

February 25, 2009

Mr. Malcolm Fox, Executive Producer
W-FIVE
P.O. Box 9, Station 'O,'
Scarborough, Ontario
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Email: w-five@ctv.ca

Re: W-FIVE story 'Fueling Fears'

Dear Mr. Fox:

The February 7, 2009 edition of W-FIVE included a story entitled 'Fueling Fears.' The segment was so incomplete and misleading in its information that it amounted to a completely inaccurate portrayal of the Alberta Energy Resources Conservation Board (ERCB) and the way it regulates oil and gas development. Because of this, the ERCB is compelled to respond.

The ERCB is Alberta's energy regulator. Our role is to ensure that energy development in Alberta is done fairly, responsibly, and in the public interest. In short, we are the referee in Alberta's oilpatch.

Because of our role, we deal every day with conflicts between energy companies and landowners, concerns about sour gas development, and questions about coalbed methane development.

We welcome public scrutiny. Healthy skepticism is a virtue. It keeps people, businesses and governments on their toes. The ERCB is no exception; we need to be able to stand up to public scrutiny. Albertans expect no less.

That is why it is so important that W-FIVE viewers get all of the facts on statements made in the 'Fueling Fears' segment.

First, the W-FIVE segment raised a number of concerns about energy development in Alberta and did not allow the ERCB sufficient time in the segment to respond to the issues raised. In fact, over the course of the 20 minute and 16 second segment, W-FIVE only provided 1 minute and 35 seconds for ERCB spokesman Bob Curran to respond to the numerous concerns that were raised. This clearly demonstrates a lack of fairness and balance on the part of W-FIVE.

W-FIVE interviewed Bob Curran for 44 minutes and 58 seconds in total for this story and Mr. Curran responded fully to every single issue raised and question posed by W-FIVE. W-FIVE's unwillingness to broadcast Mr. Curran's responses in their entirety resulted in a segment that was incomplete and misleading. In addition, the W-FIVE segment made statements about several matters but did not ask Mr. Curran questions about or provide an opportunity to respond to those specific matters in its interview with him.

There are a number of other key facts that W-FIVE neglected to share with viewers.

Public Safety and Sour Gas

W-FIVE's 'Fueling Fears' segment focused on concerns about sour gas development in Alberta. Sour gas is dangerous and can be potentially fatal, which is why the ERCB has the most stringent sour gas regulations in the world. In fact, one of the ERCB's top priorities over the past decade has been its groundbreaking Public Safety and Sour Gas (PSSG) initiative.

Established in January 2000, the PSSG initiative reviewed and assessed the province's entire regulatory regime as it related to health and safety. An independent committee was formed, comprised of landowners, academics, scientists, government officials, and ERCB staff members. This committee embarked on a one-year extensive research and information gathering process, including two rounds of meetings in nine towns and 16 Aboriginal communities in Alberta affected by sour gas development. The Committee concluded in its December 2000 report that "Alberta currently has an extensive and comprehensive regulatory and enforcement system", and made 87 detailed recommendations for improvement. Following seven years of work, the ERCB announced in June 2007 that all 87 recommendations made by the Committee had been addressed.

In implementing the recommendations, the ERCB (among many other actions):

- toughened rules around compliance and enforcement for sour gas development,
- assisted in the development of comprehensive health effects information around H₂S exposure,
- improved coordinated planning for sour gas development in both rural and urban areas,
- initiated an extensive upfront technical review of all critical sour gas well applications and a 100% inspection rate for critical sour wells while drilling,
- launched a Customer Contact Centre manned by ERCB staff to answer questions from the public,
- tightened regulations around sour gas pipelines regarding inspections and testing,
- created a Public Safety Group within the ERCB that includes a Community and Aboriginal Relations Section to increase consultation and understanding, and an Emergency Planning and Assessment section dealing with emergency preparedness and response,
- upgraded the ERCB's air monitoring unit to state-of-the art specifications and purchased a second unit. These units utilize infrared cameras that can detect volatile organic compounds.

The ERCB also changed regulations so landowners are consulted earlier and more comprehensively than ever before by companies proposing sour gas development in their area (including the creation of a landowner's guide with 40 questions the public has the right to have answered).

The Public Safety and Sour Gas Initiative is central to the issue of safe sour gas development in Alberta, yet W-FIVE neglected to even mention it.

Compliance Rates

In the W-FIVE segment, the narrator states that many people think that the ERCB is "one sided", and later in the story one of those interviewed states that the ERCB is a "rubber-stamp" which never denies applications for development from industry. Both of these statements are untrue. In fact, the ERCB denies applications every day. In 2007, we turned back 3,264 applications for development from industry.

If companies do not follow the ERCB's rules, they are not allowed to operate their facilities. In 2007, our field inspectors shut down 247 facilities that did not meet the Board's stringent regulatory standards. Bob Curran made this statement in the interview with W-FIVE, yet his comments are not aired in the segment.

Mr. Curran also stated in the interview that the energy industry's compliance rate with major ERCB regulations is about 98%. That statement is critically important to the W-FIVE story, yet this information is not broadcast in the W-FIVE segment.

ERCB Funding

In the W-FIVE story, Mr. Andrew Nikiforuk claims that, because a significant portion of the ERCB's funding comes from industry, the ERCB's ability to regulate effectively is compromised. This statement is incorrect.

The industry portion of our funding is a levy, it is like a tax. Energy companies do not have the option of paying levies to the ERCB - companies are required by regulation to pay.

To imply that companies can somehow influence ERCB decisions because of this is akin to suggesting you can influence the actions of the police because you pay taxes.

Unfortunately, Bob Curran was not asked about Mr. Nikiforuk's statement in the interview and Mr. Curran was not able to respond to Mr. Nikiforuk's comments and/or to correct the record on W-FIVE.

Drayton Valley

The W-FIVE segment also focuses on the Drayton Valley area and concerns about sour gas development near a local school.

The ERCB has comprehensive regulations to prevent incidents from occurring through rigorous standards, training and licensing. We also have requirements that prevent inappropriate encroachment of energy facilities on existing surface development such as schools and houses.

The ERCB's sour gas dispersion modeling regulations and requirements are based upon science and were developed after years of consultation with health experts, local authorities, academics, and the public. In fact, the ERCB's sour gas dispersion modeling regulations were developed after extensive consultation with (and have been approved by) the Alberta Chief Medical Officer of Health and the Alberta department of Health and Wellness.

Once again, W-FIVE did not ask Mr. Curran about this matter and the ERCB was not able to correct the record on this important topic.

In addition, the segment also included a quote from Mr. Nikiforuk claiming that the ERCB had approved a well in the region despite the fact that the "...company has committed thirteen high risk examples of non-compliance..."

In the segment, neither Mr. Nikiforuk nor W-FIVE state the name of the company or the location of the well. This incomplete information makes it impossible for the ERCB to comment on the matter, and is clearly misleading for W-FIVE viewers.

Individuals Interviewed

In the W-FIVE story, there were several individuals interviewed who raised concerns about energy development and how it has affected them personally. I want to assure you and your viewers that the ERCB has been vigorous in investigating their complaints and concerns. We have left no stone unturned in our investigations and have spent a great deal of time and effort with all those mentioned.

It is important for your viewers to know that outside agencies have reviewed several of the issues brought forward by some of those individuals.

In one case, the Alberta Research Council conducted an independent review of four water well complaints allegedly linked to coalbed methane activity. The results, which were released in 2008, showed the wells were not affected by coalbed methane development, but rather the quality issues were predominantly due to naturally occurring methane. Other quality issues were associated with poor well construction and maintenance.

Mr. Curran supplied the producer of the W-FIVE segment with an email copy of the Alberta Research Council Report.

In another case, the Alberta Court of Appeal issued a decision in 2008 dismissing two appeals filed by some of the individuals interviewed by W-FIVE.

In its decision, the Court was clear that the Board did not err in declining to review two well licenses granted by it. The Court found that the appellants failed to demonstrate and support their claims that their pre-existing health conditions may be adversely affected by the wells approved by the ERCB. The Court found that, while the appellants were asked by the ERCB to provide information to show that they may be directly and adversely affected by the approvals, the appellants did not provide that information. The Court recognized that the Board did not have any medical evidence or medical reports to support the appellants' claim and found that it was not unreasonable for the ERCB to require the parties who requested the review on the basis that they suffered from an unusual sensitivity to the well, to provide more than a mere assertion of that sensitivity. The appellants' appeals were dismissed because they failed to place relevant facts before the ERCB, notwithstanding several requests and opportunities to do so.

The Alberta Court of Appeal decision is a matter of public record, yet W-FIVE failed to share this important information with its viewers, thereby once again providing an incomplete and misleading version of the events.

Eastern Slopes

Regarding the ERCB hearing on PetroCanada's applications to drill sour gas wells and operate pipelines in Southern Alberta's eastern slopes, it would not be appropriate for the ERCB to comment on the application, as the hearing on the applications has not concluded, nor has the decision been released.

ERCB hearings are formal, quasi-judicial proceedings during which evidence is given and cross examination takes place. The hearing allows a public testing of all technical, environmental, socioeconomic, and other relevant evidence. Following the completion of the hearing, the ERCB panel weighs all of the evidence and will release a decision that best reflects the public interest.

However, it must be stated that Alberta's Eastern Slopes have singular and distinct natural features and are unique. For that reason the ERCB initially established an energy regulatory framework for the

Eastern Slopes that is broader than what is required for other parts of Alberta. That regulatory framework, *ERCB Information Letter IL 93-9: Oil and Gas Development Eastern Slopes (Southern Portion)*, addresses key points including proper environmental assessments, early consultation, overall development plans, and coordination between operators. The goal of IL 93-9 is to ensure that proper energy development and environmental protection are not mutually exclusive.

Ensuring that oil and gas development occurs safely in Alberta is the ERCB's number one priority. We also believe that Albertans and W-FIVE viewers deserve accurate and balanced information regarding energy regulation in Alberta. The February 7, 2009 W-FIVE 'Fueling Fears' segment was so incomplete and misleading in its information that it amounted to a completely inaccurate portrayal of the ERCB and the way it regulates energy development in Alberta.

Yours truly,

- original signed -

Tom Neufeld
ERCB Communications Manager

C.C. Ms. Patricia Johnston, ERCB General Counsel