

**Proceeding 397**

April 30, 2020

By email only

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[www.aer.ca](http://www.aer.ca)

ISH Energy Ltd.

Attention: Veronique Giry & Jennifer Clee

Canadian Natural Resources Limited

Attention: JoAnn P. Jamieson

AER Regulatory Applications

Attention: Karen Lilly

**RE: Regulatory Appeal 1927181  
Proposed Hearing Issues, Schedule, Timing and Format**

Dear Mesdames:

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners (the panel) assigned to the above-noted regulatory appeal.

The panel has reviewed the correspondence regarding the matters raised by Canadian Natural Resources Limited (Canadian Natural) in its April 16, 2020, letter to the panel. Specifically, the panel has reviewed comments submitted by ISH Energy Ltd. (ISH) and AER Regulatory Applications (Regulatory Applications) on April 27, 2020, and the respective April 29, 2020, ISH and Canadian Natural reply comments.

The panel has determined a proposed list of issues for the hearing, a revised hearing schedule incorporating a formal information request process, and potential hearing timing and format. In addition, the panel has decided that if either Canadian Natural or ISH wishes to submit new information, they may do so in accordance with section 31.1 of the *Alberta Energy Regulator Rules of Practice* (the *Rules*). Any new information is to be included in the party's submission filed at the time set out in the below schedule.

### **Hearing Issues**

On the basis of the materials currently on the record of this regulatory appeal, including exhibits numbered in SharePoint as 02.01, 09.02, 09.03 and 09.04, the panel has identified the following as issues for the hearing:

- i. The presence/absence of an effective barrier or top seal overlying the bitumen bearing McMurray formation and, if present, its relevant characteristics in the area of Canadian Natural's KN06 Box.
- ii. The risk of fractures or other breach of the barrier/top seal, if it is present, resulting from Canadian Natural's operations in the KN06 Box.
- iii. The need for an observation well(s) in the KN06 Box.

Should the parties want to comment on the framing of the above issues, or propose additional issues the panel should consider in this proceeding, please do so by noon on Friday May 8, 2020, to [hearing.services@aer.ca](mailto:hearing.services@ aer.ca). If a party has concerns about a comment or comments raised by another party, they may file a response in writing to [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) by noon on Wednesday May 13, 2020.

### **Hearing Schedule**

In light of the pending leave of the AER Regulatory Applications decision maker, and the need to provide the parties an opportunity to file and submit information requests in accordance with section 12 of the *Rules*, the panel has revised the hearing schedule as outlined by the panel in its letter dated March 20, 2020. The revised schedule, is the following:

- **May 22, 2020** ISH and Canadian Natural information requests (IRs) to Regulatory Applications (if any)
- **June 5, 2020** Regulatory Applications responses to IRs
- **June 19, 2020** ISH submission
- **July 3, 2020** Canadian Natural submission
- **July 10, 2020** Regulatory Applications submission
- **July 24, 2020** ISH response to submission(s)
- **August 7, 2020** IRs from ISH and Canadian Natural regarding respective submissions
- **August 21, 2020** IR responses due from ISH and Canadian Natural
- **To be determined** Hearing date and format

Please note that the panel may request further information from the parties throughout the process. Parties will be expected to submit a written response no later than two weeks after the date of the request unless the panel directs otherwise.

All submissions must be submitted to [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) by **noon on the stated date**. Submissions should be in PDF format, page numbered to match the PDF page number, bookmarked, and searchable (optical character recognition). Submissions must meet the requirements of section 9.2(2) of the *Rules*.

The panel may direct parties to file additional information that it considers necessary to permit the full and satisfactory understanding of the issues in the proceeding.

### **Hearing Format and Timing**

Both Canadian Natural and ISH have clearly expressed their preference for a traditional in-person oral hearing. Canadian Natural says it requires a decision before the end of December 2020 and so must have a hearing by September 15, 2020. ISH does not object to a mid September hearing. Regulatory Applications is not available for a traditional in-person oral hearing before September 15, 2020.

Restrictions on face to face gatherings resulting from the COVID-19 pandemic are ongoing. There is no way to know when a traditional oral hearing may be an option. The panel will decide the hearing format and date, at the earliest, after it has determined the issues for the hearing. The panel will take into account the need to ensure the health and safety of all involved and the need to ensure a fair and efficient process when it makes those decisions. It may be that the final hearing process is a combination of written submissions, a more detailed and iterative written information request process, and an opportunity to ask witnesses questions directly via electronic means. Final argument could be written or oral. The panel will consult further with the parties on the hearing process format and timing before giving direction on those matters. Both Canadian Natural and ISH said that if an oral hearing is not possible, an electronic hearing would be acceptable. The panel appreciates the parties' cooperation in this regard.

For questions about the above, please contact me at 403-297-3232 or by email at [hearing.services@aer.ca](mailto:hearing.services@ aer.ca).

Sincerely,

*Tammy Turner*

Hearing Coordinator, Hearing Services

cc: Alana Hall, AER counsel