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Dec 15, 2025

*Submitted via online portal 'Let's talk impact assessment'*

**Re: Kebaowek First Nation's Comments on the Impact Assessment Agency of Canada's Draft Co-operation Agreement between Ontario and Canada on Environmental and Impact Assessment**

These are the views and recommendations of Kebaowek First Nation ("Kebaowek") in response to the Impact Assessment Agency of Canada's (IAAC) call for comments on the [Draft Co-operation Agreement between Ontario and Canada on Environmental and Impact Assessment](#) ("Co-operation Agreement"). It is our understanding the Government of Canada has committed to achieving reconciliation with Indigenous peoples through a renewed nation-to-nation, government to government relationship between Canada and Indigenous peoples based on recognition of rights, respect, co-operation and partnership as the foundation for transformative change.

The United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP"), which includes provisions relating to the free, prior and informed consent of Indigenous peoples, serves as a foundation for the Government of Canada's commitment to achieve reconciliation in Canada as set out in the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

IAAC has developed the Impact Assessment Agency of Canada's Reconciliation Framework to guide the IAAC's efforts to align its work with the objectives and spirit of the UN Declaration, which includes a commitment to maximize Indigenous leadership in environmental and impact assessments.

To this effect and as a preliminary and pressing matter, Kebaowek is deeply concerned that this so-called consultation process does **not** meet the standards required under Article 19 of the UNDRIP, which calls for **free, prior, and informed consent** before adopting legislative or administrative measures that may affect Indigenous Peoples. Because key decisions – including the passing of Bill C-5 - have already occurred absent our involvement, any engagement offered now is post-hoc and informational, rather than a rights-based process through which consent could meaningfully be sought or given.

As such, we provide these comments on a without prejudice basis to our rights, and our participation must not be interpreted as consent to either the legislation nor its implementation. We urge the IAAC to

ensure that future reforms and engagement processes are designed from the outset to uphold Article 19, support Indigenous-led decision-making, and respect our inherent authority to steward our lands and waters.

## **1.0 KEBAOWEK FIRST NATION**

Kebaowek is an Algonquin Anishinabeg First Nation and one of the eleven communities that constitute the broader Algonquin Nation. For centuries, the Algonquin Nation occupied the length of the Kichi Sibi (Ottawa River) watershed, from its headwaters in north central Québec, all the way to its outlet in Montreal. Algonquin peoples have long exercised our customary laws and governance, known as *Ona'ken'age'win*, on our traditional territory. This law is based on Algonquin peoples' mobility on the territory, to hunt, gather, and control the use of the lands and waterways for future generations. The Algonquin Nation has never ceded its traditional territory, and its rights and title have not been extinguished. As Algonquin peoples we regard ourselves as keepers of the land, with seven generations worth of responsibilities for livelihood security, cultural identity, territoriality, and biodiversity.

Kebaowek's reserve lands are on Lake Kipawa, Québec. KFN represents over 1100 registered members living on and off reserve, largely in Québec and Ontario. KFN maintains an office in Mattawa, Ontario for its members. On January 23, 2013, Kebaowek, Wolf Lake First Nation (WLFN), and Timiskaming First Nation (TFN) jointly released a Statement of Asserted Rights (SAR) which summarizes the Aboriginal rights, including title, which our three First Nations assert and provides detailed evidence to substantiate it including around the Chalk River nuclear site. Copies of the SAR, maps, and background documentation were transmitted to the governments of Canada, Quebec, and Ontario in January 2013.

In summary, our First Nations have not relinquished Aboriginal rights and title, over lands that straddle the Ottawa River basin on both sides of the Quebec-Ontario boundary. The importance of this information in establishing consultation processes and the responsibilities of the Crown are affirmed by existing case law. Our historical research supports, that mutuality, respect and consultation are integral to Algonquin social and political organization on a number of levels: family to family, band to band, and Nation to Nation. We are an order of government with rights and territorial jurisdiction to our lands to be addressed from a "Nation to Nation" perspective supported by articles of UNDRIP.

## **2.0 KEBAOWEK'S EXTENSIVE EXPERIENCE WITH IMPACT ASSESSMENT**

Kebaowek has participated actively in the federal environmental law reform process since consultations began in 2016. We have contributed written and oral submissions to the Canadian Environmental Assessment Act (CEAA) Expert Panel, the National Energy Board (NEB) Expert Panel, the federal Discussion Paper, to the House of Commons Standing Committee on Environment and Sustainable Development (ENVI) on amending Bill C-29 and to the Minister of Environment on legislative amendments to the *Impact Assessment Act* (IAA) in 2024.

We have welcomed many changes to the *Impact Assessment Act*. These include: (1) the mandatory consideration of Indigenous Knowledge; (2) a necessary assessment of impacts on rights in decision-making; (3) regulatory opportunities for our First Nation government to lead impact assessments

ourselves; and (4) the direct reference and jurisprudence surrounding federal legislation as it relates to UNDRIP.

Like many other First Nations across Canada, our interventions have often focused on ensuring that the review process and impact assessment regime for energy and industrial projects are aligned with our ability to participate in decision-making regarding industrial activities that impact our rights and to provide protections for our lands and waters. For this reason, any proposed changes to impact assessment and the *IAA* are of great importance to our community.

### **3.0 MODIFICATIONS NEEDED TO COMPLY WITH THE CROWN'S DUTY AND UNDRIP**

#### **3.1 Concerns with Substitution and Delegation of Federal Responsibilities**

Kebaowek is deeply concerned that the draft Co-operation Agreement risks enabling the federal Crown to withdraw from its constitutional responsibilities through the use of substitution and early screening decisions. While framed as 'efficiency' or 'coordination', substitution in practice would allow the federal government to defer to provincial processes that do not share an equivalent mandate to safeguard Indigenous and Treaty rights or uphold nation-to-nation relationships.

The *IAA* was written with the implementation of UNDRIP in mind. The incorporation of UNDRIP is hardwired into processes and decision-making under the *IAA*. This includes, for example, provisions in the *IAA* around consideration of Indigenous rights and Indigenous knowledge as well as Canada's commitment to seek the free prior and informed consent of Indigenous peoples in relation to decisions under the *IAA*. Kebaowek does not support any model where provincial environmental assessment processes are presumed to be "appropriate" substitutes for the federal IAAC role. Demonstrated equivalency — not assumed equivalency — must be the starting point for any consideration of shared roles in impact assessment.

#### **3.2 Indigenous Nations Must Be Partners in Co-Development, Not Stakeholders**

In order for any Co-operation Agreement to be consistent with UNDRIP, Indigenous Nations must be recognized as governments and decision-makers—not as stakeholders to be consulted after federal and provincial decisions are already underway. Cooperation agreements must therefore be **tripartite**, rather than exclusively federal–provincial.

The IAAC must not limit the scope and ability of Indigenous bodies to weigh in and exercise their authority in all phases of the impact assessment process, including early assessment decisions. Restricting Indigenous participation in this way is contrary to the purposes of the *IAA*, as well as commitments set out in UNDRIP and the domestic equivalent, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UN Declaration Act), which requires the full, fair and equitable participation of Indigenous Peoples in decisions affecting their lands, resources and territories.

For example Article 10 provides as follows:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

For example, article 18 provides as follows:

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedure, as well as to maintain and develop their own indigenous decision-making institutions.

For example, article 29 provides as follows:

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. 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.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Moreover, article 32 (2) of the UN Declaration states:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water and other resources.

### **3.3 Free, Prior, and Informed Consent Must Be Explicit**

The Co-operation Agreement must also explicitly affirm that **Free, Prior and Informed Consent (FPIC) is a decision-shaping requirement**, not a procedural objective or an outcome left to the discretion of the Crown. FPIC means that a project cannot proceed where Indigenous consent has not been given. It also means that **Indigenous law and knowledge must guide assessment methodologies**, impact determinations, risk evaluations, and long-term stewardship decisions.

### **Closing Remarks**

Kebaowek remains committed to constructive, good-faith engagement with IAAC and to the advancement of impact assessment processes that respect Indigenous jurisdiction, law, and governance.

In light of the concerns outlined above, Kebaowek respectfully requests a meeting with IAAC officials to discuss the draft co-operation agreement, the implications of Bill C-5 for federal oversight and Indigenous rights, and the steps required to bring this process into alignment with UNDRIP and the honour of the Crown.

We look forward to your response and to further dialogue on these critical issues.

Sincerely,

A handwritten signature in black ink, reading "Lance Haymond". The signature is written in a cursive, flowing style.

**Chief Lance Haymond**  
Kebaowek First Nation