

Public Statement

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Facing the liability challenge in Alberta: AER president and CEO Jim Ellis

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For immediate release.

Calgary, Alberta (August 8, 2018)...The business of regulating oil and gas is a complex undertaking. Every day, Alberta Energy Regulator (AER) employees make countless decisions.

We do our best to make sure our rules reflect the social and economic realities of the day, that our processes are not unnecessarily burdensome, and that we have accurate and up-to-date information to make reasonable, well-informed decisions.

However, sometimes there are situations beyond our control. When this happens, it is our responsibility to identify and address any gaps in our requirements. Earlier this year, Sequoia Resources Corp. (Sequoia) informed us that it planned to cease operations without properly decommissioning more than 4,000 wells, pipelines, and facilities. As a result, we ordered the company to address its end-of-life obligations.

But how did Sequoia get to this point? What happened that caused them to be in this position?

This is where a gap in the system has been identified.

The AER has limited legislated authority to oversee corporate transactions. This is important to note because corporate transactions can result in AER licences changing hands without having to go through the scrutiny of our transfer process. Unfortunately, this can be used by some companies to avoid their responsibility, potentially leaving millions of dollars of liability for the Orphan Well Association.

This is what happened after a corporate transaction between Sequoia and Perpetual Energy (Perpetual), allowing Perpetual to pass licences, and all liability, for many unprofitable and unwanted assets to Sequoia.

Sequoia has since claimed bankruptcy, and a trustee has been working to better understand what happened to the company. The trustee has raised concerns that Sequoia took on significant liabilities that were not in the best interest of the company or its stakeholders. If these allegations are proven in court, it is most concerning – but we'll leave that for the court to determine.

For the AER, this situation has exposed a gap in the system and raised questions with respect to how we better manage liability in the future. In some cases, our governing legislation did not provide us the

necessary flexibility to do what is needed, while in other cases our own requirements and processes were limiting. We are working to fix both.

We now require considerably more information from companies applying for licences through our revised [Directive 067](#) and can reject applications we believe are a risk to public safety or the environment.

Companies are also required to inform us of material changes, which includes corporate transactions, within one month of the change taking place. With this information, we are better able to assess the risk associated with the change and limit the company's eligibility to hold licences to avoid situations like this in the future. Where our authority may be limited, we work with a trustee, which may have more power, to support their investigation any way we can.

We know we must strike the right balance between being protective without controlling a company's day-to-day business decisions. But we also know we must protect public safety and the environment while holding companies accountable.

The last few years have been incredibly hard on Alberta's energy sector as sustained weak commodity prices have left their mark. Since the [Redwater](#) decision first allowed receivers and trustees to walk away from unproductive energy sites, we've been working in a different environment, one that requires a different approach.

No matter what the Supreme Court of Canada decides on the Redwater case, we know we have to do things differently. That commitment is embedded into the [AER's new strategic plan](#), which prioritizes liability management over the next five years.

We have already begun a plan to update liability management, reviewing our processes to better understand what is working well and what needs to change. While we don't have all of the details yet, we have already begun work on a number of initiatives. For example, we are using more than the liability management ratings to assess risk, including using financial, behavioural, and inventory risk factors to identify which companies might be unable to meet their obligations. We are also developing a program, known as area-based closure, to encourage companies to work together to reduce inactive wells and infrastructure. This is new territory for the AER that has required us to expand our analytic capacity and skill sets to examine complex financial transactions.

Like other jurisdictions around the world, Alberta is faced with struggling companies, bankruptcies, and infrastructure left with no owner to manage it. We are working with other regulators to share information and get a better understanding of how we might apply learnings from elsewhere to what is happening in Alberta. And we are working with the Government of Alberta on their liability management review and will implement any policy changes that may occur as a result.

I'm confident that we're up to the challenge. We will continue to adapt to protect what matters to Albertans, public safety, the environment and economic benefit from the development of our energy resources.

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