



**Box 148 Brownvale Alberta T0H 0L0**

January 22, 2026

Via Electronic Submission

Impact Assessment Agency of Canada  
Canada Place  
9700 Jasper Avenue, Suite 1145  
Edmonton, AB T5J 4C3

**Re: Duncan's First Nation – Expanded Preliminary Comments on the Initial Project Description Mihta Askiy Data Center Natural Gas Power Project (Planning Phase)**

Dear Sir or Madam,

The Duncan's First Nation ("DFN"), submits the following preliminary comments in response to the Impact Assessment Agency of Canada's ("IAAC") request for input on the Initial Project Description (IPD) for the proposed Mihta Askiy Data Center Natural Gas Power Project (the "Project").

DFN offers these comments to assist IAAC in identifying the issues that must be addressed in the preparation of the Summary of Issues and in determining the appropriate scope of any subsequent assessment conducted under the *Impact Assessment Act* ("IAA").

**1. Duncan's First Nation, Treaty 8, and the Peace River Basin**

Duncan's First Nation is a Treaty 8 First Nation whose Traditional Territory is centered on the Peace River and the broader Peace River Basin. The Peace River is not merely a physical feature within DFN's territory; it is a foundational ecological, cultural, and spiritual system that has sustained DFN's Cree way of life since time immemorial.

At the time of Treaty 8 in 1899, Crown representatives expressly acknowledged that DFN's Ancestors and the Ancestors of other Treaty 8 Nations depended on the continued health and accessibility of the lands, waters, wildlife, and ecosystems of the Peace River region. The Treaty relationship was premised on the understanding that development would not interfere with Indigenous Nations' ability to continue their way of life.

Over more than a century, that promise has been progressively eroded. The Peace River Basin and DFN's Traditional Territory has been subjected to successive waves of Crown-authorized development, including hydroelectric regulation, oil and gas extraction, forestry, agriculture, transportation corridors, pipelines, and associated access. These developments have not occurred in isolation. Rather, their combined and interacting effects have fundamentally altered ecological conditions, access patterns, wildlife availability, and the cultural relationship between

DFN, its Traditional Territory and the Peace River.

DFN's concerns regarding cumulative impacts are therefore not theoretical or speculative; they are grounded in lived experience, community observation, and decades of engagement with regulatory and government processes that have failed to arrest or meaningfully address the ongoing diminishment of Treaty rights.

## **2. Indigenous-Led Development and Relationship with Woodland Cree First Nation**

DFN acknowledges that the Project is being advanced by Woodland Cree First Nation ("WCFN"), a valued and respected neighbouring Treaty 8 Nation, in partnership with Sovereign Digital Infrastructure. DFN recognizes the historical context in which Indigenous Nations across Treaty 8 territory have been excluded from decision-making and denied meaningful participation in the benefits of development occurring on their lands.

DFN understands and supports WCFN's objective of pursuing development opportunities that contribute to community wellbeing, economic independence, and self-determination. The DFN understands that the Project is of great importance to WCFN. As the DFN supported the WCFN during its recent blockade of an oil and gas company, it lends it support now. DFN does not oppose the Project in principle, nor does DFN seek to delay or obstruct much needed Indigenous-led and co-owned development initiatives.

DFN also recognizes that the Project is proposed on a previously disturbed brownfield site originally prepared for the Shell Carmon Creek Project. DFN agrees that re-use of disturbed lands can, in certain circumstances, aid in reducing foot print disturbance and direct effects. At the same time, DFN must balance its support for development with its responsibilities to the natural world, our relations in the natural world, its own citizens and future generations who will depend on the Peace River area in the future. Thus, DFN's comments are therefore advanced in a constructive manner with the aim of supporting a strong, comprehensive project assessment of direct, indirect and cumulative impacts under the IIA and related agency permitting decisions.

## **3. Cumulative Effects, Crown Obligations, and the Absence of Regional Assessment**

The IPD notes that there is currently no applicable regional assessment in place. From DFN's perspective, this absence reflects a failure of Crown action, rather than an absence of cumulative effects or regional concerns.

DFN has formally requested the Government of Canada to initiate a regional cumulative effects assessment under the IAA for the Montney Formation and adjacent hydrocarbon basins in north-western Alberta. These requests were made precisely because project-by-project assessments have proven incapable of addressing the scale, pace, and interaction of development affecting Treaty 8 Nations. DFN's original request was denied and its leadership has since requested that Government to reconsider that decision. Given the precarious state of DFN's Traditional Territory and Treaty 8 lands, the Government of Canada has the mandate, scope of authority and responsibility to initiate this assessment in partnership with the DFN, other interested Treaty 8 Nations such as the WCFN and the Government of Alberta. (See attached supporting documents)

In parallel, DFN has made sustained efforts to engage with the Government of Alberta to address cumulative impacts within DFN's Traditional Territory. After years of unsuccessful attempts to engage GOA on this most critical of matters, DFN felt that it had no other choice but commence litigation in 2022 alleging that the Government Alberta has breached Treaty 8 by authorizing development that has meaningfully diminished DFN's rights. Over decades, the Crown has

authorized large scale agricultural, land clearing, settlement, municipal expansion, transportation, infrastructure, forestry, conventional oil and gas, oil sands, shale gas and other forms of industrial development and impactful human activity. The DFN People, DFN families and citizens have been adversely impacted and harmed by this intense level of development with no recourse. That litigation is advancing in the courts and is currently in the discovery phase. (See attached supporting documents)

Recent jurisprudence—including the *Yahey* decision involving Blueberry River First Nations—confirms that the Crown cannot continue to authorize development without addressing cumulative effects on Treaty 8 rights. DFN submits that this legal context must inform IAAC's planning-phase analysis and the identification of issues, even in the absence of a formally designated regional assessment or provincial regional land use planning.

#### **4. Project Scope, Brownfield Characterization, and Ancillary Facilities**

DFN understands that the designated physical activity currently proposed for assessment is the natural gas-fired power plant intended to supply electricity to the Mihta Askiy AI Data Center. DFN does not raise major objections to the power plant component in isolation at this stage.

However, DFN emphasizes that the functional purpose of the power plant cannot be separated from the AI data center and associated ancillary facilities. The power plant exists solely to enable the operation of the data center. As such, DFN respectfully submits that the planning-phase review should consider the full scope of interrelated facilities and their combined effects. In particular, DFN requests that IAAC ensure the Summary of Issues clearly identifies and scopes:

- the operational water requirements of the AI data center, including average daily, seasonal and annual demand;
- projected water demand over the full operating life of the facility;
- sources of water supply and the regulatory approvals required to support those withdrawals;
- potential changes in water demand over time as computing intensity and cooling requirements evolve;
- cumulative water demand when considered alongside existing and reasonably foreseeable projects in the Peace River Basin, and
- project conditions which require periodic and ongoing assessment of viable water conservation, enhanced recycling and reduction options

DFN notes that the designation of the site as a "brownfield" does not negate off-site impacts associated with water withdrawals, air emissions, energy demand, and cumulative regional pressures. While this matter is not of WCFN's and its partners' making, it is clear that the Government of Alberta has taken the position that the only consultation that need take place is in

relation to the eventual powerline components which will be required. It seems this view is adopted as the Alberta Consultation Office (ACO) has deemed that no consultation is required as the project footprint is being located within a previously disturbed / cleared area. In respect to water taking and decades long water withdrawals from the Peace River to meet operational requirements, the DFN takes the view that deep consultation is required by IIAC and permitting on this directly relevant matter.

## **5. Water Security, Climate Change, and Peace River Reliability**

DFN is increasingly concerned about the long-term reliability of Peace River flows. Community members and Elders have observed hotter summers, longer and more frequent drought conditions, reduced snowpack, and altered river behaviour and made these issues known repeatedly. These observations are consistent with emerging scientific literature indicating that prior hydrological models may underestimate future variability and low-flow risk within the Peace River basin and the mainstem of the Peace River.

At the same time, DFN is aware of a rapidly growing number of projects and undertakings that have, will and may rely on Peace River water, including:

- increased agricultural water withdrawals along the Peace River corridor;
- municipal water supply proposals where tributaries are already severely stressed;
- expanding shale gas development requiring water for hydraulic fracturing;
- proposed hydroelectric facilities;
- major data-center developments such as the large scale ‘Wonder Valley AI’ project;
- the Energy Alberta 4800MW Peace River Nuclear Power Project;
- policy-enabled inter-basin transfers of water to southern Alberta following recent amendments to Alberta’s *Water Act*, and
- provincial discussions related to mass water transfers from the Peace River to drought stricken areas in southern Alberta

This is clearly not an issue that can be or should be tasked to one singular proponent. Rather government agencies, in deep consultation with interested Treaty 8 Nations, should commission the necessary research, assessment and modelling to address cumulative water demand, drought scenarios, and climate-change-informed flow projections for the Peace River. Otherwise, projects such as this, and other projects such as the Alberta Energy Peace River Nuclear Power Project will remain challenged in addressing these critical matters leaving a problematic gap in impact assessments and the Crown’s duty to squarely address relevant and reasonable issues and concerns brought forward by First Nations.

On a related matter and with the aim of supporting the WCFN in addressing water demand issues and concerns, the DFN is interested and open to supporting the WCFN and its Project partners to examine existing and emerging technologies which could reduce water demand for AI data centers, including alternative cooling systems and operational efficiencies. The Project under discussion, as proposed, is modest in size. With that said, all parties (First Nation, the AI industry, government and the public) would benefit from pursuing and implementing workable solutions that conserve water and reduce water demand. The DFN raises this, as it and many other Treaty 8

First Nations, have raised this concern in the context of a parallel AI data centre project of significant scale being proposed on a main tributary of the Peace River – ‘the Wonder Valley AI Data Centre Park’.

## **6. Energy Use, Emissions, and Long-Term Sustainability**

The IPD identifies natural gas as the primary energy source for the Project. DFN recognizes that natural gas is currently abundant in the region; however, DFN is concerned about the long-term implications of large-scale gas combustion, greenhouse gas emissions, and methane leakage in a region already heavily impacted by hydrocarbon development.

DFN respectfully submits that the planning-phase review should consider:

- the scale and duration of natural gas use associated with AI infrastructure;
- the cumulative emissions profile when considered alongside other existing and proposed gas-dependent facilities;
- opportunities for phased or incremental integration of lower-emission or alternative energy sources over time such as wind, solar in the short term and potentially nuclear over the longer term;
- alignment with federal climate commitments and intergenerational sustainability objectives;
- project conditions which require periodic and ongoing assessment of viable energy replacement options

DFN does not assert that alternatives must be adopted immediately, but believes that long-term energy pathways could and should be examined early as options which could be brought on line to diversify the energy source for the project to the benefit of DFN citizens, WCFN citizens, the AI data industry and the general public.

## **7. Summary of Issues for IAAC Consideration**

DFN respectfully recommends that IAAC’s Summary of Issues address, at a minimum:

1. cumulative effects within the Peace River Basin and Treaty 8 territory;
2. implications of the absence of a regional cumulative effects assessment;
3. water demand and long-term water security associated with the AI data center and ancillary facilities;
4. climate change and future hydrological conditions;
5. long-term energy use and emissions considerations; and
6. expectations for meaningful consultation and Indigenous-to-Indigenous engagement.

## **8. Closing**

DFN reiterates that it does not oppose the Project in principle, supports Indigenous-led economic development and the WCFN People’s objective to move this Project forward. At the same time, DFN has a responsibility to ensure that decisions made today do not further erode the rights, culture, and way of life promised to DFN’s ancestors under Treaty 8 as it was promised the People of WCFN. DFN looks forward to acting as a constructive participant in the engagement and impact assessment process with IAAC, Woodland Cree First Nation, and the proponent as the planning

phase proceeds.

Yours in Peace and Respect,

A handwritten signature in blue ink, appearing to read 'Matthew General', is displayed on a light grey rectangular background.

Matthew General  
For the Duncan's First Nation

**CC:**

DFN Chief and Council  
DFN Lands Environment and Community Development Unit  
DFN Elders, Youth and Citizens  
WCFN Chief and Council  
Cree Ative Datacenter Corp GP (Cree Ative)

**Attachments**

1. Duncan's First Nation – Request for a Regional Impact Assessment (Montney Formation and Adjacent Basins)
2. Duncan's First Nation – Follow-up Request for Reconsideration of Regional Assessment
3. DFN Cumulative Impact Court Case Against the Government of Alberta / Letter to Premier



February 25, 2025

**VIA EMAIL:** [ec.minister-ministre.ec@canada.ca](mailto:ec.minister-ministre.ec@canada.ca); [information@iaac-aeic.gc.ca](mailto:information@iaac-aeic.gc.ca)

Fontaine Building 12th floor  
200 Sacré-Coeur Blvd  
Gatineau QC K1A 0H3

**Attention: The Honorable Steven Guilbeault**

Dear Minister Guilbeault:

**Re: Request for a Regional Assessment – Montney Formation and Adjoining Hydro-Carbon Basins in Northeastern Alberta**

With this letter, Duncan's First Nation ("DFN") submits a formal request that your Ministry conduct a regional assessment of the Montney Formation (the "**Montney**") region and adjoining hydro-carbon basins in northwestern Alberta.

The Montney is known as "one of the most active and prolific resource plays in North America,"<sup>1</sup> with industrial activity in the region only set to increase in future years.<sup>2</sup> Yet despite the significant and ever-increasing development in the region, there have been minimal efforts to date to understand regional baselines and the cumulative effects caused by that development, including resultant impacts on the rights and practices of DFN and other Indigenous groups. A regional assessment of the Montney would greatly improve Canada's ability to address the issue of cumulative effects, insofar as it pertains to one of the world's largest "marketable unconventional gas resource[s]."<sup>3</sup>

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<sup>1</sup> Chris Podetz et al, "The Evolution of the Montney Development" (2022) at p 1, online: [geoconvention.com/wp-content/uploads/abstracts/2022/73401-the-evolution-of-montney-development.pdf](https://geoconvention.com/wp-content/uploads/abstracts/2022/73401-the-evolution-of-montney-development.pdf).

<sup>2</sup> Heather Exner-Pirot, "Opinion: Unleash the Montney: Canada's world-class gas field is waiting to be tapped" (September 29, 2022) *Financial Post*, online: [financialpost.com/opinion/opinion-unleash-the-montney-canadas-world-class-gas-field-is-waiting-to-be-tapped](https://financialpost.com/opinion/opinion-unleash-the-montney-canadas-world-class-gas-field-is-waiting-to-be-tapped).

<sup>3</sup> Nation Energy Board, *Energy Briefing Note: The Ultimate Potential for Unconventional Petroleum from the Montney Formation of British Columbia and Canada* (2013) at p 4, online: [cer-rec.gc.ca/en/data-analysis/energy-commodities/natural-gas/report/archive/ultimate-potential-montney-formation/the-](https://cer-rec.gc.ca/en/data-analysis/energy-commodities/natural-gas/report/archive/ultimate-potential-montney-formation/the-)

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In this letter, we provide background on DFN, the Montney and the adjoining hydro-carbon basins, before describing an initial proposal the requested regional assessment approach. We understand that the development of a regional assessment is an iterative and collaborative process, however, and look forward to working with you and other stakeholders to further develop the parameters and scope of the assessment.

## Background

DFN is a Treaty 8 First Nation located in what is now northwestern Alberta. Our traditional territory, which extends into the Rocky Mountains in British Columbia, is centered on the Peace River area (see Fig 1). Our culture and identity are bound up with the land; our ability to pass on our culture and maintain our way of life and identity depends on healthy functioning ecosystems being present within our traditional territory.

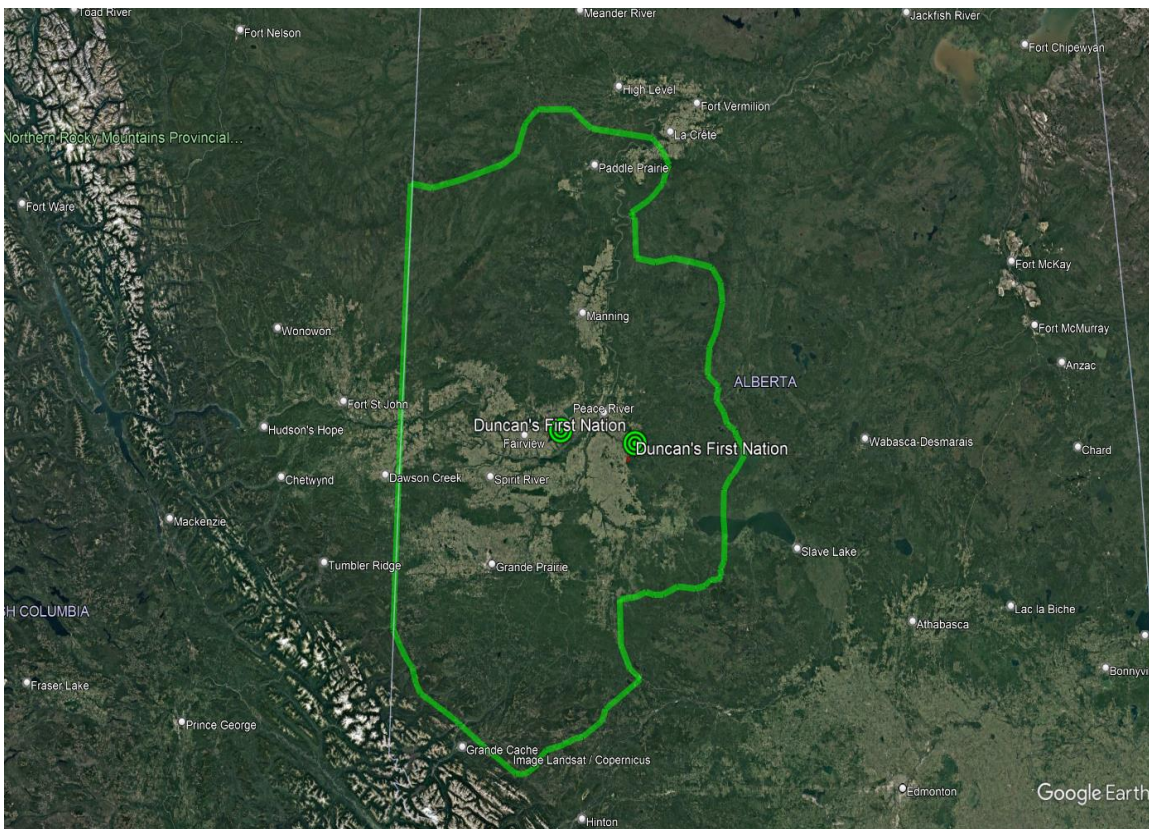


Figure 1: DFN Traditional Territory in Alberta

A significant portion of DFN's traditional territory overlaps with the Montney in Alberta (see Fig 2 and 3). The Montney is a major shale gas and tight oil resource located in northwestern Alberta and northeastern British Columbia. It is arially extensive,

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[ultimate-potential-unconventional-petroleum-from-montney-formation-british-columbia-alberta-energy-briefing-note.pdf](#).

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covering approximately 130,000 km<sup>2</sup>, and has been the target of oil and gas exploration since the 1950s.<sup>4</sup>

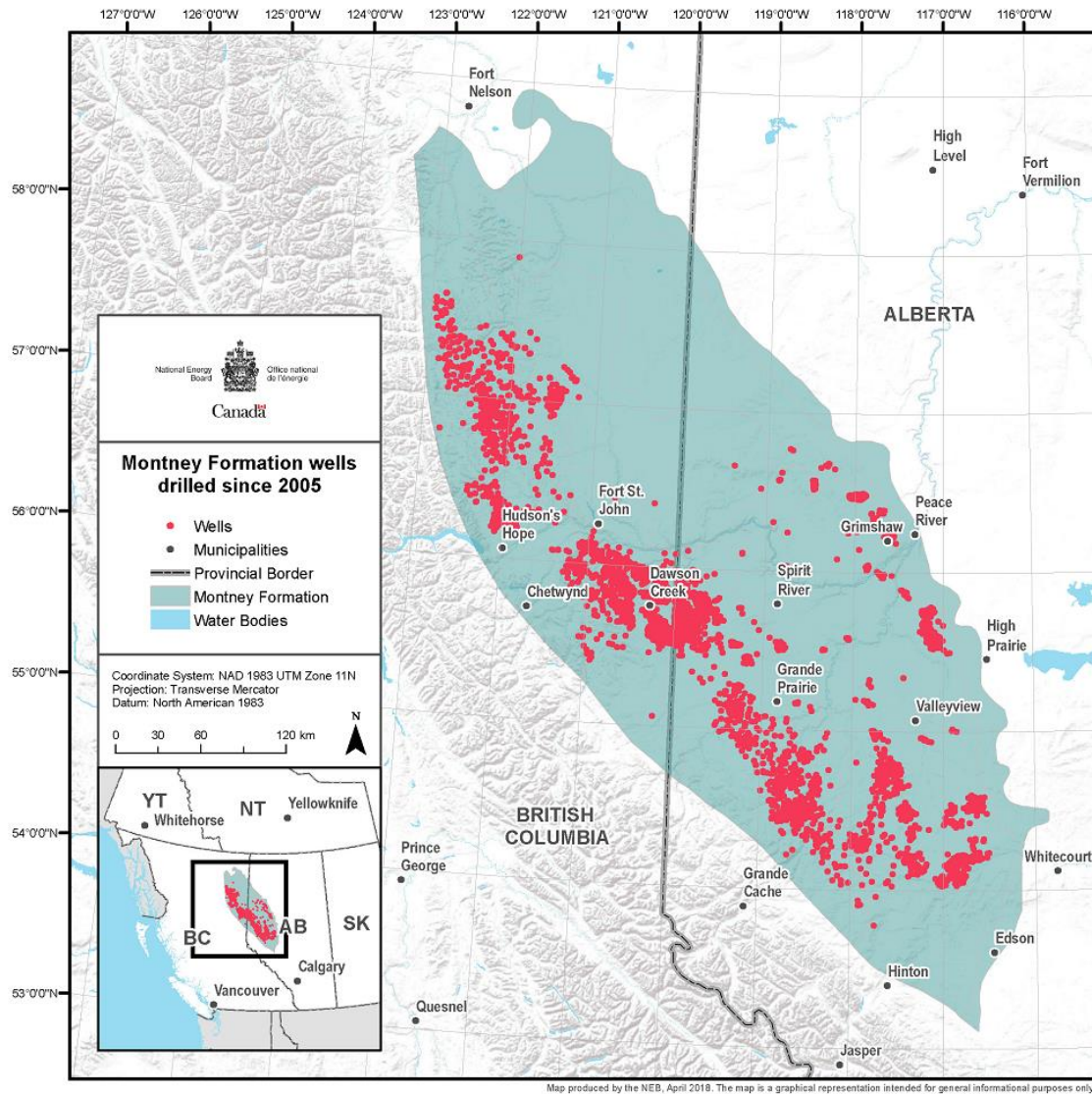


Figure 2: IHS-Performance Evaluator for well locations and the Atlas of the Western Canada Sedimentary Basin for the location of the Montney Formation, online: [cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2018/market-snapshot-evolving-technology-is-key-driver-performance-in-modern-gas-wells-look-at-montney-formation-one-north-americas-biggest-gas-resources.html](http://cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2018/market-snapshot-evolving-technology-is-key-driver-performance-in-modern-gas-wells-look-at-montney-formation-one-north-americas-biggest-gas-resources.html)

Over the past decade, the Montney – and northwestern Alberta in general – has witnessed an incredible increase in industrial development, including liquid natural gas (“LNG”) pipeline projects meant to move LNG west to the coast and south for export into the United States. The Montney is projected to be the primary source of supply for

<sup>4</sup> Nation Energy Board, *Energy Briefing Note: The Ultimate Potential for Unconventional Petroleum from the Montney Formation of British Columbia and Canada* (2013) at pp 1–2.

potential LNG projects because of its size and proximity to the coast.<sup>5</sup> The pace of development is only set to increase in future years.



Figure 3: Montney Formation in Alberta

While the Montney Basin is the major resource play in northwestern Alberta, it overlaps with three other key hydro-carbon basins (collectively, the “**Adjacent Basins**”):

<p><b><u>North Nordegg Member (Fig 4)</u></b></p>	<p>➤ 37.8 billion barrels of oil, 1.4 billion barrels of natural gas liquids and 148 trillion cubic feet of natural gas</p>
<p><b><u>Wilrich Formation (Fig 5)</u></b></p>	<p>➤ 47.9 billion barrels of oil, 2.1 billion barrels of natural gas liquids and 246 trillion cubic feet of natural gas</p>

<sup>5</sup> David Suzuki Foundation, Drilling into the Montney: How LNG expansion will accelerate drilling, fracking and environmental impacts in Northeast BC and Adjacent Alberta (2024), online: <https://david Suzuki.org/wp-content/uploads/2024/07/Drilling-into-the-Montney-Report-2024.pdf> at p. 8.

**Muskwa Formation (Fig 6)**

➤ 47.9 billion barrels of oil, 2.1 billion barrels of natural gas liquids and 246 trillion cubic feet of natural gas<sup>6</sup>

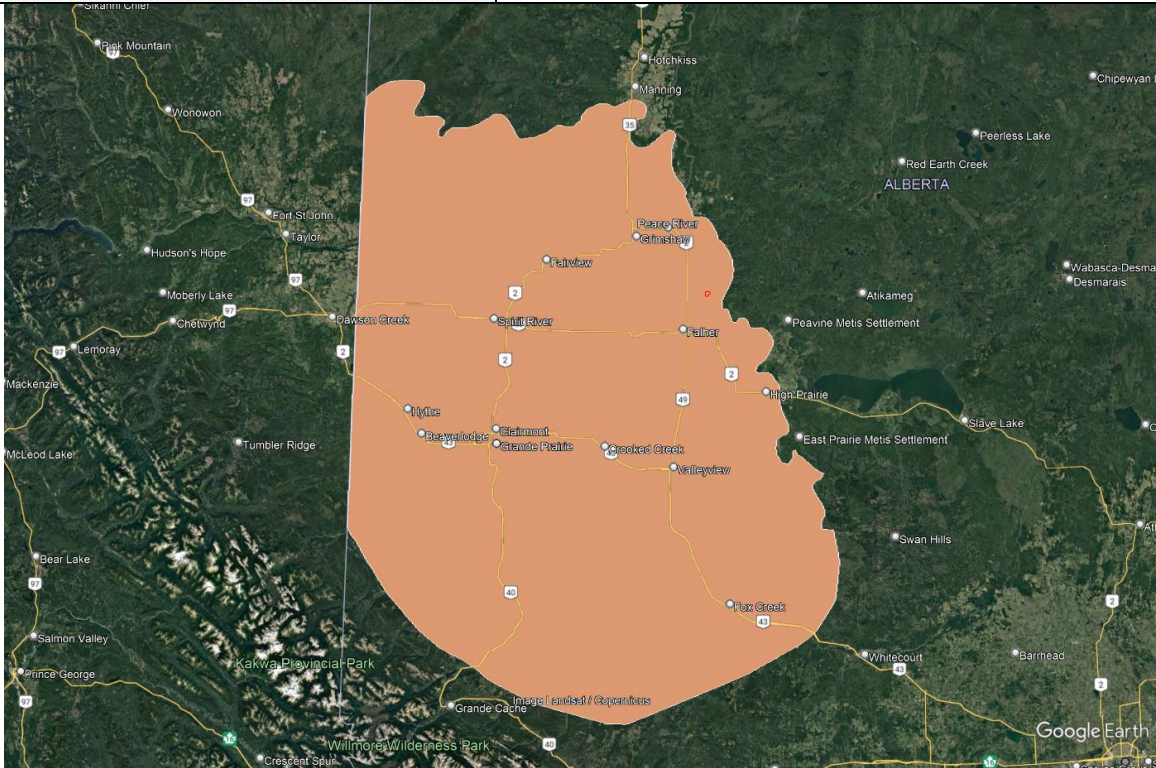


Figure 4: North Nordegg Member in Alberta

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<sup>6</sup> Alberta, "Unconventional resource potential and development" (2023), online: [alberta.ca/unconventional-resource-potential-development.aspx](https://alberta.ca/unconventional-resource-potential-development.aspx).

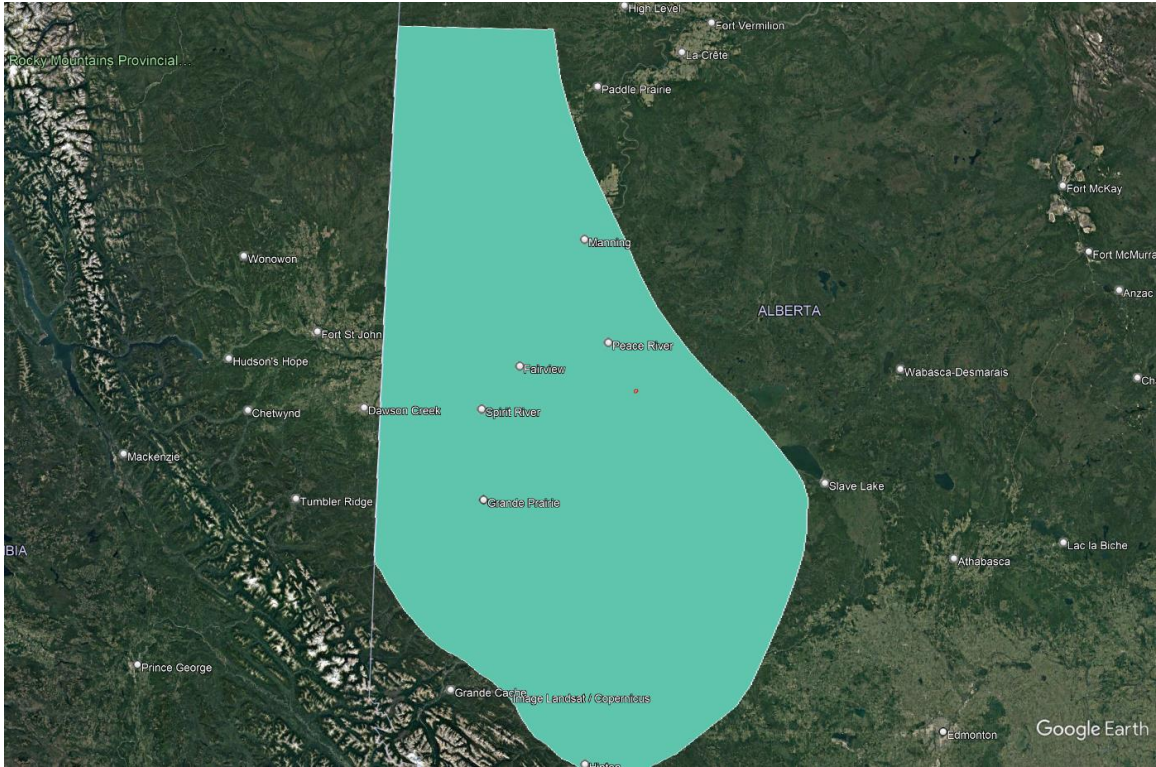


Figure 5: Wilrich Formation in Alberta

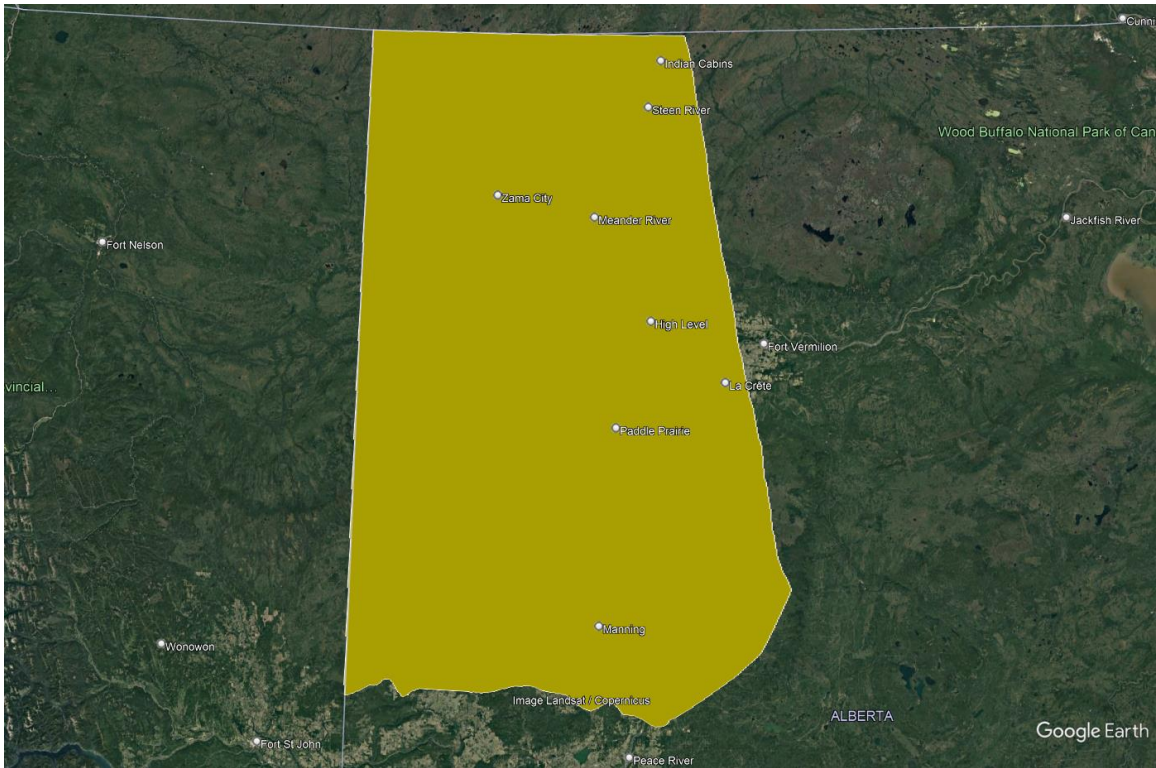


Figure 6: Muskwa Formation in Alberta

For many years, DFN has identified and tried hard to escalate concerns around the cumulative impacts of development in its traditional territory.<sup>7</sup> DFN's members have witnessed significant industrial and other development in their territory, which has led to serious cumulative impacts on our ability to exercise our Treaty rights and maintain our culture and way of life. Among other things, our elders, knowledge holders, land users and community members are reporting the following:

- the balance of accessible Treaty/Crown lands remaining in our traditional territory has been subjected to an ever increasing level of development, including with respect energy, conventional oil and gas, shale oil and gas, pipeline and power line transmission, forestry, access road construction, agriculture, and now new types of development, such as peat bog harvesting which have given rise to a range of adverse impacts to our Treaty rights;
- linear corridors created by the resource sector has greatly facilitated motorized access by ATVs and off-road vehicles, opening more and more areas that were once comparatively isolated and secluded;
- there has been a steady increase in natural predators, such as wolves and bears, which is taking an ever-worsening toll on moose and caribou;
- in areas where there has been a lot of resource development, with a heavily developed access network and linear development, even our experienced hunters find it difficult to locate and successfully hunt large game;
- the adverse impacts observed in such areas have grown more pronounced with the passage of time, as our families are finding it harder and harder to procure large game, small game, fish, berries, other foods, and medicinal plants;
- many areas of our once beautiful, pristine lands have been overrun by a network of oil field and industry roads, resulting in omnipresent industrial traffic, dust, noise, light, smell, and human presence, meaning that in many cases it is simply not safe, sensible, or tenable for our community members to utilize and be in these areas;
- there are few areas left in DFN's territory where healthy, clean, and quiet conditions persist – conditions which are necessary for our families and community members to exercise their rights and teach and pass on our culture and skills to the next generations;
- community members have been growing increasingly concerned about the health and safety risks of pollutants and other contaminants, especially in areas with high levels of development, which has made members reluctant to consume

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<sup>7</sup> In an effort to address these concerns, DFN commenced a court action for Treaty infringement against the Government of Alberta in 2022: *Gladue et al v Alberta*, (July 18, 2022) 2203 10939 ABKB.

game and other harvested foods as well as to engage in traditional activities in such areas;

- we have seen increasing disease-related stressors weakening large mammals and the growth in diseases, which potentially make it dangerous to consume them by our community members;
- in recent years, we have seen a rise in intense, out-of-control wildfires, which damage large game habitat, creeks, rivers, and plant communities over the long term;
- although our elders have taught us that caribou were once plentiful and helped support our people through key times of the year, the species – to which our people have a Treaty right and interest – now face extirpation and serve as a warning signing of the effects of unsustainable levels of development to our people;
- moose, another key species which are critical to our people and our identity, are not doing well across our Territory and our people are hard-pressed to hunt;
- there has been a marked decline in other culturally important species, including squirrel, lynx, marten, and various kinds of fish, throughout DFN's territory;
- we have witnessed decreased water quantity and water quality throughout many portions of DFN's territory;
- there has been a rise in fish consumption advisories in many sub-watersheds within our territory, including on and downstream the Peace River, on account of pulp mills, agricultural operations, and industrial and residential development;
- we have seen a decline in cool water fish closer to the mountain and high ground in our territory, as well as in warm water species further down in the Peace Watershed and its sub-watersheds; and

As a result of these devastating impacts, our members have an increased need to hold on to, use, and access areas that have been subjected to less intense development – areas which are deemed, quieter, cleaner, less disturbed, and more conducive to the successful exercise of our rights and the practice of our culture. Many of these areas fall within the region described above and stand to be adversely affected by increased development.

Notwithstanding that need, however, there have been very limited governmental efforts to date to review and regulate cumulative impacts, and to protect remaining areas from unconstrained development, as set out below.

## Need for Assessing Cumulative Effects and Impacts in the Region

DFN is especially concerned about future development in the Montney and the Basins, given the predictions of substantial future growth in the region.<sup>8</sup> As Alberta's Natural Gas Advisory Panel predicted in a 2018 report:

Tight rock in the Deep Basin, Montney, and Duvernay formations has also become highly attractive for light oil, condensate, and natural gas liquids (NGLs) production. Condensate production from Alberta and B.C. tight rock is used to dilute bitumen production from the oil sands. Imports of diluent will shrink, possibly to zero, as western Canadian condensate production grows in the years ahead.

These tight rock formations are expected to drive significant growth in light oil production in coming years. The oil in place in these formations is many times greater than Western Canada's entire cumulative oil production over the past century. The advent of horizontal drilling with multi-stage fracturing enables industry to tap an enormous tight rock resource base that was previously considered technically and economically stranded.<sup>9</sup>

It is likely that this growth will disproportionately affect the Alberta side of the Montney and the Basins. Significantly, in January 2023, the Province of British Columbia and Blueberry River First Nations arrived at an agreement following the groundbreaking court case of *Yahey v British Columbia*. One consequence of the agreement will be to substantially slow development on the British Columbia side of the border.<sup>10</sup> Since no such limitations apply in Alberta, DFN expects to see a commensurate increase within its Alberta territory.<sup>11</sup>

The Montney and the Adjacent Basins are already home to several major federally regulated pipeline systems which north-east BC and north-west Alberta upstream and midstream oil and gas shippers utilize to move hydrocarbon resources to varied markets.

The DFN highlights with great concern, the list of recently approved and newly proposed major transmission gas pipelines designed to increase the take away capacity

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<sup>8</sup> Chris Podetz et al, "The Evolution of the Montney Development" (2022) at p 2; Heather Exner-Pirot, "Opinion: Unleash the Montney: Canada's world-class gas field is waiting to be tapped" (September 29, 2022) *Financial Post*, Alberta, "Unconventional resource potential and development" (2023).

<sup>9</sup> Natural Gas Advisory Panel, *Roadmap to Recovery: Reviving Alberta's Natural Gas Industry* (2018) at p 22, online: [open.alberta.ca/dataset/33cee3b8-f393-47c2-817f-6899a55e697b/resource/90906b33-443d-48f1-b8dc-9c42515fb0c2/download/00736-ngap-report-2018.pdf](https://open.alberta.ca/dataset/33cee3b8-f393-47c2-817f-6899a55e697b/resource/90906b33-443d-48f1-b8dc-9c42515fb0c2/download/00736-ngap-report-2018.pdf).

<sup>10</sup> See Meghan Potkins, "Long-awaited Blueberry River deal means it's no longer 'business as usual' for Montney gas producers" (January 19, 2023), *Financial Post*, online: [financialpost.com/commodities/energy/oil-gas/blueberry-river-deal-no-longer-business-as-usual-montney-gas-producers](https://financialpost.com/commodities/energy/oil-gas/blueberry-river-deal-no-longer-business-as-usual-montney-gas-producers).

<sup>11</sup> See, for example, Nia Williams, "Natural gas firms warn clock ticking on Montney shale deal with First Nations" (November 1, 2022), *EnergyNow Media*, online: [energynow.ca/2022/11/natural-gas-firms-warn-clock-ticking-on-montney-shale-deal-with-first-nations](https://energynow.ca/2022/11/natural-gas-firms-warn-clock-ticking-on-montney-shale-deal-with-first-nations).

of shale gas/liquids from the Montney Basin to the west coast of BC, east and south in Alberta to boost oil sands refining and petrochemical production and south to the United States. A list of these pipeline projects (federally and provincially regulated) include:

- the Nova Gas Transmission Ltd Towerbirch Expansion Project: Federal/Approved
- Nova Gas Transmission Ltd. 2021 System Expansion Project: Federal / Approved
- Nova Gas Transmission North Central Corridor Loop Project: Federal / Approved
- Nova Gas Transmission North Project: Corridor Expansion Project: Federal / Approved
- Nova Gas Transmission Valhalla North and Berland Project: Federal / Approved
- Keyera KAPS Pipeline – Zones 1-4: Provincial / Approved
- North River NC BC Connector Project: Federal / Approved
- Pembina Taylor to Gordondale Project: Federal / Proposed
- Nova Gas Transmission Ltd: Grand Prairie Mainline Loop #3: Federal / Proposed

All of these projects will promote, shape and increase upstream and midstream further oil and exploration development giving rise to an increase in energy industry footprint, energy industry activity, landscape disturbance and a deepening of impacts on the DFN People's rights, way of life and culture. Other projects such as the recently unveiled 'Wonder Valley' Artificial Intelligence Data Centre, if approved, would also consume considerable volumes of gas from the Montney Basin and Adjacent Basins.

As mentioned, the volume of projects expected for the region is only set to increase in future years. For example, pending projects include the NorthRiver Midstream – NEBC Connector Project – a \$350-million pipeline project that would move 98,000 b/d of Montney Shale liquid byproducts.<sup>12</sup>

Notwithstanding the significant economic potential of the region, little work has been undertaken to date to understand cumulative effects in the Alberta portion of the Montney and the Basins and to identify appropriate baselines. For instance, while the Province of British Columbia is currently working with Blueberry River First Nations and other Treaty 8 First Nations situated in British Columbia to better manage cumulative effects, no such initiatives are taking place in Alberta. In addition, the Province of

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<sup>12</sup> Gordon Jaremko, "Montney NGL System OK'd in Split Decision by Canada Regulators" (September 2, 2022), *Natural Gas Intelligence*, online: [naturalgasintel.com/montney-ngl-system-okd-in-split-decision-by-canada-regulators](https://naturalgasintel.com/montney-ngl-system-okd-in-split-decision-by-canada-regulators).

Alberta has yet to commence regional land use planning – a process which in theory is meant to address cumulative effects – in the region.

We are on the cusp of accelerated growth in the Montney and the Basins. That being so, now is the time to conduct a regional assessment to better understand the existing regional context, to analyze trends and to identify baselines against which to assess future projects.

### Initial Vision for Regional Assessment

Appreciating the iterative and collaborative nature of regional assessments, DFN tentatively proposes the following vision for a regional assessment of the Montney and the Basins:

<p><b>Scope:</b> The regional assessment should focus on the Alberta portions of the Montney Formation (Fig 3) as well as the North Nordegg Member (Fig 4), the Wilrich Formation (Fig 5) and the Muskwa Formation (Fig 6)</p>
<ul style="list-style-type: none"><li>➤ Accelerated development is expected for the region, with much of this development likely to engage federal regulatory processes</li><li>➤ The limits of development imposed in light of the <i>Yahey</i> decision are likely to push further development to the Alberta side of the provincial border</li><li>➤ Unlike the British Columbia portions of the Montney and the Basins, no current initiatives exist for understanding or addressing regional cumulative effects in the Alberta portions, for which reason it makes both practical and economic sense to prioritize the Alberta portions</li></ul>
<p><b>Type:</b> The regional assessment should focus on data gathering and trend analysis, particularly with respect to impacts on Indigenous physical and cultural heritage, current traditional land use, culturally important sites and Aboriginal and Treaty rights</p>
<ul style="list-style-type: none"><li>➤ As it stands, there is little available information and data focusing on non-project-specific cumulative effects in the Montney and the adjoining hydro-carbon basins</li><li>➤ The region is of great significance to DFN and other Indigenous groups, who have used the region since time immemorial to hunt, fish, trap, harvest and carry out other important cultural activities and who continue to exercise constitutionally protected Aboriginal and Treaty rights in the region</li><li>➤ DFN and other Indigenous groups have already been raising concerns around the cumulative impacts of development on their rights, interests and way of life in the region, including on account of agricultural development, forestry,</li></ul>

transportation networks and extensive (and ever increasing) oil and gas exploration and development

- These concerns will only grow worse as the pace of development accelerates in the region
- It is vital for Canada to get a head start on that excepted acceleration by identifying baselines and collecting information and data now

By conducting a regional assessment of the Montney as well as the Basins, Canada would be able to significantly improve both the effectiveness and the efficiency of the impact assessment process for unconventional petroleum and other hydro-carbon projects in the region. Baseline information, regional landscape analysis and impact identification arising from this process would lead to more informed decision-making by the Crown. That is especially so given the very real potential of those projects to contribute to further cumulative impacts on the rights of DFN and other Indigenous groups with territory in the region.

### **Interested Indigenous Governments and Stakeholders**

The Alberta portions of the Montney and the Basins are home to several other Indigenous groups besides DFN. We anticipate that these other groups will be interested in and may seek to participate directly in the development of the requested regional assessment. We would welcome their involvement.

As for DFN, we have already collected community information and data on the cumulative impacts of development within our traditional territory, including with respect to the areas covered by the Montney and the Basins. DFN would be able to contribute disturbance-mapping and traditional land use information to support the regional assessment.

In addition, DFN is hopeful that the Province of Alberta will support and participate in the requested regional assessment as an interested provincial jurisdiction.

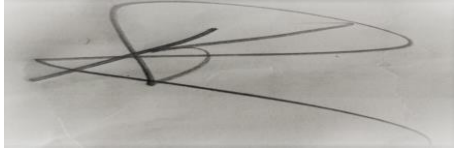
### **Conclusion**

Canada is in an opportune – albeit fleeting – position to better understand and respond to the unique issues facing the Montney and the adjoining hydro-carbon basin, especially as they pertain to cumulative effects and result impacts on Indigenous rights, interests and ways of life. Time is truly of the essence, as we move closer and closer in the Montney to total elimination of our people's ability to exercise our way of life. We truly hope that you make use of this opportunity to order a regional assessment for the Alberta portions of the Montney and the Basins.

We ask that you direct any correspondence in relation to this request to myself, Ken Rich: Director: DFN Land, Environment and Community Development Unit at

[ed.dir@duncansfirstnation.ca](mailto:ed.dir@duncansfirstnation.ca) and Chief Virginia Gladue and Council at [virginia@duncansfirstnation.ca](mailto:virginia@duncansfirstnation.ca)

Yours in Peace and Respect,

A handwritten signature in black ink, appearing to be 'Ken Rich', written on a light-colored background.

---

Ken Rich  
Director DFN Lands Environment and Community Development Unit  
Address: Box 148, Brownvale, Alberta ToH 0L0  
Phone: 780-597-3777  
Email: [ed.dir@duncansfirstnation.ca](mailto:ed.dir@duncansfirstnation.ca)

cc: Chief Virginia Gladue and Council  
DFN Elders, Youth and Community Members



October 29, 2025

**Via Email**

The Honourable Julie Dabrusin, P.C., M.P.  
Minister of Energy and Natural Resources  
House of Commons  
Ottawa, ON

Dear Minister Dabrusin,

**RE: Denial of Regional Assessment Request – Implications for the Peace River Nuclear Power Project and Cumulative Effects in Treaty 8 Territory**

---

I write on behalf of Duncan's First Nation to express our deep disappointment in your decision to deny our request for a regional assessment of the Montney Formation and adjoining hydrocarbon basins under section 93 of the *Impact Assessment Act*.

Your letter recognizes the ecological and cultural significance of the region, as well as the seriousness of our concerns about the cumulative impacts of development on Duncan's First Nation's Treaty rights. Yet despite this recognition, your decision concludes that a regional assessment is "not warranted at this time".

We find this conclusion troubling for several reasons:

- 1. Inconsistency with Federal Oversight of Major Projects:** You rely on the assertion that there is "limited potential for future designated physical activities" in the region. However, you acknowledge that the Peace River Nuclear Power Project – a large, federally regulated project with significant long-term implications – is currently proceeding through the federal impact assessment process. The scale, risks and longevity of this project alone underscore the urgent need for a regional approach. It is contradictory to suggest that a project of this magnitude does not justify or necessitate a regional assessment.
- 2. Failure to Address Cumulative Effects:** While project-specific assessments may consider cumulative effects to a limited degree, they are not designed to capture the full scope of historical and ongoing industrial development across Treaty 8 territory. Our request sought a regional assessment precisely because the piecemeal approach has failed to safeguard our rights or provide an adequate understanding of cumulative impacts. Without a regional lens, the Peace River Nuclear Project and other industrial activities



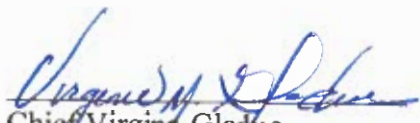
will continue to be assessed in isolation, ignoring the already critical state of our lands, waters and cultural practices.

3. **Impact on Treaty Rights:** As you know, cumulative effects from development across our territory have already eroded the meaningful exercise of our Treaty rights. Your decision suggests that the federal government is unwilling to use the tools available under the *Impact Assessment Act* to address this systemic problem. The result is that Treaty rights will continue to be undermined without meaningful remedy.

Duncan's First Nation is committed to working constructively with the federal government, but this decision raises serious questions about Canada's willingness to fulfill its Treaty, constitutional and international obligations, including those under Treaty 8, s. 35 of the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

We urge you to reconsider this decision in light of the Peace River Nuclear Power Project and the broader context of cumulative impacts in our territory. At a minimum, we expect Canada to take proactive steps to engage with Duncan's First Nation to ensure that our Treaty rights and interests are properly protected, and that cumulative effects are addressed in a meaningful way.

Sincerely,

  
Chief Virginia Gladue

COURT FILE  
NUMBER:

COURT: COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL  
CENTRE: EDMONTON

PLAINTIFFS: Virginia Martha Gladue on her own behalf  
and on behalf of all other Duncan's First  
Nation beneficiaries of Treaty No. 8 and  
Duncan's First Nation

DEFENDANT: Her Majesty the Queen in Right of the  
Province of Alberta

DOCUMENT: **STATEMENT OF CLAIM**

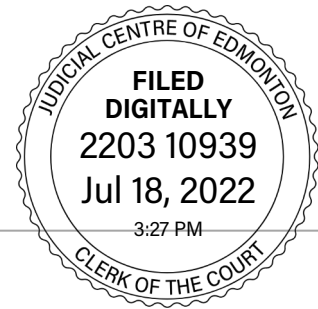
ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION  
OF PARTY FILING  
THIS DOCUMENT: **JFK Law LLP**  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Jeff Langlois and Kaelan Unrau

Tel: 604-687-0549

Fax: 604-687-2696

Email: [jlanglois@jfkllaw.ca](mailto:jlanglois@jfkllaw.ca);  
[kunrau@jfkllaw.ca](mailto:kunrau@jfkllaw.ca)

Clerk's Stamp



### **NOTICE TO DEFENDANT(S)**

You are being sued. You are a Defendant.

Go to the end of this document to see what you can do and when you must do it.

***Note: State below only facts and not evidence (Rule 13.6)***

## Overview

1. Since long before the assertion of Crown sovereignty in what is now Alberta, the Plaintiffs (collectively, “**DFN**”) have been using the lands and waters in their traditional territory to hunt, fish, trap, gather, and support other important cultural practices and activities. DFN’s dependence on these lands and waters – which center on the Peace River area – has shaped their unique identity and way of life as an Indigenous People, including their language, economy, culture, and spirituality. Simply put, DFN’s traditional territory is what makes them who they are.
2. In or around 1899, the Crown sought the agreement of DFN’s ancestors to open the region up to non-Indigenous persons for settlement, to which end the Crown promised that DFN would be ensured the right to carry on their way of life free from interference as well as the rights to hunt, fish, trap, and gather natural resources in their traditional territory.
3. On the basis of the solemn promises and assurances made by the Crown, as well as their trust in those promises and assurances, DFN’s ancestors agreed to allow their traditional territory to be opened up for settlement in accordance with Treaty No. 8 (the “**Treaty**”).
4. The Defendant Her Majesty in Queen in Right of the Province of Alberta (“**Alberta**”) has failed to uphold its obligations to DFN and its ancestors under the Treaty, including its honourable and fiduciary obligations.
5. Rather than protecting DFN’s way of life and ensuring the meaningful exercise of their rights, Alberta has engaged in a pattern of conduct that, taken together, has significantly diminished DFN’s right to hunt, fish, trap, and gather as part of their way of life. Among other things, habitats have been fragmented, lands and waters have been degraded, substances have been introduced that cause legitimate fears of contamination and pollution, and lands have been put to uses

that are incompatible with the continued meaningful exercise of DFN's Treaty rights.

6. As a result of Alberta's failure to uphold its Treaty obligations, DFN can no longer reasonably access landscapes and natural resources in their traditional territory to support hunting, fishing, trapping, gathering, and other important cultural activities and practices, as ensured under the Treaty. There are simply not enough appropriate and accessible lands, waters, ecosystems, and natural resources left to support the meaningful exercise of DFN's Treaty rights and way of life.
7. DFN seeks relief against Alberta to address Alberta's unjustifiable and ongoing breaches of its obligations to DFN under the Treaty, including Alberta's honourable and fiduciary obligations.

#### **Statement of Facts Relied on:**

##### ***The Parties***

8. Duncan's First Nation is a band within the meaning of the *Indian Act*, RSC 1985, c I-5, as amended, and is an Aboriginal People within the meaning of section 35 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
9. Duncan's First Nation takes its name from Duncan "Tastaoosts" Testawich ("**Duncan Testawich**"), who was identified as one of the "Headmen of the Indians of Peace River Landing and the adjacent territory" when the Treaty was signed. Duncan's First Nation became a party to the Treaty on July 1, 1899, under the signature of Duncan Testawich.
10. A substantial portion of Duncan's First Nation's membership resides on or near the Duncan's Indian Reserve No. 151A (the "**Reserve**"), located southwest of the Town of Peace River, Alberta.

11. Virginia Martha Gladue (“**Chief Gladue**”) is the [Chief and a member of Duncan’s First Nation. She resides on the Reserve and is a beneficiary of the Treaty.
12. Chief Gladue brings this claim on her own behalf and as a representative on behalf of all other DFN beneficiaries of the Treaty and Duncan’s First Nation. She is authorized to bring this action on behalf of Duncan’s First Nation and its members.
13. Alberta is the emanation of the Crown in which the lands material to the issues in this proceeding are vested, subject to the interests of DFN. Alberta has the exclusive power to manage and regulate the lands and waters material to the issues in this proceeding, as well as the resources on or under those lands, pursuant to the *Constitution Act, 1867*. Alberta is subject to all of the obligations, duties, and liabilities that the Crown has or owes to DFN.

### ***The Way of Life of Duncan’s First Nation***

14. DFN’s ancestors have long used and occupied lands and waters in what is now Alberta and British Columbia (collectively, the “**Traditional Territory**”). DFN’s Traditional Territory is centered on the Peace River area in Alberta and includes the lands, forests, hills, muskeg, and rivers between the Clear Hills and the Chinchaga watershed (the “**Clear Hills–Chinchaga Refuge**”).
15. In this claim, DFN does not seek relief in relation to any lands or waters outside of Alberta. For the purposes of this claim, any reference to the Traditional Territory includes only lands and waters located in Alberta.
16. Prior to 1899, when the Treaty was signed, DFN’s ancestors had a well-established way of life, culture, and economy in their Traditional Territory. In carrying out this way of life, DFN supported themselves in a variety of ways, including through hunting, fishing, trapping, and gathering plants, such as berries and medicinal plants. DFN also participated in trade with both other Indigenous groups and Europeans, exchanging furs, provisions, and other material goods.

17. The availability of large game was and remains central to DFN's hunting-based culture and way of life. Although DFN's ancestors had long depended on wood bison for subsistence and cultural purposes, the wood bison population in DFN's Traditional Territory began declining in 1820 and was all but eradicated by the early 1830s. Following the demise of the wood bison in or around 1830, DFN's ancestors were forced to rely more heavily on other species, such as moose, caribou, elk, and, to a lesser extent, bear and deer.
18. Moose was the primary species taken by DFN at the time of the Treaty. It played and continues to play an integral role with respect to DFN's culture, identity, and way of life.
19. At the time of the Treaty, DFN's way of life depended on the availability of and access to preferred lands, waters, and natural resources of sufficient quality and quantity to maintain DFN's traditional seasonal harvesting and subsistence cycles, including seasonal movements between traditional hunting areas.
20. Moreover, in order to engage in effective hunting, fishing, trapping, gathering, and other land-based practices, DFN required deep familiarity with specific lands, waters, and ecosystems. Many of these practices, such as moose hunting and the hunting of other large game, required years of study and observation of specific lands, ecosystems, and wildlife populations.
21. DFN's way of life also depended on the ability to pass knowledge to successive generations, including knowledge about:
  - a) the traditional seasonal harvesting and subsistence cycle;
  - b) traditional hunting, fishing, trapping, and gathering practices; and
  - c) spiritual, ceremonial, and other cultural beliefs and practices.
22. This knowledge was passed to successive generations orally, through cultural and spiritual practices, as well as through participation in traditional hunting, fishing, trapping, and gathering practices – all of which depended on the

continued availability of and access to preferred lands, waters, and natural resources.

### ***The Treaty***

23. The Treaty is a treaty within the meaning of section 35 of the *Constitution Act, 1982*.
24. On June 21, 1899, the Treaty was concluded between the Crown and the “Chief and Headmen of the Indians of Lesser Slave Lake and adjacent country.” The Treaty was ratified by Order in Council 363 on February 2, 1900.
25. DFN’s ancestors adhered to the Treaty on July 1, 1899, as one of the groups of “Indians of Peace River Landing and the adjacent territory.”
26. Through the Treaty, the Crown sought and obtained the agreement of the Indigenous signatories to open up the tract of land inhabited by the Indigenous signatories, including lands in what is now Alberta, to non-Indigenous persons for settlement.
27. The Treaty established a set of reciprocal rights and obligations owed by the Crown and the Indigenous signatories, including DFN’s ancestors, through the oral promises of the parties and the written terms of the Treaty.

### ***The Treaty Rights***

28. As observed by the Treaty Commissioners at the time, the Crown’s main difficulty in persuading the Indigenous signatories, including DFN’s ancestors, to adhere to the Treaty was the apprehension that hunting and fishing privileges were to be curtailed.
29. In the end, however, DFN’s ancestors agreed to the Treaty in exchange for solemn promises of the Crown, including:

- a) the promise to provide provisions and benefits to DFN’s ancestors, including the creation of reserves and the provision of land to families or individuals who may prefer to reside off-reserve;
  - b) the promise that DFN and their descendants would retain their old way of life and be as free “to pursue their usual vocations of hunting, trapping and fishing” as if they had never entered into the Treaty; and
  - c) the promise that DFN’s rights would be protected against the abuses of settlers (collectively, the “**Treaty Rights**”).
30. At the time of the Treaty, DFN’s ancestors hunted, trapped, fished, and gathered a wide range of species and natural resources for subsistence and for cultural, social, and spiritual needs – all of which were important to DFN’s way of life.
31. The Treaty also ensured DFN’s rights to carry out practices and activities incidental to the exercise of the Treaty Rights, including:
- a) rights of unrestricted access to preferred lands, waters, and ecosystems of sufficient quality and quantity necessary to support the meaningful exercise of DFN’s Treaty Rights;
  - b) rights to travel throughout the Traditional Territory;
  - c) rights to sufficient and culturally appropriate land and resources to support the meaningful exercise of the Treaty Rights;
  - d) rights to participate in the management of natural resources in DFN’s Traditional Territory;
  - e) rights to access, gather, and use various natural resources, including plants, berries, and clean water, in the Traditional Territory;

- f) rights to establish, access, and maintain infrastructure necessary to the meaningful exercise of the Treaty Rights, including trails, cabins, camps, and traps;
  - g) right to access and use adequate quantities of clean and fresh water capable of sustaining life in and around the Traditional Territory; and
  - h) the right to maintain and access sites at which to teach DFN's culture and way of life to subsequent generations.
32. Although the Treaty was negotiated by the federal government, it is an agreement between the Indigenous signatories, including DFN's ancestors, and the Crown. Alberta, as an emanation of the Crown, has exclusive authority under the *Constitution Act, 1867* to take up provincial lands for forestry, mining, settlement, and other exclusively provincial matters.
33. The Treaty further gave rise to a fiduciary relationship between the Crown, including Alberta, and DFN. At all material times, Alberta was under a fiduciary duty to DFN to ensure the continued meaningful exercise of the Treaty Rights, including the Incidental Rights.
34. Taken as a whole, the purpose of the Treaty Rights and the Treaty promises was to create a binding obligation on the Crown to manage the lands, waters, and natural resources in DFN's Traditional Territory in a way that would allow DFN and their descendants to meaningfully exercise their Treaty Rights, practice their land-based culture, and maintain their way of life.
35. The Treaty established the Treaty Rights as of the date of the Treaty for the lands specified in the Treaty.
36. Later, the *Natural Resources Transfer Agreement, 1930*, being schedule to the *Constitution Act, 1930* (UK), 20-21 George V, c 26 (the "**NRTA**"), transferred the Crown lands in Alberta to the Alberta government. The *NRTA* recognizes DFN's right to a continued supply of game and fish for their support and subsistence, in

accordance with the promises under the Treaty, while also extending the geographic scope of the Treaty to the whole of the Province.

37. While the *NRTA* may have modified the geographic scope in which the Treaty Rights could be exercised, it did not fundamentally alter the Treaty promises made to DFN – particularly, that DFN would be able to maintain their way of life.
38. Alberta – as the emanation of the Crown in which the lands material to the issues in this proceeding are vested, subject to the interests of DFN – owes obligations to DFN under the Treaty, including honourable and fiduciary obligations. The obligations owed to DFN by Alberta under the Treaty include:
  - a) ensuring that DFN are not displaced;
  - b) ensuring that DFN's way of life is not forcibly interfered with;
  - c) ensuring that DFN retain the means of earning a livelihood through the exercise of their Treaty Rights;
  - d) ensuring that DFN's traditional patterns of economic activities are not interfered with;
  - e) exercising any rights under the Treaty to make regulations or to take up land in an honourable manner that does not interfere with DFN's continued meaningful exercise of their Treaty Rights; and
  - f) managing and protecting the Treaty lands and surrounding area, including the waters and ecosystems in those lands, in such a way as to:
    - (i) minimize adverse impacts on DFN's Treaty Rights; and
    - (ii) protect and promote the continued meaningful exercise of the Treaty Rights.
39. Alberta has breached its Treaty obligations, including its honourable and fiduciary obligations, to DFN.

40. Alberta has not sought or obtained the consent of DFN to breach the Treaty or infringe DFN's Treaty Rights.

***Alberta Has Authorized Extensive Development in DFN's Traditional Territory***

41. Alberta has discretionary control over the management of DFN's Traditional Territory.
42. Since the Treaty was signed, Alberta has authorized and continues to authorize extensive non-Indigenous uses of the lands, waters, and natural resources in DFN's Traditional Territory and the surrounding area. The extensive non-Indigenous uses authorized by Alberta include activities, developments, and projects related to:
- a) agriculture;
  - b) energy, including conventional oil and gas and power line transmission;
  - c) forestry;
  - d) mining;
  - e) transportation;
  - f) settlement; and
  - g) other new forms of development, such as peat bog harvesting (collectively, the "**Impugned Authorizations**").
43. To date, the Impugned Authorizations have caused significant changes to the lands, waters, and natural resources in DFN's Traditional Territory, including access to those lands, waters, and natural resources.
44. Alberta has authorized the Impugned Authorizations without regard to the potential cumulative effects and consequent adverse cumulative impacts of the

Impugned Authorizations on DFN's continued meaningful exercise of their Treaty Rights. Among other things, Alberta has failed to:

- a) make meaningful efforts to ensure that sufficient lands, waters, and natural resources in DFN's Traditional Territory remain available for the meaningful exercise of DFN's Treaty Rights;
- b) obtain sufficient information concerning:
  - (i) the nature and extent of DFN's Treaty rights, including the conditions necessary for the meaningful and sustainable exercise of those rights;
  - (ii) the potential cumulative impacts of the Impugned Authorizations in DFN's Traditional Territory and the surrounding area; and
  - (iii) the potential cumulative impacts of the Impugned Authorizations in the Traditional Territory and the surrounding area on the continued meaningful exercise of DFN's Treaty rights;
- c) assess, monitor, or manage the cumulative impacts of the Impugned Authorizations in DFN's Traditional Territory and the surrounding area;
- d) manage the pace, scale, location, nature, and number of activities, projects, and developments in the Traditional Territory and the surrounding area;
- e) establish thresholds for permissible impacts to lands, waters, wildlife, fish, plants, and ecosystems in DFN's Traditional Territory and the surrounding area, such that the impacts would not interfere with or significantly diminish the continued meaningful exercise of DFN's Treaty Rights, as part of DFN's way of life, and ensure that the cumulative impacts of the Impugned Authorizations do not or will not exceed those thresholds;

- f) make meaningful efforts to minimize the impacts, including the cumulative impacts, of the Impugned Authorizations on DFN's Treaty Rights; and
- g) fulfill its obligation to manage and protect DFN's Traditional Territory and surrounding areas, including waters and ecosystems, in such a way as to:
  - (i) minimize impacts on DFN's Treaty Rights; and
  - (ii) protect and promote the continued meaningful exercise of the Treaty Rights.

***The Cumulative Effects of Development Have Significantly Diminished the Meaningful Exercise of the Plaintiffs' Treaty Rights***

45. The Impugned Authorizations have, individually and collectively, resulted in the following adverse effects in DFN's Traditional Territory:
- a) causing substantial areas of the Traditional Territory to be taken up for uses that are incompatible with DFN's use of lands, waters, and natural resources, thereby significantly and meaningfully diminishing DFN's ability to exercise the Treaty Rights;
  - b) causing fragmentation of the remaining available lands and waters, impairing DFN's ability to access, know, and effectively navigate the Traditional Territory by land and water;
  - c) causing the destruction and loss of access to key hunting, fishing, trapping, and gathering areas, as well as other traditional and spiritual areas and sites, especially areas and sites located within reasonable travel distance of the Reserve;
  - d) causing qualitative and quantitative impacts to ecosystems as well as to animal, fish, and plant habitats, including through the alteration, fragmentation, and pollution of lands, waters, and landscapes;

- e) causing diminution in the abundance, health, and diversity of wildlife, including moose, caribou, squirrel, lynx, and marten, as well as fish and plants;
  - f) causing other adverse qualitative impacts to the remaining available lands and waters, including with respect to industrial traffic, dust, noise, light, smell, and human presence;
  - g) causing the creation of extensive linear corridors throughout the Traditional Territory, facilitating further non-Indigenous uses of and access to the remaining available lands and waters; and
  - h) causing or exacerbating, or both, further environmental harms, including increased wildfires and the resultant damage to water systems and ecosystems (the “**Adverse Effects**”).
46. Alberta has further exercised its powers of regulation in a manner that exacerbates the detrimental impacts of the Adverse Effects on DFN and their Treaty Rights. Among other things:
- a) Alberta has passed regulations, such as the *Provincial Parks (General) Regulation*, Alta Reg 102/1985, that further constrain the timing, location, and manner in which DFN can exercise their right to hunt and other Treaty Rights; and
  - b) Alberta has authorized or condoned, or both, hunting by non-Indigenous persons in DFN’s Traditional Territory and the surrounding area, resulting in further diminution in the abundance, health, and diversity of wildlife relied on by DFN.
47. The Adverse Effects have caused serious harms to DFN, including:
- a) the loss of DFN’s use and enjoyment of lands and waters in their Traditional Territory;

- b) injury to the remaining lands and waters;
  - c) displacement of DFN from areas used for or affected by, or both, the Impugned Authorizations;
  - d) curtailment of the continuity of DFN's traditional patterns of economic activity; and
  - e) loss of DFN's preferred means of exercising their Treaty rights.
48. The Adverse Effects have significantly and meaningfully diminished the exercise of DFN's Treaty Rights, including by:
- a) forcibly interfering with DFN's way of life;
  - b) restraining DFN's means of earning a livelihood; and
  - c) significantly and meaningfully diminishing DFN's ability to exercise their Treaty rights to hunt, fish, trap, and gather, as well as incidental rights.
49. The Adverse Effects have also heightened DFN's reliance on the few remaining areas of relatively intact lands in their Traditional Territory – in particular, the Clear Hills–Chinchaga Refuge, which plays an increasingly vital role in the support of DFN's sustenance, cultural, and spiritual needs.
50. DFN have made attempts to inform Alberta of their concerns regarding the Adverse Effects and the resulting diminishment and infringement of their Treaty Rights and their way of life. Among other things, DFN have raised concerns during and as part of:
- a) regulatory proceedings and provincial consultations regarding proposed development projects within DFN's Traditional Territory and the surrounding area; and
  - b) provincial land use planning initiatives.

51. Despite the attempts made by DFN to inform Alberta of their concerns, Alberta has failed or refused, or both, to adequately address the impacts to and the infringement of DFN's Treaty rights.
52. Alberta has not taken sufficient steps to:
  - a) prevent the breach of the Treaty;
  - b) address the infringement of DFN's Treaty rights; or
  - c) ameliorate the impacts of the Impugned Authorizations on the continued meaningful exercise of the Treaty Rights.
53. Alberta continues to undertake, approve, and otherwise permit activities, projects, and developments in DFN's Traditional Territory contrary to Alberta's obligations under the Treaty.

**Remedy Sought:**

- a) a declaration that, in causing or permitting, or both, the cumulative impacts of the Impugned Authorizations on DFN's Treaty Rights, Alberta has breached its obligation to the Plaintiffs under the Treaty, including its honourable and fiduciary obligations;
- b) a declaration that Alberta's mechanisms for assessing and taking into account cumulative effects are lacking and have contributed to the breach of its obligations under the Treaty;
- c) a declaration that Alberta has taken up lands to such an extent that there are not sufficient, appropriate, and reasonably accessible lands in DFN's Traditional Territory to allow for DFN's meaningful exercise of their Treaty Rights;
- d) a declaration that Alberta has unjustifiably infringed DFN's Treaty Rights in permitting the cumulative impacts of the Impugned Authorizations to

meaningfully diminish DFN's exercise of its Treaty Rights in their Traditional Territory;

- e) a declaration that Alberta shall not continue to authorize activities that breach the promises included in the Treaty, including Alberta's honourable and fiduciary obligations associated with the Treaty, or that unjustifiably infringe DFN's exercise of their Treaty Rights;
- f) a declaration that the parties must act with diligence to consult and negotiate for the purpose of establishing timely enforceable mechanisms in order to:
  - (i) assess and manage the cumulative impacts of agricultural and industrial development on DFN's Treaty Rights; and
  - (ii) ensure that these constitutional rights are respected;
- g) an interim injunction restraining Alberta from undertaking, causing, or permitting activities that:
  - (i) breach Alberta's obligations to DFN under the Treaty;
  - (ii) infringe DFN's Treaty Rights; or
  - (iii) breach Alberta's fiduciary obligations to DFN;
- h) a permanent injunction restraining Alberta from undertaking, causing, or permitting activities that:
  - (i) breach Alberta's obligations to DFN under the Treaty;
  - (ii) infringe DFN's Treaty Rights; or
  - (iii) breach Alberta's fiduciary obligations to DFN;
- i) costs; and

- j) such further and other relief as this Honourable Court may deem appropriate.

The Plaintiffs propose that the trial of this action will take more than 25 days and that it be held at the Law Courts, in the City of Edmonton, in the Province of Alberta.

#### NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiffs' address for service

#### Warning

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiffs against you.



May 17, 2022

Via Email: [premier@gov.ab.ca](mailto:premier@gov.ab.ca);  
[ir.ministeroffice@gov.ab.ca](mailto:ir.ministeroffice@gov.ab.ca);  
[centralpeace.notley@assembly.ab.ca](mailto:centralpeace.notley@assembly.ab.ca)

With registered letter to follow

Premier Jason Kenney  
Office of the Premier  
307 Legislature Building  
10800 – 97 Avenue  
Edmonton, Alberta T5K 2B6

Minister Rick Wilson  
Office of the Minister  
Indigenous Relations  
104 Legislature Building  
10800 – 97 Avenue  
Edmonton, AB T5K 2B6

Todd Loewen  
Constituency Office  
Box 9  
10410 – 110 Street  
Fairview, AB T0H 1L0

Dear Premier Kenney, Minister Wilson, and Mr. Loewen:

**Re: The Urgent Protection of Duncan's First Nation's Treaty Rights**

We are writing on behalf of Duncan's First Nation (DFN) to demand urgent action by Alberta to prevent the further erosion of our community's Treaty rights. Over the past several decades, our members have witnessed the relentless development of the lands on which we have depended since time immemorial. Unless Alberta drastically alters its course, following years of indifference and inaction, we fear that we have now reached the point at which our rights, culture, and way of life risk being lost forever.

DFN is a Treaty 8 First Nation located in what is now northwestern Alberta. Our traditional territory, which extends into the Rocky Mountains in British Columbia, is centred on the Peace River area, including the "Clear Hills–Chinchaga Refuge" located between the Clear Hills and the Chinchaga Watershed. This core territory is essential to our culture, identity, and way of life.

Duncan Tastaosts (Testawich) signed Treaty 8 on behalf of DFN in 1899. By that time, DFN's Beaver and Cree ancestors had long been using these lands to hunt, fish, harvest, and support important cultural practices. These practices and vocations – as continued and protected under the Treaty – have yet to be completely wiped out, despite the increasingly insurmountable barriers posed by industrial and agricultural development in the region. But we are close to the breaking point.

In an effort to better understand the land use of our members, including the challenges that they face in the exercise of their rights, DFN conducted several community land use and knowledge surveys between 2009 and 2019. These surveys confirmed what we had long feared – that the ability of community members to meaningfully exercise their rights has been significantly diminished and is only growing worse as time goes on.

Among other things, DFN elders, knowledge holders, land users, and community members have observed and reported the following:

- a major portion of our traditional territory, which includes the Peace River region, has been turned into a block of fee simple and farmed lands which our families and community members can no longer effectively access to hunt large game and undertake associated rights and cultural practices;
- over time, there has been an ongoing erosion of accessible Treaty/Crown land within our traditional territory, as more and more land is changed to fee simple, settlement, farmed, long-term lease status, which has further reduced the land base available to support large game hunting and the practice of other rights and our culture;
- transportation infrastructure, together with associated provincial hunting regulations, has further reduced that area available to our people for large game hunting, the exercise of other rights, and associated cultural practices;
- linear corridors created by the resource sector has greatly facilitated motorized access by ATVs and off-road vehicles, opening more and more areas that were once comparatively isolated and secluded;
- there has been a steady increase in natural predators, such as wolves and bears, which is taking an ever worsening toll on moose and caribou;
- where once we were welcomed on to fee simple farm lands by our long term neighbours to hunt, access, and traverse fee simple lands around the Peace valley and other lands in pursuit of large game, our people now face persecution, harassment, and charges by Alberta officials;
- our people are now regulated to a small “island” within the Peace farming block, meaning that we must travel farther and farther away from the community to find accessible Treaty/Crown lands with suitable conditions to support the exercise of our rights, culture, and way of life – something made even more onerous due to rising gas prices;

- the balance of accessible Treaty/Crown lands remaining in our traditional territory has been subjected to an ever increasing level of development, including with respect energy, conventional oil and gas, shale oil and gas, pipeline and power line transmission, forestry, access road construction, agriculture, and now new types of development, such as peat bog harvesting, which have given rise to a range of adverse impacts to our Treaty rights;
- in areas where there has been a lot of resource development, with a heavily developed access network and linear development, even our experienced hunters find it difficult to locate and successfully hunt large game;
- the adverse impacts observed in such areas have grown more pronounced with the passage of time, as our families are finding it harder and harder to procure large game, small game, fish, berries, other foods, and medicinal plants;
- many areas of our once beautiful, pristine lands have been over-run by a network of oil field and industry roads, resulting in omnipresent industrial traffic, dust, noise, light, smell, and human presence, meaning that in many cases it is simply not safe, sensible, or tenable for our community members to utilize and be in these areas;
- there are few areas left in DFN's territory where healthy, clean, and quiet conditions persist – conditions which are necessary for our families and community members to exercise their rights and teach and pass on our culture and skills to the next generations;
- community members have been growing increasingly concerned about the health and safety risks of pollutants and other contaminants, especially in areas with high levels of development, which has made members reluctant to consume game and other harvested foods as well as to engage in traditional activities in such areas;
- we have seen increasing disease-related stressors weakening large mammals and the growth in diseases, which potentially make it dangerous to consume them by our community members;
- in recent years, we have seen a rise in intense, out-of-control wild fires, which damage large game habitat, creeks, rivers, and plant communities over the long term;
- although our elders have taught us that caribou were once plentiful and helped support our people through key times of the year, the species – to which our people have a Treaty right and interest – now face extirpation and serve as a warning sign of the effects of unsustainable levels of development to our people;
- moose, another key species which are critical to our people and our identity, are not doing well across our Territory and our people are hard-pressed to hunt;

- there has been a marked decline in other culturally important species, including squirrel, lynx, marten, and various kinds of fish, throughout DFN's territory;
- vehicular collisions along main highways, secondary roads, forestry roads, and oil and gas fields have resulted in further losses of large game;
- moose populations have been further stressed through the tag hunting season;
- we have witnessed decreased water quantity and water quality throughout many portions of DFN's territory;
- there has been a rise in fish consumption advisories in many sub-watersheds within our territory, including on and downstream the Peace River, on account of pulp mills, agricultural operations, and industrial and residential development;
- we have seen a decline in cool water fish closer to the mountain and high ground in our territory, as well as in warm water species further down in the Peace Watershed and its sub-watersheds;
- as a result, our members have an increased need to hold on to, use, and access areas that have been subjected to less intense development – areas which are deemed, quieter, cleaner, less disturbed, and more conducive to the successful exercise of our rights and the practice of our culture; and
- in particular, we have seen the increased significance of the Clear Hills–Chinchaga Refuge to DFN as one of the last areas in which community members can still find wildlife and hunt with relative success, although even that area has come under threat in recent years.

DFN has attempted to address these challenges and barriers through existing processes. We have engaged in good faith consultations with provincial agencies and federal agencies. We have participated in regulatory proceedings and provided Alberta with crucial information on the exercise of our rights, including the results of our community land use and knowledge surveys. We have tried to support provincial land use planning initiatives which we were told would help address cumulative impacts to our lands and rights – a promise yet to be realized. But notwithstanding our efforts, we have repeatedly come up against Alberta's appalling disregard for the challenges faced by our members in the exercise of their rights.

That is not to say our efforts have been entirely without success. For instance, DFN's intervention on the NGTL North Corridor Expansion Project prompted Canada to override the proponent's and the former National Energy Board's proposed caribou habitat compensation program, resulting in precedent-setting caribou habitat offsets. These are notable achievements. But project-by-project efforts have not been enough to prevent the large-scale erosion of our rights. Something needs to change before it is too late.

I hope you can appreciate just how dire the situation is for our families, community, and existing and future generations. Our rights and culture as Beaver and Cree People are

inextricably linked to the land. Without intact and accessible places to hunt, fish, harvest, and carry out other cultural practices, we cannot meaningfully exercise our rights, nor can we pass on our knowledge of those rights and practices to future generations. It is not too much to say that the extensive and ever increasing development in DFN's territory – development that has been directly caused and permitted by Alberta – poses an existential threat to our culture, identity, and way of life.

It is against this backdrop that we have taken the step of instructing our lawyers to prepare a claim for treaty infringement. I do want to make clear, however, that we are taking this action as an absolute last resort. We have tried using existing regulatory processes. We have informed Alberta time and time again of the limitations of these processes and the ongoing erosion of our rights. It has not been enough. While going to court is not our first choice, the reality is that Alberta, through years of indifference and inaction, has effectively made that choice for us.

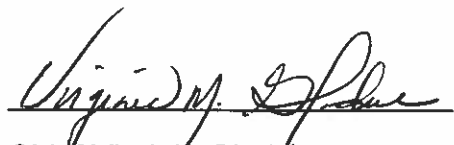
DFN remains open to discussing alternative courses of action. But given the urgency of the situation, as well as our past disappointments with vague government assurances that ultimately lead nowhere, we require some concrete commitments on the part of the Province. We therefore demand that Alberta strike a formal table with DFN within 60 days of this letter in order to address infringement and adverse impacts to DFN's Treaty rights, culture, and way of life. The table and resulting processes would likely need to include the following:

- a framework agreement by which to guide the necessary exploration, research, and issue resolution processes;
- capacity funding to ensure DFN's access to appropriate levels of legal and technical support, which will help level the playing field between DFN and the Province and facilitate informed and productive discussions;
- new and independent research, as needed, by which to understand the full array of factors impacting DFN's Treaty rights, culture, and way of life;
- good faith cooperation with DFN to establish a methodologically defensible process for investigating and assessing the impacts to DFN's rights, culture, and way of life;
- actions, measures, and strategies to address infringements of DFN's rights and adverse impacts to its rights, culture, and way of life;
- identification and interim protection of areas that may still support the meaningful exercise of DFN's rights, including the Clear Hills-Chinchaga Refuge, by means of conditions that temporarily suspend new development within these areas;
- immediate actions and strategies to stabilize and reverse declines in caribou and moose populations within DFN's territory;
- interim food security measures to support DFN families, as needed, until such time as wildlife populations are in a healthy and sustainable state;

- a buffalo conservation area and program whereby the DFN can take on a stewardship role with Alberta to provide a culturally viable source of wild meat for DFN, allowing them the ability to re-establish their cultural relationship with buffalo;
- co-developed measures, strategies, and plans whereby DFN and Alberta can work together to establish community-led initiatives to heal both the land and DFN's relationship with its damaged territory;
- a long-term land use plan, with long-term funding, for DFN's traditional territory, incorporating continuing conservation measures, zoning, actions, and strategies specifically designed and with the intent of supporting the ongoing exercise of DFN's treaty rights, culture, and way of life;
- a monitoring agency cooperatively managed by DFN and Alberta, with long-term funding and employing both western science and Indigenous knowledge, to monitor the land use plan;
- the creation of larger, undisturbed cultural reclamation zones, including the Clear-Hills Chinchaga Refuge, in which DFN can exercise their rights, culture, and way of life;
- a long-term ecological-cultural fund to support ongoing research and adaptive management and fish and wildlife and plant compensation programs; and
- other plans, strategies, and actions which may be agreed to by the parties.

Our territory has long provided for our People as well as for newcomers to these lands. But in order for the land to keep giving, it must be treated with care and respect. It is as a Treaty ally that we call on Alberta to honour its commitments under Treaty 8 and to protect our lands – and hence our way of life – before it is too late. As intended by our ancestors and those that signed the Treaty on your behalf, we invite you to work in the spirit of co-operation, mutual respect, and responsibility. The choice is yours: whether to commit to this path or continue down the path of indifference, uncertainty, and conflict.

Yours in Peace and Respect,



Chief Virginia Gladue

CC: Duncan's First Nation Council, Elders, and Community Members



September 13, 2024

Via Email: [ir.ministeroffice@gov.ab.ca](mailto:ir.ministeroffice@gov.ab.ca)

Minister Rick Wilson  
Office of the Minister  
Indigenous Relations  
104 Legislature Building  
10800 – 97 Avenue  
Edmonton, AB T5K 2B6

Dear Minister Wilson:

**Re: Urgent Protection of Duncan's First Nation's Treaty Rights**

On August 1, 2024, you were set to meet with our leadership in Peace River. It is unfortunate that other demands stood in the way of that meeting. But we look forward to further opportunities to meet with you face-to-face, as Treaty allies.

As you are no doubt aware, Duncan's First Nation (DFN) has long been striving to protect its rights, culture, and way of life in the face of relentless development in its traditional territory. Our efforts have included participation in consultations and regulatory proceedings. More recently, they have involved the commencement of a Treaty infringement lawsuit in the Alberta Court of King's Bench (Court File No. 2203 10939). The lawsuit truly came as a last resort, however, and we remain hopeful that Alberta and DFN will still choose to walk the path of co-operation, mutual respect, and responsibility.

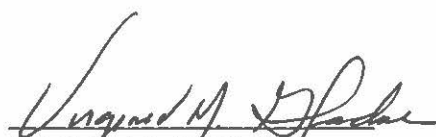
Before taking the major step of commencing court proceedings, we called on Alberta to strike a formal table with DFN to address infringement and adverse impacts to DFN's rights, culture, and way of life. We also explained that the table and resulting processes would likely need to include the following:

- a framework agreement by which to guide the necessary exploration, research, and issue resolution processes;
- capacity funding to ensure DFN's access to appropriate levels of legal and technical support, which will help level the playing field between DFN and the Province and facilitate informed and productive discussions;
- new and independent research, as needed, by which to understand the full array of factors impacting DFN's Treaty rights, culture, and way of life;
- good faith cooperation with DFN to establish a methodologically defensible process for investigating and assessing the impacts to DFN's rights, culture, and way of life;
- actions, measures, and strategies to address infringements of DFN's rights and adverse impacts to its rights, culture, and way of life;

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- a long-term ecological-cultural fund to support ongoing research and adaptive management and fish and wildlife and plant compensation programs; and
- other plans, strategies, and actions which may be agreed to by the parties.

As Treaty allies, we once again call on your government to join us on the path of co-operation, mutual respect, and responsibility, and to meet Nation-to-Nation to address the continued survival of our rights, culture, identity, and way of life.

Yours in Peace and Respect,



Chief Virginia M. Gladue