

Via Email

February 1, 2016

Nickerson Roberts Holinski & Mercer

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

www.aer.ca

Attention: Ryan F. O'Connor

Dear Sir:

**RE: Request for Regulatory Appeal by Mark Roberts
Baytex Energy Ltd. (Baytex)
Application Nos: 1831831; 1832186; 1832547; 1832476
Licence Nos: 48809; 40064; 48810; 43296
Locations: 01-20-80-21W5M; 08-21-079-20W5M; 08-31-079-20W5M; 08-20-080-21W5M
Regulatory Appeal Nos.: 1839533; 1839537; 1839539; 1839542 (Regulatory Appeals)**

The Alberta Energy Regulator (AER) has considered Mr. Roberts' request under section 38 of the *Responsible Energy Development Act (REDA)* for a regulatory appeal of the AER's decision to approve Licence Nos. 48809, 40064, 48810, 43296. The AER has reviewed your submissions on behalf of Mr. Roberts and the submission by Baytex.

For the reasons that follow, the AER has decided that Mr. Roberts is not eligible to request a regulatory appeal in this matter. Therefore, the request for a Regulatory Appeal is dismissed.

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]...

The issue for the AER in determining Mr. Roberts' eligibility to request a regulatory appeal is whether he is a person who is directly and adversely affected by the decisions to issue the Licenses.

Reasons for Decision

Mr. Roberts filed extensive submissions on his position that he is directly and adversely affected, which can be summarized as:

- Despite the distance of Mr. Roberts owned land from the facilities, he and his family are affected by ongoing odours, chemical exposure and negative health and respiratory effects;
- Loss of use and enjoyment of his property as sometimes he and his family are prevented from going outdoors because of the odours;
- Baytex continues to have direct atmospheric venting despite *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting*. Mr. Roberts cites video evidence from December 15, 2014 and an odour complaint on April 27, 2015;
- The new facilities will be constructed in the same manner as existing sites and are likely to increase odours and negative impacts;

- On-site equipment is insufficient to meet *Directive 060* requirements;
- The AER's conclusion that recent inspections show Baytex operating in full compliance is a "snapshot" and does not reflect the previous Baytex non-compliances in December 2015 and April 2015; and
- Air quality monitoring reports show elevated hydrocarbons in the air in the vicinity of Baytex's sites and Mr. Roberts residence. Mr. Roberts notes a July 30, 2015 odour complaint he made and corresponding air quality monitoring results which he states demonstrates the odours are from Baytex facilities, and are not naturally occurring.

Mr. Roberts argues that allowing further Baytex facilities with the same equipment in the face of continuing non-routine venting and equipment failures is an error. No further facilities should be allowed until Baxtex's direct venting problems are completely rectified. The AER notes that the Licences in question are not for new wells, but are for amendments to existing facilities.

Baytex responded indicating that the facilities are designed to be fully compliant with the requirements of *Directive 060*, including those requirements specific to the Peace River area. The facilities will not have any venting of casing or tank top gas and in the event of an emergency or overpressure situation the facilities are designed to shut-in the wells and equipment automatically, preventing any venting of gas to atmosphere.

Baytex notes that in AER compliance sweeps in the Peace River area during the periods of February 23, 2015 to June 15, 2015, and October 5, 2015 to October 9, 2015, Baytex was found to be compliant.

Baytex considers that many of the concerns raised by Mr. Roberts in his statements of concern and requests for regulatory appeal have been addressed by the outcomes of the Peace River Proceeding (Decision 2014 ABAER 005).

In its submission, Baytex did not comment on the complaints raised by Mr. Roberts from December 15, 2014, April 27, 2015, and July 30, 2015. Mr. Roberts noted that Baytex had previously stated that the December 15, 2014 event was due to a VRU compressor overheating and Baytex had periodic non-routing venting issues. Regarding the April 27, 2015 event, Mr. Roberts filed a letter from the AER indicating that one of Baytex's well sites may have contributed to the odour concern. It was noted that a liquids pump was running despite there being no fluid in the vessel and this would allow solution gas to be pumped into production tanks thereby increasing pressure in the tanks. The Baytex operator shut in the pump immediately. Regarding the July 30, 2015 event, Mr. Roberts provided air quality monitoring logs but there is no expert evidence from either Mr. Roberts or Baytex to interpret the data.

This information filed by Mr. Roberts demonstrates one confirmed case of venting (December 15, 2014) and one suspected case of venting (April 27, 2015). The AER has confirmed the facilities that are the subject of this regulatory appeal are designed to meet the requirements of *Directive 060* and have no venting of casing or tank top gas. In the event of an emergency or overpressure situation, the facilities are designed to shut-in and not vent casing or tank top gas to atmosphere.

Having concluded that the facilities are designed to meet *Directive 060* and prevent any venting to atmosphere, the AER finds that Mr. Roberts has not demonstrated that these facilities experience the same problems he alleges Baytex facilities to have experienced in the past. Further, the events Mr. Roberts references are not recent events and only the December 2014 event is a confirmed venting event by Baytex. The AER investigated the December 2014 event and Baytex was requested to prepare an action plan to create lasting improvement in the area regarding venting through equipment

modifications and procedural changes. The AER compliance sweeps in 2015 show Baytex to be operating in compliance. The AER is continuing compliance sweeps in 2016. The results of the compliance sweeps are on the AER website at <http://www.aer.ca/about-aer/spotlight-on/reports-and-updates>.

Regarding Mr. Roberts concerns about odours, health effects, chemical exposure and loss of enjoyment of property, these relate to non-routine venting to atmosphere by Baytex. These concerns are addressed by the Peace River Proceeding outcomes and *Directive 060* requirements. Mr. Roberts has not demonstrated that these concerns are caused by the facilities that are the subject of the request for regulatory appeal.

If Mr. Roberts experiences odour events that he believes is caused by these facilities he can contact the AER's call centre at 1-800-222-6514. The AER has processes in place for responding to odour complaints.

Sincerely,



Stephen Smith
Senior Advisor



Doug Boyler, P. Eng.
Chief Operations Engineer



Karine Fisher
Manager Regulatory Effectiveness

cc Baytex Energy – Shane Koss
Grande Prairie Field Centre