



Decision on Requests for Consideration of Standing  
Respecting a Well Licence Application by  
Compton Petroleum Corporation

Eastern Slopes Area

June 8, 2006

**ALBERTA ENERGY AND UTILITIES BOARD**

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# **ALBERTA ENERGY AND UTILITIES BOARD**

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**Calgary Alberta**

## **DECISION ON REQUESTS FOR CONSIDERATION OF STANDING RESPECTING A WELL LICENCE APPLICATION BY COMPTON PETROLEUM CORPORATION EASTERN SLOPES AREA**

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**Decision 2006-052  
Application No. 1423649**

### **1 DECISION**

Having carefully considered all of the information presented, the Alberta Energy and Utilities Board (Board/EUB) hereby denies the requests for standing by the Livingstone Landowners Group, Tomas Gold, Ines Fahrenkamp-Gold, Ken Halibert, the Halibert family, the Municipal District of Pincher Creek, the Pekisko Group, the Alberta Wilderness Association, and the South Porcupine Hills Stewardship Association with respect to Application No. 1423649 by Compton Petroleum Corporation (Compton). In reaching its decision, the Board took into account the submissions presented by the parties noted above and the submission of Compton at a proceeding held on April 11, 2006, at the Ranchlands Hall before Board Members T. McGee, J. R. Nichol, P.Eng., and J. D. Dilay, P.Eng. The participants at the proceeding are listed in the appendix. In addition, the Board viewed the site of the proposed well and the surrounding area.

Having found that no party had standing with respect to the subject application, the Board completed its review of the application and notes that it conforms to all EUB requirements. Accordingly, the Board will issue the requested well licence in due course.

### **2 INTRODUCTION**

#### **2.1 Well Licence Application**

Compton applied to the EUB, pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations*, for a licence to drill a well from a surface location in Legal Subdivision (LSD) 15 of Section 28, Township 9, Range 1, West of the 5th Meridian, to a projected bottomhole location in LSD 16-28-9-1W5M (16-28 well). The purpose of the well would be to obtain sweet natural gas from the Belly River Group. The proposed well would be located within the Eastern Slopes boundaries identified in *Informational Letter (IL) 93-9: Oil and Gas Development, Eastern Slopes (Southern Portion)* and would be about 38 kilometres (km) west of Claresholm, Alberta.

#### **2.2 Requests for Consideration of Standing**

The Livingstone Landowners Group (LLG) said that it represented certain interested landowners, families, and residents from the Livingstone Area. The Livingstone Area is locally defined as the area bounded to the east by the Porcupine Hills, to the west by the Livingstone Range, to the south by the Crowsnest Pass (Highway 3), and to the north by the intersection of Highway 520 across the spur of the Porcupine Hills (see attached figure). The LLG held that the 16-28 well licence application was part of a larger energy development project within the environmentally significant Eastern Slopes area. Therefore, based on the potential for future energy development

and associated impacts, the LLG contended that it should be granted standing on Application No. 1423649. The concerns of the LLG are listed in the table below.

The Municipal District of Pincher Creek (MD) is a municipal government that represents concerns and issues within its jurisdiction. The 16-28 well would fall within the MD. The MD requested that a well licence for the proposed well be withheld until Compton addressed its concerns, which are listed in the table below.

Thomas Gold, Ines Fahrenkamp-Gold, Ken Halibert, and the Halibert family (Golds and Haliberts) are landowners who reside an approximate 1.2 to 1.5 km southeast of the proposed well. The Golds and the Haliberts requested that they be granted standing with respect to the 16-28 well and to future Compton development within the Eastern Slopes. The Golds and Haliberts stated that as the closest residents to the proposed well, they would be potentially impacted. The concerns of the Golds and Haliberts are listed in the table below.

The Pekisko Group described itself as an organization of about 60 member families, with the majority from a ranching background. The Pekisko Group expressed concerns regarding the Livingstone Area and the loss of the area's heritage, the loss of native grasslands, and impacts on water sources resulting from petroleum development activities within the Eastern Slopes. The Pekisko Group requested that development within the Eastern Slopes area, including the licensing of the 16-28 well, be suspended until studies could be completed that would document the impacts of such development within the Eastern Slopes. Concerns raised by the Pekisko Group are listed in the table below.

The Alberta Wilderness Association (AWA) described itself as a provincial organization dedicated to protecting the biodiversity of Alberta through education and action. The AWA expressed concerns about *IL 93-9* requirements as they related to project development submissions, environmental protection, and management of the Eastern Slopes. The AWA contended that it was within the public's interest to halt all development within the *IL 93-9* designated area, including the Compton application for the 16-28 location, until long-term implications could be assessed. Concerns raised by the AWA are listed in the table below.

The South Porcupine Hills Stewardship Association (the Association) said that it represented stakeholders within the area encompassed by the southern end of the Porcupine Hills. The Association expressed concerns about development within the Eastern Slopes and the potential for proliferation of that development. The concerns expressed by the Association are itemized in the following table.

Participant	Issues of Concern
LLG	<ul style="list-style-type: none"> <li>- Issue of standing of area landowners</li> <li>- Compliance with <i>IL 93-9: Oil and Gas Developments Eastern Slopes (Southern Portion)</i></li> <li>- Potential impacts on groundwater</li> <li>- Flaring and impacts on air quality</li> <li>- Property devaluation</li> <li>- Impact on wildlife</li> <li>- Impact on historical resources</li> <li>- Impact on native vegetation, including the introduction of weeds and increased risk of fire</li> <li>- Cumulative impacts and landscape fragmentation</li> </ul>

(continued)

Participant	Issues of Concern
MD	<ul style="list-style-type: none"> <li>- Road use and maintenance</li> <li>- Surface water and groundwater contamination</li> <li>- Weed control</li> <li>- Loss of fescue grasslands</li> </ul>
Golds and Haliberts	<ul style="list-style-type: none"> <li>- Issue of standing, and triggering a hearing on the 16-28 well</li> <li>- Water contamination and depressurization</li> <li>- Land fragmentation and loss of fescue grasslands</li> <li>- Noise</li> <li>- Quality of air</li> <li>- Property value</li> <li>- Commitments/conditions stipulated in <i>IL 93-9</i> not being met</li> <li>- Ongoing industrialization of the Eastern Slopes</li> </ul>
Pekisko Group	<ul style="list-style-type: none"> <li>- Development in the Eastern Slopes Southern Region, related fescue grasslands and watersheds</li> <li>- Protection of area's heritage and ranching background</li> <li>- Increase local involvement during consultation efforts of the petroleum industry</li> </ul>
AWA	<ul style="list-style-type: none"> <li>- Impact on wildlife corridors</li> <li>- Impact on water sources</li> </ul>
The Association	<ul style="list-style-type: none"> <li>- Detriment to a unique landscape and vegetation (fescue grasses)</li> <li>- Cumulative impacts</li> <li>- Sterilization of land for alternative land usages outside of petroleum development</li> </ul>

### 2.3 Undertakings

The Board held an oral proceeding on April 11, 2006, at which time undertakings were given to the Board by each of the LLG, the Association, and the Pekisko Group. The LLG provided its undertaking response to the EUB on May 2, 2006. The Board notes that although the Pekisko Group and the Association agreed to submit additional information, this information was not provided to the Board for consideration.

## 3 ISSUES

The Board considers the issues raised by the requests for standing to be

- standing of area landholders, residents, and other parties, and
- other matters

## 4 STANDING OF AREA LANDOWNERS, RESIDENTS, AND OTHER PARTIES

Prior to reviewing the views of the aforementioned parties, the Board notes that it is governed by Section 26 of the *Energy Resources Conservation Act (ERCA)*, which provides that those persons whose rights may be directly and adversely affected by the approval of an energy facility are entitled to an opportunity to lead evidence, cross examine, and give argument—in short, to full participation at a hearing or to “standing.”

Others who may not be able to meet the standing test (for example, those persons who are not situated in close proximity to a proposed facility) are not afforded these participation rights by the statute. However, it is the long-standing practice of the Board to allow those persons who would otherwise not have standing to participate to some extent at a public hearing provided that they offer relevant information. Funding to cover costs incurred for the preparation of and participation in such a hearing is not available to persons who may participate but do not have standing.

#### **4.1 Views of the LLG**

The LLG requested a proceeding to determine standing by submitting a motion under Section 9 of the EUB's *Rules of Practice*. The LLG stated that it should be granted standing on the basis that the potential larger Compton Callum play, of which the 16-28 well is a part, would impact its members. The LLG cited Compton's Web site and information provided by Compton announcing that Compton's mineral holdings in the area involved 110 sections of land within and around the Eastern Slopes. The LLG contended that this degree of mineral interest could lead to proliferation of up to 800 wells drilled within the Eastern Slopes. The LLG argued that at some time during the process of the larger development, its members would be directly and adversely impacted. The LLG contended that as the proposed 16-28 well was one of the initial wells within the Compton Callum play, the LLG should have input, since further development would in part be contingent on the information obtained from the drilling and evaluation of the 16-28 well.

The LLG maintained that by creating and issuing *IL 93-9*, the EUB had recognized the environmentally sensitive uniqueness of the area and established broader public consultation guidelines, as well as the expectation of sharing area development plans during each phase of pool development. The LLG argued that *IL 93-9* required broader consultation than that required by *Directive 056: Energy Development Applications and Schedules* and that therefore there must be broader consultation with and input from area residents. The LLG further stated that people in the broader area should be consulted, not only the owner of the land where the well would be drilled. The LLG asserted that without such recognition of the broader *IL 93-9* consultation guidelines, Compton would be free to continue its Callum play development on a well-by-well basis by finding landowners willing to have petroleum development on their land and ignoring the immediately adjacent neighbour, who, as in the case of *Directive 056*, would not have any input into the development occurring in his neighbourhood.

#### **4.2 Views of the MD**

The MD requested that the EUB recognize it as an affected party. The MD stated that this recognition would promote greater interaction and more effective communication between it and Compton.

The MD stated that under the *Municipal Government Act*, it was responsible for roads, weeds, water issues, and other matters within its boundaries. The MD added that it was responsible for the maintenance of the local road in proximity to the proposed well. It said that notwithstanding enacting road bans and establishing road use agreements, the heavy oilfield traffic that would be using these roads would still cause damage. The MD maintained that while one well would not have a great enough impact on the roads to cause concern, the larger area developmental scheme

associated with the 16-28 well might. The MD said that the licensing of the 16-28 well was the initial step towards the larger area development plan.

#### **4.3 Views of the Golds and Haliberts**

The Golds and Haliberts requested that they be granted standing, as their residences were in closest proximity to the proposed 16-28 well. The Golds and Haliberts contended that the proposed well would directly impact them due to increased area traffic and the increased potential for contamination or depressurization of their shared water well. The Golds and Haliberts argued that the conditions and requirements in *IL 93-9* regarding broader consultation efforts by companies should include area consultation processes and that, as such, those individuals within the larger consultation area should be considered to have standing. The Golds and Haliberts further contended that although *IL 93-9* refers to different development plans for the Eastern Slopes, Compton had not developed any such plan. The Golds and Haliberts referred to the 16-28 well as the “thin edge of the wedge” for Compton’s development plan for the area (referred to as the Callum play). The Golds and Haliberts further stated that the 16-28 well would be located within a provincially designated environmentally sensitive area (ESA) and as such should be reviewed under more stringent guidelines than had currently been undertaken by Compton in its environmental review of the proposed location. They also expressed concerns about noise from the drilling operation, because they could see the well site from their property. The Golds and Haliberts stated that they lived and ranched in the *IL 93-9* area and they requested that they be granted standing on the basis that *IL 93-9* goals were broad-based and aimed to maintain the integrity of the Eastern Slopes region for the Alberta public.

#### **4.4 Views of the Pekisko Group**

The Pekisko Group expressed concerns about the current level of activity within the Eastern Slopes, as well as future development plans. The Pekisko Group said that the impacts on the Eastern Slopes by the applied-for 16-28 well and future planned development were unknown. Additionally, the Pekisko Group stated that it was concerned about the impact that the overall Compton development may have on alternative business ventures within the area. It said that its intent was not to push out one industry, but rather to work alongside all businesses to create the best possible working agreements. It requested that current development should be put on hold until the impact had been researched and a working relationship established.

#### **4.5 Views of the AWA**

The AWA requested that the EUB grant it standing status and recognize it as being directly impacted by the 16-28 well application, as well as future applications associated with the 16-28 well, so that the AWA could effectively represent the interests of the broader public. Additionally, the AWA stated that in the absence of any completed land-use management plan or detailed long-term impact studies in the Eastern Slopes, the EUB must use a broad knowledge base to receive input from a wider scope of interests, which the AWA said it represented.

#### **4.6 Views of the Association**

The Association did not request that the EUB recognize it as an affected party and hence grant it standing. It said that greater dialogue between local interest groups, the public, and the petroleum industry must occur throughout the Eastern Slopes area.

#### 4.7 Views of Compton

Compton contended that none of the parties met the test for standing as established by Section 26 of the *ERCA*. Compton said that it had met the consultation and notification requirements in *Directive 056* for the 16-28 well and had acquired consent from the owner of the land on which the 16-28 well would be located. Compton further cited a letter written by the landowner expressing his consent and support for the development. Compton also indicated that it considered the 16-28 well to be exploratory and that it had met the requirements of *IL 93-9* by completing a site-specific environmental assessment for this well.

Compton acknowledged that the Gold and Halibert families were the closest residents to the proposed well, but noted that it was not required to consult with them because their residences were outside the consultation and notification area required by *Directive 056*. Compton stated that the Golds' and the Haliberts' residences were separated from visual impacts of the well by higher topography and as such would not be affected. Compton also argued that since the proposed well would be at a much lower elevation than the Golds' and Haliberts' shared water well, their well would not be impacted by the drilling of the 16-28 well.

Compton maintained that none of the parties had standing to trigger a hearing regarding its Application No. 1423649 but acknowledged that some of the parties might be allowed to participate at a hearing if one were held. In reference to Subsection 26(2) of the *ERCA*, Compton stated that the term "directly affected" could not be expanded upon simply by virtue of an expanding social consciousness.

In response to the claims of the participants that *IL 93-9* required broader community consultation, Compton said that it had held three open houses in the vicinity to explain its development plans for the area and the 16-28 well specifically. It also noted the contacts it had made with area groups such as the LLG and the Pekisko Group. Compton stated that it had acknowledged their concerns and had taken them into consideration in its plans, with positive results. Compton said that it had responded to the environmental concerns raised by the broader public by developing its 16-28 location so as to minimize its footprint. Compton acknowledged the concerns expressed by the parties, but said that they were addressed in current Compton procedures, operating practices, and designs, and therefore that a hearing was not needed to consider the issues again.

Compton argued that its having mineral interests in 110 sections did not mean that all 110 sections would be developed. Compton reiterated that the current developmental scheme was conceptual in nature and that it committed to meeting the goals of *IL 93-9*. Compton said that the participants' interpretation that some 800 wells would be drilled was speculation. Compton said that more knowledge was needed in order to gain a better understanding of the extent of the target reservoir, and the only way to gain this information was to drill wells. It stated again that the 16-28 well would be an exploratory well and referred any related developmental plans as speculative in nature and highly conceptual in design. Compton argued that the requests for standing should be denied.



## 5 BOARD DECISION AND EXPECTATIONS

### 5.1 Standing

The Board believes that the central question that must be addressed is whether any of the parties may be directly and adversely affected by its decision on the 16-28 well licence application. While the Board acknowledges that future wells and development may be contingent upon the data obtained from the proposed well, the Board considers the 16-28 well licence application to be the central issue requiring disposition.

The Board notes that the proposed well is an exploratory well, a “New Pool Wildcat,” and that the nearest well to 16-28 which has penetrated the zone of interest is an estimated 9 km away. The Board notes that Compton has mineral interests in 110 contiguous sections of land within the Eastern Slopes and adjoining area. The majority of the existing well and facility development in the Callum play is in the more northerly sections of land, and no development has occurred in the vicinity of the 16-28 location. Hence, the Board believes that a limited number of wells would be necessary to delineate and establish the boundaries of Compton’s Callum play. Additionally, the Board believes that the drilling of a small number of wells for exploratory purposes and delineation of the play would benefit Compton’s area development plan by more accurately identifying the breadth and scope of the overall development and hence would allow for the creation of a more accurate and realistic area development and environmental impact plan. It is the Board’s view that this minimal development would not necessitate the cumulative impacts assessment contemplated by *IL 93-9*. The Board also notes that *IL 93-9* does not preclude the approval of individual exploratory wells without area development plans. The Board accepts that the proposed well is in the Porcupine Hills ESA; however, it also notes that designated ESAs are not legislatively mandated protected areas and do not preclude the development of oil and gas within the area.

As part of the proceeding, the Board viewed the location of the proposed 16-28 well and other existing and proposed locations within the immediate vicinity. The Board also viewed the locations of the Golds’ and Haliberts’ residences from the county road referred to as the Skyline Trail. The Board found the site visit to be very instructive because it showed that the proposed 16-28 well location

- is not within an area of extensive and continuous stretches of native prairie—that is, there is extensive cultivation in the area;
- would be about 1.2 to 1.5 km from the Golds’ and Haliberts’ residences;
- would be separated from the Golds’ and Haliberts’ residences by a significant topographic feature (hill);
- would be at a lower elevation than the Golds’ and Haliberts’ water well; and
- would be accessed from an existing local road, allowing for access to the site from either the north or the south (during the proceeding Compton committed to accessing the well from the north).

#### **Golds, Haliberts, and the LLG**

Consequently, the Board finds that the Golds and Haliberts do not exhibit the potential for being directly and adversely impacted by the proposed 16-28 well. Accordingly, it does not grant

standing to the Golds and Haliberts. Furthermore, no member of the LLG resides closer to the proposed location than the Golds and Haliberts; therefore, the Board finds that the LLG has not demonstrated that it or its members may be directly and adversely impacted and denies the LLG's motion for standing.

As new information is acquired and the overall development becomes clearer, the Board strongly encourages consultation between Compton and interested parties regarding future developmental plans in this area.

### **MD**

With respect to the MD, the Board notes that the MD said that it has authority respecting road use and weed control, and therefore the Board believes that the MD can address its concerns respecting those matters through its own authority. In addition, the Board believes that some of the MD's concerns are general in nature, not necessarily specific to the 16-28 well. However, the Board recognizes that the MD has concerns about Compton's area development plan and expects Compton to communicate openly and diligently with the MD.

### **The Association**

The Board finds that the Association is not an affected party and is not granted standing for this application.

### **AWA**

The Board does not believe that the AWA would be affected to any greater or lesser degree than any member of the public and therefore does not grant standing to the AWA.

### **Pekisko Group**

The Board finds that none of the members of the Pekisko Group has a residence or occupies land in close proximity to the proposed well and therefore does not grant standing to the Pekisko Group.

The Board reminds Compton that these decisions regarding standing apply only to the 16-28 well application and that the issue of standing and the application of *IL 93-9* are still issues that will have to be evaluated on a case-by-case basis for all future well applications within the Eastern Slopes regardless of whether the application(s) pertain to a single well or a phase of development as contemplated under *IL 93-9*.

## **5.2 Other Matters**

### **Native Prairie**

With respect to native prairie, the Board notes from its site visit that certain maps show native prairie in the area of the 16-28 location, although large areas have clearly been cultivated. Accordingly, and although it recognizes that this difference may be the result of the scale of the maps and their level of detail, the Board recommends that persons relying on such maps also verify that the information on the maps accurately reflects the actual land use and vegetation systems present.

### **IL 93-9**

The Board notes that all of the participants expressed concerns about the implementation and application of *IL 93-9*. The Board believes that there is a need to clarify some aspects of *IL 93-9*, including

- the circumstances under which area development plans are required,
- public consultation requirements, and
- environmental assessment guidelines.

Accordingly, this division of the Board will recommend to the full Board that it consider clarifying certain aspects of *IL 93-9*.

### **Future Development**

The Board believes that if the 16-28 well were to encounter commercial quantities of gas, that fact could indicate that a productive formation as evidenced by the existing wells in the northern portion may extend to the area of the 16-28 well. Therefore, if Compton were to apply for any additional wells between the 16-28 well and the existing wells in the north, the Board would require Compton to either

- provide an area development plan and assessments as contemplated by *IL 93-9*, or
- demonstrate to the satisfaction of the Board why a plan and assessments should not be required for additional exploratory wells.

Dated in Calgary, Alberta, on June 8, 2006.

### **ALBERTA ENERGY AND UTILITIES BOARD**

*<original signed by>*

T. M. McGee  
Presiding Board Member

*<original signed by>*

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

*<original signed by>*

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

## **APPENDIX    PROCEEDING PARTICIPANTS**

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### Principals and Representatives (Abbreviations used in report)

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Compton Petroleum Corporation (Compton)

L. Olthafer

Livingstone Landowners Group (LLG)

G. Fitch

Municipal District of Pincher Creek (MD)

T. Smith

Thomas Gold, Ines Fahrenkamp-Gold, Ken Halibert, and the Halibert family  
(the Golds and Haliberts)

N. Kathol

The Pekisko Group

J. Cross

M. Blades

The Alberta Wilderness Association (AWA)

N. Douglas

South Porcupine Hills Stewardship Association (The Association)

B. Newton

Alberta Energy and Utilities Board staff

G. Perkins, Board Counsel

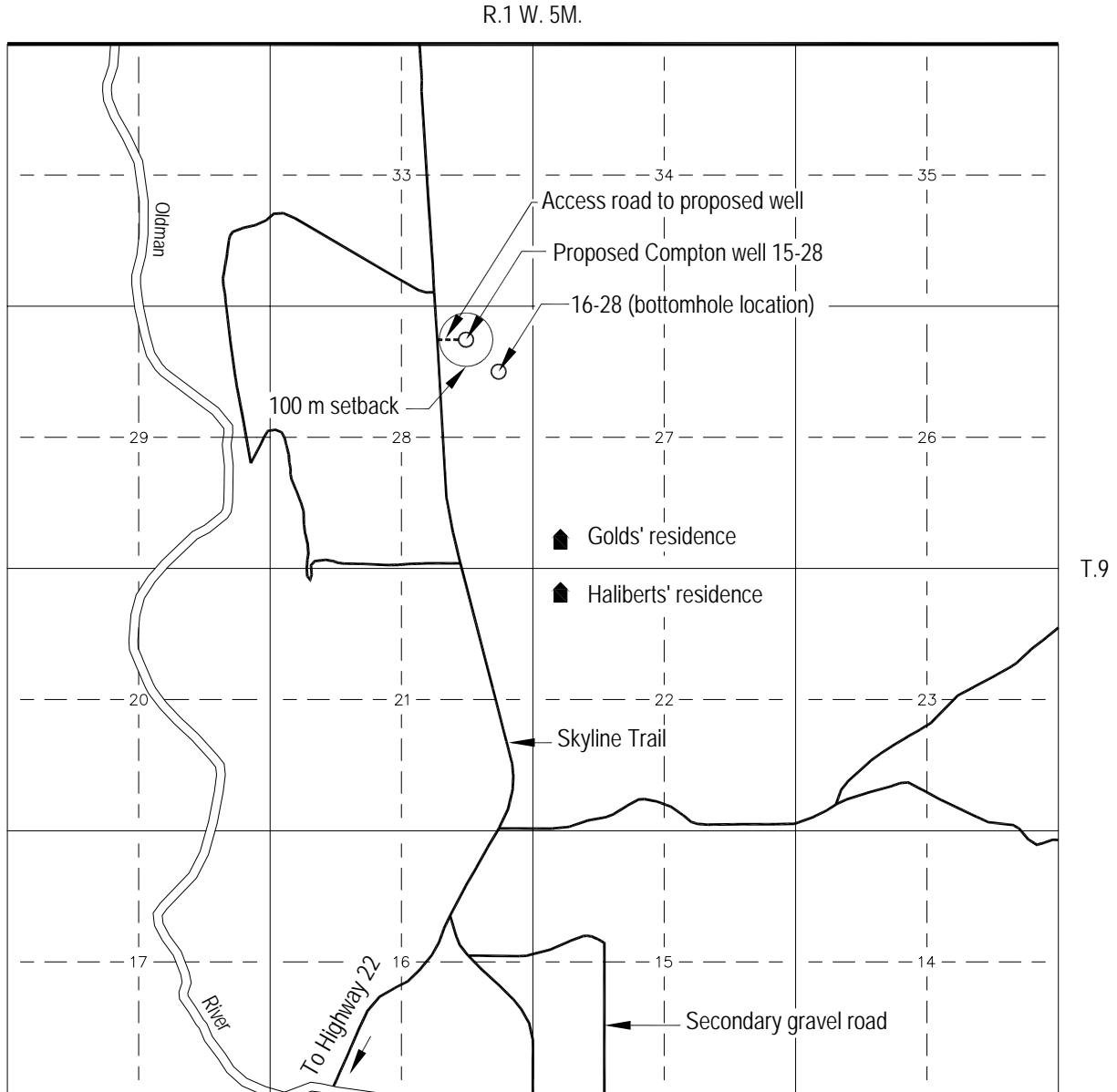
C. Ravensdale

M. Douglas

K. Banister

M. Vandenbeld

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Proposed Compton surface hole location 15-28-9-1W5M, in relation to the Golds' and Haliberts' residences