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FAX TRANSMISSION COVER

To: Bill Kennedy, General Counsel **Fax:** (403) 662-3894
Shauna Sigurdson, Regional (780) 495-2876
Director – Prairie and Northern
Region

CC: Michele Marcus - Stantee (403) 716-8099

From: Clayton Leonard **File:** 1184-009
cleonard@jfklaw.ca

Date: June 19, 2017 **Pages (including this cover):** 9

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MESSAGE

**RE: Springbank Off-Stream Reservoir Project (the "Project")
Project Area Tour**

Dear Sirs/ Mesdames,

Please see attached letter and enclosures from C. Leonard on behalf of the Ermineskin Cree Nation ("Ermineskin")

Email copies were sent to:

Seamas Skelly, Senior Water Projects Technologist

Rick Blackwood, Assistant Deputy Minister

Cc: Bob Chappell, Alberta Justice

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June 19, 2017

Clayton Leonard
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File No. 1184-009

Major Capital Project, Water
Management Section
Alberta Transportation
Government of Alberta

Attention: Seamas Skelly, Senior
Water Projects Technologist
Via Email:
seamas.skelly@gov.ab.ca

Alberta Environment and Parks
8th Floor, Oxbridge Place
9820 – 106th Street
Edmonton, AB T6K 2J6

Attention: Rick Blackwood,
Assistant Deputy Minister
Via Email:
rick.blackwood@gov.ab.ca

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

Attention: Bill Kennedy, General
Counsel
Via Fax: (403) 662-3994

Canadian Environmental
Assessment Agency
Canada Place
9700 Jasper Avenue, Suite 1145
Edmonton, AB T5J 4C3

Attention: Shauna Sigurdson,
Regional Director – Prairie and
Northern Region
Via Fax: (780) 495-2876

Dear Sirs/ Mesdames:

Re: **Springbank Off-Stream Reservoir Project (the "Project")**
Project Area Tour

We are writing on behalf of our client, the Ermineskin Cree Nation ("Ermineskin"), with respect to the notification to land owners in the Project area dated June 16,

2017 regarding Alberta Transportation arranging a tour of the Project area for the Natural Resources Conservation Board ("NRCB") and the Canadian Environmental Assessment Agency ("CEAA").

Ermineskin agrees with the concerns and objections to the tour as set out in the letter from land owners' legal counsel dated June 19, 2017 (attached). Further, Ermineskin is concerned that the tour does not include any representation by First Nations whose Treaty rights and traditional land uses may be impacted by the proposed Project. At least six of the landowners in the proposed Project area allow First Nation access to their lands for Treaty hunting and fishing rights and other traditional land uses. Ermineskin also has cultural and historical resources in the Project area.

Ermineskin notes that the Federal Court recently struck down CEAA's decision to have the agency review the Project and has sent that decision back to the federal Minister of Environment. Part of the Minister's decision making process with respect to whether or not to order a panel review of the Project includes potential impacts on First Nations. In light of this, Ermineskin is very concerned that tour of the Project site involving CEAA may influence the Minister's decision, particularly as First Nations are excluded from the tour.

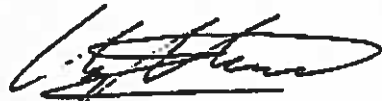
Both the Government of Alberta and the Government of Canada have a duty to consult with Ermineskin and other First Nations potentially impacted by the Project. The proposed visit to the Project area with the NRCB and CEAA is informal and so likely "off the record" and outside of the respective formal regulatory processes of the NRCB and CEAA. The duty to consult requires that the Crown act honourably in consultation with First Nations which means ensuring transparent processes that include First Nations. Accordingly, Ermineskin objects to the tour of the Project area without First Nation involvement and with any prior direct notice to potentially impacted First Nations.

The failure of Alberta Transportation, as the Project proponent, to notify First Nations of the Project area tour and to include First Nations in that tour is entirely inconsistent with the Government of Alberta's commitment to the principles of the United Nations *Declaration on the Rights of Indigenous Peoples* (see attached letter from Premier Notley to First Nations). In particular, we note that Premier Notley has committed to "work with Indigenous peoples as true partners to ensure that: ... The air, land and water that they and all our communities, rely on is protected; [A]nd to work alongside Indigenous people to ensure they are participating in decisions that concerns them." Ermineskin asks that Alberta Transportation postpone the tour of the Project area until it can be conducted as

part of the formal regulatory processes of the NRCB and CEAA and with the proper notification to and involvement of First Nations.

Yours truly,
JFK Law Corporation

Per:



Clayton Leonard
CDL/kb

Encs.

cc: Bob Chappell, Alberta Justice (via email: bob.chappell@gov.bc.ca)
Michele Marcus – Stantee (via fax: (403) 716-8088)

MLT AIKINS

WESTERN CANADA'S LAW FIRM

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June 19, 2017

VIA FACSIMILE

Major Capital Project, Water Management
Section
Alberta Transportation
Government of Alberta

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

Attention: Seamas Skelly, Senior Water
Projects Technologist

Attention: Bill Kennedy, General Counsel

Alberta Environment and Parks
8th Floor, Oxbridge Place
9820 - 106th Street
Edmonton, AB T5K 2J6

Canadian Environmental Assessment Agency
Canada Place
9700 Jasper Avenue, Suite 1145
Edmonton, AB T5J 4C3

Attention: Rick Blackwood, Assistant
Deputy Minister

Attention: Shauna Sigurdson, Regional
Director - Prairie and Northern Region

Re: Springbank Off-Stream Reservoir Project (the "Project")
Notification of Land Access provided by Stantec
File No.: 058106-0001

We represent John Robinson and a number of other landowners in the area that is the subject of the Project. The email notification from Stantec to John Robinson dated June 16, 2017 (attached) has been referred to us for response. We are advised that a number of our clients have received the same communication.

As far as our clients have been informed, there has been no application filed with the Natural Resources Conservation Board ("NRCB"). If and when such application is made, the NRCB is charged with hearing the evidence and making an impartial determination as to whether the Project is in the public interest. Currently, the NRCB has no formal role in evaluating and assessing the Project.

There has been no preliminary Environmental Impact Statement provided to CEAA. As far as our clients are aware, no Information Requests have been made by any of the relevant federal departments (for example, Fisheries and Oceans).

MLT AIKINS

WESTERN CANADA'S LAW FIRM

Alberta Parks and Environment ("AEP") is not the Project proponent and in fact was the government agency who selected the Project over other alternatives. Moreover, and in the event that the Project proponent seeks approval for the Project, AEP will be required to receive and evaluate various applications under provincial environmental statutes and regulations.

In light of the adjudicative functions of the NRCB, CEAA, and AEP with respect to the Project, our clients are concerned with the attendance of representatives of these agencies with the Project proponent in the manner described in the June 16, 2017 email to John Robinson. Each of these agencies has a formal process, which is a matter of public record, for obtaining the information necessary to carry out their statutory obligations with respect to the Project. Supplementing these processes with an informal (and premature) on-site meeting, such as is contemplated in the subject email to John Robinson, raises the likelihood of information being provided to these agencies by the Project proponent outside of the formal (and public) processes, which in turn raises issues of actual or perceived bias.

We would therefore be grateful if you would provide further information regarding this meeting, including:

- which individuals will be attending from each agency, along with their roles within the agency;
- whether there have been any such meetings in the past; and
- the purpose of the meeting as set out in an agenda or memo.

We look forward to hearing from you on an expedited basis.

MLT AIKINS LLP



John Gruber

JPG:tyb

Encls.

cc: Bob Chappell, Alberta Justice (via facsimile)
cc: Michela Marcus, Stantec (via facsimile)

John P. Gruber

Subject: FW: Springbank Off-Stream Reservoir Project - Notification of Land Access

From: "Marcus, Michele" <Michele.Marcus@stantec.com>
Date: June 16, 2017 at 9:17:54 AM MDT
To: "robinson@greendrop.com" <robinson@greendrop.com>
Cc: "Seamas.Skelly@gov.ab.ca" <Seamas.Skelly@gov.ab.ca>, "Spivak, Terri" <Terri.Spivak@stantec.com>
Subject: Springbank Off-Stream Reservoir Project - Notification of Land Access

Good morning John,

On behalf of the Government of Alberta, please be advised that Alberta Transportation is expected to do a site visit in the Springbank area on June 21st, 2017 as part of the Environmental Impact Assessment for the proposed Springbank Off-Stream Storage Project. The purpose of this visit is to accommodate the Canadian Environmental Assessment Agency, the Natural Resources Conservation Board and Alberta Environment and Parks who have advised they will be viewing the proposed Springbank Off-Stream Reservoir site. They will not be accessing your property but will be using the adjacent public roads. We just wanted you to be aware in the event you see vehicles stopped near your property.

If you have questions or concerns, please contact Alberta Transportation representative, Seamas Skelly; Phone - 403-330-8953.

Regards,

Michele Marcus, B.A.
Project Assistant
Programs & Business Solutions
Stantec
200-328 25 Street SE, Calgary AB T2A 7H8
Phone: (403) 806-1549
Michele.Marcus@stantec.com



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Michele Marcus, B.A.

**Premier of Alberta**

Office of the Premier, 307 Legislature Building, Edmonton, Alberta, Canada T5K 2B8

July 7, 2015

Colleagues,

As you know, our government is committed to renewing and improving our relationship with Indigenous peoples. We intend to work with Indigenous peoples as true partners to ensure that:

- Their constitutional rights are protected;
- The air, land and water that they, and all our communities, rely on is protected; and
- They can build more prosperous, self-reliant and culturally strong communities.

The United Nations *Declaration on the Rights of Indigenous Peoples* speaks to Indigenous people's basic human rights, language, equality, land and their right to control their own lives. At its heart, the UN Declaration encourages all of us to celebrate and preserve Indigenous cultures and traditions and to work alongside Indigenous people to ensure they are participating in decisions that concern them.

In considering the objectives of the UN Declaration, our approach will be based on the principle that the bounty of Alberta's resources must be shared by all Albertans. Our task will be to engage directly with Indigenous people to find a common and practical understanding of how the principles of the UN Declaration can be implemented in a way that is consistent with our Constitution and with Alberta law.

I expect that the most challenging part of the discussion will be related to land and resources. Many Indigenous people in Alberta are directly employed in or indirectly benefitting from Alberta's resource-driven economy. They don't want to stop resource development, but, like all Albertans, do want to ensure the air, land and water are protected so their children and grandchildren can continue to enjoy the land. I believe there is balance to be found here, working in partnership with Indigenous people so they are able to participate in a more meaningful way, and therefore benefit from, the development of natural resources in the province and the preservation and conservation of the environment.

-2-

The UN Declaration is broad-reaching and has the potential to impact how we work with Indigenous people in a myriad of ways. This is why I am asking you now, as Cabinet Ministers, to conduct a review, including budget implications, of your Ministry's policies, programs and legislation that may require changes based on the principles of the UN Declaration. I look forward also to hearing about programs and initiatives already under way that speak to the promise of the UN Declaration.

As you move forward in this analysis, you will need to work closely with Indigenous leaders. The anticipated establishment of engagement tables with each of the three Treaty areas could be the vehicles for this engagement later in the fall. Engagement with the Metis Nation of Alberta Association and the Metis Settlements General Council must also occur. I have asked the Minister of Aboriginal Relations to coordinate your submissions and bring them forward for our consideration.

There is some truly good work already happening throughout the province that reflects some of the objectives of the UN Declaration. For example, we are working hard to help return sacred ceremonial objects from across the world to Indigenous communities in Alberta where they belong. We prohibit discrimination in employment on the basis of race or ancestry. We are introducing mandatory education for all our students in the histories and cultures of Indigenous people, including residential schools. And, Alberta is also the only province to have established Metis governments and Metis lands.

These are just a few examples of things we are doing. But there is more we can, and will, do.

I look forward to seeing the results of your review and your ideas for implementation by February 1, 2016 so we can chart a path forward together with Indigenous people on this journey of reconciliation.

Sincerely,



Rachel Notley
Premier of Alberta