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Update on Ernst Lawsuit

A Statement of Claim filed by Jessica Ernst, a resident of Rosebud, Alberta, in which she claims coalbed methane (CBM) development has affected her well water quality, was held to be improper by a Justice of the Court of Queen's Bench of Alberta on April 26, 2012.

At a Court Motion in Drumheller, Alberta, Court of Queen's Bench Justice Barbara Veldhuis ruled that Ms. Ernst's 257 paragraph Claim was "verbose, repetitive, inflammatory, improper and not in keeping with the spirit of the Alberta Rules of Court." Justice Veldhuis ordered Ms. Ernst's lawyers (within 60 days), to file a new Claim that is succinct, efficient, proper and warned them to be careful to plead only the facts of the Plaintiff's Claim - not law and argument. The Justice also noted that the litigation had not progressed efficiently in the four and a half years since Ms. Ernst initiated her lawsuit, and ordered that the matter be referred to Case Management through the Court. Justice Veldhuis then volunteered to act as the Case Management Justice and further advised that she would consider an application for costs to be assessed against Ms. Ernst at a later date.

Encana is very pleased with this outcome. Once the Plaintiff serves a proper Claim, as she's been ordered to do by the Court, Encana intends to defend it vigorously. We are also pleased that the Court recommended the assignment of a Case Management Judge. That will ensure a more efficient and structured process from this point forward.

Ms. Ernst has publicized claims in the media that coalbed methane (CBM) development near her home has affected the quality of water in her water well and other wells in her community. She first initiated legal action against Encana and Alberta regulators in 2007 and in April 2011 filed an amended Statement of Claim that sues Encana for \$11.7 million, the Energy Resources Conservation Board (ERCB) for \$10.75 million and the Alberta Crown for \$10.7 million. Since becoming aware of Ms. Ernst's concerns, Encana has offered to test her water well on a number of occasions. To date, Encana has been unable to obtain Ms. Ernst's cooperation in order to perform the offered testing on her property. Encana has always firmly believed that Ms. Ernst's claims are not supported by the facts and her lawsuit is without merit.

Each area we work in can bring its own unique environmental challenges, which is why we work closely with our stakeholders to address them. In response to public concern from individuals in the Rosebud area, Alberta Environment retained the Alberta Research Council (ARC), now Alberta Innovates, to complete a groundwater investigation. Encana co-operated fully with both Alberta Environment and ARC and provided them with all available information. When the investigation was completed in January 2008, Alberta Environment released a report showing the water wells were not affected by CBM development. Rather, the quality issues were predominantly due to naturally occurring methane, poor water well construction and maintenance issues.

Stimulation when applied to CBM is different from what might be called traditional fracturing. That's because coal, unlike other rock formations, is naturally fractured. This natural fracturing is called a cleat system. In CBM stimulation, we pump nitrogen (N₂) into a coal zone, which causes the natural cleats in the coal to be further interconnected. This allows the methane gas to flow into the well. Nitrogen is inert and safe - in fact, 78 percent of the air we breathe is composed of nitrogen.

Encana has been safely and responsibly producing natural gas and CBM in the Rosebud area and across Alberta for decades and is an active part of the community. We have partnered with various communities and organizations in rural Alberta on a range of projects including libraries, soccer fields, arenas, theaters and the arts, and local sports teams. We look forward to our continued role as a contributing, accepted member of these communities for years to come.

For more information on CBM development, read our overview on coalbed methane in south central Alberta ([PDF](#)).