

Via Email

April 26, 2022

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Canada

[www.aer.ca](http://www.aer.ca)

Dale and Heather Sorenson

Tidewater Pipestone Infrastructure Corp.

**Attention: Dale and Heather Sorenson**

**Attention: Ryan Connery**

Dear Sirs and Madam:

**RE: Request for Regulatory Appeal by Dale and Heather Sorenson  
Tidewater Pipestone Infrastructure Corp.  
Application Nos.: 31404290, 31404291, 31404292, 31404293, 31404294  
Licence Nos.: 0486103, 0486104, 0486105, 0486106, 0486107  
Location: 8-25-71-7-W6  
Regulatory Appeal No.: 1935285 (Regulatory Appeal)**

The Alberta Energy Regulator (AER) has considered your request under section 38 of the *Responsible Energy Development Act (REDA)* for a regulatory appeal of the AER's decision to approve the Well Licence Extension Applications. The AER has reviewed your submissions and the submissions made by Tidewater.

For the reasons that follow, your request for a Regulatory Appeal is dismissed.

Section 38(1) of the *Responsible Energy Development Act (REDA)* sets out the test for eligibility to request a regulatory appeal:

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]

There are three key components to section 38(1), which are as follows:

1. **“Appealable Decision”** – Subsection 36(a) defines an “appealable decision”. For the present purposes, the relevant definition is contained in subsection 36(a)(iv). It says an appealable decision includes:

A decision of the Regulator that was made under an energy resource enactment<sup>1</sup>, if that decision was made without a hearing

[Emphasis added]

Thus, to be an “appealable decision” the decision must be made under an energy enactment and there cannot have been a hearing.

2. **“Eligible Person”** – Subsection 36(b) defines an “eligible person” under an energy resource enactment. For the present purposes, the relevant definition is contained in subsection 36(b)(ii). It says an eligible person is:

A person who is directly and adversely affected by a decision referred to in clause (a)(iv) [a decision made under an energy resource enactment, if that decision was made without a hearing].

[Emphasis added]

Therefore, you must be a person who is directly and adversely affected by a decision.

3. **“In Accordance with the Rules”** – Section 30(3) requires that a request for a Regulatory Appeal be made within 30 days after the making of the decision for which an appeal is sought.

## Reasons for Decision

### Appealable Decision

The granting of the Well Licence Extension Applications are appealable decisions, as the Licences were issued under the *Oil and Gas Conservation Act* – an energy resource enactment – without a hearing.

### In Accordance with the Rules

The portion of the request for regulatory appeal relating to the Well Licence Extension Applications was filed in accordance with the time requirements under the Rules. You were asked to provide missing information, as outlined in the Deficiency Letter, to the AER by December 2, 2021. This information was filed outside of the required timeline set out in Section 30(3)(m) of the Rules, however, you provided it within the deadline requested by the AER.

Therefore, the totality of the Request for Regulatory Appeal was filed in accordance with the Rules.

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<sup>1</sup> This includes: the *Coal Conservation Act*, the *Gas Resources Act*, the *Oil and Gas Conservation Act*, the *Oil Sands Conservation Act*, the *Pipeline Act*, the *Turner Valley Unit Operations Act*, a regulation or rule under and of the enactments.

## Eligible Person

To be eligible for a regulatory appeal, you must demonstrate that you may be directly and adversely affected by the AER's decision to issue the Approval. The AER acknowledges the concerns put forward in your request for regulatory appeal, including but not limited to:

- Safety in the event of an incident, including the absence of information regarding an emergency plan;
- Impacts on groundwater sources and water wells;
- Noise impacts;
- Air emissions;
- Impacts on reservoir integrity;
- Impacts on property value; and
- Bitumen production.

Although not stated with the same degree of detail, the concerns you have raised and the impacts you have submitted in your regulatory appeal request are substantially the same as those raised previously in the statements of concern (SOCs) filed by you with respect to the initial subsurface, facility and pipeline applications filed by Tidewater which have now been approved and are the subject of your regulatory appeal request, the most recent of which being applications for Licence Amendments in 2021. In the September 16, 2021 response to your Statement of Concern, the AER found that you had not demonstrated you may be directly and adversely affected by the applications, which were subsequently approved<sup>2</sup>. You then requested a regulatory appeal which the AER also found did not contain any additional information to demonstrate that you may be directly and adversely affected by the decisions to approve the applications<sup>3</sup>. The AER does not find that the current request for regulatory appeal contains any additional information demonstrating you may be directly and adversely affected by the decision to approve the extension of the Well Licences. As the extension approvals relate to the same well licences, these reasons continue to apply.

With respect to your safety concerns, Tidewater has submitted to the AER that it has a corporate Emergency Response Plan in place to deal with an emergency should one occur. This meets the requirements as set out in *Directive 071: Emergency Preparedness and Response Requirements for the Petroleum Industry* as there is no H<sub>2</sub>S associated with Tidewater's gas storage project, including the proposed extension of the Well Licences. The AER can further confirm the approvals issued relate to Tidewater's existing gas storage project and are not for the purposes of Bitumen production.

The AER acknowledges you have also raised concerns regarding sound, odour, and water contamination. These concerns were addressed in the September 16, 2021 Decision Letter the AER sent to you regarding

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<sup>2</sup> AER Letter to Dale and Heather Sorenson - Statement of Concern No. 31972

<sup>3</sup> AER Disposition Letter - Request for Regulatory Appeal No. 1934734

your Statement of Concern<sup>4</sup>. The letter noted that AER staff had reviewed the Noise Impact Assessment completed by Motive Acoustics in March 2021 which was submitted as a requirement of Tidewater's application and found that the predicted overall sound level was within the permissible limits under *Directive 038: Noise Control*.

The September 16, 2021 Decision Letter also noted your concerns regarding air pollution were addressed through Tidewater's required compliance under *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting*. The letter further advised that your concerns surrounding decreased property value due to traffic, noise, and safety were outside of the jurisdiction of the AER.

Regarding stakeholder engagement on behalf of Tidewater, Tidewater has provided an email which was sent to you on October 8, 2021 informing of its intention to apply to extend the Well Licences.

Your lands and residence are approximately one kilometer (1.0 km) away from the lands to which the Facility Licence Amendment relates. You have not established a sufficient connection between the Facility Licence Amendment and the impacts with which you are concerned.

For the above reasons, the AER has decided that you have not demonstrated that you may be directly and adversely affected by a decision made under an energy resource enactment and as such are not eligible to request a regulatory appeal in this matter. Therefore, your request for a regulatory appeal is dismissed.

Sincerely,

<Original signed by>

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Sean Sexton  
Vice President, Law Branch

<Original signed by>

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Elizabeth Grilo  
Sr. Advisor, Regulatory

<Original signed by>

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Niki Atwal  
Senior Advisor, Policy Coordination

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<sup>4</sup> 2021-10-14 Sorenson Request for Reg. Appeal, pg. 27