

FAXED

February 4, 2004

To: Parties on the Attached List

**RE: GENERAL BULLETIN 2003-28 (GB 2003-28)
BITUMEN CONSERVATION REQUIREMENTS
ATHABASCA WABISKAW-MCMURRAY
PHASE 3 PROCEEDING**

The Board received ten responses to its letter of January 26, 2004 inviting comments on the two requests, one by Canadian Natural Resources Limited (CNRL) and one by EnCana Corporation et al. (EnCana et al), for revisions to Phase 3 of the Bitumen Conservation Requirements. Copies of the responses and this letter outlining the Board's decision on the requests will be posted to the Phase 3 web page.

The Board has considered the requests and the comments provided, and advises that it is not prepared to change the schedule for the interim hearing as requested by either CNRL or EnCana et al., or otherwise as suggested by parties who recommended changes in their response letter to the Board. As a result the following deadlines, as communicated by the Board in its letters of December 17, 2003 and January 2, 2004, continue to apply to the Phase 3 Proceeding:

- February 9, 2004: parties that disagree with the recommendations of the EUB's Staff Submission Group must notify the Board of the wells and associated perforated intervals for which they wish to present their case at the interim hearing;
- February 23, 2004: parties must file evidence supporting their case;
- March 1, 2004: parties file reply evidence;
- March 8, 2004: EUB interim hearing begins.

The Board will provide directions on the procedures to be used in the interim hearing after February 9, 2004.

The Board considered the following items in determining its response to the above requests:

1. In GB 2003-28 the Board set out a timeline indicating that the Regional Geological Study would be completed by December 31, 2003, and the Board would decide the status of exempted gas production by April 1, 2004, on an interim or final basis. The requirements outlined in GB 2003-28 lead the Board to conclude that parties have been preparing and,

in some cases, collecting evidence on the issue of whether gas wells are in pressure communication with potentially recoverable bitumen since the issuance of GB 2003-28.

2. The exemption process provided in Phase 1 of the Bitumen Conservation Requirements required parties filing an exemption to have evidence that the wells listed in the exemptions were not associated with potentially recoverable bitumen. To the extent that any requests to alter the existing Phase 3 schedule is based on the need to obtain evidence in respect of exempted wells, that request is inconsistent with a party's obligation under Phase 1 to have that evidence in hand at the time the exemption was filed.
3. The exemption process itself was designed and intended by the Board to be temporary, not a permanent or indefinite arrangement.
4. The Board has previously concluded and has stated throughout the course of the Bitumen Conservation Requirements that the production status of associated wells needs to be addressed immediately. With the issuance of the Regional Geological Study, the Board is satisfied that the information now available provides a sound basis for future consideration of the gas/bitumen issue. The Board has anticipated the need to permit informed challenges to the Staff Submission Group's recommendations, and opportunity for that will be afforded in the interim hearing, and in a final hearing if one is deemed necessary.
5. The Board urges parties to bear in mind that the current process is of an interim nature, similar to the process that preceded the Chard Leismer hearing. As such, the existing Phase 3 schedule affords parties the opportunity to test the recommendations of the Staff Submission Group as those recommendations may affect parties' respective interests.

If you have any questions in relation to this letter please feel free to contact me.

Yours truly,

Gary D. Perkins
Board Counsel