

ADR's Place in Jumping Pound (JP) Issues

Issues related to Jumping Pound formulas, their use and the impact of these issues are best described in the following letter:

Canadian Association of Petroleum Producers
Attention: Pierre Alvarez, President

October 23, 2003

Small Explorers and Producers Association
Attention: Dave Peterson, Chairman

The Petroleum Joint Venture Association
Attention: Cheryl Pritchard, President

Alberta Energy and Utilities Board
Attention: Neil McCrank, Chairman

Re: **The C2C Task Force Recommendation to Industry and the AEUB for Development of a Joint Industry/AEUB Report on the Use and Application of JP-95**

The Industry Company to Company Dispute Resolution Task Force (C2C Task Force) has been actively pursuing means to increase the awareness of the Canadian oil and gas industry of the benefits of Alternative Dispute Resolution (ADR) processes to resolve industry-to-industry disputes outside of the regulatory and legal processes. The Task Force is nearing the end of its mandate, and is preparing a number of recommendations for the industry on effective use of ADR, means of incorporating ADR processes into our business, and educational programs to increase industry awareness of the ADR processes.

One area of industry activity that has been singled out by the AEUB and the Task Force that has been particularly of concern for the number of disputes that occur is custom fee commercial practices and the failure of companies to reach resolution on the negotiation of fees between facility owners and potential users. Too many situations are occurring where companies fail to reach resolution on fees, and turn to the AEUB or the courts for remedies. This is particularly of concern given that the industry has developed guidelines in past for the negotiation of custom fees that were endorsed by the industry associations. These guidelines, the Joint Industry Task Force Reports on Custom Fees commonly known as JP-90 and its successor JP-95, were developed by the industry for the industry, and recognized by the AEUB and the Alberta Department of Energy as the industry accepted fee guidelines.

It appears that, even though most companies are aware of the guidelines, many do not use the guideline principles in their initial negotiations, tending to resort to a "what the market will bear", or "use facilities for strategic leverage" approach to set fees, and not

conduct fee negotiations in the spirit promoted by the guidelines. As such, many applications to the AEUB have acrimonious fee negotiations as their fundamental issue.

The C2C Task Force requested a small sub-group of individuals that have had considerable experience in fee negotiations and resolution of fee disputes to present a discussion paper on the issues they believe need to be addressed by the AEUB and the industry. As part of their deliverable, the group has written a recommendation for the industry/AEUB to consider development of a joint report to address the issues that the group believes are required to more effectively use the fee guidelines, and particularly the dispute resolution practices that will promote negotiations. The recommendation report is attached to this letter.

To this end, the sub-group members request that a meeting be convened with representatives from the industry associations (CAPP, SEPAC, and PJVA) and the AEUB to discuss the recommendation, and to develop a go-forward plan for development of a joint industry/AEUB report on the use of JP90/95. One of the sub-group members, John Kingsbury has agreed to coordinate a meeting on behalf of the parties. John will be in contact with you to establish dates and location. John's telephone number is 818-5225, or alternatively Dave Savage can be reached at 680-9255.

We look forward to your involvement.

On behalf of the C2C JP90/95 Sub-group

John Kingsbury

Principles for ADR's use in Jumping Pound (JP) Issues

- Relationships
- Getting on with business
- Communication (Talk and Listen)
- Visit as many reasonable alternatives as possible
- Early recognition of potential disputes

Case Study – Appropriate Facility Fees

That the sponsors of JP-95 (CAPP, SEPAC) the custodian (PJVA), and the EUB strike a task force to develop a report on:

1. How to effectively use JP-95 as a guideline to promote the negotiation of fair processing fees
2. The protocols that can be applied to resolve fee negotiation disputes
3. Recommendations of ways to ensure the industry is acting properly in the application and use of JP-95.
4. The development of a users guide to assist in the application of JP-95
5. Ways of building the awareness of industry on the requirements for the use of JP-95
6. Strengthening the requirements for the application of JP-95, both through the regulatory process, and through industry association stewardship.