

**VIA EMAIL**

May 23, 2017

Suncor Energy Inc.

Calgary Head Office  
Suite 1000, 250 – 5 Street SW  
Calgary, Alberta T2P 0R4  
Canada[www.aer.ca](http://www.aer.ca)**Attention: Chris Grant  
VP Regional Development Wood Buffalo**

Dear Sir:

**RE: Reconsideration Request  
Application Nos. 1857270, 1857274 and 075-94 (the Applications)  
Reconsideration No.: 1885347**

The Alberta Energy Regulator (AER) acknowledges receipt of your letter dated April 12, 2017 requesting a reconsideration of the AER's decision dated March 17, 2017, which held the Applications were incomplete. On April 20, 2017, the AER circulated your request to Athabasca Chipewyan First Nation, Fort McKay Métis Community Association, McMurray Métis Local 1935, the Oilsands Environmental Coalition and Joslyn Energy Development Incorporated and asked for submissions in reply to your request. The AER received submissions in response from all but one. The AER is also in receipt of Suncor's rebuttal to these reply submissions dated May 19, 2017.

The AER has express authority to reconsider its decisions pursuant to section 42 of the *Responsible Energy Development Act (REDA)*. That section states:

The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

As indicated by section 42, it is at the AER's sole discretion to reconsider a decision made by it. That section does not provide an appeal mechanism to be utilized by industry or members of the public. Other provisions of *REDA* are available for that purpose. Given the appeal processes available under *REDA*, and the need for finality and certainty in its decisions, the AER will only exercise its discretion to reconsider a decision in extraordinary circumstances where it is satisfied that there are exceptional and compelling grounds to do so. Mere disagreement with a decision is not sufficient.

The reconsideration power in s. 42 exists because in its absence the AER could never reconsider its decisions, no matter what circumstances arose. The intent of *REDA* is not to have reconsiderations be a review tool to be invoked by application from those who believe they are affected by AER project decisions. It is an extraordinary tool to be exercised by the AER where a problem exists that must be acted on by the AER.

Having reviewed your request for reconsideration, the submissions received in response and your rebuttal, the AER has determined that this is an appropriate case to exercise its discretion under section 42 of *REDA* to reconsider its March 17, 2017 decision. The AER was not aware of Suncor's proposed treatment technology (permanent aquatic storage system (PASS)) and agrees that this new information is material and should be considered in any assessment of Suncor's tailings management plans, particularly water capping and RTR criteria for DDA3. In addition, Suncor has expressly committed to provide the evidence necessary to assess RTR performance criteria, thereby addressing what the AER identified in its March 17, 2017 decision as information gaps.

The AER accepts Suncor's explanation for its inability to share detailed information concerning Suncor's treatment technology prior to obtaining patent protection. The AER would ask that Suncor inform the AER of any such restrictions and potential delays so as to avoid this situation in future. Given these unusual circumstances, the AER will reconsider the Applications.

Having concluded that the AER has authority pursuant to section 42 of *REDA* to initiate and conduct the reconsideration and that reconsideration is appropriate in these circumstances, the Applications remain valid and are to be considered on their merits.

### **Reconsideration Process**

Section 43 of *REDA* provides:

Subject to the regulations, the Regulator may conduct a reconsideration with or without conducting a hearing.

Furthermore, the AER has the authority to determine its procedure<sup>1</sup> and has the power to dispense with, vary or supplement all or any part of the Rules of Practice if the circumstances of any proceeding warrant it<sup>2</sup>.

In light of this authority, the AER has decided it will do so in accordance with an Enhanced Review Process, the elements of which will be outlined in a separate notice to be issued shortly.

If you have any questions, please contact me at your convenience.

Sincerely,

[*Original signed by:*]

Paul Ferensowicz  
Senior Advisor, Major Projects and Transformation

cc: Athabasca Chipewyan First Nation - **Attention: Jack Flett**  
Fort McKay Métis Community Association - **Attention: Eddison Lee-Johnson**  
McMurray Métis Local 1935 - **Attention: Gail Gallupe**  
Oilsands Environmental Coalition - **Attention: Jodi McNeill**  
Joslyn Energy Development Incorporated - **Attention: Paul Jespersen**

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<sup>1</sup> *REDA* section 61

<sup>2</sup> *AER Rules of Practice*, section 42