

Proceeding 440

December 05, 2023

By email only

Lawson Lundell LLP

Attention: Shailaz Dhalla

Agri Energy Partners Ltd

Attention: Todd PlandowskiAER Enterprise Reclamation
Group (ERG)**Attention: Amanda Huxley****Hearing Commissioners' Office**

Suite 1000, 250 - 5 Street SW

Calgary, Alberta T2P 0R4

Canada

hearing.services@aer.ca**Re: Regulatory Appeal 1948503
Canadian Natural Resources Limited**

Dear Representatives:

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners (the panel) presiding over proceeding 440.

On November 6, 2023, the panel sent a letter to parties asking for submissions on:

- hearing issues,
- hearing format,
- hearing location, and
- hearing dates.

The panel has received and reviewed the parties' submissions. ERG and Lorenson filed their submissions on November 15, Canadian Natural filed its submission on November 16, and its reply on November 24, 2023.

1. Hearing Issues**Parties' submissions**

In an earlier letter, dated October 26, 2023, Canadian Natural suggested that the nature and scope of the issues and sub-issues be the same as stated in AER's decision of August 31, 2023, which granted the regulatory appeal. Those issues are:

- Did CNRL's reclamation of lands at 8-35-056-5-W4M meet the appropriate regulatory standard, and should ERG's decision to cancel the reclamation certificate be confirmed, varied, suspended, or revoked?
 - Whether there is new evidence that is relevant and material to the reclamation that was not available to the ERG decision-maker;
 - whether the passage of time has led to the spoilage of evidence; or
 - whether the landowner's actions affected reclamation.

Canadian Natural provided no further comments on the issues in its submissions of November 16 or 24, 2023. ERG also didn't provide any comments.

Mr. Lorensen's submission on the issues pointed to the following:

- There is insufficient production and compaction on the 8-35-056- 05-W4 former well site.
- CNRL has not inspected this location for over 36 months, resulting in a potential lack of recent data.
- The enduring involvement of Mr. Lorensen with 8-35-056-5-W4, combined with perceived negligence by the operator in addressing raised concerns, has led to notable frustration.
- The operator's failure to remit the annual rental fee for a lease that has not been recertified.

Panel's Decision

Under section 41(2) of the *Responsible Energy Development Act* (REDA), in a regulatory appeal decision, the panel's task is to confirm, vary, suspend, or revoke the appealable decision. The appealable decision in this matter is the AER's decision of October 17, 2022, to cancel the reclamation certificate 30002609 (the Decision).

With that in mind, and after considering the submissions made by the parties about the issues, the panel sets the hearing issues as:

- Did CNRL's reclamation of lands at 8-35-056-5-W4M meet the appropriate regulatory standard?

The panel is of the view that the detailed sub-issues proposed by Canadian Natural on October 26, 2023, and Mr. Lorensen on November 15, 2023, inform this overarching issue.

The panel may also consider additional questions that arise during the proceeding, which are relevant and material to the overarching issues and may assist the panel in deciding the regulatory appeal before it. In making its decision the panel must follow the applicable requirements provided in the REDA, the *Environmental Protection and Enhancement Act*, and any other relevant legislation under the AER's regulatory framework.

Mr. Lorensen raised matters related to compensation and the surface lease agreement. Any dispute related to these matters is outside of the AER and, consequently, the panel's legal jurisdiction. Therefore, any

matters related to compensation and the surface lease agreement will not be part of the scope of this proceeding.

2. Hearing Format and Location

Parties' submissions

Canadian Natural submitted that it preferred an in-person hearing to maximize interaction and engagement. Canadian Natural requested the hearing be held in Calgary because the panel, Canadian Natural representatives, and ERG representatives, who comprise the majority of hearing attendees, reside in Calgary. According to Canadian Natural, a hearing in Calgary would be most convenient, efficient and cost-effective.

ERG confirmed that it takes no issue with an in-person hearing and it will be prepared to attend the hearing in St. Paul or Lloydminster. ERG also suggested that the panel consider Bonnyville and Vermilion as options for the hearing location as there are several hotels and restaurants available for all parties and they remain in proximity to the subject lands.

Mr. Lorensen stated their preference would be an in-person format and in either St. Paul or Lloydminster.

Panel's Decision

After considering the parties' submissions, the panel has decided to hold the hearing in-person, in Calgary at Govier Hall.

While the location of the land subject to the cancelled reclamation certificate is near Lloydminster and Mr. Lorensen and his representation will need to travel to Calgary, most of the hearing participants are in Calgary. A hearing in Calgary will provide for a more efficient use of resource by eliminating the travel needs of a large group of people; including technical support staff and court reporters.

Govier Hall is equipped with audio-visual technology that allows participants to attend remotely via video conferencing, if necessary. Should any party need to attend remotely, they may make a request and the panel will consider it.

Furthermore, the subject of the hearing is a cancelled reclamation certificate that was issued to Canadian Natural, and the regulatory appeal proceeding is being conducted because Canadian Natural's request for a regulatory appeal was granted by the regulator.

The panel also notes section 59(1) of the *Alberta Energy Regulator Rules of Practice* through which parties can make a request to the AER for an advance of funds.

3. Hearing Date and Submission Schedule

Parties' submissions

The panel identified July 9, 10 and 11, 2024, as potential hearing dates and asked the parties to suggest alternative dates if those were not suitable.

In response Canadian Natural submitted that it is available July 15 through 19 or August 12 through 16, 2024.

ERG submitted that it is not available the week of July 9 through 11, 2024, but proposed the weeks of July 15 through 19 or August 12 through 16 as possible alternative dates.

Mr. Lorensen suggested that a hearing date in early to mid-August would be preferred due to his agricultural activities.

Panel’s Decision

After considering the parties' submissions, the hearing will be scheduled from August 13 to 16, 2024. The panel anticipates that the hearing will take two to three days and will solicit time estimates from the parties once the majority of submissions have been filed.

The following is the schedule for the hearing submissions.

Canadian Natural’s hearing submission	February 1, 2024
ERG’s hearing submission	February 29, 2024
Mr. Lorensen’s submission	March 28, 2024
Canadian Natural’s reply submission	April 25, 2023
Hearing begins	August 13, 2024

Submissions should be in PDF format, page numbered to match the PDF page number, bookmarked, and searchable (optical character recognition).

Submissions are due by 4:00 pm on the dates as specified by the schedule above. Submissions should be emailed to hearing.services@aer.ca, and copied to all other parties.

Sincerely,

Tara Wheaton
Hearing Coordinator, Hearing Services

cc: Nathan Wellsman, Lawson Lundell LLP
Arly Castillo, Canadian Natural Resources Limited
William R McClary, AER counsel for the panel