In the Matter of

Request for Review of the Lower Athabasca Regional Plan
Pursuant to s. 19.2 of the *Alberta Land Stewardship Act*
Submitted by the **Mikisew Cree First Nation**

June 25, 2014

Response Submissions of the Government of Alberta

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INTRODUCTION

1. The Mikisew Cree First Nation (the Applicant) has requested a review and amendment of the Lower Athabasca Regional Plan (LARP) in its entirety, although specific provisions are included as examples in Part A of its submissions, under section 19.2 of the *Alberta Land Stewardship Act* (ALSA).

2. Pursuant to ALSA, the Stewardship Minister has found the application to be complete in form and has forwarded the application to the Review Panel.

3. The Government of Alberta (Alberta or Crown) submits the following in response to the Applicant's review request.

EXECUTIVE SUMMARY

4. Alberta submits that the majority of the concerns expressed by the Applicant are outside the jurisdiction of the Panel as the concerns are not with the content of LARP but relate to:

   - Determinations of questions of constitutional law;
   - Adequacy of consultation leading up to the enactment of LARP or for LARP implementation;
   - The creation process of LARP;
   - Allegations of harms related to pre-existing development activities;
   - Allegations of harms related to potential future development activities;
   - Allegations of harms related to the implementation of LARP;
   - Items or features alleged to be missing from the content of LARP; and
   - Allegations of harms related to legislation other than LARP.

5. Some of the Applicant's concerns are within the jurisdiction of the Panel as they relate to the content of LARP. However, the provisions of LARP pointed to by the Applicant do not cause any harm to the Applicant; instead, the LARP content enhances the existing regulatory regimes and does not take away from any existing rights and uses.

6. The Applicant's dissatisfaction with the overall balancing of the competing interests in LARP is not sufficient to trigger the Panel's role in recommending specific amendments to the Minister.

7. Alberta does not necessarily agree with any or all of the Applicant's characterization of its members' rights, activities and land use. For the purposes of this response, whatever that characterization may be, Alberta submits that the Applicant has not shown that there is any existing or future harm to income, property, health or quiet enjoyment of property caused by a provision of LARP so as to trigger the Panel's power to provide recommendations for amendment to the Minister.

8. Therefore, Alberta requests that the Panel report to the Minister, pursuant to Rules 36-37,[1] that the Applicant is not directly and adversely affected.

REGULATORY CONTEXT OF LARP

LARP Balances Interests

9. ALSA's purpose is:

> (a) to provide a means by which the Government can give direction and provide leadership in identifying the objectives of the Province of Alberta, including economic, environmental and social objectives;
>
> (b) to provide a means to plan for the future, recognizing the need to manage activity to meet the reasonably foreseeable needs of current and future generations of Albertans, including aboriginal peoples;
>
> (c) to provide for the co-ordination of decisions by decision-makers concerning land, species, human settlement, natural resources and the environment;
>
> (d) to create legislation and policy that enable sustainable development by taking account of and responding to the cumulative effect of human endeavour and other events.[2]

10. ALSA authorizes the Lieutenant Governor in Council to establish integrated planning regions, such as the Lower Athabasca Region, and a regional plan for the region following public consultation.[3] The regional plan must describe the vision and objectives for the region and may, amongst other things, include policies, set thresholds, specify indicators, describe monitoring, and describe the measures to be taken to achieve the objectives and policies.[4]

11. The Lower Athabasca Regional Plan (LARP) is a regional plan established by the Lieutenant Governor in Council pursuant to ALSA.

12. In keeping with ALSA's overarching purpose and its requirements for regional plans, LARP establishes a framework in which to balance competing interests on the landscape of economic opportunities, social considerations, and environmental considerations within the Lower Athabasca Region.[5] More specifically, LARP:

- Establishes a long-term vision for the region;
- Aligns provincial policies at the regional level to balance Alberta's economic, environmental and social goals;

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[1] Alberta Land Stewardship Act – Rules of Practice for Conducting Reviews of Regional Plans (March 2014) [Panel Rules], Rule 36-37 – **Authorities Tab 1**

[2] *Alberta Land Stewardship Act*, S.A. 2009, c. A-26.8, s. 1(2) – **Authorities Tab 2**

[3] ALSA, ss. 3(1), 4(1) and 5

[4] ALSA, ss. 8(1) and 8(2)

[5] Lower Athabasca Regional Plan 2012-2022, OC 268/2012, (2012) Alberta Gazette 2012,Part I, pg. 1049 (ISBN No. 978-1-4601-053705 (Printed version) and ISBN No. 978-1-4601-0538-2 (Online version)) [LARP], pg. 2 – Purpose

- Reflects ongoing commitment to engage Albertans, including aboriginal peoples, and land-use planning;
- Uses a cumulative effects management approach to balance economic development opportunities and social and environmental considerations;
- Set desired economic, environmental and social outcomes and objectives for the region;
- Describes strategies, actions, approaches and tools required to achieve the desired outcomes and objectives;
- Establishes monitoring, evaluation and reporting commitments to assess progress; and
- Provides guidance to provincial and local decision-makers regarding land-use management for the region.[6]

13. LARP does not give priority to any one of economic, environmental or social considerations.

14. LARP itself has four main parts:

- Introduction – which includes the overall purpose of LARP and how LARP is intended to inform land-use decisions;
- Strategic Plan – which sets out the vision for the future of the Lower Athabasca Region and outlines a set of strategic directions which will assist in realizing the vision and desired outcomes;
- Implementation Plan – which includes more specific regional objectives, strategies and actions to support realization of the regional vision, and includes indicators so that progress towards this vision can be measured and evaluated;
- Regulatory Details Plan- which introduces regulatory requirements to enable the achievement of the strategic direction and associated actions.

15. LARP also establishes a number of Management Frameworks for the Lower Athabasca Region for important environmental considerations including air quality and surface water quality. LARP and the Management Frameworks identify indicators and triggers and limits for those indicators.[7]

16. LARP also expressly contemplates the creation of additional frameworks, including those relating to groundwater management, surface water quantity, and biodiversity management. These additional frameworks and other initiatives to fully implement the terms of LARP continue to be developed.

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[6] LARP, pg. 2

[7] LARP, pgs.73-76; Lower Athabasca Region Air Quality Management Framework for Nitrogen Dioxide (NO2) and Sulphur Dioxide (SO2), printed August 2012, ISBN978-1-4601-0532-0 (Online Version), available on the website http://environment.alberta.ca/documents/LARP_Framework_AirQuality_FINAL.pdf [Air Quality Management Framework], pgs. 19 and 26 – **Authorities Tab 3**; and Lower Athabasca Region Surface Water Quality Management Framework for the Lower Athabasca River, August 2012, ISBN No. 978-1-4601-0530-6 (Online Version), available on the website, http://environment.alberta.ca/documents/LARP_Framework_SurfaceWaterQuality_FINAL.pdf [Surface Water Quality Management Framework] pg. 17 – **Authorities Tab 4**

17. LARP is the culmination of years of work by the Government of Alberta as well as specific consultation and engagement with a Regional Advisory Council, First Nations and Metis organizations, municipalities, environmental groups, industry stakeholders and members of the public.[8]

LARP Does not Take Away From the Existing Regulatory Regimes

18. LARP does not replace or take away from the existing regulatory regimes. For any activity on the landscape within the Lower Athabasca Region, LARP simply adds a layer to the existing regulatory structure.

19. LARP does not authorize any particular development or activity.

20. A proponent for any activity is still required to go through the provincial regulatory process, including receiving the necessary regulatory authorizations under legislation, prior to commencing any activity. This legislation includes, but is not limited to, the *Environmental Protection and Enhancement Act* (EPEA), the *Water Act*, the *Public Lands Act*, the *Historical Resources Act* and the *Forests Act*.

21. As an example, under EPEA, a proponent for a proposed activity may have to conduct an environmental assessment and prepare an environmental impact assessment report if the activity is listed as a mandatory activity in regulation or is otherwise referred to the assessment process.[9] The environmental impact assessment report must contain the information outlined in the terms of reference issued for the particular report and must also include:

    (a) a description of the proposed activity and an analysis of the need for the activity;

    (b) an analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites;

    (c) an identification of existing baseline environmental conditions and areas of major concern that should be considered;

    (d) a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;

    (e) an analysis of the significance of the potential impacts identified under clause (d);

    (f) the plans that have been or will be developed to mitigate the potential negative impacts identified under clause (d);

    (g) an identification of issues related to human health that should be considered;

    (h) a consideration of the alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity;

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[8] LARP, pg. 2

[9] *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 [EPEA], ss. 44-45 – **Authorities Tab 5**

(i) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur and the plans that have been or will be developed to monitor proposed mitigation measures;

(j) the contingency plans that have been or will be developed in order to respond to unpredicted negative impacts;

(k) the plans that have been or will be developed for waste minimization and recycling;

(l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;

(m) the plans that have been or will be developed to minimize the production or the release into the environment of substances that may have an adverse effect;

(n) the final terms of reference; and

(o) any other information that the Director considers necessary to assess the proposed activity.[10]

22. This report must be published and made publicly available.[11]

23. Once the Director determines that the environmental impact assessment report is complete, depending on the activity, the Director advises the Alberta Energy Regulator (AER), the Natural Resources Conservation Board (NRCB), the Alberta Utilities Commission (AUC) or the Minister (Minister of Environment and Sustainable Resource Development)(ESRD) that the report is complete.[12]

24. The proponent will then be in a position to apply for the specific authorizations required for the activity in question from the AER, NRCB, AUC or ESRD (or some combination of these entities) as necessary.

25. Each of these entities has an application process and a review process which requires the proponent to submit additional information specific to the regulatory process and the activity in question which the decision-maker must consider. Each of these processes allows for some form of public participation in the review process. Forms of public participation include statements of concern by affected members of the public, appeal rights, or a public hearing.

26. Once one of these entities issues an authorization under the applicable legislation, the holder of the authorization, such as the holder of an approval issued under EPEA, must continue to comply with the terms and conditions of the authorization. These requirements are not replaced by LARP.

27. LARP then is an additional consideration which must be taken into account by the decision-maker in determining whether to authorize the applied for activity. In other words, after

[10] EPEA (Tab 5), s. 49
[11] EPEA (Tab 5), s. 50
[12] EPEA (Tab 5), s. 53

assessing all the other information provided by the public and by the proponent, the decision-maker must also assess whether the activity is consistent with LARP before deciding whether to allow the activity. LARP also adds the requirement for Alberta to initiate management responses in accordance with the management frameworks should a trigger or limit be exceeded.[13]

LARP Does Not Take Away From the Crown's Duty and Policy Commitments to Consult

28. LARP does not take away the Crown's existing duty and policy commitment to consult with aboriginal peoples when government decisions may adversely affect their exercise of constitutionally protected rights.[14]

29. In addition to the regulatory application process, the Crown continues to meet any applicable duty or policy commitment to consult with aboriginal peoples (such as First Nations), including those arising from section 35 of the *Constitution Act, 1982*.

30. LARP cannot and does not change Canada's Constitution. Treaty rights and their constitutional protection exist regardless of what Alberta legislates.

31. Further, all regulatory decision-makers must ensure that their decision-making complies with Canada's Constitution, which includes recognition of treaty rights. Under LARP, the Applicant's ability to raise concerns with project-specific regulatory decision-makers about the impacts of specific projects on treaty rights remains intact.

ROLE OF REVIEW PANEL

Panel is Limited to Determinations of Direct and Adverse Effect Related to the Content of LARP

32. The Panel is created by statute and therefore is limited in its jurisdiction to the powers granted to it under its enabling legislation.

33. Section 19.2 of ALSA provides:

> (1) A person who is directly and adversely affected by a regional plan or an amendment to a regional plan may, within 12 months from the date the regional plan or amendment affecting the person comes into force, request a review of the regional plan or amendment affecting the person in accordance with the regulations.
>
> (2) On receiving a request under subsection (1), the Stewardship Minister must establish a panel to conduct a review of the regional plan or amendment and report the results of the review and any recommendations to the Stewardship Minister.[15]

34. Section 5(1)(c) of the *Alberta Land Stewardship Regulation* defines "directly and adversely affected" in respect of a person with regard to a regional plan, as meaning "that there is a reasonable probability that a person's health, property, income or quiet enjoyment of property,

[13] LARP, Regulatory Details, ss. 26 and 33
[14] LARP, pgs. 5, 34, 40, 63, 69
[15] ALSA (Tab 2), s. 19.2(1) and (2)

or some combination of them, is being or will be more than minimally harmed by the regional plan".[16]

35. Section 7(1) of the Regulation indicates the required contents of an application for review which includes:

- Identification of specific provisions of the regional plan which the applicant believes is or will directly and adversely affect the applicant;[17]

- An explanation of how each of the above indicated specific provisions is or will directly and adversely affect the applicant;[18]

- An explanation of the adverse effects suffered or expected to be suffered as a result of the above indicated specific provisions;[19] and

- The relief requested which may include an amendment to the above indicated specific provisions that the applicant proposes to diminish or eliminate the adverse effects.[20]

36. Rule 36 of the Rules of Practice for Conducting Reviews of Regional Plans provides that the Panel must provide advice on whether the applicant is directly and adversely affected by "a specific provision or provisions in a regional plan".[21]

37. If the Panel's advice is that the applicant is directly and adversely affected, the Panel must in its report to the Minister:

a) Identify and explain how the specific provision or provisions in the regional plan or in an amendment to a regional plan directly and adversely affects the applicant, and

b) Explain the adverse effects with respect to health, property, income or quiet enjoyment of property, or some combination of them, that the applicant is suffering or expects to suffer as a result of the specific provision(s) identified.[22]

38. The effect of these provisions is that the Panel is limited in its jurisdiction to reporting to the Minister as to existing or future harms to health, property, income or quiet enjoyment of property, caused by the content of specific, identified provisions of LARP. The Panel does not have the jurisdiction to conduct a review of LARP in its entirety. The role of the Panel is not to again balance the competing economic, social and environmental considerations in the entire Lower Athabasca Region.

39. The Panel does not then have the jurisdiction to consider matters such as:

- The creation process of LARP, including concerns related to consultation;

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[16] *Alberta Land Stewardship Regulation,* AR 179/2011 [ALS Reg.], s. 5(1)(c) – **Authorities Tab 6**
[17] ALS Reg. (Tab 6), s. 7(1)(d)
[18] ALS Reg. (Tab 6), s. 7(1)(e)
[19] ALS Reg. (Tab 6), s. 7(1)(f)
[20] ALS Reg. (Tab 6), s. 7(1)(g)
[21] Panel Rules (Tab 1), Rule 36 a)
[22] Panel Rules (Tab 1), Rule 38.

- Allegations of harms related to pre-existing development activities;
- Allegations of harms related to future development activities;
- Concerns related to the implementation of LARP;
- Items or features alleged to be missing from the content of LARP; and
- Allegations of harms related to legislation other than LARP.

40. The Panel also does not have jurisdiction to consider any questions of constitutional law, which would include alleged infringements of aboriginal or treaty rights, or alleged breaches of section 35 of the *Constitution Act, 1982*.[23]

"Directly and Adversely Affected" – General Causation Principles Apply

41. As set out above, the Panel's role is confined to identifying specific provisions of LARP, if any, that directly and adversely affect the Applicant. There must be a direct causative link between LARP content and the harm alleged.

42. The Supreme Court of Canada recently discussed causation of adverse impacts on aboriginal or treaty rights in *Rio Tinto Alcan v. Carrier Sekani Tribal Council* (*Carrier Sekani*).[24] The alleged harm must be caused by the government action complained of. In particular, past harms cannot be said to be caused by the current government action. Furthermore, the harm must be more than speculative to count as an adverse effect. The Court stated:

> **... The claimant must show a causal relationship between the proposed government conduct or decision and a potential for adverse impacts on pending Aboriginal claims or rights. Past wrongs, including previous breaches of the duty to consult, do not suffice.**
>
> ... Mere speculative impacts, however, will not suffice. ..., there must an "appreciable adverse effect on the First Nations' ability to exercise their aboriginal right". The adverse effect must be on the future exercise of the right itself; ...[25]

43. While *Carrier Sekani* was about the Crown's duty to consult regarding potential adverse impacts on aboriginal rights in the absence of a treaty, the general principles of causation are relevant to the issue of whether the Applicant is or will be harmed by LARP content.

44. The Applicant's dissatisfaction with LARP content, and a desire for revisions and additions, is not a sufficient trigger for the Panel's power to recommend relief. Just because LARP might not include what the Applicant would like LARP to have included does not mean that LARP harms or will harm the Applicant.

45. The Applicant may suggest that the definition of "directly and adversely affected" set out in the *Alberta Land Stewardship Regulation* should be given a special interpretation on the basis that

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[23] *Constitution Act, 1982*, R.S.C. 1985, App. II, No. 44, Sched. B, Pt. II, s. 35 – **Authorities Tab 7**; *Administrative Procedures and Jurisdiction Act,* R.S.A. 2000, c. A-3 [APJA], ss. 10, 11 and 16 – **Authorities Tab 8**.
[24] *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43 [*Carrier Sekani*] – **Authorities Tab 9**
[25] *Carrier Sekani* (Tab 9) at paras. 45 and 46

the Applicant's members are an aboriginal people. However, that suggestion is contrary to case law. While there is a principle suggesting that "statutes relating to Indians should be liberally construed", this principle applies only to interpreting Indian-specific federal legislation, and does not apply to provincial legislation of general application.[26] ALSA and the associated Regulation are provincial legislation of general application. Therefore, an ordinary and factual-based interpretation of "directly and adversely affected" is appropriate.

CONCERNS OF THE APPLICANT

46. Broadly, the concerns expressed by the Applicant are as follows:

- LARP has an absence of measures that are protective of the Applicant's treaty rights, traditional land uses and culture;
- LARP binds the Crown, decision-makers, local government bodies and all persons in the absence of measures that are protective of the Applicant's treaty rights, traditional land uses and culture;
- LARP "prioritizes" economic interests over section 35 rights;
- LARP's environmental frameworks lack thresholds and triggers relating to the protection of treaty rights;
- LARP designates conservation, recreation and mixed-use areas without taking any steps to ensure that the legal regimes for these areas are or will be capable of protecting and accommodating treaty rights; and
- LARP itself is a failure of Alberta to meaningfully consult with the Applicant.

47. The Applicant requests that the provisions of LARP be amended to be consistent with the Applicant's view of the exercise of its members' treaty and aboriginal rights and traditional land use in perpetuity. The Applicant also requests further consultation during the review of LARP.

ISSUES OUTSIDE THE PANEL'S JURISDICTION

48. Alberta submits that the Panel does not have the jurisdiction to consider the majority of the issues raised by the Applicant because:

- the harms alleged raise questions of constitutional law;
- the harms alleged relate to alleged inadequacy of consultation during LARP creation or LARP implementation;
- the harms alleged relate to the creation process of LARP, not to the content of LARP;
- the harms alleged relate to pre-existing activities;

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[26] *Wasauksing First Nation v. Wasausink Lands Inc.*, 2004 CarswellOnt 936 (Ont. C.A.) at paras. 92-94 – **Authorities Tab 10**

- the harms alleged relate to potential future activities;
- the harms alleged relate to implementation of LARP, not its content;
- the harms alleged relate to purported omissions from LARP, not the content of LARP; and
- the harms alleged relate to legislation other than LARP.

Panel has no Jurisdiction to Determine Questions of Constitutional Law

49. The *Administrative Procedures and Jurisdiction Act* (APJA) indicates that no decision-maker has jurisdiction to determine a question of constitutional law (which includes a determination of any right under the Constitution) unless conferred such jurisdiction by regulation.[27] The Panel is a "decision-maker" to which the APJA applies. While the Panel's role pursuant to ALSA is to provide a report and recommendations to the Stewardship Minister, rather than the Panel itself rendering changes to the regional plan,[28] other panels who provide recommendations have been found to be "decision-makers" pursuant to APJA.[29]

50. As a decision-maker, the Panel has not been granted jurisdiction to determine questions of constitutional law. The *Designation of Constitutional Decision Makers Regulation*, which confers jurisdiction in relation to questions of constitutional law to certain decision-makers, does not include a Panel under ALSA.[30]

51. As the Alberta Court of Appeal noted, "the Alberta statute reflects a policy decision that the citizens of Alberta are ultimately entitled to have their constitutional rights determined by a superior court".[31]

52. Therefore, the Panel cannot determine any question of constitutional law.

53. As a finding that LARP somehow infringes the Applicant's members' treaty rights or aboriginal rights would necessarily involve determining rights by applying s. 35 of the *Constitution Act, 1982* to LARP, this would be a "question of constitutional law" and therefore, outside the scope of the Panel's jurisdiction.

54. Therefore, Alberta submits that the issues raised by the Applicant under the heading "Direct and Adverse Impact to the Right to have Impacts to the Environment and Section 35 Rights managed in a way that preserves MCFN's ability to maintain its rights and culture", as discussed on page 19 of the Applicant's submissions, are related to alleged breaches to rights under s. 35 of the *Constitution Act, 1982*, which are constitutional issues outside of the jurisdiction of the Panel.

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[27] *APJA* (Tab 8), ss. 10, 11 and 16.
[28] ALSA (Tab 2), s. 19.2
[29] *Siksika First Nation v. Alberta (Director, Southern Region, Environment)*, 2007 ABCA 402, para. 10 – **Authorities Tab 11**
[30] *Designation of Constitutional Decision Makers Regulation*, Alta. Reg. 69/2006 – **Authorities Tab 12**
[31] *UFCW, Local 401 v. Alberta (Information and Privacy Commissioner)*, 2012 ABCA 130, para. 43 – **Authorities Tab 13**

55. In any event, Alberta would note treaty and aboriginal rights are protected by s. 35 of the *Constitution Act, 1982,* irrespective of whether it is specifically enshrined within LARP. LARP cannot and does not purport to change Canada's *Constitution*.

Panel has no Jurisdiction to Consider Alleged Inadequacy of Consultation During LARP Creation or During LARP Implementation

56. As noted above under the heading Role of Review Panel, the combined effect of ALSA, the Regulation and the Rules is that the Panel is limited in its jurisdiction to reporting to the Minister as to existing or future harms caused by the content of LARP. Alleged harms related to how LARP was created or harms alleged to be caused by how LARP is being, or may be, applied are not within the Panel's jurisdiction. Therefore, it is outside of the purview of the Panel to consider the adequacy of consultation leading to the enactment of LARP or the adequacy of future consultation as it may occur under LARP.

57. Alberta submits that the following issues raised by the Applicant are related to adequacy of past or future consultation and cannot be considered by the Panel:

- The issues raised under the heading "Direct and Adverse Impact to the Right to be Consulted about Impacts to Section 35 Rights", noting LARP's Outcome 7 "Inclusion of aboriginal peoples in land-use planning", as discussed on pages 20-21 of the Applicant's submissions.

58. In any event, Alberta submits that it did indeed include aboriginal peoples in the LARP land-use planning processes and decisions at the strategic level during LARP creation.[32]

59. Further, LARP includes a number of explicit references to Alberta's continuing commitment to engage with and consult aboriginal peoples including the following:

- Inclusion of aboriginal peoples in land-use planning is identified as a strategic direction that will improve the ability to balance economic, environmental and social outcomes in the region.[33]

- In developing a biodiversity management framework and a landscape management plan, the Government of Alberta will work with First Nations to consider how First Nations' exercise of constitutionally protected rights to hunt, fish and trap for food can continue to occur within reasonable proximity of First Nations' main population centres.[34]

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[32] See *Response to Aboriginal Consultation on the Draft Alberta Land-Use Framework 2008,* printed September 2009, ISBN. 978-0-7785-8710-1 (Online Version), available on the Land Use Secretariat website at https://landuse.alberta.ca/Governance/AboriginalPeoples/Pages/default.aspx and also *Response to Aboriginal Consultation on the Lower Athabasca Regional Plan*, printed June 2013, ISBN. 978-1-4601-0456-9 (Online Version), available on the Land Use Secretariat website at https://landuse.alberta.ca/LandUse%20Documents/Response%20to%20Aboriginal%20Consultation%20on%20the%20Lower%20Athabasca%20Regional%20Plan%20-%202013-06.pdf – **Authorities Tab 14**

[33] LARP, pg. 24

[34] LARP, pg. 29

- Government will engage with First Nations and stakeholders on initiatives to designate motorized access such as identification of trails or areas when developing the regional parks plan and regional trail system plan.[35]

- The Government of Alberta will work closely with aboriginal peoples...and other stakeholders to develop new-or enhance existing- tourism attractions, amenities, accommodations and access. [36]

- Aboriginal culture, with its connection to the land and environment, provides a unique opportunity for engagement in land planning, conservation, recreation and tourism initiatives...As such, the Alberta government will look for opportunities to engage these communities and invite them to share their traditional ecological knowledge to inform land and natural resource planning in this region. [37]

- The Alberta government will invite First Nations who have expressed an interest in the Richardson Backcountry to be involved in a sub-regional initiative called the First Nations - Richardson Backcountry Stewardship Initiative (or Richardson Initiative).[38]

- In accordance with applicable government policy as it may be from time to time, the Government of Alberta will continue to consult with aboriginal peoples when government decisions may adversely affect the continued exercise of their constitutionally protected rights, and the input from such consultations continues to be considered prior to the decision.[39]

- Outcome 7: Inclusion of aboriginal peoples in land-use planning, which includes as its objective to encourage aboriginal peoples' participation in land-use planning and input to decision-making in recognition of the cultural and economic importance of land use to those aboriginal communities with constitutionally protected rights. This will provide both aboriginal communities and the Government of Alberta with a basis for better addressing current and potential land-use conflicts, in a manner supportive of aboriginal traditional uses, such as the exercise of treaty rights.[40]

60. In summary, Alberta submits that the Panel does not have the jurisdiction to address the issues raised by the Applicant, as specified above, as this goes to the adequacy of the Crown's consultation with the Applicant either during the creation process of LARP or during the implementation of LARP. These issues do not flow from the content of LARP.

61. Alberta also submits that, in any event, LARP does provide for effective and meaningful engagement and consultation opportunities for the Applicant, including with respect to impacts on rights recognized under section 35 of the *Constitution Act, 1982*.

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[35] LARP, pg. 30
[36] LARP, pg. 33
[37] LARP, pg. 34
[38] LARP, pg. 34
[39] LARP, pg. 34
[40] LARP, pgs. 63-64 - several specific strategies for achieving Outcome 7 are included.

Panel has no Jurisdiction to Consider Matters Related to LARP Creation

62. Similarly, it is outside of the purview of the Panel to consider other matters related to LARP creation process, as they do not relate to the content of LARP.

63. This means that the Panel cannot consider the Applicant's concern that the final LARP incorporates a different limit on certain contaminants than was proposed in previous recommendations from the Regional Advisory Council, as noted on page 17 of the Applicant's submissions.

64. In any event, Alberta submits that the limits contained within LARP and the related Frameworks are based on existing objectives and guidelines. LARP does not increase the limits associated with any contaminant.[41]

Panel has no Jurisdiction over Alleged Harms from Activities Which Pre-date LARP

65. As noted above, the Panel has jurisdiction only with respect to harms alleged to be caused by the content of LARP. Harms which are alleged to have occurred due to activities which were carried on or approved prior to LARP cannot be caused by LARP and are therefore outside of the Panel's jurisdiction.

66. Alberta submits that this includes the following concerns:

- The concern that much of what the Applicant considers to be its traditional lands have already been developed for oil sands, forestry, roads, urban residential development and other industrial purposes, as noted at page 22 of the Applicant's submissions.

67. In any event, Alberta submits that LARP takes into account existing development impacts and works towards ameliorating continued effects of such development. Most notably, LARP sets aside approximately 1.5 million more hectares of land as conservation areas.[42] The reduction in land disturbance by the creation of conservation areas is expected to enhance opportunities for the exercise of treaty rights and traditional land uses.

68. In summary, Alberta submits that the above noted harms alleged by the Applicant are said to have occurred due to activities which pre-date LARP and are therefore outside of the Panel's jurisdiction.

69. In any event, Alberta also submits that LARP does consider existing development and works towards reducing continued effects of all development at a regional level.

Panel has no Jurisdiction to Consider Applicant's Allegations of Harms Related to Potential Future Development Activities

70. As noted above in the explanation of LARP's place in the overall regulatory structure, LARP does not authorize any particular activity or development. All future development activities remain

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[41] LARP, pg. 73 -76
[42] LARP, pg. 84

subject to the existing regulatory process. Therefore, alleged harms related to potential future activities are not caused by LARP and are outside of the Panel's jurisdiction.

71. Alberta submits that the following concerns of the Applicant fall within this category:

- The potential for future development within areas designated under LARP as conservation and recreation areas, as noted on pages 18 and 23 of the Applicant's submissions.

72. In any event, Alberta submits that LARP either (a) reduces the likelihood of the prospective future harm which the Applicant is concerned with or (b) has no effect on such harms. LARP overall does not increase the possibility of such potential future harms.

73. With respect to the Applicant's concern regarding potential future development within conservation areas, Alberta notes that prior to LARP there was little coordinated regulation of multiple uses, including industrial development within these areas. Each development was subject, as it still is, to its project-specific regulatory requirements. Under LARP, while existing petroleum and natural gas tenures and surface materials leases will be honoured, new activity, that is incompatible with the purposes of conservation areas, will not be allowed.[43] LARP provides that hunting, fishing and trapping will continue in accordance with existing provincial laws within conservation areas.[44]

74. In relation to the designation of recreation and tourism areas, Alberta notes that LARP expressly indicates that tourism and recreation development will include collaboration with First Nations communities.[45] This would enhance any consultation required under the Crown's legal duty or other policy commitments.

75. In summary, Alberta submits that the above alleged harms relate to potential future activities and are outside of the Panel's jurisdiction.

76. In any event, Alberta also submits that LARP does not increase the potential for any of these alleged harms, but rather, reduces the likelihood that these harms will occur.

Panel has no Jurisdiction to Consider Allegations of Harms Related to the Implementation of LARP

77. As noted above, the Panel must consider only the harm caused by the content of LARP. Alleged harms caused by how LARP is or may be applied or interpreted by industry or regulatory decision-makers are outside the Panel's jurisdiction and cannot be considered.

78. Alberta submits that the following concerns of the Applicant are therefore outside of the Panel's jurisdiction:

- LARP is being applied by decision-makers to effectively rule out the possibility of establishing areas that can be set aside for traditional land use and the exercise of what the Applicant considers to be its members' treaty rights as noted on pages 8, 14, 15, 16, 21 and 23.

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[43] LARP, pgs. 30 and 89
[44] LARP, pg. 30
[45] LARP, pgs. 30, 40 and 79

79. In any event, Alberta notes the general principle that all decision-making must comply with the requirements of legislation, including Canada's Constitution with its express recognition of aboriginal peoples' rights. In *Quebec (Attorney General) v. Canada (National Energy Board)*, the Supreme Court of Canada stated "it is obvious that the Board must exercise its decision-making function, including the interpretation and application of its governing legislation, in accordance with the dictates of the Constitution, including s. 35(1) of the *Constitution Act, 1982.*"[46]

80. LARP does not take away from the Applicant's ability to raise its concerns with these project-specific decision-makers about the impacts of projects on such constitutionally recognized rights. Concerns regarding the alleged failure of regulatory decision-makers to comply with the constitutional recognition of these rights can still be raised in the appropriate forum, which may be through the appeal or judicial review mechanism for that specific decision-maker. LARP leaves this ability intact.

Panel has no Jurisdiction in Relation to Alleged Omissions from LARP

81. As noted above, the Panel has jurisdiction only with respect to harms alleged to be caused by specific provisions of LARP. The Panel then has no ability to consider measures alleged to be missing from LARP.

82. Where LARP is silent on a particular topic, no taking away from existing rights occurs; rather, the current regulatory regime remains unchanged.[47] The Alberta Court of Appeal has indicated that maintenance of the status quo with respect to a First Nation's concerns is not an adverse impact.[48] In other words, LARP causes no harm by omitting to add a layer to the present regulatory regime with respect to certain matters.

83. Alberta submits that the Panel has no jurisdiction to consider the following concerns raised by the Applicant:

- LARP does not include a specific regulatory details plan for traditional land use and treaty rights nor does it contain other measures that are that are protective of what the Applicant considers to be its members' treaty and aboriginal rights, traditional land uses and culture, including specific triggers and limits, as noted on pages 7-13, 16 and 17 of the Applicant's submissions;

- LARP does not include sufficient restrictions on development within conservation areas and the Lake Athabasca public land use zone, as noted on pages 12, 13 and 18 of the Applicant's submissions;

- LARP lacks thresholds and triggers protective of aboriginal and treaty rights and the frameworks established by LARP exclude important elements, fail to set baseline levels; and

- The alleged absence of conservation areas in areas where the Applicant's members exercise their rights, as noted on page 22 of the Applicant's submissions.

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[46] *Quebec (Attorney General) v. Canada (National Energy Board)*, [1994] 1 S.C.R. 159 at para. 44 – **Authorities Tab 15**

[47] LARP, pg. 27

[48] *Tsuu T'ina Nation v. Alberta (Environment)*, 2010 ABCA 137, at para. 89 – **Authorities Tab 16**

84. In any event, in relation to the concern that LARP does not explicitly include mechanisms for managing traditional land use or access for the exercise of treaty rights, Alberta submits that it must also respect its jurisdictional limits as included in the federal-provincial division of powers within sections 91 and 92 of the *Constitution Act, 1867*. Under this division of powers, Canada has exclusive legislative power over "Indians" and "Lands reserved for the Indians".[49] While provincial enactments of general application (such as LARP) apply of their own force to "Indians" and on reserves, this is subject to exceptions arising from the division of powers. The key exceptions are that LARP and other provincial enactments cannot legislate about Indian rights, the status or capacities of Indians as Indians or the Indian interest in land. Nor can such provincial enactments single out "Indians" for special treatment.[50] Therefore, in legislating access to provincial Crown land, Alberta could not expressly define somebody as being or not being an "Indian" or lands as those to which "Indians" have a right of access to exercise treaty rights. To the extent that the Applicant suggests that LARP should be amended to do such things, such amendments may be unconstitutional.

85. With respect to the designation of conservation areas, Alberta submits that one of the key criteria for establishment of conservation areas were that the area support aboriginal traditional uses.[51] These uses were considered, along with the other criteria, such as little to no industrial activity and areas that are representative of the biological diversity, in establishing the location of conservation areas.

86. More generally, LARP states that the biodiversity management framework and landscape management plan are to have several measures that will support systematic, regional management of wildlife habitat and populations and should, in turn, support the exercise of treaty rights and traditional land use.[52] LARP also expressly indicates that Alberta will work with First Nations in developing the biodiversity management framework, the landscape management plan, and the Lower Athabasca Regional Trail System Plan.[53]

87. Further, as noted above, LARP does not take away from the Crown's duty to consult or other policy commitments to consult with aboriginal peoples (such as First Nations) when government decisions may adversely affect the exercise of constitutionally protected rights.

88. With respect to the Applicant's concern regarding potential future development within conservation areas, Alberta notes that prior to LARP there was little coordinated regulation of multiple uses, including industrial development within these areas. Each development was subject, as it still is, to its project-specific regulatory requirements. Under LARP, while existing petroleum and natural gas tenures and surface materials leases will be honoured, new activity, that is incompatible with the purposes of conservation areas, will not be allowed, in order to minimize or prevent new land disturbance. [54] LARP provides that hunting, fishing and trapping will continue in accordance with existing provincial laws within conservation areas.[55]

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[49] *Constitution Act, 1867,* R.S.C. 1985, App. II, No. 5, ss.91 and 92 – **Authorities Tab 17**
[50] *R. v. Sutherland*, [1980] 2 S.C.R. 451, para. 5 – **Authorities Tab 18**
[51] LARP, pg. 30
[52] LARP, pgs. 45-46
[53] LARP, pgs. 63-65
[54] LARP, pgs. 30 and 89
[55] LARP, pg. 30

89. With respect to the designation of recreational areas, LARP calls for additional planning for recreational uses to better manage the impact to the land.[56] For example, prior to LARP motorized recreation was allowed throughout the area, whereas under LARP, motorized recreation will be managed in the future to occur in designated areas.[57] First Nations, such as the Applicant, will be consulted in accordance with applicable policy on these plans as they move forward, which will consider the impact to treaty rights. [58]

90. With respect to the concern that the triggers and frameworks in LARP are not protective of aboriginal and treaty rights, and are missing important elements, Alberta notes that the triggers and limits within the Air Quality Management Framework are based on the Alberta Ambient Air Quality Objectives (AAAQO). The AAAQO were developed and implemented under the *Environmental Protection and Enhancement Act* (EPEA) to protect the environment and human health, while recognizing principles of sustainability that include environmental as well as technical, social and economic considerations.[59] An AAAQO is "a numerical compensation, value or narrative statement which is intended to provide protection of the environment and human health to the extent that is technically and economically feasible, and the socially and politically acceptable".[60] Therefore, these triggers and limits were set based on human health and environmental health and are therefore supportive of traditional land use.

91. For the specific AAAQOs used in the LARP Air Quality Management Framework[61]:

- The 1-hour average Alberta Ambient Air Quality Objective for nitrogen dioxide is 300 µg m-3 (159 ppb) based on respiratory effects.
- The annual average Alberta Ambient Air Quality Objective for nitrogen dioxide is 45 µg m-3 (24 ppb) based on vegetation.
- The 1-hour average Alberta Ambient Air Quality Objective for sulphur dioxide is 450 µg m-3 (172 ppb) based on pulmonary effects.
- The annual average Alberta Ambient Air Quality Objective for sulphur dioxide is 20 µg m-3 (8.0 ppb) adopted from the European Union, which based its objective on the protection of ecosystems.

92. Further, LARP enhances the use of AAAQOs by establishing triggers that are below the limit for each indicator (the LARP air quality limits are the AAAQO). This allows sufficient time to plan and react to manage air quality so as to avoid reaching that limit. LARP also addresses cumulative effects by ensuring releases from various sources and at various scales are managed so that they do not collectively result in unacceptable air quality. It also contemplates the use of both regulatory and non-regulatory tools in addressing air quality concerns.[62]

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[56] LARP, pgs. 32, 45, 46, 63 and 64
[57] LARP, pgs. 84 and 86
[58] LARP, pg. 64
[59] LARP, pg. 73 and the Air Quality Management Framework (Tab 3) pg. 12
[60] Air Quality Management Framework (Tab 3) pg 12
[61] Air Quality Management Framework (Tab 3) pg 12
[62] Air Quality Management Framework (Tab 3)

93. The triggers and limits in the Surface Water Quality Framework adopt the most stringent of the provincially-accepted guidelines depending on the use which is at issue (for example, drinking water, recreation, agriculture and aquatic life).[63]

94. As with air quality, LARP enhances the use of these guidelines by establishing triggers to address issues before limits are reached.

95. In summary, Alberta submits that items or measures alleged to be missing from LARP cannot be harm caused by LARP and are outside of the Panel's jurisdiction.

96. In any event, the existing regulatory structure will continue to apply where LARP is silent with respect to a particular topic, maintaining the status quo. Alberta submits that maintenance of the status quo is not an adverse effect caused by LARP.

Panel has no Jurisdiction to Consider Harms Alleged to be Caused by Legislation Other Than LARP

97. Some of the harms alleged by the Applicant are related to legislation other than LARP.

98. As noted above, the purpose of the Panel is to review the content of LARP. The Panel has no ability to recommend amendments to any other legislative instruments. Therefore, alleged harms which are caused by legislation other than LARP are outside the Panel's jurisdiction and should not be considered.

99. Alberta submits that the following concerns fall within that category:

- The *Provincial Parks Act,* the *Public Lands Act* and the *Public Lands Administration Regulation* will limit access to lands established as conservation areas, recreation areas, and public land areas for recreation and tourism (PLARTs), as noted at pages 17, 18 and 23 of the Applicant's submissions; and

- The *Provincial Parks Act,* the *Public Lands Act* and the *Public Lands Administration Regulation* will restrict activities, such as use of conveyances, camping and fires, and use of firearms, on lands established as public land areas for recreation and tourism, for example the Lake Athabasca Public Land Use Area for Recreation and Tourism, as noted at pages 17, 18 and 23 of the Applicant's submissions.

100. These concerns are not concerns about LARP so much as about the *Provincial Parks Act*, which governs provincial parks, provincial recreation areas and wildland provincial parks, and the *Public Lands Act*, which governs public land use zones. It is these provincial laws, as they are currently enacted, which the Applicant actually takes issue with. The Applicant is also concerned with the potential for future changes to these provincial laws and regulations.

101. A review of existing provincial laws outside of LARP, such as those noted above, or recommendations to change these laws or their regulations is outside of the Panel's jurisdiction.

102. Alberta concedes that, generally, the Panel does have jurisdiction to recommend that an area designated by LARP as a conservation area, provincial recreation area or a public land area for

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[63] Surface Water Quality Management Framework (Tab 4) p.g 20

recreation and tourism (PLART) not be designated at all or be given a different type of designation. However, the Panel's jurisdiction in this regard is limited – the Panel may only recommend an alternate designation from the existing set of designations under existing provincial legislation. The Panel cannot create new designations as it does not have authority to recommend changes to the provincial legislation governing land designations as they are outside LARP.

103. Moreover, the Applicant has not suggested that any of the conservation areas, provincial recreation areas or PLARTs designated by LARP should not have been designated at all. Nor has the Applicant suggested that a different type of designation for any of the conservation areas, provincial recreation areas or PLARTs would be more appropriate. This reinforces that the Applicant's issues relate to the provisions under the existing provincial legislation outside of LARP and not the content of LARP.

104. Alberta submits that is not the role of the Panel to engage in a wholesale balancing again of all of the potentially competing interests regarding the designation of a particular conservation area, provincial recreation area or PLART in the absence of a specific suggestion for an alternate designation for a specific area identified in LARP.

105. In any event, any impact to the Applicant's access to conservation areas, provincial recreation areas or PLARTs is minimal and reasonable, given that the regulation of motorized access is intended to ultimately support the Applicant's exercise of treaty rights. Establishment of the conservation areas and PLARTs will not prevent pedestrian access. However, establishment of these areas will somewhat change motorized access.

106. More specifically, much of the lands that will become conservation areas, provincial recreation areas and PLARTs are currently vacant public lands under the *Public Lands Act*. Under the *Public Lands Act* and the *Public Lands Administration Regulation*, off-highway vehicle (OHV) use is allowed on vacant public lands, except for the beds and shores of naturally occurring permanent water bodies, and is not limited to designated routes.[64]

107. Once the conservation areas, provincial recreation areas and PLARTs are established, motorized access will be restricted to designated routes and areas.[65] LARP recognizes this, indicating that "Motorized Recreation on Designated Routes Only" will be allowed in each of the new conservation areas, provincial recreation areas and PLARTs.[66]

108. LARP specifies that pending plans formally designating areas or routes, "[o]ff-highway vehicle use is permitted on existing access".[67] LARP specifically indicates that Alberta will engage with First Nations in the designation of such routes or areas.[68]

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[64] *Public Lands Administration Regulation* [PLAR], Alta. Reg. 187/2011ss. 32(1), 32(2)(d) and 43 – **Authorities Tab 20**

[65] *Provincial Parks (General) Regulation*, Alta. Reg. 102/85 s. 27(1)(a) – **Authorities Tab 19**; PLAR (Tab 20), ss. 185(1) and (3)

[66] LARP, pgs. 84 and 86

[67] LARP, pg. 30

[68] LARP, pg. 30

109. The rationale for restricting motorized access to designated areas is "to mitigate potential biodiversity impacts associated with random motorized access".[69] This in turn is intended to support the exercise of traditional activities on the landscape.

110. Furthermore, the Supreme Court has found with respect to the exercise of treaty rights that "changes in method do not change the essential character of the practice".[70] Accordingly, a First Nation's exercise of a treaty right in a manner different from that previously used does not necessarily diminish the exercise of the treaty right. Alberta submits that a changing landscape may change the exercise of treaty rights, without 'harming' such rights.

111. The Applicant has also alleged restrictions on camping, fires, and the use of firearms within the PLARTs that will be established as a public land use zones under the *Public Lands Act*.

112. However, establishment of these public land use zones will not change the status quo with respect to camping or fires. Public land use zones are governed by Part 9 of the *Public Lands Administration Regulation* (PLAR) which does not regulate fires or camping with respect to public land use zones, although there are provisions which deal with the distinct land categories of public land recreation areas and public land recreations trails.[71] PLAR is silent with respect to the use of firearms.

113. In summary, to the extent that the Applicant's concerns, as noted above, relate to the restrictions on certain activities contained within existing legislation other than LARP, such concerns are outside of the Panel's jurisdiction.

114. In any event, Alberta submits that any impacts to the Applicant will be minimal.

ISSUES WITHIN THE PANEL'S JURISDICTION

115. The following concerns raised by the Applicant relate to the content of LARP:

- LARP prioritizes development, as noted in pages 14-16, 19, and 21 of the Applicant's submissions.

- LARP's designations of provincial recreation areas and public land areas for recreation and tourism (PLARTs) may result in increased recreation use of the areas, and therefore safety concerns and increased competition for resources, thereby impacting use of the areas by the Applicant's members, as noted on page 18 of the Applicant's submissions.

116. However, Alberta submits that the content of LARP does not, in fact, cause the harm alleged by the Applicant.

LARP does not Authorize or Prioritize Development

117. The Applicant suggests that LARP prioritizes development (pgs 14-16, 19, 21).

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[69] LARP, pg. 30

[70] *R. v. Morris*, 2006 SCC 59, para. 30 – **Authorities Tab 21**

[71] PLAR (Tab 20), Part 9

118. This assertion is not accurate.

119. LARP does not prioritize development. LARP "aligns provincial policies at the regional level to balance Alberta's economic, environmental and social goals".[72] LARP's vision describes "a desired future state for the Lower Athabasca in which the region's diverse economic opportunities are balanced with social and environmental considerations using a cumulative effects management approach".[73]

120. LARP identifies seven regional outcomes.[74] The outcome of optimizing the economic potential of the oil sands must be weighed against the outcomes of managing landscapes to maintain ecosystem function and biodiversity, managing air and water to support human and ecosystem needs, and inclusion of aboriginal peoples in land use planning. LARP does not rank the regional outcomes.

121. In summary, LARP does not prioritize development for the Lower Athabasca Region. Rather, it strives to strike a balance between social, environmental and economic outcomes, taking into account the current state of the region.

Any Effect from LARP's Designation of Recreation Areas is not Adverse

122. The Applicant argues (at page 18 of its submissions) that LARP's designations of provincial recreation areas and public land areas for recreation and tourism (PLARTs) may impact the Applicant's exercise of treaty rights. In particular, the Applicant is concerned that the creation of these areas will increase numbers of recreational users, resulting in safety concerns and increased competition for resources.

123. Alberta submits that the Applicant will not be adversely affected.

124. The majority of the lands that will be established as provincial recreation areas or PLARTs are currently vacant public lands administered under the *Public Lands Act* and the *Public Lands Administration Regulation* (PLAR). On these vacant public lands, motorized access is not limited to designated routes and any person can enter onto and occupy this land for a recreational purpose (as defined) for up to 14 days, subject to certain exceptions.[75]

125. Once established as either provincial recreation areas under the *Provincial Parks Act* or as public land use zones under the *Public Lands Act*, these areas will be subject to additional regulation. For example, motorized recreation will be limited to designated routes. This regulation is intended to mitigate impacts to the lands and potential biodiversity impacts associated with random motorized access. Regulation of motorized access will increase, not detract from, safety. Hunting, with its attending safety concerns, will continue to be regulated by existing legislation.

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[72] LARP, pg. 2
[73] LARP, pg. 23
[74] LARP, pg. 37.
[75] PLAR (Tab 20), s. 32

126. Alberta submits that the increased regulation of the provincial recreation areas and PLARTs will support the exercise of traditional activities on the landscape[76] and will reduce the potential for conflict between users, including the Applicant's members, rather than increase such conflict.

127. Alberta would also note that provincial recreation areas and PLARTS will make up only a small portion (approximately 0.55% and 0.91%)[77] of the land base in the Lower Athabasca region.

CONCLUSION

128. Alberta submits that the majority of the concerns raised by the Applicant are not related to the content of LARP and are therefore outside of the Panel's jurisdiction and must not be considered.

129. For the concerns noted above which are within the Panel's jurisdiction, as they relate to the current content of LARP, Alberta submits that no harm to the Applicant, as alleged, or at all, arises from the content of LARP complained of.

130. Alberta submits that the Applicant has not shown that there is any existing or future harm caused by a provision of LARP so as to trigger the Panel's power to provide recommendations for amendment to the Minister.

131. Consequently, Alberta requests that the Panel report to the Minister, pursuant to Rule 37, that the Applicant is not directly and adversely affected in accordance with Rule 36.

All of which is respectfully submitted June 25, 2014.

ALBERTA JUSTICE AND SOLICITOR GENERAL

Per: Lisa Semenchuk, Wendy Thiessen, and Witek Gierulski
Counsel for the Government of Alberta

[76] LARP, pg. 30
[77] LARP, pgs. 86-87

Table of Authorities

Tab	
1.	Alberta Land Stewardship Act – Rules of Practice for Conducting Reviews of Regional Plans (March 2014)
2.	*Alberta Land Stewardship Act*, S.A. 2009, c. A-26.8
3.	Lower Athabasca Region Air Quality Management Framework for Nitrogen Dioxide (NO2) and Sulphur Dioxide (SO2)
4.	Lower Athabasca Region Surface Water Quality Management Framework for the Lower Athabasca River
5.	*Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12
6.	*Alberta Land Stewardship Regulation,* AR 179/2011
7.	*Constitution Act, 1982*, R.S.C. 1985, App. II, No. 44, Sched. B, Pt. II
8.	*Administrative Procedures and Jurisdiction Act,* R.S.A. 2000, c. A-3
9.	*Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43
10.	*Wasauksing First Nation v. Wasausink Lands Inc.*, 2004 CarswellOnt 936 (Ont. C.A.)
11.	*Siksika First Nation v. Alberta (Director, Southern Region, Environment)*, 2007 ABCA 402
12.	*Designation of Constitutional Decision Makers Regulation*, Alta. Reg. 69/2006
13.	*UFCW, Local 401 v. Alberta (Information and Privacy Commissioner)*, 2012 ABCA 130
14.	A. *Response to Aboriginal Consultation on the Draft Alberta Land-Use Framework 2008* B. *Response to Aboriginal Consultation on the Lower Athabasca Regional Plan*
15.	*Quebec (Attorney General) v. Canada (National Energy Board)*, [1994] 1 S.C.R. 159
16.	*Tsuu T'ina Nation v. Alberta (Environment)*, 2010 ABCA 137
17.	*Constitution Act, 1867,* R.S.C. 1985, App. II, No. 5
18.	*R. v. Sutherland*, [1980] 2 S.C.R. 451
19.	*Provincial Parks (General) Regulation,* Alta. Reg. 102/1985
20.	*Public Lands Administration Regulation*, Alta. Reg. 187/2011

21.	*R. v. Morris*, 2006 SCC 59