



MIKISEW CREE FIRST NATION
Government and Industry Relations
206 – 9401 Franklin Ave.
Fort McMurray, AB T9H 3Z7
Phone (780) 714-6500 Fax (780) 715-4098

November 21, 2012

Delivered by Email stan.rutwind@gov.ab.ca

Consultation and Land Claims
Aboriginal Relations
Government of Alberta
20th Floor, Commerce Place
10155 - 102 Street NW
Edmonton, Alberta T5J 4G8

Attention: Stan Rutwind, Assistant Deputy Minister

Dear Sir:

Re: LARP

We are writing following a November 2, 2012 meeting we had with TPR and ESRD regarding the Lower Athabasca Regional Plan (LARP or the “Plan”), which was recently finalized by Alberta. During this meeting we tabled a series of concerns regarding the process which led to its enactment, and with substantive elements of the Plan itself. The purpose of this letter is to re-iterate some of the most pressing concerns about LARP from Mikisew’s standpoint, and to seek clarity on some of the outstanding questions we have.

We should note from the onset that Mikisew is willing, as we have been throughout the development of LARP, to work collaboratively with Alberta on developing a land use management Plan for the oil sands region that ensures that development in the region is managed in a way that allows our members to meaningfully exercise their rights and culture now and into the future, as protected by Treaty 8 and section 35 of the Constitution Act, 1982.

We also note at the outset that the critical work of revising LARP cannot and should not wait until the 5 year review of LARP that you mentioned during our November 2nd meeting. Respectfully, holding out the prospect of possibly having Alberta listen to our concerns 5 years from now does nothing to address the inadequacy of consultation to date and certainly does nothing to address the fact that Alberta’s failure to create a rights-based land use Plan puts our

rights, culture, traditional knowledge and well-being at significant and immediate risk of harm (and, in the case of our rights, infringement).

In making our good faith offer to work with Alberta, we highlight that we are disappointed with how Alberta approached consultation regarding LARP and how Alberta has treated our rights, perspective and traditional knowledge during the development of LARP. To this end, we remind Alberta that consultation is a two-way street, with specific obligations falling on both parties. Mikisew, for its part and despite its limited financial and human resources, gathered and presented substantial information relating to its concerns respecting LARP with clarity and precision, identified the types of information that are necessary for Alberta to credibly develop LARP (including a reasonable process to gather that information and integrate it into LARP), and offered repeatedly to engage in dialogue with Alberta to answer any questions that Alberta had and work collaboratively to find ways to address MCFN's concerns.

We have articulated our concerns about Alberta's approach to consultation in our previous letters and submissions. However, we reiterate, as we did during our November 2nd meeting, that it is unfortunate that it remains unclear how, if at all, LARP addresses the concerns we articulated in our numerous submissions and letters regarding LARP. A main cause of this uncertainty is that Alberta has declined to provide Mikisew with specific feedback on our concerns and submissions. This is something Mikisew requested throughout the entire consultation process; however, we only received a "What we Heard" document after consultation was deemed complete by Alberta. The "What we Heard" document fails to describe how Alberta assessed or addressed any of our concerns, provides no meaningful basis for even discussing how Alberta has considered or addressed our concerns, and, in our view, falls well short of any semblance of the responsiveness and transparency that is required in consultation. For consultation to be meaningful it has to amount to more than just summarizing portions of shared information.

In addition to highlighting some of Mikisew's difficulties with Alberta's approach to consultation on the development of LARP, we would like to take this opportunity to reiterate a few of the key concerns with the final LARP that we discussed on November 2nd. We attach a more extensive list of concerns in Appendix A, letter dated June 28, 2011. Simply put, LARP does not create a land use planning regime that can credibly or effectively avoid further interference with, and infringement of, Mikisew's rights and appears to create a planning regime that is inconsistent with what is required to uphold Crown honour in decision-making.

First, Alberta finalized LARP without working with Mikisew to develop a knowledge base of what resources and conditions are needed for Mikisew to sustain its livelihood and protect its rights and culture. This despite the fact that Mikisew has for several years been trying to get government support for a Traditional Land and Resource Use Management Plan, a study that would help understand the current state of the environment, most notably by assessing the quantity and quality of resources that are necessary for Mikisew to sustain its rights now and in the future. Without this information, we do not understand how land-use decisions made pursuant to LARP, including the establishment of small and fragmented conservation areas and the development of environmental thresholds, will be made in way that appropriately reflects the needs and conditions required to uphold the constitutional protection of our rights.

Second, and on a related note, the Strategic and Implementation Plans in LARP clearly prioritize a range of land-uses for the majority of lands within the Lower Athabasca Region over the practice of Treaty Rights, which appear to be treated as recreational activities. Mikisew's rights appear to be an afterthought, if that, in the Plan. For example, under LARP – and as LARP will be considered in land use decisions going forward – economic interests take precedence over other interests, including our constitutionally protected rights, in many of the areas that Mikisew members rely on for the exercise of their rights and culture. LARP does not provide any guidance to decision makers to avoid further adversely affecting and infringing MCFN's Treaty rights and completely ignores that previous decisions made by Alberta have adversely affected and infringed MCFN's section 35 rights already.

The Plan also calls for increasing and prioritizing tourism opportunities within the portions of the LARP area, which may result in conflicting interests as tourism and the practice of treaty rights are often incompatible.

Furthermore, the small and fragmented conservation areas established under LARP were selected by Alberta unilaterally without consideration of what is important to Mikisew, what is required for Mikisew members to exercise their rights and culture and how existing conditions have already adversely impacted those conditions. Alberta has added further insult to injury in respect of these conservation areas in at least three ways: 1) the LARP conservation areas are problematic because there are restrictions on the exercise of MCFN's rights and activities within them; 2) in some cases industrial activities may be permitted in these same conservation areas; and 3) Alberta declined to work with Mikisew when Alberta reassessed the amount of land designated as conservation areas prior to finalizing LARP. It is troubling, to say the least, that the vast majority of the increases in the size of conservations areas between the draft and final versions of LARP took place outside of Mikisew's traditional lands. This despite our request for consultation regarding the inadequacy of the conservation areas created by the draft LARP within our traditional lands and despite our clear submissions regarding the areas that required protection for the continued practice of our rights and culture.

We also highlight that many of the areas Mikisew requested to have protected were left out of the Plan; this is evident for example by the important waterways that were left unprotected in MCFN's traditional territory.

Next, LARP requires Alberta to establish various environmental frameworks including Air Quality Management, Surface Water Quality/Quantity Management and Groundwater Quality Management Frameworks, but gives Alberta discretion over what to measure, where to measure it, what thresholds to set and what responses are required when there is an exceedence. Several of the Management Frameworks have already been finalized, such as the Air Quality and Surface Water Quality Frameworks, without taking into account what is needed now and in the future for Mikisew to exercise their Treaty and Aboriginal rights. Unless Alberta works with us to develop a traditional land and resource use management plan or something similar, and unless Alberta works collaboratively with Mikisew, the future frameworks will also fail to address the conditions and thresholds required to protect Mikisew's rights and culture. In this regard, we note that Alberta and Canada have effectively excluded Mikisew from the development of the

Phase 2 Framework over the last two years, despite our clear and repeated requests for engagement.

Alberta has removed reference to setting disturbance standards and thresholds in the final LARP. These were critical tools for meaningfully addressing the cumulative effects that, at current levels of development, are already severely impacting our rights and way of life.

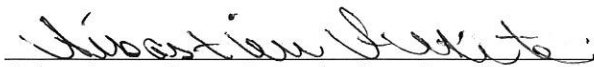
To compound the adverse impacts of LARP, between the draft LARP and its release, Alberta enacted the Public Lands Administration Regulation which makes it simpler for industrial proponents to get authorization to access and use Crown lands for industrial purposes, which are incompatible with the exercise of Mikisew's rights. There are many provisions within the regulation that further restrict and infringe Mikisew's rights on vacant Crown land and along waterways and water bodies. So instead of enabling and ensuring that Mikisew continue to practice its Treaty Rights, it would seem that Alberta has a different agenda by making decisions which constrict usage of the land. As you know, Mikisew and other First Nations in Alberta are challenging the Public Lands Administration Regulation in the courts.

All of the problems with LARP point to the failure Alberta to meaningfully engage with Mikisew regarding the effective management the development of Mikisew's traditional lands in a way that upholds Alberta's constitutional obligations to ensure that Mikisew members have the conditions required to exercise their rights now and into the future. Alberta must revise LARP to address these serious problems.

In the meantime, it is important that Alberta develop a meaningful consultation process so that Mikisew can participate in future LARP initiatives. One piece of this consultation process that was mentioned during the November 2nd meeting is for Alberta to provide a list of all the work it intends to carry out for LARP this fiscal year, (e.g., the development of any frameworks or land management plan, etc), including approximate timelines for that work. Once we have that information, we will be in a better position to know what human and financial resources will be necessary to meaningfully participate in the process. As we do not have the resources to fully engage in this work, it will be critically important that Alberta provide us with adequate capacity funding to carry out this work. Another piece of this consultation process should be working collaboratively to resolve the consultation problems that we identified above and in our previous LARP submissions.

We look forward to your response.

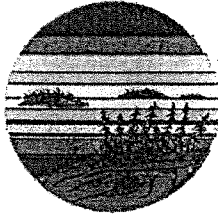
Best Regards,



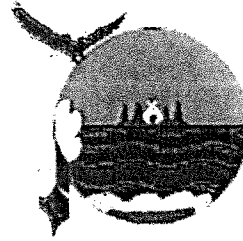
Sebastien Fekete, Consultation Coordinator, MCFN GIR

cc. Chief and Council
Melody Lepine, Director, MCFN GIR
Laura Johnson, Land-Use Specialist, SRD

Elizabeth Driver, Senior Policy & Land Use Planner
Tim Burggraaff, Consultation Adviser, SREM
Scott Duguid, Section Lead, SREM



Athabasca Chipewyan First Nation
Industry Relations Corporation
110B -9816 Hardin Street
Ft. McMurray, AB T9H 4K3



Mikisew Cree First Nation
Government and Industry Relations
Suite 208, 9715 Main Street
Fort McMurray, AB T9H 1T5

June 28, 2011

Sustainable Resource Environment Management
9th Floor, 10035-108 Street
Centre West Building
Edmonton, AB T5K 2G8
Attention: Honorable Mel Knight
mel.knight@gov.ab.ca

[Via Email:

Dear Minister Knight:

Re: Summary of Key Issues

The Athabasca Chipewyan First Nation and the Mikisew Cree First Nation are writing today to provide you with a high-level summary of the top ten key issues that our First Nations have with regards to LARP.

We are writing directly to you because, as expressed to Dave Bartesko of the LUS, we were deeply concerned that the "summary" that GoA provided to us last week concerning our input and concerns related to the LUF, RAC and LARP last week was wholly inadequate. We were also concerned that we were given less than a week to review this "summary", given that we have been engaged in dialogue with GoA on the LUF and LARP for more than two years.

Please note that we do not view the submission of this summary as part of the "validation" process in Alberta's consultative efforts.. Validation best takes place over time through back and forth discussion. This letter is not a substitute for Alberta officials to sit and work through the issues with us to develop mutual understanding. We have offered to engage in such a discussion, with appropriate give and take, on many occasions. We have specifically offered to meet to answer questions and to hear from GoA officials their feedback on numerous submissions our First Nations have made over

the past two or more years. Unfortunately and without explanation, GoA has declined to provide this important feedback.

Our summary of key issues is based on the information provided by our First Nations to the Land Use Secretariat, to the Regional Advisory Council and on our meetings with Alberta in respect of LARP since 2009. That information has come in the form of correspondence, submissions, emails, and face-to-face meetings.

The following summary highlights ten key issues. It does not include all information and concerns that have been provided to Alberta over the last two years. Our First Nations reserve the right to raise additional concerns about LARP in the future.

In summary, our key issues with LARP are:

1. Neither the draft LARP nor the various Frameworks are directed at ensuring our ability to exercise our section 35 rights now and in the future and give precedence to a variety of activities which are or may be in conflict with our constitutionally-protected rights.
2. Consultation has been largely meaningless, since GoA has not engaged meaningfully in our view
3. Consultation and involvement funding must be considered going forward
4. The goal of consultation on LARP, and consultation on any planning initiatives under LARP going forward, must be reconciliation.
5. A Traditional Land and Resource Use Management Plan can provide the specific information needed to understand and accommodate Section 35 rights in planning – while we have provided considerable information as to the lands and resources that need protection for us to sustain our section 35 rights, we have made it clear that we need the resources to compile additional information through such a Plan.
6. Co-management, as raised by ACFN in particular, is a critical government-to-government framework within which the reconciliation of Section 35 rights and Alberta's interests can be achieved, provided that GoA is willing to work with our First Nations on a mutually acceptable approach to co-management.
7. First Nations Traditional Use is not Necessarily Compatible with Recreational Use, Tourism and Conservation
8. The Draft LARP does not address the issues and input of the First Nations in a transparent process and there is no indication, despite numerous requests made by our First Nations, for an explanation of how our input was or not incorporated into the draft LARP and why not..
9. Strong assurance that the First Nations' issues and input will be addressed and incorporated in issues-specific plans and frameworks to be conducted

under LARP is required. We are also extremely concerned that two of the key Frameworks – Ecological and Land Disturbance are not required to be developed until 2013, after more oil sands and other approvals will be in place.

10. Limits on development are required until the issues-specific plans and frameworks, and an appropriate relationship to guide First Nations involvement in such is completed.

Please find below a more detailed explanation of our key concerns with these issues:

1. The goal of the First Nations is to ensure that their Section 35 Rights are sustained into the future.

- This can only be assured if Section 35 Rights are considered and accommodated in LARP, and planning and decision-making going forward. This goes beyond simply mapping traditional land and resource use sites. Planning must consider and accommodate the “factors” (tangible and intangible values) that underlie the meaningful practice of Section 35 Rights and which consider the social, cultural, economic, and environmental impacts to our First Nations and to our section 35 rights when we are unable to exercise our rights
- The First Nations have provided information on their Section 35 rights, such as information requirements and questions that support assessment of the rights, definitions that outline some of these factors (e.g., sufficient quality and quantity of resources, experience of remoteness, ability to access lands, etc.) in their submissions. See, for example: MCFN’s 2008 joint submission with Chipewyan Prairie Dene First Nation on the Land Use Framework; ACFN’s April 16, 2009 submission; ACFN’s and MCFN’s October 13, 2010 submission of *As Long as the Rivers Flow: Athabasca River Use, Knowledge and Change, ACFN Community Report, August 16, 2010*; MCFN’s August 2010 submission to the Total JRP (which was also provided to Land Use Secretariat); MCFN’s November 11 2010 LARP submission; ACFN’s November 22 2010 LARP submission; and ACFN’s April 2011 and May 2011 Traditional Use Studies.
- A number of meetings were devoted to discussing the questions in ACFN’s April 16, 2009 submission (e.g., November 19, 2009 meeting); however, Alberta has yet to provide adequate answers to those questions. If Alberta could answer those questions, it would go a long way to clarifying whether and by how much, the current and future impacts to ACFN and MCFN Section 35 rights are and will be.
- Any approach that attempts to simply optimize land use by overlaying traditional use sites with other land use values (E.g., conservation, or recreation and

tourism) without proper consideration of the “factors” that underlie Section 35 rights will fail to protect those rights.

2. Consultation has been largely meaningless.

- In a number of submissions made to the Province through regulatory processes and planning processes (e.g. Phase 2, LARP) ACFN and MCFN have raised two principal concerns: (1) that the Province (and, as the context requires, Canada) are not meaningfully consulting with them on various decisions which have the potential to directly and cumulatively adversely affect and infringe their constitutionally-protected rights; and (2) that decision-making and consultation have not properly accounted for potential adverse impacts on ACFN and MCFN rights, culture, social environment, economic and related impacts.
- Reconciliation must be a key goal of consultation. This implies that both parties must have a say in the consultation process and outcomes.
- From the beginning we have been providing our expectations on a meaningful consultation process that would meet the needs of the First Nations (e.g., see ACFN’s April 16, 2009 submission and ACFN’s July 30, 2009 consultation proposal, MCFN’s August 19 2009 consultation proposal). Furthermore, throughout the whole process we have offered to work with Alberta to draft a mutually agreeable consultation process (.). It is important to note that this included request for feed-back during the process, not just after, on how concerns have been considered.
- Instead of working collaboratively, the land use secretariat unilaterally imposed a consultation process and timelines without any consideration of our initial budget requests.
- While there have been a number of meetings between ACFN IRC, MCFN GIR and Alberta staff on LARP (see Appendix A), meaningful consultation is not based on the number of meetings but on the content of the meetings and meaningful consideration and feedback regarding concerns raised.
- From the beginning, ACFN and MCFN have requested to meet with the planners working on the draft LARP. Instead, we were referred to the Regional Advisory Council and met with Heather Kennedy, the RAC Chair, on a number of occasions. Not only did the RAC Vision document not reflect our input, we were made aware (most recently at the June 17, 2011 meeting) that the RAC Vision document was treated by the LARP planners as merely another input. Why would our input be funneled through another input process? We also found out (at MCFN’s April 17, 2011 meeting) that the planners were not receiving our input. This is distressing because it is the planners who are charged with finding the balance of land use and integrating input. How can they do so, if they are not aware, or do not have an understanding of it? From a consultation standpoint,

what transcended is problematic. All along, we should have been meeting with those actually working on the LARP so that we could build understanding – not only so that they could understand us, but also so that we could understand their thoughts on how and if our input and issues could be accommodated and incorporated in LARP. Where issues and input could not be accommodated, then we could address how the concerns of our First Nations could be accommodated.

3. Consultation and involvement funding must be considered going forward

- ACFN and MCFN struggle to meet the demands of consultation on regulatory and government matters. They suffer from funding constraints and lack of capacity. Engaging with Alberta on LARP was estimated to be, and has been, a great devotion of time and resources for the First Nations. From the outset, the First Nations raised the need for capacity funding and yet it took over a year of discussions until GoA finally made some funding available.
- Once funding was obtained, it was clear that the amount awarded was insufficient for the kind of quality work MCFN and ACFN wanted to produce. Comprehensive work was needed due to the importance of LARP, since a land-use plan could have been well positioned to protect treaty rights. However, LARP provides no such guarantees, and the work we engaged in resulted in a budget deficit.
- GoA has limited the ability of the First Nations to engage on other land use plans under the Land Use Framework by making the consultation funding offered for LARP a one-time funding for all land use plans under the Land Use Framework.
- If First Nations are to be involved in, and consulted on, the land use frameworks and issues-specific plans that will be implemented under LARP going forward, then the LARP must include strong provisions for funding and capacity for the First Nations to participate. It is best to resolve this issue now, than to be bogged down later.

4. The goal of consultation on LARP, and consultation on any planning initiatives under LARP going forward, must be reconciliation.

- As stated, the goal of the First Nations is to sustain the meaningful practice of their Section 35 rights for future generations. It is clear from the draft LARP that the goal of Alberta is to double or triple oil sands production in the coming years, while optimizing other land uses, such as recreation and tourism. These two goals are, obviously, not compatible.
- The First Nations understand that land use planning is about trade-offs. What is required, however, is more explicit information on what trade-offs are being

made and what the implications are of those trade-offs for adverse effects and infringements to Section 35 rights. Where such adverse effects and infringement could, or will occur, there must be a process in place for consultation and accommodation.

- The LARP consultation process has not provided a way to evaluate trade-offs with respect to adverse effects and infringements on rights and the need for accommodation.

5. **A Traditional Land and Resource Use Management Plan can provide the specific information needed to understand and accommodate Section 35 rights in planning**

- From the outset of consultation on LARP the First Nations have been attempting to address the need to incorporate Section 35 rights in planning and decision-making through the concept of the "Traditional Land and Resource Use Plan". Such a plan would define the specific requirements for sustaining Section 35 rights. In effect, it would be analogous to a cumulative effects management framework specific to Section 35 rights. It would be a beneficial tool for consultation, environmental assessment and decision-making. It would allow for explicit examination of trade-offs so that consultation and decision-making would be fully informed (submitted to the Land-Use Secretariat on September 28, 2010).
- MCFN raised this in their joint submission with Chipewyan Prairie First Nation on the Land Use Framework in 2008. ACFN first raised this in their April 2009 submission on LARP, then again (referring to a First Nations-specific land use plan) in their July 2009 proposal for consultation on LARP. It was discussed with Dave Bartesko and Heather Kennedy at meetings in 2009. A more detailed proposal for developing such a plan for the First Nations was provided to Dave Bartesko in September 2010. It was the subject of discussion at the joint meeting of the First Nations with Deputy Ministers Peter Watson (Energy) and Jim Ellis (Environment) in November 2010.
- The draft LARP did not contain any reference to the need for protecting treaty rights, nor understanding the conditions that would be required to sustain those same rights. In fact, during the Chief to Minister meeting on June 6, 2011, Minister Mel Knight mentioned how there was no understanding how the plan would affect treaty rights. At the June 17, 2011 meeting, Alberta staff agreed that it is critical to have information particular to the specific needs of the First Nations integrated into the frameworks under LARP.

6. Co-management is a critical government-to-government framework within which the reconciliation of Section 35 rights and Alberta's interests can be achieved.

- ACFN believes that reconciliation of Treaty and Aboriginal rights with Provincial authority includes providing a much greater voice for ACFN in matters where decisions have the potential to adversely affect and/or infringe ACFN's rights under Treaty No. 8. ACFN has been raising co-management as a means for doing this since, at least, their October 19, 2009 submission on the Land Use Framework.
- ACFN has proposed (see the November 22, 2011 submission and the January 24, 2011 co-management discussion paper) that in the context of the finalization of the LARP and the creation of a regional plan for the northeast region of the province of Alberta co-management could be applied on a spectrum. The degree of sharing of power and responsibility between the Province and First Nations on land use matters would reflect the degree of importance of the area or activity under consideration to ACFN in respect of their ability to exercise their Treaty and Aboriginal rights now and into the future. At the high end of this spectrum, ACFN would expect that co-management arrangements provide for full participation in decision-making, and at the low end, that it would ensure that consultation and accommodation is effectively achieved.
- Such an arrangement would provide both ACFN and government with a more comprehensive and rational basis for addressing current and potential land use conflicts than the current project- or permit-based consultations. What we are looking for and offering to Alberta is a model which achieves greater certainty and clarity for decision makers.
- Unfortunately, there has been no real discussion on this proposed concept and a total disregard of this suggestion in the draft LARP, despite the information provided to Alberta by ACFN. We understand that Alberta may not agree with this idea, but it is imperative that we sit and discuss the concept and its ramifications together. This is why ACFN suggested a negotiation approach in the January 24, 2011 discussion paper.

7. **First Nations Traditional Use is not Necessarily Compatible with Recreational Use, Tourism and Conservation**

- Any approach that attempts to simply optimize land use by overlaying traditional use sites with other land use values (E.g., conservation, or recreation and tourism) without proper consideration of the "factors" that underlie Section 35 rights will fail to protect those rights.
- In the LARP it is unclear how treaty rights are assessed and valued in relation to other competing uses. Treaty rights, though guaranteed in the constitution, seem overshadowed by Alberta's objective of increasing and better managing

recreational opportunities for its growing population. Other related policy, such as the Public Lands Act, requires users of the land to obtain permits for prolonged access, meanwhile allowances are made for guides or outfitters, and recreational use seems to trump Treaty rights.

- Any new wilderness areas, or ecological reserves, could be co-managed depending on where these areas fall on the importance spectrum (previously mentioned). Ideas surrounding zoning could be discussed, and devised in collaboration with First Nations, so that the objective of protecting treaty rights is met.
- We are concerned that many of the existing mechanisms – parks, conservation and other areas – already have the potential to displace our Treaty rights and that similar approaches used in LARP will lead to more of the same problems we face now – conflicting use, limits on our ability to exercise our rights, etc.
- We have also raised our concerns that the PLAR are a further infringement of our rights

8. The Draft LARP does not address the issues and input of the First Nations.

- Overall, the draft LARP does not reflect the input of the First Nations to Alberta over the last two years. It fundamentally misunderstands and disregards our input on what is required to meaningfully involve aboriginal peoples in land use planning. As a result it sets the stage for further adverse effects or infringements on ACFN and MCFN.
- As currently proposed, the draft LARP does not recognize or address what is needed to sustain the meaningful practice of rights. For instance, while thresholds on water exist they may be inadequate or too lax from a First Nations perspective, as the practice of traditional activities, guaranteed in the Constitution, may involve First Nations consuming water directly from major waterways like the Athabasca. Thresholds do not take these factors into consideration. The First Nations have provided information on these needs in their submissions. See, for example: ACFN's November 22 2010 submission, MCFN's November 11 2010 submission, MCFN's August 2010 submission to the Total JRP (which was also provided to Land Use Secretariat), and ACFN's April 2011 and May 2011 Traditional Use Studies.
- Unfortunately, specific information on resource conditions and other specific requirements for First Nation's ability to practice Treaty and Aboriginal Rights is needed to assist in planning – we have provided information on such general needs to the best of our ability but planners need further information, which was the purpose of TRUMP.
- The specific details of these concerns are set out in the June 3, 2011 submission of ACFN and MCFN to Alberta on the draft LARP. This submission summarizes the

concerns in the cover letter, which is supported by three separate reviews that accompany the document. The JFK Law Review provides recommendations relevant to addressing Section 35 rights in planning. Appendix 3 to the cover letter provides recommendations specific to provisions in the draft LARP.

9. Strong assurance that the First Nations' issues and input will be addressed and incorporated in issues-specific plans and frameworks to be conducted under LARP is required.

- Alberta's planners, and the chair of the Regional advisory Council, have noted that there is opportunity to address the First Nations' concerns and incorporate their input on the issues-specific plans and frameworks that will be conducted under LARP (for example, the Land Disturbance Plan which is planned to be completed in 2013).
- The First Nations have noted in meetings with Alberta staff (most recently the June 17, 2011 meeting) that it is common practice for Alberta to defer dealing with the issues and to promise they will be dealt with in the next process. This, for example, occurred with the Land Use Framework. It has also occurred when the First Nations have raised regulatory concerns – the feed-back that they have received is "it will be dealt with in LARP." However, it has not been.
- To ensure that the First Nations issues are not deferred once again when it comes time to working on the frameworks and issues-specific plans under LARP, the LARP must include explicit instruction that these issues will be addressed under the frameworks and issues-specific plans. LARP must also highlight, that further collaboration will be needed in this regard, and that funding will be provided to allow for such input
- A proper government-to-government framework, which could be achieved through implementation of the negotiation process for co-management as suggested in ACFN's January 24, 2011 discussion paper, is necessary to provide structure to the relationship between the First Nations and Alberta going forward.
- Since key Frameworks like those related to Ecological needs and Land Use Disturbance are being deferred to 2013, we have a real concern that many more approvals will be given before GoA properly understands the impacts on our rights

10. Limits on development are required until the issues-specific plans and frameworks, and an appropriate relationship to guide First Nations involvement in such is completed.

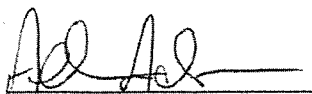
- The First Nations have been raising the need for limits on development until the draft LARP is completed from the outset of this process (and prior to it in regards to the Land Use Framework, in regulatory hearings, etc.). As impacts are not understood, it would seem reasonable to place limits on development until the information required to make informed decisions is gathered and analyzed. This would fall in line with a precautionary approach to development which we have been advocating for and which also is common practice in responsible land use planning.
- While the LARP seems to now be a given, there is yet much work to be done in the issues-specific plans and frameworks to be completed under LARP (e.g., the biodiversity management plan and the land disturbance plan).
- It is crucial that serious limits be placed on development until such time that all of the frameworks and plans are in place.

In closing, despite our constraints of capacity and funding, we have provided everything that we could to you throughout this process in order for you to understand the concerns and needs of our First Nations with respect to LARP. MCFN and ACFN have spent considerable time and money (far beyond what GoA provided in capacity funding to do this work) in providing information to Alberta. Our First Nations have engaged full-heartedly with Alberta. We have asked, again and again, for Alberta to provide feedback and yet Alberta remains unresponsive.

We remain more than willing to discuss these issues further with you and would welcome an opportunity to do so before the LARP itself is finalized.

We look forward to your response.

Sincerely yours,



Chief Allan Adam
ACFN Chief



Chief Steve Courtorielle
MCFN Chief

Encl.

cc:

Honorable Len Webber, Aboriginal Relations

Honorable Robert Renner, Environment

Honorable Cindy Aby, Tourism, Parks and Recreation

Morris Seiferling, Land Use Secretariat Commissioner

Dave Bartesko, Land Use Secretariat

Appendix A – Information Provided to Alberta

Letters, Emails and Submissions

ACFN Specific

- April 16, 2009 Submission to ASRD Regarding Consultation on the Lower Athabasca Regional Plan and Questions to Alberta Regarding the Lower Athabasca Regional Plan;
- July 31, 2009 Scope of Work for Consultation on the Lower Athabasca Regional Plan;
- July 7, 2009 Letter to the Regional Advisory Council (RAC) Meeting #5 (July 2009) and August, 2009 meeting objectives and ACFN Request for Suspension
- September 2, 2009 Letter from ACFN (Lisa King) to Alberta Energy (Minister Knight) and Alberta Transportation (Minister Ouellete) Re: Transportation Infrastructure Planning for the Lower Athabasca Region
- Email from Lisa King to Morris Seiferling, September 4, 2009 regarding “Protected / Conservation Areas Map”
- January 29, 2010 Updated Proposal for ACFN Consultation on the Lower Athabasca Regional Plan provided to Morris Seiferling by Lisa King
- February 10, 2010 Letter from Chief Allan Adam to Roy Vermillion (Treaty 8 Seat, Regional Advisory Council).
- February 11, 2010 submission to Heather Kennedy (Chair of the Regional Advisory Council) of the Review of the Socio-economic and Traditional Land Use Assessments for the Shell Canada Energy Applications for Approval of the Jackpine Mine Expansion and Pierre River Mine, prepared by Twin River Consulting, December 31, 2009.
- May 3, 2010 Letter to Dave Bartesko from Lisa King.
- March 3, 2010 letter to Dave Bartesko from Lisa King RE: Lower Athabasca Regional Plan – Chart Summarizing Land Use Secretariat’s Understanding of Athabasca Chipewyan First Nation Land Use
- May 3, 2010 Letter to Heather Kennedy (Chair Regional Advisory Council) and Morris Seiferling RE: Proposal for co-management of Richardson Backcountry.
- September 8, 2010 Letter to Dave Bartesko from ACFN (Nicole Nicholls) RE: Lower Athabasca Regional Plan – Funding for Consultation Process
- September 30, 2010 Letter from Chief Allan Adam to Peter Watson (Deputy Minister Energy) and Jim Ellis (Deputy Minister Environment)
- October 7, 2010 Letter to Minister Mel Knight, ASRD, and Minister Jim Prentice (Environment Canada) from Lisa King, ACFN, Re: The Need to Protect the Ronald Lake Bison Herd and First Nations Livelihood Rights from Oil Sands Impacts.
- October 13, 2010 Submission of *As Long as the Rivers Flow: Athabasca River Use, Knowledge and Change, ACFN Community Report, August 16, 2010* to Pat Marriot (AENV), Brian Mackowecki (DFO) and Dave Bartesko (Land Use Secretariat).
- November 22, 2010 Letter from ACFN (Lisa King) to Dave Bartesko regarding funding agreement
- January 13, 2011 Letter from ACFN (Lisa King) to Dave Bartesko RE: Lower Athabasca Regional Plan - consultation process
- November 22, 2010 Submission of ACFN Advice to Government of Alberta Regarding the Lower Athabasca Regional Plan

- January 24, 2011 Submission of Co-management and the Lower Athabasca Regional Plan: Discussion Paper.
- February 28, 2011 Letter to Morris Seiferling from ACFN (Lisa King)
- March 29, 2011 Email from Lisa King to Morris Seiferling Re: Follow-up to ACFN's January 24th Comanagement Discussion Paper

MCFN-Specific

- October 31, 2008 Joint MCFN and Chipewyan Prairie Dene First Nation (CPDFN) submission on Alberta's Land Use Framework (LUF)
- March 2009 Review of TEMF
- April 20, 2009 Letter from Robert Freedman to Dave Bartesko Re: Follow up from MCFN-ASRD meeting of March 12, 2009
- May 27, 2009 Letter from Robert Freedman to Witek Gierulski Re: Response to letter from Witek of May 25, 2009 re: consultation with MCFN on LARP
- July 6, 2009 Letter from George Poitras to Heather Kennedy Re: Reiterating that Roy Vermillion does not represent MCFN in RAC meetings
- September 17, 2009 Email from Linda Aidnell to Morris Seiferling and Heather Kennedy re: request for GoA to provide MCFN with data used to prepare LARP
- October 6, November 19, 2011 Email from Linda Aidnell to Morris Seiferling and Heather Kennedy Re: follow up on September 17 data request
- August 19, 2009 LARP consultation plan proposal
- December 17, 2009 Email from Linda Aidnell to Morris Seiferling and Heather Kennedy Re: Request for GoA to provide MCFN with data used to prepare CRISP
- January 25 & 28 Email from Linda Aidnell to Morris Seiferling and Heather Kennedy Re: Follow up on December 17 email request
- January 29, 2010 Revised LARP consultation plan proposal after GoA announced their funding contribution
- October 18, 2010 Letter from Linda Aidnell to Dave Bartesko Re: MCFN concerns with GoA's LARP funding agreement
- November 11, 2010 MCFN LARP submission
- December 2, 2010 Email from Linda Aidnell to Dave Bartesko Re: concerns with GoA LARP funding agreement
- January 6, 2011 Email from Linda Aidnell to Dave Bartesko Re: follow up on email from December 2, 2010 February 23, 2011, Final LARP funding agreement sent to Dave Bartesko
- February 23, 2011 Letter from Sebastien Fekete to Dave Bartesko Re: Follow-up on LARP meeting January 27, 2011, request for GoA's technical LARP drafters to meet with MCFN
- March 25, 2011 Email from Linda Aidnell to Dave Bartesko Re: request to meet with LARP drafters
- April 13, 2011 Email from Linda Aidnell to Dave Bartesko Re: request for GoA to provide MCFN with feedback on submission and questions for GoA Re: LARP consultation process
- May 11, 2011 Email from Linda Aidnell to Dave Bartesko re: request to set up meeting with LARP drafters before June 6 (First nation consultation dead line)
- May 11, 2011 Letter sent by Sebastien Fekete to Len Webber, Mel Knight, Rob Renner, Cindy Ady Re: Request for a Chief-Minister meeting.

- May 12, 2011 Email from Sebastien Fekete to Dave Bartesko Re: Final Financial Contribution Agreement.
- May 16, 17, 18, & 27, 2011 Email from Linda Aidnell to Dave Bartesko Re: Follow up on May 11 email request
- May 20, 2011 Email from Sebastien Fekete to Cindy Ady, Mel Knight, Rob Renner, Len Webber RE: Consultation and follow-up request for Chief to Minister Meeting.
- May 27, 2011 Letter from Sebastien Fekete to Morris Seiferling Re: Request for LARP to undergo an independent review, in support of the Pembina Institute.
- June 10, 2011 Email from Sebastien Fekete to Morris Seiferling Re: Request for a meeting following Minister/Chief Meeting.
- June 10, 2011: Email from Sebastien Fekete to Morris Seiferling Re: addressing meeting/consultation issues: request for feedback.
- June 23, 2011: Email from Sebastien Fekete to Dave Bartesko Re: Response to June 22nd email – LARP (regarding the summary document provided to Cabinet).

ACFN and MCFN

- August 28, 2009, joint letter from ACFN (Lisa King) and MCFN (Melody Lepine) to Land-use Secretariat (Morris Seiferling) regarding Consultation on the Lower Athabasca Regional Plan (“LARP”)
- February 1, 2010 Joint letter from ACFN (Lisa King) and MCFN (Melody Lepine) to Heather Kennedy (RAC Chair) and Morris Seiferling (Stewardship Coordinator)
- June 1, 2010 Letter from ACFN (Lisa King) and MCFN (Melody Lepine) to Heather Kennedy Re: Invitation to participate in CRISP Workshops on March 16 and 18, 2010. [Copied to Dave Bartesko, Land Use Secretariat]
- September 28, 2010 submission of the joint ACFN and MCFN proposal to develop a Traditional Land and Resource Use Management Plan.
- October 5, 2010 Joint submission of ACFN and MCFN of technical reviews on the Management Frameworks for the Lower Athabasca Region
- October 19, 2010 ACFN-MCFN-CPDFN Submission on the RAC Vision document
- April 11, 2011 Letter from MCFN (Melody Lepine) and ACFN (Lisa King) to Dave Bartesko Re: Response to April 5, 2011 release of draft LARP
- May 16, 2011 Letter from ACFN (Lisa King) and MCFN (Melody Lepine) to Dave Bartesko Re: Your letter dated May 3, 2011
- May 6, 2011 Letter to Dave Hervieux (ASRD) from Lisa King (ACFN) and Melody Lepine (MCFN) Re: Proposed Woodland Caribou Policy for Alberta.
- Email dated May 16, 2011 to Scott Milligan from Nicole Nicholls.
- May 27, 2011 Submission of ACFN’s Traditional Use Studies for the Shell Jackpine Mine Expansion and Pierre River Mine Projects and Redclay Lake
- June 3, 2011 Joint submission of ACFN and MCFN regarding the draft Lower Athabasca Integrated Regional Plan
- June 6, 2011 Speaking Notes for Chief Adam and Chief Marcel Distributed to Alberta officials and staff present at the June 6, 2011 Chiefs-Ministers meeting.

- June 7, 2011 Letter from ACFN (Lisa King) and MCFN (Melody Lepine) Re: Expectations on follow up meeting with GoA

Meetings

- March 12, 2009 Joint LUF Update Edmonton
- May 29, 2009 Joint TEMF/LARP meeting , Edmonton
- June 26, 2009 Joint GoA LARP meeting, Fort McMurray
- September 10, 2009 Joint GoA LARP meeting, Edmonton
- March 4, 2010 Joint GoA LARP meeting, Fort McMurray
- October 20, 2010 Joint GoA LARP meeting, Fort McMurray
- January 27, 2011 MCFN- GoA LARP meeting, Edmonton
- April 15, 2011 MCFN- GoA LARP meeting, Edmonton
- April 27, 2011 Joint GoA LARP meeting, Fort McMurray
- June 6, 2011 Joint Chief to Minister meeting, Edmonton
- June 17, 2011 Joint GoA follow-up meeting, Fort McMurray