

Via Email

May 29, 2018

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
CanadaKMSC Law LLP
Attention: Timothy BaylyGrizzly Resources Ltd.
Attention: Lorie Wheelerwww.aer.ca

Dear Sir and Madam:

**RE: Requests for Review under Section 64 by Mike Richard
Grizzly Resources Limited (Grizzly)
Private Surface Agreement No. 000010
Location: 15-30-078-07W6M
Section 64 Request No. 000002**

The Alberta Energy Regulator (AER) has had an opportunity to consider Mr. Richard's requests under section 64 of the *Responsible Energy Development Act (REDA)* for an order directing Grizzly to comply with the Private Surface Agreement (PSA) dated October 9, 1997 and amended February 7, 2014. The AER has also considered the subsequent submissions from Mr. Richard and Grizzly. For the reasons that follow, the AER has decided not to exercise its discretion to issue an order to comply.

Mr. Richard's requests for an order to comply are based on concerns that Grizzly is not complying with its commitments regarding mud debris maintenance, dust control, and speed awareness.

For mud debris maintenance, it appears that Grizzly has adequately addressed Mr. Richard's concerns by cleaning up the excess mud and road debris. Mr. Richard does not raise further concerns in his May 4, 2018 reply, and Grizzly commits to addressing all future concerns that may be raised by Mr. Richard and the County. It appears that Grizzly is in compliance with the mud debris maintenance condition; therefore, an order to comply is not necessary at this time.

Concerning dust control and speed awareness, Grizzly asserts that it is undertaking dust control through reinforcing a 20 kilometer per hour speed limit on the segment of Range Road 75 near Mr. Richard's residence, as well as constructing a new access road north of Mr. Richard's residence that will reduce future truck traffic in the area. The AER notes that clause 4 of Schedule A in the February 7, 2014 Amended Surface Lease Agreement simply states that "dust control will be undertaken...", and does not specify how the dust control will be carried out. Mr. Richard's counsel suggests that any compliance order should contain identifiable markers of compliance or default and, at least, parameters for watering the road.

The AER's jurisdiction under section 64 of *REDA* allows it to issue an order directing Grizzly to comply with the PSA, which Mr. Richard's counsel argues will not be sufficient to resolve the dust control issue. The AER cannot import new terms into a PSA. Mr. Richard and Grizzly may negotiate new terms or a new private agreement if they so choose. Grizzly has committed to reinforcing and reviewing the truck driving speed limit with its truck operators on Range Road 75 as a primary dust mitigation strategy. As it appears that Grizzly is complying with the dust

control and speed awareness terms of the existing PSA, an order to comply is not necessary or warranted at this time.

The AER encourages Mr. Richard and Grizzly to work together to attempt to resolve any future concerns regarding the PSA. The AER has alternative dispute resolution processes available, should the parties wish to explore those options.

Sincerely,

<original signed by>

Patricia M. Johnston, Q.C I.C.D.
Executive Vice President Law and General Counsel

<original signed by>

Mark Taylor
Executive Vice President, Operations

Cc: Mike Richard