

March 11, 2020
Via Email Only

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

www.aer.ca

Carscallen LLP
Attention: **Michael Niven**

Bishop Law
Attention: **Debbie Bishop**

Attention: **Dave Moore and Barbara
Moore**

Attention: **Maxine Maxwell**

Dear Sir/Madam:

**Re: Proceeding ID 392
CSV Midstream Solutions Corp.**

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners assigned to this proceeding (the panel). The panel has determined the issues for the proceeding and has made the following decisions on participation.

Hearing Issues

Section 9.1(1) of the *Alberta Energy Regulator Rules of Practice (Rules)* states that the panel shall specify the nature and scope of a person's permitted participation, including the issues for which the participant is allowed to make submissions, representations and argument. The *Rules* contemplate that a panel may do this when it decides participation based on the requests to participate it has received.

After considering the legislative provisions that are relevant to CSV's applications; the requests to participate filed by Dave Moore and Barbara Moore (the Moores), Werner Ambros and Sharon Ambros (the Ambroses), and Maxine Maxwell; and, the statements of concern (SOCs) filed by the Ambroses and the Moores, the panel has determined that the issues in this proceeding are:

1. The factors set out in section 3 of the *Responsible Energy Development Act General Regulation*. More specifically, the effects of the proposed project on:
 - a. Proliferation
 - b. Air quality and emissions
 - c. Noise
 - d. Safety
 - e. Traffic

- f. Impacts on wildlife
- g. Impacts on property values

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2. Consistency with the purposes of the *Oil and Gas Conservation Act*. In particular, those set out in subsections 4(b), (c), and (f) of that Act.
3. Consistency with the purposes of the *Environmental Protection and Enhancement Act*. In particular, those set out in subsection 2(a), (b), (c), and (d) of that Act.

Panel Decisions on Participation

On February 11, 2020, the AER issued a notice of hearing of Application No. 1915871 and EPEA 001-424284 filed by CSV Midstream Solutions Corp. (CSV). The notice of hearing explained how to file a request to participate in the hearing and set a deadline of February 25, 2020, for submission of requests to participate.

The Moores, the Ambroses, and Ms. Maxwell filed requests to participate by the deadline. CSV did not file a response to the requests.

The Moores

On February 14, 2020, the Moores filed a request to participate. In a letter on February 20, 2020, the panel sought additional clarification on the Moores' request to participate with respect to the nature of the Moores' intended participation in the hearing. Mr. Moore provided a response on February 24, 2020, and clarified that he intended to fully participate in the hearing on behalf of himself and Ms. Moore by filing evidence before the hearing starts, speaking to his evidence under oath at the hearing, being questioned about his evidence, questioning others on their evidence, and making argument to the hearing panel without calling experts or witnesses. In his letter, Mr. Moore said he intended to cover topics related to proliferation, emissions, noise, and impacts on health.

In their request to participate, the Moores submitted that they would be directly and adversely affected by the AER's approval of the project, as they live 4.9 km south of the proposed plant and, due to changes in elevation between the proposed project and their property, their residence would be 50 metres above the top of the proposed flare stack. In their statement of concern filed November 17th, 2018, the Moores stated that the elevated nature of their property would expose them to noise, air emissions, light pollution and flaring associated with the project. They also raised concerns about proliferation of sour gas facilities.

The panel is satisfied that due to their proximity to the location of the proposed development and the elevated nature of their property, the Moores may be directly and adversely affected by CSV's applications. Accordingly, the panel has decided that the Moores are entitled to participate in the hearing pursuant to section 34(3) of the *Responsible Energy Development Act (REDA)*.

Subject to further directions or rulings, the panel has decided that the Moores may take part in the hearing as full participants, but only with regard to the following issues:

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1. The effects of the proposed project on:
 - a. Proliferation
 - b. Air quality and emissions
 - c. Noise
 - d. Traffic

The Ambroses

On February 24, 2020, Debbie Bishop of Bishop Law filed a request to participate on behalf of the Ambroses. She stated the Ambroses intended to participate in the hearing by asking questions of CSV, providing direct evidence, providing expert witnesses, and making argument. Ms. Bishop submitted that the Ambroses will be directly and adversely affected by the project if it is approved as they are within its emergency planning zone (EPZ). She further stated the Ambroses are within multiple EPZs for other sour gas developments near their home, and raised concerns about proliferation and air quality.

In their SOC, submitted December 2, 2018, the Ambroses also raised concerns about traffic, noise pollution, safety, lack of information about CSV's emergency response plan, and impacts to wildlife and property values.

The panel is satisfied that, due to the location of their residence within the EPZ for the proposed project, the Ambroses may be directly and adversely affected by the AER's approval of the applications. Accordingly, the panel has decided that the Ambroses are entitled to participate in the hearing pursuant to section 34(3) of the *REDA*.

Subject to further directions or rulings, the panel has decided that the Ambroses may take part in the hearing as full participants on the following issues:

1. The effects of the proposed project on:
 - a. Proliferation
 - b. Air quality and emissions
 - c. Noise
 - d. Safety
 - e. Traffic
 - f. Impacts on wildlife
 - g. Impacts on property values

Ms. Maxwell

On February 24, 2020, Ms. Maxwell filed a request to participate. Ms. Maxwell did not file an SOC with respect to CSV's applications.

Section 9(2)(a) of the *Rules* requires a person who makes a request to participate without having filed an SOC to provide an explanation of why an SOC was not filed. Ms. Maxwell provided several reasons why she did not file an SOC, including that: she was aware her neighbours had filed concerns and she was supportive of their efforts by participating in discussions and collaborating with them; there was less oil and gas activity in her immediate area and she is now concerned about the cumulative effect of the activity that has since rapidly increased; and, she is not satisfied with industry's response to landowners' concerns through the Peace Airshed Zone Association (PAZA) and the Wapiti Area Synergy Partnership (WASP).

In her request to participate, Ms. Maxwell identified several reasons why she feels she would be directly and adversely affected by these applications, including that her residence is located at NE35-72-9-W6 on Township Road 730, just over a mile directly east of the proposed plant site; the prevailing westerly winds would bring increased air emissions and noise in her direction; and, the plant would adversely affect wildlife at Bush Lake, where she enjoys hiking and bike riding. She also raised concerns about cumulative effects, flaring, odours, the impacts of increased traffic on local roads, and the impacts on her ability to enjoy her property and area.

Ms. Maxwell stated the nature and scope of her intended participation was "to be registered and counted as a citizen whose quality of life is being negatively affected by the encroachment of industry and the associated cumulative environmental impacts in the area".

The panel is satisfied that, due to the location of her residence within the EPZ for the proposed project, Ms. Maxwell may be directly and adversely affected by the AER's approval of the applications. Accordingly, the panel has decided that Ms. Maxwell is entitled to participate in the hearing pursuant to section 34(3) of the *REDA*, with respect to the following issues:

1. Effects of the proposed project on:
 - a. Proliferation
 - b. Air quality and emissions
 - c. Noise
 - d. Safety
 - e. Traffic
 - f. Impacts on wildlife

Ms. Maxwell is to advise the panel whether, having set out her concerns in her request to participate, she intends to participate in the oral hearing. Specifically, Ms. Maxwell is to advise the panel if she intends to provide evidence, call witnesses and/or experts, be cross-examined, cross-examine CSV's witnesses and experts, or make argument at the hearing. She is directed to provide this response by noon on Wednesday, March 18, 2020. The panel will decide the extent of Ms. Maxwell's participation based on her response to this letter.

Alternative Dispute Resolution

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In response to requests from the applicant and some of the parties, the panel has asked the Chief Hearing Commissioner to assign a hearing commissioner to assess this matter for alternative dispute resolution (ADR) under section 7.6 of the *Rules*. ADR may assist the parties in resolving the issues in the proceeding, but may also assist the parties in reaching agreement as to process on the hearing should a resolution not be achieved (see section 7.82 of the *Rules*).

Sincerely,

Tara Wheaton
Hearing Coordinator

cc: R. Barata, Carscallen LLP
A. Hall, AER
C. Ross, AER