



Stoney Nakoda Nations



Image Credit: Alberta Transportation 2016

Interim Traditional Land Use Assessment Report: Springbank Off-Stream Reservoir SR-1 October 20 – November 4, 2016

Prepared for Alberta Transportation

Prepared by Stoney Consultation
February 2021

Foreword

Intellectual Property and Confidentiality

This report is governed by intellectual property rights and will be treated with strict confidentiality. Information contained herein will not be released by any other party for any reason without explicit permission from the Stoney Nakoda Nations. It is understood that Alberta Transportation respects and understands that full rights and ownership of the indigenous traditional knowledge rest with the Stoney Nakoda Nations. The traditional land use assessment and knowledge provided by the Stoney Nakoda Nations to Alberta Transportation is for confidential use in the planning and construction process for the Springbank Off-Stream Reservoir SR-1.

OCAP (ownership, control, access, and possession)

OCAP™, which stands for ownership, control, access and possession, is a registered trademark of the First Nations Information Governance Centre, used under license/or used with permission. The First Nations principles of OCAP™ are a set of standards that establish how First Nations data should be collected, protected, used, or shared. They are the *de facto* standard for how to conduct research with First Nations. OCAP™ is a set of principles that reflect First Nation commitments to use and share information in a way that brings benefit to the community while minimizing harm. It is also an expression of First Nation jurisdiction over information about the First Nation and represents principles and values that are intertwined and reflective of First Nations' world-view of jurisdiction and collective rights.

Through First Nation stewardship of First Nation data, First Nations are able to ensure that service contracts, data sharing agreements, licenses to use and other forms of legal agreement whereby First Nations information is shared with other institutions, contain all of the necessary provisions to protect First Nations OCAP™ of the data.

Currently there is no information sharing agreement between the Stoney Nakoda Nations and Alberta Transportation.

Table of Contents

| | |
|--|----|
| Introduction | 1 |
| Background to the Stoney Nakoda First Nations..... | 3 |
| Duty to Consult | 4 |
| Project Background and Regulatory Framework..... | 4 |
| Methodology..... | 6 |
| Field Work Limitations and Conditions..... | 7 |
| Results..... | 8 |
| Overview of the Project Area within the Stoney Nakoda Cultural Landscape. | 8 |
| TLUA Field Survey | 12 |
| Conclusions and Recommendations..... | 26 |
| References | 31 |
| Appendix 1: Letter of Objection..... | 32 |

Table of Figures and Tables

| | |
|--|----|
| Figure 1 Map showing the proposed Project area and infrastructure during different flood scenarios (IAAC 2021: Figure 2). | 5 |
| Figure 2 Map showing ranges and habitats of culturally significant animals, fish, and birds in relation to the Project area. The map also illustrates the physical barriers any animal would have when moving from the east side of the Project area (including Hwy 1 and Hwy 22, and the Project area shown in black and gray), west, to areas in and around the Stoney Nakoda Morely Reserve ((datasets from AEP, https://www.alberta.ca/wildlife-sensitivity-maps.aspx Accessed 15/10/2020).. | 11 |
| Figure 3 Map showing the location of Stoney Nakoda sites in relation to the Project area and infrastructure. | 13 |
| Figure 4 Overview of Site 1 Area 320 overview of ceremonial and sacred area (NAD 83 11 U E 0682233 N 5658672)..... | 16 |
| Figure 5 Detail of Site 1 Area 320 overview of ceremonial and sacred area (NAD 83 11 U E 0682233 N 5658672)..... | 16 |
| Figure 6 Site 2 Area 321 overview of animal and plant habitat (NAD 83 11 U E 0682222 N 5658528). | 17 |
| Figure 7 Site 2 Area 321 overview of animal and plant habitat (NAD 83 11 U E 0682222 N 5658528). | 17 |
| Figure 8 Site 3 Area 336 overview ceremonial and sacred area (NAD 83 11 U 0676690 E 5655861 N)..... | 18 |
| Figure 9 Site 3 Area 336 overview of harvesting area (NAD 83 11 U 0676690 E 5655861 N).18 | |
| Figure 10 Site 4 Areas 340 overview of human trail and corridor (NAD 83 11 U 0676938 E 5854972E). | 19 |
| Figure 11 Site 4 Areas 340 overview of human trail and corridor (NAD 83 11 U 0676938 E 5854972E). | 19 |

| | |
|--|----|
| Figure 12 Site 5 Area 339 overview of habitation/camping area (NAD 83 11 U 676971 E 5654919 N)..... | 20 |
| Figure 13 Site 6 Area 361 overview of habitation/camping area & harvesting area | 20 |
| Figure 14 Site 7 Area 370 overview of animal and plant habitat (NAD 83 11U 681652E 5659251N)..... | 21 |
| Figure 15 Site 7 Area 370 overview of animal and plant habitat (NAD 83 11U 681652E 5659251N)..... | 21 |
| Figure 16 Site 8 Area 372 overview of animal and plant habitat (NAD 83 11U 681524E 5659298N)..... | 22 |
| Figure 17 Site 9 Area 363 overview of habitation/camping area & harvesting area (NAD 83 11U 678552E 5658559N). | 22 |
| Figure 18 Site 9 Area 363 overview of habitation/camping area & harvesting area (NAD 83 11U 678552E 5658559N). | 23 |
| Figure 19 Site 10 Area 381 overview of animal and plant habitat (NAD 83 11U 676656E 5660955N)..... | 23 |
| Figure 20 Overview of animal and plant habitat (NAD 83 11U 676772 E 5660993N). | 24 |
| Figure 21 Site 12 Area 383 overview of animal and plant habitat (NAD 83 11 U 0677241E 5660955N)..... | 24 |
| Figure 22 Site 13 Area 389 overview of animal and plant habitat (NAD 83 11U 678181E 5660563N)..... | 25 |
| Figure 23 Site 13 Area 389 overview of animal and plant habitat (NAD 83 11U 678181E 5660563N)..... | 25 |
| Figure 24 Map showing the location of Stoney Nakoda site areas within the proposed Project area..... | 29 |
| Figure 25 Map showing the location of Stoney Nakoda site areas and habitat and ranges of culturally significant animals, fish and birds in relation to the proposed Project area (datasets from AEP, https://www.alberta.ca/wildlife-sensitivity-maps.aspx Accessed 15/10/2020). | 30 |
| Table 1 Stoney Nakoda Site Areas. | 14 |

Introduction

This interim report is intended to present preliminary findings of the Traditional Land Use Assessment (TLUA) conducted by the Stoney Nakoda Nations (Stoney Nakoda) and Stoney Nation Elders, for Alberta Transportation Springbank Off-Stream Reservoir SR-1 (the Project). As detailed further below, the Stoney Nakoda believe that the opportunity provided by Alberta Transportation to undertake a TLUA for the proposed Project was inadequate and deficient. This is the result of the time of year the survey was undertaken, the limited area accessible for survey, as well as the actions and views expressed by representatives from Alberta Transportation and DEMA Lands who facilitated the survey. As a result, the Stoney Nakoda do not view the TLUA work undertaken for the proposed Project as completed or comprehensive.

The Stoney Nakoda operate under the authority of the Stoney Nations Chief and Council. The work of the Stoney Nakoda is ongoing, and the results may be modified as the review process continues. If additional or supplemental project information is made available over the course of Alberta Transportation's application process, the Stoney Nakoda reserve the right to reconsider the findings presented herein and/or to provide supplemental information on the anticipated effects of the project on Stoney Nakoda use, rights, and interests.

The Stoney Tribal Administration, including representation from the Stoney Consultation Department and each of the three Stoney Nakoda communities, is participating in the consultation and engagement related to Alberta Transportation's Springbank Off-Stream Reservoir SR-1 proposed project. From October 20- November 4, 2016 a preliminary TLUA was undertaken by Stoney Consultation within the Springbank Off-Stream Reservoir SR-1 Project Development Area (PDA). It is expected that Alberta Transportation will meaningfully engage the Stoney Nakoda to address concerns surrounding this preliminary TLUA and recommendations for mitigation in advance of further development.

It should be noted that the report is necessarily brief and does not present a detailed account of the traditional knowledge, traditional use, or the depth of cultural and spiritual value associated with the area. The information provided herein presents a limited view and is meant to primarily assist the protection and preservation of cultural sites located within the Project boundaries. We endeavored to develop the report in such a way to allow for amendments in the Project planning and to facilitate further discussion with Alberta Transportation.

For the purpose of this report, the following definitions are considered appropriate. According to the United Nations Environment Program (UNEP) and the United Nations Educational, Scientific and Cultural Organizations (UNESCO),

[Traditional knowledge] can be broadly defined as the knowledge that an indigenous community accumulates over generations of living in a particular environment. This definition encompasses all forms of knowledge – technologies, know-how skills, practices and beliefs – that enable the community to achieve stable livelihoods in their environment (UNEP, 2008).

and

[Indigenous people]...living in and from the richness and variety of complex ecosystems, have an understanding of the properties of plants and animals, the functioning of ecosystems and the techniques for using and managing them that is particular and...detailed (Nakashima and Roue, UNESCO 2002).

Traditional uses, use areas and traditional knowledge can include (South Saskatchewan Regional Plan (SSRP) Traditional Use Studies Project by Mirau and Rider, 2009; Original list derived from a First Nations guidebook on traditional uses by Tobias, 2000):

- Places where naturally occurring animals are harvested for food, clothing, medicines, tools, and other purposes.
- Places where naturally occurring plants are harvested for food, clothing, medicines, tools, shelter and fuel.
- Places where rocks, minerals, and soils are collected for making tools, conducting ceremonies, and other purposes.
- Ecological knowledge of habitats and sites critical to the survival of important animal and plant populations.
- Corridors and areas which animals use to migrate, feed, mate, calve and winter.
- Habitation and economic practices sites, such as settlements, trading areas, travel and trade routes.
- Spiritual, religious, and sacred places such as ceremonial sites, rock paintings and burial locations.
- Special places of history, legend, myth, and other accounts about specific places.
- Educational places used for preserving traditional knowledge. Landscapes in traditional territories are used to teach Stoney Nakoda youth and to maintain the transmission of important knowledge such as cultural practices, ceremonies, and history as land and culture go hand in hand.

The International Union for the Conservation of Nature (IUCN) has defined sacred natural sites as, “*areas of land or water having special spiritual significance*” (Wild and McLeod 2008). The Stoney Nakoda find this definition appropriate and has used “sacred natural site” to describe important natural places of reference for cultural identity and for locations that

hold significant ceremonial and spiritual value to the Stoney Nakoda. For the purpose of this report, the term “sacred natural site” has been broken down into seven subareas that are directly associated with Stoney Nakoda traditional land use interests, Aboriginal and Treaty rights. These include:

- Hunting, Trapping, and Fishing Areas,
- Harvesting Areas,
- Traditional Story/Narrative Area,
- Ceremonial and Sacred Areas,
- Traditional Family Territories,
- Animal and Plant Trails, Ranges, and Corridors,
- Human Trails and Corridors,
- Camping Areas.

There may be instances where the strategies for cultural site management conflict with recommendations made in the Historic Resources Impact Assessment (HRIA) for the Project. The management of these sites will require careful consideration and an open dialogue with the Stoney Nakoda.

Background to the Stoney Nakoda First Nations

The people of the Stoney Nakoda are known in the Nakoda language as the Iyarhe Nakoda or “people of the mountains”. Historically, the Iyarhe Nakoda people inhabited regions across Alberta, British Columbia, Saskatchewan, and Montana. Stoney Nakoda traditional land use area covers an area of land as far east at the Cypress Hills, and as far south at Glacier National Park in Montana, U.S.A., to the west as far as the B.C. Interior, and as far north as Jasper National Park, Alberta.

The Iyarhe Nakoda are made up of three distinct First Nations that were signatories to Treaty 7 on September 22, 1877; the Bearspaw First Nation, Goodstoney/Wesley First Nation, and Chiniki First Nation represented at Treaty signing by Chief Ozija Thiha/MasGwa-Ah-Sid, or Jacob Bearspaw (Bearspaw), Chief Ki-Chi-Pwot, or Jacob Goodstoney, Chief Che-ne-ka, or John Chiniquay. Subsequent to the signing of Treaty 7, the Iyarhe Nakoda Nations were assigned one Indian Reserve at Morley, AB (Stoney Indian Reserve 142, 143, 144), located west of Cochrane, Alberta, rather than three separate land bases which was what was originally agreed to during the Treaty process. As such, the three First Nations are recognized legally as the Stoney Nakoda Nations, but have unique cultural and linguistic traits that set them apart.

The Stoney Nakoda have constitutionally recognized Treaty and Aboriginal rights, titles and interests to Reserve Lands at Morley Alberta (I.R. #142, 143, 144), Eden Valley (I.R. #216),

Rabbit Lake (I.R. #142B) and Bighorn (I.R. #144A) and to their Traditional Lands, which encompass a broader area than the Reserve Lands as identified by the Stoney Nakoda. Stoney Nakoda historic trails, campsites, hunting areas, fishing waters, ceremonial and spiritual sites, trade routes, grave sites and gathering areas are known throughout these Traditional Lands.

The Stoney Nakoda are a self-governing body under the authority of Treaty 7 and the Indian Act, R. S. C 1985, C. 1-5, and provides leadership and direction in respect to all-natural resource development applications through the duly elected Chiefs and Councils of the member Nations, collectively known as the Stoney Tribal Council. The Chiefs and Councils of the Stoney Nakoda have the authority to protect the collective rights and interests of the Stoney Nakoda as recognized by Treaty 7 and the Natural Resources Transfer Act, 1930, and protected by *Section 35* of the Constitution Act, 1982 (collectively known as “*Section 35* rights”).

Duty to Consult

According to Indigenous and Northern Affairs Canada, the common law duty to consult is based on judicial interpretation of the obligations of the Crown in relation to potential or established Aboriginal or Treaty rights of the Aboriginal peoples of Canada, recognized and affirmed in *Section 35* of the *Constitution Act, 1982* (IAANDC 2020).

In the *Haida* and *Taku River* decisions in 2004, and the *Mikisew Cree* decision in 2005, the Supreme Court of Canada (SCC) held that the Crown has a duty to consult and, where appropriate, accommodate when the Crown contemplates conduct that might adversely impact potential or established Aboriginal or Treaty rights. This duty has been applied to an array of Crown actions and in relation to a variety of potential or established Aboriginal or Treaty rights (IAANDC 2020). In these decisions, the SCC determined that the duty to consult stems from the Honour of the Crown and the Crown's unique relationship with Aboriginal peoples. The Court explained that it will look at how the Crown manages its relationships with Aboriginal groups and how it conducts itself when making decisions that may adversely impact the rights recognized and affirmed by *Section 35* (IAANDC 2020).

Since 2008, the Stoney Nakoda Nations have entered into a consultation contribution agreement with the government of Alberta to engage in consultation related activities for industrial projects by industry and the provincial government. This agreement has been renewed every year since, and provides capacity for projects, although not all aspects of consultation are covered in this process.

Project Background and Regulatory Framework

Alberta Transportation is proposing the construction of the Springbank Off-Stream

Reservoir SR-1 that includes a storage reservoir, diversion channel, dam structures and outlet structures. The proposed project is located approximately 18.5 kilometers west of Calgary, Alberta; along highway 22 and south of highway 1 (Figure 1) (IAAC 2021). The aim of the project is to mitigate flood impacts to the City of Calgary. The proposed project would be located in a floodplain of the Elbow River and its tributaries and is anticipating a peak diversion flow of 600 cubic meters per second during flood events. The proposed Project is a dry dam, meaning that the project area will remain dry until a flood event occurs and would store up to 77,771,000 metres cubed of diverted water at maximum capacity (IAAC 2021). Diverted water would be gradually returned to the Elbow River once flooding has subsided.

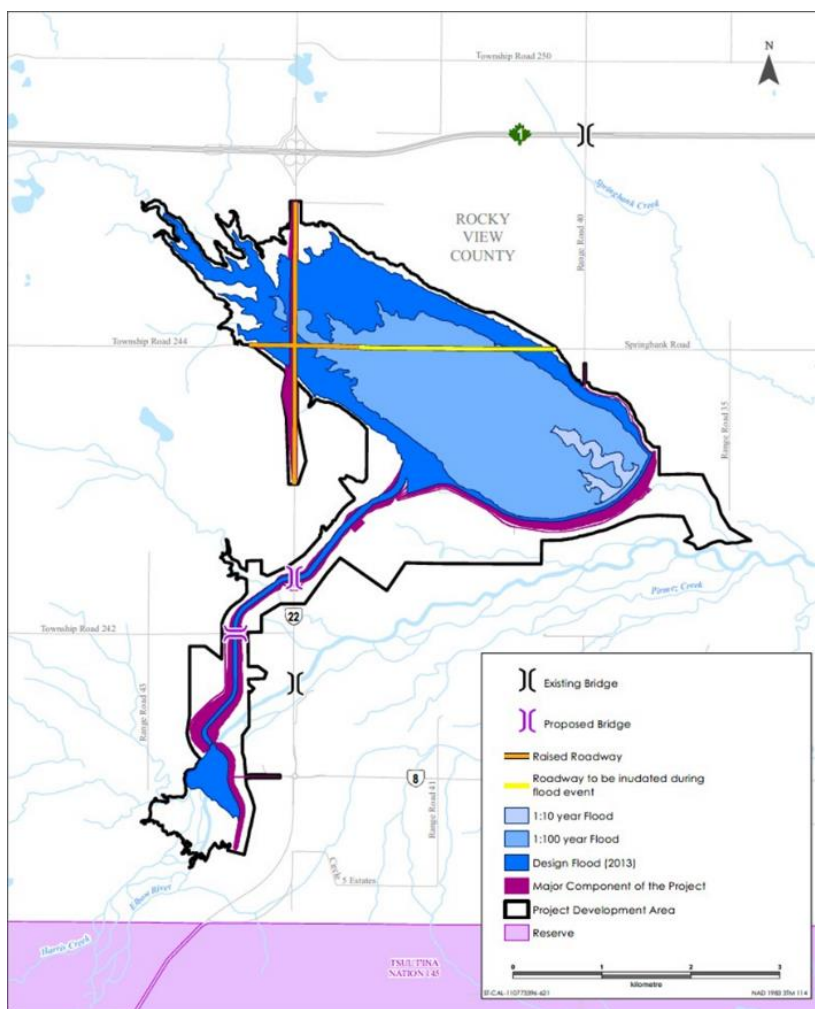


Figure 1 Map showing the proposed Project area and infrastructure during different flood scenarios (IAAC 2021: Figure 2).

The proposed Project will be assessed under CEAA 2012 and the Alberta Environmental Enhancement and Protection Act. The Impact Assessment Agency of Canada (IAAC) is

required to undertake a federal environmental impact assessment (EIA) as the proposed Project entails, “the construction, operation, decommissioning and abandonment of a new structure for the diversion of 10 000 000 m³ per year or more of water from a natural water body into another natural water body” (CEAA 2012). Concurrently, the proposed Project will be subject to a provincial environmental assessment under the Alberta Environmental Enhancement and Protection Act.

Methodology

TLUA field work was conducted over a period of 11 days between October and November of 2016. Field work was limited to the Springbank Off-Stream Reservoir SR-1 PDA. The Project field team consisted of Chris Goodstone (Stoney Consultation, Wesley First Nation Representative), Larry Daniels Jr. (Stoney Consultation, Bearspaw First Nation Representative), Lenny Wesley (Elder), the late Melvin Beaver (Elder), Charlie Rabbit (Elder), Henry Holloway (Elder), Charles Powderface (Elder), Elliot Lefthand (Elder), and the late Sam Ear (Elder).

During fieldwork features of interest were photographed and documented using GPS points (UTM, NAD83); qualitative observational information was recorded on site specific data forms at each location and later used to develop area and site-specific recommendations. Due to the confidential and sensitive nature of the subject matter, certain observational details have been omitted from this report.

Locations identified during fieldwork were digitally mapped using ARC GIS and other spatial mapping programs. Stoney Nakoda place names associated with the Project and located around the Project area were documented, and some are contained herein. Specific Stoney Nations locations associated with the Project and Project area are illustrated in the *Conclusion and Recommendation* section below and are correlated to specific Project related concerns.

As previously noted, for this report terminology utilized by the IUCN regarding sacred natural spaces, or “*areas of land or water having special spiritual significance*” (Wild and McLeod IUCN, 2008) and cultural sites, applied to broadly describe culturally significant tangible elements such as cairns, effigies and tipi rings and other archaeological site areas have been adopted. For the purpose of this report, the term “sacred natural site” has been broken down into seven subareas that are directly associated with Stoney Nakoda Interests, Aboriginal and Treaty rights and are utilized in illustrating and describing specific Stoney Nakoda areas and sites herein.

These include:

- Hunting, Trapping and Fishing Areas (Illustrated with blue dots),
- Harvesting Areas (Illustrated by green stripes),

- Traditional Story / Narrative Area (Illustrated in tan stripes),
- Ceremonial and Sacred Areas (Illustrated in red),
- Traditional Family Territories (Illustrated in orange),
- Animal and Plant Trails and Corridors (Illustrated in orange dots),
- Human Trails, Pathways, and Corridors (Illustrated by a black, double sided arrow),
- Camping Areas (Illustrated in purple).

Although the Stoney Nakoda have site specific concerns that extend beyond the noted Crown Land, the information summarized here is generally limited to the specific quarter section where fieldwork took place.

Field Work Limitations and Conditions

As previously noted, the Stoney Nakoda believe that the opportunity provided by Alberta Transportation to undertake a TLUA for the proposed Project was inadequate and deficient. This is the result of the time of year the survey was undertaken, the limited area accessible for survey, as well as the actions and views expressed by representatives from Alberta Transportation and DEMA Lands who facilitated the survey.

Field work was conducted over a period of 11 consecutive days between October and November 2016. Temperatures during field work were consistently below freezing, with snow flurries occurring. Ground visibility was moderate to low, and vegetation and animal identification was limited; factors that greatly impacted the detection and documentation of Stoney Nakoda sites and site areas. During field work it was felt that there was a bias in the locations visited and surveyed because Alberta Transportation and DEMA Lands were directing the field work.

The Stoney Nakoda Elders and field team felt uncomfortable throughout their time in the field, felt that they were unable to visit the areas that they wished to survey, and that their process was not respected by the representatives facilitating the field work. The Elders did not feel open to discussing culturally significant and restricted information during their time in the field, and as a result, some Stoney Nakoda site areas were not recorded and documented. At one point during field work, tensions and frustrations were elevated to a point that one of the Stoney Nakoda Elders asked the Alberta Transportation representative to give the field team space, so that they can undertake the appropriate protocols and documentation of Stoney Nakoda sites without being rushed and hovered over.

In addition to the limitations noted above, it was felt that the Elders' needs were not accommodated and respected. In many instances the distance required to walk to survey specific areas was viewed as excessive. On many occasions the Stoney Nakoda field team attempted to mitigate additional stress on the Elders by finding alternate and closer access points, but their attempt and suggestions were not used. As temperatures during the 11

days in the field consistently were below freezing, many of the Elders were unable to complete the entire TLUA field survey due to cold and exhaustion. It is important to note that the Stoney Nakoda do not view the TLUA work undertaken for the proposed Project as completed and comprehensive documentation of Stoney Nakoda sites that are present within the Project area.

Results

Overview of the Project Area within the Stoney Nakoda Cultural Landscape.

The Proposed project is located within a highly significant landscape for the Stoney Nakoda people. The Elbow river and the landscape that surrounds it, is an important and sacred environment where the Stoney Nakoda have hunted, fished, harvested, traveled through and camped for millennia; this connection to land and place continues today. It is important to note that many of the concerns expressed by the Stoney Nakoda Elders and community towards the proposed Project cannot be distilled down and isolated into site specific locations on maps as Stoney Nakoda heritage, culture and lifeways are interwoven with human-environment interconnectivity and as a result cannot be siloed and detached from one another. They are essentially an entwined matrix of intangible and tangible elements that form the cultural landscape.

Stoney Nakoda use, rights, and interests pertain to traditional territorial lands described in the Stoney Aboriginal Title Case filed in Alberta in 2003; this includes areas directly adjacent to and within the proposed Project boundary. The Springbank Off -Spring Reservoir SR-1 is located within an area where the Stoney Nakoda have unextinguished *Section 35* rights, and where the Stoney Nakoda demonstrate current and continuous use of the land and resources, as well as traditional use, occupancy, and traditional knowledge. This is asserted through Stoney Nakoda oral histories, archaeological, and historical material, ethnographic records, stories, songs, and place names.

The Project area and the landscape that surrounds the Project area are marked by Stoney Nakoda Place Names and oral histories including, but not limited to:

Elbow River, in Stoney Nakoda as Mnotha Wapta (translated to crackling river).

It is named for the crackling sound it gives out whenever there are small rapids along the creek. The sound of the water flowing over these small Rapids produces a crackling sound so therefore, Mnotha Wapta.” (Frank Powderface). (page 71, Chiniki Place Names Report).

City of Calgary: Wichispa Oyade (translated to “Elbow City”.)

The definition for Wichispa is down where the city is presently, along the river it's shaped like a person's elbow, positioned that an angle so Wichispa oyade is Elbow City (Lazarus Wesley, August 5, 1987). (page 72, Chiniki Place Names Report).

Bragg Creek: Sna mima Waptan, and Mnotha Wapta

Translated as “Round Clearing Creek”, West of Sna mima (Lazarus Wesley, July 21, 1987) (Page 64, Chiniki Place Names Report). Also, translated as “Crackling River”, East of Sna mima (Lazarus Wesley, July 21, 1987). (Page 64, Chiniki Place Names Report)

West Bragg Creek: Sna mima

Translated to “Round Clearing” and is a traditional Campsite of the Stoney Nakoda (page 64, Chiniki Place Names Report).

Elbow River Trail: Mnotha Wapta Chagu

Translated as “Cracking River Trail” - Elbow River trail, a pack trail to and from various locations in the mountains for hunting, trapping, fishing or berry picking at traditional campsites (page 101, Chiniki Place Names Report).

Stoney Nakoda oral histories and narratives, prior to European contact, also speak to use of the Project area and tell of the Stoney Nakoda camping around Springbank Creek. The oral history of the “Chews Her Braids” speaks to the use of the Project area by the Stoney Nakoda as a Buffalo campsite (Chumak 1983: 191). The telling of this story in Stoney communities continues to this day.

The Stoney Nakoda have an ongoing spiritual and cultural connection with harvesting resources, vegetation and wildlife, water, fish and fish habitat that persists. The Project area is located within an environmentally significant landscape which functions as critical habitat, corridors, and ranges for many of these culturally significant fish, game, and plant species which are also hunted, trapped, and harvested by the Stoney Nakoda people under *Section 35* and which supports food sovereignty, mental and physical health and well-being, spirituality and ceremony, and the transmission of traditional and ceremonial knowledge and practices (Figure 2). The practice of these *Section 35* rights by the Stoney Nakoda within the Project area is ongoing and continues to this day with hunters, and gatherers, in

accessing lands in the Project area, with landowner permissions, and fishing along the Elbow River.

One of the main concerns expressed by the Stoney Nakoda to the Project is the impact it will have on animal and fish migration routes, increasing habitat fragmentation within and around the Project area. The Project area is within the range of culturally sensitive and significant species to the Stoney Nakoda including, but not limited to, black bears, sensitive raptors such as golden eagle and bald eagles, sharp tailed grouse, and key wildlife and biodiversity zones identified for ungulates (see Figure 2). The Project is proposing to impact a total of approximately 117 ha of high and 377 ha of moderate feeding habitat for ungulates and re-route streams that are identified as critical habitat for bull trout; a protected species under the *Species at Risk Act* (SARA). The concern regarding habitat fragmentation surrounds the addition of infrastructure that will act as physical barriers to the movement of animal, fish and bird species through the proposed Project area; mainly trapping the animals to the east of the proposed Project area as there are limited locations that would function as safe corridors for animal movement from the east to the west. In addition to other barriers such as Hwy 1 and Hwy 22 that already impede wildlife movement by intersecting the Project area north/south and east/west, the development of infrastructure for the proposed Project will increase this fragmentation potentially pushing the animals and fish away from the Stoney Nakoda Reserve area, and impacting the accessibility of culturally significant animals, fish, and birds that are hunted and harvested under Stoney Nakoda *Section 35* rights.

The development activities, as planned, have the potential to intersect locations used for the exercise of Stoney Nakoda *Section 35* rights and are within an area associated with hunting, harvesting, ceremonial, spiritual, and other cultural practices; and that contains Stoney Nakoda sacred, cultural heritage, archaeological sites. As a result, the proposed Project will have significant adverse impacts to the practice of Stoney Nakoda rights and endanger the ability to sustain the Stoney Nakoda way of life. Further, the Project and its associated impacts, if approved, will impact the Stoney Nakoda sense of place (see Haines Junction Designated Office 2012 *in* Gibson 2017), and may have adverse impacts on the Stoney Nakoda's continued access to locations where activities, practices, traditions, and customs can persist, which is viewed as imperative to the maintenance of the Stoney Nakoda culture and identity.

TLUA Field Survey

As previously noted, a TLUA was conducted over a period of 11 days between October and November of 2016. Field work was limited to the Springbank Off-Stream Reservoir PDA. The Project field team consisted of Chris Goodstoney (Stoney Consultation, Wesley First Nation Representative), Larry Daniels Jr. (Stoney Consultation, Bearspaw First Nation Representative), Lenny Wesley (Elder), the late Melvin Beaver (Elder), Charlie Rabbit (Elder), Henry Holloway (Elder), Charles Powderface (Elder), Elliot Lefthand (Elder), and the late Sam Ear (Elder). Thirty Stoney Nakoda sites and site areas were documented by the Stoney Nakoda field team and areas where ongoing *Section 35* rights are exercised within the Project area were noted (Figure 3). Site information is presented in Table 1, Figures 4-25 and discussed further below.

Additionally, the Stoney Nakoda Elders and community members are aware of the potential the Project area has to contain archaeological and historical site areas, as it is located along a significant water course which the Stoney Nakoda have camped, hunted, fished and traveled along for millenia. The Project area also intersects the Stoney Trails (page 101 - 107, Chiniki Place Names Report), and is an important travel corridor for the Stoney Nakoda people that has been used since time immemorial. Additionally, the Proposed project is located within an area where early First Nation and Euro Canadian interaction took place during the period of contact and early subdivision of Stoney Nakoda traditional territory for ranching and farming. During the field tour, landowner Mary Robinson spoke to oral histories passed down from her grandparents of the Stoney Nakoda camping along the Elbow river and within the Project area during the 19th and 20th century. The Project area, essentially contains layers of heritage significant to the Stoney Nakoda people, including the pre-contact period, the contact period, the historic period, and includes the current and ongoing use of the landscape today. This will all be destroyed with the construction of the proposed Project if the appropriate mitigation measures are not undertaken.

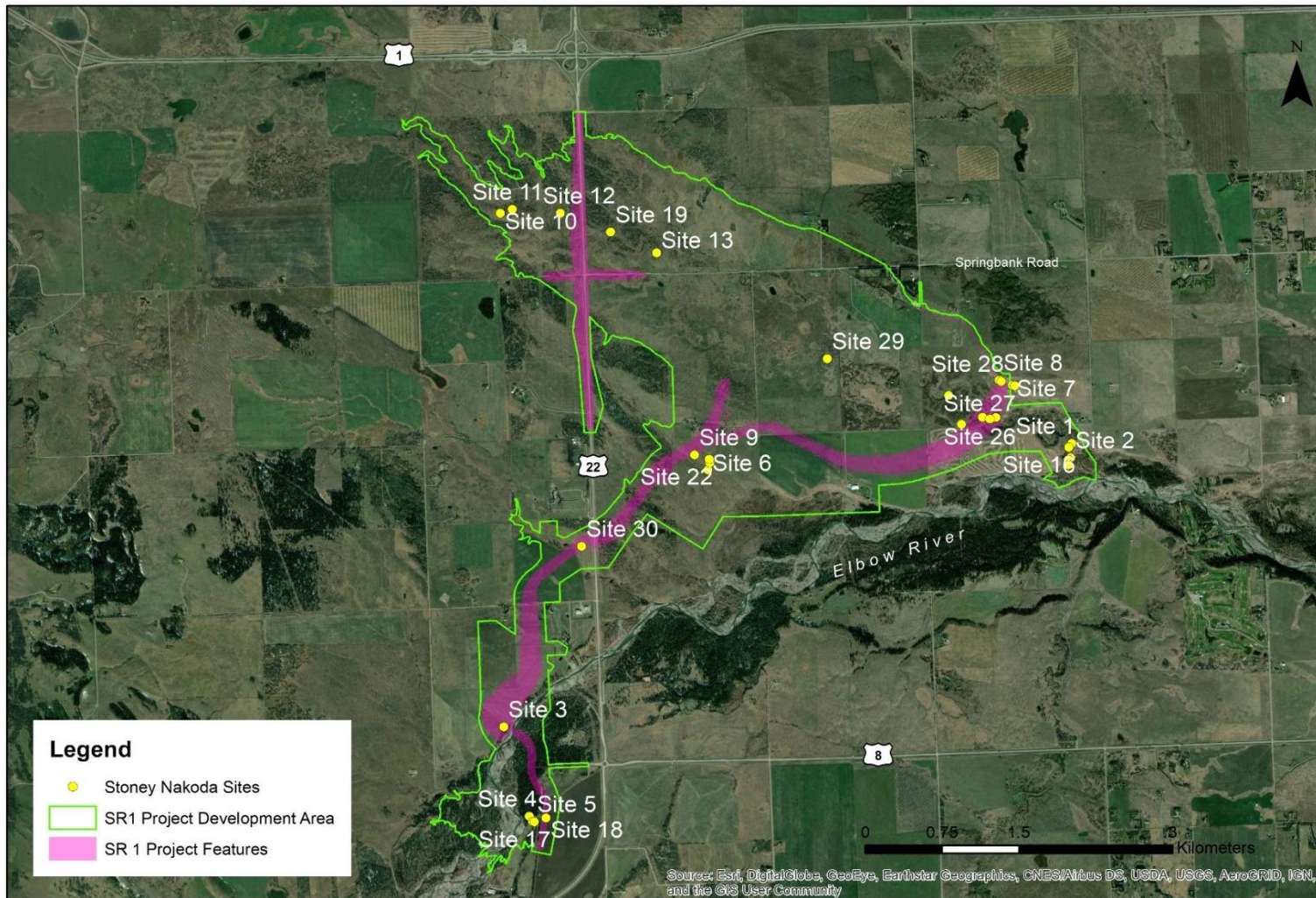


Figure 3 Map showing the location of Stoney Nakoda sites in relation to the Project area and infrastructure.

Table 1 Stoney Nakoda Site Areas.

| Site | Description | Easting NAD 83 11 U | Northing NAD 83 11 U |
|---------|--|------------------------|-------------------------|
| Site 1 | Ceremonial and sacred area | E: 0682233 | N: 5658672 |
| Site 2 | Animal and plant habitat, trails and corridors | E: 0682222 | N: 5658528 |
| Site 3 | Ceremonial and Sacred area | E: 0676690 | N: 5655861 |
| Site 4 | Human trails, pathways, and corridors | E: 0676938 | N: 5854972 |
| Site 5 | Habitation/Camping area | E: 0676971 | N: 5654919 |
| Site 6 | Habitation/Camping area | E: 0678683 | N: 5658410 |
| Site 7 | Animal and plant habitat, trails and corridors | E: 0681652 | N: 5659251 |
| Site 8 | Animal and plant habitat, trails and corridors | E: 0681524 | N: 5659298 |
| Site 9 | Habitation/Camping area & harvesting area | E: 0678552 | N: 5658559 |
| Site 10 | Animal and plant habitat, trails and corridors & harvesting area | E: 0676656 | N: 5660955 |
| Site 11 | Animal and plant habitat, trails and corridors | E: 0676772 | N: 5660993 |
| Site 12 | Animal and plant habitat, trails and corridors | E: 0677241 | N: 5660955 |
| Site 13 | Animal and plant habitat, trails and corridors | E: 0678181 | N: 5660563 |
| Site 14 | Animal and plant habitat, trails and corridors | E: 0682197 | N: 5658510 |
| Site 15 | Animal and plant habitat, trails and corridors | E: 0682202 | N: 5658458 |

| Site | Description | Easting NAD 83 11 U | Northing NAD 83 11 U |
|----------------|--|--------------------------------|---------------------------------|
| Site 16 | Animal and plant habitat, trails and corridors | E: 0682204 | N: 5658633 |
| Site 17 | Animal and plant habitat, trails and corridors | E: 0676989 | N: 5654918 |
| Site 18 | Animal and plant habitat, trails and corridors | E: 0677102 | N: 5654955 |
| Site 19 | Animal and plant habitat, trails and corridors | E: 0677732 | N: 5660770 |
| Site 20 | Ceremonial and sacred area | E: 0681492 | N: 5658929 |
| Site 21 | Ceremonial and sacred area | E: 0678701 | N: 5658480 |
| Site 22 | Animal and plant habitat, trails and corridors | E: 0678696 | N: 5858514 |
| Site 23 | Animal and plant habitat, trails and corridors | E: 0681032 | N: 5659148 |
| Site 24 | Animal and plant habitat, trails and corridors | E: 0681156 | N: 5658863 |
| Site 25 | Habitation/Camping area | E: 0681362 | N: 5658932 |
| Site 26 | Habitation/Camping area & Sacred and ceremonial area | E: 0681435 | N: 5658914 |
| Site 27 | Animal and plant habitat, trails and corridors | E: 0681675 | N: 5659243 |
| Site 28 | Animal and plant habitat, trails and corridors | E: 0681545 | N: 5659289 |
| Site 29 | Sacred and ceremonial area | E: 0679847 | N: 5659512 |
| Site 30 | Animal and plant habitat, trails and corridors | E: 0677449 | N: 5657651 |



Figure 4 Overview of Site 1 Area 320 overview of ceremonial and sacred area (NAD 83 11 U E 0682233 N 5658672).



Figure 5 Detail of Site 1 Area 320 overview of ceremonial and sacred area (NAD 83 11 U E 0682233 N 5658672).



Figure 6 Site 2 Area 321 overview of animal and plant habitat (NAD 83 11 U E 0682222 N 5658528).



Figure 7 Site 2 Area 321 overview of animal and plant habitat (NAD 83 11 U E 0682222 N 5658528).



Figure 8 Site 3 Area 336 overview of ceremonial and sacred area (NAD 83 11 U 0676690 E 5655861 N).



Figure 9 Site 3 Area 336 overview of harvesting area (NAD 83 11 U 0676690 E 5655861 N).



Figure 10 Site 4 Areas 340 overview of human trail and corridor (NAD 83 11 U 0676938 E 5854972E).



Figure 11 Site 4 Areas 340 overview of human trail and corridor (NAD 83 11 U 0676938 E 5854972E).



Figure 12 Site 5 Area 339 overview of habitation/camping area (NAD 83 11 U 676971 E 5654919 N).



Figure 13 Site 6 Area 361 overview of habitation/camping area & harvesting area (NAD 83 11 U 678683E 5658410N).



Figure 14 Site 7 Area 370 overview of animal and plant habitat (NAD 83 11U 681652E 5659251N).



Figure 15 Site 7 Area 370 overview of animal and plant habitat (NAD 83 11U 681652E 5659251N).



Figure 16 Site 8 Area 372 overview of animal and plant habitat (NAD 83 11U 681524E 5659298N).



Figure 17 Site 9 Area 363 overview of habitation/camping area & harvesting area (NAD 83 11U 678552E 5658559N).



Figure 18 Site 9 Area 363 overview of habitation/camping area & harvesting area (NAD 83 11U 678552E 5658559N).



Figure 19 Site 10 Area 381 overview of animal and plant habitat (NAD 83 11U 676656E 5660955N).



Figure 20 overview of animal and plant habitat (NAD 83 11U 676772 E 5660993N).



Figure 21 Site 12 Area 383 overview of animal and plant habitat (NAD 83 11 U 0677241E 5660955N).



Figure 22 Site 13 Area 389 overview of animal and plant habitat (NAD 83 11U 678181E 5660563N).



Figure 23 Site 13 Area 389 overview of animal and plant habitat (NAD 83 11U 678181E 5660563N).

Conclusions and Recommendations

Although this report was started in 2016, there have been extenuating circumstances that have impeded the ability of Stoney Nation to complete this report. One extenuating circumstance is with respect to federal funding as funding to examine this project was only available in a reimbursement scenario, until December 2020. Until that time, the Nation was expected to provide up-front capacity and funding for the project analysis. The breadth and scope of many other projects under consideration, and the reduced funding from Indigenous Relations, of the Government of Alberta, has made the completion of this report more difficult.

In addition, another extenuating circumstance that posed numerous challenges to the completion of this report was the Covid 19 Global Pandemic. The Stoney Nakoda Nation was in a state of emergency from March 17th, 2020 to June 19th, 2020. A second state of emergency was declared on January 11th, 2021 and is still in effect at the time of writing for this “Interim” report.

The following recommendations were developed with respect to the proposed development. The many historical and cultural considerations of the project area, that are not fully identified in this report, provide a significant amount of material that should give sufficient reason to pause to the development of this project. Also, the consultation for this project, as conducted by Alberta Transportation, has been insufficient to date. Further, with specific reference to the TU assessment, in the field Alberta Transportation and/or their representatives created an environment that was disrespectful, confrontational and counterproductive to the completion of our work. The Stoney Nakoda would like to see an improved participatory process whereby our work can be completed in a space that is respectful of the confidential nature of our cultural practices, knowledge and of our established traditional land use assessment process. Within this context we argue that the ineffectiveness of Alberta Transportation’s consultation process for this project, has created a situation where the consultation itself should be reconsidered and redone in order to understand the fulsome historical and cultural aspects of the lands and waters of the proposed project area.

These recommendations require validation through a follow up meeting(s) with Stoney Nakoda Elders and Knowledge holders and, as outlined in recommendation 1, and until such a meeting(s) takes place, the recommendations cannot be finalized. Also, in May 2019, the Stoney Nakoda Leadership sent a “Letter of Objection” to the Alberta Government, in a formal objection to the Project. This objection is reflected in the last recommendation.

1. It is recommended that Alberta Transportation provide the funding support needed to conduct a meeting(s) with Stoney Consultation, Elders and Knowledge

Holders to discuss the proposed recommendations and to complete and finalize the Stoney Nakoda TLUA field work required for the proposed Project.

2. It is recommended that Alberta Transportation contact and inform Stoney Nakoda on activities that have the potential to impact archaeological, historical, and grave sites, or landforms that have the potential to contain archaeological sites, historical sites, grave sites or human remains. Activities such as road construction, excavation, movement, or disturbance of soils, and land clearing are all examples of activities that may adversely affect these deposits.
3. It is recommended that Alberta Transportation install and provide capacity support for cultural monitoring during all construction activities and throughout archaeological and historical investigations and mitigations undertaken for the proposed Project; and to implement a mitigation plan for any newly identified sites during construction.
4. It is recommended that Alberta Transportation work with the Stoney Nakoda to develop procedures related to chance finds of cultural, archaeological, and historical material to ensure that archaeological sites and/or cultural resources are documented and protected in a manner that respects Stoney Nakoda cultural protocols.
5. It is recommended that the Stoney Nakoda have access to all the information regarding previously recorded archaeological and historical sites in the Project area, as well as the findings of the HRIA's undertaken for the proposed Project. This is so the Stoney Nakoda can conduct site visits, undertake the required ceremonies at archaeological and historical sites, and trace historical movement throughout their traditional territory.
6. It is recommended that Alberta Transportation protect all animal migration routes, as well as install and provide capacity support for the development of a detailed program that clearly communicates and monitors any impact the Project will have on the migration routes, ranges, and habitats of culturally significant species to the Stoney Nakoda.
7. It is recommended that Alberta transportation install the appropriate wildlife overpasses within and near to the Project area that will facilitate the movement of culturally significant animals across the major highways, including Highway 22 and Highway 8.

8. It is recommended that Alberta Transportation install and provide capacity support for the Stoney Nakoda to conduct cultural monitoring at pre-defined intervals within the Project area during and after ground disturbance, and flood events to assess impacts to game, fish, plant, and wildlife habitat and plant foods such as roots and berries.
9. It is recommended that Alberta Transportation provide continued and unimpeded access to the Project area for hunting, fishing, plant collecting and harvesting, travel, ceremony, camping and traditional land use.
10. It is recommended that Alberta Transportation provide continued and unimpeded access to all Stoney Nakoda spiritual and ceremonial areas.
11. The TLUA fieldwork was conducted in advance of the formal objection to the project. It is recommended that the proposed Springbank Off-Stream Reservoir project not proceed, as per the May 6th, 2019 "Letter of Objection."

Figures 24 and 25 below illustrate Stoney Nakoda site areas, and culturally significant animal ranges and migration routes requiring avoidance during construction and operation of the proposed Project. Archaeological and historical sites protected under the *Historic Resource Act* are not mapped but are sacred and significant to the Stoney Nakoda. All archaeological and historical site areas should be avoided by construction and operation of the proposed Project. If mitigation of archaeological and historical features and site areas is required under the *Historic Resource Act*, the Stoney Nakoda recommend monitoring, participation within HRIA mitigation and excavation programs, and the appropriate ceremonies and protocols are undertaken prior to and during archaeological and historic site mitigation.

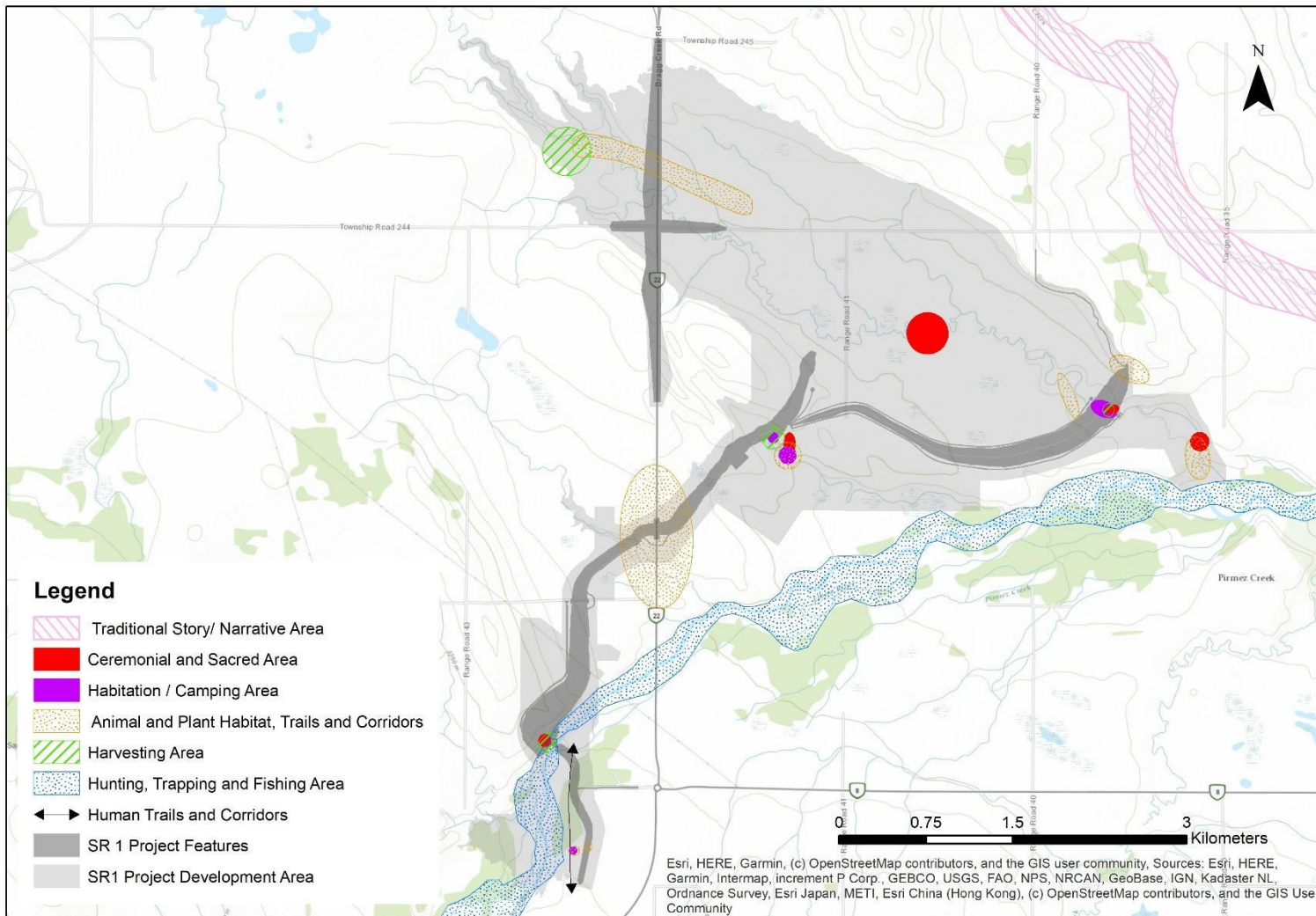


Figure 24 Map showing the location of Stoney Nakoda site areas within the proposed Project area.

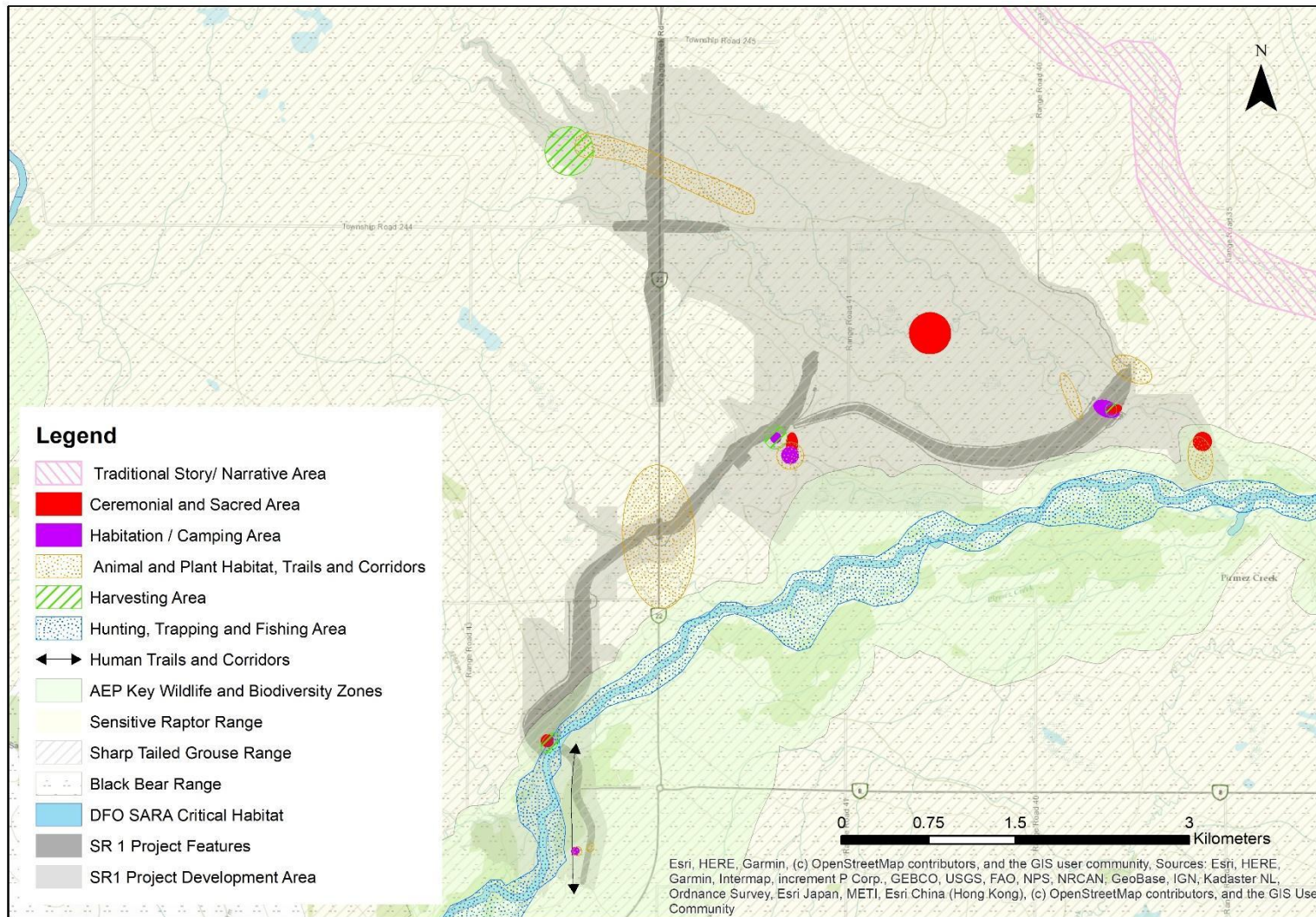


Figure 25 Map showing the location of Stoney Nakoda site areas and habitat and ranges of culturally significant animals, fish and birds in relation to the proposed Project area (datasets from AEP, <https://www.alberta.ca/wildlife-sensitivity-maps.aspx> Accessed 15/10/2020).

References

Dempsey, H.A.

1987 *Treaty Research Report Treaty Seven (1877)*. Treaties and Historical Research Centre. Comprehensive Claims Branch. Self-Government. Indian and Northern Affairs Canada.

Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511, 2004 SCC 73

Impact Assessment Agency of Canada

2021 Springbank Off-Stream Reservoir Project, Draft Environmental Assessment Report.

Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage), [2005] 3 SCR 388, 2005 SCC 69 (CanLII).

Stoney Education Authority

2021 History, <https://www.stoneyeducation.ca/History.php>, accessed 26/01/2021.

Taku River Tlingit First Nation v. British Columbia (Project Assessment Director), [2004] 3 S.C.R. 550, 2004 SCC 74

GIS Data Sources

Alberta Environment and Parks. Parks and Protected Areas.

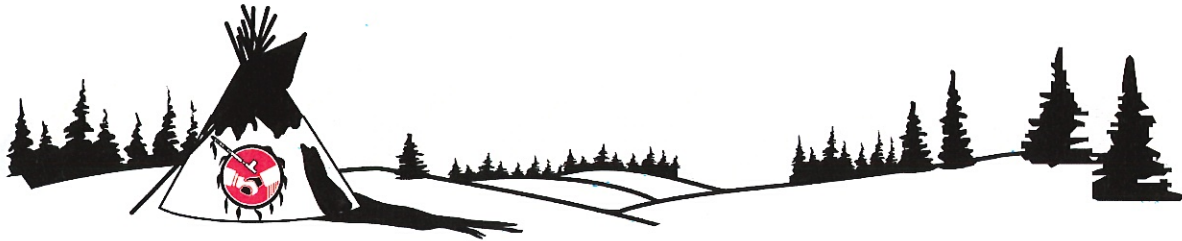
<http://www.albertaparks.ca/albertaparksca/library/downloadable-data-sets.aspx>. Accessed 15/10/2020 AltaLIS Ltd., Alberta Data Partnerships Ltd. and Government of Alberta.

Indian Reserve Shapefile.

http://www.altalis.com/products/base/20k_base_features.html. Accessed 15/10/2020 AltaLIS Ltd., Alberta Data Partnerships Ltd. and Government of Alberta.

Alberta Environment and Parks Wildlife Sensitivity Maps and DFO SARA Critical Habitats Datasets from AEP, <https://www.alberta.ca/wildlife-sensitivity-maps.aspx> Accessed 15/10/2020.

Appendix 1: Letter of Objection



May 6, 2019

Office of the Premier
307 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta T5K 2B6

VIA EMAIL: premier@gov.ab.ca

Re: **NOTIFICATION-Letter of Objection to Dam Construction Proposals within the Title Claim and Morley Reserve of the Stoney Nakoda Nations!**

Dear Premier Jason Kenny,

The Stoney Nakoda Nations (SNN) are comprised of the Bearspaw First Nation, Chiniki First Nation, and Wesley First Nation that are situated on: the Stoney Indian Reserves #142, 143, 144 at Morley, Alberta; the Eden Valley Indian Reserve #216; the Rabbit Lake Indian Reserve #142B; and the Bighorn Indian Reserve #144A. The SNN were signatories to Treaty No. 7 in 1877.

We as the Tribal Chiefs that represent the Stoney Nakoda Nations interests advise of our position of outright **OBJECTION** specific to the following dam construction and upgrading proposals;

- Morley Dam Reserve Site Proposal
- Springbank SR1 Dam Proposal
- Ghost Reservoir Expansion
- Glenblow Reservoir Expansion

The Stoney Nakoda Nations enforce ownership rights to the beds and waters of the Bow and Kananaskis rivers. TransAlta Utilities Corp. presently rents from the Stoney Nakoda Nations water flowing through the Kananaskis, Horseshoe and Ghost reservoirs. It is the Stoney Nakoda position that no dams can be built on the upper Bow River and adjacent systems without the express consent of the Stoney Nakoda Nations. **The Stoney Nakoda Nations and the Government of Canada have a veto over future dam construction.**

The Province of Alberta was advised of this position by letter dated March 23, 2015 and by letter from legal counsel for the Stoney Nakoda dated May 24, 2018 (copies of both letters attached).

We will not be wasting any further time in going public with the Government of Alberta's approach to Indigenous engagement and especially on our sovereign Reserve Land and Waters including the foothills of the Rockies where we claim Aboriginal Title (please see attached Title Claim Map).



Nothing in this letter shall be interpreted in a manner that extinguishes, abrogates or diminishes the Stoney Nakoda Nations' Aboriginal or treaty rights, including Aboriginal title, which are protected under section 35 of the Constitution Act, 1982 and is without prejudice to its assertions and claims within the Stoney Nakoda Nations Aboriginal Title Claim (Action No. 0301-19586).

Please have your designate contact our Consultation Director Dean Cherkas directly at 403-881-2789 and via email dcherkas@stoney-nation.com as soon as possible to this serious matter of infringement on the Stoney Nakoda Nations Lands.

Respectfully,

Chief Darcy Dixon
Bears paw First Nation

Chief Aaron Young
Chiniki First Nation

Chief Clifford Poucette
Wesley First Nation

cc. Ken Christensen, Acting Tribal Administrator, STA
Heather Carnahan, CEO, Stoney Nakoda Holdings Ltd.
Dean Cherkas, Consultation Director, STA
Rob Shotclose, CEO, Bears paw First Nation
Brian Evans, CEO, Chiniki First Nations
Ray Greenwood, CEO, Wesley First Nation
Honorable Carolyn Bennett, Federal Minister of Crown Indigenous Relations
Bill Snow, Consultation Manager, STA
Minister of Environment and Parks, Jason Nixon
Minister of Transportation, Ric McIver