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By email only
November 17, 2026

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Counsel:

RE: Stay Request & Requests for Regulatory Appeal by Sturgeon Lake Cree Nation (SLCN)
Keyera Energy Ltd. (Keyera)
Application Nos.1959829, 00510481-001, 33712943 and 33586629
Approval Nos.: MLL250165, F54817, 510481-00-00, 1004968, 1004969 (Project Approvals)
Locations: 33-067-06W6M, 34-067-06W6M, 03-068-06W6M, 04-068-06W6M (Project Applications)
Request for Regulatory Appeal Nos.: 1960175 & 1961525 (Appeal Requests)

The Alberta Energy Regulator (AER) has considered SLCN's request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to issue the Project Approvals. The AER has reviewed all submissions made by SLCN and Keyera in this matter.[1]

For the reasons that follow, the AER has decided that SLCN is eligible to request a regulatory appeal in this matter. Further, we see no basis for dismissing the entirety of the Appeal Requests. Therefore, the Appeal Requests are granted in part as described below.

Background

This matter relates to Keyera's proposed Campbell Creek Gas Plant (the Project). It is a greenfield project for a new gas plant. The Project Approvals are the approvals the AER granted to Keyera in relation to the Project.

Between November 10 to 27, 2025, Keyera submitted the following applications to the AER seeking regulatory approvals to construct and operate the Project's gas processing plant:

- *Public Lands* Act (PLA) Application No. 33586629 (PLA Application)
- Facility Application No. 1959829 (Facility Application);
- *Environmental Protection and Enhancement Act* (EPEA) Application No. 00510481-001 (EPEA Application); and
- *Water Act* Application No. 33712943 (Water Act Application).

[1] See Appendix A, Chronology of Submissions.

Security Classification: Public

On December 4, 2025, the AER approved the PLA Application and issued PLA Disposition No.: MLL250165 (PLA Approval).

On December 10, 2025, SLCN filed a statement of concern (SOC) against the Facility, EPEA and Water Act Applications (the Gas Plant Applications).

On January 2, 2026, the AER received a request for regulatory appeal from SLCN in relation to the AER's decision to approve the PLA Application and issue the PLA Approval (PLA Appeal Request). Keyera opposes this request.

On May 19, 2026, the AER approved the Facility, EPEA and Water Act Applications, and issued the following approvals to Keyera:

- EPEA Approval No.: 510481-00-00
- Water Act Approval Nos.: 1004968 and 1004969
- Facility License No.: F54817

(together, the Gas Plant Project Approvals or GPP Approvals).

On May 26, 2026, SLCN filed a request for regulatory appeal of the AER's decision to issue the GPP Approvals to Keyera (Appeal Request 1961525). Keyera opposes this request.[2] This request included a map showing the location of various features within the Project footprint (the Supplemental Map).

The PLA Appeal Request and Appeal Request 1961525 were consolidated by the AER.[3]

On September 4, 2026, SLCN applied to the AER for a "temporary stay" of the AER's decisions to issue the Project Authorizations.

On October 20, 2026, SLCN requested that the AER hold the request for regulatory appeal process in abeyance (Abeyance Request) until November 13, 2026. The Abeyance Request was granted on October 23, 2026 placing this matter into abeyance until November 13, 2026.

Reasons for Decision

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]

Each of the threshold issues for granting or denying the Appeal Requests is discussed below.

[2] Keyera filed a submission opposing Appeal Request 1961525 on June 12, 2026, and SLCN filed a response to this submission on June 30, 2026.
[3] Letter dated August 19, 2026.

Appealable Decision

SLCN submits that the Project Approvals are appealable decisions. Keyera does not disagree. We conclude the decisions to issue each of Project Approvals is an appealable decision as defined in section 36(a) of REDA.

In Accordance with the Rules

Section 38(1) of REDA requires a request for regulatory appeal to be filed "in accordance with the Rules". The Rules specify the information that a request for regulatory appeal must contain as well as the time-period within which the request must be filed.[4] With respect to a request for appeal of an appealable decision on an application, a copy of the SOC filed by the requester or an explanation as to why the requester did not file a statement of concern must be included with the request.[5]

Appeal Request 1961525

SLCN provided its SOC filed against the Facility, Water Act and EPEA Applications on December 10, 2025, with Appeal Request 1961525. Further, it submitted Appeal Request 1961525 in the time frame for filing an appeal request as set out in the Rules.[6]

We are satisfied Appeal Request 1961525 was filed in accordance with the Rules.

The PLA Appeal Request

The PLA Appeal Request was filed within the time frame for filing an appeal request as set out in the Rules.

SLCN did not file a SOC with respect to the PLA Application. However, it has provided an explanation for why it did not file a SOC. The PLA Approval was issued on an expedited basis (13 days after PNOA) and SLCN has demonstrated it acted promptly and reasonably upon learning of the Applications.

We note Keyera was not required by the Government of Alberta's Aboriginal Consultation Office (ACO) to conduct consultation with SLCN. As such, SLCN's introduction to the Project occurred at its meeting with Keyera on November 7, 2025. SLCN says that at that meeting Keyera gave its commitment to provide SLCN with advance notice of Project applications being filed and copies of those applications. Keyera had not disputed that it gave this commitment.

On November 21, 2025, SLCN received a Project notification package. This package did not mention Keyera's plans to file the Project Applications.

On November 21, 2025, the AER published Public Notice of Application (PNOA) regarding the PLA Application on its website, which stated:

[4] Rules section 30
[5] Rules section 30(2)
[6] Section 30(3)(m) of the Rules.

> **Statements of concern must be filed by December 22, 2025, 11:59 p.m. mountain time or before a decision is made on the application, whichever is sooner.** This is an expedited application and a decision on this application may be made immediately or on an expedited basis. [Emphasis in original]

On November 24, 2025, SLCN had a telephone conversation and an email communication with Keyera. SLCN says Keyera did not mention in either communication that the PLA Application had been filed on November 21, 2025.

On December 3, 2025, Keyera and SLCN met again to discuss the Project. SLCN says that it was at this meeting that Keyera told it for the first time that it had filed the Project Applications, including the PLA Application.

On December 3 (according to Keyera) or December 4 (according to SLCN), 2025, SLCN wrote to the AER asking for an extension of the time to file a SOC against the Project Applications.

On December 4, 2025, the AER approved the PLA Application and issued the PLA Approval.

On December 5, 2025, the AER advised SLCN that no extension would be granted to it and that the PLA Application had been approved.

On December 10, 2025, SLCN filed its SOC in relation to the Facility, Water Act and EPEA Applications.

On January 2, 2025, SLCN filed the PLA Appeal Request.

In all of the circumstances, including the timing of SLCN's introduction to the project, SLCN's communications with Keyera, SLCN's actions in responding to the Project Applications after this introduction, the complexity of the Project Applications, and the expedited approval of the PLA Application, there is a reasonable explanation for SLCN not filing a SOC against the PLA Application prior to its approval on December 4, 2025.

In the circumstances, we are satisfied the PLA Appeal Request was filed in accordance with the Rules.

Eligible Person

In order for the Appeal Requests to be granted, SLCN must be "eligible" in that it is or may be directly and adversely affected by the Project Approvals.[7]

The Alberta Court of Appeal has held that whether someone is directly and adversely affected is largely a question of fact for the AER to determine based on the information before them in a particular matter.[8] In the case of a treaty right, some degree of location or connection between the work proposed and the right asserted is required, although the degree of evidence required is a question for the AER.[9] Some "hard" information or evidence must be provided that demonstrates a reasonable potential or probability that the

[7] See REDA section 36(b).

[8] *Fort McMurray 468 First Nation v Alberta Energy Regulator*, 2026 ABCA 197 at paras 44, 65; *Dene Tha' First Nation v Alberta (Energy and Utilities Board)*, 2005 ABCA 68 at paras 10, 14; *O'Chiese First Nation v Alberta Energy Regulator*, 2015 ABCA 348 at para 43.

[9] *Dene Tha'* at para 14.

person will be affected by the decision.[10] However, it is not necessary to show that the approval will certainly cause, or will even probably cause, an adverse effect. Rather, what matters is the "magnitude of risk", which is a function of the probability of adverse effect and how serious it is.[11]

SLCN submits that the activities permitted by the Approvals may directly and adversely affect its practice and exercise of traditional activities and Treaty rights. In support of this position, SLCN has provided a number of statements and maps showing locations where rights are exercised and traditional activities occur by members.

We are satisfied the information provided demonstrates SLCN may be directly and adversely affected by the decisions to issue the Project Approvals. The information persuades us SLCN members conduct traditional activities and exercise rights proximate to and on the Project site.[12] Further, the information, including Keyera's plot plan,[13] shows that locations on the Project footprint that will be cleared, have a pond placed over them or otherwise significantly altered overlap sites on which SLCN says its members conduct traditional activities and exercise their rights. Based on the totality of the information before us, we conclude there may be direct and adverse impacts to the exercise by members of rights and conduct of traditional activities. In our opinion, the "hard" information before us is sufficiently detailed and specific to demonstrate a large enough risk of direct harm to the demonstrate possible direct and adverse impact to SLCN as required by section 36(b) of REDA.

While some of these locations of use by SLCN members may be near to existing development, some are not. The fact there is no information demonstrating that members live near the Project site does not alter our conclusions. Living on or near the Project is not required to demonstrate direct and adverse impact.

The information before us satisfies us that SLCN may be directly and adversely affected by the AER's decisions to approve the Project Applications and issue the Project Approvals. Therefore, we conclude that SLCN is an eligible person as contemplated by sections 36(b) and 38(1) of REDA.

Section 39(4)

Keyera asks the AER to dismiss the Appeal Requests on the basis of section 39(4) of REDA.

Section 39(4) of REDA states:

> The Regulator may dismiss all or part of a request for regulatory appeal
>
> (a) if the Regulator considers the request to be frivolous, vexatious or without merit,
>
> (b) if the request is in respect of a decision on an application and the eligible person did not file a statement of concern in respect of the application in accordance with the rules, or

[10] *Dene Tha'* at paras 14-18; *Fort McMurray 468* at paras 48-49.
[11] *Kelly v Alberta (ERCB)*, 2011 ABCA 325 at para 26 [**Kelly**]; *Fort McMurray 468* at para 51.
[12] For example, the Supplemental Map which was originally provided as part of Appeal Request 1961525 and was subsequently added for consideration to the PLA Appeal Request.
[13] PLA Appeal Request, Attachment "A": Sour Gas Disposition (ML250165), Schedule 1, Addendum 3, AUTHORIZED PLAN.

(c) if for any other reason the Regulator considers that the request for regulatory appeal is not properly before it.

Keyera says the PLA Appeal Request should be dismissed on the basis that 1) SLCN did not file a statement of concern regarding the PLA Application, and 2) because the concerns raised in the PLA Request are beyond the scope of the PLA Approval and the AER's jurisdiction. It also says Appeal Request 1961525 should be dismissed because it lacks merit.

PLA Appeal Request

Regarding SLCN's failure to file a SOC in relation to the PLA Appeal Request, we do not see that as a reason to dismiss this request. As described above, SLCN has provided a reasonable explanation for why it did not file a SOC prior to the expedited approval of the PLA Application and issuance of the PLA Approval.

Further, we do not agree that the fact some of SLCN's concerns might be determined to be outside the scope of the PLA Approval warrants dismissing that appeal request in its entirety. Matters relating to the impacts of the Project are within the scope of the approvals and may form issues for the appeal hearing and should not be dismissed.

However, matters outside the AER's authority, including concerns related to Alberta's Consultation Policy, consultation procedures, ACO consultation adequacy decision, and the legislative framework cannot be issues in the hearing to consider the PLA Approval. These are matters not properly before the AER.

As well, the SOC and approval process in relation to the PLA Application are not properly issues for a regulatory appeal hearing. This means that SLCN's complaints regarding the timing of approval and the AER's refusal to grant it an extension of the time for filing a SOC are not issues for the appeal hearing. These matters are addressed by the AER granting SLCN an appeal hearing where SLCN will have its concerns with the Project considered.

Accordingly, we decline to dismiss the entirety of PLA Appeal Request pursuant to section 39(4).

Appeal Request 1961525

Keyera submits that Appeal Request 1961525 should be dismissed because it lacks merit. Keyera says SLCN's grounds that the AER abused its discretion in issuing the GPP Approvals without having sufficient evidence to adjudicate SLCN's concerns lack merit. According to Keyera, there is no merit because Keyera provided the AER with all required information, the AER has extensive experience with facilities like the Project, and SLCN's concerns have been addressed.

We disagree with Keyera. Saying the AER is a competent regulator, and Keyera is a competent applicant is not sufficient to show Appeal Request 1961525 has no merit and does not demonstrate that the requested appeal cannot succeed.

We note that within the submissions from SLCN there is reference to the AER's letter of May 19, 2026 and description of it as the AER's "Sour Gas Approval Decision". The letter (1) advised SLCN that a hearing would not be held to consider the GPP Applications and provided some of the AER's reasons for the decision not to hold a hearing, and (2) advised SLCN that the AER had approved these applications, issued the GGP Approvals and attached copies of those Approvals. The May 19, 2026, letter is not the AER's "decision" on the GPP Applications. The decisions not to hold a hearing prior to issuing the Project Approvals are not the subject of the appeal.

Stay Request

In its submission filed on October 2, 2026, SLCN advised that it is "simply requesting a **temporary** stay pending the AER's initial merits determination" on the Appeal Requests. Given that we have made our merits decision on the Appeal Requests, it is not necessary to decide the Stay Request.

Conclusion

The AER grants the Appeal Requests as described above.

Sincerely,

<Original signed by>

Sean Sexton
Executive Vice President, Law and General Counsel

<Original signed by>

Tyler Callicott
Director, Enforcement & Orphaning

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Todd Shipman
Senior Advisor, Induced Seismicity & Geologic Hazards

cc: Marcus Ruehl, AER
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Coleman Brinker, AER
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Appendix A – Submissions

December 10, 2025 – SLCN SOC on GPP Applications

January 2, 2026 – PLA Appeal Request

March 9, 2026 – Keyera Response to PLA Appeal Request

April 10, 2026 – SLCN Reply to Keyera Response to PLA Appeal Request

May 26, 2026 – Appeal Request 1961525

June 3, 2026 – SLCN submits request to have Supplemental Map considered regarding PLA Appeal Request (Supplemental Map Request)

June 4, 2026 – Keyera Response to Supplemental Map Request

June 10, 2026 – SLCN Reply to Keyera Response on Supplemental Map Request

June 12, 2026 – Keyera Response to Appeal Request 1961525

June 30, 2026 – SLCN Reply to Keyera Response to Appeal Request 1961525

July 10, 2026 – Keyera Response on the Supplemental Map and the PLA Request

July 24, 2026 – SLC Reply to Keyera Response on the Supplemental Map and the PLA Request

September 4, 2026 – SLCN Stay Request

September 17, 2026 – Keyera Response to Stay Request

October 2, 2026 – SLCN Reply to Keyera Response to Stay Request