

VIA EMAIL

June 29, 2016

Norton Rose Fulbright Canada

Attention: Steven Leitl

Dear Sir:

**RE: Request for Regulatory Appeal by Ernst & Young Inc. (E & Y)
Court-Appointed Receiver of Spyglass Resources Corp.
Abandonment Costs Order No.: ACO 2016-01 (Order)
Licences: F17377 & F22070
Location 14-21-089-21W4M and 06-089-22W4M**

The Alberta Energy Regulator (AER) has considered your letter dated June 16, 2016, requesting an extension of time for E & Y to file its request for a regulatory appeal of the AER's Order dated June 3, 2016. Notice the Order had been issued was given to E & Y in writing on the same day. The deadline for filing a regulatory appeal request for an abandonment cost order is seven days after the date of issuance of the order, as provided in section 30(3)(j) of the *Alberta Energy Regulator Rules of Practice* (Rules). E & Y's request, made on June 13, 2016, was filed after the deadline expired. The AER addressed the late filing in its letter to you dated June 16, 2016.

For the reasons set out in this letter, the extension is not granted and E & Y's Regulatory Appeal Request dated June 13, 2016 will not be processed by the AER because it was not filed in accordance with the Rules.

The AER has discretion under sections 41 and 42 of the Rules to extend the time within which a person may request a regulatory appeal. The AER's exercise of that discretion must have regard for established legal principles; a discretionary power does not convey an unfettered choice and it is not a substitute for considering recognized legal authorities that outline criteria for making that choice. The AER uses its authority to extend the time for filing a regulatory appeal in limited cases, where circumstances indicate that an extension is warranted to protect procedural fairness for all of the parties concerned. The onus is on the person requesting an extension to demonstrate special circumstances exist that support extending the filing deadline. He or she must show that a *bona fide* intention to file a regulatory appeal existed prior to the deadline passing, and that the failure to file on time was by reason of special circumstances that serve to excuse or justify such failure.

E & Y's June 13, 2016 request for a regulatory appeal does not provide an explanation why the request was filed late. Your letter dated June 16, 2016 also does not provide an explanation for late filing. The AER also considered the email communications exchanged between you and AER staff, dated June 13 and 14, 2016. Although these express that E & Y wished to "preserve its rights of appeal in all respects," the first of these messages post-dates the expiry of the regulatory appeal filing deadline and none of the messages provide an explanation why E & Y did not, or could not file before the deadline expired.

The AER's letter dated June 3, 2016, which accompanied the Order issued that day, included the following statement:

If you wish to file a request for regulatory appeal, you must submit your request in the form and manner and within the timeframe required by the AER. You can find filing requirements and forms on the AER website www.aer.ca under Applications & Notices: Appeals.

Timelines for filing regulatory appeals are an important part of ensuring fairness and certainty in the regulatory process. Parties must be aware of filing deadlines and make every effort to abide by them. If E & Y was uncertain about the deadline for filing a regulatory appeal in this case, it could and should have made inquiries when it received notice the Order had issued. The AER has decided that E & Y's request for an extension of the deadline within which to file a regulatory appeal does not meet the test for an extension that is applied by the AER.

Yours truly,



Gary Perkins
Associate General Counsel

cc: Melanie Gaston, Osler