

**NAOS Kai Kos Dehseh Project's
Proposed Terms of Reference**

Prepared for:

**Fort McMurray # 468 First Nation
Industry Relations Corporation
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TABLE OF CONTENTS

1.0 INTRODUCTION..... 1

2.0 PROJECT OVERVIEW..... 3

3.0 SECTION RELATED COMMENTS..... 4

4.0 CLOSURE..... 17

Disclaimer

The comments provided by Twin Rivers Consulting are based upon the information provided for review of this project and do not constitute legal advice. The *Fort McMurray #468 First Nation Traditional Land Use Study* (TLUS) is referenced in this review. No portion of the TLUS related information may be reproduced without permission from the Fort McMurray #468 First Nation.

March 16, 2007

1.0 INTRODUCTION

The Fort McMurray First Nation (FMcMFN) is faced with uncertainty with respect to the rapid rate of regional development and increased pressures from industrial developments on their traditional lands. It has identified the cumulative impacts of all these developments are the primary environmental issue they must, as stewards of those lands, address.

The FMcMFN, due to limited capacity and resources, requested an extension to the timeline for input to review and assess NAOS Kai Kos Dehseh Project Proposed Terms of Reference (ToR). The objective of this review was to determine whether or not any gaps in the proposed ToR exist that are relevant to the concerns of the FMcMFN and make recommendations to Government of Alberta (GOA), CN and the FMcMFN on ways to fill those gaps. The documents reviewed by TRC included the following:

- The Fort McMurray First Nations Traditional Land Use Study
- NAOS Kai Kos Dehseh – Public Disclosure Document (PDD),
- NAOS Kai Kos Dehseh Proposed ToR – Environmental Impact Assessment (EIA) Report for the Kirby Project, November 24, 2006

This review was not done at a scientific technical and or at a multiple disciplines level; however the following areas were reviewed and commented on at a broad level:

- Cumulative Effects of the proposed project and other proximal projects on the environment;
- Biodiversity (Wildlife, Wildlife Habitat & Vegetation);
- Water Resources
- Project boundaries in relation to FMcMFN traditional land uses; and
- Consultation
- Socio-Economic

In the following sections, general and overarching comments on the ToR are provided. Due to the limited capacity within the FMcMFN's Industry Relations Corporation to manage regulatory process and the unavailability of technical reviewers in the timeline provided, for the most part general comments are provided.

March 16, 2007

While the content in this report does not, necessarily, contain the views held by the FMcMFN, this report should be viewed as a tool that all parties, the GOA the FMcMFN and NAOS can use in the process of improving the assessment and predictions of potential environmental impacts associated with the NAOS Kai Kos Dehseh Project.

March 16, 2007

2.0 PROJECT OVERVIEW

General Comments

The proposed ToR highlights, also in generalized terms, which and how potential environmental and social issues will be assessed in the EIA report. The proposed ToR gives, in theory, the public the opportunity to review and provide input into the content and scope of the EIA. That is, the public has the opportunity to actually shape what goes into the EIA report – including what environmental information should be gathered. However, it is interesting to note that NAOS has followed the exact template for all ToR's in the region and that over a past number of years the regulators have not addressed the concerns brought forward in previous reviews. In fact, this review will somewhat be duplicate of what has already been identified as issues the Kirby Project ToR review that was filed earlier this month on behalf of the FMcMFN. The writer is confident that the AENV and the EUB will be diligent in their review of the ToR and ensure that any change requirements will occur to meet the current criteria for an EIA. Unfortunately the current regulatory system in Alberta is not only struggling to accommodate the rate of regional development but also is unable to address the massive impacts on the lives of the First Nations in the region. The Crown has a responsibility to consult and identify potential impacts on aboriginal and treaty rights, this also includes, efforts to avoid or mitigate these impacts. The current regulatory process is all that is available to the FMcMFN to voice their concerns with respect to resource development. In addition the EUB Hearing is the only public forum available for the FMcMFNs. In order to effectively participate, input early in the regulatory process is required. The capacity to understand to process and the resources to secure and manage competent technical and sound legal advice has not been available to the FMcMFN to date. The broad issue being of course that the regulatory process in Alberta is not designed to address aboriginal rights nor to mitigate and accommodate the impacts of resource development on the First Nations. NAOS have like many companies before them will engage to build relationships with the FMcMFN's. The NAOS will identify some possible small scale mitigation options specific to their development through their stakeholder consultation process. This does not replace the Crown's responsibility to consult nor will it address the significant impact on the lives of FMcMFN or the other aboriginal communities in the region. The ToR review becomes a necessary step for the FMcMFN to engage in order to bring forward their concerns in the future.

With respect to the comments that follow, many of the remarks will be consistent with what the FMcMFN have expresses in previous reviews.

March 16, 2007

Although every oil sands project is similar to some extent, each project arguably has many more unique features and differences that require careful consideration of environmental planning and management. NAOS does not explicitly point out in the proposed ToR what has been learned and will be incorporated into the proposed EIA process. The following comments speak to regional planning initiatives that NAOS is participating in. There are three general areas of concern are detailed in the following comments:

1. NAOS should do more than simply list its participation in regional environmental planning initiatives (i.e., CEMA, RAMP). There needs to be a real discussion or indication as to how recommendations and the results of research from these regional initiatives, if any, have been or will be incorporated into the Project as the project evolves. Moreover, a discussion should clearly identify how the delays in results and recommendations of regional initiatives, such as CEMA and RAMP, might affect the assessment of impact predictions, the development of monitoring programs, and the establishment of cohesive regional environmental management.
2. A clear expectation must be provided in the final ToR that requires NAOS to demonstrate their ability to measure changes and trends in environmental parameters and how this ability will be applied in follow-up programs at both the local and regional scales.
3. Contingency plans must be clear and demonstrate how NAOS is prepared to deal with failed reclamation success and unintended environmental consequences that are the results of poor or weak predictions.

It is hoped that any regulatory applications that are filed will follow a path that considers the interactions among and across disciplines (e.g., hydrology, vegetation communities, wildlife) with respect to impact predictions, monitoring, and environmental management activities.

A final lesson that has emerged from past EIA processes in the Alberta Oil Sands Region is the numerous complaints about the size and volume of the EIA reports. The reviewers suggest to NAOS and to regulators that they should consider a limit of pages for each discipline. A page limit is commonly used in academic publishing; it forces the

March 16, 2007

authors to focus on the relevant issues and to eliminate redundant or superfluous information, big is not always better. In addition, the EIA report should reflect the same numbering system as used in the final ToR to allow for easier cross-referencing and review. Also, a more cooperative approach between First Nations and the GOA for third party technical reviews should be considered.

March 16, 2007

3.0 REVIEW OF THE TERMS OF REFERENCE

Water Resources

Water is essential for all biological processes, and has been identified by the FMCMFN to be of paramount importance. Water availability and quality are fundamental requirements for all land users in the Alberta Oil Sands Region, including the FMCMFN. NAOS should work towards a regional integrated water management plan (IWMP) with existing oil sands SAG-D operations, with the key goal being to minimize environmental impacts while creating a secure operational water supply. The IWMP should address surface and groundwater systems as well as wastewater management. What follows in this section are suggestions, in bold, for improving the ToR so that water resource utilization is adequately addressed.

A. **Section 3.4.1** should be modified to read:

- a) *“the annual and seasonal water balance **under pristine conditions as well as** prior to the Project development and the expected water balance during Project operations. Discuss assumptions made or methods chosen to arrive at the water balances”;*
- d) *“...**describe** contingency plans for water supply, including the potential effects of extended periods of drought on the proposed water supply, **and report the expected cumulative effects on water losses/gains due to project operations**”;* and
- f) *“...**provide a detailed water balance for each land use (lakes, boreal forest, wetlands, natural muskeg, other cleared areas) for each phase of the project**”*

B. **Section 4.7.5.1** should be modified to include the following point:

*“...**prepare a map that shows proposed observation well locations and depths to monitor water table depths, groundwater flow and groundwater quality**”;*

C. **Section 4.7.5.2** should be modified to include or add clarity to the following points:

March 16, 2007

- i) *“identify the extent of changes that will result from disturbances to groundwater and surface water movement”:*
- *“include changes, **with confidence intervals**, to the quantity of surface flow, water levels and channel regime in local watercourses (during minimum, average and peak flows) and water levels in local waterbodies”;*
 - *“discuss **both the individual and cumulative effects** of these changes on hydrology.*
- ii) *“discuss **and present a series of maps showing** changes to watershed(s), including surface and near-surface drainage conditions, potential flow impediment, and potential changes in open-water surface areas caused by construction of access roads, drilling and well pads, and other facilities”;*

Wildlife and Wildlife Habitat

What follows below are commentaries surrounding issues related to wildlife and wildlife habitat. Questions or considerations are provided in each case:

- A. The proposed ToR outline a very generalized proposed approach to assessing potential impacts to wildlife species from the NAOS Kai Kos Dehseh Project. Although it is stated in the proposed ToR that existing wildlife resources will be described, there is no indication of where this information will actually come from. NAOS should make a concerted effort to in draw on western science, Traditional Knowledge and the experience of local people to acquire the best available information. Although the use of grey literature, including other EIAs and studies, is common practice in the Oil Sands region, this information should be supplemented with current reviews of scientific literature and up-to-date interviews of local people that have experience on the land.
- B. The ToR indicates that field data will be collected by using recognized sampling protocols. It should be made explicit in the ToR that sampling protocols would yield verifiable results that form a statistically sound foundation for the impact predictions as well as benchmarks for future monitoring programs.
- C. The interconnectivity of wildlife habitat and unimpeded movement by wildlife needs to be addressed and discussed in the EIA report. More importantly, NAOS must demonstrate how local protection measures of wildlife resources

March 16, 2007

associated with the NAOS Kai Kos Dehseh Project relate to wildlife habitat interconnectivity on a regional scale, meta-population dynamics, and impact assessment predictions. A thorough understanding of the activities around the NAOS Kai Kos Dehseh Project area is required to adequately address the protection of wildlife habitat and interconnectivity on a regional scale.

- D. With respect to mitigation on the impact to wildlife, the proponent professes that it will be able to describe spatial and temporal changes with respect to:

“...the potential to return the area to pre-disturbed wildlife habitat/population conditions.”

NAOS has assumed that wildlife species will actually remain in the local or regional area in sufficient numbers to re-populate their reclaimed landscape – not to mention those of other regional and immediately adjacent developments.

Where will these wildlife species reside and continue their lifecycles for the duration of the NAOS Kai Kos Dehseh Project?

- E. NAOS states that anticipated effects on wildlife health as a result of potential changes to air and water will be addressed. NAOS should ensure that this assessment of wildlife health is fully integrated with other effects on wildlife and is considered in impact predictions of populations and traditional uses.
- F. The reviewer suggests that the portion of the EIA addressing Wildlife should be modified to include the following point:

“...map the changes in wildlife habitat fragmentation anticipated from the project and other planned activities on a local and regional level.”

- G. NAOS is dedicated to providing monitoring programs to assess wildlife impacts of the project and the effectiveness of mitigation and habitat enhancement measures. NAOS needs to demonstrate that it possesses the ability to actually measure the relative success of mitigation strategies and “enhancement” measures.

March 16, 2007

Vegetation

Vegetation communities ultimately influence wildlife use of an area while also maintaining and contributing to landforms.

The reviewers suggest that the portion of the EIA addressing Vegetation, should be modified to include and add clarity with respect to the following points:

- A. *“...identify and verify the **distribution and abundance** of species of rare plants and the ecosite phases where they are found, using reliable survey methods.*

Variability in potential to support rare plant species exists among patches of the same ecosite phase. During field surveys, if specific patches are identified as having unusually high numbers of rare plants, a higher ranking should be given to them, so that those particular patches can be targeted for mitigation.

- B. *“...determine the **distribution and abundance** of wetlands in the Local Study Area”;*

If distribution and abundance of wetlands are determined, their relative “rarity” will also be obtained.

Biodiversity

To maintain levels of biological diversity across the large region that constitutes the Alberta Oil Sands, knowledge of, and planning for, the ecological relationships across the landscape is required. This section presents potential concerns that the FMcMFN should acknowledge because approaches for evaluating biodiversity may influence impact predictions of important biological resources.

With respect to biodiversity, a single measure of biodiversity potential for each ecological unit attempts to reduce the confusion of biological complexity and decrease the ambiguity of decisions concerning development impacts. However, since biodiversity encompasses all biota and the environments in which they live, reducing the “noise” of biological complexity must be considered carefully. When combining measures into single biodiversity potential rankings, information valuable for the assessment of individual biodiversity components can be masked. An ecological unit may have high biodiversity potential for one taxonomic

March 16, 2007

assemblage and low for another. The biodiversity potential ranking process for each ecological unit should be done for each taxonomic assemblage separately (e.g. large mammals, small mammals, amphibians, birds, fish, Angiosperms, mosses, etc.).

- A. The reviewers suggest that the portion of the EIA addressing Biodiversity and Fragmentation should be modified to include and add clarity with respect to the following points:

“within selected taxonomic groups, determine distribution and abundance of species...” (underline is our emphasis)

- B. Can NAOS confirm and add clarity to how biodiversity will be measured and demonstrate that they can actually measure biodiversity in a quantitative manner to provide a verifiable guideline for monitoring of reclamation success?
- C. NAOS indicates that they will discuss measures to minimize changes to regional biodiversity. It is hoped that NAOS will actually implement any such measures indicating what these are, and when and how they will be implemented.

Cumulative Effects

The FMcMFN is concerned about the incremental addition of projects, and its implications at the regional level. Cumulative effects assessment is often isolated as a separate issue in most EIA reports, implying that cumulative effects assessment is a separate discipline with its own merits. Cumulative effects need to be treated as an essential part of any EIA report and should warrant greater focus, given the ongoing and rapid development of the oil sands region.

For a realistic evaluation of changes to the environment, a cumulative effects assessment should take into account all historical changes due to anthropogenic activities, presumably from the beginning of European settlement. If environmental impacts are assessed starting from existing conditions, by definition, historical changes will have no measurable influence. A lack of designated assessment scenarios in the proposed ToR confounds this issue. Under the ‘current=baseline’ designation, projects approved in the near future would be integrated into baseline cases of the far future, contributing nothing to the cumulative effects assessments

March 16, 2007

of those yet to come. The ToR should specifically state that the environmental conditions prior to European settlement be estimated as a baseline from which to evaluate cumulative effects of planned and existing projects and activities. Moreover, analysis of cumulative effects should also include assessments of the potential impacts on the environment during every phase of the Project.

- A. The reviewers suggest that the portion of the EIA addressing Biodiversity and Fragmentation should be modified to include and add clarity with respect to the following points:
- Describe the **pristine** (baseline) state of the environment in the regional study area (used for the cumulative effects assessment);
 - Clearly state the assumptions of information needs and management guidelines that are relevant to any proposed monitoring, research, and other strategies associated with developments in the region; and
 - Demonstrate and discuss the timelines for these information needs and guidelines expected from CEMA, RAMP and WBEA. Discuss how these timelines affect proposed project plans.

Environmental Assessment and Management

Overarching issues with respect to environmental management, monitoring, and assessment of potential environmental effects or impacts are discussed below.

- A. Assessment scenarios (eg., Baseline, Development and Cumulative Effects Cases) are not as of yet defined nor delineated in the proposed ToR. This information must be provided so that the EIA report contents are meaningful and easy to follow. Additionally, there is confusing information presented in the ToR, where the current state of the environment is assumed to equate with baseline conditions (also see above). With this logic, a baseline case in subsequent projects in the Athabasca Oil Sands will include more and more developments as time proceeds. Can NAOS provide the rationale behind this one instance where current conditions are considered equal to baseline conditions? We also suggest that NAOS include, in the proposed ToR, clear and concise definitions (and rationale) for all assessment scenarios as also requested in previous ToR reviews.

March 16, 2007

B. The proposed ToR indicates that baseline climatic conditions will be discussed; however, the potential effects of climate change on impact predictions, regional monitoring plans, and adaptive management or contingency planning have not been addressed in the proposed ToR. The ToR do not address the impacts that climate change will have on the regional geology, water and ecology. This is a grave oversight. The EUB hearings and final report (EUB and CEAA, 2004) documented that all parties involved agreed climate change is an important issue. With respect to climate change and EIAs for Oil Sands development:

- Alberta Environment stated *“climate change and its consideration in EIAs was an emerging issue.”*
- Shell Canada committed to consider the draft guidelines on climate change in future EIAs.
- The Sierra Club of Canada (SCC) believed that any projects in the Athabasca region should be required to follow Canada’s Working Draft Incorporating Climate Change Considerations in Environmental Assessment, General Guidance for Practitioners, January 8, 2002. The SCC stated that it was opposed to further development of the oil sands on the grounds of threats from climate change alone.
- The Mikisew Cree First Nation Expert Panel provided extensive science literature that clearly demonstrates climate change is a harsh reality that all societies must deal with in the immediate future.
- The EUB/FEAA Joint Panel agreed climate change is a critical issue to address. They stated *“When the federal government finalizes its guideline on climate change, the Panel expects all subsequent EIAs to follow those guidelines”*.

Climate change needs to be further addressed in the proposed ToR for the EIA report. **How will climate change be further addressed and incorporated in the EIA report? Will the proponent be commenting on the adaptability of the project in the event that the region’s climate changes significantly? How will the application of measures to reduce the project’s sensitivity to changes in climate parameters be implemented? Could possible climate parameter changes that influence the sustainability of the project be identified and discussed in the EIA report?**

March 16, 2007

- C. Decision makers and management professionals are only able to make informed decisions via quantitative impact predictions (rather than predictions based on qualitative information such as professional judgment). However, across all disciplines outlined in the proposed ToR, there is absolutely no mention of whether quantitative or qualitative information will be utilized. The reviewers suggest that the following point be addressed in the ToR:

“Provide sufficient scope and detail in the project description information to allow quantitative assessment of the environmental consequences.”

The Project Description is a summary of the proposed development and its potential effects (environmental and social). **Is it safe to assume that NAOS is committed to the use of quantitative information for making impact predictions?**

- D. As indicated by NAOS, management plans to manage and monitor any effects of the NAOS Kai Kos Dehseh Project shall be described and discussed provided. More importantly, management plans should demonstrate their adaptability. For example, NAOS should consider what the consequences and follow-up action items are in the event that the management and monitoring of effects does not reflect predictions. This type of contingency planning needs to be taken into consideration when building all management and monitoring plans associated with the NAOS Kai Kos Dehseh Project.
- E. There is no apparent commitment to developing contingency plans for failed or poor-quality reclamation efforts. The reviewers suggest that the following point be addressed in the ToR:

- ***“contingency for poor or failed reclamation attempts”***

The FMcMFN and other stakeholders require a strong commitment from proponents that they will return the land to something useable, eliminating potential loopholes in the wording of contingency plans. Although NAOS does consequently outline what will be addressed in any reclamation and closure plans, there needs to be a serious commitment to adequate reclamation and closure plans, however distant in time they may be. The FMcMFN and others realize that standard and technologies associated with reclamation will change over time.

March 16, 2007

- F. How will NAOS ensure that the achievements of any closure/reclamation plan are met?

- G. The potential for natural ecosystem shifts (including the contributions from forest fires, climate change, drought, predator-prey cycles, etc.) needs to be incorporated into any impact predictions.

- H. For any long-term prediction models, discussion about model confidence and the degree of scientific certainty (or 'uncertainty') should be provided. The degree of scientific certainty in the results should also be acknowledged and described so that the quality of data and associated analyses can be scrutinized. The value of predictions and model results can then be quantified.

- I. NAOS should provide definitions behind the system used to classify and evaluate effects. More importantly, the FMcMFN and its representatives should be made aware of the rationale behind any values assigned to evaluate the effects of the Kai Kos Dehseh Project (scoring of effects). The rationale needs to be scientifically rigorous and hold-up to peer scrutiny. The relative weighing of impact components (i.e., magnitude, duration, etc.) needs to be thoroughly discussed and transparently presented.

- J. NAOS commits to include follow-up plans to verify the accuracy of the environmental assessment (predictions). Firstly, impact predictions are never verified through any means; rather, impact predictions are evaluated or tested against real measurements (i.e. monitoring). Secondly, any follow-up plans must demonstrate that NAOS is:
 - i) Capable to measure the achievement of any objectives
 - ii) Able to adapt its management plans in relation to the results of follow-up

- K. The reviewers suggest that the following point be added under Section– Biodiversity and Fragmentation:

March 16, 2007

“provide an interpretation, based on current knowledge of local and regional ecosystem processes, of how changes in biodiversity and landscape patterns will effect local and regional ecosystems”.

- L. The massive amount of information within an oil sands EIA has traditionally been difficult for both technical and lay readers to absorb and comprehend.

Consultation and Traditional Ecological Knowledge and Traditional Land Use

The *Fort McMurray #468 First Nation Traditional Land Use Study* (TLUS) identifies that development of the oil sands since the 1960's, has greatly contributed to changes in the environment which have impacted the FMcMFN people's ability to live traditionally off the land, hunting, trapping, fishing and gathering plants and medicines. Concerns of the community include the following:

- Appropriate Consultation
- Socio-Economic and Environmental Impacts
- Cumulative Effects
- Water Quality
- Wildlife Fragmentation
- Fish and Habitat Health
- Impact to Traditional Uses
- Health and Safety

NAOS states how it will provide details on consultation undertaken with potentially affected Aboriginal Communities with respect to traditional knowledge and traditional land use. NAOS has engaged in developing a stakeholder consultation process with the FMcMFN.

The intent of consultation is to mitigate or avoid potential impacts of the project on Treaty rights and traditional uses. The *Government of Alberta's First Nations Consultation Policy* confirms this. Consultation with FMcMFN to date has not been adequate due limited capacity of the First Nations and their ability to engage in the regulatory process. This issue is in the process of being addressed. The limitation of all parties to understand the linkage between proponent consultation (developer engagement) and

March 16, 2007

the Crown's responsibility to consult dictates consultation cannot be meaningful when capacity for engagement of the First Nation is limited and when it happens late in the process. There is neither clear understanding on where the responsibility to ensure that adequate capacity is place with respect to consultation nor a measurement tool to define the level of consultation. There is however, a duty to consult where project impacts may infringe on Treaty rights and traditional uses and there will be an impact to Treaty rights with the land traditionally used by the FMcMFN.

Socio- Economic

The FMcMFN is concerned with the magnitude and pace of development in the Fort McMurray area. The cumulative impact of existing and proposed development is not well understood and may have implications that the FMcMFN people will have to live with in the future. There is a need to build capacity for the FMcMFN to understand the process and implications of proposed NAOS Kai Kos Dehseh in relation to the other types of development occurring in the region.

The way of life of the FMcMFN people has changed drastically in a short time. Prior to 1970, the FMcMFN members made their living though trapping, fishing, hunting and gathering. Trapping or occasional seasonal work provided a base income for families to buy western goods while maintaining traditional lifestyles. This has become increasingly difficult with the rapid rate of industrial development. The FMcMFN people have been displaced and lost in cultural transition while being forced to try and adapt into western society that has been imposed upon them. Although education and training is needed to ensure the FMcMFN's members can participate and benefit from oil sands development, it is paramount that there support and processes put in place to ensure Fort McMurray First Nation culture survives the impacts of regional development if forced economic assimilation is to be avoided. The socio-economic impact of development on the FMcMFN is significant and steps need to be taken to ensure that a future Northern ghetto is not created. These steps should be identified in the ToR.

March 16, 2007

4.0 CLOSURE

There are always areas to improve ToR so as to ensure that the majority of stakeholder concerns are adequately addressed. Many general and specific points are outlined above in the hopes that these constructive criticisms will enable those with the ability to assist in making important planning decisions to do so by filling these gaps. However, given that environmental information has already been collected, presumably to meet the regulatory submission goal, the reviewers regrettably doubt that there is the potential for associated public concerns to be effectively addressed and incorporated at this stage. Given the increased frequency of such projects in the region, the implementation of appropriate methods to make clear and verifiable impact predictions should become more common, as the accuracy of these predictions is of paramount importance to local stakeholders such as the FMcMFN. No amount of mitigation identified in EIA's will address the amount of impact on the FMcMFN and their protected rights due to resource development on their traditional lands. We need to change how we are engaging.

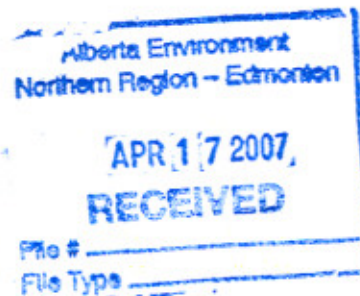


Métis Nation of Alberta - Local 1935
Fort McMurray



January 24, 2007

Director
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Dear Director: **RE: STATEMENT OF CONCERN**

We have acquired the Public Notice of Application for Proposed Terms of Reference. The Métis Locals of Fort McMurray have recently had minimum contact with North American Oil Sands Corporation, and have not been informed of these projects and consequently has decided to submit a notice of appeal.

More importantly there have not been any consultations with our Local regarding this project. Métis Locals 1935 has determined based on the issues presented by members of the community that this development has a direct impact on the Métis people in this community.

The Métis Local 1935 has been formally registered since 1987 with the Métis Nation of Alberta, as well as with the Alberta Government. Métis Local 1935 is a Métis organization that represents about 1200 Métis members. A registry of the members is maintained at the office. It has had this office in the same location since 1987. It has been an active Métis stakeholder in the Region. The Métis Local has excellent credentials, is transparent, accountable and responsible.

The Métis in this community have a long history within this region which extends prior to Canadian Confederation of 1867 as well as before the inception of the Province of Alberta in 1905 therefore claim aboriginal title.

Due to the fact that there is a limited amount of information available to Metis Local 1935 about North American Oil Sands Corporation, we are submitting a list of concerns the Métis Local Board has heard impact the members in this community.

1. The first concern the Métis Local has is it was not consulted or informed in a meaningful way and not accommodate with regards to EP and EA requirements.
2. The ability to assess the North American Oil Sands Corporation application is limited on our part as we lack knowledge regarding this process and we feel at a disadvantage to respond in an informed and confident manner.
 - ∞ We require resources to conduct an environmental research.
3. We lack the resources to hire people to review the impact of this project and can only guess at the extent of impact on our members but we submit what we hear.
 - ∞ The suggestion here is that we require resources to hire appropriate technicians to review such a project assessing the information with community members. As well as ensuring we are capable of responding prior to these applications and working out issues before they are made to the EUB.
 - ∞ Also, the Metis Local lack resources to analyze the amendments and their implications being proposed by North American Oil Sands Corporation.
4. Social and economic impacts are of major concern to the Metis Local.
 - a. Housing is an issue for the Metis and we are not aware of how North American Oil Sands Corporation will handle this issue.
 - b. The lack of housing for students that has been created due to the demand for apartments, the result from too many people searching for a place to live; the increase in people has created an increase in rent and makes it difficult for all peoples to afford rent. The increase in people buying up the land and homes has forced tax increases on senior's home, for people who have a limited income as pensioners, how is North American Oil Sands Corporation relieving this pressure?
 - c. Increase population has brought drugs that affect the youth; will North American Oil Sands Corporation also be bringing more people into Fort McMurray?
 - d. The homelessness crisis in the heart of the riches development is unacceptable; will North American Oil Sands Corporation contribute to relief?
 - e. The affordability of housing for the working Métis population is real and has forced many to move out of town; what will be the population brought in?
 - f. The lack of land availability to build homes is known publicly and makes it difficult for people to build a home if bringing more people will create more pressure. How can North American Oil Sands Corporation ensure its workers secure land that does not push the demand higher?



- g. The affects of the high number of shadow population upon the community affects everyone dramatically as this transient population has no relationship or commitment to this community; how North American Oil Sands Corporation addresses this is unclear.
 - h. The increase in costs of goods and services has added a greater strain on living costs, what benefit is this project to the Metis?
 - i. The unfair Living Out of town Allowance provided to people from out of town is hard for local Business to compete with; will local businesses have a priority and their workers compensated?
 - j. The stress on relationships by the mobile shadow population has been erratic and challenging and there is a high portion of divorces and break ups. Will there be a camp setting, fly ins or how will this population be managed?
5. The Environment is of great concern for the members. It needs to be said that while this Local is situated in Fort McMurray many people are descendants of families from Fort Smith to Lac La Biche, and any where in between, which is Fort McKay, Anzac, Janvier and Conklin and still smaller communities along those waterways. The Metis Leaders of these communities traveled to each others communities and heard these very concerns;
- a. Members express concern about worms in the backs of partridge, why were the fish spongy or fish soft, the geese weren't landing in the area, the Fen was being threatened.
 - b. Is the increase in cancer and diseases due to air, water and plant quality?
 - c. Is the low water table on the delta due to over use of water by Industry?
6. The Accumulation of developments and thus, the accumulated effects created by these developments on the land, the forest, the animals, the birds, the air, and the Métis people has an impact. This one project may not present a significant impact but the accumulation of these projects throughout the region, presents like a quilt, leaving huge marks on all these forest, muskegs, lands and water systems. This is known through the stories of the elders.
7. The water on the rivers, streams, lakes, sloughs and muskeg is extremely important to sustain the people, the land, the forest and the people. Our concern is that this water is being depleted and contaminated, not enough or nor usable.
8. Is Wildlife affected by this development?
- ∞ Sites create pollution to all living animals.
 - ∞ Sites cause destruction of wildlife resources and their habitats.
9. The Lack of Capacity to do research on the environmental issues leaves us with a lot of questions and limitations to speak knowledgably.
10. The lands in this region are traditional Métis lands. The Métis have lived off this land since 1700's. The Métis were here before Canada or Alberta existed, thus the claim to this area as traditional territory. This claim can be verified by the history of Fort Chipewyan and Fort Vermillion the two longest known Métis Communities in the north. Fort McMurray was a natural cross over, portage and camping area for travelers through these areas. Today people are restricted to access on the lands for hunting, fishing, picking berries, gathering medicines, collecting herbs and simply enjoying the time in the bush, by the lakes or in the forest. The historical access has been without the need for licenses, permits, approvals from private, industry and/or government what is the significance of that? These restrictions have a major impact on members' accessibility to practice Metis lifestyles.
11. The Metis can't practice our traditional use of land like hunting, picking berries or fishing because of the destruction to the environment by oil and gas development.
- ∞ Members express concerns about chemical product spraying on berries and plants.
 - ∞ Members express concerns about chemical products that contaminate fish.
 - ∞ Members are concern about eating the wildlife.
 - ∞ We know little of how this project will impact in this manner.
12. The First Nations have received contracts without competition, mainly due to their historical claim to the territory. The Metis make a similar claim. The Metis have been in this Territory before Industry, this town, this municipality, this province, and Canada was legitimized. The historical claim of the Metis is one of Aboriginality in accordance Section 35 of the Constitution of Canada. As one of the aboriginal stakeholders in this territory the Metis of Fort McMurray is insisting that our organization be granted the opportunity to receive contracts for its business members or community based business on sole sourcing basis where applicable.
13. Trappers: Métis Local members have held traplines throughout the region. They have had success at making a living in this manner for many years. This way of life has been nearly eliminated for many with the few who are left they



Metis Nation of Alberta - Local 1935
Fort McMurray



- indicate that the industrial development has hindered their ability to make an adequate living. The loss of productivity for Metis Trappers is significant and impacts the Metis self-sufficiency. Can North American Oil Sands Corporation compensate this loss?
- 14 Cultural retention has been impacted with the overwhelming number of people moving to Fort McMurray and has threatened the Métis identity, family, land uses, medicinal sites, cabin living, fishing holes, cultural practices and cohesiveness. We have no indirect if this company as respectful or even aware of the Metis and significance to the region.
 - 15 Traditional knowledge Consultation: We are very concerned about industry researchers approaching traditional Métis trappers, hunters, fishing families to interview them. While the researchers are sensitive and appear considerate they are still approaching traditional people with the intent of getting these people to agree or approve of their application, we believe this approach is bias and coercive. We are concerned Traditional Knowledge is being gleaned from our members without adequate interpretation or translation. We believe it is unethical to be discussing issues of such magnitude by professional people and not have Metis sanctioned translators available. We prefer if the government work with the Métis community and industry on hiring culturally appropriate interpreters and translators to consult with Métis people.
 - 16 With Out Prejudice – The Metis businesses and employees working for industry feel they are being targeted for being associated with a Metis Local and particularly if they are involved in. The industry players need to deal with Metis contractors without prejudice due to their community activities and judge business on business. No one should have to be isolated and call to task unless it is a systemic process. Another way to say it is if every contractor working for industry is being assessed on safety measures or some other operation on a regular basis and this applied to all contractors then that is acceptable method of reviewing but if contractors/employees are being called in because the organization they are involved with appears to have varying views, then we view that as being prejudice. We want our Metis businesses and employees of industry to be actively involved in Metis community activities with out these fears.
 - 17 OCAP is an acronym for Ownership, Control, Access and Possession. This concept is a research process now being instituted by First Nations communities across Canada. We suggest that industry researchers uses these concepts as an ethical guides to all research when doing studies in Métis Territory. At this time the Métis Local does not have access to any of the studies being conducted. Thus the need to make the statement that the Métis Local assert its intent to gain some Ownership, Control, Access and Possession of future research and studies industry has as well as conducting independent studies.
 - 18 The impact of this development directly affects our members based on the issues presented. The site in of itself is not directly impacting individuals but the accumulative stress to this already taxed situation is significant. to members of Fort McMurray in relationship to this project site North American Oil Sands Corporation.
 - 19 The impact of this development directly affects our members based on the issues presented. The site in of itself is not directly impacting individuals but the accumulative stress to this already taxed situation is significant to members of Fort McMurray in relationship to this project site Generic Company.
 - 20 Metis Local 1935 has been engaged in the Environmental and Traditional land use consultations. However the Board, Staff and Elders admit that the language is very technical and legal; therefore difficult to understand. Consequently we are asking your company to provide technical resources for a translator, interpreter and a technician to respond to the issues presented by your application.

Our preference would have to work on these concerns with North American Oil Sands Corporation before we respond to the application; however, the time to respond is limited communication before this could occur. The Métis Local felt compelled to express its concerns on the application. We have a need to have these issue addressed to reassure our members that this project will attempt to protect their health, their children's future, the lands and limit further losses for the Métis people.

Clearly, the Métis would like to acquire the resources to address these concerns and hope this letter will be accepted as a serious attempt to present concerns.

Should you wish to discuss any portion of this letter please contact us or the General Manager, Brian Fayant at the address noted.



Metis Nation of Alberta - Local 1935

Fort McMurray



Respectfully,

A handwritten signature in blue ink that reads 'Bill Loutitt'.

Bill Loutitt
Métis Local 1935 President

A handwritten signature in blue ink that reads 'James Dragon'.

James Dragon
Métis Local 1935 Vice-President

Cc: North American Oil Sands Corporation



March 15, 2007

FAXED
1 March 15/07

Alberta Environment
Environmental Assessment Team
111 – Twin Atria
4999 – 98 Avenue
Edmonton AB T6B 2X3

Dear Sir:

**Re: Comments on proposed Terms of Reference
North American Oil Sands Corporation – Kai Kos Dehseh SAGD Project
File # 00231131-001**

The Regional Municipality of Wood Buffalo (“RMWB”) would like to take this opportunity to provide its comments on the proposed Terms of Reference for the North American Oil Sands Corporation – Kai Kos Dehseh SAGD Project.

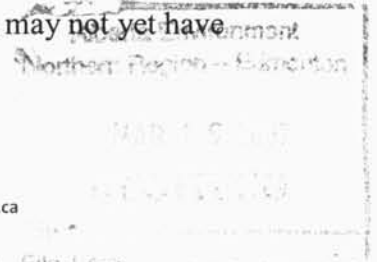
SECTION 1: INTRODUCTION

1.2 – Scope of Environmental Impact Assessment Report

- The RMWB submits that subsection (c) should not be limited to environmental impacts. The environmental impact assessment (EIA), which includes a socio-economic impact assessment, should also discuss possible measures to:
 - assist in future monitoring of socio-economic impacts; and
 - identify residual socio-economic impacts and their significance.

SECTION 4: ENVIRONMENTAL ASSESSMENT

- The RMWB suggests the following changes be made to the proposed assessment scenarios in order to maximize the effectiveness and utility of the EIA:
 - A true Baseline Case, meaning a pre-development scenario, including environmental and socio-economic conditions prior to oil sands development in the area should also be included. Both existing and historic socio-economic conditions must be identified in order to properly assess the potential socio-economic impacts of the Project.
 - In order to fully predict the cumulative impacts, the Cumulative Effects Assessment (CEA) case should include all projects that are reasonably anticipated – not just those that have been publicly disclosed. Many companies have identified long-term plans and strategies for developing their oil sands leases which are known at this time, even though each individual stage may not yet have been publicly disclosed.



SECTION 5: PUBLIC HEALTH AND SAFETY

- The RMWB proposes that the following items be added to this section:
 - Identify and document any concerns related to public health and safety that have been raised by the RMWB during the consultation process.
 - Determine the impacts of the Project on public health and safety, as well as cumulative impacts of all projects that are reasonably anticipated during the life of the Project, and identify alternatives for mitigation.
 - Provide a summary of any discussions that have taken place between the proponent and the RMWB with respect to the creation of emergency response plans and mitigation of health and safety concerns.

SECTION 8: SOCIO-ECONOMIC FACTORS

8.1 – Collection of Baseline Information

- Again, the RMWB submits that the proponent should document the true baseline socio-economic conditions (pre-development scenario).

8.3 – Impact Assessment

- The RMWB suggests that subsection (a) should require the proponent to provide information on the potential socio-economic impacts of the Project related to ...
- The RMWB suggests that the following should be added to the list of items in subsection (a):
 - population changes, for both the nearby communities (e.g. Conklin) and the RMWB as a whole, including a breakdown of when those population impacts are expected;
 - social services;
 - social impacts and quality of life of residents of the region;
 - education; and
 - policing and emergency services.
- Items to add under 8.3:
 - Which communities in the RMWB are likely to be most affected by the Project.
 - Summary of discussions that have taken place with representatives of the RMWB respecting their concerns and alternatives for mitigation of those concerns.
 - Evaluate the need for additional public services and infrastructure, taking into account the potential for overlap with other projects that are reasonably anticipated during the life of the Project, including consideration of housing, transportation, education / training, health, social services, recreation, policing and emergency services.
 - Discuss the sources of information used in the socio-economic impact assessment. Identify any limitations or deficiencies that the information may place on the analysis or conclusions in the socioeconomic impact assessment. Where

deficiencies exist, discuss the proponent's plan for providing the necessary information, including, where required, undertaking studies and investigations to obtain the information necessary to address the deficiencies.

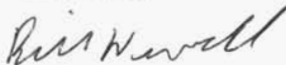
- Discuss the impact of inflationary factors, labour shortages and the increased cost of materials and equipment on the potential impacts identified in the socio-economic impact assessment.
- Under subsection (g), the RMWB suggests that proponent identify the expected direct, indirect, and induced employment during both the construction and operational phases of the Project and provide a breakdown of the types of employment resulting from the Project.

8.4 - Mitigation

- The RWMB proposes that the following items be added to this section:
 - Evaluate options for mitigation all potential socio-economic impacts of the Project as well as cumulative impacts of all projects that are reasonably anticipated during the life of the Project.
 - Outline the proponent's plans and commitments to minimize, mitigate or eliminate negative socio-economic impacts, including the key elements of such plans.
 - Identify residual impacts and comment on their significance.
 - Present a plan to monitor socio-economic changes and identify any follow-up programs necessary to verify the accuracy of the socio-economic impact assessment and to determine the effectiveness of measures taken to mitigate adverse socio-economic impacts. Provide a mechanism and plan for assuring that effective mitigation takes place, including ongoing monitoring (involving key stakeholders) and public reporting of results.
 - If applicable, present a plan that addresses the adverse socio-economic impacts associated with the Project in conjunction with other oil sands development in the Regional Municipality of Wood Buffalo that may require joint resolution by government, industry and the community. Describe how this plan will be implemented and how it will incorporate the participation of government, industry and the community.

We thank you for the opportunity to present our comments on the proposed Terms of Reference. Please feel free to contact me if you have any questions respecting our comments or to discuss these matters further.

Yours truly,



Bill Newell
Regional Manager

BN:db

c.c. Raymond C. Purdy, QC, Managing Partner, Brownlee LLP