

The Alberta Energy Regulator's (AER) hearing commissioners conduct hearings and alternative dispute resolution for energy applications and regulatory appeals. The commissioners develop the hearing procedures and the processes for alternate dispute resolution they conduct. Hearing commissioners are independent adjudicators.

Since the release of Truth and Reconciliation Commission of Canada Calls to Action in 2015, reconciliation has become a guiding principle and a priority for the hearing commissioners and hearing office. In that spirit we have taken a number of actions to make the hearings more accessible and culturally relevant for Indigenous participants, such as holding hearings within Indigenous communities, integrating Indigenous cultural practices into the hearing process, and organizing extensive training for commissioners and the staff supporting them. The hearing commissioner's office has and continues to include Indigenous commissioners who have provided us with their unique and first-hand perspective in conducting our work.

A summary of the actions we have taken on our journey to implementing Truth and Reconciliation Commission's Calls to Action follows:

### **Holding Hearings in the Communities**

For hearings with Indigenous participants, we have made it our practice to offer to conduct the hearing or a portion of the hearing either at their community or at a location close to the community. Sometimes the community lacks capacity or does not want the hearing held in their community. Working with and being respectful of the community's interests is an important part of our approach.

An example of a hearing held in an Indigenous community is the hearing conducted as part of the joint provincial-federal environmental review for the Teck Frontier mine, in 2018. The proposed mine was located in northern Alberta, within the traditional territory of several Indigenous groups and in an environmentally sensitive area close to Wood Buffalo National Park and the Peace Athabasca Delta, a UNESCO World Heritage site. We held part of this four week long hearing in Fort McMurray and part of it in Fort Chipewyan. This provided an opportunity for different First Nations and Indigenous groups who were closer to each of these locations to attend the hearing.

Fort Chipewyan is a remote Indigenous community in Alberta and is only accessible by plane, an ice road in winter, or the Athabasca River in summer. At the time this hearing was conducted it was the most remote and technically advanced hearing that the AER had conducted and was broadcasted through video livestream. The AER's Hearing Services staff worked closely with the community to ensure a successful hearing. This included installing additional hardware in the community prior to the hearing to ensure adequate bandwidth to support the video webcast.

As there was limited accommodation in the community, only the panel and small group of staff stayed in the community. Teck representatives (the project proponent), and the Alberta Government Aboriginal Consultation Office representatives flew in/out daily from Fort McMurray. In a departure from conventional practice, the panel members participated in community meals which were held daily, taking care to not discuss the hearing process or matters to be decided by the commissioners during these community events. The panel thought attendance was an important sign of friendship and respect

for the community. All the logistical preparation could not have been done without the support of the community and the company. This hearing was well received by the community.

### **Implementing Cultural Practices at the Hearings**

It has also become our practice to incorporate Indigenous cultural elements into our hearings if desired by the community.

We begin all of our hearings with land acknowledgement. When Indigenous groups are participants, we ask if they would like to include ceremonies and if so, we work with them to accommodate the ceremonies. Examples of ceremonies that have been incorporated into our hearings include traditional smudging, prayer, singing, sharing food, drumming, gifting tobacco, and dancing ceremonies. When requested and to the extent feasible, we set up the hearing room in a circle or in a setting preferred by the Indigenous participants. At our hearings, the participants provide their evidence under oath or affirmation. Indigenous participants, if they prefer to do so, provide affirmation using sacred Eagle Feather or another sacred object. Typically, these ceremonies happen off-the-record before the start of the hearing.

### **Training for AER Hearing Commissioners**

The Hearing commissioners' knowledge and skills acquisition strategy includes a focus on understanding how Indigenous rights, traditional land use, and culture might be impacted by energy development activities. To assist the hearing commissioners in fulfilling their duties, we provide training. Some examples of the training we have completed include:

1. ***Indigenous Knowledge: Respectful Recognition and Considerations in Environmental Impact Assessment Methodologies***. This workshop focused on traditional ecological knowledge. It provided an overview of the cultural sensitivity and awareness required to support respectful recognition; insight into indigenous knowledge systems and values to be considered on indigenous lands; and consideration of how these indigenous knowledge systems can be respectfully integrated into environmental impact assessment.
2. **An Indigenous Judge from Federal Court of Canada** was invited by the hearing commissioners to speak about Indigenous mediation and share his knowledge and insight as an Indigenous lawyer, a judge of the Provincial Court of Alberta, and a Federal Court of Canada justice.
3. **Engaging Aboriginal and Métis People in ADR processes** was a two-day workshop and addressed how to meaningfully engage Indigenous and Métis peoples in Alternate Dispute Resolution processes. Training modules included:
  - An introduction to the International Institute for Restorative Practices Framework – a construct for acting restoratively in any community. The aim of the framework is to focus on strengthening relationships and repairing harm as a way of building community.
  - Effective Use of Circles – learning the value and process of circles to create a positive climate in any setting. Circle techniques and ideas, what circles can accomplish, how

circles can build community, stimulate learning, and offer a powerful dispute resolution process, where everyone feels equal, respected and has a voice.

- Understanding Historic Trauma & Lateral Violence – participants gain a deeper understanding regarding *barriers impacting Indigenous engagement* with external/government or internal community-driven processes. Participants are introduced to natural law and a Cree concept known as “Wahkohtowin”, a relational framework which creates and sustains more connected, healthy and productive environments

In addition to the work undertaken by the hearing commissioners, the larger AER organization has undertaken other steps in the spirit of reconciliation with Indigenous people of Alberta. The AER has a resident Indigenous elder and Indigenous engagement specialists, who provide guidance to staff and leadership in their decision making.

Another example is a project called **Voices of Understanding**. This project is a recognition that all voices matter and that the voices of Indigenous peoples are important to the AER to be fully informed in its decision making. The result of this project was a book, published on the AER website. ***Voices of Understanding: Looking Through the Window*** outlines the very different ways that indigenous cultures and western cultures look at the world. *Voices of Understanding* tells the story of two groups divided by a wall. Rather than allowing that divide to alienate them, the book shows how each group has equal opportunity to look through a window and better understand the other before walking through a door to make shared decisions. Only when both have looked through the window to understand each other’s customs and worldviews can either comprehend what to do when they pass through the door.

A team of AER employees including staff from the hearing commissioner’s office worked with Dr. Reg Crow Shoe, a Blackfoot elder, to learn how the AER can better respect the knowledge and cultures of indigenous communities. The decision-making models that the AER uses and the decision-making models used by Indigenous communities are not mutually understood—but making decisions is an important part of being a regulator. To help AER staff understand how to appreciate those different views, this book explains indigenous and western decision-making models and explores the ways that we can come together.