

A Citizens' Guide
2nd Edition, Completely Revised

When the Oilpatch Comes to Your Backyard



Mary Griffiths
Chris Severson-Baker
Tom Marr-Laing

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About the Pembina Institute

The Pembina Institute is an independent non-profit research, education and advocacy organization. It promotes environmental, social and economic sustainability through the development of practical solutions for businesses, governments, individuals and communities. The Pembina Institute provides policy research leadership on climate change, energy policy, green economics, renewable energy, and environmental governance, as well as extensive formal and public education programs. More information about the Pembina Institute is available at <http://www.pembina.org> or by contacting:

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The contents of this guide are entirely the responsibility of the Pembina Institute and do not necessarily reflect the view or opinions of those acknowledged above. We deeply appreciate the financial help we receive from individuals and organizations that make our work possible.

We have made every effort to ensure the accuracy of the information contained in this guide at the time of writing. However, the authors advise that they cannot guarantee that the information provided is complete or accurate and that any person relying on this publication does so at their own risk.

When the Oilpatch Comes to Your Backyard

A Citizens' Guide

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Introduction to the 2nd Edition

When the Oilpatch Comes to Your Backyard is a guide designed to help landowners, those who rent land, and affected members of the public address the numerous issues that arise when oil and gas developments are proposed for private or public land.

First released in 2001, the guide was heartily welcomed by many landowners. Some said that they would not have known where to start without this book. Those with years of experience also expressed their appreciation for our work, saying they had learned new information.

These readers discovered what environmental issues they needed to consider before signing a surface lease or right-of-way agreement. They learned the roles of the various government bodies and where they could seek independent advice. Members of the public discovered what to do if they were affected by developments on adjacent property.

Three years later, we still receive numerous requests for the guide. However, since its first release, much has changed in the management of oil and gas development.

The Alberta Government has introduced new legislation, regulations, and procedures; the responsibilities of some departments have changed while others have been reorganized. Industry and government interest in coalbed methane, a new source of natural gas, has been steadily increasing. As it is an emerging industry in the province, landowners need to know how its development might affect them.

We are excited to now be releasing this completely revised and wholly updated second edition of *When the Oilpatch Comes to Your Backyard*. This expanded version contains the latest information available. The format has been changed to make it easier to use, and more references and Web site links have been included to help readers obtain further information.

Note to Readers

We encourage all readers to review CHAPTER 1 in its entirety, as it provides important background information. Beyond that, we expect that most readers will not choose to read this book from cover to cover, but rather will reference those sections most relevant to them at a given time. To this end we provide several quick reference tables in CHAPTER 1 to make it easy to find the most important sections. We also draw attention to the Index at the end of the report and to the Glossary in APPENDIX D.

There are frequent references in the text. Cross-references to other sections of this document are in SMALL CAPITALS; references to other publications, legislation, and sections of legislation are in italics. References to online documents available through the Internet are underlined in the conventional manner.

1. Getting Started



Source: Pembina Institute

It pays to be informed, whether you own or rent land or you are a member of the public who may be affected by oil and gas development.

1.1 Who is this book for?

This book is for landowners, those who rent land, and members of the public who may be affected by adjacent oil and gas activities. It outlines what to expect and ways to get involved in decision-making processes. It provides information on legally required minimum standards that apply to any company engaged in resource development activities. The guide also suggests ways you can encourage a company to adopt best practices to reduce possible impacts of energy development on air, land and water quality.

This guide can help those unfamiliar with oil and gas development and regulations to quickly come to an understanding of how the system works and what their rights are. It provides accessible answers to these complex questions:

- If a permit agent knocks at your door and says a company wants to conduct seismic exploration

on your land, how do you decide whether to grant permission?

- If a land agent tells you a company plans to drill a well or put a pipeline on your land, what do you need to know before you start negotiations? How do you decide whether any special conditions are needed in a surface lease or right-of-entry agreement?

- If there are plans to build a well or pipeline near your home, is the company obliged to tell you or consult with you?

- If you have concerns about a proposed oil and gas project, how can you ensure your concerns are addressed before it proceeds?

The guide serves as a helpful reference book for those working with oil and gas development companies and those in government. It provides an overview of all the information produced by the various government bodies.

This revised edition will also be useful to all those directly involved in the field, including permit agents, land agents, and drilling rig operators, as well as those involved in reclamation activities.

Our hope is that, if all parties have access to a common body of information about citizens' rights in Alberta, the result will be easier resolution of landowners' issues with respect to oil and gas developments.

1.2 How to find what you need

Easy reference tables at the front, a detailed index at the back, and overall organization of content are designed to help readers quickly find the information they need. As outlined in the TABLE OF CONTENTS, several Chapters deal with the issues that arise at the initial stage of resource development, from exploration for oil or gas to the location and construction of wells, pipelines and facilities. CHAPTERS 2, 3 and 4 each contain a series of questions that you may want to ask before signing a permit, lease or right-of-way agreement. CHAPTER 6 addresses emergencies, while CHAPTER 7 describes issues that may arise during operations and some potential impacts on land, air or water. CHAPTER 8 outlines the requirements for abandoning wells and reclaiming land.

While CHAPTERS 2 to 8 primarily address the physical environment, later chapters provide information and advice on dealing with more

administrative-type issues, including compensation for surface rights access and right-of-entry orders (CHAPTER 9). CHAPTER 10 discusses negotiations and dispute resolution, both for landowners and those living adjacent to developments. The public hearing process is outlined in CHAPTER 11. The final two chapters provide contact information: CHAPTER 12 for a range of government departments and boards, and CHAPTER 13 for lawyers, professional bodies and non-profit organizations. The four appendices contain a summary of government legislation, selected decisions by the Alberta Energy and Utilities Board (EUB), a summary of potential issues relating to coalbed methane and a Glossary (APPENDIX D).¹

Text boxes throughout the document highlight information of special importance or interest. Web links are given in the footnotes to some sources but not, for example, for all EUB publications or legislation. Web links for government departments are given in CHAPTER 12 and for legislation in APPENDIX A.

The Pembina Institute series on Environment and Energy in the North, available at <http://www.pembina.org>, includes detailed descriptions of the processes involved in seismic exploration; exploration, production and drilling; well site operation; and, pipeline construction and operation. While the guides in this series were written specifically for the Yukon and Northwest Territories, much of the general information is relevant for Alberta (SECTION 13.3.8).

Table 1 Well site development

Activity	Sections in book
Seismic survey	CHAPTER 2
Land survey	3.2
Initiating negotiations	3.3
Location negotiation	3.4
Environmental considerations	3.5
Surface lease negotiation	3.6, 3.7, 10.1
Help with negotiations	10.2
Compensation	9.1, 9.3, 11.2.2, 11.2.3
Right-of-entry orders	9.3
If lease negotiations fail: right-of-entry process	11.2.1
Emergency Response Plans	3.8
Emergencies	CHAPTER 6

¹ APPENDIX C on Coalbed Methane (CBM) provides a list of questions that landowners may wish to ask about CBM development. Some issues relating to CBM are mentioned in the text. For further information about CBM see *Unconventional Gas: The Environmental Challenges of Coalbed Methane Development in Alberta*, published by the Pembina Institute in 2003 (see SECTION 13.3.8).

Operational problems	CHAPTER 7
Well abandonment and site reclamation	8.1, 8.2
Coalbed methane wells	3.5.1, 3.5.4, APPENDIX C

Table 2 Pipeline development

Activity	Sections in book
Route selection	4.1.1
Setbacks	4.1.2
Environmental considerations	4.1.3
Right-of-way negotiations	10.1
Help with negotiations	10.2
Compensation	9.2
Right-of-way agreement	4.1.4
Right-of-entry orders	9.3
If lease negotiations fail: right-of-entry process	11.2.1
Emergency response plans	4.1.5
Emergencies	CHAPTER 6
Operational problems	7.7
Pipeline abandonment	8.4
National Energy Board pipelines	4.2
Gas distribution pipelines	4.1.6

1.3 Finding the right government board, agency or department

Several government departments and agencies are involved in the regulation of the oil and gas industry. The roles of these and other government bodies are described in CHAPTER 12. In Table 3 we provide a quick reference list, in alphabetical order, showing some of the government bodies you may want to contact and the most important phone numbers. The table indicates the section in CHAPTER 12 where each board, department, etc. is described, but they are referred to in many sections throughout the guide.

CHAPTER 12 also gives information on several other government bodies. The Department of Energy is responsible for leases or licences for mineral rights (SECTION 12.5). Alberta Health and Wellness is involved in issues relating to health (SECTION 12.6). Other sections deal briefly with Freedom of Information, the Office of the Ombudsman and the Canadian Environmental Assessment Agency.

1.4 A few words on mineral rights

Most Albertans do not own the minerals that lie under the surface of their land. The 1887 *Dominion Lands Act* stated that all minerals were to be reserved for the Crown, so when home-steaders came to the Prairies, they received title to the land surface only. The government has since created various pieces of legislation and regulations that attempt to balance the right of access to minerals with fair treatment for landowners, including an entry fee, compensation for land value, loss of use, adverse effects, and damages.

This document focuses on the rights of landowners and others who lease or occupy the land but do not own the mineral rights. Those belonging to the minority who actually own the mineral rights on their land (as indicated on their legal mineral title) should read *Leasing Mineral Rights*² before starting negotiations or entering into an agreement with any company seeking access to their mineral rights

² Farmers' Advocate Office. 2001. *Leasing Mineral Rights*; [http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/agdex1124?opendocument](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/agdex1124?opendocument)

Table 3 Quick reference list for selected government bodies

All Government of Alberta staff and Members of the Legislative Assembly (MLAs) can be reached toll-free from anywhere in the province by first dialing the Alberta Government RITE line at 310-0000, then entering the area code and number you wish to reach. The Government of Alberta publishes a telephone directory of staff and MLAs as well as department information; <http://www.gov.ab.ca/directory>.

Government body	Section	Responsibilities	Contact	Phone
Alberta Energy and Utilities Board (EUB)	12.1	Regulates oil and gas wells, provincial pipelines and facilities	Head Office	403-297-8311
EUB regional offices	12.1	Facilitate negotiations and give information on the appropriate dispute resolution process and all other issues relating to oil and gas development, except compensation	On call 24 hours Bonnyville Midnapore (Calgary area) Drayton Valley Grande Prairie Medicine Hat Red Deer St. Albert Wainwright	780-826-5352 403-297-8303 780-542-5182 780-538-5138 403-527-3385 403-340-5454 780-460-3800 780-842-7570
Alberta Environment	12.3.1	Handles conservation, reclamation, and contaminant remediation on private land as well as protection of air and water quality	24-hour Emergency Hotline Reclamation Regional Offices Northern Region (Edmonton) Central Region (Red Deer) Southern Region (Calgary)	800-222-6514 780-427-2700 780-427-7617 403-340-7052 403-297-7880
Alberta Sustainable Resource Development	12.2.1	Addresses seismic exploration on public and private lands (see Geophysical Inspector, below), and remediation and reclamation on public lands	Reclamation General Inquiries	780-422-3750 780-427-4407
Farmers' Advocate	12.4.1	Provides advice on lease agreements and negotiations, and offers water well restoration or replacement program	General Inquiries	780-427-2433
Geophysical Inspector	12.2.1	Investigates damage resulting from seismic exploration	General Inquiries	780-427-3932
National Energy Board	12.10	Regulates interprovincial and international pipelines	General Inquiries or 24-hour Interprovincial Pipeline Emergency (call collect)	800-899-1265 403-292-4800 819-997-7887
Registrar of Land Agents	12.7	Handles questions about land agents (housed within Alberta Human Resources and Employment)	General Inquiries	780-415-4500
Surface Rights Board	12.2.2	Addresses compensation issues and right-of-entry orders	General Inquiries	780-427-2444

(SECTION 12.4.1). They may also wish to contact the Freehold Owners Association (SECTION 13.3.5). Additionally, while the ownership issues are different, much of the general information in this book will still be relevant.

Those who own or legally occupy land have specific rights, but anyone who may be affected by an oil or gas industry activity also has certain rights or opportunities for input (see, for example, SECTIONS 2.3, 3.3, 3.8 and 10.3–10.7). The EUB recognizes the legal rights of those who can demonstrate that they are directly and adversely affected by oil or gas development activity, while environmental and public health laws and the Criminal Code serve to protect the general public from negative impacts.

While the EUB requirements for consultation and notification of Aboriginal and Métis people are similar to those described in this book for general landowners and occupants, and while the environmental information presented is relevant irrespective of land ownership, there is separate legislation that governs development of oil and gas on Aboriginal land. The Environmental Law Centre can provide advice with respect to this legislation (SECTION 13.1.2).

An individual's rights vary according to the activity in question. For example, an individual's rights with respect to seismic lines or surveying are different from those that pertain to drilling an oil or gas well. In geophysical operations on private land the landowner or occupant can refuse entry,³ while in other cases they can negotiate but have no right to refuse entry. It is thus important to be aware of your rights for specific circumstances.

In this document we use the words “landowners” and “occupants” as specific terms, although for brevity we may only refer to landowners in the text. While all major terms are defined in the Glossary (APPENDIX D) it is helpful to clarify three of these here.

A **landowner** is the person or persons, whose name(s) appears on the certificate of title to the land issued under the *Land Titles Act*.⁴

An **occupant** is the person, other than the owner, who has certain rights to the land. The occupant may also be referred to as the tenant. The occupant may be in actual possession of the land or be shown as a person who has an interest in the land (which may be noted by a caveat on a certificate of title under the *Land Titles Act*). In the case of government-owned land, such as a Crown grazing lease, the occupant is the person shown in the records to have an interest in the land. Sometimes the occupant on a Crown lease is also referred to as the lessee. Note that the definition of an occupant used in this book is more general than the definition used by the EUB. The EUB distinguishes between landowners, occupants, residents and Crown disposition holders.⁵

An **operator** is the person or company that has the right to conduct surveys or extract the oil, gas or other mineral.⁶ In this document we use the term **company** rather than operator.

If you are researching a government act or regulation and are uncertain about to whom the legislation applies, refer to the definitions, which usually appear at the beginning of the document.

³ This does not apply to agricultural leases on Crown land.

⁴ All Alberta government acts and regulations are available on the government Web site at http://www.qp.gov.ab.ca/custom_page.cfm?page_id=41 For this reason we have not provided hyperlinks for legislation in the footnotes. Copies of government legislation can also be purchased from the Queen's Printer Bookstores: Edmonton Bookstore, Main Floor, Park Plaza, 10611 – 98th Avenue, Edmonton, AB T5K 2P7; phone: 780-427-4952, fax: 780-452-0668; Calgary Bookstore, 602, 620 – 7th Avenue SW, John J. Bowlen Building, Calgary, AB T2P 0Y8; phone: 403-297-6251, fax: 403-297-8450. Call toll-free by dialing 310-0000.

⁵ EUB. 2003. *Guide 56: Energy Development Applications and Schedules*. <http://www.eub.gov.ab.ca/BBS/requirements/Guides/g56.htm>

⁶ *Surface Rights Act, section 1(h)*.

