

METIS LOCAL #1904
ST. ALBERT – STURGEON COUNTY

Heartland Expansion Project

VALUE CHAIN SOLUTIONS - HEARTLAND COMPLEX EXPANSION PROJECT

May 13, 2021

Impact Assessment Agency of Canada
Prairie and Northern Regional Office Canada Place
9700 Jasper Avenue, Suite 1145 Edmonton, AB T5J 4C3
Tel.: 780-495-2037 Fax: 780-495-2876
Email: IAAC.Heartland.AEIC@canada.ca

Re: Metis Local 1904 Comments on Draft Indigenous Engagement and Partnership Plan

Thank you for the opportunity to provide comments on the Draft Engagement and Partnership Plan for the Heartland Expansion Project.

Summary:

1. Metis Local 1904 St. Albert – Sturgeon County is cautious that the project will impact Metis Section 35 rights and that without a robust Metis consultation and engagement process, there is a concern that any mitigation efforts may be flawed to have not included the input and concerns of our urban Metis community.

Recommendation:

- Metis Local 1904 St. Albert – Sturgeon County be included as one of the indigenous Groups identified in Section 4.
- As per Section 6, a specific engagement and consultation approach (plan) be developed with Metis Local 1904.



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2. Metis Local 1904 St. Albert – Sturgeon County is not aware of any effort to protect the traditional knowledge or proprietary information collected by Metis Local 1904 during the project.

Recommendation:

- Collectively work to a solution where proprietary information and traditional knowledge collected is protected yet able to inform the engagement process.
- Project Mitigation efforts take into consideration Metis Traditional Knowledge

Introduction

The City of St. Albert has a rich Indigenous history and is situated on Treaty 6 territory, the historical homeland of the Métis peoples. In 2016, the St. Albert Sturgeon County Métis Local was developed to recapture and preserve the city's extensive Métis heritage; specifically, for our future generations who will carry on this knowledge. Historically, St. Albert was considered to have had the largest settlement of Métis peoples in the Northwest, with strong ties to the land. The Bison and the land they occupy have always been an important symbol of Métis culture with a long-standing connection to our security, laws, and traditions.

Background – Why it is necessary to consult with Metis Local 1904 St. Albert – Sturgeon County

Metis Local 1904 St. Albert – Sturgeon County is but one of the Metis Nation of Alberta rural or urban community governance models that collectively represent approximately 40,000 Metis citizens in the Province of Alberta. Through the regional consultation protocol process, the MNA has delegated authority to regions and Locals to conduct consultation.

Metis Local 1904 St. Albert – Sturgeon County recognizes [the proposed project \(Heartland Expansion Project\) is located within the traditional homeland of Metis Local 1904 and the](#) Métis Nation within Alberta, within the administrative boundaries of the Métis Nation of Alberta Region 4 and within Harvesting Area 'D' as identified in the Métis Harvesting in Alberta Policy (2018). Any decision contemplated by the Crown which may adversely impact the collectively held Aboriginal rights, claims and interests of the Métis in the project that trigger the Crown's duty to consult and accommodate the Métis within Alberta¹, which is properly represented by the Métis Nation of Alberta ("MNA").

¹ *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73



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The federal government recognizes the representative capacity of the MNA through various agreements, which state that:

[T]he MNA, through its registry and democratically elected governance structures at the Local, regional, and provincial levels, is mandated and authorized to represent the citizens who comprise the Métis Nation within Alberta, including dealing with collectively held Métis rights, interests, and outstanding claims against the Crown;²

The *MNA-Canada Consultation Agreement* (July 19, 2018), establishes a formal process by which the federal Crown conducts consultations with the MNA, including for developments in the proposed project area.³

The Government of Alberta (“GoA”), for its part, “recognizes the MNA’s representative role on behalf of its Citizens.”⁴ Additionally, the GoA recognizes the existence of regional, rightsbearing Métis communities in the province in its own policy, the Métis Harvesting in Alberta Policy (2018) and in a legally binding agreement with the MNA, the Métis Nation of Alberta-Government of Alberta Métis Harvesting Agreement. The Policy recognizes four large, regional Métis harvesting areas that cover all of central and northern Alberta and that roughly overlap with the MNA’s own administrative regions. Recognition of these regional, rights bearing Métis communities in the Policy and the MNA-Alberta Métis Harvesting Agreement is evidence, on a prima facie basis, that they constitute “rights-bearing communities] for the purposes of consultation.”⁵ In the Métis Nation of Alberta-Government of Alberta Métis Harvesting Agreement, Alberta recognizes the MNA’s authority to identify individuals eligible to exercise Métis harvesting rights under the Policy.⁶ As of January 19, 2021, over 4,879 citizens of the MNA have registered and have been confirmed as having the right to harvest in Harvesting Area ‘D’.

The MNA is authorized to advance collectively-held s. 35 Métis rights, interests, and claims in Alberta. This authorization comes from each individual MNA member voluntarily and willingly applying to the MNA’s centralized registry for membership. Specifically, through this registration process, each member agrees to the MNA Bylaws that expressly mandate the MNA to pursue the following on their behalf:

² MNA-Canada Framework Agreement for Advancing Reconciliation (November 17, 2017), Preamble; Consultation Agreement between the Métis Nation of Alberta and the Government of Canada (July 19, 2018), Preamble; MNA-Parks Canada Memorandum of Understanding re Indigenous Peoples Open Doors Program (July 31, 2018), Preamble.

³ Consultation Agreement between the Métis Nation of Alberta and the Government of Canada (July 19, 2018)

⁴ MNA-Alberta Framework Agreement (February 1, 2017), Preamble.

⁵ *Fort Chipewyan Métis Nation of Alberta Local #125 v Alberta*, 2016 ABQB 713 at paras. 363 & 365.

⁶ Métis Nation of Alberta-Government of Alberta Métis Harvesting Agreement (12 March 2019), s. 2.1.



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1.2 To stand as the political representative of all Métis in Alberta and to promote self-determination and self-government for Métis in Alberta and Canada;

1.3 To promote, pursue and defend aboriginal, legal, constitutional, and other rights of Métis in Alberta and Canada;

1.4 Re-establish land and resource bases;

Alberta’s Court of Queen’s Bench has confirmed that the MNA “represents its registered members on the terms and for the purposes set out in the bylaws.”⁷

In addition, the MNA Bylaws include an oath of membership, which all new members must sign.

The oath highlights the authorization that each member grants to the MNA:

I agree to the Métis Nation’s Bylaws and Policies, as amended from time to time and voluntarily authorize the Métis Nation to assert and advance collectively-held Métis rights, interests and claims on behalf of myself, my community and the Métis in Alberta, including negotiating and arriving at agreements that advance, determine, recognize and respect Métis rights. In signing this oath, I also recognize that I have the right to end this authorization at any time, by terminating my membership within the Métis Nation.

Alberta’s Court of Queen’s Bench has confirmed that this oath of membership “allows the Association to assert a representative capacity on behalf of the members of the Association.”⁸

In order to register as a Métis Harvester, citizens of the MNA complete the Métis Nation of Alberta Harvester Application Form wherein each citizen:

- a) certifies that “[they] have a history of harvesting and/or intention to harvest in the Métis Harvesting Area(s) to which [they] ancestrally connect”; and
- b) “authorize(s) the MNA (in keeping with its bylaws, policies, and the MNA Regional Consultation Protocol Agreements) to defend, assert, and advance collectively-held Métis harvesting rights, interests, and claims on my behalf by conducting consultations and negotiating accommodations...”

Conclusion:

To this end, Metis Local 1904 St. Albert – Sturgeon County requests recognition in Article 4 Indigenous Groups. The Metis Local will work with the Metis Nation of Alberta in ensuring that project impacts to Metis Section 35 Indigenous Rights are identified and mitigation strategies developed to minimize project impacts.

⁷ *McCargar v Métis Nation of Alberta Association*, 2018 ABQB 553 at para. 19, aff’d 2019 ABCA 172.

⁸ *McCargar v Métis Nation of Alberta Association*, 2018 ABQB 553 at para. 38, aff’d 2019 ABCA 172.



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As well, the Metis Local 1904 is concerned that there is no mention of the proprietary ownership of Traditional Knowledge and its confidentiality and protection. There needs to be language developed and shared with Aboriginal groups on how TK is going to be handled for sensitivity and confidentiality.

Metis Local 1904 St. Albert – Sturgeon County proposes a distinct consultation approach be developed between the Assessment Agency and Metis Local 1904 St. Albert – Sturgeon County.

Should you have any queries please contact Bruce Gladue, President Metis Local 1904 at <Email address removed> or by phone at: <Personal information removed>

Thank you,

Bruce Gladue

President

Metis Local 1904 St. Albert – Sturgeon County
<Email address removed>

