Environmental Law Centre

Comments on the Preliminary Report of the Advisory Committee on Water Use Practice and Policy

Submitted by:
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1. The Committee supports the need for a water conservation plan that will establish conservation targets for all sectors in Alberta, including enhanced oil recovery.
   Do you agree with this approach?

Yes, to be developed by the Provincial Water Advisory Council. However, we oppose industry "cooperation" with PWAC on the development of conservation targets and performance measures except through formal written submission to, and industry membership on, the Council. The Council must operate and be seen to operate independently.

2. The Committee proposes, "Applicants for water for underground injection purposes should be required to identify and assess alternatives to non-saline water sources." The Committee recommends policy changes that would strengthen the requirement to conserve non-saline water.
   Do you agree with this proposal?

Yes. Echoing the recent decision of the Environmental Appeal Board in *Capstone Energy*[1], injection uses should be subject to much greater scrutiny. The requirements for assessing alternatives to fresh water use, and the applicable criteria, must be made clear. Alberta Environment should communicate and ensure that applicants strictly observe these requirements. We agree with the EAB that, concerning injection uses, the *Water Act* requires an assessment of alternatives

[1] *Mountain View Regional Water Services Commission et al. v. Director, Central Region, Regional Services, Alberta Environment re: Capstone Energy* (26 April 2004), Appeal Nos. 03-166 and 03-118-121-R (A.E.A.B.).

demonstrating that the water will be used not only efficiently, but as the last option considered.

3. Alberta's Groundwater Allocation Policy for Oilfield Injection Purposes outlines requirements for applicants who wish to use non-saline groundwater in the settled areas (White zone) of the province. The Committee proposes that the scope of the policy be expanded to also address the forested areas (Green zone) of the province.
   Do you agree with this proposal?

Yes.

4. The Committee proposes the development of a "decision tree" that clearly describes to applicants and regulators the environmental, social and economic criteria required for assessing future water allocations for underground injection. The intention is to make licensing decisions consistent and predictable, and to ensure all applicable criteria are considered.
   Do you agree with this proposal?

Yes. In addition, public input should be required for any future allocations, including renewals. The affected public should also be notified and provided a copy of the results of any decision tree analysis or review of term or permanent allocation, and be given the opportunity to comment.

5. The Committee proposes Alberta Environment should, in co-operation with industry, review existing oilfield injection *term* licenses upon expiry to identify potential conservation improvements.
   Do you agree with this proposal?

Yes. Applicants should be required to make all feasible improvements before licenses are renewed.

6. The Committee proposes that holders of *permanent* licenses be asked to review reasonable and practical opportunities for reduction in non-saline water use, and make voluntary allocation adjustments.
   Do you agree with this proposal?

Yes, but a review of alternatives should be a requirement. Incentives (not compensation) should be considered to

encourage voluntary reductions. A regulatory backstop is essential to the success of voluntary measures.

7. The Committee proposes an increased investment in research to develop alternate oil recovery technologies through industry-government partnerships.
   Do you agree with this proposal?

Yes. Industry investment in research and development of these technologies must reflect the benefit industry obtains from resource development in Alberta.

8. The Committee feels an improved database is needed to better the management of underground injection activities. This database would contain water use, industrial practice and allocation information that could be accessed by industrial applicants, regulators and the general public.
   Do you agree that investment in such a database would be worthwhile?

Yes. However there should be clear responsibility and accountability for the accuracy and currency of the information.

9. The Committee recommends that investment is required to further develop a provincial inventory of groundwater resources.
   Do you agree such an investment would be worthwhile?

Yes, strongly.

10. The Committee recommends government, industry and research groups increase investment in water conservation and recycling research for industrial deep-well waste disposal and salt cavern washing operations, to minimize losses of water.
    Do you agree this investment would be appropriate?

Yes. Again, industry investment in research and development of these technologies must reflect the benefit industry obtains from resource development in Alberta.

11. The Committee recognizes the need to inform the public about underground injection trends and regulations. This would require an increased communications effort by government, and increased community relations efforts by industry.
    Do you agree this effort is needed?

No. A public information strategy is needed, but it should be developed and delivered through the Provincial Water Advisory Council in conjunction with Alberta Environment. This is essential to maintaining public confidence in provincial management of this issue. However, this approach will require that the Council is adequately resourced for this purpose by government and industry. Also, the Council must have access to the necessary government and industry information. Government and industry must therefore be actively involved.

Section B

1. Alberta's Groundwater Allocation Policy for Oilfield Injection outlines requirements for applicants who propose to use non-saline groundwater sources. (Specifically, this policy encourages the investigation of alternate sources of supply before an application is made for non-saline groundwater.) The Committee discussed expanding the scope of the policy to include surface water, as well as groundwater.
   Should the policy be expanded to include surface water?

Yes, immediately. We agree with the view of the Environmental Appeal Board (in *Capstone Energy*) that, for injection purposes, there should be no distinction in how ground and surface waters are controlled. The effects of injection on the hydrological cycle and, ultimately, the environment are the same for both.

2. The Committee did not feel that an *immediate,* province-wide elimination of underground injection of non-saline water is a reasonable response to public concerns because of current technical and economic considerations.
   Do you agree with this position?

This question is worded to create the impression that a plan to begin eliminating the injection of freshwater would cause immediate economic damage. This is misleading. *Immediate* elimination is not necessary to immediately begin the critical steps to elimination where there are feasible alternatives.

3. Some members of the Committee support the *long-term* elimination of injection of non-saline water.
   Do you agree with this position?

Yes, strongly. Increasing pressure on our water supply will likely make eventual near-elimination unavoidable. Planning ahead (for near-elimination) is essential for industry and government to adapt to this growing pressure. With increasing pressure, Albertans in coming decades will become less and less tolerant of any uses that remove water from the hydrological cycle.

4. The Committee noted that, in some water basins, water license holders are permitted to transfer their water allocation to other users with the Director's approval. ("Director": as defined by Alberta's *Water Act*.)
   With respect to underground injection water use, should this transfer right be reviewed?

Transferability will encourage the most efficient use of water. However, it is very unlikely to reduce overall demand, and on its own provides no solution to the injection problem.

Do you have any additional comments about the Committee's recommendations?

In spite of their huge volumes and impact on the environment, irrigation, municipal and thermal power generation uses of water return almost all of their water to the hydrological cycle. The committee's report underemphasizes what makes injection uses entirely different: permanent removal from the cycle. For this reason, comparing injection volumes with other uses is misleading. Given current trends and increasing pressures, injection uses should be eliminated within the next 20 years.

As a general comment, we feel that the recommendations of the preliminary report will not provide an adequate regulatory framework for the water injection issue. The report relies almost entirely on voluntary measures, without providing for the regulatory backstop to help ensure voluntary measures succeed. This backstop can only be provided by Alberta Environment, which should commit to a strong regulatory presence. As a comparison, successes in flaring reduction could not have been achieved without an effective regulator (the EUB) and the certainty of regulated reductions in the event that voluntary commitments were not met.

The establishment of conservation objectives through watershed management plans is absolutely key. This will set parameters on water uses based on social and environmental considerations, including our collective interest in a healthy economy. This will also provide industry with the certainty they need to remain profitable in light of increasing pressure on our water.

Concerning recommendation 3 on page 18 of the Preliminary Report, we oppose any suggestion that a licensee be compensated where a license is suspended or cancelled to protect the environment. Conservative planning and a clear understanding that industry has a responsibility to operate in an environmentally sustainable manner are essential.

Concerning license terms, the initial term should remain one year. This is necessary to address any problems and maintain the regulator's ability to respond flexibly to emerging water issues and environmental concerns.

We strongly support the proposal that Alberta Environment approval of any injection use must be in place before an EUB approval is issued for an injection use project.