



## Position Paper on the Lower Athabasca Regional Plan Frameworks

Prepared by the Fort McKay Sustainability Department

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## **EXECUTIVE SUMMARY**

The Lower Athabasca Regional Plan (LARP) and its management frameworks present issues of interest and importance to Fort McKay. The absence of meaningful consultation with First Nations throughout the development of the LARP and supporting management frameworks has resulted in incomplete and inadequate environmental management tools that do not inform strong public policy or support for Aboriginal and Treaty rights.

The LARP could be a key tool through which the Crown and its stakeholders engage in regional-focused policy development. Despite representing the major umbrella under which new policies impacting the Fort McKay First Nation are developed, the LARP was developed without due consideration to Aboriginal and Treaty rights holders in the lower Athabasca region.

Sound public interest decisions on industrial development in the Lower Athabasca Region cannot be made without explicit acknowledgement and protection for Aboriginal and Treaty rights, adequate and meaningful consultation, and an understanding and application of sound western science and traditional knowledge.

### **Life in Lower Athabasca Region**

Fort McKay's way of life, cultural heritage and identity is inextricably connected to the natural resources and lands surrounding and connecting its Reserves, and patterns of harvesting and land use that have become integral to its identity through the generations. More and more of Fort McKay's traditional territory is being taken up and transformed by industrial development. Opportunities to practice constitutionally protected Aboriginal and Treaty rights are being impacted on a daily basis. With nine oil sands mines within a 20km radius, daily life in the community of Fort McKay is impacted by industrial noise and traffic, odours, air pollution, and dust. These are punctuated with periodic industrial spills, blasting, fires, flaring, unauthorized contaminate releases and other mishaps.

Access to hunting, fishing, trapping, and culturally significant places and natural resources is increasingly challenging and limited. Moose and Caribou, for example, are predicted to be extirpated in two-thirds of Fort McKay's Traditional Territory by 2030. Fort McKay continues to lose trap lines, culturally important harvesting areas, and accessible harvesting areas. Members must travel further and longer to circumvent and avoid industrial sites, which causes increased costs, and inhibits the exercise of treaty rights. This in turn is eroding the cultural identity and values of the community. The right to use and enjoy reserve land and engage in traditional land use activities within Fort McKay's traditional territory recognizes historical and cultural connections to specific land. Attempting to transfer those cultural practices to another territory to accommodate industrial development has significant negative impacts to culture, language, ecological knowledge and rights.

The Lower Athabasca Regional Plan, according to Alberta, is intended to manage these effects. Yet, projects continue to be approved without systems in place to manage the cumulative effects of these approvals. There are no existing or contemplated management systems in LARP to ensure a sustainable and healthy supply of fish and game and an accessible and sufficient land and resource

base. Air and water resources continue to be degraded causing further limitations on the exercise of treaty rights.

The implementation plan for LARP included completion of a biodiversity framework in 2013. A draft framework was circulated in 2014, intended for completion in “early 2015” but it is not yet completed. Fort McKay identified major deficiencies in the draft framework, particularly in the inability of the draft plan to support the protection of traditional land uses or manage impacts to these uses and associated rights. The draft framework does not include an objective to maintain biodiversity at sufficient levels to ensure aboriginal communities are able to continue to exercise Constitutional rights, and as a result, also does not include indicators, thresholds, or monitoring to demonstrate that this objective is being achieved. None of the currently proposed indicators are relevant to assessing maintenance of biodiversity in the context of Fort McKay’s rights. The framework is also reactive in that it does not monitor stressors (loss of habitat, for example), which severely limits its use as a planning or preventative tool and limits potential management responses. There is no linkage between the framework and the project assessment and approval process. It also does not address the fact that thresholds for some species (e.g. caribou) have already been exceeded.

The other framework contemplated in LARP to address terrestrial effects, is the Landscape Management Plan. This was also to be completed by 2013 but is in its early stages of development.

With respect to air pollution, regulatory approvals made in the absence of quality baseline data or appropriate methodologies, and anticipated regulatory decisions made before a comprehensive management framework is developed and generating quality data are suspect. Increasing industrial development has degraded Fort McKay’s air quality, and the community is routinely exposed to levels of pollution that have health impacts. Serious air pollution exposure events occur that directly impact the quality of life of Fort McKay members. The annual average limit under LARP’s air management plans provides an indication of the “normal” exposure to pollutants. Fort McKay’s air quality issues tend to be viewed as temporary events, for which there is no limit under LARP, and the Air Quality Management Framework does not track odours or particulate matter. More development on Fort McKay’s traditional, without comprehensive and cumulative effects management creates an environment for increased air pollution events that directly impact Fort McKay.

The Surface Water Quality Framework only addresses water quality in one river in the region, the mainstem of the Athabasca River. It includes only one monitoring location, at Old Fort, which is 150 km downstream of Fort McKay and most industrial development. This is insufficient to detect cumulative effects for much of the lower Athabasca River including tributaries that support aboriginal fisheries. Two key oil sands-related groups of compounds, naphthenic acids (NAs) and polycyclic aromatic hydrocarbons and compounds (PAHs, PACs), are not monitored and no triggers or thresholds are included for them. Monitoring frequency is too low to detect spills and reporting of monitoring data has so far lagged collection by 2 years. Therefore, the Framework cannot provide an early warning system as intended, or provide timely management responses.

The Tailings Management Framework addresses only two risks, financial and the accumulation of tailings. There are a number of other risks associated with tailings accumulation: the risks to local communities in tailing pond failure, tailings-associated air quality issues, and loss of traditional territory (including culturally important muskeg areas) that are critical to Fort McKay. Increased tailings accumulations have the potential to impair Constitutional rights by reducing lands available for the pursuit of rights, impacting travel on the land, and impacting the wildlife and fish which

support the pursuit of rights. In addition, the siting of tailings ponds has the potential to impact the community's right to enjoyment of reserve lands, as odours and dust associated with tailings treatment are reaching the community. Siting of tailings facilities is not addressed in the framework. The majority of tailings impoundments are and have been constructed on peat accumulating wetlands, an important cultural resource. While reclamation of tailings ponds is planned, the landscape will be transformed into upland boreal forest, a land type that does not have the same cultural importance. The permanent alteration of lands due to tailings ponds poses a major impact to Fort McKay's ability to pursue their Constitutional rights. The location of existing tailings ponds adjacent to a major river, increases the risks to fresh water and a fishing resource for Fort McKay.