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**Comments on the Impact Assessment Agency of Canada's *Draft Agreement to Conduct a Regional Assessment in the Ring of Fire Area***

To Whom It May Concern:

This document represents MiningWatch Canada's comment on the *Draft Agreement to Conduct a Regional Assessment in the Ring of Fire Area*.

MiningWatch Canada's expertise comes from over twenty years of following mining in Canada and the activities of Canadian mining companies abroad. MiningWatch has carefully tracked plans for mineral development in the Ring of Fire from the time of the first claims being staked until now. We have also been deeply engaged with the Government of Canada in the development of the current Impact Assessment Act, and with Ontario, is trying to revise the province's inadequate environmental assessment for mines and smelters.

One year ago, we commented extensively on the Impact Assessment Agency of Canada's *Information Sheet: Planning the Regional Assessment in the Ring of Fire Area*. It is evident that every recommendation we submitted has been completely ignored by in the development of the Draft Agreement. We are, therefore, resubmitting our earlier comments (attached) in the hope that they will be considered in reviewing the draft agreement. We also have additional comments on the draft agreement.

***However, given that the process of negotiating the draft agreement excluded the region's First Peoples, and that they are similarly excluded from any significant role in the proposed governance of the regional assessment, we insist that rather than a revision of the draft agreement – even one that engages seriously and meaningfully with the recommendations that MiningWatch and many other knowledgeable and thoughtful intervenors have put forward – the regional assessment process must be restarted in order to make a serious attempt to fulfil Canada's obligations towards Indigenous peoples, including under the United Nations Declaration on the Rights of Indigenous Peoples, and undertake to co-design a regional assessment process that meets their needs and criteria and supports their self-determination.***

## **Specific comments on the *Draft Agreement***

### ***Governance***

We have called for a regional assessment that is co-designed with Indigenous authorities and therefore aimed at producing analysis that is useful to them in their planning and decision-making. That is not what the draft agreement represents, nor what it proposes, having been negotiated behind closed doors between federal and provincial authorities, and leaving the First Nations whose territory this is to participate as a mere interest group.

The draft agreement is a betrayal of the promises that have been made to the public and First Nations about the effectiveness of the new federal *Impact Assessment Act*, and a total capitulation to the interests of the mining industry. It has not been co-designed by First Nations authorities and communities, and it will not be a Regional Impact Assessment in any way. It will be – at most – a regional study of an area defined by its mineral claims.

Despite a preamble full of words like respect and reconciliation, the draft agreement dismisses the rights of the First Nations who depend on a healthy ecosystem in the region for their lives, and relegates them to the role of technical advisors. The governance of the regional assessment will be in the hands of the “unbiased” experts chosen by the federal and provincial governments, constrained by time and administrative restrictions placed on them by those governments.

### ***Goals and objectives***

From the perspective of what is required of a regional assessment generically, and what is required specifically in the context of the Ring of Fire, the draft agreement’s narrow focus on mining projects is completely inappropriate, and is analogous to looking through the wrong end of the binoculars. This is not meant to be “an assessment of the impacts of a potential cluster of mining projects,” but an assessment of the potential regional impacts of industrial development that may include mining. The prospect of a number of mining projects being proposed, or at least promoted, is certainly a motivation for a regional assessment, and obviously the RA may inform subsequent project assessments, but that cannot not be its sole or even its primary purpose. The draft agreement needs to propose setting out a range of possible – not even merely probable – development scenarios, which may or may not include various projects and their related infrastructure and activity, in order to assess their anticipated impacts, including cumulative impacts, potential safeguards and mitigation, etc.

It does not contemplate a “no mining” option at all.

By putting projects first, then looking at cumulative effects, and by identifying its goal as being “to enhance the effectiveness and efficiency of future impact assessments for these activities,” the draft agreement completely fails to address regional development dynamics, which is compounded by setting objectives that do not include identifying development scenarios in order to be able to analyse likely impacts, including cumulative impacts but also the potential for induced development and effects on non-mining development and land uses. The deliberate exclusion of road projects currently undergoing assessment further emphasises this blinkered approach. It should be possible for sophisticated government agencies to include these projects in the regional assessment without interfering with their duly constituted project assessment processes.

Additionally, the draft agreement further diminishes the purpose of the Impact Assessment Act by omitting any mention of sustainability criteria as a framework for analysis, or even identifying sustainability as a goal, instead focusing again on the “effectiveness and efficiency of future impact assessments” rather than the sustainability, or the effect on regional sustainability, of any actual development projects.

### ***Geographic scope***

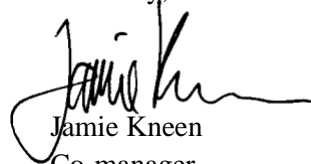
The proposed geographic scope of the regional assessment, a square box neatly encompassing the Ring of Fire mineral deposits, makes it unmistakably clear that this is an arbitrary definition, serving only mining interests and defined by mining claims, not by landscapes, ecosystems, or watersheds – nor by land use, specifically of the First Nations whose territory it is and whose Treaty and Indigenous rights Canada has a fiduciary responsibility to protect. The proposed assessment area excludes not just the currently proposed roads mentioned above, but all potential transportation and utility corridors, despite their regional as well as localised impacts. Nor does it acknowledge the potential for induced development, not just from mining projects, road access, and access to electricity, but the need for mined minerals to be processed and smelted in nearby centres, and the health, environmental, and sustainability implications of new or expanded smelter capacity and related activity. The geographic and temporal scope of the regional assessment, just as the scope of activities included in its ambit, need to be broad enough to at least provide the possibility of accounting for the range of cumulative synergistic and antagonistic effects of those activities.

We understand that the “assessment area boundaries” – a hard-sided box around the mineral claims – are not intended to limit the “study areas,” which could indeed be defined by watersheds, access corridors, animal migration routes, and First Nations’ cultural, commercial, and subsistence activities on the land. However, such criteria are not explicitly considered or included in the draft agreement, and are therefore likely to be extremely difficult for the Committee charged with defining the study areas to implement.

### ***Conclusion***

While we are astonished that the recommendations we, and many others, put forward in response to the *Information Sheet: Planning the Regional Assessment in the Ring of Fire Area* were paid so little heed in the development of the draft agreement, it is shocking that First Nations have been afforded just as little consideration in a process that they should have been engaged in co-designing and co-implementing as landowners and rights holders. We are therefore resubmitting our comments on the Information Sheet, but also advising that in light of the failure to engage properly with the affected First Nations, ***the regional assessment needs to be paused and a process put in place to co-design the review process with the First Nations*** and define the terms of reference based on that design.

Sincerely,



Jamie Kneen

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