
**ATHABASCA CHIPEWYAN FIRST NATION
INDUSTRY RELATIONS CORPORATION**

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June 4st, 2009

Rick Brown
Director, Northern Region
Alberta Environment
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RE: DRAFT EIA TERMS OF REFERENCE – CARMON CREEK PROJECT – SHELL CANADA PEACE RIVER IN SITU EXPANSION

The Athabasca Chipewyan First Nation Industry Relations Corporation (ACFN IRC) is writing on behalf of the Athabasca Chipewyan First Nation (ACFN) regarding the draft terms of reference for the environmental assessment of Shell Canada's proposed Peace River In Situ project (the "Project"). The ACFN is a signatory to Treaty No. 8 and a registered First Nation whose traditional lands include the Peace-Athabasca River Delta. We wish to express concern at this time that the proposed Project may have adverse direct, indirect, and/or cumulative impacts on the constitutionally-protected Treaty and Aboriginal rights of ACFN. We acknowledge that this submission is being made three days past the June 1st deadline for comments. Rather than detailing our various good reasons for why this submission is slightly overdue, we would like to state that, in our view, considering our late submission will not cause prejudice to Alberta Environment or Shell.

We have reviewed the draft terms of reference for the environmental impact assessment of the Project, with the technical assistance of DS Environmental Consulting Inc. This review revealed a number of issues and deficiencies that should be addressed in the final terms of reference and reflected in the environmental impact assessment of the planned project.

The primary concern in this regard is that the ToR identify information requirements by government agencies for the EIA, but do not address the legal duty of the Crown (and Industry, where appropriate), to consult with First Nations and to seek to address their rights and interests. We have made detailed comments on these information requirements in a previous submission to Alberta Environment on the proposed terms of reference for the Athabasca Oil Sands Corporation McKay River SAGD Project (May 21, 2009).

In addition, we offer the following input in regards to specific sections in the proposed terms of reference:

➤ **Project Alternatives - ERCB Water Use Guideline**

2.3.2 [D] this term should also require Shell to discuss how they intend to meet the planned ERCB In-Situ Water Use Guideline (currently under review)

➤ **Study Area - Cumulative Effects Assessment**

3.1.3 should indicate that the hydrological regional study area should extend downstream from the project on the Peace River and include the Peace-Athabasca Delta

➤ **Impact Assessments - Impacts on the Peace Athabasca Delta**

3.4.2 [E] & [F] the potential impacts of the project, in association with all other existing and possible impacts (cumulative) on the Peace-Athabasca Delta should be presented and discussed. Furthermore the impacts on the Delta should include the effects from the Peace River Dam, the proposed Dunvegan Hydro-Electric project, and the planned BC Hydro 'Site-C' dam.

➤ **Impact Assessment - First Nations**

3.11.2 [A] the impact assessment of the Project should include an analysis of the potential impacts on downstream First Nations rights and uses by the alteration of the flows and water volumes in the Peace River affecting the Peace-Athabasca Delta on a cumulative effects basis - as compared to a pre-disturbance (e.g., pre-1965) baseline.

We request that the Director provide us with a written response on how these comments and proposed changes were addressed in the final terms of reference; and, if they were not used, then a justification and explanation as to why our comments were not incorporated. We reserve the right to raise additional concerns, should they arise.

Sincerely,



Lisa King
Director, ACFN IRC

cc: Ron Moggert, Shell Canada Limited

**Shell Canada Limited Carmon Creek Project Proposed Terms of Reference
 Consideration of Athabasca Chipewyan First Nation – Industry Relations Corporation pTOR Comments**

	Comment	Result of Consideration
1	The primary concern in this regard is that the TOR identify information requirements by government agencies for the EIA, but do not address the legal duty of the Crown (and Industry, where appropriate), to consult with First Nations and to seek to address their rights and interests.	No changes were made to the TOR in response to this comment. <i>Alberta's First Nations Consultation Guidelines on Land and Resource Development</i> outlines how consultation will occur. Shell's First Nation Consultation Plan outlines how consultation will occur specifically for the Carmon Creek Project
2	We have made detailed comments on these information requirements in a previous submission to Alberta Environment on the proposed terms of reference for the Athabasca Oil Sands Corporation McKay River SAGD Project (May 21,2009).	Comments provided were considered. Please refer to the document provided from Chris Powter on August 18, 2009.
3	Project Alternatives - ERCB Water Use Guideline 2.3.2 [D] this term should also require Shell to discuss how they intend to meet the planned ERCB In-Situ Water Use Guideline (currently under review)	No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 2.11[B](a). Proponents are required to consider all current government regulations and guidelines. If changes are proposed to a regulation or guideline and are made publically available during a Proponent's development of an EIA Report, Proponents are expected to consider the information. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent's ability to meet the proposed changes of a particular regulation or guideline. If regulations or guidelines are revised prior to an approval being issued on a proposed project, that project would have to meet the new regulations and guidelines.
4	Study Area - Cumulative Effects Assessment 3.1.3 should indicate that the hydrological regional study area should extend downstream from the project on the Peace River and include the Peace-Athabasca Delta	No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 3.1.2 If the assessment indicates that there is an effect on the Peace-Athabasca Delta or other aquatic resources, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i> , Page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area.

	Comment	Result of Consideration
5	<p>Impact Assessments - Impacts on the Peace Athabasca Delta 3.4.2 [E] & [F] the potential impacts of the project, in association with all other existing and possible impacts (cumulative) on the Peace-Athabasca Delta should be presented and discussed. Furthermore the impacts on the Delta should include the effects from the Peace River Dam, the proposed Dunvegan Hydro-Electric project, and the planned BC Hydro 'Site-C' dam.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 3.1.2 and 3.1.3 If the assessment indicates that there is an effect on the Peace-Athabasca Delta or other aquatic resources, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area. For cumulative effects, <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission of the Proponent's application and EIA Report.</p>
6	<p>Impact Assessment - First Nations 3.11.2 [A] the impact assessment of the Project should include an analysis of the potential impacts on downstream First Nations rights and uses by the alteration of the flows and water volumes in the Peace River affecting the Peace-Athabasca Delta on a cumulative effects basis – as compared to a pre-disturbance (e.g., pre-1965) baseline.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 3.1.2 and 3.1.3 If the assessment indicates that there is an effect on the Peace-Athabasca Delta or other aquatic resources, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area. For cumulative effects, <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission of the Proponent's application and EIA Report.</p> <p>AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using a pre-disturbance scenario is that for many parameters we lack the data needed to properly describe the scenario so that appropriate modeling, etc. can be conducted to forecast project effects. There is also a question about what constitutes “pre-disturbance”. Is it oil sands development, all development, resource exploration, European settlement...? The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p>



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May 25, 2009

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BY EMAIL and FAX

Dear Sirs/Madam:

Re: Carmon Creek Project EIA Terms of Reference and Application for Water Intake Modifications, Peace River, Alberta [CEAR, Assessment 07-01-32719].

I am the Chief of the Duncan's First Nation (DFN) who have Treaty and Aboriginal Rights that will be affected by the Carmon Creek Project (the Project).

I am writing to provide you with the DFN's comments on the Draft Terms of Reference for the environmental impact assessment for the aforementioned Project issued by Alberta Environment as well as our request that Canada and Alberta establish a Joint Review Panel to assess the effects of the Project.

Draft Terms of Reference (attached).

The Terms of Reference proposed by the DFN include additions which the DFN feel very strongly about and which are considered essential for us to understand the effects that the Project will have on our Treaty and Aboriginal Rights: a comprehensive Aboriginal Impact Assessment and a Cumulative Effects Assessment that includes consideration of potential future projects that may arise during the lifetime of the Project. This information will assist us, as well as government decision-makers, to better predict, reduce and manage risks associated with the Project.

While our comments are extensive, I wish to put on the record the fact that the Project proponent and Alberta have refused to provide us with the funds necessary for us to complete a more

comprehensive review of the Draft Terms of Reference. The DFN do not consider the non-project specific consultation funding provided by Alberta as appropriate or sufficient to deal with such major projects requiring lengthy environmental assessments. Nor do the DFN differentiate between Alberta and the Proponent on this decision, and its ramifications for fulfilling governments' legal consultation obligations, since these obligations have been delegated to the Project proponent.

As your request for comments, and these comments provided by the DFN, will fall within what you consider to be your consultation record with the DFN regarding our Treaty and Aboriginal Rights, I would appreciate if you could provide us with a record of your consideration of these comments so that we will be in a position to determine the extent to which you have fulfilled your obligations to protect our Treaty and Aboriginal Rights and the options available to us to protect our rights. Specifically:

- a) which comments were accepted and incorporated into the approved Final Terms of Reference;
- b) which comments were partially accepted and incorporated into the Final Terms of Reference;
- c) which comments were not accepted; and
- d) a rationale or explanation for not accepting, whole or in part, any DFN comments.

Joint Review Panel

I would also like to take the opportunity of reiterating my concerns, previously expressed, regarding the potential regulatory splitting of the Carmon Creek Project and the Peace River Water Intake and our request that Alberta and Canada establish a joint review panel for the whole Project.

To reiterate, I urge you to consider our comments with respect to the Proposed Terms of Reference and our request regarding establishment of a Joint Review Panel, which we feel will provide both the information needed, as well as a regulatory process, to protect our Treaty and Aboriginal Rights.

I look forward to hearing from you.

Sincerely,



Chief Don Testawich
Duncan's First Nation
PO Box 148m, Brownvale, AB T0H 0L0

cc. Ron Moggert, Public Consultation/Shell/Carmon Creek, Ron.Moggert@shell.com
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Duncan's First Nation Comments

Environmental Assessment Report Proposed Terms of Reference

Shell Carmon Creek Project (the "Project")

The Duncan's First Nation (DFN) has reviewed the Draft Terms of Reference (TOR) for the Carmon Creek Project Environmental Impact Assessment (EIA) and has noted the following deficiencies:

Application Structure

1. The Application should contain a stand alone **Aboriginal Impact Assessment** Section detailing how consultation was conducted, what issues were raised and how those issues and concerns were considered and addressed (including measures to prevent, mitigate and compensate). For ease of understanding to the DFN, this information should be presented in a matrix format (**See section 5 below**).
2. The Application should include a comprehensive **Commitments Table** identifying all Proponent commitments with a tabular summary of expected negative effects from the Project along with impact management commitments to mitigate those effects. The commitments should include a statement of when the mitigation is proposed and what department or party will be responsible for reviewing the effectiveness of the commitments once implemented. The table should organize the mitigation/management practices and design features by impact topic. It should also include a summary of commitments that the Proponent has made to First Nations including any plans to compensate for impacts that cannot be prevented or fully mitigated.
3. The Applications should include a comprehensive **Mitigation Table** identifying all the mitigation measures proposed.
4. The Application should include digitally enhanced simulated/**photographs** depicting what the Project would look like from various directions and distances.

<p>NOTE: The Titles and numbers below follow those of the draft Terms of Reference, proposed by Shell and approved by the Government of Alberta, for public consultation.</p>
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1. Public Engagement and Aboriginal Consultation

Proponent Consultation

5. The Application should include historical and present information on the Proponent's consultations with Aboriginal communities relating to existing Shell projects and activities, including seismic , in the Peace River area (e.g. applications, prevention/mitigation measures, monitoring), including identifying

on-going issues raised by Aboriginal communities and how they were considered and addressed.

6. The Application should describe how the Project design has changed as a result of pre-application consultations with Aboriginal communities and other First Nations.
7. The Application should discuss the views of First Nations on the Consultation Plan as well as the measures and funding provided to First Nations, at all stages of the regulatory process, to meaningfully participate in it

Government Consultation

8. The Application should include historical information on the Government of Alberta's (Alberta's) consultations with the DFN and other First Nations on current Shell activities/projects in the Peace River area (e.g. compliance, monitoring and enforcement).
9. The Application should discuss Canada's consultations with the DFN and other First Nations on the proponents' Peace River Water Intake Project.
10. The Application should identify Federal and Alberta government agencies and their contacts responsible for consulting with First Nations with respect to the Project and all post approval licenses, permits or authorizations identified by them as being required.
11. The Application should summarize pre-application consultation with First Nations by government agencies including any information and advice given by Federal or Provincial agencies to the Proponent on:
 - a) who, how and when First Nations consultation should occur;
 - b) the role and timing of government agencies consultation in addressing or accommodating impacts to First Nations' interests;
 - c) funding First Nations to participate meaningfully in the regulatory process.

Regulatory

12. Identify and discuss the status of any provincial multi-stakeholder planning initiatives or policies that apply. Where these initiatives have not yet been implemented, identify where the process is at, when implementation is likely to start, and the extent to which any outcomes from them could affect the Project.
13. The Application should fully identify and describe any federal authorizations required for the Project and explain why, if federal environmental assessment legislation is triggered, the federal and Alberta environmental assessments have not been harmonized.

14. The Application should fully explain and document any discussion held with Alberta and Canada regulatory agencies about the proposed approach of splitting the federal and provincial environmental assessments of the Project and the Peace River Water Intake.

2.2 Project Development: [A] Provide A Development Plan That Includes

15. The development plan should also include: the Peace River Water Intake, the CO² Storage and any air strip.
16. The schedule of development should include land clearing and preparation.
17. The Applications should discuss, in every section where appropriate, how the Project has changed as a result of lessons learned from the oil sand developments in the Fort McMurray area.

2.3 Evaluation of Alternatives

2.3.1 Project Alternatives

18. The Application should discuss the results and status of Shell's Viking Project (the use of electricity to warm the bitumen), its plans for its use and why that technology is not being proposed.
19. Alternative means of carrying out the Project should include a detailed qualitative and quantitative comparison of potential impacts for First Nations and environmental effects and impacts for all alternatives considered.
20. The need for the Project should include the need for the bitumen product at regional and national levels taking into consideration supply and demand scenarios over a 20 year period.
21. The Application should discuss how the Project will contribute to regional land management (land use planning, etc.) and research initiatives (cumulative effects, water, fish, etc.) as well as the implications on those initiatives if the Project is approved before they are completed.

2.3.2 Process and Infrastructure Alternatives

22. The Application should discuss criteria used for selecting options to not bury pipelines associated with the Project.
23. The Application should include consideration of the energy requirements associated with treating saline water.
24. The waste disposal strategy should identify any known uncertainties about regional groundwater mapping.

2.4 Project Processes and Facilities

25. Provide maps and/or drawings of the Project components and activities including:
 - a) all above-ground pipelines associated with the Project;
 - b) all linear corridors (pipelines, transmission lines, roads, seismic lines) in the DFN traditional territory (RSA);
 - c) locations for all phases of development;
 - d) boundaries of proposed development area;
 - e) areas proposed to be disturbed in relation to existing topographic features, township grids, wetlands, watercourses and water bodies.
26. The Application should identify and quantify the amount of land of all Shell leases in the Peace River area, as well as all pipelines and linear corridors associated with the Project and Shell's other activities.
27. The Application should identify and quantify all above-ground pipelines associated with the Project.
28. The Application should identify and map wildlife corridors in the Project area and superimpose that information on the aforementioned maps that identify Project facilities and above ground pipelines.

2.5 Transportation Infrastructure

29. Discuss how First Nations access to, or within the Project Area or lease area, will be managed during the development phases of the Project so they are able to exercise their rights.
30. Describe how the needs of all resource users were integrated to reduce and manage overall environmental impacts when locating and designing access to infrastructure.

2.6 Land Management

31. Describe the total land area disturbed during each stage of the Project, as well as any stewardship targets established that minimize the amount of land area to be disturbed at any one time.
32. Describe the role and contributions of Shell to the establishment of regional land use plans prior to 2009.
33. Discuss how Shell's land management will fit in with, or compromise, the Regional Land Use Plan yet to be developed for the Peace River region.
34. Describe Shell's total land holdings in the Peace River area.

2.7 Air Emission Management

35. The Application should identify the locations of air monitoring stations used for the assessment in relation to seasonal prevailing winds.
36. The Baseline information on air quality should use historical data for the past 20 years (any scientific data available should be supplemented by community knowledge).
37. Discuss how significance of impacts was determined in relation to regional threshold limits.
38. Describe and discuss the monitoring programs that Shell will implement to assess the air quality and the effectiveness of mitigation during the Project's development and operations (including locations for monitoring stations and the compatibility of the program with those in use by other stakeholders' air initiatives) and how Shell plans on consulting First Nations with respect to monitoring station locations and data sharing.

Greenhouse Gas

39. Discuss the Project's contribution to total provincial and national greenhouse gas emissions on an annual basis for each stage of the Project, and a detailed plan for continual reduction of the greenhouse gas intensity of the Project.
40. Discuss the economic viability and financial liabilities of the Project under different carbon pricing scenarios including a description of the range of scenarios and methodology employed.
41. Discuss Shell's overall greenhouse gas management plans, including what effect corporate greenhouse gas management plans will have on this Project.

Climate Change

42. The Application should have a stand-alone section on climate change which identifies and discusses:
 - a) provincial, regional and national standards and guidelines applicable to the Project;
 - b) existing studies and information on climate change and the local and/or regional, inter-provincial/territorial changes to environmental conditions resulting from climate conditions, including trends and projections where available.

43. The Application should provide information about potential changes in environmental conditions associated with climate change predictions and how these might affect the conclusions in the EIA.
44. If CO₂ injection into wells is identified as a climate change mitigation measure, the Application should discuss its feasibility and potential success citing examples of where the proposed technology has been successfully used. The CO₂ injection technology should be peer reviewed and those results included in the Application.
45. The Application should assess the effects of climate change extremes on flood events, significance conclusions, and the fish compensation plan.

2.8 Water Management

46. Describe any contingency plans for water supply, including potential effects of extended periods of drought on the proposed water supply.
47. Discuss the significance of any effects identified in the navigability assessment(s) for waterways that may be affected by the Project.
48. The wastewater management strategy discussed should include any plans to address site runoff, groundwater protection, deep well disposal and wastewater discharge, aqueous contaminants (quantity, quality and timing) beyond site boundaries and the potential environmental effects of such releases.
49. The Applications should discuss the implications that thermal pollution could have on adjacent groundwater quality.

2.10 Conservation and Reclamation

50. The pre-development information provided should also include Ecological Land Classification.
51. For the purposes of the reclamation plans, the pre-development information must be presented such that it provides targets against which the success of reclamation can be measured.
52. Milestones and targets must include traditional resources and provide evidence for how First Nations were involved in determining the targets and the measurement of achieving the targets.
53. The post-disturbance Ecological Land Classification map should identify any differences from the pre-development Ecological Land Classification.
54. The conceptual plan to monitor reclamation performance success should use Alberta Biodiversity Monitoring Institute Protocols.

55. The uncertainties discussed in relations to the conceptual reclamation plan, should include: residual effects, reclamation failures and delays, and the potential environmental consequences associated with these uncertainties.

2.11 Environmental Management Systems

56. The Application should discuss the success of any current program relied upon by Shell for the Project.
57. The Application should include as key elements of the environmental, health and safety management system to be monitored, local and regional health conditions and Peace River water quality.
58. In the interest of transparency, the Applications should identify how, and when, on and off-site monitoring data will be disseminated to First Nations, the public or other interested parties.
59. Any adaptive management program proposed should identify who will be involved in and how decisions will be made.
60. Any plans and commitments to providing the DFN a role (and funding to meaningfully participate) in monitoring [e.g. Wildlife Management Committee, ISO 4001 System, adaptive management, and conservation and reclamation planning] should be identified and included in the Commitments Table.
61. The Application should include detailed contingency plans if major Project components or methods prove to be unfeasible or do not perform as expected.

2.12 Regional and Cooperative Efforts

62. Identify and discuss the status of any multi-stakeholder regional planning initiatives or policies that apply. Where these initiatives have not yet been implemented, identify where the process is at, when implementation is likely to occur, and the extent to which any outcomes from them could affect the Project.
63. The Application should identify proponent commitments to either, not begin construction until a regional land use plan and cumulative effects monitoring programs are in place, or how such plans will be incorporated into management plans and practices.
64. The Applications should include any Proponent commitments to financially contribute or participate in regional land use plans and regional cumulative effects monitoring plans and First Nation participation in those processes.

3.1.1 Scenarios

65. The Baseline Case, besides existing environmental conditions, and existing and approved projects or activities, should include: pre-development baseline scenarios representing an intact regional ecosystem as an accurate portrayal of both local and regional ecological integrity.
66. For greater clarity, the ‘Planned Development Case’ should include:
 - a) potential future projects (e.g. Bruce Nuclear, BC Hydro Site C, and Bluesky Refining, ATCO Slave River Hydro, Dunvegan Hydro, Ironstone Mine), all of which may affect Peace River water quality and quantity and downstream users; and
 - b) oil sands delineation and exploration of regional oil sands leases, as mandated by Alberta tenure regulations.
67. In order to better predict cumulative effects during the lifetime of the Project, a “**Future Case Scenario**” should be done by modelling, that includes projects or activities, which have received leases and permits from the Government of Alberta, whose owners, after documented consultation, indicate that the project may proceed within the lifetime of the Carmon Creek Project (see below #63).
68. In order to illustrate the Future Scenario Case, maps should be created that illustrate future project infrastructure (plants, pipelines, etc.) along with the Projects identified in the Planned and Application cases.

3.1.2.2 Local and Regional Study Areas

69. For greater clarity the Regional Study Area (RSA) [“the area within which there is the potential for cumulative and socio-economic effects, and that may be relevant to the assessment of any wider-spread effects of the Project”] for purposes of the **Aboriginal Impact Assessment, is the entire DFN traditional territory.**
70. Temporal boundaries should extend through the exploration, construction, operation, reclamation and closure phases of the Project.
71. For greater clarity, spatial boundaries should not be constrained by political boundaries.

3.1.3 Cumulative Effects Assessment

72. The Cumulative Effects Assessment should include a “**Future Case Scenario**” for those projects or activities that have received leases and permits from the Government of Alberta and whose owners, after documented consultation, indicate that the project may proceed within the lifetime of the Carmon Creek

Project. In order to do this, the proponent should use modelling and scenarios with conservative assumptions (as identified in TOR, s.3.1.5).

73. The Application should include a comprehensive plan, including appropriate baseline data/analysis of cumulative impacts, to properly assess impacts on DFN rights and to serve as a standard against to measure impacts on rights and the environment. If no such data exists because land use planning or cumulative effects management has not been implemented in the Peace River area, the EIA should use ones that have been established elsewhere using appropriate assumptions.
74. Any data used to support assumptions or conclusions should identify any deficiencies or limitations to existing databases and proposals to measure any resultant uncertainties.
75. Where cooperative opportunities and initiatives undertaken to further the collective understanding of cumulative effects are identified, the Application should identify the importance of such information or actions flowing from those initiatives in addressing potential cumulative effects.
76. Shell should include along with “a summary of all proposed monitoring, research and other strategies or plans to minimize, mitigate and manage any potential adverse effects”, plans and commitments to compensate for potential adverse effects.
77. Any follow-up programs identified should include plans to mitigate any adverse effects and to monitor and respond to expected or unanticipated conditions, in addition to verifying the accuracy of the environmental assessment.
78. The residual effects description should include the “environmental consequences and their significance” and describe how regional management initiatives have been factored into dealing with residual effects.
79. Linear developments, including seismic lines and pipelines, provide open access that is used by ATVs for decades after they have been constructed. This indicates that there will be long-lasting effects of these developments. These effects are therefore cumulative and should be included in the cumulative effects assessment.

3.1.4 Information Requirements

A, b)(iv), determining significance

80. The Application should assess impact ‘significance’ on the DFN’s current and traditional uses.
81. The Application should discuss Proponent consultations, including those with the DFN, to define and measure “significance.”

82. In situations in which there are residual impacts that the Proponent does consider non-significant, the Application should indicate who, and how, the First Nations, stakeholders and government agencies were consulted on the significance determination.
 83. Where Shell is relying on information collected for their previous environmental assessment for the Project, subsequently withdrawn, the Application should identify the date of those studies/information, and, where that information is more than 3 years old, discuss whether the information is still relevant.
 84. The Application should discuss the status of any studies identified in the 2006 Carmon Creek Application that were incomplete, planned to be completed during the regulatory process, or intended to be done in the future.
 85. The Applications should discuss and provide a rationale for why any of these studies still remain undone for the past 3 years, and when they expect to have them completed.
- B, information deficiencies**
86. The Application should discuss the quality of any assessment conclusions associated with any information deficiencies in the EIA identified by Shell.

3.2 Air Quality, Climate and Noise

3.2.1 Baseline Information

87. Discuss any regional air monitoring underway in the area and Shell's participation in any regional air monitoring forums or processes.

3.2.2 Impact Assessment

88. Describe the selection criteria used to determine study areas, including information sources and assessment methods.
89. Provide a justification of models used, model assumptions and model shortcoming or constraints on findings, discussion of meteorological data input used to set up model.
90. Identify regional, provincial and national objectives for air quality that were used to evaluate the significance of emission levels and ground level concentrations.
91. Include the effects of cumulative air quality impacts to the environmental resources identified in the air quality impact description.
92. Discuss any follow-up programs and adaptive management considerations in the event the region's climate changes.

3.3 Hydrogeology

93. The Devonian layers in modeling and model calculations should include: changes in pressure, changing free gas content and changing permeabilities caused by dewatering.
94. Hydrological information relied upon for the assessment should be peer reviewed and reported on.
95. The Application should assess and discuss impacts beyond the Project footprint and boundaries of the local watersheds (i.e. Peace-Athabasca Delta) and measures to prevent or mitigate downstream water quality and quantity effects over time.
96. The Application should provide information on the potential effects to from urban and agricultural runoff on Peace River water quality.
97. The Application should discuss any regional uncertainties with the hydrogeology setting including hydraulic conductivity.
98. The hydrogeology assessment should include the potential impacts from thermal pollution associated with wastewater disposal.

3.4 Hydrology

99. Discuss the potential for connection between surface water, groundwater, production zones and disposal zones.
100. Discuss any compensatory mitigation opportunities to offset impacts on surface waters.

3.5 Surface Water Quality

3.5.1 Baseline Information

101. Identify water bodies that are sensitive to acid deposition.

3.5.2 Impact Assessment

102. Discuss the reliability of the data indicating impacts and the confidence limits of this data.
103. Discuss seasonal variation and potential effects on surface water quality including potential effects from climate change.

3.6 Aquatic Ecology

104. Given concerns over downstream fish health, the Application should assess and discuss fish health including criteria, indicators, examined stage, sample size, adaptive management and mitigation measures.
105. The Application should include a conceptual Fish Habitat Compensation Plan that identifies the approach, rationale, quantification, location, follow-up and Audit of the any proposed compensation measures. If compensation sites are identified, land tenure should be confirmed as the overall compensation ratio would be adversely affected if tenure was unavailable. Also, the Plan should provide a linkage between proposed compensation and species that would benefit as well as a description of how proposed sites presently do or do not serve as fish habitat.
106. Describe existing baseline information, any deficiencies in information, how these deficiencies will be addressed and, as applicable, any studies proposed to evaluate the status of fish and aquatic resources in the area.
107. Describe fish species present and life stages of concern for any water crossings.
108. Discuss the assumptions associated with reclamation and/or mitigation success incorporated in the assessment.
109. Discuss the potential effects of predicted climate change on aquatic systems relative to baseline.

3.7 Vegetation

110. Discuss species that are important to wildlife as food or shelter.
111. Identify which plants are indicator species for environmental effects.
112. The discussion on expected timelines for establishment and recovery of vegetative communities should include timelines for recovery from effects of potential acidification and climate change effects.
113. Discuss assumptions associated with reclamation and/or mitigation success incorporated in the assessment.
114. The Application should describe the success of reclamation in the oil sands industry including the % of land successfully reclaimed at the same level it existed prior to transformation.
115. The Application should include hard targets for revegetation success.

116. The Application should discuss how a mutually agreed upon definition of reclamation ‘Success’ will be arrived at with the DFN that restores a landscape that supports current traditional land use.
117. To the extent that revegetation is relied upon to mitigate wildlife impacts, describe:
- a) The likelihood of Moose and other animals returning to the area after the years before revegetation is successful;
 - b) Plans to revegetate the area for Moose habitat;
 - c) Plans to report on and consult with the DFN on revegetation.

3.8 Wildlife

3.8.1 Wildlife Baseline Information

118. The Application should provide quantitative inventory information on Moose and other key species both within the RSA as well as adjacent areas (population, occurrence, distribution, status and population health).
119. The Application should provide quantitative inventory information on Moose predators.
120. The Application should provide quantitative information on the amount of Moose habitat that will be directly lost as a result of the Project and the amount lost indirectly as a result of avoidance and fragmentation, as well as a Moose Habitat Availability Map in the DFN RSA and their cumulative effects.
121. The Application should include a baseline health study on Moose in the RSA based upon tissue sampling.
122. The Application should include baseline information on: key plant communities that have high value for wildlife, are of scientific interest, or have high value for Aboriginal groups.
123. The Applications should include information on travel corridors of terrestrial wildlife, particularly ungulates and bears.

3.8.2 Wildlife Impact Assessment

124. The Application should include a peer review of any studies and monitoring reports related to wildlife crossing structures, done over the past 3 years, to justify wildlife crossing structures relied upon to mitigate Moose impacts.

125. The Applications should assess the effectiveness of, and number of crossings needed, for successful mitigation given the size of the Project area and the number of pipelines that need to be crossed.
126. The Application should include regional benchmarks, targets and measures for wildlife, fish, associated habitat, air, water and other resources on which the DFN rely, and will rely on in the future, to exercise their Right so impacts can be assessed.
127. The Application, using figures that quantify the amount of habitat directly and indirectly lost as a result of the Project, should include a conceptual **Wildlife Compensation Plan** needed to offset any loss in the productivity of Moose habitat in order to achieve a ‘no net loss’ objective. If no plans are provided, provide a rationale.
128. Discuss the assumptions associated with reclamation and/or mitigation success incorporated in the assessment.
129. The Applications should identify benchmarks and targets for wildlife populations over the lifetime of the project (3 to 5-year incremental periods), in association with the recolonization of reclaimed landscapes and other future development scenarios in the region.
130. The Applications should identify areas where wildlife (and Moose specifically) may be forced to relocate to during all phases of the Project. Any such areas should be included in the RSA for assessment purposes.
131. The Applications should assess the impacts on those wildlife populations in areas where wildlife species from the Project area relocated to.
132. The Applications should predict the likelihood for, and time required, for wildlife (specifically Moose) to recolonize the Project area.

3.9 Biodiversity and Fragmentation

133. The Application should provide assurance that biodiversity monitoring is consistent with regional assessments of biodiversity such as the protocols of the Alberta Biodiversity Monitoring Institute.
134. The evaluation of the potential effects from fragmentation should be compared to a no development baseline case.
135. Discuss the monitoring initiatives such as the Alberta Biodiversity Monitoring Institute and how these regional initiatives will be implemented by Shell.

3.11 Land Use

136. The Applications should include any Proponent commitments to financially contribute and participate in land use planning.
137. The Application should identify proponent commitments to either, not begin construction until a land use plan and cumulative effects monitoring program is in place, or how such plans will be incorporated into management plans and practices.

5. Traditional Ecological Knowledge and Land use

138. **Aboriginal Impact Assessment (AIA).** The Application must include a comprehensive Aboriginal Impact Assessment (AIA) that assesses the environmental, health, cultural and heritage, and socio-economic impacts of the project on the DFN which is based upon community and traditional knowledge and is necessary for the DFN to make an informed decision with respect to the Application, the significance of any impacts and whether or not the potential impacts have been or can be adequately addressed. It will also serve to assist the federal and provincial governments to fulfill their legal obligations in respect of S. 35 Rights and enable the Proponent to propose measures, and make commitments, that will prevent, mitigate or compensate for potential adverse impacts and effects, if that is possible. Note: also see #75-77 above.
139. The DFN's preference is that the AIA be a stand alone section or supplement to the EIA. However, a Concordance Table, identifying where the components of the Aboriginal Impact Assessment can be found in the EIA, along with supplemental information is an alternate way to provide the information. Clearly, either approach requires gathering the information in the first place.
140. The AIA needs to provide sufficient information to assess the basic question: will the DFN have enough land and resources left to meaningfully exercise their rights now and in the future.
141. For purposes of the AIA, the regional study area is the entire DFN traditional territory.
142. In determining the impact of the Project on current and traditional uses, adopt a similar 'no net loss' yardstick as is used for fisheries impacts.

5.1 AIA Baseline Information. The DFN feel that proper baseline information needed to understand potential direct, indirect and cumulative impacts on Treaty and Aboriginal Rights and interests needs to be presented. From a historical perspective, the baseline should be the time of the signing of the Treaty and white settlement (1899), as well as the beginning of the more recent resource extraction rush (when DMI began operations). The following baseline information is required:

143. Quantitative Information on DFN Traditional Territory:

- a) Traditional Territory location and size in miles² and hectares².
- b) Fixed Sites of Cabins, Camps, Communities, Historical Trails, Graves, Trap Lines, Spiritual sites (locations to be kept private unless authorized by the DFN) within Traditional Territory.
- c) Amount of land within Traditional Territory taken up for development (energy, forestry, agriculture) and percentage of total Traditional Territory.
- d) Amount of land within Traditional Territory taken up for development by Shell and percentage of total Traditional Territory.
- e) Amount of land within Traditional Territory taken up for the proposed Project and percentage of total Traditional Territory.
- f) Amount of land within Traditional Territory indirectly impacted by the proposed project (Regional Study Area for air, water, wildlife, fish) and percentage of total Traditional Territory;
- g) Amount (quantity and percentage) of potential oil sands deposits within DFN Traditional Territory;
- h) Forest tenure holders in the Project area;
- i) Estimated size of area of indirect disturbance to wildlife relied upon by the DFN in Project area and in Traditional Territory.
- j) Identification of all other tenure holders in the Project area including exploration leases.
- k) Size of area of held by other tenure holders in the Project area and in MCFN Traditional Territory

144. Socio-Economic Information

- a) Income amount and sources;
- b) Changes in income over the past 20 years;
- c) Number and percentage of individuals and families receiving social assistance;
- d) Changes in number and percent of social assistance recipients over the past 20 years;
- e) Resource Sector Employment and Income (energy, forestry, agriculture, other)
- f) Current number of DFN members employed in resource sector;
- g) Changes in number of people employed in resource sector over the past 20 years;
- h) Number of DFN members currently employed by Shell in Peace River area;
- i) Number and value of any contracts provided to the DFN by Shell

145. Health Information

- a) DFN health conditions (by age and sex);
- b) Changes in health problems over the past 20 years;
- c) Causes of Deaths and ages:

- d) Changes in causes of deaths over the past 20 years;
146. Quantitative and qualitative information on Current and Historical Traditional Uses (hunting, fishing, plants and medicines, spiritual use):
- a) Hunting
- Main species hunted for food and domestic purposes;
 - Locations and access routes currently used for hunting main species;
 - Changes in use over the past 20 years: locations, access routes, harvesting success;
 - Estimated amount of current consumption and percentage of total meat intake from hunted animals;
 - Estimate of change in amount of hunted meat as a percentage of total meat consumed over the past 20 years.
- b) Fishing
- Main species fished for food and domestic purposes;
 - Locations currently used for fishing main species;
 - Changes in use over the past 20 years: locations, harvesting success;
 - Estimated amount of current consumption;
 - Estimate of change in amount of fish as a percentage of total fish consumed over the past 20 years.
- c) Gathering Plants and Medicines
- Main plants and species gathered;
 - Gathering locations;
 - Changes in use over the past 20 years;
 - Changes in frequency of gathering activities.
- d) Spiritual and Cultural Use
- Locations currently used for spiritual and cultural practices;
 - Changes in spiritual and cultural practices locations over the past 20 years.

5.2 Cumulative Impact on DFN Current and Traditional Uses. The draft TOR proposes assessing cumulative effects only from a limited and narrow standpoint thereby resulting in flawed or incomplete predictions. Information to effectively assess the cumulative impacts of the project and their significance on DFN Treaty and Aboriginal Rights and interests is necessary (i.e. exploration and winter drilling, seismic work, and leases leading to future projects). All projects/developments that could form part of the disturbed landscape, which further impacts DFN rights and affect the ability of the DFN to maintain its traditional livelihood and carry out and pass down its culture and pursuits, should be included in the project/activity list in the cumulative effects assessment (see Future Case Scenario above). This includes cut-blocks and linear developments (roads, pipelines, power lines etc.).

147. The ‘reasonably foreseeable’ projects included in the AIA cumulative effects assessment should include all potential projects that might be developed within the lifetime of the Project (Future Case Scenario), not only those that are certain. In order to do this, the proponent should use modelling with conservative assumptions. In determining which projects/activities are ‘reasonably’ foreseeable during the lifetime of the Project, the Application should consider the likelihood of those projects proceeding based upon industrial averages of the % of such leases developed and consultation with lease holders. The less certain but potential project assessment should include possible infrastructure required to serve the future developments as well as access roads, and spatial area (using assumptions based upon current projects).
148. The Applications should identify any potential projects not included in the cumulative effects study and the rationale for not including them.
149. The Applications should describe monitoring programs proposed to measure impacts due to the Project on Traditional Uses and the success of the mitigation measures.

6. Public Health and Safety Assessment

150. The Application should include a Community Health Study (Regional and Aboriginal) from which future effects can be monitored and assessed, including a cumulative effect assessment of the effect of airborne contaminants on DFN members’ health and the general population of the area. The Study should identify:
- a) the current community health conditions;
 - b) the degree to which people resident in the area may be receptive to the various emissions of the Project, by itself, or induced by it;
 - c) the cumulative impact of development on community health;
 - d) existing and planned community health studies and/or the contribution the Proponent is prepared to make to such studies.
151. The Application should describe how the Proponent intends to monitor potential health impacts.

7. Socio-Economic Assessment

152. The Application should include the degree to which any mitigation proposals will address existing social and economic inequities.
153. The Application should discuss the anticipated Project benefits for First Nation communities and illustrate it in a matrix format along with the anticipated benefits for the proponent, governments, and non-Native communities, for ease of comparison.

154. The Application should describe any plans to recruit and retain Aboriginal employees or contracting opportunities available to Aboriginal businesses.
155. The Application should discuss Shell`s history and successes for employment and retention of Aboriginal people in the Peace River Region.

**Shell Canada Limited Carmon Creek Project Proposed Terms of Reference
Consideration of Duncan’s First Nation pTOR Comments**

General Comments

In the comments on the Proposed Terms of Reference, the use of the word “Application” was confusing as to whether the comments provided were specific to the EIA Report developed from the TOR clauses or for the specific EPEA/WA and/or ERCB/AUC Applications. Based on the format of how the comments were presented (note on page 1) “The titles and numbers below follow those of the draft Terms of Reference proposed by Shell and approved by the Government of Alberta, for public consultation”, it is assumed that the use of the word Application is in reference to the EIA Report.

Specific information related to study areas, traditional ecological knowledge, cumulative effects and modeling is not addressed separately in each environmental media section. Separate sections have been developed to reduce duplication. The information requirements in the standard sections for study areas, traditional ecological knowledge, cumulative effects and modeling for example, apply to all applicable environmental media sections. Information requirements for each assessment scenario are located in a separate section of the TOR. Many comments provided from Duncan’s First Nation with respect to data, data quality, data verification, limitations, mitigation, follow-up, residual effects are covered in Section 3.1.4 and apply to all environmental media sections.

Some of the comments provided relate to information that is in the Guide to Preparing Environmental Impact Assessments in Alberta. The document is located at (<http://environment.alberta.ca/3397.html>) and will be updated based on comments that have been received from the Shell Carmon Creek Proposed Terms of Reference Notice as well as other pTOR Notices advertised around the same time.

	Comment	Result of Consideration
1	<p>Application Structure</p> <p>1. The Application should contain a stand alone Aboriginal Impact Assessment Section detailing how consultation was conducted, what issues were raised and how those issues and concerns were considered and addressed (including measures to prevent, mitigate and compensate). For ease of understanding to the DFN, this information should be presented in a matrix format (See section 5 below).</p>	<p>No changes were made to the TOR in response to this comment. EIAs are not intended to be specific to the effects on any one community.</p>
2	<p>Application Structure</p> <p>2. The Application should include a comprehensive Commitments Table identifying all Proponent commitments with a tabular summary of expected negative effects from the Project along with impact management commitments to mitigate those effects. The commitments should include a statement of when the mitigation is proposed and what department or party will be responsible for reviewing the effectiveness of the commitments once implemented. The table should organize the mitigation/management practices and design features by impact topic. It should also include a summary of commitments that the Proponent has made to First Nations including any plans to compensate for impacts that cannot be prevented or fully mitigated.</p>	<p>No changes were made to the TOR in response to this comment. The TOR includes information requirements for mitigation plans. How proponents chose to document this information in the EIA Report is their choice. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent’s proposed mitigation measures and the Proponent’s confidence in their effectiveness.</p>
3	<p>Application Structure</p> <p>3. The Applications should include a comprehensive Mitigation Table identifying all the mitigation measures proposed.</p>	<p>No changes were made to the TOR in response to this comment. The TOR includes information requirements for mitigation plans. How proponents chose to document this information in the EIA Report is their choice.</p>

	Comment	Result of Consideration
4	<p>Application Structure</p> <p>4. The Application should include digitally enhanced simulated/photographs depicting what the Project would look like from various directions and distances.</p>	<p>No changes were made to the TOR in response to this comment. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 18, Section 6.4 Maps, Diagrams and Airphotos, provides guidance to the Proponents on presenting information. It is the Proponent's decision on what display methods would be most beneficial to represent and explain their proposed project.</p>
5	<p>Public Engagement and Aboriginal Consultation Proponent Consultation</p> <p>5. The Application should include historical and present information on the Proponent's consultations with Aboriginal communities relating to existing Shell projects and activities, including seismic , in the Peace River area (e.g. applications, prevention/mitigation measures, monitoring), including identifying on-going issues raised by Aboriginal communities and how they were considered and addressed.</p>	<p>No changes were made to the TOR in response to this comment. The Consultation Guidelines outline the requirements for Consultation. Shell's First Nation Consultation Plan outlines how consultation will occur specifically for the Carmon Creek Project. If Duncan's First Nation has specific concerns that are related to Shell's existing operations and activities, Duncan's First Nation should discuss those concerns directly with Shell.</p>
6	<p>Public Engagement and Aboriginal Consultation Proponent Consultation</p> <p>6. The Application should describe how the Project design has changed as a result of pre-application consultations with Aboriginal communities and other First Nations.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 1[B](c) and (d)</p>
7	<p>Public Engagement and Aboriginal Consultation Proponent Consultation</p> <p>7. The Application should discuss the views of First Nations on the Consultation Plan as well as the measures and funding provided to First Nations, at all stages of the regulatory process, to meaningfully participate in it</p>	<p>No changes were made to the TOR in response to this comment. As outlined in the Consultation Guidelines, Proponents are required to develop a First Nations Consultation Plan to the satisfaction of the Director. Duncan's First Nation is encouraged to discuss with Shell how they wish to be consulted with. Any discussions between Shell and Duncan's First Nation with regards to economic benefits and compensation are not considered part of the consultation process.</p>
8	<p>Public Engagement and Aboriginal Consultation Government Consultation</p> <p>8. The Application should include historical information on the Government of Alberta's (Alberta's) consultations with the DFN and other First Nations on current Shell activities/projects in the Peace River area (e.g. compliance, monitoring and enforcement).</p>	<p>No changes were made to the TOR in response to this comment. Section 1 of the Final TOR outlines the consultation information that Proponents are to provide for this Project. This information is a summary of the consultation by Shell that has occurred relative to this project up to the submission of the EIA Report for the project. The information provided is to include how aboriginal input was incorporated into the Project development, impact mitigation and monitoring.</p>

	Comment	Result of Consideration
9	<p>Public Engagement and Aboriginal Consultation Government Consultation</p> <p>9. The Application should discuss Canada’s consultations with the DFN and other First Nations on the proponents’ Peace River Water Intake Project.</p>	<p>No changes were made to the TOR in response to this comment. This information is a summary of the consultation by Shell that has occurred relative to this project up to the submission of the EIA Report for the project. On June 15, 2009 a letter that was sent to Chief Testawich from Shell Canada Limited, advising Duncan’s First Nation that Shell is withdrawing their Peace River Water Intake expansion and modification allocation submitted to the Department of Fisheries and Oceans and Transport Canada Navigable Waters Protection.</p>
10	<p>Public Engagement and Aboriginal Consultation Government Consultation</p> <p>10. The Application should identify Federal and Alberta government agencies and their contacts responsible for consulting with First Nations with respect to the Project and all post approval licenses, permits or authorizations identified by them as being required.</p>	<p>No changes were made to the TOR in response to this comment. Duncan’s First Nation has been informed that for Alberta Environment, for the Shell Carmon Creek Project the Aboriginal Relations Advisor is Alvaro Loyola.</p> <p>Alberta Environment can not comment on the Federal Agencies and who is responsible for consultation. For more information contact, Susan Tiege of the Canadian Environmental Assessment Agency.</p>
11	<p>Public Engagement and Aboriginal Consultation Government Consultation</p> <p>11. The Application should summarize pre-application consultation with First Nations by government agencies including any information and advice given by Federal or Provincial agencies to the Proponent on:</p> <ul style="list-style-type: none"> a) who, how and when First Nations consultation should occur; b) the role and timing of government agencies consultation in addressing or accommodating impacts to First Nations’ interests; c) funding First Nations to participate meaningfully in the regulatory process. 	<p>No changes were made to the TOR in response to this comment. Refer to the Consultation Guidelines which outline the consultation activities that will be completed by the Government, the Proponent and the expectations of the First Nations.</p>
12	<p>Regulatory</p> <p>12. Identify and discuss the status of any provincial multi-stakeholder planning initiatives or policies that apply. Where these initiatives have not yet been implemented, identify where the process is at, when implementation is likely to start, and the extent to which any outcomes from them could affect the Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 2.11[B](a). Proponents are required to consider all current government regulations and guidelines. If changes are proposed to a regulation or guidelines and are made publically available during a Proponent’s development of an EIA Report, Proponents are expected to consider the information. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent’s ability to meet the proposed changes of a particular regulation or guideline. If regulations or guidelines are revised prior to an approval being issued on a proposed project, that project would have to meet the new regulations and guidelines.</p>

	Comment	Result of Consideration
13	<p>Regulatory</p> <p>13. The Application should fully identify and describe any federal authorizations required for the Project and explain why, if federal environmental assessment legislation is triggered, the federal and Alberta environmental assessments have not been harmonized.</p>	<p>No changes were made to the TOR in response to this comment. Alberta and Canada have a cooperation agreement with respect to projects that are subject to environmental assessment requirements by both levels of government. The <i>Canada – Alberta Agreement for Environmental Assessment Cooperation</i> (http://www.ceaa.gc.ca/010/0001/0003/0001/0001/index_e.htm) establishes a single process for provincial and federal departments and agencies to review EIA reports and related information. It also contains a commitment that the “lead party”, which in most cases is Alberta, should address the assessment requirements of the other party (Canada) in the TOR for the EIA report. Where the requirements can not be incorporated in the Terms of Reference Canada may ask for additional information outside of the provincial process.</p>
14	<p>Regulatory</p> <p>14. The Application should fully explain and document any discussion held with Alberta and Canada regulatory agencies about the proposed approach of splitting the federal and provincial environmental assessments of the Project and the Peace River Water Intake.</p>	<p>No changes were made to the TOR in response to this comment. On June 15, 2009 a letter that was sent to Chief Testawich from Shell Canada Limited, advising Duncan’s First Nation that Shell is withdrawing their Peace River Water Intake expansion and modification allocation submitted to the Department of Fisheries and Oceans and Transport Canada Navigable Waters Protection.</p>
15	<p>2.2 Project Development: [A] Provide A Development Plan That Includes</p> <p>15. The development plan should also include: the Peace River Water Intake, the CO² Storage and any air strip.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.2[A](e) and (f) and 2.4[A](c) and (e). On June 15, 2009 a letter that was sent to Chief Testawich from Shell Canada Limited, advising Duncan’s First Nation that Shell is withdrawing their Peace River Water Intake expansion and modification allocation submitted to the Department of Fisheries and Oceans and Transport Canada Navigable Waters Protection.</p>
16	<p>2.2 Project Development: [A] Provide A Development Plan That Includes</p> <p>16. The schedule of development should include land clearing and preparation.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.2[B].</p>
17	<p>2.2 Project Development: [A] Provide A Development Plan That Includes</p> <p>17. The Applications should discuss, in every section where appropriate, how the Project has changed as a result of lessons learned from the oil sand developments in the Fort McMurray area.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](c)(ii).</p>
18	<p>2.3 Evaluation of Alternatives</p> <p>2.3.1 Project Alternatives</p> <p>18. The Application should discuss the results and status of Shell’s Viking Project (the use of electricity to warm the bitumen), its plans for its use and why that technology is not being proposed.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.3.1[A](b).</p>

	Comment	Result of Consideration
19	<p>2.3 Evaluation of Alternatives 2.3.1 Project Alternatives 19. Alternative means of carrying out the Project should include a detailed qualitative and quantitative comparison of potential impacts for First Nations and environmental effects and impacts for all alternatives considered.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See Final TOR clause 2.3.1[A](a). If the assessment indicates that there is an effect on Duncan’s First Nation Communities, our expectation is that the Proponent would include it.</p>
20	<p>2.3 Evaluation of Alternatives 2.3.1 Project Alternatives 20. The need for the Project should include the need for the bitumen product at regional and national levels taking into consideration supply and demand scenarios over a 20 year period.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.3.1[A].</p>
21	<p>2.3 Evaluation of Alternatives 2.3.1 Project Alternatives 21. The Application should discuss how the Project will contribute to regional land management (land use planning, etc.) and research initiatives (cumulative effects, water, fish, etc.) as well as the implications on those initiatives if the Project is approved before they are completed.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.12.</p>
22	<p>2.3 Evaluation of Alternatives 2.3.2 Process and Infrastructure Alternatives 22. The Application should discuss criteria used for selecting options to not bury pipelines associated with the Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.3.2[B].</p>
23	<p>2.3 Evaluation of Alternatives 2.3.2 Process and Infrastructure Alternatives 23. The Application should include consideration of the energy requirements associated with treating saline water.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.3.2[D].</p>
24	<p>2.3 Evaluation of Alternatives 2.3.2 Process and Infrastructure Alternatives 24. The waste disposal strategy should identify any known uncertainties about regional groundwater mapping.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.3.2[H](c) and (d), 3.3.1[A](a) and (b)</p>

	Comment	Result of Consideration
25	<p>2.4 Project Processes and Facilities</p> <p>25. Provide maps and/or drawings of the Project components and activities including:</p> <ul style="list-style-type: none"> a) all above-ground pipelines associated with the Project; b) all linear corridors (pipelines, transmission lines, roads, seismic lines) in the DFN traditional territory (RSA); c) locations for all phases of development; d) boundaries of proposed development area; e) areas proposed to be disturbed in relation to existing topographic features, township grids, wetlands, watercourses and water bodies. 	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.4[A].</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.4[A](c). AENV viewed the TOR as inclusive of this item. See final TOR clause 2.4[A](c) and (e).</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.4[A]. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.2.1[A]. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.2.1[A](e).</p>
26	<p>2.4 Project Processes and Facilities</p> <p>26. The Application should identify and quantify the amount of land of all Shell leases in the Peace River area, as well as all pipelines and linear corridors associated with the Project and Shell's other activities.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.1[B], 2.4[A] and 3.1.2.1[A](b).</p>
27	<p>2.4 Project Processes and Facilities</p> <p>27. The Application should identify and quantify all above-ground pipelines associated with the Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.4[A](c).</p>
28	<p>2.4 Project Processes and Facilities</p> <p>28. The Application should identify and map wildlife corridors in the Project area and superimpose that information on the aforementioned maps that identify Project facilities and above ground pipelines.</p>	<p>Comment partially accepted. See final TOR clause 3.8.1[A] and [C].</p>
29	<p>2.5 Transportation Infrastructure</p> <p>29. Discuss how First Nations access to, or within the Project Area or lease area, will be managed during the development phases of the Project so they are able to exercise their rights.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 5[A](d).</p>
30	<p>2.5 Transportation Infrastructure</p> <p>30. Describe how the needs of all resource users were integrated to reduce and manage overall environmental impacts when locating and designing access to infrastructure.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.5[D].</p>
31	<p>2.6 Land Management</p> <p>31. Describe the total land area disturbed during each stage of the Project, as well as any stewardship targets established that minimize the amount of land area to be disturbed at any one time.</p>	<p>No changes were made to the TOR in response to this comment. An EIA is not the proper venue for the development of targets. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.10.2[A](a).</p>

	Comment	Result of Consideration
32	2.6 Land Management 32. Describe the role and contributions of Shell to the establishment of regional land use plans prior to 2009.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.11.1[D].
33	2.6 Land Management 33. Discuss how Shell's land management will fit in with, or compromise, the Regional Land Use Plan yet to be developed for the Peace River region.	No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 2.11[B](a). Proponents are required to consider all current government regulations and guidelines. If changes are proposed to a regulation or guidelines and are made publically available during a Proponent's development of an EIA Report, Proponents are expected to consider the information. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent's ability to meet the propose changes of a particular regulation or guideline. If regulations or guidelines are revised prior to an approval being issued on a proposed project, that project would have to meet the new regulations and guidelines.
34	2.6 Land Management 34. Describe Shell's total land holdings in the Peace River area.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.1[B] and 3.1.2.1.[A](b).
35	2.7 Air Emission Management 35. The Application should identify the locations of air monitoring stations used for the assessment in relation to seasonal prevailing winds.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4.[A](b)(i).
36	2.7 Air Emission Management 36. The Baseline information on air quality should use historical data for the past 20 years (any scientific data available should be supplemented by community knowledge).	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.2.1[A] and 3.1.4[A](b)(i) and Section 5. AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report.
37	2.7 Air Emission Management 37. Discuss how significance of impacts was determined in relation to regional threshold limits.	No changes were made to the TOR in response to this comment. There are currently no regional threshold limits. Proponents are expected to compare results to existing regulatory requirements as a standard practice.
38	2.7 Air Emission Management 38. Describe and discuss the monitoring programs that Shell will implement to assess the air quality and the effectiveness of mitigation during the Project's development and operations (including locations for monitoring stations and the compatibility of the program with those in use by other stakeholders' air initiatives) and how Shell plans on consulting First Nations with respect to monitoring station locations and data sharing.	Comment partially accepted. See Final TOR clause 2.12 [B](c). AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.

	Comment	Result of Consideration
39	<p>Greenhouse Gas</p> <p>39. Discuss the Project’s contribution to total provincial and national greenhouse gas emissions on an annual basis for each stage of the Project, and a detailed plan for continual reduction of the greenhouse gas intensity of the Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.7[A](b)(c)(d) and (e).</p>
40	<p>Greenhouse Gas</p> <p>40. Discuss the economic viability and financial liabilities of the Project under different carbon pricing scenarios including a description of the range of scenarios and methodology employed.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.3.2[G] and 2.7[A](e).</p>
41	<p>Greenhouse Gas</p> <p>41. Discuss Shell’s overall greenhouse gas management plans, including what effect corporate greenhouse gas management plans will have on this Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.7[A](e).</p>
42	<p>Climate Change</p> <p>42. The Application should have a stand-alone section on climate change which identifies and discusses:</p> <ul style="list-style-type: none"> a) provincial, regional and national standards and guidelines applicable to the Project; b) existing studies and information on climate change and the local and/or regional, inter-provincial/territorial changes to environmental conditions resulting from climate conditions, including trends and projections where available. 	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.2.2[B]. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 11 outlines in further detail what Proponents are required to provide to assess the potential impacts from climate change.</p>
43	<p>Climate Change</p> <p>43. The Application should provide information about potential changes in environmental conditions associated with climate change predictions and how these might affect the conclusions in the EIA.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.2.2[B]. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 11 outlines in further detail what Proponents are required to provide to assess the potential impacts from climate change.</p>
44	<p>Climate Change</p> <p>44. If CO₂ injection into wells is identified as a climate change mitigation measure, the Application should discuss its feasibility and potential success citing examples of where the proposed technology has been successfully used. The CO₂ injection technology should be peer reviewed and those results included in the Application.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.2.2[B]. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 11 outlines in further detail what Proponents are required to provide to assess the potential impacts from climate change.</p>

	Comment	Result of Consideration
45	Climate Change 45. The Application should assess the effects of climate change extremes on flood events, significance conclusions, and the fish compensation plan.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.2.2[B]. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i> , page 11 outlines in further detail what Proponents are required to provide to assess the potential impacts from climate change.
46	2.8 Water Management 46. Describe any contingency plans for water supply, including potential effects of extended periods of drought on the proposed water supply.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.8.1[A](d) and 3.4.2[F].
47	2.8 Water Management 47. Discuss the significance of any effects identified in the navigability assessment(s) for waterways that may be affected by the Project.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.8.2[B].
48	2.8 Water Management 48. The wastewater management strategy discussed should include any plans to address site runoff, groundwater protection, deep well disposal and wastewater discharge, aqueous contaminants (quantity, quality and timing) beyond site boundaries and the potential environmental effects of such releases.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.8.3[A](a) through (f).
49	2.8 Water Management 49. The Applications should discuss the implications that thermal pollution could have on adjacent groundwater quality.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.3.2[A].
50	2.10 Conservation and Reclamation 50. The pre-development information provided should also include Ecological Land Classification.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[B](d), 3.7.1[A], 3.7.2[F], 3.10.1[A], 3.10.2[A](b), 3.11.1 and 3.11.2. The pre-project (baseline) information is collected for ecological land classification and is requested in the vegetation, terrain and soils and land use sections.
51	2.10 Conservation and Reclamation 51. For the purposes of the reclamation plans, the pre-development information must be presented such that it provides targets against which the success of reclamation can be measured.	No changes were made to the TOR in response to this comment. An EIA is not the proper venue for the development of targets. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.10[A](b).

	Comment	Result of Consideration
52	<p>2.10 Conservation and Reclamation</p> <p>52. Milestones and targets must include traditional resources and provide evidence for how First Nations were involved in determining the targets and the measurement of achieving the targets.</p>	<p>Comment partially accepted. See Final TOR clause 2.10[B].</p> <p>An EIA is not the proper venue for the development of targets. AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.</p>
53	<p>2.10 Conservation and Reclamation</p> <p>53. The post-disturbance Ecological Land Classification map should identify any differences from the pre-development Ecological Land Classification.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[A](b) and 2.10[B].</p>
54	<p>2.10 Conservation and Reclamation</p> <p>54. The conceptual plan to monitor reclamation performance success should use Alberta Biodiversity Monitoring Institute Protocols.</p>	<p>No changes were made to the TOR in response to this comment. Proponents are expected to compare results to existing regulatory requirements as a standard practice; however, the information will be added into <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Appendix D – Reference Documents.</p>
55	<p>2.10 Conservation and Reclamation</p> <p>55. The uncertainties discussed in relations to the conceptual reclamation plan, should include: residual effects, reclamation failures and delays, and the potential environmental consequences associated with these uncertainties.</p>	<p>No changes were made to the TOR in response to this comment. The comment is too prescriptive for the TOR.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.10[D].</p>
56	<p>2.11 Environmental Management Systems</p> <p>56. The Application should discuss the success of any current program relied upon by Shell for the Project.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.11[A].</p>
57	<p>2.11 Environmental Management Systems</p> <p>57. The Application should include as key elements of the environmental, health and safety management system to be monitored, local and regional health conditions and Peace River water quality.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.11[A].</p>
58	<p>2.11 Environmental Management Systems</p> <p>58. In the interest of transparency, the Applications should identify how, and when, on and off-site monitoring data will be disseminated to First Nations, the public or other interested parties.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.11[D](a).</p>
59	<p>2.11 Environmental Management Systems</p> <p>59. Any adaptive management program proposed should identify who will be involved in and how decisions will be made.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 2.11[B].</p>

	Comment	Result of Consideration
60	<p>2.11 Environmental Management Systems</p> <p>60. Any plans and commitments to providing the DFN a role (and funding to meaningfully participate) in monitoring [e.g. Wildlife Management Committee, ISO 4001 System, adaptive management, and conservation and reclamation planning] should be identified and included in the Commitments Table.</p>	<p>Comment partially accepted. See Final TOR clause 2.12 [B](c). Duncan’s First Nation should discuss their requests for financial contributions with Shell. AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.</p>
61	<p>2.11 Environmental Management Systems</p> <p>61. The Application should include detailed contingency plans if major Project components or methods prove to be unfeasible or do not perform as expected.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.11[B].</p>
62	<p>2.12 Regional and Cooperative Efforts</p> <p>62. Identify and discuss the status of any multi-stakeholder regional planning initiatives or policies that apply. Where these initiatives have not yet been implemented, identify where the process is at, when implementation is likely to occur, and the extent to which any outcomes from them could affect the Project.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.12[A].</p>
63	<p>2.12 Regional and Cooperative Efforts</p> <p>63. The Application should identify proponent commitments to either, not begin construction until a regional land use plan and cumulative effects monitoring programs are in place, or how such plans will be incorporated into management plans and practices.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 2.11[B](a). Proponents are required to consider all current government regulations and guidelines. If changes are proposed to a regulation or guidelines and are made publically available during a Proponent’s development of an EIA Report, Proponents are expected to consider the information. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent’s ability to meet the propose changes of a particular regulation or guideline. If regulations or guidelines are revised prior to an approval being issued on a proposed project, that project would have to meet the new regulations and guidelines.</p>
64	<p>2.12 Regional and Cooperative Efforts</p> <p>64. The Applications should include any Proponent commitments to financially contribute or participate in regional land use plans and regional cumulative effects monitoring plans and First Nation participation in those processes.</p>	<p>Comment partially accepted. See Final TOR clause 2.12 [B](c). Duncan’s First Nation should discuss their requests for financial contributions with Shell. AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.</p>

	Comment	Result of Consideration
65	<p>3.1.1 Scenarios</p> <p>65. The Baseline Case, besides existing environmental conditions, and existing and approved projects or activities, should include: pre-development baseline scenarios representing an intact regional ecosystem as an accurate portrayal of both local and regional ecological integrity.</p>	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using pre-disturbance/pre-development scenarios is that for many parameters we lack the data needed to properly describe the scenarios so that appropriate modeling, etc. can be conducted to forecast project effects. There is also a question about what constitutes “pre-disturbance” or “pre-development”. Is it oil sands development, all development, resource exploration, European settlement...? The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p>
66	<p>3.1.1 Scenarios</p> <p>66. For greater clarity, the ‘Planned Development Case’ should include:</p> <ul style="list-style-type: none"> a) potential future projects (e.g. Bruce Nuclear, BC Hydro Site C, and Bluesky Refining, ATCO Slave River Hydro, Dunvegan Hydro, Ironstone Mine), all of which may affect Peace River water quality and quantity and downstream users; and b) oil sands delineation and exploration of regional oil sands leases, as mandated by Alberta tenure regulations. 	<p>No changes were made to the TOR in response to this comment. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines the assessment scenarios that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission o the Proponent’s application and EIA Report.</p>
67	<p>3.1.1 Scenarios</p> <p>67. In order to better predict cumulative effects during the lifetime of the Project, a “Future Case Scenario” should be done by modelling, that includes projects or activities, which have received leases and permits from the Government of Alberta, whose owners, after documented consultation, indicate that the project may proceed within the lifetime of the Carmon Creek Project (see below #63).</p>	<p>No changes were made to the TOR in response to this comment. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines the assessment scenarios that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission o the Proponent’s application and EIA Report.</p>
68	<p>3.1.1 Scenarios</p> <p>68. In order to illustrate the Future Scenario Case, maps should be created that illustrate future project infrastructure (plants, pipelines, etc.) along with the Projects identified in the Planned and Application cases.</p>	<p>No changes were made to the TOR in response to this comment. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines the assessment scenarios that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission o the Proponent’s application and EIA Report.</p>

	Comment	Result of Consideration
69	<p>3.1.2.2 Local and Regional Study Areas</p> <p>69. For greater clarity the Regional Study Area (RSA) [“the area within which there is the potential for cumulative and socio-economic effects, and that may be relevant to the assessment of any wider-spread effects of the Project”] for purposes of the Aboriginal Impact Assessment, is the entire DFN traditional territory.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>If the assessment indicates that there is an effect on Duncan’s First Nation Communities, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area.</p> <p>AENV viewed the TOR as inclusive of this item. See Final TOR Section 3.1.2</p>
70	<p>3.1.2.2 Local and Regional Study Areas</p> <p>70. Temporal boundaries should extend through the exploration, construction, operation, reclamation and closure phases of the Project.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.2.2[C] and [D].</p>
71	<p>3.1.2.2 Local and Regional Study Areas</p> <p>71. For greater clarity, spatial boundaries should not be constrained by political boundaries.</p>	<p>No changes were made to the TOR in response to this comment. Proponents are to refer to <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, when developing their EIA and page 6 states that “The Study Areas should not be restricted by political boundaries.”</p>
72	<p>3.1.3 Cumulative Effects Assessment</p> <p>72. The Cumulative Effects Assessment should include a “Future Case Scenario” for those projects or activities that have received leases and permits from the Government of Alberta and whose owners, after documented consultation, indicate that the project may proceed within the lifetime of the Carmon Creek Project. In order to do this, the proponent should use modelling and scenarios with conservative assumptions (as identified in TOR, s.3.1.5).</p>	<p>No changes were made to the TOR in response to this comment.</p> <p><i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 6 outlines the assessment scenarios that a Planned Development Case would mean any project or activity that has been publically disclosed up to six months prior to the submission o the Proponent’s application and EIA Report.</p>
73	<p>3.1.3 Cumulative Effects Assessment</p> <p>73. The Application should include a comprehensive plan, including appropriate baseline data/analysis of cumulative impacts, to properly assess impacts on DFN rights and to serve as a standard against to measure impacts on rights and the environment. If no such data exists because land use planning or cumulative effects management has not been implemented in the Peace River area, the EIA should use ones that have been established elsewhere using appropriate assumptions.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>See final TOR clause 3.1.3 for the requirements for cumulative effects. The TOR refers to the ERCB/AENV/Natural Resources Conservation Board Information Letter, <i>Cumulative Effects Assessment in Environmental Impact Assessment Reports</i>, which outlines that a cumulative effects assessment should include a discussion of historical developments and activities that have created current “baseline” conditions.</p>
74	<p>3.1.3 Cumulative Effects Assessment</p> <p>74. Any data used to support assumptions or conclusions should identify any deficiencies or limitations to existing databases and proposals to measure any resultant uncertainties.</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.3[A](c)(iii).</p>

	Comment	Result of Consideration
75	3.1.3 Cumulative Effects Assessment 75. Where cooperative opportunities and initiatives undertaken to further the collective understanding of cumulative effects are identified, the Application should identify the importance of such information or actions flowing from those initiatives in addressing potential cumulative effects.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.3[C].
76	3.1.3 Cumulative Effects Assessment 76. Shell should include along with “a summary of all proposed monitoring, research and other strategies or plans to minimize, mitigate and manage any potential adverse effects”, plans and commitments to compensate for potential adverse effects.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.3[B].
77	3.1.3 Cumulative Effects Assessment 77. Any follow-up programs identified should include plans to mitigate any adverse effects and to monitor and respond to expected or unanticipated conditions, in addition to verifying the accuracy of the environmental assessment.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR section 3.1.3.
78	3.1.3 Cumulative Effects Assessment 78. The residual effects description should include the “environmental consequences and their significance” and describe how regional management initiatives have been factored into dealing with residual effects.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR section 3.1.3.
79	3.1.3 Cumulative Effects Assessment 79. Linear developments, including seismic lines and pipelines, provide open access that is used by ATVs for decades after they have been constructed. This indicates that there will be long-lasting effects of these developments. These effects are therefore cumulative and should be included in the cumulative effects assessment.	No changes were made to the TOR in response to this comment. See final TOR clause 3.1.3 for the requirements for cumulative effects. The TOR refers to the ERCB/AENV/Natural Resources Conservation Board Information Letter, <i>Cumulative Effects Assessment in Environmental Impact Assessment Reports</i> , this document has a section that outlines how to identify projects and activities to include in a cumulative effects assessment.
80	3.1.4 Information Requirements A, b)(iv), determining significance 80. The Application should assess impact ‘significance’ on the DFN’s current and traditional uses.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](b)(iv). AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.
81	3.1.4 Information Requirements A, b)(iv), determining significance 81. The Application should discuss Proponent consultations, including those with the DFN, to define and measure “significance.”	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 1[B](c) and (d).

	Comment	Result of Consideration
82	<p>3.1.4 Information Requirements A, b)(iv), determining significance 82. In situations in which there are residual impacts that the Proponent does consider non-significant, the Application should indicate who, and how, the First Nations, stakeholders and government agencies were consulted on the significance determination.</p>	<p>No changes were made to the TOR in response to this comment AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](b)(iv).</p>
83	<p>3.1.4 Information Requirements A, b)(iv), determining significance 83. Where Shell is relying on information collected for their previous environmental assessment for the Project, subsequently withdrawn, the Application should identify the date of those studies/information, and, where that information is more than 3 years old, discuss whether the information is still relevant.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](c)(i) and (ii).</p>
84	<p>3.1.4 Information Requirements A, b)(iv), determining significance 84. The Application should discuss the status of any studies identified in the 2006 Carmon Creek Application that were incomplete, planned to be completed during the regulatory process, or intended to be done in the future.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[A](b)(i) and (c)(ii).</p>
85	<p>3.1.4 Information Requirements A, b)(iv), determining significance 85. The Applications should discuss and provide a rationale for why any of these studies still remain undone for the past 3 years, and when they expect to have them completed.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[A](b)(i) and (c)(i) and (ii).</p>
86	<p>3.1.4 Information Requirements B, information deficiencies 86. The Application should discuss the quality of any assessment conclusions associated with any information deficiencies in the EIA identified by Shell.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](c)(iii).</p>
87	<p>3.2 Air Quality, Climate and Noise 3.2.1 Baseline Information 87. Discuss any regional air monitoring underway in the area and Shell's participation in any regional air monitoring forums or processes.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.12[A](c).</p>
88	<p>3.2 Air Quality, Climate and Noise 3.2.2 Impact Assessment 88. Describe the selection criteria used to determine study areas, including information sources and assessment methods.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.2.2[D] Additional details on determining study areas is provided in <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Page 5 Section 3.1.2</p>

	Comment	Result of Consideration
89	<p>3.2 Air Quality, Climate and Noise 3.2.2 Impact Assessment 89. Provide a justification of models used, model assumptions and model shortcoming or constraints on findings, discussion of meteorological data input used to set up model.</p>	<p>See comments in General Section No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.5[A].</p>
90	<p>3.2 Air Quality, Climate and Noise 3.2.2 Impact Assessment 90. Identify regional, provincial and national objectives for air quality that were used to evaluate the significance of emission levels and ground level concentrations.</p>	<p>No changes were made to the TOR in response to this comment. Proponents are expected to compare results to existing regulatory requirements as a standard practice.</p>
91	<p>3.2 Air Quality, Climate and Noise 3.2.2 Impact Assessment 91. Include the effects of cumulative air quality impacts to the environmental resources identified in the air quality impact description.</p>	<p>See comments in General Section No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.3</p>
92	<p>3.2 Air Quality, Climate and Noise 3.2.2 Impact Assessment 92. Discuss any follow-up programs and adaptive management considerations in the event the region's climate changes.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[A](v) and 2.11[B].</p>
93	<p>3.3 Hydrogeology 93. The Devonian layers in modeling and model calculations should include: changes in pressure, changing free gas content and changing permeabilities caused by dewatering.</p>	<p>No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR.</p>
94	<p>3.3 Hydrogeology 94. Hydrological information relied upon for the assessment should be peer reviewed and reported on.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A].</p>
95	<p>3.3 Hydrogeology 95. The Application should assess and discuss impacts beyond the Project footprint and boundaries of the local watersheds (i.e. Peace-Athabasca Delta) and measures to prevent or mitigate downstream water quality and quantity effects over time.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 3.1.2 If the assessment indicates that there is an effect on the Peace-Athabasca Delta or other aquatic resources, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area.</p>

	Comment	Result of Consideration
96	3.3 Hydrogeology 96. The Application should provide information on the potential effects to from urban and agricultural runoff on Peace River water quality.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.3 and 3.5.1[A].
97	3.3 Hydrogeology 97. The Application should discuss any regional uncertainties with the hydrogeology setting including hydraulic conductivity.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.3.1[A](a) and (b)(i).
98	3.3 Hydrogeology 98. The hydrogeology assessment should include the potential impacts from thermal pollution associated with wastewater disposal.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.3.2[A].
99	3.4 Hydrology 99. Discuss the potential for connection between surface water, groundwater, production zones and disposal zones.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.4.2[B].
100	3.4 Hydrology 100. Discuss any compensatory mitigation opportunities to offset impacts on surface waters.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.4.2[H].
101	3.5 Surface Water Quality 3.5.1 Baseline Information 101. Identify water bodies that are sensitive to acid deposition.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.5.2[B](d).
102	3.5 Surface Water Quality 3.5.2 Impact Assessment 102. Discuss the reliability of the data indicating impacts and the confidence limits of this data.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](b).
103	3.5 Surface Water Quality 3.5.2 Impact Assessment 103. Discuss seasonal variation and potential effects on surface water quality including potential effects from climate change.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.5.2[B](c) and 3.2.2[B].
104	3.6 Aquatic Ecology 104. Given concerns over downstream fish health, the Application should assess and discuss fish health including criteria, indicators, examined stage, sample size, adaptive management and mitigation measures.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.6.2[A](a).

	Comment	Result of Consideration
105	<p>3.6 Aquatic Ecology 105. The Application should include a conceptual Fish Habitat Compensation Plan that identifies the approach, rationale, quantification, location, follow-up and Audit of the any proposed compensation measures. If compensation sites are identified, land tenure should be confirmed as the overall compensation ratio would be adversely affected if tenure was unavailable. Also, the Plan should provide a linkage between proposed compensation and species that would benefit as well as a description of how proposed sites presently do or do not serve as fish habitat.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.6.2[C].</p>
106	<p>3.6 Aquatic Ecology 106. Describe existing baseline information, any deficiencies in information, how these deficiencies will be addressed and, as applicable, any studies proposed to evaluate the status of fish and aquatic resources in the area.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[A](b) and (c).</p>
107	<p>3.6 Aquatic Ecology 107. Describe fish species present and life stages of concern for any water crossings.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.6.1[B].</p>
108	<p>3.6 Aquatic Ecology 108. Discuss the assumptions associated with reclamation and/or mitigation success incorporated in the assessment.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.4[A](b).</p>
109	<p>3.6 Aquatic Ecology 109. Discuss the potential effects of predicted climate change on aquatic systems relative to baseline.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.2.2[B]. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 11 outlines in further detail what Proponents are required to provide to assess the potential impacts from climate change.</p>
110	<p>3.7 Vegetation 110. Discuss species that are important to wildlife as food or shelter.</p>	<p>No changes were made to the TOR in response to this comment. The vegetation species that are important to wildlife relate to the wildlife habitat discussed in TOR 3.8.1[B] AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.7.1[A] and [E], 3.8.1[A] and 3.8.2[B].</p>
111	<p>3.7 Vegetation 111. Identify which plants are indicator species for environmental effects.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.7.1[D].</p>
112	<p>3.7 Vegetation 112. The discussion on expected timelines for establishment and recovery of vegetative communities should include timelines for recovery from effects of potential acidification and climate change effects.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.7.2[E].</p>

	Comment	Result of Consideration
113	3.7 Vegetation 113. Discuss assumptions associated with reclamation and/or mitigation success incorporated in the assessment.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[A](e) and [C] and 3.7.2[F].
114	3.7 Vegetation 114. The Application should describe the success of reclamation in the oil sands industry including the % of land successfully reclaimed at the same level it existed prior to transformation.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[A](b) and (f).
115	3.7 Vegetation 115. The Application should include hard targets for revegetation success.	No changes were made to the TOR in response to this comment. An EIA is not the proper venue for the development of targets.
116	3.7 Vegetation 116. The Application should discuss how a mutually agreed upon definition of reclamation ‘Success’ will be arrived at with the DFN that restores a landscape that supports current traditional land use.	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[A](g), 3.7.2[C](b) and 3.7.3. AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.
117	3.7 Vegetation 117. To the extent that revegetation is relied upon to mitigate wildlife impacts, describe: a) The likelihood of Moose and other animals returning to the area after the years before revegetation is successful; b) Plans to revegetate the area for Moose habitat; c) Plans to report on and consult with the DFN on revegetation.	No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.8.2[B](h)(i) and [E]. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.7.2[E] and 3.8.2[B](H)(i). AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations.
118	3.8 Wildlife 3.8.1 Wildlife Baseline Information 118. The Application should provide quantitative inventory information on Moose and other key species both within the RSA as well as adjacent areas (population, occurrence, distribution, status and population health).	No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.8.1[B].
119	3.8 Wildlife 3.8.1 Wildlife Baseline Information 119. The Application should provide quantitative inventory information on Moose predators.	No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.8.1[A].

	Comment	Result of Consideration
120	<p>3.8 Wildlife 3.8.1 Wildlife Baseline Information 120. The Application should provide quantitative information on the amount of Moose habitat that will be directly lost as a result of the Project and the amount lost indirectly as a result of avoidance and fragmentation, as well as a Moose Habitat Availability Map in the DFN RSA and their cumulative effects.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.2 and 3.8.1[B]. If the assessment indicates that there is an effect on the Duncan’s First Nation, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area.</p>
121	<p>3.8 Wildlife 3.8.1 Wildlife Baseline Information 121. The Application should include a baseline health study on Moose in the RSA based upon tissue sampling.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 6[A](e) and (g).</p>
122	<p>3.8 Wildlife 3.8.1 Wildlife Baseline Information 122. The Application should include baseline information on: key plant communities that have high value for wildlife, are of scientific interest, or have high value for Aboriginal groups.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.7.1[E] and [F], 3.8.1[B] and 5[A](d)(ii).</p>
123	<p>3.8 Wildlife 3.8.1 Wildlife Baseline Information 123. The Applications should include information on travel corridors of terrestrial wildlife, particularly ungulates and bears.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.8.1[B] and 3.8.2[B](a).</p>
124	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 124. The Application should include a peer review of any studies and monitoring reports related to wildlife crossing structures, done over the past 3 years, to justify wildlife crossing structures relied upon to mitigate Moose impacts.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.1.4[A](c)(ii) and 3.8.2[E].</p>
125	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 125. The Applications should assess the effectiveness of, and number of crossings needed, for successful mitigation given the size of the Project area and the number of pipelines that need to be crossed.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.8.2[D](d).</p>

	Comment	Result of Consideration
126	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 126. The Application should include regional benchmarks, targets and measures for wildlife, fish, associated habitat, air, water and other resources on which the DFN rely, and will rely on in the future, to exercise their Right so impacts can be assessed.</p>	<p>No changes were made to the TOR in response to this comment. An EIA is not the proper venue for the development of targets. AENV encourages Duncan’s First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations. AENV viewed the TOR as inclusive of this item. See final TOR clauses 1[B](c), 3.8.2[C] and 5[A](a) and (b).</p>
127	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 127. The Application, using figures that quantify the amount of habitat directly and indirectly lost as a result of the Project, should include a conceptual Wildlife Compensation Plan needed to offset any loss in the productivity of Moose habitat in order to achieve a ‘no net loss’ objective. If no plans are provided, provide a rationale.</p>	<p>No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR; all wildlife present in the study areas not just moose will need to be assessed. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.8.2[E].</p>
128	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 128. Discuss the assumptions associated with reclamation and/or mitigation success incorporated in the assessment.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[D] and 3.1.4[A](b).</p>
129	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 129. The Applications should identify benchmarks and targets for wildlife populations over the lifetime of the project (3 to 5-year incremental periods), in association with the recolonization of reclaimed landscapes and other future development scenarios in the region.</p>	<p>No changes were made to the TOR in response to this comment. An EIA is not the proper venue for the development of targets. AENV viewed the TOR as inclusive of this item. See final TOR clauses 2.10[B], 3.1.2 and 3.8.2[B]</p>
130	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 130. The Applications should identify areas where wildlife (and Moose specifically) may be forced to relocate to during all phases of the Project. Any such areas should be included in the RSA for assessment purposes.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.8.2[B](a) and (b).</p>
131	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 131. The Applications should assess the impacts on those wildlife populations in areas where wildlife species from the Project area relocated to.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.8.2[B](a).</p>

	Comment	Result of Consideration
132	<p>3.8 Wildlife 3.8.2 Wildlife Impact Assessment 132. The Applications should predict the likelihood for, and time required, for wildlife (specifically Moose) to recolonize the Project area.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 3.8.2[D] and [E].</p>
133	<p>3.9 Biodiversity and Fragmentation 133. The Application should provide assurance that biodiversity monitoring is consistent with regional assessments of biodiversity such as the protocols of the Alberta Biodiversity Monitoring Institute.</p>	<p>No changes were made to the TOR in response to this comment. Proponents are expected to compare results to existing regulatory requirements as a standard practice; however, the information will be added into <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, Appendix D – Reference Documents.</p>
134	<p>3.9 Biodiversity and Fragmentation 134. The evaluation of the potential effects from fragmentation should be compared to a no development baseline case.</p>	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using a pre-development (no development) scenario is that for many parameters we lack the data needed to properly describe the scenario so that appropriate modeling, etc. can be conducted to forecast project effects. There is also a question about what constitutes “pre-development”. Is it oil sands development, all development, resource exploration, European settlement...? The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p>
135	<p>3.9 Biodiversity and Fragmentation 135. Discuss the monitoring initiatives such as the Alberta Biodiversity Monitoring Institute and how these regional initiatives will be implemented by Shell.</p>	<p>No changes were made to the TOR in response to this comment. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 11, Section 4.2.11 outlines the expectations of proponents with respect to regional monitoring and initiatives. AENV viewed the TOR as inclusive of this item. See final TOR clause 2.12.</p>
136	<p>3.11 Land Use 136. The Applications should include any Proponent commitments to financially contribute and participate in land use planning.</p>	<p>No changes were made to the TOR in response to this comment. The commitment of financial contributions by the Proponent or Government in an EIA or Application is not appropriate.</p>

	Comment	Result of Consideration
137	<p>3.11 Land Use</p> <p>137. The Application should identify proponent commitments to either, not begin construction until a land use plan and cumulative effects monitoring program is in place, or how such plans will be incorporated into management plans and practices.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed TOR as inclusive of this item. See Final TOR clause 2.11[B](a). Proponents are required to consider all current government regulations and guidelines. If changes are proposed to a regulation or guidelines and are made publically available during a Proponent's development of an EIA Report, Proponents are expected to consider the information. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent's ability to meet the propose changes of a particular regulation or guideline. If regulations or guidelines are revised prior to an approval being issued on a proposed project, that project would have to meet the new regulations and guidelines.</p>
138	<p>5. Traditional Ecological Knowledge and Land use</p> <p>138. Aboriginal Impact Assessment (AIA). The Application must include a comprehensive Aboriginal Impact Assessment (AIA) that assesses the environmental, health, cultural and heritage, and socio-economic impacts of the project on the DFN which is based upon community and traditional knowledge and is necessary for the DFN to make an informed decision with respect to the Application, the significance of any impacts and whether or nor the potential impacts have been or can be adequately addressed. It will also serve to assist the federal and provincial governments to fulfill their legal obligations in respect of S. 35 Rights and enable the Proponent to propose measures, and make commitments, that will prevent, mitigate or compensate for potential adverse impacts and effects, if that is possible. Note: also see #75-77 above.</p>	<p>No changes were made to the TOR in response to this comment. EIAs are not intended to be specific to the effects on any one community.</p> <p>AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations. AENV understands that Duncan's First Nation and Shell are working towards collecting, sharing and using traditional use information within the EIA for Carmon Creek as a Traditional Land Use Study agreement was signed between Duncan's First Nation and Shell on April 9, 2009.</p>
139	<p>5. Traditional Ecological Knowledge and Land use</p> <p>139. The DFN's preference is that the AIA be a stand alone section or supplement to the EIA. However, a Concordance Table, identifying where the components of the Aboriginal Impact Assessment can be found in the EIA, along with supplemental information is an alternate way to provide the information. Clearly, either approach requires gathering the information in the first place.</p>	<p>No changes were made to the TOR in response to this comment. EIAs are not intended to be specific to the effects on any one community.</p> <p>AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations. AENV understands that Duncan's First Nation and Shell are working towards collecting, sharing and using traditional use information within the EIA for Carmon Creek as a Traditional Land Use Study agreement was signed between Duncan's First Nation and Shell on April 9, 2009.</p>
140	<p>5. Traditional Ecological Knowledge and Land use</p> <p>140. The AIA needs to provide sufficient information to assess the basic question: will the DFN have enough land and resources left to meaningfully exercise their rights now and in the future.</p>	<p>No changes were made to the TOR in response to this comment. EIAs are not intended to be specific to the effects on any one community.</p> <p>AENV encourages Duncan's First Nation to share information, knowledge and concerns with Shell to ensure they are able to prepare a high quality EIA Report and for subsequent project operations. AENV understands that Duncan's First Nation and Shell are working towards collecting, sharing and using traditional use information within the EIA for Carmon Creek as a Traditional Land Use Study agreement was signed between Duncan's First Nation and Shell on April 9, 2009.</p>

	Comment	Result of Consideration
141	<p>5. Traditional Ecological Knowledge and Land use 141. For purposes of the AIA, the regional study area is the entire DFN traditional territory.</p>	<p>No changes were made to the TOR in response to this comment. If the assessment indicates that there is an effect on Duncan’s First Nation Communities and Traditional Territory, our expectation is that the Proponent would include it. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 5 outlines how the study areas are determined and that proponents must provide the scientific rationale used to define the spatial and temporal aspects of each Local Study Area and Regional Study Area.</p>
142	<p>5. Traditional Ecological Knowledge and Land use 142. In determining the impact of the Project on current and traditional uses, adopt a similar ‘no net loss’ yardstick as is used for fisheries impacts.</p>	<p>Comment partially accepted. See final TOR clause 3.11.2[A](i).</p>

	Comment	Result of Consideration
143	<p>5. Traditional Ecological Knowledge and Land use</p> <p>5.1 AIA Baseline Information. The DFN feel that proper baseline information needed to understand potential direct, indirect and cumulative impacts on Treaty and Aboriginal Rights and interests needs to be presented. From a historical perspective, the baseline should be the time of the signing of the Treaty and white settlement (1899), as well as the beginning of the more recent resource extraction rush (when DMI began operations).The following baseline information is required:</p> <p>143. Quantitative Information on DFN Traditional Territory:</p> <ul style="list-style-type: none"> a) Traditional Territory location and size in miles² and hectares². b) Fixed Sites of Cabins, Camps, Communities, Historical Trails, Graves, Trap Lines, Spiritual sites (locations to be kept private unless authorized by the DFN) within Traditional Territory. c) Amount of land within Traditional Territory taken up for development (energy, forestry, agriculture) and percentage of total Traditional Territory. d) Amount of land within Traditional Territory taken up for development by Shell and percentage of total Traditional Territory. e) Amount of land within Traditional Territory taken up for the proposed Project and percentage of total Traditional Territory. f) Amount of land within Traditional Territory indirectly impacted by the proposed project (Regional Study Area for air, water, wildlife, fish) and percentage of total Traditional Territory; g) Amount (quantity and percentage) of potential oil sands deposits within DFN Traditional Territory; h) Forest tenure holders in the Project area; i) Estimated size of area of indirect disturbance to wildlife relied upon by the DFN in Project area and in Traditional Territory. j) Identification of all other tenure holders in the Project area including exploration leases. k) Size of area of held by other tenure holders in the Project area and in MCFN Traditional Territory 	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using data from 1899 or when other resource extraction began as a scenario is that for many parameters there is a lack of data needed to properly describe that scenario so that appropriate modeling, etc. can be conducted to forecast project effects. The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p> <p>The comments outlined from 143 to 146 are too prescriptive for inclusion in the TOR; however, many of the concepts are already part of the TOR</p> <p>See Final TOR clauses 1[B] and 5.</p>

	Comment	Result of Consideration
144	<p>144.Socio-Economic Information</p> <ul style="list-style-type: none"> a) Income amount and sources; b) Changes in income over the past 20 years; c) Number and percentage of individuals and families receiving social assistance; d) Changes in number and percent of social assistance recipients over the past 20 years; e) Resource Sector Employment and Income (energy, forestry, agriculture, other) f) Current number of DFN members employed in resource sector; g) Changes in number of people employed in resource sector over the past 20 years; h) Number of DFN members currently employed by Shell in Peace River area; i) Number and value of any contracts provided to the DFN by Shell 	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using data from 1899 or when other resource extraction began as a scenario is that for many parameters there is a lack of data needed to properly describe that scenario so that appropriate modeling, etc. can be conducted to forecast project effects. The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p> <p>The comments outlined from 143 to 146 are too prescriptive for inclusion in the TOR; however, many of the concepts are already part of the TOR</p> <p>See Final TOR clause 7.</p>
145	<p>145.Health Information</p> <ul style="list-style-type: none"> a) DFN health conditions (by age and sex); b) Changes in health problems over the past 20 years; c) Causes of Deaths and ages; d) Changes in causes of deaths over the past 20 years; 	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using data from 1899 or when other resource extraction began as a scenario is that for many parameters there is a lack of data needed to properly describe that scenario so that appropriate modeling, etc. can be conducted to forecast project effects. The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p> <p>The comments outlined from 143 to 146 are too prescriptive for inclusion in the TOR; however, many of the concepts are already part of the TOR</p> <p>See Final TOR clause 6[A].</p>

	Comment	Result of Consideration
146	<p>146. Quantitative and qualitative information on Current and Historical Traditional Uses (hunting, fishing, plants and medicines, spiritual use):</p> <p>a) Hunting</p> <ul style="list-style-type: none"> • Main species hunted for food and domestic purposes; • Locations and access routes currently used for hunting main species; • Changes in use over the past 20 years: locations, access routes, harvesting success; • Estimated amount of current consumption and percentage of total meat intake from hunted animals; • Estimate of change in amount of hunted meat as a percentage of total meat consumed over the past 20 years. <p>b) Fishing</p> <ul style="list-style-type: none"> • Main species fished for food and domestic purposes; • Locations currently used for fishing main species; • Changes in use over the past 20 years: locations, harvesting success; • Estimated amount of current consumption; • Estimate of change in amount of fish as a percentage of total fish consumed over the past 20 years. <p>c) Gathering Plants and Medicines</p> <ul style="list-style-type: none"> • Main plants and species gathered; • Gathering locations; • Changes in use over the past 20 years; • Changes in frequency of gathering activities. <p>d) Spiritual and Cultural Use</p> <ul style="list-style-type: none"> • Locations currently used for spiritual and cultural practices; • Changes in spiritual and cultural practices locations over the past 20 years. 	<p>No changes were made to the TOR in response to this comment. AENV believes that to fully understand and evaluate the effects of a project, there needs to be a well-defined, scientifically verifiable benchmark to use for comparison. The difficulty of using data from 1899 or when other resource extraction began as a scenario is that for many parameters there is a lack of data needed to properly describe that scenario so that appropriate modeling, etc. can be conducted to forecast project effects. The Canadian Environmental Assessment Agency's February 1999 Cumulative Effects Assessment Practitioners Guide states at s. 3.2.3.2: <i>The further back in time...the greater the dependence on qualitative analysis and conclusions due to lack of descriptive information... and increasing uncertainty in predictions.</i></p> <p>The comments outlined from 143 to 146 are too prescriptive for inclusion in the TOR; however, many of the concepts are already part of the TOR</p> <p>See Final TOR clauses 1[B]and (d) and 5[A](a), (b) and (c).</p>
147	<p>5. Traditional Ecological Knowledge and Land use 5.2 Cumulative Impact on DFN Current and Traditional Uses. The draft TOR proposes assessing cumulative effects only from a limited and narrow standpoint thereby resulting in flawed or incomplete predictions. Information to effectively assess the cumulative impacts of the project and their significance on DFN Treaty and Aboriginal Rights and interests is necessary (i.e. exploration and winter drilling, seismic work, and leases leading to future projects). All projects/developments that could form part of the disturbed landscape, which further impacts DFN rights and affect the ability of the DFN to maintain its traditional livelihood and carry out and pass down its culture and pursuits, should be included in the project/activity list in the cumulative effects assessment (see Future Case Scenario above). This includes cut-blocks and linear developments (roads, pipelines, power lines etc.).</p>	<p>No changes were made to the TOR in response to this comment.</p> <p>See final TOR clause 3.1.3 for the requirements for cumulative effects. The TOR refers to the ERCB/AENV/Natural Resources Conservation Board Information Letter, <i>Cumulative Effects Assessment in Environmental Impact Assessment Reports</i>, which provides some guidance on the scope of the cumulative effects assessment, specifically “reasonably foreseeable human activities”. When the EIA Report is being reviewed; regulators may ask Supplemental Information Request questions regarding the Proponent’s cumulative effects assessment and how “reasonably foreseeable human activities” were included and/or excluded.</p>

	Comment	Result of Consideration
148	<p>5. Traditional Ecological Knowledge and Land use 5.2 Cumulative Impact on DFN Current and Traditional Uses. 147. The ‘reasonably foreseeable’ projects included in the AIA cumulative effects assessment should include all potential projects that might be developed within the lifetime of the Project (Future Case Scenario), not only those that are certain. In order to do this, the proponent should use modelling with conservative assumptions. In determining which projects/activities are ‘reasonably’ foreseeable during the lifetime of the Project, the Application should consider the likelihood of those projects proceeding based upon industrial averages of the % of such leases developed and consultation with lease holders. The less certain but potential project assessment should include possible infrastructure required to serve the future developments as well as access roads, and spatial area (using assumptions based upon current projects).</p>	<p>No changes were made to the TOR in response to this comment. See final TOR clause 3.1.3 for the requirements for cumulative effects. <i>The Guide to Preparing Environmental Impact Assessment Reports in Alberta</i>, page 6 outlines the assessment scenarios that a planned development case would mean any project or activity that has been publically disclosed up to six months prior to the submission of the Proponent’s application and EIA Report.</p>
149	<p>5. Traditional Ecological Knowledge and Land use 5.2 Cumulative Impact on DFN Current and Traditional Uses. 148. The Applications should identify any potential projects not included in the cumulative effects study and the rationale for not including them.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 3.1.3.</p>
150	<p>5. Traditional Ecological Knowledge and Land use 5.2 Cumulative Impact on DFN Current and Traditional Uses. 149. The Applications should describe monitoring programs proposed to measure impacts due to the Project on Traditional Uses and the success of the mitigation measures.</p>	<p>Comment accepted. See Final TOR clauses 3.11.2[A](i) and 3.11.3[A].</p>
151	<p>6. Public Health and Safety Assessment 150. The Application should include a Community Health Study (Regional and Aboriginal) from which future effects can be monitored and assessed, including a cumulative effect assessment of the effect of airborne contaminants on DFN members’ health and the general population of the area. The Study should identify:</p> <ul style="list-style-type: none"> a) the current community health conditions; b) the degree to which people resident in the area may be receptive to the various emissions of the Project, by itself, or induced by it; c) the cumulative impact of development on community health; d) existing and planned community health studies and/or the contribution the Proponent is prepared to make to such studies. 	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 6[A]</p>

	Comment	Result of Consideration
152	<p>6. Public Health and Safety Assessment</p> <p>151. The Application should describe how the Proponent intends to monitor potential health impacts.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clause 6[A](i). Follow-up work proposed to assess potential health impacts could include but is not limited to risk management strategies and human health monitoring.</p>
153	<p>7. Socio-Economic Assessment</p> <p>152. The Application should include the degree to which any mitigation proposals will address existing social and economic inequities.</p>	<p>No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR.</p>
154	<p>7. Socio-Economic Assessment</p> <p>153. The Application should discuss the anticipated Project benefits for First Nation communities and illustrate it in a matrix format along with the anticipated benefits for the proponent, governments, and non-Native communities, for ease of comparison.</p>	<p>No changes were made to the TOR in response to this comment. How proponents chose to document this information in the EIA Report is their choice. AENV viewed the TOR as inclusive of this item. See final TOR clause 7.2[A](a)(ii).</p>
155	<p>7. Socio-Economic Assessment</p> <p>154. The Application should describe any plans to recruit and retain Aboriginal employees or contracting opportunities available to Aboriginal businesses.</p>	<p>No changes were made to the TOR in response to this comment. AENV viewed the TOR as inclusive of this item. See final TOR clauses 7.2[A](a)(i) and (v) and 7.2[C](c).</p>
156	<p>7. Socio-Economic Assessment</p> <p>155. The Application should discuss Shell`s history and successes for employment and retention of Aboriginal people in the Peace River Region.</p>	<p>No changes were made to the TOR in response to this comment. This comment is too prescriptive for inclusion in the TOR.</p>

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Attention: Rick Brown, Director of Environmental
Assessment, Northern Region

Dear Sir:

**Re: Comments on PTOR for Peace River *In Situ* Expansion Carmon Creek Project filed
by Shell Canada on Behalf of Woodland Cree First Nation**

In keeping with s. 48 of the *Environmental Protection and Enhancement Act*, and EA Guide 2009-03--Guide to Providing Comments on Proposed Terms of Reference, these comments are provided on behalf of the Woodland Cree First Nation ("WCFN") in respect of the Proposed Terms of Reference ("PTOR") filed by Shell Canada Limited on March 16, 2009 arising from the proposed the Peace River *In Situ* Expansion Carmon Creek Project ("the Project"). I am Legal Counsel for WCFN with respect to this matter, and have been instructed to file these comments on their behalf.

By way of background, WCFN has three communities located in close proximity to the proposed project and development boundaries. As a result WCFN's communities and people will be directly affected by the Project if it proceeds as described in the project description. It is also important to note that the WCFN communities and traditional lands are already subject to the effects of adjacent gas plant developments. WCFN also anticipates that as several resource leases have been granted over the area, additional future developments are likely to result in cumulative impacts.

At the outset WCFN wants to emphasize that the intent of providing these comments is to contribute, in a positive way, to ensuring that the environmental impact assessment conducted for the Project is of sufficient scope to yield the data necessary to truly assess the environmental, social and economic benefits associated with the Project. At this point in the process, WCFN is neither opposing nor supporting the Project. WCFN simply wants to ensure that an appropriate

and responsive environmental assessment is conducted. WCFN's concern is that the scope of the assessment's discussion of impacts may be too focused on the Project in isolation to appreciate the contribution of the Project to cumulative impacts on the WCFN communities surrounded by development in all directions. Conversely, the scope of most assessments with respect to benefits may be too broadly focused on the economic benefits accruing to the Province as a whole to consider how the detrimental environmental and social impacts disproportionately affect WCFN's small northern communities.

Consequently, for an assessment to strike the right balance in WCFN's unique situation a more integrated and comprehensive approach to conducting the assessment is warranted. In our view, confining the discussion of the potential impacts on WCFN's communities to the stand alone section of "Traditional Ecological Knowledge and Land Use" will fail to yield the kind of integrated information necessary for our community and the provincial decision-makers to truly assess the likely impacts. Although we have, as instructed in EA Guide 2009-03, provided suggestions regarding specific revisions to particular sections of the PTOR, WCFN also urges the Province to address our concerns on a more global and integrated manner throughout the environmental assessment to reflect that the WCFN members living in our communities and continuing to live our traditions will be uniquely and directly affected by this Project, other existing developments and those that will undoubtedly follow.

Section 2.7 Air Emissions

In the discussion points required in terms of emissions profiles, after item [A] g) WCFN suggests that Shell also be required to identify the location of the WCFN communities specifically as a receptor when describing the distribution of emissions, the deposition of acidifying emissions, etc. Given WCFN's concerns about cumulative effects, it is important for WCFN to be able to see what concentrations of all air contaminants may be added by the Project, not just for those substances that will exceed air quality guidelines, but for all the emissions that will be added to the current loading.

Section 2.8 Water Management

In the description of 2.8.1 [A] d) "the expected cumulative effects on water losses/gains due to the Project operations" the WCFN requests that Shell also address the cumulative effects associated with the additional water requirements of the Project specifically on the WCFN communities' current and future water uses.

Section 2.10 Conservation and Reclamation

WCFN endorses, as an important component of the conceptual conservation and reclamation plan for the Project the requirement proposed under s. 2.10[A] (e)(ii) that requires Shell to consider the "pre-development traditional use with consideration for traditional vegetation and wildlife species in the reclaimed landscape."

Section 2.12 Regional and Cooperative Efforts

Given the proximity of WCFN's communities to the proposed development, engagement and direct participation in environmental monitoring activities will be essential to ensuring that WCFN continues to have access to information regarding the operations of the Project on an ongoing basis. Consequently, WCFN suggests that after the generic reference in Clause 2.12 [B] a) "monitoring that will be undertaken to assist in managing environmental effects, confirm performance of mitigative measures and improve environmental protection strategies" and "c) monitoring performed in conjunction with other stakeholders" that a section be included that specifically highlights monitoring proposed for WCFN's communities and whether Shell will be committing to an area monitoring network, such monitoring to be undertaken jointly with WCFN or with other proposed development proponents in the vicinity of WCFN communities and traditional lands.

Section 3.1.2 Study Areas

Under s. 3.1.2.1 Project Area [A] e) the requirement to prepare a topographic map showing the area proposed to be disturbed in relation to natural features and the existing township grids should be amended so that the area disturbed is also identified in relation to WCFN's communities. For the WCFN communities to understand the scale, scope and proximity of disturbance on WCFN's doorstep, these figures must explicitly provide the visual information necessary to assess the likely disturbance—descriptions that only focus on townships or physical features are inadequate for these purposes. Similarly, with respect to the requirements under s. 3.1.2.2 Local and Regional Study Areas [D] b) WCFN would also like to see that where the LSA and RSA maps are produced, that the location of WCFN's communities be specifically included in addition to the requirements that these figures show wetlands, watercourses, waterbodies and other topographic features.

Section 3.2.2 Impact Assessment (Air Quality, Climate and Noise)

Under s. 3.2.2 [A] in the identification of components of the Project that will affect air quality, in addition to the generic requirement that Shell "e) discuss interactive effects that may occur as a result of co-exposure of a receptor to all emissions", WCFN requests that Shell be required to specifically "identify air quality impacts resulting from the Project that will be experienced by the residents of WCFN's communities".

Section 3.3.2 Impact Assessment (Hydrogeology)

Under s. 3.3.2 [B] b) and c) in addition to the requirement that Shell address changes in groundwater quality and conflicts with other users, WCFN requests that the section be supplemented to require Shell to specifically identify likely groundwater quantity and quality impacts in WCFN's communities and livelihood areas.

Section 3.4.3 Monitoring (Hydrology)

Under s. 3.4.3 [A] Shell must describe monitoring programs proposed to assess the impacts of changes in surface water flows and levels on aquatic resources, wildlife and vegetation, but human receptors and other water users are not mentioned. WCFN suggests that this section be amended to include monitoring programs to assess the impacts on human receptors, and also impacts on other water uses in WCFN's communities and livelihood areas.

Section 3.6.2 Impact Assessment (Aquatic Ecology)

Under s. 3.6.2 [A] after c), given the cultural importance of the fishery to WCFN, Shell's assessment should also include information on the Project's potential effects on the availability of fish for WCFN uses and any human consumptive limits that may be imposed as a result of the projected effects on the fish population.

Section 3.7.1 Baseline Information (Vegetation) and Section 3.7.2 Impact Assessment (Vegetation)

Under s. 3.7.1[D] after the requirement to identify the key indicator species, WCFN would like to see an additional requirement to identify plant species and the critical habitats of those species that are "culturally significant to WCFN members." Expanding on this concept, WCFN suggests that s. 3.7.2 include a requirement that Shell also discuss any potential effects on the culturally significant plant species, as well as outline any mitigation plans to minimize these effects.

Section 3.8.1 Baseline Information (Wildlife) and Section 3.8.2 Impact Assessment (Wildlife)

Under s. 3.8.1 after [B], WCFN would also suggest that an additional clause be added that requires Shell to include in the baseline information the identification of wildlife species and habitats that are "culturally significant to WCFN members". Continuing this concept through to the impact assessment stage, WCFN suggests that after s. 3.8.2[B]c) an additional clause be added that requires Shell to specifically describe the potential for changes to culturally significant wildlife species and habitats that may be associated with the Project.

Section 3.8.2 Impact Assessment (Wildlife)

Under s. 3.8.2[C] with respect to considerations that must be included in the strategy and mitigation plans for minimizing impacts on wildlife habitat, WCFN would like to see two additional considerations added: firstly, the strategy and mitigation plans should also be consistent with preservation of traditional uses of the wildlife species; and secondly, the strategy and mitigation plan should be consistent with minimizing effects on culturally significant species and habitats.

Section 3.10.2 Impact Assessment (Terrain and Soils)

Under s. 3.10.2 j) WCFN suggests that Shell also be required to identify the potential for effects occurring off-site as a result of all phases of the Project.

Section 6 Public Health and Safety Assessment

This section, as currently worded, does not require Shell to address future human health monitoring that may be undertaken to assess potential impacts; in WCFN's view, the generic reference in s. 6[A] i) "describe anticipated follow-up work" is not sufficiently defined to clearly elicit the extent to which Shell will be a participant in human health monitoring efforts. Accordingly, WCFN would like to see the express requirement after s. 6[A] i) to "describe human health effects monitoring that Shell will undertake either independently or in concert with others."

Section 7.1.2 Impact Assessment (Socio-Economic Assessment)

Under s. 7.1.2[A] a) vii) requiring the description of effects of construction and operation of the Project on First Nations and Métis, WCFN suggests that the social indicators against which effects are to be measured should be chosen in consultation with the affected First Nations and Métis. Under s. 7.1.2[B] b) the requirement of discussing the options for mitigating impacts including "plans to work with First Nations and Métis communities", WCFN suggests that the phrase "in the short and long term" be added. Given that the Project lifespan will be considerable, to assess the effects of opportunities posed by the Project both long and short term programs need to be considered.

In summary, WCFN's central request is that the PTOR be amended to more clearly integrate considerations of the Project's potential for impacts on WCFN's communities, traditional use areas, people and culturally significant species. The additions and revisions suggested above are merely examples of areas where this type of integration could occur.

We trust that our comments provide you with the required information to consider our suggested additions and revisions to the PTOR. However, in the event that you require additional information or have any questions with regard to the foregoing, please contact me directly.

Yours truly,

MILLER THOMSON LLP

Per: 

James A. Duke, Q.C.

JAD/tm

c. Chief and Counsel, WCFN
Mary Henderson, Legal Counsel, Shell Canada