

January 26, 2016

Kelt Exploration**Attention: H. Travis Nicolle**

Dear Sir:

**Re: Directive 065 Pool Delineation Application No. 1846297 (Application)
Location 04-09-054-24W5
Confidentiality Application**

The AER has considered your letter dated December 2, 2015 in which Kelt Exploration Ltd. (Kelt) has filed its request to keep confidential certain information in support of its Application as follows:

- Figure 3 – Pedley Notikewin Channel Net Pay Map
- Figure 4 – Notikewin Anomaly Map

The Confidential Information contains geophysical information derived from proprietary seismic data and Kelt's interpretation of this data in the form of the Pedley Notikewin Channel Net Pay Map and the Notikewin Anomaly Map.

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

In its submission Kelt says placing information in the form of the Pedley Notikewin Channel Net Pay Map and the Notikewin Anomaly Map on the public record could potentially allow other parties not licensed by Kelt's information provider to use information resulting in a loss of revenue to the information provider; potentially harm Kelt's competitive position; and potentially compromise the agreement between Kelt and its information provider resulting in possible termination of a license and liability.

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 and subject to the AER's rules, all materials filed in connection with the application are publically available. This approach to disclosure is consistent with the AER's 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.

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 cause *undue* financial harm to a person, or cause *significant* harm to Kelt's competitive position.

The AER understands that the Confidential Information are maps of the geological and geophysical extent of the Notikewin pool based upon a Kelt'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 Kelt's submission to distinguish the Confidential Information from information that is collected and disclosed routinely in its public proceedings. Further, Kelt has postulated as to the potential implications of disclosure. It 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.¹

With regard to the harm identified as the potential termination of licensing agreement, any potential harm is entirely within Kelt's control when it decides to enter into certain commercial arrangements with its suppliers and submits the Confidential Information. Kelt is not being compelled to provide the Confidential Information or the underlying data to the AER. Kelt voluntarily submitted the Confidential Information in support of its pool delineation application and to substantiate its position that the well is actually in its own pool not the Notikewin Pool.

The AER finds it is not reasonable to conclude that disclosure is expected to cause undue or significant harm to Kelt 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 Kelt need only disclose information required to support its position on the application.

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

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

Given the above decision, the AER has removed the submission from the AER records and will not consider it in connection with the application.

Yours truly

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

C.C. Shell Canada Limited - Morgan Dobek Land Representative and Jean Francois Gagnon Geologist