



**Submission to the Expert Panel on the
Review of Environmental Assessment Processes**

December 16, 2016

The Fort McMurray #468 First Nation Industry Relations Corporation is pleased to provide these submissions to the Expert Panel as part of its review of environmental assessment processes on behalf of itself and Fort McMurray #468 First Nation.

Fort McMurray #468 First Nation

Fort McMurray #468 First Nation (“FMFN” or “the Nation”) is a Treaty 8 signatory First Nation with a membership of over 760 members. The ancestry of FMFN includes Woodland and Plains Cree, and Chipewyan and Beaver (Dene) peoples. FMFN’s reserves and community lands are primarily located in proximity to and southeast of Fort McMurray in north-eastern Alberta. FMFN’s traditional territory and lands extends east into Saskatchewan, north into the Northwest Territories, south of the North Saskatchewan River, and west of Wabasca, Alberta.

FMFN has a rich history, culture, and tradition, with historic, contemporary, and future traditional land use and cultural practices throughout this region and our traditional territory and area. FMFN’s traditional territory and lands include the Athabasca oil sands region of northern Alberta, and the oil sands and industrial developments in this region.

Context

The Fort McMurray #468 First Nation Industry Relations Corporation serves as a liaison between FMFN and external stakeholders such as proponents for industrial development in the area. We have first hand experience dealing with the consultation and regulatory processes involved with industry and industrial development. Our comments and recommendations as set out in these submissions arise from our observations, concerns, and experiences with these processes.

Issues with the Environmental Assessment Process

In these submissions, we have focused our issues of concern and recommendations on the following high level themes:

1. Purpose and Scope of the Federal Environmental Assessment Process

2. Environmental Assessments and Cumulative Impacts
3. Meaningful Indigenous Involvement, Participation, and Engagement
4. Enhanced Transparency and Indigenous Participation

Purpose and Scope of the Federal Environmental Assessment Process

Environmental assessment processes need to be re-centred to a meaningful and collaborative process. There is a need for a Nation-to-Nation dialogue and engagement in these processes.

Too often, indigenous involvement is not commenced early enough, and not engaged enough such that there is no adequate, appropriate, and meaningful dialogue, consideration, and engagement of traditional knowledge and indigenous involvement in the process. Traditional knowledge and indigenous involvement, along with the precautionary principle, should be the foundation and meaningful cornerstone of such processes, rather than a further step incorporated sometime later in the process.

Environmental Assessments and Cumulative Impacts

Conceptually, environmental assessment processes need to better recognise that projects, whether small or large, do not occur in isolation. Our Nation's traditional territory contains all of the oil sands and industrial development located in this region of Canada. It has been our experience that such assessments and processes do not adequately capture or meaningfully consider the cumulative and collective impacts of these projects.

At present, it is rare that regional environmental assessments, or regional studies, under existing federal legislation have been authorized or undertaken. This is particularly problematic in regions with intensive industrial development such as the number of separate oil sands projects in our traditional territory. Particularly given the nature of industrial development, such as oil sands extraction projects, there needs to be a stronger call and mandate for the use of regional studies that are already authorized under existing legislation. This would allow for a better understanding of the regional impact of projects and developments.

There needs to be a better understanding and assessment of a project's environmental effects on a regional, cumulative, as well as at a broader level. We would encourage the Expert Panel to integrate and mandate cumulative and ecosystem assessments, and to have these tools used.

We would recommend that the Panel specifically develop and incorporate issues that would trigger and require a broader cumulative assessment. We recommend that these include geographic areas that are already subject to substantial, heavy, or intensive development, or in areas where such development is proposed. Another trigger would be where cumulative effects would be expected, or where concerns have been

expressed regarding cumulative effects. Another trigger would be where aboriginal rights are potentially affected by a proposed project. In such an instance, potentially affected parties such as First Nations and other groups would be able to request that a cumulative study be mandated, and with indigenous participation ensured.

The concept of environmental effects needs to be broadly conceptualised and clarified. There needs to be better clarity from both a substantive and procedural perspective. There should be better transparency and standards incorporated into this concept and consideration of environmental effects that can be looked to when this concept is being evaluated and considered.

We would recommend that all potential environmental effects be considered in assessments. This also needs to be tied into the concern outlined above regarding the need for assessments to consider broader cumulative impacts.

Meaningful Indigenous Involvement, Participation, and Engagement

The environmental assessment process needs to better recognise and account for the time and capacity constraints that can be experienced by indigenous groups. There is a need to ensure that timelines are reasonable for meaningful and informed indigenous involvement and participation in such processes.

This means that indigenous groups need to be engaged at an early and foundational stage of the assessment process, and that there is adequate and appropriate support and capacity for indigenous involvement. Information sharing and communications with the indigenous group need to occur early and be ongoing.

The environmental assessment process should also be enhanced such that there is adequate and ongoing participant funding for groups such as First Nations in these processes. This would allow for better responses and engagement in the consultation and assessment process from the First Nation's perspective, enhance consultation from the Crown's perspective, and also allow for the enhancement and building of strengthened capacity within indigenous communities themselves.

Traditional ecological knowledge, or indigenous knowledge, needs to form an integral and foundational part of environmental assessments and decisions. It has an important and useful role in assessing environmental effects.

There should also be a better incorporation of indigenous knowledge in the substantive and procedural decision making process. Elements of this would include ensuring enhanced cultural training is provided to relevant decision makers and staff, and also to have indigenous representation on decision making bodies and as decision makers.

Enhanced Transparency and Indigenous Participation

A fair, transparent, and trustworthy decision-making process includes transparency and accountability and ready access to information throughout the process, as well as strong follow-up and monitoring programs. Information regarding applications, decisions, monitoring, follow-up and outcomes needs to be readily and publicly available for review.

Monitoring and follow-up should include broad participation, particularly from indigenous communities such as local First Nations. There is a need to ensure that environmental assessments are proactively monitored, with local community and local indigenous participation.

Conclusion

We appreciate the opportunity to provide these submissions and a highlight of some of our concerns regarding environmental assessment processes. We have provided some of our recommendations to strengthen these processes, and we appreciate the opportunity to speak to our experiences.

We trust that our submissions will be of assistance to the Expert Panel in its review and consideration of this matter. We would be pleased to further discuss our recommendations in greater detail and to provide further clarification if this would be of assistance.