



July 6, 2026

Impact Assessment Agency of Canada
Marten Falls Community Access Road Project
600-55 York Street
Toronto, Ontario M5J 1R7
Delivered via email: MartenFalls@iaac-aeic.gc.ca.

RE: Comments regarding the Marten Falls Community Access Road ("**MFCAR**" or "**Project**") Draft Impact Assessment Report ("**Draft Report**") (IAAC Reference No. IAC-IA-00075 / Project No. 80184)

On behalf of Eabametoong First Nation, I write in response to the Impact Assessment Agency of Canada's ("**IAAC**") Report regarding the MFCAR Impact Statement. As a neighbouring First Nation who stands to be significantly and permanently affected by the Project, we urge IAAC to better assess and explain its findings and conclusions with respect to the Project's impacts on our inherent, Aboriginal, and Treaty rights prior to a final decision.

1. Overview

Eabametoong has participated throughout the MFCAR impact assessment process and has submitted comments in response to both the draft and final versions of the proponent's Impact Statement. However, the assessment of the Project's impacts to our Aboriginal and Treaty rights and interests has been deeply flawed due to inaccurate assumptions about our Area of Interest, and delayed responses to our concerns.

As emphasized in our comments to the proponent dated December 15, 2025, the Draft Impact Statement and draft Aboriginal and Treaty Rights and Interests Report ("**ATRI Report**") were based on the false premise that the Taashikaywin Land Use Plan area represented the entirety of our Area of Interest. In fact, Eabametoong's Area of Interest / Territory overlaps significantly with the MFCAR Construction Disturbance Area, Local Disturbance Area, Regional Disturbance Area, and Moose and Caribou Study Areas of the Project (see Appendix "**A**").¹ The proponent responded to those comments only after the April 10, 2026, comment deadline on the final Impact Statement. Further, while the proponent committed to revising its assessment in the final ATRI Report, this was not provided until May 1, 2026, and the assessment of impacts to our rights and interests was not substantially revised.

Our members exercise hunting and harvesting rights throughout our Area of Interest, including at numerous traplines, fishing sites, and gathering areas. We have provided the proponent, Ontario and Canada with copies of our preliminary Indigenous Knowledge and Use Study ("**IKUS**") map and

¹ See also ATRI Report, pp 184, 185.

summary memorandum identifying sites and routes of importance to Eabametoong members (see Appendix “B”). However, the Draft Report does not appear to account for this information.

Eabametoong views the Draft Report to be fundamentally deficient. It fails to adequately assess impacts on our hunting and harvesting rights, relies on an artificially narrow geographic and temporal scope to minimize Project effects, understates the Project's role as enabling infrastructure for Ring of Fire and related mining development, treats our Indigenous Knowledge at best as secondary input rather than priority information, and reaches conclusions regarding impact significance that are not supported by the evidentiary record. Furthermore, there are serious procedural concerns that have not been addressed or remedied. Eabametoong respectfully requests that IAAC revise its findings and conclusions to better reflect our input and concerns prior to a final decision.

2. Project Purpose and Scope

Throughout the impact assessment process, there has been a fundamental and unresolved tension between the dual purposes of the Road, one of which is narrow, the other broad. The primary and narrow purpose is the construction and operation of a *community access road* that will promote economic development and opportunities and improve community health and well-being among primarily Marten Falls First Nation (“MFFN”) members.² This purpose is aligned with the approved scope of the Project. Its secondary purpose is to serve as a key infrastructure corridor, linking Ontario’s public highway system to the Ring of Fire, which will induce further mineral exploration and development as well as forestry and southerner access to resource harvesting and recreation.³ The proponent and IAAC selectively highlight each purpose to justify inevitable impacts to the environment and our section 35 rights.

Throughout the Impact Statement and the Draft Report, the proponent and IAAC repeatedly emphasize the narrow purpose of the Project – to serve as a community access road. This narrows the scope of effects that are considered Project-related. IAAC minimizes concerns about the narrow scope of the Project by insisting the broader, foreseeable impacts of induced developments and activities are thoroughly considered through a cumulative effects assessment. However, in your respective cumulative effects assessments, the proponent and IAAC rely on the narrow geographic scope of the Project and foreseeable projects, or the uncertainty of potential impacts, to downplay the potential impacts to section 35 rights.⁴

In contrast, when justifying impacts to section 35 rights, the proponent and Canada rely on the positive impacts of the Project as a community access road that will facilitate economic development for MFFN members in particular.⁵ The proponent also emphasizes the MFCAR is not simply a community access road, but has potential to promote economic development throughout the region.⁶ On balance, the implicit message of the Draft Assessment report is that economic

² Draft Report, p 3.

³ Impact Statement, pp ii-iii, 10.

⁴ E.g., Draft Report, pp 27, 60, 70, 81-82.

⁵ Draft Report, pp 128, 134-136.

⁶ E.g., Draft Report, p 128; see also Impact Statement, pp 490-491, 495, 507, 1347-1348, 1353.

benefits are found to outweigh potential negative impacts and infringements to constitutionally protected treaty rights.⁷

This selective approach creates a shield for the proponent and Canada to avoid rigorous consideration of the impacts of the Project as a narrowly construed community access road, while justifying any impacts in light of the public interest in economic development of what is now a pristine landscape.

3. **Application of UNDRIP**

In its revised Appendix O, the proponent added commentary on case law that emphasizes the burden on Indigenous people to specifically set out their rights and interests and explain how they may be impacted by a contemplated Crown action.⁸ Further, in a new Attachment B to the revised Appendix O, MFFN Chief Bruce Achneepineskum asserts that because the Project lies primarily within MFFN's Area of Interest, it should be subject to MFFN's exclusive free, prior, and informed consent pursuant to UNDRIP. Remarkably, Chief Achneepineskum implies that UNDRIP has no application to his neighbours such as Eabametoong on the basis we do not have credible rights and interests, and correspondingly, should be afforded consultation-level input at best.⁹

MFFN's position is problematic for two reasons. First, it was assigned the duty of objectively assessing potential impacts of the Project on neighbouring First Nations' Aboriginal and Treaty rights and interests. This evidently placed MFFN in a position of conflict, given its now clearly stated position that only **it** has the right to consent to or oppose the project pursuant to UNDRIP, and that only **it** has credibly asserted rights and interests within its area of interest. It is problematic for the Crown to rely on a proponent, with a clear interest in downplaying the rights and interests of First Nations who may compete with their own, to carry out delegated consultation with other First Nations.

Second, the proponent's position on UNDRIP and the credibility of our rights is morally and legally dubious. We recognize that MFFN is both the proponent and likely the most impacted First Nation of the Project. However, Eabametoong also holds constitutionally protected treaty rights to hunt, harvest, fish, trap, and gather throughout Treaty 9 and our Area of Interest which, as noted, overlaps with the applicable study areas. Further, our Treaty rights mutually attach to ecosystems and wildlife that are not contained to our respective areas of interest. Likewise, as acknowledged elsewhere by the proponent and IAAC, impacts of this Project will not stop at the borders of any one Nation's territory, particularly with respect to impacts on wildlife such as caribou and moose who avoid roads and may permanently alter their migration routes as a result of the Project, and downstream and cumulative impacts on our lands and waterways that may take decades to fully manifest.

There is no legal basis to argue that UNDRIP solely applies to a First Nation whose territory overlaps most significantly with the Project. As acknowledged in the preamble of the *United Nations*

⁷ Draft Report, p 136.

⁸ Appendix O, p 11.

⁹ Appendix O, Attachment B.

Declaration on the Rights of Indigenous Peoples Act, SC 2021, c. 14, “there is an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties, agreements and other constructive arrangements, and those treaties, agreements and arrangements can contribute to the implementation of the Declaration.” It is imperative that Canada consider and apply UNDRIP in a fair manner to all First Nations who exercise inherent, Aboriginal and Treaty rights that stand to be affected by the Project.

4. **Regional Assessment**

Eabametoong is one of 15 First Nations participating in the ongoing federal Regional Assessment in the Ring of Fire Area (“**Regional Assessment**”). The purpose of the Regional Assessment is to gather information and data; understand potential effects from past, present and future developments in the area; and inform and improve impact assessments.¹⁰ The Regional Assessment Interim Report was released in February 2026, and a final report is not expected until summer 2027.

Eabametoong, along with several other First Nations whose territories overlap or are near to the Ring of Fire, have called on Ontario and Canada to consider the interim findings of the Regional Assessment prior to any decision of the MFCAR in order to fulfill the purpose of the Regional Assessment. As noted, the MFCAR is not a standalone community road. It is also enabling infrastructure for potential mineral development in the Ring of Fire area. Eabametoong and its partner First Nations are participating in the Regional Assessment precisely to understand the cumulative effects of multiple existing and proposed developments in the Ring of Fire region—including the MFCAR, Webequie Supply Road, and Northern Road Link—before the roads are built. It is procedurally and substantively problematic — and contrary to the purposes of the Regional Assessment — to approve a project that is a foundational element of the development scenario being assessed before the assessment is complete.

Eabametoong respectfully requests that IAAC reconsider its position on the draft Regional Assessment Report and integrate its findings into a revised Draft Report, to be shared for comment with First Nations, prior to proceeding to a final decision.

5. **Impacts to Aboriginal and Treaty Rights and Interests**

Under Treaty 9, the Crown promised to preserve Eabametoong and other First Nations’ rights to hunt, trap, and fish throughout the treaty area, and to share jurisdiction over our territory. These rights are constitutionally protected, and any potential impacts must be assessed thoroughly to determine whether they constitute potential infringements, and if so, what accommodation measures must be provided to ensure any infringements are minimized, and preserve our preferred method of exercising our rights.

As demonstrated by our attached Area of Interest map as well as the IKUS map and summary memorandum, Eabametoong members exercise hunting, fishing, trapping and harvesting rights in the Albany River and Ogoki River watersheds and in the lands between these systems, and around the MFCAR corridor (see Appendix “B”). Our identity, culture, and way of life is deeply tied to these

¹⁰ <https://iaac-aeic.gc.ca/050/evaluations/proj/80468?culture=en-CA>

lands and waters – as self-described “River People”, the rivers and waterways have long served as our highways for us to navigate across our Territory. However, use of waterways for navigation and access to fishing and harvesting sites has become far more difficult due to the ongoing impacts of extensive hydroelectric development and climate change, the direct and cumulative effects of which have drastically changed and lowered water levels. While the harvesting of fish and wildlife continues to be of essential importance to our community – particularly walleye, goose, beaver, moose, caribou, and other furbearing species – our way of life is already jeopardized by existing environmental conditions and actions of the Crown.

We acknowledge that the final ATRI Report was revised based on our Area of Interest (not simply the Taashikaywin Land Use Plan area). However, the proponent’s analysis of residual impacts to our Aboriginal and Treaty rights and interests has not been substantively updated, as all predicted impacts are described as “low severity” and with “low” prediction confidence. We do not understand how the proponent reached these conclusions given its acknowledgement that our Area of Interest overlaps with the majority of the Construction Disturbance Area, Local Study Area, Regional Study Area, as well as the Moose and Caribou Study areas.¹¹

It appears the proponent relies on high uncertainty to claim the impacts to all identified rights-based Valued Components will be low in severity.¹² Specifically, the proponent cites “lack of available site-and area-specific location data and information” related to Eabametoong’s exercise of rights as a reason for low prediction confidence, particularly with respect to caribou, moose, fish, birds, trapping, and berry and plant harvesting.¹³ This is not in keeping subsection 6(2) of the *Impact Assessment Act* which requires that Canada apply the precautionary principle and promote cooperation with Indigenous peoples of Canada. The precautionary principle states that where an activity poses a risk of serious or irreversible damage, protective measures should be put in place even in the absence of certainty. By relying on uncertainty as a basis for predictions of low severity, the proponent inappropriately avoids a conclusion that the Project is likely to infringe our section 35 rights. Without a finding of potential infringement, the proponent also avoids the obligation to consult Eabametoong on meaningful accommodation and mitigation measures.

The Draft Report does not acknowledge or respond to these issues. Rather, the Draft Report primarily replicates the proponent’s findings that impacts to hunting and trapping, fishing and water, and our continued way of life are all “potentially low”.¹⁴ Identified impacts range from low to moderate on our rights to hunt and trap and to continue our way of life, and low with respect to the right to fish.¹⁵ While these effects are assessed to be generally more severe compared to First Nations whose preferred areas for the exercise of their rights have more limited overlap with the geographic scope of the project effects,¹⁶ the conclusions with respect to likelihood, geographic extent, duration, reversibility, community health and well being, and cumulative impacts are difficult to understand in light of IAAC’s acknowledgement impacts to wildlife. Without a more

¹¹ ATRI Report, pp 184, 185.

¹² ATRI Report, Section 7 and Table 7-3.

¹³ ATRI Report, p 194.

¹⁴ Draft Report, Table 5.

¹⁵ Draft Report, p 112.

¹⁶ Draft Report, Table 6.

detailed explanation from IAAC, Eabametoong strongly disagrees with these conclusions as they are not aligned with the evidence of potential impacts to our Aboriginal and Treaty rights, our way of life, and community well-being.

For example, IAAC finds the road may affect caribou by acting as a linear barrier to movement and fragmenting habitat.¹⁷ IAAC provides lighter treatment of impacts to moose, largely grouping it with other wildlife, but acknowledges the project will result in direct loss of habitat for moose.¹⁸ The Draft Report also acknowledges the road will likely disrupt wildlife migration routes and there will be a likely increase in non-Indigenous hunting and increased year-round pressure on wildlife.¹⁹

Presumably, its acknowledgment of permanent additional stressors on wildlife would have led IAAC to conclude that there are foreseeable and significant impacts to our Aboriginal and Treaty rights and interests. However, the Draft Report concludes that residual effects on wildlife will not be significant, and that “shifts in movement and migration patterns are not anticipated to extend beyond one generation.”²⁰ The conclusion regarding significance is not credible given the acknowledged likelihood of impacts, as well as our Indigenous Knowledge of wildlife sensitivity to roads and human activity. Further, the conclusion that impacts will not extend beyond one generation is not substantiated on any basis. It is difficult to understand how impacts could be limited to one generation given the proponent and IAAC acknowledge that MFCAR operations will last indefinitely with no plans for decommissioning, and the road will serve as a key infrastructure link that will likely induce extensive regional development.

IAAC’s residual impact determinations with respect to hunting and trapping, fishing and water, and our way of life are largely made based on ecological Valued Components and whether the Project activities, combined with proposed mitigation measures, will achieve a minimum level of acceptable sustainability. However, as we have repeatedly explained to the proponent, Ontario and Canada, this is not the correct legal test for assessing impacts on treaty rights. As confirmed by the Supreme Court of Canada, an assessment of environmental impacts is not the same as an assessment of impacts to section 35 rights.²¹ Even where there is likely to be no or insignificant environmental impacts from an activity, a distinct analysis is required to determine whether there may be impacts to Aboriginal and Treaty rights and interests.

The controlling question is whether Eabametoong members will be able to meaningfully exercise their Aboriginal and Treaty rights by their preferred methods of doing so. A finding that wildlife such as caribou and moose will remain above a minimum threshold of sustainability in the applicable study areas does not answer the question of whether the Project will impact our rights to hunt caribou and moose according to our preferred methods and cultural practices.

¹⁷ Draft Report, pp 31-32, 54.

¹⁸ Draft Report, p 55.

¹⁹ Draft Report, pp 57, 80, 88, 108.

²⁰ Draft Report, p 117.

²¹ *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at para 45.

For example, the proponent found a potential of low severity of residual impacts to caribou, moose, and fish;²² however, our members have stated they are likely to avoid hunting, harvesting, or fishing in certain areas due to proximity to the MFCAR, increased human activity in the area, and/or increased sensory disturbances such as noise and air pollution.²³ The fear of interactions with other tourists or harvesters, frustration and trauma caused by generations of harassment by the Ministry of Natural Resources and other Crown actors, and the resulting avoidance of these areas (noted in Eabametoong's submissions as well-used regions of the Albany and tributary watersheds) may result in much greater severity of impacts to our section 35 rights.

The Draft Report provides limited acknowledgement of this distinction. For example, IAAC acknowledges that several First Nations expressed concern that the Project may result in bioaccumulation of contaminants such as methylmercury in fish, presenting risks to safe consumption, leading to greater "reluctance to consume fish in waters that are understood to be hydrologically connected to the project".²⁴ However, the Draft Report does not consider similar avoidance of other lands, sites, waters, or species that we rely upon to exercise our section 35 rights and stewardship responsibilities.

6. Mitigation Measures

In its Impact Statement, the proponent failed to provide for meaningful mitigation measures to address identified impacts to our section 35 rights, instead relying largely on mitigation measures developed in relation to ecological Valed Components. All identified rights-specific mitigation measures merely defer to further engagement with Eabametoong post-approval, such as collaboration through an undefined environmental advisory committee, potential avoidance of construction during key harvesting periods, allowing community members to harvest berries and plants in advance of road construction where possible, and holding of a ceremony before construction activities begin.²⁵ The lack of certainty and robust analysis of these mitigation measures is a flaw of the Impact Statement. Even assuming the identified impacts are in the fact the only probable impacts, these mitigation measures still fall far short of a proper accommodation of Eabametoong's Aboriginal and Treaty rights and interests.

The proponent asserts that potential impacts to our rights are currently not well understood,²⁶ and certainty with respect to certain effects on wildlife such as caribou can only be achieved through monitoring.²⁷ Rather than rectifying this uncertainty prior in their assessment the proponent asks us to hope and trust that impacts will be low in severity, and that monitoring might be able to track impacts post-approval.

IAAC's proposed conditions are not a substantive improvement upon the proponent's proposed mitigation measures which are largely limited to monitoring of future impacts. Monitoring alone is not sufficient to mitigate impacts to our section 35 rights. By definition, monitoring is not a

²² ATRI Report, pp 194, 210, 218, 242-246 (Table 7-3).

²³ See Appendix B, Technical Memorandum, pp 2-3.

²⁴ ATRI Report, pp 75-76.

²⁵ ATRI Report, pp 206-207.

²⁶ ATRI Report, pp 211, 217.

²⁷ ATRI Report, p 234.

proactive measure – it is a reactive measure designed to track impacts to rights after they have already occurred.

Eabametoong supports the introduction of conditions establishing baseline consultation requirements, however, the minimum 30 day minimum for consultation is too short (section 2.2.2). 30 days is not a sufficient baseline for consultation processes linked to a project as extensive as the MFCAR, particularly during harvesting seasons and other busy periods for our Nation. Given our limited resources, a 60 day baseline would be more reasonable, and the proponent should be required to provide funding for Eabametoong's participation in any related and follow up consultation processes.

Eabametoong supports conditions aimed at limiting drugs and alcohol at job sites. IAAC should be aware that Eabametoong has banned alcohol on reserve, and has invested immense time, resources, and effort into enforcing this ban over decades. Further, we continue to work closely with Ontario and Canada to control the flow of illegal drugs to our communities. Work camps are well-known to be sources of alcohol and drugs, and regulators must ensure the proponent enforces a zero-tolerance policy. It is extremely concerning that IAAC proposes to limit the use or possession of drugs and alcohol only *during work hours* (section 5.1). We urge IAAC to revise this condition to prohibit possession of drugs or alcohol *at any time on job sites*. This will prevent employees from bringing banned substances to work sites near our communities and reduce the risk that these substances end up on reserves, or that our families will suffer from violence and social disorder related to substance use. Further, we request that IAAC require the proponent to implement road use and access controls such as checkpoints to limit members of the public bringing drugs and alcohol near our community by increased road access.

The lack of holistic understanding of Eabametoong wellbeing, health and socio-economic conditions is glaringly evident in Section 5 of your proposed conditions. This section is focused exclusively on worksite conditions, and not in consideration of the interconnected pathways for impacts from the MFCAR and induced developments to our members on-reserve and to membership living and harvesting throughout our Territory. To begin addressing this major omission in the IAAC conditions, Eabametoong requests a meeting to discuss what applicable conditions could be collaboratively developed with the proponent, Eabametoong and IAAC related to Canada's jurisdiction and responsibilities as our Treaty partner.

In addition, while we support conditions aimed at timely reporting of accidents or malfunctions, a 48-hour reporting period (Condition 9.3.2) is too long. We request that IAAC require the proponent to shorten the notice period to 24 hours after the detection of an accident or malfunction, and amend Condition 9.3.3 requiring submission of a report to IAAC no later than 30 days after an accident or malfunction. More timely reporting will ensure First Nations including Eabametoong are more up to date on incidents and can participate in project oversight in a more informed manner.

(a) Road Access and Use Controls and Restrictions

In our view, one of the most meaningful mitigation measures that could be introduced on the operation of the MFCAR is to control and restrict public access. Limiting or curbing public access as a condition of approval will be critical to protecting our Aboriginal and Treaty rights and interests.

Fort Hope and our Area of Interest are currently accessible only by air or winter roads. This geographic isolation protects the lands, waters, and wildlife that we rely upon to exercise our Aboriginal and Treaty rights. With limited exceptions, we do not yet compete with recreational hunting and fishing pressures seen in other parts of Ontario. The MFCAR will fundamentally and irreversibly alter this reality for our members.

The MFCAR will significantly increase year-round vehicular access to our Territory by non-Indigenous hunters and anglers. This is exactly the type of activity that the Crown promised to protect on our behalf. Recreational hunters and tourists will seek to exploit the lands, waters, and wildlife that our members depend on to maintain our culture and way of life. While this reality is acknowledged by IAAC,²⁸ it is dealt with superficially.

Western science and Indigenous knowledge have found significant differences in wildlife conditions and availability in areas inaccessible by roads, and areas accessible by roads. The proposed conditions do not include enough specific, binding, enforceable, and time-bound measures to monitor or constrain public access to areas and sites within our Territory that we rely on to exercise our Aboriginal and Treaty Rights.

IAAC proposes worker-specific restrictions (banning firearms for Project workers/contractors), however this applies only to the proponent's workforce, not the general public who will gain road access.²⁹ IAAC does not contemplate or propose any control measures such as gates, permits, or seasonal closures to limit public access to hunting and harvesting areas from the MFCAR. We cannot assume that all members of the public will abide by provincial permits or regulations that may restrict hunting, harvesting, and fishing in our Territory – additional barriers and control measures must be introduced as a project condition. We recognize that this is a shared area of jurisdiction with Ontario, and respectfully request that IAAC work with its provincial counterparts to introduce more robust conditions – whether through provincial or federal authorizations – in collaboration with the most impacted First Nations, including Eabametoong.

7. Conclusion

Eabametoong is deeply concerned about the findings and conclusions of IAAC's Draft Report. We are not opposed to the construction of a community access road to MFFN, but are opposed to a generalized analysis that downplays our concerns without rigorous assessment of our Indigenous Knowledge and Use. The Project will result in permanent changes to our Area of Interest – through direct impacts via construction and operation, and cumulative effects of induced development in the region – and these changes pose significant and irreversible impacts to our Aboriginal and Treaty rights. The permanence and scale of these changes and impacts demand a more rigorous assessment prior to a final decision.

Eabametoong requests that IAAC provide a written response that explains how it has considered our IKUS information in its assessment and how it plans to address our concerns raised in this letter and our previous submissions. We also request a meeting with IAAC as soon as possible to work

²⁸ Draft Report, pp 87-88.

²⁹ Draft Report, pp 56, 61-62.

through our concerns and requested revisions to the draft conditions for approval. This a reasonable request given the scale of the Project and its potential impacts, as well as its evident importance to the federal government.

Eabametoong remains prepared to work in good faith with IAAC, and looks forward to your timely response.

Sincerely,

<Original signed by>

Chief Solomon Atlookan,
Eabametoong First Nation

Cc

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