

FRACK EU: UNCONVENTIONAL INTRIGUE IN POLAND



A Preliminary Investigation of the Fracking Assault on Poland



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10. Harper's Men in Poland

The challenge for us is when you are trying to promote Canada as an investment opportunity and market is that you've got to skate pretty hard because Texas itself is a great environment in which to do business. These are some of the challenges that we face. The most significant challenge, I suppose, is continually trying to raise the profile of Canada in Texas.

Canada is the second largest trading partner with Texas after Mexico. In 2008, that was US \$29 billion. That's pretty significant, although Mexico looms large. Texans understand Mexico, but they don't know as much about Canada. They think they do, but actually when I give speeches or meet people and talk about the depth of our economic relationship, they are quite surprised to see how connected we are economically.

I think the one thing I could mention is that I work for the federal government of Canada, and we like to think we represent the interests of all levels of Canadian government and Canadians to the extent we can. What I have seen in my four years here is the degree of activity that our individual provinces have reaching out as governments to corporate entities here in Houston, here in Texas, largely related to energy. I'm very aware that the delegations I tend to see coming here are ministers of energy or natural resources from almost all provinces –certainly British Columbia and Alberta.

As I said, I lived here before. It was great to be back. I see great things for Texas. I think what I've learned about the oil and gas industry has been fascinating, and if I were to have a second life and be more entrepreneurial, I couldn't think of a more exciting sector to go into that would appeal to all the things that appeal to me as a military officer. They operate all over the world. They go into barren areas. They are the masters of logistics to put in sites. The international geopolitical hurdles that have to be overcome, the huge challenges and, deny it or not, the great value it provides to our economies. If I come back in a second life maybe I'll try that out, but it's been a great experience.¹



As 2010 transitioned into 2011, so did the cooperative fanfare of unconventional shales between Poland and the United States at an ever-increasing rate. Organized events through Poland's embassies, media, internet blogs, and investor hype all blossomed in 2011. On a few occasions, delegates from Poland's regulatory, geology, and environment departments conducted organized tours in America where they conducted field trips to shale gas operations, met with their U.S. counterpart colleagues, and were introduced and informed on how shale gas is regulated. U.S. petroleum corporations and their investors spent decades on fine-tuning the regulatory regimes at both State and Federal levels - more recently and controversially on shale gas regulations - and now their mission was to introduce, promote and accomplish a favourable operating and investment fracking climate in Poland by informing Poland's regulators how to do it properly.

That political mission was also cooperatively unfolding in Canada, albeit with less fanfare. After all, Canada is almost joined at the hip with the U.S. as both American and Canadian based companies operate freely in both jurisdictions, under separate regulatory regimes. Many Canadian provinces are affiliate members of the Interstate Oil and Gas Compact Commission (IOGCC), and AmCham Canada is not only integrated with the U.S. Chamber of Commerce, but has ties with Foreign Affairs & International Trade Canada. Some have even appropriately nick-named Canada's western petro province of Alberta as Texas North (amidst numerous other nicknames).

¹ Interview with outgoing Consul General Norris Pettis, July 13, 2010, (Hart Energy) E&P magazine.

Canadian-based **Talisman Energy Inc.**, and **LNG Energy Inc.** were granted agreements with other corporations in Poland earlier on in the game. In 2011, both **Nexen** (April) and **Encana** (September) publicized their moves to enter Poland's fracking fairways.

The petroleum world intelligence firm, **CEE Consulting**, published intriguing insights into the background politics on the shale gas front in Poland on September 1, 2011, *Shale-gas and Poland - A potential game-changer with complications Briefing*. After naming names of "active lobbyists and government officials" from the United States, the intelligence brief noted "there is also a strong Canadian effort as well."

The gas "fever" has attracted investors from the United States, Canada, Australia, Germany, Sweden and Hungary, with the race for both shale gas and "tight gas" - i.e. gas that is extremely difficult to reach due to the nature of the rock and sand deposits surrounding it - heating up, thanks in part to an intense lobbying effort by the United States.

World-wide, tight gas/shale gas deposits are estimated to be ten times greater than those of conventional gas reserves. In Poland there currently are around 14 companies that have gained concessions from the Ministry of Environment to search for unconventional gas reserves in the Lubelszczyzna, Mazowsza, Pomorza and Monokliny Przedzudeckie regions. Approximately 37,000 square kilometers - 12 percent of Poland - is covered by the "gas belt", and the Ministry of Environment has already handed out 44 exploration concessions over the past two years.

The London-based magazine **Petroleum Economist** may have become intrigued about CEE Consulting's rather brief and tantalizing information about the "strong Canadian effort," as it published a follow-up article on September 14, 2011, *Canada lends shale-gas support to Poland* (with the sub-headline, *Poland is benefitting from Canada's experience and expertise in shale-gas development, But what does Canada want in return?*):

Canada has been assisting Poland with the regulatory framework it aims to establish to ensure the successful development of its nascent shale-gas industry. Representatives from the Canadian embassy in Poland have been advising the Polish government for the past year. As well as arranging meetings between Polish provincial ministries and authorities, and representatives of the Canadian industry, they have also helped arrange visits to drilling and hydraulic fracturing (fracking) sites in Canada.

The regulations recommended by Canada include setting up mechanisms to deal with the environmental and local-community impact shale-gas production can have, as well as offering advice on taxation and royalty framework that would attract investment from oil and gas companies. This could then be balanced by a scheme that would enable profits from the sector to be shared between government and communities.

10-(1). Canadian Ambassador Costello Heralds Canadian Frackers

Internal reports and information about Canada's promotional involvement in Poland's and Europe's shale fever are more scant and difficult to come by. One of those stories involves Canada's ambassador to Poland, **Daniel Costello**, who was appointed on July 19, 2009, succeeding David Preston. The federal government's biography of ambassador Costello states the following. He served:

as Policy Adviser and Executive Assistant (Chief of Staff) to the Director of Policy and Research in the Office of the Prime Minister (1996-1999), Executive Assistant (Chief of Staff) to the Minister of Citizenship and Immigration (1999-2002), and Chief of Staff to the Minister of Foreign Affairs (2002-2004).



He then returned to teaching at the University of Ottawa (fall 2004) prior to joining the Ministry of Foreign Affairs in early 2005. At the Ministry in Ottawa he has served as Director General for Intergovernmental Relations and Domestic Outreach (2005-2006), and more recently in the Bilateral Relations Branch as Director General for the European Union, North and West Europe (2006-2008).

Canada's \$10 million embassy in Poland. In 2001, the new building, designed by WZMH Architects, was named by the City of Warsaw as the year's best public building, with a similar award by Polish Business News, an English language bi-monthly magazine. An elegant location for receptions and cocktails.



Canada enjoys an embassy in Warsaw with 6 foreign program staff that assist ambassador Costello. Wikipedia reports that the embassy "is one of Canada's largest missions in Central and Eastern Europe with approximately 13 Canada-based diplomats and 65 locally employed staff working at the chancery and the ambassador's official residence," operating under five sections.

Poland enjoys an embassy in Ottawa, and 5 consulates in Vancouver, Calgary, Edmonton, Toronto and Montreal. The government of Canada's website, *Canada-Poland Relations*, states how the two countries "enjoy close bilateral relations, including growth in trade and investments, increasing military co-operation and academic relations programmes. Canada is home to a vibrant community of over 980,000 Polish-Canadians. Since 2008, Poles can travel to Canada visa-free with their e-passports, further expanding people-to-people ties among our citizens."

On another branch of its website is a link called "Great Opportunities in Poland for Canadian Companies":

Canadian cumulative investment in Poland totals almost \$440 million. Opportunities for trade and investment for Canadian firms exist in the agri-food, environment, ICT, infrastructure, aerospace, energy (particularly shale gas), building products and construction sectors. Major Canadian firms already active in Poland include Bombardier (Transportation and Aerospace), Vac Aero, Talisman, EnCana, McCain Foods, Wentworth Technologies, SNC Lavalin, Gemite, Akuna, Smart Technologies, RIM, Corel, OpenText, Mitel, Cognos, QNX, and Pratt&Whitney Canada which has been active in Poland for more than 30 years.

One of the companies, **SNC-Lavalin**, procured a \$300 million (Canadian dollar) cooperative contract with Poland's Elektrownia Patnow SP to construct a 460 MW lignite-fired thermal power plant in Poland. Former Encana ceo Gwyn Morgan, who is also a political advisor to British Columbia Premier Christy Clark on energy issues, and who recently received the ('new') Order of



Canada² medal award (photo, left, standing next to newly appointed Governor General David Johnson) during Prime Minister Stephen Harper's new majority Conservative government, is the chairman of Canadian-based SNC-Lavalin. Morgan, believe it or not, is a self-proclaimed Buddhist, and his nomination for Order of Canada was posted on the Dalai Lama Center's website on January 3, 2011. In 2006, when Harper enjoyed a minority government, he failed to appoint Morgan - who had just stepped down as Encana's ceo - as chairman of a new review board for public appointments. Harper was quoted as saying at the time: "We'll obviously need a majority government to do that in the future." Not only did Morgan receive

the Order of Canada, he got another 'order' delivered to SNC Lavalin's plate at a bargain basement rate, the federally owned **Atomic Energy of Canada Ltd (AECL)** which was about to market its next-generation nuclear reactor, the ACR1000. There were speculations afoot about a new nuclear reactor for Alberta's tar sands which Encana has a large stake in through **Cenovus**. Morgan's controversial history with Encana and its \$21 billion merger with Pan Canadian Resources, among other issues, was well summarized in Andrew Nikiforuk's two-part series published in Vancouver-based internet newspaper, The Tyee, in March 2011.³

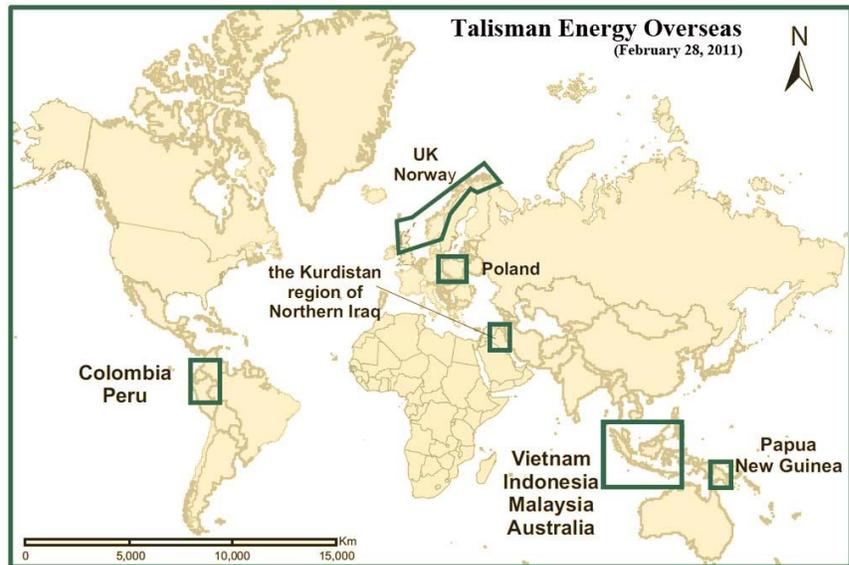
Talisman Energy Inc., with its president and ceo **John Manzoni**, is a corporation registered in Canada, and is a parent of 12 subsidiaries. One of those subsidiaries, **Talisman Energy USA Inc.**, is in the U.S., and three are in Europe: **Talisman Energy (UK) Limited**, **Talisman Energy Norge AS**, and **Talisman Energy Polska Sp**. Talisman Energy Inc. has 9 registered company lobbyists under two categories: 8 of the nine "whose lobbying activities represent less than 20% of their

² The Governor General of Canada description of the award from November 16, 2010 states: *Gwyn Morgan has made important contributions as a business and community leader in Alberta. Founding chief executive officer of Alberta-based EnCana Corporation, he was instrumental in creating one of the most successful oil and gas companies in the world. He is also recognized for his commitment to broadening public policy discourse in Canada, which he has helped to advance through his participation in organizations such as the **Canadian Public Policy Forum** and the **Manning Centre for Building 'Democracy'**. As well, his philanthropic support has benefited health care and educational initiatives across Canada.*

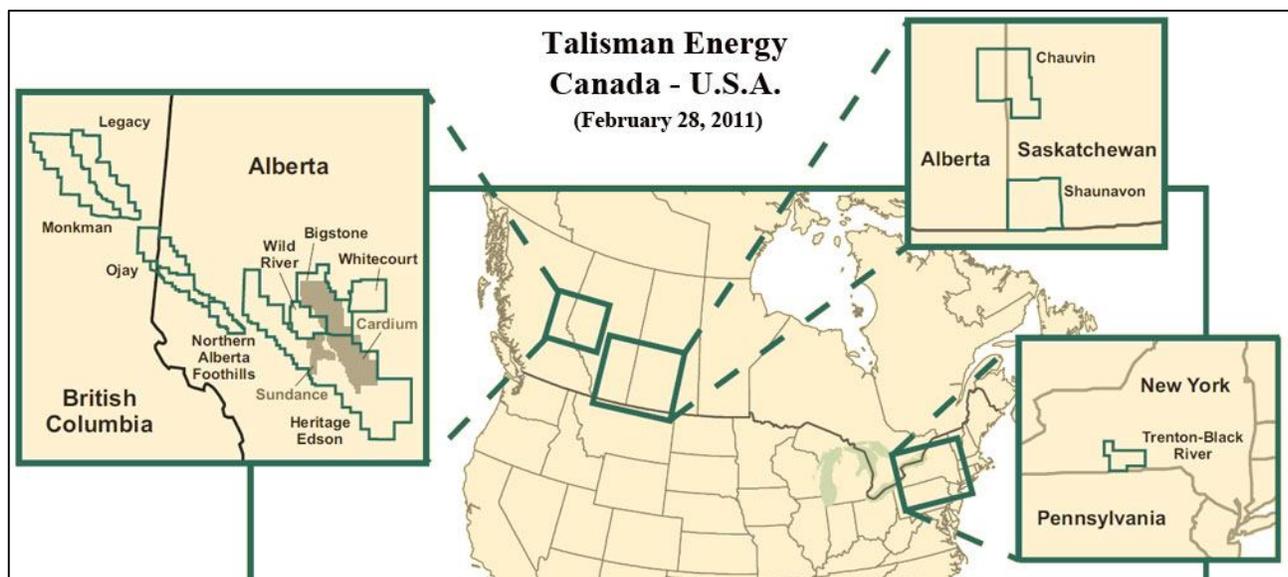
³ *The Gwyn Morgan File: Rise of a Shale Gas Baron, and EnCana's Grip on BC.*, March 17, and 18, 2011. (The articles are included in Appendix D).

duties;” and one whose “lobbying activities represent 20% or more of their duties.” Under the first category are:

Paul Blakely (executive vice president of international operations, east); **Richard Herbert** (executive vice president of exploration); **Rajiv Manhas** (vice president of corporate affairs); **Robert Rooney** (executive vice president of legal and general counsel); **Paul Smith** (executive vice president of finance and co); **Nick Walker** (executive vice president of international operations, west); and **Helen Wesley** (executive vice president of corporate



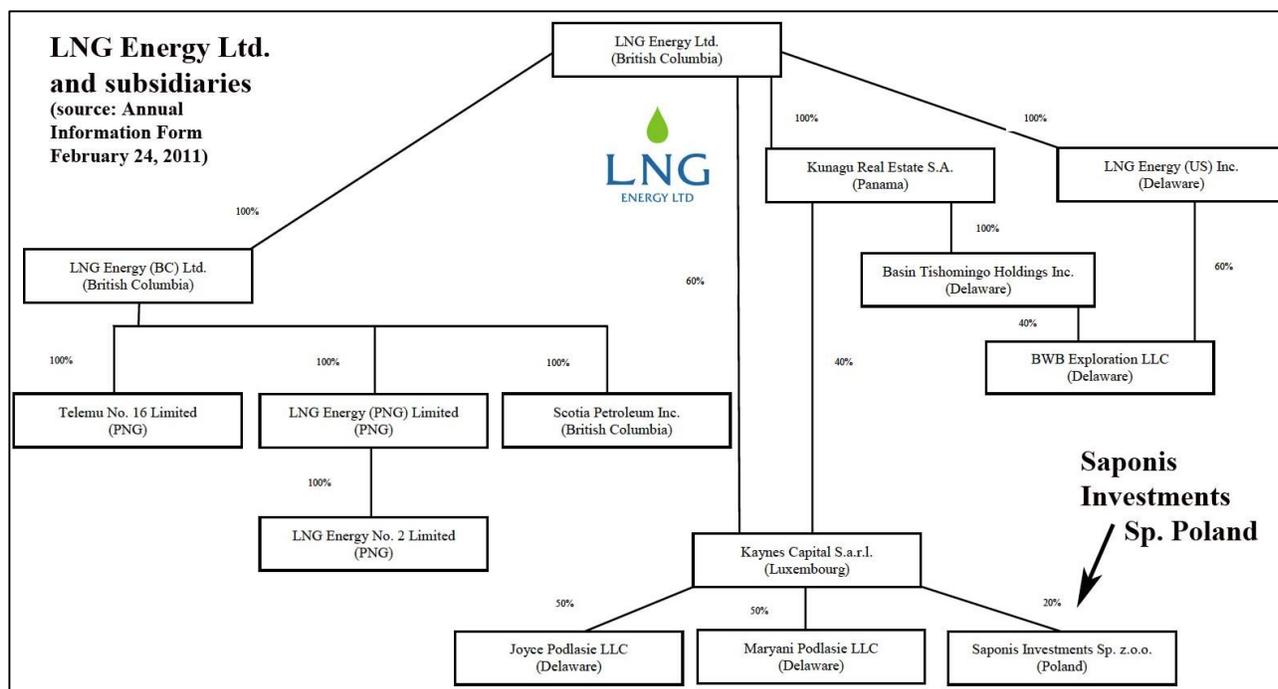
services). The second category is with **Tim Church**, the company’s senior advisory of government affairs.⁴ Talisman’s registered lobbying activities of federal departments through both oral and written communication is licensed with the following agencies: Aboriginal Affairs and Northern Development Canada (AANDC), Canadian International Development Agency (CIDA), Environment Canada (EC), Foreign Affairs and International Trade Canada (DFAITC), Industry Canada (IC), Justice Canada (JC), Members of the House of Commons, Natural Resources Canada (NRCan), PMO, Privy Council Office (PCO).⁵



The two images of Talisman’s operations are from Talisman’s February 28, 2011 Annual Information Form.

⁴ Church is the only one of the nine registered lobbyists that has a background as an employee with the federal government: a special assistant and director of parliamentary affairs with the Minister of Natural Resources (January 2002 - October 2004); a senior advisor with Natural Resources Canada’s Nuclear Energy Division, the energy policy sector (August 2005 - May 2007); and a senior advisor under communications and government affairs with the Canada-Nova Scotia Offshore Petroleum Board (May 2007 - October 2009).

⁵ Active Registration: 782098-16086-9.



The first well, Wytowno S-1, in the Slawno concession was spudded in December 2010. The Wytowno S-1 well, with a TVD of 3315m has an AFE cost of US\$10MM to drill, case, hydraulic fracture complete and test the Ordovician/Silurian gas shale formation deliverability. The second well (Lebork S-1) in the Slupsk concession is planned to be drilled in after the Wytowno S-1 well is completed. The third well in the Starogard concession (Starogard S-1) will be spudded in the second half of 2011.

In October 2009, LNG and Omag caused BWB to exercise its option to participate in the 20% net interest in BNK's exploration project in Poland (the "Poland Project"), which include three concessions, Starogard, Slupsk and Slawno, located in Northern Poland and total approximately 730,000 acres (2,951 square kms). At the time of the option exercise, LNG's indirect interest in the Poland Project was 12% as a result of LNG's ownership of 60% of BWB. BNK formed a Polish company, Saponis Investments Sp. z.o.o. ("Saponis") to hold the Poland Project. For payment of the option exercise price of US\$133,855, being 20% of BNK's acquisition costs for the Poland Project, BWB is entitled to be issued 20% of the shares of Saponis. For corporate reasons, LNG and Omag agreed that BWB's 20% interest in Saponis be held in a Luxembourg corporation, rather than in BWB. LNG and Omag, formed Kaynes Capital S.a.r.l. ("Kaynes") for this purpose and steps are underway to transfer BWB's interest to Kaynes and cause the shares of Saponis to be issued to Kaynes.

Exploration, Drilling and Operating Risks

The business of exploration for and production of oil, gas and other resources involves a high degree of risk. In particular, the operations of the Corporation may be disrupted, curtailed or cancelled by a variety of risks and hazards which are beyond the control of the Corporation, including environmental hazards, industrial accidents, occupational and health hazards, technical failures, labour disputes, unusual or unexpected rock formations, flooding and extended interruptions due to inclement or hazardous weather conditions, mechanical difficulties, shortage or delays in the delivery of rigs and/or other equipment, compliance with governmental requirements, explosions and other accidents. These risks and hazards could also result in damage to, or destruction of, production facilities, personal injury, environmental damage, business interruptions, monetary losses and possible legal liability. Drilling may involve unprofitable efforts, not only with respect to dry wells, but also with respect to wells which, though they yield some oil or gas, are not sufficiently productive to justify commercial development or to cover operating and other costs.

Information from LNG Energy Ltd.'s Annual Information Form, February 24, 2011.

According to the Office of the Commissioner of Lobbying of Canada records, **someone** with Talisman Energy, which may or may not involve ceo John Manzoni, “communicated” with ambassador Costello on November 19, 2010. There is no information about what was communicated, other than it was under the subject heading of “international relations.”

On September 21-22, 2011, the 9th annual international *NAFTA i GAZ* Oil and Gas Conference was held in Warsaw at the Palace of Culture and Science. At 237 metres tall, the Palace centre is the 8th tallest building in the EU, and was formerly known as the Joseph Stalin Palace of Culture and Science. *Invest in Poland* newsletter of September 8th, 2011 (Issue 243) said that this was the first year that Canada would be an exhibitor of the annual conference, a conference aimed to “discuss the role of gas in the energy sector, the market of biofuels, new gas sources, gas regulations, privatization and competition among refineries, new pipelines and issues concerning Polish Oil and gas sector in the electoral manifestos of political parties.”

For the event, Canada’s trade commissioner **Arkadiusz Wysocki** published a bulletin about the event informing interested parties that the embassy’s trade section was “coordinating the Canadian presence and invites Canadian oil and gas companies, particularly service companies and equipment suppliers to participate:”

Canadian companies will have the opportunity to meet Polish key decision-makers and industry experts, and also to demonstrate their capabilities and products in this new and emerging market.

The Trade Section also offers to provide a market overview and strategy session with the companies attending the show. For Canadian companies who confirm their attendance before September, we can also explore additional activities on the periphery the trade show such as strategic side meetings, networking events and/or Embassy presentation sessions to highlight and promote Canadian capabilities in the oil & gas sector.

The 9th annual OIL & GAS 2011 Conference and Trade Show provides an opportunity to Canadian companies to present their capabilities and expertise, and also a forum to exchange opinions and experiences with government and business representatives in the Polish oil & gas industry.

The Polish show organizers have planned several conference panels during the show focusing on energy security, electric power generation with natural gas, Polish pipeline infrastructure, and a shale gas exploration panel to discuss 2011 results from the first wells drilled, environmental impact and local challenges, and legal framework changes.

The organizers of the show have also indicated that they would welcome additional Canadian speakers at the conference.

The Canadian embassy in Poland’s website has a Polish version of the companies that ended up attending the conference, but with no corresponding English version. Same with the conference agenda: no English version was found on the internet. Eight Canadian companies attended: **Akita Drilling; Calfrac Well Services; Ensign International Energy Services; Gallic Energy; Nexen Inc.; Realm Energy International Corporation; Talisman Energy Poland; and Trican Well Services.**

Alongside **BNK Polska**, Talisman Energy was one of four sponsors of the *South Baltic Gas Forum* held in the city of Gdansk, Pomerania, September 5-8, 2011. Seven sessions were held over the course of the four day forum. On the afternoon of September 6th, **Jan Krzysiek** from Gdansk University of Technology moderated a two and a half hour long session called *How to deal with environmental and social impact of shale gas development*. The theme of influencing the public through the mire of message management and synergy tactics on the controversial issues related to fracking was about to be unleashed in two international strategic conferences in Canada and Poland in weeks to come, with another ball-buster conference in early November held in Houston, Texas, and another scheduled for the end of November 2011 in Warsaw.

The opening address of *How to Deal With* was delivered by Canada's illustrious ambassador Daniel Costello (photo, right). His opener was followed by two Canadian-based companies: **Tomasz Gryzewski** from Talisman Energy speaking on *Exploration Experiences*; **Patrycja Kujwawa** from LNG Energy Poland then spoke on *Experiences in Shale Gas Exploration*. The last speaker of the first half of this session was **Dean Hills** from ENSIGN who spoke on *Experiences of a Shale Gas Service Company*.



The second half of the session began with **Jacek Wroblewski** from BNK Polska who spoke on the *Experiences of BNK in Shale Gas Exploration*. He was followed by **Kamlesh Parmar** from Poland's association of oil and gas companies **OPPPW** (the Polish Exploration and Production Industry Organization, or **Organizacja Polskiego Przemysłu Poszukiwawczo-Wydobywczego**), on the topic of *Engaging Local Communities - Best Practices*. The concluding session discussion was given by the moderator.



OPPPW's Kalmesh Parmar (left), next Talisman's Tomasz Gryzewski, Daniel Costello, and Patrycja Kujwawa from LNG Energy Poland (in red).

Dialogue with local communities



- Engage representatives of local communities (e.g. governors, marshals, heads of counties, communes, rural subdivisions) as early as possible
- Ongoing interactive communication with local communities



Some two weeks later in September, the OPPPW provided a document on the history of its organization during the September 17-18 conference in Krakow on managing the public. The OPPPW was established in June 2010, just as the physical fracking advances were evolving in Poland, and coincidentally, the same month the U.S.-Polish Business Council was formed. As of late September, 2011, the organization had 14 members and 6 observer corporations which were featured in the presentation with all the corporate logos (see below). Three Canadian companies LNG Energy, Nexen and Talisman Energy were members. Encana, which had just arrived in Poland, was not yet on the list. Explained in OPPPW's presentation, the organization has a Members Meeting body and a Management Board body, under which are four subcommittees: Environmental; Laws and Regulations; PR and Government Relations; and Technical. The presentation identified essential features by which to engage in communicating with the public, and even had a photograph of the South Baltic Gas Forum with Ambassador Costello. What's also interesting is another photo, under the caption title *Lublin 27 July 2011, meeting with local officials*. In that meeting is where a representative the province of Alberta's petroleum regulator, the ERCB, gave a presentation on shale gas, a presentation recorded on Radio Lublin.



10-(2). Alberta Petro Frackers' "Public Interest" Regulator Guinea Hen Flies to Poland

Some Albertans know only too well the dark side of the ERCB (Energy Resources Conservation Board), others don't, and many don't want to. Certainly, the majority of Canadians don't. So don't Poland's politicians and government officials. However, that may not necessarily be true of some members within Poland's Ministry of Foreign Affairs.

About six weeks before Encana's debut appearance in Poland, a representative from the ERCB, Alberta's primary petroleum regulator, which is 63 percent funded by the petroleum industry,⁶ showed up for a promotional and consultation visitation with municipal politicians and administrators from two of Poland's provinces, two jurisdictions facing intense future fracking proposals and developments. By sheer coincidence, Pomerania and Lublin are the same two provinces which had representatives appear at the May 18, 2011 shale gas promotional pro-fracking conference in Warsaw (refer to chapter 11-(10), *Poland Portal Party*, for the details).

The information found in numerous Polish news articles and petroleum bulletins indicate that someone from Poland's Ministry of Foreign Affairs invited **Paul Ferenowicz**, a Polish Canadian, to conduct a few meetings in the provinces of Pomerania and Lublin at the end of July and beginning of August, 2011. The information also indicates that the Canadian Embassy in Poland was also involved in organizing at least



ERCB Board members, 2009. Don McFayden (top left), Bonnie McGinnis (top middle), George Eynon (top, second from right).

Unconventional Gas Regulation

Quebec

Bonnie McGinnis commented that Alain Lefebvre had advised that the list of the members of the Shale Gas Strategic Environmental Assessment team and its mandate were made public on May 12. Georgette Habib provided a brief overview of the communiqué which was available in French only.

Alberta

Dan McFadyen spoke about Alberta's new regulatory framework for unconventional gas which focuses on shale gas/oil, coalbed methane, and tight gas/oil. He highlighted some key findings and risks/opportunities, as well as the new framework concept which is risk based and play based.

Europe

*George Eynon related his experience from his attendance at a session in Warsaw, Poland last fall which was also attended by two companies, **EnCana** and **Talisman**, who are also operating in British Columbia. He noted that **there are many challenges in Poland** but there is also tremendous potential. **Several government officials will be visiting regulatory agencies in Alberta and British Columbia later this month to seek a greater understanding of the way in which regulation is carried out in these jurisdictions.** George provided an overview of the European Unconventional Gas Summit held in Paris in January.*

***Action:** Bonnie McGinnis will post the Quebec communiqué to the website.*

(Excerpts from CAMPUT Energy Resources Committee, Minutes of May 15, 2011 meeting, Sheraton Vancouver Wall Centre. Dan McFadyen, Bonnie McGinnis, and George Eynon are with Alberta's Energy Resources Conservation Board.)

⁶ See Andrew Nikiforuk's article, *Alberta Fills Pipes with Corrosive Denial*, in *The Tyee*, February 21, 2011.



one of the events. It is little or no coincidence that these two population centres were chosen by Poland's Ministry of Foreign Affairs and by Poland's OPPPW, as these centres appear to be the staging grounds for comprehensive synergizing strategies.

This is the photo of Ferensowicz's appearance in Lublin used by the OPPPW in its report. Ferensowicz is seated at the back below the projector screen, and to the right of the Radio Lublin poster.

On August 2, 2011, Poland's OPPPW alliance of fracking companies' website published a summary of one of Ferensowicz's visits, *Meeting with local officials in the Lublin Province*, which provided some interesting if not convoluted insights. The article, written in English, identified and stated:

- "Ferensowicz arrived in Poland at the invitation of the Minister of Foreign Affairs," i.e., Radoslaw Sikorski - it did not say "Ministry" of Foreign Affairs, and that the meeting in Lublin was coordinated by the Ministry's deputy director of economic policy, Katarzyna Kacperczyk;
- that at the Lublin meeting, "the group of participants in the debate included also the representatives of the Polish Exploration and Production Industry Organization (OPPPW): Paweł Pudłowski and Dominika Mackiewicz;"
- that Ferensowicz "presented the functioning of a regulatory system model developed by the ERCB", and said that "among the primary objectives of the organization, Ferensowicz enumerated the following: **protecting the public interest, taking care of the environment** and the efficiency of exploitation;"
- that "according to Ferensowicz, reliable information on the exploration and production activities is also essential: "It is of great significance for state and local authorities, as well as knowledge institutions, to collect and deliver data to the society. **Any propaganda should be abandoned** for the sake of fact-based communication"."

The OPPPW article ended with the following paragraph:

The debate with representatives of local governments was summed up by Genowefa Tokarska – the Governor of Lublin Province – who highlighted the need for a policy of openness from both sides. The Governor remarked that the most precious feature of the Lublin Province are its natural assets, which need to be taken care of above all other things. She emphasized, however, that the investors operating in the region have declared to proceed with utmost care while implementing the planned activities, and to maintain open relations with the local communities.

Ferensowicz is seated below the projection screen, on which is the title of his presentation, *Regulating the Challenges of Unconventional Gas, Presentation to the Polish Ministry of Foreign Affairs, Warsaw, Poland.*

Ferensowicz's reference to the ERCB's role in "protecting the public interest" is a phony refrain the ERCB has used repeatedly. The government of Alberta, it's Ministry of Energy and ERCB never comprehensively define what "the public interest" means, nor how the ERCB's further "protects" that rather narrow and disingenuous phrase: but the government's plentiful actions speak louder than words.



In fact, when the Alberta government "restructured the Alberta Energy and Utilities Board (EUB or Board) into two new organizations, the Energy Resources Conservation Board (ERCB) and the Alberta Utilities Commission (AUC)" on January 1, 2008, the government proclaimed that "the ERCB ensures that the discovery, development and delivery of Alberta's resources take place in a manner that is fair, responsible and **in the public interest.**"⁷ The government's annual 2007-2008 report also states that these two new bodies, which operate under Alberta's Ministry of Energy:

are independent, quasi-judicial agencies of the Government of Alberta with the responsibility to regulate Alberta's energy and utilities sectors. While the Minister of Energy has governance responsibility for the ERCB and the AUC, they make their formal decisions independently in accordance with various statutes and regulations. ... The ERCB regulates oil, natural gas, oil sands, coal and gathering systems. The ERCB also includes the Alberta Geological Survey (AGS), whose role is to provide geoscience information and expertise to government, industry, and the public in support of the sustainable development of Alberta's energy and mineral resources. The ERCB's operations are jointly funded by the Crown and a mandatory administrative fee applied to industry.

In a March 18, 2008 letter by ERCB's former Communications Manager Tom Neufeld, *Western Review Readers Deserve Factual Information about Sour Gas Development and Public Safety*, addressed to the Drayton Valley Western Review, a local newspaper in rural Alberta:

The March 4, 2008 edition of the Western Review included an article by reporter Lori Clark entitled "Sour Gas Activists Visit" that contained a number of falsehoods regarding the actions of the Energy Resources Conservation Board (ERCB).

⁷ Energy, Annual Report, 2007-2008, Government of Alberta (Public Accounts).

*The ERCB is Alberta's energy regulator. Our role is to ensure that energy development in Alberta is done fairly, responsibly, and **in the public interest**. In short, **we are the referee in Alberta's oilpatch**.*

*Because of our role, **everyday we deal with conflicts between energy companies and landowners, concerns about sour gas development, and questions about coalbed methane development**.*

***We welcome public scrutiny**. Healthy skepticism is a virtue. It keeps people, businesses and governments on their toes. The ERCB is no exception; we need to be able to stand up to public scrutiny, Albertans expect no less.*

The article then says, "Nikiforuk also states that ground water in Alberta is very poor. We now have people in central Alberta who can light their water on fire... Nikiforuk explains the ability to ignite the water is the result of high methane levels not to mention the other chemicals present."

*Had the Western Review contacted the ERCB, we would have directed your readers to a study from the Alberta Research Council, released on January 17, 2008, which assessed four water well quality concerns from private landowners and found **no link between coalbed methane development and water well quality**. Instead, it found that the quality issues were predominantly due to **naturally occurring methane**, plus poor well construction and maintenance.*

***Ensuring that oil and gas development occurs safely in Alberta is the ERCB's number one priority**. We also believe that Albertans, and Western Review readers, deserve accurate and balanced information regarding energy regulation in our province.*

As the fracking "referee," many Albertans are familiar with how the ERCB keeps landowners and rural communities off the proverbial ice.

Consider the on-going plight of merely one of Alberta's residents, Jessica Ernst. There are many, many more. Ernst is a scientist, founded her own company, and conducted comprehensive cumulative environmental effects studies with a small team of fellow research scientists since the early 1990s under contracts for the petroleum sector in Alberta and British Columbia. Among other companies, she worked for energy giant Encana, a company fracking unconventional shales internationally. She resigned her project work with Encana in 2004 because of what the company allegedly did to her and her community of Rosebud.

Photo of Encana's new drilling rig next to the community of Rosebud and Ernst's home, November 7, 2011.

According to court documents filed by Ernst's lawyers on April 21, 2011, Encana, who had 'a license to drill' for Coal Bed Methane from the government of Alberta repeatedly and brute-forcibly shallow-fracked her community of Rosebud's aquifer and poisoned



her rural water well.⁸ In fact, after filing the court documents, Encana - which does not seem to be in the least bit bothered by Ernst's court action that received national and international attention by the media - has recently and defiantly returned with its drilling rigs and equipment to continue fracking Ernst's aquifer. What's the message here? Why hasn't the government of Alberta stepped in to implement a moratorium on Encana's permits and leases in the Rosebud area?

Since early 2006, Ernst, a trained oil-patch professional, demanded the proper scientific answers, records, and data from both the Alberta government and Encana about happened to her fresh water aquifer. Her unswerving determination to discover the ugly truth, which still continues to this day, was filled to the brim with disappointments, particularly in Alberta's regulator, the ERCB, which even attempted to banish Ernst! As a result, Ernst has gained a deep and bitter perspective on how the Alberta government actually behaves in "the public interest," namely that the present administration acts to further the selfish and greedy interests of the petroleum sector over the rights and interests of its citizens. Indeed, Ernst is still standing in the sidelines with her skates on waiting to get onto the ice.

According to Alberta lawyer Keith Wilson, the present administration, which has been in power now for some forty years, has introduced some of the worst legislation in the history of western democracy (see below). This is the information that the people of Poland must learn about the government of Alberta, about the ERCB, and about Canada's Prime Minister Harper who hails from Alberta, particularly before Poland's legislators embrace the recommendations provided to it by North America regulators and change Poland's environmental, energy and tax laws and regulations. Alberta is already behind the petroleum iron curtain, does Poland want to go there as well?

After Dan Ferensowicz's short tour and media debut in Poland's southeastern Province of Lublin, he headed north to Pomerania to meet with officials there. The Baltic Journal (*Dziennik Bałtycki*) reported on July 29, 2011, *Is Canada Our Ally? (Gaz łupkowy na Pomorzu: Mamy sojusznika w Kanadzie?)*, about a meeting Ferensowicz had in Gdansk where he met with representatives of Gdansk's RDOS (Regional Director of Environmental Protection, Regionalnej Dyrekcji Ochrony Środowiska), members with the Regional Inspectorate of Environmental Protection (Wojewódzkiego Inspektoratu Ochrony Środowiska, WIOŚ), and representatives from Pomerania's provincial marshal's office (Urzędu Marszałkowskiego Województwa Pomorskiego). Someone from WIOS told the newspaper reporter that the meeting was jointly organized by the Polish Ministry of Foreign Affairs and Canada's embassy. The short article said that Ferensowicz urged the representatives not to give up on shale gas exploration.



Just over two months before Ferensowicz's tour of Poland, both he and ERCB Chairman Dan McFadyen were in Washington D.C. for a May 2, 2011 featured speaking engagement as part of the United States Energy Association's (USEA's) *Policy Briefing Series*. What did they say to the USEA about the ERCB? What did they say about regulating drilling and fracking? What else was said afterwards in private? Who else did they meet? Did anyone talk about Poland?

⁸ The court document and a host of information can be found at www.ernstversusencana.ca

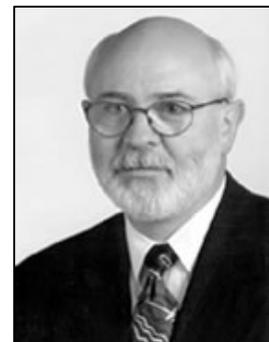
After all, ERCB Board member George Eynon briefed fellow CAMPUT Energy Resources Committee members on May 15, 2011 that he had been in Poland in the Fall of 2010 to attend an event on shale gas regulation and met up with members from Talisman Energy and Encana:⁹

*George Eynon related his experience from his attendance at a session in Warsaw, Poland last fall which was also attended by two companies, **EnCana** and **Talisman**, who are also operating in British Columbia. He noted that **there are many challenges in Poland** but there is also tremendous potential. **Several government officials will be visiting regulatory agencies in Alberta and British Columbia later this month to seek a greater understanding of the way in which regulation is carried out in these jurisdictions.** George provided an overview of the **European Unconventional Gas Summit held in Paris in January.***

Why did Alberta's taxpayers and the petroleum industry fund Eynon's trip to Poland in 2010? Was Eynon somehow instrumental as the ERCB's private broker between Poland and Canada/Alberta on issues and visitations related to unconventional gas/oil regulation?

10-(3). Who is ERCB's George Eynon?

Simple biographies from the ERCB and Eynon's former responsibilities with the American Association of Petroleum Geologists (AAPG) state the following. Alberta's Ministry of Energy appointed Eynon in April, 2008 as one of the ERCB's 8 board members. The ERCB's background information about Eynon is vague, only revealing that he "has over 25 years of technical and management experience in the upstream exploration and production oil and gas sectors worldwide with a number companies," and that he served with CERI, the Canadian Energy Research Institute.



When London, England native Eynon ran for chair of the AAPG's House of Delegates (where Eynon states it is "a body critical to the harmonious running of our Association's affairs") in 2002, the AAPG published the following information about his employment history:

Amoco Corp -- various positions & locations; (1972-1980); **Paramount Resources**, Calgary (1980-82); **Superior Oil International**, Stavanger, Norway (1982-84); **Suncor Energy**, Calgary -- VP Exploration (1984-89); **Bow Valley Energy**, Calgary -- VP Canadian E&P; **GEOS Energy Consulting**, Calgary -- President (1983-pres); **SMI Energy**, Calgary -- President & CEO (1995-96); **Ziff Energy**, Calgary & Houston -- VP, E&P Services (1997-98); **CERA - Director, Oil & Gas Resources** (1998-pres).

Included in that history is a long list of responsibilities with the AAPG from 1989 following, and a list of responsibilities and activities with the Canadian Society of Petroleum Geologists (CSPG)

⁹ CAMPUT Energy Resources Committee, Minutes of May 15, 2011 meeting, Sheraton Vancouver Wall Centre. CAMPUT is Canadian Association of Members of Public Utilities Tribunal, and has kept this name but is now known as Canada's Energy and Utility Regulators. Its website states: "CAMPUT is a self-supporting, non-profit organization of federal, provincial, and territorial boards and commissions which are responsible for the regulation of the electric, water, gas, and pipeline utilities in Canada."

from 1986 following, including a stint as both its vice president and president in the 1990s. Eynon has his toes on both sides of the professional geologist 49th Parallel border.

The March 2002 edition of AAPG's Explorer magazine also said that "George Eynon is director of oil and gas resources for **Cambridge Energy Associates** in Calgary," something not mentioned in other biographies.

On September 7, 2005, Vancouver-based **Derek Oil & Gas Corporation** announced Eynon's new position as one of its board directors. The media announcement said that Eynon was currently the "vice president, business development & external relations for the **Canadian Energy Research Institute**," (CERI) and "until recently he was responsible for CERI's natural gas research program." It also states that "in his new position George handles CERI's research marketing, business development, client and media relations, and publications, as well as its conferences and training programs." He also "made numerous presentations and chaired technical sessions at industry and professional association conferences, and authored numerous publicly available, in-house and client-confidential reports and papers; and has conducted numerous short courses, board briefings, and corporate consulting sessions."

On November 16, 2007, Eynon gave a presentation at a *Natural Gas in North America: Markets & Security* forum held in Houston's Baker Institute at Rice University. His paper was called *Canadian Supply Developments: Implications for North America*.

In an opinion piece by Eynon published on November 21, 2005, the 'more information' tab at the bottom of the website article said that he was involved in a monthly geopolitical events journal on energy markets called *Geopolitics of Energy*.

The graphic is titled "Ministerial and Regulatory Speaker Panel" and features a map of Europe and North America in the background. It lists seven speakers with their names, titles, and organizational affiliations, each accompanied by a small portrait and a flag icon. The speakers are: David L. Goldwyn (U.S. Department of State), Andrzej Jasinski (Ministry of Environment Poland), Pawel Poprawa (Polish Geological Institute), George Eynon (Energy Resources Conservation Board), Maciej Kaliski (Ministry of Economy Poland), Michael Gessner (Ministry for Economy and Energy of North Rhine-Westphalia), and Anne Hojer Simonsen (Danish Energy Agency). A note next to Goldwyn's portrait states: "(Goldwyn was no longer with the U.S. State Dept. when he appeared)".

Ministerial and Regulatory Speaker Panel

- David L. Goldwyn**, Special Envoy and Coordinator International Energy Affairs, **U.S. Department of State** (Goldwyn was no longer with the U.S. State Dept. when he appeared)
- Maciej Kaliski**, Director of Oil and Gas Department, **Ministry of Economy Poland**
- Andrzej Jasinski**, Advisor to the Chief Inspector for Environmental Protection, **Ministry of Environment Poland**
- Michael Gessner**, Director of the Energy, Climate Protection and Mining Department, **Ministry for Economy and Energy of North Rhine-Westphalia**
- Pawel Poprawa**, Chief Specialist and Head of Petroleum Geology, **Polish Geological Institute**
- George Eynon**, Board Member, **Energy Resources Conservation Board**
- Anne Hojer Simonsen**, Deputy Director General, **Danish Energy Agency**

Eynon travelled to Paris at the end of January, 2011 to appear as a speaker at the *European Unconventional Gas Summit*. All the EU and Poland frackers were there, and so was **David L. Goldwyn**, who was no longer with the U.S. State Department as its former official Global Shale Gas Initiative organizer and pusher. In fact, Eynon was on the same panel with Goldwyn, under the panel theme *Unconventional gas regulations and framework: comparing European and North*

American challenges and solutions. Other members of the same panel included: **Andresj Jasinski**, advisor to the chief inspector of environmental planning with Poland's Ministry of Environment; **Michael Gessner**, the Director of the Energy, Climate Protection and Mining Department, Germany's Ministry for Economy and Energy of North Rhine-Westphalia; and **Anne Højer Simonsen**, the Deputy Director General of the Danish Energy Agency.



15:45 Unconventional gas regulations and framework: comparing European and North American challenges and solutions

- Hear legal and regulatory success stories from North America and assess how they can impact your business
- Gain insight into how land ownership and compensation terms influence the bottom line of profitability
- Understand how unconventional gas will contribute to government policies regarding security of supply, climate change and energy diversification
- Discuss the effects of public perception and opposition on regulatory frameworks and industry
- Minimise the environmental footprint of unconventional gas: water and waste management and sustainable disposal of fracking fluids

Session moderator: **Russ Bellis**, Exploration Director, **ExxonMobil**
David L. Goldwyn, Special Envoy and Coordinator for International Energy Affairs, **U.S. Department of State**
Andrzej Jasinski, Advisor to the Chief Inspector for Environmental Protection, **Ministry of Environment Poland**
Michael Gessner, Director of the Energy, Climate Protection and Mining Department, **Ministry for Economy and Energy of North Rhine-Westphalia**
Anne Højer Simonsen, Deputy Director General, **Danish Energy Agency**
George Eynon, Board Member, **Energy Resources Conservation Board, Alberta Canada**

Q & A

Why you should attend the European Unconventional Gas Summit

- Meet the stakeholders in the **emerging unconventional gas value chain**: North American and international gas majors, shale gas wildcatters, European operators seeking **partnerships** and stakes in unconventional plays, pioneering prime contractors, and proven secondary contractors providing **state-of-the-art technology**.
- Understand how **European regulations** are being defined and adapted by drawing upon **lessons learned in North America** and interacting with our **unrivalled representation of ministerial and regulatory speakers** and resource holders.
- Learn more about the role of unconventional gas in the future fuel mix and its **impact on global geopolitics**.
- Hear the **latest technology advances** that make unconventional gas economically feasible: **improving bottom line efficiency** by excelling hydraulic fracturing, horizontal drilling and 3-D seismic imaging.
- **Overcome environmental risks, water management challenges** and solutions to develop unconventional gas in Europe.

As a result of his appearance at the unconventional Paris conference, Eynon managed to get the spotlight in one of Natural

Gas Europe website's feature articles, *Shale Gas Rules & Regulations - North America versus Europe*, February 15, 2011. Here, again, ERCB's reiterated theme of "the public interest":

Mr. Eynon told conference attendees at the European Unconventional Gas Summit Paris 2011 that his organization had been around for 72 years.

"We've looked at all the problems so far and are looking at them when a new source comes along," he said, in an obvious reference to unconventional gas.

Eynon said his organization had worked in numerous oil & gas jurisdictions worldwide and said, based on those experiences, there were advantages to having a good regulator in place, like good data to start from.

*"We've probably drilled 450,000 wells," he reported. "A **well regulated industry environment** can ensure that **the public interest** is served properly; it makes it easy for the industry, which is one of the reasons we get so much activity in Alberta."*

According to Eynon, the ERCB is at arm's length from the government and was delegated responsibility for creating regulations.

"We gave a close relationship with industry itself," he explained, "because they have the knowledge of the technology that helps us create the regulations properly."

*Eynon continued, "**It's important to have a regulator at arm's length and have a connection to the public where the activity takes place.** We are a single regulator. When you have members of the public¹⁰ who have legitimate objections, there's someone to listen to their complaints."*

*He said the organization's mandate was important: to ensure that developments take place in a manner that is fair, responsible and **in the public interest.***

*He listed some of the criteria that lie **in the public interest.***

*"**Public health is obvious**, while resource conservation are [sic, "is"] charged with getting an optimum recovery rate and maximizing resources; **protection of the public purse is not something the public's always aware of**; ensuring the wells and facilities are not left and there's someone around to cover the financial liability, as there's an enormous potential for financial liability, so we create mechanisms to mitigate those," explained Eynon.¹¹*

He mentioned a 'licensee liability system' whereby companies had to post a bond to the extent they were not able to cover their liability at drilling operations.

Eynon explained that orderly development meant balancing residents' concerns with a company's. He said he believed the two sides had the ability to coexist.

*"A large number of residents are employed by the industry in Alberta," he stated. "We have **250 employees doing inspections**, making sure the regulations are being followed."¹²*

According to Eynon, the ERCB was adapting regulations to accommodate unconventional resources by looking at the organization's experience with coal bed methane, and by examining best practices in other jurisdictions.

"Some of the states leave a bit to be desired in terms of the compliance end of completion," he commented, adding, "with all respect to my America colleagues."

¹⁰ The "public", but not landowners.

¹¹ From recent government data, the province of Alberta has incurred an unprecedented debt of some \$27 billion in liabilities from abandoned wells by the petroleum industry.

¹² In a September 10, 2011 public presentation, Andrew Nikiforuk stated from data retrieved from the Alberta government that the ERCB has done an abysmal job in conducting inspections of wells in Alberta. Videos of Nikiforuk's presentation can be found on the B.C. Tap Water Alliance website, www.bctwa.org/FrackingBC.html.

In terms of the impact of high volume, high pressure multiple fracks, Eynon said the ERCB was “not particularly worried about groundwater protection, but rather the levels above and below that already have been or will be exploited.”

Mr. Eynon stressed the importance of effective communications with stakeholders, including the public and industry.

“There is a large number of fracks and wells on a pad,” he explained, “and you’re going to be there for 15-18-21 months and you’re only dealing with one square mile. Those pads become a light industrial site and you’ve got to reconcile that if it’s happening in small towns. This is a very different process and we’ve had to think about how to manage that.”

“We’re working with industry to make sure that they consult with the public,” concluded Eynon, “so when and if there are objections we can arbitrate between the industry and the public.”



In the Natural Gas Europe article, Eynon paints a very rosy picture, but unfortunately his bouquet of regulatory roses is somewhat thorny. It’s probably no coincidence that Eynon was appointed to speak in Paris. And, it was probably no coincidence that he appeared again beside David Goldwyn on yet another international gas conference panel later that year. After all, both Goldwyn and Eynon were members of a steering committee responsible for planning the next North America Gas Summit.

STEERING COMMITTEE

We would like to thank our steering committee:

- **Matthew Most**, Vice President Environmental Policy, **Encana Natural Gas**
- **Guy Caruso**, Senior Advisor, **Center for Strategic & International Studies (CSIS)**
- **Richard Kolodziej**, President, **NGVAmerica**
- **David Goldwyn**, President, **Goldwyn Global Strategies** and Former Special Envoy for International Energy Affairs, **US State Department**
- **Rick Smead**, Director, **Navigant Consulting**
- **Terence Thorn**, President, **JKM Consulting**
- **Guy Lewis**, Managing Director Exploration & Production, **Gas Technology Institute (GTI)**
- **George Eynon**, Board Member, **Energy Resources Conservation Board Alberta, Canada**
- **Benjamin Schlesinger**, President, **BSA Energy**
- **Dean Girdis**, President, **Downeast LNG**

“...it’s time to get bullish on natural gas...”

**Aubrey McClendon,
CEO, Chesapeake**

As one of the conference planners, Eynon appointed himself to be on the afternoon panel called *Policy developments and regulatory frameworks - understanding environmental, legal and public concerns and their influence on business decisions*, on day one of the *North America Gas Summit* held in Washington D.C. at

the Washington Marriott on October 2, 2011. The panel was chaired by Gregory Rizzo, the group vice president of U.S. regulatory affairs, **Spectra Energy**. The other panel members were: Jeff Wright, the director of office for Energy Projects under **FERC** (the Federal Energy Regulatory Commission); and David Goldwyn, president of Goldwyn Global Strategies.

POST-CONFERENCE MASTERCLASS

SHALE GAS FOR EXECUTIVES

Join our interactive masterclass to benefit from in-depth learning centred on your critical business needs. Gain invaluable insight into how the shale gas boom, regulatory and environmental challenges will affect your bottom line and influence strategic and commercial decisions.

Topics include:

- **Environmental and regulatory concerns**
 - resolve bottlenecks around hydraulic fracturing and understand how to best plan your resources, including water planning and management

14:00 Policy developments and regulatory frameworks - understanding environmental, legal and public concerns and their influence on business decisions

- The industry's social licence to operate: regulatory framework and the public interest
- Regulating the industry: operational requirements, industry performance, compliance assurance
- Addressing high-media gas drilling, fracking and deep offshore wells issues - how media influence public perception and the New York Times example
- The challenge of fracking regulations and how they will impact your business decisions
- Ensuring compliance from gathering to distribution lines – latest regulatory challenges and advances

Chaired by: **Greg Rizzo**, Group Vice President, U.S Regulatory Affairs, **Spectra Energy**, President and CEO, **Spectra Energy Partners**

Jeff Wright, Director of Office for Energy Projects, Federal Energy Regulatory Commission (FERC)

David Goldwyn, President, **Goldwyn Global Strategies** and Former Special Envoy for International Energy Affairs, **US State Department**

George Eynon, Board Member, **Energy Resources Conservation Board (ERCB)**

Q&A

15:10 Afternoon coffee

15:40 The crucial counterpart to increasing supply: demand creation – what can be expected by when?

10-(4). Toxic Wasteland Alberta: A Cautionary Tale for Poland. The ERCB and the Big No-No: Drilling-Toxic-Waste Land-Spreading in Alberta ... “in the public interest” (NOT)

Any propaganda should be abandoned for the sake of fact-based communication. (Paul Ferensowicz, ERCB, July 27, 2011, Lublin meeting, Poland.)

A group of Alberta landowners called Alberta Surface Rights Group¹³ posted an informational article in May, 2011 called *Land Spreading Drilling Waste - Things You Should Know!* The article was a copy of an informational bulletin distributed to an email list in mid-2010 detailing information about concerns related to the Baytex tar sands producer in the Three Creeks area northeast of the town of Peace River. It was about ERCB’s landspreading permit to Baytex on Carmen Langer’s farm and livestock lands. It began with the following paragraphs:

Land Farming

The sheer idiocy of landfarming and the Alberta government’s handling of it, defies logic and all concern for our health. Our government allows industry to dispose of their contaminated oilsands waste on the clean soil we use to grow our food. Science shows us that this practice poisons air, soil, water, plants and animals; all of the things we depend on to lead long and healthy lives.

Landfarming has been called different names in different places, at different times; landspraying, landspraying while drilling, landspreading, landfarming. Alberta changed the name to “Biodegradation” in last month’s edition of Directive 50¹⁴ (landfarming regulations). This is a misnomer as only the organic components biodegrade. The toxic oilsands waste being spread on fields has been biodegrading in the ground for 60-100 million years. The toxic material we’re pulling out of the ground has resisted biodegradation for millions of years. (1) How can the Alberta government claim it will biodegrade on a farmer’s field in a couple of growing seasons?

It’s not just “oilsands waste” (quoted above) that was being sprayed over public and private lands in northern Alberta - a serious problem - but toxic drilling fluid and mud waste from the numerous gas and oil drilling operations throughout Alberta.

How long has this practice been permitted in Alberta? Why was it allowed to begin with, and who allowed it? Which arm of government regulates it? Who watches where the waste is going? What’s in the waste? Is it radioactive? How many people are responsible for accurately monitoring the ingredients and impacts of this contaminated waste to groundwater, to streams and rivers, to dust particles air-blown over Alberta by its frequent winds and distributed who knows where, to the effects of living

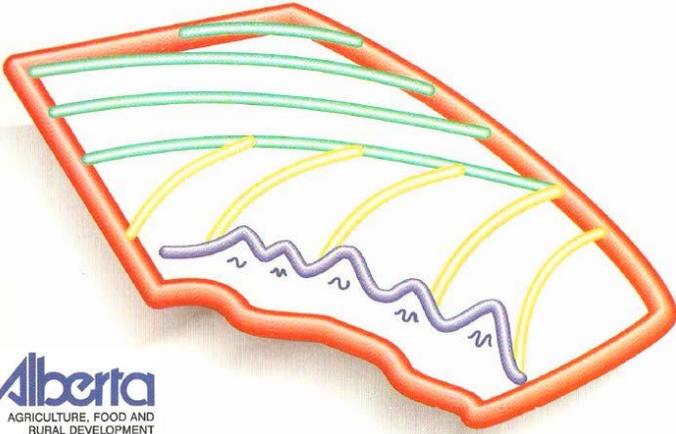


¹³ www.albertasurfacerights.org

¹⁴ On the ERCB’s website, www.ercb.ca, is a page devoted to *Directive 050: Drilling Waste Management*, and provides some background information on drilling waste regulations and guidelines.

creatures, to the health effects of people, and to Alberta's beef livestock and food crops such as wheat and grains? Where else is this occurring in Canada? Move over Rachel Carson!

The front-page of the October 2007 edition of The Alberta Native Plant Council Newsletter featured an article by Cheryl Bradley, *Drilling Waste on Native Prairie - A Critical Review*. The article began by summarizing some of the history of Alberta's strange and vile practice of landspreading:



Alberta
AGRICULTURE, FOOD AND
RURAL DEVELOPMENT

Drilling Waste Management

This video explains the proper disposal of drilling waste from oil and gas operations in Alberta. The disposal of drilling waste must be done using environmentally acceptable methods that comply with strict guidelines. Landowners, the oil and gas industry, educational institutions and other interested groups will find this video a good source of information on drilling disposal methods and waste management guidelines. It focuses on the rights of the landowner, but the issues are discussed from the points of view of the oil and gas industry, the government agencies involved and the landowner.

17 min 1998

*Alberta Native Plant Council members interested in minimizing the effects of the oil and gas industry on native prairie will be interested in a report entitled **Landspraying While Drilling (LWD) Review** prepared by a team within Alberta Sustainable Resource Development (ASRD).¹⁵ Although written in December 2003, the report was not publicly released until summer 2006. This is probably because the results of the review of landspraying while drilling reflect badly not only on industry's operations but also on government's ability to effectively monitor and enforce compliance.*

Landspraying while drilling (LWD) is the practice of disposing of waste drilling fluids by spraying them onto land using vacuum trucks. LWD began in the 1990s on cultivated land as a way of avoiding the need to construct sumps for drilling waste disposal or haul to a disposal facility. It began as a practice on public land grasslands in 1998 after a two-year field study (by Pedocan) and a further two-year

trial period led to the conclusion that at appropriate application rates there were not significant effects on rangeland function and soil quality. Conditions were applied to the practice on public land. LWD was widely used by Encana in CFB Suffield; but was not allowed by the Special Areas Board.



Photo, left, borrowed from **Gangster Enterprises** website, a petroleum service company, showing typical landspreading operations in rural crop land Alberta.

¹⁵ The 2003 report eventually released in 2006 was either never on, or was removed from, the internet.

New Expectations for Drilling Waste Disposal

Three regulatory agencies—the Alberta Energy and Utilities Board (EUB), Alberta Agriculture, Food and Rural Development (AFRD), and Alberta Environmental Protection (AEP)—and representatives from the energy industry, joined forces in 1994 to develop a consolidated set of draft guidelines for drilling waste disposal. Extensive industry, government, and public input resulted in the publication of the material in this *Guide 50 Drilling Waste Management*.

A fundamental principle of this guide is that **the proper management of drilling wastes is the responsibility of the holder of the well licence.**

*In 2001, provincial public land managers noted increased vegetation stress from drought conditions - conditions which appeared to aggravate potential impacts of LWD. **The practice was suspended on public rangelands. In CFB Suffield the practice was allowed to continue on industry pipelines and trails.** A government review of LWD was initiated in 2003 when oil and gas companies requested a lifting of the moratorium. The review included examination of hundreds of LWD case files and field inspection records, a field audit of LWD sites at CFB Suffield, a review of LWD alternatives, and feedback from land managers in ASRD, Special Areas Board, Eastern Irrigation District and CFB Suffield. **The review of files and records revealed a number of major issues** including LWD outside of approved areas, no final field report, field plans of poor quality, heavy loading rates and siting problems. The survey of sites within CFB Suffield revealed poor distribution of LWD residual solids resulting in skins and mudpicks which smothered grassland vegetation; rutting of soft soils; and LWD application on sensitive sites including sand dunes, watercourses, wetlands and steep slopes.*

4.0 Landspraying While Drilling on Native Rangeland - List of Issues

After reviewing the available data and inputs, the LWD Review Team identified the following key issues which were grouped as administrative, operational, or environmental related issues.

Administration Issues

- Lack of notification by industry on where and when LWD occurs.
- Poor documentation of locations, accuracy, readability, type of reporting. Inadequacy of referral mechanism.
- Inadequacy of referral mechanism
- Assigning an appropriate disposition type and associated consents to LWD activities.
- Cost recovery for administration - fair return of use.
- Industry accountability for revisions when project amendments occur.
- Enforcement [and role of other agencies in this].
- Closure mechanism for file: what are the requirements?
- Creation of tracking mechanism [self reporting vs. our reporting].
- Industry requirements.
- Penalties for violations under the Public Lands Act.

Top image, the October 1996 EUB edition of *Drilling Waste Management*. The bottom, the 2003 *LWD Review* study.

The main reason why the ERCB permitted landspreading practices in Alberta was for petroleum companies to cut corners on cumulative costs from otherwise hauling voluminous drilling and other production wastes to licensed toxic waste disposal and landfill sites. Where or how have/are those costs being otherwise transferred? What are all the transferred 'costs' to the ecosystems and to society over time, and who ends up paying the cumulative price?

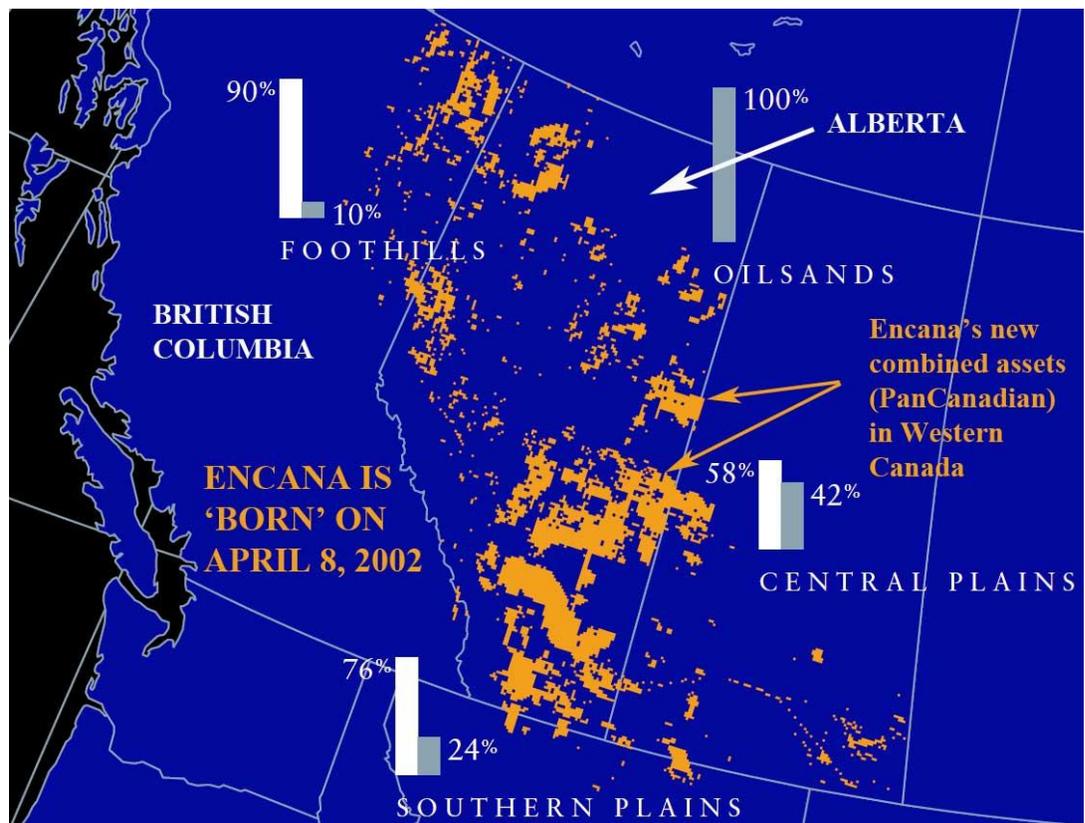
3.0 Discussion and Summary of Review Findings

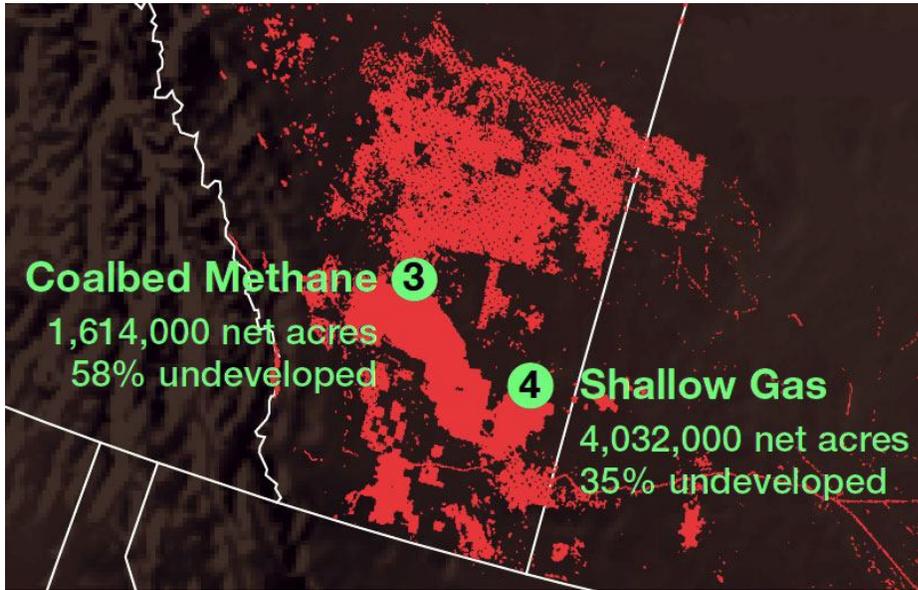
The review of the LWD file paper trail and of field inspection reports from the Medicine Hat office highlighted a number of failures and problems, which were common to both review components. The most common problem was that of LWD projects being applied outside of the approved area. A number of cases had no final field report, many field plans were of poor quality and not useful in the review process, or, no approval had been obtained for the LWD project. The next most common issue was that of heavy loading rates of LWD materials. Finally, siting problems were common to both review components with LWD materials being applied through watercourses, on high value wildlife habitat like sagebrush cover and on fragile sand dune sites.

One of the prominent stories in Alberta concerning landspreading occurred in southeastern Alberta over a vast native grassland prairie landscape generally known as Suffield. It's a story about how Encana - one of the most powerful and influential petroleum companies in Alberta, and its notorious corporate culture of defiance and disrespect - clashed with the Department of National Defence and the Suffield National Wildlife Area defenders. It's a story about the strange new face of Alberta shaped by the emerging influence of Encana-international with its fingers in both unconventional shale and tar sand pies.

Its captain and commander was Gwyn Morgan.

Image from Encana's first annual report, 2002. Encana acquired and merged with PanCanadian's holdings. In years to come, Encana would acquire additional land and lease assets.





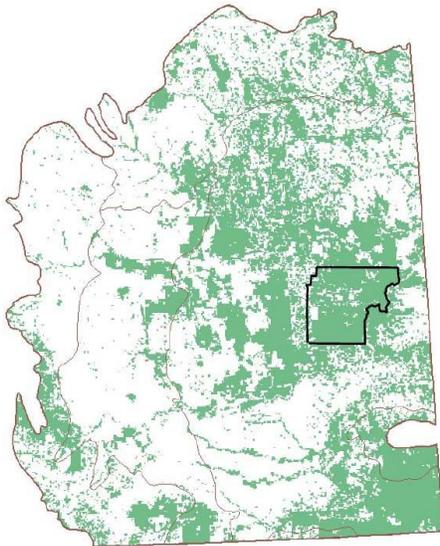
Images from Encana's annual report, 2005. The Suffield area is identified within Encana's "shallow gas" zone 4. The "coalbed methane group" includes the area where Encana was fracking the town area of Rosebud from 2001 onward. In 2005 alone, Encana drilled 3,163 unconventional gas wells in British Columbia, Alberta, Saskatchewan, and in the United States. In the general Suffield area, the company drilled over 1,200 wells. That's a lot of drilling and mud waste, and a lot of fracking.

	Production (MMcf/d)		Capital (\$MM)		Wells drilled (net)	
	2005	2006F	2005	2006F	2005	2006F
① Greater Sierra	219	225 - 235	417	340 - 350	164	150
② Cutbank Ridge	92	160 - 165	510	500 - 520	135	115
③ Coalbed Methane	57	150 - 160	386	440 - 460	1,084	800
④ Shallow Gas	625	610 - 620	333	290 - 295	1,267	1,060
⑤ Jonah	435	510 - 530	300	500 - 530	104	210
⑥ Piceance	307	300 - 320	661	510 - 550	266	260
⑦ Fort Worth	70	90 - 110	170	220 - 260	59	105
⑧ East Texas	90	90 - 110	227	160 - 200	84	65
Subtotal - Gas	1,895	2,135 - 2,250	3,004	2,960 - 3,165	3,163	2,765

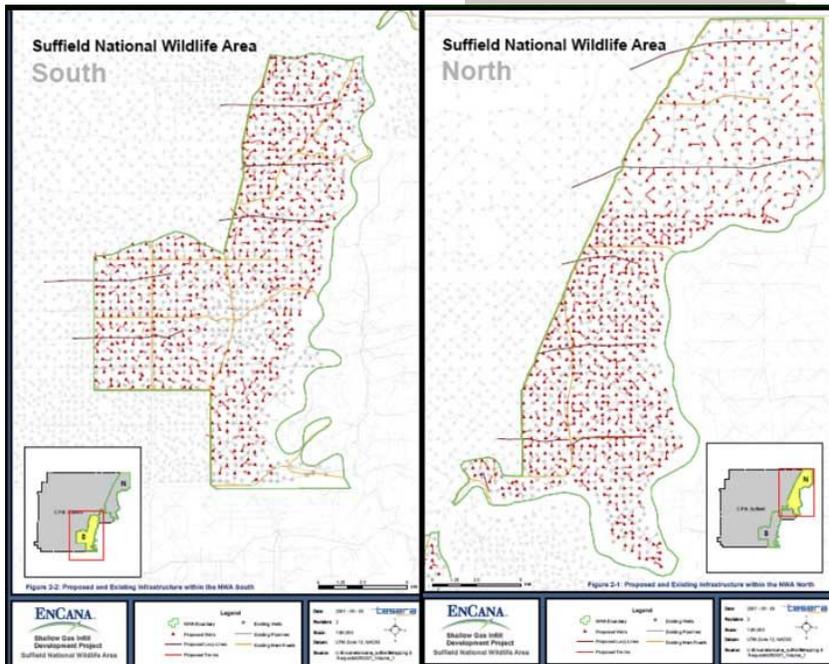
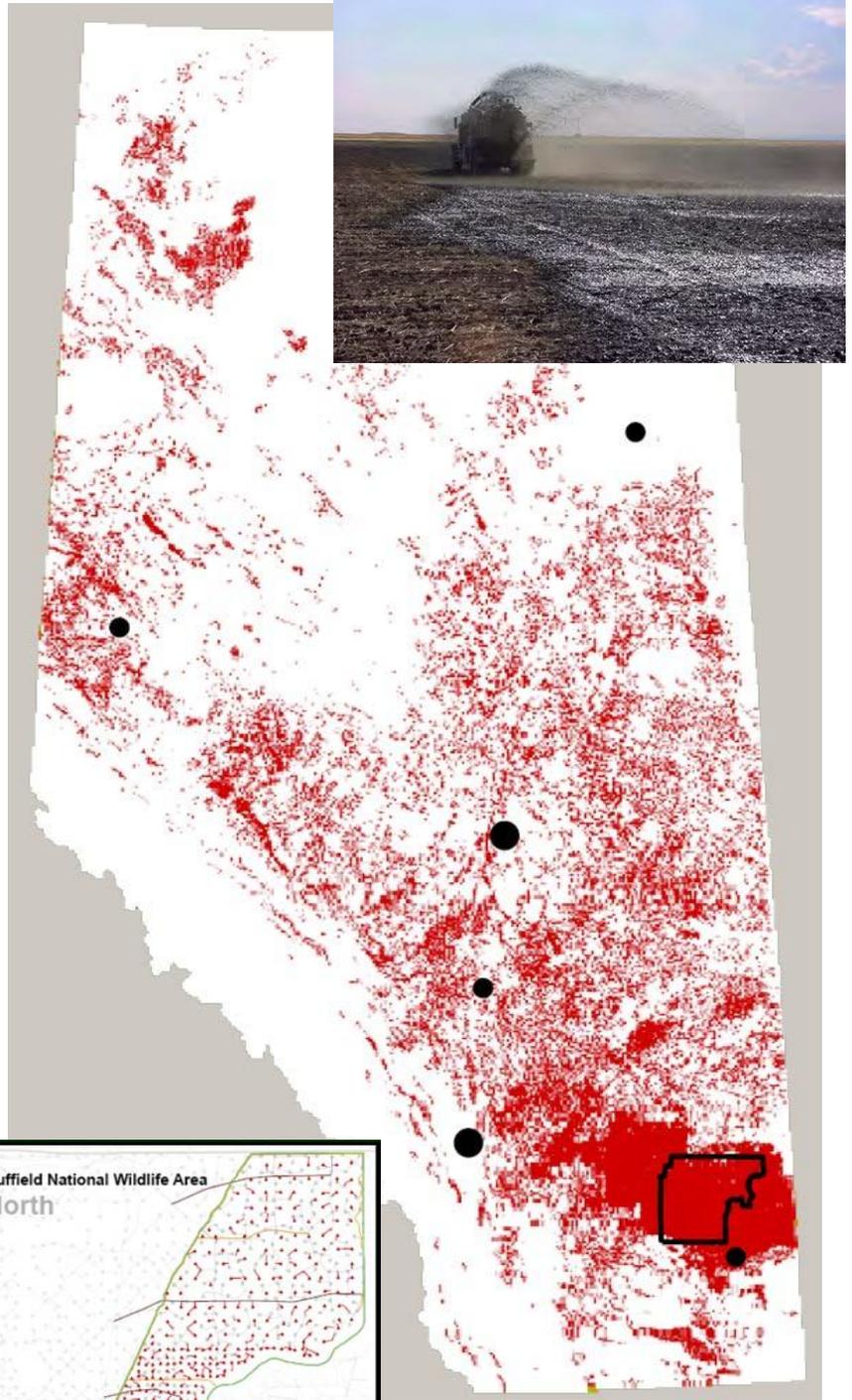
As natural gas well production increased in Alberta, so did the increases in toxic drilling waste and mud volumes, and industry's desire to cut costs. Landspreading measures were introduced in the early 1990s as a result. The graph to the right was from accumulated well data up to 2005, presented by Dr. Brad Stelfox at the Suffield-Encana public hearings in 2008. The left column shows the number of wells developed in Alberta.



Dr. Brad Stelfox's presentation, *An Evaluation of the Cumulative Effects Assessment of Encana's Gas-Infill in the National Wildlife Area of Suffield*, to the Joint Review Panel on October 15, 2008 included this map (right) of Alberta showing the area scales of natural gas locations and the location (in black outline) of the Suffield National Defence lands.



The area in green (above) shows the "remaining native Prairie in Alberta's Grassland Natural Region.



Encana's proposal locations for 1,275 additional wells in the Suffield National Wildlife Area. Stelfox said that the "scale, magnitude and intensity of the proposed gas well infill, in combination with existing footprints, and other landuse regimes, necessitated a proper cumulative effects assessment."

Final Conclusions

I conclude that the CEA methodologies employed by Encana could not have detected a cumulative effect even if a profound one did exist.

One of Canada's largest army bases is taking on oilpatch heavyweight EnCana Corp. over the firm's aggressive drilling plans on its ecologically sensitive lands in Southeastern Alberta. For the past 30 years, Canada's largest natural gas producer and CFB Suffield, located 50 kilometres northwest of Medicine Hat, have worked side by side to share the use of a vast expanse of hydrocarbon-rich land, where many of EnCana's wellheads are held in underground culverts capped by a steel plate to allow tanks to move freely on top.

The Department of National Defence owns the surface rights on the 2,690-square-kilometre property, while the Alberta government owns the mineral rights.

Now, the base is pushing back on an escalation of oil and gas activity -- including plans by EnCana to double the number of wells in an area in the eastern part of the range designated in 2003 as a wildlife refuge.

The base says industry is harming the native Prairie habitat and has the potential to get in the way of war games.

The Suffield natural gas play is one of EnCana's top fields and a big part of its strategy to focus on resource plays in North America. The strategy involves drilling a large number of wells to produce natural gas from so-called tight reservoirs.

Already, there are 9,500 EnCana wells on the base and another 1,154 in the refuge. EnCana wants to increase the concentration of wells on the base by 550 a year, and to more than double the wells in the refuge in the next three years.



Lt.-Col. Daniel Drew, the base's new commander, said he's "drawing a line in the sand" and will not allow more than 16 wells per section on the base.

"There has been a tidal wave of gas drilling in the last five years," said Lt.-Col. Drew, a paratrooper, U.S. Army Ranger and graduate of the Royal Military College of Canada and the United States Marine Corps

Command and Staff College. His past assignments included tours of duty in Bosnia, Croatia and Cyprus.

"We have gone from drilling 50 wells a year to now up to 1,000 wells a year. I have a responsibility to the people of this country and to the environment to find out a little bit more before we make rash decisions and allow people to take measures that will effectively destroy the environment. ('A Line in the Sand,' the National Post, January 14, 2006)

Above: Concluding remarks from Dr. Brad Stelfox's presentation.

The story goes that a citizens group filed a Freedom of Information request to the ERCB asking to get a copy of the 2003 document, *Landspraying While Drilling Review*, because the ERCB had kept it from the public.

That's why the documents surfaced, were handed over to Lieutenant Colonel Daniel Drew, who then involved the Canadian army. Encana was not only messing with the public, it was now pushing the Army's buttons, and it was landspraying the grassland before and after the Wildlife sanctuary was created in 2003. Oil patch workers were even running over endangered rattlesnakes.

The reason why the secret 2003 report was done was because Encana was creating problems from its toxic landspraying activities on the sensitive Suffield grasslands. Why did the ERCB hide the 2003 study, as Encana continued to landspread?

EnCana is committed to demonstrating leadership, engaging stakeholders and increasing transparency.

Lt.-Col. Drew got so upset at one meeting with the company that he told those in attendance he would rather be with his son in Afghanistan hunting down the Taliban than dealing with EnCana on oil and gas issues.
 (Calgary Herald, February 5, 2006, *Fighting for the Prairie Grassland*)

On July 1, 1996, guidelines for LWD on White Area public land grasslands were approved for a two-year trial period, as a method to reduce the area of native prairie disturbed during sump construction. The approval of the guidelines had been pursuant to a field study undertaken during 1994/1995 to monitor effects of LWD on native prairie using conventional equipment and methods. The research project concluded that little adverse effect was observed save for short-term coating of vegetation by land spray materials until rainfall washed materials off or until it was redistributed by wind.

By 1998, after a further two-year trial period, Public Lands accepted LWD as a potential disposal practice on native grassland, provided appropriate conditions were adhered to. In 2001, due to increased vegetation stress from drought conditions in the Grassland Natural Region, Alberta Sustainable Resource Development - Public Lands and Forest Division, suspended the authorization of Landspraying While Drilling (LWD) on public rangeland, native prairie throughout the province. A review has been initiated because of industry's request to lift the moratorium and desire to continue using LWD on native prairie on public rangeland.

Super Floc	Organic Polymer	Flocculants	All
Super Sweep	Treated polypropylene fibre	Viscosifiers	Federal Wholesale/Millennium
Super-Col	Extra high yield bentonite	Viscosifiers	Baker Hughes Inteq
Superlig	Lignite	Thinners, Dispersants	Canamara United
Superwet 250	Non-ionic water wetting agent	Surface Active Agents	Brine-Add Fluids
Surf-Cote/Omni-Cote	Oil wetting agent	emulsifier	Baker Hughes Inteq
Suspentone	Organophilic viscosifier for oils	Viscosifiers	Baroid
Sweep-Wate	Selectively sized barite for high density sweeps	Weighting Materials	Baroid
Synerchem CS-50	Chloride free amine inhibitor	Shale Control Inhibitors	All/Synerchem
Synerdrill FR-1	Acrylamide AMPS co-polymer	Filtrate Reducers	All / Synerchem
Synerdrill FR-2	Sulfonated pam	Filtrate Reducers	All / Synerchem
Synerfloc D-40	Poly DADMAC	Flocculants	All/Synerchem
Synerfloc D71181	Cationic Co-polymer	Flocculants	All/Synerchem
Synerfloc PA-50	Polyamine	Flocculants	All/Synerchem
Synerflow	Xanthan, guar, guar blends	Viscosifiers	Synerchem
Synerflow S	Sceroglucan	Viscosifiers	Synerchem
Synerfoam	Surfactant blend	Foaming Agents	Synerchem
Synerhib KF	Potassium formate	Shale Control Inhibitors	All/Synerchem
Synerplex	MMH	Viscosifiers	Synerchem
Synerperse	Liquid/dry LMW polymers	Thinners, Dispersants	All/Synerchem
Synerperse 35-50	Liquid thinner polyacrylate	Thinners, Dispersants	All/Synerchem
Synerthin EX	Power thinner polyacrylate	Thinners, Dispersants	All/Synerchem
Synervis	Guar gum	Viscosifiers	All/Synerchem
Synervis L	Guar gum liquid	Viscosifiers	All/Synerchem
Synerxan	Xanthan gum	Viscosifiers	All/Synerchem
Synerxan D	Dispersible xanthan gum	Viscosifiers	All/Synerchem
Synerxan L	Xanthan liquid	Viscosifiers	All/Synerchem
Synterra	Low viscosity synthetic olefin isomer drilling fluid	Systems	Baker Hughes Inteq
T-352	Gluteraldehyde	bactericides	All
Tannix/Tannex		Thinner	All
Tar-Clean	Anti-accretion for bitumen	Surface Active Agents	M-I Swaco/Federal
Temperus	Suspension agent for oil based and synthetic muds	Viscosifiers	Baroid
Teq Detergent 20L	Water-soluble, biodegradable detergent/rigwash	Surface Active Agents	Baker Hughes Inteq
Teq Floc RD	High mol. Wt. Anionic dispersible PHPA	Flocculants	Baker Hughes Inteq
Teq-Thin	Chrome-free lignosulfonate	Thinners, Dispersants	Baker Hughes Inteq
Therma Check	Extreme HT filtrate reducer	Filtrate Reducers	Baroid

A sample from PSAC Canada's long list of some 1,000 different ingredients and chemicals used for drilling and fracking



Federation of Alberta Naturalists

Grasslands Naturalists

Alberta Environment Abandons Watershed Responsibility in Suffield Region

Calgary (February 29, 2008) – Alberta Environment has abdicated its responsibility for provincial water and watershed management by declining to be involved in public hearings examining EnCana's application to drill 1,275 wells in the Suffield National Wildlife Area. The Suffield Coalition, comprising six provincial and national conservation groups, believes that Alberta Environment's decision is unacceptable, given the department's mandate to effectively manage the province's water supply.

EnCana has submitted water well drilling reports to Alberta Environment, and groundwater diversion licenses have been issued to EnCana for their operations on CFB Suffield. This clearly shows that Alberta Environment has responsibility for groundwater on the Base.

"In a semi-arid, drought-prone region, Alberta Environment should have something to say about freshwater being used for industrial purposes," says Cliff Wallis, vice-president of Alberta Wilderness Association. "Why is Alberta Environment keeping silent on these critical issues?"

EnCana's past record reveals a cavalier and careless attitude toward water. In October 2004, EnCana drilled a well in a wetland on federal land near the Suffield National Wildlife Area, violating federal wetland policy. For 11 months, EnCana ignored the Base's three formal written directives and several oral requests to remove the well, and only when threatened with expulsion from the Base did EnCana comply with the Base's demands.

In 2005, Encana released a report on frack and drilling fluids from a study conducted on its Suffield well operations, *Investigation into Water Based Frac Fluid use in Drilling Fluids Associated with Shallow Wells on the Suffield Block*. That study, posted on PTAC's website, was recently removed in November 2011, perhaps at the behest of Encana.

Recycling Frac Fluid Pilot



**INVESTIGATION INTO
WATER BASED FRAC
FLUID USE IN
DRILLING FLUIDS
ASSOCIATED WITH
SHALLOW GAS WELLS
ON THE SUFFIELD
BLOCK**



Metal Concentrations

ENCANA

Table #1 – Average Metals Concentrations in Recycled WBFF and Drilling Waste

Parameter	Recycled WBFF (mg/L)	Drilling Waste (mg/L)
Arsenic ←	0.0617	0.507
Barium ←	1.44	13.01
Beryllium	0.0629	0.00263
Cadmium	0.00	0.00213
Cobalt	0.0328	0.315
Chromium (total) ←	0.091	0.857
Copper	0.133	1.174
Mercury ←	0.0078	0.0214
Molybdenum	0.0218	0.0294
Nickel	0.0121	1.13726
Lead	0.0894	0.137
Antimony	0.004	0.00121
Selenium	0.0171	0.055
Tin	0.00167	0.0105
Thallium	0.0004	0.00263
Vanadium	0.172	1.94
Zinc	0.544	3.29

- After drilling was completed the resulting drilling waste was managed using the LWD disposal option as outlined in the EUB's *Guide 50: Drilling Waste Management*
- WasteCo Environmental provided all related drilling waste management services while EnviroTest Laboratories (ETL) conducted the analytical portion of the project

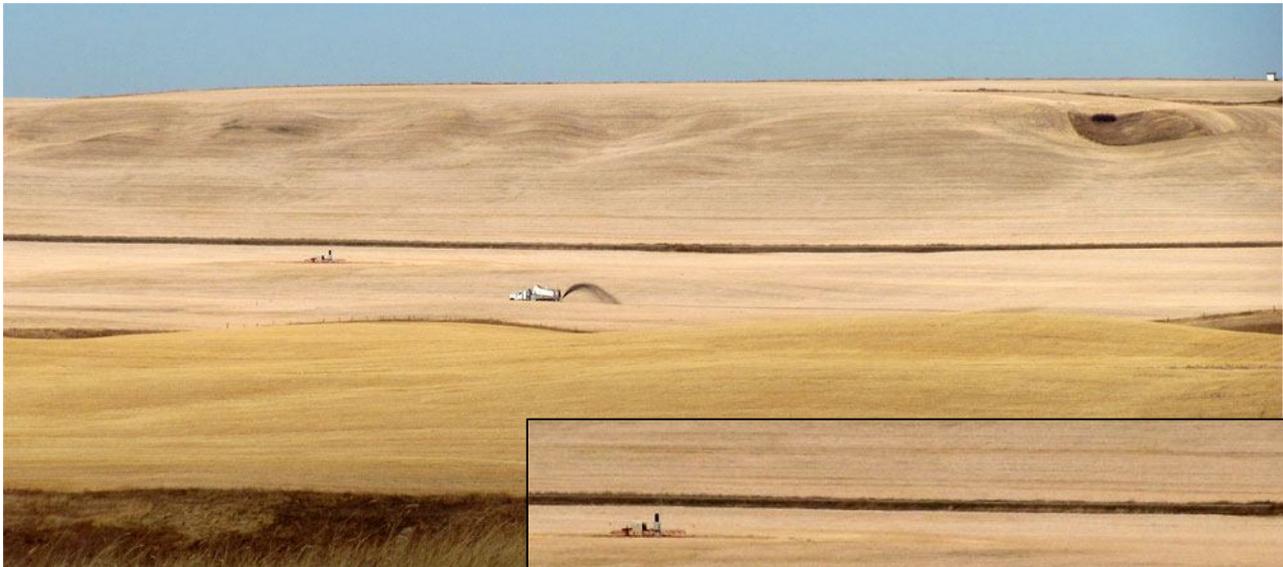
2. The resulting drilling waste should be suitable for Landspray While Drilling (LWD) disposal

3. There should be no measurable impact on the receiving soils as a result of the LWD

More excerpts from Encana's 2005 frack and drilling fluid study.

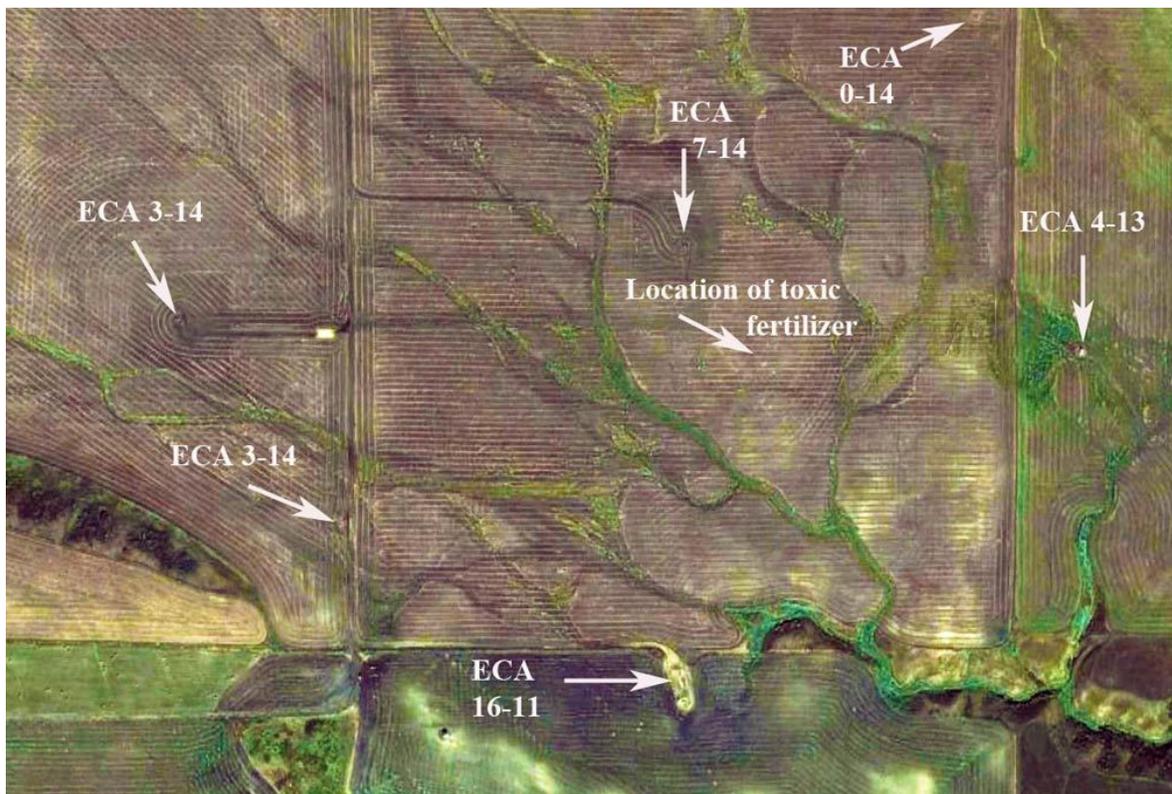


- Needed to evaluate whether or not there were any changes in the recycled WBFF after drilling
- The fluids were tested before (recycled WBFF) and after drilling (resulting drilling waste) for the following parameters:
 - Metals (full CCME metals analysis);
 - Microtox;
 - Hydrocarbons (CCME fractionization);
 - Detailed salinity; and
 - pH.



The above photo, with inset, was taken on October 30, 2011, just west of the town of Rosebud, Alberta. The likely toxic drilling waste being 'fertilized' on crop lands is from Encana's drilling rig very near and under the home of Jessica Ernst who is suing Encana for allegedly poisoning her, and her community's, drinking and domestic water wells.

Note the dark line across the middle of the photo - the 'fertilizer' line. You can see one of Encana's gas wells (ECA-14) just left of the 'fertilizer' truck. Encana, unmoved by the court action, just keeps on fracking! The bottom is an enhanced image from Google Earth, showing well locations, the location of the 'fertilizer' truck in the top photo, and the dendritic water runoff patterns. The runoff drains into the Rosebud River system. Encana refused to inform Ernst of the chemicals used in the drilling fluids, and if it was fracking radioactive Fish Scale shales.



Investor questions for EnCana's Chief Operating Officer Randy Eresman



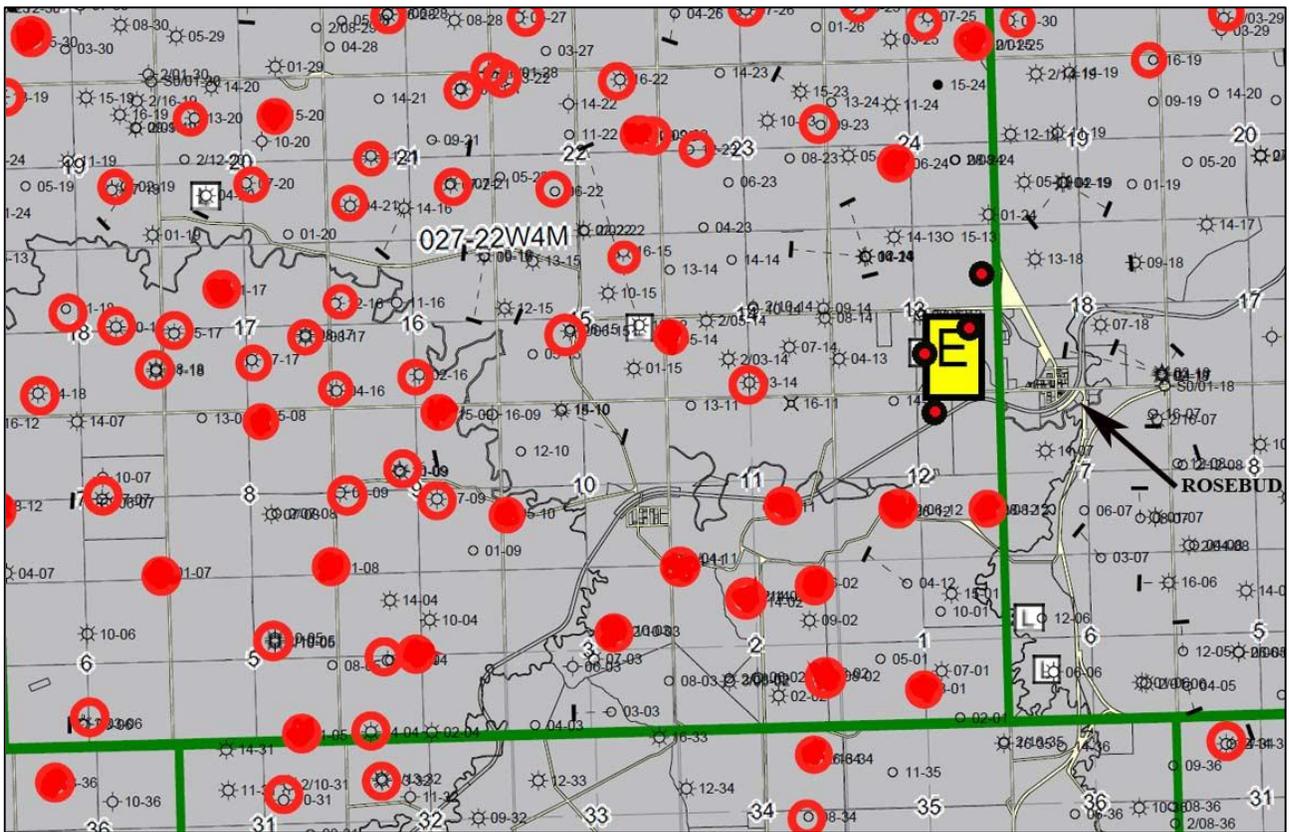
UNCONVENTIONAL EXECUTION



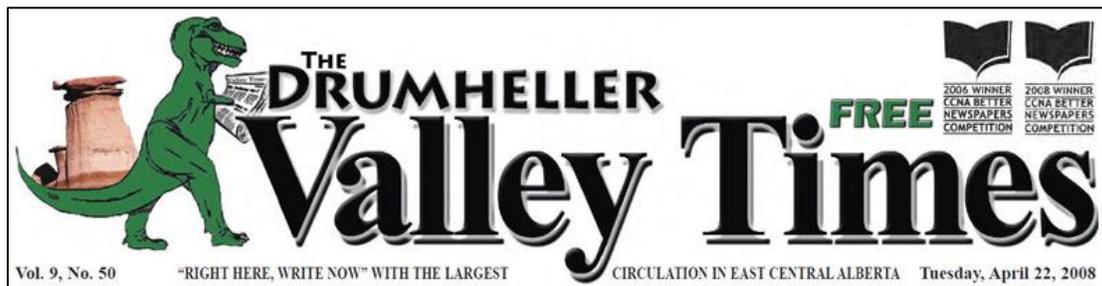
UNCONVENTIONAL
ENCANA CORPORATION
WHY INVEST IN ENCANA?

The Google Earth image above, between two re-administered cut outs from Encana's 2004 annual report, shows the town of Rosebud (far right). The four red rectangles are the locations and identities of Encana's 4 new wells, 3 of which were developed after the ERCB's new no-well spacing regulation. To the far upper left, the white arrow indicates the location of where the toxic landspreading is occurring near Encana's ECA 7-14 well as shown in the other photos above, giving the perspective of where all the toxic water runoff is heading. The toxified water that isn't surface bound, is groundwater bound, and some of the laced soils when dried become airborne as dust from the prevalent wind patterns and the dust settles in the valley where people live.

The day before Alberta Premier Allison Redford was crowned as the Petro State's new Conservative Party leader, the ERCB introduced a new, highly controversial regulation granting the petroleum industry the legal unrestricted and unfettered right to overpopulate development locations of their oil and gas wells throughout Alberta. The preceding regulation had limited the numbers and placements of these wells within a given perimeter plan, and landowners had been deeply concerned about that policy. Now, all unconventional hell was about to break loose in Alberta just as the fracking fraternity was making other plans to propagandize the public and further entrench western Canada's provincial politicians into the New West Partnership agreement.



The image, above, is a section from Jessica Ernst's larger high resolution map used in her recent public presentations, *Shallow Gas Wells Drilled and Frac'd Near Rosebud, Alberta*. The red circles indicate the density of Encana's carpet bombing with coal bed methane gas wells in the area since 2001. The solid red dots indicate which wells were "perforated and or hydraulically fractured above 200 metres before April 2006," developed, that is, "above the base of groundwater protection before April 2006." Each square in this map represents a 'quarter section', and four quarter sections represent a square mile. The yellow rectangle marked "E" is the approximate location of Ernst's property, and the four circles with small red dots around her property are Encana's four new wells, the top one of which is not yet developed.



There's a mysterious story about what happened to the Drumheller Valley Times, the newspaper that began in 1999 in Alberta's Starland County dinosaur-famous town of Drumheller, some 25 kilometres northeast of Rosebud. The paper's editor, Isabell Fooks, began publishing stories in 2006-2007 about unconventional gas development, stories and letters to the editor about Encana. Sometime in late 2008 - early 2009, the newspaper was bought out by a new owner. Accounts from neighbouring businesses said they saw all the newspapers, archives, and even numerous picture frames of front page news editions that once lined the paper's office walls, thrown into a dumpster container and hauled away, never to be seen again. The paper no longer exists.

UNCONVENTIONAL PERCEPTION AND ADVICE

It took a few years of professional public relations experts butt-heading, and millions of petroleum dollars, to come up with the revelatory advice that the term “unconventional” was not a useful public image-shaping connotation. That “semantic challenge” advice was introduced in an unconventional conference held in Krakow, Poland on September 27, 2011 by public relations giant DF King’s subsidiary, M:Communications. It said, “The industry’s attempts to ‘normalize’ fracking use will in large part depend upon the success of its communications strategies in general and stakeholder programme in particular.” Three months later, Alberta’s Calgary Herald published an article on December 30, 2011, *Fracking Fears Spur Review of Oilpatch Regulations: Provinces Committed to Registry to Disclose Use of Chemicals*. In it, the Alberta Conservative Party government’s newly appointed Energy Minister (October, 2011), Ted Morton, said:

The Alberta government is pushing ahead with a regulatory overhaul to handle an expected boom in light oil production from resource plays, attributed to the application of advanced oilfield technology.

Energy Minister Ted Morton is committing the province to updating its rules, amid public concerns across the continent about the safety of multi-stage hydraulic fracturing, also known as fracking, which is being widely employed to tap previously unproductive reservoirs.

“We’re right on the front edge, I would predict, of a new renaissance in unconventional oil production,” Morton said.

There’s debate about whether to call the resource or the technology unconventional, since in Alberta, companies are targeting the tight portions of formations that have produced conventional oil for decades.



Photo of Ted Morton, Calgary Herald article.

Consternation rumbled across the country like an approaching thunderhead. For aboriginal leaders, one of their worst nightmares appeared about to come true. Two weeks before last June’s federal election, pollsters were suddenly predicting that Conservative leader Stephen Harper might pull off an upset and form the next government. What worried many in First Nations’ circles was not Harper himself, but the man poised to become the real power behind his prime ministerial throne: his national campaign director Tom Flanagan, a U.S.-born professor of political science at the University of Calgary.

Who are these men -- for they are, without exception, men -- in Harper’s backroom brain trust, collectively dubbed the “Calgary School?” Flanagan won his conservative spurs targeting the prevailing wisdom on the country’s native people -- what he calls the “aboriginal orthodoxy.” Others like Rainer Knopff and Ted Morton -- Alberta’s long-stymied senator-elect -- have built careers, and a brisk consulting business, taking shots at the Charter of Rights, above all its implications for the pet peeves of social conservatives: feminism, abortion, and same-sex marriage.

*A Globe and Mail report that once referred to Flanagan as the original godfather of the city’s conservative intellectual mafia. “I call him Don Tomaso,” (Ezra) Levant says, “He is the master strategist, the godfather -- even of Harper.” (Segments from, *The Man Behind Stephen Harper*, by Marci MacDonald, in the *Walrus Magazine*, October, 2004.)*

10-(5). ERCB IGNORES ALBERTA WHEATLAND COUNTY BY-LAW

At a regular council meeting of the Wheatland County board in Strathmore on April 1, 2008, County employee Steve Nedoshytko reported that Encana had just drilled two wells during a religious holiday on a golf course in the hamlet of Lyalta, some 15 kilometres northwest of Strathmore. It occurred from Friday March 21 to Monday March 24, 2008 during the Easter long weekend, and Encana did it in contravention of the Wheatland County's bylaw "that no wells will be drilled within 1.5 kilometres of a town or hamlet."¹⁶ The County's chief administrative officer Jennifer Deak said at the meeting that Encana "had no regard for our policies," and councillor Ken Sauve said "we have to investigate this now ... and we need to involve the provincial government and see what's going on."



RESOLUTION 08-154
Encana
Well Sites
5-8-25-26-W4

WHEATLAND COUNTY COUNCIL MEETING MINUTES OF APRIL 1, 2008

Wheatland County Landman updated Council regarding an Encana well site that was moved into the Muirfield development over the Easter weekend (March 21 – 24, 2008) and is located within the hamlet boundary (5-8-25-26W4M). Wheatland County initially objected to the well site proposal and an appeal to the Energy Resources & Conservation Board (ERCB) is on file. Wheatland County CAO and County Landman spoke to ERCB legal representatives on March 26, 2008, noting that the County continues to object to the well site within its hamlet. Recourse is to request that the wells be abandoned. Mr. Churchill, Manager of Transportation & Infrastructure, reported the incident with Courtesy Matters Committee. Councillor Sauve noted that he is scheduled to meet with the Courtesy Matters Committee on April 2nd – Councillor Sauve has requested attendance of the CAO and County Landman.

SAUVE MOVED that Wheatland County send a letter to the Energy Resources and Conservation Board, with a copy to Encana Corporation and Muirfield Development, requesting abandonment of the Encana well sites located at 5-8-25-26-W4M, based on Wheatland County's policy and specifically with regard to safety concerns.

• Carried.

After the April 1st meeting, Wheatland County officials were informed that the ERCB "had the final say on the wells." The newspaper article had the following quote from Deak: "The ERCB felt we didn't have any interest so they denied our appeal. They laughed at our safety concerns."

About 6 months earlier, the Strathmore Standard published a letter on September 12, 2007, written by Jessica Ernst, a letter which may have irked someone to later challenge the County's bylaw:

I am delighted that Wheatland County Council had the courage to deny new gas wells within 1.5 km of Rosebud. There are already many wells and compressors here. EnCana's rotting straw bale wall around two of these compressors indicates the level of disrespect the company has for the legal rights of Albertans and our environment. EnCana has violated my legal right to quiet enjoyment of my property for years.

Considering that EnCana perforated and fractured our drinking water aquifers, without conducting any appropriate data collection first, telling us, or fulfilling the regulatory requirements in place at the time (including applying for a permit from Alberta Environment before diverting water from the CBM well), I am pleased to see our council stand up to the

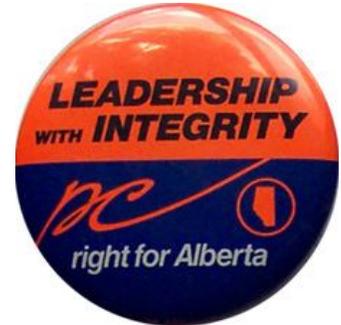
¹⁶ Strathmore Standard, *Methane wells in golf course anger County*, April 10, 2008.

rogue company. I have documents to substantiate this letter. If you want copies or more information, please let me know.

EnCana publicly announced in the government's water meeting in Strathmore last June that the company fractured over 40 wells in our county above the base of groundwater protection - without appropriate data collection first. EnCana declared publicly that it does not have to cooperate in the regulator's investigation at Rosebud. To the best of my knowledge, the required gas samples for fingerprinting (from EnCana's gas well that fractured our aquifers) have still not yet been taken and analyzed at the U of A, as promised in writing on March 13, 2006 by Alberta Environment's Compliance Investigator.

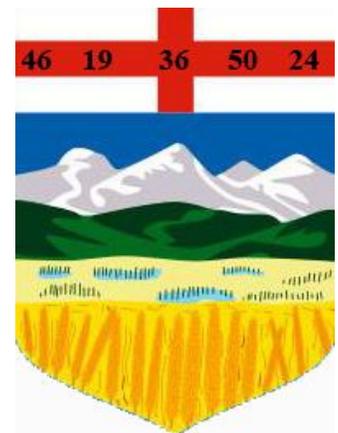
10-(6). Petro-Alberta’s Regressive Laws

“It’s quite a scary bill,” said Laurie Danielson, executive director of an Edmonton-area industrial group called the Northeast Capital Industrial Association. “I have never seen a bill anywhere in the country that gives a government as much authority. This bill allows the government to decide whether you exist. It can wipe you out in a heartbeat.” (Bill 36)



From about 2007, Alberta’s long-reigning (41-year consecutive) ‘Progressive’ Conservative Party administration began instituting a series of regressive laws, some of which Alberta lawyer Keith Wilson has described as “drastic” and “unprecedented in a Western Parliamentary Democracy.” Most of these bad Bills passed include:

- Bill 46 - the *Utilities Commission Act* (January 1, 2008)
- Bill 19 - the *Land Assembly Project Area Act* (2009)
- Bill 36 - the *Alberta Land Stewardship Act* (2009)
- Bill 50 - the *Electric Statutes Amendment Act* (2009)
- Bill 24 - the *Carbon Capture and Storage Statutes Amendment Act* (2010)



New Alberta Land Stewardship Act
What is the Government is saying now . . .

Does the *Alberta Bill of Rights* Protect you?



- No, according to the Supreme Court of Canada and rulings of our Alberta Courts
Trelenberg v. Alberta Minister of Environment [1980]
- If a statute itself contains words that allow land and rights to be taken without compensation, then the Bill of Rights does not protect your property from the government
- Bills 19 and 36 allows property rights to be taken without compensation; therefore, **the Bill of Rights provides no protection**

The following are a series of images from Keith Wilson’s November 25, 2010 power-point presentation, *Property Rights: Where did they go? Impacts of New Alberta Legislation on Landowner Rights.*

New Legislation Impacting Landowner, Lease, and Water Rights

- **Bill 36 – Alberta Land Stewardship Act**
 - *new powers for Provincial Cabinet to extinguish existing rights (water rights, land titles, grazing dispositions)*
 - *new central-planning by Cabinet that trumps local municipalities and other agencies*
- **Bill 19 – Land Assembly Project Area Act**
 - *authorizes the Provincial Cabinet to freeze land for extended periods of time – restricts compensation*
- **Bill 24 – Carbon Capture and Sequestration Act**
 - *government expropriates an element of land rights*

Bill 19 – Land Assembly Project Area Act

- allows the Alberta Government to freeze large tracts of private land for potential future use as roads, electricity transmission lines, pipeline or utility corridors
- typical freeze is for 30 years or more but can be indefinite – no time limit for the freeze
- Cabinet order is filed against your land title and served on your bank and other interest holders
- Order prevents you from making changes or improvements to your property without getting permission from the Minister of Infrastructure, Ray Danaluk

Bill 36 – Minister Morton

New Alberta Land Stewardship Act – New Powers

Sec. 11 - Cabinet's regional plans can amend or "extinguish" existing rights, licenses, dispositions, leases, approvals, permits, and land titles

Sec. 19 - no right to compensation if water licenses, NRCB approvals, land titles, development permits, grazing dispositions, subdivision approvals, etc are amended or extinguished

Sec. 13 - no right to appeal

Sec. 15(1) - binding on municipalities and all Albertans

Sec. 15(3) - no right to make claim against government

Sec. 15(4) - role and authority of Courts removed by the Act

Bill 24 – Carbon Capture and Storage Act

- No compensation is payable to the surface owner

- No right to bring a claim in Court

(4) It is deemed for all purposes, including for the purposes of the *Expropriation Act*, that no expropriation occurs as a result of the enactment of this section.

(5) No person has a right of action and no person shall commence or maintain proceedings

- (a) to claim damages or compensation of any kind, including, without limitation, damages or compensation for injurious affection, from the Crown, or
- (b) to obtain a declaration that the damages or compensation referred to in clause (a) is payable by the Crown,

New Alberta Land Stewardship Act How Could this happen in Canada and Alberta?

Constitution Act 1867 – sec. 92(13) – property and civil rights – provincial jurisdiction



- Land Titles Act – instruments, land titles
- Water Act – water licences
- Municipal Govt Act – development permits,
- Public Lands Act – grazing leases

- all provincial governments have included protections in their laws so that citizen's property cannot be taken arbitrarily, compensation must be paid, and provide protections through the Courts – no longer true for Alberta

Conclusion – Where we began and Where we've Come To

In the year 1215, King John of England was forced by a group of his subjects (the landowners) to proclaim the *Magna Carta*.

It limited the King's power over their lands.

It established fundamental rights and freedoms.

Through the centuries democratic governments have carried on this tradition . . . But it is no longer the case in Alberta.

