

October 14, 2020

By Email Only

Brad Gilmour
Bennett Jones on behalf of Celanese Canada ULC (Celanese)

Statement of Concern No. 31746
Alberta Diluent Terminal Ltd. (ADT)
Application No. 003-265298

Dear Brad Gilmour:

You are receiving this letter because you filed a statement of concern on behalf of Celanese Canada ULC (Celanese) about Application No. 003-265298 (the Application). The Alberta Energy Regulator (AER) has reviewed your statement of concern, along with the Application and all applicable requirements and other submissions or information about the Application. The AER has decided that a hearing is not required to consider the concerns outlined in your statement of concern.

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

- This is an application for the renewal of the *Environmental Protection and Enhancement Act* (EPEA) approval No. 265298-00-00.
A portion of the lands subject of the Application was historically owned by Celanese Canada Inc. and regulated under Celanese's prior EPEA approval No. 00001349-02-00 for the operations of a chemical manufacturing and processing plant that operated between 1953 and 2007. Celanese's current EPEA approval No. 00001349-03-00 for reclamation continues to overlap with ADT's EPEA approval in this Application.
- The AER is satisfied that Celanese has demonstrated that they are a person who may be directly and adversely affected by the Application and meet the test for standing in s.32 of the *Responsible Energy Development Act* (REDA). Celanese also raises various other bases on which they assert they may be directly and adversely affected. However, these matters relate more to inaccuracies in the initial materials received by ADT or matters outside of the scope of this current approval and are addressed below.

- As Celanese states in its SOC letter, its concerns "mainly relate to correcting inaccuracies in the Application and ensuring terms and conditions in the renewal reflect ownership and operational changes that have occurred since ADT's EPEA approval No. 265298-00-00 was issued in 2010." As will be outlined in greater detail below, the inaccuracies raised by Celanese in the Application that relate to terms and conditions in the approval have been clarified, corrected or otherwise addressed to the satisfaction of the AER.
- In addition, the AER has exercised its discretion under s. 8 of the *Approvals and Registration Procedure Regulation* under the *Environmental Protection and Enhancement Act* (EPEA) and consulted with both ADT and Celanese on the draft terms and conditions of the approval. The input provided by both parties was considered in developing the attached renewal of ADT's EPEA approval (the approval). Based on the comments received and the terms and conditions of the approval, the AER is satisfied that there are no clauses in the approval that would impede Celanese in fulfilling its obligations and responsibilities under its own EPEA approval.
- With respect to concerns raised regarding liability for groundwater and soil contamination, the AER notes Celanese's objections to ADT's assertions in its Application that environmental contamination at the site is attributable to historical non-ADT operations. The issue of liability for contamination is, however, outside the scope of the Application. Responsibility for contamination is a matter to be resolved by the two operators pursuant to EPEA and the applicable regulations. The outstanding issue of responsibility for the contamination does not impact the drafting of the term and conditions in the approval. There is an established approach to resolving overlapping reclamation obligations.
- With respect to statements in the Application that you identify as inaccurate, to the extent those concerns directly relate to the approval, the ADT has addressed those concerns to the satisfaction of the AER. Those concerns and the responses are summarized here:
 - The concerns that were raised around the ownership of the Clearwater Pond, as well as definitions and terms that may link Celanese's EPEA approval No. 00001349-03-00 to ADT's approval, were subsequently clarified by ADT through its supplemental information response, which included a detailed description of the Industrial Runoff Control System for its Bulk Petroleum Storage Facility. This document, in conjunction with the industrial runoff clauses in the attached approval, addresses these concerns.
 - Concerns around statements in the Application that Celanese understood as stating they are solely responsible for all soil, water and risk monitoring programs at the site were clarified by ADT in its response. As well, under the approval, ADT has its own responsibilities for soil and groundwater monitoring programs at the site.
 - Concerns around inaccurate statements made in ADT's Application around ADT using facilities no longer owned by Celanese were corrected through a supplemental information response. The current domestic wastewater system in the ADT facility is not connected to Celanese. ADT has its own independent domestic wastewater system where domestic wastewater is stored in septic tanks and trucked off to Wastewater Treatment facilities

- Clarification regarding the footprint of the facility was requested in a supplemental information request. ADT provided a figure to explain the extent of the area in which the activities occur that are covered under the approval. Also identified were areas within the ADT Terminal boundary, but outside of the ‘Approval Boundary.’
- As to the concern that ADT had not provided all the relevant material referenced in its Application to the Celanese, it is our understanding that these were subsequently provided to Celanese by ADT.

Based on the foregoing, Celanese's concerns have been addressed to the AER's satisfaction or relate to a matter beyond the scope of the Application. The AER has issued the applied for renewal of the EPEA approval, and this is your notice of that decision. A copy of the approval is attached.

All AER-regulated parties must comply with the conditions of their authorizations and all legislative and 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: 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 can be found on the AER website (www.aer.ca) under Regulating Development: Regulatory Appeal Process.

If you have any questions, please contact SOC@aer.ca.

Sincerely,

<Original signed by>

Lane Peterson
Director, Oil & Gas Surface
Regulatory Applications
/ma

Attachment (1): Approval

cc: Colin Long, Alberta Diluent Terminal Ltd.
Arjun Chowdhury, AER
SOC Inbox, AER
Edmonton Field Centre, AER
Environmental Protection & Enhancement and Water, AER