



# ATTAWAPISKAT FIRST NATION

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## SENT BY EMAIL

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

### **Re. Attawapiskat First Nation's Comments on the Marten Falls Community Access Road (MFFN CAR) proponent's "Aboriginal and/or Treaty Rights and Interests: Impact Assessment Report" (ATRI report)**

Attawapiskat First Nation is providing comments on the Marten Falls First Nation Community Access Road (MFFN CAR) proponent's "Aboriginal and/or Treaty Rights and Interests: Impact Assessment Report" (ATRI report) for Attawapiskat, sent to us by the proponent on July 10, 2025.

On June 11, 2025, and July 28, 2025, we provided preliminary comments on the proponent's draft Impact Statement (draft IS). The letter we are writing you today focuses on issues with the proponent's ATRI report. We remain deeply concerned by the proponent's characterization of the project's impacts to our land, waters, and inherent and Treaty rights.

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 below is a summary of our concerns.

1. **Without a cumulative effects analysis that respects the scoping outlined in our June 11<sup>th</sup> letter, the ATRI report produced by the proponent cannot be relied upon and must not be accepted by Canada and Ontario.**

Over the past several years we have advised the road proponent that we, Attawapiskat First Nation, will ourselves analyze the impacts of the proposed MFFN CAR project to our rights, once we have complete information on the cumulative environmental impact of the road to the Ring of Fire.

Unfortunately, the analysis of environmental impacts, including the cumulative effects analysis presented in the proponent’s draft Impact Statement (draft IS), is woefully inadequate, as outlined in our submissions of June 11 and July 28, 2025.

We advise Canada and Ontario that the proponent’s analysis of impacts to rights, as described in the “Aboriginal and/or Treaty Rights and Interests: Impact Assessment Report” is inaccurate and incomplete, and must not form the basis of decision-making by Ontario or Canada.

2. **Instead of considering how rights would be affected by the cumulative impact of the road, the proponent considers how rights would be impacted by the road in isolation, and only then carries that impact forward to an assessment that includes other projects. This approach is illogical and the reverse of what must be done to analyze impacts to rights.**

The proponent must take cumulative impacts to environmental components as a starting point for an analysis of impacts to rights. Instead, the proponent’s approach in the ATRI report, as well as in the draft IS, is to first filter out any impacts that are not caused by the road project in isolation. Once this filtering process is complete the proponent moves on to the cumulative impacts assessment. As a result, only one item is carried forward to the cumulative impacts assessment of rights, which is: “residual impacts on Attawapiskat First Nation’s right to hunt caribou for traditional purposes.”

This “residual impact” to rights to hunt caribou is then evaluated in the proponent’s cumulative effects analysis. The proponent puts forward the idea on p. 242-243 that the cumulative impact to rights to hunt caribou would be based on changes in distribution of caribou, such that hunters might sometimes encounter more, and sometimes fewer

caribou, while out on the land. This simplistic explanation of how caribou can be expected to respond to anthropogenic disturbance is a symptom of a deeply deficient cumulative effects analysis for caribou that is not based on the current science, and is not properly scoped, as outlined in our letters of July 28, 2025, and June 11, 2025.

**3. The proponent's analysis of impacts to rights stemming from the project's impacts to caribou, moose and wolverine is based on faulty impact analyses for these species.**

Please refer to our letter of July 28, 2025, for our comments on the inadequacies of the proponent's draft IS on caribou, moose, and wolverine.

Furthermore, impacts to rights stemming from impacts to fish and wildlife must start with a cumulative effects analysis of impacts to the species, as explained in point 2 above. The "residual impacts" approach taken by the proponent is puzzling, given that the proponent acknowledges on p. 222 that "a cumulative effect on an environmental, health, social, or economic component may be important even if the Project's effects to this component by themselves are minor."

**4. The proponent chose not to incorporate information provided by Attawapiskat First Nation that the full extent of the endangered Eastern Migratory caribou range must be included as part of the Regional Study Area for the analysis of impacts to Attawapiskat's Aboriginal and Treaty Rights and Interests.**

In the proponent's ATRI document for Attawapiskat First Nation, the proponent writes on p. 193 that

Attawapiskat First Nation requested that the James Bay Caribou Range as well as any other range that intersects with the Project to the Ring of Fire area be included in the Aboriginal and/or Treaty Rights and Interests Regional Study Area. Therefore, a separate Regional Study Area was established for the community which includes the James Bay and Missisa caribou ranges.

"Any other caribou range" includes the Eastern Migratory caribou, as communicated by our environment advisor, Dorothee Schreiber to the proponent on 7 November 2024:

Attawapiskat First Nation remains deeply concerned about the size of the study area you plan to use to evaluate impacts to Aboriginal and Treaty Rights and Interests (ATRI) in your impact statement. The discussion we had via Teams on 23 July 2024 has not allayed these concerns. ... We question why the James Bay caribou range and the eastern migratory caribou range that extends to its north is not included in this study area, given that eastern migratory caribou overlap with the woodland caribou in upriver areas in winter.

As we explained in our letter of July 28, 2025, on the draft IS for the MFFN CAR project, the eastern migratory caribou is essential to consider in the cumulative effects analysis of the proposed project. While ranging to the Hudson Bay coast to calve, this ecotype is highly reliant on inland areas, in and around the Ring of Fire and the proposed all-season road, for winter habitat. It also has unique sensitivities to disturbance and climate change. It is not acceptable to use woodland caribou as a stand-in for eastern migratory caribou in the impact assessment process. The ecotype-specific cumulative impacts to eastern migratory caribou must be included in any analysis of impacts to the rights and interests of Attawapiskat First Nation.

5. **The proponent's definition of Governance and Stewardship Rights fails to recognize Attawapiskat's decision-making governance authority over land and water ("Jurisdiction"). The sections of the ATRI report that refer to the exercise of Governance and Stewardship rights must be edited to reflect Attawapiskat's right of Jurisdiction.**

Under its valued proponent category of "Cultural Continuity and Well-Being," the proponent created the indicator: "Changes in ability to exercise governance and stewardship rights" (p. 35).

Our Governance and Stewardship rights encompass so much more than what is described by the proponent in section 5.7.4 (p. 184-185), where the proponent focuses on the Seven Grandfather teachings and their role in governing behaviour, ethical standards for harvesting, and family land use patterns. There is no mention in this section of the Treaty or the fact 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.

Specifically, the proponent must mention that Attawapiskat First Nation's rights in and to its territory within Treaty 9 are rights to a Way of Life which includes rights to use and occupy and connect to and protect the land, as well as rights to govern how the land is used, occupied and protected. These rights of decision-making governance authority over land are referred to as rights of Jurisdiction which is specifically pleaded in the case with court file number CV-23-00701700-0000. The Crown agreed in Treaty 9 to protect Attawapiskat First Nation's Way of Life which includes Jurisdiction, and to provide assistance to the Treaty 9 Nations including in respect of necessities of life that had already been diminished by settler encroachment.

We exercised Jurisdiction, as granted by the Creator, over our lands since time immemorial, and we still exercised this Jurisdiction at the signing of Treaty 9. Treaty 9 did not take away our Jurisdiction; instead, it resulted in there being de jure dual, shared

or co-jurisdiction as between the Treaty 9 Nations and the Crown over or in respect of the lands and uses of the lands – a sharing that has not taken effect to this day.

Our right to Jurisdiction centres around the power to make decisions and the power to choose – in other words, the power to consent or withhold consent to developments on our lands. The Crown must acquire our consent for any regulating of the land especially where it threatens our Kattawapiskak peoples' Way of Life. The proponent must correct the relevant sections of the ATRI report to reflect this information.

- 6. In view of the fact that Jurisdiction is an integral part of Attawapiskat First Nation's Governance and Stewardship rights, the Crown regulatory process the proponent is using to gain approval for the MFFN CAR is in clear violation of Attawapiskat's Governance and Stewardship rights.**

In considering the indicator "Changes in ability to exercise governance and stewardship rights," the proponent describes the potential MFFN CAR project effects as having no identifiable pathway to impact, while also providing the following three bullet points (p. 199):

The Project is being assessed through the federal Impact Assessment Act and the provincial Environmental Assessment, both of which are non-Indigenous governance and decision-making processes.

Wildlife, fish, and species at risk, including caribou, are currently regulated and managed by the federal and/or provincial governments.

Under existing governance structures, the assessment process itself and current management of wildlife fish, and species at risk reside with the federal and/or provincial governments.

The final bullet point provided by the proponent on p. 199 reads: "No Project impact pathway identified."

Given that Attawapiskat First Nation asserts rights of Jurisdiction as an integral part of its Governance and Stewardship rights, as described above, it is abundantly clear that the non-Indigenous decision-making institutions described in the proponent's list above, that are being used to push forward this project as part of Ring of Fire development, and that end in unilateral decision-making by the Crown government, are an infringement of Attawapiskat's Jurisdiction. The ATRI statement must be revised to reflect this "impact pathway."

**7. It is not the proponent's role to throw into doubt Attawapiskat First Nation's own assertions about where it exercises its inherent and Treaty rights, including harvesting rights.**

The "Area of Interest" defined by the proponent is the same as the territory outlined in the 2021 map of the territory submitted as part of an affidavit to the Province of Ontario, as mentioned on p. 192 of the ATRI report. This is the area in which Attawapiskat First Nation asserts its inherent and Treaty rights.

It is entirely inappropriate for the proponent to question whether Attawapiskat in fact exercises rights in that area, as the proponent does on p. 194 of the ATRI report, by stating:

... Attawapiskat may exercise rights related to hunting, fishing, trapping and harvesting within the Attawapiskat First Nation Regional Study Area. However, at the time of writing, Attawapiskat First Nation has provided limited information regarding their Aboriginal and/or Treaty Rights and Interests, therefore it is not certain which rights are exercised or where they occur. There is currently no information on travel routes, habitation locations (camps, cabins, historical village sites), and cultural, spiritual, and/or historical sites and areas used by Attawapiskat First Nation within the Attawapiskat First Nation Regional Study Area.

The above statement by the proponent suggests that Marten Falls First Nation believes it is in a position to decide where we exercise our inherent and Treaty rights. It also makes the false, colonially-inspired assumption that rights can be reduced to points on a map and that "blank spaces" in between those points are open for development. Let us be clear. Our inherent and Treaty rights are rights to a Way of Life through, in and on our territory, just as any government would have. It is deeply offensive to reduce Attawapiskat rights to pinpoints on a map. We will not be sharing any land use and occupancy data with the proponent.


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

Sincerely,

<Original signed by>

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Attawapiskat First Nation

<Original signed by>

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cc.

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