

NEXUS



CAPLA 

Canadian Association of Petroleum Land Administration

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Dashboard Reports

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Kathryn Payne
President



Mike Flynn
Executive Director

President & Executive Director's Message

Wishing you all a Happy New Year and all the best in 2020!

On behalf of myself and the CAPLA Board of Directors, I would like to wish each and everyone of you a very Happy New Year filled with optimism for the year to come.

I would also like to take this opportunity to thank each of our volunteers who make all of the CAPLA events, educational offerings and networking opportunities possible.

Looking Ahead to 2020

Now that I have 2 years under my belt as your Executive Director, I have come to the remarkable conclusion that CAPLA, although not as big as some other associations, has proven to be resilient and agile; continually adapting to ever-changing economic conditions, and we will continue to do so.

I would like to use this space to reiterate the importance of receiving feedback from the membership to help guide our program offerings.

CAPLA is making a concerted effort to engage the membership in a way which will help us identify topics that are relevant, timely and add value to your experience from a personal and professional perspective. To be relevant and timely, the CAPLA office and its' committees needs to shift gears from one that is reactive in nature to one that is proactive.

In order to do that, we need to hear directly from the membership on what are the pressing issues and topics that they need to learn more about.

Have Your Say!

My request to you is that you do not hesitate to contact me at the CAPLA office (or tackle me in the +15) if you have encountered an issue/ topic which would benefit from further exploration and discussion.

Depending on the issue, we can formulate a plan together on what is the best forum and format in which to elevate the discussion and turn the opportunity into an interactive learning experience for the entire membership. It is to be expected that some of the topics will be technical in nature and perhaps suited more towards a particular discipline (surface, mineral, contracts, etc...).

That is perfectly fine – it is just as important to address these topics as it is for Industry-wide issues.

CAPLA has access to venues of all shapes and sizes to accommodate any degree of interest. At the risk of sounding like a broken record, the key to making this initiative succeed is communication.

Once a topic is agreed upon, time is of the essence. A crucial step is identifying people who can speak to the issue. It might even be you (if you are so inclined)! If the topic lends itself to a panel discussion or round table, then subject matter experts will need to be recruited and this takes time.

Therefore, when relaying an idea to me, I would ask you to consider who might be appropriate to have at the table. If you don't have an idea about prospective participants, that is not a problem – our dedicated committees can help with that.

Communication Focus

On a related note, from this point forward, CAPLA will be asking the membership for questions in advance of any presentation we have organized. These questions will be provided to the presenters prior to the event in order to ensure that they are addressed during the presentation. This is an important step in providing focus for the sessions and it may actually result in the identification of topics for future educational opportunities.

In summary, CAPLA is going to change the way in which we identify and follow through on creating interactive learning opportunities out of real-life, real-time issues that are affecting the membership. In order to achieve this, I am asking you to ... talk to me!



TALK TO MIKE FLYNN email: mike@caplacanada.org

Making positive steps toward your health goals

By Alberta Health Service

To make a change, use goals to chart your path to success. Two types of goals can help you do this: long-term and short-term. Don't forget to write down your goals. They may change, but you'll want a record. Writing them down is a great way to start your plan to improve your health. No matter what your health goal is, creating a specific plan can help you succeed. Follow the steps below to create your plan. This will put you on a path toward meeting your goal. With the help of goals, you can go as far as you want!

Step 1: Know your reason.

Why is this change important to you? Make sure it's something that you really want to do.

Step 2: Set a specific long-term goal.

A long-term goal is not something you can do all at once. It's the goal that inspires you and that will show how far you've come when you complete it. It's usually a goal you hope to reach in six months or a year. A long-term goal could be to walk for one hour, three times a week. To keep going, think how proud you'll be when you reach this goal.

When you reach your long-term goal, you can keep things fresh by setting new goals.

What is a long-term goal that you can reach in about six to 12 months?

Step 3: Set your short-term goals

Short-term goals help you accomplish your long-term goal. They keep you going day to day. They are usually goals you hope to reach tomorrow or next week. One example would be to start using the stairs at work, or to take one 10-minute walk and build up to walking three times a week. Short-term goals should be easy to do and will grow as you make progress.

How can you create short-term goals that you take week by week to reach your long-term goal?

Step 4: Prepare for slip-ups or setbacks

What might get in the way of your reaching this goal? You may already know that things like time, money, or emotions could get in the way. How might you get around these things?

Step 5: Plan for support and rewards

Who can help you meet your goals? Maybe friends, family, or a support group? And how will you reward yourself? A movie, a special meal, an hour to yourself can be a treat.

Step 6: See your success

How will your life be different after you make this change?



Introduction to Alberta Land Surveyors Association

The Government Relations Committee (GRC) has heard from CAPLA members that certain surface land processes, such as Alberta Public Lands disposition renewals, have been troublesome. So we have been working with The Director of Survey's Office (DOS) and the Alberta Land Surveyor's Association (ALSA) to improve communications.

The GRC will enable Alberta Land surveyors, the DOS, and surface land administrators to understand each other's work-flows and requirements, and create opportunities to guide future changes in how surveys are administered.

Your GRC Committee is always welcome to hear from you. The committee members are Anthony Dawber, Deborah Godfrey, Lynn Gregory, Mike Flynn, Valerie Farmer, John Wallace, Kathryn Payne, Alyssa Bruce and Linda Kriff.

What follows is an introduction to ALSA by Brian Munday, executive director of ALSA.

The Alberta Land Surveyors' Association, established in 1910, is a professional regulatory organization legislated under the Land Surveyors Act. The Association regulates the practice of land surveying for the protection of the public.

The Alberta Land Surveyors' Association acts as a self-governing professional regulatory organization by:

- Educating the public (including landowners, government and industry) of the role of land surveyors and the Alberta Land Surveyors' Association and the importance of well-defined boundaries.
 - Attempting to resolve boundary uncertainties and alleged errors in surveys so that the public may rely on their boundaries.
 - Ensuring practitioners demonstrate competency while they are licensed.
 - Ensuring students demonstrate competence in the practice of land surveying before receiving their license as a land surveyor.
 - Maintaining and enhancing the professional practice of Alberta Land Surveyors.
- CAPLA - Canadian Association of Petroleum Land Association - January 2020

- Providing continuing professional development opportunities to Alberta Land Surveyors on subjects specifically related to the practice of surveying.
- Disciplining practitioners who are found to be unskilled or unprofessional.

Under the Land Surveyors Act, no person except an Alberta land surveyor, surveyor's corporation or surveyor's partnership shall engage in the practice of land surveying. The act also prohibits any person from using "any title, name, description abbreviation, letter or symbol representing the name 'Alberta Land Surveyor,' 'surveyor' or 'land surveyor.'"

The practice of land surveying is defined in the Land Surveyors Act but, broadly speaking, is the survey of land, air space and water to establish or determine boundaries and includes the preparation of maps, plans and documents and the giving of advice.

All practicing Alberta Land Surveyors must provide the regulatory body - the Alberta Land Surveyors' Association - with proof they have professional liability insurance coverage in place.

The Alberta Land Surveyors' Association is governed by a Council of which ten are elected by the membership of the Alberta Land Surveyors' Association and one of which is appointed by the government.

Council is the decision-making body for the land surveying profession. The act establishes three other statutory committees (the Practice Review Board, the Registration Committee, and the Discipline Committee) and their decisions may be appealed to Council. Council may also establish a number of standing and ad hoc committees. These standing and ad hoc committees may consult with stakeholders and be consulted on matters. They do not, however, have the authority to make decisions on behalf of the Alberta Land Surveyors' Association.

In Alberta, there is a government employee called the Director of Surveys. Most other Canadian jurisdictions have a similar position in government. This position is sometimes called the Surveyor-General. The Director's duties include coordinating the establishment, maintenance and preservation of the land survey system. The Director of Surveys must be an Alberta Land Surveyor and is subject to all of the same professional requirements as any other Alberta Land Surveyor.

The Director of Surveys plays a policy coordination role. The Alberta Land Surveyors' Association plays a professional governance role. Practicing Alberta Land Surveyors play a hands-on project-specific role.

Alberta Land Surveyors, who also have a responsibility to protect the public under the Code of Ethics Regulation, to understand and balance the needs of their clients, adjacent landowners and other regulatory bodies (such as AER, Land Titles, environmental agencies).

- Brian Munday, Executive Director, Alberta Land Surveyors' Association

“The Method”-An Approach To Resolving Problems Under The CAPL Documents

By Jim MacLean

I often receive calls to discuss the interpretation of a provision of the CAPL Operating Procedure, the CAPL Farmout & Royalty Procedure, the CAPL Overriding Royalty Procedure or the CAPL Property Transfer Procedure.

There tends to be a pattern to the types of questions I ask about a particular fact situation and the manner in which I respond when I receive such a call or when I am assessing a potential issue in one of my own files. Use of a pattern-based approach to issue analysis was instilled in me in my first year Criminal Law course many years ago through what my professor referred to as “the method”.

Notwithstanding that our respective “methods” differ materially due to the significant difference in subject matter, the approach outlined in this article can typically be used to assess a potential CAPL issue effectively in its early stages before it escalates into a significant dispute. This will enable you to identify, avoid and resolve issues much more easily than would otherwise be the case.

Understand The Relevant Business Context

The starting point for someone facing a potential issue is to assess the applicable context as relevant to the nature of the question. What are the lands, interests, expiries, activity levels, production infrastructure/issues, strategy and objectives, the nature of the ongoing business relationship between the applicable parties, etc.?

Understanding the overarching context may be particularly helpful in identifying the real issue between the parties, rather than what is assumed to be the issue.



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Define The “Real Issue”

It is critical to identify clearly the issue and the relevant facts at the foundation of a potential emerging dispute. This requires you to look at the issue objectively and to define it and the relevant facts precisely, and to redefine them as appropriate as more information is obtained.

Once you believe that you have done that, consider your assessment from the perspective of the other party. Would it agree that the issue and the relevant facts are as you have defined them? Ignoring material facts because they are inconvenient to your argument is not actually helpful to the resolution of the issue, as this potentially sees each party becoming increasingly entrenched on its own version of the truth, with resultant damage to the parties' ongoing business relationship.

This problem is compounded if an outsider is contacted to provide an opinion based on a self-serving narrative that ignores or significantly downplays material facts. In this regard, I often find it interesting when I receive parallel calls from parties seeking advice about how to address a particular problem when their respective descriptions of the fact situation are significantly different.

Another challenge is that the perceived issue is often not the “real issue” at all. The perceived issue will often be a symptom of a significant problem with the parties' business relationship, such that it is also important to look at the parties' relationship when assessing an emerging dispute.

To put this in context, few unresolved oil and gas disputes escalate to formal proceedings relative to the number of transactions in our industry. In this regard, we tend to assume that any dispute that does not progress to formal proceedings has somehow been resolved. This is a questionable assumption, though. A more prudent assumption is that an old dispute is often “baggage” that continues to colour and suboptimize the ongoing business relationship.

This is apparent when parties struggle resolving what appears to an outsider to be a relatively minor issue. The escalation of such an issue is often a signal that there are fundamental problems with the underlying relationship that extend well beyond the issue at hand. It will usually be difficult for parties to resolve minor issues in a way that allows them to move forward positively unless they understand the core issues between them and address some of them as part of the solution to the perceived issue.

Review The Relevant Provisions Of Your Agreement

What is the applicable version of the CAPL document in question? Has your head agreement or your election sheet been modified to override the applicable CAPL content? If so, what is the impact of those changes with respect to your issue, including any potential domino impacts of those changes on the provisions of the agreement most relevant to your issue?

Ensure that you understand the basic concept and the associated principle behind it. Then look at any twists associated with your issue and the extent to which they introduce uncertainty into your analysis.

Also be sure to review the associated annotations, since they will often provide some insights on the subtleties of the provision and the way that it has evolved over time. There may be circumstances, for example, in which the annotations provide additional context that might enable you to de-escalate the issue internally or allow you to present it more persuasively to the other party.

Review Relevant Content In Subsequent Versions Of The Applicable CAPL Document

One of the questions I ask when I receive a call about an issue under an older version of a CAPL document is whether subsequent versions of the document include content that would help the caller with their issue. The typical response is that they did not consider the issue in the context of the subsequent versions of the document because the agreement in question is governed by an older version of the document.

It is my belief that an analysis that does not include this step is incomplete.

While the agreement in question is admittedly not governed by the more modern document, the insights obtained by understanding the current handling will often be extremely helpful in determining how best to approach the issue internally and with the other party.

Has the provision been modified in a way that is relevant to your issue? Did the modification present the same concept more clearly and alter your interpretation, address a gray area or correct an improper handling in the older document? The expanded annotations in the more modern documents may also be very helpful in providing a better context about a provision or its evolution over time.

Feeling overwhelmed managing all of your...
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Your first step to decrease overwhelm, email: info@brittland.com

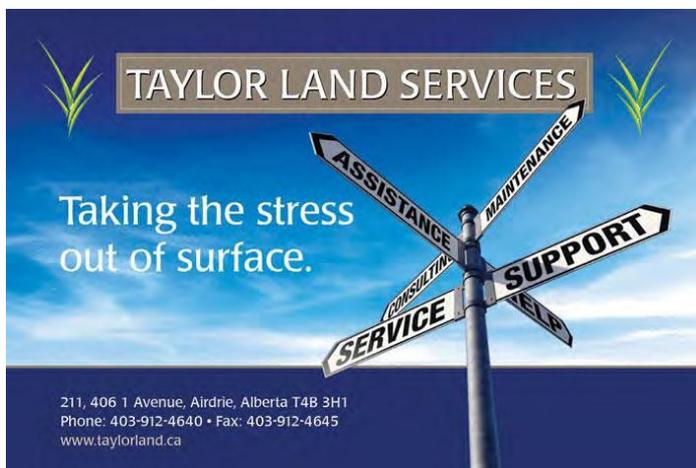
Being able to say, for example, that this was a gray area in the 1981 CAPL Operating Procedure and that it seems very reasonable to address this matter in the same way as it is handled in the 2015 CAPL Operating Procedure provides a potential platform for resolution that links the proposed handling to an objective standard. This allows your counterpart to present your perspective much more persuasively than would be the case if you did not have a reference point for your suggested handling. This is particularly relevant when looking at issues associated with horizontal wells and pad development, for example, as those topics were not addressed in older versions of the CAPL Operating Procedure.

It is important to recall that this type of review will sometimes indicate that your perspective is unreasonable relative to current industry standards. If that is the case, your decision makers should be made aware of the misalignment between the contemplated approach and current industry standards when deciding if and how to proceed. It is seldom in the best interest of your company (or you personally) to escalate a dispute in which your position is unreasonable, as the most likely outcome will be to back down in due course, with some negative impact on ongoing relationships in at least the near-term.

Even if the more modern document does not address your issue specifically, you should consider if there are analogues to your issue in the text or annotations of the most modern document.

For Complex Issues, Analyze With An Incremental Approach

Some issues are very complex, and do not fall neatly within your agreement or any subsequent CAPL document. Consider first the basic scenario covered by the document. Then move to your issue by adding one twist at a time and assessing the incremental impact of that variable on the outcome. Bundling all of the twists together makes it much more difficult to assess the problem properly.



Understand Your Desired Outcome And The “Size Of The Prize”

Does your analysis support your desired outcome? Would going down this path be well aligned with internal practices? Is it consistent with organizational values? Are there sensitivities about the relationship with the other party and the potential impact on operations that need to be considered? In this regard, it is also important to consider the potential impact on other projects with that party.

It is also important to take a step back to consider the “size of the prize”. Given the potential negative impact on the relationship with the other party and your counterpart, there will be many circumstances in which the potential benefit associated with escalation of a dispute will be quite minor relative to the associated costs. There will be many occasions in which the expediency in choosing not to escalate a dispute greatly exceeds the potential gain in succeeding and the satisfaction of being proven “right”.

Assess The Issue From The Other Party’s Perspective

What does the analysis look like from the perspective of the other party? Does your perspective about the issue look reasonable or unreasonable to it? Are there sensitivities about the relationship that it will be taking into account? Might the escalation of the issue have a significant negative impact on working relationships and the ability to advance your project optimally?

What Would An Outsider Think?

Pretend that you are an outsider with no vested interest in the manner in which the issue should be addressed. Would an outsider consider your company as “the villain” in the story?



Based On The Above, What Do You Think?

Given the visibility of your personal involvement if this issue escalates, what does your gut tell you about the respective merits of the issue and your comfort level in presenting your argument to the other party? How do you present your recommended approach persuasively to the other parties (go ahead scenario) or internal stakeholders (rethink the approach scenario)?



“The Method” Is Your Friend

Every file is a learning opportunity that positions you to assess future issues more easily. Following “the method” will enable you to identify, avoid and resolve issues much more easily than would otherwise be the case, while allowing you to obtain a deeper understanding of the CAPL documents.

(See the Resource Centre tab on my website (MacLeanResourceManagement.com) for a collection of PDFs of articles and presentations on a range of topics, including the CAPL Operating Procedure, the CAPL Farmout & Royalty Procedure and the CAPL Property Transfer Procedure.)

M&A lessons we learned in Kindergarten:

- ▶ Share everything.
- ▶ Play fair.
- ▶ Don't hit people.
- ▶ Clean up your own mess.
- ▶ Don't take things that aren't yours.
- ▶ Say you're sorry when you hurt somebody.
- ▶ When you go out into the world, watch out for traffic, hold hands, and stick together.



“All I Really Need to Know I Learned in Kindergarten”

by Robert Fulghum



www.jaguarland.ca



Contact our M&A team.

Dashboard Reports

(presented by Rob Dressler on behalf of the
CAPLA Systems & Data Committee)

What is a Dashboard?

Firstly, Dashboards or Dashboard Reports are simply reports that provide a summary of key metrics or data points of interest. With traditional reports we normally see a spreadsheet or grid view of data. From there you would need to create a pivot table or chart to create a summary or visualization of the data. A dashboard report provides this in an all-in-one solution.

Use Case

To get a sense of what a Dashboard might look like it makes sense to work through an example. For our example, let's look at acreage. At a lot of companies, there are normally lots of acreage reports. We have reports that show acreage by lessor type, by play, by province and by geographic area. With a Dashboard report we can simplify this significantly.

Firstly, we can create a summary tab that shows scorecard visualizations that indicate the acreage by Province and Geographic Area along with a pie chart that breaks the lands down by Lessor Type.

Secondly, we can include a details tab that shows all the lease split details. The summary is interactive so if you select an area it will filter your details tab, so it is very easy to drill into the details if required. Finally, to make this report even more visual, not to mention more useful, we can add a tab with an Interactive Map that will allow you to select lands and again this filters the Summary and Details tabs.

The new dashboard provides several groups what they need in one solution:

- It allows management to see at a glance the total acreage in the areas they are responsible for.
- It provides a map to the negotiation team to see the lands and acreage in areas they are looking at for deals.
- For the administrators it provides the lease details in case they need to conduct more research on the acreage changes in their area.

From my personal experience, we were able to eliminate the need for 24 separate maps and 10 reports with just two acreage dashboards.

The other major benefit is that through dashboarding technology a company can easily combine its US and Canadian acreage, expiries and well counts into one unified dashboard.

Drawbacks of Dashboards

- The mapping capability is somewhat sparse in most Dashboarding software and varies dramatically between software packages. For more complicated mapping scenarios and visualizations, you still need to utilize a pure mapping tool like ArcMap.
- Dashboards are great at pooling disparate data sources into one convenient report but unless you have access to change the dashboard report they can be somewhat inflexible when it comes to adding or removing data from the dashboard.
- Finally, Dashboards can be very busy. It is very easy to overload a dashboard with pie charts, bar graphs and maps to the point that it is incomprehensible to almost everyone; in a lot of cases, less it more when it comes to dashboards.

Where else would Dashboards be useful for Land?

- Data Integrity – One could track all outstanding cleanup work and then track and visualize the progress being made.
- Expiries – One could visualize all up-coming expiries and where they are occurring.
- Obligations – One could visualize all up-coming obligations, where they are, and when they are due.
- Rentals – One could visualize all rentals in the up-coming period and scroll forward to see future periods.

Notable Dashboard Software include:

- Spotfire
- Power BI
- Tableau



What's next?

If you are more interested in having a dashboard created for you, I recommend talking to your IT department. If you are more adventurous you can also look at building your own.

I would recommend taking a course or looking at some how-to videos on YouTube. In the case of Power BI, you may be able to play around a bit with your own dashboard as you should already have access if you are an Office 365 subscriber.

Sample Dashboard (courtesy of Pandell Technology)



The Systems & Data Committee re-vamped their resource page at www.caplacanada.org to make it more organised!

Check it out under the resources section of the website.

The AER's draft of the new Public Involvement Directive

By Anthony Dawber

Back in January 2017, the AER began their "Participant Involvement Initiative" and met with "Albertans and Indigenous communities across the province to gather input and recommendations on potential new participant involvement requirements and processes for our new Integrated Decision Approach" (from Participant Involvement Booklet, 2017).

To support this effort, the online engagement website TalkAER.ca became operational and from October to December 2017, the AER hosted fifteen engagement sessions across the province to gather input and recommendations on potential new participant involvement requirements. A further thirteen engagement sessions took place in January and February 2018. These engagements sessions were wide-ranging, being located in Bonnyville, Calgary, Fort McMurray, Grand Prairie, Medicine Hat, Rocky Mountain House, Vulcan, Whitecourt, and with Treaty 6, 7 & 8 Indigenous peoples.

The feedback from all of these engagement sessions was then considered by an advisory panel between February and April 2018. The panel's advice was then used by the AER to draft the new Participant Involvement Directive – which became known as "Draft Directive XXX: Public Involvement."

Summaries of the 2017 and 2018 engagement sessions and further information about the panel's composition and purpose can be found here: <https://www.aer.ca/regulating-development/project-application/integrated-decision-approach/public-involvement>

In June 2019, the AER released Draft Directive XXX: Public Involvement ("DXXX") and associated Manual. Then in August, the AER sought feedback on this draft and in response, CAPLA's Government Relations Committee ("GRC") sought input from members (via an EBulletin survey), which I compiled and submitted to the AER.

Consequently, the AER invited CAPLA to their "Industry Follow-up Sessions." Since I was involved in the 2018 engagement sessions and had also compiled CAPLA's 2019 feedback, I attended as a representative of CAPLA and the GRC.

In the Industry Follow-up Sessions the attendees sought to clarify and explore the feedback that we had given to the AER in August regarding DXXX. The attendees included numerous company representatives from surface land and regulatory departments, as well as industry groups, such as CAPP and CEPA. These sessions were held from October to November 2019.

To keep CAPLA members informed of the discussions that could directly (and perhaps profoundly) affect surface land administration, I offer a summary below – but please bear in mind that though these meetings are intended to inform revisions to DXXX, none of the recommendations made and detailed below will necessarily be accepted by the AER. However, this information will give you an idea about what changes could be expected in the final version of the Directive for Public Involvement, and keep you apprised of how CAPLA's GRC has been advocating on behalf of CAPLA members.

In the following notes, “participants” refers to one or more industry attendees and does not convey consensus among the attendees. These notes are a mix of summaries distributed by the AER to the attendees and my own notes, divided up by topic, and shared with the AER’s permission.

Discussion of AER objectives for DXXX

- The purpose of DXXX is to enable public input.
- The aim of DXXX is to modernise, streamline, simplify, and reduce duplication. D056 dates back to the ‘90s and for members of the public, it is seen to be too complex.
- DXXX should support the Integrate Decision Approach (“IDA”) and enable integrated, risk-based decisions.
- The DXXX re-draft is associated with pending revisions to the Statement of Concern and Public Notice Of Application processes, as well as continued IDA roll-out and the new Red-Tape Reduction Initiative.
- The AER have been tasked to design a more “outcomes-based” Directive, rather than a “prescriptive” Directive. This created some concern among participants, who noted the on-going problems with the NEB’s outcomes-based approach to regulation.

Discussion on the Public Involvement Area (“PIA”)

- The AER noted that since DXXX must be generalisable, the D056 Tables were dropped because they only apply to 3 out of 120 types of application that use Public Involvement.
- The AER identified all of the usual impacts and risks associated with projects and subsumed them into a Public Involvement Area (“PIA”) concept.
- Participants stated that the scale and scope of PIAs, as currently articulated in DXXX, will not function for industry.
- Participants supported a set of requirements that identify a minimum PIA rather than a requirement that specifies an outcome.
- The PIA could be based on a combination of project area, setbacks (to address differences between sweet and sour), and right of ways with possible other risk criteria to expand or minimize the PIA.
- Participants expressed numerous and varied concerns with the noise requirements in DXXX. In particular, it was noted that many noise complaints likely occur on sites that do not have noise impact assessments (e.g., pipes banging during drilling).
- Participants emphasized that there are issues with including people in the PIA who are very unlikely to ever have an objection upheld by the AER.
- Participants mentioned that one benefit of a prescriptive-approach (as opposed to an outcomes-approach) to DXXX is that it can help with conversations with members of the public, particularly when industry has to explain why one person was included in the PIA and another was not. In the absence of prescription, it’s difficult to see where industry should end the PIA.
- Participants stated that the impacts of DXXX will vary between companies, but will be negative. For smaller operators there will be an increased need to outsource; for larger companies there will be an impact on other activities (i.e., shifting of resources).

- Participants described how implementing DXXX would likely require sending someone to the field to get updated information (e.g., to update old surveys on crown land). Typical logistical challenges (e.g., season/accessibility) may then further delay implementation of DXXX.
- Participants expressed that providing a regular update on existing infrastructure/activities, both in general and within the timeframe specified in DXXX, is likely to cause unnecessary public concern.
- Under DXXX, members of the public would receive information on all existing infrastructure/activities that are operating in steady-state at the same time (within year 1), which could be overwhelming and confusing.
- Participants emphasised their desire to retain the PIA as per the current D056 consultation and notification tables.

Discussion on who is informed or engaged

- There were concerns about the AER collapsing the definition of “resident” into “occupant.”
- Participants suggested that element (ii) of the definition of “occupant” be narrowed to refer to “a person who is shown on a certificate of title or by written contract as having an interest in the land that confers a right to occupy the land”.
- There is a significant difference in who needs to be informed/engaged if EPZs are made a part of the PIA. Keeping D071 separate from DXXX was recommended.
- Participants voiced concerns regarding the practicality of including all AER-issued approval holders in the PIA. Participants stated that industry, including forestry, does not need to be addressed within DXXX as there are other mechanisms that result in engagement (e.g., consent for FMA holders, 3rd party crossing agreements).
- Participants expressed that clarity is necessary on AER jurisdiction as to not confuse the roles of the AER and Aboriginal Consultation Office (ACO).
- Participants asked that it be made clear by the AER that raising a question or concern with industry as part of the PI process is not the same as filing a statement of concern.
- Participants put forward that the AER reconsider requirement 7 as part of DXXX and encompass this within the hearing process in alignment with REDA General Regulation s.3.2(2).

Discussion on who is informed or engaged

- There were concerns about the AER collapsing the definition of “resident” into “occupant.”
- Participants suggested that element (ii) of the definition of “occupant” be narrowed to refer to “a person who is shown on a certificate of title or by written contract as having an interest in the land that confers a right to occupy the land”.
- There is a significant difference in who needs to be informed/engaged if EPZs are made a part of the PIA. Keeping D071 separate from DXXX was recommended.
- Participants voiced concerns regarding the practicality of including all AER-issued approval holders in the PIA. Participants stated that industry, including forestry, does not need to be addressed within DXXX as there are other mechanisms that result in engagement (e.g., consent for FMA holders, 3rd party crossing agreements).
- Participants expressed that clarity is necessary on AER jurisdiction as to not confuse the roles of the AER and Aboriginal Consultation Office (ACO).
- Participants asked that it be made clear by the AER that raising a question or concern with industry as part of the PI process is not the same as filing a statement of concern. Participants put forward that the AER reconsider requirement 7 as part of DXXX and encompass this within the hearing process in alignment with REDA General Regulation s.3.2(2).

Discussion on the application information package

- Participants generally agreed that the map-related language in the PI Manual would likely be more practical to use than the language currently in DXXX.

- In relation to maps, participants also noted that:

- a) If people need more information/detail they can request it.
- b) People are going to get lost if there is too much detail (e.g. access roads would result in highlighting nearly all roads in the PIA). Activity of interest would be buried under all other information.
- c) Current requirements in DXXX are not feasible for long pipeline projects.
- d) It would be challenging to keep information up to date.

- Participants shared that details on closure are not available at the time of application and industry is likely to simply identify that reclamation will occur based on the standard of the day – this is not very informative.

- Participants identified that due to various factors influencing oil and gas projects, that it may be impossible to provide proposed schedules (even approximate ones). However, conditional timelines may be more practical (e.g., 'once construction begins, it is expected to take approximately 12 months').

- Participants suggested that the AER narrow the phrase "any setbacks" to its jurisdiction's setbacks as the phrasing "any setbacks" could draw in municipal setbacks. Participants noted that identifying mitigation prior to conducting public involvement is challenging, as mitigation is often determined through discussions with stakeholders.

Discussion on timelines

Participants shared that:

- a) For distribution of an application information package, 10 days may be inadequate if there were many requests and that this was amplified as any member of the public can request application information packages.
- b) For responding to requests, there was concern that large, complex requests could take more than 30 days. Participants suggested the use of the word "reasonable" to describe the timeline rather than a prescriptive number.

- Participants proposed that notifications regarding ownership changes could be restricted to landowners, as the new asset owners would be talking to the relevant landowners anyway.

- Participants identified that there are many other mechanisms to make members of the public aware of transfers, such as signage requirements, AER databases, land rentals, and D071 requirements. If a requirement around transfers were retained, a seven-day period would not be reasonable. A timeframe in alignment with current signage requirements was discussed as a possibility.

- Participants suggested creating a mechanism that allows for industry to submit an application prior to the PI time period concluding in situations where there are no concerns from members of the public (similar to the confirmation of non-objection).
- Participants asked for clarity on when a time period should start from—either the day of distribution or the day after distribution and whether this was in calendar days or some other measurement, such as “GoA” days.
- Participants suggested more clarity that information requests from the public not intended to hold the process and will not restart the timeframe for application submission.

Discussion on regular updates:

- Participants questioned the necessity and feasibility of record-keeping for regular updates, in particular via content on live websites.
- Participants mentioned that industry is likely already providing updates to relevant stakeholders on material changes, due to requirements in other Directives.
- Participants expressed how ongoing, life cycle PI occurs today, which includes responding to questions or concerns from a member of the public (i.e., public-initiated PI), holding open houses, providing updates or notifications to landowners or other members of the public for select activities (e.g., construction), advertising in newspapers to notify about select activities (e.g., turnarounds), providing notifications in accordance with AER or legal requirements (e.g., flaring notifications, rent review notices), conducting PI for any amendment applications or for new applications within the same area, and participating in synergy groups.
- Participants noted that there is little value in providing regular updates for applications under review by AER for a long period of time.
- Participants discussed how less prescription may lead to differing practices between companies and no clear expectations from the AER. This may increase complaints.

A final note

To avoid any misunderstanding, it is worth repeating again that the purpose of the Industry Follow-up Sessions was to clarify and explore feedback received from industry during the public comment period of August 2019. These discussions will inform revisions to Directive XXX: Public Involvement; however, the recommendations from these meetings – most being detailed in this article – are not to be interpreted, directly or implied, to be accepted by the AER as final revisions to DXXX.

AER expects DXXX to be re-released in mid-2020. However, if there are delays, the release will be timed to coincide with an industry “slow-period” (e.g. spring break-up of 2021 as opposed to winter 2020) to allow industry time to adjust. The AER’s ability to deliver on an organizational change of this nature will be critical for the success of DXXX and the effects it will have on industry and on the AER’s global reputation.

Please be aware that if CAPLA is given another opportunity to provide further feedback to the AER regarding DXXX – or any future regulatory changes by government agencies – the Government Relations Committee will seek that feedback from CAPLA members and will then represent CAPLA at any discussion table made available to us. Thank you to everyone who responded to the Ebulletin survey regarding the initial DXXX release, your thoughts and ideas have been heard by the AER.

NEXUS

CAPLA 

Canadian Association of Petroleum Land Administration



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