

February 9, 2007  
SENT VIA E-MAIL

Our File: 99-881

Kevin Ball  
Alberta Sustainable Resource Development  
E-mail: [Kevin.Ball@gov.ab.ca](mailto:Kevin.Ball@gov.ab.ca)

Dear Mr. Ball:

**RE: Comments on *A Guide To: Reclamation Criteria for Wellsites and Associated Facilities – 2007 – Forested Lands in the Green Area Update***

The Environmental Law Centre (ELC) is a charitable organization incorporated in 1982 to provide an objective source of information on environmental law and policy in Alberta and Canada. The ELC's mission is to ensure that laws, policies and legal processes protect the environment. The ELC is therefore pleased to provide comments on the Government of Alberta's *A Guide To: Reclamation Criteria for Wellsites and Associated Facilities – 2007 – Forested Lands in the Green Area Update* (the "Guide").<sup>1</sup>

## **Introduction**

Effective and timely reclamation and remediation of wellsites and associated facilities on public lands is essential to ensuring that this land is returned to environmental and economic productivity and to minimizing the environmental liabilities on the public purse. The *Guide* for reclamation within the Green Area<sup>2</sup> should therefore focus on restoring and enhancing the land base to sustain ecological functions, ensuring compliance with reclamation standards, and providing transparency and accountability to the public in relation to meeting the standards in the *Guide*.

## **General Comments**

The *Guide* outlines specific criteria regarding reclamation that is best commented on by ecologists, hydrologists and agrologists. Our comments mostly focus on omissions in the *Guide* relating to effective environmental law and policy. Areas where further detail is required include:

- the jurisdictional roles of Alberta Sustainable Resource Development (SRD) and Alberta Environment with respect to overseeing reclamation activities;

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<sup>1</sup> Alberta Government, online: Sustainable Resource Development <<http://www.srd.gov.ab.ca/land/pdf/PDF%20-%20Draft%20Guide%20to%20Forested%20Lands-for%20comment-Jan.%2024.pdf>>.

<sup>2</sup> As defined by s.2(1) of the *Timber Management Regulation*, Alta. Reg. 60/73.

- how reclamation standards will be audited and enforced under the *Guide*;
- whether reclamation certificates may be issued if standards are not met;
- the disclosure of information to the public; and
- the timeliness of reclamation audits.

### **Jurisdictional roles of SRD and Alberta Environment**

The *Guide* fails to adequately describe how SRD's activities interlink with Alberta Environment's jurisdiction over reclamation and enforcement arising under the *Environmental Protection and Enhancement Act (EPEA)*. Specifically, who is the governing department in the case where reclamation standards have not been met? If SRD is responsible for the Green Area how are the obligations under *EPEA* carried out? The *Guide* should also clearly describe how it fits within Alberta Environment's upstream oil and gas reclamation and remediation program.<sup>3</sup> Further information in this regard would assist in clarifying the role and accountability of each department in relation to reclamation activities in the Green Area.

### **How reclamation standards will be audited and enforced under the *Guide***

The *Guide* only mentions that land managers will perform surface audits on sites that have received a reclamation certificate. Further information should be provided that indicates what percentage of the sites will be audited and what actions will be taken if a site fails an audit. The *Guide* should be clear on how compliance and enforcement actions will be carried out. In the absence of a proper enforcement and follow-up regime, the public has no ability to oversee the efficacy of the reclamation program on public land.

### **Whether reclamation certificates may be issued if standards are not met**

It is the understanding of the ELC that a reclamation certificate may be issued notwithstanding the fact that reclamation has failed to meet the standards of the *Guide*.<sup>4</sup> The *Guide* should clarify if this is the case. It is the ELC's position that a reclamation certificate should not be issued unless the criteria in the *Guide* are met. The value of a reclamation certificate is tied to the land meeting a specified minimum standard of equivalent land capability. If the government chooses to issue a reclamation certificate without meeting the minimum criteria, it must clearly outline the circumstances in which this will be permitted.

<sup>3</sup> Alberta Environment, online: <[http://www3.gov.ab.ca/env/protenf/landrec/upstream/application\\_process.html](http://www3.gov.ab.ca/env/protenf/landrec/upstream/application_process.html)>.

<sup>4</sup> This is not stated in the *Guide* but this appears to be the case insofar as the *Guide* is merely policy and indications from other government documents, including *Reclamation on Public Lands: Issues Regarding Cancellation of Public Land Holdings*, PowerPoint presentation, undated, online: Alberta Sustainable Resource Development <[http://www.srd.gov.ab.ca/land/pdf/2003\\_PLD\\_Issues\\_DGeorge\\_RRadomsky.pdf](http://www.srd.gov.ab.ca/land/pdf/2003_PLD_Issues_DGeorge_RRadomsky.pdf)> at p. 17, which allude to circumstances where a reclamation certificate could be issued without meeting government standards. .

### **Disclosure of information to the public**

The *Guide* does not indicate if or how information regarding auditing, enforcement and the environmental condition of public land will be made publicly available. We recommend that the *Guide* include details regarding how data about public land reclamation will be gathered and published. Public disclosure is warranted because any failures in the reclamation system will result in direct liabilities on public land and the public purse.

### **Timeliness of reclamation audits**

The *Guide* outlines a variety of soil and vegetation standards that must be met in order to obtain a reclamation certificate. However, the *Guide* fails to indicate how reclamation success will be evaluated over time. For instance, if an audit occurs immediately or shortly after the reclamation activity has been undertaken, there is a risk that the audit may reflect only temporary reclamation successes. The audit may not capture whether re-vegetation is ultimately sustained or whether erosion is curtailed. The *Guide* should outline how the timing of any audits or analysis of reclamation efforts will guarantee the success of the reclamation over time.

### **Conclusions**

We thank you for the opportunity to provide comments to the Alberta Government on the important issue of wellsite and associated facility reclamation in the Green Areas of the province. If you have any questions regarding our comments, please do not hesitate to contact us at (780) 424-5099.

Yours truly,

Jodie Hierlmeier and Jason Unger  
Staff Counsel

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