent with Aboriginal and Treaty rights practice and Traditional Land use, despite ACFN’s substantive submissions on same.
19. Page 29-30 - Development that is incompatible with the exercise of ACFN’ Aboriginal and Treaty rights practice is still allowed in conservation areas. Currently almost all of the areas identified for the Richardson Wildland Provincial Park have existing metallic and industrial mineral tenures in the form of permits and the entire proposed Richardson public land area for recreation and tourism public use has existing metallic and industrial mineral tenures in the form of permits.⁴
20. Page 30 - areas will be managed to provide “low impact backcountry recreation opportunities and nature based tourism products and services” without any mechanism for consideration of the increased direct and adverse impacts such activities will have upon ACFN. Restrictions on motorized vehicles will impact Treaty rights exercise if put in place without regard to the needs of ACFN members.

⁴ Figure 4-46 of Patt Larcombe’s Encroachment Report.

21. Page 32 – Providing New Recreation and Tourism Opportunities - “these areas will be managed to . . . ensure quality recreational experience.”
22. Page 33 - Existing tenures honoured. Access to water resources and associated allocation and disposal infrastructure permitted. Government will consider new surface access through these areas. No consideration of existing Treaty rights. In PLART’s industrial development activities will continue while impacts on recreation and tourism features will be minimized. No goal of minimizing impacts on ACFN’s Treaty and Aboriginal Rights, traditional land uses and culture. LARP contemplates mining development in new Richardson PLART.
23. Page 34 – Inclusion of Aboriginal Peoples in Land-use Planning. Relegates ACFN to the role of TEK and information provider. No commitment by Alberta to do anything with this information that is protective of ACFN treaty rights, traditional land use and culture. See also page 63, outcome 7 “Inclusion of aboriginal peoples in land use planning.”

Implementation Plan

24. Requires review in its entirety.
25. Upholding s. 35 of the *Constitution Act, 1982* and the continuation of ACFN as a distinctive culture is not part of the vision for the Lower Athabasca Region.
26. Regional Outcomes are not designed to protect nor do they incorporate ACFN’ s Treaty Rights, traditional land uses, culture, and peaceful use an occupation of its reserve lands. The first outcome is focused upon ensuring that the economic potential of the oil sands resource is optimized. Strategies for achieving outcome 1 do not include any measures or strategies to ensure actions are consistent with ACFN’s treaty rights, traditional land uses and culture. In general, none of the regional outcomes or strategies to achieve them are designed to address or integrate ACFN’s treaty rights, traditional land use and culture. See also Table 2.
27. In particular, ACFN notes that the objective of maintaining ecosystem function and biodiversity is not a proxy for maintaining ACFN’s ability to exercise its Treaty Rights and Traditional land use and culture, nor for peaceful use and enjoyment of its reserve lands.
28. Page 51 – Surface Water Quality Objective does not incorporate Treaty Rights or traditional land use, in particular avoidance behaviour, health concerns, right to clean water. Limits were not based upon Treaty Right or traditional use considerations.
29. Page 58 – Surface Water Quantity. Does not incorporate limits and triggers relevant to the exercise of Treaty Rights and traditional uses by ACFN members. In particular, ACFN has provided Alberta with the ABF and ABX. Phase 2 must incorporate limits,

triggers and thresholds appropriate to maintenance of ACFN Treaty rights and traditional uses, and ability to access and peacefully use and occupy its reserve lands.

30. Page 65 – monitoring, evaluating and reporting - needs to include thresholds, triggers limits re: Treaty Rights, traditional uses and impacts to ACFN’s ability to enjoy its reserve lands, as well as ACFN’s explicit involvement as monitors.

Schedules

31. Schedule A – Air Quality Management Framework Limits and Triggers
32. Schedule B – Surface Water Quality Management Framework Limits and Triggers
33. Schedule C – Groundwater Management Framework Interim Quality Triggers
34. Schedule E – Lower Athabasca Regional Trail System Plan – does not include Treaty rights and traditional land uses or ability to peacefully use and enjoy reserve lands as criteria or objectives, or as factors to be included in development of plan.
35. Schedule F
36. Schedule G

- B. *Explain how the provision (section in the Regional Plan you identified in A (above) is directly and adversely you, or will directly and adversely affect you.***

LARP does not include nor protect ACFN’s Aboriginal and Treaty Rights, traditional land uses, or culture. LARP does not consider nor address how ACFN members can continue to access and peacefully use and occupy their reserve lands. ACFN made substantive submissions on this point during the Jackpine Mine Expansion hearing. The Panel agreed with ACFN.

[36] It is apparent to the Panel that the mitigations being proposed by individual project proponents are not effective at avoiding significant adverse cumulative effects on TLU in the Project region. The Panel acknowledges that the intent of the LARP is to take more of a cumulative-effects-based approach to managing environmental effects in the Lower Athabasca Region, but notes that the LARP does not specifically address TLU issues. Instead, the LARP provides for continued consultation and engagement with Aboriginal peoples to help inform land and natural resource planning in the region. Several of the Aboriginal groups expressed concern that the LARP does not address their concerns and does nothing to ensure ongoing traditional use of the land or to protect their Aboriginal or treaty rights. The absence of a management framework and associated thresholds for TLU makes it very difficult for Aboriginal groups, industry, and panels such as this one to evaluate the impact of individual projects on TLU. The Panel believes that to inform

land use planning and allow better assessment of both project and cumulative effects on Aboriginal TLU, rights, and culture, a TLU management framework should be developed for the Lower Athabasca Region. The Panel recommends that Alberta develop and implement a TLU management framework for the Lower Athabasca region as a component of the LARP. The Panel recommends that the government of Alberta develop this framework with the involvement of all of the Aboriginal peoples who practise their rights in the oil sands region and who are affected by industrial development.

[37] All of the Aboriginal groups that participated in the hearing raised concerns about the adequacy of consultation by Canada and Alberta, particularly with respect to the management of cumulative effects in the oil sands region and the impact of these effects on their Aboriginal and treaty rights. In its submissions to the Panel on the questions of constitutional law, Canada and Alberta both advised the Panel that Crown consultation with Aboriginal groups was not complete and that the Panel's report would inform the Crown's subsequent decisions about Aboriginal consultation. The Panel notes that it has determined that the Project may affect Aboriginal TLU, rights and culture and that the cumulative effects of existing, approved, and planned development on Aboriginal TLU, rights, and culture are likely to be significant. The Panel recommends that Canada and Alberta each consider the Panel's findings in this report when it . . . considers what further consultation may be needed or desirable in order to complete their respective consultation obligations to affected Aboriginal groups.

[1476] The Panel is of the opinion that ACFN has provided evidence of existing cumulative effects on its TLU activities leading to loss and avoidance of use and that traditional users are finding it increasingly difficult to relocate and find lands of equivalent value. The Panel, therefore, finds that the Project effects, in combination with the effects of other existing, approved, and planned projects, are likely to have a significant adverse effect on ACFN's TLU and Aboriginal and treaty rights in the broader region surrounding the Project.

[1477] The Panel agrees with ACFN that assessing the effects of individual projects on the TLU and Aboriginal and treaty rights of ACFN and the other Aboriginal groups is not efficient or effective and that LARP does not specifically address the issues of Aboriginal TLU or rights. . .

LARP is being applied by decision makers and relied upon by oil sands companies to preclude the protection of Aboriginal and Treaty Rights and traditional land uses of Aboriginal peoples in general, and of the Athabasca Chipewyan First Nation in particular. Examples of this include, but are not limited to:

- a. *Re Dover Operating Corp* 2013 ABAER 014 at paras. 44-46. Fort McKay did not oppose Dover's proposed project in its entirety, but merely sought to have a 20 km buffer between the proposed Project, which would span leases of over 376.8 km², and its Reserve lands at Namur Lake and Namur River.⁵ Fort McKay led evidence of severe and significant cumulative adverse impacts of industrial development upon its ability to exercise its Treaty Rights and traditional land uses, as well as to enjoy certain of its reserve lands. The AER found that as LARP indicated the area requested to be set aside as a traditional land use buffer was within an area where oil sands development was prioritized, the AER could not grant the relief sought by the community of Fort McKay.
- b. *Re Jackpine Mine Expansion*, 2013 ABAER 011: ACFN objected to this project and sought to have the application denied. The Panel approved the mine expansion even though it found the project would have significant adverse impacts on traditional resources relied upon by ACFN, adverse impacts upon ACFN's rights and traditional land use, as well as significant adverse cumulative impacts upon ACFN's treaty rights, traditional land use, and culture. The Panel's decision was based in part upon the fact that "The Project. . . is in an area where the government has identified bitumen extraction as a priority use."⁶
- c. In a proceeding currently before the Alberta Energy Regulator regarding winter work applications,⁷ Teck Resources has relied upon LARP in an attempt to exclude Athabasca Chipewyan First Nation's concerns about the contribution of Teck's proposed program to the cumulative impacts of development in the Lower Athabasca Region on its Treaty Rights, traditional land use, and culture. Teck cited the *Dover* decision, above, in support of the proposition that the AER must act in accordance with LARP as it exists today, and that Teck's Program is located in an area designated for oil sands exploration and development under LARP. Teck's proposed program is in an area that is important for the ability of ACFN members to exercise their Treaty Rights, traditional land use and culture, in particular the Right to hunt wood bison.

The LARP is being applied by decision makers to effectively rule out the possibility of establishing areas that can be set aside for traditional land use and the exercise of Treaty rights. However, the Joint Review Panel for the Jackpine Mine Expansion strongly recommended that Alberta consider the need for conservation offsets to address significant effects, including a consideration of (among other things):

- a. the effects of the offsets on existing traditional land use and the need to maintain areas for traditional use by Aboriginal peoples, including areas containing traditional plants and other culturally important resources (para. 12);

⁵ *Re Dover Operating Corp*, 2013 AER 014 at paras. 7, 10, and 16.

⁶ See paras. 8 and 18.

⁷ AER Application Nos. 1749543, 1749567, 1749568, 1749569, 1749570, 1749572, 1749605, 1749607, 1749620, 1751999, 1752756, 1763318, 1763325, 1763326, and 1763327.

- b. the need to preserve the suite of species and ecosystems in the region and to maintain local and regional biodiversity as well as the need to preserve unique environments and species (para 996); and
- c. The need for conservation offsets to address the impacts on some migratory birds (para 936).^[1]

LARP must be reviewed and amended if these recommendations are to be implemented in a manner that respects ACFN's Treaty Rights, traditional land uses, and ability to access, use and peacefully enjoy its reserve lands.

C. *Explain the adverse effects that you are suffering or expect to suffer as a result of the specific provision (section) you identified in A (above)*

Adverse effects include but are not limited to those listed below.

1. Decisions are being and will be made, and development is being and will steamroll ahead without the information or planning required to maintain ACFN's Treaty rights, traditional uses, and ability to access and peacefully use and occupy its reserve lands. As the Joint Review Panel for JME noted: *The absence of a management framework and associated thresholds for TLU makes it very difficult for Aboriginal groups, industry, and panels such as this one to evaluate the impact of individual projects on TLU.*
2. Loss of ability to exercise Treaty and Aboriginal Rights in preferred places by preferred means. Place based knowledge and cultural landscape are essential to ACFN's traditional way of life.
3. Loss of ability to engage in traditional land use and other traditional pursuits.
4. Loss of ability to transmit traditional knowledge and culture to future generations.
5. Loss of ability to engage in cultural activities and live in a culturally appropriate manner.
6. Loss of culture.
7. Loss of food security.
8. Increased risks, and perceived risks, associated with consumption of traditional foods.
9. Health impacts linked to changes in diet from traditional to store-bought foods, as well as to contamination of country foods, and change in lifestyle as traditional land use opportunities decrease.

^[1] See also Recommendations 28, 36, 52 and 76.

10. Recreational use of Richardson Backcountry has already interfered with ACFN's exercise of rights in the area. The LARP designations may encourage further consumptive and non-consumptive sport and commercial hunters and fishers, as well as increasing numbers of recreational snowmobiles, all-terrain vehicles and other backcountry transportation uses. They may also support commercial tourism development. And if the proposed road and trail networks discussed under LARP come to fruition, access to the area for everybody will be greatly improved and with more access and more non-indigenous and recreational users, ACFN is often not able to hunt in areas due to safety concerns. That is a direct impact.
11. LARP's goals of increasing recreation and tourism will have direct and adverse impacts upon ACFN for example by increasing competition for resources, reducing harvest success, preventing the discharge of fire arms due to concerns for the safety of others; and detracting from the incidental rights to feel safe, secure and experience remoteness and solitude on the land.
12. Lake Athabasca and Richardson recreation tourism areas in LARP fall within homeland areas that have been identified by ACFN as places the members wish to protect as sanctuaries for their current use and for the use of future generations. The GoA LARP goal for those areas is to provide for additional recreation opportunities and attract tourism investment." And to "address the growing demand for recreational opportunities and provide an attractive land base for tourism investment.
13. There is a high potential that the LARP land use designations are not mitigation for ACFN's regional concerns – they could actually attract tourism based investment and government induced infrastructure which would proactively encourage incremental and new sport and recreational use in ACFN's homeland areas. This would further restrict ACFN use of the area, in particular their use for hunting.⁸
14. No meaningful ability to be involved in stewardship activities in core ACFN areas. Encouraging ACFN's involvement in developing sub plans under the overarching plan that explicitly does not incorporate protection of Treaty Rights and traditional land uses does not address ACFN' concerns, creates an impossible situation where ACFN is asked to provide input into a framework that will not be able to be responsive to that input.
15. Loss of ability to utilize the Athabasca River as a navigation corridor.
16. Loss of ability to access fishing, hunting, and trapping areas due to water quantity issues in the Athabasca River and the Peace Athabasca Delta.
17. Contamination of local water.

⁸ i.e. see Larcombe report at 4-67-4-69 and 5-22, 5-23.

18. Decision makers will allow the removal of tracts of land from the diminishing intact land base available to support ACFN's Aboriginal and Treaty rights and the traditional resources required to sustain these rights, without regard to what is required to support the continued exercise of ACFN's Aboriginal Treaty Rights, traditional uses, and culture.
19. In addition to the direct removal of lands, approval of oil sands development projects will in practice result in an even more expansive area of land, beyond the immediate and substantial footprint of individual projects, due to gates, fences, concerns about noise, dust, contamination of air, waterways, and other traditional resources, and other factors.
20. ACFN views the land as a living being. Injury to parts of the body affect the health of the whole.
21. Further transformation of the land within the Lower Athabasca Planning Region from natural to industrial ill exacerbate current conditions and effectively preclude meaningful use of an expansive area within ACFN's traditional lands.
22. Psychological impacts re: failure to fulfill cultural obligations to ensure that seven generations from now, ACFN members can exercise their Rights and culture.
23. Impact to ACFN's ability to exercise Dene spiritual practices.
24. The disturbance of lands, waters and natural resources that Aboriginal peoples are culturally connected to can cause deep psychological harm on two fronts. First, feelings of having no control in decision-making about how the environment is allocated, used, and disturbed can result in individual and collective feelings of hurt, frustration and anger. Secondly, the worldview or cosmology of most indigenous peoples, and of ACFN, dictates that humans are related on a level basis with the animate and inanimate components of the environment. Humans are expected to treat all human and non-human relatives equally and with respect, including a moral code of not harming the environment necessary for survival and being proactive in ensuring the safety and survival of not just humans, but all relations. Witnessing environmental degradation can be stressful. Emotions can include deep spiritual fear of repercussion; feelings of shame about not being able to protect human and non-human relations, and about the losses that will be experienced by the younger generation and generations not yet born; and feelings of anxiousness, frustration, depression and fear that the current generation cannot fulfill its responsibilities to transfer the cultural knowledge necessary for the health and sustainability of their culture and the environment.⁹
25. Erosion of the foundational relationship between ACFN and Alberta as Treaty Partners.

⁹ Patt Larcombe, A Narrative of Encroachment Experienced by ACFN, at text page 6-20 to 6-23.

Form LUS-01 Part 2: Requested Relief

ACFN requests that the Minister Review the Lower Athabasca Regional Plan pursuant to section 19(2) of the Alberta Land Stewardship. ACFN requests that the Minister amend the provisions of the Lower Athabasca Regional Plan identified in Part 1A herein, to be consistent with the exercise of ACFN's Treaty and Aboriginal rights and traditional land use *in perpetuity*, in order to diminish or eliminate the adverse effects identified in part 1B and 1C of this request.

Form LUS-01 Part 3: Other Applicable Information

ACFN has enclosed the following applicable information for your consideration. This list is without prejudice to ACFN's ability to lead further evidence during your review of LARP.

ACFN's November 2010 Submission to the Government of Alberta re LARP

Appendix	Description
1	October 19, 2010 Joint Submission of Athabasca Chipewyan First Nation, Chipewyan Prairie Dene First Nation, Mikisew Cree First Nation Regarding Comments on the Lower Athabasca Regional Advisory Council's Advice to the Government of Alberta Regarding a Vision for the Lower Athabasca Region
2	September 28, 2010 Joint Submission of Athabasca Chipewyan First Nation (ACFN) and Mikisew Cree First Nation (MCFN) to the Land Use Secretariat of a Proposal to Develop ACFN and MCFN Traditional Land and Resource Use and Management Plans (TLRUMP)
3	ACFN October 2008 Submission of a Proposal for Co management of Richardson Backcountry to Alberta Sustainable Resources Development
4	Regional Municipality of Wood Buffalo Cumulative Effects Study
5	As Long as the Rivers Flow: Athabasca River Use, Knowledge and Change ACFN Community Report, August 16, 2010
6	Dene Nation Resolution on the Alberta Tar Sands
7	Assembly of Treaty Chiefs Resolution to Support the Keepers of the Athabasca Watershed Council in the Call for No New Approvals for Development in the Alberta Tar Sands
8	Advice Document re LARP
9	Cover letter from ACFN to Alberta Land Use Secretariat enclosing submission of Advice Document re LARP, November 22, 2010

ACFN's June 2011 Submission to the Government of Alberta re: LARP

Appendix	Description
1	ACFN Information Requests, May 16, 2011
2	MCFN Information Requests
3	Additional Recommendations of ACFN and MCFN with Respect to LARP
4	October 7, 2010 to Minister Mel Knight from ACFN Regarding Protection of the Ronald Lake Bison Herd

5a	May 6, 2011 Letter to Dave Hervieux from ACFN and MCFN Regarding the Draft Alberta Caribou Policy Appendix
5b	Affidavit of Chief Allan Adam
5c	Affidavit of Patrick Marcel
6	Cover letter from ACFN to Alberta Land Use Secretariat enclosing ACFN and MCFN's final submissions of draft LARP
7	Email submission of ACFN and MCFN to Alberta Land Use Secretariat enclosing final submissions of draft LARP
Cover letter encl. 1	Legal Review of the Draft Lower Athabasca Regional Plan prepared for Athabasca Chipewyan First Nation and Mikisew Cree First Nation
Cover letter encl. 2	Review of the Draft Lower Athabasca Integrated Regional Plan, prepared for Athabasca Chipewyan First Nation, May 2011
Cover letter encl. 3	Review of the Draft Lower Athabasca Integrated Regional Plan, prepared for Mikisew Cree First Nation, May 2011
Cover letter encl. 4	Review of the Draft Lower Athabasca Integrated Regional Plan prepared for Mikisew Cree First Nation and Athabasca Chipewyan First Nation, June 2011.

Other:

Appendix	Description
1	January 2011 ACFN Co-Management Discussion Paper and covering letter
2	2013 08 11 M. Ignasiak Osler to AER re Winter Corehole Program
3	<i>Re Dover Operating Corporation</i> , 2013 AER 013. Excerpt
4	Re Jackpine Mine Expansion, 2013 AER 011, Executive Summary
5	Re Jackpine Mine Expansion, 20133 AER 11, Excerpt
6	Encroachment Narrative Report – Athabasca Chipewyan First Nation
7	Shell JME and PRM – Effects on Traditional Resources of the Athabasca Chipewyan First Nation
8	Shell JME and PRM – Continued Effects on Traditional Resources of the Athabasca Chipewyan First Nation
9	2011 06 13 Dave Bartesko, Alberta Land Use Secretariat to ACFN re LARP Input Summary and enclosing LARP Summary
10	2011 06 16 Email from Nicholl Nicoles, ACFN to Dave Bartesko, Alberta Land Use Secretariat re LARP Input Summary
11	2009 04 16 Letter from Lisa King, ACFN to Dave Bartesko, Alberta Land Use Secretariat re Consultation with ACFN
12	CVs and Statements of Technical Qualifications: (a) Craig Candler, The Firelight Group (b) Rachel Olson, The Firelight Group (c) Steven DeRoy, The Firelight Group (d) Petr Komers, MSES (e) Zoran Stanojevic (f) Petr Cizek, Cizek Environmental Services

	(g) Patricia M. Larcombe, Symbion Consultants (h) Lisa King, ACFN IRC
--	--

Form LUS-01 Part 4: Applicant Information

We represent the Athabasca Chipewyan First Nation. Please deliver notices regarding this matter to each of the following:

**Athabasca Chipewyan First Nation
Industry Relations Corporation (IRC)**

220 Taiganova Crescent
Fort McMurray, AB
T9K 0T4

Attention: Doreen Somers and Lisa King

Phone: 780-791-3311
Emails: doreen.somers@acfn.com
lisa.king@acfn.com
Fax: 780-791-3632

Woodward & Co. Lawyers LLP

2nd Floor, 844 Courtney Street
Victoria, BC V8W 1C4

Attention: Jenny Biem, Solicitor

Phone: 250-383-2356
Email: jenny@woodwardandcompany.com
Fax: 250-380-6560

Form LUS-01 Part 5: Representative Information

Please see the LUS-01 Form enclosed with this letter. Originals to follow by courier.

Yours truly,
WOODWARD & COMPANY



Jenny Biem

/eh

Enclosure

c.c. ACFN Chief and Council
Lisa King
Doreen Somers