February 26, 2019

By email only.

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Senator Rosa Galvez, Chair  
Senate of Canada  
Standing Committee  
Energy, the Environment and Natural Resources

Dear Senator Rosa Galvez, Chair, and committee members of the Standing Senate Committee on Energy, the Environment and Natural Resources

Thank you for the opportunity to speak before the Standing Senate Committee on Energy, the Environment, and Natural Resources.

As requested, we are following up on a number of items referenced during our presentation. As we understand that a formal submission will be forthcoming from the Government of Alberta, we have limited our information to that directly related to the operations of the Alberta Energy Regulator (AER).

Alberta’s system for regulating oil and gas development

The Government of Alberta created the AER in 2013 to bring multiple regulatory bodies together to make the process more effective and efficient for all stakeholders involved in the upstream oil and gas industry.

One of the reasons Alberta's system is so well regarded is that we don't have ambiguity in our system. There is predictability in our processes – industry, stakeholders, and indigenous peoples know what to expect. By using a risk-informed, outcomes-focused approach to regulation, we are able to focus our staff resources on the applications that require extra scrutiny. Effective regulation intervenes to the extent necessary. More regulation does not mean better outcomes.

Public participation and hearings

Alberta’s regulatory system for energy development encourages the public to have their say. Our process helps ensure we’re addressing concerns throughout the lifecycle of a development, which results in fewer hearings.

The AER requires that companies engage certain individuals prior to submitting an energy development application. This includes notifying people with known concerns about the application and those who...
reside in or occupy the notification and consultation areas. The AER shares all applications on our Public Notice of Application web page to encourage public participation in the decision-making process.

Albertans can voice their concerns to the AER about a particular proposed project even before a company submits an application. AER staff monitor, track, and assess pre-application concerns to ensure people have a voice and a venue for discussing their concerns. Anyone who believes they may be directly or adversely affected by an energy application may file a statement of concern (SOC) with the AER. The AER reviews every SOC it receives when making decisions on proposed energy development if it meets all requirements outlined in the *AER Rules of Practice*.

The AER may dismiss an SOC that: fails to demonstrate that the person may be directly or adversely affected by the application; is not filed within the timeline specified; is unrelated to the specific application; is related to an application on which a decision has already been made; or relates to a policy decision of the Government of Alberta or to a matter otherwise outside of the AER’s jurisdiction.

Despite processing 40,000 applications each year, the AER received 356 SOCs from the public, government, indigenous communities, and industry in 2018. The vast majority of these concerns were addressed without having to hold a hearing.

**Alternative Dispute Resolution**

Alternative Dispute Resolution (ADR) is a voluntary and confidential process that runs parallel to an application review. ADR can help two or more groups of people, including industry proponents, resolve disputes related to an energy development or activity. It can be used at any stage in the regulatory process to resolve public-to-company, indigenous community-to-community, and company-to-company disputes. In 2018, 51 per cent of SOC filers engaged in ADR. Of those, 80 per cent were partially or fully resolved. Three applications with standing SOCs were transferred to the hearing commissioners; the ADR process transferred along with the file and all three were resolved without a formal hearing.

**Indigenous relationships**

As part of our commitment to regulatory excellence, the AER is dedicated to working with Albertans, indigenous peoples, and stakeholders to make informed decisions and build strong relationships.

Ensuring indigenous communities are consulted is a crucial component of Alberta’s regulatory framework. The AER does not have the authority to make consultation adequacy determinations, and so we rely on the Aboriginal Consultation office (ACO), on behalf of the Government of Alberta, to determine how indigenous consultation should occur for all energy projects. Once the ACO has made a decision on consultation adequacy, it submits a report to the AER, which allows us to continue our review of the application and issue a regulatory decision.
However, formal consultation is only one piece of that puzzle. Over the last two years, the AER has worked with indigenous communities on projects such as area-based regulation, the integrated decision approach, and Fort McKay Recurrent Human Health Complaints. In 2016, the AER began work with Blackfoot elder Dr. Reg Crow Shoe to complete *Voices of Understanding: Looking through the Window*—a book that examines decision-making models and ethical spaces where indigenous communities and the AER can work together. As a result of that work, our former president and CEO was made the bundle holder of a traditional Blackfoot bundle. The bundle is an important recognition by the Blackfoot people in Treaty 7, and we hope it will be transferred to our new CEO once that person is in place. An extensive research project is underway to better understand how we can implement what we learned in developing *Voices of Understanding*, and we hope to have a path forward identified this summer.

**In Situ Oil sands scheme approvals**

Before a company can commence development of an in situ oil sands project, they must first apply for a scheme approval under the *Oil Sands Conservation Act*. A scheme is an overview that provides information on all aspects of the project including: the types of approvals and permits that will be required; technical and economic details; environmental and social impacts; and cost-benefit analysis. The scheme approval is the first in a series of approvals that are required to begin development. The AER reviews each application to ensure they are technically complete and to examine all of the concerns put forward by stakeholders. The scheme is put forward to the Government of Alberta for ultimate approval of the project through an Order in Council.

With the scheme approvals in hand, companies may submit applications for project-related approvals to the AER. Our technical review includes: the geology involved; the nature of the reservoir; any impacts on water land and air; well operation, design, and drilling practices; stakeholder involvement; and, socio-economic impacts related to the project.

**Application timelines**

Each year, the AER processes more than 40,000 applications. There are more than 100 different types of applications—from requests to access a parcel of land, to requests to drill a well or build a pipeline.

The AER posts estimated application processing times on its website and we are proud to meet those targets 90 per cent of the time. Our timelines may sometimes take longer due to the complexity of the development or factors outside of our control, including if the application is incomplete or if stakeholder consultation requirements have not been met.
Industry performance
The AER uses an industry performance program to measure, evaluate, report, and monitor the energy industry’s performance. We have developed performance reports on pipeline incidents and water use and are working to release reports on tailings and inactive wells later this year. These reports provide Albertans with more transparency about energy development activities and how the regulator works to protect public safety and the environment.

Our performance reports hold companies publically accountable for their actions and drive them to improve their performance. Operators with poor performance are subject to more frequent inspections, audits, and education about our requirements and expectations.

Enforcement
If we find that a company isn’t following our requirements, we apply one or more of our compliance and enforcement tools. The tools we use depend on the severity of the noncompliance and can include administrative penalties (fines), prosecution, enforcement orders, and ordering a shut down. If an operator is unable or unwilling to correct a problem, we can shut down the facility or order the activity to stop until full compliance is achieved.

Our Compliance Dashboard outlines which companies aren’t complying, and what we’re doing about it. We post initial incident information, investigation status and investigation summary reports, compliance actions, and enforcement activities.

Public confidence
The AER strives to earn the confidence of those we serve, and it’s something we have been measuring for close to two decades. Our research has consistently shown that Albertans expect us to ensure public safety, enforce the rules, ensure appropriate emergency response, and protect the environment. Positive opinions of the AER have trended up over the years; Albertans who report confidence in the AER’s ability to deliver on its mandate was 53 per cent in 2015 and 81 per cent in 2018. The numbers are also strong outside of Alberta; 77 per cent of Canadians express confidence that we’re fulfilling our mandate.

We work hard to make what we do understandable and seek creative ways to ensure we provide Albertans and Canadians with open, transparent information about the AER. Our award-winning animated video series, Conversations That Matter, describes Alberta’s oil sands and our role in protecting what matters, which are available in both official languages. These videos, and our storytelling site resource.aer.ca, help explain our role in regulating Alberta’s oil and gas industry in way that is understandable and relatable. These stories bring in multiple perspectives and highlight innovation.
Since 1938, Alberta has relied on strong regulation to ensure that our hydrocarbon resources are developed responsibly. We believe that the basic principles of strong regulation are universal, regardless of the industry being regulated – transparency, certainty, consistency, integrity, and empathy for those involved.

We understand there may be some interest in the committee meeting with Canadians outside of Ottawa. The AER would be more than happy to show the committee around Alberta to demonstrate our regulatory rigor while showcasing the innovative work taking place in our province.

Again, we thank you for the opportunity to share information about Alberta’s regulatory system with the Committee as you deliberate this important piece of legislation.

Regards,

Mark Taylor  
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Operations Division

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Executive Vice President  
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SS/CT

cc:  Rick Blackwood, ADM Strategy Division, Alberta Environment and Parks  
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