

BY E-MAIL ONLY

June 13, 2018

Bori Arrobo
Fort McKay First Nation

**SYNCRUDE CANADA LTD.
APPLICATION NO. 1871794
AURORA NORTH TAILINGS MANAGEMENT PLAN
STATEMENT OF CONCERN NO. 30503**

Dear Bori Arrobo:

You are receiving this letter because you filed a statement of concern (SOC) on behalf of the Fort McKay First Nation (FMFN) concerning the subject application filed by Syncrude Canada Ltd. (Syncrude). The Alberta Energy Regulator (AER) is appreciative of FMFN's contributions during the review of the application, including preparatory conversations and submissions for the Enhanced Review Process (ERP) technical meeting, your attendance at the ERP technical meeting on November 14 - 16, 2017, together with your closing submissions and your feedback on the draft approval conditions.

The AER has reviewed your SOC and feedback, along with the application, the applicable requirements, and relevant materials constituting the record of the application. The AER notes that after reviewing the draft approval conditions, FMFN provided detailed comments with outstanding concerns and key themes.

In addition, FMFN requested on March 28, 2018 and again on May 31, 2018, that Syncrude's Aurora North Tailings Management Plan (TMP) application be combined and heard with Syncrude's Mildred Lake Expansion (MLX) hearing.

The decision report for Syncrude's Aurora North TMP application addresses many of the concerns you raised, such as the following:

- Syncrude's use of Composite Tailings (CT) technology. The AER's decision on the use of CT is found in the Composite Tailings Technology section of the decision report.
- fluid tailings inventory and pace of management is not in alignment with *Directive 085*. The AER's decision regarding fluid tailings inventory is set out in the Fluid Tailings Profiles and Project-Specific Thresholds section of the decision report.

- the use of end pit lakes (EPLs) as the final treatment for storage of fluid tailings. The AER's decision is found in the Water-Capping Technology and Alternative Technologies section, which prohibits Syncrude from placing any water, including industrial wastewater, above treated or untreated tailings for the purpose of creating a water-capped pit lake.
- lack of alternative technologies for the treatment of tailings. The AER's decision on these issues is found in the Fluid Tailings Treatment Technology section of the decision report.
- information regarding Ready-to-Reclaim (RTR) criteria, including consolidation and settlement issues, and establishment of peat accumulating wetlands. The AER's decision is found in the Ready-to-Reclaim Criteria section of the decision report.
- long-term landscape stability, including the management plan for the integrity of the dykes, and the details of sand availability. The AER's decision is in the Capping Material Availability and the Deposit Settlement sections of the decision report.
- uncertainty and risks, including environmental risks posed by dams, fluid tailings, tailings structures and process-affected water, and how these risks will be managed. The AER's decision is found in the Tailings Water Release and Dam Decommissioning sections of the decision report.
- ongoing engagement with indigenous communities. The AER's decision on ongoing engagement is found in the Stakeholder and Indigenous Community Engagement section of the decision report.

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The AER notes that at the ERP technical meeting, Syncrude made commitments to FMFN regarding community engagement, sharing Base Mine Lake research, revisiting reclamation terms of reference, adding a Devonian assessment to the 2026 closure plan, and progressive reclamation of CT deposits.

In its SOC and feedback, FMFN also raised concerns or provided recommendations that are not part of the AER's decision on Syncrude's Aurora North TMP application, and therefore are not reflected in the attached decision report or approval. For matters related to policies and programs administered by the Government of Alberta, the AER intends to provide these concerns to the Government of Alberta.

In particular, you raised concerns with impacts on traditional land uses and the exercise of Treaty rights related to the approval and operation of the mine. Syncrude's Aurora North TMP application is an amendment of an existing approval. The decision report addresses such topics as setting thresholds under *Directive 085*, RTR criteria, and providing updated plans and information on tailings technology and deposits. In short, the approval deals with how tailings are managed on the existing approved mine site footprint.

This is an existing mine site and no new lands outside of Syncrude's lease will be used or impacted as a result of the Aurora North TMP amendment. There are no changes to Syncrude's Aurora North boundaries, nor is there any additional disturbance as a result of the Aurora North TMP amendment.

Based on the foregoing, the AER is of the opinion that the concerns outlined in FMFN's SOC have been addressed to the AER's satisfaction. Consequently, the AER has decided that a hearing is not required for the Syncrude Aurora North TMP.

In response to your request that Syncrude's Aurora North TMP application be heard in combination with Syncrude's MLX hearing, the AER is of the view that the review of the Aurora North TMP application, which included an ERP technical meeting and feedback on the draft approval conditions, was conducted fairly and provided a robust means of involvement in the AER's decision-making. As for your concern that there should be consistency between the Aurora North TMP decision and other Syncrude applications, this is an issue that applies to all matters before the AER. The AER's hearing commissioners assigned to the Syncrude MLX matter will be in a position to consider the Aurora North TMP decision report and approval in their deliberations.

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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>.

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

Sincerely,

<Original signed by>

Paul Ferensowicz
Senior Advisor

Enclosure (1): (AER Decision Report)

cc: Richard Pelletier, Syncrude Canada Ltd.
AER SOC Coordinator
ACO
AER Indigenous Engagement
AER Fort McMurray Field Centre