

## Comments on Flipi Gas-Fired Generation Project Initial Project Description

### Introduction:

Jasper House Métis District Council (or Otipemisiwak Métis Government, District 7) is a rights-holding Métis community in the North Saskatchewan River Territory. As outlined in the Otipemisiwak Métis Government Constitution (Chapter 15),<sup>1</sup> our District Council is a duly elected council representing the rights of over 1000 self-determining Citizens exercising our Aboriginal rights as enshrined under section 35 of the 1982 Constitution Act.<sup>2</sup> We, the District Council, are authorized to conduct consultation and accommodation with the Crown, industry proponents and other vested stakeholders on behalf of our Citizens regarding their rights.

The proposed Flipi Gas-Fired Generation Project (the Project) is a 460-megawatt (MW) gas-fired generation project located near the Town of Rimbey and less than 3.5 kms from Crown Land, overlapping with Métis Harvest Area D, as outlined in the 2018 Métis Harvesting in Alberta Policy.<sup>3</sup> The policy recognizes the cultural importance of access to subsistence and harvesting practices, including hunting, fishing, and trapping. Jasper House Métis citizens and members must frequently travel to harvest areas beyond Métis Harvest Area D due to significant anthropogenic disturbance in Harvest Area D, already impacting our ability to exercise our

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<sup>1</sup> Otipemisiwak Métis Government, “Otipemisiwak Métis Government Constitution” (Otipemisiwak Métis Government, December 1, 2022),

[https://albertametis.com/app/uploads/2024/07/Otipemisiwak\\_Metis\\_Government\\_Constitution.pdf](https://albertametis.com/app/uploads/2024/07/Otipemisiwak_Metis_Government_Constitution.pdf).

<sup>2</sup> “INAN - Section 35 of the Constitution Act 1982 - Background - Jan 28, 2021,” Government of Canada, May 13, 2021, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/inan-jan-28-2021/inan-section-35-constitution-act-1982-background-jan-28-2021.html>.

<sup>3</sup> Government of Alberta, “Metis Harvesting in Alberta Policy (2018)” (Government of Alberta, February 25, 2019), <https://open.alberta.ca/dataset/7763cb9c-9457-439b-b206-f31d65156e9c/resource/d1c7a3d9-5a9d-4654-b745-cd4e7a64cedd/download/metis-harvesting-in-alberta-2018.pdf>.

constitutionally protected Aboriginal rights. However, many of our members do continue to exercise their Aboriginal rights within Métis Harvesting Area D.

### **Cumulative Impacts:**

The existing disturbance in Métis Harvesting Area D supports our serious concern of the Project's proposed location on "pre-existing disturbed land" and potential cumulative effects. The Alberta Biodiversity Monitoring Institute (ABMI)<sup>4</sup> and the Human Footprint Inventory (HFI) data indicate significant anthropogenic disturbance, with 87.3% of lands located in Métis Harvest Area D located within 250 m of industrial disturbance, while 92.76% is located within 500-meters of a similar disturbance. These levels of disturbance exceed, the level established as unacceptable by the *Yahey (Blueberry River First Nations) v. British Columbia (2021)*<sup>5</sup> decision.

The cumulative effects considerations are deficient and limited to clubfoot infestations, noise pollution and air quality concerns. This scope falls critically short of established requirements of comprehensive cumulative impact assessments, as outlined per the *Impact Assessment Act*, section 22(1)(a)(ii).<sup>6</sup> As such, we find the Proponent's limited consideration of cumulative effects (noise pollution and air quality) to be unsatisfactory. Additionally, the Project interfaces with existing transmission lines operated by TransAlta. We therefore request that future impact assessments are expanded to include comprehensive impacts, and include the project, including existing infrastructure.

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<sup>4</sup> "Human Footprint," ABMI, accessed April 16, 2025, <https://abmi.ca/>.

<sup>5</sup> British Columbia Supreme Court, "Yahey v. British Columbia," 2021, <https://www.bccourts.ca/jdb-txt/sc/21/12/2021BCSC1287.htm>.

<sup>6</sup> Legislative Services Branch, "Consolidated Federal Laws of Canada, Impact Assessment Act," June 2, 2025, <https://laws.justice.gc.ca/eng/acts/i-2.75/FullText.html>.

## **Crown Consultation:**

We are concerned that this project appears to rely on the Landscape Analysis Indigenous Relations Tool<sup>7</sup> as a primary source for identifying potentially affected Indigenous communities, despite the tool’s disclaimer that “it is not an official list of First Nations and Métis settlements to consult.” While we understand that engagement with the Aboriginal Consultation Office (ACO) is not required for projects located on private land, it did result in an error wherein Otipemisiwak Métis Government, District 4 was mistakenly listed. Additionally, Jasper House Métis District Council was omitted as a potentially affected community, despite the project’s overlap with Métis Harvesting Area D.

This sets the tone for diminished collaboration with First Nations and Métis communities. We encourage more thorough research and an expansion the definition of who is to be included based upon the Métis Harvesting rights discussed above. Respectfully, we request that Jasper House Métis District Council be added to the list of Indigenous communities to be consulted as part of this regulatory process under the Honour of the Crown and its duty to consult those whose Aboriginal rights would be affected.

Following this, Jasper House Métis District Council requests that future references to interactions be understood as and referred to as “Crown consultation” rather than “engagement.” While “engagement” is a voluntary process, “Crown consultation” explicitly refers to the duty to consult and the Crown’s legal requirements as upheld by Canadian courts. Reducing “Crown

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<sup>7</sup> “LAT Overview | Alberta.Ca,” January 16, 2026, <https://www.alberta.ca/lat-overview>.

consultation” to “engagement” is both disrespectful to rights-holders as well as factually inaccurate. Moreover, the proposal states an “intent of commitments made by KEC [the proponent] as part of engagement with Indigenous communities would be carried forward by TransAlta *where practicable*.” We seek clarification on what “practicable” means in this instance, and how the Proponent and IAAC will uphold their duty to consult.

Further, Canadian courts have held that the fundamental intent of section 35, Constitution Act (1982) is reconciliation, which includes meaningful consideration of Indigenous knowledge. We are concerned with potential infringement of our protected Aboriginal rights and seek clarification on how the duty to consult will be discharged with respect to UNDRIP and the UNDRIP Act, to which Canada made commitments in 2016 and 2021, respectively. The British Columbia Supreme Court upheld the necessity of assessing rights as rights in the *Clyde River* (2017)<sup>8</sup> ruling beyond environmental aspects. We request a rights-based assessment in accordance with the Impact Assessment Agency of Canada’s (IAAC) policies on the potential effects on rights with all impacted rights-holding Indigenous, Métis, and First Nation communities.

Some preliminary language in the Initial Project Description (IPD) is potentially dismissive of Indigenous knowledge. In response to Samson Cree Nation’s request for information about the presence of moose on project lands, the IPD stated that “surveys did not identify evidence of moose, and although not ideal habitat, moose may move through the area.” While framed as a

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<sup>8</sup> *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, 1 SCR 1069 (Supreme Court of Canada 2017).

technical statement, this language risks conveying that Indigenous knowledge is secondary to biophysical proxies and limited preliminary survey responses.

Meaningful consultation beyond procedural consultation requires an approach that builds trust with Indigenous communities, through demonstrating respect for Indigenous knowledge systems and without reducing Indigenous concerns to technical statements or framing as secondary concerns. The United Nations Declaration on the Rights of Indigenous People,<sup>9</sup> the United Nations Declaration on the Rights of Indigenous Peoples Act and, the Truth and Reconciliation Commission’s Calls to Action (particularly Call #92)<sup>10</sup> emphasize the importance of intercultural competency and respect for Indigenous knowledge systems. Moreover, IAAC is required to take Indigenous knowledge into account under section 22(1)(g) of the *Impact Assessment Act*.

### **Site Visits:**

Additionally, the IPD reports numerous accounts of requested site visits from various Indigenous communities. To date, these requests have not been accommodated. While we understand that access to sites located upon private land may pose logistical challenges to access, the repeated nature of these requests highlights the importance of site visits. Numerous Indigenous communities have requested these site visits, underscoring the importance of on-the-ground knowledge of project development. We request meaningful cooperation from the proponent in ensuring our on-the-ground understanding of the project in relation to land.

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<sup>9</sup> Karine Duhamel, “The United Nations Declaration on the Rights of Indigenous Peoples | CMHR,” Canadian Museum of Human Rights, September 8, 2022, <https://humanrights.ca/story/the-united-nations-declaration-on-the-rights-of-indigenous-peoples>.

<sup>10</sup> Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action” (Truth and Reconciliation Commission of Canada, 2015), [https://publications.gc.ca/collections/collection\\_2015/trc/IR4-8-2015-eng.pdf](https://publications.gc.ca/collections/collection_2015/trc/IR4-8-2015-eng.pdf).

## **Conclusion:**

Jasper House Métis District extends our gratitude to IAAC for the opportunity to participate in the review of this Initial Project Description. We look forward to ongoing participation and collaboration with IAAC and the Proponent throughout the regulatory process of this project, particularly with regards to potential impacts on our constitutionally protected rights and the Crown's duty to consult.