



**OIL AND GAS COMMISSION
ADVISORY COMMITTEE**

ANNUAL REPORT 2003-2004

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Message from the Chair

On behalf of the Advisory Committee members it gives me great pleasure to submit the Committee's Annual Report for 2003-2004.

The Advisory Committee has taken strong steps to refine its role in relation to the Oil and Gas Commission, and the Committee is on a path to make even greater improvements to internal functions and processes.

We wish to thank the Oil and Gas Commission, and in particular Commissioner Doyle, for their assistance and professionalism in responding to inquiries and recommendations of the Advisory Committee in a timely manner.

We hope the attached Annual Report is useful and informative. If you have any comments or suggestions, please contact Jennie Leidl, Advisory Committee Secretary, at (250) 261-5775.

We look forward to continuing to serve in this important role in the years ahead.

Sincerely,



Bob Fedderly
Chair

ADVISORY COMMITTEE

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Role of the Advisory Committee

7 (1) The minister must establish an advisory committee to

(a) provide advice and make recommendations to the commission as to the fulfillment of the commission's purposes and its adherence to the responsibilities of the commission under section 17,

(b) fulfill that committee's role described in section 9,

(c) anticipate and identify environmental, economic and social issues arising out of the commission's operations,

(d) by June 30 of each year, review the commission's operating plans and audited financial statements for the fiscal year of the commission that ended on March 31 of that year, and

(e) assist the commission to develop short and long term operating plans.

(2) The commission may pay to an advisory committee member

(a) an allowance for reasonable traveling and incidental expenses necessarily incurred in carrying out the responsibilities of the advisory committee, and

(b) if the advisory committee member is not a member of the Legislative Assembly or a public servant, remuneration at rates set by the Lieutenant Governor in Council.”

9 (1) The advisory committee, on application in the prescribed manner by an interested person, may request that the commission grant an authorization, referred to in section 8 (2), in respect of any decision of the commission other than a decision for which a right of appeal is provided under section 136 of the Petroleum and Natural Gas Act, section 44 of the Waste Management Act or section 40 of the Water Act.

(2) If the commission grants the authorization requested by the advisory committee,

(a) the effect of the commission's original decision is suspended pending the outcome of the reconsideration under paragraph (b), and

(b) following the consensual alternative dispute resolution process, and after taking into account the recommendations referred to in section 8 (3), if there are any, the commission must reconsider the original decision and redecide the matter in a manner the commission considers appropriate.

(3) The advisory committee must exercise its discretion to make a request under subsection (1) within the prescribed period after the decision that is the subject of the request.

(4) The commission must

(a) grant or refuse the request within the prescribed period after it receives the request, and

(b) redecide the matter that is the subject of the request within the prescribed period after granting the request.

The Committee

The Advisory Committee consists of eight regular members and two ex-officio members. The regular members are individuals from sectors including environmental, First Nations, the service sector and the oil and gas sector.

The Advisory Committee appointments as of November 4, 2002:

Bob Fedderly, (Chair) Nov 2002 - Nov 2004

Bob Fedderly graduated from Fairview College as a Crop Production Technician and has been the owner of Fedderly Transportation since 1979. Mr. Fedderly is the President of the Northern Society of Oilfield Contractors and Service Firms. In addition, Mr. Fedderly has been a member of the Advisory Committee since it originated.

Kathi Dickie, (Vice-Chair) Nov 2002 - Nov 2006

Kathi Dickie is a Dene from the Fort Nelson First Nation. She attended the Alaska Highway Consortium on Teacher Education at Northern Lights College then went on to complete her Bachelor's degree at Simon Fraser University. Kathi has been involved in all aspects of community development for the last 20 years; aspects including education, employment, and economic development.

Carylin Greatbanks Nov 2002 - Nov 2004

Carylin Greatbanks is the former Chief and Chief negotiator of her community, West Moberly First Nations where she contributed to the development of the community's custom constitution and accountability procedures. Carylin has also worked in the field of Aboriginal relations within government and industry. Presently, Carylin works with BP Canada's Alaska Canada Gas Pipeline Team in the area of Aboriginal policies and protocols.

Jim Campbell

Nov 2002 - Nov 2006

Jim Campbell is a businessman who established W. J. Campbell Contracting Ltd. in 1990. Jim's past and present community and civic activities have included being the Director and Chair of Industry Committee – Fort Nelson & District Chamber of Commerce, Co-Chair of the Fort Nelson Oil and Gas Conference in 2001 and Fort Nelson Economic Task Force. Mr. Campbell is also a volunteer at the Northern Rockies Regional District, and the Town of Fort Nelson.

Michelle Gardner

Nov 2002 - Nov 2006

Michelle Gardner attended the Grande Prairie Regional College from 1982 – 1983 and furthered her education with a Diploma in Business Administration from Mount Royal College in Calgary (1988-1990). Michelle established her own business, On-Site Camp Services Inc., in 1993 and was a former partner with Pipeline Construction Company from 1993 to 1999.

Wayne Sawchuk

Nov 2002 - Nov 2004

Wayne Sawchuk graduated from Chetwynd Secondary School and took various courses at UBC from 1974 to 1976. Wayne began working as an environmental consultant in 1993 and prior to that worked in the resource industries as a logger, guide, and trapper. He still owns a woodlot near Chetwynd. Wayne is board member of the Canadian Parks Wilderness Society of BC, the Coordinating Committee of Yellowstone to Yukon Conservation Initiative, and was the Founding President of the Chetwynd Environmental Society. Mr. Sawchuk is a member of the Oil and Gas Commission Advisory Committee and the Muska-Kechika Board. He was a winner of the 1998 Minister's Environmental Award in the category of Individual Citizen.

Van Greig

Nov 2002 - Nov 2006

Van Greig has been an employee of Shell Canada since 1977. For two years, Van was Chair of the CAPP Geophysical Committee and he was also a member of the BC Trapper Compensation Program team. Mr. Greig is currently a member of the Canadian Association of Geophysical Contractors (CAGC) and of the Canadian Association of Petroleum Producers (CAPP).

David Pryce

David Pryce resigned from the Committee this year and a replacement for him is in the process of being appointed. The Advisory Committee would like to thank David for all his hard work and dedication.

Administration of the Committee

On August 11, 2003, the Oil and Gas Commission dedicated a full time administrative support person solely to the Advisory Committee to ensure that material going before the Committee is complete and accurate and that meetings proceeded flawlessly.

If you have any questions, please contact the Advisory Committee Secretary, Jennie Leidl.

The Chair would like to thank Jennie for her hard work and dedication.

Advisory Committee's Secretary's Contact Information:

Jennie Leidl, Oil and Gas Commission
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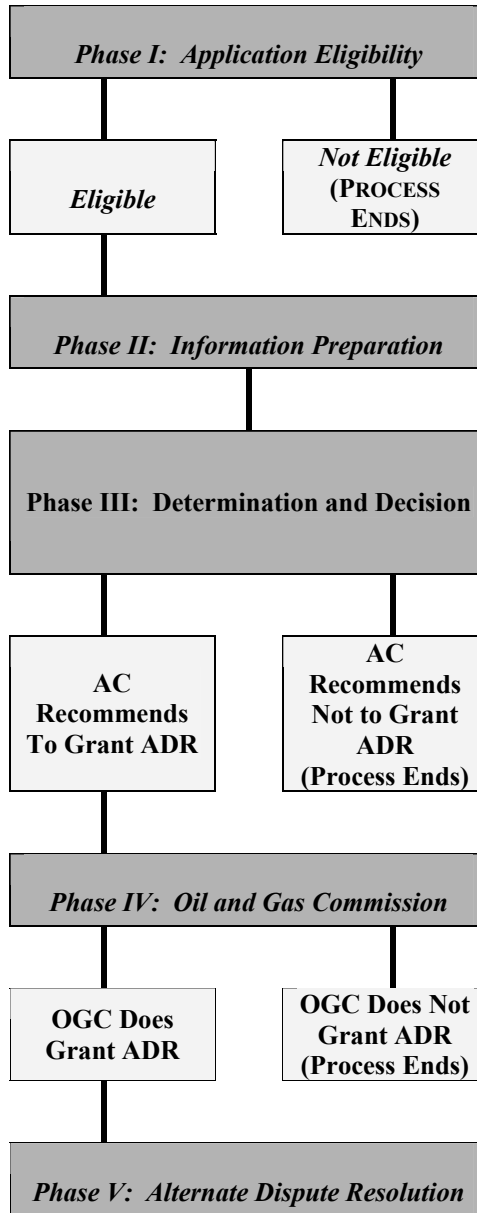
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The Request for Reconsideration Process



OIL AND GAS
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ADVISORY
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Request For Reconsideration Process



Timeline for completion of Phase I thru to Phase III is 30 business days

Timeline for completion of Phase IV is 5 business days

Requests for Reconsideration in Review

The Advisory Committee met on six Requests for Reconsiderations throughout the 2003-2004 fiscal year.

FY04-01	ADR Applicants:	Saulteau and West Moberly First Nations
	Original Applicant:	EnCana Corporation
	Committee Decision:	July 28, 2003

Committee Decision:

The Applicants were two First Nations (the Saulteau First Nation and West Moberly First Nation). The Commission had issued approvals to EnCana Corporation for a geophysical program. The Applicant requested reconsideration by alternative dispute resolution on a similar basis to that in FY03-03.

The Advisory Committee requested ADR on the following basis:

- (a) There was no evidence that ADR had previously been tried.
- (b) A field change made late in the process, changing the program to summer use from winter use, could bring with it different impacts on the area, which the process of ADR could address.
- (c) There might be alternatives that would further reduce impacts on the area, which ADR could address.
- (d) The Committee was concerned that the cumulative effects of the approved activity, together with other forms of land use, in the area were not considered or were not adequately considered or addressed in the original process, and that further ADR and reconsideration of the cumulative impacts might assist in resolving concerns.
- (e) Suspension of the approval of the program pending alternative dispute resolution and reconsideration by the Commission was likely to encourage further discussion between the SFN and EnCana.

- **The Committee requested ADR.**

Commissioner's Decision:

The Commissioner rejected the request on the following basis:

- (a) The geophysical program was compatible with the LRMP.
- (b) Commission staff believed wildlife resource conflicts to be mitigated and/or minimal.
- (c) EnCana held over 10 meetings with the First Nations where the project was reviewed. After approval was granted, EnCana reduced its scope to about 60%.
- (d) Extensive consultation occurred between the Commission and First Nations. The Commission believes that issues related to long-term and cumulative development and impacts cannot be resolved through a facilitated consensual ADR process between the First Nations and EnCana.
- (e) The Commission and Ministry of Sustainable Resource management would initiate on July 7 a process to develop a more detailed land use plan that would reflect cumulative impact management.

- **The Commissioner rejected the request.** (August 5, 2003)

FY04-02 ADR Applicants: **Richard Koechl and Linda Haugen**
 Original Applicant: **Samson Canada Ltd.**
 Committee Decision: **Sept. 11, 2003**

Committee’s Decision:

The Applicants were two residents in the area of the well that was the subject of the OGC approval, also “on behalf of” other residents. The Commission had issued a Well authorization to Samson Canada Ltd. The Applicants requested reconsideration by alternative dispute resolution on the basis that they were concerned about their safety and whether Samson would commit to assume financial consequences of assuring their safety. The concerns appeared largely to arise from the fact that the well was a sour gas well. The Residents were concerned that an all-season egress was not to be maintained for residents south of the well. The Residents were concerned that the Emergency Response Plan (ERP) was not going to be in effect during production operations, as opposed to drilling only. The Residents felt that the ERP and other matters should be incorporated in the conditions attached to Samson’s well authorization.

The Advisory Committee requested ADR on the following grounds:

- (a) The absence of legal requirements that specifically address the additional concerns associated with sour gas wells means that the additional positioning issues with sour gas wells in relation to residential areas, and the permit conditions that are necessary in the circumstances, are left to the discretion of the proponent and the Commission. Mere compliance with the minimum requirements set out in the statutes and regulations will often not, therefore, be an answer to health and safety concerns of residents of an area where sour gas well development is proposed.
- (b) The Section 9 Applicants raised a number of health and safety concerns, well in advance of any decisions, that are appropriately of great concern to the residents. Some or all of the concerns could very likely be satisfactorily addressed through a process of Alternative Dispute Resolution followed by Reconsideration. The Emergency Response Plan generally, and the all-season egress/evacuation route, and notification of residents in case of emergency in particular, as well as the very specific amendments to the Approval conditions proposed by the Section 9 Applicants, are appropriate for further discussion and resolution.

- **The Committee requested ADR.**

Commissioner’s Decision:

The Commissioner noted that as of September 15, 2003, the Company had drilled the well, installed casing, and was preparing to conduct well completion operations. In the absence of any incidents during the drilling operations, the Commissioner concluded that concerns relating to construction and drilling phases did not materialize and in any event could no longer be addressed. The Commissioner noted that many of the residents’ concerns related to the production phase of the operations, and agreed that many of those concerns could be resolved through consensual ADR. The Commission therefore invited the residents and the Company to participate in facilitated ADR to address issues related to the production phase.

The Commissioner noted that several of the residents’ concerns related to the ERP, and that the ERP for the production phase would require a separate approval, during which the Commission would consider the results of any ADR process. Another concern could be address through variation of conditions of the approval. Another concern was moot at the time of the Commissioner’s decision. The Commission did not believe the remaining concern warranted an amendment to the approval. For these reasons, the Commissioner did not consider it necessary to grant the formal request of the Committee that the Commission reconsiders its original decision. Consequently the Commission decided to offer consensual ADR informally, i.e. outside the formal s. 9 process.

The Commissioner rejected the formal request for ADR and reconsideration under s. 9 of the Act, but did informally offer consensual ADR to the parties outside of the s. 9 process (September 18, 2003).

FY04-03	ADR Applicants:	Saulteau First Nations and West Moberly First Nations
	Original Applicants:	EnCana Oil & Gas Ltd., CNRL, and CanNat Resources
	Committee Decision:	January 19, 2004

Committee's Decision:

The Applicants were two First Nations (the Saulteau First Nation and West Moberly First Nation). The Commission had issued approvals to a geophysical program and two well sites to EnCana Corporation, a pipeline to CNRL and well site to CanNat. The Applicant requested reconsideration by alternative dispute resolution on a similar basis to that in FY03-03.

The Advisory Committee requested ADR on the following basis:

- (a) The Committee feels that this view is not consistent with the decision of the Supreme Court. Nowhere in the decision did the Judge hold that consensual alternative dispute resolution would be an inappropriate tool to assist the parties in reaching a resolution of disputed matters;
- (b) The Oil and Gas Commission has not yet, to date, addressed the fundamental underlying concerns of the First Nations, which arise from the granting of the above-noted authorizations namely, that those authorizations, in combination with other activities, will have cumulative effects that could sharply attenuate their treaty and aboriginal rights.
- (b) The Committee is not aware of any evidence that the OGC encouraged consensual alternative dispute resolution, as envisaged by s. 8 of the Act, in advance of granting the authorizations.

- **The Committee requested ADR.**

Commissioner's Decision:

The Commission believes that the grounds for the application are not matters that can be addressed through a consensual ADR process between the First Nations and the companies. It also believes that issues regarding the extent and magnitude of long-term oil and gas development in the general area and cumulative impact management of "oil and gas and other developments" cannot be resolved through a consensual ADR process between the First Nations and the companies. The Commissioner noted that resolution of these issues would require a broader collaborative effort involving government, First Nations, industry and others. The Ministry of Sustainable Resource Management has initiated a process to develop a detailed land use plan that would consider cumulative impact management in the PMT.

The Commissioner rejected the formal request for ADR and reconsideration under s. 9 of the Act, but acknowledges that the concerns of the First Nation regarding oil and gas developments in the ACCI and PMT remain outstanding. Under separate cover, the Commission will offer to undertake a consensual ADR process under section 8 of the Act with the First Nations and the proponents of applications for oil and gas activities and pipelines in the PMT that are currently before the Commission but not yet decided, and for pending applications. (February 27, 2004).

FY04-04 ADR Applicants: **West Moberly First Nations**
 Original Applicants: Dominion Exploration Canada Ltd.
 Committee Decision: March 8, 2004

Committee's Decision:

The Applicant was the West Moberly First Nations. The Commission had issued an approval for a pipeline to Dominion Exploration Canada. The Applicant requested reconsideration by alternative dispute resolution on the basis that the pipeline and approval processes infringed its hunting and fishing rights under Treaty 8 and constitutionally-protected treaty and aboriginal rights generally, in particular because neither the Commission nor the company carried out any consultations with the First Nation in relation to the approval.

The Committee commented that the fundamental underlying concerns of the WMFN are extremely serious, and require the fullest and earliest possible attention.

- **The Committee requested ADR.**

Commissioner's Decision:

The Commissioner rejected the request of the Committee on the basis that the Commission had concluded that direct impacts of the proposed well and access road would be minimal as the route for the proposed pipeline is adjacent to and parallel with existing roads that will be used for the construction of the pipeline. Dominion holds petroleum and natural gas tenures in the area of the project, which grants a right to explore for, develop and produce petroleum and natural gas. The Commission noted that all approvals are subject to terms and conditions to mitigate or avoid negative environmental impacts.

The Commission, as a separate initiative, invited the WMFN to participate in consensual ADR on applications that have not been approved within the Moberly Tract with industry active in the area.

FY04-05 ADR Applicants: **Fort Nelson First Nations**
 Original Applicants: Petro Canada
 Committee Decision: March 29, 2004-05-07

Committee's Decision:

The Applicant was the Fort Nelson First Nations, ("FNFN"). The Commission had issued an approval for a geophysical program to Petro Canada. The Applicant requested reconsideration by alternative dispute resolution on the basis that the geophysical program was depleting the river valley and there were unresolved concerns. The Applicant submitted a request for reconsideration by alternative dispute resolution on the basis that the reports prepared on behalf of Petro Canada and provided to the OGC did not adequately address the FNFN's concerns with respect to the conduct of seismic testing as well as the length of time it takes the OGC to acknowledge its requests for time extensions.

The Committee expressed their concerns with respect to the manner in which this authorization was handled and once again, emphasized the importance of early and fulsome consultations with First Nations. This particular case would have been well served by early and comprehensive consultation since, given the size of the seismic program, Petro Canada must have been planning it some time before November, 2003. In that context, the Committee felt there was little benefit in recommending ADR pursuant to Section 9 because its ability to realistically recommend ADR was limited.

- ***The Committee did not request ADR***

FY04-06 ADR Applicants: **West Moberly First Nations**
Original Applicants: BP Canada Company, Cougar Hydrocarbons Inc., Burlington
Resources Canada (Hunter) Ltd., Devon Canada Corporation;
Suncor Energy Inc., EnCana Corporation, Canadian Natural
Resources Ltd.
Committee Decision: April 6, 2004

Committee's Decision:

The Applicant was the West Moberly First Nations, ("WMFN"). The Commission had issued licenses for various oil and gas activities to seven separate companies. The Applicant requested reconsideration by alternative dispute resolution on the basis for the Committee to review the current Oil and Gas Commission practice of 'going notes to file' when a response is not received within a ten-day response window".

The Committee did not recommend ADR under s. 9 of the *Act* as it does not believe that the practice of 'going notes to file' when there may not have been a timely response by the OGC is a matter that is amendable to ADR and thus declines to make such a recommendation in these circumstances. The Committee feels that there are some serious inadequacies with the current consultation process. The major issues between industry and stakeholders ought generally to be resolved prior to the proponent making application to the OGC.

- ***The Committee did not request ADR***

Regular Meetings

The Advisory Committee meets each year to reflect and make recommendations to the Oil and Gas Commission. The Advisory Committee met on four different occasions for the 2004 fiscal year:

- April 30 and May 1, 2003 – Woodlands Inn, Fort Nelson, BC
- July 15, 2003 - Northern Grand, Fort St. John, BC
- October 3, 2003 - George Dawson Inn, Dawson Creek, BC
- January 19, 2004 - Northern Grand, Fort St. John, BC

Recommendations made to the Commission:

Accepted/Done: 69%, Under Review: 25%, Declined: 6%

Advice to the Commissioner	Commissioner's Response
<i>April 30 – May 1, 2003 – Fort Nelson</i>	
Public/Web: Reporting of information to be made available to the public.	The Commissioner is currently consulting with various affected agencies in regards to this issue and he will provide more information at the next meeting.
Commissioner to discuss with WLAP representatives on what they have in place in regards to air quality and water monitoring during CBM exploration and report back to the Committee.	Done.
Commission to recommend that MEM place advertisements in local newspapers prior to tenure sales (“Request for Tenure Sale”); coinciding with the advertisement, a map identifying the geographical program would be informative.	Done.
Commission to provide an explanatory report to the Advisory Committee in regards to resource conversation of Ladyfern including how decisions are made and road use agreements.	Done – The explanatory report was provided at the January 19 th meeting.
AC suggests a valid, independent and binding mechanism be developed to hear disputes regarding decision of the Commissioner re: Requests for Reconsideration.	Declined.
<i>July 15, 2003- Fort St. John</i>	
Three members recommend that the OGC convene a meeting between Bob Purdon, Bill Adair (MSRM), and Matt General to discuss Sustainable Resource Management Planning.	Done – Many meetings have occurred including Ministers Neufeld and Hagon with Chiefs and Councils to commit to SRMP.
Website Ground Rules – The Three members recommend Mr. Doyle raise this matter with the new Board of Directors for their input.	Done.
<i>October 3, 2003 – Dawson Creek</i>	
The Commission should research the AEUB that Alberta has in place regarding the proximity of well sites.	Done - The OGC is monitoring the Alberta Energy and Utilities Board (AEUB) as it is presently addressing “review of the current criteria for sour gas setbacks” and “review of the implications of setbacks on the ability to develop property”. The OGC is also preparing to contribute, as necessary, to the Peace River Regional District Rural Community Plan and Zoning By-Law work that is currently underway.

<p>The Commission should implement a process that tracks the ownership of all well sites so that companies can be held responsible.</p>	<p>Done – The OGC maintains a Well Register under the <i>s. 95 of the Petroleum and Natural Gas Act</i> which is a record of each well drilled, well name and location, changes in well name and location, the well authorization number, the name of the person to whom the authorization was issued and his or her agents, and the name of the drilling contractor. Transfers of well or test hold authorizations require the written consent of the Commission, the fees have been paid to the Minister of Finance and Corporate Relations, and that the Commission keeps a record of each transfer to which it was given consent. There is further similar coverage under <i>s. 16, 17 Petroleum and Natural Gas Act – Drilling and Production Regulations</i>.</p>
<p>Commission should research Alberta’s position on how they dealt with the Farmer’s Advocate and how to keep it independent of the Oil and Gas Commission. OGC could suggest that the Farmer’s Advocate report to the Ministry of Agriculture.</p>	<p>Done – On June 10, 2003 the OGC convened a meeting to develop a framework for a Farmer’s Advocate position within the Commission. Members of this working group included Regional, Municipal, agricultural ministry and community representatives and Alberta’s Farmers Advocate, Dean Lien. Subsequently a job description, incorporating this input, was created.</p>
<p>January 19, 2004 – Fort St. John</p>	
<p>All letters to the government should be placed on the website as it is the discretion of the Committee to provide them.</p>	<p>Under Review.</p>
<p>The OGC should not approve any applications that are known to have issues until after the Committee has had an opportunity to deliberate them.</p>	<p>Under Review.</p>
<p>The Committee wants to participate in the re-writing of the Act.</p>	<p>Accepted.</p>
<p>The OGC should include consultation as part of the drilling license applications wherein companies state how they went about consulting with interest groups and what form of resolution is in place to mitigate the issues.</p>	<p>Under Review.</p>
<p>The wording in the SCEK Fund template should be changed from “Proposal Accepted in Principle” to “Proposal Accepted in Review”.</p>	<p>Accepted.</p>
<p>The Commission should regulate and encourage development but should also be prepared to meet with stakeholders and interest groups in order to resolve these issues.</p>	<p>Accepted</p>