

Via Email

August 17, 2016

OMERS Energy Inc.

Richard Holyk

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canadawww.aer.ca**Attention: Robert Meagher**

Dear Sirs:

**RE: Request for Regulatory Appeal by Richard Holyk (Mr. Holyk)
OMERS Energy Inc. (OMERS)
Reclamation Certificate No. 00305385-00-00
Location: 15-10-057-18W4M
Regulatory Appeal No. 1856995 (Regulatory Appeal)**

The AER has considered the submissions filed in regards to the above captioned matter and has determined that a hearing into the Regulatory Appeal will be held as the legislative tests have been met. In his request for regulatory appeal, Mr. Holyk raises concerns with the state of the site, including compaction, topsoil and subsoil issues, poor crop production as compared to adjacent land, and issuance of the reclamation certificate for the site.

In its letter dated April 28, 2016, the AER advised that, by operation of sections 91(1)(i) and 145 of the *Environmental Protection and Enhancement Act (EPEA)* and section 36 of the *Responsible Energy Development Act (REDA)*, the tests for appealable decision and eligible person have been met in this case.

OMERS argued that the request for regulatory appeal was without merit. However, based on the photo evidence provided by Mr. Holyk and OMERS' assertion that variation of the site is natural, the AER has determined a hearing of the Regulatory Appeal is warranted. Further, *EPEA* grants a landowner whose lands are subject to a reclamation certificate an automatic right of regulatory appeal. Therefore, to limit the landowner's right of regulatory appeal in this case requires extraordinary and obvious circumstances mitigating against that right. No such circumstances exist in this case.

Given the above, the AER has requested that the Chief Hearing Commissioner appoint a panel of hearing commissioners to conduct a hearing of the Regulatory Appeal.

Sincerely,

[original signed by:]Patricia M. Johnston, Q.C. I.C.D.
Executive Vice President Law and
General Counsel

cc: Sean Sexton and Alison Koper, Counsel for Reclamation Program Group