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August 29, 2014

By email: melody.nice@gov.ab.ca

Aboriginal Consultation Office
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Attention: Melody Nice

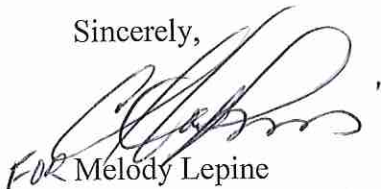
Re: Alberta Consultation Respecting Teck's proposed Frontier Mine (the "Project")

Dear Ms. Nice:

Attached are Mikisew's notes from our July 15, 2014 meeting with representatives from the ACO, including yourself, to discuss Crown consultation regarding the Project.

We continue to wait for the feedback you committed to provide regarding the materials that Mikisew has provided Alberta to describe its concerns with the Project, including, among other materials, our traditional use study. Please provide that feedback at your earliest convenience.

Sincerely,



FOR Melody Lepine

Cc: MCFN Chief and Council
Toni Hafso, ACO (Toni.hafso@gov.ab.ca)
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Encl: As per body of letter

Notes from meeting between MCFN and ACO

Meeting date: July 15, 2014

Location: MCFN GIR office in Fort McMurray

Notes prepared by MCFN

Attendees:

- MCFN: Mark Gustafson (MG), Melody Lepine (ML), Carl Braun (CB), Anna Logie, Tyler Meyer
- Alberta: Melody Nice (MN), Dushan Bednarsky – by phone (DB), Jeffrey Johnston, Toni Hafso

Notes:

Overview of the ACO office and Alberta's consultation policy

The meeting started with a general conversation of the Alberta Consultation Office ("ACO") organizational structure and how the timing of adequacy assessments issued by the ACO relate to the timing of the Alberta Energy Regulator ("AER") process.

MN provided an overview of the organizational structure of the ACO. She explained that Toni Hofso was responsible for consultation regarding the Teck Frontier Mine and that Jeffrey Johnston had been assigned consultation relating to MCFN.

Next MG asked if Alberta has guidelines that set out factors for assessing the potential level of adverse impact for the purpose of determining the scope of consultation. MN responded that there are no guidelines at this time. MN also explained that while she may see personally see activities relating to Teck's plan to build the Frontier Mine as one big project, that is not how Alberta approaches it. MN explained that when Alberta is considering the level of impacts from a project, that assessment is done by looking at the different approvals being applied for separately. It has only been more recently that Alberta is beginning to have the people considering impacts from different approvals work together but Alberta still considers impacts on an approval basis rather than a project basis.

ML asked whether ACO consults on the development of terms of reference for EIAs. MN explained that ESRD was responsible for issues relating to EIAs, including terms of reference and determining whether an EIA was complete. Because that is an ESRD responsibility, that ACO was not involved in any of these steps. MN explained that AER may take responsibility for EIAs, in which case it would be the AER alone that would determine if an EIA was complete.

Considerable time during this preliminary discussion was focused on MCFN's questions regarding when the ACO conducts adequacy assessments and how the work done by the ACO is incorporated into decision-making by the AER in light of the *Responsible Energy Development Act*. ML began by asking whether the ACO discusses consultation-related issues such as timelines with the AER. MN responded

that ACO does not discuss those issues with the AER because the AER is a stand-alone entity and cannot be fettered when it comes to issuing approvals and setting conditions. MN explained that the ACO has no business whatsoever influencing what's happening with the AER. While there had been efforts to influence what happens with the AER, the AER is very clear with the ACO that there's absolutely no way we can influence who's getting hearing standing, of considering information in the SOC because they don't ask us for advice on the SOC. As a result, the ACO may copy the AER on correspondence with AER. When it comes to considering approvals, the ACO is developing a tool called an ACO Report to communicate whether the ACO believes consultation is adequate.

MG asked when the consultation assessment adequacy would be conducted in the review process where an EIA is required. MN explained that originally Alberta conducted adequacy assessments after the regulatory process. Right up to April 20 or so of this year, adequacy assessments were done after the regulatory process as was done with the Shell Jackpine Project. MN explained that she believed that, with the AER and the new consultation guidelines, there may be a requirement for an adequacy decision prior to any hearing: if AER requested an adequacy decision at the time, the ACO would do that.

When asked by ML to clarify whether, in the case of Teck, the adequacy assessment would occur before the JRP process got underway, MN explained that it looks like that may be the case. DB explained that the ministerial requires the AER to request advice from the ACO prior to making a decision. It is up to the AER to decide when they want to request that advice from the ACO. They might want it, as they did with the Grand Rapids project, prior to the beginning of the oral hearings. In that case, there may be an opportunity after the hearing to provide feedback to the AER if it requests feedback from the ACO.

MG explained that the difficulty with the split regulatory and consultation structure that Alberta has created is that every proponent MCFN has seen that has received an adequacy assessment then goes to the AER and says "look, these issues have been dealt with so you, AER, can't hear them anymore". MG explain that in a meeting with AER – sometime around last December – that was AER's understanding as well, namely if there was an adequacy assessment then the AER doesn't need addressed treaty rights concerns through its hearing process because Alberta, as evidenced by the adequacy assessment, has decided those issues have been addressed in accordance with whatever obligations Alberta has in relation to the treaty rights.

Discussion specifically regarding provincial consultation on the Teck Frontier Mine

a) Opening remarks

ML provided opening remarks. In her remarks, she said that she expected substantive results from today's meeting. She explained that MCFN has been providing input and raising concerns about the project with Alberta since it was jointly discussed with UTS and Teck in 2009 and consistently ever since. In addition, the project also involves many of the same concerns that MCFN has raised to Alberta in at least 7 regulatory hearings since 2003 - things like water withdrawals and tailings and health and contaminated traditional foods and cumulative effects and infringements on rights are issues MCFN has raised before - and all of these impacts are mounting and mounting and most of those issues still have not been addressed. The pressure on Alberta is how it's going to address these impacts with Teck, the farthest north mine proposed to date. ML shared that she is very interested to hear how in this meeting

how Alberta will be addressing the concerns that MCFN has raised about Teck. She also explained that MCFN's experience is that hearings address don't address MCFN's concerns, that the outcomes of hearings don't do anything for MCFN, and nothing changes except another approval. ML shared her expectation that, given how many years MCFN has been raising concerns about this project and raising other concerns with Alberta, that this time these concerns don't get ignored.

b) Scope of consultation for Teck Frontier

MN responded that a number of examples of concerns that ML has been raising for a considerable amount of time relate not just to Teck's project but to other projects as well which means they are outside the scope of consultation. All that the ACO can do is help to connect MCFN with the right ministry in which to raise those concerns and follow up on its behalf to see that things are being reasonably considered but those concerns are not part of consultation on Teck. When it comes to the Teck project, the role of the ACO is to follow the consultation guidelines. These say that ACO only looks at treaty rights and traditional uses that are site specific and project specific. There's a lot of debate on the level of impacts or what items are listed in the treaty rights, but the ACO is only looking at things from the very narrow perspective of whether there are project specific and site specific concerns when it comes to Teck. For example, if the concern is health related or its food related then it goes to another department. We have no health specialists in the ACO, and the reason why we don't is because it is not something we would be looking at in consultation about a project... it falls under "out of scope concerns."

MG asked how Alberta can ensure that it fulfills the duty to consult and avoids unjustified infringement of treaty rights if it excludes a number of the key issues that Mikisew has raised and which directly relate to the project, or sends them into other unrelated processes. MN responded that that is the way the ACO has been set up. The ACO operates according to policies, guidelines and operating procedures that determine how it directs companies to consult and what to look for in determining consultation adequacy. MN explained that Teck has the bison issue which is site specific and so ACO expects that the company will mitigate or address that concern. However, when MCFN says in Teck consultation letters that MCFN has concerns about cumulative impacts, those concerns go over to ESRD to be dealt with outside of the Teck consultation because that's what LARP was set up for and LARP is supposed to eventually have initiatives in place that would address cumulative impacts. Cumulative impacts are not seen as site specific project impacts and so not part of Teck consultation. That is what we as the ACO have been directed to do.

c) Whether concerns about LARP are included in scope of consultation

MG asked if for clarification about whether ACO is considering the concerns MCFN raised about LARP in respect of the decision on the Teck project. MN said no, these concerns have to be sent off to ESRD and are outside the scope of consultation on the Teck project because Alberta's view is that once the frameworks under LARP are developed and functioning, they will be able to address cumulative effects. MG asked how ACO can recognize that the project has cumulative effects yet push consideration of these effects into a separate process. MN responded that ACO is only to look at project and site specific

impacts on hunting, fishing, trapping and gathering. MAG asked whether ACO looks at whether any of the impacts to those activities has hit the point of being infringed by Teck. MN responded that there's definitely an infringement for the Ronald Lake Bison Herd.

ML asked if the withdrawal of water from the Athabasca River in excess of a threshold for MCFN's exercise of its rights would be project specific. MN said that it would be. ML said that every issue MCFN raises is project specific to some degree. MN said that the AER deals with technical aspects of the concerns and that the ACO makes sure that Teck has addressed the hunting, fishing, trapping, gathering and access concerns.

d) Authority of ACO to require Teck to address concerns before decisions are made

MG asked whether ACO has the authority to require the proponent to address, mitigate and accommodate. MN responded that the Ministerial order gives the ACO that authority. When MG asked for clarification on the scope of the Ministerial Order, MN clarified that the Ministerial Order only allows the ACO to provide advice to the AER but does not impose any obligation for the AER to listen to the advice.

e) How Alberta determines appropriateness of mitigation and accommodation measures

MG asked what criteria, measures and thresholds the ACO will use to identify mitigation and accommodation measures and provide advice to the AER. MN said she could not think of any and that the process is quite new.

ML expressed concern that if there aren't criteria and thresholds, then ACO can't require proponents to collect critical information. MN said that that was an issue to discuss with policy makers. MG expressed concern that this response pushes a critical issue for Teck consultation outside the scope of consultation which is what MCFN is trying to avoid.

f) Alberta's assessment of impacts from Teck Frontier

MAG commented that MCFN asked Alberta to do assessment work relating to impacts to MCFN's rights in MCFN's first consultation letter about Teck and in the statement of concern, both of which were submitted more than two years ago. He requested that Alberta explain what it has done to conduct those assessments. MN said that Alberta directs companies to undergo consultation to address project specific concerns but does not do the consultation for the company. When ACO does an adequacy assessment, it looks at project and site specific concerns for hunting, trapping, fishing and gathering and asks whether the company made a reasonable effort to address project specific, site specific concerns relating to hunting, trapping, fishing and gathering.

g) Alberta's consideration of potential infringement

MG asked whether ACO can consult on whether a project pushes an impact to hunting a species over a threshold to an infringement, given that cumulative impacts would be at play. MN explained that Alberta considers that a regional impact and so would have to be addressed through LARP.

MG questioned Alberta's position, noting that LARP has no rights-based criteria, thresholds or measures, or a framework to consider bison. MG noted that under Alberta's approach to consultation, the core of MCFN's concerns in relation to the Teck project, such as cumulative effects, fall through the cracks of consultation on the project. How are MCFN's concerns to be addressed?

MN said that regarding bison, ACO asks companies what they are doing to mitigate concerns because it is their responsibility. ML explained her experience that almost every company's mitigation plan is for MCFN members to go elsewhere during the duration of the activity. MG added that the "go elsewhere" approach is even more troubling when it comes to Teck because, according to the federal government, Teck is destroying 30-40% of bison habitat, so it's not clear if the herd actually could go elsewhere, let alone MCFN members. He asked whether Alberta can say that Teck pushing the herd elsewhere won't push them into contact with diseased animals, won't push them into areas without habitat or won't push them into areas where they can't be accessed by MCFN members. MN said that other ministries are responsible, such as Fish and Wildlife, which has undertaken the technical working group. It is also Teck's responsibility to determine the impacts of its project. MG expressed concern at the limits of what the working group is doing, and the lack of credible work by Teck.

h) Alberta's consideration of mitigation measures for bison

MG asked whether ACO had considered what project modifications would protect the herd or limit impacts to the herd in terms of habitat within the project area. MN said that ACO doesn't undertake that work and can't tell industry that it has to do something. It is industry's prerogative to determine how it wants to change a project to accommodate the herd. MN confirmed that, as of today, it would be impossible to do an adequacy assessment in favour of Teck because there hasn't been enough mitigation.

i) MCFN's efforts to work with Teck

MG provided an update on MCFN's efforts to work with Teck collaboratively and explained that MCFN had proposed a process for Teck to incorporate MCFN's TK. MAG also explained that, through MCFN's engagement with Teck, Teck has openly acknowledged that it can't yet assess the impact on the herd, to MCFN's rights, or to the PAD and may need to revisit the conclusions about these issues in its EIA. MAG expressed concern that the regulatory process is still chugging away when the proponent has acknowledged it doesn't have answers to the key issues. MN responded that there has to be an effort by the company to avoid or mitigate and that typically happens through agreements and the withdrawal of statements of concern.

j) Alberta's assessment of Teck's mitigation measures

ML asked what Alberta is doing to ensure that accommodations are acceptable to MCFN, as it is the one being impacted? If Teck says they have mitigated the bison issue, how do you determine if that addresses the impacts to MCFN's treaty rights? MN responded that the ACO would look at the information from MCFN, including traditional knowledge if available. MG asked how the ACO would deal with a situation where Teck says it has addressed the bison concern but MCFN TK says that Teck hasn't.

MAG explained that this was the scenario with the hearing for Teck's winter work program and the AER dismissed MCFN's TK and preferred Teck's desktop studies. MN responded that she could not provide a concrete answer.

k) Factors for assessing impacts to rights

MG noted that MCFN attached a number of factors to guide the consideration of impacts to treaty rights to its submission on the draft terms of reference for the JRP and requested that Alberta use those factors to go through Teck's application and the materials provided by MCFN and then tell MCFN where ACO stands on the assessment of impacts to rights. For this feedback to be useful, MCFN needs it before the JRP process gets underway. MG also noted that MCFN has put in lots of information to document its concerns about this project - including the statement of concern, the traditional use study, submissions on exploratory work, LARP concerns and appendix B to MCFN's November 22 letter and requested Alberta's feedback on the concerns described in those materials and an explanation of how you've assessed.

l) Whether the Project affects MCFN's rights

ML asked if it is ACO's understanding that the project will impact MCFN's rights. MN confirmed that its ACO's understanding that absolutely the project will impact MCFN's rights. The ACO expects the company to bring forward the impacts through its monthly consultation logs.

m) Concern with SRDs recent SIRs

ML and MG explained MCFN's concern that Alberta recently asked Teck to consider moving its tailings pond North into the Ronald Lake area, an important area for MCFN, in the last round of SIRs. They explained that contradicts Alberta's commitment to minimize impacts on MCFN's treaty rights and suggests that Alberta hasn't been listening to MCFN's information. We asked for engagement on developing the SIRs in August 2013 and received no response. MN responded that ACO is not involved in the evaluation for completeness of an EIA or SIRs in any way.

n) Lack of information gathering by ACO

MG said that it is a problem if the consultation office is separated from the information gathering process, as consultation requires necessary and complete information to identify concerns and assess whether they have been addressed. If the consultation side of Alberta is separate from the information gathering then again there is a big gap in the consultation process that undermines the ability of ACO to determine whether consultation has been adequately discharged. MN said that ACO compiles information provided to it and creates tables of what was identified and whether the company addressed it. ACO bases its adequacy decision on whether all concerns were mitigated or avoided.

o) Consideration of impacts to culture

ML asked how impacts to culture were assessed. MN said that impacts to culture would fall under the AER's mandate. When asked for clarification, MN confirmed that ACO only considers hunting, fishing,

trapping and gathering. ML explained that maintaining culture was really the reason why we signed the treaty and wanted to have these unfettered abilities to do these activities was to maintain our culture and our use of the land. It is troubling to hear that culture is not part of consultation. MN responded that it is not something that the ACO assesses.

p) Lack of meaningful consideration of impacts to MCFN

ML said that it is frustrating that the only opportunity MCFN has had to raise concerns is through public hearings because LARP and other government policies don't address our concerns on cumulative issues. But then at hearings we can't discuss culture or cumulative effects being they're not project specific. I don't see anything from today that I can take back to my community and say that Alberta is looking at impacts to your culture, your way of life, your existence here and your health when it comes to the Teck project. I'll have to tell them that Alberta will only consider the specific sites they have killed a buffalo in the past. MN said to continue raising concerns and making its case about the project. MG noted that MCFN has submitted lots of material detailing the importance of the Ronald Lake area, the importance of the herd, the importance of the rights MCFN exercises in the area, the importance of the rights that will be impacted by the project, MCFN's concerns, and traditional use information and asked whether MCFN had made its case. MN responded that it would be impossible at this point to issue an adequacy decision on consultation for the project unless things change significantly and the parties can come to some kind of agreement about what will happen to the herd. She explained that if she received a call from the AER tomorrow asking for an adequacy decision, she would say that Teck and MCFN are very far apart and it would be impossible to say that consultation is adequate.

q) MCFN's recent discovery of clearcutting on the Project footprint

The group discussed the letter MCFN recently sent after seeing clearcutting on the footprint of the mine. ML expressed frustration that MCFN isn't seeing efforts on the part of Alberta to limit impacts to the herd, at least before the hearing for the mine has happened. MN explained that Alberta considers Teck's winter exploratory work separately from consultation on the mine because ACO's operating procedures require them to be dealt with separately. MG stated that ACO's policies can't oust the law of the land regarding what is required for dealing with impacts to rights and the obligation to take MCFN's perspective into account. MN responded that operating procedures are very prescriptive. They designate oil sands exploration programs as short term and having a small footprint.

r) MCFN concerns with consultation on Teck's winter work

MCFN discussed concerns with the ACO's recent adequacy assessment for more winter exploratory work by Teck. ML expressed concern that the adequacy determination didn't account for the fact that the habitat was destroyed by clearcutting and that Teck allowed the logging company to use Teck's roads. Jeff said that the logging was a different project, so ACO didn't look at it. MG noted that, contrary to ACO's claim in the adequacy assessment, there was no agreement between Teck and Mikisew for the coming year to have a monitor onsite and MCFN had no idea how ACO came to make that claim.

s) MCFN request that Teck's winter work be deferred

MAG noted that MCFN had not received a response to its request that exploration be put on hold at least until the hearing on the main mine, as Alberta shouldn't allow destruction of habitat before knowing whether the project will go ahead. No answer was forthcoming. ML said that because there are no hearings for winter work, if MCFN disagrees with ACO's adequacy assessment then the only recourse is judicial review. MN agreed. MG said that by that point the issue will be moot. MN agreed.

t) MCFN concerns with ACO's adequacy assessment for winter work

ML asked how ACO determines the adequacy of consultation for Teck's exploratory program. Jeff said that, when Teck and MCFN disagreed about impacts on bison this year, he consulted SRD scientists. MG noted two problems with this. One, the last time MCFN talked to SRD scientists, they said that they had not been given any information about Teck's winter work. Two, if ACO basing its decision on outside information, it must share that information with MCFN and consult about it. MN noted that it will be harder to conclude that consultation was adequate this year unless Teck decides to withdraw its application and minimize it down to a more reasonable number of wells.

u) Consideration of impacts from exploratory work in consultation for Frontier

MG asked ACO to confirm that it would be considering the impacts and concerns that MCFN raised about the winter work under letter for consultation on the main mine. MN said that it would.

v) MCFN concerns with Round 3 SIRs

After a short break, MG shared some of MCFN's concern with the recent round 3 SIRs. The first concern MAG described was seeing that, despite all the evidence that MCFN has put forward with its concern, the AER recommended that Teck consider expanding the project, mining areas closer to the Athabasca river. For MCFN, the AER's SIRs raises concerns about the independence and impartiality of the AER process. In terms of consultation, it highlights how urgent it is to get feedback from Alberta about what it is considering as project effects and ways to mitigate, address or accommodate them. The second concern was that ESRD said all of the questions about Treaty rights, aboriginal culture and traditional knowledge will not be considered when determining the completeness of Teck's application. This signals that Alberta these issues don't matter. This is precisely why MCFN has asked for engagement on SIRs.

w) Consultation process for the Project

The group next discussed the consultation process for the Project. DB said that for lands projects requiring an EIA a consultation plan will be developed under the EIA process in consultation with First Nations. MG said that MCFN has been asking Alberta to develop a consultation process for 2 years, beginning with the Statement of Concern. The only thing MCFN has seen from Alberta—including Tony's last letter—has statements that Alberta consults according to the policy. DB said that under existing operating procedures there are provisions for a consultation plan that identifies components in the plan where First Nations may wish to provide input.

x) Concerns with the lack of data sharing and the bison technical group

The meeting next discussed the bison issues, beginning with the working group being developed by Alberta. MG said that it is concerning that Alberta hasn't shared any of the data it gathered about the Ronald Lake bison herd with MCFN. MG explained that the data sharing agreement provided by Alberta as a prerequisite for obtaining the data would have prevented MCFN from using the data to inform consultation. MAG advised that MCFN sent back a revised draft but has received no response. MAG noted that the bison working group has said that: it is not fulfilling a consultation role; it is not connected to any regulatory process; and it is not looking at traditional rights and culture. Taken together, these limitations do not make it a credible process for dealing with MCFN's urgent concerns about impacts to bison. MN said that the Working Group is not the body that will address MCFN's concerns. That body will be Teck. MG said that MCFN's concern is that there is not much movement on the data gathering and there are information gaps that won't be addressed in time for a decision on this project. MCFN isn't being involved much in the Working Group's analysis. MCFN asked to review the approach to be used and identify information gaps, but was denied.

MG further noted that the working group cannot actually require any changes to Teck's project because it is operating outside of any statutory authority to require mitigation measures. ML said that it is normal that working groups are created for issues, and it is up to proponents to determine what they want to do. MN confirmed that the working group won't absolve Teck of taking responsibility for bison. MG said that there is a concern about the lack of data on the herd and noted that Teck has told MCFN that Teck doesn't have enough information to make conclusions about impacts to the herd or the exercise of MCFN's rights as they relate to the herd.

y) Alberta's assessment of how to address bison concerns

MG asked what project modifications or mitigations has ACO considered to address the bison concern. MN said that this is up to Teck - the company has to make a determination about its project and make any changes. Ultimately the ACO looks at the project in relation to the concerns that MCFN has raised and the information the ACO has.

z) Alberta's assessment of the severity of impacts

After discussing bison, the other concerns were discussed, including impacts on the PAD and impacts to and potential infringement of treaty rights from environmental impacts, loss of cultural connection with areas or perceived contamination. MAG asked at what point does Alberta start assessing the severity of those impacts. MN responded that ACO haven't started yet, but will have to.

aa) Request for feedback

Next, MAG requested feedback on the MCFN Traditional Use Study, whether ACO agrees or disagrees with the issues MCFN has identified. MN said that that is no problem and agreed to provide feedback as there is nothing preventing the ACO from looking at the TLU and using that as a basis for advising MCFN on how to communicate concerns. MCFN requested feedback on the following

- MCFN's TLU;

- MCFN's statement of concern;
- The information submitted in relation to the OSC programs, including how ACO is incorporating and assessing the concerns set out in those materials in consultation on the mine;
- MCFN's comments on the draft JRP Agreements, terms of reference, including ACO's feedback on the approach to assessing impacts that was set out in MCFN's submission;
- Appendix B (impacts and concerns identified) to MCFN's November 22 letter

ML explained the importance of getting this feedback before any further meetings with Alberta.

bb) Consultation on the JRP agreement

MG asked if ACO had a role in shaping the JRP Agreement. MN said none.

cc) Alberta's participation in a JRP hearing

MG asked if Alberta would be participating in the hearing. MN said as an observer but it will not be filing evidence. ML asked how the panel gets information if it isn't able to ask ACO questions in the hearing. If Alberta is not represented, then it cannot get information from the body that is responsible for the approvals and must work in a vacuum. MG said that this issue creates difficulties for the panel, as one of the main parties responsible for ensuring impacts to rights are credibly identified and addressed won't present information. It also creates difficulties for MCFN, as it cannot test the evidence and ask questions of one of the key participants in the decision making process.

dd) Alberta's consideration of TUS information

MG said that in its last letter, Alberta said that its policy doesn't require a TUS, and there was no response to MCFN's request for feedback or a commitment to consider the TUS and incorporate it into how Alberta identifies and assesses the severity of impacts to Mikisew's rights. MG explained that Alberta had had the TUS for more than 6 months but had provided no response or feedback. MN explained that ACO goes through TUS looking for project and site specific information. MG asked what ACO does with concerns in the report that Alberta doesn't consider site specific and how ACO makes those determinations. MN explained that concerns that are not site specific are considered regional and so excluded from consultation. Examples of regional concerns include impacts to caribou and moose. ACO has been told that those are regional and that they are to be dealt with under LARP not project specific consultation. ML explained that this approach completely disrespects MCFN's indigenous knowledge.

ee) Alberta's determination of the scope of consultation

ML asked whether because MCFN hunts moose outside of the project area, Alberta's position is to say go elsewhere but Alberta can't say that for bison because the herd may not actually be able to go elsewhere. MN confirmed her agreement.

ML expressed serious concern at this, noting that Alberta doesn't know the threshold for how many moose MCFN needs for the exercise of rights and how current habitat disruption relates to that

threshold. MG noted that an additional problem with Alberta's approach is that there are no management models that include any criteria thresholds or measures relating to the exercise of treaty rights.

There was further discussion about what was a "site specific" concern and what was a "regional" concern. MN said that caribou and moose are regional, but the Ronald lake bison herd is site specific. Beaver would also be site specific under Alberta's approach because they stay in one place. MN emphasized the importance of trying to identify site specific concerns to fit within Alberta's consultation policy. In response, ML noted that ACO only wants the information it needs for its regulatory requirements, but MCFN is giving the information to know how to protect treaty rights. She expressed concern that this meeting has highlighted shown that there is a huge disconnect in how ACO is approaching impacts from the project on MCFN's treaty rights and that, as a result, ACO's is missing 95% of the information that it needs. MG added to this that while Alberta has compartmentalized concerns using its consultation policy, Alberta cannot compartmentalize the obligation to protect treaty rights and to deal with them in accordance with constitutional principles when consulting about the project.

MG said that ACO needs to take a different approach because it's inappropriately excluding issues raised by MCFN; it can't only call on MCFN to repackage it. ML said that repackaging issues to follow Alberta's compartmentalization of concerns into different processes would prevent her from really informing the Crown of what is important to MCFN and how the Teck project will impact MCFN.

MN agreed to provide feedback on what concerns in the TLU the ACO has determined are out of scope of consultation and suggested that she can provide that quite quickly. MG highlighted the importance of receiving this feedback early and with specificity so it can be discussed in consultation.

ff) ACO's assessment of Teck's approach to consultation

At the end of the meeting, ML asked what issues ACO thinks Teck has addressed with respect to the adequacy of consultation decision. MN estimated that Teck was currently around 30% of the way.

gg) The role of the adequacy assessment in the regulatory approval process

The final topic of the meeting returned to whether an approval could be issued for the project if consultation was inadequate. MN stated what it was her understanding that the AER cannot issue give an approval without an adequacy of consultation assessment. However, DB confirmed that there is no requirement for the AER to obtain an adequacy assessment before a decision. MG also noted that ACO does not have authority to impose conditions on Teck and that the AER doesn't have authority to do anything beyond consider conditions for the specific approvals sought by Teck.