



Finding solutions we can all support

At the EUB, we believe that balance must be at the heart of effective regulation.

With Appropriate Dispute Resolution as a fundamental component of our energy application process, the different perspectives of stakeholders build upon each other to make solutions that we can all support.

A symbol that we believe captures this notion is a cairn. A cairn can represent many things, but as a way marker in the wilderness, it represents order when none is clearly evident. It gives us comfort that the path is safe, because others have walked there already. But most important, it symbolizes that balance, although difficult to achieve, will last for a long time once it is in place.



After proving itself in a three-year pilot project, the EUB Appropriate Dispute Resolution (ADR) program is now a fundamental component of the energy application process. It is a voluntary option that assists parties with difficult negotiations about proposed energy activities.

The reality is that industry and landowners are able to successfully negotiate concerns about the vast majority of proposed energy activities. Fewer than 1 per cent of the energy-related applications the EUB received in 2004 had outstanding objections. For a portion of these, parties engaged in ADR,

often regarding situations that were among the most difficult. Of the 131 EUB staff facilitations and 26* third-party mediations that were completed, 85 per cent were resolved.

Now into its fourth year, ADR has high success rates and strong support from those directly involved. Of those who completed our survey, 98 per cent said the ADR process was worthwhile and 96 per cent indicated that they would participate again and would recommend ADR to others.

For participants wanting to pursue ADR, the length of time from first contact with the EUB to the first ADR meeting is usually two weeks to a month, depending on

whether participants choose EUB staff facilitation or third-party assistance (see ADR Background on next page).

Participant feedback has illustrated the major benefits of ADR: improved relations, improved understanding of the other party's concerns, and a faster and less expensive process for conflict resolution when compared to other options.

* The 2004 Year in Review reports 30 third-party mediations. That number reflects all third-party mediations that were initiated in 2004, while this report reflects only those completed. As a result the calculated resolution rate differs by 1 per cent.

ADR Background

When is ADR used?

The EUB ADR program is used when concerns and objections remain outstanding following negotiations between landowners and companies or between companies (C2C). Most disputes resolved by the ADR process relate to proposed facility applications (wells, pipelines, and plants) or C2C equity applications, such as spacing, pooling, rateable take, and common carrier or processor.

ADR directly involves parties: they work collaboratively to reach mutually agreeable solutions. ADR helps parties understand resolution options and processes that will assist them in developing a clear understanding of their concerns, issues, and interests and then in jointly defining resolution options.

The two main components of the EUB's ADR program are EUB staff facilitation and third-party assistance from ADR professional service providers and mediators.

EUB staff facilitation

EUB staff assist parties in understanding regulatory requirements and facilitate meetings to discover mutually agreeable options. Staff facilitation usually occurs prior to a company submitting an application but after the company has attempted to resolve the concerns of stakeholders. Staff normally assist through direct meetings or by speaking with each of the involved parties.

Third-party assistance

Third-party professional service providers and mediators are used in more complex disputes to develop win-win outcomes. They may be used when there are concerns about deadlines, disputes involving multiple parties, or difficulties engaging other parties. The first step involving third-party professionals is a preliminary meeting, at which parties, assisted by the third-party professional and EUB staff, discuss procedures and reach agreement on how to proceed, which often involves mediation.

Third-party assistance may address confidential matters. EUB staff involved in these matters will not participate in any relevant hearing proceedings, should they follow.

The importance of this initial meeting has become increasingly clear as several unresolved disputes have been linked to rushed or incomplete preliminary meetings.

Starting with public involvement

The EUB expects applicants to identify parties that would potentially be affected by their proposed projects, notify them about the projects, and attempt to resolve any concerns they might have prior to submitting an application.

With effective consultation, the number of conflicts and the need for ADR decreases. The 2003 edition of *Guide 56: Energy Development Applications and Schedules* reinforces and clarifies the importance of early and effective public engagement through the inclusion of public involvement guidelines.

Strong Participant Support

- 85 per cent resolution rate
- 18 hearings cancelled due to ADR
- 96 per cent would participate in ADR again
- 90 per cent left with improved understanding
- 82 per cent satisfied or very satisfied with the process

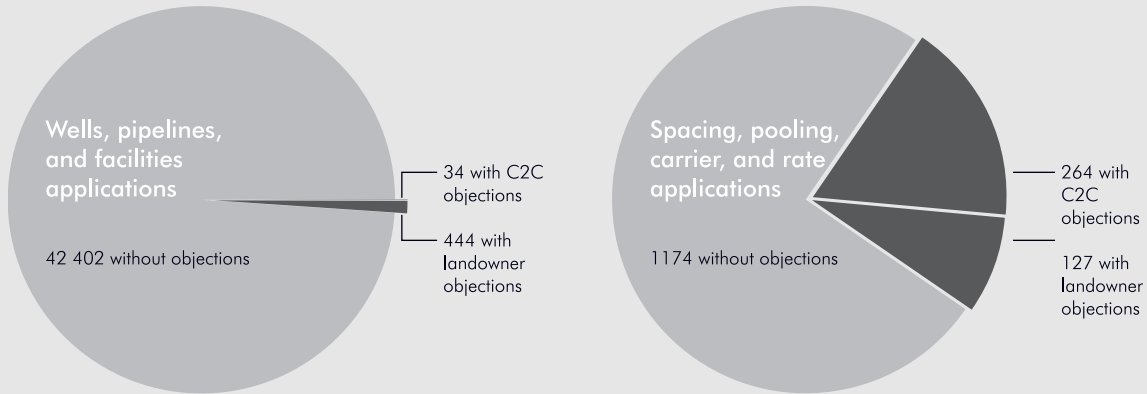
Improving options for difficult disputes

In 2003, several ADR cases did not result in resolution due to the inflexible and positional approach taken by some landowner advisors. This led to some companies being reluctant to enter into future ADR meetings if certain advisors were involved. At the same time, landowners indicated that they needed qualified, knowledgeable advisors to assist them in their direct negotiations with landmen and that these advisors were few in number.

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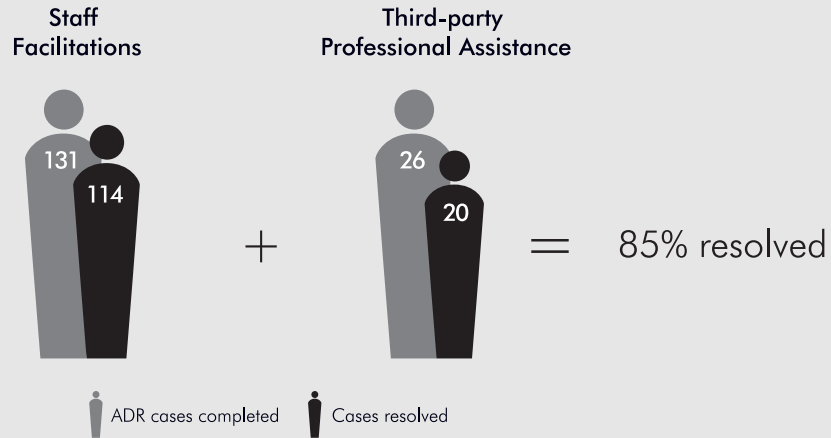


2004 EUB Applications



Total applications submitted to EUB in 2004 = 44,445

2004 ADR Results



Staff facilitations

- 131 completed (all were landowner/company cases); 114, or 87 per cent, resolved

Third-party professional assistance

- 37 preliminary meetings: 26 landowner/company cases and 11 company-to-company cases (C2C)

- 24 out of 26 landowner/company cases led to mediation, 20 were completed in 2004, and 15, or 75 per cent, were resolved

- 6 out of 11 C2C cases led to mediation and 5, or 83 per cent, were resolved. At the preliminary meeting, 4 chose to resume negotiations on their own (all resolved) and 1 decided to proceed to the scheduled hearing

In 2004, the difficulties continued, but at a reduced rate, as several cases effectively used a preliminary meeting to decide on the appropriate scope of their negotiations, establish limits up front, and select appropriate options, including an EUB hearing.

In future, it is recommended that parties decide early in their negotiations the need for and role of advisors and how to effectively use their services. Further options are being considered by the Industry Landowner Relations Committee and the Farmers' Advocate.

Complete agreements

It is important for parties to jointly develop a list of issues and concerns that must be resolved in order to reach a complete agreement at the beginning of their negotiations. If the agreement does not deal with all issues, then the potential for any agreement is greatly reduced.

Compensation is frequently an issue. Although compensation for land use and other matters are beyond the jurisdiction of the EUB, staff and mediators are prepared to facilitate discussions should the parties request assistance, recognizing that staff cannot comment on the appropriateness of any offers.

New EUB facilitation team

Facilitation results in 2003 showed a decreased resolution rate, from over 84 per cent in the two previous years to 74 per cent in 2003. This decline identified a need to develop a more formal framework for the delivery of EUB staff facilitations. Extensive stakeholder consultation led to the formation of a four-member EUB facilitation team dedicated to and trained in leading facilitations. The team has been in place since September 2004 and the results have rebounded: 87 per cent of the cases addressed by the team were resolved, with 92 per cent of participants who completed our survey ranking the quality of service as satisfactory or better.

Participant and stakeholder feedback

Feedback forms are distributed to all participants at the conclusion of each facilitation and mediation. The feedback is used to evaluate the program and identify issues and process concerns. If concerns or suggestions are raised regarding the EUB staff or the third-party ADR professionals, the EUB ADR coordinator holds follow-up discussions.

Complete details on the EUB ADR program and historical results are on the EUB Web site www.eub.gov.ab.ca.

Looking forward

The results of the past year clearly show the continued success of the ADR program as an effective tool for all parties involved in energy disputes. The ADR Stakeholder Committee continues to look at ways to further enhance the program and increase its effectiveness to even greater levels. The committee invites feedback about this report and is open to suggestions for improvement. Please forward questions and comments about this report or the use of the ADR program to the Facilitation Team Leader or the ADR Coordinator at (403) 297-3700.

Appropriate Dispute Resolution Stakeholder Committee

Sylvia Ainslie, Farmers' Advocate

Arden Berg, EUB Sponsor

Bob Garies, Canadian Association of Petroleum Landmen

Wayne Gent, Sunde Petroleum Operators Group

Dave Gould, mediation community

David Hill, EUB Facilitation Team

Alan Holt, Wild Rose Agricultural Producers

Judy Huntly, Alberta Environmental Network

Mark Johns, electric industry

Diana Pane, Canadian Association of Petroleum Producers

Bill Remmer, ADR Coordinator, EUB, Committee Chairman

Dave Savage, Small Explorers and Producers
Association of Canada

Stan Schumacher, Surface Rights Board

Stuart Simpson, mediation community

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