



Alberta Wilderness Association

## Chin Reservoir Impact Assessment Request Denied



A photo of the upper Chin Reservoir, east of Highway 36. Photo © Cheryl Bradley.

Dear AWA members,

Alberta Wilderness Association (AWA) and other concerned parties are

disappointed to learn that the Chin Reservoir expansion project will NOT be required to undergo a federal impact assessment.

On June 29, EcoJustice received a response from the Minister of Environment and Climate Change Canada (ECCC) Steven Guilbeault regarding our request to designate the Chin Reservoir for an impact assessment under the Impact Assessment Act (IAA). The Chin Reservoir expansion is just one activity that forms part of the larger Alberta Irrigation Modernization (AIM) Program – formerly referred to as the South Saskatchewan River Basin Irrigation Infrastructure Expansion Project. Our request for designation highlighted many key concerns including in-stream flow needs for aquatic ecosystem health, impacts to native grasslands, altered groundwater flows, and impacts to species at-risk. Our request for a Ministerial designation was denied.

The response was accompanied by an analysis report by the Impact Assessment Agency of Canada (IAAC) outlining reasons for denying the request. This report indicates that the Minister's decision has been in part based on the alleged sufficiency of Alberta's provincial environmental assessment (EA) process and other legislative processes for addressing the potential adverse effects of this expansion project.

We are disappointed with the Minister's decision and disagree with the IAAC analysis report that provincial environmental assessment and other provincial legislative processes will be sufficient for addressing concerns with the project. First, the provincial environmental assessment legislation, the Environmental Protection and Enhancement Act (EPEA), and the Natural Resources Conservation Board Act (NRCB Act) under which the NRCB will review the project, only specifically permit persons (individuals and groups) who are directly affected by a project to participate in assessment and decision-making processes, except for commenting on Terms of Reference for an environmental assessment, mentioned below.

Government officials and courts have interpreted "directly affected" narrowly to require an individual's or group's interests to be personally, directly, and adversely affected by a project to participate, for example a person with property rights that the project directly will harm. By contrast, the federal process under the IAA is not limited to those directly affected by a project. The IAA requires that the public be given an opportunity to meaningfully participate in an assessment (s 27) and that public comments be considered in the assessment (s 22(1)(n)). Thus, the federal Minister's denial has limited the

AWA and others in their ability to effectively participate in the public interest.

Second the project has many potential adverse impacts on matters within federal constitutional jurisdiction such as fisheries, migratory birds, species at risk, transboundary waters, and Indigenous peoples and the IAAC report identifies many of these. Provincial assessment and other legislated processes will likely not – and perhaps cannot – be as fulsome and robust as a federal assessment when considering these matters. The federal government has the laws, policies, major expertise, staff, infrastructure, and interest in seeing that these matters are managed well and in line with federal and national expectations.

Third the IAA requires a number of factors to be considered in an assessment (s 22) that are not required by the EPEA, unless a Director orders them to be considered (s 49) such as the purpose of and need for a project, and the project's contribution to sustainability – all critical considerations for a project that will increase water use in a stressed and in parts over-allocated water basin. Also, the IAAC report suggests that the provincial assessment process, being focussed on the reservoir, will not address the conversion of grasslands to agriculture as a cumulative effect, at least in respect to loss of carbon sequestration, except in relation to flooding (report p 11). We strongly hold that cumulative effects must include the conversion of grasslands to irrigated agriculture. Although the IAA is relatively new legislation (2019) and not subject to extensive judicial interpretation, given its purposes, factors to consider in an assessment, definitions of environment and effects within federal jurisdiction, assessment of cumulative effects under the IAA's would likely be broad enough to include conversion of grasslands.

We have not received any response from ECCC regarding the other two proposed reservoir projects – Snake Lake and Deadhorse Coulee – which we requested for IAAC designation as well. As we understand it, a response on these two projects will likely come sometime between August and September. Although we would not be surprised with a similar response from Minister Guilbeault to the outcome of Chin Reservoir, we urge the Minister grant our outstanding requests, and in these assessments consider the Chin Reservoir in assessing “cumulative effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out” (IAA s 22(1)(a)(ii)).

The next opportunity we are aware of for action by concerned parties as it

relates to these three reservoirs will come as part of the Alberta Environmental Assessment process. We are awaiting the release of the draft Terms of Reference for each of these projects, as this is one of the only opportunities for submitting public comment (EPEA, s 48).

In closing, we urge our members and readers to consider whether they know may be directly affected by the Alberta Irrigation Modernization (AIM) Program, or parts of it, and if so, to consider participating in legislated processes. Although government states it makes a determination of “directly affected” on a case-by-case basis, directly affected persons could possibly include landowners, water right holders, Indigenous communities (who also may have independent constitutional rights to consultation and accommodation), and others whose unique interests or livelihoods will be directly and adversely affected by the Reservoir projects.

For any questions or concerns regarding this issue, please contact AWA’s Phillip Meintzer at (403) 283-2025 or [pmeintzer@abwild.ca](mailto:pmeintzer@abwild.ca).

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