

Via Email

April 18, 2023

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www.aer.ca

Pine Cliff Energy Ltd.

Alberta Energy Regulator – Regulatory
Applications Branch

Attention: Terry McNeill

Attention: Danielle Brezina, Counsel

Dear Sir and Madam:

RE: Request for Regulatory Appeal by Pine Cliff Energy Ltd.
Alberta Energy Regulator – Regulatory Applications Branch (Regulatory Applications)
Licence Transfer Application No.: 1941172
Locations: 1-34-044-15W4; 15-02-044-15W4; 02-34-044-15W4; 04-32-041-13W4; 06-27
046-11W4; 10-04-043-09W4; 10-24-042-11W4; 11-02-044-15W4;
11-21-044-15W5; 15-14-044-15W4; 14-33-046-15W4; 09-19-048-16W4
Request for Regulatory Appeal No.: 1942585 (Regulatory Appeal)

The Alberta Energy Regulator (AER) has considered Pine Cliff Energy Ltd.'s (Pine Cliff) request under section 38 of the *Responsible Energy Development Act* (REDa) for a regulatory appeal of the AER's February 23, 2023 decision to approve licence transfer application no. 1941172 (Application) with a condition requiring a security payment (the Decision). The AER has reviewed Pine Cliff's submissions. Regulatory Applications did not file any submissions.

For the reasons that follow, the AER has decided that Pine Cliff is eligible to request a regulatory appeal in this matter. Therefore, the request for a Regulatory Appeal is approved.

The applicable provision of REDa in regard to regulatory appeals, section 38, 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 [made under an energy resource enactment]...

Reasons for Decision

Appealable Decision

The decision to require security is an appealable decision, as the Decision was issued under the *Oil and Gas Conservation Act* (OGCA) without a hearing. Although not expressly referenced in the Decision, the AER's ability to require a licensee to provide a security deposit before approving a transfer of a license can be found in s. 1.100(2) of the *Oil and Gas Conservation Rules* under the OGCA.

Eligible Person

While Pine Cliff does not expressly address whether it is an eligible person in its RRA the fact that it is required to pay security as a condition of approval of the transfer is sufficient to conclude that it may be directly and adversely affected by the Decision. The impact of the Decision on Pine Cliff appears to be economic, however, a recent decision of the Court of Appeal supports that an economic impact such as the one in this case, may be enough to conclude that there may be a direct and adverse effect.¹

In Accordance with the Rules

The RRAs were filed in accordance with the time limits under the Rules. Further, the AER has determined there is no justification to dismiss the regulatory appeal request at this stage under section 39(4) of the *REDA*.

Sincerely,

<Original signed by>

Phil Hendy
Senior Advisor, Risk & Governance

<Original signed by>

Kevin Ball
Senior Advisor, Product Business Delivery

<Original signed by>

Elizabeth Grilo
Senior Advisor, Regulatory

¹ *Normtek Radiation Services Ltd v Alberta Environmental Appeal Board*, 2020 ABCA 456