



Consultation Department

August 14th, 2024

Impact Assessment Agency of Canada

RE: Comment on the summary of the Initial Project Description for the Black Bear Power Plant Project

<i>Project Title/Name</i>	Black Bear Power Plant (BBPP)
<i>Proponent</i>	Kiwetinohk Energy Corp (KEC)
<i>Due</i>	August 14 th 2024

To whom it may concern,

The Otipemisiwak Métis Government, as the authorized representative body for the Métis within Alberta, now represents more than 65,000 registered Citizens across the province and stands as the largest single Indigenous collectivity in Alberta. Representing citizens in five territories and twenty-two districts. Recognition of the Otipemisiwak Métis Government as the authorized representative of its citizens is most recently confirmed by the signing of the *Métis Nation within Alberta Self-Government Recognition and Implementation Agreement* on February 24, 2023. The Métis homeland, which is encumbered by the Aboriginal rights, claims, and interests of the Métis within Alberta, encompasses the totality of the Province of Alberta.

Concerns

Based on the initial summary description, there are many concerns still present. The project area for the Black Bear Power Plant (“BBPP”) is located in the Lesser Slave Lake Territory and in District 21 Lesser Slave Lake Métis District. This territory is a critical area for Métis peoples with many records of historical families as well as historic harvesting, hunting, trapping, and fishing.

Overarching Comments

1. **The route for the natural gas pipeline to fuel the BBPP has still not been provided to us.** A new pipeline is of concern to the Otipemisiwak Métis Government and without information on the route placement it is not possible to determine what the potential impacts may be.

The lack of a defined route for a pipeline is concerning as it is difficult for us to determine environmental impacts without understanding the specific areas. It leads to uncertainties about how the pipeline will affect ecosystems, habitats, water sources, and more. Impacts cannot be fully understood until a route is established.

2. **BBPP will be capable of producing a maximum power output of 460 MW, which is above the threshold of 200 MW.** “As the Project is anticipated to have a maximum production capacity of 460 MW (460 MW net output is both nominal rating and maximum due to limiting constraints on the transmission line and at the downstream substation), the threshold defined in item 2(a) would be exceeded.”



Consultation Department

This is concerning as power plants with higher capacities could potentially have higher emissions. As well a larger plant consumes more fuel and water for a variety of processes.

3. **This comment in section 21 Potential Environmental Impacts on Indigenous Peoples is problematic,** *“Potential environmental impacts of the Project are not expected to result in any significant impacts to Indigenous peoples, including the infringement of Aboriginal and Treaty Rights, impacts to physical and cultural heritage, impacts to the current use of lands and resources used for traditional purpose, and impacts to any site or structure of historical, archaeological, paleontological, or architectural significance.”* pg. 79

The Otipemisiwak Métis Government believes this statement is problematic. It overlooks the possibility and likelihood that minor impacts infringe upon rights, especially when they continue to contribute to cumulative impacts.

Environmental and cultural impacts can be complex and unpredictable. The assumption that impacts will be insignificant may be premature without ongoing monitoring and adaptive management strategies because long-term or cumulative impacts might not be fully understood at the initial start of the project.

Rights Concerns

1. The Otipemisiwak Métis Government asserts our Métis harvesters’ rights under the R v Powley, 2003 SCC 43 within this proposed development area. Additionally, the project occurs within Harvesting Area “C” and Harvesting Area “D” of the Alberta Métis Harvesting Policy. The Otipemisiwak Métis Government currently has over 10,000 registered Harvesters with the vast majority of those registered able to utilize all four harvesting areas under Alberta’s policy.
2. The project area is within historical and contemporary traditional use areas which sustain our Métis citizens way of life and where collectively held rights under Section 35 are being exercised. This includes hunting and fishing areas, harvesting areas, and other land-use areas as confirmed through our records from Elders, knowledge holders, and other citizens of the Otipemisiwak Métis Government.
3. In addition, utilizing our traditional land use studies, the Swan Hills area is a key area of importance to Métis citizens.

Between Fox Creek, Whitecourt and Swan Hills is a current contemporary harvesting, hunting, fishing, and trapping area for Métis peoples. This area is a cultural spiritual area also called Grizzly Ridge, and it is a historical hunting and medicine picking grounds area. Fishing occurs in various waterbodies surrounding the project area including the Freeman River and small creeks that come off it. As well surrounding Swan Hills there are trails used for travel.



Environmental Concerns

1. **The Otipemisiwak Métis Government is concerned with the impact on wildlife species in the area and the displacement of wildlife.** Thirteen wildlife species including two mammals, and the “sensitive” sandhill crane [*Grus canadensis*] as well as twenty-one avian species and two raptor species recorded. As well the project area is also located within a grizzly bear zone and grizzly bears are a species at risk.

“The Foothills Natural Region provides important habitat for many wildlife species. Landscapes are populated by many mammals and ungulates such as elk, moose, mule deer, white tailed deer, caribou, black bear, grizzly bears, wolves, lynx and beaver. The watersheds are equally diverse with many fish species including bull trout, Athabasca rainbow trout, Northern pike, mountain whitefish and Arctic grayling.” (Alberta Wilderness Association, 2022) The foothills region is important for wildlife.

The statement from 14.4.5.1 Habitat: *“Observation of the vegetation, soils, and natural water bodies throughout within the BBPP lands indicates wildlife habitat of poor quality. Due to clear cutting in 2006, there is no longer adequate cover for thermal and security requirements, and adequate under-story vegetation and food availability for small and large ungulates are not present.”*

This statement is unfortunate as based on our research the wildlife species of the foothills including woodland caribou, grizzly bears, westslope cutthroat trout, bull trout, and endangered Athabasca rainbow trout, have suffered major population declines because of decades of unmanaged cumulative effects and excessive linear disturbance on the landscape. Looking at this area, it was cleared previously by a forestry project and is now starting to grow back. This project will only continue to add to the already disturbed land and adds to the cumulative impacts. As well as preventing Métis people from utilizing the land for many more years to come for exercising their traditional rights like hunting and gathering. Natural lands are becoming less and less, and Métis people are required to travel further from their homelands to practice their right this also includes cultural rights that connect Indigenous peoples to the land.

The mitigation measures suggested by KEC need to be more fulsome. There are no active mitigation measures to protect grizzly bears other than that this proposed project is not creating new access roads. 4.4 Table 3. Monitoring needs to be completed. As stated above many species have experienced population declines due to impacts from industry, KEC is only continuing to add to the problem without promoting proper mitigation measures. “Greatest threat is loss and degradation of wilderness habitats through resource extraction and recreational development.” Pg. 52

Given that grizzly bears sometimes wake up early from hibernation due to climate change and encounter ongoing snowfall, which can hinder their ability to find food, it's important to manage potential food sources like garbage effectively. Bears are opportunistic feeders, they scavenge and hunt, with a power plant in their territory, especially where human food might be accessible, how will you address the issue of waste management? What specific measures will be implemented to mitigate the risk of bears accessing garbage during these periods?



Consultation Department

Again, regarding displacement of wildlife, this is an acceptable mitigation measure but more needs to be done, *“The forested lands around the Project are expected to aid in muffling the noise being produced. Lighting at top of the project structures is regulated by Transport Canada, however during operations we can mitigate light sensory disturbance by installing motion activated lighting on ground-based infrastructure” pg. 24*

There are other mitigation measures to be considered to ensure wildlife is not significantly impacted.

- Rehabilitate and restore habitats in areas adjacent to the project site or elsewhere to offset habitat loss.
- Use native plants for restoration efforts to ensure that the habitat surrounding the project area can still support local wildlife.
- Continue to monitor surrounding wildlife.

By integrating multiple mitigation measures, it assists in reducing the negative impacts on wildlife and supports their conservation, ensuring that development projects can coexist with healthy ecosystems.

2. The Otipemisiwak Métis Government understands that loss of vegetation is an unavoidable impact but there are other mitigation measures to be considered.

Based on the initial project description, KEC acknowledges that there is a loss of vegetation and that it cannot be avoided but that reclamation will occur at the end of the project to restore the lands to the original state. A 30-year project with significant vegetation loss poses a substantial environmental impact. While reclamation and restoration at the end of a project’s life cycle is important, it may not fully offset the impact of vegetation loss during the project’s lifespan. KEC needs to offset the impact of vegetation loss by considering a mitigation strategy such as,

- Implement on-site measures such as preserving nearby undisturbed areas. Implement off-site strategies such as habitat restoration or creation in other locations near the project area.
- Enhance adjacent or nearby habitats to provide additional support to local wildlife and plant species affected by the project. Involve Métis citizens and Elders to develop and implement these habitat offsets within the region, and leverage TEK of local communities to better enhance the health of regional/adjacent habitats for impacted terrestrial and aquatic species that may be impacted by this project.

“As of July 2018, only 944km² (or 1.4%) of the Foothills Natural Region is protected. The remainder of this region contains unprotected public lands within the Green Area, which are largely unregulated for multiple uses.” (Alberta Wilderness Association, 2022) The Black Bear Power Plant is located in the Upper Foothills Natural Region green area, which ranges from steeply sloping to rolling hills which are covered with predominately coniferous forest. Lodgepole pine stands are common on southern slopes, while northern sloped tree stands generally have black and white spruce. Depending on moisture content of a forest stand, understory shrubs can vary widely from Labrador tea, bog cranberry, green alder, tall bilberry, Canada buffaloberry, juniper, bearberry or hairy wild rye. (Alberta Wilderness Association, 2022) Which are significant to Indigenous peoples.



Consultation Department

KEC States *“The proposed BBPP site lies in a previously disturbed pine and mixed wood forest, intermixed with flowering plants.”* On pg. 59. The Otipemisiwak Métis Government has not conducted any study and or site visit to the BBPP site, therefore we are uncertain on the specific plant species located in the project area. Notably, in the Swan Hills area, Métis citizens have harvested various plants and berries.

3. The Otipemisiwak Métis Government is concerned with the impact of wetlands. Again, we understand that this is unavoidable, but mitigation measures need to be considered.

Wetlands are of critical importance to the ecosystem and biodiversity of an area. A seasonal marsh wetland was identified within the Project area (approximately 0.09 ha). In Alberta, wetlands cover 21.7%, with marsh wetlands only covering 1.6%. This project is located in the forested region of Alberta and marsh wetlands only cover 0.8%. (ABMI, 2024)

In addition to the seasonal wetland in the project area, there are documented fen and swamp wetlands near the project site that could potentially be impacted.

Wetlands are crucial for a variety of ecological and environmental reasons. Wetlands play important roles such as protecting water quality by absorbing and filtering contaminants from the water and helping to minimize soil erosion, moderating the impact of flooding, providing storage for carbon which helps reduce the impact of climate change, and providing important habitat for wildlife and plants. (Government of Canada, 2021) Fen wetlands attract species such as the Sandhill Crane as identified above, fens are peatlands, which are defined by accumulations of at least 40 cm of organic material known as peat. It can take thousands of years for peat to accumulate. Wetlands are extremely important for biodiversity.

4. The Otipemisiwak Métis Government is concerned with the potential use of water from the Freeman River. *“If the groundwater yields are insufficient to meet the initial water volume required for the BBPP, KEC then plans to divert water from the Freeman River at the point of diversion (POD) at LSD 8, Section 2, Township 65, Range 11, 08-02-065-11 W5M.”* pg74

“Freeman River at POD: 08-02-065-11 W5M is a Strahler Stream Order 5 watercourse” pg. 74

- Streams of 3rd order and above are likely to display valuable fish habitat and support viable fish populations. This would mean that order 5 streams often support diverse aquatic and riparian ecosystems due to their size and the greater volume of water they carry.
- Class 1 and 2 will be 3rd order or above streams which includes the Freeman River classified as 5th order. Class 1 and 2 streams are considered major and moderate fish habitat. These streams play a crucial role in connecting smaller streams with larger rivers and contribute to the overall health of the watershed.

“The proposed diversion rate required tentatively will be 0.02 m³/s to 0.15 m³/s. Mean flows of the Freeman River from mid-April through mid-August range from 3 m³/s to 14 m³/s. Considering limiting the diversion rate to 10% of the watercourse’s flow to avoid impacting the water body and fish habitat, the river is capable of supporting the



Consultation Department

proposed diversion rates. There is existing access to the river at the proposed POD and no new disturbance to riparian vegetation or soils will occur” pg. 74

- River flow rates can change due to a variety of natural and human-induced factors, we would like to understand the testing done prior to diverting water from the river. It's stated that there is existing access to the river, if there are multiple proponents diverting water from the river how will amount taken from the river be monitored?
- We would like to understand the assessment of the riparian zone to ensure that this statement is true prior to diverting water from the river.
- Diverting water from a river can impact the riparian zones around it. Potential monitoring may be needed to ensure the amount of water taken from the river does not impact the habitat of fish in the river and/or any other plant species in the river.
 - Ensure BBPP practices do not negatively impact water availability
 - Ensure that BBPP activities does not pollute
 - Ensure BBPP activities do not degrade natural ecosystems

There are a variety of fish species in the Freeman River including Walleye, Northern Pike, and Rainbow Trout. These species listed are important to Métis citizens who harvest and rely on them for their traditional practices, subsistence, and cultural heritage. In the Freeman River there are also a variety of forage fish, which are smaller fish that feed birds and mammals in the area.

5. The Otipemisiwak Métis Government is concerned about the CCUS aspect of this project. We understand that this part of the project will be completed later on but it is still worth noting

We understand that this is a technology to reduce carbon dioxide emissions by capturing it and storing it underground. We want to learn more about KECs plans for CCUS including the location of the storage, how it will be transported there, etc.

While CCUS may have potential benefits, there are still risks associated with it including leakage, environmental impacts, and uncertainty in long term storage.

Closing

While the Black Bear Power Plant (BBPP) is being developed to deliver electricity to Alberta, it is essential to address the highlighted concerns with thoroughness and care. The potential risks related to rights impacts, environmental effects, and long-term sustainability must be carefully managed. The initial project summary provides a broad overview, but further insights are necessary. The Otipemisiwak Métis Government seeks a deeper understanding of the project, particularly regarding the measures that the IAAC and KEC are implementing to address and mitigate these concerns. Ensuring transparent communication and effective action plans will be crucial in aligning the project with both regulatory standards and community expectations.



Consultation Department

The Otipemisiwak Métis Government has not yet conducted a site visit or study in the Black Bear Project Area. We are keen to conduct a detailed review of the area to gain a deeper understanding of the specific plant and animal species present.

The Otipemisiwak Métis Government trusts that going forward IAAC and KEC will strive to fulfill best practices in its engagements and consultations with our government, working with us collaboratively and in the spirit of reconciliation to address the concerns expressed in this document.



References

- Alberta Wilderness Association. (2022, April 5). Foothills. Alberta Wilderness Association. <https://albertawilderness.ca/issues/wildlands/foothills/#:~:text=Upper%20Foothills%3A>
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