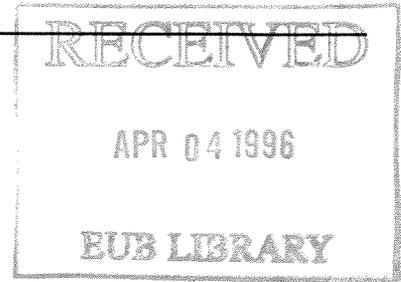


ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

**BAYTEX ENERGY LTD.****APPLICATIONS FOR**

- A WELL LICENCE
- A PERMIT TO CONSTRUCT A SINGLE WELL OIL BATTERY

PEMBINA AREA**Examiner Report E 96-2****Applications No. 960018 and 960070****1 INTRODUCTION****1.1 Applications**

On 11 September 1995, Clifford Dennehy filed an objection with the Alberta Energy and Utilities Board (EUB) opposing the issuance of Well Licence No. 0180267 for the proposed oil well, BAYTEX PEMBINA 16-18-46-1 (16-18 well), located in Legal Subdivision (Lsd) 16 of Section 18, Township 46, Range 1, West of the 5th Meridian. The EUB granted Mr. Dennehy a hearing in the matter in accordance with section 43 of the Energy Resources Conservation Act and the well licence was registered as Application No. 960018.

Application No. 960070, for approval to construct and operate a single well oil battery in Lsd 16 -18-46-1 W5M, was filed by Baytex Energy Ltd. (Baytex) on 11 January 1996. Baytex stated that the battery would service the proposed 16-18 well in the event that the EUB allowed Well Licence No. 0180267 to remain valid.

1.2 Hearing

The applications were considered at a public hearing held on 7 February 1996 in Wetaskiwin, Alberta, before Board - appointed examiners J. R. Nichol, P.Eng., R. N. Houlihan, P.Eng., and D. D. Waisman. Those who appeared at the hearing and abbreviations used in this report are listed in the following table.

THOSE WHO APPEARED AT THE HEARING

Principals and Representatives (Abbreviations Used in Report)

Witnesses

Baytex Energy Ltd. (Baytex)
K. Gowertz

C. Dennehy
C. Saddleback

C. Saddleback

Alberta Energy and Utilities Board staff
J. Wowk
V. V. Vogt
B. Boyd

2 ISSUES

The examiners consider the issues respecting the applications to be

- the need for the well,
- the need for the battery,
- the impacts of the well and battery, and
- the ability of the applicant to mitigate the impacts.

3 CONSIDERATION OF THE APPLICATIONS

3.1 Views of the Applicant

Baytex submitted that, by virtue of a Crown petroleum and natural gas lease (to the base of the Mannville), it has the right to explore for and recover oil underlying section 18; thus, it stated the need for the well is established. Baytex also stated that a single well battery would be required for the purpose of receiving effluents of the well.

In response to questions regarding the proposed battery, Baytex stated that it would make the required changes to the battery to ensure that no produced liquids enter the flare pit. Baytex further stated that the single well battery would be required for six to eight months to determine if it would be economically feasible to flowline the well effluent to an existing facility in the area. Baytex submitted that if the well proved productive it would not be pipelined for some time. Pending confirmation of economic feasibility, it anticipated a six to eight month delay for a pipeline tie-in. Baytex maintained that its goal was to fully develop its mineral leases in the area and to connect all the wells at that time.

Baytex described the land use surrounding the proposed lease as dense bush which is not used for grazing or hay production. With respect to access, Baytex explained that the lease only required an approach from the gravel road and that a fringe of bush would be left to conceal perceived adverse visual impacts of the lease site. Baytex also noted that if required by the landowner, a locked gate to the entry of the lease site would be supplied.

In response to questions regarding directional drilling, Baytex maintained that the cost of drilling and maintaining such a well would be prohibitive and that it did not wish to move the surface location. Baytex stated that the incremental drilling costs, assuming no problems were encountered, would be approximately \$30 000. Production costs over the life of the well would be increased by an additional \$50 000.

Baytex maintained that the environmental impacts from the well and battery would be minimal and if required, an offsite sump or dyke would be utilized. In response to questions regarding noise, Baytex indicated that the internal combustion engines at its current sites had mufflers installed and that plans for electrification to all sites were expected to start this spring after the third well had been drilled and a reduced spacing application had been approved by the Board. Baytex believed that the flaring impacts would be eliminated after a period of approximately six to eight months when the flowlining of the sites is to take place.

In questioning from the panel, Baytex advised that it uses contract landmen for its land negotiations. However, Baytex acknowledged that sending a company representative may sometimes be helpful in reaching an agreement with the landowner. In this case though, Baytex believed that negotiations failed for compensation reasons only and saw no merit in pursuing further meetings with the landowner.

3.2 Views of the Intervener

Mr. Dennehy recognized Baytex's right to produce its resources and the need for the well but was concerned about the further development on his property.

Mr. Dennehy stated that at no point in time did he agree to have the well on his land and that he wanted Baytex to move the well off his property. Mr. Dennehy uses his land for hunting. He expressed particular concern about the impacts that the well and associated flare would have on wildlife. The flare would frighten the animals and fewer would remain in the area, therefore reducing hunting prospects. He was also concerned that the well site would provide random access to his property which he wanted to avoid. Mr. Dennehy stated that he was concerned about the construction of a sump on his property and the escape of fluids from the site because of possible impacts on the environment.

Mr. Dennehy believed that Baytex negotiated in bad faith. He pointed out that his native culture's perspective of negotiation was much different than that of Baytex's and stated that Baytex's approach was more giving directives than discussing the issues with a hope of reaching a mutual agreement.

3.3 Views of the Examiners

The examiners note that Baytex has, through valid mineral sharing agreements, the right to explore for and develop the oil reserves underlying Section 18. This right was recognized by the intervener. For this reason, the examiners believe there is a need for the well. The principal issue is where the surface location of the well should be.

The examiners also note that if Baytex were to directionally drill from another location, directly across the north-south road as suggested by Mr. Dennehy, the impacts of the flare on wildlife would be very similar. As there would be little reduction in the perceived impacts of the proposed well by simply moving it across the road, the examiners believe that there is no reason to support this alternative, particularly when weighed against the increased costs associated with the drilling and production of a directional well.

The examiners note that Baytex is committed to making changes to the requested battery to ensure that no produced liquids enter the flare pit. The examiners find that there is a need for the proposed battery and that the application meets all of the Board requirements. The examiners believe that, in order to ensure the timely and full examination of the feasibility for flowlining the well effluent to an outside facility, a temporary battery approval of six months should be issued.

The examiners also note that no evidence was provided to support the intervener's concern that the flaring of the gas production would cause fewer animals to remain in the area and therefore reduce their hunting prospects. The examiners believe that flaring a relatively small volume of gas production for a short duration of time will not have a significant impact on the wildlife population.

Given the intervener's concern about unauthorized access to the well site and thus to his property, the examiners believe that it would be appropriate to fence the entire lease area and to install a locked gate at the established access point to the site.

The examiners were not provided any solid evidence to support the need for the use of steel tanks to contain the drilling fluids during the drilling operations nor to require off-site disposal of the sump fluids. The examiners do, however accept Mr. Dennehy's evidence respecting topographic and drainage conditions in the area in and around the proposed well site and believe that it would be prudent to dyke the north, west, and south sides of the lease to prevent the escape of any fluids from the site.

4 OTHER MATTERS

The examiners do not believe that Baytex conducted meaningful negotiations with Mr. Dennehy because it relied solely on the services of contract land personnel to acquire the surface lease and to address the concerns that he raised. The examiners understand that this is common industry practice, however, when a conflict arises, the company is encouraged to have someone with the authority to make decisions directly involved in the efforts to resolve the conflict. It is not surprising to the examiners that the landowner would find the negotiation process to be

unacceptable when the person he or she is negotiating with has little direct authority to make decisions on behalf of the company.

The examiners wish to point out that the applicant is at risk if it does not conduct meaningful negotiations as expected by the EUB. The hearing could have been delayed to allow further negotiations to take place or the application could have been denied without prejudice if it was clear to the examiners that all options had not been fully explored. Neither of these options were followed in this case because the evidence and testimony given at the hearing satisfied the examiners that further negotiations would likely be unsuccessful given the polarized positions of the two parties and that there were no alternative sites which merited further consideration.

The examiners are also concerned about the negative impression that the contract landperson left with Mr. Dennehy following the initial discussions respecting the surface lease. Mr. Dennehy indicated that he felt that he was being directed to accept the company's proposal as the only option available rather than being given the opportunity to enter into meaningful negotiation respecting the location of the well site and other matters of interest to him. In the examiners' view this is an inappropriate way to deal with the acquisition of surface rights. There must be open and free communication between the parties, and the landowner should not be made to feel that he or she is being backed into a corner with no way out or with no opportunity to discuss their concerns in a meaningful manner.

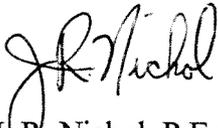
5 RECOMMENDATIONS

Having reviewed the evidence, the examiners recommend that application No. 960070 be approved in part, and a temporary battery approval issued for a six month period.

With respect to Application No. 960018, the examiners recommend that Well Licence No. 0180267 remain in good standing subject to the following additional conditions:

- (a) the entire lease site shall be fenced and a locked gate installed at the access point to the site, and
- (b) the north, west, and south sides of the well site shall be dyked to prevent the escape of any fluids from the site.

DATED at Calgary, Alberta, on 29 March 1996.

A handwritten signature in cursive script, appearing to read "J. R. Nichol".

J. R. Nichol, P.Eng.

A handwritten signature in cursive script, appearing to read "R. N. Houlihan".

R. N. Houlihan, P.Eng.

A handwritten signature in cursive script, appearing to read "D. D. Waisman".

D. D. Waisman