



Marten Falls Community Access Road Project
Impact Assessment Agency of Canada
600-55 York Street
Toronto, Ontario M5J 1R7
martenfalls@iaac-aeic.gc.ca

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RE: FRIENDS OF THE ATTAWAPISKAT RIVER
Comments on the Impact Statement of the Marten Falls Community Access Road Project (IAAC Reference No. 80184)

This comment is submitted by the Friends of the Attawapiskat River (the “**Friends**”) in response to the Impact Assessment Agency of Canada’s (“**Agency**”) request for feedback on Marten Falls First Nation’s (“**MFFN**”) Impact Statement (“**IS**”) for the Marten Falls Community Access Road Project (“**MFCAR**”).¹

In providing these comments, we remind the Agency that we are the ancestral people of the lands where the Ring of Fire is proposed. We, the Oji-cree, Ojibway, and Omushkegowuk people, have lived in harmony with these lands given to us by the Creator since time immemorial. We are the Water People. The water gives us life, and we take care of the water in return. This is our duty to the Creator.

We are the ancestors of the Headmen who signed Treaty 9 with the Crown to share the lands peacefully. Our Natural Laws teach us to respect the land and to maintain our relationship with the Creator. Our traditional ways do not involve greed or violence toward these lands, but rather love, harmony, and an ongoing commitment to each other.

As we detail in our comments below, which draw on our past recommendations and reflect on whether our efforts and voice have been heard, we call on the Agency to uphold Treaty promises to our people. Our communities rely on openness to thrive, and all community members must be involved in any process on our lands.

To date, our communities remain in the dark and face ongoing health and water crises, a testament to the government’s failure to respect our rights, including our rights to free, prior and informed consent. This is our legal right, as protected by section 35 of the *Constitution*, the *United Nations Declaration on the Rights of Indigenous Peoples* and the domestic *UNDRIP Act*.²

¹ Marten Falls First Nation, [Impact Statement](#): Marten Falls Community Access Road Project (February 20, 2026) [IS]; per an email received from the IAAC dated February 20, 2026.

² UN General Assembly Resolution, adopted on Oct 2 2007 under resolution number A/RES/61/295; *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14.

After this comment period, we will still be here. We will continue to live on our lands peacefully and uphold our Treaty promises. We call on the Agency to do the same and properly engage and consult with all community members and rights holders prior to making its decision on this impact assessment.

I. BACKGROUND

a. The Friends of the Attawapiskat River

The Friends are an Indigenous, grassroots advocacy group. We are community members from Attawapiskat, Peawanuck, Kashechewan, Fort Albany, Neskantaga and Moose Factory in Treaty 9 territory. We share concerns about the waters, lands, and wildlife. Each of us and our families not only live near the Attawapiskat River but have also personally experienced the impact of unsafe water on our health, the environment, and our traditional lands.

We work to bring awareness to the people who still travel and live on our waterways about the proposed 'Ring of Fire' mining development that would forever contaminate our lands and destroy the muskeg (peatlands) – one of the last remaining intact peatlands in the world.³ We also seek to advance knowledge of the proposed Ring of Fire within the Attawapiskat watershed and to enable community participation in decision-making processes that impact the health of the Attawapiskat River.

The Attawapiskat River is central to the exercise of Indigenous rights and to the well-being of communities that depend on it. The river supports harvesting practices, provides materials for shelter, and supports the wildlife that travel along its waters. The river is not isolated; rather, it forms part of an interconnected watershed system in which water flows across muskeg and peatlands of the Hudson Bay – James Bay Lowlands before discharging into the Arctic Ocean. The interconnected nature of this ecosystem means that disturbances in one location will carry downstream, with significant consequences to ecosystems, food systems, and communities far beyond a project's immediate footprint. Once this water is disturbed, we have no means of reversing the harm to its present state– the way it was before any resource development. If developed, the proposed Ring of Fire will have significant negative impacts on our way of life, existence, and livelihoods.

As Treaty 9 people, we, as the Friends, have a shared responsibility to protect Treaty lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of their grandchildren and future generations. It is in this context that the MFCAR must be assessed.

In making these comments to the Agency, the Friends note that they are not speaking on behalf of the First Nation leadership where its members are based (including Attawapiskat, Neskantaga, Peawanuck, Kashechewan and Fort Albany First Nations), but rather are providing these comments as Treaty 9 rights

³ Friends of the Attawapiskat River, online: <friendsoftheattawapiskatriver.ca/>.

holders and community members. Furthermore, these comments do not constitute consultation nor discharge the Crown's obligations per section 35 of the *Constitution Act, 1982*.

b. The Proposed Marten Falls Community Access Road Project

The proposed MFCAR involves the construction and operation of a 184-kilometre, permanent, all-season road connecting the community of Marten Falls to Ontario's broader highway transportation network.⁴ The IS states that while "not the primary purpose" of the road, "a portion of the Community Access Road may be used to transport ore from Ring of Fire mining operations to processing facilities elsewhere in Ontario."⁵ The Friends do not accept this framing as it downplays the primary purpose of this road. More accurately, this IS is for a road project that would allow heavy extractive industry to access a region where presently, no such road network - nor mine sites - exist.

We remind the IAAC that the region referred to as the "Ring of Fire" is an area located on the ancestral lands of Indigenous peoples, including the Ojibway, Oji-Cree, and Omushkegowuk who have inhabited these lands since time immemorial and whom pursuant to Treaty 9, continue to exercise treaty rights affirmed by the spirit and intent of treaties and protected by section 35 of the *Constitution Act, 1982*.

While the IS adopts the term "Ring of Fire," it is important to acknowledge that this terminology originates from industry and does not reflect the significance or origin of the land nor our language. This is our home. There is so much at stake, not only with our rights, but also with the environment and also with the spirit of the environment.

c. Our Direct Interest and History of Engagement

The Friends are rights holders; we are caretakers of the land and an Indigenous grassroots group. Our views and concerns are directly relevant to the Agency, which, as the Crown, has a duty to respect Indigenous rights, including protection of the Attawapiskat River, our provider since time immemorial.

The Friends have spent years leading community workshops, hosting regional gatherings and public presentations, and have provided extensive written and oral contributions to provincial, federal, and international bodies on topics spanning Indigenous Natural Law and Cree cultural perspectives. These efforts come in response to government and industry actions that threaten our rights, those of our community and the accompanying health of the Hudson-James Bay Lowlands, and threaten to extinguish the voice of the grassroots, who are Indigenous rights holders.

The Friends have been very active in raising concerns about the exclusion of the grassroots voices from decision-making regarding the proposed Ring of Fire and related infrastructure, including the MFCAR. For instance, in January 2020, in response to the Agency's Draft Tailored IS Guidelines and Indigenous Engagement Plan, the Friends visited the communities of Timmins, Fort Albany, Kashechewan and

⁴ IS at i.

⁵ IS at 507.

Attawapiskat, travelling over 600 km from Timmins to Attawapiskat by seasonal winter and ice roads, to gather input directly from affected communities.

During our week-long travels, the Friends heard directly and collected feedback from leadership, elders, youth, and community members in community centres, meeting rooms, and classrooms. Engagement occurred at various times of day, including evenings and weekends, to maximize accessibility. While recognizing the limitations of the 40-day comment period and constraints of winter travel, best efforts were made to ensure those interested in learning more and wishing to share their input with the Agency had an opportunity to do so. In all, we met with over 100 individuals and reached out to the media so that the public, more generally, was also aware of this opportunity to comment.⁶ During these sessions, the community expressed a high level of interest in the proposed development in the Ring of Fire region and the associated infrastructure. However, many community members demonstrated limited awareness of the federal impact assessment process.

Before the 2020 comment period, the Friends invited the Agency to participate in in-community engagement sessions to facilitate direct dialogue and improve access to information. Despite this, the Agency did not participate in in-community sessions and subsequent invitations during the public comment period were declined. Instead, engagement opportunities with the Agency were confined to Webex platforms or off-reserve locations. It's important to note that, for fly-in communities, reliable internet access is limited and travel to off-reserve locations is cost-prohibitive. In these circumstances, centralized or online formats present practical barriers to meaningful participation.

The Friends have continued this work through subsequent community events, including organizing and participating in a gathering in Moose Factory in early March 2026. For this event, the Friends and participants travelled hundreds of kilometres by train and seasonal winter and ice roads to gather input directly from affected communities. The Friends engaged directly with Indigenous youth, Elders, and community members to collect feedback on proposed development in the region and its potential impacts. In all, we met with dozens of individuals who discussed longstanding concerns regarding the proposed development in the Ring of Fire region and associated infrastructure, including the MFCAR.

The concerns articulated in this submission are not new. They reflect views expressed by community members over several years of engagement concerning the proposed development in the proposed Ring of Fire region and related infrastructure, such as the MFCAR. We request that all of our prior comments and correspondence be taken into account, as the Agency reviews the completeness of the IS.

⁶ CBC News "Ring of Fire communities get chance to share concerns with federal government" (16 Jan 2020), online: <[cbc.ca/news/canada/sudbury/communities-ring-fire-1.5429812](https://www.cbc.ca/news/canada/sudbury/communities-ring-fire-1.5429812)>.

II. GAPS IN THE IMPACT STATEMENT

The Friends submit that, as currently drafted, the IS does not comply with the Tailored Impact Statement Guidelines (“**Guidelines**”)⁷ or the requirements under various sections of the *Impact Assessment Act* (“**IAA**”).⁸ As outlined below, significant gaps remain that must be addressed and remedied to ensure a complete and robust impact assessment. In its current form, the IS is insufficient to meet the IAA requirements and cannot support a decision statement under the IAA.

a. Public Engagement and Information Sharing

The Guidelines require that the proponent “demonstrate that they have meaningfully engaged with local communities, technical experts, the public, associations and stakeholders,”⁹ while “prioritiz[ing] the participation of those who are most affected by the proposed project, while also ensuring that interested members of the public have an opportunity to share their views.”¹⁰ Meaningful public participation is also a core purpose of the IAA,¹¹ which seeks to ensure that Indigenous peoples whose rights may be affected are provided appropriate opportunities to participate in the process. Despite these safeguards, we are not confident that the participation opportunities provided thus far have created a space for Indigenous legal traditions, worldviews, and natural laws to inform the assessment of a project’s impacts.

The IS outlines a range of engagement initiatives undertaken by the Proponent, including hosting in-person “meetings, activities and workshops”¹² and a youth engagement program.¹³ While these efforts are acknowledged, the Friends submit that the IS merely describes engagement activities without demonstrating how these activities enabled meaningful participation or informed consideration of community concerns. It remains unclear how the concerns raised by Indigenous participants were substantively considered or incorporated into the assessment.

We remind the Agency that consultation requires, at a minimum, “sufficient time to participate in consultation, including the review of technical information.”¹⁴ In *Tsleil-Waututh Nation v. Canada*,¹⁵ the Federal Court of Appeal confirmed that “meaningful dialogue” requires more than simply receiving and understanding the concerns of affected Indigenous applicants, but rather “a considered, meaningful

⁷ Impact Assessment Agency of Canada, “[Marten Falls Community Access Road Project: Tailored Impact Statement Guidelines](#)” (24 February 2020) [**Guidelines**].

⁸ *Impact Assessment Act* (S.C. 2019, c. 28, s. 1) [**IAA**].

⁹ Guidelines at 21.

¹⁰ Guidelines at 21.

¹¹ *IAA*, s 6(2) and 11.

¹² IS at 1683.

¹³ IS at 1684.

¹⁴ Government of Canada, “[Policy Context: Indigenous Participation in Impact Assessment](#)” (7 August 2025).

¹⁵ *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018 CA 153 (CanLII), [2019] 2 FCR 3 [**Tsleil-Waututh Nation**].

two-way dialogue”¹⁶ that grapples with the real concerns of the Indigenous applicants so as to explore possible accommodation of those concerns.¹⁷

Recommendation No. 1: All engagement processes must enable the full and fair participation of Indigenous community members, including women, elders, and youth, and any decision-making must be undertaken with their consent, in keeping with their customs, worldviews and inherent laws.

Recommendation No. 2: All engagement activities must be conducted in both English and Cree, and in the community chosen by the Indigenous organization or nation. For instance, recognizing that many community members live off-reserve, efforts must be made to ensure that all community members have an opportunity to be informed and aware, to participate, and to influence Impact Assessment outcomes.

Recommendation No. 3: Information sharing must reach beyond leadership to community members and Indigenous rights-holders. This is critical to build trust in the Agency, Canada, and the proponent’s intended developments.

Recommendation No. 4: The impact assessment process must demonstrate how the comments received for this project have informed the assessment findings and decision-making to ensure transparency and maintain confidence in the process.

b. Purpose and Scope of Project

The Guidelines require that the IS “outline what is to be achieved by carrying out the project” and “describe the underlying opportunity or issue that the Project intends to seize or solve.”¹⁸ Importantly, where a project forms part of a larger sequence of projects, the IS must “outline the larger context, including likely future developments by other proponents that may use project infrastructure, and activities that may be enabled by the current Project.”¹⁹ This requirement aligns with section 22(1)(e) of the *IAA*, which mandates that an impact assessment take into account the purpose and need for the designated project.

The proponent’s IS identifies the purpose of the project as follows:

“While it is anticipated that a portion of the Community Access Road may be used to transport ore from Ring of Fire mining operations to processing facilities elsewhere in Ontario, this is not the primary purpose of the road. The Community Access Road is

¹⁶ *Tsleil-Waututh Nation* at para 558.

¹⁷ *Tsleil-Waututh Nation* at para 6.

¹⁸ Guidelines at 17.

¹⁹ Guidelines at 6.

intended to improve access, foster economic development, and enhance the overall quality of life for Marten Falls First Nation members.”²⁰

Where a project forms part of a broader sequence of developments or is intended to enable future developments, the scope of the assessment must reflect the broader enabling function. In such circumstances, the IS must evaluate the reasonably foreseeable regional effects arising from the construction and operation of a project of this nature.

In response to the Guidelines, the Friends recommended that the scope of the assessment apply to all reasonably foreseeable projects that may result from or rely on the construction of the MFCAR. The Friends noted that, as drafted, these developments were referenced in the context of a potential cumulative effects assessment, rather than integrated across the full scope of the Guidelines considerations and requirements. The Friends specifically identified the following reasonably foreseeable developments:

- Construction of upgrades to the Anaconda/Painter Lake Forestry Road;
- The construction and operation of the Northern Road Link (proposed road linking the northern portion of the Marten Falls Community Access Road to the Ring of Fire area);
- A potential East-West Road;
- The Eagle’s Nest Mine;
- Mining activities associated with the following deposits: Black Thor, BlackBird, Big Daddy, Black Label;
- Increased winter road traffic during Operations and Maintenance by future mining proponents; and
- Advanced mineral exploration activities in the Ring of Fire area.

While the IS does consider many of these developments,²¹ their treatment remains confined to the cumulative effects assessment. The IS does not adequately integrate these developments into the broader assessment of the project’s purpose and scope. Moreover, it does not evaluate the broader changes that the project will enable.

Recommendation No. 5: The IS must expand the scope of the assessment to meaningfully evaluate reasonably foreseeable projects and activities enabled by the MFCAR, including how the project may facilitate or accelerate those developments and contribute to broader regional transformation. The assessment must include, but is not limited to, mining activities associated with the Eagle’s Nest, Black Thor, Black Bird, Big Daddy, and Black Label deposits, increased winter road traffic during operations by future mining proponents, and advanced mineral exploration.

c. Regional Assessment and Project Scoping

²⁰ IS at 507.

²¹ IS at 77-78.

The Guidelines provide that where an ongoing or completed regional assessment exists in the proposed project area, proponents are expected to use information generated through that process to inform the cumulative effects assessment,²² consistent with section 22(1)(q) of the *IAA*.

The Friends submit that the IS does not meaningfully demonstrate how the federal regional assessment for the Ring of Fire region has or will inform the scoping or evaluation of the project's effects, despite the MFCAR's integral connection to broader mineral development anticipated within the region.

Recommendation No. 6: The IS must be aligned with and informed by the federal Regional Assessment for the Ring of Fire region to ensure that cumulative and regional effects are properly understood and considered before decision-making.

d. Characterization of Wetlands & Inclusion of Mushkeg

The Guidelines require that the IS describe the "environmental significance and value of the geographical setting in which the Project will take place and the study areas,"²³ and "environmentally sensitive areas, such as [...] ecological reserves, ecologically and biologically sensitive areas, wetlands, and habitats of federally or provincially listed species at risk and other sensitive areas."²⁴ The Guidelines further required the proponent to "quantify, delineate and describe wetlands (fens, marshes, peat lands, bogs, etc.) within the local study area potentially directly, indirectly and/or cumulatively effected by the Project."²⁵

In the Friends' previous submission, concerns were raised regarding the significance of the mushkeg in this region and how the project needs to be framed in terms of water flow, connectivity, and the unique cultural, ecological, and hydrological cycles that define it.

While the IS assesses the peatland ecosystems across various residual effects,²⁶ the Friends submit that it does not assess these lands in a way that captures their ecological and cultural significance. For example, this ecosystem "is a nursery for biodiversity, supporting threatened species like woodland caribou, wolverine, and sturgeon, as well as a sanctuary for hundreds of migratory birds."²⁷ Moreover, protecting these lands is "not only crucial for meeting climate goals and conserving biodiversity, but also for upholding Indigenous peoples' rights and heritage."²⁸

In the IS, one community highlighted how "the meaning of Omushkegowuk (the people of the muskeg), speaks to the central importance of the muskeg to the community's lives and well-being."²⁹ Another

²² Guidelines at 80.

²³ Guidelines at 7.

²⁴ Guidelines at 7.

²⁵ Guidelines at 42.

²⁶ IS at 672.

²⁷ Michel Koostachin, Rick Cheechoo & Kerrie Blaise "Protecting Treaty 9 Lands and Waters" (16 June 2025), online: *Canadian Climate Institute* <climateinstitute.ca/publications/protecting-treaty-9-lands-and-waters/>.

²⁸ *Ibid.*

²⁹ IS at 191.

community member noted the interconnectedness of muskeg and the environment, stating that “the muskeg is just like our bodies, if we get sick, and then the whole body gets sick.”³⁰ The Friends submit that these perspectives have not been meaningfully integrated into the assessment, and the IS must be informed by this understanding.

As we shared above and reiterate, the Attawapiskat River and its peatlands are central to the exercise of Indigenous rights and to the well-being of communities that depend on it. The river is not isolated; rather, it forms part of an interconnected watershed system in which water flows across mushkeg and peatlands of the Hudson Bay – James Bay Lowlands before discharging into the Arctic Ocean. The interconnected nature of this ecosystem means that disturbances in one location will carry downstream, with significant consequences to ecosystems, food systems, and communities far beyond a project’s immediate footprint.

In mushkeg, water flows under the land. Fish also travel ‘under the land’ by using tunnels carved into the mushkeg. As one Elder within the Friends has described, ‘we are the water people. The swamps and lakes create mushkeg – it’s a being.’ As another community member within the Friends remarked, “the mushkeg is living and breathing. For us, it is our Amazon. It cleans the air, the water – it’s a big lung and filter for everything.”

Mushkeg does not function as a linear corridor. Instead, it acts like a sponge in which water courses, water crossings, and delineations between water bodies do not neatly form. These characteristics and the uniqueness of the mushkeg must be reflected throughout this impact assessment process.

Recommendation No. 7: The MFCAR is located in globally significant peatlands (ie, mushkeg). The IS must explicitly recognize mushkeg as a distinct ecological, hydrological, and culturally significant system and assess projects' effects on valued components accordingly.

e. Water Level Changes and Current Stressors

The Guidelines require that the IS “provide the timing of freeze/thaw cycles, ice cover, and ice conditions for surface water bodies in the Project area,”³¹ and consider water level changes, seasonal variation, and associated spatial and temporal effects to groundwater.³² The Guidelines further require that the IS describe “existing environmental, health, social and economic components, interrelations and interactions as well as the variability in these components, processes and interactions over time scales and geographic boundaries appropriate to the Project, including consideration of variability due to potential future climate change” (emphasis added).³³

³⁰ IS at 693.

³¹ Guidelines at 45.

³² Guidelines at 44, 86.

³³ Guidelines at 29.

In the Friends' previous submission on the Guidelines, concerns were raised that there was no meaningful consideration of how seasonal freeze/thaw cycles and breakup in the spring affect mushkeg water levels. In addition, the effect of seasonal variations and breakup in light of climate change was also not addressed. Participants from communities within the Attawapiskat watershed have already observed changes in water conditions and declining levels of inland lakes. Thus, a review of water levels in light of climate change and the Ring of Fire's footprint is critical.

The IS acknowledges that the project area will become "warmer and wetter" in the future, leading to an increase in freeze-thaw cycles.³⁴ The IS also briefly references freeze-thaw cycles in the context of climate adaptation.³⁵ However, the IS does not consider freeze-thaw variability and seasonal breakup and their anticipated effects on water levels, the mushkeg, or broader watershed dynamics. The failure to meaningfully assess how these cycles, in combination with climate change, may interact with project activities limits consideration of the potential effects on mushkeg and downstream environments. The Friends submit that particular consideration of these impacts is necessary to ensure that the ecological and hydrological functioning of mushkeg ecosystems is adequately characterized and reflected in the impact assessment process.

Recommendation No. 8: The IS must give detailed consideration to seasonal freeze/thaw patterns and breakup processes in the context of climate change. The assessment must evaluate how climate-related changes may interact with valued components, including the physical environment, hydrological systems, and human health.

f. Legislative and Regulatory Framework

The Guidelines require that the IS identify all "legislation and other regulatory approvals that are applicable to the Project at the federal, provincial, regional and municipal levels."³⁶ Notably, the IS fails to meaningfully incorporate the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") and the *United Nations Declaration on the Rights of Indigenous Peoples Act* ("*UN Declaration Act*"), thereby undermining the integrity of the Impact Assessment process.

The *IAA* was written with UNDRIP in mind, as evidenced by the preamble, which states how the "Government of Canada is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples,"³⁷ including through impact assessment processes. UNDRIP affirms minimum international standards for the survival, dignity, and well-being of Indigenous peoples and directly informs the interpretation and application of the *IAA*, as evidenced by the *IAA* preamble. Among other things, UNDRIP provides:

Article 26

³⁴ IS at 1701.

³⁵ IS at 1699.

³⁶ Guidelines at 8.

³⁷ [IAA](#), preamble.

[...]

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Article 32

[...]

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

By virtue of the *UN Declaration Act*, UNDRIP has been enshrined into Canada's positive law³⁸ and the federal government is required to act in a manner consistent with UNDRIP, recognizing that Indigenous peoples have suffered historic injustices as a result of colonization and dispossession of their lands, territories and resources, and that all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination.³⁹

This commitment to reconciliation is reinforced by the Truth and Reconciliation Commission of Canada's Calls to Action, which affirm UNDRIP as the foundational framework for reconciliation in Canada:

Call to Action 43

We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.

Call to Action 44

We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

³⁸ *Kebaowek First Nation v Canadian Nuclear Laboratories*, [2025 FC 319](#) at para 78 [*Kebaowek*].

³⁹ [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14, preamble.

UNDRIP provides the foundational framework for reconciliation. Since it now forms part of domestic law, UNDRIP must be used to interpret Canadian law and legal obligations,⁴⁰ including the *IAA* and the Agency's responsibility to uphold Indigenous rights. These rights are protected by section 35 of the *Constitution Act, 1982*. They "are not frozen and are capable of evolution and growth," and there is "an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties, agreements, and other constructive arrangements".⁴¹ This demonstrates that Indigenous rights under UNDRIP are protected by section 35 and creates a corresponding duty to respect these rights.

Recommendation No. 9: The IS must identify and incorporate Canada's international and domestic obligations under UNDRIP and the *UN Declaration Act*, as well as the Truth and Reconciliation Commission's Calls to Action, and explain how the project will be developed in a manner consistent with those obligations, including obtaining free, prior, and informed consent of all potentially affected Indigenous peoples.

g. Commitments to Protect Climate and Safeguard Biodiversity

The Guidelines highlight how "the Government of Canada, through *IAA*, recognizes that the impact assessment contributes to Canada's understanding and ability to meet, first, its environmental obligations, and second, its commitments in respect of climate change."⁴² The Guidelines further require that the IS "provide an assessment of the Project's emissions potentially contributing or adding to existing ground ozone levels,"⁴³ consistent with section 22(1)(j) of the *IAA*, which requires consideration of the extent to which a designated project may hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change.

However, among the environmental obligations and commitments the IS does not acknowledge or engage with is Canada's commitments under the *Kunming-Montreal Global Biodiversity Framework* (the "Global Biodiversity Framework").⁴⁴ In December 2022, Canada, along with 195 nations, adopted the Global Biodiversity Framework. The preamble to the Framework notes that the parties are "[a]larmed by the continued loss of biodiversity and the threat that this poses to nature and human well-being;" and "[r]eaffirms its expectation that Parties and other Governments will ensure that the rights of indigenous peoples and local communities are respected and given effect to in the implementation of the Kunming-Montreal global biodiversity framework."⁴⁵

⁴⁰ *Kebaowek*, at para 76-77, 80.

⁴¹ United Nations (General Assembly), [United Nations Declaration on the Rights of Indigenous Peoples](#) (2007), preamble.

⁴² Guidelines at 137.

⁴³ Guidelines at 84.

⁴⁴ Convention on Biological Diversity. *Kunming-Montreal Global Biodiversity Framework — Target 22: Ensure Participation in Decision-Making and Access to Justice and Information Related to Biodiversity for All* [Global Biodiversity Framework].

⁴⁵ Global Biodiversity Framework, preamble.

Target 22 is of primary significance as it ensures Indigenous Peoples' participation in decision-making. More specifically, it is designed to:

Ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making, and access to justice and information related to biodiversity by indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge, as well as by women and girls, children and youth, and persons with disabilities and ensure the full protection of environmental human rights defenders.

The Friends submit that the Global Biodiversity Framework is directly relevant to the assessment of the project, particularly given the interconnected nature of the mushkeg, wetlands, and watersheds that will be impacted by the Project and its enabling function. This framework emphasizes the urgent need to halt and reverse biodiversity loss and requires equitable decision-making that respects Indigenous peoples' rights, cultures, and traditional knowledge. Consideration of these commitments is therefore necessary to ensure that potential effects are adequately assessed within the impact assessment process.

Recommendation No. 10: The IS must identify and incorporate Canada's commitments under the *Kunming-Montreal Global Biodiversity Framework*, and explain how the commitments under the framework will inform the scope, conduct, and decision-making of an impact assessment, particularly in light of the sensitive and interconnected ecosystems potentially affected by the project.

h. Intergenerational Effects & Characterizing the Severity of Impacts

The Guidelines state that, "in order to assess a project's contribution to sustainability, consideration should be given to the long-term effects on the well-being of present and future generations."⁴⁶ The Guidelines further provide that the proponents are "encouraged" to include a description of the intergenerational impacts of the project on community members.⁴⁷

In the Friends' previous submission on the Guidelines, concerns were raised regarding the limited treatment of intergenerational effects within the assessment framework. The Friends submit that consideration of intergenerational impacts within the IS remains deficient. Principles of intergenerational and intragenerational equity are key sustainability principles and squarely within the purposes of the *IAA*, including the requirement under section 22(1)(i) to assess the extent to which a designated project contributes to sustainability. As highlighted in the Guidelines, the *IAA* defines sustainability as "the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations".⁴⁸

⁴⁶ Guidelines at 37.

⁴⁷ Guidelines at 117.

⁴⁸ Guidelines at 139.

Given the permanence of the project and the anticipated operating lifespan of the proposed Ring of Fire, potential effects must be considered over extended temporal scales, including impacts that may persist for at least 100 years into the future.

Within the IS, Marten Falls First Nation members “emphasize the importance of conserving the land and resources to allow future generations to continue to enjoy and benefit from them.”⁴⁹ Community members also say they “are committed to preserving their way of life and supporting the health of their environment for future generations.”⁵⁰ Despite this, the IS does not include a description of the project's intergenerational impacts on these members, nor does it assess how the project may impact the ability of future generations to enjoy and benefit from the land and resources in the context of the proposed Ring of Fire. These impacts must be addressed within the impact assessment process.

Recommendation No. 11: The IS must explicitly consider intergenerational effects and accompanying risks imposed on future generations, including those arising from the project and the accompanying mining exploration and development occurring in the proposed Ring of Fire region.

i. Threats to at-risk Boreal Caribou

The Guidelines require that boreal caribou, a listed species at risk,⁵¹ be assessed as a valued component, which includes monitoring effects on caribou and their habitat to verify impact assessment predictions, evaluating mitigation measures, and identifying any unanticipated effects requiring adaptive management.⁵² Moreover, in describing effects on caribou, the Guidelines require the IS to “provide an assessment of the potential adverse effects on boreal caribou habitat (e.g., at the range and sub-range scales) considering the direction provided in the [Range Management Plans] and [General Habitat Description].”⁵³

During the community gatherings we have held, there is a high degree of concern about woodland caribou, including that exploration activities and accompanying activities (e.g. draining of mushkeg and water taking) will impact the land, their habitat, and recovery. We have also heard concerns about disease incidence and the potential for project-related disturbances to increase existing human-induced pressures on already stressed caribou ranges.

The Friends submit that there must be a rigorous assessment of impacts, including cumulative effects on the boreal caribou ranges, and consideration of reasonably foreseeable development. However, as drafted, this detailed info is critically lacking. The Friends submit that the Impact Statement must be expanded to include the Far North caribou ranges, particularly given their migratory patterns, at-risk status and need to halt human-induced threats to their survival and recovery.

⁴⁹ IS at viii-ix.

⁵⁰ IS at ix.

⁵¹ Guidelines at 60.

⁵² Guidelines at 124.

⁵³ Guidelines at 95.

Recommendation No. 12: The IS must be expanded to explicitly include Far North caribou ranges in the mapping of baseline conditions and the assessment of cumulative effects, particularly given their migratory patterns, at-risk status and need to halt human-induced threats to their survival and recovery.

j. Cumulative Effects and Pre-Existing Human and Environmental Health Conditions

The Guidelines require that the IS identify and assess the Project's cumulative effects, including cumulative environmental, health, social and economic effects. The Guidelines further provide that the cumulative assessment must consider "cumulative effects to rights of Indigenous peoples and cultures, for all potentially impacted groups, including those located in the areas which will be impacted by increased access to the region by exploration and mineral development projects."⁵⁴ This requirement reflects the broader obligations under section 22(1) of the *IAA*.

In their previous submission on the Guidelines, the Friends recommended that the projects' assessment of cumulative effects account for historical changes within the watershed that have been caused by prior human activity and industrial developments, highlighting that present-day ecological conditions should not be a marker for which impacts are measured.

The IS does not meaningfully consider prior human activity or industrial development within the watershed as part of its cumulative effects assessment. The Friends remain concerned that assessing project effects against present-day conditions risks obscuring the cumulative impacts already experienced in the region.

Recommendation No. 13: The IS must not rely only on present-day ecological and watershed health conditions, but ensure the projects' cumulative effects assessment takes into account historical changes within the watershed that have been caused by prior human activity and industrial developments.

k. Community Health and Risk Assessment

The Guidelines provide that the proponent must conduct a preliminary model to determine whether a Human Health Risk Assessment is required.⁵⁵ The Guidelines further require the IS to assess and quantify health risks from contaminants of potential concern, including mercury, through pathways such as the "consumption of country foods and differential risk for vulnerable subgroups."⁵⁶

Among the most repeated concerns we hear about from our members and during community gatherings is the need to study cumulative effects on human health, which include both existing contaminated sites

⁵⁴ Guidelines at 131.

⁵⁵ Guidelines at 103.

⁵⁶ Guidelines at 103.

and future health impacts or exposures. We know that harm to the land is harm to health and well-being, and already, we live with a high incidence of cancers and skin conditions in the communities. Ensuring the project is measured in light of its impacts on community health is vital to building trust and ensuring an open, transparent decision-making process.

As we stated and shared with the Agency as part of our Declaration of Protection for our Lands and Waters:

The health of these lands and waters are vital to maintaining our connection to our ancestors and to the land, water and wildlife;
Crown interest and short-term business interests cannot continue to be prioritized over the health, lands, and Natural Laws of Indigenous communities.⁵⁷

In our previous submission on the Guidelines, the Friends requested a study of mercury impacts on human health and the environment that considers the full lifecycle of the project, including legacy contamination. This assessment aligns with Canada's commitments under the Minamata Convention to protect human health and the environment from anthropogenic emissions of mercury and its compounds. While the IS includes a Problem Formulation for Human Health Risk Assessment (Appendix T), it does not include the aforementioned study of mercury on human health.⁵⁸

Notably, the Problem Formulation indicates that water samples collected in the Albany River had exceeded drinking water standards for mercury⁵⁹ and identifies historical issues, such as boil water advisories for Marten Falls First Nation.⁶⁰ The document further states that "historical health information will be considered in the description of baseline health conditions of communities in the Community Health LSA."⁶¹ However, these considerations are not clearly integrated into a comprehensive Human Health Risk Assessment.

The Friends submit that this approach does not sufficiently consider cumulative or long-term contamination pathways, including mercury movement within wetlands and interconnected hydrological systems, particularly in light of existing community health concerns and legacy environmental contamination.

Recommendation No. 14: The IS must be updated to require a study of mercury impacts on human health and the environment that takes into account the proposed project and legacy contamination.

⁵⁷ Friends of the Attawapiskat River, Declaration of Protection for Our Lands & Waters, online: <friendsoftheattawapiskatriver.ca/support-our-protection-declaration/>

⁵⁸ Marten Falls First Nation, [Problem Formulation for Human Health Risk Assessment](#), at 115.

⁵⁹ *Ibid* at 115.

⁶⁰ *Ibid* at 114.

⁶¹ *Ibid* at 5.

I. Emergency Preparedness and Accountability

As one of the purposes of the MFCAR is to facilitate mineral development in the Ring of Fire, the Friends submit that it is critical to consider the emergency response capacity of communities downstream of the proposed projects.

The Guidelines require the IS to:

[D]escribe Emergency Communications Plans that would provide emergency instructions to surrounding communities. Procedures should include a combination of urgent immediate actions, such as public notification of safety issues, shelter-in-place and evacuation directions, as well as longer term actions such as general website and hotlines, incident status updates, injured wildlife reporting, etc. as appropriate. Include a description of efforts that will be taken to invite public feedback on emergency response plans;⁶²

The Friends submit that these requirements apply directly to downstream communities, who may be affected by flooding, infrastructure failure, and other project-related emergencies.

During our community gatherings and amongst our members, we frequently hear about the severe flooding which occurred in 1985. In the Friends' previous submission, it was requested that lessons learned from the Flood of 1985 be expressly considered and adopted into the Guidelines' approach to emergency response.⁶³ The risks associated with breakup, including dyke erosion and the failure of infrastructure such as culverts, must be accounted for in the review of emergency preparedness. The impact of climate change on increasing the frequency and severity of flooding, as well as 'worst-case scenarios,' must also be considered.

The Friends also reiterate concerns previously raised in our submissions that emergency preparedness measures not be decided upon without first hearing from and incorporating local knowledge from communities with experience with breakup conditions, climate-related impacts, and accidents. The proponent must therefore provide opportunities for Indigenous rights-holders' input into the development of emergency response and preparedness measures, as well as mechanisms for ongoing review and updates. These plans must be communicated through a robust Indigenous rights-holders' awareness campaign. The effectiveness of emergency preparedness is directly tied to the level of awareness and preparedness of local residents before any accident or emergency.

Notably, the IS contains no express mention of the Flood of 1985 and does not indicate that lessons learned from previous flooding have informed the scope of the assessment. While there are references to construction-level mitigation measures, design considerations, and accidents or malfunctions related

⁶² Guidelines at 135.

⁶³ Guidelines at 22 and 26.

to weather and flood-like conditions,⁶⁴ the IS does not include a clear description of emergency response or preparedness measures for community flooding, nor does it mention how these measures will be developed or implemented. It also does not demonstrate how Indigenous rights-holders' input has informed emergency preparedness planning or how emergency response plans will be communicated to potentially affected communities.

As members of downstream communities, the Friends submit that greater clarity is required regarding emergency preparedness measures to ensure potentially affected communities are adequately informed and prepared in the event of project-related emergencies.

Recommendation No. 15: Emergency preparedness planning, as outlined in the IS, must incorporate lessons learned from the 1985 Flood, including risks associated with seasonal breakup, dyke erosion, and the failure of infrastructure such as culverts. The impact of climate change on the frequency and severity of flooding, as well as 'worst-case scenarios', must also be taken into account in understanding impacts to rights and the environment.

Recommendation No. 16: The Proponent must invite feedback from Indigenous communities on emergency response and preparedness measures and ensure opportunities for ongoing review and update. These plans must be communicated through a robust Indigenous rights-holders' awareness campaign.

III. CONCLUDING REMARKS

Thank you for this opportunity to comment, and we remain available to meet with the Agency or provide follow-up information. Our hope in providing these comments is to provide a voice for communities that stand to be directly affected, as well as for those not yet born.

Meegwech,



Michel Koostachin
Founder, Friends of the Attawapiskat River

⁶⁴ IS at 556, 1444 and 1706.