

ERCB OKs Another Sour Gas Well in the Castle... Sort of

By Nigel Douglas, AWA Conservation Specialist



Mike Judd vs. Shell Canada, Chapter 1, Prairie Mountain 1987.

PHOTO: AWA FILES

It was like a return to the good old days of the late 1980s. Environmentalists standing in the path of bulldozers; Shell Canada operators trying to push ahead to begin work on another sour gas well, standing behind one more approval decision issued by the province's Energy Resources Conservation Board (ERCB). The scene west of Beaver Mines in southwest Alberta's Castle area in late May 2011 was reminiscent of the Prairie Mountain blockades of 1987 that ushered in an age of conflict between industry and environmentalists. Then AWA called for boycotts of Shell and Shell secured a court injunction to have protesters removed from public land.

The present conflict goes back to 2007 when Shell first applied to drill an exploratory well near Mount Backus in an area designated by the Alberta government as *Critical Wildlife Habitat*. If the well were successful, then up to five producing wells would be required. In March 2011, the ERCB gave the green light to Shell Canada to drill their critical sour gas well (32% H₂S). But, curiously, while the ERCB approved the test well it denied permission to construct the pipeline which would be required to remove any gas produced during the

drilling.

In its decision ERCB noted a long and complex history of pipeline-related issues in the region including:

- A December 1995 pipeline leakage caused by internal corrosion (the pipeline had been in operation for just 3 months)
- An August 1997 pipeline failure which led to a sour gas leakage which killed a cow and calf.
- The decision continued: "The Carbondale and Castle River systems operated without further corrosion-related releases until November 2007, at which time a rupture occurred..." This pipeline failure occurred shortly after ERCB's predecessor, the Energy Utilities Board, had held its first hearing into Shell's application to drill the Mount Backus well (see *WLA*, February 2009). Permission was denied after this first hearing.

After ERCB's approval decision was released in March 2011, the development has been stalled on a number of fronts. While approving the well, the ERCB decision recognized that Shell's rare plant survey of the potential well site was fundamentally flawed: it failed to

find nine rare plant species which were discovered in later independent surveys. Even with ERCB approval construction still requires approval by Alberta Sustainable Resource Development (SRD) in the form of a Mineral Surface Lease (MSL).

This latter approval was apparently withdrawn by SRD when, in an April 6th article in the *Lethbridge Herald*, an SRD spokesman announced that approval of the well development had been "suspended" until a plan is produced to "mitigate" impacts on rare plants. The SRD spokesman, Dave Ealey, commented: "We require them to come up with some sort of mitigation approach that ensures that what kind of impact they might have would be minimized, where it can be avoided it is, and if there is some impact it's done in a way that affects as few specimens as possible... We need to say that construction wouldn't begin on the site until we're satisfied the issue's been resolved."

Unfortunately, news of this "suspension" did not seem to have reached Shell Canada who continued to make plans to begin work on the well.

Further complicating the issue was a legal appeal of ERCB's approval of the application. In April 2011 legal counsel

for Mike Judd, a Pincher Creek-based landowner and outfitter, filed a Leave to Appeal application with the Alberta Court of Appeal in Calgary. The appeal application maintained that the ERCB “erred in law by not properly considering the potential impacts of Shell’s project on endangered grizzly bear populations and by refusing to allow evidence about the presence of a known and documented grizzly bear den to be admitted at the public hearing.” Shaun Fluker, with the University of Calgary’s Faculty of Law, later blogged that, in his opinion, “the Board erred in law with this finding by: (1) failing to reference or give effect to the legal status of the grizzly bear as an endangered species under the Wildlife Act; (2) accepting any loss of important habitat for a listed endangered species as a reasonable and acceptable outcome; (3) failing to have adequate regard for the objectives and guidelines of the SRD

Grizzly Bear Recovery Plan.”

Despite this legal challenge and SRD’s apparent “suspension” of their approval Shell operators showed up on the site on May 19th, equipped with bobcat and feller-buncher, ready to begin work. The workers withdrew after a brief standoff with Mike Judd and other activists. Eventually Shell agreed not to begin work until the judicial review issue had been resolved.

In June the Alberta Court of Appeal rejected Mr. Judd’s appeal application. SRD has kept a very low profile and did not return calls asking for clarification of their position on the “suspension” of the application. Options for opponents of Shell’s sour gas well finally ran out. Local residents planned a “wake/celebration” at the site “to mourn the loss of the site, but also to celebrate all the time, effort, and passion that went into trying to protect it.” 🐻



Kerkeslin view
10" x 10" acrylic on canvas
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