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Another Year Gone Under the Mine Financial Security Program

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Legislation Commented On: Annual Mine Financial Security Program Submissions, 2021 Submissions for 2020 Reporting Year

In a post back in May 2021, I complained about a change to Alberta's Mine Financial Security Program (MFSP). This is a follow-up post in response to the Alberta Energy Regulator (AER) posting the annual submissions under the program on September 30, 2021. Note that each annual submission is for the September of the previous year, so the 2021 report is relevant to the situation in September 2020.

The MFSP is Alberta's system for ensuring that companies pay for the reclamation and remediation of their mines, both oilsands and coal (but not conventional oil and gas, which is handled by a different liability management system that also does not work properly). In short, the MFSP allows companies to use an asset safety factor against their estimated future environmental liabilities, such that if a mine's resource assets are worth more than three times the total anticipated reclamation costs (3:1), nothing beyond an initial (and wholly inadequate) 'base deposit' is required, provided also that the planned reclamation is conducted as scheduled, and the mine has more than 15 years of reserves remaining. Companies may also choose to skip those calculations and pay full security based on an estimate of the total cost of clean-up.

The MFSP has major problems. The Auditor General identified concerns with the MFSP in a 2015 report, and released a report in June 2021 finding that despite years of organizing working groups on the issue, Alberta Energy has not yet decided on any changes to fix the MFSP (see the Report of the Auditor General June 2021, at 29-34).

What can be discerned by comparing the 2020 and 2021 Annual MFSP submissions and the security to liability update for 2021 and 2017? First, that in September 2020, Alberta had $1.52 billion in financial security compared to environmental liabilities thought to exceed $33 billion, a difference of $31.67 billion. The security is equivalent to 4.6% of the total estimated liabilities.

Second, the amount of estimated liability that is secured is getting worse over time both in the (a) gap between the dollar value of the security and the estimated cost of the liability, and (b) in terms of the percentage of the liability that is secured. The difference was $19.25 billion with 7.5% secured in 2014, and the difference was $26.89 billion with 5.1% secured in 2018. (However, note that (a) this is in nominal dollars, not real dollars adjusted for inflation, and (b) the estimates of reclamation liability costs may be inaccurate.)

Third, that Alberta had $26,400,059 less in security from oilsands operators in September 2020 than we had in September 2019. The decrease was caused by the AER returning the entire $26,400,059 in security held for the Joslyn North Mine. Canadian Natural Resources Limited purchased the Joslyn North mine and received an approval to integrate it with their Horizon oil sands mine. Because Horizon oilsands and Joslyn North are now one mine for the purpose of the MFSP, the deposit for the Joslyn North Mine could be refunded. Other than the payment for Joslyn North that has now been refunded, no oilsands operator paid any security from September 2015 to September 2020. When the MFSP was created on December 31, 2010, the province had $912,852,619 in security for oilsands mines (see page 48 to the Guide to the MFSP), and in September 2020, Alberta had $912,852,620. Thank goodness for that single dollar the MFSP collected for the cleanup of the Muskeg River Mine!

Fourth, in relation to coal mines, Alberta collected $58,645,053 in security from 2019 to 2020. Coal mines have been choosing to pay full security in past years, but in 2020 one mine (The Vista Coal Mine) appears to have switched to using the MFSP's Asset-to-Liability calculation method instead of putting down full security. The Vista Coal Mine's operator is currently in a stay of proceedings under the Companies' Creditors Arrangement Act, RSC 1985, c C-36, so the switch is likely related to the suspension of mining connected to the creditor's arrangement process. This switch may have happened in 2019, as the security in place at that time was already raised to $7,000,000, which is the base deposit for an export coal mine under the MFSP Asset-to-Liability calculation method. The AER website still says "the coal mining industry has chosen to pay full financial security at the start of its projects." That no longer seems to be accurate.

Fifth, I would like to publicly complain that the AER persistently makes information about the MFSP from previous years hard to find. All of the MFSP information from past years disappears from the AER website, and you need to use a web archive service to access them, as the old link now leads to the current annual submissions. This is poor website management at best, and a deliberate attempt to obscure the MFSP's record at worst.

Sixth, the impacts of climate change and the associated need to decarbonize cannot be overlooked when thinking about Alberta's underfunded environmental liabilities. The MFSP includes an assumption that oilsands mines will operate until they run out of reserves – that is why the MFSP does not require security to be in place until the mine has less than 15 years of reserves remaining (through the Operating Life Deposit system). The assumption that the oilsands mines will operate until they run out of reserves is clearly no longer a safe one. The world is going to take some action to control climate change. For example, Canada has joined a growing number of countries that have committed to phasing out the sale of internal combustion engine vehicles by or before 2035. That will lead to significant reductions in demand and oil price, and the oilsands need relatively high oil prices to remain competitive. The oilsands will be operating for some time yet, but few or none will be able to use up their reserves, which in many cases was forecasted to occur in the latter half of this century. Oilsands mines are more likely to close when international carbon pricing and other measures make their operation uneconomical, and the MFSP does not take that into account.

To conclude, the MFSP was never effective; it makes less policy sense every year, and every year Alberta's security-for-mine-cleanup problem gets worse. Albertans learn more about the MFSP from the Auditor General than they do from the AER or Alberta Energy, and Alberta Energy responds to the Auditor General's reports by setting up working groups and then ignoring them. It is past time to face a hard truth - Alberta is bad at regulating resource development.

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