



Sirius Energy Inc.

Application for a Well Licence
Crossfield East

February 16, 2010

ENERGY RESOURCES CONSERVATION BOARD

Decision 2010-004: Sirius Energy Inc., Application for a Well Licence, Crossfield East

February 16, 2010

Published by

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ENERGY RESOURCES CONSERVATION BOARD

Calgary Alberta

**SIRIUS ENERGY INC.
APPLICATION FOR A WELL LICENCE
CROSSFIELD EAST**

**Decision 2010-004
Application No. 1607112**

1 DECISION

Having carefully considered all of the evidence, the Energy Resources Conservation Board (ERCB/Board) hereby approves Application No. 1607112 subject to the condition outlined in the report and summarized in [Appendix 2](#).

2 INTRODUCTION

2.1 Application

Sirius Energy Inc. (Sirius) submitted an application, in accordance with Section 2.020 of the *Oil and Gas Conservation Regulations*, for a licence to drill a vertical gas well from a surface location in Legal Subdivision (LSD) 10, Section 34, Township 27, Range 1, West of the 5th Meridian, to a projected bottomhole location in LSD 10-34-27-1W5M. The maximum hydrogen sulphide (H₂S) concentration would be about 10.1 moles per kilomole (1.01 per cent), and the cumulative drilling H₂S release rate would be 0.0294 cubic metres per second (m³/s), with a corresponding emergency planning zone (EPZ) of 0.18 kilometres (km). The purpose of this well is to obtain production from the Ellerslie Member. The proposed well would be located about 5.5 km north of Airdrie.

2.2 Interventions

803969 Alberta Ltd. (803969) had entered into a sale agreement with Robert Hunter, Jean Hunter, and Kenneth Hunter (the Hunters) for Section 34-27-1W5M. 803969 filed a submission raising concerns about health and safety, land development, environmental effects, and consultation.

The Hunters own Section 34-27-1W5M and objected to the proposed well location on their lands. Robert Hunter and Jean Hunter's residence is located at LSD 1-34-27-1W5M, about 0.83 km from the proposed project. The Hunters did not file a submission for or attend the hearing.

2.3 Hearing

The Board held a public hearing in Calgary, Alberta, which commenced and concluded on December 8, 2009, before Board Members J. D. Ebbels, LL.B. (Presiding Member) and T. L. Watson, P.Eng., and Acting Board Member J. Gilmour, B.A., LL.B. The Board panel and ERCB staff conducted a site visit of the general area on Monday, October 26, 2009. Those who appeared at the hearing are listed in [Appendix 1](#).

3 ISSUES

The Board considers the issues respecting the application to be

- location
- consultation
- pipelines
- proposed future developments
- site reclamation

In reaching the determinations contained in this decision, the Board has considered all relevant materials constituting the record of this proceeding, including the evidence and argument provided by each party. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Board's reasoning relating to a particular matter and should not be taken as an indication that the Board did not consider all relevant portions of the record with respect to that matter.

4 LOCATION

The Board finds that the location for the proposed well site is appropriate and is the preferred site, given that it has been previously disturbed by a now-abandoned well.

803969 argued that the site contained unique environmental features and that oil and gas development should not be permitted on the site. The features of concern included the McPherson Coulee and the presence of native prairie. However, 803969 indicated that as it had not conducted any site or vegetation inventories, it could not confirm the existence of native prairie, and it agreed that the proposed well site was recently cultivated and contained non-native hay. Sirius undertook a vegetation assessment that confirmed the existence of semi-native pasture on adjacent lands but not at the proposed well site or access road. Sirius also indicated that the proposed well site and access road were 750 m from the McPherson Coulee at their closest points. Sirius stated that it proposed to drill at LSD 10-34-27-1W5M (10-34) because a well at this site would minimize area impact (by constructing the lease at the same site as a previously abandoned wellbore) and would maximize economic recovery by using a vertical well to reach the target zone.

The Board does not dispute the view of the interveners regarding the environmental values of the site. However, it is not convinced that the proposed development would significantly affect the environmental amenities of Section 34. The Board agrees with Sirius that selecting a previously disturbed well site on cultivated land will reduce the environmental effects of this well. The Board finds that the proposed site in 10-34 will not affect native prairie or interfere with the McPherson Coulee or watershed values of Nose Creek.

803969 submitted that it was possible for Sirius to drill the well directionally from an alternative site and suggested that Sirius drill from LSD 2-2-28-1W5M (2-2). Sirius stated that it could not secure agreements from landowners for alternative drilling sites and that directional drilling would be more costly and technically difficult. Sirius stated that the proposed 2-2 well site was not owned by it and to drill from the 2-2 well site was economically prohibitive. The Board finds that 803969 did not provide sufficient evidence to prove that Sirius had an interest in a surface

lease at 2-2 in order to directionally drill to 10-34. The Board agrees with Sirius's testimony that directional drilling from the alternative sites proposed by the interveners would be more costly and in the case of the 2-2 site, uneconomical. Since Sirius could not obtain permission for an alternative well site, the Board believes that it is reasonable to locate the well at the preferred site. In addition, the location of the well at a pre-disturbed abandoned well site is preferable to locating the well at an alternative location.

5 CONSULTATION

The Board finds that Sirius has completed its consultation and notification requirements as deemed necessary in *Directive 056: Energy Development Applications and Schedules*. 803969 attempted to establish that Sirius did not engage in proper consultation with it or the Hunters. However, the Board finds that Sirius completed its due diligence for a participant involvement program with respect to the subject well application.

The Board also finds that 803969 did not initially engage in consultation with Sirius. Had 803969 engaged, there would have been better opportunity to discuss and integrate the development plans of the two corporations. 803969's refusal to engage in these initial discussions essentially negated the opportunity for any meaningful resolution of its issues. The Board is satisfied that Sirius made genuine attempts to engage with 803969.

The Board notes that Sirius attempted to explore alternative locations by contacting other landowners in the area, but was unsuccessful in securing a surface agreement with any party.

Counsel for 803969 asked the Board to draw an inference adverse to Sirius because no one from Meridian Land Services, the land consultant that undertook Sirius's consultation program, was called to testify regarding consultation efforts and contacts with other landowners. The Board declines to draw such an inference and considers Sirius to have put forth adequate evidence to demonstrate its consultation efforts and consideration of alternative sites.

5.1 Answers to Case Law

Counsel for 803969 relied upon several past Alberta Energy and Utilities Board (EUB) and ERCB decisions to support its position. Those decisions contain the following general propositions:

- a) i) The proponent of an application must comply with *Directive 056* and adequately consult with potentially affected parties.
 - ii) An applicant must consider all options to establish that the chosen location for a proposed project is the most appropriate one.
 - iii) A project must be in the public interest.
- b) An applicant must provide to the Board evidence sufficient to establish (a).

The Board accepts these propositions as being correct. At the same time, as discussed above, the Board is satisfied that the evidence put forth by Sirius does demonstrate that it adequately consulted with 803969 and the Hunters and that it undertook reasonable consideration of other sites. Further, the whole of the evidence demonstrates to the Board's satisfaction that this project is in the public interest and is situated at the most appropriate site.

With regard to the specific decisions in the cases provided by 803969, those decisions were based upon the particular facts before the Board in each instance. Those facts were not the same as those in the present matter and accordingly the results are different.

6 PIPELINES

The Board believes it is reasonable for Sirius to wait until it secures an agreement with a gas processor before applying for a pipeline licence.

803969 argued that a pipeline application should have been submitted by Sirius at the same time as the subject application. Sirius argued that it attempted to evaluate the potential of a pipeline to transport gas from its proposed well site to existing gas plants in the area operated by TAQA North Ltd. and Bonavista Oil and Gas Ltd. However, Sirius stated that it needed to drill and test the well to determine deliverability, composition, and pressure before it could enter into an agreement with either gas plant operator. As a result, Sirius stated that it could not confirm a pipeline route until it knew which processor would accept its gas.

The Board notes its preference for applicants to submit all related applications together, in order to be able to review them as a project. However, submissions of projects as outlined by the ERCB in *Directive 056* are an expectation and not a requirement. The Board finds that it was not reasonable for Sirius to consult with area landowners on a pipeline prior to the determination of an accessible gas plant. The Board notes that Sirius will be required to consult and discuss the potential routing of a future pipeline application with affected parties, including 803969, assuming that it continues to have an interest in the property.

7 PROPOSED FUTURE DEVELOPMENTS

The Board finds that 803969's vision of an equine-themed residential site is not specific enough to determine if the well site proposed by Sirius will be a detriment to its development plans. The Board acknowledges that 803969 is working toward a development plan, but it had no tangible documents, other than a conceptual plan, to present. The Board appreciates Sirius's difficulties in selecting a well location that is acceptable to the interveners in the absence of approved development plans. 803969 expressed the view that it did not want Sirius to develop a well anywhere on Section 34.

The Board notes that 803969 acknowledged its awareness that entering into a sale agreement for the subject lands did not provide it with any mineral rights. Further to this understanding, 803969 should have recognized that a surface development could arise from the acquisition of mineral rights.

The Board notes that both Sirius and 803969 agree that any residential development on the subject lands would require about four to five years of planning and another four years to secure approvals from Rocky View County. 803969 also testified that it had not consulted with area landowners regarding any future residential development. 803969 indicated that it had selected the site for development in part because there were no oil and gas developments on the property. The Board notes that the subject lands fall within the EPZ for the TAQA North Ltd. Crossfield / Lone Pine Creek / Irricana Gas Gathering System, but that 803969 has not taken that into consideration in its development plans. The Board finds it is not in the public interest to preempt

oil and gas development because of potential surface development somewhere into the distant future for which the required planning approvals have not been secured or sought.

803969 suggested that it might qualify for a transfer of development credits (TDC) scheme, as outlined in the *Alberta Land Stewardship Act*. The Board finds that there is no certainty that 803969 would be able to use future TDC through either the province or the municipality. The Board finds this plan extremely prospective and questions the significance of 803969's evidence.

8 SITE RECLAMATION

The Board notes that Sirius has a regulatory obligation to meet reclamation standards in place at the time that the well is abandoned and reclaimed, and it is satisfied that Sirius is aware of these requirements.

The Board directs Sirius to meet its commitment to complete a predisturbance site assessment as a reference for reclamation and to share this information with the landowners. The Board also encourages Sirius to reclaim all temporary workspace needed during the drilling of the well but not needed during operations as soon as possible.

9 CLOSING

Having weighed the evidence in this proceeding, the Board is satisfied that the well location proposed by Sirius is optimal. Further, the Board notes that 806939's vision is conceptual only and should not hold up other development plans, including the proposed well.

Dated in Calgary, Alberta, on February 16, 2010.

ENERGY RESOURCES CONSERVATION BOARD

<original signed by>

J. D. Ebbels, LL.B.
Presiding Member

<original signed by>

T. L. Watson, P.Eng.
Board Member

<original signed by>

J. Gilmour, B.A., LL.B.
Acting Board Member

APPENDIX 1 HEARING PARTICIPANTS

Principals and Representatives (Abbreviations used in report)

Witnesses

Sirius Energy Inc. (Sirius)

M. Niven

L. Grice

L. Robertshaw

B. Hebner, P.Geol.

R. Hall,

of Canada Country Marketing Inc.

803969 Alberta Ltd. (803969)

J. Gruber

A. Grach

A. Ryz

K. Beunder,

of Longview Planning and Design

Energy Resources Conservation Board staff

M. LaCasse, Board Counsel

J. Petersen

J. FitzGerald

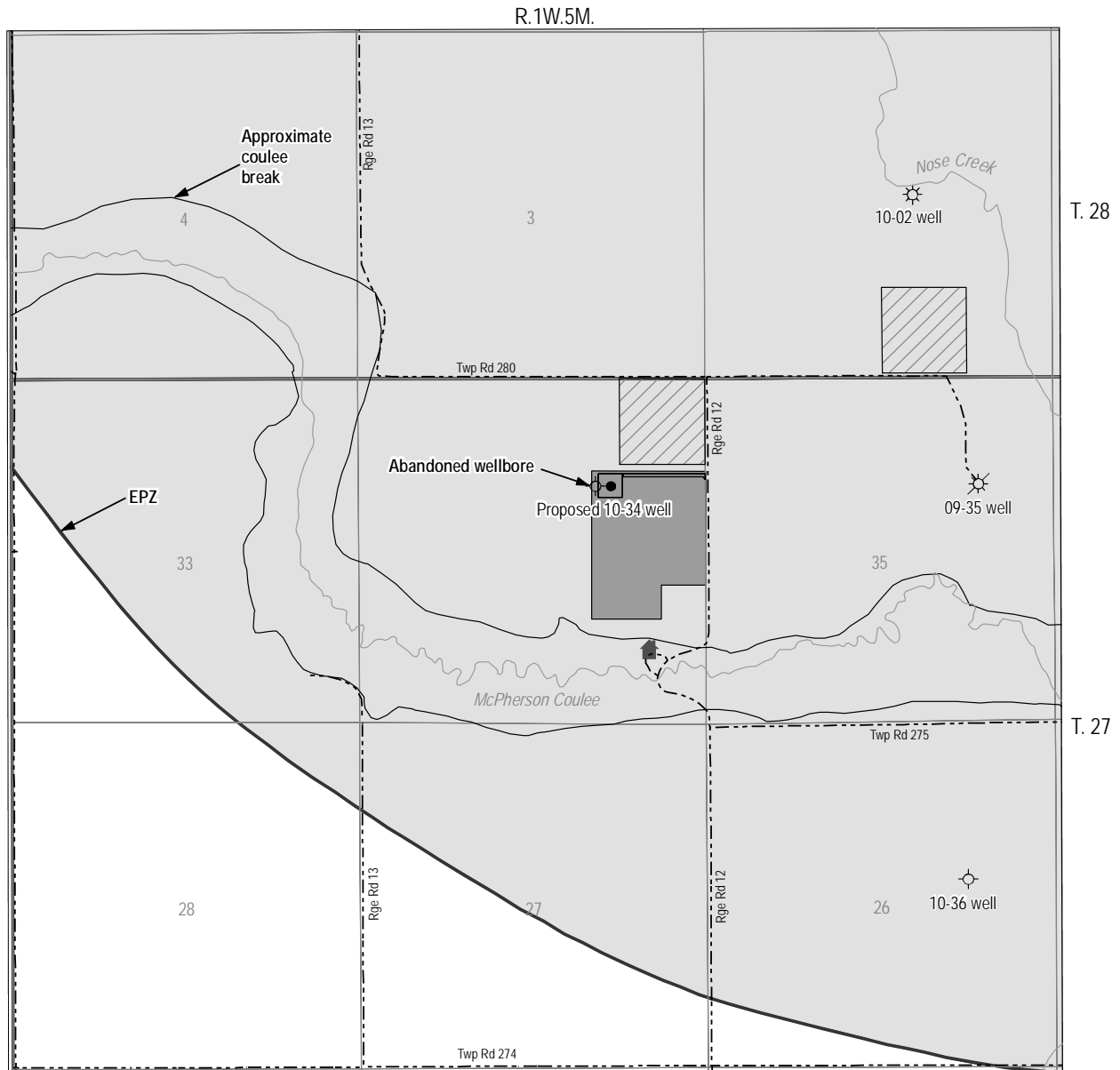
B. Greenfield

APPENDIX 2 SUMMARY OF CONDITION

Conditions generally are requirements in addition to or otherwise expanding upon existing regulations and guidelines. An applicant must comply with conditions or it is in breach of its approval and subject to enforcement action by the ERCB. Enforcement of an approval includes enforcement of the conditions attached to that licence. Sanctions imposed for the breach of such conditions may include the suspension of the approval, resulting in the shut-in of a facility. The condition imposed on the licence is summarized below.

CONDITION

- The Board directs Sirius to conduct a predisturbance site assessment as a reference for reclamation and to share this information with the landowners.



Legend











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|---|------------------------|---|--|
|  | Proposed well and site |  | Access road |
|  | Gas |  | Alternate well site surface location |
|  | Abandoned |  | EPZ for TAQA North Ltd. Crossfield / Lone Pine Creek / Irricana gas gathering system |
|  | Suspended gas |  | Cultivated |
|  | Residence |  | Road |

Figure 1. Proposed well site