

## NOTICE OF DECISION

NO. DL 123/08

G. Ludwig  
Wilson Laycraft LLP  
1601 – 333 11 Ave SW  
Calgary AB  
T2R 1L9

C. Zukiwski  
Reynolds Mirth Richards & Farmer LLP  
3200 Manulife Place 10180 – 101 Street  
Edmonton AB  
T5J 3W8

This is the decision of the Municipal Government Board (MGB) from a preliminary hearing held in the City of Edmonton on Friday, October 31, 2008 respecting 2007 (tax year) Linear Property Assessment Complaints submitted for Apache Canada Ltd., Burlington Resources Canada (Hunter) Limited, Burlington Resources Canada Ltd., Canadian Natural Resources Ltd., ACC-CNR Resources Corporation, Conoco Phillips Canada Resources Corp., Daylight Energy Ltd., Devon ARL, Devon Canada Corporation, Encana Corporation, Encana Oil and Gas Co. Ltd., BP Canada Energy Company, Renata Resources Inc., and Talisman Energy Inc.

### **In Attendance:**

Panel: P. Petry, Presiding Officer

Complainants: G. Ludwig, Wilson Laycraft LLP  
J. Thibault, JT Consulting  
D. Johnson, JT Consulting

Respondent: C. Zukiwski, Reynolds, Mirth, Richards & Farmer LLP  
K. Holland, Reynolds, Mirth, Richards & Farmer LLP  
C. Uttley, Assessment Services Branch, Alberta Municipal Affairs

MGB Staff: S. Sexton, Case Manager

**Apache Canada Ltd. et al as represented by Wilson Laycraft LLP – Complainants v. Designated Linear Assessor for the Province of Alberta as represented by Reynolds Mirth Richards & Farmer LLP – Respondent**

### **Background and Overview**

This preliminary hearing was held further to the direction in DL 122/08. Its purpose was to re-schedule the previously postponed merit hearing, address any concerns arising out of the Complainants' written submissions filed on October 24, 2008, and to address any other organizational matters related to these proceedings.

Issues and Party Positions**1. Merit Hearing Dates**

After brief discussion between the parties and the MGB, the parties jointly agreed that they were available for a merit hearing from May 25<sup>th</sup> to June 5<sup>th</sup>, 2009.

**2. Issues Arising out of Complainants' October 24<sup>th</sup> Written Submissions**

The Respondent stated that, pursuant to the direction of the MGB from the pre-hearing conferences, there are outstanding matters which were supposed to be covered in the Complainants' most recent written submissions, but are not. In particular, clarification is needed with regard to the manner in which the Complainants have amended and consolidated their complaints. The Complainants indicated that they would refine their efforts at consolidating their submissions so that extraneous or irrelevant material does not bog down the merit hearing.

The Respondent also indicated that there had been no response by the Complainants to the configurations and well groupings of the Respondent in its materials filed on October 10, 2008. The Complainants clarified that they do not yet accept that the groups or configurations developed by the Respondent will be relevant to the presentation of the wells under appeal at the merit hearing. The Respondent explained that the basis for the configurations is to demonstrate the physical appearance of a well based on the existence or non-existence of certain ERCB records. Twenty-one possible configurations have been identified, but it acknowledged that not all of the groups would be relevant to the particular wells under complaint. Further work is being done by the Respondent with respect to the relevance of the groups. Both parties indicated that they would be willing to continue reviewing the configurations and groupings at future pre-hearing conferences.

**3. Further Organizational Issues**

The Respondent raised additional matters needing to be addressed in order to ensure that the complaints are organized and capable of being presented at the merit hearing in an understandable and efficient fashion:

- The status of the Complainants' category #1 well complaints is uncertain; it must be clarified as soon as possible whether these complaints have been withdrawn, or if the issue will be argued at the merit hearing.
- There remain about 140 wells for which the Respondent must provide ERCB record 075 and 055 documentation.
- There are several anomalies in the wells being brought forward to the merit hearing by the Complainants. As an example, the Respondent referred the MGB to a document entitled "JT AY 2006/TY 2007 Analysis – Comparing Various Complainant Files (Oct

## NOTICE OF DECISION

NO. DL 123/08

31, 2008)”. In this document, the Respondent’s analysis indicates that there are 1,946 wells in which no packer type 2, or code 51, 53, and 55 devices are disclosed by the ERCB records for those wells. The Respondent agreed to produce to the Complainants a list of the LPAU-IDs for the wells in question, and asked that the Complainants review the same and provide their position on these wells.

- There needs to be a “multi-leg” analysis performed on the wells under complaint to determine whether or not the flow prevention devices identified in these types of wells are relevant to calculating the assessments.
- The November 24, 2008 materials filing date for the Respondent was set in contemplation of most outstanding matters being resolved through pre-hearing conferences. As the pre-hearing conference dates were cancelled, matters remain outstanding, and the Respondent therefore requested that this filing deadline be extended to coincide with any re-scheduled pre-hearing conference dates.
- Further clarification is needed from the Complainants’ with respect to which of the Complainant companies are represented by JT consulting and Wilson Laycraft.

In response to the issues raised above, the Complainants stated as follows:

- The Complainants were not aware of the large number of wells under complaint for which no packer type 2, or code 51, 53, and 55 devices are disclosed by the ERCB records. They agreed that if a list of the LPAU-IDs for these wells was provided they would review the same and follow-up with the Respondent and the MGB.
- The Complainants had no objection to the Respondent’s request to extend its November 24, 2008 filing date.
- All of the Complainant companies are represented both by Wilson Laycraft and JT Consulting. Correspondence and representations at MGB proceedings from either agent can be relied upon by the Respondent and the MGB.

Both parties were in agreement that further dates should be scheduled for pre-hearing conferences to continue efforts towards a meaningful organization of the complaints. The parties also agreed that a further preliminary hearing ought to be set as follow-up to the parties’ progress from the pre-hearing conferences. In this regard, the parties both agreed that their representatives would be available on February 17<sup>th</sup> and 18<sup>th</sup> and March 3<sup>rd</sup> to 5<sup>th</sup>, 2009 for pre-hearing conferences, and March 25<sup>th</sup> for a preliminary hearing.

### Decision

Based on the foregoing the MGB makes the following decision:

1. The Merit Hearing scheduled for November 24, 2008 to December 5, 2008 is hereby rescheduled to take place from **Monday, May 25, 2009** starting at 9:00 a.m. until

## NOTICE OF DECISION

NO. DL 123/08

**Friday, June 5, 2009**, as required. The merit hearing will be conducted at the MGB's hearing facility in Calgary.

2. Pre-hearing conferences are scheduled for **Wednesday February 18, 2008 and Thursday February 19, 2008**, and will continue on **Tuesday, March 3, 2009 to Thursday March 5, 2009** starting at 10:00 am. The pre-hearing conferences will be conducted at the MGB's hearing facility in Calgary.
3. The deadline date for the Respondent's written response to the Complainants' rebuttal is hereby extended from Monday, November 24, 2008 to **Friday, March 20, 2009**.
4. A preliminary hearing is scheduled for **Wednesday March 25, 2009** at 9 a.m. in Edmonton. Parties may attend by teleconference. The purpose of the hearing is to address the status of the pre-hearing conferences, and to discuss any outstanding concerns with the written materials filed to date with the MGB, including the Respondent's March 20<sup>th</sup> written submissions.
5. The Respondent shall provide to the Complainants a list of the 1,946 wells in which no packer type 2, or code 51, 53, and 55 devices are disclosed by the ERCB records for these wells in advance of the pre-hearing conferences scheduled for March of 2009.

All submissions must be exchanged with the other party and the MGB by 4:30 p.m. on their due date with **five (5)** hard copies to the MGB at the time of the submission.

## REASONS

The parties were in agreement on all issues relating to the scheduling of dates for hearings, conferences, and submission of written information. The agreed upon dates are reflected in the decision above.

The remaining issues raised by the Respondent were either answered in the present hearing (i.e. the clarification of the status of the Complainants' agents), or have been identified and agreed upon by both parties as requiring further follow up prior to the merit hearing. The MGB has therefore scheduled the above hearings, conferences, and submission dates to facilitate further review and organization of the wells under complaint well in advance of the merit hearing.

**NOTICE OF DECISION**

**NO. DL 123/08**

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 14<sup>th</sup> day of November, 2008

**MUNICIPAL GOVERNMENT BOARD**

---

P. Petry, Presiding Officer

**NOTICE OF DECISION**

**NO. DL 123/08**

**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB AT THE PRELIMINARY HEARING:

<b><u>NO.</u></b>	<b><u>ITEM</u></b>
<u>Respondent</u>	<u>Complainants</u>
R-1	Document entitled "JT AY 2006/TY 2007 Analysis – Comparing Various Complainant Files (Oct 31, 2008)"