

April 22, 2014

Doreen Somers  
A/Director ACFN Industry Relations Corporation  
220 Taiganova Crescent  
Fort McMurray, AB  
T9K 0T4  
via email: Doreen.somers@acfn.com

**RE: Teck Resources 2013/2014 Winter OSE Program application: FNC 201304355 & FNC201307359**

Dear Doreen Somers,

The Aboriginal Consultation Office (the “ACO”) is in receipt of your letters dated July 9, 2013, August 19, 2013, September 17, 2013 and October 22, 2013 addressed to the Government of Alberta and Teck Resources Limited (“Teck”), all regarding Teck’s 2013/2014 Oilsands Exploration Winter Drilling program (“Winter Program”). We are also aware that Teck has provided responses dated September 4, 2013 and October 24, 2013, the March 20<sup>th</sup>, 2014 winter drilling program summary table, and the April 4<sup>th</sup>, 2014 response from Athabasca Chipewyan First Nation (“ACFN”).

We are also in receipt of emails from Meghan Birnie of Birnie Consulting Inc., dated September 12, 2013 addressed to Kelly Kennedy of Alberta Environment and Sustainable Resource Development (“AESRD”), as well as an email from Meghan Dalrymple of Meghan Dalrymple Consulting Inc. dated January 15, 2014 addressed to Melody Nice of the Aboriginal Consultation Office, all regarding the above noted Winter Drilling program.

Please note that Kelly Kennedy is no longer with the Aboriginal Consultation Office. The consultation advisor working on the file is Jeffery Johnston, he can be reached at 780-422-7028 or [jeffery.johnston@gov.ab.ca](mailto:jeffery.johnston@gov.ab.ca). He will be assisted in the review of the project by Gabriel Potter, who may be reached at 780-427-8411 or [gabriel.potter@gov.ab.ca](mailto:gabriel.potter@gov.ab.ca).

As you have asked a number of questions in the above noted correspondence, Alberta’s response will be limited to the main issues that have been identified by the ACO. We will additionally provide referral contact information in cases where the questions you have asked pertain to concerns that are not specifically related to the Project and fall outside the mandate of the ACO, and may be more appropriately addressed by the Stewardship Branch and Operations Division of AESRD.

## **Project Scope**

ACFN has expressed that there should be an Environmental Impact Assessment as part of the application for this project. ACFN has stated that they have brought this suggestion forward during consultation on Teck's previous winter drilling programs and assert that it has yet to be addressed. The ACO does not utilize information on other projects and proponents to determine if consultation for the project under review has been adequate. It is Alberta's position that all activities scheduled for the Teck 2014 winter drilling program will proceed in accordance to directives and regulations issued by AESRD and the AER for a winter exploratory drilling program. The ACO notes that Teck has stated in numerous responses that all activities will follow these directives and regulations and are designed to be temporary, short term, low impacting and rapidly reclaimable. Although the Winter Program is designed to help further understand and support the proposed Teck Frontier mine, the project scope is an exploratory drilling program and will be required to meet all government regulations that govern such programs. Attached are the Schedule A conditions that have governed past programs, and a similar list will govern this winter program.

## **Project Splitting**

In the above noted correspondence between the Athabasca Chipewyan First Nation ("ACFN"), Teck, and the Government of Alberta, ACFN raises the issue of "project splitting" with regards to Teck's application. In your October 22, 2013 letter addressed to Alberta and Teck, you state concerns about project splitting. Alberta is in possession of Teck's response letter, dated October 24, 2013, in which Teck states that "Teck has not attempted to separate these activities and considers that all applied for components form part of the 2014 program. Teck plans to apply for all well licences for the 2014 Program (including additional components) at the same time, therefore, the AER will be reviewing these well licence applications concurrently."

It is important to emphasize that Alberta is in fact committed, in accordance with The Government of Alberta's First Nations Consultation Policy on Land Management and Resource Development (the "*First Nations Consultation Policy*") and its associated Guidelines (the "*Guidelines*"), to consult with First Nations regarding strategic level planning and operational landscape level initiatives that have the potential to adversely impact *First Nations Rights and Traditional Uses* of Alberta Crown lands.<sup>1</sup> However, the decision as to which approvals or permits a given proponent wishes to seek from Alberta is a decision that is made by the proponent. Depending on the proponent's operational requirements, the proponent may or may not be in a position to seek approval for any single activity or group of activities.

## **Two-Year Adequacy Window**

Regarding Megan Dalrymple's request for Alberta to "please provide copies of any correspondence in which Alberta has advised ACFN that a consultation adequacy determination

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<sup>1</sup> Alberta's First Nations Consultation Guidelines on Land Management and Resource Development, Part IV Alberta Sustainable Resource Development Guidelines for First Nations Consultation on Resource Development and Land Management 2007/2008

could be valid for two years from the date of issue, or, provide us with any publicly available reference to this policy?” please refer to the Alberta Environment and Sustainable Resource Development website, under the section “*First Nations Consultation – First Nations Consultation-Lands – Procedural Steps for Consultation with First Nations – Step Six: Consultation Adequacy Review*” where you will find the following statement: “An adequacy decision applied to a FNC Number or FNC Activity Number indicating that consultation with a particular First Nation has been deemed adequate, or complete, will expire two years from the date of the electronic notification. If the proponent has not utilized that number for that particular project within two years, they will need to seek a new consultation decision for that project through the FNC process.” This website can be found by navigating to the following hyperlink: <http://esrd.alberta.ca/lands-forests/first-nations-consultation/first-nations-consultation-lands.aspx>

### **Out of Scope Concerns**

Regarding a number of issues ACFN raised related to Teck’s activities within or in proximity to ACFN-designated areas of interest, such as the “Critical Use Area” north of the Firebag River, “the Poplar Point Homeland Zone”, “the Caribou Protection Zone”, and “the Key Wildlife and Biodiversity Zone”. Pursuant to the Policy and Guidelines, Alberta expects that ACFN will provide specific information related to the proposed project regarding how the project will impact ACFN’s Treaty Rights and Traditional Uses. ACFN’s concerns that fall outside the scope of the Winter Program are better addressed through avenues such as the Teck Frontier Mine Project consultation process, AEMERA, and the ongoing development of the Land Use Frameworks (“LUF”) and in developing a biodiversity management framework and landscape plan. These initiatives will allow the Government of Alberta to work with First Nations to consider how First Nations’ constitutionally protected rights to hunt, fish and trap for food can continue to occur within reasonable proximity to First Nations’ population centers, and are forecasted to provide effective new tools for managing cumulative environmental effects at the regional level, among other issues. For more information respect to this issue, please contact Mr. Scott Duguid of Stewardship Branch, AESRD, at [scott.duguid@gov.ab.ca](mailto:scott.duguid@gov.ab.ca) or by phone at (780) 422-5619.

### **Requests to Delay Approvals**

You also request that there be no further approval of projects north of the Firebag River. Alberta will continue to process First Nations Consultation Assessment Requests according to current policies and procedures.

### **Ronald Lake Bison Herd**

Regarding the Ronald Lake bison herd, Alberta is aware of the importance of the Ronald Lake bison herd to ACFN and has been monitoring dialogue between ACFN and AESRD to ensure the ACFN’s interests are being considered. Alberta understands that studies to gain further information regarding this issue are underway, and encourages ACFN to continue to work with AESRD to support further research regarding the herd. It is our understanding that a meeting was scheduled for February 4, 2014 between Alberta and ACFN to further discuss the scope of work and timing of current and future monitoring programs. This resulted in the development of a

framework for a Ronald Lake bison herd Technical Studies Team, and that ACFN concerns which were solicited will be incorporated in the design and study plans going forward. It is our understanding that during the winter of 2013/2014 AESRD intensified their efforts to study this herd in order to better inform the Crown of the ecological, genetic and disease status of the herd. AESRD expects that definitive results of these studies will be available in approximately two years.

While these studies are ongoing, it is Alberta's current understanding of the Teck 2014 Winter Drilling Program that on condition of regulatory approval, the Winter Program will meet all directives and guidelines for winter drilling programs, and it is Alberta's current assessment that the potential adverse impacts of the program including those to the herd are low in magnitude and temporary in duration.

The scope of FNC201304355 is for 120 core holes, 435 geotechnical holes, water use from existing 10 year diversion licences and 26 temporary diversion licences (total of 191,000m<sup>3</sup>), 70 kilometers (km) of 2D seismic line along existing disturbances, upwards of 50 piezometers, 4 slope inclinometers and one water monitoring well. There will also be one camp which has already been issued dispositions and one temporary construction camp.

The scope of FNC201307359 is for 18 additional core holes to study hydrogeology, and an additional 6.2 km of seismic line along existing disturbances. There will be no new access built.

The project area will use a total of 198.1ha of land approximately 71 percent or 140.7ha will use existing disturbances. The majority of the water will be used to construct roads, this will return to the basins in the spring. In 2012/2013 Teck only used approximately 25 percent of the water that was approved in its licences.

All roads are constructed of snow pack and water freezing, while ground disturbance is rare. All creek crossings are snow fills with no ground disturbance. Long term effects will be restricted to removal of vegetation. It is expected that these areas will naturally re-vegetate in 3-4 years.

The project is short in duration and all drilling activities are scheduled from mid-January to mid-March, with individual drilling events being typically on site for less than 48 hours. These will be staggered to reduce noise effects and will proceed north to south to limit the duration near areas of potential bison habitat.

Data from other bison herds in the province indicate that the animals will return to areas of drilling shortly after the drilling phase is over. Initial telemetric data from the Ronald Lake herd indicates that the herd continues to use the area even though it has been subject to winter exploratory activities for numerous years.

### **Prior Compliance**

Regarding your question "What actions has Alberta taken to ascertain whether or not Teck was in compliance with ID 2005-001, and with the conditions of any Public Lands Act authorizations issued last year? Did Alberta consider the results of any investigation, or Teck's actions of 2013,

prior to issuing Teck further authorizations?" We appreciate that you have brought this to our attention. Alberta would like to note that it is Alberta's policy that matters of compliance on other programs will not affect the adequacy review for FNC201304355 and FNC201307359. The issue of Teck's adherence to the timelines and requirements of all Public Lands authorizations is more appropriately addressed by Terry Zitnak, Regional Director, Lower Athabasca Region, ESRD. Ms. Zitnak has been previously made aware of this issue and is copied on this correspondence.

Having regard to the foregoing, we believe that the ACO has provided an adequate response to the questions raised by ACFN with regard to consultation process. The ACO is prepared to proceed with assessing adequacy of consultation for the FNC files for this project, FNC201304355 and FNC201307359, in the near future. We would like to take this opportunity to thank you for bringing your concerns to our attention. We understand that there has been a significant amount of correspondence between ACFN, Teck and the Government of Alberta. Please be assured that we are carefully considering all information provided to the ACO during the consultation process for this project.

Best Regards,



Melody Nice  
Region Lead - Lower Athabasca Region  
Aboriginal Consultation Office

cc:

Tim Burggraff  
Scott Duguid  
Terry Zitnak  
Melody Nice  
Lisa King

## **SCHEDULE A CONDITIONS**

1. IN THIS DOCUMENT, unless the context indicates otherwise:

"Approval (of a departmental officer)" whenever required, must be in writing.

"authority" means: this document or the right to occupy public land granted by this document.

"department" means: Environment and Sustainable Resource Development

Integrated Resource Management Planning Division

Land Management Branch

Petroleum Plaza, South Tower

3rd Floor, 9915 - 108 Street

Edmonton, Alberta

T5K2G8

Telephone: (780) 427-3570

"departmental officer" means: an employee of the Alberta Environment and Sustainable Resource Development, Integrated Resource Management Planning Division responsible for the management of surface activity on the land.

"holder" means: the recipient of the right to occupy public land granted by this document.

"land(s)" means: the specific land which the holder is authorized to occupy for the purpose of conducting an oil sands exploration program.

"minister" means: the Minister of Environment and Sustainable Resource Development. payments required by this document are to be made payable to "Government of Alberta" and may be delivered to the nearest Integrated Resource Management Planning Division office, or mailed to:

Environment and Sustainable Resource Development

Integrated Resource Management Planning Division

Main Floor, Petroleum Plaza, South Tower

9915 - 1 08 Street

Edmonton, Alberta

T5K2G8

a) The holder shall comply with all relevant laws in the Province of Alberta.

b) A copy of this authority shall be retained on the job site during all phases of your activity, including, if applicable, preparation, construction, development, maintenance and abandonment.

c) The holder shall contact the registered trapper, if any trapping areas (TPA) have been issued on the quarter sections included in this authority, at least TEN DAYS PRIOR TO INITIATING YOUR PROGRAM. This must be done by registered mail and we recommend personal communication follow-up. The trapper's name and address may be obtained from Alberta Energy, Crown Land Data Support {Telephone: (780) 422-1395}. For other information concerning registered traplines, contact the Client and Licensing Service, Environment and Sustainable Resource Development, Edmonton, Alberta (Telephone: (780) 427-5185) upon receipt of this approval. Your company may be responsible for any damage to traps, snares or other improvements.

d) This authorization should not be construed as assuring that any other relevant approvals from this department or any other department or agency of the Alberta Government will be granted.

e) This authorization is granted subject to further amendment by the Minister of Environment and Sustainable Resource Development, or his designate that relates to the subject matter of this authorization.

2. The holder shall contact and advise the departmental officer of its intentions:

- prior to entry upon the lands prior to any additional construction during the term of this authority at the completion of operations, and upon abandonment of this activity or cancellation of this authority.

Departmental Officer: Steven Stryde

Area Operations Division, Waterways

Ft. McMurray, Alberta

Telephone: (780) 743-7173

3. Prior to the commencement of any activity, the holder shall arrange and hold a meeting with the departmental officer to discuss site specific operating conditions, which may include access, creek crossings, timber salvage and wildlife concerns.
4. The holder shall carry out exploration activities in accordance with the Code of Practice for Exploration Operations established in accordance with the *Environmental Protection and Enhancement Act*.
5. Portions of this program are within a Forest Management Agreement Area. Prior to commencement, the holder shall notify the FMA holder of its intentions.
6. For the purpose of wildlife management, there should be no activity on any of the lands within the ungulate zone between January 15 and April 30 unless otherwise approved in writing by the departmental officer.
7. Access lines are not to exceed a maximum width of 8 metres (as indicated on the maps submitted as part of this application) unless otherwise approved in writing by the departmental officer.
8. Unless otherwise approved in writing by the departmental officer, the holder shall ensure that drill sites for oil sands exploration shall not exceed 50 metres x 50 metres.
9. On sites where mechanical mulching methods are utilized to clear forest cover, the holder shall ensure that fine woody debris (wood chips) is managed as per Directive *SD 2009-01 Management of Wood Chips on Public Land*.
10. When a new access approaches a road, the holder shall construct a line at an appropriate angle (45 degrees) to eliminate a continuous line of sight. The holder shall dispose of all debris on the doglegs in a manner as directed by the departmental officer.
11. The holder shall not deposit or push debris, soil or other deleterious materials into or through any watercourse or water body or on the ice of any watercourse/water body.
12. Temporary crossings on all watercourses, must be by a fill using snow and ice materials only. Unless otherwise directed by the departmental officer, the fill must be completely removed prior to spring break up.
13. Reconstruction of banks, shoreline and approaches on all watercourses or water bodies is required and as directed by the departmental officer.
14. Except for approved crossings of watercourses, the holder shall leave a buffer zone of undisturbed vegetation of a minimum width of 100 metres between any proposed activity (edge of clearing) and any watercourse, water body (top of valley escarpment and/or high water mark), animal lick or bald eagle nest unless otherwise approved in writing by the departmental officer.
15. The holder shall utilize the lands only during frozen ground conditions.
16. Any activity on the land during adverse ground conditions must be suspended if the activity is likely to cause unacceptable damage to vegetation or soil as may be determined by the holder or the departmental officer.
17. Prior to entry on the land, the holder shall steam clean all equipment, including seeders.
18. The holder shall strip and pile the topsoil separately from any fine woody debris (wood chips) and subsoil in such a manner that it can be distributed evenly over the disturbed area when operations have been completed.
19. The holder shall take all precautions and safeguards necessary to prevent soil and surface erosion to the satisfaction of the Departmental in its sole discretion.
20. The holder shall not dispose of drilling waste off lease without a further disposition or letter of authority under Section 20 of the *Public Lands Act*.
21. The holder shall utilize impermeable tanks to collect all liquid effluents and dispose of at an authorized disposal facility.
22. Drilling waste sumps are not permitted on core hole sites. The holder shall apply for a common sump location in consultation with the inspecting departmental officer. Prior to commencement of operations, the holder shall have any sumps approved under a Mineral Surface Lease (MSL).
23. All woody debris and leaning trees must be slashed, limbed and bucked flat to the ground unless otherwise approved by the departmental officer.

24. The holder shall salvage all merchantable timber.
25. The holder shall cut, keep down and destroy all noxious and restricted weeds and control noxious weeds as per the *Public Lands Act*.
26. Unless otherwise specified by a departmental officer, initial efforts at re-establishing a vegetative cover on disturbed surfaces must be accomplished by allowing the land to revegetate through natural processes without seeding.
27. The holder shall provide to the department within 60 days of March 31 each year of this program until a reclamation certificate is issued, an Annual Report (three copies) indicating:
  - a) the area of new disturbance area cleared and/or utilized as approved under this program,
  - b) any sites added to the program including the authorization issued by the department,
  - c) the total area of lands within the program intensively used (disturbed),
  - d) a listing of all core hole sites or accesses converted to disposition under the *Public Lands Act*,
  - e) the total area of lands within the program cleared but not explored to date and intent for completion, and
  - f) any other pertinent information relevant to this program.
28. The holder shall carry out interim reclamation work concurrently with operations and full reclamation prior to abandonment and cancellation. Reclamation includes debris disposal, slope stabilization, re-contouring, restoration of natural drainage(s), replacement of surface soil and re-vegetation.
29. Final reclamation must be completed and a Reclamation Certificate applied for within three full growing seasons following the expiration of this authority.
30. The holder shall submit three (3) complete copies of final plans covering this program to the Director of the Land Management Branch, Integrated Resource Management Planning Division, Alberta Environment and Sustainable Resource Development, at the time of application for a Reclamation Certificate.
31. Upon completion of the exploration programs on public lands, charges for timber damage, if applicable, will be assessed in accordance with the current schedule (Timber Damage Assessment Table).

All licences, authorizations and approvals issued by Alberta Environment and Sustainable Resource Development under the *Public Lands Act*, *Forests Act*, *Environmental Protection and Enhancement Act* and *Water Act* should not be taken to mean the proponent (applicant) has complied with federal legislation. Proponents should contact Habitat Management, Central and Arctic Region, Fisheries and Oceans, at the appropriate local office as listed below, in relation to the application of federal laws relating to the *Fisheries Act* (Canada).

-Bow and Parkland Regions (403) 292-5160

- Northern East Slopes and Northeast Boreal Regions (780) 495-4220

-Prairie Region (403) 394-2920

-Northwest Boreal Region (780) 618-3220

Proponents should also contact the Navigation Protection Program, Canadian Coast Guard, 4253- gth Street, Edmonton, Alberta, T6E 5Y7. Telephone: (780)495-6325. relating to the *Navigable Waters Protection Act*.

## **Appendix I**

Reporting the discovery of historic resources Pursuant to Section 31 of the *Historical Resources Act*, should any archaeological, paleontological, historic period resources or Aboriginal traditional use sites of a type described below be discovered during the conduct of activities associated with the program, staff of the Heritage Division of Alberta Culture (Telephone: 780 431-2300) are to be contacted immediately. It may then be necessary for the Heritage Division to issue further instructions regarding the documentation of these resources. Post development impact assessment audits Pursuant to Section 37(2), of the *Historical Resources Act*, the Heritage Division of



Alberta Culture may require a post development impact assessment audit in the spring and/or summer of the following year and annually until the program is closed. Aboriginal traditional use sites that Alberta Culture consider as historic resources under the *Historical Resources Act* Aboriginal traditional use sites that are considered by Alberta Culture to be historic resources under the *Historical Resources Act* include but may not be limited to the following:

Historic cabins remains; Cabins (unoccupied); Ceremonial plant or mineral gathering sites; Ceremonial sites/spiritual sites; Cultural or community camp sites; Gravesites; Historic settlement(s)/Homestead(s); Historic sites; Oral history sites; Trails; and, Wickiup/Sweat lodge sites.

This listing updates the list on pages 5 and 6 of *Tourism, Parks, Recreation and Culture Guidelines for First Nations Consultation on Resource Development and Land Management* (referred to as the ACCS Consultation Guidelines), Part V of Alberta's *First Nations Consultation Guidelines on Land Management and Resource Development*, dated November 14, 2007.

## **Appendix II**

All water use must be in compliance with the Water Act. Contact the Regional Water Approvals office with the Operations Division of Environment and Sustainable Resource Development at (780) 427-5296 for further information and requirements regarding this exploration program. Unless exempt under the Water (Ministerial) Regulation, the holder shall comply with the Code of Practice for Watercourse Crossings under the Water Act.