

CONFIDENTIAL VERSION FOR SHELL REVIEW

Memo to Royal Dutch Shell regarding membership in the Canadian Association of Petroleum Producers

From: Environmental Defence Canada

Last update: September 14th, 2020

Executive Summary

Royal Dutch Shell seeks to assure its investors, regulators and the public that it is making strides towards addressing the serious threats posed by climate change. In 2019 Shell published the *Industry Association Climate Review*¹ wherein Shell commits to reviewing industry association memberships based on alignment with Shell's climate-related policy positions. The climate-related policy positions outlined are described as support for the following: (1) The goal of the Paris Agreement on climate change; (2) Government-led carbon pricing mechanisms; (3) Policy frameworks for low-carbon technologies; and (4) The role of natural gas in the energy system.

As a result of this review, Shell "developed a new set of principles to govern the way [Shell will] manage [the] relationships with industry associations on climate-related policy issues."² This includes "General" principles pertaining to: (1) Participation; (2) Governance; (3) Transparency; (4) Payments, as well as principles of "Alignment on climate-related policy position" for managing the process of the 2019 review and subsequent reviews. These are described as: (5) Review of alignment; (6) Actions to address misalignment; and (7) Stronger governance procedures. The 2020 *Industry Association Climate Review Update*³ maintains these commitments and criteria for reviewing industry association memberships, and includes examples of climate policy from around the world that Shell has supported.

However, Shell's efforts are undermined by ongoing membership in the Canadian Association of Petroleum Producers (CAPP). CAPP continues to pursue deeply regressive actions and has actively sought to prevent, dilute or delay effective climate policy at the federal and provincial levels. This memo outlines the ways in which CAPP's activities contradict Shell's membership guidelines for participation in industry associations. Shell has acknowledged "misalignment" with CAPP on carbon pricing and support for the Paris Agreement during its 2019 and 2020 reviews of industry association relationships. Shell indicated that, rather than withdrawing from CAPP, they would continue to engage with the association in the interest of seeking alignment. However, evidence suggests that CAPP is resistant to change and should be considered materially misaligned with Shell's climate policy positions. CAPP has proven unwilling to adapt to the realities of climate change or address the financial risks for those companies that fail to meet the expectations of the public consciousness and embrace climate ambition.

Royal Dutch Shell CEO Ben van Beurden has been a vocal public advocate for transparency and ethical corporate behaviour,⁴ acknowledging how important is it for Shell to restore a diminished public trust and strengthen social license.⁵ The following provides substantial evidence that continued membership in CAPP undermines climate solutions in Canada and Shell's reputation as a responsible and forward thinking energy provider and supports a conclusion that Shell Canada should immediately and publicly withdraw its membership in the Canadian Association of Petroleum Producers due to multiple gross violations of Shell's association membership criteria.

Contradictions to Membership Principles

"2. Transparency: The main policy positions that an industry association supports should be transparent and publicly available."⁶

In March 2020 CAPP submitted a private memo to the Canadian federal government with an extensive list of policy changes sought under the guise of the government's COVID-19 Crisis Response.⁷ These policy positions were made accessible only after CAPP's document was shared with Environmental Defence⁸ and brought to the public attention.^{9 10 11} Not only did CAPP avoid disclosing the policy positions outlined in its memo, but also specifically requested that government suspend the filing requirements outlined in the Lobbying Act until July 31, 2020,¹² a critical four-month period in the development of Canada's COVID-19 recovery strategy. Requesting to be exempt from reporting interactions with government clearly contradicts Shell's position on industry association transparency.

Another recent example that demonstrates CAPP's disregard for transparency can be observed via the actions of the Alberta Energy Regulator (AER). During the first week of May, 2020, the AER suspended a series of environmental monitoring programs for oilsands companies, which followed a previous order to suspend environmental reporting requirements for all industry from Alberta Environment Minister Jason Nixon.¹³ These actions were met with criticism from scientists¹⁴ and concern from First Nations' leaders in Alberta¹⁵. In its decision to suspend environmental monitoring the AER failed to consult impacted Indigenous people or fulfill its legally binding duty to notify the Northwest Territories.¹⁶ Bob Weber with the Canadian Press reported for the CBC that "The [Alberta] government has said the move [to suspend environmental monitoring for oilsands companies] was made in response to concerns from the Canadian Association of Petroleum Producers about operators not being able to meet certain monitoring requirements while complying with COVID-19 orders".¹⁷ CAPP's exertion of pressure on Canadian energy regulators and governments to quickly accommodate the industry's demands during the COVID-19 crisis and oil price crash resulted in abdication of the regulator's obligations to consult and inform impacted parties, and shows disregard for the integral role transparent processes play in democracy.

“4. Payments: Shell requires confirmation from its industry associations that Shell funds or resources are not used for payments to political parties, political organisations or their representatives either directly or indirectly”¹⁸

There are a number of ways CAPP’s activities violate this membership principle.

In the last five years alone CAPP has given annual donations the Saskatchewan Party (the governing provincial party in Saskatchewan) totalling \$16,250, as reported by Elections Saskatchewan.^{19 20}

In addition to direct financial support, CAPP was also subject to a political controversy during the 2018 Ontario provincial election. Democracy Watch and Greenpeace registered a formal complaint with Ontario’s Chief Electoral Officer urging an investigation into CAPP’s spending, partisan-appearing content, and focused intervention in strategic ridings. CAPP did not register as an advertiser with Elections Ontario, but ran a national campaign during the Ontario election period with advertisements using language that mirrored Doug Ford’s Conservative Party slogans in thirteen swing ridings.^{21 22}

CAPP’s political affiliations were interrogated again before the 2019 federal election, when CAPP board members and executive participated in a day-long election strategy session on April 11, 2019, focused on defeating the Trudeau Liberal government.²³ The event featured then-leader of the Conservative Party of Canada Andrew Sheer, his campaign team, and other high-ranking Conservatives. While the full agenda was never disclosed, it was reported that CAPP CEO Tim McMillan participated in a “Paths to Federal Election Victory” panel by introducing the presenter from Ipsos Public Affairs polling firm.²⁴

CAPP then registered as a Third Party Advertiser in the 2019 federal election,²⁵ a requirement for all third party organizations that would be spending more than \$500 on election issues advertising, partisan advertising or other partisan activities.²⁶ While Elections Canada has not released their formal report on Third Party Advertising activity, based on the Facebook Ad Library’s tracking of ads about social issues, elections or politics, we calculate that CAPP financed between \$86-\$106K of advertising on its CAPP²⁷ and Canada’s Energy Citizens²⁸ pages in the 2019 pre-election and election period. Nearly 90% of the ad spending was used on Canada’s Energy Citizens content. Canada’s Energy Citizens is a group funded by CAPP that participates in an array of activities, many political in nature, including social media posts about political representatives^{29 30} on its Facebook page.

Through Shell’s contribution to the CAPP budget via its membership dues, which the 2020 *Industry Association Climate Review Update* places between \$500,000-1,000,000 USD,³¹ Shell is funding, directly or indirectly, the political activities by CAPP that contravene its membership guidelines.

CAPP Undermines Shell's Climate Related Policy Positions

Actions by CAPP are inconsistent with Shell's stated positions on climate action, namely support for the Paris Agreement and government-led carbon pricing. Shell states that actions that undermine support for the goals of the Paris Agreement reflect misalignment between Shell and the association.

1. The goal of the Paris Agreement on climate change.

"Shell supports the goal of the Paris Agreement to limit the rise in global average temperatures this century to well below 2°C above pre-industrial levels. We support the aim to achieve net-zero emissions in the second half of the century.

Shell advocates governments create and implement policy frameworks aimed at reducing greenhouse gas emissions in line with the goal of the Paris Agreement."³²

CAPP's policy positions, public comments and lobbying have consistently sought to undermine effective climate action needed for Canada to reach its climate targets. Most recently, CAPP's lobbying during the COVID-19 pandemic asked government to defer, suspend, or waive much of the climate policy currently being proposed or already under development.³³ CAPP's list of policy requests for the federal government included:

1. Delay strengthening the 2030 carbon emission reduction target under the Paris Agreement, and postpone the development and consideration of any additional measures to achieve that.
2. Defer setting a net zero emission target for 2050.
3. Defer setting 5-year carbon emission reduction milestones.
4. Halt finalizing the Clean Fuel Standard, and postpone implementation for three years.
5. Abandon increasing the federal carbon price.
6. Postpone finalizing the Strategic Assessment of Climate Change.
7. Delay Federal Greenhouse Gas reporting for two months.
8. Defer facility registration in accordance with ECCC's methane regulations by six months.³⁴

These actions would have direct and negative consequences, as the policy measures listed above are critical for Canada to achieve its climate goals and uphold its commitment to the Paris Agreement. COVID-19 does not limit the government's ability to follow through with these policies, and to suspend action on climate change during the pandemic serves only to exacerbate the growing climate crisis.

CAPP's efforts to undermine the legally binding implementation of the Canadian commitments under the Paris Agreement are also on display in its opposition to the updated federal environmental assessment law, bill C-69. The new environmental assessment framework includes a requirement to consider the impact a new project would have on helping or hindering Canada's achievement of its climate targets. CAPP engaged in extensive lobbying³⁵ of the Canadian Senate, which then proposed 130 amendments to the bill, some text directly from

CAPP's proposals.^{36 37} These amendments were criticized by policy experts and environmental organizations for weakening the bill beyond the former environmental assessment regulations.³⁸ CAPP's campaign and lobbying efforts resulted in many high-carbon projects being exempt from federal review, including gas fracking and *in situ* projects, and in making the climate considerations weaker and more vague.⁴⁰ In CAPP's COVID-19 crisis response memo it further requested that exploration drilling and *in situ* oil sands also be removed as projects that must undergo federal review.⁴¹ These efforts to avoid accountability for major projects' emissions show that CAPP is actively working to erode necessary climate action and undermining Canada's ability to meet its Paris commitments.

Finally, CAPP regularly relies on models from the International Energy Agency that use projections incompatible with the Paris Agreement. For example, CAPP's Alberta Energy Platform calls for doubling the growth rate of oil and gas supply/production,⁴² citing global oil demand projections used in the IEA's *World Energy Outlook 2018*. This scenario is predicated on a 3°C warming scenario,^{43 44} whereas the Paris Agreement has the stated goal of working to limit warming to 1.5 degrees. CAPP is clearly not considering or planning for a future in line with the Paris Agreement, and their media and policy positions are built based on an overly optimistic outlook for oil and gas. This itself contradicts the goals of the Paris Agreement, and is an imprudent evaluation of risk.

2. Government-led Carbon Pricing Mechanisms

"Shell has long supported government-led carbon pricing mechanisms as an effective tool that gives choices to energy consumers and producers, stimulates the development of low-carbon technologies and helps to drive energy efficiency.

Governments can implement carbon pricing through various mechanisms, including cap-and-trade systems, which set a cap on the total amount of emissions and allow companies to trade emissions allowances with each other, and carbon taxes.

To be effective, we believe that government-led carbon pricing mechanisms must include measures to prevent certain industries from shifting to states or countries that do not put a price on carbon, so-called carbon leakage. We believe that revenues from carbon pricing should be used to promote development and deployment of low-carbon technologies, to reduce other taxes, or be returned to people in other ways."⁴⁵

CAPP's recent lobbying efforts in response to COVID-19, as previously described, specifically ask government to abandon the scheduled increase to the federal carbon price, freezing it at \$30/tonne CO₂e.⁴⁶ This follows CAPP's history of opposition to carbon pricing, which has been extensively documented by Environmental Defence. A report published in October of 2019 by Environmental Defence and Stand.Earth outlines how in 2012 CAPP's lobbying efforts successfully delayed and then killed a carbon pricing proposal; in 2013 CAPP opposed Alberta's carbon levy as well as the federal carbon price; and in 2015 when then Alberta Premier Rachel Notley unveiled the Alberta Climate Leadership Plan CAPP lobbied for major concessions that

significantly weakened the approach.⁴⁷ The report summarizes, “In the end, the vast majority of oil and gas company emissions were exempted from both the Alberta carbon levy and the federal carbon pricing backstop, watering down the effectiveness of these policies.”⁴⁸

CAPP has also put forward misleading information to the public about the economic impacts of a carbon tax in comments made by its representatives, and in the commentary and social media promoted by its funded public engagement group, Canada’s Energy Citizens.

CAPP’s current approach is to publicly describe itself as “agnostic”⁴⁹ towards carbon pricing, despite the contradiction of its lobbying efforts. When discussing carbon pricing CEO Tim McMillan regularly raises concerns about ‘efficiency and effectiveness’^{50 51}, ignoring the longstanding position by expert economists that carbon pricing is a highly efficient and effective means of lowering emissions. CAPP posits that carbon pricing should maintain industry competitiveness and investment, but the outcome of its position has been opposition to the multiple carbon pricing strategies put forward or developed to date. .

Additional considerations: safety, human rights, taxes and trade

Shell has acknowledged that it has not considered broader activities of associations in areas of environment, health, and industry standards in its industry association reviews to date.⁵² However, CEO Ben van Beurden has acknowledged that “important topics such as safety, human rights, taxes and trade”⁵³ are relevant considerations for membership with industry associations. CAPP’s COVID-19 Crisis Response memo advocates to defer legislation implementing the U.N. Declaration on the Rights of Indigenous Peoples. This insidious request seeks to use a global pandemic as cover to further deny Indigenous people legal frameworks recognizing important human rights. While perhaps not in direct contravention of Shells’ guidelines for membership, support for an association that seeks to delay reconciliation and Canada’s commitment to uphold the UNDRIP does not reflect well on Shell.

Engagement with CAPP is a failing strategy

In both the 2019 and 2020 reviews of association memberships Shell acknowledged misalignment between itself and CAPP, but instead of choosing to withdraw membership, Shell indicated its preferred approach was to engage with CAPP in the interests of achieving alignment. However, when asked about Shell’s 2019 industry association climate review Tonya Zelinsky, a CAPP spokesperson, is on record stating “Shell has told us that it is not advocating CAPP change its policies with regards to carbon pricing or the Paris Agreement.”⁵⁴

Shell notes in its *2020 Industry Associations Climate Review Update* that since being pushed to improve its climate positions CAPP has created the Climate Strategy Priority Steering Group. Environmental Defence Canada has not been able to find any information about the mission statement of this steering group, record of meeting or minutes, its members or actions. We would welcome these details as an indication that CAPP is taking climate action more seriously. However, as evidenced by the recent examples in this letter, CAPP’s current advocacy behaviour

suggests strongly that it has not shifted its climate policy positions and continues to undermine climate progress.

Despite engagement from producers, including Shell we presume, that recognize the importance of climate action CAPP has not changed its public positions. In response to Total's recent decision to write off \$9.3-billion worth of oilsands assets in Alberta and leave CAPP, citing the associations regressive stance on climate ambition,⁵⁵ CEO Tim McMillan doubled down defending CAPP's positions, brushing off Total's move as "virtue signalling".⁵⁶ CAPP is demonstrating that it is unwilling to hear valid criticism of its climate positions or acknowledge the material risk facing oil sands investments and producers in the face of global market shifts, increasing competitiveness in the renewables sector, increasing urgency of climate change and the need for ambitious leaders and solutions, and now the COVID-19 pandemic and ensuing economic crisis.

CAPP's stance on climate ambition is in line with its documented history of obstructing climate action and a host of federal and provincial environmental policies.⁵⁷ Shell should concede that efforts to engage with CAPP are not yielding sufficient results. CAPP's history of lobbying against climate policy and other efforts to stymie momentum for climate action undermine the work of industry leaders that seek to rise to the challenge of climate change while meeting global energy needs. Its actions are in contravention of two of Shell's guiding principles for membership with industry associations.

For the reasons outlined above, we believe Shell should withdraw its membership from CAPP if Shell hopes to be received as a responsible energy company and leader on climate.

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