



Northern Road Link Project
Impact Assessment Agency of Canada
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March 23, 2023

RE: FRIENDS OF THE ATTAWAPISKAT RIVER
Comments on the Initial Project Description – Northern Road Link (IAAC Reference No. 84331)

This comment is submitted by the Friends of the Attawapiskat River in response to the call for feedback by the Impact Assessment Agency of Canada’s (“Agency”) on the Initial Project Description (“IPD”) for the Northern Road Link project.¹

I. BACKGROUND

a. The Friends of the Attawapiskat River

The Friends of the Attawapiskat River (the “Friends”) are an Indigenous-led coalition of impacted community members and allies dedicated to stewarding and protecting the health of the Attawapiskat River and its watersheds, people and communities.² As Treaty 9 people, the Friends have a shared responsibility to protect Treaty lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of their grandchildren and those not yet born.

In making these comments to the Agency, the Friends note they are not speaking on behalf of the First Nation leadership where its members are based (including Attawapiskat, Neskantaga, Peawanuck,

¹ Impact Assessment Agency of Canada, “Summary of an Initial Project Description of a Designated Project” online: <https://iaac-aeic.gc.ca/050/evaluations/document/146719?culture=en-CA>; Marten Falls First Nation and Webequie First Nation, “Northern Road Link – Initial Project Description Plain Language Summary,” (31 January 2023), online: <https://iaac-aeic.gc.ca/050/documents/p84331/146719E.pdf> [Initial Project Description]

² Friends of the Attawapiskat River, online: <https://attawapiskatriverprotectors.com/>

Kashechewan and Fort Albany First Nations), but rather providing these comments as Treaty 9 rights holders and community members. Furthermore, these comments do not constitute consultation nor discharge the Crown's obligations per section 35 of the *Constitution Act, 1982*.

b. The Proposed Northern Road Link Project

The region dubbed the “Ring of Fire” is located 500km northeast of Thunder Bay, Ontario in the Hudson - James Bay Lowlands region (“HJBL”) and in the lands of Treaty 9.³ While the area has been touted for its potential abundance of valuable minerals, such as chromite, copper, and gold,⁴ the region is also home to nearly 40,000 Indigenous peoples across 34 communities. The HJBL region in northern Ontario is the largest wetland in North America and the second-largest peatland complex in the world, covering over 325,000km². It is the homeland of the Ojibwe Nations providing food, and medicine, as well as cultural and sacred spaces for traditional practices and ceremonies. However, mineral extraction both in the HJBL (e.g., De Beers Victor Diamond Mine) and upstream, particularly in the area known as the Ring of Fire, have historically impacted and promise to cause unprecedented change to this ecosystem and its people in the years to come.

In anticipation of the proposed mining development in the Ring of Fire area, Marten Falls First Nation is proposing a multi-purpose, all-season community access road - known as the Marten Falls Community Access Road (MFCAR)⁵ - to connect the Marten Falls First Nation community with the Ontario provincial highway network. Similarly, Webequie First Nation is proposing an all-season road corridor - the Webequie Supply Road (WSR)⁶ - connecting the Webequie First Nation to the mineral deposit area near McFaulds Lake.

The Northern Road Link project (“NRL”) is a proposal by both Marten Falls First Nation and Webequie First Nation (the “proponents”) to build a 120 km road to connect the two other proposed road development projects (the MFCAR and the WSR), providing access to the proposed Ring of Fire mining development area⁷ as well as the provincial highway system. As proposed, the Northern Road Link is to be a two-lane, all-weather, gravel access road with water crossings, built to accommodate both passenger and commercial vehicles.

³ Scott et al. "Synthesis Report: Implementing a Regional, Indigenous-Led and Sustainability-Informed Impact Assessment in Ontario' Ring of Fire" (2020) Osgoode Digital Commons 2807.

⁴ *Ibid* at 3.

⁵ Ministry of Environment, Conservation and Parks, “Marten Falls community access road project,” online: <https://www.ontario.ca/page/marten-falls-community-access-road-project>; IAAC, “Marten Falls Community Access Road Project,” online: <https://iaac-aeic.gc.ca/050/evaluations/proj/80184>

⁶ Ministry of Environment, Conservation and Parks, “Webequie supply road project,” online: <https://www.ontario.ca/page/webequie-supply-road-project>; IAAC, “Webequie Supply Road Project,” online: <https://iaac-aeic.gc.ca/050/evaluations/proj/80183>

⁷ Initial Project Description, p 38

II. PRELIMINARY ISSUES

a. Moratorium in the Ring of Fire

In November 2020, the Friends, joined by the Canadian Environmental Law Association, MiningWatch Canada and the Wildlife Conservation Society Canada asked the provincial government to pause decision making on exploration permits in the Ring of Fire, citing concerns about a piecemeal approach to decision making which would allow cumulative environmental impacts to go unnoticed.⁸ Currently, there are thousands of approved and pending claims for exploration in the Ring of Fire.

In 2021, the Friends launched a renewed call for a moratorium on development activities in the Ring of Fire until meaningful Indigenous engagement had been undertaken, the federal Regional Assessment process was complete, and protection plans for sensitive wetlands and watersheds were in place.⁹

To date, no action has been taken by either level of government to pause mineral claims and exploration activities nor develop protection plans for this unique and at-risk region.

At Appendix A of the Initial Project Description, the proponents of the NRL have responded to the Friends request for a moratorium noting that:

Pausing the Project's EA/IA until meaningful Indigenous engagement had been undertaken on development activities in the Ring of Fire, the Regional Assessment process is complete, and protection plans for sensitive wetlands and watersheds are in place, is inconsistent with the agreement between the proponent and the Province to proceed with the Project in accordance with provincial EA legislation, which entails completing the process in a timely manner.¹⁰

In response, the Friends reiterate we remain of the view that a moratorium is necessary in the circumstances, when the Indigenous grassroots have not been meaningfully engaged and Treaty rights not respected. The approval of exploration permits in the Ring of Fire should be paused, as they are directly linked and incidental to the WSR, MFCAR and NRL projects. Reviewing the three road projects on a case-by-case basis furthermore diminishes the impacts of the projects which, if considered in their entirety, pose even greater and more profound impacts on the land and environment.

⁸ Friends of the Attawapiskat River, "Response to Proposals to Issue Multiple Exploration Permits," (12 Nov 2020), online: <https://attawapiskatriverprotectors.com/2020/11/13/response-proposed-exploration-permits-in-the-ring-of-fire/>

⁹ Friends of the Attawapiskat River, online: <https://attawapiskatriverprotectors.com/how-to-support/ring-of-fire-moratorium/>

¹⁰ Initial Project Description, p A-8

b. Wrongful denial of Treaty rights

The lands where the Ring of Fire exists are subject to a treaty known as Treaty 9. Treaty 9 was signed in 1905 by First Nations and the Crown, representing a solemn agreement to peacefully coexist on the lands as two equals.

The terms of treaty have been violated for the past century with residential schools, assimilationist practices, and the lack of clean drinking water and health services provided to Indigenous communities, all of which are essential in settler areas in Canada. It continues in the context of the Ring of Fire, where mining development continues absent the free, prior, and informed consent of Treaty 9 members and commitments by Canada to uphold and respect Treaty 9 rights.

As the Friends raised during the Agency's open house on the Northern Road Link Project that took place in Thunder Bay in February 2023, the Indigenous grassroots are not aware of what is being proposed by virtue of the government and proponents failing to engage beyond Chief and Council. Discussions, plans and decisions about resources cannot be made without first consulting the Treaty rights holders.

This approach stands contrary to the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which safeguard the individual and collective rights of Indigenous people, imposing a duty on Canada to achieve the free, prior and informed consent of Treaty 9 members before any development or use of resources on the land occurs. The Friends are among the Indigenous grassroots who have been wrongfully denied their inherent and Treaty rights promised by Treaty 9 "for as long as the sun shines, the grass is green, the water flows and the Anishinaabe are here."

The Friends have communicated this violation of Canada's obligation to uphold the spirit and intent of Treaty 9 to the UN Human Rights Council,¹¹ noting Canada's failure to honour and respect the Treaty are contrary to Article 37 of UNDRIP which states "Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements" (emphasis added).

c. An Impact Assessment must be required

The *Impact Assessment Act* (IAA) regime establishes an evidence-based, participatory and precautionary assessment process that anticipates and prevents adverse effects of proposed projects, prior to their construction or development. Done right, impact assessments (IAs) provide a "look before you leap" approach to decision making.

¹¹ Friends of the Attawapiskat River, "Submission from the Friends of the Attawapiskat River to the United Nations Expert Mechanism on the Rights of Indigenous Peoples," 28 Jan 2022, online: <https://cela.ca/wp-content/uploads/2022/02/Submission-Expert-mechanism-on-the-rights-of-indigenous-peoples.pdf>.

The Friends strongly support the application of the *IAA* to this project given the impact the project on Indigenous rights, and Canada's ability to uphold its environmental obligations, including the meeting of climate and biodiversity targets. The 100-year mining development proposed for this area would not only lead to unprecedented cumulative impacts and threaten the land that has been home to Indigenous nations since time immemorial, but carcinogenic exposures and emissions of heavy metals from mining operations would add to many communities' pre-existing health crises.

Done well, an IA can provide a forum for Indigenous grassroots to exercise their rights and participate in environmental decision-making for projects which will adversely affect their air, lands, and water.

COMMENTS AND RECOMMENDATIONS ON INITIAL PROJECT DESCRIPTION

The Friends provide the following comments and recommendations on the proponents' initial project description. Since the initial project description sets the stage for the detailed project description, which will follow should an IA be required, it is particularly crucial that the IPD reflect broader perspectives, and not just those of the proponents who have vested, self-interests.

As below, the Friends have significant concerns about proponent-centric framing of purpose, need for the project, alternatives and approaches to engagement and recommend the IPD be withdrawn and redrafted because it fails to reflect broader societal perspectives, including those from the Indigenous grassroots.

a. Purpose of the project

The Friends oppose the narrow framing of the "purpose" of the project which is set out in the document as "the design, construction, and operation and maintenance of a proposed all season road between the proposed MFCAR and the proposed WSR."¹² The Friends also oppose the proponents' framing of the project as advancing "sustainable" aims, noting that among the project's objectives, is to "stimulate sustainable regional economic activity by facilitating all-season road movement of materials, supplies, and people to and from the Ring of Fire area."¹³

A piecemeal approach to decision-making - wherein the effects of three proposed roads are viewed in isolation of the potential range of adverse effects resulting from the Ring of Fire – is an inadequate means to advancing reconciliation with Indigenous communities and ensuring comprehensive and informed understanding of adverse effects. We know that a fragmented and piecemeal approach to the review of infrastructure projects means we are proceeding without first knowing the consequences to the environment, human health and Indigenous rights. The Friends reiterate that a cumulative approach to understanding and studying not just the NRL, but all three road projects, is crucial to a

¹² Initial Project Description, p 34

¹³ Initial Project Description, p 34

credible IA process and an IA process which can facilitate a comprehensive understanding of projects' impacts.

Recommendation No. 1: The purpose of the project must be ascertained through meaningful consultation, with First Nations including the Indigenous grassroots, and not simply the Proponents, who have a vested interest in the project. The purpose must also have regard to the other road projects, given the magnitude of mining activities and accompanying impacts which could be facilitated by the proposed road developments.

b. Meaningful consultation and engagement

Ensuring opportunities are provided for meaningful public participation during an impact assessment is among the core purposes of the IAA.¹⁴ This is reflected in part, by the proponents' statement in the Initial Project Description that the "purpose of consultation and engagement is to promote effective two-way communication between the proponent and members of potentially affected Indigenous communities, Indigenous organizations, provincial agencies and federal authorities, the public and other stakeholders; to present and receive information and to identify and address issues and concerns."¹⁵ Engagement that is "meaningful" is also among the proponents' general engagement principles.¹⁶

To this, the Friends would add that to be meaningful, participation must first establish the needs and values the dialogue, or engagement, must be responsive to. Our experience to date – including recent participation in the Agency's open house event in Thunder Bay – is that opportunities are being provided for the sharing and receiving of information, but less opportunities are being provided to influence decisions. We submit this must be a core purpose of meaningful engagement as set out in the project description.

The Friends believe that as drafted, the Initial Project Description falls short of Canada's commitment to 'achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government relationship based on the recognition of rights, respect, co-operation, and partnership.'¹⁷ To advance and respect these rights, the Friends submit it is critical that community members from First Nations, who are the grassroots, be included in the development and undertaking of IAs. This means decision-making within an IA must enable and embody collaborative decision-making with Indigenous grassroots, and not only band councils based on the colonial *Indian Act*, to ensure their respective legal traditions equally inform governance structures, the identification of decision-makers, processes, and decision-making criteria. Canada has a fiduciary duty not just to Chief and Councils, but Treaty rights holders who are the grassroots people.

¹⁴ IAA, s 6(1)(h)

¹⁵ Initial Project Description, p 19

¹⁶ Initial Project Description, p 20

¹⁷ Canada, "Principles respecting the Government of Canada's relationship with Indigenous peoples," online: <https://www.justice.gc.ca/eng/csj-sjc/principles-principes.html>

The Friends submit Indigenous worldviews must also be considered not only within the framing of the project description, but throughout the IA process. While Indigenous worldviews are rooted in relationships, Western views consider objects like lands and natural resources as inanimate. In Indigenous cultures, these lands are considered to have capacity, conscience, and are a sacred element in Indigenous spirituality.¹⁸ Indigenous worldviews also place a responsibility to each member of the nation to maintain a good relationship with other beings that provide for them. In this sense, the land is seen as a 'being' or having a spirit, and therefore is in a relationship with Indigenous peoples. As such, the land cannot be owned, and it has its own capacity and standing in the eyes of the Creator.

Recommendation No. 2: Engagement processes must enable the full and fair participation of Indigenous community members and any decision-making must be undertaken with the consent of Indigenous community members, in keeping with their customs, worldviews and inherent laws.

Recommendation No. 3: All engagements, including open houses hosted by the Agency, must be conducted in both English and Cree, and in the community of choosing by the Indigenous organization or nation. For instance, recognizing that many community members live off-reserve, efforts must be made to ensure all community members have an opportunity to be informed and aware, participate and influence IA outcomes.

c. Impacts to climate, species & their habitats

Communities across Treaty 9 lands are located on the largest peatland complex in North America. Sub-arctic climates such as those around throughout the James Bay region are at an increased risk of irreversible impacts from climate change due to more severe weather events, permafrost thaw, wildlife and plant biodiversity loss, and sea-ice changes (among others).

The peatland (or muskeg) and the many watersheds that intersect in the Ring of Fire are inherent to Indigenous culture and well-being since time immemorial. Water and the muskeg hold incredible importance in Indigenous spirituality and represent an ongoing relationship with the Creator. The watershed and muskeg are sacred to Indigenous peoples in the area.

The Friends are concerned about proponents' narrow view of climate impacts on the Project, and likewise the Project's impact on climate, species and their habitat. The Friends submit particular emphasis must be reflected in the initial project description on understanding, modelling and mapping impacts to carbon sinks, wildlife – including their movement and corridors – and species protection more generally. The Friends have a high degree of concern about woodland caribou, noting that the road building activities, such as draining of muskeg, water taking and the creation of aggregate pits, will impact the land and their habitat.

¹⁸ Leroy Little Bear, "Jagged Worldviews Colliding," Reclaiming Indigenous Voice and Vision (2000)

Currently, the proponent states “it is anticipated that some Project activities during the construction and operations phase of the Project may affect carbon sinks”¹⁹ and notes that “major carbon sinks may be affected by the project include vegetation communities such as forests, wetlands, and peatlands.”²⁰ The impacts to carbon sinks from the project are then delineated into phases, from construction through to operations.

The Friends submit the proponent has adopted too narrow a view of climate change - predominantly considering the project’s contribution to greenhouse gas emissions - when instead, the proponents ought to consider the intersection of climate change *with* the project, including changes to muskeg (or peatlands, as referred to by the proponent).

Due the significant size of the proposed road, the number of river crossings, the traffic, and ongoing maintenance and upkeep that will be required, the Friends have a number of interrelated concerns about impacts on caribou habitat due to reliance on eskers for aggregates, and impacts to fish and fish habitat (including sturgeon) due to the impacts of road construction and bridge crossings on water flow and quality in the peatlands.

As the Initial Project Description notes:

The actual number of water crossings will not be known until a corridor is chosen as well as the road alignment within that corridor, and could range from approximately 21 to 49 individual watercourse crossings [...], there are up to 21 water crossings that might require a bridge (i.e., crossing width greater than 25 m) and up to 31 crossings that might require a culvert. The largest crossing is the Attawapiskat River (greater than 200 m).²¹

We also understand that the road will be gravel surfaced, with material sourced from nearby aggregate sources²² and terrain that is closer to these deposits, including eskers, has been deemed more suitable for the roadway.²³

Recommendation No. 4: We are very concerned that the proposed road corridor overlaps or intersects with lands which are critical for caribou and recommend that all maps include overlays reflecting wildlife habitat, wildlife migration routes and seasonal changes in the use of these areas. It is critical that the project description recognize the impacts to caribou ranges, whose summer and wintering grounds as well as migration routes in the regions will be impacted by the roads and the accompanying mining exploration they will trigger.

¹⁹ Initial Project Description, p 31

²⁰ Initial Project Description, p 32

²¹ Initial Project Description, p 40

²² Initial Project Description, p 38

²³ Initial Project Description, p 48

d. Applicable legislation and standards

The proponents set out a list of “Other Relevant Legislation and Permits”²⁴ and “Applicable Legislation and Standards”²⁵ that would be needed for the project. The Friends submit a number of legal instruments and legislative mechanisms are missing which are directly relevant to the project and must be included in the initial project description.

Recommendation No. 5: Other ‘legislation and standards’ that are directly applicable and ought to be referenced include the rights and responsibilities as set out in Treaty 9, international human rights instruments such as the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, and the recently agreed to *Kunming-Montreal Global Biodiversity Framework*.²⁶

As set out in UNDRIP , Article 26(2) provides that Indigenous peoples have the right to own, use and control their lands and territories; Article 32(2) requires Canada to obtain free, prior and informed consent for any project affecting Indigenous lands and resources; Article 37 requires respect and honouring of Treaties:

Article 26

[...]

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Article 32

[...]

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

²⁴ Initial Project Description, p 101

²⁵ Initial Project Description, p 108

²⁶ United Nations (General Assembly). 2007. Declaration on the Rights of Indigenous People

Recommendation No. 6: The Friends submit it is necessary the project description not only reflect Canada’s climate targets, but commitments to safeguard nature and halt and reverse biodiversity loss, putting nature on a path to recovery by 2050.

After days of negotiations at the largest ever conference for biodiversity conservation in December 2022 – at which the Friends were present - Canada along with 195 member nations committed to a historic global framework: the *Kunming-Montreal Global Biodiversity Framework*. The Friends submit the Framework has direct relevance to this project and it provides formative guidance on equitable decision-making. For instance, the preamble to the Framework notes the parties are “Alarmed by the continued loss of biodiversity and the threat that this poses to nature and human well-being,” and “Reaffirms its expectation that Parties and other Governments will ensure that the rights of indigenous peoples and local communities are respected and given effect to in the implementation of the Kunming-Montreal global biodiversity framework.”

Target 22 is of primary significance for Indigenous Peoples’ participation in decision making and as it sets out, decision-making is to be done fully and equitably, “respecting the cultures and rights over lands, territories, resources, and traditional knowledge of Indigenous Peoples.”

e. Proponents’ response to concerns raised by the Friends

Appendix A of the Initial Project Description contains a table dispositioning comments received from a range of stakeholders, among those, comments made by the Friends for the provincial environmental assessment process. The Friends provide the following remarks in response to the proponents’ response to key issues raised by the Friends.

Recommendation No. 7. Appendix A ought not to restrict the Agency’s view on the perspectives which must be included within the initial project description. Appendix A should not be interpreted as meaning the ‘key issues’ responded to by the proponents are resolved.

i. Alternatives to the Project

Appendix A within the initial project description notes the Friends raised concerns that the “Alternatives to the Project” have been prematurely narrowed, in that the alternatives assessment will only consider the “do nothing” alternative. The proponent’s state:

Project commenced under the EA Act, the EA/IA process will not re-examine past planning processes and decisions and therefore will not assess “alternatives to” the Project other than the “do nothing” alternative, which will be included for comparison against the proposed undertaking (i.e., the Project). The Project would be linking two roads, MFCAR and WSR. As such, the NRL is also proposed to be a road (i.e., connecting the proposed roads with the same modal option). For transportation projects, “alternatives to” the undertaking typically include options such as new or improved roads, new or improved rail service or air service. However, these alternatives to the Project would be less

viable than a road due to the need for inter-modal transfers. Furthermore, these alternatives to the Project would not meet the purposes of the Project, which is the design, construction, and operation/maintenance of a proposed all-season road between the proposed MFCAR and the proposed WSR. As such, the EA/IA will consider "do nothing" as the only "alternative to" the Project.²⁷

The Friends reiterate that an assessment of a project's alternatives must reflect more than narrowly defined Agency or Proponent goals and perspectives but take into account the goals of the communities who stand to be directly affected.

At this stage, the Friends submit the findings of the provincial EA process should not be determinative of the IA's alternatives assessment, which ought to be guided by broad-based, meaningful, consultation with Indigenous nations and Indigenous grassroots.

ii. Project Splitting

Appendix A within the initial project description notes the Friends were among those raising that "The three road projects (NRL, MCAR and WSR) ought to be scoped together for the purposes of a meaningful environmental assessment."²⁸ The proponents state:

The Ontario EA process is proponent-led. The proponents for each of the three proposed road projects separately requested to enter into agreements with the Minister of the Environment, Conservation and Parks under the Ontario EA Act to make their respective projects subject to the requirements of the EA Act, because the purpose of each project is different. As a result of those agreements, each of the proposed road projects are undergoing Individual EAs, which is the most comprehensive form of EA in Ontario. The three proposed road projects are distinct and unique, with different purposes designed to meet the specific objectives of their respective proponents. The Proposed ToR is specific to the NRL Project and as such it is scoped for this individual project.²⁹

The Friends remain of the view that given the interconnected nature of the three road projects and their interrelated impacts, it frustrates the purposes and efficacy of IA should they be considered independent of one another.

In *MiningWatch Canada v Canada (Fisheries and Oceans)*, the Supreme Court explained that "project splitting" occurs when a proponent "[...] represent[s] part of a project as the whole, or propos[es] several parts of a project as independent projects in order to circumvent additional assessment

²⁷ Initial Project Description, p A-5

²⁸ Initial Project Description, p A-9

²⁹ Initial Project Description, p A-9

obligations [...]”.³⁰ The Court then provided an example of how project splitting could be used to “circumvent additional assessment obligations”:

Where the RA or Minister decides to combine projects or to enlarge the scope under s. 15(2) or (3), it is conceivable that the project as proposed by the proponent might have only required a screening. However, when the RA or Minister considers all matters in relation to the project as proposed, the resulting scope places the project in the [Comprehensive Study List]. Where this occurs, the project would be subject to a comprehensive study.³¹

If projects are tied together by connected actions, cumulative actions, or similar actions, or if they provide functional or economic dependence on a future project, they must be assessed as a single project for their impact on the environment.³² By allowing the NRL and related road projects to undergo separate IAs, the proponents are able to lessen the projects’ actual environmental footprint and therefore, can more readily justify its adverse environmental effects.

CONCLUSION

As set out above, the Friends have significant concerns about proponent-centric framing of the initial project description, including statements made about the project’s purpose, need, alternatives and approaches to engagement. The Friends recommend it be withdrawn and redrafted because it fails to reflect broader societal perspectives, including those from the Indigenous grassroots.

Thank you for this opportunity to provide our comments. We would welcome further discussion with the Agency and request notice of any project updates.

Sincerely,



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Kerrie Blaise
Legal Counsel

³⁰ *MiningWatch Canada v Canada (Fisheries and Oceans)*, 2010 SCC 2 at para

³¹ *MiningWatch Canada v Canada (Fisheries and Oceans)*, 2010 SCC 2 at para 40

³² *National Wildlife Federation v. Appalachian Regional Com'n*, 677 F. 2d 883 at 888 (C.A.D.C., 1981), quoting *Kleppe v. Sierra Club*, 427 U.S. 390 (1976) 40 C.F.R. 1508.25; *O'Reilly v. U.S. Army Corps of Engineers*, 477 F. 3d 225 at 236 (5th. Cir. 2007), quoting *Fritiofson v. Alexander*, 772 F. 2d 1225 at 1241 (5th Cir.1985)