



Consultation & Land

February 26, 2021

Impact Assessment Agency of Canada
Natural Resources Conservation Board
Sent via email

Dear Ms. Howe, Ms. Friend and Mr. Kennedy:

Louis Bull Tribe (LBT) writes to you to provide our written submission regarding the Springbank Off-Stream Dry Reservoir Project (SR1).

Louis Bull Tribe conducted a traditional land use assessment pertaining to the proposed SR1 project in July 2017. Our assessment identified to the Elbow River bed, impacts to fish and loss of fish habitat, reduced and fragmented wildlife habitat, and loss of or reduced abundance of culturally significant plants.

Loss of accessible Crown lands on which to practice Aboriginal and Treaty rights may be a long-term residual impact relating to this project. Cumulative impacts to Aboriginal and Treaty rights have not been assessed adequately in Alberta, and LBT's greatest concern is this increase in incremental impacts to aboriginal and treaty rights since the time of settlement. The region surrounding the SR1 site has been substantially converted to agricultural use and settlement since the late 1800s, which has made it considerably more difficult to practice Aboriginal and Treaty Rights. This history in the white zone of Alberta explains why LBT members now must travel further and further from the Tribe Reserve lands to practice these constitutionally protected rights, generally on Crown lands or on private lands through arrangements with the landowner. These constraints on the ability to exercise Aboriginal and Treaty Rights within the LBT's traditional territory, and the interests of an Indigenous community in maintaining the ecological health of those natural resources to which they have legal access, must be acknowledged when assessing impacts of any project. LBT would like to emphasize that current use may not necessarily reflect past patterns of use or the interests of LBT in restoring traditional or cultural practices, moving forward.

SR1 will further contribute to regional reductions in already limited lands available to LBT to practice of Indigenous rights and traditional uses, as a result from the increase in disturbance area and

infrastructure development. SR1 will directly impact vegetation and wildlife communities throughout the area and downstream in the watershed. LBT is signatory to Treaty 6, however according to a study LBT conducted with ALCES Landscape and Land-Use Ltd., less than 5% of accessible, undisturbed Crown land remains available in Treaty 6 to practice traditional rights, while cumulative impacts in the area continue to increase. The South Saskatchewan Regional Area, and the Parkland Natural Region, where the SR1 project is located, have had increases in total impacts from 1999 to 2016 at 2.55% (total area impacted: 78.1%) and 2.4% (total area impacted 51.5%), respectively, according to Alberta Biodiversity Monitoring Institute's Status of Human Footprint in Alberta. The Tribe is concerned that the additional impacted lands will contribute to this significant negative effect on the ability of Tribe members to continue to practice traditional rights.

Every incremental impact contributes to the continued reduction of this already critically reduced and eliminated ability to practice rights to traditional land use, which results in LBT Elders and land users incurring increasingly greater costs to travel further away to practice these rights. The IAAC expects that these issues will be resolved through the South Saskatchewan Regional Plan (SSRP). However, it is not clear how LBT should expect these project level cumulative impacts to be addressed in the SSRP. When the Piikani Nation recommended that the Proponent align with the SSRP by engaging with the Indigenous Wisdom Advisory Panel to "contribute to the assessment of effects of (SR1) and development of mitigation measures, monitoring, and follow up programs", the Proponent admits that the SSRP is "meant to guide on a broad scale at a regional level not at a project specific level, thus it was not incorporated into the assessment of effects." LBT can presume that all future minor and major projects in this region will also act independently of resource governance decisions at the regional scale, with the assumption that the SSRP will serve to mitigate cumulative effects on their behalf. Considering the Land-use Framework planning process has made very little progress throughout the rest of the province over nearly 15 years following its development, it is difficult to believe there are sufficient resources available to make this happen.

Alberta Transportation has made an effort to address these concerns through the creation of the Land-use Area and inviting stakeholders and First Nations to help with developing land use principles for the use of this area.

LBT has also expressed concerns regarding the proposed reclamation of post-flood wetlands. Revegetation measures for wetlands will likely not be effective through reseeding, no feasible alternative or adaptive management options have been proposed beyond natural revegetation, and successful natural revegetation also seems unlikely. It is not clear what mitigation options are available beyond wetland replacement or compensation in accordance with the *Alberta Wetlands Policy* if natural revegetation does not meet revegetation targets, and LBT cannot be certain where or how these replacement or compensation measures will be applied. This uncertainty regarding wetland reclamation success, as well as the uncertainty around where and how wetland replacement will be conducted under the *Alberta Wetlands Policy*, may result in further cumulative impacts to aboriginal and treaty rights.

LBT provided the following requests from Alberta Transportation as a result of our TLU:

1. LBT encourages the Government of Alberta, upon converting the SR1 area to Crown lands, to designate the area for Indigenous use only. Treaty 6 & 7 First Nations have been restricted from

occupied Crown lands for at least a century and are in need of an area within this eco-system to practice rights and carry out traditional uses upon the land. This presents a unique opportunity for the Government of Alberta to reconcile loss of use and access to lands that has occurred during early settlement and development within Treaty 7. LBT believes that this area will best accommodate the exercise of these rights if under direct and sole management by First Nations people. LBT would like to further discuss how a land-use management or co-management plan for this area should be designed and executed.

2. LBT requests an opportunity to conduct a site visit during and post construction to ensure that prescribed mitigation measures are applied and that no culturally significant sites are adversely impacted.
3. LBT is seeking an opportunity to be consulted on the reclamation activities along the banks of the Elbow River. It is very important to LBT to ensure that native species are returned and that the appropriate species are planted; "LBT knowledge holders have advised that certain plants need to be planted with specific companion species to ensure health of the plants and adequate growth".
4. LBT is requesting to be included in post flood activities to ensure practice of rights can be continued following a flood event.

We are willing to work with the proponent and wish to address our concerns in advance of any approval. We are asking the Natural Resources Conservation Board to consider our concerns when making your determination.

Thank you, hai hai

Melanie Daniels B.Sc.
Consultation & Land Manager
Louis Bull Tribe