

Attachment 14
Samson Cree First Nation





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September 28, 2012

Via Courier & Email: fares.haddad@ercb.ca

Energy Resources Conservation Board
Suite 1000, 250
5th Street South West
Calgary, AB
T2P 0R4

Attention: Fares Haddad, Application Coordinator

**Re: Coal Valley Resources Inc., Robb Trend Project
ERCB Application No. 1725257
Letter of Objection and Statement of Concern**
Our File: 29769.57

We act for the Samson Cree Nation ("SCN") regarding Coal Valley Resources Inc.'s ("CVRI") Energy Resources Conservation Board ("ERCB") Application no. 1725257 (the "Application"). We are writing to provide SCN's notice of objection regarding CVRI's application for approval of the Robb Trend Project (the "Project").

SCN submits that it has legally recognized interests that may be directly and adversely affected by the Application if approved. In support of SCN's submission, attached are the following materials:

1. Affidavit of Henry Lightning;
2. Affidavit of Alphonse Nepoose;
3. Affidavit of Eddie Saddleback;
4. Affidavit of Lorna Saddleback;
5. Affidavit of Josephine Buffalo;
6. Affidavit of Lawrence Saddleback;

7. Affidavit of Ken Saddleback; and
8. Affidavit of Raymond Tootoosis.

These individuals are collectively known as the "SCN Harvesters", and these materials are collectively referred to as the "SCN Affidavits".

I. STANDING

Subsection 26(2) of *The Energy Resources Conservation Act* ("ERCA") provides that parties must be afforded certain participatory rights in ERCB proceedings "if it appears to the Board that its decision on an application may directly and adversely affect the rights" of that party.

The test for standing under subsection 26(2) of ERCA was articulated as follows by the Alberta Court of Appeal in *Dene Tha' v. (Alberta) Energy & Utilities Board*,¹ ("*Dene Tha'*"):

The Board correctly stated here that that provision in s. 26(2) has two branches. First is a legal test, and second is a factual one. The legal test asks whether the claim right or interest being asserted by the person is one known to the law. The second branch asks whether the Board has information which shows that the application before the Board may directly and adversely affect those interests or rights. The second test is factual.²

II. SCN MEETS THE LEGAL TEST FOR STANDING

A. Interests Known to Law

For centuries prior to signing Treaty 6 and predating the creation of Canada and Alberta, SCN had Aboriginal title over its traditional territory. SCN signed Treaty 6 in 1876 and received rights under that Treaty. Treaty 6 provides that SCN members "shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered". SCN's traditional territory includes a large area in central Alberta and includes the areas where CVRI intends to conduct Project activities pursuant to the Applications.

The *Natural Resources Transfer Agreement, 1930* ("NRTA") expanded the scope of Treaty 6 rights to include trapping in addition to hunting and fishing and enlarged the right to hunt, fish, gather and trap under Treaty 6 to all unoccupied Crown lands or lands to which the Indians may have a right of access.³ SCN's Aboriginal and Treaty rights are constitutionally entrenched and protected pursuant to section 35 of the *Constitution Act, 1982*. It is clear from the Applications that CVRI proposes coal mining development on Crown lands within SCN's traditional territory. It is also clear that SCN's members have Aboriginal and Treaty rights to hunt, fish, gather and trap on those lands.

¹ 2005 ABCA 68; leave to appeal refused [2005] S.C.C.A. No. 176; *Cheyne v. Alberta (Utilities Commission)* [2009] A.J. No. 257 (ABCA).

² *Ibid.* at para. 10.

³ NRTA, 1930 para. 12 Schedule 2 (Alberta).

The Court in *Dene Tha'* held that the existence of Aboriginal or Treaty rights meets the first part of the standing test:

Satisfaction of the first test, some legally-recognized interest, was pretty well conceded on this appeal. That topic forms the great bulk of the material filed by the First Nation. Obviously a constitutional, a legal, or an equitable interest would suffice.⁴

The SCN's constitutionally protected Aboriginal and Treaty rights to hunt, fish, gather and trap satisfy the first branch of the standing test.

B. Directly and Adversely Affected

The second branch of the standing test requires that the party demonstrate that the application before the ERCB *may* directly and adversely affect its legally recognized rights or interests. The Court explained this branch of the standing test in *Dene Tha'* as follows:

It is not compelled by this legislation to order intervention and a hearing whenever anyone anywhere in Alberta merely asserts a possible aboriginal or treaty right. Some degree of location or connection between the work proposed and the right asserted is reasonable. What degree is a question of fact for the Board.⁵

The Alberta Court of Appeal in *Kelly v. Alberta (Energy Resources Conservation Board)*⁶ (“*Kelly*”) further clarified this second branch of the standing test. The Court noted that when establishing whether a party's rights may be directly and adversely affected, there is no requirement that the party “establish that they may be affected in a different way or to a greater degree than members of the general public”.⁷ Further, the Court held that the “fact that events *could* arise which *could* prejudice” the party is sufficient to satisfy this branch of the standing test.⁸ [Emphasis in original] The Court also held that once an intervenor references sufficient evidence to demonstrate “that they [are] potentially adversely affected”, the onus shifts to the applicant to disprove such potential adverse affects.⁹

SCN submits that the SCN Affidavits and the conclusions in the Environmental Impact Assessment Report (“EIA”) for the Project demonstrate some degree of location or connection between the work proposed by CVRI and the Aboriginal, Treaty and NRTA rights of SCN members to hunt, fish, gather and trap in the areas within the footprint and immediately surrounding area of the Project (“Project area”) and the Local Study Area (“LSA”), as well as other areas of the SCN traditional territories that may be impacted by the Project.

(i) SCN Traditional Activities

⁴ *Dene Tha'* at para. 11.

⁵ *Ibid.* at para. 14.

⁶ 2009 ABCA 349.

⁷ *Ibid.* at para. 32.

⁸ *Ibid.* at para. 37.

⁹ *Ibid.* at para. 44.

Wildlife is an important part of the SCN’s culture and traditional economy. In particular, the SCN Harvesters have deposed that they hunt various species including moose,¹⁰ elk,¹¹ deer,¹² bears,¹³ wolverines,¹⁴ and various bird species in or near to the Project area and LSA. Birds hunted include, but are not limited to grouse,¹⁵ ducks,¹⁶ pheasants.¹⁷ The SCN Harvesters have also deposed that they trap muskrat,¹⁸ marten,¹⁹ weasel,²⁰ beaver,²¹ mink,²² squirrels,²³ skunk,²⁴ and rabbits.²⁵

The SCN Harvesters have deposed that they gather various berries including blueberries,²⁶ high bush cranberries,²⁷ low bush cranberries,²⁸ raspberries,²⁹ Saskatoon berries,³⁰ strawberries,³¹ gooseberries,³² huckleberries,³³ pincherries,³⁴ kinikikihk,³⁵ and chokecherries³⁶ in or near to the Project area and the LSA. The SCN Harvesters have deposed that they gather traditional medicines including roots,³⁷ muskeg tea,³⁸ tamarack,³⁹ spruce,⁴⁰ cedar,⁴¹ willow,⁴² acorns,⁴³ and

¹⁰ Affidavits of Henry Lightning; Alphonse Nepoose; Raymond; Eddie Saddleback; Lawrence Saddleback; Ken Saddleback; and Raymond Tootoosis.

¹¹ Affidavits of Henry Lightning; Alphonse Nepoose; Raymond; Lawrence Saddleback; and Raymond Tootoosis.

¹² Affidavits of Henry Lightning; Alphonse Nepoose; Raymond; Eddie Saddleback; Lawrence Saddleback; and Ken Saddleback.

¹³ Affidavit of Eddie Saddleback.

¹⁴ Affidavit of Eddie Saddleback.

¹⁵ Affidavits of Henry Lightning; Eddie Saddleback; Lawrence Saddleback; and Raymond Tootoosis.

¹⁶ Affidavits of Eddie Saddleback; Lawrence Saddleback; and Raymond Tootoosis.

¹⁷ Affidavits of Eddie Saddleback; Lawrence Saddleback; and Raymond Tootoosis.

¹⁸ Affidavit of Eddie Saddleback.

¹⁹ Affidavit of Eddie Saddleback.

²⁰ Affidavit of Eddie Saddleback.

²¹ Affidavit of Eddie Saddleback.

²² Affidavit of Eddie Saddleback.

²³ Affidavit of Eddie Saddleback.

²⁴ Affidavit of Eddie Saddleback.

²⁵ Affidavit of Eddie Saddleback.

²⁶ Affidavits of Lorna Saddleback; Josephine Buffalo; Henry Lightning; Alphonse Nepoose; Eddie Saddleback; Lawrence Saddleback; and Raymond Tootoosis.

²⁷ Affidavits of Lorna Saddleback; Henry Lightning; Alphonse Nepoose; and Raymond Tootoosis.

²⁸ Affidavits of Lorna Saddleback; Josephine Buffalo; Henry Lightning; Alphonse Nepoose; Eddie Saddleback; and Lawrence Saddleback.

²⁹ Affidavits of Lorna Saddleback; Henry Lightning; and Alphonse Nepoose

³⁰ Affidavits of Lorna Saddleback; Eddie Saddleback; and Lawrence Saddleback;

³¹ Affidavits of Lorna Saddleback; Josephine Buffalo; Henry Lightning; Alphonse Nepoose; and Lawrence Saddleback.

³² Affidavits of Lorna Saddleback; Henry Lightning; Eddie Saddleback; and Lawrence Saddleback.

³³ Affidavits of Josephine Buffalo; and Henry Lightning.

³⁴ Affidavit of Eddie Saddleback.

³⁵ Affidavit of Raymond Tootoosis.

³⁶ Affidavits of Lorna Saddleback.

³⁷ Affidavits of Josephine Buffalo; Henry Lightning; Eddie Saddleback; and Lawrence Saddleback.

³⁸ Affidavits of Josephine Buffalo; and Alphonse Nepoose.

³⁹ Affidavits of Josephine Buffalo; and Ken Saddleback.

⁴⁰ Affidavit of Josephine Buffalo.

bark.⁴⁴ The SCN Harvesters have deposed that they fish in the areas deposed to for species including trout⁴⁵ and jackfish.⁴⁶

While SCN's reserve is not situated near the proposed Project area, traditional activities occur beyond the borders of the reserve. The Project location is defined in Figure A.1-1 of the Application. The depositions in the SCN Affidavits demonstrate that the SCN traditional territory and current harvesting areas include the Project area. The SCN traditional territory and current harvesting area also includes the LSA as identified in Figure D.2.3-1 of the Applications.

The maps attached to the Affidavits of the SCN Harvesters delineates the areas in relation to the Project area and the LSA where the SCN Harvesters have and continue to hunt, fish, gather and trap. The SCN Harvesters further depose that the Project will impact wildlife populations beyond existing impacts, and that the Project will further restrict rights of access to lands previously available to them to practice their constitutionally protected rights to hunt, fish, gather and trap. The SCN Harvesters also report that the frequency of the exercise of their harvesting rights is currently being impacted by development. Additional development, such as the Project in the SCN's traditional territory, has the potential to further negatively impact the exercise of these traditional activities, and will further erode SCN's constitutionally entrenched and protected Aboriginal and Treaty rights.

(ii) EIA

As traditional land and resource users, the SCN is understandably concerned that its members, including the SCN Harvesters, will no longer be able to utilize certain culturally important species due to industrial development.

The EIA identifies several areas of impact to culturally important species harvested in hunting and trapping activities, in particular, grizzly bear, marten, fisher, lynx and wolf. Adverse impacts on these culturally important species will result from the Project due to: (1) habitat alteration, (2) sensory disturbance and effective habitat loss (3) habitat fragmentation, (4) direct mortality, and (5) barriers to movement.⁴⁷ The direction of impact is universally negative, and these impacts explained in the EIA itself demonstrate how the Project will further directly and adversely affect the SCN's Aboriginal and Treaty rights.

The SCN Harvesters have deposed that they conduct traditional harvesting activities and exercise associated rights within an area covered by the LSA. The habitat suitability decrease, resulting in lost habitat, from the Project, is material for culturally important species such grizzly bear,

⁴¹ Affidavit of Lorna Saddleback.

⁴² Affidavits of Eddie Saddleback; Ken Saddleback; and Raymond Tootoosis.

⁴³ Affidavit of Josephine Buffalo.

⁴⁴ Affidavits of Josephine Buffalo; Henry Lightning; Alphonse Nepoose; Eddie Saddleback; Lawrence Saddleback; and Ken Saddleback.

⁴⁵ Affidavits of Lawrence Saddleback; Raymond Tootoosis; and Eddie Saddleback.

⁴⁶ Affidavit of Ken Saddleback.

⁴⁷ Application, Section E.7.3, p. 116.

marten, fisher, lynx and wolf. The impacts are material for these culturally important species across all types of habitat including low, moderate low, moderate, and high.

Based on combined high/very high habitat suitability alone, marten, between baseline and T25, lose 82.1% of their high/very high habitat in the LSA,⁴⁸ the equivalent of 3959.7 ha of habitat. For fisher, between baseline and T25, 21.1% of high/very high habitat will be lost in the LSA, the equivalent of 121.4 ha of habitat.⁴⁹ For lynx 8% of high/very high habitat will be lost in the LSA between baseline and T10, the equivalent of 154.2 ha of habitat⁵⁰. For the wolf, 56% of the high/very high habitat will be lost in the LSA between baseline and T10, the equivalent of 3192.5 ha.⁵¹ The LSA covers 10,090 ha and the Regional Study Area (“RSA”) encompasses approximately 358,731 ha.⁵² Habitat alteration/loss is a listed project effect. The majority of habitat alteration will come from land clearing, surface mining, road building, as well as other infrastructure developments.⁵³ The mining activities will change lands in the Project area from closed forest to barren land and herb-dominated vegetation communities.⁵⁴

Since the SCN Harvesters carry out harvesting activities within the LSA and the RSA, this habitat loss will directly and adversely affect these traditional practices within both of the LSA and the RSA. With respect to habitat loss within the RSA for culturally important species, the EIA demonstrates a material impact. This impact may (and likely will) directly and adversely affect the ability of SCN's members to exercise their traditional harvesting rights in the Project area and LSA.

The Fisher is an important species to the SCN – although its members do not trap fisher, the Project's effect on the fisher will undeniably affect other SCN culturally important species listed in the SCN Affidavits. The greatest threat to fisher populations are habitat alteration and over-trapping.⁵⁵ The Project will effect direct mortality of fisher due to increased motor vehicle collisions and indirect mortality may result from increased coyote densities and related predation on fisher.⁵⁶ Fishers avoid areas with considerable human disturbance and may suffer sensory disturbance from the Project due to construction, blasting and hauling of coal. These activities have the greatest potential to impact fisher in the vicinity of maternal den sites during April to June.⁵⁷ Fisher movements will be limited on and across the Project for an extended period of time – up to 25 years.⁵⁸ The impact the Project may (and likely will) have on the fisher is material. SCN also has a direct interest in the protection of this culturally important species and the associated exercise of SCN's rights which may be adversely impacted by the Project.

⁴⁸ Application, Table E.7-10.

⁴⁹ *Ibid.*, Table E.7-11

⁵⁰ *Ibid.*, Table E.7-12

⁵¹ Application, Table E.7-13

⁵² Application, Section E.7.1, p. 105.

⁵³ CR # 7, Section 5.1.1, p. 55.

⁵⁴ *Ibid.*

⁵⁵ Application, Section E.7.4.2, p.127.

⁵⁶ Application, Section E.7.3.2, p.118.

⁵⁷ Application, Section E.7.3.2, p. 119.

⁵⁸ Application, Section E.7.3.2., p. 120.

The marten is an important species to the SCN – although its members do not trap marten directly, the Project's effect on the marten will undeniably affect other SCN culturally important species listed in the SCN Affidavits. Fur harvest and large scale habitat alteration and fragmentation will result in a decline in the marten population.⁵⁹ Marten will avoid their high quality habitat during blasting and coal hauling.⁶⁰ Marten movements will be limited for an extended period of time – up to 30 years post-reclamation.⁶¹

The wolf is a culturally important species to the SCN, and is found throughout the LSA and RSA. The primary source of human caused mortality of wolves in the LSA and RSA are fur trapping, hunting and vehicle mortality.⁶² The high quality habitat alteration and loss is significantly high, and this loss' potential impact on the wolf cannot be determined,⁶³ which is of great concern for the SCN. The wolf's habitat quality will be affected at the sub-regional and regional scale by the Project.⁶⁴ Wolves utilize both low and high use roads as travel corridors⁶⁵ – as vehicle mortality is listed as a primary source of mortality, the Project threatens to increase the mortality rate of wolves in the LSA and RSA.

The EIA divides the species at risk into three categories: (i) species identified by Alberta Sustainable Resource Development as "at Risk, May be at Risk, and Sensitive"; (ii) species listed in *Canadian Species at Risk* ("COSEWIC"); and (iii) special status species under the *Species at Risk Act* ("SARA").⁶⁶ The EIA identified 7 "Species of Concern" species with the LSA, by either provincial or federal authorities, namely, grizzly bear, bobcat, lynx, fisher, long-tailed weasel, wolverine, and badger.⁶⁷

One of these mammals, the Lynx, is another important species to the SCN – while SCN's members do not hunt lynx directly, the Project's impact on the lynx population will undeniably affect other SCN culturally important species listed in the SCN Affidavits. It has been listed as *sensitive* by the Alberta Fish and Wildlife Division (2010), meaning it is a species which requires special attention in an effort to protect it from becoming at risk.⁶⁸ The greatest threat to the lynx are over-trapping and broad scale effects on populations of their key prey.⁶⁹ As a result of the Project, lynx movement will be limited on the mine site until the requisite shrub or forest cover re-establishes, which will not occur until at least 10-25 years post construction.⁷⁰ SCN has a

⁵⁹ Application, Section E 7.4.1, p.127.

⁶⁰ Application, Section E.7.3.1, p. 117.

⁶¹ Application, Section E.7.3.1, p.118.

⁶² Application, Section E.7.3.4, p.123.

⁶³ *Ibid.* at p.124.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ Application, Section E.3.7.1, p.96.

⁶⁷ Application, Section E.3.8.2, p.98.

⁶⁸ Application, Section E.7.3.3, p.120.

⁶⁹ Application, Section E.7.4.3, p.128.

⁷⁰ Application, Section E.7.3.3, p. 122.

direct interest in the protection of this culturally important species and the associated exercise of SCN's rights which may be adversely affected by the Project.

Another culturally important species to the SCN is the grizzly bear, which is listed as *Special Concern* by COSEWIC (2011), as *At Risk* under the 2010 General Status evaluation, and as *Threatened* under the *Wildlife Act* (AFWD 2010).⁷¹ The grizzly bear is an extremely sacred animal to the SCN. This animal is found throughout the LSA, and is at risk for direct mortality, specifically direct human-caused mortality.⁷² Mistaken identity kills, defense for life and property, vehicle collisions and illegal hunting are all potential causes that threaten the grizzly bear. Areas with high density roads can act as a "mortality sink".⁷³

The existing Coal Valley Mine has significantly changed landscape structure, composition and food production in the permit area for grizzly bears.⁷⁴ It is anticipated the Project will have the same effects. These effects threaten the grizzly bear species.

The grizzly bear will be displaced from the Project mine footprint and permit area during the active mining period.⁷⁵ Displacement of the grizzly bear will be a direct result of construction noise and blasting.⁷⁶ The mined lands will act as a barrier to grizzly bears, and will act as a serious barrier during active blasting and hauling.⁷⁷

With the Project seriously compromising grizzly bear movement and habitat, it is clear that the Project has a material effect on the grizzly bear. SCN has a direct interest in the protection of this culturally important species and the associated exercise of SCN's rights which may be adversely affected by the Project.

The SCN also has concerns with respect to water hydrology and the impacts of the Project on the environment and fish and fish habitat due to increased emissions and other impacts on water bodies in the area used for traditional fishing purposes. Sediment and certain chemical contaminants that have chronic or lethal effects on aquatic biota will enter the aquatic ecosystem during mining.⁷⁸ The EIA notes that changes to physical habitat components, flow regime, water quality and access are all factors that affect fish habitat potential.⁷⁹ These effects will directly and adversely affect SCN's fishing rights.

It is clear from the SCN affidavits and the EIA that many species in the Project area and LSA are already under stress. The Application fails to explain specifically how CVRI will reduce or mitigate impacts specifically with respect to SCN's constitutionally entrenched and protected

⁷¹ Application, Section E.7.3.5, p. 124.

⁷² *Ibid.*

⁷³ CR #7, page 75.

⁷⁴ Application, Section E, p.125.

⁷⁵ Application, Section E.7.3.5, p.125.

⁷⁶ *Ibid.*

⁷⁷ Application, Section E, p.126.

⁷⁸ Application, Section E.2.3.3, p.33.

⁷⁹ Application, Section E.2.3, p.25.

Aboriginal and Treaty rights. Absent a proposal to specifically address potential direct and adverse impacts to SCN Aboriginal and Treaty rights, there exists a real risk that, if approved, the Project effects on culturally important species to SCN will be direct and adverse. It necessarily follows that the potential Project effects on the SCN rights associated with these culturally important species may also be both direct and adverse.

III. CONCLUSION

Based on the foregoing, the SCN submits that it has met the standing test set out in *Dene Tha'*. SCN has a legally and constitutionally recognized rights in the Project area and the LSA under Treaty 6 and the NRTA, and has demonstrated that the Project is within its traditional territory. SCN has further demonstrated that its members hunt, fish, gather and trap in the Project area and the LSA. With respect to the second branch of the test, the SCN has demonstrated some degree of location or connection between the work proposed and the right asserted. SCN has provided and cited evidence of the existence of traditional plants and wildlife populations within the Project area and the LSA, as well as a potential for adverse impacts to these fish, traditional plants and wildlife populations due to the proposed Project that may, in turn, directly and adversely affect the SCN's rights. Accordingly, SCN respectfully submits that it should be granted intervenor status in the Application.

The SCN's submissions are consistent with the recent decisions of the Alberta Utilities Commission (the "AUC") in respect of the Eastern Alberta Transmission Line. In that proceeding, SCN and the Siksika Nation filed applications for intervenor status with the AUC. Each of these applications were supported by affidavit evidence sworn by members of SCN and the Siksika Nation, respectively. The form of affidavit evidence in those proceedings bears a significant resemblance to the SCN Affidavits.

The proponent opposed SCN and Siksika Nation's applications for intervenor status on the basis that such evidence was too general, and that the "broad assertion in the Siksika submission regarding the potential negative effect of additional development on the exercise of traditional activities is not sufficient to meet the second branch of the test for participatory rights under Section 9(2) of the AUCA". The AUC disagreed with the proponent, and made the following comments respecting the veracity of the affidavit evidence:

72. The extent of the alleged direct and adverse impact is stated in general terms. It is implicit in the Nations' argument that their rights may be directly and adversely affected by a decision of the Commission regarding this application because the presence of an industrial development will disturb the lands and reduce their access to the land upon which they exercise their rights and could negatively affect the wildlife and vegetative species that they gather in the project area.

The AUC went on to hold that SCN and the Siksika Nation had met the test for standing in that proceeding, in large part due to the information that was set out within the affidavits. At paragraph 75 of the decision, the AUC held as follows:

The Commission notes that the determination of standing in this case turns on the specific affidavit evidence filed by the Nations of the current practice of specific traditional activities in defined areas some of which are within approximately 800 metres of the edge of the rights-of-way of the preferred route or any alternative route segment for the EATL project.

Similarly, in this case SCN has prepared and filed affidavit evidence in support of this statement of concern to demonstrate, albeit in general terms, the extent to which the Project can potentially impact the ability of its members to exercise their constitutionally protected rights to harvest plants and wildlife in their traditional territories. This is sufficient to meet the test enunciated in *Dene Tha'* and therefore, SCN submits that it should be granted intervenor status in these proceedings.

At this time, the SCN also submits that the Application should be denied. The basis for the denial is that the Project will disturb traditional plants and wildlife populations, including identified species of concern that are in decline and species that are culturally important to the SCN. Thus, the Project will have a direct and adverse impact on SCN's Aboriginal, Treaty and NRTA harvesting rights. The SCN further submits that, at a minimum, an oral hearing is necessary for the ERCB to fully consider and appreciate how the Project may directly and adversely affect the SCN's constitutionally protected Aboriginal and Treaty rights and, if the Project is ultimately approved, for the ERCB to determine what conditions of approval are appropriate given the likelihood of this direct and adverse impact. Furthermore, and in accordance with the recent Supreme Court of Canada decision in *Rio Tinto Alcon Inc. v. Carrier Sekani Tribal Council*,⁸⁰ SCN submits that an oral hearing is necessary for the ERCB to consider whether Crown consultation with SCN regarding the Project has been adequate in accordance with the ERCB's public interest mandate and power to consider questions of law.⁸¹

Please contact the undersigned if you have any questions on the foregoing.

Yours truly,

MacPherson Leslie & Tyerman LLP

Per: <original signed by>

for **Sean E. D. Fairhurst**

cc.

Encl. SCN Affidavits

⁸⁰ 2010 SCC 43.

⁸¹ *Ibid.* at paras. 69-70.

The Energy Resources Conservation Board (ERCB) encourages all parties to resolve disputes directly between themselves whenever possible. See EnerFAQ 15 for further details. (Note: This form is only for an objection to a coal, oil sands, pipeline, oil, or natural gas resource development.)

YOUR CONTACT INFORMATION:	<i>Please note that your objection must be submitted to the company, and copied to the ERCB.</i>		
	Name: Samson Cree Nation		
	Mailing Address: c/o MacPerson Leslie & Tyerman LLP 1600, 520 3rd Ave SW Calgary, AB T2P 0R3		Phone: (403) 693-4300
			Email: SFairhurst@mlt.com
			Fax: (403) 508-4349
State your Relationship to the Proposed Project: Please see attached letter and enclosures.			
Your Land Description (if known): LSD: <input type="text"/> <input type="text"/> - Sec: <input type="text"/> <input type="text"/> - Twp: <input type="text"/> <input type="text"/> - R <input type="text"/> <input type="text"/> W <input type="text"/> M (i.e. SW 00-000-00W4M or 00-00-000-00W5M)			

If We wish to notify the ERCB of an unresolved concern with the following party:	
Company Name: Coal Valley Resources Inc.	Project Description: Coal Mining Project
Project Location: LSD: <input type="text"/> <input type="text"/> - Sec: <input type="text"/> <input type="text"/> - Twp: <input type="text"/> <input type="text"/> - R <input type="text"/> <input type="text"/> W <input type="text"/> M	ERCB Application No. (if available): 1725257
Company Contact/Representative (if available): Les Laffeur	
Company Address (if available): Box 5000 Edson, Alberta T7E 1W1	
Please outline your concerns in the following section (attach additional sheets if the form does not expand as needed): Note: Please attach any correspondence that may support your summary of concerns (i.e. maps, etc.)	
<p>1. A summary of the history and/or background information that may provide insight to the ERCB about your concerns:</p> <p>Please see attached letter and enclosures.</p>	

Please outline the following: (attach additional sheets if the form does not expand as needed)

2. A summary of your concerns (how you believe this project will impact and/or adversely affect you):

Please see attached letter and enclosures.

In accordance with Section 13 of the *Energy Resources Conservation Board Rules of Practice*, all documents filed in respect of a proceeding must be placed on the public record. However, any party may apply for confidentiality of information under Section 13(2). Any application under Section 13(2) that is to be considered during a public hearing of the application must be copied to the other parties to the proceeding. The Board may grant a request for confidentiality on any terms it considers appropriate, subject to the *Freedom of Information and Protection of Privacy Act*.

Authorization and proof of submission: I/ We hereby understand that as part of regular ERCB business practices this objection will be forwarded to the company and other interested parties, and will become part of a public record.

Name(s): Sean E.D. Fairhurst

Date: September 28, 2012

Title (if applicable): Lawyer

Company: MacPherson Leslie & Tyerman LLP

Signature(s):

<original signature removed> for Sean E.D. Fairhurst

Submissions may be sent to the ERCB at:

Mailing: Suite 1000, 250 – 5 Street SW, Calgary, Alberta, Canada, T2P 0R4

E-mail: Oil and Gas: BOG_Admin@ercb.ca Oil Sands/Coal: OSB-Admin@ercb.ca **Fax:** 403-297-7336

(Note: The ERCB recommends that all e-mail attachments be in a PDF format)

Deponent: Henry Lightning
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Henry Lightning, of the Samson Cree Nation in the Province of Alberta, MAKE OATH AND
SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter and gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt and gather.
3. I hunt and gather and have hunted and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted and gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Birds, which include, but not limited to grouse;
 - b. Moose;
 - c. Elk; and
 - d. Deer.
5. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;
 - b. High Bush Cranberries;

- c. Low Bush Cranberries
- d. Huckleberries;
- e. Raspberries;
- f. Strawberries;
- g. Gooseberries; and
- h. Traditional medicines, which include, but not limited to, roots and bark.

6. As a hunter and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt and gather.
7. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

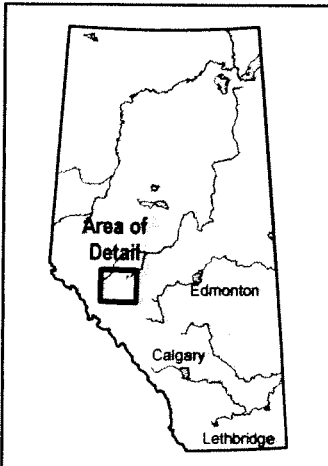
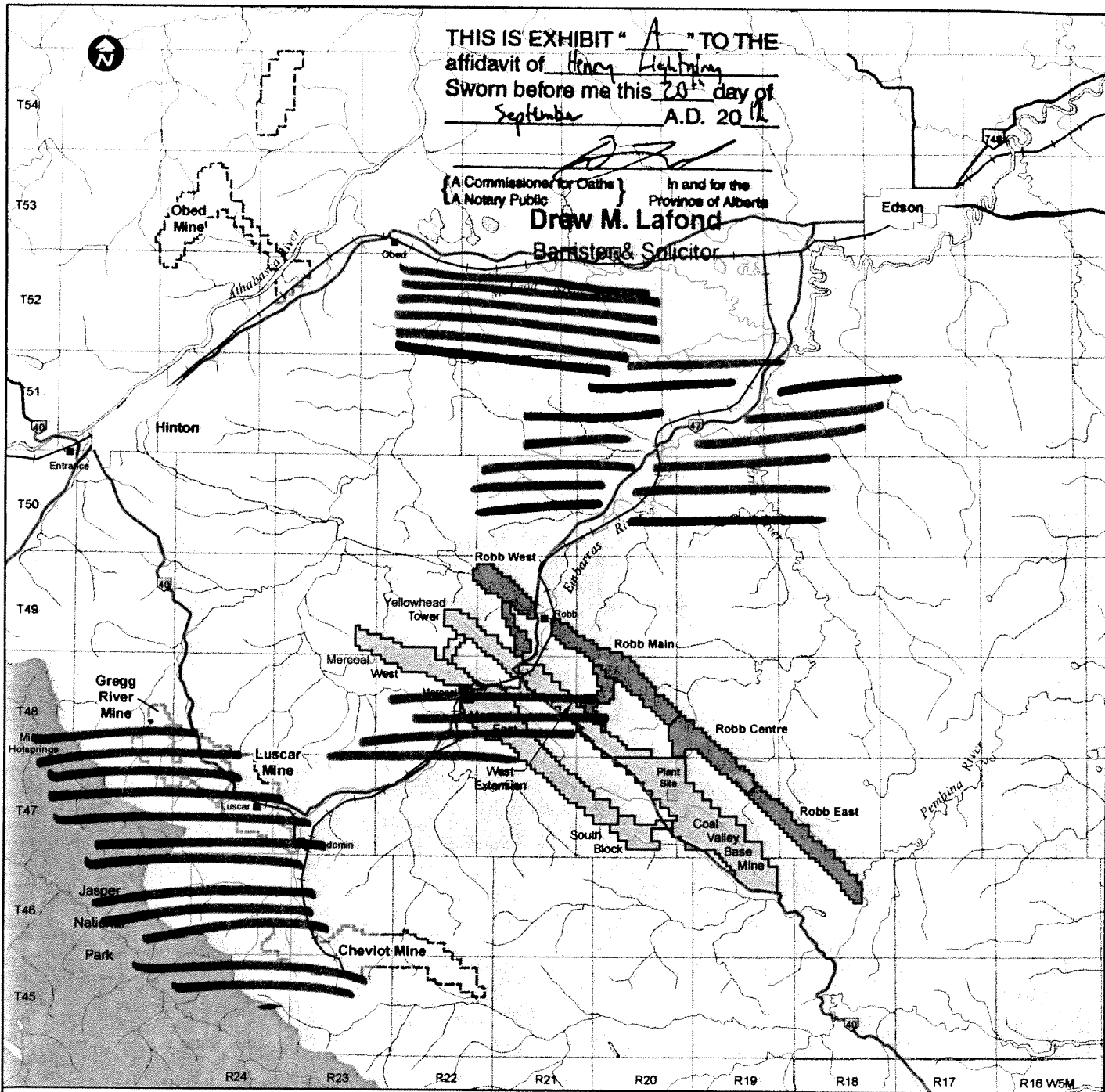
<original signed by>

<original signed by>

— A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

— Henry Lightning

Drew M. Lafone
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT: Coal Valley Mine Robb Trend Project			
TITLE: Project Location		DRAWN: PS/JG CHECKED: KY DATE: Mar 25/12 PROJECT: 08-041	FIGURE: A.1-1

Deponent: Alphonse Nepoose
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Alphonse Nepoose, of the Samson Cree Nation in the Province of Alberta, MAKE OATH
AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter and gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt and gather.
3. I hunt and gather and have hunted and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted and gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Moose;
 - b. Elk; and
 - c. Deer.
5. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;
 - b. High Bush Cranberries;
 - c. Low Bush Cranberries;

- d. Raspberries;
 - e. Strawberries;
 - f. Traditional medicines, which include, but not limited to, muskeg tea and bark.
6. As a hunter and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plant life in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt and gather.
 7. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

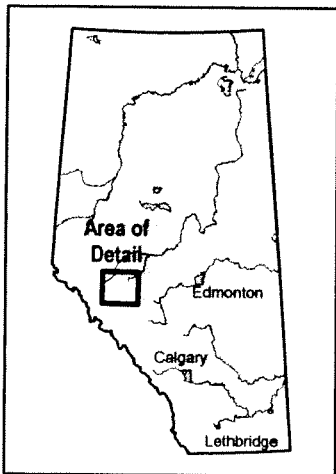
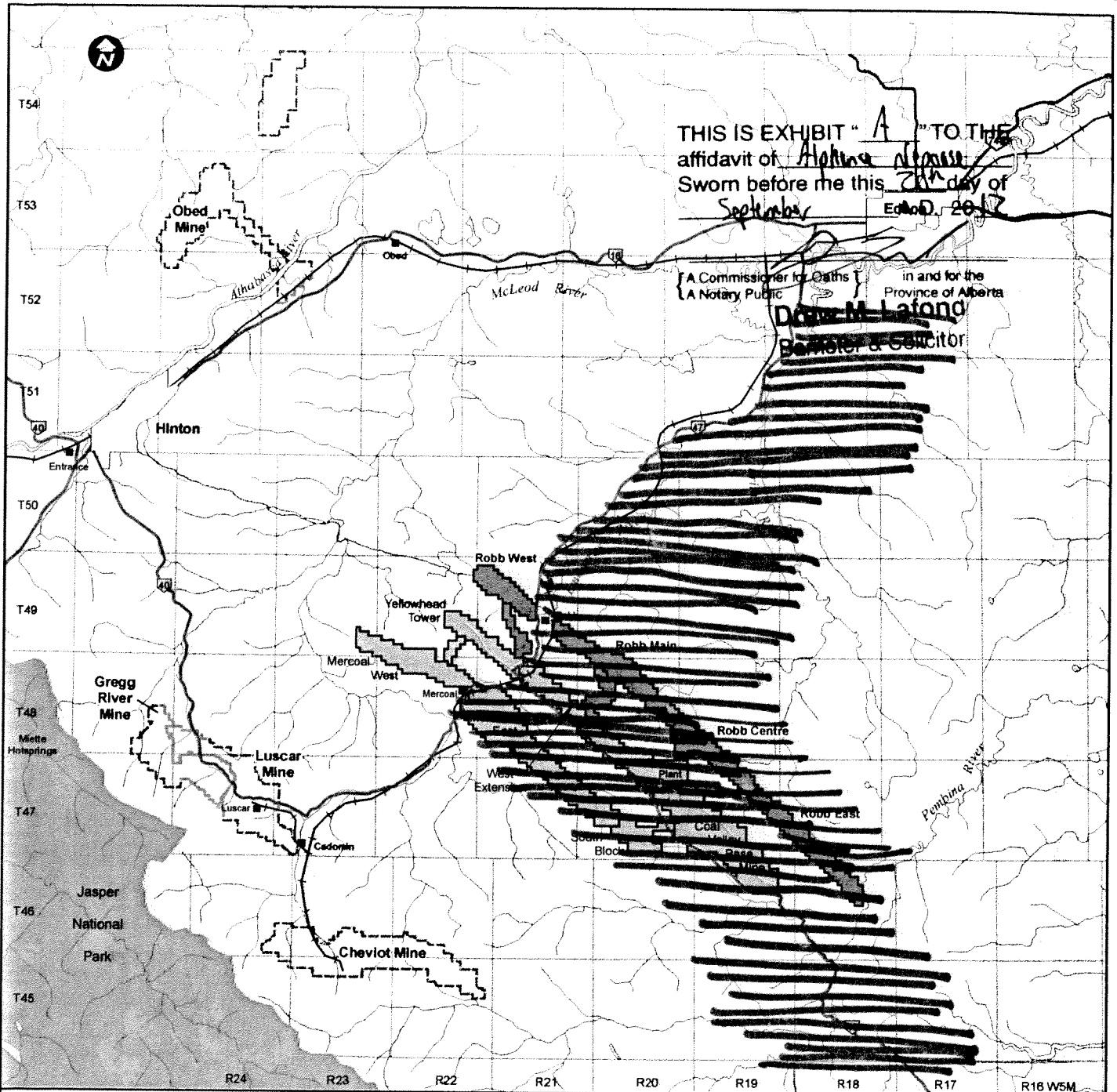
<original signed by>

<original signed by>




 A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

Drew M. Lafond
 Barrister & Solicitor


 Alphonse Nepoose



Legend

-  Proposed Robb Trend Mine Permit Boundary
-  Existing Coal Valley Mine Permit Areas
-  Other Mines



PROJECT: Coal Valley Mine Robb Trend Project			
TITLE: Project Location			
DRAWN: PS/JG		FIGURE:	
CHECKED: KY		A.1-1	
DATE: Mar 25/12			
PROJECT: 08-041			

Deponent: Eddie Saddleback
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Eddie Saddleback, of the Samson Cree Nation in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter, fisherman, gatherer and trapper within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt, fish, trap and gather.
3. I hunt, fish, trap and gather and have hunted, fished, trapped and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted, fished, trapped and gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Birds, which include, but not limited to grouse, ducks and pheasants;
 - b. Moose;
 - c. Wolverine;
 - d. Bear; and
 - e. Deer.
5. In the marked area, I have fished the following, including but not limited to:
 - a. Trout.

6. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;
 - b. Cranberries;
 - c. Pincherries;
 - d. Saskatoon berries;
 - e. Gooseberries; and
 - f. Traditional medicines, which include, but not limited to, roots, willow and bark.

7. In the marked area, I have trapped the following, including but not limited to:
 - a. Muskrat;
 - b. Marten;
 - c. Weasel;
 - d. Beaver;
 - e. Mink;
 - f. Squirrels;
 - g. Skunk; and
 - h. Rabbits.

8. As a hunter, fisher, trapper and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt, fish, trap and gather.

9. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
Nation, in the Province of Alberta, this 20th day)
of September, 2012.)

<original signed by>

A Commissioner for Oaths in and for the
Province of Alberta
Being a solicitor

Drew M. Lafond
Barrister & Solicitor

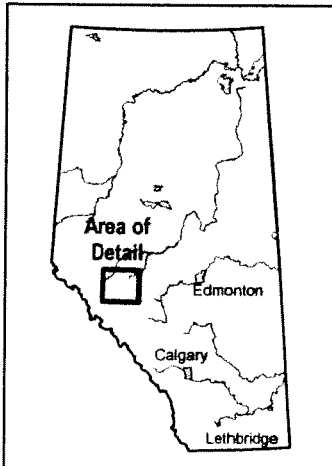
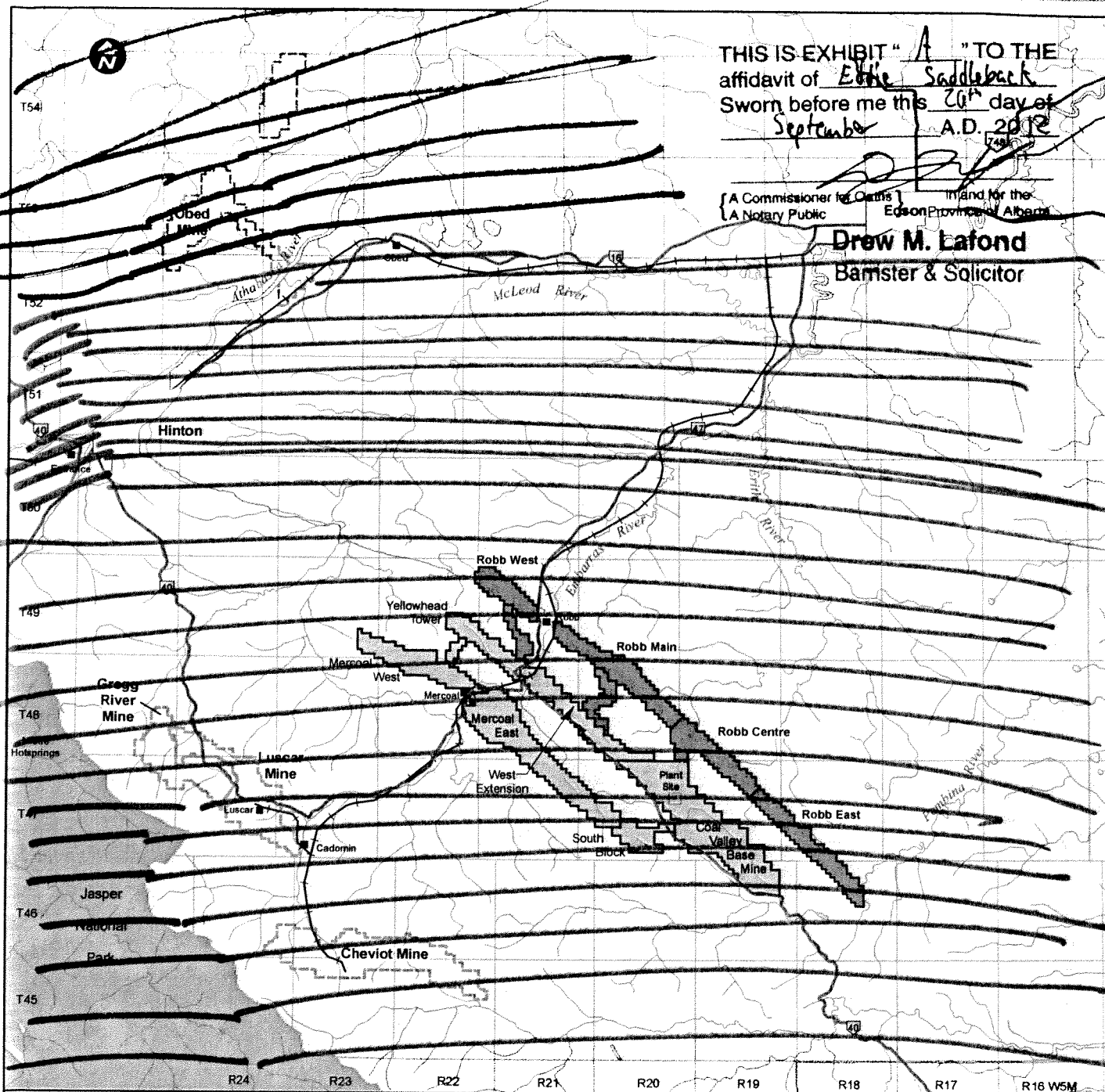
<original signed by>

- / Eddie Saddleback

THIS IS EXHIBIT "A" TO THE
 affidavit of Eddie Saddleback
 Sworn before me this 20th day of
September A.D. 2012

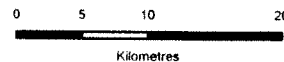
[A Commissioner for Oaths]
 [A Notary Public] in and for the
 Edson Provincial Alberta

Drew M. Lafond
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT: Coal Valley Mine Robb Trend Project		
TITLE: Project Location		
DRAWN: PS/JG	CHECKED: KY	A.1-1
DATE: Mar 25/12	PROJECT: 08-041	

Deponent: Lorna Saddleback
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Lorna Saddleback, of the Samson Cree Nation in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to gather.
3. I gather and have gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;
 - b. High Bush Cranberries;
 - c. Low Bush Cranberries;
 - d. Raspberries;
 - e. Saskatoon Berries;
 - f. Strawberries;
 - g. Gooseberries;

- h. Chokecherries; and
 - i. Traditional medicines, which include, but not limited to, cedar.
5. As a gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to gather.
 6. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

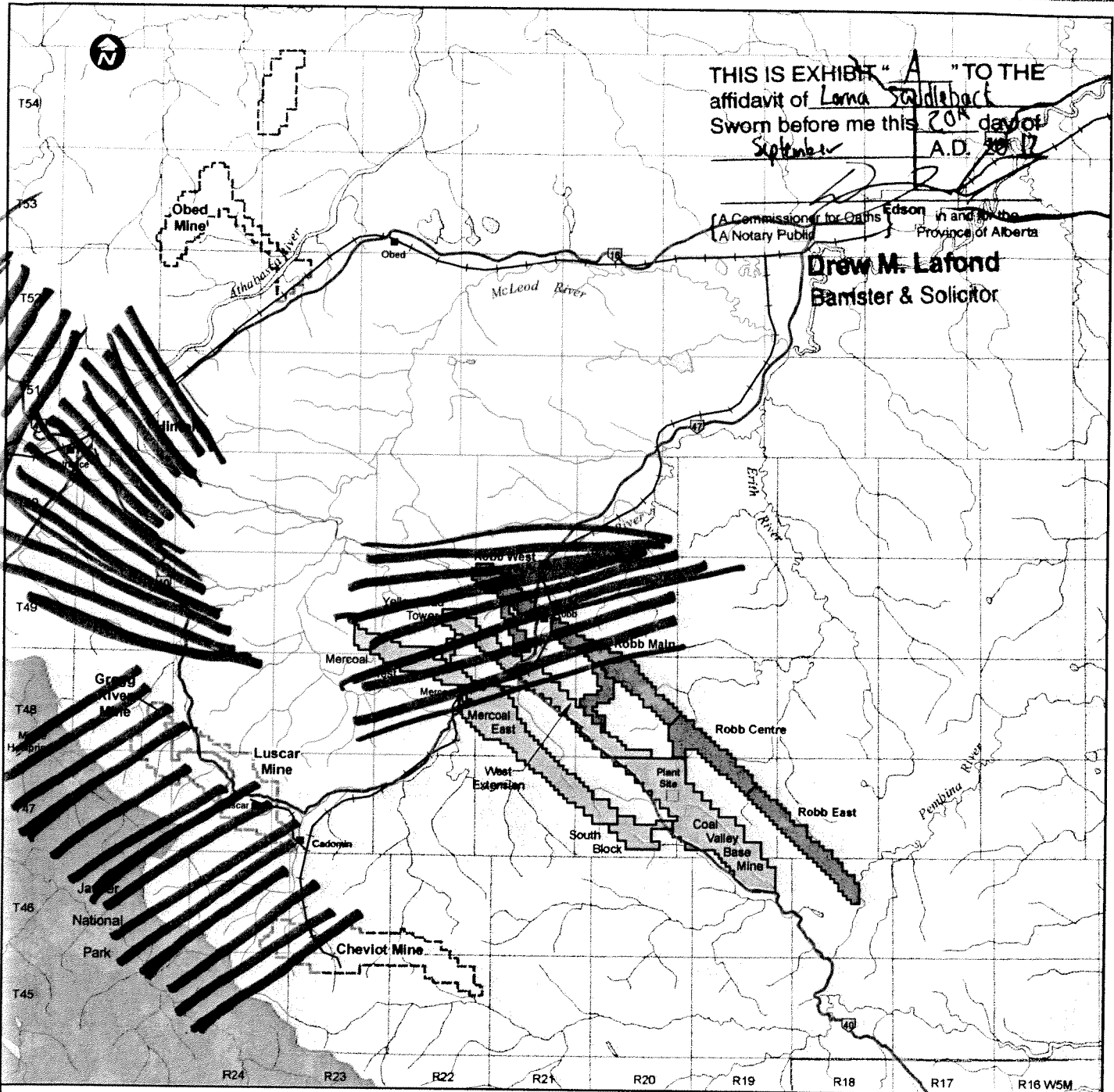
<original signed by>

<original signed by>

 A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

Drew M. Lafond
 Bartster & Solicitor

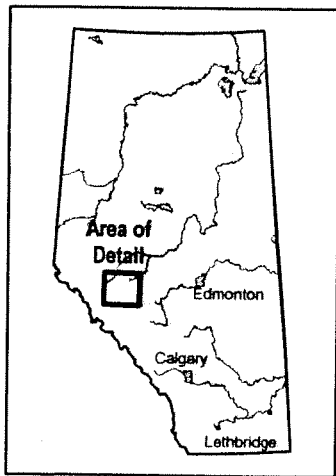
 Lorna Saddleback



THIS IS EXHIBIT "A" TO THE
 affidavit of Lorna Siddleback
 Sworn before me this 20th day of
September A.D. 2012

[A Commissioner for Oaths in and for the Province of Alberta
 A Notary Public]

Drew M. Lafond
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT: Coal Valley Mine Robb Trend Project			
TITLE: Project Location			
DRAWN: PS/JG	CHECKED: KY	FIGURE:	A.1-1
DATE: Mar 25/12	PROJECT: 08-041		

Deponent: Josephine Buffalo
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Josephine Buffalo, of the Samson Cree Nation in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to gather.
3. I gather and have gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;
 - b. Low Bush Cranberries;
 - c. Strawberries;
 - d. Huckleberries; and
 - e. Traditional medicines, which include, but not limited to, roots, tamarack, sprue, acorns, muskeg tea and bark.
5. As a gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining

project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to gather.

6. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
Nation, in the Province of Alberta, this 20th day)
of September, 2012.)

<original signed by>

A Commissioner for Oaths in and for the
Province of Alberta
Being a solicitor

Drew M. Lafond
Barrister & Solicitor

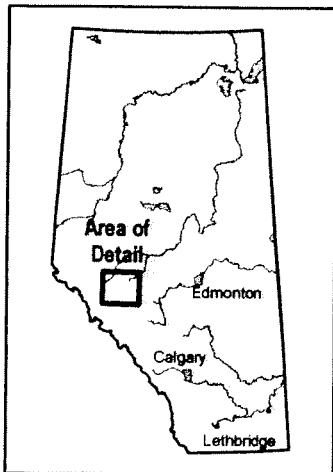
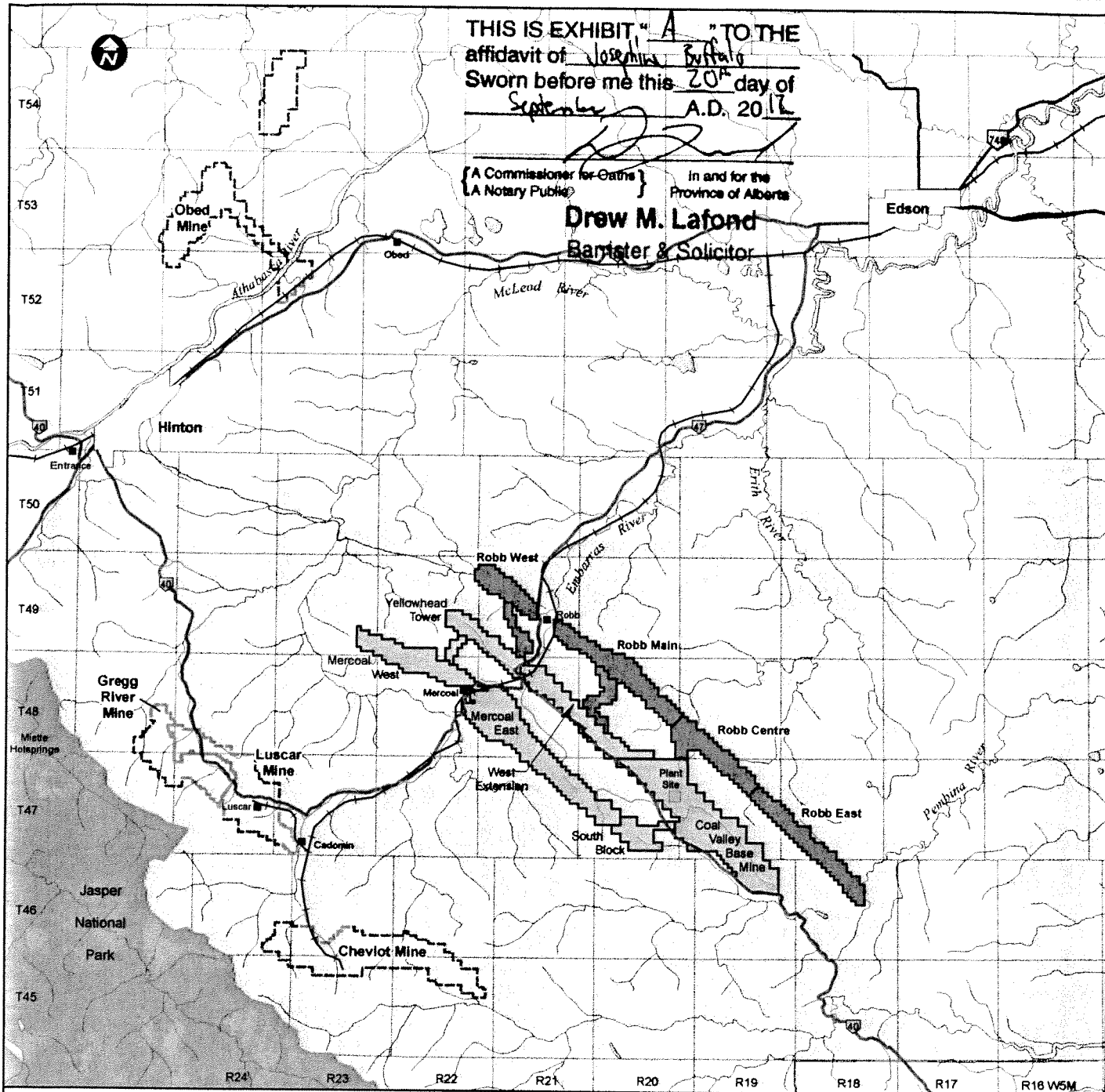
<original signed by>

Josephine Buffalo

THIS IS EXHIBIT "A" TO THE
 affidavit of Josephine Buffalo
 Sworn before me this 20th day of
September A.D. 2012

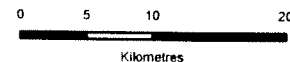
{A Commissioner for Oaths} In and for the
 {A Notary Public} Province of Alberta

Drew M. Lafond
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT: Coal Valley Mine Robb Trend Project		
TITLE: Project Location		
DRAWN: PS/JG	FIGURE:	A.1-1
CHECKED: KY		
DATE: Mar 25/12		
PROJECT: 08-041		

Deponent: Lawrence Saddleback
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Lawrence Saddleback, of the Samson Cree Nation in the Province of Alberta, MAKE OATH
AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter, fisherman and gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "A" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt, fish and gather.
3. I hunt, fish and gather and have hunted, fished and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted, fished and gathered in the marked areas, as shown in Exhibit "A" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Birds, which include, but not limited to grouse, ducks and pheasants;
 - b. Moose;
 - c. Elk; and
 - d. Deer.
5. In the marked area, I have fished the following, including but not limited to:
 - a. Trout.
6. I have gathered the following in the marked area, including but not limited to:

- a. Blueberries;
- b. Cranberries;
- c. Strawberries;
- d. Saskatoon berries;
- e. Gooseberries; and
- f. Traditional medicines, which include, but not limited to, roots and bark.

7. As a hunter, fisher and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt, fish and gather.

8. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

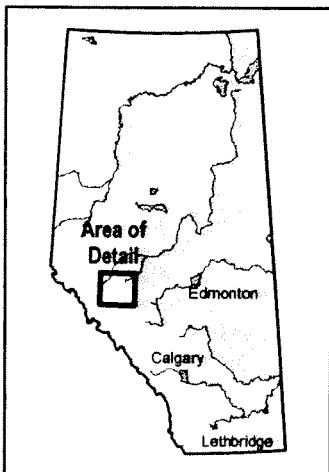
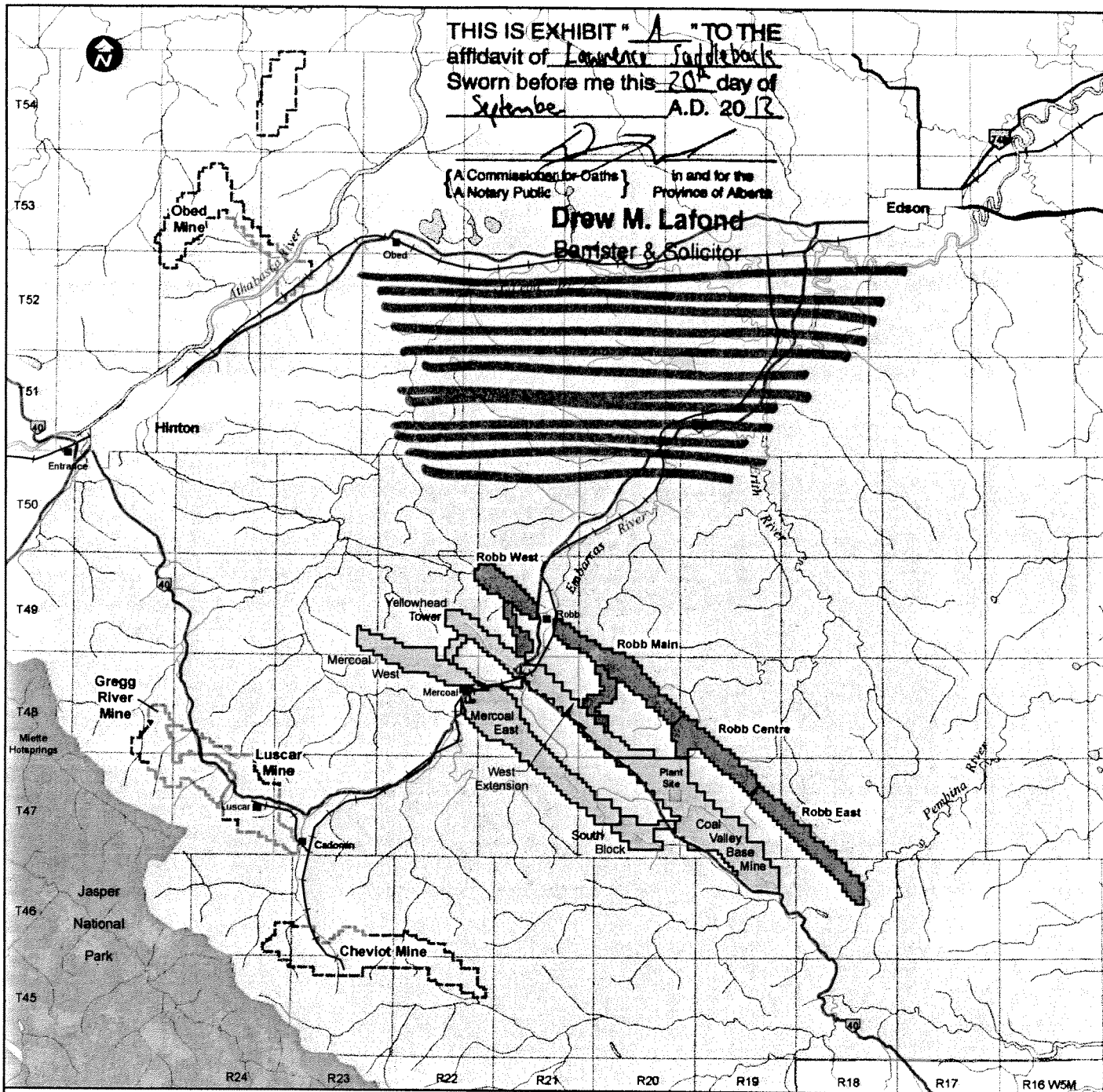
<original signed by>

<original signed by>

 A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

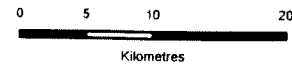
Drew M. Lafond
 Barrister & Solicitor

 Lawrence Saddleback



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT:

**Coal Valley Mine
Robb Trend Project**



TITLE:

Project Location

DRAWN: PS/JG

CHECKED: KY

DATE: Mar 25/12

PROJECT: 08-041

FIGURE:

A.1-1

Deponent: Ken Saddleback
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Ken Saddleback, of the Samson Cree Nation in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter, fisher and gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt, fish and gather.
3. I hunt, fish and gather and have hunted, fished and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted, fished and gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Moose; and
 - b. Deer.
5. I have fished, and continue to fish, in the marked area, the following species, including but not limited to:
 - a. Jackfish.
6. I have gathered the following in the marked area, including but not limited to:
 - a. Traditional medicines, which include, but not limited to, willow, tamarack and bark.

7. As a hunter, fisher and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plant life in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt, fisher and gather.

8. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

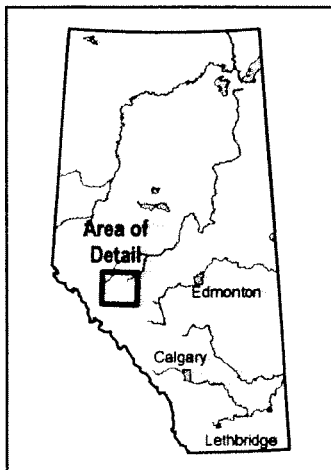
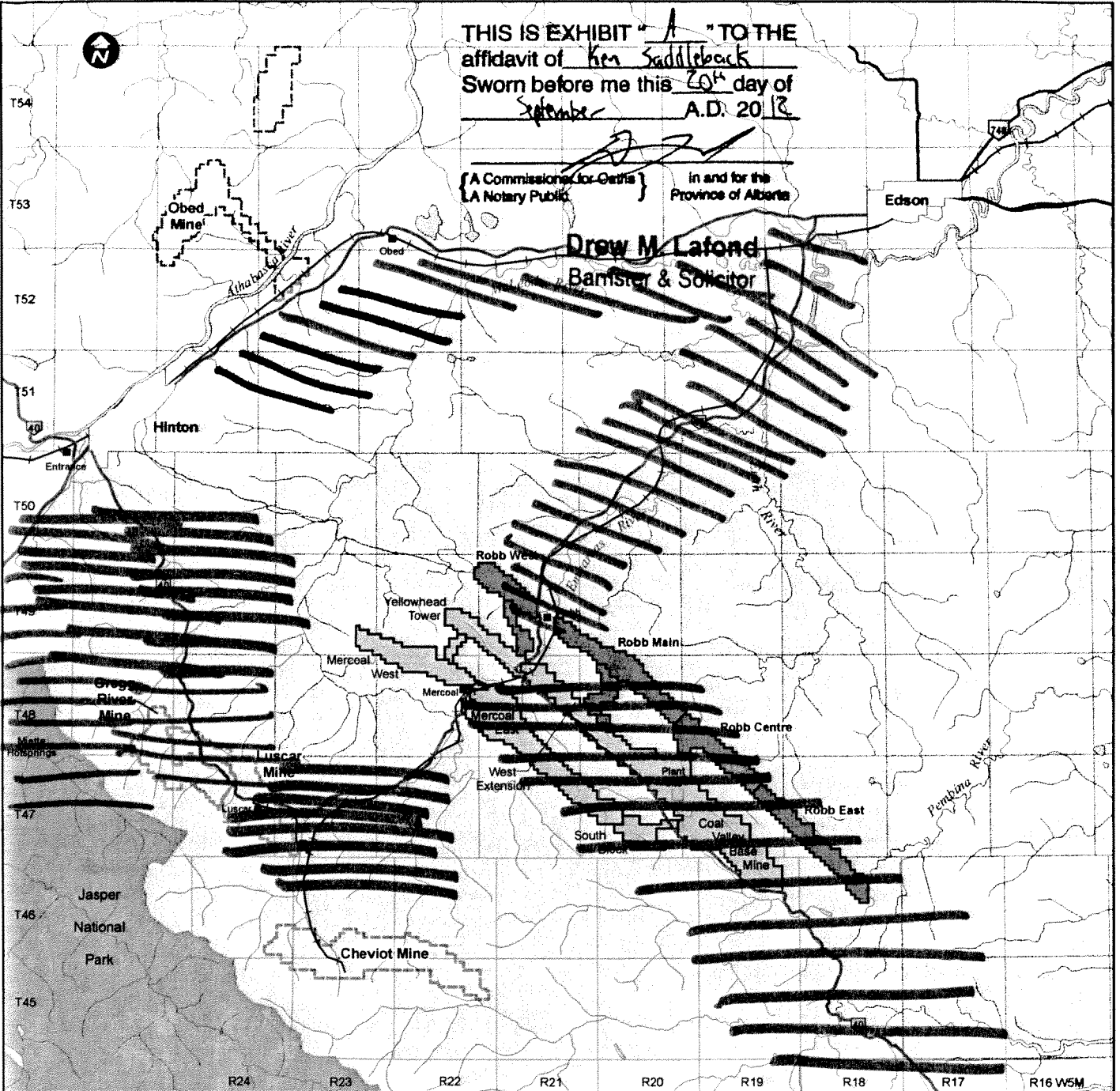
<original signed by>

) <original signed by>

 A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

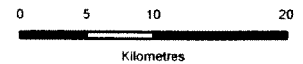
)
 - Ken Saddleback _____

Drew M. Lafond
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT:

**Coal Valley Mine
Robb Trend Project**

TITLE:

Project Location



DRAWN: PS/JG
CHECKED: KY
DATE: Mar 25/12
PROJECT: 08-041

FIGURE:

A.1-1

Deponent: Raymond Tootoosis
Date Sworn: September 20, 2012

IN THE MATTER OF the *Energy Resources Conservation Act*, RSA 2000, c
E-10

-and-

IN THE MATTER OF Coal Valley Resources Inc.'s application for
authorization to construct and operate the Robb Trend Project

AFFIDAVIT

I, Raymond Tootoosis, of the Samson Cree Nation in the Province of Alberta, MAKE OATH
AND SAY AS FOLLOWS:

1. I am a member of the Samson Cree Nation (the "**Nation**") and I am a hunter, fisher and gatherer within the Nation's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now produced and shown to me and marked as Exhibit "**A**" to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the proposed Coal Valley Resources Inc.'s. ("**Coal Valley**") Robb Trend Project and the areas where I have and continue to hunt, fish and gather.
3. I hunt, fish and gather and have hunted, fished and gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory. I have hunted, fished and gathered in the marked areas, as shown in Exhibit "**A**" as a child and into my adulthood.
4. In these areas I have hunted the following animals, including, but not limited to:
 - a. Birds, which include, but not limited to grouse and duck;
 - b. Moose; and
 - c. Elk.
5. In the marked area, I have fished the following, including but not limited to:
 - a. Trout.
6. I have gathered the following in the marked area, including but not limited to:
 - a. Blueberries;

- b. Kinikinihk;
 - c. High Bush Cranberries;
 - d. Traditional medicines, which include, but not limited to, willow fungus.
7. As a hunter, fisher and gatherer I am concerned that the activities conducted by Coal Valley for the proposed coal mining project will further impact the wildlife populations and plantlife in the area. The activities of Coal Valley and the proposed coal mining project will also occupy lands to which I have previously had a right of access and will further restrict the area in which I can exercise my Treaty rights to hunt, fish and gather.
 8. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the Samson Cree)
 Nation, in the Province of Alberta, this 20th day)
 of September, 2012.)

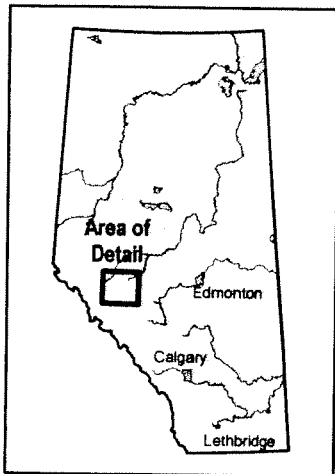
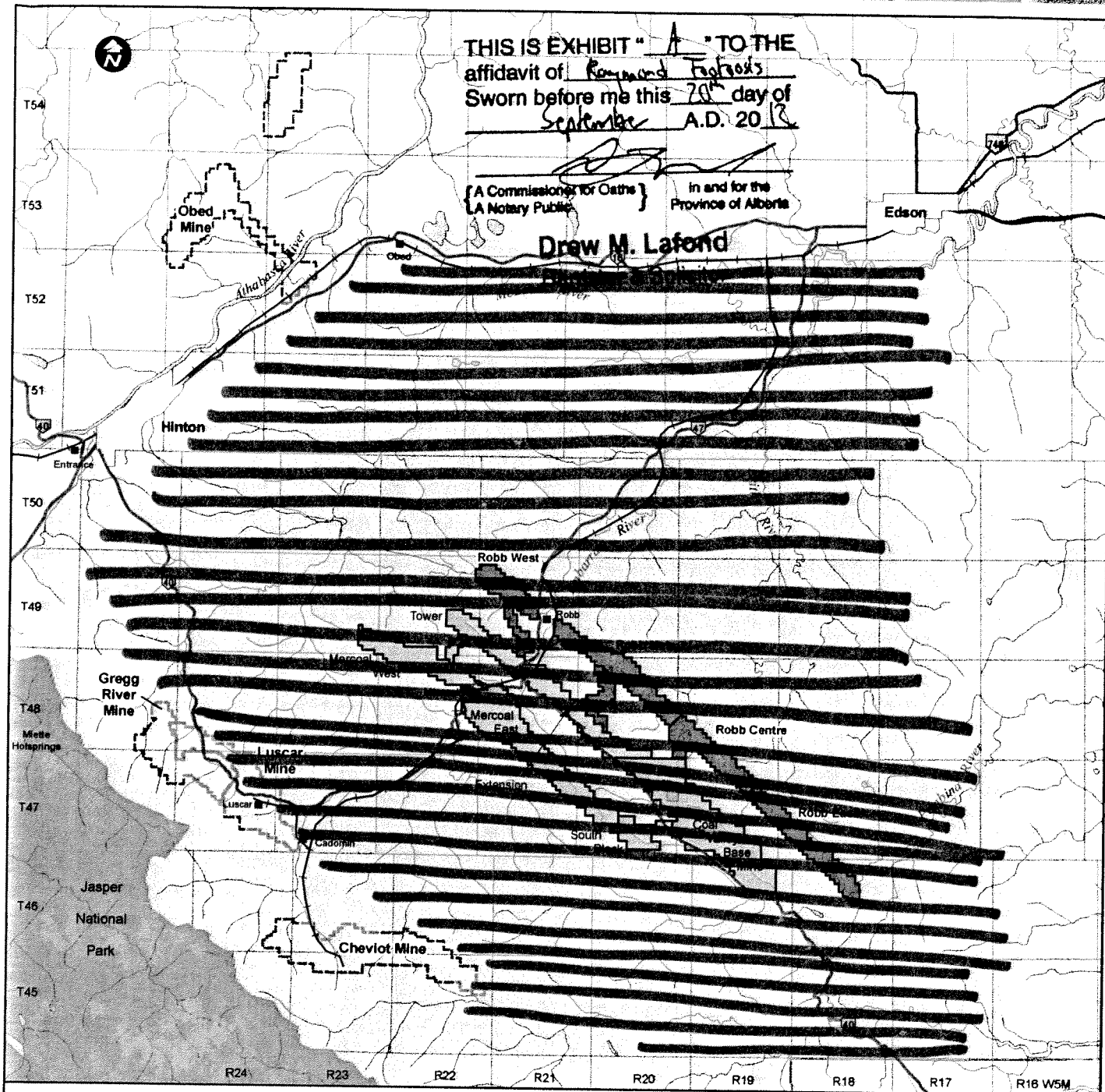
<original signed by>

<original signed by>

Raymond Tóotoosis

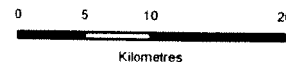
 A Commissioner for Oaths in and for the
 Province of Alberta
 Being a solicitor

Drew M. Lafond
 Barrister & Solicitor



Legend

- Proposed Robb Trend Mine Permit Boundary
- Existing Coal Valley Mine Permit Areas
- Other Mines



PROJECT:

**Coal Valley Mine
Robb Trend Project**



TITLE:

Project Location

DRAWN: PS/JG

CHECKED: KY

DATE: Mar 25/12

PROJECT: 08-041

FIGURE:

A.1-1



Lifeways OF CANADA LIMITED


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Norine Saddleback
Consultation Coordinator
Samson Cree Nation


January 8, 2013

Dear Norine,

Re: Coal Valley Resources Inc., Robb Trend Project

The SREM Aboriginal Affairs Branch (SAAB) has directed Coal Valley Resources Inc. (CVRI) to consult with the Samson Cree Nation regarding the above project. Please find the enclosed information package on the Robb Trend Project including the Plain Language Project Description, Project Application on CD, and the Supplementary Information Request Responses, also on CD. This project is being proposed to allow the existing Coal Valley Mine to continue coal mining operations until about 2030. Legal counsel for the Samson Cree Nation submitted a Letter of Objection and Statement of Concern against the project, dated September 28, 2012.

Please review the enclosed information and let CVRI know whether this project may adversely impact your Rights and Traditional Uses. CVRI requests a meeting with you and/or Chief and Council as soon as possible to discuss the project and any Samson Cree Nation concerns. Representatives from SAAB and the Canadian Environmental Assessment Agency (CEAA) will likely attend any meetings to support the consultation process. If you believe that there are potential impacts, please be prepared to specify the site-specific concerns your First Nation may have and their location.

If you wish to discuss the project and a meeting further, please respond to this request by February 1, 2013. You can either contact me (meyer@lifewaysofcanada.com, phone 403-730-9461, cell 403-807-7981) or Les LaFleur, the Robb Trend Project manager (llafleur@coalvalley.ca, phone 780-865-8607, cell 780-817-0792).

Sincerely,

<original signed by>

Dan Meyer, Ph.D.

Enclosures

cc w/out enc: Derek Bruno, Councillor; Carcey Hincz, SAAB; Fares Haddad, ERCB;
Lori Crozier, CEAA



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Norine Saddleback
Consultation Coordinator
Samson Cree Nation



January 22, 2013

Dear Norine,

Re: Coal Valley Resources Inc., Robb Trend Project

The SREM Aboriginal Affairs Branch (SAAB) has directed Coal Valley Resources Inc. (CVRI) to consult with the Samson Cree Nation regarding the above project. On January 8, 2013 I sent an information package to you and Derek Bruno about the Robb Trend Project. This included a formal request to meet with you, Chief and Council, and Government representatives to discuss the project and any potential impacts to your Rights and Traditional Uses, including any site-specific concerns your First Nation may have and their location.

If you wish to discuss the project and a meeting further, please respond to this request by February 1, 2013. You can either contact me (meyer@lifewaysofcanada.com, phone 403-730-9461, cell 403-807-7981) or Les LaFleur, the Robb Trend Project manager (llafleur@coalvalley.ca, phone 780-865-8607, cell 780-817-0792).

Sincerely,

Dan Meyer, Ph.D.

cc: Derek Bruno, Councillor; Carcey Hincz, SAAB; Fares Haddad, ERCB;
Lori Crozier, CEAA



SAMSON CREE NATION
NIPISIHKOPAHK PAMIHOWIN

FILE No: [REDACTED]

June 23, 2014

VIA EMAIL

Coal Valley Resources Inc.
1600, 10235
Edmonton, AB T5J 3G1

Attention: Mr. John Schadan, Vice President Operations

Dear Mr. Schadan:

Re: Proposed TLUS Funding Agreement between Coal Valley Resources Inc. ("CVRI") and Samson Cree Nation ("Samson") in respect of the CVRI's Proposed Activities in Samson's Traditional Territory ("Samson Territory")

I write to express our concerns in respect of CVRI's proposed Yellowhead Tower Phase 2 and the Robb Trend Projects (collectively, the "**Activities**") located in Samson Territory. As you know, Samson's specific concerns regarding CVRI's Application Nos. 1765525, 033-11066 & 00285848 (collectively, the "**Project Application**") currently before the Alberta Energy Regulator are further described in our Statement of Concern dated May 15, 2014. Samson's Statement of Concern seeks that CVRI's Project Application be dismissed or alternatively, set down for a hearing. I write further to this filing to directly discuss our concerns with CVRI and propose a mutually workable framework in advance of a hearing on this important matter.

Samson's Concerns

Samson raises the following concerns in respect of CVRI's Activities in Samson Territory:

1. As you are aware, despite being in our back yard, you have never funded any assessment of the impacts of CVRI's Activities upon our Aboriginal and Treaty rights. This is a significant deficiency in your Project Application. As such, it is impossible for any regulatory authority to consider an approval of this Project

without this critical information on further specific impacts being available. Any such action, would be incorrect and likely to cause us irreparable harm.

2. CVRI's Project Application does not address potential impacts to Samson's Aboriginal and Treaty rights and therefore is inherently flawed and incomplete.
3. CVRI's YHT2 if approved, will directly and adversely affect Samson and its members.
4. The Crown has not discharged its duty to consult Samson in respect to the Activities and potential impacts or infringements to Samson's Aboriginal and Treaty rights.
5. If the Crown has delegated procedural elements of consultation to CVRI, CVRI has not discharged its procedural duties of consultation in relation to Samson.
6. Samson has not been provided adequate time and does not have adequate resources to review and provide its comments on CVRI's Activities, including the YHT2 Project Application.

While we remain concerned about the level of CVRI's past engagement, we seek to advance our dialogue with you so that we can fully understand the scope and impacts of the Activities and the viability of a path forward.

Samson Must Be Consulted

CVRI's Activities requires and will create a new disturbance area which is clearly within Samson Territory, including its recognizable Treaty No. 6 boundaries. Samson's rights are inextricably connected to the land, waters and resources within Samson Territory from which its spirituality, identity, culture, heritage, language and traditions arose. Samson's Aboriginal and Treaty rights are protected by section 35 of the *Constitution Act, 1982*. As the new disturbance area necessary to construct and operate the Activities is within the heart of Samson Territory, the Project will directly and adversely affect its ecosystem, wildlife, wildlife habitat, plant harvesting areas, waterways and aquifers, airsheds ceremonial sites and heritage property sites.

Any decisions in respect of CVRI's Activities unequivocally trigger the Crown's duty to consult Samson as the Activities will adversely affect Samson's Aboriginal and Treaty rights. CVRI, through its Project Application and any future application in respect to Robb Trend, will seek a Crown decision. Therefore, in order for the Activities to proceed, Samson must be meaningfully consulted.

Consultation Principles

As the duty to consult is clearly triggered in these circumstances, certain fundamental consultation principles must be recognized, including:

- Consultation must occur early and must only proceed on a correct assessment of the Aboriginal rights or claim at stake.

- Samson must be provided a consultation process that is accessible, adequate and provides an opportunity to meaningfully participate.
- The Crown may only delegate procedural elements of the Crown's duty to CVRI.
- The consultation process must be flexible to account for new information that comes to light.
- Strategic or high-level decisions of the Crown trigger the duty to consult. Therefore, no direct impact to the lands is a necessary condition to trigger the Crown's duty to consult.
- The Activities cannot proceed if the Crown's duty to consult and accommodate has not been met.

Consultation Summary in respect of CVRI's Activities

Meaningful consultation has not been initiated with Samson in respect of the Activities by either the Crown or CVRI, notwithstanding the preliminary discussions that may have occurred between our staff. We note that to date, CVRI has offered no capacity to us in order to complete critical traditional land use study ("TLUS") work, engage meaningfully in the regulatory process or to enter into discussions to consider mitigation measures and the accommodation of impacts in respect any of CVRI's Activities within Samson Territory.

In respect to the YHT2 Project Application, Samson must be engaged in order for the approval process to be legitimate and binding. As stated above, the YHT2 cannot proceed if the Crown's duty to consult and accommodate has not been met. At this time, the AER's enabling legislation prohibits it from assessing the adequacy of Crown consultation, Alberta's Consultation Office is not in operation and Alberta has not meaningfully consulted us. Clearly Alberta has not discharged its duty to consult Samson. As the duty to consult is a constitutional requirement, the Crown cannot defend its failure to act honourably on its impugned and opaque administrative regimes as the duty to consult lies upstream of the statutory mandate of decision makers. Notwithstanding, Samson remains willing to enter into discussions with CVRI to pre-emptively address our concerns through the proposed framework identified below.

Summary of Enclosed Agreement

In order to address our concerns directly with CVRI, we have prepared a framework which provides capacity in order for Samson to complete a TLUS in respect to the Activities. Samson seeks that CVRI advance the TLUS funding in order to proactively identify adverse impacts of the Project on Samson's Aboriginal and Treaty rights, mitigation opportunities and environmental protection measures. You will note that we have left the scope of the TLUS Funding Agreement broad at this point. We hope that CVRI views this funding as an opportunity to add validity to its continued consultation approach and to directly address our concerns outside of adversarial fora.

Concurrently, Samson views the one-time good faith contribution as being critical to develop a framework to advance impact benefit agreement discussions in order to contractually deal with our concerns regarding specific impacts to our Aboriginal and Treaty rights outside of the regulatory process. These discussions will become required upon the identification of specific impacts to Samson's Aboriginal and Treaty rights by CVRI's Activities through the TLUS.

Moving Forward

While Samson remains concerned about CVRI's level of commitment in respect to fulfilling these objectives, I am hopeful that CVRI will recognize the importance of rectifying the concerns we have identified and continue to work with us in a collaborative manner.

At present, I propose a meeting with you on June 26, 2014 at 2:30 p.m. to discuss and finalize a reasonable TLUS Funding Agreement. Alternatively, we request that you contact Norine Saddleback at [REDACTED] to schedule a meeting date that works for both of us.

I look forward to your prompt response.

Sincerely,

<original signed by>

Councillor Patrick Buffalo
Enclosure

cc: Chief Kurt Buffalo, Samson Cree Nation
Norine Saddleback, Samson Cree Nation Consultation Coordinator
Fares Haddad, Application Coordinator (w/o enclosure)

July 3, 2014

Sean Fairhurst
MacPherson Leslie & Tyerman LLP
1600 520 – 3 Avenue SW
Calgary AB T2P 0R3
Email: SFairhurst@mlt.com

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canada

www.aer.ca

Dear Mr. Fairhurst:

**COAL MINING STATEMENT OF CONCERN NO. 29088
COAL VALLEY RESOURCES INC.
COAL MINING APPLICATION FOR PROPOSED ROBB TREND
APPLICATION NO. 1725257
LOCATIONS: 08-049-21W5M**

The Alberta Energy Regulator (AER) acknowledges receipt of your letter on behalf of Samson Cree Nation dated September 28, 2012, indicating their statement of concern to the subject application. Please be advised that an application was submitted to the AER on April 17, 2012, and was assigned Application No. 1725257. . In addition, on June 4, 2014, the AER re-issued notice of this application and re-established a statement of concern filing deadline of July 9, 2014 (available at <http://www.aer.ca/applications-and-notices/notices/application-1725257-2>). Your client is therefore able to file a different or supplemental statement of concern if you wish to do so, provided that it is received by the AER on or before the deadline.

The application is currently under review and the concerns outlined in your letter will be taken into consideration by the AER in its review of the application. The AER expects parties to discuss outstanding concerns whenever possible. By way of copy of this letter to Coal Valley Resources Inc. (Coal Valley), we are requesting Coal Valley contact you to attempt to address your concerns, as provided under AER requirements.

The AER has no jurisdiction over matters of compensation for land usage. The Alberta Surface Rights Board is the regulatory agency that deals with these issues. Further the AER has no jurisdiction with respect to assessing the adequacy of Crown consultation with the rights of aboriginal peoples.

The AER offers and strongly recommends you make use of our Alternative Dispute Resolution (ADR) program which features either staff or third party mediation arranged through an AER mediator. Please contact Krista Waters at 403-755-1422 for more information on this process. Further information about this program is available through *EnerFAQs: All About Alternative Dispute Resolution* and *Manual 004: ADR Alternative Dispute Resolution Program and Guidelines for Energy Industry Disputes* on the AER web site, (<http://www.aer.ca>), under Applications & Notices, Alternative Dispute Resolution (ADR) Process.

Please note that Section 49 of the *Alberta Energy Regulator Rules of Practice* (Rules) requires that all documents filed with the AER be placed on the public record. However, any party may file a request for confidentiality of information under Section 49 prior to filing the information with the AER. Any request under Section 49 must be copied to the other parties to the proceeding. Section 49 of the Rules is available at the AER website at www.aer.ca.

Please direct questions regarding your statement of concern to Amanda Black at 780-743-7473 who will manage the application through to completion. If you have any questions regarding AER process please contact the undersigned through our Customer Contact Centre, toll free, at 1-855-297-8311, or collect at 403-297-5749.

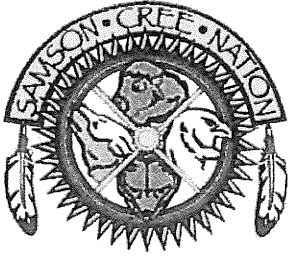
inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Yours truly,



Jennifer Richards
Review & Coordination Team
Authorizations Branch

cc: Les Lafleur, Coal Valley Resources Inc., llafleur@westmoreland.com
Amanda Black, AER, Amanda.Black@aer.ca
AER Drayton Valley Field Centre, DraytonValley.FieldCentre@aer.ca
Krista Waters, AER Mediator, Krista.Waters@aer.ca
Bruce Gladue, AER Aboriginal Engagement Unit, Bruce.Gladue@aer.ca
Gabriel Potter, Aboriginal Consultation Office, Gabriel.Potter@gov.ab.ca



SAMSON CREE NATION

NIPISIKOPAHK PAMIHOWIN

P.O. Box 159
Hobbema, Alberta
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(780) 585-3793
Direct Line: 421-4926
Fax: (780) 585-2104
1-800-661-2579

FILE No.:

July 9, 2014

Delivered Via Email: ARCTeam@aer.ca

Authorizations Review & Coordination Team
Alberta Energy Regulator
Suite 1000, 250-5 Street SW
Calgary, Alberta T2P 0R4

Attention: Authorizations Review & Coordination
Team

Dear Mesdames/Sirs:

Re: Alberta Energy Regulator Application No. 1725257 (the "Application") and Samson Cree Nation ("Samson") Statement of Concern to Coal Valley Resources Inc. ("CVRI") Proposed Robb Trend Project (the "Project")

1. Introduction

This submission concerns CVRI's Application and is in response to the Notice of Application from the Alberta Energy Regulator ("AER") dated June 4, 2014. Based on the concerns outlined in this Statement of Concern, Samson requests that the AER set down CVRI's Application for a hearing.

Samson, of the Nipisikopahk Maskwacis Cree Peoples, is a northern member of the Nêhiyawak Confederacy and a signatory of Treaty No. 6, underlying the central portions of Alberta, including the Rocky Mountain Foothills Region. Treaty No. 6 was concluded between the Plains Cree and the Crown in 1876 at Fort Pitt & Fort Carlton. Kiskaquin, or Chief Bobtail, signed his "x" mark in an adhesion to Treaty No. 6 at the signing of Treaty No. 7 at Blackfoot Crossing in 1877. Samson's traditional land use area covers the following land use regions: South Saskatchewan, Red Deer, North Saskatchewan, Upper Athabasca, Lower Athabasca, Lower Peace and Upper Peace.

(Collectively, "**Samson Territory**")

Samson's rights are inextricably connected to the land, waters and resources within Samson Territory from which its spirituality, identity, culture, heritage, language and traditions arose. Samson's rights pre-exist Treaty No. 6 and exist in Canadian law not as a result of governmental recognition, but because they were not extinguished upon the Crown's

assertion of sovereignty. Samson's Aboriginal and Treaty rights are protected by section 35 of the *Constitution Act, 1982*.

The Project is proposed to be developed in Samson Territory. Since time immemorial, Samson's members have and continue to extensively use and occupy Samson Territory and have continued being the stewards of the land. As original habitants of Samson Territory, Samson has a duty to protect and preserve Mother Earth in order to ensure Samson's way of life and livelihood. Therefore, any development proposed to take place within Samson Territory must be carried out in a manner that protects and respects both the environment and Samson's Aboriginal and Treaty rights.

The complex, large and multifaceted mine permit amendment application for the Project was filed by CVRI in April, 2012 for review by various Crown agencies. Despite the Project being this far advanced in the environmental assessment and regulatory approvals process, concerns relating to Samson's Aboriginal and Treaty rights have not been included in the Project Application or meaningfully considered by the Crown or CVRI in respect of the Project. Instead, CVRI states that "it is anticipated that the next stage of consultation will involve establishing a Traditional Land Use Study for the Project Area." Such reasoning is inherently flawed as the completion of a TLU study is a fundamental prerequisite to CVRI's Project Application being complete. Thereby, a hearing for the Project is all the more justified as CVRI's Application is unequivocally incomplete and contains significant information gaps and deficiencies.

If the Project receives the necessary regulatory approvals, it will add new permitted lands to CVRI's existing significant disturbance area to allow for, soil excavations, resource extraction, new pit shells and dumps locations. Additionally, the Project will invariable increase access to the site and produce a greater amount of dust into the surrounding airshed. The total area of new disturbance is 113 hectares of lands entirely on Crown lands. CVRI estimates that such activity will access 177.5 million of raw metric tonnes of coal. The life of the mine will exceed twenty-five years.

As the new disturbance area necessary to construct and operate the Project is within the heart of Samson Territory, the Project will directly and adversely affect its ecosystem, wildlife, wildlife habitat, bear habitation, fish, fish habitat, the "flying beings" such as blue jays and mountain grouse, plant harvesting areas, waterways and aquifers, airsheds, ceremonial sites, clear cutting of timber areas including the important Aspen tree required to hold annual ceremonies and changes the natural mist important to the ecosystem, known burial grounds around Small Boy Camp located merely 25 kms away from the Project site, annual trail network system, habitation sites and cultural heritage property sites such as Sundance lodges.

Samson has significant concerns regarding impacts of CVRI's tailings ponds to its cultural heritage property sites, including the "Beautiful Lake". Moreover, this area is considered as a sacred area to Samson and there is a strong likelihood of unearthed archaeology and cultural property heritage sites. Samson Elders and harvesters have identified the eastern slopes of the Project area as one of the only practicing areas to carry our certain ceremonies and harvest sacred medicines. The Project will clearly have both socio-cultural and socio-economic impacts to Samson.

The new disturbance will also hinder Samson's ability to exercise its rights in and around the Project area which is a preferred use area of Samson as members will have to go further and further away from this preferred site. Samson members have visibly noticed and have been advised not to use any of the water from aquifers in this as a result of CVRI's existing activities in Samson Territory. This exemplifies the requirement that the newly contemplated activities must be analyzed in the present state of affairs, including cumulative impacts to Samson Aboriginal and Treaty rights. Additionally, the total sequence of CVRI's activities in Samson Territory must be considered and cannot be artificially parsed.

Furthermore, Samson has significant concerns regarding impacts to rare medicines found in this preferred Project area including ly-nappohwina, which has no English translation. This is medicine which takes the form of sticky crystal and is used for healing eye ailments and cancer. This is what Samson deems as an environmental trigger of natural law and cannot go unheard by the AER. Additionally, there is a very rare root called "sneezing powder" which is found in and around the Project Area. The rare "Devil's Club" root also is found in this area. Yet even further, the bark of the declining Aspen Tree timber, due to clear cutting is used for medicinal purposes is important to Samson. Yet another specific concern regarding impacts to medicine is the impact to the beaver population which is used by Samson Elders for medicine. A lot of these medicines that are harvested in the riparian zones in this area of Samson Territory such as two trees which are used to treat diabetes. It should be noted that the elk population also rely on this riparian area, in and around the Project area, for medicine.

CVRI continues to construct, operate and propose further development activities in Samson Territory without meaningfully and adequately consulting Samson in order to mitigate and accommodate Samson's Aboriginal and Treaty rights. Consultation has not been initiated with Samson in respect of the Project by the Crown or CVRI notwithstanding our willingness. Samson acknowledges that past failures do not trigger the duty to consult. However, CVRI's Application must be considered in the context of the present material Application and CVRI has clearly not done so.

Thereby, the direct and adverse affects of the Project on Samson should be addressed during the AER's decision-making process including the cumulative impacts to Samson's Aboriginal and Treaty rights. Also, past use, the loss of future use and the right of intergenerational transfer must also be considered and assessed.

For the Project, all objective evidence (see section 2(c) below) supports the conclusion that *the Project will directly and adversely affect Samson and its members*. As such, any decision to CVRI's Project must be carried out in a manner that mitigates and protects both the environment and Samson's Aboriginal and Treaty rights. Thereby, Samson seeks that the AER set down CVRI's Application for a hearing in order to ensure that the AER considers the direct and adverse affects to Samson and its members arising from the Project.

If the AER accepts Samson's request to set down CVRI's application for a hearing, Samson's participation in the AER regulatory processes will ensure and contribute to the reliability and credibility of the hearing. Samson's environmental expertise and traditional knowledge will provide the Regulator with valuable information and a better understanding of the anticipated direct and adverse affects arising from the Project. This information that Samson, as an intervenor, will provide at the hearing is necessary for the Regulator to be in a position to make an informed decision in respect to the Project.

2. The Requirements for a Hearing and Samson's Standing Are Satisfied

Paragraph 34(2)(b) of the of the *Responsible Energy Development Act* (“**REDA**”) requires the AER to conduct a hearing on an application when it is required to do so under the *Alberta Energy Regulator Rules of Practice* (the “**Rules**”). Subsection 7(2) of the *Rules* provides that the AER may only make a decision on an application without a hearing under the following circumstances:

- (a) the person filing a statement of concern has not demonstrated that the person may be directly and adversely affected by the application,
- (b) the Regulator considers the statement of concern to be frivolous, vexatious or without merit, or
- (c) the Regulator determines the objection raised in the statement of concern has been addressed.

Subsection 34(3) of *REDA* provides that, if a hearing is required on an application, a person who may be directly and adversely affected by the application has a right to be heard at the hearing.

Therefore, the AER is required to hold a hearing when:

- (i) a statement of concern is filed;
- (ii) the statement of concern demonstrates that the filer may be directly and adversely affected by the decision on the application; and
- (iii) the objections raised in the statement of concern have not been addressed.

If those three elements are satisfied, the person who filed the statement of concern must be heard at a hearing concerning the application at issue. In this matter, each of the elements for a hearing and standing has been satisfied. As such, a hearing at which Samson has standing is required.

A. The “Directly and Adversely Affected” Threshold

The words “directly and adversely affect” were considered by the Alberta Court of Appeal in *Dene Tha’ First Nation v. Alberta (Energy and Utilities Board)* (“**Dene Tha’**”).¹ That case concerned the test for standing under the old *Energy Resources Conservation Act*. Clearly, the test for what constitutes a direct and adverse affect under *REDA* and the *Rules* should be the test set out in *Dene Tha’*. In *Dene Tha’*, the direct and adverse affect test was stated to be the following:

The Board correctly stated here that that provision ... has two branches. First is a legal test, and second is a factual one. The legal test asks whether the claim right or interest being asserted

¹ 2005 ABCA 68.

by the person is one known to the law. The second branch asks whether the Board has information which shows that the application before the Board may directly and adversely affect those interests or rights. The second test is factual.²

The test only requires that there may be direct and adverse affects. We submit that the Statement of Concern establishes that Samson will be directly and adversely affected by the Project. Additionally, it is Samson's position that the objections raised have not been addressed in CVRI's Application.

Below, we provide the following submissions on how Samson will be directly and adversely affected by the Project, if approved by the AER. Alternatively, Samson unequivocally passes the low threshold of "may" be directly and adversely affected by the Project.

B. Samson's Rights

Samson has Aboriginal and Treaty rights. Those rights are constitutionally protected under subsection 35(1) of the *Constitution Act, 1982*, which provides that "[t]he existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed". Samson's preliminary identification of specific rights at stake is discussed in detail directly below.

Samson is a signatory of Treaty No. 6, which provides Samson with the following rights:

Her Majesty further agrees with Her said Indians that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting such tracts as may from time to time be required or taken up for settlement, mining, lumbering or other purposes by Her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefore by the said Government.³

During the Treaty No. 6 negotiation, Treaty Commissioner Morris covenanted to the Plains Cree that its way of life would not be interfered in any way.⁴ Additionally, Treaty Commissioner Morris covenanted the following positive Crown obligation:

[The Queen] wished to help you in the days that are to come, we do not want to take away the means of living that you have now, we do not want to tie you down; we want you to have homes of

² *Ibid* at para 10.

³ "Treaty No. 6 between Her Majesty the Queen and the Plain and Wood Cree Indians and other Tribes of Indians at Fort Carlton, Fort Pitt and Battle River with Adhesions", online: Aboriginal Affairs and Northern Development Canada <<http://www.aadnc-aandc.gc.ca>> [emphasis added].

⁴ A. Morris, *The Treaties of Canada of Canada with the Indians of Manitoba and the North-West Territories*, [1880] (Saskatoon: Fifth House Publishers, 1991) at 184.

your own where your children can be taught to raise for themselves food from the mother earth.⁵

In *R v. Sundown* (“**Sundown**”),⁶ the Supreme Court of Canada (“**SCC**”) read the above text in its historical context. Justice Cory, writing for the Court, held that Treaty No. 6 preserved hunting, fishing and trapping rights. He also held that Treaty No. 6 was meant to preserve the signatory First Nation’s traditional way of life. Justice Cory stated the following:

Hunting, fishing and trapping rights were also secured to the Indians. Indeed, it is clear from the record of the negotiations that the guarantee of these rights was essential for the First Nations in their acceptance of the treaty. In *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (1991 (reprint)), Alexander Morris, the Lieutenant Governor in charge of the negotiations, recorded the following exchange. The Chiefs stated, “We want to be at liberty to hunt on any place as usual” (p. 215). Mr. Morris responded as follows (at p. 218):

You want to be at liberty to hunt as before. I told you we did not want to take that means of living from you, you have it the same as before, only this, if a man, whether Indian or Half-breed, had a good field of grain, you would not destroy it with your hunt.

It is clear from the history of the negotiations between Alexander Morris and the First Nations who signed Treaty No. 6 that the government intended to preserve the traditional Indian way of life. Hunting and fishing were of fundamental importance to that way of life.⁷

Treaty No. 6 protects Samson’s right to hunt, trap and fish throughout all of Samson’s Traditional Territory. Samson has occupied, used and have maintained a substantial connection to Samson Territory where members exercise their Treaty rights to fish, hunt, harvest and trap and further their culture and spiritual practices on the lands and waters within Samson Territory, including the area in and around the Rocky Mountain Foothills Region. In particular, Samson exercises the following rights:

- i. hunting and trapping various animals, including big game;
- ii. carrying on Samson’s traditional way of life by maintaining its preferred use sites in and around the Project area;

⁵ *Ibid* at 183.

⁶ [1999] 1 SCR 393.

⁷ *Ibid* at 398 [emphasis in original].

- iii. carrying out a variety of practices, traditions and customs within Samson Territory including specific spiritual, cultural heritage property sites, ceremonial and burial sites in and around the Project Area;
- iv. fishing;
- v. cultivating and harvesting traditional herbs and medicines; and
- vi. habitation sites.

These practices, traditions and customs enumerated above were and remain central to the distinctive culture of Samson and Samson's traditional way of life in both its past and contemporary usage. In fact, yearly ceremonies, hunting and harvesting rights are utilized on a seasonal basis, as well as berry and medicinal plant harvesting.

These practices, traditions and customs were carried out for a variety of purposes:

- i. consumption as food;
- ii. use as clothing;
- iii. use for medicine;
- iv. use for shelter;
- v. use in ceremonies;
- vi. use of the watersheds, airsheds and ecosystem;
- vii. use of Samson Territory;
- viii. use in trade within Samson Territory; and
- ix. use for trade outside the Samson Territory.

Samson's has Treaty No. 6 rights that extend beyond just its written terms. The SCC in *R v Sioui*, [1990] 1 SCR 1025 enunciated that the terms of the Treaty extend beyond the written text of the document and requires an understanding of: (i) the historical, cultural and political context; (ii) oral histories of the Indigenous signatories; and (iii) Indigenous laws. These interpretative requirements were confirmed again by the SCC in its decision of *R v Marshall*, [1999] 3 SCR 356, by stating that simply looking at the written text gives "excessive weight to the concerns and perspective of the British, who held the pen." Accordingly, Samson's perspective is required in order to conduct an assessment of "direct and adverse effects" of the Project on Samson's Treaty rights. An inquiry into Samson's Treaty rights and the Project has not been conducted by either the Crown or CVRI.

Samson's Treaty rights encompasses rights which are incidental to the rights granted by the Treaty, including environmental conservation required to ensure that Samson can continue to

exercise its rights as formerly in Samson Territory.⁸ An oral term of Treaty No. 6 evidencing Samson's incidental right to co-management of its resources within Samson Territory included an agreement between the Nêhiyawak Chiefs and the Crown to a share in the obligation to protect the buffalo, or livelihood, of the Plains Cree peoples.⁹ Samson believes that its concerns regarding potential impacts to Samson's ecosystem and environment are reasonable in light of CVRI's recent project integrity track record. Additionally, Samson Elders acknowledge the spiritual significance of the Rocky Mountain Foothills Region. Thereby, increasing the disturbance area necessarily threatens Samson's ability to maintain its culture and also may cause irreparable damages to cultural heritage sites.

C. *Direct and Adverse Effects on Samson's Rights Resulting from the Project*

The Project is within the core of Samson Territory and within the area that Treaty No. 6 expressly provides hunting, fishing, harvesting and trapping rights to Samson. To this day, Samson's members exercise those rights on a daily basis. The Project is in an area that includes many of Samson's traditional use and ceremonial sites. These sites are evidenced by both the evidence which is provided in these submissions and further evidence which will be provided at a hearing on the application. Based on the significant scope of impacts including cumulative impacts of the Projects, its location within Samson's Territory, and the substantial evidence of direct and adverse impacts already provided herein makes it clear that Samson's Treaty No. 6 rights will be directly and adversely affected. Any determination to the contrary would be inconsistent with the clear submissions made to the AER.

The submissions below provide detailed information on how Samson's rights and interests will be directly and adversely affected. The submissions are based on the extensive interviews of Samson's Elders and knowledge holders and Samson's hunters and harvesters.

Samson's Elders, hunters and harvesters have identified a number of traditional use sites within the Project location. This establishes Samson's extensive connection to the area where the Project is to be constructed and operated. It also establishes that Samson's currently exercises Aboriginal and Treaty rights in the area where the Project is to be constructed and operated. The sites identified include: hunting areas, fishing areas, plant harvesting sites, habitation sites, sacred sites, ceremonial sites, heritage property sites and preferred use sites. Samson Elders are certain about the close and significant ties to the traditional land use sites and land bases of the traditional culture and way of life for Samson's people. The Project will directly and adversely affect Samson's use of these sites.

Below Samson identifies specific impacts to its Aboriginal and Treaty rights.

(i) *Hunting and Trapping*

Hunting is a key aspect of Samson's way of life. Samson members have hunted on throughout Samson Territory since time immemorial and continue to do so today. Samson's Elders and hunters have identified a number of hunting blinds, mineral salt licks, kill sites and game trails within close proximity to the Project. The area the Project will be located is a prime hunting area for Samson members, specifically for grizzly, elk, moose, deer, sheep, rare

⁸ *Simon v. The Queen*, [1985] 2 SCR 387.

⁹ *Supra*, note 4 at 237.

prairie Chickens, grouse, lynx, cougars and wolverines and all other kinds of animals. Upon further study, it is highly likely that game trails will be discovered in the area of the Project. Currently moose is the most commonly hunted game in the area surrounding the Project. Deer and elk are also harvested in the area. Lastly, Samson's has identified a decrease in the Skunk and Beaver population in and around the Project Area in the past few years.

The area surrounding the Project is an excellent wildlife habitat, evidenced by moose, deer, and elk tracks; moose, elk and deer droppings; moose breeding grounds; salt licks; the number of game trails and water holes. Samson has a number of registered trap lines in and around the Project area. The new disturbance of constructing and operating the Project will affect wildlife and wildlife habitat in the area which will have an impact on Samson members' ability to hunt. Specifically, Samson is concerned about water contamination arising from CVRI's activities. Additionally, the Project will disturb wildlife migratory patterns by creating a barrier and causing activity that will cause animals to avoid the area. One contributing factor will be the increased level of noise from the Project. Also, the animal populations depend on this area for natural medicines, such as the elk in the riparian area of the Project Area. Lastly, increase access to the area through clearing of timber areas necessary to construct the Project will increase predatory avenues that will decrease the numbers of game in the area.

Access to traditional food such as moose meat is extremely important to Samson for dietary, social, and cultural reasons. Wild game is far lower in fat and richer in nutrients than store bought options like pork and beef. Continued access to healthy traditional foods is extremely important to Samson members who, as a group, face increasing rates of heart disease, diabetes, and obesity. The ability to harvest traditional food is important socially as it provides youth an opportunity to learn how to hunt and the opportunity to learn associated stories and lessons that pass on Samson's ideals about respect for and reciprocity with animals and the land. Finally, traditional foods are vitally important to Samson's cultural well being as many traditional foods are essential for various ceremonies and feasts.

Construction and operation of the Project will be disruptive to wildlife habitats and will drive game elsewhere. This will have a devastating impact on Samson. Therefore, mitigation measures approved by Samson must be put in place to ensure that the construction and operation of the Project is done in a manner that preserves wildlife, wildlife habitat, and Samson's traditional use of both. The Application must be considered in its present state of affairs, including the presentation population of wildlife and location of wildlife habitats.

(ii) Preferred Use Sites

There is a number of preferred use sites located within the Project area. These sites are important in linking traditional land use areas and are often bordered by other traditional land use sites, like hunting camps and grave sites. Traditional annual trail networks often have considerable cultural and historic importance because they link current users to the paths of their ancestors. Evidence of this can be found along this network including habitation sites, ancestral burial grounds and other artefacts. Samson is concern that its access will be limited, if CVRI's Project is approved.

It is crucial that the location of the Project and all construction activities performed for the Project do not destroy or limit access to these preferred use sites. Any interruption in these routes will severely hinder Samson's members from in engaging in traditional uses and traveling throughout Samson Territory as their ancestors did.

Samson is concerned about the alienation of further Crown land and preferred use sites as its members will have to travel greater distances to hunting, trapping and harvesting sites. Additionally, Samson is concerned about the amount of waterholes drying up in and around the area and the contamination of important water aquifers.

A significant concern in respect of Samson's preferred use sites include impacts to rare medicines found only in this area, including ly-nappohwina, "sneezing power" root, "devil's club" root and medicines coming from the bark of the trees along the riparian areas. As this area is one of the few remaining pristine preferred use area. Samson is concerned about impacts arising from increased levels of dust, contamination of aquifers, increased access and use for development and contamination of the soils. Such impacts would cause direct and adverse affects to Samson and its members.

(iii) Sacred Sites and Cultural Heritage Sites

Samson members also report ceremonial sites within the Project area. The Project area has been used heavily by Aboriginal people for many generations. The heritage sites in the Project area have significant importance to Samson. Of particular importance are the pre-contact sites and traditional use sites which are considered sacred by Samson. Samson members continue to practise ceremonies such as sweats and the Sundance in and around the Project area. Additionally, Samson's Elders have identified a number of Bison Pound sites west of the Project area. This is further evidenced by the fact that the Project area lies within Samson's seasonal round area.

The Elders have identified heritage property sites in and around the Project area. The proposed new Project is merely 25 kilometres from Samson's Small Boy site. This site is particularly important for the intergenerational transfer of Samson's traditional knowledge from its Elders to its youth. Therefore, CVRI activities clearly will cause irreparable harm to Samson's ceremonial sites. Notwithstanding, CVRI's Application fails to identify any measures to avoid and mitigate such irreparable harm. Clearly Samson will be directly and adversely affected by the Project.

The Elders have identified ceremonial sites in and around the Project area. Samson conducts its Sundance ceremony annually in the Spring in and around the Project area. Additionally, Samson conducts "Sweats" annually in the Summer in and around the Project area. Increased disturbance area will clearly directly and adversely affect Samson in exercising these ceremonies.

The Project will have significant impact on the sacred sites within the Project area, and such disturbance will cause irreparable harm. In the event the applications are approved, approval should be based on mitigation measures approved by Samson to minimize the impact of the Project on the historical sites and to ensure that all artefacts and sites found are given proper attention, treatment and consideration and handled according to traditional culture and customs.

(iii) Fishing

Fishing is an important aspect of Samson's way of life. Samson members have fished in the lakes, rivers, and streams throughout Samson Territory since time immemorial and continue to do so today. Jackson and Chance Creek feed into important waterways within Samson Territory relied upon to exercise its Samson's Treaty right to fish. Treaty No. 6 gives Samson

members the right to fish throughout their Samson Territory. Elders and harvesters evidence considered the locations of fish bearing water sources near the Project. The waterways which runs next to the Project area provides a good year-round habitat for a number of fish species, including Speckle Trout, Rainbow Trout, Lake Trout, Brooke Trout and Brown Trout. This demonstrates that the area of the Project will be located is an important fishing area for Samson members.

Access to traditional food such as fish is extremely important to Samson for the reasons mentioned above. Construction and operation of the Project will harm fish and fish habitat. Samson is especially concerned about disruption of fish bearing streams and pollution of water sources. Any such event could have a devastating impact on Samson's ability to fish.

(v) Plant and Medicine Harvesting

As stated above, the Elders and harvesters have identified a number of plant, medicine and cultivation sites within the close proximity of the Project. Samson members use plants found at these sites for a wide range of uses including medicinal, ceremonial, and dietary purposes. Samson's Elders and harvesters have identified numerous medicinal, ceremonial and food plants found in the Project area. Additionally, there are many species of trees in the area and each carries a medicinal substance. Samson is concerned by the increased amount of dust and the impacts to these trees in the Project Area.

Traditional use vegetation has a very high potential to occur in the Project area. The construction of the Project will destroy these plant harvesting sites. One of the most important concerns among the Samson Elders was the impact to medicinal, ceremonial, and food plants in the Project area. Some of these plants were noted as "rare" or "rare elsewhere". Some were noted by Elders as being more abundant in this area and larger in size in some cases. Therefore, Samson is concerned that its members will have to travel greater distances to harvest.

Again, such rare medicines in this area include: ly-nappohwina, "devil's club", sneezing power", bark from the Aspen tree, medicine harvested through the local beaver populations to name a few.

Samson members frequently gather plants by going in groups to an area, often setting up a camp, and then walk around the area gathering. Gathering, thus has a social component which is important to help band members bond and maintain Samson's culture and traditions.

(vi) Habitation Sites

The Elders have identified a number habitation sites within the Project area. Samson's Smallboy camp has 5 dwellings in and around the Project area. Additionally, Smallboy Camp is merely 25 miles away from the Project area. Samson members camp in and around the Project area in order to carry on their practices, traditions and customs within the Project area.

The people living in this area permanently or seasonally or using it for ceremonial purposes will be impacted by the Project. The noise from construction will adversely affect them by driving away wildlife and destroying the aesthetics of the area.

3. Samson's Concerns Have Not Been Addressed

Paragraph 7(2)(c) of the *Rules* provides that the AER may make a decision without a hearing if the AER determines objections made in a statement of concern have been addressed. The objections made by Samson in its Statement of Concern have not been addressed by CVRI. This is made clear by the fact that CVRI has not engaged Samson in respect to the Project. Additionally, CVRI's Application inappropriately relies on a "continued consultation" approach which attempts to apply previously gathered information through other stand-alone projects to its current Project.

In particular, this Statement of Concern raises several informational deficiencies that have not been addressed including impacts on Samson's Aboriginal and Treaty rights. In the absence of a decision to not approve the Project without a hearing based on the compelling evidence of direct and adverse impacts already provided, this information is important to be heard by the AER.

We note the lack of information provided to Samson is inconsistent with the duty of consultation and accommodation because it prevents Samson from meaningfully identify and discuss impacts arising from the Project and mitigation measures. In *Mikisew*, the SCC held:

The duty [to consult] has both informational and response components... This engagement ought to have included the provision of information about the project addressing what the Crown knew to be Mikisew interests and what the Crown anticipated might be the potential adverse impacts on those interests.¹⁰

Similarly, the Court of Appeal for British Columbia in *R v. Sampson* and *R v. Jack* has held that there is an obligation on the Crown to provide full information to First Nations, and the Crown's duty is not fulfilled by simply waiting for First Nations to raise questions which the Crown will then attempt to answer.¹¹

The Crown is relying, to the extent possible, upon CVRI and the AER process to discharge the duty of consultation and accommodation. To date, neither the federal or provincial Crown nor the AER has engaged in dialogue with Samson with the objective of substantially resolving Samson's concerns. Therefore, the obligation to provide Samson full information is by default delegated to CVRI. CVRI has not adequately discharged that obligation.

Despite its limited capacity and resources, Samson is still working to gather information on the direct and adverse affects of the Project. Samson would present such additional evidence at a hearing.

It should also be noted that there are likely a number of additional direct and adverse affects which have not yet been identified because Samson's limited capacity and resources prevent it from engaging in an adequate traditional land use study, Cumulative Impact Assessment study and Socio-Economic Impact Analysis study. These studies are required to realize the

¹⁰ *Mikisew*, supra note 6 at para 64.

¹¹ *R v Sampson* (1995), 131 DLR (4th) 192 at paras 107-109 (BC CA); *R v Jack* (1995), 131 DLR (4th) 165 at para 77 (BC CA).

full extent of the Project's direct and adverse affects on Samson in the current state of affairs and will be provided at a hearing on the application and consider the Application. Nonetheless, the extensive oral evidence allows Samson to meet the direct and adverse affects threshold required by the AER.

4. Conclusion

The information provided above demonstrates the extensive connection Samson has to the area surrounding the Project. Therefore, the granting of the application and the development and operation of the Project will clearly directly and adversely affect Samson's use of its Traditional Territory to exercise its Aboriginal and Treaty rights.

Just like their ancestors, Samson members continue use the area surrounding the Project frequently in order to exercise Aboriginal and Treaty rights. Today, the area is particularly used for hunting, fishing, ceremonial sites and plant harvesting. Hunting in the area surrounding the Project is part of everyday life for many Samson members, and it represents both a traditional activity and a source of subsistence. The Project will inevitably impact wildlife habitat, which will directly and adversely affect Samson hunters, as well as the Samson community at large which is reliant on hunting for nutrition, as well for social and cultural purposes. Samson is concerned about potential breaches that may arise from CVRI's activities resulting in the pollution of important waterways and therefore threatening the wildlife habitat and populations within the Project area.

Plant harvesting is a traditional activity exercised by current Samson members, particularly Elders and children whom the Elders take out on the land to teach about the different plants and their uses. The plants harvested are consumed as food and medicine and used in ceremonies. Samson will be directly and adversely affected physically (in terms of nutrition), socially, and culturally should plant harvesting areas be destroyed by the construction and operation of the Project.

Numerous habitation and sacred sites have been identified in the area surrounding the Project. These sites are a physical part of Samson's history and culture. Harm or destruction of these sites will directly and adversely affect Samson. Elders tell traditional stories and pass on Samson's history, culture, and knowledge at these habitation and sacred sites. The sites are integral parts of the stories and knowledge and are used as a medium through which the traditional stories are told and the traditional knowledge is communicated. It is imperative that these sites be preserved and protected so that the stories and knowledge can be past on to future generations of Samson members.

The construction of the Project will further destroy the surrounding area of traditional land use sites making a new and unfamiliar landscape. Destruction of trails and limiting access to Samson's seasonal round routes will make it difficult to access resource use areas. Furthermore, the loss of familiar game trails, salt licks and water holes will make locating game more difficult and may also force game out of the area surrounding the Project for an indefinite period of time. Traditionally used plants will be destroyed and likely replaced with different or even non-native species through reclamation. Sacred sites will be erased from the landscape or abandoned due to proximity to the Project.

As shown above, the effects of the Project will significantly impact Samson's ability to exercise its Aboriginal and Treaty rights within Samson Territory. Samson will be directly and adversely affected by the Project. Samson's objections to the Project have not been

addressed by CVRI, the Crown, or any other party. CVRI has not offered to put in place appropriate mitigation and accommodation measures. In Samson's view, the inevitable direct and adverse effects it will suffer warrant greater discussion in respect to mitigation and accommodation measures than CVRI has been willing to engage in to date.

Consequently, Samson requests that applications not be approved. In the alternative, Samson requests that the AER hold a hearing at which Samson is granted intervenor status and the direct and adverse effects of the Project on Samson can be addressed. Any decision to approve the Project without a hearing would be both incorrect and unreasonable and thus reviewable at law.

Samson will make written submissions, provide evidence at the hearing, cross-examine CVRI's witnesses and make oral submissions regarding whether the applications should be approved. The evidence Samson will present at the hearing includes:

- a traditional land use report;
- a Socio-Economic Impact Assessment study;
- a Cumulative Impact Assessments study;
- videotaped statements by Samson's Elders on the proposed Project's affect on vegetation and their traditional way of life;
- affidavit or oral testimony by Samson Elders on how the Project will impact the Samson's traditional way of life; and
- a cultural anthropologist report on Samson's heritage property sites and seasonal round routes.

The information submitted for the hearing will further substantiate Samson's position that the approval of the applications and the development and operation of the Project will directly and adversely affect Samson's use of its Territory to exercise its Aboriginal and Treaty rights.

5. Questions of Constitutional Law

Samson intends to raise questions of constitutional law including, but not limited to: (i) does the proposed Project infringe unjustifiably section 35, *Constitution Act, 1982* protected treaty rights; and (ii) has the Crown discharged its duty to act honourably in its dealings with Samson in respect to adverse impacts that may arise from the proposed Project upon the rights guaranteed to Samson pursuant to Treaty 6.

Samson intends to argue that if the Project approved, it will infringe the Aboriginal and Treaty rights of Samson and that infringement is unjustified. Samson intends to argue that the Crown has not acted honourably in its dealings with Samson in respect to Project and that the Crown's duty to consult must be fulfilled regardless of whether the statutory regime precludes the decision-maker from assessing the adequacy of Crown consultation.

Samson intends to further define its questions of constitutional in accordance with section 12 of the *Administrative Procedure and Jurisdiction Act* and Schedule 2 of the *Designation of Constitutional Decision Makers Regulation*.

Samson will submit evidence on its Treaty 6 rights, including both its written and oral terms of the document.

Contact information for Samson is provided below. If the AER has any questions regarding these submissions, please contact Ms. Saddleback.

Norine Saddleback, Consultation Coordinator
Samson First Nation
PO Box 159
Maskwacis, Alberta, Canada
T0C 1N0
Phone 780.585.3793
Fax: 780.585.2700

Regards,

SAMSON CREE NATION

Per:

<original signature removed>

Norine Saddleback
Samson First Nation, Consultation Coordinator

A handwritten signature in cursive script, appearing to be the initials 'for'.

From: [Kurt Borzel](#)
To: [REDACTED]
Cc: sean.carriere@ceaa-acee.gc.ca; lafleur@coalvalley.ca; [Margot Trembath](#); [Jennifer Richards](#)
Subject: Coal Valley Resources Inc. - Robb Trend Project EIA completion.
Date: Monday, August 18, 2014 3:52:47 PM
Attachments: [2014 08 18 ACO response to SCN letter 2014 08 13.pdf](#)

Good afternoon Norine!

Thank you for taking the time to help me with this today. I really appreciate that!

Please find attached a letter from the ACO responding to Councillor Patrick Buffalo's letter of August 13, 2014. I hope this information helps. If Councillor Buffalo or you have further questions, please don't hesitate to contact me.

Warm Regards,

Kurt.

Kurt A Borzel RPFT

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