

Via Email

June 6, 2019

Bennett Jones

Farmers Advocacy Office

Attention: Daron K. Naffin Attention: Michelle Del Colle

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

www.aer.ca

Dear Sir and Madam:

**RE: Request for Reconsideration of Application No. 1891278
 By Desmond Anderson and Bonnie Anderson
 Alberta Products Pipe Line Ltd. (APPL)
 License No. 7634
 Reconsideration No.: 1920885**

The Alberta Energy Regulator (AER) has considered the Reconsideration request under section 42 of the Responsible Energy Development Act (REDA) for a reconsideration of the AER's decision to approve the Licence. The AER has reviewed the Anderson's submissions and the submissions made by APPL.

The AER has authority to reconsider its decisions pursuant to section 42 of the *Responsible Energy Development Act (REDA)*. That section states:

The Regulator may, **in its sole discretion**, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision. [emphasis added]

As indicated in section 42, it is at the AER's sole discretion whether to reconsider a decision made by it. That section does not provide an appeal mechanism to be utilized by industry or members of the public. Other provisions of *REDA* are available for that purpose. Given the appeal processes available under *REDA*, and the need for finality and certainty in its decisions, the AER will only exercise its discretion to reconsider a decision in extraordinary circumstances and where it is satisfied that there are exceptional and compelling grounds to do so. Mere disagreement with a decision is not sufficient.

In this case, a panel reviewed the submissions of both the Andersons and APPL and concluded that the circumstances did not amount to exceptional or compelling grounds that would warrant the reconsideration of this decision.

The Application was approved on the basis that D56 requirements had been met for the pipeline project as a whole. The participant involvement requirements under D56 for the pipeline project as a whole were audited at the time of application and the pipeline was approved.

It was only after the application was approved, that an AER inspector determined D56 had not been met with respect to the valve installation on the Andersons' property and issued a notice of non-compliance. The company remedied the non-compliance by providing additional information to the Andersons in writing about the valve installation on their property and the company is now considered to be in compliance.

While it is not possible to determine what verbal discussions occurred between the Andersons and APPL prior to the signing of the surface lease agreement, an AER inspector found the written materials provided to the Andersons by APPL did not meet D56 for the pipeline installation. This was an operational matter and APPL has since addressed this non-compliance.

In their submissions for reconsideration, the Andersons raised environmental and safety concerns but offered little information to support these concerns. The concerns related to this project appear to be primarily related to the appearance of the valve installation on their property. Given the type of project, the nature of the Andersons concerns and the fact that the non-compliance has been addressed, the panel determined that no further process is warranted.

Going forward, however, APPL is strongly encouraged to work with the Andersons to mitigate their concerns related to the appearance of this project as much as possible.

In addition, in order to avoid this type of situation in the future, APPL is strongly advised to provide more detailed written information at the time it meets with a landowner to ensure that there is a clear record of the level of information provided and to ensure that the landowner is afforded the opportunity to clearly understand what is contemplated for their property before the surface lease agreement is signed.

Sincerely,

<Original signed by>

David Schroeder,
Director, Strategy & Planning, Strategic Management

<Original signed by>

Paul Ferensowicz,
Senior Advisor, Strategic Delivery

<Original signed by>

Phil Hendy,
Senior Integration Advisor, Strategic Delivery

Cc: Mr. and Ms. Anderson
T. Myers, Bennett Jones
D. Hill, APPL