

May 31, 2022

Mr. Steven Fraser
Senior Enforcement Officer
Impact Assessment Agency of Canada
160 Elgin St., 22nd Floor
Ottawa, Ontario
K1A 0H3

Dear Mr. Fraser:

Subject: SPRINGBANK OFF-STREAM RESERVOIR PROJECT – NOTICE OF NON-COMPLIANCE RESPONSE TO NOTICE AND COMPLETION OF CONDITIONS

On February 11, 2022, Alberta Transportation disclosed to the Impact Assessment Agency of Canada (IAAC) that according to the wording and definitions in IAAC's Decision Statement, we believed the Springbank Off-stream Reservoir Project (Project) may have been out of compliance with Condition 8.11 of the Decision Statement. Your April 27, 2022 Notice of Non-Compliance (Notice) outlined the alleged *Impact Assessment Act* contravention regarding Condition 8.11.

This letter summarizes the steps the Government of Alberta has taken to respond to the Notice and complete steps related to Conditions 8.8, 8.9, 8.11 and 8.14 of the Decision Statement.

Based on the following submissions, Alberta Transportation's position is that it has addressed all aspects of the Notice, and is in full compliance with Condition 8.11.

Migratory birds and raptors, including their nests and eggs, are protected under Canada's *Migratory Birds Convention Act* and Alberta's *Wildlife Act*. Raptors begin to nest in mid-February followed by other migratory birds. Once a bird has nested, it cannot be disturbed until the young have fledged. In the Project area, the restricted activity period for migratory birds extends until mid to late August. In an effort to prevent nesting of raptors and other protected avian species within the Project area, which would have significantly delayed the start of Project construction or led to contravention of the *Migratory Birds Convention Act* and the Alberta *Wildlife Act*, clearing of trees began on February 8, 2022.

While tree clearing began on February 8, 2022 utilizing one of the Indigenous preceding subcontracts, the prime construction contract for the Project was not executed until February 14, 2022. Following execution of the prime contract, the prime contractor mobilized to site on March 1, 2022 and construction of the Project itself began on April 18, 2022 with topsoil stripping.

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The Government of Alberta has been and continues to be meaningfully engaged with the First Nations about the Project. Meaningful engagement is a respectful process that cannot be rushed, and has led to the completion of some Conditions of the Decision Statement taking longer than anticipated.

Information packages regarding the First Nations Land Use Advisory Committee (Committee) and invitations to an initial meeting were sent to all involved First Nations on February 23, 2022. A draft Terms of Reference (TOR) for the Committee was included in the information package. Following one-on-one discussions with several First Nations the Committee held their first meeting on March 23, 2022. Subsequent meetings were held on April 12 and May 25, 2022 along with numerous one-on-one discussions. Committee meetings and one-on-one discussions will continue throughout development of the land use plan.

The TOR were discussed during the March 23 and April 12 Committee meetings as well as in one-on-one meetings held with interested First Nations. To fulfill Condition 8.11, the co-developed TOR for the Committee were submitted to IAAC on May 4, 2022.

To fulfill Condition 8.9 of the Decision Statement, the potential staging area location map was submitted to IAAC on May 16, 2022. Given the significance of the staging area for the First Nations' cultural ceremonies and traditional activities, finalization of the staging area is ongoing as part of the Committee's work.

Contrary to what is indicated in the Notice, Condition 8.8.2 of the Decision Statement is the only element of Condition 8.8 that was required to be provided to IAAC prior to construction and therefore the only element of Condition 8.8 subject to the non-compliance. To fulfill Condition 8.8.2, a map of the land use area was resubmitted to IAAC on May 20, 2022.

A letter and document containing the preliminary approach for monitoring and evaluation of the land use plan to address Condition 8.14 of the Decision Statement was submitted to IAAC on May 26, 2022.

Efforts continue to be made to prioritize the First Nations' involvement in completing the conditions and remain in compliance with IAAC's Decision Statement.

With the submissions identified above, Alberta Transportation has addressed all aspects of the Notice. Should you have any questions pertaining to the information provided, please do not hesitate to contact the undersigned.

Sincerely,

<Original signed by>

 Yvonne Carignan, M.Eng, P.Eng
Director, Water Management