



Intrepid Energy Corporation

Application for a Well Licence
Sturgeon Lake South Field

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2005-007: Intrepid Energy Corporation

Application for a Well Licence

Sturgeon Lake South Field

Application No. 1366746

Cost Application No. 1396326

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Intrepid Energy Corporation
Application for A Well Licence
Sturgeon Lake South Field**

**Energy Cost Order 2005-007
Application No. 1366746
Cost Application No. 1396326**

1 INTRODUCTION

Intrepid Energy Corporation (Intrepid) applied to the Alberta Energy and Utilities Board (EUB/Board) pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations* for a licence to drill a directional oil well. Intrepid also applied to the EUB for a permit to flare gas during completion and testing of the Leduc Formation.

The EUB received objections to the application from a number of individual landowners and cabin owners (the interveners). Many of the individuals formed a group, the Sturgeon Lake Cabin Owners Group (SLCOG), to present their views. The issues raised by the interveners related to noise, safety, emergency response planning, impacts on lifestyle, odors, and property value.

The Board held a public hearing in Grande Prairie, Alberta, which commenced on March 16 and closed on March 17, 2005, before Board members J.R. Nichol, P.Eng. (Presiding Member) and Acting Board Members D.K. Boyler, P.Eng., and R.J. Willard, P.Eng. Panel and staff of the EUB in attendance at the hearing visited the site of the proposed well and surrounding area on March 17, 2005. On June 7, 2005 the Board issued **Decision 2005-058**.

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

For the purposes of this Cost Order, the Board finds that the SCLOG and that each of the witnesses presented on behalf of SCLOG (namely, Kitty Rigler, Peter Boutilier, Karen Busten, Greg Marcy, and Rob Lessoway) meet the definition of “Local Intervener” as set out in Section 28(1) of the ERCA and are therefore eligible to apply for cost recovery. The Board considers that the participation of Kitty Rigler, Peter Boutilier, Karen Busten, Greg Marcy, and Rob Lessoway in the proceeding was done on his/her own behalf and as a representative of SCLOG.

4 VIEWS OF THE BOARD – Cost Claim Assessment

General

On March 24, 2005 the Board received a cost claim from Darryl Carter on behalf of his clients SLCOG. The cost claim totaled \$21,225.81, representing \$19,100.00 in legal fees, \$83.00 in disbursements, and \$1,342.81 in GST for a total legal claim of \$20,525.81. The claim also included attendance honorariums for Kitty Rigler (\$200.00), Peter Boutilier (\$100.00), Karen Bustin (\$100.00), Greg Marcy (\$100.00), Rob Lessoway (\$200.00), for a total honoraria claim of \$700.00.

On April 15, 2005 the EUB advised Mr. Carter that comments to the cost claim had been filed by counsel for Intrepid, International Energy Counsel LLP, and that any response to the comments was to be filed by April 29, 2005. The Board did receive a response from Mr. Carter within the time period requested. Accordingly the Board considers the cost process to have closed on April 29, 2005.

In assessing the claim filed, the Board is mindful of section 7 of Guide 31A, which states in part 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.

With regard to the noted section of Guide 31A, the Board recognizes that the Application itself was filed on October 27, 2004 (which amended and replaced the original application 1350762 filed June 22, 2004) with the Notice of Hearing being issued on January 7, 2005. Upon review of Mr. Carter's statement of account the Board has determined that 13.2 hours of legal services were incurred between May 17, 2004 and January 6, 2005 (pre Notice of Hearing costs), all of which has been claimed in Mr. Carter's cost submission.

Pre Notice of Hearing Costs

With respect to the pre Notice of Hearing costs described above the Board noted in Energy Cost Order 2004-14, in exceptional situations, the Board will acknowledge costs that have been incurred by an intervening party prior to a notice of hearing being issued where it is reasonable for that party to have thought a hearing would be held with respect to the application. However, the party's cost submission must provide justification as to why it was reasonable for the party to have thought the Board would hold a hearing. Mr. Carter argues that his account commenced when a representative of Intrepid, Mr. Tanchuk, contacted him on May 17, 2004. At that time, Mr. Tanchuk indicated that he knew that Mr. Carter represented SCLOG and he wanted to explain Intrepid's proposal.

Although Mr. Carter's justification for costs during this period could include more detail, the Board does recognize that it previously considered a similar well application by Range Petroleum Corporation to be drilled from the same surface location (namely, 4-34-70-24-W5M). The Board approved the application for the reasons set out in EUB *Decision 99-18* (plus addendum) and issued a license in August 2001, subject to a number of conditions. In July 2002, just prior to the one-year expiry of the well license, the Board accepted a request by Range Petroleum Corporation to cancel the license. The Board advised the community that Range Petroleum Corporation's approval had been cancelled and any subsequent application at this site would be subject to evaluation and independent consideration

Based on the foregoing, the Board finds that the early involvement of counsel for SCLOG was appropriate in the circumstances. However, the Board does caution Mr. Carter that future cost claims must include justification where the costs are normally outside of what is prescribed in Guide 31A.

In this particular instance the Board does find that special circumstances exist in so far as cost recovery for those costs incurred prior to the Notice of Hearing being issued.

Taking all of the foregoing into account, the Board approves Mr. Carter's portion of the cost claim in full, being \$20,525.81 as shown in [Appendix A](#) attached.

Honoraria Claims

The Board notes that Intrepid did not object to the honoraria for the witness panel claimed by the interveners. The Board has reviewed the honoraria claimed by the interveners and finds them to be reasonable and in accordance with Guide 31A. The Board therefore directs the approval of the honoraria claimed in the total amount of \$700.00 as detailed in [Appendix A](#) attached.

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Intrepid Energy Corporation shall pay intervener costs in the amount of \$21,225.81 to the Sturgeon Lake Cabin Owners Group.
- (2) Payment under this Order shall be made to Darryl Carter & Company, attention: Darryl Carter, Q.C., 103, 10134 – 97 Avenue, Grande Prairie, AB, T8V 7X6.

Dated in Calgary, Alberta on this 26 day of July, 2005.

ALBERTA ENERGY AND UTILITIES BOARD

<Original Signed By Thomas McGee>

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



ECO 2005-007
(Intrepid Well Licence)

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