



September 13, 2022

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

Reviewing Officers

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

VIA EMAIL:

ministre-minister@ec.gc.ca / Mine14@iaac-aeic.gc.ca / information@iaac-aeic.gc.ca /
Allisson.Lefebvre@iaac-aeic.gc.ca

Dear Honourable Minister and Reviewing Officers of the Impact Assessment Agency of Canada:

Re: Duncan's First Nation Comments on Mine 14 Designation Request

A) Summary

The Duncan's First Nation (DFN) writes to you in relation to Summit Coal's proposed 'Mine 14 Project' which is to be situated to the north of Grande Cache, Alberta to inform you that the DFN lends its support to the Aseniwuche Winewak Nation's (AWN) recent request to subject the Project to review under the *Impact Assessment Act* (S.C. 2019, c. 28, s. 1).

B) The Project

Summit Coal Inc. (the proponent) is proposing the construction, operation, decommissioning and abandonment of an underground metallurgical coal mine located approximately four kilometres northeast of Grande Cache, Alberta. As proposed, the 'Summit Mine 14 Project' (the Project) would have a coal production capacity of approximately 3,562 tonnes per day. The Project would have a

surface footprint of 53.5 hectares and a subsurface area of approximately 512 hectares and involves other Project components such as a haul road between the Grande Mountain mining area and Grande Cache, hauling of mined coal along Highway 40, washing and processing plant situated on the left bank of the Smoky River and transshipment to customers via rail. The Project is one of many new coal mining developments which are being considered in the Rocky Mountains / Rocky Mountain foothills area.

C) Based on a review of the IAAC's website, the DFN understands that:

On August 15, 2022, the Minister of Environment and Climate Change received a [request](#) from JFK Law LLP, on behalf of Aseniwuche Winewak Nation, to designate the Project for federal review under section 9(1) of the *Impact Assessment Act* SC 2019, c 28, s. 1.

The DFN writes to provide comments on the AWN's Request and states that the DFN:

- supports AWN's request and endorses their submissions;
- acknowledges supporting submissions by other Indigenous Nations;
- further requests that the Minister of Environment and Climate Change (the "**Minister**") designate the Project for federal review.

D) The Duncan's First Nation

The Duncan's First Nation affirms that is an Indian Band within the meaning of the *Indian Act*, R.S.C. 1985, c. 1-5 as amended, and is an aboriginal people within the meaning of section 35 of the *Constitution Act*, 1982 and is the successor to an aboriginal group adherent to Treaty#8.

The Duncan's People hold themselves to be an Indigenous People, constituting a self-determining Nation with their own culture, customs, traditional laws which pre-date contact and treaty making with Euro-Canadian powers and who hold sacred responsibilities to care for their Territory in parallel with their Indigenous relations and neighbors.

The DFN has a long-established presence in north-western Alberta and north-eastern British Columbia. The DFN is a nation and a community comprised of the Dunne-Za or Beaver and Cree cultures and speaking people. At the time of contact, the ancestors of the DFN were present, occupying and in possession of territory centered on the Peace River valley.

At the time of contact the Duncan's ancestors had a well-established way of life and economy in the Peace River region and Peace River valley. In the pursuit of this way of life, the ancestors of the Duncan's supported themselves in a variety of ways, by fishing, hunting and plant and earth material gathering, as well as through participation in trade, with other Indigenous People and with Europeans, of a variety of material goods, including furs, wood and the products of hunting, fishing and trapping.

The Duncan's people way of life depended on the availability of and access to preferred lands, waters and natural resources of sufficient quality and quantity to maintain the traditional seasonal harvesting

cycles. The Duncan's way of life also depended on the ability to pass knowledge about the traditional seasonal harvesting cycle, traditional hunting, trapping, fishing and gathering practices and spiritual as well ceremonial beliefs and practices to successive generations. The knowledge of Duncan's way of life was passed to successive generations orally, through cultural and spiritual practices, and through participation in traditional hunting, trapping, fishing and gathering practices which depended on the availability of and access to preferred lands, waters and natural resources.

As part of their usual practices carried out before and at the time of signing the Treaty#8, the Duncan's people hunted, trapped and fished a wide range of animal, bird and fish species for subsistence, and for cultural, social and spiritual needs. Certain species were of greater significance to fulfill these needs, but all species were important to our way of life.

Treaty 8 was made between the Crown in Right of Canada and various aboriginal peoples in June 1899 at Lesser Slave Lake. Subsequent to the initial signing, the Crown gathered adherent nations into Treaty#8 by a series of Crown expeditions for that purpose into further-reaching parts of the territory which the Crown wished to open for settlers. Some of the Duncan's ancestors adhered to Treaty#8 at Peace River Crossing in 1899. The Provincial Crown was not a signatory to Treaty#8 but holds the duties and benefits of such treaties.

Through oral promises of the parties and the written terms of the Treaty#8, the treaty established a set of reciprocal rights and obligations owed by the Crown to the indigenous signatories, including the ancestors of Duncan's people. The treaty also provided rights to carry out activities incidental to the exercise of the hunting, fishing and trapping rights including (but not limited to):

- rights to unrestricted access to preferred lands and waters of a sufficient quality and quantity necessary to exercise rights within their traditional lands;
- rights to sufficient and culturally appropriate land and resources to support the exercise of rights;
- rights to participate in the management of natural resources within their traditional lands;
- rights to gather various natural resources, including plants and berries, within their traditional lands;
- rights to establish the infrastructure necessary to exercise rights, including by building trails, cabins, camps, traps; and
- rights to maintain and access sites where Duncan's People culture and way of life can be taught to subsequent generations.

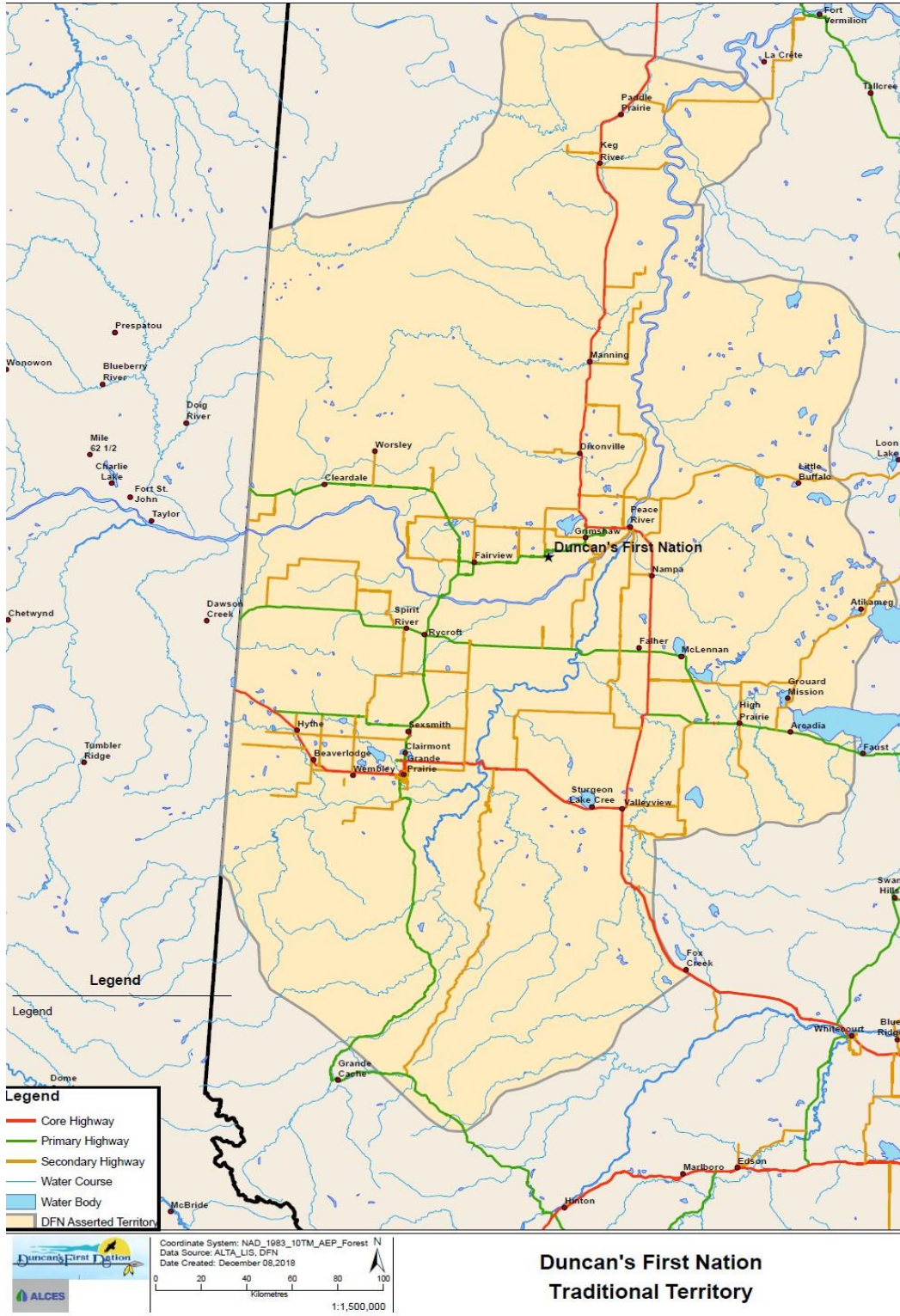
The true nature and spirit of Treaty#8 and the intentions of the signatories are important to the matter of DFNs' rights and the GOA's interpretation of its responsibilities under the treaty and policies flowing from the Crown's obligations. The following case law has relevance and must be given due regard by the GOA in the matter of this Project:

- As noted in *R. v. Badger*, [1996] 1 S.C.R. 771 at paras. 39 and 55, the aboriginal signatories and later adherents had a strong interest in securing their traditional livelihood. The written

terms of the Treaty referred to these traditional activities as “*their usual vocations,*” which included hunting, trapping and fishing (*Badger* at para. 31). Oral promises made by the Crown supplemented this essential element of the Treaty: the aboriginal signatories and adherents “*would be as free to hunt and fish after the treaty as they would be if they never entered into it,*” with the geographic exceptions of “*such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes*” and within limitations placed by government conservation regulations (*Badger* at paras. 39-40).

- [The Crown sought to secure this land for settlement (*Badger* at para. 39) while expecting that the First Nations’ “*means of earning a livelihood would continue after the treaty as existed before it*” due to the lands’ overall unsuitability for agriculture (*Mikisew Cree* at para. 30; *Badger* at para. 55).
- The language of the Treaty foreshadowed change and provides a framework for managing relations and changes in land use (*Mikisew Cree* at paras. 31, 27 and 63). The lands over which signatory aboriginal groups could pursue their “*usual vocations*” were not “*from a practical point of view*” the entire expanse of Treaty 8 but their respective traditional territories within the larger expanse (*Mikisew Cree* at paras. 47 and 48).

A map demarcating the DFN Traditional Territory is attached below.



DFN Traditional Territory Map

E) Based on research conducted with DFN Elders and community members between 2009/10 and 2018/19, it is possible to identify examples of the exercise of rights by DFN members in relation to specific species and certain cultural values present within its Traditional Territory. The following listing does not reflect the totality of DFN rights exercised or the totality of values and resources utilized and relied upon by the DFN. With that said, the following list can provide an indication of key eco-cultural values of importance to the DFN, some of which are present within the Project area and areas in the vicinity of the Project:

Rights Exercised / Integral Activities/Cultural Practices	Species Utilized / Value Referenced
Right to Hunt Large Mammals – General	Large Mammals – General
Right to Hunt Moose	Moose
Right to Hunt Caribou	Caribou
Right to Hunt Elk	Elk
Right to Hunt Black Bear	Black Bear
Right to Hunt Brown Bear	Brown Bear
Right to Hunt Mule Deer	Right to Hunt White Tailed Deer
Right to Hunt Buffalo / Bison	Buffalo / Bison
Right to Hunt / Trap Small Mammals	Small Mammals – General
Right to Hunt / Trap Rabbits	Rabbits
Right to Hunt / Trap Beaver	Beaver
Right to Hunt / Trap Muskrat	Muskrat
Right to Hunt / Trap Lynx	Lynx
Right to Hunt / Trap Weasels	Weasels
Right to Hunt / Trap Squirrels	Squirrels
Right to Hunt / Trap Marten	Marten
Right to Hunt / Trap Wolves	Wolves
Right to Hunt / Trap Coyotes	Coyotes
Right to Hunt Birds – General	Birds – General
Right to Hunt Partridge	Partridge
Right to Hunt Prairie Chickens	Prairie Chickens
Right to Hunt Geese	Geese

Right to Hunt Ducks	Ducks
Right to Hunt Swans	Swans
Right to Hunt Whooping Crane	Whooping Crane
Right to Hunt Sandhill Cranes	Sandhill Cranes
Right to Hunt Wild Turkey	Wild Turkey
Right to Harvest Duck Eggs	Duck Eggs
Right to Fish – General	Fish – General
Right to Fish Jackfish / Northern Pike	Jackfish / Northern Pike
Right to Fish Trout	Trout
Right to Fish Rainbow Trout	Rainbow Trout

Right to Fish Bull Trout	Bull Trout
Right to Fish Grayling	Grayling
Right to Fish Pickerel / Walleye	Pickerel / Walleye
Right to Fish Goldeye	Goldeye
Right to Fish Ling Cod	Ling Cod
Right to Fish Whitefish	Whitefish
Right to Fish Sucker	Sucker
Right to Harvest Berries – General	Berries – General
Right to Harvest Saskatoon Berries	Saskatoon Berries
Right to Harvest Wild Strawberries	Wild Strawberries
Right to Harvest Blueberries	Blueberries
Right to Harvest Raspberries	Raspberries
Right to Harvest Chokecherries	Chokecherries
Right to Harvest Low Bush Cranberries	Low Bush Cranberries
Right to Harvest High Bush Cranberries	High Bush Cranberries
Right to Harvest Moose Berries	Moose Berries
Right to Harvest Fireweed Berries	Fireweed Berries
Right to Harvest Plants – General	Plants – General
Right to Harvest Diamond Willow Fungus	Diamond Willow Fungus
Right to Harvest Rat Root	Rat Root
Right to Harvest Peppermint Tea	Peppermint Tea
Right to Harvest Laboum	Laboum
Right to Harvest Spruce	Spruce
Right to Harvest Sweet Grass	Sweet Grass
Right to Harvest Sage	Sage
Right to Harvest Wood – General	Wood – General
Right to Harvest Wood for Cabins	Wood for Cabins
Right to Harvest Wood for Domestic Use	Wood for Domestic Use
Right to Harvest Wood for Tepees	Wood for Tepees
Right to Harvest Wood for Overnight Shelters	Wood for Overnight Shelters
Right to Harvest Wood for Fuel – Camps	Wood for Fuel – Camps
Right to Harvest Wood for Domestic Heating	Wood for Domestic Heating
Right to Quarry Rock – General	Rock – General
Right to Quarry Rock – Pipestone	Rock – Pipestone
Right to Quarry Rocks – Ceremonial Purposes	Rock – Ceremonial Purpose

Right to Collect Potable Water – For Camp	Water – For Camp
Right to Collect Potable Water – Domestic Purposes	Water – Domestic Purposes
Right to Construct / Maintain Cabins	Cabins
Right to Construct / Maintain Camps	Camps
Right to Construct / Maintain Overnight Shelters	Overnight Shelters
Right to Travel to / Access Hunting, Fishing, Trapping and Harvesting Areas	Travel to / Access Hunting, Fishing, Trapping and Harvesting Areas
Right to Build, Use and Maintain Trails	Build, Use and Maintain Trails
Right to Use Land / Water Travel Routes to Access Hunting, Fishing, Trapping and Harvesting Areas	Use Land / Water Travel Routes to Access Hunting, Fishing, Trapping and Harvesting Areas
Other	Other

In addition to the above, the DFN People hold that they have a range of other rights (and responsibilities) recognized by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), other existing international human rights conventions and developing international norms and standards.

F) DFN Historical and Ongoing Utilization of Lands and Resources in the Southern Portions of its Traditional Territory and in the Grande Mountain Area.

The DFN has conducted and commissioned initial research in relation to its Ancestor’s historical use and occupancy of its hunting grounds and its Traditional Territory and ongoing utilization of its Traditional Territory by DFN families and community members. Initial studies were conducted in 2009/10 and 2018/19.

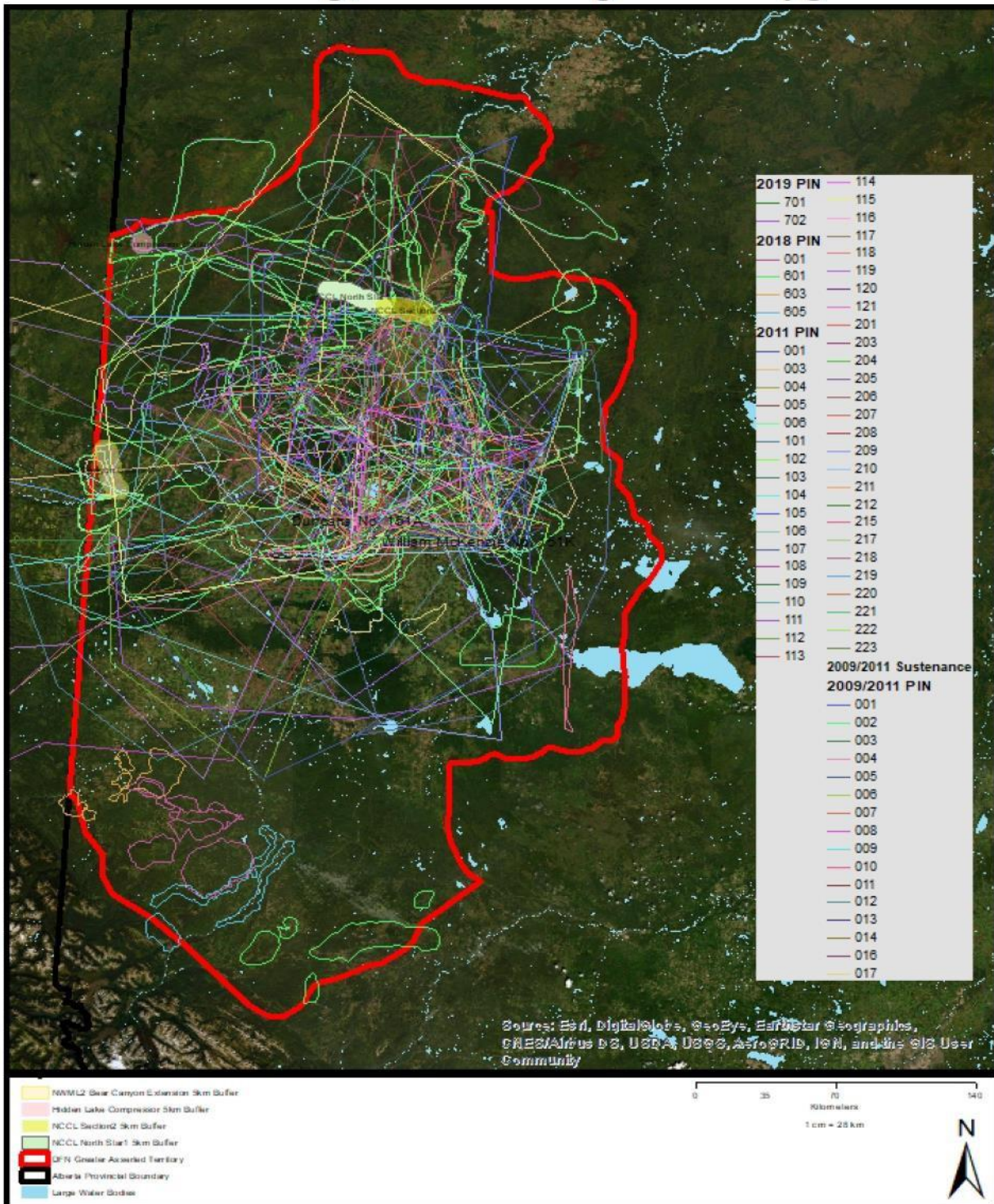
Among other things, these surveys demonstrate the historical and ongoing utilization by DFN families and members of areas near Grande Mountain, the Upper Smoky River Valley, ‘Sheep Valley/Creek’, the Muskeg River, Grande Cache and Victor Lakes and areas east and to the south-east between the Wapiti and Berland Rivers. In support of this assertion, the DFN references two reference survey documents which federal agencies have constructive awareness and possession of by virtue of the recently concluded National Energy Board (NEB) (now the Canadian Energy Regulator) environmental assessment of the Nova Gas Transmission Ltd. 2021 System Expansion Pipeline Project and the Nova Gas Transmission Ltd. North Corridor Expansion Project.

The two survey documents referenced are:

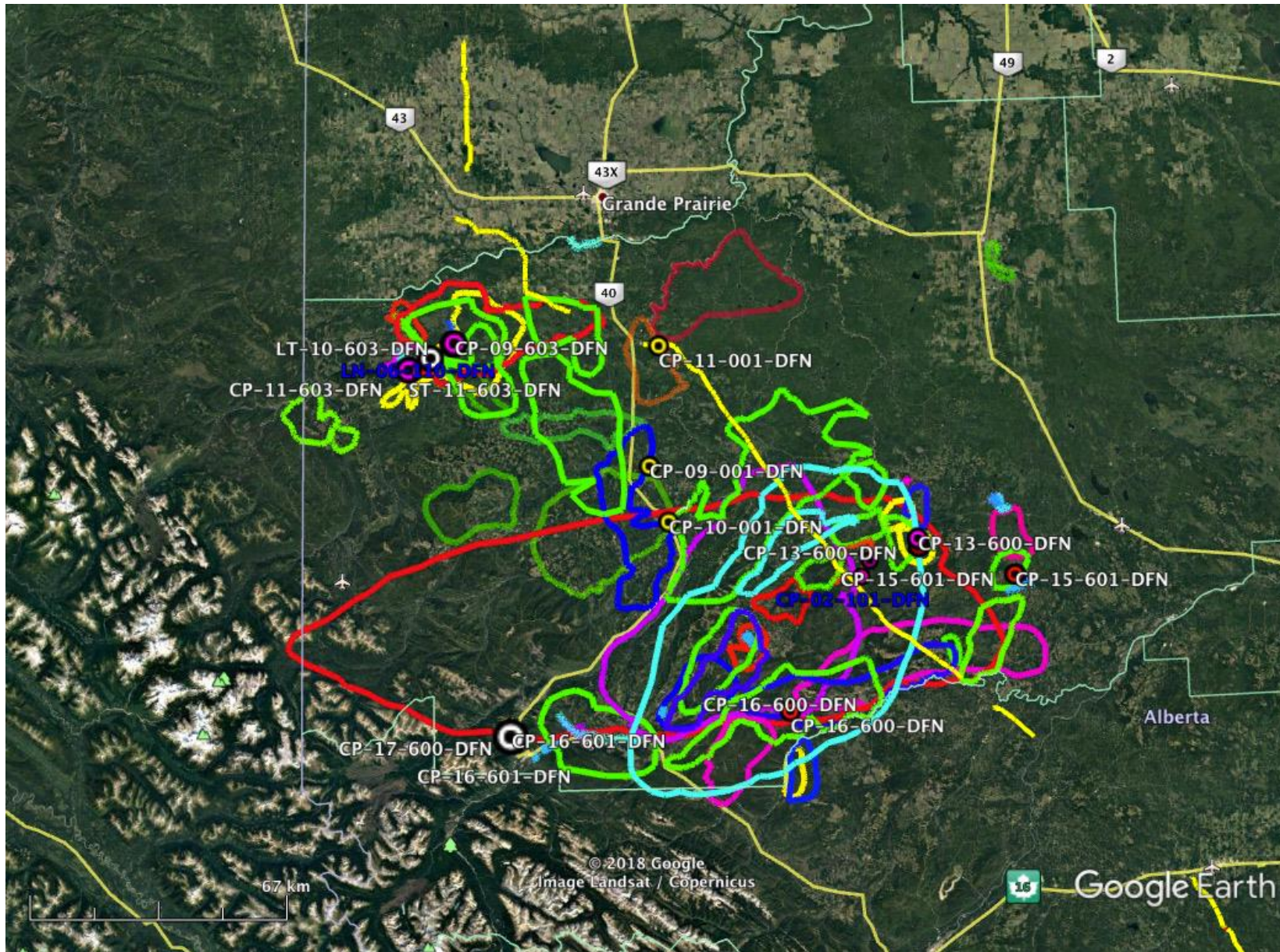
- ‘Duncan’s First Nation Wapiti – Little Smoky Fan Indigenous Knowledge Survey Conducted in Relation to the Nova Gas Transmission Ltd. 2021 System Expansion Project Report’
- ‘Duncan’s First Nation 2019 Clear Hills – Chinchaga Refuge Indigenous Knowledge Survey Conducted in Relation to the Nova Gas Transmission Ltd. North Central Corridor Loop Project North Corridor Expansion Project and the Ongoing Operation of NGTL North Central Pipeline System’)

Both of these documents provide qualitative and quantitative information demonstrating that the DFN use of areas in the vicinity of the Project area. The DFN provides excerpts of mapped information provided along with those surveys below:

DFN TLRU : 2009/2011 Sustenance, 2011 Hunting, 2018 Hunting, 2019 Hunting Area Polygons



Example DFN 2009-2019 Hunting Area Polygons



Examples of DFN Land Utilization Provided as Part of DFN Review of NGTL 2021 System Expansion Project

The DFN notes, as with all such research, there are limitations. The DFN faced limitations such as limited time, resources and availability of community members to participate in the surveys. Also, given the deep knowledge of Elders, hunters and land users in the community, such survey efforts often serve to prompt thinking and additional detail subsequent to interviews, workshops, meetings and time spent out on the land. Should a review be undertaken by the IAAC and the DFN were to provide an opportunity to consider the Project and engage its community members, additional Indigenous Knowledge would likely be recalled, documented and brought forward into the review to assist with the assessment of impacts.

G) SUPPORT FOR DESIGNATION REQUEST

The Project is located within the DFN's Traditional Territory, including important harvesting and land use areas, such as those in and around Grande Mountain, the Smoky and Muskeg Rivers, and Sheep Creek. The Project poses risk to the viability of the area for continued practice of rights and culture by DFN families and community members.

The DFN shares many of the same concerns raised in the AWN request and endorses and supports AWN's call for federal review of the Project. In particular, DFN views a federal review as necessary given the Project's potential to:

- cause adverse impacts to DFN's rights, culture and way of life;
- impact the health of DFN community members exercising their rights and practicing their culture in Project area and areas in the vicinity of the Project;
- contribute to the already significant cumulative impacts of industrial development of the DFN's Traditional Territory;
- adversely impact the health and sustainability of the waterways in the Upper Smoky River watershed and the plants, animals, and humans that rely on it, and
- have adverse impacts on our Indigenous relations and neighbors who also have an interest in and rights to the Project area and areas in the vicinity of the Project

The Project affects these areas and other areas of federal jurisdiction. A federal review is necessary to ensure that the impacts on the environment and on Indigenous peoples are properly assessed. Further, the lack of inclusion of the DFN in this Project has arisen at a provincial level, given application of Government of Alberta (GOA) consultation and environmental assessment practices and policies which have proven to be impoverished, woefully inadequate and unlawful over the better part of two decades.

Based on information available and level of review possible at this time, the DFN is of the view that there is potential for Project interactions with DFN rights and cultural practices and for the Project to give rise to risks to DFN rights and cultural practices. The below table is not intended as a comprehensive treatment of the matter (that would occur within an appropriately scoped impact assessment) but provides indications of areas of potential interaction and risk:

Project Component / Impact	Eco-Cultural Values Which Support DFN Exercise of Rights and Cultural Practices	DFN Right and Associated Cultural Practices
<p>Mine Footprint (Portal)</p> <ul style="list-style-type: none"> -Displacement of Large Game -Direct habitat loss for Large Game 	<ul style="list-style-type: none"> -Elk and Elk Habitat around Grande Mountain -High Elevation Culturally Significant Vegetation 	<ul style="list-style-type: none"> -Hunting/Harvesting of Large Game / Elk -Harvesting of High Elevation Culturally Significant Vegetation
<p>Haul Road Footprint from Mine Portal to Grande Cache</p> <ul style="list-style-type: none"> -Displacement of Large Game -Direct habitat loss for Large Game 	<ul style="list-style-type: none"> -Elk and Elk Habitat around Grande Mountain -High Elevation Culturally Significant Vegetation 	<ul style="list-style-type: none"> -Hunting/Harvesting of Large Game / Elk -High Elevation Culturally Significant Vegetation
<p>Wash Plant / Processing Facility on Smoky River</p> <ul style="list-style-type: none"> -Displacement of Large Game -Direct habitat loss for Large Game 	<ul style="list-style-type: none"> -Moose and Riparian Forest Moose Habitat along Smoky River 	<ul style="list-style-type: none"> -Hunting/Harvesting of Large Game / Moose
<p>Ongoing Mining Operations and Coal Hauling</p> <ul style="list-style-type: none"> -Increased large game mortality along Haul Road and along Highway #40 -General disturbance to Large Game near Grande Mountain -General disturbance to Large Game in adjacent valleys and ranges -Auditory disturbance to Large Game near Grande Mountain -Auditory disturbance to Large Game in adjacent valleys in ranges -General disturbance to DFN land users in landscape -Auditory disturbance to DFN land users -Visual disturbance to DFN land users 	<ul style="list-style-type: none"> -Moose and Elk in Grande Mountain area -Moose and Elk in adjacent valleys and ranges -Big Horned Sheep in adjacent valleys and ranges -Caribou habitat and herds (SARA) -Unique high elevation areas and valleys within DFN's Traditional Territory which are valued -Less disturbed high elevation and valleys within DFN's Traditional Territory which are valued 	<ul style="list-style-type: none"> -Hunting/Harvesting of Large Game / Elk / Big Horned Sheep -DFN right to harvest caribou and interest in restoring populations and habitat -High Elevation Culturally Significant Vegetation -Need for less disturbed / quieter areas for DFN land users
<p>Wash / Processing Plant on Smoky River</p>	<ul style="list-style-type: none"> -Cold water and warm fish species and habitat in Smoky River 	<ul style="list-style-type: none"> -Right to fish cold and warm water species

<ul style="list-style-type: none"> -Deleterious substances released into Smoky River downstream fish habitat -Impact on Bull Trout (SARA) -Increased release of coal dust into surrounding area 	<ul style="list-style-type: none"> -Bull Trout populations (and habitat) at risk -DFN confidence in health of downstream fish populations 	<ul style="list-style-type: none"> -Right to Bull Trout and interest in restoring populations and habitat
<p>Cumulative Impacts of Project with Other Territorial / Regional Developments, Footprint and Stressors</p> <ul style="list-style-type: none"> -Overall increase of footprint, disturbance and impacts in landscape, region and DFN Territory 	<ul style="list-style-type: none"> -Area available within Traditional Territory, Host Landscape, Upper Smoky Watershed and DFN family / individual to support the hunting of large game and undertake associated cultural practices -Areas present with less disturbance within Traditional Territory, Host Landscape, Upper Smoky Watershed and DFN family / individual to support the hunting of large game and undertake associated cultural practices -Capability of DFN Traditional Territory and sub-landscapes (Upper Smoky Watershed) to support range of DFN uses of its land and core sustenance and cultural needs 	<ul style="list-style-type: none"> -Right to hunt -Right to trap -Right to fish -Right to gather plants -Right to harvest -Ability to maintain culture and way of life -Ability to exercise rights in preferred manner -Ability to maintain and transmit oral traditional knowledge -Ability to meet sustenance needs -Ability to meet cultural needs -Ability to have access to range of unique ecological landscapes within Traditional Territory
<p>Other</p>	<p>-TBD</p>	<p>-TBD</p>

H) Cumulative Impacts to DFN Rights, Culture and Way of Life

One of the most important concerns of the DFN in relation to this Project, pertains to that of cumulative impacts. For well over a decade, the DFN has attempted to make the Government of Alberta aware of its grave issues and concerns of how its rights, culture and way of life have been eroded and compromised through a litany of adverse and irresponsible GOA land use actions, policies (or lack thereof) and thousands of ongoing project decisions.

The record is clear, that at least since 2009/10, the DFN made numerous attempts to make GOA agencies aware of its issues and concerns related to the cumulative impact of development on its rights, culture and way of life. Between 2009 and 2011, the DFN made documentation available, made its issues and concerns known and requested Crown intervention within the context of the GOA’s environmental assessment review of the Shell Carmon Creek Expansion and other projects subject to provincial approvals. Since that time, the DFN continued to express the grave concerns of the community arising from the cumulative impact of development on its rights, culture and way of life. The DFN appealed directly for help and assistance on this matter to the GOA on numerous

occasions from 2017 to the present time.

Due to the ongoing pattern of behaviour by the GOA and its refusal to act in a reasonable and honourable way in relation to this critical matter, the DFN undertook to write the Premier of Alberta, making an appeal once again for positive intervention by Crown agencies. The DFN highlights the tenor of the letter through the following excerpts:

"I hope you can appreciate just how dire the situation is for our families, community, and existing and future generations. Our rights and culture as Beaver and Cree People are inextricably linked to the land. Without intact and accessible places to hunt, fish, harvest, and carry out other cultural practices, we cannot meaningfully exercise our rights, nor can we pass on our knowledge of those rights and practices to future generations. It is not too much to say that the extensive and ever increasing development in DFN's territory - development that has been directly caused and permitted by Alberta - poses an existential threat to our culture, identity, and way of life.

It is against this backdrop that we have taken the step of instructing our lawyers to prepare a claim for treaty infringement. I do want to make clear, however, that we are taking this action as an absolute last resort. We have tried using existing regulatory processes. We have informed Alberta time and time again of the limitations of these processes and the ongoing erosion of our rights. It has not been enough. While going to court is not our first choice, the reality is that Alberta, through years of indifference and inaction, has effectively made that choice for us.

DFN remains open to discussing alternative courses of action. But given the urgency of the situation, as well as our past disappointments with vague government assurances that ultimately lead nowhere, we require some concrete commitments on the part of the Province. We therefore demand that Alberta strike a formal table with DFN within 60 days of this letter in order to address infringement and adverse impacts to DFN's Treaty rights, culture, and way of life..."

(Source: DFN Letter to Premier Kenny and GOA, 2022)

The 60-day period passed, and sadly no communication, substantive response or effort to meet with the DFN was forthcoming from any branch of the GOA. Given this outcome, which was consistent with the long-term behavior of the GOA vis a vis this matter, the DFN felt it had no other recourse but to instruct to JFK Law to file legal action with the courts. The Statement of Claim was filed with the Court of Queen's Bench in Alberta on July 18, 2022.

An excerpt from the Statement of Claim is included as it highlights and brings attention to the adverse anthropogenic forces already acting on the DFN's Territory, host landscape and DFN's rights. While this project is clearly not in lands that could be considered 'core lands' to the DFN, the expansion of coal mining and this Project in this ecologically sensitive and unique area within DFN's Territory will make the situation worse for the DFN, not better:

Overview

1. Since long before the assertion of Crown sovereignty in what is now Alberta, the Plaintiffs (collectively, "DFN") have been using the lands and waters in their traditional territory to hunt, fish, trap, gather, and support other important cultural practices and activities. DFN's dependence on these lands and waters – which center on the Peace River area – has shaped their unique identity and way of life as an Indigenous People, including their language, economy, culture, and spirituality. Simply put, DFN's traditional territory is what makes them who they are.
2. In or around 1899, the Crown sought the agreement of DFN's ancestors to open the region up to non-Indigenous persons for settlement, to which end the Crown promised that DFN would be ensured the right to carry on their way of life free from interference as well as the rights to hunt, fish, trap, and gather natural resources in their traditional territory.
3. On the basis of the solemn promises and assurances made by the Crown, as well as their trust in those promises and assurances, DFN's ancestors agreed to allow their traditional territory to be opened up for settlement in accordance with Treaty No. 8 (the "Treaty").
4. The Defendant Her Majesty in Queen in Right of the Province of Alberta ("Alberta") has failed to uphold its obligations to DFN and its ancestors under the Treaty, including its honourable and fiduciary obligations.
5. Rather than protecting DFN's way of life and ensuring the meaningful exercise of their rights, Alberta has engaged in a pattern of conduct that, taken together, has significantly diminished DFN's right to hunt, fish, trap, and gather as part of their way of life. Among other things, habitats have been fragmented, lands and waters have been degraded, substances have been introduced that cause legitimate fears of contamination and pollution, and lands have been put to uses

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that are incompatible with the continued meaningful exercise of DFN's Treaty rights.

6. As a result of Alberta's failure to uphold its Treaty obligations, DFN can no longer reasonably access landscapes and natural resources in their traditional territory to support hunting, fishing, trapping, gathering, and other important cultural activities and practices, as ensured under the Treaty. There are simply not enough appropriate and accessible lands, waters, ecosystems, and natural resources left to support the meaningful exercise of DFN's Treaty rights and way of life.
7. DFN seeks relief against Alberta to address Alberta's unjustifiable and ongoing breaches of its obligations to DFN under the Treaty, including Alberta's honourable and fiduciary obligations.

(DFN: July 2022 DFN Statement of Claim)

With the above said, the DFN wishes to acknowledge the somewhat different and refreshing approach taken with the DFN by Government of Canada (GOC) agencies in comparison to that of the GOA. Over the past few months, representatives of the GOC have been working collaboratively to support the DFN and its independent academic partner, the Integrated Ecology Group (IEG) in

initiating important research pertaining to cumulative effects under the auspices of the GOC's new 'Terrestrial Cumulative Effects Initiative'. This initiative arose in response to Indigenous Nations, including the DFN who expressed concerns in relation to the TMX Pipeline Project and the NGTL 2021 System Expansion Project.

Just months ago, the DFN reached an important step with the GOC agency partners confirming the GOC's commitment to fund the DFN cumulative effects research project. In summary the project is intended to further refine landscape analysis and modelling methodology in a manner that places Indigenous Knowledge at the core of the approach with supporting scientific cumulative impact assessment disciplines. Once the project is commenced, the DFN community proposes to host an in-community meeting, kick-off event and BBQ where GOC funding partners, regional staff and local MPs would be invited to celebrate this important milestone. This is an important step and highlights the fact that the GOC is at least prepared to acknowledge the problem of cumulative impacts, the risk that it poses to Indigenous People (along with Global Warming / Climate Change) and that as a first step, reasonable assessment approaches, analysis and tools can be brought to bear to understand and address this critical problem.

I) CLOSING

The DFN 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 hope this submission highlights the broad impact the Project can have on the DFN, the AWN and other Indigenous Nations who share similar values, issues and concerns.

<Original signed by>

Matthew General
For the Duncan's First Nation

CC: DFN Chief Virginia Gladue
DFN Councilor Jennifer Testawich
DFN Councilor Keith Lawrence
Elder Tom Green
DFN Elders and Community Members
DFN Lands Environment and Economic Development Unit: Ken Rich
Aseniwuche Winewak Nation Elders, Leadership and Community
Allison Lefebvre, Impact Assessment Agency of Canada