

Proceeding 390
May 25, 2020

By email only

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www.aer.ca

My Landman Group Inc.
Attention: Daryl Bennett

Burnet Duckworth & Palmer LLP
Attention: Evan Dixon

Alberta Energy Regulator
Reclamation Program Group (RPG)
Attention: Sean Sexton

Re: Sitka Bonavista Reconsideration 1916224
Written Prehearing Schedule and Questions

Dear Sirs:

The panel of Alberta Energy Regulator (AER) hearing commissioners assigned to this matter (the panel) has asked that I communicate to you the following in regard to the prehearing meeting.

As per the panel's letter dated April 8, 2020, the prehearing meeting will be carried out by written correspondence, based on the prehearing submissions already filed. Below are five questions from the panel related to the prehearing submissions. The first four questions must be answered by all parties. The fifth question is directed only to Sitka Exploration Ltd. (Sitka). All parties will have an opportunity to provide a response submission, but that submission must only respond to any new information that may be raised by the answers to the five questions set out in this letter; no new evidence or information will be accepted.

Prehearing Questions

To be answered by all parties: Sitka, Mr. Dennis Murphy & Ms. Bonny Carson, AER Reclamation Programs Group

1. The panel is aware of the following cases that address the concept of onus of proof: *Snell v Farrell*, [1990] 2 SCR 311 (*Snell*) and *Kelly v Alberta (Energy Resources Conservation Board)*, 2009 ABCA 349. Is the discussion of onus in these cases applicable to this proceeding? If so, how? Provide reasons to support your comments.

2. In *Snell*, the Supreme Court of Canada noted that the onus of proof in civil cases is on the party who asserts a proposition. Are there specific issues in this proceeding for which one party should bear the onus of proof? Describe the issue(s) and provide reasons explaining why.
3. Does the fact that none of the parties requested a reconsideration impact onus of proof in this proceeding? Should any party bear the onus in a reconsideration process it did not request? Provide reasons to support your comments.
4. Is a formal information request (IR) process, as provided for in sections 12-14 of the *Alberta Energy Regulator Rules of Practice (Rules of Practice)*, needed in this proceeding? Provide reasons to support your comments.

To be answered by Sitka

5. In its alternative submission on onus on page 5 of its February 6, 2020 submission, Sitka suggested that Mr. Murphy and Ms. Carson's position in this proceeding is analogous to their position as the requestor or appellant in their pending request for regulatory appeal. As a result, Sitka states that Mr. Murphy and Ms. Carson should bear the onus of proof. How does Sitka reconcile this position with section 34(2) of the *Rules of Practice*, which states that Part 2 of the *Rules of Practice* applies to a reconsideration hearing?

The following schedule sets out the timeline for the written prehearing.

Prehearing Schedule

All submissions should be filed electronically to hearing.services@aer.ca no later than 4:00pm on the due date as outlined below, with copies provided to all parties.

- May 25, 2020 panel questions sent by email to parties
- June 15, 2020 parties' written responses due
- June 29, 2020 any submissions due responding only to new information raised by the answers to panel questions
- June 29, 2020 4:30 pm prehearing closed

Following the close of the prehearing, the panel will review the submissions and issue a prehearing decision in due course.

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

Sincerely,

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

Tammy Turner

Hearing Coordinator, Hearing Services

cc: Colin Hennel, Bonavista Energy Corporation
Meighan LaCasse and Francco DeLuca, AER