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Our File Reference: 162612

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PLEASE REPLY TO EDMONTON OFFICE

January 27, 2021

Natural Resources Conservation Board  
19th Floor, 250 5th Street SW  
Calgary AB T2P AB T2P 0R4

**Attention: William Kennedy, General Counsel  
Laura Friend, Manager, Board Reviews**

Dear Mr. Kennedy and Ms. Friend:

**Re: Springbank Off-stream Reservoir Project (“the Project”)  
NRCB Application No. 1701 (the “Application”)  
Bears paw First Nation, Chiniki First Nation and Wesley First Nation  
requests for standing, intervenor status, advance funding, and extension**

This letter is Alberta Transportation’s response to the letter from Rae and Company dated January 20, 2021, on behalf of the Stoney Nakoda Nations.

Alberta Transportation has actively engaged the Stoney Nakoda Nations over the last 6 years with respect to this project. It has met with representatives of Stoney Nakoda Nations at least 9 times, and advanced funding. In reviewing the submissions advanced in the January 20, 2021 letter, Alberta Transportation can advise the NRCB of the following:

**Standing**

Alberta Transportation has no objection to the request for standing of the Stoney Nakoda Nations.

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### **Advanced Funding**

First, Alberta Transportation notes that Stoney Nakoda Nations did not make a request for advanced funding in accordance with the Notice issued by the NRCB on October 5, 2020. Further, it is noted that Stoney Nakoda Nation received funding for \$112,150.00 from the CEAA Participant Funding, and the following funding from Alberta Transportation:

<b>Funding Approved</b>	<b>Funding Paid</b>	<b>Event</b>	<b>Date Paid</b>
\$500.00	\$500.00	File Set-up	July 15, 2017
\$50,179.60	\$39,719.40	TUS Costs	January 13, 2017
\$4,578.35	\$4,578.35	TLRU Workshop (March 2018)	March 23, 2018

It is our information that Stoney Nakoda Nations have declined to provide a copy of the Traditional Use Study that was undertaken.

Nevertheless, Alberta Transportation does not oppose advance funding being awarded to each of the 3 Nations, Bearspaw First Nation, Chiniki First Nation, and the Wesley First Nation, as each has requested, as follows:

- (a) \$1,100.00 for Honoraria for each of the 3 First Nations
- (b) Legal fees in the amount of \$20,800.00 for each of the 3 First Nations, with the adjustment of hourly rate from \$370.00 to \$350.00 pursuant to the tariff.

Alberta Transportation would forward 50% of the total of \$65,700.00 to Rae and Company to hold in their trust account and permit their expedited work on the hearing.

### **Request for Extension**

The Stoney Nakoda have requested an extension of the hearing process of “a minimum of three months”. The reason given is the COVID-19 pandemic and public health restrictions. Specific reference is made to Stoney Tribal Council declaring a state of local emergency on January 11, 2021, which it is asserted means that the Stoney Nakoda have limited resources to properly review, analyze and comments on the issues set out in the Board’s pre-hearing conference report.

While Alberta Transportation recognizes the challenges that the pandemic has created for all parties, including the Stoney Nakoda, it notes that the Stoney Nakoda have been engaged on this project going back to 2014. The consultation log demonstrates extensive contact between Alberta Transportation and the Stoney Nakoda with respect to this application over the last several years. Therefore, the issues set out in the pre-hearing conference report, which basically track the subject matter areas in the EIA for the Project, should be well known to the Stoney Nakoda.

Moreover, Alberta Transportation notes that the local state of emergency declared on January 11, 2021 does not explain the Stoney Nakoda's failure to participate in the Board's process last fall. On October 5, 2020 the Board issued a Notice of Pre-hearing Notice inviting interested parties to submit written representations respecting certain preliminary and procedural aspects of the Board's public review, by November 20, 2020. The Pre-hearing Conference was scheduled for December 2, 2020. In response to the Notice, several parties, including some First Nation participants, filed written submissions and participated in the pre-hearing conference. Stoney Nakoda has failed to provide any explanation for why it did not respond to the Board's notice and participate in the pre-hearing conference. The pre-hearing conference was the forum in which Stoney Nakoda could and should have made submissions about how much time it needs to prepare for the hearing.

Alberta Transportation submits it will suffer prejudice should the Board grant a 3-month extension to the current hearing schedule. The timing risks associated with this project are real, and a further 3 month delay could potentially give rise to a significant impact in construction and operation of the facility.

We look forward to the Board's further direction with respect to this matter.

Yours truly,



RONALD M. KRUHLAK

RMK/blw

cc Rae and Company, Attn. Douglas Rae

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