Alberta Energy Regulator

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By email only: harry.cheecham@igrc468.com

Harry Cheecham, Director
Industry & Government Relations Corporation
Fort McMurray 468 First Nation

Re: Request for Confidentiality Under Section 49(3) of the Alberta Energy Regulator *Rules of Practice*
Requester: Fort McMurray 468 First Nation (FM468FN)
Project: OS-Enhanced Recovery dispositions for a multi-well steam-assisted gravity drainage (SAGD) pad site and utility corridor
***Public Lands Act* – Application No. 34052552 – (Application) to amend Mineral Surface Lease (MSL) 121865 made by Athabasca Oil Corporation (AOC)**

The Alberta Energy Regulator (AER) has considered the request of FM468FN submitted on June 19, 2026, in accordance with section 49(3) of the Alberta Energy Regulator *Rules of Practice* (*Rules*) for confidentiality (Confidentiality Request) over maps labelled Exhibit A and B (the Maps) from FM468F's Statement of Concern No. 33098.

The Maps are from FM468FN's Community Knowledge Keeper database. FM468FN advises that this database holds information regarding the location of traditional land use sites, including harvesting areas and areas of cultural, environmental and spiritual significance.

FM468FN provides the following reasons for its request:

1) To safeguard sensitive information that is part of FM468FN's heritage, including knowledge about land use, resource management, and cultural sites from misuse, unauthorized access, and exploitation;

2) That specific harm may result from the public disclosure of the Maps, including the risk that proponents engaged in work on FM468FN Territory may access this information and use it without proper permission.

3) That disclosure of the Maps may undermine FM468FN's negotiations with external parties, including the risk of financial losses (see section 49(4)(b) of the *Rules*).

For the reasons that follow, the AER has decided to grant limited confidentiality over the Maps by excluding them from the public record for the statement of concern (SOC) process.

Reasons for Decision

It is a fundamental premise of the AER's decision making process, and a requirement under section 49(1) of the *Rules*, that all documents filed in respect of a proceeding be placed on the public record. Public disclosure in the name of procedural fairness and transparency is the overriding general principle reinforced in subsection 49(1) of the *Rules*.

However, section 49 also recognizes the legitimate need, when established, of a party to protect confidential or sensitive information where disclosure of that information is likely to result in harm to such party's competitive, financial, or personal interest, and such harm outweighs the benefit to the public interest of disclosure. Exceptions to disclosure will only be granted where the party requesting confidentiality has positively and demonstrably met the subsection 49(4) criteria. A confidentiality ruling is highly fact and situation specific.

Under section 49(3) of the *Rules*, a request for confidentiality must "(b) briefly describe (i) the nature of the information in the document that is the subject of the request, and (ii) the reasons for the request, including the specific harm that might result if the document were placed on the public record." The AER is satisfied the Confidentiality Request meets these requirements.

FM468FN specifically referenced section 49(4)(b) of the *Rules* in support of the Confidentiality Request. The AER has considered whether the Maps fall under the category of information that, if disclosed, "could reasonably be expected (i) to cause significant harm to the competitive position of a party, or (ii) to result in undue financial loss or gain to any person or organization."

Significantly, AOC does not oppose the Confidentiality Request, and the AER has no information or argument contrary to FM468FN's position. Accordingly, the AER has determined that the Maps contain information that, while not perfectly aligned with the criteria in section 49(4)(b) of the *Rules*, meets the threshold for confidentiality on the basis submitted by FM468FN, including its negotiating position with external parties.

However, FM468FN did not file its Confidentiality Request *before* filing their SOC and the Maps, as required by section 49 of the *Rules*, and copied AOC on the SOC and the Maps. As AOC has already seen the Maps the AER therefore cannot require AOC to undertake to keep them confidential as a pre-condition of receiving them. Given this, confidentiality cannot be granted against AOC.

The AER is prepared to grant limited confidentiality over the Maps by excluding them from the public record for the SOC process, subject to the limitation below. The AER requires that the remainder of Statement of Concern 33098 be filed on the public record of AOC's Application, as only the Maps have been granted confidentiality, not the full document.

The AER is currently considering whether a hearing should be held to consider AOC's Application, which includes consideration of statements of concern filed in respect of that application. If a hearing is set down, participation in such a hearing would be determined by a hearing panel based on information submitted in response to a notice of hearing. Accordingly, this grant of confidentiality over the Maps is only for the purpose of considering FM468FN's statement of concern and deciding

whether a hearing should be held. If a hearing is held, FM468FN will need to reapply for confidentiality for the purposes of the hearing.

We note FM468FN has submitted both the full Statement of Concern 33098, and a version of Statement of Concern 33098 without the Maps to the AER. Only the redacted SOC will be placed on the public record.

While the FM468FN has already provided the full Statement of Concern 33098 to AOC, and so the AER will not require a confidentiality undertaking from AOC, this decision does not preclude AOC entering into an undertaking with FM468FN stating that it will hold the unredacted version Statement of Concern 33098 in confidence and use it only for the purpose of this proceeding.

Sincerely,

< Original signed by >

Sean Sexton

EVP, Law & General Counsel