

The Mikisew Cree First Nation Culture & Rights Assessment



JEFF NISHIMA-MILLER | 2022

Case Studies and Experiences in Indigenous-led Impact Assessment



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The case studies in this series look at some of the ways that Indigenous Nations and organizations in Canada have implemented their own environmental impact assessment processes. The series provides examples, experiences, and information that can help Nations interested in developing their own assessment process. The cases illustrate how Indigenous-led impact assessment has been designed to reflect the distinct location, histories, natural resource issues, and governance approaches of a Nation.

The Nation

The **Mikisew Cree First Nation (MCFN)** are a Treaty 8 First Nation whose traditional territory covers the area often referred to as northeastern Alberta, Canada. This area spans over the lower Peace River, lower Athabasca River, and Peace-Athabasca Delta, much of which includes the Northern Alberta oil sands.

The Frontier Oil Sands Mine Project

In 2011 **Teck Resources Limited (Teck)** applied for Environmental Impact Assessment (EIA) approval to develop, operate, and decommission the Frontier Oil Sands Mine Project. The project has since been abandoned but would have been the largest single oil sand pit mine in Canada. The proposal included a physical disturbance of 29,000 hectares, with three mine pits, five external tailings areas, and supporting mining infrastructure.

Due to the size and extent of the project, it was subject to federal and provincial (Alberta) EIA under the *Canadian Environmental Assessment Act 2012*, and Alberta's *Environmental Protection and Enhancement Act, 2000*.

Developing the Mikisew Cree Culture and Rights Assessment

The proposed project was within the territories of the MCFN. The project would also take place in the Peace-Athabasca Delta, which is a Mikisew cultural keystone area. Mikisew knowledge holders recognize the geographic area of the project footprint as a place of ecological integrity and home to the Ronald Lake bison herd- the last bison herd within Mikisew territory that holds population levels which support sustainable harvest.

Cover photo: A Wood Bison (*Bison bison athabascae*) in the snow. (Photo credit: ca2hill)



Photo credit: Mary Wandler

Oil lease illuminated by a moon lit sky and northern lights.

MCFN have criticized provincial/federal EIAs for primarily focusing on biophysical measures and traditional land uses, while overlooking Mikisew culture and rights. MCFN have identified proponent and government-led assessments as barriers to inclusion because they often favour western science over Mikisew knowledge. To address these challenges and following preliminary discussions between MCFN and Teck, the company agreed to not undertake a proponent-led traditional land-use assessment for MCFN. Instead, Teck agreed to use the **Mikisew Cree Culture and Rights Assessment (MCCRA)** in their EIA application.

The primary goal of completing the MCCRA was to provide assessment agencies and the proponent (Teck) with information and an assessment of Mikisew rights and culture directly from the Mikisew perspective. The MCCRA was developed to deliver baseline information regarding the existing status of the practice of Mikisew culture and rights in the region, and to undertake an assessment of the potential impacts that would result from the Frontier Project on Mikisew culture and rights (as outlined by Section 35 of Canada's Charter of Rights and Freedoms and Treaty 8).

Implementing the Mikisew Cree Culture and Rights Assessment

The work required to complete the MCCRA was organized into three main tasks (Figure 1), which involved several research activities. The identification of three **valued components¹** (VCs) which represent Mikisew culture and rights was a key activity in completing the three main tasks (Figure 2).

¹ Valued components can include aspects of the environment, society, culture, rights, economy, etc., that are of significance. In EIA, valued components are commonly used to assess the effects of a proposed activity, including anticipated impacts.

FIGURE 1: Mikisew Cree Culture and Rights Assessment Main Tasks

Task 1: Work Planning and Methods

Confirm the scope of work, budget, assessment methods, confirmation of valued components- including measures and indicators (Figure 2), and interview instruments.

Task 2: Review

Review of existing baselines, gap analysis, VC based focus groups, follow-up interviews and on- territory documentation (Box 1). This task aimed to deliver a baseline summary and gaps

Task 3: Reporting

Reporting and community-based assessment, including review of results, impact pathways, management options, and assessment of project effects. This task aimed to deliver a final version of the MCCRA and conclusions report.

FIGURE 2: Valued Components and Associated Indicators and Thresholds for the Mikisew Cree Culture and Rights Assessment

WAY OF LIFE VC: MIKISEW CULTURE, IDENTITY, LANGUAGE, AND SENSE OF PLACE

Indicators: Mikisew language, sense of place, identity, and ability of MCFN members to maintain transmission of knowledge, practice, place, and experience between generations.

Thresholds: Current and future MCFN generation's ability to practice and pass on Mikisew language, culture, identity, and sense of place to future MCFN generations within the Regional Study Area (pre-1965).

HARVESTING RIGHTS VC: MIKISEW SUBSISTENCE PRACTICES IN THE PROJECT AREA

Indicators: Subsistence and cultural use in the area, inclusive of important species and resources, harvest locations, and subsistence activities such as hunting, fishing, and foraging.

Thresholds: Current and future MCFN generations' ability to sufficiently access quantity and quality culturally important resources needed to support MCFN harvesting (pre-1965).

GOVERNANCE AND STEWARDSHIP VC: MIKISEW DECISION-MAKING

Indicators: Mikisew stewardship autonomy in decision-making.

Thresholds: Current and future MCFN generations access to adequate provisions to support Mikisew environmental stewardship and autonomy in decision making.

BOX 1: Linkages of the Mikisew Cree Culture and Rights Assessment to Land Use Planning

Much MCFN territories have been subject to significant industrial development, including large-scale oil sand mining along the Athabasca River. The scale of industrial development and associated environmental degradation has created challenges for upholding Treaty 8 rights and Mikisew traditional ways of life.

To address these impacts, MCFN implemented a Land Use Plan in 2014, as a living document to be used in determining the most important areas for the conservation of natural resources across MCFN territories. The Land Use Plan initiated the completion of several Traditional Land Use surveys; mapping containing animal and vegetation information; collection of development, oils sands, and mining information; and identification mapping of areas needing further protection as well as those suitable for development.

The completion of the MCCRA main tasks and research activities were supplemented with a review of existing Mikisew data (much of which was initiated and completed through the MCFN Land Use Plan) (Figure 1- task 2). For example, the review of previous Mikisew data related to harvest rights collected through past Mikisew knowledge use studies, which provided site-specific data pertaining to preferred species, means of harvest, and harvest locations.

By using data completed through the Land Use Plan prior to the MCCRA, efficiencies were provided throughout their assessment- saving time, financial, and human capacity resources- which would have otherwise been utilized completing such studies at the time of the assessment for the Frontier project.

The likely impacts on the identified VCs (way of life, harvesting rights, and governance and stewardship) were measured by using indicators and thresholds. Indicators were used to identify the interconnected conditions Mikisew community members associate with a healthy way of life, rights, governance, and stewardship (Figure 2).

Thresholds were measured using *pre-1965* baselines, which was based on the judgement of Mikisew knowledge holders as the last time Mikisew peoples were able to sustain harvesting practices consistent with the harvesting practices that existed around the time of the signing of Treaty 8 in 1899. For example, when assessing the Frontier projects anticipated impacts on the 'way of life' VC, the review of rights for current and future generations to practice and transmit their language, culture, identity, and sense of place to future generations was measured against pre-1965 conditions.

Outcomes of the Mikisew Cree Culture and Rights Assessment

Following the completion of the three main research tasks of the MCCRA (Figure 1), MCFN found that there had already been significant impacts on Mikisew culture and rights throughout their territories, including the Peace-Athabasca Delta. Recognition of existing impacts solidified the importance of protecting the integrity of remaining areas for ensuring the future practice of Mikisew culture and rights. The MCCRA concluded that if the project was built, there would be significant adverse effects on all three VCs.

To accommodate this, Canada and MCFN suggested several measures for the Review Panel's consideration that could be used to address the potential impacts on MCFN's asserted Aboriginal and treaty rights. These included bison protections; a project-specific Teck Frontier monitoring and oversight committee; delta protection and Peace-Athabasca Delta monitoring and research; cultural programming; and caribou protection.

In 2018, Teck and MCFN announced the signing of a **Participation Agreement** regarding the Frontier Project. The Participation Agreement identified economic benefits for MCFN connected to the Frontier Project, set out a framework for traditional land use and environmental stewardship for the project, and provided a framework for communication/engagement for the entire lifetime of the project. The Participation Agreement also committed Teck

to mitigate the effects of project impacts on MCFN's use of the land and resources for traditional purposes; physical and cultural heritage; social, economic, and health effects; and MCFN rights. Although the Participation Agreement was created, MCFN maintained their right to withdraw their support for the project prior to any final authorizations.

The accommodation measures suggested by MCFN, in conjunction with the Participation Agreement accelerated discussions with Teck about protecting key areas of the Athabasca-Peace Delta and the Ronald Lake Bison Herd. MCFN advocated for a **Biodiversity Stewardship Area (BSA)**, which would help mitigate the project's impact on the Ronald Lake Bison Herd and the ongoing degradation of the Wood Buffalo National Park. In response, in 2018, the Government of Alberta announced its intention to establish a Biodiversity Stewardship Area Wildland Provincial Park adjacent to and immediately south of Wood Buffalo National Park.

MCFN communicated that they would withhold support for the Frontier Project until the BSA was solidified. In 2019, MCFN reached an agreement with the Government of Alberta, Teck Resources Ltd., Imperial Oil, and Cenovus Energy for the mitigation of impacts on the sustainability of the wood bison harvest. The agreement included the establishment of a BSA adjacent to Wood Buffalo National Park, which would preserve a land base for traditional activities (including bison hunting). The BSA was established as the 161,880-hectare Kitaskino Nuwenene Provincial Park, which was designated as open to traditional land uses by Indigenous people. With this designation, Mikisew Cree announced their support for the Frontier Project.

On February 23rd, 2020, Teck Resources Ltd. formally withdrew their application for the Frontier Project from the EIA process. The project would no longer proceed to the development stage, although mitigation measures related to the established BSA would remain. The company cited changing global capital markets, and investor and customer uncertainty about Canada's lack of a framework that reconciles resource development and climate change, as reasons for withdrawing the project.

Lessons Learned from the Mikisew Cree Culture and Rights Assessment

The MCFN Culture and Rights Assessment illustrates the benefits of ensuring the accessibility and connectivity of existing data sources for the purpose of project-based



assessments. This contributes to developing thresholds and indicators which can be used to identify values, determine significance, and guide decision-making within assessments. Linking existing data sources to an assessment can save resources including time and financial and human capacity, while simultaneously building internal capacity among staff, community members, and leadership. In this case example, MCFN was able to integrate past land use planning studies and associated data into their assessment for site-specific data pertaining to preferred species, means of harvest, and harvest locations.

Where to Learn More About the Mikisew Cree Culture and Rights Assessment

Mikisew Cree First Nation Website: <http://mikisewgir.com/#who-we-are>

Candler, C., Olson, R., Firelight Group, & Mikisew Cree First Nation. (2013). *Mikisew Cree First Nation Indigenous Knowledge and Use Report and Assessment for Teck Resources Limited's Proposed Frontier Oil Sands Mine Project*. Retrieved from <https://www.acee.gc.ca/050/documents/p65505/114477E.pdf>

Candler, C., Gibson, G., & Malone, M. (2015). *Wiyôw'tan'kitaskino (Our Land is Rich): A Mikisew Cree Culture and Rights Assessment*. Retrieved from <https://open.alberta.ca/dataset/5da3a4f0-f982-4f8e-af9b-cb00c39fb165/resource/360a4892-0a07-4388-b7a2-7ce6c2908cc9/download/mcfn-wiyowtankitaskinofinal-for-pdfsept16.pdf>

Gibson, G. (2017). *Culture and Rights Impact Assessment: A Survey of the Field*. Retrieved from https://firelight.ca/wp-content/uploads/2016/03/MCFN-303_MAPP-Report_Final.pdf

Case Study Development

This case study was constructed using a review of published (print and online) primary and secondary documents that are publicly available. This includes sources such as independently produced assessment reports by the Mikisew Cree First Nation and associates, EIA reports, Crown consultation and accommodations reports, decision statements, and proponent project applications. A special thanks is owed to Mark Gustafson, who provided feedback, expertise, and guidance on the accuracy of this case study.

Other case studies and resources in the series

Indigenous Led Impact Assessment, An Introduction

The Squamish Nation Process for the Woodfibre Liquified Natural Gas Plant and Export Terminal Proposal

The Stk'emlu'psemc te Secwepemc Nation Assessment Process and the Ajax Mine Proposal

The Tsleil-Waututh Nation Assessment for the Trans Mountain Pipeline and Tanker Expansion Proposal

The Ktunaxa Nation Rights and Interests Assessment and the Fording River Operations Swift Coal Mine Expansion

FOR MORE INFORMATION:

THE CENTRE FOR ENVIRONMENTAL ASSESSMENT RESEARCH (CEAR)

The University of British Columbia,
Okanagan Campus
Room 246, Fipke Centre,
3247 University Way
Kelowna, BC, Canada V1V 1V7
ok-ceil.sites.olt.ubc.ca