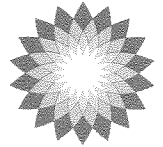




Gregory J. Grabowski

Vice-President, East Production



BP Canada Energy Company
240 – 4th Avenue S.W.
Calgary, Alberta
T2P 2H8

May 12, 2003

Alberta Energy and Utilities Board
Applications Branch
640 - 5th Avenue, S.W.
Calgary, Alberta
T2P 3G4

Attention: Mr. Terry Abel, P.Eng

Dear Sir:

Re: Submission - GB 2003-12 - Gas Production in Oil Sands Areas

Direct: (403) 233-6310
Fax: (403) 233-1846
grabowgj@bp.com

In accordance with the instructions set out in General Bulletin GB 2003-12, please find enclosed two copies of the Submission of BP Canada Energy Company. An electronic version of the Submission has been e-mailed to you at terry.abel@gov.ab.ca.

Should you require additional information or have questions with respect to this Submission, please let me know.

Yours very truly,

BP CANADA ENERGY COMPANY

Greg Grabowski
Vice-President, East Production

Encs.

753159_1

THE ALBERTA ENERGY AND UTILITIES BOARD

GENERAL BULLETIN GB 2003-12

GAS PRODUCTION IN OIL SANDS AREAS

SUBMISSION OF

BP CANADA ENERGY COMPANY

May 12, 2003

SUBMISSION OF BP CANADA ENERGY COMPANY

RE: GENERAL BULLETIN GB 2003-12 GAS PRODUCTION IN OIL SANDS AREAS

Introduction

1. By General Bulletin GB 2003-12 the Board invited interested parties to provide written submissions that comment on :
 - (a) Whether existing gas production from the Wabiskaw-McMurray Formation in the Athabasca Oil Sands Area should be shut in, and/or
 - (b) Any alternative measures that might be taken to ensure the conservation of bitumen in the Wabiskaw-McMurray Formation within the Athabasca Oil Sands Area.
2. This is the Submission of BP Canada Energy Company ("BP Canada")

BP Canada's Interest

3. BP Canada is an interested party within the meaning of GB 2003-12, as:
 - BP Canada was a participant as an Applicant and an intervenor in the Chard/Leismer area proceeding that led to EUB Decision 2003-023;
 - BP Canada is the licensee of a further 22 producing gas wells in the Leismer area that the Board has identified in Appendix 3 of Decision 2003-023 as "Additional Wells That Could Present A Risk To Future Bitumen Recovery In The Chard-Leismer Area"; and
 - BP Canada additionally has interests in other wells producing from other areas of the Athabasca Wabiskaw-McMurray deposit with a depositional environment that might be characterized as fluvial estuarine and as such might potentially be assessed by the Board as presenting a significant risk to future bitumen recovery.

Submission

Uncertainty in the Gas/Bitumen Policy

4. BP Canada is concerned about the uncertainty created by the General Bulletin in terms of the Board's established gas/bitumen policies and decisions. The General Bulletin alludes to the Board's concern that steps taken to date have been inadequate to protect the bitumen resource, but provides no indication as to the measure of adequacy utilized by the Board. Other than the specific wells noted by the Board in Appendix 3 to Decision 2003-023, BP Canada has not been made aware of any other specific wells or deposits within the Wabiskaw-McMurray Formation in respect of which the Board may have a concern.
5. The history of the gas/bitumen issue shows the Board determined in its 1998 Inquiry Report, at page 52, that:

"... the Board is not in a position at this time to articulate criteria that might be used to determine when associated gas production would pose a significant risk to future bitumen recovery."

For this and other reasons including fairness considerations, the Board established, as an appropriate policy, at pages 52 and 53, even though it might result in some impact on future bitumen recovery, that:

"... the Board will generally allow associated gas production to continue from investments made up to 1 July 1998 unless the Board receives a complaint from an oil sands leaseholder and subsequent investigation shows continued production from existing wells would not be in the long term public interest. Suitable recognition would have to be given at that time to the cost/benefit of shutting in existing associated gas production. In some instances, the Board may initiate such a review."

This policy is reiterated in Interim Directive ID 99-1, which indicates:

"For wells completed in the defined oil sands strata prior to 1 July 1998, an application for approval to produce gas will not be required. These wells will be allowed to continue to produce, subject to the resolution of any concerns that may be raised by oil sands leaseholders or by the Board on its own initiative."

6. General Bulletin GB 2003-12 implies that the established policy with respect to grandfathered gas production is no longer appropriate. No substantive reasons have been provided for this apparent change in perspective. Rather GB 2003-12 indicates only that:

"... the Board is concerned that steps taken to date have not adequately addressed the impact of existing or "grandfathered" gas production and believes that this represents a significant risk to bitumen recovery."

7. It appears to BP Canada that one of the purposes of this General Bulletin may be the solicitation of submissions from interested parties for purposes of enabling the Board to revisit and to potentially revise the policy established by the Board in its Inquiry Report and as set out in ID 99-1. This purpose, though, seems inconsistent with the Board's recent Decision 2003-023, in respect of Chard-Leismer, where at page 37 it indicates:

"The Board believes that every effort must be made to ensure the efficiency of the process contemplated by ID 99-1. However, the Board notes the complex nature of the evidence forming the basis of the decisions being made and the need to ensure fairness. Accordingly, the Board would be prepared to review ID 99-1 if sufficient evidence were submitted pointing to a problem with the current process. The Board does not find the evidence submitted to this proceeding to be sufficiently complete and conclusive to indicate what, if any, changes to ID 99-1 are warranted. Therefore, the Board continues to believe that the current application process is appropriate to ensure that potentially at risk bitumen is not jeopardized."

8. Given the absence of substantive grounds for a policy change and the apparent conflicting positions being advanced by the Board, BP Canada finds itself limited in its ability to respond to the specific invitation issued by the Board. BP Canada continues to be of the view that the substantive fairness recognized by the existing policy remains important to the industry and to the Alberta public interest. With respect to reasons that might justify the elimination of the policy on grandfathered wells, BP Canada is unaware of any more or better evidence than was available to the Board in the Chard/Leismer proceeding. Hence, BP Canada concurs with the Board's conclusion, as set out in Decision 2003-023 that the current application process (which implicitly includes concerns that may be raised by oil sands leaseholders or by the Board on its own initiative), is appropriate to ensure that potentially at risk bitumen is not jeopardized.

9. BP Canada additionally has concerns with respect to procedural fairness in terms of any significant decision that might adversely impact the reliance BP Canada has placed on its established and authorized gas production. BP Canada notes that General Bulletin GB 2003-12 indicates that the Board, upon the additional consideration of the responses to the invited submissions,

"... intends to take such steps as it believes necessary to effect the conservation of bitumen in the Wabiskaw-McMurray formation within the Athabasca oil sands areas."

BP Canada acknowledges the importance the Board has placed on its concerns with respect to future bitumen conservation but would expect that any such steps contemplated by the Board would also be taken in accordance with the guiding provisions of the *Administrative Procedures Act*, which provides:

4. Before an authority, in the exercise of a statutory power, refuses the application of or makes a decision or order adversely affecting the rights of a party, the authority
 - (a) shall give the party a reasonable opportunity of furnishing relevant evidence to the authority,
 - (b) shall inform the party of the facts in its possession or the allegations made to it contrary to the interest of the party in sufficient detail
 - (i) to permit the party to understand the facts or allegations, and
 - (ii) to afford the party a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations, and
 - (c) shall give the party an adequate opportunity of making representations by way of argument to the authority.
10. If any new or other evidence should come to the Board's attention, including information from any application by an oil sands leaseholder or information that may give rise to an initiative by the Board itself, BP Canada believes it should be appropriately notified and provided with a reasonable opportunity to respond. Nothing in GB 2003-12 discloses a particular initiative or application or any particulars that would command such a response by BP Canada.

11. BP Canada understood, when the gas/bitumen policy was established by the Board, that "grandfathered" meant "grandfathered" and believes that it should continue to mean "grandfathered".
12. BP Canada is anxious to work with the Board to achieve conservation and fair measures to deal with gas/bitumen issues in respect of grandfathered gas production in the Athabasca Oil Sands Deposit. To that end BP Canada would encourage the Board and its staff to clarify its policies and policy objectives and to make interested parties aware of the intended purpose in issuing a General Bulletin such as GB 2003-12. Such clarification is necessary to enable BP Canada to assess and respond to what appear to be fundamental questions as to changes in policy that are now being raised by the Board.

Substantive Uncertainty as to the Response Sought

13. If the purpose of GB 2003-12 is other than to revisit the Board's grandfathering policy, it is unclear to BP Canada what other specific response the Board intended to invite.
14. BP Canada has assumed the intent of GB 2003-12 might be directed at having gas and oil sands operators and rights holders in the Athabasca Oil Sands Deposit make depositional and stratigraphic assessments for other areas of the Athabasca Oil Sands Deposit in the same manner as the Board made those assessments in Decision 2003-023 for the Chard-Leismer areas. It was those types of assessments that were either determinative or indicative of the question of whether gas should be allowed to be produced and if on production, shut-in. BP Canada notes it was uncertainty, in terms of the potential for pressure communication between gas and bitumen, that was the primary basis on which the Board, in its Chard-Leismer decision, determined that gas should not be produced. BP Canada assumes, therefore, that the same rationale may be behind the General Bulletin as the criterion the Board has in mind that should now apply to grandfathered gas production.
15. The vertical and lateral communication assessments made in Decision 2003-023 tend to suggest that only very limited grounds will be considered by the Board for parties to establish a level of certainty that is satisfactory to the Board and that will not result in the

shut in of grandfathered gas production. Those grounds appear to be restricted to the geological interpretations made by the Board in Decision 2003-023.

16. A significant difficulty exists in terms of the availability of sufficient detail and reason in the Board's Chard-Leismer decision to enable BP Canada to understand the manner in which the Board made both the general and specific assessments and by which the Board reached the conclusions set out in that decision. Decision 2003-023 does not address the specific information considered determinative, or indicate how or on what basis the Board assessed the specific wells which led the Board to identify the geological features that enabled the Board to characterize wells as being of low or high risk. A very significant impediment to any similar assessment by BP Canada is that it has not been made aware of the manner or basis on which the Board interpreted areas of erosion of McMurray A and B mudstones either in the Chard-Leismer area or other areas in respect of which such an assessment appears to be sought.
17. Given all of the uncertainty created by the Board, it is BP Canada's submission that it is not fair or reasonable for the Board to seek from parties assessments like those made by the Board and in respect of which parties have inadequate information to either understand or to duplicate the assessment made by the Board. Hence it is simply not reasonable or possible for BP Canada, in the context of this uncertainty, to guess at the identification of:
 - (a) Whether existing gas production from the Wabiskaw-McMurray Formation in the Athabasca Oil Sands Area should be shut in, or
 - (b) Any alternative measures that might be taken to ensure the conservation of bitumen in the Wabiskaw-McMurray Formation within the Athabasca Oil Sands Area.

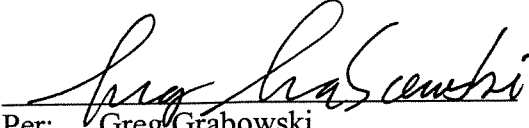
Conclusions

18. BP Canada does not believe a need exists to change the existing gas/bitumen policy approach to eliminate the policy with respect to grandfathered production.

19. BP Canada does not believe the Board has provided sufficient reason or detail to enable interested parties to replicate the assessments made by the Board in its Chard-Leismer decision in other areas of the Athabasca Oil Sands.
20. If the intended purpose of GB 2003-12 is simply to implement the shut-in of what is currently grandfathered gas production, the Board should be aware that BP Canada will consider that to be expropriation and will expect compensation for its losses.

All of which is respectfully submitted this 12 day of May, 2003.

BP CANADA ENERGY COMPANY


Per: Greg Grabowski
Vice President, East Production

749689_1