

Subject:

Identifying, Locating and Testing Abandoned Wells during Subdivision
Section 4, Subdivision and Development Regulation, *Municipal Government Act*
(MGA)

Situation:

Municipal Affairs has received inquiries on how to apply the provisions of Section 4 of the Subdivision and Development Regulation and Energy Resources Conservation Board (ERCB) Directive 079 for the identification and testing of abandoned wells to the information requirements of the Subdivision Authority for a proponent of a subdivision application in a rural situation.

The application section of the Subdivision and Development Regulation includes the following requirements:

- 4(1) The owner of a parcel of land, or the person authorized by the owner of a parcel of land, may apply for subdivision of that parcel of land by submitting a complete application for subdivision to the appropriate authority.
- 4 (4) The applicant must submit
- 4 (4)(e) information, provided by the ERCB as set out in ERCB Directive 079, Surface Development in Proximity to Abandoned Wellbores, identifying the location or confirming the absence of any abandoned wells within the proposed subdivision, and
- 4 (4)(f) if an abandoned well is identified in the information submitted under clause (e)
 - (i) a map showing the actual wellbore location of the abandoned well, and
 - (ii) a description of the minimum setback requirements in respect of an abandoned well in relation to existing or proposed building sites as set out in ERCB Directive 079, Surface Development in Proximity to Abandoned Wellbores.

The logo for the province of Alberta, featuring the word "Alberta" in a stylized, cursive script font, followed by a small square icon.

Municipal Affairs has been asked to provide greater clarity on the application of these provisions in the case of rural subdivisions. More specifically, should the subdivision authority require an applicant for subdivision of an undivided quarter section in a rural situation to contact the Well Licensee of an abandoned well identified by a search of the ERCB Records to physically locate the abandoned well and ensure it is tested in accordance with Directive 079 if the abandoned well is identified anywhere within the quarter section? Or, should these requirements come into play only if the abandoned well is identified within the portion that is being subdivided out for proposed development and as such may pose a potential conflict?

Interpretation:

The intent of the new provisions in the Subdivision and Development Regulation and accompanying ERCB Directive 079 are to ensure abandoned wells are practically accommodated during future subdivision and development through the application of a setback from the building site as defined in Section 1 (1) of the Subdivision and Development Regulation where the new development is proposed.

In all cases where a subdivision is proposed, a check of ERCB records by the subdivision applicant for the presence or absence of abandoned wells within the parcel that is subject of the subdivision application is required in accordance with Section 4 (e).

Proponents of subdivision and development and municipalities may now access abandoned well records in the ERCB's records by using the ERCB Abandoned Well Viewer on the ERCB website at www.ercb.ca or by using the Government of Alberta's GeoDiscover public web portal at: <https://maps.srd.alberta.ca/geoportals/catalog/main/home.page>.

To launch and use GeoDiscover geospatial information and map services follow the instructions on the website by clicking on the blue tab "Find Abandoned Wells".

With respect to locating the actual abandoned well ERCB Directive 079 states: "If it appears that a potential conflict between abandoned well locations and proposed surface development may exist, the SDR requires applicants to provide the subdivision or development authority a map showing the actual surface location of the abandoned well. Applicants should contact the licensee of record for any additional information that may be required or to physically locate the well."

There may be situations where there is an application for proposed subdivision of a large undivided quarter section of land where an abandoned well is identified within the quarter section and does not pose a potential conflict to the proposed surface development, because it is located a significant distance from the portion of the quarter section being subdivided for the purpose of development.

The intent of provisions in the Subdivision and Development Regulation and the ERCB Directive is to require abandoned wells that pose a potential conflict to the proposed surface development to be physically located and tested. Therefore, it would not be unreasonable for a subdivision authority to interpret that these provisions apply only to abandoned wells identified within the portion of the quarter section being subdivided, or immediately adjacent (within 25 metres, as suggested by the ERCB).

Subdivision and development authorities should be aware that irrespective of the application of this interpretation to the current subdivision application, future subdivision and development permit applications for the quarter section are not exempt from the provisions of the Subdivision and Development Regulation and ERCB Directive 079 to ensure that abandoned wells are accommodated during any additional subdivision and development not covered under the current application.

NOTE: This is for information only. For specific legal advice, please consult your lawyer.