Rosebud fracking lawsuit takes next step

Peter Lasuridsen
Submitted

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Ernst is an environmental scientist who spent decades working in the oil and gas industry. After noticing a marked decline in the quality of her well water in 2004 she became convinced it was a result of the many coal bed methane (CBM) wells that had been drilled in the area. Since then she has become an outspoken critic of hydraulic fracturing.

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Fracking lawsuit awaiting ruling

continued from front

ing process, contaminated the local aquifer(s) which supplied her well water, and at the same time broke several provincial laws and regulations. The suit further alleges negligence on the part of the ERCB and Alberta Environment for failing to uphold their own rules for compliance and enforcement regarding safe resource development.

Encana has yet to file a statement of defense. However, it has asserted publicly that Ernst's claims against it are without merit.

The defendants had requested a change of venue from Drumheller, where the first hearing had taken place, a request granted by Justice Veldhuis. Ms. Ernst, however, declined to attend proceedings in Calgary believing the case should continue to be heard in Drumheller, "the courthouse with the closest connection to my dispute."

"It seems to me, it is important to rural Albertans that disputes and harms that occur in their communities are judged in those communities," she said in a statement read by her lawyer. Ms. Ernst is represented by Murray Klippenstein,

ERCB lawyer Glen Solomon argued the regulator should be struck entirely from the suit. He said the ERCB has statutory immunity from being sued and if Ernst is dissatisfied with its actions she has a right to seek judicial review.

"If, for example, Ms. Ernst doesn't like the decision the judge makes, she doesn't get to sue – she gets to appeal," said Solomon.

Solomon further suggested that the ERCB has no 'private duty of care' to any individual. Rather, its broad duties and responsibilities to act in the public interest trump any duty owed to an individual. The ERCB's application to the court goes further, stating: "...a private duty of care would undoubtedly conflict with the ERCB's public duties, and would give rise to the real potential for negative policy consequences."

Klippenstein's co-counsel, Cory Wanless, saw things differently.

"Just because a regulator has public duties, it does not mean it doesn't also have a private duty," he told the court. He likened the ERCB's duties to those of building inspection, where there is extensive liability in the case of a negligent inspection.

The ERCB had "a very detailed inspection and enforcement scheme," said Wanless. But even after having been made aware of problems in the Rosebud area, they "failed to conduct any kind of inspection whatsoever."

Acting for the Crown (Alberta Environment), lawyer Nancy McCurdy said that while the fresh statement of claim is an improvement over previous versions, "it (still) needs to be properly drafted and finalized. (There are) substantive and improper defects that do not comply with the rules of court."

McCurdy asked the judge to cut numerous paragraphs from the fresh statement of claim, saying their inclusion would unfairly burden the Crown with third party information. References to other land owners and water wells and area problems are not appropriate when the suit is not a class action, she said. "This is not a public inquiry on fracking or problems in the Rosebud region."

Klippenstein countered that the inclusion of this information is entirely appropriate. Given the nature of an aquifer and the process of hydraulic fracturing it would not be possible that any problem would be confined to just "under Ms. Ernst's house."

Among the observers attending the hearing there are many disparate emotions on display, some of them expressed almost simultaneously. Rimbey area dairy farmer and National Farmers Union co-ordinator Jan Slomp has been following Ernst's case closely.

"I think Jessica's case is so interesting. I'm very curious how it develops." Noting the mountain of evidence she has gathered in her journey thus far, he adds: "She has a perfect case to win."

Scarcely a moment later, he admits, "My faith in the government as an oil and gas regulator is zero right now. We're pushed into not trusting anything. I'm desperate. How do I defend my land for the use of future generations?"

How this case affects the regulatory process down the road is still an open question. As Justice Veldhuis told the participants early on in the day's proceedings, "This is a very complex case (and) there is a huge volume of material. It would be impossible to give any kind of answer today."

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Teaming up to be tobacco free

This week is National Non-Smoking Week and it kicked off with the sixth annual Knee Hockey Tournament. Greentree School hosted St. Anthony's, Delia School, Morrin School and the Drumheller Dragons. The event is to raise awareness of the effects of tobacco on the body in relation to sports while having some fun. Following the games, the students were privy to an autograph session with the Dragons and also received t-shirts.

mailphoto by Patrick Kolafa

Proposed pet bylaw returns to council for discussion

Michael James
The Drumheller Mail

The Town of Drumheller is getting closer to outlining what it means to be a responsible pet owner in Drumheller.

At the January 21 meeting of the Committee of the Whole, those present were provided the latest draft of the Responsible Pet Owners Bylaw.

The bylaw has been in the works since late 2011 and aims to promote responsibility among pet owners, in particular those who own cats.

"The main function of the bylaw is to create the type of behaviour in pet owners where their animals are being taken care of responsibly, and with care and consideration for their neighbour and community as a whole," said Paul Salvatore, Director of Community Services.

The bylaw, updates the current Animal Control Bylaw and clarifies many areas. The most significant are requirements for cat owners to register their cats and cats are no longer permitted to roam at large.

So far, a $35 annual registration fee for spayed/neutered cats has been proposed. However, Council and administration are considering an introductory rate to encourage owners to register their animals.

Cats would require either a tag, tattoo, or microchip for identification purposes. It is hoped with registration and adequate identification, lost animals could be returned to their owners efficiently.

The bylaw proposes to reduce the time the Town will hold a recovered animal from six days to three. After three days, the Town, under the proposed bylaw, can sell the animal, give it to a new home, give it to the humane society, or destroy it. The reduction was meant to cut down the costs associated with housing a recovered animal.

A new revision in the proposed Responsible Pet Owners Bylaw would allow cats to be tattooed, wear a collar with tag, or have a microchip implanted for identification. Under the bylaw, all cats would have to be registered with the Town and receive one of the three forms of identification.

mailphoto by Michael James

Greg Peters, Community Enforcement Supervisor, ensures all measures would be taken to return any recovered animals.

"We would do everything we could to return animals," said Peters.

One of the hopes identified during initial discussions in 2011 regarding the bylaw was it would help lower the population of feral cats in Drumheller.

The impetus for the bylaw comes in part from the costs associated with animal control. Between 70 to 80 per cent of the animal control budget is spent on issues relating to cats. The goal is recover some of those costs through cat registration.

"It's a cost that has never really been recovered. In no way do we feel the steps identified is the bylaw are an unreasonable regulation of animals in our community," said Salvatore.

Much of the proposed bylaw focuses on cats, which have hitherto been overlooked, but there are new provisions for dogs as well.

Under the proposal, dogs would be allowed to be tethered in a residential yard in such a manner that permits them to get within two metres of the fence or property line. In addition, dogs would not be allowed to be tethered and left unattended in public areas.

For the time being, administration will be revising the draft based on feedback from Council. For a look at the proposed bylaw, head to www.drumhellermail.com.

"It is people who are responsible for their pets and ultimately accountable by law," said Peters.

Preliminary enquiry for man charged in double murder in Hanna wraps up

Patrick Kolafa
The Drumheller Mail

Curtis Rideout, charged with first-degree murder in relation to the death of Lenette Euteneier and second degree murder of Bruce Rideout, will be arraigned in March.

A preliminary enquiry was held in Drumheller last week. It wrapped up on Friday afternoon with Judge Grieve presiding.

Rideout was charged following his arrest on March 8 of last year after Bruce Rideout, Curtis' father, and Euteneier were discovered dead in a home in Hanna. He elected a judge and jury trial in Court of Queen's Bench with a preliminary enquiry.

Defense for Curtis Rideout, Hugh Sommerville, consented to committal on charges of second-degree murder, challenging the first-degree murder charge in the death of Euteneier.

Judge Grieve ruled that the first-degree murder charge remain. Curtis Rideout is to appear on March 7.

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