Proposed regulatory provisions for 'special projects' using wells to test or demonstrate new and innovative activities, including carbon storage, and to remove well security caps and exemptions for all types of wells under this legislation going forward

Monday, October 16, 2023. Comments submitted respectfully by:

The Ontario Petroleum Institute ("OPI")

PART 1 - SPECIAL PROJECTS

OPI applauds the MNRF for its pro-active approach to soliciting views from the public, together with the actual prospective commercial developers of CCUS. It matters greatly that the architecture of the CCUS policy framework delivers the right balance of commercial incentives, along with the necessary certainty and public interest protections. After all, everyone is supposed to benefit from a robust and effective CCUS, as the Ontario and global public are all affected by the underlying issues of carbon proliferation.

Our MNRF suggests that:

In situations where, at the end of a special project, wells or other works would be intended to be converted to another use under this act (i.e., not permanently abandoned or decommissioned) the required financial security for these wells and works would continue to be following the same model to forecast costs and maintain financial security to cover the full cost of plugging, abandonment, decommissioning, site remediation and post-closure monitoring.

OPI agrees with the above policy suggestion. However, for greater commercial certainty, the government through the MNRF should adopt a regime which includes the issuance of a "Closure Certificate", to be issued at the end of life of the CCUS project, after which time the Ontario government becomes the owner of the injected CO2 and assumes all associated obligations/liabilities. The Closure Certificate, along with the establishment of a post-closure *Stewardship Fund* (i.e. ongoing levy paid by CCUS proponents to offset Crown costs associated with long-term monitoring and maintenance of projects, which are issued Closure Certificates) are key features of the Alberta regime based on industry feedback. Ontario should adopt something similar as the ability for CCUS project owners to pursue the same at the cessation of operations (to avoid indefinite liability for sequestered CO2) has been cited in Alberta as key to supporting financeability/investability of CCUS projects. Clearly, both financeability and investability are key and desireable to enabling commercialization of CCUS projects in Ontario.

Our MNRF suggests that:

- *a report that is prepared by an independent party with expertise in insurance matters related to environmental and other risks associated with the same or similar subsurface operations in Ontario and that recommends the types and amount of insurance coverage necessary for the proposed special project, including but not limited to liability and pollution coverage*

The MNRF's proposed regulatory provisions include a need for third party evaluations/insurance coverage. In Alberta, this is not mandated. Proponents may elect to self-insure, and the regulator monitors whether operators are meeting their responsibility for maintaining appropriate levels of insurance given the nature and scope of operations. While some proponents may be comfortable retaining a third party insurance experts for such purposes, it may be that the proponent is reasonably in

a position to make such assessment based on its experience with subsurface operations. On this basis, it would or may be beneficial for proponents to have the discretion to submit evidence/information directly to the MNRF (as opposed to an insurance report prepared by an independent party being required as a black and white rule). These reports as well as the financial security and experience of the proponent would then be considered by the MNRF when deciding to grant a special project licence.

PART 2 - WELL SECURITY CHANGES

It is important to set the context correctly in order to engage in this important policy discussion regarding well security with a view to avoiding more orphan wells in Ontario. Below, OPI respectfully will submit its practical, commercial approach to how this transition can be achieved in the industry's and the public interest.

Over the years, it is important that the MNRF and the industry acknowledge and share in the policy oversights and field failures that has brought us all to this point. The MNRF has failed to enforce the 'plug or produce' rules for suspended wells - with any kind of consistency - after the normal 1 year period. Certain producers clearly share(d) in that failure as well for a variety of reasons. Many operators have had wells that have been sitting in a suspended status for many years, without these rules being enforced. At this point, these wells are at risk of being orphaned if appropriate regulations and security requirements are not made and enforced. Therefore, it is vital that the MNRF and the industry reach consensus that is practical from both a policy and commercial perspective so that the taxpayer is not required to subsidize poor regulatory oversight or bad operators.

Many current operators are plugging out of operating capital and should be left to do so.

Our MNRF suggests that:

1. *Eliminate well security exemptions for operators of hydrocarbon storage cavern wells where the operator owns both surface and mineral rights, historical wells and private wells in the following circumstances:*
    - *when wells are newly drilled, deepened, converted to other uses*
    - ~~*when a well licence is transferred to the operator*~~ *(OPI removed for reasons explained below)*

OPI is in agreement with the first bullet above in the proposed changes. The correct and effective time to do the bonding is at (a) the outset of the project, or (b) when new wells are drilled, or (c) when wells are converted in their use. These times are when the commercial model is framed and money can and should be set aside for the plugging.

Upon licence *transfers*, there is often not adequate capital available for full bonding. Even the MNRF proposal of building up the bonding funds over 2 years would be largely cost-prohibitive (needs more time i.e. 5 years) and would almost certainly lead to further orphaned wells; in these circumstances, no operators would be able to accept a licence transfer and operate the wells in a cost effective manner. It is key to get this new regulatory rule right so that it can be practical, commercial and effective for all stakeholders.

The OPI proposes that there should be a mandatory requirement on transfers for an "Operator Plugging Plan" (OPP) to be submitted to the MNRF by the well purchaser/transferee. This "OPP" would outline which wells that are on their decommissioning list to be plugged over a reasonable amount of time. It

would list the wells that are below the economic limit that are required to be decommissioned in due course out of the available cash flows from the economic wells. The OPP must include wells to be decommissioned in the normal course of business at a rate that is manageable to the new purchaser/transferee. The MNRF would request filing of such OPPs.

OPI's Practical Proposal for Well Security Changes

The purchaser/transferee would then be required to either:

1. **Plug the wells according to their plan at a certain rate per year, which plan and plugging would be monitored by the MNRF.**
   OR
2. **Post a bond for the wells that are not plugged in the plan for those years in the amounts set forth in the current OGSR regulations.**

For the economic wells not on the plugging "plan" submitted, there should be no bonding requirement on transfer to allow new operators/purchasers to acquire the old wells and continue to harvest the natural resources.

The economic wells, so long as they are producing, will have no bonding requirements on transfer. However, the MNRF will ensure that the suspended well regulations (off for 1 year = plug or produce order) is enforced.

The following response was received by OPI from a member of the historical producers:

"As a representative of the historical oil producers, we would ask you to review the new proposal to have any new licence transfer post a bond of $3000 per well on historical wells. This will make every historical oil field impossible to sell. The historical fields have a high number of wells per acre. The land is not good land; creek flats, bush and it is not prime real estate.

A recent estate of an historical producer could not get the family member, who had been operating it, to take it over even if it was given to him. Now the field has shut down. This is the future of every historical field if the bond is imposed. We, the historical producers are proud to operate the longest producing wells in the world. We hope to continue doing so for years to come. The original designation of historical status was to prevent new regulations being imposed on us. We would greatly appreciate if this was removed from the new regulations." Lonnie Barnes

Subject to the suggested changes above, the OPI accepts the MNRF proposals to eliminate security caps and return of security on amalgamation as proposed.

FINAL COMMENTS

OPI remains available to the MNRF for further consultation or to answer any questions related to the above submissions or otherwise.

OPI looks forward to receiving the proposed regulatory provisions for "special projects" using Crown lands and to having the opportunity to provide comments and suggestions on these provisions.

Thank you.