



## SAMSON CREE NATION CONSULTATION

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October 1, 2024

Impact Assessment Agency of Canada  
Prairie and Northern Region  
Canada Place  
1145 – 9700 Jasper Avenue  
Edmonton AB T5J 4C3

Dear Ms. Sarah Thacker, Project Manager, Prairie and Northern Region

RE: Designation Request for the Proposed Vista Coal Mine Phase II Expansion Project and the Vista Underground Mine Project under the Amended Impact Assessment Act

On behalf of Samson Cree Nation, I write in response to the Impact Assessment Agency of Canada's letter dated September 11, 2024, in which the Agency provided notice that the Minister of Environment and Climate Change has received a request to designate the proposed Vista Coal Mine Phase II Expansion Project under subsection 9(1) of the amended *Impact Assessment Act* (IAA).

In particular, the Agency is seeking Samson Cree's views on the following topics:

1. potential adverse effects of the Project that could result in changes to your community's physical and cultural heritage, current use of lands and resources for traditional purposes, or structures, sites or things of historical, archaeological, paleontological or architectural significance;
2. whether and how the Project may result in changes to your community's health, social or economic conditions; and
3. whether and how the Project may impact your community's Aboriginal and treaty rights as recognized and affirmed under section 35 of the *Constitution Act, 1982*.

The proposed Phase II Expansion Project, if regulatory approvals are achieved, would be located in Samson Cree's traditional territory. Specifically, the Phase II Expansion Project would be located in the Eastern Slopes Area of SCN Territory, which is a place of critical importance to SCN members who rely heavily on this area for hunting and other subsistence activities, sense of place and peaceful enjoyment of lands,

ceremonial practices, and continuity of the *nehiyâw mâmtoneyihcikan* (“Cree way of life”). During past federal National Energy Board and Canada Energy Regulator hearings, Samson Cree has submitted technical studies demonstrating that Samson Cree’s inherent and Treaty No. 6 rights are highly constrained and in a sensitive current state in this area. These technical reports are publically available.

Since 2019, the regulatory process for the Phase II Expansion Project – as well as the Vista Test Underground Mine – has been unclear and complicated. As you know, for example, in July 2020, the Minister revoked its December 2019 decision, and designated the project as federally reviewable. Thereafter, in July 2021, the Federal Court set aside the Minister’s July 2020 designation decision. Following that, in August 2021, the Agency initiated its process for reconsideration of federal designation, which resulted in the federal designation being reinstated. More recently, as a result of the 2023 Supreme Court of Canada’s decision in *Reference re Impact Assessment Act*, which found parts of the *Impact Assessment Act* unconstitutional, the federal designation was again set aside. Since that time, Samson Cree understands that Canada has amended its legislation, and that the Agency is moving forward with a designation request process for the Phase II Expansion Project.

Samson Cree Nation is currently working directly with Coalspur Mine (Operations) Ltd. to, among other things, review its draft provincial integrated environmental impact assessment report and the project application. In tandem with that review, Samson Cree is currently working with Coalspur to clarify and reach agreement on, among other things, how parties will collaborate through any provincial or federal regulatory processes, as the case may be.

That said, these negotiations will not and do not impact Samson Cree’s relationship with the Crown (including federal agencies such as the Agency), nor the constitutional obligations owed to Samson Cree by the Crown. In this respect, if the Minister ultimately does designate the Phase II Expansion Project or part thereof as a reviewable project for the purposes of the *Impact Assessment Act*, Samson Cree would expect to participate in federal regulatory review processes stemming from the designation. Samson Cree also expects to be engaged by any responsible federal ministries (i.e. DFO, ECCC) whether or not a federal impact assessment is required.

Samson Cree has commissioned its own review of the potential adverse impacts of the Phase II Expansion Project, including by conducting a TLU study and retaining technical support. Samson Cree is hoping that the results will be available in the near future. Samson Cree would be happy to arrange a meeting to share the results of this review, and any further details, once they are available.

Given the regulatory uncertainty and questions surrounding Canada’s jurisdiction vis-à-vis the Phase II Expansion Project, Samson Cree is currently focused on reviewing and working directly with Coalspur to avoid, reduce or mitigate any impacts to SCN Territory and Rights.

In closing, I request that Canada and the Agency continue to consult Samson Cree on the Phase II Expansion Project, as things progress and as the case may be.

Sincerely,

<Original signed by>

Councillor Holly Johnson-Rattlesnake, Chair

cc: Chief Vernon Saddleback  
Samson Cree Nation Chief and Council  
Ms. Katherine Swampy, Business Development Senior Manager, Samson Cree Nation  
Ms. Kaylyn Buffalo, Consultation Coordinator, SCN Consultation  
Mr. Kennedy A. Bear Robe, Counsel to SCN, Gowling WLG (Canada) LLP