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## Waiting for a Credible Cost Estimate of Oil and Gas Closure Liabilities and the Problem with CARL

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**Regulatory Bulletin Commented On:** [AER Bulletin 2024-11: Conditional Adjustment of Reclamation Liability \(CARL\) Program and New Edition of Directive 088 and Manual 023](#)

This post describes and assesses the Conditional Adjustment of Reclamation Liability (CARL) Program announced by the Alberta Energy Regulator (AER) in April 2024 and discusses a central question about Alberta’s conventional oil and gas closure liabilities: the absence of a credible official cost estimate. “Conventional oil and gas” in this context means wells, pipelines, and facilities, but [excludes Large Facilities and oilsands mines](#), which have separate regulatory systems.

### Waiting for an Updated Liability Estimate

The strangest issue concerning Alberta’s conventional oil and gas liabilities is the lack of a credible official closure liability cost estimate (already discussed [here](#)). The AER produces a calculation of the total cost of deemed liabilities every month as part of the Liability Management Rating (LMR) Results Report ([\\$30 billion in May 2024](#)) but those estimates are calculated using average liability cost estimates set by [Directive 011 \(last updated in 2015\)](#) that contain major errors and rely on faulty information. The AER has acknowledged the errors, the [Auditor General has described many of them](#), and [private industry consultants maintain databases](#) to create more reliable closure liability cost estimates for use in oil and gas asset sales.

The AER has known that it needs to repair and replace the liability estimate for years and has repeatedly indicated they intend to do so “soon”. Some time in the last few months, the AER adjusted their website text from “We share security-adjusted LMRs and debts owed in our LMR reports below” to the more apologetic [“We are currently assessing what closure and liability information and performance metrics we can provide externally. In the meantime, refer to the industry LMR summary reports below.”](#) The AER has been holding internal meetings with Cabinet Ministers and industry about the problem since 2019, but those discussions have been secret except for partial information released under the *Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25*. Those internal records have consistently suggested much higher liability estimates. Most notable is the [\\$130 billion estimate in 2018](#). The AER told the public those [“numbers were not validated”](#), but then internally used the exact same numbers and graphs to explain the situation to government again [in September 2019](#). The Auditor General also referred to internal AER documents of June 2022 showing a \$60 billion estimate ([see here](#) at 1 and 23).

Lately, the Alberta government has begun contradicting itself. On March 11, 2024, the Minister of Energy and Minerals appeared before Alberta’s Standing Committee on Resource Stewardship and said, “The AER estimates that there’s about \$60 billion in inactive and active liabilities, and the Orphan Well Association estimates closure liabilities to be \$890 million for the orphan well program” ([see here](#), page RS-15). Days later, on [a March 14, 2024 talk show](#), the Premier responded to a question about orphan and inactive liabilities by saying:

I think it’s about thirty billion dollars from what I have seen, whether that is low or high, I guess we have to do a little bit more work on it. It’s a huge liability, and you know what I have said, the framework we are putting in place for solar and wind that’s probably the kind of proposal we should have put in place from the very beginning for oil and natural gas... (at around 25:00)

The AER has estimates of the total liability closure cost that are much better than the estimate it makes public, and that it has been discussing with industry for years. The AER does not need to calculate or consult about this estimate, it only needs to make the estimate and the details of how it was calculated public. Without that estimate, [nothing the AER says about the problem appears trustworthy](#) and the sufficiency of the AER’s plan for mandatory spending on closure liabilities cannot be assessed.

### **CARL Introduces Provisional Reclamation Certificates to Alberta**

On April 9, 2024, the AER posted [Bulletin 2024-11](#), announcing the Conditional Adjustment of Reclamation Liability Program (CARL). CARL is a system for providing “provisional reclamation certificates” after a former oil and gas site has had all equipment removed, any wells sealed, and remediation has been attempted. Where the regrowth of vegetation necessary to obtain a reclamation certificate is pending, CARL allows the AER to provisionally lower the licensee’s liability estimate.

CARL was initially called “the Reclamation Liability Reduction Program” in AER [Bulletin 2023-37](#). Both that original name and CARL are misleading – CARL is not a program to reduce actual oil and gas closure liabilities. It is a program to reduce the official closure liability *estimate* of licensees. Because each licensee’s annual closure spend quota is calculated as a percentage of their total inactive liabilities, CARL’s impact will be to reduce the licensee’s [Mandatory Closure Spend Quota](#). CARL means smaller liability estimates, lower company-specific mandatory closure spends, and therefore more liabilities remaining on the landscape longer, the opposite of what the name would suggest.

CARL was implemented by changes to AER [Directive 88](#) that also added requirements for licensees to retain records of closure activity and spending for five years so the AER could monitor the Mandatory Closure Spend.

### **Commentary**

CARL can appear fair in isolation. If a licensee has provided the AER with evidence of completed reclamation work and is only waiting for vegetation to re-establish to obtain a reclamation

certificate, then a liability estimate reduction is rational and aligns the estimated liability cost with the actual situation. The gigantic problem with CARL is that it does not exist in isolation: the AER is aware of problems with their method of calculating oil and gas liability estimates that lead to major underestimates. For example, the closure liability calculation does not assign any closure cost to pipelines, a problem the AER has been aware of for decades and still has not done anything about. (The AER may be waiting for legislative changes to the *Pipeline Act*, [RSA 2000, c P-15](#), although the AER already has significant discretion under section 18(3).) CARL will lower the total oil and gas closure liability estimate, and that estimate is already too low. By singling out and changing a rule that led to closure liability overestimates, while leaving in place rules that lead to major closure cost underestimates, the AER made the overall liability estimate less accurate and reduced industry's closure spending obligations.

CARL also creates some smaller risks that will require AER attention to control. CARL may lead to the premature return of financial security (although the AER's current method for taking security is too opaque to be sure) and it risks assets being transferred to licensees without the financial stability to manage them during temporary liability estimate reductions that are reversed when contamination is discovered. While adequate monitoring and oversight could mitigate these risks, the AER already has difficulty finding enough staff to monitor industry. The [Auditor General's 2023 report](#) noted the AER had failed to monitor licence transfer conditions (at 32), contaminated site remediation action plans (at 38), and paused their well-suspension compliance assurance program (at 34). How is the AER going to find staff to adequately monitor compliance with CARL?

CARL is also a gift from the AER leadership to industry at the expense of the public – the result of oil and gas industry influence on the AER's agenda. CARL, along with the [Pilot for Site Reduction Reclamation Certificates](#) announced in March 2024, shows the Alberta government's focus on responding to industry concerns at the expense of the concerns and interests of those who live near inactive oil and gas assets or who are hoping to see the polluter pays principle enforced.

*The original version incorrectly attributed a quote to the Minister of Environment that was from the Minister of Energy and Minerals. I regret the error.*

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