



BEAVER LAKE  
CREE NATION



Onion Lake  
Cree Nation  
TREATY NO.6 TERRITORY

January 28, 2025

Impact Assessment Agency of Canada  
9700 Jasper Avenue, Suite 1145  
Edmonton, AB T5J 4C3

E: [parthwaysco2@iaac-aeic.gc.ca](mailto:parthwaysco2@iaac-aeic.gc.ca)

To whom it may concern:

**Re: Pathways Alliance CO<sub>2</sub> Transportation Network and Storage Hub Project**

We write on behalf of our seven communities, Beaver Lake Cree Nation, Cold Lake First Nations, Frog Lake First Nations, Heart Lake First Nation, Kehewin Cree Nation, Onion Lake Cree Nation, and Whitefish (Goodfish) Lake First Nation #128. We write with respect to your Agency's December 20, 2024 notice suspending the 90-day time limit for responding to the request for designation of the Pathways Alliance CO<sub>2</sub> Transportation Network and Storage Hub Project.

On December 2, 2024, our Nations submitted a request for designation of the Project under s. 81 of the *Impact Assessment Act* (the "IA Act"). On December 20, 2024, the Impact Assessment Agency of Canada provided notice that on December 13, 2024, it had suspended the 90-day time limit for responding to the request for designation of the Project. Over a month later, we have received no update, and the time limit remains suspended.

As set out in this letter, our Nations are seriously concerned that the Pathways Alliance seeks to unilaterally suspend the federal process while it proceeds with its applications in Alberta's fundamentally flawed regulatory process. This issue is urgent and a decision on our request cannot wait. We ask you to take action now to issue an updated notice clarifying that the suspension issued under s. 9(5) of the Act is not indefinite, such that the clock for the 90-day time period under s. 9(4) will restart on February 7, 2025.

**Our Concerns About the Pathways Project**

As detailed in the designation request, we have serious concerns about the Project – a massive, unprecedented carbon capture and sequestration project that will capture, transport and store carbon from most of the major

oil sands facilities in Alberta. If approved, it will be the largest carbon capture project in Canada and one of the biggest in the world. Carbon capture and storage is a novel technology with no dedicated regulator anywhere in Canada.

The Project is a massive prospective infringement of our rights and trespass on our lands (including our reserve lands). The Project would involve capturing and storing millions of tonnes of carbon beneath our territory, impacting our reserve lands, with a transportation network that moves through the heart of our traditional territories. The Project involves the large-scale use of new and untested technology, which carries potentially catastrophic risk to our lands and people. For the Project to proceed, our consent is required, as is deep and meaningful consultation and accommodation – however, consultation with Canada has not even commenced, and Alberta’s regulatory processes both ignore the legal requirement for our consent and cannot discharge the duty to consult.

### **Alberta’s Regulatory Process is Wholly Inadequate to Deal with the Pathways Project**

In addition to consultation shortcomings, Alberta’s regulatory process is unequipped to deal with the Pathways Project which is currently moving through the Alberta Energy Regulator’s process by way of at least 142 separate applications.

Under Alberta’s regulatory regime, no comprehensive assessment of the Project in its entirety is required, including any review of impacts that may arise in relation to the Project’s scope and scale. Instead, in Alberta, the Project is being split into very small independent components – each of which will require multiple applications, and many of which, under Alberta’s Consultation Policy and Guidelines, do not trigger the duty to consult.

We have not received a response to our request that the Alberta Energy Regulator consolidate the applications, nor do we have a clear sense of timelines, raising the almost certain risk that we will have to respond to the entire Project on such short timelines, and with such limited capacity, that we will be unable to actually review and raise our concerns with the Project in any meaningful way.

### **Indeterminate Suspension of Federal Review Is Inappropriate While Alberta Regulatory Process Continues**

Given the serious flaws in the Alberta regulatory process and inability for Alberta’s process to discharge Canada’s obligations in respect of potential impacts to our reserve lands, it is unreasonable for Canada to indefinitely suspend the federal review while the provincial processes remain ongoing. Indefinite suspension falls afoul of Canada’s duty to consult, its obligations under the *United Nations Declaration on the Rights of Indigenous Peoples Act* and place our rights and interests at risk should the Project continue to proceed through Alberta’s flawed and arguably unconstitutional processes.

To address those concerns, we ask that you issue an updated notice clarifying that the suspension issued under s. 9(5) of the Act is not indefinite, such that the clock for the 90-day time period under s. 9(4) will restart on February 7, 2025. Pathways has already had over a month of additional time, and that deadline will give them six weeks of additional time to collect missing information – any further delay solely serves to prejudice our rights and is not reasonably needed.

In addition, the Agency has not provided written reasons for its decision. Instead, it said only that it was suspending the timeline “in consideration of a written request from the proponent that the time limit be suspended in order to address information requested by [the Agency]” and that “[w]hen the proponent has

provided [the Agency] with the information requested, IAAC will post a notice that the prescribed activity is completed, and the 90-day time limit will resume.”

Respectfully, these reasons are insufficient and do not meet the requirements for a reasonableness review (justification, transparency, and intelligibility).<sup>1</sup> Reasonable decisions are based on rational and logical reasoning<sup>2</sup> and must be justified within the context of information relevant to the decision<sup>3</sup>. It is not clear from the Agency’s decision whether any consideration was given to the ongoing Alberta regulatory process or the serious and unmitigated concerns our Nations have raised regarding the potential impacts of the Project, including those aspects that will be completely scoped out of Alberta’s review process.

We ask that you send us a copy of the information requests sent to the proponent as well as the responses from Pathways Alliance as they are provided. We would like to review the record to understand the basis for your decision and to review the information as it is submitted.

Thank you for your careful consideration of this letter. We look forward to hearing from you soon.

Yours truly,

**BEAVER LAKE CREE NATION**

<original signed by>

By: \_\_\_\_\_  
Chief Gary Lameman

**COLD LAKE FIRST NATIONS**

<original signed by>

By: \_\_\_\_\_  
Chief Kelsey Jacko

**FROG LAKE FIRST NATIONS #121 & #122**

<original signed by>

By: \_\_\_\_\_  
Chief Gregory Desjarlais

**HEART LAKE FIRST NATION**

<original signed by>

By: \_\_\_\_\_  
Chief Curtis Monias

**KEHEWIN CREE NATION**

<original signed by>

By: \_\_\_\_\_  
Chief Vernon Watchmaker

**ONION LAKE CREE NATION**

<original signed by>

By: \_\_\_\_\_  
Chief Henry Lewis

<sup>1</sup> *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [Vavilov] at paras 15, 99.

<sup>2</sup> *Vavilov* at para 102.

<sup>3</sup> *Vavilov* at para 105.

WHITEFISH LAKE FIRST NATION #128

<original signed by>

By: \_\_\_\_\_  
Chief Herb Jackson