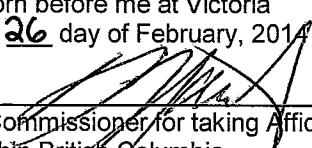


ANNEX II

Supplemental Information

Letter from Alberta Minister of Environment and Sustainable Resources Development

This is Exhibit "12" referred to in the
Affidavit of Erin Hackenberg
sworn before me at Victoria
this 26 day of February, 2014



A Commissioner for taking Affidavits
Within British Columbia



ALBERTA

ENVIRONMENT AND SUSTAINABLE RESOURCE DEVELOPMENT

Office of the Minister
MLA, Drayton Valley-Devon

AR55770

October 30, 2013

The Honourable Leona Aglukkaq
Minister of the Environment
Government of Canada
House of Commons
Ottawa, ON K1A 0A6
leona.aglukkaq@parl.gc.ca

Dear Minister Aglukkaq:

I am pleased to provide you with a copy of Alberta's Lower Athabasca Regional Plan and the Response to Aboriginal Consultation on the Lower Athabasca Regional Plan. I am also pleased to supplement these documents with the following information.

Provincial Policy

There are several provincial policies currently under development in Alberta that will be of interest to you. The Government of Alberta is developing an offset policy. This policy will ultimately guide the implementation of other policies that incorporate offset concepts at a more project-based and local scale. Offsets will be used as a tool in regional planning and have been specifically enabled under the *Alberta Land Stewardship Act*. Eligible offsets will include a suite of options that require coordination across multiple Government of Alberta departments. Options currently under consideration include: conservation offsets and easements, transfer development credits, and ecosystem services.

A range of offsets are being evaluated for inclusion in the offset policy, including interim or transitional offsets that could return developed areas to the working land base once they have been successfully reclaimed. This supports a dynamic approach to managing land-use and provides an impetus for progressive land reclamation. The Government of Alberta has been working collaboratively with stakeholders to further its offsets policy discussion.

A pilot is currently underway in southeast Alberta to explore voluntary conservation offsets for enhancing native prairie lands. This pilot is a collaborative approach between Government of Alberta ministries, non-governmental organizations, industry, private landowners, and researchers. The pilot seeks to achieve an integrated and comprehensive approach that responds to industry's business models as well as land owner needs and aspirations for private lands. The pilot includes new industry development impacts on native prairie in the dry Mixedgrass Natural Subregion. Industry development impacts related to oil and gas, utilities, or other industries that create an industrial footprint on native prairie would be considered. The conservation offset pilot is an essential step in the development of fundamentally sound and practical conservation offset tools that could be delivered through a broader provincial offset program. Offsets are considered the third step following avoidance and onsite mitigation.

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204 Legislature Building, 10800 - 97 Avenue, Edmonton, Alberta T5K 2B6 Canada Telephone 780-427-2391 Fax 780-422-6259
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Alberta's wetlands have been protected under an Interim Policy for Wetland Management in the Settled Area of Alberta since 1993. Alberta's priority has always focused on avoiding impacts to wetlands whenever possible. A new Alberta Wetland Policy has been released to provide the strategic direction and tools required to make informed management decisions in the long-term interest of all Albertans. It provides clear and consistent provincial direction to land and resource managers, developers, landowners, land users, and stewards. The new policy is based on the concept of relative wetland value, whereby the functions and benefits provided by wetlands are clearly acknowledged and incorporated into planning and management processes. This approach will ensure the execution of informed decisions, leading to a more robust management system and positive outcomes for wetlands in Alberta. The new policy will be implemented in a phased approach to allow further refinement of key components of the wetland management system. The policy is expected to be fully operational by summer 2015.

Once the Alberta Wetland Policy is implemented, any new approved development activities that result in the permanent loss of wetlands will be subject to wetland replacement requirements. These replacement requirements will be established on the basis of relative wetland value and will consider the proportion of wetlands proposed for reclamation under an agreed reclamation plan. In the case of oil sands development, both upland and wetland impacts will be addressed through the establishment of clearly defined reclamation plans. During the next two years, the Government of Alberta will seek to incorporate various aspects of the new policy into existing regulatory processes, to optimize wetland outcomes while remaining within the bounds of established approval requirements.

We recognize that airsheds, watersheds, forests, and landscapes have a limited carrying capacity. Each new development has incremental effects on air, water, land and biodiversity - together these effects exert a cumulative impact. The Government of Alberta uses a cumulative effects approach to manage these impacts through the establishment of regional thresholds (triggers, limits, and/or targets). Environmental management frameworks are a key tool to implement the regional cumulative effects management approach. Frameworks have been employed in the Lower Athabasca region (which is in the northeast corner of Alberta where the oil sands are found) and will be used in subsequent regions.

Regional Planning and the Provincial Land-use Framework

Alberta's Land-use Framework sets out an approach to manage public and private land and natural resources to achieve Alberta's long-term economic, environmental, and social goals. It provides a blueprint for land-use management and decision-making that addresses Alberta's growth pressures. Land-use decisions affect all Albertans. The ideas and opinions of Albertans played a vital role in the development of the Land-use Framework; input and advice was gathered between 2006 to 2008 from a broad spectrum of stakeholders and members of First Nations, the Métis Settlement General Council, and the Métis Nation of Alberta.

Consultation and input on the Land-use Framework clearly identified a desire for improved consultation with First Nations and Métis communities, stakeholders, and the public to ensure a fair opportunity to influence new policies and decisions. The need for integration and coordination of provincial policies governing air, water, land, and biodiversity was also apparent. Albertans told us they wanted to have provincial leadership providing clear direction and parameters for regional, local, and landowner decisions.

One of the key guiding principles – and an explicit strategy of the Land-use Framework – is to ensure that land-use decisions will be respectful of the constitutionally protected rights of Aboriginal communities. As such, the Land-use Framework and regional planning initiatives seek to work with Aboriginal communities' governments, while respecting the special role and relationship of the federal government. The Government of Alberta recognizes that consultation and engagement should take place on matters that impact treaty rights or constitutionally protected rights of First Nations and Métis peoples. Aboriginal peoples are encouraged and provided with capacity funding to participate in the development of land-use plans.

The Land-use Framework commits the Government of Alberta to develop a unique regional land-use plan for each of our province's seven regions. These regions are based on the major watersheds, with boundaries aligned to best fit with existing municipal boundaries and the natural regions. The regional plans seek to integrate provincial policies at a regional level, set out regional land-use objectives, and provide the context for land-use decision making within the region. The Lower Athabasca Regional Plan was completed in September 2012, and is Alberta's first approved regional plan.

Lower Athabasca Regional Plan

The Government of Alberta recognizes the need for forward-looking, long-term planning – we have developed the Lower Athabasca Regional Plan to address and proactively manage the land-use challenges of this northeastern Alberta region. The Lower Athabasca Regional Plan reflects an ongoing commitment to engage Aboriginal peoples in land-use planning. The Government of Alberta recognizes that First Nations and Métis communities that hold constitutionally protected rights are uniquely positioned to inform land-use planning. The Government of Alberta continues to provide opportunities for Aboriginal peoples in land-use planning, as well as opportunities to provide input into decision-making; we recognize the cultural and economic importance of land use to those Aboriginal communities.

First Nations communities and Métis organizations in Alberta were invited to participate in the land-use planning process for the Lower Athabasca region. Twenty-one First Nations and nine Métis organizations opted to participate, and the Government of Alberta consulted with and/or engaged with each of them based on our First Nation Consultation Plan and Métis Engagement Plan for the Lower Athabasca Region. This resulted in a total of 107 meetings over a two-year period (2009-11). The Government of Alberta also conducted more than 80 public and stakeholder sessions held across the region and in communities located in adjoining Land-use Framework regions.

The development of the Lower Athabasca Regional Plan involved years of engagement and consultation to gather input and feedback on the region and its regional plan. In addition to engagement and consultation efforts, Treaty 6, Treaty 8, and Métis Settlements each had representation on the Regional Advisory Council. The Regional Advisory Council provided recommendations to government on economic growth, land conservation, air and water thresholds, and human development needs. These needs included the development of formal roles and responsibilities for Aboriginal peoples in land-use planning and for achieving regional objectives.

All input received throughout the engagement and consultation process was compiled into the Response to Aboriginal Consultation on the Lower Athabasca Regional Plan. This document provides a summary of the input received and information about how the Government of Alberta incorporated that input into the regional plan. Where input was not incorporated into the plan, the Response to Aboriginal Consultation on the Lower Athabasca Regional Plan also documents the reasons why it was not included.

Lower Athabasca Regional Plan Initiatives

Regional frameworks have been established to manage cumulative effects on air quality, water quality, and groundwater quality and quantity in the Lower Athabasca Region. These frameworks establish clear thresholds and will be a basis for assessing future development approvals. The frameworks establish a commitment to ongoing monitoring, evaluation and reporting of the conditions to determine if triggers are exceeded.

The frameworks are currently undergoing their first year of review, and a report on their status will be released at the end of 2013. If monitoring indicates that a trigger or limit has been exceeded, there will be a regional management response. The frameworks describe the types of management actions that may be required, such as the preparation of management plans, further modeling and/or monitoring, development and application of new performance standards, and the use of best management practices.

Development in the Lower Athabasca region is expected to continue. As a proactive measure, the Government of Alberta evaluated the projected industrial growth in the region to inform a decision about the region's conservation objectives. Conservation areas were established as a way to offset and balance current and future impacts of development in the region while striving to maintain ecological function and provide opportunities for recreational use and for traditional land use by Aboriginal peoples. In September 2012, the Lower Athabasca Regional Plan added 1.5 million hectares of new conservation area, which increased the percentage of protected land in the region from 6 per cent to 22 per cent (from 500 000 hectares to 2.1 million hectares). Local project-specific impacts continue to be evaluated for project-specific offsets.

The Government of Alberta is moving quickly to address gaps in implementing the Lower Athabasca Regional Plan. In addition to the existing regional cumulative effects management frameworks for air quality, water quality, and groundwater quality and quantity, the Lower Athabasca Regional Plan also commits the Government of Alberta to the development of a Surface Water Quantity Management Framework and Tailings Management Framework. Aboriginal communities are engaged in the development of the Surface Water Quantity Management Framework for the Lower Athabasca River. Consultation is occurring this fall and the frameworks are nearing completion.

Work is also underway to develop a regional biodiversity management framework to fill the last major environmental gap to our cumulative effects-based approach. This framework will define targets for biodiversity in specific areas over time. The landcover and species targets in this management framework will be developed as part of the cumulative effects-based regional planning process. Outcomes will consider the social, economic, and environmental values.

The discussions on specific biodiversity indicator targets during the planning work will be informed by a risk assessment protocol adapted from the International Union for the Conservation of Nature guidelines. This protocol provides an indication of risk trends that need to be considered in the development of targets for the key indicators. Species that have higher risk levels will trigger greater restrictions on disturbance activities, such as industry access and other public uses.

As developed to date, the biodiversity management framework calls for the following means to achieve the desired biodiversity indicator targets: designation of conservation areas, control of the development of human disturbance footprints, enhanced reclamation to reduce impact of footprint, and control of public motorized use of those footprints. Footprint management will be a key method of achieving desired biodiversity targets. An integrated landscape management plan will support the achievement of biodiversity targets by managing the extent and duration of the region's land disturbance and development footprint.

Caribou are a key indicator of biodiversity in the region, and will be included in the biodiversity management framework. Alberta is currently developing range plans for the maintenance and recovery of Alberta's fifteen caribou populations. Range plans will be integrated and aligned with regional plans. Caribou range planning will address land-use strategies and tools for meeting habitat objectives. This will be a component of the landscape management plan to meet biodiversity objectives.

These planning processes are linked and will be developed in concert. Because plans for ranges in the Lower Athabasca region are anticipated for 2014, there is a strong synergy with timing requirements for the biodiversity management framework and landscape management plan. Project teams are working together to ensure proper connections and alignment between all of these processes to ensure efficient and effective use of resources, and clarity to stakeholders. Caribou range planning will use sound habitat and population metrics in the setting of priorities and will be responsive to evolving caribou and landscape conditions. A broad range of tools and management approaches will be examined in the development of range plans.

Early work on the regional biodiversity management framework is expected to be shared this fall. Engagement on the initial work is expected to begin in November, with a completed framework expected in June 2014. Alberta's provincial biodiversity policy will help guide the implementation of the regional biodiversity management frameworks. In developing the biodiversity management framework and a landscape management plan, the Government of Alberta will work with First Nations to consider how First Nations' exercise of constitutionally protected rights to hunt, fish, and trap can continue to occur within reasonable proximity of First Nations' main population centres. We will also consider how to minimize land disturbance in the Athabasca River corridor north of Fort McMurray.

The Government of Alberta has invited First Nations who expressed an interest in the Richardson Backcountry to be involved in a sub-regional initiative. This initiative considers impacts to treaty rights to hunt, fish, and trap; fish and wildlife management, access management, and economic/business opportunities; and management of new wildland provincial parks and public land areas for recreation and tourism. The working group, led by my department of Alberta Environment and Sustainable Resource Development, is finalizing a project charter and work plan, and is engaging First Nations to begin discussions on the Richardson Backcountry Initiative. This initiative is intended to provide direction for the management of recreational, commercial, and industrial use of on- and off-highway vehicles and watercrafts, while minimizing the impacts to the ecological integrity of the area.

Environment and Sustainable Resource Development has also been working with Fort McKay First Nation to develop a terms of reference to guide the development of an access management plan for Moose Lake. Access management refers to the coordination of planning and construction of roads and other linear features, the management of the human uses, and the reclamation or restoration of linear features. This can also be described as linear footprint management and would be part of the overall landscape management planning process for the region (committed to in the Lower Athabasca Regional Plan). Based on the draft shared outcomes developed to date, the intent of the Moose Lake Access Management Plan is to minimize the adverse impacts of linear disturbance and associated access. The plan will incorporate the interests of aboriginal people, industrial users, and other stakeholders.

A more detailed regional strategic assessment is also being conducted for the south Athabasca oil sands area, which will be the main area of in situ oil sands development in the region. This prototype will assess the cumulative effects of future development and inform a sub-regional plan that will provide direction to regulatory decision-makers.

Aboriginal Traditional Land Use

The inclusion of Aboriginal peoples in land-use planning is an explicit outcome of Alberta's Land-use Framework. This inclusion was, and continues to be, demonstrated in the development and implementation of the Lower Athabasca Regional Plan. Significant consultation and engagement with First Nations and Métis occurred during the Lower Athabasca regional planning process. To support their involvement, Alberta provided \$100,000 of capacity funding to each First Nation to support their participation in land-use planning and ensure that their cultural, economic, and environmental input was received and considered.

Environment and Sustainable Resource Development has committed to working collaboratively with First Nations to implement the Lower Athabasca Regional Plan and to pursue structured relationships such as the monitoring sub-tables under the 2008 Protocol Agreement on Government to Government Relations. These sub-tables allow Athabasca Tribal Council First Nations and Environment and Sustainable Resource Development to collaboratively develop practical solutions to the mutually-identified strategic issues related to the environment, cumulative effects, and monitoring in the region.

The Government of Alberta continues to look for opportunities to engage communities and invite them to share their traditional ecological knowledge to inform land and natural resource planning in this region and in the province. Efforts to build First Nations' capacity have been underway for several years and have included programs such as the Traditional Use Studies Program and the First Nations Consultation Capacity Investment Program, administered by Alberta's department of Aboriginal Relations. By investing in the gathering and maintenance of information about First Nations land uses, Alberta has continued to support First Nations' participation in dialogue about regional planning and policy development.

The Government of Alberta will continue to collaborate with Aboriginal communities to protect traditional-use locations of cultural and spiritual significance. The Government of Alberta appreciates the importance of traditional land use to Aboriginal communities and recognizes that the extent of traditional land use does not necessarily coincide with the boundaries of the regional planning areas. Aboriginal communities were provided with opportunities to address this concern through their involvement in the Lower Athabasca Regional Plan, where traditional land use continues. Alberta will continue to look for opportunities to engage aboriginal communities and invite them to share their traditional ecological knowledge to inform land and natural resource planning.

A new Cabinet-approved policy on consultation with First Nations on land and natural resource management will be coming into effect in Alberta soon. The new policy is intended strengthen the consultation process for all involved parties and help ensure Alberta's legal duty to consult continues to be met in a way that respects Treaty rights.

Other Key Initiatives

There are several other key initiatives I would like to highlight for you. The Mackenzie River Basin Transboundary Waters Master Agreement (1997) established an inter-jurisdictional administrative board that includes one government and one Aboriginal board member from each province and territory in the basin, and up to three federal government members. The board is working to develop a better understanding of the health of the aquatic ecosystem of the Mackenzie River Basin and will be producing a state of the aquatic ecosystem report in 2017. The inter-jurisdictional administrative board is also striving to better incorporate traditional knowledge in the development of that report. The Traditional Knowledge and Strengthening Partnerships Steering Committee was established to address this need. The committee includes all Aboriginal members from the jurisdictions. A workshop is being scheduled in December 2013 to determine how traditional knowledge will be incorporated into the state of the aquatic ecosystem, and to develop indicators that will be used to evaluate the aquatic ecosystem health of the Mackenzie River Basin.

Parks Canada leads the Peace-Athabasca Delta – Environmental Monitoring Program with support from the Government of Alberta, ten First Nations communities, two environmental non-government organizations, Environment Canada, Indian and Northern Affairs Canada, the Department of Fisheries and Oceans, and the Government of the Northwest Territories. The Peace-Athabasca Delta – Environmental Monitoring Program is designing a comprehensive ecological monitoring program to support effective environmental stewardship by providing long-term data and information to evaluate and report on the Delta's ecological integrity. The design of the monitoring program will incorporate the most current and best understanding of both western science and traditional ecological knowledge.

The Cumulative Environmental Management Association is a multi-stakeholder group and a key advisor to the provincial and federal governments. It is committed to respectful, inclusive dialogue to make recommendations to manage the cumulative environmental effects of regional development on air, land, water and biodiversity. Its membership includes First Nations and Métis groups; municipal, provincial and federal governments; environmental advocacy groups; educational institutions; and the mining and in-situ oil sands operators. The association contributes recommendations to its stakeholders pertaining to the cumulative impact of oil sands development.

The Cumulative Environmental Management Association has established a Traditional Knowledge Working Group to promote the use of traditional knowledge within the region, encourage effective communication with Aboriginal communities, and undertake traditional knowledge projects and research. The goals are to ensure meaningful and equal Aboriginal input in environmental management frameworks and recommendations to government, which will ensure the land, forest, air, water, wildlife, and biodiversity in the Regional Municipality of Wood Buffalo will be protected and reclaimed for long-term sustainability.

Environmental Monitoring

The Government of Alberta is working to enhance our knowledge and performance management system, focusing on enhanced monitoring, evaluation and reporting systems. This is a key element of our integrated resource management system, which includes regional planning, monitoring, and regulatory enhancement.

Alberta and Canada continue to jointly carry out the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring that was announced in 2012. Progress on the plan's implementation is on track, including the establishment of the required mechanism in Alberta to enable the collection of annual funding from oil sands operators in the region to support environmental monitoring actions under the plan. Alberta continues on its path to create an arms-length agency to lead its enhanced environmental monitoring system. Specific legislation to create the arms-length agency is expected to be passed by Alberta this fall 2013. When the arms-length agency becomes operational, Alberta intends to delegate the authority and responsibility to implement and operate the joint oil sands monitoring plan to the agency.

Environment and Sustainable Resource Development and Environment Canada are actively engaging First Nations about the creation of an engagement sub-table for the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring. This dialogue is occurring as outlined in Alberta's 2008 Protocol Agreement for Government to Government Relations. Work on joint priorities such as environmental monitoring and other aspects of integrated resource management will take place through the sub-table process. The Government of Alberta has also funded a community-based monitoring training initiative in Fort Chipewyan that has already provided training for four Athabasca Chipewyan First Nation community members. These individuals have been actively involved in selecting monitoring sites, collecting samples, and providing input into future monitoring initiatives.

Alberta's Regulatory System

The primary authorities for regulating upstream oil and gas activity in the province currently include Alberta Energy, the Alberta Energy Regulator, and Environment and Sustainable Resource Development. Additional agencies responsible for regulating upstream oil and gas

activity can include other provincial regulatory authorities, local authorities, and federal regulatory authorities.

Alberta Energy administers the system through which Alberta Crown-owned mineral rights including oil, gas, and oil sands are leased. Thereafter, Alberta's regulatory framework ensures that every energy development project is subject to regulatory scrutiny throughout its lifecycle from authorization and operational compliance to end-of-life closure. All energy development projects require an authorization issued by the Alberta Energy Regulator. Under the *Responsible Energy Development Act*, the Alberta Energy Regulator is required to take into account environmental, social, and economic impacts in its decision-making. Large-scale projects require an environmental impact assessment under the *Environmental Protection and Enhancement Act*.

Where approval is given by the Alberta Energy Regulator, many projects also require approvals from Environment and Sustainable Resource Development under the *Water Act*, *Environmental Protection and Enhancement Act*, and *Public Lands Act*. These approvals are designed to minimize the impact of resource development on air, land, water, and biodiversity. The *Responsible Energy Development Act* contemplates that the *Alberta Energy Regulator* will assume responsibility for these approvals at a later date resulting in the Alberta Energy Regulator having full regulatory responsibility for these projects throughout their lifecycle.

Legislation requires companies to report all releases of any substance that could cause an adverse environmental effect, and approvals require mandatory renewal every ten years to allow new information, technologies, and best practices to be incorporated. Our department has a suite of tools, including proactive preventative action and education to ensure that companies are following the conditions of their approval and complying with environmental laws. Our inspectors conduct scheduled and unannounced inspections, and compliance sweeps. If operators break a condition of their approval, a variety of enforcement tools are available depending on the severity of the offense.

Consultation Adequacy

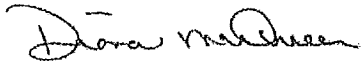
Alberta's First Nations consultation on Shell's proposed Jackpine Mine Expansion remains ongoing. Of all First Nations consulted, Athabasca Chipewyan First Nation and Fort McMurray 468 First Nation are the only nations that have not yet formally removed their statements of concern for the technical approvals of the project.

Environment and Sustainable Resource Development staff continue to meet with Athabasca Chipewyan First Nation to discuss the project. Athabasca Chipewyan First Nation has indicated it wishes to meet with Government of Alberta technical experts to discuss the results of the Joint Review Panel decision report on the proposed Jackpine Mine Expansion project. The Nation also wants to discuss our department's draft approvals under the *Water Act* and *Environmental Protection and Enhancement Act*. Once our department has prepared the draft regulatory approvals, they will be shared with First Nations for review. These regulatory approvals provide additional means to address First Nations' concerns and ensure that the appropriate conditions are put in place for operators so those concerns are addressed.

Alberta remains open to consulting with other First Nations if requested.

I appreciate this opportunity to highlight some of Alberta's current issues, new initiatives, and ongoing work. Please do not hesitate to follow up if you would like to discuss anything further.

Sincerely,

A handwritten signature in cursive script that reads "Diana McQueen".

Diana McQueen
Minister

Enclosures