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SENT BY EMAIL

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Dear Ms. Cox, Ms. Moszynski, and Ms. McLeod,

Re: Attawapiskat First Nation's preliminary comments on the Marten Falls First Nation Community Access Road draft Impact Statement

As per the Impact Assessment Agency of Canada and the Ontario Ministry of Environment's request, Attawapiskat First Nation is providing preliminary comments on the draft Impact Statement (draft IS) provided by the proponent for the Marten Falls First Nation Community Access Road (MFFN CAR).

Please note that submission of these comments does not signal the consent of Attawapiskat First Nation for any developments within the area commonly known as the "Ring of Fire," including developments related to transport and resource exploitation within that area.

The following is a summary of our initial, high-level concerns.

1. Your regulatory process for approving the MFFN CAR project does not meet the Crown's Treaty obligations, nor the duty to consult and accommodate Attawapiskat First Nation.

Attawapiskat is being presented with a project that will open our homeland to industrial development. We believe that if this road were to be built, it would transform our lands, waters, and way of life forever.

The conventional environment assessment/impact assessment (EA/IA) process being used here does not do justice to the magnitude and scope of what is at stake for our Kattawapiskak people. Under your current regulatory process, we are presented with a series of technical documents, on which we are expected to provide comments by a certain deadline.

This process is not sufficient to gain our consent to the project. We have not had the opportunity to sit down with the Crown, our Treaty partner, to discuss in a complete and thorough manner what our people want for the future of their territory. We remind you that as Treaty partners, we allowed settlers to live on our lands, but we did not give up the right to manage the land and control development.

Our people have not had the opportunity to speak, in their own language and in their own way, about what their experience and lives lead them to believe the impact of an all-season road to the Ring of Fire would be. Canada and Ontario need to come to Attawapiskat to hear about our goals and aspirations and to understand what is really going on in our communities. These discussions cannot be had within the narrow regulatory process and time frames under which you are operating.

When Canada adopted the UN Declaration on the Rights of Indigenous People (UNDRIP) into domestic law, it also adopted the standard of Free, Prior, and Informed Consent (FPIC). The FPIC standard is a single international standard (not a "spectrum"), and is meant to ensure that consultation processes are robust and further the goal of reconciliation.

The requirement for FPIC, when large-scale development projects are planned on Indigenous lands, has been addressed in the Inter-American Court of Human Rights (IACHR):

In *Saramaka People*, the IACHR noted that to ensure effective participation of the Saramaka people in the development of their territory, "the State has a duty to actively consult with said community according to their customs and traditions" (*Saramaka People* at para 133). Moreover, the IACHR noted that the consultation must use "culturally appropriate procedures and with the objective of reaching an agreement. Furthermore, the Saramaka people must be consulted, in accordance with their own traditions, at the early stages of a development or investment plan, not only when the need arises to obtain approval from the community" (*Saramaka People* at para 133). The IACHR encouraged prompt, full, and frank communications to ensure all parties had time to consider the environmental and health impacts and risks, in order that the plan is accepted "knowingly and voluntarily," and stated that the process takes into account the Saramaka people's "traditional methods of decision-making" (*Saramaka People* at para 133).¹

As Justice Julie Blackhawk wrote in *Kabaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319 "While the FPIC standard is not a veto, it requires significant robust processes tailored to consider the impacted Indigenous Nations laws, knowledge, and practices and employ processes that are directed toward finding mutual agreement."²

¹ *Kabaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319 at para 107 citing *Case of the Saramaka People v Suriname* (2007), Inter-Am Ct HR (Ser C) No 172 [*Saramaka People*]

² *Kabaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319 at para 183.

The current process is a “check box” exercise and is the opposite of such a robust approach. Our people often say “the Treaty must come first.” The process we are involved in here does not allow our Treaty rights holders to participate in co-jurisdiction over, and co-development of, the Ring of Fire.

2. The MFFN CAR will connect the provincial highway network to the Ring of Fire via the Northern Road Link, for which Marten Falls First Nation is also a proponent. Under the guise of “economic reconciliation,” Marten Falls First Nation and Ontario have drawn us into a one-sided, Crown regulatory process that is at odds with the Treaty relationship.

Chief Achneepineskum of MFFN is quoted in the draft IS as saying “we are leading our own future, our own prosperity, and making decisions in our own traditional territory.”³

The decision on when, how, or whether to open our shared territory to mining development is not for Marten Falls, Webequie, or Aroland First Nation alone to make.

The headwaters of our rivers, including the Attawapiskat, the Little Attawapiskat, Ekwan, and Kapiskau Rivers, make up the heart of our ancestral homeland. As recently as one or two generations ago – the generation of our grandparents – we spent most of our time in inland areas, coming to the coast only a few times a year for community gatherings. The rivers are still our highways and our ancestors are buried everywhere along these ancient travel routes. The headwaters that Marten Falls and Webequie wish to transform by a road and mining development are sacred to us.

By becoming proponents of the road to the Ring of Fire, Marten Falls and Webequie have launched a regulatory process in which Attawapiskat and other First Nations are being consulted. We are asked to submit comments and concerns, while final decision-making authority rests with the Crown alone. As such, we are treated as stakeholders and not as Treaty partners. This is unacceptable and the Crown’s approach to the Ring of Fire must change.

Marten Falls First Nation states repeatedly in the draft IS that the road, by providing access to the Ring of Fire, represents the opportunity for “economic reconciliation.” For example, it states on p. 68:

Economic reconciliation represents redress for past injustices, and signifies the Agency we have over our economic future.

Our Road represents hope, economic reconciliation, and a way to provide for the generations ahead; as Chief Bruce said (2023), “We are getting our house in order and setting up the future of our seven generations.”

Like Marten Falls First Nation, Attawapiskat is experiencing multiple, overlapping crises, rooted in the colonial relationship and the lack of proper housing, infrastructure, and services, and the forced poverty we are enduring.

Like Marten Falls First Nation we hear the promises of “economic reconciliation.” We are told in repeated rhetoric from the government of Ontario that the road is a “corridor to prosperity” for

³ MFFN CAR draft Impact Statement, p. 50.

the entire region and that this prosperity will trickle down to our people through work opportunities and better infrastructure.

We are dismayed to witness one First Nations community after another, most recently Aroland First Nation and Ginoogaming First Nation, being pacified on their Ring of Fire concerns through provincial funding agreements in the tens of millions of dollars.⁴ These agreements are a divide-and-conquer strategy. They take advantage of First Nations' dire social and economic circumstances by offering cash in exchange for the right to say no to development.

What's more, these cash deals are made in a context in which the outcome of the road environmental assessment processes appears to be pre-determined. Both provincial and federal Crowns have already committed to pushing forward the road and mining projects. This is completely contrary to Canada's commitment, under its *UNDRIP Action Plan*, to "carrying out impact assessments in a manner that emphasizes the need to seek free, prior, and informed consent."⁵

The *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* tell us that:

The importance of free, prior, and informed consent, as identified in the UN Declaration, extends beyond title lands. To this end, the Government of Canada will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus, and new ways of working together. It will ensure that Indigenous peoples and their governments have a role in public decision-making as part of Canada's constitutional framework and ensure that Indigenous rights, interests, and aspirations are recognized in decision-making.⁶

Instead of securing free, prior, and informed consent through deep collaboration and consensus-building, it appears that the plan is to purchase our consent through the offer of cash. At the 3 Roads gathering in Timmins in February 2025, the consultants for the road proponents stated that

you might have some more significant effects where even after applying the mitigation measures you're still going to have effects to the communities. We want to group together the mitigation and enhancement measures and get out of the EA talk and start to get into more practical discussions with communities and look at what do communities need, want to achieve as part of the project.

We understand this to mean that impacts to rights will be compensated by money for "what communities need."

Let us be clear. The "Ring of Fire" is a shared territory over which Attawapiskat First Nation holds inherent and Treaty rights. Ring of Fire development would impact our rights in ways that go far beyond what we have already endured. As such, impacts to rights from the roads cannot be cancelled out by funding to cover basic community needs, such as infrastructure, health

⁴ <https://news.ontario.ca/en/release/1005666/ontario-and-aroland-first-nation-sign-historic-agreement-connecting-roads-to-the-ring-of-fire>

⁵ <https://www.justice.gc.ca/eng/declaration/ap-pa/index.html>

⁶ <https://www.justice.gc.ca/eng/cs/sj/principles-principes.html>

care, housing, and education. Attawapiskat cannot be meaningfully consulted on, and consent to, a project that will transform the lives of future generations, when our community is in crisis and our immediate needs are not being met. The ongoing emergency conditions in which we live must be addressed first, before we are asked to make further concessions of land and rights. We will not exchange cash for impacts to rights in the absence of a government-to-government Treaty-based discussion that respects our sovereignty and jurisdiction.

3. Project-splitting, and a divide-and-conquer approach to the Ring of Fire is unacceptable.

It has long been Ontario's plan to build one continuous north-south access road from the provincial highway network to the McFaulds Lake area in the Ring of Fire. As Ontario stated in its 2017 Long-Term Infrastructure plan,

The Province is taking an important next step toward developing the Ring of Fire, an area in Northern Ontario with significant chromite resources. ... As part of this project, the Province is also working with First Nations to build all-season access roads to their communities. ... Building these roads is a critical step in realizing the economic benefits of one of the largest mineral-development opportunities in Ontario in almost a century.

In discussing the "do-nothing approach" in the draft IS, the proponent admits that "In addition to impacts to Marten Falls First Nation, without the Community Access Road it would not be possible to develop proposed mineral projects in the far north that the Province has indicated its support for."⁷

It is important here to consider how Marten Falls and Webequie came to be proponents of the road to the Ring of Fire.

In the 2010s, the Ontario government was in the process of negotiating a "regional framework agreement" for development of the Ring of Fire, with Matawa First Nations that were closest to the Ring of Fire.

In 2019, Ontario officially ended that process. The province decided instead to move forward with closed-door meetings with individual First Nations. Ontario made a series of bilateral agreements: one with Marten Falls First Nation, and the other with Webequie First Nation, who became the official all-season road proponents.

This was a divide-and-conquer strategy where two communities (MFFN and Webequie) were promised all-season road access to the provincial highway system. It is obvious that if the mining interests in the Ring of Fire were not waiting for a road to be built, a community such as Marten Falls First Nation, with 350 people living on reserve, would not be offered a community access road costing in the billions of dollars.

The proponent has chosen not to link the purpose of the road directly to mine development in the Ring of Fire, choosing instead to focus on the promised "access to the broader region for better work opportunities" for Marten Falls First Nation.⁸ In so doing, the proponent distances

⁷ MFFN CAR draft IS, p. 70.

⁸ MFFN CAR draft IS, p. 50.

itself from Ontario's long-stated purpose in building this road, which is to open the Ring of Fire to development.

Yet Chief Achneepineskum has also acknowledged that neighbouring First Nations are being left out of discussions on the future of the Ring of Fire and that this must change.⁹ The Matawa Tribal Council, including Chief Achneepineskum, made a statement in January 2025 that read in part: "The Matawa Chiefs Council call on the Premier of Ontario to reconsider the colonial approach underway and to meet with us collectively as a matter of priority."¹⁰

The meetings suggested by Chief Achneepineskum would be a first step towards a Treaty-based approach to the Ring of Fire. The splitting of the road project into three segments, each subject to its own, individual, project-level impact assessment is the opposite of a Treaty-based approach to development in the Ring of Fire. It has also resulted in a large consultation burden on our community, generated confusion about overlapping processes, and impeded our ability to substantially engage with the assessments for these projects.

4. A number of immediately foreseeable, near-term developments in the Ring of Fire are excluded from the draft Impact Statement's cumulative effects analyses. This must be corrected and the projects listed below included.

One very serious consequence of project splitting is that the cumulative impact of opening up the Ring of Fire and adjacent James Bay lowlands to development, via an all-season access road, is not being fully considered by Ontario or Canada.

Table 10-1, the "Projects Inclusion List," lists the projects included in or rejected from the cumulative effects analysis. The scoping presented in this table is highly inadequate, and *does not meet Attawapiskat's definition of what is "reasonably foreseeable,"* as detailed below:

The Blackbird, Big Daddy, Black Label, and Black Thor Mines are expected to proceed and must be retained in the cumulative effects "Projects Inclusion List"

It is unacceptable that mining deposits that have already been announced by mining companies as planned for development are excluded from the cumulative effects analysis. The Big Daddy Mine, the Black Label Mine, and the Black Thor Mine were identified in the Tailored Impact Statement Guidelines for inclusion in the cumulative effects analysis.

The proponent has chosen not to include them, stating in Table 10-1: "Not included in the cumulative effects assessment as it is a deposit and not an active project" (p. 819).

This rationale is contrary to the proponent's own cumulative effects methodology, which involves asking the following questions in the scoping of activities to be included in the analysis: "Do the projects overlap in the type of effects? Do the projects overlap in the timing of effects? Do the projects overlap in the location of effects?" (p. 122).

⁹ <https://www.northernontariobusiness.com/regional-news/far-north-ring-of-fire/province-needs-to-cast-the-net-wide-on-ring-of-fire-consultation-says-marten-falls-chief-10093709>

¹⁰ <https://www.matawa.on.ca/matawa-chiefs-council-challenge-premier-fords-indicatinos-of-first-nations-consent-on-the-am-can-fortress-strategy-our-land-is-not-for-sale/>

Certainly, in the case of the above-mentioned mining deposits, the proposed projects will overlap with the road projects in type of effects (overlap in impacts to rights, impacts to wildlife and species at risk, impacts to water, etc.), timing of effects (overlap in the timing of mine construction and operation with the operation of the all-season road), and the location of effects (overlap in the location of impacts to the Ring of Fire and James Bay lowlands).

The named chromite deposits have been announced by Noront (Wyloo) as mines it plans to develop once the Eagle's Nest mine has been built. In fact, Wyloo has stated in presentations to Mushkegowuk communities that once development of the Eagle's Nest Mine is complete, the first chromite deposit to be mined will be Blackbird, followed by Black Thor. All of the named deposits – Blackbird, Black Thor, Big Daddy and Black Label – are expected to proceed and are therefore reasonably foreseeable projects that must be retained in the cumulative effects analysis.

There is more than enough information available on the size of the named chromite deposits to make inferences about the ways in which chromium and other heavy metals in waste rock, dust, tailings, and tailings water might contaminate our lands and waters.¹¹ The contamination of soils, water and air from the mining and processing of chromite ore, along with the potential implications of chromite mining for human health, have been well described in the scientific literature. Again, all stages of the operation of the chromite mines must be considered. The smelting of chromite ore produces toxic dust and slag, with serious consequences for the environment. All of these impacts are part of the cumulative effect of the proposed road and must be described in the IS for the MFFN CAR.

Mining exploration has been ongoing for decades and must be retained in the cumulative effects "Projects Inclusion List"

The proponent has chosen not to carry forward ongoing mining exploration by Juno Corp. in the cumulative effects analysis, stating in Table 10-1: "Not included in the cumulative effects assessment as it is a deposit and not an active project" (p. 822).

The disturbance created by mining exploration has been ongoing for decades, and millions of dollars are invested in this activity every year. For the first half of 2024 alone, Juno Corp. budgeted \$3.5 million for geophysical surveys and exploratory drilling on its Ring of Fire claims.¹²

Impacts from mining exploration include the construction of helicopter pads, drill pads, drill holes, trails, camps, cut lines, sumps containing wastewater and drill cuttings, among other impacts. There is also considerable helicopter and snowmobile traffic causing sensory disturbance to caribou and other wildlife. We still do not know whether the human disturbance footprint can ever be recovered in our fragile mushkeg environment. It is therefore unacceptable that this impact is not included in the cumulative effects analysis.

¹¹ Mining Watch Canada reported as follows in 2012: "According to the Cliffs chromite project proposal, 6,000-12,000 tonnes of ore and 65,000 tonnes of waste rock will be produced per day. The operation's predicted tailings output would require an area of 250 hectares to contain it. An estimated 2,100 tonnes of slag would be produced per day by the ferrochrome plant, all of which would be cooled with water that will likely require treatment." Mining Watch Canada. 2012. *Potential Toxic Effects of Chromium, Chromite Mining and Ferrochrome Production: A Literature Review*. Available at: <https://miningwatch.ca/publications/2012/5/9/environmental-and-health-effects-chromium>

¹² Juno Corp., investor presentation, February 2024.

The proponent must gather data on the mining exploration footprint (including all the disturbance types listed above) from MINES, and include this in the cumulative effects analysis.

The transload facility, transmission line, and smelter must be included in the cumulative effects analysis

The railway transload facility, power transmission projects, and the smelter are specifically mentioned in the Tailored Impact Statement Guidelines' list of projects to be included in the cumulative effects analysis.¹³ Mines require a power source and a way to transport and process the ore that is extracted. These developments are therefore part and parcel of the operation of the Eagle's Nest Mine, which Wyloo expects to build as soon as the road is finished.

A smelter in the territory has been the wish of Marten Falls and Aroland since at least 2012.¹⁴ Ontario recently announced that it will support Aroland First Nation in acting as a proponent for the development of a transload facility and a host community for a smelter.¹⁵

As part of the same press release, Ontario announced "\$70 million to advance route and design planning of the Greenstone Electricity Transmission Line, working with Aroland First Nation, Animbiigoo Zaagi'igan Anishinaabek, Ginoogaming First Nation, Biinjitiwaabik Zaaging Anishinaabek, Bingwi Neyaashi Anishinaabek and Red Rock Indian Band."¹⁶

There is therefore no question that these activities are reasonably foreseeable and that they must be included in the cumulative effects analysis.

Aggregate mining and waste management activities must be fully explained and included in the cumulative effects analysis

The mining of aggregate for the road project is itself a massive undertaking that must be integrated into the cumulative effects analysis. On p. 134-135 of the draft IS, the proponent tells us that

Heavy machinery, such as drill rigs, aggregate production equipment, and explosives will be required to access and produce materials from the potential aggregate sites.

Construction activities will include drilling, blasting, crushing, screening, piling, loading, hauling, and stockpiling of overburden materials and timber.

Large-scale heavy equipment will be used to crush the aggregate to the desired size and the material will be stockpiled until it is needed.

On p. 435 of the draft IS, the proponent mentions that "concrete batch plants" will be operating at pits and quarries and that everything will be done in compliance with future environmental approvals. On p.471, the proponent notes that pits and quarries will need to be dewatered – a

¹³ IAAC, Tailored Impact Statement Guidelines for the Marten Falls Community Access Road, p. 138-139.

¹⁴ <https://www.canadianminingjournal.com/news/aboriginal-rights-marten-falls-and-aroland-first-nations-support-ring-of-fire-development/>

¹⁵ <https://news.ontario.ca/en/release/1005666/ontario-and-aroland-first-nation-sign-historic-agreement-connecting-roads-to-the-ring-of-fire>

¹⁶ <https://news.ontario.ca/en/release/1005666/ontario-and-aroland-first-nation-sign-historic-agreement-connecting-roads-to-the-ring-of-fire>

process that has generated a great deal of environmental concern for Attawapiskat First Nation in the context of the Victor Mine.

Table 7-1 (p. 125), the "Anticipated Components of the Community Access Road," lists 40 aggregate sites, and "borrow areas," as well as 28 ten-meter-wide roads to the potential aggregate sites. The gravel pits are expected to be permanent and supply aggregate for road grading during the operation phase (p. 142).

All project activities, including but not limited to pits, quarries, crushing facilities for aggregate, roads associated with the aggregate sites, and garbage dumps for construction waste and camp waste must be fully incorporated into the cumulative effects analysis.

The draft IS frequently cuts short descriptions of project activities and analyses of their impacts, saying that the activity will be designed later, that a management plan will be developed, and that the activity will have the required permits/authorizations and be subject to Ontario regulations (see for example, the discussion of Construction Waste on p. 140-141). We are told 7 times in section 14 that "the pits and quarries that are proposed through the Community Access Road will be subject to permitting requirements outlined within the *Aggregate Resources Act* and its regulations."

Beyond naming the activity, and noting standard mitigation measures (such as keeping the activity 30m from watercourses when possible), the proponent has not integrated these activities into the effects analysis, let alone the cumulative effects analysis. This is unacceptable. We cannot be left to wonder about the scope, design, and long-term impacts of the major industrial activities that are a part of this proposed road. We must be able to form a realistic picture of how facilities such as waste dumps, pits and quarries needed for the road contribute to cumulative effects – not to be told that plans, permits, and regulations will be applied later and that everything will probably be fine.

5. The cumulative effects analysis must include induced developments that are reasonably foreseeable. A cumulative effects analysis of this frontier-opening road project cannot be deferred to the Regional Assessment in the Ring of Fire.

We are concerned about the proposed road and its immediate impacts on wildlife habitat and our waters. But we are equally, if not more, concerned about everything that the proposed road would bring in its wake.

Our overriding concern is the fact that the MFFN CAR is not just any project. It is a frontier development. What we mean by this is that the road would open the door to regional development on a massive scale – a door that, once opened, can never be closed again.

Most of our territory has so far been untouched by industrial and commercial development, as well as non-Native settlement. It has remained relatively untouched because of the lack of road access. We know that an access road will very likely lead to the development of secondary road networks, hydroelectric projects, and transmission lines, the construction of outfitting camps, and the expansion of mining, forestry and other industries within the Ring of Fire and beyond into the James Bay lowlands.

To give an example of what we mean by this, Ontario Power Generation is already eyeing hydroelectric potential on the Kattawapiskak River and has publicly stated its interest in exploring these opportunities if an access road is built.¹⁷ This is just the tip of the iceberg of regional development that would be facilitated by an access road. Mining claims are expanding into the James Bay lowlands, as the hype around the proposed access road grows.

The Impact Assessment Act states that the Agency must consider “cumulative effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out.”¹⁸

In the May 2023, Policy Framework for Assessing Cumulative Effects under the Impact Assessment Act, “reasonably foreseeable” is defined as: “the physical activity is expected to proceed, e.g. the proponent has publicly disclosed its intention to seek the necessary impact assessment or other authorizations required to proceed.”¹⁹ We note that the wording of this definition uses “e.g.,” indicating that a proponent’s intention to seek regulatory approval is an example of what could be considered “reasonably foreseeable.”

While it is too early for mining proponents to announce their intent to seek regulatory approval, we all know that once an access road is built, many mines will be announced as moving forward, and it would be irrational and foolhardy for the regulators (MECP and IAAC) to not consider the full scale of intended development stemming from such an access road.

IAAC has said as much, in its August 9, 2024 letter to Attawapiskat First Nation, regarding the Northern Road Link. In that letter the Agency called for consideration of projects for which information is available but for which no concrete building plans or regulatory approval applications are yet in place:

The Tailored Impact Statement Guidelines (the Guidelines) for the Project align with the expectations for considering cumulative effects in a federal impact assessment. Recognizing the importance of project-specific context, Section 7.7 of the Guidelines outlines a minimum list of potential projects and project types for the Proponent to consider in scoping the cumulative effects assessment.

The Proponent must consider publicly announced future mining and development activities, which would be part of the induced development facilitated by the Project. This would include, for example, any hydroelectric opportunities in the Ring of Fire area, for which information is available.

The construction of an access road will lead to the construction of secondary roads and the expansion of various types of industry. This is a consistent pattern that repeats itself worldwide, any time an access road is built into a previously undeveloped area. In Eeyou Istchee on the east side of James Bay, for example, for every 1km of road developed for the primary purpose (access to hydroelectric developments), between 5 and 6km of secondary roads were built for

¹⁷ Ontario Power Generation. 2022. Made in Ontario Northern Hydro-Electric Opportunities. 66 pp. p. 29.

¹⁸ 2019 Impact Assessment Act, para. 22 (1) iii.

¹⁹ <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/policy-framework-assessing-cumulative-effects-under-impact-assessment-act.html>

²⁰ Cree Nation Government. 2011. Cree Vision of Plan Nord. p. 34.

forestry development which spurred a large expansion of the outfitting industry and mineral exploration activity – and this in a time frame of less than 50 years.²⁰

The issue of induced road development is especially important to consider in the Ring of Fire. Ontario MNRF scientists have warned that

Linear features were identified as the primary stressor for wildlife populations and communities in the Ring of Fire area. These features include primary access corridors (e.g., primary roads or railways), secondary and tertiary roads, and trails, utility lines, cut-lines (e.g., for geo-physical surveys), etc.²¹

Looking at comparable developments in areas with similar characteristics is a good way to capture the extent of reasonably foreseeable induced development.

Consider, for example, the 2004 Mackenzie Valley Environmental Review Board's *Environmental Impact Assessment Guidelines*, which state:

The Review Board will accept less detail and more predictive uncertainty the further in the future or the less certain the reasonably foreseeable development is. For example, a developer proposing a pipeline through a previously inaccessible area with little existing development should consider reasonably foreseeable future developments. That developer could determine what is reasonably foreseeable by looking at other comparable developments in areas with similar characteristics. If looking at similar cases indicated that a certain type and intensity of induced development routinely followed, then these types of induced developments should be considered reasonably foreseeable for the proposed development, even though no applications for them have been submitted. Relevant uncertainties (such as key differences between the proposed development setting and those of the case studies) should be made explicit.²²

As explained above, we are concerned about the cumulative effect of this frontier road project, that would open our territory to development and impact our rights for the rest of time. *The time frame and geographic scope of that concern must match the time frame and geographic scope considered in the cumulative effects analysis.*

The Tailored Impact Statement Guidelines advise the proponent that "Both the content and means of presenting this information [the cumulative effects analysis] is to be developed in consultation with each potentially impacted Indigenous group. Proponents must engage with and clearly document and incorporate the views of Indigenous groups in the cumulative effects assessment."²³

The IAAC requirement for a collaborative cumulative effects assessment is consistent with the duty to consult and accommodate that in this case is at the highest end of the spectrum.

²⁰ Cree Nation Government. 2011. Cree Vision of Plan Nord. p. 34.

²¹ Rempel, R.S., R.W. Mackereth, A.R. Rodgers, E.P. Iwachewski, P.D. Furlong, J.S. Hagens, J.L. Shuter, J.M. Jackson, R.S. Kushneriuk and D.J. McCormick. 2016. Support for development of a long term environmental monitoring strategy for the Ring of Fire area. Ontario Ministry of Natural Resources and Forestry, Science and Research Branch, Peterborough, ON. Science and Research Information Report IR-08. 34 p. + append. P. 17.

²² Mackenzie Valley Review Board, *Environmental Impact Assessment Guidelines*, 2004. p. 81-82.

Available at: https://reviewboard.ca/process_information/guidance_documentation/guidelines

²³ IAAC, *Tailored Impact Statement Guidelines*, Marten Falls Community Access Road, p. 137.

Considering the long-term effects of opening up the Ring of Fire and adjacent James Bay Lowlands to what will surely be multiple industries and multiple waves of development, our very survival as Omushkegowuk people is at stake.

6. Past forestry activity has been entirely left out of the cumulative effects analyses, and the impact of existing dams and diversions is left out of the water, fish, and land use analyses. This must be corrected.

In Table 10-1, p. 812, the proponent includes the Ogoki Forest Management Plans in the Project Inclusion List, but considers only ongoing and future forestry activity corresponding to the timeframe of the 2020-2030 ten-year management plan. This is unacceptable. Industrial forestry in the southern part of the MFFN CAR regional study areas has resulted in a dense network of logging roads and a legacy of impacts to land, water, and wildlife. These legacy impacts must be identified and incorporated into the cumulative effects analysis.

Furthermore, Appendix E (the project inclusions list) shows that the proponent only considered the Ogoki Forest Management Plans for the cumulative effects analysis of the Vegetation, Peatlands, and Land Use valued components, but not for any of the other Valued Components. It is incomprehensible why forestry would not be considered in an analysis of cumulative impacts to wildlife (including moose and caribou), surface water, and fish and fish habitat. Past, present, and future forestry activity must be considered in the cumulative effects analysis for all of these components.

It is truly perplexing to consider why the proponent chose to exclude the Ogoki and Long Lac diversions from the cumulative effects analyses of surface water, fish and fish habitat, and traditional land use (as indicated in Appendix E). Marten Falls First Nation members themselves told the project team that dams and diversions had significantly impacted water levels, fish spawning habitats, and land use (Table 8-2, p. 146; Table 11-8, p. 940). There is also abundant documentation that although these dams and diversions were built in the 1940s and 50s, the impacts to the Albany River system continue to this day. In 2005, Chief Eli Moonias of Marten Falls First Nation spoke of the loss of livelihood and economy caused by the loss of water, and the fact that “the Ogoki diversion dramatically affected whitefish and sturgeon populations in the Albany River, downstream from Waboose Dam.”²⁴ In 2020, Marten Falls Councillor Sam Achneepineskum told *Wawatay News* about the difficult travel conditions created by low water levels.²⁵ There is therefore no question that the Ogoki and Long Lac diversions are part of the cumulative loss to our Treaty 9 territory with repercussions that will overlap with those of the road and the development that is the intended outcome of the road. It is also a reminder of the enormous sacrifices that Treaty 9 rights holders have already made in loss of a way of life, to benefit industrial interests in the south.

²⁴ Annin, Peter. 2006. *The Great Lakes Water Wars*. Washington: Island Press. P. 135.

²⁵ Garrick, Rick. “Waterway diversion education important for youth.: *Wawatay News*, November 20, 2020. P. 14-15.

7. Our Indigenous knowledge is not being respected in this EA/IA process. Our ways of knowing and concerns about future development, water contamination, and wildlife are being forced into the check-boxes that make up the EA/IS process.

The draft IS contains numerous references to Indigenous principles, including the Seven Grandfather teachings.

Unfortunately, these concepts are being used by the proponent as window-dressing on a document that otherwise follows the standard, encyclopedic approach to impact assessment. We are presented with a draft IS in which land and water are broken down into little categories, and all impacts are construed as mitigatable and manageable through standard construction practices and future monitoring programs. As described above, we have also been informed by the proponent that any remaining impacts will be addressed through cash deals to mitigate the chronic underfunding of our communities.

The proponent and its consultants speak frequently about how the MFFN CAR EA/IA is an "Indigenous-led" process. The reality is that in the proponent's webinars, public meetings, documents and other statements, our people are being walked through the process by the proponent's project team. We are not in a leadership position and the issues that affect our way of life are being ignored.

This draft impact statement does not contain anything authentic about how our people think about the interconnectedness of what you term "valued components," including water.

Appendix E, the Project Inclusion List, tells us that *only three* past, present, and future projects are included in the cumulative effects analysis for surface water, groundwater, and fish and fish habitat (the Northern Road Link, the Anaconda and Painter Lake forestry road upgrades, and the Rapid Lynx Broadband project). As explained above, this limited approach to cumulative effects analysis has major gaps and is completely unacceptable.

The draft IS also excludes the Eagle's Nest mine from the cumulative effects analysis of water and peatlands, despite the Eagle's Nest mine being on the proponent's project list for the cumulative effects analysis. The decision not to bring the Eagle's Nest mine forward into the cumulative effects analysis for the water "valued components" is left completely unexplained, and is disrespectful of our people's enormous concern for the impact of mining – a planned outcome of the completion of the road – on ground water, surface water, fish habitats, and mushkeg. It appears that the proponent simply chose to ignore the previous feedback it had received from Indigenous peoples regarding the cumulative impact of the road and the Eagle's Nest Mine (see Table 11-9: Summary of Cumulative Effects Feedback and Consideration in Milestones 1, 2, and 3, p. 951-952).

Like many other Indigenous peoples in Canada, our Kattawapiskak people evaluate uncertainties, risks, and observed impacts in ways that do not fit neatly into project-specific, proponent-defined boundaries and timelines. Our deep concern about the cumulative impacts of the road – its induced, foreseeable impacts – to water flows and water contamination cannot be dismissed by simple assurances that best construction practices will be followed, that monitoring will take place, and that effects are "expected to remain manageable." These types of assurances ring hollow to our land users and do not fit with our actual experiences of industrial development.

The proponent appears not to be aware that First Nations, including Mushkegowuk Cree, take an inter-generational, holistic, and precautionary approach to understanding impacts that is well documented in reports and articles from across Turtle Island. The proponent needs to carefully study and meaningfully incorporate the findings of this literature into a revised IS.

In addition, the draft IS does not contain anything authentic about how our people think about cumulative effects.

The emerging consensus in the scholarly literature on impact assessment is that it is indefensible to restrict a cumulative effects analysis to only a set of short-term, most-likely future projects. Such a limited approach is simply incapable of developing reliable insight into the sustainability of the “valued components.” It is also incapable of capturing the scope of the concern our people have regarding cumulative impacts. An ambitious scoping process for issues to be included in the cumulative effects analysis is entirely possible and in fact supports the broader goals of environmental assessment as set out in legislation and policy.²⁶

Obviously, near-term predictions (mere months or a couple of years away) have relatively high confidence, whereas longer-term predictions (years and decades away) have relatively lower confidence and a wider array of potential pathways. The impossibility of predicting with certainty a particular outcome must not shut down our efforts to consider the impacts of induced development from the proposed MFFN CAR on the inherent and Treaty rights of Omushkeogwuk people. Regardless of the precise scenarios that will develop 10, 20, 50 or 100 years from now, all pathways of induced development have the potential for irreversible, long-term, significant impacts to our land, our people, and our way of life.

A cumulative effects analysis considering induced development must not be deferred to the Regional Assessment in the Ring of Fire. Ontario has made it abundantly clear that the main purpose of the road under consideration here is to open the region to development. Large-scale development is therefore the intended outcome of this road project; it is not simply a speculation whose analysis can be left for another time. It is vitally important to capture the full range of Mushkegowuk Cree concerns that speak to this intended development and the impact that various development scenarios would have on rights.

The plain-language summaries of the Draft Impact Assessment are disrespectful of the concerns of our people

As of today's writing, we still have not received Cree-language versions of 9 out of the proponent's 12 plain language summaries. Therefore, for most of the topics in the draft IS, we have only English-language summaries on hand, and most of our members are fluent Ininimowin (Cree, n-dialect) speakers. Moreover, the three Cree-language versions that we did receive were sent to us on June 3, 2025, which is 105 days into a 120-day comment period.

The lack of accessible documents for Attawapiskat is unacceptable and is not consistent with the duty to consult and accommodate. Your EA/IA process is proceeding according to legislated

²⁶ See for example: Mulvihill, Peter R. 2003. Expanding the scoping community. *Environmental Impact Assessment Review* 23: 39-49. and Duinker, Peter N. and Lorne A. Grieg. 2021. Scenario planning in cumulative effects assessment. In: *Handbook of Cumulative Effects*. Blakely, Jill A.E. and Daniel M. Franks, eds. Cheltenham UK and Northampton, Mass.: Edward Elgar Publishing. Pp. 92-105.

timelines; meanwhile, the Cree-speaking communities do not have access to the information they need to consider the project and its impacts to rights.

The plain-language summaries appear to have been hastily prepared, without attention to detail or regard to what community members might need to know about the project. In the pamphlet on Wildlife and Birds, the section on American Marten is illustrated with a photo of a European red squirrel. The section on Species at Risk Birds is illustrated with a photo of a chimney swift, which as the proponent writes on p. 286 of the draft IS, "Chimney swifts haven't been seen north of the 49th parallel and are not expected to be in the Project study areas. They were not found during field studies."

Furthermore, the treatment of cumulative effects in the English plain language summaries is so limited as to be practically useless. The cumulative effects descriptions in the summary pamphlets are just a few sentences long (four sentences in the case of Groundwater & Surface Water, Fish & Fish Habitat, and Wildlife & Birds). Much more information is required about cumulative effects and how the proponent came to the conclusion about minimal or manageable effects. Given all of the previous letters that Attawapiskat First Nation has sent on this topic, it should be clear by now that understanding cumulative effects is a very high priority for our people.

The section of the draft IS describing the cumulative effects assessment – Section 6.8 – makes an analogy to a family gathering in the woods, and other sources of noise that may overlap with that activity. This dumbed-down explanation of cumulative effects, which is repeated in the plain language summary, provides no real information on the proponent's approach to cumulative effects.


Regarding our above-stated concerns, please respond to us, and those copied here, as soon as possible.

Sincerely,

<Original signed by>

<Original signed by>

Chief Sylvia Koostachin-Metatawabin
Attawapiskat First Nation

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cc.

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