

February 27, 2024

**FOR IMMEDIATE RELEASE**

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## Band-Aid Solutions Fall Short: Some Oil and Gas Companies Continue to Ignore Property Taxes as Regulator Sits on Hands

**Nisku, AB, February 27, 2024** – The Rural Municipalities of Alberta (RMA) has conducted a member survey identifying that, as of December 31, 2023, at least \$251.8 million of municipal property taxes have gone unpaid by oil and gas companies. This marks the sixth consecutive year that the RMA conducted the survey, and unfortunately the 2023 results indicate that a small number of oil and gas companies operating in Alberta continue to ignore their legal obligation to pay municipal property taxes.

“Year after year, rural municipalities provide clear, documented, and verifiable evidence that a select group of property owners are simply choosing not to pay their property taxes, and year after year, the problem drags on due to a lack of industry regulation and accountability. While all other property owners in the province face strict penalties for non-payment of property taxes, oil and gas companies continue to exploit legislative and policy loopholes and hide behind an industry regulator that has, for many years, refused to hold some companies accountable for poor business decisions, high liability risks, and a lack of concern for the public interest.” – Paul McLauchlin, Rural Municipalities of Alberta.

While the Government of Alberta has taken some steps to close loopholes and empower municipalities to enforce payment of taxes, the survey results indicate that their impact has been minimal. For the 2023 property tax year, rural municipalities are facing roughly \$43 million in unpaid taxes. In last year’s survey, that amount was approximately \$50 million. While a 14% reduction in “fresh” tax arrears is a step in the right direction, it by no means indicates that the problem is anywhere near solved.

“While government and industry supporters typically question the RMA’s survey results by arguing that the total unpaid tax amount includes legacy tax arrears that will likely never be collected, an additional \$43 million in new unpaid taxes in 2023 indicate quite clearly that this is an active, ongoing issue that continues to make it more difficult for rural municipalities to provide the infrastructure and services that oil and gas companies, as well as other industries and rural resident, rely on,” McLauchlin explained. “This issue is not settled; companies continue to profit from Alberta’s resources while ignoring their community obligations and funnelling profits to executives and shareholders.”

In recent years, the Government of Alberta has taken two notable steps in an attempt to curb unpaid taxes. The first was to amend the *Municipal Government Act* to clarify that municipalities have a secured status (a special lien) to recover unpaid taxes during bankruptcy or insolvency hearings. The second was to order the Alberta Energy Regulator (AER) to no longer approve licence transfers or new licences for companies with outstanding property tax arrears above \$20,000. While both changes were steps in the right direction, neither target the companies that have the resources to remain operational and profitable, but are not in a position to expand

their holdings. The RMA's survey showed that in 2023, just over 10% of members were able to utilize special lien status to recover unpaid taxes, and about 30% noted that the requirement on licence transfers and acquisitions had a positive impact on their ability to recover taxes.

"In recent years, the Government of Alberta has made two legislative and policy changes intended to deal with property tax non-payment by some oil and gas companies. While these have led to modest improvements in the situation, they are far from a solution," McLauchlin said. "One change focuses on helping municipalities recover taxes from bankrupt or insolvent companies, and the other restricts the ability of companies to grow their asset base if they have taxes in arrears. While both help on the margins, neither target the companies at the root of the problem: the "zombies" that continue to operate but have no interest in growing. These companies often cut costs anywhere they can: in tax payments, in surface leases, in safety initiatives, in reclamation preparation. These are the companies that are a risk to rural municipalities and all Albertans but are allowed to continue to pull Albertans' resources from the ground and funnel profits out of the province."

While the simple solution would be to revoke a company's licence if it has property taxes in arrears, the AER's hands-off approach to regulation has led to a situation where dozens of companies are operating with virtually no assets and very high liabilities. Requiring them to meet their property tax obligations would likely lead to a flood of thousands of wells into the Orphan Well Association (OWA). It is shocking that the AER has allowed the situation to reach this point and unfair that rural property taxpayers are being forced to prop up companies that have no business operating because the AER and Government of Alberta are not prepared for the outcomes of holding them accountable.

"I'll be blunt. Rural municipalities and all other companies and individuals paying property taxes are being used. We are being used by a small number of zombie oil and gas companies to not only subsidize the taxes they don't want to pay, but to prop up their very existence. The AER has allowed these companies to operate for such a long time, with such poor financial management, that they are now unequipped to deal with the consequences of them failing," said McLauchlin. "I am a strong supporter of the oil and gas industry, as are all RMA members. However, what the AER has allowed a small number of companies to get away with is not in the public interest. It harms municipalities, it harms other property owners, and it harms the oil and gas industry. The only group benefitting are these irresponsible companies taking advantage of the AER's hands-off approach. At the end of the day, we need a regulator, not a cheerleader."

Because of the risks that immediate enforcement of property tax payments would have on the OWA and Albertans, the RMA is proposing that the Minister of Energy direct the AER to prevent companies from operating if they have property taxes in arrears, but that this enforcement be phased in over the coming months, with timelines linked to the level of risk associated with each company that would be impacted by the enforcement. Those with the means to pay tax arrears quickly should be required to do so or face licence revocation. Those operating as zombies should be given some time to divert their revenues to property tax payments.

"Given how long companies have been allowed to ignore their property tax obligations, it is absurd that we have to propose a phased approach to enhanced enforcement. Unfortunately, this is the situation that regulatory inaction has placed us in. A phased enforcement approach is a reasonable strategy that will give companies more time to get their financial house in order, with defined timelines and consequences for inaction. Allowing this problem to continue unchecked while offering Band-Aid solutions is simply unfair to Albertans, and will allow a few bad actors to continue to damage the reputation of Alberta's oil and gas industry." – Paul McLauchlin, Rural Municipalities of Alberta.