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OUR FILE No. 135,322 RCS

YOUR FILE No.

March 16, 2005

VIA FAX: (403) 297-7031 (5 pages)

Alberta Energy and Utilities Board
14th Floor, 640-5th Avenue S.W.
Calgary, Alberta, T2P 3G4

Attention: Neil McCrank, Q.C.

Dear Sir,

Re: Consultation Regarding Proposed Changes to Reservoir-Related Well Spacing Regulations, Application Requirements and Application Review Process

We act for Ms. Jessica Ernst of Box 753, Rosebud Alberta, T0J 2T0, who owns land legally described as Plan 9813427, Block 2 located in SE 13-27-22-W4M.

Our client has requested that we provide you with notice that she protests the EUB's proposal set out in Bulletin 2005-08 to provide the oil and gas industry with a blanket approval process in the SE corner of Alberta.

Our client is currently facing many negative, mostly unmitigated, impacts due to gas development, including Coal Bed Methane (CBM), as listed below:

- a negative change to Ms. Ernst's water well – her taps have begun to wheeze, whistle and sing, and the quality of her ground water has changed;
- roads that Ms. Ernst uses and pays taxes to maintain have fallen into terrible states of disrepair due to the massive influx of heavy, speeding petroleum industry traffic;
- compressor noise that Ms. Ernst has had to put up with for over a year;
- dangerous, speeding and reckless driving by workers on all roads in the counties where Ms. Ernst travels – fatalities have already occurred due to unsafe oil and gas related driving;
- trespassers using industry's lease roads to access private property;
- loss of privacy;
- loss of quiet enjoyment of Ms. Ernst's property;

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Consultation Regarding Proposed Changes to Reservoir-Related Well Spacing Regulations, Application Requirements, and Application Review Process

- receiving consultation from the main proponent in her area (i.e. EnCana) in the form of lies, and repeat misrepresented information;
- loss of Ms. Ernst's time trying to uncover the truth from EnCana about whether CBM is planned for the Rosebud area or not and how EnCana proposes to minimize cumulative impacts and risks to aquifers – time that is not recoverable;
- negative visual impacts;
- negative environmental impacts;
- negative noise impacts;
- negative impacts to air quality (e.g. flaring and compression by products - the dust was so bad this past summer that furniture would be covered in dust less than a day after a full house cleaning);
- negative impacts to wildlife;
- weed problems; and
- stress and anxiety because of Ms. Ernst's inability to get playground signs installed in Rosebud on Highway 840 adjacent to Rosebud's playground to protect citizens from speeding petroleum related traffic – blanket approval comes first so as to speed up down-spacing applications for industry and the EUB; safety of Alberta's children is made to wait a year or two and comes last.

Our client is of the view that CBM remains an unknown at this time. In order to protect Alberta and its citizens, it is imperative that CBM is regulated responsibly, slowly and with caution.

In an August 2004 National Energy Board publication entitled "*Looking Ahead to 2010 - Natural Gas Markets in Transition*", it stated at Section 3.3 as follows:

3.3 Unconventional Gas Supply

The term unconventional gas typically refers to low-permeability reservoirs or "tight gas", shale gas, and CBM (increasingly referred to as natural gas from coal). In general, participants view that unconventional gas has the potential to increase overall natural gas production in the future. However, there is substantial uncertainty surrounding the economics and development of these resources in the period to 2010. The productivity of these wells are usually very low and a greater number of wells are needed to produce the gas since it tends to be found in deposits that extend over a large area.

CBM is considered by Roundtable participants to be a likely source of unconventional gas, with potential to contribute significant volumes and help offset the expected decline in conventional gas supply. There are currently about two dozen pilot projects to develop CBM across the WCSB and some participants noted that about 1,000 CBM wells will be drilled this year, resulting in an expected 100 MMcf/d (2.8 million m³/day) of production. While it is too early to accurately assess this emerging supply source, the Board's scenarios for CBM supply also indicate about 100 MMcf/d in 2004, consistent with actual production to-date. However, some participants indicated that the Board's scenarios, suggesting CBM production levels of about 1 Bcf/d (28 million m³/day) by 2010, may be low, depending on the degree of success experienced at the various projects. To-date, there has been mixed success. In attempting to develop CBM, some projects have experienced fresh or salt water production which presents additional challenges with water disposal and tends to increase costs and impact gas production.

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Other projects have focused on dry coals that produce gas with no water. Considering the variability of coals, the range of success amongst existing pilot projects, and the very early stage of CBM development in Canada, there is still significant uncertainty surrounding the future of CBM development.

The Horseshoe Canyon play in south-central Alberta was described as an example where developments have been positive. Ultimately, some 50,000 wells may be needed to recover the CBM from this area alone. The drilling risk in CBM development is relatively low due to the widespread deposits of known resources and drilling programs typically involve a large number of wells and high drilling density to achieve economies of scale. Several participants have characterized the exploitation of these resources as a “manufacturing process”. At the same time, some concern was expressed by CBM producers over their ability to obtain timely regulatory approval for the large numbers of wells that may be required to develop CBM. **It was suggested that a new regulatory framework may be beneficial, and that regulators could consider a “blanket approach” to approve drilling programs for this type of development.**

On November 4, 2004, Ms. Ernst spoke with Mike Ekelund of the Department of Energy expressing her concerns about too many wells per section for CBM and how the increased number of wells would be approved. Ms. Ernst requested a meeting in person to discuss these important matters. Mr. Ekelund promised that a meeting would occur and that he would call back to set the meeting up. He asked for a few weeks time. He has not yet called back to set up the meeting.

On November 15, 2004, at a meeting at Rosebud, we understand that Stephen Smith of the EUB advised Ms. Ernst that the projected 50,000 CBM wells in the Horseshoe Canyon play was not “do-able” by the EUB.

On December 8, 2004, Ms. Ernst contacted Mike Gatens, Chairman of the Board of the Canadian Society of Unconventional Gas. He advised Ms. Ernst that industry was looking for an easier approval process and that the EUB was looking to improve their efficiency by increasing the number of wells permitted per pool per section per application. Mr. Gatens said that the EUB was thinking of changing the process for downspacing applications and this was likely the blanket approval process that the NEB had written about in their document. Ms. Ernst then repeatedly called and emailed Tom Byrnes, CBM expert with the EUB, until he finally called her back on December 10, 2004. He said he was not sure what Ms. Ernst was talking about when she questioned a possible blanket approval process – insisting there was no such thing being considered. Mr. Byrnes said the NEB document was only about the NEB going to industry to find out about gas supply. He said there is an individual application process for each spacing change and “I am not aware of any proposal for blanket anything.”

On December 13, 2004, Darrin Barter of the EUB stated to a concerned Rosebud citizen that the CBM discussion only filled half a page of the aforementioned NEB document and that blanket approval for CBM was only speculative. Ms. Ernst also called Darrin Barter requesting that he call her back to discuss the potential for a blanket approval process at the EUB. He did not return her phone call.

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Sharla Rauschnig of the Department of Energy informed the Consultation Coordinator for Ms Ernst's business that there was no NEB document discussing the suggestion of a "blanket approval" process for CBM and insisted there is no consideration being made for a blanket approval process for CBM in Alberta. The Consultation Coordinator for Ms. Ernst's business asked Sharla Rauschnig to please call Ms. Ernst to review her concerns about the consequences of a possible blanket approval process for CBM. Sharla Rauschnig promised to call Ms. Ernst, but never did.

Three months or so after the comments noted above, Bulletin 2005-08 was issued by the EUB and it appears to be creating a blanket approval process for CBM downspacing. For instance, in Section 2 of Attachment 1 to EUB Bulletin 2005-08 it states:

2 Higher Baseline Well Densities

Proposal

Amend Part 4 of the *Oil and Gas Conservation Regulations* to increase baseline well densities per drilling spacing unit (DSU) for the region of Alberta east of the 5th Meridian and south of Township 53 (see Attachment 2).

Gas Wells

Baseline well densities will be revised from one well per pool per section to

- a maximum of four wells per pool per section above the Mannville group, and
- a maximum of two wells per pool per section for the Mannville group.

Below the Mannville group the well density of one well per section per pool will be maintained.

Oil Wells

Baseline well densities will be revised from one well per pool per quarter section to

- a maximum of two wells per pool per quarter section for the Mannville group.

All other formations remain on the well density of one well per pool per quarter section.

In the past, downspacing applications have allowed landowners concerned about the potential for surface and subsurface impacts, to call expert evidence to contest whether, for example, there was a "need" for a maximum of four wells per pool per section above the Mannville group, and a maximum of two wells per pool per section for the Mannville group. The changes contemplated by Bulletin 2005-08 appear to prevent landowners from making submissions to the Board on the question of "need".

This type of blanket approval for downspacing described in Bulletin 2005-08 will diminish the rights of landowners in Alberta. It is imperative that any consideration currently underway for a blanket approval process for CBM be stopped until far more information has been obtained regarding CBM and its potential risks in Alberta. Ms. Ernst respectfully requests the Board not to implement the proposals set out in Bulletin 2005-08.

**Consultation Regarding Proposed Changes to Reservoir-Related Well Spacing
Regulations, Application Requirements, and Application Review Process**

If you, or your staff, require any further information, please do not hesitate to contact me.

Yours truly,
ACKROYD, PIASTA, ROTH & DAY

“original signed by Richard Secord”

RICHARD C. SECORD

Cc: Eub.Spacing@gov.ab.ca

Cc. Jessica Ernst