

February 16, 2021

Indigenous Relations  
8th fl 108 Street Building  
9942 - 108 Street  
Edmonton, AB T5K 2J5  
Attention: Robert Kopecky, Director - Consultation South Region

Dear Sirs:

**RE: Springbank Off-Stream Reservoir Project  
NRCB Application No. 1701**

The Natural Resources Conservation Board, having received and reviewed the Applicant's responses to the supplementary information requests, and after providing public notice and conducting a pre-hearing conference, has scheduled a public hearing to commence March 22, 2021. The hearing process will provide for further written submissions from interested parties and for directly affected parties to provide written submissions, oral advocacy and cross-examination opportunities. The hearing process will complete the NRCB record, on which it will determine whether the project is in the public interest.

In the letter of October 2, 2018 (copy enclosed, for ease of reference), Ms. Croteau of Aboriginal Law, Alberta Justice and Solicitor General, reminded the NRCB that any consultation occurring within the NRCB process would serve to complement, not replace, consultation already being undertaken by the government of Alberta. Ms. Croteau also wrote that consultation directed by Alberta Environment and Parks has been ongoing and would continue until AEP determines that adequate meaningful consultation had occurred.

With that in mind, please identify any procedural considerations that the NRCB could incorporate that would further complement the consultation process being conducted by the government of Alberta. For clarity, the NRCB is not asking for an assessment of the adequacy of the Crown's direct Aboriginal consultation, and is not responsible for assessing the adequacy of Alberta's direct Aboriginal consultation. The NRCB, acting impartially under the Natural Resources Conservation Board Act, and as a public agency under the Alberta Public Agencies Governance Act, is coordinating its decision-making process with Alberta's direct Aboriginal consultation process to ensure that a binding decision whether the project is in the public interest can be taken by the NRCB.

Yours truly;



Bill Kennedy  
General Counsel

cc: Ronald Kruhlak, Q.C. (counsel for Alberta Transportation)  
Alberta Environment and Parks (Attention: Corinne Kristensen, Director, Regulatory Assurance)  
Angela Croteau, Justice and Solicitor General, Aboriginal Law Section

October 2, 2018

Natural Resources Conservation Board  
19<sup>th</sup> Floor, Centennial Place  
250- 5 Street SW  
Calgary, AB T2P OR4

Attention: Bill Kennedy

Dear Mr. Kennedy:

**Subject: NRCB and Alberta Environment Approvals**

I am writing to follow up from our discussion on September 27, 2018 and in response to your August 23, 2018 letter to Stan Rutwind.

During our telephone conversation, you noted that the NRCB is interested in engaging with the Government of Alberta (GOA) on the renewal of its First Nations and Metis Settlements consultation policies and guidelines. I have passed on the NRCB's interest to the policy renewal team in Indigenous Relations, and understand that they will soon be in touch with your board chair. If the NRCB wishes to reach out to Indigenous Relations directly, the policy renewal team can be contacted at [fncrenewal@gov.ab.ca](mailto:fncrenewal@gov.ab.ca).

As to your specific questions, we discussed that the GOA may rely on what occurs in the NRCB's processes to assist in meeting the GOA's duty to consult. This could include, *inter alia*, reviewing materials submitted by First Nations or Metis Settlements in the NRCB process, and taking into account conditions that are imposed by the NRCB on a project to address impacts to the exercise of treaty rights. Any consultation that occurs in the NRCB process, with respect to Springbank and Cougar Creek, would serve to complement not replace consultation that is already being undertaken by GOA.

At this time, such reliance should have no impact on how the NRCB conducts its business in making decisions under its home statute, as the GOA is not asking the NRCB to undertake any particular activities or efforts on its behalf. With respect to both the Springbank and Cougar Creek projects, consultation has been directed by Alberta Environment and Parks (AEP) and has been ongoing for some time. That consultation will continue until such time as AEP determines that adequate meaningful consultation has occurred. As you know, the NRCB's decision will be prior in time to the associated regulatory decisions issued by AEP.

Where Alberta intends to rely on steps taken by the NRCB to fulfill the GOA's duty to consult, notification of the appropriate parties will occur. The NRCB will be included in this notification.

I hope the above addresses your concerns, and would be happy to respond should you have follow up questions.

Yours truly,

A handwritten signature in blue ink, appearing to read "Angela", with a long horizontal flourish extending to the right.

Angela Croteau

AJB/le