

ALBERTA WILDERNESS ASSOCIATION

APPLICATION NOS. 1276521 AND 1276489

POLARIS RESOURCES LTD.

SUBMISSION OF THE ALBERTA WILDERNESS ASSOCIATION

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I DESCRIPTION OF THE INTERVENERS

Alberta Wilderness Association (AWA) is a non-profit, federally registered charitable society. It is the oldest wilderness conservation group in Alberta dedicated to the completion of a protected areas network and the conservation of wilderness throughout the province. Founded in 1965 in rural southwest Alberta by backcountry enthusiasts, ranchers and outfitters, AWA is a provincial organization with more than 3,000 members and supporters. With almost four decades of success, we are known for our tenacity, corporate memory and integrity. Membership is international in scope and includes representatives from the industrial, ranching, trapping and conservation sectors, as well as concerned individuals.

AWA's mission is to defend wild Alberta through awareness and action. We believe that our quality of life, our health, and a healthy economy are totally dependent on Earth's biological diversity. Protected areas are internationally recognized as the most efficient way to maintain biological diversity. However, core protected areas alone are not enough. Environmental protection should be at the forefront of all land-use planning, particularly in transition zones.

II ISSUES

- the potential for environmental degradation of a nationally significant ecosystem;
- the Application contradicts existing legislation; and,
- the Application, if approved, invalidates commitments to landscape protection made previously by the public and private sectors.

III DESIRED DISPOSITION OF THE APPLICATIONS

The Polaris applications should be denied. We believe they threaten a nationally significant ecosystem, cripple previous commitments to landscape and wildlife protection, and contravene the environmental conservation and public interest duties outlined in provincial legislation.

Both the *Energy Resources Conservation Act* and the *Oil and Gas Conservation Act* stipulate that energy development in Alberta must be in the public interest and conserve the environment.

The current applications contravene the terms of both of these Acts. Drilling in the immediate vicinity of the Bob Creek Wildland and Black Creek Heritage Rangeland violates both the EUB's environmental conservation obligation and its duty to promote the public interest. Given the centrality of these concerns to the EUB's mandate, the Polaris Resources Ltd. applications to drill an exploratory sour gas well at location 11-32-10-2 W5M must be rejected.

IV REASONS FOR REQUESTED DISPOSITION

1. THREATENED WILDERNESS VALUES

The Whaleback represents the most extensive; least disturbed and least fragmented montane landscape in Alberta's Rocky Mountain Natural Region. The Whaleback is considered one of the best representatives of montane landscape, flora and fauna in Canada, and is a nationally significant landscape (Ministry of Community Development, 2003). The Montane Subregion comprises less than 1% (5987 km²) of Alberta's land area. The Whaleback is 4.77% (285.3807 km²) of Alberta's Montane Subregion.

The Whaleback is celebrated for its diversity of flora and fauna, including old-growth forests, rare plants, birds, mammals, reptiles, amphibians and fish. Of particular significance is the high quality winter range that is critical to ungulates such as elk, mule deer and moose. Along with the Ya Ha Tinda/Panther area, the Livingstone-Whaleback has long been considered one of the two most important elk wintering ranges in the province^{1, 2}.

Because the Whaleback is a large tract of relatively undisturbed, high-quality habitat, a number of large carnivore species are able to persist. Grey wolf, coyote, black bear, grizzly bear, wolverine, cougar, lynx and bobcat inhabit the Whaleback. The Whaleback provides an important habitat for grizzly bears².

¹ Alberta Environmental Protection. 1996. Alberta's Montane Subregion, Special Places 2000 and the significance of the Whaleback Montane. Heritage Protection and Education Branch, Parks Management Support Division, Natural Resources Service. Edmonton, AB.

² Bradshaw D. A., A. Saxena, L. K. Enns, R. Schultz and M. Sherrington. 1997. Biophysical Inventory, Significant, Sensitive and Disturbed Features of the Whaleback Area. Geowest Environmental Consultants Ltd. Edmonton, Alberta.

1.1 WILDLIFE HABITAT

Polaris' proposed well site and road is located on a south-facing region of the Whaleback, within identified critical wildlife habitat for elk, mule deer and moose³. The combined surface disturbance of both the road access and well site is estimated at approximately 4.4 hectares. If the proposed gas well proves successful, Polaris plans to expand these operations. This will increase the extent of activity through increased construction and drilling activity

An Environmental Assessment prepared for Polaris by Tera Environmental Consultants indicates that the proposed well site provides multi-season habitat for all three ungulate species, and is likely occasionally used by grizzly bear, black bear and wolf⁴. It concludes that development of the access road and well site will lead to an overall reduction in wildlife use of the immediate area as a result of both direct habitat loss and displacement. In addition, wildlife vulnerability to hunting will also increase. If approved, the Polaris sour gas well will result in a net loss of wildlife habitat in the Whaleback. This contravenes the "no net loss" guideline of the region's integrated resource plan. *"Development of mineral resources will be permitted in the Whaleback Ridge Critical Wildlife Zone where it can be demonstrated that there is no net loss of wildlife habitat, disruption of wildlife populations and loss of ecological and extensive recreational values found within this area"*⁵. It is the AWA's position that this area would be zoned Critical Wildlife if it was Crown land (all Crown parcels intermixed with private land in the vicinity are zoned Critical Wildlife). In addition, if the government policy is to permit development of mineral resources only where it can be demonstrated that there is no net loss of wildlife habitat, then that concept should apply where there is a direct influence of any development on the Critical Wildlife Zone. Such is the case for the Polaris well.

1.2 ECOLOGICAL INTEGRITY

Human developments and other alterations of natural habitat fragment wildlife populations and their habitat, and restrict wildlife movements. To conserve biodiversity and ecosystem functions, it is necessary to maintain habitat connectivity so that individual animals can move unrestricted across the landscape. Roads, trails and other linear disturbances often reduce or eliminate animal movements and habitat connectivity⁶.

³ Alberta Environmental Protection. 1995. *Wildlife Key Area Maps* (Critical Wildlife Habitat). 1:50,000 maps.

⁴ Tera Environmental Consulting. 2002. Environmental Assessment for the Proposed Polaris Ricks Livingstone 11-32-10-2 W5M Sour Gas Well Site and Access Road: (June 2002). Prepared for Polaris Resources Ltd and Ricks Nova Scotia Company. Calgary, Alberta.

⁵ Alberta Forestry, Lands and Wildlife. 1987. *Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan. Resource Evaluation and Planning Technical Report No. T/106*. Edmonton, Alberta.

⁶ Craighead F. L. 2002. *Wildlife-related Road Impacts in the Yellowstone to Yukon Region*. Prepared for the Yellowstone to Yukon Conservation Initiative (Available at www.y2y.net).

The proposed route is located between the largest portion of the Black Creek Heritage Rangeland and a smaller disjointed section to the south. The creation of a linear disturbance may present a barrier to some species, reducing or preventing movement between sections of the protected area. Such fragmentation may significantly reduce the ecological integrity of the Black Creek Heritage Rangeland as a whole.

The proposed road length is approximately 1.4 km in length. Of this, approximately 517 meters will be new linear disturbance. The remaining length of the disturbance will convert an existing trail into an all-weather access road⁷, thus increasing the severity of an already existing linear disturbance feature.

1.3 ENVIRONMENTAL IMPACT

It is widely recognized that land-use activities outside a protected area can have significant and detrimental impacts inside the protected area. Planning for conservation must give active consideration to those lands beyond protected area boundaries. It requires an understanding of how changes in land use affect ecosystem components and processes at a variety of spatial and temporal scales^{8,9,10}. The Panel on the Ecological Integrity of Canada's National Parks recognized this fact and suggested that the modern conservation paradigm should include the management of human uses outside of protected areas in order to conserve biodiversity¹¹.

The surface location of the proposed well site is, to a large extent, surrounded by protected crown land. At its closest point, the proposed well site is located only several hundred meters south of a protected area boundary. The Emergency Planning Zone (EPZ), defined as the area that is isolated if a sour gas emergency occurs, has a radius of 13.54 km. The EPZ covers more than half of the Bob Creek Wildland and Black Creek Heritage Rangeland. This calculation implicitly recognizes the potential negative impacts of the development on a large portion of the protected area.

⁷ Tera Environmental Consulting. 2002. *Environmental Assessment for the Proposed Polaris Ricks Livingstone 11-32-10-2 W5M Sour Gas Well Site and Access Road: (June 2002)*. Prepared for Polaris Resources Ltd and Ricks Nova Scotia Company. Calgary, Alberta.

⁸ Grumbine R. E. 1990. *Protecting Biological Diversity Through the Greater Ecosystem Concept*. Natural Areas Journal. 10: 114-120.

⁹ Hundson W. 1991. *Landscape Linkages and Biodiversity*. Defenders of Wildlife. Island Press. Washington D.C.

¹⁰ Thornton I. 1999. *Monitoring Cumulative Effects of Landscape Change on the Frontenac Axis: A Preliminary Investigation*. In: Proceedings of the Parks Research Forum of Ontario (PRFO), Annual Meeting, April 22-23, 1999.

¹¹ Parks Canada Agency. 2000. *Unimpaired for Future Generations? Protecting Ecological Integrity with Canada's National Parks*. Volume II: Setting a New Direction for Canada's National Parks. Report of the Panel on the Ecological Integrity of Canada's National Parks. Ottawa, Ontario.

1.4 CONCLUSION

The Whaleback is an area of outstanding ecological value, providing critical wildlife habitat for elk, mule deer, moose and grizzly bear. The **Energy Resources Conservation Act (CH E-10, RSA 2000)**, Section 2(d) clearly states that exploration for and the development of energy resources must “*ensure environmental conservation.*” Polaris’ own Environmental Assessment acknowledges that the development of the proposed sour gas well will result in an overall reduction of wildlife use and a direct loss of wildlife habitat. The extent of potential impacts is not limited to the immediate well site, but extends into the nearby Bob Creek Wildland and Black Creek Rangeland. Approval of the proposed development will violate this purpose of the Act.

2. CONTRADICTING PROVINCIAL POLICY AND LEGISLATION

From the early 1970s to the present day, the Alberta Government has indicated through numerous policies, management plans and public statements that it is committed to the conservation of wildlife, unique landscapes and significant ecological features. Such commitments have been reinforced by the substantial investment of the industrial and conservation communities alike.

2.1 EASTERN SLOPES POLICY

In response to the needs and concerns expressed during hearings held by the Environmental Conservation Authority in the early 1970s, the Alberta Government released ***A Policy for Resource Management of the Eastern Slopes*** in July 1977. This policy placed the highest priority for the Eastern Slopes as: “*watershed management to ensure a reliable supply of clean water for aquatic habitat and downstream users.*”¹² When the policy was revised in 1984, the same priority was given to watershed management.

In reference to other key priorities the policy also stipulated:

- Protection of critical wildlife habitat will maintain those species presently found in the Eastern Slopes.
- The Eastern Slopes natural resources will be developed, managed and protected in a manner consistent with principles of conservation and environmental protection.
- The management of renewable resources is the long-term priority of resource management in the Eastern Slopes. **Non-renewable resource development will be encouraged in areas where this priority can be maintained.** (emphasis added)¹³

¹² Alberta Energy and Natural Resources. 1977. *A Policy for Resource Management of the Eastern Slopes*. Edmonton, Alberta.

¹³ Alberta Energy and Natural Resources. Revised 1984. *A Policy for Resource Management of the Eastern Slopes*. Edmonton, Alberta.

The Eastern Slopes Policy zoned much of the Whaleback region as Zone 2: Critical Wildlife Zone. The current development proposal falls within this zone. Under the terms set out under the policy, petroleum and natural gas exploration and development is permitted in a Critical Wildlife Zone on a restricted basis subject to stricter-than-normal controls. Where incompatible activities already exist, whether on Crown or private lands, the zoning implies that non-conforming uses may be phased out in the future.

2.2 INTEGRATED RESOURCE PLAN

Preparation of an Integrated Resource Plan (IRP) for the Livingstone-Porcupine Hills region, which included the Whaleback, began in 1980. A draft of the Livingstone-Porcupine Hills integrated resource plan (IRP) was released for public discussion in 1986. Approximately 300 people attended forums in Nanton, Claresholm, Crowsnest Pass and Lundbreck. Public comments were considered in subsequent draft plan revisions. In 1987, the ***Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan*** was approved. This policy and planning document, in addition to relevant legislation, continues to be the guide for environmental and resource management practices on public lands in the region.

The location of the proposed sour gas well is located within the Willow Creek-Lower Oldman Resource Management Area D and designated Zone 2: Critical Wildlife Zone. In accordance with the IRP, the management objectives for the area include:

- Manage forage for domestic livestock and wildlife.
- Develop a land management strategy to maintain the quality, quantity and security of traditional elk winter range.
- Maintain current population levels of deer in the resource management area.
- Actively manage moose habitat to maintain and increase moose populations.
- Reduce the negative impacts of land use activities on wildlife and wildlife habitat.

These management objectives, especially those concerning a land management strategy and reducing the negative impacts of land use activities, are threatened by the Polaris proposal. The Integrated Resource Management Plan also specifies that: *“Development of mineral resources will be permitted in the Whaleback Ridge Critical Wildlife Zone where it can be demonstrated that there is no net loss of wildlife habitat, disruption of wildlife populations and loss of ecological and extensive recreational values found within this area. Any development will be considered in a manner consistent with the protection of wildlife and landscape values”*¹⁴. As noted above, consultants retained by Polaris have concluded that the Polaris project will result in the type of mineral resource-related habitat losses that are not supposed to occur according to the Livingstone-Porcupine Plan.

¹⁴ Alberta Forestry, Lands and Wildlife. 1987. *Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan. Resource Evaluation and Planning Technical Report No. T/106*. Edmonton, Alberta.

The proposed well site is located approximately six hundred meters from the Black Creek Heritage Rangeland. In addition, the EPZ engulfs most of the protected area. While the proposed sour gas well is located on private lands, the potential for negative impacts extends to those public lands far beyond the actual well site. For this reason, the EUB must consider the regional impacts of the proposed development and apply the resource management guidelines outlined in the IRP.

3. COMMITMENTS TO PROTECT THE WHALEBACK

3.1 ERCB RULING 1994

In 1993, Amoco Canada Ltd. submitted an application to the Energy Resources Conservation Board (ERCB) for the development of an exploratory sour gas well in the Whaleback. Concerned about the loss of such an ecologically significant and sensitive landscape, local residents, conservationists and citizens across Alberta invested considerable human and financial resources to oppose the application.

Objections to the Amoco application resulted in a ten-day public hearing in late May 1994. On September 8, 1994 the ERCB released its decision report, which concluded that the approval of Amoco's application would not be in the overall public interest and denied the application¹⁵.

The ERCB concluded that:

- The Whaleback region has particularly significant ecological, recreational and aesthetic value.
- Under the Livingstone-Porcupine Hills Integrated Resource Plan's land-use guidelines, the primary intent for the area is to protect critical wildlife habitat and ecological resources. Key to the management of this zone is that development should only be permitted if it could be demonstrated that there would be no net loss of wildlife habitat and no disruption of wildlife populations. The ERCB was not satisfied that Amoco could adhere to the regional resource management guidelines.
- The road and well were proposed for an area that is perhaps the largest remaining undeveloped example of montane ecoregion in Alberta¹⁶.

If successful, the current application will result in the development of a sour gas well in the same ecosystem subject to the 1994 ERCB ruling. The ecological, recreational and aesthetic values recognized in the 1994 ruling are as important today as they were when the ERCB rejected this earlier application from Amoco Canada.

¹⁵ Alberta Energy Resources Conservation Board. 1994. Application for an Exploratory Well, Amoco Canada Petroleum Company Limited, Whaleback Ridge Area, September 1994; ERCB Decision D 94-8. Calgary, Alberta.

¹⁶ Alberta Resources Conservation Board. 1994². News Release, September 8, 1994. Calgary, Alberta.

3.2 BOB CREEK WILDLAND AND BLACK CREEK HERITAGE RANGELAND

Rejection of the Amoco application and widespread public support for conserving the Whaleback, led to the region becoming a protected area candidate under the Special Places 2000 process. After several years of public consultation and debate, the Alberta Government announced its intention to create the Bob Creek Wildland Park and Black Creek Heritage Rangeland in 1999. The area represented 60% of what conservationists had requested. Premier Ralph Klein assured the public that the Whaleback would be safe from industrial development.

“I can guarantee you today that we will make sure that the commitment that there will never be any drilling there is so strong that not even another party or another government can break it... we will certainly find a mechanism to make sure that for all time, in perpetuity, that this land will be protected from oil and gas development” (Ralph Klein quoted in the Calgary Herald, May 12, 1999) Tab 1.

On June 26, 2003, The Minister of Community Development officially granted protection to the Black Creek Heritage Rangeland, fulfilling the commitment made in 1999.

The Alberta Government has made a clear commitment to the preservation of the Whaleback: since the Polaris application will violate this commitment the EUB must reject this proposed development.

3.3 NATURE CONSERVANCY OF CANADA

For more than 40 years, the Nature Conservancy of Canada (NCC) has been working to protect some of Canada’s most threatened habitats. Amoco donated the leases it held to the NCC. This enabled the conservation of ecologically significant private lands that could not be included in the Bob Creek Wildland and Black Creek Heritage Rangeland. Amoco’s donation was made on the understanding that the lands would contribute to the conservation of the Whaleback and that they would not be drilled on. In that 1999 arrangement, Joseph H. Bryant, President of Amoco, said:

“We fully appreciate the national significance of this area...Creating this environmental legacy is the right thing to do. Our partnership with the Nature Conservancy ensures that oil and gas activity will never occur in the Whaleback protected area” (Alberta Environment Protection News Release, May 11, 1999 at the public announcement of the area by Premier Ralph Klein.)” Tab 2.

Provincial energy development regulations require a company to acquire the mineral rights for a full section of land to drill a natural gas well. Polaris only holds the rights to a half-section of land. The NCC currently holds in trust the mineral rights to the neighbouring half-section of land. Polaris has applied to the EUB for an order compelling NCC to include its adjacent half-section of land as part of the Polaris proposed gas well development.

NCC's half section of land is deeded land and is ecologically no different from lands within the Bob Creek Wildland and Black Creek Heritage Rangeland.

Force pooling NCC's half section of land for petroleum development undermines the intent and spirit of the 1999 agreement.

4. PUBLIC INTEREST

Reference to "the public interest" is found in many contemporary political debates, statutes, and regulations. It may be found, for example, in the mission statement of the Energy and Utilities Board (EUB). The Board's mission is to ensure that "*the discovery, development and delivery of Alberta's resources take place in a manner that is fair, responsible and in the public interest*"¹⁷.

The importance of the public interest is also underlined in several of the laws that the EUB must interpret and implement. The ***Oil and Gas Conservation Act (2000)***, for example, links the public interest with the purposes of the Act. Section 4(c) of the Act identifies one purpose of the legislation as: "*To provide for the economic, orderly and efficient development in the public interest of the oil and gas resources of Alberta.*" Section 3 of the ***Energy Resources Conservation Act (2000)***, under the heading *Consideration of Public Interest*, notes: "*Where by any other enactment the Board is charged with the conduct of a hearing, inquiry or other investigation in respect of a proposed energy resource project, it shall, in addition to any other matters it may or must consider in conducting the hearing, inquiry or investigation, give consideration to whether the project is in the public interest, having regard to the social and economic effects of the project and the effects of the project on the environment.*"

These references are significant for several reasons other than outlining the importance of the public interest to the EUB's mandate. First, their failure to specify in some detail what defines "the public interest" underlines the society-wide lack of consensus over the content or substance of the public interest. Despite the term's popularity there is remarkably little consensus on what government regulatory agencies must do to further the public interest. The EUB acknowledged this in a decision reached in the Manhattan pre-hearing decision, December 2002. It wrote: "*The facts, circumstances and issues of each individual application necessarily mean that no single objective test of what constitutes 'in the public interest' can be formulated. Generally, the public*

¹⁷ Alberta Energy and Utilities Board. 2003. Guide 29: Energy and Utilities Development Applications and the Hearing Process. January 2003. Calgary, Alberta.

interest standard is met by an activity that benefits the segment of the public to which the legislation is aimed, while at the same time minimizes, to an acceptable degree, the potential adverse impacts of that activity on more discrete parts of the community”¹⁸

The references above are significant for a second reason. Despite the unavailability of an accepted, detailed understanding of the public interest, there is a growing conviction that furthering the public interest now demands striking a more complicated balance than was the case fifty years ago. Now, environmental, social and economic concerns all demand the Board’s careful consideration. Although an accepted, easy to follow formula or recipe for balancing these concerns may not exist, the Board is clearly obligated to consider them all when fulfilling this duty.

The logic used by the Board in its December 2002 decision is consistent with McDowell and Buchwald’s (1997) conclusions about what government must now do to further the public interest. They argue, in effect, that regulatory agencies such as the EUB must respond to new concerns and to the broad interests of all members of the public in order to carry out their obligations to the public interest: *“In political systems in which government is responsible and accountable to the national voting populous [sic], the term ‘public interest’ is used to refer not only to long standing aspirations and visions of citizens of a nation-state, but also the interests and objectives that remain to be discovered as new concerns and policy problems arise. The government, the public interest advocates would argue, should seek to serve the broad interests of all members of the political public, and not just the interests of a more narrow sectoral group that happens to have the ear of the government of the day.”¹⁹*

This perspective also is quite consistent with the description of the public interest found in the Dictionary of Economics (Blake, 2002). There the public interest is defined as, *“the good of the general public, as contrasted with the particular individuals or firms involved in a decision.”²⁰* To respect the public interest demands an effort from government agencies to consider the fundamental attitudes, opinions and preferences of society at large and to insure that the views of a single interest or firm do not prevail over “the good of the general public.”

Public opinion polling is one useful tool for determining the public interest. Public surveys have been used to document the values of Albertans on countless complex issues. The following sections outline the results of public opinion polls that illustrate the great importance placed by Albertans on the conservation of wild spaces, particularly the Whaleback. Furthermore, these

¹⁸ Alberta Energy and Utilities Board. 2002. *Memorandum of Decision, Prehearing Meeting*. Manhattan Resources Ltd: Applications for Wells, Pipelines and Facilities Licences and an Amendment to a Facility, Fort Saskatchewan Field. Decision 2002-107 (December 6, 2002). Calgary, Alberta.

¹⁹ McDowell S. D. and Buchwald. 1997. *Consultation on Communications Policies: Public Interest Groups and the IHAC, Working Paper No. 4*. Faculty of Information Studies. University of Toronto.

²⁰ Blake J. 2002. *A Dictionary of Economics*. Oxford University Press.

surveys demonstrate public opposition to industrial development at the expense of wilderness values, even when development will lead to economic gain, and even when the proposed development is on private land. Collectively, these data demonstrate that Albertans do not support oil and gas development adjacent to the Whaleback protected areas.

4.1 ALBERTA WILDERNESS ASSOCIATION: OPINION POLL 2003 (In Tab 3)

In July 2003, Alberta Wilderness Association retained The Dunvegan Group to conduct a public opinion poll²¹. The Dunvegan Group is a marketing and research-consulting firm based in Calgary, with offices in Toronto and Ottawa. The objective of the poll was to determine whether Albertans are in favour of, or opposed to, the current proposal that sour gas drilling be permitted in the immediate vicinity of the Whaleback.

To conduct the survey, a question was included on the Alberta portion of a national omnibus telephone survey. In conjunction with the Alberta Wilderness Association, The Dunvegan Group developed the question. Respondents were provided with factual background information concerning the Whaleback and the proposal to drill a sour gas well in the immediate vicinity of the protected areas.

A random sample of 250 Albertans, 18 years of age and over, was interviewed. A sample of this size provides results that are accurate within a maximum margin of +/-6 percentage points at the 95% confidence level. This level of accuracy is accepted within the marketing and survey research industry. Prior to the full field study, the questions were pilot tested with a small sample of respondents to ensure that the wording of the question was appropriate. Professionally trained survey research interviewers, from central telephone facilities, conducted all telephone interviews between July 9th and July 17th. Interviewers worked under constant supervision and standard quality control procedures were employed to ensure the accuracy of the data gathered.

When asked if they were in favour of the proposal to drill in the vicinity of the Whaleback, fully two-thirds of the Albertans interviewed (67%) were opposed to the proposal. Only 26% were in favour. 1% opted not to provide an opinion and 6% did not know (Dunvegan Group, 2003).

²¹ Dunvegan Group Ltd. 2003. Public Opinion Poll Concerning Whaleback: Prepared for Alberta Wilderness Association, July 30, 2003. Calgary, Alberta.

These results are significant for several reasons. First, they explicitly address the application currently before the Board. Albertans were not asked abstract or general questions about their attitudes towards the environment or towards the effects of industrial developments on environmental integrity. They were specifically asked about drilling for sour gas in the immediate vicinity of the Whaleback protected area. The response was clear. Most Albertans do not support sour gas development as proposed by Polaris. Second, the results also demonstrate that, when unacceptable risks are posed to a public natural treasure such as the Whaleback, an impressive majority of Albertans are opposed to sour gas drilling, even on private land.

4.2 CANADA WEST FOUNDATION: SURVEY 2003

On April 29, 2003, the independent, non-partisan and non-profit Canada West Foundation released the results of their *Looking West 2003* public opinion survey. The survey focused on the four western Canadian provinces and covered a wide range of topics; including federalism, democratic reform, regional cooperation, provincial expectations, youth mobility and the environment. On behalf of the Canada West Foundation, Western Opinion Research administered the survey between January 22 and February 18, 2003. A total of 3202 residents, 18 years of age and older, were interviewed by telephone across British Columbia, Alberta, Saskatchewan and Manitoba. 800 Alberta residents were interviewed.

The results of the survey illustrate that the protection of the environment is in the hearts and minds of Albertans and their fellow Canadians. In the west as a whole, protecting the environment ranked third in a list of “high priorities”, outranked only by improving the health care system and retaining young people. 64.1% of western Canadians considered protecting the environment a high priority. In Alberta, 63.6% of respondents ranked the environment within the top five priorities. Protection of the environment was ranked higher than education and second only to health care. Regional results were considered accurate to +/-1.73 percentage points at the 95% confidence level, while provincial results were considered accurate to +/-3.46 percentage points at the 95% confidence level ²².

The purpose of the Canada West Foundation *Looking West 2003* survey was to inform the public, business and community leaders, elected officials, and public servants about the views and perspectives of western Canadians. Clearly, the potential negative environmental effects of the current sour gas well proposal are not acceptable to the public.

²² Berdahl L. 2003. *Looking West: A Survey of Western Canadians*. Canada West Foundation. Calgary, Alberta.

4.3 WORLD WILDLIFE FUND: OPINION POLL 1998

In July 1998, World Wildlife Fund retained the Dunvegan Group to conduct a telephone survey among 250 randomly selected adult Albertans. The purpose of the study was to measure public opinion concerning proposals pertaining to the Whaleback. This public opinion poll was placed on the Alberta portion of a national telephone omnibus study conducted July 16-21, 1998. After being provided with background information about the issue, each participant was asked whether they were in favour of or opposed to the following three proposals:

- The proposal that a 100 square miles of public land at Whaleback be legally protected, free from industry uses such as commercial logging, mining and oil and gas development.
- The proposal that traditional ranching and cattle grazing activities continue in the Whaleback.
- The proposal that logging, mining and oil and gas development be permitted in the Whaleback area.

Of those surveyed, 85% were in favour of protecting 100 square miles of public land at Whaleback. 79% were in favour of continued traditional ranching and cattle grazing activities. Only 10% were in favour of the proposal that logging, mining and oil and gas development be permitted in the Whaleback area. There were no significant differences in the opinions held by various demographic subgroups (i.e. age, gender, urban, rural, etc.), and the results were not dependent upon past voting behaviour²³.

The World Wildlife Fund survey clearly demonstrated the commitment and concern shared by many Albertans about industrial development within this extraordinary landscape.

²³ Dunvegan Group Ltd. 1998. *Public Opinion Poll Concerning Whaleback: Prepared for the World Wildlife Fund, July 30, 1998.* Calgary, Alberta.

4.4 CONCLUSION

Albertans have expressed an on-going commitment to the protection of the environment, particularly the Eastern Slopes and the Whaleback region. Public opinion surveys have continuously demonstrated overwhelming opposition to petroleum development within and around the Whaleback protected areas (Bob Creek Wildland and Black Creek Heritage Rangeland). Albertans do not support industrial incursions that may lead to environmental damage in this area, even if that development would take place on private land and would contribute to increasing Alberta's natural gas supply.

The EUB's mandate is to serve the public interest. The Alberta Wilderness Association believes the Board has a compelling duty to give these public opinion data great weight when considering the Polaris application. The general public has made its opinions very clear when it comes to sour gas drilling in or adjacent to the Whaleback. When the public interest is considered in conjunction with the known wildlife impacts of the Polaris well and the clear government of Alberta policy on no net loss of wildlife habitat, the current application for sour gas development adjacent to the Whaleback is not in the public interest and should be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 29TH DAY OF AUGUST, 2003

**ACKROYD, PIASTA, ROTH & DAY LLP
PER:**

RICHARD C. SECORD
Counsel for Alberta Wilderness Association

**SUBMISSION OF ALBERTA WILDERNESS ASSOCIATION
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TAB 3 – ALBERTA WILDERNESS ASSOCIATION: OPINION POLL 2003

SUBMISSION OF ALBERTA WILDERNESS ASSOCIATION
TAB 1 – CALGARY HERALD MAY 12, 1999, PREMIER RALPH KLEIN QUOTE

Whaleback protection wins even critics' praise:[Final Edition]

Tony Seskus, Calgary Herald. Calgary Herald. Calgary, Alta.: May 12, 1999. pg. A.6

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Alberta won praise from some of its most vocal critics Tuesday, as the province unveiled plans to protect 28,000 hectares of southern Alberta wilderness known as the Whaleback.

The Alberta Wilderness Association and the Canadian Parks and Wilderness Society said the government's decision to protect the region, 130 kilometres southwest of Calgary, under its Special Places 2000 program, is good news for Albertans.

"This is a decision that Premier (Ralph) Klein and Minister of Environmental Protection (Ty) Lund can certainly be proud of," said Stephen Legault of the AWA. "Albertans should look at this as a significant step towards ensuring the protection of the Whaleback."

Most of the site will be designated a wildland, preventing roads, logging, mining and recreational development. The Whaleback is Canada's most intact montane landscape and home to a variety of plant and wildlife, including grizzly bears and cougars.

Amoco Canada Petroleum Ltd., which holds oil and gas rights in the region, surrendered leases to about one-third of the Whaleback to the Nature Conservancy of Canada at a ceremony near Pincher Creek Tuesday.

The conservancy, which acquires lands for protection, will hold the leases until 2004, then turn them over to the government.

Amoco spent about \$5 million on the land but will not receive anything in return for the donation, president Joe Bryant said. There were no tax incentives associated with the deal, he added.

"It was just the right thing to do," said Bryant, whose company had been looking for a land swap with the province last year. "In the last couple of months, we really looked at the situation and decided what we wanted to do and did it. What happened in the past . . . is kind of irrelevant today."

About one-quarter of the site will be called the Black Creek Rangeland. Grazing can continue, because it protects the ancient grassland from tree growth and maintains the balance between it and the forests.

The Special Places Designation will ensure that no access roads beyond the existing trails can be built into the undisturbed area, home to grizzly bears, 2,000 elk and more than 80 species of songbirds.

The announcement marked a friendly end to a long debate.

Environmental groups began lobbying for greater protection of the Whaleback region nearly 30 years ago.

But the Whaleback was not considered for improved protection until 1995, when the government launched its Special Places program, which set out to give special status to representative chunks of six Alberta natural regions by 2000.

A 13-member committee of government representatives, environmentalists and recreationalists was given the task of drafting a plan to manage the area. The process lasted more than two years and was wrought with conflict. One environmentalist, who represented the Canadian Parks and Wilderness Society, quit the committee in 1997.

Prior to Tuesday's news, many groups worried that oil and gas drilling would be allowed, and some people are concerned that the government's proposed Natural Heritage Act could allow development in special circumstances.

But Klein said the government will ensure that that will never happen in the Whaleback.

"I can guarantee you today that we will make sure that the commitment that there will never be any drilling there is so strong that not even another party or another government can break it," he said.

"We might have to legislate it, but we will certainly find a mechanism to make sure that for all time, in perpetuity, that this land will be protected from oil and gas development." (emphasis added)

The Issue: Alberta's Whaleback.

- What's New: Protection of 28,000-hectare area wins plaudits.

Government of Alberta News Release

Alberta Environmental Protection

No. 99-025

For immediate release: May 11, 1999

"This government has fulfilled its promise to protect the exceptional landscape of Alberta's Whaleback region. The Bob Creek Wildland Park and Black Creek Rangeland protect the largest undisturbed montane landscape in Alberta's Rocky Mountain Natural Region."

Ralph Klein, Premier

Alberta's Whaleback montane protected

Pincher Creek – The Alberta government has protected over 70,000 acres of Alberta's renowned Whaleback region, through its Special Places program. The two designations, the 52,609-acre Bob Creek Wildland Park and the 18,161-acre Black Creek Rangeland, include some of southern Alberta's most important wildlife habitats.

The announcement was made by Premier Ralph Klein, with Environmental Protection Minister Ty Lund and Energy Minister Steve West, at a ceremony marked by BP Amoco's donation of their petroleum and natural gas rights in the Whaleback to the Nature Conservancy of Canada.

"These protected area designations were enhanced in particular by BP Amoco relinquishing the right to develop their petroleum and natural gas license in an area that covered about half of the area now made into Wildland Park," said Klein. "The Nature Conservancy is also to be congratulated for its role in achieving a win-win situation."

"In fact, a number of other interests also supported the spirit of Special Places so we could add this extraordinary landscape to Alberta's protected areas network," added Lund. "We were able to maximize the size of these two protected areas through the cooperation of grazing interests, as well as two forestry companies."

"We fully appreciate the national significance of this area," said Joseph H. Bryant, President of Amoco Canada Petroleum Company, a subsidiary of the newly merged BP Amoco Group. "Creating this environmental legacy is the right thing to do. Our partnership with the Nature Conservancy ensures that oil and gas development will never occur in the Whaleback protected area."
(emphasis added)

The Bob Creek Wildland Park includes the Whaleback Ridge and the rolling hills towards the Livingstone Range of mountains to the west. It preserves extensive montane and subalpine landscape, and is one of the province's most important elk ranges. The Wildland Park includes the majority of lands within the boundary recommended by a local committee and is consistent with their recommendations to limit recreational access and preserve the area's backcountry character.

The addition of the Black Creek Rangeland east and south of the Wildland Park will be Alberta's first protected rangelands landscape.

This landscape reflects the unique role that ranchers' grazing management must play in preserving Alberta's native grassland ecosystems. "Ranchers rely on the continued diversity and production of native grasses. The fact that the land is largely unbroken and without road access, is a direct consequence of their stewardship," commented local MLA, Dave Coutts.

The two protected area designations for the Whaleback region bring the number of sites already designated under Alberta's Special Places program to 52. Since 1995, a total of 1.5 million new acres has been added to Alberta's protected areas network, an increase of over 70 percent in the province's provincially designated land-base.

With over ten percent of the province set aside, Alberta stands second in Canada only to British Columbia in the percentage of its land-base protected. An additional 52 candidate sites are still under consideration.

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Attachments: backgrounder

For electronic photos and map, visit:

http://www.gov.ab.ca/env/parks/sp_places/whaleback/images/

B-roll also available

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Backgrounder: Bob Creek Wildland Park, and Black Creek Heritage Rangeland

- The Whaleback area is in Alberta's Rocky Mountain Natural Region. Although this Natural Region was well represented within Alberta's protected areas network, Environmental Protection Minister Ty Lund insisted the Whaleback's extraordinary montane landscape and habitats be included as a Special Places candidate site.
- Approximately 70 percent of the Bob Creek Wildland Park and Black Creek Rangeland is montane landscape, much of it largely undisturbed. Montane accounts for less than 2 percent of the province. The remainder of the protected area is subalpine.
- The Whaleback's montane landscapes include grassland, 575 year-old limber pine, 400 year-old Douglas fir, lodgepole pine and white spruce forests. The two protected areas are also situated at the juncture of three of Alberta's six Natural Regions. These unique conditions make it a place that supports the most northern or southern occurrence for many species.
- There are estimated to be over 80 species of birds that breed in the area and many more that use the region when migrating. From December to May, thousands of elk use the area for winter grazing.
- BP Amoco has donated its petroleum and natural gas rights to the Nature Conservancy of Canada. There will be no commercial timber harvesting, no mining, no new road development, and no tourism facility development within the two protected areas.
- A management plan will be developed for the two protected areas. Access management will be an important component of the overall management plan.

Public Opinion Poll Concerning Whaleback

**Prepared for
Alberta Wilderness Association**

**Prepared by
The Dunvegan Group Ltd.
Suite 1020
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July 30, 2003

The Whaleback is an area of public land located in Southwest Alberta; it is named after a series of ridges and hills that look like the humped back of a whale. The Whaleback covers an area of approximately 100 square miles; it contains the largest remaining healthy example of montane landscape in Canada. The area is covered in forests and grasslands and is inhabited by large elk herds, grizzly bears and eagles.

Traditional ranching and cattle grazing is carried on in the Whaleback area today. The petroleum resources in the area are of interest to oil and gas firms.

The Whaleback came to national attention in 1994 when Amoco Canada proposed to drill a sour gas well in the middle of the area. The Energy Resources Conservation Board ruled that the Whaleback was a unique and valuable landscape and turned down Amoco's proposal on the grounds that wildlife habitat would be destroyed.

In 1999, the Alberta Government protected much of the Whaleback area by creating the Bob Creek Wildland Park and the Black Creek Heritage Rangeland. Logging, mining and oil and gas development are not permitted in these areas.

Today, an oil and gas company is asking the Alberta Energy and Utilities Board for permission to drill an exploratory sour gas well, on private land, less than one kilometre outside the boundary of the protected area.

In July 2003, The Alberta Wilderness Association retained The Dunvegan Group, a full service research and marketing consulting firm in Calgary, to conduct a public opinion poll. The specific objective of the poll was to determine whether Albertans are in favour of, or opposed to, the proposal that sour gas drilling be permitted in the immediate vicinity of the Whaleback protected area.

METHODS

A series of questions were included on the Alberta portion of a national omnibus type telephone study. This was the quickest and most economical means of gathering the information required.

Sample: A random sample of 250 adult Albertans, age 18 years of age and over, was interviewed for this study. A sample of this size provides measures that are accurate within a maximum margin of +/- 6.2 percentage points at the 95% confidence level. This level of accuracy is accepted within the marketing and survey research industry.

Questionnaire: The question included on the omnibus study was developed by the consultants at The Dunvegan Group, in conjunction with members of the Alberta Wilderness Association team. Respondents were provided with factual background information concerning the Whaleback and the proposal to drill a sour gas well in the immediate vicinity of the protected area.

Prior to the full field study, the questions were pilot tested with a small sample of respondents to ensure that the wording of the question was appropriate. The question appears in Appendix I of this report.

Fieldwork: professionally trained survey research interviewers, from central telephone facilities, July 9-17, 2003, conducted all telephone interviews. Interviewers worked under constant supervision and standard quality control procedures were employed to ensure the accuracy of the data gathered.

Data Processing: All questionnaire responses were data entered and tabulated using software designed specifically for the survey research industry. The detailed computer tabulations have been submitted under separate cover.

Analysis and Report: The tabulated results have been examined and the following concise report prepared.

FINDINGS

About one in four Albertans interviewed (26%) were in favour of the proposal that sour gas drilling be permitted in the immediate vicinity of the Whaleback protected area.

Fully two-thirds of the Albertans interviewed (67%) were opposed to the proposal.

The remaining 7% opted not to provide an opinion.

