



Standard Energy Inc.

Application for Two Well Licences
Grande Prairie Field

Cost Awards

November 4, 2009

ENERGY RESOURCES CONSERVATION BOARD

Energy Cost Order 2009-011: Standard Energy Inc., Application for Two Well Licences, Grande Prairie Field

November 4, 2009

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ENERGY RESOURCES CONSERVATION BOARD

Calgary Alberta

**STANDARD ENERGY INC.
APPLICATION FOR TWO WELL LICENCES
GRANDE PRAIRIE FIELD**

**Energy Cost Order 2009-011
Application No. 1580026
Cost Application No. 1619634**

1 INTRODUCTION

1.1 Background

Standard Energy Inc. (Standard) applied to the Energy Resources Conservation Board (ERCB/Board), under Section 2.020 of the *Oil and Gas Conservation Regulations*, for licences to drill two wells on an existing lease site at Legal Subdivision (LSD) 13, Section 20, Township 71, Range 4, West of the 6th Meridian (13-20), to projected bottomhole locations in LSD 12-20-71-4W6M and LSD 14-20-71-4W6M. The purpose of the proposed wells would be to obtain sweet crude oil from the Dunvegan Formation. The proposed wells would be located about 11 kilometres east of Grande Prairie.

Wilfred Rigler and Linda Rigler (the Rigers) filed an objection to the proposed project. The Rigers own 1099342 Alberta Ltd., the registered owner of the northwest quarter of Section 20-71-4W6M, and they also reside on the quarter section. Their concerns included operation practices, consultation, well site expansion, noise, odour, dust, lease maintenance, reduced well spacing, transfer of ownership, and future development. The Rigers stated that the land was currently leased to Gerald McDonald.

Gerald McDonald and Denise McDonald (the McDonalds) filed an objection to the proposed project. The McDonalds own the southeast quarter of Section 29-71-4W6M. Mr. McDonald is the occupant of the northwest quarter of Section 20-71-4W6M, where the proposed wells would be located; he uses it as pasture. Mr. McDonald participated in the hearing in support of the Rigers. His concerns included operation practices and quality of life.

Ray Marcy and Phil Marcy (the Marcys) also participated in the hearing in support of the Rigers. The Marcys are neighbouring landowners and use their land for farming operations. Their concerns included interference with farming operations, groundwater, soil integrity, and noise.

Glen Boyd and Arlene Boyd (the Boyds) filed an objection to the proposed project but did not participate in the hearing. The Boyds own the northwest quarter of Section 19-71-4W6M.

The County of Grande Prairie filed an objection to the proposed project. Standard engaged the County of Grande Prairie in negotiations, resulting in an agreement between the two parties. The ERCB received a withdrawal of objection from the County of Grande Prairie on September 25, 2008.

The Board held a public hearing in Grande Prairie, Alberta, on July 9, 2009, before Board Members M. J. Bruni, Q.C. (Presiding Member), J. D. Dilay, P.Eng., and J. D. Ebbels.

1.2 Cost Claim

On July 22, 2009, the Rigers filed a cost claim in the amount of \$10 913.05. On August 5, 2009, Standard submitted comments to the Rigers' cost claim. On August 6, 2009, the Rigers advised the Board that they did not intend to respond to Standard's submissions.

The Board considers the cost process to have closed on August 6, 2009.

2 VIEWS OF THE BOARD—AUTHORITY TO AWARD COSTS

In determining local intervenor 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 intervenor" 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 intervenor 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 031: Guidelines for Energy Proceeding Cost Claims*.

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.

3 VIEWS OF THE PARTIES

On July 22, 2009, Darryl Carter & Company, on behalf of the Rigers, submitted a cost claim for legal fees in the amount of \$9225.00, honoraria in the amount of \$1000.00, disbursements and expenses totalling \$216.00, and GST in the amount of \$472.05, for a total cost claim of \$10 913.05.

3.1 Views of Standard Energy Inc.

Standard submitted that the costs claimed for legal fees should be reduced, as counsel for the Rigers, Darryl Carter of Darryl Carter & Company, had claimed for fees relating to time entries between February 2008 and December 18, 2008, whereas the notice of hearing in this matter was not issued until February 13, 2009.

Standard referred to Section 6.3 of *Directive 031*, wherein it states that the ERCB does not normally award costs for services rendered prior to a notice of hearing being issued. Standard submitted that for this reason, the Board should disallow any legal fees incurred prior to December 18, 2008, the date on which the ERCB sent out correspondence to parties canvassing dates for a hearing. Standard calculated that Mr. Carter's time between February 27, 2008, and December 18, 2008, was 7 hours. Standard submitted that the fees claimed for these 7 hours should be deducted from the total claim of 36.9 hours.

Standard further submitted that the Board should exercise its discretion to apply some percentage reduction to the Rigers' cost claim to account for a general lack of preparation in the presentation of the Rigers' case and for the fact that the focus of the Rigers' intervention was criticizing the ERCB rather than challenging the Standard application on its merits.

3.2 Views of the Rigers

As noted above, the Rigers did not file a response to Standard's submissions on the cost claim.

4 VIEWS OF THE BOARD

The Board has considered the comments of Standard in relation to the legal fees incurred by Mr. Carter between February 27, 2008, and December 18, 2008, and notes that its usual practice is to acknowledge only those costs incurred after the ERCB has issued a notice of hearing. In this case, the notice of hearing was issued on February 13, 2009. It is generally the ERCB's position that until a notice of hearing has been issued, there is no certainty that a hearing will be held.

The Board sees no reason to vary from its usual practice of not awarding costs for services rendered prior to the issuance of the notice of hearing. However, as counsel for Standard is prepared to pay costs commencing on December 18, 2008, the Board will allow the legal costs claimed by Darryl Carter & Company from that date. Accordingly, 7 hours will be deducted from the total amount of time (36.9 hours) claimed by Mr. Carter. The hours of legal time allowed will be 29.9.

The Board has considered Standard's request that the Board apply some percentage reduction to the Rigers' cost claim because of what appeared to be a lack of preparation in the presentation of the Rigers' case and the focus of the Rigers' intervention. The Board notes that the presentation of the Rigers' case tended to be unfocused and disorganized and therefore not as helpful to the Board as it might have been. For this reason, the Board will apply a further 20 per cent reduction to the legal fees claimed by Mr. Carter. The total cost award for legal fees will be \$5980.00 plus GST.

The Rigers shall receive the full amounts claimed for expenses and honoraria.

5 ORDER

It is hereby ordered that

- 1) Standard Energy Inc. shall pay intervener costs in the amount of \$7505.80, and
- 2) payment shall be made to the offices of Darryl Carter & Company, 103, 10134 – 97 Avenue, Grande Prairie AB T8V 7X6.

Dated in Calgary, Alberta, on November 4, 2009.

ENERGY RESOURCES CONSERVATION BOARD

“Original Signed by M. J. Bruni, Q.C.”

M. J. Bruni, Q.C.
Presiding Board Member

“Original Signed by J. D. Dilay, P.Eng.”

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

“Original Signed by J. D. Ebbels”

J. D. Ebbels
Board Member

APPENDIX SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A