

ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

**BURMIS ENERGY INC.
APPLICATIONS FOR LICENCES FOR WELLS,
GAS BATTERIES, AND ASSOCIATED PIPELINES
WILDWOOD FIELD**

**Decision 2003-050
Applications No. 1253701,
1253703, and 1261233**

1 BACKGROUND

The subject applications were originally submitted by Elk Point Resources Inc. (Elk Point). Due to outstanding public objections from parties that the Alberta Energy and Utilities Board (EUB/Board) determined were potentially directly and adversely affected, a public hearing was held on November 26, 2002. On November 27, 2002, Elk Point announced that Acclaim Energy Trust had acquired the company, subject to shareholder approval. The shareholders approved the acquisition on January 28, 2003. Through a series of transactions and corporate changes, Elk Point became Acclaim Energy West Inc.

Acclaim Energy West Inc. then entered into a farm-in agreement with Burmis Energy Inc. (Burmis) to drill and operate the subject wells, facilities, and pipelines, should they be approved. Burmis was registered as an Alberta corporation on November 25, 2002. The management team, shareholders, and board of directors of Burmis all held the same positions with Elk Point prior to the acquisition by Acclaim Energy Trust.

At the May 2003 hearing Burmis adopted all of the evidence submitted by Elk Point and stated it would abide by all the commitments made by Elk Point except for those commitments specifically identified as exceptions in this report. Additionally, Burmis committed to renotify and update all parties potentially affected by the proposed project. This commitment was completed, and on May 22, 2003, the Board received documentation confirming that. The proceedings were considered closed as of that date.

The Board is satisfied, given the above, that an exception to normal procedures is warranted and that the Elk Point applications should be transferred to Burmis. However, as both Elk Point and Burmis are separate legal entities, the Board believes that it is important to distinguish between what was presented or committed to by Elk Point and by Burmis. As such, this report refers to the applicant as Elk Point or as Burmis, depending on which entity was advancing the evidence or application at the time.

2 APPLICATIONS

2.1 Application No. 1253701

The application was submitted by Elk Point to the EUB on January 11, 2002, in accordance with *Guide 56: Energy Development Application Guide* and Section 2.020 of the Oil and Gas Conservation Regulations (OGCR) for a licence to drill a gas well in Legal Subdivision (LSD) 16 of Section 23, Township 54, Range 9, West of the 5th Meridian (16-23 well). This well would

have a maximum drilling hydrogen sulphide (H₂S) content of 2.9 moles per kilomole (mol/kmol) (0.29 per cent) and a drilling release rate of 0.0014 cubic metres per second (m³/s). The 16-23 well would produce sweet gas from the Notikewin Formation. The calculated emergency planning zone (EPZ) for the drilling of the well is 44 m, and there are no occupied dwellings, public facilities, and/or places of business inside the calculated EPZ.

2.2 Application No. 1253703

The application was submitted by Elk Point to the EUB on January 11, 2002, in accordance with *Guide 56* and Section 2.020 of the OGCR for a licence to drill a gas well in LSD 10-25-54-9W5M (10-25 well). This well would have a maximum drilling H₂S content of 14.6 mol/kmol (1.46 per cent) and a drilling release rate of 0.0341 m³/s. The calculated EPZ for the drilling of the well is 282 m, and there are no occupied dwellings, public facilities, and/or places of business inside the calculated EPZ. Although the primary target in this well is to produce gas from the Notikewin Formation, Elk Point also intends to explore the deeper Nordegg Formation. The resulting producing H₂S content for this well would be 8.1 mol/kmol (0.81 per cent).

The drilling release rates and EPZs for the proposed 16-23 and 10-25 wells are different due to differing geological prognosis and terminating formations.

2.3 Application No. 1261233

The applications for two gas batteries and associated pipelines were submitted by Elk Point to the EUB on April 11, 2002, in accordance with Section 7.001 of the OGCR and Part 4 of the Pipeline Act respectively. One gas battery would be located at each of the 16-23 and 10-25 well sites (16-23 and 10-25 batteries respectively). Each battery would consist of an emergency shutdown valve on the wellhead, a separator, a water storage tank, and a methanol storage tank. Elk Point has also provided for artificial lift equipment and produced water storage.

The proposed pipelines would transport natural gas from the 16-23 and 10-25 batteries to an existing gas battery in LSD 14-26-54-9W5M (14-26 battery). The gas would then be further transported through the existing KeySpan Energy Canada Inc. (KeySpan) pipeline system, for processing at the KeySpan Paddle River gas plant. The proposed pipelines would be licensed for an H₂S content of 9.0 mol/kmol (0.9 per cent), to be consistent with the licensed H₂S content of the KeySpan pipeline system. The natural gas pipelines would consist of 114.3 millimetre outside diameter steel pipe, be operated at a maximum pressure of 9930 kilopascals, and meet sour service requirements.

The locations of the proposed facilities are shown on the [attached figure](#).

3 INTERVENTIONS

The Skocdopole family are the landowners and operators of extensive farming and ranching operations that include lands the proposed wells, batteries, and pipelines would be located on. There are occupied residences located in the northeast quarters of Section 35-54-9W5M and Section 36-54-9W5M. The Skocdopoles' lands are shown on the [attached figure](#).

The Skocdopoles objected to the proposed project, citing issues of water quality and quantity, impacts on farming operations, future farming, and other land uses, health impacts from fugitive and flaring emissions, reclamation issues, and quality of life.

Mr. J. Ohnysty also farms in the area of the proposed applications. His lands include the northwest quarter of Section 19-54-8W5M and the southwest quarter of Section 30-54-8W5M. Additionally, he owns a controlling interest in the northwest quarter of Section 24-54-9W5M. His home quarter is in the northwest quarter of Section 19-54-8W5M. Mr. Ohnysty was concerned about permanent flaring and the impact that drilling could have on his artesian water well quality and deliverability. He identified an artesian well on the northwest quarter of Section 24-54-9W5M, adjacent to the proposed 16-23 well.

4 HEARING

The Board held a public hearing in Evansburg, Alberta, on November 26, 2002, before G. J. Miller (Presiding Board Member), H. O. Lillo, P.Eng. (Acting Board Member), and T. M. Hurst (Acting Board Member).

The Board received an additional submission from the Skocdopoles after the close of the hearing that related to the acquisition of Elk Point by Acclaim Energy Trust. The Board decided to accept the submission as evidence in the hearing and received additional comment from Elk Point/Acclaim Energy Trust on February 7, February 14, and March 21, 2003. The correspondence from Elk Point/Acclaim Energy Trust detailed the acquisition of Elk Point by Acclaim Energy Trust and outlined how the applicant intended to act on the approvals, if granted. Based on the concerns of the Skocdopoles, the acquisition of Elk Point, and the Board's interest in pursuing issues around Elk Point's operations management arising from the November 26, 2002, hearing, the Board decided that the hearing needed to be reopened. The hearing was reopened on May 1, 2003, to receive evidence on how the applicant intended to act on the approvals and on Burmis's intentions for operations management of the wells, pipelines, and facilities, if approvals were granted. By May 22, 2003, the Board received the last of the submissions that Burmis undertook to provide at the hearing on May 1, 2003.

Between the original hearing date and the reopening of the hearing, Acting Board Member Mr. Hurst retired from his duties with the EUB. Therefore, in accordance with the Board's legislation, Mr. Miller and Mr. Lillo continued as the division of the Board hearing these applications. Mr. Hurst played no role in the Board's decision on these applications.

Those who appeared at the November 26, 2002, hearing and at the May 1, 2003, reopening of the hearing are listed in the following tables.

THOSE WHO APPEARED AT THE NOVEMBER 26, 2002, HEARING

**Principals and Representatives
(Abbreviations used in report)****Witnesses**

Elk Point Resources Inc. (Elk Point)
L. H. Olthafer

R. D. Wade, P.Eng.
T. Laska, P.Geol.
J. R. Hurst,
of Antelope Land Services Ltd.
S. Weiderick, P.Eng.,
of Veco Canada Ltd.
L. E. Deibert, P.Geol.,
of Meridian Environmental Inc.

The Skocdopole family (the Skocdopoles)
J. D. Carter, Q.C.

Hugh Skocdopole
Kathy Skocdopole
Harry Skocdopole
Bruce Skocdopole
Jonas Skocdopole

J. K. Ohnysty

J. K. Ohnysty

Alberta Energy and Utilities Board staff
G. Perkins, Board Counsel
P. R. Forbes, C.E.T.

THOSE WHO APPEARED AT THE MAY 1, 2003, HEARING

**Principals and Representatives
(Abbreviations used in report)****Witnesses**

Burmis Energy Inc. (Burmis)
L. H. Olthafer

B. Goodfellow, P.Eng.
T. Brazzoni, P. Geol.
W. Buchan, P. Eng.,
of Acclaim Energy Inc.

The Skocdopole family (the Skocdopoles)
J. D. Carter, Q.C.

Hugh Skocdopole
Kathy Skocdopole
Harry Skocdopole
Bruce Skocdopole
Jonas Skocdopole

J. K. Ohnysty

J. K. Ohnysty

Alberta Energy and Utilities Board staff
G. Perkins, Board Counsel
K. Eastlick, P.Eng.
L. Wilson-Temple
G. McClenaghan, P.Eng.

5 ISSUES

The Board is of the view that the following issues arise from the applications:

- need for the facilities,
- location and impacts of the facilities,
- operations management, and
- public consultation and appropriate dispute resolution (ADR).

6 NEED FOR THE FACILITIES

6.1 Views of the Applicant

Elk Point proposed to drill two new wells. The 16-23 well would target the Notikewin Formation only, and the 10-25 well would target the Notikewin Formation and the deeper Nordegg Formation. Elk Point stated that neither location was contingent on the success of the other.

Elk Point indicated that initial productivity from wells in the Notikewin Formation typically ranged from 28.3 to 56.6 thousand cubic metres per day ($10^3 \text{ m}^3/\text{d}$) (1 to 2 million cubic feet per day (MMcf/d)). Reserves from this zone are expected to be 28.3 to 56.6 million (10^6) m^3 (1 to 2 billion cubic (Bcf) for each well, depending on the areal extent of the sand bodies. With respect to production from the Nordegg Formation at the 10-25 well, Elk Point anticipated that initial production would be in the range of 56.6 to 141.6 $10^3 \text{ m}^3/\text{d}$ (2 to 5 MMcf/d), with reserves expected to be 28.3 to 141.6 10^6 m^3 (1 to 5 Bcf). Elk Point submitted that the reserve life of the wells would be five to six years for the Notikewin and two to eight years for the Nordegg Formation.

In anticipation that the wells will establish commercial production, Elk Point submitted applications for well site surface facilities, the 16-23 and 10-25 batteries, and associated pipelines to connect the proposed wells to its existing 14-26 battery. Production would be transported through the existing KeySpan pipeline system to the KeySpan Paddle River gas plant.

Elk Point said that its mineral land holdings in the area consisted of Crown Petroleum and Natural Gas (P&NG) leases, specifically in Sections 23 and 25-54-9W5M. It stated that although both leases were to expire in May 2002, the Crown had granted a continuation to November 16, 2002, pursuant to ministerial direction to allow for the resolution of access issues. Elk Point applied for an additional continuation of the leases to allow for the completion of the regulatory process. Elk Point indicated it had received confirmation that an additional continuation of the leases had been granted.

Elk Point said that it used design criteria for the 16-23 and 10-25 batteries that would correspond to a sulphur inlet rate of up to 0.37 tonnes per day. Additionally, the proposed gathering pipelines would be licensed as natural gas pipelines with a maximum H_2S content of 0.9 per cent. It contended that the licensing of these pipelines was intended to exceed the maximum anticipated H_2S content for the potential Nordegg production from the 10-25 well and to be consistent with the licensed H_2S content of the downstream KeySpan pipeline system to which the gathering lines were proposed to be connected.

Elk Point stated that based on production information from other wells completed in the target Notikewin and Nordegg Formations, it believed there was significant potential for the production of the gas to be hindered by produced water. Accordingly, Elk Point indicated that the battery applications provided for the anticipated requirement of artificial lift equipment and produced water storage. The permanent well site facilities would each include an emergency shutdown valve at the wellhead, a separator, a water storage tank, and a methanol storage tank.

Elk Point further stated that if there was a need for the proposed 10-25 battery to handle slightly sour gas and associated water from the Nordegg Formation, a flare knockout drum and flare stack would also be installed for emergency and maintenance depressurization events. In addition, a remote terminal unit with remote and local shutdown capability, H₂S detection, and a small storage tank for the continuous injection of corrosion inhibitor into the sour gas production stream would be installed.

Elk Point submitted that its applications were in the public interest, were consistent with the efficient and orderly development of the province's energy resources, and incorporated features and commitments that represented an extensive effort to be responsive to the expressed concerns of area residents. Elk Point requested expedited consideration of its well licence applications, as well as a minimum two-year term on the approvals to commence construction of its pipeline and well site facilities, should they be granted. It explained that the need for the expedited consideration was based on the narrow window created by the continuation of the P&NG leases.

Elk Point stated that the extension for the commencement of construction of the proposed pipeline segments and well site facilities was needed to allow for a reasonable assessment of whether the wells were capable of commercial production. Elk Point was cognizant of the Skocdopoles' concerns with respect to the conceptual nature of the proposed pipeline segments and well site facilities. However, it believed that if it waited until the well production characteristics were better known and applied at that time, it was likely that the applications would be opposed as they are now. Elk Point also indicated that it submitted these applications at this time so that the affected parties could consider the impacts of the entire project.

6.2 Views of the Interveners

Although the interveners did not specifically comment on the need to drill the 16-23 and 10-25 wells, the rights to produce the wells, and the need to construct and operate the batteries and pipelines, they believed that oil and gas activity needed to be conducted in a responsible manner and that in the case of Elk Point's activities this was not happening. Accordingly, they believed it would not be in the public interest for the Board to approve the proposed applications.

Regarding the Elk Point request to have battery licences and pipeline permits with extended terms, the Skocdopoles believed that consideration of these applications was premature. They cited the uncertainty of what quality or quantity of gas, if any, these wells would produce and the uncertain nature of the information provided to them. In light of the uncertainty with respect to specifics, they believed that it was premature for Elk Point to assess the potential and probable impacts that the batteries and pipelines would have on them. As such, the Skocdopoles believed that the battery licences and pipeline permits should be denied at this time and Elk Point should reapply when it was more certain of what would be required.

6.3 Views of the Board

The Board believes that the applications represent a part of the applicant's overall Wildwood area development. Elk Point has demonstrated that it acquired the mineral rights under a P&NG lease for Sections 23 and 25-54-9W5M and that it is entitled to exploit the reserves thought to exist under those sections. The Board accepts Elk Point's estimates for initial productivity, reserves, and reserve life for the proposed wells. The Board notes that the interveners did not provide any evidence to specifically dispute the need for the 16-23 and 10-25 wells. The Board finds that the wells are required.

The Board also accepts that if the 16-23 and 10-25 wells are commercially productive, Burmis will require surface facilities and pipelines. The Board recognizes that there may be some uncertainty with respect to whether the applied-for batteries and pipelines will actually be required; however, it is the Board's practice to encourage companies to submit applications associated with the well licence applications when a public hearing is to be held. This allows the possible impacts of the entire project to be considered by potentially affected parties and the Board. The Board is satisfied that the batteries and pipelines as applied for are appropriate if the wells are productive.

The Board has considered Elk Point's request to extend any licences issued for the batteries and pipelines to a two-year term. It did not hear evidence that persuaded it that an extension of the normal one-year term for the approvals is necessary. The Board believes that Burmis should be prepared to evaluate the productive potential of the 16-23 and 10-25 wells should licences be issued and to proceed with the construction and installation of production facilities in a reasonable time frame. Therefore, should the Board approve licences for the wells, batteries, and pipelines, it will not extend the expiration of those permits beyond the normal one-year term.

7 LOCATION AND IMPACTS OF THE FACILITIES

7.1 Views of the Applicant

7.1.1 Protection of Water Resources

Having regard for groundwater resource protection concerns, Elk Point said that its drilling program called for installing conductor pipe to a maximum depth of 25 m or until the conductor pipe will not advance farther and that surface casing would be cemented to depths of 295 m and 326 m at the 16-23 and 10-25 wells respectively. It submitted that these depths were below any aquifers used for domestic purposes in the area. It stated that if the wells were successful, groundwater protection would be further assured by cementing the production casing to surface. If a well were unsuccessful, groundwater protection would be assured by installing a cement plug in the wellbore from 15 m below the base of groundwater protection (BGWP) to 15 m above the bottom of the surface casing. Elk Point stated that the BGWP is approximately 600 m. It also planned to use water-based drilling mud (fresh water and clay) during drilling operations. Additionally, Elk Point also indicated that, if requested, it would be prepared to undertake tests of nearby water wells to assess yield and quality shortly before and after drilling operations in order to have baseline information on file should any issues regarding impacts to water wells be raised in the future.

Elk Point stated that it would comply with the relevant Alberta Environment (AENV) notification, guidelines, and code of practice requirements, including those for well site and access roads in environmentally sensitive areas, pipelines on private lands, water body crossings, and hydrostatic testing. It stated it would bore the pipeline crossing of the creek that meanders through the Skocdopoles' lands. Elk Point stated that water for drilling and hydrostatic testing would be trucked in and that it would not have a sump on site during drilling. It proposed to utilize a tank to contain the water-based drilling mud and it would dispose of that material elsewhere.

Elk Point acknowledged that the 16-23 well would be located in an area of known artesian flow, but it did not believe that this would hinder the installation of the conductor casing or pipelines. Elk Point stated that mitigation measures would be implemented in the design and construction of the well sites and access roads so as not to impede surface water drainage. The design of the 16-23 well site would also be elevated and incorporate dikes to protect against any potential flooding of the nearby creek. It stated that all required storage tanks would be aboveground and would comply with the EUB's secondary containment requirements under EUB *Guide 55: Storage Requirements for the Upstream Petroleum Industry*.

7.1.2 Health Impacts to People and Animals from Fugitive and Flaring Emissions

Elk Point stated that although the 16-23 and 10-25 wells were expected to produce gas with no H₂S, provision would be made for the possible production of slightly sour gas from the 10-25 well. It noted that it may be possible that zones containing sour gas would be encountered during the drilling of the wells. It also noted that there were no residences located within the drilling and completion EPZs having radiuses of 44 m and 282 m determined for the 16-23 and 10-25 wells respectively.

Burmis noted that completions operations would involve flaring and that if testing of the Nordegg Formation at the 10-25 well occurred, ground-level sulphur dioxide (SO₂) concentrations would be well within applicable Alberta Ambient Air Quality Guidelines.

Burmis stated that there would be no flaring during production operations at either well site if gas with no H₂S was produced. Elk Point stated that emergency and maintenance depressurization flaring requirements would be handled through the existing 14-26 battery. Burmis pointed out that as the 14-26 battery was now an asset of Acclaim Energy West Inc., it was unable to keep this commitment and instead would use a temporary mobile incinerator for infrequent maintenance depressuring.

Should the 10-25 well produce sour Nordegg gas, Elk Point proposed to install a permanent flare stack at this site. The flare stack would be for the purpose of flaring during upset conditions and maintenance depressurization. Elk Point's material balance and plume dispersion modelling indicated that combustion of raw gas vapours from the water storage tank would not be required in any instance. It submitted that ground-level H₂S concentrations would be below AENV Ambient Air Quality Guidelines and occupational exposure limits and would not cause odours detectable outside the well site boundary. Further, the vapours would not be sufficient on their own to maintain a flare without make-up gas. Burmis confirmed that it understood if off-site odours occurred, it would be required to take immediate action to mitigate the cause. Elk Point

stated that a sour gas facility would also include H₂S detection and a remote terminal unit that would enable remote shutdown.

In either a sweet or sour gas production scenario, small volumes of sweet gas would be required to power pneumatic controls and pumps. In the event that the 10-25 well produced sour gas, Elk Point proposed to use either propane or a scrubber to remove the H₂S from the instrument gas. This sweet gas would be vented.

Elk Point questioned whether the Skocdopoles understood that the instrument gas at the 14-26 battery was now being sent to flare, instead of venting to the atmosphere, in an effort to address their concerns with respect to emissions.

7.1.3 Interference with Farming Operations

Elk Point stated that the 16-23 well surface location was constrained by the corresponding optimal bottomhole location, the boundary of the gas spacing target to the east, the nearby creek to the west, and the potential need for artificial lift equipment. Elk Point maintained that the artificial lift equipment would be needed if produced water was found to be an impediment to gas production. In any event, Elk Point stated that the proposed 16-23 well site would be adjacent to a county road and situated in such a way so as not to cause any significant burden on the Skocdopoles' farming operations.

Elk Point stated that the 10-25 well site surface location was dictated by the need to target two formations at a location where it had good but limited seismic data. Elk Point stated that it had only been able to purchase existing seismic data and was unable to obtain permission from the Skocdopoles to gather further information by conducting additional seismic operations. It maintained that a vertical well would be required to accommodate the anticipated need for artificial lift equipment.

In October 2001, Elk Point explored the possibility of drilling a well to a bottomhole location of 10-25-54-9W5M from a surface location at 6-25-54-9W5M (6-25) in an effort to address the concerns of the Skocdopoles. Elk Point indicated that by drilling a deviated well from a surface location at 6-25, it would not be able to intersect and produce both target formations in 10-25. Further discussions with the Skocdopoles indicated that the 6-25 location would not be acceptable to them either. Elk Point believed that it would only have one opportunity to explore the Notikewin and deeper Nordegg, so it elected to pursue the 10-25 surface location, which would allow it the highest chance of success with both formations.

Elk Point described that access to the proposed 10-25 well site would be accomplished by travelling north from the county road approximately 1200 m. It stated that this access road configuration was developed in consultation with the Skocdopoles to minimize the intrusion on their farming operations.

Elk Point concluded that it remained prepared to work with the Skocdopoles to address or minimize any transient impacts from the proposed drilling and construction activities on the farming operations, as well as any longer-term impacts arising from the presence of the well site facilities and access roads. To the extent that there were any demonstrable long-term adverse effects on the Skocdopoles' farming operations, Elk Point stated that those matters could be

addressed through compensation determined either by agreement or by the Alberta Surface Rights Board.

7.1.4 Impacts on Land Values and Future Development Plans

Elk Point believed that the Board had no jurisdiction over matters of compensation for land use or changes in land value and that the Alberta Surface Rights Board was the appropriate forum for dealing with such matters. Elk Point stated that it did not have sufficient information to assess the merits of or potential impacts on any of a number of future uses cited by the Skocdopoles, namely recreation, film, tourism, gravel pit, future house location, pivot irrigation, or feedlot.

7.1.5 Reclamation

Elk Point said that it would comply with the relevant notification, guidelines, and code of practice requirements when the sites were ready to be reclaimed. In addition, Elk Point stated that it would have an experienced construction inspector on the project and would commit to having an accredited soil inspector of its choosing on site during construction, topsoil salvaging operations, and cleanup. Further, AENV Conservation and Reclamation *Information Letter 00-08, Pre-construction Assessment Report for Wellsites (November 2000)* calls for the preparation of a report to serve as a record for future reclamation of a well site. While not a regulatory requirement, Elk Point said that it was prepared to commit to have such reports prepared with respect to the 16-23 and 10-25 well sites and to share them with the Skocdopoles.

Elk Point did not directly comment on the Skocdopoles' concerns with respect to the pipeline that started at the 14-26 site and proceeded northeast to the KeySpan Paddle River gas plant. This pipeline was constructed by Elk Point and subsequently taken over by KeySpan. Elk Point stated that if reclamation was not completed to the landowner's satisfaction, the landowner was free to contact AENV to inspect the site. If the reclamation did not meet the requirements of AENV, it was at liberty to issue an order to force the licensee to remedy the deficiencies.

7.2 Views of the Interveners

7.2.1 Protection of Water Resources

The Skocdopoles were concerned that drilling the 16-23 well could impact a recently drilled water well located in the southeast quarter of Section 23, the approximate location of which is shown on the attached figure. Further, they raised concerns that the creek could potentially flood the location of the 16-23 well site. The Skocdopoles noted that groundwater would be used in the event that an irrigation system was installed in Section 25. They were also concerned that testing before and immediately after any drilling would not prevent contamination. Similarly, monitoring would not provide any protection of the water resources and would not rectify any problems that did occur.

Mr. Ohnysty noted that he used flowing artesian wells (see attached figure) to water livestock near the proposed 16-23 well location. Mr. Ohnysty cited experience with a seismic program conducted in the 1950s as a reason for his concern about the potential impacts associated with the current proposed development. He maintained that the seismic holes drilled during that program and not properly sealed afterwards caused his family's artesian well to stop flowing.

Mr. Ohnysty stated the wells resumed flowing after the Ohnystys sealed the seismic holes; however, he noted that the flow was reduced. He was also concerned about the location of the 16-23 well site with respect to potential flooding from the creek.

Mr. Ohnysty stated that he was looking for assurances that the artesian well would not be damaged in either quantity or quality. He testified that this well was used to water livestock an estimated 10 ½ to 11 months per year. Mr. Ohnysty stated that in the event that his artesian well was damaged, he would like it to be repaired or replaced with a comparable water source at no expense to him or his family.

7.2.2 Health Impacts to People and Animals from Fugitive and Flaring Emissions

The Skocdopoles stated that they were opposed to venting and flaring in general. They indicated that they did not ask for the gas to be flared, nor did they indicate that flaring would address their concerns. When pressed to respond if they would prefer flaring or venting, they said they would like to have minimal, or preferably zero, emissions and submitted that they believed the means to greatly reduce or eliminate emissions were available.

Other than general concerns about air quality, Mr. Ohnysty did not identify any further concerns about emissions. He acknowledged that if the wells were approved and successful, flaring would be required during well completion activities. Mr. Ohnysty said that he would like to see this minimized and perhaps eliminated, but he acknowledged that it would occur and he was not opposed to it.

7.2.3 Interference with Farming Operations

The Skocdopoles conceded that many of the potential farming operations cited by them that could be impacted by the proposed developments were conceptual at this time. However, they considered themselves to be stewards of the land, being third-generation farmers and acting with consideration for the next generation. The Skocdopoles submitted that thinking long term and making decisions not only on definite plans but also on possibilities was not consistent with how oil and gas companies behaved. They believed that this difference in planning approaches had helped prevent a true meeting of the minds between themselves and Elk Point.

One example of the above was that the Skocdopoles expressed concern about the impacts the 10-25 well site could have on a potential irrigation system on that quarter section. They conceded that historically irrigation had not been needed and currently they were not aware of irrigation systems in the area; however, the past couple of years had been dry, and if the trend continued, irrigation may be seriously considered.

The Skocdopoles were asked why they declined to allow further seismic surveys on their lands when one of the outcomes may have been a more acceptable surface location for the 10-25 well. The Skocdopoles conceded that additional seismic work might have identified a more acceptable surface location; however, it might also have identified additional locations that Elk Point would wish to pursue. Given that the Skocdopoles did not want any further oil and gas developments on their lands, the potential for identifying additional targets was determined to outweigh the potential positive outcome that a more acceptable location for the 10-25 well would be found.

7.2.4 Impacts on Land Values and Future Development Plans

The Skocdopoles submitted that Section 25-54-9W5M was unique and perhaps the most attractive part of their current land holdings. Jonas Skocdopole submitted that he had trained in the film and television industry and that Section 25-54-9W5M was expected to be the location of a movie he was working on that was to be filmed in the summer of 2003.

Given the unique and beautiful nature of Section 25-54-9W5M, the Skocdopoles indicated that the hill north and east of the proposed 10-25 well site would be an ideal location for a new home. However, they believed having the view blemished by a well and associated facilities would compromise this potential land use.

The Skocdopoles also indicated that there was potential for a gravel pit on their lands, although that too was conceptual at this time. The Skocdopoles said that a small gravel pit was operating on their lands and, based on land characteristics, the gravel reserves, although not currently quantified, may allow for a commercially viable gravel pit. Although a gravel pit would not be a desirable land use at this time, should circumstances change in the future, the Skocdopoles may want to consider a gravel operation as part of the family business.

7.2.5 Reclamation

The Skocdopoles were not convinced that Elk Point could be relied upon to properly reclaim the sites associated with this project, given another experience they previously had with the company. They described an Elk Point well site and the right-of-way for a pipeline constructed by Elk Point, later taken over by KeySpan, as having been overrun with noxious weeds, including scentless chamomile, and they believed Elk Point was doing little or nothing to address the issue. The Skocdopoles noted that at the time that they negotiated that pipeline right-of-way they had concerns about the reclamation of the right-of-way and had therefore negotiated specific arrangements to ensure that it was done properly and in a timely fashion. They maintained that the right-of-way was to be reseeded by the fall of 2002, but to date no grass was present. The Skocdopoles were concerned that Elk Point would disturb the land and it would be up to them to either ensure that Elk Point completed the reclamation properly or reclaim the disturbed lands themselves.

7.3 Views of the Board

7.3.1 Protection of Water Resources

The Board notes the interveners' concerns regarding the protection of water resources during the drilling and operation of the 16-23 and 10-25 wells. The Board also notes the concerns that the 16-23 well is located within an area known for potential flooding and within an area with a flowing artesian groundwater system. In addition, the Board notes the concerns about the location of the 10-25 well and the potential for conflict with future irrigation systems on Section 25.

The Board considers protection of surface water and groundwater to be very important and believes that these matters can be appropriately dealt with by adherence to the AENV and EUB regulations. The Board considers the drilling practices proposed by Elk Point to be appropriate

and within EUB guidelines and requirements. Further, the Board notes that Elk Point also indicated that it would be prepared to undertake, if requested, tests of nearby water wells to assess yield and quality shortly before and after drilling operations in order to have baseline information on file should any complaints regarding impacts to water wells be received in the future.

Given the proximity of the proposed 16-23 well to the nearby creek and the depth and nature of the aquifer supplying Mr. Ohnysty's artesian water well, the Board expects Burmis to monitor the nearby creek and Mr. Ohnysty's artesian water well during the installation of the conductor pipe and during the drilling and cementing of the surface casing. Should these drilling operations have an adverse effect on the artesian flow, and ultimately Mr. Ohnysty's artesian water well, the Board expects Burmis to take immediate action, in consultation with AENV, to mitigate any adverse effects. Further, if the nearby creek is impacted, remediation satisfactory to AENV should be undertaken.

The Board notes Mr. Ohnysty's request to impose a condition that Elk Point replace his water source if Elk Point activities damage his artesian water well. The Board has authority to prevent oil and gas operations from causing water well problems. AENV has primary responsibility for dealing with concerns related to water wells and would take the lead in conducting the initial investigation of a problem. If the results of AENV's initial investigation indicate that oil and gas activity may be responsible for the identified problem, the EUB would become directly involved in the completion of the investigation and would ensure that the appropriate follow-up action is taken. There is a well-established protocol for dealing with water well complaints. Should the wells be approved, the Board directs Burmis to test the Skocdopoles' and Mr. Ohnysty's water wells prior to drilling the 16-23 and 10-25 wells to establish a baseline for the water quantity and quality. The testing procedures on the artesian water wells must be appropriate for artesian flowing wells. Burmis is to provide copies of the resulting data to the Skocdopoles and Mr. Ohnysty.

The Board notes that the 16-23 well site may be within the floodplain of the nearby creek. To ensure that the 16-23 well site and access road do not pose an unacceptable environmental risk due to flooding of the nearby creek, Burmis is required to notify AENV of this proposed well and undertake a hydrological study of the creek in this area that establishes the 1-in-100-year floodplain level and supply a copy to AENV. If the well site is within the 1-in-100-year floodplain, Burmis must either move the well surface location out of the floodplain or make application to AENV pursuant to the Water Act for any approval required by AENV, such as raising the well site above the 1-in-100-year floodplain or undertaking any other mitigative measures directed by AENV. Note that if the well surface location were to be moved, a new *Guide 56* application would be required.

In addition, the Board believes that the proximity of the creek and the potential for flooding of the area warrant the Board specifying which of the secondary containment requirements outlined in *Guide 55* are to be adopted by the applicant. Therefore, all storage tanks, regardless of design or size, must be aboveground and comply with Section 5.3.2.1 of *Guide 55*. Connection for truck loading lines must be located within the tank secondary containment area.

The Board believes that the proximity of the 16-23 well to the creek warrants measures to contain potential spills on the site. Therefore, in addition to secondary containment for the

storage tanks, the Board will require that spill containment be provided for the well area, including any pumping equipment, separation, and other production equipment, and the truck loading area. Stormwater retention must be provided for the areas specified and must have capacity for runoff from a 24-hour precipitation event of a 1-in-10-year return probability. The Board requires that the applicant submit site drawings and runoff containment design calculations to the EUB Applications Branch for approval prior to commencement of construction.

With regard to the impacts the 10-25 well and surface facility may have on the potential for future irrigation systems on Section 25, there was little evidence to determine current or future needs for an irrigation system or any actual plans to install it. The Board notes that the Skocdopoles said that this is an area that usually receives abundant precipitation. Given the uncertainty regarding the current need for irrigation and the uncertainty of well site surface impacts, the Board does not believe that it is appropriate to impose conditions to ensure that an irrigation system could be utilized on Section 25. However, if irrigation were required, the Board expects the two parties to work together to implement measures to minimize interference with each other's operations.

The Board notes that Elk Point stated it would comply with relevant AENV notification, guidelines, and code of practice requirements for well site and access roads in environmentally sensitive areas, pipelines on private lands, water body crossings, and hydrostatic testing. The Board notes that Elk Point stated that it would bore the creek crossing during pipeline construction, truck in water for hydrostatic testing, and not have a sump on either well site during drilling but would hold the water-based drilling mud in a tank for disposal off site. The Board expects Burmis to carry out these operations as described at the hearing and further expects the water used for hydrostatic testing to be trucked away for disposal. The Board is satisfied that these mitigative measures and existing regulations and regulatory practices should protect the water resources in this area.

7.3.2 Health Impacts to People and Animals from Fugitive and Flaring Emissions

The Board believes that with appropriate operating practices, Burmis would be able to ensure that the proposed wells and facilities would be operated safely. Mr. Ohnysty acknowledged that flaring is required during well completion activities and he would like to see this minimized and perhaps eliminated; however, he did recognize that it would occur and was not opposed to it.

The Board notes that completion operations such as cleanup and production testing would require flaring and understands that the equipment used would ensure that maximum ground-level concentrations of SO₂ would remain well within the AENV Ambient Air Quality Guidelines. The Board notes that Elk Point proposed to vent gas from the water storage tanks. The EUB does not require burning of small volumes of vented gas provided that H₂S concentrations are less than 10 mol/kmol. However, should venting of gas containing H₂S in lesser concentrations result in off-lease odours, the EUB will require Burmis to conserve or burn the vent gas. The Board expects Burmis to regularly monitor its facilities for off-lease odours and to take appropriate action if these odours are detected.

The Board believes that these operating practices proposed by Elk Point should not have any adverse effects on the health of people or animals.

7.3.3 Interference with Farming Operations

The Board notes Elk Point's testimony that the surface location of the 16-23 well site was constrained by the corresponding optimal bottomhole location, the boundary of the gas spacing target to the east, the nearby creek to the west, and the potential need for artificial lift equipment to handle produced water. The Board notes it did not hear from the Skocdopoles that the 16-23 well site would have significant impacts on its farming operations. Therefore, the Board considers the 16-23 well site to be acceptable.

With respect to the surface location of the 10-25 well site, the Board notes that the Skocdopoles did not favour the location chosen by Elk Point, given the impact they believed it would have on their existing and future operations. In addition, the Board understands that the Skocdopoles have a number of potential uses for the lands in the vicinity of the well site, such as irrigation, a filming location for a movie, a new home building site, and a gravel pit. The Board must balance these interests and impacts against the need to recover the province's resources.

The Board heard that the surface location selected by Elk Point was strongly influenced by the need to have the wellbore intersect two formations where seismic data were available to support the targets selected. Given the limited seismic data available, the Board is likewise constrained in evaluating other potential locations for the 10-25 well that may have mitigated more of the concerns raised. While the Board appreciates that the Skocdopoles will most certainly experience impacts from the presence of a well site on their lands, it is unable to determine from the evidence that the impacts are to such a degree that precludes the placement of a well site at the applied-for location. Based on the data available, the Board concludes that the 10-25 site is acceptable as applied for. The Skocdopoles should be aware that compensation for impacts are within the Alberta Surface Rights Board's (SRB) jurisdiction, and the Board's finding on this point does not dictate to any decision the SRB may be asked to make.

7.3.4 Impacts on Land Values and Future Development Plans

The Board agrees with Elk Point's view that the Board lacks the jurisdiction to deal with compensation for land usage. This is duly noted in the Board's legislation and in notices advising parties of hearings and hearing requirements. Additionally, the Skocdopoles did not provide sufficient evidence to allow the Board to determine the certainty or timing of the future land uses cited by the Skocdopoles. Therefore, the Board finds it difficult to assess the impacts of the potential future land uses, many of which were cited by the Skocdopoles as being conceptual. The Board believes that measures can be developed to accommodate filming needs and to mitigate the visual and other impacts of the proposed wells and facilities. Should the applications be approved, the Board expects Burmis to work with the Skocdopoles to reduce aesthetic impacts by choosing acceptable colours for any structures located on the well sites, considering vegetative screening, and exploring other mitigative measures with the Skocdopoles.

7.3.5 Reclamation

The Board notes the issue cited by the Skocdopoles about the lack of reclamation of the pipeline between the 14-26 site and the KeySpan Paddle River gas plant that was constructed by Elk Point and subsequently transferred to KeySpan. The Board is concerned that agreements made at

the time of construction should have been honoured by Elk Point. However, given the circumstances, as Burmis would be transporting product through the KeySpan pipeline, the Board believes that Burmis has an interest in the affairs of the operator and expects appropriate discussions to take place with the operator to ensure that reclamation agreements are met. This matter is explored in more detail in Section 9: Public Consultation and Appropriate Dispute Resolution.

The Board notes that Elk Point said it had complied and would continue to comply with the relevant notification, guidelines, and code of practice requirements. The Board expects Burmis to fully meet its commitment to have an experienced construction inspector on the project. Additionally, Burmis must have an accredited soil inspector on site during construction, topsoil salvaging operations, and cleanup of the pipelines, and the operator must maintain the records addressing this condition for the life of the pipeline. The Board is concerned that Elk Point was adamant that the accredited soil inspector must be of its choosing. The Board appreciates Elk Point's concern that conditions should not give one party the ability to dictate or delay the other party's project. Notwithstanding the foregoing, the Board expects that Burmis will provide the Skocdopoles with an opportunity to participate in the selection of the soil inspector. The Board also expects the applicant to follow through with its commitment to have AENV Conservation and Reclamation *Information Letter 00-08* reports made available to the Skocdopoles. The Board believes this would be helpful to the Skocdopoles.

In conclusion, the Board believes that the well site locations are acceptable and the resulting impacts can be mitigated or otherwise compensated through the Surface Rights Board.

8 OPERATIONS MANAGEMENT

8.1 Views of the Applicant

Burmis presented itself as an emerging full-cycle exploration, development, production, and marketing company, reporting that it operated 14 wells. It confirmed that it was aware of and would honour the commitments made by Elk Point.

Burmis stated that its Vice-President of Production Operation, Mr. Goodfellow, was responsible for the development of its regulatory and health, safety, and environment policies and had authority for expenditures and direction related to compliance matters. Burmis stated that it would report on compliance matters and health, safety, and environment issues to its board of directors, although this had not yet happened because Burmis had just begun operations. A consultant was contracted to develop its health, safety, and environment manual, and a copy of the manual was submitted subsequent to the hearing. Burmis stated that its management had a low to medium involvement in the development of the manual and that it relied on the consultant to identify key regulatory compliance matters and other technical standards for the manual. Burmis admitted that its responsible managers did not have specific training or experience in health, safety, and environment matters or in emergency response.

Burmis indicated that Mr. Goodfellow was also responsible for the implementation of its operations management systems at the field level and that he was the first contact for field operators on health, safety, and environment compliance matters, as well as for public

complaints on matters such as odours. Burmis maintained that it contracted quality operators and that they were provided with its operating practices. This was supplemented by management field visits and by at least weekly contact with operating contractors.

Burmis stated that it did not employ a field superintendent, but indicated that it would have independent consultants experienced in health, environmental, and corporate compliance make semi-annual visits to each of its operating sites. The visits would include review of housekeeping, verification that systems were operating correctly, and inspection of pipeline rights-of-way, and a record of findings would be made. It said that it did not have related audit forms or checklists developed. Burmis stated that results of operator checks and inspections (operator logs) were faxed to its office on a weekly basis.

Operators would report issues of concern and noncompliance matters directly to Mr. Goodfellow. There was no policy on what kinds of incidents had to be investigated and reported, nor was a process for follow-up in place. Burmis noted that Elk Point had a formal incident investigation and reporting procedure and that such a procedure would be put in place for Burmis. It said that related problems would be fixed and that the situation would be monitored to prevent recurrences.

Commitments made to landowners would be put in writing by Burmis and would be flagged to ensure that related actions were scheduled consistent with any promises it made. Burmis was aware of previous commitments made by Elk Point and said that it intended to fulfill those. It said that a system would be implemented to list commitments and the list would be reviewed regularly. It noted, however, that such a system was not yet in place. Burmis stated that its executives were currently responsible for scheduling action on commitments through its consultants because at the time of the May 2003 hearing there were no Burmis field staff.

In response to questioning on how Burmis ensured that consultants were adequately qualified, it indicated that Burmis was using the same consultant team that Elk Point used for eight years and that the consultants had professional designations in their respective disciplines.

Burmis stated that a consultant prepared its corporate emergency response plan and the consultant was available to Burmis on a 24-hour call basis. Mr. Goodfellow and the other members of Burmis management would be on the call-down list for emergencies, and Mr. Goodfellow was ultimately responsible for emergency response. Burmis indicated that its drilling contractors would have appropriate training and would be provided with Burmis's emergency response plan.

8.2 Views of the Interveners

The Skocdopoles raised concerns about the process whereby the operation of the proposed facilities passed from Elk Point to Acclaim Energy West Inc. and then to Burmis. These included concerns that commitments made by Elk Point would not be carried out by Burmis and about the numerous responsibilities taken on by the few Burmis staff.

8.3 Views of the Board

The Board believes that flaring of gas associated with well completions and emergency or maintenance depressuring can be safely done in this case. The Board further notes Burmis's evidence that should sour gas be produced from the 10-25 well, any gas vented from water storage or from instrumentation would not result in off-lease odours. As proposed by Burmis, the venting would be consistent with regulations administered by the EUB. That said, the Board notes that venting of gas from storage tanks where H₂S may be present has the potential for off-lease odours. The Board also notes that careful attention to scrubbing systems is required to ensure that reagents are replenished to maintain treatment effectiveness. Should sour gas be produced, the Board expects that Burmis will implement operating procedures to regularly check areas around the 10-25 site for odours, and the Board requires that corrective action be taken to address sources if odours are detected.

The Board reviewed the health, safety, and environment manual provided by Burmis and found it to be generally appropriate for the relatively small scale of the company's operations. The Board recognizes that effective health, safety, and environment programs need to focus on critical aspects of licensee operations and related regulations, standards, and guidelines. Without a careful process to identify what is important and relevant to a company's operations, such programs and manuals can become large, complex, and impractical to implement, especially for smaller operators. The Board views that a reasonable attempt was made in the preparation of the Burmis manual to address critical factors without creating an unnecessarily large document.

The Board particularly noted that the health, safety, and environment manual included an effective incident investigation and reporting protocol. The protocol included reporting of "near miss" incidents, which enables the company to learn to prevent accidents by investigating situations that have potential for causing harm.

The Board notes, however, that the Burmis witnesses were not fully conversant with the incident investigation and reporting procedure. Burmis leaders responsible for emergency response and the health, safety, and environment program admitted that they did not have specific training or experience in such matters. The foregoing evidence on the whole indicated an apparent lack of knowledge and experience on the part of Burmis staff. However, the Board appreciates the cooperation, openness, and candour of Burmis's witnesses on this matter, as well as the close involvement of Burmis's executives in operations management.

The Board expects that Burmis will be diligent in ensuring that its operations leaders and contractors are fully familiar with its health, safety, environment, and corporate emergency response programs. The Board further expects that Burmis will ensure that its staff that have primary responsibility for the implementation of its emergency response and health, safety, and environment compliance programs are adequately trained and qualified to assume these roles. The Board views this as particularly important when so much responsibility is vested with one leader.

The Board notes that the health, safety, and environment manual was general in nature, and it expects that Burmis's leaders will take steps to ensure that specific practices, inspections, and reports or logs are developed and implemented to address unique aspects of individual facilities. In addition, the Board expects that Burmis will review its corporate emergency response plan

with respect to the operation of the proposed facilities and that it will ensure that locally appropriate contacts and other procedures are defined and understood.

In conclusion, the Board believes that the operations of these facilities can be managed effectively and in such a way that the health and safety of the public can be protected and the environment will not be adversely impacted.

9 PUBLIC CONSULTATION AND APPROPRIATE DISPUTE RESOLUTION

9.1 Views of the Applicant

Elk Point indicated that its public disclosure and consultation efforts with respect to the applications were carried out with the assistance of its land agent, Antelope Land Services Ltd. It stated that its program complied with and in some respects exceeded EUB *Guide 56* requirements. In its view, this led to the only outstanding objections, those being from the Skocdopoles and Mr. Ohnysty.

Elk Point confirmed that the owners of the lands on which the applied-for wells, facilities, and pipelines were proposed to be located (Sections 23, 25 and 26, all of 54-9W5M) were the Skocdopoles. It indicated that its existing 14-26 battery was also located within the Skocdopoles' extensive land holdings. Further, the Skocdopoles maintain residences in the northeast quarters of Sections 35-54-9W5M and 36-54-9W5M.

Elk Point indicated that it originally contacted the Skocdopoles in April 2001 to specifically discuss the proposed wells and the acquisition of land rights for the well sites and access roads. It stated that over the course of the next several months, the Skocdopoles were extensively consulted on a number of issues, including the nature and proposed locations of the wells, the access road locations, the requirement for additional seismic data to assess alternative well locations, the specifics of the proposed surface leases, and the potential for associated gathering lines and facilities. Notwithstanding these efforts in advance of filing the applications with the EUB and a subsequent attempt at a mediated appropriate dispute resolution (ADR) process, Elk Point stated that the Skocdopoles maintained their objections to the applications and were not prepared to grant the necessary land rights for the proposed wells, well site facilities, and pipelines.

Although Elk Point stated that the parties were unable to reach any acceptable means of further negotiations, it characterized the relationship between it and the Skocdopoles as strained but professional.

Elk Point submitted that ADR was attempted and the preliminary meeting was held, but the Skocdopoles withdrew from the ADR process after the initial meeting. Elk Point commented that while it was unlikely a hearing could have been avoided altogether, this may have been a missed opportunity to resolve or partially resolve the outstanding issues between the parties.

Subsequent to the Acclaim Energy Trust acquisition of Elk Point and the Burmis farm-in agreement, Burmis undertook to update the public about the change. Burmis sent notice to all parties that had previously registered an interest in the project, as well any other parties requiring notification by *Guide 56*. Burmis indicated that no new concerns were brought to its attention as a result of the new information.

9.2 Views of the Interveners

The Skocdopoles also characterized the relationship between themselves and Elk Point as strained but professional. The Skocdopoles explained that in dealing with Elk Point the relationship was strained from the beginning. Their expectations of proper negotiations were not being met. They cited two examples, the first being the reclamation of the pipeline that Elk Point negotiated and KeySpan subsequently took over, in respect of which the negotiated reclamation was not carried out. The second example was the continuous flaring that occurred at the 14-26 battery.

For the Skocdopoles this led to a lack of trust. With respect to the pipeline right-of-way reclamation, the Skocdopoles had negotiated specific performance measures and, in their minds, these had not been met and Elk Point had abdicated its responsibilities by transferring the pipeline to KeySpan. They understood that there would not be any flaring or venting at the 14-26 battery; however, a flare had been operating there for some time.

The Skocdopoles confirmed that they withdrew from the ADR process after the initial meeting. They submitted that negotiations were possible when both sides were willing to compromise, but in their view the proposed developments were not acceptable on their lands and, as such, they were not willing to compromise. They saw this as an impasse, did not see any value in continuing with the process, and subsequently withdrew from ADR.

9.3 Views of the Board

The Board acknowledges that Elk Point conducted a public consultation program early in the development of the proposed project. The Board has established minimum notification requirements in *Guide 56*, and the Board finds that Elk Point met the requirements and expectations of *Guide 56*. The Board believes it is a fundamental responsibility of a proponent to initiate, develop, and maintain appropriate relations with the members of the community in which it works. While the Board will assist in facilitating discussion, it relies on industry to fulfill the applicant's responsibilities in this area. However, the Board expects communities to fully participate in an open dialogue with industry so that issues can be properly identified and addressed on an ongoing basis.

The Board was concerned to hear that transferring the pipeline to another area operator led to problems with reclamation. In the Board's view, Elk Point failed to recognize that a key element to building and sustaining constructive community and stakeholder relations is providing information, listening to concerns, and then trying to resolve those concerns in a meaningful manner. In addition, as resource owners, Albertans need to be aware of the importance of energy resources to Alberta's economy and society. The Board believes that by becoming entrenched in their respective positions, Elk Point and the interveners limited the dialogue needed to explore solutions to resolve issues. For appropriate communication to occur, all parties need to be willing to participate in meaningful dialogue. The Board believes that in order to be successful, Burmis must demonstrate its corporate commitment to deal with the issues and concerns of the community in which it operates.

One of the Board's goals when it initiated the ADR program was to encourage face-to-face discussions between affected landowners and company decision-makers, leading to local solutions to local problems. The Board notes that ADR was attempted, but it is concerned that the parties did not participate further in the process. The Board believes that further attempts may have led to a mutually acceptable surface location of the 10-25 well site and could have resulted in refinement of the projects that may have eased the interveners' concerns over adverse impacts.

10 DECISION

Having carefully considered all the evidence, the Board finds that Elk Point and Burmis have demonstrated the need for the proposed wells, facilities, and pipelines and that those can be drilled, constructed, and operated in a safe and environmentally acceptable manner. The Board finds that the associated impacts can be properly addressed and mitigated. As a result, the Board is of the view that the subject applications are in the public interest and, therefore, approves the applications subject to Burmis meeting the conditions set out in the appendix.

DATED at Calgary, Alberta, on June 23, 2003.

ALBERTA ENERGY AND UTILITIES BOARD

[Original signed by]

G. J. Miller
Presiding Board Member

[Original signed by]

H. O. Lillo, P.Eng.
Acting Board Member

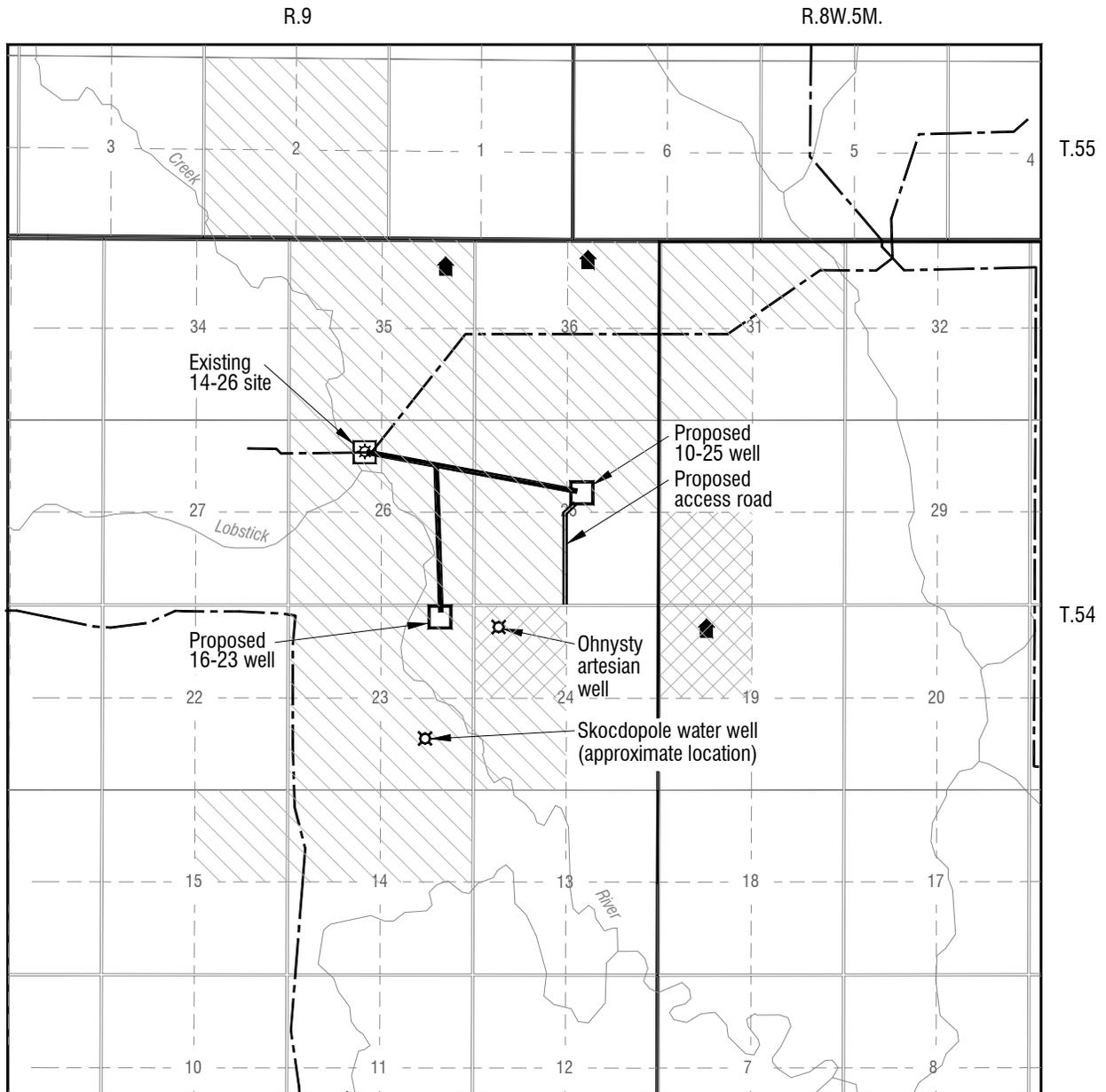
APPENDIX TO DECISION 2003-050

SUMMARY OF THE BOARD'S CONDITIONS

Conditions

The conditions imposed in the licences are summarized below. Conditions generally are requirements in addition to or otherwise expanding upon existing regulations and guidelines. An applicant must comply with conditions or it is in breach of its approval and subject to enforcement action by the EUB. Enforcement of an approval includes enforcement of the conditions attached to that licence. Sanctions imposed for the breach of such conditions may include the suspension of the approval, resulting in the shut-in of a facility.

- 1) Burmis must have an accredited soil inspector on site during pipeline construction, topsoil salvaging operations, and cleanup of the pipelines, and the operator must maintain the records addressing this condition for the life of the pipeline.
- 2) The Board directs Burmis to test the Skocdopoles' and Mr. Ohnysty's water wells prior to the drilling of the 16-23 and 10-25 wells to establish a baseline for the water quantity and quality. The testing procedures on the artesian wells must be appropriate for artesian wells. Elk Point must provide copies of the resulting data to the Skocdopoles and Mr. Ohnysty. Burmis or its successor licensees must maintain these records for the life of these wells.
- 3) Burmis is required to notify AENV of the proposed 16-23 well and undertake a hydrological study of the creek in this area that establishes the 1-in-100-year floodplain level and supply a copy to AENV. If the well site is within the 1-in-100-year floodplain, Burmis must either move the well surface location out of the floodplain or make application to AENV pursuant to the Water Act for any approval required by AENV, such as raising the well site above the 1-in-100-year floodplain or undertaking any other mitigative measures directed by AENV. Note that if the well surface location were to be moved, a new *Guide 56* application would be required.
- 4) Not more than 30 days following the completion of each of conditions 1, 2, and 3 above, Burmis must provide the Board with a written statement summarizing how it fulfilled that condition, including sufficient detail to allow the Board to assess whether Burmis has met the requirements of the condition. The information provided will form part of the Board's record of these applications.
- 5) With respect to the 16-23 battery, all storage tanks, regardless of design or size, must be aboveground and comply with Section 5.3.2.1 of *Guide 55*. Connection for truck loading lines must be located within the tank secondary containment area. The Board requires that spill containment be provided for the well area, including any pumping equipment, separation, and other production equipment, and the truck loading area. Stormwater retention must be provided for the areas specified and must have capacity for runoff from a 24-hour precipitation event of a 1-in-10-year return probability. The Board requires that the applicant submit site drawings and runoff containment design calculations to the EUB Applications Branch for approval prior to commencement of construction.



Legend

- Proposed pipeline
- - - Existing pipeline
- 🏠 Residence
- ▨ Skocdopole property
- ▩ J. Ohnysty property

Wildwood Field
 Applications No. 1253701, 1253703, and 1261233
 Burmis Energy Inc.

Decision 2003-050