

Proceeding 403

November 12, 2020
By email only

Dentons LLP
Attention: Bernard Roth

Lawson Lundell LLP
Attention: Shailaz Dhalla

Re: Hearing Participation in Proceeding 403

Dear Counsel:

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners assigned to this proceeding (the panel).

On October 13, 2020, the AER issued a notice of hearing for Pure Environmental Waste Management Ltd.'s (Pure) applications 1614037, 1784753, 1809825, 1928016, 1928017, 1928430, 30602032, 30608918 and 30608934. The project would be located in the Lower Athabasca region, about 25 to 40 km south of Fort McMurray, Alberta.

The notice of hearing explained how to file a request to participate in the hearing and set a filing deadline of October 27, 2020.

On October 27, 2020, the AER received a request to participate from Suncor Energy Inc. (Suncor). Suncor stated that the nature of Suncor's participation in the proceeding would be to address the direct and adverse impacts of Pure's applications on Suncor's Meadow Creek East and Meadow Creek West in situ bitumen recovery projects (the Meadow Creek Projects). In its request, Suncor stated that, "Suncor is concerned that the Applications will: (i) infringe on Suncor's right to extract and exploit resources in the leases held by Suncor; and (ii) affect the value of the mineral lands held by Suncor." The request noted that Pure is proposing to construct and operate disposal wells in the Keg River Formation which is also the target disposal formation for Suncor's approved Meadow Creek Projects.

Suncor stated that it intends to fully participate in the proceeding by introducing evidence, participating in any information request process, cross-examining parties adverse in interest and submitting final argument.

On November 3, 2020, Pure filed a response to Suncor's request to participate. Pure stated that, "Suncor has not demonstrated that it may be directly and adversely affected by all of the Applications." Specifically, "Suncor's statements of concern and Request to

Participate simply fail to demonstrate the potential for direct and adverse effect in relation to Applications Nos. 30608934 and 30608918.” Pure also submitted that the AER should exercise its powers under sections 6 and 9 of the *Alberta Energy Regulator Rules of Practice* to limit Suncor’s participation and thereby, “facilitate a focused and efficient hearing process.” In relation to Pure’s D058 Amendment Application No. 1928430, Pure stated concern that, “Suncor will attempt to re-litigate” the facility approval as per Decision 2020 ABAER 004 and requests that the AER limit Suncor’s participation, “to the new and specific concerns raised by Suncor in its statement of concern dated May 27, 2020” regarding the proposed amendments in application 1928430.

Participation Decision

The panel has considered Suncor’s request to participate and Pure’s response. Pure and Suncor are targeting the Keg River formation for disposal purposes, and Pure’s proposed projects are within close proximity to Suncor’s Meadow Creek Projects. Therefore, the panel is of the view that Pure’s proposed activities may have an adverse impact on the Meadow Creek Projects. Based on the information before it, the panel grants Suncor full participation rights in the hearing.

At this time, the panel will not limit Suncor’s participation to certain applications, as Pure has suggested. The panel finds that the applications are part of an integrated project and believes that the scope of issues to be addressed during the hearing can be clarified at a later date, with input from the parties.

Issues List, Process Schedule and Other Procedural Matters

Pure also requested an opportunity to make submissions on:

- The issues to be addressed in proceeding 403;
- The schedule for filing evidence and written submissions;
- An information request process; and
- Hearing format (written or oral)

The panel asks the parties to provide submissions on each of the above four items no later than **noon on November 27, 2020**. The parties may file reply submissions no later than **noon on December 4, 2020**. All submissions should be filed to hearing.services@aer.ca.

In light of the ongoing uncertainty and concerns relating to COVID-19, the AER is currently unable to hold in-person hearings and is adhering to Alberta Health Services and the AER’s policy on social distancing and other COVID-19 restrictions. There is no

indication at this time when the AER will be able to hold an in-person hearing. In recent months, AER has been conducting hearings using the Zoom platform.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Subject to hearing from the parties on the need for and timing of an information request process and submission schedule, the panel is considering a hearing date in March or April 2021. The parties are invited to provide their availability for attending the hearing in March or April 2021 and any comments regarding an electronic hearing using the Zoom platform, along with their submissions on or before **noon on November 27, 2020**.

If you have any questions contact me at hearing.services@aer.ca.

Sincerely,

Tammy Turner

Hearing Coordinator, Hearing Services

cc: C. Graham, Suncor Energy Inc.
M. Robinson, Suncor Energy Inc.
M. LaCasse, AER
F. De Luca, AER