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Alberta announces new framework to speed up oil and gas reclamation

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On July 30, 2020, the Alberta government announced a new Liability Management Framework (the Framework) aimed at expediting the cleanup of orphan and inactive well sites. The Framework signals a more active approach to reclamation and management of those sites, seeking to reduce their number while providing flexibility and clarity to the oil and gas industry.

Significant changes in the new Framework

The new Framework – set to be implemented in the coming months – will include the following significant changes:

- Active site operators will have mandatory five-year rolling spending targets for site reclamation.
- A new formal opt-in mechanism will allow landowners to nominate specific sites for cleanup.
- Struggling operators will have access to practical guidance and support to help manage their assets and maintain their operations to keep their sites active.
- The Framework will replace the current Licensee Liability Rating program of the Alberta Energy Regulator (the AER) – a simplistic mechanism that determines an operator's eligibility to hold a licence based on their assets-to-liabilities ratio – with a more comprehensive system that considers a wider range of assessment criteria.
- A panel-led process will be established to determine how to fully reclaim legacy and post-closure sites to current standards, including reclamation exempt sites (i.e., those sites that were reclaimed prior to when the legal requirement for reclamation certificates came into effect) and abandoned sites previously operated by now-defunct companies. There is currently no clear policy direction with respect to how to address these sites, and the approach taken by the AER has been criticized as being inconsistent, unpredictable and, in some cases, unfair.
- The Framework includes the expanded authority given to the Orphan Well Association (the OWA) by Bill 12, the *Liabilities Management Statutes Amendment Act*, which came into effect on June 15, 2020 (discussed below).

Under the Framework, the Alberta government sets the policy direction, while the AER will administer the program through monitoring, enforcement, and working with industry. Many

of the details regarding implementation have not yet been released.

The broader landscape

The announcement of a new Framework comes in the wake of changes made earlier this year to the scope of the OWA and substantial funding announcements for reclamation by both the federal and provincial governments:

- **The OWA** is an independent, primarily industry-funded, non-profit organization that operates under authority given to it by the AER. Originally, its role was largely restricted to overseeing the closure of oil and gas properties where there was no other legally or financially responsible party around to do so.

  However, in June 2020, Alberta's Bill 12 expanded the role of the OWA through changes to the *Oil and Gas Conservation Act* and *Pipeline Act*. The changes included giving the OWA power to act as a commercial oil and gas operator in some scenarios, and to play a more active role in the full life cycle management of struggling or abandoned oil and gas assets.

- **Government funding** has also recently increased for the reclamation of oil and gas sites, facilities and infrastructure. In April 2020, the federal government announced that up to $1 billion in funding would be made available to Alberta's oilfield service contractors to perform reclamation work as part of the government's COVID-19 Economic Response Plan and that it would offer a $200 million repayable loan to the OWA.

  In May 2020, the Alberta government launched its Site Rehabilitation Program, largely funded by the federal government's COVID-19 Economic Response Plan. This program provides grants to contractors to perform well, pipeline, and oil and gas site closure and reclamation work. The province also announced the extension of a $100 million repayable loan to the OWA.

Through the funding announcements and the legislation and policy changes, both the federal and provincial governments have signalled their interest in actively reducing the inventories of orphan and inactive well sites. The changes apply new pressures to operators in the oil and gas industry, while also attempting to provide opportunities and support for dealing with the associated financial burdens.

Implementation to come

The Alberta government and the AER are expected to reveal further details on the new Framework as they move to implement the changes over the coming months. Some changes – such as a more flexible approach to licensee liability ratings – are likely to be welcomed by operators. However, overall, the Framework signals growing pressure on operators to increase their financial commitments to reclamation at a time when many operators are already experiencing financial distress. What is certain is that the Framework introduces several new and expanded considerations that actors in the oil and gas industry will have to account for through the full life cycle of their projects. This will be an important development to follow through the second half of 2020.