



**Steiner Family
Dan and Katherine Klingspon
Glen McKee**

**Section 39 Review of Manhattan Resources Ltd.
Licence F-27531**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2004-03: Steiner Family, Dan and Katherine Klingspon,
Glen McKee, Section 39 Review of Manhattan Resources Ltd. (Licence F-27531)
Application No. 1284796

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Contents

1 INTRODUCTION..... 1

2 VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS..... 2

3 VIEWS OF THE BOARD – ASSESSMENT 2

4 ORDER 3

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED..... 4

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Steiner Family, Glen McKee
Dan and Katherine Klingspon
Section 39 Review of Manhattan Resources Ltd.
Licence F-27531**

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Application No. 1284796
File No. 8000-1284796-01**

1 INTRODUCTION

Manhattan Resources Ltd. (“Manhattan”)¹ acquired interests in the Strathcona County area from Petrobank Energy and Resources Limited (formerly, Barrington Petroleum Limited). Manhattan evaluated its newly acquired existing facilities and the need to modify facilities in the area, including a facility located at Legal Subdivision 7, Section 29, Township 53, Range 21, West of the 4th Meridian (the “7-29 Facility”).

In the course of its evaluation of its newly acquired facilities, Manhattan determined that the 7-29 Facility had not been identified and properly licensed under the retrospective program. The facility consisted of an inlet separator gas sweetening tower, desiccant tower to remove water vapour from the gas stream, 50bbl liquid storage tank, flare stack with propane pilot and auto igniter. Staff confirmed that prior to the year 2000, such a facility would not have required a licence. Accordingly, on September 23, 2002, Manhattan filed an application consistent with the requirements in ID 2000-10 to retrospectively licence the 7-29 Facility. The Board approved the application routinely on October 10, 2002, under the retrospective licensing program and issued Licence No. F-27531.

The Board initially received the request for review of this decision in November and December of 2002. In Decision 2002-107, the interveners were advised that their request would be heard at the same time as Application 1278764, which was to be considered at a public hearing. Upon Manhattan’s withdrawal of its application, the parties were advised that the normal review process would be followed and each of them would be given the opportunity to make written submissions. Submissions were received from the Steiner Family, Mitch Bronaugh on behalf of Glen McKee, Daniel and Katherine Klingspon, and from Dr. Neil and Andrea Skjdot. Similar concerns with respect to the issuance of Licence No. F-27531 were raised in each of the review requests.

On July 15, 2003 the Board advised each party that their request for a review had been denied. The Board subsequently received intervenor cost claims from the Steiner Family, Dan and Katherine Klingspon, and Mitch Bronaugh of behalf of Glen McKee. The cost claims submitted by the interveners total \$4,544.53 as shown in Appendix “A” attached.

¹ In January 2003, Manhattan Resources Ltd. amalgamated with Cigar Oil & Gas Ltd. to form Pivotal Energy Ltd. For the sake of consistency, reference herein to “Manhattan” is a reference to Pivotal Energy Ltd. or to Manhattan Resources Ltd. as the context requires.

By letter dated September 10, 2003, counsel for Manhattan, Mr. D.C. Edie, Q.C, provided comments with respect to the cost claims. By way of letter dated September 27, 2003, Mr. Bronaugh provided his response to Mr. Edie's comments and on September 30, 2003, Mr. Klingspon and Mr. Steiner each provided their response to Mr. Edie's comments. The Board has reviewed and considered the comments and responses submitted by each party in this matter.

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* (ERCA) 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 project in question.

When assessing costs, the Board will have reference to Part 5 of the *Rules of Practice* and to its *Scale of Costs*.

Section 55(1) of the *Rules of Practice* reads as follows:

Section 55(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 BOARD – Assessment

The Board has reviewed the applications for cost recovery as well as the response filed by Mr. Edie. The Board finds that in this particular instance, in light of all the circumstances, it is not appropriate to require Manhattan to pay the costs. In the Board's view the request for review and attendant submissions failed to provide the Board with a better understanding of the issues and as such do not qualify for an award of costs.

Based on the foregoing, the Board denies the cost claims submitted by Mitch Bronaugh, on behalf of Glen McKee, Dan and Katherine Klingspon, and Oscar Steiner, as shown in Appendix “A” attached.

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) The cost claim of Glen McKee is denied.
- (2) The cost claim of Dan Klingspon is denied.
- (3) The cost claim of Oscar Steiner is denied.

Dated in Calgary, Alberta on this 23rd day of February, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

(Original signed by)

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



"ECO 2004-03
Appendix A (Section :

[\(Back to Table of Contents\)](#)