

ATTACHMENT: April 21, 2022
Provincial Advice Record: Designation Request under IAA
Response requested by May 12, 2022
Chin Reservoir Expansion and Modernization Project

Ministry	Alberta Environment and Parks (AEP)
Lead Contact	Lori Havanka, Approvals Program Manager
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Alternate Ministry Contact	Meghan Jurijew, Environmental Assessment Coordinator; <contact information removed>

Please fill out the form in relation to the proposed Chin Reservoir Expansion and Modernization Project.

1. In general terms, please confirm and describe your ministry's role (if applicable) in the review of the Project.
 - AEPs Environmental Assessment (EA) team will be responsible for the management of the Environmental Impact Assessment (EIA) process and review and coordination of the environmental impact assessment report. This includes any coordination with the Impact Assessment Agency of Canada.
 - Alberta Environment and Parks (AEP), Regulatory Assurance Division – South Region (RAD-S) is the primary provincial regulator of the project with respect to water diversion and use, activities required to construct and operate the associated works, and Dam and Canal safety requirements under the *Water Act*, Water Ministerial Regulations, and associated codes of practice, guidelines, etc.
2. Please provide the contact information of the person or persons responsible for managing your ministry's oversight of the Project (if different from lead contact above).
 - Refer to response 1.
3. Describe the provincial legislative or regulatory process or approvals administered by your ministry that may assess or manage the potential adverse effects of the Project. For each mechanism or approval, please provide information regarding the following:

- Name of the process or authorization (e.g. certificate, licence, permit or approval) and the associated legislative framework;
- Whether (for each) the authorization would set conditions and if yes, what issues would those conditions address;
- Whether (for each) the authorization would require public and/or Indigenous consultation and if yes, provide information on the approach to be taken; and
- Whether (for each) your ministry has guidance material that would be helpful to the proponent or the Agency (please provide these as attachments or hyperlinks in your response).

Environmental Impact Assessment

- Environmental Assessment is required where the complexity and scale of a proposed project, technology, resource allocation, or siting considerations create uncertainty about the exact nature of environmental effects, or result in a potential for significant adverse environmental effects.
- All environmental impact assessment (EIA) reports regardless of the type of project must address and assess how potential impacts of a proposed project are to be mitigated and managed. The EA process is to predict the environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity.
- Environmental assessment is regulated by Part 2, Division 1 of the *Environmental Protection and Enhancement Act* (EPEA) and the Environmental Assessment (Mandatory and Exempted Activities) Regulation (links below).
- The Project in question is a Mandatory Activity under Schedule 1(c) of the Environmental Assessment (Mandatory and Exempted Activities) Regulation meaning that an EIA report is required.
- Section 49 of the *Environmental Protection and Enhancement Act* sets out the base information that must be included within an EIA report.
- The information requirements for a specific project are identified in the Terms of Reference.
 - The proponent prepares a proposed terms of reference that is advertised for public comment. At the same time AEP is engaging subject matter experts across the Government of Alberta to also review the document,
- After the public comment period closes all comments received are reviewed and considered, and AEP issues the final Terms of Reference (TOR) which outlines the information that must be included in the EIA report.
- EIA Reports must include three assessment cases (baseline, project, cumulative affects) and three study areas (project, local, regional). Additional information can be found in the Guide to Preparing EIA Reports in Alberta.
- Once the EIA report is submitted, it is reviewed by a team of subject matter experts to ensure the information satisfies the Terms of Reference. If deficiencies are found, or clarifications required, a supplemental information request is sent to the proponent to address.
- Once the information requirements of the Terms of Reference are met, AEP will deem the EIA report as complete and refer the project to the appropriate public interest board to make the public interest decision.
 - This specific project will be referred to the Natural Resources Conservation Board (NRCB). As part of its process, the NRCB will determine whether or not a public hearing is required.
- If the NRCB decides the proposed project can proceed, a decision document will be issued that includes enforceable conditions/requirements. The conditions/requirements can be added to any area such as to *Water Act* approvals.
- AEP is currently working with Alberta Indigenous Relations to determine whether the project requires Indigenous Consultation. When a decision is made, this will be communicated to the proponent.

Licence under the *Water Act*:

- The property in and the right to the diversion and use of all water in the Province is vested in Her Majesty in right of Alberta.
- The diversion of water and operation of works requires a licence under the *Water Act*.
- The proponent holds multiple pre-existing licences under the *Water Act* that account for the allocation of water and operation of works associated with the proposed project.

- Water Licences set out terms and conditions, and attach approved plans that address the following:
 - Source, points of diversion and points of use of all diversions;
 - Purpose, timing, volume and rate of use;
 - Appurtenance of the works;
 - Engineered designs of the works;
 - Operations and maintenance of the works;
 - Dam and Canal safety of the works; and,
 - Any specific conditions or plans required to address
 - Instream flow requirements or restrictions
 - Other design or operational requirements unique to the works or location of the works that should be considered under the intent, scope and authority of the *Water Act*.
- One or more proponent (licensee) initiated amendments to the pre-existing licences will be required prior to operation of the proposed project, to address changes to the current licence conditions related but not limited to the engineered design plans for the works, operation of the works and Dam and Canal safety of the works.
- There is either a public notice of application or public notice of decision for these types of applications for amendments to Licences under the *Water Act*. The notice is typically posted on the AEP Online Public Notice Viewer, in the local municipality, and in a locally available news source. The notice provides directly affected stakeholders the ability to submit Statements of Concern, or to appeal the final decision on the application.

Approval under the *Water Act*:

- The proposed project includes placing, constructing, operating, maintaining, removing or disturbing works, and considered along with the *Water Ministerial Regulations*, is an activity that requires an approval under the *Water Act*.
- Given the above, the proponent will be required to obtain one or more approvals under the *Water Act* prior to commencement of the proposed project.
- Approvals set out terms and conditions, and attach approved plans that address the following:
 - The timing and location of all activities;
 - Engineered designs for the activities;
 - Construction practices;
 - Mitigations for potential impacts associated with the elements of proposed project that form part of an 'activity' definition under section 1(b) of the *Water Act*; and,
 - Any specific conditions or plans required to address features of the proposed activity that should be considered under the intent, scope and authority of the *Water Act*.
- Proposed approval projects are reviewed by the Alberta Government Aboriginal Consultation Office (ACO) to verify the recommended requirement or adequacy of First Nations conclusion. This review is either initiated by the proponent directly with the ACO, or approval applications are referred to the ACO by AEP once received.
- There is either a public notice of application or public notice of decision for all applications for approvals under the *Water Act*. The notice is typically posted on the AEP Online Public Notice Viewer, in the local municipality, and in a locally available news source. The notice provides directly affected stakeholders to submit Statements of Concern, or to appeal the eventual decision of AEP.

Links:

<https://www.alberta.ca/water-legislation-and-resources.aspx>

<https://www.alberta.ca/indigenous-consultations-in-alberta.aspx>

[*Environmental Protection and Enhancement Act*](#)

[Environmental Assessment \(Mandatory and Exempted Activities\) Regulation](#)

[Guide to Preparing Environmental Impact Assessment Reports in Alberta](#)

[Guide to Providing Comments on Proposed Terms of Reference](#)

[Standardized Terms of Reference](#)

[Summary of Environmental Assessment Activity – Current Projects](#)

[Summary of Environmental Assessment Activity – Historical Projects](#)

4. Confirm whether any authorization listed above would contemplate the following matters and if yes, discuss, in general, the benchmarks or standards to which projects of this nature may be held (be specific in relation to each point below that may be applicable to your ministry's mandate):

General Info:

- Section 38 (2) of the *Water Act* specifies the following matters and factors that must be considered and may be considered by the Director under the Act when making an approval decision:

In making a decision under this section, the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing an approval, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and effects on household users, licensees and traditional agriculture users, that result or may result from the activity, and

(c) may consider

(i) effects on public safety, and

(ii) any other matters applicable to the approval that, in the opinion of the Director, are relevant.

- Table 2 of the The South Saskatchewan River Basin (SSRB) Approved Water Management Plan specifies additional Matters and Factors that must be considered in making decisions on applications for licences, preliminary certificates or approvals affecting surface water in the SSRB. <https://www.alberta.ca/south-saskatchewan-river-basin-water-management-plan.aspx>

a. Impacts on water quality

- This will be addressed in both the EIA report and the Water Act approval application. In addition, there are also general approval condition prohibitions related to the release of deleterious substances.

b. Impacts on water quantity

- This will be addressed in both the EIA report and the Water Act approval application for the Project.

c. Effects to fish and fish habitat.

- This will be addressed in the EIA report and the Water Act approval application for this Project.

d. Effects to species at risk

- This will be addressed in the EIA report and the Water Act approval application for this project.

e. Loss of native grassland and/or wetland due to conversion to agricultural usage or flooding

- This will be addressed in the EIA report.
Specific to wetlands, Alberta has a robust wetlands policy that must be followed if there are any impacts to wetlands. <https://open.alberta.ca/publications/9781460139417>.
- Alberta has specific considerations related to native grasslands under the South Saskatchewan Regional Plan.

Links:

<https://www.alberta.ca/native-grassland.aspx>

This will be addressed in the EIA for this Project.

f. Potential impacts to Indigenous peoples resulting from any change to the environment on physical and cultural heritage, the current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance

- Section 49 of EPEA requires EIA reports to include a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;
- Proponents are required to address lands with an identified Historic Resource Value within the project area. This is done under the *Historical Resources Act*, and may require the submission of a Historic Resources Application. Historic Resources include archaeological sites, palaeontological sites, Indigenous traditional use sites of a historic resource nature, and historic structures.
- AEP is currently working with Alberta Indigenous Relations to determine whether the project requires Indigenous Consultation. When a decision is made, this will be communicated to the proponent.

Links:

<https://www.alberta.ca/listing-historic-resources.aspx>

g. Changes to the health, social, or economic conditions of Indigenous peoples

- Section 49 of EPEA requires EIA reports to include (g) an identification of issues related to human health. This is further explained in the Guide to Preparing EIA Reports in Alberta.
- AEP is currently working with Alberta Indigenous Relations to determine whether the project requires Indigenous Consultation. When a decision is made, this will be communicated to the proponent.

h. Potential impacts on Aboriginal and Treaty Rights

- Section 49 of EPEA requires EIA reports to include a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;

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5. Have you received public comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.

- AEP has received letters from a group of interested parties with respect to environmental assessment, and regulatory and funding process concerns related to the project.
 - The interested parties are represented by Ecojustice.
 - The concerns include considerations for cumulative effects, environmental flows left for the aquatic environment, climate change and the processes by which grant funding was allocated to the projects.
 - AEP met with representatives of the interested parties, and has responded in writing with details clarifying AEPs specific regulatory and provincial environmental assessment roles. This includes confirmation that all regulatory and environmental assessment process apply to proposed projects regardless of funding, and that no applications for the proposed major off-stream storage projects have been received.
 - AEP has outlined the legislated public review process related to applications under the *Water Act* and EA process, such that the parties may engage in the process should a regulatory application for the project be received by the department.
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6. Have you received Indigenous community comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.
- Not at this time.
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7. Do you have any other information about the Project in relation to potential adverse effects or impacts to the public, or Indigenous peoples and their rights as protected under section 35 of the *Constitution Act, 1982*?
- Not at this time. However, should information becomes available that indicates the proposed project would potentially impact Aboriginal and Treaty Rights, that information would be used to inform both Consultation requirements and the impacts assessment within the EIA report.
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Lori Havanka

Name of responder

Approvals Program Manager

Title of responder

May 12, 2022

Date