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By email only

January 26, 2026

MAGA Energy Ltd.

Attention: Biagio Mele

**Alberta Energy Regulator – Regulatory Compliance
Branch**

Attention: Maria Lavelle, Counsel
Krista Gibson, Counsel

Dear Parties:

RE: Stay Request - Request for Regulatory Appeal by MAGA Energy Ltd. (MAGA) Alberta Energy Regulator – Regulatory Compliance Branch (Regulatory Compliance) Enforcement Order issued to MAGA, under sections 22, 26.2 and of the *Oil and Gas Conservation Act*, sections 113 and 241 of the *Environmental Protection and Enhancement Act (EPEA)*, section 3.012 of the *Oil and Gas Conservation Rules*, and section 22.1 of the *Pipeline Act* on December 4, 2025 (the Order)

Locations: Various

Request for Regulatory Appeal No.: 1960020

The Alberta Energy Regulator (**AER**) has considered the December 11, 2025, request of MAGA, under section 39(2) of the *Responsible Energy Development Act (REDA)*¹ for a stay of certain sections of the above referenced Order issued to MAGA, by the AER's Regulatory Compliance on December 4, 2025 (the **Decision**). The Decision is the subject of the above-noted request for regulatory appeal.

Following review and consideration of the submissions provided by both MAGA and Regulatory Compliance, the AER denies MAGA's request for a stay of paragraphs 7, 8, and 9 of the Order for the reasons that follow. These paragraphs read as follows:

7. Within sixty (60) calendar days from the date of this Order, MAGA must fully complete the abandonment (downhole and surface abandonment) of the [Overdue Mineral Lease Expiry Wells (**MLE Wells**)] listed in Appendix 3. ...

8. By December 15, 2025, MAGA must pay the outstanding Administrative Fee balance of \$126,221.09.

9. By December 28, 2025, MAGA must pay the outstanding Orphan Fund Levy balance of \$377,055.61.

¹ SA 2012, c R-17.3

Regulatory Compliance issued the Order to MAGA under sections 22 and 26.2 of the *Oil and Gas Conservation Act* (**OGCA**),² section 113 and 241 of the *Environmental Protection and Enhancement Act*,³ section 22.1 of the *Pipeline Act*,⁴ and section 3.012 of the *Oil and Gas Conservation Rules*⁵ (**OGCR**).

REASONS FOR DECISION

AER's Authority re: Stays

Section 38(2) of *REDA* states that filing a request for a regulatory appeal does not operate to stay the appealable decision. Under section 39(2) of *REDA*, the AER may stay all or part of an appealable decision on any terms and conditions it determines, if requested by a party to a regulatory appeal. When considering a stay request, the AER applies the three-part test set out by the Supreme Court of Canada in *RJR-MacDonald Inc v Canada (Attorney General)*.⁶ The three parts of the test are:

1. Is there a serious question to be heard at the appeal?
2. Will the stay applicant suffer irreparable harm if the stay request is refused?
3. On the balance of convenience, which party would suffer greater harm from the grant or refusal of the stay request?⁷

Further, the party seeking the stay (MAGA) has the onus to demonstrate the test is met.

1 Serious Question

The first step in the test requires the stay applicant to establish that there is a serious issue to be heard. The applicant has to demonstrate that there is some basis on which to present an argument on the requested appeal. This is a very low threshold. The stay applicant need only show that the requested appeal is not frivolous or vexatious.

According to MAGA's submissions, it had inquired of the AER's leadership to determine whether interest on MAGA's security held by the AER could be used to pay its outstanding Orphan Fund Levy balance, Administrative Fees balance, and to abandon the MLE Wells. One of MAGA's central arguments is that Regulatory Compliance acted unfairly, unreasonably, and against MAGA's legitimate expectations in not awaiting a response from the AER's leadership before issuing the Order. However, MAGA informed us in its January 5, 2026 reply submission that the AER Finance department had responded after MAGA filed its request for regulatory appeal, and the answer to the inquiry was that the interest on the security may only be applied toward abandonment, remediation, and reclamation work.

² RSA 2000, c O-6.

³ RSA 2000, c E-12.

⁴ RSA 2000, c P-15.

⁵ Alta Reg 151/1971.

⁶ [1994] 1 SCR 311 [*RJR MacDonal*d].

⁷ *Ibid* at 334.

MAGA's other submissions with respect to the "serious question to be heard" branch of the stay test are:

- There is no rational basis for the timelines in the impugned paragraphs of the Order, and the timelines are unachievable;
- The Order did not account for MAGA's financial circumstances, and puts debt payment over environmental concerns;
- The Director improperly exercised discretion by setting an unreasonable timeline for abandoning the MLE Wells; and
- Regulatory Compliance's aggressive position taken in its response to the stay request raises a further issue of reasonable apprehension of bias.

Regulatory Compliance's submissions in respect of the serious issue to be heard are:

- Regulatory Compliance met with MAGA numerous times prior to issuing the Order in an attempt to bring MAGA into compliance, and after this period of time it was necessary and reasonable to impose formal deadlines on MAGA;
- The deadlines in the Order were framed around the representations made by MAGA that one of the MLE Wells could be brought into compliance by October 31, 2025 and the remaining three by Spring of 2026, and even after seeing a draft of the Order MAGA raised no concerns about the proposed abandonment timelines;
- MAGA was advised that Regulatory Compliance does not have the authority to approve the use of interest on security in the manner requested by MAGA for the Order; and
- Section 3.012 of the *OGCR* obligates licensees to abandon wells when they no longer hold the mineral leases for those wells, so MAGA's assertion that paragraph 7 of the Order was unreasonable is without merit.

Analysis

The payment of the Orphan Fund Levy and Administrative Fees became past due on May 1, 2025. Both Regulatory Compliance and MAGA submitted that the parties discussed payment in the latter half of 2025 that MAGA previously committed to pay the outstanding amounts, including by November 28, 2025 specifically in respect of the Administrative Fees. Regardless of whether paragraphs 8 and 9 of the Order are stayed these two levies would remain overdue and owing, as they have since May 2025. Further, MAGA has now advised that it received an answer from AER Finance confirming that interest on security cannot be used to pay the Orphan Fund Levy and Administrative Fees. As such, we find that the issues MAGA raises with respect to paragraphs 8 and 9 of the Order are not serious issues to be heard.

Section 3.012 of the *OGCR* reads "A licensee *shall* abandon a well or facility *on the termination* of the mineral lease..." (emphasis added).⁸ There is no assertion that MAGA has or intends to reacquire the mineral lease with respect to the MLE Wells and it is clear from section 3.012 that the obligation to abandon was non-discretionary. MAGA argues only that what was unreasonable was Regulatory Compliance's 60-day requirement to complete the abandonment of the MLE Wells.

We note that the 60 calendar days given to MAGA to complete the abandonment of the MLE Wells was based on timelines that MAGA had previously indicated it could achieve, and that this timeline was imposed after approximately 20 months of non-compliance with s. 3.012 of the *OGCR*. MAGA did not dispute that it is required to abandon the MLE Wells; its issue is with the timing, and in light of the timeline being based on information originally provided by MAGA to Regulatory Compliance, we are not convinced MAGA's submissions have demonstrated that there is any merit to this issue.

We also note that MAGA's allegation of reasonable apprehension of bias is attributed solely to the wording contained in Regulatory Compliance's response submission. Allegations of a reasonable apprehension of bias must be based on serious and substantial grounds, substantiated by evidence that shows that a reasonable and right minded person, putting their mind to the question, would conclude that the decision-maker decided the matter unfairly, such as with objective evidence of a significant animus or pattern of hostility against the person claiming bias.⁹ We find that there is no such evidence here and as such this issue does not meet the threshold of a serious issue to be heard.

On this basis, the first part of the stay test has not been met. This conclusion in no way predetermines the disposition of the request for regulatory appeal or the issues that would be the subject of a hearing on the regulatory appeal should it be granted. As the standard for the first test is low, we will address the remainder of the test.

2 Irreparable Harm

The second step in the test requires the applicant for the stay to establish that they will suffer irreparable harm if the stay is not granted. Irreparable harm will occur if the stay applicant will be adversely affected by the conduct the stay would prevent if the applicant ultimately prevails on the regulatory appeal. It is the nature of the harm and not its magnitude that is considered. The harm must be of the sort that cannot be remedied through damages (i.e., monetary terms) or otherwise cured.¹⁰ As noted by the Alberta Court of Appeal, irreparable harm is "of such a nature that no fair and reasonable redress may be had in a court of law and that to refuse the [stay] would be a denial of justice."¹¹

⁸ *OGCR*, s 3.012(a).

⁹ *Wewaykum Indian Band v Canada*, 2003 SCC 45 at paras 60, 76.

¹⁰ *RJR MacDonald* at 341.

¹¹ *Ominayak v Norcen Energy Resources Ltd*, 1985 ABCA 12 at para 31, citing *High on The Law of Injunction*, 4th ed, vol 1 at 36.

The Federal Court of Canada has described the onus that rests upon the stay applicant to meet the irreparable harm test as follows:

The burden is on the party seeking the stay to adduce clear and non-speculative evidence that irreparable harm will follow if their motion is denied.

That is, it will not be enough for a party seeking a stay to show that irreparable harm *may arguably result* if the stay is not granted, and allegations of harm that are merely hypothetical will not suffice. Rather, the burden is on the party seeking the stay to show that irreparable harm *will result*.¹²

For this part of the test, MAGA submits that there is irreparable harm because the Order's requirement for MAGA to pay a total amount of \$503,276.70 within less than a month of the Order and to abandon certain assets within less than two months of the Order would render MAGA insolvent and force it to seek creditor protection, with MAGA having no redress for the harm suffered. MAGA also submits it has been pursuing additional asset dispositions to generate near-term liquidity needed to fund abandonment and remediation activities, but it has already been harmed through a loss of transactional confidence arising from active regulatory enforcement. MAGA submits that if enforcement is escalated it is at risk of losing commercial counterparties from ongoing projects, which would result in lost opportunity for MAGA to restore production, cash flow, and compliance capacity. MAGA has not provided financial statements or similar evidence to support its submissions with respect to irreparable harm.

MAGA has not provided evidence with respect to the cost of the required abandonment work, or whether it has sought permission to apply interest on security to fund the abandonment work. In any event, this harm is monetary in nature.

Analysis

As noted above, even if we were to stay the Order, the Orphan Fund Levy and Administrative Fees would remain due and owing because they have been overdue since May 1, 2025. The \$503,276.70 figure associated with the Levy and Fees does not constitute irreparable harm. We note further that whether or not it is difficult to obtain financing to comply with a cost order is not part of the stay test.¹³

Unlike the AER's stay decision *Mojek Resources Inc. (Mojek)*,¹⁴ the entire operations of MAGA are not being ordered suspended - rather, the Order only requires abandonment of the four MLE Wells. MAGA provided no financial records from its operations to substantiate that its revenue from other assets cannot be used to fund this abandonment work. The stay requester must provide clear and nonspeculative evidence that it will suffer irreparable non-compensable harm if a stay is not granted. There is no such clear and nonspeculative evidence before us.

¹² *Canada (Attorney General) v Amnesty International Canada*, 2009 FC 426 at paras 29 and 30 [citations omitted] [emphasis in the original].

¹³ [AER Letter Decision, Stay Request by Topanga Resources Ltd, Alberta Energy Regulator's decision to issue a Reasonable Care and Measures Order to Topanga](#) (July 31, 2024).

¹⁴ [AER Letter Decision, Request for Regulatory Appeal by Mojek Resources Inc of Reasonable Care and Measures and Abandonment Order AD 2021-004, Appeal No 1932652](#) (August 24, 2021).

Additionally, MAGA's allegations that there has been a loss of transactional confidence in it because of regulatory action does not help to demonstrate irreparable harm. This is because the regulatory action in this case – enforcing compliance with *OGCR* section 3.012(a) - is non-discretionary. MAGA is and has been for some time required to abandon the MLE Wells.

Thus, the AER finds that MAGA has failed to demonstrate any harm they *may* suffer, let alone any *irreparable* harm that they *will* suffer as a result of the stay not being granted. Accordingly, MAGA has not satisfied the second branch of the stay test and the request for a stay is denied.

3 Balance of Convenience

The test for a stay is conjunctive; an applicant for a stay must demonstrate that it meets each of the elements of the three-part test. MAGA has failed to satisfy the other parts of the test, so consideration of the third part of the test is not strictly necessary.

MAGA submits that the balance of convenience supports the granting of a stay because MAGA cannot comply with the timelines in the Order, meaning the next step would be the AER ordering the shut in and/or abandonment of MAGA's assets, resulting in cessation of MAGA's operations, financial loss to MAGA and its directors, staff, shareholders, and creditors, and inability to meet regulatory obligations and to conduct abandonment and reclamation work. MAGA submits the only harm in granting the stay would be delays to collection of deposits and the completion of abandonment work.

MAGA submits that it is a safe operator, and that there is no evidence that a short stay would expose the public or the environment to harm. MAGA submits that the immediate enforcement risks transferring \$67 million in liabilities to the Orphan Well Association and that this is not speculative as there are multiple examples where AER enforcement has resulted in companies filing for insolvency. MAGA submits that the convenience of asking for an immediate collection of \$500,000.00 in fees is outweighed by the greater harm of insolvency and orphaning assets that MAGA is actively working to remediate. Additionally, MAGA alleges that although it admits it has not met some deadlines, its noncompliances in this respect are the result of extraordinary third-party and regulatory delays outside of its control and that MAGA is not a chronic non-performer. MAGA submits that its challenge is not unwillingness to address non-compliance, but rather a lack of available funds to do so immediately, and that granting a stay would advance the interest of landowners (that MAGA is actively working with) and the environment by enabling MAGA to execute some of its closure work that relates to existing Statements of Concern and resolving the MLE Wells in an orderly manner.

Regulatory Compliance submits that the balance of convenience favours denying the stay request because the issuance of the Order was pursuant to valid legislation to effect compliance with regulatory requirements and fulfill the AER's mandate. The requirement to abandon wells with expired mineral rights leases ensures that the wells are not left for the public to close or until the mineral rights are reacquired. Regulatory Compliance submits that repeated extensions undermine the AER's ability to ensure the orderly development of energy resources in Alberta and compromise fairness to operators who do meet their regulatory obligations and pay their proportionate share of fees on time.

Analysis

Weighing the balance of convenience involves examining which party will suffer more harm from granting or refusing the stay. The AER must weigh the burden the stay would impose against the benefit MAGA will receive from a stay. This requires the AER to consider significant factors and not just perform a cost-benefit analysis.

In cases involving orders protecting the public and environment, the public interest is a relevant consideration as it is not only the impact to the body issuing the order that needs to be measured, but the potential impact to the public and the environment.

Regulatory Compliance acted pursuant to validly enacted legislation when it issued the Order. The Order is intended to ensure and enforce compliance with the requirements in that legislation, the objects of which include securing the observance of safe and efficient operating practices, responsible management of oil and gas infrastructure, pollution control, and the responsible development in the public interest of the oil and gas resources of Alberta.¹⁵ This legislation and actions undertaken to ensure compliance serve the public interest and are assumed to do so, and that is to be factored into the balance of convenience analysis.

While the *RJR MacDonald* case dealt with suspension of legislation, its findings apply to activities (such as enforcement) undertaken pursuant to carrying out public interest responsibilities under legislation:

In the case of a public authority, the onus of demonstrating irreparable harm to the public interest is less than that of a private applicant. The test will nearly always be satisfied simply upon proof that the authority is charged with the duty of promoting or protecting the public interest and upon some indication that the impugned legislation, regulation, or activity was undertaken pursuant to that responsibility. Once these minimal requirements have been met, the court should in most cases assume that irreparable harm to the public interest would result from the restraint of that action.¹⁶

Moreover, though the passage above relates to irreparable harm, it overlaps with and is material to the application of the balance of convenience test to the present matter. Irreparable harm to the public interest is assumed where a stay would have the effect of restraining actions taken pursuant to public interest legislation. From this, it can be taken that there would be irreparable harm to the public interest if paragraph 7 of the Order is stayed, and this is a significant factor in the balance of convenience test weighing against the granting of a stay.

Similarly, we note paragraphs 8 and 9 relate to timing for payment of MAGA's outstanding Orphan Fund Levy balance and Administrative Fees. These things fund, respectively, the operations of the Orphan Well Association and the AER in carrying out their mandates in the public interest. Moreover, as noted above, the obligation to pay the Orphan Fund Levy and Administrative Fee predates the Order and exists independent of it, so this does not assist MAGA in the balance of convenience analysis.

¹⁵ OGCA, s. 4.

¹⁶ *RJR MacDonald* at 346.

With respect to the required abandonment of the MLE Wells, the fact that MAGA is at a point where it is not in a position to comply with AER requirements and the Order without becoming insolvent is problematic for MAGA. Its overall financial difficulties which form the primary basis of its stay request clearly predate the Order, and cannot be solely attributed to the Order. Ultimately, MAGA has had over 8 months to pay its outstanding Orphan Fund Levy balance and Administrative Fees, and over 20 months to comply with its abandonment requirements in respect of the MLE Wells, and has not done so. These circumstances weigh against granting MAGA's stay request when factored into the balance of convenience assessment.

In view of the above, the public interest in keeping paragraph paragraphs 7, 8, and 9 of the Order in effect outweighs the potential harms MAGA identified as arising if it becomes insolvent. Consequently, the AER finds, in addition to failing to demonstrate irreparable harm, MAGA has not established that the balance of convenience favours the AER granting the requested stay.

CONCLUSION

The stay request is dismissed because MAGA has failed to raise a serious issue to be heard, demonstrate irreparable harm, and establish that the balance of convenience favours granting the stay.

The AER will provide its decision on the request for regulatory appeal in due course.

Sincerely,

<Original signed by>

Evan Knox

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