



Shell Canada Limited

Applications for Well, Pipeline, and
Associated Facility Licences
Waterton Field

Cost Awards

March 31, 2009

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2009-003: Shell Canada Limited, Applications for Well, Pipeline, and Associated Facility Licences, Waterton Field

March 31, 2009

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**SHELL CANADA LIMITED
APPLICATIONS FOR WELL, PIPELINE,
AND ASSOCIATED FACILITY LICENCES
WATERTON FIELD**

**Energy Cost Order 2009-003
Applications No. 1498479, 1483571,
1520938, and 1520937
Cost Application No. 1519646**

1 INTRODUCTION

1.1 Background

Shell Canada Limited (Shell) submitted Application No. 1498479 to the Alberta Energy and Utilities Board (EUB/Board), pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations (OGCR)*, for a licence to drill a level-3 critical sour gas well from a surface location at Legal Subdivision (LSD) 10, Section 1, Township 6, Range 3, West of the 5th Meridian, to a projected bottomhole location at LSD 12-36-5-3W5M (10-1 well). The cumulative drilling hydrogen sulphide (H₂S) release rate would be 4.9 cubic metres per second, and the associated H₂S concentration in the gas would be about 356 moles per kilomole (mol/kmol) (35.6 per cent), with a corresponding calculated emergency planning zone (EPZ) of 6.78 kilometres (km). However, Shell chose to use an EPZ of 6.9 km. The purpose of the proposed 10-1 well would be to obtain gas production from the Rundle Group.

Shell submitted Application No. 1483571, pursuant to Part 4 of the *Pipeline Act*, for approval to construct and operate a pipeline for the purpose of transporting natural gas from the proposed 10-1 well to a pipeline tie-in point at LSD 6-12-6-3W5M. The proposed pipeline would be about 1.19 km in length, with a maximum outside diameter of 168.3 millimetres, and would transport natural gas with a maximum H₂S concentration of 320 mol/kmol (32 per cent). The proposed pipeline would be operated as a level-2 pipeline.

Shell also applied to construct and operate a new fuel gas pipeline in the same right-of-way as the pipeline described above to supply fuel from the existing compressor station at LSD 6-12-6-3W5M to the proposed 10-1 well site.

Shell submitted Application No. 1520937, pursuant to Section 7.001 of the *OGCR*, for approval to amend the existing facility at LSD 6-12-6-3W5M. The amendment would consist of the addition of a new fuel gas compressor. The facility would be licensed for a maximum H₂S content of 320 mol/kmol (32 per cent), and the proposed compressor would be 71 kilowatts.

Lastly, Shell submitted Application No. 1520938, pursuant to Section 7.001 of the *OGCR*, for approval to construct and operate a single-well gas battery at the proposed 10-1 well site. The maximum H₂S content of the inlet gas would be 320 mol/kmol (32 per cent). The proposed facility would consist of a well site heater, downhole water circulation system, metering system, pig launcher, flare stack, flare knockout drum, and deep-set injection system. The proposed well would be about 5.8 km southwest of Beaver Mines.

Objections were received from a number of area landowners, residents, and community groups in the vicinity of the proposed project stating concerns about the environment, public safety, air quality, area development, and location of the proposed 10-1 well site.

About 19 members of the community, including residents inside and outside the EPZ, formed the Friends of Mount Backus (FOMB) to object to the project.

The Castle Crown Wilderness Coalition (CCWC) represented a number of its members who resided within the EPZ and some who resided outside the EPZ. Both sets of members requested that CCWC represent their interests as the members themselves were not able to attend the hearing.

The Seven Gates Group, comprising residents within the EPZ, also originally objected to the proposed project. It met several times with Shell during its consultation process and during the time leading up to the hearing in one-on-one discussions and in facilitation through the appropriate dispute resolution process. As a result, most of its members believed that they were working towards an acceptable agreement with Shell. The Board received letters withdrawing their objections from all individuals in the Seven Gates Group on September 17 and 18, 2007, with the exception of Stuart McDowall and Irene McDowall, who did not participate in the hearing.

Lastly, Stephanie Salonen intervened individually as a resident within the EPZ.

The EUB held a prehearing meeting on June 15, 2007, to consider the issues and timing of the hearing and consequently issued *Decision 2007-053: Shell Canada Limited, Prehearing Meeting, Applications for a Well and Associated Pipeline Licences, Waterton Field*, on June 29, 2007. Subsequently, a hearing commenced on September 18, 2007, before Presiding Board Member T. M. McGee, and Acting Board Members D. A. Larder, Q.C., and W. G. Remmer, P.Eng. Mr. Larder withdrew from the panel on September 18, 2007, leaving the panel with a two-member quorum.

Due to the availability of various parties, the hearing was adjourned on September 21, 2007, and resumed on October 2, 2007. The Board considers the hearing to have been closed on October 5, 2007.

On November 19, 2007, a pipeline licensed to Shell, which was transporting sour gas from LSD 6-17-6-2W5M to LSD 10-7-6-2W5M, sustained an uncontrolled release at LSD 14-8-6-2W5M. The leak occurred about 3.2 km from the closest portion of the proposed project. Several residents in the area were evacuated as a result of the release and others were required to shelter in their homes. This incident was investigated by Shell and the EUB.

On November 29, 2007, the Board sent a letter to all interested parties to the hearing asking their opinion as to how the Board should proceed given the proximity of the project to the pipeline release. The letter asked if they believed the Board should continue with the decision process or wait until a report on the investigation of the release had been issued. Many interveners responded to the letter, with most believing that the Board should wait to consider the result of the investigation report before proceeding.

On December 20, 2007, the Board sent a response letter to all interested parties confirming that the Board would defer further consideration of the subject applications until the issuance of a pipeline investigation report regarding the pipeline release. The Board indicated that following the issuance of the report, it would provide an opportunity for interested parties to make written submissions on the relevance of that report to the applications and the ongoing process to consider the applications.

On February 15, 2008, the EUB sent another letter to interested parties advising them that the pipeline investigation report, which had been anticipated to be released in February 2008, was not expected until mid-2008. The delay was attributed to Shell's inability to provide the Energy Resources Conservation Board (ERCB), formerly the EUB, with information about the incident required to complete the report.

On October 7, 2008, the ERCB released *ERCB Investigation Report: Shell Canada Limited, Sour Gas Pipeline Failure, Licence No. 23800, Line No. 61, November 19, 2007*.

Having regard for the EUB's letter dated November 29, 2007, indicating that it would seek submissions on the merits of reopening the hearing to consider the contents of the pipeline investigation report, the EUB issued a letter to all interested parties on October 15, 2008, providing them with an opportunity to comment on the relevance of the ERCB pipeline investigation report to Shell's applications. The submission deadline was set for November 14, 2008, and later extended to November 24, 2008. The EUB received responses from hearing participants FOMB, CCWC, Ms. Salonen, and Shell. Three other interested parties that did not participate in the hearing also filed submissions.

Although on January 1, 2008, the *Alberta Energy and Utilities Board Act* was repealed, subsection 80(3) of the *Alberta Utilities Commission Act* provided that if a notice of hearing was issued prior to January 1, 2008, the EUB Board would complete the proceeding.

On December 16, 2008, the EUB Board issued *Decision 2008-127: Shell Canada Ltd., Applications for Well, Pipeline, and Associated Facilities Licences, Waterton Field*.

1.2 Cost Claim

On August 7, 2007, the Board, after considering the advance funding request submitted by FOMB, awarded to FOMB a total of \$40 000.00 in advance funding of the \$72 500.00 that was requested.

On October 8, 2007, the CCWC filed a cost claim totalling \$69 774.00. On November 23, 2007, Shell submitted comments regarding the cost claim. On December 3, 2007, CCWC submitted a response.

On October 9, 2007, Sabri Shawa of May Jensen Shawa LLP filed a cost claim totalling \$17 298.02 for legal work that was initially for FOMB. On December 7, 2007, Shell submitted comments regarding the cost claim.

On November 7, 2007, the representative for Ms. Salonen filed a cost claim totalling \$15 475.34. On November 23, 2007, Shell submitted comments regarding the cost claim. On November 28, 2007, the representative for Ms. Salonen submitted a response.

On November 27, 2007, counsel for FOMB, Jim Hope-Ross, filed a cost claim totalling \$94 588.69. On December 7, 2007, Shell submitted comments regarding the cost claim. On December 12, 2007, counsel for FOMB submitted a response.

The Board considers the cost process to have closed on December 12, 2007.

On January 17, 2008, the EUB provided correspondence to Shell instructing Shell to pay 50 per cent of the total costs claimed by each intervener net of any funds already advanced.

On January 30, 2008, the EUB provided clarification in its correspondence to Shell, FOMB, and Mr. Shawa, instructing Shell to pay 50 per cent of the costs claimed by FOMB and May Jensen Shawa LLP for interim funding. The EUB also noted in that letter that FOMB had already been provided with advance intervener funding in the amount of \$40 000.00 and, therefore, instructed Shell to deduct that amount when providing the interim funding. On February 1, 2008, the EUB provided clarification in its correspondence to Shell, Ms. Salonen, and Michael Sawyer, instructing Shell to pay 50 per cent of the costs claimed by Ms. Salonen and Mr. Sawyer.

The total amounts of interim funding awarded were as follows:

- 1) FOMB: \$27 294.34, after taking into consideration the \$40 000.00 previously awarded
- 2) Mr. Shawa: \$8649.01
- 3) Mr. Sawyer: \$7167.89
- 4) Ms. Salonen: \$569.28
- 5) CCWC: \$34 887.00

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 *EUB Rules of Practice* (now the *Energy Resources Conservation Board Rules of Practice*) and Appendix D: *Scale of Costs in Directive 031A: Guidelines for Energy Costs Claims*.

Subsection 55(1) (now Subsection 57(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 CASTLE-CROWN WILDERNESS COALITION

The CCWC claimed \$66 190.00 in fees for Ms. Ryan, Mr. Tweedie, and Ms. Huntley, \$1884.00 in disbursements, and \$1700.00 for attendance honoraria, for a total of \$69 774.00.

3.1 Views of Shell

On November 23, 2007, Shell submitted its comments to the cost claim filed by CCWC.

Shell submitted that the intervention of the CCWC on behalf of Cathy Scrimshaw, Gordon Petersen, Michael Lynch and Merle Lynch, Mark Sandilands, Leona Jacobs, David McNeill, Linde Farley, and Elize Everts (the Scrimshaw Group) did not reflect the concerns of the Scrimshaw Group, but rather those of the advocacy group. The CCWC itself was not granted standing for the hearing, but because the CCWC acted on behalf of the Scrimshaw Group, the CCWC was able to present evidence at the hearing.

Shell commented that the members of the Scrimshaw Group had issues regarding health and safety, property values, and environmental concerns and in Shell's view none of those issues were addressed by the CCWC during the hearing except for a discussion regarding general environmental concerns. Shell also noted that the members of the Scrimshaw Group did not appear before the Board at the hearing and that their names were not on the cost claim submitted by the CCWC.

Shell submitted that the presentation by the CCWC at the hearing was unnecessarily lengthy and focused on the broader Waterton/Castle area rather than the area specified in Shell's application. Shell also submitted that the majority of the evidence presented by the CCWC was not technical in nature and, therefore, was not relevant given the nature of Shell's application.

Shell maintained that the CCWC failed to comply with the Board's direction to not present argument for things that were unrelated to the applications, such as regional land-use policy issues for the broader region. Shell referred to *Energy Cost Order 2003-002: True North Energy Corp.*, wherein the Board stated that "conducting such an intervention is done at that party's own risk and expense," with regard to the fact that although the interveners had been instructed not to argue certain facts, they did so anyway. Shell, therefore, submitted that it should not have to bare those costs incurred by the CCWC for taking that same risk.

Shell also took issue with the powerpoint presentation that was presented at the hearing because, in its view, it was not relevant to the proceedings and did not provide a better understanding of the issues at hand. Shell also stated that the CCWC's presentations appeared to repeat a lot of the information provided by the other interveners at the hearing. Shell maintained that this was because the CCWC did not make reasonable efforts to cooperate with the other interveners to

ensure that evidence was not repetitive. In addition, Shell noted that the oral evidence presented by the CCWC was submitted as new evidence when it could have been filed at the same time as the CCWC's documentary evidence and this in turn lengthened the hearing process.

Regarding Mr. Tweedie's and Ms. Huntley's hourly rate of \$250.00, Shell submitted that it was excessive given that this was the maximum rate allowed by the Board in the *Scale of Costs* for lawyers, experts, and consultants, yet neither Mr. Tweedie nor Ms. Huntley appeared to be experts or consultants. Shell noted that Ms. Ryan claimed an hourly rate of only \$45.00 for her work in this matter and suggested that the hourly rate for Mr. Tweedie and Ms. Huntley should not exceed \$50.00.

In addition, Shell submitted that the hours claimed for preparation time for Ms. Ryan, Mr. Tweedie, and Ms. Huntley were excessive. Ms. Ryan claimed 28 hours for preparation, Ms. Huntley claimed 118 hours, and Mr. Tweedie claimed 135 hours. Shell maintained that these claims were quite high considering their modest participation at the hearing and provided as an example Mr. Tweedie's preparation claim, which would indicate that he spent 17 eight-hour days to prepare for the CCWC's one-and-a-half days of submissions at the hearing.

Shell requested that CCWC provide confirmation to the Board that Ms. Ryan, Mr. Tweedie, and Ms. Huntley were not provided with a wage or salary during their involvement with the hearing. Shell cited in *Directive 031A*, Section 6.3.2, which stated that "A cost award should not be issued for personal services already remunerated by others in the form of hourly employment or regular salary." Shell argued that if it could not be confirmed that Ms. Ryan, Mr. Tweedie, and Ms. Huntley had not already been paid for their services, then their claims should be denied in their entirety.

Shell also requested that the CCWC confirm that it billed the Scrimshaw Group in full for the time spent in relation to the applications by providing a copy of the invoice to the Board. Shell argued that if a copy of the invoice could not be provided, the cost claim submitted by the CCWC should be denied.

With respect to the costs claimed for attendance of CCWC observers at the hearing and the costs claimed for their lunches, Shell maintained that it was not required to pay any of the costs associated with the CCWC observers since they were not local interveners and did not contribute to the intervention.

3.2 Views of the CCWC

Ms. Huntley replied on behalf of the CCWC on December 3, 2007.

Regarding the issue of hours spent on preparation for the hearing, Ms. Huntley advised that Ms. Ryan spent about 23 hours researching and writing, as well as conducting field work, to prepare for the hearing and that the remainder of the time being claimed was related to Ms. Ryan's attendance at the hearing. Ms. Huntley also noted that she herself spent a great deal of time contacting members in and near the EPZ, having discussions with Mr. Petersen and Dr. Scrimshaw, as well as other interveners regarding their concerns, researching her own concerns, and coordinating the input of all of the members of the CCWC into her hearing preparation. Mr. Tweedie's time allotted for preparation was for developing his initial submission, which was a

detailed critique of Shell's environmental submission, and for making a major revision to the submission.

Ms. Huntley commented about the hourly rate for her and Mr. Tweedie and stated that she has been a professional consultant/researcher in the environmental field in the Province of Alberta for over 30 years and that Mr. Tweedie has been widely known as someone extremely knowledgeable about policy and legislation in the Castle watershed for at least 15 years. Therefore, Ms. Huntley maintained that her and Mr. Tweedie's hourly rate of \$250.00 was justifiable.

With respect to Ms. Ryan, Ms. Huntley, and Mr. Tweedie receiving remuneration for their time spent in relation to this application, Ms. Huntley advised that Ms. Ryan had been paid by the CCWC for her hours incurred during the month the hearing took place. Ms. Huntley noted that since Ms. Ryan was only a summer employee, it would have been inappropriate not to pay her. Ms. Huntley also noted that she and Mr. Tweedie had not received any remuneration for their time spent at the hearing.

Ms. Huntley submitted that the \$435.00 claimed for lunches for the CCWC observers was justified due to the fact that Ms. Ryan provided lunch for Ms. Huntley and Mr. Tweedie, as well as members of FOMB and the CCWC observers, because there was not enough time allotted to go to a restaurant to get lunch during the hearing.

Ms. Huntley submitted that the Scrimshaw Group had not been provided an invoice for the services of the CCWC as Mr. Petersen and Dr. Scrimshaw had been out of the country since the time of the hearing. Ms. Huntley advised that in her letter dated December 3, 2007, she stated that she would be sending an e-mail to Mr. Petersen and Dr. Scrimshaw, attaching a spreadsheet outlining the costs incurred by the CCWC and instructing Mr. Petersen and Dr. Scrimshaw that this was the bill for services provided by the CCWC during the hearing.

3.3 Views of the Board

The Board is of the view that Mr. Tweedie and Ms. Huntley performed two roles during this proceeding: acting as agent or representative of the Scrimshaw Group and acting as consultants and providing evidence related to the concerns expressed by a number of the CCWC's members residing within the EPZ, namely, Tim Grier, Jim Cameron, Adam Grose, Donna Zoller, Nancy Tripp, and Wilbur Tripp. With respect to the hourly rate being claimed, the Board notes Shell's concern that Mr. Tweedie and Ms. Huntley are charging professional hourly rates, yet neither of them has a professional designation. The Board finds that the group was entitled to retain Mr. Tweedie and Ms. Huntley as representatives or agents to represent them at the hearing. The Board further notes that Mr. Tweedie and Ms. Huntley have many years of environmental experience, participating in a number of government and industry studies and on committees, and are both extremely knowledgeable in their respective fields of work. The Board is of the opinion that Mr. Tweedie and Ms. Huntley provided assistance to the Board at the hearing.

Although Mr. Tweedie and Ms. Huntley were extremely knowledgeable and provided assistance in understanding the issues at hand to the landowners and the CCWC, in light of the fact that Mr. Tweedie and Ms. Huntley have no professional designations, the Board is of the view that they are not entitled to claim an hourly rate at the high end of the *Scale of Costs* for professional fees. The Board feels that an hourly rate of \$150.00 is more appropriate for the roles they performed.

With respect to the concern raised by Shell of the excessive hours incurred by Mr. Tweedie, the Board agrees that they may be somewhat excessive but given the significant decrease in Mr. Tweedie's hourly rate, the Board is not prepared to reduce Mr. Tweedie's claim further.

In relation to the cost claim of Ms. Ryan, due to the fact that she already received her regular salary for her time spent in relation to this matter, the Board denies her claim for fees in its entirety.

With respect to the claim by members of CCWC for attendance honoraria, it is the Board's view that the participation of the CCWC is a product of the participation of its members and without the individual members the group itself would not exist. Although the five members of the CCWC attended the hearing as observers, the Board does find it important to recognize that the members did endeavour to understand the applications and the EUB's processes and assisted with the preparation of the submissions.

Based on the above, the Board feels that this is an appropriate instance to use its discretion and award the attendance honoraria claim in full. The Board also takes no issue with the disbursements claimed by the CCWC.

Therefore, given the foregoing, the total cost awarded to the CCWC is \$40 386.00. Since the CCWC was previously awarded interim funding of \$34 887.00, the Board awards a total of \$5499.00.

4 FRIENDS OF MOUNT BACKUS

FOMB claimed legal fees for Mr. Hope-Ross in the amount of \$47 875.00, plus expenses in the amount of \$5429.23, and GST totalling \$3089.07. It also claimed legal fees for May Jensen Shawa Solomon LLP in the amount of \$15 451.00, plus expenses in the amount of \$758.21, and GST totalling \$927.06. FOMB claimed fees for experts totalling \$20 600.00, expenses for those experts totalling \$2261.39, and GST totalling \$144.00.

In addition, FOMB claimed preparation, group, and attendance honoraria totalling \$10 500.00 and expenses totalling \$4690.00, for a total of \$15 190.00

4.1 Views of Shell

4.1.1 Legal and Expert Costs

Shell submitted that the claims for legal fees set out by counsel for FOMB, as well as Mr. Shawa, are generally reasonable; however, Shell contended that the cost claim should be reduced on the basis that a lot of the costs being claimed were the result of changing solicitors during the regulatory process.

Regarding the costs submitted by FOMB on behalf of Ann-Lise Norman, K. H. Kilburn, David Mayhood, and Brian Horejsi, Shell was of the view that the evidence provided by these witnesses was of little assistance. Shell requested that the Board use its discretion when assessing the fees claimed in association with those witnesses.

Shell pointed out that Section 5.1 of *Directive 031A* specifically stated that the costs incurred for replacing solicitors or experts after the preparation of a submission has been started, might not be considered reasonable by the Board.

Shell submitted that FOMB's replacement of Mr. Shawa with Mr. Hope-Ross resulted in some duplication of effort, and this was evident on the invoices of Mr. Shawa and Mr. Hope-Ross as both contained similar entries associated with reviewing Shell's applications. Therefore, Shell requested that the Board consider this duplication when assessing the reasonableness of this portion of the claim.

4.1.2 Honoraria

Shell submitted that the honoraria claimed by the members of FOMB was reasonable; however, it would leave it up to the Board to determine if the honoraria claimed was in accordance with *Directive 031A*.

With respect to the translation costs submitted by Jean Fabre and Louise Fabre, Shell submitted that it do not take issue with this claim.

4.2 Views of FOMB

The EUB did not receive a response from Mr. Hope-Ross, counsel for FOMB, in relation to the comments submitted by Shell regarding the experts in this matter.

4.3 Views of Board

The Board has reviewed the comments made by Shell and is of the view that the cost claims submitted on behalf of Dr. Norman, Mr. Mayhood, and Dr. Horejsi are reasonable. The Board found these witnesses to be of assistance at the hearing and, therefore, is awarding their claims in full.

With respect to the cost claim of Dr. Kilburn, the Board notes that the material presented by Dr. Kilburn at this hearing was similar to the material presented at a previous EUB hearing in the Drayton Valley area, which also dealt with a sour oil well. The Board finds that the evidence presented by Dr. Kilburn provided limited value in consideration of the subject applications for a sour gas well. However, the Board also notes that Dr. Kilburn did not charge for his report and only billed for his testimony on September 20, 2007, as well as associated expenses for a total of \$4693.00. The Board is under the impression from correspondence from FOMB that \$3000.00 of the advance funding that was previously provided to FOMB was for retaining Dr. Kilburn.

Given the above, the Board awards Dr. Kilburn his expenses, including travel, in full and one-third of his testimony charges, for a total of \$3018.00.

The Board has taken into consideration Shell's concerns with respect to the duplication of legal work given that counsel for FOMB was replaced prior to the hearing. The Board is unclear as to why FOMB decided to change counsel midway through the process. The Board notes that Section 5.1 of *Directive 031A* provides examples of costs that might not be considered reasonable, such as costs related to replacing solicitors or experts after preparation of a submission is started. Although it is apparent that a certain amount of overlap did occur, the Board does not find, given the amount of hours claimed for hearing preparation, that all of the

preparation time was duplicated. However, the Board does not generally award costs for two counsel involved in a hearing. In exceptional circumstances, such as when issues in the hearing are novel or complex and/or the hearing involves a large number of interveners, the Board may find that the involvement of multiple counsel in the preparation for and attendance at a hearing is reasonable.

Furthermore, the Board is unable to assess the value of the work completed by May Jensen Shawa LLP as Mr. Shawa was replaced before the hearing. However, the Board does recognize that there was some benefit to FOMB from Mr. Shawa and his associate, Darren Reed, assisting in the initial organization and strategy for the group and preparation for the prehearing meeting. The Board is also of the view that Mr. Hope-Ross, counsel for FOMB, did not work with Mr. Shawa effectively to ensure that there would be no duplication when taking over the file from him. The Board expects that when a change of counsel occurs, but it also expects that the new counsel will work with previous counsel to understand the file.

Given the foregoing, the Board is reducing FOMB's total claim for legal fees, including those claimed by May Jensen Shawa LLP, by 25 per cent, for a total reduction of \$15 831.50 plus GST and disbursements.

While FOMB had counsel who was primarily responsible for representing the interveners, the Board recognizes that FOMB consists of fourteen members and notes that the duration of the hearing was 8 days. Therefore, the Board is of the view that this is an appropriate instance to exercise its discretion and recognize the efforts of members of FOMB by awarding attendance and preparation honoraria. That being said, the Board will not be awarding the full preparation honoraria claimed due to the fact that FOMB had professional assistance. Therefore, the Board awards each member of FOMB that claimed preparation honoraria \$200.00 for preparation honoraria and the full amount claimed for attendance honoraria.

With respect to honoraria for forming a group, Mike Judd claimed \$2235.00, Jolaine Kelly and Kevin Kelly each claimed \$500.00, and Elaine Voth claimed \$300.00. The Board is of the view that the claim for forming a group by these four individuals is excessive and, therefore, in accordance with Section 6.2.1 of *Directive 031A*, the Board finds that awarding Mr. Judd a group organization honorarium of \$1000.00 and \$300.00 to Ms. Kelly, Mr. Kelly, and Ms. Voth each is reasonable and appropriate.

5 STEPHANIE SALONEN

Ms. Salonen claimed \$900.00 for preparation and attendance honoraria, \$226.00 for expenses, and \$13.56 for GST, for a total cost claim of \$1139.56. Ms. Salonen's representative, Mr. Sawyer, claimed fees in the amount of \$12 300.00, expenses in the amount of \$1224.32, and GST totalling \$811.46, for a total cost claim of \$14 335.77.

5.1 Views of Shell

Shell submitted that it did not take issue with the cost claim filed by Ms. Salonen and asked that the Board determine whether the amounts being claimed by Ms. Salonen were in accordance with *Directive 031A*.

5.2 Views of Ms. Salonen

Mr. Sawyer responded to the comments made by Shell and submitted that he and Ms. Salonen were appreciative of the fact that Shell took no issue with the cost claim filed by Ms. Salonen. Ms. Sawyer pointed out that Ms. Salonen made a significant contribution to the hearing. In addition, Mr. Sawyer noted that he had over 16 years of experience and maintained that the hourly rate he claimed was appropriate and in accordance with the guidelines set out in *Directive 031A*.

Mr. Sawyer requested that the Board award the full amount of the cost claim filed by Ms. Salonen.

5.3 Views of the Board

The Board finds that Ms. Salonen's intervention in this hearing was useful and finds the cost claim submitted by Ms. Salonen, including the fees for Mr. Sawyer's services, reasonable and approves it in full.

6 ORDER

It is hereby ordered that

- 1) The Board approves intervener costs in the amount of \$29 137.43.
- 2) Payment in the amount of \$15 900.77 shall be made to W. J. Hope-Ross Professional Corporation, 2032 Lake Bonavista Drive SE, Calgary AB T2J 4B5 on behalf of FOMB and May Jensen Shawa LLP.
- 3) Payment in the amount of \$7167.89 shall be made to Hayduke & Associates Ltd., 1109 Maggie Street SE, Calgary AB T2G 4L8 on behalf of Mr. Sawyer.
- 4) Payment in the amount of \$569.78 shall be made to Stephanie Salonen, Box 3081, Pincher Creek AB T0K 1W0.
- 5) Payment in the amount of \$5499.00 shall be made to the Castle-Crown Wilderness Coalition, Box 2621, Pincher Creek AB T0K 1W0.

Dated in Calgary, Alberta, on March 31, 2009.

ALBERTA ENERGY AND UTILITIES BOARD

<original signed by>

T. M. McGee
Presiding Board Member

<original signed by>

W. G. Remmer, P.Eng.
Acting Board Member

APPENDIX A SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A

Appendix is available through ERCB Information Services. Contact infoservices@ercb.ca