



MARTEN FALLS FIRST NATION #65

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July 3, 2026

Impact Assessment Agency of Canada
Attention: Nicholas Wawryk

Re: Response to June 3, 2026 Release of the Draft Impact Assessment Report and Potential Conditions for the Marten Falls Community Access Road Project

Dear Mr. Wawryk:

On behalf of the Council and membership of Marten Falls First Nation (MFFN), I am writing to provide our comments on the draft Impact Assessment Report and potential conditions of federal approval which the Agency released on June 4, 2026 and updated on June 22, 2026.

MFFN has four basic comments:

First, the draft IAR should be amended to address UNDRIP from the perspective of MFFN providing its free, prior and informed consent to this Project as the most impacted Indigenous people.

Second, the draft IAR and many draft conditions of federal approval should be amended to focus on effects which are not within Ontario's authority to assess and regulate so that the IAR for this integrated impact assessment process is not duplicative.

Third, for effects not within Ontario's authority, the draft IAR should be amended to provide a Nation-by-Nation description of First Nation rights and interests likely to be affected by this Project.

Fourth, for effects not within Ontario's authority, the draft IAR should be amended to provide additional details - effect by effect - on the Agency's new approach to assessing the significance of adverse effects and determining the extent of significant effects.

(1) The draft IAR should be amended to address UNDRIP and the UNDA from the perspective of MFFN providing its free, prior and informed consent to this Project as the most impacted First Nation

The draft IAR should be amended to address the most relevant right set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the related federal Act implementing UNDRIP (the "UNDA"). UNDRIP's most rigorous right is the right for the free, prior and informed consent (FPIC) of an Indigenous People.

This Project engages and satisfies UNDRIP's most rigorous right. MFFN is **the** Indigenous People in whose territory the Project will be located. MFFN is **the** proponent of this Project. Further, MFFN

has led a community-based environmental impact assessment to provide community consent for this Project. As such, consistent with Article 32 of UNDRIP (excerpted below), MFFN has exercised its right to determine and develop its priority and strategy for the development and use of its traditional lands to create new all-season access road.

UNDRIP Article 32

- 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.**
- 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.**

The draft IAR recognizes FPIC, but ignores the unique circumstances of MFFN. Instead of recognizing the situation of MFFN, the draft IAR groups MFFN with twelve other First Nations who are not in the same situation as MFFN.

MFFN also seeks amendment to the draft IAR to fully identify the many significant benefits of the CAR that are set out in the MFFN EAIS. The CAR will provide MFFN with its first-ever all-season road access connection to Ontario's highway system. It will fundamentally change access to our remote Reserve which is now inaccessible except by air during all but the coldest months of year where a winter road exists. All-season road access will be safer and more reliable. It will allow families to visit one another more easily, lower the cost of food, fuel and other supplies, and improve community services such as health, education, and wellness. These many benefits from the CAR will support and affirm MFFN's right to self-determination under Article 32(1) of UNDRIP.

(2) The draft IAR and draft conditions of federal approval should be amended to focus on effects which are not within Ontario's authority to assess and regulate, so that the IAR for this integrated federal-provincial assessment process is not duplicative.

MFFN agreed to undertake a full environmental assessment of this Project under federal and Ontario law in 2018. It commenced the Ontario EA and the federal IA in 2020. Throughout the years, MFFN has supported the two levels of government working together to carry out a rigorous assessment of this Project.

MFFN is thus very concerned that the draft IAR and the draft conditions of federal approval do not respect or implement a cooperative approach to assessing or regulating this Project. For MFFN, the strongest sign of cooperation would be no duplication in the scope of the federal and Ontario decisions or their conditions of approval. Matters within Ontario authority would be addressed by Ontario's decision and conditions of approval. The federal decision and conditions would focus on matters not covered by Ontario.

We do not see cooperation in the draft IAR or proposed conditions of approval. Instead, we see extensive duplication with Ontario EA matters and anticipated conditions.

The most important example of duplication is impacts on First Nations. More than 95 percent of the Project is on Ontario Crown lands. The Ontario EAA provides broad scope to assess and regulate all impacts on these lands. The lengthy process carried out by MFFN to obtain Ontario

EAA Terms of Reference (TOR) approval under the EAA engaged this broad authority. The TOR imposed major demands on MFFN to address all First Nation issues.

MFFN thus expected the draft IAR to acknowledge the lead role of Ontario for **all** impacts on First Nations. Instead, the draft EAIS ignores the role of Ontario and devotes extensive attention to these impacts as if the Ontario EAA did not exist. This surprises and concerns MFFN.

Our second example of duplication is caribou. Caribou are subject to Ontario authority on lands within Ontario other than federal lands. We thus expect Ontario to address all Project effects on caribou. Federal authority on endangered species such as caribou is limited to federal lands. As with other topics, the Agency's TISG gave no attention to the issue of caribou on the MFFN Reserve lands. MFFN is thus surprised and concerned that the draft IAR gives extensive attention to caribou on these lands.

MFFN is also concerned with how the draft IAR deals with cumulative effects. Ontario's approved Terms of Reference under the EAA required MFFN to address cumulative effects in relation to the Project as a whole and in relation to other future projects contemplated by Ontario to provide roads to the Ring of Fire and Webequie FN. MFFN addressed these effects in its EAIR.

MFFN seeks amendment of the draft IAR to note that the effects assessed as cumulative under the federal IA are effects of the off-Reserve Project and effects of other future projects contemplated by Ontario, all of which were all assessed and can be regulated under Ontario EA.

Overall, the draft IAR and draft conditions should be amended to not duplicate what is within Ontario's authority to regulate. This includes the following conditions (references to the June 22, 2026 version):

- Conditions 5.1, 5.2, 6.4, 6.5 and 6.6 purport to regulate air quality, dust emissions and noise through their impacts on the health of Indigenous peoples and the current use of lands and resources for traditional purposes.
- Condition 6.7 purports to regulate progressive reclamation of disturbed areas, including plant species, vegetation clearing and herbicide-use through their impacts on the current use of lands and resources for traditional purposes.
- Condition 6.9 purports to regulate setbacks and buffer zones around wetlands, riparian habitats and wildlife features of importance to Indigenous groups.
- Conditions 6.8 and 6.9 purport to regulate impacts to wildlife, including caribou, through their impacts on the current use of lands and resources for traditional purposes.
- Condition 7 purports to regulate areas of historical, archaeological, paleontological or architectural significance to Indigenous peoples.

(3) For effects not within Ontario's authority, the draft IAR should be amended to provide a Nation-by-Nation description of rights and interests likely to be affected by this Project.

For effects not within Ontario authority, MFFN requests that the draft IAR be amended to provide adequate information to support its many conclusions on how the CAR is likely to affect the rights of other First Nations.

For these effects, MFFN seeks these amendments to make the IAR consistent with the Agency's 2020 Tailored Impact Statement Guidelines (TISG). The TISG provide extensive details on the information required to address Indigenous rights. Two excerpts from the TISG are set out below.

TISG Excerpt #1

The Impact Statement must describe the proponent's analysis and rationale used to identify additional Indigenous groups that may be impacted by the Project or otherwise engaged on the Project. This analysis must include:

- the list of Indigenous groups potentially impacted by the Project;
- the source of information and analysis used in creating the list of potentially impacted Indigenous groups;
- a list of potential effects on the environmental, health, social and economic conditions of each Indigenous group, including sub-populations (e.g., Indigenous women and youth) that may be differentially impacted by the Project, and the predicted degree (e.g., high, moderate, low) of those effects and resulting impacts on the exercise of Aboriginal and Treaty rights;
- the rights of each Indigenous group, that the groups themselves have identified, that may be impacted by the Project; and
- the sources of information and analysis used to determine the extent of the potential effects on each Indigenous group.

The second excerpt below sets out the analysis required by the TISG.

TISG Excerpt #2

(1) " This analysis is to include, and not be limited to, the identification of potential effects and impacts, including impacts on the exercise of Aboriginal and Treaty rights and the identification of specific valued components where appropriate."

(2) " The analysis and responses are to include...but not limited to avoidance, mitigation or other measures to address potential effects or impacts on the exercise of rights of Indigenous peoples);

(3) " where potential impacts on rights of Indigenous peoples are identified, provide a description of how each potential impact would be avoided, managed, mitigated, or accommodated (and provide this information for each Indigenous group separately);

Thus, according to the Agency, the information required to address Aboriginal rights involves details on the following:

- (1) Identification of each affected Indigenous group (i.e., First Nation);
- (2) Identification of potential impacts on rights on each Indigenous group;
- (3) Identification of means to avoid, manage, mitigate or accommodate each impacted right; and
- (4) The sources of information used to determine the effects on rights.

The Environmental Assessment and Impact Statement (EAIS) prepared by MFFN addressed all the information required by the Agency and Ontario in its approach to Indigenous rights. As well, MFFN appended to the EAIS specific reports on Aboriginal and Treaty Rights and Interests (ATRI) for each of the 22 Indigenous communities potentially affected by this Project.

Some information in the ATRI reports is confidential and thus not available to be included in the IAR. However, amending the IAR to provide the specific information required by the Agency to address Aboriginal rights not within Ontario authority should not require the disclosure of confidential information.

(4) For effects not within Ontario's authority, the draft IAR should be amended to provide an effect-by-effect assessment of significance which makes clear the applicable criteria and which combinations of criteria make an effect significant or not significant.

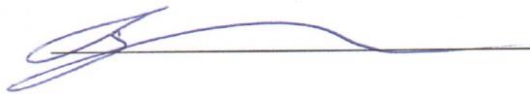
MFFN seeks amendments to the draft IAR to provide more information on its new approach to assessing the significance of adverse effects. This approach was not set out in the Agency's 2020 TISG or more recent Agency guidance to MFFN in 2025. As such, MFFN did not expect to see a new approach to significance in the draft EAIS. This new approach includes the use of several criteria to determine - in combination - what makes an adverse effect "significant." However, the draft IAR does not set out which combinations of criteria make an effect significant or not significant. MFFN thus seeks amendment to the IAR to provide these details.

The new approach also involves an assessment of significant effects to assess the "extent" of significance. Table 3 of the draft IAR characterizes effects as (1) Not significant, (2) Low extent of significance, (3) Moderate extent of significance, or (4) High extent of significance. MFFN seeks amendment of the draft IAR to explain how this new approach to significant effects avoids inconsistency with the approach used to determine significance in the first place. One example of concern to MFFN is how the new approach to assessing the "extent" of a significant effect avoids inconsistency with the criterion of "magnitude" which assesses whether an effect has "high", "medium" or "low" magnitude to determine whether an effect is significant in the first place.

Next Steps

As always, we would be pleased to sit down with you to discuss any aspect of this letter.

Miigwech



Chief Bruce Achneepineskum

cc. Bob Baxter
Lawrence Baxter
Robert Moonias
Qasim Saddique