

Via Email only

January 31, 2018

Borden Ladner Gervais LLP
Attention: Alan L. Ross

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

www.aer.ca

Dear Sir:

**RE: Request for Regulatory Appeal and Stay by Bonterra Energy Corp. (Bonterra)
Alberta Energy Regulator Application Integrity (AI) Team
Decision to Suspend, January 5, 2018 (Decision)
Licence Nos. 0486916, 0486919, 048717 (Licences)
Location: 04-34-047-05W5M
Request for Regulatory Appeal No.: 1905028**

The Alberta Energy Regulator (AER) has considered Bonterra's request under section 39(2) of the *Responsible Energy Development Act* (REDA) for a stay of the January 5, 2018 Decision, issued against it by the AER AI Team. That Decision is the subject of the above-noted request for regulatory appeal.

The AER has denied the request of Bonterra for a stay of the Decision.

The Regulator is empowered to grant a stay pursuant to section 39(2) of REDA. However, as stated in section 38(2), the filing of a request for regulatory appeal does not operate to stay the appealable decision.

The AER's test for a stay is adapted from the Supreme Court of Canada case of *RJR MacDonald*.¹ The steps in the test are:

1. Serious question – Undertaking a preliminary assessment of the merits of the case to determine if there is a serious question to be heard at the requested appeal;
2. Irreparable harm – Determining if the stay applicant will suffer irreparable harm if the stay request is refused; and
3. Balance of convenience – Assessing which of the parties would suffer greater harm from the granting or refusal of the requested stay.²

The AER has concluded, after considering the submissions of Bonterra, the AER AI Team and the adjacent landowners, that Bonterra has not satisfied the tripartite test.

¹ *RJR MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 (*RJR MacDonald*)

² *RJR MacDonald* at paragraph 43

The AER will provide its further reasons for its decision on the stay request in the near future. A decision on the request for regulatory appeal will be provided in due course.

Sincerely,

<original signed by>

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

<original signed by>

Ron MacDonald, P. Eng
Senior Advisor, Industry Operations

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Colby Ruff,
Senior Advisor, Oil and Gas, Industry Operations

Cc: Rushang Joshi, AER AI Team
Rick and Connie Clark
Mel Thiesson and Thora Skeldon