

February 23, 2023

By Email Only

Dennis Ulrich
Manyberries Grazing Association

Statement of Concern No. 32055
Cenovus Energy Inc. (Cenovus)
Application No. 31398050

Dear Dennis Ulrich:

You are receiving this letter because you filed a statement of concern (SOC) in respect to Application No. 31398050. The Alberta Energy Regulator (AER) has reviewed your SOC, along with the application, and all applicable requirements and other submissions or information about the application. The AER has decided that a hearing is not required to consider the concerns outlined in your SOC.

In our review of your concerns, we considered the following:

- A Phase 2 Environmental Site Assessment (ESA) was conducted by Trace Associates Inc. (Trace), and the remediation and confirmatory results provided on March 14, 2013, concluded that *Alberta Tier 1 Soil and Groundwater Remediation Guidelines (AENV 2007, as amended)* were met.
- Detailed Site Assessments (DSA) were conducted on June 17, 2011, and September 30, 2014, which showed that the conditions of the vegetation, landscape and soil were comparable both onsite and offsite at the former 07-21-004-04 W4M lease. The DSAs indicated that all parameters of the *2010 Reclamation Criteria for Wellsites and Associated Facilities for Native Grasslands* (Reclamation Criteria) were met on the lease.
- Regarding the concerns with the approved variance request; based on the sensitivity of the area, both from a wildlife and soils standpoint, the AER, Cenovus and Alberta Environment and Protected Areas (AEPA) believe that intrusive reclamation is not recommended to remedy contour deficiencies.
- An onsite visit was held on May 11, 2022, between the SOC filer, Cenovus, Trace Associates, AEPA, and the AER Reclamation Assessor. It was the recommendation and preference of the AEPA representative that no further work be completed on the road and to allow for natural recovery to continue along its trajectory.

- A second site visit was performed by the Reclamation Assessor on July 26, 2022, to inspect the site under summer growing conditions and following the spring precipitation events. AER staff concluded that no further reclamation work be recommended beyond the removal of clay fill that was impeding surface water flow within two ephemeral drainage courses. Erosion gullies identified at the two hillslopes of concern were observed to have stabilized and were recolonizing on an appropriate trajectory via natural in-fill. The overall land capability and function of the reclaimed road were considered satisfactory for the intended cattle and wildlife utilization.
- According to the 2010 Reclamation Criteria for Native Grasslands, gulying may be a part of the normal processes on certain sites and that micro-erosion within the microtopography does not normally constitute a risk to the function at a site. As erosion gullies have stabilized with recovering native vegetation, future erosion and gulying is expected to be consistent with the natural processes' characteristic of the surrounding landscape.
- Regarding the concerns over safety due to the condition of the road left in a dangerous state and not adequately reclaimed; on November 1, 2022, under the supervision of Trace, Resolve Earthworks & Environmental Ltd. (Resolve) removed clay fill material that was restricting drainage at two former culvert locations near the access road entrance points. The removal of the clay fill will allow the natural drainage to be restored in these areas as well as discourage prohibited highway vehicles from using the decommissioned road. The road is considered inactive, reclaimed, and no longer a viable travel route. The AER acknowledges the concerns regarding the Manyberries Grazing Association being held liable if hunters or lease members are injured or killed in certain areas. The certified access road will be returned to the province as public land, where any public access is restricted to foot-access or off-highway vehicles only. Once certified, future access along the certified road will be at the risk of the user(s) the same as it would be on any other public land, and the leaseholder will assume no liability.
- Under the Federal Greater Sage-Grouse Emergency Protection Order (EPO), the access road is within an area identified as habitat necessary for the survival or recovery of the Greater Sage-Grouse. Additional disturbance is not advised as it is seen as introducing unnecessary risk and could result in a recovery setback. Potential environmental benefits do not outweigh the potential environmental risks.
- The Reclamation Criteria are applied to evaluate whether a site meets equivalent land capability. Given the findings reported in the DSAs, staff review and site visits, the AER is satisfied that the site meets the intent of the 2010 Reclamation Criteria for Wellsites and Associated Facilities for Native Grasslands.

Based on the above, the AER has concluded that it is not necessary to hold a hearing before making a decision on the application. The AER has issued the applied-for Reclamation Certificate, and this is your notice of that decision. A copy of the Reclamation Certificate is attached.

All AER-regulated parties must comply not only with the conditions of their authorizations but with all of the AER's regulatory requirements. To ensure industry compliance, the AER has developed its *Integrated Compliance Assurance Framework*, which embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement. You can find out more about how the AER verifies industry compliance and responds to noncompliance here: <https://aer.ca/regulating-development/compliance/compliance-assurance-program>.

You may file a regulatory appeal on the AER's decision to issue the Reclamation Certificate if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are located here: <https://www.aer.ca/regulating-development/project-application/regulatory-appeal-process>.

If you have any questions, please contact SOC@aer.ca.

Sincerely,

<Original Signed by>

Andrew MacPherson
Director, In Situ
Regulatory Applications
/ma

Attachment (1): Reclamation Certificate

cc: Jason Desilets, Cenovus Energy Inc.
Zachary McCargar, Reclamation Assessor
SOC Inbox, AER
Field Operations South, AER
ADR Inbox, AER
Reclamation Inbox, AER