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October 28, 2019

Melina Scoville

Lakeland Métis Local Council #1909 (ML 1909)

CANADIAN NATURAL RESOURCES LIMITED (CNRL)
APPLICATIONS NO. 1920658 AND 009-00224816
STATEMENT OF CONCERN NO. 31516

Dear Melina Scoville:

You are receiving this letter because you filed a statement of concern regarding Applications 1920658 and 009-00224816 (the Applications). The Alberta Energy Regulator (AER) has reviewed your statement of concern, along with the Applications, and all applicable requirements and other submissions or information about the Applications. The AER has decided that a hearing is not required to consider the concerns outlined in your statement of concern. The AER has issued the applied-for approvals and this is your notice of that decision.

In our review of your concerns, we considered the following:

- ML 1909 represents the interests of members of the local Métis community based in Lac La Biche, Alberta. The expansion project is located approximately 122km SW of Lac La Biche.
- You state that ML 1909 members have ties to the expansion project area based on family connections, historic and contemporary occupancy, and the ongoing use of the area for hunting, trapping and fishing for food, which are constitutionally protected rights. You specifically highlight traditional hunting, trapping and fishing areas around Sunday Creek that traverse the expansion project area, and state that the expansion project area is prime habitat for moose that ML 1909 members hunt for food. To this end, you state that the expansion project would directly and adversely impact the socio-economic wellbeing and Aboriginal rights of ML 1909 and its members.

- However, these general concerns, without further factual connection, do not establish that ML 1909 may be directly and adversely impacted by the Applications. Further information is required to establish a sufficient degree of location or connection between the expansion project and the rights asserted.¹ ML 1909 does not identify in sufficient detail how the expansion project may directly and adversely affect ML 1909 members and their traditional activities.
- Your concerns regarding the traditional hunting, trapping and fishing areas around Sunday Creek are vague, and ML 1909 does not provide the AER with sufficient information outlining how the expansion project may affect the areas around Sunday Creek. That being said:
 - The Applications provide for mitigation measures for Sunday Creek and other watercourses, including a commitment that watercourse crossings and underground pipeline crossings will be appropriately designed and constructed to avoid instream disturbance and minimize erosion and sedimentation.
 - In order to carry out the activities outlined in the enclosed approvals, CNRL will have to apply to the AER for the appropriate dispositions under the *Public Lands Act (PLA)*. Standard conditions in AER-issued *PLA* dispositions require that CNRL comply with applicable watercourse and waterbody setbacks as required in the *Master Schedule of Standards and Conditions (MSSC)*.² ML 1909 will have an opportunity to file a statement of concern outlining concerns regarding the traditional hunting, trapping and fishing areas around Sunday Creek when CNRL applies for the applicable *PLA* dispositions.
 - CNRL is required to comply with applicable laws and regulations as well as the conditions of the attached approvals, including with respect to the reporting and remediation of spills and releases that may occur during the life of the project,³ and the management of industrial wastewater and industrial runoff.⁴
- In relation to your concerns regarding moose habitat:
 - CNRL is required to comply with applicable Government of Alberta policies, guidelines and requirements relating to wildlife impacts, including moose.
 - CNRL must comply with the requirements of Schedule VIII of *Environmental Protection and Enhancement Act* Approval 224816-01-00, as amended, which requires, among other things, that CNRL conduct wildlife mitigation in accordance with the *MSSC* and implement a Wildlife Mitigation and Monitoring Program as authorized in writing by the AER.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

¹ *Dene Tha' First Nation v Alberta (Energy and Utilities Board)*, 2005 ABCA 68 at paras 10, 14, and 18.

² *Master Schedule of Standards and Conditions*, Government of Alberta, 2018.

³ See, for example, *Environmental Protection and Enhancement Act*, RSA 2000, c E-12, ss 110 and 112 [EPEA].

⁴ See, for example, Schedule V in *EPEA* Approval 224816-01-00, as amended.

- CNRL has committed to locating well pads and associated steam-assisted gravity drainage (SAGD) infrastructure on existing clearings and corridors and in areas of low environmental sensitivity where practicable.
- Your concern regarding loss of crown land appropriate for hunting and trapping and loss of access to creeks appropriate for fishing is vague. As stated, CNRL will have to apply to the AER for the appropriate *PLA* dispositions in order to carry out the activities outlined in the enclosed approvals and ML 1909 will have the opportunity file a statement of concern outlining more specific concerns regarding access to crown land when that occurs. Additionally, CNRL is required to progressively reclaim expansion project lands in accordance with applicable Government of Alberta legislation, policy, criteria and guidelines as well as directions from the AER.⁵
- With respect to your concerns regarding engagement between CNRL and ML 1909, and your request that CNRL develop an engagement plan with ML 1909, the Aboriginal Consultation Office granted CNRL consultation adequacy. Additionally, matters relating to compensation are outside of the AER's jurisdiction. The AER does not have authority to direct CNRL to provide funds for, among other things, a traditional knowledge and use baseline study.

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Based on the foregoing, ML 1909 has not demonstrated that it may be directly and adversely affected by the Applications, and a number of its concerns are vague or relate to matters outside of the AER's jurisdiction. As stated, the AER has issued the applied-for approvals, copies of which are enclosed.

All AER-regulated parties must comply not only with the conditions of their authorizations, but with all of the AER's regulatory requirements. To ensure industry compliance the AER has developed its *Integrated Compliance Assurance Framework*, which embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement. You can find out more about how the AER verifies industry compliance and responds to noncompliance here: <https://aer.ca/regulating-development/compliance/compliance-assurance-program>.

Under the *Responsible Energy Development Act (REDA)*, an eligible person may request a regulatory appeal of an appealable decision. Eligible persons and appealable decisions are defined in section 36 of the *REDA* and section 3.1 of the *Responsible Energy Development Act General Regulation*. If you wish to file a request for regulatory appeal, you must submit your request in the form and manner and within the timeframe required by the AER. Filing instructions and forms are on our website under Regulatory Appeal Process.

⁵ See for example *Specified Enactment Direction 001: Direction for Conservation and Reclamation Submissions*, Alberta Energy Regulator, February 2016.

If you have any questions, contact Brittney Goudreau at 780-641-9038 or by e-mail
Brittney.Goudreau@aer.ca .

Sincerely,

<Original Signed By>

Rob Cruickshank
Director, Business Process, Authorizations

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Enclosure (2): (Approvals)

cc: Canadian Natural Resources Limited, Maude Ramsay
Canadian Natural Resources Limited, Greg Brady
AER SOC Assessor
AER Fort McMurray Field Centre
AER Indigenous Relations
Aboriginal Consultation Office