

ATTACHMENT

Federal Authority Advice Record: Designation Request under IAA

Response due by **May 12, 2022**

Deadhorse Coulee Reservoir Project

Department/Agency	Canada Infrastructure Bank
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1. Has your department or agency considered whether it has an interest in the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part?

Specify as appropriate.

Yes, however only for the Phase 1, Modernization Works, of the Project. Analysis with respect to the proposed Phase 2 Reservoir Works, we can only consider our obligations once more information is available on the specifics of the works to inform if they fall within the scope of the Alberta Environmental Protection and Enhancement Act or the Impact Assessment Act, based on legal covenants that the CIB has incorporated in its legal documentation with respect to the Project.

A description of the CIB's role and background of the Project is attached to this form.

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2. Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed?

If yes, specify that power, duty or function and its legislative source.

Yes, the CIB may provide financing for the proposed Phase 2 Reservoir Works and, if so, it will assess its obligations at that time based on covenants that it has included in the legal documentation with respect to the Project, including:

- **Confirmation that current environmental assessment approvals (including Indigenous consultation and public engagement) and all necessary government authorizations required to commence construction have been obtained; and**
- **In the case of the Phase 2 Reservoir Works, evidence that environmental permitting (including Indigenous consultation and public engagement) has been completed (i.e., an agreement with the Indigenous stakeholder).**

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3. If your department or agency will exercise a power or perform a duty or function under any Act of Parliament in relation to the Project, will it involve public and Indigenous consultation?

Specify as appropriate.

CIB's legal documentation for the Project includes provisions to ensure if the Crown's duty to consult arises, the duty will be appropriately discharged by the CIB, the Government of Alberta and the Irrigation Districts. If the proposed Phase 2 Reservoir Works trigger obligations under the Alberta Environmental Protection and Enhancement Act or the Impact Assessment Act, the CIB would work with the Government of Alberta and the Irrigation Districts to uphold the honour of the Crown.

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4. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to any potential adverse effects within federal jurisdiction caused by the Project or adverse direct or incidental effects stemming from the Project?

Specify as appropriate.

No. The CIB does not have specific expertise, specialized knowledge to advise the Impact Assessment Agency of Canada on the potential for the proposed Phase 2 Reservoir Works to cause adverse effects within federal jurisdiction or adverse direct or incidental effects as described in section 2 of the IAA.

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5. Has your department or agency had previous contact or involvement with the proponent or other parties in relation to the Project?

Provide an overview of the information or advice exchanged.

Yes. A description of the CIB's role and background of the Project is attached to this form.

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6. From the perspective of the mandate and area(s) of expertise of your department or agency, does the Project have the potential to cause adverse effects within federal jurisdiction or adverse direct or incidental effects as described in section 2 of IAA? Could any of those effects be managed through legislative or regulatory mechanisms administered by your department or agency? If a licence, permit, authorization or approval may be issued, could it include conditions in relation to those effects?

Specify as appropriate.

It is premature for the CIB to assess the potential for adverse or incidental effects of the proposed Phase 2 Reservoir Works at this time. The legal documentation for the Project includes specific covenants and conditions, including completing satisfactory due diligence review from the CIB and its Lenders Technical Advisory (LTA) before the Irrigation Districts are entitled to receive funding from the CIB for eligible project costs. Conditions precedent include:

- **Confirmation that current environmental assessment approvals (including Indigenous consultation and public engagement) and all necessary governmental authorizations (i.e., orders, licenses, permits, approvals and authorizations) required to commence construction have been obtained; and**
- **In the case of Reservoir Works, evidence that environmental permitting (including Indigenous consultation and public engagement) has been completed (i.e., an agreement with the Indigenous stakeholder).**

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7. Does your department or agency have a program or additional authority that may be relevant and could be considered as a potential solution to concerns expressed about the Project? In particular, the following issues have been raised by the requestor:

- effects to fish and fish habitat;
- adverse effects on migratory birds and species at risk and their critical habitat. Special concern species at risk that may be affected includes Great Plains Toad and Northern Leopard Frog. Threatened species at risk that may be affected includes Thick-Billed McCown's Longspur, Tiny Cryptantha, and Bull Trout. Endangered species at risk that may be affected includes Burrowing Owl, Greater Short-horned Lizard, and Lake Sturgeon (Endangered status under COSEWIC). Other species at risk that may be affected are noted in Appendix 1 of the Request for Designation;
- changes to the environment on federal lands, including reserve lands and Canadian Forces Base Suffield;
- changes to the environment that occur in a province or territory other than the one where the Project is taking place, including Saskatchewan;
- changes to the environment that occur outside of Canada;
- contribution to climate change due to greenhouse gas emissions and loss of carbon storage capacity by converting native grasslands to irrigated agricultural lands;
- changes to the environment that could affect the Indigenous peoples of Canada; and,
- changes occurring to the health, social, or economic conditions of the Indigenous peoples of Canada.

If yes, please specify the program or authority.

No. The CIB's purpose, as set out in section 6 of the *Canada Infrastructure Bank Act*, is to invest and seek to attract investment from private sector investors and institutional investors, in infrastructure projects in Canada or partly in Canada that will generate revenue and that will be in the public interest by, for example, supporting conditions that foster economic growth or by contributing to the sustainability of infrastructure in Canada.

8. Does your department or agency have information about the interests of Indigenous groups in the vicinity of the Project; the exercise of their rights protected by section 35 of the *Constitution Act, 1982*; and/or any consultation and accommodation undertaken, underway, or anticipated to address adverse impacts to the section 35 rights of the Indigenous groups?

If yes, please specify.

The proposed Phase 2 Reservoir Works lie within the Treaty 7 territory that covers most of Southern Alberta. Treaty 7 region is the traditional territory of the Blackfoot Confederacy (Peigan, Bloods, and Blackfoot tribes), Stoney Nakota Nation, and Tuss T'ina Nation. Harvesting rights of the local Indigenous groups were preserved by Treaty 7 throughout the treaty territory, and so any government contemplation of conduct or activities that could adversely impact these harvesting rights would trigger the Crown's duty to consult, and possibly to accommodate, the affected Indigenous group(s). While preliminary work on Indigenous interests has occurred, the CIB does not have specific information at this time with regards to proponent-led Indigenous consultations and public engagement.

9. If your department has guidance material that would be helpful to the proponent or the Agency, please include these as attachments or hyperlinks in your response.

Jodie Parmar

Name of departmental / agency responder

Senior Director, Project Development

Title of responder

May 12, 2022

Date