



DECLARATION NAMING DONALD ALLEN CURRIE PURSUANT TO SECTION 106(1) OF THE *OIL AND GAS CONSERVATION ACT*

For the reasons set out in the accompanying letter, the Alberta Energy Regulator (“**AER**”) has determined that: (i) Donald Allen Currie (the “**Individual**”) is a person directly or indirectly in control of Sabanero Energy Corp. (A1E3) (the “**Licensee**”); (ii) the Licensee has contravened AER requirements and/or failed to comply with certain orders of the AER (“**AER Orders**”) and is indebted to the AER; (iii) the Individual has been in control of the Licensee at all material times; and (iv) it is in the public interest to make a declaration naming the Individual under Section 106(1) of the *Oil and Gas Conservation Act*, RSA 2000, c O-6 (“**OGCA**”).

The AER’s legislated mandate under Section 2 of the *Responsible Energy Development Act*, SA 2012, c R-17.3 includes a requirement to provide for the efficient, safe, orderly and responsible development of energy resources in Alberta. In accordance with this mandate the AER hereby names the Individual under Section 106(1) of the *OGCA* and places the following restrictions on him:

1. The Individual and any licensee or approval holder directly or indirectly controlled¹ by him must inform the AER that a declaration under Section 106(1) of the *OGCA* is in effect against the Individual and that the Individual has direct or indirect control of such licensee or approval holder upon the licensee or approval holder’s applying to the AER for any identification code, licence or approval or transfer of a licence or approval under the *OGCA* or the *Pipeline Act*, RSA 2000, c P-15 (“**Pipeline Act**”).
2. The AER may refuse to consider any application from the Licensee, the Individual or any other licensee or approval holder over which the Individual has direct or indirect control, for an identification code, licence or approval or transfer of a licence or approval under the *OGCA* or the *Pipeline Act*.
3. Where the AER is to consider an application from an Individual or any other licensee or approval holder over which the Individual has direct or indirect control, the AER may require the submission of abandonment and reclamation deposits in an amount to be determined by the AER prior to granting any licence, approval or transfer of a licence or approval under the *OGCA*.

¹For purposes of the *OGCA*, “control” means real, effective and practical control over a company’s business affairs. Such control may exist in a wide variety of settings and arrangements. Control is ultimately the power to direct the business of the company and make decisions that will be complied with and acted upon by the company.

4. The Individual must submit a sworn declaration by **March 9, 2018** declaring whether he is in direct or indirect control of any licensee or approval holder, other than the Licensee, that is an applicant to the AER, a licensee or an approval holder under the *OGCA* or the *Pipeline Act* and, if he is, a declaration stating the name of any such licensee or approval holder and specifying the applications each has before the AER and the AER licences and approvals such licensee or approval holder holds.

5. This declaration is in force at the date hereof and will remain in force until the Licensee has complied with the AER Orders, rectified its contraventions and paid any and all debts owed to the AER and to the AER on account of the orphan fund for abandonment and reclamation costs or until the AER orders otherwise.

Dated: February 8, 2018

Alberta Energy Regulator Signed: <original signed by Ron Wagener>

February 8, 2018

DELIVERED BY REGISTERED MAIL

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Calgary, Alberta T2P 4H5
Canada

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**RE: Declaration Naming Donald Allen Currie under Section 106 of the
*Oil and Gas Conservation Act***

Dear Sir:

On January 19, 2018, the Alberta Energy Regulator (the “**AER**”) sent letters by registered mail to all your known addresses, notifying you of the AER’s intention to name you in a declaration pursuant to section 106 of the *Oil and Gas Conservation Act* (the “**OGCA**”). In accordance with this section, time was provided to permit you to show cause as to why a declaration should not be made. The AER has not received any response from you on this matter.

The AER hereby issues a declaration under section 106(1) of the *OGCA*, naming Donald Allen Currie as a person in direct or indirect control of Sabanero Energy Corporation (A1E3) (“**Sabanero**”), a company that contravened or failed to comply with AER orders and has a debt owing to the AER. Sabanero held 58 well licenses, 3 facility licenses and 10 pipeline licenses, many of which have been orphaned due to noncompliances. This does not include any other entities with which Mr. Currie may be involved. The declaration, with its terms and conditions, is attached.

Section 106 of the *OGCA* applies where the AER considers it in the public interest to make a declaration naming one or more directors, officers, agents or other persons who, in the AER’s opinion, were directly or indirectly in control of a licensee, approval holder or working interest participant that has (i) contravened or failed to comply with an order of the AER or (ii) has an outstanding debt to the AER, or to the AER on account of the orphan fund, in respect of suspension, abandonment or reclamation costs. Where such a declaration has been made, the AER upon any terms or conditions may suspend operations of, refuse to consider any applications from, or require the payment of abandonment and reclamation deposits from named individuals and any companies directly or indirectly controlled by them, in accordance with Section 106(3) of the *OGCA*.

Sabanero failed to comply, or even attempt to comply, with AER orders including a December 22, 2015 Order regarding a pipeline failure, *Closure/Abandonment Order No. AD 2016-04*, issued after Sabanero did not pay its required security deposit of over \$1.7 million, and *Environmental Protection Order EPO LM 2016-33*, requiring reclamation and remediation. In addition, Sabanero owes \$14,628.90 to the AER in outstanding levy fees. Many of Sabanero’s licences have been designated as orphan for purposes of abandonment, as Sabanero effectively abdicated any responsibility for them.

Sabanero's ongoing failure to comply with AER requirements demonstrates a blatant disregard for the regulatory regime. Further, failure to pay amounts owing to the AER and abandon and reclaim facilities leaves a substantial weight on the already over-burdened Orphan Well Association.

As the director of Sabanero at the time of the company's noncompliances and nonpayment of debts owing to the AER, Donald Allen Currie was and is a person in control of Sabanero. As noted by the AER in *Decision 2015 ABAER 005*, the specific reference to directors, officers, and agents in section 106 indicates that the legislature intended that individuals in those positions are presumed to be in direct or indirect control for the purposes of that section.

The AER has held in previous section 106 decisions that the purpose of a section 106 declaration is to prevent a licensee or person in control from continuing to breach requirements or incurring new breaches or debts, thereby safeguarding the public interest. The AER has also previously held that continued confidence in the regulatory system is best assured when licensees comply with AER requirements. The AER finds that Sabanero's actions and inactions have undermined the regulatory system and posed an unacceptable risk to public safety and the environment. On the facts before it, the AER concludes that issuance of a declaration is necessary to deter future noncompliances and uphold the credibility of the regulatory system and AER enforcement processes. It is not in the public interest to allow licensees like Sabanero to simply ignore their regulatory responsibilities.

Note that submission of a sworn declaration in accordance with clause 4 of the attached declaration must be provided by **March 9, 2018**. Failure to respond may result in an additional regulatory response from the AER.

If you have any questions regarding anything in the foregoing, please contact the undersigned at XXX-XXX-XXXX.

Sincerely,

<original signed by>

Ron Wagener

Director of Leadership, Regulatory Efficiency and Innovation

Attachment: 1 (Declaration)

APPENDIX I

Section 106 is a reverse onus provision. The burden is on the director to show why the declaration should not be made. They are in the best position to respond to the notice as they are the person with the best information regarding why they failed to comply with AER orders or pay outstanding amounts. The director has provided no evidence to show cause why a declaration should not be made, despite the fact that they have been given ample time.

Be advised that under the Responsible Energy Development Act (“**REDA**”), an eligible person may appeal decisions that meet certain criteria. Eligible persons and appealable decisions are defined in section 36 of *REDA* and section 3.1 of the *Responsible Energy Development Act General Regulation*. Requests for regulatory appeal must be submitted in accordance with the AER’s requirements. Filing requirements and forms are available on the AER’s website, www.aer.ca, under Applications & Notices > Appeals.