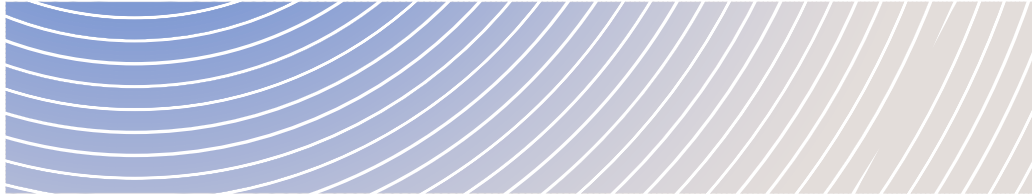


# Analysis Report



WHETHER DESIGNATION OF THE **SMOKY RIVER WIND PROJECT** IN ALBERTA WOULD BE WARRANTED PURSUANT TO THE *IMPACT ASSESSMENT ACT*

February 2024



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## Purpose

Following the Supreme Court of Canada's (SCC) issuance of its decision on the constitutionality of the *Impact Assessment Act* (the IAA) on October 13, 2023, the Government of Canada issued the *Statement on the Interim Administration of the Impact Assessment Act Pending Legislative Amendments* on October 26, 2023 (Interim Statement)<sup>1</sup>. The guidance set out in the Interim Statement is being followed until amendments come into force to address the issues in the IAA identified by the SCC.

The Interim Statement notes that, with respect to requests for discretionary designation decisions by the Minister of the Environment and Climate Change under section 9 of the IAA, for pending designation requests, where the Minister is of the opinion that designation would not be warranted under the IAA's current provisions, that opinion will be communicated to proponents.

The Impact Assessment Agency of Canada (the Agency) prepared this report for consideration by the Minister of Environment and Climate Change (the Minister) in response to the pending request to designate the Smoky River Wind Project (the physical activities referred to as the Project) under subsection 9(1) of the IAA.

## Context of Request

On June 8, 2023, the Minister received a request to designate the Project from Burt Hockey and Jackie Garvin (Hockey) (the requesters). The requesters expressed concerns regarding the potential effects of the Project on migratory birds, federal lands, and the rights of Indigenous Peoples.

On June 22, 2023, the Agency sent a letter to Smoky River Wind Inc. (the Proponent), a wholly owned subsidiary of ABO Wind AG, notifying them of the designation request and requesting information about the Project. On July 10, 2023, the Agency suspended the time limit in response to a request by the Proponent to allow it sufficient time to provide information requested by the Agency. The Proponent responded to the Agency's request on December 15, 2023, with information about the Project, a response to the requesters' concerns, and its view that the Project should not be designated. In addition, the Agency requested input from relevant federal authorities, the Government of Alberta, and nine potentially affected Indigenous groups: Duncan's First Nation; Sucker Creek First Nation; Driftpile First Nation (DFN); Horse Lake First Nation; Foothills Ojibway First Nation; Métis Nation of Alberta (MNA) Region 5; MNA Region 6; Peavine Métis Settlement; and Gift Lake Métis Settlement.

Advice on potential effects of the Project, and applicable legislative frameworks, was received from the Proponent, Fisheries and Oceans Canada (DFO), Environment and Climate Change Canada (ECCC), Natural Resources Canada (NRCan), Health Canada (HC), Transport Canada (TC), Indigenous Services

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<sup>1</sup> <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/statement-interim-administration-impact-assessment-act-pending-legislative-amendments.html>



Canada (ISC), Women and Gender Equality Canada, and the Government of Alberta.

# Project Context

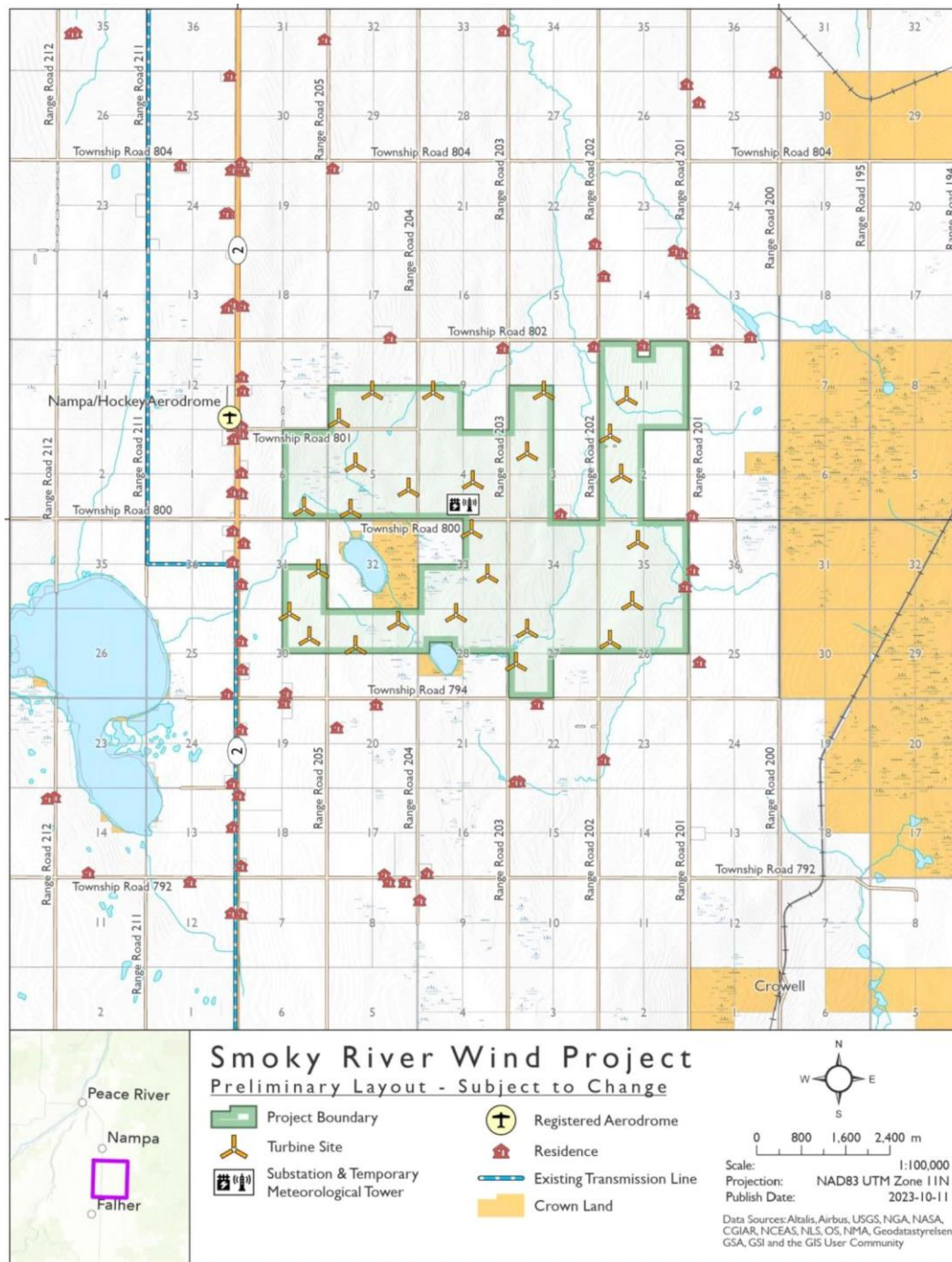
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## Project Overview

The Proponent is proposing the construction and operation of a series of new wind turbines located within the Municipal District of Smoky River No. 130, approximately 13 kilometres south of the Village of Nampa, Alberta (Figure 1). As proposed, the Project would include 26 wind turbines with a hub height of around 120 metres and a blade length of about 90 metres. Each turbine would have a production capacity of up to 7.2 megawatts for a total expected production capacity of 160 megawatts. As proposed, the Project would be able to provide energy for approximately 65,000 homes. The project footprint would cover about 2,833 hectares of privately-owned land, of which 140 hectares and 9 hectares would be disturbed during construction and operation, respectively.



Figure 1: Location of the Project



Source: ABO Wind Canada Ltd., response to IAAC’s June 22, 2023, information request pursuant to section 9(3) of the IAA

**Figure Description:** The Project is located approximately 800 metres east of Highway 2. There are 26 proposed turbine sites distributed within the project boundary, with a substation and temporary meteorological tower located in the approximate centre of the project area.

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## Project Components and Activities

The Project would include site clearing and the construction of wind turbines, access roads, underground collector lines, an electrical substation, and a temporary meteorological evaluation tower. Guidelines for how the different phases of the Project will be executed, from planning to the physical construction of the components, are still currently being developed. The operational life of the Project would be approximately 30 to 35 years, followed by a decommissioning process that would adhere to the applicable provincial regulations, permits, and licenses.

The main project components include the following:

- 26 wind turbines with a hub height of 100 to 120 metres and a blade length of 80 to 90 metres, each with an expected capacity of 6.2 to 7.2 megawatts;
- underground electricity collector lines;
- electrical substation;
- temporary meteorological evaluation tower; and
- access roads.

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## Analysis of Designation Request

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### Framework for Designating

Given the Interim Statement, with respect to requests for pending designation requests, this analysis report has been prepared to assist the Minister in forming his opinion on whether designation would be warranted under the IAA's current provisions.

Under the IAA, the *Physical Activities Regulations*, SOR/2019-285 (the Regulations) identify the physical activities that constitute designated projects. The Project does not include physical activities that are described in the Regulations.

The Agency is of the view that the Project has not substantially begun, and that no action has been taken by a federal authority that would permit the Project to be carried out, in whole or in part. Therefore, the limitations set out in subsection 9(7) of the IAA would not have applied to the Project.

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## Legislative Context

### Federal Legislative Mechanisms

#### *Fisheries Act*

The Fish and Fish Habitat Protection Program of DFO reviews projects for their impacts to fish and fish habitat by ensuring compliance with the *Fisheries Act* and *Species at Risk Act* (SARA). Through this program, DFO may provide information to the Proponent in order to avoid and mitigate any negative impacts of the Project.

A *Fisheries Act* Authorization would be required if the Project is likely to cause the harmful alteration, disruption, or destruction of fish habitat and/or is likely to result in the death of fish. The *Fisheries Act* also prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation. Consideration of the issuance of a *Fisheries Act* Authorization includes consultation with Indigenous groups. If granted, a *Fisheries Act* Authorization would include legally-binding conditions for avoidance, mitigation, and offsetting requirements commensurate with project impacts. Monitoring to validate impacts and verify the efficacy of mitigation measures and offsetting are also part of Authorization conditions.

### *Species at Risk Act*

For non-aquatic species listed in Schedule 1 of SARA as Extirpated, Endangered, or Threatened, a permit may be required from ECCC (i.e. under section 73 of SARA) for activities that affect a listed terrestrial wildlife species, any part of its critical habitat, or the residences of its individuals, where those prohibitions are in place. Such permits may only be issued if: all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted; all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and if the activity will not jeopardize the survival or recovery of the species.

ECCC does not expect that it will be required to exercise a power or perform a duty or function related to the Project to enable it to proceed. It is possible that prohibitions may come into force through Orders in Council for individuals, residences, and critical habitat on project-implicated, non-federal lands and a SARA permit may be required for the Project. DFO does not expect that a permit would be required under SARA as there are currently no known aquatic species at risk present in the project area.

### *Migratory Birds Convention Act, 1994*

The *Migratory Birds Convention Act, 1994* protects migratory birds and their eggs and nests, wherever they occur, regardless of land tenure. A permit may be required for activities affecting migratory birds, with some exceptions detailed in the *Migratory Birds Regulations*. The *Migratory Birds Convention Act, 1994* prohibits the disturbance or destruction of migratory bird nests and eggs, including for those species also listed under SARA. It also prohibits the deposit of harmful substances into waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

### *Canadian Environmental Protection Act, 1999*

The Project may require greenhouse gas (GHG) emissions reporting if ten kilotonnes or more of GHGs are emitted in carbon dioxide equivalent units per year.

## Provincial Legislative Mechanisms

### *Environmental Protection and Enhancement Act*

The *Environmental Protection and Enhancement Act* (EPEA) supports and promotes the protection, enhancement and wise use of the environment. Alberta Environment and Protected Area (AEPA) reviews applications under EPEA to assess the potential environmental impacts of a proposed project.

If an Environmental Impact Assessment (EIA) is required, an approval issued under EPEA would identify a proponent's obligations and responsibilities for design, construction, operation, and reclamation relative to air, water, land, and biodiversity. A reclamation certificate issued under EPEA asserts that all reclamation requirements have been met and allows a proponent to close their project(s) and end their surface lease(s).

The Government of Alberta has not received a request for a provincial EIA determination from the Proponent. The Project is not captured as a mandatory activity requiring assessment in the *Environmental Assessment (Mandatory and Exempted Activities) Regulation*<sup>2</sup>. Therefore, the Project is considered a discretionary activity under the provincial EIA process and statutory criteria under the EPEA would be considered to determine whether this activity would be subject to the provincial EIA process. For discretionary activity projects, the Director may decide that more information is needed to determine if an EIA is required through the preparation of a Screening Report. If an EIA is required, the Proponent prepares the Proposed Terms of Reference and, if required, a First Nations Consultation Plan. Once the terms are accepted by AEPA, the EIA process will commence. Alternately, they may decide an EIA is not required, and the Proponent can apply for any approvals that may be required.

### *Wildlife Directive for Alberta Wind Energy Projects*

The Alberta Utilities Commission (AUC) is the regulator for wind-powered electricity generation projects. The *Wildlife Directive for Alberta Wind Energy Projects*<sup>3</sup> provides a framework for minimizing the impact of wind energy projects on wildlife and the AUC's Rule 007<sup>4</sup> outlines the information requirements for wind project applications. As part of the application process, proponents determine the potential risk of the proposed project to wildlife along with proposed mitigation measures to reduce this risk. As stated in Rule 007, Government of Alberta wildlife biologists are involved in the review of wind energy facilities and must sign off on the application. After reviewing the application, the wildlife biologist provides a referral letter outlining how consistent the project is with the *Wildlife Directive for Alberta Wind Energy Projects*. If the applicant is unable to obtain a referral letter, or cannot agree to a mitigation plan with the wildlife biologist, the application for the project must include details explaining the situation.

### *Water Act*

The *Water Act* supports and promotes the conservation and management of water, through the use and allocation of water in Alberta. It requires the establishment of a water management framework and sets out requirements for the preparation of water management plans. Approvals and licenses require an

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<sup>2</sup> [https://kings-printer.alberta.ca/1266.cfm?page=1993\\_111.cfm&leg\\_type=Regs&isbncln=9780779796250](https://kings-printer.alberta.ca/1266.cfm?page=1993_111.cfm&leg_type=Regs&isbncln=9780779796250)

<sup>3</sup> [Wildlife Wind Energy Directive | Alberta.ca](#)

<sup>4</sup> [Rule 007 related information - AUC](#)





assessment of potential adverse effects on the aquatic environment, and approvals contain conditions which are expected to address various potential environmental effects and require ongoing monitoring and reporting.

Under the *Water Act*, AEPA ensures that companies use and manage water safely by:

- reviewing applications that relate to the *Water Act*,
- issuing water approvals for activities that occur in or near water bodies, including wetlands;
- issuing water licences and temporary diversion licences for energy resource operations that require water;
- requiring companies to have a licence before using surface water and groundwater; and
- allocating the amount of water companies can use.

### *Public Lands Act*

The *Public Lands Act* regulates public land allocations, the sale or transfer of public land to other levels of government or private entities, and the uses (including recreational use, commercial use, and industrial use) of public land. Proponents may be delegated procedural aspects of Indigenous consultation (proponent-led consultation) as part of their approval.

### *Historical Resources Act*

The *Historical Resources Act* provides for the use, designation, and protection of moveable and immovable historic resources. Clearance is required prior to any site preparation or construction activities.

Under the *Historical Resources Act*, proponents are required to address lands with an identified Historic Resource Value within the project area via the submission of a Historic Resources Application. Historic Resources include archaeological sites, paleontological sites, Indigenous traditional use sites of a historic resource nature, and historic structures.

### *Renewables Review*

The Government of Alberta announced on August 3, 2023, the review of policy issues related to future renewables development by the AUC. Alberta stated that the purpose of the inquiry is to establish the right balance between the development of renewables and a variety of issues raised by Albertans, the AUC, and renewable energy developers. Further, Alberta announced that to help the inquiry and ensure that, moving forward, every project will be subject to the same regulations and processes, it directed the AUC to pause approvals of renewable power projects until February 29, 2024. Throughout the inquiry, the AUC is to continue to process applications up to the approval stage for new projects that produce renewable electricity.

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## Potential adverse effects within federal jurisdiction

The Agency's analysis, commenced prior to the SCC's opinion and in accordance with the Interim Statement, considered the potential for adverse effects within federal jurisdiction that may result from carrying out the Project. The Agency is of the view that the Project may cause adverse effects within

federal jurisdiction; however, the project design, application of standard mitigation measures, and existing legislative mechanisms provide a framework to address potential adverse effects.

## Fish and Fish Habitat

The Agency considered information provided by DFO, ECCC, and the Proponent. The Agency is of the view that there is limited potential for the Project to result in a change to fish and fish habitat, as defined in subsection 2(1) of the *Fisheries Act*, and existing legislative mechanisms provide a framework to address potential adverse effects.

DFO stated that, based on the information available, it is currently unclear whether the Project will result in adverse effects to fish and fish habitat; however, projects of this nature have the potential to cause the harmful alteration, disruption, or destruction of fish habitat or the death of fish. Accordingly, the Project may require authorization under the *Fisheries Act*, which would include conditions in relation to the aforementioned effects. Additional information about the Project's potential effects on fish and fish habitat and proposed mitigation measures are required for DFO to understand potential adverse effects, including information about water crossings for access roads, water withdrawals, realignment of watercourses, or any other in-water works that could affect fish or fish habitat. DFO noted that aquatic species at risk are mapped in the Peace River region, however the proposed works are unlikely to impact these species based on the current project description.

ECCC noted that activities linked to the Project could adversely affect groundwater and surface water quality, and the hydrological regimes of watercourses and waterbodies. The construction and maintenance of access roads, and the disturbance of soils and rock may result in the deposition of contaminants in nearby waterbodies, which could result in adverse effects on surface water quality.

The Proponent stated that the Project will not result in any adverse effects on fish or fish habitat. No watercourses with potential fish species will be affected and no applications to DFO are required for the Project to proceed.

## Aquatic Species

The Project will not result in a change to aquatic species, as defined in subsection 2(1) of SARA, as it will not affect the marine environment or marine plants.

## Migratory Birds and Terrestrial Species at Risk

The Agency considered information provided by the requesters, Indigenous groups, ECCC, the Government of Alberta, and the Proponent. The Agency is of the view that the Project has the potential to adversely affect migratory birds and terrestrial species at risk, as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994* and Schedule 1 of the *Species at Risk Act*. However, the project design, application of standard mitigation measures, and existing legislative mechanisms provide a framework to address potential adverse effects to migratory birds and terrestrial species at risk.

The requesters expressed concerns regarding potential effects to migratory birds and bats as a result of, for instance, direct fatalities, disturbance, and habitat loss.

MNA Region 5 noted that the construction and operation of the Project could potentially affect migratory bird populations and lead to the disturbance of migration patterns and breeding habitat. DFN also expressed concerns that the Project could adversely affect or alter migratory bird movement through the project area, including bird species that some DFN members hunt.

ECCC does not expect that it will be required to exercise a power or perform a duty or function related to the Project to enable it to proceed. ECCC noted that project activities could result in individual mortality, the destruction of the nests and eggs of migratory birds, habitat destruction, disturbance, fragmentation, and avoidance, and sensory disturbance. These effects could be more severe for migratory birds that are also species at risk and species whose habitat has already experienced a high degree of cumulative adverse effects. The construction of new road infrastructure and an increase in road traffic volumes could result in an increase in wildlife injury, mortality, and the introduction of invasive species. Noise, vibrations, artificial lighting, and disturbances from project activities may result in injury, mortality, sensory disturbance, and changes in habitat use. Attraction to lights may cause birds to collide with lit structures or cause birds to become disoriented while circling an artificial light source. Bat mortality may occur from collisions with turbines or barotrauma when foraging in close proximity to the turbines.

ECCC noted that the proposed location of the Project occurs within the Central Flyway, a pathway used by migrating birds as they move between their wintering and breeding grounds. Additionally, the proposed location appears to fall within the boundaries of the Frank Lake (North) Important Bird Area (IBA). This area includes lakes, wetlands, and forest that provide excellent nesting habitat for migratory bird species during the spring and fall migration and breeding seasons. The Kimiwan Lake IBA is located approximately 10 kilometres southeast of the proposed project location and is an important stopover site for shorebirds and migrating waterfowl.

ECCC noted that migratory bird species at risk whose range overlaps the project area include bank swallow, barn swallow, Canada warbler, common nighthawk, evening grosbeak, horned grebe, olive-sided flycatcher, rusty blackbird, short-eared owl, western grebe, and yellow rail. Bat species at risk that may occur in the project area include little brown myotis and northern myotis.

ECCC stated that activities linked to the Project could have negative effects on wetlands and their ecological functions. Carrying out the Project, particularly activities related to construction, is likely to alter existing hydrological regimes essential for maintaining wetlands and thus affect the quality or availability of habitat for migratory birds and other wildlife, including species at risk. The destruction and modification of wetlands is likely to have adverse effects on migratory birds and species at risk that use these areas for breeding, foraging, resting, and migration.

ECCC advised that there is the potential for adverse effects to migratory birds, species at risk, and their habitat from accidents and malfunctions, such as vehicle fluid spills, fuelling overtopping, or the release of deleterious substances from machinery and equipment. Optimized spill prevention, preparedness, and response measures and systems will be important to take into consideration.

The Government of Alberta stated that the *Wildlife Directive for Alberta Wind Energy Projects* provides a framework to minimize the impact of wind energy projects on wildlife, including migratory birds and species at risk.

The Proponent noted that the effect of wind turbines on migratory birds depends largely on local topography, turbine design, and the particular bird communities inhabiting the region. Fatality rates do not

depend on bird abundance alone, but on other factors such as differential use of areas within a wind farm, frequency of passage, flight behaviour, and weather. There is limited potential for direct bird mortality during site preparation due to the use of cultivated lands for the turbines and access roads, which likely provide low quality habitat for migratory birds. The Proponent did not predict that specific migratory corridors would be affected by the Project; the migratory pathway for birds is very wide (i.e. almost across half the province) and changes every year. While some mortality of birds is expected as a result of the Project, post-construction mortality searches and bat mortality surveys will be conducted for at least three years to determine if there are turbines in certain areas affecting birds more than other turbines.

The Proponent noted that pre-construction wildlife and habitat surveys were completed to identify appropriate lands for project infrastructure. Project design and siting was optimized to avoid wildlife features and habitat using setback requirements and field survey results. The Fish and Wildlife Internet Mapping Tool was used to identify all species of management concern within 20 kilometres of the project boundary; no species at risk were identified, nor were any encountered during the environmental field studies program. Therefore, the Proponent is of the view that adverse effects to wildlife as a result of the Project are unlikely.

## Indigenous Peoples

The Agency considered information provided by the requesters, Indigenous groups, ISC, HC, ECCC, and the Proponent. The Agency sought views from nine potentially-affected Indigenous groups and received input from two: DFN and the MNA Region 5. The Agency is of the view that the Project has limited potential to adversely affect Indigenous Peoples. Existing legislation provides a framework to address potential effects of the Project on Indigenous Peoples, including their health, social, and economic conditions, as well as potential impacts on Aboriginal and treaty rights and interests. Existing legislative mechanisms would also provide a framework to address any effects resulting from any change to the environment on physical and cultural heritage, the current use of lands and resources for traditional purposes, or on any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance to Indigenous Peoples.

Concerns expressed by the requesters included adverse effects to the economic conditions of local Indigenous Peoples if a project-related wildfire caused transportation disruptions.

MNA Region 5 noted that the proposed project location is in proximity to the now-abandoned Peace River Crossing to Lesser Slave Lake Trail. This trail has been used by Métis and First Nation Peoples for over 100 years for travel and homes, and was a traditional use area for the local Métis Peoples who lived along the trail. The trail has long been covered over and is mostly used today as agricultural lands, but historical artifacts could be present in the project area. Today, Métis Peoples live in the area and hunt large and small game animals and birds, and gather traditional foods and medicines year round. The Project could affect Métis harvesting of local wildlife due to construction and operation activities.

DFN expressed concerns about the potential for the Project to result in direct, indirect, and cumulative impacts on their rights, culture, and way of life. DFN identified historical use and occupation of the Peace River basin and its sub-watersheds by their ancestors between the 1790's and the 1920's, including historical residency, hunting, gathering, farming, and fur trading. DFN members continue to exercise rights and cultural practices on their traditional territory, including hunting, trapping, fishing, camping, harvesting,

medicine gathering, and ceremonies. DFN noted that they have discussed their concerns about the Project with the Proponent, including concerns about cumulative effects on their traditional territory. Based on currently available information, DFN estimates that the Project carries a medium-to-high potential to adversely impact their rights.

DFN expressed concerns about the movement of the Project's blades causing large game, such as moose and elk, to move further away, thereby affecting their ability to hunt. DFN also expressed concerns about the high visibility of the Project and the potential effect this could have on members' ability to pass on important cultural knowledge in appropriate locations. DFN noted that their traditional territory has experienced high levels of industrial and agricultural development, and this has significantly diminished their culture and way of life; concerns were noted about the Project potentially contributing further to this situation.

ISC indicated that it is currently unclear whether the Project may result in adverse effects to Indigenous Peoples. Industrial projects have the potential to cause social and economic effects on nearby Indigenous Peoples, and any changes resulting from the Project may interfere with land use and access, loss of traditional lands and the ability to hunt, fish, gather, and/or trap, and the ability of Indigenous Peoples to practice their culture.

HC noted that more information would be required to determine whether the Project may result in adverse effects to Indigenous Peoples. If there is Indigenous use of the land within or near the area of the proposed Project, there may be adverse effects to the health, social, and cultural conditions of Indigenous Peoples. Ambient noise levels may increase due to machinery use during road construction, clearing and drainage activities, and increased traffic volumes during the construction and operation phases of the Project. There is also the potential for adverse effects to human health as a result of the degradation of ambient air quality through increased exhaust emissions from machinery, fugitive dust, and fuel combustion by-products during road construction, clearing, and drainage activities. These emissions may include coarse and fine particulate matter, nitrogen oxides, sulphur dioxide, diesel particulate matter, and volatile organic compounds.

HC noted that the Project could have adverse effects on surface and groundwater as a result of the release of harmful substances (e.g. oils and fuels, waste products) used during construction and operation. The Project may also pose a risk to human health through clearing and draining of peatland, if required, which could release contaminants that have the potential to affect recreational and drinking water quality. Further, project activities could affect recreational and traditional land use; however additional information is required regarding nearby surface waterbodies and groundwater sources to determine the extent of any direct effects on Indigenous Peoples. The potential introduction of contaminants and resulting changes to water quality, soil quality, and air quality could also affect the quality of country foods.

ECCC advised that construction of the Project may adversely affect air quality through the combustion of fossil fuels by construction equipment and through physical disturbance of land, introducing particulate matter into the air. Air pollutants released as a result of the Project could affect human health and sensitive ecosystem receptors at local and regional extents.

If a permit or authorization under SARA or the *Fisheries Act* are required for the Project, ECCC and DFO noted that Indigenous consultation and/or accommodation may be required. This may include consultation and/or accommodation to address potential effects to Indigenous Peoples, such as effects to the current

use of lands and resources for traditional purposes, physical and cultural heritage, and/or any structure site or thing that is of historical, archaeological, paleontological, or architectural significance.

The Proponent noted that they have engaged and will continue to engage with Indigenous groups via face-to-face consultations, notifications, telephone calls, emails, and the project website. Engagement with Indigenous groups will continue with the intention of understanding their concerns and exploring accommodation measures where those are needed or recommended to avoid, minimize, or mitigate adverse impacts to their rights. The Indigenous engagement process is outlined in AUC Rule 007, which acknowledges the duty to consult in relation to proposed utility development applications. The provincial Aboriginal Consultation Office (ACO) informed the Proponent that the Project, in its current design, did not warrant engagement with the ACO, predominantly due to the project boundary being located entirely on private land.

The Proponent noted that the Project is aligned with sustainable development practices and poses no threat to hunting or recreational activities. The presence of traditional use plants is likely limited due to the agricultural and heavily-cultivated state of the project area. The Project will not have any effects on fish or fish habitat, and therefore will not affect the use of fisheries resources by Indigenous groups. No active traplines have been identified within the project area; however any concerns will be discussed with affected persons and appropriate mitigation employed following consultation. All lands are privately-owned and there is no known commercial use of the land by Indigenous groups.

The Proponent highlighted that there are currently no identified sites or structures of historical, archaeological, paleontological, or architectural significance in the project area. The closest sites to the Project that have a Historic Resource Value are located approximately 11.5 kilometres south of the project boundary. As per AUC requirements, a Historic Resources application for review under the *Historic Resources Act* will be submitted for the Project to determine whether a Historic Resources Impact Assessment is required. If undocumented historical resources are discovered during construction, salvage operations will be completed according to regulatory guidelines. Given the minimal effects on the environment predicted as a result of the Project, the Proponent expected negligible effects on Indigenous Peoples, including effects to their health, social and economic conditions, physical and cultural heritage, and the current use of the lands and resources for traditional purposes. However, potential job and contracting opportunities may be available for Indigenous communities that are located within close proximity to the Project.

## Federal Lands

The Agency considered information provided by the requesters, Indigenous groups, ISC, and the Proponent. The Agency is of the view that the Project is unlikely to result in adverse effects to federal lands.

The requesters expressed concerns regarding potential effects to federal lands as a result of a turbine or transformer fire that could spread to nearby federal lands (i.e. Indigenous reserve lands and the nearby Canadian National Railway Company rail line).

The Proponent noted that no federal lands will be used for the purposes of carrying out the Project, nor will any granting of interest in federal land be required. No federally protected areas are located within 100



kilometres of the project boundary and the closest national park is Elk Island National Park, located approximately 202 kilometres southeast of the project boundary.

## Transboundary Effects

The Agency considered information provided by ECCC and the Proponent. The Agency is of the view that the Project is unlikely to cause adverse effects outside of Alberta or Canada. Any potential adverse effects would be addressed through project design and the application of standard mitigation measures.

ECCC noted that construction of the proposed project may result in GHG emissions, or impact carbon sinks and may hinder or contribute to the Government of Canada's ability to meet its commitments in respect of climate change.

The Proponent noted that the Project is not anticipated to affect the environment in any other province outside of Alberta or anywhere outside of Canada. The Project is located 180 kilometres east of the British Columbia-Alberta border, 442 kilometres west of the Saskatchewan-Alberta border, and 637 kilometres northwest of the United States-Canada border.

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## Potential adverse direct or incidental effects

Direct or incidental effects refer to effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a physical activity, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that project to be carried out, in whole or in part. The Agency is not aware of any federal funding that may be provided for the Project and the Project is not located on federal lands.

NRCan and ECCC stated that they do not expect to exercise a power or perform a duty or function related to the Project. While DFO does not expect that a permit would be required under SARA, as there are currently no aquatic species at risk located within the project area, DFO noted that they may have a regulatory role under the *Fisheries Act* with respect to the Project, if it may result in the harmful alteration, disruption, or destruction of fish habitat, or the death of fish.

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## Public concerns

The Agency did not receive any letters or comments from members of the public expressing concern about the Project, aside from the requesters. The Agency is of the view that existing legislative mechanisms would provide a framework to address any potential public concerns about the Project.

The Proponent noted that the AUC mandates a rigorous consultation process, ensuring that the concerns and perspectives of local communities are thoroughly considered in the project development lifecycle. Any regulatory or public issues that potentially arise beyond the application process would be addressed through a transparent public hearing, during which evidence provided by the Proponent is subjected to scrutiny by intervenors and their legal counsel.

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## Potential adverse impacts on the Section 35 Rights of Indigenous Peoples

The Project is located within Treaty 8 territory and within the MNA District 14<sup>5</sup>. The Agency considered submissions from the requesters, DFN, MNA Region 5, and relevant advice from federal authorities.

The Project is located on private land that is currently heavily cultivated. In relation to subsection 9(2) of the IAA, the Agency is of the view that the Project is unlikely to cause adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982* (section 35 rights). Project design and existing legislative mechanisms provide a framework to address any potential adverse impacts on the rights of Indigenous Peoples.

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## Other Considerations

### Cumulative Effects

The Agency considered information provided by the requesters and DFN in relation to effects set out in subsection 9(1) of the IAA, and is of the view that existing legislative mechanisms provides a framework to address cumulative effects.

The requesters expressed concerns related to cumulative adverse effects to migratory birds and bats. This included concerns regarding direct mortality due to collisions with project infrastructure during migration and long-term cumulative effects to food sources, such as flying insects.

DFN stated that the Project has the potential to result in cumulative impacts to their rights, culture, and way of life. Concerns were raised about cumulative effects that have arisen from development and other human activities within DFN's traditional territory.

Cumulative effects are typically assessed as part of the provincial approval processes under the *Water Act*.

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## Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93, or 95 of the IAA that are relevant to the Project.

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<sup>5</sup> Note: The Métis Nation of Alberta subdivided the original five regions into smaller districts after the Agency received the designation request and notified MNA Region 5, but before the analysis was completed. The Project is located in what used to be Region 5, but is now District 14.





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## Conclusion

The Agency took into account the information it received as part of this pending designation request to inform its analysis.

The Agency is of the view that the Project is unlikely to cause adverse effects within most areas of federal jurisdiction. The Agency is of the view that the Project has the potential to result in adverse effects to migratory birds and bats, but that project design, standard mitigation measures and existing legislative mechanisms provide a framework to address potential adverse effects.

The Agency also considered potential adverse impacts the Project may have on the section 35 rights of Indigenous Peoples, as described in subsection 9(2) of the IAA. The Agency is of the view that the Project has limited potential to adversely impact the rights of Indigenous Peoples, and existing legislative mechanisms provide a framework to address any potential impacts to section 35 rights that may be caused by the Project.