RMA
RURAL MUNICIPALITIES of ALBERTA

BULLETIN

December 2, 2021

Alberta Energy Regulator Releases Directive 088: Licensee Life-Cycle Management

Directive 088 provides new tools to manage oil and gas liability

On December 1, 2021, the Alberta Energy Regulator (AER) released Directive 088: Licensee Life-Cycle Management, which includes new tools to manage oil and gas liability. The new directive has been developed to ensure Alberta's oil and gas industry remains accountable for end-of-life management and reclamation of wells. It is the next step in implementing the Government of Alberta's new liability management framework. The AER has also released a What We Heard document from their engagement session on Directive 088, which was held in June 2021.

The additional tools within Directive 088 intended to assess a company's life-cycle management capabilities include:

- A holistic assessment of the licensee that considers more than 40 different factors, including those listed in section 4.5 of Directive 067. Factors include the company's financial and liability risk; the company's administrative, operational, and closure performance; and the remaining lifespan of the resource.
- An inventory reduction program, which sets yearly industry-wide and company-specific targets to complete closure work, starting with an industry target of $422 million in 2022.
- A licensee management program that identifies companies at risk of not being able to meet their responsibilities, including their obligation to clean up their sites and intervention when necessary to ensure their obligations are addressed.

While the tools introduced in Directive 088 are a step in the right direction towards effective liability management through the life-cycle of an energy project, RMA has outstanding questions about the new tools, such as:

- When and how will the AER apply compliance or enforcement tools in situations where companies are identified as at risk of not meeting their regulatory obligations?
- How will the value of mandatory well closures under the Inventory Reduction Program be determined and verified?
- To what extent will municipal tax payment be considered during the review of licence transfer applications?
- When and in what amount will the AER require security deposits from companies?

RMA will inform members as more details are learned.

The AER is hosting an information session to discuss Directive 088 on February 3, 2022 at 1:30 pm. Registration is required.

Any questions can be sent by email to liabilitymanagment@aer.ca.

Unpaid Municipal Taxes and Surface Lease Payments

The AER revised Directive 067 earlier this year to allow the AER to consider unpaid municipal taxes and surface lease payments when assessing licensee eligibility. As Directive 088 includes a holistic assessment based in part on the factors listed in Directive 067, the AER will contact companies directly when required to confirm the amount of unpaid municipal taxes or surface lease payments.

The AER's recent correspondence to stakeholders introducing Directive 088 stated that the AER does not have jurisdiction to implement compliance or enforcement actions related to unpaid municipal taxes. The correspondence also stated that it does not recommend that municipalities deny access to sites or remove existing infrastructure in response to not receiving municipal tax payments.

This statement appears to be in reference to the recently passed *Bill 77: Municipal Government (Restoring Tax Accountability) Amendment Act, 2021*, which restores the ability of municipalities to place special liens on linear and M&E assets in a similar manner to all other property types. RMA is concerned that the AER has chosen to publicly comment in opposition to these recently returned municipal abilities, as municipal powers, tools, and processes are not within the AER's scope.

RMA will continue to advocate to the AER on the importance of unpaid municipal taxes being considered when assessing licensee eligibility, as this is not only important for municipalities, but is also a valid warning sign that a company may be at risk of not meeting other regulatory or environmental responsibilities.

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