

**AER Proceeding 430**

September 6, 2023

By email only

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**Jamieson Laurin + Co.**

Attention: JoAnn Jamieson

**Peak Legal Counsel**

Attention: Marlé Riley

**Re: Application 1936092  
Canadian Natural Resources Limited (Canadian Natural)  
ISH Energy Ltd. (ISH)  
Decisions on Hearing Issues, Procedural Matters, and Scheduling**

Dear Counsel:

I am writing on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over this proceeding (the panel) to provide the decisions on several procedural matters related to the proceeding.

On August 2, 2023, the panel issued a letter to the parties requesting comments on the hearing issues, preferred hearing format and location, availability for an in-person hearing, and an estimate on hearing duration. The panel also requested that Canadian Natural comment on ISH's request to supplement the application record.

## **HEARING ISSUES**

### Submissions

In its submission dated August 10, 2023, Canadian Natural submitted that the only issue on which the parties should be allowed to make submissions, representations, and argument is the following:

1. The presence/absence of an effective barrier overlying the bitumen-bearing McMurray Formation, consisting of a deposit (or aggregation of strata) that is not permeable to steam over the life of the KN08 and KN09 drainage boxes.

Canadian Natural was of the view that all other concerns raised by ISH in this proceeding have been adequately addressed by AER requirements, the AER decision report in respect of the KN06 box (i.e. 2021 ABAER 001) or Canadian Natural's application materials, information responses and commitments on the application record.

On August 16, 2023, Canadian Natural indicated that it had no further comments on hearing issues.

In its initial submission and response dated August 10, 2023, and August 17, 2023, respectively, ISH submitted that the issues for the hearing should be as follows:

1. The presence/absence of an effective barrier overlying the bitumen-bearing McMurray Formation, consisting of a deposit (or aggregation of strata) that is not permeable to steam over the life of the KN08 and KN09 drainage boxes, which includes but is not limited to (a) whether or not there are fractures in the strata between the McMurray Formation and Wabiskaw B Member, and (b) what the resultant implications of these findings will be on the conditions of approval, if any.
2. The sufficiency of previously approved monitoring conditions, given well integrity issues and effectiveness of previously approved monitoring conditions.
3. What the appropriate monitoring conditions ought to be for the proposed KN08 and KN09 drainage boxes, including whether one observation well is sufficient to effectively monitor the pad development area.
4. What the approved maximum operating pressure (MOP) ought to be, given the relevant geological characteristics and the determination and application of a sufficient safety factor.
5. Whether or not sufficient information has been disclosed to justify the approval of co-injection and if so, what the conditions of such approval ought to be.
6. Whether or not Canadian Natural's proposal to ensure thermal compatibility and/or abandonment of wells, is appropriate in the circumstances where Canadian Natural's proposal will directly and adversely affect ISH production.

### Decision

In this hearing, the panel is tasked with determining whether to approve Application 1936092, and if so, to determine what conditions, if any, should be applied to the approval. In making this determination, the panel will consider the following issues:

1. The presence/absence of an effective barrier overlying the bitumen-bearing McMurray Formation, consisting of a deposit (or aggregation of strata) that is not permeable to steam over the life of the

KN08 and KN09 drainage boxes, which includes but is not limited to whether or not there are fractures in the strata between the McMurray Formation and Wabiskaw B Member.

2. What the appropriate monitoring conditions ought to be for the proposed KN08 and KN09 drainage boxes, including whether one observation well is sufficient to effectively monitor the pad development area.
3. What the maximum operating pressure (MOP) ought to be, given the relevant geological characteristics and the determination and application of a sufficient safety factor.
4. Whether to approve the use of co-injection for the proposed KN08 and KN09 drainage boxes.
5. How the thermal compatibility and/or abandonment of wells will be dealt with.

The panel may also decide to consider additional issues that arise during the course of the hearing, which may assist the panel in deciding the application.

### **ISH REQUEST TO SUPPLEMENT APPLICATION RECORD**

In its August 10, 2023, letter, Canadian Natural stated that it took no objection to ISH's comments on the Draft Conditions of Approval sent to the AER on January 20, 2023, being included as part of the application record.

The panel agrees that ISH's January 20, 2023, comments on the Draft Conditions of Approval should have formed part of the hearing record and notes Canadian Natural's non-objection. ISH's comments on the Draft Conditions of Approval dated January 20, 2023, will be added to the hearing record as Exhibit 01.04.

### **HEARING FORMAT/LOCATION**

In the August 10, 2023, submissions, both Canadian Natural and ISH agreed that the hearing should be held in-person and at the AER's Govier Hall. The panel confirms that the hearing will be held in-person at Govier Hall.

### **HEARING DATES AND SCHEDULE**

In its submission dated August 10, 2023, Canadian Natural indicated that it would be available for a hearing the weeks of February 5, 12, and 19, 2024.

In its submission dated August 10, 2023, ISH indicated that one of its key witnesses would not be available in January 2024 for a hearing. It would therefore appreciate it if the hearing could be scheduled for the

week of February 12, 2024, or later. ISH stated that if that was not possible, that it would make itself available for the week of February 5, 2024.

The panel has taken into consideration the parties' views, as well as other hearing commitments, and decided that the hearing will take place from February 6 – 9, 2024.

The schedule for the proceeding is as follows:

<b>Date</b>	<b>Filing</b>
September 25, 2023	Canadian Natural submission
October 10, 2023	Information requests to Canadian Natural
October 24, 2023	Canadian Natural response to information requests
November 7, 2023	ISH submission
November 21, 2023	Information requests to ISH
December 5, 2023	ISH response to information requests
December 19, 2023	Canadian Natural reply submission
February 6, 2024	Hearing starts

The panel requests that the parties copy the AER on their information requests and responses, so that the materials are filed on the record of this proceeding.

All filings must be submitted to [Hearing.Services@aer.ca](mailto:Hearing.Services@ aer.ca), with a copy to the other party, **no later than 4:00 pm** on the relevant date.

Yours truly,



Andrew Lung, C.E.T.

Hearing Services

cc: Marc Scrimshaw, Canadian Natural Resources Limited  
Veronique Giry, ISH Energy Ltd.  
William McClary, AER Legal Counsel  
Shannon Peddlesden, AER Legal Counsel