



ALBERTA  
ENVIRONMENT AND PARKS

*Office of the Minister  
Government House Leader  
MLA, Rimbey-Rocky Mountain House-Sundre*

104270

February 12, 2020

Honourable Jonathan Wilkinson  
Minister of Environment and Climate Change Canada  
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Gatineau QC K1A 0H3  
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Dear Minister Wilkinson:

Further to reports in the media and upon receipt of the copy of the February 4, 2020 letter from Chief Adam from the Athabasca Chipewyan First Nation, I would like to provide the following response. Chief Adam provided a list of items his Nation is seeking and indicated that little to no movement has occurred with Alberta on that list.

Respectfully, that is not an accurate assessment. As I have stressed with you during our discussions, it is critical that all who look at the Teck Frontier project look at everything that has been done over the last ten years with recognition that adjustments have also been made along the way. We must not get caught up in incrementalism, continually addressing new requests that are peripheral to the project and politicize it unnecessarily. Alberta has a strong record of environmental management and we recognize that we cannot rely solely on the past so we also make commitments to both present and future actions.

I note on CBC's Power & Politics on February 10, 2020, you stated: "How they are going to ensure that the 100 megaton cap actually is put into place such that there are regulations in place to ensure that is the case"

During our discussions, at no time did you communicate to me that the 100 megaton cap on sector greenhouse gas emissions needed to be in regulation. In fact, when I directly asked you whether you thought the cap needed to be formally brought into regulations, you told me it was fine as it was. Similar assurances were provided at the officials' level. So reading it in the media is another example of changing the goal posts on the approval of a project that has met every environmental requirement.

Is it Ottawa's new approach to negotiate these critical issues through the media and change regulatory policies on the fly? Is this what good faith looks like to you and your colleagues?

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I would welcome you providing some insight regarding this apparent change in approach (and any other emerging demands you anticipate).

Alberta's emissions limit is already legislated under the *Oil Sands Emissions Limit Act* (OSELA). Emissions subject to the limit were 67.7 Mt in 2018, the last year when verified regulatory data is available (including the adjustments for cogeneration, upgrading and primary oil sands enabled in the legislation, as you are no doubt aware). Alberta's emissions from the sector are actively managed under the *Technology Innovation and Emission Reduction Regulation Act (TIER)* – a piece of legislation that has been granted equivalency by your own government. In our estimation, a regulation under OSELA is not needed at this time to keep emissions within the legislated limit, and have no material bearing on the Teck Frontier approval.

The Teck Frontier project has been one of the most scrutinized in Canadian history. It has been in federal-provincial regulatory review processes since 2011 and received joint panel approval in July 2019. I would note that Teck Frontier was under review during the term of your government for over 1,300 days. This is not a case wherein a rookie government inherited an imminent Cabinet decision just after taking power. To arbitrarily change the rules now at the eleventh hour is deeply troubling.

The independent regulator, after onerous evidence-based review, recommended approval. Alberta has already given this project cabinet approval and now federal cabinet approval, required by February 28 of this year, is the final remaining step.

### **Past – the Environmental Management System**

Alberta established an environmental management system for the Lower Athabasca region in 2012 which resulted in numerous triggers and limits for water and air. The Lower Athabasca Regional Plan (LARP) and the corresponding environmental management frameworks are key foundational pieces for our regulatory system. Through regional planning, key conservation areas were identified and protected so that development could occur in other areas and so that regulators would be clear about what was permitted, where. These decisions were not made in isolation or by government alone. They were determined through robust conversation with indigenous groups, industry and others who live and work and play in the region.

### **Present – more Protected Areas**

I am aware that a number of indigenous groups in the region were not satisfied with the decisions made in the regional plan around protected areas. Over the years, circumstances have changed and recently in the last year, industry and indigenous groups have worked together with both Canada and Alberta to produce more protected areas, particularly around bison habitat. As you are aware, last year Alberta protected Kitaskino Nuwenēné Wildland (KNW) with 161,880 hectares, which is half the size of the country of Belgium, to achieve mutual environmental goals of protecting bison habitat and a key watershed. This area is approximately 3 times the size of the Teck Frontier project, by the way.

A cooperative management board for managing the wildland parks in the area was created with a Terms of Reference co-developed with indigenous groups. This Terms of Reference was not easy to achieve; it represents significant working together, listening and understanding of different points of view by both indigenous people and government. It was hailed as a successful example of co-development.

A cooperative management board for managing the bison herd was also developed, with their first job to create a Terms of Reference. In the meantime, a Technical Team with indigenous representation currently informs our management team for the herd. We are contemplating how more of these decisions can be given to indigenous people in the area.

### **Future – Cooperative Management and Collaborative Discussions**

ACFN indicates that Alberta is not moving far enough in meeting ACFN's requests.

**Attachment 1** is a list of ACFN's requests and the commitments Alberta is willing to make.

The reality is that many of the requests do not just involve Alberta. Over the years, key governance has been put in place to recognize the competing interests at stake on many issues. For example, the Oil Sands Monitoring program is not Alberta's to do with as we will. We are part of a larger governance structure, and all parties must be involved in making critical decisions on how to use the constrained resources we have for monitoring.

In addition, land use decisions cannot be determined bilaterally. The conditions for the successful creation of the Kitaskino Nuwenëné Wildland arose from mutual collaboration between indigenous peoples, industry and multiple levels of government. Alberta cannot enter into protection decisions with ACFN unilaterally. However, our government is absolutely willing to have those discussions with ACFN, to recognize the need to consider the LARP Review Panel recommendations that indigenous groups initiated with their review of LARP in 2014-15. The *Alberta Land Stewardship Act* recognizes that regional planning is only valid for a time and so mandates a review for LARP in 2022.

### **Conclusion**

Clearly, Alberta has already taken significant action, having worked for decades with First Nations in the area and more recently, working with a wide array of indigenous groups on cooperative management of both the bison and the protected areas. These are key steps moving forward.

We recognize that Chief Adam intends to drive a hard bargain, as should any official representing his constituents. I note that Chief Adam has now also injected direct financial compensation into his apparent demands, above and beyond funds for environmental mitigation. This is also in addition to ACFN's commercial agreements with Teck and the potential for an equity stake in projects via Alberta's new Alberta Indigenous Opportunities Corporation.

However, the Government of Alberta must carefully consider the interests of Alberta taxpayers as well as the interests of others who work, play and live in the region, including other indigenous groups.

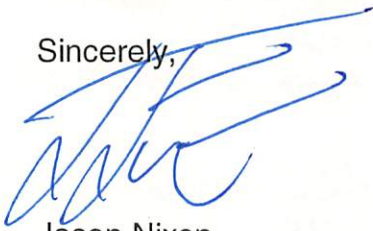
I look forward to working with Chief Adam and including ACFN in these important land use and assessment conversations. Their perspective is valued and will impact the results of the decisions made going forward. In the meantime, Alberta has made significant contributions and is willing to make the commitments outlined in Attachment 1.

I trust this gives you a more fulsome picture of all that has happened, is happening and will happen in the Lower Athabasca area. It is a complex area with much to balance.

I assure you that we have made every effort to negotiate in good faith with all parties concerned for the good of the province's First Nations; our air land, water and biodiversity; and in the interest of creating certainty for job creators and prospective investors.

We expect the same from First Nations and our federal partners.

Sincerely,



Jason Nixon  
Minister

Attachment

## Attachment 1 ACFN's Requests and Alberta's Response

	ACFN's Request	Alberta's Current Response in draft MOU language	Comments and Background Context
AC1	Protection of the Richardson Back Country	If the voluntary relinquishment of other entitlements or interests become possible, the Parties will explore potential expansion of the Richardson Wildland Provincial Park.	
AC2	Mitigations on Community and Cultural Impacts	(included in other items in the MOU)	This is a generic request. Specific responses are included in other items on this list, all of which address community and cultural impacts.
AC3	Inclusion of CNRL leases in KNW	If the voluntary relinquishment of other entitlements or interests becomes possible, the Parties will explore potential further expansion of the KNW	CNRL is not willing to voluntarily relinquish their lease. Alberta cannot commit to protecting this area without triggering a de facto expropriation claim.
AC4	Meaningful responses to Joint Review Panel Recommendations		This is a generic item. The specific responses are integrated into other asks.
AC5	Commitments to consult with ACFN on each regulatory application during development		Consultation will occur in the normal course of the regulatory process.
AC6	Funding for ACFN to conduct linear restoration of caribou habitat	Alberta agrees to involve ACFN in the range planning related to the Richardson and Red Earth herds expected to occur in 2021, and in the subsequent reclamation planning initiatives	Restoration of caribou habitat involves many parties. Alberta cannot commit any more than this through a bilateral with ACFN.
AC7	Ongoing core funding for ACFN's community-based monitoring program	In recognition of ACFN's desire for additional water monitoring sites, Alberta agrees to request the inclusion of community based monitoring activities currently underway, in the Oil Sands Monitoring Program.	Community based monitoring costs are addressed through Oil Sands Monitoring program multi-party governance and cannot be settled in a bilateral agreement.
AC8	Implementation of the 2015 LARP Review Panel Report Recommendations	Alberta commits to a review of LARP in 2022, and will consider the 2015 LARP Review Panel Recommendations in the review process.	Alberta has agreed to consider the recommendations. Regional planning is the right multi-party venue to discuss.
	Completion of the Biodiversity	Alberta agrees to involve ACFN in the advancement of a BMF, expected to	

	Management Framework (BMF)	occur in 2021, and will consider cultural indicators as part of the BMF	
	Completion of Cultural Framework	(referenced in BMF commitment)	Alberta will consider culture in the indicators chosen for the BMF.
AC9	Full review of Surface Water Quantity Management Framework (with participation of Transport Canada, Fisheries & Oceans Canada, and Indigenous communities) to address Indigenous navigability and ecological base flow concerns	Alberta supports a multi-partied process that includes ACFN's participation to review the surface water quantity management framework, which is expected to occur in 2022. Federal departments will be invited to participate.	
AC10	Inclusion of additional monitoring sites and parameters in the Surface Water Quality Management Framework	In recognition of ACFN's desire for additional water monitoring sites, Alberta agrees to additional monitoring sites and request the inclusion of community based monitoring activities currently underway, in the Oil Sands Monitoring Program	
AC11	Formal inclusion of ACFN in Oil Sands Monitoring committees (including Oil Sands Bird Technical Committee)	Alberta has agreed to work with ACFN to prepare a request for a study on migratory birds through the Oil Sands Monitoring governance. Alberta will request a seat at the Terrestrial Biodiversity Monitoring Technical Advisory committee for Oil Sand Monitoring.	
AC12	Community Based Monitoring and fish health.	Alberta agrees to work collaboratively with ACFN, non-government organizations and scientists to develop, implement and evaluate community-based monitoring (CBM) initiatives in the Oil Sands Region responding to ACFN needs for environmental data and information. AEP seeks to co-develop CBM pilot projects focused on fish health and culturally important wetland plants	

		with ACFN, funded through the Oil Sands Monitoring program.	
AC13	Indigenous Guardian role for ACFN in monitoring and enforcing regulations in KNW and other wildlands.	<p>The Parties recognize the value of the Ronald Lake Bison Herd Indigenous Knowledge Research Team and ACFN's participation, to coordinate Indigenous Knowledge processes and fill information gaps related to the RLBH and its habitat</p> <p>The Parties will continue to work together to advance a cooperative management arrangement for the RLBH that includes a management role for ACFN, subject to the agreement of the other Indigenous communities as to governance</p>	The cooperative management governance will give ACFN a role in managing both the bison herd and the lands.
AC14	Development of the Ronald Lake Bison Herd- KNW Society - Indigenous entity with delegated authority to implement conservation measures to protect the RLBH and manage the KNW.	The Parties will continue to work together to advance a cooperative management arrangement for the RLBH that includes a management role for ACFN, subject to the agreement of the other Indigenous communities as to governance.	