



Springbank Reservoir Project
Alberta Transportation

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October 22, 2020

Jennifer Howe

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Sent via email to: jennifer.howe@canada.ca

Dear Ms. Howe:

Subject: Technical Review of the Information Request Responses for the Springbank Off-Stream Reservoir Project – Information Request Package 4

Please find enclosed, Alberta Transportation's response submission to IR4-05 from *Information Request Package 4 – Technical Review Round 2 Springbank Off-Stream Reservoir Project* dated March 23, 2020.

Our first submission was filed on July 17, 2020 and contained the responses to IR4-01 to IR4-04. This submission contains the response to IR4-05 and concludes Alberta Transportation's responses to the Agency's Information Request Package 4.

We trust the enclosed is satisfactory. Should you have any questions or concerns regarding the submission, kindly contact me at 780-644-7780, or by email at matthew.hebert@gov.ab.ca.

Sincerely,

<Original Signed>

Matthew Hebert
Executive Director, Transportation Policy
Transportation Services Division
Alberta Transportation

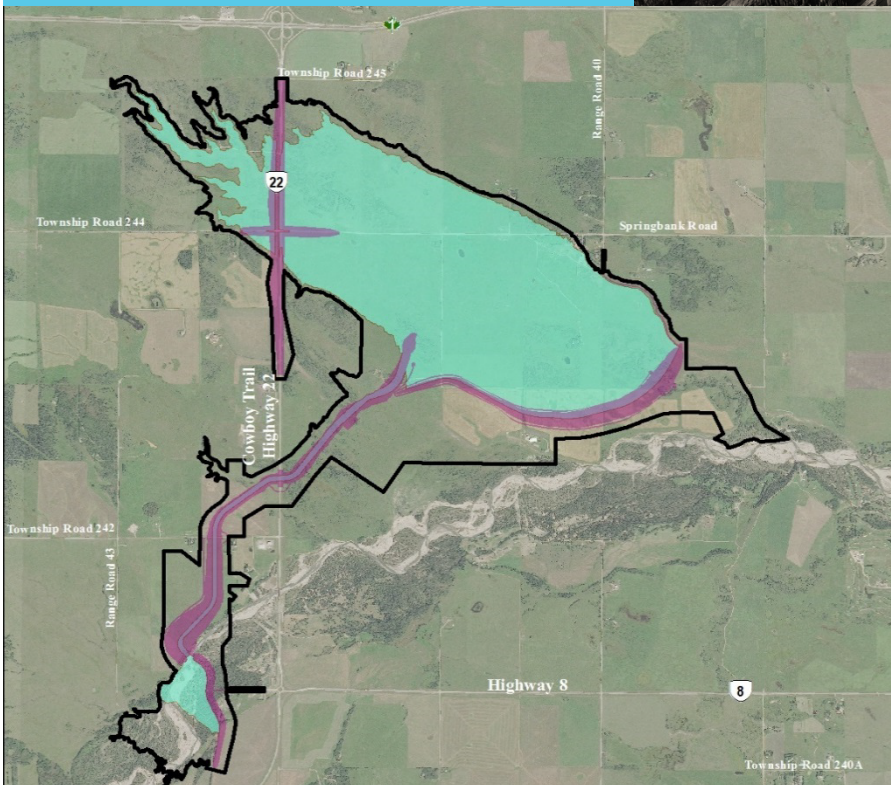
Cc:

Wayne Speller, Golder Associates Ltd.

Laura Friend, Natural Resources Conservation Board

Meghan Jurijew, Alberta Environment and Parks

Alberta Transportation Springbank Off-stream Reservoir Project



Response to
Impact Assessment
Agency of Canada
Information Request
Package 4 - Technical
Review Round 2,
March 23, 2020

Response to
Question 4-05

October 2020

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Abbreviations

AEP	Alberta Environment and Parks
CEAA	Canadian Environmental Assessment Agency
IAAC	Impact Assessment Agency of Canada
IR	Information Requests
LUA	Land Use Area
LUP	Land Use Plan
NRCB	Natural Resources Conservation Board
SSRP	South Saskatchewan Regional Plan
TAG	Technical Advisory Group

Question IR4-05: Project Area Land Use and Access

Sources:

EIS Guidelines Part 2, Section 6.1.9; 6.3.4

EIS Volume 1, Sections 1.3.2.1; 1.3.2.2

Louis Bull Tribe – EIS Review Submission, June 18, 2018

Piikani Nation – Technical Review of EIS, June 15, 2018

Tsuu'tina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS – Annexes – Combined

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments

IAAC Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-09

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

IAAC Annex 1 – Gaps identified in Alberta Transportation's response to IR Round 1, Part 2

Alberta Transportation Responses to Agency Gaps - Package 2

Kainai Nation/Blood Tribe Comments Technical Review Round 2, February 6, 2020

Ermineskin Cree Nation Comments Technical Review Round 2, February 6, 2020

Context and Rationale:

The EIS Guidelines require an assessment of effects of changes to the environment on Indigenous peoples' current use of lands for traditional purposes, including any chances to the alienation of lands from Indigenous traditional use.

In the gaps identified in Alberta Transportation's response to IR2-09, the Agency required an updated Draft Principles for Future Land Use of the Proposed Springbank Off-Stream Reservoir that identified conditions under which Indigenous land use would be permitted and any measures or commitments by Alberta Transportation and/or Alberta Environment and Parks, to promote, enhance, or ensure Indigenous land use.

In response to gap IR2-09, Alberta Transportation provided updated draft principles for land use, which noted that secondary uses of the project area would be determined after engagement with First Nations and stakeholders and secondary use for the exercise of rights "may" be considered a priority. Commitments within the document do not provide certainty for continued Indigenous use of the area.

Additionally, the document notes that traditional activities, including the exercise of treaty rights such as hunting, will be allowed as a secondary use. In the February 2020 Technical Advisory Group Meeting, it was identified that use for hunting conflicts with other uses for safety reasons.

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It is important for the Agency to understand how Alberta Transportation/Alberta Environment and Parks intend to manage the land use of the project area to understand effects to Indigenous people's current use of the lands for traditional purposes.

Information Requests:

- a) Describe the principles that Alberta Transportation/Alberta Environment and Parks will use to prioritize secondary land uses, and how competing land uses will be managed.**
- b) Describe how land use will be managed to support current use of lands for traditional purposes and the exercise of rights.**
- c) Should the project area be managed in a way that does not support certain current land uses, identify other mechanisms available for the Government of Alberta to enhance or protect this use elsewhere.**
- d) Describe commitments and opportunities for Indigenous groups to participate in decisions related to the management of the land.**
- e) Discuss related recommendations from Indigenous groups.**

Response IR4-05

- a) Alberta Transportation has outlined the principles that will be used to determine and prioritize future uses of the Land Use Area (LUA) in the *Updated Draft Guiding Principles and Direction for Future Land Use* (see Appendix 5-1). These principles are based on feedback from First Nations to guide the Government of Alberta in future land use planning discussions with First Nations and stakeholders. If the Project is approved and the land is acquired by the Crown, Alberta Environment and Parks (AEP) will continue to engage with First Nations and stakeholders in the development of a final Land Use Plan (LUP) based on these principles.

The Government of Alberta recognizes that Section 35 of the *Constitution Act, 1982*, recognizes and affirms "the existing aboriginal and treaty rights of the aboriginal peoples of Canada" and has committed to consult with First Nations before making land-use decisions that may adversely impact Treaty rights and traditional uses. First Nation member's land use is supported by the *Updated Draft Guiding Principles and Direction for Future Land Use*, specifically:

- First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities, will be supported in the LUA.

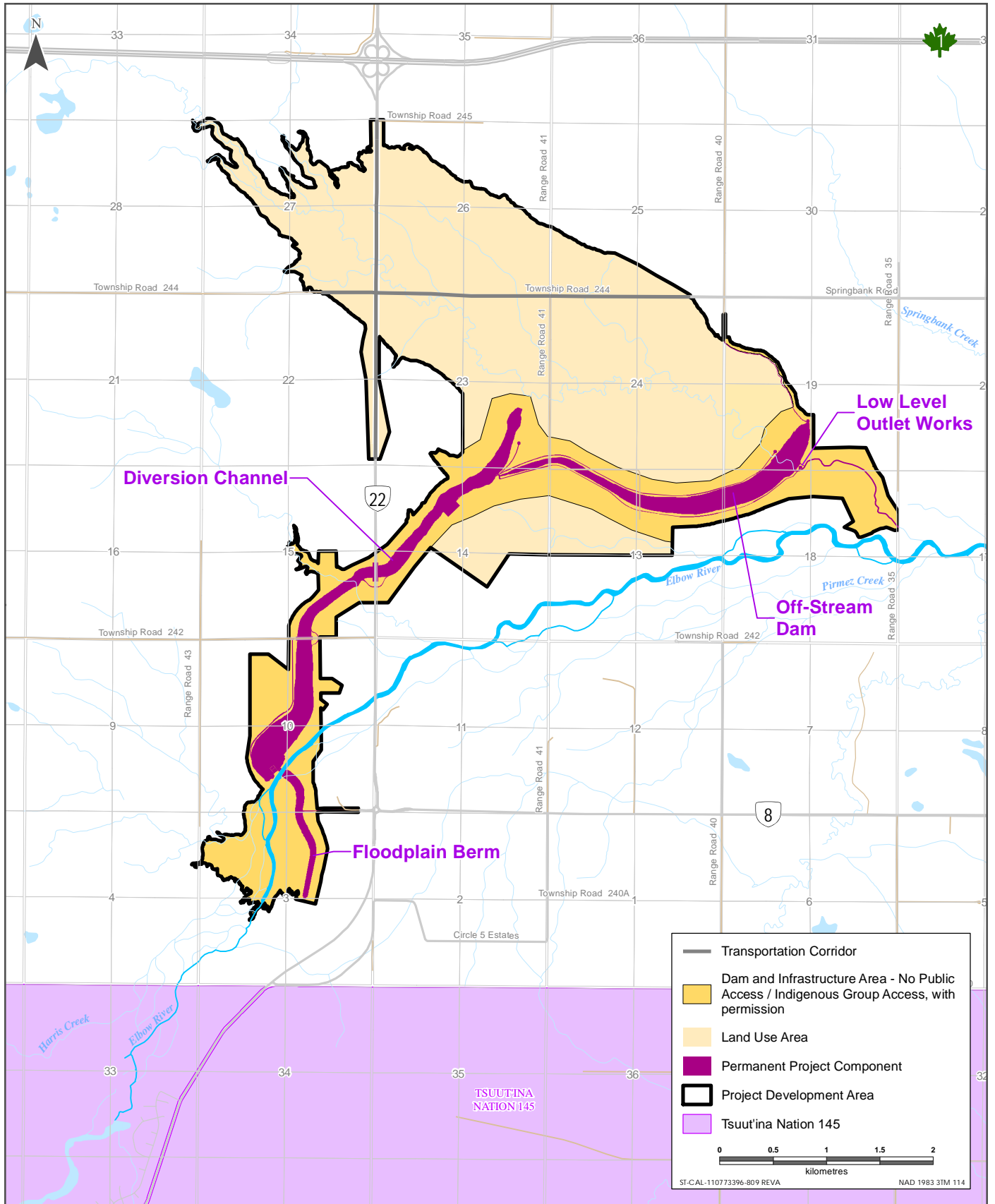
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- The Government of Alberta will create a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and make recommendations to support the exercise of Treaty rights and traditional uses in the LUA.
- The Government of Alberta will work with First Nations to identify a portion of land near the LUA that can be used by First Nations as a staging area (e.g., parking, setting up temporary campsites) or for activities, such as cultural ceremonies, transmittal of traditional knowledge to the youth, traditional activities. The staging area would be accessible to all First Nations engaged on the Project throughout the year except during the flood season when access to the area may be prohibited for safety reasons.

Other uses and activities will be considered where they align and are compatible with the overarching management intent of flood mitigation, First Nation traditional use and the Guiding Principles:

- Safety is paramount in any decisions that allow for access onto the Project lands. Restrictions on some or all land uses will be issued during specified periods of the year, as required, to reduce risks to safety and property from flooding.
- There will be no access permitted on or across the Project infrastructure at any time or for any purpose (see Figure 5-1, dark pink areas). Project infrastructure includes the diversion structure on Elbow River, diversion channel, off-stream dam, emergency spillway and outlet channel to the Elbow River.
- Use of the lands by First Nations will be a priority outside of flood and post-flood recovery periods to support First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities.
- Non-motorized recreational access (e.g., hiking, biking or cross-country skiing) will be permitted in some areas of the LUA, in accordance with approved land use.
- Access for specific purposes such as grazing will be used as a tool to manage and maintain the grassland landscape in the LUA.
- No non-flood related permanent or temporary infrastructure will be permitted in the reservoir.
- Grazing permits will be issued for pasture land within designated zones, and at certain times after the flood period, where determined by AEP, with input from the First Nation Land Use Advisory Committee (described further in b.) Grazing permits will be issued on an as required basis; it may not be necessary to graze the reservoir every year. Grazing leases will not be contemplated.

Alberta Transportation recognizes that some land uses are competing uses and commits to exploring various management approaches to ensure safety of all users in the LUA (see Table 5-1).



Sources: Base Data - Government of Canada. Thematic Data - Government of Alberta

Land Use Area within the PDA



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Table 5-1 Competing Land Uses and Proposed Mitigation Measures

Competing Land Uses	Proposed Mitigation
Access to the LUA for secondary uses restricted during specified periods of the year	<p>Access to the LUA for all secondary uses will be prohibited during the flood season each year to ensure the safety of all individuals.</p> <p>There may be additional periods where access may be prohibited, determined by the operator (e.g., maintenance activities). The communication plan will include a process for communicating when access is prohibited beyond the standard restricted access flood period.</p>
Grazing and traditional plant harvesting	<p>The Government of Alberta will identify the locations of traditional plant harvesting through the First Nation Land Use Advisory Committee and will not install temporary grazing sites on or near these locations to the extent practicable.</p> <p>Alberta Transportation has committed to notifying Indigenous groups about Project activities and schedules, including provision of Project maps and discussing key traditional plant harvesting periods.</p> <p>Alberta Transportation has committed to providing opportunities for plant harvesting or relocating medicinal and ceremonial plants prior to construction.</p>
Recreational users and treaty right to hunt for food	<p>Alberta Transportation will install signage at the entry points into the LUA to the public that there may be First Nation individuals exercising their Treaty rights to hunt for food. Signage will state that weapons may be present.</p> <p>The contact information of the Community Liaison will be added on all signage.</p> <p>Alberta Transportation will seek feedback on the preferred timing for hunting through the First Nation Land Use Advisory Committee prior to construction.</p> <p>Signage will include a request to keep noise levels at a minimum to avoid disturbing wildlife and human experience on the land.</p>
Recreational users and traditional practices other than hunting	<p>Alberta Transportation will install signage at the entry points into the LUA identifying to the public that there may be First Nation individuals exercising their Treaty rights.</p> <p>The contact information of the Community Liaison will be added on all signage.</p> <p>Signage will include a request to keep noise levels at a minimum to avoid disturbing wildlife and human experience on the land.</p>
Treaty right to hunt for food; Ceremonies or enjoyment of the land by First Nations	<p>Alberta Transportation has committed to maintaining access to identified current use sites (located outside the designated construction and Project development area) during construction and operations, including for hunting and fishing and advising Indigenous groups on post-construction land access.</p> <p>The Government of Alberta will identify a portion of land near the LUA that can be used by First Nations as a staging area.</p> <p>Alberta Transportation will seek feedback on the preferred timing for hunting through the First Nations Land Use Advisory Committee prior to construction.</p> <p>Signage will include a request to keep noise levels at a minimum to avoid disturbing wildlife and human experience on the land.</p>

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Alberta Transportation will appoint a Community Liaison (a representative from Alberta Transportation during construction and from AEP during operations) who will serve as point of contact with stakeholders; they will primarily communicate through the local representation for Indigenous groups, community associations, local businesses, government administration and local government officials. The Community Liaison would work with Indigenous groups in identifying preferred means of communication for each Indigenous group (e.g., phone call, emails, letters) for receiving information. Information from the First Nations Land Use Advisory Committee will be provided to the Community Liaison.

A communication plan will be developed prior to Project construction that outlines the means and procedures for communicating Project information during the different phases of the Project. The communication plan will be developed with information provided by Indigenous groups and finalized prior to construction of the Project. The plan will be in place prior to construction.

- b) Alberta Transportation has been engaging with First Nations to establish a planning process for the LUA that will allow First Nations to identify the access conditions that will support their ability to undertake the exercise of Treaty rights and traditional uses in the LUA within the context of the primary use of the Project area.

Land use planning principles will be implemented using the land-management tools available to the Government of Alberta, in accordance with legislation applicable at the relevant time. It is the intention that the final LUP will be developed with meaningful consideration of input received from First Nations and other users. The Government of Alberta is interested in using an iterative and collaborative approach in the development of the LUP. This process is ongoing, and the final LUP is contingent on further input from First Nations and stakeholders.

Through engagement with First Nations, Alberta Transportation has identified key issues that the LUP will address:

- communications
- access
- clarifying appropriate land use practices
- community liaison/conflict resolution

The Government of Alberta will work with First Nations to develop a First Nation Land Use Advisory Committee to guide and facilitate the implementation of the principles of the LUP and support the exercise of Treaty rights and traditional uses in the LUA. It is anticipated that the format, structure, and mandate for this Advisory Committee will be defined in a formal Terms of Reference to be developed with participating First Nations. The roles and responsibilities for the First Nation Land Use Advisory Committee may include the following:

- AEP will be represented by the Project Operations Manager.

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- Participating First Nations will be expected to nominate individuals to represent their interests.
 - The proposed AEP Community Liaison will participate in the Advisory Committee.
 - AEP will be responsible for convening meetings and developing meeting agendas with input from participating First Nations.
 - Frequency of meetings will be determined by consensus of participants; it is expected to be less than once per year.
 - The Advisory Committee will strive for respectful and inclusive dialogue aimed at creative problem-solving.
 - A collaborative approach to disagreements about land use will be used.
 - AEP will produce an annual report on the Advisory Committee proceedings to be distributed to all participating First Nations.
 - Individual First Nation representatives will be expected to report back to their leadership on the results of Advisory Committee activities.
 - Advisory Committee proceedings will respect Indigenous protocols.
- c) The Project will result in the conversion of private land to Crown land which will allow for future use by First Nations and stakeholders. Consequently, the Project is anticipated to enhance opportunities for First Nations to exercise Treaty rights and traditional uses. Overall, AEP manages public lands across Alberta which allow for various activities including hunting, public recreation and grazing. Alberta's *Public Lands Act* protects the current uses of its public land through designations and management structures currently in place across the province. Through the Regional Land Use Framework, the Government of Alberta works to achieve a meaningful balance that respects the constitutionally protected rights of Aboriginal peoples and the interests of all Albertans. Regional Land Use Plans, such as the South Saskatchewan Regional Plan (SSRP), provide mechanisms for First Nations to contribute to decision-making processes, such as Indigenous sub-tables which seek to address current and potential land-use conflicts in a manner supportive of the exercise of Treaty rights and traditional uses. As noted in the response to b., the First Nations Land Use Advisory Committee will be developed for the Project with input from First Nations and AEP.
- d) Information regarding future use of the LUA was introduced in the Environmental Impact Assessment (March 2018), and Alberta Transportation's response to Round 1 Canadian Environmental Assessment Agency (CEAA) Information Requests (IR) (June 2019). On October 21, 2019, a letter was sent to each First Nation notifying them that draft guidelines were forthcoming. First Nations were provided with the draft *Guiding Principles* document in November 2019, and a copy was included in Alberta Transportation's response to CEAA Conformity IRs (December 2019). In the October and November 2019 correspondence, Alberta Transportation requested the opportunity to meet with each First Nation regarding future land uses. Alberta Transportation has met with Kainai First Nation, Piikani Nation, Siksika

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Nation, Stoney Nakoda Nations, Ermineskin Cree Nation, Louis Bull Tribe, Montana First Nation, and Samson Cree Nation separately to discuss the draft *Guiding Principles* and request preliminary feedback. Feedback was provided during each meeting and some First Nations stated that they will provide written feedback.

Alberta Transportation continues to offer to meet with the First Nations to advance discussions on future land uses and anticipates further feedback in future meetings and when the written responses are provided. Alberta Transportation has considered all feedback received to date resulting in the *Updated Draft Guiding Principles and Direction for Future Land Use*, which will guide the development of a draft LUP for the LUA in a manner compatible with the exercise of Treaty rights and traditional uses identified by First Nations. AEP will continue to meet with First Nations to develop the LUP that implements these principles.

To date, Alberta Transportation has made the following commitments regarding future land uses and involvement of Indigenous groups in the development of monitoring, revegetation and land use plans:

- Alberta Transportation will engage with First Nations and stakeholders to develop a land-use plan for the LUA.
- Alberta Transportation will discuss possible monitoring opportunities (e.g., wildlife remote camera during and post construction, historical resources during construction) with Indigenous groups.
- Following construction, areas disturbed by construction that are not required for operation and maintenance will be topsoiled and seeded with a native custom seed mix to meet AEP reclamation requirements. Alterations will be made to the Alberta Transportation custom native seed mix in consideration of site-specific conditions of vegetation communities and input from Indigenous groups as to species that are culturally important to them. Reclamation details will be discussed in meetings with Indigenous groups and the resultant seed mixes will be communicated with AEP.
- Temporary workspaces will be reclaimed incorporating input from Indigenous groups on native species to be used.
- The final number and locations of remote wildlife monitoring cameras will be confirmed following discussions with regulators and Indigenous groups.
- Alberta Transportation will maintain access to identified current use sites (located outside of the designated construction and Project development area) during construction and operations, and Alberta Transportation will advise Indigenous groups on post-construction land access management.
- Alberta Transportation will notify Indigenous groups regarding Project activities and schedules, including provision of Project maps and identify key traditional harvesting periods.

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- Alberta Transportation will provide opportunities for Indigenous groups to conduct field visits prior to construction to identify priority areas for harvest of traditional plants as well as allow for harvesting of medicinal and culturally significant traditional use plants prior to clearing.
- e) To date, Alberta Transportation has met separately with Kainai First Nation, Piikani Nation, Siksika Nation, Stoney Nakoda Nations, Tsuut'ina Nation, Ermineskin Cree Nation, Louis Bull Tribe, Montana First Nation, and Samson Cree Nation to discuss future land uses. Alberta Transportation has not received any formal recommendations to date but received preliminary feedback during these meetings. Kainai First Nation and Louis Bull Tribe have provided written feedback. Siksika Nation, Ermineskin Cree Nation, and Samson Cree Nation have committed to providing Alberta Transportation written feedback on the draft *Guiding Principles* document. Kainai First Nation and Ermineskin Cree First Nation provided written feedback on the LUA to Impact Assessment Agency of Canada (IAAC) on February 6, 2020, prior to the Technical Advisory Group (TAG) meetings. Additionally, Kainai First Nation, Ermineskin Cree Nation and Siksika Nation offered comment on the LUA during the TAG meetings on February 24 and 25, 2020.

With respect to specific recommendations, during the TAG meetings, some Indigenous groups expressed interest in clarifying which areas will be accessible and what times of the year access will be permitted. Access by Indigenous groups during construction was also discussed. It was noted that the displacement during the restricted activity periods may limit Indigenous groups' cultural use of the land. Siksika Nation also recommended that Alberta Transportation implement cultural awareness training prior to construction that would include visiting the areas on the land (e.g., physical and ceremonial) that are important to Indigenous groups. The Indigenous groups that attended the TAG meeting all agreed that, as a relationship-building exercise, Indigenous groups should meet to discuss the LUA.

Alberta Transportation, has proposed that Indigenous cultural awareness training, developed and delivered by Indigenous groups, be included in the Indigenous Participation Plan. As discussed, Alberta Transportation proposes to develop a First Nations Land Use Advisory Committee with AEP. Alberta Transportation values the feedback received during the TAG meeting and plans to offer further meetings with Indigenous groups to continue land use discussions throughout 2020.

On April 1, 2020, Tsuut'ina Nation advised the Natural Resources Conservation Board (NRCB), AEP and the IAAC that they were withdrawing all objections to the Project and would not be participating in further regulatory processes. Alberta Transportation will continue to provide Tsuut'ina Nation with Project updates and will offer to discuss land use access and Indigenous participation with Tsuut'ina Nation.

The information packages provided to First Nations referred to in response to d. included a summary of some land use planning tools and strategies used in other jurisdictions to be considered as examples and prompt discussions. The First Nations that Alberta Transportation

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has met with to date have agreed to review these planning tools and strategies and advise whether elements may be useful to consider for the LUA. Preliminary feedback received from the First Nations (during meetings including the TAG Meeting held on February 24 and 25, 2020) and Alberta Transportation's response are listed in Table 5-2.

Alberta Transportation intends for the land use planning process to be the result of meaningful engagement and last through the life of the Project.

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Table 5-2 Indigenous Group Feedback on the LUP

Indigenous Group	Initial Feedback	Alberta Transportation Response
Blood Tribe/Kainai First Nation	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • A request was received that First Nations' use be made a mandatory priority. • There was a concern that allowing recreational uses (e.g., hiking, biking, cross-country skiing) conflicts with allowing First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities. • There were concerns that allowing all Treaty users access to the site will result in overcrowding. Request was received that land use be granted to Kainai First Nation for their sole use. • There were concerns about the state of the Project area following a major flood, and whether it will be usable for the practice of Treaty rights and traditional uses following a major flood. • Suggestion was received that using existing forums, like the SSRP First Nations' sub-table as a forum to manage First Nation access and use of the LUA, would not be appropriate. Instead, a co-management board was recommended. 	<ul style="list-style-type: none"> • Conflicting secondary uses and mitigation measures to minimize impacts are provided in Table 5-1. • First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities, will be supported in the LUA. • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA. The Advisory Committee will discuss and propose a solution of potential overcrowding and managing First Nation access. • AEP will monitor reservoir conditions following a flood and will mitigate as required. Draft monitoring and mitigation plans were provided in the Round 1 NRCB and AEP response package and sent to Indigenous groups in April 2020 for their review. Alberta Transportation has committed to meeting and discussing these draft plans with Indigenous groups to obtain feedback.
Piikani Nation	<ul style="list-style-type: none"> • Positive reactions were received to the increase of land area available for the exercise of Treaty rights and traditional uses. • Suggestion was received to use the SSRP First Nations' sub-table as a forum to manage First Nation access and use of the LUA. 	<ul style="list-style-type: none"> • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA.

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Indigenous Group	Initial Feedback	Alberta Transportation Response
Siksika Nation	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • Suggestions were received that different First Nation uses could occur at different times of the year; for example, hunting occurs at a different time than when youth are taken out to the area. 	<ul style="list-style-type: none"> • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA.
Stoney Nakoda Nations	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • There were concerns that the land use principles did not discuss wildlife connectivity. • Suggestion was received to use the SSRP First Nations' sub-table. 	<ul style="list-style-type: none"> • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA. • Wildlife connectivity is being addressed outside of the land use planning discussions. Alberta Transportation will be installing wildlife friendly fencing around the perimeter of the Project development area, which will allow wildlife (i.e. ungulates) to move through the Project area.
Ermineskin Cree Nation	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • A request was received that First Nations' use be made a mandatory priority. • There was a concern that allowing recreational uses (e.g., hiking, biking, cross-country skiing) would conflict with allowing First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities. • There were concerns that allowing all Treaty users access to the site will result in overcrowding. Request received for land use be granted to Ermineskin Cree Nation for their sole use. 	<ul style="list-style-type: none"> • Conflicting secondary uses and mitigation measures to minimize impacts are provided in Table 5-1. • First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities, will be supported in the LUA. • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA. The Advisory Committee would discuss and propose a solution of potential overcrowding and managing First Nations access.

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Table 5-2 Indigenous Group Feedback on the LUP

Indigenous Group	Initial Feedback	Alberta Transportation Response
Ermineskin Cree Nation (cont'd)	<ul style="list-style-type: none"> • There were concerns about the state of the Project area following a major flood, and whether it will be usable for the practice of Treaty rights and traditional uses following a major flood. • A suggestion was received for using a liaison to communicate with Ermineskin Cree Nation. • A suggestion was received that using existing forums, like the SSRP First Nations' sub-table as a forum to manage First Nation access and use of the LUA, would not be appropriate. Instead, there was a recommendation for a co-management board. 	<ul style="list-style-type: none"> • The Government of Alberta will take reasonable steps post-flood, in compliance and consistent with the regulatory approvals for the Project, to ensure that revegetation is achieved in a timely manner so that secondary uses can resume. • Alberta Transportation provided Ermineskin Cree Nation a detailed response about sediment in the reservoir following a flood and discussed this during the November 18, 2019 meeting. • Alberta Transportation will monitor reservoir conditions following a flood and will mitigate as required. Draft monitoring and mitigation plans were provided in the Round 1 NRCB and AEP response package and sent to Indigenous groups between April and May 2020 for their review. Alberta Transportation has committed to meeting and discussing these draft plans with Indigenous groups to obtain feedback.
Louis Bull Tribe	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • Request was received that First Nations' use be made a priority and is encouraged, not only allowed (as stated in Section 2.A of the Draft Guiding Principles provided November 2019). • A Request was received that access to the LUA be for Indigenous use only. • There was a concern that allowing recreational uses (e.g., hiking, biking, cross-country skiing) would conflict with allowing First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities. 	<ul style="list-style-type: none"> • Conflicting secondary uses and mitigation measures to minimize impacts are provided in Table 5-1. • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee who will meet on a regular basis to discuss Treaty rights and traditional uses.

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Table 5-2 Indigenous Group Feedback on the LUP

Indigenous Group	Initial Feedback	Alberta Transportation Response
Montana First Nation	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • A suggestion was received to using the SSRP First Nations' sub-table as a forum to manage First Nation access and use of the LUA. 	<ul style="list-style-type: none"> • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA.
Samson Cree Nation	<ul style="list-style-type: none"> • There were positive reactions to the increase of land area available for the exercise of Treaty rights and traditional uses. • A suggestion was received to use the SSRP First Nations' sub-table as a forum to manage First Nation access and use of the LUA. • A suggestion was received to look at co-operative management plans as a model for as managing First Nation access and use of the LUA (e.g., the Castle Co-operative Management Plan). 	<ul style="list-style-type: none"> • Alberta Transportation is proposing creating a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA.

**APPENDIX 5-1 UPDATED DRAFT GUIDING PRINCIPLES AND
DIRECTION FOR FUTURE LAND USE**

**ALBERTA TRANSPORTATION SPRINGBANK OFF-STREAM RESERVOIR PROJECT
RESPONSE TO IMPACT ASSESSMENT AGENCY OF CANADA INFORMATION REQUEST PACKAGE 4 -
TECHNICAL REVIEW ROUND 2, MARCH 23, 2020**

UPDATED DRAFT GUIDING PRINCIPLES AND DIRECTION FOR FUTURE LAND USE
PROPOSED SPRINGBANK OFF-STREAM RESERVOIR PROJECT

Introduction

The Elbow River flood of 2013 was a devastating event both socially and economically for many Albertans. The flood tragically resulted in 5 deaths and forced the evacuation of over 80,000 people (one of the largest evacuations in Canadian history). Billions of dollars were spent on recovery and lost following this significant event.

For reference, the 2013 flood was the most significant flood of record in Alberta on the Elbow River and had an estimated peak flow of 1,240 cubic meters per second (m³/s). Statistically, the 2013 flood has been estimated to be slightly greater than a 1:200-year flood. To put it another way, there is 0.5% chance of a similar flood occurring each year on the Elbow River.

Following the flood of 2013, the Government of Alberta undertook an assessment of mitigation strategies that could be used to reduce the risk of future floods. Communities in Calgary along the Bow and Elbow rivers were among the most heavily impacted. The proposed Springbank Off-Stream Reservoir (SR1 or the Project) was identified as the preferred option to mitigate flooding upstream of Calgary along the Elbow River.

The Project is located 15 km west of Calgary in Rocky View County in the Province of Alberta (Township 24, Range 04/03 W5M) and is predominately situated on private land that has been used for ranching and agriculture since the late 1800s. There are also several acreages and commercial developments within the Project area. There is a small portion of the Project that is currently located on Crown land; it includes rights-of-way (ROWs) for roads and road allowances and the bed and banks of the Elbow River and its tributaries. The Project consists of the construction and operation of an off-stream reservoir to divert and retain a portion of Elbow River flows during a flood and release the water in a controlled manner after the threat of flood has subsided. The reservoir will not hold a permanent pool of water.

The primary Project components are:

1. a diversion structure on the main channel and floodplain of the Elbow River
2. a diversion channel to transport diverted floodwater into the reservoir
3. an earthen dam to temporarily contain the diverted floodwater
4. a low-level outlet in the dam to return retained water back to the river after the flood subsides through an existing unnamed creek channel.

The off-stream reservoir will work in tandem with the Glenmore Reservoir to limit flood flows downstream of the Glenmore Reservoir in Calgary to less than 160 m³/s, for floods up to the design flood (2013 flood), or equivalent. The Project has the capacity to divert up to 600 m³/s of flow from the Elbow River to the off-stream reservoir, which can hold 77,771,000 m³ of water as active flood storage. There are no plans to expand the Project or to decommission it.

The construction and management of a dry reservoir presents a unique opportunity with the conversion of private land to Crown land. If the proposed project is approved, upon commissioning of the Springbank dam and diversion, Alberta Environment and Parks will be responsible for management and operation of the Project infrastructure, and management of the associated Crown land.

This land is currently not accessible to the public without permission from the landowners. This document provides direction around government intentions related to future land use if the Project proceeds.

Alberta Transportation is seeking regulatory approval of SR1, which will require the Crown to acquire private land for the Project. Alberta Transportation has discussed and will continue to discuss desired future land use and access with First Nation groups and other stakeholders. This document is intended to provide a framework for the Government of Alberta in the implementation of future land use of the SR1 Land Use Area (LUA). The Land Use Plan will outline the details of proposed land uses for the LUA and will be based upon the principles outlined in this document. Upon approval of the Project and acquisition of the lands, the land use planning process will be continued by Alberta Environment and Parks who will conduct further consultation to finalize and implement the Land Use Plan based on the principles and commitments made in this document.

Guiding Principles for Future Land Use

1. The primary and overarching use of the Crown land within the project footprint is for flood mitigation. No activities may limit or otherwise hinder the ability of the reservoir to fill to full supply level for the purpose of flood mitigation within the watershed.
2. The reservoir may fill at any point in the year without warning, including during periods below peak floods and may be inaccessible for an undetermined amount of time, post release, due to silt and debris buildup or other unintended consequences requiring monitoring and mitigation.
3. The Government of Alberta will take reasonable steps post flood, in compliance and consistent with the regulatory approvals for the Project, to ensure that the reservoir is safe so that secondary uses can resume.
4. Compensation will not be provided by the Crown for any impacts to land use activities resulting from operation of the Project infrastructure.
5. Safety is paramount in any decisions that allow for access onto the project lands. Restrictions on some or all land uses will be issued during specified periods of the year, as required, to reduce risks to safety and property from flooding.
6. There will be no access permitted on or across the Project infrastructure at any time or for any purpose (see IR 4-05, Figure 5-1, dark pink areas). Project infrastructure includes the diversion structure on Elbow River, diversion channel, off-stream dam, emergency spillway and outlet channel to the Elbow River.
7. Use of the lands by First Nations will be a priority outside of flood and post-flood recovery periods in order to support First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities.
8. Non-motorized recreational access (e.g. hiking, biking or cross-country skiing) will be permitted in some areas of the LUA, in accordance with approved land uses.
9. Access for specific purposes such as grazing will be used as a tool to manage and maintain the grassland landscape in the LUA.

10. No non-flood related permanent or temporary infrastructure will be permitted in the reservoir.
11. The final Land Use Plan will be developed with meaningful consideration of input received from First Nations. The Government of Alberta will work with First Nations to develop a First Nations Land Use Advisory Committee to guide and facilitate the implementation of the principles of the Land Use Plan and support the exercise of Treaty rights and traditional uses in the LUA.
12. Operations of the LUA should include opportunities for meaningful First Nation participation and monitoring activities.

Direction for Future Land Use Planning

These land use planning principles will be implemented using the land management tools available to the Government of Alberta, in accordance with legislation applicable at the relevant time.

The purpose of conducting engagement is to inform and gather input to be incorporated in the development of future land use plans for the LUA. Land use planning principles will be implemented using the land-management tools available to the Government of Alberta, in accordance with legislation applicable at the relevant time. It is the intention that the final Land Use Plan will be developed with meaningful consideration of input received from First Nations and other users. The Government of Alberta is interested in using an iterative and collaborative approach in the development of the Land Use Plan.

1. Primary Use - Flood mitigation

Outcome: The land use is managed for the primary purpose of providing temporary storage of water for flood mitigation to communities and infrastructure downstream of SR1.

Strategies:

1. SR1 will be used to divert and store water from the Elbow River for the purpose of flood mitigation.
2. The timing and volume of water both stored and released from the SR1 reservoir will be coordinated with the larger water management system in the watershed.
3. AEP will be responsible for ongoing operation, management and maintenance of the reservoir footprint and flood management infrastructure.
4. AEP will engage with First Nations, local landowners, communities and other stakeholders as per the facilities communication plan.
5. The Government of Alberta will take reasonable steps post flood in compliance and consistent with the regulatory approvals for the Project, so that the reservoir area is safe and secondary uses can resume.

2. Secondary Uses

In light of the Primary Use, the safety of anyone with access or land users will be an overriding factor in permitting secondary uses.

A. First Nation Use

Outcome: First Nation members' land use is supported by access and use of land is informed by the "Guiding Principles" outlined in this document.

Strategies:

1. First Nations' exercise of Treaty rights such as hunting, as well as First Nation's traditional activities, will be supported in the LUA.
2. The Government of Alberta will create a First Nations Land Use Advisory Committee which will meet on a regular basis to guide and facilitate implementation of the principles of the Land Use Plan and make recommendations to support the exercise of Treaty rights and traditional uses in the LUA.
3. The Government of Alberta will work with First Nations to identify a portion of land near the LUA that can be used by First Nations as a staging area (e.g. parking, setting up temporary campsites) or for activities, such as cultural ceremonies, transmittal of traditional knowledge to the youth, traditional activities. The staging area would be accessible to all First Nations engaged on the Project throughout the year except during the flood season when access to the area may be prohibited for safety reasons.

B. Other activities

Outcome: Other uses and activities will be considered where they align and are compatible with the overarching management intent of flood mitigation, First Nation traditional use and, the Guiding Principles outlined in this document.

Strategies:

4. Vegetation and habitat management as well as any post-flood reclamation actions will be in compliance and consistent with the regulatory approvals for the Project. Opportunities for Indigenous participation in these activities are addressed in the project's draft Indigenous Participation Plan.
5. In general, only uses and activities that have a minimal impact on the land will be allowed. Therefore, the availability of surface dispositions will be limited.
6. Grazing permits will be issued for pasture land within designated zones, and at certain times after the flood period, where determined by AEP, with input from the First Nation Land Use Advisory Committee. Grazing permits will be issued on an as required basis; it may not be necessary to graze the reservoir every year. Grazing leases will not be contemplated.
7. Non-motorized recreational access (e.g. hiking, biking or cross country skiing) will be permitted in some areas of the LUA, in accordance with approved land uses.

Land Use Planning Process

During the Project application period, Alberta Transportation will continue to explore opportunities and desired uses of the lands should the lands be acquired by the Crown and SR1 be approved. This will include meetings with First Nations, local landowners and other stakeholders during the engagement process to discuss desired uses.

If the Project is approved and the land is acquired by the Crown, AEP will lead the land use planning process and will engage in further consultation with First Nations and stakeholders to finalize and implement the Land Use Plan consistent with the commitments made in the *Updated Draft Guiding Principles And Direction For Future Land Use*. AEP cannot finalize land use planning until the Project receives all necessary provincial and federal approvals.