

August 22, 2003

PROCEDURAL DIRECTION PHASE II - EXPEDITED REVIEW OF EXEMPTIONS PROCEEDINGS

In *General Bulletin (GB) 2003-28, Bitumen Conservation Requirements Athabasca Wabiskaw-McMurray*, the Alberta Energy and Utilities Board (EUB or Board) established a 3-phase process for the identification and curtailment of gas production that is associated with potentially recoverable bitumen. Phase 1 consists of an interim shut-in order with provision for temporary exemptions. The EUB will be posting the filings of temporary exemptions from the interim shut in order on the EUB website www.eub.gov.ab.ca. Phase 2 provides for challenges to Phase 1 exemptions by way of expedited review proceedings (Phase 2 Proceedings) limited to assessing whether the gas is associated with potentially recoverable bitumen. Phase 3 contemplates a final review following the completion of all or a portion of the EUB's regional geological study.

The Phase 2 Proceedings will provide parties with a fair opportunity to present evidence and argument. However, Phase 2 Proceedings are interim proceedings that shall be conducted on an expedited basis. The purpose of this direction is to provide parties with detailed information about the process which includes shortened timelines and limitations on the amount of materials to be filed. Further oral evidence in chief is eliminated and time for cross-examination and argument is limited.

Furthermore, a change is being made in the process described in *GB 2003-28* for Phase 2 Proceedings to ensure greater efficiency. The Board is now requiring the party filing an objection to serve it on the other parties as set out below.

A. Written Component of Phase 2 Proceedings

1. A party objecting to a Phase 1 exemption (an oil sands leaseholder, EUB staff, or other party) must prepare a written objection, succinctly setting out the reasons for the objection, along with the written evidence in support of the objection. The objection must address the issue of whether gas in the EUB Pool Order containing the exempt well(s) is associated with potentially recoverable bitumen.
2. The party objecting must, on the same day:
 - a. serve the objection, along with the written evidence in support of the objection, on the licensee of the exempt well(s), all other well licensees within the same EUB Pool Order, oil sands leaseholders underlying that pool and the EUB Staff Submission Group (the SSG);

- b. file with the Board the objection, along with the written evidence in support of the objection and a list of the names and addresses, fax numbers and e-mail addresses of the persons served with the objection.
3. The licensee of a gas well on whom the objection is served must, within 2 working days of being served with the objection, file with the Board a written submission that includes all the evidence it intends to rely upon in support of its exemption, and serve that submission on the objector and the other parties who were served with the objection.
4. Any oil sands leaseholder or the SSG served with an objection that intends to participate in the Phase 2 Proceeding must, within 7 working days of being served with the objection, file with the Board a written submission that includes all the evidence it intends to rely upon in support of its submission, and serve that submission on the objector and the other parties who were served with the objection.
5. For the purposes of the Phase 2 Proceedings, the Board will rely on the relevant EUB Pool Order, as published by the EUB. In exceptional circumstances (i.e. where a data error has been made in the Order or significant information became available after the Order was issued, that would clearly alter the Order), the Board may consider evidence regarding the accuracy of the EUB Pool Order and the determination that a well is within the same EUB Pool Order.
6. Any objection or submission, including all supporting evidence, filed with the Board shall not exceed 20 pages in length.
7. Any party filing an objection or submission, including all supporting evidence, must submit one electronic copy and 10 paper copies to the attention of:

Alberta Energy and Utilities Board
Attention: Michael J. Bruni, Q.C., General Counsel
640-5th Avenue S.W.
Calgary, AB T2P 3G4
mike.bruni@gov.ab.ca

8. Any party serving the SSG must send it to:

Staff Submission Group
Attention: JP Mousseau, Board Counsel
640-5th Avenue S.W.
Calgary, AB T2P 3G4
jp.mousseau@gov.ab.ca

B. Oral Component of Phase 2 Proceedings

1. The Board will issue a Notice of Interim Phase 2 Proceeding, which will state the amount of time allotted to each party for cross-examination and oral argument before the Board. The Board intends to allot one half day for each Phase 2 Proceeding.
2. A party will not be allowed to present any oral evidence in chief, as the parties to the Phase 2 Proceeding will have exchanged written evidence. No new evidence shall be filed in the oral proceeding.
3. A party must have in attendance the person or persons responsible for preparing its objection or submission, including its evidence, during the oral component of the Phase 2 Proceeding.
4. As the Board considers the licensee(s) of the gas wells in question as the applicant(s) in the Phase 2 Proceedings, the licensee(s) will be cross-examined first; the cross-examination of the objector(s) will follow.

The Board emphasizes that the Phase 2 Proceedings are interim proceedings, and in accordance with the Board's practice, will not be subject to review pursuant to section 39 of the *Energy Resources Conservation Act*. In that regard, the Board notes that Phase 3 provides for final determination of whether gas is in association with potentially recoverable bitumen.

Any questions with regard to the above should be directed to Giuseppa Bentivegna at (403) 297-8332 or Doug Larder at (403) 297-7402.