

BY E-MAIL ONLY

January 24, 2018

Lawson Lundell

Attention: Mr. John Olynyk

**Re: Canadian Natural Resources Ltd. (CNRL)
Horizon Oil Sands Processing Plant and Mine Tailings Management Plan
Alberta Energy Regulator (AER) Decision No. 20171218A (Decision)
Commercial Scheme Approval No. 9752E (Approval)
Request for Reconsideration No. 1905404**

Dear Sir:

Your letter of January 15, 2017 addressed to Mr. Ferensowicz requesting reconsideration of the Decision (Request) has been forwarded to me for a response, as I have the delegated authority to reconsider decisions of the AER.

The AER has express authority to reconsider its decisions pursuant to section 42 of the *Responsible Energy Development Act (REDA)*. That section states:

The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

As indicated in section 42, it is at the AER's sole discretion whether to reconsider a decision made by it. That section does not provide an appeal mechanism to be utilized by industry or members of the public. Other provisions of *REDA* are available for that purpose. Given the appeal processes available under *REDA*, and the need for finality and certainty in its decisions, the AER will only exercise its discretion to reconsider a decision in extraordinary circumstances and where it is satisfied that there are exceptional and compelling grounds to do so. Mere disagreement with a decision is not sufficient.

The Request includes an alternative to reconsideration. On my reading, CNRL is in essence requesting clarification of the Approval. Therefore, I have concluded that reconsideration of the Approval is not necessary to address CNRL's concerns in light of the clarification provided below.

The AER recognizes that extensive research on water-capped tailings continues and the Government of Alberta (GOA) will be developing policy and ready-to-reclaim performance criteria for water-capped tailings deposits as a feature of closure landscapes. To clarify clause 48 of the Approval, the AER confirms that, if the feasibility of water-capped tailings is demonstrated and the GOA implements applicable policies permitting their use, operators may apply to the AER to amend existing approvals to seek authorization to implement water-capped fluid tailings. In CNRL's case, clause 55 of the Approval expressly contemplates future amendment of the Approval to permit placement of water above treated or untreated tailings to create a pit lake.

The AER confirms CNRL may continue to plan on the basis that water-capped tailings is an option unless water-capped tailings proves to not be feasible and/or GOA policy does not allow it. Further, as per clause 37 of the Approval, CNRL is required to plan for an alternative to water-capped tailings.

We trust the above addresses CNRL's concern regarding interpretation/clarification of the Approval.

Yours truly,

<original signed by>

Patricia M. Johnston, Q.C., ICD.D.
Executive Vice President, Law and General Counsel

cc: AER Regulatory Appeals Coordinator
Jodi McNeil, Oil Sands Environmental Coalition
Eber Araujo, Fort McKay First Nation
Jenny Gerbrandt, McMurray Metis (MNA Local 1935)
Rose Ross, Athabasca Chipewyan First Nation
Paul Ferensowicz