

DRILLING DOWN

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A LANDOWNER'S PRIMER ON OIL + GAS PRODUCTION

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The oil and gas industry fuels Alberta's economy and many Rocky View County residents have oil and gas activities on their properties or have been approached by a company to begin drilling operations. Many residents have questions about providing access to their property, increased traffic on roads, unusual odors, health, safety and the impact unsightly projects may have on their property values. What are residents' options when a company wishes to develop an oil or gas project in the vicinity of their property? Accessing information available from the Energy Resources Conservation Board (ERCB) is a good place to start.

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Energy Resources Conservation Board (ERCB)

Sole jurisdiction and decision making regarding oil and gas production rest with the provincial government, specifically the Energy Resources Conservation Board (ERCB). The ERCB is the sole independent regulator of oil and gas activity in Alberta with a mandate to regulate non-renewable resources so they can be produced safely, responsibly and efficiently. A company must receive approval from the ERCB prior to initiating energy activities which could have an impact on the public, land use, the environment and conservation. Rocky View County does not regulate oil and gas activity.

Land titles

Property owners should check to see if their land title gives them both the surface and the mineral rights or if the title is split with the Crown. 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 subsurface title is held by the Crown, which may have leased the mineral rights to a company or individual. Holding the mineral lease gives that particular company or person the right to access the land surface for exploration purposes.

Land survey

The first step a company usually undertakes is to complete a land survey to select the exact location for a well site or pipeline route location and determine what surface area is required. The surveyor must make every reasonable attempt to notify the landowner, after which they may enter the property. The company is responsible for the cost of any damages caused by the survey.

Landowner rights

According to the ERCB, the company applying to develop oil or gas projects must provide information to all parties whose rights may be directly affected so they can completely understand what is being proposed and the possible impacts.

What information does the company provide?

- Details about how and why they chose the proposed locations for any well pipelines, facilities or access roads.
- What to expect in terms of equipment use and operations during the production phase.
- Pipeline right-of-way includes the landowner being informed of the construction schedule and method, the product(s) being transported/handled

The negotiation process

Landowners receive financial compensation in return for allowing companies to place a well site on their land. Ideally, negotiations result in an agreement acceptable to both parties and the commitments are confirmed in writing. The Surface Rights Board (SRB) deals with compensation issues such as payment for right-of way, crop loss and other damages if disagreements occur.

What should the landowner be discussing with the companies?

Consider how the land will be used in the present and future – how will drilling impact future plans and the land/farming operations? Setback areas must be considered. A setback is the absolute minimum distance that must be kept between an energy facility and a dwelling, rural housing development, urban centre or public facility. They act as a buffer zone between the public and the facility in case there is a problem. Setbacks depend on the type of development proposed.

Landowners and those impacted by developments are advised to ask questions of the company involved. Depending on the type of project proposed, a company should be able to talk about things like:

- the soil and how they handle it
- what kind of development is being proposed
- what will be transported
- what the setback requirements are
- how the surface location was selected
- what alternative pipeline routes were considered and why this one was chosen
- environmental sensitivity such as water needs for the project
- how drilling waste, flaring and venting issues will be handled
- how livestock and pets will be handled in an emergency situation
- what the emergency, safety, notification and shutdown requirements are, and what

Did you know...

pipelines typically stay in the ground after reclamation?

Two conditions apply to accessing land for subsurface exploration:

- Drilling and production activity must be done in an environmentally and technically acceptable way. Construction must meet Alberta Environment's Environmental Protection Guidelines.
- A company must operate in a way that causes the least possible interference with the landowner's use of the land.

and concerns addressed about soil handling, site reclamation or other related issues.

- Well site selection is based on geology of nearby wells or on seismic information, some of which may be kept confidential by the company.
- Production facilities such as separators, heaters and tanks if required, must be discussed with lands owners/occupants.



- the compensation is for any damage done during an emergency situation
- reclamation efforts – when will it occur and how long will it take
 - what state the land will be restored to after the pipeline is constructed
 - potential visual impacts
 - what odours, noise and traffic can be expected
 - impact on neighbours
 - community-based groups dealing with energy issues in the area

Landowners / occupants should take part in what the ERCB refers to as local synergy groups - neighbours meeting with ERCB representatives and area oil and gas companies to resolve local issues together. The public is strongly encouraged to join together and participate in local synergy groups to remain stronger and better informed. Contact your nearest ERCB Field Centre to join or form a synergy group.

The approval process

The ERCB application process ensures the proposed project meets all regulatory requirements. If there are no outstanding objections from affected parties and the application meets all legal and technical requirements, the ERCB will usually issue a licence.

What happens if there is a disagreement about the site location?

If the landowner wants the well location to be away from the company's preferred geologic point, this is the time to ask the company about directional drilling options. Directional drilling means drilling a well diagonally instead of vertically. While this may be an option technically, it increases the cost of drilling and producing the well. The landowner has the opportunity to ask the company to estimate the additional costs for a directional

Did you know...

Alberta Environment (AENV) issues a Reclamation Certificate only after they are satisfied the well site has been properly reclaimed?

well in relation to the value of anticipated production.

If the landowner and the company still cannot agree on the site, either party may ask the ERCB for its involvement. They may:

- suggest the two parties attempt to negotiate once more
- the ERCB may become involved as a facilitator
- the parties could use a neutral third party to mediate

The ERCB has implemented the Appropriate Dispute Resolution (ADR) program to facilitate and mediate unresolved concerns and objections between landowners and companies following a breakdown in negotiations.

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

This is a formal, court-like proceeding and provides the affected parties the opportunity to express their points of view and provide supporting evidence. They may or may not wish to be represented by a lawyer. If a hearing is going to take place, notice is sent directly to landowners and residents who may be directly impacted by the proposed project. Newspaper advertising is generally used. Further details are available in ERCB's "EnerFAQS No. 2: Having your say at an ERCB Hearing," located at www.ercb.ca. Usually the panel consists of three ERCB decision-makers, who hear evidence for and against the application. A written report is made


public, giving the decision and the reason for it, approximately 90 days after the close of a hearing.

Payment for an ERCB hearing

The company applying to develop the project is required to pay the reasonable costs associated with the hearing. The ERCB will decide whether the intervener is eligible to be compensated for costs of preparation and presentation.

Abandoned well sites

When the well no longer flows, a cap is placed over the casing about one metre below the surface and a surface reclamation certificate is issued by Alberta Environment. Nothing is visible on the surface at this point and a record of the location is maintained. Adequate access to the site must be maintained in the rare event a leak occurs.

Since there should be no visible surface evidence of an abandoned well or pipes after completion, minimum setbacks are recommended by the ERCB to reduce excavation and construction risk. Suitable setbacks are incorporated in planning, development and building permissions by the County to ensure ERCB recommendations are met. 

For more information go to: www.ercb.ca