CONFEDERACY OF TREATY SIX FIRST NATIONS

HEAD OFFICE: ENOCH CREE NATION NO. 135 P.O. BOX 270, ENOCH AB T7X 3Y3

March 27, 2026

Re: Draft Co-operation Agreement on Environmental and Impact Assessment between Alberta and Canada

To whom it may concern,

The Confederacy of Treaty Six Nations (the Confederacy) submits these comments on the Draft Co-operation Agreement on Environmental and Impact Assessment between Alberta and Canada (the draft agreement).

Background

Treaty Six represents a constitutional relationship between First Nations and the Crown that continues to bind both Canada and Alberta. All actions by the Crown, including intergovernmental agreements, must uphold the spirit and intent of the Treaties, section 35 of the Constitution Act, 1982, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and United Nations Declaration on the Rights of Indigenous Peoples Act (CANDRIP).

The Confederacy supports coordination between governments when it improves clarity, reduces duplication, and enhances environmental protection. However, coordination cannot come at the expense of Treaty rights, meaningful consultation, or federal accountability when federal jurisdiction is engaged.

This submission is Treaty-based and practical in approach. It complements but does not replace any Nation-specific submissions, technical studies, or legal reviews that individual Treaty Six Nations may also provide based on their specific rights, territories, and concerns.

Canada's current approach to "one project, one review" is not new. Canada already has co-operation agreements with British Columbia, Ontario, and New Brunswick. Alberta's draft follows that broader model, but it is more concerning in several important respects, especially on consultation, clarity, and accountability.

Key Concerns

<u>Excessive Deference to Alberta's Systems (Sections 1 and 3)</u>

The Confederacy's primary concern is that the Alberta draft goes too far in deferring to Alberta's processes. Sections 1 and 3 would allow Canada to rely on Alberta's assessment or regulatory processes for projects that are primarily within provincial jurisdiction, including where Alberta says those processes can address adverse effects within federal jurisdiction. That is not a sufficient basis for Canada to step back. Alberta's confidence in its own system cannot be the measure of whether federal responsibilities have been met where Treaty rights and matters within federal jurisdiction remain engaged. Alberta's own consultation and regulatory systems remain a serious concern for many First Nations, especially on environmental protection, cumulative effects and the practical consideration of Treaty rights.

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Federal Deferral on Consultation (Section 7(1))

A significant issue in the draft is section 7(1). It states that, for projects primarily within provincial jurisdiction, Canada will recognize Alberta as "best placed" to consult with Indigenous Peoples under Alberta's consultation policies and practices. That language is inconsistent from with a Treaty-based approach. It suggests that Canada may defer not only on assessment, but also on consultation.

Treaty Six Nations require a clearer statement that Canada remains responsible for ensuring that its own obligations are met where federal decisions, federal lands, or adverse effects within federal jurisdiction are involved. A better model is Ontario's agreement. Ontario section 6 uses coordination language and states that, in a substituted assessment, each party retains responsibility to ensure that the duty to consult and, where appropriate, accommodate Indigenous Peoples has been satisfied, while IAAC and Ontario coordinate consultation and co-operate througho ut the assessment.

Preamble Language on UNDRIP

The Confederacy is also concerned by the preamble language stating that Alberta views UNDRIP as non-binding. That wording does not appear in Ontario or New Brunswick, and British Columbia's agreement takes a more positive approach to working with Indigenous peoples and collaboration in impact assessments. The Alberta wording sends the wrong message and should be removed.

The agreement should instead confirm that implementation will be consistent with section 35 of the Constitution Act, 1982, the Treaties, UNDRIP and CANDRIP.

Lack of Transparency and Federal Triggers

Canada should also be required to provide public written reasons before relying on Alberta's processes instead of conducting a distinct federal assessment. The current draft does not require Canada to explain what federal effects may arise, how Alberta's process will address them, what federal permits or decisions remain, how cumulative effects and Treaty rights impacts will be considered, or why a separate federal assessment is unnecessary. The final agreement should include that requirement. This would improve transparency and help First Nations understand when and why provincial rather than federal processes are being used.

The final agreement should also identify circumstances where federal review or direct federal involvement cannot be avoided. These should include projects that may affect reserve lands or federal lands, projects with interprovincial or transboundary effects, projects requiring multiple federal permits, projects with serious cumulative effects concerns, and projects where affected First Nations raise substantial Treaty rights concerns.

Unclear Framework for Co-operative Assessments (Section 4)

Section 4 is too general. Unlike Ontario's agreement, Alberta's draft does not clearly explain the framework for a single assessment process or how roles, responsibilities, timelines, and consultation will be managed in practice. This creates avoidable uncertainty for First Nations about process, accountability, and how federal

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responsibilities will actually be carried out. The Confederacy recommends that section 4 be revised so that any co-operative or single-process arrangement is clearly grounded in the IAA and applicable provincial law, made public, and required to set out roles, responsibilities, timelines, consultation plans, and public participation opportunities.

Conclusion

In summary, the Confederacy does not oppose coordination between governments. What we oppose is an agreement that risks turning coordination into reduced federal accountability. As currently drafted, the agreement places too much reliance on Alberta's existing systems, provides too little certainty about federal roles, and does not contain enough safeguards to protect Treaty rights in practice.

To address these gaps and strengthen accountability, the Confederacy recommends that Canada and Alberta:

- replace Alberta section 7(1) with joint coordination language closer to Ontario section 6;
- expressly confirm that Canada's duty to consult cannot be transferred, limited, or deemed satisfied by Alberta's process;
- revise section 4 so any co-operative assessment arrangement is clearly grounded in the IAA, made public, and includes consultation and participation details;
- remove the UNDRIP disclaimer and align implementation with section 35, the Treaties, UNDRIP and CANDRIP;
- require public written reasons where Canada relies on Alberta's process; and
- strengthen provisions on federal review triggers.

Treaty Six Nations require a process that is clear, transparent, and capable of upholding Treaty rights and the Crown's constitutional duties in the assessment, review, and approval of future projects.

Sincerely,

Grand Chief Joey Pete
Confederacy of Treaty No. 6 First Nations