

Proceeding ID 372

December 17, 2018

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By e-mail only

Blake, Cassels & Graydon LLP
Attention: David Tupper

Dear Mr. Tupper:

Request to Participate by Husky Oil Operations Limited (Husky)
Gibson Energy Inc. (Gibson)
EPEA Approval Amendments Nos.: 00246980-00-03 and 00010801-02-02
Regulatory Appeal No. 1912412 (Regulatory Appeal)
Proceeding ID 372

On November 20, 2018, the Alberta Energy Regulator (AER) issued a notice of hearing setting out the process for filing a request to participate in the hearing of Gibson's Regulatory Appeal of the *Environmental Protection and Enhancement Act (EPEA)* approval amendments noted above. I am writing to communicate the panel's decision regarding a request to participate filed on December 4, 2018 by Husky. In reaching its decision, the panel also considered response submissions filed by the AER's Authorizations Group (AER Authorizations) and Gibson on December 11 and 12, 2018, respectively.

The *Alberta Energy Regulator Rules of Practice (Rules of Practice)* give the hearing panel discretion to grant participation status to persons whose participation will materially assist the panel in deciding the matter that is the subject of the hearing, who have a tangible interest in the matter and whose participation will not materially delay the proceedings or repeat or duplicate evidence.

Husky's Request

In its December 4, 2018, request to participate, Husky submitted that it may be directly and adversely affected by the hearing panel's decision on the Regulatory Appeal. Husky owns the Hardisty Bulk Petroleum Storage Facility, subject to *EPEA* approval 00019443-01-11, which is bordered by Gibson facilities to the south and west. Gibson has filed a regulatory appeal of the *EPEA* approval amendments to these two facilities bordering the Husky facility.

Gibson's Response

Gibson requested that Husky's request to participate in this hearing be denied or limited to written submissions on the hearing record.

Authorization's Response

AER Authorizations submitted that Husky should be granted full participation status in the hearing and that Husky is directly and adversely affected by the hearing panel's decision on this Regulatory Appeal.

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The Hearing Panel's Decision

The regulatory actions in question in this appeal relate to a contaminant plume that spreads across properties owned and operated by Husky and Gibson. Due to the extent of the plume, the hearing panel accepts that Husky has a tangible interest in this Regulatory Appeal. Given the lengthy regulatory history related to this contaminant plume and Husky's ongoing involvement, the panel also accepts that:

- Husky's participation would materially assist it in deciding the regulatory appeal;
- Husky's participation would not unnecessarily delay the regulatory appeal; and
- Husky will not repeat or duplicate evidence presented by other parties.

Given these conclusions, it is not necessary for the panel to address whether Husky may be directly and adversely affected by a decision on this Regulatory Appeal.

Subject to future directions or rulings issued by the panel, Husky is granted full participation rights in the hearing.

Yours truly,

Tammy Turner
Hearing Coordinator, Hearing Services

cc: B. Williams, Bennett Jones LLP
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