

BY E-MAIL ONLY
May18, 2016

Andrew Scott
O’Chiese First Nation

Infrastructure Applications No. 1849404 (lead), 1850839, and 1850842
Land Use Application No. PLA 151597-001
Shell Canada Limited (Shell)
Statements of Concern No. 30097, 30137, 30175, and 30176

Dear Mr. Scott:

You are receiving this letter because you filed statements of concern about Infrastructure Applications Nos. 1849404, 1850839, 1850842, and Land Use Application No. PLA 151597-001 (together, the Proposed Project) on behalf of the Chief and Council of the O’Chiese First Nation (OCFN). The Alberta Energy Regulator (AER) has reviewed OCFN’s statements of concern, along with the applications, the applicable requirements, and other submissions or information about the applications and has decided that a hearing is not required under an enactment or otherwise necessary to consider the concerns outlined in your statement of concern.

In its review of OCFN’s concerns, the AER considered the following:

- The Proposed Project is located approximately 135 km northwest of OCFN’s reserve lands.
- Whether a decision of the AER may directly and adversely affect a party such as OCFN is to be considered by the AER in light of the evidence properly adduced before it. The mere fact that the Proposed Project would be located within an area claimed by OCFN as part of its traditional territory, does not, in and of itself, mean that the AER’s decision on the applications directly and adversely affect OCFN.

- OCFN submitted that the Proposed Project will interfere with the exercise of its aboriginal rights “through the impacts of construction, the physical presence of the project and supporting activities”.
- In Statement of Concern No. 30097, OCFN provided the *O’Chiese First Nation Traditional Land Use Study Trans Mountain Expansion Project* (September 13, 2013) prepared for Kinder Morgan (Trans Mountain Pipeline ULC) which included maps purporting to show large areas of current and past traditional land use activities such as gathering, trapping, hunting, habitation and travel routes within the Trans Mountain Expansion Project’s Local Study Area and its Regional Study Area. The maps did not provide information outlining specific locations where OCFN members conduct activities in relation to the Proposed Project.
- OCFN’s concerns are of a general nature and the information provided by OCFN does not establish a sufficient degree of location or connection between the applications and the potential interference or impacts on its asserted Treaty and Aboriginal rights. Accordingly, OCFN has not demonstrated that it may be directly and adversely affected by the applications.

The AER has issued the applied-for approvals, and this is your notice of that decision. Copies of the approvals are attached. Under the *Responsible Energy Development Act* an eligible person may file a request for a regulatory appeal on an appealable decision. Eligible persons and appealable decisions are defined in section 36 of the *Responsible Energy Development Act* 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. You can find filing requirements and forms on the AER website www.aer.ca under Applications & Notices: Appeals.

If you have any questions, please contact Greg Thompson (Land Use) at XXX-XXX-XXXX or email XXXXXX, or Lonny Olsen (Infrastructure) at XXX-XXX-XXXX or email XXXXXX.

Sincerely,

<original signed by>

Val Henkel
Acting Director
Infrastructure Authorizations (Oil & Gas)

<original signed by>

Tara Hosick
Acting Director
Land Use Authorizations

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

Attachment: (4 licences, 1 Land Use approval)

cc: Korin Lemay, Shell Canada Limited
Authorizations Review & Coordination
AER Red Deer Field Centre
Aboriginal Relations, AER
Aboriginal Consultation Office