

# Comments - The Review of Environmental Assessment Processes - Aboriginal Participation in Environmental Assessment

Submitted to:  
Review of Environmental Assessment Processes  
Canadian Environmental Assessment Agency via email

Date: July 20<sup>th</sup>, 2016

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## Introduction

The Ministry of Environment and Climate Change, supported by the Ministry of Fisheries, Oceans and the Canadian Coast Guard, Ministry of Natural Resources, Ministry of Indigenous and Northern Affairs and Ministry of Science, is reviewing Canada's environmental assessment processes.

Mushkegowuk Council is a representative council for 7 First Nations in Hudson and James Bay lowlands and waterways. They include Attawapiskat First Nation, Taykwa Tagamou First Nation, Kashechewan First Nation, Fort Albany First Nation, Moose Cree First Nation, Chapleau Cree First Nation and Missanabie Cree First Nation.

Proponents rely on the environmental assessment (EA) process to engage with potentially impacted indigenous groups. Canada's Environmental Assessment (EA) process should be designed to provide certainty for investors, proponents, decision makers and especially, indigenous groups impacted by projects.

Unfortunately, the federal EA process is woefully inadequate because it lacks the credibility and clarity to provide a predictable process to ensure aboriginal consultation. Mushkegowuk Council's experience with Noront Resources' Eagle's Nest Project (also known as the Ring of Fire development) illustrates the procedural issues with Canada's EA and possible consequences of such procedural shortcomings.

## The Hudson James Bay Lowlands and River ways and the Mushkegowuk People

As Mushkegowuk people, we call ourselves Illiluwuk or Ininiwuk, also known as the Omushkego people. Our First Nations are located in the waterways and western shores of Hudson and James Bay Lowlands, the world's third largest wetlands.

As Oumshkegowuk, we live together in small kin-based groups and we respect and help one another. We have a sacred Treaty agreement between our people, the province of Ontario and Canada, which protects our right to hunt, fish, harvest and gather. Our constitutionally protected Treaty rights does not provide to Ontario and Canada the right to proceed with development or other action which would impact our Treaty protected rights, including the area called the Ring of Fire, without our consent.

The wetlands located in the Hudson and James Bay lowlands are the world's great storehouse of carbon. The wetlands are known as the "2<sup>nd</sup> largest contiguous peatland complex in the world, where more than half (of 208 billion tonnes of carbon) of Canada's terrestrial soil carbon is sequestered" representing a total of 20% of the world's sequestered carbon. We have an important responsibility as the stewards of our wetlands.

The wetlands located in the Hudson and James Bay lowlands are an efficient carbon storage system and provides critical ecosystem services such as:

- Clean water and clean air
- Nutrient storage and medicinal plants
- Flood control and habitat & birds
- Erosion and salinity control
- Carbon sequestration
- Ecosystem stability
- Climatic stabilization

### **Mushkegowuk's Experience with the Ring of Fire and the Canadian Environmental Assessment Process**

Noront's proposed Eagle's Nest project is subject to both the *Canadian Environmental Assessment Act* and *Ontario's Environmental Assessment Act* processes. We have repeatedly raised concerns about direct and cumulative adverse impacts of development on our Aboriginal Treaty rights.

Our experience with Canada's Environmental Assessment process with Noront Resource's Eagle's Nest Project provides an excellent case study to assist this Minister of Environment and Climate Change. If approved, the Ring of Fire development led by junior mining company, Noront Resources, will open the gates to more than 20 other exploration companies in Canada's most ecologically sensitive area.

Our Mushkegowuk First Nations are located directly downstream and down muskeg to this proposed Ring of Fire development. Noront's Ring of Fire mining assets are located at the headwaters of two of the last major undeveloped rivers in Ontario, namely the Attawapiskat and Ekwana Rivers. Our people continue to travel these rivers. We harvest fish, moose, geese, caribou to name a few, from these rivers and wetlands. They are an important source of food for our people. Our research indicates that 95% of the meat consumed by the people comes from local harvested food.

Despite our downstream and down muskeg location, CEAA approved Noront's Resources Project Description without any obligation to file any consultation plans for our impacted downstream and down muskeg First Nations.

Canada's EA review process for the Ring of Fire project identified potentially impacted First Nations based on their geographical proximity to Noront's Eagle's Nest project. There was no consideration for downstream and down muskeg indigenous groups.

As a result of not being identified as potentially impacted, our Mushkegowuk First Nations have no input into any of the area of studies and the potential for impacts. Furthermore, we have been excluded from any financial, technical, scientific and environmental review of information.

Mushkegowuk's experience with Eagle's Nest Project uncovers one of the most important flaw in Canada's EA review process: the failure to consider the downstream and down muskeg impacts, a feature that must be readdressed immediately if the EA process is to provide process certainty. **The current ongoing EA process is limited to "upstream impacts".**

### Impacts of Climate Change on Region

The lack of independent studies regarding climate change and downstream and down muskeg impacts are not available in the Hudson and James Bay Lowlands.

Eagle's Nest application is proceeding with no opportunity to assess the socio and environmental risks to the downstream / down muskeg First Nations.

Required studies include:

- Regional wetland, aquatic and terrestrial studies
- Comprehensive socioeconomic studies
- Cumulative and climate change impacts studies
- invasive species
- impacts of development on the water tables and the ability to regulate methyl mercury transport from wetlands

The Ring of Fire is subject to a cocktail of complex governmental policies and regulations such as the Paris Agreement, Species at Risk Act, Northern Growth Plan, Far North Land Use Planning, *Green Energy Act* and *Mining Act*. These emerging regulations are impacting Aboriginal Treaty rights and title. In approving Noront's project description, CEAA did not consider the cumulative impacts of development and climate change on the Hudson Bay and James Bay wetland systems.

## Commentary on gaps of the federal consultation process

Our independent third party review has identified the following gaps in the EA ongoing process:

- Failure to consult all impacted First Nations, including downstream Mushkegowuk's First Nations communities and trapline holders. The EIS/EA Report limits Mushkegowuk's "interests" to the Eagle's Nest Project because "*Attawapiskat First Nation is located 250 kilometers downstream of the mine site without mention of traditional territory of Mushkegowuk near the mine.*"
- Require further analysis to comprehend Noront proposed "innovative" approach.
- No information to properly assess the impact of a proposed all weather road to the Ring of Fire region.
- Questions about the Project's approved EIS federal guidelines. No cumulative effects assessments were carried out in accordance with federal guidelines. Review also highlights inadequate and nominal EIS commitments (7 commitments), contrary to the usual practices of tracking over 100+ commitments.
- **Standards not applicable or appropriate to an ecological sensitive region.**
- No information to show interconnectivity of wetlands outside of watershed boundaries. More information will be required to understand the interaction of underground rivers, tunnels and surface waters during spring and high water seasons.
- More studies and independent review will be required to establish acceptable standards / guidelines appropriate for ecological sensitive areas such as the Hudson and James Bay.
- The significant impact of an all-weather road to the Far North region and new influx of non-aboriginal hunters and anglers and introduction of invasive species. No planning or mitigation plans are provided in the EIS / EA Report.
- Unclear on how Project be "permitted" given the lack of completed land use designations under the *Far North Act*
- No identification of Mushkegowuk furbearers or registered traplines to EIS Report
- No identification of impact on plant collections and medicinal plants
- Important cumulative effects issues and lack of direction are underscored. Notable projected projects related to mining development in the Far North region include: Black Thor project, all weather road, transmission line development, Noront's additional mineral mining claims, and hydroelectric projects on the Winisk and Attawapiskat rivers.
- The lack of coordinated planning and long-term direction of related development in the Ring of Fire region is underscored and requires consultation, input and planning strategies as part of an adequate consultation process

## Conclusion and Recommendations

1. The creation of a Hudson and James Bay Environmental Advisory Committee comprised of representatives from First Nations, Ontario and Canada to participate in

the policy discussions on areas of environmental stewardship and review of potential downstream impacts;

2. Formally integrate Traditional Ecological Knowledge (TEK) to the EA process;
3. Establish indigenous advisory committee based on ecological boundaries as opposed to national and provincial indigenous structures;
4. Establish regional governance / structures to coordinate cumulative impacts research and priorities
5. Establish regional governance / structure to plan for environmental stewardship and sustainable development
6. Establish a framework to co-develop with indigenous groups on a regional strategic environmental assessment (RSEA) process based on ecological regions so to benefit from local indigenous expertise
7. Establish a framework to begin a regional environmental monitoring and management of protected ecological regions;
8. Identify the mitigation potential of wetland conservation and enhancement as a means to offset the environmental impacts of proposed new projects.