



340 – 1122 Mainland Street
Vancouver, BC V6B 5L1
T 604 687 0459 ext 300
F 604 687 2696

www.jfklaw.ca

Blair Feltmate

He/him/his

Associate

<contact information removed>

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Via Email

ministre-minister@ec.gc.ca
information@iaac-aeic.gc.ca

Honourable Minister Steven Guilbeault
Environment and Climate Change Canada
Fontaine Building
12th Floor, 200 Sacré-Coeur Blvd
Gatineau, QC K1A 0H3

Impact Assessment Agency of Canada
757 W Hastings
St. Suite 210A
Vancouver, BC
V6W 3M2

Dear Honourable Minister Guilbeault and the Impact Assessment Agency of Canada:

Re: Comments from Cadotte Lake Métis Nation on Mine 14 Designation Request

We are legal counsel to Cadotte Lake Métis Nation (“**CLMN**”) with respect to Summit Coal Inc.’s Mine 14 Project (the “**Project**”). CLMN recently became aware that the IAAC had received a request from Aseniwuche Winewak Nation (the “**AWN Request**”) to designate the Project for federal review under section 9(1) of the *Impact Assessment Act* SC 2019, c 28, s. 1.

We write to provide comment on the AWN Request and state that CLMN:

- supports AWN’s request and endorses their submissions; and
- further requests that the Minister of Environment and Climate Change (the “**Minister**”) designate the project for federal review.

In addition to the comments below, CLMN also attaches a summary report of traditional land use and occupancy in northwestern Alberta prepared to support the comments in this letter (the “**Summary Report**”). The Summary Report identifies the historical presence of CLMN ancestors in northwestern Alberta, contemporary use by CLMN members in northwestern Alberta including detailed information on the rights practiced in the area, and overlap between the project area and known harvesting areas.

1.0 CADOTTE LAKE MÉTIS NATION

CLMN are Aboriginal peoples and possess Aboriginal rights protected and defined under section 35

of the *Constitution Act*, 1982. They actively practice these rights, and engage in cultural practices and traditional activities throughout the Peace River region. CLMN is one of the oldest Métis nations in Western Canada and have been practicing their rights and culture since long before European control. CLMN rights practice includes: hunting; trapping; fishing; harvesting berries, plants, and wood; and the right to travel and access areas for the practice of these rights. These rights are linked to CLMN's governance, tradition, identity and well-being.

More detail about CLMN can be found in the Summary Report enclosed with this correspondence.

2.0 SUPPORT FOR DESIGNATION REQUEST

The Project is located within CLMN's Traditional Territory. CLMN shares many of the same concerns raised in the AWN Request. CLMN endorses and supports AWN's call for federal review of the Project.

In particular, CLMN views a federal review as necessary given the Project's potential to:

- cause adverse impacts to CLMN's Aboriginal rights;
- impact the health of CLMN community members harvesting and practicing Aboriginal rights within the Upper Smoky River watershed;
- contribute to the already significant cumulative impacts of industrial development in northwestern Alberta; and
- adversely impact the health and sustainability of the Upper Smoky River watershed, and the plants, animals, and humans that rely on it.

The Project affects these and other areas of federal jurisdiction. As noted by AWN, a federal review is required to properly assess these impacts.

2.1 The Project has the potential to cause adverse impacts to CLMN's asserted section 35 rights

The Project is located within the Traditional Territory of the CLMN and has the potential to adversely impact the area relied on by CLMN members for the practice of Aboriginal rights. In particular, CLMN is concerned about the loss or alteration of wildlife habitat, changes to wildlife movement, and increased wildlife mortality. As industrial development has increased in and around Cadotte Lake, members are forced to travel further from home for a better chance of success – finding areas that are “cleaner, quieter, and less disturbed” – including as far south as Grande Cache and Whitecourt.¹ CLMN's Traditional Territory map, included at page 10 of the Summary Report, highlights the expansive territory CLMN members operate within.

The Summary Report provides an expansive list of rights practiced by CLMN, and include:

- The right to hunt large mammals (incl. moose, caribou, elk, black/brown/grizzly bear, bighorn sheep, deer, bison) and hunt/trap small mammals (incl. rabbits, beaver, muskrat, lynx, weasels, marten, fisher, squirrels, wolverine, wolves, and coyotes);

¹ Summary Report at p 9.

- The right to fish (incl. Jackfish/ Northern Pike, Trout, Rainbow Trout, Bull Trout, Grayling, Walleye, Goldeye, Ling Code, Whitefish, and Sucker);
- The right to harvest berries and plants for medicinal and spiritual purposes; and
- The right to collect potable water.²

Each of these activities are put at risk by industrial development. Coal mining creates even greater concern given the potential to release selenium into the environment. As noted by AWN, selenium released during coal mining is destructive to fish, fish habitat, and the safe consumption of river water. The Project is located above the Smoky River and Muskeg River, posing a significant risk of contamination to those waterways. There are already accounts from CLMN Elders who observed a decrease of fish in their waterways.³ Selenium contamination will only compound fish mortality rates. CLMN requires a direct, thoughtful, and contextual assessment of the impact of the Project on their Aboriginal rights.

Although the proposed Project footprint is small, the ability to harvest large mammals throughout CLMN Traditional Territory is precarious given ever-increasing development and its impact on wildlife habitat. Impacts to large mammals, as well as small mammals, fish, and birds, and the corresponding impacts to Aboriginal rights should be given careful consideration with an eye to the impact on section 35 Aboriginal rights practiced by CLMN members.

As you are well aware, impacts to wildlife and harvesting rights extend beyond the direct impacts on current harvesters. They extend to the ability for present harvesters to transfer knowledge down to future generations. Industrial activity restricting access to certain areas has the potential to sever community members from spiritual and cultural practices integral to their Métis identity.

CLMN uses land to transfer knowledge from one generation to the next. By being on the land, CLMN can convey stories, teachings, skills, values, and their historical economic practices to youth. Culture is a living practice of transmitting knowledge through various means, and land use is the main facilitator of that knowledge. Without a healthy eco-system, it is not possible to apply CLMN teachings. For instance, one CLMN community member commented that it is hard for children to connect to the land with industrial development surrounding them.⁴

If children do not have access to healthy land and wildlife, they cannot apply the teachings, stories, and skills that require them to engage with healthy land and wildlife. This in turn can adversely impact future CLMN knowledge retention, cultural practices, and identity. As the land base available for the practice of Aboriginal rights continues to shrink, the opportunities to pass down these teachings, stories, and skills in placed under further strain. It is incumbent on the Crown to assess these impacts and ensure industrial activity like this does not impact or infringe the Aboriginal right to the continued practice of Métis identity in this area.

2.2 The Project has potential to adversely impact CLMN's connection to their surrounding ecological system

CLMN has a complex and interconnected relationship with the surrounding ecological system. Their spiritual, cultural, physiological, and physical wellbeing are dependent on the environment. The Project's potential impacts to the ecological system — wildlife disturbances, animal mortality rates,

² Summary Report at pp 11 and 12.

³ Cadotte Lake Métis, *Cadotte Lake Métis Cadotte Lake Métis Field Survey and Cultural Data Summary for the Nova Gas Transmission Ltd. Northern Corridor Expansion Project*, (2019), [online](#), at p 6 [NGTL Study].

⁴ NGTL Study at p 11.

and selenium contamination to waterways — may adversely affect CLMN's connection to land.

A critical component of CLMN'S way of life is its special relationship with land. CLMN in part derives its identity, traditions, stories and history from the land. CLMN community members have commented that the wellbeing of the community is linked to their presence on the land.⁵ Not only is land access necessary for their emotional wellbeing, but CLMN depends on the health of the land for their own security. The landscape, waters, animals, fish, berries, and plants need to be healthy in order for CLMN to prosper.⁶

The Project's disruption to the ecological system will affect CLMN's connection to the land. The Project requires an assessment by the federal government to ensure CLMN's way of life is not impacted.

2.3 The Project may impact the health of CLMN members

When practicing Aboriginal rights to hunt, fish, and harvests, CLMN members have a right to enjoy clean and potable drinking water. The selenium released during coal mining puts this at risk. The human health impacts of selenium pollution were well-documented in the AWN Request and CLMN reiterates concerns about these impacts.

3.0 CONCLUDING REMARKS

CLMN wishes again to restate the support for the AWN Request and call for the Minister to exercise discretion to designate this Project for federal review. We are aware of the comments made by former Minister of Environment and Climate Change, Jonathan Wilkinson, with regard to designating projects that have the potential to release selenium into the environment. CLMN views the federal review of this Project as a necessary on these grounds alone. However, we hope this submission highlights the broad impact the Project can have on Métis communities that rely on the Eastern Slopes and an ever-shrinking land base for traditional activities.

This Project requires a federal review.

If you have any questions about this correspondence, please do not hesitate to reach out to me directly at <email address removed>.

Yours truly,

JFK LAW LLP

<Original signed by>

Per: |

Blair Feltmate

cc. Wendy Goulet, Cadotte Lake Métis Nation (<email address removed>)
Barry Nooskey, Cadotte Lake Métis Nation (<email address removed>)
Clayton Leonard, JFK Law LLP (<email address removed>)
Allison Lefebvre, Impact Assessment Agency of Canada (<email address removed>)

Encl.

⁵ NGTL Study at p 16.

⁶ NGTL Study at p 22.