

Comments on Mihta Askiy Data Center Project Initial Project Description

Zone 6 Regional Council of the Métis Association of Alberta

Zone 6 Regional Council of the Métis Association of Alberta (MNA Region 6) represents the Métis Locals of Grand Prairie, Valleyview, Peace River, Manning, and Fort Vermillion.

The proposed Project (Mihta Askiy Data Center) is located within Métis Harvesting Areas A, which are designated for harvesting purposes under Alberta's Métis Harvesting in Alberta Policy, 2018 (the Policy).¹ Our members have historically, and continue to this day exercise their constitutionally protected Aboriginal rights throughout Métis harvesting Area A, on both Crown lands and private lands, where permission from landowners has been granted, as per the AI.

The significance of the Crown Lands found in Métis Harvesting Area A, moreover, have increased over time as the development of agriculture, oil and gas, forestry, and other sources of anthropogenic disturbance and taking up of Crown lands have forced members to travel greater distances to practice their way of life and culture and exercise their Indigenous rights.

MNA Region 6 members are concerned about cumulative infringements to their constitutionally protected Indigenous rights, including the potential incremental effects of the proposed Project. Using the Human Footprint Inventory (HFI) data from the Alberta Biodiversity Monitoring Institute (ABMI)², we calculate that the lands of Métis Harvesting Area A located within 250m of an HFI disturbance category is 77.2%, which rises to 89.04% for the 500m buffer. These levels of disturbance are comparable to those found excessive by the British Columbia Supreme Court in its landmark *Yahey* decision.³ Moreover, similar levels of disturbance would found to require offsets – above and beyond standard mitigation – by the Canada Energy Regulator in relation to the Pouce Coupé pipeline project in northwestern Alberta.

¹ “Métis Harvesting in Alberta Policy [2018] - Open Government,” accessed January 20, 2026, <https://open.alberta.ca/publications/metis-harvesting-in-alberta-policy-2018>.

² “Human Footprint,” accessed January 20, 2026, <https://abmi.ca/>.

³ *Yahey v British Columbia*, accessed January 20, 2026.

We request that the Impact Assessment Agency of Canada (IAAC) and Proponent engage in meaningful consultation with MNA Region 6 in relation to the potential cumulative and incremental effects of the proposed project to the Indigenous rights, health, and culture of our members as established in the *Haida* (2004) decision⁴ and affirmed in the *Clyde River* (2017) decision⁵, which clarified the need for meaningful consultation for potential impacts to rights.

Overview and Objectives

On January 2nd, 2026, the Impact Assessment Agency of Canada (IAAC) invited Indigenous Nations and the public to review and comment on the Summary of the Initial Project Description of the Mihta Askiy Data Center Project (the Project).⁶ Cree Ative Datacenter GP (the Proponent) is proposing to construct a 650-megawatt combined cycle power generation facility approximately 40 kilometres northeast of the Town of Peace River. As proposed, the project would utilize an existing brownfield site including approximately 20.6 hectares of Crown land and operate for approximately 30 years.⁷

The Project is subject to a federal impact assessment under the *Impact Assessment Act* (IAA), as mandated by the *Physical Activities Regulations* because it involves the construction of a new fossil fuel-fired power generating facility with a production capacity of more than 200 megawatts.⁸

General Concerns

- **Concern 1:** Moving forward, all references in IAAC and Proponent documents to “Indigenous engagement” should be replaced with “Indigenous consultation.” MNA Region 6 are rights-holders, under Section 35 of the Constitution Act (1982), not general

⁴ “*Haida Nation v. British Columbia (Minister of Forests)* - SCC Cases,” accessed January 21, 2026, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/2189/index.do>.

⁵ “*Clyde River (Hamlet) v. Petroleum Geo-Services Inc.* - SCC Cases,” accessed January 21, 2026, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/16743/index.do>.

⁶ Impact Assessment Agency of Canada, “Public Notice - Comments Invited on the Summary of the Initial Project Description and Funding Available,” January 2, 2026, <https://iaac-aeic.gc.ca/050/evaluations/document/164258>.

⁷ Impact Assessment Agency of Canada, “Initial Project Description of a Designated Project,” December 11, 2025, <https://iaac-aeic.gc.ca/050/evaluations/document/164260>.

⁸ Legislative Services Branch, “Consolidated Federal Laws of Canada, Physical Activities Regulations,” March 27, 2023, <https://laws.justice.gc.ca/eng/regulations/SOR-2019-285/page-2.html#docCont>.

stakeholders. The Crown has a duty to consult meaningfully and to accommodate those rights in a manner that either meets or exceeds the legally defined standards. Consultation is not voluntary and its adequacy is not determined by the Proponent.

- **Concern 2:** MNA Region 6 seeks clarity from the IAAC and the proponent on how the duty to consult will be discharged with respect to commitments made by Canada through its ratification of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁹ and United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA) in 2021.¹⁰ As the recent *Kebaowek* (2025) decision makes clear, regulators and proponents must consider the Act when discharging the duty to consult and accommodate and demonstrate how they the Act was incorporated into the consultation process;¹¹
- **Concern 3:** MNA Region 6 identifies a key concern regarding the lack of assessment of cumulative effects in regulatory processes. The province of Alberta does not currently have any cumulative effects management plan or system in place for northwestern Alberta. Cumulative effects are rarely considered adequately in project-by-project assessment frameworks. The British Columbia Supreme Court affirmed the significance of cumulative effects in the *Yahey* (2021) decision, as well as the inadequacy of project-by-project assessments to assess and manage cumulative effects.¹² To adequately assess cumulative impacts to the environment and the Indigenous rights of our members, potential impact baselines must first be established in collaboration with Indigenous communities. MNA Region 6 seeks collaboration with the IAAC and the proponent to develop a substantial framework in cumulative impact assessment.
- **Concern 4:** MNA Region 6 has concerns over potential Aboriginal and treaty rights infringement that might occur with the Project. Canadian courts have asserted that reconciliation is the fundamental purpose of section 35 of the Constitution Act (1982). This includes cultural security and continuity, beyond biophysical proxies often examined in environmental assessments. Impact assessments limited to environmental or biophysical

⁹ “United Nations Declaration on the Rights of Indigenous Peoples” (United Nations, 2007).

¹⁰ Department of Justice Government of Canada, “Implementing the United Nations Declaration on the Rights of Indigenous People Act,” April 12, 2021, <https://www.justice.gc.ca/eng/declaration/index.html>.

¹¹ “*Kebaowek First Nation v. Canadian Nuclear Laboratories - Federal Court*,” accessed January 20, 2026, <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/527544/index.do>.

¹² *Yahey v British Columbia*.

approaches risk an incomplete understanding of impacts to Indigenous and treaty rights, which depend upon a broader range of factors. Consistent with this view, the *Clyde River* (2017) decision confirms that rights must be meaningfully considered *as rights*. At this point, the IPD makes scarce mention of Indigenous rights beyond claiming that the project will not have adverse effects on Indigenous rights, which is a curious and revealing position to take before any assessment has been undertaken.

- **Concern 5:** MNA Region 6 is concerned about the piecemeal regulatory landscape of the Project, and the potential infringement of Aboriginal and treaty rights that might arise due to competing jurisdictions. The project proposal outlines the use of an existing brownfield site, with previous regulatory approvals from the Alberta Utilities Commission (AUC) and the Alberta Energy Regulator (AER) for the Carmon Creek Power Plant and the Three Creeks Power Plant. The existing brownfield site and proposed power plant fall under the IAAC regulatory jurisdiction, but the remaining ancillary infrastructure including a transmission line interconnection (two, 240 kV transmission lines), a natural gas pipeline connection to NOVA Gas Transmission Ltd. (NGTL) and telecommunications infrastructure do not. Regarding the potential of cumulative effects, MNA Region 6 seeks clarity on how the duty to consult will be discharged meaningfully across major and ancillary infrastructure and across regulatory and permitting agencies.

Specific Concerns

- **Concern 6:** Given high levels of cumulative disturbance within Métis Harvesting Area A, MNA Region 6 highlights concern about increasing impacts upon water and wildlife. The project is set to operate upon an abandoned brownfield site, which has been left idle since 2015. Further, any previous impact assessments for the previous projects (Carmon Creek Heavy Oil Project¹³) upon this site may be irrelevant or inadequate as initial assessments were for a bitumen recovery site, and not for a combined cycle power generation facility (Power Plant). While some assessment aspects are similar, the facilities are fundamentally different, with differing components and thus environmental impacts;

¹³ “Environmental Assessment - Shell Canada Limited Carmon Creek Project - Open Government,” accessed January 20, 2026, <https://open.alberta.ca/publications/environmental-assessment-shell-canada-limited-carmon-creek-project>.

- **Concern 7:** Data centers require significant amount of water for cooling and operational use. MNA Region 6 seeks clarification on water sources, amounts, environmental impacts and water management plans after use (including but not limited to recycling, treatment or discharge). The proponent suggests that if excess water is required, it be withdrawn from the Peace River, using infrastructure designed as a part of the Shell project. Additionally, the hydrological landscape and future of the Peace River Watershed is very different then when the original water license under the Shell project was granted, and later cancelled. IAAC and the proponent are encouraged to collaborate with Indigenous people, including MNA Region 6, to develop Indigenous Knowledge indicators and baseline data for impacts to water, specifically the Peace River, given the significant levels of existing and planned future disturbance to the river, including the proposed Peace River Nuclear Power Plant project that is presently under IAAC review.

Conclusion

MNA Region 6 thanks the IAAC for the opportunity to participate in the review of this Initial Project Description. We look forward to working with IAAC and the proponent to assess potential impacts of the proposed Project and discharge the duty to consult and accommodate in a manner that upholds the honour of the Crown.