

Proceeding 411

September 17, 2021

By email only

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

www.aer.ca

Alberta Energy Regulator
Enterprise Reclamation Group
Attention: Kiril Dumanovski

Dorin Land and Oilfield Management Inc.
Attn: Mark Dorin

Bennett Jones LLP
Attention: Daron K. Naffin

RE: Regulatory Appeal of the Decision to Issue Reclamation Certificate 382273
Regulatory Appeal 1933054
Decision on Preliminary Issue

Dear Parties:

Introduction

On June 14, 2021, the Alberta Energy Regulator (AER) issued a notice of hearing for a regulatory appeal (regulatory appeal) of the AER's decision to issue reclamation certificate 382273 (reclamation certificate) to Whitecap Resources Inc. (Whitecap) on July 18, 2019, regarding a wellsite, (or, well site) associated workspace and access roads located at Didsbury, Alberta at Block 2, Lot 3, Plan 151 2407 or LSD 08, Section 18, Township 31, Range 1, West of the 5th Meridian (the lands). The purpose of the hearing is to determine whether the AER should confirm, vary, suspend, or revoke its decision to issue the reclamation certificate.

We, the panel of hearing commissioners presiding over this proceeding, received and reviewed submissions from the parties as part of the process established for deciding participation in the regulatory appeal proceeding. We identified the following as a preliminary issue arising from those submissions:

Whether the lands that are covered by the reclamation certificate are “specified lands” within the meaning of the conservation and reclamation framework of the *Environmental Enhancement and Protection Act (EPEA)*.

By way of a letter dated July 13, 2021, the parties were asked to provide written submissions on the preliminary issue.

Submissions were filed by all three of the parties on August 3, 2021. Reply submissions were filed by Herman, Shirley, and Mark Dorin (the Dorins) and by Whitecap on August 9 and August 10, 2021, respectively.

For the reasons set out below, we have decided that the lands covered by the reclamation certificate are “specified lands” within the meaning of the conservation and reclamation framework of *EPEA*.

Reclamation Certificate

By way of a letter dated August 23, 2021, we asked the AER Enterprise Reclamation Group (ERG) to provide a copy of the reclamation certificate and to set out, in writing, the specific associated activities and related acreages of surface lands that are the subject of the reclamation certificate.

ERG responded on August 30, 2021. Its response, consisting of an initial response and an updated response, is attached as Appendix A.

ERG stated that: “Reclamation Certificate 382273 was issued for everything highlighted in the survey plan attached to the reclamation certificate”... and that “the total area certified” is 4.53 acres, comprised of:

- the original lease and East-West (E-W) access road: 3.84 acres;
- the surveyed North-South (N-S) access road: 0.61 acres; and
- the extra 3.2m x 96m strip of land enclosed by the south lease boundary fence: 0.076 acres.

There are four survey plans attached to the copy of the reclamation certificate provided by ERG. Each survey plan highlights respective areas of the wellsite and associated activities. The first survey plan highlights the wellsite and the E-W access road; the second highlights the wellsite only; the third highlights the wellsite and a “proposed” N-S access road; and the fourth highlights a 3.2m x 96m strip of land immediately outside the south boundary of the wellsite.

For the purposes of deciding the preliminary issue only, the panel accepts that the surface lands that are the subject of the reclamation certificate are those acreages accorded to the wellsite and specific associated activities described by ERG and set out above.

Legislative Framework

Section 137 of *EPEA* imposes a duty upon operators to conserve and reclaim specified land and, unless exempted by the regulations, obtain a reclamation certificate in respect of the conservation and reclamation of the land.

EPEA subsection 134 (f) defines “specified land” to mean:

specified land within the meaning of the regulations on or in respect of which an activity is or has been carried on, but does not include

- (i) land used solely for the purposes of an agricultural operation,
- (ii) subdivided land that is used or intended to be used solely for residential purposes,
- (iii) any part of any unsubdivided land that is the site of a residence and the land used in connection with that residence solely for residential purposes, or
- (iv) land owned by the Crown in right of Canada.

EPEA subsection 1(a) defines “activity” to mean an activity or part of an activity listed in the Schedule of Activities. The drilling, construction, operation, or reclamation of a well other than a water well is listed in the Schedule.

The relevant part of subsection 1(t) of the *Conservation and Reclamation Regulation (C & R regulation)* defines “specified land” to mean:

...land that is being or has been used or held for or in connection with

- (i) the construction, operation or reclamation of a well...

Specified Enactment Direction 002 Application Submission Requirements and Guidance for Reclamation Certificates for Well Sites and Associated Facilities, (SED 002) sets out the information requirements for reclamation certificate applications submitted through the AER’s online electronic application submission tool. The tool is used for upstream oil and gas operations, including associated facilities and pipelines under *EPEA*. Whitecap used it to submit its application for a reclamation certificate for the wellsite and associated access roads and workspace.

Submissions

The Dorins

The Dorins' submissions touched on several issues not relevant to this decision, including whether the E-W access road, that was previously certified as reclaimed, was recertified by the reclamation certificate. They also made arguments about the jurisdiction of the AER in relation to subdivided lands and to lands that are the subject of right of entry orders.

Addressing the preliminary issue specifically, the Dorins submitted that if the lands subject to the reclamation certificate fall within the exemption from the definition of "specified land" in subsection 134(f) (ii) of *EPEA*, the definition of "specified land" in the *C & R regulation* becomes irrelevant. The Dorins argued that none of the lands subject to the reclamation certificate are specified lands or, in the alternative, if the wellsite and E-W access road are specified lands, the N-S access road is not.

The Dorins said not all land in Alberta needs to be conserved, reclaimed, and certified as reclaimed. They submitted that all the lands that are subject to this appeal fall under the exemption to the definition of "specified land" found in subsection 134(f)(ii) of *EPEA* because the lands have been subdivided and are intended to be used solely for residential purposes. The Dorins argued that because lands have been subdivided and are intended to be used solely for residential purposes, the AER has no authority to require or issue a reclamation certificate for the lands.

The Dorins relied upon Town of Didsbury By-Law No. 02-11, the Dorin Area Structure Plan (DASP), to support their position that the lands have been subdivided and are intended to be used for residential purposes only.

The Dorins' alternative argument is that even if most of the lands are specified land for the purposes of the *EPEA* conservation and reclamation framework, the N-S access road is not. This argument turns on section 3.2.3 of *SED 002*, which states, in part:

For well sites that have not been entered (surveyed only), a reclamation certificate is not required as the land has not been entered or used in any way and is therefore not considered specified land.

The Dorins submitted that although the N-S access road was granted to the then-licensee of the well by way of a surface agreement in February 2008, it has never been entered or used in any way by any well

licensee. Applying section 3.2.3 of SED 002, the Dorins concluded the N-S access road is not specified land.

Whitecap

Whitecap emphasized the importance of the purpose provisions of *EPEA*, which it summarized as being the protection of the environment. It went on to say that the *C & R regulation* and Part 6 of *EPEA* are intended to ensure responsible resource development and to mitigate environmental impacts of resource development.

Whitecap argued that using the modern approach to statutory interpretation¹ and reading the definitions of “specified land” in the context of the purposed provisions of *EPEA* and the *C & R regulation*, the lands come within the definition of specified land because they have been used or held for or in connection with the construction, operation, and reclamation of a well. Whitecap submits that the presence of the well on the lands means that the lands were not and cannot now be said to be used or intended to be used solely for residential purposes. (*emphasis in submissions*)

Finally, Whitecap argued that our decision on the preliminary issue will be determinative of the regulatory appeal. It characterized the question of whether the lands are specified lands as the Dorins’ main issue and submitted that, regardless of whether we find that the lands are or are not specified lands, there will be no need to continue with the regulatory appeal.

ERG

ERG raised various points in its submissions and engaged in speculation not relevant to our consideration of the preliminary issue.

Addressing the preliminary issue specifically, ERG referred to the definition of “specified land” in subsection 134(f) of *EPEA* and to subsection 1(t)(i) of the *C & R regulation*. ERG focussed on the use of the word “solely” in the exemption to the definition of “specified land” contained in subsection 134(f)(ii) of *EPEA* and noted the Merriam-Webster online dictionary definition of “solely” as meaning “to the

¹ As summarized by the Supreme Court of Canada in *Rizzo and Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27 at para. 21.

exclusion of all else”. *ERG* submitted that since the lands have been used for energy resource development they cannot, now, be used or be intended to be used solely for residential purposes. *ERG* submitted that the interpretation of specified land advocated for by the Dorins would result in leaving partially subdivided and residential lands on which an energy resource activity has been carried out unprotected from negative environmental impacts. *ERG* also argued that the Dorins’ interpretation could cause perverse consequences such as operators creating artificial subdivisions to avoid or reduce environmental obligations.

Dorin Reply Submissions

In their reply submissions, the Dorins addressed a number of issues in addition to those included in the submissions by Whitecap and *ERG* on the preliminary issue. In particular, they addressed lack of clarity about what lands are the subject of the reclamation certificate and the process leading to the issuing of the reclamation certificate.

In reply to Whitecap and *ERG*, the Dorins submitted that the *EPEA* framework requires that lands must be used for, in this case, oil and gas activity, to become “specified land”. They argued that the 0.61 acres of land identified for potential use as the N-S access road were never entered or used by a well licensee and so are not specified land.

In reply to Whitecap’s submissions concerning the purpose of *EPEA*, the Dorins argued that the requirement to remediate lands impacted by the release of a substance as required in Part 5 of *EPEA* ensures that lands that are not specified lands are still protected from adverse consequences of energy resource activity.

Regarding the potential perverse incentive for oil and gas operators to subdivide land and declare an intention for it to be for used solely for residential use, the Dorins argued that declaration of intent is not enough, and that taking the steps necessary to have land zoned as residential by the appropriate authority is required.

Finally, the Dorins agree with Whitecap that if we conclude the lands are not specified land, then no further process is necessary. However, the Dorins disagree that the regulatory appeal is no longer necessary if we conclude the lands are specified land, due to unresolved issues that would affect a decision about whether to confirm, vary, suspend, or revoke the reclamation certificate.

Whitecap Reply Submissions

In its reply, Whitecap argued that the Dorins' interpretation of specified land fails to reflect the purpose of *EPEA* which is to protect the environment and to ensure that lands where oil and gas activities have been carried out have been properly reclaimed and certified.

Whitecap said that the Dorins had provided no credible evidence to support a conclusion that the lands are being or are intended to be used solely for residential purposes. Whitecap noted that zoning for residential use does not necessarily mean the lands will be used solely for residential purposes.

Finally, Whitecap generally agreed with ERG's submissions about the interpretation of "specified land" in *EPEA* and the *C & R regulation*.

Decision

The overarching purpose of *EPEA* is to protect the environment. Where lands have been disturbed by certain activities, such as the construction or operation of oil and gas wells, operators have a duty to reclaim the lands, if the lands fall within the definition of "specified land" in *EPEA* and the *C & R regulation*. In addition, subsection 137(1)(c) of *EPEA* requires operators to obtain a reclamation certificate in respect of the conservation and reclamation of specified land, unless exempt by the regulations; the exemptions found in the *C & R regulation* do not apply here. At issue in this preliminary matter is whether the lands covered by the reclamation certificate are "specified land" as defined in *EPEA* and the *C & R regulation*.

The definition of "specified land" in *EPEA* explicitly incorporates the definition of "specified land" in the *C & R regulation*. The one cannot be read and applied without the other. So, taking the relevant portions of the definitions as set out above, the full definition of "specified land" is:

land that is being or has been used or held for or in connection with the construction, operation or reclamation of a well... on or in respect of which an activity is or has been carried on, but does not include

(ii) subdivided land that is used or intended to be used solely for residential purposes

Giving the wording of the definition of "specified land" in *EPEA* its plain and ordinary meaning, the exemptions in the *EPEA* definition do not come into play unless the land in question first comes within the definition of "specified land" in the *C & R regulation*.

To make our decision, we first considered whether the lands are being or have been used or held for or in connection with the construction, operation, or reclamation of a well on or in respect of which an activity has been carried on. We then considered whether the lands come within the exemption for subdivided land that is used or intended to be used solely for residential purposes.

There is no dispute that the well site and E-W access road were used for the construction and operation of a well. There is also no dispute that the narrow strip of land immediately south of the well site was used during the construction and operation of the well. So, the E-W access road, well site and narrow strip of land fall squarely within the first part of the definition of specified land.

The land identified as that granted for the proposed N-S access road may not have been entered or used by a licensee, but it was held in connection with the operation of a well. On that basis, the N-S access road lands also come within the definition of specified land.

SED 002 section 3.2.3, referred to by the Dorins in support of their argument that the N-S access road is not specified land, relates to reclamation certificate application requirements for well sites. Under the regulatory framework for reclamation, there are primary assets and activities, such as wells and well site preparation and construction, and associated activities, such as access roads. Section 3.3 of *SED 002* provides that “Any facilities and infrastructure associated with an asset require a reclamation certificate and must be included in the reclamation certificate application for the well site”. So, the N-S access must be treated as part of the whole reclamation certification process triggered by the construction and operation of the wellsite.

In addition, the portion of section 3.2.3 of the *SED 002* quoted by the Dorins does not change the definition of specified land in *EPEA* or the *C & R regulation*. It does clarify that well sites that have not been entered (surveyed only), where no entry means that the land has not been used in any way, even for a temporary purpose, for construction, operation, or reclamation of a well site are not considered specified land for which a reclamation certificate must be obtained. In this case the well site was entered, the well constructed and operated, and the land reclaimed. Section 3.2.3 of *SED 002* is not applicable here.

Now we must consider whether the lands come within the exemption to the definition of “specified land” found in *EPEA* s. 134(f)(ii). Subsection 134(f)(ii) must be read and interpreted in a way that is consistent with the rest of the section, Part 6 of *EPEA*, and the broader context of *EPEA* and the *C & R*

regulation. It should be understood in a way that is harmonious with the conservation and reclamation scheme as a whole.

The exemption from the definition of “specified land” is for “subdivided land that is used or intended to be used solely for residential purposes”.

Subsection 134(f)(ii) clearly refers to present and future use of land that has been subdivided. There is no doubt that the lands have been subdivided from the original parcel. However, because we must give meaning to all the words in the subsection, the key is whether the lands are used or can be said to be intended to be used solely (emphasis added) for residential purposes. To put it another way, using the plain language definition of “solely” submitted by ERG, we must ask whether the lands are used or intended to be used only for residential purposes, to the exclusion of all else.

The lands have already been used and held for other purposes. They have been used or held for or in connection with the construction, operation, or reclamation of a well, including access to that well.

The DASP submitted by the Dorins also leads us to conclude that the lands may be used for purposes in addition to or other than residential purposes, i.e., not only for residential purposes to the exclusion of all else. For example:

- Section 1.2 of the DASP states: “Residential housing will be developed on the lands pursuant to the Town of Didsbury’s Municipal Development Plan (MDP, 1998) ... Agricultural activities will continue on the land as outlined in the MDP until the land is developed for residential use”.
- Section 2.2.1 refers to the existing farm site and a former quarry that has and continues to serve as local gathering place for the Town’s youth and naturalists.
- Section 2.2.4 specifically acknowledges the presence of the existing wellsite.
- Section 3.1.3 says: “Land will be made available if the Chinook’s Edge School Board and the Town deem it necessary to construct additional educational facilities or provide lands for such purposes”.
- Section 4.3 states “Lands not being developed will retain the Urban Reserve District (UR) designation until council has approved an outline plan if deemed necessary”.

Additionally, Town of Didsbury Land Use By-Law No. 2019-04 (adopted June 11, 2019)² (by-law) explicitly contemplates UR land being used for purposes other than residential use while they remain protected for future development. Examples of alternate uses identified in the by-law are park, public utility, greenhouse and temporary storage, and any uses that, in the opinion of the development authority, are similar to the permitted or discretionary uses and which conform to the general purpose and intent of the district.

Since the DASP, which determines the use to which the lands may be put, does not express the clear intention that the lands will be used solely for residential purposes, we find that the lands are not excluded from the definition of “specified land” by way of subsection 134(f)(ii) of *EPEA*.

Therefore, for the above reasons, the panel finds that all the lands covered by the reclamation certificate being the wellsite, the E-W access road, the “proposed” N-S access road and the narrow strip of land immediately south of the well site, are specified lands for the purposes of the *EPEA* conservation and reclamation framework.

Finally, Whitecap submitted that, regardless of our decision on the preliminary issue, it would be determinative of the regulatory appeal and there would be no need to continue the regulatory appeal process. The Dorins submitted that if we were to find that the lands are specified lands, the regulatory appeal process should continue. ERG made no submissions on this point. In our view, the materials filed on the record in the proceeding on the regulatory appeal indicate that there are outstanding questions about whether the reclamation certificate was properly issued. Accordingly, the regulatory appeal process will continue until the final decision on the hearing of the regulatory appeal is issued, or the request for regulatory appeal is withdrawn.

Cecilia Low, B.Sc., LL.B., LL.M.
Presiding Hearing Commissioner

² Town of Didsbury Land Use By-Law No. 2019-04 contains the “Town of Didsbury zoning maps”. The Dorins provided a hyperlink to the Town of Didsbury Town Planning website <<https://www.didsbury.ca/p/town-planning>>. Land Use By-Law No. 2019-04 which is found at: <<https://didsbury.ca/Home/DownloadDocument?docId=7125d72d-edc3-49c1-a9fc-832aeca946>> (last visited August 26, 2021), to which the “Land Use Bylaw Map” is attached as Appendix A, PDF page 96.

APPENDIX A

From: [Kiril Dumanovski](#)
To: [Hearing Services](#); [Tammy Turner](#)
Cc: [Daron Naffin](#); mdorin@coscoesp.com; [Meighan LaCasse](#); [Lindsey Mosher](#); [Kiril Dumanovski](#)
Subject: RE: AER Proceeding 411 - Request for Information
Date: August 30, 2021 11:35:10 AM
Attachments: [ReclamationCertificate - 2021-08-23T122734.885 \(002\).pdf](#)

Good morning Ms. Turner,

I am writing in response to the letter dated August 23, 2021, issued by the panel of hearing commissioners assigned to this proceeding (Panel). In that letter, the Panel directed the Enterprise Reclamation Group (ERG) to do the following:

1. Provide a copy of Reclamation Certificate 382273; and
2. Set out, in writing, the specific associated activities and related acreages of surface lands that are the subject of Reclamation Certificate 382272.

This email provides ERG's response to the Panel's direction:

1. A copy of Reclamation Certificate 382273 is attached to this email.
2. Reclamation Certificate 382273 was issued for everything highlighted in the survey plan attached to the reclamation certificate, which relates to: the well; the access road in 08-18; and the 3.2 x 96m strip outside the south boundary. The total area of the land that was certified is 3.5 acres.

The only update about the work completed at any wellsite are the Environmental Site Assessments, Phase I, II or III reports, as applicable. The Phase I and II Environmental Site Assessments for the land certified by Reclamation Certificate 382273 have been provided on the record in this proceeding. There is no update in ERG's possession about the type or amount of dirt work completed at a site. Whitecap Resources Inc. should have any additional information about the type of dirt work or recontouring work that was completed at the site or on the access roads. The only information that is available to ERG is the information provided in the reclamation certificate application.

I trust the provided information is satisfactory.

Regards,

Kiril

Kiril Dumanovski

Legal Counsel, Law Branch

Alberta Energy Regulator

e Kiril.Dumanovski@aer.ca **tel** 403-910-7959 **fax** 403-297-7031

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

inquiries 1-855-297-8311 **24-hour emergency** 1-800-222-6514 www.aer.ca

From: Hearing Services <Hearing.Services@aer.ca>

Sent: August 23, 2021 11:03 AM

To: Kiril Dumanovski <Kiril.Dumanovski@aer.ca>

Cc: Daron Naffin <NaffinD@bennettjones.com>; mdorin@coscoesp.com; Meighan LaCasse <Meighan.LaCasse@aer.ca>; Lindsey Mosher <Lindsey.Mosher@aer.ca>

Subject: AER Proceeding 411 - Request for Information

Hello Mr. Dumanovski,

Please see the attached letter regarding proceeding 411 and regulatory appeal 1933054.

Regards,
Tammy

Tammy Turner

Hearing Coordinator, Hearing Services

Alberta Energy Regulator

e tammy.turner@aer.ca tel 403-297-3232

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

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

www.aer.ca

July 18, 2019

Edmonton Office
4th Floor, Twin Atria Building
4999 – 98 Avenue
Edmonton, Alberta T6B 2X3
Canada

www.aer.ca

Herman Dorin
Box 835
Didsbury , Ab T0M 0W0

**RE: Whitecap Resources Inc.
MIDWAY GARR 8-18-31-1
SE 8-18-31-1-W5M**

Enclosed is a copy of the **Reclamation Certificate No. 382273** issued to Whitecap Resources Inc..

The Responsible Energy Development Act (REDA) permits the filing of a request for a regulatory appeal by an eligible person in regards to an appealable decision as defined in Section 36 of *REDA*.

If you are eligible to file a request for a regulatory appeal and you wish to do so, you must submit your request in the form and manner and within the timeframe required by the AER. Filing requirements are set out in Section 30 of the *Alberta Energy Regulator Rules of Practice* available on the AER website, www.aer.ca, under Rules & Directives > Acts, Regulations and Rules. Regulatory appeal requests should be e-mailed to RegulatoryAppeal@aer.ca.

Should you have any questions or concerns, please do not hesitate to contact me directly by phone at 1-855-297-8311 or by e-mail at RecRemQuestions@aer.ca.

Sincerely,



Reclamation/Remediation Technical Coordinator

RECLAMATION CERTIFICATE NO. 382273

This reclamation certificate is issued pursuant to section 138 of the Environmental Protection and Enhancement Act (the act), following a review of the information provided in the application. No reclamation inquiry has been held.

This certifies that the surface of the land held by Whitecap Resources Inc., in connection with or incidental to the activities:

Activity Type	If Other (Describe)	Licence/Segment #	LLD	Asset Name
		0065135	SE 8-18-31-1-W5M	MIDWAY GARR 8-18-31-1
Access Road			8-18-31-1-W5M	
Other	3.2 x 96m strip outside wellsite south boundary		8-18-31-1-W5M	
Other	3.2 x 96m strip outside wellsite south boundary		8-18-31-1-W5M	

as shown outlined in yellow on the attached plan(s), complies with the conservation and reclamation requirements of Part 6 of the act.

Issued on July 18, 2019



Brad Dunkle
Designated Inspector Under the Act

Operator/Agent:
Whitecap Resources Inc.
3800 - 525 8 Ave SW
Calgary
T2P 1G1

The AER may cancel this reclamation certificate pursuant to section 139 of the act where it is of the opinion that further work may be necessary to conserve and reclaim the above specified land to which this certificate relates.

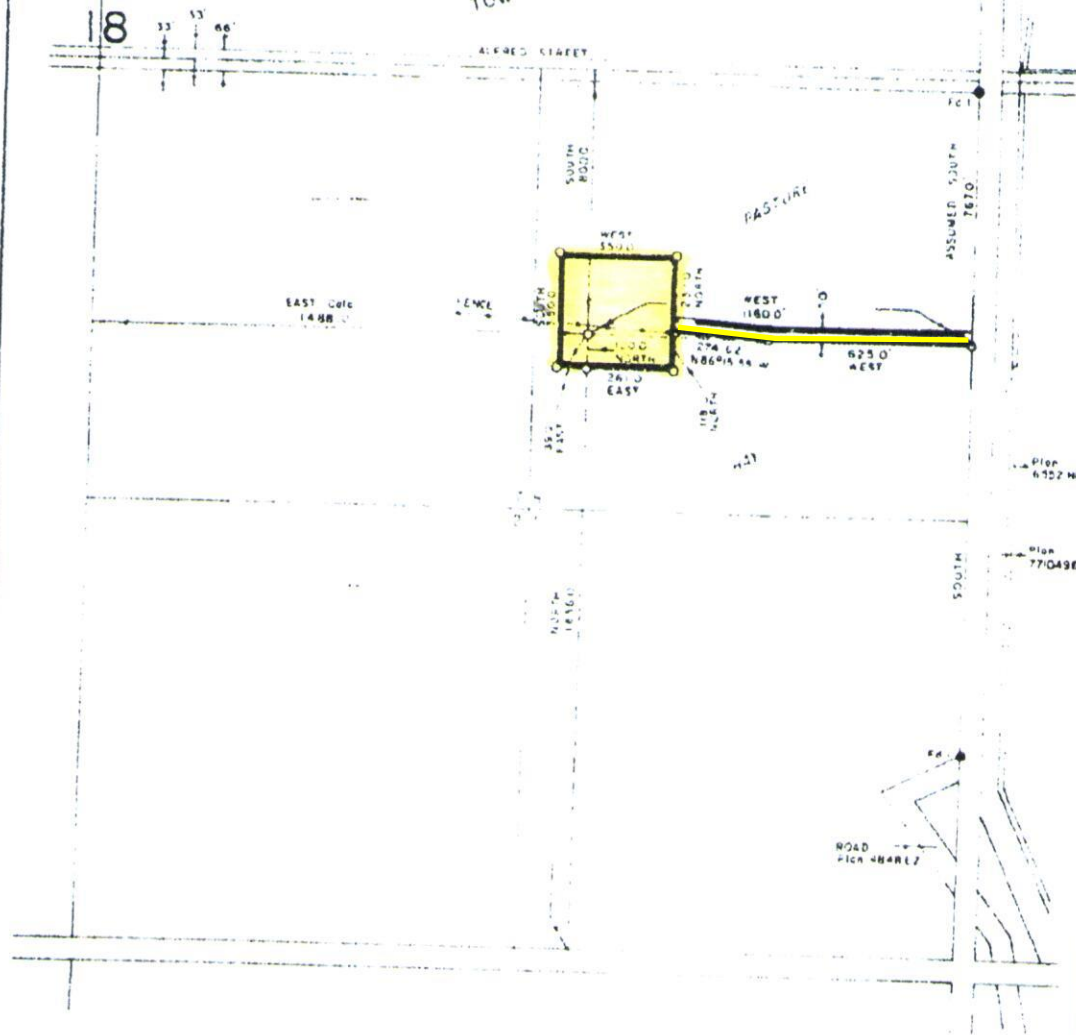
The Responsible Energy Development Act (REDA) permits the filing of a request for a regulatory appeal by an eligible person in regards to an appealable decision as defined in section 36 of REDA.

If you are eligible to file a request for a regulatory appeal and you wish to do so, you must submit your request in the form and manner and within the timeframe required by the AER. Filing requirements are set out in section 30 of the Alberta Energy Regulator Rules of Practice available on the AER website, www.aer.ca, under Rules & Directives > Acts, Regulations and Rules. Regulatory appeal requests should be e-mailed to RegulatoryAppeal@aer.ca.

Alberta Energy Regulator Suite 1000, 250 Street SW, Calgary, Alberta T2P 0R4

TOWN OF DIDSBURY

DEPOSIT 000592



↑
REVISED

PLAN SHOWING LOCATION OF

DYCO OLDS 8-18-31-1

IN LSD. 8 SEC 18 TWP 31 RGE 1 W 5 M.




SCALE: 1" = 400'

I certify that the survey represented by this plan is correct and true to the best of my knowledge and was completed on the 3rd day of August, AD 1977.

W. J. J. J.
ALS

W. J. J. J.
WITNESS

LEGEND

Survey monument found shown thus 
12" Iron Spikes planted shown thus 
Portions referred to shown thus 
Distances are in feet and decimals thereof

CO-ORDINATES: 1836.0' N of S. Bdy and
1160.0' W of E. Bdy of Sec. 18-31-1-5

AREAS

Well Site	2.81 Acres
Access Road	1.03 Acres
Total	3.84 Acres

WELL SITE

CORNER ELEVATIONS

NE	3397.1'
SE	3400.0'
SW	3407.1'
NW	3403.1'

GROUND ELEVATION: 3402'

FOR DYCO PETROLEUM CORPORATION

W. J. J. J.



ALL CAN ENGINEERING & SURVEYS (1976) LTD.
Job No. 77-577 [Checked *W. J. J. J.*] Date 3/13/77

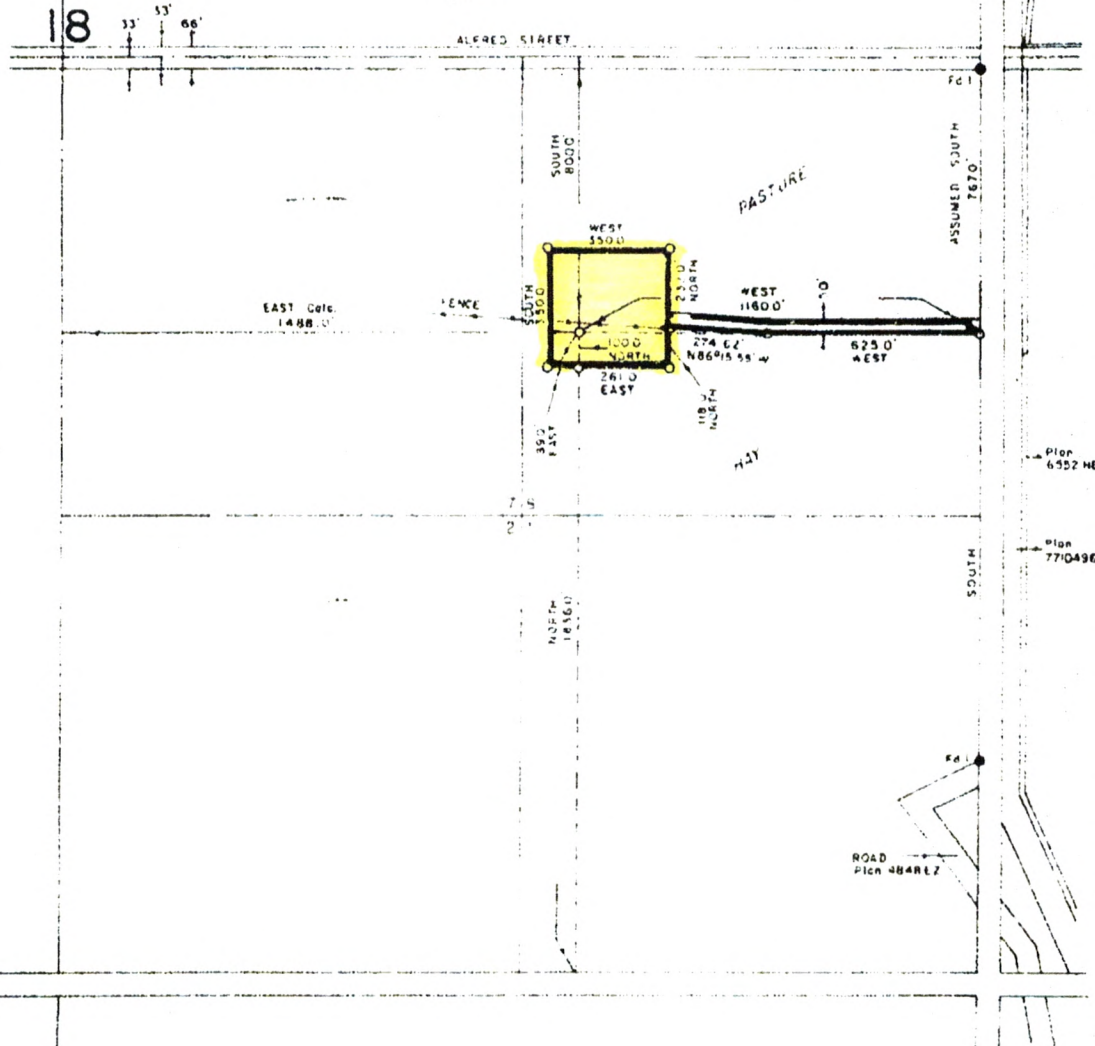
REVISION

1 Well Location

3/8/77

TOWN OF DIDSBURY

10 AUG 77 000582



REVISED
PLAN SHOWING LOCATION OF

DYCO OLDS 8-18-31-1

IN LSD. 8 SEC 18 TWP. 31 RGE. 1 W. 5 M.

SCALE - 1" = 400'

CO-ORDINATES - 1836.0' N. of S. Bdy. and
1160.0' W. of E. Bdy. of Sec. 18-31-1-5

I certify that the survey represented by this plan is correct
and true to the best of my knowledge and was completed
on the 3rd. day of August, AD 1977.

[Signature]
ALS

AREAS
Well Site 2.81 Acres
Access Road 1.03 Acres
Total 3.84 Acres

WELL SITE
CORNER ELEVATIONS
NE 3397.1'
SE 3400.0'
SW 3407.1'
NW 3403.1'

GROUND ELEVATION - 3402'

For DYCO PETROLEUM CORPORATION

[Signature]

LEGEND

Survey monument found shown thus
12" Iron Spike planted shown thus
Portions referred to shown thus
Distances are in feet and decimals thereof

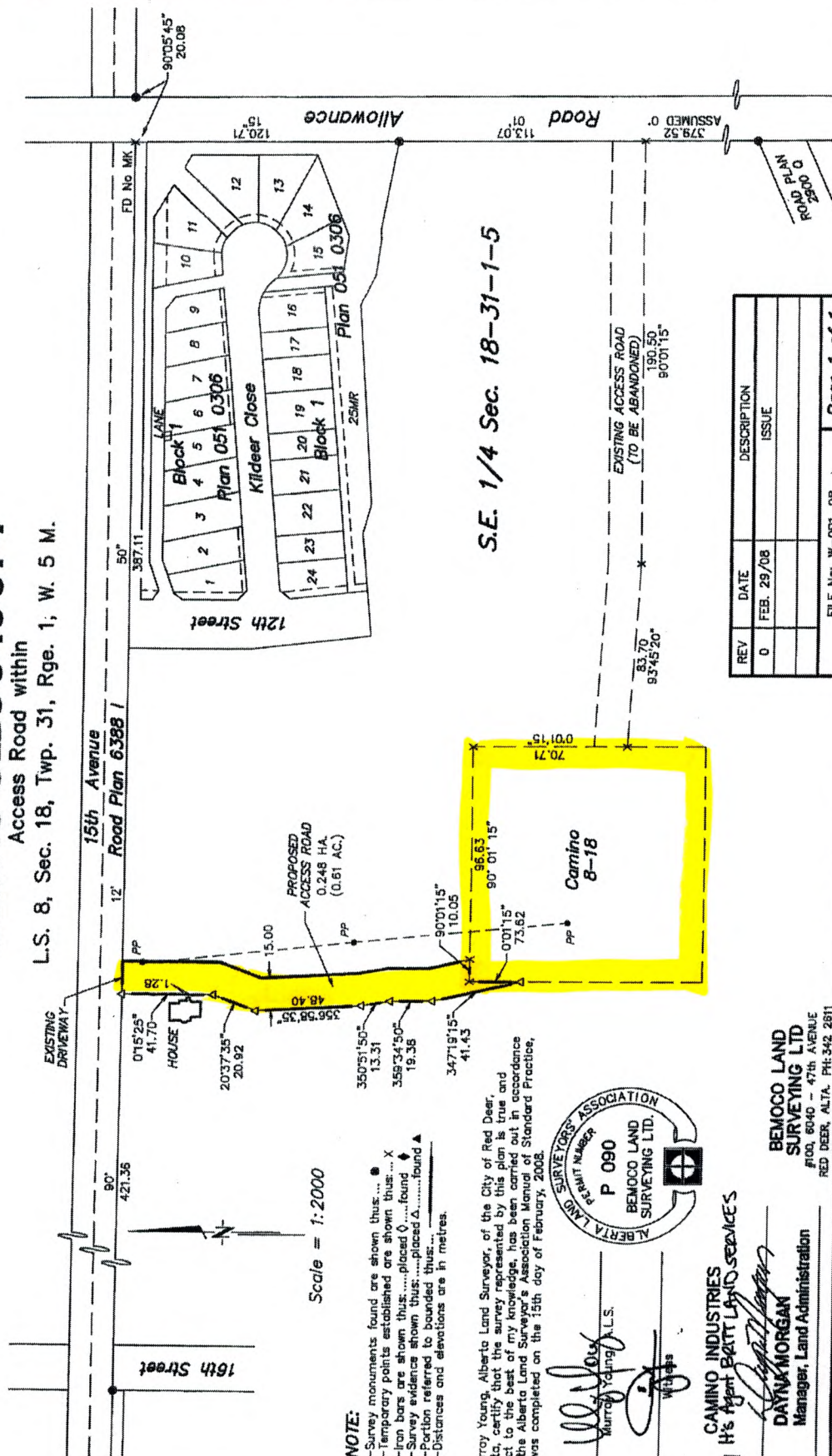
ALL- CAN ENGINEERING & SURVEYS (1976) LTD
Job No 77-577 [Checked *[Signature]*] Date 3/13/77

REVISION

1 Well Location 3/8/77

Access Road within
L.S. 8, Sec. 18, Twp. 31, Rge. 1; W. 5 M.

L.S. 8, Sec. 18, Twp. 31, Rge. 1, W. 5 M.



Scale = 1:2000

- NOTE:**
- Survey monuments found are shown thus: ●
 - Temporary points established are shown thus: X
 - Iron bars are shown thus:placed ◊.....found
 - Survey evidence shown thus:placed Δ.....found
 - Portion referred to bounded thus: _____
 - Distances and elevations are in metres.

I, Murray Young, Alberta Land Surveyor, of the City of Red Deer, Alberta, certify that the survey represented by this plan is true and correct to the best of my knowledge, has been carried out in accordance with the Alberta Land Surveyor's Association Manual of Standard Practice, and was completed on the 15th day of February, 2008.



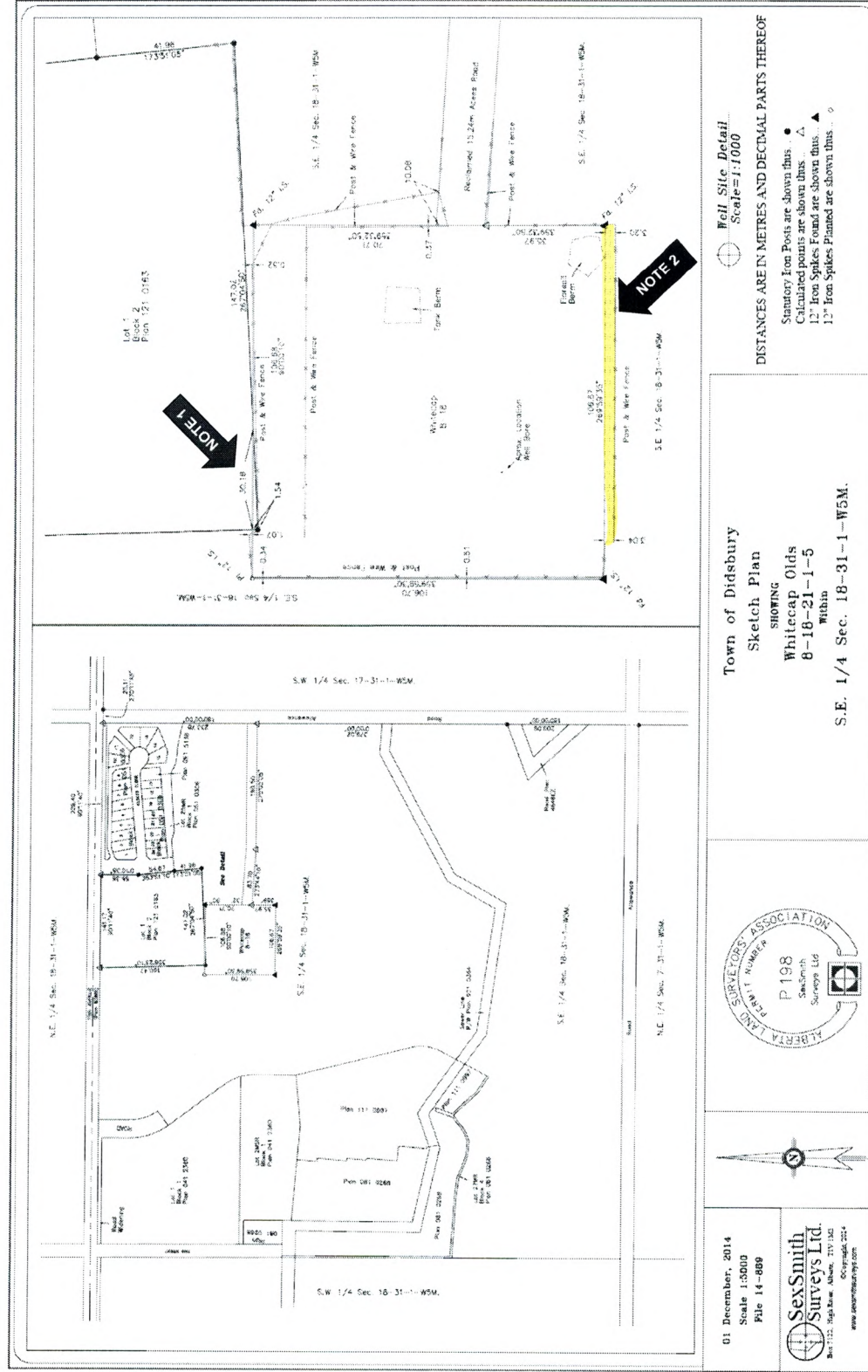
CAMINO INDUSTRIES
By It's Agent BETT LAND SERVICES

**BEMOCO LAND
SURVEYING LTD**

#100, 6040 - 47th AVENUE
RED DEER, ALTA. PH: 342 2611

REV	DATE	DESCRIPTION
0	FEB. 29/08	ISSUE
FILE No: W-001-08		Page 1 of 1

Attachment 3 (Letter to Equilibrium Environmental, dated June 16, 2015)
As-Built Plan of Survey Dated December 1, 2014, With Added Notes



From: [Kiril Dumanovski](#)
To: [Mark Dorin](#); [Hearing Services](#); [Tammy Turner](#)
Cc: ["Daron Naffin"](#); [Meighan LaCasse](#); [Lindsey Mosher](#); [Kiril Dumanovski](#)
Subject: RE: AER Proceeding 411 - Request for Information
Date: August 30, 2021 3:43:34 PM

Good afternoon Ms. Turner,

This is further to my email from this morning responding to the Panel's request for additional information. After submitting the required information, my client advised that the information provided with regard to the total area (3.5 acres) certified by Reclamation Certificate 382273 is not-up-to-date. The updated information is as follows:

Original lease and E-W access road: **3.84 acres.**

Surveyed N-S access road: **0.61 acres.**

Extra 3.2m x 96m strip of land enclosed by south lease boundary fence: **0.076 acres.**

Total acreage certified: **4.53 acres.**

The discrepancy in the information is due to the AER's OneStop online system not being updated with the most current information. We apologise for any inconvenience that this may have caused.

Please note that ERG does not have any concerns with Mr. Dorin and Whitecap providing any additional information that will create more complete record in this proceeding.

Regards,

Kiril

From: Mark Dorin <mdorin@coscoesp.com>
Sent: August 30, 2021 3:09 PM
To: Kiril Dumanovski <Kiril.Dumanovski@aer.ca>; Hearing Services <Hearing.Services@aer.ca>; Tammy Turner <Tammy.Turner@aer.ca>
Cc: 'Daron Naffin' <NaffinD@bennettjones.com>; Meighan LaCasse <Meighan.LaCasse@aer.ca>; Lindsey Mosher <Lindsey.Mosher@aer.ca>
Subject: RE: AER Proceeding 411 - Request for Information

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Turner:

On behalf of the Dorins, this is a formal request for an opportunity to speak to incompleteness of facts and inconsistency in the submission filed today's date by the Enterprise Reclamation Group (ERG).

The Dorins respectfully request an opportunity to rebut or comment on the submission filed by the

ERG, particularly Item 2 thereof. They have no objection to Whitecap Resources Inc. and/or the ERG being granted the opportunity to reply to any Dorin submission.

Yours truly,
Mark Dorin

From: Kiril Dumanovski [<mailto:Kiril.Dumanovski@aer.ca>]

Sent: Monday, August 30, 2021 11:35 AM

To: Hearing Services <Hearing.Services@aer.ca>; Tammy Turner <Tammy.Turner@aer.ca>

Cc: Daron Naffin <NaffinD@bennettjones.com>; mdorin@coscoesp.com; Meighan LaCasse <Meighan.LaCasse@aer.ca>; Lindsey Mosher <Lindsey.Mosher@aer.ca>; Kiril Dumanovski <Kiril.Dumanovski@aer.ca>

Subject: RE: AER Proceeding 411 - Request for Information

Good morning Ms. Turner,

I am writing in response to the letter dated August 23, 2021, issued by the panel of hearing commissioners assigned to this proceeding (Panel). In that letter, the Panel directed the Enterprise Reclamation Group (ERG) to do the following:

1. Provide a copy of Reclamation Certificate 382273; and
2. Set out, in writing, the specific associated activities and related acreages of surface lands that are the subject of Reclamation Certificate 382272.

This email provides ERG's response to the Panel's direction:

1. A copy of Reclamation Certificate 382273 is attached to this email.
2. Reclamation Certificate 382273 was issued for everything highlighted in the survey plan attached to the reclamation certificate, which relates to: the well; the access road in 08-18; and the 3.2 x 96m strip outside the south boundary. The total area of the land that was certified is 3.5 acres.

The only update about the work completed at any wellsite are the Environmental Site Assessments, Phase I, II or III reports, as applicable. The Phase I and II Environmental Site Assessments for the land certified by Reclamation Certificate 382273 have been provided on the record in this proceeding. There is no update in ERG's possession about the type or amount of dirt work completed at a site. Whitecap Resources Inc. should have any additional information about the type of dirt work or recontouring work that was completed at the site or on the access roads. The only information that is available to ERG is the information provided in the reclamation certificate application.

I trust the provided information is satisfactory.

Regards,

Kiril

Kiril Dumanovski

Legal Counsel, Law Branch

Alberta Energy Regulator

e Kiril.Dumanovski@aer.ca **tel** 403-910-7959 **fax** 403-297-7031

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

inquiries 1-855-297-8311 **24-hour emergency** 1-800-222-6514 www.aer.ca

From: Hearing Services <Hearing.Services@aer.ca>

Sent: August 23, 2021 11:03 AM

To: Kiril Dumanovski <Kiril.Dumanovski@aer.ca>

Cc: Daron Naffin <NaffinD@bennettjones.com>; mdorin@coscoesp.com; Meighan LaCasse <Meighan.LaCasse@aer.ca>; Lindsey Mosher <Lindsey.Mosher@aer.ca>

Subject: AER Proceeding 411 - Request for Information

Hello Mr. Dumanovski,

Please see the attached letter regarding proceeding 411 and regulatory appeal 1933054.

Regards,

Tammy

Tammy Turner

Hearing Coordinator, Hearing Services

Alberta Energy Regulator

e tammy.turner@aer.ca **tel** 403-297-3232

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

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

www.aer.ca

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.