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DEPARTMENT OF ENERGY

DEPARTMENT OF ENVIRONMENT AND PARKS

RESPONSIBLE ENERGY DEVELOPMENT ACT
SA 2012, c. R-17.3

Energy Ministerial Order 39/2016
Environment and Parks Ministerial Order 16/2016

We, Grant D. Sprague, Deputy Minister of Energy, and Andre Corbould, Deputy Minister of Environment and Parks, pursuant to section 67 of the *Responsible Energy Development Act*, make the Metis Settlement Consultation Direction, in the attached Appendix.

DATED at the City of Edmonton, in the Province of Alberta, this 30 day of March, 2016.

Original Signed By Deputy Minister Grant D. Sprague

Grant D. Sprague
Deputy Minister of Energy

Original Signed By Deputy Minister Andre Corbould

Andre Corbould
Deputy Minister of Environment and Parks

APPENDIX

METIS SETTLEMENTS CONSULTATION DIRECTION

PURPOSE

The Ministers of Energy and Environment and Parks are authorized by section 67 of the Responsible Energy Development Act (REDA) to give directions to the Alberta Energy Regulator (the “AER”) for the purpose of

- (a) providing priorities and guidelines for the AER to follow in the carrying out of its powers, duties and functions, and
- (b) ensuring the work of the AER is consistent with the programs, policies and work of the Government of Alberta in respect of energy resource development, public land management, environmental management and water management.

This Direction applies to “applications” to the AER for “energy resource activity” “approvals” under “specified enactments”, all as defined in REDA (“energy applications”).

The purpose of this Direction is to ensure that the AER considers and makes decisions in respect of energy applications in a manner that is consistent with the work of the Government of Alberta (“Alberta”) in undertaking consultation pursuant to The Government of Alberta's Policy on Consultation with Metis Settlements on Land Management and Resource Development, 2015 as amended and replaced from time to time (“MSC Policy”) and associated Consultation Guidelines (“MSC Guidelines”).

This Direction

- (a) recognizes that
 - i. the AER has a responsibility to consider potential adverse impacts of energy applications on all persons who may be directly and adversely affected including Metis Settlements,
 - ii. AER processes will constitute part of Alberta's overall consultation process as appropriate,
 - iii. Alberta has the responsibility to assess the adequacy of Crown consultation under the MSC Policy and MSC Guidelines in respect of energy applications,
- (b) facilitates timely, efficient and effective information exchange between the AER and Alberta with respect to energy applications that engage the MSC Policy; and
- (c) requires the AER to act consistently with decisions made by Alberta under the MSC Policy and MSC Guidelines in respect of energy applications to
 - i. support informed consideration of applications by the AER,
 - ii. ensure that the AER’s approval of energy applications is consistent with Alberta’s consultation and engagement under the MSC Policy and MSC Guidelines in respect of the energy resource activity to which it relates.

Any opinion, consideration or decision of the AER in respect of energy applications' potential adverse impacts on Metis Settlements shall not be construed as the opinion, consideration or decision of Alberta.

DIRECTIONS TO THE AER

Coordination

- 1) The AER shall maintain a consultation unit that will work with Alberta's Aboriginal Consultation Office (ACO) to ensure Alberta will be able to meet consultation commitments associated with the MSC Policy and MSC Guidelines.
- 2) The AER shall assist the ACO to establish and maintain operating procedures that set out how the AER and the ACO will cooperate to administer and coordinate their work for the purposes of this Ministerial Order.
- 3) The AER shall follow the operating procedures established under section 2.

Applications

- 4) The AER shall direct proponents to contact the ACO for any proposed or planned energy resource activity prior to submitting an energy application to the AER.
- 5) When a proponent files an energy application with the AER, the AER shall provide the ACO with
 - a) a copy of or access to the energy application,
 - b) a copy of any statement of concern filed by a Metis Settlement in respect of the energy application,
 - c) a copy of any submission filed by a Metis Settlement in respect of the energy application under the Alberta Energy Regulator Rules of Practice, and
 - d) copies of any evidence and information submitted by or with respect to a Metis Settlement.
- 6) Unless an energy application is in respect of an activity or application that is listed in the MSC Guidelines as not requiring consultation, or is accompanied by a pre-consultation assessment by the ACO indicating that no Metis Settlement consultation is required, the AER shall
 - a) require the proponent of the energy application to include information about the potential adverse impacts, if any, of the proposed energy resource activity on harvesting or traditional uses of members of Metis Settlements as outlined in the MSC Policy,
 - b) advise the ACO of any changes the proponent proposes to the energy application,
 - c) advise ACO if alternate dispute resolution (ADR) involving a Metis Settlement will be used with respect to the energy application, and
 - d) advise ACO if a hearing will be held on the energy application and the AER's decisions with respect to including a Metis Settlement in the hearing process.

Decisions

- 7) Prior to making a decision in respect of an energy application for which Metis Settlement consultation is engaged by the MSC Policy, the MSC Guidelines or by the ACO, the AER shall request advice from the ACO
 - a) respecting whether Alberta has found consultation to have been adequate, adequate pending the outcome of the AER's process, or not required, and
 - b) on whether actions may be required to address potential adverse impacts on harvesting and traditional uses of members of Metis Settlements as outlined in the MSC Policy.
- 8) When the AER makes a decision in respect of an energy application for which Metis Settlements consultation is engaged by the MSC Policy, the MSC Guidelines or by the ACO, the AER must immediately provide the ACO with a copy of its decision, and any related reasons, in respect of the decision, at the same time it provides notice of the same to the proponent.

Appeal and Reconsideration

- 9) The AER must immediately provide the ACO with a copy of any application for regulatory appeal, reconsideration or leave to appeal application to the Court of Appeal filed by a Metis Settlement.