

Via Email

December 7, 2016

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canada

Mr. Allen Pukanski

www.aer.ca

Dear Sir:

**Re: Request for Regulatory Appeal by Allen Pukanski
NEP Canada ULC (NEP)
Application No.: 1857298 (Application)
Lic Nos. 0479538; 0479539; 0479540; 0479541 (the Licences)
Location: 12-04-51-26W4M
Request for Regulatory Appeal No. 1862322**

The Alberta Energy Regulator (AER) has considered your regulatory appeal request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to issue the Licences 0479538 - 0479541. The AER has reviewed your submissions and the submission made by NEP.

For the reasons that follow, the AER has decided that you are not eligible to request a regulatory appeal in this matter. Therefore, your request for a Regulatory Appeal is dismissed.

The applicable provision of REDA in regard to regulatory appeals, section 38, states:

38(1) An eligible person may request a regulatory appeal of an appealable decision by filing a request for regulatory appeal with the Regulator in accordance with the rules.

Section 36(a) of REDA defines an "appealable decision". For the present purposes, the relevant definition is contained in subsection 36(a)(iv). It says an appealable decision includes:

(iv) a decision of the Regulator that was made under an energy resources enactment, if that decision was made without a hearing.

"Eligible person" is defined in section 36 (b)(ii) as:

A person who is directly and adversely affected by a decision referred to in clause (a)(iv).

Analysis

This matter relates to your request for a regulatory appeal of the AER's decision to issue licences to NEP for four wells located at 12-04-51-26W4M (the 12-4 wells). The decision to approve the Application and grant the Licences was made pursuant to an energy enactment, the *Oil and Gas Conservation Act*, and without holding a hearing. Thus, you have satisfied the "appealable decision" component of the s. 38(1) of REDA. However, the information before the AER does not demonstrate that you are directly and adversely affected by issuance of the licences and therefore you are not eligible to request a regulatory appeal.

i. Eligible Person

You have outlined the noise, flaring and communication problems you experienced with regard to NEP's operation at 7-4-51-26W4M. You state that these matters caused you stress and sleep disruption. You say noise from drilling and fracking was an issue and that noise from a compressor at that location continues to be heard at your property. You state that excess flaring was an issue at the 7-4 site on one date in 2015. You submit that your experience in regard to the 7-4 wells demonstrates that you will suffer impacts from the 12-4 wells.

You also state that a caveat placed on your property by NEP's predecessor corporation (MEC) has impacted you negatively. As well, you state that the 12-4 wells affect your property value and attractiveness of your property to potential buyers. You have concerns that the NEP application for the 12-4 wells does not fit within zoning bylaws.

You have health and safety concerns. You state that you have additional concerns with noise and the visual irritation of seeing the applied-for wells.

The AER does not find that these submissions and the other information before it demonstrate that you are an "eligible person". The information does not demonstrate that you are or may be directly and adversely affected by the issuance of the licences. This is because your concerns are 1) general in nature and do not provide specific information showing you will or may be directly and adversely affected, or 2) relate to another matter which has been resolved.

You have raised general concerns regarding your health and safety related to fracking, noise and water well contamination; however, these are concerns only. You have not provided information supporting these concerns. As such, the concerns do not establish that you are or may be directly and adversely affected by the Licences.

The information available does not demonstrate that you will suffer a direct and adverse visual impact from the 12-4 wells. It is not enough to simply state the sight of the wells is an irritation. Your submission that this sight will diminish your property value is also not supported by any other information.

Your other information about loss of property value is general and does not relate specifically to these applications. The caveat filed by MEC relates to another development and effects therefrom do not demonstrate this application affects you. Your concerns about potential future NEP development do not demonstrate that this decision directly and adversely affects you.

Matters related to the County of Parkland's land development process are outside the AER's jurisdiction.

You have relied extensively on the history associated with the NEP wells located at 07-04-051-26W5M (the 7-4 wells) to demonstrate you will or may be affected by the 12-4 wells. The AER does not consider that the history with respect to the 7-4 wells demonstrates effects upon you from the decision to grant the 12-4 well licences. The AER notes that your request for regulatory appeal of the decision to grant licences

for the 7-4 wells was denied by the AER because you had not established that you were or may have been directly and adversely affected by those wells. In regard to noise issues in relation to the 7-4 wells, NEP did noise level monitoring and installation of a sound wall. In this matter, NEP will be required to meet AER requirements, including *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting* and *Directive 038: Noise Control*. Additionally, NEP will be required to follow its Water Body Mitigation plan. The AER requirements combined with NEP's commitments to comply and its willingness to be responsive to concerns at the 7-4 site (noise level monitoring, sound wall installation and water well testing) indicate to the AER that you will not be directly and adversely affected by issuance of the Licences. Operational noise concerns are managed through the field process.

You have also referenced your sleep disturbance in relation to the 7-4 wells caused by noise and stress caused by your involvement with not just the AER and NEP, but also with the RCMP and Peace Officers does. The AER does not consider that this experience demonstrates direct adverse impact to you from this application. The AER does not have information demonstrating you will be directly affected by noise. The involvement of the RCMP and Peace Officers in the past is extraordinary and not expected in the future. Operational noise concerns are managed through the AER's field process.

ii. Statement of Concern

As it has already been decided that you are not an eligible person and therefore are not entitled to a regulatory appeal on that basis, it is unnecessary to address issues related to the filing of a statement of concern.

Conclusion

For the above reasons, the AER does not consider that the available information demonstrates that you are an eligible person and therefore dismisses your regulatory appeal request.

Sincerely,



C. Webb,
Senior Advisor, Authorizations



Stephen Smith
Senior Advisor, National and International Stakeholder Relations



K. Fisher
Manager, Regulatory Effectiveness