

BY E-MAIL ONLY

May 23, 2018

Jodi McNeil
Oil Sands Environmental Coalition**CANADIAN NATURAL UPGRADING LTD.
APPLICATION NO. 1870302
STATEMENT OF CONCERN NO. 30460**

Dear Jodi McNeil:

You are receiving this letter because you filed a statement of concern (SOC) on behalf of the Oil Sands Environmental Coalition (OSEC) concerning the subject application filed by Canadian Natural Upgrading Ltd. (CNUL). The Alberta Energy Regulator (AER) is appreciative of OSEC's contributions during the review of the application, including your feedback on the draft approval conditions.

The AER has reviewed your SOC and feedback, along with the application, the applicable requirements, and all relevant materials constituting the record of the application. The AER notes that after reviewing the draft approval conditions, OSEC provided detailed comments with outstanding concerns and key themes. The decision report on the tailing management plan (TMP) application addresses many of the concerns you raised, such as the following:

- Accumulation of tailings from 2015-2024, including the inventory of fluid tailings (FT) on site in 2024, which will be equivalent to 13 years of tailings. The AER's decision on this is found in the Fluid Tailings Profiles and Project Specific Thresholds section of the decision report.
- Concerns regarding the FT treatment technologies, including whether the performance of centrifuge deposits will dictate the final landforms. The AER's decision on this is found in the Fluid Tailings Treatment Technology – Technology Selection and Ready to Reclaim – Deposit Settlement sections of the decision report.
- Uncertainty regarding ready to reclaim criteria. The AER's decision on this is found in the Ready to Reclaim Criteria section of the decision report.
- Mitigation strategies for the two End Pit Lakes (EPLs) are not comprehensive, and implied perpetual maintenance is not a viable option. The AER's decision on

this is found in the Water Capping section of the decision report, which describes prohibiting CNUL from placing any water, including industrial wastewater, above treated or untreated tailings for the purpose of creating a water capped deposit as a closure landscape feature (“water capped lake”); and in the Environmental Effects and Implications – Surface Water and Groundwater section of the decision report.

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You will note from the decision that the AER has decided to only approve the fluid tailings profiles until December 31, 2022. CNUL is required to submit an amendment application on or before September 30, 2021 that contains the TMP for the life of the project. The AER has also set the thresholds based on the short term fluid tailings profiles. These thresholds remain in effect beyond December 31, 2022, until the AER renders a decision on the amendment application. In its SOC, OSEC also raised concerns or provided recommendations that are not part of the AER’s decision on CNUL’s TMP application, and therefore are not reflected in the attached decision report. For matters related to policies and programs administered by the Government of Alberta, the AER intends to provide these concerns to the Government.

In particular, OSEC raised concerns with the impacts related to oil sands development in the area. The AER notes that CNUL’s TMP application does not change the footprint of the Muskeg River Mine, or create additional disturbance. The TMP application does not seek approval for new development activities that could create additional impacts on recreational land use.

It is noted that OSEC raised concerns regarding the various plans. To clarify, the term “Life of Mine Plan” referred to in draft *Oil Sands Conservation Act* approval conditions means a long term mine plan over the life of the mine which is different than the “Life of Mine Closure Plan” which sets out the plans for mine reclamation and closure to the end of mine life required under the *Environmental Protection and Enhancement Act (EPEA)* approval. Pursuant to its *EPEA* approval, CNUL is required to submit an updated Life of Mine Closure Plan to the AER on or before December 31, 2022.

Based on the foregoing, the AER is satisfied that the concerns outlined in OSEC’s SOC have been addressed to the satisfaction of the AER.

The AER has decided that a hearing is not required. As indicated in the decision report, the AER has issued the applied-for approval. This is your notice of that decision. A copy of the AER decision report, which includes the approval, is 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, <http://www.aer.ca/applications-and-notice/appeals>.

Please be advised that information on the progress of resource optimization program can be requested via the AER’s Information Distribution Services at InformationRequest@er.ca or (403) 297-8311, press 2.

If you have any questions, contact Lonny Olsen, phone 403-297-3513 or e-mail Lonny.Olsen@er.ca.

Sincerely,

<original signed by>

Paul Ferensowicz
Senior Advisor, Operations

Enclosure (1): (AER Decision Report, which includes the Approval)

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cc: Michelle Barret, CNUL Resources Ltd.
AER SOC Coordinator
AER Fort McMurray Field Centre