

Via email and mail

May 8, 2023

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

Ed Trenchie

Imperial Oil Resources Limited

www.aer.ca

Attention: Tian Q. Che

Alberta Energy Regulator - Enterprise
Reclamation Group

Attention: Candice Ross, Counsel

Dear Sir and Mesdames:

RE: Request for Regulatory Appeal by Ed Trenchie
Imperial Oil Resources Limited
Alberta Energy Regulator – Enterprise Reclamation Group
Reclamation Certificate No. 30672381
Location: 4-1-58-22-W4
Request for Regulatory Appeal No.: 1941706 (Regulatory Appeal)

The Alberta Energy Regulator (AER) has considered Ed Trenchie's request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to approve reclamation certificate no. 30672381 (Reclamation Certificate). The AER has reviewed Mr. Trenchie's submissions, the submissions made by Imperial Oil Resources Limited (Imperial), and the submissions of the AER Enterprise Reclamation Group (ERG). The request for a Regulatory Appeal is approved. However, as the AER does not have the authority to award compensation for improperly reclaimed land (if that is determined to be the case), the parts of Mr. Trenchie's request that relate to compensation are dismissed.

Section 38 of REDA states:

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.

An eligible person is defined by section 36 of REDA. Relating to this matter, under section 36(b)(i), an eligible person includes “a person referred to in clause [36](a)(i), (ii) or (iii).”

Section 36(a)(i), which also defines “appealable decision” reads:

a decision of the Regulator in respect of which a person would otherwise be entitled to submit a notice of appeal under section 91(1) of the Environmental Protection and Enhancement Act, if that decision was made without a hearing,

Section 91(1)(i) of the *Environmental Protection and Enhancement Act* (EPEA) states that

where [the AER] issues a reclamation certificate under section 138... the operator and any person who receives a copy of the certificate... may submit a notice of appeal; [emphasis added]

As Mr. Trenchie received a copy of the reclamation certificate (by virtue of having an interest in the land on which the reclamation certificate was granted), he is an eligible person and the decision to approve the reclamation certificate is an appealable decision, as the decision was made without a hearing. Further, with the AER previously granting Mr. Trenchie an extension to file his request for regulatory appeal, the request for regulatory appeal was filed in accordance with the rules.

Imperial submitted that request for regulatory appeal was without merit. However, the AER has determined that there is no justification to dismiss the regulatory appeal request at this stage under section 39(4) of the REDA. Where EPEA and REDA grant a clear right of regulatory appeal, only in extraordinary and obvious circumstances should a request for regulatory appeal not be granted. The AER concludes that no such circumstances exist in this case; whether requisite reclamation criteria was met is a question of fact to be adjudicated upon by a panel of hearing commissioners.

While the AER has determined there is no justification to dismiss the entirety of the Request at this stage, the AER dismisses the parts of the Request that relate to compensation. The AER does not have the authority to offer financial relief.

Sincerely,

<Original signed by>

Jeffrey Moore
Senior Advisor, Legal/Regulatory

<Original signed by>

Elizabeth Grilo
Senior Advisor, Regulatory

<Original signed by>

Niki Atwal
Senior Advisor, Policy Coordination