

Via Email

October 22, 2020

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

Mike and Faye Partsch

Tidewater Midstream Infrastructure Ltd.

www.aer.ca

Attention: Mike Partsch

**Attention: Patrick Gratton
Ryan Connery**

Dear Sirs:

**RE: Request for Regulatory Appeal by Mike and Faye Partsch (the Partsches)
Tidewater Midstream Infrastructure Ltd. (Tidewater)
Application No.: 1923898; Approval No.: 12203F
Location: 102/16-24-071-07W6/0
Regulatory Appeal No.: 1925635 (Regulatory Appeal)**

The Alberta Energy Regulator (AER) has considered the Partsches' request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to issue Approval No. 12203F (the Approval) to Tidewater. The AER has reviewed the Partsches' submissions and the submissions made by Tidewater.

For the reasons that follow, the AER has decided that the Partsches are 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]...

Reasons for Decision

The Amending Approval is an appealable decision and the Partsches' request for a regulatory appeal was filed in accordance with the rules.

The key issue is whether the Partsches are eligible persons within the meaning of s. 38(1) of *REDA*. 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 question is whether the Partsches are persons who may be directly and adversely affected by that decision.

The Partsches submit that Tidewater is in violation of federal and provincial regulations because it is required to perform a leak test under those regulations. The Partsches also copied the same concerns from their September 9, 2019 statement of concern into their regulatory appeal request. Those concerns are, in essence, that they would be directly and adversely affected by any gas leak at Tidewater’s facilities, hence the need for leak testing in accordance with regulations.

As stated in the AER’s November 5th, 2019 letter in response to the Partsches’ statement of concern, the subject approval is a minor amendment to an already approved Gas Storage Scheme Approval. The approval amendment lowers the Maximum Wellhead Injection Pressure (MWIP) from 17500 kPa to 15000 kPa. Lowering the MWIP can further decrease the over pressure risk of the formation. The Partsches have failed to in any way connect or explain how the lower MWIP resulting from the amending approval will give rise to their concerns or how it may otherwise directly and adversely affect them. The concerns relate generally to Tidewater’s gas storage project, are outside the scope of and do not relate specifically to amending approval.

Regarding the concerns expressed about leaks and federal and provincial testing requirements, similar concerns were raised by Mr. Partsch on his previous regulatory appeal request and addressed by the AER in its decision letter dated June 17, 2019. As previously indicated, the reservoir and wellbore containment of the gas storage system are addressed by both geological and engineering controls. The existence of the initial gas pool over geological time confirms the existence of a trapping mechanism and containment. Engineering controls currently in place include annual reservoir pressure surveys under *Directive 040* and annual packer isolation tests under *Directive 051*. As was the case in the previous request for regulatory appeal, Mr. Partsch does not identify the specific federal or provincial requirements that he feels are not being met. To the AER’s knowledge, Tidewater’s gas storage operations are compliant with all applicable requirements. Non-compliance with any of these requirements is an operational matter and would be dealt with by the AER in accordance with its Integrated Compliance Assurance Framework.

The Partsches have not shown they are or may be directly and adversely affected by the amending approval and therefore are not “eligible persons” under section 36(b)(ii) of *REDA*. Accordingly, the AER dismisses the Request for Regulatory Appeal.

Sincerely,

<Original signed by>

Blair Reilly
Director, Enforcement & Emergency Management

<Original signed by>

Steve Thomas
Director, Oil & Gas Subsurface, Waste & Storage

<Original signed by>

Gary Neilson
Senior Advisor, Crown Liaison