



ExxonMobil Resources Ltd.

Multiple Well Licence Applications

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2005-003: ExxonMobil Resources Ltd.
Multiple Well Licence Applications
Application Nos. 1317738 1336928 1336779 1317759
1317769 1317765

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**ExxonMobil Resources Ltd.
Multiple Well Licence Applications
Cost Claims**

**Energy Cost Order 2005-003
Application Nos. 1317738 1336928 1336779
1317759 1317769 1317765**

1 INTRODUCTION

On October 23, 2003 ExxonMobil Resources Ltd. (ExxonMobil) applied to the Alberta Energy and Utilities Board (EUB/Board) for approval of the following applications:

- Application No. 1317738, application for a licence for a single well.
- Application No. 1317759, application for licences for a multiwell pad.
- Application No. 1317765, application for licences for a multiwell pad.
- Application No. 1317769, application for licences for a multiwell pad.

On March 4, 2004 ExxonMobil applied for approval of the following applications:

- Application No. 1336779, application for six licences to construct and operate multiwell bitumen batteries.
- Application No. 1336928, application for licences for a multiwell pad.

All applications were subsequently withdrawn by ExxonMobil by way of letters dated March 8 and April 2, 2004.

On June 1, 2004 the EUB received a cost claim from Julian W. Bodnar and Landcore International (Landcore), on behalf of their clients, Robert, Shirley, and Rene Chalut; John and Mary Welecki; Darcy Tilley, Robert Hutskal, John and Jean Langridge; and George and Nadia Elchuck (the Landowners). The cost claim amounted to \$51,786.43.

By way of letter dated June 17, 2004 the EUB received comments from ExxonMobil regarding the costs being claimed. On July 7, 2004 Mr. Bodnar provided his response to the comments.

By way of letter dated December 22, 2004 Landcore advised the EUB that it was withdrawing a portion of the costs being claimed, specifically the fees, expenses, and related GST incurred by Landcore as well as the honoraria claims and expenses for each of the Landowners. By way of letter dated January 17, 2005 the EUB confirmed that it had withdrawn the application for cost recovery and would not be proceeding with a Cost Order for those costs identified in Landcore's December 22 letter. Accordingly for the purposes of this Cost Order, the Board finds that the cost process closed on January 17, 2005.

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 – Intervener Standing

Mr. Bodnar claimed legal fees and expenses associated specifically with the Chalut family, Elchuk family, Robert Hutskal, and the Welecki family totaling \$18,858.88 and as outlined in Appendix A attached.

Before assessing the value and merit of the costs submitted by Mr. Bodnar, the Board must first determine whether or not the Landowners qualify as local interveners pursuant to s. 28(1) of the ERCA such that they are eligible to make a cost application.

3.1 CHALUT, Shirley, Rene, and Robert

For the purposes of Application No. 1317738, the Board finds that the Chalut family, being owners of the N1/2 14-62-5 W4M, do qualify as local interveners pursuant to s. 28(1) of the ERCA and are therefore eligible to make an application for cost recovery.

3.2 ELCHUK, George and Nadia

The Board finds that given Mr. and Mrs. Elchuk are not the owners of any of the lands on which ExxonMobil's applications were proposed, nor do they own land immediately adjacent to those lands, and given that Mr. and Mrs. Elchuk reside more than 1.5 km from any of the proposed projects, they do not qualify as local interveners pursuant to s. 28(1) of the ERCA. Therefore the Board will not consider any costs incurred by Mr. Bodnar which are related to Mr. and Mrs. Elchuk.

3.3 HUTSKAL, Robert

For the purposes of Application No. 1317765, the Board finds that Mr. Hutskal, being the owner of SW 22-62-5 W4M, does qualify as a local intervener pursuant to s. 28(1) of the ERCA and is therefore eligible to make an application for cost recovery.

3.4 WELECKI, John and Mary

For the purposes of Application Nos. 1317769 and 1317759, the Board finds that Mr. and Mrs. Welecki, being owners of N ½ 22-62-5 W4, do qualify as local interveners pursuant to s. 28(1) of the ERCA and are therefore eligible to make an application for cost recovery.

4 VIEWS OF THE BOARD – Cost Claim Assessment

The Board has considered the claims made on behalf of the Chalut family, Mr. Hutskal, and the Welecki family. The Board has also considered the comments filed by ExxonMobil and Mr. Bodnar's response submission. In assessing the claims filed, the Board notes in particular the following:

- The accounts submitted by Mr. Bodnar reflect a number of charges incurred prior to the filing of the first applications by ExxonMobil and as such are non recoverable.
- The accounts provide little helpful detail in describing the services provided by Mr. Bodnar or how they relate to the applications before the Board.
- The parties were being represented collectively and as such, many of the services were being provided simultaneously to each client.
- Much of the time expended by Mr. Bodnar relates to lease negotiations as opposed to assistance in the Board's process and as such are non recoverable.

As such, the Board is not satisfied that all of the accounts as claimed, qualify as local intervener costs and the Board is therefore prepared to award 25% of the fees claimed. The Board has also considered the expenses incurred for long distance telephone and faxing and finds that the amounts claimed are excessive given that most of the time has been determined as relating to lease negotiations. The Board finds in this instance that it is appropriate to also allow 25% of the expenses claimed, all as specifically detailed below.

4.1 CHALUT, Shirley, Rene, and Robert

With respect to the Chalut family, Mr. Bodnar claims legal fees in the amount of \$6,625.00, expenses in the amount of \$216.00, and associated GST in the amount of \$478.87 for a total claim of \$7,319.87

Based on the assessment above, the Board approves legal fees in the amount of \$1,656.25, expenses in the amount of \$54.00, and associated GST in the amount of \$119.72, for a total award of \$1,829.97, as outlined in Appendix A attached.

4.2 HUTSKAL, Robert

With respect to Mr. Hutska, Mr. Bodnar claims legal fees in the amount of \$3,550.00, expenses in the amount of \$140.00, and associated GST in the amount of \$258.30 for a total claim of \$3,948.30.

Based on the assessment above, the Board approves legal fees in the amount of \$887.50, expenses in the amount of \$35.00, and associated GST in the amount of \$64.58, for a total award of \$987.08, as outlined in Appendix A attached.

4.3 WELECKI, John and Mary

With respect to Mr. and Mrs. Welecki, Mr. Bodnar claims legal fees in the amount of \$3,450.00, expenses in the amount of \$135.00, and associated GST in the amount of \$250.95 for a total claim of \$3,835.95.

Based on the assessment above, the Board approves legal fees in the amount of \$862.50, expenses in the amount of \$33.75, and associated GST in the amount of \$62.74, for a total award of \$958.99, as outlined in Appendix A attached.

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) ExxonMobil Resources Ltd. shall pay intervener funding in the amount of \$3,776.03, as outlined in Appendix A attached.
- (2) Payment under this Order shall be made to Julian Bodnar, 607 Lenore Drive, Saskatoon, Saskatchewan, S7K 5G7.

Dated in Calgary, Alberta on this 12th day of April, 2005.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



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Appendix A (ExxonM