

Area-Based Regulation Pilot Lessons Learned

Multistakeholder Panel, Municipal District of Greenview 2016–2017

Between August 2016 and June 2017, the Alberta Energy Regulator conducted a pilot to test the area-based regulation (ABR) approach. The ABR approach aims to make geographically specific rules and practices that consider the unique environmental, energy resource, and community conditions in a defined geographic area, in collaboration with the people who live, work, and recreate in the area.

Specifically, this pilot tested three key deliverables:

- A multistakeholder panel
- An area practice guide
- An area assessment

1 Key Learnings

- The multistakeholder panel demonstrated that a collaborative process could effectively produce recommendations to support orderly development in an area. Panel participants were enthusiastic about the opportunity to have multiple perspectives at one table building recommendations, and about the value this brought to creating well-rounded recommendations.
- Allowing the participants to guide the process, within the scope and terms of the project charter, was extremely well received and should be replicated in specific situations.
- Staff members recommend developing criteria for using the ABR approach in the future.
- This was a resource-heavy process for the AER; however, it connects directly to achieving regulatory excellence both in demonstrating technical competence (the data provided) and in empathic engagement (using a collaborative engagement process).
- The available science and data (integrated area assessment, or IAA) information supported panel discussions; however, timing of engagement and information needs for future collaborative processes needs to be considered and adjusted to make best use of science, data, and stakeholder input.
- The partnership with Alberta Environment and Parks (AEP) was effective and beneficially broadened the scope of the panel's discussions.
- Recommendations to ministries not at the table must be considered out of scope and be managed differently for future collaborative processes.

- Balancing what information the panel wanted and what information the AER wanted to share with it was challenging.

2 Panel Feedback

Members spoke highly of the process that allowed participants to determine priorities and set direction and to contribute substantially to discussions about orderly development in their community, the Municipal District (MD) of Greenview. The resources the AER contributed (e.g., facilitator, subject-matter experts [SMEs], recommendations writers) were much appreciated by the panel for supporting their time and commitment to the process and for ensuring progress given the tight timelines.

Several panel members said they found immense value in having diverse perspectives at the same table contributing to the conversation and sharing different points of view:

“This proves that stakeholders and government can get together and achieve things.”

“Was meaningful consultation.”

“Impressed with quality of the document and the practicality.”

“Must achieve a balance of economic, social and environmental.”

“Value in having multistakeholder discussions and hearing the different perspectives.”

“Voluntary collaboration is valuable; desirable.”

“Collective will to advance on those tricky issues is important.”

“Learn lots from areas of disagreement.”

“People are willing to share and discuss contentious issues.”

“Appreciate that we’re achieving a common understanding in the room – people are stating their discomfort.”

3 Additional Learnings

3.1 Testing the Collaborative Engagement Aspects of ABR

The multistakeholder panel (MSP) tested the collaborative engagement aspects of ABR in developing recommendations to address the energy sector’s water use, which is a high-priority issue in the pilot area. The collaborative process produced the recommendations report, and panel participants’ feedback indicated this was an appropriate and preferred way to gain input from many and varied perspectives in order to support orderly development in the MD of Greenview.

The process involved a diverse group of stakeholders sharing perspectives and concerns about water use and led to more understanding among all sectors. The respectful, open, and informative dialogue contributed to more well-rounded recommendations.

The panel achieved full consensus on 24 items intended to reduce energy-sector water use, enhance water reuse, and promote collaborative water planning. The goal at the outset was to achieve consensus on three to five items.

3.1.1 Successes

Panel members felt the approach was appropriate for allowing input from a wide variety of stakeholders in order to support orderly development in that region.

Feedback from panel participants supported the approach of combining the area assessment information and collaborative engagement. A similar collaborative engagement approach could be repeated and adapted to suit other issues, communities, or regions and scales of development.

3.1.2 Challenges

The process was resource intensive, and timelines might have prevented the development of more recommendations.

Indigenous participation on the multistakeholder panel was limited.

3.2 Integrated Area Assessment (Science and Evaluation)

The integrated area assessment can be successfully executed for a specific area and include information on both the surface (environment) and the subsurface (geological). Timing of information availability was an issue.

3.2.1 Successes

The panel participants were very enthusiastic about the information they were provided and about how it could inform and help prioritize their discussions.

3.2.2 Challenges

Panel participants expressed frustration at not having some of the data and science information early enough in the process to support discussions and development of recommendations.

It was difficult to balance what information the AER wanted to provide to the panel to inform discussions with what the panel felt it needed.

3.3 Scope of the Panel

The scope of the panel work, as presented by the AER, was challenged by the panel participants when issues outside of the scope arose that were considered significant barriers to achieving the panel's mandate. This was a source of delay in releasing the report and created frustration among panel members.

Scope also went beyond area-specific as the panel identified numerous issues that were more provincial or system-wide in scope but that would support its mandate.

3.3.1 Successes

Much was learned about managing out-of-scope issues and about allowing adequate time for the Government of Alberta (GoA) and AER review processes before releasing final products.

3.3.2 Challenges

The scope and who needs to be at the table were not clarified at the beginning. Alternative arrangements could be made to help panel members bring out-of-scope issues to the attention of other ministries or possibly to include these concerns in the report differently; i.e., as issues identified to be addressed through other avenues.

Implementation was more complicated than expected given that some recommendations had potential to impact an area broader than the MD of Greenview boundaries.

3.4 Working with the GoA

The AER co-led the panel with representatives of Alberta Environment and Parks. The partnership was effective and improved the ABR multistakeholder panel process.

3.4.1 Successes

The panel members thought the process was more valuable and more effective having the policy perspective represented at the table. AEP representatives and SMEs were full participants, which ensured more comprehensive discussions and additional clarity on policy intent.

AER government-engagement staff was also very positive about the working relationship with the GoA and the ongoing efforts to inform the GoA via the integrated resource management system throughout the panel process.

3.4.2 Challenges

The ABR group had not anticipated the time required for the GoA (AEP and Alberta Energy) to review the report and to allow those ministries to prepare for its release. As a result, the report could not be published as quickly as the ABR group anticipated, and the expectations of the panel about the timing of the release were not managed accordingly.

The GoA decision-making and review process needs to be incorporated into planning, timelines, and commitments to stakeholders for all future collaborative processes.

3.5 Implementation

The ability to successfully execute additional ABR initiatives is directly tied to the implementation of recommendations coming from a collaborative engagement process. If significant progress has not been made to implement recommendations (e.g., simple recommendations have been implemented and planning for larger recommendations is complete), there will be little interest from stakeholders in undertaking another ABR project due to diminished trust in the regulator and return on their time invested.

No clear implementation plan existed at the beginning of the pilot, other than a deliverable to produce an area practice guide, given the unknown nature of what the panel would recommend. The AER and AEP accepted all the recommendations and committed to consider implementation of all of them, and they agreed to provide an update on the status in the fall of 2017. As the ABR group did not have the capacity or the mandate to manage implementation, it was handed off to Regulatory Development.

An update on implementation progress was provided to the panel at a meeting on October 3, 2017. The panel expressed frustration that implementation progress did not meet its expectations. Subsequently, a commitment was made to the panel to revisit the implementation work plan and accelerate work on key recommendations.

3.5.1 Successes

The area practice guide was adapted into a recommendations report that provided flexibility in what each recommendation would become; e.g., practice, educational initiative, or regulatory instrument.

The AER was responsive to the panel's feedback and was willing to reconsider implementation plans to accelerate completion of priority recommendations.

3.5.2 Challenges

Staff tasked with implementation had no involvement with the panel and didn't anticipate the scope of recommendations the panel produced.

Implementation work was not adequately informed by the panel's intent and expectations.

The panel was extremely keen to know how the recommendations would be implemented, and no clear answer was possible before the end of its meetings. Panel expectation was immediate action on all recommendations. This may not align with the AER's limited resources and capacity and with competing priorities.

Consideration should be given to integrating regulatory development into the ABR process so that appropriate regulatory development process steps are completed using collaborative engagement and are built on solid area-assessment information and evidence.

4 Background

4.1 Panel Composition

The following organizations and individuals were invited to participate in the panel and were given a standing invitation to participate for the duration of the panel's sessions. The AER and AEP co-led the panel under the ABR pilot.

- Government organizations
 - Alberta Energy Regulator
 - Alberta Environment and Parks
 - Aboriginal Consultation Office
- Indigenous organizations
 - East Prairie Metis Settlement
 - Metis Nation of Alberta
 - Western Cree Tribal Council
 - Sturgeon Lake Cree First Nation
- Municipal organizations
 - Town of Fox Creek
 - Municipal District of Greenview
- Landowner or member at large
- Energy industry companies
 - Chevron Canada
 - ConocoPhillips Canada
 - EnCana Corporation
 - Shell Canada
 - Seven Generations Energy
- Environmental organizations
 - Alberta Environmental Network
- Watershed planning and advisory councils
 - Mighty Peace Watershed Alliance
 - Athabasca Watershed Council
- Energy sector service companies
 - Clear Environmental Solutions
 - ATCO Energy Solutions

4.2 Panel Discussions

The panel used a collaborative, consensus-based process to reach agreement on its recommendations. For the purposes of this panel, consensus was defined as occurring when each participant agrees that they can live with the outcome of a particular recommendation or action.

Participants were expected to represent the perspectives of their sector or community so that all perspectives were included in panel discussions. They were also encouraged to seek mutual understanding and work together to create mutually satisfactory solutions. Each delegate had an identified alternate in the event that they were unable to attend a panel session.

The panel began with a list of concerns that had been previously raised to the AER by indigenous communities and stakeholders. Panel members made some additions to this list. The topics in the list were sorted into categories and linked to the three mandate areas included in the panel's terms of reference. These issues were the basis of all discussions and of the creation of final recommendations.

Between September 2016 and April 2017, the panel held ten in-person meetings in Fox Creek, Alberta.

A full record of the panel's discussions, including recommendations that did not go forward, will be maintained by the AER.