

By e-mail only

July 06, 2023

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canada

www.aer.ca

Alberta Wilderness Association

Suncor Energy Inc.

Attention: Phillip Meintzer

Attention: Michael Robinson

Dear Sirs:

**RE: Request for Reconsideration of Suncor’s McClelland Lake Wetland Complex (MLWC)
Operational Plan for the Fort Hills Oil Sands Project
By Alberta Wilderness Association (AWA)
Suncor Energy Inc. (Suncor)/Fort Hills Energy Corporation (Fort Hills)
Request for Reconsideration No.: 1942728**

The Alberta Energy Regulator (AER) has considered the procedural issue raised by Suncor in its June 16, 2023 letter. Suncor submits that the AWA reply submissions contain new information not previously introduced or referred to in this proceeding or placed on the public record:

1. Meeting notes with SEOI dated February 23, 2010;
2. Presentation to the Oil Sands Multi-Stakeholder Panel dated September 27, 2006;
3. Letter to Victor Choy and Sheila Chernys dated September 2, 2008;
4. “Memorable McClelland Lake Wetlands” dated June 2016;
5. Lindsay Report (dated May 29, 2023);
6. Locky Report (dated May 31, 2023);
7. Wieder Report (dated May 24, 2023); and
8. Vitt/House Report (dated Nov 28, 2022).

Suncor requested that the AER disregard the new information in AWA’s June 9, 2023 letter and give no weight to it in making its decision on whether to reconsider the approval of MLWC. In the alternative, if the AER decides to consider the new information, Suncor requests that it be given an appropriate opportunity to respond to the new information.

In response, AWA submits the information included in its reply submissions was properly and correctly submitted in reply to specific points raised in Suncor's response submissions dated May 31, 2023 and that "Suncor will have ample opportunity to test any new information if the Regulator decides to initiate a reconsideration hearing".

After reviewing the submissions, it has received on this procedural issue, the AER is of the view that the first four documents, as noted above, were properly submitted by AWA in reply to Suncor's submissions. The documents are responding to matters raised in Suncor's response submissions, and in particular Suncor's assertion that AWA could have participated in the Sustainability Committee to provide input on the MLWC Operational Plan.

With respect to the remaining four documents, collectively referred to as "the reports", the AER is of the view that the reports are in fact new evidence. Three of the reports are dated after AWA submitted its request for reconsideration (May 9, 2023), and two of the three are dated before Suncor filed its response on May 31, 2023, while the remaining report, the Locky Report, is dated the same day Suncor filed its submission. AWA states that it submitted the four reports in direct response to the details of the four grounds which Suncor raises in its response submission, however, it is not clear to the AER how the three reports respond to the points made by Suncor given that Suncor's response submission had not yet been filed, and in the case of the Locky Report, Suncor's submission was filed that day. With respect to the Vitt/House report, this report should have been filed when AWA filed its original request that the AER conduct a reconsideration into the approval of the MLWC Operational Plan.

While case-splitting is improper and will not be condoned by the AER, at this stage of the proceeding, the AER is only determining whether it should reconsider the approval of the MLWC Operational Plan. The AER believes that it is in the public interest to have the most up-to-date and relevant information for its consideration before making its decision. Therefore, the AER will allow all the documents contained in AWA's reply submission to be filed in this proceeding. However, in accordance with principles of natural justice and procedural fairness, Suncor should be given an opportunity to respond to the reports, documents 5 thru 8, noted above.

Suncor may file a response submission to the reports by no later than **4:00pm on Thursday, July 27, 2023**.

No further submissions from the parties will be accepted for consideration in this proceeding unless prior permission is obtained from the AER. Following receipt of Suncor's submission, the AER will consider all the submissions from AWA and Suncor and make its decision whether to reconsider the approval of the MLWC Operational Plan.

Sincerely,
On behalf of Regulatory Appeal



Pam Tongsrinark
Legal Assistant

cc: Bola Talabi, AER
Blair Penner, Suncor
Martin Ignasiak, Bennett Jones