



SEP - 4 2009

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August 28, 2009

Land-use Secretariat  
Alberta Sustainable Resources Development  
11<sup>th</sup> Floor Petroleum Plaza  
9915-108 Street  
Edmonton, AB T5K 2G8

**Attention: Morris Seiferling, ADM, ASRD**

Dear Sir:

**Re: Consultation on the Lower Athabasca Regional Plan (“LARP”)**

We are writing in response to various correspondence that you and others associated with LARP have sent to one or both of our First Nations in respect of LARP. In particular, we are writing with respect to the *First Nation Consultation Plan* (“the Plan”) that was developed by Alberta and sent to us on July 2, 2009. We have held off on providing our comments until now, as we have been attempting to schedule a meeting with you and other officials within SRD to discuss the Plan. We now understand that we will be meeting sometime in early to mid September.

We thought that it would be helpful, in advance of our meeting, to set out some of our key objectives in terms of consultation on LARP. We look forward to discussing these issues with you when we meet.

- Our primary objective is to ensure that we have meaningful input into the development of the LARP, including having input into the kinds of information that we feel is necessary to develop a credible land use plan – in our view, early engagement is critical – we want

to be consulted now, and not simply when a draft land use plan is completed – we would also like to discuss the LARP Terms of Reference and to ensure that the Terms of Reference provide sufficient guidance to decision makers to ensure that our section 35 rights are properly factored into planning and decision making.

- In your letter to Lisa King of June 16, 2009, there are three comments which you made that are of some concern to us: the first is that “[r]elevant input received from ACFN and other First Nations will be sought, reviewed and considered. We cannot guarantee that all input received will be considered relevant, nor that it will be sought, reviewed, and considered in a manner to any one First Nation’s or other land user’s satisfaction.” We wish to discuss this comment with you – as part of the process of consultation, it is important that we try to come to some understanding of what kinds of input would be considered “relevant.” It is in all of our interests to avoid a situation where our First Nations spend time and resources providing information, and your government deems our information to be “not relevant.” There is, of course, room for debate on this issue. You also note that “Treaty 8 did not promise continuity of nineteenth century patterns of land use. Treaty 8 foreshadowed continuing changes in land use.” We note that Treaty 8 contains a number of critical oral and written promises to our First Nations that have been recognized by the courts. Those promises relate to preserving our ability to continue to exercise our rights now and into the future. In our view, consultation in relation to land use planning must be about ensuring that we have a meaningful ability to exercise our rights in the face of ever-increasing development. It will therefore be necessary to ensure that Alberta has a clear sense of what is required for this to occur generally and in respect of the trade-offs that will be part of developing the LARP. Finally, you state that “[s]imilarly, it is premature to assume that the goal of LARP is to ensure the exercise of ACFN’s rights.” Our interest is in ensuring that LARP contains measures to protect our rights in a meaningful fashion – as we have stated on many occasions, we are not mere stakeholders and Alberta must take steps to understand and protect our constitutionally-protected rights. How this is done is part of the consultation that we wish to undertake.
- We wish to ensure that consultation with our First Nations under LARP will be focused on issues related to our section 35 rights – e.g., determining the environmental and ecosystem requirements necessary to preserve our ability to exercise our rights now and in the future in a meaningful way.
- We wish to ensure that the planning process has sufficient information to understand our section 35 rights and to take steps to seek to accommodate them (we understand trade-offs may be required, but we want to ensure that there is a full understanding of our rights and what is needed to protect them so that this information is factored into any discussion of trade-offs).
- We wish to ensure that there are a series of consultation meetings between our First Nations and the Land Use Secretariat to deal with issues related to our rights: in our work plans and budgets, we have suggested that the initial meetings be focused on the information provided to Dave Bartesko last spring, in ACFN’s April 16<sup>th</sup> submission and during your MCFN March 12, 2009 meeting. We wish to discuss and debate the

questions we posed as the outcome of consultation which will obviously influence the planning process.

- We wish to ensure that consultation is meaningful – we wish to ensure that we are interacting with key decision makers within the Land Use Secretariat such as yourself, ADM of the Oil Sands Secretariat Heather Kennedy, and others who can engage with us in a meaningful fashion – we see the process as consisting of regular meetings, debate, give and take – seeking to understand each other’s views and positions and finding ways of accommodating our various concerns.
- Related to the above point, we want to avoid a situation where our input is simply deflected to the RAC or some other entity – while we understand that the Land Use Secretariat is not the ultimate decision maker in terms of the LARP, our interest is in making sure that there is meaningful and responsive engagement on a regular basis, that we attempt to understand each other’s positions and work through the issues – our experience to date has not been positive, as we have not had any meaningful response to the questions and issues we raised with Mr. Bartesko in the spring in addition to the lack of meaningful response to our series of information requests made during meetings and through various letters and submissions including the Land Use Framework.
- We wish to ensure that there is adequate capacity funding and time to carry out the work set out in our work plans for the consultation. We hope to receive a prompt response to our submitted budgets and workplans.

We very much look forward to working together with you in your development of the Lower Athabasca Regional Plan.

Sincerely yours,



Lisa King, ACFN IRC



Melody Lepine, MCFN GIR

cc. ATC Chief and Councils  
 ATC IRC Directors (Ft. McKay FN, Ft. McMurray FN, Chipewyan Prairie Dene FN)  
 Karin Buss, Ackroyd LLP  
 Heather Kennedy, RAC Chair  
 Stan Rutwind, ADM Consultation and Land Claims, Alberta Aboriginal Relations  
 Graham Statt, Executive Director of Consultation, Alberta Aboriginal Relations

Witek Gierulski, Aboriginal Law Team, Government of Alberta  
Dave Bartesko, Consultation Manager, Alberta Sustainable Resource Development  
Robert Freedman, Janes, Freedman, Kyle, LLP