

**Via Email**

December 21, 2017

Bryan Melin

Rifle Shot Oil Corp.

Calgary Head Office  
Suite 1000, 250 – 5 Street SW  
Calgary, Alberta T2P 0R4  
Canada[www.aer.ca](http://www.aer.ca)**Via Mail****Attention : Jim Rasmussen**

Dear Sirs:

**RE: Request by Bryan Melin  
Rifle Shot Oil Corp. (Rifle Shot)  
Application Nos.: 1900548; 1900893; 1900618; 1902048 (Applications)  
Licence Nos.: 0486535; 0486576; 0486536; 0486726 (Licences)  
Surface Locations: 06-0739-6W4M; 14-06-39-6W4M; 03-07-39-6W4M  
Request No.: 1904256**

This letter responds to Mr. Melin's letter to the Alberta Energy Regulator (AER) dated December 14, 2017, in which he asked the AER to explain why the well licences identified above were issued by the AER without him receiving a response to the statement of concern (SOC) he delivered by hand to the AER Wainwright Field Centre on November 22, 2017.

After receiving Mr. Melin's letter, the AER made inquiries and determined that the well licences were issued without the SOC having been formally filed or considered by the AER decision-makers who issued the Licences. Specifically, the AER discovered that, although Mr. Melin hand delivered the SOC to AER staff at the Wainwright Field Centre on November 22, 2017 for forwarding to and filing at the AER's head office, when Wainwright staff emailed the document to the AER head office they used an email address that is no longer active. As a result, the SOC was not received or filed at head office, and the AER issued the Licences following expiry of the 30-day public notification period on the basis that no statements of concern were filed in response to the applications. The AER accepts responsibility for this error and has taken steps to ensure this does not happen again.

Because the AER cannot treat the SOC retroactively, *i.e.* after the applications are approved and the Licences issued, and because Mr. Melin reasonably believed that by delivering the SOC to the Wainwright Field Centre the SOC would be reviewed, processed and considered prior to issuance of the Licences, the AER has decided to consider Mr. Melin's December 14<sup>th</sup> letter (supplemented by his SOC document) as a request for a regulatory appeal. In that context, Mr. Melin is considered to have filed his SOC in relation to each of the well licence applications before the 30 day time period for doing so expired.

This regulatory appeal concerns well licences issued to Rifle Shot between November 27 and December 4, 2017. Mr. Melin is the surface owner of NE 06-39-6W4M. The AER understands Mr. Melin farms these lands but resides at another location approximately six kilometres away from the surface locations that form the subject matter of the Applications. The Applications seek approval to drill three horizontal wells and one deviated well from surface locations near to but not on Mr. Melin's lands; however, three of the wellbores will pass beneath the surface of 15-06-39-6W4M, and two of those wellbores (one being a stratigraphic test well) will terminate in LSD 15.

For the reasons that follow, the AER has decided that Mr. Melin is not a person who is directly and adversely affected by the AER's decision to issue the Licences, and that a hearing is not needed or required to further consider Mr. Melin's concerns about drilling beneath his lands.

Mr. Melin's concerns are set out in the SOC, as follows:

- Rifle Shot did not meet with him to discuss and resolve his concerns;
- Rifle Shot can't remove anything not specified in the mineral disposition;
- the landowner of the NW 06-39 lands, adjacent to his lands, does not have authority to grant Rifle Shot access to Mr. Melin's lands [in 15-06]; and
- the AER should not issue approvals until his concerns have been addressed.

In Application No. 1900893, Rifle Shot proposed to drill a C280 horizontal well from a surface location in 14-06-39-6W4M, which is immediately west of Mr. Melin's land. For this type of well, notification is required (in relation to setbacks) to the owner of any land within 100 metres of the well. Although he does not raise any setback issues, Mr. Melin's confirmation of non-objection would have been required before Rifle Shot could file that application as routine as Mr. Melin is the owner of the NE 06-39-6W4M, which is within 100 metres of the well. Mr. Melin is not in a notification or consultation radius for any of the other applications.

In a letter dated October 16, 2017, filed in the well licence applications, Rifle Shot stated that it began telephone and in-person discussions about these applications with Mr. Melin on August 10, 2017, and it summarized the contents of those discussions and how it responded to Mr. Melin's concerns. In a second letter dated October 16, 2017, Rifle Shot advised that it consults with Mr. Melin on every project that is proximal to his farm land. That letter also stated:

Simply, **Mr. Melin is against any drilling project where a well penetrates the subsurface below or within his surface land** – ie. the NE/4 of Sec. 6 Twp. 39-6W4. There isn't a specific reason, other than a fear of "something very bad could happen" during drilling and subsequent production operations. No amount of dialogue will gain his trust enough to sign the confirmation of non-objection, and thus Rifle Shot will submit the well applications as non-routine.

*(boldface type appears in the original letter)*

The AER is satisfied that Rifle Shot discussed Mr. Melin's concerns with him in telephone conversations and in-person, and that it made a reasonable effort to address and resolve his concerns.

Mr. Melin's chief concern relates to Rifle Shot drilling beneath his land in 15-06-39-6W4M without his consent. The SOC states "the applicant can't remove anything not specified in the mineral disposition" and "the adjacent landowner doesn't have authority to grant access to these lands." The title block of his SOC letter includes "Proposed access NE 06-039-06-W4."

Mr. Melin's interests in section 6 are limited to the surface. He has no interest in or legal rights to the subsurface and Rifle Shot does not require his consent to drill beneath the surface of 15-06-39-6 W4M. Contrary to Mr. Melin's assumption, the adjoining surface owner is not the one who grants access to the subsurface of Mr. Melin's lands. Access is authorized under the lease agreement between the owner of the mines and minerals underlying 15-06, whether that is the Crown or a freehold owner, and Rifle Shot (or its sublessor). Rifle Shot has stated in its applications, and to Mr. Melin, that it has secured all the legal rights it needs to drill in 06-39-06W4M.

Rifle Shot indicated that in its discussions with Mr. Melin, he expressed concerns that a drill bit could come to the surface of his lands, that drilling could encounter downhole problems that impact his lands, and that flooding could wash contaminants off Rifle Shot's lease site and onto his lands. These concerns are remote and speculative at best and do not establish that he is or may be directly and adversely affected by AER approval of the Licences. The prospect that a downhole incident could result in surface impacts is mere speculation. Rifle Shot is required to manage surface water on its lease, even in rainy conditions, to ensure contaminants are contained and do not impact lands off the lease.

As a result, the AER cannot conclude that any of Rifle Shot's applied-for wells will directly and adversely affect Mr. Melin or his lands. The AER has also decided that a regulatory appeal hearing is not needed in order to further consider Mr. Melin's concerns. While the AER acknowledges, and takes full responsibility for its error in not properly registering and considering the SOC prior to issuance of the Licences, it is apparent to these decision-makers that the outcome of the licensing process would likely have been the same and the Licences would have been approved without a hearing as Mr. Melin is clearly not directly and adversely impacted by their issuance.

For the above reasons, the AER finds Mr. Melin is not directly and adversely affected by the decision to issue the Licences. Mr. Melin is therefore not an "eligible person" under section 36(b)(ii) of the REDA. Accordingly, the AER dismisses the request for regulatory appeal.

Sincerely,

*<original signed by>*

Patricia Johnston, Q.C., ICD.D.  
Executive Vice President, Law and General Counsel

*<original signed by>*

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