

December 8, 2014

LARP Review Panel
c/o Land Use Secretariat
9th Floor, Centre West Building
10035- 108 Street NW
Edmonton, AB T5J 3E1
VIA EMAIL

Dear Panel Members:

RE: Response to Information Request No. 9

On November 18, 2014, the Lower Athabasca Region Plan (LARP) Review Panel issued Information Request No. 9 to the Government of Alberta (GoA). The below response is that of the GoA to this Information Request No. 9.

As noted by the Chair of the Review Panel in Information Request No. 9, the Review Panel must adhere to Rule 28 of the *Rules of Practice for Conducting Reviews of Regional Plans* (Rules) in seeking clarifying information. This Rule provides that the Panel may request such further information necessary “to permit a full and satisfactory understanding of the matters in the review.”

As noted by Ms. Razzaghi, Counsel for Chipewyan Prairie Dene First Nation and Fort McKay First Nation, in her correspondence to the Review Panel, both dated November 19, 2014, it is obvious on the face of Information Request No. 9 that parts 1 through 10 relate directly to the responses provided to Information Request No. 4 by the GoA on November 14, 2014.

Therefore, parts 1 through 10 of Information Request No. 9 are improper as they do not relate in any way to any of the matters in the review raised by any of the Applications for a Review of LARP.

Further, the Panel is limited in its jurisdiction to reporting to the Minister as to whether the Applicants are directly and adversely affected by the content of specific, identified provisions of LARP.

A review of the initiatives and organizations mentioned in the *Land-use Framework Regional Plans Progress Report: A Review of our Progress in 2013*, published in July 2014, and the *Lower Athabasca Region: Status of Management Response for Environmental Management Frameworks- Air Quality Management Framework – Surface Water Quality Management Framework As of March 2014*, printed August 2014, provided by the GoA in response to Information Request No. 4, are far beyond the Panel’s limited jurisdiction. They are, therefore, not potentially relevant within the meaning of Rule 29(c). As an example, it is implausible that the details of the enabling legislation of the Alberta Environmental Monitoring Evaluation and Reporting Agency could have any impact on or relationship to whether the Applicants are adversely affected by the content of specific provisions of LARP.

Similarly, a review at large of the details of which outside organizations assist the GoA in collecting environmental data, and in what fashion they assist, cannot be said to have any connection to whether the Applicants are adversely affected by the content of specific provisions of LARP.

It is further clear that the Panel's role is not to monitor progress on achieving or maintaining objectives in regional plans or to investigate compliance with regional plans as that authority was given to the Land Use Secretariat (and not the Panel) expressly by sections 61, 62 and 63 of the *Alberta Land Stewardship Act*.

Additionally, responses to Parts 1, 4, 5, 6, 8 and portions of Part 3 of Information Request No. 9 were provided within the GoA response to Information Request No. 4, which was provided to the Panel (care of the Land Use Secretariat) on November 14, 2014, along with 6 separate responses to Information Request No. 5. This was merely one business day before Information Request No. 9 was issued.

The GoA would also note the following with respect to Information Request No. 9:

- Part 2 appears to be a duplication of the preamble to Part 3 and does not appear to have a question or request for specific information associated with it, so as to meet the requirements of Rule 29(c); and
- The Management Frameworks (for example, the Air Quality Management Framework) are not 'agreements'. The GoA is unclear as to the Panel's intent in referring to these Frameworks as Framework Agreements throughout this Information Request.

The GoA is further concerned, based on the preamble to Information Request No. 9, that the Panel has already closed its mind both to the jurisdictional issues raised by the GoA with respect to the ultimate matter before the Panel and with respect to any and all future jurisdictional issues that the GoA may raise in relation to any further information requests.

Indeed, the preamble of Information Request No. 9 pre-judges and apparently rejects all future objections by the GoA by indicating that the Panel has considered the GoA's objections to previous Information Requests and has decided that 1) it has jurisdiction to proceed with this information request and 2) the GoA is no longer afforded the options expressly set out under Rule 31 and must provide a full and adequate response.

However, this request contains different questions than previous information requests, with different issues as noted above. Further, Rule 31, upon which the Panel relies, provides clearly that for each information request the party receiving the request has the opportunity to either respond with a full and adequate response or may provide reasons why the information cannot be provided. It is only the Minister who can vary or dispense with the Rules, where considerations of fairness so require. Removing an expressly available option for only one party to this matter would not be in the interests of fairness.

In any event, in the interests of being as transparent and supportive of the Panel's process as possible, the GoA has provided the below information in response to the Panel's Information Request No. 9.

1. **Request from Panel:** With report to LARP Progress Report for 2013 ("the Report"), page 9, please confirm LARP plans and respective completion dates for the following frameworks/ strategies:
 - Air quality
 - Surface water quality
 - Biodiversity

- Tailings
- Surface water quantity
- Groundwater
- Strategy for reclamation

Response:

- Air quality
 - The Air Quality Framework is complete and has been in effect since September 2012. The framework document can be found at http://esrd.alberta.ca/focus/cumulative-effects/cumulative-effects-management/management-frameworks/documents/LARP_Framework_AirQuality_FINAL.pdf
- Surface water quality
 - The Surface Water Quality Framework is complete and has been in effect since September 2012. The framework document can be found at http://esrd.alberta.ca/focus/cumulative-effects/cumulative-effects-management/management-frameworks/documents/LARP_Framework_SurfaceWaterQuality_FINAL.pdf
- Biodiversity
 - A draft of the Biodiversity Management Framework is complete and consultation is currently underway. It is anticipated that it will be submitted for approval early in 2015. The current draft can be found at https://banister.ab.ca/larbmfsurvey/DRAFT_LARP_BMF.pdf
- Tailings
 - The Tailings Management Framework is anticipated to be finalized in early 2015.
- Surface water quantity
 - The Surface Water Quantity Framework is anticipated to be finalized in early 2015.
- Groundwater
 - The Groundwater Management Framework is complete and has been in effect since September 2012. The framework document can be found at http://esrd.alberta.ca/focus/cumulative-effects/cumulative-effects-management/management-frameworks/documents/LARP_Framework_GroundwaterMgt_FINALv2.pdf . Monitoring will continue to refine the triggers and limits.
- Strategy for reclamation
 - This strategy is underway and the GoA is currently engaging with stakeholders. Implementation will be ongoing.

2. **Request from Panel:** On page 3 of the Report, under the LARP Outcome heading “Air and Water are managed to support human and ecosystem needs”, it states that the Groundwater Management Framework is complete. On page 12 of the Report it notes that “the Regional Groundwater Monitoring Network is ongoing”.

Response: There does not appear to be a question associated with this request. It appears to be a duplication of a portion of question 3, below.

As the underlining in the request itself appears to indicate points of interest, the GoA would note that it is correct that the Groundwater Management Framework for the Lower Athabasca Region is complete but that monitoring network enhancements are ongoing.

3. **Request from Panel:** On page 3 of the Report, under the LARP Outcome heading “Air and Water are managed to support human and ecosystem needs”, it states that the Groundwater Management Framework is complete. On page 12 of the Report it notes that “the Regional Groundwater Monitoring Network is ongoing”.

- Please file a copy of the Groundwater Management Framework if it is complete.
- Describe more fully the “Network” plans and the activities planned to enforce the Network.
- Have the locations of the monitoring stations been determined? If so, provide the geographical location or legal land description.

Response:

- Groundwater Management Framework Document

As noted above, the Groundwater Management Framework has been in effect since September 2012. The framework document can be found at http://esrd.alberta.ca/focus/cumulative-effects/cumulative-effects-management/management-frameworks/documents/LARP_Framework_GroundwaterMgt_FINALv2.pdf

- “Network” plans and activities
 - Regional groundwater monitoring networks are being developed for each of the North Athabasca Oil Sands, South Athabasca Oil Sands, and Cold Lake Beaver River areas.
 - The North Athabasca Oil Sands network is the furthest advanced. To complete the network, select industry wells are being evaluated and will be included in the network and new wells will be drilled to monitor surface water/groundwater interactions.
 - The South Athabasca Oil Sands network is partially complete and requires numerous additional monitoring wells. Additional wells are being selected from existing industry wells or will be drilled.
 - Both the North Athabasca Oil Sands and South Athabasca Oil Sands networks are currently monitored twice annually.
 - A review of the North Athabasca Oil Sands and South Athabasca Oil Sands networks development framework is currently underway to identify gaps with regards to Environment and Sustainable Resource Development’s overall provincial monitoring

objectives. This gap analysis will initiate harmonizing the two groundwater monitoring frameworks (North Athabasca Oil Sands and South Athabasca Oil Sands).

- The Cold Lake Beaver River network has not yet been established, but will be developed largely from the numerous existing industry wells.
- Location of monitoring stations

The GoA operates the monitoring well in the following locations in the North Athabasca Oil Sands area:

Well Location	Number of monitoring wells at location
06-13-090-10 W4M	4
08-11-090-12 W4M	6
04-15-092-12 W4M	5
13-06-093-12 W4M	5
15-09-093-12 W4M	3
13-12-094-11 W4M	2
08-15-096-11 W4M	6
02-18-095-09 W4M	3
13-20-95-08 W4M	5
10-24-095-09 W4M	1
05-30-94-07 W4M	6
Total number of monitoring wells	46

Numerous industry managed wells are also being considered for inclusion in the network.

The GoA operates the monitoring well in the following locations in the South Athabasca Oil Sands Monitoring Well area:

Well Location	Number of monitoring wells at location
11-30-076-07 W4M	4
08-27-080-09-W4M	4
07-19-080-13 W4M	4
07-36-77-15 W4M	5
10-26-068-16 W4M	4
06-33-073-09-W4M	4
16-04-075-05-W4M	3
Total number of monitoring wells	28

Numerous industry managed wells are also being considered for inclusion in the network.

4. **Request from Panel:** On page 3 of the Report for 2013, it states that the Air Quality and Surface Water Quality Management Framework agreement implementation is still on-going. It is the Panels understanding that both of these documents have been implemented in 2013 and Annual Reports for 2012 were filed for both of these documents in March 2014. Please confirm.

Response: Both the Air Quality and Surface Water Quality Management Frameworks are in effect for the Lower Athabasca Region. The first annual reports were completed in March 2014. The phrase “ongoing” is used to describe ongoing work conducted during implementation.

5. **Request from Panel:** In the “Executive Summary” of the Annual Report for 2012 for the above two Management Framework Agreements, it refers to “triggers” being initiated in ten monitoring air stations for NO₂ and for SO₂.

- How many air monitoring stations are there for the Lower Athabasca Region? Where are they located?
- Describe the function of such stations to the Clean Air Strategic Alliance Data Warehouse;
- What agency/agencies operates these monitoring stations?
- On the basis of the Alberta Ambient Air Quality Objectives, could there be additional industrial pollutants in the air in the Lower Athabasca Region besides NO₂ and SO₂?

Response:

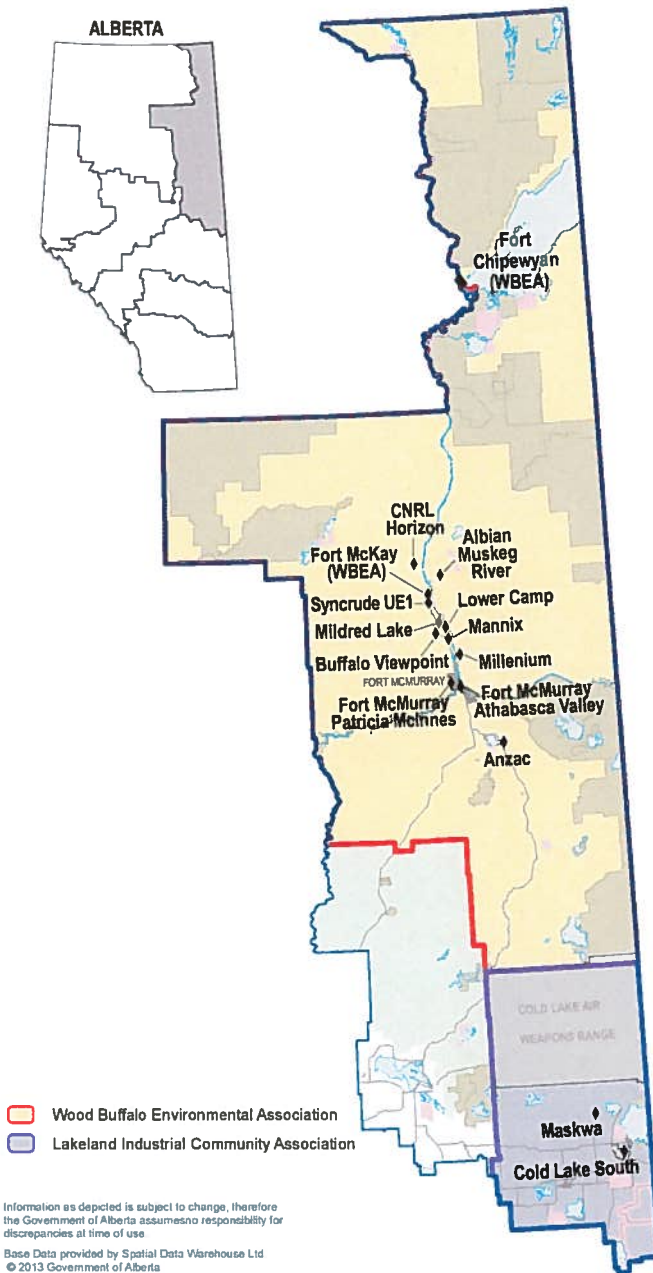
- Number and location of air monitoring stations

Regional monitoring network consists of eleven monitoring stations that measured Nitrogen Dioxide (NO₂) concentrations and fifteen stations that measured (SO₂) concentrations hourly. These were utilized for the 2012 Status of Ambient Environmental Condition report. As new stations are added in the region, they would be included in future reports, provided they meet completeness criteria thus, the list of stations could vary from year to year.

The following table indicates which stations monitored SO₂ and NO₂

Station Name	SO ₂	NO ₂
Albian Muskeg River	•	•
Anzac	•	•
Buffalo Viewpoint	•	
CNRL Horizon	•	•
Cold Lake South	•	•
Fort Chipewyan	•	•
Fort McKay	•	•
Fort McMurray – Athabasca Valley	•	•
Fort McMurray – Patricia McInnes	•	•
Lower Camp	•	
Mannix	•	
Maskwa	•	•
Mildred Lake	•	
Millennium	•	•
Syncrude UE1	•	•

A figure showing the location of these stations is shown below.



- Function of such stations to the Clean Air Strategic Alliance Data Warehouse

In the Lower Athabasca Region, ambient air quality data is collected by the Wood Buffalo Environmental Association (WBEA) and the Lakeland Industry and Community Association (LICA); validated; and made publically available through the Clean Air Strategic Alliance (CASA) Data Warehouse. The CASA Data Warehouse is the central archive for quality controlled air quality data collected in Alberta.

- Agency/agencies that operate these monitoring stations:

The below table lists the fifteen stations included in the 2012 Status of Ambient Environmental Condition Report and their operator.

Station Name	SO ₂	NO ₂	Owner
Albian Muskeg River*			WBEA
Anzac			WBEA
Buffalo Viewpoint			WBEA
CNRL Horizon			WBEA
Cold Lake South			LICA
Fort Chipewyan (WBEA)			WBEA
Fort McKay (WBEA)**			WBEA
Fort McMurray – Athabasca Valley			WBEA
Fort McMurray-Patricia McInnes			WBEA
Lower Camp			WBEA
Mannix			WBEA
Maskwa			LICA
Mildred Lake			WBEA
Millenium***			WBEA
Syncrude UE1****			WBEA

* Albian Muskeg River is now referred to as Shell Muskeg River

** Fort McKay is now referred to as Bertha Ganter – Fort McKay

*** Millenium is now referred to as Millenium Mine

**** Syncrude UE1 is now referred to as Fort McKay South

- On the basis of the Alberta Ambient Air Quality Objectives, could there be additional industrial pollutants in the air in the Lower Athabasca Region besides NO₂ and SO₂?

Yes, it is probable that there are industrial pollutants in the air in the Lower Athabasca Region besides NO₂ and SO₂ that have Alberta Ambient Air Quality Objectives associated with them. At this time, the Air Quality Management Framework for the Lower Athabasca Region focuses on managing ambient air quality with respect to ambient air concentrations of NO₂ and SO₂ because these substances:

- are two of the major substances being released in the region;
- are actively monitored throughout the Lower Athabasca Region;

- iii. are predicted to increase with expanding development;
- iv. are being detected at increasing and/or elevated levels in some areas of the region;
- v. are regulated under the *Environmental Protection and Enhancement Act*;
- vi. have established Alberta Ambient Air Quality Objectives (AAAQOs);
- vii. have monitoring data in areas of concern from an air quality perspective to allow assessment of local ambient air quality against the ambient air quality triggers and limits; and
- viii. can be controlled through a range of options applied to the various sources.

The framework identifies that a process is required to identify substances that require active management in the Lower Athabasca Region. Environment and Sustainable Resource Development would assess whether substances identified meet the selection criteria and could be incorporated (or included) in the framework. Additional indicators could also be added as part of the 5-year evaluation of the framework.

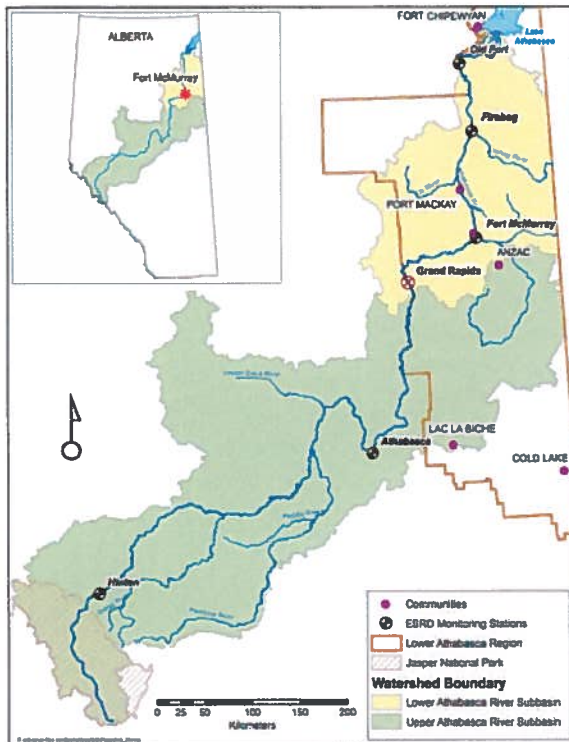
The Air Quality Management Framework adds to, or complements, existing management frameworks, policies, legislation and regulations; it does not replace them.

6. **Request from Panel:** In the “Executive Summary” of the Annual Progress Report for 2012 for the Water Quality Framework Agreement it refers to three of the thirty-eight water quality indicators being triggered at the Old Fort Station. Where is the Old Fort Station Located?
- Is the Old Fort Station the old monitoring station for water quality in the Region? If so, why is there only one monitoring station for water quality in the Region?

Response:

- Location of Old Fort Station

The Old Fort Station is located downstream of oil sands developments on the Athabasca River, approximately 200 kilometers north of Fort McMurray. See below map.



- Number of monitoring stations

Old Fort is the monitoring station included in the Water Quality Management Framework as long-term water quality data are available and the station is located downstream of oil sands development. Since 2010, all of the water quality indicators in the framework (and others) are monitored monthly at the Old Fort station, as well as at the Fort McMurray and Firebag stations.

7. **Request from Panel:** Mention is made in the above Report that progress has been made on “Verification and preliminary assessments for both air and water quality and “investigation” has been initiated for air quality only.
 - When will the “interpretation” phase be completed for both air and water quality?
 - The Report mentions that “ERSD will determine the need for further investigation to identify potential management actions”. Will this report be available in 2014?
 - If the 2012 progress reports for the above two management framework agreements were not published until March 2014, when will the annual reports for these two agreements be published for 2013?

Response: The next annual report updating the Status of the Management Response will be available in early 2015. In this report, the steps undertaken in the management response for both air and surface water quality (including findings of the investigation and the identification of potential management actions in response to the 2012 Report on Ambient Environmental Condition) will be updated. The same report will include information on the management response to the 2013 Report on Ambient Environmental Conditions for air and surface water quality.

8. **Request from Panel:** The 2013 Progress Report for LARP in its introduction places considerable weight on the monitoring of the framework agreements. On page 65 of LARP, it decides the importance of government lead departments developing effective monitoring, evaluation and reporting with respect to the various strategies and outcomes they are responsible for. Page 67 of LARP in Part 8 of the document notes the “Regulatory Details Plan for Monitoring and Reporting”. Describe how such monitoring and reporting will be achieved by the GOA.

Response: Table 1 of LARP (pages 68 and 69) indicates the Lead Ministry responsible for reporting on the regional outcomes. For each outcome, Table 1 associates various supporting indicators. These indicators are each quantifiable in that a specific number can be reported on. As noted at page 67 of LARP in the Regulatory Details Plan – Part 8 Monitoring and Reporting, specifically section 48, each Ministry has responsibility for establishing and maintaining programs monitoring and evaluating the status of each supporting indicator. For example, under outcome 2, one of the indicators is tourism visitation. The GoA will use data including the number of tourist person-visits in the Lower Athabasca Region. The Land Use Secretariat will be compiling the information from the Lead Ministries and preparing future Progress Reports.

Table 2 of LARP (pages 70 to 72) indicates the Lead Ministry responsible for reporting on the regional outcomes. For each outcome, Table 2 associates various supporting strategies. The timelines currently associated with each strategy are as indicated in the 2013 Progress Report and the related information previously provided by the GoA in response to Information Request No. 4. The Land Use Secretariat will be compiling the timelines from the Lead Ministries and preparing future Progress Reports.

9. **Request from Panel:** On page 9 of the Report, it notes that in 2013 the Alberta Environmental Monitoring Evaluation and Reporting Agency (AEMERA) was created in legislation.
- Describe the enabling legislation which created this agency. Has it been proclaimed yet?
 - Describe the roles and functions of this agency and how after it reports to the GOA.
 - How this agency commenced to operate. If not when will it make its first report to the GOA?

Response:

- Legislation

The *Protecting Alberta’s Environment Act* was assented to on December 11, 2013, and was proclaimed in force on April 28, 2014, establishing AEMERA.

- Roles and functions of this agency and how it reports to the GOA

The roles and functions of AEMERA are as described in its enabling legislation (as noted above, the *Protecting Alberta’s Environment Act*, S.A. 2013, c. P-26.8) available at

www.gp.alberta.ca/documents/Acts/P26P8.pdf

Generally, AEMERA is an arm's length organization responsible for providing credible, scientific data, and relevant information on the conditions of Alberta's environment. As the Act notes, AEMERA reports to the public and makes its data and information publicly available.

- Commencement of operation

AEMERA is in a start-up phase as an organization with a target of becoming fully operational in 2015. As noted above, AEMERA reports to the public directly.

10. **Request from Panel:** On the same page of the above Report, it refers to the "Canada Alberta Oil Sands Environmental Monitoring Information Portal"

- What is this agency's mandate and responsibilities?
- Is this agency operating? When do you anticipate a report from them? If they have filed a report with the GOA, please file a copy with the Secretariat.

Response: The "Canada Alberta Oil Sands Environmental Monitoring Information Portal" is not an agency but is a website available at <http://jointoilsandsmonitoring.ca/> where the public can access information related to the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring.

11. **Request from Panel:** At the bottom of page 19 of LARP, it refers to "Monitoring, evaluation and reporting initiatives and programs in the region are conducted by the Government of Alberta as well as:

- Wood Buffalo Environmental Association;
- The Lakeland Industry and Community Association;
- Regional Aquatics Monitoring Program
- Alberta Biodiversity Monitoring Institute.
- Describe how each of the above four organizations assist the GOA with monitoring, evaluating, and reporting the region's air, water, land and biodiversity strategies described in LARP;
- Besides AEMERA and the Canada-Alberta Oil Sands, and the four organizations described above, are there any other organizations or agencies which assist the GOA in monitoring, evaluating and reporting on the various air, water, land and biodiversity strategies described in LARP?

Response:

- Assistance with monitoring, evaluating and reporting

Wood Buffalo Environmental Association

The Wood Buffalo Environmental Association (WBEA) is a not-for-profit monitoring organization and delivery partner in the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring. WBEA generates periodic reports and scientific publications on status and trends in environmental conditions in its areas of operation. It also provides data and information to the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring and AEMERA for further analysis and reporting.

Lakeland Industry and Community Association

The Lakeland Industry and Community Association (LICA) is a not-for-profit monitoring organization and delivery partner in the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring. LICA also generates periodic reports and scientific publications on status and trends in environmental conditions in its areas of operation. LICA provides data and information to the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring and AEMERA for further analysis and reporting.

Alberta Biodiversity Monitoring Institute

The Alberta Biodiversity Monitoring Institute (ABMI) is a not-for-profit monitoring organization with operations throughout Alberta. In the oil sands region and Lower Athabasca Planning Region in particular, ABMI generates most of the biodiversity data and information under the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring.

These three organizations supported Environment and Sustainable Resource Development in developing environmental management frameworks and continue to serve as a primary source of information on indicators within the frameworks.

Regional Aquatics Monitoring Program

The Regional Aquatics Monitoring Program (RAMP) is not an organization and was a program developed to conduct monitoring of surface water quality, benthos, fish and other aquatic life in the oil sands region. The functions of RAMP have been integrated into the Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring.

- Other Organizations

AEMERA, LICA, WBEA and ABMI, along with Environment and Sustainable Resource Development staff are the primary sources of monitoring, evaluation and reporting information in support of LARP.

Conclusion

The GoA reiterates that the information requested in Information Request No. 9 is not within the Panel's jurisdiction to consider or is otherwise inappropriate as noted above.

However, in the interests of assisting the Panel's process, the GoA has provided the above responses to the requests contained in Information Request No. 9.

Yours truly,



Lisa Semenchuk
Barrister and Solicitor