

Proceeding ID 407

March 8, 2021

By email only

Stikeman Elliott LLP
Attention: Dennis Langen

Osler, Hoskin & Harcourt LLP
Attention: Jessica Kennedy

Cenovus Energy Inc.
Attention: Dean McCluskey

Rose Marie Sackela

**Re: Spartan Delta Corp.
Well License Application 30762148 near the Brazeau Dam
Panel Decision on Requests to Participate**

Dear Sirs and Madams:

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

On September 30, 2020, Winslow Resources Inc. (Winslow) applied for licences to drill two horizontal wells from a multi-well pad located at 01-11-045-11W5M to projected bottomhole locations LSD 13 & 16-14-045-11W5M.

On March 2, 2021, Winslow informed the panel that on January 1, 2021, Winslow amalgamated with Spartan Delta Corp. under the name of Spartan Delta Corp. (Spartan). A copy of the associated Certificate of Amalgamation was provided on the record in this proceeding. Consequently, going forward the applicant will be referred to as Spartan in this proceeding.

On February 5, 2021, the AER issued a notice of hearing for application 30762148 filed by Spartan to drill wells near the Brazeau Hydroelectric Facility. The notice of hearing set out the process and deadlines for filing a request to participate in the hearing, which was February 23, 2021.

I. Participation Confirmation and Requests to Participate

1. TransAlta

On February 23, 2021, in accordance with the notice of hearing, TransAlta Corporation (TransAlta), as a statement of concern filer, confirmed that it plans to fully participate as an intervenor in the hearing for Proceeding 407.

2. Cenovus Energy Inc.

The AER received Cenovus Energy Inc.'s (Cenovus) request to participate on February 23, 2021. In the request Cenovus stated it holds a very large land position and drilling inventory position in the Brazeau area. Cenovus has a number of existing and proposed facilities in proximity to the Brazeau dam and the proposed wells. Cenovus holds the largest land and inventory position of any operator in the area and has made a long-term commitment to safely develop this substantial resource.

Cenovus stated it is not seeking to file technical data or evidence or to participate in an information request process in the proceeding but would like to observe and closely monitor it with the option to participate in final argument.

Spartan does not object to Cenovus being granted participatory rights in the proceeding and TransAlta did not make any submissions with respect to Cenovus' request to participate.

3. Ridgeback Resources Inc. and Westbrick Energy Ltd.

On February 23, 2021 Ridgeback Resources Inc. (Ridgeback) and Westbrick Energy Ltd. (Westbrick) filed a request to participate in the proceeding stating that, as operators with similar applications for wells near the Brazeau Dam currently before the AER in Proceeding 379, both companies support Spartan's application.

According to Ridgeback and Westbrick, Spartan's application was set down for a hearing before the AER on the basis of TransAlta raising the very same concerns it has raised in Proceeding 379, while also relying on the evidentiary record in Proceeding 379. Ridgeback and Westbrick submitted that they may be directly and adversely affected by any decision of the AER in respect of Spartan's application 30762148.

Ridgeback and Westbrick further stated they have a tangible interest in the subject matter of the proceeding and will materially assist the AER in deciding the subject matter of the proceeding.

As part of Proceeding 379, Ridgeback and Westbrick have filed proprietary and confidential evidence that is highly technical and includes, *inter alia*, interpretations of an extensive regional dataset of seismic data, micro-seismic data and completions data in geological areas in proximity to the Brazeau Dam.

If granted full participation, Ridgeback and Westbrick will make some or all of its technical data, subject to confidentiality, available for consideration in this proceeding to assist the AER in assessing Spartan's application.

Ridgeback and Westbrick requested full participation in the proceeding submitting that their participation will not unnecessarily delay the hearing of the Spartan application.

Spartan fully supports both Westbrick and Ridgeback being granted full participatory rights in the proceeding and TransAlta did not make any submissions with respect to Ridgeback and Westbrick's request to participate.

4. Rose Marie Sackela

On February 23, 2021, Rose Marie Sackela filed a request to participate in the proceeding. She advised she did not file a statement of concern because she did not previously see application 30762148.

Ms. Sackela stated she will be directly and adversely affected by the Spartan application to use hydraulic fracturing on wells close to the Brazeau Dam. She said research has established fracked wells can and do cause earthquakes, not just in other parts of North America, but in Alberta (Vesta & Sylvan Lake/Central Alberta, March 2019 and Fox Creek by various companies and on multiple occasions). She stated that earthquakes travel long distances and that the Rocky Mountain area and Foothills is an already well established naturally active earthquake zone with many naturally occurring faults.

Ms. Sackela said the nature of her interest in the proceeding included concerns around personal property and, health and safety. She stated the nature of her evidence would be centered around unique citizen concerns.

Ms. Sackela describes the location of her residence as SW-2-45-7-W5 and stated it is nearly straight east, only 30 km from the proposed wells. She said the close proximity to the Brazeau Dam, the added stress put on it, and the wider active earthquake area around it, would greatly increase the likelihood of hydraulic fracturing of these wells setting off an earthquake. Such earthquake would cause the Brazeau Dam to weaken and/or fail, including setting off an earthquake with shocks and/or aftershocks that would very likely adversely and directly affect her residence and quarter as well as her additional quarters described as NE & NW 3-45-7-W5. Ms. Sackela stated she is seeking full participation in the proceeding and denial of the application.

In its submission on March 2, 2021, Spartan submitted that Ms. Sackela should be denied any standing to participate in the proceeding as she will not be directly and adversely affected by any AER decision on the application.

Spartan referenced Section 9 of the *Alberta Energy Regulator Rules of Practice* (AER Rules), which outline the two avenues that are available to parties to be granted participant status in an AER hearing: 1) the person is directly and adversely affected by a decision of the AER; or 2) if the person is not directly and adversely affected by a decision of the AER, (i) the person's participation will materially assist the AER in deciding the matter that is the subject of the hearing, (ii) the person has a tangible interest in the subject-matter of the hearing, (iii) the person's participation will not unnecessarily delay the hearing, and (iv) the person will not repeat or duplicate evidence presented by other parties.

With respect to the directly and adversely affected test, Spartan submitted Ms. Sackela's lands are approximately 39 kilometers from the proposed well site and approximately 48 kilometers from the Brazeau Dam. Further, Ms. Sackela's request provides no evidence of how approval of the application will affect her lands nor any evidence of how the applied for activity will directly affect her individually or personally. Her request raises only general concerns regarding earthquakes. Spartan stated the AER requires specific evidence of impacts to the land or individual and a direct connection to the applied for activity. It is Spartan's position that these requirements are not met by Ms. Sackela in this instance.

With regard to Ms. Sackela being able to materially assist the AER in deciding the matter, Spartan pointed out that TransAlta has been granted full participatory rights in the proceeding so as to address these specific concerns and, as the operator of the Brazeau Dam, has indicated it will address this issue directly in the AER hearing.

TransAlta did not make any submissions with respect to Ms. Sackela's request to participate.

II. Hearing Panel Decision

Section 34(3) of the *Responsible Energy Development Act* states that, "a person who may be directly and adversely affected by the application is entitled to be heard at the hearing." In addition, even if a person will not be directly and adversely affected by a decision of the AER on an application, section 9(2)(c) of the *Alberta Energy Regulator Rules of Practice* (Rules) gives the panel discretion to grant participation status to (i) persons whose participation will materially assist the panel in deciding the matter that is the subject of the hearing, (ii) who have a tangible interest in the matter and (iii) whose participation will not unnecessarily delay the proceedings and (iv) not repeat or duplicate evidence.

1. Cenovus

Cenovus is a holder of a very large land position and drilling inventory in the Brazeau area, including a number of existing and proposed facilities in proximity to the Brazeau dam and the proposed wells, and has made a long-term commitment to safely develop this substantial resource. As a result, the panel finds that Cenovus has a tangible interest in the matter and that the requested level of participation will not unnecessarily delay the proceeding.

For the above reasons and subject to further directions or rulings issued by the panel, Cenovus is granted the applied-for limited participation in the hearing.

2. Ridgeback and Westbrick

The panel has considered Ridgeback and Westbrick's request to participate and Spartan's response to their submission. Based on the information before it, and regardless of whether Ridgeback and Westbrick may be directly and adversely affected by the panel's decision on the applications, the panel finds that Ridgeback and Westbrick's participation in the hearing may materially assist the panel in deciding the application by filing on the record the technical information described by Ridgeback and Westbrick in its request. This information contains evidence that is highly technical and includes interpretations of an extensive regional dataset of seismic data, micro-seismic data and completions data in geological areas in proximity to the Brazeau Dam that may be geologically analogous to the areas targeted by the wells forming the subject matter of the Spartan application.

The panel also finds that Ridgeback and Westbrick have a tangible interest in the subject matter of the hearing because they have extensive operations in the area of the application and their participation will not unnecessarily delay the hearing or repeat or duplicate evidence presented by other parties.

For the above reasons and subject to further directions or rulings issued by the panel, Ridgeback and Westbrick are permitted full participation in the hearing.

3. Rose Marie Sackela

Ms. Sackela expressed concerns around personal property, health and safety, stating that she will be directly and adversely affected by the application. Ms. Sackela also expressed concerns related to hydraulic fracturing and potential earthquakes that may result from it. Ms. Sackela concerns are, however, general in nature. Considering the proximity of Ms. Sackela's land to the proposed project, which is over 30 km away from the proposed well site, there was insufficient information provided to establish how the approval of the application will directly affect Ms. Sackela or her land.

The panel finds that Ms. Sackela has not provided sufficient information to demonstrate the degree of location or connection between the proposed project activities and her land to justify her participation in the hearing. The panel is of the view that the request to participate does not satisfy the information requirements outlined in the *Rules*.

For the above reasons, Ms. Sackela's request to participate is denied.

Sincerely,

Tara Wheaton

Hearing Coordinator

cc: K. Dumanovski, AER
C. Martin, Spartan Delta Corp.
A. Sam, TransAlta Corporation