

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](#)

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>

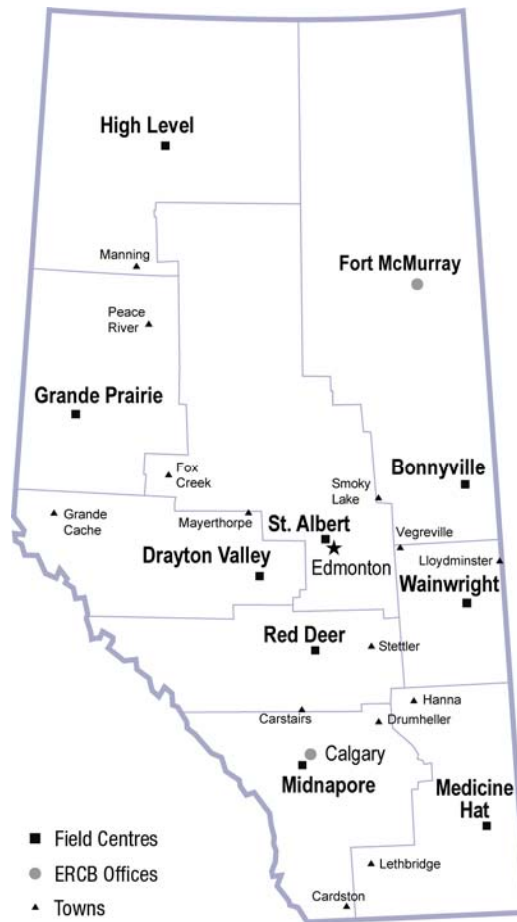
Every year the ERCB collects, compiles, and publishes a large amount of technical data and information about Alberta's energy development and resources for use by both industry and the general public. This includes raw data, statistics, information on regulations, policies, and decisions, and hearing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

ERCB Offices

Head Office 640 – 5 Avenue SW Calgary, Alberta T2P 3G4	403-297-8311
Customer Contact Centre Inquiries@ercb.ca	403-297-8311
Fort McMurray Office 2nd Floor, Provincial Building 9915 Franklin Avenue Fort McMurray, Alberta T9H 2K4	780-743-7214
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.