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March 22, 2024

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Attention: Ayan Solomon
Statement of Concern Team
Regulatory Applications

Ecojustice
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Attention: Matt Hulse

Dear Ayan Solomon and Matt Hulse:

Re: Jackpine Mine Project Integrated Renewal Application
Environmental Protection and Enhancement Act Application No. 023-00153125
Water Act Application Nos. 019-00205433, 002-00329253, 011-00186157 and 002-
00329252
Response to Ecojustice Statement of Concern No. 32476

Canadian Natural Upgrading Limited (“**Canadian Natural**”) has received the statement of concern dated March 7, 2024, filed by Ecojustice on behalf of the Alberta Wilderness Association (“**AWA**”), the Keepers of the Water (the “**Keepers**”), and the Athabasca River Basin (together, the “**Parties**”) registered by the Alberta Energy Regulator (“**AER**”) as statement of concern No. 32476 (the “**SOC**”). The SOC has been filed against *Environmental Protection and Enhancement Act* Application No. 023-00153125 and *Water Act* Application Nos. 019-00205433, 002-00329253, 011-00186157 and 002-00329252 for Canadian Natural’s Integrated Renewal Application (together, the “**Renewal Applications**”) for the Jackpine Mine Project (“**JPM Project**”). In accordance with the AER’s letter dated March 8, 2024, this letter provides Canadian Natural’s response to the concerns identified in the SOC.

A. Overview of the JPM Project

The JPM Project is an oil sands extraction and processing facility located in Northern Alberta. Canadian Natural, on behalf of Canadian Natural Resources Limited, operates the JPM Project as the majority owner and operator on behalf of the Athabasca Oil Sands Project, which is a joint venture between Canadian Natural, Chevron Canada Ltd., and Shell Canada Ltd.

The first application for the JPM Project was filed in 2002 by Shell Canada Limited (the former operator) (“**JPM Phase 1**”). JPM Phase 1 was subject to a Government of Canada and Alberta Energy and Utilities Board (“**EUB**”) joint review panel (“**JRP**”) hearing. The JRP issued its decision in February 2004¹, and determined that the JPM Project was in the public interest and not likely to cause significant adverse environmental effects provided that the proposed mitigation measures and JRP recommendations were implemented. Following the approval of the JPM Project, construction commenced in 2005.

In December 2007, an application to expand the JPM Project to increase bitumen production (“**JPM Expansion**”) was filed. The JPM Expansion was subject to another JRP hearing established by the Alberta Energy Resources Conservation Board (“**ERCB**”) and the Government of Canada in 2013.² Upon conclusion of the second JRP hearing, an environmental assessment Decision Statement was issued deeming the JPM Expansion to be in the public interest.³ In May 2019, the JPM Project *Environmental Protection and Enhancement Act* (“**EPEA**”) approval was amended to include the JPM Expansion area, and a separate *Water Act* Approval and *Water Act* Licence were issued specifically for the JPM Expansion.

With active mining in the JPM currently underway, mining activities in the JPM Expansion area are set to commence in 2027 to 2028, with first ore expected in 2031.

Two separate environmental impact assessments (“**EIA**”) were prepared and filed for the JPM Project. The first EIA was prepared for JPM Phase 1, the first JPM Project application, and submitted to the EUB in May 2002. The second EIA was submitted to the ERCB in December 2007 for the JPM Expansion, with an update submitted in May 2008, and included a full cumulative effects assessment of the JPM Project.

The JPM Project’s current approvals include terms and conditions arising from both the 2004 and 2013 JRP hearings. The 2013 JRP report included recommendations directed to the federal and provincial governments in consideration of project-specific conditions that have been included as part of the Renewal Applications. The recommendations for inclusion in the JPM Project approvals covered topics including aquatics, regional effects and effects on Indigenous traditional land use, rights and culture.

In carrying out the JPM Project, Canadian Natural is required to comply with all applicable statutory requirements, regulations and rules. These requirements provide a rigorous regulatory

¹ EUB Decision 2004-009.

² 2013 ABAER 011.

³ [Decision Statement](#) for the JPM Expansion, issued December 6, 2013.

framework for the JPM Project which will minimize the potential for environmental impacts from the JPM Project.

Further, in line with the JPM Project's provincial and federal approvals and authorizations, Canadian Natural submits detailed reporting on an annual basis that demonstrates the performance of the JPM Project and identifies trends in monitoring data. These reports include, but are not limited to, annual environmental reporting, water use reporting, wildlife and fisheries reports, and tailings management performance reports. Canadian Natural operates in strict accordance with the principles of sustainable development and aims to integrate economic benefits, social accountability, and environmental responsibility across all operations. Canadian Natural has applied a best practices approach to sustainable development throughout the design, construction, and operation of the JPM Project.

The JPM Project is authorized to produce 300,000 bbl/day and is currently producing approximately 130,000 bbl/day. The Renewal Applications do not propose any changes to the authorized production rates. Approval of the Renewal Applications will allow the JPM Project to sustain operations and continue several positive socio-economic benefits which include approximately 71 additional years of sustained bitumen production, consistent employment opportunities over the life of the JPM Project and billions of dollars in royalty revenues.

B. The Renewal Applications

Canadian Natural is applying to the AER for the renewal of the following five approvals and licences, in accordance with applicable legislative requirements:

- Approval No. 153125-01-00, as amended, under *EPEA*
- Approval No. 205433-01-00, as amended, under the *Water Act*
- Approval No. 329253-00-00, as amended, under the *Water Act*
- Water Diversion Licence No. 186157-01-00, as amended under the *Water Act*
- Water Diversion Licence No. 329252-00-00, as amended, under the *Water Act*

The JPM's current *EPEA* approval came into effect on May 31, 2019, and expires on May 31, 2024. The *Water Act* approvals and licences for the JPM Project came into effect on May 31, 2019, and expire on May 31, 2024. The existing approvals and licences authorize operations in active mining areas and permit future development in the expansion areas. Canadian Natural notes that these Renewal Applications are intended to renew the JPM Project as currently approved. The Renewal Applications do not seek approval of any updates or changes to the JPM Project. The Renewal Applications seek to renew the JPM Project as currently approved.

C. Stakeholder Engagement

Canadian Natural undertook a consultation and engagement process for the Renewal Applications, in accordance with all legislative requirements of the AER and Aboriginal Consultation Office ("ACO"). Although formal consultation was not directed by the ACO, Canadian Natural engaged with Indigenous groups in relation to the Renewal Applications through quarterly meetings, regulatory updates and informal discussions. During these meetings and discussions, Indigenous

communities did not identify any questions or concerns with the Renewal Applications including specifically, potential impacts on the Athabasca River Basin.

Canadian Natural engaged with Indigenous groups through the Life of Mine Closure Plan for the JPM Project in 2018 and 2019. Engagement included workshops, meetings and tours to discuss questions and concerns with the Indigenous communities.

D. Canadian Natural’s Response to the Parties’ Request for Standing

Legislative Framework

The SOC was filed under section 32 of the *Responsible Energy Development Act* (“**REDA**”), which allows persons that believe they may be directly and adversely affected by an application to file a statement of concern.⁴ Upon receipt of a statement of concern, the AER is required to decide, per section 33 of *REDA*, whether to hold a hearing on an application based on the guidelines set out in the *Alberta Energy Regulator Rules of Practice* (the “**Rules**”).⁵ The *Rules* allow the AER to disregard a statement of concern where the person filing the statement of concern has not demonstrated that the person may be directly and adversely affected by the application.⁶ In addition, the AER may disregard a concern in a statement of concern if the concern is unrelated to or relates to a matter beyond the scope of the application, relates to a policy decision of the Government or is so vague that the AER is not able to determine the nature of the concern.⁷

The Athabasca River Basin is Not a Person

The Athabasca River Basin is not a person and therefore cannot file a statement of concern under section 32 of *REDA* or seek a hearing under section 33 of *REDA*.

First, there is no legal basis for the AER to expand the definition of “person” in the manner suggested by the SOC. Statutory interpretation in Canada is guided by the modern principle whereby the words of an enactment are read in their entire context and in their grammatical and ordinary sense, in harmony with the Act and the intention of the legislature.⁸ The grammatical and ordinary meaning of “person”, per the definition in the *Black’s Law Dictionary*, is “a human being”. Where the legislature intends the word “person” to mean something other than a “human being”, the additional categories of meanings are expressly identified by the legislature. For example, in the *Interpretation Act*, where the definition of a person is clarified as including corporations, heirs, executors, administrators and other legal representatives of a person, and in *REDA* where the AER is granted the rights, powers and privileges of a “natural person”, these additional meanings are express.⁹ Respectfully, the SOC provides no reasoning or context within *REDA* or the overall legislative scheme that would justify a departure from the current definition of “person”.

⁴ SA 2012, c R-17.3 (“**REDA**”).

⁵ Alta Reg 98/2013 (the “**Rules**”).

⁶ *Ibid*, s 6.2(1)(a).

⁷ *Ibid*, s 6.2(2)(b).

⁸ *Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC) at para 21.

⁹ *Interpretation Act*, RSA 2000, c I-8 at s. 28(1)(nn); *REDA* at s. 3(2).

Second, the argument in the SOC is a policy argument best addressed with the Government of Alberta. The idea of “environmental personhood” which contemplates designating certain environmental entities the legal status of a “person” is a new and emerging concept. While Canadian Natural acknowledges AWA and the Keepers’ desire to advocate for a legal framework that extends legal status to certain non-human environmental features, these are policy decisions for the Government of Alberta to consider, not the AER. The jurisdictions cited in the SOC, many of which are incompatible with Canada’s federal and provincial legal frameworks, do not apply to the AER. In particular, there is no Canadian precedent at all that would substantiate the AER’s ability to “read in” a change that would fundamentally alter the statutory framework in which it operates. While the AER may in fact have discretion to carry out its duties and functions, to imply that this discretion includes palpable shifts in creating and administering legal policy is a significant leap. Incorporation of a novel and fundamental legal change in the context of a single AER application would have massive legal, policy and procedural implications that would require the AER to make determinations that are well beyond the scope of the Renewal Applications.

In the future, the Government of Alberta may enact legislative amendments to environmental personhood and the expansion of the rights and associated liabilities of a new category of person. Until then, such a consideration remains a policy matter and therefore clearly outside the scope of the Renewal Applications and considerations of the AER on this matter.

Direct and Adverse Effect Not Demonstrated

Section 6.2 of the *Rules* states that the AER may disregard a statement of concern if the person has not demonstrated that they may be directly and adversely affected by the application. Even if the Athabasca River Basin were to be considered “a person”, which it is not, the Parties have not demonstrated, independently or collectively, the requisite direct and adverse effect, as contemplated by section 6.2 of the *Rules*.

While *REDA* does not define “directly and adversely affected”, the AER and the Alberta courts have provided ample guidance on the type of information a person must provide in order to demonstrate direct and adverse effect. In particular, connecting the contents of an application to actual use and impact is critical to a statement of concern filer’s ability to demonstrate direct and adverse effect. Some relevant decisions following the AER’s inception are referenced below.

In its decision regarding Fort McMurray First Nation’s request to participate in a hearing proposed for Canadian Natural’s Kirby In Situ Oil Sands Expansion Project,¹⁰ the AER confirmed “...the statement from *Dene Tha’*¹¹ that ‘some degree of location or connection between the work proposed and the right asserted is reasonable’ remains a valid consideration when the AER assesses the potential for a direct and adverse effect”. In adopting the Court of Appeal’s reasoning in *Dene Tha’*, the AER has confirmed the need for “hard evidence” from statement of concern filers when alleging potential direct and adverse effects.

¹⁰ *Letter from the Alberta Energy Regulator to Ackroyd LLP and Lawson Lundell LLP Regarding Canadian Natural Application No. 1712215*, dated March 27, 2014, at p 2.

¹¹ *Dene Tha’ First Nation v. Alberta (Energy and Utilities Board)*, 2005 ABCA 68 (“*Dene Tha’*”) at para 14.

In a letter decision from 2013, the AER further underscored the importance of identifying site specific concerns:¹²

Your statement that [the SOC Filer] has treaty and other Aboriginal rights that will be infringed by the development proposed in the applications is general in nature and is not supported by site specific or more specific information demonstrating how those rights may be directly and adversely affected...No site specific or other specific information on this issue was provided to establish a direct connection between the proposed wells and caribou so as to demonstrate a possibility of direct and adverse effect on [the SOC Filer].

Over the years, both the AER and the Alberta Court of Appeal have continued to highlight the importance of demonstrating direct and adverse effect based on the evidence filed and the approvals sought by an applicant. In a letter decision of the AER issued on April 16, 2018, the AER cited the Alberta Court of Appeal's decision in *O'Chiese First Nation v. Alberta Energy Regulator*.¹³ The Alberta Court of Appeal held that whether a party is directly and adversely affected is to be determined by the AER "in light of the evidence properly adduced before it." Further, the Alberta Court of Appeal held that the onus is on the statement of concern filer to provide specific and detailed "hard information" which demonstrates a nexus between the impacts asserted and the approvals sought from the AER.

The AER continues to apply these expectations today.¹⁴ In a letter decision dated May 19, 2023, the AER decided not to hold a hearing following receipt of a statement of concern filed by Lac Ste. Anne Métis Community Association. In that decision, the AER stated as follows:

Although the project is located within the Lac Ste. Anne Métis Community Association (LSAMCA) traditional harvesting territory, the statement of concern does not, without further factual connection, establish that LSAMCA may be directly and adversely impacted by the applications. Further information is required to establish a sufficient degree of location or connection between the Applications and the potential interference or impacts on the rights asserted.¹⁵

In the context of a previous AWA statement of concern, the AER has specifically applied these same requirements to the AWA:¹⁶

AWA has not shown how it may be directly or adversely affected by the AER's decision on the applications. AWA said that it leads hikes in the area and that some of its members

¹² *Letter from the Alberta Energy Regulator to Cold Lake First Nations Regarding Statement of Concern No. 28146*, dated September 23, 2013, at p 3 (emphasis added).

¹³ 2015 ABCA 348 (application for leave to appeal to the Supreme Court of Canada dismissed June 2, 2016).

¹⁴ *Letter from the AER to Fort McKay Metis Community Association*, December 4, 2017, a p 1. See also *Letter from the AER to Fort McMurray #468 Industry Relations Corporation*, November 4, 2014 at p 1; *Letter from AER to Bill McElhanney*, February 26, 2015 at p 1. See also *Teck Resources Limited, Application for Oil Sands Evaluation Wells*, 2013 ABAER 017, October 21, 2013 at para 111 and *Letter from the Alberta Energy Regulator to Ms. Karin Buss Regarding Objection No. 27945*, dated September 19, 2013, at p 2.

¹⁵ *Letter from the AER to Meaghan Conroy*, May 19, 2023 at p 1.

¹⁶ *Letter from the AER to AWA Regarding Proceeding ID 368*, dated November 19, 2018; see also *Letter from the AER to Coalition of AWA and Grassy Mountain Group Regarding Application No. 1928782*, April 2, 2020 at p 2.

have a grazing lease affected by the proposed development. Asserting use of an area does not constitute a direct and adverse effect nor does having members that may be affected by a project. The panel finds that AWA is not directly or adversely affected.

Applying the AER's guidance to the SOC, the Parties have not substantiated that they may be directly and adversely affected by the Renewal Applications. Statement of concern filers have the onus to provide sufficient evidence that demonstrates how they (or their members for that matter) will be tangibly impacted by an application. General comments regarding impacts to the Athabasca River Basin do not constitute evidence of direct and adverse effects. Likewise, opinions expressed in the SOC on Canadian Natural's compliance with certain non-mandatory informational requirements, general cumulative effects concerns, and overarching policy matter concerns (such as the Biodiversity Management Plan) simply fail to establish the "location and connection" required to show direct and adverse effects.

E. Canadian Natural's Response to Concerns and Requests Identified in SOC

As noted above, the SOC primarily identifies process driven concerns related to application requirements and what AWA and the Keepers allege as "information gaps". Notwithstanding that the Athabasca River Basin, AWA and Keepers have been unable to demonstrate direct and adverse effect, Canadian Natural will address each of the procedural concerns, "information gaps" and associated recommendations provided in the SOC, in an effort to respond meaningfully to the concerns raised. Each concern is addressed below.

1. "Information Gaps in the Application"

(a) "*Changes and risk in the environmental setting*"

The EIAs conducted for the JPM Project provided a detailed and thorough assessment of potential impacts of the JPM Project on the environment. This included information detailing the sources and volumes of substances, justification for the release of substances and the overall approach to minimizing waste. As this information was provided in connection with the initial issuance of the JPM *EPEA* approval, as well as the amendment to the *EPEA* approval for the JPM Expansion, these details were not included in the Renewal Applications. The intent of the Renewal Applications is to provide a snapshot of the performance of the JPM Project in relation to the requirements stipulated in the *EPEA* approval. As there are no changes proposed to the waste streams for the JPM Project, the findings of the EIAs remain valid.

i. "Missing years"

The SOC recommends that the Renewal Applications include data from all years that the JPM Project has been operating. The intention of the Renewal Applications is to provide a summary of the current environmental setting and associated conditions for the JPM Project since 2019 when the JPM Project approvals and authorizations were reviewed and issued in connection with a full JRP hearing for the JPM Expansion. The Renewal Applications provide supporting information

for the assessment of the past operating period.¹⁷ The Renewal Applications are not seeking any amendments or updates to the JPM Project, and there are no new activities, equipment, emissions, locations or impacts from those approved by the JRP in 2013. As such, the Renewal Applications intentionally include a summary of data collected since the issuance of the *EPEA* approval in 2019 to illustrate the current setting and environmental conditions. The Renewal Applications provide the information and data required for the AER to assess operation of the JPM Project since 2019 and demonstrate that the JPM Project has met monitoring requirements and limits.

ii. “Inaccurate air quality data”

The SOC notes that Canadian Natural should compare the air quality modeling and predictions to the 2024 He et al study¹⁸ and conduct top down measurements for air quality. The air quality data used in the Renewal Applications is from the Wood Buffalo Environmental Association and the Environment and Climate Change Canada monitoring networks. These networks provide continuous environmental monitoring data sets, which are integrated and intensive in nature, for the comparison of the existing air quality measurement with relevant criteria, guidelines, and *EPEA* limits. They represent the most complete and available data set available for the regional and local study areas. The stations from which the data was acquired are a network of community and industry monitoring stations.

iii. “Failure to compare against baseline data and original EIA predictions”

The SOC recommends that the Renewal Applications include a comparison of observed data to the predictions that were made in the original EIAs. As noted above, the intent of the Renewal Applications is to provide supporting information for the assessment of the past operating period. The Renewal Applications are a continuation of existing activities and operations, which were subject to two separate EIAs. The Renewal Applications do not seek any amendments or updates to the JPM Project, and there are no new activities, equipment, emissions, locations or impacts from those approved by the JRP in 2019. Accordingly, a direct comparison to the original EIAs is not necessary as the potential impacts remain consistent. Canadian Natural has focused on updating and verifying the effectiveness of the existing project, mitigations, and reporting since the last approval.

iv. “Exclusion of the Athabasca River”

The SOC states that a hydrological analysis of the Athabasca River is required as part of the Renewal Applications. As the JPM Project is within the Athabasca River watershed, the Renewal Applications evaluated the water use from the Athabasca River against the Lower Athabasca Regional Plan (“**LARP**”) Surface Water Quantity Management Framework (“**SWQMF**”) and reviewed water quality data within the Athabasca River. The objective of the SWQMF is to manage cumulative water withdrawals to support both human and ecosystem needs, while

¹⁷ AER, *EPEA Guide to Content for Energy Project Applications*, (2012) online at: https://static.aer.ca/prd/documents/applications/EPEA_GuideEnergyProjectApplications.pdf [“**AER EPEA Guide to Content**”].

¹⁸ Megan He et al, “Total organic carbon measurements reveal major gaps in petrochemical emissions reporting” (2024) 383:6681 *Science* 426.

balancing social, environmental and economic interests.¹⁹ The framework sets out triggers and weekly withdrawal limits depending on the weekly flow in the Athabasca River. Under the SWQMF, the Government of Alberta is continually monitoring the Athabasca River and can adjust the triggers and limits for withdrawals based on current conditions. The Renewal Applications provided a comparison of withdrawals from the Athabasca River, as permitted under the licence and the water withdrawal limit under the SWQMF to demonstrate compliance with the *Water Act* licence and overall regulatory framework.

v. **“Outdated water flow predictions”**

The SOC states that Canadian Natural should revise the Renewal Applications to include an updated hydrologic model and predictions that consider the impact of climate change on the Athabasca River and the Muskeg River, and notes that section 4.6 of the Renewal Applications use outdated models. The intent of section 4.6 is to provide a comparison that demonstrates that the modeled results presented in the EIA are realistic and comparable to the monitoring data from the Jackpine Creek and Muskeg River watersheds, collected from 2019 to 2022. If the models were updated, it would negate the comparison of the EIA predictions to the current setting.

vi. **“Emerging influences and environmental pressures”**

The SOC states that the Renewal Applications should assess the risks and impacts associated with climate change. The 2007 EIA for the JPM Expansion assessed the potential for climate change. The intention of the Renewal Applications is to provide a summary of the current environmental setting and associated conditions for the JPM Project since 2019 when the JPM Project approvals and authorizations were reviewed and issued in connection with a full JRP hearing for the JPM Expansion. This includes information specific to how the JPM Project has operated since. Additionally, the Renewal Applications provide information on future changes to the JPM Project including details related to the closure plan, as set out in the Life of Mine Closure Plan.

(b) ***“Substances generated at the facility – air emissions”***

The SOC states that the substances listed in the *EPEA Guide to Content*²⁰ should be included in the Renewal Applications. Not all substances noted in Appendix E of the Guide to Content are applicable to the JPM Project. Information provided in Volume 3 and in the Air Quality Assessment details the air quality monitoring that has occurred over the past operating period. The substances noted in the Renewal Applications are compounds of interest which are emitted directly from the JPM Project. The EIAs assessed the potential impacts of the emissions from the JPM Project. There have been no changes to the JPM Project from the scope assessed in the 2007 EIA.

¹⁹ Alberta Government, *Surface Water Quantity Management Framework for the Lower Athabasca River*, (2015) online at: <https://open.alberta.ca/dataset/f2ebc2f5-fe78-4dfe-be99-85d1d9fb6fe3/resource/d02751b1-c9e4-4e52-921d-72eda6497981/download/zz-6243941-2015-lower-athabasca-region-larp-surface-water-quantity-management-2015-02.pdf>.

²⁰ AER *EPEA Guide to Content*.

(c) “*Substances generated at the facility – water discharges and groundwater*”

The SOC recommends that the Renewal Applications include information regarding discharges from sedimentation ponds and releases into groundwater. It should be noted that no process affected water is released to the environment in relation to the JPM Project. Water stored within sedimentation ponds for future release is natural surface run-off that has not come into contact with oil sands or the plant site. The water in the sedimentation ponds is tested as per the requirements under the *EPEA* approval prior to release. Canadian Natural provides detailed reporting on releases from the sedimentation ponds in its annual reports which is detailed in section 5.2 of the Renewal Applications. Releases from the JPM Project are done in compliance with the *EPEA* approval conditions.

(d) “*Discrepancies in water volumes*”

The SOC details inconsistencies within the Renewal Applications. The following Table 1 details the inconsistencies alleged in the SOC, and Canadian Natural’s response.

Table 1: Discrepancies in Water Volumes

Inconsistency	Canadian Natural Response
In Table 1.2-1, the Total Requirement for Maximum Annual Diversion under <i>Water Act</i> licence 186157-01-00 is 81,200,000 m ³ /year. However, that total is not the sum of the volumes given in Table that are associated with diversions from the Athabasca River, Groundwater Diversion, and Site runoff. Further, this total is different from Table 2.3- 1, which states that the total licenced allocation volume under <i>Water Act</i> Licence 186157-01-00 is 70,200,000 m ³ .	The <i>Water Act</i> licence for JPM was issued in two stages. Stage 1 allowed for a total allocation from all sources of 81,200,000 m ³ /year. Stage 2 allows for a total allocation of 70,200,000 m ³ /year. The JPM Project is currently under stage 2 of the water licence, and permitted to withdraw 70,200,000 m ³ /year. Table 1.2-1 and Table 1.2-3 shows totals for all sources allocated for the Stage 1 allocations. Canadian Natural will update the tables with both Stage 1 and Stage 2 volumes and provide an update to the AER as an erratum.
The maximum annual diversion for the Athabasca River (stage 2) is given as 35,300,000 m ³ /year in Table 1.2-1 but 53,300,000 m ³ /year in Table 1.2-3. (This appears to be a typo, as the <i>Water Act</i> licence states 35,300,000 m ³ /year.)	The maximum annual diversion should read as 35,300,000 m ³ /year in Table 1.2-3.
Tables 1.2-1 and 1.2-2 state that the rate of diversion from the Athabasca River is “up to 4.17 m ³ /s.” However, Table 1.2-3 states that the maximum diversion rate is 4.72 m ³ /s. No explanation is given for this discrepancy.	The rate of diversion from the Athabasca River is licensed at 4.72 m ³ /s. Table 1.2-1 and 1.2-2 should read as 4.72 m ³ /s.
Table 2.3-1 states the volume of water diverted annually from 2019-2022 under <i>Water Act</i> licence 186157-01-00 from the Athabasca, Surface Water, and Groundwater, and in total. However, these volumes do not appear to match those depicted in Figure 2.3-1, which shows annual diversions under	The information shown in Table 2.3-1 is accurate, however, the volumes shown in Figure 2.3-1 are incorrect. The graph is showing cumulative totals, and not specific volumes for each category. Canadian Natural will update Figure 2.3-1 and provide an update to the AER as an erratum.

Inconsistency	Canadian Natural Response
<p>the same licence over the same time period. The chart shows much higher diversions for each source and in total.</p>	
<p>Figure 3.2-1 depicts annual Jackpine Mine plant water usage from 2019-2022, showing both fresh water (Athabasca River) and Recycle Water Use. Total usage was approximately 60 million m³/year. However, Figure 3.2-3 shows that Recycled Water use was approximately 90 million m³/year during the same period. This figure shows similar volumes of diverted water as Figure 2.3-1, but much higher than the volumes stated in Table 2.3-1.</p>	<p>The information shown in Figure 3.2-1 is accurate, however, the water use shown in Figure 3.2-3 is incorrect. The graph is showing cumulative totals, and not specific volumes for each category. Canadian Natural will update Figure 3.2-3 and provide an update to the AER as an erratum.</p>
<p>In its justification of water diversion volumes, the Application states that “combined plant production for the Project at 300,000 bbl/day would require 14,900 m³/h (Section 3.2, JPM EIA 2007) which is 130,524,000 m³/year of water. However, Figure 3.2-3 demonstrates that the Mine is already using more water than that - approximately 160 million m³/year from 2019-2022 – at current production levels of 130,000 bb/day. There is no explanation of how the Mine would reduce its water use and, at the same time, more than double its production.</p>	<p>There are errors in the Figure 3.2-3. The volumes are depicted as cumulative totals, and not actual totals for each source. As shown in Figure 3.2-1 volumes of total water usage for fresh water and reclaim water are approximately 60,000,000 m³/year in plant processes. The reclaim water used within the plant process can be reused over and over. The current allocation of water under the <i>Water Act</i> licence would allow for the combined plant production of 300,000 bbl/day without the use of reclaim water, however, Canadian Natural strives to ensure that the water use intensity of the JPM Project is as low as reasonably possible. Ongoing research and technology development will allow for further efficiencies in the plant to further reduce water use intensity, thus reducing the overall volumes of fresh water required at the JPM Project.</p>

(e) ***“Unexplained increase in water use”***

The SOC points to an unexplained increase in water use in Table 3.1-1 of the Renewal Application. Canadian Natural notes that the increase in the table is not due to an increased use of water in the years starting 2032. The table shows water use on a yearly basis up until 2031, and then starting in 2032, the water use is detailed in five-year increments. The total water use in these 5-year increments is equivalent to the water use modeled in the previous single year columns. In addition, the water balance volumes shown to occur for 2052-2055 is correct, however, the time sequence should be from 2052-2095, not 2055. Table 3.1-1 will be updated and resubmitted to the AER.

(f) **“Failure to conduct a cumulative effects assessment”**

Section 4.2.6 of the SOC recommends that a cumulative effects assessment be completed for the Muskeg River watershed and the Athabasca River. The SOC notes that Manual 25 states that a cumulative effects assessment should be included.

Manual 25 provides supplemental guidance for oil sands mining projects, but does not expressly require a cumulative effects assessment. As noted above, the objective of the Renewal Applications is to provide the current setting and environmental conditions for the JPM Project over the past operating period as well as predicted updates for the next 10 year period. As part of the 2007 EIA, a cumulative effects assessment was conducted in connection with the JPM Expansion that considered potential effects from all developments in the region. The Renewal Applications include activities that have been previously assessed under the 2007 EIA and cumulative effects assessment.

2. “Requested Water Rights for Renewal”

Section 5 of the SOC recommends that the *Water Act* licence allocations should be reduced to match the volume of water that the JPM Project currently diverts. Canadian Natural is committed to reducing the Athabasca River fresh water use intensity at the JPM Project, and as such, does not withdraw the full allocation of water permissible under the *Water Act* licence, as production rates have not reached the approved 300,000 bbl/day capacity (see page 3). Where possible, Canadian Natural utilizes captured precipitation within the plant site, water from groundwater depressurization wells and reclaim water for plant processes in an effort to reduce water diversions from the Athabasca River. The JPM Project has integrated utilities, which optimizes recycle water to continuously strive for lower fresh water usage. Without the use of reclaim water in the process, the full allocation from the licensed sources would be required to maintain production. Should the licensed water withdrawal allocations be reduced and reclaim water was not available, water would be a limiting factor for production and closure activities.

3. “Inadequacy of LARP and its Frameworks”

The SOC states concerns related to the adequacy of LARP and its frameworks. These concerns are regional in nature and fall within the mandate of the Government of Alberta to provide further guidance. The LARP related concerns raised are therefore matters of policy and should be disregarded by the AER as outside the scope of its assessment and review of the Renewal Applications.

F. Conclusion

In summary, the Athabasca River Basin is not a “person” under the relevant legislative scheme and is therefore ineligible to file a statement of concern or request a hearing under the AER’s current regulatory framework. The Parties have also failed to demonstrate that they may be directly and adversely affected by the AER’s approval of the Renewal Applications. The information regarding impacts is general and unspecific, and is primarily focused on procedural matters and informational requirements which do not meet the AER’s required threshold for demonstrating direct and adverse effect. Additionally, many of the concerns raised are beyond the scope of the Renewal Applications, related to a policy decision of the Government and are

indiscernibly vague. On this basis, the SOC and concerns identified in the SOC should be disregarded by the AER pursuant to Rule 6.2.

Notwithstanding the foregoing, Canadian Natural has endeavoured in this letter to provide a complete response to the concerns raised in the SOC. Canadian Natural believes that it has sufficiently addressed all concerns and has met all of the AER's requirements. On this basis, Canadian Natural submits that a hearing is not needed to address the Parties' concerns.

If Canadian Natural can provide any further information, please do not hesitate to contact us.

Yours very truly,

LAWSON LUNDELL LLP

A handwritten signature in blue ink, appearing to read "Shailaz Dhalla", is placed over a light blue rectangular background.

Shailaz Dhalla

SAD

cc: Scott Wytrychowski, Canadian Natural
Anne Umpleby, Canadian Natural
Michelle Barrett, Canadian Natural