



P.O. Box 757  
Valleyview, Alberta  
T0H 3N0  
(P)780-524-3307  
(F)780-524-2711

March 27, 2026

**Impact Assessment Agency of Canada**

22<sup>nd</sup> Floor, Place Bell  
160 Elgin Street  
Ottawa, ON K1A 0H3

**Attention: Stephanie Johnson, Director General**

Dear Ms. Johnson:

**Re: Comments on Draft Co-operation Agreement between Alberta and Canada**

I write on behalf of Sturgeon Lake Cree Nation (“**SLCN**” or “**Nation**”) to provide our comments on the above-noted Draft Co-Operation Agreement between Alberta and Canada (“**Draft Agreement**” or “**Agreement**”). As set out in further detail below, we have significant questions and concerns regarding the intent and application of the Draft Agreement, and its implications for the regulation of industrial development in our territory and the continued health of the lands, waters and wildlife that we rely on for the exercise of our people’s inherent, Aboriginal and Treaty rights.

This submission focuses on the fact that the federal government cannot rely solely on provincial processes – for one project, one review – as proposed in the Draft Agreement without breaching our Treaty and the *Constitution Act, 1982*. The Draft Agreement falls well short of fulfilling the Treaty’s obligations, the honour of the Crown and the promises made to us in July 2025 by Prime Minister Mark Carney. In this respect, we remind the federal government that political expediency in accommodating the provincial government’s demands cannot override our Treaty, our inherent rights and our constitutionally guaranteed rights under section 35(1) of the *Constitution Act, 1982*.

**I. Background on SLCN**

SLCN has a registered population of approximately 4,000 people. Our ancestors entered into Treaty No. 8 on June 21, 1899, at Lesser Slave Lake. Treaty No. 8 is a sacred covenant of a nation-to-nation relationship that is intended to last “as long as the sun shines, the grass grows and the rivers flow.” Under Canadian law, because of Treaty No. 8, we are “aboriginal peoples” within the meaning of section 35(1) of the

*Constitution Act, 1982*, and “bands” within the meaning of the *Indian Act*. We hold and exercise inherent, Aboriginal and Treaty rights that are protected under section 35(1) of the *Constitution Act, 1982*.

SLCN’s reserve lands are located near the town of Valleyview, Alberta. Our territory spans from north of High Prairie, east past Edmonton, south to Jasper and west across the British Columbia border. Our people exercise their inherent, Aboriginal and Treaty rights throughout our territory and beyond.

## **II. SLCN’s Territory Has Been Severely Impacted by Industrial Development**

Our territory and people have been and continue to be severely impacted by industrial development. In our estimation, there are nearly 93,000 existing well sites (and counting) within our territory, which equates to approximately one well set for every 1.6 square kilometres of land. This figure does not even account for any of the mines, facilities or other forms of development occurring in or that are proposed for our territory, including Alberta’s proposed West Coast Oil Pipeline. In Appendix I, we have included an Affidavit we recently filed in an appeal currently before the Alberta Court of Appeal, which demonstrates the scale of development we are seeing in our territory, and the harms that we suffer as a result (“**Sunshine Affidavit**”).<sup>1</sup> We also note that all of this development has occurred without an effective regional land use planning mechanism in place, which we discuss further in Part VI.C, below.

Between July 2025 and August 2025, we advised the Privy Council Office (“**PCO**”) and the Prime Minister’s Office of this dire situation caused, in large part, by Alberta’ defunct regulatory and consultation processes.<sup>2</sup>

## **III. Bill C-5 and Canada’s Promises**

Also, between May 2025 and August 2025, SLCN submitted objections to Bill C-5, which remain unanswered.

On June 18, 2025, approximately a month after we learned of the possibility of Bill C-5, I appeared at the Parliamentary Committee on behalf of SLCN where I outlined our concerns regarding the impacts of the legislation and explained that the legislation would mean that “the federal Crown is breaching its obligation by abandoning us to defend against Alberta’s impotent regulators.”<sup>3</sup>

We opposed the passage of Bill C-5 in process and in substance. But even this legislation requires federal consultation with First Nations – none of which can be

---

<sup>1</sup> See Appendix I, Affidavit of Chief Sheldon Sunshine, paras 7 and 8 [Sunshine Affidavit].

<sup>2</sup> See Appendix III, PCO Presentation July 18, 2025; Appendix IV, PCO Letter of August 15, 2025; Appendix V, PMO Briefing August 15, 2025.

<sup>3</sup> Parliament of Canada, Transport Committee, Hansard, June 18, 2025: <https://www.ourcommons.ca/documentviewer/en/45-1/TRAN/meeting-3/evidence>

delegated to Alberta's regulatory, environmental or consultation processes. If this is what is allowed, this Draft Agreement breaches Canada's own legislative requirements, for example section 5(7) of the *Building Canada Act*.<sup>4</sup>

On July 16 and 17, 2025, Prime Minister Mark Carney held a First Nations summit. We attended in good faith. At that summit, the Prime Minister promised that no major projects would proceed without First Nation support. The Prime Minister stated in his opening remarks:

Respecting the rights of Indigenous peoples is a fundamental purpose of the *Building Canada Act*. The Act requires meaningful consultation with Indigenous Peoples both in the process of determining which projects are in our collective interests and in the development of conditions for those projects going forward. This is a legal requirement in the act which honours section 35 of our Constitution and the duty to consult. It upholds the government's commitment to implement the UN Declaration of the Rights of Indigenous Peoples including Free, Prior and Informed Consent.<sup>5</sup>

We then had a long meeting with representatives from the PCO on July 18, 2025. We communicated and the PCO heard that Alberta's processes were defunct and incapable of discharging the duty to consult and accommodate to SLCN. At this point, the federal government knew or ought to have known that Alberta's regulatory and consultation system is entirely failing First Nations.

We did not receive a response to these serious concerns. Instead, we learned about the Draft Agreement at the same time as the public. This Draft Agreement, on its face, will exacerbate the adverse and cumulative effects of these processes in breach of our Treaties and cause our rights to hunt, trap and fish in our territory to vanish.

We were then given only 21 days to respond to this Draft Agreement through a generic and public process.

#### **IV. Draft Agreement is Final**

The Draft Agreement is almost identical to other provincial ones, only Alberta's is worse.<sup>6</sup> While the federal government is purporting to have a consultation period, both federal and provincial representatives are treating this Draft Agreement as final and without any concern for First Nations or the 2025 Promises made by Minister Tim Hodgson:

---

<sup>4</sup> *One Canadian Economy Act*, SC 2025, c 2, <<https://canlii.ca/t/56kg5>

<sup>5</sup> Prime minister, national chief, open First Nations summit, July 17, 2025, available: <https://www.youtube.com/watch?v=q85osq9HygM>.

<sup>6</sup> Nigel Bankes, "The Proposed Co-operation Agreement on Environmental and Impact Assessment between Canada and Alberta" (18 March 2026), online: ABlawg, [http://ablawg.ca/wp-content/uploads/2026/03/Blog\\_NB\\_IAA.pdf](http://ablawg.ca/wp-content/uploads/2026/03/Blog_NB_IAA.pdf).

“Today’s agreement with Alberta means instead of multiple review processes, projects in Alberta will have one coordinated assessment led by the Province. That’s the certainty and speed industry in Alberta are looking for.”<sup>7</sup>

Despite the concerns we raised in 2025, the Draft Agreement is fully cooked and will ensure our concerns over provincial processes, being the only processes, are realized without any meaningful consultation with SLCN.

The rush to an agreement appears geared towards the Memorandum of Understanding’s (“**MOU**”) deadline: “Negotiate a cooperation agreement on impact assessments on or before April 1, 2026, that reduces duplication through a single assessment process that respects federal and provincial jurisdictions.”<sup>8</sup> Notably absent from this clause is our jurisdiction and our rights

The MOU itself was another document we were entirely excluded from, despite our requests for notice and consultation on the matter of grave importance to us.<sup>9</sup> Through the MOU, the federal and provincial government have committed to tripartite tables – not with the Indigenous Peoples of this territory – but with industry as the third partner. As the first people of this land and your Treaty partners, this is dishonourable and offensive.

Finally, Ontario’s agreement was signed days after the consultation period closed. If the same happens here, we will presume our concerns were ignored.

## **V. The Draft Agreement Leaves More Questions than Answers**

Based on our initial reading, the Draft Agreement provides that the federal government will rely on Alberta’s environmental assessment or regulatory processes when a proposed project is “primarily” within provincial jurisdiction. However, the Draft Agreement does not clarify what types of projects are “primarily within provincial jurisdiction”, and also, somewhat confusingly, states that Alberta’s environmental assessment and regulatory processes will be “integrated” into a federal assessment for projects that impact federal jurisdiction.

Attached in Appendix IX is a letter we recently sent to Minister Dabrusin in relation to the Draft Agreement (“**Dabrusin Letter**” or “**Letter**”).<sup>10</sup> In the Dabrusin Letter, we included a list of numerous questions we had in response to the Draft Agreement, as well as its relationship with and effect on the substitution process set out under the

---

<sup>7</sup> Appendix XI, Tim Hodgson LinkedIn Post, March 6, 2026.

<sup>8</sup> Canada-Alberta Memorandum of Understanding, November 27, 2025:

<https://www.pm.gc.ca/en/news/backgrounders/2025/11/27/canada-alberta-memorandum-understanding>

<sup>9</sup> Press Statement, Sturgeon Lake Cree Nation, September 2025: <https://www.sturgeonlake.ca/wp-content/uploads/2020/07/2025-09-19-Release-SLCN-Concerns-Regarding-Treaty-8-Corporation32.pdf>

<sup>10</sup> See Appendix IX, Letter from Chief Sunshine to Minister Dabrusin re Draft Cooperation Agreement, March 18, 2026, [Sunshine Letter to Dabrusin].

*Impact Assessment Act*.<sup>11</sup> We have not yet received a response to this Letter, and we request the same from the Minister as well as further discussion on all of the points raised therein during the Crown's forthcoming consultation process in respect of the Draft Agreement. We also ask for confirmation that a consultation process will actually occur.

## **VI. Alberta's Regulatory and Environmental Assessment Processes Do Not Adequately Protect our Inherent, Aboriginal and Treaty Rights**

In addition to the questions referenced in Part V immediately above, we have serious concerns with the Draft Agreement's indication that the federal government will largely be deferring to Alberta's consultation, regulatory and environmental assessment processes for many of the large industrial projects that will be forthcoming in our territory. As explained in further detail below, these processes are significantly flawed, and do not adequately protect our inherent, Aboriginal and Treaty rights.

### *a. The Alberta Consultation Office's Process is Broken and Does Not Uphold the Honour of the Crown*

In Alberta, the Aboriginal Consultation Office ("**ACO**") manages the Crown's consultation process. The ACO determines if consultation is required in respect of certain industrial activities, assesses the adequacy of consultation undertaken, and advises the Alberta Energy Regulator (and other provincial regulatory bodies) regarding whether actions may be required to address a project's adverse impacts on our Nation's rights.

This process, however, prevents us from voicing our concerns and being consulted in a meaningful way. In the Sunshine Affidavit, we outlined the lack of funding we receive from the provincial government to participate in this process; how we do not receive adequate notice of much of the development occurring in our territory; and how even when we do receive notice, the limited scope of the process prevents it from being of any use in the protection of our rights and effectively renders it as a perfunctory rubber-stamp.<sup>12</sup>

As noted in the Dabrusin Letter, Canada is ultimately responsible for ensuring that the duty to consult is met on any projects that impact federal jurisdiction, and given the flaws inherent in the ACO process, Canada will be required to step in to ensure the honour of the Crown is upheld.<sup>13</sup> We reiterate our request in the Dabrusin Letter for confirmation that Canada acknowledges this obligation and is prepared to do so. We also respectfully submit that Canada relies on Alberta's consultation regime at its own peril, as the constitutionality of the regime is currently being challenged by other Treaty 8 First Nations in court. They have argued that the ACO, and Alberta's broader

---

<sup>11</sup> *Impact Assessment Act*, SC 2019, c 28, s 1 [IAA].

<sup>12</sup> Appendix I, Sunshine Affidavit, paras 9-15.

<sup>13</sup> *Clyde River (Hamlet) v Petroleum Geo-Services Inc.* 2017 SCC 40 at para 22 [*Clyde River*]; *Squamish Nation v British Columbia (Environment)*, 2019 BCCA 321

consultation policies, are incapable of discharging the duty to consult and upholding the honour of the Crown.<sup>14</sup>

*b. The Alberta Energy Regulator's Processes Cater to Industry at the Expense of First Nations*

Once proponents receive a consultation adequacy determination from the ACO, they are free to seek approval of their applications from the applicable provincial regulatory body.

In Alberta, industrial development is regulated by a number of different regulatory bodies. Energy resource development, which includes the development of oil, gas and critical minerals and accounts for much of the industrial development occurring in our territory, is regulated by the Alberta Energy Regulator (“**AER**” or “**Regulator**”). In the Sunshine Affidavit, I explained why the flaws in the ACO process force us to rely on the AER’s processes and how the latter are the only opportunity we have to explain how energy resource projects are impacting our rights and to make our voices heard in a transparent and publicly accessible way.<sup>15</sup> The same also applies to our participation before the Alberta Utilities Commission, Alberta Environmental Appeal Board and other tribunals in response to other forms of industrial development.

Despite this, the AER’s processes are designed to cater to industry and the Regulator will routinely render decisions that favour the advancement and protection of corporate interests over the protection and enhancement of Aboriginal and Treaty rights. We have provided several examples below:

i. Environmental Impact Assessments are Largely Discretionary, Rare, and Fail to Address First Nations’ Concerns

Alberta’s environmental assessment process is set out in Part 2 of the *Environmental Protection and Enhancement Act* [EPEA].<sup>16</sup> Section 44 outlines the steps to be followed by the AER in determining whether an environmental impact assessment (“**EIA**”) is required. If the proposed activity is a mandatory activity, the AER must direct the proponent to prepare and submit an EIA report. If the proposed activity is not a mandatory activity, the AER has discretion regarding whether to require the proponent to prepare an EIA report.

However, the list of mandatory activities is narrow, and companies will often structure their developments (by filing smaller “expansion” applications or artificially limiting the size of their production) to take advantage of the numerous exceptions and activities

---

<sup>14</sup> *Mikisew Cree First Nation v Alberta*, 2024 ABKB 578; *Mikisew Cree First Nation v Alberta*, 2025 ABCA 304.

<sup>15</sup> Appendix I, Sunshine Affidavit, paras 17-20.

<sup>16</sup> *Environmental Protection and Enhancement Act*, RSA 2000, c E-12 [EPEA].

that are specifically exempted.<sup>17</sup> Further, if a project is not explicitly a mandatory activity, industry and the AER have historically taken the position that no notice needs to be provided to impacted First Nations when a company seeks the AER's determination as to whether an EIA is required or when the AER renders a decision in response to the company's request. This means that companies and the AER will engage in a "backdoor" discussion regarding the need for an EIA report for non-mandatory activities, and the AER will render a decision in response to same, all without providing any notice to impacted First Nations. Indeed, First Nations often do not discover that the AER has previously determined that an EIA report is not required for a project until we receive copies of the company's regulatory applications, which can occur several years later. First Nations deal with the same issues in relation to Alberta Environment and Protected Areas ("AEPA"), which exercises jurisdiction under the same provisions in *EPEA* in respect of other forms of industrial development in Alberta (including, for example, AI data centres and silica/peat mining).

Moreover, the number of EIAs that are required or completed in Alberta is miniscule compared to the tens of thousands of applications for energy resource and other forms of industrial development that are received by the AER, AEPA and other regulators each year, and both the AER and AEPA will routinely refuse to require an EIA even for large projects with myriad environmental impacts and impacts on the exercise of Aboriginal and Treaty rights.<sup>18</sup>

In rare cases where an EIA is required, the flaws in the EIA process and the manner in which EIAs fail to address Indigenous concerns are well documented in both the academic literature and other legal commentary.<sup>19</sup> First Nations often rely on federal processes and triggers to ensure \*some\* assessment is done.<sup>20</sup>

## ii. Lack of Direct Notice of Applications

Once a proponent submits an application to the AER for a project, the AER is required to post public notice of that application on the Regulator's website. However, companies will often submit multiple separate applications, under multiple different legislative frameworks, for the same project. To make matters worse, the AER does not require companies to directly notify First Nations of applications for projects they may be

---

<sup>17</sup> *Environmental Assessment (Mandatory and Exempted Activities) Regulation*, Alta Reg 111/1993, ss 1-2.

<sup>18</sup> Nicole Achtymichuk & Shaun Flukers, "AER declines request for an Environmental Impact Assessment of the Pathways Project" (23 December 2024), online: <[http://ablawg.ca/wpcontent/uploads/2024/12/Blog\\_NASF\\_Pathways\\_Project.pdf](http://ablawg.ca/wpcontent/uploads/2024/12/Blog_NASF_Pathways_Project.pdf)>; See also Request for Designation under *Impact Assessment Act* ("IAA") of Pathways Alliance's Pathways Co2 Transportation Network and Storage Hub Foundational Project in Alberta, November 28, 2024, online : <<https://iaac-aeic.gc.ca/050/documents/p89090/159929E.pdf>> [Pathways Designation Request].

<sup>19</sup> See for e.g. Matthew Carlson, Justin Straker *et al*, "Bringing Together Indigenous Knowledge and Simulation Modelling to Assess Cumulative Impacts to Indigenous Land Use in Northeastern Alberta, Canada" *Environmental Management* (2025), online: <[Bringing Together Indigenous Knowledge and Simulation Modelling to Assess Cumulative Impacts to Indigenous Land Use in Northeastern Alberta, Canada | Environmental Management | Springer Nature Link](#) >

<sup>20</sup> Pathways Designation Request, *supra*.

impacted by. This places an inordinate burden on First Nations like SLCN, as we are therefore forced to comb through hundreds of applications on the AER's website that are open in our territory and discern which applications relate to different portions of what are often extremely complex developments.<sup>21</sup> And there are many other industrial projects that are not regulated by the AER.

Indeed, this problem is compounded for those projects that are not regulated by the AER – AI data centres, for example, (of which there are several proposed in our territory) do not have an overarching policy framework that governs their regulation. We are therefore forced to comb through applications on the databases of multiple separate regulatory bodies in respect of each part of an AI data centre project, which is again made worse by the fact that these regulatory bodies also do not require companies to provide us with direct notice of their applications.

O'Leary Digital Limited's ("ODL") proposed Wonder Valley Project (a large AI data centre proposed for our territory) provides a perfect example of this. Both the Government of Alberta and ODL have described this project as the "biggest project ever in Canada". Despite this, we did not learn of the *Water Act*<sup>22</sup> license the local municipality obtained in respect of this project until it had already been granted. We have had to go to court and the Environmental Appeal Board just to see the ACO's secret "pre-consultation" assessments, where, despite promises of consultation from Alberta, it was determined that our rights would not be impacted without any notice to us.<sup>23</sup> It is only through litigation that we have also learned that the municipality was planning to transfer this licence to ODL. This is just one example of what we deal with on a daily basis and of what is likely happening on numerous other projects throughout our territory. As noted, we have extremely limited capacity and should not have to resort to participating in legal and regulatory processes just to obtain basic information and notice.

These concerns are not unique to SLCN and are experienced by neighbouring Indigenous groups throughout Alberta.<sup>24</sup> Many of these groups also share our profound concerns with Alberta's proposed 120 day review period for major projects – a timeline that will simultaneously exacerbate the above-noted concerns while undermining the rigour of individual project reviews.<sup>25</sup>

### iii. Engagement with Industry at the Expense of First Nations

---

<sup>21</sup> Appendix I, Sunshine Affidavit, paras 12 and 13; See also Pathways Designation Request, *supra* at pages 16-20.

<sup>22</sup> *Water Act*, RSA 200, c W-3 [*Water Act*].

<sup>23</sup> See for example: J. MacPherson, O'Leary Gas-Powered Data Centre Emissions Could wipe out Alberta's coal Phaseout Gains, EnergiCity, December 3, 2025: <https://energi.media/news/olearys-gas-powered-data-centre-emissions-could-wipe-out-albertas-coal-phaseout-gains/>

<sup>24</sup> See for e.g. Pathways Designation Request, *supra* at pages 16-20.

<sup>25</sup> Government of Alberta, "Alberta to Streamline Major Project Approvals", online: <<https://www.alberta.ca/release.cfm?xID=95882104131C4-D1E8-62CD-7E48E9153890002A>>.

Our experience with the AER has also demonstrated that the Regulator will often prioritize the interests of industry over the concerns of First Nations. The AER's failure to communicate the existence of a significant release at Imperial Oil's Kearl oil sands mine is illustrative.<sup>26</sup> In our own territory, we have similarly struggled to obtain even basic information from the AER regarding a recent release of produced water and other hydrocarbons from a pipeline licensed to Paramount Resources Ltd. ("**Paramount**"). In response to a letter to the Regulator requesting timely disclosure of documentation related to the spill, the AER largely deferred to Paramount and failed to respond to many of our substantive requests (See Appendix VIII).

This conduct is not limited to the regulation of releases. AER executives have held secret meetings with industry during ongoing hearing proceedings<sup>27</sup> and have cancelled hearings at the request of industry after seeking input directly from the Minister of Energy regarding how to handle such requests.<sup>28</sup>

This behaviour undermines our nation's confidence in the AER's ability to make impartial decisions and illustrates why the federal government cannot rely on the Regulator's processes as a means of discharging its constitutional obligations and upholding the honour of the Crown.<sup>29</sup>

### *c. Alberta's Impoverished Approach to Regional Land Use Planning*

Earlier in this submission, we described the degree to which our territory has been impacted by industrial development and noted that this has occurred without any regional land use planning mechanism in place.

In Alberta, the *Alberta Land Stewardship Act*<sup>30</sup> provides for landscape level land-use planning as a means to integrate decision-making and respond to the cumulative effects of development activity. The legislation calls for the development of a regional land use plan for each of seven watershed-based planning regions in the Province, which will

---

<sup>26</sup> CBC News, "Head of Alberta's energy regulator apologizes for handling of Imperial Oil's Kearl tailings leak", April 24, 2023, online: < <https://www.cbc.ca/news/canada/edmonton/alberta-energy-regulator-imperial-kearl-leak-1.6820844>>; See also Pathways Designation Request, *supra* at pages 18-19.

<sup>27</sup> The Tyee, "Alberta's Regulator Met with Northback Before Reversal. Why?" May 27, 2025, online: < <https://thetyee.ca/News/2025/05/27/Alberta-Regulator-Met-Northback-Before-Reversal/>>; The Globe and Mail, "Internal emails highlight Alberta Energy Regulator leadership concerns on coal files", March 13, 2026, online: < <https://www.theglobeandmail.com/business/article-internal-emails-highlight-alberta-energy-regulator-leadership-concerns/>>.

<sup>28</sup> Nigel Bankes and Shaun Fluker, "CEO of the Alberta Energy Regulator Denies Public Hearing Rights on a Coal Application" (15 September 2025), online: < <https://ablawg.ca/2025/09/15/ceo-of-the-alberta-energy-regulator-denies-public-hearing-rights-on-a-coal-application/>>; The Globe and Mail, "Documents related to Summit coal decision raise more questions about Alberta Energy Regulator's independence", November 5, 2025, online: < <https://www.theglobeandmail.com/canada/alberta/article-documents-related-to-summit-coal-decision-raise-more-questions-about/>>; Nigel Bankes, "Mine 14: It's Worse Than We Thought" (November 6, 2025), online: <<https://ablawg.ca/2025/11/06/mine-14-its-worse-than-we-thought/>>.

<sup>29</sup> Appendix I, Sunshine Affidavit, paras 29-30.

<sup>30</sup> *Alberta Land Stewardship Act*, SA 2009, c A-26.8 [ALSA].

define economic, environmental and social outcomes specific to the region and establish a broad plan for both private and public lands and natural resource use within the region. The legislation also provides for the development of sub-regional land use plans that may address specific land use issues within each region.<sup>31</sup>

However, the legislation affords far too much discretion regarding, among other things, the content and development of regional plans to Cabinet, and leaves little room for judicial oversight.<sup>32</sup> The Province has also been slow to develop regional plans (having only completed two since the legislation's proclamation)<sup>33</sup> and those that have been developed do not adequately address cumulative impacts or include or protect Treaty and Aboriginal rights, Traditional Land Use, or Indigenous culture.<sup>34</sup> The Province has also recently taken to passing severely flawed subregional plans in planning regions where there is no overarching regional plan in place or any plan to commence the development of same. Attached in Appendix VII is a letter we wrote to the Assistant Deputy Minister of AEPA in October 2025 conveying our significant concerns regarding the development and implementation of the Upper Smoky Sub-regional Plan, which encompasses a significant part of our Nation's territory.

#### d. *Lack of Equivalent Provincial Legislation and Policy*

A further risk to relying on Alberta's regulatory processes is that the Province does not have legislation or policies in place that are comparable to those of the Government of Canada in areas critical to the protection of Aboriginal and Treaty rights. Examples of this, and the ensuing repercussions, are set out below:

##### i. Impact Assessment

The federal *Impact Assessment Act* [IAA] requires assessment of a broad set of factors, including, among other things, environmental, health, social and economic effects; cumulative effects; Indigenous knowledge; and impacts on Indigenous peoples.<sup>35</sup> It also defines "adverse effects within federal jurisdiction" to include effects on fish and fish habitat, aquatic species, migratory birds, federal lands, transboundary waters, and Indigenous peoples.<sup>36</sup> In contrast, while *EPEA* does provide for environmental assessment and requires an EIA report to address, *et al.*, baseline conditions, cumulative impacts, and environmental, social, economic and cultural impacts, these do

---

<sup>31</sup> Nigel Bankes *et al.* *Can Environmental Laws Fulfill Their Promise*, Sustainability (2014, 6) at 6026-6030 [Bankes *et al.*]; Alan Harvie and Trent Mercier, *The Impact of the Alberta Land Stewardship Act*, Alberta Law Review: Vol 48, No 2: Petroleum Law Edition at 298-299 [Harvie and Mercier].

<sup>32</sup> Bankes *et al.*, *ibid.*

<sup>33</sup> Government of Alberta, Alberta Land Use Secretariat, "Regional Plans", online: <<https://landuse.alberta.ca/RegionalPlans/Pages/default.aspx>>.

<sup>34</sup> See for e.g. Review Panel Report 2015 Lower Athabasca Regional Plan at pages 37-159, online: <<https://open.alberta.ca/dataset/5c910acf-9e8c-46b5-b52d-60fc8bd2bbbd/resource/d9a6bff5-f9b5-45fe-81ed-a8de3492e271/download/2016-review-panel-report-2015-lower-athabasca-regional-plan-2016-06-22.pdf>>.

<sup>35</sup> *Impact Assessment Act*, SC 2019, c 28, s 1, s 22 [IAA].

<sup>36</sup> IAA, s 2.

not mirror the “adverse effects within federal jurisdiction” construct and *EPEA* does not include the same express statutory decision-making factors regarding section 35 rights, climate obligations or sustainability that are expressly provided for under *IAA*.<sup>37</sup>

## ii. Fisheries

The *Fisheries Act*<sup>38</sup> contains two prohibitions, one against the harmful alteration, disruption or destruction of fish habitat and the other against depositing deleterious substances into waters frequented by fish.<sup>39</sup> These prohibitions require federal administration and, where applicable, federal authorization. While legislation like the provincial *Water Act* protects the aquatic environment and supports review of impacts to water and aquatic systems, there is no provincial statute or authorization regime that has a prohibition equivalent to or that is legally interchangeable with those found in the *Fisheries Act*. Under a provincial led process, federal fisheries oversight would therefore be significantly narrowed if Canada relies on Alberta’s legislative and permitting regime.

## iii. Human Health/Environmental Protection

The *Canadian Environmental Protection Act, 1999*, [*CEPA*] is a distinct federal regime that address, among other things, pollution prevention, toxic substances, cumulative effects in toxicity assessments, and a federal implementation framework for the right to a healthy environment. *CEPA* also creates federal transparency and public-rights mechanisms, including the Environmental Registry, investigation requests, and environmental protection actions.<sup>40</sup> While Alberta’s *EPEA* certainly addresses environmental protection, release minimization, remediation and approvals,<sup>41</sup> it does not contain a framework that is equivalent to *CEPA*’s right-to-a-healthy-environment implementation framework, its specific requirement to consider vulnerable populations and cumulative effects in toxicity assessment, or its public investigation and action tools. Accordingly, in a provincial-led assessment, these legislative provisions and the underlying policies accompanying same would not be applied by provincial decision-makers unless Alberta enacted express equivalents.

## iv. Species at Risk

Alberta also does not have legislation that is equivalent to the *Species at Risk Act* [*SARA*]<sup>42</sup> and recent case law confirms that provincial decision-makers are very reluctant to concede the relevance and significance of federal listing decisions under *SARA* when it comes to discharging their responsibilities under provincial environmental legislation.<sup>43</sup> Indeed, the absence of provincial requirements regarding species at risk is

---

<sup>37</sup> *IAA*, ss 2, 7, 9, 16, 22, 63, 82; *EPEA*, ss 40, 47-49.

<sup>38</sup> *Fisheries Act*, RSC 1985, c F-14 [*Fisheries Act*].

<sup>39</sup> *Fisheries Act*, ss 35 and 36(3).

<sup>40</sup> See for e.g. *Canadian Environmental Protection Act, 1999*, SC 1999, c 33, ss 2, 5.1, 76.1 [*CEPA*, 1999].

<sup>41</sup> See for e.g. *EPEA*, Parts 2 and 5.

<sup>42</sup> *Species at Risk Act*, SC 2002, c 29 [*SARA*].

<sup>43</sup> *Skibsted v Alberta (Environment and Protected Areas)*, 2026 ABKB 98 [*Skibsted*].

an issue that is felt acutely by our Nation, and perhaps nowhere more so than in relation to the rapidly declining populations of Southern Mountain Caribou. All three of the populations of Southern Mountain Caribou (Redrock-Prairie Creek, Narraway and À la Pêche) are now virtually gone from their traditional winter ranges, and due to critical habitat loss are now only able to winter in high mountains – habitat that is not suitable for them. In the next section, we discuss the importance of federal involvement in project review processes, and outline why this participation led to the creation of critical protections for caribou that Alberta has since failed to renew.

#### v. Repercussions

Given the lack of equivalent provincial legislation in these areas, it is likely that associated resources and consideration would not be an imperative for project reviews based solely on provincial requirements. Further, provincial delivery of project reviews would rely upon Alberta's determination of what federal interests should be addressed. This reliance will not be robust if there is no federal agency confirming that Canada's obligations, interests, and responsibilities have been met.

A recent example of the importance of federal participation as a way of addressing gaps in project and environmental review processes is the NOVA Gas Transmission Ltd. System Expansion Project,<sup>44</sup> which became a key motivation for the Province's acceptance of the Agreement for the Conservation and Recovery of the Woodland Caribou in Alberta ("**Section 11 Agreement**").<sup>45</sup> In that situation, Natural Resources Canada and Environment and Climate Change Canada were motivated to demonstrate no-net loss of caribou habitat despite the pipeline expansion traversing caribou critical habitat. The conditions assigned to the project by the Government of Canada led to the establishment of an advisory committee and undertaking of habitat restoration within the Little Smoky caribou range at an initial stated ratio of 30 hectares of restoration for every 1 hectare of disturbance. While subsequent refinement and clarification of the restoration expectations highlighted that the actual restoration was closer to 3 hectares restored for every 1 hectare disturbed, those ratios dictated by the Government of Canada were precedent setting in Alberta. In addition, the finalization of the Section 11 Agreement is thought to have been made possible because of the shared desire of federal and provincial authorities to enable the expansion of that pipeline, and the Section 11 Agreement gave the federal cabinet further assurance that Alberta would undertake some positive actions for caribou recovery. All of this was initiated and enabled in response to the federal project review process. It has also since become apparent that Alberta has no intention of renewing the Section 11 Agreement, further

---

<sup>44</sup> Canada Energy Regulator Report, In the matter of Nova Gas Transmission Ltd, online: <  
[https://docs2.cer-rec.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90550/554112/3422050/3575553/3575989/3905746/C04761%2D1\\_Canada\\_Energy\\_Regulator\\_Report\\_%2D\\_NOVA\\_Gas\\_Transmission\\_Ltd.\\_GH%2D003%2D2018\\_%2D\\_A7D5G0.pdf?nodeid=3905626&vernum=-2](https://docs2.cer-rec.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90550/554112/3422050/3575553/3575989/3905746/C04761%2D1_Canada_Energy_Regulator_Report_%2D_NOVA_Gas_Transmission_Ltd._GH%2D003%2D2018_%2D_A7D5G0.pdf?nodeid=3905626&vernum=-2)>.

<sup>45</sup> Agreement for the Conservation and Recovery of the Woodland Caribou in Alberta, online: <  
<https://open.alberta.ca/dataset/40a40950-f210-4a37-b2a1-e274a9c75a48/resource/9d5326f4-0f3a-4aef-b0a2-d6fab8439b4/download/aep-agreement-for-the-conservation-and-recovery-of-the-woodland-caribou-in-alberta-2020.pdf>>.

underscoring the need for federal involvement and pressure to ensure the protection of species at risk and upholding of other similarly important outcomes in areas of federal jurisdiction.

*e. Differing Interpretations of Treaty and Aboriginal Rights*

There are also risks associated with Alberta's and Canada's differing interpretations and responses to the constitutional rights of Indigenous peoples, including a differential commitment to the United Nations Declaration on the Rights of Indigenous People [**UNDRIP**]. Indeed, Alberta has demonstrated a much narrower definition and response to Treaty and associated section 35 rights (as demonstrated by the limited and deeply flawed nature of Alberta's consultation policies and the lack of any express recognition or consideration of impacts to Indigenous peoples in legislation such as the *Responsible Energy Development Act*,<sup>46</sup> *EPEA*, the *Water Act*, or the *Public Lands Act*<sup>47</sup>) and has generally resisted adoption of UNDRIP into its policy and regulatory frameworks, a sentiment clearly reflected in the wording of the Draft Agreement itself.

*f. Conclusion*

As is clearly demonstrated by the foregoing, sole reliance on provincial regulatory processes and impact assessments alongside a non-existent cumulative effects management system would have the effect of absolving the Province of having to assure that both federal and provincial interests are satisfied and would all but guarantee that future project reviews will not ensure that our Nation's rights and way of life will be meaningfully considered or addressed.

**VII. Duplication in Major Project Assessment Has Already Been Substantially Addressed**

One of the stated intentions of the Draft Co-operation Agreement is to eliminate duplication in project assessment. However, the evidence from the five most recent joint federal-provincial reviews of major energy resource development projects in Alberta clearly demonstrates that the strongest and most consistent pattern was not of a separate and duplicative process. Instead, the dominant model was of a joint review panel that produced a single hearing record and single panel report intended to discharge both provincial and federal assessment functions. While not perfect, the records of these proceedings indicates that joint federal-provincial review processes had already addressed much of the major duplication in assessment and hearing processes without removing federal legislative requirements. In Appendix X, we have attached an independent analysis of the above-referenced federal-provincial project reviews that supports these conclusions.

---

<sup>46</sup> *Responsible Energy Development Act*, SA 2012, c R-17.3 [REDA].

<sup>47</sup> *Public Lands Act*, RSA 2000, c P-40 [PLA].

## VIII. Concerns with the Draft Agreement

We ask that Canada completely revoke the Draft Agreement as it is a breach of Treaties, the honour of the Crown and the duty to consult and accommodate.

Without prejudice to this position, and in addition to the concerns over the Draft Agreement's sole reliance on provincial assessments, we note the following grave and often fatal concerns that must be addressed through one of four options:

- (1) Option 1: a revocation of the Draft Agreement;
- (2) Option 2: a reversion to the lawful substitution process under the IAA;
- (3) Option 3: the inclusion of an overarching provision that confirms Canada's jurisdiction under section 91(24) and Treaty to conduct an assessment any time there are impacts to our Treaties and Treaty rights; and/or
- (4) Option 4: exclude specific projects, including AI data centres.

### a. Section 91(24) Power and Non-delegable Treaty Obligations

The federal Crown is the obligor in the Treaty<sup>48</sup> and has distinct obligations to First Nations, including SLCN under section 91(24) of the *Constitution Act, 1867*.<sup>49</sup> Alberta routinely objects to the federal government interfering with their "exclusive areas" of jurisdiction, and we expect the federal government do to do the same in relation to "Indians" and "Lands reserved for Indians", even if this is not politically expedient.

Furthermore, Canada has the power and exclusive jurisdiction over First Nations – this includes our human health but also the power to ensure that our Treaty and aboriginal rights remain protected. This power can be fulfilled under Section 91(24) but also under other exclusive heads of power over fisheries and navigable waters. Alberta's jurisdiction over water is not explicit. It rests on a tenuous and objectionable interpretation of power over local works and property, despite even the common law's approach that water is not property.

Treaty No. 8 makes the section 91(24) power an obligation. Alberta is not a party to our Treaty. And the Crown has obligations to protect SLCN, and other First Nations, from any breaches of Treaty – including by the Province.<sup>50</sup>

The Draft Agreement does nothing to ensure that Canada can continue to fulfil these powers and obligations in accordance with the Treaty. Instead, it arguably breaches the Treaties and the honour of the Crown.

---

<sup>48</sup> *Chief Electoral Officer of Alberta v Sylvestre*, 2025 ABKB 712 (CanLII), at [para 147](#).

<sup>49</sup> *The Constitution Act, 1867*, 30 & 31 Vict, c 3, [s 91\(24\)](#); *Chief Electoral Officer of Alberta v Sylvestre*, 2025 ABKB 712 (CanLII), at para [186-191](#).

<sup>50</sup> See discussion in R. Hamilton, "[Get the province of Alberta in line": Treaty Promises, Provincial Power and the Role of Indigenous Nations in Discussions on Alberta Secession](#)", Albawg, May 20, 2025.

Canada cannot delegate its duty to consult and accommodate to the Province,<sup>51</sup> especially where, as here, the Province's regime is being impugned in Court.<sup>52</sup>

*b. Abdication of IAA Provisions and Substitution Agreement*

The Draft Agreement is an illegal end run<sup>53</sup> around the federal government's own legislation, the *IAA*.

First, section 1(1) arguably fetters the Impact Assessment Agency's discretion to ensure federal protections and requirements under section 16 of the *IAA*.<sup>54</sup> The failure to allow for this assessment, free from the Draft Agreement's dictates, means that federal leverage and thus the ability to fulfil constitutional obligations to SLCN is lost.

Second, the *IAA* has a process for agreements and substitution agreements – creating one review for one project. The Draft Agreement does nothing to follow this process. Canada cannot contract out of this legislation through the Draft Agreement, again, even if the Province is insisting that Canada follow them in their trampling over our rights. As noted by Professor Bankes, “governments may freely enter into intergovernmental agreements at the executive level unless somehow restricted by statute. The question for present purposes (and focusing on the federal side of things) is whether there is anything in the *IAA* that restricts Canada from entering into an agreement such as the Canada/Alberta agreement, specifically provisions such as s 1(1) and ss 4 and 6.” The answer, in SLCN's submission, is yes. The *IAA* governs the Draft Agreement, yet none of the legislation was followed, and none of the protections and assurances for SLCN remain.

*c. UNDRIP*

Alberta repudiates UNDRIP as specifically “non-binding” in the preamble. If Alberta does not commit to UNDRIP, which echoes the protections in Treaty No. 8, then this is a problem. Under no circumstances should they be allowed to insert this dishonourable language in the preamble. We know what their intentions are. In the ill-conceived Bill 1, like the Trump administration, they have repudiated all international conventions and human rights instruments. We do not agree that Canada should condone this retrograde approach by allowing this harmful language into an agreement they will sign. Moreover, the statements on the “non-binding” nature of UNDRIP are, according to Professor Nigel Bankes “demonstrably wrong”.<sup>55</sup> Words matter.

---

<sup>51</sup> *Squamish Nation v British Columbia (Environment)*, [2019 BCCA 321 \(CanLII\)](#).

<sup>52</sup> *Mikisew Cree First Nation v Alberta*, 2024 ABKB 578; *Mikisew Cree First Nation v Alberta*, 2025 ABCA 304.

<sup>53</sup> Or, as noted by Professor Nigel Bankes: “In that sense it looks like an attempt to do an end run around ss 31 and 33 of the *IAA*. The answer to that may be that the conditions referenced in these sections, and in particular s 33, would necessarily have to be included in any cooperative arrangement negotiated under s 4, but the absence of any specific reference to the anchoring provisions of the *IAA* is troubling.”

<sup>54</sup> *Impact Assessment Act*, SC 2019, c 28, s 1, [s 16](#).

<sup>55</sup> In particular, Alberta's views as to the legal status of the Declaration are demonstrably wrong, at least with respect to those (many) elements of the Declaration that represent customary international law: *Nevsun Resources Ltd. v Araya*, [2020 SCC 5 \(CanLII\)](#).

*d. Major Projects Only*

Perhaps most troubling of all, the Draft Agreement makes no mention of limiting this deference to provincial processes to major projects. We demand immediate clarity on this point. If Canada is abdicating its powers and obligations on all projects in Alberta, notwithstanding the assurances made regarding major projects under Bill C-5, then legislation will be required, like Bill C-5 to do so.

*e. Exclusion of AI Data Centres*

The MOU makes reference to AI data centres and the abandonment of clean energy regulations. This is even more alarming in light of this Draft Agreement. There are 48 data centres proposed in Alberta. These are a scourge on our water, our land and our rights, and to Canada's environment and social fabric. They are also a threat to our national security when controlled by foreign majority or substantially owned entities in the United States of America. We demand an exclusion for AI data centres from the Draft Agreement. AI data centres will use up all of our fresh water and put our emissions back to the era of coal-powered electricity if the Province is given the green light to proceed against our Treaties, and if the Province's legislation will be relied on to uphold areas of exclusive federal jurisdiction. We will be requesting that Canada exercise its authorities, powers and obligations over any data centres in our territory and refusal to do so will lead to the opposite of regulatory certainty.

**IX. Conclusion**

To conclude, the Draft Agreement is fatally flawed. Canada cannot delegate its obligations to Alberta. Canada cannot rely on provincial processes primarily or at all when it comes to the Treaty and the Constitution. Even if they could, the provincial processes are demonstrably incapable of honourably discharging these obligations. The Draft Agreement must be entirely rewritten with the participation of First Nations. If the federal government insists on proceeding with the Draft Agreement as is, we demand that there be a provision added that the federal government retains the discretion and power to conduct any assessment necessary to discharge its obligations to First Nations, including SLCN.

Sincerely,

]



Chief Sheldon Sunshine  
Sturgeon Lake Cree Nation

*Enclosures (Appendices I-XI)*

**COURT OF APPEAL OF ALBERTA**

**Form 49**  
**[Rule 13.19]**

**COURT OF APPEAL FILE NUMBER:** 2501-0258AC

**TRIAL COURT FILE NUMBER:** N/A

**REGISTRY OFFICE:** CALGARY

**PLAINTIFF/APPLICANT:** STURGEON LAKE CREE  
NATION

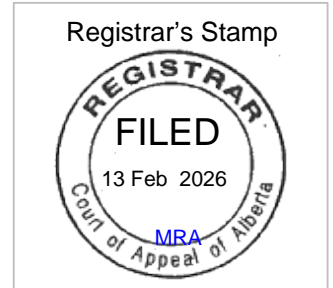
**STATUS ON APPEAL:** PROPOSED INTERVENOR  
**STATUS ON APPLICATION:** APPLICANT

**DEFENDANT/RESPONDENT:** ALBERTA WILDERNESS  
ASSOCIATION AND  
CANADIAN PARKS AND  
WILDERNESS SOCIETY,  
NORTHERN ALBERTA and  
SUMMIT COAL INC. and  
ALBERTA ENERGY  
REGULATOR

**STATUS ON APPEAL:** APPELLANT/RESPONDENTS  
**STATUS ON APPLICATION:** RESPONDENTS

**DOCUMENT:** AFFIDAVIT IN SUPPORT OF APPLICATION

**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT:** EAMON MURPHY AND FRANCCO DE LUCA  
WOODWARD AND COMPANY LAWYERS LLP  
200-1022 Government Street  
Victoria, British Columbia V8W 1X7  
Phone: (250) 383-2356  
Email: [eamon@woodwardandcompany.com](mailto:eamon@woodwardandcompany.com);  
[fdeluca@woodwardandcompany.com](mailto:fdeluca@woodwardandcompany.com)  
Counsel for the Applicant



**Table of Contents**

**COURT OF APPEAL OF ALBERTA..... 1**

**AFFIDAVIT OF SHELDON SUNSHINE ..... 3**

**I. BACKGROUND ON STURGEON LAKE CREE NATION ..... 3**

**II. SCALE OF INDUSTRIAL DEVELOPMENT IN OUR TERRITORY ..... 4**

**III. PARTICIPATION IN PROVINCIAL REGULATORY PROCESSES ..... 4**

**IV. IMPORTANCE OF THE AER’S STATEMENT OF CONCERN AND HEARING PROCESSES ..... 6**

**V. MINE 14 PROJECT ..... 7**

**VI. IMPACTS OF THE AER’S DECISION ON OUR COMMUNITY ..... 8**

**VII. CONCLUSION ..... 9**

**EXHIBIT A : MAP OF SLCN TERRITORY ..... 10**

**EXHIBIT B : MAPS OF ENERGY RESOURCE DEVELOPMENT IN SLCN TERRITORY ..... 13**

**EXHIBIT C : O’LEARY JUDICIAL REVIEW..... 18**

**EXHIBIT D : KEYERA RECONSIDERATION..... 31**

**EXHIBIT E : MAP OF SLCN IN RELATION TO PROJECT AREA..... 45**

**EXHIBIT F : MAPS OF TREATY ACTIVITIES IN PROJECT AREA ..... 47**

## AFFIDAVIT OF SHELDON SUNSHINE

Affirmed on February 12, 2026

I, Sheldon Sunshine, of Sturgeon Lake Cree Nation, in the Province of Alberta, AFFIRM AND SAY THAT:

1. Since 2022, I have been the elected Chief of Sturgeon Lake Cree Nation (“SLCN” or “Nation”). I have personal knowledge of the matters to which I hereinafter affirm, except where stated to be based on information and belief, in which case I believe them to be true. I was re-elected to a three-year term in March of 2025.
2. I make this Affidavit in support of an application for permission to intervene in an appeal (the “Appeal”) of the Alberta Energy Regulator’s (“AER” or “Regulator”) August 21, 2025, decision (“Reconsideration Decision” or “Decision”) cancelling the AER hearing process in respect of Summit Coal Inc.’s (“Summit”) proposed Mine 14 coal development project (“Mine 14 Project” or “Project”).

### I. BACKGROUND ON STURGEON LAKE CREE NATION

3. SLCN has a registered population of approximately 4,000 people. Our ancestors entered into Treaty No. 8 on June 21, 1899, at Lesser Slave Lake. Treaty No. 8 is a sacred covenant of a nation to nation relationship that is intended to last “as long as the sun shines, the grass grows and the rivers flow.” Our number one priority is to defend our Treaty. The elected Chief and Council are the chosen representatives of SLCN and the only governance body able to speak for our Nation.
4. Under Canadian law, because of Treaty No. 8, we are “aboriginal peoples” within the meaning of section 35(1) of the *Constitution Act, 1982*, and “bands” within the meaning of the *Indian Act, RSC 1985, c I-5 [Indian Act]*. We hold and exercise inherent, Aboriginal and Treaty rights which are protected under section 35(1) of the *Constitution Act, 1982*.
5. SLCN’s reserve lands are located near the town of Valleyview, Alberta. Our territory spans from north of High Prairie, east past Edmonton, south to Jasper and west across the British Columbia border. Our people exercise their inherent, Aboriginal and Treaty rights throughout our territory and beyond. Attached and marked as Exhibit “A” is a map of our territory.
6. When our people entered Treaty No. 8, *néhiyaw* (Cree) laws and governance systems operated. These laws informed the *néhiyaw* (Cree) understanding of Treaty. Through our oral histories, our understanding of Treaty No. 8 is that it is an agreement to share our territories to the depth of the plow with the Crown. Our *néhiyaw* (Cree)

Nation understands and expects the Crown to uphold the honour of the Crown and carry forward the obligations and benefits of the Treaty relationship.

## **II. SCALE OF INDUSTRIAL DEVELOPMENT IN OUR TERRITORY**

7. The people of SLCN have been and continue to be severely impacted by industrial development. In our estimation, there are nearly 93,000 existing well sites (and counting) within our territory, which equates to approximately one well set for every 1.6 sq kilometres of land. This figure does not even account for any of the mines, facilities or other forms of development occurring in our territory. Attached and marked as Exhibit “B” are maps of our territory and the Mine 14 Project area overlaid with data that show the scale of some of this development.

8. It is difficult to articulate fully the depth of the harms that we suffer from this development, which are magnified with each passing day. While exercising our inherent, Aboriginal and Treaty rights, our elders pass down their knowledge and skills to our younger members. There are fewer and fewer places where our elders can exercise these rights free from the noise, odours, dust and pollution associated with industry. This dwindling access to our lands and waters, and the passing on of elders, makes the imparting of knowledge and skills, which is essential to the survival of our Nation’s culture and our distinctiveness as a people, more and more tenuous. Because we are restricted in accessing our territories, we cannot pass down knowledge to the next generations and we are concerned that we are being forced to lose a significant part of what makes us *nehiyawak* (Cree).

## **III. PARTICIPATION IN PROVINCIAL REGULATORY PROCESSES**

9. In response to the scale of this development and the harms we suffer, we are forced to participate in the Province’s regulatory processes to try and ensure that our voices and concerns are heard, and that our rights are protected.

10. In Alberta, the Aboriginal Consultation Office (“ACO”) manages the Crown’s consultation process. I am informed by our legal counsel Francco De Luca and do believe, that the ACO determines if consultation is required, assesses the adequacy of consultation undertaken, and advises the AER regarding whether actions may be required to address a project’s adverse impacts on our rights. I am also informed by Mr. De Luca and do believe that the AER is then required to consider and accommodate potential adverse impacts to our rights based on the ACO’s advice.

11. This process, however, prevents us from voicing our concerns and being consulted in a meaningful way.

**12. First, given the size of our population and the many other issues we are facing as a Nation (including a shortage of on-reserve housing and a lack of employment and economic opportunities for our youth, to name but a few), our Consultation Office operates with extremely low capacity<sup>1</sup> and must consider and respond to dozens of requests for consultation as part of the ACO process and hundreds of notices of application on the AER's website – all with limited financial support from the provincial government (the “Province”) and on inappropriately short timelines.**

**13. For example, we only receive \$110,000 per year in funding from the Province to participate in the ACO process. This is nowhere near sufficient, as it takes numerous hours of administrative work and expert support (which we incur at significant additional cost) to properly review, assess and respond to each consultation request. I am informed by our legal counsel Mr. De Luca and do believe that we are also typically given only 15 business days to complete this work. And that is just the ACO process. I am further informed by Mr. De Luca and do believe that there were more than 280 applications for energy resource development in our territory that were open on the AER's Public Notice of Application webpage as of November 24, 2025. This only begins to describe the degree to which our Nation is under-resourced and overwhelmed in our attempts to keep up with the pace of ongoing and planned development.**

**14. Second, we often will not even receive adequate notice of this development. The ACO determines which Indigenous groups that companies must consult with based on internal maps that set out the boundaries of each Indigenous group's consultation area. When a proposed project falls within that consultation area, the ACO requires the company to consult with that Indigenous group. However, these maps were developed solely based on internal government data, and the ACO's consultation area for our community is much smaller than, and not representative of, our actual territory. We therefore will often not find out about certain projects until after the ACO has already granted a company consultation adequacy – despite the fact that the ACO is requiring these same companies to consult with other Nations that are located farther away from applicable projects than we are. Attached as Exhibit “C” and Exhibit “D” are two examples of recent projects in our territory where we did not receive notification from the ACO prior to consultation adequacy being granted.**

**15. Even in instances where we do receive notice of projects in our territory, the ACO's consultation process is very narrow in scope. I am informed by our legal counsel Mr. De Luca and do believe that the ACO process (1) only focuses on the site-specific impacts of each application (and companies will often file multiple separate applications at different times even if each application relates to development of the same project); and (2) does not require companies to assess or mitigate each**

---

<sup>1</sup> Our Consultation Office is staffed by three community members, two of which are currently on sick/stress leave.

**application's (and the broader corresponding project's) contribution to the cumulative impacts of the proposed development. I am also informed by Mr. De Luca and do believe that companies will often respond to our site-specific concerns with commitments to simply comply with existing "regulatory requirements" and that the ACO will then determine that consultation has been adequate even though the company has not addressed our concerns about the application's (and broader project's) impacts on our rights. I am not aware of any examples where the ACO has not granted consultation adequacy in respect of applications for development in our territory.**

**16. Once the ACO grants consultation adequacy, Mr. De Luca informs me and I do believe that companies are free to seek approval of their applications from the AER. Participation in the AER's processes is therefore often the only opportunity we have left within the provincial regulatory framework to voice our unresolved concerns from the ACO process (if we were even consulted as part of that process) and to advocate for the protection of our rights.**

#### **IV. IMPORTANCE OF THE AER'S STATEMENT OF CONCERN AND HEARING PROCESSES**

**17. Once a company files an application with the AER, I am informed by our legal counsel Mr. De Luca and do believe that the Regulator is required to post public notice of that application on the AER's website. From there, our Consultation Office is expected to review the relevant application materials and file a statement of concern that sets out any concerns we may have about the application.**

**18. I am informed by our legal counsel Mr. De Luca and do believe that when the AER receives a statement of concern, the Regulator can determine whether to disregard the statement of concern and approve the application without any further process, or to hold a hearing to determine whether the application should be approved. I am also informed by Mr. De Luca and do believe that if the AER determines that a hearing is warranted, it is the AER's hearing commissioners, and not its staff within the Regulator's operational branch, that manage the hearing process, hold the hearing itself, and ultimately decide whether to approve the application after the conclusion of the hearing.**

**19. I am further informed by Mr. De Luca and do believe that the AER's application hearings are similar to trials that are held in court. Indigenous participants in AER hearings are entitled to: make information requests to industry applicants (to ensure that companies are disclosing all relevant information regarding a proposed project); lead evidence from independent experts and elders as well as cross-examine the company's experts and witnesses; bring questions of constitutional law to hearing panels for determination (an issue that is particularly relevant for section 35 rights-holders like SLCN); and make written submissions and final argument outlining**

**whether the project's impacts on Aboriginal and Treaty rights have been mitigated and requesting relief in response. I am also informed by Mr. De Luca and do believe that at the conclusion of the hearing, hearing panels are able to impose conditions on an applicant based on the evidence and submissions heard during the hearing.**

**20. I am not aware of any other forum in Alberta's entire regulatory process in which Indigenous groups and the public have these tools at our disposal. Given the issues that we face in the ACO's process, the AER's hearings are often the only opportunity that First Nations like SLCN have to explain how our rights are being impacted and make our voices heard before impartial decision-makers in a transparent and publicly accessible way.**

## **V. MINE 14 PROJECT**

**21. The people of SLCN exercise their inherent, Aboriginal and Treaty rights within and adjacent to the Mine 14 Project area. However, the ACO did not require Summit to consult with our Nation in respect of the Project, and we did not receive notice of this decision. This is despite the fact that our community is located closer to the Project area than both East Prairie Metis Settlement and Horse Lake First Nation, two Indigenous groups that I am informed by Mr. De Luca and do believe that the ACO did require Summit to consult with. Our community is also located closer to the Project area than Driftpile Cree Nation, Louis Bull Tribe, Sucker Creek First Nation, and the Lac Ste Anne Metis Community Association, Indigenous groups that I am informed by Mr. De Luca and do believe the AER hearing panel determined may be directly and adversely impacted by the Project. Attached as Exhibit "E" is a map that shows the location of the Project area in relation to our traplines and reserves and the location of these other Indigenous groups. Also attached is Exhibit "F", which shows some of the rights the people of SLCN exercise in the Project area.**

**22. Given that we did not receive notice of the Project as part of the ACO's Process (and the volume of applications on the AER's website that our Consultation Office does not have the capacity to properly comb through), we did not learn of the Mine 14 Project until the AER issued its notice of hearing.**

**23. At that point, we had a very difficult decision to make. Although we knew that the people of SLCN exercised their rights to hunt, trap and gather in the Project area, and that the Project would likely have significant impacts on the exercise of those rights, we did not have the capacity or resources to participate in the hearing process given the numerous other consultation requests, community obligations and competing demands we were confronted with at the time. We did, however, learn that several neighbouring Indigenous groups and environmental organizations had applied to participate in the hearing, and even though some of these Indigenous groups have a tenuous claim to our territory, we felt some reassurance that they would at least be able to advocate for the protection of the clean water, wildlife, and natural habitat that is essential for the continued exercise of our rights.**

**24. Based on the above, we decided not to apply to participate in the hearing. However, any reassurance we felt quickly disappeared when we received word of the AER's Reconsideration Decision.**

## **VI. IMPACTS OF THE AER'S DECISION ON OUR COMMUNITY**

**25. I have reviewed the Reconsideration Decision, the record of the AER's proceeding, and the affidavits previously filed by the parties to the Appeal. I am extremely concerned about the impacts that the Reconsideration Decision will have on the people of SLCN and on the AER's hearing and decision-making processes.**

**26. The immediate effect of the Decision is that the Regulator approved the Mine 14 Project without evidence that both AWA and CPAWS would have provided in relation to the Project's environmental impacts. This is concerning because the continued exercise of our rights is dependent on abundant wildlife, clean water, and healthy habitat, and while evidence that supports these values does not guarantee that our rights in the Project area will be properly protected, it at least ensures that the basic requirements that are necessary for the exercise of these rights are in some way addressed. In the absence of this evidence, I am concerned that the Project, like many of the other developments we are confronted with in our territory, will become yet another "cut" in the continued destruction of our lands and rights through "death by a thousand cuts".**

**27. I am also very concerned about the precedent that this Decision will set and the impact that this will have on the AER's ability to uphold the honour of the Crown. In our view, the Decision creates a "backdoor" mechanism outside of the hearing process**

that will enable industry (and other parties) to seek relief directly from the applicable Minister and/or the AER's Chief Executive Officer ("CEO") in respect of any AER hearing panel decisions that they do not agree with.


28. Regardless of the CEO's statement in the Reconsideration Decision that the Decision will not enable parties to circumvent the hearing process or other AER decisions, the door has been opened. On this basis, we are concerned that other companies will seek to take advantage of the same mechanism in the future. The record of the AER's proceeding and the affidavits filed by the parties to the Appeal do not give us confidence that such a request would be handled in a manner that would uphold the Crown's solemn Treaty obligations to our people.


**VII. CONCLUSION**

29. Cancelling a public hearing designed to support transparent and rigorous decision making at the request of a coal company undermines our Nation's confidence in the AER's ability to make impartial decisions in accordance with the honour of the Crown.

30. Our Nation therefore brings this intervention to highlight the impacts that this Decision will have on the people of SLCN's ability to advocate for our rights and in support of ordered decision-making that upholds the honour of the Crown and the Crown's Treaty obligations to the people of SLCN.

AFFIRMED BEFORE ME at )  
Sturgeon Lake, Alberta, this 12th )  
day of February, 2026. )

  
\_\_\_\_\_)  
(Commissioner for Oaths in and for the )  
Province of Alberta) )

  
\_\_\_\_\_)  
(Signature)

\_\_\_\_\_)  
Chief Sheldon Sunshine

Brittiany Sunshine #0748200 )  
PRINT NAME AND EXPIRY OR )  
LAWYER/STUDENT-AT-LAW )

**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200

## VIII. TABLE OF AUTHORITIES

1. [Indian Act, RSC 1985, c I-5](#) [*Indian Act*]
2. [The Constitution Act, 1982, Schedule B to the Canada Act 1982 \(UK\), 1982, c 11, s 35](#)

EXHIBIT A : MAP OF SLCN TERRITORY

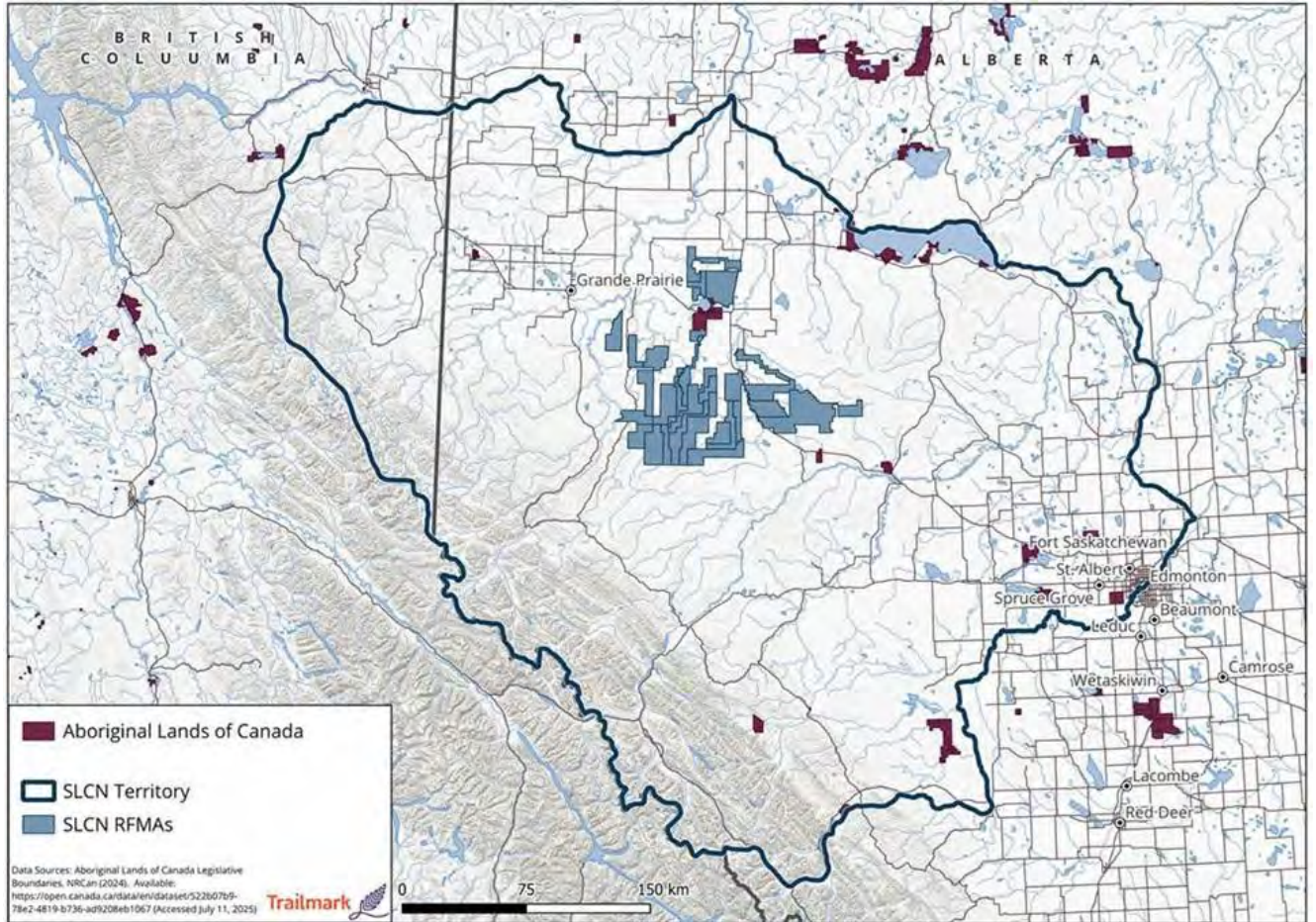
This is exhibit A referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

sworn ~~sworn~~ affirmed before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)

[Signature]  
Commissioner for Oaths in and for  
the Province of Alberta

Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW


**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200



**EXHIBIT B : MAPS OF ENERGY RESOURCE DEVELOPMENT IN**  
**SLCN TERRITORY**

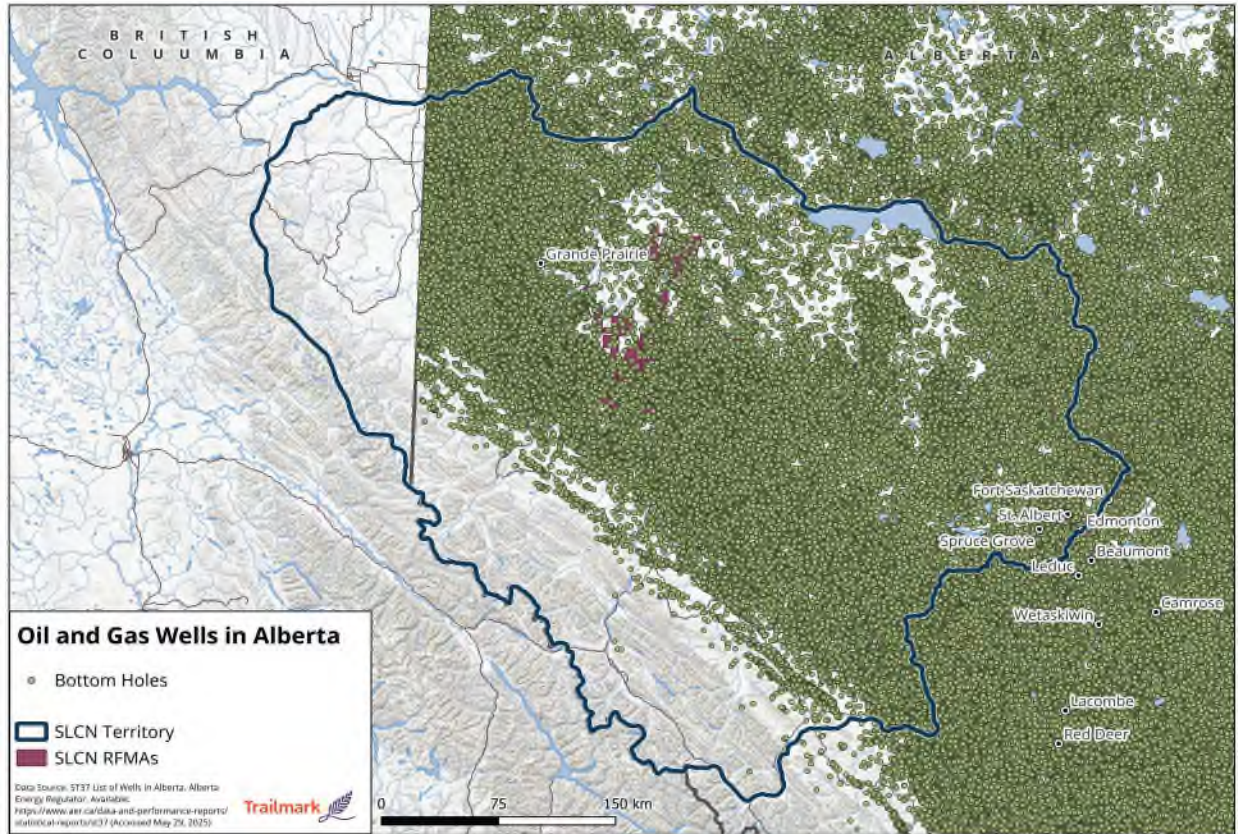
This is exhibit B referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

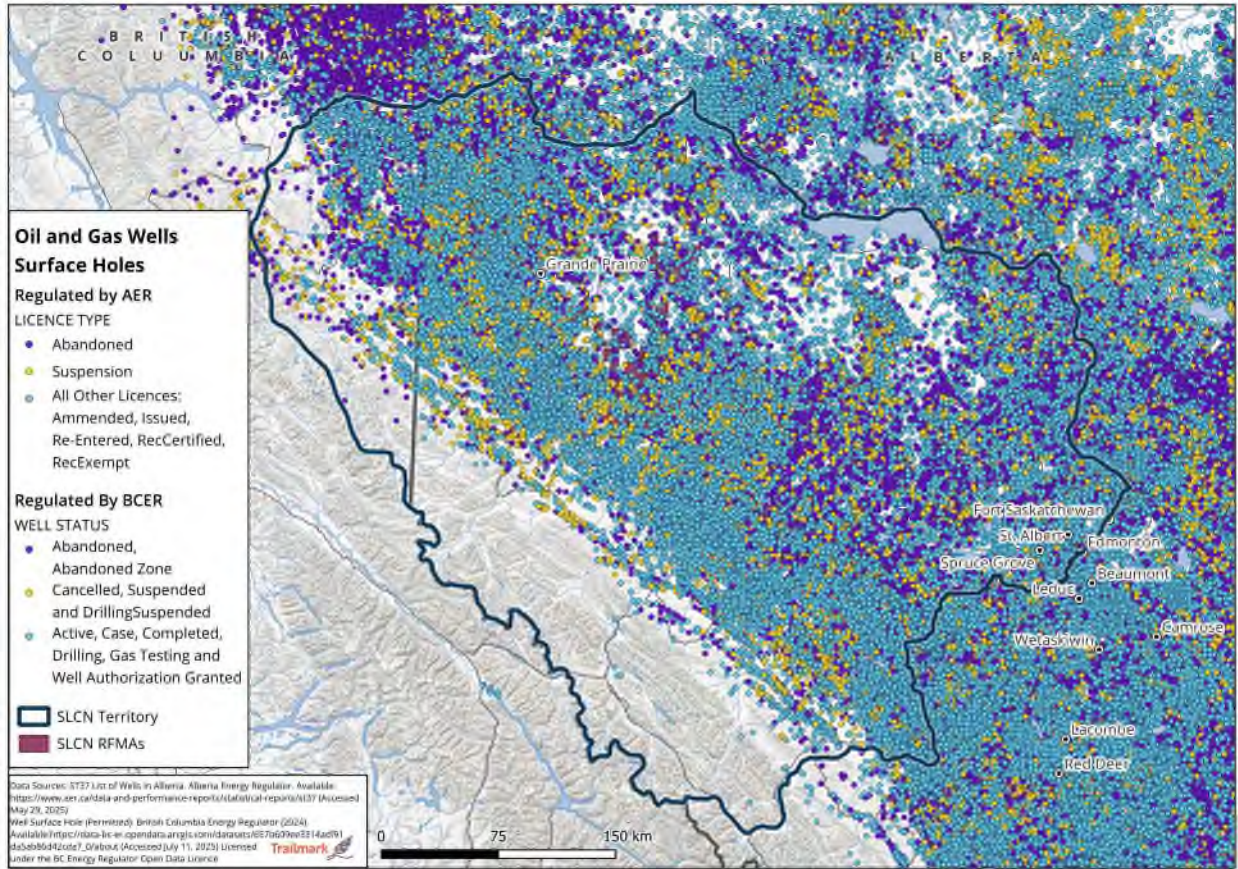
sworn ~~sworn~~ affirmed before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)

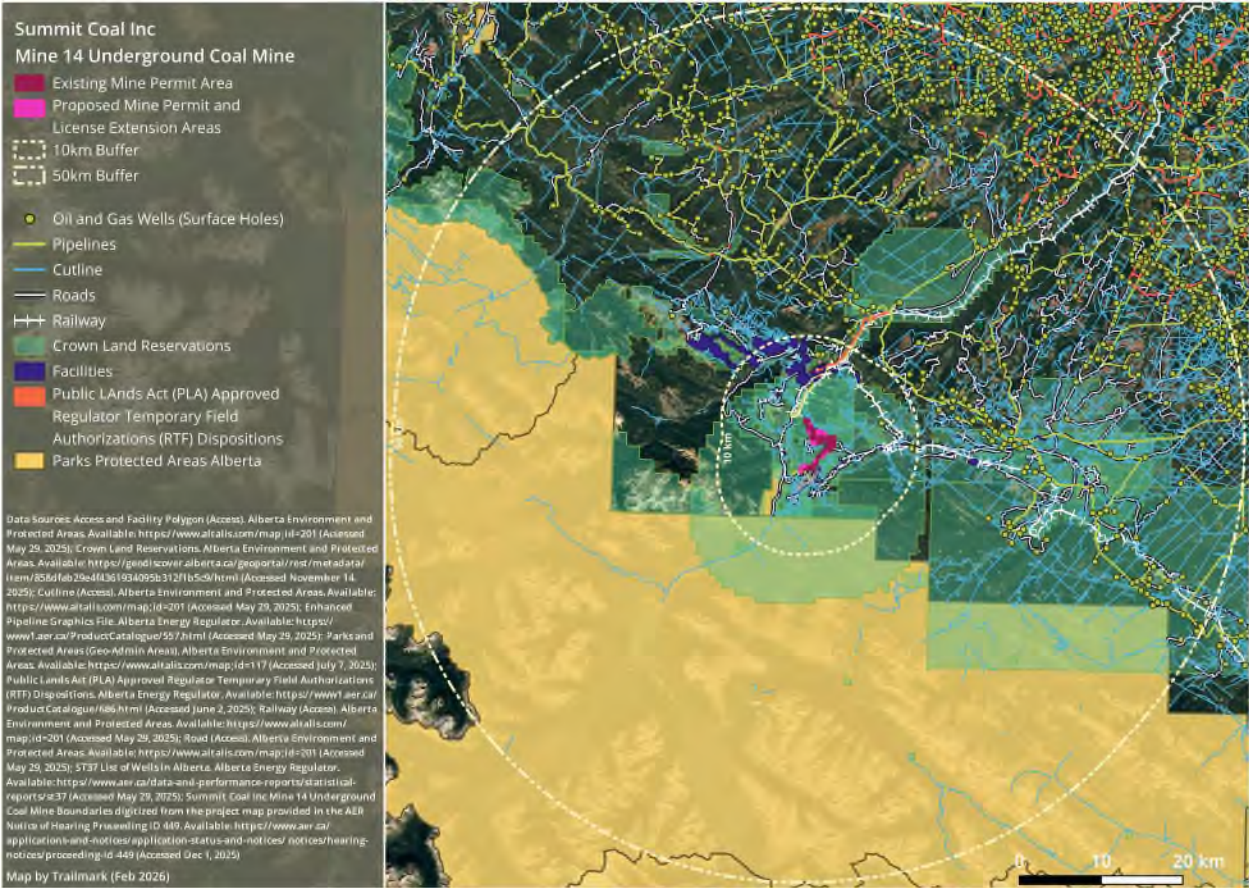
  
\_\_\_\_\_  
Commissioner for Oaths in and for  
the Province of Alberta

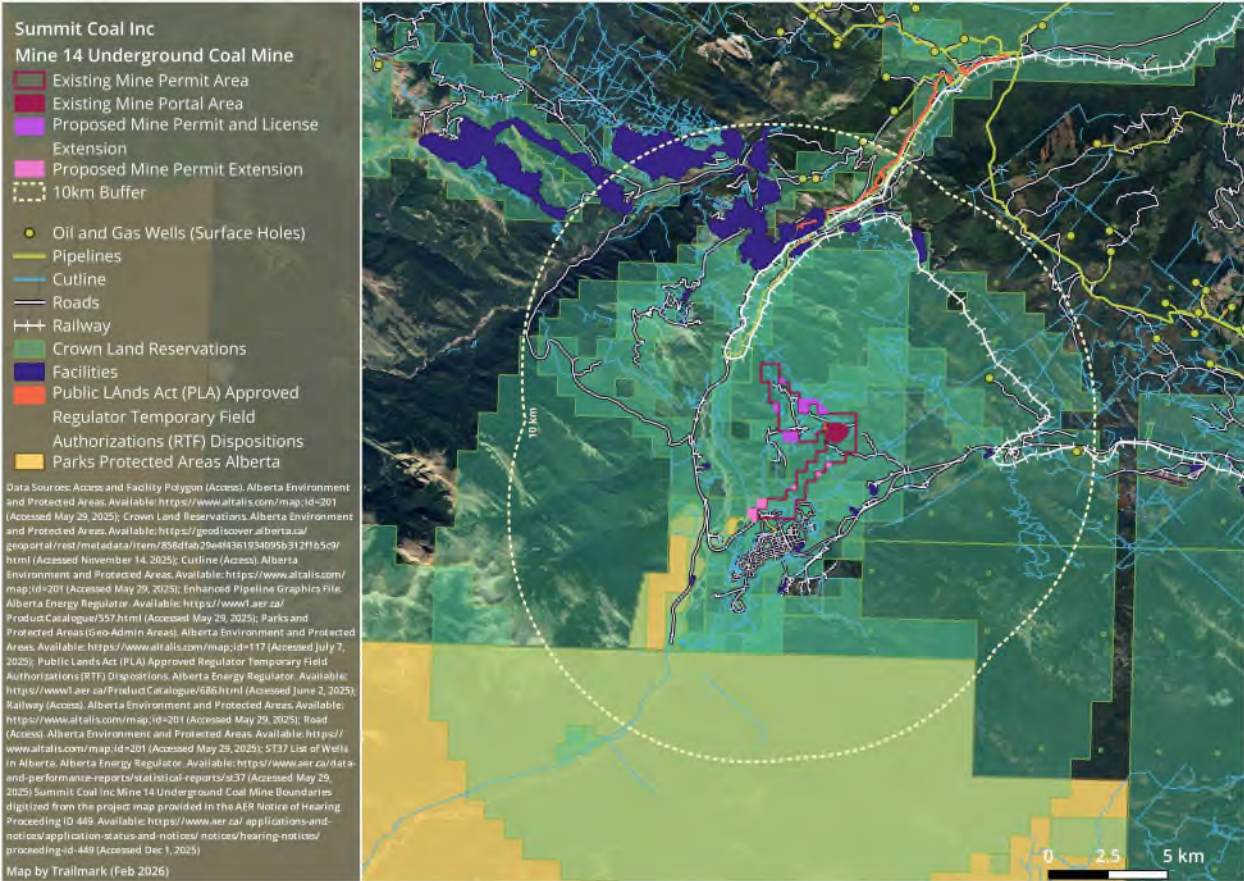
Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW

**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200










**EXHIBIT C : O'LEARY JUDICIAL REVIEW**

This is exhibit C referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

sworn/affirmed before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)

  
Commissioner for Oaths in and for  
the Province of Alberta

Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW

**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200

Your Application has been scheduled by the clerk.

**Date:** Nov 4, 2025 @ 10:00

**Location:** Civil Justice Chambers

**In person:** 1A Sir Winston Churchill Square,  
Edmonton, AB T5J 0R2

**Form 7**  
[Rule 3.8]

**COURT FILE NUMBER**

**COURT**

COURT OF KING'S BENCH OF  
ALBERTA

**JUDICIAL CENTRE**

EDMONTON

**APPLICANT**

STURGEON LAKE CREE NATION

**RESPONDENTS**

HIS MAJESTY THE KING IN RIGHT  
OF ALBERTA as represented by the  
MINISTER OF INDIGENOUS  
RELATIONS (Aboriginal Consultation  
Office), MINISTER OF  
ENVIRONMENT AND PROTECTED  
AREAS and MUNICIPAL DISTRICT  
OF GREENVIEW No. 16

**DOCUMENT**

**ORIGINATING APPLICATION**  
**(For Judicial Review)**

**ADDRESS FOR SERVICE  
AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT**

Orlagh O'Kelly  
O'KELLY LAW  
403, 10113 – 104 Street  
Edmonton, Alberta T5J 1A1  
Telephone: 587-525-8348  
Facsimile: 780-669-7672  
Email: [orlagh.okelly@okellylaw.ca](mailto:orlagh.okelly@okellylaw.ca)  
File Number: 125-00111



**NOTICE TO THE RESPONDENT AND TO THE MINISTER OF INDIGENOUS RELATIONS AND  
ATTORNEY GENERAL FOR THE PROVINCE OF ALBERTA:**

This application is made against you. You are a Respondent.  
You have the right to state your side of this matter before the Court.  
To do so, you must be in Court when the application is heard as shown below:

**Date:** November \_\_\_\_, 2025.  
**Time:** 10:00 am  
**Where:** Law Courts Building, in the City of Edmonton  
**Before:** Presiding Justice in Chambers

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

**Basis for this Application:**

**The Parties**

1. The Applicant, Sturgeon Lake Cree Nation ("**SLCN**" or "**Nation**"), are the descendants of Cree *nêhiyaw* ancestors who adhered to Treaty No. 8 in 1900. SLCN has and maintains Treaty, inherent and aboriginal rights protected under Treaty No. 8, section 35 (1) of the Constitution Act, 1982 and the *United Nations Declaration on the Rights of Indigenous Peoples* ("**UNDRIP**"). Sufficient clean water is essential to SLCN's continued exercise of their Treaty, inherent and aboriginal rights.
2. The Respondent, the Minister of Indigenous Relations through the Aboriginal Consultation Office, has been delegated the jurisdiction to determine whether the Crown's duty to consult and accommodate ("**DTCA**") is triggered and, if triggered, whether consultation can be deemed adequate.
3. The Aboriginal Consultation Office ("**ACO**") delegated powers exist under several policies including:
  - a. *Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management, 2013* ("**Consultation Policy**")
  - b. *Ministerial Order 105/214* ("**Ministerial Order**"),
  - c. *Government of Alberta Guidelines on Consultation With First Nations on Land and Natural Resource Management, 2014* ("**Guidelines**"); and
  - d. *Joint Operating Procedures for First Nations Consultation on Energy Resource Activities*.

According to the Consultation Policy and Guidelines, the ACO reports to the Minister of Indigenous Relations and manages all aspects of consultation including pre-consultation assessment, assessment of the adequacy of the consultation, determining notification requirements, determining whether accommodation is required and dealing with those follow-up issues. The ACO acts on behalf of the Minister in making these decisions.

4. The Respondent, the Minister of Environment and Protected Areas, is responsible for overseeing the issuance of licences under the *Water Act*, RSA 2000 c W-3 pursuant to

section 9(1)(r) of the *Designation and Transfer of Responsibility Regulation*, Alta Reg 11/2032.

5. The Respondent, the District Municipality of Greenview No. 16 ("**Greenview**") is a creature of provincial statute and thus agent of the provincial Crown. By contrast to SLCN, Greenview have no constitutionally protected rights. Greenview was issued the water licence over which the Crown failed to consult with the Nation.

### **SLCN's Territory**

6. SLCN has territory that spans north to Peace River, west to British Columbia and down to include Jasper National Park, and south to Edmonton. SLCN's reserve land is less than 16 kilometres from the town of Valleyview, Alberta. SLCN members' hold registered traplines located south of Valleyview throughout an area referred to by the Respondent as "Greenview Industrial Gateway" ("**GIG**"), although many of these traplines have been unlawfully sold or appropriated by the provincial Crown.
7. The GIG was previously provincial Crown land that was transferred to Greenview. This "**Land Transfer**", which is in the heart of SLCN territory, was consummated in 2024. Despite SLCN raising 188 concerns with the Land Transfer, the ACO deemed consultation on the Land Transfer adequate in 2021 (the "**Adequacy Decision**"). SLCN disagrees that consultation was adequate. The ACO has never found consultation with SLCN to have been inadequate in relation to any projects or development occurring in SLCN's territory. Moreover, neither the ACO, nor the Crown, proposed or implemented any accommodations or mitigations prior to the Adequacy Decision.
8. On March 4, 2021, and prior to the Adequacy Decision on the Land Transfer in 2021, the ACO expressly provided the reasonable expectation to SLCN that their 42 water-based concerns would be addressed when specific applications were submitted for *Water Act* licences ("**Reasonable Expectations**").
9. The Little Smoky River Watershed was previously placed on a no withdrawal restriction. In 2016, the Little Smoky River Watershed was one of the most overdrawn for industrial water allocations and the Smoky River Watershed was in the second most overdrawn category. Of note, the Energy Sector and Municipal allocations are characterized as different allocations. A report explaining the basis for this restriction was published by the

Alberta Energy Regulator (“AER”) at <https://maps.aer.ca/Foxcreek/>. This link is now broken and there are no withdrawal restrictions in the Little Smoky River Watershed. Of note, the Energy Sector and Municipal allocations are characterized as different allocations.

#### **Alberta’s partnership on O’Leary AI Data Centre**

10. On December 9 2024, Kevin O’Leary of O’Leary Ventures Inc. (“**O’Leary**”), an American based company, declared their intention to build a \$70 billion AI Data Centre in the GIG. The O’Leary statement included quotes from Premier Danielle Smith in support of the proposed O’Leary project. Later, O’Leary claimed that the Premier had granted his entity a natural gas permit and/or millions of acres under permit from Alberta. SLCN received no notice of this announcement; of any disposition of natural gas permits; and/or any further disposition of the Land Transfer to O’Leary for use on his AI Data Centre.
11. A few days prior, on December 4, 2024, the Government of Alberta (the “**Province**”) coordinated an announcement on the *Alberta’s AI data centre strategy: powering the future of artificial intelligence* (“**AI Data Centre Policy**” or “**Policy**”). This Policy made no mention of consultation with First Nations. The AI Data Centre Policy promises more than it can deliver on water, baldly stating that “Alberta’s existing water infrastructure enables AI data centres to reduce both time and costs associated with accessing resources and establishing operations.” Alberta appears to be marking AI Data Centre’s to be streamlined as Designated Industrial Zones. SLCN was not consulted on the AI Data Centre Policy, or the impacts of AI Data Centres in their territory.
12. On December 12, 2024, Minister Nate Glubish referred to a “partnership” with O’Leary and Greenview. Minister Glubish announced that he had been assisting O’Leary in navigating the Province’s regulatory processes for several months. SLCN does not get assistance navigating the province’s regulatory processes. AI Data Centres are known to consume enormous amounts of water for their operations, which require, in turn, enormous amounts of electricity.
13. Greenview announced publicly in December 2024 and, O’Leary announced privately, through his staff, that he had obtained a “water licence” from the municipality on January 31, 2025.

14. On January 13, 2025, not having received notice of anything related to the AI Data Centre, SLCN wrote an open letter to Premier Danielle Smith on January 13, 2025 ("**Open Letter**").
15. On February 14, 2025, in response to SLCN's open letter, Minister Rick Wilson responded. In his response, Minister Wilson denied that there was a "water licence" as communicated by O'Leary. He stated that a preliminary water certificate was issued to Greenview ("**Preliminary Certificate**"). SLCN had not heard of the Preliminary Certificate prior to this letter, nor did they receive any details of when it was granted and to whom. However, Minister Wilson advised that any issuance of a *Water Act* licence would be contingent on all "mandatory conditions" being met, including "appropriate consultations with First Nations." This contributed to the SLCN's Reasonable Expectations that they would be consulted prior to the issuance of any water licence for the AI Data Centre.
16. SLCN requested a copy of the Preliminary Certificate on multiple occasions. As of October 7, 2025, SLCN has not received a copy of the Preliminary Certificate, or any notice of application submitted by Greenview or O'Leary in relation to the AI Data Centre. Despite working in partnership with O'Leary to ensure licences are in place through Greenview, Alberta continues to claim that the AI Data Centre is a "non-project" due to the absence of a formal application.
17. In the development of the AI Data Centre, the Province has been working in concert with O'Leary and Greenview to ensure this project moves forward, even without an application, while the Province entirely abdicates its obligations to SLCN. These actions, cumulatively or singularly, breach the duty to consult and accommodate SLCN, the duty to honourably implement the Treaty and the Honour of the Crown.

#### **Water Act Decision**

18. SLCN continued to ask for the Preliminary Certificate prior to a meeting scheduled with Minister Rick Wilson, Minister Nate Glubish and representatives of the ACO on April 8, 2025.
19. Instead of receiving the Preliminary Certificate, SLCN received a copy of the *Water Act* licence ("**Water Act Decision**" or "**Licence**") on April 7, 2025 through a third party. The Water Act Decision was dated April 7, 2025 (Licence Number: DAUT0021649). This Licence was granted to Greenview, for 6 million m<sup>3</sup> from the Smoky River for industrial

and commercial purposes. SLCN received no prior notice of nor application related to the Water Act Decision.

20. In issuing the Water Act Decision to Greenview, the Respondent Ministers have deliberately circumvented their obligations to SLCN. Moreover, the Province has the municipality to bypass any assessment as would typically be required for such a largescale Energy Sector water allocation.

#### **Secret DTCA Decision**

21. At the April 8, 2025 meeting with the Ministers, SLCN asked why they were not consulted prior to the Licence being granted and contrary to the Reasonable Expectations conveyed by the Province in 2021 and 2025. The Water Act Decision had the potential to adversely impact SLCN's Treaty and aboriginal rights, including water rights. The ACO officials advised that they had made an "assessment" and determined that the issuance of the Licence would have no impacts on SLCN's Treaty and aboriginal rights and therefore the duty to consult and accommodate was not triggered ("**DTCA Decision**"). SLCN received no prior notice of the DTCA Decision, nor opportunity to respond to this determination regarding their rights.
22. On or about April 9, 2025, SLCN requested a copy from the ACO official of the DTCA Decision and was refused. SLCN does not even know the date of or the reasons for the apparently secret DTCA Decision.
23. The Water Act Decision and DTCA Decision are collectively referred to as the "**Decisions**". The Decisions are factually intertwined and form the part of one continuing course of action.

#### **Environmental Appeal Board**

24. SLCN duly appealed the issuance of the Licence to the Environmental Appeal Board ("**EAB**"). Only following EAB requests for information, the Respondent disclosed that the Preliminary Certificate was distinct from the *Water Act* Licence and granted to Greenview on February 24, 2024, for 24 m<sup>3</sup> litres. There was no notice to SLCN nor consultation regarding the Preliminary Certificate.

25. At the EAB, Greenview has attempted to strike the appeal on preliminary grounds. The Respondent, Minister of the Environment and Protected Area, has attempted to withhold the records related to the *Water Act* Decision. The EAB decision regarding the refusal to disclose the records relating to the issuance of the Licence is under reserve with the EAB.
26. In their motion to strike, Greenview has argued that the EAB has no jurisdiction to consider the DTCA, to discharge the DTCA and to determine any constitutional questions related to section 35(1) of the *Constitution Act, 1982*.
27. Accordingly, the Respondents have submitted the only remedy for challenging the DTCA Decision and the issuance of the *Water Act* Licence, on grounds related to the DTCA, is before this Honourable Court. This remedy must exist pursuant to section 96 of the *Constitution Act, 1867*.

**Decisions should be Quashed and Declarations should Issue**

28. The decision to issue the *Water Act* Licence without any notice or consultation should be set aside and re-determined because:
  - a. The Respondent Ministers failed to comply with SLCN's Reasonable Expectations that they were owed a duty of fairness, which included at minimum a notice requirement;
  - b. The Respondent Ministers breached SLCN's rights to procedural fairness;
  - c. The Respondent Ministers were biased due to their creation of a partnership with Greenview and/or O'Leary, giving rise to the appearance that the Minister of Environment and Protected Areas was not acting impartially;
  - d. The *Water Act* Decision constitutes an abuse of process, deliberately designed to circumvent SLCN's rights to seek meaningful remedies, including under section 96 of the *Constitution Act, 1867* and UNDRIP.
  - e. The *Water Act* Decision was unreasonable and/or made without jurisdiction;
  - f. The *Water Act* Decision was made without SLCN's free, prior, and informed consent;
  - g. In issuing the *Water Act* Licence, the Crown did not discharge its obligations in accordance with the Honour of the Crown.
  - h. Such other grounds as this Honourable Court may permit.
29. Further and/or in the alternative, the DTCA Decision should be set aside and re-determined because:

- a. The Respondent Ministers failed to disclose the existence of the DTCA Decision;
- b. The Respondent Ministers failed to give prior notice of the DTCA Decision and an opportunity to respond;
- c. The Respondent Ministers failed to comply with SLCN's Reasonable Expectations that they would be consulted prior to any water licence being granted and they were owed a duty of fairness, which included at minimum a notice requirement;
- d. The Respondent Ministers breached SLCN's rights to procedural fairness;
- e. The Respondent Ministers were biased in their partnership with Greenview and/or O'Leary, giving rise to the appearance that the ACO was not acting impartially;
- f. The DTCA Decision constitutes an abuse of process, deliberately designed to circumvent SLCN's rights to seek meaningful remedies, including under section 96 of the *Constitution Act, 1867* and UNDRIP.
- g. The DTCA Decision was unreasonable and/or made without jurisdiction;
- h. Such other grounds as this Honourable Court may permit.

30. Declarations should issue that:

- a. The Respondent Ministers owed SLCN a duty to consult and accommodate in relation to the *Water Act* Licence;
- b. The Respondent Ministers breached the Honour of the Crown and the duty to consult and accommodate SLCN in relation to the *Water Act* Licence, including by favouring Greenview and/or O'Leary over the Nation;
- c. The Respondent Ministers failed to honourably implement Treaty No. 8 through the failures to comply, in any respect, with the duty to consult and accommodate, in favour of a municipality, Greenview, and a foreign proponent, O'Leary;
- d. Such other declarations as this Honourable Court may permit.

**Remedy sought:**

31. The Applicant seeks an interim Order that the Record of Proceedings be produced within 45 days of filing this application.

32. The Applicant may seek an interim Order staying the effect of the Decisions until this application can be determined on its merits.

33. The Applicant seeks an Order:

- a. Of *certiorari*, setting aside and quashing the Decisions;

- b. Further and/or in the alternative, of certiorari, setting aside the Decisions and sending the Decisions for re-determination in accordance with this Court's reasons;
- c. Declaring that the Respondent Ministers owed SLCN a duty to consult and accommodate in relation to the *Water Act* Licence;
- d. Declaring that the Respondent Ministers breached the duty to consult and accommodate owed to SLCN;
- e. Declaring that the Respondent Ministers failed to honourably implement Treaty No. 8 in relation to the Decisions;
- f. Granting costs on a substantial indemnity basis to SLCN in any event of the cause given the public interest nature of this matter.

34. The Applicant seeks their costs on a substantial indemnity basis in any event of the cause.

**Affidavit or other evidence to be used in support of this application:**

- 35. The Record of Proceedings (Form 8) to be filed and served within forty-five (45) days of this application being filed and served.
- 36. The Affidavit of Chief Sheldon Sunshine, to be sworn.
- 37. The Affidavit of Rosalyn Goodswimmer, to be sworn.

**Applicable Acts and regulations:**

- 38. *Alberta Rules of Court*, Alta Reg 124/2010, Rules 3.15-3.24, Rule 3.69, and Rule 3.70
- 39. *Water Act*, RSA 2000, c W-3, section 51.
- 40. *Constitution Act, 1982*, sections 24 and 35(1).
- 41. *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.), section 96.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You

will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must reply by giving reasonable notice of that material to the applicant(s).

APPENDIX "A"

COURT FILE NUMBER  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON  
APPLICANT STURGEON LAKE CREE NATION  
RESPONDENTS HIS MAJESTY THE KING IN RIGHT OF ALBERTA as represented by the MINISTER OF INDIGENOUS RELATIONS (Aboriginal Consultation Office), MINISTER OF ENVIRONMENT AND PROTECTED AREAS, and MUNICIPAL DISTRICT OF GREENVIEW No. 16  
DOCUMENT **ORDER**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Orlagh O'Kelly  
O'KELLY LAW  
403, 10113 – 104 Street  
Edmonton, Alberta T5J 1A1  
Telephone: 587-525-8348  
Facsimile: (780) 669-7672  
Email: orlagh.okelly@okellylaw.ca  
File Number: 125-00111

DATE ORDER WAS PRONOUNCED:  
LOCATION OF HEARING: Edmonton, Alberta  
JUSTICE WHO MADE THIS ORDER:

UPON THE APPLICATION OF THE APPLICANT; AND UPON having read the application materials put before the Court; AND UPON Hearing submissions from Counsel for the Applicant and Counsel for the Respondents;

IT IS ORDERED THAT:

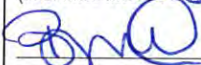
1. An interim Order be granted that the Record of Proceedings be produced within 45 days of filing this application.
2. An interim Order be granted staying the effect of the Decisions until this application can be determined on its merits.
3. An Order be granted:
  - a. Of *certiorari*, setting aside and quashing the Decisions;
  - b. Further and/or in the alternative, of *certiorari*, setting aside the Decisions and sending the Decisions for re-determination in accordance with this Court's reasons;
  - c. Declaring that the Respondent Ministers owed a duty to consult and accommodate to SLCN in relation to the Water Act Decision;
  - d. Declaring that the Respondent Ministers breached the Honour of the Crown and the duty to consult and accommodate owed to SLCN in issuing the *Water Act* Licence;
  - e. Declaring that the Respondent Ministers failed to honourably implement Treaty No. 8 in relation to the Decisions;
  - f. Granting costs on a substantial indemnity basis to SLCN in any event of the cause given the public interest nature of this matter.
4. Costs for the Applicant on a substantial indemnity basis in any event of the cause.

---

EXHIBIT D : KEYERA RECONSIDERATION

This is exhibit D referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

sworn/affirmed before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)

  
\_\_\_\_\_  
Commissioner for Oaths in and for  
the Province of Alberta

Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW

**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200



## STURGEON LAKE CREE NATION

[WWW.STURGEONLAKE.CA](http://WWW.STURGEONLAKE.CA) 780-524-3307 BOX 757 VALLEYVIEW, AB T0H-3N0

January 15, 2026

Via Email: [susan.foisy@gov.ab.ca](mailto:susan.foisy@gov.ab.ca)

### Aboriginal Consultation Office

Indigenous Relations  
104 Legislature Building  
10800 - 97 Avenue  
Edmonton, AB T5K 2B6

**Attention: Susan Foisy, Executive Director**

Dear Ms. Foisy,

**Re: Proponent Name: Keyera Energy Ltd. ("Keyera" or the "Company")**  
**Project Name: Campbell Creek Sour Gas Processing Plant (the "Project")**  
**GoA Activity #: FNC 202553035, FNC 202554198**

---

I write on behalf of the Sturgeon Lake Cree Nation ("**SLCN**" or "**Nation**") regarding the above-noted consultation processes and further to your December 18, 2025, correspondence. As set out below, SLCN requests that the Aboriginal Consultation Office ("**ACO**") reconsider its consultation decisions in respect of FNC202553035 and FNC202554198, re-open the Crown's consultation process regarding the Project, and require Keyera to consult meaningfully with SLCN regarding same.

#### **I. The ACO's Consultation Area is Not Representative of SLCN's Territory**

In your December 18, 2025, correspondence, you note that SLCN was not consulted in respect of the Project or provided notice in respect of the ACO's decision in that regard because "the Project is located outside the area where Alberta typically consults SLCN". With respect, the ACO's consultation area for SLCN ("**Consultation Area**") was developed solely based on internal Government of Alberta data, and with no feedback from our community's land users. SLCN has never consented or agreed to the Consultation Area, which is much smaller than our Nation's actual territory and is not representative of the areas where our land users exercise their inherent, Aboriginal and Treaty rights. SLCN will be engaging with the ACO in due course to request a review and expansion of the Consultation Area and looks forward to a respectful dialogue on that topic grounded in the honour of the Crown and the Supreme Court of Canada's ("**SCC**") duty to consult jurisprudence.

In the meantime, and for the reasons set out below, SLCN submits that the Crown must re-open its consultation processes in respect of the Project and meaningfully consult with our Nation regarding the Project's numerous and severe impacts on our Nation's rights.

## II. Law of the Duty to Consult

As you are aware, the duty to consult is grounded in the honour of the Crown and is derived from the need to protect Aboriginal interests while land and resource claims are ongoing or when a proposed development may impinge on an Aboriginal right. The duty to consult therefore seeks to protect Aboriginal and Treaty rights while furthering the goals of reconciliation between Indigenous peoples and the Crown.<sup>1</sup>

As noted by the SCC, a duty to consult is triggered “when the Crown has knowledge, real or constructive, of the potential or actual existence of the Aboriginal right or title and contemplates conduct that might adversely affect it”.<sup>2</sup> The test has three parts: (1) the Crown’s knowledge, actual or constructive, of a potential Aboriginal claim or right; (2) contemplated Crown conduct; and (3) the contemplated conduct may adversely affect an Aboriginal claim or right.<sup>3</sup> In the context of Treaty rights specifically, the duty to consult arises when the Crown exercises a Treaty right to take up land and adversely affects or interferes with a First Nations’ Treaty rights to hunt, fish, trap and carry out related activities. In this case, Treaty 8 gives SLCN both procedural rights (*vis-à-vis* consultation) as well as the aforementioned substantive rights, and when the Crown does not engage in adequate consultation, it violates its procedural obligations (which is separate and apart from whether the Crown has also breached its substantive Treaty obligations).<sup>4</sup>

The threshold for the duty to consult is low and requires only that the Crown conduct **might** affect the Aboriginal claim or right.<sup>5</sup> Courts have also observed that while Alberta is permitted to create policies for consultation, those policies must be carried out in a manner consistent with the Constitution. Accordingly, whether or not the duty to consult is triggered depends on the application of the legal test identified in the SCC’s jurisprudence to the facts in each case, and **not** on what Alberta’s internal maps indicate. As noted by Nixon J. in *Athabasca Chipewyan First Nation v Alberta*:

“Consultation maps are an advisory tool to assist the Government in discharging its duty to consult, but **reliance solely on the map without consideration of the specific circumstances of a given project and its potential effects would be inappropriate**, especially once the Government of Alberta has been notified that a First Nation believes there is a duty to consult.”<sup>6</sup>  
[Emphasis added]

When, as is the case here, the use of Alberta’s map results in a dispute between the Government and a First Nation over the duty to consult, the ACO must engage the First Nation to assess its claim independently of the map.<sup>7</sup> With that in mind, SLCN outlines

<sup>1</sup> *Rio Tinto Alcan Inc v Carrier Sekani Tribal Council*, 2010 SCC 43 at paras 32-34 [*Rio Tinto*]; *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73 at para 33 [*Haida*].

<sup>2</sup> *Haida*, *supra* at para 35.

<sup>3</sup> *Rio Tinto*, *supra* at paras 45-50.

<sup>4</sup> *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69 at paras 55, 57 [*Mikisew*]; *R v Sundown*, [1999] 1 SCR 393 at paras 27-30 [*Sundown*].

<sup>5</sup> *Mikisew*, *ibid* at para 34; *Rio Tinto*, *supra* at para 40.

<sup>6</sup> *Athabasca Chipewyan First Nation v Alberta*, 2018 ABQB 262 at paras 88-92 [*ACFN ABQB*] *aff’d Athabasca Chipewyan First Nation v Alberta (Minister of Aboriginal Relations, Aboriginal Consultation Office)*, 2019 ABCA 401.

<sup>7</sup> *ACFN ABQB*, *ibid* at para 96.

below why the above-noted test is clearly met in this case and why the Crown must consult with our Nation in respect of the Project.

### III. The Crown Must Consult with SLCN in Respect of the Project

#### a. *The Crown has actual or constructive knowledge of SLCN's Aboriginal and Treaty Rights*

The threshold for real or constructive knowledge is not high. Actual knowledge arises when a claim has been filed in court or advanced in negotiations, or when a treaty right may be impacted. Constructive knowledge arises when lands are known or reasonably suspected to have been traditionally occupied by an Aboriginal community, or an impact on rights may reasonably be anticipated.<sup>8</sup>

SLCN submits that in this case the Crown has both actual and constructive knowledge of SLCN's Aboriginal and Treaty rights. First, the Crown, as a party, will always have notice of a treaty's contents.<sup>9</sup> Here, SLCN asserts both Aboriginal rights and rights exercised pursuant to Treaty 8, and we have provided statutory declarations from two elders that corroborate the existence of these rights and highlight some of the rights-based activities that both declarants, as well as other members of the community, exercise in the Project's immediate vicinity.<sup>10</sup> Alberta therefore clearly has actual and constructive knowledge of these rights, and the question now turns to determining the degree to which the conduct contemplated by the Crown would adversely affect the same.<sup>11</sup>

#### b. *The Project is Crown Conduct*

The second part of the test requires that there be Crown conduct or a Crown decision that engages a potential Aboriginal right. This includes exercises of statutory power as well as higher-level Crown decision-making.<sup>12</sup>

In this case, Keyera has applied to develop a sour gas facility that requires statutory authorizations under several legislative frameworks (including the *Environmental Protection and Enhancement Act* [EPEA],<sup>13</sup> the *Water Act*,<sup>14</sup> and the *Public Lands Act* [PLA]<sup>15</sup>). Keyera has submitted its applications for this Project to the Alberta Energy Regulator ("AER" or "Regulator"), which now must exercise delegated authority on behalf of the Crown in determining whether each of the applications should be approved and whether the relevant statutory authorizations required to construct, operate and reclaim the Project should be issued. If approved, the Project will thus "have an immediate impact on lands and resources"<sup>16</sup> and clearly amounts to Crown conduct for the purposes of the second stage of the test.<sup>17</sup>

---

<sup>8</sup> *Rio Tinto*, *supra* at para 40.

<sup>9</sup> *Mikisew*, *supra* at para 34.

<sup>10</sup> See Appendix "A"; See also Appendix "B", SLCN SOC at pages 5-8.

<sup>11</sup> *Mikisew*, *supra* at para 34.

<sup>12</sup> *Rio Tinto*, *supra* at paras 42-44.

<sup>13</sup> *Environmental Protection and Enhancement Act*, RSA 2000, c E-12 [EPEA].

<sup>14</sup> *Water Act*, RSA 2000, c W-3 [Water Act].

<sup>15</sup> *Public Lands Act*, RSA 2000, c P-40 [PLA].

<sup>16</sup> *Rio Tinto*, *supra* at para 44.

<sup>17</sup> See for e.g. *Chippewas of the Thames First Nation v Enbridge Pipelines Inc.*, 2017 SCC 41 at para 29 [Chippewas].

c. *The Project Will Impact SLCN's Aboriginal and Treaty Rights*

The third element of a duty to consult is the possibility that the Crown conduct may affect the Aboriginal claim or right. The claimant must show a causal relationship between the proposed government conduct or decision and a potential for adverse impacts on Aboriginal rights. Adverse impacts extend to any effect that may prejudice an Aboriginal right and are often physical in nature.<sup>18</sup>

SLCN recently filed a statement of concern (“**SOC**”) and request for regulatory appeal (“**RRA**”) with the AER in respect of the Project.<sup>19</sup> Both the SOC and RRA outline the specific adverse impacts the Project will have on the exercise of SLCN's Aboriginal and Treaty rights within the Project's emergency planning zone (“**EPZ**”) and in the immediate vicinity, as well as the Project's contribution to the cumulative impacts of existing industrial development.<sup>20</sup> SLCN adopts those submissions for the purposes of this reconsideration request, and given that this part of the test only requires “a potential” for adverse impacts, submits that the Project's obvious physical impacts on the exercise of our community members' rights clearly requires the Crown to consult with our Nation.

d. *Deep and Meaningful Consultation is Required*

Once the Crown is put on notice, and it is determined that a duty to consult arises, the focus of the analysis then turns to determining what the scope of the duty is.<sup>21</sup> Indeed, the content of the duty to consult varies with the circumstances. In all cases, the honour of the Crown requires the Crown to act in good faith and the common thread on the Crown's part must be the intention of substantially addressing a First Nation's concerns as they are raised, through a meaningful process of consultation.<sup>22</sup>

In general, the level of consultation and accommodation required is proportionate to: (1) a preliminary assessment of the strength of the case supporting the existence of the right; and (2) the seriousness of the potentially adverse effect upon the right claimed.<sup>23</sup> At the lower end of the spectrum, where “the claim to title is weak, the Aboriginal right limited, or the potential for infringement minor”, the duty may only require the Crown to give notice, disclose information, and discuss any issues raised in response to the notice. At the higher end of the spectrum are cases where a strong *prima facie* case for the claim is established, the right and potential infringement is of high significance to the Indigenous peoples, and risk of non-compensable damage is high. In such cases, deep consultation aimed at finding a satisfactory interim solution may be required. While precise requirements will vary with the circumstances, the consultation required at this stage may entail the opportunity to make submissions for consideration, formal participation in the decision-making process, and provision of written reasons to show that the Indigenous group's concerns were considered and to reveal the impact they had on the decision. Above all, the controlling question in all situations is what is required to maintain the honour of the Crown and to effect reconciliation between the Crown and the Indigenous peoples with respect to the interests at stake.<sup>24</sup>

<sup>18</sup> *Rio Tinto*, *supra* at paras 45-47.

<sup>19</sup> See Appendices “B” and “C”.

<sup>20</sup> See Appendix “B”, SLCN SOC at pages 5-8; Appendix “C”, SLCN RRA at para 10.

<sup>21</sup> *R v Desautel*, 2021 SCC 17 at para 76 [*Desautel*].

<sup>22</sup> *Haida*, *supra* at paras 39, 41, 42.

<sup>23</sup> *Haida*, *ibid* at para 39; *Behn v Moulton Contracting Ltd.*, 2013 SCC 26 at para 29 [*Behn*]; *Rio Tinto*, *supra* at para 36.

<sup>24</sup> *Haida*, *ibid* at paras 43-45.

SLCN submits that the nature of the rights at stake and the seriousness of the Project's adverse impacts necessitate consultation at the deep end of the spectrum. In addition to inherent and Aboriginal rights, SLCN has established Treaty rights to hunt, fish, trap and carry out related activities, and has provided evidence demonstrating that our community members exercise these rights within the Project EPZ and in the immediate surrounding area. Moreover, SLCN has demonstrated the Project's specific impacts on the exercise of these rights as well as the Project's contribution to the cumulative impacts of already existing development.<sup>25</sup> Given the *prima facie* strength of SLCN's claim, the importance of these rights to SLCN community members and the significance of the potential damage, SLCN submits that the duty owed in this case falls at the highest end of the spectrum.<sup>26</sup>

With respect to how this translates practically, Alberta's consultation process is governed by *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management* (the "**Guidelines**"). The *Guidelines* outline the stages of the consultation process, the first of which requires the ACO to make a pre-consultation assessment that determines whether consultation is required and assign a level of consultation to provide direction on the depth of consultation owed in the circumstances. In assigning a level of consultation owed, the ACO considers the sensitivity of the location (based on Treaty rights and traditional uses) having regard to such factors as the level of contemporary use and the presence of other values indicating the importance of the site for Treaty rights.<sup>27</sup>

Even on a cursory review of the statutory declarations, maps and other related information we have provided in this submission and in both the SOC and RRA, it is clear that the Project is located in an area that is highly sensitive for our Nation. Both declarants and other SLCN community members have documented the presence, harvesting, and use of medicinal plants, fresh water, game trails and critically important cultural and ceremonial sites within the Project EPZ, as well as the high presence of game and heavy use of the EPZ and surrounding area for hunting.<sup>28</sup> Based on the factors the ACO considers in assessing the level of consultation owed (including the duration, size and severity of the Project's environmental impacts<sup>29</sup>) and the information provided above, SLCN submits that **all** of the applications and activities associated with this Project<sup>30</sup> clearly require extensive consultation with our Nation.

#### **IV. Conclusion and Relief Sought**

In this submission, SLCN has set out the law of the duty to consult and provided both statutory declarations and other evidence clearly demonstrating that the Crown must consult with our Nation in respect of the Project. We have done so (1) on a very tight timeline; (2) during the winter season when it is difficult to travel and collect information from land users; and (3) despite the extremely limited capacity and hundreds of other regulatory applications and consultation requests our department is currently faced with.

<sup>25</sup> Appendix "A"; Appendix "B", SLCN SOC at pages 5-8; Appendix "C", SLCN RRA at para 10.

<sup>26</sup> *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, 2017 SCC 40 at paras 43-44 [*Clyde River*].

<sup>27</sup> *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management* (July 28, 2014), section 3 at pages 14-15.

<sup>28</sup> Appendix "A"; Appendix "B", SLCN SOC at pages 5-8; Appendix "C", SLCN RRA at para 10.

<sup>29</sup> Appendix "B", SLCN SOC at pages 2-3 and 5-11.

<sup>30</sup> SLCN understands that the ACO initially only determined that Keyera was required to consult with other First Nations in respect of the PLA application (FNC 202553035). In this case, Alberta must consult with SLCN in relation to the **entire** Project, meaning **all** of the applications Keyera has filed in respect of same along with their associated activities. This includes in relation to impacts to the wetland (FNC 202554198).

Notwithstanding this difficult situation, we believe that we have provided more than enough information to meet the low threshold that is required to demonstrate that a duty to consult is owed in these circumstances. If, however, the ACO disagrees, we request that the ACO advise us of any additional information that is required and provide notice of the case it believes we are required to meet in accordance with the Crown's procedural fairness obligations in that regard.<sup>31</sup>

Adequate Crown consultation *before* project approval is always preferable to after-the-fact judicial remonstrance following an adversarial process.<sup>32</sup> With that in mind, and for all of the reasons noted above, SLCN requests that the ACO re-open its consultation process in respect of the Project and direct Keyera to engage in deep and meaningful consultation with our Nation in respect of same. In the circumstances, the honour of the Crown demands nothing less.

Thank you for your consideration and we look forward to your response.

Sincerely,



Dana Goodswimmer  
Consultation Director  
Sturgeon Lake Cree Nation

CC: Chief Sheldon Sunshine, Councilor Rosalyn Goodswimmer, Doreen Cardinal, SLCN  
Francco De Luca and Eamon Murphy, Woodward and Company Lawyers LLP  
Eric Davey and Jody Butt, ACO  
Tanya Bednarz, Laureen Lamb, Cory Klapper, Keyera  
AER SOC Team  
AER Request for Regulatory Appeal Coordinator

---

<sup>31</sup> *ACFN ABQB*, *supra* at paras 97-120.

<sup>32</sup> *Clyde River*, *supra* at para 24.

**Appendix A: Statutory Declarations**

---

**STATUTORY DECLARATION OF GEORGE GOODSWIMMER**

Declared on January 15<sup>th</sup>, 2026

I, George Goodswimmer, of Sturgeon Lake Cree Nation in the Province of Alberta, solemnly declare that:

1. I am a member of Sturgeon Lake Cree Nation ("SLCN" or "Nation"). I have personal knowledge of the matters to which I hereinafter declare, except where stated to be based on information and belief, in which case I believe them to be true.
2. I make this Statutory Declaration in support of SLCN's application for reconsideration of the Aboriginal Consultation Office's ("ACO") decision not to require Keyera Energy Ltd. ("Keyera" or the "Company") to consult with our Nation in respect of Keyera's applications for the development of the Campbell Creek Sour Gas Processing Plant (the "Project").
3. I have reviewed a map of the Project's boundaries and Emergency Planning Zone ("EPZ"). My partner, Barb Goodswimmer, and I engage in Treaty activities within the Project EPZ and in the surrounding area. These activities include the gathering and harvesting of berries and medicinal and ceremonial plants (such as blueberries, huckleberries, chicken berries, chaga, diamond willow fungus and labrador tea) as well as the use of important cultural and ceremonial sites. We also harvest freshwater from Big Mountain Creek. In the map attached as Exhibit "A" to this Statutory Declaration, we have provided examples of some of the locations where we engage in and carry out these activities.
4. I also note that the Project is located in a very high game area. There are numerous game trails within the EPZ, and my partner and I, along with other SLCN families, regularly hunt and trap bear, moose, and other ungulates and furbearers throughout and immediately adjacent to the EPZ area.
5. My family, as well as other SLCN families, have been engaging in and practicing the above-noted harvesting, hunting, trapping and cultural activities in the Project-area and within the EPZ for generations. These activities, which are protected under Treaty No. 8, are integral to the survival of our cultural identity and way of life.
6. I am very concerned about the Project's impacts on our ability to continue to practice these activities. There are fewer and fewer places where we are able to exercise our Treaty rights, and it is becoming more and more difficult to pass down our traditions to the younger people in our community. Without the ability to pass down knowledge, and without healthy forests, animals, and clean water, I am worried that we will slowly lose what it means to be *Sakaw nehiyawak*.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath or affirmed.

DECLARED BEFORE ME at Sturgeon )  
Lake Cree Nation Alberta, this 15th )  
day of January 2026. )

Tina Kapko )  
A Commissioner for Oaths in and for )  
the Province of Alberta )

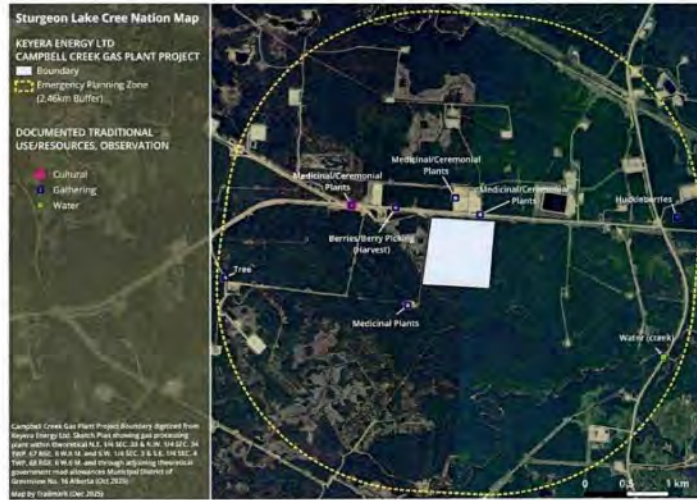
Tina Kapko )  
(Print Name and )  
Expiry/Lawyer/Student-At-Law) TK

  
\_\_\_\_\_  
(Signature of the Deponent)

George A. Goodson )  
(Print Name)

**TINA KAPPO**  
Commissioner for Oaths  
and for Alberta  
Commission expires April 16, 2027  
Appointee No. 0721854

EXHIBIT "A": MAP OF PROJECT AREA



This is Exhibit A referred to in the Statutory Declaration of George Goodswimmer, declared before me this 15<sup>th</sup> day of January, 2026.

Name: Tina Kappo

Signature: Tina Kappo

A Commissioner of Oaths in and for Alberta

**TINA KAPPO**  
 Commissioner for Oaths  
 in and for Alberta  
 Commission expires April 16, 2027  
 Appointee No. 0721854

STATUTORY DECLARATION OF BARB GOODSWIMMER

Declared on January 15<sup>th</sup>, 2026

I, Barb Goodswimmer, of Sturgeon Lake Cree Nation in the Province of Alberta, solemnly declare that:

1. I am a member of Sturgeon Lake Cree Nation ("SLCN" or "Nation"). I have personal knowledge of the matters to which I hereinafter declare, except where stated to be based on information and belief, in which case I believe them to be true.
2. I make this Statutory Declaration in support of SLCN's request for reconsideration of the Aboriginal Consultation Office's ("ACO") decision not to require Keyera Energy Ltd. ("Keyera" or the "Company") to consult with our Nation in respect of Keyera's applications for the development of the Campbell Creek Sour Gas Processing Plant (the "Project").
3. I have reviewed a map of the Project's boundaries and Emergency Planning Zone ("EPZ"). My partner, George Goodswimmer, and I engage in Treaty activities within the Project EPZ and in the surrounding area. These activities include the gathering and harvesting of berries and medicinal and ceremonial plants (such as blueberries, huckleberries, chicken berries, chaga, diamond willow fungus and labrador tea) as well as the use of important cultural and ceremonial sites. We also harvest freshwater from Big Mountain Creek. In the map attached as Exhibit "A" to this Statutory Declaration, we have provided examples of some of the locations where we engage in and carry out these activities.
4. I also note that the Project is located in a very high game area. There are numerous game trails within the EPZ, and my partner and I, along with other SLCN families, regularly hunt and trap bear, moose, and other ungulates and furbearers throughout and immediately adjacent to the EPZ area.
5. My family, as well as other SLCN families, have been engaging in and practicing the above-noted harvesting, hunting, trapping and cultural activities in the Project-area and within the EPZ for generations. These activities, which are protected under Treaty No. 8, are integral to the survival of our cultural identity and way of life.
6. I am very concerned about the Project's impacts on our ability to continue to practice these activities. There are fewer and fewer places where we are able to exercise our Treaty rights, and it is becoming more and more difficult to pass down our traditions to the younger people in our community. Without the ability to pass down knowledge, and without healthy forests, animals, and clean water, I am worried that we will slowly lose what it means to be *Sakaw nehiyawak*.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath or affirmed.

DECLARED BEFORE ME at Sturgeon Lake )  
Cree Nation, Alberta, this 15<sup>th</sup> day of January )  
2026. )

Tina Kappo  
A Commissioner for Oaths in and for the  
Province of Alberta

Tina Kappo  
(Print Name and  
Expiry/Lawyer/Student-At-Law)<sup>TR</sup>

**TINA KAPPO**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires April 16, 2027  
Appointee No. 0721854

  
(Signature of the Deponent)

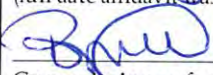
Deborah A Goodson  
(Print Name)



**EXHIBIT E : MAP OF SLCN IN RELATION TO PROJECT AREA**

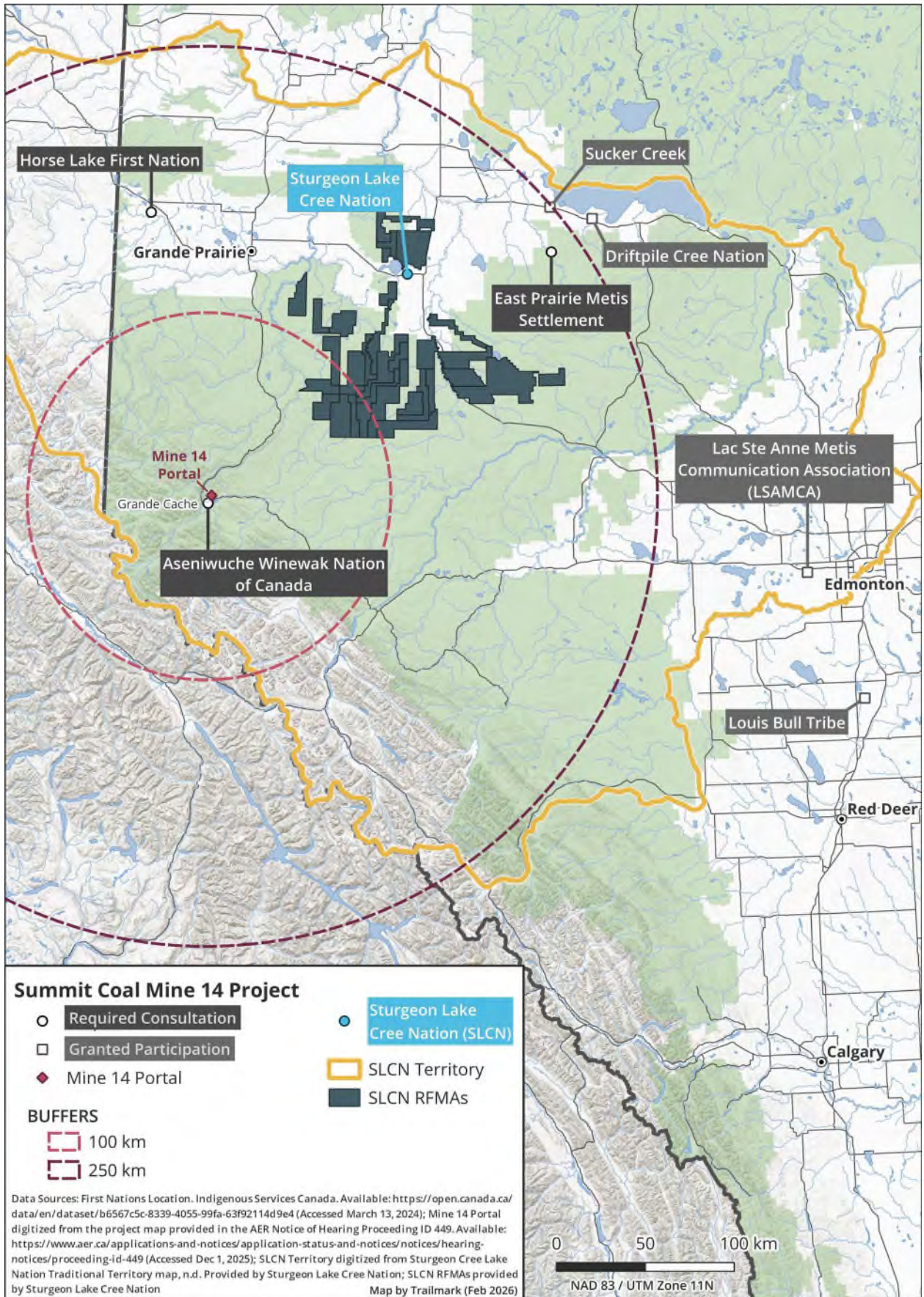
This is exhibit E referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

sworn/~~affirmed~~ before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)

  
Commissioner for Oaths in and for  
the Province of Alberta

Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW

**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200



Horse Lake First Nation

Sturgeon Lake Cree Nation

Sucker Creek

Grande Prairie

Driftpile Cree Nation

East Prairie Metis Settlement

Mine 14 Portal

Grande Cache

Aseniwuche Winewak Nation of Canada

Lac Ste Anne Metis Communication Association (LSAMCA)

Edmonton

Louis Bull Tribe

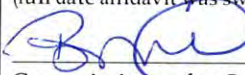
Red Deer

Calgary

**EXHIBIT F : MAPS OF TREATY ACTIVITIES IN PROJECT AREA**

This is exhibit F referred to in the affidavit  
(letter)  
of Sheldon Sunshine  
(full name of person swearing/affirming the affidavit)

sworn/~~sworn~~ affirmed before me on  
February 12, 2026  
(full date affidavit was sworn/affirmed)






  
Commissioner for Oaths in and for  
the Province of Alberta

Brittiany Sunshine #0748200  
PRINT NAME AND EXPIRY OR  
LAWYER/STUDENT-AT-LAW









**BRITTIANY SUNSHINE**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires May 31, 2028  
Appointee No. 0748200

### Sturgeon Lake Cree Nation Map

#### SUMMIT COAL INC MINE 14 UNDERGROUND COAL MINE

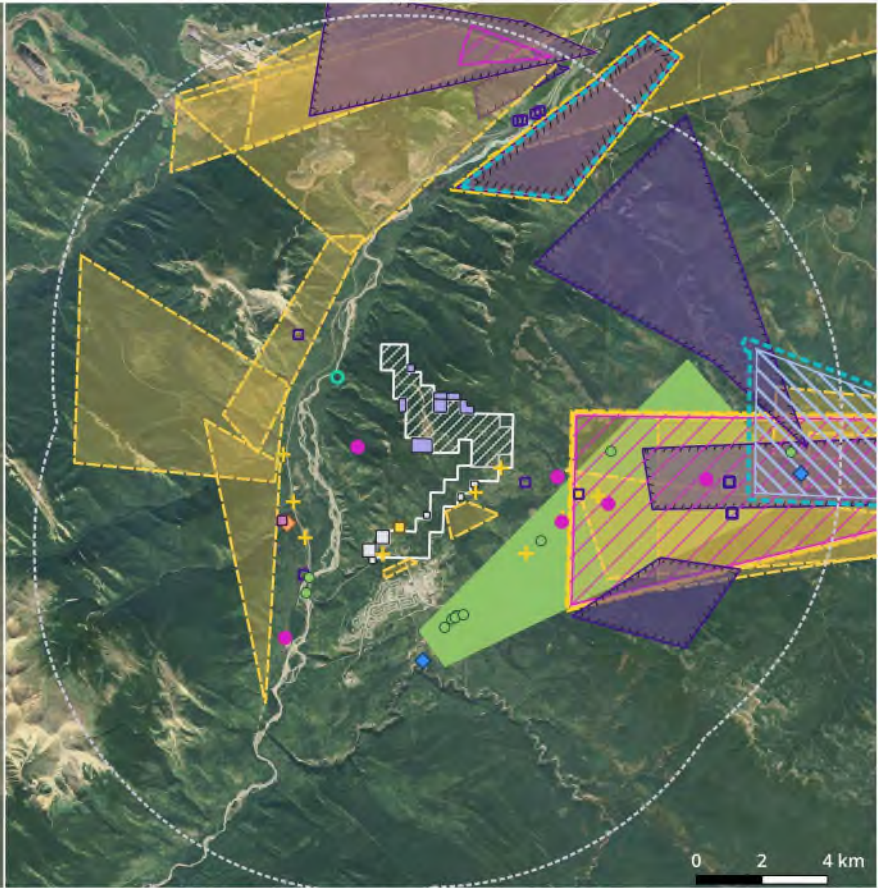
-  Existing Mine Permit Area
-  Existing Mine License Area
-  Proposed Mine Permit Extension
-  Proposed Mine Permit and License Extension
-  10km Buffer

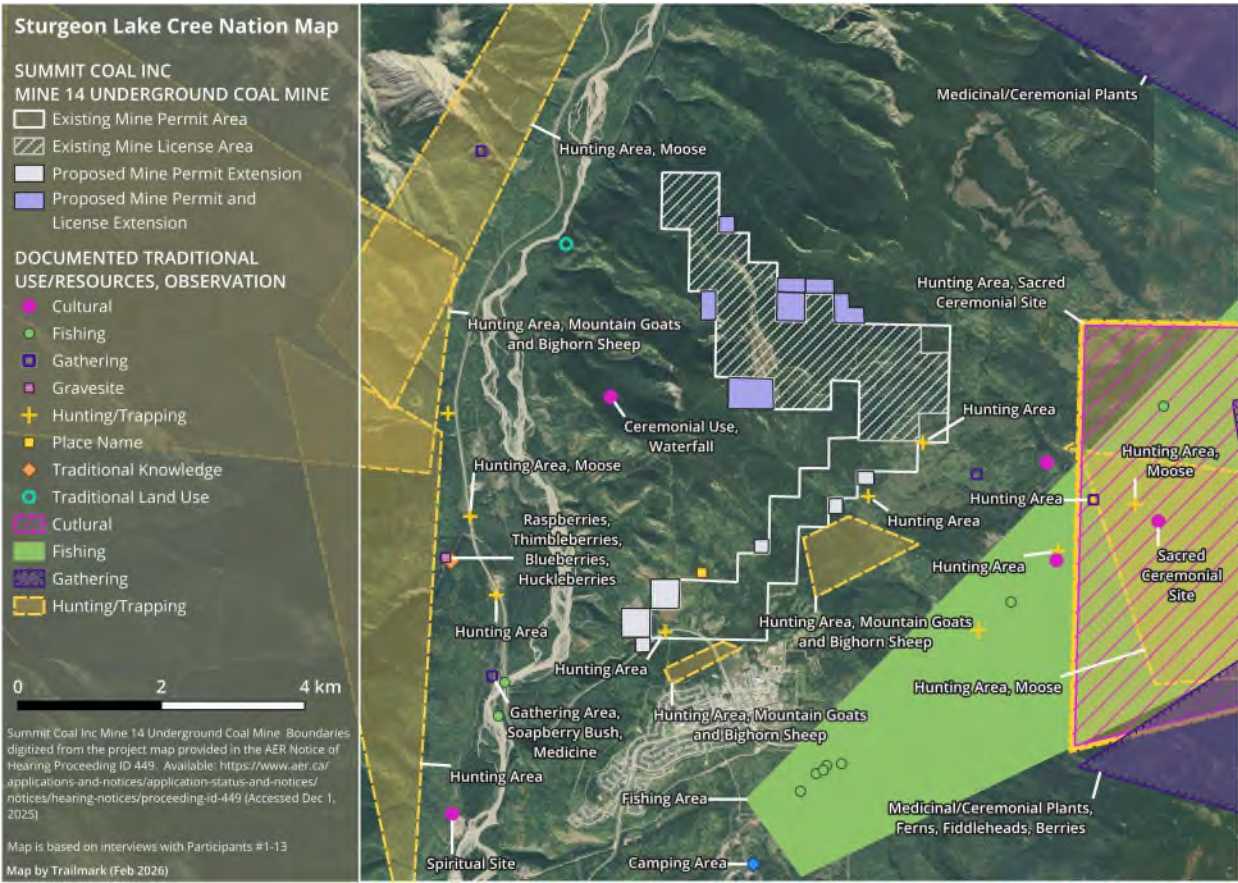
#### DOCUMENTED TRADITIONAL USE/RESOURCES, OBSERVATION

-  Cultural
-  Fishing
-  Gathering
-  Gravesite
-  Habitation
-  Hunting/Trapping
-  Place Name
-  Traditional Knowledge
-  Traditional Land Use
-  Cultural
-  Fishing
-  Gathering
-  Gravesites
-  Habitation
-  Hunting/Trapping

Summit Coal Inc Mine 14 Underground Coal Mine. Boundaries digitized from the project map provided in the AER Notice of Hearing Proceeding ID 449. Available: <https://www.aer.ca/applications-and-notices/application-status-and-notices/notices/hearing-notices/proceeding-id-449> (Accessed Dec 1, 2025)

Map is based on interviews with Participants #1-13  
Map by Trailmark (Feb 2026)







P.O. Box 757  
Valleyview, Alberta  
T0H 3N0  
(P)780-524-3307  
(F)780-524-2711

June 23, 2025

Senate of Canada

Dear Senators:

**Re: Sturgeon Lake Cree Nation rejects the *Building Canada Act*, Part 2 of Bill C-5**

---

Sturgeon Lake Cree Nation (SLCN) entered into Treaty No. 8 with the Crown before Alberta was created by legislation in 1905. We have reserve land near what is now known as Valleyview, Alberta. Our territory expands northwards towards Peace River, westwards past Dawson Creek, southwards to include much of Jasper National Park and eastwards to Edmonton.

In this brief, we focus on the “economic reconciliation” agenda presented as a mitigation for the dangerous, unconstitutional, undemocratic and anti-Treaty processes outlined in the *Building Canada Act*. We have read and adopt the briefs of Mikisew Cree First Nation and Onion Lake Cree Nation.

***Our land and water taken up by industry***

Part 2 of Bill C-5 will leave us at the mercy of provincial regulatory processes and presents an existential threat to our way of life.

Under Alberta’s watch, our territory has already been taken up by conventional oil and gas, forestry, agriculture, urban expansion and Crown land sales. Preliminary research indicates that over 90 per cent of our territory and waters are taken up by the Crown authorized development. The cumulative impacts of this development is such that we no longer have a meaningful ability to exercise our rights and our way of life as promised under Treaty No. 8 in 1899.

Our waters are also impacted by this development. We rely primarily on the Smoky River basin to sustain our way of life and, of course, for our drinking water.

The quality of our water is adversely impacted by the CST Coal mining, upstream, at the Rocky Mountains’ headwaters. CST has previously released toxic tailings into the Smoky River. For example, CST’s spilled 1.1 million litres of toxic tailings directly into the Smoky River and only received a \$9,000 fine.<sup>1</sup>

The quantity of our water is also impacted. The Smoky River was subject to withdrawal restrictions because of it was overdrawn. Without notice, Alberta lifted this restriction. Indeed, earlier this year, a

---

<sup>1</sup>*CBC News*, February 28, 2025, \$9,000 fine for coal mine leak into river a ‘slap on the wrist,’ critics say: <https://www.cbc.ca/news/canada/edmonton/alberta-coal-river-leak-fine-1.7470360>.

*Water Act* licence was granted to a municipality but intended for O’Leary Ventures Inc., an American based company, to pursue a massive data centre in the heart of our territory. Alberta issued this licence without notice to our Nation and through an undisclosed assessment that consultation was not necessary. These are only snapshots of our everyday reality – before the *Building Canada Act*.

By deeming favourable authorizations and making the requirement to consult subject to the Minister’s decision of whether we may be adversely affected<sup>2</sup>, as Alberta does, the *Building Canada Act* makes the federal system mirror the provincial one which has led us to this dire situation. The proposed bill effectively removes our last line of defence - federal regulatory processes.

### ***The Building Canada Act continues to relegate us to economic stakeholder status***

However, we are also on the sidelines for any revenue derived with or without our consent from our territory. Despite these significant impacts on our way of life as promised in Treaty No. 8, we receive little if any economic benefits derived from our land. There is no government revenue sharing in the form of mandatory royalties or taxes for First Nation governments; this is a privilege reserved for colonial governments.

The *Building Canada Act* does nothing to fix this situation, and, in fact, the federal government has so far suggested “loan guarantees” will be enough to mitigate any harms.<sup>3</sup> This language is indistinguishable from the province’s rhetoric. In this sense, rather than “get the province of Alberta in line” regarding their separatist agenda, the federal government is now in line with Alberta.<sup>4</sup> For example, in proposing the so-called “*Sovereignty Act*”, Premier Smiths’ answer to First Nation opposition was also that Alberta “supports First Nations with loan guarantees... this is what reconciliation looks like...”<sup>5</sup>.

Treaty First Nations have a special place in Canada. Not only do we have Treaties, but we are also “Indigenous Peoples” meaning those having a historical continuity with pre-invasion and pre-colonial societies that developed on our territories, consider ourselves distinct from other sectors of the societies now prevailing on our territories.<sup>6</sup>

Despite this, like all First Nations in Alberta, we must enter into an impact benefit agreement (IBA), invest as a stakeholder or engage in contract opportunities to obtain *any* economic benefit from damage to our land. We are offered opportunities to invest in ageing infrastructure, like pipelines, with borrowed money. Or we are offered IBAs which invariably require us to forego our rights to object to a project, or parts thereof. In other words, IBAs are a widely used means of buying our silence before regulators. If we do not participate as stakeholders through IBAs, investments or contracting; we receive nothing.

---

<sup>2</sup> See for example, *Building Canada Act*, sections 5(7), 7 and 8; [Primer on Bill C-5](#).

<sup>3</sup> “PM Carney Outlines Bill on Nation-Building Projects & Removal of Trade Barriers” (6 June 2025), online (video): [PM Carney Outlines Bill on Nation-Building Projects & Removal of Trade Barriers | Headline Politics | CPAC.ca](#).

<sup>4</sup> Robert Hamilton, ““Get the province of Alberta in line”: Treaty Promises, Provincial Power, and the Role of Indigenous Nations in Discussions on Alberta Secession (30 May 2025), online: ABlawg, <http://ablawg.ca/wp-content/uploads/2025/05/Document29.pdf>

<sup>5</sup> Alberta Hansard, [December 7, 2022, 201](#).

<sup>6</sup> [Martinez Cobo Study](#), Study of the Problem of Discrimination Against Indigenous Populations: Final report submitted by the Special Rapporteur, Mr. José Martínez Cobo, September 2014.

No other level of government, even non-rights holding municipalities, are required to participate or invest in projects to receive royalties, taxes or other payments for the impacts of the project.

To illustrate these gross inequities between our government and settler colonial governments, take for example, Canadian Natural Resources Limited (CNRL), whose executive(s) met with Prime Minister Carney a few weeks ago. Last year (2024) this company paid \$12.3 million in taxes to the Municipal District of Greenview (which surrounds our reserve land); \$2.126 billion to Canada in royalties, taxes and fees; and \$6.384 billion to Alberta for “bonuses”, fees, royalties and taxes – all according to the *Extractive Sector Transparency Measures Act* data portal. Our Nation received nothing, despite being impacted by CNRL’s development on our territories.<sup>7</sup>

The *Building Canada Act* reinforces this grossly inequitable system.

### ***Government Revenue Sharing must be legally guaranteed in any national interest projects***

On June 21, 2025, Minister Mandy Gull Masty stated that “Indigenous Peoples are not just stakeholders – we are rights holders”.<sup>8</sup> We agree. In fact, before the Standing Committee, on June 18, we stated:

... breaches of federal duties cannot be rectified through “loan guarantees” for us to buy into projects that will ultimately destroy our land and people. This is your view of economic reconciliation. Meaning: we must abide by Canada’s economic project as willing investors, instead of participating as a Treaty partners.<sup>9</sup>

However, through the offering of loan guarantees and the proposed legislation’s sidelining of First Nations in a pan-indigenous side-bar consultation process, the government continues to treat us like stakeholders. There are no statutory or legal guarantees for our position as rightsholders on national interest projects, even if we are likely to suffer the greatest impacts. Any nation-building project must include guaranteed Government Resource Revenue Sharing<sup>10</sup> without any *quid pro quo*.

### ***Leave Essential and Public Infrastructure out of it***

The National Indian Brotherhood not for profit corporation, now referred to as the Assembly of First Nations, has suggested our critical infrastructure should be tied to the *Building Canada Act*. Similarly, some witnesses at the Standing Committee advocate for loaning money to our Nations, for projects, and advocating for such returns on investment to be then used as means to pay for and/or our build critical or essential infrastructure.

We vigorously object to these suggested uses of the *Building Canada Act* and, it should be made clear, that this is not the intention.

Our infrastructure, like all of Canada’s, should be public and publicly funded. Indeed, the Treaty and section 91 (24) of the *Constitution Act, 1867* require the Crown to fund our education and health. We agree that our services and infrastructure, including health, water treatment plants, and schools, are

---

<sup>7</sup> ESTMA [data portal](#).

<sup>8</sup> Mandy Gull Masty, June 21, 2025: <https://x.com/MandyGullMasty/status/1936478936050856385>

<sup>9</sup> Standing Committee, June 18, 2025:

<https://www.ourcommons.ca/committees/en/TRAN/StudyActivity?studyActivityId=13100297>

<sup>10</sup> See for example, Land Back, [A Yellowhead Institute Red Paper](#), October 2019.

underfunded but connecting these to national interest projects that could adversely affect our way of life is contrary to Treaty. Asking the Crown to honour their Treaty obligations is not coming with “cap in hand”, as was suggested by the Premier of Ontario most recently. It is asking the Crown to live up to its side of the bargain in the Treaty. This is another form of racism we face. Alberta and Ontario are not treated this way for asking that the federal government fulfil their constitutional obligations to their provinces.

Finally, if the government is looking to offload costs of service delivery, the first place to start would be trim their own ballooning bureaucracy under Indigenous Services Canada. We have invited and will continue to invite the Crown to consider Treaty-based funding, where our Nations would go directly to the Treasury Board Secretariat, if costs savings is the motivation.

In closing, for the reasons outlined above, stated at the Standing Committee and as outlined by our relations, we respectfully ask this Senate, Canada’s house of sober second thought, to exercise its function and help us reject this legislation.

Kinanaskomitin (thank you),

A handwritten signature in black ink, appearing to be 'S. Sunshine', written over a faint star-shaped stamp.

Chief Sheldon Sunshine  
Sturgeon Lake Cree Nation



# Sturgeon Lake Cree Nation

Chief and Council  
Meeting PCO

July 18, 2025

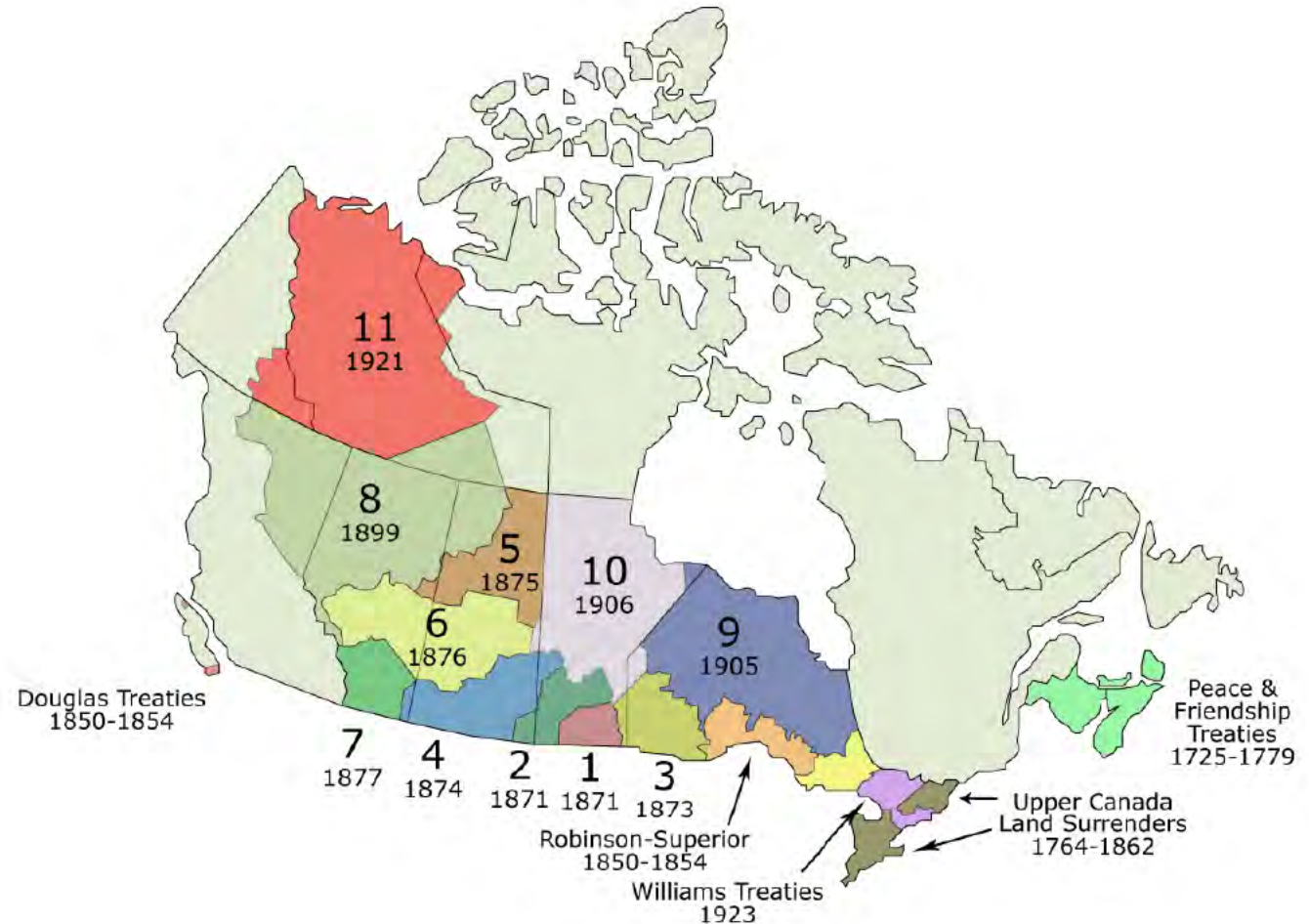


# Overview

- Treaty Relationship
- Who is Sturgeon Lake Cree Nation (SLCN)
- Duties on the Crown
- Alberta's Deficient Process
- SLCN Loss of Land and Use
- Issues with the Building Canada Act
- Recommendations

# Treaty Map

- Our Territories are vast, however, reserves are .02% of Canada's land mass, where our treaty territories cover most Canada.
- Our treaties guaranteed continued access to our territories and protection of our Rights guaranteed under s.35 of the Constitution Act.
- We are guaranteed access to our lands in our territory to continue our way of life
- We have Treaty & Inherent rights to a healthy abundance of healthy resources (wildlife, fish, medicines, etc) on lands & waters both on and off reserve in order to continue our way of life guaranteed under the Treaty and Constitution Act.



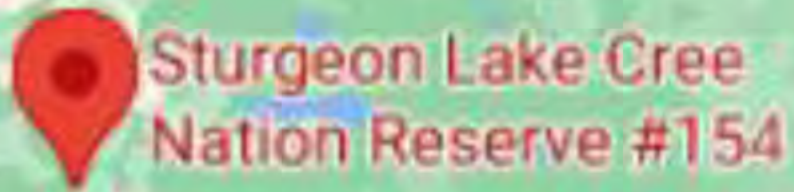
# Sturgeon Lake Cree Nation (SLCN)

Sturgeon Lake Cree Nation is located in the territory of Treaty #8 and is a signatory to that Treaty.

The Sturgeon Lake Cree Nation has three (3) reserves, Sturgeon Lake 154, 154A and 154B. It is based on the shores of Sturgeon Lake, around Calais, west of Valleyview, in what is known as North-Western Alberta.

Sturgeon Lake Cree Nation has various water bodies within the territory that are essential to our survival, where our members continue to navigate, hunt, fish, trap and require access to clean drinking water. The waters in the area are essential to sustaining the livelihood and culture that our members are so dependent on.

# Sturgeon Lake Cree Nation (SLCN)



- The Sturgeon Lake Cree Nation is governed by 1 Chief and 6 Councillors.
- First Nation is located within 50 km of the nearest service centre (Valleyview, AB) with year-round road access, 95 km southeast of Grand Prairie, and 360 km Northwest of Edmonton.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

- There is a large body of case law related to the Honour of the Crown and the Duty to Consult. We suggest you look at the following:
  - *Haida & Taku River* (2004)
    - The duty to consult arises when a government knows about, or ought to know about the potential existence of an aboriginal right and contemplates a decision that might adversely affect it. The existence of the right need not be proven.
    - The scope of the duty to consult is proportionate to an assessment of the strength of the claim
    - The SCC made clear that the “Crown alone remains legally responsible for the consequences of its actions and interactions with third parties that affect Aboriginal interests” (Haida para 53)
    - It is open to the Crown to delegate the procedural aspects of consultation to third parties; however, the Crown alone remains responsible for determining if the duty has been fulfilled.
    - The Honour of the Crown requires it to act in good faith and genuinely intend to address the concerns raised. Good faith is reciprocal. The First Nations must also act in good faith and not take unreasonable positions or sabotage the Crown’s efforts to compromise.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

- *Mikisew Cree* (2005):
  - The Supreme Court directed that the meaningful ability to exercise rights is a constitutional line that cannot be crossed, lightly or perhaps at all (paras 47 & 48) .
  - Consultation is tied into the Treaty territory of the Nation, "...a large element of the Treaty 8 negotiations were the assurances of continuity in traditional patterns of economic activity. Continuity respects traditional patterns of activity and occupation. The Crown promised that the Indians' rights to hunt, fish and trap would continue "after the treaty as existed before it" (p. 5). This promise is not honoured by dispatching the Mikisew to territories far from their traditional hunting grounds and traplines...

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

*Rio Tinto* (2010):

- In *Rio Tinto Alcan Inc. v Carrier Sekani Tribal Council*, the SCC held that the Crown may delegate its duty to consult to a tribunal, but only if the duty is conferred onto the tribunal by legislation.
- A tribunal has only those powers which are expressly or impliedly conferred on it by statute.
- If the tribunal does not have effective powers to remedy a consultation breach, or the issue is effectively divided among a number of bodies, a claimant may need to resort to the courts to address consultation issues.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

## *Clyde River (2017)*

- The Supreme Court found that the Crown had not satisfied its duty to consult and quashed the NEB approval for seismic testing in the Inuit's territory
- The Supreme Court stated that deep consultation with the Inuit required financial assistance, concluding "Had the appellants had the resources to submit their own scientific evidence, and the opportunity to test the evidence of the proponents," then consultation and the outcome may have been different.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

*Chippewas of the Thames First Nation (2019):*

- The duty to consult does not “disappear” when a project is approved through a regulatory tribunal, rather the tribunal’s approval process triggers the Crown’s duty to consult.
- A tribunal cannot approve a project until the duty is met. If an approval is granted before the duty is met, then the approval is at risk of being quashed by the court.
- If a tribunal’s powers are insufficient, or if the tribunal itself does not provide adequate consultation and accommodation, then the Crown must fulfil its duty before the project is approved.
- Importantly, the Court emphasized that Aboriginal and Treaty rights must be protected as rights, not as an afterthought to the assessment of environmental concerns.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

*Neskonlith Indian Band* (2012) BC Court of Appeal

- The British Columbia Court of Appeal ruled municipal governments do not have an independent duty to consult. Most notably, the BC court determined that such a duty would be “completely impractical” because “municipal governments lack the practical resources to consult and accommodate.”
- This observation is equally applicable to Sturgeon Lake Cree Nation who are overwhelmed by the number of requests/notices they receive and the lack of capacity and resources to handle them, while Alberta fast tracks approvals through municipalities to evade their duty to consult.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

*Saugeen First Nation (2017)* Ontario Superior  
Court of Justice

- The Court commented on the importance of funding to the consultation process. Although the Court's commentary is non-binding, it noted funding was essential to a fair and balanced process, to ensure a level playing field and reasonable efforts should be made, on both sides, to avoid funding brinkmanship.
- Ultimately, the Court determined, decisions on funding are the Crown's, as part of its design and implementation of a consultation process and its decisions on funding issues will be reviewed on a standard of reasonableness.

# Duties on the Crown – Honourability, Consultation, Mitigation, & Accommodation

- *Restoule* (2024)
  - The Supreme Court in *Restoule* found that the Treaty is a relationship – it must be honoured and renewed. There is also a duty of honourable Treaty implementation, which requires the Crown to exercise its discretion with the utmost good faith and honourably.
  - The SCC noted that treaties were “alliances of equals founded on the principles of mutual respect, mutual responsibility, reciprocity, and renewal” (para 284)
  - “Their [treaty] implementation must be guided by the honour of the Crown” (para 71)

# Alberta Defunct Consultation Process



This legislation (Bill C-5) rests on the assumption that Alberta has an independent and competent regulatory process in place. They do not.



Alberta has a deficient, biased regulatory processes and a “consultation” regime, that is currently being challenged in the Alberta Court of King’s Bench (ACFN & Mikisew)



The Alberta Energy Regulator is fully funded by industry, headed by industry and thus an industry captured regulator.



Alberta is heavily reliant on proponent led consultations abdicating its obligations to industry. Crown responsibilities on mitigations are overlooked.



Alberta is concierging project proponents in weekly meetings and handing over lands to the municipality that then becomes the project proponent to avoid consultation



Land use is not static and changes with the climate, animal movement, plant (medicine) movement, ceremonial ground disturbance, industrial development, and biodiversity. The problem is the continued loss of territory at a massive rate.



# Alberta Defunct Consultation Process

- SLCN territory is already heavily impacted by industrial development. Alberta planning additional projects (yet to be disclosed).
- Alberta is currently reviewing coal mining, pipelines, conventional oil and gas, water withdrawals, AI Data Centers, nuclear power, geothermal energy, solar/wind farms, transmission/distribution lines, which will all have detrimental adverse impacts on the rights of the First Nation.
- Neither Alberta, or Canada have done a cumulative effects assessment on the impacts to the rights of the SLCN. Approvals are simply pumped out of their consultation pipeline.
- The Sturgeon Lake Cree Nation has not been adequately consulted on the developments within their territory. It has been largely a paper exercise with no capacity funding to meet the Crown's obligations.

*Alberta's consultation policies do not address the cumulative effects of development on Treaty or Aboriginal rights.*

The policy guidelines state that stewardship of the province's natural resources is the responsibility of the Ministry of Alberta Environment and Sustainable Resources (mostly likely now the mandate of the new Ministry of Environment and Protected Areas).

This Ministry is largely responsible for regional planning. While the guidelines recognize that regional planning may require consultation, **and cumulative effects management is considered in Alberta's regional planning framework**, it is unclear when First Nations will be consulted on cumulative effects, or First Nation land use will be factored into the assessments. And at present, Alberta fetters its discretion to only consider "site-specific" impacts, ignoring the vast impacts already.

Meanwhile, only two regional plans out of seven proposed for the province are in place today where both are highly criticized for not including cumulative effects assessments. SLCN territory do not have a regional plan, nor has one been started which is a requirement under the Public Lands Act and done before Sub-Regional Plans can be finalized. This is not what Alberta is doing.

The province must undertake a Traditional Land and Resource Use planning to assess the already over industrialization of Sturgeon's territory.

# Alberta Consultation Policies

# Loss of Use Atlas (Draft 1.0)

*Sturgeon Lake Cree Nation*

Grande Prairie

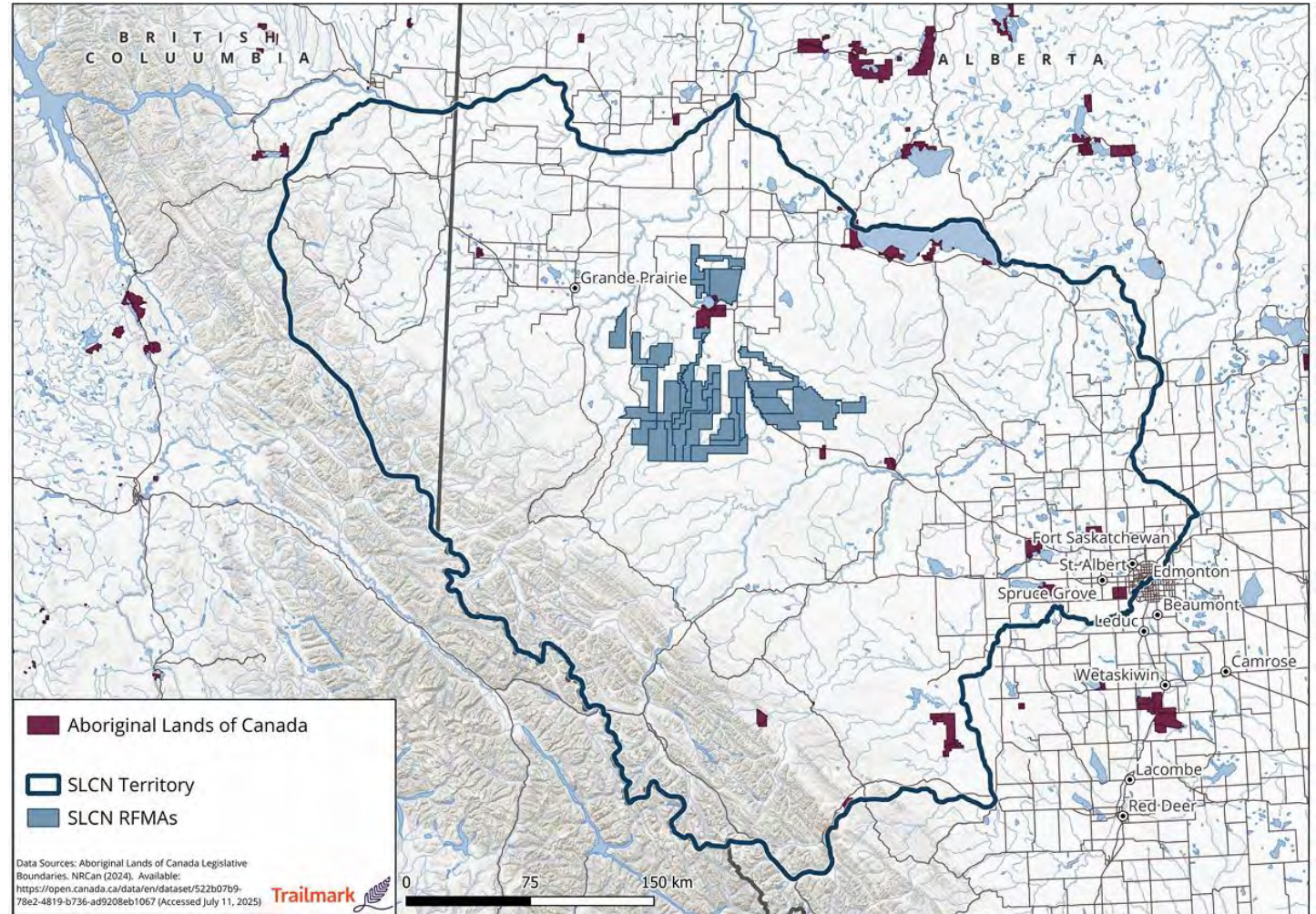
Trailmark



Fort Saskatchewan

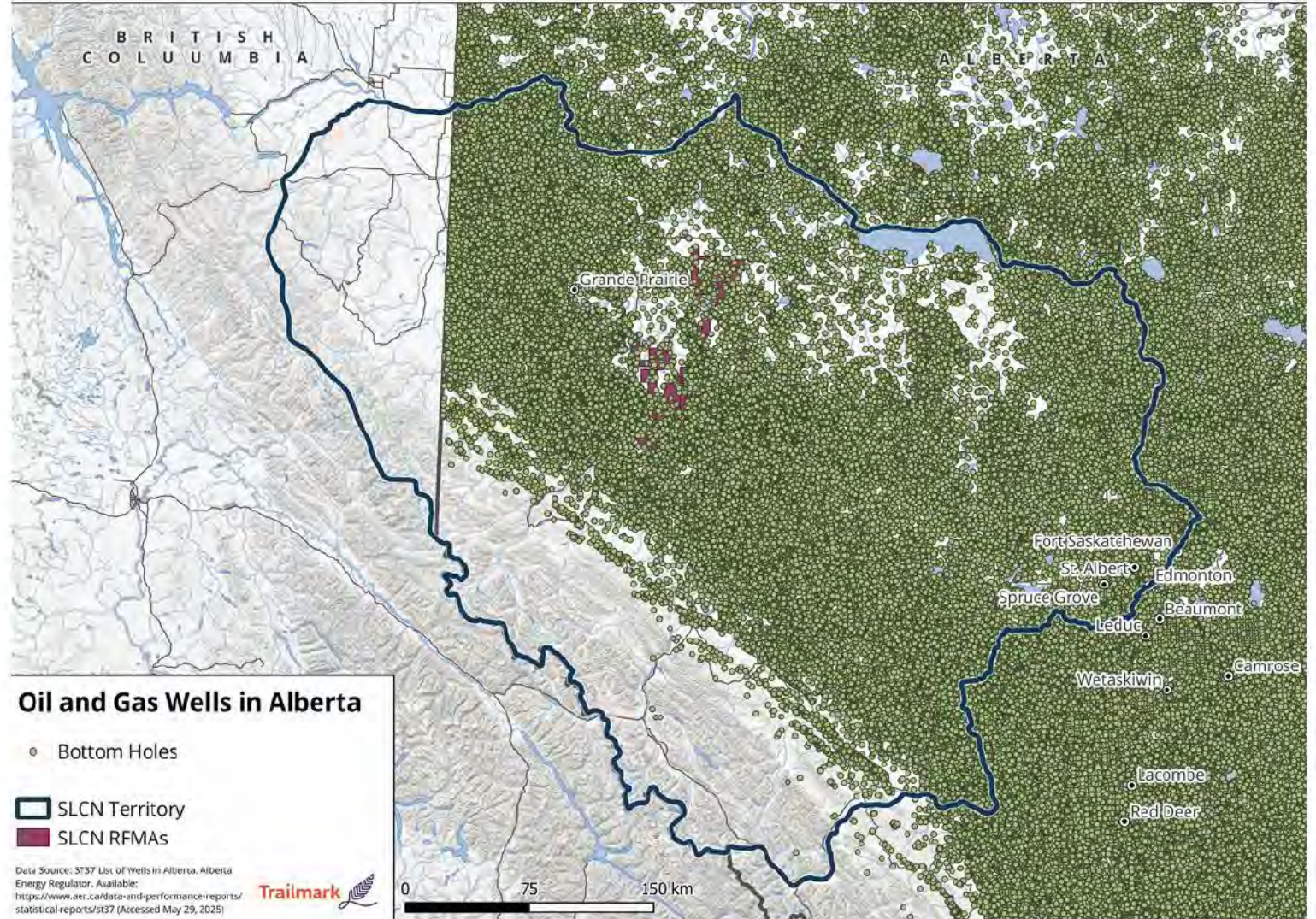
St. Albert

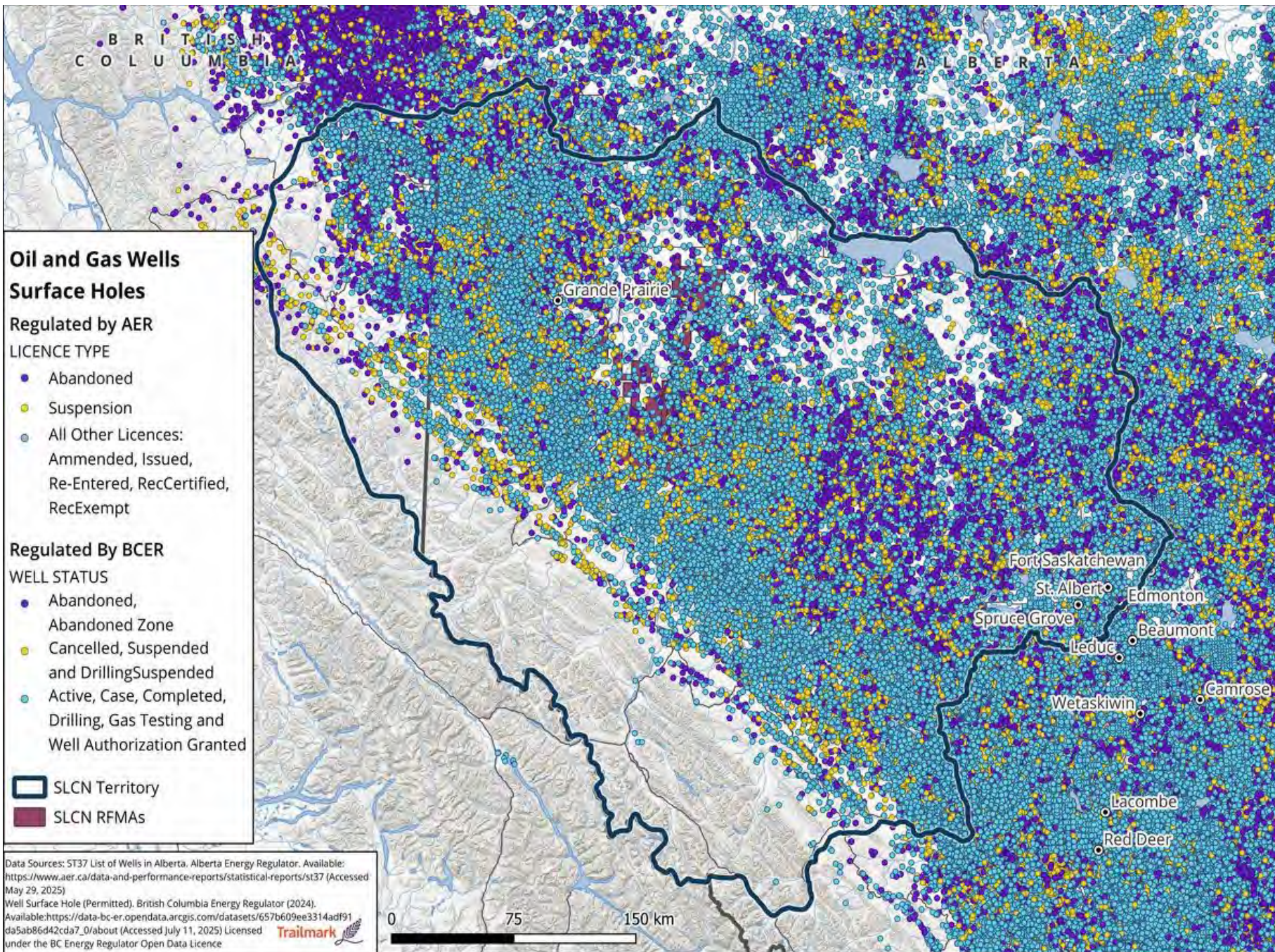
# Sturgeon Lake Treaty Use Area & Reserve Map



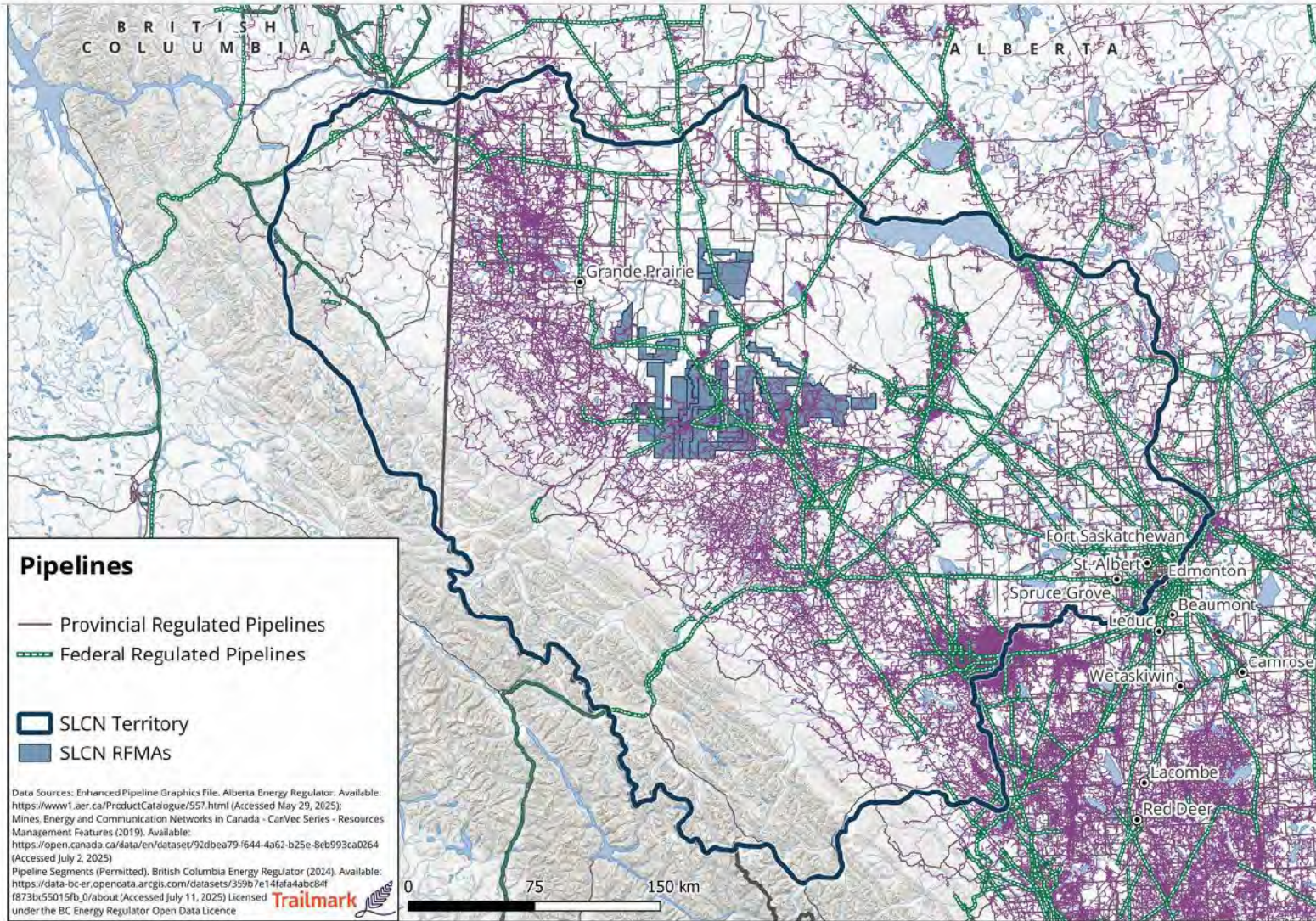
# Oil & Gas Wells in Alberta

---

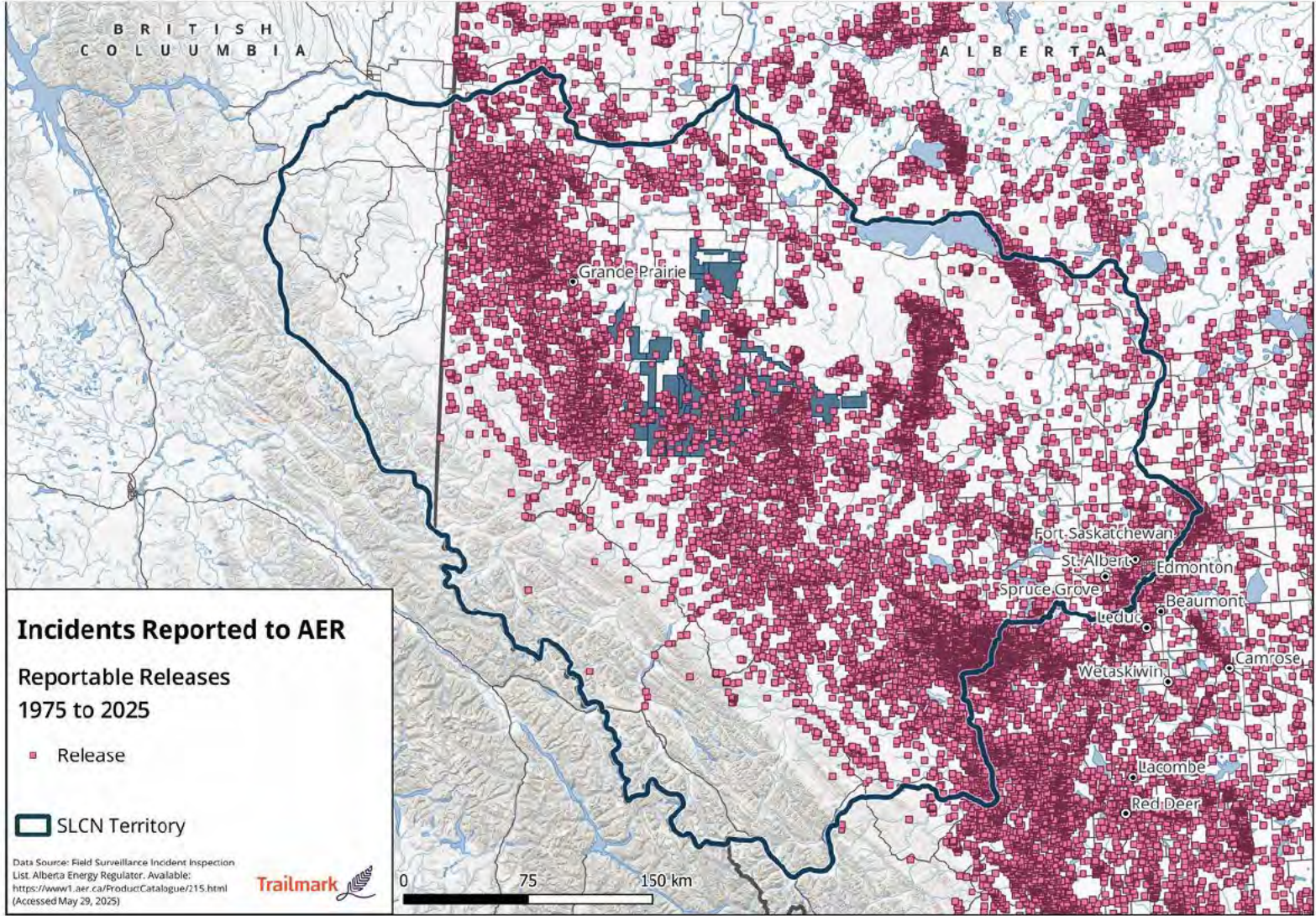




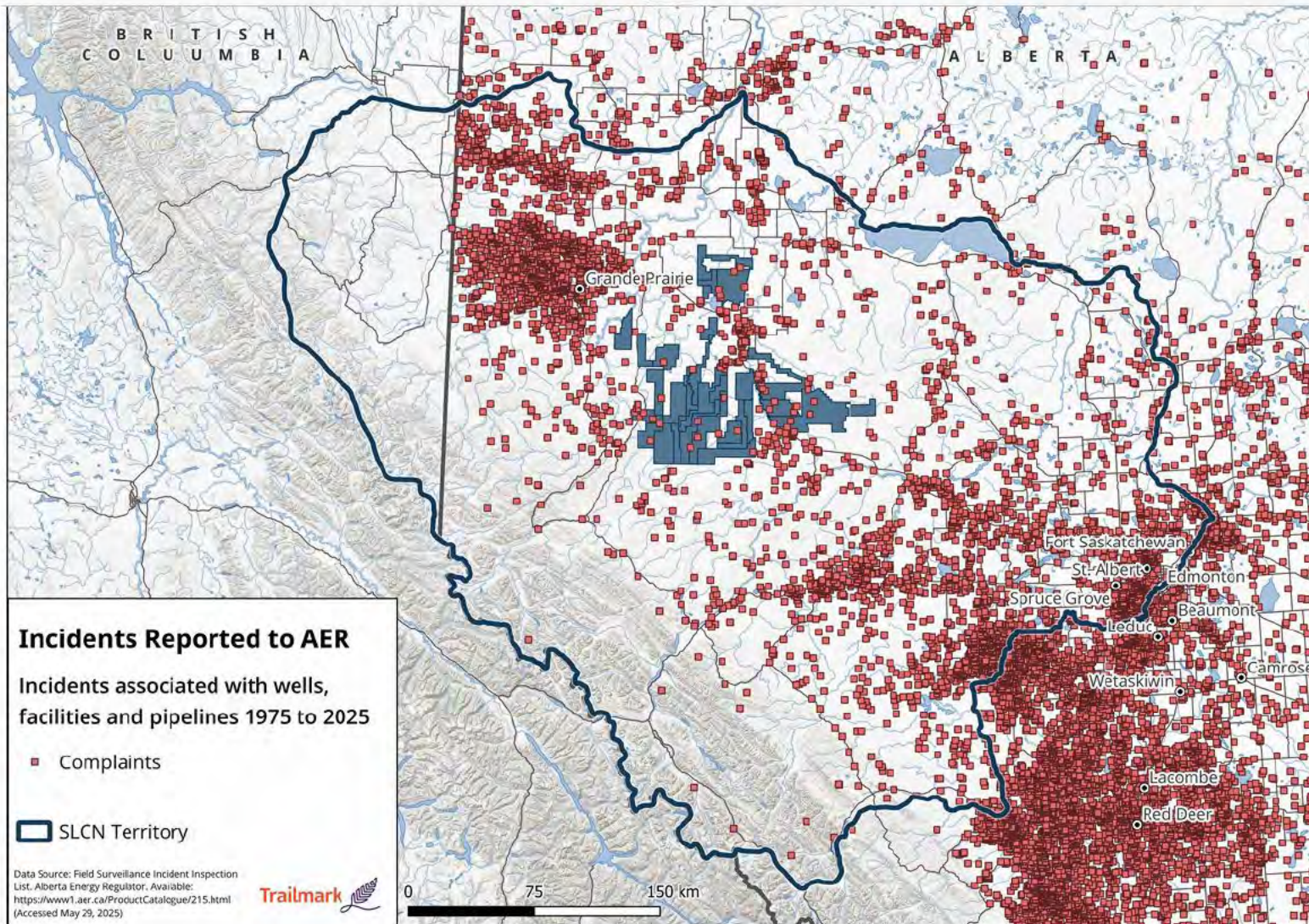
# Oil & Gas Wells by Type



# Provincial & Federally Regulated Pipelines



Self-Reported  
Incidents/Releases  
(If Reported At All)



Reported Incidents Related to Wells, Pipelines and Facilities (1976-2025)

# Some Issues with The Building Canada Act (Bill C-5)

Accelerated processes, regulatory certainty” and investor confidence cannot come at the cost of treaty obligations and rights.

This legislation is heavily reliant on provincial systems

- we are reaching a tipping point
- \$110,000 to run a Consultation office, when required base funding is much more than that

Indigenous Advisory

- Individuals appointed do not speak on behalf of the SLCN.
- Usually made up of the “elite” who have no clue on the impacts that we have already suffered, the cumulative effects of industrial development, project specific impacts or where we are even located.

Loan Guarantees is not Accommodation

- Asking us to take out loans to buy into projects is not an accommodation.
- Resource Revenue Sharing is where the conversation has to start. We are a government and should be treated as such

# Recommendations:



Obligations under Treaty to be respected. We are a government and so are you. Using AFN or other corporate/independent advisory bodies cannot be tolerated.



Treaty land use assessment and land use planning is required. This is not done in Alberta.



Full disclosure on the Alberta wish list in advance disclosure on any assessments being made



Adequate funding for Consultation Office is needed. We currently run off of \$110,000 per year and as you have seen in the maps, our territory is overrun with projects, all requiring consultation..



Alberta's process is not reliable for the reasons stated



Government Resource Revenue Sharing rather than loan guarantees.



# STURGEON LAKE CREE NATION

[WWW.STURGEONLAKE.CA](http://WWW.STURGEONLAKE.CA) 780-524-3307 BOX 757 VALLEYVIEW, AB T0H-3N0

August 15, 2025

Deborah Quaicoe  
Privy Council Office  
Ottawa, Ontario

Dear Ms. Quaicoe:

## **Re: Follow up from July 18 Meeting with Privy Council Office**

---

On behalf of Sturgeon Lake Cree Nation (SLCN), we thank you and your team for spending additional time to learn about the unmitigated cumulative effects from development on our Nation's Treaty and inherent rights and our related concerns over the implementation of the *Building Canada Act*.

We would like to receive the urgent follow-up items in advance of the fall so we can have the necessary resources in place. As a reminder, these included:

1. **Wish list** we are requesting the wish list that was discussed. We understand that this may exclude projects that are not national interest projects under Bill C5 (i.e. not requiring federal authorizations), but, with our limited resources, we very much require an understanding of what, if any, possible projects are within our territory.
2. **Capacity funding** to consider any national interest projects and to conduct Treaty land use assessments.

We are facing further extraordinary levels of development immediately adjacent to our reserve land and in the heart of SLCN's territory. Of note, we recently learned that there is a plan for lithium mining adjacent to and under our reserve without any notice to our Nation. In fact, the proponent's map delineates our reserve land and the formation and reef at "Sturgeon Lake".<sup>1</sup> Late last year, we learned about an American company (O'Leary Ventures Inc.) seeking to create an AI Data Centre in the heart of our territory. O'Leary's project is being furthered by the municipality, with the province, to evade the provincial Crown's obligations to us. [REDACTED]

---

<sup>1</sup> See for example: <https://www.lithiumbank.ca/projects/boardwalk>; Canada's own websites list this as active at Sturgeon Lake but we have not been consulted: <https://natural-resources.canada.ca/minerals-mining/mining-data-statistics-analysis/minerals-metals-facts/lithium-facts>

Both the O'Leary data centre and the Lithium Bank mine would have severe and acute impacts on the watersheds in our area, our Treaty rights, and our way of life. In fact, the United Kingdom asked citizens to delete emails to mitigate the drought that country is facing because of data centres.<sup>3</sup> It is concerning that a massive AI Data Centre is being advanced in secret, with provincial government assistance, including from the Premier.<sup>4</sup> What is more, both projects are proceeding full steam ahead, with the province acting more like a proponent than the Crown, without even basic notice to our Nation.

Furthermore, we trust that that, given the purported purpose of Bill C-5 was to combat the threat from the United States, that any national interest protects will not include foreign investment from a "hostile"<sup>5</sup> country, like Trump's America. [REDACTED]

[REDACTED]

As we stated on July 18, we have unaddressed concerns with the manner in which Bill C-5 was rammed through Parliament, and the extraordinary powers granted to the federal government under this legislation. However, we are somewhat hopeful to hear that the federal government will not proceed with a national interest project without our free prior and informed consent. Indeed, on July 17, 2025, we heard Prime Mark Carney state that, if there was no support from First Nations for a given project, Canada would find another project. We expect that the federal Crown will live up to this promise.

If these commitments are genuine, we can rely on the Crown's promise and move forward together. If, however, these words are not followed by action, we are gravely concerned about the future and the commodification of everything, including and especially our water.

We have enclosed a one-page summary of our concerns, and we are hopeful you can bring this to the attention of PCO Clerk Micheal Sabia, Deputy Clerk Christiane Fox and Prime Minister Mark Carney.

**Kinanaskomitin (thank you),**



**Chief Sheldon Sunshine  
Sturgeon Lake Cree Nation**

*cc. Council of Sturgeon Lake Cree Nation*

---

<sup>3</sup> Press Release, Government of UK National Drought Group meets to address "nationally significant" water shortfall, August 12, 2025: <https://www.gov.uk/government/news/national-drought-group-meets-to-address-nationally-significant-water-shortfall>

<sup>4</sup> SLCN Open Letter to Premier Smith January 13, 2025, available here: <https://www.sturgeonlake.ca/wp-content/uploads/2020/07/13-01-25-Chief-Sunshine-Open-Letter-Premier-Smith-Re-O-Leary.pdf>

<sup>5</sup> *Building Canada Act*, SC 2025, c 2, s 4, [s 7\(2\)\(b.1\)](#).



# STURGEON LAKE CREE NATION

[WWW.STURGEONLAKE.CA](http://WWW.STURGEONLAKE.CA) 780-524-3307 BOX 757 VALLEYVIEW, AB T0H-3N0

## Background

Sturgeon Lake Cree Nation (SLCN) is one of the largest Treaty 8 nations in what is now Alberta. We request a meeting with the Prime Minister the week of September 8 in Edmonton. We thank the Prime Minister for his commitment, communicated July 17, 2025, to find other projects if First Nation support is not forthcoming. The maps enclosed show SLCN territory and some of the devastating impacts we already face. Despite this, SLCN receives no funding or share of revenue in any of this development. We urgently require the capacity to reimagine how Canada can advance the interests of SLCN, *with us*.

### SLCN Recommendations and Issues re *Building Canada Act*

1. **Wish List:** we require the list of possible national interest projects in our territory (map included).
2. **Capacity funding:** Our Nation requires adequate capacity funding, estimated to be at least \$1 million, for technical reviews and Treaty land use assessments for consultation to be meaningful.<sup>1</sup>
3. **Get Alberta in line:** Alberta's consultation and regulatory regimes are unconstitutional, allowing the unmitigated development in the attached maps to continue. Alberta and proponents have slowed or ceased First Nation engagement since the announcement of the *Building Canada Act*.<sup>2</sup>
4. **No corporatization of consultation:** the Assembly of First Nations and any Indigenous Advisory Council cannot supplement or supplant the Crown's Treaty obligations to SLCN.
5. **Government Resource Revenue Sharing:** Loan guarantees are not mitigations. As a government and a Treaty partner, we must be treated as such, with government resource revenue sharing.
6. **Bill C-61:** Bill C-61 should be abandoned; it is anti-Treaty, was co-developed with the AFN, purports to limit our jurisdiction to reserve and fails to protect a human right to drinking water.<sup>3</sup>
7. **O'Leary Data Centre:** This project will devastate on our watershed [REDACTED] wholly unsuitable as national project.<sup>4</sup>
8. **Lithium mining:** without any notice to us, the province is backing a brine-hosted mineral mining project on the border with our reserve, and regarding a reef under our reserve.<sup>5</sup>
9. **Pipelines:** Contrary to Alberta's assertions, we have pipelines. The enclosed map's spiderwebs of pipelines we in fact constructed piecemeal to evade consultation requirements.
10. **First Nation led projects:** we would like to discuss possible First Nation led projects that will not sacrifice our water and our well-being.

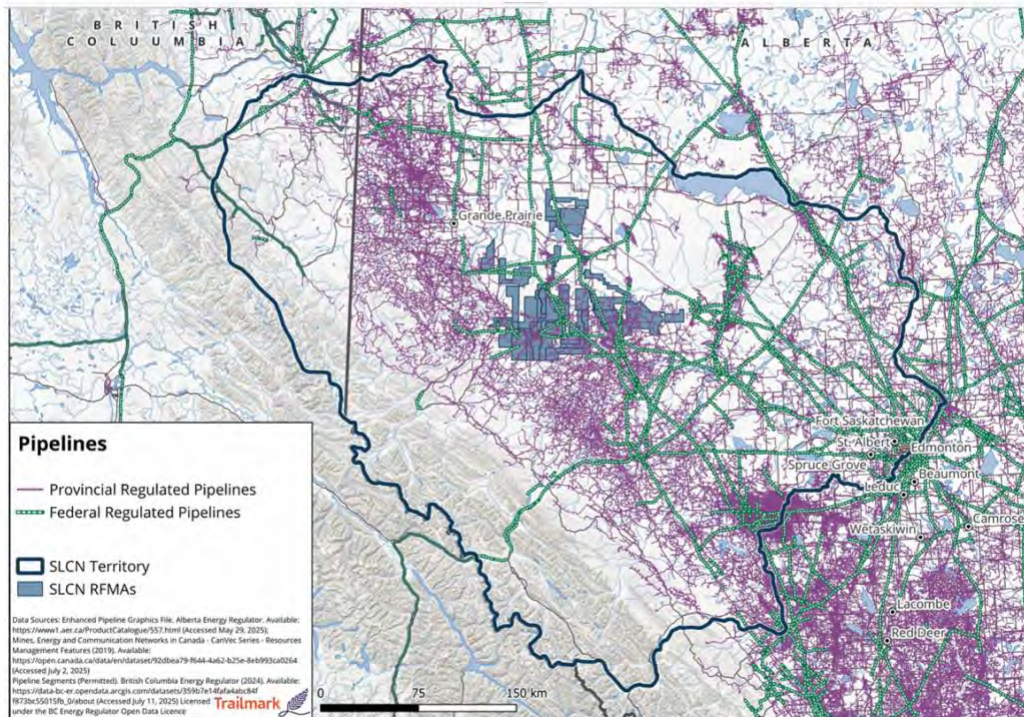
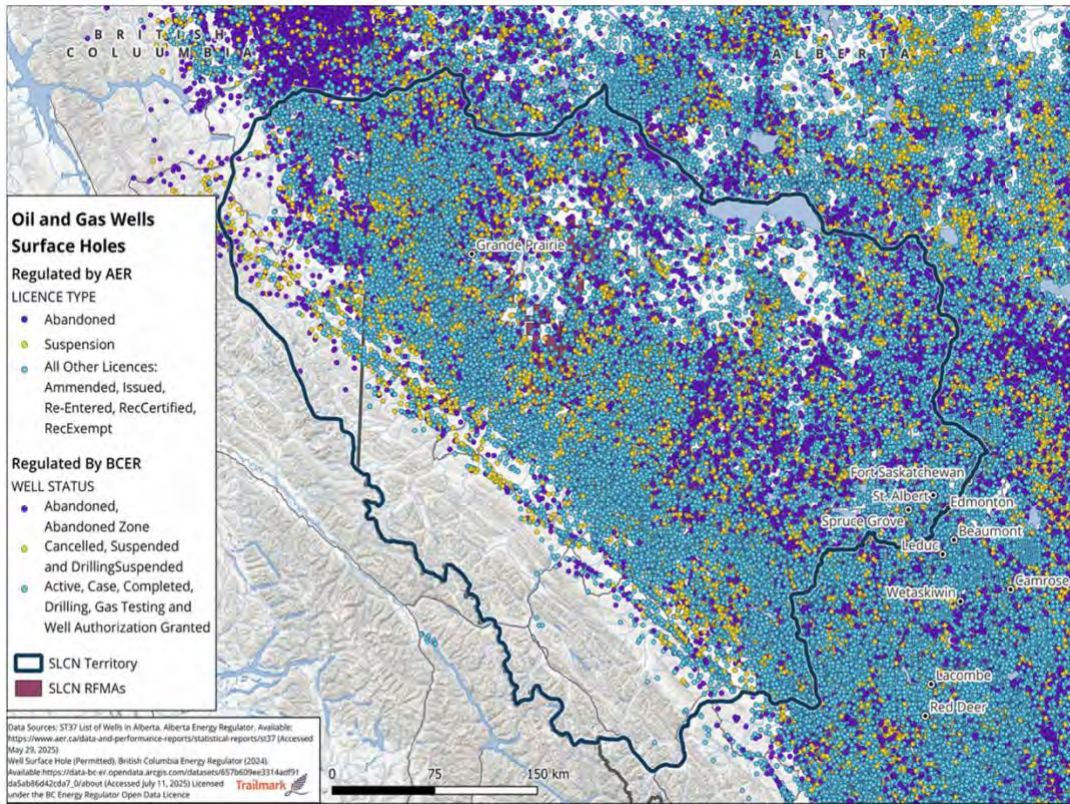
<sup>1</sup> *Saugeen First Nation v. Ontario*, 2017 ONSC 3456, at [para 25-27](#); *Clyde River*, 2017 SCC 40, at [para 52](#).

<sup>2</sup> Robert Hamilton, "Get the province of Alberta in line": Treaty Promises, Provincial Power, and the Role of Indigenous Nations in Discussions on Alberta Secession (30 May 2025), online: ABLawg, <http://ablawg.ca/wp-content/uploads/2025/05/Document29.pdf>; *Mikisew Cree First Nation v Alberta*, 2024 ABKB 578.

<sup>3</sup> SLCN opposed of the bill at Committee: <https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-115/evidence>

<sup>4</sup> *Building Canada Act*, SC 2025, c 2, s 4, [s 7\(2\)\(b.1\)](#) see our concerns: SLCN Open Letter to Premier Smith January 13, 2025, available here: <https://www.sturgeonlake.ca/wp-content/uploads/2020/07/13-01-25-Chief-Sunshine-Open-Letter-Premier-Smith-Re-O-Leary.pdf>

<sup>5</sup> See for example: <https://www.lithiumbank.ca/projects/boardwalk>.





*P.O. Box 757  
Valleyview, Alberta  
T0H 3N0  
(P)780-524-3307  
(F)780-524-2711*

August 19, 2025

The Right Honourable Mark Carney, P.C., M.P.  
Prime Minister of Canada  
Ottawa, Ontario

**Re: Follow-Up from First Nation Summit and Briefing on Sturgeon Lake Cree Nation's Priorities**

Prime Minister,

On behalf of the Sturgeon Lake Cree Nation (SLCN), I thank you for organizing the First Nation Summit in Ottawa this past July, following the passage of Bill C-5. The discussions at that gathering were vital, and your statement that Canada would not proceed with national interest projects without First Nations support provided important reassurance that the Crown intends to honour its commitments both in spirit and in practice.

Our Nation approaches this moment with a constructive outlook. We acknowledge the federal government's declared commitment to reconciliation and to ensuring that economic development respects Treaty rights, safeguards lands and waters, and promotes long-term prosperity for everyone.

It is with this perspective that I am sharing the enclosed briefing, which details our current situation and the urgent steps needed to build a respectful partnership.

In particular, the briefing highlights:

- The need for adequate capacity to meaningfully participate in consultations and conduct technical and Treaty land-use assessments;
- Clarity on national interest projects in our territory so that we can prepare appropriately and engage in good faith;
- Concerns with projects being advanced at the provincial level—including the O'Leary Data Centre and proposed lithium mining—without proper notice or engagement, and their potential impacts on our watershed and way of life; and
- Opportunities for First Nation-led projects, aligned with sustainable development and our shared responsibility to future generations.

**To this end, we respectfully request a direct meeting with you during the week of September 8 in Edmonton.** Such a discussion would provide the opportunity to chart a constructive path forward, ensuring that SLCN is a partner in shaping solutions that balance Canada's national interests with the enduring promises of Treaty 8.

Prime Minister, we are committed to working collaboratively with your government. With the proper supports in place, we believe Canada and SLCN can move together toward development that is both responsible and beneficial, upholding our Treaties while strengthening the country as a whole.

Kinanaskomitin,

A handwritten signature in black ink, appearing to be 'Sheldon Sunshine', written over a circular stamp or mark.

**Chief Sheldon Sunshine**  
Sturgeon Lake Cree Nation

cc. Council of Sturgeon Lake Cree Nation



## STURGEON LAKE CREE NATION

[WWW.STURGEONLAKE.CA](http://WWW.STURGEONLAKE.CA) 780-524-3307 BOX 757 VALLEYVIEW, AB T0H-3N0

October 17, 2025

### VIA ELECTRONIC MAIL

Andrew Horton  
Assistant Deputy Minister  
Environmental and Protected Areas  
10<sup>th</sup> Floor, South Petroleum Plaza  
9915-108 Street NW  
Edmonton, AB T5K 2G8

Dear Mr. Horton:

**Re: Upper Smoky Sub-regional Plan**

---

Further to my correspondence of September 29, 2025, I write on behalf of the Sturgeon Lake Cree Nation (“**SLCN**” or “**Nation**”) to convey our significant concerns with the Province of Alberta’s (“**Province**”) development of the draft Upper Smoky Sub-regional Plan (the “**Smoky Sub-regional Plan**” or “**Plan**”). Given the capacity constraints referenced in our previous correspondence, the below discussion is necessarily high-level and does not represent a complete accounting of all the concerns our Nation has with this initiative.

#### **I. Lack of Jurisdiction**

We have previously raised concerns with your Ministry regarding the prematurity of developing the Smoky Sub-regional Plan given the lack of any progress in preparing and developing the Upper Peace Regional Plan (“**UPRP**”).<sup>1</sup> In response, your September 18, 2025, correspondence asserts that the Province is “proposing to temporarily incorporate the [Smoky Sub-regional Plan] as an amendment to the South Saskatchewan Regional Plan until the [UPRP] comes into effect.” In support of this approach, you allege that “the *Alberta Land Stewardship Act* (“**ALSA**”)<sup>2</sup> does not require a sub-regional plan to be in the same area as the regional plan it is incorporated under” and further assert that “this approach will not affect the implementation of any of these plans.”

SLCN strongly disagrees. With respect, the Province’s proposed approach finds no support in the actual wording of *ALSA*, contradicts the statute’s purpose and intent, and completely undermines the broader effectiveness of regional land use planning. We expand on each of these points below.

---

<sup>1</sup> See Government of Alberta, Land Use Secretariat, Upper Peace Region, online: <<https://landuse.alberta.ca/RegionalPlans/UpperPeaceRegion/Pages/default.aspx>>.

<sup>2</sup> *Alberta Land Stewardship Act*, SA 2009, c A-26.8 [*ALSA*].

a. *No Statutory Authority*

First, there is no authority in *ALSA* that allows the Province to (1) prepare and implement a sub-regional plan before its overarching regional plan has also been implemented; or (2) “temporarily” incorporate a sub-regional plan under a regional plan for an entirely different planning region. Part 1, Division 2 of *ALSA* clearly indicates that the contents of a regional plan must focus on the specific planning region the regional plan applies to,<sup>3</sup> and the statutory power to create sub-regional plans explicitly provides that once a sub-regional plan comes into effect it becomes a part of the regional plan that authorized it.<sup>4</sup> This indicates a clear statutory intention for the creation of a regional plan to occur first, and then for the corresponding sub-regional plans that fall within that area to be developed in accordance with the policies, criteria and thresholds set out in the applicable regional plan. As discussed in the next section, any alternative interpretation is contrary to the policy that underpins the statute.

b. *Contrary to Policy*

As you know, *ALSA* is built upon and implements the land management strategies set out in the *Land-use Framework* (“*Framework*”).<sup>5</sup> The *Framework* articulates the Province’s vision for the future of Alberta’s land management processes through the identification of several key strategies, the first of which was the creation of a regional land use planning system that divided Alberta into seven regions and required that all land use decisions be based on regional considerations. The *Framework* contemplates that a regional plan will be developed for each region, and that the regional plan will articulate a vision for development that achieves the *Framework*’s objectives while addressing the region’s unique economic and environmental issues. Regional plans are to be based on a minimum 50-year planning horizon and may include subregional or issue-specific plans that address specific land use issues in that region.<sup>6</sup>

This approach is perfectly exemplified in the Terms of Reference for the Lower Athabasca<sup>7</sup> (“*LARP*”) and South Saskatchewan<sup>8</sup> Regional Plans (“*SSRP*”), both of which focus on the vision to be incorporated into each respective planning region. Neither Terms of Reference, nor the terms of the *LARP*<sup>9</sup> nor *SSRP*<sup>10</sup> themselves, contemplate the possibility of addressing sub-

<sup>3</sup> See for e.g. *ALSA*, ss 7(a)-(b), 8(1), 8(2)(a)-(c), (e).

<sup>4</sup> *ALSA*, s 10(1)-(3).

<sup>5</sup> Government of Alberta, *Land-use Framework* (2008), online: < <https://open.alberta.ca/dataset/30091176-f980-4f36-8f5a-87bc47890aa8/resource/bc4b3fac-5e59-473b-9a99-1a83970c28e7/download/4321768-2008-land-use-framework-2008-12.pdf>>.

<sup>6</sup> Alan Harvie and Trent Mercier, *The Impact of the Alberta Land Stewardship Act*, Alberta Law Review: Vol 48, No 2: Petroleum Law Edition at 296-299 [Harvie and Mercier]; Government of Alberta, *Land-use Framework* (Edmonton: Alberta Sustainable Resource Development, 2008), online: < <https://open.alberta.ca/publications/9780778577140>>.

<sup>7</sup> Government of Alberta, *Terms of Reference for Developing the Lower Athabasca Regional Plan* (2009) at 3-4, online:< [https://landuse.alberta.ca/Documents/LARP\\_Phase\\_1\\_Terms\\_of\\_Reference\\_for\\_Developing\\_the\\_Lower\\_Athabasca\\_Regional\\_Plan-P1-2009-07.pdf](https://landuse.alberta.ca/Documents/LARP_Phase_1_Terms_of_Reference_for_Developing_the_Lower_Athabasca_Regional_Plan-P1-2009-07.pdf)>.

<sup>8</sup> Government of Alberta, *Terms of Reference for Developing the South Saskatchewan Region* (2009) at 3-5, online:< <https://open.alberta.ca/dataset/f1e2f9d8-3df9-4edf-b819-36257704033b/resource/c7493a2b-1a1f-4005-be24-1dc1b2c2f297/download/terms-of-reference-for-developing-the-south-saskatchewan-region-2009-11.pdf>>.

<sup>9</sup> Government of Alberta, *Lower Athabasca Regional Plan, 2012-2022*, online:< [https://iaac-aeic.gc.ca/050/documents\\_staticpost/59540/82534/Lower\\_Athabasca\\_Regional\\_Plan.pdf](https://iaac-aeic.gc.ca/050/documents_staticpost/59540/82534/Lower_Athabasca_Regional_Plan.pdf)> [*LARP*].

<sup>10</sup> Government of Alberta, *South Saskatchewan Regional Plan, 2014-2024*, online: <https://open.alberta.ca/dataset/13ccde6d-34c9-45e4-8c67-6a251225ad33/resource/e643d015-3e53->

regional planning issues from an area outside of each planning region. Both the LARP<sup>11</sup> and the SSRP<sup>12</sup> focus entirely on the long-term vision and the desired objectives for the Lower Athabasca and South Saskatchewan regions, respectively.

*c. Undermines the Purpose of the Legislative Framework*

In addition to contradicting *ALSA* policy, the Province's interpretation of the power to create sub-regional plans undermines the purposes of the statute and the effectiveness of regional land use planning more generally.

Section 1 of *ALSA* sets out the purposes of the legislation. These purposes are reinforced in both the LARP and the SSRP, the latter of which (1) sets desired economic, environmental and social outcomes for the region; (2) describes the strategies, actions and tools required to achieve the desired outcomes; (3) uses a cumulative effects management approach to balance economic development opportunities and environmental considerations; (4) establishes monitoring, evaluation and reporting commitments to assess progress; and (5) provides guidance to provincial and local decision-makers regarding land-use management.<sup>13</sup>

Given the purposes of both *ALSA* and the SSRP, several questions immediately become apparent. How can the Plan provide for and support the co-ordination of decisions by decision-makers when there have been no desired economic, environmental and social outcomes set for the Upper Peace Region (“**Region**”)? Further, how can the Plan enable sustainable development when there have been no strategies, actions and tools established to achieve the Region's desired outcomes? And perhaps most importantly to SLCN, how can the Plan consider and respond to the cumulative impacts of that development (especially on Aboriginal and Treaty rights) when there have been no monitoring, evaluation and reporting requirements established for the Region to assess progress?

The answer is that it is impossible. Despite the Province's repeated assertions that sub-regional planning can manage the cumulative effects of resource development, there is no functional cumulative effects management framework in the Plan and it does not include any ecological baselines, thresholds, or mechanisms to assess and limit total disturbance across sectors. The Plan also (1) is primarily oriented around facilitating industrial activity, with minimal regard for ecological thresholds or habitat conservation; and (2) conducts planning on a sector-by-sector basis without meaningful integration or consideration of landscape-scale impacts. In short, the Province's purported attempt to prepare a sub-regional plan in the absence of an appropriate regional plan is more than simply misaligned with the purposes of *ALSA* – it actively contradicts and undermines them.

## **II. Breach of the Duty to Consult**

In addition to lacking the jurisdiction to enact the Smoky Sub-regional Plan as currently proposed, the Province has also failed in its duty to consult with and accommodate SLCN in the Plan's development.

---

4950-99e6-beb49c71b368/download/south-saskatchewan-regional-plan-2014-2024-may-2018.pdf [SSRP].

<sup>11</sup> See for e.g. *LARP*, *supra* at 2-3.

<sup>12</sup> See for e.g. *SSRP*, *supra* at 1-2.

<sup>13</sup> *SSRP*, *supra* at 2.

Development of the Smoky Sub-regional Plan is a “strategic, high-level decision” that clearly triggers the Province’s duty to consult with SLCN because of the Plan’s potential impacts on the exercise of our Nation’s Aboriginal and Treaty rights.<sup>14</sup> Indeed, the Plan encompasses an area that includes the heart of our traditional territory, and the Plan will have a significant impact over how and where development will occur on our lands. This necessitates consultation with SLCN at the deepest end of the *Haida* spectrum.<sup>15</sup>

However, the Province has not discharged its duty to this standard or even a less stringent one. The Province has made no effort to engage directly with SLCN to understand the nature of our rights or discuss the degree to which the Plan may impact our community’s ability to exercise them.<sup>16</sup> Instead, the Province has held several high-level, “note-taking” sessions where attendees were simply offered a chance to “blow off steam” without any opportunity for meaningful two-way dialogue with actual decision-makers.<sup>17</sup> Moreover, at the conclusion of these sessions, the Province combined its public engagement and purported consultation processes into one, 90-day comment period that (1) ignored the fact that the duty to consult is qualitatively different than public engagement because it is a constitutional duty owed solely to Indigenous peoples; and (2) was practically unworkable given the present demands on, and lack of capacity in, our consultation department. In the circumstances, the severity of the impacts that the Plan will foster on our traditional territory, and the significant obligations the honour of the Crown imposed on the Province as a result, demanded much more.<sup>18</sup>

### III. Substantive Concerns

Finally, the Smoky Sub-regional Plan is plagued with numerous substantive issues that, among other things, actively undermine the recovery of key caribou populations and render the Province unable to uphold its Treaty obligations.

For example, the Province recently entered into a conservation agreement with the federal government affirming the Province’s obligation to protect caribou habitat (“**Conservation Agreement**”)<sup>19</sup> and has since identified sub-regional planning as the framework through which these commitments would be implemented.<sup>20</sup> However, the Plan does not even acknowledge

---

<sup>14</sup> *Rio Tinto Alcan Inc v Carrier Sekani Tribal Council*, 2010 SCC 43 at para 44 [*Rio Tinto*]; *Tsuu T’ina Nation v Alberta (Environment)*, 2010 ABCA 137 at para 55 [*Tsuu T’ina*].

<sup>15</sup> *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73 at para 44 [*Haida*].

<sup>16</sup> *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at para 45 [*Clyde River*]; *West Moberly First Nations v British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247 at para 151 [*West Moberly*].

<sup>17</sup> See for e.g. *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69 at para 54 [*Mikisew*]; *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153 at paras 558, 562, 575, 599, 605 [*Tsleil-Waututh*].

<sup>18</sup> *Mikisew*, *supra* at paras 51 and 57; *Manitoba Metis Federation Inc v Canada (Attorney General)*, 2013 SCC 14 at para 75 [*Manitoba Metis*]; *Yahey v British Columbia*, 2021 BCSC 1287 at paras 1788-1805 [*Yahey*]; *Haida*, *supra* at paras 16-17, 45

<sup>19</sup> Agreement for the Conservation and Recovery of the Woodland Caribou in Alberta (October 2020), online: <<https://open.alberta.ca/dataset/40a40950-f210-4a37-b2a1-e274a9c75a48/resource/9d5326f4-0f3a-4aef-b0a2-d6fabcb8439b4/download/aep-agreement-for-the-conservation-and-recovery-of-the-woodland-caribou-in-alberta-2020.pdf>>

<sup>20</sup> Government of Alberta, *First Report on the implementation of the section 11 agreement for the conservation and recovery of the woodland caribou in Alberta*, (2024) at page 4, online: <<https://open.alberta.ca/dataset/5c14fb5a-0a21-40ab-adaf-a5956fb749a9/resource/d97ae4cf-71fa-4f46-9b28-cbb295e20944/download/epa-first-report-implementation-section-11-agreement-conservation-recovery-woodland-caribou-2024.pdf>>.

caribou recovery as a planning objective or contain measures to limit new disturbances in critical areas, and contains no binding commitments to habitat protection that would ensure the maintenance or restoration of caribou habitat. Instead, the Plan allows for continued logging and industrial expansion in key habitat areas<sup>21</sup> and permits uses in designated “Nature First” areas that are incompatible with caribou conservation. The Plan therefore fails to meet even the basic requirements of the Conservation Agreement and, if adopted, will ensure the continuing loss of southern mountain caribou in the Region.

The Plan is also the first attempt the Province has made at regional land-use planning in our traditional territory since the British Columbia Supreme Court (“**BCSC**”) issued its decision in the *Yahey* litigation.<sup>22</sup> As you are likely aware, the BCSC found that British Columbia’s power to take up lands under Treaty 8 is not infinite, and held that BC’s conduct in allowing industrial development in Blueberry River First Nation’s (“**Blueberry**”) territory at such an extensive scale without assessing the cumulative impacts of that development and ensuring that Blueberry could still meaningfully exercise its treaty rights breached the terms of Treaty 8.<sup>23</sup>

Blueberry is located immediately west of SLCN and their traditional territory borders on our own. Despite this geographic reality, and the clear implications of the BCSC’s findings, the Plan does not (1) include any assessment of impacts on treaty rights or First Nations-led criteria that would ensure the continued maintenance of Indigenous land use; or (2) acknowledge that the terms of Treaty 8 necessarily create a hard limit on the extent of future industrial development. To the contrary, and as noted above, the Plan is focused almost entirely on facilitating the Province’s goal of “doubling oil and gas production”<sup>24</sup> and fails to create any type of functional cumulative effects management framework or thresholds to assess and properly limit the extent of that development. The result is that the Plan perpetuates the same narrow, fragmented approach to the regulation and approval of industrial activities (and the same breaches of the Crown’s legal and fiduciary obligations) that the Court in *Yahey* so clearly denounced.

#### **IV. Conclusion and Call for Action**

The Smoky Subregional Plan is dramatically inadequate and deeply flawed. In addition to being developed without proper jurisdiction and in breach of the Crown’s duty to consult, the Plan contradicts and undermines the purposes of *ALSA*, actively facilitates the continued destruction of Alberta’s threatened caribou population, and makes no attempt at developing a cumulative effects management framework that ensures the protection of Aboriginal and Treaty rights. The Plan is clearly a rushed attempt to advance the Province’s agenda for aggressive industrial expansion and, in our view, cannot be salvaged through simple revision.

As a result, SLCN calls on the Province to halt its finalization of the Plan and immediately begin engagement on the preparation of the UPRP with a clear mandate to observe and satisfy the duty to consult, support responsible land-use decision making, and uphold the Crown’s fiduciary obligations. Only then can the Province return to redrafting a version of the Plan that builds upon and complements the objectives and criteria set out in the UPRP, supports caribou

---

<sup>21</sup> See for e.g. CPAWS Northern Alberta, “Proposed Alberta government plan would wipe out two southern mountain caribou populations”, (March 26, 2025), online: <<https://cpawsnab.org/all-news/proposed-alberta-government-plan-would-wipe-out-two-southern-mountain-caribou-populations/>>.

<sup>22</sup> *Yahey v British Columbia*, 2021 BCSC 1287 [*Yahey*].

<sup>23</sup> *Yahey*, *ibid* at para 3.

<sup>24</sup> See for e.g. Government of Alberta, Upper Smoky Sub-regional Plan, (March 2025) at 5, 6, and 16, online: <<https://www.alberta.ca/system/files/epa-draft-sub-regional-plan-upper-smoky-plan.pdf>>.

recovery and ensures that Indigenous peoples can continue to exercise their Aboriginal and Treaty Rights for generations to come.

It is with a profound sense of urgency that we make this request. There are nearly 93,000 existing well sites (and counting) within SLCN's traditional territory, a number that, in our estimation, equates to approximately one well set for every 1.6 square kms of land. This development has occurred without any effective regional land use planning mechanism in place, and we have been forced to watch as the wildlife, plants and waters that we rely upon to support our well-being have slowly disappeared or been destroyed. The Province has before it an opportunity to initiate a regional land use planning process that aligns with the spirit and intent of *ALSA* and upholds the Crown's sacred treaty obligations. SLCN's rights and very way of life are at stake, and we implore this government to chart a new path that advances reconciliation rather than perpetuating the status quo.

Thank you for your consideration and we look forward to your prompt response.

**Kinanaskomitin,**

A handwritten signature in black ink, appearing to be 'S. Sunshine', written over a vertical line.

**Chief Sheldon Sunshine**

Cc: SLCN Council  
Doreen Cardinal, Advisor, SLCN  
Dana Goodswimmer, Consultation Director, SLCN  
Eamon Murphy and Francco De Luca, Woodward and Company Lawyers LLP  
Orlagh O'Kelly, O'Kelly Law



**P.O. Box 757  
Valleyview, Alberta  
T0H 3N0  
(P)780-524-3307  
(F)780-524-2711**

February 20, 2026

Via Email: [martin.foy@aer.ca](mailto:martin.foy@aer.ca)

Alberta Energy Regulator  
Suite 1000, 250 – 5th Street SW  
Calgary, AB T2P 0R4

**Attention: Martin Foy, Chief Operations Officer**

Dear Mr. Foy:

**Re: Paramount Pipeline Release in Sturgeon Lake Cree Nation Territory**

---

I write on behalf of Sturgeon Lake Cree Nation (“**SLCN**” or “**Nation**”) in response to the Paramount Resources Ltd. (“**Paramount**” or the “**Company**”) pipeline release (Incident 20251538) that occurred in our territory on or around July 3, 2025 (the “**Release**”).

Our Nation’s community members exercise their constitutionally protected Aboriginal and Treaty rights within and in the immediate vicinity of the Release-area, and the potential impacts of the Release on the exercise of those rights and on the health and safety of SLCN’s members is significant. Despite this, neither Paramount nor the Alberta Energy Regulator (“**AER**” or “**Regulator**”) has provided SLCN with the information we require to assess the environmental and health risks arising from the Release. We therefore urgently request clarification and documentation from the AER regarding the public health management actions, remedial action plan/framework, and monitoring data available in response to the Release as set out in further detail below.

**I. The Release Impacts SLCN’s Aboriginal and Treaty Rights and Poses a Significant Risk to Human Health**

SLCN relies on the lands and waters surrounding Fox Creek for cultural practices, harvesting, community wellness, and the passing down of traditional knowledge. When spills or leaks occur on these lands, especially into creeks, wetlands, or forested areas used for hunting, trapping, and gathering, they directly impact SLCN members, land users, and our Nation’s future generations.

Between July and November, 2025, Paramount provided SLCN with intermittent updates in relation to the Release that included general, high-level descriptions of remediation actions and accompanying photographs. These updates did not provide SLCN with essential information such as air, surface water, sediment, soil, and groundwater monitoring data, or wildlife assessments that would enable the Nation to fully understand the risks posed by the Release or whether Paramount’s cleanup and recovery actions have been adequate in protecting our community members from chemical exposure.

Given this lack of information, SLCN requested additional documentation from both Paramount and the AER in December 2025. Paramount provided us with some of its monitoring data. The AER provided SLCN with two weekly release updates from earlier in December but has since failed or refused to provide anything more.

Based on our review of the documentation that Paramount and the AER have provided, along with other publicly available information, it is our understanding that there have been six reported releases from this pipeline in the Fox Creek area since 2016. We also understand (1) that Paramount has updated the size of the Release to 888 m<sup>3</sup> (a more than one hundred times increase in what the Company initially reported to the Regulator); (2) that the Release has entered and impacted Pass Creek, a sacred area for our Nation; (3) that any contamination currently present in Pass Creek poses a significant risk to fish and fish habitat, makes the water unsafe to consume, and may potentially migrate to other areas downstream; and (4) that acute inhalation risks from exposure to elevated benzene concentrations in ambient air, to the extent that respiratory protection was necessary, were reported to the AER but not to our Nation.

We therefore have significant concerns about the integrity of this pipeline, the Release's potentially severe impacts on our Nation's lands and land users, and both Paramount's and the AER's troubling lack of transparency in providing our Nation with the information we need to adequately understand the implications of the Release and respond accordingly.

## **II. Documentation Required for SLCN to Consider Health Impacts and Ensure Protection of Aboriginal and Treaty Rights**

To enable us to protect our land users, both the AER and Paramount must keep SLCN diligently apprised of remedial work and environmental conditions, including the Company's assessment of remedial options. SLCN therefore urgently requests the following information and documentation from the Regulator:

### **a. Management Actions for Documented Contamination**

The December 7-10, 2025, weekly update provided by the AER indicates that benzene concentrations exceeded 15-minute occupational exposure thresholds, necessitating the use of respiratory protection for onsite workers. Monitoring data have also identified hydrocarbon sheen and exceedances of chemical parameters in Pass Creek surface water and sediments on public lands.

Given these conditions, and that the area is not under any government or Regulator-directed land use restrictions, **SLCN requests a clear description of the management actions the AER is requiring Paramount to implement to address documented contamination of off-lease ambient air and surface water, specifically measures intended to prevent exposure of the public and Indigenous land users.**

### **b. Remedial Objectives and Performance Criteria**

It is our understanding that remedial activities are progressing. Despite this, Paramount has refused to provide a Remedial Action Plan ("RAP") and Risk Management Plan ("RMP"), asserting that they are not currently available.

This information is of critical importance to SLCN, as the area impacted by the Release represents a land-use context that is more sensitive than the general land and water use categories typically

considered under Alberta surface water, sediment, and soil quality guidelines. Per Alberta's contaminated sites policy and associated guidance,<sup>1</sup> site-specific remedial objectives are necessary to ensure that concentrations of chemical substances associated with the Release do not pose a risk to the most sensitive land use, in this case the potential risk of bioaccumulation in traditional foods and medicines or untreated drinking water sources consumed by community members.

At present, it is not clear whether Paramount is considering Indigenous land-use activities and exposure pathways or whether the AER has directed their inclusion in the assessment of remedial performance. **SLCN therefore requests the conceptual site model (CSM), remedial objectives, performance indicators, and criteria being applied or proposed to guide remedial activities and determine when reclamation may begin, including the RAP and/or RMP if Paramount has submitted these to the AER.**

c. Monitoring Data and Weekly Updates

Timely access to monitoring results and regulatory updates is essential for SLCN to understand current environmental conditions, evaluate potential risks to community health and traditional land use, and meaningfully participate in ongoing regulatory and remediation processes.

**SLCN therefore requests (1) all monitoring data collected since December 2025; (2) all weekly updates/situational reports Paramount has submitted to the AER since July 2025 in relation to this Release; and (3) a commitment that the AER will provide, on a timely basis, all weekly updates the Company submits to the Regulator in respect of this Release going forward.**

**III. Timeliness and Transparency are Critical to Ensuring Our Safety and Upholding the Honour of the Crown**

As noted, we previously requested monitoring data, weekly updates and other relevant information from both Paramount and the AER but neither the Company nor the Regulator have provided the documentation requested. Paramount has stopped engaging with us entirely and has directed all communications through its legal counsel. After initially committing to providing us with weekly updates as well as the AER's full record in relation to the Release, the Regulator suddenly reversed course, with various staff either ignoring our correspondence, directing us to file an Access to Information Request ("**ATI Request**") or indicating that they would need to get advice from the AER's legal counsel on what information is appropriate to share. We have received no further updates or responses to our questions since we were advised that the Regulator's staff would be consulting with the AER's law branch the week of January 6, 2026.

The AER's mandate requires it to regulate the protection of the environment in the public interest. In carrying out that mandate, the Regulator must also uphold the honour of the Crown. Requiring our Nation to submit an ATI Request for information that is already on the public record, readily accessible and necessary for SLCN to ensure that our land users can safely access our own lands is contrary to both of those objectives and completely unacceptable. There are contaminants present in concentrations that pose acute and chronic risks in an area of our territory that is sacred to our people and forcing us to engage in unnecessary hurdles and months of procedural delays just to obtain the basic information we need to protect our people's safety is, quite simply, not honourable. Our Nation is clearly directly and severely impacted by this Release, and we **must** have timely disclosure to ensure

---

<sup>1</sup> See for e.g. Alberta Tier 2 Soil and Groundwater Remediation Guidelines, section 4.1.

that we can mitigate health risks and ensure that our Aboriginal and Treaty rights are properly considered in the remediation process.

#### **IV. Conclusion**

The AER does not have a good track record when it comes to transparency in the disclosure of critical information. We do not feel it is necessary to recite the details of the Imperial Kearn disaster or to reiterate the harm that the Regulator caused to Indigenous communities by failing to disclose the existence of that release. We do however re-emphasize the AER's subsequent apology and promise to do better in the aftermath of that situation.<sup>2</sup>

The information we have requested in this correspondence is necessary to protect our community and ensure that our land users do not suffer adverse health consequences. In responding to our request, the AER has before it an opportunity to stay true to its word and chart a new path that upholds the AER's mandate, reestablishes trust in the independence of the Regulator's processes, and upholds the Crown's sacred obligations. Our community's rights and very safety are at stake, and we implore the AER to take this opportunity for a better approach. If the Regulator fails to do so, and if we do not receive the above-noted information by **March 4, 2026**, we may take further legal steps as required.

Thank you for your attention to this matter and we look forward to your prompt response.

Yours sincerely,

Chief Sheldon Sunshine

cc: SLCN Council  
Doreen Cardinal, SLCN  
Eamon Murphy, Francco De Luca and Susan Fridlyand, Woodward and Company Lawyers LLP  
Orlagh O'Kelly, O'Kelly Law  
Stacey Smythe and Colin Buchan, AER

---

<sup>2</sup> CBC News "Head of Alberta's Energy Regulator Apologizes for Handling of Imperial Oil's Kearn Tailings Leak", April 24, 2023, online: < <https://www.cbc.ca/news/canada/edmonton/alberta-energy-regulator-imperial-kearn-leak-1.6820844>>.



## **STURGEON LAKE CREE NATION**

[WWW.STURGEONLAKE.CA](http://WWW.STURGEONLAKE.CA) 780-524-3307 BOX 757 VALLEYVIEW, AB T0H-3N0

March 18, 2026

Via Email: [ministre-minister@ec.gc.ca](mailto:ministre-minister@ec.gc.ca)

**The Honourable Julie Dabrusin**  
Minister of the Environment, Climate  
Change and Nature  
House of Commons  
Ottawa, ON K1A 0A6

Dear Minister Dabrusin:

**Re: Meeting with Sturgeon Lake Cree Nation re Draft Cooperation Agreement**

---

I write on behalf of the Sturgeon Lake Cree Nation (“**SLCN**” or “**Nation**”) in advance of our March 18, 2026, meeting with you to request additional information and clarification regarding the draft Co-operation Agreement between Alberta and Canada (the “**Draft Cooperation Agreement**” or “**Agreement**”). Our Nation has been inordinately impacted by energy resource and other forms of industrial development, and we have significant concerns regarding the Draft Cooperation Agreement and the impacts that the Agreement will have on the health of our lands and waters and on our people’s abilities to exercise their inherent, Aboriginal and Treaty rights.

**I. Meeting is for Information Purposes Only**

First, we wish to clarify and emphasize that this meeting does not amount to or constitute Crown consultation. The purpose of this meeting is to enable us to obtain basic information with respect to the purpose and intent of the Agreement, and to convey our initial concerns in respect of same. The Crown remains responsible for ensuring that its obligation to consult with and accommodate our Nation regarding the Agreement is satisfied, and that must occur in a separate process that this meeting does not form part of.

**II. Clarification Regarding Purpose and Intent of Agreement**

We also wish to request clarification regarding the purpose and intent of the Draft Cooperation Agreement.

Based on our initial reading, the Agreement provides that the federal government will rely on Alberta’s environmental assessment or regulatory processes when a proposed

project is primarily within provincial jurisdiction. However, the Agreement does not clarify what types of projects are “primarily within provincial jurisdiction”, and also, somewhat confusingly, states that Alberta’s environmental assessment and regulatory process will be “integrated” into a federal assessment for projects that impact federal jurisdiction.

We have several immediate questions in response. Which level of government will determine whether a project is “primarily within provincial jurisdiction”? How will that determination be made? Is the intention behind the Agreement that Alberta’s environmental assessment and regulatory processes will be the default for all projects? If not, is there a safety valve in place for ensuring that federal environmental assessment processes will apply for any projects that impact federal jurisdiction? And perhaps most importantly, will the federal government intervene even if there is disagreement with the Alberta government over whether a project is “primarily within provincial jurisdiction”?

We also note that there is already a process set out under the federal *Impact Assessment Act* that enables you to approve the substitution of a provincial process that assesses the effects of designated projects. How does the Agreement differ from the substitution process as set out under *IAA*? Does the Agreement supplant or replace this substitution process? If not, when will the Agreement prevail or be applied instead of the substitution process under *IAA*?

We raise these questions now because we have previously conveyed our concerns with your government regarding the profoundly flawed nature of Alberta’s consultation policies and environmental assessment and regulatory frameworks, and have warned against any attempts to rely on these frameworks to the exclusion of their federal counterparts. With that in mind, we remind you that Canada has exclusive jurisdiction over Indigenous peoples, and expressly request your confirmation that federal environmental impact assessment and similar processes under federal legislation will govern and be applied for any projects that impact our Nation’s inherent, Aboriginal and Treaty rights as protected under section 35 of the *Constitution Act, 1982*. We also remind you that Canada is ultimately responsible for ensuring that the duty to consult is met on any projects that impact federal jurisdiction, and request your confirmation that the federal government will intervene on any such projects as necessary to ensure that the duty has been fulfilled.

### **III. Exclusion of Federal Environmental Assessment Process over Proposed West Coast Oil Pipeline**

Finally, our Nation has previously raised concerns in numerous forums regarding Alberta’s proposed West Coast Oil Pipeline and the Memorandum of Understanding both of your governments reached in respect of same. This proposed pipeline will cross through the heart of our Nation’s territory, and given our above-noted concerns regarding Alberta’s consultation, environmental assessment and regulatory processes, we will categorically oppose any attempts by the federal government to completely or largely defer to those provincial processes in both government’s assessments of the pipeline’s environmental impacts and impacts on our Nation’s Aboriginal and Treaty

rights. We therefore again request your confirmation that this will not occur, and that the federal government's processes under the *Impact Assessment Act*, *Fisheries Act*, *Species at Risk Act*, and other applicable federal legislation will prevail and be applied to this project.

#### **IV. Conclusion and Next Steps**

We thank you for the opportunity to meet and convey our concerns in respect of the Agreement and to the Crown's approach to resource development, both of which are matters of profound importance to our people. We look forward to a productive discussion and to consultation and accommodation in respect of the Agreement that upholds the honour of the Crown and the Crown's solemn Treaty obligations to our people.

Finally, we have enclosed our previous concerns in relation to Bill C-5 and request a response to the same.

Sincerely,

Chief Sheldon Sunshine  
Sturgeon Lake Cree Nation

Enclosure

CC: SLCN Council

# Technical Memorandum

**To:** Sturgeon Lake Cree Nation, c/o Orlagh O’Kelly

**From:** Mandy Olsgard, M.Sc., P.Biol., Integrated Toxicology Solutions Ltd.

**Date:** March 2026

**Subject:** Review of Legislation and Federal–Provincial Assessment Processes in Alberta Energy Projects to Support Comments on the Draft Canada–Alberta Impact Assessment Cooperation Agreement

## **Purpose**

This memorandum provides a technical and regulatory review of federal–provincial assessment processes for major Alberta energy projects. It assesses, based on published project records, whether a further shift to a fully provincial process was demonstrably necessary to avoid duplication, or whether duplication had already been materially reduced through joint review arrangements while federal requirements remained in place.

## **Introduction, Scope, and Method**

This technical memorandum reviews a targeted sample of Alberta energy development projects using the Alberta Energy Regulator (AER) decision repository and the federal impact assessment registry to identify instances of duplication and non-consensus. It evaluates how duplication has functioned in practice under existing joint federal–provincial review models for Alberta energy projects, and assesses whether a more fully provincial-led process is necessary to reduce duplication, or whether such a change would also materially alter the application of federal oversight, federal decision-making, and federal legislative requirements.

This review was limited to projects for which official online records clearly showed both Alberta and federal assessment involvement and for which sufficient decision documents were available in AER and federal repositories. Five Alberta energy projects were selected as case studies: the Kearl Oil Sands Project, the Joslyn North Mine Project, the Jackpine Mine Expansion Project, the Frontier Oil Sands Mine Project, and the Grassy Mountain Coal Project. The review focused on official project pages, joint review panel reports, federal responses or decision statements, and later AER decisions (where relevant). Where the official records reviewed did not clearly establish whether the original environmental assessment was filed as one document to both jurisdictions or as separate but overlapping filings, that limitation is stated expressly below (Joint Review Panel, 2007).

**Analysis: Alberta Energy Project Regulatory Record Review to Determine Level of Duplication and/or Streamlining in Joint Project Assessments**

<b>Project</b>	<b>Evidence on assessment submission format</b>	<b>Assessment/report structure</b>	<b>Federal decision output</b>	<b>Alberta decision output</b>	<b>Observations</b>	<b>Key sources</b>
<b>Kearl Oil Sands Project</b>	The official records reviewed clearly show a joint panel process, but the retrieved official documents did not clearly state whether a distinct federal environmental assessment report separate from the Alberta filing was submitted.	A single EUB/CEAA Joint Review Panel Report was issued. The panel approved the Alberta applications and made recommendations to Canada.	A separate federal response was later issued by the Government of Canada accepting the panel's conclusions.	The joint panel approved the Alberta applications under provincial authority.	The joint panel report was followed by a separate federal response.  However, there was not a separate stand-alone federal hearing or separate federal panel report.	Joint Review Panel, 2007, pp. 10–11, 109; Government of Canada, 2007, pp. 1–2
<b>Joslyn North Mine Project</b>	The official records reviewed did not clearly show two separate environmental assessment reports; the project proceeded through one joint panel record.	A single joint federal-provincial review panel report was issued. The panel was prepared to approve the Alberta application and also made recommendations to Canada.	A separate Government of Canada response to the panel report was published.	The joint panel, under ERCB authority, was prepared to approve the Alberta application subject to conditions and Lieutenant Governor in Council approval.	Post-panel federal decision-making duplicated provincial.  However, the hearing and review stage was integrated.	Joint Review Panel, 2011, pp. 8–10, 148; Government of Canada, 2012
<b>Jackpine Mine Expansion Project</b>	The official record shows one joint panel proceeding tied to one AER application number and one CEAA reference number; reviewed official documents indicate the proponent filed one common environmental	A single joint review panel report was issued.	A separate federal decision statement was issued in December 2013 under CEAA 2012.	The joint panel issued the Alberta decision in July 2013. Later AER records show that the EPEA application for the expansion was not part of the joint panel proceeding and was	Provincial approvals were not captured in the joint process so no duplication but evidence of separate decision making.	Joint Review Panel, 2013, pp. 10–11, 359–361; Government of Canada, 2013, p. 2; AER, 2018b, pp. 6, 12–14

	assessment document to both jurisdictions.			still under review in 2018.		
<b>Frontier Oil Sands Mine Project</b>	The reviewed record expressly refers to “Revised Applications submitted to Alberta Energy Regulator and Canadian Environmental Assessment Agency”, indicating a common submission record was used across both jurisdictions.	A single joint panel report was issued. The panel acted in two capacities: as federal review panel and as AER hearing commissioners.	No final federal decision statement was issued because the federal assessment was later terminated at the proponent’s request in 2020 after the panel report. The panel expressly noted that, federally, it had no final decision-making authority; final federal authority remained with the Minister or Governor in Council.	The panel, acting as the AER, approved the provincial applications subject to conditions.	Duplication at the assessment/report stage was substantially reduced.  Federal requirements were not removed; they remained in the separate federal post-panel decision stage, which was never completed because the project was withdrawn.	Joint Review Panel, 2019, pp. 13, 987, 990; Government of Canada, 2020
<b>Grassy Mountain Coal Project</b>	The reviewed federal registry material states that the project application was prepared to address environmental assessment requirements under applicable provincial and federal legislation as a single application.	A single joint review panel report was issued. The agreement and report expressly state that the report contains provincial decisions and federal rationale/recommendations.	A separate federal final decision was issued on 6 August 2021 concluding that significant adverse environmental effects were not justified in the circumstances.	In its AER capacity, the panel found the project not in the public interest and denied the Alberta applications.	Alberta and Canada each issued separate final decisions after one integrated review. The substantive outcomes, however, were aligned: both were negative.	Benga Mining, 2016, p. 3; Joint Review Panel, 2021, pp. 8, 20, 647, 665–667; Government of Canada, 2021

## Findings

Across the five reviewed projects, the strongest and most consistent pattern was not of a separate and duplicative process. Instead, the dominant model was a joint review panel that produced a single hearing record and a single panel report intended to discharge both provincial and federal assessment functions. This is explicit in the Kearl, Joslyn North, Jackpine, Frontier, and Grassy Mountain records, all of which describe one joint review panel operating under both federal and Alberta authorities. In Joslyn North, for example, the panel agreement was expressly justified as a means of avoiding “unnecessary duplication, delays and confusion that could arise from individual reviews by each government”; Frontier similarly recorded that a joint panel would avoid inefficiencies that could arise if Canada and the AER conducted separate reviews (Joint Review Panel, 2011, p. 148; Joint Review Panel, 2019, p. 987).

On the narrower question of whether proponents submitted separate assessments to Alberta and Canada, the reviewed official record provided direct evidence of a common submission record for Frontier and Grassy Mountain, but was less explicit for Kearl, Joslyn North, and Jackpine. For Frontier, the official registry record referred to “Revised Applications submitted to Alberta Energy Regulator and Canadian Environmental Assessment Agency,” which is clear evidence of a shared submission pathway. For Grassy Mountain, the project application expressly stated that it had been prepared to address both provincial and federal assessment requirements. For the other three projects, the official materials reviewed clearly established one joint review process and one joint report but did not definitively prove whether the original filing was a single common environmental impact assessment or parallel filings built from the same technical package. On that point, the record reviewed supports a conclusion of high integration, but not a categorical statement that every underlying submission was literally a single document filed identically to both jurisdictions (Benga Mining, 2016, p. 3).

The clearest area where duplication did remain was the decision stage. Kearl had one joint panel report but a separate federal response afterward. Joslyn North followed the same pattern. Jackpine had one joint panel report, then a separate federal decision statement under CEAA 2012. Grassy Mountain likewise had one joint panel report followed by a separate federal final decision. This means that the joint panel model had already reduced duplication in hearings, technical review, and reporting, but it did not eliminate separate federal and provincial legal decision instruments where each jurisdiction still had its own statutory duties to discharge (Government of Canada, 2007, pp. 1–2; Government of Canada, 2013, p. 2; Government of Canada, 2021). However, federal decisions were received within weeks of the joint decision and did not extend project timelines substantially or at all.

The reviewed regulatory cases for energy development projects in Alberta shows that federal requirements were not removed by the joint panel model. Frontier is the clearest example. The panel expressly stated that, in its federal role, it had no final decision-making authority and that federal decision-making authority remained with the federal Minister or Governor in Council. The same record also stated that federal consultation could continue after the panel report and before federal decisions or approvals were issued. In other words, the joint panel compressed the assessment process, but it did not displace federal legal requirements or federal post-panel decision-making. That is directly inconsistent with any suggestion that a joint process itself removed the need to satisfy federal law. Instead, it coordinated the evidence-gathering and reporting stage while preserving separate federal authority at the end of the process (Joint Review Panel, 2019, pp. 987, 990).

Jackpine demonstrates a second, different kind of duplication: even where the federal and Alberta reviews were combined in one panel proceeding, not all provincial approvals were folded into that proceeding. The AER's 2018 Jackpine tailings decision states that the *EPEA* application for the expansion was not part of the joint panel proceeding and was still under review years later. The same AER decision explains that the *Oil Sands Conservation Act* [*OSCA*] portion of the expansion application was considered and decided in the joint panel, while the *EPEA* application remained separate. This is important because it shows that, in practice, duplication or serial review could persist within the provincial system itself, or between the joint panel and later provincial approval processes, even when the federal and Alberta assessment had already been harmonized (AER, 2018b, pp. 12–14).

In the projects reviewed, no clear instance was identified where the final Alberta and federal outcomes were substantively contradictory. The two clearest paired outcomes in the sample were Jackpine and Grassy Mountain. In Jackpine, Alberta approved through the joint panel and Canada later issued a federal decision statement permitting the project subject to federal conditions. In Grassy Mountain, Alberta denied the project as not in the public interest and Canada separately concluded that the project's significant adverse effects were not justified. The outcomes were therefore aligned in direction, even though the legal instruments were separate and the federal and provincial tests were not identical (Joint Review Panel, 2013, pp. 10–11; Government of Canada, 2013, p. 2; Joint Review Panel, 2021, pp. 20, 647; Government of Canada, 2021).

### **Discussion**

The project record shows that, for the sample reviewed, duplication was already substantially reduced at the assessment and hearing stage through use of joint review panels. In the reviewed projects, one hearing process and one panel report commonly served both federal and provincial purposes. The main duplication that remained was at the post-panel decision stage, where separate federal and provincial legal decision instruments were still issued because each jurisdiction retained its own statutory responsibilities. The project record also shows that federal legal requirements were not removed by these joint processes, and that some duplication could continue within the provincial approvals framework itself where not all provincial authorizations were included in the joint proceeding.

### **Conclusion**

Based on the official AER and federal records reviewed, the evidence does not show that Alberta energy projects were generally subject to two wholly separate, duplicative federal and provincial assessment hearings requiring two separate panel reports. The predominant pattern in the sampled projects was that duplication at the assessment stage had already been materially reduced through joint review panels that produced a single hearing process and a single panel report for both jurisdictions (Joint Review Panel, 2007).

However, duplication was not fully eliminated. It persisted mainly in three ways. First, federal and provincial authorities still issued separate legal decision instruments after the joint panel report, because their statutory roles remained distinct. Second, federal post-panel decision-making and consultation obligations remained in place; the Frontier record is explicit on this point. Third, some provincial approvals could remain outside the joint panel process altogether, as demonstrated by Jackpine, where the *EPEA* application for the expansion was still under separate review after the joint panel decision (Government of Canada, 2013; AER, 2018b).

Accordingly, the reviewed project record supports a narrower conclusion than the proposition that a fully provincial process was required to avoid duplication. The sample indicates that joint federal–provincial review processes had already addressed much of the major duplication in assessment and hearing processes without removing federal legal requirements (Joint Review Panel, 2011).

Where duplication remained, it was concentrated in separate statutory decision-making and in approvals outside the joint panel scope, rather than in the existence of two wholly independent environmental assessment reviews from the outset.

A further implication of the reviewed record is that movement to a fully provincial process would do more than remove duplication. It would also remove the need for a separate federal decision stage, including the distinct federal authority retained in projects such as Frontier and the separate federal decision statements issued for projects such as Jackpine and Grassy Mountain. Whether that is characterized as efficiency or as a narrowing of federal oversight is a policy question. Factually, the project records reviewed show that a fully provincial-only model would change more than process streamlining; it would eliminate decision points at which federal legal requirements were independently applied after a joint assessment had already been completed (Joint Review Panel, 2019).

## References

AER 2018a, *Decision 20180523A: Canadian Natural Upgrading Limited, Application for Muskeg River Mine Tailings Management Plan*, Alberta Energy Regulator, 23 May 2018.

AER 2018b, *Decision 20180523B: Canadian Natural Upgrading Limited, Application for Jackpine Mine Tailings Management Plan*, Alberta Energy Regulator, 23 May 2018.

Benga Mining 2016, *Section D Environmental Impact Assessment Methodology*, Grassy Mountain Coal Project application materials, August 2016.

Government of Canada 2007, *The Government of Canada's Response to the Environmental Assessment Report of the Joint Review Panel on the Kearl Oil Sands Project*, Government of Canada.

Government of Canada 2012, *Government of Canada Response to the Report of the Joint Federal-Provincial Review Panel for TOTAL's Joslyn North Oil Sands Mine Project in North-eastern Alberta*, Government of Canada.

Government of Canada 2013, *Decision Statement Issued under Section 54 of the Canadian Environmental Assessment Act, 2012 for the Jackpine Mine Expansion Project*, Government of Canada, 6 December 2013.

Government of Canada 2020, *Notice of Termination: Frontier Oil Sands Mine Project*, Government of Canada, 25 February 2020.

Government of Canada 2021, *Final Decision on the Grassy Mountain Coal Project*, Impact Assessment Agency of Canada, 6 August 2021.

Government of Canada 2026a, *Basics of cooperation*. Impact Assessment Agency of Canada. Reviewed for "one project, one review" approach and federal reliance on provincial processes.

Government of Canada 2026b, *Cooperation with provinces and territories*. Impact Assessment Agency of Canada. Reviewed for clarification that each jurisdiction still makes its own decision.

Impact Assessment Agency of Canada 2026, *Draft Co-operation Agreement between Canada and Alberta* (consultation draft, 6 March 2026).

Joint Review Panel 2007, *EUB/CEAA Joint Review Panel Report (EUB Decision 2007-013): Application for an Oil Sands Mine and Bitumen Processing Facility (Kearl Oil Sands Project)*.

Joint Review Panel 2011, *ERCB Decision 2011-005 / CEAA Reference No. 08-05-37519: Joint Review Panel Report, Joslyn North Mine Project*.

Joint Review Panel 2013, *2013 ABAER 011 / CEAA Reference No. 59540: Joint Review Panel Report, Shell Canada Energy, Jackpine Mine Expansion Project*.

Joint Review Panel 2019, *2019 ABAER 008: Teck Resources Limited, Frontier Oil Sands Mine Project*.

Joint Review Panel 2021, *2021 ABAER 010: Benga Mining Limited, Grassy Mountain Coal Project*.



**Timothy Hodgson**  · 3rd+

[+ Follow](#)

Minister of Energy and Natural Resources | M...  
18h · 

Our government promised you we would get major projects moving - and signing One Project, One Review agreements is how we do that, by spending less time on bureaucracy and more time on building.

Today's agreement with Alberta means instead of multiple review processes, projects in Alberta will have one coordinated assessment led by the Province. That's the certainty and speed industry in Alberta has been looking for.

This is Team Canada in action, working together to build big things and deliver for Canadians.

<https://lnkd.in/g5wBRgXH>



**Canada and Alberta reach agreement-in-principle to accelerate the construction o...**

[pm.gc.ca](https://www.pm.gc.ca)