

Via Email

February 16, 2023

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New Star Energy Ltd.

Alberta Energy Regulator – Compliance and
Liability Management Branch

Attention: Michael Scott

Attention: Danielle Brezina, Counsel

Dear Sir and Madam:

**RE: Request for Regulatory Appeal by New Star Energy Ltd.
Alberta Energy Regulator – Compliance and Liability Management Branch (CLM)
Alberta Energy Regulator’s 2021 Area Based Closure Program decision dated October 5,
2022, requiring New Star to pay security under section 1.100(2)(c) of the *Oil and Gas
Conservation Rules* to account for the outstanding liability attributed to the failure to achieve
the closure work approved in New Star’s Closure Plan
Location: Alberta
Request for Regulatory Appeal No.: 1939851**

The Alberta Energy Regulator (AER) has considered New Star Energy Ltd.’s (New Star) request under section 38 of the *Responsible Energy Development Act (REDA)* for a regulatory appeal of the AER’s October 5, 2022, decision requiring New Star to pay security under section 1.100(2)(c) of the *Oil and Gas Conservation Rules (OGCR)* to account for the outstanding liability attributed to the failure to achieve the closure work approved in New Star’s Closure Plan. The AER has reviewed New Star’s submissions and the submissions made by CLM.

For the reasons that follow, the AER has decided that New Star is eligible to request a regulatory appeal in this matter. Therefore, the request for a Regulatory Appeal is approved.

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

Appealable Decision

The decision to require security is an appealable decision, as the Decision was issued under the *Oil and Gas Conservation Act (OGCA)* without a hearing. Although not expressly referenced in the Decision, the AER’s ability to require a licensee to provide a security deposit at any time where it is considered appropriate to do so to offset the estimated costs of suspending, abandoning or reclaiming a well, facility, well site or facility site can be found in s. 1.100(2) of the *OGCR* under the *OGCA*.

Eligible Person

While New Star does not expressly address whether it is an eligible person in its RRA the fact that it is required to pay security as a condition of accounting for outstanding liability attributed to the failure to achieve the closure work approved in its Closure Plan is sufficient that it may be directly and adversely affected by the Decision. The impact of the Decision on Long Run appears to be economic, however, a recent 2020 decision from the Court of Appeal supports that an economic impact, such as the one in this case, may be enough to conclude that there may be a direct and adverse effect.¹

In Accordance with the Rules

The request for regulatory appeal was filed in accordance with the time limits under the Rules. Further, the AER has determined there is no justification to dismiss the regulatory appeal request at this stage under section 39(4) of the *REDA*.

¹ *Normtek Radiation Services Ltd v Alberta Environmental Appeal Board*, 2020 ABCA 456.

Sincerely,

<Original signed by>

Sean Sexton
EVP, Law and General Counsel

<Original signed by>

Niki Atwal
Senior Advisor, Policy Coordination

<Original signed by>

David Helmer
Senior Advisor, Regulatory