

FORT MCKAY SUBMISSION REGARDING THE DRAFT LOWER ATHABASCA INTEGRATED REGIONAL PLAN



Fort McKay First Nation and
Fort McKay Métis Nation

Prepared by the Fort McKay Sustainability
Department
June 2011

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1. INTRODUCTION

1. Fort McKay Sustainability Department is tasked with managing and administering consultation activities on behalf of the Fort McKay First Nation (“First Nation”) and the Fort McKay Métis Nation Local #63 (“Métis Nation”). The Sustainability Department makes this submission regarding the draft Lower Athabasca Region Plan on behalf of the First Nation and Métis Nation.
2. Fort McKay is:
 - one of the continuous and longest-term land users in the Lower Athabasca Region;
 - is the largest private landowner in the northern portion of the Lower Athabasca Region (apart from the RMWB);
 - the holder of aboriginal and treaty rights, which are exercised in the Lower Athabasca Region; and,
 - the Community most impacted by current industrial development in the Lower Athabasca Region; the mineable and portions of the in-situ oil sands zones are in the heart of Fort McKay’s Traditional Territory.
3. Nowhere else in North America is there such an impact upon a Community from resource development as exists in Fort McKay. Oil sands production has doubled since 1986 and it is expected to double again by 2020. The loss of 75% of Fort McKay’s Traditional Territory to potential development¹, significantly increased off-highway access by non-traditional land users to previously isolated areas, and the cumulative effects on the environment reflect a truly overwhelming daily reality for Fort McKay. The Community as a whole is significantly impacted by the socio-economic, cumulative and environmental effects of multiple projects in the area.
4. The following document is Fort McKay’s submission and response to the draft Lower Athabasca Regional Plan. Lower Athabasca Regional Plan “LARP” is defined in the draft regulation as including the Strategic Plan and Implementation Plan and Regulations. This is the definition Fort McKay used in this submission. The terms “LARP” and “the Plan” will be used interchangeably throughout this submission.
5. Fort McKay’s submission is structured as follows:
 - An Overview of Fort McKay
 - What is Fort McKay?
 - Fort McKay’s rights
 - Existing impacts on Fort McKay

¹ Approximately 75% of Fort McKay’s Traditional Territory is covered by oil sands leases (oil sands lease data from Divestco, March 2010)

- Risks and Impacts of LARP
- Key Requests
- Fort McKay's Previous Submissions and Key Interests
- Fort McKay's Requests
- Summary
- Conclusions

2. RISKS AND IMPACTS OF LARP

6. The draft LARP prioritizes industrial development over environmental objectives and the constitutionally protected rights of Fort McKay. The economic development of the oil sands is established as the priority land use in the region over all other uses, including the exercise of treaty and aboriginal rights, except in limited conservation and recreation areas. Land disturbance is the primary cause of loss of Fort McKay's rights, and the Plan enables land disturbance from oil sands and related development to continue at the current, or greater pace and scale. The limited conservation areas, intended to "support aboriginal traditional uses" (Page 18 of the Plan), are located more than 70 km from the Community of Fort McKay, and overlap with only 5% of Fort McKay's proposed protected areas, which limits their utility for Community members. If the plan is enacted as legal direction to decision makers effective September 1, 2011, it will contain no effective limits on land disturbance on Fort McKay's culturally significant ecosystems, or on loss of resources necessary to support traditional land use and the natural ecology of Fort McKay's reserves and Fort McKay's Traditional Territory.
7. If development occurs as permitted under the Plan, Fort McKay expects that air and water quality will be further degraded and wildlife populations will be severely compromised within the Community, its reserves, and surrounding Traditional Territory. While there is a plan to develop a Land Disturbance Plan, Biodiversity Framework and other plans under LARP, there is no legal requirement to complete these plans on schedule or to contain minimum thresholds. There are no plans to establish thresholds or frameworks to maintain traditional land use opportunities. In the meantime, oil sands and other subsurface leases are regularly granted by the crown, several new projects have applied for statutory approvals, and roads and other infrastructure are being developed to support expansion of development into undisturbed areas in Fort McKay's Traditional Territory.
8. Although the current level of development seriously limits Fort McKay's opportunities to exercise their rights and is causing significant loss of cultural values and heritage, the proposed LARP will effectively authorize ERCB and other regulators to approve more development, despite the impacts on Fort McKay. Statutory decision makers are directed to consider the Plan; and LARP says supporting oil sands development is the intended use of most of the area. Further, this plan governs decisions about the needs of

current and future Albertans, including aboriginal peoples.² Without a plan and system to protect, maintain and monitor traditional land use, Fort McKay's land use rights will continue to be eroded and incrementally extinguished.

9. LARP, as proposed, creates dangers as it purports to be a plan and system for managing the impacts of cumulative development but does not deliver on its intentions. The management system proposed contains worthy concepts and goals; but it is skeletal and conceptual. It lacks the detail necessary for an effective cumulative effects management system. This failure is of greatest concern to Fort McKay, as the Plan in its current state will enable cumulative effects, in the form of continued rapid industrial development in the region, but contains no effective provisions for managing the negative impacts of these effects or for stewarding to other values such as protection of ecological and cultural integrity. One danger is giving this plan legal effect as direction to decision makers before it is complete, and key elements are missing. This will create confusion and uncertainty in decision-making. Another danger is that this Plan is being coupled with a streamlined, faster regulatory system to "fast track" approvals, which will rely on an underdeveloped system to manage the cumulative effects to justify intensive development. Regulators and industry will rely on the Plan to justify further development on the assumption that impacts are or will be managed but they are not managed by the Plan and may not be in the future.
10. The Proposed Regulation, section 4(1) "Legal effect of LARP Strategic Plan" states that the Crown, decision makers, local government bodies and all persons shall interpret the Plan as a statement of provincial policy in the region, to be used for, among other things, "managing activities to meet the reasonable foreseeable needs of current and future generations of Albertans, **including aboriginal peoples.**" As this provision particularizes aboriginal peoples, statutory decision-makers will assume the Plan was developed with an assessment and accommodation of the rights and interests of aboriginal peoples and intended to meet their needs. Fort McKay is highly concerned that this provision will imply to decision-makers that they do not need to continue with the current level of consultation and impact assessment of traditional land use in relation to industrial development as permitted by the Plan.
11. LARP creates a significant risk to the future well-being and quality of life of Fort McKay. The plan for intensive oil sands development, will be realized predominately in the area concentrated around the Community, its reserves and the Athabasca River Valley. Developers are now planning for and seeking approvals for oil sands projects at Fort McKay's traditional lands adjacent to Namur and Gardiner Lakes, and are seeking approvals for roads into this area this year. Development of this area is consistent with LARP, but will cause the loss of wildlife and other resources in this last, relatively pristine area of high cultural value to Fort McKay.
12. The impact of LARP's Vision, development goals and priorities, if realized, will render unusable most of the culturally significant traditional land use areas of Fort McKay. Fort

² See Proposed Lower Athabasca Integrated Regional Plan Regulations ss. 4(1)(c) and 5(1)(a).

McKay's conclusion is that this draft Plan, if implemented, would severely impact Fort McKay's rights.

3. KEY REQUESTS

13. Fort McKay's key requests, as described more fully in **Section 5**, are:

- a) Development of a substantive plan for inclusion in LARP to ensure sufficient land and resources remain available for meaningful opportunities for traditional land use, cultural activities and the exercise of rights. This will include the inclusion of outcomes, objectives and indicators for the maintenance of traditional uses and resources, as well as expanded conservation areas (see **Paragraphs 38a-e** and **Appendix I**);
- b) Environmental standards and systems and management options and a formal system for establishing buffers between development and the Community and reserve lands to protect the health and well being of Community members and the ecology of the lands (see **Paragraph 41** and **Appendices I to N**);
- c) A process for engaging Fort McKay in the ongoing management of cumulative effects on its Traditional Territory including implementation of an access management plan and specific strategies that will engage aboriginal peoples in land-use planning (see **Paragraphs 51 to 54** and **Appendix I**);
- d) Completion of a strategic or regional cumulative environmental, cultural and socio-economic assessment of the development scenarios identified in the Terms of Reference for LARP, in order to inform the development of objectives and frameworks that relate to the potential impacts of oil sands development and demonstrably achieve the goal of protection of air, water and biodiversity and traditional resources and land use (see **Paragraph 48**);
- e) An integrated and substantive plan for management of cumulative effects including:
 - i. development of management frameworks for biodiversity, wildlife, land disturbance and access, progressive reclamation and tailings (see **Appendices I and N**); and
 - ii. completion of the water quantity, water quality, groundwater, and air quality management frameworks (see **Paragraphs 42 to 46** and **Appendices J to M**);
- f) A process for negotiating a consultation and accommodation agreement to address the trade-offs being made of Fort McKay's rights and interests; (see **Paragraph 55** and **Appendix I**);
- g) Removal of the proposed recreation area at Gardiner Lake; see **Paragraph 40** and **Appendix I**);

- h) The Plan is not finalized and enacted into law until the above items are completed and Fort McKay has been meaningfully consulted and accommodated; (see **Paragraphs 51 to 57**);
- i) Collaboration on the design, objectives and implementation of the health study referred to in the Strategic Plan; and
- j) Further time to consult and adjust the Plan to meet the interests of Fort McKay and Alberta (see **Paragraph 57**).

4. OVERVIEW OF FORT MCKAY

What is Fort McKay?

- 14. The Community of Fort McKay consists of approximately 800 Cree, Dene and Métis residents (the “Community” or “Fort McKay”) who have, for generations, been self governing and practiced hunting, fishing and trapping in their Traditional Territory. They are aboriginal peoples within the meaning of the *Constitution Act*, 1982.
- 15. The majority of Community residents are members of the Fort McKay First Nation Indians, are Indians within the meaning of the *Indian Act*, and are beneficiaries of Treaty 8, 1899. The First Nation has approximately 650 registered members. Its government is led by Chief and Council. There are approximately 63 members of the Métis Nation in the Community. It is led by a Board of Directors.
- 16. The Métis Nation holds about 800 acres in the Community of Fort McKay pursuant to a long-term lease with the government of Alberta.
- 17. The Fort McKay First Nation owns fee simple lands and the use and benefit of reserves 174, 174C, 174D, 174B and 174A, which are shown on the map attached as **Appendix A**. The Reserve lands comprise 26,000 hectares (ha), making Fort McKay the largest land holder in the Northeast Region after the provincial government and Wood Buffalo National Park.³
- 18. Community members also hold 30 traplines (Registered Fur Management Areas; RFMAs) to lands within their Traditional Territory. These total 935,146 ha and approximately 80% of this land has been leased for oil sands development. The map in **Appendix B** depicts the traplines held by Fort McKay Community members.
- 19. While trapline licenses are held by individuals, they are passed down through families and used by extended family and other Community members. They are areas in which fur bearers are trapped for domestic use, country foods like berries, moose and ducks are harvested, and members go to camp, recreate and practice their traditional ways. Trapping cabins are seasonally or temporarily occupied by members.
- 20. Fort McKay’s Traditional Territory is shown in the map attached as **Appendix A**.

³ The Northeast Region as defined in the Alberta Land Use Framework.

21. While the entire Traditional Territory is valuable to the Community of Fort McKay, all areas do not hold equal cultural significance for the exercise of treaty and aboriginal rights. Certain areas are used more heavily if they, in part: 1) support abundant populations of culturally important species, 2) are in close proximity to the Community and to their reserves, 3) have historic and special significance and/or 4) contain species not easily found elsewhere. Using data from Fort McKay's 1994 Traditional Land Use Study, Fort McKay's Traditional Territory has been characterized by intense-, moderate- and low-use areas (referred to as culturally significant ecosystems). The intense-, moderate- and low-use areas for the "all traditional uses" category, which amalgamates data from several harvesting categories (e.g., berry harvesting, big game hunting and furbearers),⁴ are depicted in the map attached as **Appendix C**. However, traditional land use practices are not static and these areas should not be viewed as fixed. Traditional land use practices have always responded to shifts in environmental parameters (e.g., changes in wildlife population levels) as well, the scale and rate of oil sands development has forced changes in land use patterns. Fort McKay's expectation is that areas within its entire Traditional Territory will be available for the exercise of its treaty and aboriginal rights.

Fort McKay's Rights – Statutory, Common Law, Aboriginal and Treaty Rights

22. The people of Fort McKay have statutory and common law rights, but in addition to their rights as Canadians, they have additional constitutional communal and individual rights as first peoples of Canada.

23. Their constitutional rights are as follows:

- Treaty rights as guaranteed by the text of Treaty 8 (1899) and the oral assurances made on behalf of the Crown at the time the treaty was negotiated. A copy of the Treaty 8 and Commissioners reports is attached as **Appendix D**. These treaty rights include the right to hunt, trap and harvest natural resources within their Traditional Territory, to their way of life, to the use, enjoyment and control of lands reserved for them and the right to a livelihood;
- While Alberta has the ability to "take up" lands for mining and other purposes pursuant to Treaty 8, this right is limited by Fort McKay's right to sufficient lands, and access to them, within their Traditional Territory, of a quality and nature sufficient to support the meaningful exercise of their treaty rights;⁵
- Aboriginal rights; which are the practices, traditions and customs integral to the First Nation and arising from their prior occupation of the lands now comprising

⁴ Note that the locations and areal extent of intense, moderate and low use CSEs for individual harvesting categories (e.g., trees and plant, fish, birds, big game, furbearers) vary. As well, it is important to note that the CSE analysis was based on one data set and should not be considered comprehensive mapping or analysis of Fort McKay's traditional use and occupancy. Substantial, additional traditional use data have been collected since the 1994 study, but it is not all available in a spatial format. The CSE maps do provide a general spatial picture of Fort McKay's land use and are helpful in assessing areas of high traditional significance from the perspective of the Community.

⁵ Mikisew v. Canada, 2005 SCC 69

Canada. Some aboriginal rights are confirmed by Treaty 8, while others include the right to self-government, culture and religion;

- The right to hunt for food in all seasons pursuant to the Natural Resources Transfer Agreement (being schedule 2 of the *Constitution Act*, 1930);
- The Métis also have aboriginal rights including the right to hunt and the right to harvest natural resources in their Traditional Territory;
- The right to be consulted and accommodated with respect to potential adverse effects on their rights and the interests secured by these rights;
- The provincial and federal Crowns have a duty not to restrict treaty and aboriginal rights and any infringement must be justified by demonstrating:
 - i. a compelling and valid legislative objective;
 - ii. that priority was given to the rights;
 - iii. the means of achieving the objective infringed the right, including the preferred means of exercising it, as little as possible;
 - iv. the First Nation was consulted; and
 - v. its rights accommodated, by compensation or other means..

24. Their statutory rights include:

- the right to use and enjoyment of their reserve lands pursuant to section 18(1) of the *Indian Act* (R.S. 1985, C. I-5) with a corresponding fiduciary obligation on Canada to protect these land rights and their value to the First Nation;
- the right to commercial fur harvesting for holders of trapping areas pursuant to the *Wildlife Regulation*, Alta Reg. 143/1997; and
- the statutory right to hunt, fish and trap on Crown lands pursuant to the *Hunting, Fishing and Trapping Heritage Act* (S.A. c. H-15.5).

25. Their common law rights include:

- The right to use and enjoyment of the lands they occupy in the Community free from noxious odours, pollution, noise and other nuisances.

26. Human rights, including the right to engage in their cultural activities pursuant to the *International Covenant on Civil and Political Rights* (to which Canada is a signatory).

Overview of Existing Impacts on Fort McKay

27. The “*the scope and pace of development has had significant impacts on aboriginal peoples in the region and their way of life*” was acknowledged by RAC⁶. This is most resoundingly true for Fort McKay. It is the most directly affected Community by oil sands development. Fort McKay is about to see a third wave of major oil sands development within their Traditional Territory. The first wave of development included the Suncor Tar Island Project and the Syncrude Mildred Lake Project, which were

⁶ *Advice to the Government of Alberta Regarding a Vision for the Lower Athabasca Region*, page 2

constructed in the late 1960's and 1970's, respectively. A second wave of development began in the mid 1990's, and included expansions of the original Suncor and Syncrude Projects, as well as new Projects including: the Albian (Shell) Muskeg River Mine, the Syncrude Aurora Mine, the CNRL Horizon Mine and Upgrader, the Shell Jackpine Mine and some in-situ oil sands projects (Suncor MacKay River and Firebag Projects, for example). The third wave of development includes the Total Joslyn North Mine Project, Shell's Jackpine Mine Expansion and Pierre River Mine, Suncor's Voyageur South Mine Project and Teck Resources/Silverbirch Frontier Oil Sands Mine and numerous in-situ projects.

28. Within a 20 km radius of the Community are the following Projects:

- Shell Muskeg River Mine
- Shell Jackpine Mine Phase I
- CNRL Horizon Mine
- Suncor's Fort Hills Project
- Suncor's McKay River SAGD
- portions of Suncor's Steepbank, Millennium and Voyageur Projects
- Syncrude Aurora North Mine
- Syncrude Mildred Lake

29. Within a 20 km radius of Fort McKay First Nation's reserves at Namur and Gardiner Lakes (174A, 174b) there are several proposed in-situ projects and leases including the proposed Sunshine Oilsands Ltd. West Ells SAGD Project and the Dover OPCO Dover Project, which would be located within 1 km of reserve 174B. Access roads planned for these projects include one from the southwest (planned by Dover OPCO) and one directly east from the CNRL Road (proposed by Sunshine Oilsands as a Multi-Stakeholder High Grade Access Corridor). Fort McKay has designated the reserves at Namur and Gardiner, and the traditional lands around the lakes, for preservation of current and future traditional land use. This area is culturally important to Fort McKay due to the Community's history, culture and traditions of the Community and because there are no such lands available any longer within close proximity to the Hamlet of Fort McKay. The opening up of the Namur and Gardiner lakes area due to project development and high-grade access roads will further infringe on Fort McKay's rights.

30. Significant adverse effects have occurred on Fort McKay's cultural heritage including traditional land use as a result of existing oil sands and related development. These effects will increase as a result of planned development within Fort McKay's Traditional Territory. This was the conclusion of the Cultural Heritage Assessment Baseline Study ("CHA") completed by Fort McKay in March of 2010, prepared as part of the Fort McKay Specific Assessment ("FMSA"). The FMSA has been filed with Alberta Environment (AENV) and the Energy Resources Conservation Board (ERCB) as supplemental information for the Shell Jackpine Mine Expansion and Pierre River Mine Project

Applications.⁷ The CHA linked the experiences, values, knowledge and perspectives of the people of Fort McKay with the environmental impacts identified and assessed by the scientists and technical experts who prepared the environmental impact portion of the FMSA. The link and file transfer protocol (ftp) site to download the FMSA document are shown in **Appendix E**.

31. The CHA and terrestrial effects assessment of the FMSA utilized a Forty Township Study Area (FTSA). The FTSA (379,641 ha) is bounded by the following: Townships 93 to 100, Ranges 8 to 12, W4M. The FTSA is considered a regional-scale study area in the Fort McKay Specific Assessment. It encompasses the Community, Shell's proposed projects and the priority traditional use area reasonably accessible by the Community.
32. The CHA found that the current level of development (existing and approved projects) has already created significant adverse effects on the following:
 - a) **Hunting, trapping, fishing and gathering areas.** Disturbance from oil sands development has occurred disproportionately in the intensely and moderately used areas of Fort McKay's Traditional Territory. Impacts on lands close to the Community and within the culturally significant land use areas, are more severe.
 - b) **Trapping areas.** Existing and approved developments have or will directly disturb 113,000 ha within Fort McKay member's registered trap lines; primarily affecting trapping areas closest to the Community. With consideration of tenured oil sands leases, which are likely to be developed in the future, up to 82% of Fort McKay trap lines are vulnerable to development. In addition to direct disturbance, a further unmeasured amount of trap lines will be unusable due to noise, dust, odours, traffic, habitat fragmentation and wildlife population loss. This effect is considered significant and adverse.
 - c) **Wetlands.** Muskeg is integral to Fort McKay's culture and supports many valued traditional resources such as traditional plants and wildlife habitat. There has been a 26% percent reduction in wetlands between pre-development and 2007. Most of the loss has occurred in the last ten year period.
 - d) **Biodiversity.** Biodiversity is critical to Fort McKay because it reflects the integrity of the landscape and ecosystems that support traditional activities. Lands ranked with high biodiversity potential have decreased in the Forty Township area by 26% between 1960 and 2007, creating a significant adverse impact.
 - e) **Traditional Use Berry Sites.** Of 114 traditional use berry sites, 53 (46%) have been lost since 2007. While berry producing sites might be created with reclamation, these historical traditional use sites cannot be recreated to pre-development conditions and are thus considered by Fort McKay as a permanent loss.

⁷ This report was prepared pursuant to an agreement between Fort McKay and Shell Canada Energy to incorporate information in Shell's Environmental Assessment on the potential effects of Shell's projects, as compared to pre-development conditions. Shell is currently preparing a response to the FMSA.

- f) **Traditional Trails.** Approximately 320 km of Fort McKay's traditional trails have been directly disturbed by development, a 24% direct loss. However the actual loss is much greater, as the loss of large sections of a trail usually render the rest of the trail unusable and prevents access to many areas beyond the Community, rendering large areas of the Traditional Territory unusable.
- g) **Moose habitat and populations.** A substantial amount of moose habitat has been directly disturbed and population levels have declined. Twenty percent of the high and moderate quality moose habitat in Fort McKay's intense use culturally significant ecosystem for moose harvesting has been lost. Recent surveys conducted by Alberta Sustainable Resource Development (ASRD) as part of Fort McKay's Country Food Availability Study have documented a 60% reduction in moose population density from 1994 to 2009 in Wildlife Management Unit 531 (see **Appendix F**).
- h) **Furbearers.** Loss of lynx, beaver, fisher and marten habitat is significantly adverse due to habitat loss greater than 20%. Population declines have been observed by Community members.
- i) **Reclamation.** Lack of progress on reclamation, coupled with the high level of uncertainty whether the land will be restored and the inability to reclaim muskeg is a significant adverse effect. Of the 133,000 ha of disturbed lands, only a few hundred hectares have received reclamation certification. Current regulation does not require restoration of traditional land use to obtain reclamation certification.
- j) **Cultural heritage.** Cultural heritage is inextricably linked to the land and the values expressed and preserved through traditional land use. Traditional environmental knowledge, history and identity are linked to specific landscapes and locations. Even if reclamation was successful at restoring the pre-disturbance landscape and ecology, this would not occur for several generations. Fort McKay is permanently adversely affected

5. FORT MCKAY'S PREVIOUS SUBMISSIONS AND KEY INTERESTS

33. Because the potential impacts of the proposed LARP could be very significant, including the proposal to manage cumulative effects through the Plan, the Plan provides a critical juncture for meaningful consultation and accommodation between Fort McKay and the Government of Alberta. Fort McKay has made every effort to engage at this level and elicit Alberta's cooperation in finding compromises and means to reconcile the Community's rights and interests with those of Alberta. So far, Fort McKay efforts have been unsuccessful. Alberta has elicited feedback and submissions, but has not reciprocated with a substantive response to Fort McKay's input. Virtually none of Fort McKay's input is reflected in the draft plan (see Sections 6 and 7 of this submission and **Table 1**) and there has been no clear indication as to how Fort McKay's input was considered in the Plan development

34. Fort McKay has participated actively in consultation regarding initially the Land Use Plan and subsequently the Lower Athabasca Regional Plan. In addition to information provided at meetings Fort McKay has made the following submissions:

- The First Nations of the Athabasca Tribal Council First Nation input into Land Use Framework. Presentation and written submission to Minister Morton (December 3, 2007).
- Implications of Fort McKay's Land Rights and Interests: Planning and Jurisdictional Considerations and Concerns Related to the Land Use Framework. Presented to Alberta Sustainable Resource Development (October 29, 2008).
- Notes on a Fort McKay-Specific Scenario for LARP modeling. Submitted to LARP Aboriginal Consultation Team (May 27, 2009);.
- Letter to Heather Kennedy, Assistant Deputy Minister, Oil Sands Sustainable Development Secretariat regarding LARP and cumulative effects assessment on treaty and Aboriginal rights (November 1, 2009).
- Fort McKay's thoughts on Protected Areas – Submitted to LARP Aboriginal Consultation Team (2009). Attached for reference as **Appendix G**.
- Access and Tourism; notes on Fort McKay – LARP meeting – submitted to LARP Aboriginal Consultation Team (September 3, 2009).
- Notes on the Lower Athabasca Regional Plan Terms of Reference for Fort McKay Submitted to LARP Aboriginal Consultation Team (January 8, 2010).
- Fort McKay Social Indicators – input into the Land Use Framework. Submitted to LARP Aboriginal Consultation Team (March 31, 2009).
- Summary of Discussion with Alberta Environment on December 8, 2009. Meeting regarding development of draft frameworks and three technical from Fort McKay submissions regarding:
 - air modeling to be conducted by AENV as part of the Lower Athabasca Regional Plan
 - surface water thresholds, and
 - interim groundwater management framework.
- Fort McKay letter to Alberta Environment regarding draft LARP frameworks and three technical submissions from Fort McKay (submitted August 20, 2010):
 - Comments on AENV Air Quality Management Framework
 - Comments on Groundwater Management Framework, and
 - Comments on Water Quality Management Framework.
- Synopsis of Health Risk Assessment– submitted to LARP Aboriginal Consultation Team, Land Use Secretariat (2010).
- Fort McKay Review of RAC Vision Document – extensive review, with specific comments on each objective and outcome and clear recommendations as to

what Fort McKay requests to see in the Plan. Submitted to LARP Aboriginal Consultation Team, Land Use Secretariat, Alberta Environment, Stan Rutwind, Morris Seiferling, Provincial Ministers Knight, Snelgrove and Federal Minister Duncan (November 10, 2010).

- Fort McKay TLU Maps and Map Descriptions – Series of maps depicting Fort McKay's requested protected areas and key traditional land use areas. Submitted to LARP Aboriginal Consultation Team, Land Use Secretariat, Alberta Environment, Stan Rutwind, Morris Seiferling, Provincial Ministers Knight, Snelgrove and Federal Minister Duncan (submitted November 2010). These are attached for reference in **Appendix H (Maps A through F)**.

35. In these previous submissions Fort McKay has identified its key interests:

- Protecting its constitutional rights, including aboriginal and treaty rights;
- Reaching an accommodation with Alberta with respect to the impacts of land use and cumulative effects of development on the Community's rights and interests;
- Preserving meaningful opportunities for traditional land use within reasonable proximity to the Community of Fort McKay;
- Protecting historical and culturally significant sites;
- Preserving its cultural, spiritual, economic and material relationship to its Traditional Territories and the resources on those lands, recognizing that its members' connection to the land is holistic and is an integral part of their culture and identity;
- Ensuring that the land use and infrastructure planning in relation to Crown lands surrounding the Community and the Fort McKay First Nation's reserves are compatible with the land use and land use plans of Fort McKay for the Community and the Reserves;
- Ensuring the First Nation and Métis Nation has access to lands for economic and commercial activities;
- Protecting the Community's use and enjoyment of their Community and Reserve lands and reducing the current adverse impacts caused by neighbouring development;
- Effective monitoring, minimization and management of the cumulative effects of oil sands development and other changes in the region. Participating in the management, including use and access, of their Traditional Territories; and
- Implementation of the key components of the Terrestrial Ecosystem Management Framework (Sustainable Ecosystem Working Group 2008).

6. FORT MCKAY'S REQUESTS

36. The requests below are supported and in many cases, more detail recommendations are in **Appendices I to N**. Most of these requests were previously submitted in connection with either the draft Land Use Framework or the Regional Advisory Committee (RAC) Vision Document. Where relevant, we also comment on whether the Terms of Reference for Developing the Lower Athabasca Regional Plan (Government of Alberta 2009), hereafter referred to as “the ToR”, were met.
37. Fort McKay's detailed technical comments and requests regarding specific aspects of the Plan are attached in the following appendices:
- **Appendix I** – Fort McKay's Review of the draft LARP - Terrestrial, Biodiversity and Traditional Land Use
 - **Appendix J** – Fort McKay's Review of the Draft Lower Athabasca Air Quality Management Framework (AQMF) and Air-related aspects of the Plan
 - **Appendix K** – Fort McKay's Review of the Surface Water Quality Management Framework (updated March 2011)
 - **Appendix L** – Fort McKay's Review of the Groundwater Management Framework
 - **Appendix M** – Fort McKay's comments on the integration of surface water and groundwater frameworks
 - **Appendix N** – Additional Comments on Wildlife Aspects of the Draft Plan
38. **Protect and maintain opportunities for meaningful traditional land use and exercise of rights.** This goal has been endorsed by industry in the TEMF (Page 16) and by RAC: Objective 7.3: “Opportunities for traditional uses within the region are maintained and enhanced”. The LARP ToR contain acknowledgment of the importance of this outcome: “It will be important that continued opportunities exist for aboriginal traditional uses to be in close proximity to First Nation and Métis communities”. Opportunities for traditional land use of a nature and location that is meaningful to aboriginal communities and opportunities to exercise their constitutional rights need to be explicit outcomes of the LARP. Strategies required to support these outcomes include:
- a) Meaningful TLU land use opportunities means they are located a) in reasonable proximity to Fort McKay and b) in culturally significant ecosystems and areas that are important to the Community (see series of Fort McKay TLU maps in **Appendix G, Maps A through F**). Fort McKay recognizes that regardless of its wishes, and significant existing loss of traditional lands and resources to development, its ability to exercise its rights and maintain cultural connections and use its traditional lands will be further reduced by the government's energy and land use policies. Therefore, identifying and preservation of land for TLU must be done collaboratively and carefully.

- i. Traditional land use must be identified as a priority land use for specific areas and must be managed for under LARP.
 - ii. Ensuring proximity of land use areas close to the Community of Fort McKay requires consideration of both distance and travel time.
 - iii. Areas need to have good air and water quality, be undisturbed, and have sufficient health wildlife and other resources that support traditional uses.
- b) Maintain populations of fish, wildlife and other terrestrial resources at levels necessary for meaningful exercise of rights:
- i. Frameworks for managing wildlife and fish including triggers for management action and monitoring of population levels.
 - ii. Support Fort McKay to undertake traditional use needs assessment to determine fish and wildlife species and population sizes required to support traditional use and to provide input for land use decisions.
 - iii. Traditional Land Use Overlay to be included in the LARP. This Traditional Land Use Overlay would be updated every five years and capacity would be supported within aboriginal communities to provide accurate information for this overlay. Explicit management outcomes, objectives and strategies for this Traditional Land Use Overlay and within each land-use classification that ensures traditional land use opportunities are available and accessible to Fort McKay and other aboriginal communities
- c) Conservation areas in 40% of RMWB, within Fort McKay's traditional area. The majority of CEMA endorsed the Terrestrial Ecosystem Management Framework ("TEMF") which was designed to address "the urgent need to reconcile competing land uses in the RMWB" (Page 1) and to do so recommended 20 to 40% of RMWB be designated as conservation areas with only 5 to 14% of the land disturbed by development (measured by $\frac{1}{4}$ township) at any given time. Fort McKay supported the TEMF. If more than 10% of the RMWB is permitted to be intensely developed for oil sands or mineral exploitation, Fort McKay requests conservation of 40% of the area. Fort McKay also requests that GoA collaborate with Fort McKay to identify more conservation areas and recommends these criteria guide selection:
- i. Proximity to Fort McKay hamlet and reserves (**Appendix G, Map E** – Fort McKay Reserves with Distance Strata)
 - ii. Areas that overlap and are adjacent to trapline boundaries (**Appendix G, Map D** – Fort McKay Traplines with Distance Strata)
 - iii. Include a conservation area along the Athabasca River Valley
 - iv. Fort McKay's proposed protected areas (**Appendix G, Map A**)
 - v. Fort McKay's proposed protected areas selection criteria (**Appendix F**), which includes ecological and traditional land use criteria
 - vi. Interconnected areas that will support the wildlife and other terrestrial resources that are necessary to traditional land use, biodiversity and threatened species.

- d) Maintenance of traditional trails. Of specific importance to the Community is access from its Community at Fort McKay to its reserves at Namur and Gardiner Lakes. The experience of travelling through natural undisturbed wilderness to and from these reserves is culturally important to the Community. Traditional land use activities occur along the trail and are part of Fort McKay's heritage and continued land use. Fort McKay requests that an access corridor be preserved, incorporating those portions of its "Moose Lake Trail" that remains available. This is vital. Opportunities to protect other traditional trails or maintain access corridors should be identified by Alberta and Fort McKay.
- e) Access management plans to control and limit access to undeveloped and priority traditional lands.

39. Does the Draft LARP Protect and maintain opportunities for meaningful traditional land use and exercise of rights? No, for the following reasons:

- All proposed conservation areas in the Plan are located at great distances (> 70 km) from Fort McKay with access impeded by current development sites, and therefore have little accessibility for traditional land use by Fort McKay Community members.
- The draft LARP proposed conservation areas only overlap with Fort McKay's proposed conservation areas by 5% (see map in **Appendix O**, which overlays the LARP proposed protected areas with Fort McKay's proposed protected areas).
- The collective size of the conservation areas (22% target) proposed falls significantly short of Fort McKay's recommendation 40% protection within their Traditional Territory and the TEMFs recommended 20 to 40% protected area within the RMWB.
- Conservation areas proposed in the plan are not actually "protected reserves" from an ecological perspective; existing petroleum and natural gas tenure and recreational leases area allowed as are other uses such as motorized recreation and multi-use corridors.
- There is no analysis in the Plan that shows how these conservation areas will meet ecological objectives.
- More than 85% of the area that Fort McKay proposes to protect for traditional use is in the Green Area, which is designated for mixed-use and there is no limit or cap to industrial development for this area included in the Plan nor are there proposed management strategies.
- There is very limited discussion in the Plan regarding how traditional land-use activities will be managed and maintained.
- See **Appendix I** for further discussion of the above points.

40. Remove planned recreation area at Gardiner Lake. The Plan proposes a recreational area adjacent to two of Fort McKay's reserves at Moose (Gardiner) Lake and Buffalo (Namur)

Lake. The “Moose Lake Area” represents the nearest and best non-impacted land with extremely high cultural significance to the Community of Fort McKay. Locating a recreation area next to this important cultural area indicates no understanding or support for continued traditional use by Fort McKay Community members. A recreation area is intended to attract tourists and other Albertans that have an interest in recreational pursuits such as hunting and fishing. This will undoubtedly increase resource competition, vandalism, noise levels and potential conflict when these activities or their impacts (e.g., wildlife harvest) “spill over” from the recreation zone on to Fort McKay reserve land. Fort McKay request that the planned recreation area at Namur Lake be removed from the plan or, alternatively, reclassify it for primitive recreation, foot access only for non Community members with no oil sands, oil and gas, mineral or other resource development.

41. **Buffer zones around reserves and communities.** Development around the Community and reserves needs to be compatible with land use and plans within Fort McKay’s lands. A formal process needs to be established with Fort McKay for reviewing potential and proposed development that may cause noise, odours, visual disturbance, and other pollution on reserve. Fort McKay requests that buffers to oil sands development be designated around the Community, its reserves at Namur and Gardiner Lake (174B, 174A) and Creeburn Lake (174D) and that the GoA consult with Fort McKay on the size of the buffers and allowable uses.
42. **Air quality management that ensures good air quality in Fort McKay and in its Traditional Territory.** Fort McKay requests an Air Quality Management Framework (“AQMF”) that is based on the principles of pollution prevention, air emission minimization through the application of Best Available Technology Economically Achievable (“BATEA”), and continuous improvement with respect to existing emission sources. Fort McKay expects that levels and targets for air quality will be fully protective and therefore requests that Fort McKay’s air quality criteria be incorporated into the AQMF and used to determine air quality management actions required to protect and manage air quality in the Community. Fort McKay’s view is that draft Air Quality Management Framework has the potential to be an effective tool in helping to manage air quality in the region. However, changes and additions are needed to ensure that Fort McKay’s interests are addressed (**Appendix J**).
43. **Water and sediment quality management that is protective of aquatic and human health.** Fort McKay requests a Water Quality Management framework that is protective of water quality from an aquatic life and human health perspective, is sensitive to change, triggers realistic and timely management action, links cause and effect and includes key tributaries in addition to the Athabasca River. The draft LARP Water Quality Management framework does not meet this objective; there is only one sampling site and it is located so far downstream on the Athabasca River (>100 km downstream of oil sands developments) that all water quality changes except large spills would not be detected. See Fort McKay’s detailed comments and requests in **Appendix K**.

- 44. Water quantity framework for the Athabasca River.** Fort McKay was an active participant in the Phase 2 Management Framework Committee of CEMA, whose recommendations were submitted to regulators in February 2010. Fort McKay requests that Alberta Environment update the Water Quantity Framework with the recommendations of the Phase 2 Water Management Framework for the Athabasca River as well as Fort McKay's submission to Alberta Environment on the Phase 2 Framework (letter to Alberta Environment, June 29, 2010).
- 45. Buffers from rivers.** Fort McKay requests that GoA consult with Fort McKay regarding the distance from Athabasca River tributaries and protection of river corridors.
- 46. Groundwater management.** Fort McKay requests a groundwater management framework with triggers and limits on quality and quantity that are protective of surficial aquifers, surface water and groundwater-fed wetlands and identify and protect traditional uses of groundwater, both direct (consumptive) and indirect (harvesting of plants at fens). Fort McKay's review of the draft Groundwater Management Framework (**Appendix L**) indicates that the framework is incomplete (interim triggers only and no process or timelines to set limits); insufficient linkage with the surface water framework and insufficient details are provided to determine its potential effectiveness to protect water.
- 47. Assess three development scenarios identified in the LARP ToR.** The Plan does not meet the Terms of Reference for Developing the Lower Athabasca Regional Plan (Government of Alberta 2009), hereafter referred to as "the ToR". One major deficiency in the Plan is the failure to assess (or present assessment of) the three development scenarios identified in the ToR, their implications for land use, and the explicit discussion regarding the trade-offs inherent for each scenario. Fort McKay was advised that a regional cumulative effects assessment was not completed due to insufficient time since the land use framework was proposed in 2007; but some modelling has been done. The assumptions, modelling and other forecasting of effects of the proposed draft LARP scenario were not provided in the Plan or otherwise made available.
- 48. Completion of a strategic or regional cumulative environmental, cultural and socio-economic assessment of the development scenarios** identified in the LARP ToR is required in order to inform the development of objectives and frameworks that relate to the potential impacts of oil sands development and demonstrably achieve the goal of protection of air, water and biodiversity and traditional resources and land use. Fort McKay needs to see a clear, transparent analysis of the development scenarios, land-use classification system, proposed trade-offs, and management tools in order to effectively assess the implications of the proposed Plan on ecological resources and traditional land-use areas of concern and interest to Fort McKay, and on Fort McKay's aboriginal and treaty rights.
- 49. Subregional plan for the mineable area.** From a 2009 letter to Heather Kennedy: "Fort McKay has requested a sub-regional plan to be developed, as contemplated by the Land Use Framework. This sub-region will encompass the mineable oil sands zone north of Fort McMurray. Thresholds and land protection for aboriginal and treaty rights and

Community protection will not be meaningful if the uniqueness of the oil sands area is diluted by the large land mass defined as the Lower Athabasca Region in the Framework."

50. **Subregional plans for Muskeg River and other watersheds.** With the level of intensive development occurring in the Muskeg River watershed, a subregional plan, with Fort McKay's input is needed.
51. **Engagement of Fort McKay in a substantive manner in developing LARP.** Fort McKay requested direct involvement in the development and implementation of LARP products from onset to completion and to have its input and protection of its rights incorporated into the LARP as approved by Cabinet. To date, this consultation has consisted of receipt by Alberta of Fort McKay's submission but no substantive responses have been provided. No plan has been included for a formal (or any) role for Fort McKay in the management of cumulative effects and land use in its Traditional Territory.
52. **Engagement of Fort McKay in a substantive manner in managing land use and cumulative effects.** The LARP ToR states Alberta's consultation policy will apply. The draft LARP identifies as an outcome: "Inclusion of aboriginal peoples in land-use planning". But this is not an outcome but a process. Consultation should be one strategy aimed at achieving the protection of meaningful opportunities for TLU and protections of rights and interests. Meaningful consultation involves more than application of provincial First Nation consultation policy. First, the Community of Fort McKay consists of First Nation members and Métis peoples. Métis consultation is not addressed in draft LARP – the provincial First Nation consultation policy does not apply to Métis and no Métis consultation policy or process exists. It is critical to Fort McKay that both First Nations and Métis needs are explicitly addressed in the LARP.
53. **Consultation** requires a specific plan and mechanisms for consultation including formal roles in decision making and management of land use and resources in Fort McKay's Traditional Territory. The TEMF recommended at Page 3 "...It is vital to engage aboriginal people in developing strategies for conserving or managing opportunities for traditional land use, particularly in proximity to communities." And RAC recommended:
 - 7.1 b. Ensure meaningful consultation with aboriginal peoples.
 - 7.2 a. Work with aboriginal peoples to develop formal roles and responsibilities for aboriginal peoples in land-use planning and environmental assessment or monitoring.
 - 7.2 b. Work with aboriginal peoples to develop engagement strategies for aboriginal peoples in land planning and decision-making.
54. We request Alberta work with Fort McKay to develop a strategy and action plan to define and implement meaningful consultation. Fort McKay worked for several years on negotiating with Alberta draft consultation guidelines specific to the region (Protocol

Working Group) but this has not advanced in the last two years. Fort McKay requests completion of this process with guidelines specific to Fort McKay.

55. Negotiate consultation and accommodation agreement. The current level of cumulative and the potential impacts of LARP require an accommodation agreement, including provision for offsets and compensation, as well as protected traditional land use areas and other arrangements. An accommodation arrangement that reconciles all parties' interests will create certainty for Alberta, Fort McKay and industry. It is clear to Fort McKay for many reasons, including the provisions of the draft Plan, that Fort McKay's rights will continue to be severely impacted by regional development. The degree of adverse effects and infringement of Fort McKay's rights from existing and planned development was implicitly recognized by provincial and federal government initiatives to negotiate the "Consultation and Regional Benefit Agreement" during the last decade, which was never completed. RAC's recommendations also implicitly recognized that further oil sands development would involve trade-offs in the form of loss of traditional land use and opportunities to exercise rights when it recommended: "1.6(h). Collaborate with aboriginal peoples to address compensation matters and concerns relating to the infringement of treaty rights and other constitutionally protected rights".

56. Postpone the planned enactment of the Plan as a statutory instrument with the force of law as of September 1, 2011⁸. The Plan does not clearly describe integration with environmental thresholds, frameworks and policy, and most of the frameworks are either skeletal – lacking sufficient detail and requiring more work in advance of implementation – or are still yet to be developed, such as the biodiversity framework. With so much of the plan not yet available, the plan will cause confusion and uncertainty for decision makers, stakeholders and industry. In any case, **Sections 4 and 5 of the proposed regulation should not be enacted at this time.** Most of the components of the Plan are not complete, have not yet been created or are missing from the plan:

- Outcomes, objectives, indicators or framework for managing cumulative effects and land use impacts on aboriginal communities and their rights and interests. Section 4(a) and 5(a) of the proposed regulation directs statutory decision makers to use the Plan to inform their decisions related to "managing the needs of current and future generations of Albertans, including aboriginal peoples". But LARP does not contain any substantive plans or actions with respect to how the plan manages the needs of aboriginal peoples or explain what needs it covers;
- An access management plan or coordinated plan for transportation and infrastructure corridors;
- An assessment to determine if the selected conservation areas meet their stated objective "to support biodiversity and ecosystem function;"
- A land disturbance plan;
- A biodiversity framework;

⁸ Proposed Regulation s. 48

- A traditional land use framework or plan;
- A definition of indicators for monitoring and managing the “status of Alberta species including species at risk;”⁹
- Definition or description of the “progressive reclamation strategy”;
- A tailings management framework;
- Limits for ground water quality or quantity (although referred to in s.36 (1) refers to a table of limits, the referenced table does not contain limits);
- An updated water quantity framework; and
- A water quality framework for any rivers, lakes except for one reach of the lower Athabasca River

57. Allow further time for meaningful consultation on the proposed LARP. The proposed plan was not provided to Fort McKay until April 7; a deadline for submissions was imposed of June 6 for all stakeholders, including Fort McKay. Meetings with Alberta staff to enable Fort McKay to understand the Plan were not held until May 18 and May 26; the Plan is to be submitted to Cabinet for approval by the third or fourth week of July, with approval expected in July 2011. Feedback on Fort McKay’s submissions (made between 2008 and now) will not be provided until after the LARP is approved and enacted. Apparently, Alberta does not intend at this time to make any substantive changes to the Plan as a result of this current submission or try to address Fort McKay’s concerns. Consultation has never progressed beyond soliciting Fort McKay’s concerns; no opportunity has been provided for adjustment of Alberta’s interests and objectives and those of Fort McKay’s to reach some accommodation or balance of rights and interests.

⁹ Draft Strategic Plan p. 30

7. SUMMARY

58. The following table summarizes the key concerns and request that Fort McKay has raised in previous submissions and that are described above. It indicates whether these concerns and requests are addressed in the draft LARP.

Table 7-1: Summary of Fort McKay Key Input Regarding LARP – Addressed in Draft LARP Plan

Fort McKay Key Input Regarding LARP	Is this input addressed in the draft LARP
*Assess three development scenarios identified in LARP ToR and discuss the trade offs	No.
*Meaningful traditional land use opportunities located in reasonable proximity to Fort McKay	No. Closest conservation area is 70 km from the Hamlet of Fort McKay
Meaningful traditional land use opportunities in culturally significant ecosystems in areas that are important to the Community	No. Less than 5% overlap between Fort McKay's proposed areas and LARPs. No acknowledgement or use of Fort McKay's TLU or protected areas maps in LARP.
*Maintain and protect opportunities for meaningful traditional land use and exercise of rights	No. No explicit reference to how traditional land use opportunities it will be maintained and protected under LARP.
40% of its Traditional Territory protected	No. LARP Target is 22% and most of this is outside of Fort McKay's Traditional Territory. Most of Fort McKay's traditional Territory designated as the Green Area designated for "mixed-use" with no defined limits on development.
Do not locate a recreation area near the Moose (Gardiner) Lakes area.	A recreation area is planned near Namur Lake, despite Fort McKay's request not to locate it here and to consult with Fort McKay regarding the locations of recreation areas.
Traditional Land Use overlay to be included in LARP with outcomes and strategies for maintaining traditional land use opportunities	No. No explicit mention in LARP of how traditional land use opportunities will be managed under LARP.
Frameworks for managing wildlife and fish populations and biodiversity	No. Frameworks for managing wildlife or fish planned. Biodiversity framework planned but not started.

Fort McKay Key Input Regarding LARP	Is this input addressed in the draft LARP
Implementation of key components of the Terrestrial Ecosystem Management Framework.	CEMA's TEMF, in which Fort McKay was intimately involved, used a "triad" approach to land zoning, and employed land-use modeling to determine the status of a suite of indicators, to clearly show trade-offs between industrial development and other values, and to guide decision-making on mutually acceptable outcomes. The results of these methods were a series of recommendations presented to government on land-use management and industrial practices. There is no explicit reference to the TEMF in LARP, and no evidence reflected in the document to suggest that any of its recommendations were incorporated.
Limits on disturbance within Fort McKay's Traditional Territory	No. Land Disturbance Plan not developed. No limits to development set or management tools for the Green Area designated for mixed-use.
Air, water quality, groundwater and surface water management frameworks protective of the environment and human health	Air, water quality and groundwater management frameworks are in the plan but need further development and specific changes in order to address Fort McKay's interests and concerns. Surface water management framework for the Athabasca River is NOT included in the plan
Subregional plan for mineable area	Not included in the Plan.
Consultation and engagement of Fort McKay in a substantive manner in the land use plan	To date Fort McKay's substantial input has not been reflected in the Plan or any substantive response to Fort McKay's concerns.
Negotiate a consultation and accommodation agreement with Fort McKay	No commitment in the Plan to negotiate this.

*indicates LARP Terms of Reference requirement that has not been met.

8. CONCLUSIONS

59. The rights of Fort McKay are largely ignored in the draft LARP, and are clearly subordinated to oil sands and other land uses. Even environmental health and sustainability are subordinated to a secondary supportive role for oil sands development; the plan delays and defers much of the necessary tools, limits, and monitoring required for an integrated, comprehensive management system. The goals, objectives and strategies of the plan do not include supporting or maintaining land and resources necessary for traditional and cultural activities. Other land uses are, however, explicitly protected, such as recreation.
60. Statutory decision-makers will be bound to consider and implement the plan to enable maximum oil sands development. The Plan directs decision-makers to consider that

cumulative effects are being managed regionally but it does not deliver the contemplated management system. This will cause confusion, create risk and uncertainty and lead to unsustainable development as projects will continue to be approved through out Fort McKay's Traditional Territory on the assumption an effective management plan is or will be in place. Fort McKay's is not confident that Alberta will be able to deliver an effective management plan considering the omissions in the current plan and frameworks and lack of enforceable deadlines for completion of the frameworks and strategies. Experience informs this lack of confidence. Alberta committed to developing a comprehensive management framework for the Muskeg River in 2004 which has not been done and is not part of LARP: yet approvals have been issued, and more will be issued that will result in mining of 50% of the Muskeg Basin. The failure to produce most of the deliverables of the Regional Sustainable Development Strategy (1999) is another example.

61. For these reasons the LARP as currently proposed adversely affects Fort McKay and will lead to significantly more loss of opportunities to exercise Fort McKay's rights and infringement of those rights. So far Alberta's consultation efforts have not evidenced an intention of addressing Fort McKay's concerns and reaching a mutual understanding and accommodation. We hope this will change.

9. BIBLIOGRAPHY

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