

**COURT OF APPEAL OF ALBERTA**

COURT OF APPEAL FILE NUMBER: 2101-0085 AC

TRIAL COURT FILE NUMBER: 25-2332583  
25-2332610  
25-2335351

REGISTRY OFFICE CALGARY

APPLICANT ALVAREZ &amp; MARSAL CANADA INC. in its capacity as the Court-appointed receiver and manager of MANITOK ENERGY INC.

STATUS ON APPEAL APPELLANT

RESPONDENTS PRENTICE CREEK CONTRACTING LTD., RIVERSIDE FUELS LTD. and ALBERTA ENERGY REGULATOR

STATUS ON APPEAL RESPONDENTS

INTERVENORS ORPHAN WELL ASSOCIATION, STETTLER COUNTY and WOODLANDS COUNTY

STATUS ON APPEAL INTERVENORS

**DOCUMENT** **EXTRACTS OF KEY EVIDENCE OF THE INTERVENOR, ORPHAN WELL ASSOCIATION**


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APPEAL FROM THE ORDER OF  
THE HONOURABLE MADAM JUSTICE B.E.C. ROMAINE  
DATED THE 24<sup>TH</sup> DAY OF MARCH, 2021  
FILED THE 10<sup>TH</sup> DAY OF JUNE, 2021

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**EXTRACTS OF KEY EVIDENCE OF THE INTERVENOR, ORPHAN WELL ASSOCIATION**

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**COURT OF APPEAL OF ALBERTA**

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TRIAL COURT FILE NUMBER: 25-2332583  
25-2332610  
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REGISTRY OFFICE: CALGARY

APPLICANT: ORPHAN WELL ASSOCIATION

STATUS ON APPEAL: PROPOSED INTERVENOR  
STATUS ON APPLICATION: APPLICANT

RESPONDENT: ALVAREZ & MARSAL CANADA INC. in its capacity as the Court-appointed receiver and manager of MANITOK ENERGY INC.

STATUS ON APPEAL: APPELLANT  
STATUS ON APPLICATION: RESPONDENT

RESPONDENTS: PRENTICE CREEK CONTRACTING LTD, RIVERSIDE FUELS LTD. and ALBERTA ENERGY REGULATOR

STATUS ON APPEAL: RESPONDENTS  
STATUS ON APPLICATION: RESPONDENTS

DOCUMENT: **AFFIDAVIT IN SUPPORT OF APPLICATION FOR LEAVE TO INTERVENE BY THE ORPHAN WELL ASSOCIATION**

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County and Woodlands County

**AFFIDAVIT OF LARS DE PAUW****Sworn on August 5, 2021**

I, Lars De Pauw, P. Eng., M. Sc., B. Sc. (Hon), of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the Executive Director of the Orphan Well Association (“**OWA**”). I have held this position with the OWA for the past four years, since July 2017. I am a designated Professional Engineer. I have a Masters of Science Degree and a Bachelor of Sciences Degree from the Environmental Engineering Honours Program, each from the University of Guelph. I have twenty-two years experience across a range of upstream and downstream energy businesses, with an emphasis on environmental abandonment, remediation and reclamation work.
2. In my capacity as the Executive Director of the OWA, I have primary responsibility for monitoring all active insolvency proceedings of oil and gas companies in Alberta. Additionally, I have responsibility for overseeing all aspects of the OWA including the abandonment, decommissioning, remediation, and reclamation obligations of over 7,000 orphaned sites and managing annual budgets to perform such work of between \$100 million to \$220 million.
3. Prior to joining the OWA, I was a senior environmental engineer with Matrix Solutions Inc. (“**Matrix**”) for approximately two years. In my role with Matrix, amongst other things I was responsible for completing liability and assessment management programs for clients, including in relation to supporting acquisition and divestiture activity in the oil and gas industry, and site specific liability assessments.
4. Before joining Matrix, I had spent the bulk of my professional career in the Environmental and Reclamation department of Penn West Exploration (“**Penn West**”), where I held the positions of: i) Manager: Environment and Reclamation from 2005 to 2013, ii) Supervisor: Environment from 2003 to 2005, and iii) Environmental Coordinator from 2001 to 2003. In my role as Manager: Environment and Reclamation of Penn West, I was the highest ranking environmental employee for the company, overseeing all internal and external aspects related to Penn West’s environmental performance. At the time, Penn West had

nearly 2,000 employees, assets in all four Western Provinces, and production of nearly 200,000 boe/d. In this role, my primary responsibilities included preparation of Penn West's budget to achieve its environmental performance objectives, short and long term planning and field execution respecting corporate asset retirement obligations, including facility and well suspension, abandonment, decommissioning, remediation and reclamation, and development and management of corporate programs and policies related to compliance obligations.

5. Prior to joining Penn West, I was an Environmental Coordinator with Wiebe Environmental Services from 1999 to 2001, where I performed audits of oilfield facilities to determine compliance with government regulations and to estimate long term environmental liabilities, as well as evaluations of environmental liabilities of potential acquisitions for clients.
6. As such, I have personal knowledge of the facts and matters deposed to herein, except where stated to be based on information and belief, in which case I verily believe the same to be true.
7. I swear this Affidavit in support of the OWA's Application for Leave to Intervene in the within Appeal proceedings.

## **BACKGROUND**

8. The OWA is an independent non-profit organization that operates under the delegated legal authority of the Alberta Energy Regulator ("AER"). The mandate of the OWA is to safely decommission orphaned oil and gas wells, pipelines and production facilities where the owners of such wells, pipelines and production facilities are insolvent, and to restore the land on which such assets are located to as close to its original state as possible, all in a cost-efficient manner.
9. The OWA is delegated certain powers, duties and functions by the AER pursuant to the *Orphan Fund Delegated Administration Regulation*, Alta Reg 45/2001 (the "**Regulation**"), which is a regulation enacted under the *Oil and Gas Conservation Act*, RSA 2000 c O-6

(“OGCA”). Section 3 of the Regulation specifies the powers, duties and functions of the OWA.

10. The mandate of the OWA is to conduct abandonment or site reclamation activities on specific properties designated by the AER as “orphans” pursuant to section 70(2) of the OGCA. These include upstream oil and gas wells, pipelines, facilities and their associated sites where the licensee is insolvent, defunct or is dissolved or struck as a corporation.
11. The OWA is overseen by a board of directors made up of representatives from the Canadian Association of Petroleum Producers, the Explorers and Producers Association of Canada, and the AER.
12. The OWA is a primarily industry-funded association, reflecting a collaboration among the Alberta Government, provincial regulators and oil and gas producers to work toward the common goal of protecting public safety and managing environmental risks of oil and gas properties that do not have a legally or financially responsible (i.e. solvent) party that can comply with regulatory obligations to abandon and reclaim assets at the end of their life cycle.
13. The OWA has a limited budget and is focused on maximizing the benefit of its available funding. This requires risk-assessing and prioritizing the inventory of orphaned and abandoned wells, facilities, and pipelines to ensure public safety and environmental protection.
14. The OWA is primarily funded through the Orphan Fund Levy (the “Levy”) issued yearly to oil and gas companies across Alberta by the AER. The AER then transfers the funds generated by the Levy to the OWA’s operating budget.
15. The Levy is used to pay for project closure costs, including suspension, abandonment, remediation, and reclamation, if an oil and gas company cannot meet its obligations to safely and responsibly perform these regulatory obligations. The Levy ensures that Albertans need not bear the cost of closing orphan oil and gas wells, pipelines, and production facilities. Although the OWA has received government loans in recent years, it is intended and expected that these loans will be repaid by industry over time.

16. The Levy for any individual payor is calculated based on the following formula:

$$\text{Individual Producer Levy A/B} \times [\text{Total Annual Levy}]$$

Where A equals the individual payor's deemed liabilities for all of its facilities, wells, and unclaimed sites and B equals the sum of the entire industry's deemed liabilities for all facilities, wells, and unclaimed sites.

Attached hereto as **Exhibit "1"** is a copy of the AER Bulletins from 2019-2021 setting out the Levy and the formula for calculating the Levy. I note that the 2021 levy was \$70 million.

17. There is no industry safeguard beyond the OWA for addressing abandonment and reclamation of sites left behind by defunct or insolvent licensees. Without the OWA, responsibility for such abandonment and reclamation activities would fall to the Alberta government and ultimately to the Alberta taxpayer.

## **REASONS FOR SEEKING LEAVE TO INTERVENE**

### **A. The OWA is Directly and Significantly Affected by the Outcome of this Appeal**

18. In the decision under Appeal, being the decision of the Honourable Madam Justice B.E.C. Romaine ("**Chambers Judge**") dated March 24, 2021 (with the neutral citation: 2021 ABQB 227) (the "**Decision**"), the Chambers Judge gave priority to certain holdback funds (the "**Holdback Funds**") to two lien claimants, despite the fact that there are significant asset retirement obligations ("**ARO**") such as abandonment, remediation and reclamation obligations which will remain unsatisfied in Manitok's receivership estate. The OWA believes that the Decision was an error in law arising from the Chambers Judge's erroneous interpretation of the leading authority on this issue, being the Supreme Court of Canada's ("**SCC**") decision in *Orphan Well Association v Grant Thornton Ltd.*, 2019 SCC 5 ("**Redwater**").
19. As a result of this erroneous interpretation, the OWA has serious concerns that remaining funds and assets in an insolvent oil and gas company's estate may not be used to satisfy such company's outstanding ARO, contrary to the principles established by *Redwater*.

20. This could have significant financial consequences for the OWA and its ability to fulfil its mandate of conducting abandonment and site reclamation work on orphaned properties.
21. Since April 2019, outside of the funds received through the annual levy collection, the OWA has only received approximately \$5.9 million in security deposits from the AER, which the AER in turn received from companies that have since become insolvent. The OWA was required to complete abandonment or reclamation activities on the sites previously owned by these companies. The funds received as security deposits from the AER have covered only a fraction of the ultimate costs to abandon and reclaim orphaned properties.
22. Conversely, since 2019 the number of oil and gas properties designated as orphans has continued to grow. On April 1, 2019 there were 3,128 wells to abandon and 2,351 sites to reclaim. As of June 30, 2021, while the number of wells to abandon actually decreased to 2,689 wells, the number of sites to reclaim increased significantly to 5,091. The OWA abandoned over 2,900 wells during this period and spent nearly \$300 million. The OWA estimates that it will cost nearly \$700 million to complete the work on the remaining sites presently in its inventory.
23. The Manitoak receivership proceedings alone have contributed over 248 orphaned wells, 43 facilities and 220 pipelines (the “**Orphaned Manitoak Assets**”) to the OWA’s inventory. The OWA has already spent over \$15 million on the Orphaned Manitoak Assets and estimates that the remaining cost to abandon and reclaim the Orphaned Manitoak Assets will be over \$46 million. If the Decision is overturned such that the AER is determined to have priority to the Holdback Funds, the OWA anticipates a portion of the Holdback Funds would be distributed by the AER to the OWA in order to address a portion of the abandonment and reclamation work in connection with the Orphaned Manitoak Assets.
24. Additionally, the OWA has serious concerns about the potential for further significant increases to its inventory of orphaned properties because of the active insolvency files involving oil and gas companies in Alberta. Presently, there are 17 such active insolvency files, which combined have AER deemed liabilities in relation to abandonment and reclamation obligations estimated in excess of \$789 million. The OWA understands that

the amount of these deemed liabilities may include some properties which have already been transferred to the OWA in an insolvency proceeding, and that there would therefore be an overlap between the OWA's estimate to reclaim its orphaned inventory set out in paragraph 22 above and the AER's deemed liabilities related to these insolvency files. Further, while it is unlikely that the AER will ultimately declare all of these properties orphaned, the OWA anticipates a material influx of orphaned properties from these insolvency matters on its present inventory.

25. It is also notable that the calculation of AER deemed liabilities does not necessarily equate to the actual costs of abandonment and reclamation that are ultimately incurred by the OWA in relation to any given oil and gas property. The calculation of AER deemed liabilities is based on cost estimates developed by a third party or from costs assessments conducted by the AER.
26. Even if a property is not declared an orphan by the AER, there may still be financial consequences to the OWA as a result of the insolvency of an oil and gas company in Alberta. Specifically, the AER has the ability to direct working interest participants ("**WIPs**") of insolvent or defunct AER licensees, together with the licensee itself, to perform abandonment, remediation and reclamation work on AER regulated properties ("**AER Orders**"). Where such WIPs comply with such AER Orders, the OWA will be responsible for reimbursing the WIPs for the insolvent/defunct licensee's proportionate working interest of the work performed in relation to the site. The OWA has reimbursed WIPs over \$20 million in its last two fiscal years and is forecasting to reimburse over \$70 million in the next 10 years.
27. Further, in the last two years the OWA has expended nearly \$6.4 million to fund insolvency proceedings. While these advances have typically been secured by way of a first-ranking Court-ordered charge, the OWA has concerns about the real cost of Alberta oil and gas insolvencies to its organization, especially if the Decision is not overturned.
28. By funding these insolvency proceedings, the OWA has supported the transfer of oil and gas properties from an insolvent estate to solvent, responsible third party purchasers. The OWA has supported six such insolvencies to date and these proceedings have resulted in

thousands of assets being transferred to third party purchasers as opposed to being designated as orphan properties for abandonment and reclamation by the OWA. The consideration payable under a vast majority of these transactions has been the assumption of the associated environmental obligations, rather than cash or cash equivalent consideration. Generally, the total cash proceeds derived from such transactions are insufficient to cover the cost of the insolvency proceedings themselves. Notwithstanding the fact that the OWA has had to fund such proceedings, it has received a benefit by virtue of the transfer of the environmental obligations associated with the purchased assets. The OWA has serious concerns that the Decision may jeopardize the ability to complete such transactions in the future by prioritizing builders' lien claims over an insolvent debtor's remaining ARO.

29. Given all of the abovementioned economic factors, without the benefit derived by the AER, and by extension the OWA, pursuant to *Redwater*, it is expected that the OWA will have to substantially increase the Levy in future years. This could threaten the solvency of other producers, potentially leaving the cost of closure to be borne by the public.
30. Further, as a result of the Decision, the OWA has already agreed to adjourn a distribution application in the receivership proceedings of Trident Exploration Ltd.
31. As a result of the foregoing, I honestly believe that intervention in this Appeal by the OWA is necessary because its submissions will assist the Court in understanding the potentially significant impact of the Decision on the OWA, as the entity ultimately responsible for the abandonment and reclamation obligations of orphaned oil and gas properties in Alberta, including of the Orphaned Manitoak Assets.

**B. The OWA has Special Expertise and a Fresh Perspective with Respect to this Appeal**

32. As described in more detail above, the OWA is the organization responsible for abandonment and reclamation work on all orphaned oil and gas properties in Alberta.
33. Further, the OWA was a party before all levels of the Courts in the *Redwater* proceedings themselves, providing the Courts with both written and oral submissions from the OWA's perspective. Additionally, the OWA has recently intervened in the bankruptcy proceedings

of *Sequoia Resources Corp.*, Alberta Court of Queen's Bench and Alberta Court of Appeal File No.'s 1801-10960 and 1901-0255AC respectively, where the interpretation of *Redwater* was squarely in issue before the Courts in those proceedings.

34. The OWA's industry experience, coupled with its prior engagement on issues concerning the interpretation of *Redwater*, allow it to bring specialized expertise and a fresh perspective to bear on the key issues in dispute before this Court on the within Appeal.
35. While the other parties to the Appeal certainly have valuable insights, the OWA is uniquely positioned to speak to the practical consequences of the Decision on abandonment and reclamation activity respecting orphaned oil and gas properties in Alberta, as the organization ultimately responsible for this work.

#### **C. The OWA's Proposed Submissions**

36. The OWA proposes to assist the Court in this Appeal by providing submissions that relate to the interpretation of the SCC's decision in *Redwater*. In particular, the OWA is concerned with the Chambers Judge's:
  - (a) finding that the principles in *Redwater* do not extend to a situation where property unrelated to property affected by an environmental condition is sold to a new licensee before any abandonment or reclamation orders are made, and where the new licensee assumes the inherent end-of-life obligations for that sold property, in circumstances where significant ARO otherwise remains in the debtor estate; and
  - (b) characterization of the Holdback Funds no longer forming part of the assets of the estate.

#### **D. Other Considerations**

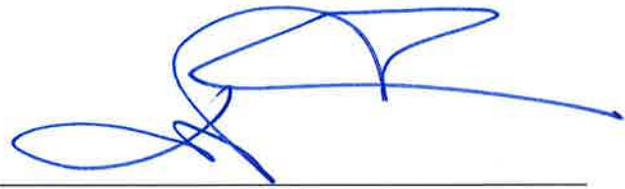
37. If granted leave to intervene, the OWA will act to minimize any risk of delay or disruption in this Appeal, or any pending applications before the Court in this Appeal.

- 38. If granted leave to intervene, the OWA intends to file its written submissions as ordered by this Court. Further, and subject to the direction of this Court, the OWA proposes to attend the hearing of this Appeal and present oral submissions.
- 39. If granted leave to intervene, and subject to the direction of the Court, the OWA proposes to contribute to the record through this Affidavit alone.
- 40. If granted leave to intervene, the OWA does not intend to seek costs in respect of its proposed intervention in the Appeal. The OWA similarly intends to ask that it not be held liable for the costs of any other party or intervener in connection with its intervention.
- 41. I do not believe that the OWA's intervention in this Action will widen the issues in dispute between the parties as the OWA's proposed submissions are related entirely to issues already before the Court.
- 42. I make this Affidavit in support of the OWA's application for leave to intervene in this Action and for no other or improper purpose.

SWORN BEFORE ME at Kamloops, British Columbia, this 5 day of August, 2021.



A Notary Public in and for British Columbia



LARS DE PAUW

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**WITNESSED AS TO EXECUTION ONLY  
 NO LEGAL ADVICE SOUGHT OR GIVEN**

- 12 -

This is Exhibit "1"

referred to in the Affidavit of Lars De Pauw

Sworn before me this 5 day of August, 2021



A Notary Public in and for British Columbia

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# Bulletin 2021-09

2021/22 Orphan Fund Levy - LLR and OWL Programs

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## 2021/22 Orphan Fund Levy - LLR and OWL Programs

Release Date: April 06, 2021

In accordance with Part 11 of the *Oil and Gas Conservation Act*, the Alberta Energy Regulator (AER) is prescribing an orphan fund levy in the amount of \$70 million.

The Government of Alberta has approved this levy of \$70 million to fund the Orphan Well Association's (OWA's) operating budget for fiscal year 2021/22. The AER will allocate the orphan fund levy among licensees and approval holders included within the Licensee Liability Rating (LLR) and Oilfield Waste Liability (OWL) programs based on the April 2021 liability management rating assessment. Information on these programs is contained in *Directive 006: Licensee Liability Rating (LLR) Program and Licence Transfer Process* (<https://www.aer.ca/regulating-development/rules-and-directives/directives/directive-006>), *Directive 011: Licensee Liability Rating (LLR) Program – Updated Industry Parameters and Liability Costs* (<https://www.aer.ca/regulating-development/rules-and-directives/directives/directive-011>), and *Directive 075: Oilfield Waste Liability (OWL) Program* ([https://www.aer.ca/regulating-development/rules-and-directives/directives/directive-075](https://www.aer.ca/regulating-development/rules-and-directives/directives/directives/directive-075)).

### Levy Formula

Each licensee or approval holder included within the LLR and OWL programs will be invoiced for its proportionate share of the orphan fund levy in accordance with the following formula:

$$\text{Levy} = A/B \times \$70\,000\,000$$

where

- A is the licensee's or approval holder's deemed liabilities on April 3, 2021, for all of its facilities, wells, and unreclaimed sites included in the LLR and OWL programs, as calculated in accordance with *Directive 006*, *Directive 011*, and *Directive 075*; and

- *B* is the sum of the industry's deemed liabilities on April 3, 2021, for all facilities, wells, and unreclaimed sites included in the LLR and OWL programs, as calculated in accordance with *Directive 006*, *Directive 011*, and *Directive 075*.

Each licensee's or approval holder's portion of the orphan fund levy is based on its licensed and approved properties as of April 3, 2021, according to AER records.

A licensee or approval holder may review its deemed liabilities in the LLR and OWL programs at any time through the Digital Data Submission (DDS) system on the AER website at [www.aer.ca](http://www.aer.ca) (<http://www.aer.ca>).

## **Notification and Payment**

An orphan fund levy invoice will be sent to the attention of each licensee's or approval holder's chief financial officer by email to the address the AER has on file.

Licensees and approval holders must notify [Directive067@aer.ca](mailto:Directive067@aer.ca) (<mailto:Directive067@aer.ca>) of any changes to their email address. In the event the AER does not have an email address on file or an emailed invoice has been returned as "undeliverable," the AER will send a hard copy of the invoice to the corporate mailing address provided under *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals*.

Licensees and approval holders are reminded that it is their responsibility to ensure that *Directive 067* records are kept up to date. To update corporate email or mailing addresses, contact [Directive067@aer.ca](mailto:Directive067@aer.ca) (<mailto:Directive067@aer.ca>).

Orphan fund levy invoices will be emailed by April 16, 2021. It is the licensee's or approval holder's responsibility to ensure that the invoice is directed to the appropriate person. If the licensee or approval holder does not receive their orphan fund levy invoice by April 23, 2021, they must contact [OrphanLevy@aer.ca](mailto:OrphanLevy@aer.ca) (<mailto:OrphanLevy@aer.ca>) to request a copy.

All orphan fund levy invoices must be paid in full by the licensee or approval holder and received by the AER by **May 13, 2021**. Payment must be made payable to the "Alberta Energy Regulator" in Canadian currency using an acceptable financial instrument, such as a cheque, money order, or bank draft. We cannot accept cash or electronic fund transfers at this time.

Failure to pay the full invoiced amount by May 13, 2021, will result in a penalty of 20 per cent of the original invoiced amount being assessed to the licensee or approval holder pursuant to section 74(2) of the *Oil and Gas Conservation Act*. Additional compliance measures may also be applied in accordance with the AER's compliance assurance program, such as the issuance of a corporate-wide closure order.

Furthermore, in the future, the information regarding nonpayment of debt may be used in a licensee capability assessment, which involves determining a company's ability to meet its financial obligations throughout the life cycle of its energy projects. For more information about the licensee capability assessment, see [www.aer.ca](http://www.aer.ca) (<http://www.aer.ca>) > Providing Information > By Topic > [Liability Management \(https://www.aer.ca/providing-information/by-topic/liability-management\)](https://www.aer.ca/providing-information/by-topic/liability-management)).

## Appeal

Section 76 of the *Oil and Gas Conservation Act* sets out the grounds for an appeal. A written appeal must be submitted within 30 days of the mailing date shown on the invoice, as per section 16.540(1) of the *Oil and Gas Conservation Rules*. The written appeal may be either emailed to the attention of Finance at [OrphanLevy@aer.ca \(mailto:OrphanLevy@aer.ca\)](mailto:OrphanLevy@aer.ca) or mailed to the following address:

Attention: Finance

Alberta Energy Regulator

Suite 1000, 250 – 5th Street

Calgary, Alberta T2P 0R4

**Even if an appeal is filed, payment in full of the original invoiced amount is required by** May 13, 2021, to avoid an automatic notice of noncompliance and 20 per cent penalty. The AER will refund any overpayment resulting from a successful appeal within 30 days of the result of the appeal.

For questions about this bulletin, contact [OrphanLevy@aer.ca \(mailto:OrphanLevy@aer.ca\)](mailto:OrphanLevy@aer.ca).



# Bulletin 2020-19

2020/21 Orphan Fund Levy

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## 2020/21 Orphan Fund Levy

Release Date: September 10, 2020

In accordance with Part 11 of the *Oil and Gas Conservation Act*, the Alberta Energy Regulator (AER) is prescribing an orphan fund levy in the amount of \$65 million.

The Orphan Well Association (OWA), Canadian Association of Petroleum Producers (CAPP), and Explorers and Producers Association of Canada (EPAC) have approved a \$65 million orphan fund levy to fund the OWA's budget for fiscal year 2020/21. This total levy is to be collected through one levy of \$65 million in September 2020. The AER will allocate the year's orphan fund levy among licensees and approval holders included within the Licensee Liability Rating (LLR) and Oilfield Waste Liability (OWL) programs based on the September 2020 monthly assessment. Information on these programs is contained in *Directive 006: Licensee Liability Rating (LLR) Program and Licence Transfer Process*, *Directive 011: Licensee Liability Rating (LLR) Program – Updated Industry Parameters and Liability Costs*, and *Directive 075: Oilfield Waste Liability (OWL) Program*.

### Levy Formula

Each licensee or approval holder included within the LLR and OWL programs will be invoiced for its proportionate share of the orphan fund levy in accordance with the following formula:

$$\text{Levy} = A/B \times \$65\,000\,000$$

where

- *A* is the licensee's or approval holder's deemed liabilities on September 5, 2020, for all facilities, wells, and unreclaimed sites included within the LLR and OWL programs, as calculated in accordance with *Directive 006*, *Directive 011*, and *Directive 075*; and
- *B* is the sum of the industry's deemed liabilities on September 5, 2020, for all facilities, wells, and unreclaimed sites included within the LLR and OWL programs, as calculated in accordance with *Directive*

006, Directive 011, and Directive 075.

Each licensee's or approval holder's required orphan fund levy is based on its licensed and approved properties, according to AER records, as of September 5, 2020. Facilities included under the Large Facility Liability Management Program are excluded.

A licensee or approval holder may review its deemed liabilities in the LLR and OWL programs at any time through the Digital Data Submission (DDS) system on the AER website at [www.aer.ca](http://www.aer.ca) (<http://www.aer.ca>).

## Notification and Payment

An orphan fund levy invoice will be sent to the attention of each licensee's or approval holder's chief financial officer by email to the address on file with the AER at the time of issuance. Licensees and approval holders must notify the AER of any changes to their email address.

Orphan fund levy invoices will be emailed by September 22, 2020. It is the licensee's or approval holder's responsibility to ensure that the invoice is directed to the appropriate person. If the licensee or approval holder does not receive their orphan fund levy invoice by September 26, 2020, they must contact the AER to request a copy.

To update an email address or request a copy of an invoice, contact [LiabilityManagement@aer.ca](mailto:LiabilityManagement@aer.ca) (<mailto:LiabilityManagement@aer.ca>).

All orphan fund levy invoices must be paid by the licensee or approval holder, and payment must be received by the AER by **October 15, 2020**. Payment must be made payable in Canadian currency using an acceptable negotiable financial instrument, such as a cheque, money order, bank draft, or cash.

All payments must be made payable to "Alberta Energy Regulator"; failure to pay the full invoiced amount by October 15, 2020, will result in a penalty of 20 per cent of the original invoiced amount being assessed to the licensee or approval holder pursuant to section 74(2) of the *Oil and Gas Conservation Act*. Additional compliance measures may apply in accordance with the AER's compliance assurance program.

## Appeal

Any appeal of the invoiced amount must be made in writing by October 15, 2020, pursuant to section 76 of the *Oil and Gas Conservation Act* and either emailed to the attention of Orphaning, Insolvency & Legacy at [LiabilityManagement@aer.ca](mailto:LiabilityManagement@aer.ca) (<mailto:LiabilityManagement@aer.ca>) or mailed to the following address:

Attention: Orphaning, Insolvency & Legacy

Alberta Energy Regulator

Suite 1000, 250 – 5th Street

Calgary, Alberta T2P 0R4

Even if an appeal is filed, payment in full of the original invoiced amount is required by October 15, 2020, to avoid the assessment of the 20 per cent penalty. The AER will refund any overpayment resulting from a successful appeal within 30 days of the result of the appeal.

Questions regarding this bulletin should be directed to the Liability Management help line at 403-297-3113 or [LiabilityManagement@aer.ca](mailto:LiabilityManagement@ aer.ca) (<mailto:LiabilityManagement@aer.ca>).



# Bulletin 2019-09

## 2019/20 Orphan Fund Levy

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### 2019/20 Orphan Fund Levy

Release Date: May 03, 2019

In accordance with Part 11 of the *Oil and Gas Conservation Act*, the Alberta Energy Regulator (AER) is prescribing an orphan fund levy in the amount of \$60 million.

The Orphan Well Association (OWA), Canadian Association of Petroleum Producers (CAPP), and Explorers and Producers Association of Canada (EPAC) have approved a \$60 million orphan fund levy to fund the OWA's budget for fiscal year 2019/20. This total levy is to be collected through one levy of \$60 million in May 2019. The AER will allocate the year's orphan fund levy among licensees and approval holders included within the Licensee Liability Rating (LLR) and Oilfield Waste Liability (OWL) programs based on the April 2019 monthly assessment. Information on these programs is contained in *Directive 006: Licensee Liability Rating (LLR) Program and Licence Transfer Process*, *Directive 011: Licensee Liability Rating (LLR) Program – Updated Industry Parameters and Liability Costs*, and *Directive 075: Oilfield Waste Liability (OWL) Program*.

### Levy Formula

Each licensee or approval holder included within the LLR and OWL programs will be invoiced for its proportionate share of the orphan fund levy in accordance with the following formula:

$$\text{Levy} = \frac{A}{B} \times \$60\,000\,000$$

where

- A is the licensee's or approval holder's deemed liabilities on April 6, 2019, for all facilities, wells, and unreclaimed sites included within the LLR and OWL programs, as calculated in accordance with *Directive 006*, *Directive 011*, and *Directive 075*; and

- *B* is the sum of the industry's deemed liabilities on April 6, 2019, for all facilities, wells, and unreclaimed sites included within the LLR and OWL programs, as calculated in accordance with *Directive 006*, *Directive 011*, and *Directive 075*.

Each licensee's or approval holder's required orphan fund levy is based on its licensed and approved properties, according to AER records, as of April 6, 2019. Facilities included under the Large Facility Liability Management Program are excluded.

A licensee or approval holder may review its deemed liabilities in the LLR and OWL programs at any time through the Digital Data Submission (DDS) system on the AER website at [www.aer.ca](http://www.aer.ca) (<http://www.aer.ca>).

## Notification and Payment

An orphan fund levy invoice will be sent to the attention of each licensee's or approval holder's chief financial officer by email to the address on file with the AER at the time of issuance. Licensees and approval holders must notify the AER of any changes to their email address.

An orphan fund levy invoice will be sent to the attention of each licensee's or approval holder's chief financial officer by email to the address on file with the AER at the time of issuance. Licensees and approval holders must notify the AER of any changes to their email address.

To update an email address or request a copy of an invoice, contact [LiabilityManagement@aer.ca](mailto:LiabilityManagement@aer.ca) (<mailto:LiabilityManagement@aer.ca>).

All orphan fund levy invoices must be paid by the licensee or approval holder, and payment must be received by the AER by **June 3, 2019**. Payment must be made payable in Canadian currency using an acceptable negotiable financial instrument, such as a cheque, money order, bank draft, or cash.

All payments must be made payable to "Alberta Energy Regulator"; failure to pay the full invoiced amount by June 3, 2019, will result in a penalty of 20 per cent of the original invoiced amount being assessed to the licensee or approval holder pursuant to section 74(2) of the *Oil and Gas Conservation Act*. Additional compliance measures may apply in accordance with the AER's compliance assurance program.

## Appeal

Any appeal of the invoiced amount must be made in writing by June 3, 2019, pursuant to section 76 of the *Oil and Gas Conservation Act* and either mailed to

Chris Schacher  
Manager, Orphaning & Closure  
Alberta Energy Regulator

Suite 1000, 250 – 5th Street  
Calgary, Alberta T2P 0R4

or emailed to the attention of Chris Schacher at [LiabilityManagement@aer.ca](mailto:LiabilityManagement@aer.ca)  
(<mailto:LiabilityManagement@aer.ca>).

Even if an appeal is filed, payment in full of the original invoiced amount is required by June 3, 2019, to avoid the assessment of the 20 per cent penalty. The AER will refund any overpayment resulting from a successful appeal within 30 days of the result of the appeal.

Questions regarding this bulletin should be directed to the Liability Management help line at 403-297-3113 or [LiabilityManagement@aer.ca](mailto:LiabilityManagement@aer.ca) (<mailto:LiabilityManagement@aer.ca>).