



Bernum Petroleum Ltd.

Application for a crude oil well
Lochend Field

Cost Awards

June 4, 2012

ENERGY RESOURCES CONSERVATION BOARD

Energy Cost Order 2012-005: Bernum Petroleum Ltd., Application for a crude oil well,
Lochend Field

June 4, 2012

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ENERGY RESOURCES CONSERVATION BOARD

Calgary, Alberta

**BERNUM PETROLEUM LTD.
APPLICATION FOR A CRUDE OIL WELL
LOCHEND FIELD**

**Energy Cost Order 2012-005
Application No. 1674911
Cost Application No. 1701055**

INTRODUCTION

Background

[1] Bernum Petroleum Ltd. (Bernum) applied in accordance with Section 2.020 of the *Oil and Gas Conservation Regulations* for a licence to drill a well from a surface location in Legal Subdivision (LSD) 1, Section 4, Township 26, Range 3, West of the 5th Meridian, to a projected bottomhole location in LSD 6-33-25-3W5M.

[2] Timothy Bancroft and Frances Bancroft, owners of the southeast quarter of Section 4-26-3W5M, from which the surface location of the proposed well would be drilled, and the north half and southeast quarter of Section 34-25-3W5M, objected to the application.

[3] The Board held a hearing in Calgary on August 30 and 31, 2011.

[4] The Board issued *Decision 2011 ABERCB 033*, dated November 16, 2011.

Cost Claim

[5] On September 30, 2011, Tim Bancroft, Carol Bancroft, Frances Bancroft, and Anne Bancroft (the Bancrofts) filed a cost claim in the amount of \$75 890.01. On October 19, 2011, Bernum submitted comments to the Bancrofts' cost claim. On November 1, 2011, the Bancrofts submitted a response to the comments of Bernum.

[6] On November 15, 2011, the Board requested clarification and invoices with respect to certain items listed in the cost claim and received them on March 8, 2012. The Board received a final response from Bernum on March 12, 2012.

[7] The Board considers the cost process to have closed on March 12, 2012.

VIEWS OF THE BOARD—AUTHORITY TO AWARD COSTS

[8] 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.

[9] 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.

[10] When assessing costs, the Board refers to Part 5 of the *Energy Resources Conservation Board Rules of Practice* and Appendix #: *Scale of Costs in ERCB Directive 031: Guidelines for Energy Proceeding Cost Claims*.

[11] Subsection 57(1) of the *Rules of Practice* states:

57(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.

COST CLAIM OF THE BANCROFTS

[12] The law firms of Colin G. Simmons and Wilson Laycraft represented the Bancrofts. On September 30, 2011, the Bancrofts filed a cost claim for legal fees in the amount of \$42 315.00, expert fees in the amount of \$20 332.50, preparation and attendance honoraria in the amount of \$3 300.00, expenses in the amount of \$6 487.22, and GST in the amount of \$3 455.29, for a total claim of \$75 890.01.

Views of Bernum

[13] On October 19, 2011, Bernum provided its comments on the Bancrofts' cost claim.

[14] Bernum took the position that in several instances the interveners' costs were uneconomic or unjustified under the relevant statutory and regulatory rules, and that these uneconomic or unjustified costs should not be borne by Bernum.

[15] Bernum noted that the Board's authority to award costs is guided by its enabling legislation, the *Rules of Practice*, and the directives enacted thereunder.

[16] Bernum pointed out that *Directive 031* more fully sets out the Board's rules and guidelines with respect to the Board's discretion to award intervener costs. Bernum referred to section 4.1, which provides that the Board can use its discretion to deny a claim for costs, in whole or in part, where the Board is not satisfied that the intervention was conducted economically.

[17] Bernum observed that an award of costs to an "intervener," and the specific amount of those costs, is a discretionary matter subject to a determination of reasonableness and economy.

[18] With regard to the claimed legal fees, Bernum pointed out that the Bancrofts claimed costs for the payment of fees for two lawyers, namely Colin Simmons and James Laycraft. Bernum noted that Mr. Simmons and Mr. Laycraft both have well over 12 years of experience as counsel as per the ERCB *Scale of Costs*. Both have claimed \$350.00 an hour for attendance at the hearing pursuant to the *Scale of Costs*. Bernum submitted that it was unnecessary and therefore uneconomical to have two such senior counsel present during the entire hearing. It was Bernum's recollection that Mr. Simmons led no witnesses, conducted no cross-examination, and made no other submissions at the hearing. Bernum requested that the cost claim be reduced by \$4 000.00 to take account of this matter.

[19] Bernum further noted that, according to Mr. Simmons's account, he was retained at the beginning of February 2011. The ERCB's Notice of Hearing was issued on June 10, 2011 and, according to Mr. Laycraft's dockets, he was not retained until August 2011. Bernum pointed out that Mr. Laycraft has claimed 37.5 hours (\$13 125.00) for preparation for the hearing, in addition to Mr. Simmons's 55.6 hours (\$19 460.00) for hearing preparation. Bernum put forward that Mr. Laycraft's late retainer on the file must have led to extra and perhaps duplicative preparation. Bernum requested that the cost claim be reduced by \$10 000.00 on this point.

[20] With regard to the fees and expenses claimed for Bissett Resources Consultants Ltd. (Bissett), Bernum again took the position that the fees of \$17 433.64 are relatively uneconomical.

[21] Bernum acknowledged that Dick Bissett is well known in the field of oil and gas exploration in Alberta and is certainly one of the most well-respected experts in his field. Bernum pointed out, however, that Mr. Bissett testified that he personally had never programmed a horizontal Cardium well in Alberta. Bernum put forward that while Mr. Bissett is generally regarded as a highly respected and experienced expert, his expertise does not lie in this particular field, and that retaining and paying the costs for Mr. Bissett was uneconomical in light of the present circumstances.

[22] Bernum took the position that the 81.2 hours of preparation claimed at the hourly rate of \$214.70 was unreasonable for the purposes of this hearing. It considered this as a seemingly large amount of time to survey two alternative well sites and to prepare a very short (4 page) report regarding the same. Mr. Bissett did not attend the site on the first survey and admitted in evidence that, in actual fact, the alternative well sites were essentially equal to the site of the proposed well.

[23] Bernum noted that the "Company Principal," presumably Mr. Bissett, conducted the 72.25 hours of the claimed work at a rate of \$210.00/hour. A senior staff engineer and senior administrator conducted six hours of the work at rates of \$160.00 and \$100.00/hour, respectively. Bernum noted that Bissett claimed 81.2 hours for preparation at an average rate higher than all of these: \$214.70/hour.¹ Bernum submitted that the costs claimed by Bissett should be reduced by \$7 000.00.

¹ Bissett's invoice was for Company Principal – 72.25 hours @ \$210/hour and 13.50 hours for attendance at the hearing @ \$310/hour; Senior Staff Engineer – 2 hours @ \$160.00/hour; Senior Administrator – 6 hours @ \$100.00/hour; and Secretarial time – 1 hour @ \$55.00/hour. This amounts to a total of 94.70 hours with a total claim of \$20 332.09. The resulting average of the total hours is \$214.70/hour.

[24] Bernum also objected to the Bancrofts' claim for preparation honoraria for Carol and Tim Bancroft. Bernum stated that *Directive 031* is clear that preparation honoraria is intended to compensate unrepresented parties where they have taken it upon themselves to "personally prepare and present an intervention to the Board without outside help." Section 5.12 of *Directive 031* clearly states that:

the Board will not normally provide a preparation honorarium to a local intervener if a lawyer is primarily responsible for the preparation of an intervention. If both the lawyer and the local intervener prepare an intervention, the Board may consider an honorarium in recognition of the local intervener's efforts.

[25] Bernum submitted that the Bancrofts' intervention was prepared by not one, but two senior counsel, and that landowners are often required to spend some time and effort in the opposition to a well, even when they are represented by counsel. However, a preparation honorarium is not intended to compensate parties for any and all time spent in this regard, especially where the landowners have been so sufficiently represented by senior counsel and have claimed costs for such representation.

[26] Bernum noted that *Directive 031* states that "[a]s there is no certainty that a hearing will be held until a notice of hearing is issued, the ERCB normally does not award costs incurred before notice is issued." Mr. Colin Simmons was retained well before the Notice of Hearing was issued on June 10, 2011. Therefore, claims for the work conducted by Carol and Tim Bancroft for those times before counsel had been retained should not be considered. Bernum submitted that preparation honoraria are not justified in this case and requested that the cost claim be reduced by \$2 500.00 to account for this.

[27] Finally, Bernum objected to several of the disbursements claimed by the Bancrofts, which appeared to be uneconomical and unreasonable in light of the circumstances of this application. Bernum objected to the mileage claims made by Bissett, Tim Bancroft, and Carol Bancroft at \$609.60, \$477.73, and \$684.78, respectively. Bernum submitted that at the rate of \$0.505/km, this would mean that each of these individuals travelled more than 1 000 kilometers (km) as a result of the hearing. This is not reasonable given that the location of the proposed well is just east of the Calgary city limits. Bernum advised that it would be prepared to pay \$200.00 for mileage for each of these parties (a total of \$600.00), compensating each party for 400 kms of travel, which it considered more than reasonable in light of the location of the hearing relative to the well site.

[28] Bernum requested documentation in support of Bissett's claim of \$1 120.00 for "Miscellaneous - construction supervision, camera, cellular" as well as the item on Bissett's invoice for "Construction Supervision" in the amount of \$950.00. Bernum submitted that it had seen no evidence that would justify these costs.

[29] Bernum submitted that certain claims were unjustified and uneconomical and requested that the Board use its discretion afforded under sections 57 of the ERCB *Rules of Practice* and section 4.1 of *Directive 031* to reduce the costs claimed by the Interveners by \$25 792.11. Bernum summarized its submission as follows:

Bancroft's Claim	\$72 434.72*
Duplication of Senior Counsel	-\$4 000.00
Duplication re Preparation	-\$10 000.00
Bissett Objection	-\$7 000.00
Preparation Honoraria	-\$2 500.00
Miscellaneous Disbursements	-\$2 292.11
Revised Costs Claim	\$46 642.61*

* Costs not inclusive of GST

[30] Bernum took the position that this summary constitutes reasonable and economic costs for the Bancrofts' opposition to the well licence application.

Views of the Bancrofts

[31] The Bancrofts provided their response to Bernum's comments on November 1, 2011.

[32] The Bancrofts noted that Bernum proposed a \$10 000.00 reduction in professional fees based on a duplication of preparation time, and a further reduction of \$4 000.00 because it was unnecessary to have two senior counsel in attendance at the hearing. They responded that these amounts appeared to be arbitrary, which might explain why Bernum did not provide an actual numerical analysis.

[33] The Bancrofts observed that it appeared to be common ground that this matter was sufficiently complex for parties to have two counsel at the hearing and noted that Mr. Niven had a junior lawyer in attendance throughout.

[34] The Bancrofts observed that the time billed for Colin Simmons for attendance at the hearing was 12.9 hours at \$350.00 per hour for a total of \$4 515.00 and that Bernum requesting a \$4 000.00 reduction suggests that the Bancrofts, unlike Bernum, were not entitled to have a second counsel at the hearing.

[35] The Bancrofts submitted that, if Mr. Simmons's hearing time had been billed at the rate of a more junior lawyer, with eight to twelve years' experience, the difference in his fee would have been \$387.00, and if he had been considered to have only five to seven years experience, the difference would have been \$903.00.

[36] The Bancrofts submitted that it was entirely appropriate for Mr. Simmons to attend the hearing and that there should be no reduction at all for that portion of his fees. Alternatively, if there were a reduction, it should only be a small fraction of the \$4 000.00 Bernum suggested.

[37] With respect to Bernum's assertion of a duplication of preparation for the hearing, the Bancrofts submitted that experienced counsel are aware that the vast majority of preparation for a hearing takes place in a period of about one month before commencement. Mr. Laycraft first became involved in the matter a little over one month prior to the hearing and did not record any substantial time prior to August 8, 2011.

[38] The Bancrofts noted that an analysis of Mr. Simmons’s time showed the following entries, which might reveal a duplication of services:

- August 8, 2011 1.8 hours for attendance at meeting Wilson Laycraft office to meet with Jim Laycraft and clients
- August 24, 2011 1.8 hours for attendance with Jim Laycraft at clients’ home and at Bernum’s proposed well site and proposed alternate well sites
- August 26, 2011 2.5 hours for review of Bernum’s Response Submissions and for preparation of arguments to be used to oppose these Response Submissions
- August 29, 2011 1.4 hours for review of Apex submissions, review of arguments to be presented at hearing, review of curriculum vitae of Bernum’s witnesses and for preparation for hearing

[39] These entries total 7.5 hours. The Bancrofts submitted that, rather than \$10 000.00, there should be no deduction for duplication in preparation time or, at most, that Mr. Simmons’s time should be reduced to a junior lawyer’s rate on the same basis as above, resulting in a reduction between \$225.00 and \$525.00.

[40] The Bancrofts noted that Mr. Niven of Bernum acknowledged that Dick Bissett is a highly respected and experienced expert, “therefore justifying a high rate under the Scale of Costs.” The high rate under the *Scale of Costs* is \$270.00 per hour. Therefore, there should be no reason why Bernum should object when Mr. Bissett’s hourly rate charged was only \$214.70 per hour. If Mr. Bissett and his staff had charged at the rates permitted by the *Scale of Costs*, their fees would have been:

Dick Bissett: 72.25 hours × \$270/hr.	\$19 507.50
staff: 6.0 hours × \$160/hr.	<u>\$960.00</u>
Total:	\$20 467.50

[41] The Bancrofts stated that the fees of \$17 433.64 were a bargain by comparison. Bernum acknowledged that Dick Bissett is an expert in his field, which includes the drilling of horizontal oil wells, but implied that he was not an expert with respect to the issue in contention at this hearing because he stated that he had not programmed a horizontal well in the Cardium Formation. Not having programmed a horizontal well in a particular formation does not disqualify someone from being an expert in programming horizontal oil wells. Furthermore, after Dick Bissett made this statement at the hearing, Mr. Niven never broached this subject again nor did he mention it in his summation. Bernum obviously did not believe that this was a substantial issue that it could attack at the hearing.

[42] Proving that there were two alternative well sites that could be drilled on land owned by the Harvie family was essential to the Bancrofts’ objection to the well site proposed for their land, especially in light of the unusual clause in the PN&G Lease which required that the well site had to be located north of Hwy 2A. The time spent by Dick Bissett and his staff and the documentation created to prove that these two alternative well sites were at least equal to the well site proposed by Bernum was understandably substantial.

[43] The Bancrofts pointed out that Bernum did not quantify the reasons for the reduction of \$7 000.00 it had requested and reiterated that the proposed reduction was arbitrary. It ignored the fact that it was essential for the Bancrofts to present evidence regarding alternative well sites.

[44] Prior to the hearing, the Bancrofts spent a lot of time travelling and attending at meetings and site viewings with representatives of Bernum and the ERCB in an effort to try to resolve this dispute without resorting to a hearing. The Bancrofts were unrepresented for the first year of the process. These efforts to avoid a hearing were ultimately unsuccessful, and the Bancrofts maintained that they should be compensated for their time and effort spent even though they were represented by legal counsel at the hearing.

Bancroft Submission regarding Bissett Disbursements

[45] On November 15, 2011, the Board requested further information regarding the disputed Bissett fees and disbursements. The Bancrofts provided further information on March 8, 2012.

[46] The Bancrofts submitted that in Form E2, the claim listed 81.20 hours for preparation for Bissett Resources. This figure was based on 72.25 hours preparation time by Mr. Bissett; two hours by a senior staff engineer, Bill Wolff; plus seven hours for administrative and secretarial time. The Bancrofts submitted that both Mr. Bissett and Mr. Wolff have in excess of 40 years experience, and their preparation rates are \$210.00 and \$160.00 per hour, respectively.

[47] Mr. Bissett charged 13.5 hours at \$310.00 per hour for hearing attendance, which was also reflected on Form E2. Mr. Laycraft acknowledged that Mr. Bissett's hourly rate for hearing attendance exceeds the \$270.00 per hour set out in the *Scale of Costs*, but urged the Board to note that the vast majority of Mr. Bissett's time was charged at \$210.00 per hour, which is well below the maximum.

[48] The Bancrofts noted that, while the *Scale of Costs* does not set out specific hourly rates for secretarial time, it does provide that such claims may be recognized. Mr. Bissett's account includes six hours for a senior administrative assistant at \$100.00, plus \$55.00 for one hour of other secretarial time.

[49] With respect to the miscellaneous construction supervision charged for Bissett Resources as set out on Form E4, this was the total fee charged to Bissett by Allan Klicki, its site construction consultant. Mr. Klicki travelled from the Lacombe area and spent one day on site analyzing construction issues at the various alternative well sites. Mr. Klicki's day rate for these services was \$950.00 per day, and Mr. Bissett estimated Mr. Klicki's time was in excess of 12 hours, making his hourly rate somewhat less than \$77.00 per hour.

[50] The Bancrofts stated that Mr. Klicki's charges for mileage, GPS, computer, meals, and cellular were based on his standard arrangement with Bissett.

[51] The Bancrofts noted that issues related to site construction at the various alternative sites were an important component of the Bernum hearing. Although Mr. Klicki's disbursement charges are clearly in excess of ERCB guidelines, his reasonable hourly rate should be taken into account.

Bernum's Response regarding Bissett Fees and Disbursements

[52] In Bernum's response, dated March 12, 2012, Bernum reiterated the comments already submitted in its letter dated October 19, 2011.

[53] With respect to the \$655.00 claimed for seven hours of secretarial time in addition to the 81.20 hours claimed by Mr. Bissett for the preparation of Bissett Resources' very brief report, Bernum submitted that this was excessive. Bernum submitted while the *Scale of Costs* does provide that secretarial work can be claimed in some circumstances, these are limited to situations where the services have been "properly documented with a copy of the expert's account and sufficient detail to demonstrate that all items billed were necessary and related to the application or proceeding." Bernum submitted that was not the case here.

[54] In a review of the Bissett Resources' report submitted as evidence, Bernum stated that it did not find any specific reference to site construction issues other than general statements regarding site size and potential well site locations. Bernum submitted that a claim for \$950.00 for this purpose was excessive and unjustified in light of Mr. Bissett's stated experience in these areas and should not be recovered.

[55] Although Mr. Klicki's charges for mileage and other disbursements were in accordance with his agreement with Bissett Resources, they are not consistent with the *Scale of Costs*. Bernum observed that there was no sufficient reason given as to why these charges should be allowed when they are clearly in excess of that normally permitted under the ERCB regulations. Mr. Klicki's reasonable hourly rate does not justify additional costs added elsewhere.

Views of the Board

[56] In order to be eligible for costs, as stated above, the Bancrofts must be local interveners as defined under Section 28 of the *ERCA*. The Panel notes that Bernum did not raise the Bancrofts' status as local interveners as an issue. The Bancrofts own land on which the proposed well site would have been located. Based on the foregoing, the Board finds that the Bancrofts are local interveners for the purposes of Section 28, and therefore their cost claim is eligible for consideration by the Board.

[57] The Board notes that costs claimed before the notice of hearing is issued are not normally awarded, and in this matter there is no reason to vary from that stipulation in *Directive 031*. Further, while the Board encourages parties to attempt to resolve concerns among them whenever possible, the Board is of the view that claims for cost recovery for negotiations and ADR between parties must not form part of the costs of the actual proceeding. These costs, including legal fees relating thereto, should be handled in the context of the negotiations themselves and not through the Board's cost recovery process. Thus, the Board disallows all of the costs claimed by the Bancrofts for settlement negotiations.

[58] The Board has considered the claim made by the Bancrofts for costs and has also considered the submissions of the parties. The Board considers the legal fees claimed in the amount of \$42 315.00, plus GST, to be excessive and unreasonable under the circumstances. The Board notes that the use of two senior counsel, such as Messrs. Laycraft and Simmons, prior to the commencement of the hearing and during the hearing itself involves some redundancy. The Board notes specifically its usual practice, as outlined in *ECO 2004-04* and *ECO 2009-001*,

namely, that the Board does not generally award costs for the attendance of two counsel at a hearing and only does so where there are exceptional circumstances present. There were no exceptional circumstances in this matter; therefore, Mr. Simmons' time billed during the hearing is disallowed. The Board is therefore prepared to allow Mr. Simmons his full hours at his senior counsel rate of \$350 hour from the date of the notice June 10, 2011, until Mr. Laycraft's July 27, 2011, commencement date. However, from July 27, 2011, until the commencement of the hearing, Mr. Simmons provided assistance in matters which could have been performed by Mr. Laycraft's office. Mr. Simmons's claim for senior counsel rates during this time period is unacceptable and is therefore discounted to 30% of the billed amount. With respect to Mr. Laycraft, he is entitled to his full hours from July 27, 2011, until the completion of the hearing. This results in a total award of \$6 520.50 for Mr. Simmons and \$18 725.00 for Mr. Laycraft, plus GST.

[59] For the foregoing reasons, the Board has decided to reduce the Bancrofts' claim for legal costs by \$17 069.50

[60] With respect to the disbursements claimed by Mr. Simmons, *Directive 031* states that a claim for mileage is restricted to intercity travel distances of 50 km or more during the hearing phase of the proceeding. Therefore, the Board declines to make an award for the mileage since his office is located in Calgary. Other disbursements and expenses appear to be acceptable according to *Directive 031*.

[61] With regard to the expert costs claimed by the Bancrofts, the Board finds that the Bissett report was helpful in understanding the issues regarding alternative site analysis. Nevertheless, there were some costs in the preparation of the report which were unwarranted. For instance, the claim for Miscellaneous (construction supervision for \$950.00, GPS/Computer/Fax/Digital Camera for \$100.00 and Flat Rate Cellular for \$70/day) which appears on Form E4 as part of Bissett Resources' disbursements. A request for clarification of these expenses was made on November 15, 2011, and a response was provided by Mr. Laycraft on March 8, 2012. However the response does not confirm the necessity of the claims for camera and cellular and meal expenses above the day rate for Mr. Klicki. It is the Board's view that these types of operational expenses are part of the day rate charged by the construction consultant and cannot be added on as additional expenses.

[62] Similarly, the mileage claim by Mr. Klicki to travel from Lacombe to the proposed site and back exceeds the rate of \$0.505 per km as set out in *Directive 031*. Accordingly, the Board awards mileage costs in the amount of \$256.54, plus GST.

[63] With respect to the hourly fees claimed in the Bissett invoice, the Board allows a rate of \$270.00/hour for Mr. Bissett's attendance at the hearing, which is the maximum rate allowed in *Directive 031*. The Board notes that a senior staff engineer is identified as providing professional services to assist in preparing the report and this amount is therefore allowed. However, claims for administrative and secretarial time is disallowed as it is the Board's view that their time is part of the overall internal expense of the Bissett office and is already incorporated into the billed time for the professionals at Bissett. This results in a reduction of \$1 195.00, plus GST.

[64] The other item on the Bissett invoice which warrants a reduction is the photocopy costs, invoiced at \$0.13/copy. *Directive 031* has a set fee of \$0.10/copy, and given that there is no

reason for departure from this set amount, it will be applied to this portion of the invoice accordingly.

[65] With respect to the honoraria claimed by the Bancrofts, the Board has considered the submissions of both parties and notes that it does not normally provide a preparation honorarium to a local intervener if a lawyer is primarily responsible for preparation of the intervention, though the Board can consider awarding an honorarium in recognition of the intervener's efforts.

[66] In this matter, and particularly given the assistance provided to the Bancrofts by their counsel, the justification for much of the honoraria is absent. For this reason, the Board is not prepared to award preparation honoraria to the Bancrofts.

[67] However, *Directive 031* allows for hearing attendance honoraria in the amount of \$100.00 per half day for each of the Bancrofts. Therefore, the Board awards honoraria in the amount of \$400.00 for each of the Bancrofts.

[68] With regard to the expenses claimed by the Bancrofts, the Board finds that these claims are generally reasonable under the circumstances and awards them in full with the exception of the claims for mileage. Noting that Bernum has indicated that it will pay \$200.00 to both Tim Bancroft and Carol Bancroft, the Board accordingly awards this amount.

ORDER

[69] The Board hereby orders that Bernum pay local intervener costs to the Bancrofts in the amount of \$51 008.42 and GST in the amount of \$2 470.42 for a total of \$53 478.84. This amount must be paid to Wilson Laycraft as the submitter of the claim at

Wilson Laycraft
Suite 1601, 333 11th Avenue SW
Calgary, Alberta T2R 1L9

Dated in Calgary, Alberta, on June 4, 2012.

ENERGY RESOURCES CONSERVATION BOARD

<original signed by>

J. D. Dilay, P.Eng.
Presiding Board Member

<original signed by>

R. C. McManus, M.E.Des, B.A.
Board Member

<original signed by>

A. Bolton, B.Sc., P. Geo.
Board Member

APPENDIX A SUMMARY OF COSTS CLAIMED AND AWARDED

This appendix is unavailable on the ERCB website. To order a copy of this appendix, contact ERCB Information Services toll-free at 1-855-297-8311.