

2019 ABAER 002

High Ground Energy Inc.

Proceeding ID 374

38 kilometres south of Provost

Applications 1895930, 1895932, 1895933, 1895934, 1907484, 1907485, 1907486, 1907489, 171096, 171130, 171156, 171163

Decision

[1] The Alberta Energy Regulator (AER) has determined that a hearing on applications 1895930, 1895932, 1895933, 1895934, 1907484, 1907485, 1907486, 1907489, 171096, 171130, 171156, and 171163 is no longer needed. The applications will go back to authorized AER staff for disposition.

Applications

[2] High Ground Energy Inc. (HGEI) applied under section 2.020 of the *Oil and Gas Conservation Rules* for licences to operate 21 wells on 9 multiwell pads to produce crude oil from the Viking Formation. The maximum hydrogen sulphide (H₂S) concentration would be 0 moles per kilomole (0 per cent).

[3] HGEI also applied under section 39(1)(b) of the *Oil and Gas Conservation Act* for approval to construct and operate 9 new processing facilities. It would design each facility to process 32.0 thousand cubic metres per day of natural gas and 29.0 thousand cubic metres per day of oil, with no H₂S.

[4] HGEI applied under the *Pipeline Act* to construct and operate two gathering systems to transport oil effluent with no H₂S. In total, the gathering systems would include 13 lines of various lengths. The longest line would be 2.49 kilometres long. Each line would have a maximum outside diameter of either 114.3 millimetres or 168.3 millimetres.

[5] The applications were grouped for ease of review and reference into applications for the north gathering system and applications for the south gathering system.

[6] The applications for the north gathering system include

- well applications 1895930, 1895932, 1895933, and 1895934;
- facility applications 1907484, 1907485, 1907486, and 1907489; and
- pipeline applications 171096, 171130, 171156, and 171163.

[7] The applications for the south gathering system include

- well applications 1908325, 1908326, 1908329, 1908331, and 1908336;
- facility applications 1908497, 1908498, 1908499, 1908500, and 1908501; and
- pipeline applications 332370, 332393, 332416, 332432, and 332731.

[8] The applications for the south gathering system concerned land owned and occupied by G. and V. Matheson and Matheson Farms Ltd. (Mathesons). The applications for the north gathering system concerned land occupied by Rutledge Ranching (Wainwright) Ltd. (Rutledge). Wells for the north gathering system would be drilled from surface locations on Rutledge lands to target oil from the Viking Formation under the Mathesons' land.

Hearing Process for the Applications

[9] Notice of hearing was issued on January 25, 2019.

[10] On February 13, 2019, HGEI notified the AER that it was withdrawing its applications for the south gathering system, pursuant to Section 4(2) of the *Alberta Energy Regulator Rules of Practice*. The AER accepted the withdrawal of those applications.

[11] Requests to participate in the hearing on the applications for the north gathering system were received from Rutledge and the Mathesons. Rutledge and the Mathesons had also filed statements of concern about those applications.

[12] The AER granted Rutledge full participation rights in the hearing and granted the Mathesons full participation on a single, limited issue on February 25, 2019, and March 7, 2019, respectively.

Discussion

[13] On March 13, 2019, the AER received a request from HGEI to extend the written submission deadlines for the hearing to give it more time to try to resolve issues with Rutledge and the Mathesons. After receiving responses from both participants, the AER granted the extension.

[14] On April 12, 2019, the AER received a signed withdrawal from Rutledge of its statements of concern and a confirmation of non-objection to the applications for the north gathering system. The AER accepted the withdrawal of the statements of concern and the confirmation of non-objection.

[15] On April 16, 2019, the AER received a withdrawal from Rutledge of its request to participate in the hearing. The AER accepted the withdrawal of the request to participate.

[16] On April 23, 2019, the AER received a letter from HGEI requesting a reconsideration of the AER's original decision to hold a hearing on HGEI's applications and of the decision to grant the Mathesons participation in the hearing. HGEI also requested that the hearing process, including the new written submission deadlines, be suspended pending the determination of the reconsideration requests. The AER

granted the request to suspend the hearing process and gave the Mathesons the opportunity to respond to the request to reconsider the AER's decision on their hearing participation. The AER also gave HGEI the opportunity to submit a reply submission.

[17] The panel has reviewed the Mathesons' response submission (dated April 29, 2019) and HGEI's reply submission (dated May 2, 2019).

[18] Rutledge filed its request to participate in the hearing on the applications for the north gathering system on the grounds that it may be directly and adversely affected. The panel found that Rutledge may be directly and adversely affected by decisions on the applications for the north gathering system and on that basis granted it full participation rights in the hearing.

[19] The Mathesons filed their request to participate in the hearing on the applications for the north gathering system also on the basis that they may be directly and adversely affected. They raised concerns about potential effects on their water supply. The Mathesons said in paragraph 7 of their request to participate that they did not object to HGEI drilling under their lands from the north surface locations "...other than we would still want our water wells tested."

[20] Contrary to the Mathesons' reply submission to HGEI's reconsideration request, the panel did not find that the Mathesons may be directly and adversely affected by decisions on the applications for the north gathering system. In its March 7, 2019, letter, the panel said the following:

The panel has considered your request to participate, HGEI's response and the additional written submissions described above. The panel finds that you have a tangible interest in the subject matter of the hearing because HGEI's wells will be drilled and completed under your lands and in reasonable proximity to your water wells. Your limited participation will materially assist the panel and will not unnecessarily delay the proceedings or result in duplicate evidence.

For the above reasons, the panel had decided to permit you to participate in the hearing of the north gathering system applications as a full participant, but solely on the issue of your concerns about HGEI's proposed testing of your water wells.

[21] The reference to tangible interest and material assistance are direct references to Section 9(2)(c) of the *Alberta Energy Regulator Rules of Practice*. That section gives the panel discretion to grant participation to a person who will not be directly and adversely affected but who may materially assist the panel in deciding the matter and who otherwise meets the criteria set out in those provisions.

[22] In its submissions, HGEI said that the purpose of the hearing had fundamentally changed and that there was no longer any reasonable or supportable basis to hold a hearing because Rutledge withdrew its statement of concern and request to participate in the hearing on the applications for the north gathering system and HGEI had already withdrawn its applications for its south gathering system.

[23] In their submission, the Mathesons reiterated their position that they have a tangible interest in the subject matter of the hearing and that a constant reliable water source is vital to their farming operation. They stated that it is imperative that their water wells be properly tested both pre-drill and post-drill. The Mathesons questioned whether, in the event of a failure of one or more of their water wells due to HGEI's activities, HGEI would commit to rectifying the situation by drilling a new water well and how HGEI would ensure that it could supply water in sufficient quality and quantity to sustain the ranch under any circumstance until a new replacement well was drilled and put into operation.

[24] According to information HGEI and the Mathesons filed on the record of this proceeding, they have been involved in discussions about water well testing. That information demonstrates that HGEI committed to testing the water wells on the Mathesons' lands that are within a certain distance of the surface location of the wells it applied for both before and after drilling. In addition, in response to a request from the panel to clarify its intentions with respect to water well testing, HGEI responded by email on February 22, 2019 (see Appendix A). The email reiterates HGEI's commitment to testing and gives some more specific parameters. It also sets out the particulars of HGEI's commitment "...In the event that the quality or quantity of water in the Matheson Wells is materially impacted...."

Conclusion

[25] In the panel's view, the unresolved issues between the Mathesons and HGEI, as revealed by the hearing record to date, such as the contractor to be used to complete the testing and the interpretation of HGEI's commitments, are private contractual matters that do not fall under the AER's mandate. Taking into account the limited scope of the Mathesons' participation, the panel agrees with HGEI that there is a need to assess whether holding a public hearing is the best way going forward. Through their statement of concern, their request to participate, and submissions filed as a participant in this proceeding, the Mathesons have had the opportunity to make their case on water well testing.

[26] In light of the withdrawal of Rutledge, the panel considered the Mathesons' outstanding concerns and whether there are any gaps in the evidence or issues that need further hearing process. The panel is not reconsidering its original decision granting participation, but rather determining how the applications for the north gathering system should be assessed going forward in light of the withdrawal of Rutledge. The panel has decided that a hearing is no longer required and directs authorized AER staff to disposition the applications for the north gathering system in light of all of the information available on the hearing record. Accordingly, a public hearing will not be held.

Dated in Calgary, Alberta, on May 21, 2019.

Alberta Energy Regulator

C.A. Low

Presiding Hearing Commissioner

Appendix A

From: [REDACTED]
To: [Tammy Turner; Hearing Services](#)
Cc: [REDACTED]
Subject: RE: 2019-02-22 AER to High Ground re Clarification of Commitments
Date: Friday, February 22, 2019 2:14:41 PM
Attachments: [image001.png](#)

Ms. Turner,

We provide the following on behalf of HGEI in response to the hearing panel's request for further clarification regarding the commitment to test the Mathesons' water wells.

HGEI is prepared to test three of the Mathesons' water wells located at NW6-35-2-W4M (Well ID# 150470), NW6-35-2-W4M (House Well located 4 m from mobile home), and SW1-35-3-W4M (Well ID# 217010) (collectively, the "**Matheson Wells**"), prior to drilling the first well and within 90 days after the last frac is completed at the well sites included in the subject Applications remaining before the AER. The water well testing would not include testing of any dugouts on the Matheson lands.

Testing of the Matheson Wells would be carried out by a credible third party to be mutually agreed upon by HGEI and the Mathesons, acting reasonably, and the results of the water well testing would be provided to the Mathesons.

In the event that the quality or quantity of water in the Matheson Wells is materially impacted following HGEI's drilling and completions activities proposed under the subject Applications, and such impact is the direct result of HGEI's drilling and completions activities, HGEI will remedy same by either drilling a necessary replacement water well or wells, as applicable, that produce water of equal quantity and quality as the Matheson Wells, or supplying water of equal quantity and quality, as determined appropriate in the reasonable discretion of the mutually agreed upon third party water well tester. HGEI would not be responsible for drilling replacement water wells or supplying water to the Mathesons if it can reasonably establish that any material water shortage or material water quality impacts were not the result of HGEI's well drilling and completions activities.

Regards,

Tim



[REDACTED]