

Backgrounder

Obed Mountain Coal Mine spill and AER investigation process explained

Calgary, Alberta (October 16, 2015)...Charges have been laid against Coal Valley Resources Inc., Sherritt International Corporation, and Sherritt International Corporation operating as Sherritt Coal contraventions of the legislated acts under the AER's jurisdiction for an incidents that occurred in October 2013.

Obed Mountain Coal pit containment failure

- On October 31, 2013, the AER was notified of a mine wastewater containment pond failure at the Obed site, approximately 30 kilometres east of Hinton. The release resulted in water, minerals, flocculent (a thickener used during the production of coal), and a small amount of unrecovered coal entering two tributaries of the Athabasca River.
- On November 19, 2013, an Environmental Protection Order (EPO) pursuant to the *EPEA* was issued against Coal Valley Resources Inc. and Sherritt International Corporation by Alberta Environment and Parks (formerly Alberta Environment and Sustainable Resource Development) after the wastewater containment pond failure.
- When the AER assumed responsibilities under the *EPEA* on March 29, 2014, the AER also took over the investigation into the release and oversight of the EPO was transferred to the AER. Alberta Environment and Parks continue to provide support and expertise to the AER.
- The EPO requires that Coal Valley Resources provide the regulator with weekly and monthly updates. The AER shares this information with Alberta Environment and Parks, Alberta Health, and other agencies where appropriate.
 - The requirements of the EPO are in addition to the licensing terms and conditions that also apply to the mine.
- The AER assesses compliance with orders issued, particularly in cases where penalties or prosecution by the Crown are possible.
- On March 6, 2015, the AER forwarded its investigation findings to the Alberta Crown Prosecution Service for a recommendation to prosecute. Based on their recommendation the following charges have been laid:
 - One count for a contravention of section 227(j) of the *Environmental Protection and Enhancement Act (EPEA)* for releasing a substance to the environment that caused or had the potential to cause a significant adverse effect which constitutes an offence section 109(2) of *EPEA*.

- One count for a contravention of section 227(e) of the *EPEA* for failing to comply with a condition of their *EPEA* approval.
- Two counts for contraventions of section 142(1)(e) of the *Water Act* for failing to comply with two conditions of their *Water Act* approval.
- Two counts for contraventions of section 56(1)(g) of the *Public Lands Act (PLA)* for causing a disturbance to public land which constitutes an offence under section 54(1)(e) and 54(1)(a.1).

AER investigation process

- The AER conducts investigations to determine the root cause of energy industry incidents, whether an energy company followed the rules, and opportunities to improve AER requirements or industry practices.
- The goal of an investigation is to collect information to confirm whether an incident has occurred and to identify the energy operator responsible for the incident.
- Companies that are allowed to develop Alberta's oil and gas resources must follow all AER requirements. If they do not, there are strong consequences.
- When a company does not follow AER requirements, the AER takes steps to stop the noncompliant activity, restore the environment, and if necessary, apply enforcement action against the responsible party.
- Enforcement tools include: more frequent AER inspections, more stringent planning requirements, enforcement orders, shutting down operations, levying of administrative penalties, and prosecution.
- To ensure fairness and integrity with the enforcement process, Investigation Summary Reports are not posted to the AER's Compliance Dashboard until the enforcement action has been carried out.
- In the event that the AER recommends prosecution in the courts for a noncompliance, the file is provided to Alberta Justice who determines whether or not prosecution is justified.
- In order to ensure legal fairness it is important to allow the judicial process to operate independently and only consider the findings of the investigation.
- If investigation findings are released to the public prior to completing the enforcement action, the public could form opinions that could potentially influence one side of the case or prejudge the outcome prior to the administrative or judicial decision.