

DORIN LAND AND OILFIELD MANAGEMENT INC.
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October 19, 2016

Law Branch
The Alberta Energy Regulator
Suite 1000, 250 – 5th Street SW
Calgary, Alberta, T2P 0R4

VIA E-MAIL to RegulatoryAppeal@aer.ca

Attention Ms. Helen Bowker

Dear Madame:

Re: Regulatory Appeal No. 1869031
Apparent Request for Submissions Not Received by Us
Request for Clarification, Holder of Approval No. 12447
Repeated Request for AER to Acknowledge Receipt of Reconsideration Requests

Thank you for your letter of October 18, 2016 and for assigning Regulatory Appeal File No. 1869031.

Said letter makes reference to a communication of the Alberta Energy Regulator (AER) addressed to the undersigned dated October 12, 2016, which appears to be a request for, or an invitation to make, submissions to the AER. Please note that:

1. We have received no correspondence dated October 12, 2016 from the AER. We hereby respectfully request that the subject correspondence be resent to us.
2. We respectfully suggest that it is customary, if not proper, for the Respondent(s) to be provided an opportunity to make submissions in response to our applications and the request for various applications to be combined.

Please advise us, for submission and notification purposes, what person is the current holder of AER Approval No. 12447 dated August 26, 2016. The landowner Applicants related to Regulatory Appeal No. 1869031:

- Were formally advised by Penn West Petroleum Ltd. (the named approval holder) that all surface documents have been assigned to Cedar Creek Energy Ltd. effective April of 2016, which of course requires a related transfer of all related AER licenses, approvals, and permits, and approvals by the AER of any such transfers requested.
- Have contacted Cedar Creek Energy Ltd. in such regards, which company has not responded to correspondence sent by Armisie field landowners.

As stated in the Application related to Regulatory Appeal No. 1832419 (logged in by the AER as Registered and Under Review on September 27, 2016) Armisic field landowners filed a review and variance request application dated May 4, 2015 with the AER (**TAB 9** to such Application), which has never been given a file number by the AER.

It is painfully obvious that, had the AER acted on said Application dated May 4, 2015, many of the issues for which Regulatory Appeal have been requested could have been resolved long ago.

For example, the Applicant named in AER Application No. 1832419 might not have attempted to notify corporate abandoned well licensees, which do not meet minimum legislated eligibility requirements to hold well licenses, by virtue of no longer being a registered corporation or no longer possessing a working interest in related minerals, whereby Notice of Decision/Approval No. 12447 would not, **as is presently the case without question**, constitute an effective collateral attack on Alberta legislation and an effective repeal of:

- provisions of the *Business Corporations Act*, RSA 2000, c B-9
- the provisions of Section 16(1) of the *Oil and Gas Conservation Act*; and,
- the provisions of Section 20(a) of the *Oil and Gas Conservation Act*.

It is an obvious and blatant breach of the principles of natural justice for our repeated requests for the AER to assign a file number to applications requesting reconsiderations for compelling reasons to be repeatedly and consistently ignored.

Over the past year or more, we had planned to file several varied applications with the AER, which were delayed because an AER decision on the Application with no file number dated May 4, 2015 was critical to resolution of numerous related and additional issues in dispute.

Moreover we plan to file several applications shortly, *inter alia*, a request for key documents, purged or missing from a well licence application file, to be replaced in such file whereby such documents are available to the Surface Rights Board pursuant to a request made under the extremely important provisions of Section 15(3), referenced in Section 15(6), of the *Surface Rights Act*, which requires consistency between AER approvals and a right of entry order.

As such, it is critically important that:

- applications properly filed be given a reference file number by the AER;
- the principles of natural justice, not to mention the provisions of related Alberta statutes, be observed by the AER in relation to application intake procedures; and,
- we and our clients are not left to wait indefinitely, pursuant to a mistaken assumption that the AER is reviewing an application which has been filed, when such is obviously not the case – the application has in essence been indefinitely set aside, discarded, or rejected without associated reasons for decision or notification of rejection.

When regulatory non-compliances are alleged, public safety matters arise, not to mention land rights issues. Who or what body, if not the AER, is ensuring public safety related to oil and gas operations while the AER struggles to understand its mandate and role in a two body system?

We do not file frivolous or vexatious applications or make unjustified complaints. Indeed we submit that our documents filed clearly indicate that we go to significant lengths to research the facts and related law (including judicial decisions) prior to involving any administrative body.

Not all facts are available to landowners or members of the public. When licence or approval holders refuse to address matters of fact and law, it is absolutely necessary for those adversely affected to assess the jurisdiction of regulatory bodies and file applications accordingly. Their only other option is to be unsafe or absorb damages they are indemnified from incurring by Alberta law. They should not have to do so in a province where all must have regard to the rule of law.

Please formally advise us of the application number assigned to said Application dated May 4, 2015 (TAB 9 to the Regulatory Appeal Request under Review).and issue written reasons explaining why there has been such a delay in assigning a file number, formally rejecting said application if that was the AER's disposition, or what procedure the AER intends to follow if such Application was and/or shall be accepted

AER correspondence dated October 8, 2016 reads in part as follows:

“To ensure clarity of the submissions to be considered in this proceeding, please refrain from copying the AER on such future correspondence.”

It has (unfortunately) become our practice to copy a number of AER employees with certain correspondence. Such practice arose out of deemed necessity, for reasons such as those given below.

1. It is far too common for one branch or department of the AER to take the position that it is another branch of the AER that should deal with matters we have raised. **Example:**
 - We raised Armisic field regulatory non-compliance issues (*inter alia* flaring with no related permit) with the Edmonton Field Centre, only to have employees of such Field Centre take the position that AER Subsurface Approvals was dealing with all issues raised by Statements of Concern No. 30265 dated April 8, 2016.
 - Notice of Decision/Approval No. 12447 clearly sets out the conflicting findings of AER Subsurface Approvals that the Edmonton Field Centre shall deal with matters related to flaring of sour oil well solution gas, which as stated on the Notice of Decision as a finding of fact, was (and may well still be) occurring at Armisic field.
 - There was no related findings as to if Facility Approval No. F-202054 prohibits flaring (which is obviously the case) or if the person flaring solution gas applied for and obtained AER approvals to cease solution gas conservation or to commence flaring as required by AER Directive 060.

Simply put, the left hand of the AER does not appear to be aware of what the right hand of the AER is doing so to speak. If we feel compelled to act as a facilitator of information exchange between AER employees or departments, because of obvious breakdown of internal AER information exchange or decision filing policy, we shall certainly do so.

2. If we have to choose between (a) and (b) below, we shall choose (a) without hesitation.

Is it preferable:

- a) To inform a landowner, who lacks technical knowledge, of potential illegalities and safety concerns on his lands, because an approval holder and/or an AER employee have failed to carry out legal responsibilities?
 - b) To strictly adhere to some unreferenced rule, or arbitrarily imposed request, as to what persons within a regulatory enforcement body should or should not be contacted in relation to blatant safety and land rights abuse issues?
3. It is painfully obvious that some AER employees are not aware of their clear duties to assess their jurisdiction prior to embarking on an investigation, or making a decision that affects land or safety rights, and to exercise discretion in decision making only when discretion is granted to them by law. Education would appear to be required badly. If we must educate AER employees by copying them with various correspondence, so be it.
 4. If necessary, landowners must prove negligence to be properly compensated for their losses by way of negotiation with AER approval holders, or alternately by way of a Surface Rights Board proceeding. Landowners cannot do so without properly asking approval holders to resolve issues that adversely affect them, without asking the AER to intervene when the approval holder refuses to address the issues, and without asking for a Regulatory Appeal or reconsiderations when there have been obvious oversights or changes in circumstance.

It is not up to any landowner in Alberta to convince an oil and gas developer:

- to acquire a legal surface right of entry; or,
- that the developer should have all necessary licenses, approvals, and permits required by the AER, properly maintained, whereby they have acquired a right to seek a legal surface right of entry or have maintained the rights to continue to exercise a surface right of entry.

It is not up to any Albertan to convince the AER what its role in a two body system that includes the Surface Rights Board is – our courts are in place to do so and have done so.

Indeed such legal realities are apparent on plain readings of Alberta statutes and the binding decisions of Alberta and federal courts at all levels.

When an irresponsible oil and gas developer refuses to be convinced that Alberta law requires them to operate on the surface of Alberta lands legally and safely, landowners are left with no choice but to request intervention, and the AER has no choice but to accept and properly review and comment on all requests reasonably made.

Otherwise guaranteed rights to surface ownership and to be safe on land one owns are drastically compromised in a manner that was not contemplated when compensation was determined.

Until the problem is resolved that the AER and the Surface Rights Board are obviously assessing their respective jurisdictions in more or less the exact opposite way, whereby both bodies avoid making decisions absolutely required by law in order to acquire a **legal** surface right of entry, the requests and arguments of Armisic field landowners are obviously falling on deaf ears.

At such time as reconsiderations, required for compelling reasons, are actually and properly being conducted by the AER, whereby **simple** landowner problems, caused by failures to properly apply for or abide by licenses, approvals, or permits can be resolved as quickly and cost effectively as an oil and gas developer can acquire an approval by way of a non-routine application filed with the AER, perhaps there will be no need for extensive applications such as those we have filed, and those to be filed shortly, with the AER and the Surface Rights Board.

At such time when the AER makes it **crystal clear** that the AER can and will conduct reconsiderations when necessary, perhaps irresponsible operators, who ignore reasonable requests made by landowners, will begin to voluntarily resolve the types of issues we have and shall request the AER to resolve (as responsible operators we deal with promptly do).

Until such events occur, which at present would appear to be in the distant future if ever, we shall continue to request that landowners receive equal and fair treatment from the AER, carried out in a fully open and transparent fashion, whereby their safety is ensured and **estimated compensation** is reasonable.

We question on what authority the AER attempts to dictate to any landowner what correspondence should or should not be sent, or to whom such correspondence might be copied to.

Clarity of submissions should take lower priority when: (1) the overriding issues are that other submissions of landowners, reasonably made, are being discarded or not acted upon most improperly by the AER, (2) an approval holder is not carrying out participant involvement obligations, or (3) a landowner or administrative body has been misled by an irresponsible operator.

We can absolutely assure the AER that, if necessary, we shall shout from the rooftops about the lack of operator and AER responsibility related to Armisic field and elsewhere, if that is what it takes to bring about simple changes at the AER that are so obviously required, or to convert irresponsible operators into responsible members of the resource development community.

We look forward to:

1. learning who formally holds various Armisic field licences and approvals;
2. receiving an application number and reasons for decision related to said May 4, 2015 Application, which requested the AER to determine what persons hold working interests in Armisic field oil and gas by way of carrying out the procedure legislated by Section 16(2) of the *Oil and Gas Conservation Act*;
3. receiving the AER's correspondence said to have been sent to us on October 12, 2016;
4. working in a **meaningful fashion** with the AER to ensure a reasonable balance between the rights of mineral owners (not necessarily oil and gas approval holders) and surface owners can actually be achieved as to all lands within Alberta; and,
5. advice from the AER as to which, if any, of numerous reconsiderations requested shall be considered by the AER.

In closing we request the AER to be so kind as to copy this letter to the various approval holders of Armisic field, having regard to all facts and related aspects of Alberta law or the statutory scheme as a whole. We simply cannot determine who they are and have been asking the AER to do so since May 4 of 2015.

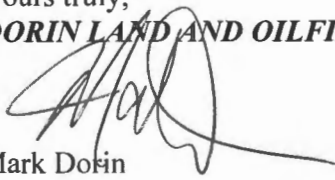
As stated above, we have been unable to determine which, if any, Armisic field licenses and approvals, to which relief requests apply, have been transferred from Penn West Petroleum Ltd. to Cedar Creek Energy Ltd

Moreover, Armisic Oil Company Limited was, as we have proven by way of documentary evidence previously provided to the AER, struck from the corporate record on April 15, 1964.

Consequently it is not possible for Armisic field landowners to contact, or the holder of Approval No. 12447 to have contacted and received the consent of, a corporation that has not existed for over fifty years (it should have been possible for various licensing authorities including the AER to have corrected the related records in such regards, given they had over half a century to do so).

We respectfully submit that the foregoing is sufficient reason for the AER to have already decided that a Regulatory Appeal of Notice of Decision/Approval No. 12447 dated August 26, 2016 is justified. There are of course many additional reasons.

Yours truly,
DORIN LAND AND OILFIELD MANAGEMENT INC.



Mark Dorin
President

CC: Mr. Dale Braun
Dr. S.P. Singh