

Via Email

July 20, 2018

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

PetroFrontier Corp.,

www.aer.ca**Attention : Omar El-Hajjar**

Dear Madam and Sir:

**RE: Request for Regulatory Appeal by Maureena Loth
PetroFrontier Corp. (PFC)
Application No.: 1904954
Licence Nos.: 0487679, 0487680, 0487681, 0487682, 0487683 (Licences)
Location: 12-29-063-02W4M;
Request for Regulatory Appeal No.: 1907191**

The Alberta Energy Regulator (AER or Regulator) has considered Ms. Loth's request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to approve the above referenced Licences. The Licences were issued on January 17, 2018, allowing PFC to drill for crude bitumen at the above surface location. The AER has reviewed Ms. Loth's submissions and PFC's response submissions. For the reasons that follow, the AER has decided that Ms. Loth has not demonstrated that she is directly and adversely affected by the AER's decision to approve the Licences. The request for a regulatory appeal is therefore dismissed for the reasons outlined below.

Reasons for Decision

The applicable provision of REDA in regard to regulatory appeal requests is section 38, which 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.
[emphasis added]

The term "eligible person" is defined in section 36(b)(ii) of REDA to include:

a person who is directly and adversely affected by a decision [that was made by the AER under an energy resource enactment, if that decision was made without a hearing].

The Licences were issued under the *Oil and Gas Conservation Act* (OGCA), which is an energy resource enactment, without a hearing.

The decision to issue the well Licences is an appealable decision, and the request for a regulatory appeal was filed in accordance with the rules. In order to be an eligible person to request a regulatory appeal of the Licences, Ms. Loth must demonstrate she is a person who is directly and adversely affected by the AER's decision to issue the well Licences.

In Ms. Loth's request for a Regulatory Appeal, a number of concerns were raised, including:

- Indigenous rights to practice and preserve spiritual and cultural practices
- lack of notification and consultation;
- the land is used for hunting, trapping, traditional and agricultural purposes;
- impacts to wildlife, [moose, caribou (Etthen), crane nesting];
- diminishing wild rice;
- contamination of plants and rare medicines;
- loss of habitat;
- impacts on hunting for moose and subsistence hunting for rabbits and chickens;
- water;
- natural food sources;
- noise;
- traffic;
- hunting safety;
- access; and
- reclamation.

Ms. Loth states that Cold Lake First Nations (CLFN) is a signatory to Treaty 6 which protects their rights to hunt, fish, trap, gather and generally carry on their livelihood after Treaty, as before. Besides her Treaty rights she has inherent Indigenous Aboriginal Rights to practice, protect and preserve her spiritual and cultural practices, including but not limited to protection of historical resources, conservation and stewardship of her traditional territory and locations of spiritual and cultural significance. She states that she is directly and adversely affected by the project and requests that the application be denied or alternatively that certain conditions are included in any approvals that may be granted to PFC.

PFC states that the Licences were applied for by PFC under a federal oil lease issued to PFC's joint venture partner, Tri-Rez Energy Ltd., a wholly owned energy company of the CLFN, by Indian Oil and Gas Canada (IOGC), the operating agency within Indigenous and Northern Affairs Canada that manages and regulates oil and gas resources on First Nation reserve lands. IOGC works in conjunction with CLFN, represented by duly elected Chief and Council, regarding the management and regulation of oil and gas resources on CLFN reserve lands including Indian Reserve 149B with respect to which the above Licences pertain. PFC states that it has fully complied with all federal and provincial regulatory requirements governing the issuance of the Licences, has met all AER and IOGC regulations and has consulted with Tri-Rez and with the duly elected Chief and Council of the CLFN.

In regards to notification and consultation, Ms. Loth states that she has two residences with the first located at 2145 English Bay 149B Cold Lake First Nations and the other residence located at west side of Marie Creek on 149B Cold Lake First Nations. PFC states that it has complied with all the notification and consultation requirements regarding the issuance of the Licences. The AER finds that given the information provided by Ms. Loth, her other residence is outside of the required notification and consultation requirements. The AER further confirms that it has conducted an audit review and notes that the well development is not located on Ms. Loth's lands and finds that PFC has complied with all notification and consultation requirements of *Directive 056: Energy Development Applications and Schedules (Directive 056)*.

With respect to hunting (moose and subsistence hunting for rabbits and chickens), trapping, traditional and agricultural land use, impacts to wildlife [moose, caribou, crane nesting], and diminishing wild rice, Ms. Loth's concerns are stated in a general way, without evidence provided on how the Licences will

impact hunting, trapping, traditional land uses, wildlife and wild rice. There are only general statements that the Licences are located within an area that had been actively used by her with no evidence as to how the Licences will impact these activities and uses. In regards to Ms. Loth's traffic, access and hunting safety concerns, the AER does not have jurisdiction over local county roads or hunting safety matters.

Ms. Loth's concerns regarding contamination of plants and rare medicines, loss of habitat, natural food sources and reclamation are concerns only and no evidence has been provided supporting these concerns to establish that she is or may be directly and adversely affected by the Licences. In response to Ms. Loth's concerns regarding noise, drilling waste and water the AER finds that PFC is required to comply with all AER requirements including: *Directive 038: Noise Control (Directive 038)*, *Directive 050: Drilling Waste Management* and *Directive 055: Storage Requirements for the Upstream Petroleum Industry*. In addition, *Directive 008: Surface Casing Depth Requirements* has as a primary purpose to require the design of surface casing to appropriate depths to ensure well control and groundwater protection. Should Ms. Loth need to report any issues with PFC's construction, drilling or production operations, she can call the AER's Energy and Environmental 24-hour Response Line at 1-800-222-6514.

Lastly, Ms. Loth has raised concerns that she was not notified about the applications, and for this reason was not able to file a statement of concern prior to the AER's approval of the well Licences. As noted above, the AER conducted an audit review and found that PFC complied with all *Directive 056* requirements. Furthermore, Ms. Loth has now been afforded an opportunity to provide and have her concerns considered by the AER through the regulatory appeal process. Pursuant to Section 2.2.1 (4) of *Directive 056: Energy Development Applications and Schedules*, as a result of Ms. Loth's request for regulatory appeal, PFC is aware of her surface concerns and is required in the future to include Ms. Loth in its participant involvement program for any surface application it plans to file in this area with the AER.

Based upon all of the submissions provided by Ms. Loth and PFC, the AER finds that Ms. Loth will not be directly and adversely affected by the decision to issue the Licences, and therefore is not an "eligible person" under section 36(b)(ii) of the *REDA*. Accordingly, the request for a regulatory appeal is dismissed.

Sincerely,

<original signed by>

David Helmer
Director, Industry Operations

<original signed by>

Tom Byrnes, P. Eng.
Senior Advisor, Industry Operations

<original signed by>

Charles Tamblyn
Director, Science & Evaluation