



## MARCEL COLOMB FIRST NATION

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□ Head Office  
Station Main  
Black Sturgeon Falls, Manitoba  
R0B 0W0

□ Lynn Lake Office  
P.O. Box 1150, Lynn Lake, Manitoba  
R0B 0W0  
Phone: (204) 356-2439  
Fax No. (204) 356-2330

December 9, 2022

VIA EMAIL: [stephen.mccarthy@iaac-aeic.gc.ca](mailto:stephen.mccarthy@iaac-aeic.gc.ca)

**Stephen McCarthy**  
Senior Consultation Analyst  
Impact Assessment Agency of Canada

Dear Mr. McCarthy:

**Re: Alamos Gold Inc.'s Lynn Lake Gold Project (the "Project") – Response to Impact Assessment Agency of Canada (the "Agency") draft report dated November 2022 (the "draft EA Report") and draft Conditions for Approval (the "draft EA Conditions")**

We are deeply disappointed in the draft EA Report and draft EA Conditions. The Agency appears to have under-stated or misunderstood the scope, nature and implications of the potential impacts of the Project on our community. It will take significant work by the Agency to re-write these documents to fulfil the Agency's obligations under the *Canadian Environmental Assessment Act, 2012* ("CEAA 2012") and the Crown's obligations to consult and accommodate Marcel Colomb First Nation ("MCFN") and to adequately ensure the protection of our constitutionally protected rights.

The Crown's decision whether to approve the Project, and on what basis, will be the most significant Crown decision for MCFN in over a generation. Without major improvements to both the draft EA Report and draft EA Conditions, MCFN will suffer a range of significant adverse effects from the Project on the factors identified in section 5(1)(c) of CEAA 2012 and on our Aboriginal and treaty rights.

### **I. The Draft EA Report**

There are several major flaws with the draft EA Report.

The Agency appears to have ignored, or at very least inadequately considered, information about MCFN's interests and concerns in each of the Project Development Area ("PDA"), Local Assessment Area ("LAA") and Regional Assessment Area ("RAA"). This appears connected to comments the Agency has made that there has been a "lack of direct engagement with the Agency" during the majority of the Agency's review of the Project. While we fail to see how this justifies the current state of the documentation referenced above, the Agency will recall that MCFN had no independent advisors and undertook no independent studies until the fall of 2021. Nonetheless Alamos did undertake and share with the Agency a traditional knowledge and use study ("TKUS")



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and speak to the nature of MCFN's connection to the PDA, LAA, and RAA in the Environmental Impact Statement ("EIS") that it submitted in 2020.

In the fall of 2021, with the support of Alamos, we retained independent advisors to support our participation in the environmental assessment and regulatory review of the Project. Since that time, we have been working diligently with Alamos to better articulate MCFN's interests and concerns and to discuss appropriate mitigation measures where we have identified gaps. In the course of responding to Information Request ("IR") 57, we worked with Alamos to ensure that MCFN's interests and concerns were clearly identified and included in the Alamos response and that the IR 57 response noted where MCFN and Alamos had not yet agreed on appropriate mitigation measures.<sup>1</sup> Based on the documentation we have been provided thus far, none of this information appears to have been given any substantive consideration by the Agency.

As it stands in the draft EA Report, the Agency seems to have considered MCFN as simply one of a dozen Indigenous groups who have expressed an interest in the Project without any regard for our unique circumstances as the only Indigenous group that lives beside and actively uses the PDA and LAA for both traditional and other uses. While we agree the Project is unlikely to have significant adverse effects on the other identified Indigenous groups – principally because the Project is outside, or on the periphery of, their existing communities and traditional use areas<sup>2</sup> – the draft EA Report fails to assess in any meaningful way the specific and direct impacts on the MCFN community and MCFN members' health, socio-economic conditions, or current use of lands and resources for traditional purposes.<sup>3</sup>

As the Agency is well aware, the Project is in the core of MCFN traditional territory. While Alamos has clearly identified MCFN as the most directly impacted Indigenous group in its submissions to the Agency – particularly in its response to IR 57 (attached for reference) and in the course of the community meeting at Black Sturgeon that you attended in June 2022 – the Agency's report makes virtually no mention of this,<sup>4</sup> nor do the proposed mitigation measures reflect this reality.

We do not have the time, expertise, or resources, nor is it our role, to comprehensively re-write the draft EA Report for the Agency. However, we want to point out key information – that has already been provided to the Agency, albeit perhaps in different forms – that must be properly incorporated

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<sup>1</sup> We confirmed that Alamos had properly captured the extent of our interests and concerns – and had not yet fully addressed them – in our letter to the Agency of June 23, 2022.

<sup>2</sup> Please review the court's guidance on the importance of recognizing "core" traditional territories within large treaty boundaries – cf. *Mikisew Cree* (SCC, 2005); *Yahey* (BCSC, 2021).

<sup>3</sup> See Table 1, page 16 of the draft EA Report, for example, in which MCFN is only mentioned in regards to potential impacts to our reserve lands.

<sup>4</sup> See, for example, section 4.2 where the Agency describes the Proponent's Engagement Activities.



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in the next draft of the EA Report in order to adequately satisfy the Agency's obligations under CEAA 2012.

### (a) MCFN's Unique Proximity to the Project

The importance and relevance of MCFN's geographic proximity to the Project cannot be understated and must be explicitly acknowledged and addressed in the Agency's report.

The Project comprises the Gordon and MacLellan sites, which are approximately 12 km and 24 km, respectively, from the centre of our community. Blasting and primary operations for a portion of the Project will occur less than 12 km from our community infrastructure and houses. Some boundaries of the PDA come within 6 km of the boundaries of our Black Sturgeon reserve. Approximately 1,000 trucks associated with the project will drive past our reserve each week. Over the course of the life of the Project, hundreds of workers will come on-site and into the nearby town of Lynn Lake.

As the enclosed map of the regional context for the Project shows, the next closest Indigenous community may appear to be approximately 100 km away (and largely upstream), but in fact every other Indigenous group needs to travel at least 8 hours to even reach the PDA and LAA.<sup>5</sup>

Given this proximity, MCFN is the "host" community for this Project. MCFN families – and no other Indigenous Group – have registered traplines throughout the PDA, LAA, and RAA. These traplines and the surrounding areas are where our members exercise their Aboriginal rights and traditional practices, including hunting, fishing, gathering and ceremonial practices. These are the areas where we transmit our Indigenous knowledge, history and culture. While this information was provided to the Agency in the EIS and TKUS years ago and referenced in the IR 57 responses and the Ausenco report (dated August 8, 2022) that we provided to the Agency in November, we have enclosed a map<sup>6</sup> that shows the location of MCFN traplines in relation to the PDA, LAA, and RAA.

The EA Report needs to acknowledge that the impacts on MCFN (or, if the Agency requires a general descriptor, "proximal Indigenous Groups") are vastly different and more significant than every other Indigenous Group. For obvious reasons, the proposed mitigations and/or accommodations must reflect this reality as well.

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<sup>5</sup> This map, and the actual proximity of other Indigenous Groups, was included in our June 23, 2022 letter to the Agency.

<sup>6</sup> This is the same map that we circulated at the June 2022 community meeting that you attended.



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The EA Report needs to acknowledge that without significant mitigation, the Project will prevent MCFN from exercising many of our traditional use activities not just in the PDA, but also throughout most of the LAA. In some cases, the reason we will not be able to do so is direct: the infrastructure and developments in the PDA will be built over top of, or restrict access to, our traditional use areas. In other cases, the impacts will be indirect. Throughout the LAA there will be increases in traffic, dust, contamination of water and soil, and increases in noise and light that will disturb our members and their traditional practices, or the wildlife, fish and plants we rely upon. The full range of these concerns are found in the TKUS and EIS and are itemized in Alamos' IR 57 responses specific to MCFN, but are strikingly absent from being identified, let alone addressed in the Agency's report.

To properly address our concerns, the Agency needs to clearly explain whether it believes that specific mitigation measures identified by Alamos and specific conditions imposed by the Agency will ensure that there are not significant adverse effects. The Agency also needs to acknowledge where adverse impacts may remain, even if they fall below the "significant" threshold.

### (b) Impact of Historic Mining

The draft EA Report also fails to acknowledge the environmental degradation and MCFN's experience with historic mining activity around Lynn Lake, which has implications for the scope and nature of the mitigation measures that are needed to offset what would otherwise be significant adverse effects upon our traditional uses. The Agency has already heard about the environmental legacy of past mines at the June 2022 community meeting and in the materials already submitted during the course of the EA. As an example, Alamos's own research has confirmed that mercury levels throughout our territory are well in excess of acceptable standards.

Alamos has already recognized many of the MCFN concerns and impacts in its EIS, including:

- Our members' ability to hunt, fish, trap, gather and undertake cultural practices in the core of our territory will be further reduced as a result of direct and indirect impacts from historic mining, as well as the Project's construction and operation (see EIS, Volume 2, sections 17.1.3.2, 17.1.3.4, 17.2.14.1, and Table 17-1); and
- Some of the indirect impacts arise from our members' ongoing fear about the safety of the fish, wildlife, plants and water that they will consume due to both future mining activities, but also those related to legacy impacts and cumulative effects from historical mining activities in the region. Partially due to how their concerns have been dealt with in the past, our members lack the confidence in Alamos's predictive models and projections that indicate there will be minimal health impacts from the Project (see EIS, Volume 2, sections



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17.1.3.2, 17.1.3.4, and 17.2.14.1). This is partly because Alamos's projections are not supported by:

- clear and enforceable commitments to alleviate the already existing contamination issues and to not exacerbate the bioavailability/magnification of mercury, selenium or other key contaminants of concern to our community;
- sufficient monitoring of locations throughout our territory that are critical to our ongoing exercise of Aboriginal rights and traditional practices;
- firm commitments to further investigation where concerns are flagged and, if the cause is attributed to the Project, adaptive management to eliminate, reduce and/or offset identified impacts;
- a direct and substantive role for MCFN in monitoring; and
- a defined and primary role for MCFN in an environmental oversight committee that incorporates MCFN traditional knowledge, not merely a “seat” at a table with a dozen other distant Indigenous Groups entitled to receive updates and ask questions.

Without improvements to the current EA Report and EA Conditions, the Project is certain to repeat the legacy of socio-economic exclusion and marginalization that MCFN experienced with past mine developments unless there are clear and effective commitments to provide meaningful opportunities for MCFN to participate in the Project (see EIS, Volume 1, section 3; Volume 2, section 13, Table 13-1; section 19, Table 19-1; and section 19.1.1.4).

While you assured us at the June 2022 community meeting that this was a new era for industry and government, you undoubtedly saw the level of mistrust within the community. If our members do not have ongoing confidence in the environmental conditions in the LAA, they will “self-censor” the exercise of their rights and traditional practices in an attempt to maintain the health and safety of themselves and their families. The Agency needs to capture this impact in the EA Report and require, as part of the EA Conditions, that Alamos actively involve MCFN in the monitoring of impacts and environmental oversight of the Project so this confidence be both enhanced and sustained over the course of the Project.

The draft EA Report also fails to reflect the historic and projected socio-economic impacts of the Project upon MCFN. As described in the materials already provided to the Agency, MCFN was largely excluded from many of the opportunities that arose from mining in and around Lynn Lake from the 1950s to the 1990s. The “tent city” that predated our reserve was a testament to the



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discrimination, mistreatment and exclusion our members suffered. Without clear commitments to actively engage MCFN in economic opportunities from the Project, the Agency risks repeating the history of marginalization.

### (c) Acknowledging the Project's Adverse Effects

As noted below in our discussion on the draft EA Conditions, it may be possible to design conditions for approval of the Project that mitigate the potential effects to a level that falls below the “significant” threshold in CEAA 2012. We are continuing to work with Alamos – and are willing to work with the Agency – to craft those necessary conditions. However, in many cases, the Agency needs to acknowledge it will be impossible to fully offset the adverse effects.

If the Agency ultimately still concludes that the Project is unlikely to have significant adverse effects (after taking into account the conditions for approval), then its report needs to acknowledge that there still will be adverse effects on MCFN in many areas.

This assessment is critical for several reasons. First, the Agency needs to give the Minister an accurate description of the situation to facilitate his decision whether to approve the Project. As we have documented, the draft EA Report currently presents an incomplete picture of the Project's effects, most particularly to MCFN. While we understand that the draft EA Report involves summarizing thousands of pages of information, it cannot altogether omit crucial pieces of information that have been made available for the purposes of the review process and that are central to the decision that the Minister is being asked to make.

Second, the Agency needs to understand that its EA Report will be used by other Crown agencies to decide whether, and on what conditions, to issue their subsequent or related approvals. In doing so, they will look to the EA Report to assess whether, and on what basis, to consult MCFN. The Agency's report, in other words, has a much broader audience, and more significant implications than the Agency appears to appreciate.

## II. Draft EA Conditions

There are many deficiencies in the draft EA Conditions. First, they reflect only a small portion of commitments that Alamos has already made in the course of the EIS and IR responses. It is critical that the conditions:

- reflect due consideration for all of the commitments that Alamos has made in the thousands of pages of materials in the EIS and IR responses, which are far more extensive than what appears in the condensed version at Appendix D to the draft EA Report, and



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- make it a condition of approval that Alamos must undertake those mitigation measures<sup>7</sup> until such time as the Agency and Alamos, in consultation with MCFN, decide that:
  - they are no longer needed; or
  - other measures are needed;

to avoid significant adverse effects upon the s.5(1)(c) factors in CEAA 2012 and MCFN's Aboriginal and treaty rights.

It is critical that these changes be implemented, as it appears the Agency's conclusions that the Project is unlikely to have a "significant adverse effect" on various CEAA 2012 factors is premised upon Alamos fully and successfully implementing the complete list of mitigation measures identified in the EIS and specifically those in Appendix D to the draft EA Report. If Alamos is not obligated to undertake all of these mitigation measures, the Project will inevitably have a significant adverse effect on various CEAA 2012 factors, including MCFN's health and socio-economic conditions, current use of lands and resources for traditional purposes, as well as the exercise of our Aboriginal and treaty rights.

The Agency also needs to identify the "assurances" Alamos has made in the EIS and IR responses about its expectations of minimal impacts for some matters or areas, and impose monitoring conditions to validate that those assurances are in fact true; where actual impacts are higher than anticipated, there should be commitments for adaptive management, including adaptive management that substantively involves MCFN where our interests are affected.

There are also specific deficiencies in many of the actual conditions for approval. Many of the Agency's conditions are far too general and vague, lacking any clear connection to the specific conditions of the Project and its potential adverse effects. They do not respond to the specific concerns and interests raised by MCFN. In the enclosed appendix, we have marked comments on those conditions to illustrate the kinds of edits needed to meet the necessary standard. Again, we do not have the time or resources, and it is not our role, to comprehensively re-write the conditions, but we trust we have given the Agency appropriately specific and constructive advice on how the Agency should do so.

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<sup>7</sup> Or, work with us to at least confirm the ones that relate specifically to MCFN interests and concerns.



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### III. Conclusion

The Agency needs to do a major re-write of the EA Report and EA Conditions before presenting them to the Minister. Given the extent of our concerns, we expect to be consulted on a further draft of both documents before they are presented to the Minister. Considering the reliance that the Government of Manitoba is no doubt placing upon the EA Report and EA Conditions, we also recommend the Agency also consult further with the Province. We appreciate this could take time, and so recommend the Agency avail itself of section 27 of CEEA 2012 and extend the timeframe for the Minister's decision.

We understand that the Agency will also be preparing a Consultation Report for the Minister in parallel with the EA Report. We request that the Agency share a draft of this report with us prior to finalization and work with us to ensure it provides the Minister with a full and fair description of how the Agency has identified and assessed the potential impact of an approval on MCFN Aboriginal and treaty rights. We do not need to see advance drafts of any portions of the Consultation Report dealing with other Indigenous groups, just those portions relating to MCFN.

One matter we wish to discuss further with the Agency is in regards to the availability of a regional assessment, under the *Impact Assessment Act*, of other potential mining projects in our territory. As noted in our discussions with the Agency, there appears to be an increased interest in multiple additional mining projects in our territory. We also noted the Agency and Alamos's position that the assessment of this Project could not deal with the entirety of our concerns regarding cumulative effects and the legacy of past mining projects. If this is the case, we think a regional assessment is a necessary and appropriate tool for doing so, but are open to other mechanisms – ideally in collaboration with the Province of Manitoba – that could address our concerns.

In parallel with our review of the EIS, IR Responses, draft EA Report and draft EA Conditions, we have also attempted to negotiate a benefits agreement with Alamos. Such an agreement would provide training and employment opportunities, business opportunities – which would help us build our internal capacity, not just provide a revenue stream – and a share of the profits of the Project. These benefits are necessary to fully and properly offset the impacts to MCFN that cannot be fully avoided or reduced through other mitigation measures.

While we have had polite discussions with Alamos, and continue to negotiate, at this point we have no agreement. Without a signed binding agreement and without significant enhanced commitments in the EA Conditions, this Project will result in significant adverse effects upon MCFN's health and socio-economic conditions, current use of lands and resources for traditional purposes, and the exercise of our Aboriginal and treaty rights. Any approval by the Crown of the





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Project on the basis of what is in the current draft EA Report and EA Conditions would be an unjustified infringement of our Aboriginal and treaty rights.

We look forward to working with you in a collaborative manner to address our concerns and ensure you complete the EA Report and EA Conditions in a manner that meets the requirements of CEAA 2012 and the Crown's duty to consult and accommodate MCFN.

Respectfully,

<original signed by> \_\_\_\_\_

*FOR:* **Chief Christopher Colomb**  
Marcel Colomb First Nation

*Encl.*     *Map of Indigenous groups*  
*Map of trapline holders in PDA, LAA, and RAA*  
*Commentary on draft EA Conditions*  
*Table 10-1-1 from Alamos response to IR 57*

*cc*        Chelsea Fedrau, Project Manager, IAAC  
Tara Fulton, Associate Director, Prairie & Northern Region, IAAC  
Gavin Bergeron, Consultation Facilitator, Government of Manitoba  
Jana Schott, Assistant Deputy Minister, Government of Manitoba