

January 26, 2016

**Shell Canada Limited**

**Attention: Morgan Dobek Land Representative and Jean Francois Gagnon Geologist**

Dear Sir:

**Re: Off Target Application No. 1841340 (Application)  
Location 04-09-054-24W5  
Confidentiality Application**

The AER has considered your letter dated December 10, 2015 in which Shell Canada Limited (Shell) Managing Partner of Shell Canada Energy filed its request to keep confidential certain information in support of its Application as follows:

- Figure 2 – Seismic Amplitude Map

In its submission Shell says placing seismic information in the form of the Seismic Amplitude Map on the public record it would cause it to lose its competitive advantage in future development of the Notikewin channelized play. Further SEI, Shell's seismic vendor holds rights over the seismic data and Shell has not obtained the required release from SEI.

The AER has considered Shell's submission and for the following reasons denies the Confidentiality Application.

It is AER policy and a requirement under section 49 of the *AER Alberta Energy Regulator Rules of Practice (Rules)* that information filed in respect of a proceeding including an application and any statements of concern are available on the public record. Section 12.150 of the *Oil and Gas Conservation Rules* also provides that records, reports, and information submitted to or acquired by the AER are available to the public on request. In the absence of very compelling reasons, all materials filed in connection with the application are publically available. This approach to disclosure is consistent with the AER role as an administrative tribunal and its obligation to be transparent and to provide procedural fairness to all parties who participate in its process. Making the information used by decision makers available assists in understanding the AER's decisions. In other-words, transparency and disclosure of relevant information are fundamental to be procedurally fair, efficient and to promote credible hearing and decision making processes.

Public disclosure in service of procedural fairness and transparency is the overriding principle reinforced in subsection 49(1) of the *Rules*. Hence, in the AER's view there is a general presumption in favour of public disclosure and against granting confidentiality of documents filed with the AER. While Section 49 of the *Rules* reinforces the AER's approach, it also establishes a formal mechanism by which parties can seek confidentiality. However, exceptions to disclosure ought to be granted only in clear and compelling cases and should be limited to situations where

the party requesting confidentiality has positively and demonstrably met the criteria under subsection 49(4). Further a confidentiality ruling is highly fact and situation specific.

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In this case the provisions most applicable to the Confidentiality Application is 49(4)(b) of the *Rules*, which requires a reasonable expectation that the disclosure of the information would result in *undue* financial harm to a person, or cause *significant* harm to Shell's competitive position.

The AER understands that the Confidential Information is a map of the geological and geophysical extent of the Notikewin pool based upon a Shell's subjective interpretation and application of professional judgement of underlying geophysical and geological data.

The AER notes that pooling interpretative maps including the underlying seismic data, well logs and interpretation of well logs used to support these maps are submitted routinely and disclosed in AER proceedings especially in pool delineation disputes. The potential exists in such proceedings for such information to be used by competitors or others who are not subject to licensing agreements. The AER finds that there is nothing set out in Shell's submission to distinguish the Confidential Information from information that is collected and disclosed routinely in its public proceedings. Further, as to the potential implications of disclosure, Shell has not established that disclosure of the Confidential Information would result in undue financial harm or cause significant harm particularly given the interpretative and speculative nature of the Confidential Information. It is common in AER hearings to have opposing parties to maintain very different interpretation of the geological extent of a pool based on the same seismic data.<sup>1</sup>

With regard to the suggestion of harm associated with the disclosure of information without a release, any potential harm is entirely within Shell's control when it decides to enter into certain commercial arrangements with its suppliers and submit the Confidential Information. Shell is not being compelled to provide the Confidential Information or the underlying data to the AER. Shell proposes to voluntarily submit the Confidential Information in support of its application and to substantiate its position that the well located at 00/04-09-054-24W5/0 is not the first well in the Notikewin pool and should be the subject of an off target penalty.

The AER finds it is not reasonable to conclude that disclosure is expected to cause undue or significant harm to Shell or its interests given the interpretative and speculative nature of the Confidential Information that is routinely disclosed, the interpretative and speculative nature of the Confidential Information and the fact Shell need only disclose information required to support its position on the application.

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<sup>1</sup> Decision 2013 ABAER 013 Kallisto Energy Corp., Application for a Well Licence Crossfield East Field

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The AER finds that Shell has not met the criteria in section 49 of the *Rules* and therefore denies the Confidentiality Request.

Yours truly

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

C.C Kelt Exploration Ltd – Travis Nicolle