

Via Email

June 23, 2017

Laurie Friesen

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

Dear Madam:

**RE: Request for Regulatory Appeal by Laurie Friesen
Tidewater Midstream and Infrastructure Ltd.
Application No.: 1823491 (License F48965); 1839269 (Licence 57708)
Location: 08-25-071-07W6M
Regulatory Appeal No. 1849413 (Regulatory Appeal)**

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 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.

For the reasons that follow, the AER has decided that you are not directly and adversely affected by a decision made under an energy resource enactment and 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 relate to safety in the event of an incident relating to Tidewater's gas injection and storage operations, consultation and notification processes regarding Tidewater applications (or those of its predecessors), and impacts to your property values.

At the outset, the AER notes that the concerns you have raised and the impacts you have alleged are generally the same as those raised previously in statements of concern filed on your behalf with respect to the initial applications captioned above. In its 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.

You raised the possibility that Tidewater's project may result in an incident and offered examples of incidents that have occurred at other facilities. The incident in California that you referred to 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. This example is not relevant to the AER's consideration of whether you may be impacted by Tidewater's project and related facilities because the incident relates to different operators in separate jurisdictions, operating under different requirements.

The project to which the pipeline and facility approvals relate is for the injection of sweet natural gas into an underground reservoir. 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. All wells approved for injection 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.

Tidewater must also comply with a number of operational requirements and technical specifications in the design, construction, and operation of its pipeline. The AER thoroughly reviews the application to ensure that all technical requirements are met. Tidewater will also use Supervisory Control and Data Acquisition equipment to provide 24 hour a day monitoring of the pipeline for possible leaks or ruptures. The pipeline will have emergency shutdown valves and pressure control devices which will activate in the event of a change in pressure. The distance of the nearest boundary of your lands from the pipeline is approximately 605 meters away, and the pipeline will transport sweet natural gas. Please also note that the pipeline has recently been amended to account for lower operating pressure and a smaller diameter of pipe.

Regarding your concerns about impacts to property values, the AER notes that you are approximately 878 m away from Tidewater's facility site, and there is pre-existing oil and gas infrastructure in similar proximity to your lands. In addition, Tidewater's pipeline will be buried underground. In support of this ground of your regulatory appeal request you have provided information from two studies about impacts to property values due to industrial development. The abstract of the first study that you provided suggests that there can be negative impacts to property values due to sour gas wells and flaring oil batteries in Central Alberta and the other study focusses on industrial development in the Netherlands. These sources of information do not relate to your property, Tidewater's gas storage project, or the region in Alberta where the project is located. They therefore do not support the argument that there may be an impact on your property values due to Tidewater's facility or pipeline. Anecdotal accounts of your discussions with realtors are also insufficient to support your claim of a decrease in property value, and the AER notes there is no written confirmation or opinion from a realtor, or a property appraiser as to the projected decrease in your property value, and no indication as to the extent to which factors and circumstances specific to your property, the surrounding area, and Tidewater's project factored into any opinion provided.

Based on the above, you have not demonstrated that you are or may be directly and adversely affected by the AER's decision to approve pipeline License 57708 or Facility License F48965.

Regarding your concern about a lack of notification of the application for the initial Gas Storage Approval Scheme 12203A, this scheme was approved on January 2, 2014, in the name of Ranchwest Energy Inc. As the application was for subsurface scheme approval, AER requirements only required subsurface interest holders to be notified. As you know, the AER also recently directed Tidewater apply non-routinely for and notify you of all applications regarding its gas storage project, whether subsurface or surface related. Please also be aware that the AER considers each application on its

own merits, and previous approvals such as Tidewater's scheme approval do not bear on the review or requirements that must be met with respect to other applications, which are considered on their own merits. Regarding your concerns about stakeholder engagement on behalf of Tidewater, the AER notes that since your regulatory appeals have been filed Tidewater has devoted additional time and effort towards addressing stakeholder concerns about its proposed gas storage project and related infrastructure. The AER has also recently advised that it expects Tidewater to bundle its individual applications wherever possible so that the AER can consider the applications, potential impacts, and statements of concern on a project basis. Tidewater's most recent applications have followed this process.

You have also indicated that you are troubled by the commitments the AER considered in deciding to approve the applications. It should be noted that the commitments you are referring to relate to water testing and replacement in the unlikely event of an impact to groundwater due to *additional wells being drilled*. The AER found that the approvals in question i.e. the well and facility that are the subject of the regulatory appeal requests would not impact groundwater. Hence the concern about commitments does not relate to the pipeline (Licence 57708) or facility (License F48965) for which you have requested regulatory appeals. In any event, it is open for the AER to consider commitments made by an applicant in assessing an application and its potential for impact on parties, and there is no requirement to include conditions for every detail of construction or operation of oil and gas infrastructure: *Bokenfohr v Pembina Pipeline Corporation*, 2017 ABCA 40.

The AER confirms that Tidewater is required to have and keep current a corporate level emergency response plan pursuant to *Directive 071* requirements in regards to its gas storage project.

The AER finds that 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