



Highpine Energy Ltd.

Application for Six Well Licences
Pembina Field

Cost Awards

December 9, 2008

ENERGY RESOURCES CONSERVATION BOARD

Energy Cost Order 2008-015: Highpine Energy Ltd., Application for Six Well Licences, Pembina Field

December 9, 2008

Published by

Energy Resources Conservation Board
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Calgary, Alberta
T2P 3G4

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ENERGY RESOURCES CONSERVATION BOARD

Calgary Alberta

**HIGHPINE ENERGY LTD.
APPLICATION FOR
SIX WELL LICENCES
PEMBINA FIELD**

**Energy Cost Order 2008-015
Applications No. 1525928, 1525932, 1526517,
1526582, 1526699, and 1526703
Cost Application No. 1582370**

1 INTRODUCTION

Highpine Energy Ltd. (Highpine) applied to the Energy Resources Conservation Board (ERCB/Board), pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations*, for licences to drill six wells from two surface locations. Three wells would be drilled from a surface location in Legal Subdivision (LSD) 4, Section 27, Township 50, Range 6, West of the 5th Meridian (4-27). Two of those wells would be drilled for the purpose of producing sour crude oil, and one would be used as an injection well. Three other wells would be drilled from a surface location in LSD 6-33-50-6W5M (6-33) for the purpose of producing sour crude oil.

Several parties filed interventions regarding these applications. The principle concerns expressed were regarding human and animal health and safety, adequate emergency response planning, proximity of the wells to schools and town, adequacy of public consultation, air and water contamination, bussing through the emergency planning zone (EPZ), property protection, and proliferation.

A number of individuals who submitted interventions lived in the associated EPZs. They formed a group called the Committee to Encourage and Advocate a Safe Environment (CEASE).

The Board held a public hearing in Tomahawk, Alberta, which commenced on June 17, 2008, and concluded on July 4, 2008, before Board Member G. J. Miller (Presiding Member) and Acting Board Members T. L. Watson, P.Eng., and R. J. Willard, P.Eng. The Board considers the record to have closed on July 4, 2008.

The Board issued [Decision 2008-008](#) on September 30, 2008.

On July 31, 2008, counsel for CEASE filed a cost claim totalling \$184 807.89. On August 14, 2008, Highpine submitted comments regarding the cost claim. CEASE was given until September 2, 2008, to provide a response to Highpine's comments. On August 22, 2008, CEASE submitted a response. No other submissions were received.

The Board considers the cost process to have closed on September 2, 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 55(1) of the *Rules of Practice* states:

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 KLIMEK LAW, BARRISTERS & SOLICITORS

The following table summarizes the legal fees and expenses claimed for Klimek Law.

Counsel	Fees	Expenses	GST	Total
Jennifer Klimek	\$51 500.00	\$0.00	\$2 575.00	\$54 075.00
Debbie Bishop	\$34 930.00	\$0.00	\$1 746.50	\$36 676.50
Klimek Law	\$0.00	\$4 483.40	\$102.17	\$4 585.57
Total	\$86 430.00	\$4 483.40	\$4 423.67	\$95 337.07

3.1 Views of Highpine

Highpine took issue with respect to the use of two counsel and referred to *Energy Cost Order 2004-004: Polaris Resources Ltd.*, in which the Board stated as follows:

The Board does not generally award costs for the attendance of two counsel at a hearing. It is only in exceptional circumstances, such as where issues and the intervention are complex will the Board find it necessary for two counsel to have been in attendance at a hearing. [Highpine’s Costs Submission, page 4]

Additionally, Highpine pointed out that two hearings (West Energy Ltd. and Highpine Oil & Gas Limited), which occurred within 15 months of the hearing at issue, were very similar in nature, and some of the CEASE members appeared at those hearings, as did two of CEASE’s experts.

Highpine asked that the Board consider how “exceptional” and “complex” this hearing actually was, given the similar proceedings that occurred just prior to this hearing.

Highpine also took issue with the hourly rate being claimed by Ms. Bishop of \$140.00/hr. Highpine submitted that Ms. Bishop was only called to the bar in January 2006 and therefore should not be eligible for the entire hourly rate set out in the *Scale of Costs* for a lawyer with four years of experience.

Highpine objected to the costs relating to CEASE’s constitutional issues and the portions of its submissions respecting legislation and the execution of same by the Board. Highpine cited Section 5.1 of *Directive 031A: Guidelines for Energy Cost Claims*, which stated:

A reasonable submission for cost purposes would not include arguments about things not being considered or not related to the application; ...or arguments about government policy or legislative changes that should more properly be placed before the government or a Member of the Legislative Assembly.

Highpine pointed out that almost the same arguments were presented by Ms. Bishop at the Highpine applications last fall, arguments that were not accepted. Therefore, Highpine submitted that a reduction be made to fees incurred for the preparation of all materials, submissions, and arguments respecting the constitutional challenge, as it offered nothing to the hearing.

Highpine submitted further that the time for CEASE’s counsel prior to March 31, 2008, the date the Notice of Hearing was issued, be monitored closely to ensure that the involvement of counsel was necessary and not duplicative.

With respect to the retention of experts in this matter, Highpine is of the view that Ms. Bishop spent a great deal of time meeting with and having discussions with experts who were never retained. Highpine submitted that if these experts were providing advice and/or guidance, they should have been formally retained. Given that they were not retained, the time incurred for these discussions should be either eliminated or reduced significantly.

3.2 Views of CEASE

In response to comments made by Highpine, CEASE is of the view that the comments made by Highpine did not consider

- the amount of new information that counsel was presented with at the hearing, much of which was asked well in advance of the hearing by CEASE through information requests that went unanswered;
- the time constraints encountered by counsel;
- the time constraints of experts; and
- the large and diverse client group that made up CEASE.

Counsel for CEASE noted that in *Energy Cost Order 2008-005*, the Board stated:

While the Board does not generally award costs for the attendance of two counsel at a hearing, in the circumstances of this hearing, the Board finds that the retention and attendance of two counsel is appropriate. Numerous witnesses and experts had to be organized and prepared. The hearing did have

some complexity and dealt with two wells. Further, the Board considers the hourly rate claimed by Ms. Bishop, as more junior counsel, in the amount of \$140.00 per hour is reasonable.

The Board is, by legislation, appointed as a tribunal to hear constitutional challenges raised before it. Such constitutional challenges are to be made upon the evidence adduced at the hearing. The Board understands the objection by Highpine to time and fees being spent on such a challenge when the basis for the challenge may not be directly related to the application. The Board holds that in these circumstances however, it is prepared to allow a claim of fees for this aspect of the hearing, including the preparation of argument on the constitutional issues. Highpine asserted that some of the cross-examination of Ms. Bishop was inefficient as it related to the pre-submission of Highpine and release rates. However, the Board holds that the lower hourly rate claimed by Ms. Bishop takes certain inefficiencies and inexperience into account.

Based on the foregoing, CEASE submitted that the use of junior counsel to do the majority of the work was both efficient and responsible. Had Ms. Klimek been used primarily for these duties, the cost claim would have been much higher.

With respect to Ms. Bishop's hourly rate, CEASE was of the view that it was reasonable for her to claim what was set out in the *Scale of Costs*, given her experience in multiple hearings with the ERCB and also the fact that she was, in addition to being a lawyer, a professional engineer.

3.3 Views of the Board

With respect to the fees and expenses claimed for Klimek Law, in this instance, the Board generally agrees with counsel for CEASE.

The Board does not normally award costs for attendance of two counsel at a hearing, but in this case the Board finds that the retention and attendance of two counsel is appropriate. Numerous interveners and experts had to be organized and the hearing was complex. With regard to the role of the same counsel at a similar hearing involving Highpine (*Energy Cost Order 2008-005*), the Board notes Klimek Law has claimed almost \$20 000.00 less in legal fees for this hearing, which is an indication of increased efficiencies by counsel.

With regard to the hourly rate of Ms. Bishop, the Board notes that a rate of \$140.00 per hour is reasonable, given that it is within the *Scale of Costs* and is reflective of experience. While the Board notes that there was some inefficiency in the cross-examinations by Ms. Bishop, it believes that the lower hourly rate does account for this inefficiency.

The Board is, by legislation, appointed as a tribunal to hear constitutional challenges brought before it. Such constitutional challenges are to be made upon the evidence presented at the hearing. The Board notes that the constitutional argument was not successful, given all of the evidence before the Board for this hearing. While the Board is not prepared to fully deduct time that may have been devoted to the preparation of constitutional arguments, the fact that such arguments were pursued notwithstanding the fact that they were not supported by the evidence in this case does warrant some deduction. The Board is of the view that a deduction of four hours of Ms. Bishop's time, to account for a portion of the time that would have been required to prepare the constitutional arguments, is appropriate.

The Board issued the Notice of Hearing in this matter on March 31, 2007. Section 7 of *Directive 031A*, stated as follows:

The EUB's [Alberta Energy and Utilities Board, predecessor to the ERCB] 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 pre-notice 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.

In this instance, the Board notes that by way of correspondence dated January 23, 2008, Highpine made a request to the Board for a hearing. Therefore, the Board finds that it was reasonable for counsel for CEASE to incur costs prior to the Notice of Hearing, although they were not yet aware of when the hearing would be held. Notwithstanding the fact that it was reasonable to incur certain costs prior to the notice of hearing, there are two time entries for 7.0 hours each for Ms. Klimek on February 28, 2008. This appears to be an error on the time sheet. Ms. Klimek's time will therefore be reduced by 7.0 hours.

While the Board believes it was appropriate to have both Ms. Klimek and Ms. Bishop present at what appears to be initial meetings with clients on February 28, 2008, the Board questions whether it was necessary to have two lawyers in attendance on March 11 and March 12 to meet with clients and attend ERCB information sessions. The Board is of the view that one lawyer could have managed these tasks over a two-day period. The Board will therefore deduct the time for Ms. Bishop for March 11 and 12, for a total of 9 hours.

In relation to the fees incurred by Ms. Bishop for meeting with experts that were never retained, the Board recognizes the challenges sometimes faced by interveners who wish to retain experts in certain areas. Efforts to determine which experts might be appropriate for a matter and to discuss matters with these experts in an effort to retain them are legitimate uses of time by counsel, particularly junior counsel. The Board will not deduct time that appears to be devoted to efforts to retain experts.

The total deduction in time set out above is 13.0 hours for Ms. Bishop, amounting to \$1820.00 plus \$91.00 GST, for a total of \$1911.00. The total time deducted for Ms. Klimek is 7.0 hours, amounting to \$1750.00 plus \$87.50 GST, for a total of \$1837.50.

In summary, the Board approves legal fees in the amount of \$82 860.00, expenses in the amount of \$4483.40, and related GST in the amount of \$4245.17, for an overall award of \$91 588.57.

4 INTERVENER EXPERTS

4.1 Dr. Shuming Du

4.1.1 Views of Highpine

Highpine was of the view that Dr. Du's account was excessive. It states that he incurred 120 hours in preparing his evidence. Highpine believed that although some modelling was

performed, Dr. Du essentially only provided a critique of the work performed by Highpine's expert.

4.1.2 Views of CEASE

CEASE was of the opinion that Dr. Du was very helpful in this matter and that he raised two very relevant issues with Highpine's modelling. He also provided evidence on where the flare modelling was noncompliant and performed additional modelling to show the Board why the modelling was not sufficient to establish that a flare management plan was not required. Dr. Du was an expert in the field of dispersion modelling and his efforts and opinions should be considered.

4.1.3 Views of the Board

The Board notes that the bulk of the time for Dr. Du's report involved conducting additional air dispersion modelling to examine air quality impacts, both during flaring activities and drilling activities. Dr. Du provided evidence that assisted the Board in testing the evidence provided by witnesses for Highpine. The Board finds that Dr. Du is a very credible witness whose credentials and expertise were relevant to the subjects he testified on. The Board welcomes and values Dr. Du's professional opinion on ERCB requirements to which his expertise is applicable. However, the Board does question the time spent on modelling for flaring and ignited well releases. Dr. Du was aware of the ERCB process that well test permits are issued only after approval of the well licences and that the dispersion modelling would meet all the requirements of ERCB *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting*. The modelling for flaring conducted by Dr. Du was given very little weight in the Board's decision. As well, given his experience from previous decisions and hearings, Dr. Du should have been aware that applicants do take into consideration the sulphur dioxide (SO₂) hazard. His SO₂ modelling for an ignited release was not helpful to the Board. As a result, the Board deducts 15 per cent of Dr. Du's professional fees, for a total of \$3207.00 plus applicable GST.

Therefore, the Board approves fees of \$18 173.00, expenses of \$823.99 plus \$920.77 GST, for a total of \$19 917.76.

4.2 Doug McCutcheon and Associates Consulting

4.2.1 Views of Highpine

Highpine was of the view that Mr. McCutcheon's report was overly general and did not speak at all to the applications and that the compensation being claimed of 44 hours of preparation was excessive. Highpine felt that "what Mr. McCutcheon prepared is essentially an academic primer to risk management in a conceptual form." [Highpine's Costs Submission, page 2] Highpine did not feel that what Mr. McCutcheon presented was of assistance and maintained that it was not directly and necessarily related to the hearing. Highpine submitted that Mr. McCutcheon's claim should be drastically reduced, as it was only in his brief supplemental report that any mention of issues relating to the proceeding was addressed.

4.2.2 Views of CEASE

CEASE advised that Mr. McCutcheon had limited time to review the Highpine Risk Assessment and to provide a report in response. CEASE also pointed out that there were issues in the Highpine Risk Assessment that required clarification at the hearing. Finally, CEASE submitted that Mr. McCutcheon's evidence was helpful to CEASE and assisted them in understanding the risk assessment, which was discussed at length by both parties and the panel.

4.2.3 Views of the Board

The Board finds that significant portions of Mr. McCutcheon's report spoke to very general matters that were not of great assistance to the Board. The Board further notes that limited time was spent on review of materials for the hearing, most notably, a half-day was spent reviewing the Highpine Risk Assessment. This in turn may have contributed to a high level of misunderstanding and incomplete or incorrect conclusions, which did not assist the Board in the hearing and which unfortunately appeared to cause unnecessary alarm for many of the interveners that Mr. McCutcheon was retained to assist. Finally, it does not appear that Mr. McCutcheon contributed to a better understanding of the application by the interveners, both because of issues with the content of his report and because there is no indication of any meeting with interveners. The Board therefore reduces Mr. McCutcheon's time by one-half.

The fees approved by the Board for Mr. McCutcheon are therefore \$6370.00 plus \$318.50 GST, for a total of \$6688.50. The Board also approves Mr. McCutcheon's disbursements of \$75.52, for a total of \$6764.02.

4.3 Deadeye Engineering Inc.

4.3.1 Views of Highpine

Highpine noted that while Deadeye Engineering Inc. (Deadeye) had been hired by CEASE to "explain how [hydrogen sulphide] H₂S content is used in calculating H₂S release rates," [Highpine's Costs Submission, page 2], there was no evidence of this in Deadeye's written submission or in the oral evidence of Mr. Garden. The evidence that was provided by Mr. Garden, Highpine felt, could have easily been provided by a telephone call to the Board.

In addition, Highpine maintained that the \$3000.00 submitted for the use of the "drilling tech," Ms. Pepper Taylor, was unacceptable, due to the facts that she was not an engineer or an expert, but merely provided administrative support, and that sufficient detail of her work was not provided. Highpine argued that therefore this cost should either be reduced or denied entirely.

4.3.2 Views of CEASE

CEASE made the following response to Highpine's comment:

CEASE is surprised that Highpine would suggest that they should not hire experts to assist them in understanding the data gathering processes, H₂S release rates and available information from information services when they themselves have, at past hearings, criticized other members of the public for not obtaining experts to assist them in understanding how the H₂S release rates are determined.(CEASE's Reply Costs Submission, page 3)

4.3.3 Views of the Board

As stated in *Decision 2008-088*, the Board rejected the opinion of Deadeye. The work appears to be limited to data retrieval without basic steps taken to confirm or analyze the key information used to reach the opinion presented by Deadeye. There was no substantive analysis of the data, and any charges related to alleged analysis are not allowed.

The Board will allow the costs related to the H₂S search of \$125.00. The Board will also allow travel costs of 640 kilometres (km) at \$0.30 per km, for a total of \$192.00. The total amount payable for these disbursements is \$317.00 plus \$15.85 GST, for a total cost award of \$332.85. The Board disallows all other costs submitted by Deadeye.

4.4 Vulture Energy Ltd.

4.4.1 Views of Highpine

Highpine submitted that the costs being claimed on behalf of Vulture Energy Ltd. (Vulture) should be disallowed based on the fact that Highpine was unaware of its involvement until the submission of the CEASE cost claim. In addition, Highpine was of the view that enlisting Vulture to assist CEASE in locating an expert was unusual.

Highpine also pointed out the fact that the rationale for retaining Vulture was very similar to that of Deadeye and that this brought about some duplication. Highpine cited Section 6.3.2 of *Directive 031A*, which stated that that “one expert should not duplicate the specialty and services of another for the same intervenor.” [Highpine’s Costs Submission, page 3]

Based on the foregoing, Highpine submitted that the claim submitted on behalf of Vulture be denied.

4.4.2 Views of CEASE

CEASE advised that it sought assistance from Vulture to assist it in trying to find experts knowledgeable about sour gas and to further assist it in finding consultants who “make it their work to mine information available from the ERCB.” [CEASE’s Costs Submission, page 3] CEASE further submitted that Vulture was of great assistance in helping CEASE and its counsel understand the application and the science behind release rates and sour drilling.

4.4.3 Views of the Board

It is highly unusual to provide costs for an expert who does not submit any expert material and does not attend the hearing. While the Board accepts that there may be circumstances when an expert can provide advice to intervenors without attendance at the hearing, in order to justify costs for that expert more information must be provided regarding the input of the expert. Further, the Board does not accept that an expert must be retained to provide the name of another expert. It is impossible for the Board to assess the contribution of Vulture, and it therefore has no choice but to disallow all costs submitted on its behalf.

4.5 Enable Performance Inc.

4.5.1 Views of Highpine

Highpine submitted that Mr. Webber, of EnAble Performance Inc., was of limited, if any, assistance to the hearing. Mr. Webber had admittedly very little experience in the upstream oil and gas industry, and in Highpine's view, his opinion was at best peripheral and likely irrelevant to the issues at hand.

Highpine was of the view that it was unreasonable for Mr. Webber to comment on Highpine's operation activities, given his lack of competence and ability on the matter.

4.5.2 Views of CEASE

In response to Highpine's comments, CEASE submitted that Mr. Webber was hired to review and explain audits provided by Highpine. CEASE was of the view that Mr. Webber was very helpful to it and could have also been of assistance to Highpine had they agreed to meet with him.

4.5.3 Views of the Board

The Board found some of Mr. Webber's evidence helpful in contributing to an understanding of the issues. However, the Board notes that there was a shortage of experience in the area of oil and gas development. The Board also notes that like other expert witnesses, Mr. Webber appeared to not spend time with interveners directly, providing assistance in understanding the issues. The Board therefore reduces Mr. Webber's professional fees by 25 per cent. Fees of \$6600.00 are reduced by \$1650.00. The Board approves a total of \$4950.00 in fees plus GST in the amount of \$247.50. Mr. Webber's disbursements of \$766.68 are also allowed, for a total of \$5964.18.

4.6 Gecko Management

4.6.1 Views of Highpine

Highpine submitted that the evidence provided by Gecko Management (Gecko) was not of assistance to the hearing, as it did not provide any new information. Gecko was critical of Highpine's emergency response plan (ERP) and its criticisms were based primarily on interviews with CEASE members and did not include a representative sample of resident concerns.

Additionally, Highpine submitted that the costs claimed for time and mileage resulting from the ground-truthing of the area unnecessary and was acknowledged by Gecko, stating that "mapping was not considered an issue with respect to the approval of these applications." [Highpine's Costs Submission, page 4]

Based on the above, Highpine submitted that Gecko's claim should be reduced accordingly.

4.6.2 Views of CEASE

CEASE responded to the comments submitted by Highpine by stating that “Gecko was hired to do an assessment of the ERP. Highpine has raised no compelling reason why this evidence was not relevant.” [CEASE’s Reply Costs submission, page 2]

4.6.3 Views of the Board

The Board found that the evidence provided by Gecko contributed to the hearing, providing a useful review of the critical issue of the soundness of the Highpine ERPs. It is appropriate for interveners to seek an expert review of such critical matters. The Board also notes Gecko’s efforts to interact directly with the resident group and attempts to deal with questions from the residents regarding emergency response planning and the process. The Board allows the fees in full, which amount to \$20 227.50 in fees and \$1082.44 in GST. With regard to disbursements, the Board notes that there was a charge of \$0.75 per km. The Board-approved rate is \$0.30. Disbursements will therefore be reduced by \$864.90, for a total of \$1421.01. The total amount approved for Gecko is \$22 659.89.

5 CEASE

The following table summarizes the honoraria and expenses claimed by 11 CEASE members:

Category	No. of members	Total amount of claims
Preparation honoraria	11	\$4000.00
Attendance honoraria	11	\$3000.00
Forming a group	2	\$2000.00
Expenses	1	\$215.12
Total		\$9215.12

5.1 Views of Highpine

Highpine referred to Section 6.1.1 of *Directive 031A*, wherein it is stated that:

If an individual 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. In situations where both the lawyer and the individual contribute substantially to the preparation of the intervention, the Board may consider an honorarium in recognition of the individual efforts.

Highpine was of the view that CEASE provided no indication that its members made any contribution to the preparation of their submissions.

Therefore, Highpine submitted that the members of CEASE should be awarded preparation honoraria towards the lower end of the scale.

In relation to attendance honoraria, Highpine did not feel that an attendance honoraria of \$100.00 per day per member was appropriate in this case. Highpine pointed out that Section 6.2.2 of

Directive 031A limited the number of group members who may receive honoraria to six plus an additional two representatives, not the ten claimed in this case.

Highpine asked the Board to use its discretion in this case when awarding attendance honoraria.

5.2 Views of CEASE

CEASE referred to the *West Energy Cost Order 2007-008* wherein the Board awarded costs to each intervener in a case very similar to this one. CEASE stated that it trusted that the Board would use its discretion when deciding the appropriate award in this instance, given that the Board was aware that this process was very gruelling and time consuming.

5.3 Views of the Board

5.3.1 Honoraria Awards

Directive 031A limits preparation and attendance honoraria awards for the interveners when they are represented by lawyers and experts. However, the Board does find it important to recognize that members of CEASE endeavoured to understand the application and the ERCB's processes, participated in preliminary meetings, prepared submissions, provided presentations, and participated at the hearing as witnesses.

Based on the above, the Board exercises its discretion and recognizes the personal time and efforts of all members of CEASE.

The Board notes that each member of CEASE has claimed a preparation honorarium of \$400.00. It was clear that significant individual time and effort went into the preparation of these submissions. However, the Board believes that a \$400 honorarium is recognition of rather extraordinary preparation. Therefore, the Board approves a \$300 preparation honorarium to most of the members of CEASE in recognition of their efforts in participating in preliminary meetings and participating in witness panels. With regard to Ms. Kerpan and Dr. Losey, the Board notes that there was an extraordinary effort to develop presentations for the Board and to understand all issues on these applications. The Board therefore awards Ms. Kerpan and Dr. Losey the amount of \$400 each for their efforts in preparing for this hearing.

Regarding attendance honoraria, the Board understands the importance of CEASE members attending the hearing and their efforts to be available when requested by the panel. The Board finds it appropriate to approve the attendance honoraria claim of \$50.00 per half-day for attendance at the hearing.

With respect to honoraria claimed for forming a group, Cheryl Kerpan and Dr. Losey each claim \$1000.00. The Board awards this amount having regard to the evident work that Dr. Losey and Ms. Kerpan put into organization of the group, together with clear efforts to obtain and attempt to understand the application as part of that organizational work. The Board therefore awards \$1000 each to Ms. Kerpan and Dr. Losey, for a total of \$2000.00. The disbursements claimed by Dr. Losey are also allowed.

6 ORDER

It is hereby ordered that

- 1) The Board approves intervener costs in the amount of \$156 815.45, less the prehearing amount paid by Highpine.
- 2) Payment shall be made to Klimek Law, Barristers & Solicitors, #240, 4808 – 87 Street, Edmonton AB T6E 5W3.

Dated in Calgary, Alberta, on December 9, 2008.

ENERGY RESOURCES CONSERVATION BOARD

<original signed by>

G. J. Miller
Presiding Board Member

<original signed by>

T. L. Watson, P.Eng.

<original signed by>

R. J. Willard, P.Eng.

APPENDIX A SUMMARY OF COSTS CLAIMED AND AWARDED

