In an effort to address the growing number of inactive and abandoned oil and gas wells and sites requiring reclamation, the Government of Alberta recently announced a new framework to manage oil and gas liabilities. The long awaited Liability Management Framework is the latest step in reforming the management, funding, and approach to long term liability associated with Alberta's more than 90,000 inactive oil and gas wells across the province.

Government of Alberta's New Liability Management Framework

According to the Government of Alberta, Alberta currently has an estimated: 162,500 active wells, 97,000 inactive wells, and 71,000 abandoned wells. As of August 1, 2020, the Orphan Well Association counted among its orphan inventory 2,959 wells and 3,681 pipeline segments for abandonment, and 3,212 sites for reclamation. The significant task of managing liability for oil and gas sites has been intensified by current economic conditions along with the onset of the COVID-19 pandemic. The Framework announced on July 30, 2020 aligns with the objectives and operational aspects of the evolving Site Rehabilitation Program first launched in May 2020 as part of the Government response to the economic impact of COVID-19.

The Framework represents significant changes to Alberta's current liability management regime and has five main components: addressing concerns about the adequacy of the existing Licensee Liability Ratio (LLR) as a measure of licensee financial health and license transfer eligibility; mandatory spending requirements; landowner engagement and
accountability; management of legacy and post closure sites; and recent expansion of the Orphan Well Association's mandate.

The **Licensee Special Action** will provide guidance and support for distressed operators to help manage and maximize their assets. This Action is preventative in nature, to ensure that operations can be maintained and wells can remain active, and that more inactive and abandoned sites do not add to the financial and environmental burden on Alberta's taxpayers. The AER will be able to take a proactive approach and provide the necessary support before operators are struggling.

The **Licensee Capability Assessment System** will replace the AER's Licensee Liability Rating program, to assess whether oil and gas operators are capable of meeting their regulatory liability obligations. This system is intended to be more comprehensive by evaluating corporate health and broadening the assessment parameters prior to issuing regulatory approvals.

The **Inventory Reduction Program** will establish annual industry site closure spending targets, in order to reduce the number of inactive wells. The spending targets will be over a five-year rolling period, in order to allow the flexibility to account for circumstances specific to each operator. The initiative is set to include the voluntary area-based closure program, as well as the implementation of a new opt-in mechanism:

- The area-based closure program allows companies to share the clean-up costs for multiple sites in an area, leading to cost savings of up to 40% due to increased efficiency in site closure activities.
- The opt-in mechanism allows landowners to nominate sites for clean-up. The nominated sites are then reviewed by the regulator, and the operator will have the responsibility of justifying why the closure process should not begin on the nominated site. As for public lands, Albertans will be able to submit requests or concerns to the Government, who will then submit them to the AER for review.

**Legacy and Post-closure Sites** will become the subject of a panel review, established to determine the best way to bring these sites in line with current environmental requirements. The panel will consider how to address sites that were abandoned, remediated or reclaimed prior to the implementation of the current environmental standards, as well as sites that have received reclamation certificates but for which the operator's liability period has lapsed.

**Expanding the Mandate of the Orphan Well Association** in accordance with the Liabilities Management Statutes Amendment Act (Bill 12), which we briefly discussed in
one of our prior bulletins found here. Bill 12 came into effect on June 15, 2020, and enables the Orphan Well Association to:

- continue production from orphan wells and sell the oil and gas from such wells through associated pipelines; and
- use its funds for broader purposes, such as paying for facility monitoring operations, hiring and retaining staff for monitoring and risk management purposes, and covering the cost of receivers, receiver-managers, trustees and liquidators.

The objective is to accelerate the reclamation of oil and gas sites and mitigate the risk of increasing the number of orphan sites, in addition to protecting the value of producing assets, protecting jobs and public safety, and ensuring that reclamation is done in a responsible and environmentally-sound manner.

Information released to date on the new Liability Management Framework remains high level. Gowling WLG will continue to report on developments as they arise.

**Backgrounder on Government of Alberta's Evolving Site Rehabilitation Program**

The Site Rehabilitation Program launched in May, 2020 as part of the Government of Alberta's efforts to address environmental and on-going liability associated with oil and gas sites, was specifically intended to create economic opportunity in response to COVID-19. The Program issues grants to Alberta-based oilfield services contractors to perform decommissioning and rehabilitation work on upstream oil and gas infrastructure. As of August 7th, upwards of 36,247 completed applications have been submitted. Approved grant funding of $137.3 million has been allocated to 214 Alberta-based companies, with up to $800 million in funding still available for the Program.[3] The funding for the Site Rehabilitation Program comes from the Federal Government’s COVID-19 Economic Response Plan. Gowling WLG hosted a webinar that detailed this program shortly after it was announced. Certain changes have been made to the program since that time, and additional details of subsequent Grant Periods have been released.

Funding through this program is made available and allocated in increments of $100 million, with each Grant Period having targeted priorities, as well as specific application criteria and timelines. While the first two Grant Periods are now closed to new applicants, the third and fourth Grant Periods will remain open until March 31, 2021, with project completion expected to be achieved by December 31, 2022. The Government is also
reassessing certain existing applications that were declined in the first Grant Period, through what is called ‘Reassessment Period 1B’. Applicants will be informed by the end of August of the Government’s reassessment decision.

As noted, Grant Periods 3 and 4 will remain open until March 31, 2021, or until licensees have fully expended their allocations. The funds in these Grant Periods are allocated directly to each licensee, and are linked to the licensee’s Business Associate identification number (BA ID).[4] The BA ID for each well, facility or pipeline must match the information associated with the particular licence in order for the application to be submitted.

In Grant Period 3, qualifying projects will be eligible for 100% grant funding on the contract amount, subject to a limit of $139,000 allocated to each active site licensee in Alberta for site closure work. Multiple contractors may apply for different work being performed for the same licensee, however, applications reviewed after the specific licensee’s maximum allocation has been reached will be declined. Grant Period 4 will be focused on Area-Based Closure plans, specifically where licensees had confirmed and proposed plans submitted to the AER for 2020, but which were subsequently cancelled due to the economic environment created by the COVID-19 pandemic. Application criteria for future Grant Periods will be posted to the Site Rehabilitation Program website. Watch for future editions of this briefing with updated information as it becomes available.

Private landowners, First Nations on reserve, and residents of Métis settlements may nominate inactive sites for Program funding. Specific nomination instructions are provided for each group, and the list of nominated sites is posted to the Government’s website to allow contractors to enter into negotiations with a licensee for the performance of the closure work. These can be found [here](#).

The most recent updates to the Program’s Application Guidelines include changes to the contract requirements and the permitted contract clauses, updates to the guidance provided for invoicing and payments as well as for community nominations. Most notably, an Indigenous Company Criteria was added to the Application Guidelines in August, laying out certain criteria to be met for an applicant to be considered an Indigenous company or a ‘prime contractor hiring Indigenous sub-contractors’. These criteria relate to the ownership of the company, the composition of the board of directors or executive officers, and the identity of employees or sub-contractors carrying out the work for the company. Oilfield services companies registered in the Indigenous Services Canada's Indigenous Business Directory or certified with the Canadian Council for Aboriginal Business also meet the Indigenous Company Criteria for the purpose of the Site Rehabilitation Program.
For more information, refer to Alberta.ca’s Application Information and Guidelines online.

If you have any questions or would like to discuss the Liability Management Framework or the Site Rehabilitation Program, please contact any member of Gowling WLG’s Calgary Energy Group.

[4] Every registered licensee and agent, including operators, non-operating working interest owners, pipeline operators, shippers, as well as certain companies (e.g. drilling companies) and other entities reporting to the Ministries or Regulators in AB, SK or BC, are all issued a BA ID through Petrinex, the online Petroleum Information Network.

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Related Energy

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