

# There's Oil in Them Thar Burbs!

Oil and Gas Operations Within Alberta Municipalities

# Oil and Gas v. Municipalities

- Oil and gas is THE major industry in Alberta
- For the most part oil and gas development has been in rural areas, or in areas on the fringes of municipalities
- Due to the high price oil, and new extraction technologies, oil and gas companies are seeking opportunities in areas previously thought to be off limits – including within towns and cities.

# Alberta Oil and Gas Development

- Canada's oil sands place the country third behind #1 Venezuela and #2 Saudi Arabia in terms of global oil reserves (rankings as of January, 2011) (CAPP stats)
- Alberta's oil and gas industry continues to focus on the oil sands, however, over 15,000 oil wells and 4,000 natural gas wells are drilled on average per year (Dept. of Energy)

# Excepting thereout all mines and minerals

- In Alberta the ownership of subsurface oil and gas rights are not generally held by the property owner.
- The subsurface rights are owned by the Province, who in turn lease these rights to companies seeking to exploit the resource.
- The leases are auctioned by the Province on a regular basis.
- The successful bidder must then negotiate a lease with the surface land owner.

# Q: Municipal Approvals Required?
# A: NO

- The *Municipal Government Act* exempts oil and gas wells from municipal approvals.
- Section 618 states that Part 17 of the MGA, which is the Planning and Development rules, do not apply to oil and gas wells.
- Arguably municipal inputs are taken into account, however, this has not been the experience of The City.

# Recent Municipal Issues

- The Regional Municipality of Wood Buffalo intervening in three consecutive oil sands applications,  seeking delays in development;
- City of Edmonton retaining a consultant to establish an oil and gas protocol;
- County of Strathcona  attempts to establish an oil and gas bylaw;
- City of Lethbridge recently facing wells within City limits; and
- City of Red Deer creating a precedent contract for oil and gas developers to sign before drilling;

# Town of Calmar

- A big municipal issue is the lack of adequate mapping for abandoned wells.
- In Calmar, an abandoned well started to leak in a homeowner's backyard.
- Imperial Oil had to remove 5 homes to access the abandoned well and correct the leak.

# Calmar / The Lawsuit

- A lawsuit commenced by a homeowner alleges that the Town and the developer (Aztec) knew or ought to have known about the abandoned wells before the approvals to build the Evergreen Crescent subdivision were issued in 2005.
- Lawsuit only against the Town and the developer, not the oil well operator.
- The Province is amending the abandoned / decommissioned well setbacks to hopefully address this problem.





# Calgary Oil and Gas Issues

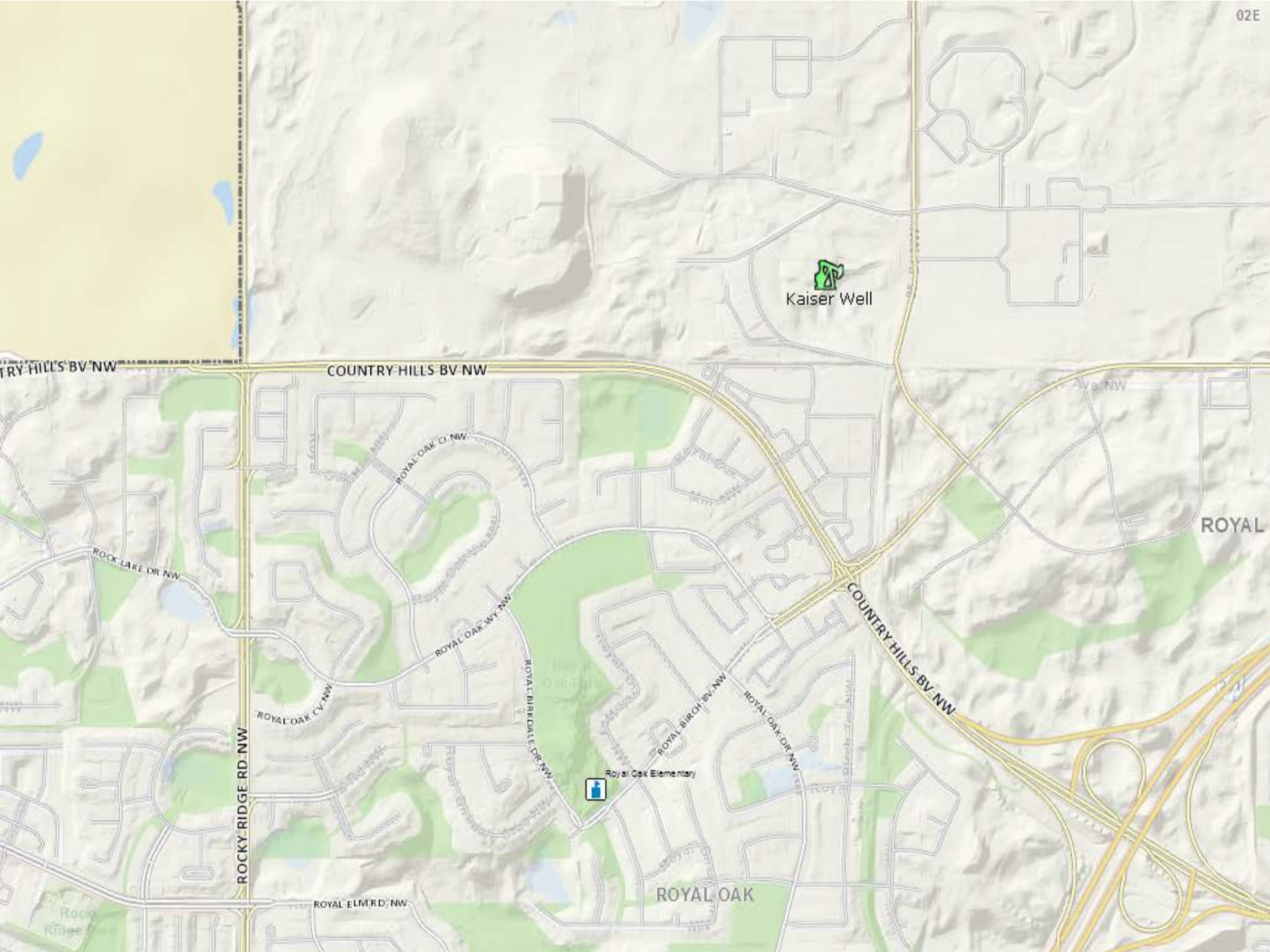
- Calgary has an oil and gas extraction policy.
- Policy is based upon the historical method of oil and gas extraction (i.e. a well on the fringe of The City in an open field)
- Due to changes in the economics of recovery, oil companies are seeking to drill in areas thought to be uneconomical or impractical in the past.

# Recent Calgary Issues

- The City of Calgary is facing two applications to drill in close proximity to residential areas:
  - Encana's proposal to exploit Coal Bed Methane in east Calgary; and
  - Kaiser's proposed oil well in NW Calgary.
- In addition, Calgary had a major issue with a Compton sour gas well. That matter was the subject of a lengthy ERCB hearing.

# The Walmart Well / Kaiser

- Kaiser Energy is seeking to drill a well in NW Calgary, across the street from a Walmart.
- The well site is located next to several institutions, including:
  - U of C Vet College;
  - Remand Centre;
  - Psychiatric Hospital; and
  - Youth Detention Facility.


02E
Kaiser Well
TRY HILLS BV NW
COUNTRY HILLS BV NW
ROYAL OAK CI NW
ROCK LAKE DR NW
ROYAL OAK WY NW
ROYAL OAK CV NW
ROYAL BIRKDALE DR NW
ROYAL BIRCH BV NW
ROYAL OAK DR NW
Royal Oak Elementary
COUNTRY HILLS BV NW
ROCKY RIDGE RD NW
ROYAL ELM RD NW
ROYAL OAK
ROYAL

# Kaiser

- The company was informed by the ERCB that they must obtain municipal consent for the project.
- Kaiser approached The City in the spring of 2011, seeking the consent of The City.
- The City met with Kaiser to discuss the project and the potential impacts on numerous occassions.

# City Opposition

- The City filed three letters of concern with the ERCB stating The City's main issues:
  - Inconsistent information from Kaiser;
  - Evacuation and public safety;
  - Environmental impacts;
  - Land use planning concerns; and
  - Potential sour gas issues.

# ERCB Decision

*Therefore, based on all the information before the Board, it does not appear that The City has rights or interests that may be directly and adversely affected by the proposed well. Accordingly, the Board hereby dismisses The City's objections and will issue the licence in due course*

# Consent?
# We Don’t Need no Sticking Consent

**ERCB FAQ’s:**

**URBAN CENTRES**

**Question:**

Our company is preparing for a well that will be within the boundaries of an urban centre. Directive 056 indicates that we only need to notify the urban authority. Are there any other requirements?

Answer:

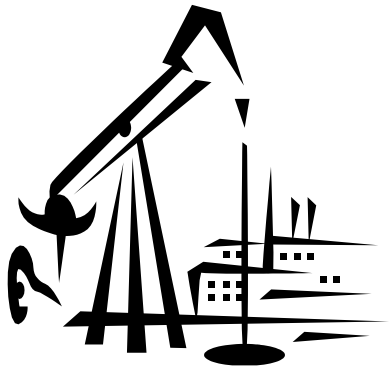
The ERCB recognizes that there may be additional concerns when a well, pipeline, or facility is proposed within the corporate boundary of the urban centre relating to future subdividing, planning, and setbacks**. In these cases, it is necessary to obtain consent from the urban authority. If the application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

# Public Consultation
# Sanjay – night clerk

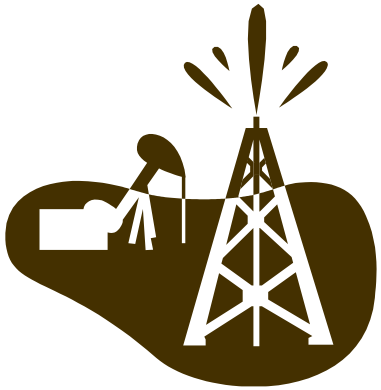
- A major concern for The City was the lack of public consultation.

- The post-decision open house attracted 1,000 residents

- ERCB decision letter:
  - *Kaiser has exceeded the ERCB's consultation requirements*.



# City of Calgary Reaction: three pronged approach



1. City of Calgary filed an ERCB Review application;

2. Notice of Motion, as directed by Council; and

3. Review of The City's Gas and Oil Group.

# ERCB Review Application

- After much internal discussion, The City filed an ERCB Review application with the ERCB on May 11, 2012.

- ***39*** *The Board may review, rescind, change, alter or vary an order or direction made by it, or may rehear an application before deciding it.*

*Energy Resources Conservation Act*, RSA 2000, c. E-10

# ERCB Review / City Concerns

- Failing to take into account City planning policies and bylaws for the area;
- Failing to deal with objections of The City and provide adequate reasons;
- Exceeding the Board's jurisdiction by facilitating Alberta Infrastructure to provide surface access;

# Further Review Concerns

- Failing to adequately consider emergency response and evacuation concerns;
- Failing to consider access issues and concerns;
- Failing to ensure proper public consultation; and
- Failing to consider the impact on City owned lands in the area.

# D.C. Bylaw Requirements (invalid?)

- While oil and gas wells are exempt from Part 17, The City's Land Use Bylaw has a "Natural Resource Extraction" listed use:

***244 "Natural Resource Extraction"***

*(a) means a **use**:*

*(i) where gases, liquids or minerals are extracted, but does not include gravel, sand or other forms of aggregate;*

# Direct Control:
# an oil well is pretty unique!

- Under The City's Land Use Bylaw ("LUB"), certain uses must be located solely within Direct Control Districts.
- The LUB requires:

  *Direct Control Districts must only be used for the purpose of providing for developments that, due to their unique characteristics, innovative ideas or unusual site constraints, require specific regulation unavailable in other land use districts*.

# Previous Board Decisions

***Land use planning regimes are, however, relevant to the Board's consideration because they indicate from the municipality's perspective, the nature of the past, present, and future uses of a proposed site or lands in close proximity to a site****. The Board is thus better able to determine whether the relative impacts created by energy facilities on the use of lands are acceptable.*

*AES Calgary ULC: 525-MW Natural Gas-Fired Power Plant – Application No. 2001-101 (11 December 2001)* at 4.

# Proposed Notice of Motion / Regulatory Changes

- Council asked Administration to prepare a report outlining possible ways for municipalities to have a greater say in oil and gas projects.
- The Report was drafted by Law and Environmental and Safety Management.
- While still in draft form, there will be a suite of possible changes suggested.

# Potential Changes

- Amend Directive 056 to ensure ALL oil and gas wells within municipalities require municipal consent.
- Amend the Alberta lease process for great consultation pre-lease.



# Further Possible Changes

- Amending Directive 071 to provide greater clarity for the roles of first responders and possible consent from Fire Chief for all oil and gas development within a municipality.
- Amend the MGA section 618 to give municipalities some planning controls.



# Regulatory Amendments

- Amend section 619 to give municipalities a greater say in oil and gas development.

- Amend section 620, which claw backs municipal powers over oil and gas development.

# Existing Powers?

- Municipal general bylaw powers (non-planning) could be utilized to control nuisances associated with oil and gas activity.

- Such as noise, dust, landscaping, etc.

- These powers are only available post-ERCB approval.

# Land Use Policies

- Policies that do not impinge upon the ERCB approvals are okay.
- For instance, The City already has increased nuisance setbacks from some wells set out in Area Structure Plans in North East Calgary.
- In addition, the ERCB has said existing policies are taken into account at a hearing. The problem is the ERCB rarely holds hearings.

# City Gas and Oil Group

- The City has an internal group that deals with oil and gas issues.
- The Gas and Oil Group ("GOG") has representatives from many City Business Units that have oil and gas issues.
- *GOG is advisory only. It does not have any authority, jurisdiction or mandate over existing City departments or business units and their mandated or legislated responsibilities*. (TOR)

# GOG Revamp

- It appears that The City will follow the initiatives taken by Edmonton and Red Deer and establish an oil and gas liaison officer.
- The creation of a dedicated resource will hopefully ensure that oil and gas matters are dealt with in a more timely fashion.
- In addition, it is a hoped this person will be the main point of contact on all oil and gas issues.

# Sandra Jansen, new MLA
# May 29th, Legislative Assembly

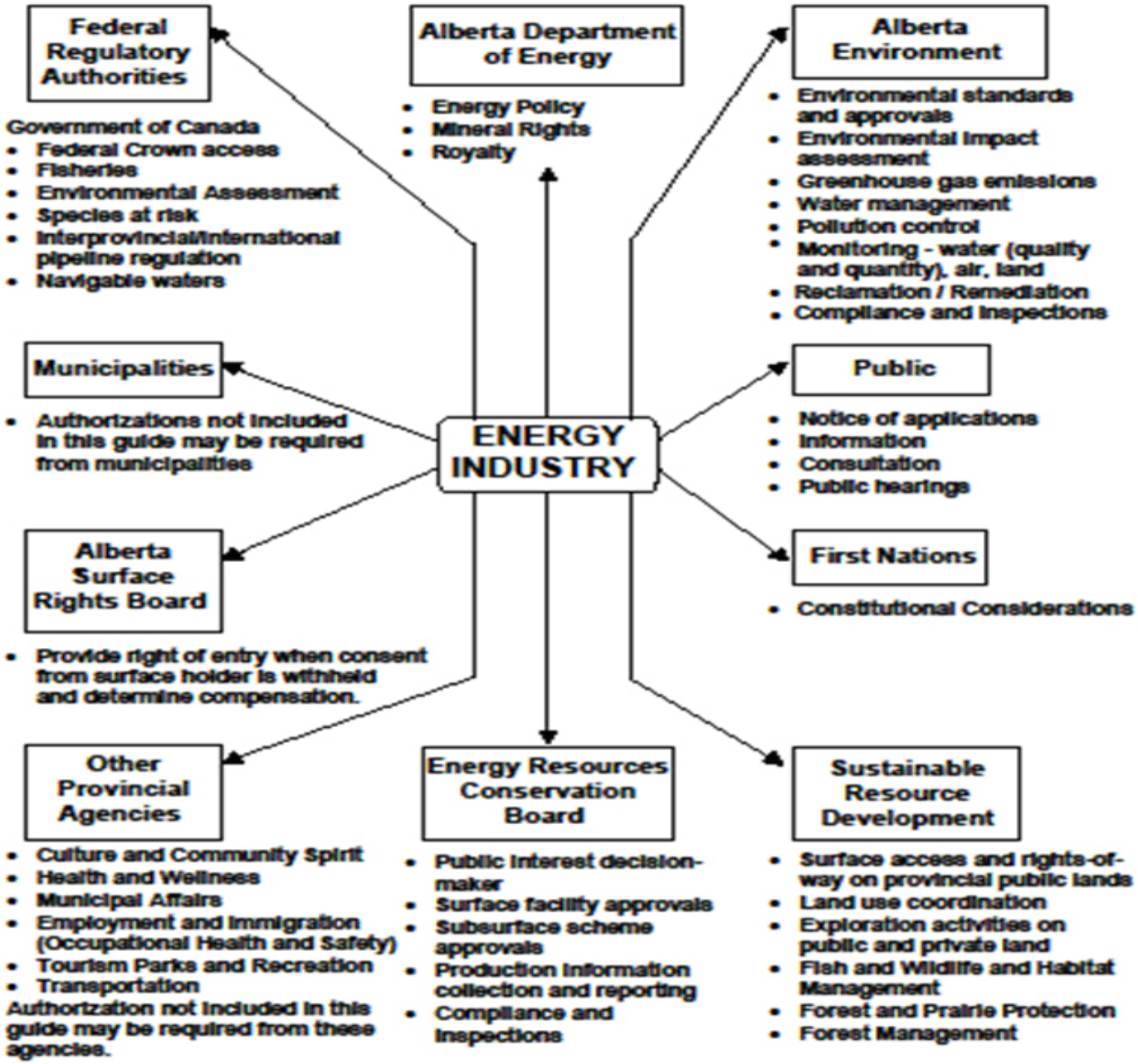
**Potential Oil Well Site in Calgary-North West**

**Ms Jansen:** Thank you, Mr. Speaker. In December of last year an oil and gas exploration company was granted approval from the Energy Resources Conservation Board to drill an exploratory well near the community of Royal Oak in my constituency of Calgary-North West. It is slated to be the site of a sweet oil well, and work has been planned for sometime this July. After extensive protest from nearby residents the company responsible for drilling the well voluntarily suspended operations pending an ERCB review, which will likely come this summer. A significant number of local residents are opposed to the well site due to concerns about the well and its proximity to homes and businesses in the community. Considering that the well site near the Royal Oak community could potentially be in operation for 50 years, local residents could be living and operating their businesses within a few hundred metres of the well site for quite some time.

# Private Member Bill?

Mr. Speaker, I believe that it would be beneficial for our province to have **urban policies in place that would govern the exploration and development of natural resources within densely populated areas.** Doing so would help balance the development of natural resources within urban areas while keeping the concerns of local residents and communities in mind.

# Energy Industry Overview





# The End

. . . But stay tuned for more oil and gas updates . . .