



Wildlife, Lands and Environment Department

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Re: Comments and Recommendations from LKDFN on the RSEA in NWT

To Joelle Crook,

The Łútsël K'é Dene First Nation (LKDFN) has participated in the Regional Strategic Environmental Assessment (RSEA) workshop in June 2022, has reviewed the presentations, summary reports, and have discussed the matter internally.

LKDFN views this proposal by the Tłı̄chq̄ Government as an opportunity to be forward-thinking in our stewardship of the land, and plan for a sustainable future. The past few decades have brought about changes to our land, water, and wildlife that we have not seen before. Currently, the territory's approach to decision-making for activities on the land is based in a colonial system that looks at projects in isolation, and is reactive to the changes that are occurring, instead of taking a step back and looking at the collection of projects and impacts, and taking a wider view to address them.

In the submission attached, LKDFN will outline our perspective, priorities, give our thoughts on scope, governance and other matters that we believe are important to consider. LKDFN intends on participating fully in this assessment should it go ahead.

Thank you for your time to consider our submission.

Sincerely,

Laura Jane Michel
Wildlife, Lands and Environment Manager

Perspective:

LKDFN is aware of the many parties that need to be consulted and have opportunities to contribute to the development of this RSEA. The so-called Slave Geological Province (SGP) is a vast area, over many jurisdictions, lakes, and lands. When making decisions for the future in this area, LKDFN looks to see the impacts of these decisions being positive for future generations first and foremost. Along that vein, the Federal Minister has an obligation to ensure that Indigenous ways of life are not interfered with, or neglected in the outcome of this assessment. What that means to us, is that sustainable use of the land from an Indigenous perspective is considered the highest priority. There are many stakeholders, temporary land users and exploiters, but there are few rights-holders, and these rights-holders are the ones that will be here in the future. Therefore, we seek to ensure that the rights-holder perspectives outweigh those of the stakeholders.

In this process, there will surely be project proponents and industry advocates, seeking less red tape, fewer restrictions, and even fewer guidelines to follow to carry out their projects. They will ask for certainty, they will want to know there is a future for mining in this area, and they will declare that without them, there will be no jobs. Though industrial development should certainly be a part of the discussion, the narrow view of industry cannot guide the direction of the RSEA. Dr. Bram Noble noted in his presentation during the workshop that a values-based approach is the most important, and that we should ask ourselves, what do we want our future to look like? To this question, our priorities below outline what our values are.

We can't guide the direction we're headed while we're dealing with the docket of projects on a day-to-day basis. This RSEA offers an opportunity to take a step back, and make a guiding plan for the area that we're looking to manage as good stewards, knowing that at some point, we will have to balance the needs of the economy with our needs for a healthy environment.

Scope:

Defining the geographic extent of the study area is an interesting question. It would certainly vary based on what it is the RSEA is trying to achieve. As explained further below, LKDFN's primary concern is doing what we can to preserve what's left of the caribou herds, and limit disturbance on their range. **In this context, our support would be behind an RSEA for the entirety of the Bathurst Herd's historical range.** This historical range covers most of the SGP, and would be the ideal scope for addressing our caribou priority. That being said, LKDFN also believes that focus in this **assessment should be put in subregions of high anthropogenic disturbance within the caribou range.** With this prospect, LKDFN believes that it is important to include Indigenous people from the Nunavut side of the border in this review. It would enhance the knowledge available, and seek to share the same vision of the caribou range.

As this assessment will seek to be forward looking, there should be a temporal scope identified in the outset as well. It may be wise to seek a long view on future anthropogenic activities, changing climate, and varying wildlife conditions. LKDFN

recommends a **temporal scope of 25-50 years** into the future, assuming a 2023 startup date, that would allow the assessment to look forward as far as 2073.

Priority #1: Caribou

What LKDFN would like to see, is decisions being made in the best interest of caribou and their habitat, and then determining the viability of industrial developments through the lens of sustainable caribou populations. Ideally, we would also like to see certain areas, as identified by local First Nation land users, to be off limits for development, based on importance of caribou habitat, as well as cultural importance.

At the workshop the question was raised several times, “What is the problem we are trying to solve?” **The glaring problem from our perspective is the declining caribou, and the unsuccessful attempts at managing the decline.** LKDFN has participated in the last several large reviews urging boards to take a stronger stance for caribou, and we see this RSEA as an opportunity to continue to push this approach. The impacts on caribou have been the priority from several First Nations in many regulatory processes in the past decade. From seeking to improve Wildlife Monitoring Plans and Programs, to working to improve the poor design of a new waste rock pile at an important caribou crossing, LKDFN and others have had to suffer too many tradeoffs that often end in further caribou impacts, and fewer benefits to communities. The RSEA is an attempt to avoid tradeoffs, and work for mutual benefit.

Priority #2: Cumulative Effects

Useful cumulative effects assessments and then action to limit these effects is the largest gap in practice in the north. Each project seeks to address cumulative effects but have no real motivation to complete work beyond their own study area. **The RSEA could be the first dedicated view on the area as a whole**, and determining if the levels of impacts are acceptable, if we need to have thresholds for development, and what our ideal development scenarios look like.

Priority #3: Industry Guidelines

LKDFN recognizes that some developments may be necessary for economic prosperity in the north. But there must be balance. There cannot be unlimited development, so what does that look like in our future? LKDFN believes we should work towards some limits on new projects for conservation, and economic reasons.

LKDFN believes that anthropogenic disturbance is one of the leading causes of wildlife declines, and should be limited at some point, for the protection of that wildlife. The benefits that flow to communities are in the way of funds, and job prospects. But with the current level of operational mines, most First Nation workers that can work, are working, and a new mining development may not improve those job prospects for First Nations. LKDFN believes timing developments better to be a way that we can act sustainably for wildlife, and the economic future without sacrificing either. We were told to look towards win-win opportunities. **Having a spatial and temporal threshold for**

development is a hope, but how that plays out may be something that this RSEA could achieve.

In review of the Beaufort RSEA, it seemed assessment of future development scenarios was a good approach, so that the parties would be able to get an understanding of what impacts different levels of development could have. How these scenarios could impact physical, biological, socio-cultural, and economic values would really help to give a sense of priorities for each community.

Governance Structure:

The Federal Minister may establish a committee to conduct this study, and the appointment of members on this committee is important. Ideally all interested parties with information and knowledge to contribute should participate in this committee. This approach would see a very large committee conducting this study which may not be entirely feasible. So, although LKDFN would like to have a seat on this committee, or at least, the power to appoint a member, we would like to focus on the proper governance approach of our First Nation, where Chief and Council approval is required in order for the results to be finalized. **A consensus-based decision-making approach is favoured by LKDFN, which means each of the First Nation's leaderships must approve the results before submission to the minister.** The authority of the First Nations in this region must be respected.

Indigenous leadership on this committee is essential, however the appointment process works. This committee should be supported through specific steering groups with subject matter experts, including Indigenous Knowledge there to the fullest extent possible. Indigenous parties can choose where they would prefer their expertise be included in the specific steering groups. The Minister may also enter into agreement or arrangement with established authorities responsible for examination of environmental effects in the area in question. To this, LKDFN notes that the Akaitcho communities are not represented by the established boards responsible for environmental effects, even though several hold responsibilities for parts of Akaitcho Territory. In order to address the concerns of the Akaitcho communities, it would be necessary to give Akaitcho communities special consideration for participation in these discussions, in order to adequately address potential infringement on our inherent rights.

The Federal Minister will also establish a Terms of Reference (ToR) for the committee, and we hope that if the Minister is looking to address affected First Nations, the plight of the caribou factors heavily into the Minister's decision on the purpose of this assessment. LKDFN would also reinforce the point that First Nation's leadership should have time to approve the final report, and having this stated in the ToR would be wise.

Lastly on this, if the Minister decides to have parties identify representatives to sit on this committee, that there is a sufficient amount of time allotted for Indigenous Governments to determine how they select representatives.

Other:

Participant funding is a must in this exercise. There will be a substantial amount of information to review, meetings to be called and perspectives to be shared. It is likely that this will be a lengthy process that will take a great deal of attention to already capacity stricken First Nations. Although LKDFN believes that an effective RSEA could ease our workload in the future, currently, it is another EA that we must be adequately prepared for. Both the MVEIRB and the NIRB mentioned in the workshop that participant funding is the best way to achieve success in EAs, and a regional EA is no different. On this subject as well, is the inclusion of Indigenous Knowledge (IK). It will be important for the committee and the Minister to ensure IK protocols are followed. The principles of Free, Prior, and Informed Consent, the necessity of data sharing agreements, and the verification of data shared are the most important, and to do this effectively, the participant funding should identify the need for legal review of the data sharing documents, before work begins.

Throughout the work, it may be feasible that gaps in knowledge would come about. It is important to document these and identify them in a final report of information that would contribute to a greater understanding of the state of the area. It will be important that the outcomes of this assessment will be referenced in the future by the Review Boards and Land and Water Boards that regulate industry, and researchers looking to close gaps.

It is important to identify how this assessment will inform future land use decisions and other project-specific assessments. With the time and effort going into this assessment, it would be worthwhile, as Dr. Blakley noted, to ensure the strategic “value-add” to regional planning and project level assessments is clearly defined.

Finally, to note for further consideration, several of the presenters in the workshop identified these assessments as an opportunity to advance reconciliation efforts with First Nations and contribute to nation building. With all the First Nation at the table in this process, it would be appropriate to have Indigenous people be guiding the process throughout, as committee members, as facilitators, as storytellers and as leaders.

Participation:

LKDFN sees potential in the development of this RSEA and would participate throughout if it proceeds. Treating it as more than a project specific EA, LKDFN will look to guide the process through incorporation of our values and approach. Where submissions are required, where workshops are held, and when focus groups are created for specific issues, LKDFN will seek the knowledge of our community members and leadership to enhance the results of the assessment.

Summary:

LKDFN believes that the territory needs to move away from a reactive approach to project assessment and start to create our ideal vision for the territory as a whole.

LKDFN does not intend to make decisions for other First Nations' territories, yet there is substantial overlap of LKDFN and Akaitcho Territory as part of this discussion, and we will participate in the best interest of the land, water, and wildlife.

The focus of caribou cannot be overstated. Cumulative effects on the land and wildlife should be a goal worth pursuing in this review. Development in terms of thresholds, and what the land can sustain is a lofty but achievable goal for this assessment as well.

Finally, in order to make the best decisions for the land, and for future generations, the Minister would be wise to ensure Indigenous leadership throughout all levels of this regional assessment.