

Proceeding 430

August 2, 2023

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By email only

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**RE: Application 1936092
Canadian Natural Resources Limited (Canadian Natural)
ISH Energy Ltd. (ISH)
Participation Decision and Procedural Matters**

Dear Counsel:

I am writing on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over this proceeding (the panel).

On June 14, 2023, the AER issued a notice of hearing for Canadian Natural's Application 1936092 (Application). This notice explained how to file a request to participate in the hearing and set a filing deadline of June 28, 2023, with a corresponding applicant's response deadline of July 6, 2023. On June 16, 2023, the panel received a letter from ISH requesting extensions for the filing deadlines to July 6 and July 17, 2023, respectively. The panel approved these extensions on June 19, 2023.

On July 6, 2023, the AER received a request to participate from ISH. ISH submitted that an approval of the Application would adversely affect ISH's interests in the gas and gas over bitumen reserves in the Wabiskaw Formation overlaying Canadian Natural's proposed drainage boxes KN08 and KN09 in the Kirby North Phase 1 Development Area. ISH indicated that Canadian Natural's proposed steam injection would be in the vicinity of open fractures and/or faults in the area of the KN08 and KN09 drainage boxes, that steam permeation would sour the gas that ISH intends to produce, that Canadian Natural's activities would prejudice ISH's ability to economically produce gas, that two wells are non-thermally compatible with Canadian Natural's Application, and that Canadian Natural has not provided sufficient information regarding its monitoring strategies. ISH requested that a process be set out to allow it to file information

requests to Canadian Natural, file evidence, test Canadian Natural's evidence through cross examination, and make written and/or oral argument before the panel.

On July 13, 2023, Canadian Natural filed a response to ISH's request to participate. Canadian Natural stated that it took no objection to ISH's request to participate in the hearing. Canadian Natural indicated that it would provide written hearing submission to address the substantive comments found in ISH's application to participate. Canadian Natural confirmed that it too would like a full, oral hearing process with the opportunity to file information requests to ISH, file evidence, cross-examine witnesses, and present final argument. Canadian Natural indicated that the issues in dispute may be narrowed prior to the hearing.

PARTICIPATION DECISION

The panel has considered ISH's request to participate and Canadian Natural's response. Given that ISH holds petroleum and natural gas rights in the Kirby Upper Mannville II Pool, which overlays and may be in communication with the McMurray bitumen deposit that Canadian Natural proposes to develop, the panel is of the view that ISH may be directly and adversely affected by the Application. Based on the information before it, the panel grants ISH full participation rights in the hearing.

HEARING ISSUES

The panel would like to hear the parties' views on what they believe the issues should be for the hearing.

HEARING FORMAT/LOCATION

The panel is contemplating an in-person hearing to be held in Calgary, in Govier Hall at the AER's head office. The panel requests that the parties provide comments on the hearing format and location.

HEARING DATES

Before setting the hearing submission schedule, the panel would like to canvass the availability of the parties for an in-person hearing for the week of January 22, 2024, the week of January 29, or the week of February 5, 2024. If these dates do not work, please provide alternative dates.

The panel would also like the parties to provide an estimate on how many days they believe will be required for the hearing.

ISH REQUEST TO SUPPLEMENT APPLICATION RECORD

On June 16, 2023, ISH noted that its comments on the Draft Conditions of Approval, sent to the AER on January 20, 2023, were not included as part of the Application Record. Given that the approval that was

issued in error, the draft conditions, and the request for comments on the draft conditions form part of the record, ISH requested that its response to the request form part of the record as well.

The panel would like to provide Canadian Natural an opportunity to respond to this request. Please provide a response to Hearing.Services@aer.ca by **August 10, 2023**. ISH will then be provided an opportunity to reply by **August 17, 2023**.

CONCLUSION

In summary, the panel requests comments from the parties on each of the following matters in relation to the hearing:

- the issues for which the parties are allowed to make submissions, representations, and argument;
- the parties' preferred hearing format and location;
- the parties' availability for an in-person hearing during the week of January 22, January 29, or February 5, 2024 (or any alternative availability); and
- an estimate of how many days will be required for the hearing.

Please provide your comments to Hearing.Services@aer.ca **no later than 4:00 pm (MST) on August 10, 2023**. The parties may then provide a response to each other's comments to Hearing.Services@aer.ca **no later than 4:00 pm (MST) on August 17, 2023**.

Sincerely,

Andrew Lung, C.E.T.
Hearing Services

cc: M. Scrimshaw and M. Ramsay, Canadian Natural Resources Limited
V. Giry, ISH Energy Ltd.
W. McClary and S. Peddlesden, AER Legal Counsel