

September 21, 2023

[www.aer.ca](http://www.aer.ca)

By Email Only

Lorne Wiltzen, Industry & Government Relations Corporation, on behalf  
Fort McMurray #468 First Nation**Statement of Concern No. 32241 and 32242  
AdhMor Ltd. (AdhMor)  
Application No. 1943203 and 32443152**

Dear Sir:

You are receiving this letter because you filed a statement of concern (SOC) about Applications No. 1943203 and 32443152. The Alberta Energy Regulator (AER) has reviewed your SOC, along with the 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 SOC.

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

- Fort McMurray 468 First Nation (FM468FN) has not sufficiently demonstrated how its members may be directly and adversely affected by the proposed Applications.
- Although the Project is located within the FM468FN traditional lands where members exercise treaty rights and traditional land use activities and is located approximately 7.87 km west of FM468FN Reserve lands, the SOC does not, without further factual connection, establish that FM468FN 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 potential interference or adverse impacts on the rights and traditional uses asserted.
- Additionally, the information provided in the FM468FN SOC did not identify any significant habitat features or important hunting areas within the site footprint. FM468FN members will continue to have the ability to practice their treaty rights and traditional use activities around the Project footprint.

- Furthermore, the Public Lands amendment application is administrative in nature and is required to change the purpose/activity of the disposition from a Mineral Surface Lease (MSL) - Disposal to a Miscellaneous Lease (MLL) Oilfield Waste Management Facility. No new disturbance will be associated with the proposed Project as the site will be located on an existing constructed lease. The proposed Project area is situated on an historic borrow pit that has previously been cleared of all trees and stripped of topsoil as part of the construction that took place for the twinning of highway 63 in 2015, and no additional lands are being requested outside of the existing disposition.
- The AER acknowledges your concerns regarding Crown consultation; however, thuest for the proposed Project with the ACO on May 31, 2023, and was informed by the ACO that no consultation was required because the ACO had previously determined that adequate consultation had been conducted in 2022 for the existing Public Lands MSL disposition under FNC202203224-005 and FNis is outside of the AER's jurisdiction and your concerns about Crown consultation should be raised with the ACO. The AER is aware that AdhMor filed a pre-consultation assessment reqC202203224-006.
- The AER acknowledges your concerns regarding cumulative impacts on the traditional territory of FM468FN. However, the Project area is within the Lower Athabasca Regional Plan (LARP), which addresses the management of cumulative impacts on the environment on a regional basis. The proposed Project is permitted under LARP.
- The AER notes your concerns regarding the potential impacts on freshwater and wetlands. A supplemental information request (SIR) was sent by the AER to AdhMor regarding the storm water runoff pond size and location. AdhMor committed to relocating the pond further north for a greater setback to the water bodies and confirmed the pond is designed to accommodate a 1 in 25-year rain event (which is greater than the minimum requirement of 1 in 10-year rain event).
- AdhMor must comply with Directive 055: *Storage Requirements for the Upstream Petroleum Industry* and Directive 058: *Oilfield Waste Management Requirements for the Upstream Petroleum Industry* requirements for the duration of the Project.
- AdhMor is required to address all operational complaints, if any arise, regarding approval conditions. FM468FN may contact the AER Energy and Environmental Emergency 24-Hour Response Line at 1-800-222-6514 to file an operational complaint if one arises during the Project's operations.
- Your concerns regarding impacts to wildlife, specifically moose and caribou habitat have been addressed as there are no key wildlife diversity zones intersected in the Project area nor is the Project located in a caribou zone. A sweep was conducted by AdhMor on May 7, 2023, where no wildlife or significant habitat features were identified within the proposed Project area.
- The AER acknowledges your concern regarding the FM468FN's identified a10 km moratorium zone. However, the FM468FN's moratorium zone does not currently exist as an approved Government of Alberta moratorium zone and the AER has no authority to delay processing of these applications at this time.

Based on the above, 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 approvals, and this is your notice of those decisions. Copies of the approvals 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 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 approvals if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are located here: <https://www.aer.ca/regulating-development/project-application/regulatory-appeal-process>.

If you have any questions, please contact [SOC@aer.ca](mailto:SOC@aer.ca).

Sincerely,

<Original Signed By>

Andrew MacPherson  
Director, In Situ  
Regulatory Applications  
GF/bg

Attachments (2): Approvals

cc: Donovan Baillie, AdhMor Ltd.  
Eva Lew, Bennett Jones SLP  
Cassy Johnson, AER  
Laura Van DerVeen, AER  
SOC Inbox, AER  
Field Operations Northeast, AER  
Aboriginal Consultation Office – **FNC202353064**