

BY E-MAIL ONLY

February 25, 2019

Jodi McNeil
Oil Sands Environmental Coalition

**FORT HILLS ENERGY CORPORATION
APPLICATION NO. 1881219
FORT HILLS' TAILINGS MANAGEMENT PLAN
STATEMENT OF CONCERN NO. 30625**

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 Fort Hills Energy Corporation (Fort Hills). The Alberta Energy Regulator (AER) is appreciative of OSEC's contributions during the review of the application, including your participation in the meeting held on September 18, 2018, 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 decision report for Fort Hills' Tailings Management Plan (TMP) application addresses many of the concerns you raised such as the following:

- the fluid tailings profile. The AER's decision on these matters is found in the New Fluid Tailings Profile section.
- the proposed decision point of 2069 for water versus terrestrial capping. The AER's decision on this matter is found in the PASS Technology – Phase 1 section.
- lack of viable alternative technologies to water capping. The AER's decision on this matter is found in the Feasible Alternative section.
- water capping and end pit lakes, including the unprecedented size of the fluid tailings deposit. The AER's decision on these matters is found in the PASS Technology – Phase 1, PASS Technology – Phase 2, 3, and 4, and the Surface Water and Groundwater sections, which acknowledge the uncertainties and risks associated with PASS technology and water capping, and prohibit the creation of water capped pit lakes and phase 2, 3, and 4 activities.

- inadequate information regarding ready to reclaim criteria during the various stages of deposit development. The AER's decision on these matters is found in the Subobjective 1 and Subobjective 2 RTR Criteria section.

In its SOC and feedback, OSEC also raised concerns or provided recommendations that are not part of the AER's decision on Fort Hills' TMP application and therefore are not reflected in the attached decision report. For clarity, the decision report's appendix 1 includes the *Oil Sands Conservation Act* approval, under which, subject to its terms and conditions, the subject application was approved, together with the *Environmental Protection and Enhancement Act* approval, to which the AER has made consequential amendments.

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For matters related to policies and programs administered by the Government of Alberta, the AER intends to provide these concerns to the Government.

Based on the foregoing, the AER is of the opinion that the concerns outlined in OSEC's SOC have been addressed to the AER's satisfaction. Consequently, the AER has decided that a hearing is not required for the subject application.

As indicated in the decision report, the AER has issued the applied-for approvals, and this is your notice of that decision. A copy of the AER decision report, which includes the approvals, 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. With respect to tailings, oil sands mine operators must comply, in particular, with *Directive 085: Fluid Tailings Management for Oil Sands Mining Projects*. 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. Information about how the AER verifies industry compliance and responds to noncompliance may be found at:

www.aer.ca/regulating-development/compliance/compliance-assurance-program.

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/regulating-development/project-application/regulatory-appeal-process.

If you have any questions regarding the application or decision report, please contact Fares Haddad (phone 403-297-5366, or email Fares.Haddad@aer.ca). If you have questions regarding the statement of concern process, please contact Lonny Olsen (phone 403-297-3513 or e-mail Lonny.Olsen@aer.ca).

Sincerely,

<original signed by>

Paul Ferensowicz
Senior Advisor, Operations

Enclosure (1): (AER Decision Report)

cc: Jason Heisler, Fort Hills

AER SOC Coordinator
ACO
AER Indigenous Engagement
AER Fort McMurray Field Centre

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