



Impact Assessment
Agency of Canada

Ontario Region
600-55 York Street
Toronto ON M5J 1R7

Agence d'évaluation
d'impact du Canada

Région de l'Ontario
600-55 rue York
Toronto ON M5J 1R7

June 24, 2020

Sent by email

Chief Sheldon Oskineegish
Nibinamik First Nation
General Delivery
Summer Beaver ON P0T 3B0
<Email address removed>

Dear Chief Sheldon Oskineegish:

**Subject: Nibinamik First Nation Comments related to the Marten Falls
Community Access Road Project and the Regional Assessment
on the Ring of Fire Area**

Thank you for your letter to the Impact Assessment Agency of Canada (the Agency) dated April 1, 2020, providing additional Information on Marten Falls First Nation's Community Access Road Project's potential impacts on Nibinamik First Nation's Aboriginal and Treaty Rights and additional consultation methods and activities.

The Agency appreciates Nibinamik First Nation's desire to identify efficient mechanisms to support your community's participation in multiple assessment processes within legislated timelines. The Agency endeavours to reduce consultation fatigue and support participation efficiencies to the extent possible. We invite Nibinamik First Nation to suggest different approaches that may support your meaningful participation. When contacting the Agency, please feel free to identify any information that can be considered across multiple assessment processes. The Agency will work internally to ensure you are provided with a response that is appropriate to the issues raised.

Community-Specific Annex to the Indigenous Engagement and Partnership Plan (IEPP Annex)

The Agency acknowledges Nibinamik First Nation's expression of interest in developing an IEPP Annex for the Project. The intent of the IEPP Annex is to identify community-specific consultation methods, activities, and objectives that are not already reflected in the IEPP that was posted to the Canadian Impact Assessment Registry website for the Project on February 24, 2020.

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Nibinamik First Nation is invited to suggest specific consultation activities, methods, or objectives to the Agency for consideration. Should your community wish, the Agency would be pleased to schedule a call to discuss your interests further.

In regards to Nibinamik First Nation's desire for Agency consultation conduct to reflect the distinct traditions, governance processes, protocols, and ways of sharing information and knowledge, the Agency invites Nibinamik First Nation to share its Traditional Land Use Protocol from 2005 or to identify to the Agency any protocols or processes that should be considered when consulting with Nibinamik First Nation.

Nibinamik First Nation notes that there has been no direct engagement or consultation between Nibinamik First Nation and the Agency on the Project. Please see attachment 1 of this letter for a record of the Agency's engagement and consultation activity with your community to date.

The Agency's Regional Assessment in the Ring of Fire Area

The Agency's regional assessment team will be contacting you about the general approach to consultation/engagement for the regional assessment at a later date. At this time, no decisions have been made regarding the appropriate activities, outcomes and boundaries for the regional assessment in the Ring of Fire area. The next step of the regional assessment will be to provide opportunities for interested groups to participate. Please note that you may ask questions or share your views related to the regional assessment process by sending them to IAAC.RegionalROF-CDFRegionale.AEIC@canada.ca.

The Agency endeavours to limit consultation fatigue and support participation efficiencies to the extent possible. Nibinamik First Nation is invited to suggest different approaches that may support your meaningful participation. When contacting the Agency, please also feel free to identify any information that can be considered across multiple assessment processes. The Agency will work internally to ensure you are provided with a response that is appropriate to the issues raised.

Ontario's Northern Road Link Announcement

The Agency is aware of the announcement made by the Province of Ontario, Marten Falls First Nation and Webequie First Nation regarding the Northern Road Link. On May 19, 2020, the Agency notified Marten Falls First Nation and Webequie First Nation that the Northern Road Link appears to be designated under the *Impact Assessment Act* and requested an Initial Project Description. At this time, the Agency has not received an Initial Project Description for the Northern Road Link. Upon the proponents' submission of an Initial Project

Description that complies with the *Information and Management of Time Limits Regulations*, the Agency will notify Indigenous groups who may be impacted by a formal comment period and seek their views on the Initial Project Description and whether an impact assessment should be required for the Northern Road Link. Please note that, in Section 22 of the Tailored Impact Statement Guidelines for the Project, the Agency has identified reasonably foreseeable developments in the Ring of Fire area, including the construction and operation of the Northern Road Link, to be considered at a minimum in the Project's cumulative effects assessment: <https://iaac-aeic.gc.ca/050/documents/p80184/133937E.pdf>.

Coordination with the Provincial Assessment

At this time, the Agency is unable to provide an update on changes to the coordination of federal impact assessment and provincial environmental assessment activities in light of the Northern Road Link announcement. The Agency will continue to coordinate consultation on the Project with provincial officials to the extent possible, as outlined in the Cooperation Plan. If this approach should change, the Agency will notify Indigenous groups identified in the IEPP.

For matters related to the provincial environmental assessment, I encourage you to contact Sasha McLeod or Agni Papageorgiou, Special Project Officers, with the Ontario Ministry of the Environment, Conservation and Parks, at MartenFalls.EA.MECP@ontario.ca.

IMPORTANT NOTE: The Agency recognizes that the Government of Canada has advised all Canadians to implement social distancing measures, including avoiding close contact with others, to minimize COVID-19 transmission in communities. In consideration that social distancing measures often need extensive preparation and currently take priority, the Agency highlights its current measures and commitments to support your community's COVID 19 response at this time:

- The Agency is currently following guidelines that have been issued by the Public Health Agency of Canada and local health authorities;
- The Agency has halted in-person and in-community meetings; when a meeting is unavoidable during the current circumstance, we will conduct those activities through digital communications including: teleconference calls and WebEx as appropriate and to the preference of Indigenous groups to discuss projects;

- The Agency remains flexible and able to adapt our conduct as necessary to prioritize the health and safety of communities participating in impact assessments;
- The Agency continues to be in touch with proponents to understand how projects are affected by COVID-19;
- The Agency will provide updates to Indigenous groups about the status of projects at regular intervals.

Thank you for your continued participation in the impact assessment for the Project. Please feel free to contact me at 416-476 5476 or at IAAC.MartenFalls.AEIC@canada.ca if you have any questions regarding this letter. I welcome the opportunity to work collaboratively with your community.

Sincerely,

<Original signed by>

Caitlin Cafaro
Crown Consultation Coordinator

Enclosures: Agency Activity Log with Nibinamik First Nation on the Marten Fall
Community Access Road Project

c.c.: Walter Oskineegish, Band Manager, Nibinamik First Nation
Roger Oskineegish, Roads Coordinator, Nibinamik First Nation
Alex Monem, Partner, Paper Salter Teillet LLP
Alissa D. Saieva, Associate, Paper Salter Teillet LLP
Alexandria Winterburn, Senior Associate, Paper Salter Teillet LLP
Debra Myles, Panel Manager Impact Assessment Agency of Canada

Attachment 1: Agency Activity Log with Nibinamik First Nation on the Marten Falls Community Access Road Project

- On May 31, 2019, the Agency provided advance notice of a comment period, pursuant to the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), for the Marten Falls Community Access Road Project requesting contact information for staff or other representatives authorized to share information or coordinate activities on behalf of Nibinamik First Nation.
- On August 9, 2019, the Agency sent Nibinamik First Nation a letter requesting comments on the potential impacts of the Marten Falls Community Access Road Project. Comments were not received during this comment period.
- On August 15, 2019, the Agency sent a follow-up request for a teleconference with Nibinamik First Nation. Nibinamik First Nation did not respond and a teleconference was not arranged.
- On September 12, 2019, the Agency sent Nibinamik First Nation a notification letter that the *Impact Assessment Act* came into force on August 28, 2019, repealing CEAA 2012. As per the transitional provision in section 180 of the *Impact Assessment Act*, the project description for the Marten Falls Community Access Road Project was deemed to be the Initial Project Description under the *Impact Assessment Act*. As a result, the Agency conducted a second comment period on the Initial Project description and provided an opportunity to apply for grant participant funding.
- From September 12 to October 1, 2019, the Agency held a 20-day comment period on the Initial Project Description. Comments received, on October 1, 2019, were used to inform the Agency's Summary of Issues.
- On October 1, 2019, the Agency received comments on the Initial Project Description for the Marten Falls Community Access Road Project from Nibinamik First Nation.
- On October 4, 2019, the Agency, in collaboration with Nibinamik First Nation, had arranged a teleconference to discuss the Marten Falls Community Access Road Project. Chief and Council were unable to attend the teleconference. Agency attempts to reschedule were unsuccessful.
- On October 9, 2019, the Agency emailed Nibinamik First Nation to seek interest in an in-community meeting with the Agency, and requested preferred dates to be sent to the Agency by October 18, 2019. On October 17, 2019, Nibinamik First Nation confirmed that an election was taking place during the proposed Agency visit. A date of November 8, 2019 was suggested by Nibinamik First Nation. The Agency was unable to meet at that time and proposed a meeting in Thunder Bay the following week, which was not confirmed by Nibinamik First Nation.
- On October 11, 2019, the Summary of Issues was provided to Marten Falls First Nation (the proponent) to inform the development of the

Detailed Project Description. The Summary of Issues was shared with Nibinamik First Nation.

- On December 2, 2019, the Agency provided Nibinamik First Nation with notice that an impact assessment was required for the Marten Falls Community Access Road Project. This included advance notice of an upcoming comment period on the draft Tailored Impact Statement Guidelines, the draft Indigenous Engagement and Partnership Plan, and a notice of opportunity for additional grant funding.
- From December 19, 2019 to January 28, 2020, the Agency held a 40-day comment period on the draft Tailored Impact Statement Guidelines and the draft Indigenous Engagement and Partnership Plan.
- On December 19, 2019, the Agency confirmed with Nibinamik First Nation that January 15, 2020, would be a suitable date for an in-community meeting with the Agency.
- On January 15, 2020, the Agency met with Chief and Council in-community to discuss the Marten Falls Community Access Road Project.
- On February 24, 2020, the Agency provided Nibinamik First Nation with the Notice of Commencement for the impact assessment of the Marten Falls Community Access Road Project. The Agency issued responses to issues raised during the planning phase. The Agency provided a summary of the Agency's understanding of Nibinamik First Nation's rights and the potential impacts of the Marten Falls Community Access Road Project on the exercise of those rights.
- On March 13, 2020, the Agency sent an email to Nibinamik First Nation to follow-up on the correspondence sent on February 24, 2020, for the Marten Falls Community Access Road Project.
- On April 1, 2020, the Agency received a letter from Nibinamik First Nation in response to the correspondence sent on February 24, 2020, for the Marten Falls Community Access Road Project.