



ATTAWAPISKAT FIRST NATION

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March 2, 2022

Honourable Steven Guilbeault,
Minister of Environment and Climate Change
House of Commons
Ottawa ON K1A 0A6
Email: Steven.Guilbeault @parl.gc.ca

Dear Minister Guilbeault:

Attawapiskat First Nation writes this letter in response to the Draft Terms of Reference for the Regional Impact Assessment (“RIA”) in the Ring of Fire. Our view, and the view of many other First Nations in the region, is that the RIA must:

1. Be co-developed, co-implemented and co-enforced (“co-led”) with affected First Nations;
2. Assess the potential cumulative effects of all development in and around the Ring of Fire in a comprehensive way, including all activities and the entire region; and,
3. Set a framework for making decisions about whether and how individual projects take place that is responsive to the info that data about cumulative effects.

Instead, we have watched as Canada and Ontario developed their own narrowly scoped, inadequate agreement and Terms of Reference behind the backs of First Nations. It only gives us a token role in the process. You purport to tell us – the only peoples who have ever lived and effectively governed the lands in the Hudson Bay Lowlands – how our lands will be investigated and how we will be involved. This is the epitome of paternalism and colonialism. This is unacceptable.

Our view is that the only way forward is to retract these Draft Terms of Reference and start again from the beginning, in partnership with the First Nations whose lands and/or rights are affected; who have the best knowledge about the lands, waters, plants and animals of the Hudson Bay Lowlands; and who will have to live permanently with the consequences of any development.

In insisting on a First Nations co-led RIA, we are not saying that Ontario must be excluded from the process. We are happy to work together with both Ontario and Canada on the one hand, and affected First Nations on the other, to build a robust regional assessment process. The Crown comprises half the lead (Canada and Ontario together), and affected First Nations the other half.

In this letter, we explain why the Minister must abandon the existing Terms of Reference and begin again, with reference to various pieces of information and evidence. This evidence does not include the knowledge and wisdom our many elders and land users since Covid and your timeline made it impossible to engage that way. But the issues are of such importance that we had to provide you with what we could – this situation is dangerous and urgent. And we know that your proposed

terms of reference are so fundamentally flawed that more time alone fixes nothing. Our comments on these Draft Terms of Reference should not be taken as condoning, accepting or approving your process – and, in particular the inadequacy of ‘seeking comments’ on Terms of Reference that were developed without us. We do not accept your process.

What follows is an outline of why the process you are embarking on is reckless, contrary to our rights as Indigenous people, and wrong, and what you can do to fix it.

1. ATTAWAPISKAT TERRITORY

We in Attawapiskat First Nation are Omushkegowuk people. Our territory stretches from the Kapiskau River in the south to Hudson Bay (Cape Henrietta Maria) in the north and westwards along Hudson Bay towards the Winisk River, and from Akimiski Island in the east to Lake Missisa in the west. Our people have travelled the rivers in this area, including the Attawapiskat, Kapiskau, Lake and Ekwan Rivers, since time immemorial.

Our territory includes portions of the Hudson Bay Lowlands – the largest peatlands in North America and one of the largest expanses of near-continuous peatlands in the world.¹ They are part of an interconnected landscape of ponds, water tracks and channel fens, streams and rivers that flow into Hudson Bay and James Bay.² Our Elders call this area the Breathing Lands because they are the world’s lungs. These lands play a critical role in global climate regulation.³ For example, western science suggests that the Breathing Lands store around 128 billion tons of carbon dioxide – around 175 years worth of Canada’s current annual emissions.⁴ They continue to suck additional carbon out of the atmosphere every year, absorbing an additional 12 million tonnes of carbon dioxide per year.⁵ The Breathing Lands are a critical defence against climate change.

Our territory also includes and lies downstream from the Ring of Fire. The rivers that are the heart of our territory and way of life will bring us into close contact with what happens in the Ring of Fire. The animals, plants and fish on which our way of life as Omushkegowuk people depend will be seriously affected by development there.

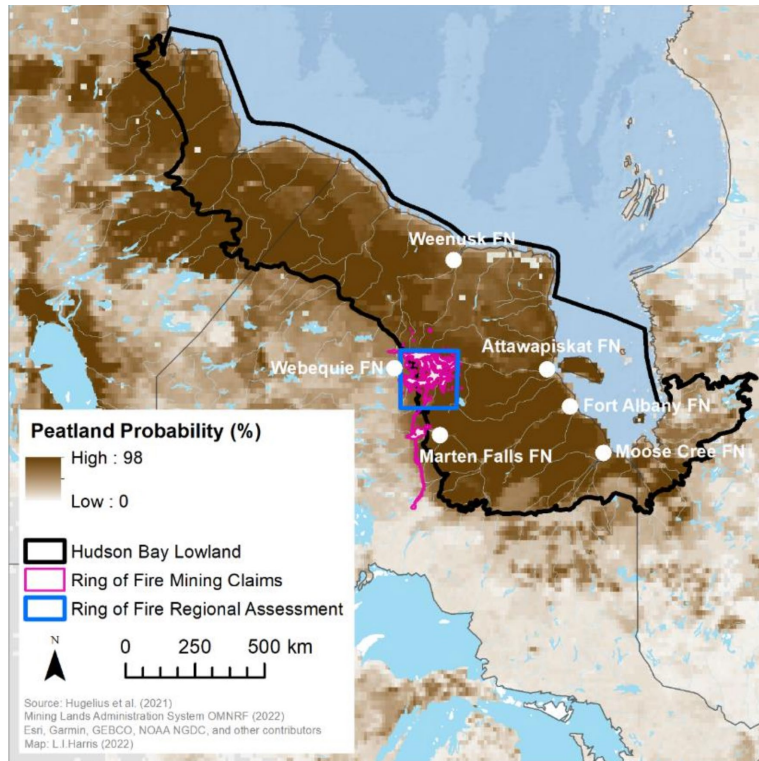
¹ Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 2

² Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 5

³ Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 7-8.

⁴ Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 8.

⁵ Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 17



Location of the Proposed Ring of Fire Mining Development in Ontario, including access and supply roads and peatland cover. Source data: Mining Lands Administration System (2022), Hugelius and others (2011), cited in Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 10

2. OUR DECISION-MAKING RIGHTS IN OUR TERRITORY

Attawapiskat, and other First Nations in the Ring of Fire, have inherent rights to make decisions about what happens on our territory. This is part of our inherent jurisdiction over our lands. These rights were not surrendered as part of Treaty 9. The effect of Treaty 9 was to allow the Crown and settlers (Canadians) to share our land. It did not give Canada or Ontario the right to make unilateral decisions about the how our lands and lives may be destroyed.⁶

One of our Elders, Gerald Mattinas, explained that our own law, our own ways, determine how we should care for our territory, including the Breathing Lands:

I was taught by my elders – my nimosôm, my grandfather, and my nohkom, my grandmother – about how we take care of the land in the Cree way. If you don’t live in a good way, you will have trouble later on.

There is a story I sometimes tell. When we came down the river, there were seven canoes of seven different families. One of the family members got mad when they saw a nest full of grouse. They set the nest on fire and the little baby grouse were

⁶ Janet Armstrong, “Attawapiskat Historical Report,” (2022), at p 91-93.

killed. Later, that family's house had a fire. I thought of it many times since. The reason why that happened is so we can teach the young about how to live in a good way. I tell people this story so they can understand that the land is so close to us. Everything on the land is ours.

[...]

We had leaders, head people. They thought about how we should take care of our camps, how we should clean them so that the bears and wolf and other predators would leave the camps alone, about forest fires, about things like that. These were the concerns of the leaders and they would talk to the other men and women about it. And our elders would talk to us. But everyone had roles to play in keeping the community well and protecting the land. Some people made medicine. Some people took care of the fire wood. Our community travels together, side by side like a pack of wolves, or like the seven canoes going up the river together. We have to look after one another. It's the same with our land.

It is important for us to be heard about our territory in the Ring of Fire. My experience has been that people listen to the proponents of these projects but they don't listen to us. We have to make sure we are heard this time. We want to be the ones that manage with our consent. If we don't, we are going to lose our territory. We have to care for the land.⁷

Our right to share in making decisions in our territory in accordance with our own laws and ways is protected by s. 35 of the *Constitution Act*, 1982, and by international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).⁸ For example:

Article 18 of UNDRIP provides that "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19 requires "States [to] consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them".

Article 25 provides that "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."

⁷ Statement of Gerald Joseph Mattinas, February 23 2022, at paras 19-22.

⁸ U N General Assembly, United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, available at: <https://www.refworld.org/docid/471355a82.html>. See also: *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, s 4; and *Impact Assessment Act*, SC 2019, c 28, s 1, preamble and s 6(2).

Article 26 states that “(1) Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. (2). Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. (3). States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 32 states that “(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; 3) States shall provide effective mechanisms for just and fair redress for any such activities and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Your government has enacted the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c14 and your government has therefore made legal commitments to follow and implement UNDRIP. Is Canada going to only implement this law when it is convenient to do so?

We and the other Mushkegowuk First Nations, as well as the Matawa First Nations, are the people who live in the Breathing Lands. We are the ones who have sovereignty there in every meaningful sense. We are the ones who care for this land. We are the ones who are directly affected by what happens to it. It is unthinkable – and unconstitutional - that any planning for, studies on or decisions about our lands would be made in Ottawa and Toronto without our co-leadership. This is especially so in an era of atonement for the violence and violations of centuries of colonialism – something your government calls “reconciliation”.

3. OUR HARVESTING AND OUR RELATIONSHIP WITH THE ANIMALS OF OUR TERRITORY

In addition to our right to make decisions about our lands and waters, we also have Aboriginal and Treaty rights to harvest the plants, animals, and fish of our territory in accordance with our own ways, and to preserve our harvesting-based way of life. This includes a right to a healthy environment in which to exercise our harvesting rights. These rights are protected in Treaty 9,⁹ and by section 35 of the *Constitution Act, 1982*.

Since time immemorial, our people have lived a harvesting-based way of life. We rely on the animals of our territory – the caribou, moose, beaver, otters, lynx, wolf, muskrat, weasels, fish and other animals – for our lives and our livelihood. We have laws and customs that govern how we take care of these animals, and when and where we harvest them. We still rely heavily on hunting and trapping for our way of life, including but not only on hunting big game like caribou and

⁹ See: Janet Armstrong, “Attawapiskat Historical report,”(2022) at p 75-91.

moose.¹⁰ Many of the animals on whom we depend for our way of life require large areas of undisturbed habitat and are sensitive to human disturbance,¹¹ including by roads.¹²

If development is allowed in our territory that affects the plants and animals on which we rely, it will be devastating to us as a people. Such impacts could and very likely would seriously interfere with the exercise of our Aboriginal and Treaty rights, our livelihood, our dignity, our cultural survival. The RIA is the key and only opportunity to understand the potential cumulative impacts of different development scenarios in the Ring of Fire on the plants and animals on which we depend.¹³ We must be in the drivers' seat to ensure the RIA gathers the right information and sets the appropriate frameworks to adequately protect our rights and our lives.

4. THE REGIONAL ASSESSMENT IS A CRUCIAL PROCESS

Development in the Ring of Fire is extremely risky business. For example, disturbing the peatlands – through the clearance of vegetation and the construction of mines and associated infrastructure – can trigger the release of the carbon that is stored there. It can trigger permafrost thaw.¹⁴ The effects of these disturbances are cumulative. Once peat is affected by one stressor, it is more vulnerable to other stressors, leading to a cascading and potentially unstoppable snowball effect of more and more carbon being released into the atmosphere.¹⁵

The climate and environmental effects of disturbing the peatlands are potentially devastating. For example, the mining claims in the Ring of Fire cover approximately 5120 square kilometers, which may contain up to 450 million tonnes of carbon. If only half of the peat carbon stored there were to be released into the atmosphere, it would total approximately 800 million tonnes of carbon dioxide – more than Canada's total human-caused greenhouse gas emissions for an entire year. In other words, developing the ring of fire risks doubling (or more) Canada's annual emissions.¹⁶ Canada has made global commitments under the Paris Agreement and other accords to drastically reduce its carbon emissions and not to drastically increase them. These commitments are being made by most other countries of the world – because they must be made, and then followed, if we are to avoid irreversible climate catastrophe and mass extinction events. Your government says it knows this.

How much and what kind of development in the Ring of Fire is safe from a climate perspective? Unless there is a comprehensive RIA co-led by First Nations that addresses this question from a

¹⁰ See, for example, the Statement of Gerald Mattinas, February 23, 2022 at paras 6-18.

¹¹ Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022) at p 11-13.

¹² Environment and Climate Change Comments on the Ring of Fire regional Assessment Draft Agreement/Terms of Reference (February 16, 2022), at PDF

¹³ See, generally: Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022).

¹⁴ Lorna Harris, "The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development," (2022) at p 14.

¹⁵ Lorna Harris, "The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development" (2022) at p 15-16.

¹⁶ Lorna Harris, "The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development," (2022) at p 17.

regional and global perspective and fully assesses cumulative effects associated with different development scenarios, it is impossible to know.

The removal and disturbance of peatlands can also reduce the storage capacity for clean freshwater within the affected watersheds, undermining water flow and/or quality downstream.¹⁷ We are the ones who live downstream from the proposed development and who stand to be affected by changes in water quality. As Indigenous people living in and around the Breathing Lands, we are also the only ones with the knowledge of how these water streams interact with the plants and animals in the region, and with our cultural practices.

What exactly is the risk of development in the Ring of Fire to our water and how can it effectively be managed so that the First Nations living in this territory do not suffer health risks and interference with our rights? Unless there is a comprehensive RIA co-led by First Nations that studies these issues from a regional perspective and fully assesses cumulative effects associated with different development scenarios, it is impossible to know.

Many animals and plants live in our territory and in the Hudson Bay Lowlands more generally.¹⁸ Some of these species are recognized by Canada and Ontario as species at risk, including caribou, wolverine, the southern Hudson Bay polar bear, and the southern Hudson-James Bay lake sturgeon.¹⁹ Many of these species are crucial to our harvesting practices. We are closely connected to them. We know their ways.²⁰ We do ceremonies and tell stories to honour them.²¹ We have a responsibility to care for them in our ways.²² Unlike us, western science does not know what is happening with the plants and animals in our territory. For example, there are huge gaps in western science's knowledge about the abundance, distribution and status of animal and plant species in our territory.²³ Our Indigenous science about these animals and plants, and how they thrive, is crucial to good planning and decision-making about what happens in the Ring of Fire.

What is the risk of development in the Ring of Fire to the plants and animals in our territory? What level of development and what kind of development is safe? Without a comprehensive RIA, co-led by First Nations that studies these issues from a regional perspective and fully assesses cumulative effects associated with different development scenarios, it is impossible to know.

Western science also has very limited knowledge about potential cumulative effects of land use, climate change and development on the Ring of Fire and Hudson Bay lowlands.²⁴ Our Indigenous

¹⁷ Lorna Harris, "The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development," (2022) at p 15.

¹⁸ Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022), especially at p 8-15.

¹⁹ Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022) at p 10-15.

²⁰ Statement of Gerald Mattinas, February 23 2022, especially paras 6-18.

²¹ Statement of Gerald Mattinas, February 23 2022, especially para 15.

²² Statement of Gerald Mattinas, February 23 2022, especially paras 15, 20, 21.

²³ Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022) at p 18.

²⁴ Cheryl Chetkiewicz, "Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat," (2022) at p 19.

science and knowledge is crucial here too. Again, without it, we cannot know what level of development and what kind of development in the Ring of Fire is safe.

The RIA is effectively the one chance to fill the existing gaps in (western) science, to understand the potential cumulative effects of different kinds of development in the region that includes the the Ring of Fire, and to use that understanding in the future to make *informed* decisions about what kinds of development can go forward and how.²⁵

We Oumshkegowuk have knowledge and wisdom borne of millenia of being in here in this part of the world, of caring for these lands. These millenia of successful adaptation and survival here have taught us not just factual knowledge but also systemic knowledge (wisdom) – how to apply the facts and how to systemically behave. This wisdom tells us we are all part of one whole, and each part depends on the others for sustained survival. If we take too much from our kin who feed and clothe us, we lose ourselves as well. We are in a better position to see, understand and apply knowledge about cumulative effects. We should be co-leading the RIA.

Without affected First Nations co-leading the RIA, it will fail to provide the information needed to allow for informed decision-making in the Ring of Fire. The result of reckless development will be devastating – to our territory, to the exercise of our rights, to our livelihood, and to our survival as a people – and maybe, due to role of the Breathing Lands in global climate, to your survival as well.

5. THE CURRENT TERMS OF REFERENCE ARE ENTIRELY INADEQUATE

The Draft Agreement between Ontario and Canada, and the Terms of Reference for the RIA, are fundamentally flawed. There are two serious problems. First, and most importantly, they give the Indigenous peoples who live on the land and know it best only a token role in the process. Second, they are narrow in scope – both in terms of the geographic boundaries of the RIA and the activities it includes. The only solution is to develop a new set of Terms of Reference in collaboration with affected First Nations.

A. Lack of Indigenous leadership

The single biggest problem with the Draft Terms of Reference is that they provide only a token role for First Nations. The process set out in the Draft Terms of Reference was unilaterally designed by Canada and Ontario, and would be unilaterally executed by them. Our only real role in the process they set out would be to provide information to the Committee undertaking the RIA. We would have no meaningful role in making decisions about how the RIA is conducted, what it studies, or what guidelines it puts in place for development in the Ring of Fire. This is unacceptable. It is inconsistent with our rights. And it will lead to a RIA that misses key information and thus fails to provide the tools needed to make informed, responsible decisions about whether and how development goes forward in the Ring of Fire.

We cannot accept any RIA process that occurs without the affected First Nations in a co-leadership role. Although we insist on First Nations co-leadership throughout the RIA (including its

²⁵ See the discussion in Cheryl Chetkiewicz, “Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat,” (2022) at p 18-28.

development, implementation and enforcement), we are open to working with both Ontario and Canada as part of such a process.

B. The Scope of the Terms of Reference

A second and related problem is that the Terms of Reference are narrow in scope. They exclude:

- ❖ Activities (like roads and other supporting infrastructure) that will certainly have an impact on the level of cumulative disturbance to the Breathing Lands and the cumulative impacts on the species that live there and on our rights;
- ❖ Geographic regions (like much of our territory downstream from the mineral deposits) that stand to be affected by developments within the Ring of Fire.

The very purpose of a RIA is to understand the potential cumulative effects from all the activities across the region. Roads are known to have significant impacts on the peatlands;²⁶ on wildlife like wolves, caribou and lake sturgeon;²⁷ and on contaminants that can affect human health.²⁸ Unless the RIA includes all roads, including the mining access road and the three segments it has been project-split into (including the Webique Supply Road, Marten Falls Community Access Road, and Northern Road Link) and other infrastructure in its assessment of its cumulative effects assessment and planning, it will necessarily miss a big part of the picture.²⁹

We also note that the exclusion of roads is inconsistent with the advice given by Transport Canada³⁰, Environment and Climate Change Canada,³¹ and even the Ontario Ministry of Natural Resources, Mines and Forestry.³² All of these agencies accept that all-season access roads are expected to be one of the main drivers of ecological impacts in the Ring of Fire.

The narrow geographic boundary of the Assessment Area is similarly unacceptable.³³ The proposed boundary excludes not only portions of the Ring of Fire itself but also most of the downstream areas of the watersheds that will be directly affected, including large portions of the

²⁶ Lorna Harris, “The Hudson Bay Lowlands: role in global climate regulation and the potential impacts of the Ring of Fire mining development”, (February 23, 2022) at p 12, 14-15.

²⁷ Cheryl Chetkiewicz, “Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat”, (2022) at p 11, 14, 15; Rempel et al, “Modeling Cumulative Effects of Climate and Developments on Moose, Wolf and Caribou Populations,” *The Journal of Wildlife Management* 85(7) 1355-1376 (2021).

²⁸ Cheryl Chetkiewicz, “Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat”, (2022) at p 6, 15, 16-17.

²⁹ Cheryl Chetkiewicz, “Cumulative Effects and Impact Assessment in the Hudson Bay Lowlands and Ontario Shield Ecozones near Attawapiskat”, (2022) at p 21-22; 24.

³⁰ Transport Canada has recommended that the geographic boundary of the Regional Assessment should include the full route of the three all-season roads being planned in the Ring of Fire Area: Transport Canada, Response to Federal Authority Advice Record Request, Regional Assessment in the Ring of Fire (January 22 2021) at p 5.

³¹ Environment and Climate Change Canada said that the three all season roads should be included within the scope of the Regional Assessment. Environment and Climate Change Canada, Response to Federal Authority Advice Record Request, Regional Assessment in the Ring of Fire (January 26, 2021) at p 20.

³² Ministry of Natural Resources and Forestry, Information Report IR-08, “Support for development of a long term environmental monitoring strategy for the Ring of Fire Area: Background documents, workshop report, pathway diagrams and indicators list” (2016) at p 17-18, 28.

³³ Draft Agreement to Conduct A Regional Assessment in the Ring of Fire Area, 2.0; Appendix A: “Regional Assessment Geographic Boundaries”

Attawapiskat, Kapiskau, Lake and Ekwan River watersheds that form the heart of our Territory. The way the RIA is designed does not require any consideration of the cumulative effects of different development scenarios on most of our territory. The discretionary “study areas” provided for in the Agreement do not and cannot substitute for a comprehensive, regional, watershed-based approach that looks at all affected areas in the region.

Finally, 18 months to conduct the entire RIA is simply too short of a timeline to allow for the kind of broad, thorough, co-led process that is required if the RIA is to result in any meaningful outcome. Rushing through this means that key information will be avoided, omitted or ignored, ensuring that the picture of cumulative effects will have more holes than substance.

The minerals are going nowhere and the stored carbon should go nowhere. Canada can and must take the time required to do the RIA right.

The best way to fix these fatal flaws is not to try to band-aid over them, but to start again, this time in *partnership* with affected First Nations.

6. THE WAY FORWARD

When I met with you alongside the Chiefs of Eabametoong, Neskantaga, Kashechewan and Fort Albany in January 2022, we told you that the Draft Terms of Reference are fundamentally flawed in their scope, purpose and legitimacy, and they cannot be fixed. Proceeding with a RIA on these terms will interfere with our constitutional rights, ignore our inherent jurisdiction over our territory. It will also lead to environmental effects that destroy our territories, devastate our communities and might tip the scales the wrong way in the desperate fight to push back catastrophic climate change.

But it is not too late to take a new approach. We ask that you retract these draft Terms of Reference, and decline to finalize this Draft Agreement with Ontario. Then, begin again a good way alongside the First Nations in the region. Make a clear commitment to have the RIA mutually and equally co-developed, co-implemented, and co-enforced with First Nations.

You can move forward with us by entering into an agreement with affected First Nations as an “Indigenous governing body” under the *Impact Assessment Act*, 2019. We First Nations will develop the appropriate governing body. Or you could work in partnership with us pursuant to your powers under s. 5 of the *Department of Environment Act*, RSC 1985, c E-10 to develop a robust RIA. You have all the legal tools you need and we do not accept any positioning by Canada that you do not.

We are ready to work together with Canada and Ontario as the Crown on the one hand, and we First Nations on the other, to ensure that the RIA is properly designed and carried out to give complete information about the potential effects (including cumulative effects) of different development scenarios in and around the Ring of Fire, and to set a comprehensive framework for decision-making about future development that protects our lands and rights, and protects all of us from the disastrous climate effects of reckless development.

7. MATERIALS INCLUDED FOR YOUR CONSIDERATION

We have assembled a package of materials to help you understand the position we have taken in this letter. We have attached a list of these documents as an appendix to this letter. We will

provide the documents listed there to the Impact Assessment Agency by email. We ask that you consider all these materials in making your decision whether to finalize the Draft Agreement and Terms of Reference.

8. CONCLUSION

We expect you to make a decision about how to move forward with an RIA that is justified, transparent and intelligible in light of the applicable law and the factual context of this decision. We believe we have given you the information needed to make a good decision on a matter that is of crucial importance to us and to other First Nations in the region. However, if you have questions about this information, or feel you need further information from us to make a decision that meets this standard, please reach out to us for further information and discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Nakogee', is written over a horizontal line. The signature is fluid and cursive.

Chief David Nakogee
Attawapiskat First Nation

APPENDIX 1: MATERIALS INCLUDED

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Environment and Climate Change Canada. 2020. Amended Recovery Strategy for the Woodland Caribou (<i>Rangifer tarandus caribou</i>), Boreal	11

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Letter, Minister Wilkinson to Chief David Nakogee, May 26, 2020 - Letter Re Webique Supply Road, Marten Falls Access Road, Proposed Regional Assessment for Ring of Fire	20
Letter, Minister Rickford to Chief David Nakogee, June 26, 2020 – March 2, 2020 Announcement about the Northern Road Link	21
Letter, Chief David Nakogee to Heather Nelson, December 15, 2021- Re IAAC to Attawapiskat First Nation – Invitation to Participate in collaborative assessment of impacts on rights	22
Letter, Amy Sen to Chief Nakogee, January 28, 2022 – Attawapiskat First Nation’s December 15, 2021, Responses to the Impact Assessment Agency of Canada Regarding the Anticipated Assessment Process for	23

the Northern Road Link Project and the Invitation to Participate in a Collaborative Assessment of Impacts on Rights Exercise	
Non-exhaustive list of other relevant correspondence with the Impact Assessment Agency regarding the Regional Assessment³⁴	
Letter, Grand Chief Solomon to the Honourable Jonathan Wilkinson, Minister of Environment and Climate Change Canada and David McGovern, President of IAAC, July 8, 2020.	
Letter, Wildlife Conservancy Canada to Debra Miles, January 20, 2021 – Re Information Sheet: Planning the Regional Assessment in the Ring of Fire Area (Project Reference Number 80468)	
Letter, Vern Cheechoo to Virginia Crawford, April 7 2021 – Mushkegowuk Council comments on Ring of Fire Regional Assessment (and enclosures)	
Letter, Chief David Nakogee, Chief Robert Nakogee, and Chief Wayne Moonias To Minister Wilkinson, June 10, 2021 – Demand for Reply regarding moratorium on developments related to the Ring of Fire	
Letter, Minister Wilkinson to Kate Kempton, June 11, 2021 – Re moratorium on development related to Ring of Fire	
Letter, Virginia Crawford to Chief Nakogee, June 14, 2021 – Response to Attawapiskat First Nation re moratorium on development related to Ring of Fire	
Letter, Virginia Crawford to Chief David Nakogee, Chief Robert Nakogee and Chief Wayne Moonias, June 22, 2021	
Letter, Sarah Beamish to Virginia Crawford, July 6, 2021 – Re First Nations Co-Leadership of the Regional Impact Assessment of the Ring of Fire,	
Letter, Chief Robert Nakogee to Minister Wilkinson, August 9, 2021 – Re Fort Albany First Nation and the Regional Impact Assessment of the Ring of Fire	
Letter, Ian Ketcheson to Chief Robert Nakogee, October 25, 2021– Re Fort Albany First Nation and the Regional Impact Assessment of the Ring of Fire	

³⁴ Attawapiskat can provide copies of this correspondence if necessary, although this correspondence is generally either to, from or copies the Impact Assessment Agency and so it is our expectation that the Agency already has it before them. Note that this is not intended to be an exhaustive list of relevant correspondence.

Letter, Kate Kempton to Premier Ford, November 18, 2021– Re Ontario’s Public Misstatements and Provocations about First Nations and Ring of Fire Development	
Letter, Chief David Nakogee, Chief Robert Nakogee and Chief Wayne Moonias to Premier Ford and Minister Rickford, November 29, 2021 – Re Ontario’s Public Misstatements and Provocations about First Nations and Ring of Fire Development	
Letter, Sarah Beamish, Kate Kempton and Daniel Cheater to Ian Ketcheson, November 29, 2021 – Re First Nations co-leadership of the Regional Impact Assessment of the Ring of Fire	
Letter, Charles Hookimaw to Minister Guilbeault, December 7, 2021 – Re Public Notice on the draft agreement to conduct the Regional Assessment in the Ring of Fire Area	
Letter, Sarah Beamish to Virginia Crawford, December 10, 2021 – Re Regional Impact Assessment of the Ring of Fire – Committee Nominations	
Letter, Sarah Beamish to Martyna Krezel, December 15, 2021 – Re Omicron variant and suspending deadline for comment on the Terms of Reference for the Regional Impact Assessment of the Ring of Fire	
Letter, Chief Nakogee to Anjala Puvananathan, December 15, 2021 – Re Notice of a Designated Project Under the Impact Assessment Act and Invitation to Virtual meeting with the Impact Assessment Agency of Canada – Northern Road Link Project	
Letter, Mike Kofahl to Impact Assessment Agency of Canada, December 20, 2021 – Request for Extension on Comment Period for Draft Agreement to Conduct the Regional Assessment in the Ring of Fire Area	
Joint Letter, Chiefs to Minister Guilbeault re Call, January 19, 2022 – Re Regional Assessment in Ring of Fire Area – Follow up on Zoom call	
Letter, Minister Guilbeault to Chief David Nakogee, Acting Chief Louie Sugarhead, Chief Robert Nakogee, Chief Gaius Wesley, Chief Wayne Moonias, January 28, 2022 – Follow up on Zoom call	
Letter, Minister Rickford to David Nakogee, Chief Robert Nakogee and Chief Wayne Moonias, January 31, 2022 – 774-2021-247	