



MCLENNAN ROSS LLP
LEGAL COUNSEL

Our File Reference: 120946

Evan W. Dixon
Direct Line: (403) 303-9103
e-mail: edixon@mross.com

Radha Singh, Assistant
Direct Line: (403) 303-9112

Fax: (403) 3031667
PLEASE REPLY TO CALGARY OFFICE

March 27, 2013

SENT VIA EMAIL – barbara.kapelholden@ercb.ca

Energy Resources Conservation Board
Suite 1000, 250 – 5th Street SW
Calgary, AB T2P 0R4

Attention: Barbara Kapel Holden, Board Counsel

Dear Ms. Kapel Holden:

**Re: Applications for Review under the *Energy Resources Conservation Act*
Kaiser Exploration Ltd. (Kaiser)
Application No. 1695605, Licence No. 0441737
Location: 1-28-25-2 W5M
Review Application Nos. 1727760, 1721191, 1716530 (Review Applications)**

As you are aware we represent the Rocky Ridge Royal Oak Community Association (“RRROCA”). We write further to our letter of March 26 wherein we advised that the Board that the RRROCA had no updates or further submissions pertaining to the outstanding Review Applications, in response to the Board’s letter of March 12, 2013. While we confirm that the RRROCA has no updates, in the course of our review of the Board’s website this morning (pertaining to another matter), it appears that the Board has implemented a policy change which is relevant to the proceeding at hand.

Our review of the Board’s website indicates that the Board’s FAQ section on Participant Involvement (pertaining to Directive 56) was amended on September 19, 2012 to remove the Urban Centres question, which previously read as follows:

Edmonton Office
600 West Chambers
12220 Stony Plain Road
Edmonton, AB T5N 3Y4
p. 780.482.9200
f. 780.482.9100
tf. 1.800.567.9200

Calgary Office
1000 First Canadian Centre
350 – 7th Avenue SW
Calgary, AB T2P 3N9
p. 403.543.9120
f. 403.543.9150
tf. 1.888.543.9120

Yellowknife Office
1001 Precambrian Building
4920 – 52nd Street
Yellowknife, NT X1A 3T1
p. 867.766.7677
f. 867.766.7678
tf. 1.888.836.6684

Question: Our company is preparing for a well that will be within the boundaries of an urban centre. Directive 56 indicates that we only need to notify the urban authority. Are there any other requirements?

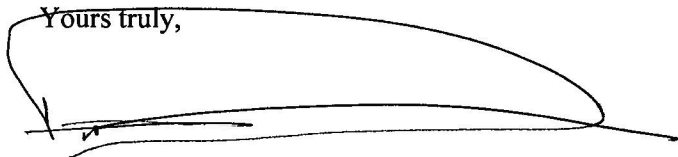
Answer: The ERCB recognizes that there maybe (sic) additional concerns when a well, pipeline, or facility is proposed within the corporate boundary of the urban centre relating to future subdividing, planning and setbacks. In these cases, it is necessary to obtain consent from the urban authority. If the application is being submitted routinely, it will be necessary to submit that consent with the application. (emphasis added)

The RRROCA is deeply concerned by this apparent change in Board policy particularly since it was implemented while RRROCA's and the City's Applications for Review and Variance, which both rely on the policy to varying degrees, were still outstanding. As you will recall, the RRROCA cited and relied on the Board's previous Q & A section (cited above) at page 10 of its Reply Submission dated March 28, 2012, in support of its position that the Board acted unreasonably in failing to convene a hearing to consider the City of Calgary's objection to the Kaiser well. Similarly the City of Calgary also cited and relied on the previous Q & A section at page 6 of its Review and Variance Application dated May 8, 2012.

Although we are sure it is not necessary to inquire, we trust that the Board will have regard for the policy as it existed at the time the Review and Variance was originally filed when considering the outstanding Review Applications, and not the new, changed policy.

We would also ask that the ERCB confirm on the record of this Review Proceeding that its policy on the need for consent from an urban authority has indeed changed and to provide a rationale for the change, which our client views as unfortunate and contrary to the Board's public interest mandate.

Yours truly,

A handwritten signature in black ink, appearing to read 'Evan W. Dixon', written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

EVAN W. DIXON

EWD/rs