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**MIKISEW CREE FIRST NATION**

**SUBMISSION ON THE DRAFT CO-OPERATIVE AGREEMENT ON ENVIRONMENTAL AND  
IMPACT ASSESSMENTS BETWEEN ALBERTA AND CANADA**

March 27, 2026

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**Overview**

Mikisew Cree First Nation are the original, Indigenous Peoples, of what is now northeastern Alberta. Our Cree (*nêhiyaw*) ancestors entered into Treaty No. 8 in 1899 before the province of Alberta was created by legislation. We maintain internal and external rights to self-determination at international law, unlike the province.

Our territory spans into the Wood Buffalo National Park and down towards what is now the oil sands. We are severely impacted by the unmitigated and cumulative effects of industry.

For MCFN, water is life. But the water quality from the oil sands- and our water quantity, from BC hydro, are detrimentally and irreparably impacted. The harms to our water, our life, and our Treaty have been disproportionately caused by Alberta's defunct and racially discriminatory regulatory systems.

The proposed Alberta–Canada Cooperation Agreement on Environmental and Impact Assessment (the “**Agreement**”) purports to rely exclusively on Alberta's systems. Alberta's systems are incapable of discharging Canada's obligations.

On behalf of Mikisew Cree First Nation (“**MCFN**”), we are writing to formally object to this Agreement.

At the outset, we express our significant concern with both the substance of the proposed Agreement and the process through which it is being advanced. The timelines provided for review and input have not allowed for meaningful engagement of First Nations or Treaty Rights, nor do they reflect the level of consideration required for an agreement of this magnitude and consequence.

MCFN provides this submission in objection to this process and the Agreement in its entirety. The Agreement presents a nail in the coffin to MCFN's ability to protect its Treaty and Treaty rights, leaving the Nation at the mercy of impotent and racially discriminatory provincial processes. It demonstrates a willingness to make the

public interest “the government of Alberta’s interest” at the expense of First Nations but also the many Albertans who believe in sustainable development and take their Treaty obligations seriously.

Specifically, MCFN opposes the unlawful substitution of federal assessments process and unconstitutional delegation of federal obligations to the province of Alberta. Canada can neither rely on Alberta’s regulatory and consultation regime, nor delegate its Treaty obligations to Alberta as section 7 of the Agreement egregiously attempts to do.

Indeed, MCFN has been forced to litigate Alberta’s entire constitutional regime (“**Consultation Regime Challenge**”).<sup>1</sup> This is because Alberta’s regime is incapable of discharging the province’s obligations to MCFN. It stands to reason it is similarly incapable of discharging the federal government’s obligations.

This Agreement, as drafted, will provide the opposite of regulatory certainty. It will provide renewed urgency to our Consultation Regime Challenge and heighten the stakes to stop Alberta’s proposed “**Treat and Release**” of toxic tailings waste into our water. We have several concerns with the Agreement but have limited these due to the entirely inadequate engagement period of 21 days.

Given this rush and lack of capacity funding, we reiterate that this is not consultation.

### **Opposition to the Agreement in its Current Form**

MCFN does not support the Agreement as currently drafted.

The proposed approach would result in a substantial shift of responsibility from federal processes to Alberta’s captured and failed regulatory and consultation systems. In our view, this represents a step backward in the protection of Treaty rights, environmental oversight, the assessment of cumulative effects and the responsible development of resources.

There is no confidence in Alberta’s current resource development system to fulfill these responsibilities. The existing frameworks (legal, regulatory, consultative and environmental) have not demonstrated the ability to adequately assess or address impacts to Treaties and Treaty rights, lands, and waters. In particular, the Alberta Energy Regulator (“**AER**”) is widely viewed as a captured regulator – bought and paid for by industry and led by Premier Danielle Smith’s own advisor. Athabasca Chipewyan First Nation is litigating against the AER. So far as MCFN knows, First Nations are unanimous in their call for regulatory overhaul. Alberta’s regulators have lost the confidence of First Nations and the public.

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<sup>1</sup> *Mikisew Cree First Nation v Alberta*, [2025 ABCA 304](#).

Reliance on this system as a substitute for federal oversight is therefore not acceptable.

### **Requested Action**

Accordingly, MCFN requests that Canada revoke the Agreement. The federal government cannot rely on Alberta's regulatory and consultation processes to discharge its obligations to MCFN. This is amplified by the failure of provincial processes on the existential issue of the 1.4 trillion litres of toxic tailings waste (as of 2023) upstream from our community.<sup>2</sup> And, in turn, the absolutely failure to address the human health impacts of the oil sands development on our people.<sup>3</sup>

***If Canada proceeds with this Agreement, it must include a federal assessment provision for all projects affected First Nations and Treaty, inherent and aboriginal rights.***

If Canada intends to abdicate its responsibilities under Treaty No. 8 through this agreement, MCFN advises that it reserves all rights to refuse any meeting with a second order of government, created without our Free Prior Informed Consent, i.e. Alberta.

The applicable Alberta Regulator will share with IAAC information about means that would allow Alberta to address adverse effects within federal jurisdiction that may be caused by the proposed project and IAAC will share information that is relevant to the applicable Alberta regulator.

### **Previous Objections to provincial processes**

We have made objections several times both to Bill C-5 and other attempts by the federal government to abdicate its powers and obligations to the province of Alberta.

The previous Minister of Environment and Climate Change Canada (“**ECCC**”) Minister Steven Guilbeault promised MCFN on several occasions that there would be no “Treat and Release” of toxic tailings, as threatened unlawfully by the province of Alberta, without at minimum, tailings risk assessment. The basis for this promise was the federal government's powers under the *Fisheries Act* and their obligations to MCFN under Treaty and section 91(24) of the *Constitution Act, 1867*. *The promises included that:*

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<sup>2</sup> R. Kamnitzer, A Year after toxic tar sands spill, questions remain for affected First Nation, July 16, 2025, Mongabay News: <https://news.mongabay.com/2024/07/a-year-after-toxic-tar-sands-spill-questions-remain-for-affected-first-nation/#:~:text=Deeper%20deposits%2C%20at%20depths%20of,into%20the%20main%20tailings%20pond>.

<sup>3</sup> M. Olsgard, Brief-Supporting Information freshwater Study Steminoy, March 21, 2024, Standing Committee on ENVI: <https://www.ourcommons.ca/Content/Committee/441/ENVI/Brief/BR12995579/br-external/OlsgardMandy-e.pdf>; Alberta Health Services, Fort Chipewyan cancer study findings released, February 6, 2009: [https://www.albertahealthservices.ca/news/releases/2009/Page500.aspx#:~:text=A%20study%20of%20cancer%20incidence%20in%20Fort,expected\\*\\*%20were%20found%20between%201995%20and%202006](https://www.albertahealthservices.ca/news/releases/2009/Page500.aspx#:~:text=A%20study%20of%20cancer%20incidence%20in%20Fort,expected**%20were%20found%20between%201995%20and%202006).

1. During the August 2024 ministerial visit, Minister Steven Guilbeault told MCFN that if we wanted treat and release off of the table, it would be. This was then confirmed again when Councillor Dillon Whitehead asked the ECCC team who came in Oct 2025 about this statement issued to them by the Minister. At that time, a ECCC staff member confirmed this was correct as she had been present when Guilbeault made the statement and in the October 2025 meetings.
2. When MCFN visited Ottawa in November of 2025 and met with ADM Wheatley, a ECCC staff member was present at this meeting and again confirmed that this statement was made
3. In March 2026, at the Keepers Of the Water/MCFN conference a question was asked by a MCFN member to Minister Guilbeault who had joined the meeting virtually. The question was something along the lines of referencing a statement made by Guilbeault to community members in a town hall during that August visit where he stated that there would be no new tailings ponds approved (I believe this is what was asked), and in his response Guilbeault confirmed that he made commitments to MCFN and that it is now the responsibility of this current government to uphold.

Indeed, the federal Crown has engaged at the Crown Indigenous Working Group (“**CIWG**”) to develop alternatives to Treat and Release – a problem created by Alberta and industry, at great profit to them and great harm to us. This proposed deference to provincial processes will breach these promises made to us by the Crown, through CIWG’s promise of renewed Nation to Nation approaches.<sup>4</sup>

We repeat these objections to provincial processes and federal failures, some are included as appendices to this submission, none of which have been addressed:

- Appendix 1: June 23, 2025 - Document regarding Bill C-5, An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act, from the Mikisew Cree First Nation.—Sessional Paper No. 1/45-219S.<sup>5</sup>
- Appendix 2: July 15, 2025 Letter to Natural Resources Canada
- Appendix 3: July 17, 2025 Letter to Prime Minister Carney
- Appendix 4: January 26, 2026 – Question in House of Commons I. Idlout
- Appendix 5: Collection of letters.

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<sup>4</sup> CIWG, Path Forward for Evaluating Policy Options for Managing the Accumulation of Oil Sands Mine Water in Tailings Ponds, Discussion Paper, February 2025: <https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/mining-effluent/oil-sands/discussion-paper-crown-indigenous-working-group-2025.html>

<sup>5</sup> Submitted to the Senate on June 25, 2026:

[https://senCanada.ca/en/content/sen/chamber/451/journals/015jr\\_2025-06-25-e](https://senCanada.ca/en/content/sen/chamber/451/journals/015jr_2025-06-25-e)

Three years ago, in testifying on the Imperial Kearn incident, MCFN's Chief Billy-Joe Tuccaro explained the issues with one provincial regulator, the Alberta Energy Regulator (“AER”) as follows:

One of the clearest lessons from this crisis that grew is that it has reconfirmed the AER is a captured regulator that is simply not a trusted partner in protecting federal interests in our community. Living in an indigenous community in the oil sands and downstream from it, I can tell you that it is appalling that Alberta has done so very little to manage the escalating growth and scale of these massive toxic ponds that seep into our natural environment and watersheds. This creates risk to our way of life, to nationally important ecosystems and to the well-being of Canadians.

Let me give you some examples of how the AER is failing us and all of Canada. They had information about this seepage for what now appears to be years without sharing any notice or data with us or the federal government. The AER has had data showing seepage from ponds for years and confirming seepage moving beyond the seepage interception systems but has taken no action. The AER ignored clear findings of the joint review panel for the Kearn project. We still struggle to get sufficient data from the AER regarding the Kearn event, and the AER is allowing Imperial to limit data gathering and sharing.<sup>6</sup>

Nothing has changed since then, April 17, 2023. Instead, it has gotten worse. We have done studies of the cancer in our community which simply confirms what we all know: we are disproportionately getting sick from and dying of cancer.

We have repeatedly asked repeatedly for regulatory protection for Health Canada guidelines, tailings release, but also provincially for Indigenous land use. There is no regulatory framework that considers and protects our health> This is racial discrimination.

This concerns fall on deaf ears. Alberta has forged ahead with their plan to Treat and Release, ignoring our concerns.<sup>7</sup> In other words, Alberta continues to trample over our Treaty and our rights. Canada stands idly by. This

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<sup>6</sup> Committee, April 17, 2023: <https://www.ourcommons.ca/DocumentViewer/en/44-1/ENVI/meeting-57/evidence>

<sup>7</sup> Environmental Defence, Indigenous, Environment, Health Groups Reject Tailings Treat-and-Release Guidance, October 8, 2025: <https://environmentaldefence.ca/2025/10/08/indigenous-environment-and-health-groups-reject-inadequate-industry-led-recommendations-for-treat-and-release-of-tailings/>

Agreement cements this tragic reality which we have fought hard to stop, and which we believed, in reliance on the CIWG process and Minister Guilbeault's statement, would be rendered empty shells of promises.

### **Consultation Regime Challenge**

Our consultation regime challenges assert, with merit, that Alberta's consultation regime is incapable of discharging the Honour of the Crown and the duty to consult and accommodate. Our challenge also alleges that the Alberta regime violates section 96 of the *Constitution Act, 1867* by denying MCFN access to the courts. Instead, we are stuck in the deliberately circular, bifurcated and, frankly, kangaroo process of the AER and the Aboriginal Consultation Office ("ACO").

If this process is *the* "one" process, Canada will achieve the opposite of regularity certainty.

Some issues with the consultation regime, which we have raised through the Consultation Regime Challenge, Alberta and Canada include:

- Alberta's consultation policy is limited and insulting. Only 'site specific' issues get consideration and other items that Alberta has deemed a risk like access controls and withholding access to crown lands. Regional and cumulative effects not considered in project consultation.
- Consultation matrix and levels of consultation are trivial and minimalized. Substantive, deep, or meaningful consultation does not occur. Alberta delegates all consultation to proponents who have a vested interest in their own projects and are entrusted with the duty to consult on the crown's behalf. The crown relies solely on the meeting documents proposed, developed, reported on, and argued by proponents. If the proponent feels something is out of scope, it can be dismissed from the 'public record' that industry writes. .
- ACO consistently hires unqualified staff available to work for the bureaucracy. The ACO staff consistently have no education or background in knowing First Nations or Treaty rights. Their focus is to essentially monitor communication not consultation. 100 pages of records for a large file is normally a record of calls, voicemails, emails, read and delivery receipts, and little to no substantive action.

### **Cautionary Tales: When the federal government defers to provincial processes**

MCFN is living through the dire consequences of unmitigated development and a regulator, that is more appropriately referred to as a facilitator. The AER and other provincial entities do not say no. We have many examples of where the federal process either provided the only minimal protection or where the federal process has been neglected at great risk to us:

- The provincial process falls to consider human health. The federal government has jurisdiction under section 91(24) of the *Constitution Act, 1987* over these health issues, but refuse to act. We say, therefore, fish (under the *Fisheries Act*) have more rights than us. This is fundamental racial discrimination, contrary to Canada's international obligations, Treaty and the *Constitution Act, 1982*, section 35(1)
- Defaulting to Alberta processes that dismiss, belittle, and ignore procedural issues and key concerns. For example, impacts to the Peace Athabasca Delta were included in provincial terms of reference for the TECK Frontier Mine until the JRP forced them to be included. Dozens of submissions on project Terms of Reference like TECK Frontier declared out of scope, ignored, or recognition of Nation thresholds, guidelines, policies like consultation boundaries.
- Compliance monitoring is considered proprietary and not publicly accessible without paying to access it from Alberta's agencies. The provincial Oil Sands Monitoring ("**OSM**") program has a broken governance system and accountability with the program has been difficult. We have 10 plus years of monitoring data but little to no action. The province made the OSM table increasingly less science based and more political – deliberately to avoid the solutions being proposed by scientists and First Nations. In fact, the province and the federal governments cannot explain to us how the previous scientific research and information has been included in decision-making or used by either branch of government. The \$50 million OSM program has 6 groundwater monitoring sites north of Fort McMurray. One operator has 1200 sites which are not accessible, and they surround the perimeters of tailings impoundments, mines, and other key infrastructure.
- Industry currently works with government to update standards in their interest privately through public agencies like Alberta Innovates. This is another example, under provincial watch, of public money working exclusively with industry. For example:
  - the industry-government migratory bird committee updates the migratory bird mitigation protocols for the AER using science and data private to that committee. No consultation is required on AER directives, policies, and standards.
  - Reclamation standards are similar and there has been virtually no actual reclamation in the oil sands despite provincial misinformation.

- Treat and Release work is funded by a new public \$48 million to universities and proponents and excludes Nations.

## **Problems with Agreement**

There are several fundamental problems with the Agreement. These are just some that must be addressed if the Agreement is not revoked in its entirety:

1. The Agreement fails to uphold the federal Crown’s obligations to MCFN under Treaty No. 8, as the Treaty party.<sup>8</sup>
2. The Agreement violates the constitution, Treaty and the federal governments own laws as outlined in the article by Professor Nigel Bankes, which MCFN endorses.<sup>9</sup>
3. Alberta’s consultation regime is regulatory system and consultation regime is defunct and incapable of discharging their obligations to First Nation.<sup>10</sup>
4. The Agreement reinforces and makes the one process one which systematically refuses to consider the cumulative effects of development.<sup>11</sup> The provincial framework does not effectively assess or manage long term, cumulative impacts across multiple projects.
5. The Agreement will mean the federal government abdicates its powers and thus obligations to First Nations over fisheries, species at risk, including Caribou, and environmental protection. This reinforces the false assertion that the province as exclusive areas of jurisdiction.<sup>12</sup>
6. There is no guarantee and protection for human health.
7. The Preamble postulates several offensive and problematic propositions. It implies that there is only certainty that is aspirational for Alberta’s interest, not the public interest, First Nations or the certainty we require.
8. Alberta position on the United Declaration on the Rights of Indigenous People (“**UNDRIP**”) is “non-binding” says everything about what we expect to face from Alberta’s process being the process. It’s

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<sup>8</sup> Chief Electoral Officer of Alberta v Sylvestre, 2025 ABKB 712 (CanLII), at [paras 186-191](#); Robert Hamilton, “The IAA Reference: A Missed Opportunity for Guidance on Important Issues Pertaining to Indigenous Peoples” (25 October 2023), online: ABlawg, [http://ablawg.ca/wp-content/uploads/2023/10/Blog\\_RH\\_IAA\\_Ref.pdf](http://ablawg.ca/wp-content/uploads/2023/10/Blog_RH_IAA_Ref.pdf); 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>9</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).

<sup>10</sup> *Mikisew Cree First Nation v Alberta*, [2024 ABKB 578](#); *Mikisew Cree First Nation v Alberta*, [2025 ABCA 304](#).

<sup>11</sup> *Mikisew Cree First Nation v Alberta*, 2024 ABKB 578 (CanLII), at [para 31](#).

<sup>12</sup> Nigel Bankes & Andrew Leach, “The Word “Exclusive” Does Not Confer a Constitutional Monopoly, Nor a Right to Develop Provincial Resource Projects” (2 November 2023), online: ABlawg.

demonstrably wrong<sup>13</sup>, inconsistent with Treaty obligations. If Alberta does not commit to UNDRIP, which basically supplements the obligations under our historic 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, they have repudiated all international conventions and human rights instruments. Canada should not condone this retrograde approach by allowing this harmful language into an agreement. Acceding to this incorrect statement, further violates Canada's own commitments in Bill C-15. Alberta is not a sovereign state, no matter how many times they assert it. Our Treaties are with the Crown, and Canada as the obligor. The obligations to us cannot be extinguished by a provincial government that did not exist when we entered Treaty. We trust this will be corrected without delay.

9. The preamble calls for streamlining while neither Alberta nor Canada provide any extensive capacity in order to meet their own expedited timelines. Alberta has not developed an accommodation framework. If accommodation was required, it cannot advance it. The effect will be that First Nations will be on the side lines.
10. The preambular assertion that Alberta has robust processes informed by rigorous science is false. Provincial assessments are not informed by science. They are not equivalent processes to the federal ones. This must be removed.
11. Section 7 demonstrates Canada's misunderstanding or ignorance of the Consultation Regime Challenge. Canada cannot delegate its duty to consult and accommodate to Alberta, nor will such delegation even be capable of discharging these obligations.

### **Path Forward**

From this preliminary and rushed engagement, it is obvious that the Agreement is foundationally deficient. It must be revoked and, if Canada, insists, reworked within the context of the federal Crown's own laws and the constitutional and Treaty obligations owed to MCFN. While we oppose the Agreement in its current form, we are prepared to engage in further discussions should Canada be willing to reconsider its approach.

In our view, any future agreement must be contingent on fundamental and structural reform of Alberta's regulatory system, including:

- Compliance with federal laws, including the *Impact Assessment Act*
- Capable of upholding the Treaty, Treaty rights and international obligations to First Nations

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<sup>13</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).



- The establishment of a framework that meaningfully incorporates Indigenous rights and knowledge;
- The ability to assess and manage cumulative effects across regions and over time;
- The removal of structural barriers to meaningful consultation and accommodation; and
- Consideration of replacing existing regulatory institutions with a model that is independent, accountable, and capable of meeting constitutional and Treaty obligations.

Absent these changes, there is no basis upon which Mikisew Cree First Nation can support the proposed Agreement.

### **Closing**

This Agreement has far-reaching implications for our Treaty, our lands, waters, and the exercise of our Treaty rights. It is essential that Canada proceed in a manner that reflects its commitments to First Nations and ensures that its obligations are fully upheld. We remain available to engage in direct discussions and expect to be meaningfully involved in any future development of this Agreement.



June 23, 2025

**URGENT**

Dear Senators:

**Re: Mikisew Cree First Nation rejects the *Building Canada Act***

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I write with urgency to raise the concerns of Mikisew Cree First Nation on the passage of Part 2, of Bill C-5, the *Building Canada Act*. We reject this legislation for the reasons outlined below as well as those in the briefs of Onion Lake Cree Nation and Sturgeon Lake Cree Nation.

Our ancestors entered into Treaty 8 with the Crown in 1899, before Alberta was created by legislation. Our Nation's territory is downstream from the Alberta oil sands, at the heart of the Peace Athabasca Delta. Our land is part of a UNESCO protected site and adjacent to the Wood Buffalo National Park – a site that should be listed in danger for the cumulative impacts from development from the oil sands and BC Hydro. Both levels of government have so far ignored the recommendations last made by UNESCO in September 2023.

There are human costs to the unmitigated development on our territory. We are burying our people monthly, sometimes weekly, dying from cancer including rare forms of cancer. We are and have always been collateral damage. On our own land we have witnessed the devastation of “profits over people”.

With a rubberstamping provincial system, we have had to rely on the *Species at Risk Act* to protect our caribou, the *Constitution Act, 1867* to (try to) protect our health, and the *Fisheries Act* to protect our waters.

In this situation, the *Building Canada Act* removes our last line of defence: federal regulatory requirements.

**Pre-determined (deemed) authorizations do not allow for consultation**

We understand that a Minister claimed during the Standing Committee on June 18 that the legislation “mandates that there must be meaningful consultation and accommodation with indigenous peoples during both the process in which determining what projects are in the national interest and the development of the rigorous conditions for each project.”

From our review, the legislation does no such thing.

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Sections [5 \(7\)](#), [7 \(2.1\)](#) and [8](#) of the legislation require consultation only where the Minister decides a Nation “may be adversely” affected. In other words, there is discretion built into the duty to consult. And the legislation says nothing about the corresponding constitutional duty to accommodate and the legal obligation to seek Free Prior and Informed Consent (FPIC).

Regardless of these sections, the federal legislation will *deem* all regulatory requirements be met; meaningful consultation and accommodation cannot happen in this pre-determined context, never mind consent.

To add insult to injury, the federal legislation was amended to require that the provinces “consent” to national interest projects. The province of Alberta did not exist at the time of Treaty (1899). Alberta is not a sovereign people with any rights in international law. But, now, the province has the power to consent ([section 5 \(1.1\)](#)), while we will be consulted if the Minister says we will be “adversely affected.”

Without crystal clear statutory obligations, the Ministers’ statements represent a “just trust us” approach to the legislation’s interpretation. Regrettably, there is little trust in this Treaty relationship. The Supreme Court in talking about the Covenant Chain, which is incorporated into all Treaties, including ours, Treaty 8, lamented this situation:

.... the Robinson Treaties were motivated largely by the principles of kinship and mutual interdependence, as reflected in the Covenant Chain. This enduring alliance has been depicted using the metaphor of a ship tied to a tree with a metal chain: “The metaphor associated with the chain was that if one party was in need, they only had to ‘tug on the rope’ to give the signal that something was amiss, and ‘all would be restored’” (Stage One reasons, at para. 65). The Anishinaabe treaty partners have been tugging on the rope for some 150 years now, but the Crown has ignored their calls. The Crown has severely undermined both the spirit and substance of the Robinson Treaties.<sup>1</sup>

We have been tugging on this rope since 1899. And Canada has severely undermined both the spirit and substance of Treaty 8. Canada has special obligations to us, as the federal Crown and the inheritor of the Imperial Crown obligations.<sup>2</sup> This legislation further undermines our Treaty relationship and contravenes these

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<sup>1</sup> *Ontario (Attorney General) v. Restoule*, 2024 SCC 27 (CanLII), at [para 286](#).

<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>.



obligations. In fact, we were in negotiations with the Crown on Treaty violations and just last week they told us these negotiations are still on “pause” – yet there is time to ram through Bill C-5.

### **The *Building Canada Act* leaves only Alberta’s unconstitutional process**

Because federal requirements will be deemed to be met, the proposed legislation will leave all consultation and regulation to Alberta.

The consultation regime in Alberta is already a fast-tracked, rubber-stamping process, where we are forced to consult with industry, not the Crown. The United Nations rightly criticized the practice of Canadian governments delegating consultation to industry: “I have observed unjustifiable practices, such as transferring the responsibility of conducting consultations in the environmental impact assessment process to the companies concerned, which goes against the aforementioned obligation.”<sup>3</sup> Through industry proponents, Alberta systematically refuses to look at the cumulative effects of development and will only consider site specific impacts. In our territory, this means, each project is looked at in isolation. The end result is that the oil sands now have the largest industrial waste site on the planet with 1.18 trillion litres of toxic tailings sitting in “ponds”, designed to seep into the muskeg around the Athabasca River.

The previous federal government was considering whether to pass regulations allowing the “treat and release” of these toxic tailings. But again, Alberta only looks at site specific impacts – not the cumulative impacts of the oil sands, on top of the cumulative impacts from BC Hydro.

Our Nation as well as the Athabasca Chipewyan First Nation have therefore challenged Alberta’s entire consultation regime as unconstitutional and incapable of discharging the provincial Crown’s duty to consult and accommodate. So far, we have been successful.<sup>4</sup>

The *Building Canada Act* leaves us at the mercy of this consultation regime, and also the inept regulatory process.

The Alberta Energy Regulator is a “captured regulator”. It is currently headed by an advisor to the Premier. It is fully funded by industry, and it relies on industry to self-monitor. We live the real consequences of this impotent process. Look at the Imperial Oil spill, which was studied by a House of Commons committee at the last session of Parliament. The AER only knew about this spill because Imperial Oil self-reported, and the

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<sup>3</sup> UN Special Rapporteur End of Visit Statement, Canada, April 19, 2024:

<https://www.ohchr.org/sites/default/files/documents/issues/water/statements/2024-04-19-eom-sr-water-canada-en.pdf>.

<sup>4</sup> *Mikisew Cree First Nation v Alberta*, [2024 ABKB 578](#).



AER did not tell us for almost a year about this spill. When all was said and done: Imperial Oil paid a \$50,000 fine.

The House of Commons committees heard from many witnesses over the course of the Imperial Oil spill, including that the provincial processes do not account – at all – for human health. There is also no human health monitoring.<sup>5</sup> In the oil sands, human health is usually our health, and we have seen fish have more rights than we do in these processes.

Building pipelines for oil and gas, and even “decarbonized” oil and gas, i.e. through Pathways Alliance, will only increase production, increase impacts and worsen our health.

As such, the *Building Canada Act* is an existential threat for our people. As drafted, we entirely reject Part 2 of Bill C-5.

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Chief Billy-Joe Tuccaro  
Mikisew Cree First Nation

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<sup>5</sup> Brief ENVI Committee, March 21, 2024 :  
<https://www.ourcommons.ca/Content/Committee/441/ENVI/Brief/BR12995579/br-external/OlsgardMandy-e.pdf>



July 15, 2025

Natural Resources Canada

Dear Sir/Madam:

**Re: Meeting with Natural Resources Canada**

Thank you for taking the time to meet with Mikisew Cree First Nation representatives on July 16, 2025.

We are a Nation of over 3000 members located in the oil sands area of what is now northeastern Alberta. Our ancestors entered into Treaty 8 with the Crown, and all discussions must be anchored in the renewal of this Treaty relationship and the implementation of the Crown's Treaty obligations.

As you know, our Nation has experienced elevated cancer rates from the oil sands developments upstream, while sharing no benefit in the revenue derived from our land unless we enter into "impact benefits agreements" (IBAs) with proponents. These IBAs are basically arrangements where we are paid very little for our silence in regulatory proceedings- what you call "certainty". Yet we get no certainty. In any other world, buying silence would be unlawful corruption; in our world, it is the status quo. We enclose a brief we submitted on the study on Restitution, i.e Land Back. We urge you to read this to understand the issues we are facing and the legal reality:

<https://www.ourcommons.ca/Content/Committee/441/INAN/Brief/BR12707692/br-external/MikisewCreeFirstNation-e.pdf>

We also draw your attention to Professor Robert Hamilton's article on our letter to Prime Minister Carney where he explains the legally enforceable interests we have over our territory, which supersede those of the province and most certainly the municipality.<sup>1</sup>

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<sup>1</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>



With this in mind, we note the following demands. If national projects can be fast-tracked, then so can these demands. If certainty is required from us, then we need certainty too. We look forward to moving forward expeditiously on the following urgent issues.

1. **Government Resource Revenue Sharing:** We discussed this with Minister Hodgson in Edmonton and look forward to a follow-up.

For too long, our Nation has been subjugated economically while suffering the disproportionate share of the harms from the oil sands industry. We are then told to seek loan guarantees and invest. Economic reconciliation does not mean we be “allowed” to invest in projects that we do not consent to with borrowed money. If economic reconciliation means anything, it means that our Nation is entitled to taxes and royalties like any other government- with no strings attached. By way of example, last year, the Regional Municipality of Wood Buffalo, which has zero constitutional status, received \$436 million in royalties from our territory; while we received \$13 million, only through IBAs, and which was a substantial and one time increase from the usual amount which is at most \$8 million. It is time to end this inequity. We demand that the Crown mandate for all projects, especially national interest projects, a fixed royalty and tax for those First Nations affected. We are doing research on the amount of royalty and methodology for calculating this royalty to propose a number.

2. **Natural Resource Transfer Act, 1930:** To avoid the need for litigation, we are calling for the rescission of the NRTA, 1930 which was done in breach of Treaty 8 and without our free, prior and informed consent. If not the rescission, there needs to be a Nation-to-Nation negotiation to right this historic wrong. This must include government resource revenue sharing.
3. **Water Rivers and Basins:** Water is our most precious resource. Yet, the province has been allowed to draw to exercise over water. Their proposal to merge water basins and allow the transfer of waters without approvals. This jurisdiction over water is tenuous, at best. We believe water was never a part of Treaty, as our women held jurisdiction over Treaty and they were excluded from the negotiations. We certainly never agreed that a yet to be created province, Alberta, could do what it has done to our waters. We ask that the federal government, rather than abdicate its obligations under Bill C5, step in to exercise its supposed jurisdiction under the *Canada Water Act*.



4. **Bill C-5:** We require a process to ensure our free prior and informed consent on any projects in our territory. In relation to the designation of any national interest projects on or near our territory, we demand forthwith the list of possible projects (i.e. the provinces' wish list). We also require capacity funding to review these designations as part of any consultation process established under section 7(2.1) of the *Building Canada Act* and the requirement for Treaty land use assessments before the designation of any such project, so that mitigations and accommodations can be properly formulated.
5. **Human health protections:** We are tired of being studied, while our people die. We are asking for all Ministries to work together, with Health and Indigenous Services to fix this situation and protect our health. We can no longer withstand with different legislation and policy changes ever 10 years.
6. **Treat and release:** We met with Minister Guilbeault on several occasions to ensure that the toxic tailings water will not be released into our water, the Athabasca River. If this is to happen, we submit it must first be released in the Ottawa River to test its safety. We will not allow this as it presents an existential threat to our people and our way of life as promised under Treaty 8.

Thank you for your time and attention to these matters.

Hiy Hiy,

Chief Billy-Joe Tuccaro  
Mikisew Cree First Nation



July 17, 2025

Dear Prime Minister Carney:

**Re: First Nations Summit 2025**

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Thank you for taking the time to meet with First Nations today.

We are confirming that this meeting is not consultation. There is a long road ahead for any meaningful consultation, which must include sufficient capacity funding and the time and resources to conduct comprehensive Treaty land use assessments. This is not just a request. This is what the Supreme Court has required over and over, from our own seminal case in *Mikisew* (2005) to *Clyde River* to *Restoule*. The Crown has a duty of diligent Treaty implementation and to act honourably.

By this letter, we are formally inviting you to Fort Chipewyan in Treaty 8 territory, near where you were born in Fort Smith. In fact, we have many members in Fort Smith. With this visit, we can share with you how we have been severely impacted by the cumulative effects of virtually unmitigated development in our territory. We have asked UNESCO to designate the Peace Athabasca Delta as a world heritage site in danger because of the issues we have with quantity of water from BC Hydro and quality of water from the largest industrial waste site up stream: the tar sands toxic tailings “ponds”. Any national interest project must consider this catastrophic baseline.

For your awareness, we are a Cree (*nêhiyaw*) Nation of over 3000. Our ancestors entered into Treaty 8 with the Crown, and all discussions must be anchored in the renewal of this Treaty relationship and the implementation of the Crown’s Treaty obligations. With this in mind, we enclose for your reference our previous letters to Canada and the recent demands of Indigenous Services Canada and the Natural Resources Canada.

**We state: if national projects can be fast-tracked, then so can these demands. If certainty is required from us, we need certainty too.**

Following your remarks today, I wish to draw three concerns.



First, we are rightsholders not stakeholders. Your government Ministers have recognized this. If you mean it, then please stop talking about loans and equity ownership. This makes us investors, i.e. stakeholders. The Government of Canada isn't, for the most part, an investor. Not even the Regional Municipality of Wood Buffalo is a stakeholder investor. Instead, Canada and RMWB get royalties and taxes. We have equity ownership in a tank farm, but it came at a cost to us: our silence on this project, replacement of our IBA and the removal of environmental conditions. This equity ownership does not increase when profits increase. It is flat. So, we have seen this stakeholder/investor playbook. It is economic racism against First Nation governments. And it allows industry "redwash" their project.

Therefore, for any project, national interest or otherwise, we are demanding Government Resource Revenue Sharing (GRRS). We are doing research to develop a royalty formula. And we are prepared to litigate, including to seek the rescissions of the *Natural Resource Transfer Agreement* which plainly breached Treaty 8. But our preference is to negotiate as Nation-to-Nation, with the Crown acting honourably.

You must also know that we receive next to nothing from industry projects, despite our people dying of cancer and us suffering the disproportionate impacts of the toxins in our water and wildfires from climate change.

Other than the equity ownership referred to above, the only share of this economic wealth we receive is through Impact Benefit Agreements (IBAs). IBAs are agreements that we are pressured into to get anything from development we know will go ahead regardless of our consent or consultation. In IBAs, industry pays very little for our silence before regulators. In any other world, this would be corruption; in our world, it is the industry standard. Many Nations outside the oil sands, but similarly overrun by development, don't even get IBAs.

The only way to stop this is to stop treating us like stakeholders. Canada benefits from the harms to our territory, without a *quid pro quo*. So should our people.

Second, our Nation strongly objects to a pan-Indigenous Advisory Council. We have Treaty. The Métis do not. We will not sit at nor support such a body. There is no consent to this.

It is also absurd. For example, Canada does not require the provinces to create an advisory council and, if they did, they would not handpick individuals to sit on it. They talk to each province



when they are impacted. If this is onerous, this is the colonial system of government we have grown to operate under for 125 years. That is, this is a fragmentation of Canada's own doing. It cannot force us into to new streamlined processes to manufacture our consent as sovereign Nations.

We can already see who will be on such a council: the usual cast of Assembly of First Nation-Canada characters, and the Chiefs who are presenting here today, who have bought into the idea of "economic reconciliation" through treating First Nations as stakeholders. We do not consent.

This Advisory Council is especially objectionable for Mikisew. How can cronies in Ottawa or Chiefs upstream, not downstream, from the oil sands have any say over our territory. We will object to this process and state it is no substitution for the Nation-to-Nation consultation and consent that is required under our Treaty. As stated in the Globe and Mail yesterday, please attend to the unfinished business under our Treaty instead of making new processes in an attempt to avoid these obligations.

Third, \$40 million in capacity funding for over 600 nations, and however many Metis groups is grossly inadequate. To run a consultation office in our territory is a multi-million dollar undertaking. We require scientists, lawyers, consultants and, most of all, our knowledge keepers to respond to the hundreds of requests we get. We remind you in closing that the Supreme Court of Canada has said, on several occasions, that meaningful consultation requires that we have meaningful opportunities to respond, which includes appropriate resources and funding. If Canada wants to get this done, it needs to put its money where its mouth is.

I can be reached at [chief@mikisewcree.ca](mailto:chief@mikisewcree.ca) to schedule a visit to our territory.

Hiy Hiy,

A handwritten signature in blue ink, appearing to read "Billy-Joe", is positioned below the text "Hiy Hiy,".

Chief Billy-Joe Tuccaro  
Mikisew Cree First Nation

## Question

With regard to the government's development of proposed regulations governing the treat-and-release of oil sands process-affected water into the Athabasca River: (a) as part of the consultation process, will free, prior, and informed consent be sought on any regulation governing the management of tailings in the oil sands region; (b) is a decision-making matrix being developed to clearly articulate how feedback from rights holders and other stakeholders is being considered in the finalization of a regulatory framework for tailings management; (c) what assessments have been completed since January 2021 regarding the potential human health, ecological risks and cumulative environmental effects associated with the release of treated tailings into the Athabasca River, and, what are the details, including (i) the number and type of risk assessments commissioned, (ii) the cumulative effects scenarios modelled and what contaminants were analyzed, (iii) whether these assessments incorporated Indigenous knowledge, Indigenous-identified receptors, or community-identified health concerns; (d) what companies or industry associations have engaged directly with Environment and Climate Change Canada on the proposed treatment and release of tailings, and has a formalized process been established between industry and the government to discuss tailings management issues, and, if so, how many meetings have taken place, and when did these start; (e) how does the government ensure that the development of treat-and-release regulations complies with federal commitments to address environmental racism, including (i) which provisions of the National Strategy to Address Environmental Racism and Environmental Justice have been applied, (ii) how disproportionate impacts on downstream First Nations have been evaluated, (iii) how the results of these evaluations will influence regulatory design; (f) how will the development of a regulatory framework align with the government's obligations under the United Nations Declaration on the Rights of Indigenous Peoples Act, specifically regarding (i) the right to free, prior, and informed consent, (ii) Indigenous peoples' rights to traditional lands and waters, (iii) protection from discriminatory environmental decision-making; and (g) broken down by operator, what tailings ponds or process-affected water facilities are being considered for possible treat-and-release under the proposed regulation, and, for each facility, (i) what volumes of process-affected water are projected for potential release, (ii) what contaminants of concern and associated levels are expected to remain post-treatment, (iii) how have long-term cumulative loadings to the Peace, Athabasca, and Slave watersheds been assessed and characterized?

## Response

This response was tabled in the House of Commons on January 26, 2026, as Sessional Paper 8555-451-610.



Tabled on  
**January 26, 2026**  
Sessional Paper  
**8555-451-610**  
House of Commons

## Order/Address of the House of Commons

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**Question number**

Q-610

**Asked by**

Lori Idlout (Nunavut)

**Date asked**November 25, 2025

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Presented by

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Kevin LamoureuxParliamentary Secretary to the  
Leader of the Government in  
the House of Commons

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## Environment and Climate Change Canada

Reply by: the Minister of the Environment, Climate Change and Nature

Name of Signatory: The Honourable Julie Dabrusin

Reply

## Environment and Climate Change Canada

### **(a) As part of the consultation process, will free, prior, and informed consent be sought on any regulation governing the management of tailings in the oil sands region?**

Canada is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples and its objectives and principles such as free, prior, and informed consent. The *United Nations Declaration on the Rights of Indigenous Peoples Act* also requires Canada, in consultation and cooperation with Indigenous peoples, to take all measures necessary to ensure that the laws of Canada are consistent with the Declaration. As such, we will continue to focus on understanding how regulations may impact rights and interests, and how any such impacts should be accommodated, with the aim of securing free, prior, and informed consent.

The Government will fulfil its commitment to implementing the United Nations Declaration through the review of laws and policies, as well as other collaborative initiatives and actions. This approach aligns with the United Nations Declaration itself, which contemplates that it may be implemented by States through various measures.

Canada is working with nine First Nation and Metis governments through a Crown-Indigenous Working Group Crown-Indigenous Working Group to collaboratively develop materials and recommendations toward the development of potential regulations to authorize the release of treated oil sands mine water. The Working Group is examining alternatives to release

as well as advancing technical and policy work for potential effluent release regulations. Canada is also engaging bilaterally with Indigenous governments on the Crown-Indigenous Working Group and in the Northwest Territories. Canada is consulting in good faith to build consensus and obtain recommendations from Indigenous peoples on the best path forward.

## **(b) Is a decision-making matrix being developed to clearly articulate how feedback from rights holders and other stakeholders is being considered in the finalization of a regulatory framework for tailings management?**

In addition to working collaboratively through the Crown-Indigenous Working Group, Canada is consulting bilaterally with the Indigenous communities on the Crown-Indigenous Working Group and with other Indigenous communities further downstream, including in Alberta and the Northwest Territories. The purpose of these bilateral consultations is to discuss issues, concerns, and potential impacts to rights specific to each community. Canada recently held engagement sessions with rights holders in Fort McMurray and Fort Chipewyan that participate in the Crown-Indigenous Working Group.

For other stakeholders, Canada is meeting regularly with oil sands mine operators, the Mining Association of Canada, and Pathways, to ensure industry knowledge and expertise is incorporated into the process. Canada is also engaging with the governments of Alberta and Northwest Territories to hear concerns, ensure alignment, and minimize duplication between federal and provincial initiatives where possible. Canada has released two Discussion Papers in collaboration with the Crown-Indigenous Working Group to inform the public and stakeholders about the work and analysis of the Crown-Indigenous Working Group and to solicit feedback.

In June 2024, Canada published a “What We Heard Report” summarizing comments received on the first Discussion Paper. A second What We Heard Report on the March 2025 Discussion Paper will be published in early 2026. To date, feedback received has influenced the structure of the process, including the launch of the Crown-Indigenous Working Group and bilateral processes themselves, and the content of work pieces undertaken by Canada and the Crown-Indigenous Working Group.

As work on regulatory development advances, Canada will continue to engage on the regulatory proposal. Canada will also support communities in conducting rights impact assessments from potentially impacted communities on the regulatory proposal. Canada will track the potential impacts to rights raised and how they have been addressed, mitigated, or accommodated.

## **(c) What assessments have been completed since January 2021 regarding the potential human health, ecological risks and cumulative environmental effects associated with the release of treated tailings into the Athabasca River, and, what are the details, including (i) the number and type of risk assessments commissioned, (ii) the cumulative effects scenarios modelled and what contaminants were analyzed, (iii) whether these assessments incorporated Indigenous knowledge, Indigenous-identified receptors, or community-identified health concerns?**

It is important to note that Canada is considering regulations to authorize the release of treated oil sands mine water; releases of tailings are not being considered.

The Crown-Indigenous Working Group and Environment and Climate Change Canada are considering options, including a federal regulation authorizing releases of treated oil sands mine water and alternatives to release. The options will be evaluated and compared. This will include community-led assessments of the potential for impacts to treaty and Aboriginal

rights and the well-being of the Indigenous communities and consideration of potential impacts to the environment and human health. This will be informed by available science and Indigenous knowledge and will take into consideration existing sources of information, such as data from the Oil Sands Monitoring program and the reports developed by the Government of Alberta's Oil Sands Mine Water Science Team. The development of mitigations, scenario refinement, as well as the science and analysis required to ensure a protective approach will also be needed.

Although not yet completed, a risk assessment of oil sands process-affected water, including naphthenic acids, is currently being conducted under the *Canadian Environmental Protection Act, 1999*, in response to public nominations to the *Canadian Environmental Protection Act* Plan of Priorities. The assessment will determine potential risk posed to the environment and human health by oil sands process-affected water. Risk assessors have been engaging with Indigenous Partners through the Crown-Indigenous Working Group to get their input on key aspects of the assessment and ensure that Indigenous knowledge, perspectives and concerns are considered in the assessment.

The Athabasca Chipewyan First Nation, Fort Chipewyan Métis Nation, and Mikisew Cree First Nation have, for many years, sought funding for a study on the health impacts of oil sands development on their citizens.

During his visit to Fort Chipewyan, Alberta, in August 2024, the previous Minister of Environment and Climate Change Canada announced that the Government of Canada would make available nearly \$12 million over 10 years for a community-led Fort Chipewyan Health Study. Athabasca Chipewyan First Nation, Mikisew Cree First Nation, and Fort Chipewyan Métis Nation will co-lead the study. The project funding is taking a stepwise approach, with the initial agreement being for 1.5 years (Phase 1) to establish the methodology and approach for future years' funding. Departmental officials from Health Canada, Indigenous Services Canada and Environment and Climate Change Canada are working with the communities to finalize the proposal aiming to have these in place by January 2026, to begin allocating funds.

**(d) What companies or industry associations have engaged directly with Environment and Climate Change Canada on the proposed treatment and release of tailings, and has a formalized process been established between industry and the government to discuss tailings management issues, and, if so, how many meetings have taken place, and when did these start?**

Canada maintains regular exchanges with all oil sands mine operators, including Suncor, Canadian Natural Resources, and Imperial Oil. Canada also collaborates with the Mining Association of Canada and the Pathways Alliance. Canada meets with Suncor and the Mining Association of Canada on a monthly basis, and on an ad hoc basis with other parties. These exchanges have been ongoing since 2019, alongside consultations with Indigenous communities as well as with provinces and territories. Regular meetings with industry serve as a platform for informal updates and for sharing industry information and data to help inform the regulatory development process. Industry feedback is also gathered through the publication of discussion papers. The Crown–Indigenous Joint Working Group has also submitted information requests to industry and collaborated with it when details on site operations or water management practices were needed to support the analysis of options.

**(e) How does the government ensure that the development of treatment-and-release regulations complies with federal commitments to address environmental racism, including (i) which provisions of the National Strategy to Address Environmental Racism and Environmental Justice have been applied, (ii) how disproportionate impacts on downstream First Nations have been evaluated, (iii) how the results of these evaluations will influence regulatory design?**

Canada is working with the Crown-Indigenous Working Group to ensure that the concerns and interests of potentially impacted Indigenous peoples in the oil sands mining region are actively considered and reflected in policy and regulatory development on the management of oil sands mine water accumulation. This includes consideration of environmental racism and environmental justice. These concepts will also be lenses applied for the evaluation of potential impacts from the regulatory proposal for the purposes of the Regulatory Impact Analysis Statement for the potential regulations.

The *National Strategy to Address Environmental Racism and Environmental Justice Act* requires the development of a national strategy to promote efforts across Canada to advance environmental justice and to assess, prevent and address environmental racism. The strategy is still under development and is not a regulatory instrument. Nonetheless, concepts of environmental justice that have been informing strategy development are understood by Environment and Climate Change Canada officials working with communities to examine treat and release approaches.

In developing the strategy, the Act does require consultation or cooperation with any interested persons, bodies, organizations or communities — including other ministers, representatives of governments in Canada and Indigenous communities — and to ensure that it is consistent with the Government of Canada's framework for the recognition and implementation of the rights of Indigenous peoples.

Leadership from communities located near the Athabasca oil sands region have expressed experiences of environmental racism. Environment and Climate Change Canada officials have been engaged with those communities to better understand their perspectives from an environmental justice perspective.

**(f) How will the development of a regulatory framework align with the government's obligations under the United Nations Declaration on the Rights of Indigenous Peoples Act, specifically regarding (i) the right to free, prior, and informed consent, (ii) Indigenous peoples' rights to traditional lands and waters, (iii) protection from discriminatory environmental decision-making?**

Canada is committed to Indigenous reconciliation and to implementing the United Nations Declaration. We are committed to upholding the principles of Free, Prior and Informed Consent in a way that is practical, respectful, and grounded in trust. That means working together from the very beginning, not just informing, but truly listening, adapting, and seeking alignment where possible before decisions are made. We will continue to focus on understanding how regulations may impact rights and interests, and how any such impacts should be accommodated, with the aim of securing free, prior, and informed consent.

In exploring options to manage the ongoing accumulation of oil sands mine water from, the Crown-Indigenous Working Group is developing recommendations on a potential regulatory framework. Canada is also engaging bilaterally with Indigenous governments represented on the Crown-Indigenous Working Group and in the Northwest Territories. Canada is consulting in good faith to build consensus and seeking to obtain the agreement of Indigenous peoples before going forward.

**(g) Broken down by operator, what tailings ponds or process-affected water facilities are being considered for possible treat-and-release under the proposed regulation, and, for each facility, (i) what volumes of process-affected water are projected for potential release, (ii) what contaminants of concern and associated levels are expected to remain post-treatment, (iii) how have long-term cumulative loadings to the**

## **Peace, Athabasca, and Slave watersheds been assessed and characterized?**

Any potential federal regulation for the release of treated oil sands mine water would apply to all existing and potential future oil sands mine operators. At this stage, specific details regarding projected volumes for potential release, contaminants of concern, and potential effluent limits, are still under development, however all sources of mine water on site are being considered. Similarly, Canada is exploring options to assess and characterize cumulative effects.



ALBERTA  
ENVIRONMENT AND PROTECTED AREAS

*Office of the Minister*

October 14, 2025

Chief Billy-Joe Tuccaro  
Mikisew Cree First Nation  
PO Box 90  
Fort Chipewyan AB T0P 1B0  
[chief@mikisewcree.com](mailto:chief@mikisewcree.com)

Dear Chief Tuccaro:

The Oil Sands Mine Water Steering Committee was established in 2024 to assess options for safely managing the water in oil sands tailings ponds. The committee completed its work, and the Government of Alberta released its recommendations on June 12, 2025, and September 5, 2025.

Over the past year, the committee worked to ensure the perspectives of Indigenous communities, industry, scientists, and others were reflected in its assessment. Members met with Indigenous leaders, industry operators, technology developers, academics, other governments, and environmental experts. The committee also reviewed written submissions to inform its recommendations for a path forward. Its goal was to advance a plan that accelerates progress on tailings ponds while protecting the health of downstream communities and the environment.

Addressing oil sands mine water (OSMW) and tailings ponds is a complex challenge with no single solution. The committee put forward nine recommendations:

1. Require segregation of water streams so that non-process water, including surface runoff and muskeg dewatering, is prioritized for use ahead of Athabasca River withdrawals, and review limits on releasing excess segregated water.
2. Increase sharing of OSMW between oil sands operations to reduce river withdrawals and limit on-site accumulation.
3. Focus on management options that do not involve moving OSMW across watersheds and sub-watersheds.
4. Only use deep well disposal for low volumes of water that cannot be treated economically and for some legacy mine water, once all other options have been considered.
5. Establish standardized methods for measuring naphthenic acids.

6. Work with industry, researchers, and technology providers to pilot promising treatment technologies.
7. Establish release standards for treated OSMW, building on processes used for other industries but tailored to this challenge.
8. Develop criteria for end pit lakes at both site and landscape levels, working with Indigenous communities, industry, and others.
9. Build on existing monitoring programs, include Indigenous knowledge and perspectives, and improve transparency by accelerating the release of water monitoring data in user-friendly formats.

The committee's work is now complete. We are thankful that you took the time to write and share your concerns about the committee at its inception. The government appreciates the importance and sensitivity of the issue of oil sands mine water management to Indigenous communities. The committee's cover letter, recommendations, and glossary of terms are attached and available at [open.alberta.ca/publications](http://open.alberta.ca/publications) by searching "oil sands mine water steering committee recommendations."

With the committee's work concluded, the Government of Alberta will work with the Alberta Energy Regulator, Indigenous communities, and other partners to evaluate policies and tools to implement the recommendations. Our goal is to create a plan that is safe, practical, and supported by science, while protecting the environment, human health, Treaty rights, and traditional uses of land and water.

We remain committed to working with you and others during the implementation process. Environment and Protected Areas will contact your organization with more details. If you require additional information, please contact Ms. Kate Rich, Assistant Deputy Minister of Water and Circular Economy, at 780-203-0844 (dial 310-000 for a toll-free connection), or at [kate.rich@gov.ab.ca](mailto:kate.rich@gov.ab.ca).

I look forward to working with Mikisew Cree First Nation as we implement the committee recommendations to enhance mine water management and tailings ponds reclamation.

Sincerely,



Rebecca Schulz  
Minister of Environment and Protected Areas

Attachment

cc: Distribution List



**February 5, 2026**

**The Honourable Julie Dabrusin, P.C., M.P. Minister of Environment and Climate Change**

**Subject: December 11<sup>th</sup>, 2025, Follow Up Letter Outlining Mikisew Cree First Nation Concerns Regarding CEPA Naphthenic Acid and Crown-Indigenous Working Group Work**

Dear Minister,

We are writing to follow-up on our meeting held on December 11<sup>th</sup>, 2025. During this meeting, we identified some concerns regarding the Canadian Environmental Protection Act (CEPA) risk assessment of naphthenic acid (NA) work being done in tandem with the Crown-Indigenous Working Group (CIWG).

As we shared with you during our conversation, Fort Chipewyan is downstream of oil sands activity. Our members consequently live the daily impact of oil sands development on their way of life, notably due to degraded water quality, loss of landscape to mining and tailings impoundments, and impacts to wildlife and fish alike.

Numerous scientific publications we've reviewed have documented that exposure to NAs, both commercial and derived from oil sands process-affected water (OSPW), can cause negative respiratory, dermal (skin), and systemic (multiple organs) health effects. Meanwhile, from what we've seen Health Canada has characterized commercial NAs as posing no critical health effects for the general population. However, NAs found in OSPW are more chemically complex than their commercial counterparts and have shown to accumulate at higher levels in fish and wildlife. Their chemical composition is poorly understood, and their toxicity has not been thoroughly evaluated by Health Canada. As a result, there is still a high degree of uncertainty about long-term health risks from NA exposure, particularly among Indigenous communities.

Considering these information gaps, it is certainly positive that Environment and Climate Change Canada (ECCC) has initiated a review of OSPW, including NAs, under CEPA. However, we have learnt at CIWG that the CEPA risk assessment will not include the development of a Toxicological Reference Value for NAs found in OSPW. To assess the health risk of exposure to NAs with confidence, toxicity testing results using an OSPW NA mixture are needed, and a Toxicological Reference Value is required.

We have previously shared these concerns regarding the current CEPA risk assessment of Oil Sands Mine Water NA in a letter to ECCC and Health Canada staff. We have attached this letter,

which goes into the technical information in greater detail, but for convenience will provide a high-level summary here:

- 1) Inadequate NA standardization for hazard Identification: We request that the Minister direct ECCC to develop a standardized, commercially available oil sands mine water NA mixture and a standardized analytical approach for measuring NAs to enable research and testing.
- 2) A representative conceptual site model for assessing risk to First Nations: We request the Minister to direct ECCC to engage our team to discuss how to develop a relevant conceptual site model for the risk assessment. Studies have reported that OSPW-NA can cause mortality, developmental abnormalities, endocrine disruption, immunotoxicity, genotoxicity, and mitochondrial dysfunction across aquatic and mammalian models. There is little information on risks to humans; however, molecular and transcriptomic analyses showed effects on metabolism, development, immune function, and endocrine disruption, suggesting potential effects on multiple health outcomes. It is crucial to develop a representative conceptual site model with identified exposure pathways that accurately reflect the traditional use of land, water, and traditional foods.
- 3) Inadequate toxicology information: We request the Minister to direct ECCC to conduct appropriate toxicity testing with OSPW-derived NAs. We understand that Canada has been unable to obtain samples from industry for analysis. The delay in obtaining samples of what will be released into the environment is troubling and limits the relevance of the conclusions drawn from the desktop study currently underway. Currently, the literature lacks sufficient information to establish a baseline for adverse effects or health outcomes in non-fish receptors, including mammals, birds, invertebrates, plants, and amphibians. All these receptors are present within the Athabasca Oil Sands Regions and represent a significant gap in our understanding of the toxicology of OSPW-NAs.
- 4) No Toxicity Reference Value: We request the Minister to direct ECCC, Health Canada, and the CEPA assessors to develop a TRV for naphthenic acids to enable a quantitative health risk assessment. Without a TRV, it is unlikely that the CEPA risk assessment can produce a quantitative risk assessment for NAs.
- 5) Use of new approach methods (NAMs) in risk assessment: We request the Minister to direct ECCC to convene a technical workshop to discuss how to use NAMs as traditional animal toxicity testing methods are inadequate for assessing the complexity of NA

mixtures and human toxicity traditional animal toxicity testing methods are inadequate for assessing the complexity of NA mixtures and human toxicity to address Concerns #3 and #4 within the timeframe of the CIWG work plan.

We request that the Minister uphold obligations under CEPA by immediately adopting these 5 work plan objectives and leveraging the knowledge and expertise within CIWG. Without timely completion of these recognized gaps and limitations, there remains a high degree of uncertainty in any OSPW-NA risk assessment.

Underpinning these matters are wider concerns with the CIWG process. Good work has progressed under CIWG since its inception; however, over the last 3 months, several issues have arisen that will prevent CIWG from fulfilling its stated mandate of taking “a holistic approach to addressing Indigenous concerns, including potential impacts to health.”

### **No Regional Water Quality or Hydrological Model**

There is no reliable regional water quality model for understanding how contaminants within treated OSPW can travel and accumulate in the Athabasca River and Peace Athabasca Delta. Both water bodies are part of the Athabasca River Watershed, which is part of the MacKenzie River Basin. It is not technically possible to treat effluent to a point of zero contaminants. Some contaminants remain after treatment.

When asked, ECCC has pinned its hopes on demonstrating that treated effluent is safe enough at the release point and that further dilution will occur within the river. However, because of the large volume of effluents, the concentrations of contaminants will increase the total loading in the watershed. The contaminants may also accumulate and deposit at “hot spots” downstream and present a serious health risk to humans and animals that interact with those water bodies. A robust regional water quality model is needed to predict contaminant concentrations at key locations along the watershed under different treatment options. Developing such a model would be a multi-year effort and should commence immediately. CIWG participants, including Mikisew Cree First Nation, have been requesting ECCC to develop a model since CIWG first began.

We request the Minister direct staff to commence development of a regional water quality model immediately that can assess the flow, accumulation and deposition of harmful contaminants in the river system.

### **Revise CIWG Work Plan Timeline to Allow for A Health Impact Assessment and Rights Impact Assessment**

In Fall 2025, ECCC presented a new, compressed timeline for finalizing a preferred scenario recommendation to the ECCC Minister. This was done unilaterally without any input from CIWG



and contrary to the terms of reference. The critical path for consensus on a credible, science-based recommendation is a Health Impact Assessment and a Rights Impact Assessment. Neither of these can be done without a quantitative health risk assessment, which requires a regional water quality model and a quantitative understanding of naphthenic acids.

*We request the Minister direct staff to revise the CIWG timeline to allow for a Health Impact Assessment and Rights Impact Assessment.*

### **Pursue Canada Water Act Section 13 Action**

CIWG is evaluating two scenarios: 1) treatment and release and 2) alternatives. ECCC has emphasized that it has the Fisheries Act available to regulate treatment and release while expressing doubt that it has a regulatory role in the “alternatives” scenario. It is Mikisew’s understanding the Canada Water Act enables the Minister to take two actions that could protect the Athabasca River:

- (1) Federal-Provincial Agreements (Part 1 s. 11); and
- (2) Unilateral Federal Agreements (Part 2 s. 13).

*Given the importance of the Athabasca Watershed to downstream community health and rights, we urge the Minister to direct staff to explore Option #2.*

The concerns outlined here are a matter of critical concern not only to Mikisew Cree First Nation, but also to all downstream communities that rely on a healthy Mackenzie River Basin. We are asking for CIWG and CEPA work to proceed in a way that addresses our concerns, to ensure that the outcomes will be protective of human and environmental health. Further, we are requesting that the CIWG work plan is revisited so that there is time to gather and analyze the necessary scientific knowledge that must be understood prior to any regulatory decision that is made. Ultimately, we are asking for your commitment to ensuring that CIWG can meaningfully achieve its stated mandate and has the resources and timeline to do so credibly.

Sincerely,

Kennedy Tuccaro

Government Relations Manager

Mikisew Cree First Nation



**February 5, 2026**

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

**The Honourable Julie Dabrusin, P.C., M.P. Minister of Environment and Climate Change Canada**

**Subject: Commitment to Supporting the Federal Crown-Indigenous Working Group Process for Oil Sands Process Water Management**

Dear Prime Minister and Minister,

For Mikisew Cree First Nation, the Athabasca River and Peace-Athabasca Delta is a living system that has sustained our people, culture, livelihoods, and governance since time immemorial. We depend upon our river and our delta for harvesting, cultural practices, and the exercise of Treaty and constitutionally protected rights. Impacting our livelihood is the fact that we are immediately downstream of some of the largest tailings ponds in the world, containing an approximate 1.4 trillion litres of effluent as part of oil sands mining operations. Any regulatory decision for oil sands tailings management must be grounded in the long-term protection of the river system and human health. Of paramount importance is that decision making vis-a-vis the development of tailings management options and associated regulations need to respect the Crown's constitutional obligations to Indigenous rights-holders.

Mikisew Cree First Nation has participated in good faith engagement with Environment and Climate Change Canada (ECCC) for several years as a member of the Crown-Indigenous Working Group (CIWG). The working group was established in January 2021 in response to concerns raised by Indigenous communities regarding potential releases of oil sands mining effluent to the Athabasca River watershed. CIWG and its technical sub-groups enable impacted Indigenous communities to work directly with technical experts from Environment and Climate Change Canada and Health Canada on this critical matter. This joint table is just one part of the Crown's duty to consult. It should be noted that meaningful consultation is most effective when Indigenous knowledge, evidence, and solutions meaningfully shape outcomes.



CIWG has a mandate to characterize two broad OSPW scenarios from a technical, policy, environment, health and Indigenous Rights perspective: (1) treatment and release of oil sands process-affected water into the Athabasca River; and (2) alternatives to treatment and release.

Mikisew Cree First Nation recognizes the complexity of this issue, which has compounded from decades of increasing OSPW volumes without a clear management plan developed and the growing lobbyist pressure from the oil sands industry to advance treat and release as the only option they will accept. We remain committed to advancing practical, credible, and science-backed tailings management solutions for the accumulation of OSPW that uphold Indigenous rights and align with the honour of the Crown.

We are aware industry has expressed the need for urgency on a solution. However, a robust CIWG process that carefully assesses health risks and impacts on Rights can be completed well within industry's operational timeline. Without this, there is an incredible risk to proceeding without undertaking robust consultation. Mikisew Cree First Nation's intent in this process has not wavered: supporting the identification of credible risks, closing knowledge gaps, and advancing feasible alternatives that avoid or minimize harm while providing potential regulatory certainty. Consultation is not satisfied by process alone; it is realized through decisions that reflect good-faith engagement, responsiveness to Indigenous expertise, and a willingness to adapt regulatory pathways to avoid or minimize impacts to rights, lands, waters, and communities.

Importantly, the need for accelerated short-term decision-making is solely due to a single operator—Suncor Energy—which is approaching closure-related water management constraints. While OSPW management is an oil sands industry issue applicable to all operators, decision-making on a regulatory scenario towards one operator's preferred management option should not be fast-tracked to suit an operator's interests in absence of any credible, science-based research having been initiated, underway, or completed.

Through CIWG technical work undertaken by qualified third party professionals, it demonstrates that alternatives to treatment and release are feasible. Further evaluation of the two CIWG scenarios (treatment/release vs alternatives) requires that commitments made through the CIWG be honoured and that any potential regulatory decisions be informed by a complete and defensible understanding of risk among the two scenarios being considered. Our objective is to ensure that outcomes are safe for human and environmental health.

Although CIWG has made good progress, significant gaps remain in the data, testing, and health risk characterization required to support consideration of the two scenarios. Mikisew Cree First Nation recognizes the jurisdictional complexities between Alberta and Canada and believes these challenges can be addressed through a clear, principled federal approach.

## Conclusion

- CIWG's recent technical findings demonstrates there are economically viable alternatives to Treatment and Release;
- There has been no Health Risk assessment and no Rights Impact assessment to date; this work will take more time and is essential to minimize impacts and de-risk the solution for everyone involved;
- There is sufficient time to properly assess the health risks and rights impacts of the various options and satisfy Suncor's near-term operational needs contrary to their statements; and
- Other operators do not have any near-term requirements for water management to force a regulatory decision outside of the CIWG process would be premature and pose severe health concerns to our Nation.

We have the following requests:

- ECCC to confirm its commitment to the work of CIWG, which entails a full assessment of two scenarios (treatment/release vs alternatives).
- An opportunity to meet with you and your officials, together with Indigenous members of the Crown-Indigenous Working Group, to present an alternative timeline that enables the necessary models; environmental, health, and rights impact assessments to be accomplished in alignment with the mandate of CIWG and present the shortlisted tailings management alternatives in detail.

We are confident that a balanced and protective path forward exists and is one that supports innovation, reduces risk, and upholds the Crown's constitutional and reconciliation commitments.

Respectfully,



Chief Billy-Joe Tuccaro  
Mikisew Cree First Nation

## MIKISEW CREE FIRST NATION

ALLISON BAY INDIAN RESERVE #219

BOX 90, FORT CHIPEWYAN, ALBERTA T0P 1B0

PHONE: (780) 697-3740 FAX: (780) 697-3826



October 25, 2024

Dear Oil Sands Mine Water Steering Committee,

On behalf of Mikisew Cree First Nation (MCFN) we are writing to request our full participation in directing tailings management and share our concerns with the current process that is being undertaken at this steering committee. The matter of tailings management and the impacts it has on the environment and human health are a top priority for MCFN leadership. MCFN Chief and Council understand that the presence of tailings and continued lack of demonstrated effective tailings management significantly contribute to harmful long-term impacts to the plants, fish, birds, and animals that rely on our lands and waters, and to our members who are Treaty Rights holders within our traditional territory. As Treaty Rights holders that are directly impacted by the management of Tailings Water, we want to ensure that our rights are protected and that we are leaders at the decision-making table.

All decisions regarding reclamation directly affect the Treaty and inherent rights of our nation. The inclusion of only one First Nation person on this committee assumes a pan-indigenous approach and it deflates the importance of upholding treaty rights. Decisions regarding tailings management will require robust consultation directly with MCFN. Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples requires that Alberta and Canada get our free prior informed consent for the storage or disposal of hazardous materials:

*States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*

The issue of wastewater falls within both federal and provincial jurisdictions. As such the federal government has established the Crown-Indigenous Working Group (CIWG) which fully includes the participation and decision-making authority of impacted First Nations. CIWG has been working on this issue since 2021 and it's not reasonable for the province to be able to undertake this same directive and have a resolution that is equally sufficient in less than a year. This table needs to align itself with the directives that will come from CIWG. At this time, the viability of technical treatment options are still being researched at this table. Until this full technical review process has been completed, we are not able to provide the province with a technical submission. Of the tailings technologies evaluated so far, we maintain our opposition to water capped tailings and treat and

release. We are fully willing to participate with the province on this matter, but we cannot do so until the technical review of all tailing's technologies are fully evaluated.

The planned outcome for this committee is to accelerate the path forward for oil sands mine water management and tailings pond reclamation, while protecting the health of downstream communities. We are aligned in this goal, but it is too narrow in its scope. We cannot solely look at wastewater treatment, we must look holistically at all aspects of reclamation, remediation and closure. As one of the largest communities downstream of the oil sands we will be the ones most affected by the decisions made at this committee. As such it is imperative that we can participate in these decisions from their onset. MCFN is eager to regain access to our traditional lands that have been impacted by industry, and that is contingent on developing a robust plan for tailings that protects the environment, and the health of our people. The current process set by the province does not constitute as consultation. MCFN has established a process for consultation, and we are happy to engage with the province in the manner set out by that process. MCFN looks forward to continual engagement and meaningful consultation with the province on wastewater management and requests fulsome participation in this process moving forward.

Yours in reconciliation,

*Sebastien Fekete*

**Sebastien Fekete**

Acting Director

Mikisew Cree First Nation Government and Industry Relations

**From:** [Ellement, Nicole \(ECCC\)](#)  
**To:** [Kennedy Tuccaro](#)  
**Cc:** [Fisher, Mark \(CWA/AEC\)](#); [lori.idlout@parl.gc.ca](mailto:lori.idlout@parl.gc.ca); [Monforton, Amanda \(elle | she, her\) \(ECCC\)](#); [Sebastien Fekete](#); [Rachel Graham](#)  
**Subject:** RE: Follow Up Letter: Mikisew Cree First Nation Concerns Regarding CEPA Naphthenic Acid and CIWG Work  
**Date:** Tuesday, February 17, 2026 8:54:46 AM  
**Attachments:** [image001.png](#)

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Hi Kennedy,

I just wanted to ensure that you're aware that we've received this and we are processing. I am also working with my team to see what would be possible for a meeting with Minister Dabrusin.

Please don't hesitate to reach out if you have anything further!

Kindest,

**Nicole Ellement** (she/her/elle)

Senior Regional Advisor – British Columbia, Alberta, and Saskatchewan | Conseillère

régionale principale – Colombie-Britannique, Alberta et Saskatchewan

*Cabinet de la ministre de l'Environnement, du Changement climatique et de la Nature | Office of the Minister of the Environment, Climate Change and Nature*

[Nicole.Ellement@ec.gc.ca](mailto:Nicole.Ellement@ec.gc.ca) | 343-542-2346

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**From:** Kennedy Tuccaro <kennedy.tuccaro@mikisewcree.ca>

**Sent:** Monday, February 9, 2026 3:38 PM

**To:** julie.dabrusin@parl.gc.ca

**Cc:** Fisher, Mark (CWA/AEC) <Mark.Fisher@cwa-aec.gc.ca>; lori.idlout@parl.gc.ca; Ellement, Nicole (ECCC) <Nicole.Ellement@ec.gc.ca>; Monforton, Amanda (elle | she, her) (ECCC)

<Amanda.Monforton@ec.gc.ca>; Sebastien Fekete <sebastien.fekete@mikisewcree.ca>; Rachel Graham <rachel.graham@mikisewcree.ca>

**Subject:** Follow Up Letter: Mikisew Cree First Nation Concerns Regarding CEPA Naphthenic Acid and CIWG Work

You don't often get email from [kennedy.tuccaro@mikisewcree.ca](mailto:kennedy.tuccaro@mikisewcree.ca). [Learn why this is important](#)

Good morning Minister,

I am submitting this letter on behalf of Mikisew Cree First Nation in response to the requested follow up action stemming from our December 11<sup>th</sup> meeting between yourself and Mikisew Cree First Nation.

We have also attached the letter we sent on December 4<sup>th</sup> to senior staff within ECCC and Health Canada regarding specific concerns with the technical work being done as part of the CEPA Assessment for Naphthenic Acids. We have shared this so you can review the technical information our concerns are based on.

Additionally, we have included several individuals in this communication who we would like to keep abreast of these concerns and our requests on this matter.

Sincerely,  
Kennedy Tuccaro



**Kennedy Tuccaro**  
Government Relations Manager

**C: (236) 660-1355 O: (780) 714-6500**  
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**MIKISEW CREE FIRST NATION**  
Government & Industry Relations

*Kinanaskomitin (Thank you)*