

Proceeding 442

March 1, 2024

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By email only

Ovintiv Canada
C/O Bennett Jones LLP
Attention: Daron Naffin**Attention: Ed and Harriet Pollon (The Pollons)****Re: Ovintiv Canada ULC (Ovintiv) Application 32140532 (the application)
Procedural matters**

I am writing to you on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners (the panel) presiding over proceeding 442.

In a letter on January 30, 2024, the panels asked the parties to provide submissions on the following by February 9, 2024. Any reply submissions were due by February 14, 2024.

- date and duration,
- formal information request process,
- format and location,
- issues.

Hearing Date and Duration

In its January 30th letter, the panel proposed the following 3 options for hearing dates:

1. June 24 through June 26, 2024, or
2. September 10 through 12, 2024,
3. October 1 through October 3, 2024

On February 6, 2024, the Pollons stated they were okay with any of the dates proposed. On February 9, 2024, Ovintiv confirmed it was not available to attend a hearing on the proposed dates in June 2024; and while available for both the September and October dates, Ovintiv stated a preference for October 1-3.

Since proposing the hearing dates above, there has been a change in the panel's schedule, and it is no longer available October 1-3. Given that both parties have confirmed they are available from September 10 - 12, 2024, the panel will proceed with scheduling the hearing on those dates.

In its January 30 letter, the panel stated that three days should be sufficient for this hearing and provided parties the opportunity to comment if they felt more time was needed. Neither the Pollons nor Ovintiv commented on the duration of the hearing so the panel will proceed with allocating 3 days for this hearing.

Formal Information Request Process

Ovintiv stated that a formal information request process is not necessary and the Pollons didn't provide comments about one. Therefore, a formal information request process will not be included in the schedule.

Hearing Format and Location

In its January 30 letter, the panel said it was considering holding the hearing in person, and possibly in Grande Prairie, or another convenient location to be determined and invited parties to provide comments. The Pollons stated their preferred location for the hearing is Grande Prairie and Ovintiv advised that in-person hearing in Grande Prairie is acceptable.

The panel will hold the hearing in-person, in Grande Prairie at a location to be determined and will issue a notice of scheduling of hearing in due course.

Hearing Issues

Parties Submissions

In reply to the panel's letter of January 30, 2024, the Pollons indicated that they would like to address the issues outlined in their statement of concern. They also stated the following:

- Safety protocols in case of an emergency.
- What could cause an explosion such as the one that occurred last week in the Vermillion area.
- If such an explosion were to happen in their safety zone, what would be the exact course of action? And what would be the safety protocols in place?
- Full transparency of all proposed future projects and how they directly affect [the Pollons' location], property, and quality of life.

The Pollons' Statement of Concern included the following submissions:

- Signing off on another project would put their farm in the "danger zone of possible adverse effects."
- In Pollon's view it is completely unacceptable to build anything with sour gas so close to their property but also to the town of Wembley.
- The Pollons expressed they are terrified that their water source will be adversely affected. They are concerned that their pastures, dug outs, seasonal creek and water runoff will be contaminated.
- Their property value will be affected by sour gas activity surrounding them from all directions.

- Their grid roads are already not kept up properly and these projects will deteriorate the roads more as well as limit access to where they need to go. Not to mention the noise pollution, affecting their peaceful way of life.

Ovintiv agreed that safety and emergency response planning should be issues of the hearing. Ovintiv stated the remaining issues are either not warranted as hearing issues based on existing regulatory requirements or are outside of the AER's jurisdiction or the scope of the application.

Ovintiv stated that concerns regarding possible impacts to the Pollons' water source, water contamination, and noise pollution are general in nature. Ovintiv indicated that because of Ovintiv's compliance with AER regulatory requirements related to water and noise control, it does not expect impacts to water quality, and anticipates only temporary noise associated with project construction and no noise associated with project operation.

Ovintiv submitted that property value, road maintenance, and road use/traffic are outside of the AER's jurisdiction and therefore should not be considered hearing issues for this proceeding. Furthermore, Ovintiv stated concerns regarding future projects extend beyond the scope of the application.

In advancing its arguments, Ovintiv relied on past AER decisions where similar concerns were raised and addressed.

Panel's Decision

The panel sets the hearing issues as:

1. Safety and emergency response planning, including emergency protection zone (EPZ) calculation for the application.
2. Potential impacts on landowners, namely noise and water contamination as a result of the project.

In considering and deciding the application, the panel must determine if the proposed activities meet the relevant legislative and regulatory requirements. The panel agrees with Ovintiv that it is for Ovintiv to meet all the regulatory requirements. Section 15 of *Responsible Energy Development Act* (REDA) and section 3 of the REDA General Regulation require the panel to consider the application's impacts on landowners. Therefore, Ovintiv as the applicant has the onus to demonstrate that not only does it meet all AER regulatory requirements but also how it plans to sufficiently mitigate any potential impacts on the Pollons, including those identified as hearing issues.

The panel may also consider additional matters that arise during the course of the proceeding, that are relevant and material to the above issues and assist the panel in deciding the application before it.

Conversely, concerns related to traffic, road maintenance, and property value are outside of the panel's jurisdiction. Furthermore, considering future projects would be speculative and outside of the scope of this proceeding. Therefore, those will not be included as issues for the hearing.

Finally, the panel notes Ovintiv's reference to AER's past decisions. However, the panel is not bound by past decisions of the AER, as each decision of the AER is based on broad and unique factual circumstances considered in coming to a decision.

Submission Schedule

Ovintiv Submissions	May 16, 2024
Pollons Submissions	June 13, 2024
Ovintiv Reply Submission	July 11, 2024
Hearing Start	September 10

Submissions should be PDF documents with bookmarks, page numbers, and optical character recognition. Please provide your submissions no later than 4:00 pm by email to [hearing.services@aer.ca](mailto:hearing.services@ aer.ca) and copied to the other parties in the hearing according to the deadlines specified above.

Sincerely,

Tara Wheaton
Hearing Coordinator, Hearing Services

cc: S. Carter and M. Flette, Ovintiv
W. McClary, AER counsel for the panel