Standard Energy Inc.

Application for a Multiwell Licence
Grande Prairie Field

Cost Awards

December 21, 2008

ENERGY RESOURCES CONSERVATION BOARD
Energy Cost Order 2008-016: Standard Energy Inc., Application for a Multiwell Licence, Grande Prairie Field

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ENERGY RESOURCES CONSERVATION BOARD

Calgary Alberta

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1 INTRODUCTION

1.1 Background

Standard Energy Inc. (Standard) applied to the Energy Resources Conservation Board (ERCB/Board) for a licence to drill a multiwell pad from a surface location at Legal Subdivision (LSD) 8, Section 29, Township 71, Range 4, West of the 6th Meridian, to projected bottomhole locations in LSD 2-29-71-4W6M (the 2-29 well), LSD 8-29-71-4W6M (the 8-29 well), LSD 9-29-71-4W6M (the 9-29 well), and LSD 4-28-71-4W6M (the 4-28 well). The purpose of the wells would be to obtain crude oil production from the Dunvegan Formation. No hydrogen sulphide was expected to be encountered in the drilling of the wells.

Gerald McDonald and Denise McDonald (the McDonalds) filed an objection to the proposed project. The McDonalds own and reside on the southeast quarter of Section 29-71-4W6M, where the proposed wells would be located. The McDonalds stated that their daughter and son-in-law also reside on this land. The McDonalds grow pedigreed seed and raise cattle on their land. They objected to the proposed project due to concerns about the potential adverse impact on their water wells, future residential development of their land, and Standard's area development plans. During the course of the hearing, the McDonalds elaborated on their concerns by discussing the impact of dust, noise, flaring, and potential pipelines on their quality of life and the value of their property. They also expressed concerns about public consultation and property rights and questioned the impact of transferring licences between companies.

Shirley Norton and Phil Marcy also participated in the hearing in support of the McDonalds. Ms. Norton owns and resides on a portion of the northeast quarter of Section 20-71-4W6M. During the hearing, Ms. Norton expressed concerns related to property values, noise, flaring, traffic, safety, health, public consultation, and the adverse impacts of a well at LSD 7-20-71-4W6M, directly west of her property. Mr. Marcy is an adjacent landowner who resides east of the proposed project on the southwest quarter of Section 28-71-4W6M. Mr. Marcy expressed concerns related to noise, the potential adverse impact on his water wells, Standard's area development plans, flaring, pipelines, property values, quality of life, reclamation, compensation, and dust.

The Board held a public hearing in Grande Prairie, Alberta, which commenced and concluded on July 24, 2008, before Board Members G. M. Miller and M. J. Bruni, Q.C., and Acting Board Member T. L. Watson, P.Eng.

At the close of the hearing, Standard was directed to complete an undertaking to provide a detailed analysis of the potential life of the Dunvegan C pool. The undertaking was completed on September 8, 2008.

1.2 Cost Claim

On August 27, 2008, counsel for the McDonalds, Darryl Carter & Company, filed a cost claim totalling $12 645.62. On September 12, 2008, Standard submitted comments regarding the cost claim. On September 26, 2008, the McDonalds submitted a response.

The Board considers the cost process to have closed on September 26, 2008.

2 VIEWS OF THE BOARD—AUTHORITY TO AWARD COSTS

In determining local intervener costs, the Board is guided by its enabling legislation, in particular by Section 28 of the *Energy Resources Conservation Act*, which reads as follows:

> 28(1) In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,
>
> (a) has an interest in, or
>
> (b) is in actual occupation of or is entitled to occupy
>
> land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

It is the Board's position that a person claiming local intervener costs must establish the requisite interest in land and provide reasonable grounds for believing that such an interest may be directly and adversely affected by the Board's decision on the application in question.

When assessing costs, the Board refers to Part 5 of the *Energy Resources Conservation Board Rules of Practice* and Appendix D: *Scale of Costs* in ERCB *Directive 031A: Guidelines for Energy Costs Claims*.

Subsection 57(1) of the *Rules of Practice* states:

> 57(1) The Board may award costs, in accordance with the scale of costs, to a participant if the Board is of the opinion that
>
> (a) the costs are reasonable and directly and necessarily related to the proceeding, and
>
> (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

3 VIEWS OF THE PARTIES

3.1 Views of Standard

On September 12, 2008, Standard provided its comments with regard to the cost claim submitted by the McDonalds.

Standard submitted that any legal fees being claimed by Darryl Carter & Company that were incurred prior to the issuance of the Notice of Hearing by the Board on April 17, 2008, should

not be allowed. Standard noted that many of the fees that were incurred prior to this date related to negotiating for surface rights issues, not to preparing for the hearing.

Additionally, Standard submitted that the honoraria claim made by the McDonalds and Ms. Norton was reasonable and should be awarded in full. However, Standard submitted that the honorarium claim of $100.00 for Mr. Marcy should not be awarded given that he was never awarded intervener status and that in *Directive 031A* only interveners that are granted status are entitled to costs.

3.2 Views of the McDonalds

On September 26, 2008, counsel for the McDonalds submitted a response to Standard's comments. Counsel for the McDonalds completely disagreed with Mr. Fitch's comment that any fees incurred prior to April 17, 2008, should be disallowed. Mr. Carter argued that all the work that was done on this matter prior to the Notice of Hearing being issued was ERCB related. It did not make sense to the McDonalds that when the ERCB requests a response from someone that they will not be able to be compensated for these costs at a later date. Counsel for the McDonalds stated the following:

> It would not have made sense to tell the company before that date we won't do anything regarding your proposal or even talk to you until an application is filed. Also, it appears that the first application was filed under a different number (No. 1516206) but it is not my clients' fault that application numbers were changed.

4 VIEWS OF THE BOARD

The cost claim submitted by the McDonalds included legal fees of $11 525.00, expenses of $137.50, GST of $583.12, and a combined honoraria claim of $400.00.

The Board issued a Notice of Hearing with respect to this matter on April 17, 2008. Regarding costs incurred prior to the Notice of Hearing being issued, the Board notes that *Directive 031A* provides the following:

> The EUB's usual practice (there are exceptions) is to acknowledge only those costs incurred after the EUB has issued a notice of hearing. It is generally the EUB's position that until a notice of hearing has been issued, there is no certainty that a hearing will be held. The EUB finds that in many cases the prenotice interactions between interveners and applicants relate to compensation matters and not public interest issues. The EUB recognizes, however, that it is sometimes necessary for local interveners to incur costs prior to the notice and that such costs may be reasonable and directly and necessarily related to the intervention in question.

The Board has considered Mr. Carter's submission regarding these particular hours. In the Board's view, there was no certainty that this matter would proceed to a hearing or that the work conducted by Mr. Carter was directly related to these proceedings.

Taking the foregoing into account, the Board finds that 14.9 hours ($3725.00) are ineligible for recovery and are therefore denied. The Board has reviewed the remaining disbursements and finds that they are reasonable and in accordance with *Directive 031A*. The Board approves in full the disbursements for fees incurred after the hearing notice was issued.

With respect to the honorarium claim being made by Mr. Marcy of $100.00, the Board recognizes that Mr. Marcy was not formally granted standing in the matter; however, the Board notes that he is an adjacent landowner and did testify and contribute to an understanding of property values and development in populated areas and noise concerns. Accordingly, the Board finds that the honorarium claimed by Mr. Marcy is reasonable and in accordance with *Directive 031A.*

5 ORDER

It is hereby ordered that

1) The Board approves intervener costs in the amount of $8334.37.

2) Payment shall be made to Darryl Carter & Company, #103, 10134 – 97 Avenue, Grande Prairie, Alberta T8V 7X6.

Dated in Calgary, Alberta, on December 21, 2008.

ENERGY RESOURCES CONSERVATION BOARD

"Original Signed by G. M. Miller"

G. M. Miller
Presiding Member

"Original Signed by M. J. Bruni, Q.C."

M. J. Bruni, Q.C.
Board Member

"Original Signed by T. L. Watson, P.Eng."

T. L. Watson, P.Eng.
Acting Board Member