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Our File No.: 59614.77

December 19, 2014

**Delivered via email**

Mr. Mark Dorin  
9760 - 60 Avenue  
Edmonton, AB T6E 0C5

Dear Mr. Dorin:

**Re: Penn West Petroleum**  
North Half of S 4-52-25 W4M (the "Lands")

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At the request of Penn West Petroleum and Penn West Petroleum Ltd. ("Penn West") I am writing to provide you with a response to your correspondence of October 14, 2014; November 5, 2014; November 6, 2014; December 5, 2014 and December 10, 2014.

**1. Surface Rights**

To begin, as has been communicated consistently and repeatedly to you, and on May 23, 2014, communicated to Mr. Pawlyk, the lawyer representing your clients in relation to this matter, Penn West has the necessary rights and interests to conduct its activities upon the Lands and is not trespassing upon the Lands as alleged, or at all.

Pursuant to a surface lease dated January 1, 1962, which has been referred to as the "Lieber Lease", specific rights were given with respect to what was termed thereunder as "the leased lands". Penn West has subsequently obtained the Lessee's interest under the Lieber Lease and, as you know, the lands subject to the Lieber Lease consist of lands within the North Half of S 4-52-25 W4M.

Clause 1, on page 2, of the Lieber Lease states as follows (emphasis added):

That in consideration of the rents, payments, covenants and agreements hereinafter reserved, set forth and contained, the Lessor doth hereby lease and grant unto the Lessee all and singular those parts and portions of the land above described, shown coloured in red, orange and green and outlined in blue upon the plan hereto annexed and Marked "A", (hereinafter referred to as "the leased lands"), for the use of the Lessee in connection with the operating of petroleum, natural gas and related hydrocarbons wells on the above described lands and taking production therefrom and laying pipe lines, power lines, engines and pump houses thereon and other structures usually necessary or convenient to the production, transportation and storage of petroleum and natural gas and other products of the wells drilled on the lands hereby leased and also for use as roadways to be held by the Lessee as tenant for

and during the full term that any production is being taken under the provisions of Petroleum and Natural Gas Lease dated the 20<sup>th</sup> day of October A.D. 1950, hereinbefore referred to.

Clause 3, on page 3, of the Lieber Lease expands on these rights provided, stating (emphasis added):

The Lessor doth hereby also grant, convey and license unto the Lessee, its successors and assigns, for the consideration hereinbefore mentioned, the right, liberty and privilege in, upon or under or across the leased lands to lay down, construct, maintain, inspect, remove, replace, reconstruct and repair pipe lines, power lines, and all structures and equipment necessary or incidental thereto for use in connection with the operations of the lease.

These clauses clearly provide Penn West with the rights necessary to construct and maintain its current facilities and infrastructure within "the leased lands", including, without limit, any pipelines, above-ground facilities and roads.

The current definition of "the leased lands" is set out in Amendment to Surface Lease Agreements signed by your clients in late 2003 and early 2004 (the "Amendment Agreements"). The Amendment Agreements amend what is termed therein as the "Lease". Pursuant to the Amendment Agreements, the Lease is a surface lease dated January 1, 1962, which your clients are successors in interest to and relates to the lands set out in the plan of survey attached to the Amendment Agreements. As such, there is no question that the Amendment Agreements amend the Lieber Lease. To this end, the Amendment Agreements amend the Lieber Lease, *inter alia*, by cancelling the original plan of survey attached to the Lieber Lease and replacing it with the plan of survey attached to the Amendment Agreements. The plan of survey attached to each of the Amendment Agreements was initialed by your clients, forms part of the Amendment Agreements and is binding on your clients.

As you will note, the plan of survey attached to the Amendment Agreements clearly outlines, in blue, the entirety of the Lands. As it is to replace the original plan of survey in the Lieber Lease it must be considered in conjunction with the above noted clauses from the Lieber Lease. The result is that Penn West possesses the ability to exercise those rights granted under the Lieber Lease in respect of its facilities and operations located over the entirety of the Lands. Penn West agree with your calculation that the approximate area of its above-ground facilities (the wellsites and battery) and roads at and on which Penn West is currently exercising its rights under the Lieber Lease is approximately 8.06 acres, as per the as-built plan forming part of the Amendment Agreements.

Furthermore, the Amendment Agreements include the following statement in relation to the Lieber Lease: "In all other aspects the Lease is hereby ratified and confirmed". Therefore, the validity of the Lieber Lease is not in question and cannot now be challenged or objected to by you, or your clients. We understand you have copies of all relevant agreements.

The foregoing explanation reiterates our previous explanation and fully and finally addresses and/or renders moot your repeated questions and comments in respect of Penn West's surface rights with respect to operations on the Lands.



## 2. Well Licenses

In your first November 5, 2014 letter re: Simple Well Licencing, you appear to raise the issue of who is the licensee for each of four separate wells. Further to Mr. Gagne's previous letter in respect of this issue dated April 11, 2013, we provide the following response:

- Well License 3490 (5-4) (Armisie No. 4): Penn West is a 100% working interest participant in this well; however, the well is reclamation exempt and the licence cannot be transferred into Penn West's name.
- Well licence 3805 (8-4) (Armisie No. 6): Penn West has no interest in this well.
- Well licence 88090 (1-4) Penn West is a 100% working interest participant in this well; however, the well is reclamation certified and the licence cannot be transferred into Penn West's name.
- Well licence 163419 (9-4): Penn West has no interest in this well.

Please note that this information reaffirms that provided by Mr. Gagne, and again, fully and finally addresses this issue.

## 3. Petrofund Commitments

The second issue raised in your first November 5, 2014 letter relates to commitments made by Petrofund Corp. in relation to ERCB Decision No. 2005-085. Penn West believes it (or Petrofund Corp. as its predecessor in interest) has honored the commitments set out therein and Penn West is unaware of any concerns raised to the contrary.

## 4. Roads

In the second letter you sent on November 5, 2014 re: Armisie Field, Alleged Surface Lease Acreages, you appear to be raising issues regarding an Alberta Surface Rights Board decision (Decision 2007/0140), which your clients are not a party to, and a caveat (Caveat No. 4404 MT), which has been discharged from your clients' lands. The access road south of the 6-4 wellsite is fully contained in the area in blue described in the Amendment Agreements and, as such, Penn West has a right to use such in accordance with the terms of the Lieber Lease. That portion of the access road north of the 6-4 wellsite that is within the utility corridor is used under agreement with the Crown.

In your first letter of November 6, 2014, re: Temporary Workspaces, Spill Area and Former Road, you raised issues regarding salt water disposal prior to 1967 as well as a 2004 pipeline release. Penn West was no records pertaining to salt water disposal prior to 1967; however, it is able to provide you with information regarding the 2004 pipeline release in the form of a Pipeline Spill, Soil Sampling and Excavation Report undertaken by Matrix Solutions Inc. Environmental Consultants In addition, we attach public historical release data/information from the ERCB/AER.



**5. Temporary Work Spaces**

With respect to the temporary work space agreements referred to in your first letter of November 6, 2014, as such agreements were temporary, there is no obligation of surrender upon completion. We understand that the areas subject to the agreements are now farmed over, and as such, all reclamation obligations therein have been fulfilled. In the event that any temporary work space agreement was entered into unnecessarily, Penn West advises that it will waive as against your clients any right to refund of compensation unnecessarily paid thereunder.

**6. Regulatory Concerns**

Finally, the issues you appear to be raising in your email of December 5, 2014 as well as your letter sent on December 10, 2014 (also dated November 6, 2014) re: Armisic Battery and Residential Land Development Issues, have previously been addressed in correspondence provided to you by Penn West, on December 14, 2012 and February 1, 2013, as well as correspondence provided to the ERCB and copied to you, on March 15, 2013. As you know, you sent a letter to Penn West, copied to the ERCB, on February 28, 2013. On March 1, the ERCB then requested Penn West to respond to your letter on March 1, 2013. Penn West provided a comprehensive response on March 15, 2013 to the ERCB and copied to you. It is Penn West's view that the ERCB, now the AER, has considered the issues you raised, is satisfied with the responses Penn West provided and has elected not to pursue the matter further. It is Penn West's position that it is in material compliance with all relevant regulatory requirements.

Penn West believes it has provided your clients with the information that is reasonably necessary to ensure they understand the surface restrictions on their lands, but is willing to discuss such issues further if necessary; however, it feels it has now, coupled with its previous correspondence, adequately dealt with your regulatory issues.

**7. Right of Way Agreements**

Please confirm compensation paid between any Grantors and Petrofund under right of way agreements in 2004 with your clients as Grantors. Although Penn West is of the view that such right of way agreements are valid, this in no way derogates from its rights under the Amending Agreement and the Lieber Lease. Again, Penn West waives any claims as against your clients for refund of compensation unnecessarily paid.

We trust that the within correspondence clearly articulates Penn West's position with respect to this matter.

Yours truly,

**BENNETT JONES LLP**

*For:* Blake Williams  
cc: Mr. Daron Naffin  
Mr. Robert Wood  
Ms. Marianne Holmberg

