



July 30, 2008

Gordon Edwards  
Executive Director  
Alberta Water Council  
#1400, 9915 – 108 Street N.W.  
Petroleum Plaza, South Tower  
Edmonton, AB T5K 2G8

Dear Gordon:

The Alberta Chamber of Resources (ACR) has been participating on the Wetlands Policy Project Team of the Alberta Water Council, representing the interests of mining companies, since 2005.

In keeping with our mandate of providing leadership for the responsible and orderly resource development, the ACR recognized the need for the development of a Wetlands Policy and Implementation Plan for Alberta and would like to acknowledge the fine work done by the Project Team in developing the proposed Policy and Implementation Plan. ACR is supportive of the intent of the policy, and particularly the recognition of the need for sustainable development, the compensation principles, and the recognition of the differences between the Green Zone and the White Zone with respect to wetlands.

However, while the majority of the draft Wetlands Policy and Implementation Plan is viewed positively by the mining sector, there are four areas of great concern that prevent ACR from supporting the Policy moving forward to the Minister of Environment for enactment. We have also proposed resolutions to these issues identified.

**Issue 1: Achieving Balanced Sustainable Development**

ACR agrees that wetland values need to be considered in the context of ecological, social and economic values and integrated into other sustainable resource and environmental management strategies and plans that are currently reflected in the *Water for Life Strategy* and the *Alberta Land Use Framework*.

However, sustainable development cannot be achieved at either a project or regional scale given the wording of two aspects of the proposed Policy. ACR has identified some of the phrases in the Policy that, if altered, could allow the flexibility necessary to achieve sustainable development in Alberta.

- **Project Level – Managing Impacts to Wetlands (Page 16)**  
“In managing impacts to wetlands, the GOA **will** use the Wetland Mitigation Decision Framework to achieve the policy goal of maintaining wetland area in Alberta such that the ecological, social and economic benefits that wetlands provide are maintained.” and

“When development is proposed that affects a wetland, the GOA, through the Water Act Approval Process, **will** require the regulator and proponent to use the following in descending order of preference, considering watershed and regional objectives, where they exist.”

- Regional Level – Finding the Right Balance (Page 20)

“In areas where high levels of loss or degradation have occurred, wetland objectives may be designed to ensure that there is a net gain of wetlands. In areas where current degradation or loss of wetlands has been demonstrated to be very low, wetland objectives may be designed to allow some loss at a regional and watershed scale, **provided that a comparable wetland gain occurs elsewhere.**”

**Resolution for Issue 1:** The word “will” in the first bullet and the words “provided that a comparable wetland gain occurs elsewhere” in the second bullet, binds both the Government of Alberta (GOA) and the proponent to ensure that all wetland losses are compensated for, if they cannot be avoided or minimized. We strongly recommend that consideration be given to changing the word “will” to “**may**”, to allow flexibility and appropriate discussions to take place between the regulator and the proponent at the time of the Water Act application. In addition, the words “provided that a comparable wetland gain occurs elsewhere” need to be removed to ensure this flexibility is built into the policy.

**Issue 2: Large-scale Land Base and Cost of Wetland Replacement for Mining Projects in Green Zone**

For companies that engage in large-scale surface operations – such as oil sands and coal – the disruption of some wetlands is unavoidable.

While mining companies do what they can to prevent or minimize loss or degradation of wetlands, and reclaiming wetlands during closure planning, they will inevitably find themselves in a position where extensive off-lease compensation will be necessary under the proposed Wetlands Policy. As such, they would need to construct new wetlands, restore wetlands or enhance existing wetlands. Achieving this level of compensation through the Wetlands Policy creates some significant challenges:

Where will replacement occur?

Only a portion of wetlands lost on large-scale surface mining operations in the Green Zone can be replaced in their former locations on companies’ leases. This is due to the fact that mining land forms and alternative land uses required under existing Environmental Protection and Enhancement Approvals must be replaced in the reclaimed mining footprint.

Under the proposed Wetland Policy, companies would be required to either restore, construct or enhance wetlands outside of their leases. For many, that would mean purchasing land in the White Zone and converting it into wetlands. Since much of the White Zone is agricultural, this may have the net effect of reducing agricultural land in some regions – which may not be an intended outcome of the Wetlands Policy and not consistent with a sound, sustainable approach.

There is also the question of whether adequate areas of lands within the White Zone are available to replace wetlands. For example, ACR has calculated that from 800 km<sup>2</sup> to 2,500 km<sup>2</sup> of land, depending on replacement ratios, may be required to replace wetland loss associated with the existing oil sands operations in Alberta.

### Cost

There is a public perception that because the price of resource commodities is so high, resource development companies have more than enough money to bear the costs of reclamation by themselves. While it is the responsibility of companies to do their fair share of reclamation, the costs of implementing the proposed Wetland Policy could pose a significant financial barrier to investment. Recent estimates for seven oil sands mine companies show that offsite replacement of wetlands at a 1:1 ratio could cost anywhere between \$170 million and \$560 million, depending on the cost of land acquisition.

If these companies are asked to replace wetlands at a higher ratio to help meet the goal of overall wetland maintenance on a provincial scale, the costs would soon enter the billion dollar range. These numbers are preliminary estimates, but they represent real costs to resource developers and will have a bearing on project decisions in the future if the Wetland Policy were to be implemented.

***Resolution for Issue 2:*** The large land base and cost required for wetland replacement in the Green Zone would be reduced by allowing large mining projects to replace less than a 1:1 ratio of wetlands – or in other words, to have “a net loss of wetlands” for the projects. Decisions of this nature should be made at the regional Land Use Framework planning level to ensure all regions are meeting their land use goals as mandated by the Province.

This differential treatment of wetland replacement in the Green and White Zones can be justified by the fact the Green Zone has not experienced the high historic loss of wetlands and, therefore, has a higher resiliency to wetland loss compared to the White Zone (i.e., a 100 ha loss of wetlands represents a much smaller percent of wetlands in the Green than in the White Zone).

### ***Issue 3: Provincial Land Use Framework***

Ultimately, land use decisions must take into consideration all perspectives on land use options. The Province has already launched a Land Use Framework process to address these various perspectives. The Framework will help the Province make these decisions based on a regional framework, with each region setting its own priorities for land use.

While the Land Use Framework is referenced in the draft Wetlands Policy, it remains unclear how the Policy will be integrated into the Framework.

We are concerned the Wetlands Policy may come into conflict with these regional land use objectives, thus causing future uncertainty for resource developers. The Wetlands Policy needs to have enough flexibility to adapt to the regional Land Use Framework planning process.

Wetlands are not the only land use option that must be considered when making decisions that balance the economic, social and environmental land use goals for Alberta. ACR maintains that in circumstances where significant land disturbance occurs due to resource development activity the Province deems to be in the public interest, all possible reclamation/restoration options (including, but not limited to, wetlands) be considered in the context of regional and provincial land use goals when deciding how mining sites should be reclaimed.

***Resolution for Issue 3:*** ACR suggests the Government of Alberta take the draft Wetlands Policy under advisement until the Land Use Framework is in place.

**Issue 4: Application of Wetland Policy to Approval Renewals**

ACR is concerned that existing long-term projects will be subjected to the Wetland Policy with the renewal or amendment of their *Water Act* and *Environmental Protection and Enhancement Act* Approvals renewals and amendments.

These projects have already been deemed in the public interest by the Province during their respective approval processes. If the proposed Wetland Policy were to be adopted by the Province, they would be exposed to additional costs that were not apparent during the approval periods, and that could change the economics of the project.

**Resolution for Issue 4:** ACR believes these projects should be grandfathered and not subjected to the Wetland Mitigation Decision Framework compensation component.

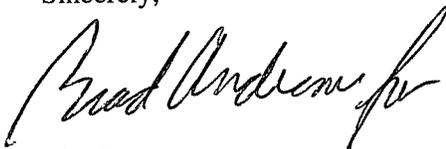
In summary, while there are many concepts and provisions in the draft Wetlands Policy that have significant merit, adopting the Policy now, in the absence of a clear Land Use Framework plan and objectives for Alberta's various regions, is premature.

ACR suggests the Government of Alberta take the draft Wetlands Policy under advisement until the Land Use Framework is in place. We also suggest the Province examine the significant land base and cost issues associated with wetlands reclamation, as well as some of the potential consequences of wetlands replacement that may be contradictory to overall Provincial land use goals and may not be in the public's best interest. Finally, we believe existing long-term projects should be grandfathered from the compensation component of the Wetland Policy.

We believe that orderly and responsible development of Alberta's natural resources is not only possible – but essential. Mining is an important part of this development – as is what happens to mines when their production life comes to an end. This means it is of paramount importance that the Province finds the most effective way to balance growth and economic development while safeguarding the environment, including wetlands. It is essential that land use choices are made for the benefit of the province as a whole – and not unduly limited by policy that requires compensation for only one type of land use loss.

ACR looks forward to working with the Water Council and the Government of Alberta to achieve that balance.

Sincerely,



Tim Ryan  
President



July 30, 2008

Gordon Edwards  
Executive Director  
Alberta Water Council  
9915-108 Street, 1400 South Petroleum Plaza  
Edmonton AB T5K 2G8

Dear Mr. Edwards:

**Re: CAPP Position on Wetland Policy and Implementation Plan**

The Canadian Association of Petroleum Producers (CAPP) has been supportive of the multi-stakeholder initiative and actively involved in the provincial Wetland Policy and Implementation Plan development since 2005. We recognize and appreciate the hard work of the Alberta Water Council (AWC) and the Wetland Policy Project Team (WPPT) to advance this initiative. Overall, CAPP is supportive of the development of a Wetland Policy for Alberta. Our industry's representatives have been engaged over the past three years in the development of the proposed policy recently issued by the AWC, and have raised a number of critical issues early in the policy discussions that remain unresolved. These significant concerns, related to oil sands mining activity, prevent us from supporting a consensus position on the proposed AWC Wetland Policy. We have described these concerns and proposed resolutions below.

**Issue 1: Need for Balance**

Decisions regarding wetlands must be made in line with the overall sustainable development objectives of the province that form the basis of the *Water for Life* Strategy, and the recently released *Land Use Framework*. We must ensure the proper balance of environmental, social and economic needs of Albertans is appropriately reflected. Although there is some wording in the policy to suggest recognition of this principle, ["Guiding Principles" (Page 2) and "Finding the Right Balance" (Page 20)], sustainable development cannot be realized at either the project or regional levels. The Government of Alberta (GOA) and the proponent are bound to a no-net-loss approach to ensure all wetland losses are compensated for as reflected in the following statements:

- Project Level

*Managing Impacts to Wetlands (Page 16)*

“In managing impacts to wetlands, the GOA **will** use the Wetland Mitigation Decision Framework to achieve the policy goal of maintaining wetland area in Alberta such that the

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2100, 350 – 7<sup>th</sup> Ave. S.W.  
Calgary, Alberta  
Canada T2P 3N9  
Tel (403) 267-1100  
Fax (403) 261-4622

403, 235 Water Street  
St. John's, Newfoundland  
Canada A1C 1B6  
Tel (709) 724-4200  
Fax (709) 724-4225

Email: [communication@capp.ca](mailto:communication@capp.ca) Website: [www.capp.ca](http://www.capp.ca)

ecological, social and economic benefits that wetlands provide are maintained.” and “When development is proposed that affects a wetland, the GOA, through the Water Act Approval Process, **will** require the regulator and proponent to use the following in descending order of preference, considering watershed and regional objectives, where they exist.”

- Regional Level

Finding the Right Balance (Page 20)

“In areas where high levels of loss or degradation have occurred, wetland objectives may be designed to ensure that there is a net gain of wetlands. In areas where current degradation or loss of wetlands has been demonstrated to be very low, wetland objectives may be designed to allow some loss at a regional and watershed scale, **provided that a comparable wetland gain occurs elsewhere.**”

### **Proposed Resolution for Issue 1:**

CAPP recommends that the word “will” be changed to “**may**” and the words “provided that a comparable wetland gain occurs elsewhere” be removed, to allow flexibility and appropriate discussions to take place between the regulator and the proponent at the time of the *Water Act* application. These two wording changes better reflect the sustainable development objectives of the province and the need to balance the maintenance of wetland values with other land uses and broader policy objectives.

To be clear, CAPP does not support the premise of “no-net-loss” as an absolute objective. We believe it should be a consideration in decision-making that is also informed by social and economic considerations. The Wetland Policy should reflect and convey this premise more clearly in the Policy implementation directions.

### **Issue 2: Large Land Base and Monetary Costs Required for Compensation**

The GOA needs to recognize that the land base and monetary cost for compensating for wetland (mostly peatland) loss at the scale of oil sands mining projects will be substantial. Not all wetlands can be replaced within the development footprint due to mining landscape features (end-pit lakes and upland topographic features) and provincial land-use requirements. Hence, most of the wetland compensation will take place outside of the project area in the White Zone of the province where the greatest historic loss of wetlands has occurred. Not only will oil sands mining proponents be faced with the high cost of purchasing land for compensation, they will also bear the restoration and ongoing monitoring/maintenance costs for these projects. At ratios higher than 1:1, these costs would be magnified. The GOA needs to give due consideration to the large land base required to offset the cumulative loss of peatlands from current and future oil sand mining projects located in expansive wetland areas.

For example, for approved and operating oil sands projects to date, CAPP has estimated that wetland restoration could require between 800 km<sup>2</sup> and 2500 km<sup>2</sup> (based on 1:1 and 3:1 compensation ratios,

respectively). The restoration costs could exceed billions of dollars. Furthermore, it is unclear whether or not appropriate land base of this magnitude would be available in the province. Currently, more than 56,000 km<sup>2</sup> of protected areas occupy northeastern Alberta, equivalent to 41% of the region.

It is impossible to replace peatlands with peatlands as these wetland ecosystems depend on slow-growing plant species. Therefore, peatlands would most likely be replaced with marshes (open water wetlands), which are easier to create, thereby undermining the ecological rationale for the no net loss paradigm altogether. Simply put, this is akin to creating three times the area of prairie to save the forest.

One of the key challenges to achieving a practical and effective wetland management is the limited understanding and use of wetland function to define compensation expectations. Without this tool, there will be a tendency to apply unnecessarily high compensation values. This is an important implementation consideration.

### **Proposed Resolution for Issue 2:**

See Proposed Resolution for Issue 1. By extension, this means that large scale mining projects in the Green Zone should be allowed to have a net loss of wetlands, providing that a proponent establishes alternate land uses (i.e. forestry or upland habitat for wildlife). These alternate land uses need to be recognized for environmental, social and economic benefits on the reclaimed landscape consistent with the sustainable development objectives discussed in Issue 1.

### **Issue 3: Application of Wetland Policy to Approval Renewals**

CAPP has a concern about how renewals and amendments of approvals for existing projects under the *Water Act* and *Environmental Protection and Enhancement Act* will be treated when the Wetland Policy is finalized. Currently approved projects would be exposed to increased compensation risks not previously accounted for, which could change the fiscal terms under which the project was originally approved, posing a threat to project viability.

### **Proposed Resolution for Issue 3:**

We recognize that although renewals and amendments of approvals will be informed by the Wetland Policy, existing Oil Sands approvals due for renewal every 10 years should be grandfathered and not subjected to the compensation component of the Wetland Mitigation Decision Framework.

CAPP recognizes the importance of implementing a Wetland Policy based on sustainable development principles. Although the proposed Wetland Policy makes progress to this end, there are several critical areas of concern that must be addressed before CAPP can support consensus for the policy. We also believe there are significant implementation questions, such as the implications for

existing projects, which need to be addressed before a Wetland Policy can be finalized. Government Departments should not be acting on the Policy until these implementation issues are addressed.

We are pleased to have had the opportunity to identify proposed resolutions to these issues and look forward to continued involvement in the go-forward dialogue.

Sincerely,

A handwritten signature in black ink, reading "David Pryce". The signature is written in a cursive, flowing style with a large loop at the end of the name.

David Pryce  
Vice President, Western Canada Operations

Cc: Jim Ellis, Deputy Minister, Alberta Environment  
Peter Watson, Deputy Minister, Alberta Energy