

ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

OLYMPIA ENERGY INC.

SECTION 42 REVIEW

WELL LICENCE NO. 0155130

OLYMPIA ET AL JUMP 8-17-26-5

Examiner Report 98-11

Proceeding No. 980488

1 INTRODUCTION

1.1 Application and Background

Well Licence No. 0155130 was issued to Canadian Hunter Exploration Ltd. (CHEL) on 11 December 1992 to drill a well from a surface location in Legal Subdivision (Lsd) 2 of Section 17, Township 26, Range 5, West of the 5th Meridian to a bottom-hole location in Lsd 8 of Section 17, Township 26, Range 5, West of the 5th Meridian. The well site is located on freehold land owned by Mr. Harvey Dippel and Ms. Valerie Beaton. The well site configuration, eastern access road and road maintenance conditions were negotiated and agreed to by Mr. Dippel, Ms. Beaton, and CHEL.

The Alberta Energy and Utilities Board (the Board) transferred the well licence from CHEL to Olympia Energy Inc. (Olympia) on 7 June 1996 and approved a well name change to OLYMPIA ET AL JUMP 8-17-26-5 (the 8-17 well). On 12 August 1997, Mr. Dippel and Ms. Beaton agreed to the assignment of the original Surface Lease Agreement (the Agreement) from CHEL to Olympia.

On 9 February 1998, Olympia notified Mr. Dippel and Ms. Beaton that Olympia intended to commence entering the well site from the western boundary of the lease. On 5 May 1998, Olympia cut two fences and constructed a new access road across Mr. Dippel's residence access road (driveway). Mr. Dippel objected to the western access to the lease and viewed it as a violation of the Agreement. Mr. Dippel subsequently requested that the Board review the matter. The Board granted Mr. Dippel's request for a review of well Licence No. 0155130, pursuant to Section 42 of the Energy Resources Conservation Act. A representation of the lease and associated features are shown on the attached Figure.

1.2 Hearing

A public hearing to review the original well licence application was held in Calgary, Alberta, on 30 October 1998, before Board appointed examiners W. G. Remmer, P.Eng., G. A. Habib, and H. W. Knox, P.Eng. At the hearing all parties concurred with a request for an adjournment to allow for the review of additional evidence presented by Olympia. The hearing was subsequently reconvened in Cochrane, Alberta, on 5 November 1998. Prior to the hearing and with the consent of both parties, the examiners and the Board staff viewed the site on 30 September 1998. Those who appeared at the hearing and abbreviations used in this report are listed in the following table.

THOSE WHO APPEARED AT THE HEARING

Principals and Representatives (Abbreviations Used in Report)

Witnesses

Olympia Energy Inc. (Olympia)
T. Owen

P. Salamon
N. George
P. Trautman

Mr. Harvey Dippel and Ms. Valerie Beaton (Mr. Dippel)*
B. K. O’Ferrall

H. Dippel
V. Beaton (nee Weis)

TransAlta Utilities Corporation (TransAlta)

G. McCormick

Canadian Hunter Exploration Ltd. (CHEL)**

R. Mumby

Alberta Energy and Utilities Board staff
S.H.B. Smith
L. Wilson-Temple
T. Donnelly, Counsel
D. Brezina, Counsel

* For brevity the evidence of both Mr. Dippel and Ms. Beaton will be referred to as the evidence of Mr. Dippel.

** CHEL registered at the hearing on 30 October but did not appear at the reconvened hearing on 5 November.

Canadian Pacific Railways (CPR) filed a written submission but did not participate in the hearing.

2 ISSUES

The examiners consider the issues to be:

- the need for a well licence amendment application,
- the access to the 8-17 well site, and
- other matters.

3 NEED FOR A WELL LICENCE AMENDMENT APPLICATION

3.1 Views of Olympia

Olympia submitted that because the Board does not issue well licences that specifically prescribe the route and construction of the access road for a well site there is no need for the Board to

address this issue. Olympia maintained that the Agreement provides recourse to alter access to the well site.

Olympia explained that all construction for the new western access road has taken place on land owned by TransAlta, for which it has a signed road use agreement and on the well site area that it continues to lease from Mr. Dippel. Olympia stated that it was unaware of any agreement that reduced the size of the well site lease by excluding Mr. Dippel's driveway from the lease area. Further, Olympia believed that its newly constructed western access road did not adversely affect Mr. Dippel's driveway or trespass on his land. Olympia also contended that Mr. Dippel consented to a western access to CHEL in a letter dated 24 April 1995 and that this letter was part of the Agreement assigned to Olympia.

Olympia stated that it had complied with the requirements of the Agreement by providing Mr. Dippel with notice on 9 February 1998 for change of use on the lease as required in clause 14 of the Agreement. Olympia confirmed it was aware of Mr. Dippel's opposition to the change in access, however it believed that it provided him with ample time to pursue an arbitrated resolution as provided for in the Agreement. When Mr. Dippel did not pursue this remedy Olympia proceeded to cut the western boundary fence to provide an additional access to the lease. During cross-examination Olympia acknowledged that it was uncertain as to who actually owned the fence that it cut to gain access to the 8-17 well.

Olympia maintained that, as it was acting within the confines of the Agreement, it did not require and as a result did not request a well licence amendment from the Board.

3.2 Views of Mr. Dippel

Mr. Dippel stated that CHEL abided by the conditions of the Agreement and operated the site to his satisfaction during its tenure. Mr. Dippel stated that he did not and would not agree to the revisions to the lease site and access route requested by Olympia as these revisions would negatively impact his privacy, access to his property, and impact his roads and land. Mr. Dippel stated that without his consent to the revisions requested by Olympia to the site access, Olympia must make application to the Board to amend its well licence.

Mr. Dippel emphasized that he and Ms. Beaton entered into the Agreement with CHEL for the 8-17 well only after CHEL agreed to their conditions pertaining to the route of the access road, lease site location, site construction, and road maintenance. It was Mr. Dippel's view that strict adherence to these conditions is required to address his concerns about privacy at his property, road use, and road maintenance. Mr Dippel contended that neither he nor Ms. Beaton would have consented to a well on their property had these conditions not been in place and honoured by the lessee.

Mr. Dippel submitted that there was a "gentleman's" agreement between himself and CHEL to reduce the size of the lease and refence the lease after the drilling of the well was complete. As Mr. Dippel accesses his property primarily from the west, he maintained that refencing the lease allowed for his driveway to be isolated from the well site and protected from any disturbance by

activity on the lease. Mr. Dippel maintained that, while the interior lease fence was constructed and owned by CHEL (later transferred to Olympia), he owned the fence separating his property from TransAlta lands to the west.

Mr. Dippel stated that the letter dated 24 April 1995 was merely a commitment by CHEL to undertake any road maintenance on the western access route between Ghost Dam and the 8-17 well western lease boundary. Mr. Dippel explained that the commitment was made by CHEL when it was temporarily using the western access route while a CPR crossing on the eastern access road was being rebuilt. Mr. Dippel was adamant that the letter dated 24 April 1995 did not constitute an amendment to the Agreement.

Mr. Dippel stated that he wanted Olympia to abide by the terms of the Agreement by accessing the well site from the east and maintaining the eastern road in accordance with the Agreement.

At the close of the hearing Mr. Dippel sought an interim direction from the Board, pending a decision, and requested that the Board either suspend the well licence or require Olympia to adhere to the Agreement by accessing the well site only from the east.

3.3 Views of TransAlta

TransAlta expressed no views on this issue.

3.4 Views of the Examiners

The examiners have considered the information submitted by Olympia and Mr. Dippel and are concerned with the manner in which Olympia has proceeded with respect to its responsibilities under the Agreement. It is clear from the evidence of both parties that Mr. Dippel did not approve of the revisions to the Agreement requested by Olympia and that Olympia ignored Mr. Dippel's concerns when it proceeded to revise its access to the lease by cutting a fence it did not own.

While both parties have varying interpretations and opinions regarding the exclusion of Mr. Dippel's driveway from the original lease it is clear in the Agreement that the driveway was to be left undisturbed by the actions of the tenant. Contrary to this however, it is apparent to the examiners that some vehicular disturbance of the driveway will occur if access using the western route is continued.

The examiners note that the letter dated 24 April 1995 refers only to road maintenance and does not specifically discuss authorization to access from the west. Therefore the examiners believe that the letter does not constitute consent or approval by Mr. Dippel to a change in access to the lease or a change to the Agreement.

The examiners believe that the Agreement between CHEL and Mr. Dippel was signed in good faith and after considerable negotiation to address Mr. Dippel's concerns. The examiners note that Olympia assumed the responsibilities and obligations pursuant to the Agreement when it purchased the property. The examiners accept Mr. Dippel's evidence that at no time did he agree to Olympia's requested changes.

While the examiners acknowledge that well licences issued by the Board do not append survey plats identifying lease locations and access roads, approval of the applied-for lease locations and access roads is deemed to have been granted with the approval of the well licence. The examiners emphasize that the Board's records must accurately depict the configuration of the lease, access road, and topographical features within 200 metres of the well location. Therefore, the Board expects licensees to submit changes and amend the well file when significant revisions occur to the configuration.

The examiners believe that when an access road is required, and where there is no agreement between the parties involved, the Board may prescribe that access. In the majority of circumstances, the Board accepts the agreements reached between parties who are involved with, and impacted by the routing and details of construction of an access road. However, section 14.1(1) of the Oil and Gas Conservation Act confers on the Board the authority to prescribe an access route, and it does so when there is no agreement between the parties, or in rare circumstances, when their agreement is not in the public interest. The examiners believe that neither of these instances obviates the need for a well licence amendment either by formal application when the parties do not agree or by submission of a revised lease survey map when the parties do agree. The examiners therefore conclude that Olympia required a well licence amendment application to revise the access to the well site.

In considering Mr. Dippel's request that the Board suspend the well or direct that access occur only from the east, the examiners believe that the Board requires much of the information from the hearing to decide on the request. Therefore, the examiners concluded that the most effective approach to address Mr. Dippel's request and provide both parties with a timely decision was to direct this matter in its entirety to the Board recommending the request for interim relief be denied in favour of an expedited decision.

4 ACCESS TO THE 8-17 WELL SITE

4.1 Views of Olympia

Olympia submitted that it forecasted a need to access and produce the 8-17 well until the year 2010 and that access from both the east and the west is necessary to accommodate its operations. Olympia indicated that due to load weight and length restrictions on the Ghost Dam road, the eastern access was required for occasional large scale servicing and workovers of the 8-17 well. It stated that daily access from the west was required for changing gas meter charts, monitoring

methanol consumption, and liquids loading in the wellbore. Olympia also confirmed that less frequent maintenance included pigging an Alberta Natural Gas Ltd. high vapour pressure pipeline and supplying methanol to the well site.

Olympia submitted that the methanol it transported across the dam was toxic, flammable, and a hazardous good. During cross-examination it also acknowledged that the transportation of the methanol over the dam appeared to contravene its road use agreement with TransAlta.

Olympia stated that it accessed the site from the east since April of 1996 in order to prevent any confrontation with Mr. Dippel, and continued to do so until April of 1998 when it constructed a new access to the lease. Olympia stated that prior to April 1998 it approached Mr. Dippel in many ways to secure an approval for western access using the portion of Mr. Dippel's road along the southern boundary of the well site. As no agreement could be reached Olympia decided to access the well site directly across the western boundary.

Olympia stated that its primary concern resulting in the need for access to the well site from the west, is safety. It submitted that a long, steep hill on the eastern access makes daily use of the road hazardous during inclement weather. Olympia stated that to its knowledge no road maintenance standard had been developed between CHEL and Mr. Dippel and as a result it maintained the eastern access on an "as required" basis throughout the year. It also acknowledged that Mr. Dippel regularly expressed dissatisfaction with the condition of the roads.

Olympia also stated that its Wildcat Hills/Bottrel Field is being developed north of the Bow River, which makes accessing the 8-17 well (located south of the river) via the eastern access route time consuming. Olympia maintained that access from the east required the operator to travel from north of Ghost Dam, east into Cochrane then west toward the dam. This amounted to a total round trip of approximately one and one half-hours longer than the western route across the dam. Olympia stated that along the eastern road it held or had pending valid road use agreements or approvals from the Municipality of Rockyview, the Stoney Indian Band at Morley, Shell Canada Ltd., Petro-Canada, TransAlta, and Mr. Dippel.

Olympia stated that in the case of an emergency, the access that provides the fastest response based on the equipment required is the access that would be used.

4.2 Views of Mr. Dippel

Mr. Dippel stated that Olympia has neither the right nor his consent to access the well site via the western access route under the terms of the Agreement. Mr. Dippel maintained that unless Olympia has his consent to access from the west, or consent to revise the Agreement, Olympia should abide by the conditions of the Agreement and use the eastern access provided for in that agreement.

Mr. Dippel also contended that access to the well site via the eastern access is not a safety issue if the road is properly maintained. Mr. Dippel submitted that in his experience as a road maintenance operator, if properly maintained, the eastern access road would not pose safety concerns materially different than the western route. More importantly, Mr. Dippel considered the transportation of methanol across the dam to be a greater safety risk than transporting the same material down the hill on the eastern access road.

Mr. Dippel expressed numerous concerns with Olympia's operation of the 8-17 well. These concerns included leaving gates open which allows cattle to wander out of the property, leaving the barbed wire gates down endangering cattle safety, trespassing, and failing to address noise from the site in a timely fashion. Mr. Dippel submitted that the construction of the western access road changed the drainage pattern on his property such that on two separate occasions his residence access road was subjected to erosion. Mr. Dippel further stated that despite the construction of the new western road Olympia continues to use the portion of road south of the well site for convenience as there are no gates to open and close when accessing the site. Additionally, Mr. Dippel stated that Olympia failed to adequately maintain the eastern access road, and that even when Olympia undertook snow grading it resulted in blocking his access to his corral.

Mr. Dippel advised that he had no concerns regarding which access would or could be used in case of emergency. Mr. Dippel agreed with Olympia that the most efficient and effective manner of access should be utilized during an emergency and was not restricted by the Agreement.

4.3 Views of TransAlta

TransAlta did not offer an opinion on the need for an alternate access nor on the merits of a western route to the 8-17 well site. TransAlta confirmed that it owned the lands directly to the west of Mr. Dippel's property. TransAlta submitted that both Mr. Dippel and Olympia have road use agreements in place over the western access route through its property. TransAlta also submitted that Mr. Dippel has a grazing lease with TransAlta for the lands east of Ghost dam and west of his property.

TransAlta stated that it would make the superintendent of the dam site aware of the transportation of methanol across the dam. TransAlta maintained that it included a clause in its road use agreements to preclude the transportation of hazardous goods and to address potential liability in the case of an accident. TransAlta also confirmed its road use agreement with Olympia precluded the transportation of hazardous goods across the dam. In response to cross-examination, TransAlta was unsure as to whether it would permit the continued transportation of methanol over the dam.

4.4 Views of the Examiners

The examiners note that all participants agreed that an eastern access route is required due to vehicle restrictions over the dam. The examiners believe that the transportation of methanol across the dam is a significant safety issue that is neither prudent nor apparently permitted by the TransAlta road use agreement. The examiners also note that there was some discussion about increased risk to the operator when travelling down a steep hill on the eastern access under inclement weather conditions. A safety hazard could also exist for the methanol truck and other equipment travelling this route and therefore, the examiners believe that proper road maintenance and speed controls are essential and should be implemented to minimize the safety risk. The examiners conclude that the eastern access is required and as such must be maintained by Olympia in accordance with the conditions outlined in the Agreement.

In evaluating the need for a western access route the examiners considered Olympia's evidence on the improved operational efficiencies and safety and compared this to the increased impacts on Mr. Dippel's operations. The examiners accept that the western access route may provide Olympia with improved operational efficiencies given the current configuration of its operations north of the river. However, the examiners also note that the company was able to access the well site, on a daily basis, using the eastern access for a year and a half. The examiners agree that Mr. Dippel has been unduly impacted by Olympia's actions to access the well site directly from the west. These impacts include the cutting of Mr. Dippel's fence, additional gates, and erosion and damage to the driveway. Therefore, the examiners conclude that the gains in Olympia's operations do not outweigh the impacts on Mr. Dippel's operations.

The examiners believe that because there is currently no provision for a western access, that any change should be negotiated with Mr. Dippel. Further, Olympia must establish and abide by a road maintenance standard consistent with the Agreement and developed in consultation with Mr. Dippel.

During the hearing it became apparent to the examiners that in an emergency situation it might be difficult for equipment and personnel to access the well site. While equipment weight or size does not restrict access along the eastern route there are padlocks on the CPR track crossing gates that would impede access for equipment and personnel. Similarly, a locked gate restricts the western access across the dam. The examiners believe that it would be prudent for Olympia to undertake discussions with affected parties to formalize a process to ensure emergency equipment can access the site.

5 OTHER MATTERS

The examiners are concerned with the deterioration in relations between Mr. Dippel and Olympia since the time it assumed ownership of the 8-17 well. Mr. Dippel indicated that good relations existed with CHEL and that CHEL adhered to the terms and conditions of the Agreement. The examiners believe that the onus is on Olympia to address the concerns of the landowner and minimize any impacts. The examiners also believe that Olympia did not fully

appreciate the importance to Mr. Dippel of a configuration that separated its well operations from his daily activities.

The examiners agree with Olympia that this proceeding will not improve the working relationship or deal with the continuing mistrust that each party has developed for the other. The examiners believe that Olympia must begin discussions at a senior level with Mr. Dippel (if necessary involving a third party) to understand his concerns and begin to make adjustments that will lead to mutual understanding and the building of trust between Olympia and Mr. Dippel.

6 RECOMMENDATION

The examiners recommend that Well Licence No. 0155130 remain in good standing on the condition that Olympia access the 8-17 well from the east, as set out in the survey plan attached to the well licence application, immediately repair the western fence and reclaim the western access road by 30 June 1999.

Dated at Calgary, Alberta, on 2 December 1998.

ALBERTA ENERGY AND UTILITIES BOARD

<Original signed by>

W. G. Remmer, P.Eng.

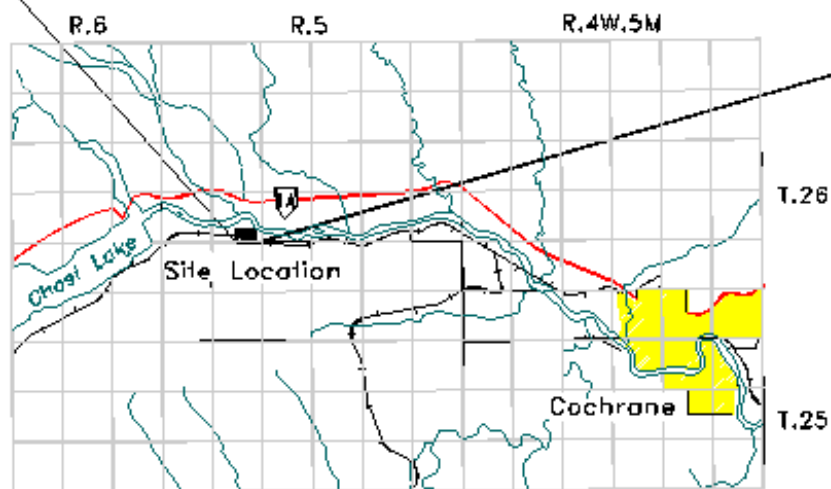
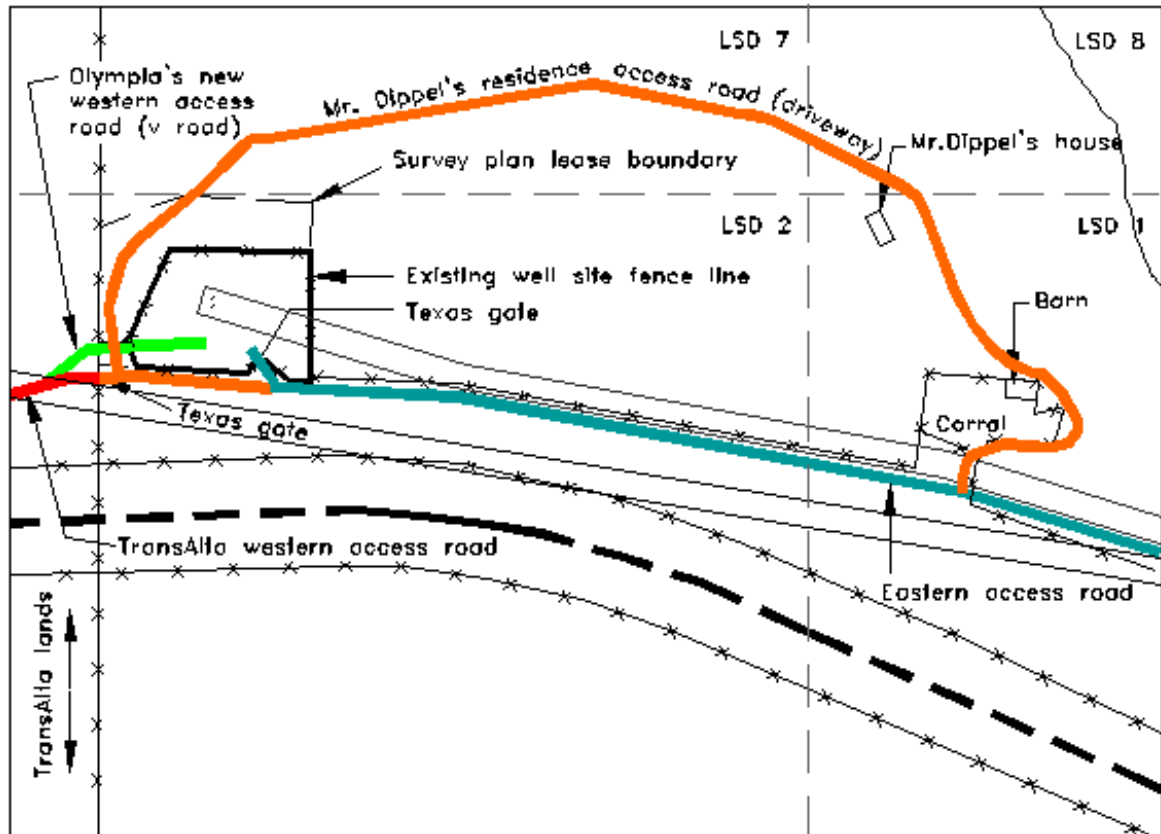
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H. W. Knox, P.Eng.

SE 17-26-R.5W.5M



Site Location Map

WELL SITE ACCESS ROAD
 PROCEEDING NO. 980488
 OLYMPIA ET AL JUMP 8-17-26-5