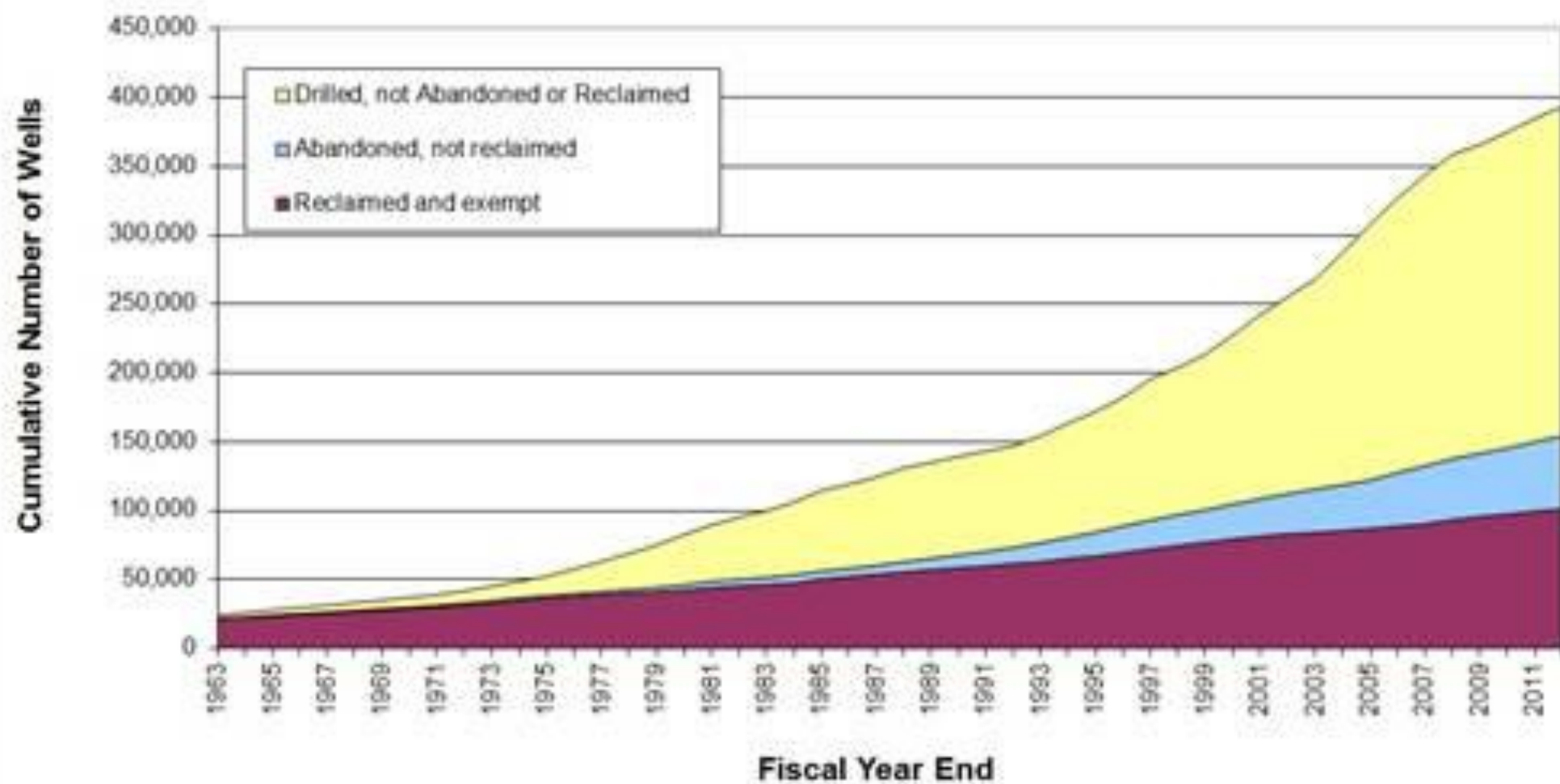


Perspective of Landowner Legal Counsel



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Drilled, Abandoned and Reclaimed Wells in Alberta, 1963-2012



Social Contract Between Gov't/Industry and Landowners

- Majority of Alberta's legacy wells and pipelines are on someone else's private property
- Landowners forced to accept wells and pipelines in return for promise by government and industry that landowners will be made whole and never be responsible for the environmental harm
- The legacy well issues are resulting in a breach of the social contract: landowners are having to pay for industry liabilities, environmental impacts affecting financing/land sales, long delays in cleanup
- Landowners need new tools to protect themselves and timelines for legacy wells

The Lifecycle Process from A Landowner's Perspective

- Initial entry and planned operational concerns – AER is the place to be but harder to get there
- Surface Rights Board – issues Entry Orders but only deals with compensation
- SRB can review compensation every five years to recognize changes in land use or operations
- AER deals with operational issues and reclamation

Legacy Well Impacts on Landowners

- Loss of bank financing or inability to sell land (buyer refused mrtge)
- Non-payment of compensation
- Inability to change land use and impacts on development
- Stigma to land and reduced sale value
- Stuck with company utility bills, and liens

AER Directive 079 and Amended MGA Subdivision Regulation – Abandoned Wells (2012)

- Imposes new restrictions on landowners and municipal development approving authorities for subdivision approvals and development permits
- A permanent 5 metre setback around the old well and an access route – no compensation is paid
- Prevents land development approvals -- places onus on landowner instead of energy companies
- landowner is expected to contact the energy company (last licensee) which is problematic some companies no longer exist and AER records are inaccurate

AER Directive 079 and Amended MGA Subdivision Regulation – Abandoned Wells

Landowner is expected to get the licensee to do the following (without any imposed timelines):

1. review its company well files and locate any documents relating to the well and its abandonment including survey plats, historical aerial photos, etc;
2. conduct an on-the-ground inspection of the well location and try to physically locate the well bore;
3. conduct gas detection survey
4. consider conducting re-abandonment procedures on the well bore
5. prepare an AER risk score
6. develop a well-specific action plan for leaking well for approval by the AER if required
7. the landowner and the licensee are expected to collaborate on the land development planning including consideration of maintaining elevations to avoid exposing the well and facilitating permanent access to the well bore in case there is a future leak

Enforcement Tools for Legacy Problems

- Section 104 – OGCA – Order to cleanup a release or remedy harm
- Section 113 – AEPEA -- EPO for cleanup of a release
- Section 117 – AEPEA -- Remediation Certificates
- Sections 125 and 129 AEPEA -- Contaminated Sites Cleanup
- Surface Rights Board – compensation review and offsite damages claim
- Sec. 33 Pipeline Act for pipeline removal
- Courts – lawsuit in nuisance, *Rylands and Fletcher*, negligence, trespass, battery, or laying waste

Recommendations

- ▶ Timelines for cleaning up legacy wells – bookend the problem: all new wells and oldest wells first
- ▶ Right to apply for Order for well cleanup (like sec. 33 PA)
- ▶ Notice of landowners of lic. transfer applications
- ▶ Shifts onus re Directive 79
- ▶ Access to records/reports
- ▶ landowners to impose security



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Heavy oil, open venting, and families flee homes



Dairy farm water wells contaminated by gas plant

Bonavista ordered to provide trucked water to Sulfolane infected dairy farm

Ed Moore
Friday, November 6, 2015 11:57:00 MST AM



Lonni Saken is hoping for a permanent solution to the Sulfolane problems and is wishing that Suncor, the former owner of the Rosevear South Gas Plant will get involved.

Future of dairy farm depends on Bonavista Energy appeal

The Alberta Energy Regulator's (AER) decision ordering Bonavista Energy Corporation to provide a continuous water supply to Lonni and Ron Saken's dairy farm east of Edson in the aftermath of Sulfolane contamination to their property has...



Recommend 0

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