

December 15, 2020

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By Email Only

Nicole Shepherd and Lawrence Gervais  
**Métis Nation of Alberta Region 3****Statement of Concern No. 31797**  
**Keyera Energy Ltd.**  
**Application No. 025-00000261**

Dear Nicole Shepherd and Lawrence Gervais:

You are receiving this letter because you filed a statement of concern (SOC) about Application No. 025-00000261. The Alberta Energy Regulator (AER) has reviewed your SOC, 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 SOC.

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

- The SOC does not provide sufficient detail on how the application may directly and adversely affect the members of Métis Nation of Alberta Region 3 (MNA Region 3). MNA Region 3 submitted that the application will interfere with the exercise of their member's Aboriginal rights; however, there is insufficient information to determine that these rights may be negatively affected. MNA Region 3 provided high level maps to Keyera which contained general area markers which do not provide sufficient details to reference which activities are taking place in those general areas. The maps also do not indicate specific locations within the general areas, or the frequency of those activities.
- Regarding the concerns around inadequate consultation, the AER has no jurisdiction to assess the adequacy of Crown Consultation associated with the rights of aboriginal peoples; the Aboriginal Consultation Office determines if consultation is required and adequate. For this Application, the Aboriginal Consultation Office has determined that Consultation is not required.

- Regarding the concerns around noise, Keyera will need to comply with *Directive 038: Noise Control*. Further, Keyera has committed to following all noise regulations to reduce noise impacts on land users and wildlife in the surrounding area.
- The concerns around traffic are outside the jurisdiction of the AER and can be addressed with the local municipality or Alberta Transportation, as applicable.
- The concerns around gaseous emissions are general in nature, and do not have sufficient information to show how MNA Region 3 may be directly and adversely affected. Furthermore, by way of this application all air emissions sources of the plant are shut down and will be dismantled.
- Regarding the concerns about the potential for contamination runoff from uphill to the lower campsite, Keyera is still required to abide by condition 4.2 of the previous Approval No. 261-03-00 which states operating conditions that must be met. These include, but are not limited to, not releasing any substances from the plant to the surrounding watershed, directing the industrial wastewater streams from the plant to appropriate industrial wastewater control systems, as well as directing all industrial runoff from the plant developed area to the Industrial Runoff Control System.
- In relation to the concerns about contaminated soil, Keyera must comply with condition 5.2.1 of the current approval, wherein a Remedial Action Plan (RAP) required and to include (b) a plan to manage all wastes at the plant, a (c) evaluation of remediation technologies proposed to be used at the plant and affected lands, as well as (e) a plan for decontamination of the plant and affected lands in accordance with the *Alberta Tier 1 Soil and Groundwater Remediation Guidelines*, *Alberta Tier 2 Soil and Groundwater Remediation Guidelines*, *Canadian Environmental Quality Guidelines*, as well as the *Environmental Quality Guidelines for Alberta Surface Waters*. The RAP is intended to showcase how Keyera is dealing with the contamination, and how Keyera intends to restore to equivalent land capability.
- Keyera is applying to amend the Decommissioning and Land Reclamation plan for the Keyera Nevis Gas Processing Plant, wherein the original construction and disturbance of the land has already occurred. Therefore, the assertion of MNA Region 3 that this application may lead to new disturbance to significant cultural artifacts is unlikely to happen. The AER also highlights, as before, that substantive evidence was not provided which would suggest that Métis artifacts or remains would be found around the plant.

Based on the above, the AER has concluded that it is not necessary to hold a hearing before making a decision on the application. The AER has issued the applied-for approval and this is your notice of that decision. A copy of the approval is 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 approval if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are located here: <https://www.aer.ca/regulating-development/project-application/regulatory-appeal-process>.

If you have any questions please contact [SOC@aer.ca](mailto:SOC@aer.ca).

Sincerely,

<Original Signed By>

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

Attachment (1): Approval

cc: Kerri Gilders, Keyera Energy Ltd.  
Doug Wong, AER  
SOC Inbox, AER  
Red Deer Field Centre, AER  
Environmental Protection & Enhancement and Water, AER  
Aboriginal Consultation Office - FNC202007494