



Landowners Adjacent to a Renewable Energy Lease

Your neighbor has signed an agreement with a renewable energy company for a project to be constructed on land adjacent to yours. Now what?

Prior to making an application to the Alberta Utilities Commission (AUC), the developer must conduct a public involvement program in accordance with the AUC Rule 007. All persons whose rights may be directly and adversely affected by a proposed development must be informed of an application, have an opportunity to voice their concerns, and have an opportunity to be heard.



Once the AUC receives an application, they will send notice to stakeholders within their legislated notification range that a project application has been received. Included in this will be a deadline for submissions. This is your legally granted opportunity to have any concerns heard.



If you are a landowner adjacent to a proposed project, any concerns you should be submitted directly to the Alberta Utilities Commission (AUC) during their approval process.



The AUC must consider whether the construction and operation of the plant would be in the public interest, having regard for social, economic, and environment impacts. If issues submitted during the process cannot be resolved, the AUC may hold a public hearing.



Once the AUC has issued an approval, the municipality is **required by law** to approve the application as well.



A landowner should be aware that under the provincial *Weed Control Act*, if a company does not conduct adequate weed control for prohibited or prohibited noxious weeds, a municipality can issue a notice to both the developer and the landowner. If the developer does not respond to a weed notice, the landowner could ultimately bear the responsibility for weed control.

The MD of Smoky River No.130, requires a development permit be submitted, however any conditions attached must be consistent with the approval issued by the AUC.



A Road Use Agreement will be a requirement of the MD of Smoky River to ensure that construction traffic utilizes a specific haul route, and any dust or impacts to the road are addressed by the developer.

Potential concerns with renewable energy projects:

Aerial Spraying—may become problematic on lands adjacent to wind and solar facilities.

Associated Infrastructure—projects may require easements on adjacent lands for collector lines.

Noise—facilities are bound by *Rule 012: Noise*, which measures cumulative noise in the area. The AUC investigates noise complaints.

Visual Impacts—this can create contention with neighbors.

Weed & Pest Control—an adjacent landowner will want to be confident that a developer has a management plan in place to control potential pests, weeds and unkempt vegetation.

Shadow Flicker—some residences may experience shadow flicker on lands adjacent to a wind turbine. Changes to turbine siting may help reduce or eliminate this issue.

Ice Shedding—ice falling from turbine blades can create safety issues. Appropriate setbacks can help minimize this.

Construction Traffic—traffic will increase during the construction of the project. Road Use Agreements provide some security that haul routes, dust and impacts during this phase are dealt with by the Developer.

Limit Future Development—may have an impact on what can be placed on surrounding lands due to setback requirements and potential cumulative noise limits.

Crop Damages—ensuring the developer is responsible for any crop damages if project construction falls outside the approved footprint.

Aviation Obstruction Lighting - New technology enables remote activation to avoid continuous illumination.

For additional information please see the links below:

<https://www.alberta.ca/assets/documents/afred-fao-negotiating-renewable-energy-leases.pdf>

www.auc.ab.ca

It should be noted that this information is based on the current state in Alberta. Legislation is subject to change. If you have a renewable energy project proposed on adjacent land, *it may be helpful to engage with a legal professional to ensure your interests are protected.*

Appeals of renewable energy projects are heard by the Land and Property Rights Tribunal. MGA Section 685(1)(2.1)(a)(i)(C)



If you participate in a facility project review, you may be eligible to recover some of your costs for participating in a hearing or other AUC proceedings as per Rule 009 and Rule 022 of the AUC. Click the following link for more detailed information.

<https://www.auc.ab.ca/funding-for-participants/>



Responsibilities for Renewable Energy Regulation falls to the following three provincial departments:

- **Alberta Electric System Operator** — operates the electrical grid
- **Alberta Utilities Commission** — lead in approvals and construction and operation of renewables
- **Alberta Environment and Protected Areas**—does the review and assessment of Conservation and Reclamation plans (C&R), compliance and enforcement of C&R, issues reclamation certificates.

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