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March 23, 2020

Caitlin Cafaro, Crown Consultation Coordinator
Impact Assessment Agency of Canada
600-55 York Street, Toronto, ON M5J 1R7
Email: IAAC.MartenFalls.AEIC@Canada.ca

Dear Ms. Caitlin Cafaro,

RE: Notice of Commencement of the Impact Assessment Process for the Marten Falls Community Access Road Project

We write in response to the Impact Assessment Agency's February 24, 2020 letter regarding the Notice of Commencement for the Marten Falls Community Access Road Project (the "Project") Impact Assessment.

In this submission, Aroland First Nation (AFN) identifies comments that were not addressed in the finalized Indigenous Engagement and Partnership Plan (IEPP) and Tailored Impact Statement Guideline (TISG), and responds to the IAAC's understanding of potential impacts of the Project on AFN's Aboriginal and/or Treaty rights. Please see Appendix I and II respectively for our detailed responses on these matters.

Given the proximity of the proposed Project to the AFN community and that the Project directly overlaps AFN's territory, there will be significant impacts to AFN's inherent Treaty and Aboriginal rights and interests. The scope of impacts on AFN's Treaty and Aboriginal rights and our concerns are exacerbated by the Government of Ontario's announcement alongside Webequie First Nation and Marten Falls First Nation to explore the development of the Northern Road Link that would connect the proposed Webequie Supply Road and Marten Falls Community Access Road.

AFN maintains the position that any contemplation of access to the Ring of Fire must bring together all Matawa First Nations in a unified planning approach with the right people sitting at the table together and making decisions together. The announcement of the Northern Road Link further underscores the value and importance of a Regional Assessment and how it could inform new projects being contemplated in the region. Given the various projects being contemplated in the region and the significant impacts these projects cumulatively represent, AFN was pleased that the Minister of Environment and Climate Change Canada agreed to AFN's request for a Regional Assessment.

We are hopeful that the IAAC can secure the Government of Ontario's full partnership in a Regional Assessment so that matters within provincial jurisdiction can also be effectively and meaningfully addressed in the region. We look forward to our continued participation in the Impact Assessment process for this Project.

Respectfully,

<original signed by>

Chief Dorothy Towedo
Aroland First Nation

Cc:Hon. Johnathan Wilkinson, Federal Minister of Environment and Climate Change

APPENDIX I: Review of Finalized Indigenous Engagement and Partnership Plan (IEPP) and Tailored Impact Statement Guidelines (TISG)

We have reviewed the Final IEPP, TISG and the summary of comments table against our submission provided to the IAAC on January 31, 2020. Below is a summary of the key comments that were not addressed in the finalized IEPP or TISG or provided a response in the comment table. We are seeking further information from the IAAC regarding why these comments and concerns were not incorporated into the IEPP.

Final IEPP and Summary of Comments

- ***AFN Participation in Baseline Studies:*** In our review of the draft IEPP, AFN identified the importance of direct involvement in developing and executing baseline studies to support the Impact Assessment process. The final IEPP instructs the proponent to “present baseline studies” to Indigenous groups only. A requirement to share information with AFN is insufficient from our perspective in supporting a meaningful engagement, consultation and impact assessment process.
- ***Free, Prior and Informed Consent:*** AFN was pleased to see a reference to Canada’s commitment to implementing the United Nations Declaration on the Rights of Indigenous People (UNDRIP) added to the finalized IEPP. However, AFN is disappointed that there is no reference to any criteria or guidance for when and *how* consent will be sought and required throughout the Impact Assessment process. The IAAC’s response in the summary table to comments related to consent, highlights Canada’s commitment to implementing UNDRIP but is not enough to respond specifically to AFN’s comments calling for a process that adheres to requirements of free, prior and informed consent. This raises concerns that there is no plan or intention to meet this hard requirement, and that there will be defaults to something weaker.
- ***Community Specific Engagement and Consultation Plan (CESP):*** AFN is looking forward to working with the IAAC to develop a community specific engagement and consultation plan that responds to the unique engagement approaches and needs of our community. We will expect that AFN’s comments that have not been addressed in the general IEPP or the TISG, will be specifically addressed in this unique CSECP. Our requests for a community workshop to engage with the IAAC and the proponent on an effects assessment was not addressed in the IEPP or comment summary table. In addition, our requests to have a meeting in community to explain the final decision and how the community’s input was considered is also absent. We are seeking confirmation from the IAAC that the workshop approach is something that can and will be considered as part of a community specific consultation and engagement plan.
- ***Engagement replaced with Consultation:*** In reviewing the final IEPP, we noticed that all references to engagement were replaced with consultation. Consultation is a legal concept and we expect that the IAAC as the Crown will honourably execute its legal obligation to consult with AFN on impacts of the Project on AFN’s Treaty and/or Aboriginal rights and interests, as Canadian law requires – to always consult in good faith with the intent to substantially address the concerns of the affected aboriginal peoples (ie: AFN). This invokes the duty to accommodate (to address concerns). That takes us a certain distance. But the state of Canadian law on what constitutes sufficient consultation and accommodation, is mixed and does not offer enough direction. Further, Anishinaabe law and international law to which Canada adheres, including UNDRIP, also apply. They require moving beyond consultation, to something more government-to-government, a deeper more equal engagement and partnership. From our perspective, the IEPP should reflect engagement and partnership opportunities in addition to consultation.
- ***Regional Assessment:*** We noticed the reference to a Regional Assessment was excluded from the final IEPP. With an order from the Minister of Environment and Climate Change to undertake a

Regional Assessment, we believe t Regional Assessment is critical context and an important linkage that should be highlighted in the IEPP. The CSECP will need to set out how the individual road IAs (this one, the Webequie road, the Northern Link Road) will be aligned with the regional IA.

Final TISG and Summary of Comments

There are 22 out of 35 issues and recommendations that were not addressed in the Final TISG or has a sufficient response in comment summary table:

Section	Comment	Recommendation
Section 6 Description of Engagement with Indigenous Peoples		
6 Description of Engagement with Indigenous Peoples	<p>The guidelines stipulate that the proponent must provide opportunities to Indigenous groups to:</p> <ul style="list-style-type: none"> • “provide Indigenous knowledge during baseline data collection; • comment on the list of VCs and indicators; • inform the effects assessment and review its conclusions; and • inform the development of mitigation measures and follow-up programs.” <p>To meaningfully engage and participate in the above activities, proponents must also provide capacity to Indigenous groups. In addition, there should be a stronger commitment and effort from the proponent to work collaboratively with Indigenous groups to co-develop VCs, mitigation measures and follow-up programs.</p>	<p>Please consider adding the word “capacity” to the following sentence: “In addition to the requirements set out in section 6.1, 6.2 and 6.3, the proponent must provide Indigenous groups with an opportunity <u>and capacity</u> to.”</p> <p>Recommend that the language in the bulleted list be strengthened to:</p> <ul style="list-style-type: none"> • <u>co-develop</u> the list of VC’s and indicators; • <u>jointly participate</u> in the effects assessment and review its conclusions; and • <u>co-develop</u> mitigation measures and follow-up programs.
6.2 Analysis and response to questions, comments and issues raised	<p>Article 32.1 of UNDRIP states that Indigenous Peoples shall be consulted in good faith through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting the community’s lands or resources. The analyses and responses section should include the consideration of how/if consent has/will be sought.</p>	<p>In addition to, the analysis and responses outlined in the bulleted list, AFN recommends additional bullets be added specific to free, prior and informed consent:</p> <ul style="list-style-type: none"> • where and how the proponent supported Indigenous groups’ free, prior and informed consent; • description of future activities and processes that consider and support Indigenous groups’ free, prior and informed consent.
6.2 Analysis and response to questions, comments and issues raised	<p>In this section of the guidelines, there is a bulleted list outlining what should be included the analysis and response. For clarity, stronger language will hold the proponent accountable to undertaking the necessary activities outlined in the bulleted list.</p>	<p>Please consider replacing the words “are to include” to “must include” to ensure proponent is held to account on delivering the analyses and responses necessary to support a meaningful process.</p>
Section 7 Baseline Conditions		
7.2 Sources of baseline information	<p>Indigenous government land use studies and management plans may be available; Indigenous forestry management plans may be available from Indigenous forest management bodies.</p>	<p>Please include land use studies and management plans available from Indigenous governments as sources of baseline information, and Indigenous forestry management plans from Indigenous forest management bodies.</p>
Section 8 Baseline Conditions Biophysical Environment		

8.12 Species at Risk	Indigenous groups may consider certain species to be at risk with respect to local and regional contexts, traditional territories, and harvesting practices and uses.	Please amend this section to include reference to species that Indigenous groups may consider to be at risk with respect to local and regional contexts, traditional territories and harvesting practices and uses. Furthermore, Indigenous knowledge should be included where available for detecting all species at risk and habitat, migration corridors, spawning areas, etc.
Section 10 Baseline Conditions - Social		
10 Baseline Conditions Social	To understand the community context, the information provided must describe influences on Indigenous community well-being with respect to lack of availability of all-season transportation services between Indigenous communities, and between Indigenous communities and services and goods available through connectivity with the provincial highway system.	To understand the community context, the information provided must describe influences on Indigenous community well-being and intra- and inter- community cohesion with respect to lack of availability of all-season transportation services between Indigenous communities including such matters as governance, recreational interactions and sports tournaments, and health and well-being services, and; interactions between Indigenous communities and services and goods available through connectivity with the provincial highway system including similar matters together with access to provincial and federal government services.
Section 11 Baseline Conditions - Economic		
11 Baseline Conditions - Economic	Aroland First Nation, together with Ginoogaming First Nation and Animbiigoo Zaagi'igan Anishinaabek have published a regional economic development plan linking major gold mining initiatives in the Geraldton area adjacent to the Trans-Canada Highway, with mineral exploration and project development that will be catalyzed/enabled/supported by the growth of mining services in the region, including the Ring of Fire.	Aroland First Nation will be expecting that its "Mining Hub" regional economic plan is referenced as part of the economic baseline information for the IA.
Section 12 Baseline Conditions - Indigenous Peoples		
Section 12 Baseline Conditions - Indigenous Peoples	The guidelines outline that proponents are required to engage with Indigenous groups but provides no explicit guidance and reference to methods/approaches to engaging Indigenous groups. How the proponent engages with Aroland First Nation is incredibly important and approaches undertaken in one community may not be appropriate for another. Aroland First Nation would like to influence, and jointly develop community specific engagement approaches to support effective development of baseline conditions.	Recommend that the guidelines explicitly include direction to the proponent to work with each Indigenous group to determine the methods and approaches to engagement.

Section 12 Baseline Conditions - Indigenous Peoples	The list of contextual information that may be considered should include an opportunity to develop other contextual factors that may be important for Project consideration. There is a risk that the proponent may interpret the list narrowly and Aroland First Nation would like an opportunity to develop and add additional relevant information.	Please consider adding a bullet to the contextual information list that provides an open-ended opportunity for other important contextual information: <ul style="list-style-type: none"> • other contextual information and/or factors that Indigenous groups identify as valuable for consideration.
Section 12 Baseline Conditions - Indigenous Peoples	Understanding historic and current use are important sources of knowledge to inform baseline conditions. However, there should also be consideration of future goals and use and how the project may impact those long-term objectives. There are areas previously impacted by development activities that Aroland First Nation may seek to restore and reclaim. The Project may impact those long-term goals and should be considered alongside historic and current uses.	Recommend that the impact of the Project on future goals, objectives and use related to Aboriginal rights and interests be considered as part of the assessment process.
Section 15 Effects to Valued Components – Environment		
15.1 Fish and Fish Habitat	Effects to fish and fish habitat have direct and indirect impacts on fishing by Indigenous peoples. Fishing and specific fishing locations may be valued components for Indigenous peoples.	Along with describing direct, incidental or cumulative predicted positive and/or adverse effects to fish (all developmental stages) and fish habitat, this section should also require describing direct, incidental or cumulative predicted positive and/or adverse effects to fishing by Indigenous peoples and fishing locations valued by Indigenous peoples. As a result, “Fish and Fish Habitat” becomes “Fish, Fish Habitat, and Fishing” to provide better understanding of how fishing practices, access, economic aspects, nutritional aspects, and community well-being aspects will be impacted.
15.2 Birds, migratory birds and their habitat	Effects to birds, migratory birds and their habitat have direct and indirect impacts on bird hunting by Indigenous peoples. Bird hunting and specific bird hunting locations may be valued components for Indigenous peoples.	Along with describing describe direct, incidental and cumulative predicted positive and/or adverse effects to migratory birds and non-migratory birds, including population level effects that could be caused by all project activities, this section should also require describing direct, incidental or cumulative predicted positive and/or adverse effects to bird hunting by Indigenous peoples and bird hunting locations valued by Indigenous peoples. As a result, “Birds, migratory birds and their habitat” becomes “Birds, migratory birds and their habitat, and bird hunting” to provide better understanding of how bird hunting practices, access, economic

		aspects, nutritional aspects, and community well-being aspects will be impacted.
15.3 Terrestrial wildlife and their habitat	Effects to terrestrial wildlife and their habitat may have direct and indirect impacts on wildlife hunting and trapping by Indigenous peoples. Wildlife hunting and trapping, and specific hunting and trapping locations may be valued components for Indigenous peoples.	Along with describing the potential direct, incidental and cumulative adverse effects to other wildlife and wildlife habitat, including population level effects that could be caused by all project activities, this section should also require describing direct, incidental or cumulative predicted positive and/or adverse effects to wildlife hunting and trapping by Indigenous peoples and wildlife hunting and trapping locations valued by Indigenous peoples. As a result, “Terrestrial wildlife and their habitat” becomes “Terrestrial wildlife, their habitat and hunting and trapping” to provide better understanding of how wildlife hunting and trapping practices, access, economic aspects, nutritional aspects, and community well-being aspects will be impacted.
15.4 Species at risk and their habitat	There may be species noted as “at risk” by Indigenous groups and local communities and their habitat that are not currently listed under the Species at Risk Act or provincial statutes	Please amend the TSIG to include the requirement to describe the potential direct, incidental and cumulative adverse effects of the designated project on species noted to be “at risk” by Indigenous groups
15.5 Climate Change	Indigenous peoples have a great deal of Indigenous knowledge of historic and contemporary climate change characteristics and impacts	This section should include a requirement to describe or reference Indigenous knowledge of historic and contemporary climate change characteristics and impacts, and considerations from Indigenous peoples for how climate change may impact the Project and its components during construction, operation and decommissioning
Section 17 Effects to Valued Components - Social		
17.1 Services and infrastructure	Given the likelihood of infrastructure (e.g. transmission, telecommunications, pipelines) co-location within road rights-of-way, such infrastructure should be explicitly mentioned.	Please make explicit reference to infrastructure that may be co-located within road rights-of-way – transmission, telecommunication and pipeline infrastructure.
17.4 Community Cohesion	This section should define community cohesion.	Community cohesion can be defined as the willingness of members of communities to cooperate with each other in order to survive and prosper. As such, this section should require the development of indicators of community cohesion that can then be used to describe the potential direct, incidental and cumulative adverse effects to community cohesion that could be caused by all project activities.
Section 19 Effects to Indigenous Peoples and Impacts to the Exercise of Aboriginal and Treaty rights		

19 Effects to Indigenous Peoples and Impacts to the Exercise of Aboriginal and Treaty rights	The guidelines state that “Engagement with Indigenous groups is required to inform the impact assessment and identify measures to avoid or minimize potential impacts on Indigenous peoples from the project.” Accommodation measures should also be considered in cases where impacts to Indigenous cannot be avoided and/or mitigated.	Please add the word “accommodation” to the following sentence: “Engagement with Indigenous groups is required to inform the impact assessment and identify measures to avoid or minimize <u>or accommodate</u> potential impacts on Indigenous peoples from the project.” The word accommodate should also be added to any other phrases throughout that mentioned avoidance and mitigation of impacts on Indigenous peoples.
19.1 Effects to Indigenous People	The list of considerations that are encouraged as “best practices” must be included to fully understand the effects of the Project on Aroland First Nation and other Indigenous groups. The assessment of potential socio-economic impacts of the project should not be encouraged, but mandatory. This is particularly critical in consideration of the impacts a road to the Ring of Fire may present and the increased industrial activity that will be enabled as a result. Understanding the cumulative socio-economic impacts this Project may lead to will be critical to an effective assessment and decision-making process.	Ensure that the factors and considerations outlined as best practices are mandatory to that the socio-economic effects of the Project on Indigenous peoples is fully contemplated.
19.1 Effects to Indigenous People	<p>The guidelines encourage proponents to include information on the:</p> <ul style="list-style-type: none"> • a description of any plans for cultural sensitivity training for non-Indigenous employees to promote a safe work environment that supports the well-being of Indigenous employees; • a description of any plans for cultural competence training for non-Indigenous employees to ensure a respectful professional relationship with Indigenous businesses. <p>In addition, inclusion of plans to address non-Indigenous employees not behaving in culturally sensitive and competent ways should be included. Proactive training is valuable, but Aroland First Nation is also interested in how the proponent will deal with employees who are not promoting a safe work place that support the well-being of Indigenous employees.</p>	<p>Recommend adding the following criteria to the list for inclusion in the assessment:</p> <ul style="list-style-type: none"> • a description of any plans to address and deal with employees that do not promote a safe work environment that supports the well-being of Indigenous employees.
19.1 Effects to Indigenous People	<p>This section provides a list of potential effects to consider, with specific reference to “interferences of the project with the following:</p> <ul style="list-style-type: none"> • access to culturally important harvesting areas or resources of importance.” 	Recommend that the potential effects to consider also include the impact increased access may have on Indigenous groups ability to exercise Aboriginal rights and interests.

	<p>Interference with access is one potential concern, but increased access for non-Indigenous individuals to areas important for the exercise of Aboriginal rights and interests may also be a potential impact of the Project. These types of impacts must also be considered and added to the list.</p>	
<i>Section 22 Cumulative Effects Assessment</i>		
<p>22 Cumulative Effects Assessment</p>	<p>The likelihood of an all-season road from Eabametoong First Nation to the junction at the Anaconda and Painter roads connection to the provincial highway network is high.</p> <ul style="list-style-type: none"> • Include the Landore Gold Mine project • Include the Greenstone Gold Mine project • Include mineral exploration and advanced exploration that can take advantage of all-season road connectivity throughout the region. 	<ul style="list-style-type: none"> • Include the potential Eabametoong First Nation all-season road to the junction at the Anaconda and Painter roads connection to the provincial highway network • Include the Landore Gold Mine project • Include the Greenstone Gold Mine project • Include mineral exploration and advanced exploration that can take advantage of all-season road connectivity throughout the region.

APPENDIX II: <sensitive information removed>

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