

CMAG March 2006 update

The Central Mountainview Action Group (CMAG) recently invited a speaker from the Energy and Utilities Board (EUB) to answer questions the group members had expressed about the application and objection process for oil and gas facilities.

Steve Smith from the EUB's Facility and Application Dept. in Calgary attended CMAG's Feb. 15 meeting to answer questions on applications, objections, and landowner rights. Smith said this branch of the EUB "deals with the steel," handling applications under Directive 56 such as wells, pipelines, batteries, and compressors. Directive 56 defines what applications to the EUB must include, with minimum guidelines for issues such as public consultation, technical requirements, setbacks, timelines, notification etc. No maximums are defined in order to maintain flexibility around issues such as who is impacted by a particular application.

BACKGROUND ON EUB:

The EUB is headed by a board with eight minister-appointed members, serving 5-year terms, including chair Neil McCrank.

The Facilities Applications department where Smith works includes, Routine Applications, Non-Routine Applications and Application Audit. Routine applications make up 90 per cent applications to the EUB. Routine application coordinators process applications which the applicant has indicated meet regulatory requirements.

Routine applications which have been approved are selected at random for audits and reviewed for compliance. If an audit reveals discrepancies, the company could be subjected to various enforcement actions including having all its applications reviewed for compliancy. Application audits can also be chosen on the discretion of EUB staff and could be the result of, for example, a landowner complaint.

An application is considered non-routine any time a landowner or affected party objects or expresses concerns or if the company requests any type of variance from requirements. Coordinators in the Non-Routine group process an application/objection going to facilitation, ADR (appropriate dispute resolution or mediation) or a hearing with the board. When an objection is filed a copy of objection is sent to company. If no application has been received by the EUB yet, the objection is held for one year or until an application is received.

If a routine application has been filed, but not approved, the objection is linked to the application and the routine application becomes a non-routine. EUB staff would then check if the objector was originally contacted by the company and confirm if the issue had been resolved. Companies are not required to resolve all issues (some are too broad or globally focused for one company to resolve) but companies must respond to and address any concerns/objections.

If a license had already been issued, a section 39 or 40 review would be held.

Smith also answered some specific questions raised at recent CMAG meetings.

TRIGGERING A HEARING

In order to trigger a hearing, a landowner/objector must prove they are directly or adversely affected more than the general public.

In the event that the application has already been approved, an objector must prove they were denied an opportunity for a hearing.

Landowners should note that not engaging with the company or the board does not stop the application or license and takes away their opportunity to be heard. The EUB instructs companies and its staff not to judge the merits of an objection. EUB staff makes a recommendation to the board based on information and legal counsel advice. The board then makes the final decision on whether a hearing will be held.

Companies can speed up the process somewhat by asking for the board to determine an issue and set a hearing date while the parties continue to attempt collaborative resolution. If the issue can't be resolved and the board has determined that the objector has standing, then the issue would go to hearing. The board does not get involved in issues of compensation.

The application must be technically complete before it can proceed and all parties are consulted with regard to timing of a possible hearing.

A hearing can only be reopened IF something new comes forward.

OPTIONS BEYOND HEARINGS

The board won't re-open a hearing unless there is an error in law or jurisdiction or it has new information. If none of those apply, landowner's best course of action would be working directing with a company to resolve an outstanding issue by appealing to the company's sense of community and its need for a long-term working relationship with area landowners. For example, the company may need to work with a particular landowner/objector in the future for pipelines, compressors, etc. beyond the original well which caused the dispute and may then be motivated to resolve the current issue.

GETTING ALL AFFECTED PARTIES TO THE TABLE

The board is a quasi-judicial board and can order outcomes which tend to be less-than ideal for all parties involved than if issues are resolved collaboratively before a hearing. Board decisions tend to involve compromise which leaves everyone dissatisfied.

During ADR (appropriate dispute resolution) everything from the content of discussions to the affected parties in attendance can be directly determined by those involved. This means more freedom to broaden the topics of discussion and involve other parties. If a landowner is having difficulty setting a meeting with the company, the EUB can be called for support in setting up a meeting.

HANDLING OF CORRESPONDENCE

Copies of objections are sent to the company involved. The EUB then corresponds with the objector and the company. If there is more than one objection, that information is not shared among the objectors. Privacy is a major issue for the EUB as information in its possession is part of the public domain. Private information is often sent back to landowners to ensure their privacy, instead of being kept on file with the EUB.

The EUB does ask companies as much as possible to provide correspondence when requested.

Most information on objections and hearing outcomes is available on-line. Searches can be conducted by type of application.

The energy development part of the EUB handled 53,000 applications last year, of which 4,500 were non-routine. About 3,000 of those had objections, with 49 hearings scheduled and only 23 held. The number of hearings held each year has not increased with the increase in applications and industry activity levels. Steve said that shows parties are working together and negotiating in good faith. The number of applications handled in 2005 was up 15 per cent from the previous year, which was up 20 per cent from the year before. Numbers have been increasing steadily since 1996 when the EUB handled 12,000 applications including between 6,000 and 7,000 wells. In 2005, there were applications for 24,000 wells.

CMAG continues to work on more information documents to help area landowners and residents understand the oil and gas industry and what to expect and accept. Currently, the group is working on best management practices on water, pipelines, construction and landspraying while drilling. CMAG plans to continue sharing this information with the public through local newspapers.

CMAG also continues to work with companies active in the area, including keeping up-to-date on area activities. Active industry members include EnCana, Trident, Apache, MGV and Burlington.

EnCana is currently preparing for a hearing in the Torrington area scheduled for early March. EnCana representative Darcy Allen will bring information from the Ketch hearing at Battle Lake to the next CMAG meeting for information.

Julie Black from Trident said the company is working primarily in the Rumsey and Big Valley areas and just purchased 50+ existing wells in the east Olds area. A compressor station at Wimborne is under construction and expected to be completed this month with full noise attenuation.

Black said Trident is working to reduce noise on existing compressors to meet the company's goal of no more than 30 dB. EUB regulations limit facilities to producing 50 dB in the daytime and 40 at night. Trident is also committed to using existing infrastructure as much as possible.

Trident is opening a new office in Red Deer this month.

David Morris and Carrie Rawlake from MGV reported that the company currently has no activity in Mountainview County, but is active on the boundaries of the county and CMAG area.

Francis Caughlin of Burlington Resources said the company has six wells in the CMAG area with no new drilling planned at this time.

Apache has updated the time frame for its 800 well project which is behind due largely to weather delays. The east portion of the project is developed more than the west. The Penhold area in the north has 80 more wells to drill. Garrington (Olds and west) includes 45 sections, 180 wells and should be up to speed by November.

Plants, boosters and compressors are also progressing well. Apache is continuing to acquire 100 well sites with five rigs working in the area west of

Olds. Apache is also acquiring pipeline rights and anticipates getting much busier after spring break-up.

CMAG's next meeting is scheduled for March 15. For more information on the group's activities or answers to questions call Wayne Notley at 556-2513 or Marlene Oliver at 507-8727.