

**Via Email**

December 8, 2015

Nickerson Roberts Holinski &amp; Mercer

Calgary Head Office  
Suite 1000, 250 – 5 Street SW  
Calgary, Alberta T2P 0R4  
Canada[www.aer.ca](http://www.aer.ca)**Attention: Ryan F. O'Connor**

Dear Sir:

**RE: Request for Regulatory Appeal by Mark Roberts (Roberts)****Baytex Energy Ltd. (Baytex)****Application Nos. 1815571, 1815581, 1817010, 1817013, 1817224, 1817233, 1817261, 1817405, 1817425, 1821341, 1821359, 1821376, 1821385, 1823471, 1823477, 1823478, 1823482;****Licence Nos. 475200; 475201; 475202; 475203; 475204; 475205; 475209; 475210; 475211; 475212; 47206; 475207; 475208; 475213; 475214; 475215; 475216; 48567; 48568; 48569; 48570; 51999 (the Licences)****Locations: 15-16-079-20W5M; 07-15-079-20W5M; 09-15-079-20W5M; 16-15-079-20W5M; 08-31-079-20W5M; 09-12-079-20W5M; 14-30-079-20W5M; 08-21-079-20W5M; 02-15-079-20W5M; 07-15-079-20W5M; 14-30-079-20W5M; 07-15-079-20W5M; 16-15-079-20W5M; 09-12-079-20W5M; 09-12-079-20W5M to 10-12-079-20W5M; 07-15-079-20W5M to 09-15-079-20W5M; 16-15-079-20W5M to 09-15-079-20W5M; 14-30-079-20W5M to 08-31-079-20W5M****Regulatory Appeal No. 1829801 (Regulatory Appeal)**

The Alberta Energy Regulator (AER) has considered Mr. Roberts' 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 Mr. Roberts' submissions dated May 6, 2015, June 15, 2015 and July 6, 2015 and the submissions made by Baytex dated June 8, 2015 and June 28, 2015.

For the reasons that follow, the AER has decided that Mr. Roberts 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. Roberts' eligibility to request a regulatory appeal is whether he is a person who is directly and adversely affected by the decision to issue the Licences.

**Reasons for Decision**

Mr. Roberts' extensive submissions indicate his position that he is directly and adversely affected by the decision to issue the Licences because:

- Existing Baytex well sites, which are in the same area as the wells which are the subject of this appeal, vent to atmosphere and have done so on multiple occasions since December 2014. This occurs because the

equipment which is supposed to capture the gas and prevent venting does not work. The equipment fails and venting to atmosphere occurs before the wells are shut in. This is contrary to *Directive 60: Upstream Petroleum Industry Flaring, Incinerating, and Venting* (D60) which allows for no atmospheric venting;

- Data from the Air Quality Monitoring from the area indicate spikes in readings of Total Hydrocarbon Max. These spikes demonstrate atmospheric venting by Baytex;
- The vented substances from the existing Baytex well sites travel to Mr. Roberts' lands and impact him because he and his family are exposed on a regular basis to foul and noxious odours and suffer negative health effects; and
- The well sites which are the subject of this regulatory appeal request will utilize the same equipment as the existing well sites to prevent venting. Since this equipment fails on the existing sites, it will fail on the proposed wells and facilities which will result in venting to atmosphere and the vented substance will travel to Mr. Roberts and he will experience a foul and noxious odour and negative health effects and therefore be affected by the decision to approve the licences.

In response to Mr. Roberts' submissions, Baytex says he is not directly and adversely affected by the licences because:

- His residence is 2.9 km from the nearest development;
- There will be no setbacks to his lands from these developments;
- Many of Mr. Roberts' concerns have been addressed in the 2014 Peace River Proceeding recommendations which have been implemented by Baytex; and
- These developments will operate with full gas capture and conservation which will ameliorate Mr. Roberts' odour and emissions concerns.

Baytex also says it meets all regulatory requirements in force in the Peace River Area, including the primary mitigation against odours and emissions which is gas capture. Installation of this equipment was completed at all Baytex Peace River sites by August 15, 2014. Baytex further submits that the fact this equipment is operating properly has been verified by the AER. As required by the *Report of Recommendations on Odours and Emissions in Peace River*, Baytex immediately shuts in wells when they enter upon upset conditions that are causing or likely to cause atmospheric venting; all Baytex sites have automatic shut downs. Additionally, Baytex ensures safe operation of its facilities by regular visual inspections, reviews of the Supervisory Contour and Data Acquisition (SCADA) data multiple times per day to ensure all Vapour Recovery Unit (VRU) systems are running efficiently and tanks are at appropriate pressure, and regular facility emissions assessments using Forward Looking Infrared (FLIR) cameras.

With regard to the data referred to by Mr. Roberts which is from the Reno Air Quality Monitoring Trailer, Court D. Sandau, Ph.D., P. Chem., on behalf of Baytex, provided a detailed report indicating that the spikes in total hydrocarbons (THC) shown in the Reno data do not show air contamination from the Reno field, but reflect the natural fluctuations of THCs in the area. Also, the values reflect natural fluctuations of methane and do not indicate oil production activities.

Having regard to the above, the AER has concluded that Mr. Roberts has not demonstrated he will be directly and adversely affected by the Licences. The AER considers that the fact the existing wells and facilities experienced one, and possibly two, emergent events in five months where very short term atmospheric venting occurred prior to automatic well shut in, does not demonstrate that Baytex' facilities in the Reno area vent to atmosphere regularly, that its gas capture equipment does not work or that it is not complying with Directive 60. Further, the AER accepts the expert evidence of Dr. Sandau that the Reno trailer data does not indicate that Baytex' facilities have been experiencing atmospheric venting. Rather, the data shows natural fluctuations of THCs in the area. Contrary to what is suggested by Mr. Roberts, the evidence does not demonstrate that Baytex has vented to atmosphere at its existing facilities on multiple occasions. The evidence shows that atmospheric venting has occurred at most twice since December 2014 and those situations were extraordinary and brief events.

The AER acknowledges Mr. Roberts' evidence that he and his family have experienced odours which have made them ill on a regular basis. However, given its conclusions about the paucity of venting to atmosphere by Baytex

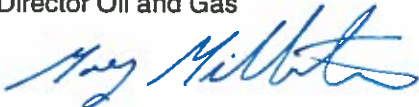
in the Reno area, the AER concludes that any odours and illness the Roberts family is experiencing on a regular basis must have a cause other than venting from Baytex well sites.

In light of the scant history of venting in the Reno area since the gas capture equipment was installed at the Baytex well sites in August 2014, the equipment to be utilized to prevent venting, and the extensive precautions taken by Baytex to ensure the safe operation of the well sites, the AER finds that Mr. Roberts has not demonstrated that he will be directly and adversely affected by the decision to issue the licences. Therefore, Mr. Roberts is not an eligible person for the purposes of section 38(1) of *REDA* and the application for a regulatory appeal is dismissed.

Sincerely,



Nancy Barnes  
Director Oil and Gas



Greg Gilbertson  
Senior Advisor



Doug Boyler, P.Eng.  
Chief Operations Engineer

cc Baytex Energy – Attention Thomas Aiello  
Grand Prairie Field Centre