

Edmonton (Twin Atria)

2nd Floor, Twin Atria Building
4999 – 98 Avenue
Edmonton, Alberta T6B 2X3
Canada

BY E-MAIL ONLY

August 1, 2019

tel 780-638-4491

fax 780-442-1459

www.aer.ca

Fort McKay First Nation
Attn: Bori Arrobo

**Re: Canadian Natural Resources Limited
Applications No. 1912063 and 014-00149968
Statement of Concern No. 31314**

Dear Sir/Madam:

You are receiving this letter because you filed a statement of concern regarding applications no. 1912063 and 014-00149968. The Alberta Energy Regulator (AER) has reviewed your statement of concern, along with the company's applications and all applicable requirements and other submissions or information about the applications. The AER has decided that your concerns outlined in your statement of concern have been adequately addressed by conditions in the approvals for the Project.

In our review of FMFN's concerns, we considered the following:

- The HTPFT Project would be located within the existing Horizon Central Processing Facility (CPF), within Horizon's existing boundaries. No additional land would be used or impacted as a result of the Project.
- The impacts of Horizon and the CPF on FMFN's Treaty and Aboriginal rights were previously considered on Application No. 1273113, which was the subject of an Alberta Energy and Utilities Board/Government of Canada Joint Review Panel hearing in 2004, resulting in EUB 2004-005.
- FMFN's members have not been able to exercise their Treaty and Aboriginal rights, or practice any traditional land uses, at the Project site since construction began on the CPF in 2004.
- FMFN has not demonstrated that the Project would have any new or additional impacts on its members' rights or traditional land uses.
- Staff determined that a full environmental impact assessment was not required because the expected environmental impacts of the Project are well understood, would be minimal, and could be managed by current and amended approval conditions.

- CNRL did conduct significant environmental impacts assessments for air quality and noise parameters.
- The Project would increase air emissions associated with increased production capacity and increased mine fleet, although at a significantly lower greenhouse gas intensity than existing production.
- The *Environmental Protection and Enhancement Act (EPEA)* approval will contain conditions requiring CNRL to submit plans addressing mobile mine emissions and VOCs/RSCs, and will set emissions limits for the new auxiliary heater.
- CNRL does not expect the Project to result in a detectable change in air quality beyond 1 km of the Horizon boundary.
- Regional air quality initiatives, such as the Air Quality Management Framework for the Lower Athabasca Region, are expected to address the broader air quality concerns of FMFN and nearby communities.
- The noise impact assessment found that the Project will comply with the AER's *Directive 038: Noise Control* at all ten receptors.
- The AER acknowledges FMFN's concerns regarding the Tailing Management Plan (TMP) and notes that the TMP will be managed by conditions provided in Horizon *OSCA Approval 9752E*.
- CNRL has a prior requirement to provide an integrated tailings and mine plan that was due in early October although CNRL has since requested the date to be changed to November 2019, and the AER had no concerns with that request.
- CNRL has stated that "the generation and accumulation of fine tailings associated with the HTPFT Project will remain within the approved profile presented in the TMP Application, the approved ready-to-reclaim criteria and final approval conditions issued by the AER." At least 18 months prior to commencement of HTPFT operation, CNRL will be required to submit an integrated tailings and mine development plan that incorporates the increased production, and includes construction fill curves with material types and volumes, and structure elevations, for each in-pit and external structure.
- CNRL will be required to prepare a naphthenic froth treatment tailings management plan to be submitted in 2021. The 2021 plan will also include the management plan for the proposed paraffinic froth treatment tailings associated with the HTPFT Project. Conditions will address how these streams may influence approved tailings management plans for Horizon. Conditions will clarify that naphthenic froth treatment tailings losses will not be affected by approval of this application; however, conditions will be added to address the new paraffinic froth treatment tailings solvent losses. Paraffinic solvent loss limits will be more stringent than current limits for naphtha diluent losses.
- CNRL is requesting an increase in water use, but the proposed amount is within the Project's *Water Act* Licence Approval No. 186921-01-00 (renewed in 2015) allocation.
- The *EPEA* approval amendment will contain conditions on solvent loss limits, dust management, mobile mine emissions, VOCs, and RSCs to address FMFN's concerns. With respect to FMFN's concerns about cumulative effects, the Project is subject to the Lower Athabasca Regional Plan, which addresses the management of cumulative impacts on the environment on a regional basis.
- CNRL has committed to continue reclaiming disturbed land to support a self-sustaining, locally common boreal forest ecosystem that is integrated with the surrounding area. CNRL will be required to submit an updated Life of Mine Closure Plan and Mine Reclamation Plan to the AER by December 2019. These plans will provide details of CNRL's reclamation activities and target reclamation outcomes.
- CNRL is required to follow the *Direction for Conservation and Reclamation Submissions – Under an Environmental Protection and Enhancement Act Approval for Minable Oil*

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Sands Sites (Specified Enactment Direction 003) and undertake conservation and reclamation planning throughout the life of the project. Any concerns about reclamation can be raised and considered when CNRL applies for a reclamation certificate after it has reclaimed the site.

- The AER does not have jurisdiction to assess the adequacy of Crown consultation. The Aboriginal Consultation Office provided correspondence to CNRL indicating that the Project does not require consultation.
- CNRL is required to meet all environmental and regulatory requirements.

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Based on the above, the AER has concluded that it is not necessary to hold a hearing before making a decision on the applications. The AER has issued the applied-for approvals and this is your notice of those decisions. Copies of those approvals are attached.

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>.

You may file a regulatory appeal on the AER's decision to issue the approvals if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are on our website under Regulatory Appeal Process.

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

Sincerely,

<Original Signed By>

Lane Peterson

Director, Oil and Gas Surface, Authorizations

Enclosure (2): (Approval)

cc: Canadian Natural Resources Limited, Michelle MacDonald
AER SOC Assessor
AER Fort McMurray Field Centre
AER Indigenous Relations
Aboriginal Consultation Office