

**Proceeding 397**

September 23, 2020

By email only

**Calgary Head Office**  
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Canada[www.aer.ca](http://www.aer.ca)ISH Energy Ltd.  
Attention: Laura-Marie BergCanadian Natural Resources Limited  
Attention: JoAnn P. JamiesonAER Regulatory Applications  
Attention: Karen Lilly**RE: Regulatory Appeal 1927181  
ISH Energy Ltd.'s Request for Extension**

Dear Counsel:

I am writing 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 request from ISH Energy Ltd. (ISH), dated September 18, 2020, for an extension of the filing date for its reply submission from September 25, 2020 to October 6, 2020, and to move the hearing from October 13-16 to the week of October 21, 2020 (ISH's request). The panel has also reviewed the responses from Canadian Natural Resources Limited (Canadian Natural) and AER Regulatory Applications, each dated September 22, 2020.

For the reasons outlined below, the panel has decided not to grant ISH's request.

**ISH's Submissions**

ISH makes two arguments to support its request. First, ISH argues that Canadian Natural did not provide detailed responses to its information requests (IRs), which required the panel to ask similar questions in its own information requests. ISH submits that it should have a chance to review Canadian Natural's responses to the panel's IRs before it is required to file its reply submissions.

Second, ISH argues that Canadian Natural's IR responses raise new issues regarding gas-over-bitumen (GOB) production and integrity of the 10-01 well, which in turn raise issues regarding risk assessment and the management and consequence of Canadian Natural's SAGD operation in the KN06 area. ISH submits that it needs additional time to address these issues, as they were not anticipated at the start of this proceeding.

## **Canadian Natural's Submissions**

Canadian Natural strongly opposes ISH's request, and says it would be prejudiced by any further delay of the regulatory appeal, which was granted in February 2020. Canadian Natural notes it has repeatedly stated in prior submissions that it would like the regulatory appeal to be determined by the end of 2020, so that it can meet its operational timeline and, subject to the panel's decision, proceed with the approved KN06 development in early 2021.

Canadian Natural points out that, by September 25, 2020, ISH will have had the benefit of Canadian Natural's responses to its IRs for six weeks (since August 14, 2020), which is more than enough time to prepare and file a reply submission.

Canadian Natural also argues the AER's IRs are for the purpose of clarifying the submissions, rather than raising new issues or introducing new evidence, and are not similar to ISH's IRs. Canadian Natural submits that it provided detailed responses to the IRs asked by ISH, and ISH can ask any further questions it may have about Canadian Natural's responses at the hearing.

Canadian Natural submits that the information it provided on the 10-01 well does not raise new issues about the management and consequence of Canadian Natural's SAGD operation. More importantly, that information is not relevant to the issues in this proceeding.

## **AER Regulatory Applications' Submissions**

AER Regulatory Applications takes no position on ISH's request, and confirms that it does not intend to participate in the oral portion of the hearing.

## **Panel Decision**

The panel notes that the parties to this regulatory appeal have been exchanging information and making submissions on the matters at issue between them for over a year and a half, since ISH filed its request for a regulatory appeal in February 2019. Furthermore, ISH previously asked for and was granted a 2-month extension to file its reply submissions. The parties have also had the benefit of a formal IR process, which is discretionary under section 12 of the *AER Rules of Practice*, and, by its terms, is intended to make hearings more efficient and effective.

Canadian Natural's responses to ISH's IRs were filed on August 14, 2020. If ISH had a concern that Canadian Natural's responses were inadequate or raised new issues, it should have raised the matter sooner. The panel also notes that its direction to both parties (in the form of a request for information) is not part of the discretionary IR process established pursuant to section 12 of the *AER Rules of Practice*.

Moreover, the panel does not see, on the face of ISH's request, how the information on GOB production and integrity of the 10-01 well is relevant to the issues in this proceeding, as set out in the panel's letter dated April 30, 2020, (exhibit 21.01) and agreed to by ISH on May 8, 2020, (exhibit 22.01).

Finally, the panel notes that ISH will have full opportunity to question Canadian Natural at the hearing.

For the above reasons, the panel denies ISH's request for further extension for its reply submissions. The hearing schedule remains as per the panel's letter dated July 15, 2020, (exhibit 35.01).

The panel would like to remind ISH that it must submit its final list of witnesses for the hearing with its reply submission.

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

Sincerely,

*Tammy Turner*

Hearing Coordinator, Hearing Services

cc: Alana Hall and Scott Poitras, AER Counsel for the panel