

Proceeding 417

November 2, 2022

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By email only

Hayduke & Associates (2021) Ltd. Bennett Jones LLP
Attn: Michael Sawyer Attn: Daron NaffinAER Regulatory Applications
Attn: Meighan LaCasse & Amanda Huxley

**RE: Regulatory Appeal of Application No. 31097955 & Pipeline Licence No. 62559
Regulatory Appeal 1935549
SME Issue
Michael Judd (Mr. Judd)
Pieridae Alberta Production Ltd. (Pieridae)
AER Regulatory Applications
(collectively, parties)**

Dear All:

This panel is rescuing itself from presiding over proceeding 417, and thereby requests that the Chief Hearing Commissioner assign a new panel of hearing commissioners to this proceeding.

We have received and considered the letters from Mr. Judd, Pieridae and AER Regulatory Applications, dated November 1, 2022. The parties' provided their views on the diminished appearance of the panel's impartiality resulting from an AER subject matter expert, Mr. Zelensky, advising not only the panel but also Regulatory Applications.

Mr. Judd submitted that while this proceeding is tainted with the perception of bias, any further delay would adversely impact Mr. Judd, and therefore he reluctantly acquiesced that the Panel continue to preside over this proceeding and be assisted by a new team of subject matter experts. Pieridae submitted that despite the resultant prejudice in terms of delay and duplication of effort visited upon Pieridae, it would be most appropriate for the Panel to recuse itself. AER Regulatory Applications submitted that the panel must recuse itself.

We hold the principles of impartiality and procedural fairness as paramount. Procedural fairness demands that this panel not only be impartial, but be seen to be impartial. The fact that Mr. Zelensky has been inadvertently “shared” between Regulatory Applications and this panel has diminished the appearance of impartiality; all of the parties agreed with this in one way or another. To maintain procedural fairness and the integrity of this proceeding, while acknowledging the potential delays it may cause, we hereby recuse ourselves.

Sincerely,

Parand Meysami, M.Sc., P.Eng., Presiding Hearing Commissioner

Brian Zaitlin, Ph.D., P. Geol., C.P.G., Hearing Commissioner

Elizabeth McNaughtan, M.B.A., P.Ag., Hearing Commissioner

cc: A. Bolton, Chief Hearing Commissioner

S. Fluker, Public Interest Law Clinic (University of Calgary)

T. Myers, Bennett Jones LLP

S. Poitras, AER

C. Ross, AER

S. Sexton, EVP Law and General Counsel AER