

C2C Report: Triage for Conflict

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C2C Backgrounder and Report

The Company-to-Company Dispute Resolution Task Force (“C2C”) will be finalizing our Report and Recommendations early in 2004. Since May 2002, this CAPL supported Task Force has made significant progress towards finding ways to empower the negotiator, align regulatory processes, create new contractual dispute resolution provisions and further encourage our industry towards interest based negotiation and appropriate dispute resolution. The C2C Task Force is a leader in ADR in North America by taking a business-focused leadership role in the development of industry productive ADR tools. With more than 70 industry professionals from land, engineering, law, accounting, administration, dispute resolution, planning and regulatory backgrounds, the C2C is expected to have a positive impact on the way our industry negotiates, manages and resolves our conflicts. Our line: “Transforming Conflict into Opportunity”.

The Task Force has substantially completed the creation of the Task Force Report and Recommendations. We are now working with individual companies to “test drive” some of the tools. In late January, we are planning to host a meeting with senior executive from the supporting associations and authorities to roll out the final draft Report and seek their further support. Those organizations are, the Alberta Energy and Utilities Board, the National Energy Board, the Canadian Association of Petroleum Producers, the Small Explorers and Producers Association of Canada, the Petroleum Joint Venture Association, the Canadian Association of Petroleum Land Administration, the Canadian Gas Processors Association, the Petroleum Accountants Society of Canada, the Canadian Bar Association ADR Sub-section and the Calgary Chamber of Commerce DR Committee.

C2C Tool Box: What’s In It For Me?

As a key negotiator for your company, you often encounter roadblocks, difficult situations, obstinate people, demanding project teams and situations where you may appreciate additional options to understand, evaluate and resolve these problems. The C2C Report will include techniques, tools, clauses and recommendations that will be useful to the negotiator.

For guidance, take a look at the draft 2004 CAPL Operating Procedure Dispute Resolution Article. This article provides a number of productive steps that can be taken to better understand the other party’s “position”, to seek common ground and to creatively resolve the conflict.

While we are all driven to high paced achievement of our corporate objectives, old fashioned face-to-face, trustworthy and clear communication is the basis of the C2C recommendations. What the EUB refers to as a Pre-ADR meeting (“PADR”), C2C also calls a Situation Assessment Meeting (“SAM”). The objective is to first understand the

issues and the alternatives before jumping to solutions. The S.A.M. is the triage to reduce time in the operating room (i.e. reduce time in court and minimizing avoidance).

Another new “tool” C2C has created for the Canadian petroleum industry is a Problem Solving Planner. This P.S.P. assists the negotiator to answer questions including;

- where are we in this negotiation?
- what got us to this point of disagreement?
- what are the interests of the parties?
- what are the challenges, hindrances/ barriers?
- what’s the appropriate process (es)?
- how can we quantify, risk and present value our various dispute resolution alternatives?
- what are the costs, time, personnel, big picture issues and likely outcomes involved in each?
- what are the opportunities from this conflict?
- what dispute resolution techniques, resources and processes are available to achieve success? And how may we measure success?

In the C2C Report, these and other tools are described in case studies and scenarios common to our daily work on operations, un-resolved audits, pooling, non-owner access to facilities and more.

The C2C Report also includes recommendations to the AEUB on improvements to their ADR Program, to reduce abuse of the regulatory process, toward making that process even more effective and efficient (time and money), to Enhanced Case Management and more.

Regarding non-owner/ owner access and usage disputes for production facilities. Our C2C JP 90/95 Committee is meeting with the CAPP, SEPAC, PJVA, CGPA and the AEUB toward improving industry understanding and usage of the JP 90/95 Report and to create a new dispute resolution process. When owners and non-owners are not able to reach agreement on a timely and reasonable (for both parties) basis, up to now the parties would request and prepare for an adversarial hearing at the AEUB. Ultimately, the AEUB would strongly encourage the parties to negotiate their own agreement. With the C2C recommendations the industry and AEUB is being encouraged to establish a more effective process to negotiate and, if required, to resolve these issues. If a DR process is taken further, the parties themselves will choose a facilitator, mediator and / or arbitrator. This may be one or more neutral third parties with expertise in the issues at hand and in ADR. The parties themselves will control the process and the decision (unless they opt for arbitration). The associations and regulatory authority will look for ways to ensure this process has clear rules and deadlines.

How may I learn more about the C2C Report specifics?

We plan to offer the Report on a new C2C website that will be linked to the CAPL website and other associations. We also plan to offer the printed binder for sale (cost recovery). And we are looking for ongoing opportunities to communicate the findings, processes, recommendations and tools to (and receive feedback from) industry. While the

Task Force will substantially complete our objectives by Q2 2004, an ongoing Standing Committee linked to the supporting organizations is being formed. We are always looking for feedback and new ideas and energy.

Who can I talk with to Find Out More?

Dave Savage, TriQuest Task Force Chair

Pat Forrest, NCR Management Éducation & Liaison Chair

Bill Remmer, AEUB Regulatory Alignment Team Chair

Jim MacLean, ChevronTexaco, Contractual Provisions Team Chair

Tim Robillard, Certus Strategies Guidelines and Procedures Team Chair

Carolyn Murphy, Stylus, CAPL Liaison

Kristy Halat and Jeff French - ChevronTexaco, James Armstrong- Harvard, Jenna Scott-

Find Energy and any of the other 70+ members of the Task Force.

How much has been invested to date?

Over the past twenty months, C2C has benefited from many thousands of volunteer hours, assistance from supporting organizations plus great member intellect and expertise; and not one dollar has been charged. We believe the C2C product will have a significant positive impact on how negotiators in our industry create value for all stakeholders (with lower cost and shorter timelines).

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