

**ALBERTA ENERGY AND UTILITIES BOARD**

Calgary Alberta

**COMPTON PETROLEUM CORPORATION  
COMPLAINT RESPECTING EUB  
ENFORCEMENT ACTION**

**Decision 2008-070 Addendum  
Proceeding No. 1581697**

The Alberta Energy and Utilities Board (EUB/Board) issued *Decision 2008-070* on August 5, 2008. Following an inquiry from a party unrelated to this application, the Board wishes to clarify that the statement “Applications requiring site-specific ERPs are not routine,” which appears on page 6 of *Decision 2008-070*, refers to the facts of this particular matter. Applications requiring site-specific ERPs are sometimes submitted on a routine basis if there are no concerns raised by parties that may be directly and adversely affected by an application or if an applicant is able to resolve such concerns prior to submitting its application.

The Board considers that this clarification reflects the intent of the decision. Therefore, the Board approves this addendum to *Decision 2008-070*.

Dated in Calgary, Alberta, on September 15, 2008.

**ALBERTA ENERGY AND UTILITIES BOARD**

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Presiding Member

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Board Member

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Board Member



# Compton Petroleum Corporation

Complaint Respecting EUB Enforcement Action

August 5, 2008

**ALBERTA ENERGY AND UTILITIES BOARD**

Decision 2008-070: Compton Petroleum Corporation, Complaint Respecting EUB Enforcement Action

August 5, 2008

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# ALBERTA ENERGY AND UTILITIES BOARD

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Calgary Alberta

## COMPTON PETROLEUM CORPORATION COMPLAINT RESPECTING EUB ENFORCEMENT ACTION

Decision 2008-070  
Proceeding No. 1581697

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### 1 DECISION

Having considered the evidence and submissions from all parties, the Alberta Energy and Utilities Board (EUB/Board) dismisses the appeal of Compton Petroleum Corporation (Compton) and upholds and affirms the decision by EUB staff to issue a High Risk Enforcement Action 1.

### 2 BACKGROUND

On April 5, 2007, the EUB approved a Compton application for a sour gas well located at Legal Subdivision 7, Section 18, Township 21, Range 27, West of the 4th Meridian (the 7-18 well) and issued Well Licence No. 0376331. The application set out a calculated emergency planning zone (EPZ) of 0.98 kilometres (km), which included a dead-end road (192 Street East) with seven residences on it (see attached figure). Compton had submitted the application to the EUB as a routine application.

Prior to proceeding with its application, Compton had submitted a hydrogen sulphide (H<sub>2</sub>S) presubmission to the EUB Geology and Reserves Group (GRG) and applied for an H<sub>2</sub>S release rate that would result in an EPZ of 0.75 km. The GRG reviewed this submission against other well data in the area and rejected it, assigning an H<sub>2</sub>S release rate that resulted in the EPZ of 0.98 km for the 7-18 well.

Compton drilled the 7-18 well and, based on actual test results, calculated an EPZ of 0.825 km, which did not include the dead-end road.

On June 18, 2007, a resident contacted the Emergency Planning and Assessment (EPA) section of the EUB Public Safety/Field Surveillance Branch regarding the 7-18 well after noticing activity at the well site. On June 19, 2007, the EPA conducted an investigation that resulted in the EPA determining that Compton was in noncompliance, having “No approved specific ERP [emergency response plan] where required.” Compton then voluntarily suspended operations at the 7-18 well.

On June 21, 2007, the EPA advised Compton of this noncompliance and applied a High Risk Enforcement Action 1.<sup>1</sup> The EPA required Compton to do the following:

- 1) Conduct completion operations with the wellhead on, in accordance with Table 4, in Section 4.2.1 of *Directive 071*<sup>2</sup> or, alternatively, submit a site-specific supplemental ERP.

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<sup>1</sup> A High Risk Enforcement Action 1 is issued pursuant to *Directive 019: EUB Compliance Assurance—Enforcement*, which governs enforcement actions by the EUB.

<sup>2</sup> *Directive 071: Emergency Preparedness and Response Requirements for the Upstream Petroleum Industry*, June 2003, Incorporating Errata to April 2005.

- 2) Develop, implement, and submit a written action plan to the EUB EPA by July 5, 2007. The action plan must detail what Compton will do to prevent similar noncompliance events in this compliance category from happening in the future.

On August 21, 2007, Compton appealed the enforcement action to the EUB Enforcement Advisor. On October, 10, 2007, the Enforcement Advisor denied Compton's appeal. Compton subsequently filed an appeal to the Board of the enforcement action. The Board agreed to review the enforcement action.

Although on January 1, 2008, the *Alberta Energy and Utilities Board Act* was repealed, subsection 80(3) of the *Alberta Utilities Commission Act* provided that if a notice of hearing was issued prior to January 1, 2008, the EUB Board would complete the proceeding. In this case, the Board received Compton's appeal of the EUB Enforcement Advisor's decision on October 31, thereby commencing the appeal process. This appeal has therefore continued as an EUB proceeding.

### **3 HEARING**

The hearing of this matter took place through written submissions. The Board received submissions from Compton, the EPA, and David Groeneveld and Richard Dugdale, who are residents at the end of the dead-end road. The Board also reviewed all prior submissions and materials submitted by parties on this matter. On May 8, 2008, Compton confirmed that it had no further submissions in response to submissions from other parties. The Board considers the proceeding closed on May 8, 2008.

### **4 ISSUES**

The Board believes that the issues that it must consider are

- was Compton in compliance with EUB requirements, and
- if not, was the issuance of a High Risk Enforcement Action 1 appropriate?

### **5 SUBMISSIONS OF THE PARTIES**

#### **5.1 Views of Compton**

In its submissions, Compton argued that the wording in *Directive 071* was unclear about what triggered a mandatory site-specific ERP. Compton submitted that *Directive 071* required the final EPZ to reflect site-specific features. Compton also submitted that inclusion of the houses on the dead-end road would have the effect of extending the EPZ by over three times and that by not extending the EPZ to that degree, Compton did take such site-specific features into account. Compton further submitted that there were no surface developments in the EUB-calculated EPZ aside from the dead-end road and that *Directive 071* did not specifically state that a dead-end access road would specifically trigger a site-specific plan.

Compton argued that resident safety was assured by Compton's Mazeppa/Gladys ERP. Compton stated that this plan contained the specific information for the residents on the dead-end road. Compton argued that a ranking of "High Risk" implied that there was a high risk for public

safety but that given that the residents' information was in the Mazeppa/Gladys ERP, residents were protected and the enforcement action level was not appropriate.

Compton submitted that the EUB's process of calculating EPZ size without analysis or discussion of the consequences put licensees at a disadvantage. Compton argued that when the EUB did not accept Compton's presubmission and expanded the EPZ for the 7-18 well, it did not inform Compton that the dead-end road was now included in the EPZ. Finally, Compton stated that it had drilled and conducted actual tests on the well, which resulted in a smaller EPZ than that calculated by the EUB. It maintained that an EPZ based on actual test results would not encompass the dead-end road. Compton stated that given these test results, the EPZ in Compton's H<sub>2</sub>S presubmission was more accurate than the EUB-calculated EPZ.

## **5.2 Views of the EUB Emergency Planning and Assessment Section**

EPA submitted that *Directive 071* required that an EPZ be modified to include residents at the end of dead-end roads who must egress through an EPZ. Because residents of the dead-end road should have been included in the EPZ, a site-specific ERP should have been in place. EPA further submitted that failing to have an approved site-specific ERP when required was very serious and immediately carried a High Risk enforcement. EPA explained that staff members had no discretion to assign a different level of risk for this type of noncompliance event.

EPA stated that the EPZ was calculated according to *Directive 071*, Section 2.1.1, and in this specific situation was approved by the EUB's GRG. The well licence was issued based on this EPZ, which included the dead-end road. EPA argued that *Directive 071*, Section 2.1.1, required EPZs to be modified to take into account site-specific aspects and that Section 2.2.2 specifically addressed the case where a resident on a dead-end road must egress through an EPZ. Accordingly, Compton should have modified the EPZ to include the residences on the dead-end road. EPA submitted that based on this modified EPZ, a site-specific plan was needed under *Directive 071*, Section 4.2.1, Table 4, which required consulting the residents and approval of the plan prior to drilling the well.

Regarding Compton's submission that the relevant information was contained in the Mazeppa/Gladys ERP, EPA submitted that the purpose of an ERP was to have all pertinent information for a licensed activity contained in a standalone document, not scattered through other documents that could result in an inadequate response to an emergency that would jeopardize public safety.

EPA concluded that Compton had potentially put members of the public at risk by drilling the 7-18 well without a required site-specific ERP in place.

## **5.3 Views of the Residents**

The Board provided residents on the dead-end road the opportunity to make submissions regarding this matter. Two individuals with residences on the dead-end road, David Groeneveld and Richard Dugdale, provided written submissions. They agreed with the issuance of the High Risk Enforcement and requested that the 7-18 well remain suspended indefinitely.



## 6 CONSIDERATION OF SUBMISSIONS

### 6.1 Was Compton in compliance with EUB requirements?

In considering this issue, the Board notes that *Directive 056: Energy Development Applications and Schedules* and *Directive 071* are relevant. *Directive 056* sets out the requirements that a company must meet when making an application to the EUB. Under Section 7.10.2 of *Directive 056*, the applicant must ensure that when a site-specific ERP is required, the EPA must approve it prior to commencement of operations.

*Directive 071* sets out the requirements for emergency preparedness and response for the petroleum industry. Compliance with *Directive 071* is critical in order to ensure that protection for the public is in place. A failure to comply with *Directive 071* may have the result of not only putting the public at risk, but also undermining the public's confidence in the regulations designed to protect them from incidents involving the oil and gas industry.

The version of *Directive 071* that applied at the time of Compton's application included Section 2.2.1, outlining public and local government involvement in emergency preparedness and response:

Expectations and requirements detailed in this guide apply to notification of and consultation with all Alberta communities, including First Nations and Métis settlements. Public and local government involvement in emergency preparedness and response must take place at various stages of resource development, including

- prior to submitting an ERP application to the EUB or developing a specific ERP for new wells, pipelines, and facilities...

Section 2.2.2.1, dealing with public consultation, provided:

Prior to conducting a public involvement program, a licensee must identify all persons, residences, local authorities, and publicly used facilities within and immediately adjacent to the EPZ that should be consulted and included within the ERP, such as

- permanent and part-time residents, including those residing on dead-end roads beyond the EPZ where occupants must egress through the EPZ....

Section 2.2.4 set out the requirement for a public involvement program:

A licensee is required to conduct public involvement programs for the development of an ERP in conjunction with other notification or consultation programs covered in *Guide 56* [now *Directive 056*]. This ensures that there is no confusion regarding the details of the project and the impact that an emergency situation may have on the surrounding community.

Licensee representatives who have the necessary background to provide details of the emergency procedures in place and to address questions and concerns that may arise must conduct the public involvement program in person with all identified individuals. A licensee representative must address any special request for modifications to the ERP and for additional information.

One of the purposes of the public involvement program is to ensure that all persons who may be affected by an emergency situation are notified regarding the proposed development and have an opportunity to obtain information regarding what they should do in an emergency situation involving that particular development. The public consultation also provides the company with detailed information about the residents that will assist in an emergency response. Knowledge of the project and emergency response procedures enables the public to structure their activities in a

way that ensures that emergency measures will work effectively. An awareness of the particular needs of individual members of the public also enables the company to adapt its ERP to accommodate such needs. For example, a resident who has mobility difficulties or who does not have access to a vehicle at certain times during the day may require evacuation assistance. It is critical for a company to be aware of such issues and to communicate with residents regarding how they can be accommodated in the event of an emergency.

Furthermore, ERPs must be designed for specific projects. This is necessary to ensure that those members of the public are aware of specific facilities and the activities associated with them and that site-specific issues can be taken into account in the ERP. The existence of an ERP for other facilities in the area does not excuse a licensee from ERP requirements for new facilities.

Section 4.2.1 of *Directive 071* required that a site-specific ERP be developed if there are surface developments within or adjacent to an EPZ. A dead-end road with residences on it is a surface development. Individuals who live on such a road may have to evacuate during an emergency and would have to egress through the EPZ in order to do so. A site-specific ERP is required for residences on dead-end roads where the occupants must egress through the EPZ.

A site-specific ERP was required in the subject case because *Directive 071* explicitly stated that specific information pertaining to residents on a dead-end road who must egress through an EPZ must be gathered and included in an ERP.

*Directive 056* states that where a site-specific ERP is required, the EPA must approve it prior to the commencement of operations.

Accordingly, the Board finds that Compton was not in compliance with EUB requirements, as it did not have a site-specific ERP that included the personal information on the residences located on the dead-end road, as required under *Directive 071*, and it did not have an ERP approved by EPA prior to commencement of operations, as required by *Directive 056*.

## **6.2 Was the issuance of a High Risk Enforcement Action 1 appropriate?**

Compton failed to have a site-specific ERP in place when required. This is a critical regulatory requirement, designed to ensure public safety in the event of an emergency. The preassigned risk tables under *Directive 019* recognize the importance of this issue and assign a High Risk Enforcement to any failure to have a site-specific ERP when required.

The fact that subsequent testing of the well produced information that would result in a smaller EPZ does not assist Compton. Regardless of the drilling results that would produce a smaller EPZ than the EUB-calculated EPZ, Compton did not know this until after it had drilled the 7-18 well, during which time the residents on the dead-end road could have been exposed to unnecessary risk by not having their specific information in a site-specific ERP and not having engaged in the public consultation process, which is designed to ensure safety. Post-drilling information cannot be the basis for a drilling/completion EPZ. Similarly, it cannot be used as justification for failing to abide by an EUB-approved EPZ.

Compton also submitted that the Board should have notified it of the fact that the EUB-approved EPZ encompassed a dead-end road. Verification of site-specific attributes and provision of such relevant information in a well licence application is the responsibility of licensees. The Board

relies on licensees to provide accurate information in their application materials and to further identify issues that may result in an application that must be reviewed by the EUB on a nonroutine basis. The application submitted by Compton for the 7-18 well should not have been submitted on a routine basis. Applications requiring site-specific ERPs are not routine.

The Board finds that not having a site-specific ERP is a serious matter that may result in serious consequences. This type of noncompliance results in a High Risk enforcement action. This is reflected in the ERCB's Risk Matrix under *Directive 019*. The Board finds that the issuance of the High Risk Enforcement Action 1 was appropriate in these circumstances.

## **7 ACTIONS REQUIRED BY COMPTON FOR RECOMMENCEMENT OF OPERATIONS AT THE 7-18 WELL**

The Board notes that members of the public requested that the well be suspended indefinitely. The Board does not believe that it would be appropriate to make such an order. In accordance with the initial enforcement decision, Compton must comply with the required actions set out in the June 21, 2007, letter from the EPA. Once the EPA has confirmed compliance with these actions and Compton has received written approval from the ERCB to recommence operations, production of the 7-18 well may occur.

Dated in Calgary, Alberta, on August 5, 2008.

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

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B. T. McManus, Q.C.  
Presiding Member

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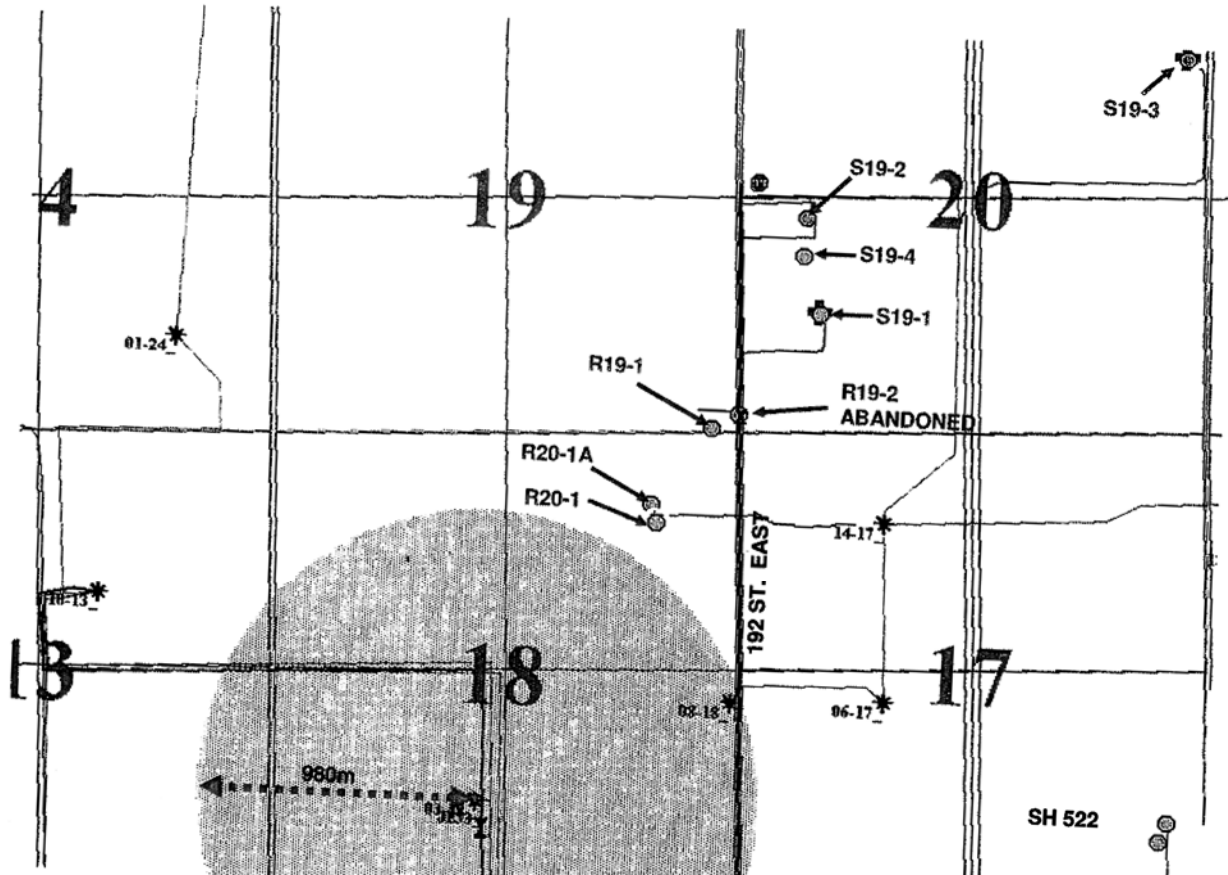


Figure 1. Map of the area