

March 3, 2021

Laura Friend
Manager, Board Reviews
Natural Resources Conservation Board
250 – 5 Street SW
Calgary AB T2P 0R4
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Dear Madam:

**Subject: Springbank Off-Stream Reservoir Project (Project)
NRCB Application No. 1701**

The Aboriginal Consultation Office (ACO) of the Ministry of Indigenous Relations writes to respond to the recent inquiry from General Counsel for the Natural Resources Conservation Board (NRCB). That inquiry requests the identification of any procedural considerations that the NRCB could incorporate that would further complement the consultation process being conducted by the Government of Alberta (Alberta).

In general, the ACO and Alberta ministries may rely on the NRCB process, including but not limited to the Decision Report, to satisfy any duty to consult that may be owed by the Crown regarding potential adverse impacts to the exercise of rights to which section 35 of the *Constitution Act, 1982* pertains, and of traditional uses, as defined in Alberta's First Nations consultation policy and guidelines.¹

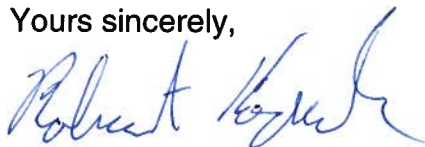
Such reliance should have no impact on how the NRCB conducts its business in making decisions under the *Natural Resources Conservation Board Act*, as Alberta is not asking the NRCB to undertake any particular activities or efforts on its behalf. Indeed, the "Indigenous Engagement" portion of the NRCB's website <https://www.nrcb.ca/natural-resource-projects/indigenous-engagement> states that, with respect to the roles and responsibilities of the NRCB, the ACO does not provide a recommendation or advice to the NRCB. The ACO has no formal role in NRCB processes, including regarding any consultation that the NRCB may engage in with a First Nation.

¹ *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management, 2013* and *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014.*

The ACO provides advice and support to Alberta ministries with statutory and regulatory responsibilities related to Crown land and natural resource management. Alberta's website <https://www.alberta.ca/proponent-led-indigenous-consultations.aspx#jumplinks-3> regarding proponent-led Indigenous consultations now provides continuing public notice that Alberta may rely on the consultation that occurred in the NRCB's process to assist in meeting any duty to consult owed by Alberta. To remind the hearing participants of this notice, we request that this letter be made available to all participants in the NRCB's hearing process regarding the Project, including all participant First Nations.

We understand that the NRCB has its own policies and procedures to ensure that affected persons, including First Nations, are notified, can participate, and where appropriate have their concerns addressed, prior to decisions being made. While it would be inappropriate for the ACO to provide direction to the NRCB as an independent statutory tribunal, we encourage a respectful dialogue between the NRCB, the proponent and First Nations about the Project.

Yours sincerely,



Robert Kopecky
Director, South Region

Cc:

Ronald Kruhlak, Q.C. (counsel for Alberta Transportation)
Alberta Environment and Parks (Attention: Corinne Kristensen, Director, Regulatory Assurance)
Bill Kennedy (General Counsel, NRCB)