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August 6, 2025

File No. 1265-102

**Via Email:**

Tony.Tran@iaac-aeic.gc.ca

Attention: Tony Tran  
Impact Assessment Agency of Canada  
160 Elgin Street, 22<sup>nd</sup> Floor  
Ottawa, ON K1A 0H3

Dear Mr. Tran:

**Re: Keyera Energy Ltd.'s Josephburg Condensate Fractionation Project: Whitefish Lake #128 Comments on the Summary of the Initial Project Description**

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Our firm is legal counsel to Whitefish (Goodfish) Lake First Nation #128 with respect to Keyera Energy Ltd.'s Josephburg Condensate Fractionation Project. Please find attached comments on the Summary of the Initial Project Description for your review and consideration.

Yours truly,

**JFK Law LLP**

Per: <Original signed by>

**Blair Feltmate**  
Associate

BLF/jlw

cc: Darryl Steinhauer, Whitefish Lake #128 ([darryl.steinhauer@gmail.com](mailto:darryl.steinhauer@gmail.com))  
Isabelle Lefroy, JFK Law LLP ([ilefroy@jfklaw.ca](mailto:ilefroy@jfklaw.ca))  
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## **WHITEFISH (GOODFISH) LAKE FIRST NATION #128 COMMENTS ON KEYERA'S SUMMARY OF THE INITIAL PROJECT DESCRIPTION**

### **1.0 INTRODUCTION**

#### **1.1 Whitefish (Goodfish) Lake First Nation #128**

Whitefish (Goodfish) Lake First Nation #128 ("Whitefish Lake #128") is a signatory of Treaty 6. Whitefish Lake #128's reserve lands are located approximately 220 km northeast of Edmonton. The total population of Whitefish Lake #128 is approximately 2,378 with approximately 1,778 members living on reserve.

As a Treaty 6 First Nation, Whitefish Lake #128 holds Treaty rights to hunt, fish, trap, and maintain its traditional way of life "as before the Treaty" throughout Alberta, including the Project area.

By entering into Treaty in 1876, the Crown solemnly promised that Whitefish Lake #128 could maintain their way of life and would be free to hunt, trap, fish, and harvest throughout their traditional territory as they had done before entering the Treaty. The Crown also promised that descendants of Whitefish Lake #128 would be entitled to access lands and waters to exercise their Treaty rights to hunt, trap, and fish throughout their traditional territory. In addition to these rights, Whitefish Lake #128 also has rights to carry out activities that are incidental to the exercise of express Treaty 6 rights, such as the right to access areas for harvesting and the right to use camping areas and so on.

The Crown, in right of Alberta and Canada, must ensure that potential effects on Whitefish Lake #128's Treaty rights are properly assessed and accommodated before proceeding with activities that could have an impact on Whitefish Lake #128's Aboriginal and Treaty rights

### **2.0 WHITEFISH LAKE #128 PRELIMINARY COMMENTS AND CONCERNS**

#### **2.1 Project Overview**

Keyera Energy Ltd.'s ("Keyera") Josephburg Condensate Fractionation Project (the "Project") is designed to take 100,000 standard barrels per day of condensate from Keyera's existing KAPS pipeline and separate it into various hydrocarbon streams, such as light and midweight condensates, liquid petroleum gas and other hydrocarbon products.

According to Keyera, potential environmental effects from the Project are anticipated to include air emissions, noise, alteration or loss of wildlife habitat, and destruction of a number of wetlands (that will require replacement). Keyera has stated that potential social and economic effects of the Project, including for Indigenous peoples, are anticipated to be beneficial, or negligible if adverse.

#### **2.2 Engagement to Date**

On March 6, 2025, Whitefish Lake #128 responded to a notification package from Keyera dated February 20, 2025. The letter requested additional information to better understand the Project and assess the potential impacts on Whitefish Lake #128's Aboriginal and Treaty rights. Whitefish Lake #128 expressed some procedural concerns and uncertainties regarding how consultation would be occurring. We have not yet received a detailed response to these concerns but a meeting between the parties is now being scheduled.

Keyera's Initial Project Description ("IPD") simply states that Whitefish Lake #128 is interested in procurement opportunities. This does not accurately reflect the extent of Whitefish Lake #128 concerns outlined in their letter. In fact, we requested a meeting, more information, asked detailed questions about the proposed Project, and outlined additional preliminary concerns that included:

1. Concerns about the lack of detailed description of what infrastructure is being proposed in the Project area;
2. Concerns about the lack of detailed information to substantiate the assertions made in the letter dated February 20, 2025 regarding potential impacts of the Project;
3. Concerns about the lack of clear timelines for when a more detailed Project footprint will be available;
4. Concerns about the lack of application materials for any clearances under the *Historical Resources Act* and the Alberta Ministry of Arts, Culture, and Status of Women (Approval 4668-0029-001) already received;
5. Concerns about the potential for the Project to adversely impact wildlife habitat, migration patterns, and harvesting on adjacent lands;
6. The need for Whitefish Lake #128 to conduct a tour or any field work within the proposed Project area to determine if there are artifacts or historical resources that could be impacted; and
7. The need for an assessment of the potential for contribution to cumulative effects on the landscape and the ecosystems, as well as cumulative impacts on Whitefish Lake #128 Aboriginal and Treaty rights.

### **2.3 Cumulative Impacts**

The Project is being proposed in an area close to Whitefish Lake #128's community that has borne the brunt of industrial development and has seen substantial adverse impacts on Aboriginal and Treaty rights. It is part of a densely developed area where the exercise of Whitefish Lake #128's Treaty and Aboriginal rights has been significantly curtailed.

Whitefish Lake #128 members face substantial impacts to their Treaty rights due to the impacts from development in their traditional territory. Oil and gas mining and infrastructure, as well as other developments, force many harvesters to seek game and harvest plants farther afield, creating more barriers to traditional land use and necessitating longer drives. Additional development close to home will further displace Whitefish Lake #128 harvesters and lead to additional costs, time, and resources to harvest game and other species of importance (including plants and medicines).

Keyera anticipates that potential impacts will include air emissions, noise, alteration or loss of wildlife habitat, and removal of a number of wetlands, all of which concern Whitefish Lake #128, and all of which compound the cumulative effects that have adversely impacted Whitefish Lake

#128 traditional territory. Any project that increases the cumulative risk to the viability of Whitefish Lake #128's Aboriginal and Treaty rights practice and traditional economy must be properly addressed (including discussing potential necessary accommodation measures).

## **2.4 Impacts to Whitefish Lake #128 Aboriginal and Treaty Rights**

The Project is located close to Whitefish Lake #128's community in Goodfish Lake and falls squarely within Treaty 6 – areas in which Whitefish Lake #128 members practice their Aboriginal and Treaty rights. Consequently, the Project *will* impact Whitefish Lake #128's Aboriginal and Treaty rights.

Whitefish Lake #128 has used and continues to use the lands, waters, and resources within its territory for a variety of traditional purposes including hunting, fishing, trapping, gathering, travelling, and cultural practices. Whitefish Lake #128 members have a rich and enduring traditional economy that forms a fundamental component of Whitefish Lake #128 way of life and is rooted in Treaty promises made by the Crown. Continued taking up of lands by the provincial and federal government for projects like Keyera's and others, places the practice of these activities at risk. The traditional practices conducted on the lands and waters of Whitefish Lake #128's traditional territory are integral to its physical and cultural survival.

Despite being proposed on private land, the Project has the potential to impact Whitefish Lake #128 in a variety of ways. Whitefish Lake #128 has not conducted a tour or any field work within the proposed Project area to determine if there are artifacts or historical resources that could be impacted. The Project has the potential to adversely impact wildlife habitat, migration patterns, and harvesting on adjacent lands. There has also been no assessment of the potential for contribution to cumulative effects on the landscape and the ecosystems, as well as cumulative impacts on its Aboriginal and Treaty rights.

Keyera states that potential social and economic effects of the Project, including for Indigenous peoples, are anticipated to be beneficial, or negligible if adverse. From Whitefish Lake #128's perspective, this Project only presents further impacts and may indeed spur further upstream activities. There are no known benefits. We look to discuss the potential benefits and better understand how Whitefish Lake #128 can benefit from the Project. We ask the IAAC to request additional detail on these proposed benefits as part of their review of the IPD.

The IPD also states that “[t]o date, no site-specific issues or impacts to Treaty or Indigenous Rights have been raised by Indigenous groups.” As outlined in the March 6 letter and repeated above, Whitefish Lake #128's Aboriginal and Treaty rights will be affected. The appropriate study into this has not been completed. We look forward to discussing approaches to address this with Keyera and the IAAC. Consultation and engagement are required and will lead to a better understanding of the Project and its impact on Whitefish Lake #128's Aboriginal and Treaty rights.

Keyera further states that the Project lands are not listed as having historical resource value under the *Historical Resources Act* and have also been provided clearance by the Alberta Ministry of Arts, Culture, and Status of Women. As requested in March, Whitefish Lake #128 would like to review the application materials that received clearances under the *Historical*

*Resources Act* and the Alberta Ministry of Arts, Culture, and Status of Women. If Keyera does not provide, we ask that you request this information be provided.

Whitefish Lake #128 notes that the Alberta Aboriginal Consultation Office has not recommended consultation for this Project. Therefore, if IAAC declines to require an impact assessment, there will be no assessment of the Project's impacts on Whitefish Lake #128's rights. This is not in keeping with the honour of the Crown given the potential for adverse impact to our Aboriginal and Treaty rights. Further, any claims to benefits for Indigenous groups, as highlighted in the IPD, will remain unproven.

### **3.0 CLOSING**

Whitefish Lake #128 looks forward to receiving responses to its questions about the Project, working together with IAAC and Keyera to understand impacts to Whitefish Lake #128 rights, and identify how the parties can proceed in a mutually beneficial way.

Thank you for your consideration of this submission.