



Liability Management System Improvement Recommendations

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Suggested Improvements to the LMR System

- 1) The AER should compile a “blacklist” of individuals prohibited from holding mineral leases in the province. The AER should take all possible legal action to recover monies lost due to the irresponsible actions of past insolvent Operators.
- 2) This list should also include all individuals that owe money to the Minister of Finance for unpaid compensation orders to landowners.
- 3) Directive 011’s “netback” figure should be updated to reflect current Oil/gas prices.
- 4) The AER should enforce the provisions of Directive 013 and also require that all abandoned well sites obtain a reclamation certificate within 5 years of abandonment. It should also require that wellheads are abandoned within 3 years of suspension unless a legitimate reason exists to postpone abandonment.
- 5) Operators should be required to post a ‘*BIA* resistant’ reclamation bond for all wells that have been abandoned more than 5 years. If they do not, they are not allowed to drill any new wells.
- 6) All Operators with LMRs of zero should be required to obtain reclamation certificates immediately. If they cannot, these wells should be transferred to the OWA and all individuals involved with those Operators should be prevented from operating within the Industry in the future.
- 7) The AER should mandate that for every new well drilled, two must be reclaimed until an Operator’s backlog of abandoned wells is brought to reasonable levels.
- 8) Operators should be required to submit a reclamation plan at the beginning of the license application process and should be required to show that financial resources are available for reclamation. Reclamation timelines should be imposed, especially if the well is not productive, and reclamation funds should accrue over time from production revenues.

9) Operators should not be allowed to transfer well licenses unless the new assignee can show that it has the capability to assume the associated reclamation responsibilities and both of the Operators involved should be required to show how the accrued reclamation funds assigned to the transferred properties have been appropriately accounted for. Landowners should also have input on whether well license transfers should be allowed.

10) The current LMR trigger of 1 should be raised to at least 3, and possibly higher if this AER assessment process indicates that a higher ratio is prudent. The amount of required deposits could increase as the ratio becomes closer to 1, with perhaps 25% required at the higher ratio, increasing to 100% when the ratio is below 2.

11) LMR deposits should be held in trust outside the AER and a mechanism should be developed to allow quicker transfer to the OWA.

12) These deposits should be financial instruments specifically constructed to resist *BIA* claims from other secured creditors. Alternatively, the AER should condition every license with a super-priority status which would caution all lenders that AER claims for reclamation liabilities are the highest priority allowed in any lending instruments.

13) The Non-arm's length relationship between the AER, OWA and Industry should be examined by an independent party to determine whether Industry influence is compromising the current system.

14) The current Directorship structure of the OWA should be amended to include other stakeholders, especially landowner representation.

15) The AER and the OWA should appeal the *Redwater* decision to the Supreme Court of Canada and help fund landowner intervenor status so that the reclamation responsibilities of Operators can be reinstated as originally intended and the Polluter Pay principle can be confirmed as the law of the land.

16) Operators should be required to have a clear and transparent ownership structure

What options are available to address the current inventory of orphaned sites being managed by the Orphan Well Association?

- 1) The AER needs to compile an updated list of Orphan wells and transfer many legacy Orphans to the OWA.
- 2) Hire Operators (e.g. CNRL) that have proven track records of reclaiming well sites, at low costs, to reclaim OWA inventory sites on a contractual basis.
- 3) The OWA should actively seek other Operators to take over any well sites that have remaining productive capabilities and the AER should waive transfer fees and subsidize reclamation costs for those wells (by transferring the associated LMR deposit).
- 4) The AER should restrict WIPs ability to recover funds from the OWA to the amount of LMR deposits on hand associated with that bankrupt Operator's wells. General OWA funds should not subsidize WIPs responsibilities to reclaim wells.
- 5) Increase the OWA levy immediately to \$100 million dollars annually and increase it in subsequent years as the OWA increases its operating capabilities.
- 6) Since all Albertans benefit from Energy Development, a portion of oil/gas royalties should be set aside to increase the funding available to the OWA.

Desired Outcomes from the LMR Review

- 1) The cross-jurisdictional deficiencies between the AER, SRB and Alberta Environment be identified and eliminated.
- 2) The Minister of Finance should set up an agency to identify all orphan situations and pay landowners the annual compensation due until a reclamation certificate is obtained. Landowner annual applications would be eliminated and the SRB backlog would be significantly reduced.
- 3) All “legacy” orphans should be transferred to the OWA.
- 4) Operators with LMRs of zero should be forced to obtain rec. certs.
- 5) The OWA’s budget should be increased to \$100 million per year.
- 6) A better financial indicator needs to be formulated.
- 7) The LMR for deposits should be increased to 3 and increase on a sliding scale.
- 8) Landowners should have input on whether well licenses can be transferred.

- 9) The *Redwater* decision should be appealed to the Supreme Court and funding provided for landowner groups to intervene to present the perspective of the landowner.
- 10) EPOs should contain landowner compensation.
- 11) Abandoned and suspended wellheads need to be reclaimed in a timely manner.
- 12) The “uneven playing field” needs to be levelled and the landowner made whole.
- 13) Funding for a provincial landowner association needs to be provided so landowners can provide an effective voice and participate in Industry/government discussions.
- 14) The AER should also reinstate reclamation certificate inspections instead of allowing most wells to be reclaimed through a “self-inspection” process.
- 15) Reclamation criteria for legacy wells should be increased to higher levels. Landowners cannot profitably farm land that is only restored to 60% of capability and the Social Contract requires that landowner not be left worse off.
- 16) The *SRA* should be amended to allow landowners to file Section 30 Damage claims for damages occurring within Surface leases and ROW areas. Currently the *SRA* prohibits this and landowners are forced to apply to the courts which are not as likely to initiate action against insolvent Operators.