

Via Email

June 23, 2017

Larry Betker

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canadawww.aer.ca

Dear Sir:

**RE: Request for Regulatory Appeal by Larry Betker
Tidewater Midstream and Infrastructure Ltd.
Application No.: 1823491 (License F48965); 1839269 (License 57708)
Regulatory Appeal No., 1849408 (Regulatory Appeal)**

The Alberta Energy Regulator (AER) has considered your requests under section 38 of the *Responsible Energy Development Act (REDA)* for a regulatory appeal of the AER's decision to approve the Licences. The AER has reviewed your submissions and the submissions made by Tidewater Midstream and Infrastructure Ltd (Tidewater).

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, if that decision was made without a hearing.

Section 30(1) of the *AER's Rules of Practice* requires that a regulatory appeal request must contain certain information, including:

30(1) A request for a regulatory appeal must be in writing and must contain the following:

(b) an explanation as to why the person should be considered an eligible person under section 36 of the Act; [and]

(e) the grounds on which the request for regulatory appeal is made;

For the reasons that follow, the AER has decided that you have not filed your regulatory appeal request in accordance with the AER's *Rules of Practice* and you are not directly and adversely affected by a decision made under an energy resource enactment. You are therefore not eligible to request a regulatory appeal in this matter. Therefore, the requests for a Regulatory Appeal are dismissed.

Reasons for Decision

In your regulatory appeal requests, your primary concerns are with safety in the event of an incident relating to Tidewater's gas injection and storage operations, and the potential for noise, odour and groundwater impacts.

At the outset, the AER notes that you did not articulate the specific grounds for requesting a regulatory appeal or why you are an eligible person contrary to section 38(1) of the *REDA* and section 30(1) (b) and (e) of the *AER's Rules of Practice*. Instead, you have adopted and attached previous statements of concern to your regulatory appeal request dated July 27th and 28th, 2015 which you filed with the AER on the initial pipeline and facility applications. This does not, in the AER's view meet the mandatory requirements of *REDA* or the *Rules of Practice*, and as a result the RA request is not properly before the AER.

In addition, the previous SOC's you purported to file as regulatory appeal requests do not demonstrate that you are or may be directly and adversely affected. In its December 10, 2015 written response to your statements of concern, the AER found that you would not be directly and adversely affected by the applications, which have now been approved. Fulsome reasons were provided for this finding, and you have provided no additional information to support that you are directly and adversely affected by the approvals. As there are no new facts or grounds to consider, the AER has read and adopts its previous reasons in the December 10, 2015 letter to you and finds that you have not demonstrated that you are or may be directly and adversely affected by its decisions to approve the licenses.

In addition to its previous reasons, the AER notes that there are numerous reservoirs in Alberta currently operating under gas injection and storage approvals. The Dimsdale Paddy A Reservoir into which gas will be injected is approximately 1,300 meters below the surface. It is an approximately 10 m thick porous rock formation. Gas is injected and stored within the porous rock. Prior to being used for injection, natural gas had been produced from the reservoir. Prior to being depleted due to production, the original reservoir pressure was 10,485 kPa. Tidewater's storage approval prohibits the average reservoir pressure from exceeding the initial reservoir pressure, and limits the volume of gas that can be injected. Injection wells have met or must meet all Directive 051 requirements for injection operations, including requirements for well integrity. Further, injection at a well must not exceed the maximum wellhead injection pressure prescribed in Tidewater's scheme approval, determined through the Directive 065 application process. The examples of incidents you previously cited in your SOC were and are not relevant to the AER's consideration of whether you may be impacted by Tidewater's storage scheme and related facilities because these incidents are factually distinct. They relate to different operators in separate jurisdictions, operating under different requirements. The 2014 incident in Saskatchewan relates to a solution mined storage salt cavern at a pumping tank, which is different than storage of gas into a depleted naturally occurring gas reservoir. The incident in California appears to have been caused as a result of safety valves being intentionally removed and not replaced from a well that was drilled in 1953.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Please also note that the pipeline, which will transport sweet natural gas and is located more than 1.2 km from your lands, has recently been amended to account for lower operating pressure and a smaller diameter of pipe

The AER finds that you have not filed your regulatory appeal in accordance with *REDA* and the AER's *Rules of Practice* and you have not demonstrated that you are or may be directly and adversely affected by the decision to issue the licences. Therefore, you are not an eligible person for the purposes of section 38(1) of *REDA* and the request for a regulatory appeal is dismissed.

Sincerely,

< original signed by >

K. Parks
Chief Geologist

< original signed by >

K. Fisher
Manager, Regulatory Effectiveness

< original signed by >

R. Marx
Director, Regulatory Development, Strategic Management

Cc: Tidewater