

REQUEST FOR REGULATORY APPEAL

ELIZABETH MELIS SETTLEMENT (EMS)/ IMPERIAL OIL RESOURCES LIMITED – COLD LAKE EXPANSION PROJECT (CLEP)

Regulatory Appeal Nos. 1918034 and 1918035

RRA Nos. 1913250 and 1913252

EPEA Approval No. 73534-01-02

OSCA Approval No. 8558MM

Request for Regulatory Appeal

Section 38 of the *Responsible Energy Development Act* and Section 30 of the *Alberta Energy Regulator Rules of Practice*



The AER's regulatory appeal process is separate from other AER processes. Any information that you want the AER to consider must be provided during the regulatory appeal process even if it has already been submitted as part of another AER process.

The AER may decide not to process your request if all of the requested information is not provided.

Send any questions about this form to RegulatoryAppeal@aer.ca.

Take notice that		
I, <u>Elizabeth Metis Settlement</u>	, of <u>Box 40 Cold Lake Alberta T9M 1P1</u>	
(print name)	(address, legal description, or GPS coordinates of land or residence)	
Phone: <u>(780) 594 5026</u>	Fax: <u>(780) 594 5452</u>	E-mail: <u>c/o tom.owen@owenlaw.ca</u>
am filing this request for regulatory appeal regarding a decision of the AER.		Date: <u>September</u> , 2018

Contact information of representative (if applicable)		
Name of representative: <u>Thomas R. Owen</u>		
Address of representative: <u>Owen Law, #402, 10138 104 st. NW Edmonton AB T5J 1A7</u>		
Phone: <u>(780) 408 7857</u>	Fax: <u>(780) 423 3462</u>	E-mail: <u>tom.owen@owenlaw.ca</u>

Details
<ol style="list-style-type: none"> 1. Date of the notice of decision or order: <u>August 14, 2018</u> 2. Attach a copy of the decision or order. 3. Location of the activity that is the subject of your request for regulatory appeal (address, legal description, or GPS coordinates): <u>MD of Bonnyville No. 87, Townships 65 and 66 in Ranges 2, 3 and 4 WM.</u> 4. Attach a copy of the statement of concern that you filed in regards to the application. If you did not file a statement of concern, explain why not (e.g., this matter relates to an enforcement order): 5. What are your reasons for requesting the regulatory appeal? (This could include your concerns with or objections to the overall decision or order, or specific parts of it.) <p>Do not leave out any reasons as you may be prevented from raising them later in the process. Be specific, and attach any additional sheets if necessary.</p> <p>See attached sheet</p>

6. What outcome are you seeking? (I.e., what would you like the AER to do to resolve your concerns?):

See attached sheet.

Submit your completed request form to the AER using one of the following methods:

E-mail: RegulatoryAppeal@aer.ca

Fax: 403-297-7031

Mail: Alberta Energy Regulator
Regulatory Appeal Coordinator, Law Branch
Suite 1000, 250 – 5 Street SW
Calgary, AB T2P 0R4

You must provide a copy of your request for regulatory appeal to the approval holder and landowner, if applicable, of the lands where the energy resource activity is or will be located.

The information collected on this form is necessary to allow the AER to perform its regulatory and adjudicative functions. The information is collected under section 33(c) of the *Freedom of Information and Protection of Privacy Act*. Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of your regulatory appeal. The information that you provide will be part of the public record. If you have concerns with this or if you have questions about how the AER deals with your information, contact the Regulatory Appeal Coordinator at the contact information listed above.

Reasons for requesting Regulatory Appeal

1. The AER erred in its finding that the Environmental Impact Assessment ("EIA") prepared in support of the Application was complete when it did not meet the requirement set out in s.49 of the *Environmental Protection and Enhancement Act*, RSA 2000, c E-12 ("EPEA") because it failed to include:
 - a. any analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites, as required by s.49(b);
 - b. any description of potential cultural impacts of the proposed activity or any analysis of the significance of those, as required by ss.49(d) and (e), especially with regard to the impact on Metis traditional land use;
 - c. any plans that have or will be developed to mitigate any negative cultural impact, as required by s.49(f);
 - d. any consideration of alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity, as required by s.49(h); and
 - e. any program of public consultation as required by s.49 (l).
2. The AER erred in proceeding with the Application when the EIA was incomplete.
3. The AER erred in proceeding with the Application when the Proponent had not met the consultation requirements set out in Directive 56.
4. The AER erred in failing to hold a hearing in respect of the Application, when the considerations set out in s.7 of the *Alberta Energy Regulator Rules of Practice*, Alta Reg 99/2013 (the "Rules") mandate that a hearing be conducted. Specifically, contrary to s.7(c), the Proponent made no efforts to resolve the issues set out in the Statement of Concern filed on behalf of Elizabeth Metis Settlement ("EMS"), an Aboriginal group directly affected by the proposed development, identifying in detail severe and irreversible impact on their way of life.
5. The AER breached the requirements of Natural Justice by failing to hold a hearing in this Application.
6. The AER erred in granting the Application without a hearing when questions of constitutional significance were raised in the Statement of Concern filed by EMS.
7. The decision to grant the Application is contrary to the purpose of the EPEA as set out in s.2.

Relief Sought

1. A stay of the decision pending the conclusion of the within appeal
2. Reverse the decision and deny the application
3. In the alternative, revise the Amending Approval to add the following conditions:
 - a. IORL shall consult with EMS and work with EMS to develop mitigation measures to address the impacts outlined in EMS' Statement of Concern;
 - b. An EMS project-specific Traditional Land Use and Impact Study be conducted
 - c. An in-depth Historical Assessment on the former Colony Lands be conducted
 - d. The operation of the Approval be stayed until the above conditions have been fulfilled