

April 5, 2011

Jessica Ernst  
Box 753  
Rosebud, Alberta T0J 2T0

Dear Ms. Ernst:

**RE: APPLICATION NOS. 1666837, 1666844, 1666857, 1674386 and 1678177  
(APPLICATIONS)  
BY ENCANA CORPORATION  
FOR 3 WELL LICENCES AND 2 PIPELINE LICENCES  
LOCATION LSD 8-13-27-22W4M, 15-12-27-22W4M, 2-13-27-22W4M  
HUSSAR FIELD**

The Energy Resources Conservation Board (ERCB/Board) has considered your objections to the Applications as contained in your letters dated August 17 and September 17, 2010 and attachments. The Board has also considered the Applications, related correspondence from EnCana Corporation (EnCana) dated September 2, October 29 and November 25, 2010 and supporting documentation.

For the reasons that follow, the Board has determined that you do not appear to have rights that may be directly and adversely affected by approval of the Applications.

Under subsection 26(2) of the *Energy Resources Conservation Act* (ERCA), the Board must hold a hearing of an application if it appears to the Board that its decision on that application may directly and adversely affect the rights of a person. The Court of Appeal of Alberta has indicated that to meet the test under subsection 26(2) two things must be established:

- (1) the claim, right or interest asserted by the person is known to law; and
- (2) that such right or interest may be directly and adversely affected by the application.

This test ensures that if you have legal rights or interests that may be directly and adversely affected by a Board decision, you will be given an opportunity to present concerns at a hearing before the ERCB, who will make a decision on the application having regard to all evidence before it.

The Board decides whether the test under subsection 26(2) is met on a case-by-case basis, taking into account the specific facts and circumstances of each application and any objections received.

In your letters you state that you are the adjacent landowner of a portion of the SE 13-27-22W4M. The list of concerns raised in your correspondence is lengthy and voluminous and we

do not propose to repeat all of your concerns here. In essence, you have expressed concerns regarding

- technical aspects of the Applications,
- groundwater and water well testing,
- noise,
- environment, and
- inadequate notification and consultation, and
- flaring

In its letters dated September 2 and October 29, 2010, EnCana responded to each of the questions posed and concerns raised in your letters dated August 17 and September 17, 2010. Again, the responses are voluminous so we do not propose to repeat them here. In summary, EnCana states that it:

- has provided to you the most recent surveys (including revisions) for the proposed well sites and pipelines as contemplated in the Applications as well as further details with respect to the technical nature of the project,
- will comply with all applicable requirements in order to ensure that any testing of your water well is conducted safely and in accordance with the requirements of ERCB Directive 035: *Baseline Water Testing Requirements for Coal Bed Methane Wells Completed* (Directive 035) and will follow all laws, rules and regulations relating to the type and use of water for its activities,
- will comply with Directive 038: *Noise Control*,
- does not intend to dispose of drilling materials on lands adjacent to your property,
- will comply with Alberta Environment requirements,
- has complied with all applicable notification and consultation requirements in the ERCB Directive 056: *Energy Development Applications and Schedules* (Directive 056). EnCana has hand delivered notification of the Applications to both Wheatland County and the Hamlet of Rosebud of the Applications and has provided you with proper notification of the Applications, and
- if possible, intends to incinerate at these locations, as it previously committed to doing in 2004. EnCana advises that it is unable to in-line test at these locations as there is no pipeline available to conduct such testing.

In deciding whether you meet the test under subsection 26(2) of the ERCA, the Board considered the fact that the right or interest you assert is as a landowner of a portion of the lands in SE 13-27-22W4M. The Board finds that the proposed wells and pipelines that form the subject of the Applications will not be located on your property and would be located approximately 500 metres from your residence and approximately 175 metres from your property boundary. The Board also finds that your lands are not impacted by any setbacks associated with the proposed wells and pipelines and therefore approval of the Applications will not result in any legal restrictions on the use of your lands.

The Board also finds that distance from your property and residence to the proposed wells and pipelines is significant. Because of the distance, EnCana was not subject to the Directive 056 requirements for consultation and confirmation of non-objection in these circumstances. The Board notes that your water well is located approximately 455 metres from the nearest proposed

well. As such, EnCana is required to offer to test your water well prior to filing the Applications in accordance with Directive 035. We note that EnCana has made that offer to you and, assuming you accept EnCana's offer to test your water well, you will be provided with base line water well information that can be used to monitor any potential impacts of the wells and pipelines on the quality and quantity of water from your water well. The Board also notes that EnCana must comply with all applicable ERCB and Alberta Environment requirements during the drilling, completion and production of the proposed wells. Those requirements are designed to protect groundwater, and prohibit unacceptable noise levels resulting from oil and gas related activity. Further, any flaring or venting conducted by EnCana must comply with *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting* and the Alberta Ambient Air Quality Objectives. During the permitting process, the ERCB examines the proposed flaring or venting activities proposed by the applicant to determine whether they will comply with applicable regulatory requirements and be conducted in a manner that is safe and protective of the environment and human health.

In short, EnCana's requirement to comply with applicable ERCB and Alberta Environment requirements means that potential impacts to your rights as a result of the Applications are minimized and, in some cases, eliminated altogether. As such, the likelihood that the wells and pipelines that form the subject of the Applications will have any impact on your rights is extremely remote. Therefore, based on all the information before the Board, it does not appear that you have rights or interests that may be directly and adversely affected by approval of the Applications. Accordingly, the Board has concluded that you have not met the test to trigger and participate in a hearing of the Applications under section 26 of the ERCA hereby dismisses your objections. Please note that the Board will continue to process the Applications and may approve same without further notice to you.

Please be advised that the ERCA and *ERCB Rules of Practice* (Rules) provide mechanisms for and outline the requirements applicable to review and appeal of decisions made by the ERCB. Please refer to sections 39, 40 and 41 of the ERCA and section 48 of the Rules.

If you have any questions, please contact Rachelle Reid via telephone at 403-355-4305 or by fax at 403-297-4117.

Yours truly,



Laurie Wilson-Temple  
Manager, Facilities Applications Group  
Applications Branch

cc: ERCB Midnapore Field Centre, [Midnapore.FieldCentre@ercb.ca](mailto:Midnapore.FieldCentre@ercb.ca)  
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