

November 22, 2011

Dear Royal Oak & Rocky Ridge Residents,

Kaiser Exploration Ltd. ("*Kaiser*") has applied for an ERCB well license to drill, complete and produce an oil well in your area. The package accompanying this letter is meant for informational purposes, so that you are aware of planned Kaiser operations in the area.

Kaiser is the Canadian operating company of Kaiser Francis Oil Company (KFOCC) out of Tulsa, Oklahoma. KFOCC is one of the largest independent oil and gas companies in the United States and has been in operation since the 1930's. KFOCC operates more than 8,000 producing property interests in 25 states and provinces with approximately 2500 wells. Kaiser has been operating in Alberta and British Columbia since 1991. Kaiser's corporate office is located in downtown Calgary and currently operations are located from Okotoks, Alberta to Fort St. John, British Columbia. Throughout the organization, Kaiser adheres to the highest environmental and safety standards.

With this experience behind them, Kaiser is committed to ensuring the health and safety of all stakeholders potentially affected by this project. To ensure this commitment to safety is met, Kaiser's Emergency Response Plan ("*ERP*") will be in place for all phases of this project. The ERP is a regulated and annually tested document which allows Kaiser the ability to establish a decision framework and action plan so that they can quickly and effectively respond to an emergency with the overall goal being the public safety and the minimization of impacts to the environment.

Kaiser is contacting you today as part of a proactive public awareness campaign with landowners, businesses, residents, public and private facilities near the proposed well. This public consultation is intended to share project information with you and collect basic contact information to enhance emergency response protocols.

In the unlikely event of an incident at the facility, Kaiser would provide public protection measures by enacting the ERP in cooperation with government agencies such as the ERCB, the City of Calgary, Alberta Health Services as appropriate and implement decisive measures to protect all stakeholders.

If after reviewing this package, you have any questions, please feel free to contact Kaiser at the number below.

Yours in Safety,

Chris Miko
Operations Manager
Kaiser Exploration Ltd.
403-231-8026

Michelle Van Rijn
Land Administrator
Kaiser Exploration Ltd.
403-205-8021

PROJECT NOTIFICATION AND DISCLOSURE WITH INFORMATION PACKAGE

KAISER EXPLORATION LTD. PROPOSED – SWEET OIL WELL

November 22, 2011

Attn: Royal Oak & Rocky Ridge Residents,

RE: **Well Name:** **KXL Cross 1-28-25-2 W5M**
 Lands Required: **Surface Location SE 28- 25-2 W5M, LSD 1**
 Proposed Project: **Sweet Oil Well, Category B140**

KXL File: S000804

In compliance with the Energy Resource Conservation Board (ERCB) Energy Development Application D56, requirements, this is to notify all local landowners, occupants, trappers and affected governmental departments that **Kaiser Exploration Ltd. (KXL)** intends to construct, drill, complete and possible flare gas at the above described well as shown on the attached survey plan. Also enclosed is project specific information with reference to this proposed project, page 2 hereof.

For your information, please find attached the following documents:

- Information letter from the Chairman of the ERCB
- The ERCB brochure: *Understanding Oil and Gas Developments in Alberta*
- ERCB Publication: *EnerFAQs: No 7 – Proposed Oil and Gas Development: A Landowner's Guide.*
- ERCB Publication: *EnerFAQs: No. 9 – The ERCB and You: Agreements, Commitments, and Conditions*

Additional public documents will be provided to you upon request or may be obtained from the ERCB website at www.ercb.ca

Emergency Contact Numbers: *Kaiser Exploration Ltd. 403-263-4245 or toll free 1-888-263-4245 (24 hrs)*

Should you wish to contact the ERCB, please call 403-297-8311 (for free long distance services call the Alberta Government RITE number at 403-310-0000) or write to Energy Resource Conservation Board (ERCB) Suite 1000, 250 – 5th Street SW – Calgary, Alberta T2P 0R4.

KXL is committed to establishing and maintaining open and informative communication with all interested parties for each specific proposed project. This project notification is intended to make you aware of our operations from phase one, drilling, testing and completing a well, through to phase two, producing the well through a pipeline and related facilities.

Be assured that KXL will do its utmost to minimize any adverse environmental impact to the surrounding area during the construction and operation of this project. Further, KXL will comply with all Governmental Regulations and Guidelines.

Yours truly,
Kaiser Exploration Ltd.

Chris Miko
(Operations Manager)

The following is a list of information pamphlets of general interest that the ERCB has developed. Kaiser Exploration Ltd. is required to supply these to you upon request. Should you wish to receive any of these pamphlets please contact either Kaiser Exploration Ltd.'s company representative or the consulting land agent:

- **EnerFAQs 1** What is the Energy Resources Conservation Board?
- **EnerFAQs 2** Having Your Say at an ERCB Hearing
- **EnerFAQs 3** Inspections and Enforcement of Energy Developments in Alberta
- **EnerFAQs 4** All About Critical Sour Wells
- **EnerFAQs 5** Explaining ERCB Setbacks
- **EnerFAQs 6** Flaring and Incineration
- **EnerFAQs 7** Proposed Oil and Gas Development: A Landowner's Guide
- **EnerFAQs 8** Coalbed Methane
- **EnerFAQs 9** The ERCB And You: Agreements, Commitments, and Conditions
- **EnerFAQs 10** Public Health and Safety: Roles and Responsibilities of Agencies that Regulate Upstream Oil and Gas
- **EnerFAQs 11** All about Appropriate Dispute Resolution (ADR)

These additional documents may also be downloaded from the ERCB's website at:

<http://www.ercb.ca>

Go to Public Zone – ERCB Processes – EnerFAQs

Should further information be required regarding the construction or operation of this project, please contact one of the representatives listed.

Enclosures:

- Letter from the Chairman of the ERCB.
- **ERCB Brochure** - Understanding Oil and Gas Development in Alberta
- **EnerFAQs No. 7** - Proposed Oil and Gas Development: A Landowner's Guide
- **EnerFAQs No. 9** - The ERCB and You: Agreements, Commitments, and Conditions
- Survey Plan or Radius Map

I/We hereby acknowledge personal consultation and receipt of the above noted enclosures and the listing of the other ERCB EnerFAQs documents which the applicant will provide me/us with upon request.

Dated the _____ day of _____, 2011.

Witness:

Name:

Company:

Additional Comments: _____

PROJECT NOTIFICATION AND DISCLOSURE WITH INFORMATION PACKAGE

KAISER EXPLORATION LTD. PROPOSED SWEET OIL WELL

PROPOSED DEVELOPMENT:

Well Site:	01-28-025-02 W5M	Well Lands Required:	SE/4-28-25-02 W5M				
Product:	SWEET OIL, Category B140	Road Lands Required:	85 th Street NW & connecting access road				
CONSTRUCTION		DRILLING		TESTING and COMPLETION		FLARING DURING COMPLETION	
Start: 2nd Quarter 2012 Finish: 2nd Quarter 2012		Start: 2nd Quarter 2012 Finish: 2nd Quarter 2012		Start: 3rd Quarter 2012 Finish: 3rd Quarter 2012		Start: 3rd Quarter 2012 Finish: 3rd Quarter 2012	
Flaring is only expected during testing and an incinerator will be used so there will be no visible flame. All flaring will be minimized and in compliance with ERCB Directive 60 regulations.							
EXPECTED PRODUCT				*SETBACKS: MINIMUM DISTANCE TO DEVELOPMENTS			
Sweet Oil				0.1 km to any dwelling 0.1 km to any urban centers or public facilities <small>*ERCB may specify other separation distances should circumstances warrant action</small>			
SPECIFICATIONS:		The well site in the SE/4 28-25-02 W5 is approximately 2.73 hectares. The well will be drilled, logged and reviewed for potential. Based on this information a horizontal well may be drilled. The location will be fenced once the well has been proven productive. Fencing would occur during the equipping operations. A pipeline would be installed going north and paralleling the existing ATCO pipeline in the area. If production proves to be economic there is a possibility of three more wells each with their own separator and pump jack but all using the same pipeline that would be installed initially.					
ODORS/NOISE:		There will be no off lease odors. As there will be oil on site there may be some odors similar to when a paving crew is laying asphalt on a road. Noise associated with the drilling, completion and equipping of the well will be related to common processes and equipment used for these operations. Examples are noises from large gas/diesel engines, equipment warning beepers, heavy truck traffic, bull dozers, cranes, clanging of pipe and metal. Once the site has been placed on production noises will be minimal if any as the site will be electrified and operator daily checks would be done with a pick up truck.					
TRAFFIC:		Heavy truck traffic will occur during parts of all operations. The drilling rig move in and out will require approximately 30 truck loads of equipment in one day. Then daily one or two trucks when needed. Completion operations will require approximately 15 truck loads of equipment the first day then two or three trucks daily as needed. When the well is fracture stimulated there will be in the order of 20 trucks required. For equipping and pipelining the heavy truck traffic will be reduced to a couple of trucks a day.					
EMERGENCY RESPONSE PLAN:			Kaiser's Corporate Emergency Response Plan (ERP) will be used				
EMERGENCY RESPONSE CONTACT:			Kaiser Exploration Ltd. (403) 263-4245 or toll free 1-888-263-4245 (24 hrs)				
ENERGY RESOURCES CONSERVATION BOARD (ERCB):			Suite 1000, 250 – 5 Street SW Calgary, Alberta T2P 0R4 Phone: (403) 297-8311				

NOTICE:

Should you require further information or clarification regarding this proposed development, please contact:

Kaiser Exploration Ltd.

Chris Miko (Operations Manager)

(403) 231-8026

Michelle Van Rijn (Land Administrator)

(403) 205-8021

LANDOWNER(S):
S.E. 1/4 Sec. 28-25-2 W. 5M.
OWNER(S):
CROWN (ALBERTA INFRASTRUCTURE &
TRANSPORTATION)
CERT. OF TITLE No.: 081 058 616 +1

I/We, the landowner(s)/occupant(s), consent to the location of the Well Site and Access Road as shown and have no objections to the ERCB issuing a drilling licence.

Date _____

GEOGRAPHIC and UTM CO-ORDINATE TABLE


NAD 27	UTM ZONE 11 N. ATS Ver. 4.1		(GEOGRAPHIC CO-ORDS: D.M.S.)	
	UTM CO-ORDINATES		GEOGRAPHIC CO-ORDINATES	
	North	East	N. Latitude	W. Longitude
Proposed Well Centre	5670665.6	694827.9	51°09'22.270"	114°12'50.285"

NOTE:
ERCB Information Provided by
IHS Energy

'Revision #2'
KAISER CROSSFIELD 1-28-25-2
Well Site and Access Road
L.S. 1 Sec. 28 Twp. 25 Rge. 2 W.5M.

CITY OF CALGARY

I, James C. Sharpe, Alberta Land Surveyor, of Calgary, Alberta, certify that the field survey represented by this plan is true and correct to the best of my knowledge, was carried out in accordance with the Alberta Land Surveyors' Association Manual of Standard Practice, and was performed on the 21st day of October, 2010.



Alberta Land Surveyor
Date signed: August 15th, 2011



Witness (Jody Yuen)



WELL LICENCE INFORMATION
THE PROPOSED WELL CENTRE IS:

- | | | | |
|---|-------------------------------------|-------------------------------------|-----------------------|
| - Outside Designated Significant Historical Sites or Areas | <input type="checkbox"/> | <input checked="" type="checkbox"/> | -(HRV = 5a) |
| - Outside any potential coal development area | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 3.0 km from a working subsurface mine | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 0.4 km from an abandoned subsurface mine | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 1.5 km from the Corporate Limits of a City, Town, Village or Hamlet | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| - At least 100m from any water body | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 100m from any surface improvements | <input type="checkbox"/> | <input checked="" type="checkbox"/> | -(See Proximity Note) |
| - At least 40m from any surveyed road/road allowance | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 5.0 km from a lighted aerodrome | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 1.6 km from an unlighted aerodrome | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - At least 200m from any water well | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - Approximately 0.21km from the nearest residence. (S.E. 28-25-2 W.5M.) | | | |
| - Within city limits of the City of Calgary | | | |
| - Approximately 0.13 km from the nearest surface development.
(Calgary Wildlife Re-hab Centre) | | | |

SURFACE CO-ORDINATES:

223.7 North of South
270.5 West of East } Sec. 28

GEOGRAPHIC CO-ORDINATES:

51.156241° Latitude } NAD 83
-114.214965° Longitude } ATS Ver. 4.1

ELEVATIONS: Well Centre Ground = 1270.6











Well Site Corner Elevations:

- | | | |
|-----------|-----------|-----------|
| ① 1267.80 | ⑤ 1271.91 | ⑨ 1268.36 |
| ② 1268.95 | ⑥ 1273.21 | ⑩ 1269.34 |
| ③ 1269.55 | ⑦ 1271.70 | |
| ④ 1269.65 | ⑧ 1270.21 | |

AREAS:

	hectares	acres
Pad Site	2.510	6.20
Access Road	0.222	0.55
Total:	2.732	6.75

LEGEND:


100 80 60 40 20 0 100 200

SCALE 1:5000
Well Centre shown thus: 
Statutory Iron Posts found shown thus: 
30cm Iron Spikes shown thus: Placed =  Found = 
Wooden Hubs shown thus: Placed =  Found = 
Alberta Survey Control Marker shown thus: 
Power Pole shown thus: 
Portions referred to bounded thus: 
Distances are in metres and decimals thereof.
Bearings are UTM Grid, NAD 83, Reference Meridian 117° (Zone 11N) and are derived by GNSS Observations.

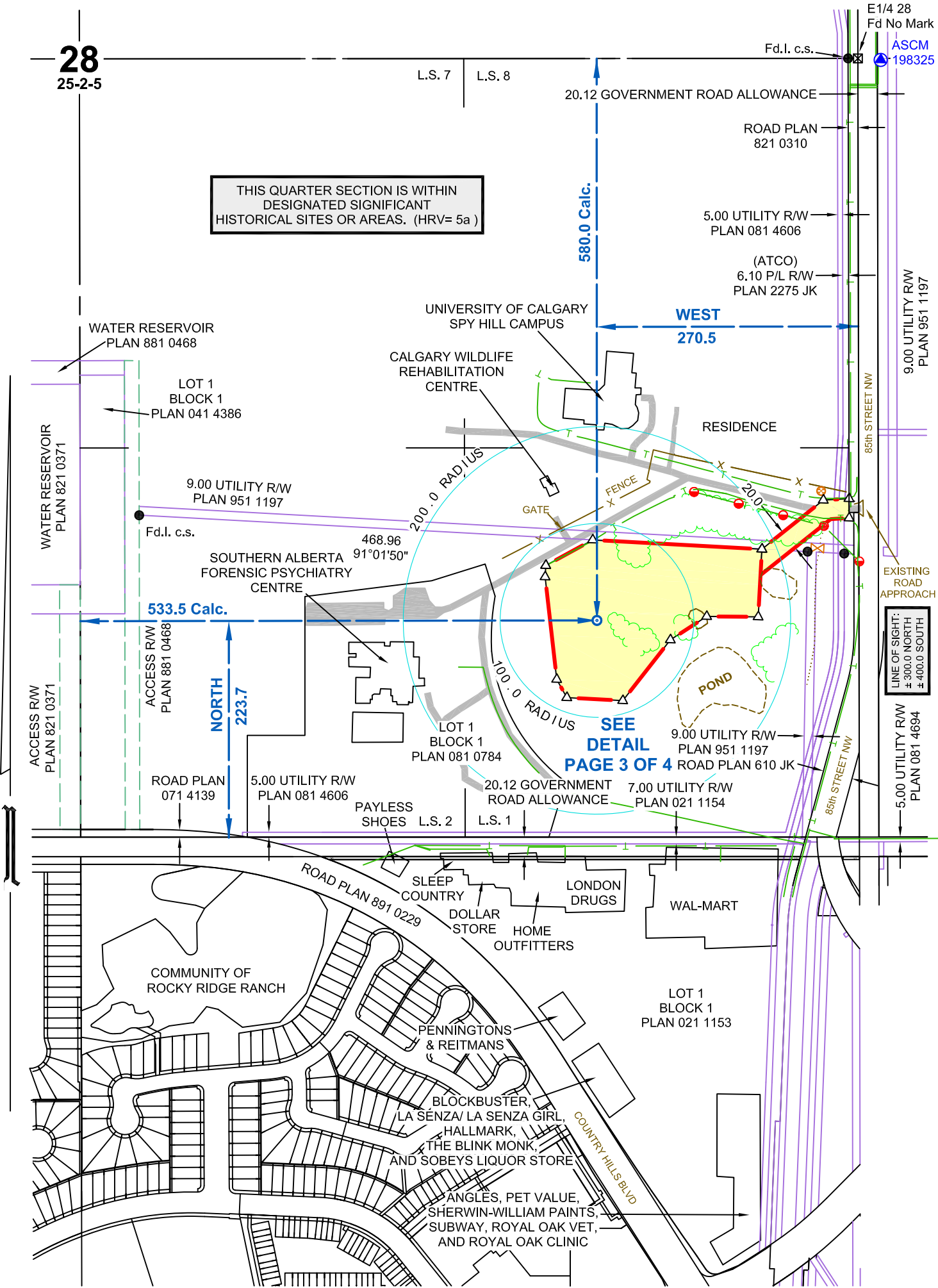


KAISER EXPLORATION LTD.

GEODETIC DATUM: Canadian Spatial
Reference System
Precise Point Positioning

Note: Geographic & UTM Co-ordinates
shown are based on the CSRS PPP Service
Combined Scale Factor = 0.999871

No.	DATE	REVISION / ISSUED	JOB No.		MIDWEST SURVEYS INC.
0	NOV. 12, 2010	PLAN ISSUED	C-0189-10		2827 - Sunridge Blvd. N.E.
1	JAN. 27, 2011	REVISED FORTISALBERTA POWER LINE TO OVERHEAD TELUS LINE	C-0189-10		Calgary, AB
2	AUG 15, 2011	REVISED LABEL PAGE 5	C-0189-10		T1Y 6G1
					Tel: 403-244-7471
					
SURVEYED BY: W.M.		CALC'D BY: C.D.	DRAWN BY: S.A./J.G.	C-0189-10-WST-1	



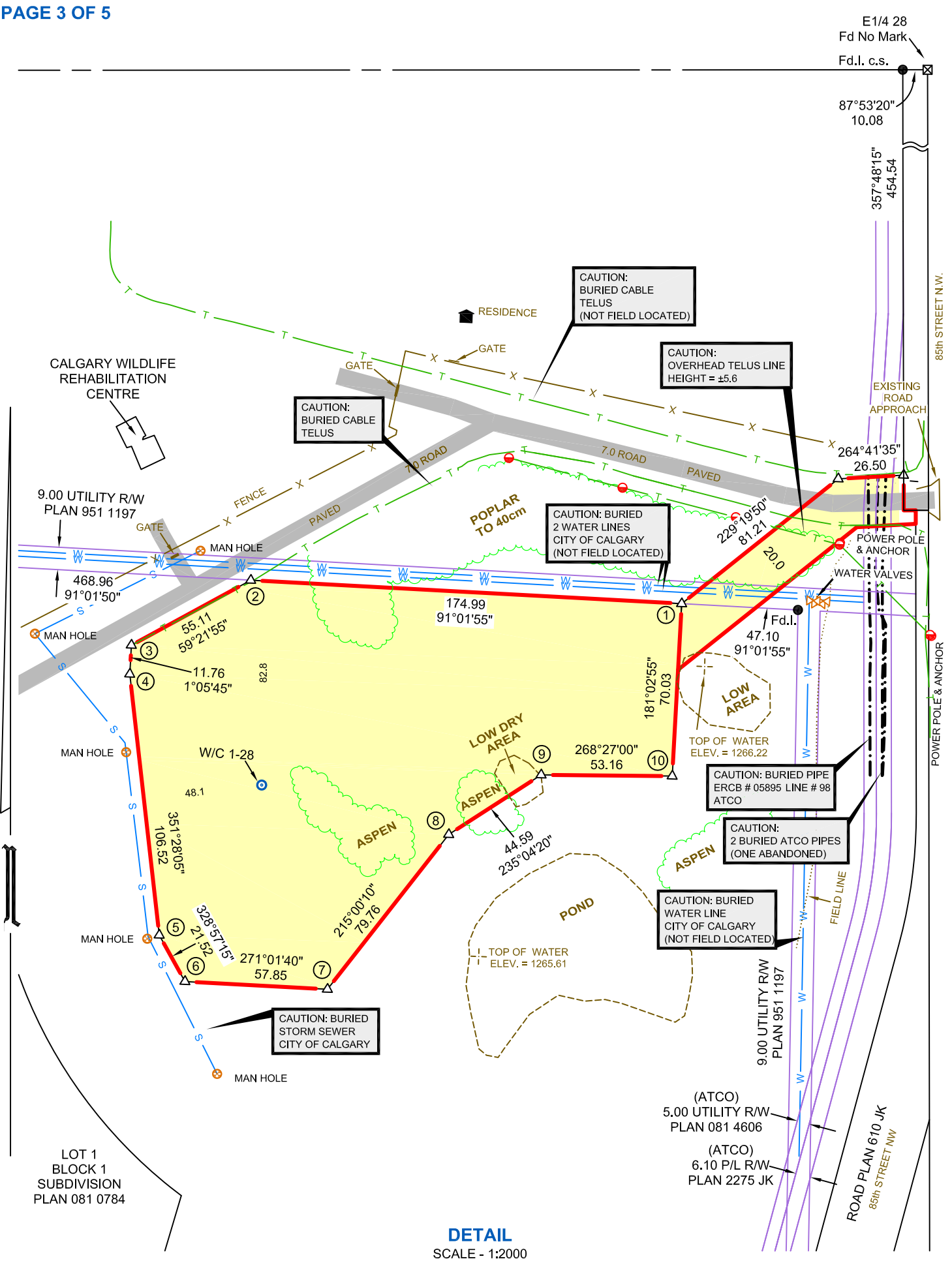
NOTE: Positions of buried facilities shown are derived from interpretations of signals from electronic devices. Reception of electronic signals is subject to interference and has limitations, therefore it should not be assumed that all buried facilities are shown, and facilities which are shown should not be construed as "located" until physically exposed. All underground installations should be marked by the respective authorities prior to excavation or construction.

Alberta One Call: 1-800-242-3447

WELL LEGEND:

○ LOCATION / STANDING

✕ WATER VALVE



REVISION

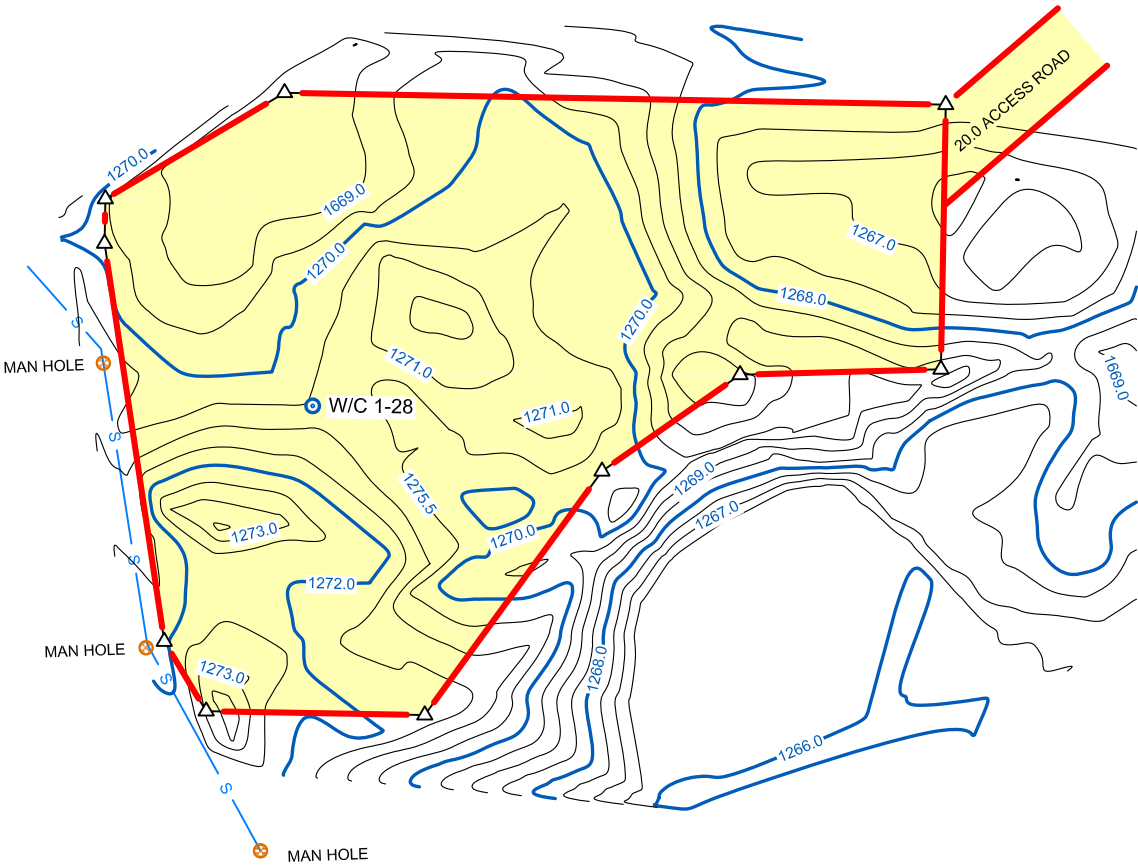
KAISER CROSSFIELD 1-28-25-2 (W.5M.)

2

MIDWEST SURVEYS INC.

SCALE 1:5000

C-0189-10-WST-1



CONTOUR DETAIL

SCALE - 1:2000
MAJOR CONTOUR INTERVAL - 2.00
MINOR CONTOUR INTERVAL - 0.50

PROXIMITY NOTE

- FROM 1-28 WELL CENTRE:
- 53.0 @ 261 °27' TO SEWER LINE
 - 74.8 @ 329 °52' TO BURIED TELUS CABLE
 - 82.7 @ 1°02' TO S. Bdy. PLAN 951 1197 (WATERLINE R/W)
 - 80.2 @ 328 °52' TO C/L ROAD
 - 87.3 @ 1°02' TO WATER LINE (APPROX.)
 - 95.3 @ 84°7' TO LOW AREA (DRY)
 - 103.6 @ 124°26' TO EDGE OF WATER (POND)
 - 133.1 @ 337°00' TO CALGARY WILDLIFE REHABILITATION CENTRE
 - 207.5 @ 21°29' TO RESIDENCE

REVISION

2

KAISER CROSSFIELD 1-28-25-2 (W.5M.)

MIDWEST SURVEYS INC.

SCALE 1:5000

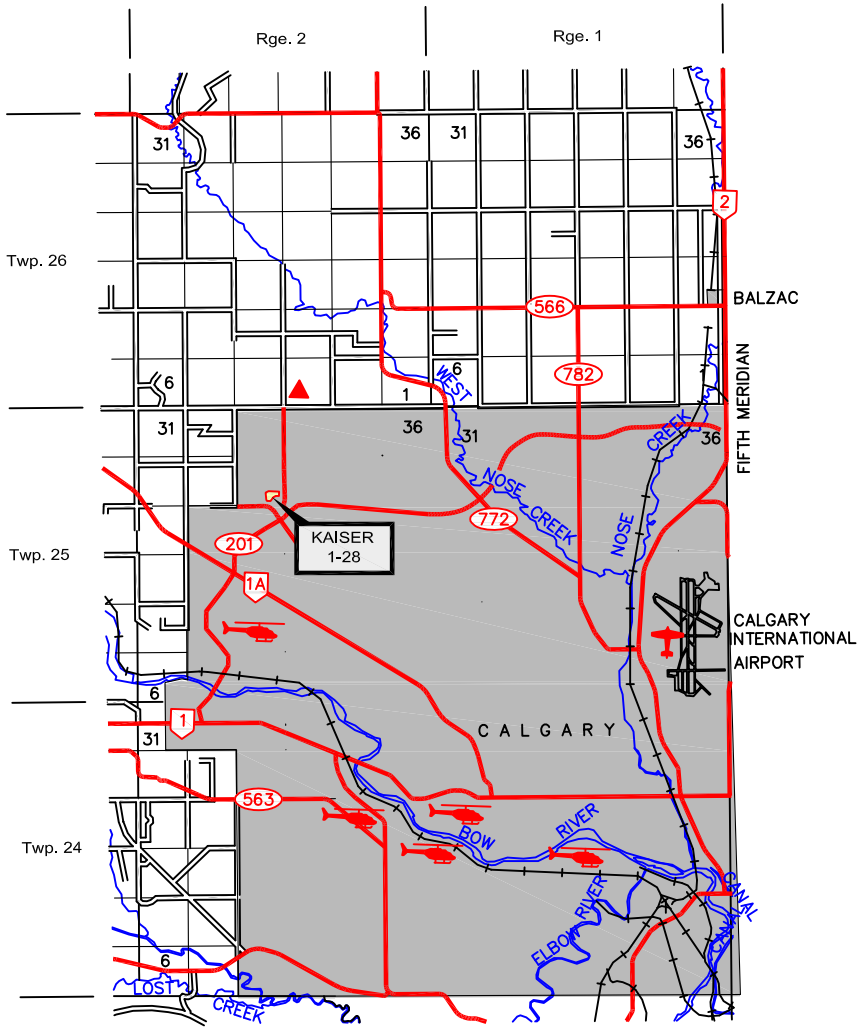
C-0189-10-WST-1



DETAIL

SCALE - 1:10,000

Imagery: ©2009 Valtus Imagery Services a division of Northwest Geomatics, all rights reserved. Date of Photography: 2010



ACCESS SKETCH

SCALE - 1:250,000

REVISION

KAISER CROSSFIELD 1-28-25-2 (W.5M.)

2

MIDWEST SURVEYS INC.

SCALE 1:5000

C-0189-10-WST-1

A Letter from the Chairman of the ERCB

Dear Neighbour,

I am writing to you because a representative of a petroleum company proposing development has recently approached you, and you may have questions. The company plans to make an application to the Energy Resources Conservation Board (ERCB) for an energy development (which may include a facility, a pipeline, or a well) on your lands or your neighbours' lands. The ERCB requires the company to either notify or personally consult with you before obtaining a licence and provide you with information that may include the documents described below. When the ERCB does not require that the documents be provided, you may request them from the company.

ERCB Public Information Documents—These include this letter, the brochure *Understanding Oil and Gas Development in Alberta*, *EnerFAQs No. 7: Proposed Oil and Gas Development—A Landowner's Guide* and the *EnerFAQs* series related to energy development. These documents contain information about your rights and options, as well as the roles and responsibilities of the ERCB in the regulation of Alberta's energy developments and how we can help you.

Company's Information Package—This includes sufficient information about the proposed project so that you can understand the nature, scope, and potential impacts the proposed development may have on you and your family. You will be asked to bring forward any questions or concerns you may have and to go over the specifics of the proposed development with the company representative. The company is required to answer all reasonable questions posed by you.

I encourage you to carefully review the information provided and to meet with company representatives to discuss the proposed development. The conversation should include any measures that could be put in place by the company to reduce potential impacts, alternatives to the proposal that may exist, and the overall future development proposed for your area.

If there are matters that cannot be resolved, the ERCB can provide you with more information on its Appropriate Dispute Resolution (ADR) program, which includes ERCB facilitation and third-party mediation. Unresolved issues could ultimately result in the ERCB holding a public hearing to consider the application. While the ERCB encourages all parties to first attempt to cooperatively reach agreement, all should be aware that they have the right, at any time, to request that the ERCB hold a public hearing.

If you have questions about our materials or our processes, please call the ERCB for assistance at the numbers listed on the back of this letter.

Additional information about the ERCB and its regulations are on our Web site at www.ercb.ca.

Sincerely,

Dan McFadyen.
Chairman

Field Centres

780-826-5352

780-542-5182

780-538-5138

780-926-5399

Medicine Hat

403-527-3385

Midnapore

403-297-8303

Red Deer

403-340-5454

St. Albert

780-460-3800

Wainwright

780-842-7570

Fort McMurray Regional
Office

780-743-7214

Calgary Head Office

Customer Contact Centre

403-297-8311

Web site www.ercb.ca

Facilities Applications Group

403-297-4369 (Help line)

E-mail address

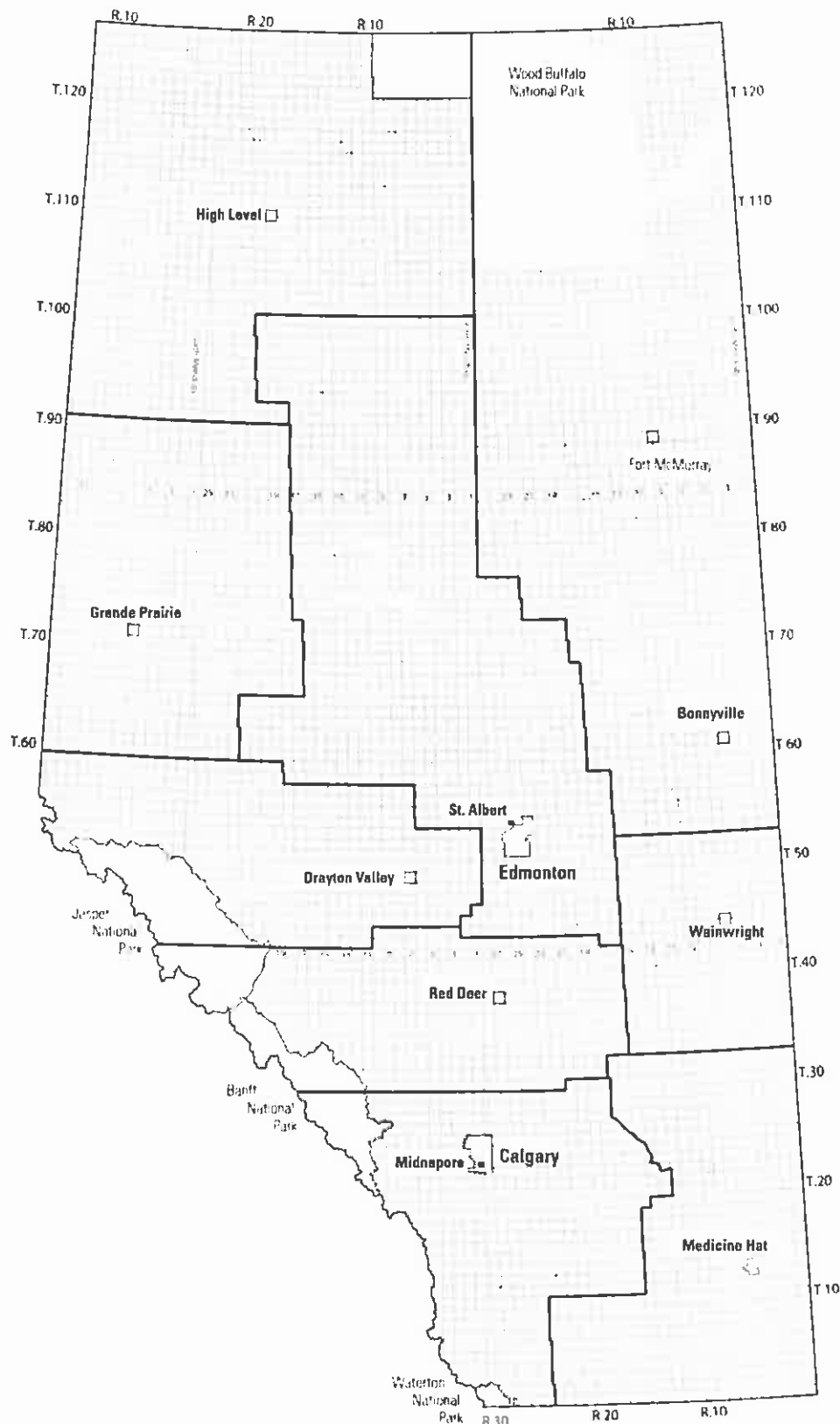
Directive56.help@ercb.ca

Facilitation Team

403-297-3700 (Help line)

E-mail address

ercb.adr@ercb.ca



To call the above numbers toll free, dial 310-0000 and follow the prompts or ask the operator for the desired number.

ERCB Brochure: Understanding Oil and Gas Development in Alberta

This brochure contains basic information to help you understand what sort of development is being proposed and how it affects you.

An oil and gas company representative has approached you and wants to conduct oilfield activities on or near your land. You and the company will be discussing the proposed development and its potential impact on you, as well as alternatives and measures to minimize impacts. You may also be negotiating a surface lease agreement (for example, on the location of a well and access road) and discussing compensation.

ERCB Requirements and Expectations for Participant Involvement

The ERCB believes that any individual, organization, community, or group with a stake in Alberta's energy resources is a participant, having both roles and responsibilities. All participants are encouraged to develop relationships that are respectful, responsive, and responsible. While other groups also have a stake in energy development, the three main participant groups are the public, industry, and the ERCB.

The public: The ERCB application process provides the public with an opportunity to share its questions and concerns with the company. There are many things the public, individually or collectively, can do to participate in the planning of proposed developments. Many communities have formed groups with members from industry and the ERCB. These groups try to find ways to resolve issues at the local level. The company will provide you with contact information if there is a group in your area.

Industry: Industry is required to notify and if necessary consult with people whose rights may be directly and adversely affected by proposed development. Industry is expected to consult with other interested parties it identifies from a regional review of needs and issues. Industry is also expected to communicate with landowners and residents on a regular basis throughout the life of the project, which may be 30 years or longer.

The ERCB: As the regulator of the energy industry, the ERCB has the authority to approve or deny proposed energy developments in the province of Alberta and to place enforceable conditions on any licences issued. The ERCB also assists individuals, communities, and other interested groups to understand the regulatory requirements and expectations and how they apply at the local level.

Your Rights and the Company's Rights

In Alberta, both the landowner and the company have rights.

Rights to information: Under ERCB regulations, requirements, and guidelines, the company must provide information to all parties whose rights may be directly and adversely affected by a proposed project so they can fully understand what is being proposed. If you are concerned about surface impacts, the company must give you details about how and why it chose the proposed well site, pipeline route, and access road location. The company should also tell you what to expect in terms of equipment and operations during the production phase.

The company may provide any agreements you make with it, as well as records of discussions, to the ERCB during the application process. That material becomes part of the ERCB's record of the application, which is a public record available to anybody. In addition, information provided to the ERCB (whether as part of the application process or otherwise) may be publicly available under the *Freedom of Information and Protection of Privacy Act*. The exception to this is agreements made in Appropriate Dispute Resolution, which are confidential.

Mutual rights to use the land: Most land in Alberta carries two titles and two sets of rights. The surface title gives the landowner full control of the land's surface and the right to work it. The mineral title gives the company or person who owns the minerals under that land the right to explore for oil and gas. In some situations, title to land will give the owner both the surface and the mineral rights. If title to the land is split, the mineral owner needs access to the land surface to drill and produce oil and gas.

Two important conditions apply to the company's right to explore. First, drilling and production activity must be done in a way that is environmentally and technically acceptable. Second, a company must operate in ways that minimize possible interference with the landowner's use of the land.

Planning an Oil or Gas Project

Selecting a Pipeline or Facility Location

When selecting a pipeline right-of-way or a facility site, the company must consider potential impacts on present and future land uses. The company must

- ensure that you understand what substance the pipeline is to transport or the facility is to handle,

- answer your questions on its plans for soil handling and reclamation, and
- address any other concerns you may have related to the proposed pipeline or facility.

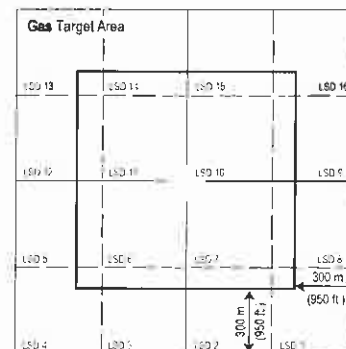
Selecting a Well Site

When selecting a well site, the company considers subsurface geology, land surface conditions, current and future land use, environmental sensitivity, and reclamation. Well spacing regulations provide requirements about where wells may be located.

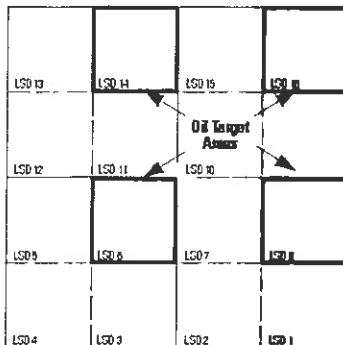
A **spacing unit** is the subsurface area that one well can drain. The spacing unit for oil wells in Alberta is normally one well per quarter section of land; for gas wells it is normally one well per section of land. However, reduced spacing and directional drilling are common practices in Alberta.

Inside the spacing unit is a **target area** where the bottom of the well should end.

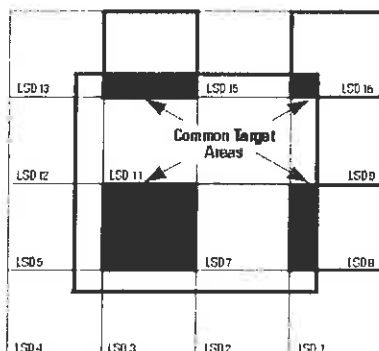
In the example below, the **gas target area** is the centre 100 hectares (250 acres) of the section. Keep in mind that the target area dictates the **subsurface** location for a well, not the **surface** location.



The **oil target area** is the northeastern 16 hectares (40 acres) of the quarter section, as shown in the example below.



Together, the oil and gas target areas overlap and form a **common target area**, as shown in the shaded portions of the figure below. Many companies prefer to drill the common target area if there is a chance to encounter both oil and gas.

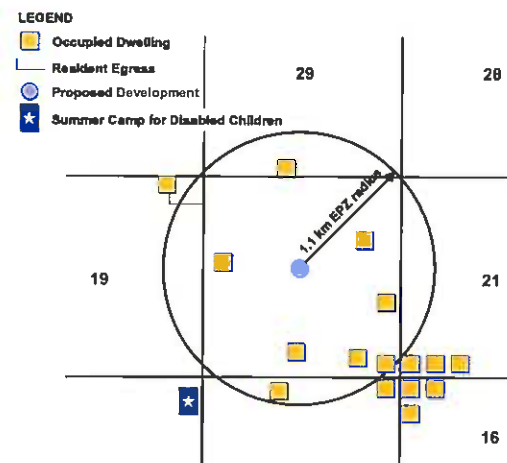


If you disagree with a proposed well location, you may ask the company representative to sketch the spacing unit and target area for the well. This will help you determine if there is flexibility for moving the well site.

Consultation

In many instances it is appropriate for a company to complete public consultation and notification beyond the

requirement stated in ERCB Directive 056: Energy Development Application and Schedules. The following figure illustrates how a company expanded its participant involvement program beyond the requirement to take into account the special needs and circumstances of the community.



During the initial planning stage of a well, a company began preliminary development of its participation involvement program using the public consultation and notification requirements. With further development of the participant involvement program, the company identified that the requirements would not take into account egress of the resident just outside the northwest area of the development, residents in the community to southeast of the development, or the special needs of the summer camp for disabled children located in the southwest.

The company then adapted its participant involvement program to include the residents, summer camp, and community. By including all the parties during the initial planning stages, the company was able to identify and address the concerns raised by the residents and summer camp prior to its application to the ERCB.

Having Your Say

Landowners, residents, and communities that have concerns related to the development of Alberta's energy resources should become involved as early as possible in the development planning process. It is usually easier to resolve issues at the local level before they become matters of greater concern. Ongoing dialogue also builds trust and is one way for you to have greater influence on energy development.

The table on the next page shows a number of options available to help you resolve concerns about proposed development. As a landowner or resident, there are several key points in the application process when your questions and concerns may be addressed. Note, though, that you have the right to expect any reasonable concerns to be promptly addressed at any point during this process and at any time during the life of the project.

Usually, a company will offer to consult with you at your home. If you and the company cannot resolve your concerns, either party may ask an ERCB staff member to facilitate a meeting or meetings between you and the company. This is "field facilitation."

If objections continue to be unresolved, you or the company may request that the ERCB arrange for a third-party mediator to assist you. This is part of the Appropriate Dispute Resolution (ADR) process. The company may also request a hearing at this time. If you can resolve issues through such discussions with the company, with or without a facilitator or mediator, you may find that you have greater influence on project planning and reducing its impacts.

However, if objections cannot be resolved, the application may go to an ERCB hearing, where the matter will be decided by the ERCB Board.

If you show the ERCB, through a written submission, that your rights may be directly and adversely affected if the Board approves a proposed energy development and you have been unable to resolve your concerns through field facilitation or ADR, you may trigger a public hearing.

The ERCB examines each submission on its own merits to determine the potential impacts on you, taking into account the following factors:

- Does the proposed project have the potential to affect safety or economic or property rights? Examples of such impacts include negative effects from contaminants in water, air, or soil or from noise; negative interference with livelihood or commercial activity on the land; damage to property; and concerns for the safety of persons or animals.
- Are you affected in a different way or to a greater degree than members of the general public?
- Are you able to show a reasonable and direct connection between the activity complained of and the rights or interests you believe to be affected?

By considering your submission in this way, the ERCB can determine if you may be directly and adversely affected by the proposed development.

Having Your Say: Options for Resolving Concerns

Step One	Option One	Option 2	Option 3
Required Consultation or Notification	ADR - Facilitation	ADR - Third-Party Mediation	ERCB Hearing
<i>Directive 056</i> requires industry to notify or consult with those persons whose rights may be directly and adversely affected by proposed developments.	If you have concerns after the required consultation process, an ERCB staff member may be asked to assist. Either you or the company may make this request. Facilitation is the first stage of the Appropriate Dispute Resolution (ADR) process and is optional.	If your concerns remain unresolved, a neutral third-party mediator may be brought in to assist. This is the next stage of the ADR process and is also optional. Agreements made in ADR are confidential. This option may be chosen even if a hearing has been scheduled. It is possible to avoid a hearing if concerns are resolved at this stage.	If third-party mediation fails to resolve your concerns, the matter may go to an ERCB public hearing for a decision.

Further information regarding the ERCB Appropriate Dispute Resolution process is available on the ERCB Web site http://www.ercb.ca/portal/server.pt/gateway/PTARGS_0_0_272_230_0_43/http%3B/extContent/publishedcontent/publish/ercb_home/public_zone/ercb_process/appropriate_dispute_resolution__adr/.

Required EnerFAQs

The ERCB has put together a number of EnerFAQs on topics of general interest to the public. Regardless of whether the proposed development is a well, pipeline, or facility, the company must either provide or offer the following EnerFAQs:

- **No. 4:** All About Critical Sour Wells
- **No. 5:** Explaining ERCB Setbacks
- **No. 6:** Flaring and Incineration
- **No. 7:** Proposed Oil and Gas Development—A Landowner's Guide
- **No. 8:** Coalbed Methane
- **No. 9:** The ERCB and You: Agreements, Commitments, and Conditions
- **No. 10:** Public Health and Safety: Roles and Responsibilities of Agencies That Regulate Upstream Oil and Gas
- **No. 11:** All About Appropriate Dispute Resolution (ADR)

EnerFAQs continue to be published on topics of general interest to the public. As new EnerFAQs related to energy development become available they will be posted to the [Directive 056 Web page](#).

EnerFAQs may also be obtained from the ERCB Web site at www.ercb.ca or by contacting ERCB Communications at 403-297-8311.

ERCB Field Centres and Contacts

Field Centres

Bonnyville

780-826-5352

Drayton Valley

780-542-5182

Grande Prairie

780-538-5138

High Level

780-926-5399

Medicine Hat

403-527-3385

Midnapore

403-297-8303

Red Deer

403-340-5454

St. Albert

780-460-3800

Wainwright

780-842-7570

Fort McMurray Regional Office

780-743-7214

Calgary Head Office

Customer Contact Centre

403-297-8311

Web site www.ercb.ca

Facilities Applications
Group

403-297-4369 (Help line)

E-mail address

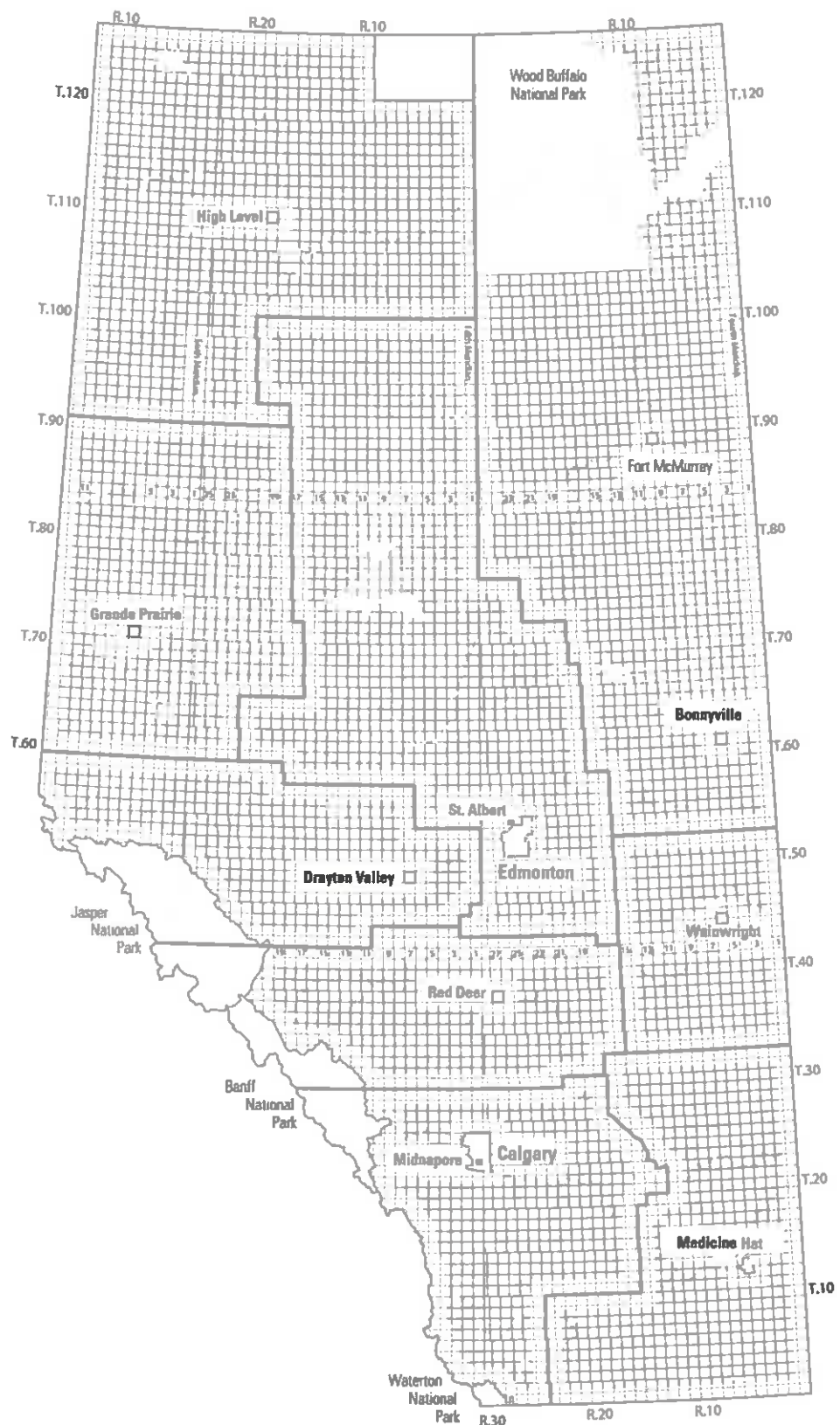
Directive56.help@ercb.ca

Facilitation Team

403-297-3700 (Help line)

E-mail address

ercb.adr@ercb.gov.ab.ca



To call the above numbers toll free, dial 310-0000 and follow the prompts or ask the operator for the desired number.

Proposed Oil and Gas Development: A Landowner's Guide

When oil and gas companies propose development on or near your property, you want to be aware of your rights as a landowner and the options available to you. *EnerFAQs 9: The ERCB and You: Agreements, Commitments, and Conditions* should be read with this document.

What are my rights?

Under Energy Resources Conservation Board (ERCB) regulations, requirements, and guidelines, a company applying to develop an oil or gas project must provide information to all parties whose rights may be directly affected so they can fully understand what is being proposed and what the potential impacts may be. The company must give you details about how and why it chose proposed locations for any well, pipelines, facilities, or access roads. The company must also tell you what to expect in terms of equipment use and operations during the production phase.

What are the company's rights?

Most land in Alberta carries two titles and two sets of rights. The surface title gives the landowner full control of the land's surface and the right to work it. The mineral title gives the company or person who owns the minerals under that land the right to explore for oil and gas. In some situations, title to land will give the owner both the surface and the mineral rights. If title to the land is split, the mineral owner needs access to the land surface to drill and produce oil and gas.

Two important conditions apply to the company's right to explore. First, drilling and production activity must be done in a way that is environmentally and technically acceptable. Second, a company must operate in ways that cause the least possible interference with the landowner's use of the land.

What can I expect the company to do first?

One of the early steps in the well site or pipeline route selection process is a survey. The company needs a survey to identify the exact location of the proposed well site, access road, pipeline, or facility and the surface area required. Under the Alberta Surveys Act, the surveyor has the right to enter your property to survey after making a reasonable attempt to notify you. It is common practice—and common courtesy—for a company representative to contact you before surveying. The purpose of the visit will be to advise you of the approximate well and road or pipeline location being proposed.

The company is responsible for the cost of damages caused by the survey.

What kind of landowner/company arrangements are most common?

Pipeline Right-of-Way

The pipeline easement (right-of-way) is an agreement between a landowner and a company in which the landowner receives financial compensation in return for allowing a company to create an easement, or right-of-way, for pipeline routes. Normally, a pipeline easement or facility surface agreement is obtained before

the ERCB approves an application to construct a pipeline or facility, except in cases where a dispute between a landowner and a company exists.

Pipelines link the oil and natural gas industry's "upstream" sector, which produces oil, natural gas and related products from underground reservoirs, and the "downstream" sector, which handles refining, marketing and product distribution.

The upstream sector operates gathering, or flow lines, which move raw products from remote wells to processing facilities or directly to larger transmission pipelines. Products travel through pipelines under pressure created by compressors and pump stations. Compressors powered by gas engines or electric motors can compress the natural gas in pipelines up to one hundred times the normal atmospheric pressure.

You have the right to be fully informed about what kind of pipeline project is being planned on or near your land. Under ERCB regulations and guidelines, the company must

- provide you with a description of the project and how it will affect you;
- ensure that you fully understand the proposed construction schedule and method;
- make sure you are familiar with the product(s) being transported by the pipeline or being handled at the facility; and
- address all concerns regarding soil handling, site reclamation, and other issues related to the planned pipeline and/or facility.

Pipeline and facility construction must also meet Alberta Environment's Environmental Protection Guidelines. Pipelines typically stay in the ground after reclamation.

Well Site Selection

Geologic and seismic data are important in choosing the well site. The company will normally select a well location based on the geology of nearby wells or on seismic information. Some of the company's information may be confidential. However, the company should give you basic geologic information so that you know what restrictions there may be regarding choosing a different location for the well.

Moving away from the best geologic location could increase the risk of drilling a dry hole, which has no significant amount of oil or gas, or recovering less oil or gas.

What should I expect during the negotiation process?

After consultation has been initiated by the company and you begin negotiations, various situations may arise. You and the company may agree or disagree about the site of a well and related facilities or the route of a pipeline. If the proposed project is located directly on your land, you may agree or disagree about the compensation you should receive. Landowners receive financial compensation in return for allowing companies to place a well site on their land.

Further information related to compensation is available from the Surface Rights Board (SRB) or from your ERCB Field Centre (see last page). The ERCB does not deal with compensation issues. Note that the SRB, not the ERCB, deals with payments for right-of-way, crop loss, and other damages.

Negotiations often result in an agreement that meets the needs of both parties. The ERCB encourages a negotiated agreement and recommends that all commitments be confirmed in writing. An agreement that meets the needs of both parties can help to maintain a good working relationship for the life of the proposed project.

Are there drilling options if the company and I can't agree on a site location?

If you are having difficulty agreeing on a site, directional drilling could be a solution. It involves drilling the well diagonally instead of vertically. Sometimes landowners prefer a well location outside of a target area or away from the best geologic point. If this is the case, you can ask whether the well can be directionally drilled to the target from a surface location with less impact.

While a directional well may be technically possible in a number of situations, it increases the cost of drilling and producing the well. The increased costs and benefits of directional drilling must be weighed against the impacts of vertical drilling. You may want to ask the company to estimate the additional costs for a directional well in relation to the value of anticipated production.

Directional drilling technology has improved in recent years. It is now fairly common in some areas to drill several directional wells from the same surface location to reduce surface impacts. This practice is prevalent in areas where spacing is greater than one well per legal subdivision.

What if my land-use plans change in the future?

Before agreeing to a well site or to a location for a pipeline, facility, or access road, consider how it may affect your present and future land use. Further details can be found in *EnerFAQs No. 5: Setbacks*.

Also, make sure you understand the company's soil handling, lease preparation, and reclamation methods. The company should be considering land surface conditions, current and potential land use, environmental sensitivity, and reclamation. The company must also consider any negative effect on land use, the environment, and associated visual impacts and the concerns of persons whose rights may be directly or adversely affected. For example, a location on unproductive land, such as a slough or hillside, may seem like a good choice to you, but the company must consider environmental impacts, the ability to reclaim the site, and the impact on neighbours. Such impacts could prevent the use of a site that is otherwise favourable to you and the company.

What type of construction or drilling approval process exists?

The ERCB's application process ensures that the proposed project meets all regulatory requirements. If there are no outstanding objections from landowners, residents, other industry participants, or other affected parties and the application meets all legal and technical requirements, the ERCB will likely issue a licence.

In addition, some applications processed by the ERCB are selected for an audit review before or after the licence has been issued to ensure that they meet all regulatory standards.

What if all parties agree on the site?

If you and the company agree on the location of any well, facility, pipeline route, and access road, the company applies to the ERCB for a licence to proceed with the development. If the application meets all legal and technical requirements, the ERCB grants the licence.

Note that a well licence alone does not give the company the right to enter your land. In this instance, the company must first obtain a well licence from the ERCB. It can then apply to the SRB for a right-of-entry order. The order allows representatives of the company to enter your land to perform the tasks approved by the ERCB. The SRB will then conduct a hearing to determine the compensation to be paid.

What if an agreement on a site can't be reached?

If you and the company cannot agree on the location for a well, facility, pipeline, or access road, either party may ask the ERCB for its involvement.

The ERCB is responding to heightened public concern and to landowner and stakeholder issues in new ways, including strengthening its practice of making staff available to facilitate discussions between landowners and companies early in the application process. This is called field facilitation. The goal is to identify and promote resolution of concerns before they intensify.

The ERCB will normally require documentation from the company on the progress of previous negotiations and an explanation of why an agreement could not be reached and will ask you to explain how you will be affected. The ERCB may also be asked to facilitate earlier in the process if the parties have difficulty getting started.

The ERCB might suggest these options:

- The two parties should attempt negotiations again.
- The ERCB should become involved as a facilitator.
- The parties could use a neutral third party to mediate.

If these methods fail to produce an agreement, either party may request an ERCB hearing.

What is well spacing?

Well spacing refers to the number of subsurface drainage locations needed to optimize oil or gas recovery from a specific pool. The ERCB determines the spacing based on engineering analysis of reservoir rock characteristics, fluid properties, and production behaviour.

Why must a company apply for special well spacing?

Companies must apply for special well spacing when they wish to increase the number of drainage locations in a pool. Special well spacing is a reservoir development matter unrelated to surface issues; specific well sites or other infrastructure are not part of a spacing application.

How will a special well spacing application impact me?

As mentioned, special well spacing is a matter that relates to increasing the number of drainage points in a reservoir, and therefore a landowner is only affected if the company decides to apply to drill a well—in short, there are no surface impacts. Even if a company receives permission to increase its spacing, it must still apply to obtain a well licence, just as it would after being granted mineral rights from the province.

Prior to the 1990s, most wells drilled in the province were vertical wells that required individual well sites located directly above the intended target. In the past two decades, technological advancements have resulted in a significant percentage of wells being drilled directionally or horizontally from a common surface well site. This effectively minimizes surface disturbance and allows for increased subsurface well spacing from fewer well sites.

What ERCB requirements must a company follow when applying to increase well spacing?

A company is not required to notify landowners of proposed spacing applications. However, if the company then applies to drill a well, either from an existing lease or from a new site, it must follow the ERCB's same strict regulatory requirements, which include consulting landowners early in the process.

What is Appropriate Dispute Resolution?

In January 2001, the ERCB implemented the Appropriate Dispute Resolution (ADR) program. The program was developed in response to requests by both the public and industry to be more directly involved and to have more control in resolving disputes involving wells, pipelines, production facilities, electrical substations, transmission lines, and other facilities in the industries regulated by the ERCB. While it may not be the answer to every dispute, the ADR process has often been successful in reducing the number of issues needing to be addressed and, in some cases, eliminating the need for a formal hearing.

What is the purpose of an ERCB hearing?

An ERCB hearing is a formal, court-like proceeding that provides the opportunity for affected parties to express their points of view and provide supporting evidence. If a hearing is to take place, notice is sent directly to landowners and residents who may be directly and adversely affected by the proposed project. Newspaper advertising is also generally used.

At a hearing there is an opportunity for you, as an intervener, to explain your position and give evidence to the ERCB regarding the proposed project. This formal process ensures that all relevant arguments both for and against the application are heard. Further details are available in *EnerFAQs No. 2 Having Your Say at an ERCB Hearing*.

Who officiates at a hearing and when is a decision made?

Normally, a panel of three ERCB decision-makers hears evidence from the applicant and interveners who may or may not wish to be represented by a lawyer. The panel considers the evidence and arguments presented and issues a written report giving the decision and the reasons for it, usually within 90 days after the close of a hearing. The report is then made public and given to all participants.

The panel will decide to

- approve the project unconditionally,
- approve the project subject to certain conditions, or
- deny approval of the project.

Who pays for an ERCB hearing?

The company applying to develop the project is required to pay the reasonable costs associated with the hearing. The ERCB determines whether a participant is eligible to recover costs incurred for the preparation and presentation of its intervention. The ERCB will only require the company to pay those costs that it determines to be reasonable and directly and necessarily related to the proceeding. (For more information, see *Directive 031: Guidelines for Energy Proceeding Cost Claims*.)

How much more development will occur if drilling is successful?

If successful drilling leads to production, a wellhead or pump will be required on oil wells and a heater may be necessary for gas wells. Other equipment, such as pressure vessels and tanks, may be placed on the well site where it causes the least interference with farming operations (e.g., between the well and a nearby fence line).

Production facilities such as separators, heaters, and tanks make up what is called a battery. The company must discuss the location and details of production facilities with you and any other land occupants. You have the right to ask questions about these production facilities and to voice concerns about the construction of production facilities, even if a well site exists.

Will it cost me anything to reclaim the site if the well is unsuccessful?

No. If a well turns out to be a dry hole, the company will likely abandon it and must reclaim the site. Before the company gives up the surface lease, it must obtain a reclamation certificate from Alberta Environment (AENV). The

Reclamation Certificate is issued only after AENV is satisfied that the site has been properly reclaimed.

How do I get more involved?

In many communities, neighbours meet with ERCB representatives and area oil and gas companies to resolve local issues together. The public is strongly encouraged to participate in these local synergy groups. Synergy groups exist in communities all over the province, and each is structured to meet the unique needs of the community and local operators. There is no cookie-cutter approach. Members of such groups have found that they are stronger and better informed together than they may be as individuals. If you would like to join or form a synergy group, contact your nearest ERCB Field Centre (see last page), as the ERCB participates in nearly all the synergy groups in Alberta.

Remember, you have the right to ask questions at any point in the development process about drilling, pipeline, and production operations that affect you and your neighbours.

**Possible Questions for
Discussion Between You
and the Company**

(Not all questions apply to
every proposed project)

- 1 Proposed Energy Development Details**
 - 1.1 Is there a community-based group dealing with energy issues in my area?
 - 1.2 What kind of development is being proposed?
 - 1.3 How was the surface location selected?
 - 1.4 How will drilling activities and production affect my land/farming operations?
- 2 Sour Gas and Emergency Response Planning**
 - 2.1 Will the well encounter hydrogen sulphide (H₂S), or will the pipeline transport H₂S?
 - 2.2 What is the company doing to protect public safety?
 - 2.3 What are the details of the emergency response plan?
 - 2.4 Will I be compensated for any damage done during an emergency situation?
- 3 Setbacks**
 - 3.1 What is the setback for the proposed development?
 - 3.2 May I develop my land if it falls within a setback?
- 4 Flaring, Incinerating, and Venting**
 - 4.1 Will the proposed project involve any flaring or incineration of waste gas?
 - 4.2 If so, when and under what circumstances will flaring or incineration occur?
 - 4.3 What steps has the company taken to eliminate or reduce flaring, incineration, and venting?
 - 4.4 Will the company notify me when servicing work results in flaring or venting?
- 5 Odours, Noise, and Traffic**
 - 5.1 What can cause odours during drilling and production operations?
 - 5.2 What are the plans to minimize noise levels?
 - 5.3 What type and volume of traffic might I expect at various stages of development?
 - 5.4 How will the company respond to issues or concerns that may arise in day-to-day operations of the facility, and whom may I contact?
- 6 Environmental Issues: Soil, Water, and Visual**
 - 6.1 What steps will be taken to ensure protection and the least amount of impact to the environment?
 - 6.2 How will the soil quality be protected?
 - 6.3 What are the water needs of the company?
 - 6.4 How will the company protect the supply and quality of aquifers and water wells at all stages of exploration and during ongoing operations?
 - 6.5 How will companies reduce potential visual impacts associated with facilities?
- 7 Animal Health**
 - 7.1 Will my livestock and pets be evacuated if there is an emergency? If not, who will feed and water them?

7.2 Who will monitor the health of my livestock after an emergency, and for how long?

Additional Information

There are a number of publications developed and available from the ERCB regarding well, pipeline, and facilities applications. These publications form part of *Directive 056: Energy Development Applications and Schedules*. In particular, Section 2: Participant Involvement describes the minimum requirements a company must meet regarding public consultation and notification when making a well, pipeline, or facility application to the ERCB. In addition, the ERCB may be contacted directly at 403-297-4369 or via e-mail at Directive56.help@gov.ab.ca with inquiries related to *Directive 056*.

For additional information on the ERCB or its processes or if you have general questions about oil and gas in the province of Alberta, contact the ERCB's Customer Contact Centre: Monday to Friday (8:00 a.m. - 4:30 p.m.), at 403- 297-8311.

This EnerFAQs is one in a series.

- No. 1: What Is the Energy Resources Conservation Board?
- No. 2: Having Your Say at an ERCB Hearing
- No. 3: Inspections and Enforcement of Energy Developments in Alberta
- No. 4: All About Critical Sour Wells
- No. 5: Explaining ERCB Setbacks
- No. 6: Flaring and Incineration
- No. 7: Proposed Oil and Gas Development: A Landowner's Guide
- No. 8: Coalbed Methane
- No. 9: The ERCB and You: Agreements, Commitments, and Conditions
- No. 10: Public Health and Safety: Roles and Responsibilities of Agencies That Regulate Upstream Oil and Gas
- No. 11: All About Appropriate Dispute Resolution (ADR)
- No. 12: Oil Sands
- No. 13: Emergency Response Preparedness in the Energy Industry
- No. 14: Horizontal Multistage Hydraulic Fracturing

In addition, the following agencies provide supplementary information regarding oil and gas development in Alberta for use by both industry and the general public:

The Farmers' Advocate

Assists in the resolution of disputes on matters relating to the farming community and provides information on farming community matters.

305, 7000 – 113 Street

Edmonton, Alberta T6H 5T6

Phone: 780-427-2433 (toll free by first dialing 310-0000)

Fax: 780-427-3913

[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/ofa2621](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/ofa2621)

Alberta Surface Rights Board

Provides information regarding entry or compensation related to oil and gas resource activity on privately owned or Crown occupied lands.

18th Floor, 10020-101A Avenue
Phipps-McKinnon Building
Edmonton, Alberta T5J 3G2
Phone: 780-427-2444 (toll free by first dialing 310-0000)
Fax: 780-427-5798
<http://www.surfacerights.gov.ab.ca/srb/>

Alberta Environment

Leads resource planning and sustainable development on behalf of all Albertans, providing provincewide strategies that integrate industry, government, and public uses of Alberta's land and resources.

Main Floor, Petroleum Plaza South Tower
9915 - 108 Street
Edmonton, Alberta T5K 2G8
Phone: 780-427-2700 (toll free by first dialing 310-0000)
Fax: 780-422-4086
<http://www3.gov.ab.ca/env/land/index.html>

The Registrar of Land Agents

Investigates concerns regarding a land agent or any complaints dealing with matters pertaining to the *Land Agents Licensing Act* or the *Land Agents Licensing Regulations*.

12th Floor, South Tower
Seventh Street Plaza
10030 - 107 Street
Edmonton, Alberta T5J 3E4
Phone: 780-415-4600 (toll free by first dialing 310-0000)
Fax: 780-422-7173
<http://www3.gov.ab.ca/hre/lal/index.asp>

Every year the ERCB collects, compiles, and publishes a large amount of technical data and information about Alberta's energy development and resources for use by both industry and the general public. This includes raw data, statistics, information on regulations, policies, and decisions, and hearing materials.

Publications may either be viewed at the ERCB library or obtained from Information Services. Both are housed on the main floor of the ERCB head office in Calgary. Publications may also be downloaded free of charge from the ERCB Web site www.ercb.ca.

To obtain a print or CD copy of a specific publication, contact ERCB Information Services by phone (403-297-8190), fax (403-297-7040), or e-mail Infoservices@ercb.ca.

The ERCB and You: Agreements, Commitments, and Conditions

This EnerFAQs explains the role of the Energy Resources Conservation Board (ERCB) with respect to landowner-company agreements, commitments, and conditions in oil and gas development. It is a companion to [EnerFAQs 7: Proposed Oil and Gas Development, A Landowner's Guide](#); the two should be read together.

Each year in Alberta, private landowners enter into agreements with oil and gas companies that allow for the construction and operation of oil and gas projects on their lands. In the majority of cases, landowner-company agreements are clear and each party understands its rights and responsibilities. Occasionally, misunderstandings arise in regard to these private agreements, and the parties seek the ERCB's assistance in resolving their concerns through the ERCB's Appropriate Dispute Resolution (ADR) program.

How are agreements between landowners and companies negotiated?

Landowner-company agreements may arise in a variety of circumstances. Often they are negotiated strictly between the landowner and the oil and gas company. Sometimes the ERCB may assist the parties in resolving their concerns through its facilitation process. As well, the ERCB's ADR program provides independent, third-party mediation to assist the parties to resolve their concerns. Negotiated agreements reflect commitments made by both the company and the landowner.

What is a commitment?

A commitment is a verbal or written promise made by an oil and gas company to a landowner. Commitments arise from promises made between a company and a landowner.

Generally, commitments relate to activities or operations that are not strictly required by the ERCB's guidelines or regulations. For example, a company may commit to painting its compressor green to better blend in with the surroundings.

Does the ERCB enforce commitments?

While the ERCB encourages parties to reach agreements to resolve outstanding issues and concerns, commitments are basically private agreements between the parties. The ERCB is not a party to the agreements and has no authority to enforce private agreements between a landowner and a company. The power to enforce private agreements is reserved to the Alberta courts.

However, the ERCB considers it important that companies meet their commitments. Failure to do so may provide grounds for the ERCB to review and possibly vary decisions related to the breached commitment. For example:

- If an intervener withdraws its objection to an application as a result of a commitment made by a company and that commitment is later breached by

the company, the ERCB may consider whether a review of its decision to grant the licence, approval, or permit is appropriate.

- If the ERCB was influenced in its decision to grant a licence, approval, or permit by a commitment made at a hearing and that commitment was later breached, the ERCB may consider whether a review is necessary.

What is a condition?

A condition is a requirement of the ERCB included in a licence, approval, or permit. A condition is in addition to or expands upon existing ERCB guidelines or requirements. Generally, conditions are imposed by hearing panels and listed in the related decision report.

Because conditions typically form part of the ERCB approval and are an extension of the powers granted to the ERCB by government acts and regulations, the ERCB has the authority to enforce the breach of a condition. The company must comply with the conditions or it will be in breach of its licence, approval, or permit and be subject to enforcement action by the ERCB. Enforcement of a licence, approval, or permit includes enforcement of the conditions attached to that approval.

An example of a condition is requiring an operator of a pipeline on private property to mark the pipeline locations at each existing fence line and provide the landowner with an accurate drawing showing all pipeline rights-of-way on the property and the location of the pipeline within the rights-of-way.

Why does the ERCB list conditions and commitments in some of its decision reports?

The ERCB lists conditions and commitments in decision reports to ensure that the decision and the reason why it made its decision are clear. If the ERCB decides to attach conditions to the licence, approval, or permit, the decision report will explain the circumstances that led the ERCB to include these conditions. Similarly, if the commitments made by a party have influenced the ERCB's decision, it will record these commitments in the decision report.

How does the ERCB follow up on conditions, and is the information available to the public?

The company is responsible for compliance with the conditions. If conditions are attached to a licence, approval, or permit, the ERCB will develop an action plan to monitor compliance with the conditions within the prescribed timeframes. The progress of conditions can be followed on the ERCB Web site through a link to the specific decision report. Any supporting documentation submitted to or gathered by the Board on a condition is available through ERCB Information Services.

Why doesn't the Board attach or include commitments made between a landowner and a company in the approval it issues?

As noted, a commitment is a private agreement between a landowner and industry. The ERCB does not have the authority to enforce private agreements; that authority is reserved for Alberta's courts. Because the Board cannot require compliance with commitments, it cannot include them in its licences, approvals, or permits. However, as discussed in the next section, the breach of a commitment may be grounds for a review of the approval granted. Each party should therefore keep a copy of its agreement as a record of the commitments made.

What is a review, and when does the ERCB conduct a review in relation to a breach of commitment?

The ERCB has the authority to review, or take a second look at, any of its decisions. In relation to a breach of commitment, the ERCB will consider whether the alleged breach constitutes a material change in circumstances that could lead it to change its decision.

The subject matter of the commitment and the alleged breach must be significant in order to trigger a review of its decision. The ERCB emphasizes that a request for a review is a serious matter and should only be considered when all other attempts to resolve the parties' differences have failed.

Parties seeking a review must comply with the requirements of Sections 39 or 40 of the *Energy Resources Conservation Act* and Section 48 of the *Energy Resources Conservation Board Rules of Practice*. For further information on the ERCB's review process, see *Directive 029: Energy and Utility Development Applications and the Hearing Process*.

Should agreements that include commitments between a company and landowners be written down?

Yes, the parties should carefully document each commitment made and ensure that each party receives a copy of the document. By recording the agreement in writing, each party will have a record of the commitments for reference in the event of a disagreement.

How much detail should be included in an agreement?

Commitments should be written so that each party clearly understands what rights and obligations the commitment creates. The objective when drafting commitments will be to clearly reflect each party's expectations and to avoid any commitment that is vague or confusing.

For example, consider a simple commitment that states, "The company agrees to construct a fence around its well site." When the commitment is drafted, each party may believe that it understands what obligation is created by the commitment. However, the commitment is worded in such a way that it is open to a number of reasonable interpretations. The company may understand the commitment to require the construction of a wooden fence immediately around the wellhead after it has completed all necessary testing and the associated pipeline is tied in. The landowner may expect a chain link fence to be erected around the entire lease site immediately after the well is drilled.

Commitments should be carefully drafted to ensure that they reflect each party's expectations. With respect to the above example, an explicit commitment would describe the type of fence to be built, the size of the fence, and the timing of its construction. By including such details in the original agreement, both parties are aware of the other's expectations, and the potential for conflict is reduced significantly.

What information should generally be included in an agreement?

- The agreement should clearly identify the parties that will be bound by it.
- The agreement should specifically address what will happen if the company sells or transfers the facility to another party.
- The agreement should be very specific and clearly identify all expectations. Parties should avoid ambiguous commitments that have the potential for misunderstanding in the future.
- The agreement should include a discussion of how disputes about commitments will be resolved (see expanded discussion below).
- The agreement should identify specific consequences and the exact steps that will be taken in the event that one of the commitments is not met by one of the parties.
- The agreement should be signed by each party.

What happens when parties have a dispute about commitments?

As the ERCB does not have the authority to enforce commitments, it is very important that the parties involved address dispute resolution within their agreement. As noted above, the best way to avoid disputes is to ensure that the original agreement is clearly worded and effectively addresses each party's expectations.

The agreement should provide a company contact whom the landowner can contact in the event of a dispute and state what steps the parties will take to resolve the dispute. The company contact should have the necessary authority to make decisions relating to the implementation of the agreement.

Methods of resolving disputes about commitments include the use of a third-party mediator through the ADR process or an ERCB staff facilitator. It is the ERCB's view that a request for a review of a licence, approval, or permit on the basis of a breached commitment should be the last resort for parties in conflict.

Is compensation available to landowners for negotiating agreements?

The ERCB has no authority to require a company to compensate a landowner for his or her efforts in negotiating an agreement. However, the company may agree to provide compensation to the landowner as part of its agreement with the landowner.

The ERCB does have the authority to require a company to pay a party's costs if an application is considered at a hearing before the ERCB. However, in order to be eligible for cost recovery, the party must establish that he or she has an interest in, occupies, or is entitled to occupy land that may be directly or adversely affected by the ERCB's decision on the company's application. The ERCB refers to such a party as a "local intervenor." The ERCB's usual practice (there are exceptions) is to acknowledge only those costs incurred after the ERCB has issued a notice of hearing. It is generally the ERCB's position that until a notice of hearing has been issued, there is no certainty that a hearing will be held. In many cases interactions between an intervenor and a company prior to the notice of hearing relate to compensation matters, not public interest issues. However, the ERCB recognizes that it is sometimes necessary for local intervenors to incur costs prior to the notice of hearing and that such costs may be reasonable, necessary, and directly related to the intervention in question.

For further information on local intervener costs, see [Directive 031A: Guidelines for Energy Cost Claims](#).

What is Appropriate Dispute Resolution?

In January 2001, the ERCB implemented the Appropriate Dispute Resolution (ADR) program. The program was developed in response to requests by both the public and industry to be more directly involved and to have more control in resolving disputes involving wells, pipelines, production facilities, electrical substations, transmission lines, and other facilities in the industries regulated by the ERCB. The two main components of the ERCB's ADR program are ERCB staff facilitation and third-party assistance from ADR professional service providers and mediators. While it may not be the answer to every dispute, the ADR process has often been successful in reducing the number of issues needing to be addressed and, in some cases, eliminating the need for a formal hearing.

For further information, see the ADR page on the ERCB Web site www.ercb.ca. Parties may also contact the ERCB's Facilitation group at 403-297-5839.

Additional Information

For additional information on the ERCB or its processes or if you have general questions about oil and gas in the province of Alberta, contact the ERCB's Customer Contact Centre: Monday to Friday (8:00 a.m. - 4:30 p.m.), at 403-297-8311.

This EnerFAQs is one in a series.

- [No. 1: What Is the Energy Resources Conservation Board?](#)
- [No. 2: Having Your Say at an ERCB Hearing](#)
- [No. 3: Inspections and Enforcement of Energy Developments in Alberta](#)
- [No. 4: All About Critical Sour Wells](#)
- [No. 5: Explaining ERCB Setbacks](#)
- [No. 6: Flaring and Incineration](#)
- [No. 7: Proposed Oil and Gas Development: A Landowner's Guide](#)
- [No. 8: Coalbed Methane](#)
- [No. 9: The ERCB and You: Agreements, Commitments, and Conditions](#)
- [No. 10: Public Health and Safety: Roles and Responsibilities of Agencies That Regulate Upstream Oil and Gas](#)
- [No. 11: All About Appropriate Dispute Resolution \(ADR\)](#)
- [No. 12: Oil Sands](#)
- [No. 13: Emergency Response Preparedness in the Energy Industry](#)
- [No. 14: Horizontal Multistage Hydraulic Fracturing](#)

Every year the ERCB collects, compiles, and publishes a large amount of technical data and information about Alberta's energy development and resources for use by both industry and the public. This includes data, statistics, information on regulations, policies, and decisions, and hearing materials.

Publications may either be viewed at the ERCB library or obtained from Information Services. Both are housed on the main floor of the ERCB head office in Calgary. Publications may also be downloaded free of charge from the

ERCB Web site www.ercb.ca.

To obtain a print or CD copy of a specific publication, contact ERCB Information Services by phone (403-297-8190), fax (403-297-7040), or e-mail Infoservices@ercb.ca.

In addition, the following agency provides supplementary information, assists in the resolution of disputes on matters relating to the farming community, and provides information on farming community matters:

The Farmers' Advocate

305, 7000 – 113 Street

Edmonton, Alberta T6H 5T6

Phone: 780-427-2433 (toll free by first dialling 310-0000)

Fax: 780-427-3913

[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/ofa2621](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/ofa2621)

ERCB Offices

Head Office	403-297-8311
Suite 1000, 250 – 5 Street SW	
Calgary, Alberta T2P 0R4	
Customer Contact Centre	403-297-8311
Inquiries@ercb.ca	
Fort McMurray Regional Office	780-743-7214
2nd Floor, Provincial Building	
9915 Franklin Avenue	
Fort McMurray, Alberta T9H 2K4	
Edmonton (Alberta Geological Survey)	780-422-1927



Field Centres

Bonnyville	780-826-5352
Drayton Valley	780-542-5182
Grande Prairie	780-538-5138
High Level	780-926-5399
Medicine Hat	403-527-3385
Midnapore	403-297-8303
Red Deer	403-340-5454
St. Albert	780-460-3800
Wainwright	780-842-7570

To call the above numbers toll free, dial 310-0000.

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