

BY EMAIL ONLY

November 13, 2019

Margaret Caine
Metis Nation of Alberta – Region 1

IMPERIAL OIL RESOURCES LIMITED (IMPERIAL)
APPLICATIONS NO. 1923510, 1923511, OSE190020
STATEMENT OF CONCERN NO. 31579

Dear Margaret Caine:

You are receiving this letter because you filed a statement of concern about Applications No. 1923510, 1923511, and OSE190020 on behalf of members of the Metis Nation of Alberta, Metis Nation of Alberta Region 1 and The Big Bay/Touchewood Lake Local 1954 (MNA). The Alberta Energy Regulator (AER) has reviewed your statement of concern, along with Imperial's applications, and all applicable requirements and other submissions or information about the applications. The AER has decided that a hearing is not required to consider the concerns outlined in your statement of concern.

In our review of your concerns, we considered the following:

- You state that Imperial's proposed Oil Sands Evaluation (OSE) program is located on land within the boundary that MNA members residing in MNA Region 1 consider part of their traditional territory and have used for trapping, hunting, harvesting and cultural activities. However, the fact that the proposed project is located within the MNA's traditional territory does not, without further factual connection, establish that MNA members may be directly and adversely impacted by the Applications. Further information is required to establish a sufficient degree of location or connection between the Applications and the rights asserted.¹

¹ *Dene Tha' First Nation v Alberta (Energy Utilities Board)*, 2005 ABAC 68 at paras 10, 14 and 18.

- The information provided by the MNA is general in nature and does not identify in sufficient detail how the Applications may directly and adversely affect MNA members.²
- The Applications are for Imperial's OSE program. The timeline for the project from start to finish is approximately 4 to 6 days, with reclamation work at the site to be carried out over a 7 to 10 day period after drilling. All drilling in connection with the OSE program will be carried out during the winter months and will be temporary and short in duration.
- The AER has previously determined that OSE program impacts are localized and temporary in nature (*Decision 2013 ABAER 017*).
- Should Imperial request to retain the wells as observations wells, Imperial must apply to the AER for a long-term land disposition and must notify MNA as part of the notification process.
- The project area is within the Lower Athabasca Regional Plan (LARP), which addresses management of cumulative impacts on the environment on a regional basis. The activities proposed in the area of the applications are permitted under LARP.
- Imperial provided mitigation measures that it intends to use for the OSE program to address impacts to land and environment; these include avoidance, minimization, and reclamation mitigation strategies.
- Imperial completed an Environmental Impact Assessment (EIA) in 2015 for the Cold Lake Expansion Project which includes socioeconomic impact assessments and was deemed complete by the AER and is publicly available.
- Concerns in relation to funding a study are in relation to compensation which is outside the jurisdiction of the AER.
- The AER has no jurisdiction to assess the adequacy of Crown consultation associated with the rights of Aboriginal peoples; the Aboriginal Consultation Office (ACO) determines if consultation is required and adequate. The ACO determined that consultation is adequate for the project and did not require Imperial to consult with MNA or its members.

Whether a decision of the AER may directly and adversely affect a statement of concern filer, such as MNA, is to be considered by the AER in light of the evidence properly adduced before it.³ Based on the above, MNA has not demonstrated that its members may be directly and adversely affected by the Applications. The AER has concluded that it is not necessary to hold a hearing before making a decision on the applications. The AER has issued the applied-for approval and licences and this is your notice of that decision. Copies of the approval and licences are attached.

All AER- regulated parties must comply not only with the conditions of their authorizations, but with all of the AER's regulatory requirements. To ensure industry compliance the AER has

² *Ibid* at para 18.

³ *O'Chiese First Nation v Alberta Energy Regulator*, 2015 ABCA 348 at para 43.

developed its *Integrated Compliance Assurance Framework*, which embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement. You can find out more about how the AER verifies industry compliance and responds to noncompliance here: <https://aer.ca/regulating-development/compliance/compliance-assurance-program>.

You may file a regulatory appeal on the AER's decision to issue the approval and licences if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are on our website under Regulatory Appeal Process.

If you have any questions, contact Maribel Arguello at Maribel.Arguello@aer.ca.

Sincerely,

<Original signed by>

Rob Cruickshank
Director, Business Process

Enclosure (10): **Licences and Approval**

cc: Karen Giesbrecht, Imperial Oil Resources Limited
AER SOC Assessor
AER Bonnyville Field Centre
AER Indigenous Relations
Aboriginal Consultation Office