



Impact Assessment
Agency of Canada

160 Elgin St., 22nd floor
Ottawa ON K1A 0H3

Agence d'évaluation
d'impact du Canada

160, rue Elgin, 22^e étage
Ottawa ON K1A 0H3

NOTICE OF NON-COMPLIANCE
Impact Assessment Act
Section 126

Date: 27 April, 2022

Alberta Transportation
Province of Alberta
c/o Yvonne Carignan
Director, Water Management
2nd Floor, Twin Atria Building
4999 98 Avenue
Edmonton, Alberta
T6B 2X3

**BY E-MAIL, FOLLOWED BY A HARD COPY SENT BY REGISTERED MAIL WITH
ACKNOWLEDGEMENT OF RECEIPT**

RE: Springbank Off-Stream Reservoir Project – Land Use Plan and relevant conditions

Ms. Carignan:

I, Steven Fraser, am designated as an enforcement officer under the *Impact Assessment Act* (the IAA).

The Minister of Environment and Climate Change issued a decision statement (the Decision Statement) for the Springbank Off-Stream Reservoir Project (the Project) under section 54 of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), in 2021. The proponent of the project is the Province of Alberta. Please note that as per section 184 of the IAA, the Decision Statement for the Project is now considered to be a decision statement issued under the IAA and is subject to the provisions within it.

On February 11, 2022, during a regularly scheduled meeting between representatives from the Province of Alberta, Yvonne Carignan, Mark Svenson, Chad Willms, and the Impact Assessment Agency of Canada (IAAC), Katherine Hess, and Steven Fraser; Mark Svenson disclosed that the Province of Alberta believed themselves to be out of compliance with condition 8.11 of the Decision Statement.

I have reasonable grounds to believe that construction of the Project started prior to February 11, 2022. Furthermore, I have reasonable grounds to believe that as of February 11, 2022, a First Nation Land Use Advisory Committee (Committee) had not yet been established, First



Nations had not been consulted in their participation in the Committee, terms of reference for the Committee had not been co-developed with First Nations, and that IAAC had not received the terms of reference for the Committee.

Other conditions associated with condition 8.11 are subsequently outstanding as well, namely: condition 8.8, including actions to be taken in 8.8.1 through 8.8.4; condition 8.9; and condition 8.14.

Correspondence dated March 18, 2022, from the Province of Alberta to the Compliance Promotion and Enforcement Unit at IAAC, indicates that the Province of Alberta is currently addressing condition 8.11 as well as conditions 8.8, 8.9, and 8.14, and will fulfill outstanding requirements by the end of May 2022.

Based on the alleged facts described above, I have reasonable grounds to believe that, as of February 11, 2022, the Province of Alberta was not in compliance with condition 8.11 of the Decision Statement:

The Proponent shall establish, prior to construction and in consultation with First Nations, and maintain, throughout construction and operation, a First Nation Land Use Advisory Committee (the committee) to support the development and implementation of the plan identified in condition 8.8. When establishing the committee, the Proponent shall consult with each First Nation with respect to whether they wish to participate as members of the committee and shall prioritize the selection of representatives from First Nations who wish to participate as members in the committee. As part of the establishment of the committee, the Proponent shall co-develop Terms of Reference for the committee with First Nations and update the Terms of Reference every 10 years. The Proponent shall provide the completed Terms of Reference to the Agency prior to construction and any update within 30 days of the Terms of Reference being updated. The Terms of Reference shall include:

Specifically, I allege that the Province of Alberta was and continues to not be in compliance with the following requirements of condition 8.11:

- 1) establish a First Nation Land Use Advisory Committee;
- 2) consult each First Nation on their participation in the First Nation Land Use Advisory Committee;
- 3) co-develop terms of reference with First Nations for the First Nation Land Use Advisory Committee; and,
- 4) provide completed terms of reference for the First Nation Land Use Advisory Committee to the Agency prior to construction.

As such, the Province of Alberta has allegedly contravened section 7(3)(b) of the IAA, therefore allegedly committing an offence contrary to section 144(1)(b) of the IAA, punishable on summary conviction and liable, for a first offence to a fine of not more than \$4,000,000 and for any subsequent offence, to a fine of not more than \$8,000,000. Subsection 146(1) further states if an offence of contravening section 7 or subsection 144(1)(b) is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued. Further enforcement actions can and may be issued on any outstanding requirements that are not fulfilled by May 31, 2022.

This notice of non-compliance is not a finding of guilt or civil liability, and is not an administrative action. It alleges non-compliance with the IAA. If, during the future the same non-compliance or additional non-compliance is identified, I or the enforcement officer carrying out the inspection may take further enforcement action.

I am bringing this alleged contravention to your attention in order for you to ensure corrective action.

If you have comments regarding this notice of non-compliance, you may submit comments to the undersigned by no later than May 10, 2022. Your comments will be considered, and where appropriate, a response provided. You will receive future communication relating to this notice of non-compliance by e-mail, followed by a hard copy sent by registered mail.

Any comments that you make, as well as IAAC's response, will be maintained on file with this notice of non-compliance in IAAC's records. Should you require additional information on this matter, please contact me by e-mail at compliance-conformite@iaac-aeic.gc.ca.

Please note that as required by subsection 152 of the IAA, IAAC will publish this notice of non-compliance, and any associated documentation relating to the matter, on IAAC's Compliance Promotion and Enforcement website. <https://www.canada.ca/en/impact-assessment-agency/corporate/compliance-promotion-enforcement.html>

<Original signed by>

Steven J. Fraser
Senior Enforcement Officer
Impact Assessment Agency of Canada

Cc: Alison Keen, Manager, Compliance Promotion and Enforcement Unit
Phil Seeto, Director, Compliance, Enforcement and Follow-Up