Revised General Procedures for the Conduct of the Hearing

Introduction

This document outlines the procedures that will be followed during the hearing to be held by the Joint Review Panel (the Panel) established to review the EnCana Shallow Gas Infill Development Project and EUB Application No. 1435831 for three well licences.

The Panel was appointed by the federal Minister of the Environment to review the proposal by EnCana Corporation (the Proponent) to drill, over a three-year period, up to 1275 new shallow gas wells within the boundary of the Canadian Forces Base Suffield National Wildlife Area (NWA), located approximately 50 km northwest of Medicine Hat. The Panel was also appointed by the Chair of the Alberta Energy and Utilities Board (EUB) to determine whether licences should be granted to drill three wells in Legal Subdivision (LSD) 11, Section 28, Township 15, Range 6, West of the 4th Meridian, LSD 13-28-15-6W4M, and LSD 15-28-15-6W4M located within the NWA.

The public hearing will begin on October 6, 2008 in Calgary. Sessions will also be held in Medicine Hat. The hearing is expected to take place over a period of approximately 3 to 4 weeks. The Panel will conduct the hearing in a manner that ensures a thorough examination of matters relevant to the Panel's mandate, while at the same time providing for timely and meaningful public participation. In accordance with section 4.5 of the “Agreement to Establish a Panel for the EnCana Shallow Gas Infill Development Project” the Panel will conduct this public hearing following the EUB’s Rules of Practice.

In addition and in accordance with section 7 of the Rules of Practice, the Panel has decided to supplement these Rules to also implement an informal hearing procedure to enable individuals or groups who may not be able to participate for the duration of the formal hearing to have an opportunity to offer their views on the project and ask questions of the proponent and other interveners.

The formal public hearing will be conducted in Calgary. Informal hearing sessions will be held in both Calgary and Medicine Hat.

Role of the Panel: The Panel maintains conduct of the hearing and ensures a fair process, allowing the Proponent and interveners to fully participate in the hearing. The Panel Chair has the discretion to modify or waive specific procedures where there are strong reasons why the objectives of the hearing can be better achieved by taking a different approach. The Panel will make recommendations to the Minister of Environment on the Proponent’s project and will make a decision on the application for the three wells. The Panel will review all evidence submitted as part of the decision-making process and will make recommendations and decisions based on the evidence before it.

Revised April 2008
Role of the Panel Secretariat: The Panel Secretariat is a joint responsibility of the EUB and the Canadian Environmental Assessment Agency. Staff from both organizations have been and will be allocated to the Panel Secretariat as required throughout the different stages of the joint review. The Panel Secretariat is led by two co-managers, one from each organization, supported by environmental assessment specialists, communication officers, legal advisor, etc. The Secretariat provides administrative, technical and procedural support requested by the Panel. During the hearing, the Secretariat will ensure that the environmental assessment documentation and the application are complete and that all the submitted evidence is before the Panel. This may be done, in part, through questioning of the interveners and Proponent during the formal hearing. The Secretariat does not play an adversarial role and does not oppose or support either the Proponent or the interveners.

The Panel lawyer has two main functions: to advise the Panel on legal matters, procedure, and evidence, and to question, with the assistance of the Secretariat, the Proponent’s and interveners’ witness panels to ensure that relevant evidence is before the Panel. The Panel lawyer is also available to provide the Proponent and interveners with information regarding procedure.

Participation of the Crown: The Crown may appear at the formal hearing to present evidence, to cross-examine witnesses and to submit argument. It should be noted that the Panel has requested the participation of several federal and provincial departments and agencies at the formal hearing to present their views, within each department’s areas of expertise, about the potential effects of the proposed project. The letters of invitation are posted on the public registry.

The following sections describe the two procedures that the Panel intends to use during the proceedings. The final sections of this document provide information applicable to both procedures, scheduling, media policy, interpretation, the public registry, and the availability of hearing transcripts.
Procedures Prior to Commencement of Hearing

Filing of Submissions and Panel Expert Reports #1
- February 18, 2008

Information Request Process
- March 26, 2008 – EnCana and Interveners filed Information Requests (IRs) on the February 18, 2008 submissions
- May 23, 2008 – Interveners file responses to IRs

Supplemental or New Submissions
- Due June 27, 2008

Panel Expert Reports #2 and EnCana Reply Submission
- Due August 15, 2008

Commencement of Hearing
- October 6, 2008
**Filing of Submissions:** Persons and groups who wish to intervene during the proceeding are considered interveners and filed their written submissions on or before February 18, 2008 and may file a supplemental submission no later than June 27, 2008. New submissions received by June 27, 2008 will also be accepted and persons making new submissions will also be considered interveners. All submissions are available to other interveners and to the Proponent through the on-line public registry. Each submission must be in writing and contain the following:

1. a concise statement indicating
   a. the nature and scope of the intervener’s intended participation,
   b. the disposition of the proceeding that the intervener advocates, if any,
   c. the facts the intervener proposes to show in evidence,
   d. the reasons why the intervener believes the Panel should decide in the manner that the intervener advocates, and
   e. the intervener’s efforts, if any, to resolve issues associated with the proceeding directly with the applicant;
2. the name, address, telephone number, fax number and e-mail address of the intervener;
3. if the intervener is represented by a representative, the name, address, telephone number, fax number and e-mail address of the representative;
4. if the intervener is an unincorporated organization, the nature of the intervener’s membership.

Submissions must contain all the information and documentary evidence that the intervener intends to present at the hearing. No documentary evidence may be presented at the formal hearing unless it was previously filed by the submission deadline to allow for a fair process for the proponent and all interveners.

**Information Request Process:** The proponent and interveners were given an opportunity to file information requests (IRs) on March 26, 2008. The purpose of this IR process is to clarify the submissions filed on February 18, simplify the issues in dispute, and permit a more complete understanding of the matters to be considered by the Joint Panel.

Section 27 of the *EUB Rules of Practice* outlines the procedure for making IRs. When an intervener or the proponent receives an IR, it must prepare a response that states the question(s) asked, provides a full and complete response to each question, and identifies who prepared the response to the IR.

If a party served with an IR is unwilling or unable to provide a full and complete response, it must provide the requesting party with reasons why the information is unavailable or why it is unwilling to provide the information requested. The requesting party may ask the Joint Panel to make a decision as to whether the information should be provided.

**Supplemental Submissions:** Interveners that filed submissions on February 18, 2008 are given an opportunity to supplement their submissions based on the information gathered during the IR process. Supplemental submissions are due June 27, 2008. As noted above, new submissions may also be made at this time.
**Role of Panel Experts:** The Joint Panel has retained the services of two experts to provide two publicly available reports in the areas of wildlife issues and soils, vegetation, rare plants, and reclamation. The role of these experts is to provide independent expert analysis and recommendations to the Panel. Recognizing the nature of the review process, the experts will have no direct contact with the Panel outside of the hearing proceedings. The first expert reports were submitted on February 18. The second expert reports are due August 15, 2008. The second reports would take into consideration the submissions and supplemental information requests. The experts will also be allowed to provide comment at the hearing on EnCana’s reply submission.
**Formal Hearing Procedures - EUB’s Rules of Practice**

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>Commencement of Hearing</strong></td>
<td>October 6, 2008</td>
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</tbody>
</table>
| **Panel Chair’s Opening Remarks** | Statement of Purpose  
Introduction of Panel members and Secretariat  
Summary of notice given on the proceeding  
Interveners’ registration |
| **Preliminary Matters** | Presentation of procedural and legal matters by the Proponent or interveners |
| **Presentation of the Project by the Proponent** | Registration of Proponent’s documents as exhibits  
Introduction of Proponent’s witnesses and presentation of credentials  
Proponent’s direct evidence  
Cross-examination of Proponent by interveners, in order of registration, Secretariat, and Panel  
Redirection of Proponent’s evidence |
| **Presentations of the Interveners** | Registration of interveners’ documents as exhibits  
Introduction of interveners’ witnesses and presentation of credentials  
Interveners’ direct evidence  
Cross-examination of interveners by Proponent, interveners in order of registration, Secretariat, and Panel  
Redirection of interveners’ evidence |
| **Rebuttal Evidence by Proponent** | Proponent submits additional evidence to address new points raised by interveners’ evidence |
| **Final Argument or Summation** | Proponent and interveners present most important aspect of the issues and what recommendations and decision they feel the Panel should make  
Proponent may respond to interveners’ arguments |

Revised April 2008
The formal hearing will be similar to a court proceeding. Persons who take part in these proceedings should review the EUB’s Rules of Practice before they participate. An electronic copy of the Rules of Practice is available at http://www.suffieldreview.ca/.

**Opening Remarks:** The hearing process begins with the Panel Chair making brief opening remarks. The Chair then explains the purpose of the hearing and introduces the members of the Panel as well as the Secretariat staff. Following this, the Proponent and interveners will be required to register.

**Preliminary Matters:** Following registration, the Panel asks if anyone has any preliminary matters, such as adjournment requests or the scheduling of a specific witness.

**Presentation of the Project:** After preliminary matters, the Proponent will present its case. The Proponent’s documents are entered into the record as exhibits, and its witnesses swear or affirm that they will tell the truth and then give evidence. The Proponent may sit a witness panel. The lawyer for the Proponent may ask its witness panel questions. When the Proponent is finished giving direct evidence, the interveners are able to ask questions of the witness panel (cross-examination). Cross-examination may be used to clarify evidence or question the other side’s witnesses. It is not time for the interveners to give their testimony. Following cross-examination by the interveners, the Secretariat and the members of the Panel may ask questions of the witness panel. Once cross-examination of the witness panel is finished, the Proponent has the opportunity to question its witness panel again to clarify evidence raised during cross-examination (redirect examination).

**Presentation of Interveners:** In the next stage of the hearing, interveners present their case in the same order in which they registered. To give evidence, an intervener must swear or affirm to give evidence truthfully. Documents relevant to the intervener’s case are entered as exhibits. The intervener will then give direct evidence. Interveners may also choose to sit a witness panel. Next, the lawyer for the proponent may cross-examine, followed by the other interveners who wish to cross-examine. The intervener may then be examined by the Secretariat and members of the Panel. Following cross-examination, the intervener is entitled to clarify any matters that arose during cross-examination.

Interveners not represented by a legal counsel will prepare and present their case to the Panel themselves. Interveners will make an opening statement to the Panel that describes the issues they will raise during the hearing. The statement should include the topics they intend to cover, an outline of the evidence to be introduced, and a list of witnesses to be called. Next, interveners will present their evidence, including calling any expert witnesses.

**Witness panels:** Evidence may be given by two or more witnesses sitting as a panel. Questions addressed to a witness panel may be directed at specific members of the witness panel or the witness panel in general. Members of a witness panel may confer among themselves. Where a question is directed at a specific member of a witness panel and that member is not able to answer the question because of a lack of knowledge or qualifications, the Panel may permit another member of the witness panel to answer the question.

**Rebuttal Evidence by Proponent:** Once the interveners’ presentations are completed, the Proponent may give evidence in response to issues raised by the interveners (rebuttal).

**Final Argument:** After rebuttal evidence is given, the proponent and all the interveners have the opportunity to submit their final arguments to the Panel. For final argument, the
Proponent goes first, followed by the interveners in order of registration. The Proponent is then given the opportunity to reply to the interveners’ final arguments. Argument is intended to summarize evidence, highlight the important aspects of the issues, state what the Panel’s recommendations and decision should be regarding the project and three wells application, and give supporting reasons.

**Closing of Hearing:** Following the final argument, the Chair of the Panel usually announces that the hearing is complete and that the recommendations and decision of the Panel and the reasons for it will be given at a later date. Within 90 days of the close of the hearing, a report will be written and presented to the Minister of the Environment and the Chair of the EUB for distribution to the Proponent and all interveners who participated in the hearing.
## Informal Hearing Procedures

### Commencement of Hearing
- October 16, 2008 / Evening (Calgary)
- October 20, 2008 / Afternoon (Medicine Hat)

### Panel Chair’s Opening Remarks
- Statement of purpose
- Introduction of Panel and Secretariat
- Presentation of procedural matters

### Presentation of Project by the Proponent
- Introduction of Proponent’s representatives
- Proponent’s presentation of the project
- Proponent’s presentation of key issues covered in the environmental assessment
- Questions of Proponent by interveners

### Interveners’ Presentations
- Introduction of intervener and its representative (if necessary)
- Presentation of submission by intervener
- Questioning of the intervener by the Proponent, interveners in order of registration, and Panel

### Response from the Proponent
- The Proponent may submit additional information to address new points raised during an intervener’s presentation
Filing of Submissions and Registration: Interveners wishing to make a presentation during the informal proceedings were asked to register by contacting the Panel Secretariat by February 18, 2008, at the address or phone number found at the end of this document. Those who did not register by February 18 may still do so by June 27, 2008. Interveners were required to identify the venue where they wish to make their presentation and whether they prefer making their presentation during a morning, afternoon, evening session or, for Calgary, an evening session or a Saturday.

Interveners who intend to file written submissions were asked to provide them by February 18, 2008. Supplemental or new submissions may also be filed by June 27, 2008. Submissions are available on the public registry for the project. Interveners may choose to submit a written brief only, and not to make an oral presentation at the hearing. Interveners may also choose only to give an oral presentation during the hearing.

Persons who do not register in advance but register just prior to or during a hearing session may still have an opportunity to address the Panel if time allows. The opportunity for persons who have not pre-registered to make a presentation will be at the discretion of the Panel Chair. Priority will be given to interveners who have registered in advance.

Opening Remarks: The informal hearing process begins with the Panel Chair making brief opening remarks. The Chair then explains the purpose of the hearing and introduces the members of the Panel as well as the Secretariat staff.

The Panel Chair will maintain order and ensure efficiency in a structured, but informal, atmosphere. Under these procedures, the hearing will not follow the strict procedure and evidence rules required by a court. For example, interveners will not be sworn in. The Panel encourages groups and individuals to speak on their own behalf, and to ask their own questions of other interveners at the hearing. Representation by legal counsel during the informal proceedings is not required.

More than one individual may participate in a presentation by an organized group. The Panel Chair may restrict presentations that are outside the mandate of the review or that may be repetitive or irrelevant. Presentations to the Panel can be made on any aspect within the scope of the review, unless the Panel has designated a specific subject for a specific session.

Presentation of the Project by the Proponent: The Proponent’s presentation will take place on the first day of the informal hearing sessions in each community where hearing sessions will be held. This presentation is intended to provide a general overview of the project, key issues about the project and its impacts, and EUB Application No. 1435831. Following the Proponent’s presentation, interveners will be able to ask questions of the Proponent. The order of questioning will be set by the Panel.

Intervener Presentations: Presentations by registered interveners will follow. A schedule of the order of presentations will be provided to the registered interveners a few days prior to the start of the hearing. This schedule will be updated as required and made available at the beginning of each session. Each intervener may be questioned immediately following his or her presentation. The order of questioning will be at the discretion of the Panel Chair but usually will be as follows: 1) the Proponent; 2) other registered interveners; 3) the general public; and 4) the Panel. However, Panel members
may ask questions at any time during the proceedings, especially to seek clarification on points made during a presentation.

**Questioning:** Questions are to be posed in a tone and style that are courteous to, and respectful of others. Clarity and brevity are encouraged. The purpose of the questions should always be to elicit information that will help the Panel understand more fully the issues that relate directly to its mandate. Question periods are not to be used as an opportunity to make comments or statements unrelated to the content of the presentation. When posing questions, interveners should identify themselves and their affiliation for the record.

The Panel Chair may exclude questions that fall outside the mandate of the Panel or that are repetitive or irrelevant.

**Response from the Proponent:** Following all of the interveners at each location the Panel may also hear from the Proponent who may wish to respond to issues raised by interveners during their presentations.

## Important Dates

- **Submissions Deadline:** February 18, 2008
- **Intervener Registration:** February 18, 2008
- **Supplemental or New Submission Deadline:** June 27, 2008
- **Proponent’s Response to Interveners’ Submission:** August 15, 2008

## Hearing Schedule

<table>
<thead>
<tr>
<th>Calgary</th>
<th>Medicine Hat</th>
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<tr>
<td>Energy Resources Conservation Board</td>
<td>Medicine Hat Lodge</td>
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<tr>
<td>Govier Hall, 640 – 5th Avenue SW</td>
<td>Saamis D Room, 1051 Ross Glen Drive SE</td>
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<tr>
<td><strong>Formal proceedings</strong></td>
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<tr>
<td>- October 6 to October 17, 2008 / 08:30</td>
<td><strong>Informal proceedings</strong></td>
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<tr>
<td>- to resume following the Medicine Hat</td>
<td>- October 20, 2008 /</td>
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<tr>
<td>proceedings</td>
<td>13:00 to 16:30 and 19:00 to 22:00</td>
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<tr>
<td><strong>Informal proceedings</strong></td>
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<tr>
<td>- October 16, 2008 / 19:00 to 22:00</td>
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<tr>
<td>- October 18, 2008 (Saturday)</td>
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<tr>
<td>09:00 to 12:00 &amp; 13:30 to 16:30</td>
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**Note:** The number of hearing sessions will be adjusted in accordance with the number of interveners registered for both the formal and informal proceedings.

For the formal proceedings, the Panel Secretariat will provide the order of presentation for the interveners but cannot offer guarantees on the exact date and time each...
Intervener will be called for a presentation. Interveners who will participate in the formal proceedings are encouraged to be present, to the extent possible, during the entire proceedings.

For the informal proceedings, the Panel Secretariat will provide a tentative schedule confirming a date and approximate time for presentations. Interveners are asked to identify the venue where they wish to make their presentation and whether they prefer making their presentation during a morning, afternoon, evening session or, for Calgary, during an evening session or on a Saturday.

Contact Information

To register as an intervener, to file a written submission, or obtain further information contact:

Jeff Davis, Panel Analyst
Joint Review Panel Secretariat
160 Elgin
Place Bell Canada, 22nd Floor
Ottawa, ON K1A 0H3
Tel.: (613) 948-1362
Fax: (613) 957-0941
E-mail: comments@SuffieldReview.ca

Public Registry

All materials received will be placed on the Canadian Environmental Assessment Agency public registry. The public registry contains all documents relating to the environmental assessment of the project and Application No. 1485831. The registry is available on the Internet at:

Interveners may also obtain documents contained in the public registry by contacting the Panel Secretariat to arrange for access.

No new information or comments will be posted on the public registry or considered by the Panel following the close of the hearing.

Interpretation

Interveners requiring interpretation must advise the Panel Secretariat at least 30 days prior to the hearing. The Panel Secretariat will make every effort to accommodate reasonable requests for interpretation.
Audio Visual Equipment

If audio-visual equipment is required for a presentation, the intervener should inform the Panel Secretariat when registering. Interveners should provide electronic presentations to the Panel Secretariat in advance of the hearing session so that the presentations may proceed without delay.

Media

Media are entitled to attend the hearing. However, no questions, filming, recording, or photographs will be allowed in the meeting rooms unless prior approval is obtained from the Panel Chair. Media interviews or reporting will not be allowed in the rooms where the hearing is taking place.

Media Requests: Media requests regarding the Panel’s activities should be directed to the Panel’s communications advisors:

Lucille Jamault
Senior Communications Advisor
Canadian Environmental Assessment Agency
Tel.: 613-957-0434
Cell.: 613-266-0208
lucille.jamault@ceaa-acee.gc.ca

Darin Barter
Senior Advisor
Energy Resources Conservation Board (ERCB)
Tel: 403 297-4116
Cell: 403-681-0946
darin.barter@ercb.ca

Transcripts

Written transcripts will be made of all oral proceedings, and will be made available to the public within a few days. The transcripts will be posted on the public registry.

An audio recording of each hearing session will also be made available on the public registry within a few days.