



Fort McKay First Nation

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Our File No. GOVT-0602-0826-01103

May 20th, 2014

Scott Milligan
Executive Director
Environment and Sustainable Resource Development
Land Use Framework Regional Planning Branch
11th fl Baker Centre
10025 - 106 Street
Edmonton, AB
T5J 1G4

Dear Mr. Milligan:

**Re: Lower Athabasca Regional Plan, Management Framework Development
Fort McKay's Participation**

The Fort McKay Sustainability Department is writing to you on behalf of the Community of Fort McKay, including the Fort McKay First Nation and the Fort McKay Métis Community. Further to meetings on February 13th and March 4th, we are responding to your request to outline how we would like to be consulted on the remaining LARP management frameworks and outline our concerns around the current process.

Fort McKay made a number of submissions to Alberta as the Regional Plan was being developed. The submissions ranged from positions on proposed regulations to technical feedback on various aspects of the plan, including written comments on:

- Vision Document, TLU maps and suggested protected areas, November 2010.
- Air Quality Management Framework, July 2010.
- Groundwater Management Framework Northern Athabasca Oil Sands Region. Part 1 Technical Framework, July 2010
- Lower Athabasca River Water Management Framework: Surface Water Quality Update, June 2010.
- Detailed comments on the Draft LARP, June 2011.

and the following presentations or technical engagement sessions with Alberta Environment:

- Air Quality Framework, July 2010
- Surface Water Quality, July 2010
- Groundwater Framework, July 2010



Fort McKay has been disappointed with the results of previous engagement on LARP since very few of these recommendations were reflected in the final plan. Furthermore, Fort McKay has not received information on how Fort McKay's recommendations were considered and why they were not integrated

In our meeting on March 4th, we were told that the Biodiversity and Tailings Management Frameworks were slated to be complete by the end of 2014. There was no engagement process defined, and you asked us to determine the best way to be involved. While we appreciate that Alberta is cognizant of the need to have engagement meaningful for all participants, we feel that the timeline is extremely short. Fort McKay has requested a review of LARP, due in part to the lag in contacting communities for input into these frameworks, resulting in a compression of the engagement that communities can provide. In addition, the scope of consultation on individual Frameworks has not allowed Fort McKay to address our primary concern: explicit consideration and inclusion of protection of Aboriginal and Treaty Rights as an outcome of managing cumulative effects. While we can provide technical input on all Frameworks, we have not seen in the past, and have not seen any indication that there will be, incorporation of outcomes or thresholds for land and resource management to address preservation of opportunities for the exercise of Fort McKay's constitutional rights.

In each of the engagement sessions we have had with government representatives, we were told that there has been no process internal to government contemplating the consideration of, and integration of, protection of Aboriginal and Treaty Rights into the frameworks. To ensure we have not misunderstood the process, we would like Alberta to provide a written response outlining how Aboriginal and Treaty Rights will be protected under LARP. Once we have received a written response, we would like to coordinate a meeting with Alberta to discuss the proposed process. Fort McKay has previously requested that a Traditional Land Use Framework be completed as part of the LARP process. We request a written response advising whether or not a TLU framework will be developed and if so, the proposed consultation process and timeline to develop the framework.

Fort McKay has been working to understand the changes in the regulatory system, the focus and intent of the ACO and operationalization of the consultation policy, guidelines and matrices and the interacting agents of AER, AEMERA and LARP. We understand that the thresholds that are being set are critical in the IRMS system, as those standards will be the levels in which land, air and water will be managed for cumulative impacts, and the standards by which industrial project proposals will be judged. The protection of Aboriginal and Treaty rights in this evolving system are of utmost interest to Fort McKay and we look forward to understanding how Alberta intends to carry out its constitutional obligations for protection of our Aboriginal and Treaty rights. We are concerned that the current processes that are being developed by

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Alberta focus on a narrow and ineffective interpretation of Treaty rights and traditional land use. If consultation adequacy is focused on this narrow interpretation and the overall protection of Aboriginal land Treaty rights is intended to be incorporated into in LARP, we would like to clearly understand how and where the frameworks will provide this protection. This includes, for example:

- Preservation of a harvestable, uncontaminated supply of fish and game and traditional plants;
- Preservation of clean, safe water accessible to community members while harvesting and accessing harvest areas;
- Sufficient land base within geographic areas that are within reasonable distance to the hamlet of Fort McKay and Moose Lake and within culturally relevant areas;
- Safe and reasonable access to hunting, fishing, trapping and gathering areas and Reserves; and
- Preservation of trapping areas of sufficient size and location to be useful for trapping purposes;

Fort McKay is looking forward to receiving Alberta's response and is committed to working with Alberta in creating mechanisms that ensure the protection of Fort McKay's Constitutional rights amidst the existing and proposed industrial developments within on Fort McKay's traditional territory.

Sincerely,

Alvaro Rinto, PhD

Director, Fort McKay Sustainability Department

Cc: Fort McKay First Nation Chief and Council
 Ron Quintal, President, Fort McKay Métis Community
 Peter Fortna, Fort McKay Métis Community
 Karla Buffalo, Senior Manager, Government Relations, Fort McKay Sustainability Department
 Dan Stuckless, Senior Manager, Environmental, Fort McKay Sustainability Department
 Bev Yee, Assistant Deputy Minister, Integrated Resource Management Planning Division, Alberta Environment and Sustainable Resource Development.
 Scott Duguid, Director, ESRD Stewardship Branch
 Lawrence Aimoe, Executive Director, Aboriginal Consultation Office
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