



SAMSON CREE NATION CONSULTATION

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August 23, 2021

Without Prejudice

Impact Assessment Agency - Prairie and Northern Region
Suite 1145, 9700 Jasper Avenue
Edmonton, Alberta T5J 4C3

Attention: Allisson Lefebvre
Senior Consultation Advisor

Dear Allisson Lefebvre:

Re: Response to Impact Assessment Agency of Canada's Correspondence

I. Introduction and Overview

Thank you for your letter from August 3, 2021 in which you indicate that the Impact Assessment Agency (Agency) is commencing the process for reconsideration further to the Federal Court's July 19, 2021 order in its decision of *Ermineskin Cree Nation v. Canada (Environment and Climate Change)*, [2021 FC 758](#) (the "**Reconsideration Process**").

I also want to acknowledge that the Agency is seeking information on the potential effects of the proposed Phase I Vista Test Underground Mine and Vista Mine Phase II Expansion Projects (the "**Physical Activities**"). I understand that this information will inform the Minister of Environment of Climate Change Canada decision on whether the Physical Activities should be designated pursuant to subsection 9(1) of *the Impact Assessment Act*.

As your letter indicates, the Physical Activities would be located within our territory. In particular, the Physical Activities would be located in and around the Eastern Slopes region, which is a culturally and ecologically important area to Samson Cree. Given its importance, Samson Cree commissioned cumulative effects assessment reports that, among other things, assess the current state of affairs of the Eastern

Slopes region.¹ We have shared these reports with the Government of Canada including ECCC, Natural Resources Canada and the Canada Energy Regulator through various federal environmental assessment processes and Crown consultations since 2018.²

Samson Cree is one of four Makwacîs governments, along with Ermineskin Cree Nation, Louis Bull Tribe and Montana First Nation. At this time, I write on behalf of Samson Cree to raise our concerns with the current timelines for submitting comments on the Reconsideration Process and the Physical Activities.

As set out below, I request that the Agency, as the coordinating body, extend the timelines for submitting comments on the Reconsideration Process and the Physical Activities.

II. Discussion

Currently, Coalspur Mines Limited (Coalspur) and Samson Cree are set to discuss, among other things, the Physical Activities. Assessing the Physical Activities' potential beneficial and adverse impacts on our inherent and Treaty No. 6 rights, and our community, will require meaningful engagement with Coalspur. As such, more time is required in order to allow these discussions to occur.

These discussions will in turn dictate, in fundamental ways, our comments on the Reconsideration Process and the process for grappling with issues impacting Samson Cree's Inherent and Treaty No. 6 Rights. I understand that the Reconsideration Process will follow the guidance from the Federal Court and will move forward by engaging in meaningful, specific and focused dialogue with potentially impacted Indigenous groups on the Physical Activities. As part of this work, I invite you to explain the Reconsideration Process more fully and the Agency's plan to incorporate Indigenous Knowledge in respect of the Physical Activities into its recommendation to the Minister of ECCC. Again, Samson Cree believes that more time is required.

Samson Cree's request for more time is further supported by Canada's overarching commitments to reconciliation with Indigenous peoples, including:

- the acknowledgement in [Canada's Principles respecting the Government of Canada's relationship with Indigenous peoples](#), that meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources
- the [United Nations Declaration on the Rights of Indigenous People Act](#), which affirms that the UN Declaration applies to the laws of Canada (including the obligation in Article 19 of the Declaration to obtain the free, prior and informed consent of Indigenous peoples "before adopting and implementing ... administrative measures that may affect them")

Accordingly, there is a clear legal and policy basis, to grant Samson Cree's request for additional time.

III. Closing

¹ According to the British Columbia Supreme Court decision *Yahey v. British Columbia* ([2021 BCSC 1287](#)), the Crown has an obligation to assess cumulative effects of development on Indigenous rights, specifically historic treaty rights. This decision has broad implications on the issue of cumulative impacts and treaty infringement across Canada.

² See: *Samson Cree Nation Cumulative Effects Assessment: Updated Analysis for Selected Valued Components Specific to the Edson Mainline Expansion Project* (January 9, 2020). A hyperlink provided [here](#).

The Agency is required to “prepare a recommendation for the Minister that will be informed by science, Indigenous and community knowledge, input from the proponent and consultations with other jurisdictions, as applicable.”³

The Agency will be unable to execute this role if it does not ensure that Samson Cree has sufficient time to engage Coalspur on the Physical Activities prior to responding to the Agency’s questions set out at pp. 2 – 3 of your August 3 correspondence.

As such, for these reasons, Samson Cree requests that the Agency extend the timelines for submitting our comments on the Reconsideration Process and Physical Activities until we are able to conclude our discussions with Coalspur.

I look forward to continuing to work with the Agency on the Reconsideration Process and Physical Activities through additional meaningful engagement.

Sincerely,

<Original signed by>

Councillor Laurie Buffalo, Consultation Chair

cc: Chief Vernon Saddleback
SCN Council
SCN Consultation Committee
Ms. Kyra Northwest, SCN Consultation Office
Ms. Kaylyn Buffalo, SCN Consultation Office
Mr. Kennedy A. Bear Robe, Counsel to Samson Cree Nation, Gowling WLG (Canada) LLP
Mr. Ian Ketcheson, Director General, Crown Consultation Operations Division
Ms. Tara Fulton, Team Lead, Prairie and Northern Region
Mr. Mark Rodda, Chairman, Coalspur Mines Limited
Ms. Gill Winckler, Director, President, CEO, CFO, Coalspur Mines Limited

³ See Impact Assessment Agency, “Operational Guide: Designating a Project under the Impact Assessment Act” ([online](#)).