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LARP Review Panel  
c/o Land Use Secretariat  
9<sup>th</sup> Floor, Centre West Building  
10035 – 108 Street N.W.  
Edmonton AB T5J 3E1

VIA EMAIL: LUF@gov.ab.ca

Dear LARP Review Panel:

**Re: Review of the Lower Athabasca Regional Plan  
Information Request #4**

We write on behalf of the Athabasca Chipewyan First Nation. On October 28th, 2014, the Lower Athabasca Region Plan (LARP) Review Panel issued Information Request No. 4 to the Government of Alberta (GoA).

The GoA provided its response to Information Request No. 4 on November 14th, 2014 (the GoA's Response). The GoA in its response submission once again took the opportunity to again question the jurisdiction of the LARP Review Panel stating that:

the Panel is limited in its jurisdiction to reporting to the Minister as to whether the Applicants are directly and adversely affected by the content of specific, identified provisions of LARP.

Concerns about LARP implementation, potential future development activities, and potential consultation obligations are not within the Panel's jurisdiction. As well, the Panel's role is not to monitor progress on achieving or maintaining objectives in regional plans or to investigate compliance with regional plans.<sup>1</sup>

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<sup>1</sup> GoA's November 14, 2014 response to Information Request #4 at page 1.

ACFN addressed this untenable and legally incorrect position in its Reply Submission, dated August 25th, 2014 (including amendments)<sup>2</sup> and in its October 17th, 2014 response to Information Request #1.

ACFN submits that the GoA's response to Information Request #4 contained little more than unsubstantiated broad assertions. Further, the submissions of counsel are not evidence<sup>3</sup>, and it would be an error to give any weight to GoA's bald assertions and vague commitments regarding its "consultation" with ACFN when the Panel makes its findings crafts recommendations for Cabinet. In ACFN's view, the GoA's hollow promises should not be given any weight without concrete examples of the actual incorporation of ACFN's feedback.

In ACFN's opinion, a full and complete answer to the LARP Review Panel's Information Request #4 would include the GoA providing the Panel with updates that are substantiated in evidence and speak directly to how the specific provisions of the LARP and its frameworks reflect the specific advice received from ACFN.

ACFN reiterates its concerns as noted in its Response Submission dated August 25th, 2014 (with amendments) and in its October 17th, 2014 response to Information Request #1 with respect to the LARP Review Process and in particular, the GoA's reluctance to engage fully and candidly in said process.

ACFN identifies the LARP Review Process as the only opportunity that ACFN has to have specific provisions of the LARP reviewed, with the exception of the 5 and 10 year reviews provided in the *Alberta Land Stewardship Act*.<sup>4</sup>

Based on the foregoing, ACFN encourages the Panel to demand full disclosure from the GoA, and evidence supporting GoA's assertions, to understand whether implementation of LARP, including the development and implementation of its frameworks, is in fact mitigating any of the direct and adverse harms ACFN alleges with respect to LARP or if the GoA is merely engaging in a process to allow ACFN to "blow off steam" as contemplated in the following passage by the Supreme Court of Canada in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*:

54. This is not correct. Consultation that excludes from the outset any form of accommodation would be meaningless. The contemplated process is not simply one of giving the Mikisew an opportunity to blow off steam before the Minister

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<sup>2</sup> Pages 1- 27.

<sup>3</sup> *Fjellstrom v. Cooperators General Insurance Co.*, 1995 CanLII 9085 (AB QB), at para. 18; *Daviduk Montgomery v. Northern Alberta Institute of Technology Students Association*, 1988 CanLII 3894 (AB QB), at para. 6; *Festival City Holdings Ltd. v. Worthington Properties Ltd.*, 2002 ABQB 543 at para. 18; *Peterson v. Khokhar*, 2007 ABQB 523 at para. 11.; *Tulloch (next friend of) v. Quality Brake Inc.*, 2002 ABQB 1070, at para. 15; *R. v. McLeod*, 2005 ABQB 946 at para. 22

<sup>4</sup> Section's 19.2(1), 6(1) and 58(d).

proceeds to do what she intended to do all along. Treaty making is an important stage in the long process of reconciliation, but it is only a stage. What occurred at Fort Chipewyan in 1899 was not the complete discharge of the duty arising from the honour of the Crown, but a rededication of it.

55. The Crown has a treaty right to "take up" surrendered lands for regional transportation purposes, but the Crown is nevertheless under an obligation to inform itself of the impact its project will have on the exercise by the Mikisew of their hunting and trapping rights, and to communicate its findings to the Mikisew. The Crown must then attempt to deal with the Mikisew "in good faith, and with the intention of substantially addressing" Mikisew concerns.<sup>5</sup>

In the following paragraphs, the ACFN provides the LARP Review Panel with specific examples that speak to the points above and Information Request No. 4.

**Request from Panel:** The GOA collaborates with aboriginal communities toward protecting traditional use locations of culture and spiritual significance. Update Status

The GoA responded to the above noted request advising that:

through Culture, continues to work with First Nations, as was done prior to LARP implementation, to protect traditional use sites of a historic resource nature. Alberta Culture, through the *Historical Resources Act*, manages historic resources which include Aboriginal traditional use sites of a heritage or cultural character that appear on the *Listing of Historic Resources*, a publicly available inventory of historic resources. Currently, Alberta Culture has recorded 124 traditional use sites in the Lower Athabasca Region, including 55 First Nations sites and 69 Métis sites. The specifics of traditional use data that has been shared only with Alberta Culture is considered confidential and sensitive and is not shared outside of Alberta Culture without the consent from the First Nation who has provided the data. LARP has not changed this process.<sup>6</sup>

ACFN submits that the GoA has taken an incorrect and limited view of the information being requested by the LARP Review Panel.

With very limited exceptions such as the Quarry of the Ancestors, it has not been ACFN's experience that the Alberta has used the *Historical Resources Act* to effectively protect traditional use sites. For example, ACFN has shared much information with the GoA regarding its highly valued traditional use area in the Ronald Lake Bison Herd range, along the west side of the Athabasca River. At no time has the GoA suggested that the *Historic Resources Act* was an

<sup>5</sup> [2005] 3 SCR 388, 2005 SCC 69 (CanLII).. [*Mikisew*].

<sup>6</sup> GoA's response to Information Request #4 at page 2

available tool that GoA was willing to use to protect this area. As discussed in previous submissions, the Alberta Energy Regulator relied on LARP to allow development in this Traditional use area.<sup>7</sup>

Teck is in the process of amending its Frontier Mine application so that an external disposal area will be placed over a number of historical Resources. Teck plans to simply remove and “preserve” the resources.<sup>8</sup> The GoA has not contacted ACFN regarding any potential interest ACFN may have in these resources or whether it is acceptable for an external disposal area to be built over top of them, or regarding how the GoA could “collaborate” with ACFN to protect them. Based on past approval of oil sands mines over historic sites, it seems that the GoA will in all likelihood approve the destruction of these sites as protected sites.

In 2008, ACFN filed a judicial review to try to protect the lands surrounding its Poplar Point Reserve, currently held by Shell under various oil sands leases. As part of that process Alberta was provided with information about the special and unique nature of the area surrounding Poplar Point, including specific information about the location of burial sites in the area.<sup>9</sup> At no time has the GoA suggested that the *Historic Resources Act* was an available tool that the GoA was willing to use to protect this area. Rather than collaborate and sit down and talk to ACFN about the sale of bitumen development leases to Shell, GoA applied to have the litigation struck, so that the question was never answered of whether these sorts of issues should have been “collaborated” on between the GoA and ACFN prior to Shell acquiring the right to “win work and carry away” the bitumen in that area.

Since 2003, ACFN has made efforts to protect the Muskeg River Valley, in part due to the spiritual sites within the Valley. The GoA has not “collaborated” with us to preserve those spiritual sites, despite being aware of ACFN’s interest in them through the Muskeg River Management working group and “consultation” on the Jackpine Mine Expansion. Nor has the GoA offered to collaborate with ACFN to protect any of the many identified historical resources that will be destroyed by the Jackpine Mine Expansion, if built.<sup>10</sup>

In short, the GoA’s assertion that it collaborates with ACFN to protect traditional use sites is misleading at best.

In ACFN’s view surely the GoA has many other tools it may use to besides the *Historical Resources Act* to protect traditional use locations of culture and spiritual significance. For example, ACFN has identified the caribou as being both culturally and spiritually significant to ACFN. ACFN refers the LARP Review Panel to its discussion on caribou noted below in its submission and kindly requests for the LARP Review Panel to consider the GoA’s unwillingness to protect this species despite being aware of its vital importance to ACFN.

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<sup>7</sup> 2013 ABAER 017; Affidavit of Marvin L’Hommecourt (attached) at para. 15 and Exhibit A.

<sup>8</sup> Teck Responses to Supplemental Information Requests of the Alberta Energy Regulator, at pdf page 5, text page 3: <http://www.ceaa-acee.gc.ca/050/documents/p65505/100369E.pdf>

<sup>9</sup> Affidavit of Marvin L’Hommecourt (attached) , at paragraph 11 and Exhibit ‘A’; Athabasca Chipewyan First Nation v. Alberta (Minister of Energy), 2009 ABQB 576.

<sup>10</sup> Affidavit of Lisa King, enclosed, see paragraphs 17-18, 21-22.

**Request from Panel:** In developing a biodiversity management framework and a landscape management plan, the GoA will work with First Nations to consider how First Nations' exercise of constitutionally protected rights to hunt, fish and trap for food can continue to occur within reasonable proximity of First Nations' main population centers. Update Status.

In the GoA's response it provided the LARP Review Panel with a list of meetings it has purported to have undertaken with various stakeholders.<sup>11</sup> ACFN submits that the GoA providing said list of meetings is not a sufficient response to the information requested. ACFN points to its August 25<sup>th</sup>, 2014 response submission wherein ACFN advised that the Supreme Court of Canada has clearly stated that respect to Treaty rights, the GoA always has notice of its contents.<sup>12</sup> Despite this knowledge, the GoA has failed to advise of any specific actions that have been taken to ensure ACFN is able to continue the exercise of its constitutionally protected rights to hunt fish and trap for food within reasonable proximity to its main population centers.

**Request from Panel:** Engagement with aboriginal communities is desired as air, water, land and biodiversity strategies and plans are developed. Identify which Aboriginal communities have been engaged.

The GoA asserts in its response that the "Air Quality Management Framework was implemented in 2013 after being developed with input from First Nations" and "the surface Water Quality Management Framework was also implemented in 2013 after development with input from First Nations".<sup>13</sup>

ACFN points to its initial submissions with respect to the GoA's board unsubstantiated assertions contained within its submission. ACFN strongly encourages for the LARP Review to request specific examples from the GoA where ACFN's input is reflected in the above noted strategies and plans. In ACFN's view, the GoA has not demonstrated where, if at all, ACFN's feedback was incorporated into the LARP's.

Further, ACFN disagrees with the GoA's suggestion that the above noted frameworks were developed with ACFN's input and notes that the frameworks developed under the LARP have not included any sort of thresholds and triggers for ACFN's continued exercise of treaty rights.

**Request from Panel:** The GoA is committed to achieving naturally sustaining woodland caribou populations. Planning and implementation will consider: a) provincial and federal legislative requirements; b) First Nations rights and traditional uses; c) social/economic Impacts; and d) stakeholder interests. Submit policy update which First Nations have been consulted.

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<sup>11</sup> GoA's response to Information Request #4 at 2 and 3.

<sup>12</sup> ACFN's Response Submission, dated August 25, 2014 (with amendments), citing *Mikisew* at para 34.

<sup>13</sup> GoA's response to Information Request #4 at 3.

In response to the above noted information request, the GoA submitted that:

Consultation in relation to strategies to address stressors on woodland caribou populations occurred as part of the Biodiversity Management Framework, which included First Nation consultation as indicated in response to question 2.<sup>14</sup>

Specific consultation has also occurred on this issue with First Nation communities as part of Alberta's development of the Woodland Caribou Policy for Alberta. Beginning in March of 2011, all Alberta First Nations were invited to participate in a series of meetings across the province to discuss the proposed Woodland Caribou Policy for Alberta. Through April 2011, the GoA met with a number of First Nations, including Onion Lake Cree Nation (OLCN), ACFN, MCFN and FMFN. Additional written submissions were also received from ACFN, MCFN, and FMFN.<sup>15</sup>

ACFN submits that the GoA has refused to implement any protective measures as recommended by ACFN despite the ongoing direct impacts to ACFN's Aboriginal and Treaty rights with respect to caribou management in the LARP's designated jurisdiction. In support of the ACFN's assertions it provides the LARP Review Panel with:

1. Nih boghodi: We are the stewards of our land ("Nih Boghodi").<sup>16</sup> Nih Boghodi was developed in response to Alberta's unsound recovery plan and land use management plan; and
2. the Alberta Woodland Caribou Recovery Plan 2004/5 – 2013/14 (the "Recovery Plan"). The Recovery Plan is located on the main page of the ERSD's webpage on caribou management.<sup>17</sup> The GoA identifies the Recovery Plan as "Alberta's approved Woodland Caribou Recovery Plan guides caribou management in the province".<sup>18</sup>

The ACFN invites the LARP Review Panel to engage in a comparative analysis of both documents. For ease of reference ACFN has highlighted areas of concern and discrepancies between ACFN's caribou management plan as compared to the GoA's.

The Recovery Plan also advised that:

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<sup>14</sup> The GoA's Response at 4.

<sup>15</sup> Ibid.

<sup>16</sup> An ACFN stewardship strategy for thunzen, et'then and dechen yaghe ejere (woodland caribou, barren-ground caribou and wood bison), April 26, 2012 by Pat Marcel (ACFN Elder) and Carolyn Whittaker and Dr. Craig Chandler. [Nih Boghodi].

<sup>17</sup> Please see attached webpage noted as Appendix A. Retrieved from <http://esrd.alberta.ca/fish-wildlife/wildlife-management/caribou-management/default.aspx>

<sup>18</sup> Ibid.

Human land use activities can also indirectly make habitat less suitable for caribou. Recent studies indicate that caribou reduce their use of otherwise suitable habitat because of its proximity to either human infrastructure or habitat disturbances.<sup>19</sup> In northern Alberta, research has shown that caribou reduce their use of suitable habitat in proximity to seismic lines, roads and well sites.<sup>20</sup>

Further,

[H]abitat loss and alteration (including barriers to caribou movement and reduced use of areas by caribou) may concentrate caribou in restricted portions of their range (Dyer et al. 2001, 2002). Since maintaining low population densities is one of the ways that caribou avoid predation, this concentration of animals may lead to greater caribou mortality. Finally, research has demonstrated that linear access corridors facilitate wolf travel and hunting behavior within caribou range (James 1999, James and Surate-Smith 2001). Continued and industrial and/or non-industrial use of corridors may further facilitate wolf-hunting efficiency by compacting snow during winter. On Alberta's caribou ranges where intensive studies have occurred, wolf predation has been demonstrated to be the most common cause of adult woodland caribou mortality (Edmonds, 1988, McLoughlin et al. 2003).<sup>21</sup>

Caribou require large, contiguous tracts of their preferred habitat so that they can maintain low population densities across their range. In part, this behavior is critically important anti-predator tactic, as predators typically hunt in areas with high prey density or predictability. Caribou also avoid predation by using different habitats than other ungulates, since predators are drawn to areas where ungulate species are abundant.<sup>22</sup>

Despite the above pronouncements, a note from the Minister of Sustainable Resource Development located on the front page of the Recovery Plan states:

The Alberta Government has adopted this plan as Alberta's Woodland Caribou Recovery Plan with the exception of the recommendations in section 7.2 relating to a moratorium on further mineral and timber allocations on specific caribou ranges.<sup>23</sup>

Section 7.2 is titled "Matching Strategic Direction to Caribou Herd Population Status".<sup>24</sup>

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<sup>19</sup> The Recovery Plan at page 7.

<sup>20</sup> The Recovery Plan at page 7, citing Dyer et al. 2001).

<sup>21</sup> The Recovery Plan at page 8.

<sup>22</sup> The Recovery Plan at page 7 citing Bergerud et al. 1983, Bergerud and Page 1987, Edmonds and Smith 1991, James and Stuart-Smith 2000, Rettie and Messier 2000).

<sup>23</sup> The Recovery Plan at page i.

<sup>24</sup> The Recovery Plan at page 13.

The intent of the above noted section is to implement recovery strategies based on Alberta's classification as to whether the caribou herd faces either the immediate risk of extirpation; or is in decline; or of unknown status or the herd is considered to be stable.<sup>25</sup> The Recovery Plan states that caribou herds in immediate risk of extirpation "require immediate and significant actions in order to avoid herd loss, and allow continued occupation for the caribou range".<sup>26</sup> The Recovery Plan requires that herds facing that management to ensure the survival of these herds require the following actions:

- Industrial and other human activities on the caribou range must be addressed. An assessment of current and potential habitat constraints and concerns (habitat supply evaluation) must be immediately completed, and recommended corrective actions initiated. The habitat supply evaluation must consider habitat constraints and concerns resulting from both human and natural causes.
- A moratorium on further mineral and timber resource allocation (sales) should be put in place until a range plan is completed, evaluated, and implemented. It is anticipated that this process will take a maximum of one year from the date of range team formation.
- To avoid herd extirpation, predator management and possibly management of other prey species will be required to improve caribou herd trend and affect a caribou population increase.
- Measures must be taken to eliminate any hunting and poaching of caribou.
- Herds must be monitored annual to ensure that herd trends and destruction are known with high confidence.<sup>27</sup>

Rather using its legislative authority to enact a moratorium on mineral and timber allocations, the GoA chose to enact Section 9.5 which provides four initiatives to manage human caused direct mortality:

1. Provincial government should develop and establish a process of effective dialogue with First Nations communities aimed at achieving a voluntary cessation of caribou hunting. Initiate process in key First Nations communities in 2004/2005. Broaden the process to include additional communities in 2005/2006 and 2006/2007.
2. Provincial government together with First Nations communities should

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<sup>25</sup> The Recovery Plan at pages 12, 13 and 14.

<sup>26</sup> Ibid.

<sup>27</sup> The Recovery Plan at page 13.

develop and initiate an extension and consultation process with First Nations peoples not residing within First Nations communities, towards achieving of a voluntary cessation of caribou hunting.

3. Provincial government together with industry should develop and distribute educational materials outlining the status of caribou in Alberta, the importance of caribou conservation, and the consequences of illegally killing caribou. A first task would be to determine the target audience for receipt of the education materials. Initiate process in 2004/2005.
4. Alberta Fish and Wildlife Division should prepare a strategy review of enforcement priorities, impediments and opportunities regarding the reduction of woodland caribou poaching Alberta. Complete review and begin to implement any recommended changes in 2004/2005.<sup>28</sup>

Based on the foregoing, ACFN submits Alberta's current recovery plan is not one that "is committed to achieving a naturally sustainable woodland caribou population". ACFN questions whether the above noted provisions that purport to restrict ACFN rights to the point of emptiness is what the GoA is referring to in its consideration of "First Nations rights and traditional uses".

ACFN submits one of the most significant aspects of caribou conservation to ensure its habitat is not fragmented and that caribou corridors remain open. Further, according to the Recovery Plan the GoA is almost 10 years behind its schedule.

ACFN has advised the GoA the following is required to sustain the caribou population (all of which is contained in Nih boghodi):

The area north of the Firebag River to the northern border of Alberta includes the heart of the Richardson Backcountry, and is central to ACFN cultural protection areas and homelands identified through ACFN's Advice to the Government of Alberta regarding the Lower Athabasca Regional Plan (LARP). As part of ACFN Advice regarding the LARP, areas were identified for ACFN practice of rights near Fort Chipewyan, Fort McKay and Fort McMurray (proximate zones) as well as three homeland areas. These homelands are incorporated into the protection zone:

- Jackfish Lake Homeland;
- Old Fort Point Homeland; and
- Popular Point Homeland.

According to ACFN Advice regarding the LARP, "The Firebag River is a

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<sup>28</sup> The Recovery Plan at pages 28 and 29.

critical use corridor, and demarcates what many ACFN members see as the boundary between where they are still able to practice their rights safely, and where industrial contamination and disturbance now make it unsafe to subsist on the land”.<sup>29</sup>

ACFN noted in Nih Boghodi that its protection zones provide the highest level of protection for the woodland caribou and the barren-ground caribou.<sup>30</sup>

ACFN provides the following maps for the LARP Panel to review:

1. Map 1: Nih boghodi stewardship strategy for caribou and bison;<sup>31</sup>
2. Figure 2: Proposed Geographic Organization of Woodland Caribou Range Teams;<sup>32</sup> and
3. LAR Counties and Municipal Districts with Townships Map 2012-10.<sup>33</sup>

ACFN has ongoing concerns about the direct impacts of the GoA’s unwillingness to manage the caribou and submits:

It is clear that current levels of habitat destruction have exceeded a level sustainable for the protection of caribou and for the protection of ACFN rights and interests. Immediate action is necessary and as such, mandatory objectives for the protection zone from the Firebag River north to the provincial boundary include:

- No new industrial developments;
- No licenses, leases, authorization or permits on the land, including hunting or guiding (unless with ACFN guides) without ACFN’s written consent; and
- Provincial and federal governments should fund and work with ACFN to implement a program of habitat reclamation where habitat has already been degraded.<sup>34</sup>

In ACFN’s view it has adopted a management plan that recognizes the dire necessity of implementing a caribou recovery plan that is sustainable in the long-term as compared to the GoA’s Recovery Plan (which it has almost entirely failed to implement).<sup>35</sup> ACFN submits

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<sup>29</sup> Nih boghodi at page 6.

<sup>30</sup> Nih boghodi at page 6.

<sup>31</sup> Nih boghodi at page 10.

<sup>32</sup> The Recovery Plan at page 17.

<sup>33</sup> Retrieved from

<https://www.landuse.alberta.ca/SiteCollectionDocuments/LAR%20Counties%20and%20Municipal%20Districts%20with%20Townships%20Map%202012-10.pdf>ACFN

<sup>34</sup> ACFN, “Advice to the Government of Alberta Regarding the Lower Athabasca Regional Plan” (November 2010), Nih boghodi at page 6.

<sup>35</sup> Please refer to the Recovery Plan at page 6 which states the Little Smokey herd of was classified as to be an “Immediate Risk of Extirpation” in July 2005, and ERSD’s webpage attached as Appendix B which advises that

the GoA's Recovery Plan is plain evidence of the GoA's unwillingness to engage with ACFN in good faith on its caribou sustainability policies despite the direct impacts of said policies on ACFN. Further, ACFN submits the GoA's flat out rejection of a moratorium when a caribou herd is at risk of being extirpated speaks to the GoA's inability to balance "economic, environmental and social" interests.

Based on the foregoing, ACFN is of the view that the broad statements with respect to caribou management and Aboriginal rights and traditional uses are false.

**Request from Panel:** Government will engage with First Nations and stakeholders on initiatives to designate motorized areas such as identification of trails or areas when developing the regional parks plan and regional trail system plan. Update Status.

ACFN notes that once again the GoA has failed to substantiate its broad assertions that the GoA will engage with ACFN on the above noted initiatives and points to its earlier submissions with respect to the same. Additionally, ACFN notes that the LARP does not include, and the GoA has not produced, any methodology for ensuring impacts on rights is included in the development of this plan.

**Request from Panel:** The GoA will invite First nations who have expressed an interest in the Richardson Backcountry to be involved in a sub-regional initiative called the First Nations-Richardson Backcountry Stewardship Initiative. Update Status on initiative with First Nations.

The GoA responded to the above noted information request advising that:

The GoA sent letters (specifically from the Assistant Deputy Ministers of Environment and Sustainable Resource Development's Integrated Resource Management Planning Division and Parks Division) to MCFN, ACFN and FMFN in July 2014 indicating the Richardson Backcountry project is being initiated and welcoming a meeting to discuss.

Dialogue by phone and email has been ongoing with the all three First Nations and meetings took place with ACFN in September and October 2014. An initial commitment has been made by ESRD to provide funding to ACFN to support participation. Meetings with FMFN and MCFN have not yet taken place and ACFN has requested to be the primary contact in relation to this initiative.<sup>36</sup>

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they are only now completing a range plan for the Little Smokey herd. ESRD's webpage retrieved from: <http://esrd.alberta.ca/fish-wildlife/wildlife-management/caribou-management/caribou-action-range-planning/caribou-action-range-planning-faqs.aspx>

<sup>36</sup> GoA's response to Information Request #4 at page 4.

ACFN submits that it has made consistent repeated requests for action on the Richardson Backcountry for over eight years.<sup>37</sup> In particular, since April 2013, ACFN inquired as to when discussions may begin with the GoA, and were repeatedly advised by Scott Duguid that discussions would begin within months. ACFN was pleased to finally have the opportunity to discuss a path forward on the Richardson Backcountry with the GoA this fall, after the appointment of the LARP Review Panel. The GoA was unable to provide assurance to ACFN at the September and October meetings that the Initiative would extend beyond managing recreational use, to other pressing issues that must be addressed to ensure ACFN's ability to continue to exercise Rights in the Richardson Backcountry. At the October meeting, ACFN asked the GoA to commit to concrete and tangible steps by January 2016 at latest. ACFN's key concern, after long and largely futile involvement in other GoA processes such as the development of LARP, various CEMA working groups including the Muskeg River Management Framework,<sup>38</sup> is that the initiative actually produces concrete, protective actions that involve ACFN as a partner in ensuring the long term viability of its Treaty 8 Rights.

**Request from Panel:** The GoA will also work with aboriginal people to identify tourism and cultural synergies which could provide economic opportunities to aboriginal communities. Update Status.

The GoA referred the LARP Review Panel to its responses in Question 10 and 11 of its submission.<sup>39</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Questions 10 and 11, once again, is not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** The GoA will consult with aboriginal communities concerning traditional knowledge. What consultation has taken place regarding this issue?

ACFN submits that the GoA's statement referenced above by the LARP Review Panel is misleading and finds support its assertion in the GoA's response which clearly indicates that "the GoA has not initiated consultation or engagement on the specific issue of traditional knowledge and, at the current time, does not anticipate doing so outside of other processes".<sup>40</sup> With respect to the Traditional Knowledge Framework, the GoA has not substantiated its assertions that it has consulted with the aboriginal community, much less ACFN, in the development of a Traditional Knowledge Framework. Further, in ACFN's view, "some ERSD staff gathered together to hear presentations from Elders, Traditional Knowledge holder and holders"<sup>41</sup> hardly qualifies as consulting with aboriginal communities concerning traditional knowledge.

**Request from Panel:** Implementing key recommendation in "Connecting the Dots:

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<sup>37</sup> i.e. see Affidavit of Lisa King (body enclosed) at para. 16.

<sup>38</sup> i.e. see Affidavit of Lisa King paras 13-19.

<sup>39</sup> GoA's response submission to Information Request #4 at 4.

<sup>40</sup> GoA's response submission to Information Request #4 at 5.

<sup>41</sup> GoA's response submission to Information Request #4 at 5.

Aboriginal Workforce and Economic Development in Alberta." What recommendations have been implemented?

ACFN submits that the GoA response: "Please see the attached *Connecting the Dots: Progress Highlights Aboriginal Workforce and Economic Development in Alberta*, dated October 2013"<sup>42</sup> does not answer the question posed by the LARP Review Panel. In ACFN's view, the LARP Review Panel has read the document and is now requesting the GoA to provide evidence on what specific recommendations, from the Report, have been implemented. As the GoA has failed to provide such evidence, it has thus failed to advise on the LARP Review Panel on "What recommendations have been implemented?"

**Request from Panel:** Work collaboratively with local aboriginal communities, the private sector and local governments to enlarge and expand the supply of tourism products and infrastructure. Update Status.

The GoA response to the above noted request was a referral to its response in Question 11.<sup>43</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Question 11 again is not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** Complete tourism opportunity assessments beginning with Quarry of the Ancestors, Bitumont and Fort Chipewyan. The assessment will identify a range of potential aboriginal opportunities, including guided tours, education progress, attractions, exhibits or interpretive sites. What assessments have been completed?

The GoA response to the above noted request again was not substantiated with any sort of evidence that it works "collaboratively with local aboriginal communities". ACFN submits that the cultural and spiritual significance of the Quarry of Ancestors to the ACFN is known by the GoA. As such, the GoA surely should be able to point to specific instances of where:

1. ACFN's feedback was included in its assessments; and
2. The GoA worked collaboratively with ACFN to enlarge and expand the supply of tourism products and infrastructure.

In any event, ACFN submits that the GoA's assertions regarding providing "opportunities for aboriginal communities" should not be seen as not be construed to be any sort of mitigation for impacts upon ACFN's Treaty rights.

**Request from Panel:** Develop a "Biodiversity Management Framework" for public lands in the Green Area and provincial parks by the end of 2013 (include aboriginal

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<sup>42</sup> GoA's response submission to Information Request #4 at 5.

<sup>43</sup> GoA's response submission to Information Request #4 at 5.

communities). Status on Framework Agreement?

The GoA referred to the LARP Review Panel to its response contained in Question 2.<sup>44</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Question 2 again is not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** Develop an Integrated water-shed based "Landscape Management Plan" for public land in the green area by the end of 2013 (include aboriginal communities).

The GoA referred to the LARP Review Panel to its response contained in Question 2.<sup>45</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Question 2 again is not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** In collaboration with aboriginal and other communities, stakeholders and partners, coordinate the development of the Lower Athabasca Regional Trail System Plan. Update Status.

The GoA referred to the LARP Review Panel to its response contained in Question 5.<sup>46</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Question 5 again is not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** Outcome 7 – Inclusion of Aboriginal Peoples in Land use Planning Strategies (a-f). Update Status.

The GoA referred to the LARP Review Panel to its response contained in Questions 2, 3, 5, 6, 10 and 11.<sup>47</sup> ACFN submits that the GoA has not provided an adequate response to the LARP Review Panel's request. Further, the GoA's response in Questions 2, 3, 5, 6, 10 and 11 again are not substantiated by any sort of evidence. In ACFN's view the above statement contained in the LARP is misleading.

**Request from Panel:** Note 6 - Hunting, Fishing, and Trapping (including Aboriginal Peoples). Update Status.

The GoA responded to the above noted request stating that:

The intent of this question is unclear. As noted in LARP itself, and the GoA's previous submissions, hunting, fishing and trapping (including by aboriginal

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<sup>44</sup> GoA's response submission to Information Request #4 at 5.

<sup>45</sup> GoA's response submission to Information Request #4 at 6.

<sup>46</sup> GoA's response submission to Information Request #4 at 6.

<sup>47</sup> GoA's response submission to Information Request #4 at 6.

peoples) continues in accordance with existing provincial laws governing such activities. At this time, there have been no changes affecting this status quo.<sup>48</sup>

In ACFN's view, the status quo is unable to protect ACFN's ability to exercise its Treaty Rights because the status quo does not have the ACFN's Treaty rights. In any event, ACFN requests for the LARP Review Panel to reframe the information requested in such a way that may provide the GoA with clarity.

Yours truly,  
WOODWARD & COMPANY



Melissa Daniels

MD/bb

Enclosures Fjellstrom v. Cooperators General Insurance Co.  
King, Lisa - Affidavit #1  
Mikisew v. Canada  
Somers, Doreen - Affidavit #1  
Teck's SIR Response- Round 3  
Daviduk Montgomery v. Northern Alberta Institute of Technology Students Association  
Affidavit #1 of Marvin L'hommecourtWoodland Caribou Recovery Plan  
Appendix A  
Appendix B  
Nih Boghodi- we are stewards of our land

Cc ACFN Chief and Council  
Lisa King  
Doreen Somers  
Witek Gierulski: counsel to the government of Alberta  
Keltie Lambert: counsel to Cold Lake First Nation  
Mark Gustafson: counsel to Mikisew Cree First Nation  
Wallace Fox: Chief of Onion Lake First Nation  
Tarlan Razzaghi: Counsel to Fort McKay First Nation and Chipewyan Prairie First Nation  
Will Randell  
Jodie Hierlmei

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<sup>48</sup> GoA's response submission to Information Request #4 at 6.