



# Smith's Landing First Nation

P.O. Box 1470, Fort Smith, NT X0E 0P0  
Phone: (867) 872-4950 • Fax: (867) 872-5154

May 7, 2021

## VIA REGISTRY WEBSITE

Impact Assessment Agency of Canada  
Suncor Base Mine Extension Project  
160 Elgin Street, 22nd Floor, Ottawa ON  
K1A 0H3

Dear Sir or Madame:

**Re: Smith's Landing First Nation Comments on the Draft Tailored Impact Statement Guidelines dated February 26, 2021**

---

I write on behalf of Smith's Landing First Nation ("SLFN") in response to the Impact Assessment Agency of Canada's (the "Agency") request for feedback on the draft Tailored Impact Statement Guidelines dated February 26, 2021<sup>1</sup> (the "Guidelines"). SLFN wishes to participate in the Planning Phase by providing comments on the Guidelines to ensure that Suncor Energy Inc. (the "Proponent" or "Suncor") has a comprehensive foundation for preparing the Impact Statement which will consider and assess potential impact of the Suncor Base Mine Extension Project ("Project") on the environment and Aboriginal and Treaty rights. Unfortunately, SLFN's comments are limited in nature because the funding provided by the Agency was not enough to conduct a detailed review of all components of the Guidelines. Please find our comments below for your review and consideration.

### Comments on Guidelines

#### 1. Regulatory framework (section 3.3)

The Agency requires the Proponent to identify legislation and other regulatory approvals that are applicable to the Project at the federal, provincial, regional and municipal levels.<sup>2</sup> We request that the Agency revise this section to list the specific legislation and require the Proponent to complete a concordance table indicating how the applicable legislation were considered rather than leaving identification at the discretion of the Proponent.

---

<sup>1</sup> Impact Assessment Agency of Canada, Suncor Base Mine Extension Project, *Draft Tailored Impact Statement Guidelines Pursuant to the Impact Assessment Act*, February 26, 2021, IAAC Doc No. 78 [Guidelines].

<sup>2</sup> Guidelines, at s. 3.3, p. 5.

## 2. Indigenous knowledge considerations (section 6.1)

It is important to ensure that the Guidelines clearly articulate that the impacts assessment must consider more than biophysical environmental impacts on current use of lands and resources for traditional purposes. An assessment of impacts must consider any changes to an Indigenous community, effects on ability to transmit knowledge and changes to the landscape. Irrespective of the absence or presence of a biophysical feature an Indigenous group's ability to continue their way of life may still be adversely impacted by the Project. This requires Suncor to fully engage with Indigenous groups to understand their perspective. Part of understanding the Indigenous perspective may require Suncor to consider Indigenous developed methodology to assess impacts. As such, we request that the Agency include a requirement that the Proponent must consider Indigenous developed methodology to assess Project impacts or the outcome of such assessment, if requested by an Indigenous group during the review process.

The Proponent should also be required to refer to any guidance documents prepared and provided by an Indigenous group, such as engagement policies or protocols, and Indigenous knowledge disclosure and confidentiality policies.

## 3. Record of engagement (section 6.2)

We request that the Agency revise this section to require the Proponent to provide each Indigenous group a copy of their respective record of engagement for review and verification within a reasonable timeframe before the Impact Statement is finalized. Indigenous groups must be given the opportunity to confirm whether the record is accurate and if not, the Proponent must be required to revise the record accordingly. Otherwise, the record may not reflect both parties' understanding of engagement.

## 4. Analysis and response to questions, comments, and issues raised (section 6.3)

As mentioned above, the Impact Statement should consider and assess impacts and effects of the Project on Aboriginal and Treaty rights through the lens of the respective Indigenous group as much as possible. This requires close collaboration with Indigenous groups who wish to participate in the impact assessment process. Collaboration may require the Proponent to use, consider or incorporate the Indigenous groups own methodology to assess the Project.

In addition, we request that the Agency add the following items to the list of requirements outlined at page 15 of the Guidelines:

- describe the potential cumulative impacts from past and current projects and other activities that have diminished the ability of an Indigenous group to exercise Aboriginal and Treaty rights;
- describe the potential negative impacts of the Project on Indigenous groups' way of life and patterns of activities in accordance with Indigenous laws and stewardship norms;
- describe any potential adverse downstream impacts of the Project on Indigenous groups;
- consider and incorporate Indigenous knowledge, spiritual practices, cultural beliefs, laws and norms in the assessment, including whether the Project would be inconsistent with Indigenous laws and norms;

## 5. Selection of valued components (section 7.2)

This section lists six species of importance as identified by Indigenous groups that should be treated as valued components (“VC”), including moose, beaver, marten, ducks and fishers.<sup>3</sup> We caution the Agency from limiting the VC’s as this could misdirect the Proponent in identifying culturally significant species for the Project assessment. It is our position that species should be identified using functional food webs for aquatic, wetland and terrestrial habitats for each geographic area within the regional and local study areas based on local Indigenous Knowledge as the species of importance vary based on ecosystem and traditional use activity. The following are some examples of species of importance that should be verified by Indigenous group: caribou, bison, moose, beaver, lynx, marten, mink, wolverine, whooping cranes, sandhill cranes, ducks, grouse, geese, swans, eagles, songbirds and shorebirds, bats, black and grizzly bears, fishers, muskrat, otter, whitefish, sucker, pike, walleye, aquatic invertebrates (non-species specific), clams, frogs, cattails, mint, rat root, willow, labrador tea, blueberry, cranberry, birch, poplar and spruce.

The Guidelines should also include the following VC’s for ecosystem functions of Indigenous importance: health of the land, biodiversity and abundance. Further, the Guidelines provide little direction on the VC’s for social determinants of health. As such, we request that the Agency include the following social determinants of health: income and social status, employment and working conditions, education and literacy, childhood experience, physical environments, social supports and coping skills, healthy behaviours, access to health services, biology and genetic endowment, gender, culture and race/racism.<sup>4</sup> In addition, the Guidelines should indicate that each of the following assessments be undertaken to support the assessment of VCs: biophysical, ecological risk, human health risk, and health impact.

## 6. Spatial and temporal boundaries (section 7.3)

The spatial boundaries currently identified by the Proponent and referenced in the Guidelines are inaccurate and are not representative of how the environment interacts.<sup>5</sup> In particular, the boundaries identified for air modelling and aquatics have been arbitrarily proposed in the Detailed Project Description<sup>6</sup>. The Supreme Court of Canada (“**SCC**”) in *Reference re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 (“Reference Decision”) has recently held that climate change caused by greenhouse gas emissions is an “existential challenge” and “[i]t is a threat of the highest order to the country, and indeed the world”.<sup>7</sup> The SCC has recognized that pollution to air and water originating outside provincial or territorial boundaries can cause damage within them. Noteworthy, the SCC recognized that “climate change is causing significant environmental, economic and human harm nationally and internationally, with especially high impacts in the Canadian Arctic, in coastal regions and on Indigenous peoples” and threatens the “ability of Indigenous communities to sustain themselves and maintain their traditional ways of life”.<sup>8</sup> SLFN has experienced the impacts of transboundary air and water pollution. We are a downstream Indigenous community whose traditional land use and exercise of Aboriginal and Treaty rights are impacted by changes to air quality, surface water quality and hydrology from oil sands

---

<sup>3</sup> Guidelines, at s. 7.2, p. 19.

<sup>4</sup> Government of Canada, Social determinants of health and health inequalities <<https://www.canada.ca/en/public-health/services/health-promotion/population-health/what-determines-health.html>> retrieved March 29, 2021.

<sup>5</sup> Guidelines, s. 7.3.2, pp. 21 and 22.

<sup>6</sup> Suncor, Detailed Project Description Summary, IAAC Doc No. 65.

<sup>7</sup> *Reference re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 [Reference Decision], at para. 167.

<sup>8</sup> *Reference Decision*, at para. 187.

development in northern Alberta, including the emission of chemicals to air and the Lower Athabasca River and water withdrawals.

As such, we strongly urge the Agency to amend the Guidelines to require the Proponent to reassess the proposed local and regional study areas and spatial and temporal boundaries by considering relevant provincial and federal mapping resources and in consideration of the *Reference Decision*. The spatial and temporal boundaries must consider potential transboundary impacts to water and air from the Project, particularly, those areas of concern to SLFN. The geospatial database for which Suncor is required to present the study area boundaries should be developed by referencing base layers and methods provided by the provincial government<sup>9</sup> and the traditional territories of Indigenous communities. The following are some examples of base layers published by the government of Alberta that should be used to geospatially reference the Project, and to identify the boundary conditions of the impact assessment and modelling exercises: Alberta Table of Formations,<sup>10</sup> Hydrological data,<sup>11</sup> A digital inventory of the soils in the Alberta Oil Sands Environmental Research Program study area,<sup>12</sup> Biophysical data,<sup>13</sup> Wildlife sensitivity maps,<sup>14</sup> and Land-use/Land-cover data.<sup>15</sup>

## 7. Groundwater and surface water (section 8.5)

We request that the Guidelines be revised to require the Proponents assessment of surface water quality, groundwater quality and fish and fish habitat to consider and comply with the *Fisheries Act*, RSC 1985, c. F-14 (“**Fisheries Act**”), including any existing or future regulations.

The government of Alberta (“**Alberta**”) has identified several gaps in provincial policy as it relates to mine water releases to the ambient environment. In addition, the federal government has not released a regulation for release of oil sands mine water to the ambient environment under the *Fisheries Act*. Due to these gaps in policy and regulation, several technical and policy working groups have been established. As a member of the provincial Oil Sands Mine Water Science Team, Oil Sands Reclamation Interest Group, and Oil Sands Mine Water Effluent Regulation Crown Indigenous Working Group, SLFN is aware of the need for operational oil sands mines to decrease tailings and processed water inventories to ensure successful and progressive reclamation of oil sands mines, and provincial and federal initiatives to develop regulations for the treatment and potential release of oil sands mine water. These initiatives must be considered in the Proponent’s Impact Statement to ensure assessments are reflective of the current and future regulatory requirements and that proposed Project operations and closure will be in compliance with applicable regulations under provincial and federal legislation.

---

<sup>9</sup> Alberta, Alberta Environment, *Compiling a Geospatial Database of Existing Oil Sands Industrial Features for Alberta Environment* (Edmonton), online: Alberta Environment

<[https://www.isprs.org/proceedings/XXXVIII/part1/02/02\\_02\\_Paper\\_171.pdf](https://www.isprs.org/proceedings/XXXVIII/part1/02/02_02_Paper_171.pdf)>.

<sup>10</sup> Alberta Geological Survey, Alberta Table of Formations (8 May 2019), online: Alberta Energy Regulator <<https://ags.aer.ca/publication/alberta-table-formations>>.

<sup>11</sup> Alberta, Hydrological data, online: Alberta <<https://www.alberta.ca/hydrological-data.aspx>>.

<sup>12</sup> G. Soundarapandian et al, *A digital inventory of the soils in the Alberta Oil Sands Environmental Research Program study area* (2019) Northern Forestry Centre, online: Natural Resources Canada <<https://cfs.nrcan.gc.ca/publications?id=39761>>.

<sup>13</sup> Alberta, Biophysical data, online: Alberta <<https://www.alberta.ca/biophysical-data.aspx#jumplinks-0;%20https://www.abmi.ca/home/data-analytics/da-top/da-product-overview>>.

<sup>14</sup> Alberta, Wildlife sensitivity maps, online: Alberta <<https://www.alberta.ca/wildlife-sensitivity-maps.aspx>>.

<sup>15</sup> S. Chowdhury et al, *Land-use/Land-cover Classification of the Athabasca Oil Sands Surface Mineable Area of Alberta, Derived from 2017 Sentinel-2 Multispectral Data*, online: Alberta Energy Regulator <<https://ags.aer.ca/publication/dig-2019-0020>>.

## 8. Human health conditions (section 9)

This section does not contain a sufficient amount of detail for the Proponent to complete a proper health impact assessment. In particular, the social determinants of health description at subsection 9.2.2 is insufficient and as such, we recommend that the Agency require Suncor to use the following guidance document: *Canadian Handbook on Health Impact Assessment, Chapter 5: Aboriginal Health and Traditional Knowledge*.<sup>16</sup> The Agency should also consider referencing previous health reporting conducted in the region for Suncor to consider when establishing baseline health conditions for Indigenous groups, such as:

- The Wood Buffalo Health and Data Summary Report;<sup>17</sup>
- The Alberta Health Database; and<sup>18</sup>
- The Alberta Congenital Anomaly Surveillance Report.<sup>19</sup>

## 9. Economic Conditions (section 11)

The Guidelines must require the Proponent to conduct an economic assessment on the market volatility, along with the impacts to liability and mine finance security for reclamation of the proposed Project. This request is based on the recent actions of Alberta and the Alberta Energy Regulator which have identified that the current calculation used to collect mine financial securities for reclamation under the Mine Financial Security Program are sensitive to market fluctuations and as such, the calculation has been modified for 2021 and require review because “[e]xtremely low oil prices in 2020 reinforced problems with the program’s formula.” The program was never designed for the drastic swing in oil prices that the oil sector experienced in 2020. As a result, “Alberta is making a change in the interim to the calculation while the review is underway to ensure security amounts align with the intent of the program”.<sup>20</sup>

Until such a time that a functional system ensures securities to cover the cost of reclamation liabilities for oil sands operators is in place, the Proponent must be required to present multiple economic assessments which include high, low, and average oil price scenarios in the Proponent’s Impact Statement so that the review panel can understand the economic viability and liability associated with the proposed Project.

---

<sup>16</sup> Health Canada, *Canadian Handbook on Health Impact Assessments: Volume 1: Basics, Chapter 5: Aboriginal Health and Traditional Knowledge* (Nov 2004), online: Health Canada <<http://publications.gc.ca/collections/Collection/H46-2-04-343E.pdf>>.

<sup>17</sup> Alberta Health Primary, Community and Indigenous Health, Community Profile: Wood Buffalo excluding Fort McMurray Health and Data Summary, 3<sup>rd</sup> Ed, March 2017 <<https://open.alberta.ca/dataset/62df29fc-7d98-4893-b6ce-1d03def3740e/resource/eb2ad230-b15f-480f-852f-95e0fadcd361/download/phc-profile-wood-buffalo-2017.pdf>> retrieved March 29, 2021.

<sup>18</sup> Alberta, Interactive Health Data Application < [http://www.ahw.gov.ab.ca/IHDA\\_Retrieval/selectCategory.do](http://www.ahw.gov.ab.ca/IHDA_Retrieval/selectCategory.do)> retrieved March 30, 2021.

<sup>19</sup> Alberta Health, Analytics and Performance Reporting Branch, Alberta Congenital Anomalies Surveillance System: Eleventh Report, 1997-2014 (March 2017) <<https://open.alberta.ca/dataset/f8b42b59-ffc6-4b34-9156-27d832bb781c/resource/8bc10915-2fa5-4ccd-8522-a70a132f3feb/download/congenital-anomalies-report-11-2017.pdf>> retrieved March 30, 2021.

<sup>20</sup> Government of Alberta, Government news, Financial deposits for reclamation work under review, May 6, 2021 < <https://www.alberta.ca/release.cfm?xID=7810596FE35ED-C572-CED2-1715FDFECBA79492> >

## 10. Indigenous peoples (section 12)

Section 12 of the Guidelines need to include more robust requirements for assessing impacts of the Project on Indigenous groups, particularly considering the SCC's recent holding in the *Reference Decision* that climate change is causing significant impacts on Indigenous groups. The Agency needs to revise this section to require Suncor to gain an understanding of historical and current cumulative effects on Indigenous groups' culture and way of life, and their ability to exercise Aboriginal and Treaty rights before assessing the Project effects. The Project must be considered in the context of the historical and current cumulative effects that have an impact on an Indigenous community's ability to exercise their Aboriginal and Treaty rights, and continue their way of life, along with the extent to which the exercise has already been diminished. Interferences to an Indigenous group's culture and way of life may include impacts from other projects or activities, government legislation or regulation, and other historical interferences such as residential school. The Proponents must recognize when setting the baseline conditions for current use of lands and resources (ss. 12.2), health, social and economic conditions (ss. 12.3), and rights of Indigenous peoples (ss. 12.4) that the current conditions are likely not at an optimal state.

While we appreciate that the Agency is encouraging the Proponent to work with Indigenous groups who have expressed an interest in drafting relevant portions of the Impact Statement, the list of potential topics available to Indigenous groups focuses on current site-specific impacts only.<sup>21</sup> First, this section needs to be revised to consider cumulative impacts as mentioned above. Second, Indigenous groups drafting ability needs to extend beyond site-specific impacts to include broader impacts, such as disruption to preferred ways of transmitting and continuing culture and practices. We strongly encourage the Agency to amend the list to reflect a broader understanding of impacts on Indigenous groups. In addition, Indigenous groups should be given the opportunity to review and provide comments on the information that will be considered by the Proponent prior to submission of the Impact Statement.<sup>22</sup> Otherwise, the assessment may fail to capture a holistic understanding of potential impacts of the Project on Indigenous groups.

The Proponent is currently only required to work collaboratively to identify preferred means to mitigate impacts<sup>23</sup> and describe such proposed mitigation and enhancement measures in the Impact Statement<sup>24</sup>. However, the Guidelines do not require the Proponent to identify and consider means to avoid impacts, where possible. We request that the Agency amend the Guidelines to require the Proponent to consider avoidance measures, where appropriate and reasonable in the circumstances.

## 11. Ecological Risk Assessment (new section)

SLFN requests that the Guidelines be revised to address potential risks to the environment and ecological receptors from chemical exposure related to the Project. This would require the Agency to remove health risk components from various aquatic, wildlife and bird specific biophysical and habitat assessments outlined at section 8 and create a new section for undertaking an Ecological Risk Assessment (“**ERA**”) for the receptors identified by Indigenous groups and identified in the biophysical/habitat assessments. This request arises out of past experience with impact assessments of oil sands projects that assessed ecosystem components independently making it difficult to understand potential ecological risks from the proposed project within the natural

---

<sup>21</sup> Guidelines, at s.12.1, pp. 79-80.

<sup>22</sup> Guidelines, at s.12, p. 78.

<sup>23</sup> Guidelines, at s.12, p.78.

<sup>24</sup> Guidelines, at s.12.5, p. 86.

environment in which various abiotic and biotic components of aquatic, terrestrial and wetland ecosystems intersect.

Ecological species of interest to Indigenous peoples and the fish, bird and wildlife species assessed in the biophysical/habitat components of the Guidelines should be assessed for potential health risks using methods described in federal Ecological Risk Assessment Guidance Document.<sup>25</sup>

#### 12. Remediation (new section)

The Agency must amend the Guidelines to include a separate section for remediation and assessment of mine waste during operations and closure phases of the Project following relevant provincial and federal contaminated sites policy and regulations under the Alberta *Environmental Protection and Enhancement Act* (“**EPEA**”) and *Canadian Environmental Protection Act* (“**CEPA**”) and tailings management under EPEA. The Proponent must be required to identify contaminated material created by the Project which may require remediation or treatment prior to release or use in reclamation/closure landscapes. This assessment must precede and inform reclamation components within the Guidelines and inform several sections including the ERA, Human Health Risk Assessment and Health Impact Assessment.

#### 13. Project design

We request that the Agency amend the Guidelines requiring Suncor to present the results of a Best Available Technology and Options Analysis for the Project design, including the technology proposed for extraction, processing, storage and effluent production. In addition, Suncor should incorporate study findings to propose best mining practices for minimizing environmental and human impacts.

#### 14. Upgrader Operations

Finally, the Guidelines must be amended to require the Proponent to assess the impacts of the bitumen upgrader (“**Upgrader**”) located at the Base Plant facility, including emissions as the Project will extend the operational lifetime and magnitude of emissions from the Upgrader.

While this is an approved emission source for the existing operations, the Project will extend the operation of the Upgrader by decades, and the emission of chemical constituents directly to the ambient air and the accumulation of industrial wastewater and mine water which will be released off site in the future. Unless the Proponent can provide quantitative data which clearly indicates that the processing of the bitumen extracted from the Project at the Upgrader will not extend the (a) length of time emissions are released (b) volume of emissions (c) volume of accumulated industrial wastewater; and (d) accumulation of tailings, then the Upgrader must be considered as a Project activity. A 5% change from current year or multi-year base plant specific trend in air emissions, tailings and wastewater accumulation could be used as the criteria for establishing change from base plant.

### **Conclusion**

Thank you for taking the time to review and consider our comments on the Guidelines. We hope that our comments will help shape the Guidelines into a comprehensive guidance document for

---

<sup>25</sup> Canadian Council of Ministers of Environment, Ecological Risk Assessment Guidance Document (2020) < [https://ccme.ca/en/res/eraguidance\\_e.pdf](https://ccme.ca/en/res/eraguidance_e.pdf)> retrieved March 29, 2021.

the Proponent to follow when developing the Impact Statement as we want to ensure that the impacts of the Project on the environment and our Aboriginal and Treaty rights are meaningfully considered and assessed.

Sincerely,

A handwritten signature in blue ink on a light green rectangular background. The signature reads "Gerry Cheezie" in a cursive script.

Chief Gerry Cheezie  
Smith's Landing First Nation

CC: Council, SLFN  
Becky Kostka, Lands & Resources Manager, SLFN  
Megan McConnell, Rana Law

*We, the Tthebatthi Dēnésulīné, have been sovereign since time immemorial. Together, we will continue our journey in harmony with the environment to sustain a healthy and self-sufficient lifestyle for future generations. To honour our Creator and ancestors, we will protect and nurture the integrity of our Dēné Ch'aní.*