

February 7, 2017

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

BY E-MAIL AND MAIL

All parties

www.aer.ca

**SUMMARY OF PARTICIPANTS
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

This list is for ease of reference only. The decisions of the panel are contained in the letters issued to the parties on February 7, 2017.

Participants

1. Cecil Anderson
2. Brad Belva
3. Eileen Belva
4. Kent Dingwall
5. Terry Dingwall
6. Brian, Barry, Christine and Melissa Dodd
7. Norman & Carolyn Douglas
8. Sandra Dusterhoft
9. Rylan & Tiffany Fertig
10. Jason, Cheryl, Connor and Cain Huber
11. Ian Jaffray and Raye & Tarrah Skye
12. Dale Johnson and Janet Doyle
13. Russ Kelly
14. Susan Kelly
15. Curtis Kelly
16. R. J. Kiehlbauch
17. Dallas Kissner
18. Larry Larsen
19. Clayton Lindsay
20. Louise Mastre
21. Garry Mastre
22. Robert Mercredi and family
23. Robert and Candace Mulligan

24. Craig Parel
25. Dennis McGinn and Avalie Peck
26. Robert Poissant
27. Herbert, Claudette and Michelle Scharr
28. Daryle and Debby Schmidt
29. Crystal and Jordan Skinner
30. Brad Sullivan
31. Don and Dianne Sullivan
32. Brazeau County

Parties not granted participation

1. Robert Domke
2. Lil Duperron
3. Kyle Dusterhoft
4. Daniel and Helena Dueck
5. Linda McGinn
6. Albert and Tammy Orban
7. Cliff Whitelock
8. Pembina Agricultural Protection Association (PAPA)

Party considered for participation with a further submission

1. Eagle Point – Blue Rapids Parks Council

If you have any questions please call Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
PAPA
Eagle Point-Blue Rapids Parks Counsel
Craig Parel
R. J. Kiehlbauch
Curtis Kelly
Susan and Russ Kelly
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Cliff Whitelock
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BY E-MAIL AND MAIL

Mr. Kirk Lambrecht, Q.C.

**DECISION ON PARTICIPATION - BRAZEAU COUNTY
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Lambrecht:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate and setting a deadline of January 17, 2017 to file a request to participate.

The panel has considered the request to participate of Brazeau County (“Brazeau”) filed on January 16, 2017, Bashaw Oil Corp.’s response filed January 24, 2017, Brazeau’s January 27, 2017 reply to the Bashaw Oil Corp. (“Bashaw”) response, and Bashaw’s further letter filed January 30, 2017. The panel has decided to grant Brazeau the right to participate in the hearing of the applications. The panel’s reasons are set out below.

The focus of both Brazeau’s and Bashaw’s submissions was the question of whether Brazeau may be directly and adversely affected by the panel’s decision on Bashaw’s applications. It is clear from Bashaw’s application and from the submissions that should the Bashaw applications be approved, Brazeau will be required to participate in emergency response where that is required because of the proposed development. Such response will require expenditure of Brazeau’s resources and that would be a direct and adverse effect to the county. However, the panel does not consider it necessary to base this participation decision on the directly and adversely affected criteria.

Pursuant to the relevant legislative framework including the *Responsible Energy Development Act (REDA)*, the *REDA General Regulation*, the *Oil and Gas Conservation Act* and the applicable AER Directives the panel will be required to take into account and balance a number of factors when considering Bashaw’s applications. The participation provisions in the *AER Rules of Practice (Rules)* are intended to ensure fair and efficient process and development of a complete record that enables the panel to discharge its mandate under that framework.

In this case, the factors the panel will be required to balance include the effects of the proposed wells including on public safety. The panel finds that in this case, Brazeau’s role in emergency response in the event of an incident triggering the ERP at one of the

proposed wells gives Brazeau a tangible interest. Brazeau can provide material assistance to the panel if it presents evidence regarding Bashaw's consultation with Brazeau on the topic of the Bashaw ERP and regarding Brazeau's understanding of its role in emergency response in relation to the proposed wells. The panel does not expect that Brazeau's evidence and submissions on those topics would be duplicated or repeated.

Rule 9.1(1) of the *Rules* requires the panel to specify the nature and scope of participants' permitted participation. Based on the submissions received to date, and the conclusions regarding the basis on which the panel considers that Brazeau may assist the panel, Brazeau's entitlement to participate is limited to the topics described in the paragraph above. Brazeau's request also made reference to planning. At this time, because of the provisions of the *Municipal Government Act*, specifically section 619, it is not necessary for Brazeau to provide evidence relating to its development plans.

To establish a fair and efficient process, the panel will give further consideration to the nature and extent of Brazeau's participation after holding a pre-hearing meeting where the specific nature and scope of parties' participation will be an agenda item.

If you have any questions please call Greg McLean at 403-297-3232 or email hearing.services@aer.ca.

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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Albert and Tammy Orban

February 7, 2017

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BY MAIL AND EMAIL

Mr. Curtis Kelly

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

www.aer.ca

Dear Mr. Kelly

A notice of hearing was issued on December 20, 2016 explaining how to request to participate in the hearing of the applications identified above for Bashaw's three proximity critical exploratory wells and setting a deadline of January 17, 2017 to file a request to participate.

The panel has considered your request to participate filed on January 16, 2017 and Bashaw's response filed January 23, 2017. The panel has decided to grant you the right to participate in the hearing of the applications. The nature and scope of your participation will be determined by the panel after a prehearing to be scheduled once all who filed requests to participate have been notified of the panel's decisions regarding participation. The panel's reasons for granting your request are set out below.

Bashaw quoted the rules relating to the grant of participation rights in its response and we will not repeat them here. In a letter dated December 20th, 2016 the panel identified those parties who had filed statements of concern and who are entitled to participate on the basis that they may be directly and adversely affected by a decision on the applications. Those parties reside in the EPZ or the zone that would be required to egress through the EPZ in the event of an emergency.

In your brief email requesting the right to participate you did not provide the panel with enough evidence to conclude that you live within the EPZ. However, in its January 23, 2017 letter Bashaw indicates that you reside within the EPZ. It also said that although you did not file an SOC or provide an explanation in your request to participate of why you did not do so - as required by the rules - it did not object to your being granted the right to participate. As a result, the panel will grant you the right to participate. You can expect to receive correspondence about the scheduling of a prehearing meeting shortly.

Finally, please note that parties to hearings are encouraged to avoid duplicating evidence and submissions of other parties. You should review rule 58.1 of the *Alberta Energy*

Regulator Rules of Practice to see what factors the regulator must consider when deciding whether to award reasonable costs to a participant.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

Yours truly,

<Original signed by>

Meighan LaCasse
AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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BY MAIL

Mr. Cliff Whitelock

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

www.aer.ca

Dear Mr. Whitelock:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate and setting a deadline of January 17, 2017 to file a request to participate. The panel has considered your letter dated January 14, 2017 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

Your submissions in your letter indicate that you clearly experienced direct and adverse effects as a result of blow outs of sour gas wells in 1977 and again in 1982. However, your property lies 21.5 km away from the wells for which Bashaw seeks approval and your submissions do not provide sufficient evidence to allow the panel to conclude that you may be directly and adversely affected by an approval of the applications. As a result, your request does not meet the "may be directly and adversely affected by a decision of the Regulator on the application" criteria set out in Rule 9 (2) (b) (i).

In addition, nowhere in your submissions of January 14 do you set out the nature and scope of your intended participation, rather, your letter focuses largely on questions that you say ought to be put to Bashaw and conditions you say ought to form part of an approval of the applications. The information in your letter does not provide sufficient evidence to allow the panel to conclude that you have a tangible interest in the subject matter of the proceeding. As a result, your request does not meet the criteria set out in Rule 9 (2) (c).

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

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emergency 1-800-222-6514

Yours truly,
<Original signed by>

Meighan LaCasse
AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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BY E-MAIL AND MAIL

Mr. Richard Secord

**DECISION ON PARTICIPATION - DANIEL AND HELENA DUECK
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Secord:

A notice of hearing was issued on December 20, 2016 for the hearing of Bashaw's applications for three proximity critical sour exploratory wells.

On December 20, 2016 the panel issued a letter with a preliminary decision on participation for statement of concern filers. The letter asked parties to confirm if they intend to participate in the hearing, by January 17, 2017.

You represent a number of those filers including Daniel and Helena Dueck. You informed the AER that Daniel and Helena Dueck have moved from the area. Therefore the panel has decided that they do not have the right to participate in the hearing of the applications.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,
<Original signed by>

Meighan LaCasse
AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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Eagle Point-Blue Rapids Parks Counsel
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BY E-MAIL AND MAIL

Mr. Lillian Duperron

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Ms. Duperron:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate in the hearing of the applications identified above for Bashaw's three proximity critical sour exploratory wells and setting a deadline of January 17, 2017 to file a request to participate in the hearing of the applications. The panel has considered the letter from Ms. Kelly dated January 16, 2017, the letter from Mr. Secord dated January 17, 2017 and your Statement of Concern dated November 23, 2016 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

Both your residence and your lands are located over 4 km away from the wells for which Bashaw seeks approval. You note that your concerns extend to infrastructure that would be associated with the wells for which the licences are sought including pipelines, reinjection facilities etc. There are no applications for those facilities before the regulator and so we have no jurisdiction to deal with those issues at this time. You make note of concerns you have had in the past related to energy resource activities but the hearing must focus on the applications at hand. In addition, your submissions repeat many general concerns raised by others and do not provide sufficient evidence to allow the panel to conclude that you may be directly and adversely affected by an approval of the applications. As a result, your request does not meet the "may be directly and adversely affected by a decision of the Regulator on the application" criteria set out in Rule 9 (2) (b) (i).

The panel also considered whether you have shown that you have a tangible interest and so could be granted the right to participate pursuant to Rule 9 (2) (c) but has concluded that you have not.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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Mr. Kyle Dusterhoft

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Dusterhoft:

A notice of hearing was issued on December 20, 2016 for the hearing of Bashaw's applications for three proximity critical sour exploratory wells.

On December 20, 2016 the panel issued a letter to you and other statement of concern filers with a preliminary decision on participation. The letter asked you to confirm by January 17, 2017, if you intend to participate in the hearing. You did not respond to the letter therefore the panel has decided that you do not have the right to participate in the hearing of the applications.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,
<Original signed by>

Meighan LaCasse
AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
PAPA
Eagle Point-Blue Rapids Parks Counsel
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Linda McGinn
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Kyle Dusterhoft
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BY E-MAIL AND MAIL

Mr. Peter Lee, Executive Director
Eagle Point – Blue Rapids Parks Council

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Lee:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate and setting a deadline of January 17, 2017 to file a request to participate.

The panel has considered Eagle Point – Blue Rapids Parks Council’s (the “Parks Council”) request to participate dated January 17th, 2017 and Bashaw’s response filed January 23, 2017. The panel has decided that the request filed by the Parks Council does not warrant granting the Parks Council the right to participate in the hearing of the applications at this point. However, before ultimately deciding if the Parks Council can participate, the Panel has decided that it will be given the opportunity to provide further information to the panel. The panel’s reasons are set out below.

The panel has concluded that the Parks Council’s request does not demonstrate that it may be directly and adversely affected by a decision on Bashaw’s applications. The Parks Council’s request to participate indicates that it has concerns with the levels of H₂S associated with proposed wells and a possible pipeline from the wells if they are brought on production that might pass through Eagle Point Provincial Park (the “park”). The Parks Council also has concerns for the safety of visitors to the park. The Parks Council’s submission indicates the park is 1.2 km from the proposed well site and that the park has users, however, these facts and the concerns raised do not explain *how* the Parks Council may be directly and adversely affected by the decision on Bashaw’s applications.

Pursuant to the relevant legislative framework including REDA, the REDA General Regulation, the Oil and Gas Conservation Act and the applicable AER Directives, the panel will be required to take into account and balance a number of factors when considering Bashaw’s applications. The participation provisions in the Rules are intended to ensure fair and efficient process and development of a complete record that enables the panel to discharge its mandate under that framework.

In this case, a factor the panel will be required to consider includes the effects of the proposed wells on public safety. In this case, given the location of the park and, in particular, the fact the EPZ extends into it, the panel considers that Parks Council may have a tangible interest in this matter and may be able to provide information that materially assists the panel in making decisions on the applications. The kind of information that would assist the panel would include (but is not limited to), for example, park use and time of use (time of day and or time of year) statistics.

To assist the panel in determining if the Parks Council may provide material assistance, please provide a further submission indicating what information the Parks Council will present at the hearing to be of material assistance to the panel if it were granted the right to participate.

Finally, if the Parks Council chooses to make a further submission, please also provide, as required by rule 9 (2) (a), an explanation of why the Parks Council did not file a statement of concern. Any information the Parks Council chooses to provide in this regard, must be provided to the hearing coordinator, Greg McLean, on or before **February 14, 2017**.

If you have any questions please call Mr. McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,
<Original signed by>

Meighan LaCasse
AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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BY MAIL

Ms. Linda McGinn

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Ms. McGinn:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate in the hearing of the applications identified above for Bashaw's three proximity critical sour exploratory wells and setting a deadline of January 17, 2017 to file a request to participate in the hearing of the applications. The panel has considered the letter from Ms. Kelly dated January 16, 2017, the letter from Mr. Secord dated January 17, 2017 and your Statement of Concern dated November 18, 2016 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

Both your residence and your lands are located over 4.5 km away from the wells for which Bashaw seeks approval. You note that your concerns extend to infrastructure that would be associated with the wells for which the licences are sought including pipelines, reinjection facilities etc. There are no applications for those facilities before the regulator and so we have no jurisdiction to deal with those issues at this time. You make note of concerns you have had in the past related to energy resource activities but the hearing must focus on the applications at hand. In addition, your submissions repeat many general concerns raised by others and do not provide sufficient evidence to allow the panel to conclude that you may be directly and adversely affected by an approval of the applications. As a result, your request does not meet the "may be directly and adversely affected by a decision of the Regulator on the application" criteria set out in Rule 9 (2) (b) (i).

The panel also considered whether you have shown that you have a tangible interest and so could be granted the right to participate pursuant to Rule 9 (2) (c) but has concluded that you have not.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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Mr. Albert Orban and Tammy Orban

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**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. and Mrs. Orban:

A notice of hearing was issued on December 20, 2016 in respect of the applications explaining how to request to participate and setting a deadline of January 17, 2017 to file a request to participate. The panel has considered your undated letter received January 17, 2017 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

You open your letter by indicating that you are located 13 km due south of the proposed well locations. That distance is well beyond both the EPZ and the flaring notification radius for the proposed wells. While the panel acknowledges your concern with respect to H₂S generally, you have not provided sufficient evidence to allow the panel to conclude that you may be directly and adversely affected by an approval of the applications. As a result, your request does not meet the "may be directly and adversely affected by a decision of the Regulator on the application" - criteria set out in Rule 9 (2) (b) (i).

In addition, our records indicate that you did not file a statement of concern in response to the notice of applications. The rules governing requests to participate, specifically rule 9 (2) (a), require that in such a case, the person making the request provide and explanation of why no statement of concern was filed. You did not provide an explanation for why you did not file a statement of concern.

Finally, nowhere in your submissions do you set out the nature and scope of your intended participation as required by the rules. Instead, you request that recommendations made by the Pembina Agricultural Protection Association form conditions of the drilling licence. The panel cannot conclude that your participation may materially assist in deciding the applications. As a result, your request does not meet the criteria set out in Rule 9 (2) (c).

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

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Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
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BY E-MAIL AND MAIL

Mr. Albert Orban, President
Pembina Agricultural Protection Association (PAPA)

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Orban:

A notice of hearing was issued on December 20, 2016 in respect of the applications explaining how to request to participate and setting a deadline of January 17, 2017 to file a request to participate. The panel has considered your letter dated January 16, 2017 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

Rule 9 of the Alberta Energy Regulator's Rules of Practice clearly require that if the requester did not file a statement of concern that they explain why they did not do so. We have no record of the Pembina Agricultural Association (PAPA) filing a statement of concern (SOC) in response to the notice of applications, and your January 16th correspondence does not provide the required explanation of why the SOC was not filed, so your request does not meet the requirement of rule 9 (2) (a).

In addition, your letter states that PAPA writes to "register a formal objection/statement of concern" but does not include a request to participate. Nor does your letter contain any information to allow the panel to conclude that a majority of the members may be directly and adversely affected or that PAPA has a tangible interest and will materially assist the panel in deciding the applications. All of these are factors that the panel takes into consideration in accordance with rule 9.

Finally, your letter does not indicate how PAPA proposes to participate, if at all, in the hearing. It does include a long list of conditions that you say must be attached to any approval as well as a table that is said to compare PAPA standards with what are labelled "AER Minimum Regulations". The cover note to the standards suggests that it is intended to provide residents information to assist them when they are engaged by companies proposing sour operations. As a result, the panel cannot conclude that your participation may materially assist in deciding the applications without repetition or duplication of evidence and so your request does not meet the criteria set out in Rules 9 (2) (c) and (e).

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

cc: R. Secord, Ackroyd LLP
Y. Cheng, Ackroyd LLP
G. Fitch, McLennan Ross LLP
K. Lambrecht, Shores Jardine LLP
S. McDonald, Bashaw Oil Corp.
Brazeau County, Martinio Verhaeghe
PAPA
Eagle Point-Blue Rapids Parks Counsel
Craig Parel
R. J. Kiehlbauch
Curtis Kelly
Susan and Russ Kelly
Lillian Duperron
Linda McGinn
Garry & Louise Mastre
Kyle Dusterhoft
Cliff Whitelock
Albert and Tammy Orban

February 7, 2017

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

www.aer.ca

BY MAIL

Mr. Robert Domke

**DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Domke:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate in the hearing of the applications identified above for Bashaw's three proximity critical sour exploratory wells and setting a deadline of January 17, 2017 to file a request to participate in the hearing of the applications. The panel has considered the letter from Mr. Secord dated January 17, 2017, your Statement of Concern dated November 19, 2016 and Bashaw's response filed January 23, 2017. The panel has decided not to grant you the right to participate in this proceeding. Our reasons are set out below.

Your lands are located over 4 km and over 3 km away from the wells for which Bashaw seeks approval. Your submissions repeat many general concerns raised by others and do not provide sufficient evidence to allow the panel to conclude that you may be directly and adversely affected by an approval of the applications. As a result, your request does not meet the "may be directly and adversely affected by a decision of the Regulator on the application" criteria set out in Rule 9 (2) (b) (i).

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

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February 7, 2017

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BY E-MAIL AND MAIL

Mr. Richard Secord

**CONFIRMATION OF DECISION ON PARTICIPATION
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Secord:

A notice of hearing was issued on December 20, 2016 for the hearing of Bashaw's applications for three proximity critical sour exploratory wells.

On December 20, 2016 the panel issued a letter with a preliminary decision on participation for statement of concern filers, some of which you represent. The letter asked parties to confirm if they intend to participate in the hearing, by January 17, 2017.

You responded on January 1, 2017 to the letter stating that the parties listed below intended to participate.

- Cecil Andersen
- Brad Belva
- Eileen Belva
- Terry Dingwall
- Brian, Barry, Christine, and Melissa Dodd
- Jason, Cheryl, Connor and Caine Huber
- Ian Jaffray, Ray and Tarrah Skye
- R. J. Kiehlbauch
- Larry Larsen
- Craig Parel
- Dennis McGinn and Avalie Peck
- Robert Poissant
- Daryle and Debby Schmidt
- Crystal and Jordan Skinner

The nature and scope of these parties' participation will be determined by the panel after a prehearing to be scheduled once all who filed requests to participate have been notified of the panel's decisions regarding participation.

The panel does want to be clear about a concern raised by the volume of materials filed in support of some of the requests to participate and the marked similarity of many of the statements of concern as identified by Bashaw. In addition to identical or nearly identical language there are themes repeated in many of the requests to participate both among those already found to be entitled to participate and those who reside outside of the EPZ. While this suggests the potential for duplication and repetition –it also suggests to the panel that many if not most people who have filed requests to participate are willing and able to cooperate and coordinate their efforts. The panel fully supports continuing efforts to do so.

Finally, Bashaw correctly states that rule 9.1 requires the panel to specify the nature and scope of participation in the hearing. As noted above and with a view to establishing a fair and efficient process, the panel will do so after holding a prehearing meeting where the specific nature and scope of parties' participation will be an agenda item.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) .

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

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February 7, 2017

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BY E-MAIL AND MAIL

Mr. Richard Secord

**DECISION ON PARTICIPATION FOR REQUESTS TO PARTICIPATE
PROCEEDING ID 346
BASHAW OIL CORP.
APPLICATIONS 1842705, 1851246 AND 1851250**

Dear Mr. Secord:

A notice of hearing was issued on December 20, 2016 explaining how to request to participate in the hearing of the applications identified above for Bashaw's three proximity critical sour exploratory wells and setting a deadline of January 17, 2017 to file a request to participate in the hearing of the applications.

The panel has considered the requests to participate you filed on behalf of your clients on January 17, 2017 and Bashaw's response filed January 23, 2017. The panel has decided to grant the right to participate in the hearing to the parties listed below. The nature and scope of participation will be determined by the panel after a prehearing to be scheduled once all who filed requests to participate have been notified of the panel's decisions regarding participation.

- Dingwall, Kent
- Douglas, Norman & Carolyn
- Dusterhoft, Sandra
- Fertig, Rylan & Tiffany
- Johnson, Dale and Janet Doyle
- Kelly, Russ
- Kelly, Susan
- Kisser, Dallas
- Mastre, Garry
- Mastre, Louise
- Mulligan, Rob & Candice
- Sullivan, Brad
- Sullivan, Don & Dianne
- Clayton Lindsay
- Robert Mercredi and family
- Herbert, Claudette and Michelle Scharr

The panel's reasons for granting participation are set out below.

The panel has already identified those parties who are entitled to participate on the basis that they may be directly and adversely affected by a decision on the applications. Those parties reside in the emergency planning zone (EPZ) or the zone that would be required to egress through the EPZ in the event of an emergency.

In its submissions Bashaw appears to say that anyone who owns property or resides outside of the EPZ cannot satisfy the directly and adversely affected test. The panel disagrees. There may be some circumstances where a person could show that even though they do not live in the EPZ for a sour gas activity they may be directly and adversely affected; having said that, the panel does not find it necessary to base this participation decision on the directly and adversely affected criteria.

Pursuant to the relevant legislative framework including *REDA*, the *REDA General Regulation*, the *Oil and Gas Conservation Act* and the applicable AER Directives the panel will be required to take into account and balance a number of factors when considering Bashaw's applications. The participation provisions in rule 9 are intended to ensure fair and efficient process and development of a complete record that enables the panel to discharge its mandate under that framework.

In this case the factors the panel will be required to balance include control of pollution and effects of the proposed wells on the environment as well as the interests of and impacts on landowners. As a result, the panel finds that in this case, residing on land that falls within the flaring notification zone or owning land that falls at least partly within the flaring notification zone and residing in a residence on that land where the residence is immediately adjacent to the flaring notification zone is a sufficiently tangible interest to grant participation rights to people who may materially assist the panel in making decisions on the applications.

Rule 9 (2) (c) requires that for a panel to exercise its discretion to grant a person the right to participate, that person must have a tangible interest and must be able to materially assist without duplication, repetition or causing unnecessary delay. In this case the panel finds that based on the materials filed to date, if the individuals who are granted the right to participate bring evidence to support their concerns regarding safe operations and their common interest in protecting the environment they will materially assist.

The panel does want to be clear about a concern raised by the volume of materials filed in support of some of the requests to participate and the marked similarity of many of the statements of concern. In addition to identical or nearly identical language there are themes repeated in many of the requests to participate both among those already found to be entitled to participate and those who reside outside of the EPZ. While this suggests the

potential for duplication and repetition –it also suggests to the panel that many if not most people who have filed requests to participate are willing and able to cooperate and coordinate their efforts. The panel fully supports continuing efforts to do so and encourages review of rule 58.1 that lists the factors that the AER must consider when making a decision about an application for costs.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Finally, rule 9.1 requires the panel to specify the nature and scope of your permitted participation in the hearing. As noted above and with a view to establishing a fair and efficient process, the panel will do so after holding a prehearing meeting where the specific nature and scope of parties' participation will be an agenda item.

If you have any questions please call the hearing coordinator, Greg McLean at 403-297-3232 or email hearing.services@aer.ca .

Yours truly,

<Original signed by>

Meighan LaCasse

AER Counsel on behalf of the panel

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