

What We Heard

Indigenous and Environmental NGO Focus Testing, 2016

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Alberta Energy Regulator

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1 Executive Summary

The Alberta Energy Regulator (AER) conducts annual public opinion research to measure awareness of and confidence in the AER among Albertans, indigenous peoples, and other stakeholder groups.

Regularly collecting quantitative research data helps the AER create a baseline measure, track AER progress, and identify key areas of concern among a variety of audiences and stakeholders.

Between February 10 and 28, 2016, a third-party company, Leger Marketing, conducted the AER's public opinion research by interviewing 1000 randomly selected Albertans age 18 and over. And between February 10 and March 14, 2016, Leger Marketing interviewed 331 stakeholders, including indigenous peoples, rural landowners, environmental nongovernment organizations (ENGOs), municipalities, and industry.

The findings indicated that positive perceptions of the AER dropped among two key stakeholder groups: indigenous peoples (37 per cent in 2016 vs. 43 per cent in 2015) and ENGOs (61 per cent in 2016 vs. 77 per cent in 2016). Among indigenous peoples, there were significantly more negative feelings towards the AER than in previous years (47 per cent in 2016 vs. 29 per cent in 2015). The change was less drastic with ENGOs; however, negative perceptions of the AER also increased (30 per cent in 2016 vs. 20 per cent in 2015).

To understand why positive perceptions decreased, the AER contracted Ipsos Canada to interview a small sample of 24 participants in depth—12 from indigenous communities and 12 from ENGOs. The interviews took place between September 6 and 19, 2016. Honouring a request from the interview participants, Ipsos provided the AER with the interviewees' verbatim comments, and the AER committed to sharing a “what we heard” report with the interviewed groups.

We thank all ENGO participants and indigenous community members who participated and provided meaningful feedback for the AER's consideration.

2 What We Heard

1.1 The AER

Indigenous and environmental nongovernment stakeholders are aware that the former Energy Resources Conservation Board (ERCB) is now the AER, yet many are still unaware of what the transition actually means, lacking full knowledge of the AER's roles and responsibilities. Stakeholders acknowledge the evolution of the AER and its “growing pains,” and they are interested in knowing more about the AER and its role, including its relationships with Government of Alberta divisions such as Environment and Parks and the Aboriginal Consultation Office.

Overall, stakeholders expressed feeling that the AER's processes are consistently followed, but they also indicated that they feel the AER's decisions consistently support development without always adequately

addressing stakeholder concerns. The perception among these stakeholders is that the AER does not deny industry requests even when stakeholder concerns are voiced.

Indigenous communities and ENGOs underscore the importance of the AER being more visible when it takes enforcement action.

When interacting with the AER, many indigenous and ENGO stakeholders recognize that AER staff are responsive to inquiries, but not all stakeholders have had consistent experiences. Stakeholders who indicate that AER representatives provided information in a timely and knowledgeable manner appear to have higher confidence in the AER overall. However, some stakeholders indicate that they experienced a lack of timely follow-up, which appears to adversely affect their confidence in the AER. Both stakeholder groups feel that the AER should hire more inspectors to monitor a greater breadth of operations and infrastructure. They also want to hear when operations are shut down for noncompliance. Some feel that monetary fines should be filtered back to the affected community.

1.2 Legacy Issues

While stakeholders have many specific concerns about oil and gas development, they indicate their key concerns are about reclamation and abandonment, water, and whether the AER considers cumulative effects when conducting environmental assessments and making decisions. Stakeholders want the AER to prioritize these issues of concern and express a desire to “partner” with the AER on projects and initiatives.

Stakeholders are commonly concerned about aging infrastructure, reclamation, and abandonment, and indicate that these must become higher priorities for the AER. They want more information about how reclamation occurs, and some recommend reviewing regulations regarding reclamation, abandonment, and aging infrastructure to ensure stricter compliance within shorter time frames.

Indigenous communities are concerned that a perceived lack of reclamation activity is affecting their food sustainability and has reduced the amount of land available for traditional land use. Environmental nongovernment organizations worry that the perceived lack of reclamation activity will eventually result in taxpayers having to pay for cleanup if the AER does not enforce industry’s role in reclamation. ENGO stakeholders also suggest that reclamation plans should be built into the application process and that timelines should be tighter for reclamation and abandonment.

1.3 Cumulative Effects

Stakeholders generally support oil and gas development and the economic benefits it brings. However, they are concerned about the pace and scale of development and its effects on indigenous traditional land use and the environment.

Indigenous and environmental nongovernment stakeholders wish to see the AER move from a project-by-project application approval process to a regional approach that takes cumulative effects into account. Certain stakeholders suggest developing square-footage disturbance measures and a model for assessing long-term cumulative environmental effects by region.

Indigenous and ENGO stakeholders would also like to see the AER consider a plan for regulating greenhouse gas emissions, including what will happen when the identified emissions cap is reached. Many would still like more information about greenhouse gas emissions and their impacts on the environment, and some have indicated they want to see more information about the Government of Alberta's Climate Change Plan.

Indigenous communities want to enjoy the benefits of oil and gas development, but they also want to feel that such activity does not adversely affect their environment or traditional land-use practices. Some indigenous stakeholders also recommend incorporating treaty rights thresholds into cumulative assessments.

1.4 Water concerns

Indigenous and environmental nongovernment stakeholders have specific concerns about negative effects on water sources and recommend a review of policies related to water boundaries, water use in hydraulic fracturing, fish species at risk, and water depletion in muskeg areas. Indigenous stakeholders worry about fishing supply and about the impact of contaminated water sources on vegetation and animals in their communities. ENGO stakeholders appreciate the AER's efforts to address concerns about tailings ponds, yet caution against the "sacrifice of water" for development purposes.

1.5 Engagement

Indigenous communities and ENGOs welcome opportunities to speak and share knowledge with the AER. For indigenous communities, open houses or workshops in their communities are preferred. For ENGOs, involvement in environmental assessments, hearings, advisory committees, and decision-making processes are important.

Ultimately, stakeholder confidence in the AER hinges on the feeling that the AER's processes are fair and reasonable, that the AER is enforcing the rules, and that the AER has a balanced representation of stakeholder interests in its decisions. Indigenous communities and environmental nongovernment organizations feel that the AER's performance in these areas is on the right track, yet identify specific opportunities for improving "fairness."

1.5.1 Indigenous engagement

Indigenous communities would like to see indigenous traditional knowledge and traditional land use as mandatory elements of the application and review process. They seek more flexibility with mapping

requirements in statements of concern to protect their traditional land-use areas (e.g., having flexibility around mapping areas with critical food sources and medicinal plants, so as to not expose these areas to poaching).

Indigenous communities would like to have opportunities to talk with the AER after statements of concern have been reviewed. Some indigenous stakeholders want more time to draft statements of concern, indicating that they have neither the financial nor the human resources to properly respond to an application within the 30-day time frame.

Indigenous communities would prefer to be consulted earlier in the process of environmental assessments and wish to remain involved until the reclamation phase is complete. Some indigenous communities want to see the AER take a more personal approach in communications to dispel notions that the organization operates bureaucratically.

1.5.2 Environmental Nongovernment Organization Engagement

While indigenous communities feel engagement is more about *inclusion*, for environmental nongovernment organizations, engagement is more about *collaboration*—i.e., involving them as strategic advisors at various stages of the environmental assessment, application, and approval processes. ENGO stakeholders feel that the AER underutilizes the expertise that it could bring to application reviews and new initiatives. They appreciate collaborative opportunities to share their knowledge and to discuss ideas about mitigating the environmental effects of development.

As with indigenous communities, ENGOs would prefer to be consulted earlier in the process of environmental assessment and wish to remain involved until the reclamation phase is complete. ENGOs also want standing at hearings. They want anyone with a “genuine interest” to be able to participate—this would increase fairness in the process.

3 Path Forward

As we gain a better understanding of how stakeholders view the AER and its processes, we are able to focus on key issues and work towards building deeper, long-lasting partnerships with those who call this province home. The public opinion research and focus testing identified several actionable areas for consideration.

Overall, we hear that ENGOs and indigenous communities want to see a plan for regulating emissions, want cumulative effects to be a mandatory consideration in applications and environmental assessments, want to hear more about the AER’s enforcement actions when they are taken, and want more information about the AER’s relationship with the Government of Alberta.

There are opportunities for the AER to build meaningful relationships with ENGOs and indigenous communities. To these groups, engagement is more than responding to issues as they arise; rather, ENGOs and indigenous communities wish to get to know the people working for the AER and learn about the AER's daily routines, and they want the AER to benefit and learn from their knowledge, experience, and concerns about oil and gas development in the province. ENGOs and indigenous communities desire proactive engagement from the AER, such as an "AER 101" overview, as well as more information about areas of interest that are specific to their organizations and communities.

The AER will continue to conduct annual public opinion research in order to identify focus areas for the years ahead.