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Premier Alison Redford  
Sent by Email to [calgary.elbow@assembly.ab.ca](mailto:calgary.elbow@assembly.ab.ca) and [premier@gov.ab.ca](mailto:premier@gov.ab.ca)

**Re: Another EnCana non-compliant offer to test my water well, dated May 8, 2012, by Ms. Tanaka (attached) and EnCana's continued non-compliance with ERCB Directive 056.**

Dear Premier Redford,

I recently returned from working out of country, and only today have time to respond to EnCana's violating offer. Ms. Tanaka writes, in violation of the Baseline Water Testing Standard requirements, that if I do not:

“responded to this letter within the 10 day period then we will record this as you not being interested in participating in the Directive 035 (D-035) water well testing program. This will also be recognized by both Alberta Environment and the ERCB.”

Within ten days of what? I find this sloppy and irresponsible. And again, EnCana put in writing that Alberta regulators support EnCana violating the testing standard. The Baseline Testing Standard does not state that companies can create implied refusal to avoid testing and violate Directive 56<sup>1</sup>. I have persistently and painstakingly documented EnCana's non-compliance to Alberta regulators (refer to supporting documents for a few examples), receiving nothing but disdain for my water and concerns, and refusal to enforce the regulations. This from my September 17, 2010 letter to the ERCB, copied to Alberta Environment and EnCana lawyers (attached):

*EnCana wrote in their lettering offering to test my well, dated September 2, 2010, that if I do not respond within 10 days EnCana will record this as me not being interested in participating in the Directive 035 water well testing program. Directive 035 and Alberta Environment's Baseline Testing Standard do not limit time for water well owners to respond to company offers to test or allow for companies to use implied refusal. **Instead, the Standard states that companies must get refusals in writing.** This copied directly from the Standard:*

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<sup>1</sup> According to s. 2.3.3 of Directive 056:

42) The applicant must attempt to address all questions and concerns/objections regarding the proposed development prior to filing and during the review of the energy development application, regardless of whether the party involved is inside or outside the radius of tables 5.1, 5.4, 6.1, 6.2, and 7.1.

Similarly, under s. 2.3 of Directive 056:

19) the development and implementation of the participant involvement program must occur prior to the filing of an application with ERCB Facilities Applications.

*If a landowner/occupant does not want his/her water well tested, **the company must obtain written confirmation from the landowner/occupant that testing is not required.** If written confirmation is refused, a company representative must diarize landowner/occupant's refusal and the CBM developer must deliver to the landowner/occupant, and retain a copy of, a notice describing this protocol.*

*...Is EnCana the energy regulator in Alberta? [Emphasis added]*

EnCana refusing to appropriately and honestly address the concerns of Albertans and using devious tricks to get out of testing and or discredit citizens is not obtaining written confirmation **from the landowner/occupant** that testing is not required. Proper baseline testing was never offered to me ... all that EnCana offered and continues to offer is antagonism and intimidation.

### **Background**

EnCana began secret super shallow (*e.g.* 100.5 metres below surface) hydraulic fracturing experiments in my community in or around 2001. Before the many water contamination cases in EnCana frac fields in Alberta, EnCana offered complete water testing, including metals, up to a mile away without argument – no matter what the well type – deep or shallow, conventional or unconventional. In 2003, I was warned by my neighbour to have my water well tested because his well went bad after EnCana fractured nearby. I asked EnCana to test my well, and they did, without argument, for a deep gas well more than 800 metres away. EnCana's tester did not note any visible gas in my water, reported that the appearance of my water was clear and tested for metals. Before EnCana illegally frac'd the aquifer that supplies my well, EnCana's tester reported chromium in my water below detection level ( $< 0.0008$  mg/l). After EnCana's frac'ing (and diverting fresh water from CBM without the required permit under the *Water Act*), Alberta Environment tests showed the chromium in my water at 0.037 mg/l - an increase by more than a factor of 45. The barium, strontium and potassium in my water doubled. Since those damning findings, EnCana refuses to test for metals and only offers testing before CBM above the Base of Groundwater Protection instead of before all energy wells, deep *and* shallow. This is an irresponsible and dramatic reduction in water testing at a time when companies and our regulators know that cumulative risks are exponentially increasing.

Since 2006, when water testing for shallow coalbed methane (CBM) was finally mandated by the Alberta government – 6 years too late for my community's aquifers - EnCana has been pulling out all the stops to avoid real baseline water testing. Over the years, I repeatedly wrote EnCana that I accept their offers to appropriately test my water (EnCana recently did nearby fracs above the Base of Groundwater Protection without complying with the Standard). And I repeatedly wrote Alberta Government Ministers, Alberta Environment, the ERCB and Premiers, documenting evidence of EnCana's non-compliance. One of my 2007 letters to Deputy Minister Environment Peter Watson is attached - I have not yet received a response. Two examples of my many questions to the EUB/ERCB are also attached – I remain waiting for answers.

I *again* accept in writing appropriate baseline testing of my well water, which has become too dangerous to have connected to my home, as I have repeatedly accepted since 2006 when EnCana provided me their first non-compliant offer (attached). I repeat my request that EnCana appropriately – without lies and deflection - address my concerns and answer my questions about the company secretly and illegally diverting fresh water from CBM in my community without the required permit under the *Water Act*, and illegally fracturing the aquifers that supply my well and others in my community while publicly promising the company would never to do such a dreadful thing.

EnCana has an Alberta CBM technical briefing where they state that if water supply is a concern in their CBM fields, they will supply water. Alberta Environment's Water Diversion Guidelines for CBM states that all allegations of water problems must be resolved by the company. EnCana lied, the government lied and I continue to live without safe water. (I've been hauling alternate water on my own, since April 2008.)

Regardless of EnCana's illegal activities, the regulators continue to allow EnCana to frac above the Base of Groundwater Protection near my water well. Last year, I observed and photographed an EnCana worker pumping a flammable substance into a shallow CBM well. EnCana did not comply with the Baseline Water Testing Standard or Directive 027. EnCana refuses to disclose the toxic chemicals injected above the Base of Groundwater Protection in my community, and still the regulators and Alberta government refuse to compel EnCana to do so. There is no job in Alberta, not even the Premier's, worth intentionally putting at risk a community's life-source. Reportedly, some toxics used in drilling and fracturing are more harmful to bathe in, than ingest, and to my knowledge, there are no studies on the health impacts of breathing methane, ethane, and other hydrocarbons ferociously venting from water taps.

I eagerly await appropriate **baseline** testing of my water well, most especially **before** EnCana's frac experiments were initiated in 2001. I believe that respectful, truthful and non-deflective answers to my questions I've patiently sent and resent to EnCana, government and the regulators since 2004, should be forthcoming. How does EnCana's promise of adherence to all laws and regulations answer my questions about EnCana violating Alberta laws and regulations?

### **OIP ORDER 2012-06<sup>2</sup> and ARC's continued refusal to release public Baseline Water Testing Data**

Recently the Office of the Information and Privacy Commissioner Office ordered (Order 2012-06) the Alberta Research Council (ARC, name changed to Alberta Innovates) to release information to me they illegally withheld or censored in response to my FOIP request in 2008, including the D35 Baseline Testing Data used by Dr. Blyth to claim that

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<sup>2</sup> [\*Alberta Office of the Information and Privacy Commissioner Order F2012-06 Alberta Innovates – Technology Futures \(previously Alberta Research Council\) Case File Numbers F4743, F4762\*](#) March 30, 2012 (publicly released April 16, 2012)

An Adjudicator has determined that Alberta Innovates – Technology Futures must release information that it had withheld under the Freedom of Information and Protection of Privacy Act and refund the fees it charged for processing an access request.

EnCana's frac'd shallow gases did not contaminate my water. The ARC wrote in their May 18, 2012 cover letter to me: "We have disclosed all remaining information as per the Order" **but the ARC did not send me the D35 baseline testing data used by Dr. Blyth.**

What is the ARC hiding and who is controlling the ordered release of this vital **public** data? To maintain accreditation, the ARC must release data used in report preparation, but they continue to refuse to do so, even when officially ordered to. The ARC wrote:

"All files related to Investigation File No. 7894 (the Applicant's file) are with Alberta Environment and Sustainable Resource Development's legal department and are client-solicitor privileged as a result of the Applicant's legal suit against EnCana, ERCB and The Department. Therefore, these records fall under Section 4(1)(k)."

**None of the D35 Baseline Water Testing Data used by the ARC are on my water, but they oppose an order so they can protect themselves instead of Albertans.**

**I respectfully request that:**

- 1) EnCana is publicly disciplined for their continued non-compliance of Directive 056, held to account for deceiving Albertans and attempting to avoid baseline testing by injecting their own procedures into the Baseline Water Testing Standard, and that the company is ordered to stop and apologize to all Albertans;**
- 2) EnCana and the regulators respectfully, promptly and comprehensively - without deflection - answer my questions, address my concerns and order EnCana to comply with Directive 056;**
- 3) The complete D35 Baseline Water Testing Data used by the ARC to dismiss the water contamination cases is released to me, as ordered, without any more delay or games; and**
- 4) Acknowledgement of receipt of this letter is sent to me.**

Many Albertans are extremely concerned about the risks and toxics from hydraulic fracturing and the oil and gas industry's notorious disdain for laws and regulations, and worse, our regulators' refusal to enforce those laws and regulations.

**I read that you intend to sue tobacco companies for \$10 billion dollars:**

**[Alberta seeking \\$10-billion in lawsuit against tobacco companies](#)<sup>3</sup>**

**\$10 billion and not everyone made the choice to smoke.** Those who did were conned by lies of doctors, companies and governments proclaiming how good smoking was for

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<sup>3</sup> By Dean Bennett, May 30, 2012, *the Canadian Press*

us, and how cool we would look if we picked up the habit. Some became addicted and died hideous expensive deaths; some still are. How noble it is your government now seeks to hold those companies accountable for their deadly deception.

Premier Redford, has anyone in your government calculated what it will cost our healthcare system as masses of toxic chemicals - the same ones the tobacco companies use - endocrine disruptors, neurotoxins, carcinogens, with the added bonus of radioactive materials - are unleashed, trucked, spilled, dumped, blown-out and injected, with your blessings and incentives, day after day into our communities and families? How many billion will it cost to clean up and fix the many “crimes against humanity” fracs into Alberta’s fresh ground water and make industry’s methane migration stop?

(The media reported EnCana Regulatory and Land Advisor Brenda Linster saying that [“as a good neighbor, the company would return the water to its pre-drilling condition if need be.”](#) My water obviously needs to be returned to its pre-drilling condition but instead of fixing it, EnCana continues to drill and frac and drill and frac near my well)

I can’t remember the last time I saw a 4-year-old light up. These days society and health professionals frown on that and if parents allowed their toddlers to smoke, they probably wouldn’t be under their protection for long. Fortunately, it seems most parents take the responsibility and right to protect their children seriously.

Unfortunately, as your government bows down to frac’ing and an industry intent on profit and keeping their chemicals secret, you have stripped parents of their rights to protect their children and themselves. You are effectively depositing packs of cigarettes and worse into the mouths of every family and 4-year-old in this province daring to live.

Will your government provide a hotline for toddlers that have had enough and are looking to quit? Will you visit the homes of sick kids and explain to them why it’s more important to protect a company’s toxic secrets, than to protect them?

**10 Billion, that’s a big number for something we have a choice in. What do you suppose the number will be for something we don’t?**

[\*Alberta government claim alleges smoking industry conspiracy\*](#)<sup>4</sup>

This from the article: *They used “deceptive marketing practices” and engaged in “unfair trading practices” during that period. ... Officials from major tobacco companies first met in late 1953 to conspire to keep the public in the dark about the health risks associated with smoking. “The conspiracy was continued through secret committees, conferences and meetings involving senior personnel and through written and oral directives.”*

Alison, the above sounds like the frac’ing industry’s New West Partnership secretly

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<sup>4</sup> by Kevin Martin, June 11, 2012, *Calgary Sun*

agreed to by the western provinces, Alberta included, too use tax dollars and the media to keep the public in the dark about health and other risks associated with hydraulic fracturing<sup>5</sup>.

I look forward to your respectful, complete, honest, non-deflective reply.

Thank you.

Sincerely,

*Jessica Ernst – sent by Email*

Supporting Documents, in chronological order, separated by blank pages:  
 2006 06 08 Banishment Interrogation, Ernst to EUB Lawyer Rick McKee  
 2007 05 31 Ernst to Deputy Minister Peter Watson  
 2010 08 17 Ernst to EnCana's Ms. Tanaka, Directional drill under my land  
 2010 09 17 Ernst to ERCB, EnCana's non-compliance with D35 & Guide 56  
 2010 12 03 Ernst to various at ERCB  
 2012 05 08 Letter from EnCana's Ms. Tanaka to Jessica Ernst  
 2012 05 18 Letter from ARC's (now Alberta Innovates) Ms. Storms to OIP

Cc Ms. Teresa Cunningham, OIP Adjudicator Order 2012-06 [tcunningham@oipc.ab.ca](mailto:tcunningham@oipc.ab.ca)  
 My MLA Mr. Jason Hale [jason.hale@wildrose.ca](mailto:jason.hale@wildrose.ca)  
 MLA Joe Anglin [joe.anglin@wildrose.ca](mailto:joe.anglin@wildrose.ca)  
 Dr. David Swann [dswann@albertaliberal.com](mailto:dswann@albertaliberal.com)  
[Alberta Surface Rights Group donbest@live.ca](http://AlbertaSurfaceRightsGroup.com)  
[Fracking Canada contact@frackingcanada.ca](http://FrackingCanada.com)  
[National Farmers Union marian.jan@gmail.com](mailto:marian.jan@gmail.com)

*If you were looking for a way to poison the drinking water supply...you couldn't find a more chillingly effective and thorough method of doing so than with hydraulic fracturing.*

Dr. Paul Hetzler (NY DEC, 2011)

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<sup>5</sup> [Documents Reveal Industry and Gov't Collude on Shale Gas Alberta New Dems release secret agreements about handling public opinion](#) by Andrew Nikiforuk, *TheTyee.ca*, August 19, 2011  
 "My biggest concern is that there is a government plan to work with industry on shale gas issues in secret and it's largely about managing public opinion. It's not about science or eliminating the risk to groundwater or the public. It's about telling people they are doing something without actually doing anything."...  
 Moreover all three provincial energy regulators have allowed hydraulic fracturing in coal seams, oil shale and shale gas plays without transparent groundwater baseline studies or monitoring as recommended by the Canadian Council of Ministers of the Environment in 2002. Without proper baseline data, regulators can't track groundwater contaminants.  
["Collaboration and Information Sharing, Industry Water Use and Hydraulic Fracture Technology"](#)