

**Date:** May 31, 2018

**To:** Laura Friend, Manager of Board Reviews, Natural Resources Conservation Board  
Bill Kennedy, General Counsel, Natural Resources Conservation Board

**From:** Felix Camiré, Project Engineer, Town of Canmore Engineering Services

**RE: Summary of Aboriginal Consultation on the Town of Canmore Cougar Creek Debris Retention Structure Project from October 2015 to March 2018**

This document summarizes Aboriginal consultation conducted by Town of Canmore as directed by the Government of Alberta and the Government of Canada on the Town of Canmore Cougar Creek Debris Retention Structure Project (the Project) from October 2015 to May 2018. This summary was prepared to support the Natural Resources Conservation Board (NRCB) review of the Project. All documents and consultation records referenced in this summary are included as a package of numbered attachments.

## **GOVERNMENT OF ALBERTA CONSULTATION**

### **Duty to Consult and Pre-Consultation Assessment**

As a mandatory activity listed in the *Environmental Assessment (Mandatory and Exempted Activities) Regulation*, the Project required an Environmental Impact Assessment (EIA) pursuant to the *Environmental Protection and Enhancement Act (EPEA)*. Mandatory activities that require an EIA also require extensive Level 3 First Nations consultation to be completed before any GOA decisions can be made on the Project.

In accordance with *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management (2013)*, procedural aspects of consultation were delegated to the Town of Canmore as the proponent of the Project. The Town has been working with the Aboriginal Consultation Office (ACO) since March 2015 to fulfill Government of Alberta (GOA) consultation requirements.

A Pre-Consultation Assessment (Attachment 1), provided by the ACO on August 11, 2015, informed the Town of Canmore that all Treaty 7 First Nations were to be consulted on the Project:

1. Stoney Nation (Bears paw, Chiniki and Wesley Bands);
2. Blood Tribe;
3. Piikani Nation;
4. Siksika Nation; and
5. Tsuut'ina Nation.

The GOA did not have any specific information about potential First Nations concerns in the area (such as known historical or cultural sites). Prior to the completion of the EIA and initiation of consultation the Town of Canmore was not aware of any specific short-or long-term adverse impacts to First Nations rights and traditional uses resulting from the Project. Specifically because:

- the debris-flood retention structure and flood event inundation area are located in a highly scoured steep mountain creek bed with limited potential for vegetation or wildlife habitat;

- the topography and hydrology of Cougar Creek minimize the likelihood of historical features in the debris-flood retention structure and flood event inundation area;
- the debris flood retention structure would be designed to maintain access for recreational and traditional activities in Cougar Creek;
- the debris flood retention structure would be designed to minimize potential effects on the Bow Valley Regional Wildlife Corridor and wildlife movement up and across Cougar Creek will be maintained; and
- Cougar Creek is not a fish bearing waterway and the project is not expected to alter fish habitat.

### **Consultation Plan**

On October 1, 2015, the ACO approved (Attachment 2) the Town of Canmore Cougar Creek Debris Flood Retention Structure Project Aboriginal Consultation Plan (the Consultation Plan) (Attachment 3). This approval confirmed that the Town's Consultation Plan was consistent with the requirements outlined in The Government of Alberta's *Guidelines on Consultation with First Nations on Land and Natural Resource Management* for projects requiring an EIA.

### **Consultation Actions**

As outlined in the Consultation Plan, consultation activities were conducted in accordance with GOA First Nation Consultation Policy and Guidelines. Specific consultation activities included:

1. Project notification letter and information package for First Nations (Attachments 4a to 4e) that included:
  - confirmation that the Town had been notified by the ACO to consult with the First Nation and confirmed that Level 3 consultation was required;
  - a description of the consultation process;
  - a plain language description of the Project including activity, location, and potential impacts along with maps and detailed sketches;
  - a description of the GOA regulatory approvals being sought;
  - confirmation that the GOA did not have any specific information about potential First Nations concerns in the area such as known historical or cultural sites; and
  - a request that the First Nation provide feedback to the Town within the prescribed time period;
2. Notifications related to the EIA process, specifically:
  - notice of the proposed Terms of Reference (TOR) and opportunity to provide input (Attachment 5a to 5e);
  - notice of the EIA report submission (Attachment 6a to 6e) along with electronic copies of the EIA report; and
  - NRCB Notice of Application following AEP confirmation that the EIA had been deemed complete including the process for submitting Statements of Concern (Attachments 7a to 7g); and

Project specific consultation meetings and follow-up with First Nation communities (documented in bi-monthly consultation reports found in Attachment 10).

### **Status of Consultation with Treaty 7 First Nations**

The Town of Canmore held meetings with each Treaty 7 First Nation at a location of their choosing and conducted a traditional land use site visit in Cougar Creek with each Nation. Subsequent to these activities, the

Town of Canmore received letters of non-objection from the Blood Tribe, Piikani Nation, Siksika Nation and Tsuut'ina Nation (Attachments 8a through 8d).

The Town of Canmore has not received a letter of non-objection from the Stoney Nation. Town of Canmore representatives attended a meeting in Morley Alberta on November 15, 2016 with the Stoney Nation Consultation Manager and two Stoney Consultation Officers. The Town of Canmore provided: an overview of the project including its purpose, design and location; a history of Cougar Creek and its development; and information about wildlife corridor use and protection. No specific concerns about the Project or any potential adverse effects on First Nations rights were expressed by representatives of the Stoney Nation at this meeting.

A site visit was conducted with Stoney Nation representatives on December 2, 2016. Specific items discussed at the site visit included: interest in an opportunity to harvest usable medicinal or ceremonial plants before construction; concerns regarding graffiti and other evidence of human use within the creek; and a desire to hold a ceremony on the site before construction begins. During the site visit, Stoney Nation consultation representatives indicated that a letter regarding the Project would be provided.

The Town of Canmore has committed to providing an opportunity for the Stoney Nation to harvest plants and conduct a ceremony on the site before construction begins. To address the Stoney Nation concern regarding evidence of human use within Cougar Creek, the Town conducted a clean-up in August 2017 to remove all signs of human use in the Creek including rock piles, graffiti, fire pits, and piles of woody debris. On September 12, 2017, the Town submitted a letter to the Stoney Nation describing these efforts with photos to demonstrate that the work had been completed (Attachment 9).

The Stoney Nation has not informed the Town of Canmore of any project specific concerns or issues. As demonstrated in the consultation record, the Town of Canmore has inquired about a letter of non-objection numerous times with the Stoney Nation Consultation Manager. The Project team does not expect to receive a letter of non-objection from the Stoney Nation; however, the Town does not believe that there are any outstanding concerns that the Town of Canmore can address.

The Town of Canmore will continue to provide each First Nation with information regarding key project milestones until the Project is commissioned.

### **Consultation Record**

The Town of Canmore has provided each First Nation with a bi-monthly report of consultation activities and these records have been sent to the ACO for review. The ACO has provided regular feedback on the content of the bi-monthly reports and revisions have been provided to the First Nations when required. Bi-monthly reports for each Treaty 7 First Nation for the period from October 2015 to May 2018 are included as Attachments 10a to 10e.

## **GOVERNMENT OF CANADA CONSULTATION**

### **Federal Environmental Assessment Review**

The Town of Canmore received confirmation from the Canadian Environmental Assessment Agency on April 21, 2015 that the Project was not a designated activity pursuant to the *Canadian Environmental Assessment Act* 2012 and that a federal environmental assessment was not required (Attachment 11). As a result, no federal consultation was proposed.

## Infrastructure Canada Funding

In October 2016 Infrastructure Canada announced that it would provide funding for the Project under the Provincial-Territorial Infrastructure Component – National and Regional Project (PTIC-NRP) of the New Building Canada Fund. INFC notified the Town of Canmore that this funding triggered a duty to consult on the Project (Attachment 12). The INFC notification confirmed that INFC would rely to the extent possible on consultation undertaken by the proponent as directed by the GOA. After reviewing the Town of Canmore Consultation Plan that included all Treaty 7 First Nations, INFC requested that the Town of Canmore also notify the Metis Nation of Alberta and the Ktunaxa Nation.

In accordance with guidance provided by INFC on Government of Canada notification requirements, the Town of Canmore submitted notification letters in November 2016 to the Metis Nation of Alberta and to the Ktunaxa Nation through the ?Akisq'nuk First Nation of Windermere British Columbia and the Shuswap First Nation of Invermere British Columbia (Attachments 13a to 13c). The Town of Canmore confirmed delivery of the notifications and only received one response. The Shuswap Band responded by email to confirm that they had no concerns regarding the Project and indicated support for any efforts to prevent flood damage similar to what was experienced in 2013 (Attachment 14). The Shuswap Band inquired about Historical Resources Impact Assessment (HRIA) in Alberta in support of their efforts to create Cultural Heritage Impact Assessment guidelines and the Town of Canmore provided a description of the HRIA process and some suggested resources. No further action by the Town of Canmore was required by INFC.

In December 2016, INFC received correspondence from the Stoney Nation inquiring about Federal consultation related to the Project. In response to a request from INFC, the Town of Canmore provided a summary of consultation with the Stoney Nation and copies of all relevant documents. INFC submitted a letter to the Stoney Nation on March 22, 2017 and confirmed on May 5, 2017 that they did not receive a response. The Town of Canmore was not a party to this correspondence but understands from communication with INFC that no further action was required by the Town of Canmore with respect to Federal consultation with the Stoney Nation on the Project.

In June 2017, the Town of Canmore provided INFC with all consultation records for the period between October 2015 and March 2017 for Treaty 7 First Nations along with letters of non-objection received from the Blood Tribe, Piikani Nation, Siksika Nation and Tsuut'ina Nation. The Town of Canmore will send the final Record of Consultation to INFC when it is complete.

## CLOSING

The Town of Canmore is not aware of any outstanding Project specific issues or concerns raised by consulted First Nations or Metis groups. The Project team is available to answer any questions or provide additional information as required.

If you have any questions please contact me at 403.678.1512 or Rochelle Harding at 403.827.5844.

Sincerely,



Félix Camiré, P.Eng.  
Town of Canmore Engineering Services  
fcamire@canmore.ca

## List of Attachments

- Attachment 1 Proponent Requirement to Consult (ACO Letter)
- Attachment 2 Approval of Consultation Plan for Cougar Creek (ACO Letter)
- Attachment 3 Town of Canmore Cougar Creek Debris Flood Retention Structure Aboriginal Consultation Plan
- Attachment 4
  - 4a\_Blood Tribe Project Information Package\_13October2015
  - 4b\_Piikani Nation Project Information Package\_13October2015
  - 4c\_Siksika Nation Project Information Package\_13October2015
  - 4d\_Stoney Nation Project Information Package\_13October2015
  - 4e\_Tsuut'ina Nation Project Information Package\_13October2015
- Attachment 5
  - 5a\_Blood Tribe PTOR Notice\_13October2015
  - 5b\_Piikani Nation PTOR Notice\_13October2015
  - 5c\_Siksika Nation PTOR Notice\_13October2015
  - 5d\_Stoney Nation PTOR Notice\_13October2015
  - 5e\_Tsuut'ina Nation PTOR Notice\_13October2015
- Attachment 6
  - 6a\_Blood Tribe Notice of EIA Report Submission\_28July2016
  - 6b\_Piikani Nation Notice of EIA Report Submission\_28July2016
  - 6c\_Siksika Nation Notice of EIA Report Submission\_28July2016
  - 6d\_Stoney Nation Notice of EIA Report Submission\_28July2016
  - 6e\_Tsuut'ina Nation Notice of EIA Report Submission\_28July2016
- Attachment 7
  - 7a\_Blood Tribe\_Notice of Application\_13April2018
  - 7b\_Piikani Nation\_Notice of Application\_13April2018
  - 7c\_Siksika Nation\_Notice of Application\_13April2018
  - 7d\_Stoney Nation (Bears paw Band)\_Notice of Application\_13April2018
  - 7e\_Stoney Nation (Chiniki Band) Notice of Application\_13April2018
  - 7f\_Stoney Nation (Wesley Band)\_Notice of Application\_13April2018
  - 7g\_Tsuut'ina Nation\_Notice of Application\_13April2018
- Attachment 8
  - 8a\_Blood Tribe Letter
  - 8b\_Piikani Nation Letter
  - 8c\_Siksika Nation Letter
  - 8d\_Tsuut'ina Nation Letter
- Attachment 9 Cougar Creek Clean-Up on August 17, 2017 (Memo)
- Attachment 10
  - 10a\_Blood Tribe Bi-Monthly Reports (Folder)
  - 10b\_Piikani Nation Bi-Monthly Reports (Folder)
  - 10c\_Siksika Nation Bi-Monthly Reports (Folder)
  - 10d\_Stoney Nation Bi-Monthly Reports (Folder)
  - 10e\_Tsuut'ina Nation Bi-Monthly Reports (Folder)
- Attachment 11 CEAA Review (Email)
- Attachment 12 Letter to Proponent-Town of Canmore Cougar Creek Flood Mitigation Project
- Attachment 13
  - 13a\_Akisq'nuk First Nation\_Town of Canmore Notification Letter\_4Nov2016
  - 13b\_Metis Nation of Alberta\_Town of Canmore Notification Letter\_4Nov2016
  - 13c\_Shuswap First Nation\_Town of Canmore Notification Letter\_4Nov2016
- Attachment 14 14\_Email Correspondence with the Shuswap Nation