



Compton Petroleum Corporation

**Six Critical Natural Gas Wells
Southeast Calgary**

Interim Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2004-12: Compton Petroleum Corporation
Six Critical Natural Gas Wells

Southeast Calgary

Application Nos. 1276857, 1276858, 1276859,
1276860, 1307759, 13077060, 1278265, 1310351

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Alberta Energy and Utilities Board
640 – 5 Avenue SW
Calgary, Alberta
T2P 3G4

Telephone: (403) 297-8311

Fax: (403) 297-7040

Web site: www.eub.gov.ab.ca

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Compton Petroleum Corporation
Six Critical Natural Gas Wells
Southeast Calgary
Interim Cost Awards**

**Energy Cost Order 2004-12
Application Nos. 1276857 1276858
1276859 1276860 1307759
1307760 1278265 1310351**

1 INTRODUCTION

Compton Petroleum Corporation (Compton) applied to the Alberta Energy and Utilities Board (EUB/Board) in accordance with Section 2.020 of the *Oil and Gas Conservation Regulations* for licences to drill six horizontal level-2 critical sour gas wells from an existing well lease.

Compton also applied to the EUB for a reduction in the Energy Planning Zone (EPC) for the drilling, completion and servicing operations for the wells. In accordance with Section 79(4) of the *Oil and Gas Conservation Act*, an application was made for the suspension of the drilling spacing unit and target area provisions for wells drilled or to be drilled in a proposed unit. Lastly, Compton applied, in accordance with Section 7.001 of the *Oil and Gas Conservation Regulations*, for approval to construct and operate a multi-well gas battery.

On January 8, 2004 the Board issued a Notice of Hearing that was to be held on March 30, 2004. By way of letter dated March 16, 2004 the EUB advised interested parties that the subject hearing was adjourned until further notice. By letter dated April 13, 2004 the EUB advised interested parties of the grounds for granting the adjournment and also invited parties to submit interim cost claims by April 26, 2004.

Compton was invited to comment on the interim cost claims by May 10, 2004 and in turn claimants were invited to provide a response to Compton's comments by May 26, 2004. The Board received comments from Compton on May 10, 2004 and supplemental comments on May 11, 2004. The Board received a response to Compton's comments from the Calgary Health Region on May 26, 2004. The Board has reviewed and considered the comments and response filed.

Various parties¹ submitted requests for interim funding based on costs incurred to date. The costs claimed by those participants requesting interim funding are set out in Appendix A and total \$408,312.16, including the Goods and Services Tax ("GST").

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,

¹ Please see list of interveners contained in Appendix A, attached.

- (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 intervenor 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.

In giving this interim funding, the Board makes no determination respecting the value of any intervenor's participation. Any intervenor organization which accepts interim funding pursuant to this Order accepts the risk that, if its final cost award relating to the proceedings is less than the amount of the interim funding advanced pursuant to this Order, it will be required to repay the difference.

In making its final cost award, the Board will expect to be satisfied that all fees and disbursements claimed relate to the proceedings and conform to the *Scale of Costs* adopted by the Board. The Board will also consider the effectiveness of the participation, its relevance to the issues, and whether the costs of the participation were necessary and reasonable. In making this determination, the Board will often decline cost awards to parties whose evidence was merely a duplication of evidence presented by other parties or where it finds unnecessary use of experts and/or counsel.

3 VIEWS OF THE BOARD – General Assessment

For the purpose of considering the interim cost claims in this proceeding, the Board has determined that it will only consider costs that have been incurred in furtherance of a party's preparation for the hearing of Compton's applications. As such, cost claims stemming from a party's involvement in the motions filed by Compton and the Front Line Residents Group will not be considered at this time.

Claims arising from the review and variance application of Compton's existing facilities, which were made by certain parties have not been considered in this proceeding. Cost claims which might have arisen from that proceeding would properly be considered within that proceeding. As such all charges claimed in this proceeding which relate to the review and variance proceeding have been deducted.

Similarly the Board, for the purpose of this Cost Order, has only considered cost claims relating to fees and expenses incurred up to and including April 13, 2004, the date upon which the Board requested that cost claims to date be filed by April 26, 2004².

It is important that parties take note that besides the reductions described above, as well as the Board's discussion of honoraria claims below, the Board **HAS NOT** made any determinations with respect to the potential relevance or helpfulness of evidence, for which claims have been made, nor has it considered whether any of the cost claims reveal unnecessary duplication of effort amongst the parties. These determinations will be made at the conclusion of the

² EUB Letter to Interested Parties dated April 13, 2004

proceeding at which time the Board will review the totality of each party's claim, including the subject of this Interim Order.

In cases where a party has received advance funding previously, the Board has only awarded the net of the eligible costs determined by the Board less the amount of funds advanced.

4 VIEWS OF THE BOARD – Cost Claim Assessments

4.1 Adjacent East Owners

The Board has reviewed the cost claim filed by the Adjacent East Owners (AEO) that totals \$34,827.84. The particulars of this claim are outlined in [Appendix A](#) attached. The Board notes that AEO did not receive any previous funding for this matter.

Upon review of the statement of account filed with the cost claim the Board has determined that Mr. S. Munro has claimed a total of .3 hours after April 13, 2004 and 3.5 hours with respect to R&V issues, all at \$250.00/hour. Mr. R. Jacobs claimed a total of 8.2 hours with respect to R&V issues at \$140.00/hour.

Taking the foregoing into account and the Board's general assessment the following costs are disallowed.

S.M. Munro	3.8 hours x \$220.00 = \$836.00
R. Jacobs	8.2 hours x \$140.00 = \$1,148.00

The Board has reviewed the expenses incurred by Bennett Jones in the amount of \$565.39 and finds that they comply with the Board's general assessment.

The Board has reviewed the costs incurred by Stantec, \$2,493.10, and finds that they comply with the Board's general assessment and are therefore approved.

Taking all of the above into account the Board approves legal fees in the amount of \$27,670.00, expenses in the amount of \$565.39, and GST in the amount of \$1,976.48 for a total award of \$29,211.87 for Bennett Jones. Stantec's professional fees in the amount of \$2,330.00 and GST of \$163.10 are approved for a total award of \$2,493.10. The total interim award for the Adjacent East Owners is \$32,704.97 as shown in [Appendix A](#) attached.

4.2 Calgary Health Region

The Board takes the same position in regard to the Calgary Health Region's (CHR) claim as it did in replying to the CHR's application for advance funding. The Board is not prepared to award costs at this stage of the proceeding. The Board will consider CHR's claim for costs at the conclusion of the proceeding.

4.3 Carma Developers

As the Board has stated previously, Carma has been allowed to participate in the process, however no determination will be made as to its cost claim until the conclusion of the proceedings.

4.4 City of Calgary

The Board notes that in its submissions the City of Calgary acknowledges that it should not be allowed to claim for costs incurred in fulfilling its statutory mandate. The Board agrees with this submission.

In response to Calgary's assertion that its claim for interim costs is reflective of involvement beyond its statutory mandate, the Board finds that even if this is the case, the appropriate time for the Board to consider and assess such a cost claim would be at the conclusion of the hearing. As a result, the City of Calgary's request for interim costs is denied.

4.5 Coalition of Concerned Communities

The Board has reviewed the cost claim filed by the Coalition of Concerned Communities that totals \$33,483.15. The amount being claimed represents the legal fees incurred by Stikeman Elliott in the amount of \$30,456.80, expenses in the amount of \$835.86, and GST in the amount of \$2,190.49. These particulars are outlined in [Appendix A](#) attached. The Board notes that this party received a previous interim award of \$20,000.00 by way of letter dated December 19, 2003 and as noted in the general assessment will be subtracted from the interim award made in this Order.

Upon review of the statements of account provided, the Board has determined that D. Langen incurred total of 5.5 hours after April 13, 2004 at \$140.00/hour.

Taking the foregoing into account and the Board's general assessment, the following legal fees are disallowed.

D. Langen 5.5 hours x \$140.00 = \$770.00

The Board has reviewed the expenses claimed by Stikeman Elliott in the amount of \$835.86 and finds them to comply with the Board's general assessment.

Taking all of the above into account, the Board approves legal fees in the amount of \$29,686.80, expenses in the amount of \$835.86, applicable GST in the amount of \$2,136.59, less the previous interim award of \$20,000.00 for a total interim award under this Order in the amount of \$12,659.25, all as outlined in [Appendix A](#) attached.

4.6 Evans Developments

The Board has reviewed the cost claim submitted for Evans Developments that totals \$15,490.09. The total amount being claimed represents legal fees incurred by McLennan Ross LLP in the amount of \$13,610.00, expenses in the amount of \$399.43, and GST in the amount of \$980.66. The claim also includes an honoraria claim in the amount of \$250.00 for Mr. Brian Evans and \$250.00 for Ms. Janice Evans. The total amount being claimed by Evans Development is \$13,638.10.

Upon review of statements of account provided for McLennan Ross LLP, the Board has determined that D. Naffin incurred a total of .5 hours related to R&V issues at \$140.00/hour and B. O'Ferrall incurred a total of 1 hour respect to R&V issues.

Taking the above into account and the Board's general assessment the Board disallows the following legal fees.

Brian O'Ferrall	1 hours x \$250.00 = \$250.00
Daron Naffin	.5 hours x \$140.00 = \$70.00

The Board has considered the expenses being claimed and finds them to be reasonable and do comply with the Board's general assessment.

With respect to the honorarium claimed by Mr. Evans and Ms. Evans, the Board approves a \$50.00 attendance honorarium for each of the Evans. The Evans have also each claimed a \$200.00 preparation honorarium. *Guide 31A* states that "if an individual intervener hires a lawyer to assist with the intervention and the lawyer is primarily responsible for the preparation of the intervention, the Board generally will not provide an honorarium to the individual for his or her preparation efforts". As the Evans are being represented by counsel, and given that only a pre-hearing meeting has been held in this proceeding, the Board disallows the claims for preparation honorariums at this time.

Taking all of the foregoing into account, the Board approves legal fees in the amount of \$13,290.00, expenses in the amount of \$399.43, and applicable GST in the amount of \$958.26. The Board also approves an attendance honorarium in the amount of \$50.00 for Mr. Evans and Ms. Evans. The total interim award for Evans Developments is \$14,747.69 as outlined in [Appendix A](#) attached.

4.7 Frontline Residents Group

The Board has reviewed the cost claim submitted for the Frontline Residents Group that totals \$177,107.11. The details of this claim are outlined in [Appendix A](#) attached. The Board notes that the Frontline Residents Group received a previous interim award of \$81,000.00 by way of letter dated December 19, 2003 and as noted in the general assessment will be subtracted from the interim award made in this Order.

Upon review of the statements of account provided by Rooney Prentice, the Board has determined that G. Fitch has incurred a total of 6 hours after April 13, 2004 as well as .5 hours with respect to R&V issues, all at an hourly rate of \$220.00.

Taking the foregoing into account and the Board's general assessment, the Board disallows the following legal fees.

Gavin Fitch	6.5 hours x \$220.00 = \$1,430.00
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The Board has reviewed the expenses claimed by Rooney Prentice in the amount of \$1,877.51 and finds that they comply with the general assessment.

The Board has reviewed the claim for expenses from Beaumont Church in the amount of \$100.00, which was incurred by an administrative assistant for the preparation of binders. The Board notes that Guide 31A indicates that legal fees are deemed to include all overhead charges and that fees for secretarial work will not be considered³. The Board does not find, given the

³ Guide 31A, page 27

assistance that would be available through the day-to-day operations of Rooney Prentice, that incurring costs by an administrative assistant through another law firm is justified. Accordingly, the Board disallows this portion of the cost claim.

The Board has reviewed the accounts and additional material provided for Gecko Management Consultants Corporation (2002) Ltd. (Gecko) and RWDI West Inc. (RWDI). The Board finds that the costs incurred by these consultants comply with the Board's general assessment and therefore approves their costs in full.

Taking all of the foregoing into account the Board approves legal fees for Rooney Prentice in the amount of \$55,642.00, expenses in the amount of \$1,877.51, applicable GST in the amount of \$4,062.37, less previous interim funding of \$36,000.00, for a total interim award of \$25,545.88. Professional fees for Gecko are approved in the amount of \$43,647.50, expenses of \$548.40, applicable GST of \$3,093.71, less previous interim funding in the amount of \$20,000.00, for a total award of \$27,289.61. Professional fees for RWDI are approved in the amount of \$61,377.50, expenses of \$816.95, applicable GST of \$4,353.61, less interim funding of \$25,000.00, for a total award of \$41,548.06. These particulars are outlined in [Appendix A](#) attached.

4.8 Ollerenshaw Ranch Ltd.

The Board has reviewed the claim submitted for Ollerenshaw Ranch Ltd. that totals \$20,246.20. The amount being claimed represents the legal fees incurred by Carscallen Lockwood LLP in the amount of \$18,484.00, expenses in the amount of \$437.68, and GST in the amount of \$1,324.52.

Upon review of the statements of account provided, the Board finds that S. Hansen incurred a total of 6.5 hours with respect to R&V issues at \$140.00/hours and S. Carscallen incurred a total of .9 hours with respect to R&V issues at \$250.00/hour.

Taking the foregoing into account and the Board's general assessment the Board disallows the following legal fees.

Stanley Carscallen	.9 hours x \$250.00 = \$225.00
Sara Hansen	6.5 hours x \$140.00 = \$910.00

The Board has reviewed the expenses incurred and finds that they comply with the Board's general assessment and are therefore approved.

Taking all of the above into account the Board approves legal fees in the amount of \$17,349.00, expenses in the amount of \$437.68, and applicable GST in the amount of \$1,245.07, for a total award of \$19,031.75 as outlined in [Appendix A](#) attached.

4.9 White Family

The Board has reviewed the cost claim submitted for the White Family that totals \$54,462.71 for the services provided by Ackroyd, Piasta, Roth & Day LLP (Ackroyd Piasta), Colin Duncan Engineering (Colin Duncan), and Clearstone Engineering (Clearstone), the particulars of which are all outlined in [Appendix A](#) attached. The Board notes that the White Family received a previous interim award of \$40,000.00 by way of letter dated December 19, 2003 and as noted in the general assessment will be subtracted from the interim award made in this Order.

Upon review of Ackroyd Piasta's statements of account the Board finds that a total of .4 hours were incurred after April 13, 2004 at the hourly rate of \$250.00.

Taking the foregoing into account and the Board's general assessment, the following legal fees are disallowed.

Richard Secord .4 hours x \$250.00 = \$100.00

The Board has reviewed the materials provided for Colin Duncan and Clearstone and finds that the costs incurred by these consultants comply with the Board's general assessment and therefore approves their costs in full.

Taking all of the above into account the Board approves legal fees in the amount of \$26,125.00, expenses of \$2,531.11, and applicable GST of \$2,005.93. Professional fees for Colin Duncan are approved in the amount of \$19,500.00, expenses in the amount of \$1,145.25, and applicable GST of \$1,445.17. Professional fees for Clearstone are approved in the amount of \$1,500.00 together with applicable GST in the amount of \$105.00. The overall interim award for the White Family is \$54,277.21, less advance funding of \$40,000.00, for a total interim award of \$14,277.21 as outlined in [Appendix A](#) attached.

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Compton Petroleum Corporation shall pay intervener costs to the Adjacent East Owners, on an interim refundable basis, in the amount of \$32,704.97, as outlined in Appendix A attached.
- (2) Compton Petroleum Corporation shall pay intervener costs to the Coalition of Concerned Communities, on an interim refundable basis, in the amount of \$12,659.25, as outlined in Appendix A attached.
- (3) Compton Petroleum Corporation shall pay intervener costs to Evans Developments, on an interim refundable basis, in the amount of \$14,747.69, as outlined in Appendix A attached.
- (4) Compton Petroleum Corporation shall pay intervener costs to the Front Line Residents Group, on an interim refundable basis, in the amount of \$94,383.55, as outlined in Appendix A attached.
- (5) Compton Petroleum Corporation shall pay intervener costs to Ollerenshaw Ranch Ltd., on an interim refundable basis, in the amount of \$19,031.75, as outlined in Appendix A attached.

(6) Compton Petroleum Corporation shall pay intervener costs to the White Family, on an interim refundable basis, in the amount of \$14,747.69, as outlined in Appendix A attached.

Dated in Calgary, Alberta on this 4th day of October, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

(original signed by)

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



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Energy\Compton\127