



Lac Ste. Anne Métis Community Association

July 06, 2023

Via Email: Moraine@iaac-aeic.gc.ca

Moraine Power Generation Project
Impact Assessment Agency of Canada
9700 Jasper Avenue, Suite 1145
Edmonton, Alberta T5J 4C3

RE: Canada Impact Assessment Registry File No. 84591: Moraine Power Generation Project (the “Project”)

The Lac Ste. Anne Métis Community Association (“LSAMCA”) is in receipt of a Project Information package dated May 18, 2023, and a Project Description Summary dated May 1, 2023, both pertaining to the Moraine Initiatives Limited’s Moraine Power Generation Project near Whitecourt, Alberta. We write today to provide our comments regarding these documents and with respect to the proposed Project. The proposed Project is within our traditional territory and will have potential adverse impacts and effects on our Métis harvesting rights and our use of lands and resources for traditional purposes.

Background and Context

As you should be aware, the Lac Ste. Anne Métis Community Association (“LSAMCA”) is the representative organization authorized to act on behalf of the historic and contemporary Lac Ste. Anne Métis (“LSAM”) community, which is a contemporary rights-bearing *Powley* Métis community which has section 35 *Constitution Act, 1982* Métis Aboriginal rights. As such, LSAMCA is an “Indigenous governing body” as defined in the *Impact Assessment Act*¹.

LSAMCA is the second Métis organization in Alberta to establish a credible assertion of Métis harvesting rights² under the Alberta Government’s *Métis Credible Assertion*

¹*Impact Assessment Act*, S.C. 2019, c. 28, s. 2.

² Government of Alberta website – Métis organization establishes credible assertion, Lac Ste. Anne Métis Community Association – website accessed on June 26, 2023 - <https://www.alberta.ca/release.cfm?xID=8471263626970-A2FD-DF8F-26B346D3257AF65D#jumplinks-1> (“2022 09 29 Alberta’s notification LSAMCA establishes credible assertion webpage”).

Process and Criteria (2020).³ The Alberta government's *Métis Credible Assertion Process and Criteria (2020)* is an in-depth, evidence-based process which requires compiling extensive documentation and records to accomplish a successful credible assertion of Métis harvesting rights.⁴ In this process, the Métis organization must successfully meet all nine criteria of Métis harvesting rights: characterization of the right; identification of the historic rights-bearing community; identification of the contemporary rights-bearing community; verification of membership in the contemporary Métis community; identification of the relevant time – existing prior to effective European control; was the practice integral to the community's distinctive culture; continuity between the historic practice and the contemporary community; authorization to represent the contemporary Métis community; and representativeness of the organizational membership.⁵ The Alberta government's Métis Credible Assertion Process and Criteria is based on current caselaw, including the Supreme Court of Canada's *Powley* test.⁶ In its *Powley* decision, the Supreme Court of Canada defined the Métis rights-holding collective under section 35 of *Constitution Act, 1982* to be a Métis community.⁷

LSAMCA is the proper and only legal entity that represents the contemporary LSAM community in regards to our Métis Aboriginal rights and interests. Our contemporary LSAM community is composed of several hundred LSAMCA members. We speak for ourselves and are not affiliated with any other Métis organization.

Métis Harvesting rights

In the historic period, LSAM community members hunted and trapped animals, including birds, for their own use for food, social, ceremonial, tools/crafts and for commercial purposes, all of which was integral to the distinctive culture of the Lac Ste. Anne Métis community prior to effective European control. In addition, LSAM community members fished for their own use for food, social, ceremonial and for commercial purposes, all of which was integral to the distinctive culture of the Lac Ste. Anne Métis community prior to effective European control. The LSAM community gathered and harvested plants, shrubs, and trees for their own use for food as well as for social, medicinal, ceremonial, travel, fuel, tools, and shelter purposes –

³ Government of Alberta - Métis Credible Assertion: Process and Criteria (2020) – website accessed on June 26, 2023 - <https://open.alberta.ca/dataset/e74ec17c-9cf6-4f2c-8dde-1cae21ae6b0c/resource/19a86947-5798-46e3-a150-a436ccfb2f6a/download/ir-metis-credible-assertion.pdf> (“Government of Alberta - Métis Credible Assertion: Process and Criteria (2020) webpage”).

⁴2022 09 29 Alberta's notification LSAMCA establishes credible assertion webpage under Quick Facts; Government of Alberta - Métis Credible Assertion: Process and Criteria (2020), pages 2 and 4 to 7.

⁵Government of Alberta -Métis Credible Assertion Process and Criteria (2020).

⁶Government of Alberta - Métis Credible Assertion: Process and Criteria (2020), page 1; *R v Powley*, [2003] 2 S.C.R. 207; 2003 SCC 43.

⁷*R v. Powley*, [2003] 2 S.C.R 207; 2003 SCC 43 at paras. 12, 13, 23, 24, 33 and 34.



domestic uses - which were integral to the distinctive culture of the Lac Ste. Anne Métis community prior to effective European control. We reference all of these LSAM community rights cumulatively as our harvesting rights. We exercised our LSAM community harvesting rights as necessary for our cultural and physical survival – these harvesting rights constituted our way of life.

We continue to self-identify as Lac Ste. Anne Métis today. Our contemporary LSAM community has continuity with the historic LSAM community. The contemporary LSAM community can demonstrate an unbroken chain of continuity generally between our current practices, customs, and traditions with respect to our LSAM harvesting rights and those same practices, customs, and traditions with respect to our harvesting rights prior to effective European control.

Comments on the Project Description for the Project

The proposed Project is located approximately 800m north of the Athabasca River. The Athabasca River is a known travel route for traditional users; thus, the proposed Project area will generally be an area utilized to exercise our Métis harvesting rights and for traditional purposes.

Ground and Surface Water Quality and Quantity Concerns

Clean and plentiful water resources are an integral component of our Métis harvesting rights and traditional resource use.

LSAMCA is concerned about the proposed construction of a water supply system, including groundwater wells and potential disposal wells, given the proposed location of the Project within approximately 800 meters of the Athabasca River.

The hydrological conditions for the proposed Project area need to be investigated thoroughly as the area is currently assumed to be an unconfined surficial aquifer. The utilization of groundwater wells given the proposed Project proximity to the Athabasca River, and being an unconfined surficial aquifer, could cause drawdown of water levels on the river and generally in the proposed Project area. A fully developed groundwater source budget for the proposed Project needs to be developed and shared with us to enable us to understand the amount of water resources required for the proposed Project, and its potential impacts on associated aquifer(s) and the Athabasca River. Further, the Athabasca River is already known for having high water usage and being fully prescribed. In addition, the proposed Project is proposing potential disposal wells which may cause pollution or contamination of the groundwater, and in turn effect the Athabasca River water quality. All of this concerns us for multiple reasons including potentially increased water withdrawals from the Athabasca River, potential water quality impacts to the



water resources, adverse effects for fish and fish habitat, and impacts to travel and Métis harvesting rights opportunities.

Proposed Project

The Proposed Project, a 465-megawatt natural gas fuel power generation facility that includes the following linear development:

- at least 10 km new right-of-way for a 240kV electricity transmission line;
- a pipeline approximately 12 km or longer in length to convey CO₂ captured to a third-party sequestration hub; and
- a natural gas pipeline approximately 30km in length.

The current proposed Project makes a large assumption that the proposed Athabasca Banks Carbon Hub project will be suitable to sequester the CO₂ captured from the Project; otherwise, the pipeline may be of much longer distance, with corresponding, additional significant potential impacts and effects.

Given the nature of the proposed Project and its associated linear development, a project-specific Traditional Land Use Study (“TLUS”), with associated capacity funding from the proponent, should be undertaken by LSAMCA to be able to properly understand the location of the Project in relation to our traditional uses, and to be able to provide feedback on the potentially short- and long-term impacts and effects to our Métis harvesting rights and our use of lands and resources for traditional purposes. The proponent should be funding a TLUS for LSAMCA for the proposed Project as part of the engagement and consultation process envisioned for this Project, and in keeping with the respectful, consistent and effective consideration and protection of Indigenous knowledge for project reviews and regulatory decisions, even in the initial phases of the impact assessment process, under the *Impact Assessment Act*⁸.

Our community’s traditional territory has been adversely affected by cumulative impacts of development in the area generally. The proposed Project impacts will likely further contribute to these cumulative impacts of development. As such, LSAMCA will need to have deep consultation with respect to the potential impacts of this proposed Project. Any additional industrial development will have an impact on our cultural practices, and on the ability of members to transmit their culture and knowledge of the proposed Project area to younger generations.

⁸ Guidance: Indigenous Knowledge under the *Impact Assessment Act* – website accessed on July 06, 2023 - <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/indigenous-knowledge-under-the-impact-assessment-act.html#>



The proponent, Moraine Initiatives Limited, has stated that the socio-economic effects are anticipated to be positive for Indigenous groups due to opportunities for employment during construction and operations for the proposed Project. LSAMCA does not agree with this statement. The proposed Project will have negative potential impacts and effects on our Métis harvesting rights and our use of lands and resources for traditional purposes, which in turn has negative socio-economic effects on us in that we have less area to exercise our Métis harvesting rights and our use of lands and resources for traditional purposes, which typically leads to lowered success with harvesting activities, and less traditional foods generally. Further, the increase in noise and air pollution associated with the proposed Project may lead us to avoid the area altogether for harvesting purposes, which leads ultimately to a negative social affect on us and our health and wellbeing. In addition, based on our past experiences, LSAMCA has obtained little or no opportunities for employment during construction and operations during project development processes.

Should an Indigenous Engagement and Partnership plan be required by the federal process, we anticipate being invited to work with the proponent and the federal Crown on the development of such a plan.

In closing, we submit that a one-hour virtual meeting held on April 21, 2023 with Stantec and GE representatives, and a one-day in-person meeting held on June 27, 2023 involving Indigenous groups more broadly, does not entail sufficient consultation or engagement with LSAMCA. As outlined above, we request timely support to undertake a project-specific TLUS, and more generally, meaningful bilateral engagement with the proponent.

Your truly,

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