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MEMORANDUM #2: SLATE FALLS FIRST NATION REVIEW OF IAAC DRAFT SUMMARY OF IMPACTS TO RIGHTS

DATE: June 8, 2026

This Memorandum sets out Slate Falls Nation's comments on the IAAC document called "Summary of impacts to the exercise of rights by Slate Falls Nation from the Springpole Project" that the Agency provided on the evening of Friday, June 5, 2026 (the "IAAC Summary"). As the Agency provided this as we were working on our comments on the version provided on the evening of Friday, May 22, 2026 before our recent meeting, this Memorandum incorporates our comments on both documents.

I. KEY MESSAGE #1: THE IAAC SUMMARY IS THE CLEAREST EXAMPLE YET THAT CANADA HAS FAILED TO UPHOLD ITS DUTY TO MEANINGFULLY CONSULT SLATE FALLS

The IAAC Summary is the first time that IAAC has shared its view of the effects of the Project on Slate Falls' rights during the environmental assessment ("EA") process. Indeed, as recently as our May 26, 2026 meeting, IAAC had been clear that it has focused its engagement during the EA process wholly on the statutory parameters of the EA process under *CEAA, 2012*¹ (under *CEAA 2012*, such parameters do not include Aboriginal and Treaty Rights).

Despite sharing IAAC's views on impacts to Slate Falls' Rights for the first time on the evening of Friday, June 5, 2026, IAAC has

- given Slate Falls less than a single business day to meet with IAAC to discuss IAAC's views on Project effects on Slate Falls' Rights, which IAAC must know is both impractical and profoundly disrespectful to Slate Falls' leadership;
- invited no opportunity to discuss IAAC's views of impacts to Slate Falls' Rights beyond the one-day window for a meeting that, again, is impossible to meet;
- allowed less than 3 business days for discussion of an idea newly proposed by Canada to "lessen" some manner of impacts through a predetermined amount of

¹ *Canadian Environmental Assessment Act, 2012*, SC 2012, c 19, s 52.

funding developed without regard to the ALIA and without involvement of Slate Falls; and

- confirmed it intends to refer the Project for decision less than 6 days from the date IAAC first shared any view of impacts of the Project on Slate Falls.

As you know, Slate Falls had written IAAC on multiple occasions in recent months asking for information and clarity on the consultation process to avoid exactly this situation. IAAC declined to respond.

While the “lie in the weeds” approach to consultation is unconscionable on its own, it is even more flagrant considering the following:

- It has been more than 550 days since IAAC received the environmental impact statement from the Proponent, which triggered a duty on Canada to take steps to inform itself of the impacts of the Project on Slate Falls’ Rights and not just the narrow category of evaluation under *CEAA, 2012*.
- It has been more than 200 days since we shared with IAAC the preliminary findings from Slate Falls’ Anishinaabe Led Impact Assessment (“ALIA”) relating to impacts to Slate Falls’ Rights.
- It has been more than 150 days since IAAC received the full Slate Falls ALIA.
- It has been nearly 100 days since IAAC received the Slate Falls Nation Land Story.

By any measure, the duty to consult requires more than the resounding silence from Canada to Slate Falls’ information and an impossibly short window for comment that precludes any semblance of dialogue. The duty to consult, at its “least technical definition is talking together for mutual understanding”.² It is impossible for Slate Falls and Canada to come to a mutual understanding if IAAC refuses to provide a realistic opportunity to meet or a reasonable opportunity for exchange. When the Crown withholds its perspectives and reasoning in favour of passively receiving information from Slate Falls without meaningful dialogue or the timely sharing the Crown’s information and views, genuine good faith consultation is frustrated.³

II. KEY MESSAGE #2: IAAC’S APPROACH TO ENGAGEMENT ON THE IAAC SUMMARY IS PROCEDURALLY UNFAIR AND UNREASONABLE

Slate Falls representatives have for months been requesting IAAC establish a collaborative process for meaningful engagement regarding identifying and addressing impacts to Slate Falls’ rights. IAAC has not responded at all to these requests.

It is procedurally unfair and unreasonable for IAAC to send the IAAC Summary on the eve of referring the Project for decision in the absence of, among other things: (i) timely responses to Slate Falls’ previous questions and requests, (ii) transparently disclosing the basis for the IAAC Summary; (iii) a meaningful opportunity to discuss and seek to resolve

² *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 43, citing T. Isaac and A. Knox, “The Crown’s Duty to Consult Aboriginal People” (2003), 41 *Alta. L. Rev.* 49, at p. 61.

³ *Gitxaala Nation v. Canada*, 2016 FCA 187.

problems with the IAAC Summary; (iv) IAAC meeting the legitimate expectations it had created by explicitly committing in our March 27, 2026 meeting that it provide Slate Falls with additional information on its approach to working together on the impacts to rights section before further drafting and before completing the EA process. Slate Falls reiterated its expectation that a response would be forthcoming by the Agency in our April 4, 2026 and May 15, 2026 letters.

III. KEY MESSAGE #3: THE IAAC SUMMARY IS LARGELY A NON-TRANSPARENT, INCOMPLETE AND FLAWED “WHAT WE HEARD DOCUMENT”

It is highly troubling that the IAAC Summary lacks transparency about what information was used in preparing it. From what we can tell, the core sections of the IAAC Summary appear to be unreasonably narrow based on the introductory paragraph which only references Slate Falls ALIA and no other materials provided by Slate Falls (such as the Land Story). When we shared the ALIA, we explicitly instructed IAAC that:

- “The Nation reserves the right to supplement the ALIA, and indeed, attached to this letter is a summary document with additional information gathered from community interviews” (emphasis added)
- “if you have any questions relating to the nature of SFN’s rights (proven or asserted) for the purpose of the assessment, the appropriate action is to request clarity from SFN.”
- “If there are places where the Agency would like further information, please identify that for SFN so that it can promptly engage in further community interviews. It would be highly problematic for the Agency to assume that any gap in the ALIA means information is unavailable.”

Unfortunately it appears that IAAC has done just that: prepared a “what we heard summary” that fails to incorporate supplementary information from community interviews carried out outside the ALIA, fails to incorporate the Slate Falls Land Story and fails to incorporate other discussion papers containing Slate Falls information.

It appears to us that either the IAAC Summary is underinclusive or IAAC, without notice to Slate Falls, has excluded consideration of information it provided. As we stated when we shared the ALIA with IAAC, the ALIA is not exhaustive. Given the limited information sources considered in most sections of the IAAC Summary (by which we mean “single information source”), we are left to conclude that IAAC has reached its assessment conclusions without incorporating the full suite of information shared by Slate Falls.

The lack of transparency and disclosure, unfortunately, extends beyond Section 10.3 of the IAAC Summary. After reading the IAAC Summary, the following is not clear to us:

- what Canada understands as the Rights of Slate Falls Nation, and whether Canada approached its assessment based on a correct understand of those rights;
- whether Canada has understood the principles of Anishinaabe law we shared or whether Canada approach its assessment based on a misapprehension of those principles;

- what Canada means by “adequately minimize” and how that standard incorporates Slate Falls’ perspectives and knowledge, particularly when it results in outcomes drastically different than the ALIA; and
- what is Canada’s basis for relying on provincial measures when IAAC has repeatedly informed Slate Falls that IAAC has not had engagement with Ontario, is unclear what Ontario is considering, and generally has been unable to coordinate with Ontario.

In sum, there is simply not enough information or transparency in the IAAC Summary to allow us to understand how IAAC approached its assessment. That said, there is enough in the IAAC Summary to suggest to us that there may be fundamental misapprehensions on the part of Canada relating to our Rights and the Project impacts to those Rights.

IV. KEY MESSAGE #4: THE IAAC SUMMARY CONFIRMS WHAT HAS BEEN CLEAR FOR SOME TIME, NAMELY THAT IAAC HAS MAINTAINED A CLOSED MIND TO SLATE FALLS’ COMMENTS AND CONCERNS

Throughout the Section 10.4 (“IAAC Views”) we see IAAC relying on the very same mitigation measures that we have consistently identified for more than a year (and in some cases even longer) as non-responsive or insufficient for addressing Slate Falls’ concerns. Indeed, we heard IAAC reiterate these same measures during the May 25, 2026 meeting.

It remains a mystery to us why, regardless of our technical input and community information, IACC has remained so fixed in its views throughout the environmental assessment process, but it remains deeply troubling.

Unfortunately, the IAAC Summary is a further demonstration that, no matter what we have said or shared, the response from IAAC has been fixed and consists of reiterating largely the same set of measures that are inadequate for addressing the concerns of Slate Falls relating to Project impacts on Rights.

V. KEY MESSAGE #5: THE IAAC SUMMARY DEMONSTRATES IAAC HAS YET TO UPHOLD ITS UNDRIP COMMITMENTS OR FACILITATE DECISION-MAKING PROCESS THAT REFLECTS FPIC OR UNDRIP GENERALLY

The IAAC Summary, in substance and process, displays a complete disregard for the Crown’s UNDRIP commitments⁴, including the requirement that Canada consult with the objective of seeking and obtaining Slate Falls’ consent.

As we have previously cautioned the Agency, sharing a “what we heard” report of Slate Falls’ views falls well short of the Crown’s obligation to consult with consent as an objective. Unfortunately, sharing views on impacts to Rights five days before referral and

⁴ *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 and the United Nations Declaration on the Rights of Indigenous Peoples; see, in particular, Articles 3, 18, 29(2), and 32.

with no reasonable chance for dialogue is, in effect, as if Canada had only shared a “what we heard” report.

It is incumbent on the Agency to meaningfully engage with Slate Falls information with the objectives of understanding Slate Falls’ perspective, seeking and obtaining Slate Falls’ consent, coming to consensus on how that perspective and consent is shared, and coming to a mutual understanding of how decision-making will reflect Canada’s UNDRIP obligations. The IAAC Summary, and the flawed process surrounding it, clearly fail to do that.

APPENDIX: ADDITIONAL POINTS FROM SLATE FALLS' REVIEW

- The IAAC Summary is non-responsive to Slate Falls' previous requests for feedback and engagement;
- The IAAC Summary and the process around it are dismissive of Slate Falls;
- The IAAC Summary and its process are procedurally unfair given the inadequate timeline and insufficient notice period;
- The IAAC Summary and process frustrate Slate Falls legitimate expectations;
- The IAAC Summary lacks transparency about what information was incorporated and relied on, but it appears to be unreasonably narrow if based solely on Slate Falls Anishinaabe-led Impact Assessment (the "ALIA");
- The IAAC Summary and its process are inconsistent with the honour of the Crown given the failures related to basic transparency (among other things);
- The IAAC Summary and its process fail to uphold the requirement for two-way dialogue in consultation;
- The IAAC Summary and its process frustrate meaningful consultation; and
- The Document fails to uphold the Crown's UNDRIP obligations.