



Office of the Minister
Deputy Government House Leader
MLA, Calgary-North West

AR37963

March 24, 2021

Mr. Corey Beck
Chair
Agriculture Service Board Provincial Committee
asbprovcommittee@gmail.com

Dear Mr. Beck:

Thank you for your February 1, 2021, letter sharing the Agriculture Service Board (ASB) Provincial Committee's resolutions. Honourable Jason Nixon, Minister of Environment and Parks, will respond to Resolution 10-21: Federal Fuel Charge; and 2-21: Pesticide Container Collection Program. I have consulted with Honourable Devin Dreeshen, Minister of Agriculture and Forestry, as well as the Alberta Energy Regulator (AER) and the Orphan Well Association (OWA), and am responding to Resolution 1-21: Weed Issues on Oil and Gas Sites in Rural Alberta.

I recognize that weed control on oil and gas sites remains an important concern for ASB members, agricultural communities, and in particular for the MD of Taber. Legislated responsibility for weed control on these sites falls to different departments depending on the circumstance.

Under the *Weed Control Act* (Agriculture and Forestry), the landowners and/or occupant are responsible to control noxious weeds and destroy prohibited noxious weeds. Weed control on oil and gas surface leases is typically the responsibility of the oil and gas company, as per the commitments made in a private surface lease agreement. On private lands, the AER does not have authority over weed control unless it impacts the function of the oil and gas site, in which case it would become a matter of public safety. On Crown Lands, the AER can follow up on weed control issues under the *Public Lands Act*.

Agriculture and Forestry understands that this can leave landowners in a difficult position and is seeking a viable solution. Agriculture and Forestry will update the ASB Provincial Committee as discussions progress. For updates, contact Minister Dreeshen's office at AF.minister@gov.ab.ca.

The AER has the authority to ensure that companies clean up and close their energy sites so that they pose no threat to the public or the environment. If a weed issue is within the AER's jurisdiction, and it is determined that the company is failing to meet their

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requirements under the *Public Lands Act*, a notice of noncompliance may be issued. ASB members may contact the AER at inquiries@aer.ca or 1-855-297-8311 for clarification about the AER's role.

When a site is designated as orphan, it means the owner is no longer financially viable. Weed control for orphan sites falls under the care and custody of the OWA. Sites in the inventory of the OWA are managed in accordance with the its policies, and the OWA does not control weeds on suspended or abandoned orphaned oil and gas sites. Given the unprecedented growth of orphaned oil and gas sites in Alberta in recent years, the OWA prioritizes available funds for closure activities—instead of weed management—to ensure that energy infrastructure is removed from the landscape as soon as possible.

The OWA addresses weed infestations on orphan well sites only after the well has been moved into its reclamation inventory, where weed management is required for reclamation success. The OWA will control weeds during reclamation, prior to applying for a reclamation certificate from the AER. As well, the OWA will control weeds prior to reclamation, but only if the OWA believes that failure to do so will significantly impact reclamation efforts. The OWA, will not address weed control if the company is simply refusing to pay, is in receivership, or is in the midst of the AER process of having Working Interest Participants identified.

I understand the frustration of agricultural communities about delinquent oil and gas companies neglecting their responsibilities. That's why government is taking the boldest and strongest action to tackle oil and gas liabilities in Alberta's history. The Liability Management Framework, announced in July 2020, will contribute to a healthy oil and gas sector and ensure that industry bears the costs of site clean-up. During its multi-stage implementation, the new framework will begin to shrink the inventory of inactive and orphaned wells across the province, accelerating the timely restoration of land and protecting future generations of Albertans from experiencing a backlog of these sites.

In summer 2020 we strengthened orphan site management, including the OWA's ability to speed up site closures and the AER's ability to order the OWA to provide reasonable care and measures to prevent damage or impairment.

Under the new framework's Inventory Reduction Program, we're taking action to ensure a responsible and sustainable sector, including establishing five-year rolling annual spending targets for site clean-up and a formal opt-in mechanism, which will provide a way for landowners, land users, and communities to nominate specific inactive sites for clean up to the AER.

The Licensee Special Action function in the AER provides practical, proactive guidance for struggling operators. Working with struggling operators will protect Albertans from the financial and environmental burden of more inactive or orphaned sites—while ensuring

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operators can meet their environmental responsibilities. Additionally, the Licensee Capability Assessment System will replace the AER's current Licensee Liability Rating program, providing an improved method of assessing the capabilities of oil and gas operators to meet their regulatory obligations at each stage of the development lifecycle.

It is important to note that farmers can apply to the Surface Rights Board for compensation for adverse effects, which could include compensation for weed control, under the five-year lease review provisions of the *Surface Rights Act* (Section 27). Farmers can apply for compensation under section 30 of the Act for damage to any land that is offsite, which may include compensation for weed control or weed infestation. The board decides these matters based on the relevant evidence and arguments in each case.

The Farmers' Advocate Office can help landowners file their paperwork with the Surface Rights Board, or help direct municipalities or landowners to the appropriate agency. The Farmers' Advocate Office can be reached at farmers.advocate@gov.ab.ca or by calling 310-FARM (3276). For more information on how the Surface Rights Board has decided weed control and weed infestation issues, view decisions at CanLII's online law database at www.canlii.org.

Finally, on May 1, 2020, the Government of Alberta initiated the Site Rehabilitation Program (SRP), to direct up to \$1 billion of federal oil and gas relief funding to provide grants to eligible oil field service contractors to perform well, pipeline, and oil and gas site closure and reclamation work. As part of SRP, we launched the Landowner and Indigenous Community Site Nomination program, and any landowner, Indigenous Community, or Métis Settlement resident may nominate a site for closure. For more information, see www.alberta.ca/landowner-and-indigenous-community-site-nomination.aspx.

Should the ASB wish to discuss how government is addressing oil and gas liabilities on the landscape further, contact Mr. Wade Clark, Executive Director of Resource Stewardship Policy, at 780-427-7426 or wade.clark@gov.ab.ca. Again, thank you to the ASB Provincial Committee for raising this important issue.

Sincerely,



Sonya Savage
Minister

cc: Honourable Jason Nixon, Minister of Environment and Parks
Honourable Devin Dreeshen, Minister of Agriculture and Forestry
Wade Clark, Alberta Energy