

Via Email

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**Calgary Head Office** 

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October 30, 2019

ConocoPhillips Canada Resources

Stephen Lee

Attention:

Triune Law

Corp.

Farrah Sunderani

Attention: Darlene M. Gladieu-Quinn

Dear Sirs/Madam:

RE: Request for Regulatory Appeal by Ervin and Rita Callan's

ConocoPhillips Canada Resources Corp. (ConocoPhillips)

Application No.: 1896604; Approval No.: WM 208

Location: 07-083-06 W4M

Request for Regulatory Appeal No.: 1917192

The Alberta Energy Regulator (AER) has considered Ervin and Rita Callan's request under section 38 of the Responsible Energy Development Act (REDA) for a regulatory appeal of the AER's decision to approve the Licences. The AER has reviewed the Callans' submissions and the submissions made by ConocoPhillips.

For the reasons that follow, the AER has decided that Mr. and Ms. Callan are not directly and adversely affected by the decision. Therefore, the request for a Regulatory Appeal is not properly before the AER and is hereby dismissed.

The applicable provision of REDA in regard to regulatory appeals, section 38, states:

38(1) An eligible person may request a regulatory appeal of an appealable decision by filing a request for regulatory appeal with the Regulator in accordance with the rules. [emphasis added]

The term "eligible person" is defined in section 36(b)(ii) of REDA to include:

a person who is directly and adversely affected by a decision [made under an energy resource enactment]...

## **Reasons for Decision**

The decision that is the subject matter of this appeal request is a Class II oilfield waste management facility approval issued pursuant to the Oil and Gas Conservation Act and Rules, which, in accordance

with subsection 1(1)(j) of the *REDA*, is an energy resource enactment. And since the Approval was made without holding a hearing, it is an appealable decision under section 36(a) of the *REDA*.

While the Callans assert their rights to harvest and carry out their aboriginal way of life in relation to the trapline, there is no information in the grounds for the regulatory appeal request that demonstrates how the Callans trapping, harvesting and other activities are or may be affected by the approved oilfield waste landfill. No information is provided regarding any specific locations of trapping or other activities or assets that are on or near the proposed landfill. In the absence of such information, the Callans have failed to demonstrate that they are or may be impacted by the approved landfill.

The Callans' also assert that they have a right to be consulted about the landfill; however, the AER has no jurisdiction with respect to assessing the adequacy of Crown consultation associated with the rights of aboriginal peoples<sup>1</sup>. The AER notes that the Aboriginal Consultation Office issued its consultation adequacy decision, relating to the issuance of the Miscellaneous Lease (MLL) under the *Public Lands Act* application, for this project on March 13, 2018.

Regarding the Callans' concerns about a lack of information, the AER notes that Conoco has complied with all AER notification and participant involvement requirements in respect of the approved landfill. Conoco's response to the regulatory appeal request describes how it addressed the Callans' concerns about lack of information on noise levels and the composition of waste at the landfill. The response details the specific efforts made to provide that information in response to the Callans' concerns. Regarding the request for wildlife impact studies, no Environmental Impact Assessment is required for the landfill and there are no other AER requirements to provide such studies. As indicated previously, Conoco must comply with all applicable environmental and regulatory requirements pertaining to wildlife and habitat protection.

The Callans did not file a reply submission to challenge any of Conoco's responses.

## Conclusion

For the reasons above, the Callan's have not demonstrated that they are or may be directly and adversely affected by the AER's decision to approve the oilfield waste landfill, and are therefore not 'eligible persons' under the *REDA*. As the *REDA* indicates that only eligible persons can request a regulatory appeal, the Callan's request is not properly before the AER and is dismissed pursuant to

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<sup>&</sup>lt;sup>1</sup> Section 21 of the Responsible Energy Development Act, S.A. 2012, Chapter R-17.3.

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section39(4)(c) of the *REDA*. Given this, it is not necessary to address Conoco's arguments that the request for regulatory appeal is frivolous, vexatious and without merit.

| Sincerely,  |   |
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| <a href="#"><original by="" signed=""></original></a> Terence Ko, P. Eng. Senior Advisor, Insitu Authorizations           | October 30 <sup>th</sup> , 2019<br>Date |
| <a href="#"><original by="" signed=""></original></a> Elizabeth Grilo Senior Advisor, Strategic Delivery                  | October 31, 2019 Date                   |
| <a href="#"> <ul> <li>Original signed by&gt;</li> <li>Dina Johnson</li> <li>Senior Advisor, Authorizations</li> </ul></a> | October 30, 2019 Date                   |

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