

## McMurray Métis Submission to the Government of Canada Regarding the National Energy Board Proposed Terms of Reference

On June 20, 2016 the Government of Canada invited concerned citizens and groups to provide comments on the draft Terms of Reference for the Expert Panel that will review federal environmental assessment processes.

McMurray Métis welcomes this review, and we see it as timely given the Court's have called into question the validity of the current assessment process, particularly as it relates to engagement with Indigenous peoples. McMurray Métis hope the following comments will assist the Government of Canada finalize the Terms of Reference for the Expert Panel so that it effectively evaluates the current processes and develops a new and robust system that meets the needs of all Canadians.

### Panel Mandate

Bullet point three should remove "national and regional" so it would instead read: *Engage Indigenous organizations, groups and communities (including First Nations and Métis) to engage their participation at regional and local levels.* By removing the two geographic limiters, the Panel will have the potential to engage with all affected Indigenous communities in this review.

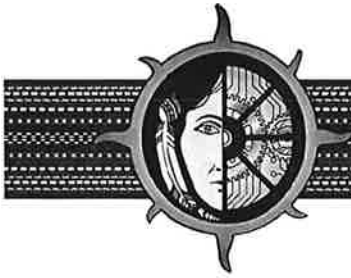
### Scope of the Review

#### 1. Governance

It is our believe that the Panel be mandated to specifically consider how they will consider concerns related to Indigenous rights. Too often Indigenous Knowledge and Indigenous ways of knowing are marginalized in the assessment process, and we believe it is vital Indigenous knowledge be used as an evaluation tool. This seems particularly important given that there is an emerging consensus within scholarly, governmental, and regulatory circles that IK represents an invaluable resource to be used in planning, impact assessment, monitoring and reclamation, and that IK needs to "be given the same consideration as scientific knowledge in evaluating potential effects of a proposed project."<sup>1</sup>

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<sup>1</sup> Elmar Plate, Malcolm Foy, and Rick Krehbiel, *Best Practices for First Nation Involvement in Environmental Assessment Reviews of Development Projects in British Columbia*, Vancouver: New Relationship Trust, 2009. See also Canadian Environmental Assessment Agency, *Reference Guide Considering Aboriginal Traditional Knowledge in Environmental Assessments Conducted under the Canadian Environmental Assessment Act, 2012 (Ottawa: CEAA, 2015)*; Maria Rosario Partidario,



### **The Panel**

It is our believe that the panel be mandated to include at least one representative that is Indigenous or that has extensive experience working on behalf of Indigenous peoples in the assessment process. Too often Indigenous Knowledge and Indigenous ways of knowing are marginalized in the assessment process, and we believe it will be difficult for someone who does not have the experience of working directly with Indigenous people and IK to fully comprehend the challenges communities face in the current system.

### **Stakeholder Engagement**

In northeastern Alberta there is a long history of working with Multistakeholder groups to develop and implement policy decisions regarding environmental assessment. The Cumulative Environmental Management Association (CEMA) has been an effective vehicle for Indigenous organizations, industry associations and environmental groups to work together to develop oil sands policy. We would therefore strongly encourage the Panel to engage with this group when developing recommendations concerning engagement in northeastern Alberta.

### **Indigenous Engagement**

While we appreciate the draft Terms of Reference recognition that the Panel needs carefully weigh national, regional and local interests, we would strongly encourage them to focus the majority of their time and energy engaging with local communities who have directly participated in the Environmental Assessment process. The impacts of industrial development are most often felt on a local scale, and focusing the review as such will allow the Panel to understand whether local concerns are effectively understood in the current assessment process.

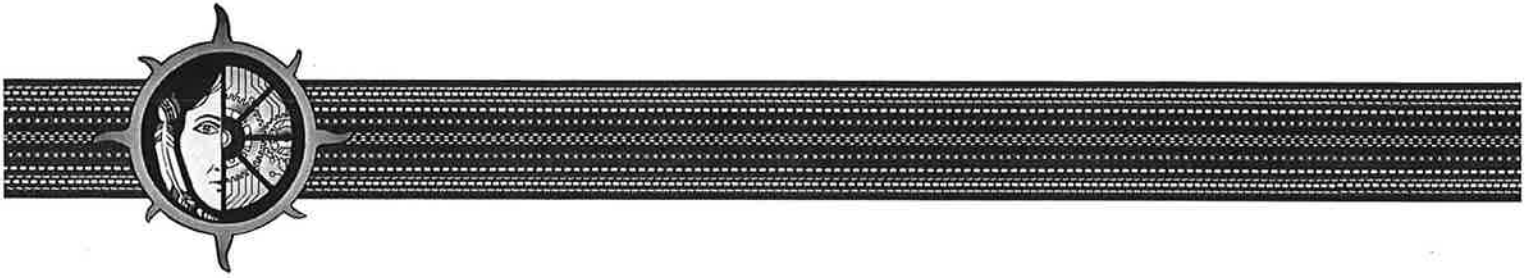
### **EA (Environmental Assessment) Review Report**

Finally it is our recommendation that the Review Report include implementation recommendations and a schedule for periodic policy review. This will help ensure

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*'Knowledge Brokerage: Potential for Increased Capacities and Shared Power in Impact Assessment'*, *Environmental Impact Assessment Review* 39, 2013, pp. 26-36; Sari M., Graben, *'Writing the Rules of Socioeconomic Impact Assessment: Adaptation Through Participation'* *Comparative Research in Law and Political Economy Research Paper Series No. 23*, Toronto: Osgoode Hall Law School, 2010; Chris Paci, Ann Tobin, and Peter Robb, *'Reconsidering the Canadian Environmental Impact Assessment Act: A Place for Traditional Environmental Knowledge'*, *Environmental Impact Assessment Review* 22, 2002, pp. 111-127.

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that the recommendations made through the review are effectively implemented in a timely fashion.

**Summary**

McMurray Métis is excited this review Panel is being created, and look forward to working with them to ensure that our story is heard. McMurray Métis believe that if the proposed review's Terms of Reference are updated include our recommendations are incorporated into the review's Terms of Reference, that the review will meet our community's needs and will be instrumental in creating a meaningful and robust assessment process.