PEMBINA Institute

Landowners' Guide
to Oil and Gas Development

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all new and revised

Section 5

Landowner Engagement Process

photo: Roberta Franchuk, Pembina Institute

5. Landowner Engagement Process

The process oil companies must follow when approaching landowners about oil and gas projects is fairly consistent across the different types of infrastructure. This section goes through the general steps and highlights any differences between the infrastructure types.

What's in this section

5.1 Surveying

Before a company decides exactly where to build oil and gas infrastructure on your land, they may send in surveyors to find the best location for both the infrastructure and the access roads.

As a way to ensure that you have the right information and to establish a professional relationship with the surveyors, it is a good approach to get the name of the responsible surveyor — they have ultimate authority for survey activities on your land. If issues arise with the surveying, you should first talk with the responsible surveyor; if the issues are not resolved, you may wish to file a formal complaint against the responsible surveyor with the Alberta Land Surveyors' Association.[1]

The Surveys Act[2] and the Surface Rights Act[3] allow a registered land surveyor to enter and conduct surveys on private land without prior consent,[4] but the surveyor or the company that engages the surveyor is liable for any damage that the survey team may cause. The Alberta Land Surveyors' Association strongly encourages its members to contact landowners prior to coming onto a property, and if a landowner is not home, to leave a card that a survey crew has been on the property. If entry for a surveyor is refused, the company can apply for a court order to gain access.

If you are a landowner or occupant with livestock, you may want to negotiate moving them from the area to be surveyed. It is advisable after the surveying has been completed to check the area for damages and ensure that nothing has been left behind that could harm the animals.

5.2 Land agent visit

Before a company can apply to the AER to drill a well or build a pipeline on private land or leased public land, they must send a land agent[5] to consult with landowners, occupants and others whose rights may be affected by the company's project to request their consent, as required under the AER's Directive 056: Energy Development Applications and Schedules.[6]

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[1] See Appendix B for contact information.

[2] Alberta, *Surveys Act*, RSA 2000, c. S-26, s 16. https://open.alberta.ca/publications/s26

[3] Alberta, *Surface Rights Act*, RSA 2000, c. S-24, s 14. https://open.alberta.ca/publications/s24

[4] The *Surface Rights Act* requires surveyors to make a reasonable attempt to give notice, but allows them to enter land if they were not able to contact the landowner.

[5] Appendix B describes the Alberta Association of Surface Land Agents and the Canadian Association of Land and Energy Professionals.

[6] AER, *Directive 056: Energy Development Applications and Schedules* (2025). https://www.aer.ca/regulations-and-compliance-enforcement/rules-and-regulations/directives/directive-056

(The consent does not need to be in written form.[7]) For pipelines, the land agent will discuss the proposed route and ask the landowners and occupants for input, such as the terms to access land. If consent is refused after the company has attempted to negotiate, once the company has received a licence from the AER, they can apply for a right-of-entry order from the Alberta Land and Property Rights Tribunal, as explained in section 9.3.1. As indicated in section 9.3.2, the landowner may also find it beneficial to have the company obtain a right-of-entry order even if there is agreement. The company may also have to consult with or notify those living on neighbouring properties, depending on the distance of the property from a proposed well and the type of well being drilled (see section 2.1).

The minimum distances within which people must be consulted or notified for a new project application are set out in AER Directive 056 and are broken down in section 2.1.1. While the directive sets the minimum consultation and notification requirements, the land agent must also assess the area and decide if other people (e.g., those living just outside the minimum distance requirements) could be impacted and thus should be contacted before the company files their application with the AER.

Consultation on oil batteries, gas compressors and other facilities

The AER approval process for batteries, compressors, and other facilities is similar to that for oil and gas wells, which involves consultation with you, as the landowner, as well as potentially other local residents before submitting an application. The procedures a company must follow are set out in AER Directive 056. Specific consultation and notification requirements for facilities are noted in section 2.1.1 of this guide.

If you are involved with a proposal to build a compressor, pumping station or gas processing plant, you may wish to consult the Alberta Government's Code of Practice for Compressors and Pumping Stations and Sweet Gas Processing Plants.[8] This sets out requirements for air pollution control technology to limit emissions of nitrogen oxides and for the management of wastewater and runoff.[9]

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[7] Alberta, *Surface Rights Act*, section 12(1): "The AER will accept documented verbal non-objection; the Regulator does not necessarily require written consent."

[8] Alberta, *Code of Practice for Compressors and Pumping Stations and Sweet Gas Processing Plants* (1996). https://open.alberta.ca/publications/compress

[9] If a facility is not regulated under Alberta's Environmental Protection and Enhancement Act, it must meet other requirements for air emissions set by the AER.

Information you should receive

Where the AER requires consultation, the land agent must deliver both the company's public information package and information from the AER. The company's package should describe not only the type of project (e.g., the specific category of well) and its location, but also whether any gas will contain H_2S. It must include information on setback distances, flaring, potential noise and traffic impacts, as well as the emergency planning zone, where relevant. The company is also required to reveal how the proposed development will fit in with its current and future plans and discuss how setbacks might impact your future land use.

> Read the information package very carefully — both the company's information on the project and the AER documents that explain the input you can have in the process.

The AER documents that the company must provide are set out in Directive 056 and include:

- the brochure *Understanding Oil and Gas Development in Alberta*
- the EnerFAQ *Proposed Oil and Gas Wells, Pipelines and Facilities — A Landowner's Guide*
- the EnerFAQ *Expressing Your Concerns – How to File a Statement of Concern About an Energy Resource Project*

The company must also offer any other AER EnerFAQ publications that relate to the type of energy development, which might include:

- *All About Critical Sour Wells*
- *Explaining AER Setbacks*
- *Flaring and Incineration*
- *The AER and You: Agreements, Commitments, and Conditions*

All EnerFAQs can be found on the AER website.

This information will provide the basis for consultation with the landowner/occupant. Although actual developments may depend on the information gained from a new well, it is still a good idea to ask the company about their future plans.

Remember that if a proposed well contains sour gas, the setback distances may be greater than for sweet gas; it will not be possible to use the land within the setback distance for residences and other buildings until after the well is abandoned.

Time to respond

Before companies file their application with the AER, they must send out notification of their proposed development and then allow those covered in the participant involvement program (or others who have expressed concern) at least 14 calendar days to consider and respond to the notice, as laid out in Directive 056. It is a good idea to talk to your neighbours to find out about other companies operating in the local area and to inquire about their plans, thus giving you a fuller scope of expected development, before you respond.

If a company receives confirmation of non-objection from all those who must be notified before the 14-day period has ended, they may file their application earlier. If after 14 days the company has not resolved all the objections, they may file the application with the AER but must indicate that there are outstanding objections.

If all issues are resolved by the company before they file an application, they are entitled to file a routine application, which allows the AER to make a decision before the filing period for a statement of concern is over. If a valid statement of concern is submitted before the filing period is over, the application may be reclassified as non-routine. If there are outstanding concerns, the company must file a non-routine application,[10] and the AER must wait until after the full 30-day period to file a statement of concern before rendering a decision.

5.3 Site selection and setbacks

The land agent will show you on a survey plan where the company wants to construct the site. If you feel that the site is problematic, explain why this is the case and ask that the company evaluate alternative sites. The company may be able to change the surface location of a well without affecting their chances of finding oil or gas.

Ask the company to locate the well as far away as possible from your residence, other buildings, and water wells to minimize the impact on you and your family. Keep in mind the prevailing winds between your house and the proposed well, as there may be flaring during well drilling.

An oil or gas well is not usually permitted within 100 m of a dwelling, permanent farm building, school or surface water body, or within 40 m of a surveyed road.[11] The setback depends in part on the nature of the well, with greater distances required for sour gas wells than for oil wells and sweet gas wells. Check that the location of any water wells is shown on the survey plan and that

[10] Applications for new sour gas processing plants must always be submitted as non-routine even if there are no outstanding concerns.

[11] Alberta, *Oil and Gas Conservation Rules*, Alta. Reg. 151/1971, s. 2.110(1), https://open.alberta.ca/publications/1971_151; see also AER, *Directive 056*, section 7.7.13.

the setback distances are satisfactory. Information on setbacks is provided in AER EnerFAQ *Explaining AER Setbacks*.

A setback is the minimum distance that must be maintained between an energy facility and various surface developments for land use and public safety purposes. The AER designates a level from 1 to 4 that specifies the different setback distances for wells, facilities and pipelines.

Setback distances depend on the level of hydrogen sulphide (H_2S) in the flowing natural gas or oil effluent. For both natural gas and oil effluent, the regulated threshold to apply the minimum setbacks distance is at least 10 moles of H_2S per 1 kilomole of natural gas. Below this threshold, gas is considered sweet, as opposed to sour. The higher the level of H_2S gas, the greater the minimum distance required.

The minimum setback distances for sour gas wells, as set by the AER, are shown in Table 4. The setbacks for sweet gas wells are the same as for a Level 1 sour gas facility.[12] As a landowner, you may want to negotiate a larger setback in some circumstances.

Table 4. Setback requirements for sour gas wells

Level	H_2S release rate (m^3/s)	Minimum distance
1	<0.3	100 m to a surface improvement (e.g., dwelling, permanent farm building, school or church)
2	0.3 to <2.0	100 m to individual permanent dwellings and unrestricted country development* 500 m to urban centres or public facilities
3	2.0 to <6.0	100 m to individual permanent dwellings up to 8 dwellings per quarter section 500 m to unrestricted country developments 1.5 km to urban centres or public facilities
4	≥6.0	As specified by the AER, but not less than Level 3

Data source: AER Directive 056, Table 10.

Note: Any sour well, regardless of level designation, may be classified as a critical sour well if it meets certain conditions, which means it would be subject to more stringent safety requirements, including an emergency response plan. For more information, see the AER EnerFAQ *All About Critical Sour Wells*.

* Unrestricted country developments refer to any collection of permanent dwellings outside an urban centre that number more than eight per quarter section.

[12] AER, *Directive 056*, Table 7.5.

The AER has also established minimum setback distances for sour gas plants and facilities based on the calculated release volume of H_2S. The minimum setback distances are shown in Table 5. As a landowner, you may want to negotiate a larger setback in certain circumstances.

Table 5. Setback requirements for sour gas pipelines (if >10 mol mol/kmol H_2S) and category C, D, or E facilities

Level	H_2S release volume (m^3)	Minimum distance
1	<300	Pipeline right-of-way or lease boundary
2	300 to <2,000	100 m to individual permanent dwellings and unrestricted country development 500 m to urban centres or public facilities
3	2,000 to <6,000	100 m to individual permanent dwellings up to 8 dwellings per quarter section 500 m to unrestricted country developments 1.5 km to urban centres or public facilities
4	≥6,000	As specified by the AER, but not less than Level 3

Data source: AER Directive 056, Tables 5 and 6.

Note: Facilities are categorized by the AER as C, D or E based on H_2S and sulphur content of the inlet gas stream. These facilities include gas processing plants, some gas and oil batteries, and straddle plants. Facilities with less than 0.01 mol/kmol H_2S in the inlet stream are in category B and thus exempt from setback requirements. See AER Directive 056, Table 1, for a full description of the categories. The AER provides an H_2S conversion calculator to convert H_2S concentrations from one set of units to another, such as parts per million to moles per kilomole. It can be found on the AER's webpage for Directive 056 under the heading "Supplemental Information."

A note on sour gas plants

To prevent the proliferation of plants, a company must "vigorously explore" the possibility of using existing facilities.[13] They must also consult and involve local residents in their evaluation of alternatives. If a company wants to construct a sour gas plant within a 15 km radius of an existing plant, they must show that it is justified in terms of social and environmental effects.

Further information on sour gas is provided in section 4.1.1.

[13] AER, *Interim Directive ID 2001-03 Sulphur Recovery Guidelines for the Province of Alberta* (2001), 15. https://static.aer.ca/prd/documents/ids/id2001-03.pdf

5.4 Issues to discuss with land agent

You may want to discuss with the land agent issues such as site selection, setbacks and various environmental considerations. These issues are summarized in a series of questions for each infrastructure type in Appendix A.

Before negotiations, it is important to read available resources about the proposed development type, consider the needs of you and your family, and get as much information as possible about the development from the company. Questions to guide you through this process can be found in Appendix A.1, and worksheets to help you navigate the negotiations themselves are provided in Appendix A.2.

Before signing a lease, read section 9 on compensation. Some landowners prefer to request a right-of-entry order from the Alberta Land and Property Rights Tribunal rather than signing a right-of-way agreement with a company, even though they have reached agreement on all issues and on the amount of compensation. The reasons some landowners prefer this are explained in section 9.3.2.

A note on pipelines

Once the route has been decided, the landowner and occupant are asked to enter into a negotiation for a right-of-way agreement (or pipeline easement). The agreement should list all the things the company must do when constructing, operating and eventually reclaiming the pipeline. Once the agreement is signed, a caveat is created on the landowner's land title, specific to the pipeline. Compensation for pipelines, unlike for wells, is based on one-time payments that may include compensation for hiring legal assistance for the negotiation.[14] The licence to construct a pipeline expires if no work has begun within a year of its issue.[15]

5.5 After the application is submitted

Once a company has submitted an application to the AER, the regulator issues a notice of application. If you have concerns about the proposed development, you can file a statement of concern to the AER prior to the deadline on the notice outlining how the project adversely affects you. (See section 2.5 and section 10.1.3 for more information about submitting a

[14] Alberta, *Pipelines in Alberta: What Landowners Need to Know* (2018). https://open.alberta.ca/publications/agdex-878-4

[15] AER, *Directive 056*.

statement of concern).[16] Additionally, you should send your concerns directly to the company, although they will have been notified of a statement of concern. Normally, the company will contact you and seek to resolve your concerns. If the company resolves your concerns by answering your questions or agreeing to a set of actions, then you should contact the AER in writing stating that you no longer have concerns about the project and indicating any commitments made by the company. This may help ensure that the AER is aware of, and takes into account, these commitments before making a decision on the application.

If the AER grants an approval, it will set out requirements with respect to air emissions, waste management, and protection of surface water and groundwater, among other environmental protections. If you disagree with the regulator's decision on an application and it was made without a hearing, you can request a regulatory appeal of the decision. The regulator has discretion on whether to grant the request, and can confirm, vary, suspend, or revoke any of its own decisions.[17]

5.6 Resolving issues

If you are unable to resolve issues relating to site selection, the terms of the proposed lease or any other health, safety, environmental, or socio-economic issue (except compensation), the company may propose using the AER's alternative dispute resolution process (section 2.4.1) to facilitate or mediate an agreement. Any issues relating to compensation are dealt with by the Land and Property Rights Tribunal (section 9).

If the AER gives the company a licence and you have not reached agreement with the company, the company will then apply to the tribunal for a right-of-entry order. The Land and Property Rights Tribunal will usually grant the right of entry and determine the amount of compensation that the company must pay you as the landowner or occupant.

If problems are not resolved through the alternative dispute resolution process, call or write the company. Failing this, the AER or the Farmers' Advocate Office may assist when the company is unable or unwilling to resolve the concern. Disputes over damages are best resolved through an arbitration process with the company. When damages do not exceed $50,000 and are identified within two years of occurrence, they may be considered by the Land and Property Rights Tribunal.

[16] You have the time limit set out in the notice of application to submit your statement of concern, which may be less than 30 days.

[17] Alberta, *Responsible Energy Development Act*, SA 2012 c. R-17.3, div. 3. https://open.alberta.ca/publications/r17p3

A note on pipelines

If there are any outstanding problems once a pipeline has been constructed, such as inadequate cleanup of the right-of-way, drainage problems, or trench sinking, you should first try to resolve the difficulties directly with the company. If this is not successful, you can contact the Farmers' Advocate Office or the regional conservation and reclamation inspectors of the AER. Any leak should be reported to the AER Energy and Environmental Emergency 24-hour Response Line at 1-800-222-6514.

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