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September 20, 2016

VIA EMAIL: esrd.epeaapplications@gov.ab.ca

Environment and Parks Regulatory Approvals Centre
Alberta Environment and Parks
Main Floor, 9820 - 106 Street
Edmonton AB T5K 2J6

Dear Sir or Madam:

**Re: Statement of Concern - Conklin Resource Development Advisory Committee
Environmental Protection and Enhancement Act
Secure Energy Services Inc.
Application No. 001-380384
N 23, NW 24, SW 25, and S 26 of Township 76 and Range 8, West of the Fourth Meridian**

Please accept this correspondence as a Statement of Concern on behalf of the Conklin Resource Development Advisory Committee ("CRDAC") in the above-noted matter.

It is our understanding that Secure Energy Services Inc. ("Secure") has applied to Alberta Environment and Parks for an approval to construct and operate a Class II Landfill located near the Hamlet of Conklin in the Regional Municipality of Wood Buffalo (the "Landfill"), as described in *Environmental Protection and Enhancement Act* ("EPEA") Application No. 001-380384 (the "Application").

CRDAC is strongly concerned about Secure's Application for the proposed Landfill. CRDAC has a number of significant and unresolved concerns regarding the Application and the proposed Landfill, which is inappropriate and unsafe for the area. CRDAC wishes to register its concerns and its strong opposition to the Application, which directly affects CRDAC and its members.

To put it clearly, given the nature of the concerns expressed by residents and the community, which are described below, the proposed Landfill is a project that is not wanted in the community, and CRDAC would request that the Application be denied.

In accordance with the Notice of Application, set out below are further details regarding CRDAC's concerns with this matter and the Application for the proposed Landfill filed by Secure.

Conklin Resource Development Advisory Committee

The Conklin Resource Development Advisory Committee represents the Conklin Métis Local 193 (“CML 193”), and the members of the Conklin Community Association which includes non-Métis residents of the Hamlet of Conklin. CML 193 is the association representing the Aboriginal rights and interests of its members. Conklin is a contemporary and historic Métis community as recognized by the Government of Alberta in its “Métis Harvesting in Alberta” Policy Statement. The proposed Landfill is located in proximity to the Hamlet of Conklin and its residents, and is located in the traditional territories of the Conklin Métis community.

The Métis of Conklin possess communal aboriginal rights, which exist because their community possesses all of the criteria set by the Supreme Court of Canada in the *Powley*¹ case for determining the existence of an aboriginal rights-bearing Métis community. Conklin is a historic and contemporary current-day aboriginal rights-bearing Métis community, with a population that is over 90% Métis.

Within a 160 kilometre radius of the Conklin community, Conklin Métis Local 193 (“CML 193”) members continue to engage in traditional harvesting practices that have been integral to their culture since before the date of effective European control. These include fishing, hunting and trapping for food, clothing, and other purposes; collecting berries and plants for food and medicinal purposes; and harvesting timber for building and other uses. These include lands that are currently and historically lived on, and used to sustain themselves, their families, and communities in accordance with their traditional culture and practices.

As the Supreme Court of Canada confirmed in the *Powley* decision and as subsequent jurisprudence has repeated over the past decade, these harvesting activities are recognized, affirmed, and protected by Section 35(1) of the *Constitution Act, 1982*. The exercise of these rights includes but is not limited to access ample to lands and resources in which these rights can be exercised. Métis subsistence harvesting activities and the exercise of Aboriginal rights continue today, and which are protected by CML 193.

Land Information

Secure has advised in its Application materials that the proposed Landfill will be located southwest of Conklin along Highway 881 on Crown land in lands legally described as portions of N 23, NW 24, SW 25, and S 26 of Township 76 and Range 8, West of the Fourth Meridian. The subject lands of the Application lie clearly within the traditional territories of the Conklin community, is located in close proximity to Conklin, and are lands that are used by the Conklin community. The proposed Landfill is located less than 1 km south of the Hamlet of Conklin boundary. It is located adjacent to Highway 881 and Birch Creek, which drains into Christina Lake, the largest surface water body in the region.

We wish to register our strong opposition to the proposed Landfill. It is our view that the proposed Landfill will have enormous negative impacts on the environment, will be detrimental to the community and residents of Conklin, and should be denied.

As described below, the proposed Landfill will significantly and adversely impact on the rights of the community as a whole. Further, it should be noted that Aboriginal rights are such that all members have a

¹ *R v Powley*, 2003 SCC 43, affirming [2001] 2 C.N.L.R. 291 (Ontario Court of Appeal), affirming [2000] 1 C.N.L.R. 233 (Ontario Superior Court of Justice), affirming [1999] 1 C.N.L.R. 153 (Ontario Court, Provincial Division).

right to use the area that is in and around the proposed Landfill, and evidence demonstrates historic, current, and future interests in the site.

In addition, the historic and current territory used by Conklin community members for traditional harvesting, commercial activity, seasonal migration and family visits is documented in several academic, legal and historical sources² including in primary research conducted by the Conklin Métis Local #193 and published in 2012 as *Kayas Achimona: Stories from a Long Time Ago. Preliminary baseline of a Traditional Occupancy and Use Study*.³ Conklin's traditional harvesting area includes sites concentrated around Christina Lake but extends north to the Fort McMurray area and south to Lac La Biche and west as far as the Athabasca River (and occasionally to Wabasca) and east into Northwestern Saskatchewan seasonally in order to take advantage of boreal forest resources as outlined in *Kayas Achimona*.

Project Concerns

CRDAC has a number of important and considerable concerns with the Application and the proposed Landfill, which include but not limited to:

1. Impacts on traditional land use and Aboriginal rights;
2. Environmental impacts;
3. Groundwater impacts;
4. Containment design;
5. Landfill construction impacts;
6. Landfill operation impacts; and
7. Landfill reclamation.

The proposed Landfill will require clearing of forest on Crown land for a Class II Industrial Landfill, as well as associated infrastructure such as an all-weather road, office trailer, shop building, site roads, stormwater pond and discharge, leachate tanks and pumps.

Secure describes the proposed Landfill itself as being proposed to be developed on an approximately 86.3 hectare parcel of forested land. The proposed Landfill is also described as being anticipated to accept up to 185,000 tonnes of waste annually, as well as generating waste. In addition to equipment such as track type tractors and backhoes, Secure also describes the proposed Landfill as requiring between 15 and 20 trucks as being required to visit the proposed Landfill daily while the Landfill is in operation.

The proposed Landfill infrastructure will create physical barriers to movement through the bush, fragment and or destroy wildlife habitat and indigenous plant species, create noise, traffic and emissions which will disturb wildlife, increase the risk of local contamination, and interfere with the harvesting of traditional resources which require intact boreal forest and uncontaminated wilderness. The proposed Landfill will also add to the cumulative impact and influence of development in the region, and which impact upon the use of land by Conklin.

² "Conklin as an Aboriginal Community", Conklin Métis Local #193, 2012, *Kayas Achimona: Stories from a Long Time Ago*.

³ Conklin Métis Local #193, 2012, *Kayas Achimona: Stories from a Long Time Ago*.

CRDAC notes that the proposed Landfill either through its direct disturbance of the land, as well as adverse noise, odour, and visual impacts, associated with clearing, construction, and operations, would impact traditional uses of the lands, which may result in avoidance and loss of use of the Landfill area.

There are a number of active locations where traditional activities will be impacted by the proposed Landfill. Specific impacts from the Landfill will be felt to the traditional uses practiced by our members in the area, including but not limited to impacts to berry picking, plant and food harvesting, gathering, and hunting activities. The Landfill may also impact medicinal plant gathering. The Landfill is located within traditional hunting areas for the Conklin Métis. Moose, deer, rabbits, and fowl have been identified as species hunted in this area.

Traditional land use activities that have been identified by CRDAC as occurring in close proximity to the proposed Landfill include but are not limited to trapping, hunting, fishing, camping, traditional land use trails, medicinal plant gathering, berry collecting, egg collecting, agriculture, gathering, and historical dwellings.

It is important to note that further and more in-depth Traditional Land Use studies need to be undertaken in order to fully understand and capture the impacts of the proposed Landfill. The issues outlined and identified above are preliminary in nature.

CRDAC is also concerned about the containment design and infrastructure proposed for the Landfill. CRDAC notes that the proposed Landfill is intended to store oilfield wastes generated by the petroleum industry, including but not limited to residual solids from spill clean-ups and contaminated site clean-ups, as well as waste from treatment processes.

The proposed Landfill is located less than 1 km south of the Hamlet of Conklin boundary adjacent to Highway 881 and Birch Creek. Birch Creek is located approximately 300 m north of the proposed site. Birch Creek is a tributary to Christina Lake, which is located northeast of the proposed Landfill and the largest surface water body in the region. The portion of Birch Creek closest to Christina Lake, in particular, is a naturally and culturally significant area for the people of Conklin. The proposed Landfill is located in too close of proximity to waterbodies and waterways that flow into creeks, streams, rivers, and lakes. It is also located in close proximity to the community of Conklin. There is a risk for spills and contamination, and resulting risk to waterways and lands. There are concerns for impacts on lakes, rivers, and streams, including the potential to put Birch Creek and Christina Lake at risk.

CRDAC questions whether the containment design and liner materials are sufficient to adequately protect the area and ensure protection. Particularly given the type of waste that the proposed Landfill is intended to store, CRDAC questions whether Secure has committed to using best available technologies and best achievable technologies at present and throughout the life cycle of the proposed Landfill.

CRDAC is also concerned about the environmental impacts of the proposed Landfill. CRDAC questions whether this is the most appropriate site for this type of proposed project, particularly given the proposed Landfill's proximity to Conklin. CRDAC also questions whether sufficient studies and environmental impact studies, including but not limited to issues related to impacts on groundwater, drainage, wildlife, habitat, and nesting have been undertaken by Secure.

CRDAC notes that there are a number of water wells in proximity to the proposed Landfill, including water wells used for domestic and municipal use. CRDAC questions whether water management, water testing,

and sufficient hydrologic and hydrogeological reviews have been undertaken with regard to the proposed Landfill. CRDAC also questions whether the proposed liner, protection of liners, and proposed infrastructure for the proposed Landfill is appropriate and sufficiently safe for the management of the proposed wastes.

CRDAC submits that in the absence of this environmental information and the results of such studies as noted above, it is difficult to adequately and properly assess the Application and the proposed Landfill. CRDAC submits that such information needs to be made available in this matter. CRDAC questions the adequacy of the materials and studies filed by Secure in its Application. CRDAC has expressed clear and significant concerns regarding the potential adverse impacts of the proposed Landfill, and submit that it is necessary to have the necessary studies conducted to make this information available.

CRDAC is also concerned about the impacts of construction and operation of the proposed Landfill. These impact the nearby community of Conklin and its residents, as well as impacts upon the traditional use of lands, as outlined above. CRDAC has identified concerns relating to construction noise, road construction, operation noise, safety, hazards, odour, traffic hazards, fire protection, wildlife impacts, emergency response, recreational use, and dust and litter related to both the construction and operation of the proposed Landfill.

A noise impact assessment has also not been provided by Secure which would provide an estimate of the noise impacts on the surrounding area and community. CRDAC notes that even beyond initial construction, the operation of the site will mean increased impacts and traffic and safety hazards due to the Landfill's operations, as well as associated truck operations in the area. These delivery operations are also proposed by Secure to operate from 7:00 am to 7:00 pm, occurring beyond regular business hours.

CRDAC is also concerned about the end of the proposed use of the proposed Landfill, and post-closure containment monitoring. CRDAC is concerned about full reclamation and restoration of the site, and questions whether this is possible, given the nature of the Landfill itself.

Again, it should be noted that we have a number of unaddressed concerns with the proposed Landfill. We are opposed to the proposed Landfill, and strongly object to the Application filed by Secure in this matter.

CRDAC respectfully requests that its Statement of Concern be registered in this matter, and that its Statement of Concern be registered as an objection to Secure's Application. In light of the concerns expressed above, we submit that Secure's Application should be denied.

Contact Information

CRDAC can be contacted as follows:

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Should you have any questions regarding the above, or if further information or details would be of assistance in the consideration of this matter, please do not hesitate to contact us.

Yours truly,

A handwritten signature in blue ink, appearing to read "Jeffrey O'Donnell". The signature is stylized with a large initial "J" and a circular flourish at the end.

Jeffrey O'Donnell
Chief Executive Officer
Conklin Resource Development Advisory Committee

- cc: Ackroyd LLP
- cc: Regional Municipality of Wood Buffalo
- cc. CRDAC Leadership
- cc. Wood Buffalo Metis