

Via Email

November 9, 2015

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

Prowse Chowne LLP

www.aer.ca**Attention: Paul Barrette**

Dear Sir:

**RE: Request for Regulatory Appeal by Mel Glasier (Glasier)
Toro Oil & Gas Ltd. (Toro)
Application 1833046; Lic 0475948
Location: 04-21-035-10W4M
Regulatory Appeal No. 1833486 (Regulatory Appeal)**

The Alberta Energy Regulator (AER) has considered Mr. Glasier's request under section 38 of the *Responsible Energy Development Act (REDA)* for a regulatory appeal of the AER's decision to approve Licence No. 0475948. The AER has reviewed Mr. Glasier's submissions and the submissions made by Toro.

For the reasons that follow, the AER has decided that Mr. Glasier is 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]...

The issue for the AER in determining Mr. Glasier's eligibility to request a regulatory appeal is whether he is a person who is directly and adversely affected by the decision to issue the License.

Reasons for Decision

In the request for the Regulatory Appeal a number of concerns were raised by Mr. Glasier, which include: loss of quiet enjoyment of his residence, visual blight on the front horizon of his property when leaves fall from the trees, well site emissions and odours from flaring, exhaust from rig motors, hydraulic fracturing pumps and traffic, constant noise from well site motors and other production activities, ongoing nuisance and safety hazard in that the access trail to the right of way is directly across from the Glasiers' access to their own property, and the reliance by Toro on a non-objection document procured by undue influence and on a misrepresentation. Mr. Glasier submits that he did not understand that the well site would be so close to his residence and that Toro's consultation was inadequate to obtain the license.

The AER notes that the subject well is not located on Mr. Glasier's lands and that Toro has complied with the notification and consultation requirements of *Directive 056: Energy Development Applications and Schedules (Directive 056)*.

In response to concerns regarding loss of quiet enjoyment with constant motor noise, emissions, odours and production activities, Toro indicates that all operations will meet or exceed *Directive 038 Noise Control* requirements. Further strategies include testing on water wells before and after operations have concluded to ensure that water is not affected, berming, noise suppression equipment, electric power, no long term generators, noise monitoring and appropriate pump jack selection. In regards to the concern that the well site and rig are visible when the leaves fall from the trees, Toro notes that while the proposed well is not visible from the house or immediate yard, it is offering to relocate the Glasier family during the drilling and completion operations.

Regarding concerns about traffic and safety with respect to the access trail, Toro indicates that it has elected to use the existing approach to eliminate the creation of unnecessary approaches and access roads in the area and will use dust suppression techniques.

In response to notification and consultation concerns, Toro responds by indicating that the public consultation requirements have been met through discussions with Mr. Glasier regarding the project in addition to meeting on June 19, 2015 with Mr. Glasier and his signing a confirmation of non objection and survey plan. Toro's consultation summary indicates that it was notified on July 2, 2015 that despite Mr. Glasier signing a non-objection once he saw the wellhead stakes the surveyors put in this changed his mind. Subsequent to Mr. Glasier changing his mind, Toro had further discussions with Mr. Glasier on July 3 and July 6 and from those discussions acknowledged that the Glasiers had concerns regarding the proximity of the Toro wells to their residence. There were discussions regarding ways to reduce impacts through berming, noise suppression equipment, electric power, no long term generators, noise monitoring, type of pump jacks, and possible relocation for the Glasiers during the drilling and completion operations. On July 7, Toro explained the steps it had taken in selecting the location and follow up on July 8 indicated that the Glasiers were thinking about everything. On July 15 the Glasiers' land representative discussed matters with Toro and indicated that the previous talks around reducing impacts would not suffice. Follow up discussions occurred later that day between Toro and the Glasiers to discuss concerns and possible solutions but Mr. Glasier indicated that the wells are too close to their residence and that there were no other options other than moving the location.

The AER finds that Mr. Glasier expressed no concerns with respect to the well site prior to signing the non objection. Furthermore, during the interim period after signing the non objection and Toro applying for and obtaining its well license, Mr. Glasier did not raise any concerns. As such, Toro was unaware of his concerns, and would not have had the opportunity to address them or disclose the matter to the AER prior to submitting its application for the license. The AER finds that Toro met all participant involvement requirements of D056. With respect to concerns regarding flaring emissions, traffic impacts and noise these concerns are general in nature and the application meets all regulatory requirements of *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting* and *Directive 038 Noise Control*.

Given the foregoing, the AER finds that Mr. Glasier is not directly and adversely affected by the decision to issue the license and therefore not an "eligible person" under section 36(b)(ii) of *REDA*. Accordingly, the AER dismisses Mr. Glasier's request for a regulatory appeal.

The AER notes that Toro has made a number of commitments related to noise abatement, dust, water well testing, and relocation during drilling and completion operations if the Glasiers are interested. The AER expects Toro will follow through with those commitments. If Mr. Glasier has any operational concerns during the drilling, completion or operation phases, he may contact the AER Wainwright Field Office at 780-842-7570.

Sincerely,



Greg Gilbertson
Senior Advisor



Robert J. Willard P.Eng.
Senior Advisor



Doug Boyler, P.Eng.
Chief Operations Engineer

cc: Toro, Colt Henderson
Wainwright Field Office