

Via Email

May 28, 2018

Ken Cowles

CSV Midstream Solutions Corp.

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

Attention: Greg Johansen

www.aer.ca

Dear Sirs:

**RE: Request for Regulatory Appeal by Ken Cowles
CSV Midstream Solutions Corp. (CSV)
Application Nos.: 1884747; Licence Nos.: 50013
Request for Regulatory Appeal No.: 1897487**

The Alberta Energy Regulator (AER) has considered Mr. Ken Cowles's request under section 38 of the *Responsible Energy Development Act* (REDA) for a regulatory appeal of the AER's decision to approve the facility licence issued for the application cited above. The licence was issued on August 16, 2017, allowing CSV to construct and operate a new sweet gas processing plant in the Resthaven area of Alberta. The AER has reviewed Mr. Cowles's submissions and CSV's response submissions.

For the reasons that follow, the AER has decided that Mr. Cowles has not demonstrated that he is directly and adversely affected by the AER's decision to approve the Facility Application. The request for a regulatory appeal is therefore dismissed for the reasons outlined below.

Reasons for Decision

The applicable provision of *REDA* in regard to regulatory appeal requests is section 38, which 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.

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 [that was made by the AER under an energy resource enactment, if that decision was made without a hearing].

The gas plant licence was issued under the *Oil and Gas Conservation Act*, which is an energy resource enactment.

The decision to issue the facility licence is an appealable decision, and the request for a regulatory appeal was filed in accordance with the rules. The substantive issue in this matter is

whether Mr. Cowles is a person who is directly and adversely affected by the AER's decision to issue the licence.

Mr. Cowles's concerns with the gas plant are stated in a general way, without reference to a particular location or locations that is/are some ascertainable distance from his trapping activities or assets. What is missing from his request is information that provides a demonstrated degree of location or connection between the facility and impacts on him or his trapping activities, so that the AER has reliable information indicating that a reasonable potential or probability exists that the impacts alleged by Mr. Cowles will occur. Instead, Mr. Cowles's concerns are in a general sense, as though the facility gives rise to all of the concerns he raises about impacts on his trapping.

The AER notes that other resource companies are active in Mr. Cowles's trapping area, including a forestry company, and that this factor is not addressed by Mr. Cowles. For Mr. Cowles to be granted a regulatory appeal he must demonstrate that *this particular* CSV facility is responsible for the impacts that he is concerned about: damage to his TPA, hazardous use of roadways, and loss of or damage to his property.

Many of Mr. Cowles's concerns center on compensation, including for diminished harvests, loss of resale value of the TPA, and loss of or damage to his property. The Alberta Trappers' Compensation Board administers a program that is funded by industry and government to compensate trappers for the kinds of losses of trapping assets that are alleged by Mr. Cowles. The AER does not have authority to require that compensation be paid by CSV to Mr. Cowles, and in any case the extent to which the losses alleged by Mr. Cowles are occurring, or whether CSV or its personnel are in fact responsible for such losses, is not indicated in Mr. Cowles's request.

As a result, based on the information provided the AER cannot conclude that CSV's facility will directly and adversely affect Mr. Cowles. The fact that CSV is active in the area of the TPA does not, by itself, demonstrate that CSV is or may be responsible for impacts on Mr. Cowles's trapping assets and activities. For this reason, the AER has decided not to grant the request for regulatory appeal.

The AER also notes that Mr. Cowles has submitted numerous statements of concern and regulatory appeal requests to the AER in connection with various applications and approvals within the area of the TPA. In a number of previous letters to Mr. Cowles conveying the AER's decisions on regulatory appeal requests filed by him, the AER provided the following comments. While each of Mr. Cowles's submissions and requests remains to be considered on its own merits by AER decision-makers, the concerns stated by Mr. Cowles in his various submissions are all general in nature and lack any specific information about site-specific impacts. In order to determine whether a hearing is required on a given application, the AER requires information about specific impacts. Statements of concern and regulatory appeal requests filed by Mr. Cowles often restate exactly what was provided in previous submissions, without making any distinction between the different facilities, activities or even applicants that are involved, or

addressing specific impacts of those activities on Mr. Cowles and/or his activities in the vicinity. The risk to Mr. Cowles proceeding this way arises from section 39(4)(a) of *REDA* and section 6.2(2)(e) of the *Alberta Energy Regulator Rules of Practice*, which permit the AER to disregard concerns or requests that are frivolous or vexatious. The courts have established that repeatedly making the same claim or filing duplicitous claims, as a matter of practice or strategy, is frivolous and vexatious behaviour on the part of a claimant that warrants judicial intervention.

Sincerely,

<original signed by>

Richard Tomlins
Director, Oil and Gas, Industry Operations

<original signed by>

Gary Sasseville, M Eng. P. Eng.
Surface Advisor, Authorizations