



RURAL MUNICIPALITIES OF ALBERTA

Resolution 9-22F

Renewable Energy Project Reclamation Requirements

Date: November 9, 2022

Expiry Date: December 1, 2025

Active Status: Active

Sponsors: MD of Foothills, Mountain View County

District: 1 - Foothills-Little Bow,

2 - Central

Year: 2022

Convention: Fall

Category: Energy

Status: Intent Not Met

Vote Results: Carried as Amended

Preamble:

WHEREAS the Government of Alberta (GOA), in line with the Government of Canada, have a mandate to transition to a low carbon economy; and

WHEREAS renewable energy has been determined to be one way to transition to a low carbon economy; and

WHEREAS increased development of renewable energy sources including wind, solar and geothermal energy projects is occurring throughout Alberta; and

WHEREAS the Alberta Utilities Commission is solely responsible for approvals of renewable energy projects on private lands; and

WHEREAS in June 2018, the GOA amended the Conservation and Reclamation Regulation to include renewable energy operations under the definition of specified land activities; and

WHEREAS the Conservation and Reclamation Directive for Renewable Energy Operations outlines an operator's obligation to reclaim specified land to equivalent capability; and

WHEREAS this obligation is intended to ensure renewable energy projects are properly reclaimed upon their decommissioning; and



WHEREAS the directive does not include a requirement to submit reclamation security; and

WHEREAS Section 619 of the Municipal Government Act states: that “a licence, permit, approval, or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utility Board or Alberta Utilities Commission prevails over municipal authority;”

Operative Clause:

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta request that the Government of Alberta implement a mandated collection of adequate securities for future reclamation of renewable energy projects on private lands, either by requiring renewable energy project proponents to post a reclamation surety bond as a condition of any renewable energy project approvals or by other means;

FURTHER BE IT RESOLVED that the amount of the required securities be calculated based on data-driven projections of actual reclamation costs to protect municipalities and residents of Alberta from incurring costs associated with the decommissioning of all renewable energy projects.

Member Background:

As solar and wind farms become more prevalent within the province, there is a vital missing element within the current Conservation and Reclamation Directive for Renewable Energy Operations. There is no bond or other mechanism required of project proponents to protect landowners, municipalities and the residents of Alberta from incurring costs associated with reclamation of lands to their initial state.

Private landowners in rural Alberta are being approached to enter into letters of intent (LOI) with renewable energy companies for land rental rates (\$600-\$800/acre) that far exceed what agriculture producers can pay or generate per acre from agriculture pursuits. The concern is that there appears to be no support for landowners to guide them through the contract process to ensure they:

Are aware that the private landowner is ultimately responsible for any and all reclamation costs that will be incurred in future

Landowners can and should include reclamation securities or guarantees of reclamation being covered by the operator of the renewable energy facility as part of land lease agreements.

Investors/developers in renewable energy projects may be from out of country or become insolvent and there is no recourse to pursue legal action for the eventual clean up and restoration once these projects reach their end of life. The cost will then fall to the landowner or to the municipality.

Under section 619 of the MGA, the Alberta Utilities Commission (AUC) approval of renewable energy projects prevails over municipal authority. Municipalities have no authority or opportunity to support private landowners with respect to renewable energy projects.

The frustration on reclamation of renewable energy projects is that the AUC is the approving authority, under the Alberta Energy, however the reclamation legislation is under Alberta Environment and Parks (AEP). In trying to sort out responsibilities, we have been passed between these ministries, with no



provincial department wanting to take on the task of reviewing the requirements for reclamation securities.

Based on discussions with AEP, there is very little appetite from the Government of Alberta to interfere with private landowners and private companies with respect to renewable energy projects. However, history has indicated that without any government oversight on ensuring companies are held accountable to final reclamation, issues like brownfield and orphan wells will arise. These ultimately become the burden of the taxpayer when all the money is extracted from the development and there is nothing left over to pay for the reclamation.

AEP already has similar requirements in place regarding the reclamation of gravel pits on private lands, as well as the oversight of the Natural Resources Conservation Board regarding confined feeding operations on private lands. Precedent has been set that the government can collect securities for reclamation if the development holds public interest. Development of renewable energy can be argued as having an extreme impact on public interest, both in development of energy as well as reducing our carbon emissions.

When the Government of Alberta amended the Conservation and Reclamation Regulation in June 2018 to include renewable energy operations under the definition of specified land activities, they did not include securities for reclamation, nor did they include it in the Conservation and Reclamation Directive for Renewable Energy Operations released in September of 2018.

Other countries in Europe have experienced massive clean up at the cost of their taxpayers. To date, there is no fee in place to ensure the financial costs for reclamation would be the responsibility of the developer, especially if their head office were out of country or if they were to become insolvent. The directive only requires that reclamation must occur.

A bond or similar tool could be further enhanced by implementing a recycling fee program similar to that used for tires and other programs currently in operation. The Alberta Utilities Commission and Ministry of Agriculture, Forestry and Rural Economic Development could also discourage the use of productive farmland for renewable energy projects and look for lands with poor soil quality and agricultural suitability for these projects.

If green energy is to be truly green, it is imperative that we be proactive in protecting our lands for future generations and not repeat the same scenarios being experienced by the Orphan Well Association, where cleanup is born by the province at the taxpayer's expense.

**RMA Background:**

RMA has no active resolutions directly related to this issue.

Government Response:

Alberta Environment and Protected Areas

The Government of Alberta is committed to ensuring renewable energy operations, such as solar and wind projects, are decommissioned and reclaimed responsibly when operations cease. Requirements for operators are outlined in Alberta's Conservation and Reclamation Directive for Renewable Energy Operations (available at open.alberta.ca).

Renewable energy operators are financially responsible for environmental obligations at the end of a project's life and must demonstrate to the Alberta Utilities Commission that they have sufficient funds to cover estimated decommissioning and reclamation costs. Operators must follow the commission's "Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines" (available at auc.ab.ca).

Landowners have the right to allow or deny access to their property for a solar or wind energy project, to negotiate reclamation security under their surface lease agreement, and to seek legal advice before signing an agreement regarding development on their property.

The mandate letter for my appointment as Minister of Environment and Protected Areas (available at open.alberta.ca) includes a commitment to bring reclamation requirements for renewable energy sources in line with the rest of the energy sector.

The mandate also includes a commitment to explore options with all relevant stakeholders — balancing the need to reduce liabilities and ensure landowners, municipalities, and Indigenous Peoples are satisfied with reclamation efforts. The Government of Alberta is using RMA feedback to consider how to address these commitments and will engage with the RMA if changes to provincial reclamation policies are considered.



Development:

Although the Government of Alberta response indicates that renewable energy project proponents are already required to take responsibility for end of life management of projects under the Conservation and Reclamation Directive for Renewable Energy Operations, the intent of the resolution is to call on the Government of Alberta to amend the directive and AUC Rule 007 to move beyond requiring proponents to provide proof, and instead require them to provide an actual deposit in the form of a surety bond or similar means. While “proof” may be well intentioned, in the time between project construction and decommissioning, much can happen to the individual company, the provincial economy, the economics of the renewable industry, etc. that can render that point in time proof irrelevant when it comes time to actual reclaim the land.

RMA is also concerned with the Government of Alberta’s emphasis on negotiations between industry and private landowners. This is an important component of the project development process, but reclamation has broader public interest impacts, and many landowners lack the technical capacity or resources to properly hold industry accountable for reclamation obligations.

RMA assigns this resolution a status of Intent Not Met and will continue to advocate on this issue.

Provincial Ministries: Energy, Environment and Parks