



Monday, March 24, 2025

Honourable Terry Duguid  
Minister of Environment and Climate Change  
House of Commons  
Ottawa, ON K1A 0A6  
via email: [ministre-minister@ec.gc.ca](mailto:ministre-minister@ec.gc.ca)

Dear Minister Duguid:

**Re: Request for Designation of Pathways Alliance CO2 Transportation Network and Storage Hub Project under the Impact Assessment Act**

Pathways Alliance (“Pathways”) is proposing the construction and operation of a carbon capture, transportation and storage project located in northeastern Alberta. As proposed, the CO2 Transportation Network and Storage Hub Project (“the Project”) would transport captured carbon dioxide (CO2) by pipeline from oil sands facilities in the Fort McMurray, Christina Lake, and Cold Lake, Alberta regions to an underground CO2 storage hub. Project components would include CO2 capture facilities, CO2 transportation pipelines, and CO2 injection wells. The Project aims to reduce oil sands facilities' operational air emissions and achieve net zero emissions by 2050. The Mikisew Cree First Nation (“MCFN”) Government and Industry Relations (“GIR”) Office respectfully requests that the Project be designated under section 9(1) of the Impact Assessment Act (the “IAA”).



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## A. BACKGROUND ON MCFN, OUR LANDS AND OUR RIGHTS

MCFN is an Indian Band under the Indian Act and an Aboriginal group within the meaning of Section 35 of the Constitution Act, 1982. MCFN is the largest First Nation within the Regional Municipality of Wood Buffalo, with a registered population of approximately 3,000 members.

MCFN's Traditional Territory includes the Athabasca River, a key lifeline of access for MCFN members to their traditional lands, which are critical for the practice of rights-based activities and vital for the cultural continuity of MCFN members. MCFN's territory also includes the intensively developed oil sands area and large-scale industrial projects to extract the oil sands. MCFN has nine reserve areas located along the Athabasca River, the Peace River, in the Peace-Athabasca Delta, and north of Lake Athabasca. Unfortunately, and as will be described in further detail below relevant to the proposed applications, MCFN's Section 35 rights are under threat by the continued and unmanaged industrial development in our traditional lands.

## B. RATIONALE FOR REQUEST FOR DESIGNATION

MCFN has reviewed Project information available to date and has already submitted a Statement of Concern ("SoC") on some of the applications to the Alberta Energy Regulator (the "AER"). In our submission, we raised several impacts, some of which include the following. We focus below on those that fall under federal jurisdiction to manage and address.

### 1) Impacts to the Environment in MCFN's Traditional Territory and Reserve Lands

The Project stands to adversely impact our reserve lands and the lands in our traditional territory, and thus our ability to use these for the practice of our rights.

#### a) Construction-related Impacts

We anticipate the Project to noticeably alter our lands in the following ways:

- additional clearance of forests and stripping of soils
- increased taking up of our lands to stockpile materials



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- increased dust and erosion which could contribute to deterioration of water quality in nearby streams, creeks, and rivers
  - construction-related impacts to water bodies and wetlands when pipelines must cross these, with the potential that these will be lasting, and also for longer-term impacts during pipeline operations
  - impacts to wildlife, including birds, who are likely reliant upon “habitat islands” in areas of intensive industrial use, and associated impacts to their travel and migration.

We do not need to hear that the areas around Fort McMurray and Fort McKay are already disturbed and heavily impacted as justification for additional disturbance; our members observe the disturbance for themselves. What lands remain intact in these areas are vital to ensure that plants have somewhere to grow, that water quality is not further jeopardized nor fish health, that birds and animals have access to habitat and sustenance, and that our members can rely upon all of these resources downstream.

**b) Operation and CCS-related Impacts:**

Further to the expected, likely impacts described above, we have serious concerns about the proposed applications, given that the pipelines will be transporting CO<sub>2</sub> that has been captured, pressurized, and turned into liquid form.

We anticipate that the impacts of construction and operation will result in:

- Increased deterioration in the abundance (quantity) and health (quality) of our lands, waters, and the species – plants, fish, birds, and animals – that rely on a healthy ecosystem
- reduced food security due to lack of access to safe resources
- reduced biodiversity and impacts on species listed under the Species At Risk Act (“SARA”) that use the lands taken up by the project for migration and habitat
- impacts on MCFN’s exercise of rights as these pertain to the ongoing use of lands, waters, and resources within our traditional territory

As this is a new technology in this area:



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- a fulsome identification and assessment of both anticipated and unanticipated impacts must be conducted
  - MCFN and other affected communities must be provided meaningful opportunity to conduct this assessment, which would include support for detailed technical review of the engineering designs and applications should this be desired
  - Appropriate federal and provincial authorities must be engaged to ensure that:
    - anticipated impacts can be mitigated and managed
    - unanticipated impacts can be quickly detected for adaptive management
    - where impacts require mitigation from multiple cross-jurisdictional authorities, arrangements can be made in advance
    - residual impacts that remain following the successful implementation of mitigation measures be accommodated

**c) Safety-related Impacts and the Lack of Response to and Management of these**

MCFN is familiar with assurances from Operators that their projects are safe, that the projects will be carried out as planned with no unforeseen consequence to the environment and MCFN's territory.

We have also observed and experienced, too many times, the destruction of our lands and waters when projects fail to go according to plan. Examples include the following:

- The April 2008 death of 1,600 ducks in Syncrude's Aurora tailings pond.
- The 2013 blowout at CNRL's Primrose Project, resulting in bitumen emulsion (oil sands and water) escaping from the Clearwater formation underground and following pathways to emerge and leak/spill at the surface. (A similar incident occurred in 2009 at the same site).
- Also in 2013, the leak/spill of process water (water used in the mining process), caused by the freezing and rupture of a length of pipe at Suncor's site.
- The 2023 leak/spill of 5.3 million litres of tailings from Imperial Oil's Kearl mine to the surrounding environment over months, and the months-long delay in the company's and the AER's communication of this to MCFN and other Indigenous communities.



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- Also in 2023, a spill of surface runoff from a containment pond at Suncor’s Fort Hills site, which also lasted far longer than the company originally indicated.

The AER has failed to prevent and manage these “safety-related” impacts. Smaller incidents are reported to the AER with alarming frequency, and seemingly without thought to how – taken together – these add up to larger impacts on the environment, on the lands and waters and resources in MCFN’s territory. There are, in essence, cumulative “safety-related” effects, and a lack of systematic assessment (or even consideration) of these in project approvals. As reported recently by the CBC<sup>1</sup>, a report was published in the *Environmental Monitoring and Assessment* journal (2025), by ecologist Dr. Timoney, who obtained AER data on a decade of tailings waste spills and leaks and compared it to the AER’s public claims. He found numerous and serious discrepancies, revealing that the AER fails to hold operators as accountable for these incidents as they report.

Another recent CBC article describes the impact of leak of CO<sub>2</sub> from a pipeline near the town of Satartia, Miss., USA, which caused the area to become flooded with suffocating gas, residents to lose consciousness, and the town to be evacuated. The article makes reference to the Pathways Project and potential implications should it leak CO<sub>2</sub> as well.<sup>2</sup> MCFN has little confidence that, if approved, the Project would operate without incident, and questions the readiness of Alberta to respond to a similar such incident. Our concern is the potential magnitude of any one of the anticipated incidences on our rivers and waters, the downstream impacts on our lands, the impacts on our fish and wildlife, the impacts on our members’ rights to use all of these, and more broadly on the safety of our members and other communities in the region.

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<sup>1</sup> <https://www.cbc.ca/news/canada/edmonton/pipeline-alberta-spills-data-too-positive-inaccurate-aer-1.3965172> (accessed Monday, March 24, 2025)

<sup>2</sup> <https://www.cbc.ca/radio/whatonearth/carbon-dioxide-pipeline-satartia-1.7482854> (accessed Tuesday, March 18, 2025)



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## 2) Interprovincial/Interterritorial Impacts

In the case of an accident or malfunction, the contamination of the Athabasca River and waters in the Athabasca watershed would consequently result in contamination of our reserves along the River, to our members in Fort Chipewyan, and ultimately, to the lands and waters in the Peace-Athabasca Delta (the “PAD”) and the Wood Buffalo National Park (the “WBNP”), all of which are critical to MCFN, to the practice and maintenance of our rights. The WBNP is a UNESCO World Heritage Site, and as such, its outstanding universal values (OUV) would be impacted. The World Heritage Committee (WHC) recommended “...increased collaboration with provincial governments to ensure that their policies and actions are compatible with the protection of the park’s World Heritage value.” Ultimately, the responsibility to protect the WBNP rests with the Crown.

The PAD, which lies partly within the WBNP, and the WBNP itself are not only the heart of the traditional territory of MCFN, but are our cultural landscapes, as is the Athabasca River system. Navigation of the waterways in our traditional territory is inextricably linked to our ability to practice our Treaty Rights, to travel, to access our lands and maintain connection to these, to continue strong intergenerational family relationships, in addition to hunting, fishing, and trapping in these areas. Federal protection of navigability of waterways in our traditional territory is essential to protecting our rights.

## 3) Cumulative Impacts and Anticipated Contribution of Project to Further Industrial Expansion and Legacy Impacts

MCFN does not argue that climate change is a matter of extreme importance, one that requires tangible, timely, and effective ways to address. Our concern with the project is that, rather than being a project that reduces impacts of carbon-induced climate change, it will become a vehicle to allow for further expansion of the oil sands. This will not only result in continued carbon emissions, but will contribute to the already existing project-specific and cumulative impacts on our lands, waters, to the species that rely on these, and our rights to use all of them. Our concerns about increased project-specific and cumulative impacts stand on their own, but have become more recently magnified by announcements from the Alberta government of its plans to



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double oil and gas production.<sup>3</sup> In addition to seeking to increase oil exports to the US by 2 million bpd, Alberta is pursuing faster pipeline approvals to boost production and also secure new oil markets.

Expansion of the oil sands is anticipated to magnify, in particular, the following cumulative impacts:

a) Increased Volumes of Tailings and Ineffective Tailings Reclamation

The oil sands hold the largest accumulation of mine tailings on the planet; meanwhile, legacy projects have already been approved for extensions and expansions, despite not having begun to adequately address the tailings held in vast ponds. Reclamation lags far behind the pace of extraction, and those areas that are deemed to be reclaimed often do not meet standards identified by Indigenous communities, standards that – if met – would provide confidence that the areas are safe for the practice of Section 35 Rights.

To date, there has not been adequate and effective reclamation of tailings that provides our members with assurance that the lands and waters in our territory are safe for use. Currently, operators are lobbying the federal government to develop regulations to approve the release of treated water from tailings ponds into the Athabasca River system and environment. MCFN is opposed to the treatment and release of OSPW, to the regulation thereof, due to human and ecological health concerns. MCFN is actively participating at federal and provincial tables to press for safe alternatives to this, and to demand that treated Oil Sands Process-affected Water (“OSPW”) meet MCFN’s water quality criteria. To date, there have not been commitments from Canada or the province that proposed releases, if approved, would meet MCFN’s criteria, and would be safe for our members and our environment. Even should MCFN’s criteria be met, MCFN’s position is that safe alternatives to treatment and release be pursued.

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<sup>3</sup> <https://www.reuters.com/markets/commodities/ceraweek-canada-could-boost-oil-supplies-us-also-needs-new-markets-alerta-2025-03-10/> (accessed Friday, March 14, 2025)



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b) Continued withdrawals from the Athabasca River

The availability and abundance of water in the region, in the Athabasca River and other rivers, creeks, and streams in the watershed is at the point where further reductions will render these waterways unusable for our practice of rights, for access to our reserves and harvesting areas. Any expansion of the oil sands can only be expected to result in further demand for water from these sources. As described above, our members are already experiencing impacts in their ability to navigate the river and access traditional hunting grounds due to low water. Expansion of the oil sands will exacerbate these impacts.

c) Unsafe Water and Contamination of the Food Chain

The health and quality of our waters is already at a critical point. We are concerned about the quality of water in the watershed in general, of the water taken up by plants, inhabited in by fish and waterfowl, and consumed by birds and animals. While clean drinking water is a basic human right, our members also have Section 35 rights to use our traditional lands and waters. The extraction of oil sands and contamination of our waters has already impacted these rights, and there is no room for further impact.

As noted in the above, contamination of the food chain, of all wildlife species, birds and animals, as these rely on healthy lands and waters, will increase with expansion of the oil sands. This will only contribute to:

- reduced food security due to lack of access to safe resources
- reduced biodiversity
- impacts on MCFN's exercise of rights as these pertain to the ongoing use of lands, waters, and resources within our traditional territory

d) Lack of Protection of Caribou

In October 2020, Alberta and Canada signed a Section 11 Agreement, under SARA, for the conservation and recovery of Woodland Caribou in Alberta. The agreement required progress reporting by Alberta, and both the First Progress Report and the 2022-2023



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Progress Report being issued in 2024.<sup>4</sup> In November 2021 the federal government, Athabasca Chipewyan First Nation (ACFN) and Mikisew Cree First Nation (MCFN) also signed a Section 11 Agreement for the recovery of boreal woodland caribou, one that has since expired.

Under SARA, 65% of critical habitat is to remain undisturbed, but instead, industrial expansion is making it ever more difficult to reach this target. In certain areas, there is increased disturbance instead of a reversal of disturbance, and a move further and further from the SARA target of 65%. While MCFN spoke out about the shortcomings of the Lower Athabasca Regional Plan (“LARP”) to protect caribou, we note that Alberta was to restore hundreds of thousands of kilometres of seismic lines and has not. Nor have range planning and subregional plans for caribou recovery ever been fully implemented nor effective. These actions demonstrate that Canada’s and Alberta’s measures fall far short of their commitments. We ask Canada how we are to take seriously its commitment to the conservation and recovery of caribou in the face of anticipated and planned industrial expansion?

Because of this, MCFN has issued, in collaboration with ACFN, the “Tâdzié-Sagow Atihk Stewardship Plan”, calling for all new disturbance within tâdzié / sagow atihk habitat to be restored, or brought back to pre-disturbance conditions or better.

e) Fisheries Offsets

Fishing and consuming fish are an integral part of MCFN’s culture in addition to a Treaty Right. Access to our traditional lands has become increasingly limited through the taking up of lands but also due to impacts on navigability. At the same time, our waters have become contaminated. These, in turn, have constrained our ability to fish, to consume

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<sup>4</sup> <https://open.alberta.ca/publications/first-report-implementation-section-11-agreement-conservation-recovery-woodland-caribou-in-alberta>



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fish, and to maintain this connection to our lands, waters, and culture has been significantly diminished and infringed upon.

MCFN has participated in discussions with operators and proponents about fisheries offsets, which are in cases required by the Department of Fisheries and Oceans (“DFO”) to replace fish habitat when it is destroyed for industrial purposes. Our experience of Compensation Lakes is that, while these may be considered aquatic habitat by Canada, they are not suitable nor safe for our members to use for fishing, and nor are they part of our cultural landscape. We request that accommodations discussions commence immediately.

#### **4) Impacts to the Physical, Social, and Cultural Wellbeing of MCFN**

As we have shown above, the Project is anticipated to contribute to the continued expansion of the oil sands, to the legacy of impacts described above, and to the ongoing avoidance of mitigating and addressing these impacts. This burdens MCFN members’ health and wellbeing. Further, in the face of unknown outcomes and potential unplanned “events”, the project and the proposed applications add to the insecurity of our members’ health, wellbeing, and futures. This has direct and cumulative adverse consequences for both the exercise of MCFN’s rights but also the mental, social, cultural and spiritual health of MCFN members. MCFN’s expectation is that these impacts be fully mitigated and assessed against the project.

#### **5) Impacts on MCFN’s Section 35 Rights**

MCFN’s Sec. 35 Rights, which protect our use of lands, waters, and resources, have never been extinguished. MCFN’s Treaty 8 rights stand to be directly and adversely affected by the activities proposed in the applications. Given that MCFN’s constitutionally-protected rights are at stake, and given that the ability of MCFN members to exercise their rights within their Traditional Lands is rapidly diminishing, MCFN’s position is that the applications must not be approved.

Impacts we anticipate include the following:



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- Mikisew has hundreds of recorded TUS sites along the Athabasca River that have been previously identified in earlier SoCs and publicly available reports. Impacts on the Athabasca River would have the potential to erode our confidence in it, which would directly interfere with these traditional use activities
  - Potential for leaks and spills from the pipeline, which would result in downstream effects, and also directly impact areas of recorded hunting, fishing, trapping activities
  - The impacts to the use of our lands interrupts and causes impacts to:
    - the transmission of traditional knowledge
    - the retention of language
    - our sense of place
    - cultural continuity, as harvesting practices and harvesting places change

The impacts of the Project on MCFN's rights trigger the Crown's constitutional duty to meaningfully consult with MCFN. If Alberta does not required a full Environmental Assessment of this project, it falls to the Crown to ensure that the impacts we have raised are adequately and effectively assessed, mitigated and managed, and accommodated where mitigation and management are not possible. MCFN seeks a more thorough regulatory review and consultation process in order to ensure that our concerns in respect of the Project are addressed in accordance with constitutional principles and the Crown's fiduciary obligations to protect MCFN's Treaty 8 rights.

## C. CLOSURE

To assure MCFN that the anticipated impacts of the project will be assessed, that mitigation and management measures will be adequate and effective, that the safety of our lands and waters – including those under Federal jurisdiction – is of importance to Canada, and that our Rights will not undergo further deterioration, MCFN requests that the Minister designate this a project under the IAA.



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Sincerely,

<Original signed by>

Sebastien Fekete, GIR Director  
*Mikisew Cree First Nation*  
*Government and Industry Relations*

cc MCFN Chief and Council



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