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August 6, 2019

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Sent via email to: [Matthew.Hebert@gov.ab.ca](mailto:Matthew.Hebert@gov.ab.ca)

**SUBJECT: Outcome of the review of Alberta Transportation's responses to the federal information requests for the Springbank Off-Stream Reservoir Project, part 2**

Dear Mr. Hebert:

On July 16, 2019, the Canadian Environmental Assessment Agency (the Agency) provided you with correspondence regarding Alberta Transportation's responses to the first round of information requests issued by the Agency for the Springbank Off-Stream Reservoir Project (the Project). Further to this correspondence, please see Annex 1 - Gaps identified in Alberta Transportation's Responses to IR Round 1, SR1 CEAA IR Part 2, attached. The detailed conformity review of Information Requests Round 1 Part 3 are forthcoming.

The Agency welcomes the opportunity to discuss the outcome of this review with you and provide further advice on how to best address the outstanding information required to move forward with the assessment process. To this end, the Agency proposes technical workshops with federal experts and your team to facilitate a better understanding of the expectations of the Agency and federal authorities, and to ensure complete responses to information requests. Please contact the Agency to confirm availability for a discussion during the week of August 12 – 16, 2019, or to suggest an alternative date. If you have any questions, please contact the undersigned at 780-495-2384 or via email at [CEAA.Springbank.ACEE@canada.ca](mailto:CEAA.Springbank.ACEE@canada.ca).

Sincerely,

<Original signed by>

Jennifer Howe  
Project Manager  
Prairie and Northern Region

Attachment (1): Annex I – Gaps identified in Alberta Transportation’s Responses to IR Round 1,  
SR1 CEAA IR Part 2

C.c.: Barbara Pullishy, Canadian Environmental Assessment Agency  
Wayne Speller, Golder Associates Ltd.  
Mark Svenson, Alberta Transportation

# **ANNEX 1 – Gaps identified in Alberta Transportation’s Responses to IR Round 1, SR1 CEEA IR Part 2**

## **Springbank Off-Stream Reservoir Project**

### **Contents**

List of Acronyms and Short Forms.....	3
Gaps from IR2-01 .....	4
Topic: Impacts to Rights .....	4
Gaps from IR2-02 .....	6
Topic: Cultural Experience - Experiential Values and Importance of Water .....	6
Gaps from IR2-04 .....	8
Topic: Economic Opportunities .....	8
Gaps from IR2-05 .....	10
Topic: Federal Lands.....	10
Gaps from IR2-06 .....	11
Topic: Indigenous and Community Knowledge .....	11
Gaps from IR2-07 .....	13
Topic: Effects on Traditional Land and Resource Use .....	13
Gaps from IR2-08 .....	15
Topic: Indigenous Health and Country Foods .....	15
Gaps from IR2-09 .....	17
Topic: Project Area Land Use and Access.....	17
Gaps from IR2-10 .....	19
Topic: Physical and Cultural Heritage .....	19
Gaps from IR2-11 .....	21
Topic: Wildlife – Culturally Important Species .....	21
Gaps from IR2-13 .....	23
Topic: Wildlife - Habitat Modelling .....	23
Gap from IR2-14.....	25
Topic: Wildlife - Survey Timing, Detection and Mitigation .....	25
Gap from IR2-15.....	26

Topic: Wildlife - Habitat Connectivity and Wildlife Movement.....	26
Gap from IR2-16.....	28
Topic: Wildlife - Restricted Activity Periods .....	28
Gaps from IR2-23 .....	30
Topic: Navigation.....	30

## List of Acronyms and Short Forms

Agency	Canadian Environmental Assessment Agency
CEAA 2012	<i>Canadian Environmental Assessment Act, 2012</i>
DFO	Fisheries and Oceans Canada
ECCC	Environment and Climate Change Canada
EIS	Environmental Impact Statement
EIS Guidelines	Environmental Impact Statement Guidelines
IR	Information Request
KWBZ	Key Wildlife and Biodiversity Zones
LAA	Local Assessment Area
PDA	Project Development Area
PMF	Probable Maximum Flood
RAA	Regional Assessment Area
RAP	Restricted Activity Period
TLRU	Traditional Land and Resource Use
TSS	Total Suspended Sediment
TUS	Traditional Use Study
VC	Valued Component

## **Gaps from IR2-01**

### **Topic: Impacts to Rights**

#### **Sources:**

EIS Guidelines Part 2, Section 5

EIS Volume 2

EIS Volume 3A, Sections 14.1.3; 14.5

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission – June 25, 2018 (CEAR # 52)

Montana First Nation – Review of Springbank Off-Stream Reservoir EIA, June 2018 (CEAR # 51)

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments (CEAR # 46, 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-01

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2 and Appendix IR1-1, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-01, the Agency required additional information to support its understanding of potential impacts to rights. The information request directs the proponent to provide information regarding: the conditions that support the exercise of rights; potential pathways of effects; criteria for assessing the severity of impacts to rights; Indigenous-group specific analysis, discussion, and conclusions on potential impacts to the exercise of rights; and mitigation specific to potential impacts to rights. The Agency's IR2-01 states that assessing impacts to Aboriginal and treaty rights is not limited to assessing environmental effects on the current use of lands and resources for traditional purposes. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

In Alberta Transportation's response to IR2-01 parts a and b, Alberta Transportation provides raw data in the form of excerpts from Indigenous groups' submissions, correspondence, and/or

meeting notes pertaining to conditions that support the exercise of rights and potential pathways of effects (Tables IR1-1 through IR1-3). The selection of information included is narrowly scoped to conditions supporting and pathways of effects to current use. This results in the exclusion of other factors that support the exercise of rights and associated pathways of effects such as cultural identity and well-being, governance, and knowledge transmission.

In Alberta Transportation's response to IR2-01 parts c and d, Alberta Transportation repeats information provided in the EIS. The response presents criteria used for the 'Characterisation of Residual Effects of Traditional Land and Resource Use' as the criteria for assessing effects on Section 35 rights and subsequently draws conclusions on potential impacts to rights based on the effects and access to traditional resources and/or traditional use sites. The response also references draft principles of future land use for the Project. However, other than identifying the primary use as flood mitigation, the draft principles included in the response (Annex IR1-02) are vague and do not offer reassurance that impacts to rights will be mitigated through access to the proposed Land Use Area. The discussion of and conclusions drawn on potential impacts to rights do not demonstrate consideration of Indigenous groups' views.

Alberta Transportation's response to IR2-01 part e states that Alberta Transportation considered recommendations and mitigation measures suggested by Indigenous groups in assessing residual environmental effects, but that Alberta Transportation is still in the process of responding to Indigenous groups' concerns.

Alberta Transportation's response to IR2-01 includes Appendix IR1-1. Specific Concerns and Response Tables included in this appendix list numerous concerns raised by Indigenous groups with respect to impacts to rights that are unresolved and the application of inappropriate methodology (i.e., relying on effects to current use). Many of the matters within the Specific Concerns and Response Tables raised by Indigenous groups that are identified as related to impacts to rights are not acknowledged or discussed in the response to IR2-01. As such, there are discrepancies in the information provided throughout the response package as a whole.

### **Information Requests:**

- a) Using the information provided by Indigenous groups, as presented in Alberta Transportation's response to IR2-01 and the Specific Concerns and Response Table:
  - Identify and apply the criteria of Indigenous groups for assessing impacts to rights. Present a discussion on Indigenous groups' views and conclusions on the proposed mitigation specific or related to impacts to rights, and the residual potential to impacts to rights.
  - Identify and discuss areas of disparity between the views and conclusions of Indigenous groups and Alberta Transportation regarding the Project's potential impacts to rights, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-02**

### **Topic: Cultural Experience - Experiential Values and Importance of Water**

#### **Sources:**

EIS Guidelines Part 1, Section 4.3.2

EIS Guidelines Part 2, Sections 5; 6.1.9; 6.3.4

EIS Volume 3A, Section 14; 14.1.3.3

EIS Volume 3B, Section 14; 14.5

Ermineskin Cree Nation – Springbank Off-Stream Reservoir TKU Report (CEAR #46)

Blood Tribe/Kainai – Traditional Knowledge, Land, and Resource Use (CEAR # 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-02

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-02, the Agency required the proponent to present an assessment of potential changes of the Project to cultural experience/experiential values. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-02 includes information on each of the points requested (Indigenous groups' views presented in Tables IR2-1 through IR2-4) but not a synthesis and analysis of this information. Information presented regarding methodology is focused on current use of lands and resources, not cultural heritage, and offers limited insight into how Indigenous groups' views on experience influenced analysis and conclusions. Concerning mitigation, Alberta Transportation states that mitigation measures suggested by Indigenous groups were considered and lists mitigation measures specific to potential effects on cultural experience/experiential values and to potential effects on the cultural and spiritual importance of water. No discussion is presented on the degree to which these address the concerns raised by Indigenous groups or on the discrepancies between the mitigation measures proposed by Indigenous groups and those committed to by the proponent.

The response also references draft principles of future land use for the Project. However, other than identifying the primary use as flood mitigation, the draft principles included in the response (Annex IR1-02) are vague and do not offer reassurance that effects to cultural experience/experiential values will be mitigated through access to the proposed Land Use Area.



Alberta Transportation's response to IR2-02 includes Appendix IR1-1. Specific Concerns and Response Tables included in this appendix list concerns raised by Indigenous groups with respect to cultural experience/experiential values that are unresolved. For example, item 16 in the Tsuut'ina Nation Specific Concerns and Response Table describe the concern that "effect of the project on experience of the land and spiritual practices has not been assessed". The proponent response on effort to avoid or mitigate the concern is listed as "none at this time".

**Information Request:**

- a) Using the information provided by Indigenous groups as presented in Alberta Transportation's response to IR2-02 and the Specific Concerns and Response Table:
  - Present a discussion on Indigenous groups' views and conclusions on the proposed mitigation specific or related to cultural experience/experiential values and the cultural importance of water, and the residual potential effects to cultural experience/experiential values and the cultural and spiritual importance of water.
  - Identify and discuss areas of disparity between the views and conclusions of Indigenous groups and Alberta Transportation regarding the Project's potential effects on cultural experience/experiential values and the cultural and spiritual importance of water, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-04**

### **Topic: Economic Opportunities**

#### **Sources:**

EIS Guidelines Part 1, Section 2.1

EIS Guidelines Part 2, Section 5

EIS Volume 3A, Section 17.1.2

EIS Volume 3B, Section 17

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-04

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-04, the Agency required the proponent to describe economic opportunities associated with the Project that may be of interest to Indigenous groups and discuss if and how the distribution of economic benefits to Indigenous groups could contribute to accommodation. As noted in the information request, the EIS Guidelines require the proponent to describe predicted environmental, economic, and social costs and benefits of the Project. They further indicate that the EIS will document, from the proponent's perspective, any potential economic impacts or benefits to each Indigenous group that may arise as a result of the Project, and include the perspectives of the Indigenous groups.

The context and rationale of the information request identifies the concerns of Indigenous groups with historic and current systemic exclusion of Indigenous peoples from economic benefits, the need for pro-active and creative solutions in the context of the Project, and that Indigenous groups have identified that they perceive benefits to be absent or indirect. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-04 references an Indigenous Participation Plan, which is intended to create training, employment, and contracting opportunities with interested Indigenous groups potentially affected by the project. Alberta Transportation indicates it aims to obtain Indigenous groups' input to this plan.

Alberta Transportation's response states that positive effects associated with employment and expenditures related to this project are listed in the EIS. The table referenced does not include any information specific to the distribution of anticipated benefits to Indigenous peoples. Alberta Transportation's response includes Appendix IR1-1. Specific Concerns and Response Tables

included in this appendix list concerns raised by Indigenous groups with respect to economic benefits that are unresolved.

**Information Request:**

- a) Discuss the anticipated distribution of economic costs and benefits as it relates to Indigenous peoples.
  - Describe systemic barriers to benefits as identified by Indigenous groups. Discuss how the Indigenous Participation Plan will address these.
  - Identify and discuss areas of disparity between the views and conclusions of Indigenous groups and Alberta Transportation regarding the Project's economic costs and benefits relating to Indigenous peoples, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-05**

### **Topic: Federal Lands**

#### **Sources**

EIS Guidelines Part 1, Section 3.3.2

EIS Guidelines Part 2, Section 6.3.5

EIS Volume 3A, Section 18

EIS Volume 3B, Section 18

EIS Volume 3C, Section 1

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-05

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-05, the Agency required the proponent to provide an assessment of effects to federal lands.

Alberta Transportation's response to IR2-05 provides a rationale for why the LAA and RAA are VC-specific and describes the challenges of considering "Federal Lands" as a stand-alone VC. Respecting the rationale provided, the Agency understands additional information related to pertinent VCs may be forthcoming in the proponent's responses to information requests. Upon receipt of this information, the Agency will undertake further review to determine whether the information provided supports a full understanding of potential effects to federal lands.

To support this analysis, additional contextual information regarding the current state of the environment on reserve is required. The Agency recognizes the need to minimize the degree of duplication and redundancy in an assessment and to focus the analysis on the project-environment interactions of greatest importance and consequence. While the EIS evaluates the potential effects of the Project to each VC that extended onto reserve lands, it is pertinent to understand how potential residual effects of the Project could affect land and resource management objectives and activities on these reserve lands.

#### **Information Request:**

- a) Provide a description of the current state of the environment on federal lands, prepared with the First Nation whose reserve(s) may be affected, that focuses on the land management plans or priorities set by the respective First Nations. Discuss potential interactions of residual project effects with the plans and objectives identified.

## **Gaps from IR2-06**

### **Topic: Indigenous and Community Knowledge**

#### **Sources:**

EIS Guidelines Part 1, Section 4.3.2

EIS Guidelines Part 2, Section 3.3.3

EIS Volume 3A, Section 14

EIS Volume 3B, Section 14

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission – June 25, 2018 (CEAR # 52)

Montana First Nation – Review of Springbank Off-Stream Reservoir EIA, June 2018 (CEAR # 51)

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments (CEAR # 46, 47)

Ermineskin Cree Nation – Springbank Off-Stream Reservoir TKU Report (CEAR #46)

Blood Tribe/Kainai – Traditional Knowledge, Land, and Resource Use (CEAR # 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-06

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-06, the Agency required the proponent to describe the methodology used for considering Indigenous and community knowledge and concerns raised by Indigenous groups. The information request indicates that Indigenous knowledge extends beyond information pertaining to use of lands and resources. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-06 provides an overview of how information was gathered but does not present the methodology applied when analyzing or considering the information received. With regards to demonstrating how Indigenous knowledge was considered

throughout the preparation of the EIS, Alberta Transportation provides discrete examples of times when information related to traditional land and resource use was used to inform assessment parameters and mitigation. Alberta Transportation did not extend consideration of Indigenous knowledge beyond data on traditional land and resource use.

Alberta Transportation's response includes Appendix IR1-1. Specific Concerns and Response Tables included in this appendix list concerns raised by Indigenous groups with respect to Indigenous knowledge that are unresolved. For example, the table includes concerns from Kainai First Nation regarding the degree to which knowledge holders were or were not included in the environmental impact studies and regarding the proponent's conflation of traditional use information and traditional knowledge. The table indicates these concerns have not yet been addressed.

Alberta Transportation's response states that Alberta Transportation is not aware of any differences between Indigenous, community, and western knowledge collected for the purposes of the EIA or project planning. The Specific Concerns and Response Tables identify numerous concerns and views expressed by Indigenous groups related to Indigenous and traditional knowledge that conflict with or contradict statements made by Alberta Transportation in the EIS and information request responses. For example, item 3 in the Stoney Nakoda Specific Concerns and Response Table requests using cultural studies to look at animals and plants instead of relying only on scientific techniques. Alberta Transportation provides no response in the table and no discussion of this or other points of discrepancy in the information request response.

**Information Requests:**

- a) Discuss the methodology used for considering Indigenous and community knowledge and concerns raised by Indigenous groups.
- b) Present a discussion on the views expressed by Indigenous groups regarding Alberta Transportation's methodology for considering Indigenous knowledge. Identify and discuss areas of disparity between the views of Indigenous groups and Alberta Transportation on the consideration of Indigenous knowledge (both the methodology used and the outcomes of the analysis), efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-07**

### **Topic: Effects on Traditional Land and Resource Use**

#### **Sources:**

EIS Guidelines Part 2 Section 5; 6.1.9; 6.3.4

EIS Volume 3A, Section 14

EIS Volume 3B, Section 14

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission, June 25, 2018 (CEAR # 52)

Montana First Nation – Review of Springbank Off-Stream Reservoir EIA, June 2018 (CEAR # 51)

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments (CEAR # 46, 47)

Ermineskin Cree Nation – Springbank Off-Stream Reservoir TKU Report (CEAR #46)

Blood Tribe/Kainai – Traditional Knowledge, Land, and Resource Use (CEAR # 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-07

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-07, the Agency required the proponent to provide a rationale for the selection of the RAA for traditional land and resource use and an updated assessment of effects to traditional land and resources, taking into account the distribution of and pathways of effects to resources. The context and rationale notes that Indigenous groups identified the need for additional site-specific information, as the information used in the EIS to predict effects on Indigenous peoples and impacts to rights is incorrect, inappropriate, and/or taken from secondary sources that do not accurately characterize traditional land and resource use that may be affected by the Project. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-07 focuses on the rationale for RAA selection and does not address the identified need for site-specific information or the distribution and relative importance of resources. Alberta Transportation's response includes Appendix IR1-1. Specific Concerns and Response Tables included in this appendix list concerns raised by Indigenous groups with respect to traditional land and resource use that are unresolved.

**Information Requests:**

- a) Using site-specific information, describe the presence and distribution of traditional resources and traditional land and resource use areas within the PDA, LAA and RAA.
- b) Identify the relative importance of the resources, preferred use areas, and access to the areas and resources described in a).
- c) Identify and discuss areas of disparity between the views of Indigenous groups and Alberta Transportation on potential effects to traditional land and resource use, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.



## **Gaps from IR2-08**

### **Topic: Indigenous Health and Country Foods**

#### **Sources:**

EIS Guidelines Part 2, Section 6.1.9; 6.3.4

EIS Volume 3A, Section 14 and 15

EIS Volume 3B, Section 14 and 15

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments (CEAR # 46, 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-08

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-08, the Agency required the proponent to provide information on the availability of and access to country foods and to describe how findings on country foods affect the assessment of effects of changes to the environment on Indigenous peoples. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-08 includes information on the availability of and access to country foods and the roles of country foods in health, wellbeing, governance, and rights (Indigenous groups' views presented in Table IR8-1). However, synthesis and analysis of this information is not included. The response notes that exact locations regarding the harvesting of country foods were not disclosed. The Agency does not require detailed information on locations. However, understanding the importance of various harvesting areas and the overlap of these with changes to the environment is necessary to a full understanding the effects of these changes to Indigenous peoples.

#### **Information Requests:**

- a) Present a discussion, informed by Indigenous groups' views, on the relative importance of the PDA, LAA, and RAA to the availability of and access to country foods of importance.
- b) Identify and discuss areas of disparity between the views of Indigenous groups and Alberta Transportation on potential effects to the availability of and access to country foods and subsequent effects on current use, health and socio-economic conditions, and

physical and cultural heritage, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-09**

### **Topic: Project Area Land Use and Access**

#### **Sources:**

EIS Guidelines Part 2, Section 6.1.9; 6.3.4

Volume 1, Section 1.3.2.1; 1.3.2.2

Louis Bull Tribe – EIS Review Submission, June 18, 2018 (CEAR # 49)

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Louis Bull Tribe – EIS Review Submission, June 18, 2018 (CEAR # 49)

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

Ermineskin Cree Nation and Blood Tribe – Springbank EIS Technical Comments (CEAR # 46, 47)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-09

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-09, the Agency required the proponent to provide information on access to lands and waters related to Indigenous people's current use of lands for traditional purposes, physical and cultural heritage, health and socio-economic conditions, and exercise of Aboriginal and treaty rights.

Alberta Transportation's response to IR2-09 references Appendix IR1-2, which identified draft principles of future land use within the PDA. The draft principles identify that the primary use of all lands within the PDA, including the identified land use area, is flood mitigation. The draft principles list the following under secondary uses: "In general, First Nations' traditional activities, including the exercise of treaty rights such as hunting, will be allowed." The wording of this principle is too vague to support a meaningful determination of potential effects to Indigenous peoples or potential impacts to rights.

#### **Information Requests:**

- a) Provide an updated Draft Principles for Future Land Use of the Proposed Springbank Off-Stream Reservoir that identifies the conditions under which Indigenous land use will be permitted and any measures or commitments by Alberta Transportation, and/or Alberta Environment and Parks, to promote, enhance, or ensure Indigenous land use.

- Define the parameters and criteria for determining the level of access (e.g. timing, purposes, management) to the land use area.
  - Identify the land-management tools available to the Government of Alberta under currently relevant legislation.
- b) Clarify whether the secondary use principle regarding traditional activities applies only to First Nations or also to Métis people.

## **Gaps from IR2-10**

### **Topic: Physical and Cultural Heritage**

#### **Sources:**

EIS Guidelines Part 2, Section 5; 6.1.9; 6.3.4

EIS Volume 3A, Section 13 and 14

EIS Volume 3B, Section 13 and 14

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-10

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-09, the Agency required the proponent to provide additional information and a revised assessment of effects on physical and cultural heritage and on any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance. The requirement for a revised effects assessment is based on discrepancies between the effects considered under CEAA 2012 and the historical resources considered and protected under the *Alberta Historical Resources Act*. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-10 provides raw data in the form of excerpts from Indigenous groups' submissions, correspondence, and meeting notes regarding physical and cultural heritage and sites of importance and proposed mitigation measures (Tables IR10-1 and IR1-2). Alberta Transportation's response includes Appendix IR1-1. Specific Concerns and Response Tables included in this appendix list concerns raised by Indigenous groups with respect to physical and cultural heritage and sites of importance that are unresolved.

The mitigation measures identified by Alberta Transportation in its response reference the *Historical Resources Act* and other Alberta Culture and Tourism policies and procedures with respect to historical resources. No discussion is presented to clarify the effects to physical or cultural heritage or to sites of importance identified by Indigenous groups that fall within the scope of what is protected by these measures relative to what is considered under CEAA 2012. It remains unclear which mitigation measures would be applied to which potential effects.

#### **Information Requests:**

- a) For each of the concerns raised by Indigenous groups regarding potential effects to physical and cultural heritage and/or to sites of importance, as considered under CEAA

2012, identify the applicability of standard mitigation likely to be required by Alberta Cultural and Tourism, the Historical Resource Impact Assessment, and existing provincial legislation and policy. Include a discussion of all possible gaps related to effects considered under CEAA 2012 that are beyond the scope of provincial legislation and policy, and any commitments to mitigation measures specific to these effects.

- b) Identify and discuss areas of disparity between Indigenous groups' and Alberta Transportation's views on potential effects to physical and cultural heritage and to sites of importance, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gaps from IR2-11**

### **Topic: Wildlife – Culturally Important Species**

#### **Sources:**

EIS Guidelines Part 2, Section 5; 6.1.8, 6.1.9; 6.2.3; 6.3.4

EIS Volume 3A, Section 11.5

EIS Volume 3B, Section 11.4

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission – June 25, 2018 (CEAR # 52)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-11

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-11, the Agency required the proponent to list the species identified by Indigenous groups as species of importance and subsequently provide an updated effects assessment and significance determination for each of these species. Additionally, the Agency required Alberta Transportation to update the effects assessment and significance determination for the wildlife and biodiversity VC as necessary. As noted in the information request, the EIS Guidelines require the proponent to identify changes to key habitat for culturally important species and assess the effects of changes to the environment on Indigenous peoples. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

In Alberta Transportation's response to IR2-11, Alberta Transportation indicates that the assessment of individual wildlife species of cultural importance does not change the determination of significance or conclusions discussed in the wildlife and biodiversity section of the EIS. However, there is no rationale provided as to how this is the case.

It is necessary to understand how the updated effects assessments for each species of cultural importance was incorporated in the assessment of overall potential effects to the wildlife and biodiversity VC. As noted in the information request, in assessing the broad effects of the Project on wildlife and biodiversity, the EIS does not allow for a meaningful understanding of potential effects to individual species of importance to Indigenous peoples, and related effects of changes to the species on Indigenous peoples.

Additional detail is required to understand and support the assessment of effects to Indigenous peoples.

**Information Requests:**

- a) Provide a significance determination for each species of cultural importance.
- b) Explain how the effects assessment for each species of cultural importance was incorporated into the effects assessment and significance determination for the wildlife and biodiversity VC. Should significance determination to the broader wildlife and biodiversity VC not change, provide a robust rationale for why.
- c) Identify and discuss areas of disparity between the views of Indigenous groups and Alberta Transportation on potential effects to species of cultural importance, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.



## **Gaps from IR2-13**

### **Topic: Wildlife - Habitat Modelling**

#### **Sources:**

EIS Guidelines Part 2, Section 6.1.8, 6.1.9; 6.2.3; 6.3.4

EIS Volume 3A, Section 11.2; 11.5; 11.6

EIS Volume 3B, Section 11.4; 11.5

EIS Volume 4, Appendix H, Attachment 11

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Tsuut'ina First Nation, Ermineskin Cree Nation, and Kainai First Nation – Technical Review of the EIS - Annexes – Combined (CEAR # 46, 47, 50)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-13

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-13, the Agency requested Alberta Transportation provide additional detail and clarify various components of the habitat suitability modelling. As noted in the information request, the EIS Guidelines require the proponent to characterize and describe riparian habitats and wetlands, to identify ecosystems that are sensitive or vulnerable, and to identify changes to key habitat for culturally important species. The EIS Guidelines also require the proponent to assess the effects of changes to the environment on Indigenous peoples, including on current use and physical and cultural heritage.

In part d, the Agency required Alberta Transportation to provide a discussion of how limitations of the habitat suitability models affect prediction confidence for effects on wildlife and biodiversity, and how this affects the assessment of effects of changes to the environment on Indigenous peoples. Alberta Transportation's response to IR2-13 discusses limitations and prediction confidences, and indicates that the prediction confidence for wildlife and biodiversity is applicable to the availability of traditional resources, thus the prediction confidence for wildlife and biodiversity aligns with the moderate prediction confidence for Project residual effects on TLRU. However, the response does not discuss how the identified limitations and moderate confidence level for the suitability models could affect or contribute to the assessment of effects of changes to the environment on Indigenous peoples.

In part b, the Agency required Alberta Transportation to provide detail on the current knowledge and/or literature used to support the position that the suitability maps provide a reasonable assessment of potential project effects. Alberta Transportation's response to IR2-13 indicates that

a variety of sources, including government species status and recovery documents, peer-reviewed journal articles, and graduate theses, were used to develop the habitat suitability models. However, the response does not address the need for information and rationale supporting the selection of sources used.

In part e, the Agency required Alberta Transportation to provide rationale, with additional information, to justify and explain the buffer distance applied in the elk and grizzly bear habitat suitability models. Alberta Transportation's response to IR2-13 part e is a repetition of information from the EIS. As referenced in the information request, Tsuut'ina, Ermineskin, and Kainai's submissions indicate that in the elk habitat suitability model a 250 m buffer distance for moderate volume roads and 500 m buffer for high traffic roads may be insufficient, and a rationale and supporting literature is not provided for the use of a 500 m buffer for industrial developments. Additionally, the submissions indicate that elevation and aspect were not included in the grizzly bear habitat suitability model and the rationale for buffering industrial developments by 500 m is not described. As noted in the information request, while pertinent studies are referenced, Indigenous groups have noted that there are numerous studies on elk behaviour which would provide a more robust discussion on suitable buffer distances, with a focus on local habitat, and studies in Alberta. Clear rationale, with additional literature cited, is needed to justify the buffer distances used in the elk and grizzly bear habitat suitability models.

**Information Requests:**

- a) Assess how limitations to habitat suitability models affects the understanding of the impacts of changes to the environment on Indigenous peoples.
- b) Describe how current knowledge/literature used supports the habitat suitability models and provide clear rationale, with additional literature cited, to justify and explain the buffer distances applied in the elk and grizzly bear habitat suitability model.

## **Gap from IR2-14**

### **Topic: Wildlife - Survey Timing, Detection and Mitigation**

#### **Sources:**

EIS Guidelines Part 2, Section 6.1.8, 6.1.9; 6.2.3; 6.3.4

EIS Volume 4, Appendix H

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission – June 25, 2018 (CEAR # 52)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-14

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-14, the Agency required Alberta Transportation to provide a rationale for survey timing for western toad and yellow rail and explain how potential impacts of survey timing on detection rates were considered in the understanding of baseline conditions, assessment of effects, and proposed mitigation. As noted in the information request, the EIS Guidelines require the proponent to identify changes to key habitat for culturally important species and assess the effects of changes to the environment on Indigenous peoples, including on current use and physical and cultural heritage.

Alberta Transportation's response to IR2-14 indicates that recommended survey timing for western toad, as described in ESRD (2013), for nocturnal acoustic surveys, is May 15 to June 14. As referenced in the information request, Samson Cree Nation raised concerns regarding both the timing of the western road and yellow rail surveys. Samson Cree Nation indicates that the timing of the amphibian survey falls within the recommended period for northern leopard frogs; however, it is outside the recommended period for western toads. As surveys were completed May 5 to May 11, the timing of surveys may have affected western toad detections.

In Alberta Transportation's response to IR2-14, Alberta Transportation indicates that the survey timing is sufficient for determining the existing conditions, assessment of effects, and mitigation. No explanation is provided regarding how the effects of survey timing on detection rates were considered in the understanding of baseline conditions, assessment of effects, and proposed mitigation measures for western toad and yellow rail.

#### **Information Requests:**

- a) Discuss the potential effects of using a survey timing outside of the recommended period for the western toad on detection rates.
- b) Explain how potential effects of survey timing on detection rates were considered in the understanding of baseline conditions, assessment of effects, and proposed mitigation.

## **Gap from IR2-15**

### **Topic: Wildlife - Habitat Connectivity and Wildlife Movement**

#### **Sources:**

EIS Guidelines Part 2, Section 2.2; 6.1.8, 6.1.9; 6.2.3; 6.3.4

EIS Volume 3A, Section 11

EIS Volume 3B, Section 11

Piikani Nation – Technical Review of EIS, June 15, 2018 (CEAR #48)

Louis Bull Tribe – EIS Review Submission, June 18, 2018 (CEAR # 49)

Stoney Nakoda Nations – Alberta Transportation Workshops, February and March 2018

Montana First Nation – Review of Springbank Off-Stream Reservoir EIA, June 2018 (CEAR # 51)

Samson Cree Nation – Springbank Off-Stream Reservoir Project Written Submission – June 25, 2018 (CEAR # 52)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-15

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-15, the Agency requested Alberta Transportation describe the potential benefits related to wildlife movement and mortality of an overpass over Highway 22 at various locations connected to the project area and discuss the feasibility of overpass options. Additionally, the Agency required Alberta Transportation to include a discussion of Indigenous groups' views on wildlife crossings, mitigation, and accommodation. As noted in the information request, the EIS Guidelines require the proponent to identify changes to key habitat for culturally important species, assess the effects of changes to the environment on Indigenous peoples, and conduct an alternative means analysis that addresses project design components related to environmental effect mitigation. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

In Alberta Transportation's response to IR2-15, Alberta Transportation indicates that a review of the existing literature suggests that when placed in the right locations and designed properly, wildlife crossing structures (over and underpasses) are beneficial for wildlife because they can maintain connectivity between suitable habitats and populations as well as reduce wildlife

mortality risk along highways. Alberta Transportation then presents a discussion regarding the feasibility of underpasses, indicating that overpasses and other crossing structures are not necessary. The response does not evaluate the potential benefits to wildlife movement and mortality of an overpass over Highway 22 at various locations within the project area.

While some mitigation measures are proposed in the EIS, if changes to the project design or operation are not successful to reduce potential effects to wildlife movement, other actions to improve wildlife movement may be required.

### **Information Requests**

- a) Considering information from a thorough review of existing literature, describe the potential benefits related to wildlife movement and mortality of an overpass over Highway 22 at various locations connected to the project area and discuss the feasibility of overpass options. Include a discussion of Indigenous groups' views on wildlife crossings, mitigation, and accommodation.
- b) Identify and discuss areas of disparity between the views of Indigenous groups and Alberta Transportation on potential effects to wildlife movement, efforts made to reconcile the disparities, and rationale for conclusions on matters for which disparity in views remains.

## **Gap from IR2-16**

### **Topic: Wildlife - Restricted Activity Periods**

#### **Sources:**

EIS Guidelines Part 2, Section 6.1.8, 6.1.9; 6.2.3; 6.3.4

EIS Volume 3A, Section 11.4

Montana First Nation – Review of Springbank Off-Stream Reservoir EIA, June 2018 (CEAR # 51)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-16

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

INFC Round 1 IR Completeness Review, June 27, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-16, the Agency requested Alberta Transportation provide an updated project schedule reflecting which restricted access periods (RAPs) may be avoided and which may not be avoided, and if this level of detail is not possible, identify when, within the general project timeline, this information will be available and how this information will be shared with Indigenous groups.

As noted in the information request, the EIS Guidelines require the proponent to identify changes to key habitat for culturally important species and assess the effects of changes to the environment on Indigenous peoples, including on current use and physical and cultural heritage. Restricted activity periods may serve to protect species of cultural importance to Indigenous peoples.

In Alberta Transportation's response to IR2-16, Alberta Transportation indicates that due to year-round construction and avoidance with other RAPs, it is likely that activities will need to occur within the migratory bird, raptor, and Key Wildlife and Biodiversity Zones (KWBZ) RAPs; the overlap of these with the construction schedule will be determined when the schedule is finalized. Additional information is provided in Appendix IR9-1, Tables 6-1 and 6-3, which indicate that construction activities will be avoided during RAPs for KWBZ identified along the Elbow River (December 15 to April 30), and if construction during the RAP cannot be avoided, site-specific mitigation will be developed in consultation with AEP.

The response does not provide an overview of the overlap of the various RAPs for species of management concern, or provide an understanding of when this information will be available and how this information will be shared with Indigenous groups.

As referenced in the information request, Montana First Nation noted that Alberta Transportation appears to have prioritized the nesting migratory bird/raptor RAP (February 15 to August 31) and the Key Wildlife Biodiversity Zone (KWBZ) RAP (December 15 to April 30). This leaves a window for construction between September 1 to December 14 which overlaps with other RAPs for species such as the northern leopard frog (year-round) and grizzly bear (October 1 to April 30). Montana First Nation indicates that where the RAP cannot be avoided, a wildlife mitigation and monitoring plan should be developed for the KWBZ, and should be available to Montana First Nation so that potential effects can be understood and mitigations and monitoring can be in place prior to construction. Additionally, Montana First Nation noted that Indigenous communities should be notified if traditional species of concern are identified during pre-construction surveys.

A more thorough understanding of which restricted access periods are not likely to be avoided and associated mitigation and follow-up requirements, including notification to Indigenous communities, is required to understand potential impacts to wildlife species of cultural importance.

**Information Requests:**

- a) Provide a table that demonstrates all of the restricted access periods that construction may overlap, potential effects of constructing during each period, and the mitigations that would be in place should construction occur during this period.
- b) Describe when and how the finalized wildlife mitigation and monitoring plan will be shared with Indigenous groups.

## **Gaps from IR2-23**

### **Topic: Navigation**

#### **Sources:**

EIS Guidelines Section 6.3.5

EIS Volume 3A Section 12.4.2

Alberta Transportation Responses to CEAA Annex 2: A) Early Technical Issues, May 11, 2018

Transport Canada Comments on the EIS - June 18, 2018 (CEAR # 31)

CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-23

Alberta Transportation Responses to IR Round 1, SR1 CEAA IR Package 2, June 14, 2019

#### **Context and Rationale**

In CEAA Information Requests Related to the Environmental Impact Statement Round 1 Part 2, IR2-23, the Agency required the proponent to provide additional information on current navigation practices on the Elbow River, potential project effects on navigation practices, and the proposed permanent portage. The cover letter to the information requests and the EIS Guidelines further direct the proponent to present points of disagreement between the views of Alberta Transportation and Indigenous groups, along with a description of efforts undertaken to reconcile these differences and a rationale for conclusions.

Alberta Transportation's response to IR2-23 reiterates information from the EIS on navigation practices, naming the types of boating that occur on the Elbow River. No further detail is provided on public navigation practices on the Elbow River. The response summarizes that Indigenous groups have identified the Elbow River as a transportation route and therefore important to culture and use. The response references responses to information requests pertaining to impacts to rights (IR2-1) and culture (IR2-2). These responses do not demonstrate thorough consideration of Indigenous groups' views on the interconnection between navigation, rights, culture, and use.

#### **Information Requests:**

- a) Describe current navigation practices of the Elbow River, including information on the frequency and timing of various navigation practices and the relative importance of the affected sections of the Elbow River to navigation practices on this and connected waterways.
- b) In responding to the conformity gaps identified pertaining to impacts to rights, culture, and traditional land and resource use, include consideration of the interconnection between navigation, rights, culture, and use.