

**ALBERTA ENERGY AND UTILITIES BOARD**

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Calgary Alberta

**CAPRICE HOLDINGS INC.**

**APPLICATION TO CONSTRUCT AND OPERATE  
AN OILFIELD WASTE MANAGEMENT FACILITY  
IN THE BRAZEAU/ELK RIVER AREA**

**Decision 98-11  
Application No. 970378**

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**1 THE APPLICATION AND HEARING**

Caprice Holdings Inc. applied, pursuant to section 26 (1)(g) of the Oil and Gas Conservation Act and Guide 58, *Oilfield Waste Management Requirements for the Upstream Petroleum Industry*, for approval to construct and operate an oilfield waste management facility proposed to be located in Legal Subdivision (Lsd) 11, Section 3, Township 47, Range 11, West of the 5th Meridian (Lsd 11-3-47-11W5M). The applicant proposed to locate the facility on a site adjoining its approved custom treating operation. Figure 1 shows the general area of the proposed site, Figure 2 shows the relevant stratigraphy of the site, and Figure 3 shows the layout of the proposed facility.

The waste processing facility would process approximately 300 cubic metres per month ( $m^3$ /month) of solids, 350  $m^3$ /month of produced water, and 350  $m^3$ /month of oily waste from the Brazeau/Elk River area. The products resulting from the treatment process would be clean oil (pipeline quality), produced water, and residual solids/sludges. Clean oil would be trucked to a pipeline terminal, the produced water would be deep-well disposed at a nearby disposal well, and the residual solids/sludges would be filter pressed and disposed in an approved landfill.

Byram Industrial Services Ltd., P. Kalita, and the Pembina Institute for Appropriate Development (PIAD) submitted interventions expressing concern and opposition to the application. A public hearing of the application was originally scheduled for 18 February 1998 in Drayton Valley. As a result of a request from Byram Industrial Services Ltd. for an adjournment, the Board rescheduled the hearing to commence 26 February 1998, before Board Members J. D. Dilay, P.Eng., F. J. Mink, P.Eng., and Acting Board Member E. A. Shirley, P.Geol..

Those who appeared at the hearing and abbreviations used in this report are listed on the following table:

## **THOSE WHO APPEARED AT THE HEARING**

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### Principals and Representatives (Abbreviations Used in Report)

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Caprice Holdings Inc. (Caprice)  
B. K. O'Ferrall

Byram Industrial Services Ltd. (BISL)  
R. K. Bodnarek

P. Kalita

Pembina Institute for Appropriate Development (PIAD)  
R. Macintosh

Alberta Energy and Utilities Board staff  
D. F. Brezina  
B. A. Austin, P.Geol.  
D. J. Meier, C.E.T.

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### Witnesses

D. Bauman  
G. MacDonald, P.Eng.  
B. Visser, Visser Consulting Ltd.  
B. Underwood, AGAT & Associates  
P. Deroche, AGAT & Associates  
G. Lee Chee, AGAT & Associates

C. E. Moell, P.Geol.,  
C. E. Moell & Associates Ltd.

R. Macintosh  
C. Baker

Mr. Kalita did not submit any evidence, but participated in the hearing for purposes of cross-examination and argument only.

## **2 PRELIMINARY MATTER - STANDING OF PARTIES**

### **2.1 Views of Caprice**

At the opening of the hearing, Caprice challenged the standing of the parties objecting to the application, and questioned how they would be directly and adversely affected by the proposal. Caprice asserted that none of the parties would be affected.

### **2.2 Views of the Interveners**

BISL indicated that it had a long-standing corporate presence as a waste processing operator in the community and employed a number of people who live in the community. It added that it was also an active participant in the development of Guide 58, and had an interest in seeing that the spirit and intent of Guide 58 was adhered to in licensing of waste management facilities. BISL submitted that the question of its standing was moot as the Board had already recognized its standing by granting an adjournment of the hearing at its request.

Mr. Kalita submitted that he is a concerned citizen of the area. He stated that the well known Brazeau recreational facility and campground that he uses is in close proximity to the proposed site, and questioned whether the two facilities were compatible.

PIAD also submitted that this question was moot and stated that it has approximately 30 members who live in the Drayton Valley area and who make extensive use of the Brazeau recreational site. It maintained that some of its members are actually located within a few kilometres of the proposed site, and on an individual basis, have concerns about the application. PIAD indicated that it had an interest in protecting the general public interest of balancing environmental protection and energy development needs. It expressed concern about certain precedents in the application which would have general effects on the order and nature of oil and gas development in the area. PIAD also expressed concern that the applicant appeared to be lowering the standards for oilfield hazardous waste management. It stated that PIAD had a long-standing entitlement before the Board to bring forward concerns that affected its members and the general public regarding mitigation of damage from energy development activities.

### **2.3 Views of the Board**

Section 29 of the Energy Resources Conservation Act provides that, when it appears to the Board that its decision on an application may directly and adversely affect the rights of a person, the Board shall give that person notice of the application and an opportunity to learn the facts, present relevant evidence, cross-examine if necessary, and make argument to the Board regarding the application. The Board takes the view that the entitlement to notice and hearing provided by this section is clearly limited to persons whose rights, in the Board's view, may be directly and adversely affected by its decision. The Board takes the view that it is not required to provide notice and hearing to all persons who simply develop an interest in an application.

Having said that, the Board also believes that, when it is compelled to hold a hearing for persons whose rights may be directly and adversely affected by its decision on an application, it may allow the participation of others who raise issues which may be of interest and assistance to the Board.

After hearing from all the parties at the opening of the hearing, the Board decided that BISL was a party whose rights may be directly and adversely affected by its decision and would therefore be entitled to participate in the hearing. With respect to Mr. Kalita and PIAD, the Board noted that, while they are in the area and they appeared to have issues which may be of interest and assistance to the Board, their standing was less certain. However, given that the Board intended to proceed with the hearing, it allowed Mr. Kalita and PIAD to participate.

## **3 ISSUES**

The Board has reviewed all aspects of the application and finds it generally meets the technical and environmental requirements under the statutes. Particular issues that need to be addressed are:

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- C need for the proposed facility,
- C location and impact of the proposed facility,
- \$ adequacy of public consultation, and
- C other matters.

## **4 NEED FOR THE FACILITY**

### **4.1 Views of Caprice**

Caprice stated that over the last few years customers had approached it indicating that a new waste management facility was needed in the Brazeau/Elk River area. It was on that basis that Caprice decided to site a facility in that area. Caprice also submitted a cursory market survey done by its staff which it believed supported its conclusion that a new facility was needed. Given the level of drilling in the area, Caprice argued that there was sufficient business in the area to sustain an additional facility.

### **4.2 Views of the Interveners**

BISL questioned if the market survey conducted by Caprice was statistically valid and supported a need for the proposed waste management facility.

Mr. Kalita and PIAD did not question Caprice with respect to the need for the facility.

### **4.3 Views of the Board**

The Board believes that waste management facilities are an important and integral part of orderly operation in the industry. The Board also accepts that the waste management industry is growing at a significant rate to keep pace with the general growth in the oil industry. The Board is satisfied that there is sufficient need in the area to justify another facility.

## **5 LOCATION AND IMPACT OF THE PROPOSED FACILITY**

### **5.1 Groundwater**

#### **5.1.1 Views of Caprice**

Caprice submitted that the location and impacts of the proposed facility were addressed by its application and supplementary information. It believed that it conducted an appropriate site assessment in accordance with Guide 58 and that the results of the site assessment confirmed the suitability of the proposed location.

Caprice investigated a number of prospective sites in the general Brazeau/Elk River area for the proposed facility. It indicated that, during its initial screening process for a suitable site, several test pits were dug at the proposed site and all encountered clay. On this basis, Caprice

commenced a site-specific assessment of the proposed site. The applicant acquired stratigraphic and hydrogeologic information from three monitoring wells (Figure 3) installed on the periphery of the proposed site. The wells were completed to depths of between 7.5 and 9.0 metres and encountered clay to total depth. Using this information, in addition to the information from the test pits, Caprice interpreted that the impermeable clay layer extended across the entire site.

Caprice noted that stabilized water levels in the three monitoring wells ranged from 3.38 to 7.34 metres below ground level. It used this information to determine that the direction of shallow groundwater movement in the clay is to the southeast at a gradient of 0.027, away from the creek located north of the proposed facility. Caprice believed that the proposed facility did not pose any environmental risk to this creek.

Using the Bouwer-Rice method, Caprice calculated the hydraulic conductivity (ability to transmit water) of the clay as low, ranging from  $5.51 \times 10^{-6}$  to  $3.78 \times 10^{-7}$  centimetres per second (cm/s). Caprice translated this into an average linear velocity of  $1.75 \times 10^{-9}$  cm/s (0.055 cm/year), but then revised it to  $1.75 \times 10^{-7}$  cm/s (5.5 cm/year), upon discovery of a clerical error. Regardless of this revision, Caprice maintained that the geologic material underlying the site affords excellent natural protection to the underlying aquifers from any detrimental effects of the waste processing facility.

Caprice also indicated that it had the following nine levels of protection integrated into its facility design to protect groundwater:

- C 4.9 metres of clay underlying the site,
- C synthetic liners under storage areas,
- C clay berms around tanks - overlain with synthetic liner,
- C 3-metre clay berm around the site perimeter/site grading to containment basin - site berm exceeds requirements,
- C monitoring under liners to verify integrity,
- C leachate collection under liner in solids storage area,
- C leachate monitoring under liners,
- C monitoring wells up and down gradient for groundwater protection, and
- C on-site runoff pond capable of containing the volume of runoff generated during a one in ten-year, twenty-four hour storm, plus two times the volume of all the on-site inventory.

Caprice clarified that the leachate collection system referred to in its nine levels of protection is actually a leak detection system designed to monitor leakage through the liner, not to collect leachate above the liner.

Caprice acknowledged that it erred in its application by citing a southwestern direction of surface run-off, but indicated that it would revise its surface run-off collection strategy.

### 5.1.2 Views of the Interveners

BISL submitted that Caprice's site assessment did not provide sufficient information for the Board to make a decision on the suitability of the site. It stated that the application contained numerous errors and inconsistencies, and did not accurately describe the geology and hydrogeology underlying the site.

BISL commented that, although Caprice's regional hydrogeologic review showed a significant regional aquifer underlying the site, the site-specific assessment did not include an investigation of possible impacts of the proposed facility on this aquifer. BISL said that this omission was a serious flaw in the application. On the basis of its review of the application and supplementary information, BISL argued that Caprice had not conducted an appropriate site assessment according to Guide 58 because possible impacts to the regional aquifer had not been identified.

Additionally, BISL noted that Caprice did not incorporate geologic information from its existing water well report into its site-specific assessment report. BISL noted that the water well report described the geology beneath the site beyond the depth of investigation of the site-specific assessment, including the depth of the regional aquifer. BISL also noted that the description of the shallow geologic materials differed between the water well report and the site assessment report. BISL explained that the water well report identified the material from ground surface to 5.8 metres as clay, and between the depths of 5.8 to 27.4 metres as silt, contrary to the site assessment report which described the strata to approximately 9.0 metres as clay. Further, BISL commented that the field methods used to determine the composition of the geologic materials were less comprehensive in the site assessment report. BISL explained that this difference in composition is significant because silt has a higher hydraulic conductivity than clay, and therefore, would not afford the level of natural protection against contamination asserted by Caprice.

BISL used the Hvorslev method to recalculate hydraulic conductivities of  $10^{-5}$  cm/s from Monitoring Wells 2 and 3 slug test data. In its view, the hydraulic conductivities cited by Caprice were not typical for the time taken to complete the slug tests. BISL also stated that the Hvorslev method is better suited to the evaluation of fine-grained material than the Bouwer-Rice method used by Caprice, and that hydraulic conductivities in the order of  $10^{-5}$  cm/s are more typical of silt than clay. BISL believed that this evidence confirmed that the description of the geologic material in Caprice's site assessment report was incorrect.

BISL indicated that it did not analyze the data from the slug test performed on Monitoring Well 1 because the data for this test was not collected over a long enough period of time to enable analysis by the Hvorslev method. BISL said that Caprice had not adequately determined the hydraulic properties of the surficial material at Monitoring Well 1 because the test ended prematurely due to an equipment failure. BISL believed that the test should have been rerun prior to the conclusion of the site assessment. However, BISL allowed that the recovery rate of the water level during this test suggested that the hydraulic conductivity at this well is lower than at Monitoring Wells 2 and 3. As well, BISL believed that Caprice had not defined the position of

the water table in the area of the solids storage pit, and that the base of the pit could in fact be below the water table.

Mr. Kalita questioned Caprice regarding the type of expertise used to generate the site assessment report, and the number of errors in it.

PIAD raised concerns that the water table could be impacted by leakage from the solids storage pit, and believed that a design capacity of 9600 cubic metres ( $m^3$ ) was excessive when the annual predicted volumes were only 3600  $m^3$ .

### **5.1.3 Views of the Board**

While Guide 58 is not specific, the Board expects waste management facilities to be sited in areas offering some level of natural protection against contamination. The Board notes that Guide 58 requires a suitable site assessment, such that a proposed facility can be designed to mitigate against adverse environmental impacts. The Board accepts that the necessary mitigative measures will vary depending on the characteristics of each site. In the Board's opinion, Caprice's application meets the minimum site assessment requirements of Guide 58.

However, the Board is disappointed with the seemingly ad-hoc approach used by the applicant in preparing the necessary documentation for this application. Although Caprice appeared to have a general understanding of the shallow geology and hydrogeology, it did not ensure that all available geological information was incorporated into the site assessment.

The Board also questions the apparent lack of attentiveness with which this application was prepared and the qualifications of those who prepared it. It notes the incomplete slug test data and reoccurring arithmetic errors in calculating aquifer parameters. Also, the inability of the applicant to respond to questions regarding methodologies employed in evaluating the slug test data raises serious questions by the Board about the criteria relied on by the applicant in evaluating the site.

After evaluating all the slug test data, the Board accepts BISL's hydraulic conductivity values of  $10^{-5}$  cm/s for Monitoring Wells 2 and 3. The hydraulic conductivity is one to two orders of magnitude higher than the values supplied by Caprice, and also indicates that the material tested is more silty in nature than described by the applicant. While the Board acknowledges that the level of natural protection afforded by the native materials is less than maintained by Caprice, it finds the site acceptable with the implementation of an enhanced groundwater monitoring program to ensure the regional aquifer is protected.

## **5.2 Air Emissions**

### **5.2.1 Views of Caprice**

Caprice believed that it had addressed concerns regarding any air emissions. It noted that the material it would accept at the facility would be dead oil, resulting in minimal vapour emissions.

In addition, a vapour recovery unit at the site would recover any vapours collected in the receiving tanks and route them to a flare stack where they would be combusted. Caprice did not believe that incineration, as proposed by the interveners, was a reasonable option because of the low pressures and volumes that it expected would exist.

### **5.2.2 Views of the Intervenors**

BISL and Mr. Kalita did not pose questions to Caprice related to air emissions.

PIAD was concerned with the amount of volatile organic compounds (VOCs) that could be emitted from the proposed site. It indicated that it supported the use of vapour recovery units, but said that the destruction efficiency of flares ranges from 65 to 85 per cent, depending on the flare design, and as a consequence, undesirable compounds are emitted to the atmosphere. PIAD wanted to see the vapours deep-well disposed, or in the alternative, incinerated to ensure complete destruction of vapours.

### **5.2.3 Views of the Board**

The Board notes that recent research has shown that the combustion efficiency in some flares is lower than had been assumed in the past. In addition, the Board notes that there is significant public pressure to reduce the amount of flaring in the province. In response, the Board and the industry is involved with other interested stakeholders to develop strategies to reduce flaring.

In the case of the subject application, the Board does not believe that the levels of VOCs or other compounds generated at the site will present an adverse impact to the environment or the community. Accordingly, and having regard for the relative remoteness of the facility, the Board is prepared to allow the vapours to be flared. If the volumes of vapours were to increase significantly, or if odours or other problems occurred, the Board would review the situation.

## **5.3 Proximity to Recreation Area**

### **5.3.1 Views of Caprice**

Caprice indicated that the Brazeau Dam recreational area was approximately seven kilometres away from the facility, and believed that it would not prevent local residents from enjoying the area. Caprice stated the facility had nine levels of containment to protect the soils and groundwater from contamination, as well as a vapour recovery system to address potential air emissions. On the basis of these measures, it did not believe there would be any environmental impact to the surrounding area.



### **5.3.2 Views of Interveners**

BISL did not comment on the proposed facility's location with respect to the Brazeau recreation area.

Mr. Kalita was concerned that the proposed facility was too close in proximity to the Brazeau Dam recreational area, and that the application did not address environmental impacts to this area.

PIAD stated that it represented approximately 30 members who make extensive use of the Brazeau recreational area, and questioned whether flaring and groundwater impacts may affect the area.

### **5.3.3 Views of the Board**

The Board believes that, because of the distance between the Brazeau Dam recreational area and the proposed facility, and having regard for the design features aimed at limiting air emissions and groundwater impact, the proposed facility will have no adverse impact on the recreational area, or the people frequenting it.

## **6 ADEQUACY OF PUBLIC CONSULTATION**

### **6.1 Views of Caprice**

Caprice said that the proposed waste management facility was situated in a remote area, away from any residents. It identified the Tall Pine Timber Company as the closest neighbour, about four kilometres away, and said that it had checked the municipal records and did not find any listing of a resident on that site. Caprice indicated that, once it realized that people were living on the site, it immediately contacted them to inform them of the proposed operations. Caprice was also able to provide a signed letter from the Tall Pine Timber Company indicating it had no concerns with the proposed facility. As no other people live in close proximity, it believed that it had conducted appropriate public consultation.

Caprice also noted that it had met with a representative of PIAD to discuss its proposal, but found those discussions to be less productive than it anticipated.

### **6.2 Views of the Interveners**

BISL and Mr. Kalita did not question Caprice regarding its public consultation process. PIAD believed that it should have been consulted earlier in the planning stage of this proposal. It indicated that it is the voice of the community and while it is not opposed to development, believed that it could provide input into the application to satisfy its members' concerns early in the process.

### **6.3 Views of the Board**

The Board believes that, considering the nature of the area in which the waste facility is proposed to be sited, Caprice conducted an adequate public consultation program. The Board notes that Caprice contacted the people at the lumber operation nearby and determined that they had no objection to the proposed facility. The Board notes that Caprice conducted meetings with the Municipal District and PIAD as well.

In addition, the Board believes that a public consultation program must have regard for the size and nature of the proposed facility, and for the nature of the area. In this case, the Board believes that the facility is relatively small and that it should be innocuous. Therefore, the Board does not believe that a broader program was necessary.

## **7 OTHER MATTERS**

The Caprice application and subsequent interventions raised issues respecting the Board's application process and information requirements. The issues included:

- C the applicant's interpretation of the Board's expectations for completeness and accuracy of an application,
- C the need for an EIA,
- C initiation of facility construction prior to Board approval, and
- C the role of interveners in the application process.

### **7.1 Completeness and Accuracy**

#### **7.1.1 Views of Caprice**

Caprice indicated that it was aware of the application process and information requirements, but in this instance believed that it was appropriate to submit most of the general data initially, and provide further detailed technical information (i.e., the hydrogeological assessment) as it became available. Caprice stated that it had all of the required information in place by the end of October 1997 which it believed met or exceeded the requirements of Guide 58. Caprice believed that it had a well-conceived facility plan that would pose the least impact on the environment and no impact to the people of the area.

#### **7.1.2 Views of the Interveners**

BISL was very critical of the applicant's approach to this application. It believed that application requirements outlined in Guide 58 are the minimum standards required to construct an oilfield waste management facility. BISL believed that the initial application was deficient and the application as submitted at the hearing did not meet the minimum requirements. Specifically, it submitted that Caprice failed to collect the necessary information with which to conduct a reasonable assessment of site suitability for the proposed facility. BISL noted numerous

typographical errors in the application and believed the application was deficient or incorrect with respect to the need for the facility, site assessment, and potential environmental impact.

Mr. Kalita questioned the qualifications of Caprice's panel. He argued that there was a lack of technical information provided, and that both the application and hydrogeological report contained multiple errors.

PIAD believed that site selection information was lacking and potential environmental impacts had not been discussed or assessed. In addition, PIAD said that the application was unclear, contained numerous errors, and did not describe a viable final disposition for the solid waste treated at the facility. PIAD believed that the application did not meet minimum requirements established by both industry practice and regulations. PIAD also requested that the Board clarify its practices with regard to allowing incomplete applications to proceed to the stage of public notice.

### **7.1.3 Views of the Board**

The Board agrees that applications filed without required information are incomplete. At the time of filing, Caprice indicated that the hydrogeological assessment was in the process of being prepared, and that it would be submitted prior to the notice being issued. On that basis, the Board decided to start a preliminary review of the application and began the process of issuing notice.

Therefore, the Board believed the application contained sufficient information at the time of filing to proceed with its review. After the Board's initial review, it requested additional information, which is often done. However, the Board recognizes the questionable data and degree of incompleteness in this instance may be more than it normally likes to accept. Having said that, however, the Board is still satisfied that it is able to render a decision on the application given the information contained within the application and input from participants at the hearing.

The Board noted numerous typographical errors throughout the application, but did not consider this as a sufficient reason to return the application. Once Caprice submitted the hydrogeological assessment, a more detailed review showed that some of the typographical errors were significant. In addition to the errors found by the Board in its review, other additional errors were identified during the course of the hearing. However, the Board is satisfied that the hearing process adequately addressed the deficiencies so that it could render its decision.

The Board acknowledges PIAD's concern with incomplete applications going to the public notice stage. The Board's long-standing policy is to return or reject seriously incomplete applications. However, when applications present a good measure of the data required, but require supplementary information to complete the process, it is more typical for the Board to issue a deficiency letter to the applicant to outline the information required before processing of the application will resume. Although there are base information requirements that apply for every application, the Board decides case-by-case when it requires additional information. With

respect to the subject application, the Board believes that it had enough information to advertise the application to alert potentially-impacted parties about the project and to determine if there were any concerns that had not been identified or addressed in the application. The Board sees no need to modify its application process as a result of this application.

## **7.2 Need for an EIA**

### **7.2.1 Views of Caprice**

Caprice maintained there was no need for an EIA for this application. As required by Guide 58, Caprice advised Alberta Environmental Protection (AEP) of its proposal and confirmed that this type of facility is not on the mandatory EIA list, but can be handled under the jurisdiction of the EUB. Caprice said that it had not sent a copy of the application to AEP, but had a telephone conversation about its proposal with an AEP official. Contrary to expectations by some interveners, Caprice noted that AEP did not intend to issue written confirmation that an EIA was not required. Accordingly, Caprice believed that no EIA would be required under the Alberta Environmental Protection and Enhancement Act (AEPEA).

### **7.2.2 Views of the Intervenors**

BISL questioned Caprice as to the nature of its discussions with AEP related to the need for an EIA.

Mr. Kalita did not pose questions to Caprice regarding the need for an EIA for the proposed facility.

PIAD believed that Caprice had taken a piecemeal approach to the process by applying separately for the disposal well, custom treating operation, waste management facility, and landfill. It suggested that this strategy afforded Caprice the opportunity to avoid conducting an integrated EIA and associated public and regulatory scrutiny. It believed that Caprice should have filed one integrated application. It believed that the applicant had not followed the procedure outlined in Guide 58 to determine if an EIA was required. It maintained that the Director of Environmental Assessments for AEP should have been provided with a copy of the application, and argued that, since Caprice had not done this, it did not adequately address the need for an EIA. In PIAD's view, a letter from the Director was needed indicating that an EIA was not required. PIAD argued that oilfield waste should be regulated in a manner which is equivalent to industrial waste under AEPEA.

### **7.2.3 Views of the Board**

The Board is satisfied that Caprice made a reasonable effort to determine if an EIA was required and that the approach is entirely consistent with Guide 58. While the Board believes that an EIA is not required for facilities of this type, the Board requires sufficient environmental information to satisfy itself that any impacts will be appropriately mitigated. In summary, the Board believes that oilfield waste is being regulated in a manner consistent with AEPEA.

## **7.3 Construction Prior to Approval**

### **7.3.1 Views of Caprice**

Caprice acknowledged that the applied-for facilities had already been constructed. Caprice contended that the tanks and the process used for custom treating and water disposal were the same equipment that would be used in the waste management facility. Caprice noted that construction of the extra tankage for the waste management facility did not commence until the end of October 1997, when the Board had advertised the application for objections. Caprice anticipated that the approval would be granted shortly after expiration of the notice period, and therefore, started construction to avoid problems associated with freeze-up.

### **7.3.2 Views of the Interveners**

In its closing argument, BISL was critical of comments made by Caprice claiming that site construction was not premature, but rather needed for the custom treating facility.

Mr. Kalita expressed concern that the waste management portion of this facility had been constructed prior to an approval being granted by the Board.

PIAD expressed some concern over construction of the Caprice facility prior to approval, noting that site preparation and installation of extra tankage for the waste treatment segment had already been completed. PIAD noted that this industry practice was becoming more frequent and could be viewed as potentially prejudicial to any decision rendered by the Board and a threat to the integrity of the Board's public review process. PIAD requested that this matter be specifically addressed in the Board's decision.

### **7.3.3 Views of the Board**

On principle, the Board believes that all facilities under its jurisdiction should be properly licensed before any field development takes place. The Board accepts that certain components of a custom treating facility would be common to a waste management facility. In this case, it is apparent that the installation of the extra tankage is for the exclusive use of the waste management facility. While the Board understands the applicant's concerns with respect to finishing the construction prior to freeze-up, it expects applicants to recognize such factors as timing of facilities and risk of regulatory delays in the licensing process. It is clear that under the

provisions of the Oil and Gas Conservation Act, no person shall commence construction of a waste management and disposal facility unless the Board has approved the location and construction of the facility. In this instance, the consequences of early construction are relatively insignificant given that the site had been developed for the custom treating operation. Notwithstanding, the Board believes that the regulations are very clear on the need for licensing and expects that all operators will comply regardless of circumstance. The Board intends to review its process to assure future compliance.

#### **7.4 Role of the Interveners**

The Board notes that, although the interveners asserted that they would be directly and adversely affected by the proposed project, they did not put forward, in their submissions, or during the course of the hearing, any substantive evidence to demonstrate to the Board that they are affected. The submissions tended to be in the form of questions, argument and their interpretation of the Board's guidelines or processes to handle applications. The Board found little substance in these submissions that would assist in making a decision in this instance.

The Board believes that the participation of interveners in the hearing process is most effective when their positions are directly related to how the issues raised by the application will affect them. That did not occur in this case.

### **8 DECISION**

Having regard for all of the evidence, the Board is prepared to approve Application No. 970378 for a waste management facility in Lsd 11-3-47-11 W5M subject to the following conditions in addition to those listed in the approval:

- 1) Groundwater monitoring conditions:
  - C nested piezometers completed in the surficial material shall be completed adjacent to existing Monitoring Wells 1 and 3, such that the vertical hydraulic gradient can be determined,
  - C piezometers shall be installed on the south and east sides of the solids storage pit. These piezometers shall be screened across the water table,
  - C a slug test shall be performed on Monitoring Well 1 and all of the new piezometers, and all piezometers shall be sampled as per Guide 58, and
  - C the applicant shall submit the results of the expanded groundwater monitoring program, including a re-evaluation of the geology and hydrogeology of the site, which includes new and existing information, prior to commencement of operation of the facility.

- 2) Solids storage pit:
- C only solids defined in Guide 58 shall be placed in the solids storage pit; slurried mixtures are not acceptable,
  - C the pit shall be cleaned and inspected annually to ensure pit integrity,
  - C the associated leak detection system shall be checked monthly to ensure there is no leakage, and
  - C the EUB Drayton Valley Field Centre shall be informed two working days prior to annual pit clean out.
- 3) Surface runoff containment:
- C the operator is required to satisfy the EUB that the surface water runoff management system is appropriate for the site prior to commencement of operations.

Dated at Calgary, Alberta, on 12 June 1998.

**ALBERTA ENERGY AND UTILITIES BOARD**

*<Original signed by>*

J. D. Dilay, P.Eng.  
Presiding Member

*<Original signed by>*

F. J. Mink, P.Eng.  
Board Member

*<Original signed by>*

E. A. Shirley, P.Geol.  
Acting Board Member

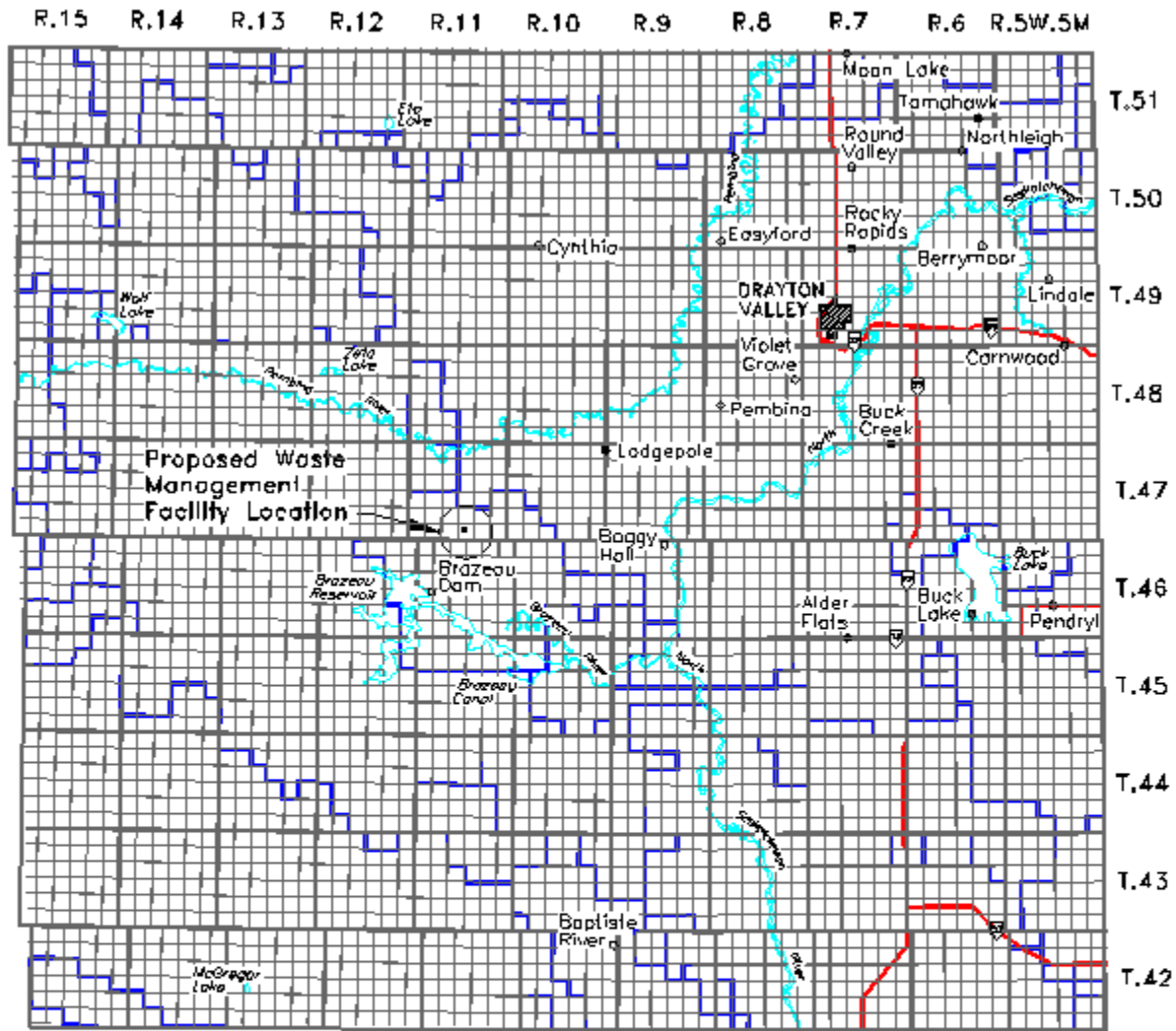


Figure 1  
Application No. 970378  
Caprice Holdings Inc.

Decision 98-11



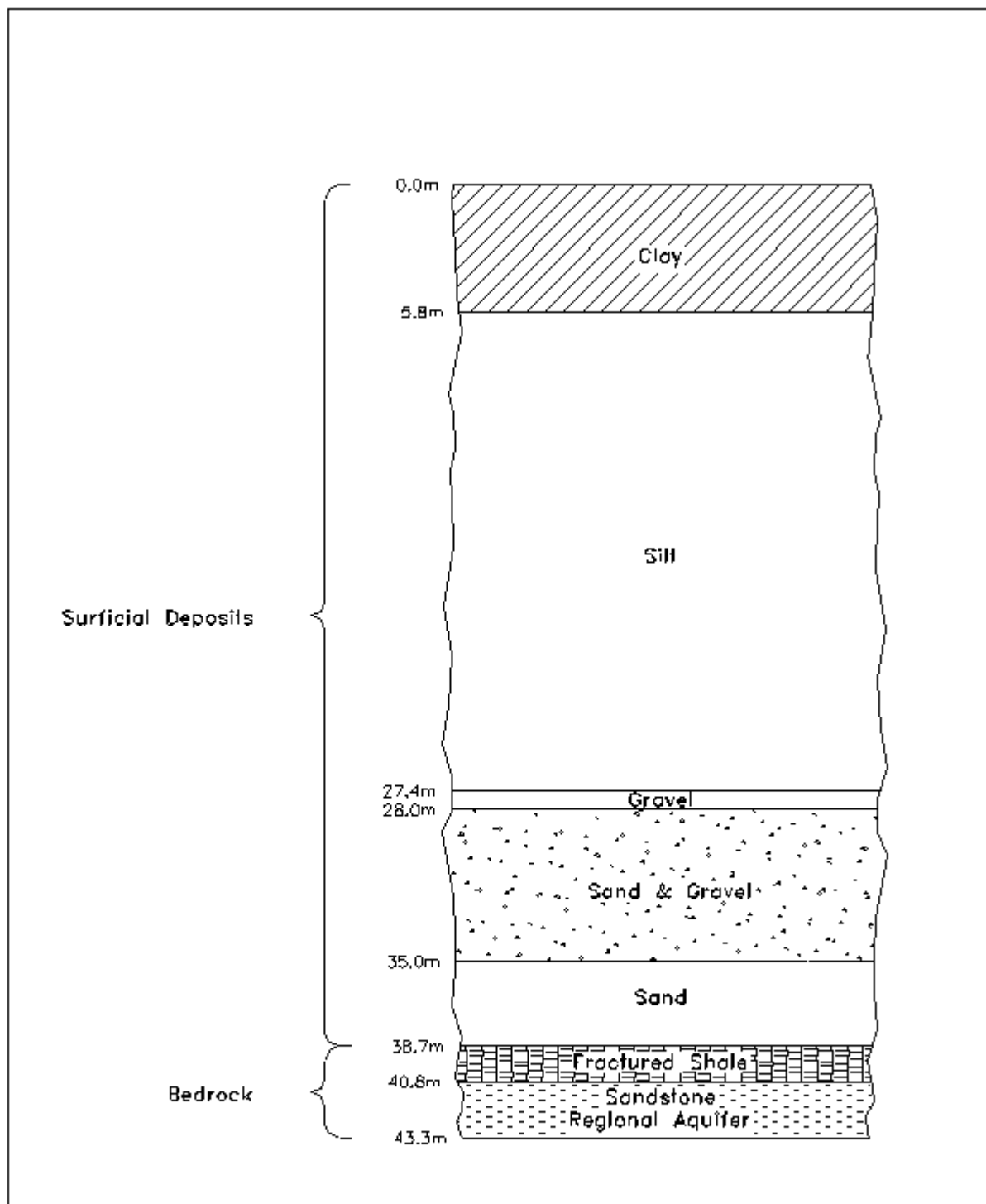
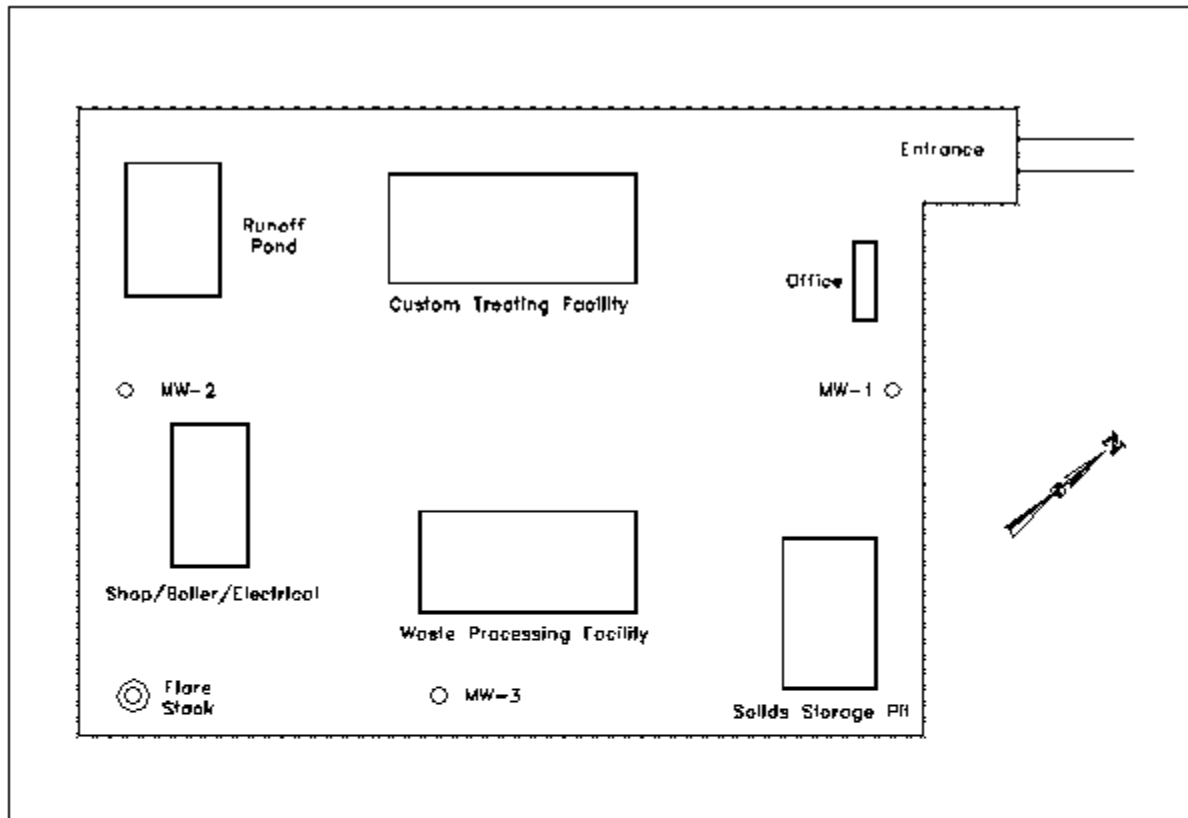


Figure 2

Stratigraphy of Site as per Komex International  
 Report, Nov 97  
 Application No. 970378



Legend

MW Monitoring Well

Figure 3

Plot Plan

Application No. 970378

Caprice Holdings Inc.

Brazeau/Elk River Waste Processing Facility

LSD 7-3-47-11W5M

Decision 98-11