



DENINU KUE FIRST NATION

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December 5, 2018

Mr. Alex Bolton
Chair, Joint Review Panel
c/o Canadian Environmental Assessment Agency
Review Panels Division
Government of Canada
Sent via Email: Frontier.Review@ceaa-acee.gc.ca

Re: Deninu Kue First Nation Final Arguments on the Frontier Oil Sands Mine Project

The Deninu Kue First Nation (DKFN) offers the following closing argument on the Public Hearing for the Frontier Oil Sands Project. As discussed at our oral presentation at the Public Hearing on October 3, 2018, the proposed project is within the catchment area of the Mackenzie River Basin, which includes the Peace River, the Athabasca River and the Slave River sub-basins. Therefore, water that flows by the proposed project will also flow by our community, located at the mouth of the Slave River and Slave River Delta. Industrial activity upstream of the Slave River is extensive and Northerners have raised concerns for many years about the cumulative impacts of these upstream activities.

The DKFN has utilized the land and water and all it provides since time immemorial. The DKFN has also been optimistic that its rights, duties, treaty, traditions and way of life continue to be paramount and accommodative in the deliberations, final decision, directions and recommendations of the Joint Review Panel with regard to the Frontier Oil Sands Project. In this regard, our main concerns with the above noted application include the requirement for effective engagement and the full and inclusive assessment of cumulative effects in the Mackenzie River Basin.

Concerning effective engagement, we have acted in good faith and are typically supportive of projects in our traditional territory since we recognize the benefits to DKFN members. However, when it comes to developments south of the NWT-Alberta border, that impact our resources and capacity to fulfill our Aboriginal and Treaty rights, we are typically not accommodated. Therefore, an approval of the Frontier Oil Sands Project should include provisions to ensure that a good relationship the DKFN and Teck Resources Limited (Teck) can be fostered. This should specifically address a partnership approach to the management of issues. In addition, Teck must provide adequate resources to enable a full understanding and participation in the ongoing monitoring and management of the project's potential impacts.

Oil sands development represent significant concerns relative to water quality. These operations are disturbing large areas and the effects are likely to be observed large distances downstream. Further, monitoring and baseline studies conducted in Alberta has been inadequate to understand the full effects on aquatic ecosystems. We believe that the oil sands development and increase of activity south of us currently has and will continue to have an impact on the water that directly passes our door step. Water is an important resource and we need to take care of it. The amount of water the

oil sands uses is tremendous and will affect our way of life as Dene people. Collectively we need to protect the watershed in the northern hemisphere. Humans, animals, fish, aquatic life, plants and insects all need water to survive.

We are disappointed with the lack of engagement and consultation with our members and we are concerned that the Treaty and Aboriginal rights of the DKFN have not been considered in the project application. To date, there has been minimal consultation and engagement from Teck and the Government of Canada involving the DKFN. DKFN was only notified in July of 2018 that the Joint Review Panel determined that DKFN was eligible to participate at the public hearing, which has left limited time to review the Environmental Impact Statement and other materials and make comments. This is a highly relevant issue and concern in light of the recent Federal Court of Appeal decision on the Trans Mountain Pipeline project where it was ruled that the Government of Canada failed to fulfil its legal duty to consult Indigenous peoples.

The DKFN are descendants of the signatories to the Treaty made on July 25, 1900 at Deninu Kue (Fort Resolution). The rights provided in the Treaty include the right to hunt, fish, trap and gather, in addition to other rights that do not exist only on paper, but are in active use, and an integral part of the tradition and existence of DKFN. Accordingly, the Courts recognize the importance of a First Nation's traditional territory and indicated that a First Nation is not required to move from their traditional territory to exercise their Aboriginal and Treaty rights. DKFN expects that water flow and quality will be affected by the proposed activities under review. We note for the record that the Crown has made no effort whatsoever to contact our First Nation to discuss this application, nor has it taken steps to consult with us.

If the panel is to grant the permits requested, it is expected that the livelihood of the members of the DKFN will be affected for years to come. This has been an experience with other developments that DKFN is familiar with when disruption has occurred in this area, particularly because of the extensive reliance made upon the resources of the members of the DKFN. We make this assertion despite the fact that the Aboriginal Consultation Office within the Alberta Government is of the opinion that we did not provide evidence of adverse impacts attributable to land and resource management decisions by Alberta in connection with the Project. Given the lack of long-term monitoring it is difficult to measure the full extent these impacts have had on the downstream environment; however local and traditional knowledge provides key insights into the gravity of these impacts, as was expressed at our oral presentation in October by Mr. Patrick Simon and Elder Henry McKay.

In closing, DKFN has an obligation to its band membership to ensure that "As long as the sun shines, rivers flow and grass grows" based on our Treaty with the crown, future generations should be also be able to practice their inherent right to hunt, fish, trap and gather in co-existence in our traditional territory. Where there is impact and loss, then we must be given the opportunity for reasonable informed consent, consultation and accommodation benefits. This duty is vested with the crown in their fiduciary obligation to DKFN based on our Treaty and should be addressed within this process.

Sincerely,

Chief Louis Balsille