



December 19, 2024

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*Sent via e-mail*

Attention: Minister Steven Guilbeault and Mr. Andrew Clarke

**Re: ACFN support submissions re s.9 designation request for Pathways CO2 Transportation Network and Storage Hub. Project Reference Number 89090**

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Please find within the Athabasca Chipewyan First Nation's ("ACFN") request to designate the Pathways Alliance CO<sub>2</sub> Transportation Network and Storage Hub Project (the "Project") for a federal impact assessment, and response to the Impact Assessment Agency of Canada's ("IAAC") questions dated December 3, 2024.

The request was filed by Beaver Lake Cree Nation, Cold Lake First Nations, Frog Lake First Nations, Heart Lake First Nation, Kewin Cree Nation, Onion Lake Cree Nation, and Whitefish (Goodfish) Lake First Nation #128.

The Requesting Nations' request outlines the following potential non negligible adverse impacts within federal jurisdiction such as impacts to the Requesting Nations':

- Health, safety, social and economic conditions;
- Traditional land use and cultural integrity;
- Safety of the surrounding waterways, plants and animals; and
- Reserve lands and traditional territories.

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## ACFN

ACFN are K'ai Tailé Dënesųliné, which means “people of the land of the willow.” ACFN’s territory is centred on the Peace Athabasca Delta (“PAD”), which is part of the Wood Buffalo National Park. The PAD is one of the largest freshwater deltas in the world, the health of which is essential to the health of ACFN.

ACFN is a signatory to Treaty 8, which acknowledges our inherent and cultural connection to the land. Members of ACFN continue to exercise their inherent, Aboriginal, and Treaty rights, including the right to hunt, trap, collect food, and fish throughout our territory.

## Background

The oil sands are located within ACFN’s territory, and our primary community (Fort Chipewyan), our reserves, and the PAD are located downstream of the oil sands. The oil sands industry is destroying our lands, poisoning our people, and undermining our ability to practice our Aboriginal and Treaty rights, languages, and cultural and spiritual practices. Our concerns with these devastating impacts have been well-documented over the past decades in submissions to government, regulators, and in environmental assessment processes. Yet, as project after project is approved, these impacts continue to grow, and our concerns are never meaningfully addressed.

Many of the oil sands facilities participating in the Project are located in ACFN’s territory, and key components of the Project, such as carbon capture infrastructure and transportation pipelines, will be built within ACFN’s territory. These oil sand participants are the cause of cumulative impacts ACFN is witnessing and experiencing that are damaging our health and culture.

As described below, the Project is located within ACFN’s Critical Consultation Area and Critical Waterways Zone, areas of key importance to ACFN, as well as two ACFN Proximate Use Zones, where most of our members exercise their Treaty rights. At least 100 documented traditional land use sites (“TLU Sites”) could be impacted by the Project.

As discussed below, Project activities will adversely impact ACFN through effects on TLU Sites (and the Indigenous knowledge, language, and culture associated with this traditional land use), boreal caribou, wildlife habitat, water quantity and quality, navigability, air pollution, and potential for pipeline explosions and CO<sub>2</sub> leakage. ACFN will also be adversely impacted by the Project’s effects on facilitating oil sands production, and by the opportunity cost the Project poses for low-carbon economic development.

## Context of this Submission

On December 3, 2024, the Minister of Environment and Climate Change (the “Minister”) received a request to designate the Project under s.9(1) of the *Impact Assessment Act* (the “Act” or “IAA”). Under the Act, the Minister may designate a physical activity that is not prescribed in the *Physical Activity*

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*Regulations*, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects (resulting from federal decisions, including funding).

The same day, IAAC sent a letter to ACFN seeking our concerns and interests regarding the Project. ACFN would like to extend appreciation for writing this request to us.

These submissions serve as ACFN's response to IAAC's letter dated December 3, 2024. Additionally, these submissions are offered in support of ACFN's own request to designate the Project. ACFN asks to be added to the list of parties requesting a s.9 designation.

ACFN is seriously concerned that the Project will cause adverse effects within federal jurisdiction as well as direct and incidental adverse effects that will negatively impact ACFN's current use of lands and resources for traditional purposes, health, social and economic conditions, Indigenous knowledge, language, and culture, and Aboriginal and Treaty rights under s.35 of the *Constitution Act, 1982*. These effects are not being adequately assessed under Alberta's regulatory regime. Therefore, a federal impact assessment is required to ensure that these effects are properly identified and addressed.

## Questions from IAAC

IAAC has sought ACFN's views on the following topics:

1. Potential adverse effects of the Project that could result in changes to your community's physical and cultural heritage, current use of lands and resources for traditional purposes, or structures, sites or things of historical, archaeological, paleontological or architectural significance.
2. Whether and how the Project may result in changes to your community's health, social or economic conditions.
3. Whether and how the Project may impact your community's Aboriginal and treaty rights as recognized and affirmed under section 35 of the *Constitution Act, 1982*.

In addition to these topics, these submissions will address: other adverse effects within federal jurisdiction the Project could cause, cumulative effects, and the inability of provincial processes to address the effects ACFN is concerned about.

## The Project

The Project is located in the Lower Athabasca Region and proposes to transport captured carbon dioxide (CO<sub>2</sub>) by pipeline from oil sands facilities in the Fort McMurray, Christina Lake, and Cold Lake, Alberta regions to an underground CO<sub>2</sub> storage hub. As stated by IAAC, Project components include CO<sub>2</sub> capture facilities, CO<sub>2</sub> transportation pipelines, and CO<sub>2</sub> injection wells. ACFN understands that the Project's intention is to reduce oil sands industry GHG emissions by 10-12 million tonnes (Mt) CO<sub>2</sub>/year by 2030.

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Information that Pathways has provided to ACFN indicates there are 13 oil sands facilities spread across the Lower Athabasca Region that will participate in the Project.<sup>1</sup> They will each build new infrastructure at their oil sands facilities to separate CO<sub>2</sub> from their process emissions, compress and convert this CO<sub>2</sub> into a fluid, and then transport the CO<sub>2</sub> via “lateral” pipelines over a distance of between 1-50 km to the “Transportation Line.”<sup>2</sup>

The Transportation Line is a pipeline that is 330 km in length, running from north of Fort McMurray to south of Cold Lake.<sup>3</sup> It will connect to the “Hub Distribution Line,” a pipeline that is 120 km long, which will transport the CO<sub>2</sub> to the “CO<sub>2</sub> Storage Hub.”<sup>4</sup>

CO<sub>2</sub> Storage Hub infrastructure consists of 16-19 injection wells. Each well site will have a surface footprint of approximately 130m<sup>2</sup>.<sup>5</sup> At these wells, the CO<sub>2</sub> will be injected into the Basal Cambrian Sandstone, a geologic formation that is 1-2 km underground.

ACFN supports the inclusion of CO<sub>2</sub> capture facilities in the description of Project components, as IAAC is contemplating. The Project cannot deliver on its objective of capturing and sequestering CO<sub>2</sub> from oil sands facilities without carbon capture infrastructure, transportation pipelines, and injection wells. Therefore, an assessment that does not include all of these components cannot adequately identify and mitigate the direct, indirect, and cumulative impacts of the Project.

Already, in making regulatory applications to the Alberta Energy Regulator (AER), Pathways has divided the Project into 18 pipeline sections. Many of these sections are divided into multiple segments, with a total of 65 segments across the entire Project. Pathways is in the process of submitting between 2-4 applications for each segment; these applications describe the activities that Pathways plans to take in each segment. Pathways has not submitted any information about the impacts of the Project as a whole, or cumulatively with other industrial development in the area. This approach is piecemealing and hinders ACFN’s ability to understand Project impacts, express our views on the Project, and be adequately consulted and accommodated on impacts to our Aboriginal and Treaty rights. As much as possible, all project components should be assessed as part of a single impact assessment.

## Impacts of Project activities on ACFN

The Project is a massive and resource intensive endeavor that has the capacity to impair the s.35 Aboriginal and Treaty rights of ACFN members to hunt, fish, trap, gather, and practice our traditional way of life. The Project will reduce our current use of lands and resources for traditional purposes and the

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<sup>1</sup> CNRL (2023) *Pathways Alliance CO<sub>2</sub> Transportation Network and Storage Hub Project*, p.12.

<sup>2</sup> *Ibid*, p.12.

<sup>3</sup> *Ibid*, p.12.

<sup>4</sup> *Ibid*, p.12.

<sup>5</sup> *Ibid*, p.12.

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Indigenous knowledge, language, and culture that is associated with the use of this land and resources. The Project also has the potential to adversely impact the health of ACFN members, through air quality impacts, risks of pipeline explosions and CO<sub>2</sub> leakage, and declining ability to engage in traditional practices and consume traditional foods.

Eight of the oil sands facilities that intend to participate in the Project, their lateral pipelines, and about half of the Transportation Line are located in ACFN's Consultation Area. Portions of the Project are also located within ACFN's Critical Conservation Area, Critical Waterways Zone, and two ACFN Proximate Use Zones, where most of our members exercise their Treaty rights. One Proximate Use Zone is centered on the Fort McKay area, while the other extends south between Fort McMurray and Leismer. As such, the Project will have the following impacts on ACFN:

- i) **Impacts to traditional land use sites.** ACFN has documented 100 TLU Sites that are intersected by the Project as well as 60 more TLU Sites within 1km, 42 more TLU Sites within 2km, and 276 more TLU Sites within 5km. These TLU Sites include: ceremonial areas, hunting, berry-picking, camping, and gathering sites, routes for crossing the Athabasca River, moose and caribou habitat, traplines, and trapline access. ACFN members undertake significant land use and exercise our Aboriginal and Treaty rights in the proposed Project area, which will be impaired or placed at risk if the Project proceeds.

**Pathways has not provided any indication that it will meaningfully consult and accommodate ACFN on these and other impacts. Moreover, as discussed below, Alberta's regulatory regime is incapable of ensuring ACFN's concerns are meaningfully addressed.**

- ii) **Disturbance to the habitat of animals relied on by ACFN, and to the environment within ACFN territories.** Based on the applications Pathways has submitted to date, the Project will cause over 1,315 hectares of new disturbance. There will be 93 crossings of small and large watercourses, including at least 2 crossings of the Athabasca River. The Project will adversely impact the availability and suitability of habitat for the animals ACFN members rely on, including moose, fur-bearing animals and migratory birds, as well as impacting the environment and land used by ACFN members for hunting, trapping and other activities within ACFN territories. Damage to lands, either through reduced quantity or quality, also adversely impacts ACFN's connection to the land and, thus, to our culture. It impedes the ability to transfer our culture within and among generations.

**Pathways has not provided ACFN with any information regarding Project impacts on animal habitat and ACFN's traditional land uses and, to the contrary, in each of the applications that it has made to the AER, Pathways has marked information about "Vegetation & Wildlife: sensitive species identified" as "confidential".**

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- iii) **Caribou.** The Project overlaps with the ranges of the Richardson, East Side Athabasca, and Cold Lake boreal caribou populations, which are federally protected under the *Species at Risk Act*, and of significant cultural and spiritual importance to ACFN. Given their status, we no longer hunt woodland caribou because oil sands development in their habitat has caused their numbers to plummet. However, we continue to take steps to protect and restore caribou populations, publishing a caribou stewardship plan in 2022. The Project crosses many areas that ACFN has designated as “restoration zones”, areas that are important to boreal caribou survival despite relatively high levels of disturbance within them.<sup>6</sup> As per our caribou stewardship plan, restoration must be prioritized in these areas. The Project will also interfere with documented TLU sites relating to caribou. For example, it directly intersects a caribou calving area and prime caribou habitat, where one of our members found two dozen caribou in September 2024. Such areas are crucial to the survival of caribou and will be negatively impacted by the Project.

**Pathways has not provided ACFN with any information regarding Project impacts to boreal caribou, nor responded to ACFN’s request for our caribou stewardship plan to be utilized.**

- iv) **Water quantity and navigability.** The carbon capture infrastructure that separates and compresses CO<sub>2</sub> requires significant amounts of water to cool the equipment. The oil sands facilities that plan on participating in the Project will take this water from the Athabasca River watershed, adding to the existing and significant cumulative impacts on water quantity and navigability in the region.

The Athabasca River is the heart of transportation for ACFN members to enact our Aboriginal and Treaty rights. This water system is already stressed by climate change and industrial (i.e. oil sands) water withdrawals, and low water makes it difficult and dangerous for ACFN members to travel by boat to key parts of our territory. In recent years, low water levels already prevented members from accessing reserve lands, traplines, and safely travel the Athabasca River. It is essential that water levels remain high enough for members to access reserve lands. Changes to water levels also have the potential to affect fish and other important traditional food sources for ACFN.

**Pathways has not provided ACFN with any information about the scale and timing of the water use required for carbon capture infrastructure and the effects of the water withdrawals on the health and navigability of the Athabasca River and downstream ecosystems within ACFN’s territories, such as the PAD and Wood Buffalo National Park.**

- v) **Air quality.** Capturing carbon is an energy intensive process. Oil sands facilities will most likely use natural gas to power the capture and compression equipment, which will produce air emissions that adversely impact local air quality and contribute to climate change.<sup>7</sup> ACFN is concerned about the Project’s air quality impact on our members’ health and the environment within our traditional territories, as well as the

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<sup>6</sup> ACFN & MCFN (2022) *ACFN-MCFN- Tadzie-Sagow Atihk Stewardship Plan for the Richardson, Red Earth, East Side of the Athabasca River and West Side of the Athabasca River Boreal Caribou Ranges*, [online](#), pp.9-10.

<sup>7</sup> Cameron, L. & Carter, A. (2023) *The Bottom Line: Why Carbon Capture is not a Net-Zero Solution for Canada’s Oil and Gas Sector*, International Institute for Sustainable Development, [online](#). (“IISD: Why carbon capture is not a net-zero solution.”)

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impacts of GHG emissions from oil sands activities on our way of life and Aboriginal and Treaty rights, as discussed below.

The oil sands industry already releases significant volumes of air pollutants into the atmosphere which harm regional air quality, human health, and the environment. The extent of this pollution is much worse than currently reported by the industry; a study published in June 2024 concluded that oil sands operations produce as much as 64 times more potentially harmful local air pollutants that are officially reported by the industry.<sup>8</sup> Moreover, Environment and Climate Change Canada (“ECCC”) research published in April 2023 found that oil sands GHG emissions may be more than 65% higher than formally reported.<sup>9</sup>

**Pathways has not provided ACFN with any information about the nature of air pollution associated with the carbon capture infrastructure, and its direct and cumulative effects on human health and the environment.**

- vi) **Risks of pipeline explosions and CO<sub>2</sub> leakage.** When compressed and transported in a pipeline, CO<sub>2</sub> is put under high pressure, making it highly volatile. This creates a high risk of dangerous explosions, which endangers nearby communities and land users, other pipelines in shared right of way that the Project will use, and the surrounding environment. Additionally, when leaked, CO<sub>2</sub> is an asphyxiant and displaces oxygen in the air. Since it is colourless and odourless, CO<sub>2</sub> escapes easy detection and makes leaks hard to observe and avoid. This makes it dangerous for nearby communities and requires an emergency response plan, which is currently not required in Alberta for CO<sub>2</sub> pipelines.

As noted above, ACFN has documented 100 TLU Sites that are intersected by the Project as well as 60 more TLU Sites within 1km, 42 more TLU Sites within 2km, and 276 more TLU Sites within 5km. There is significant traditional land use in the vicinity of the Project and the potential for CO<sub>2</sub> pipeline explosions and leakage puts our members’ health and safety at risk when exercising their Aboriginal and Treaty rights on the land and may deter members from using the land out of fear for their safety.

**Pathways has not provided ACFN with any information about the risk of a CO<sub>2</sub> pipeline explosion or a CO<sub>2</sub> pipeline leakage, or its mitigation and safety plans with the Nations or municipalities.**

- vii) **Water quality.** Stored CO<sub>2</sub> may contaminate groundwater by causing contaminants (e.g. lead and arsenic) to leach from rocks, creating an environmental and health hazard.<sup>10</sup> The pore space where the CO<sub>2</sub> will be stored is adjacent to the Athabasca River watershed and could leak into the Athabasca River watershed, thereby potentially impacting water quality in waterways that are important to ACFN, and the health of animals ACFN relies on as well as ACFN members. Again, this concern is particularly relevant for the Project

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<sup>8</sup> He, M. et al. (2024) *Total organic carbon measurements reveal major gaps in petro-chemical emissions reporting*, Science 383: 6681, pp.426-432, [online](#).

<sup>9</sup> Wren, S. et al., (2023) *Aircraft and satellite observations reveal historical gap between top-down and bottom-up CO<sub>2</sub> emissions from Canadian oil sands*, PNAS Nexus, pgad140, pp. 1-12, [online](#).

<sup>10</sup> Zheng, L. et al. (2021) *Potential impacts of CO<sub>2</sub> leakage on groundwater quality of overlying aquifer at geological carbon sequestration sites: A review and a proposed assessment procedure*, Greenhouse Gases: Science and Technology 11(5), [online](#). (“Zheng et al.”)

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as the size of the carbon storage area under consideration means more interaction with contaminants, groundwater, and wildlife and communities.

ACFN has our own water policy to protect the Athabasca River, Athabasca Lake and the PAD to ensure water consumption by plants, wildlife and humans is safe by ACFN standards, which ACFN requires industry to use.

**Pathways has not provided ACFN with any information about the risks of leakage of contaminants into groundwater and surface water sources, or its mitigation and safety plans, neither has Pathways demonstrated that it will comply with ACFN's water policy.**

ACFN is also concerned that the Project will not meet its core objectives of permanently storing CO<sub>2</sub> underground and will adversely impact ACFN and our Aboriginal and Treaty rights without benefiting the climate. The Project's success depends on CO<sub>2</sub> not leaking back into the atmosphere – however, there is significant uncertainty about the potential for stored carbon to leak from underground storage sites.<sup>11</sup> This concern is particularly relevant for the Project, as the size of the carbon storage area under consideration increases the potential for leaks.

**Pathways has not provided ACFN with any information about the risk of CO<sub>2</sub> leakage from the storage hub, its monitoring, verification and reporting plan, and its mitigation strategy.**

All of these potential adverse impacts on ACFN and our Aboriginal and Treaty rights – both project-specific and cumulative – must be assessed as part of a federal impact assessment.

**ACFN's concerns with Pathways' failure to provide adequate information regarding the potential impacts of the Project including on ACFN are compounded by the novel nature of a CCS project of this scale. This is the largest CCS project proposed in Canada to-date, which further highlights the importance of designating this Project for federal review consistent with the language of s.9 and the precautionary principle.<sup>12</sup>**

## Impacts of Project activities on federal matters

The impacts described above are directly related to adverse impacts on other areas of federal jurisdiction that IAAC and the Minister must also consider in deciding whether to designate the Project under s.9(1). These include impacts on the following:

- i) **Fish and fish habitat.** The Project poses risks to fish and fish habitat via water withdrawals from carbon capture equipment at the participating oil sands facilities, construction of the pipeline across the Athabasca

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<sup>11</sup> Anderson, S. (2017) *Risk, Liability, and Economic Issues with Long-Term CO<sub>2</sub> Storage—A Review*, Natural Resources Research 26, pp.89–112, [online](#).

<sup>12</sup> *Impact Assessment Act*, [SC 2019, c 28](#), s. [6\(2\)](#). ("IAA")

River and other watercourses, and pipeline explosions. As noted above, the Project proposes to cross 93 small and large watercourses, and will cross the Athabasca River at least twice.

Additionally, stored CO<sub>2</sub> may contaminate groundwater by causing contaminants (e.g. lead and arsenic) to leach from rocks.<sup>13</sup> While the Project's carbon storage area is largely adjacent to the Athabasca River watershed, the potential for this contamination to occur and enter into the Athabasca River watershed must be assessed given the proximity, large volume of carbon proposed to be stored, and size of the carbon storage area under consideration. As noted by experts and the Liberal members of the House of Commons Standing Committee on Environment and Sustainable Development in 2010, "not enough is known...about the interaction of the [oil sands] region's groundwater and surface water", and an accurate picture of both is vital to assessing the impacts of oil sands mining.<sup>14</sup> An impact assessment is therefore required in order to assess the impacts of the Project on surface water, including fish and fish habitat, via groundwater impacts.

- ii) **Migratory birds.** The Project is likely to adversely impact migratory birds. According to ACFN's TLU Sites data, the Project intersects with or lies within 1km of several TLU Sites relating to migratory birds, including duck and goose habitat and kill sites, and migratory bird habitat.

Pathways has provided no information regarding Project impacts on migratory birds – instead, each of the Project applications for provincial regulatory approvals that ACFN has received to-date marks information regarding "Vegetation & Wildlife: sensitive species identified" as confidential. However, environmental impact assessment ("EIA") documents for oil sands facilities the Project will connect to suggest that there are many migratory bird species in the proposed Project area which could be impacted by the Project. For example, Imperial Oil's 2016 EIA report for the Cold Lake Expansion Project found high magnitude, local, negative and long-term effects on numerous migratory bird species, including the yellow rail, olive-sided flycatcher and Canada warbler (all SARA-listed) and the Cape May warbler, winter wren, red-breasted nuthatch, pileated woodpecker, western tanager and red-eyed vireo.<sup>15</sup>

ECCC has jurisdiction over migratory birds under the *IAA* and *Migratory Birds Convention Act*, and yet has been far too reticent to exercise that jurisdiction, particularly in the oil sands context.

- iii) **Federal lands.** Some impacts discussed above, including impacts to water quality and quantity, may affect Wood Buffalo National Park. The Athabasca River is a navigable waterway under the *Canadian Navigable Waters Act* and flows north into the Peace-Athabasca Delta, which is part of Wood Buffalo National Park and central to ACFN's traditional territory and land use. The federal government bears responsibility for

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<sup>13</sup> Zheng et al., *supra* note 10.

<sup>14</sup> Liberal members of the House of Commons ENVI Committee (2010) *The Hidden Dimension: Liberal Report from the Study of the Standing Committee on Environment and Sustainable Development on the Impact of Oil Sands Development on Canada's Freshwater*, House of Commons, [online](#), p.33.

<sup>15</sup> Imperial Oil Resources Limited (2016) *Volume 2 – Environmental Impact Assessment, Section 12.0 – Wildlife*, [online](#), pp.12-101 to 12-103, pp.12-106 to 12-114.

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assessing and preventing further potential threats to Wood Buffalo National Park, whose status as a UNESCO World Heritable Site is already in danger.

## Impacts of increased oil sands production on ACFN

ACFN is very concerned that the Project will cause serious adverse impacts on our Nation by facilitating continued oil sands production and disincentivizing alternative economic options for the region.

ACFN expects that, by reducing the GHGs of participating oil sands producers, the Project will reduce the carbon price levied on their operations, support their compliance with climate policies (e.g. federal oil and gas emissions cap), and attract investors and purchasers who want lower-carbon bitumen. This will allow these facilities to maintain or increase their production of bitumen, with negative environmental, economic, social, and cultural consequences for ACFN, and negative impacts on our Aboriginal and Treaty rights. Without the Project, these policies could cause the oil sands to curtail production.

ACFN has not quantified the amount of production that the Project will facilitate; this is a matter that the impact assessment should assess. However, a 2024 report prepared by Deloitte for the Alberta Treasury Board and Finance concluded that the federal oil and gas emissions cap (the “Emissions Cap”) would curtail oil sands production by 411,800 bbl/day by 2030, or 11% compared to a business-as-usual scenario.<sup>16</sup> The Project anticipates capturing 10-12 Mt/yr of CO<sub>2</sub> by 2030, which is approximately the share of oil and gas sector emissions that the oil sands must reduce to comply with the requirements of the Emissions Cap. As such, 411,800 bbl/day is a preliminary estimate of the oil sands production that the Project will facilitate, though further analysis during a federal impact assessment is necessary to more thoroughly determine the Project’s effects on production.

Federal funding for the Project will also impact ACFN because it continues to prioritize oil sands development, thereby posing a significant opportunity cost for low-carbon economic development in the oil sands region. Funds invested in the Project will not be spent on efforts to diversify the Alberta and local economies and support workers and frontline communities in transitioning away from the fossil fuel industry, which would have positive economic impacts for ACFN and provide ACFN members with employment opportunities that are better aligned with our culture and values.

IAAC and the Minister must consider all of these Project impacts for the following reasons:

1. Impacts arising from the increased oil sand production the Project will facilitate are “adverse effects within federal jurisdiction” that must be considered under s.9(1), and that are within the scope of the questions IAAC has posed to ACFN. The Act defines the term “effect” as “...changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes”, supporting

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<sup>16</sup> Deloitte (March 2024) *Potential Economic Impact of the Proposed Federal Oil and Gas Emissions Cap*, [online](#).

the need for IAAC and the Minister to consider all effects of the Project, including impacts resulting from increased oil sands production.

2. Facilitating oil sands production and disincentivizing alternative economic development are “direct or incidental adverse effects” of the federal decision regarding whether to fund the Project, which must be considered under s.9(1). Direct effects (or “directly linked” effects, as defined in s.2) include “effects that are the direct and proximate result of a federal decision”, while incidental effects (or “necessarily incidental” effects) include “other effects that are substantially linked to a federal decision although they may be secondary or indirect effects”.<sup>17</sup> By either definition, the effects of additional oil sands production resulting from federal funding and the opportunity cost to low-carbon economic development that a federal funding decision poses must be considered under s.9(1).
3. Decision-makers have an obligation to interpret the Act consistently with the Crown’s constitutional obligations towards First Nations, where possible. Further, they have a constitutional obligation to ensure ACFN is consulted and accommodated on federal decisions regarding the Project, including decisions regarding funding and whether to require an impact assessment for the Project. The Project’s impacts on facilitating additional oil sands production and hindering alternative economies are two of ACFN’s key concerns with the Project and, therefore, require consultation and accommodation.

Accordingly, we ask IAAC and the Minister to give serious attention to ACFN’s concerns and interests as described in this section.

#### 1) Effects of increased oil production on ACFN and fish and wildlife that ACFN depends on

The production of bitumen in the oil sands causes significant adverse impacts to the environment, on ACFN, and other Indigenous communities in the Lower Athabasca Region. These are impacts that ACFN has experienced since the arrival of the industry to our territory in the 1970’s on our land and waterways, the fish and wildlife we depend on, our community health, and our ability to exercise our Treaty rights. The impacts include:

- i) **Habitat Destruction and Fragmentation.** Open-pit mining results in the destruction of massive areas of habitat. In-situ mining causes large-scale habitat fragmentation. Both reduce the habitat that is available to a wide variety of species, including those that have particular cultural importance to our Nation, such as wood bison, woodland caribou, and migratory birds – all of which are federally protected species or fall under federal responsibility. As a result, populations of these species have dwindled or moved, making it more difficult for our members to hunt them.
- ii) **Water Use.** Mining and processing bitumen requires significant amounts of water from the Athabasca River, and continued mining means ongoing water withdrawals that will further reduce water flows that are

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<sup>17</sup> Review Panel (2013) *Report of the Federal Review Panel – New Prosperity Gold-Copper Mine Project*, CEAA, [online](#), p.21. IAAC does not appear to have a publicly available definition of “direct or incidental adverse” effects, beyond the statutory definition.

already impaired by climate change. Low flows contribute to the drying of the PAD and other rivers and streams, which harm ecological functions and Indigenous navigability in the Athabasca River. Low water means less habitat for fish, migratory birds, muskrat, moose and other important aquatic species that we rely on. Low water results in warmer lakes and rivers and causes algae blooms – both of which impair fish health. For large parts of the open-water season, it is now difficult and unsafe for our members to access large parts of our territories (include our reserves) that are only accessible by boat, which is essential to the exercise of ACFN’s Aboriginal and Treaty rights to hunt, fish, and carry out our traditional ways of life.

- iii) **Tailings Ponds.** The storage of oil sands wastewater results in large man-made lakes of toxic sludge. Hundreds of thousands of migratory birds have landed on the tailings pond each year, either dying or suffering severe health effects as a result. However, increasingly, migratory birds no longer choose to fly over this area – leaving our members with fewer and fewer birds to hunt in the spring. The production of tailings can pollute also the land and waterways ACFN relies on via leaks and spills, as seen in the recent Kearsarge Mine incidents, which impacts fish and fish habitat.
- iv) **Water Contamination.** Discharge and runoff of water from mining operations, airborne pollution, and seepage from tailings ponds introduces heavy metals and other toxic chemicals into the Athabasca River and local watersheds, polluting the water and poisoning fish and aquatic species. It is no longer safe for our members to drink from waterbodies out on the land or eat fish caught downstream of the oil sands due to high concentrations of toxins in their bodies. Our members have some of the highest rates of rare forms of cancer in North America. As noted above, ACFN now has our own water policy to ensure water safety, which we require industry to comply with.
- v) **Access to the Land.** Oil sands mines are so large that they block our members and the wildlife we hunt from accessing parts of our territories. The noise, light, and smell that emanates widely from the mines also deters land use, ruins the sense of quiet and peace we experience on the land, and disrupts our cultural and spiritual connection with the land. In-situ mines also fragment and degrade the quality of the land to such an extent that they ruin our connection to the land, deterring and excluding our members and our non-human relatives from large parts of our territories.

These impacts act synergistically and cumulatively; as additional oil sands development occurs, the ability of ACFN’s members to exercise their Aboriginal and Treaty rights is eroded further. Since the Project could facilitate oil sands production that would not otherwise occur, these impacts should be assessed in a federal impact assessment.

## 2) Effects of oil sands-caused climate change on ACFN

Facilitating further production of bitumen also means that more GHG emissions will be released from oil sands operations as well as from the combustion of oil sands products. These GHG emissions will exacerbate climate change, which is already adversely impacting ACFN.

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In 2022, the emissions intensity of the oil sands was 77 kg CO<sub>2</sub>e per barrel of bitumen. If the Project facilitates 411,800 bbl/day of bitumen that would not otherwise be produced, that accounts for an additional 11.5 Mt CO<sub>2</sub>e per year. Even if the emissions intensity of the oil sands improves, this would be a significant amount of emissions, negating a large portion of the carbon storage that the Project provides. Of course, this does not account for the emissions that would be released from this bitumen when it is refined and combusted, which comprise the majority of its lifecycle emissions.

Climate change has a disproportionate adverse impact on Indigenous peoples because we continue to live off the land and depend on healthy lands and waters for our economic, social, and cultural wellbeing. The wellbeing of the land and our people depends on a stable climate. In addition, climate change exacerbates the structural inequalities that we face, including political and economic marginalization, loss of land and resources, violations of our rights, discrimination, and unemployment. And, since northern Canada is projected to warm more than southern Canada,<sup>18</sup> northern Indigenous communities such as ACFN will experience the impacts of climate change even more severely.

ACFN already experiences adverse impacts to our territories from climate change. Some of the starkest examples include:

- i) **Low Water.** Climate change is causing the Peace Athabasca Delta to dry out and reducing the amount of water in the Athabasca River and its tributaries. ACFN's community-based monitoring 10-year review confirmed low water levels in the river and tributaries during hunting season. These changes are exacerbated by oil sands water withdrawals from the Athabasca River and the regional watershed, and flow regulation by hydroelectric dams along the Peace River. Continued warming will exacerbate the drying trend; research by scientists at ECCO projects that climate change will increase the mean air temperature in our region by up to 7°C by 2080.<sup>19</sup>
- ii) **Winter Roads.** Climate change has shortened the period that the winter road from Fort McMurray to Fort Chipewyan can be used, as confirmed by the ACFN and Mikisew Cree First Nation 2012-2012 Ice Monitoring Report. The road takes longer to freeze, melts earlier, and is more hazardous. This is the only land-based route into Fort Chipewyan and allows the movement of important supplies that cannot be flown or shipped by boat into the community, such as fuel, construction materials, and medical gases. The Canadian Council of Ministers of the Environment has recognized that, due to the changing climate, "winter roads that provide supply links to many northern communities are becoming less reliable and cannot be used for as long".<sup>20</sup>

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<sup>18</sup> Bush, E. and Lemmen, D., editors (2019) *Canada's Changing Climate Report*. Government of Canada, [online](#), p.118.

<sup>19</sup> Dibike, Y. et al. (2018) *Effects of projected climate on the hydrodynamic and sediment transport regime of the lower Athabasca River in Alberta, Canada*. *River Research and Applications*; 34:5, pp. 417-429.

<sup>20</sup> Canadian Council of Ministers of the Environment (2003) *Climate, Nature, People: Indicators of Canada's Changing Climate*, p. 40.

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iii) **Caribou.** As noted above, boreal caribou have significant cultural and spiritual value to ACFN. Climate change threatens the remaining populations, particularly through increased forest fire frequency. ACFN has had to change our way of life to protect caribou populations and continue to be stewards of the lands that sustain them.

### 3) Federal funding for the Project poses a significant “opportunity cost” for low-carbon economic development

The Project represents a significant opportunity cost for low-carbon economic development in Alberta and the oil sands region because it will tie up billions in public funding that would be better spent diversifying Alberta and local economies and transitioning away from fossil fuels.

The Project relies heavily on taxpayer subsidies. The federal government has developed investment tax credits to incentivize CCS projects, which would cover half of the Project’s \$16 billion in capital costs, while Alberta would cover an additional 12%. Pathways is also currently negotiating “[contracts for difference](#)” with the federal government, which would guarantee the Pathways Alliance’s ongoing profits at an established carbon price.

In 2023, the Canada Energy Regulator (CER) forecast that oil sands production will decline 83% by 2050 in a “Global Net-Zero Scenario”, where global demand for oil declines due to the international community taking action to achieve their net-zero commitments by 2050.<sup>21</sup> This decline in oil sands production would occur regardless of significant (and likely unrealistic) deployment of CCUS, with this scenario assuming that 90% of emissions are captured from large point sources.<sup>22</sup>

A recent report by the Canadian Centre for Policy Alternatives and Ecojustice determined that the involuntary wind-down of the oil sands in the CER’s Global Net-Zero Scenario would have significant consequences for Alberta and the oil sands region. The report concludes that there would be:

- A decline in total revenues generated by the oil sands from more than \$100 billion in 2023 to just \$5 billion in 2050.
- A consequent collapse in public revenues collected from the oil sands through royalties and taxes from around \$20 billion today to near-zero by mid-century.
- A drop in total employment connected to oil sands construction and production from roughly 100,000 workers today to around 5,000 by 2050.
- Stranded assets of nearly \$70 billion from projects that shut down before paying off their debts.

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<sup>21</sup> Canada Energy Regulator (2023) *Canada’s Energy Future 2023*, [online](#), (“Canada’s Energy Future 2023”), p.84.

<sup>22</sup> *Canada’s Energy Future 2023*, p.84.

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- Unfunded environmental cleanup costs of as high as \$130 billion.<sup>23</sup>

Since CCS cannot save the oil sands industry in the face of declining global demand for oil, billions of public dollars invested into this Project will be wasted. This funding would be better spent diversifying the economies of Alberta and the Lower Athabasca region and providing supports for oil sands-dependent workers and frontline communities to transition to jobs outside of the fossil fuel industry. This includes investing in Indigenous-led economic opportunities that are compatible with our Aboriginal and Treaty rights.

Using federal funds to advance this Project will undermine economic opportunities for ACFN members – who want to continue to live and work on their traditional territories – in a genuinely low-carbon future.

## Cumulative impacts

The cumulative impacts of oil sands activities including the Project and other industrial activities are endless. Increasingly, ACFN members find it difficult to find clean and safe areas to engage in traditional and cultural practices, including hunting, trapping, fishing and cultural and spiritual practices. Our members lack confidence in the safety of traditional foods, which reduces our reliance on them, and poses a threat to the survival of our way of life and traditions. Many of our water sources are too degraded for drinking or fishing, and members have already indicated low levels of bottom-feeding fish based on contamination levels from historic and current operations. Our health is suffering, and people are dying. These impacts affect the physical, mental, psychological, and spiritual health of our people. Damage to lands, either through reduced quantity or quality, adversely impacts ACFN's connection to the land and, thus, to culture. It impedes the ability to transfer culture within and among generations.

The impacts of the Project in this context are particularly grave. ACFN is concerned that, if the Project goes ahead, Project activities and the Project's impacts on facilitating increased oil sands production could put our Nation past a tipping point. Such damage is not restricted to a single project or development's impacts; it includes the aggregate impact or accumulated damage of cumulative effects. The oil sands industry destroys our lands, poisons our people and animals, and undermines our ability to practice our Aboriginal and Treaty rights. If the Project goes ahead, we may no longer be able to sustain additional industrial impacts while, at the same time, meaningfully maintaining our way of life and the exercise of our Aboriginal and Treaty rights in our traditional territories.

That is why it is a matter of utmost seriousness to our Nation that IAAC and the Minister consider all the effects of the Project in their full context, as required under the Act,<sup>24</sup> and designate the Project for an

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<sup>23</sup> Mertins-Kirkwood, H. & Hulse, M. (Nov 2024) *Heads in the Sands: Understanding the social and economic risks of declining global demand for Alberta oil*, [online](#).

<sup>24</sup> IAA, s. 6(2).

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impact assessment. The potential effects of the Project considered in the context of ongoing oil and gas production are too grave.

It is not only ACFN that is reaching a tipping point in terms of ability to handle industrial impacts. The wildlife and environment are, too. As noted above, boreal caribou face serious threats, including threats of extirpation if development continues along current trajectories.<sup>25</sup> With respect to migratory birds, one study concluded that *in situ* oil sands projects alone could cause 777,000 to 5.8 million forest-dependent breeding birds to lose their habitat, eliminating millions of birds in next generations.<sup>26</sup> Over a 30-50 year period, as many as 76 million birds could be lost due to habitat fragmentation and degradation.<sup>27</sup> SARA-listed species like the Canada warbler, yellow rail, common nighthawk and olive-sided flycatcher face serious risks from ongoing development.

To date, Canada has not taken its responsibility to address the cumulative impacts of oil sands development on Indigenous Peoples, caribou, migratory birds, and the environment seriously enough. Given the extent of impacts that have occurred to date, this approach must change. Canada must review the Project to ensure that tipping points for matters within federal jurisdiction are not passed, and ACFN's and other Indigenous Peoples' rights are not breached.

## The AER approval process cannot adequately assess adverse effects and address ACFN's concerns

In deciding whether to designate the Project, the Minister may consider "whether a means other than an impact assessment exists" that would permit the adverse effects within federal jurisdiction and direct or incidental adverse effects to be addressed.<sup>28</sup> Here, there is no such other mechanism.

On May 13, 2024, ACFN and others sent a letter to the AER and Alberta Environment and Protected areas requesting a provincial EIA for the Project. A copy of this letter is attached as Appendix "A". In a letter dated October 25, 2024, the AER rejected that request and declined to require an EIA for the Project. This letter is attached as Appendix "B". Although ACFN does not believe that a provincial environmental assessment is capable of adequately addressing its concerns and interests, this decision means that no provincial process will be reviewing the impacts of the Project as a whole on the environment and Indigenous Peoples and our Aboriginal and Treaty rights.

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<sup>25</sup> See also Way, N. (2017) *Protect Alberta's caribou, or they won't survive 50 more years*, Pembina Institute, [online](#).

<sup>26</sup> Wells J. et al. (2008) *Danger in the Nursery: Impact on Birds of Tar Sands Oil Development in Canada's Boreal Forest*, Natural Resources Defense Council, [online](#), p.12.

<sup>27</sup> *Ibid*, pp. v and 13.

<sup>28</sup> IAA, s. 9(2)(d).

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In fact, even though Pathways has publicly pitched its carbon capture endeavor as a single project, no single project is being reviewed by the AER. Instead, Pathways has split the project up and submitted, or will submit, a large number of separate applications for the different activities associated with the Project: the carbon capture infrastructure at each participating oil sands facility, the lateral pipelines, the Transportation Line, the Hub Distribution Line, the CO<sub>2</sub> injection wells, and the carbon storage area.

Pathways is currently in the process of submitting more than 140 separate AER applications for 65 segments of the Project. These segments do not include carbon capture infrastructure at participating facilities, for which individual facilities still need to file. We are still waiting for applications that are being filed under legislation that includes the *Public Lands Act*, *Water Act*, *Environmental Protection and Enhancement Act*, *Oil and Gas Conservation Act* and *Oil Sands Conservation Act*.

This piecemeal approach is an extreme example of project splitting, an undesirable practice which precludes meaningful environmental assessment of the Project. This approach is problematic because each of the applications and associated activities will be considered in isolation, by applying the limited and specific statutory constraints that are relevant under one piece of legislation to a small portion of the Project, while ignoring the environmental impacts of the Project as a whole.

This approach impairs the ability of ACFN and Alberta to understand the project-specific and cumulative impacts of the Project on ACFN's Aboriginal and Treaty rights, thereby impairing the ability of Alberta to consult with ACFN as required by the honour of the Crown. It also means that ACFN's key concerns regarding the increased oil sands production that will result from the Project and cumulative effects will likely not be considered, because Alberta will not be making any statutory decisions in the context of which these concerns are relevant.

Provincial regulatory processes are also incapable of properly assessing and mitigating other impacts within federal jurisdiction. For example, recent provincial approvals for *in situ* oil sands projects – which have enormous impacts on migratory birds, as discussed above – have included hardly any mention of birds specifically, and instead contained only general mitigation measures for wildlife.<sup>29</sup> A federal assessment is necessary to ensure such impacts are properly reviewed and mitigated.

ACFN also agrees with and adopts the Treaty 6 Nations' concerns with the AER as a regulator as expressed at pp. 13-20 of their designation request.

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<sup>29</sup> See e.g. AER (2020) *Approval No. IA-001*, [online](#) (issued for the Suncor Meadow Creek West Project); AER (2019) *EPEA Approval No. 00308611-00-00*, [online](#) (issued for the MEG Surmont Project – N.B. this approval and project has since been cancelled); AER (2020) *EPEA Approval No. 73534-02-00*, [online](#) (issued for the Imperial Cold Lake Expansion Project); AER (2018) *EPEA Approval No. 336673-00-00*, [online](#) (issued for the Imperial Aspen Project).

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## Conclusion

In conclusion, ACFN requests the Minister to designate the Project for an impact assessment. The Project, and federal funding for the Project, have a serious potential to cause adverse effects within federal jurisdiction, direct or incidental adverse effects, and other effects that the Minister may consider under s.9(2), including adverse impacts on ACFN's current use of lands and resources for traditional purposes, ACFN's health, social and economic conditions, ACFN's Indigenous knowledge, language, and culture, ACFN's Aboriginal and Treaty rights, fish and fish habitat, migratory birds, and federal lands. Again, ACFN asks to be added to the list of parties requesting a s.9 designation.

Given the approach that Alberta takes to environmental assessment and Aboriginal consultation generally, as well as the specific approach it has taken to this Project (allowing project-splitting and rejecting ACFN's request for an EIA), it is clear that Alberta's regulatory regime will be unable to adequately assess these effects.

We would like to reiterate:

- 1. Pathways has not provided ACFN with any information regarding Project impacts on animal habitat and ACFN's traditional land uses and, to the contrary, in each of the applications that it has made to the AER, Pathways has marked information about "Vegetation & Wildlife: sensitive species identified" as "confidential".**
- 2. Pathways has not provided ACFN with any information regarding Project impacts to boreal caribou, nor responded to ACFN's request for our caribou stewardship plan to be utilized.**
- 3. Pathways has not provided ACFN with any information about the scale and timing of the water use required for carbon capture infrastructure and the effects of the water withdrawals on the health and navigability of the Athabasca River and downstream ecosystems within ACFN's territories, such as the PAD and Wood Buffalo National Park.**
- 4. Pathways has not provided ACFN with any information about the nature of air pollution associated with the carbon capture infrastructure, and its direct and cumulative effects on human health and the environment.**
- 5. Pathways has not provided ACFN with any information about the risk of a CO<sub>2</sub> pipeline explosion or a CO<sub>2</sub> pipeline leakage, or its mitigation and safety plans with the Nations or municipalities.**
- 6. Pathways has not provided ACFN with any information about the risks of leakage of contaminants into groundwater and surface water sources, or its mitigation and safety plans, nor has Pathways demonstrated that it will comply with ACFN's water policy.**
- 7. Pathways has not provided ACFN with any information about the risk of CO<sub>2</sub> leakage from the storage hub, its monitoring, verification and reporting plan, and its mitigation strategy.**
- 8. Pathways has not provided any indication that it will meaningfully consult and accommodate ACFN on these and other impacts affecting ACFN, nor is Alberta's regulatory regime capable of ensuring this occurs.**


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ACFN's concerns with Pathways' failure to provide information regarding the impacts of the Project including on ACFN are heightened by the novel nature of this endeavor. The Project will be the largest CCS project proposed in Canada to-date, further highlighting the importance of designating the Project for an impact assessment, consistent with the language of s.9 and the precautionary principle.

Thank you for your consideration of these submissions. We would like to discuss this matter with the Minister's office ahead of a decision being made and we will reach out to schedule a meeting in January 2025

Sincerely,

<original signed by>

 \_\_\_\_\_

Lisa Tsessaze

Executive Director, Dene Lands and Resources Management  
Athabasca Chipewyan First Nation

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May 13, 2024

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*Sent via email*

**Attention: Mr. Talabi and Mr. Ripley**

**Re: Request for an environmental impact assessment of the Pathways Alliance CCS Project**

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On behalf of the Athabasca Chipewyan First Nation, the Alberta Wilderness Association, Climate Action Network Canada, Environmental Defence Canada, and No to CO<sub>2</sub> (together, the “Interested Parties”), I write to respectfully request that the relevant Director of the Alberta Energy Regulator (AER) or the Alberta Environment and Protected Areas order an environmental impact assessment (EIA) of the Pathways Alliance CO<sub>2</sub> Transportation Network and Storage Hub Project (the “Project”).

As outlined below, the Director has the discretion under the *Environmental Protection and Enhancement Act* (EPEA) to require an EIA of the activities that comprise the Project: the addition of carbon capture infrastructure at oil sands facilities, the construction and operation of carbon dioxide (CO<sub>2</sub>) pipelines, and the injection and storage of CO<sub>2</sub> underground.

In order to advance the purposes of EPEA and ensure that the Project does not have significant adverse impacts on the regional environment and local communities, including on Aboriginal and Treaty rights, we urge the Director to exercise their discretion and require an EIA of these activities as a single project. This EIA should occur before the AER decides on the regulatory applications that Pathways Alliance has started submitting to the AER. Further, given the magnitude of this Project, we request that the AER hold a public hearing on the Project.

### **I. The Pathways Alliance Project**

The Pathways Alliance consists of Canada’s six largest oil sands producers: Canadian Natural Resources Ltd (CNRL), Cenovus Energy, ConocoPhillips Canada, Imperial Oil, MEG Energy, and Suncor Energy. These producers operate facilities accounting for 95% of Canada’s oil sands production.

The Pathways Alliance is planning to develop a carbon capture and storage (CCS) project that would capture CO<sub>2</sub> from 13 oil sands facilities in the Lower Athabasca Region and transport this CO<sub>2</sub> via over

600 km of pipeline to the Cold Lake area, where it would be injected underground for storage. Pathways Alliance is in the process of applying for regulatory approvals for the Project.

## II. The Interested Parties

The Athabasca Chipewyan First Nation (ACFN) are K'ai Tailé Dënesųliné, which means "people of the land of the willow." ACFN's territory is centred on the Peace Athabasca Delta (PAD), one of the largest freshwater deltas in the world, the health of which is essential to the health of ACFN. The oil sands are located within ACFN's territory and their primary community (Fort Chipewyan), their reserves, and the PAD are located downstream. ACFN is a signatory to Treaty 8, which acknowledges their inherent and cultural connection to the land. Members of ACFN continue to exercise their inherent, Aboriginal, and Treaty rights, including the right to hunt, trap, collect food, and fish throughout their territory. Many of the participating oil sands facilities are located in ACFN's territory, the Transportation pipeline will be built on ACFN's territory, and ACFN will be impacted by the direct effects of the Project as well as the indirect effects of the Project on oil sands expansion.

The Alberta Wilderness Association (AWA) is an organization that works for the protection of Alberta's wilderness, which provides habitat for wildlife and clean drinking water for all Albertans. For over 50 years and with more than 7,000 members and supporters across Alberta and globally, AWA has raised the profile of Alberta's wilderness and has inspired communities to care by educating Albertans about the values of their wilderness and wildlife.

Climate Action Network – Réseau action climat Canada ("CAN-Rac") is a network of organizations taking action on climate and energy issues in the land currently called Canada. It works to forge connections and build consensus for transformative climate action and justice, at home and internationally.

Environmental Defence Canada is a national environmental charity with 40 years of experience engaging in public education, research and community outreach on environmental issues. Environmental Defence has extensive expertise in Canadian energy issues, in particular, examining the risks posed by oil infrastructure on ecosystems and communities. Environmental Defence has participated actively in several environmental assessments, as well as environmental law reform processes over the past decade.

"No to CO2" is a grassroots, nonpartisan organization of friends and neighbors in the County of St. Paul and M.D. of Bonnyville, Alberta. It is concerned with protecting their land and preserving their quality of life. Many of its members represent multi-generational family farms that are the cornerstones of their community. To date, No to CO2 has hosted multiple town hall meetings to raise awareness of relevant issues such as potential harms of CCUS, landowner rights, and its implications for the taxpayer. It has engaged local government and media, like-minded organizations, and reached out to the broader community through informational mailout and sign campaigns. Portions of the Project are expected to be built on and around their lands and CO<sub>2</sub> will be injected under their communities.

### III. Statutory and regulatory framework

The *Environmental Protection and Enhancement Act* (EPEA) and its regulations outline Alberta's environmental assessment process. As stated in EPEA, the purposes of the environmental assessment process are:

- (a) to support the goals of environmental protection and sustainable development,
- (b) to integrate environmental protection and economic decisions at the earliest stages of planning an activity,
- (c) to predict the environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity, and
- (d) to provide for the involvement of the public, proponents, the Government and Government agencies in the review of proposed activities.<sup>1</sup>

Sections 43 and 44 of EPEA empower the Director to decide whether further assessment of a proposed activity is required and state that the Director must consider the following factors in making this decision:

- (a) the location, size and nature of the proposed activity;
- (b) the complexity of the proposed activity and the technology to be employed in it;
- (c) any concerns in respect of the proposed activity that have been expressed by the public of which the Director is aware;
- (d) the presence of other similar activities in the same general area;
- (e) any other criteria established in the regulations;
- (f) any other factors the Director considers to be relevant.<sup>2</sup>

For activities that the Director decides that further assessment is required, s.45 of EPEA requires the Director to prepare a screening report and decide whether the proponent should prepare and submit an environmental assessment report.

The *Environmental Assessment (Mandatory and Exempted Activities) Regulation* (the "Regulation") determines the activities for which the Director can require an EIA.<sup>3</sup> Activities that are listed as "mandatory" must undergo an EIA. Activities that are listed as "exempted" are not required to undergo an EIA. Under the Regulation, exempted activities include:

(a) *construction, operation, or reclamation of a pipeline*

...

(v) *with a length in kilometres times diameter in millimetres resulting in an index number of less than 2690;*

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<sup>1</sup> *Environmental Protection and Enhancement Act*, RSA 2000 c E-12 (EPEA), s.40.

<sup>2</sup> EPEA, s.44(3).

<sup>3</sup> *Environmental Assessment (Mandatory and Exempted Activities) Regulation*, Alta Reg 111/1993.

The Regulation gives the director discretion to require an EIA for pipelines with an index number equal to or greater than 2690.

The Regulation includes the “the drilling, construction, operation or reclamation of an oil or gas well” as an exempted activity. There is no definition of “oil and gas well” in EPEA or the Regulation, though “well” is defined in EPEA as “an orifice in the ground that is completed or drilled for ... injection into an underground formation”.<sup>4</sup> Nevertheless, the definition of “gas” in the *Oil and Gas Conservation Act* is focused on fossil gas and does not refer to captured CO<sub>2</sub>.<sup>5</sup> This suggests that the definition of “oil and gas well” in the Regulation - as contemplated by Alberta’s regulatory regime - does not include a CO<sub>2</sub> injection well. As such, this suggests that the Director can require an EIA for the development of CO<sub>2</sub> injection wells associated with the Project.

The Director also has discretion to require an EIA for carbon capture infrastructure and the storage of CO<sub>2</sub> because these activities are not listed as either “mandatory” or “exempted” in the Regulation. Further, it is not apparent that they would be covered by other activities on the relevant Schedules.

#### IV. The Director can require an EIA for the Project

According to the Pathways Alliance’s description of the Project, there are three types of pipelines in the CO<sub>2</sub> Transportation Network:<sup>6</sup>

Pipeline Type	Length	Diameter	Index Number
Laterals (16)	1-49 km	8-30 inches 203.2-762.0 mm	203.2 - 37,338
Transportation line (1)	400 km	24-36 inches 609.6-914.4 mm	243,840 – 365,760
Hub distribution line (1)	170 km	24-36 inches 609.6-914.4 mm	103,632 – 115,448

Using the formula for the pipeline index number in Schedule 2 (a)(v) of the Regulation, it is apparent that the index numbers for the Transportation Line, the Hub Distribution Line, and some of the Lateral pipelines are greater than 2690. Some are 35-155 times greater, making them major pipeline projects. As such, the Director can require Pathways Alliance to prepare and submit an EIA report for those pipelines.

Since the Regulation does not include carbon capture infrastructure, CO<sub>2</sub> injection wells, or CO<sub>2</sub> storage as mandatory or exempted activities, the Director can also require Pathways Alliance to prepare and submit an EIA report for these activities.

<sup>4</sup> EPEA s.1(1)(aaaa)(i)(B)

<sup>5</sup> *Oil and Gas Conservation Act*, RSA 2000, c O-6, s.1(1)(y)

<sup>6</sup> CNRL (Aug 2023) *Pathways CO<sub>2</sub> Transportation Network and Storage Hub Project – Project Overview* (“Pathways Project Overview”), p.12.

## V. The Director should require an EIA for the Project

To carry out the purposes of EPEA and based on the factors set out in s.44(3)(a)-(f) of EPEA, the Director should require Pathways Alliance to prepare and submit an EIA report for the Project. These factors are discussed below:

### **(a) the location, size and nature of the proposed activity**

The size of the Project –the number of participating oil sands facilities, the length of the pipelines, and the extent of the carbon storage area – as well as the nature of the Project support the need for an EIA of the Project.

The Project is located in the Lower Athabasca Region and is intended to reduce the GHG emissions of the oil sands industry by 10-12 million tonnes (Mt) CO<sub>2</sub>/year by 2030. There are 13 oil sands facilities spread across the Lower Athabasca Region that will participate in the Project. They will each capture CO<sub>2</sub> from their process emissions and transport the CO<sub>2</sub> via “lateral” pipelines over a distance of 1-50 km to the “Transportation Line” (depending on the relative locations of the facilities).<sup>7</sup>

The Transportation Line is a pipeline that is 330 km in length, running from north of Fort McMurray to south of Cold Lake.<sup>8</sup> It will connect to the “Hub Distribution Line,” a pipeline that is 120 km long, which will transport the CO<sub>2</sub> to the “CO<sub>2</sub> Storage Hub.”<sup>9</sup>

CO<sub>2</sub> Storage Hub infrastructure consists of 16-19 injection wells. Each well site will have a surface footprint of approximately 130m<sup>2</sup>.<sup>10</sup> At these wells, the CO<sub>2</sub> will be injected into the Basal Cambrian Sandstone, a geologic formation that is 1-2 km underground.

While Pathways has not specified the exact area of land under which it intends to inject CO<sub>2</sub>, an Alberta government map of carbon sequestration in the province indicates that CNRL (which is advancing the Project on behalf of Pathways) has an evaluation permit for an area that is approximately 18,000 km<sup>2</sup> in size.<sup>11</sup> This area encompasses or is adjacent to eight reserves of five First Nations as well as several municipalities.<sup>12</sup> It is within 10 km of three other First Nations’ reserves.<sup>13</sup> It overlaps part of the Cold Lake Air Weapons Range and the range of the Cold Lake boreal caribou population. It is also adjacent to carbon storage areas for which other companies hold evaluation permits.<sup>14</sup>

The nature of CCS is resource intensive and – particularly in this case - involves the management of large volumes of CO<sub>2</sub> over a significant geographical area and long periods of time. CCS introduces the

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<sup>7</sup> Pathways Project Overview, p.12.

<sup>8</sup> Pathways Project Overview, p.12.

<sup>9</sup> Pathways Project Overview, p.12.

<sup>10</sup> Pathways Project Overview, p.12.

<sup>11</sup> Government of Alberta (2023) *Carbon Sequestration*, [online](#) (“*Alberta Carbon Sequestration Map*”)

<sup>12</sup> Reserves include: Saddle Lake 125 (Saddle Lake Cree Nation), Kehewin 123 (Kehewin Cree Nation), Puskiakiwenin 122 and Unipouheos 121 (Frog Lake Nation), Makaoo 120 (Onion Lake Cree Nation), and Cold Lake 149, Cold Lake 149B, Cold Lake 149C (Cold Lake First Nations).

<sup>13</sup> Nearby reserves include: Heart Lake 167 (Heart Lake First Nation), Beaver Lake 131 (Beaver Lake Cree Nation), and Whitefish Lake 128 (Whitefish Lake First Nation).

<sup>14</sup> *Alberta Carbon Sequestration Map*

following risks and impacts to the regional environment and local communities, which must be rigorously assessed in an EIA:

- Capturing carbon is an energy intensive process and oil sands facilities will most likely use natural gas to power the capture and compression equipment.<sup>15</sup> This will have air emissions that will impact local air quality and contribute to climate change.
- Carbon capture infrastructure requires significant amounts of water to cool the equipment, which will be taken from the Lower Athabasca watershed, adding to the existing and significant cumulative impacts on water quantity and navigability in the region.
- When compressed and transported in a pipeline, CO<sub>2</sub> is put under high pressure, making it highly volatile. This creates a high risk of dangerous explosions, which endangers nearby communities, other pipelines in a shared right of way, and the surrounding environment.
- When leaked, CO<sub>2</sub> is an asphyxiant and displaces oxygen in the air. Since it is colourless and odourless, CO<sub>2</sub> escapes easy detection and makes leaks hard to observe and avoid. This makes it dangerous for nearby communities and requires an emergency response plan, which is currently not required in Alberta for CO<sub>2</sub> pipelines.
- For the Project to achieve its objectives, the CO<sub>2</sub> must be stored permanently, and cannot leak back into the atmosphere. There is significant uncertainty about the potential for stored carbon to leak from underground storage sites,<sup>16</sup> which would exacerbate the climate crisis. This concern is particularly relevant for the Project as the size of the carbon storage area under consideration increases the potential for leaks.
- Stored CO<sub>2</sub> may contaminate groundwater by causing contaminants (e.g. lead and arsenic) to leach from rocks, creating an environmental and health hazard if drinking water sources are affected.<sup>17</sup> Again, this concern is particularly relevant for the Project as the size of the carbon storage area under consideration means more interaction with contaminants, groundwater, and communities.

All of these risks and impacts have the capacity to impair the Aboriginal and Treaty rights of ACFN and/or of other local Indigenous communities to hunt, fish, trap, gather, and practice their traditional way of life. Potential impacts – both project-specific and cumulative - on Aboriginal and Treaty rights must be assessed as part of the EIA.

It is notable that the Project is the largest CCS project that has been proposed in Canada. For reference, the Project is larger in every sense than Shell Canada's Quest Carbon Capture and Storage Project (the "Shell Quest Project"), which was required to undergo a joint federal and provincial EIA in 2010.<sup>18</sup>

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<sup>15</sup> Cameron, L. & Carter, A. (2023) *The Bottom Line: Why Carbon Capture is not a Net-Zero Solution for Canada's Oil and Gas Sector*, International Institute for Sustainable Development, [online](#). ("IISD: Why carbon capture is not a net-zero solution.")

<sup>16</sup> Anderson, S. (2017) *Risk, Liability, and Economic Issues with Long-Term CO<sub>2</sub> Storage—A Review*, Natural Resources Research 26, pp.89–112, [online](#).

<sup>17</sup> Zheng, L. et al. (2021) *Potential impacts of CO<sub>2</sub> leakage on groundwater quality of overlying aquifer at geological carbon sequestration sites: A review and a proposed assessment procedure*, Greenhouse Gases: Science and Technology 11(5), [online](#).

<sup>18</sup> Alberta (2010) *Final Terms of Reference – Environmental Assessment Report for the proposed Shell Quest Carbon Capture and Storage Project*, [online](#); Alberta (2010) *EIA Required Letter - D.Johnson (ABEV) to K.Penney (Shell Canada)*, [online](#)

	CO <sub>2</sub> Captured	# of facilities	Pipeline length	# of injection wells	Injection area
Shell Quest	1.2 Mt/yr	1	84 km	10	3,700 km <sup>2</sup>
Pathways Alliance	10-12 Mt/yr	13	> 600 km	16-19	18,000 km <sup>2</sup>

**(b) the complexity of the proposed activity and the technology to be employed in it**

Pathways Alliance has not provided much information about the complexity of the Project or the technology to be employed. However, it is readily apparent that undertaking a carbon capture, transportation, and storage project – particularly of this magnitude - is a complex activity that requires an EIA.

The Project involves:

- The chemical separation of 10-12 Mt of CO<sub>2</sub>/year by 2030 from industrial air emissions at 13 different oil sands facilities;
- The compression of captured CO<sub>2</sub> into a pressurized liquid and its transportation over 600 km – crossing through boreal forest and the territories of several Indigenous communities, traplines, Crown and privately owned land, watercourses, caribou habitat, and a federal air weapons testing range; and
- The injection of liquid CO<sub>2</sub> at almost 20 different well sites spread over a massive area into a geologic formation (the Basal Cambrian Sandstone) that is 1-2 km underground.

This endeavour must be carried out in a manner that is safe and does not have significant adverse impacts – both project-specific and cumulative - on the environment or human health. It must also result in the permanent storage of this CO<sub>2</sub> underground, which will require extensive monitoring over a large area and a long period of time.

This complexity of a CCS project can be demonstrated by the contents and the scale of the applications and EIA materials for the Shell Quest Project. For example, Shell’s application for a CO<sub>2</sub> Pipeline Licence pursuant to Directive 56 was over 400 pages long and its application for a CO<sub>2</sub> Acid Gas Storage Scheme pursuant to Directive 65 was almost 300 pages long.<sup>19</sup> There were 29 separate documents associated with the environmental assessment of the Shell Quest Project. The Energy Resources Conservation Board (ERCB) held a 3-day public hearing on Shell’s application that involved 10 principals and representatives, 15 witnesses, and 17 ERCB staff.<sup>20</sup> The ERCB imposed 23 project conditions on Shell.<sup>21</sup>

The characteristics of the Project, and the scale of the EIA for the Shell Quest Project – which is smaller than the Project – support an EIA for the Project.

<sup>19</sup> Shell Canada Ltd. (2010) *Quest Carbon Capture and Storage Project - Directive 56: CO<sub>2</sub> Pipeline Licence*, [online](#); Shell Canada Ltd (2010) *Quest Carbon Capture and Storage Project - Directive 56: Application for a CO<sub>2</sub> Acid Gas Storage Scheme*, [online](#).

<sup>20</sup> Energy Resources Conservation Board (2012) *Decision 2012 ABERCB 008: Shell Canada Limited, Application for the Quest Carbon Capture and Storage Project, Radway Field*, [online](#). (“ERCB Decision - Shell Quest CCS”), p.61.

<sup>21</sup> *ERCB Decision - Shell Quest CCS*, pp.62-63.

**(c) any concerns in respect of the proposed activity that have been expressed by the public of which the Director is aware**

Indigenous communities, citizens and landowners in the CO<sub>2</sub> storage area, environmental non-government organizations (ENGOS), and scientists, academics, and energy modellers have publicly expressed concerns with respect to the impacts of the Pathways Alliance project.

A group of Treaty 6 First Nations - Heart Lake First Nation, Beaver Lake Cree Nation, Whitefish Lake First Nation, Kehewin Cree Nation, Frog Lake First Nation, Cold Lake First Nations, and Onion Lake Cree Nation – whose territories overlap the Project’s pipeline route and proposed carbon storage area have expressed concerns about the impact of the Project on the lakes, rivers, and underground reservoirs in their traditional territories.<sup>22</sup> They are seeking additional information from the proponent about the safety of the environment and their communities.

No to CO<sub>2</sub>, a group of concerned citizens and landowners in the Project’s proposed carbon storage area has spoken out against the Project and is concerned about “protecting their land and quality of life and defending the public interest”.<sup>23</sup> They are also looking for additional information from Pathways Alliance.

Greenpeace, together with the Canadian Association of Physicians for the Environment (CAPE) and Environmental Defence, has submitted a complaint to the Competition Bureau of Canada alleging that Pathways Alliance has made false and misleading representations by advertising that the Project will contribute to Canada’s efforts to achieve net-zero emissions.<sup>24</sup> This complaint has been accepted by the Competition Bureau, which has started an investigation into the accuracy of the representations.<sup>25</sup> A recent scientific article, published in the journal *Energy Research & Social Science*, has identified a number of examples of greenwashing by Pathways Alliance.<sup>26</sup>

The International Institute for Sustainable Development (IISD) has concluded that CCS, as proposed by groups such as the Pathways Alliance, is an energy intensive technology that is slow to implement, expensive, and unproven at scale, making it a poor strategy for decarbonizing oil sands production.<sup>27</sup>

Over 400 scientists, academics, and energy systems modellers wrote a letter to Deputy Prime Minister and federal Finance Minister Chrystia Freeland in opposition to a federal investment tax credit for carbon capture and utilization storage (CCUS). The letter noted that CCUS is neither economically sound nor proven at scale, is not a climate solution and often results in increased GHG emissions, does not address environmental, social, and health impacts associated with the mining, extraction, and transport

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<sup>22</sup> Weber, B. (23 Feb 2024) *7 First Nations in Alta. want answers on carbon capture and storage plans*, CBC News, [online](#).

<sup>23</sup> Huser, J. (2023) *Residents voice concern over large-scale carbon capture project*, Lakeland Today, [online](#).

<sup>24</sup> Greenpeace (2023) *Application for Inquiry into false and misleading representations made by the Pathways Alliance about their climate action and the climate impact of their business*, [online](#).

<sup>25</sup> Feinstein, C. (2023) *Canada’s largest oilsands companies being investigated over allegations they made false environmental claims*, [online](#).

<sup>26</sup> Aronczyk, M. et al (2024) *Greenwashing, net-zero, and the oil sands in the Caada: the Pathways Alliance*, *Energy Research & Social Science*, 112, [online](#).

<sup>27</sup> IISD: *Why carbon capture is not a net-zero solution*.

of fossil fuels, and is financially risky.<sup>28</sup> The Project is expected to benefit from the federal investment tax credit and Pathways Alliance has lobbied for the enhancement of this credit.<sup>29</sup>

These concerns and desire for more information about the Project support an EIA for the Project. An EIA – particularly with a public hearing – would provide a venue for Pathways to share additional information and address the concerns raised by local communities and the broader public.

**(d) the presence of other similar activities in the same general area**

We are not aware of other carbon capture facilities or CO<sub>2</sub> transportation pipelines in the same general area as the Project. However, the proposed carbon storage area (for which CNRL holds an evaluation permit) is directly adjacent to carbon storage areas for which other companies hold evaluation permits.<sup>30</sup> The potential interaction of carbon stored in adjacent areas should be explored in an EIA.

Further, from route maps shared by the Pathways Alliance, it appears that the Transportation Line will share a right-of-way with existing oil and gas pipelines. This creates a risk that an accident or malfunction with the Project will impact these pipelines - and vice versa. The risk of this occurring and strategies to mitigate this risk should be explored in an EIA.

**(e) any other criteria established in the regulations**

We are not aware of any other criteria established in regulations that is relevant to this decision.

**(f) any other factors the Director considers to be relevant.<sup>31</sup>**

The Project will facilitate continued oil sands development that will have environmental, economic, social, and cultural consequences, including impacts on Aboriginal and Treaty rights. While they are indirect, these are significant and adverse consequences of the Project that must be assessed in an EIA.

By reducing the GHGs of participating oil sands producers, the Project will reduce the carbon price levied on their operations, support their compliance with climate policies (e.g. federal oil and gas emissions cap), and attract investors and purchasers who want lower-carbon bitumen. This will allow these facilities to maintain or increase their production of bitumen.

Oil sands operations have significant environmental, economic, social, and cultural consequences, including adverse impacts on Aboriginal and Treaty rights. For example, continued oil sands operations mean continued expansion of tailings ponds. The production of tailings can pollute the land and waterways via leaks and spills, as seen in the recent Kearl Mine incidents. Tailings ponds impose a growing liability on taxpayers as there is insufficient financial security to ensure reclamation. Continued oil sands operations also mean continued oil sands water withdrawals from the Athabasca River watershed, which reduces water flows available to sustain ecological functions and impairs Indigenous navigability of the Athabasca River, which is essential to the exercise of ACFN's Aboriginal and Treaty rights to hunt, fish, and carry out traditional ways of life.

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<sup>28</sup> Hoicka, C. et al. (2022) *Letter from scientists, academics, and energy system modellers: Prevent proposed CCUS investment tax credit from becoming a fossil fuel subsidy*, [online](#).

<sup>29</sup> Pathways Alliance (2022) *Pathways Alliance submission to the 2023 federal budget consultation process*, [online](#).

<sup>30</sup> *Alberta Carbon Sequestration Map*

<sup>31</sup> EPEA, s.44(3).

As such, the indirect effects of the Project facilitating continued oil sands development – and associated impacts - is a factor that is relevant to the Director’s decision to order an EIA and should be assessed as part of an EIA.

#### VI. The Project should undergo an EIA before its regulatory applications are considered

The oil sands companies that are part of the Pathways Alliance came together to develop a single CCS project. These companies set up the corporate entity that is Pathways Alliance to develop the Project on their behalf with the shared goal of reducing GHG emissions in the oil sands. The majority of the project infrastructure is shared by all participating companies and the constituent activities are meant to operate as part of a single CCS system.

However, despite pitching this endeavour to the public and governments as a single project, Pathways Alliance intend to split the project up and submit a large number of separate applications for the different activities associated with the Project: the carbon capture infrastructure at each participating oil sands facility, the lateral pipelines, the Transportation Line, the Hub Distribution Line, the CO<sub>2</sub> injection wells, and the carbon storage area.

A schedule of planned regulatory submissions for the Project indicates that there will at least 126 separate applications for more than 20 different activities over the coming months.<sup>32</sup> CNRL has already submitted several applications to the AER to construct a lateral pipeline and to do work associated with the Project.<sup>33</sup> (These applications are difficult to search on the AER’s Public Notice of Application website because they do not use terms such as “Pathways Alliance”, “carbon dioxide”, or “carbon capture” in their title and description; this should be corrected.)

This piece-meal approach is known as “project splitting,” an undesirable practice designed to circumvent rigorous environmental assessment. This approach is problematic because each of the applications and associated activities will be considered in isolation without any assessment of the cumulative and regional impacts of these activities together, let alone as a single Project. As a result, this will impair AER’s ability to adequately identify and assess the Project-specific, cumulative, direct, and indirect impacts of the Project as it considers the various applications. It will also undermine the rigour of AER’s individual assessment of the 126 separate applications for the Project activities.

Further, this approach impairs the ability of ACFN and Alberta to understand the project-specific and cumulative impacts of the Project on ACFN’s Aboriginal and Treaty rights, thereby impairing the ability of Alberta to consult with ACFN as required by the honour of the Crown.

Therefore, Alberta should assess all of the activities of the Project as part of a single EIA and should do so before the individual applications are considered. Since several applications have already been submitted to the AER, the Director must act quickly to pause this application process. A public hearing should be held as part of the assessment of these applications.

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<sup>32</sup> Canadian Natural on behalf of Pathways Alliance (5 April 2024) *Planned Regulatory Submission Schedule for Pathways CO<sub>2</sub> Transportation Network and Storage Hub Project*.

<sup>33</sup> Varcoe, C. (21 Mar 2024) *Varcoe: 'A big deal' — Oilsands group files first major regulatory application for \$16B carbon capture megaproject*, Calgary Herald, [online](#). AER Public Notice of Application (22 Mar 2024) *Application 32576398 – Canadian Natural Resources Ltd*, [online](#).

## VII. Conclusion

The Interested Parties respectfully submit that an EIA and a public hearing is necessary to consider the potential significant risks and impacts of this Project and address the concerns of local communities and the public generally. The Shell Quest Project underwent an EIA and a public hearing, and we expect the same for the Project.

EPEA grants the Director discretion to require an EIA for all the activities associated with the Project. Based on the nature of the Project, the Director should exercise this discretion and order an EIA. The Project is significant in size and complexity; it involves multiple oil sands facilities, over 600 km of pipeline, and a massive carbon storage area within the Lower Athabasca Region. The Project will be energy and water intensive and poses serious risks of explosion and leakage that could impact the regional environment, nearby pipeline infrastructure, and local communities. Further, it will drive additional oil sands production, which has serious impacts to environment and human health. All these risks and impacts have the capacity to impair the Aboriginal and Treaty rights of ACFN and other local Indigenous communities. Several Indigenous communities, citizens and landowners, NGOs, scientists, and academics have voiced their concerns publicly about the Project.

The Director should order an EIA for all for activities associated with the Project to ensure that all the specific, cumulative, direct, and indirect impacts of the Project – including on Aboriginal and Treaty rights - are adequately assessed. This EIA should occur before the AER considers the various applications that are being made for the Project activities.

Thank you for your consideration. We look forward to hearing from you.

Sincerely,

<original signed by>

\_\_\_\_\_  
Matt Hulse  
Lawyer, Ecojustice

<original signed by>

\_\_\_\_\_  
Lisa Tsessaze  
Director, Dene Lands and  
Resource Management Office,  
Athabasca Chipewyan First  
Nation

<original signed by>

\_\_\_\_\_  
Deborah Donnelly  
Executive Director, Alberta  
Wilderness Association

<original signed by>

\_\_\_\_\_  
Amil Shapka  
No to CO2

<original signed by>

\_\_\_\_\_  
Julia Levin  
Associate Director,  
Environmental Defence Canada

<original signed by>

\_\_\_\_\_  
Alex Cool-Fergus, National  
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October 25, 2024

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### **Correspondence Regarding Environmental Impact Assessment of the Pathways Alliance CO2 Transportation Network and Storage Hub Project**

Mr. Hulse:

Thank you for your letter dated May 13, 2024, regarding an environmental impact assessment of the Pathways Alliance CO2 Transportation Network and Storage Hub Project (the Project).

Please be advised that pursuant to section 44 of the *Environmental Protection and Enhancement Act (EPEA)*, the Project has been evaluated as to whether the potential impacts of the proposed activity warrant further consideration under this environmental assessment process. This activity is not a mandatory activity for the purposes of environmental assessment. Having regard to the considerations set out in section 44(3) of *EPEA*, it was decided that further assessment of the activity is not required. Therefore, a screening report will not be prepared, and an environmental impact assessment report is not required.

This decision was based on information provided about the Project, and the Alberta Energy Regulator (AER) reserves the right to review this decision should different or new information become available.

If you have any questions or need further information about the environmental assessment process, please e-mail [AEREnvironmental.Assessment@aer.ca](mailto:AEREnvironmental.Assessment@aer.ca) or reference the [AER Environmental Assessments webpage](#).

Further, in regard to your correspondence about a hearing, the AER may decide to hold a public hearing based on Statements of Concern (SoC). The AER will consider the SoCs, as well as the factors outlined in section 7 of the *AER Rules of Practice* in determining whether or not to conduct a hearing. Information on

the hearing process can be found here: <https://www.aer.ca/regulating-development/project-application/hearings>

Any questions about Pathway's plans can be directed to [pathwaysproject@cnrl.com](mailto:pathwaysproject@cnrl.com).

Sincerely,

<original signed by>

Bola Talabi, M.Sc., P.Eng.  
Vice President, Regulatory Applications

BT/st

cc: Travis Ripley, Alberta Environment and Protected Areas

Lisa Tsessaze, Athabasca Chipewyan First Nation

Kg Banjoko, Athabasca Chipewyan First Nation

Deborah Donnelly, Alberta Wilderness Association

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