**ALDP 2021** Regan Boychuk, Mark Anielski, John Snow Jr., and Brad Stelfox "The Big Cleanup: How enforcing the Polluter-pay principle can unlock Alberta's next great jobs boom" Alberta Liabilities Disclosure Project (29 June 2021): 40pp

❨p. 6:"As Albertan researchers, scientists and industry veterans who have spent years deeply immersed in the growing crisis of oil and gas well cleanup, we are heartened by the increasing media and public attention to the issue in our province. After decades of inaction and inattention, pressure is growing to finally face the unavoidable burden of retiring oil and gas wells.

But there's a big problem—the funds for the cleanup are increasingly coming from the public purse, rather than oil and gas companies who are legally responsible for the retirement of their infrastructure under the "Polluter-pay" principle of Canadian law."❩

**Boychuk 2021a** Regan Boychuk message to Mark Dorin (29 June 2021)

❨"... Danielle Smith was in this morning's Zoom chat pitching her industry friend's non-profit solution."❩

**Boychuk 2021b** Regan Boychuk messages to ALDP (27 July 2021)

❨"From our chat with Kris & Danielle this morning, the origins of SAEN (*Sustaining Alberta's Energy Network, a junior energy industry advocacy group - Ed.)* and its proposal was that, in exchange for an ideological pledge to neoliberalism, SAEN worked to help get 25 UCP MLAs elected. Trident collapsed day Kenney sworn in, they immediately turned to Kris.

July 2nd [2021] Kenney asked Kris and Danielle to move this issue forward, hence the columns.

R* is a scam, but I think it might be possible to flip Kris.

In any case, Danielle meets Sonya Savage this afternoon and will ask about a public event with gov reps

I hope they're dumb enough to actually debate in public.

Kris' "R*" plan won't address the wells on his land and they won't address the wells on my land.

Our plan would address both and all the rest. ... We agree on all the facts, but his solution goes through the ideological filter that results in taxpayers being first in line to start paying for cleanup."❩

**Denhoff 2022** Former Deputy Minister of Alberta Environment/GoA Special Advisor Eric A. Denhoff reply to @RKBtoo *Twitter* (22 October 2022): 9:12pm
❨"They pitched me this [#RStarScam] when I was there [2019]. I said no thanks. Reminded me of Wimpy—"I'd gladly pay you Tuesday for a hamburger today"!"❩

**Savage 2021** Alberta Energy Minister Sonya Savage to Freehold Owners Association President David Speirs (30 June 2021): 2pp

ALBERTA
ENERGY

*Office of the Minister*
*Deputy Government House Leader*
*MLA, Calgary-North West*

June 30, 2021

AR39140

Mr. David Speirs
President
Freehold Owners Association
davidspeirs@fhoa.ca

Dear Mr. Speirs:

Honourable Doug Schweitzer, Minister of Jobs, Economy and Innovation, and MLA for Calgary-Elbow, forwarded a copy of your June 16, 2021, email regarding the R-Star Program. As Minister of Energy, I am pleased to respond on behalf of the Government of Alberta.

The Government of Alberta is taking the boldest and strongest action to tackle oil and gas liabilities in Alberta's history. The Liability Management Framework, announced in July 2020, includes a series of mechanisms and requirements to enable industry to better manage their regulatory obligations at every step of the process.

The framework sets clear expectations throughout the life cycle of oil and gas projects, helping provide certainty for investors and ensuring that industry will be able to bear the costs of site obligations. The new framework will address the root, and not only the symptoms, of an issue that all energy-producing jurisdictions are facing. For more information about the framework please visit: www.alberta.ca/oil-and-gas-liabilities-management.aspx.

The Government of Alberta has decided not to accept the R-Star proposal. After close consideration, we determined that the proposal does not align with the province's royalty regime or our approach to liability management and upholding the polluter-pays principle. The polluter-pays principle is a guiding philosophy for liability management in Alberta and is supported by landowners, municipalities, industry associations, investors, environmental groups, and Indigenous communities.

By clarifying the rules and improving the available resources, we are providing industry with the certainty they need to make long-term investment decisions. We are also looking at ways to enhance these efforts, including exploring options with the federal government, such as flow-through shares and Qualifying Environmental Trusts, which could provide additional support for investment in closure activities.

.../2

- 2 -

Extending flow-through shares to provide tax deductions and credits for oil and gas closure costs—including abandonment, remediation, and reclamation costs—would improve producers' balance sheets and provide them with additional financial flexibility to incur cleanup costs.

Thank you for taking the time to write and for sharing your concerns about liability management in our province.

Sincerely,

Sonya Savage

Sonya Savage
Minister

cc: Honourable Doug Schweitzer
Minister of Jobs, Economy and Innovation

**Scotiabank 2023** Scotiabank Global Equity Research "The proposed Alberta "RStar" program could benefit some producers, but hurt the sector's reputation" *Intraday Flash* (9 February 2023): 1:49pm

❨"Initial reports indicate the program could issue up to $100M in royalty credits for abandonment and reclamation of well sites that have been inactive for at least 20 years. Exhibit 1 shows a summary of Alberta wells that appear to meet the expected criteria. Within our coverage universe CNQ, CVE, POU, and WCP rank among the top 10 operators of such wells in Alberta. We expect these companies would be the biggest beneficiaries from the potential program (with the precise economic benefit TBD). While we see the potential for select companies to benefit from the program, we believe it has the potential to generate negative public sentiment toward the sector. Moreover, we also believe the program goes against the core capitalist principle that private companies should take full responsibility for the liabilities they willingly accept.

... Overall, we see potential for the program to perpetuate negative views against the energy industry and be used as an example of new "fossil fuel subsidies." ... Finally, we do not expect the proposed program to lead to increased drilling in the sector, as pipeline constraints, a tight services market, and investor preferences for cash returns over production growth are currently limiting factors (rather than a lack of capital). ...

... AER Directive 011 provides a guide to abandonment and reclamation costs ... We expect the current average costs will be moderately higher due to inflation, with idiosyncratic factors likely causing material differences between specific wells."❩

**Smith 2021a** Danielle Smith "Royalty credit is the solution to Alberta's legacy well problem" *Calgary Herald/Edmonton Journal* (9 July 2021): A8/A8

❨"It's a bit early in Premier Jason Kenney's term to be thinking about his legacy, but I have a suggestion: he could be the premier who solves the well-site reclamation problem in Alberta for good, and makes peace between energy companies, landowners and municipalities.

… I've spent a lot of time trying to understand the nature of Alberta's legacy well problem, interviewing landowner lawyers such as Keith Wilson and advocates such as Regan Boychuk of the Alberta Liabilities Disclosure Project. …

… as a whole, the industry has assets of $142 billion and liabilities of $30 billion.

… the healthiest companies … there are 45 of them … the companies in the worst shape, there are 276 … There are an additional 66 companies that have fewer assets than liabilities. This makes it impossible for them [342 insolvent companies] to raise money. … What bank is going to lend money to a company that has more liabilities than assets? Answer: none.

When companies get this distressed, they don't pay municipal taxes and they don't pay landowner leases either. Everyone loses.

Last week, Alberta Liabilities Disclosure Project issued a proposal … On paper, it may sound like it will work. In practice, it won't. …

A junior energy industry advocacy group calling itself Sustaining Alberta's Energy Network has come up with a better alternative. It was even endorsed by the Alberta Chambers of Commerce last month. They propose to offer a royalty credit to give an incentive to accelerate clean up. So if a producer spends $1 million to clean up well sites, it would pay a lower royalty until that money is paid off. It's similar to how we assess oilsands royalties (One per cent until capital is paid out) and drilling credits (Five per cent royalty until the drilling cost is paid back).

… If they are going to have to pay 100 per cent of the cost to clean it up, it just makes sense to allow them to write off the cost by paying a lower royalty when they drill new wells. That's the essence of what the small producers are asking for.

If the government doesn't create an incentive to go after the worst well sites, I predict it is going to get kicked down the line for another 60 years. Kenney has a chance to solve this problem once and for all. Let's hope he does it."❩

**Smith 2021b** Danielle Smith message to Regan Boychuk *via Boychuk message to ALDP* (27 July 2021)

❨"Regan –

The meeting went well with the Minister. She agreed to a meeting / round table to discuss the well problem and potential solutions. We will have to work together on an invite list to propose to her.

She also wants to visit yours and Kris's wellsite if you would be amenable to that.

We may be able to do a pilot project on the worst sites to see if we can get some progress.

Let me know how you'd like to proceed.

D"❩

**Smith 2021c** Alberta Enterprise Group President Danielle Smith to Alberta Energy Minister Sonya Savage (29 July 2021): 5pp

# Alberta Enterprise Group

11626-119 Street Edmonton Alberta T5G 2X7

July 29, 2021

Minister Sonya Savage
Minister of Energy
324 Legislature Building
10800 - 97 Avenue
Edmonton, AB T5K 2B6

Dear Minister Savage:

It was a pleasure meeting with you to discuss a pilot project this fall, to test out the RStar program as a new approach to address the issue of decommissioning and closing inactive wells.

I would like to summarize our conversation as you are working with your department officials to understand why this pilot project is so important to our members and the members of Sustaining Alberta's Energy Network, which is an organization representing junior oil and gas and energy service companies that has been championing the RStar program for nearly two years.

**Historical Context**

In Alberta, we took the approach of "polluter pay" to deal with the issue of inactive and orphan wells, which is a position we continue to support at the Alberta Enterprise Group. However, we also know that broad-based tax incentives have been a powerful method to incentivize the energy industry going back to the days of Peter Lougheed and Ralph Klein.

I hope we can all agree that the current government finds itself in a very difficult situation that has been inherited from decades of well-meaning policy decisions by previous administrations that have nonetheless resulted in unintended negative consequences. We recognize that your government did not create today's problems, but we believe we have a solution that will help you to fix it.

In the past, the regulator agreed in good faith to allow companies to transfer assets and liabilities with the notion that the original company would not bear the liability for future cleanup. The regulator assumed in good faith that transferees would take responsibility for the clean up, and that the assets and production would generate enough money to cover the cost of cleanup without the need for mandates. Meanwhile, energy companies believed they would be able to decommission and close wells and obtain a reclamation certificate in a timely fashion, which would not only allow them to reduce their liabilities and improve corporate health, but would also allow them to reduce operating costs for municipal property taxes and landowner lease payments as these sites were returned to the landowner or the Crown for other uses.

Unfortunately, none of this has occurred and a series of events has caused this model to breakdown.

Companies have not been able to obtain a reclamation certificate in a timely fashion. As a result, there has been no incentive to do surface reclamation or decommission low-producing wells. This has led to an unfortunate situation where companies remain obligated to pay landowner lease payments and municipal property taxes on properties that are not generating significant revenue. But because sites have not been returned to original use, landowners and municipalities have a reasonable expectation that they should continue to be paid. Now municipalities are owed an estimated $245 million in unpaid taxes, and landowners could be owed the same.

This has resulted in bad press and a lack of goodwill in rural Alberta, which is reducing support for the energy sector and impacting the government's popularity.

Meanwhile, for a period of time in the last 10 years, the regulator permitted well-financed large companies to offload significant liabilities to small companies that have become overburdened with wellsite cleanup responsibilities that exceed their ability to pay.

Plus, the Redwater decision put the liability for environmental cleanup ahead of other claims on a company's assets. The practical effect of this is that any company with a Licensee Management Ratio (LMR) of less than 2 has found it impossible to arrange financing for new drilling programs that would yield new revenues in order to pay their obligations.

Finally, with the collapse of oil and natural gas prices in 2014, the revenue situation has become dire for the junior oil and gas sector. Since the UCP formed government, dozens of junior companies have gone bust and their assets and liabilities have been transferred to the industry funded Orphan Well Association. We understand this has caused the levy on companies to rise dramatically. In at least one case, we were told one company's levy went from $100k a year to $700k this year.

**Default option if government does nothing**

When we consider the number of struggling companies that have an LMR below 2, it represents $9 billion worth of liabilities. The July 2021 LMR Summary is below.

**LMR Summary**

| | |
|---|---|
| Industry LMR: | 4.80 |
| Total Number of Licensees Evaluated: | 696 |
| Total Number of Licences/Approvals Evaluated: | 343,642 |
| Total Deemed Assets: | $143,408,625,408.07 |
| Total Deemed Liabilities: | $29,878,121,412.23 |
| Total Estimated Liabilities*: | $30,223,350,226.23 |
| Total LMR Security Held**: | $272,460,037.63 |

| LMR Range | Number of Licensees | Number of Licences/ Approvals | Total Deemed Assets | Total Deemed Liabilities | LMR Value |
|---|---|---|---|---|---|
| 0.00 | 240 | 7,875 | $856,247.01 | $641,120,667.00 | 0.00 |
| 0.01 - 0.49 | 38 | 5,483 | $140,889,866.56 | $429,850,002.60 | 0.33 |
| 0.50 - 0.99 | 59 | 20,985 | $1,195,746,674.03 | $1,655,460,819.89 | 0.72 |
| 1.00 - 1.49 | 90 | 48,341 | $3,995,842,797.80 | $3,077,122,808.92 | 1.30 |
| 1.50 - 1.99 | 51 | 55,049 | $5,900,218,208.70 | $3,339,521,317.37 | 1.77 |
| 2.00 - 2.99 | 65 | 40,387 | $10,175,239,333.68 | $4,364,555,468.80 | 2.33 |
| 3.00 - 3.99 | 35 | 95,115 | $27,373,670,993.55 | $7,635,079,092.62 | 3.59 |
| 4.00 - 4.99 | 19 | 19,152 | $10,574,771,654.87 | $2,275,509,584.45 | 4.65 |
| 5.00 - 5.99 | 14 | 6,961 | $4,206,853,175.63 | $764,876,081.90 | 5.50 |
| 6.00 - 6.99 | 12 | 985 | $679,769,696.89 | $105,989,132.00 | 6.41 |
| 7.00 - 7.99 | 13 | 10,700 | $8,276,162,826.63 | $1,070,007,475.73 | 7.73 |
| 8.00 - 8.99 | 9 | 2,287 | $2,148,000,500.64 | $260,000,830.75 | 8.26 |
| 9.00 - 9.99 | 10 | 4,987 | $7,021,896,427.71 | $742,442,587.62 | 9.46 |
| 10.00 or > | 41 | 25,335 | $61,718,707,004.37 | $3,516,785,542.58 | 17.55 |

The Alberta Liabilities Disclosure Project has recommended that the government assume the operations of low LMR companies and use their production to pay off their liabilities. We do not believe this will optimize the royalties and revenues for the people of Alberta, the owners of the resource. But if the government does nothing, we believe this will be the default result. Ultimately, junior oil and gas companies will continue to go out of business and, in the extreme, the Orphan Well Association will be left with billions of dollars in liability and have to rely on the large oilsands companies to pay increasingly high levies to pay for the reclamation. This will do nothing to address the outstanding liability for municipal taxes or landowner leases; in fact, it will make the problem even worse.

In short, the default option benefits no one. The better solution is to create a pathway for junior oil and gas companies to clean up existing wellsite liabilities, improve corporate health, improve profitability and become compliant with all their financial obligations.

We believe the RStar program can address all of these issues. Unlike a direct grant program, it will require no direct outlay of cash from the government, it will be applied fairly across all licensees, and it will potentially allow new financing for wellsite reclamation on the basis of being an ESG investment.

Sproule Consultants has calculated that if the government provided $20 billion in RStar credits, the dual activity of decommissioning and closure, combined with new drilling activity would generate 366,000 jobs (and all the attendant personal income tax revenue associated with that), $8.54 billion in new royalty revenue and $2.66 billion in new tax revenue, and create $76.7 billion in new GDP.

As it is designed as a credit against royalties from new production, the Alberta Government could implement the program without the need for federal approval. We think there is a matter of some urgency to get a replacement for the federal Site Rehabilitation Program (SRP), so we do not lose the momentum on clean up or the expertise and efficiency that has developed over the last year of the program among the companies that provide these services.

In addition, we fear that because we have not addressed the issue of closure and timely issuance of reclamation certificates, we have observed that most companies are focussing on down hole abandonment of the "easy wells" – some of which would be profitable with oil and gas prices as they are today – and the surface reclamation remains incomplete.

Rather than have $1 billion in direct grants administered the same way as SRP with the same issues, we think RStar offers a fairer way to address the issues of legacy wellsite cleanup, incentivize surface reclamation, and restore the health of the junior oil and gas sector.

**RStar Pilot Project Proposal**

I am grateful that you have agreed to consider a pilot project in the fall to test out the RStar concept.

First some background. The CStar credit is a drilling credit that allows a company to pay a 5 per cent royalty until they have recovered the cost of drilling. The RStar credit would be structured to piggyback on this program for ease of administration: a company will be able to apply the credit to new production to extend the 5 per cent royalty rate until they have paid off the cost of the RStar reclamation.

We think the most efficient way to implement the program would be to offer 10 RStar credits to every licensee with active production and with an LMR above zero (456 licensees), with the proviso that they must fully decommission and close a site, and that it only apply to sites that were drilled prior to 1990, with a strong preference for the most environmentally damaged sites.

The value of the RStar credit would vary, as it would be the amount it costs to fully decommission and close the site. It will range in value depending on the complexity of the site cleanup, but realistically (as we are focussing on the worst sites), it may range from $75,000 to $1 million or more per credit. We are conscious of the fact that some of these sites may have an actual liability much greater than the deemed liability. We believe the regulator can use the existing Site-Specific Liability Assessment (SSLA) program to reassess the liability so that a company is further incentivized to take care of the worst sites first.

With 456 eligible licensees, this would allow for as many as 4,560 of the worst sites in the province to be fully remediated. If each well costs an average of $150,000 to clean up, this would be the equivalent of $684 million in RStar clean-up credits. As previously mentioned, there would be no direct outlay of grants by the provincial government, but companies would be allowed to extend their 5 per cent CStar drilling credit with an RStar credit until they recover the cost of reclamation.

If you think this is too large for a pilot project, it could be scaled to a size you think is manageable by the department. For instance, you can pilot the program with just 1 or 2 RStar credits per licensee. But we think it is important that all licensees be offered an opportunity to participate. For the 240 companies that have a LMR of zero, you could allow viable companies to receive an RStar credit to harvest one of their wellsite liabilities, perhaps at two times the value, as an additional pilot project to create another mechanism for industry to address this $600 million unfunded liability problem.

The key to the success of the RStar program will be creating a process that results in closure and a rapid reduction in associated liabilities and operating costs.

We would like to propose a six-step process:

1 Identification of reclamation site. The licensee identifies the wellsite they would like to reclaim for the RStar credit and the department approves it on the basis of deemed liability, or the licensee asks for an SSLA reassessment for a more accurate valuation.

2 Downhole abandonment occurs. The department issues an abandonment confirmation and issues an RStar credit for the amount. This portion of the liability is reduced immediately.

3 Surface reclamation occurs. The department issues an interim reclamation certificate and issues an RStar credit for the amount. This portion of the liability is reduced immediately. Municipal property taxes are reduced by 50 per cent. Landowner lease payments continue.

4 Vegetation management occurs. The department issues a final reclamation certificate and issues an RStar credit for the final amount. All liability for the site is extinguished. Municipal property taxes end. Landowner lease payments end.

5 Transfer of fully reclaimed sites to Orphan Well Association stewardship. Once the final reclamation certificate has been issued, sites will be transferred to the Orphan Well Association and insured in the event a small percentage of them need to be revisited in future.

6 RStar credit is redeemed. The licensee either identifies the site they would like the RStar credit to apply to or identifies a licensee to sell the RStar credit to so it can be utilized, and the department approves it.

I have met with Environment Minister Jason Nixon to discuss how we can assist in aiding the collaboration between departments. I told him I suggested to you a round table discussion to talk through the wellsite issues with a variety of stakeholders. Minister Nixon suggested a ministerial task

5

force might be helpful in coordinating an approach between Energy, Environment and Municipal Affairs in working through the details of implementing a pilot project.

We would be happy to work with you to discuss how this might be implemented in a way that reduces the regulatory burden on energy companies as well as limits the cost of administration on the Alberta Energy Regulator, in whatever capacity you deem most helpful. Tristan Goodman of the Explorers and Producers Association of Canada has also kindly offered to assist in this regard if you require expertise from an industry partner who has a deep understanding of the processes and capacity at the AER.

I truly believe the RStar program pilot program will prove to be a success, and could form the basis for a long-term program to incentivize legacy wellsite reclamation, stimulate new drilling and restore the vibrancy of our junior oil and gas sector.

I look forward to hearing from you on how you would like to proceed.

Very kind regards,

Danielle Smith, President
Alberta Enterprise Group

cc: Hon. Jason Nixon, Environment Minister

**Swann 2021** Dr. David Swann message to ALDP (23 July 2021)
**(**"Danielle Smith just agreed to host a forum on 'solutions'"**)**