

November 25, 2008
Alberta Energy Resources Conservation Board Chairman Dan McFadyen
Speech to Calgary Chamber of Commerce
- CHECK AGAINST DELIVERY -

INTRODUCTION

- This morning, I am going to talk about ‘The Role of the Regulator in Today’s Energy Environment,’ and what I see as the key drivers of change for the ERCB.
 - And in this context, I will also specifically talk about some of the work we are doing with regard to Alberta's oil sands.

NEW ERCB

- But let me begin by spending a few moments talking about ‘the New ERCB.’
- As you know, this ‘new’ agency is in fact 70 years old.
 - The original predecessor Board was created in 1938 to stop natural gas flaring in ‘Hells Half Acre’ in Turner Valley.
- Today, we have over 900 staff in 13 locations across Alberta, and we regulate:
 - Over 160,000 operating oil and gas wells,
 - 400,000 kilometres of pipelines,
 - about 38,000 other energy facilities,
 - we also regulate coal mines and oil sands operations,
 - and **last fiscal year**, we received over 46,000 applications for energy development from industry.
- To efficiently and effectively regulate all of those facilities – and process all of those applications fairly and in the public interest – requires a highly evolved regulatory system.
 - AND, the ERCB has one of the most highly evolved regulatory systems in North America... and indeed, the world.

ERCB CONSULTS WORLDWIDE

- Indeed, our regulatory system is recognized world wide.
- Last year we hosted 29 delegations from 19 countries.
 - Including Iraq, Russia, China, and Norway.
- They came to learn about the Board’s expertise on topics ranging from:
 - sour gas regulation,
 - oil sands,
 - compliance regulation,
 - and coal bed methane.

WORLD BANK

- One of the initiatives that we are especially proud of is our work with the World Bank's 'Global Gas Flaring Reduction Initiative' to reduce natural gas flaring world wide and, more particularly, in assisting developing countries.
- This initiative stems from a very successful Alberta partnership – the Clean Air Strategic Alliance, or CASA.
- Several years ago, we began working with CASA and industry to reduce gas flaring in Alberta. This work has been a major success.
 - Since 1996, flaring has been reduced by 76 per cent and venting has been reduced by 50 per cent since 2000.
 - In terms of its greenhouse gas impact, this is the equivalent of taking about 1.7 million cars off Alberta's roads for one year.
- This strategy has been so successful; the World Bank has adopted much of our approach to encourage countries like Nigeria and Indonesia to reduce wasteful natural gas flaring. The ERCB is proud of its role in this important international "conservation" initiative and continues to actively participate as a member of the Steering Committee.

EXTENSIVE RULES

- This is one example of Alberta's rules based approach to energy regulation. And, for those of you in the energy industry, you know how extensive our rules and regulations are.
- But on occasion, I have heard people say they are concerned about the lack of rules for energy development in Alberta,
 - Related to either setbacks, or coalbed methane, or sour gas, or oil sands development.
- Well, I want to take this opportunity to remind you just how extensive Alberta's regulatory regime is.
- The ERCB rules governing energy development in Alberta include,
 - 12 major pieces of legislation,
 - 15 major government regulations,
 - 62 ERCB Directives,
 - 25 Interim Directives,
 - and 74 Informational Letters.
- So does the system work? With all those regulations, can the Board still be efficient and nimble? Can the system be improved?
 - I believe the answer to all those questions is yes.

THE PROCESS WORKS

- We have the numbers to show that the regulatory process is working to address public concerns.

- Because of the requirements for notification and consultation with landowners and stakeholders, 98% of the applications we received for **new** energy facilities had no landowner or public objections.
- Of all of the applications we received last year, only 21 went to a hearing.
- And we continue to ensure that we are efficient in processing applications:
 - Last year, we had an average turnaround time of 1.1 days for **routine** well and facility applications. Routine applications comprise about 80% of all of the facility applications we receive.
 - We have reduced the backlog of commingling applications from 2,200 in 2006 to 300 today.
- Most importantly, the oilpatch is safer today than it has ever been. In most instances the industry acts very responsibly.
 - Over the last 4 years, industry's compliance rate with Board major regulations has averaged nearly 98%.
 - Last year, Alberta's pipeline failure rate was at a record low,
 - And in those instances where companies did not meet our stringent regulatory standards, we shut down 247 of their operations.
- Can the system be improved? Yes.
- We have sunset provisions on many of our regulations.
 - This does not necessarily mean they will be eliminated at a point in time, it is to ensure that our regulations stay current and relevant.
- We also continually review our regulatory framework to make sure it is fair and responsible.
 - 2 years ago, the Board started a 'Regulatory Management Program' to do just that.
- If you want to see the progress of that program, go to ercb.ca and read the 'regulatory change report'.
 - It is a one stop source to find a summary of all of the regulatory changes we have planned, in progress, or completed to improve our effectiveness and efficiency.

ERCB DRIVERS OF CHANGE

- Throughout our 70-year history, the ERCB has continually evolved to keep up with the changing energy picture in Alberta.
- In the 10 months I have been at the Board, I see 2 issues that are clearly 'drivers of change' for the ERCB.
 - The first is the shift in how the public views and interacts with the ERCB.
 - The second is the changing nature of Alberta's resource base.
- Regarding 'how the public interacts with the Board', I believe that now more than ever, we need to get information to the public about our role in energy development.
 - We need to get local stakeholders involved.

- And we need to engage people earlier in the energy development process.
- These are all themes you know well.

LAND CHALLENGE

- You may be aware that a few years ago, we tested a new initiative – or ‘land challenge’ that targeted several areas of Alberta that could experience a significant increase in energy development.
- The intent was to find practical solutions to deal with the concerns of local residents that may not be met within the current regulatory system.
- With the ERCB taking a lead role - industry, local governments and the public came together to improve their exchange of information, minimize the potential impacts of energy projects, and improve the ERCB’s application process.
- Three Land Pilot committees produced recommended solutions to concerns ranging from surface and groundwater to impacts on land and quality of life.
- I believe this process works, and so we will continue to include where applicable the ‘land challenge’ approach in the years ahead.

ERCB FIELD CENTRES

- Earlier this year, the ERCB significantly increased our presence across Alberta by hiring an additional 26 staff for our Field Centres in our Public Safety and Field Surveillance group.
 - This includes new field inspectors, and ‘community and aboriginal relations’ staff.
- In particular, I would like to note the work of our Community and Aboriginal Relations Team, as they work throughout the province to bring people together to find solutions related to energy development.
- Just last week, I met with our Grande Prairie Field Centre where the Community and Aboriginal Relations staff have started a working group with the County, City, and 12 energy companies in the area.
- They are working to develop a set of policies and practices to address urban growth expanding onto existing facilities.

APPROPRIATE DISPUTE RESOLUTION

- The ERCB has also focused on Appropriate Dispute Resolution in the past few years.
- This practical approach enables members of the public and energy companies to find their own solutions and reach their own understanding of the public interest.
- Last year, the ERCB was involved with 175 facilitations and mediations and we had a record 92% success rate.

- As a result of this program, these situations were resolved without a Board hearing, and more importantly, both parties walked away with solutions they could not only LIVE WITH, BUT SUPPORT.
- Now this is not to say that Board hearings are undesirable outcomes...at times they are both appropriate and necessary to address certain developments and the concerns of the parties involved.
 - But hearings are time and resource intensive for everyone...that includes interveners, companies, and the ERCB.
- I believe we see a trend developing towards more hearings – due to energy development moving closer to built up areas.
- So we will continue to work to evolve our processes that allow all parties concerned to find solutions that everyone can support without necessarily holding a hearing.

ERCB DRIVER OF CHANGE

- The second driver of change for the ERCB is the shift from conventional to non-conventional sources of natural gas and oil including coal bed methane, shale gas, heavy oil and bitumen. More specifically today, I will focus on the oil sands.
- Reflecting back, it is interesting to note that only until a few years ago; Alberta's oil sands were not particularly controversial.
- The Board would calculate the amount of Alberta's energy reserves and release them annually.
 - Industry experts took note, few others noticed.
- In 2002, things changed.
 - The *Oil and Gas Journal* began including Alberta's oil sands in their reserve calculations for the first time.
 - This led the *Journal* to rank Canada as having the second largest 'estimated reserves' of oil in the world.
- After the *Journal* article, others began to look at – and talk about – the oil sands.
 - And they haven't stopped talking since.

REGULATING THE OIL SANDS

- Today, the ERCB estimates that there are 173 billion barrels of recoverable bitumen in the oil sands.
 - And last year, Alberta produced 482 million barrels of bitumen from the oil sands.
- There is no doubt that Alberta has been blessed by abundant resources.
- The challenge for all of us is to make sure this development is done right.
 - That's why the Board was created 70 years ago...to have a long term impact.

FORT MCMURRAY OFFICE

- We have had ‘boots on the ground’ in Fort McMurray since 1986.
- Our Fort McMurray office is the only ERCB office that can receive and process oil sands mining applications.
- The office also:
 - assesses oil sands resources,
 - conducts regional stakeholder relations,
 - evaluates onsite mine related geotechnical issues,
 - and coordinates with other oil sands regulators – including Alberta Environment and Sustainable Resource Development.
- This office of 40 is also responsible for 24/7 incident response, and inspections of oil sands mining operations and compliance with ERCB regulations.

ERCB HEARINGS

- Another example of our regulatory presence and commitment to the sustainable development of the oil sands are the public hearings we have held on oil sands applications.
- Going back to the last 6 major oil sands hearings, 4 were joint hearings with the federal government.
- Over the course of those 6 hearings, we heard from First Nations, local residents, environmental groups, a medical staff association, and other regulatory bodies.
- Those hearings focused on many matters, including socioeconomic impacts, water levels, environmental impacts, and strain on local infrastructure and health facilities.
- And in response to that evidence, we issued 6 hearing decisions that focused on mitigating the environmental and societal impacts of those projects.
- In fact, those decisions placed a total of 91 conditions on projects relating to:
 - water management,
 - surface disturbance,
 - tailings management,
 - reclamation,
 - and other environmental and technical issues.
- The decisions also made a number of recommendations to both the Federal and Alberta Governments on:
 - infrastructure needs,
 - water management,
 - monitoring,
 - and fish habitat.

REGULATORY EVOLUTION

- I believe the ERCB already has a strong regulatory presence in the oil sands and that the industry is generally responsible and responsive to our regulatory requirements.
- However, the increasing role of the oil sands in meeting the world's energy needs – and their impact on the environment – has become a significant public issue across the province – and the country.
- As I mentioned before, at the ERCB we are constantly evolving our regulations to ensure development is fair, responsible, and in the public interest.
- Right now, I believe that there is a need for us to continue this regulatory evolution and bring forward two new regulatory requirements that will help ensure the sustainability of Alberta's oil sands.
- The ERCB is in the final stages of consultation on 2 new Directives that contain new regulatory requirements regarding:
 - inspections and compliance for oil sands mining and processing operations,
 - and tailings management.
- We expect to release both Directives before the end of 2008.

INSPECTION DIRECTIVE

- The Inspection Directive entitled *Requirements for Inspection and Compliance of Oil Sands Mining and Processing Plant Operations* will detail ERCB regulatory requirements that operators of oil sands mining and processing plant operations must follow.
- This Directive will clearly outline the expectations of our field inspectors in conducting inspections as well as the rules that operators of oil sands mining and processing plant operations must follow.
 - It will also include an updated manual for field staff to follow during inspections.
- It will take our existing regulations from different directives and consolidate them into one document. It will help ensure that all operators are using safe and appropriate practices and are in compliance with ERCB regulations.
- I am pleased that in 2008 our Fort McMurray office has already exceeded the number of oil sands inspections conducted over last year. Last year we conducted 18 inspections, and to date this year we have already more than doubled the number of inspections.
 - These inspections can take up to one week to complete.
- The ERCB believes that compliance in meeting or exceeding regulations and standards is the responsibility of the energy industry. The ERCB expects that companies understand the requirements and have the infrastructure in place to ensure compliance. And it is a responsibility we know the industry takes seriously.

DRAFT TAILINGS DIRECTIVE

- We are also in the final stages of consultation on another draft directive entitled *Tailings Performance Criteria and Requirements for Oil Sands Mining Schemes*.
 - It develops new industry-wide performance criteria for managing oil sands tailings, and specific enforcement actions if tailings performance criteria are not met.
- This Directive will be important, as more and more, the tailings ponds are becoming the focus of national and international attention.
- This Directive will set firm requirements for oil sands operators to manage their tailings.
- This Draft Directive will require operators to:
 - Develop annual tailings plans that establish timelines for tailings pond life cycles,
 - Establish performance criteria and milestones that will be incorporated into their approvals,
 - And, define within these plans how the company will capture a minimum amount of tailings and reduce fluid tailings over time.
- At the end of the day, this Directive will require operators to give us firm dates for when they will convert their tailings materials into a solid deposit that is trafficable and can be reclaimed.
- We look forward to completing consultation on it over the next few weeks. When it is complete, for the first time Albertans will have certainty on how tailings from oil sands projects will be stored, converted and reclaimed and how those results will be reported back to us.

CONSULTATION

- At the ERCB, we believe that good regulation includes good process.
- And on new regulatory matters, the ERCB consults with the public, industry, stakeholders, and other regulators as part of our process.
- We have done that with both of these new regulatory directives, as we publicly released draft copies earlier this year.
- I would like to thank everyone who consulted with us on these new Directives, as I believe consultation always leads to rules that are clearer, more concise, and a better reflection on what is in the public interest for all Albertans.

CONCLUSION

- In closing, I would like to say that we are facing two major challenges when it comes to the oil sands.
- The first one is the regulatory challenge, to make sure we have regulations that
 - are technically sound,

- reflect the needs of industry, stakeholder groups and all Albertans,
 - and serve the public interest.
- I am convinced that we will keep meeting that challenge by continuing to evolve our regulations, and listen and consult with Albertans.
- The other challenge is, in some ways, more difficult – that is show Albertans that the oil sands can be regulated in the public interest.
- So the best way for us to do that is to do good work. And we are going to keep doing good work to make sure that energy development continues to be done right in Alberta. Thank you.