



June 6, 2023

Submitted via Email

Impact Assessment Agency of Canada
De Havilland Field Project
Email: Dehavilland@iaac-aeic.gc.ca

To Whom this May Concern,

RE: Goodstoney First Nation comments on the Initial Project Description for the 2150038 Alberta Inc. De Havilland Field Project

This letter is submitted to the Impact Assessment Agency and 2150038 Alberta Inc. (the “Proponent”) by the Stoney Consultation Office in relation to the De Havilland Field Project (the “Project”). The Stoney Consultation Office works with Stoney Tribal Administration which represents Bearspaw First Nation, the Goodstoney First Nation (“Goodstoney”), and the Chiniki First Nation. The Chiefs and Councils of these three Nations have the authority to protect the collective rights and interests of their members as recognized by Treaty No. 7, the *Natural Resources Transfer Agreement*, 1930, protected by Section 35 of the *Constitution Act, 1982* (“Section 35 Rights”). This letter is provided on behalf of Goodstoney.

According to Rev., Dr., Chief John Snow, the Stoney Nakoda people have continuously used, occupied, and possessed their traditional lands since time immemorial. This territory ranged from the great plains to the rocky mountain foothills, and over the mountain passes to the British Columbia interior. Rev., Dr., Chief Snow described ȩyǎǎhé Nakoda Makochi (Traditional Territory) as extending from beyond the Brazeau River area in the north, south into Montana, east beyond the Cypress Hills of Saskatchewan, and west well into the British Columbia Interior.¹ The connection with eastern Alberta is also recognized through the three First Nations signing Treaty No. 7 in 1877 at Blackfoot Crossing, which illustrates the long-standing use and occupation of the Project Area.

On May 8, 2023, the Impact Assessment Agency notified Indigenous groups and the public that a review of the Initial Project Description for the De Havilland Field Project was underway. It was

¹ As described by: Snow, Chief John. 2005. *These Mountains are Our Sacred Places: The Story of the Stoney People*. Fifth House Books.



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noted that comments submitted on the Initial Project Description would help the Agency prepare a summary of issues and determine whether the Project should undergo an impact assessment.

Based on our review of the Initial Project Description we believe an impact assessment for this project is warranted in order to ensure consideration of effects within federal jurisdiction. This includes Section 2(c)(i) of the *Impact Assessment Act, 2019* which identifies that impacts to physical and cultural heritage with respect to Indigenous Peoples are within federal jurisdiction. As well as Section 16(2)(c) of the *Impact Assessment Act, 2019* which requires contemplation of the Project's adverse effects on Indigenous rights and interests, as factors for consideration.

We believe an impact assessment is required in order to ensure these important factors are adequately considered, particularly as a provincial Environmental Impact Assessment is not expected to be required.²

Please see below for more detailed comments which can be used by the Impact Assessment Agency in support of this request.

Involvement

To date, Goodstoney has had limited involvement in any pre-planning processes related to the De Havilland Field Project, including limited involvement in the Biophysical Assessment completed by Trace Associates in 2020. Further, no capacity has been offered or provided to support Goodstoney involvement by the Proponent.

As noted within the *Practitioner's Guide to the Impact Assessment Act*, the Proponent's role is to provide information about their project and participate in discussions informing the assessment of impacts on rights. It is further noted that all parties have a responsibility to find ways to address concerns. The limited engagement to date has meant that there is no understanding of Goodstoney's concerns by the proponent, no identification or understanding of Goodstoney, and no steps towards assessment of the level of impact.

Physical and Cultural Heritage

Within the Initial Project Description, the Proponent noted that that a historical resources review was conducted for the Project site to support an application for *Historical Resources Act* clearance. This review found that the Project does not intersect any lands with a Historical Resource Value and there are no previously recorded historic resources within the Project

² 2150038 Alberta Inc., De Havilland Field Project, Summary of an Initial Project Description, RevO, Page 40



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boundary. This review further found that there is low potential for intact, unknown historic resources to be present.

This is incongruent with the Goodstoney understanding of the area. For example, east of the Project Area, the Cluny archaeological site was identified along the north bank of the Bow River in south central Alberta.³ *“Archaeologists have found pottery very similar to that found at Cluny at a number of other archaeological sites throughout southern Alberta and Saskatchewan, and in northern Montana. This suggests that the region was inhabited by the same or closely related peoples. Cluny and the other sites with similar pottery might represent the expansion of a group of native peoples into those areas. These were possibly the ancestors of the historic Assiniboine.”*⁴ This illustrates a historical connection to this area by Goodstoney, who have used and occupied areas through and in proximity to the Project site in order to frequent the Cluny site area, among other areas.

The Project area being historically connected to Goodstoney is reinforced by the signing of Treaty No. 7 at Blackfoot Crossing. This site, south of the Cluny site, emphasizes the use and occupation of this area by Goodstoney ancestors. Indeed, there were many camps in the vicinity of the Project area as Goodstoney people lived and used the lands of *Ŷyāñé Nakoda Makochi*. This area holds deep importance. Countless geographic landmarks, valleys, and flats bear *Ŷyethka* (Stoney Nakoda language) names. To this day, ceremony is important and links Goodstoney to these places.

While it is understood that the Project is located on previously disturbed land, there is precedence for areas where agriculture has been practiced having archaeological potential. For example, the Piskowitz-Tanzberg site was situated west of the hamlet of Piskowitz, Germany. The original archaeological potential was noted during arable farming in the early 1900s. However, following the original discovery, 100 years of agricultural land use occurred in that location; yet it was still possible to find preserved burial remains.⁵

This means that the Project site may still have archaeological potential despite many years of agricultural disturbance and as such, Goodstoney requests that this Project be subject to an impact assessment to ensure that physical and cultural heritage with respect to Indigenous Peoples is adequately assessed and mitigated.

³ Brumley, John H., 2015, Cluny Archaeological Site, the Canadian Encyclopedia

⁴ *Ibid.* Also of note, Assiniboine is an ethnonym for Sioux-Nakoda cultural and linguistic groups.

⁵ Vogt, R., and Kretschmer, I.: Archaeology and agriculture: conflicts and solutions, *E&G Quaternary Sci. J.*, 68, 47–51, <https://doi.org/10.5194/egqsj-68-47-2019>, 2019.



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Indigenous Rights and Interests

The Initial Project Description relies solely on the assessment of biophysical components and as such, includes limited consideration of Indigenous rights.

The Initial Project Description states that because the Project anticipates beyond-negligible effects on air quality, water quality, fish, wildlife, and vegetation health, impacts on Treaty rights or Indigenous land use is not anticipated. This understanding is contrary to current case law which has noted that consideration of biophysical components alone is not sufficient to understand impacts to Indigenous rights. This is particularly relevant for the Crown and Crown Agencies as within the *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, 2017 SCC 40, [2017] 1 S.C.R. 1069 decision, it found that the consultation and accommodation efforts fell short because the consultative inquiry must not only be on the environmental effects but into the impact on the right itself.

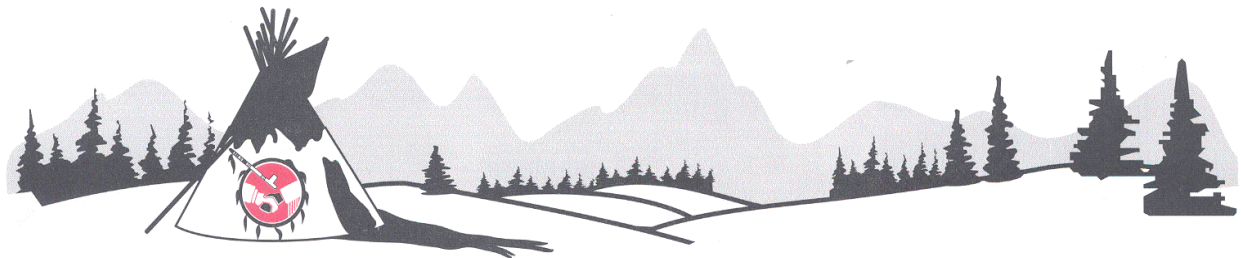
In the case of this Project, there has been no independent consideration of Indigenous rights; they have not been contextualized, they have not been considered in a pathway analysis in conjunction with the Project, there has been no preliminary assessment of effects, and no concerted engagement or capacity provision to Goodstoney. In order for this to be completed, an impact assessment must be initiated, and the proponent must adhere to the *Practitioner's Guide to the Impact Assessment Act* which includes guidance on the assessment of impacts to Indigenous rights.

Once an impact assessment has been initiated, the Goodstoney will require adequate capacity funding to support their participation and ongoing engagement. This capacity funding must be provided by both the Proponent and the Crown to allow for data collection and review of Project related documents.

Preliminary Issues

While the Initial Project Description inappropriately links biophysical components with Indigenous rights, these same components are connected to Indigenous knowledge and can be used to understand Goodstoney preliminary issues. This has not been completed by the Proponent, to date.

For example, within the Biophysical Assessment completed by Trace Associates in 2020 the Study Area is within wildlife ranges for sensitive raptors including bald eagle, golden eagle, ferruginous hawk, prairie falcon, and sharp-tailed grouse. During field assessments wildlife features identified included a great horned owl nest, a red-tailed hawk nest, and one Swainson hawk nest. These are species of importance to Goodstoney and are strong contributors to local



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biodiversity, however, no engagement was undertaken with Goodstoney to understand their connection to these species and/or other species of value, not how the Project could potentially interact with them. In the section related to public engagement and frequently asked questions De Havilland Field Project Team notes it will develop a Wildlife Management Plan, however, there is no discussion of Goodstoney involvement in the development or execution of this plan to ensure protection for species of importance.

Additionally, the frequency of inbound and outbound flights is of concern to Goodstoney as the proposed 2-6 movements per week could result in a change in preferred conditions for Goodstoney members preferred conditions. The noise from these flights may be disruptive and must be considered with Goodstoney rights holders in mind. This includes Goodstoney input into the noise assessment and collaborative development of mitigation measures.

These few examples highlight a greater need for in depth assessment that will not occur without the Impact Assessment Agency requiring an impact assessment.

The Stoney Consultation Office and Goodstoney look forward to initiating consultation with Canada and beginning engagement with the Proponent with the requirement of an impact assessment. We further look forward to engaging in relation to physical and cultural heritage which is crucial to our Nation.

Sincerely,

<original signed by>

William Snow

Acting Director of Consultation
Stoney Tribal Administration