

**Via email only**

August 9, 2024

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

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

Blue Smoke Fireworks Ltd.

Bennett Jones LLP

**Attention: James Allyn**

**Attention: Daron Naffin**

Dear Parties:

**RE: Request for Regulatory Appeal by Blue Smoke Fireworks Ltd.  
Tourmaline Oil Corp. (Tourmaline)  
Application Nos.: 32782605, 32779771, 32779263, 32779221 (Applications)  
Well Licence Nos.: 0513037, 0513038, 0513039, 0513039 (Licences)  
Surface Well Location: LSD 01-06-79-08-W6M  
Request for Regulatory Appeal No.: 1950647**

The Alberta Energy Regulator (AER) has considered Blue Smoke Fireworks Ltd.'s (Blue Smoke) request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to approve the Applications and issue the Licences to Tourmaline (the Request). The AER has reviewed Blue Smoke's submissions and the submissions made by Tourmaline.

For the reasons that follow, the AER has decided that Blue Smoke is not eligible to request a regulatory appeal in this matter. It has not demonstrated that it is an "eligible person", a person that it is or may be directly and adversely affected by the decision to issue the Licences, and the request is not properly before the AER. Therefore, the Request is dismissed.

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]...

Further, section 39 states:

39(4) The Regulator may dismiss all or part of a request for regulatory appeal

- (a) if the Regulator considers the request to be frivolous, vexatious or without merit,
- (b) if the request is in respect of a decision on an application and the eligible person did not file a statement of concern in respect of the application in accordance with the rules, or
- (c) if for any other reason the Regulator considers that the request for regulatory appeal is not properly before it.

### **Reasons for Decision**

The AER makes evidence-based decisions. This means that to grant a request for regulatory appeal, it must have sufficient information which supports the appeal requester's assertion that it may be directly and adversely affected by the decision(s) in relation to which an appeal is requested. A fundamental and necessary piece of information is the location of the requester relative to the proposed development.

In this case, the information you have provided is not sufficient to demonstrate direct and adverse effect. You have indicated that Blue Smoke is located on a particular quarter section of land [SE-08-79-08-W6M], which is at least 1470 m from the surface location of the four subject wells associated with the Licences [01-06-79-08-W6M]. While you have not indicated Blue Smoke's precise location in southeast quarter of Section 8-079-08W6M, the information provided indicates that Blue Smoke is at least 1 km beyond the maximum Emergency Planning Zone of 440 m calculated in the Applications. Further, statements regarding prevailing winds are too vague to establish a connection between the Licences and egress concerns and no clear information about use of lands has been provided. The location information you have provided is not sufficiently precise to allow the AER to assess your assertion of potential direct and adverse impact.

For this reason, we cannot conclude that Blue Smoke may be directly and adversely affected by the decision to issue the Licences and therefore is not eligible to request a regulatory appeal.

Further, the wide range of concerns were general in nature and lacking information about how they are or may be directly connected to the Licences themselves, such that the Request is not properly before the AER pursuant to section 39(4)(c) of REDA.

Based on the above, the Request is dismissed.

We note that Tourmaline will be required to comply with *AER Directive 071: Emergency Preparedness and Response Requirements (Directive 071)* which addresses emergency planning and response. *Directive 071* focuses on preparedness and response to emergencies that require the protection of the public and the environment.

Sincerely,

<Original signed by>

---

Steve Thomas  
Director, Oil & Gas Subsurface, Waste & Storage

<Original signed by>

---

Niki Atwal  
Senior Advisor, Policy Coordination

<Original signed by>

---

Paul Ferensowicz  
Principal, Regulatory Advisor