

As part of the Project's early stages, the Proponent submitted an IPD on May 1, 2023. The Agency has deemed the Project to be a designated physical activity potentially subject to an impact assessment. Following the IPD, public comments, and a Detailed Project Description ("DPD"), the Agency will make a final determination as to whether an impact assessment is required.

The proposed Project contains multiple components, some of which encroach on or pass through Treaty No. 6 territory. As such, it is expected to cause adverse impacts on the rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. The Proponent has also identified several protected plant and wildlife species of management concern that may be found in the Project area, however there is potential for the inclusion of species that have yet to be identified. In the IPD, the Proponent also states that it has initiated engagement with 28 Indigenous communities and it has promised to continue to communicate and consult with Indigenous communities. According to the Proponent, it is currently developing an Engagement Plan by which it intends to consult with interested and affected parties throughout the life of the Project.

Louis Bull Tribe

Louis Bull Tribe ("LBT") is one of the Four Nations of Maskwacis. Its reserve lands total 3,127 hectares and are located in central Alberta, approximately 90 kilometers south of Edmonton. LBT is an adherent to Treaty No. 6, the territory of which is in the vicinity of the Project area. LBT's approximately 2,380 members hold inherent Indigenous and Treaty rights that protect the practices, traditions, and customs unique to their culture that were in practice prior to European contact. These rights, which include the right to hunt, fish, trap, gather, and engage in ceremonial traditions on its traditional territories, are practiced throughout western and northern Canada and are not confined to the specific boundaries of Treaty No. 6 or Alberta. Because LBT's traditional way of life is intimately connected to and reliant on the land, its members consider themselves stewards of the land; a duty which includes passing on knowledge about surviving on, caring for, and protecting the land.

Due to substantial direct and cumulative impacts from various natural resource developments over the last century, it has become increasingly challenging for LBT's members to exercise their inherent Indigenous and Treaty rights and act as stewards of the land. In particular, LBT is significantly impacted by the construction, operation, and eventual abandonment of pipelines and other natural resource thoroughfares within its traditional territory. The proliferation of carbon capture and sequestration technology also poses both short- and long-term concerns for LBT with regards to the Project. As such, LBT is involved to ensure that there will be appropriate foresight on the part of government agencies, proponents, and all other stakeholders so that the Project can be regulated in a manner that genuinely takes their concerns into account and minimizes impacts on their way of life. LBT's inherent and constitutional rights underscore the importance of appropriately and adequately assessing the impacts of the Project to LBT and to advance necessary consultation, accommodation, and mitigation measures.

Direct Effects on LBT's Rights and Interests

As mentioned, the Project is anticipated to include three thoroughfares – two pipelines and an electrical transmission line, together totaling over 50 kilometres in length. The IPD states that these are anticipated to mirror existing rights-of-way where possible. While LBT understands the

Proponent's goal of mitigating effects through having construction that would take place in locations that parallel existing rights-of-way, there is no guarantee that the existing pipelines were built following the same consultation and environmental assessment standards that are in place today. It is LBT's opinion that the Proponent must be able to demonstrate that there were adequate consultation processes with the pre-existing structures and rights-of-way, as simply relying on them would be inadequate. Regardless of whether the new lines mirror existing ones or not, heavy construction that directly interferes with wildlife would still occur.

According to the IPD, construction activities are estimated to occur over a three-year time period. Effects from construction activity is expected to release emissions and discharges into the environment. These include (but are not limited to) fine particulates, combustion by-products, GHGs, noise pollution from construction activities, and waste (both solid and liquid). The discharge of fine particulate matter is also noteworthy as it easily travels through and air and can have profound adverse health effects. The Proponent says that it will manage emissions to meet the requirements of applicable guidelines, policies, and regulations, but in many instances it is not enough to simply "meet" these guidelines to fully mitigate these effects. When the time comes, LBT would like to further consult with the Proponent to discuss mitigation measures in detail.

In addition to effects on human health, further development in the Project area will directly interfere with wildlife, disrupt habitats, migratory patterns and restrict and diminish access to food for wildlife. LBT is concerned that the result of the Project development will further reduce wildlife populations and impact LBT members' ability to hunt and fish in the area. The IPD states that a number of wildlife species have been observed in the Project area and it is therefore likely that the Project will interfere with those species. With regards to these species, the IPD states that the Project falls within the range of distribution of species protected under the *Species at Risk Act*. The IPD has also indicated that there is potential for interactions with these species during Project construction and operation. In addition, components of the Project fall within a Key Wildlife Biodiversity Zone, which is a provincial land use designation that is meant to protect biodiversity values. The IPD also states that the Project contains components that have the potential to affect provincially designated recovery zones for grizzly bears, trumpeter swan waterbodies, and migratory bird nesting zones.

LBT is aware of the IPD's listed species that fall under the *Species at Risk Act* and the Key Wildlife Biodiversity Zone. Apart from these species, there may be others affected by the Project that are still important to LBT despite them not being listed. LBT takes the position that further consultation is needed to ensure that all species of concern to LBT are identified and the appropriate mitigation measures are in place.

Emissions and discharges from the Project will also affect plants and vegetation. However, the IPD states that the Project is not within the geographical range of any plant species protected under the *Species at Risk Act* or the *Alberta Wildlife Act*. Similar to the issue surrounding species listed above, the same can be said about plants and vegetation. In areas impacted by natural gas development, emissions make their way into the atmosphere and affect plants as well as the animals that consume them. This affects the ability for LBT to harvest untainted wildlife and plants. Even if mitigation measures are successful in lessening the impact on wildlife and plants, it could still affect the perception of LBT members and deter them from practicing and engaging in their Section 35 rights.

The recent proliferation of carbon capture and sequestration technology has also been a cause for concern among LBT. However, more concerning is the nature of the location of where the CO₂ will be stored. The IPD states that the pipeline is to transport captured CO₂ to a third-party sequestration hub injection site that is not a part of the Project. The IPD also states that there is a preferred location for the site (Athabasca Banks CO₂ Carbon Hub), which is concerning to LBT as the details on where CO₂ will be stored have not yet been finalized. LBT would like to be kept closely up to date with progress on Project's carbon capture component.

Cumulative Effects on LBT's Rights and Interests

If approved, the Project will be part of an ever-increasing number of mines, pipelines and other energy and resource-based developments across Alberta. LBT is becoming increasingly surrounded by extractive resource industries that have contributed to historical and ongoing adverse cumulative effects, including health risks, barriers to gathering, and impacts on ecosystems and habitats on LBT lands. LBT rarely benefits socially or economically from such developments and is instead left with environmental damage and loss of traditional land use and culture. While the Project is only one of numerous developments that will cumulatively impact LBT's rights, the Project will nevertheless contribute to the cumulative effects on LBT and LBT's traditional lands.

LBT relies on hunting and trapping as a food source and for medicinal, ceremonial and other traditional purposes. As it is, LBT's access to wildlife populations for these purposes has been severely impacted by other developments, creating food insecurity, risk to economic opportunities, and the ability to share and pass on Indigenous knowledge and culture. The environment is delicate and interconnected. Disturbing, contaminating, and altering the environment in one area will impact neighbouring ecosystems. These impacts will be felt by LBT and are exacerbated by other developments that are completed or ongoing. LBT is concerned that certain cumulative impacts are already irreversible and that the environment will never recover. Continuing to develop the land, regardless of the size of each individual development, only adds to the detrimental effect on LBT's rights and interests.

In light of the recent *Yahey v British Columbia* case, LBT submits that it would be a mistake to allow resource development to proceed on an extensive scale without properly assessing LBT's concerns about the cumulative effects of the Project. In *Yahey*, the Supreme Court of British Columbia held that "more than just the usual process" may be required where the cumulative effects of historical development reach a state such that Indigenous peoples' ability to meaningfully practice their Section 35 rights has become substantially compromised. LBT submits that the circumstances that gave rise to the Court's decision in *Yahey* urge caution against the persistent and largely unabated "taking up" of lands in other jurisdictions.

Summary of LBT's Interests in the Project

As described above, the Project, if approved, will have adverse direct and cumulative effects on LBT's Aboriginal and Treaty rights and its ability to exercise those rights. The result is that LBT is losing its interconnectedness with the land. To mitigate those losses, LBT believes that its interests and activities must be properly understood in the context of the Project prior to any contemplated approval by the IAAC. Further, LBT believes that there must be a robust assessment of the cumulative effects of the Project and the broader energy and resource industry in Alberta in

the context of the IAAC process. Accordingly, LBT is interested in participating in and contributing to the IAAC process to the fullest extent possible.

In conclusion, LBT feels that targeted measures should be put in place to assess, understand and accommodate impacts to LBT's rights and that there should be a fulsome consideration of the direct and cumulative nature of such impacts. The IPD tends to downplay the significant potential of the Project to cause new specific impacts or for it to contribute to cumulative impacts.

We appreciate your consideration of these matters.

Sincerely,

<Original signed by>

Shaleigh Raine

Cc: Chief and Council

Encl.