

September 20, 2021

By email only

Tim Myers, Legal Counsel
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RE: Reconsideration of Northwestern Utilities Limited (NUL) as Licensee of Record of Certain Wells Previously Held by the Lloydminster Development Company (LDC)

Dear Mr. Myers:

The Alberta Energy Regulator (AER) has considered your correspondence of November 4, 2020, and May 28, 2021, and has reviewed its records in respect of the wells listed in Attachment 1 of the May 5, 2020, letter from ATCO Gas & Pipelines Ltd. (ATCO Gas).

For the reasons that follow, the AER has determined it is appropriate to reconsider, without a hearing, its 1985 decision to transfer to NUL responsibility for certain wells previously licensed to LDC when NUL amalgamated with the Lloydminster Gas Company (LGC). Further, the AER has decided to revoke the decision and correct its records to remove NUL as the licensee of record for the wells.

The specific wells that are the subject of this reconsideration decision are set out in **Appendix 1** (the LDC Wells).

Background

LDC and LGC were related, but legally distinct entities. LGC was registered in Saskatchewan in 1945. LDC was registered in Ontario in 1950 and struck in 1969. Nevertheless, LDC and LGC shared a business associate (BA) code or identification code, which was apparently common practice at the time. In 1985, LGC and NUL amalgamated into one surviving entity – NUL. It appears that when they did,

responsibility for all wells associated with the shared identification code was transferred to NUL in the Regulator's system.¹

The AER has reviewed the historical records related to the LDC Wells, including the licences, drilling reports, and reclamation certificates. Based on this review, the AER has determined that:

- 12 of the wells were licensed to LGC in the 1950s, but were then transferred to LDC on April 26, 1954. Reclamation certificates were issued to LDC for each of these wells;
- 24 of the wells were licensed to LDC in the 1950s. All but one of these wells were abandoned or reclaimed by LDC; and
- 10 of the wells were licensed to third parties and transferred to LDC after drilling. These wells appear to have mostly been abandoned or reclaimed by LDC, except for two that were abandoned or reclaimed by a third party and one for which the AER did not retrieve any abandonment or reclamation records.

In short, LGC was not the last licensee of any of the LDC Wells.

There is another well identified in Attachment 1 of ATCO Gas' May 5, 2020, letter: WB0000306 (the Meeken No. 1 Well). ATCO Gas has been managing contamination at the well site since May 2003, when it received an abandoned well remediation approval to access the wellbore and correct wellbore integrity issues identified by the Regulator. The AER's records indicate the well was drilled in 1942 by the Jasper Drilling Co. and abandoned in October 1954. The abandonment drilling report identifies LGC as the licensee. ATCO Gas was unable to provide any additional information about the last licensee of the well, so the best evidence the AER has is that the Meeken No. 1 Well was last licensed to LGC. Accordingly, it appears responsibility for this well was properly transferred to NUL when it and LGC amalgamated.

¹ The term "Regulator" is used in this decision to refer to the AER's predecessors, the Alberta Energy and Utilities Board and the Energy Resources Conservation Board.

Reconsideration Power

The AER has authority to reconsider its decisions pursuant to section 42 of *REDA*. That section states:

The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

As section 42 makes clear, it is solely within the AER's discretion to reconsider its decisions. The AER will only exercise this discretion under the most extraordinary circumstances, where it is satisfied there are exceptional and compelling grounds to do so. The AER has determined such circumstances exist here.

As set out above, AER records indicate that LGC was not the last licensee of any of the LDC Wells. It appears when NUL and LGC amalgamated, responsibility for the LDC Wells was transferred to NUL in because LDC and LGC shared an identification code; however, the requirement that a licensee hold an identification code was not introduced until 2000,² after the amalgamation and well after the LDC Wells were abandoned and/or reclaimed. So, the fact LDC and LGC shared an identification code was not a justifiable reason to transfer responsibility for the LDC Wells to NUL.

Given the above, there are extraordinary circumstances in this matter, which provide exceptional and compelling grounds for the AER to exercise its discretion to reconsider, without a hearing,³ the Regulator's decision to transfer responsibility for the LDC Wells to NUL.

With respect to the Meeken No. 1 Well, the best evidence the AER has is that LGC last held the licence for this well. Accordingly, responsibility for the Meeken No. 1 Well was properly transferred to NUL when it amalgamated with LGC, and the AER is not reconsidering that decision. As a result, NUL will continue to be identified as the licensee of record for the Meeken No. 1 Well and ATCO Gas will continue to be responsible for the well as NUL's successor.

² *Energy Statutes Amendment Act*, 2000, SA 2000, c 12, s 15.1.

³ Under section 43 of *REDA*, the AER may conduct a reconsideration with or without a hearing.

Decision on the Reconsideration

Having reviewed and considered its records in respect of the LDC Wells, the AER is satisfied there is no legal reason for NUL to be identified as licensee of record for the wells. Accordingly, the AER has decided to revoke the 1985 decision to transfer responsibility for the LDC Wells to NUL. The AER will correct its records so that NUL is no longer identified as the licensee of record for these wells.

Please note, this reconsideration does not relieve ATCO Gas from any responsibility it, as NUL's successor, might have under Part 5 of the *Environmental Protection and Enhancement Act*. For any of the wells that LGC previously held the licence, ATCO Gas could still be deemed a person responsible under section 113 of *EPEA* in the event of a release.

Sincerely,

<Original signed by>

Laurie Pushor
President and CEO

cc: Justin Lambert, Bennett Jones LLP
Kim Fawcett, ATCO Gas
Erin Donovan, ATCO Gas
Trevor Gosselin, AER
Lailoni Boswell, AER

Appendix 1: Wells Previously Licensed to the Lloydminster Development Company (LDC Wells)

	Well Name and Licence No.	Surface Location	Licensee	Status
1.	LDC No. 1 W0006843	SW 08-50-01W4M	Issued to LGC in 1953. Transferred to LDC in 1954.	Reclamation Certificate (RC) No. 7283 issued to LDC in 1969.
2.	LDC No. 11 W0001646	SE 25-49-01-W04M	Issued to LGC in 1950. Transferred to LDC in 1954.	RC No 8561 issued to LDC in 1969.
3.	LDC No. 15 W0002923	NE 07-50-01-W04M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8962 issued to LDC in 1969.
4.	LDC No. 18 W0002923	NE 07-50-01-W04M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8964 issued to LDC in 1969.
5.	LDC No. 19 W0003053	NW 09-50-01-W04M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8566 issued to LDC in 1969.
6.	LDC No. 20 W0003127	NE 08-50-01W4M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8570 issued to LDC in 1969.
7.	LDC No. 23 W0003401	NE 09-50-01W4M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8569 issued to LDC in 1969.
8.	LDC No. 24 W0003402	SE 09-50-01W4M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 8568 issued to LDC in 1969.
9.	LDC No. 26 W0003854	SW 08-50-01W4M	Issued to LGC in 1951. Transferred to LDC in 1954.	RC No. 7280 issued to LDC in 1969.
10.	LDC No. 28 W0003663	NW 36-49-01W4M	Issued to LGC in 1951.	RC No. 8563 issued to LDC in 1969.

			Transferred to LDC in 1954.	
11.	LDC No. 30 W0005044	SE 34-49- 01W4M	Issued to LGC in 1952. Transferred to LDC in 1954.	RC No. 8848 issued to LDC in 1969.
12.	LDC No. 49 W0005730	SE 34-49- 01W4M	Issued to LGC in 1952. Transferred to LDC in 1954.	RC No. 8847 issued to LDC in 1969.
13.	LDC No. 27- 2 W0009505	SE 27-49- 01W4M	Issued to LDC in 1955.	RC No. 8575 issued to LDC in 1969.
14.	LDC No. 54 W0008321	SW 08-50- 01W4M	Issued to LDC in 1954.	RC No. 7282 issued to LDC in 1969.
15.	LDC Mollusca No. 6-4 W0009754	SE 06-50- 01W4M	Issued to LDC in 1955.	RC No. 8564 issued to LDC in 1969.
16.	LDC Mollusca No. 7-15 W00010011	SW 07-50- 01W4M	Issued to LDC in 1955.	RC No. 8961 issued to LDC in 1969.
17.	LDC Mollusca No. 31-1 W0010341	NE 31-49- 01W4M	Issued to LDC in 1955.	RC No. 8562 issued to LDC in 1969.
18.	LDC Mollusca No. 8-3 W0011527	SW 08-50- 01W4M	Issued to LDC in 1956.	RC No. 7278 issued to LDC in 1969.
19.	LDC Mollusca No. 8-2 W0011529	SW 08-50- 01W4M	Issued to LDC in 1956.	RC No. 7279 issued to LDC in 1969.
20.	LDC Mollusca No. 8-6 W0011823	SE 08-50- 01W4M	Issued to LDC in 1956.	RC No. 7277 issued to LDC in 1969.
21.	LDC Mollusca No. 8-8 W0011965	SE 08-50- 01W4M	Issued to LDC in 1956.	RC No. 7276 issued to LDC in 1969.

22.	LDC Mollusca 7-16 W0012068	NE 07-50-01W4M	Issued to LDC in 1956.	RC No. 8963 issued to LDC in 1969.
23.	LDC Mollusca 8-11 W0012141	NW 08-50-01W4M	Issued to LDC in 1956.	RC No. 8572 issued to LDC in 1969.
24.	LDC Mollusca 8-12 W0012210	SW 08-50-01W4M	Issued to LDC in 1956.	RC No. 7281 issued to LDC in 1969.
25.	LDC Mollusca 8-10 W0012251	NW 08-50-01W4M	Issued to LDC in 1956.	RC No. 8571 issued to LDC in 1969.
26.	LDC Mollusca 8-14 W0012305	NW 08-50-01W4M	Issued to LDC in 1956.	RC No. 8573 issued to LDC in 1969.
27.	LDC Mollusca 5-3 W0012400	NW 05-50-01W4M	Issued to LDC in 1956.	RC No. 8574 issued to LDC in 1969.
28.	LDC Mollusca 9-2 W0012468	NW 09-50-01W4M	Issued to LDC in 1956.	RC No. 8567 issued to LDC in 1969.
29.	LDC Mollusca 9-3 W0012511	SW 09-50-01W4M	Issued to LDC in 1956.	RC No. 1784 issued to Kodiak Petroleums Limited in 1968.
30.	LDC 13-3-B W0012523	SW 13-50-02W4M	Issued to LDC in 1956.	RC No. 7400 issued to LDC in 1969.
31.	LDC 27-16-A W0013484	NE 27-49-01W4M	Issued to LDC in 1957.	RC No. 8577 issued to LDC in 1969.
32.	LDC 27-9-D W0013485	NE 27-49-01W4M	Issued to LDC in 1957.	RC No. 8576 issued to LDC in 1969.
33.	LDC 29-10-A W0013598	NE 29-49-01W4M	Issued to LDC in 1957.	RC No. 7275 issued to LDC in 1969.
34.	LDC 13-3-11 W0012606	03-13-50-02W4M	Issued to LDC in 1956.	Abandoned by LDC in 1961.

35.	LDC NUS Dina 8C-11-45-1 W0015067	SE 11-45-01W4M	Issued to LDC in 1958.	RC No. 10168 issued to LDC in 1970.
36.	LDC Devonia Lake Lloyd 12D-9-49-1 W0015177	NW 09-49-01W4M	Issued to LDC in 1958.	RC No. 7809 issued to LDC in 1969.
37.	Exceldrich No. 1 W0004849	SE 36-49-02W4M	Issued to Excelsior Refineries Limited in 1952.	RC No. 8565 issued to LDC in 1969.
38.	Exceldrich No. 2A W0005001	SE 21-50-02W4M	Issued to Excelsior Refineries Limited in 1952. Transferred to LDC in 1961.	
39.	Hallrich Excelsior No. 3 W0010030	NW 12-50-02W4M	Issued to Excelsior Refineries Ltd. in 1955. Transferred to LDC in 1961.	RC No. 1423 issued to LDC in 1964.
40.	Sparky No. 4 W0000740	SE 34-49-01W4M	Issued to T.A. Burrows and T.A. Sparks in 1944. Transferred to LDC in 1959.	RC No. 1122 issued to Kodiak Petroleums Ltd. in 1964.
41.	LDC 1-16-C WB0001421	NE 01-49-01W4M	Issued to K de. K Drilling Corporation in 1946.	RC No. 7810 issued to LDC in 1969.
42.	Win-Lloyd No. 3 WB0001862	NE 10-50-02W4M	Issued to Win-Lloyd Oils Ltd. in 1947. Transferred to Excelsior Refineries Limited in 1951. Transferred to LDC in 1961.	RC No. 7412 issued to LDC in 1969.

43.	Win-Lloyd No. 6 WB0001911	NE 10-50- 02W4M	Issued to Win-Lloyd Oils Limited in 1947. Transferred to Excelsior Refineries Limited in 1951. Transferred to LDC in 1961.	RC No. 7412 issued to LDC on April 2, 1969.
44.	Dina No. 1 W0000405	04-16-45- 01W4M	Issued to Ribstone Oils Ltd. in 1931. Transferred to LDC in 1961.	Abandoned by Ribstone in 1932. Abandoned by LDC in 1948 after re-entry.
45.	Hallrich- Excelsior No. 2 W0031221	13-12-50- 02W4M	Issued to Excelsior Refineries Limited in 1955. ⁴	Abandoned by Kodiak Refineries Limited in 1961.
46.	Exceldrich No. 2	01-21-50- 02W4M	Issued to Excelsior Refineries in 1952. Transferred to LDC in 1961.	RC No. 8578 issued to LDC in 1969.

⁴ The AER did not retrieve any record of this well being transferred to LDC, but in ATCO Gas' submission, such a transfer occurred.