

Advisory 2020-6

What Landowners need to know about the Orphan Well Association (OWA).

Further to the Advisory issued by the Farmers' Advocate Office ["the FAO"] in October 2019 titled "Denying Access to a Wellsite", the FAO has observed that many landowners have questions about energy and service companies entering their land for various reasons.

The complete Advisory 2019-4 **Denying Access to a Wellsite** is available for review on the FAO website at <https://www.alberta.ca/advisories.aspx>

The most commonly asked question is "Can I Deny Access to the Wellsite?"

A landowner **cannot** deny access to a wellsite, even when operators have failed to make a payment or offered a unilaterally reduced annual compensation payment under a private surface agreement or Right of Entry order.

Under section 36 of the *Surface Rights Act* (SRA), a landowner may apply to the Surface Rights Board (SRB) for a payment when an operator fails to make its annual rental payments or offers a unilaterally reduced payment under a private surface agreement or Right of Entry order.

The Farmers' Advocate Office believes that clarity on the role of the Orphan Well Association will benefit all rural Albertans. We are pleased to present a summarized version on the role and responsibilities of the OWA. Please contact the OWA or the FAO if you have any questions.

The Orphan Well Association and Your Land



**Orphan Well
Association**

Orphan Well Association

Alberta Oil and Gas Orphan Abandonment and Reclamation Association
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Aug 28, 2020

Do you have orphan oil and gas infrastructure on your land and are wondering what happens next?

The Orphan Well Association (OWA) is responsible to decommission and reclaim the site. The OWA operates under the legal authority of the Alberta Energy Regulator (AER) and is a not-for-profit, industry-funded organization that works to decommission and reclaim the wells, facilities, and pipelines left behind by defunct oil and gas companies.

How the OWA works

When a well, pipeline, facility or associated site no longer has a legally or financially responsible party that can be held accountable, it is known as an 'orphan.' At this point the orphan becomes the OWA's responsibility, and work will be undertaken to safely decommission the infrastructure and restore the land as close to its original state as possible.

To complete this work, the OWA hires experienced contractors with excellent safety records. Throughout the process, the contractors strictly adhere to Alberta Energy Regulator (AER) and Alberta Environment and Parks (AEP) regulations and requirements.

Is it an orphan?

When it comes to which sites are considered orphans, only those with no responsible party are formally designated as orphans by the AER. Until the AER designates the site as an orphan, the OWA cannot undertake work on the site.

Within a month of a site being designated as an orphan, landowners will receive a letter from the OWA that will outline our process and seek your input on the site. A listing of all orphans in the Province can be found on our website (<http://www.orphanwell.ca/about/orphan-inventory/>). If you have not received a letter and cannot find the well listed on the OWA website, landowners are encouraged to contact the AER to determine who is responsible for the site. The AER may be contacted at 1 855 297 8311 or LiabilityManagement@aer.ca.

Not all inactive sites are considered orphan under provincial regulations. Some sites may be operated or owned by a solvent company or may be under the custody of a court-appointed receiver to be sold. In other cases, the defunct operator may have working interest partners (WIPs), which are viable partners that hold some working interest in the well, pipeline or facility. These WIPs are then legally responsible for the decommissioning or reclamation work.

New legislative changes may allow the OWA to work on these WIP sites, but only in cases where the OWA and the WIP have signed an agreement.

What does this mean for you as a landowner?

After arranging access on your land, contractors will perform an inspection of the infrastructure. Once everything is deemed safe, and equipment is documented and photographed, the OWA will place signage at the site indicating the location is now under the care of the OWA.

A company will then be assigned to safely plug the oil and gas wells, otherwise known as decommissioning (abandonment in regulatory terms). The wells are plugged, cemented, and the surface wellhead is cut below ground. Cutting below ground will allow landowners to safely cultivate over the former well. Crews will also remove any equipment in the area and then purge and decommission any accompanying pipelines.

At this point, your land will be ready for remediation, if required, and reclamation.

Once sites have been examined, crews will work to clean up any contamination that may be present (remediation). This may involve using a hoe or small drill rig to determine the extent of contamination. Any realized contamination is typically excavated and sent to an industrial landfill for disposal or treated on site. Clean backfill, if required, is sourced with landowner approval before being brought in.

The reclamation process includes removing any leftover gravel on site, recontouring the site to original drainage patterns, replacing topsoil and returning the lease and access road to its previous state. Weeds are also controlled at this stage.

Once work is complete, a reclamation certificate will be obtained from the AER, and the land can again be used as it once was.

Access to your land

Due to the downturn in the economy in recent years, the OWA has accelerated work because of the need to reclaim thousands of upstream orphan oil and gas sites in Alberta. This may mean that the OWA will need to access your land throughout the year, regardless of what agricultural stage your land is in. The OWA appreciates your cooperation in allowing access for work crews. Wherever possible we will limit our footprint to the former lease and access road held by the defunct company. If off-lease work is required, the OWA will compensate landowners for any off-lease access.

Of course, throughout the process, the OWA will be in constant communication with landowners, keeping you up to date about what is happening. The OWA is committed to developing positive relationships with landowners while minimizing impact to any agricultural practices.

What the OWA can and can't do

While the OWA does not take place of the former operator, the regulations grant the OWA the legal right to access both public and private land to complete work on a well, facility or pipeline that has been deemed an orphan. Any surface lease remains in the name of the defunct operator. As such, the OWA is unable to compensate landowners/occupants for unpaid surface lease payments from any defunct company. Landowners may apply to the Alberta Surface Right Board (SRB) for the recovery of unpaid surface leases. For information respecting these payments,

please contact the SRB (toll free at 310-000, then 780 427 2444) or visit their website at <https://surfacerights.alberta.ca/>.

The OWA enjoys a long history of working closely and cooperatively with landowners. In rare cases, some landowners have restricted access in an attempt to secure unpaid lease payments from the OWA. In these circumstances the OWA has an obligation to inform the SRB of the situation. Section 36(8) of the *Surface Rights Act* gives the SRB the discretion to not grant any payments if the landowner is refusing access for decommissioning and reclamation.

Landowners can obtain further information regarding the impact of restricting access through the Farmers Advocate Office at 310-FARM (3276) or visit <https://www.alberta.ca/farmers-advocate-office.aspx>, or the Pembina Institute at <https://www.pembina.org/pub/landowners-primer-what-you-need-know-about-unreclaimed-oil-and-gas-wells>).

Helpful Definitions:

Orphan

When a well, pipeline, facility or associated site no longer has a legally or financially responsible party that can be held accountable. This requires formal designation by the AER.

Inactive

A well or site is considered inactive when there has been no production for one year (six months in the case of a sour well). An inactive site may be due to economic or technical reasons.

Decommissioned (Abandoned)

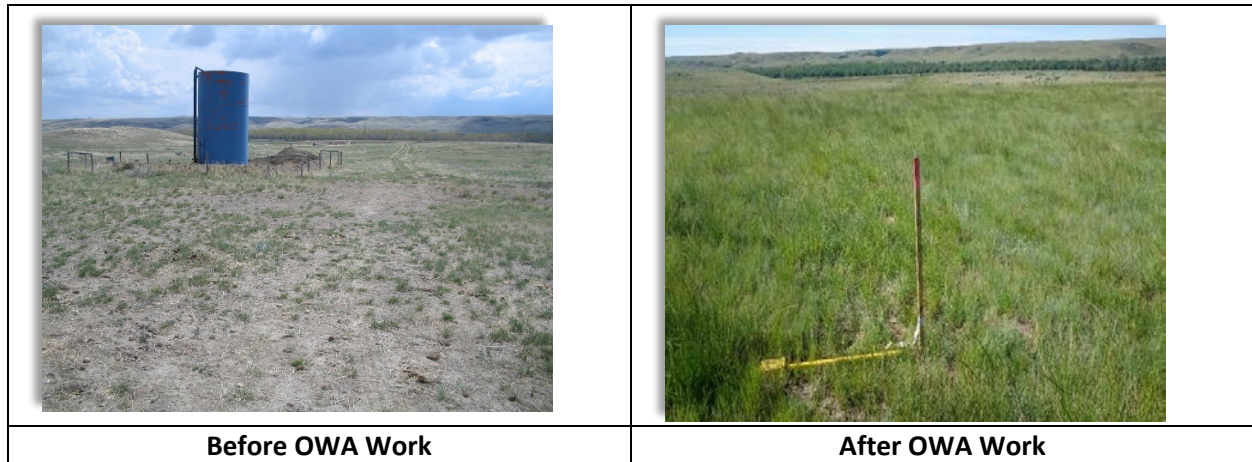
Sometimes referred to as abandonment or decommissioning, the well is permanently plugged and cut off below ground, pipelines are purged and cut-off, and any associated surface equipment removed.

Remediation

The process of cleaning up any contamination left on site. Contaminants are managed and removed according to AER and AEP requirements. Contaminated soil may be hauled to a landfill and then replaced with clean soil, or may be treated onsite until it meets AEP guidelines.

Reclamation

The process of returning the land to how it looked and was used before oil and gas development took place. This may involve recontouring the subsoil, replacing the topsoil, and re-establishing the vegetation.



Interested in learning more about the OWA? For additional information please visit www.orphanwell.ca or contact the OWA at via email at landowner@orphanwell.ca.