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**To:** [Amisk \[CEAA\]](#)  
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**Subject:** Comments - Amisk Hydro Electric Project  
**Date:** November 16, 2015 8:48:00 PM  
**Attachments:** [ACFN\\_MCFN Comments Itr to CEAA - Amisk Hydro Electric Project Final.pdf](#)

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To who it may concern,

Please find comments on the proposed AMISK HYDRO ELECTRIC project in the attached letter. For your consideration and action, these comments are submitted on behalf of the Mikisew Cree First Nation (MCFN) and the Athabasca Chipewyan First Nation (ACFN). If you have any questions or concerns about the information contained in our joint letter please contact Jack Flett ([<contact information removed>](#) ACFN) or Russell Noseworthy (MCFN).

Regards,

**Russell Noseworthy**

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November 16<sup>th</sup>, 2015

**Canadian Environmental Assessment Agency**

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Ottawa, ON K1A 0H3

[via email: [CEAA.Amisk.ACCE@ceaa-acee.gc.ca](mailto:CEAA.Amisk.ACCE@ceaa-acee.gc.ca)]

To whom it may concern,

**Re: Comments on the proposed Amisk Hydro Electric Project and Description**

The Mikisew Cree First Nation (“MCFN”) and the Athabasca Chipewyan First Nation (“ACFN”) (together, the “Nations”) provide this letter in response to the request by the Canadian Environmental Assessment Agency for comments on the proposed Amisk Hydroelectric Project.

The submission of the Nations is that the Amisk Project should undergo a federal environmental assessment to ensure that the potential effects of the Project on MCFN and ACFN and federal lands are fully considered. The Nations’ principle concern is that additional regulation of the Peace River, located much closer to the traditional territory of the Nations than previous hydroelectric development, may have the potential to affect the ice and surface water regime of the Peace River in a way that diminishes the effectiveness of flooding mechanisms in the lower reaches of the Peace River, and in the Peace Athabasca Delta.

The Amisk Dam is a “designated project,”<sup>1</sup> therefore the Agency must conduct a screening to determine whether an environmental assessment of the designated project is required. A screening must consider the following factors:<sup>2</sup>

- the description of the designated project provided by the proponent,
- the possibility that the carrying out of the designated project may cause adverse environmental effects,

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<sup>1</sup> *Regulations Designating Physical Activities*, SOR/2012-147, Schedule s 2(c).

<sup>2</sup> *Canadian Environmental Assessment Act*, 2012, SC 2012, c 19, s 52 [CEAA, 2012], s 10(a).

- any comments received from the public within 20 days after the posting of the notice, and
- the results of any relevant study conducted by a committee established under section 73 or 74.

The designated project would be the fourth major hydroelectric dam on the Peace River, after the W.A.C. Bennett Dam, the Peace Canyon Dam and the Site C Dam (which has received regulatory approval). It would be the closest dam to the Peace Athabasca Delta (“PAD”), the world’s largest freshwater inland delta. MCFN and ACFN rely on the PAD to hunt, trap, fish and live their unique way of life.

The Project Description indicates the potential for the Amisk Project to cause adverse environmental effects which may extend to the PAD. These include changes to fish and fish habitat, aquatic species and migratory birds in the PAD.<sup>3</sup> As parts of the PAD fall within MCFN’s and ACFN’s reserve lands, the Dam may cause changes to federal lands.<sup>4</sup> The Amisk Project may also affect MCFN’s and ACFN’s health and socio-economic conditions, physical and cultural heritage, and current use of lands and resources for traditional purposes.<sup>5</sup>

In this submission, the Nations:

- a) Provide a brief introduction to the Nations;
- b) Outline the Nations’ dependence on the Peace Athabasca Delta; and
- c) Provide comments on the Project Description for the Amisk Project (dated October, 2015) (the “Project Description”).

#### **a) THE NATIONS**

MCFN is primarily a woodland Cree Nation, with a registered population of approximately 3,000 members. Approximately half of its members live in and around Fort Chipewyan and on the surrounding traditional trapping, hunting and fishing lands, and most of the remaining one half lives in the vicinity of Fort McKay and Fort McMurray, Alberta. MCFN has nine reserves in northeastern Alberta in the vicinity of Fort Chipewyan, including one within Wood Buffalo National Park (Peace Point No. 222).

ACFN is a First Nation of Dene ancestry. ACFN members speak Denesuline and call themselves K’ai Taile Dene, meaning “people of the land of the willow”. ACFN’s traditional lands are located in the northeast corner of Alberta and the northwest corner of Saskatchewan, centered around Lake Claire, the western end of Lake Athabasca, and the lower Athabasca River. ACFN has eight reserves with a combined area of 34,767 ha. The reserves are located near the southwestern tip of Lake Athabasca, across the lake from Fort Chipewyan, and on the Athabasca River.

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<sup>3</sup> CEAA, 2012, ss 5(1)(a)(i)-(iii).

<sup>4</sup> CEAA, 2012, ss 5(1)(b)(i).

<sup>5</sup> CEAA, 2012, ss 5(1)(c)(i)-(iii).

ACFN has a registered population of approximately 1,200 people. Approximately one third of ACFN's members live in Fort Chipewyan, which is located on the north shore of Lake Athabasca, immediately outside the eastern boundary of Wood Buffalo National Park. It is accessible by air from Edmonton and Fort McMurray, and by winter road from Fort Smith (140 km to the north) or Fort McMurray (303 km to the south).

Both Nations are signatories to Treaty 8, which guarantees the Nations the right to maintain their way of life. The treaty rights are meant to protect their ability to use the land, water and resources provided by the creator, in order to continue their way of life as their ancestors have for generations. ACFN and MCFN members continue to sustain their way of life through hunting, fishing, trapping, gathering and cultural and spiritual practices in their traditional territories.

**b) THE PEACE ATHABASCA DELTA**

ACFN and MCFN rely on the Peace Athabasca Delta (the "PAD") for its rich and abundant resources. The PAD is located where the Peace, Athabasca, and Birch Rivers converge at the western end of Lake Athabasca. At approximately 5000 square kilometres, the PAD is one of the world's largest freshwater deltas. Eighty percent of the PAD is located within Wood Buffalo National Park, and the delta drains nearly 600,000 square kilometres of northern British Columbia, Alberta and Saskatchewan.

The PAD is a unique ecosystem. Significant portions of ACFN's and MCFN's traditional lands overlap with the PAD. The PAD contains a flat topography, nutrient enriched flood plains and shallow water. Abundant sunshine throughout the growing season results in the PAD having an extremely high level of primary productivity that provides the basis for a rich food web. The PAD contains 11 different habitat types containing over 250 species of vascular plants. The PAD also provides habitat to a vast array of fauna, including 215 species of birds, 42 species of mammals, 20 species of fish and countless invertebrates. These species represent vital resources for ACFN and MCFN who hunt, trap and fish in the PAD, a place they have continuously inhabited for centuries.

ACFN and MCFN participated extensively in the environmental assessment of BC Hydro's Site C Clean Energy Project, providing the Agency with extensive information on the PAD and ACFN and MCFN's interests and use of the PAD. **We ask that the Agency review those comments to understand ACFN and MCFN's interests relating to the PAD.**

In particular, in that process, MCFN and ACFN expressed concerns about changes to the hydrology of the PAD over recent decades. The preponderance of scientific research on the PAD, much of which has been conducted by scientists at Environment Canada, has indicated that there has been a decrease in the frequency and magnitude of flooding in the PAD since the construction of the W.A.C. Bennett dam. This research indicates that the regulation of the Peace River has contributed to a diminishment of the frequency and magnitude of flooding in the PAD, particularly large scale flooding events caused by ice-jam floods in the vicinity of the PAD.

Ice jam flooding only takes place during the ice break up period but is critical for the maintenance of water levels in many of the perched basins within the PAD, which are smaller lakes that are raised in elevation and are therefore situated beyond the reach of the open water recharge mechanisms.

The occurrence of an ice jam flood in the PAD reach depends on the interaction of many factors within a dynamic and variable system. Importantly, the occurrence of these floods depends not only on the character of ice and flows at locations proximal to the PAD, but on the interaction of flows, ice and climate in areas far upstream of the PAD.

There are many factors which influence the likelihood of an ice jam flood occurring in the PAD reach. In general, this likelihood is influenced by: (1) winter flow and weather conditions that create the ice required for an ice jam flood; and (2) spring time flow dynamics, in particular, the magnitude and timing of spring freshets that influence the breakup of ice and the magnitude of overbank flooding that may occur.

**MCFN's and ACFN's concern is that the necessary conditions for ice jam flooding may be adversely affected by the construction and operation of the Amisk Project.** These concerns arise from the Project Description, which confirms that the Amisk Project contains elements which may influence the surface and ice regime in reaches of the Peace River which could affect the flooding mechanisms in the PAD.

**c) CONCERNS ABOUT THE AMISK PROJECT**

Given the location of the proposed Amisk Project, and the fact that the project includes the construction of a large head pond and dam, **MCFN and ACFN are concerned that this project could affect ice processes and surface water processes on the Peace River which could further reduce the likelihood of ice-jam flooding and flow reversals in the vicinity of the PAD.**

The Nations are concerned, and this is confirmed in the Project Description, that the head pond and dam will impact the ice regime downstream of the project by prevent upstream ice from passing the dam. It is also likely (though not expressly stated in the Project Description) that the presence of the head pond will increase temperatures of the Peace River during winter months. Both these factors can influence the ice regime on the Peace River. Accordingly, the Project Description confirms the need for a federal environmental assessment, as changes to the frequency and magnitude of flooding in the PAD has the potential to cause changes to the environment under the jurisdiction of the federal government, pursuant to s.5 of CEAA 2012.

**These include impacts to federal lands (Wood Buffalo Nation Park and MCFN and ACFN reserve lands), fish, migratory birds, navigation and the use of resources by MCFN and ACFN.**

Furthermore, the Project Description downplays the likelihood that the project will influence flooding mechanisms in the PAD, indicating that the proponent does not expect the Amisk Dam "to have any effect on ice jam water levels in the Peace Athabasca Delta." However, this section of the Project description should not be determinative of the Agency's decision on whether to conduct an environmental assessment of the project. In particular, the Project Description

provides no technical justification for this conclusion, and does not reference aspects of the ice regime that are critical to the effectiveness of PAD flooding.

For instance, during the environmental assessment of the Site C project, federal scientists and BC Hydro discussed the function of ice jam release waves (“javes”) in promoting mechanical break ups of ice cover in a way that is critical to the formation of ice jams in the lower PAD reach. The project description does not describe how javes may be influenced by the Amisk Dam. **At this stage it is apparent to the Nations that the project has the potential to influence both the ice and water regime on the Peace River in a way that may affect the PAD.**

**In addition to concerns about effects to the ice – regime, ACFN and MCFN have concerns about the potential effects of the project on surface water flows, both from the filling of the reservoir and from operation of the dam.** The Amisk Dam, if constructed, will capture additional tributaries from downstream of the approved Site C dam. Given that both of these projects are scheduled to come on line on fairly similar timelines, a federal environmental assessment is required to ensure that the cumulative effects of these changes are properly studied and addressed.

While the head pond contains limited active storage, the timing for the filling of the reservoir requires careful consideration to ensure that the lower reaches of the Peace River are not deprived of flows during critical times of the year. Indeed, in the Site C environmental assessment, Environment Canada expressed concerns about the filling of that reservoir. The Amisk Project should be subject to the same level of scrutiny, given its closer proximity to the PAD.

### **Conclusion**

ACFN and MCFN request that a federal environmental assessment be initiated for the Amisk Project, and that ACFN and MCFN be engaged by the Agency in formal consultation so that potential effects from the Project on the PAD can be fully assessed and minimized.

We look forward to discussing these issues with you in the near future.

Regards,

**<original signed by>**

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Melody Lepine, Director, MCFN GIR

cc:     Lisa King, Director, ACFN IRC  
          Jack Flett, Regulatory Coordinator, ACFN IRC  
          Melody Lepine, Director, MCFN GIR  
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