

Proceeding 376

July 09, 2019

Calgary Head Office

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By email only

www.aer.ca

Craig Copeland
City of Cold Lake

**Re: Hearing Participation Decision
Imperial CLEP Regulatory Appeal**

Dear Mr. Copeland:

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners (the panel) assigned to this regulatory appeal proceeding.

On September 12, 2018, the AER received a request for regulatory appeal from the Elizabeth Métis Settlement (Elizabeth Métis) under Part 2, Division 3, of the *Responsible Energy Development Act* (REDA) of the AER's decision to approve Imperial Oil Resources Limited's (Imperial) amendment applications for the Cold Lake Expansion Project (Cold Lake Expansion Project or CLEP). The AER issued its decision to hold a hearing on the regulatory appeal on December 20, 2018. The purpose of the hearing is to determine whether the AER should confirm, vary, suspend, or revoke its decision to issue the amended approvals.

On April 1, 2019, the AER issued a notice of regulatory appeal hearing. The notice of regulatory appeal hearing explained how to file a request to participate in the hearing and set a filing deadline of April 16, 2019.

The AER received the City of Cold Lake's request to participate on April 15, 2019. In the request, you state that the City of Cold Lake is in favour of the CLEP proceeding as approved in a timely manner. You also state that the City of Cold Lake's economy is inextricably linked to activity in the surrounding oil patch and that any further delays or cancellations of projects in the area will further threaten the local economy. Further, you request the ability to present a brief statement at the hearing "...to ensure that the City of Cold Lake and its residents' perspective on this issue is heard."

On April 23, 2019, Imperial stated that it took no position on the City of Cold Lake's request to participate.

On May 22, 2019, the panel issued a letter to the parties and request to participate filers outlining the specific issues for the hearing. The panel gave all request to participate filers an opportunity to provide additional written submissions indicating how their requested participation would fit within the specific issues for the hearing. The City of Cold Lake responded on May 27, 2019, reaffirming its desire to participate in the hearing.

On June 5, 2019, Elizabeth Métis stated that it took no position on the City of Cold Lake's request to participate.

On June 5, 2019, the AER's Authorizations Group also stated that it took no position on the request to participate while noting that participation should be limited to providing evidence relevant to the issues in this proceeding per the panel's May 22, 2019, letter.

Hearing Panel Decision

A person wishing to participate in the hearing of a regulatory appeal must file a request to participate in accordance with section 32.1 of the *Alberta Energy Regulator Rules of Practice* (the *Rules*). Subsection 32.1(2) of the *Rules* specifies what must be included in a request to participate.

The panel has considered the City of Cold Lake's request to participate and the submissions referred to above. The panel finds, based on the information before it, that (i) the City of Cold Lake's participation in the regulatory appeal hearing will materially assist the panel in making a decision; (ii) the City of Cold Lake has a tangible interest in the subject matter of the hearing because the CLEP is located in the immediate vicinity of the municipality; and (iii) in light of the scope of participation set by the panel below, the City of Cold Lake's participation will not unnecessarily delay the proceeding or result in duplicate evidence.

For the above reasons and subject to further directions or rulings issued by the panel, the City of Cold Lake is permitted to give their brief statement as requested in its request to participate. The panel would like to remind the City of Cold Lake that the statement will be subject to cross-examination by the other parties and the panel in the hearing. If the City of Cold Lake would like to increase its involvement in the hearing beyond a brief statement, the panel grants the City of Cold Lake full participation in the hearing, including the ability to provide oral and written evidence, cross-examine witnesses, and make representations and argument, solely as it relates to the socioeconomic impacts of the project that will be evaluated under the fourth issue in the list of hearing issues outlined below:

1. Will the Cold Lake Expansion Project, as approved in *EPEA* Approval No. 73534-01-02 and *OSCA* Approval No. 8558MM, directly and adversely affect Elizabeth Métis members' ability to exercise their Aboriginal harvesting rights, including traditional land use activities, on the lands and waters that will be impacted by the Cold Lake Expansion Project?

2. Will the Cold Lake Expansion Project, as approved in *EPEA* Approval No. 73534-01-02 and *OSCA* Approval No. 8558MM, directly and adversely affect Elizabeth Métis members' cultural connection to the lands and waters that will be impacted by the Cold Lake Expansion Project?
3. Can adverse effects identified in the first two issues be appropriately and adequately addressed through conditions?
4. If not, would confirming the approval of the Cold Lake Expansion Project be in the public interest?

The panel encourages the City of Cold Lake and the MD of Bonnyville, which has also been granted participation in the hearing on the same basis, to work together where practicable to ensure that evidence related to the socioeconomic impacts of the CLEP is not duplicated.

Lastly, the panel reminds participants that per section 32.4 of the *Rules*, the panel is obligated to discontinue this regulatory appeal proceeding if Elizabeth Métis withdraws its request for regulatory appeal.

If you have any questions, please contact me at 403-297-3232 or at hearing.services@aer.ca.

Sincerely,

Tammy Turner

Hearing Coordinator, Hearing Services

cc: B. Gilmour, Bennett Jones LLP

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M. LaCasse, AER Authorizations

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