

Via Email

December 19, 2017

Garry & Virginia Matheson

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

www.aer.ca

Dear Sir and Madam:

**RE: Request for Regulatory Appeal by Garry & Virginia Matheson
High Ground Energy Inc. (High Ground)
Application No/s.: 1898434, 1898841; Well Licence No/s.: 485625, 485753
Location/s: 16-02-035-03W4M, 16-01-035-03W4M,
Request for Regulatory Appeal No.:1902195**

The Alberta Energy Regulator (AER) has considered your request 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 HGEI.

For the reasons that follow, the AER has decided that you are not eligible to request a regulatory appeal in this matter. Therefore, the request for a Regulatory Appeal 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]...

Reasons for Decision

In your regulatory appeal request you have stated concerns about potential impacts to you or your lands due to land spraying, and construction and drilling activities during dry conditions. You also have concerns about potential impacts on your water wells and groundwater sources due to hydraulic fracturing activities.

Lastly, you have raised concerns about the fact that you were not notified about the original well applications, and for this reason were not able to file a statement of concern prior to the AER's approval of the well licenses. The AER accepts that this is a valid explanation for not having filed a statement of concern prior to the AER's approval of the well licenses.

Your concern about the possibility that land spray may have migrated on to and impacted your lands and cattle does not relate to the subject wells, which have not yet been drilled. High Ground has also indicated that land spray while drilling occurred at the 9-2-35 pad site, but that it was done in accordance with regulatory requirements, and that no migration of fluids on to your lands or elsewhere occurred.

Your concern about fire hazards due to lease preparation and drilling activities occurring during drought and fire hazard conditions also does not appear to relate to the subject wells, as they have not yet been drilled. To the extent that these concerns may relate to the drilling of the subject wells, the AER notes that High Ground has agreed to suspend its drilling operations until January, 2018 when it is very unlikely that such conditions will be present. In the AER's view, there is very little risk of fire hazards resulting from the drilling of the subject wells, and it is a contravention of AER requirements to create a fire, or cause one to be created, within 50 meters of the well, once drilled.

Future land spraying and other operational activities by High Ground must comply with all AER regulatory requirements. To report any concerns about impacts to your lands due to land spraying or to report any other issues you may have with High Ground's construction, drilling or production operations, please call the AER's Energy and Environmental 24-hour Response Line at 1-800-222-6514.

Regarding your concern about the impacts of hydraulic fracturing activities on your water wells and groundwater sources, the AER has numerous requirements which specifically address the protection of groundwater and water wells, including Directive 008: *Surface Casing Depth Requirements*, and Directive 083: *Hydraulic Fracturing – Subsurface Integrity*. The primary purpose of Directive 008 is to design appropriate depths of surface casing to assist with well control and groundwater protection. A primary regulatory objective of Directive 083 is to prevent impacts to water wells. Licensees' wells must comply with the surface and subsurface setback distances stated in Directive 083 in relation to water wells. Further, it is a contravention of AER requirements to impact ground water sources due to energy activities. Any such contravention would be subject to AER enforcement action, which may include suspension of operations and other remedial action. Please note that, although offered to you, there is no requirement that High Ground baseline test your water wells in advance of drilling its wells.

As to your concern about the fact that you were not notified about the original well applications, this matter was referred to an Applications Integrity Auditor from the AER's Authorizations branch for review.

Regardless of the outcome of that review, you have been afforded an opportunity to provide and have your concerns considered by the AER through the regulatory appeal process. This process adequately addresses any deficiencies or impacts resulting from High Ground's notification processes. However, the AER reminds High Ground that *Directive 056* sets out the minimum requirements for participant involvement. As an operator with multiple projects in the area, the AER encourages High Ground to establish a fulsome and inclusive participant involvement program.

Conclusion

Given the foregoing, the AER finds that you are not directly and adversely affected by the decision to issue the well Licences. You are therefore not an "eligible person" under section 36(b)(ii) of the REDA. Accordingly, the AER dismisses the request for regulatory appeal.

As previously noted, HGEI indicated in writing to the AER that it would voluntarily delay the drilling of the wells that are the subject of your regulatory appeal request until January 2nd, 2018. In your request for regulatory appeal, you requested that the AER suspend 'all approvals granted to High Ground Energy Inc. until they meet with affected landowners/occupants' and address their concerns. Barring valid reasons such as non-compliance with certain specific AER requirements, the AER does not have authority to suspend well licenses that are not the subject of a regulatory appeal. As the AER has decided to dismiss your regulatory appeal request, and there is no evidence of non-compliance with AER requirements that would justify a suspension of any or 'all of High Ground's approvals', your suspension request is denied.

Sincerely,

<original signed by>

Paul Ferenowicz M.A.
Senior Advisor, Operations Division

<original signed by>

Gerry Boyer
Senior Advisor, In Situ, Industry Operations

<original signed by>

Tom Byrnes, P. Eng.
Senior Advisor, Oil & Gas, Industry Operations

Cc: Glen Richardson - High Ground Energy Inc.