



Imperial Oil Resources Limited

Applications for Well Licences and Pipelines
Bantry Field

May 2, 2006

ALBERTA ENERGY AND UTILITIES BOARD

Decision 2006-037: Imperial Oil Resources Limited, Applications for Well Licences and Pipelines,
Bantry Field

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Published by

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

**IMPERIAL OIL RESOURCES LIMITED
APPLICATIONS FOR WELL LICENCES
AND PIPELINES
BANTRY FIELD**

**Decision 2006-037
Applications No. 1392129,
1392133, 1392135, 1392138, 1392145,
1392147, 1392149, 1392156, 1392157,
1392160, 1392167, 1392175, 1392180,
1392183, 1392185, 1392189, 1392190,
1392192, 1392193, 1392195, 1410231,
1392206, 1392207, 1392208, 1392209,
1392210, 1392211, 1392214, and 1392426**

1 DECISION

For the reasons provided below, the Alberta Energy and Utilities Board (EUB/Board) is satisfied that the subject applications meet regulatory requirements and that their approval is in the public interest. The Board hereby approves applications No. 1392129, 1392133, 1392135, 1392138, 1392145, 1392147, 1392149, 1392156, 1392157, 1392160, 1392167, 1392175, 1392180, 1392183, 1392185, 1392189, 1392190, 1392192, 1392193, 1392195, 1410231, 1392206, 1392207, 1392208, 1392209, 1392210, 1392211, 1392214, and 1392426.

2 INTRODUCTION

2.1 Applications

Imperial Oil Resources Limited (Imperial) applied to the EUB for authorization to drill 28 wells to produce natural gas from the Milk River, Medicine Hat, and Second White Speckled formations. The gas produced is expected to contain 0.00 mol/kmol (0 per cent) hydrogen sulphide (H₂S). Imperial also applied to construct and operate 28 pipeline segments to tie in the above-noted wells into existing infrastructure. The pipeline segments all have an outside diameter of either 73.0 or 88.9 millimetres (mm) and vary in length from 0.08 to 0.58 kilometre (km). The project area is about 2 km east of the Hamlet of Patricia and located within Townships 19 and 20, Range 12, West of the 4th Meridian. The attached map shows the location of the proposed wells and pipelines in relation to the project area.

2.2 Interventions

On February 8, 2006, the EUB received a collective submission from the Patricia Area Residents and Landowners Association (PAL), a group of area landowners. Additionally, Darrell Owen, Warren Fukuda, Guy Fukuda, Firmin Declercq, Norman Musgrove, Bruce Musgrove, Ross Owen, John Irwin, Warren Henry, Doug Gray, Todd Irwin, Julie Irwin, and Bruce Beasley also made individual submissions. All of the above individuals, with the exception of Warren Fukuda and Ross Owen, own land that the applied-for wells and pipelines would be located on. The interveners' concerns related generally to historical disagreements with Imperial over operational and compensation-related matters.

2.3 Hearing

The Board initially scheduled a public hearing to be held in Brooks, Alberta, on January 10, 2006. On December 20, 2005, the Board received a request from the interveners for a rescheduling of the hearing. Imperial agreed with the request, and the Board granted an adjournment to February 22, 2006. On January 24, 2006, the Board received another request for rescheduling and, with input from Imperial, granted a second adjournment to March 2, 2006.

The EUB held a public hearing in Brooks, Alberta, on March 2, 2006, before Board Members J. R. Nichol, P.Eng. (Presiding Member) and T. M. McGee and Acting Board Member D. K. Boyler, P.Eng. Prior to the opening of the hearing, the Board conducted a tour of the general area where the wells and pipelines would be located. Those who appeared at the hearing are listed in the appendix. The Board considers the record for this hearing to be closed on March 2, 2006.

3 BACKGROUND

3.1 Appropriate Dispute Resolution

The parties engaged in appropriate dispute resolution (ADR) prior to the hearing, which resulted in the signing of a cooperative agreement that established a communication protocol to deal with operational and other issues.

4 ISSUES

The Board considers the issues respecting the applications to be

- ongoing operations and compensation
- site-specific concerns
- Imperial's representation at the hearing

The Board notes that the interveners did not question the need for the wells or the pipelines and that only a few of the interveners provided site-specific concerns related to the applications in question. As such, the Board accepts that Imperial requires the applied-for wells and pipelines to produce its minerals.

5 ONGOING OPERATIONS AND COMPENSATION

5.1 Views of the Intervenors

The interveners stated that their overriding concern about the subject applications was their general mistrust of Imperial. The interveners testified that this mistrust was generated by Imperial's historical lack of response to operational problems on their lands and by dissatisfaction with Imperial's historical approach to addressing matters of compensation for the use of their lands.

5.1.1 Operational Concerns

Regarding operational concerns, the interveners cited the following examples from existing Imperial facilities:

- trespass off rights-of-way, leases, and lease roads
- damaged cattle guards and Texas gates
- improperly maintained fences
- washed-out culverts not being promptly repaired
- unmarked low-lying pig traps
- gates being left open allowing cattle to roam free

The interveners stated that Imperial was not diligent in providing a timely response to their concerns and that Imperial provided no response at all to some of the above matters. However, some of the interveners confirmed that Imperial had very recently taken steps to address their outstanding operational concerns.

5.1.2 Compensation Concerns

The interveners all stated that they had issues stemming from compensation matters. While they understood that compensation is outside the Board's jurisdiction, they maintained that the concern they were bringing before the Board was Imperial's attitude when discussing damages or negotiating or renegotiating surface leases.

The interveners cited frustration about Imperial's reluctance to negotiate lease rental renewals or payment for certain operational issues. They provided examples of lease rental renewals with Imperial being unresolved for as long as 10 years and argued that these examples demonstrated Imperial's unwillingness to even attempt to negotiate compensation matters.

The interveners stated that one source of frustration was that Imperial's field staff and landmen did not have sufficient decision-making authority to address their concerns. They noted that when Imperial's field staff attempted to respond to a settlement-related request, the ultimate answer from Imperial's head office was usually that the matter should be resolved by the Surface Rights Board.

The interveners stated that while these issues were essentially compensatory in nature, they had also significantly contributed to an erosion of trust in Imperial. They argued, however, that the issue was really not about dollar values but more about Imperial's unwillingness to negotiate settlement of any sort. Some of the interveners noted that out of a large number of companies they had had land dealings with, Imperial was one of the few that would not negotiate lease renewals without the Surface Rights Board being involved. The interveners suggested that the EUB should be in attendance at all Surface Rights Board hearings.

5.2 Views of the Applicant

5.2.1 Operational Concerns

Imperial acknowledged that its historical relationship with the interveners was not as good as it could have been and recognized a need for improvement in its future dealings with the interveners. Imperial also acknowledged that past concerns had not always been addressed in a timely manner but emphasized that it had made significant improvements in that regard. Imperial noted that its files did not contain records of all the concerns raised by the interveners but admitted that this did not mean that these concerns had not been voiced.

Imperial pointed to the cooperative agreement and noted how it was already working, as some of the interveners' concerns had already been tended to. It added that many more were in the process of being addressed and would be resolved in a short time. It explained how this agreement would not only work to resolve past issues but would also provide for improved communication in the future, as it had plans for considerably more activity in the general project area. It further emphasized its commitment to honouring the cooperative agreement by stating that the company was increasing its resources for this area, adding that some of the concerns had to do with a lack of resources. Imperial also offered to provide a progress report to the interveners and the Board to demonstrate that its end of the agreement was being upheld. Imperial then strongly argued, however, that approval of the applications should not hinge upon or be delayed in any way for such a report. Imperial further explained that such a delay would definitely impact its drilling schedule due to the short window of opportunity for drilling in the project area.

5.2.2 Compensation Concerns

In response to the interveners' lack of trust due to Imperial's unwillingness to negotiate, Imperial stated that underlying this issue were issues of payment for damages and trespass and lease renewal, which were ultimately tied to compensation. It further contended that issues related to the negotiation of compensation should not give rise to issues of trust. Addressing the issue of trust as it related to negotiation and communication, Imperial pointed back to the cooperative agreement. It emphasized the response processes that had been put in place and the provision of a mechanism to escalate up the chain of command should landowners feel that they were not being dealt with to their satisfaction. Imperial acknowledged that real, fundamental differences existed between itself and the interveners on the issue of compensation. It further conceded that compensation-related differences may indeed strain relationships between the two parties but maintained that the effectiveness of the cooperative agreement would not be compromised. Imperial restated that matters related to compensation were ultimately not within this Board's jurisdiction and that the interveners should use the regulatory framework provided under the Surface Rights Act to address their compensatory concerns.

5.3 Views of the Board

5.3.1 Operational Matters

The Board understands the interveners' position essentially to be that Imperial's applications should be denied because Imperial has not demonstrated that it can manage and operate its facilities in a manner that respects the rights and concerns of surface owners. The Board

acknowledges that the interveners have raised legitimate concerns about Imperial's failure to appropriately respond to the numerous operational matters discussed above, but notes that none of the interveners filed any complaints with the EUB Field Centre in Medicine Hat respecting these matters. The Board considers that Imperial's historic response to such concerns was not in accord with what is expected and required from the oil and gas industry in Alberta. The Board was particularly troubled by the interveners' collective evidence that they would not have objected to the applications had they been filed by a company other than Imperial. The Board finds that the current atmosphere of distrust that pervades the project area is a direct result of Imperial's historic failure to treat area landowners with the respect and consideration they deserve.

The Board does not believe that this history of lacklustre response by Imperial would in and of itself constitute grounds for denial of these applications. Having said that, had the Board not been made aware of the facts that Imperial had recently taken steps to address the interveners' operational concerns, including the establishment of a cooperative agreement, the Board may have been inclined to direct Imperial to take further action to more appropriately address the operational concerns.

However, the Board finds that the relationship between Imperial and the interveners appears to have improved since the parties began the ADR process. In particular, the Board notes that Imperial has recently taken several positive steps to address intervener concerns, including

- working with area landowners to develop the cooperation agreement and communication protocol;
- replacing area personnel with individuals who have a better understanding of local concerns and needs;
- adding additional personnel to the area until such time as the communication problems have been addressed;
- authorizing area personnel to resolve concerns without requiring additional approval from Imperial's head office;
- addressing the outstanding operational issues raised in the proceeding by September 1, 2006;
- providing details of its weed control program to all landowners; and
- removing 16 valve site/pig traps from the area of application and working with landowners to ensure that these operations occur at a convenient time.

The Board observes that both the interveners and Imperial testified that relations between the two had been more positive since the communication protocol was drafted. The Board is encouraged by these recent developments and considers that Imperial should be provided with an opportunity to demonstrate that it can develop its resources in a manner that respects those who provide it with surface access.

5.3.2 Compensation

While the Board recognizes the link between the interveners' lack of trust and Imperial's unwillingness to negotiate, it also recognizes the fact that the issues to be negotiated were mainly related to payment for damages, payment for trespass, and lease rental renewals, i.e., that they

were compensation related. The Board observes that the interveners frequently acknowledged that compensation related matters are not within this Board's jurisdiction.

As such, the Board will not comment on the matters that are strictly compensation other than to note that all parties are hopeful that the cooperative agreement will assist in working through these matters. Should the compensation matters fail to be resolved through the cooperative agreement, the Board is confident that the parties know their options within the Alberta Surface Rights Board's process.

6 SITE-SPECIFIC CONCERNS

Three interveners expressed concern with respect to the proposed facility locations on their lands: Mr. D. Owen, Mr. Henry, and Mr. Irwin. Mr. Owen initially stated that he would not have objected had a company other than Imperial applied for these facilities, but he later amended his evidence by stating that he did not want any more oil and gas facilities on his land. Mr. Owen did not describe how this right-of way would affect his farming operation but did relate his concerns about subdividing his land to accommodate his children's potential housing needs. The Board understands Mr. Owen's primary concern to be the impact of pipeline setbacks on his future plans and his farming operation. As discussed at the hearing, the setback for sweet pipelines on Mr. Owen's land is the width of the right-of-way (15 m in this instance). While the Board acknowledges that approval of a pipeline on Mr. Owen's land may place some limitations on future subdivision, it considers that this is an issue that may be addressed at the time when subdivision plans are submitted to the County of Newell. The Board notes in that regard that Section 33 of the *Pipeline Act* states that the Board may order the relocation of a pipeline if it considers it is in the public interest to do so. Should such concerns arise, the Board is confident that Mr. Owen will have an effective remedy to address any development restrictions related to pipeline setbacks.

Like Mr. Owen, Mr. Henry stated that he would not have objected to the subject applications had they been filed by another company. Mr. Henry stated that he would prefer that the well site proposed for his property be moved about 200 m south of the proposed location, but did not elaborate as to why this would be more suitable. The Board notes that Imperial stated that it would continue to work with landowners on well site locations in order to address site-specific concerns and would amend its applications accordingly if it reached an agreement on a new well site with a landowner. Given that the Board does not understand why the applied-for location is not suitable to Mr. Henry, it is not prepared to deny the application on the grounds of site-specific concerns. However, the Board encourages Imperial to work with Mr. Henry to address this matter. As it appears that Mr. Henry's concerns may be addressed by moving the well location a short distance, the Board is confident that a compromise solution can be reached through the new communication protocol.

The Board finds that a similar approach is appropriate for addressing Mr. Irwin's general concern about the well location and the potential impact on a business venture he is contemplating. Again, the Board finds that it does not have sufficient information regarding the nature and scope of Mr. Irwin's plans or the potential impact that the proposed well locations may have on those plans. The Board also notes Mr. Irwin's confirmation that he would not have objected to the applications had they been filed by another company. Based on the above, the Board is not prepared to deny the subject applications on the basis of the concerns expressed by

Mr. Irwin. However, it encourages Mr. Irwin to work with Imperial if he has more specific concerns relating to well location than were raised at the proceeding.

7 IMPERIAL'S REPRESENTATION AT THE HEARING

The Board was pleased to see that the parties were able to establish a cooperative agreement to address the concerns expressed by the interveners. However, the Board was disappointed that the senior Imperial staff referred to in the agreement did not participate in the hearing and provide the Board and the interveners with the opportunity to question them on their commitment to the agreement. The Board was also disappointed to find out that the most senior Imperial official identified in the conflict resolution section may not even be aware of the existence of the agreement or his role in the conflict resolution process.

The Board notes that much of the distrust expressed toward Imperial relates to an apparent breakdown in the fulfillment of commitments when those commitments are taken to Imperial's head office in Calgary for confirmation. The Board believes that a senior staff member should have appeared at the hearing to speak directly to the company's commitment to the agreement and the measures that have been put in place to resolve the operational matters in a timely fashion. In this case the appropriate person may have been the one holding the position identified as the last point of contact in the conflict resolution procedure or another senior executive member. The Board expects senior management (decision makers) to take an active role in the hearing process and believes that especially in this case, it would have resulted in a significant step forward in resolving the trust issues between the parties.

Dated in Calgary, Alberta, on May 2, 2006.

ALBERTA ENERGY AND UTILITIES BOARD

<original signed by>

J. R. Nichol, P.Eng.
Presiding Member

<original signed by>

T. M. McGee
Board Member

<original signed by>

D. K. Boyler, P.Eng.
Acting Board Member

APPENDIX HEARING PARTICIPANTS

Principals and Representatives
 (Abbreviations used in report)

Witnesses

 Imperial Oil Resources Limited (Imperial)
 P. Miller

 L. Robins
 E. Mather
 C. Lindved-Jensen
 B. Misener

Patricia Area Residents and Landowners (PAL)

 B. Beasley
 F. Declercq
 S. Deschamps, on behalf of
 D. Gray
 W. Fukuda
 W. Henry
 J. Irwin
 T. Irwin
 B. Musgrove
 D. Owen
 R. Owen

B. Beasley

B. Beasley

F. Declercq

F. Declercq

W. Fukuda

W. Fukuda

D. Gray

S. Deschamps

S. Deschamps

W. Henry

W. Henry

J. Irwin

J. Irwin

T. Irwin

T. Irwin

B. Musgrove

B. Musgrove

D. Owen

D. Owen

R. Owen

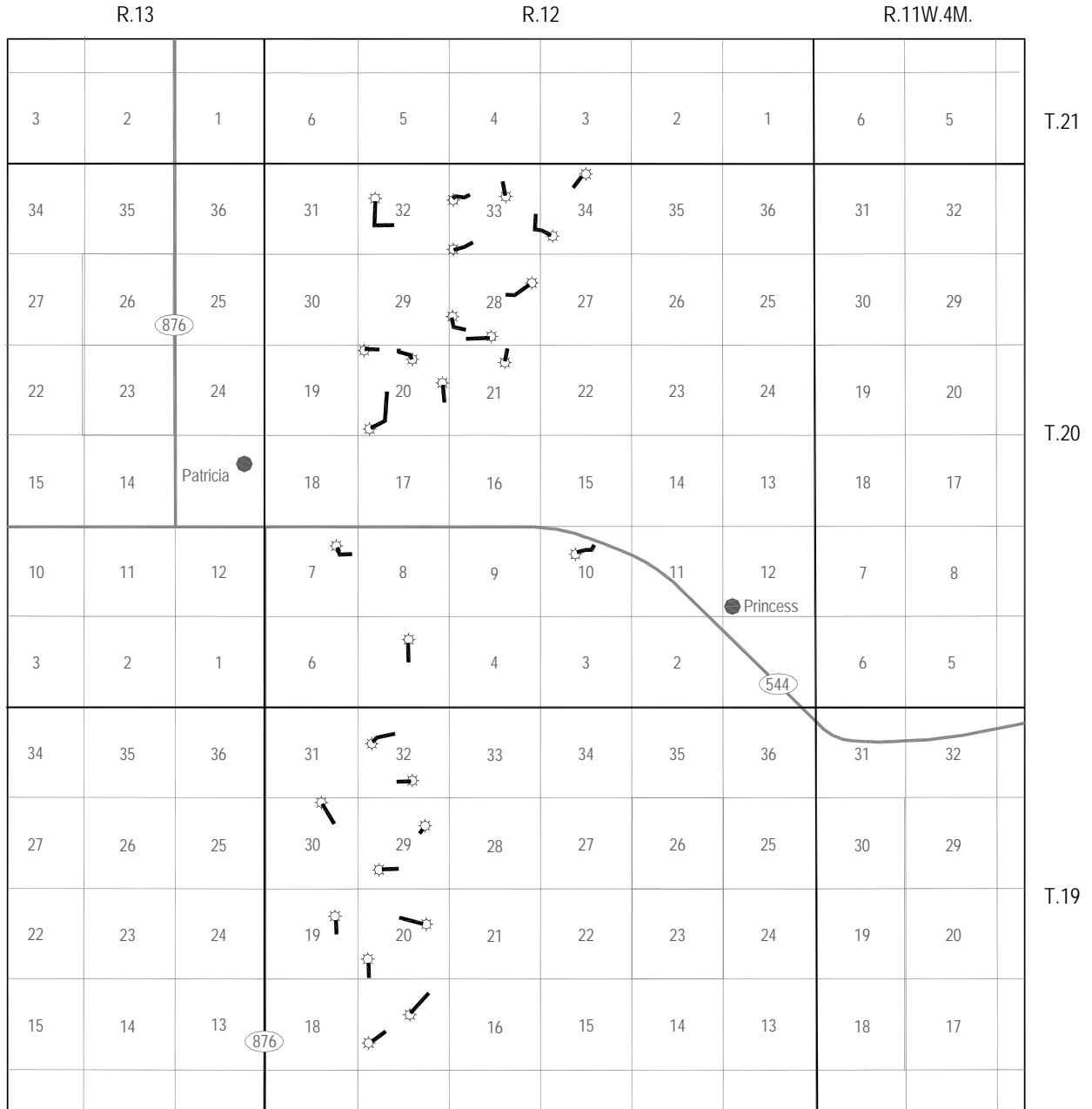
R. Owen

Alberta Energy and Utilities Board staff

J. P. Mousseau, Board Counsel

G. McClenaghan, P.Eng.

 P. Didow



Legend

- ☆ Proposed well
- Proposed pipeline

Figure 1. Project area