

Episode 38: Make Polluters Pay

00:00 - 00:20

Dwight Popowich

The Orphan Wealth Fund is the safety net that we taxpayers and landowners depend on, that we won't get stuck with the bill of cleaning up after a bank reproduces. If that thing is underfunded by \$862 million, what kind of a safety net is it?

Episode Opening

00:20 - 01:26

Steve Bentley

Welcome to the podcast. My name is Steve Bentley, I'm with the Calgary Climate Hub and this is the Climate Lens on CJSW and streaming wherever you get your podcasts. In the spirit of reconciliation, we acknowledge that we live, work and play in the traditional territories of the Blackfoot Confederacy, the Siksika, Kainai, Pikani, Tsuut'ina, and the Îyâxe Nakoda Nations, the Métis Nation of Region 3, and all people who make their homes in the Treaty 7 region of Southern Alberta. We also dedicate this podcast to another group of folks that have a stake in this land that we stand on today, and that is our children, nieces and nephews, grandchildren and all future generations. I urge you to keep them in mind during this time as we face unprecedented change and start making decisions about what comes next. The opinions expressed in this podcast are those of the participants and do not necessarily reflect those of CJSW, The Calgary Climate Hub Board, or membership.

Introduction Segment

01:26 - 02:58

SB

Oil companies made the people of Alberta, and specifically the landowners, a deal, that if they come on your land to drill, you'll be paid for it and the land will be returned to its previous state. But what we've been seeing for some time now, with a multi-billion dollar price tag attached, is a great many oil companies just taking the profits and skipping out on those cleanup costs, leaving them instead to the landowners themselves and to you, the Albertan and or Canadian taxpayer. In some cases creating exotic scams like the pump and dump in which wealthy oil companies sell the orphaned wells when they're done with them to poor companies for next to nothing. With both companies fully aware that there's no way they're going to clean up anything, if it were your own business, you'd surely sue them or even call a cop, but the cops in this case are the Alberta Energy Regulator. Now largely seen as the very epitome of captured by industry. Or perhaps you'd want to call the Alberta government, only to find that they've been working for years now to shift cleanup costs away from the companies that made the mess, and right back onto the landowner and every single Albertan via your tax dollars. To get you up to speed on this, we've got a powerhouse panel featuring Phillip Meintzer, a co-founder and campaign organizer with the coalition for Responsible Energy, affected land owner Dwight Popovich, Alberta land rights advocate and vice chair of the Polluter Pay Federation Mark Doran. And

finally, Susanne Calabrese from Eco Justice, Canada's largest environmental law charity. Welcome panel.

02:58 - 03:00

Susanne Calabrese

Thanks so much for having us.

03:00 - 03:07

SB

Philip, I want to start with you. What can you tell our audience about the Alberta government's latest efforts to shift the cost? Yeah.

03:07 - 03:53

Phillip Meintzer

Yeah, for sure. So the government is working on what's called the Mature Assets Strategy, which is a report with 21 recommendations. It was published in April. It essentially is an industry wish list. There's things in there like reducing reclamation standards, you know, repurposing sites with adding solar panels to well sites to avoid reclamation. They're proposing these new things called Harvest Co Inclosure Co, which are a way that would essentially push cleanup costs onto the taxpayer, plus a whole host of other things. So it's a yeah, it's a plan that was produced largely in consultation with industry. So oil and gas companies really drove the process. And yeah, we're expecting the government to legislate some of these recommendations any time now. So this fall when the legislature resumes.

03:53 - 04:01

SB

And I guess Dwight you're living it, it has happened to you. What can you tell us about your personal experience with all of this?

04:01 - 05:13

DP

Well you know, eight years ago I would have thought that everything in the patch was just fine. And like most Albertans, I had no reason to think otherwise. And in 2017, our annual payment that we always show up about a month earlier when it was due, suddenly stopped. So I phoned the producer that was on our land and they said, oh, they sold the well to Sequoia. I managed to get a hold of Sequoia and I got a cheque out of them, but that would be the last cheque we got out of them, because Sequoia would be out of business in 18 months. And that leaves me thinking. Well, how did this happen? How did I get saddled with a bankrupt producer on our land. As a landowner, I did my due diligence as best I could. So I decided to look into that kind of look behind the curtain. And that led me to realizing that just how unfair the system is to landowners and how the regulator, the Alberta energy regulator, is really failing as a regulator is failing not only landowners, but all Albertans. The reality is they are focused on facilitating for the oil industry and not regulating.

05:13-05:24

SB

And so what are the effects of that? That equipment that will sit on your land right now, the effects or the hazards as you see them currently.

05:24 - 06:42

DP

Grow with a lot of these well sites. Like the one on my land is a sweet gas. I mean, the natural gas. You don't know that stuff is leaking. It has no smell to it, and farmers and ranchers are being told that you can walk right up to these well sites, and that's putting them in danger. And we need to understand that these well sites are our industrial sites. There's poisonous and explosive vapors that come off of them, and that we are supposed to be staying away so many feet, and that the producers are supposed to be making sure that that happens. But yet we're being encouraged by the producer to farm right up next to these things so that they don't have to control the weeds. The other thing is, is we have to farm around this stuff. I want to stay in the middle of your field. It's all about efficiency, all about running equipment and straight lines and all that sort of stuff. And, you know, this stuff is out there. And so you got to go around it and then there's the weeds. Weeds have been a major, major problem for landowners. We're the ones who get fingered by our local counties if our weeds aren't in control. Yet here it is. These are leased sites that we have no control over. We're not even allowed on, legally speaking or trespassing. And it's been years, years of dealing with those kinds of problems and industry just ignores it.

06:42 - 06:50

SB

Mark, how consistent is what Dwight is experiencing with the other landowners that are dealing with this?

06:50 - 08:48

Mark Dorin

Well, I'm 45 years in upstream oil and gas all over the world, and then my family had problems with an oil and gas activity on their urban land in the town of Didsbury, and it was severe. It was highly severe in terms of public safety. They forced their way onto the land illegally. They operated on the land illegally. Unlike Dwight, they didn't get annual payments there, so they never got paid. 45 years later, I'm still trying to sort this out. I got the right to have it all reviewed, and then they arbitrarily canceled the case after delaying it for about 12 years. And you just, you just can't get justice. So these problems are widespread, they're varied. In terms of public safety, it's an absolute free for all out here. I go to these sites all the time. 99% of the sites I see are regulatory non-compliant. Most of them are just minor problems, but lots of them have major, significant problems. And when I try to report, I only try to report the major problems that might be life threatening, etc. to the Alberta Energy Regulator on behalf of my clients. And those complaints are rarely acted on. More often than not, they're just thrown in the garbage. When they do act on them, for example, in urban Edmonton, where I've reported sour gas presence right next to the major freeway Anthony Hand drive, equivalent to Stoney Trail in Calgary. Sour

gas enveloping that freeway. I reported it time and time and time and time again, more times than I can even count. And the inspectors have often come out, shut them down, you bad boys and girls don't ever do that again. And the next day we've got the same problem. David Yeager and Warburg said that, you know, that the oil industry, upstream oil and gas industry in Alberta is a stinking, steaming pile of shit. That's the way he put it. He's the author of this mature asset strategy. That's the one thing I can agree with him on.

08:48 - 09:20

SB

And Mark mentioned it "CARE", which stands for Coalition for Responsible Energy. And I'll just mention that Calgary Climate Hub is a part of that coalition. And we're proud to be standing with these folks in this important issue. And of course, we'd like all of our listeners to consider how they can join this fight, and we'll be sure to talk about that before we let everybody go. I do want to get a sense of how many landowners, how much land, what's the overall cleanup costs? And anybody can jump in here.

09:20 - 10:48

MD

Yeah. There's been various estimates. Possibly the most comprehensive estimate was done by Alberta Liabilities Disclosure Project, but that only dealt with well sites. This was done through Freedom of Information request from the Alberta Energy Regulator's data. And they estimated just wells between 30 billion and 70 billion. The AHS internal data is about 56 billion. But that's just for wells. It doesn't include pipelines or facilities. So we think that the total estimates around 120 billion. But that's just for conventional oil and gas. And then if you add oil sands on top of it, which is not part of the mature asset strategy, that's another 120, 130 billion. So the big estimates are around 230 billion several years ago not adjusted for inflation. So those would probably be exceeding 300 billion now. And let's be clear, under Alberta law today, the citizens aren't responsible for that. But if we weaken those laws, they could easily become responsible for that. So it's not too late. Many Albertans think that we're already paying. In fact, we've paid very little so far. But that appears to be changing. So we need to preserve this concept called polluter pay and not allow it to be thrown out. But that's the scale of it. It's between \$25,000 and \$50,000 per citizen.

10:48 - 10:52

SB

Susanne, I have given you a chance to talk yet. I saw a hand go up. Go for it.

10:52 - 13:57

SC

Yeah. So I really want to highlight how many Albertans are affected by oil and gas wells. You know, the latest number from the Alberta Energy Regulator shows that there are about 470,000 more licenses for oil and gas wells. So that's about one well, for every ten Albertans. And there's two studies that I wanted to highlight. The first one was from last year in the International Journal of Environmental Responsibility and Public Health, and it looked at how this problem

affected the population of Alberta. And it estimated that 13%, 13% of people in Alberta live within 1.5km of an active well. So it's not even what we're talking about with most wells, most wells being inactive or marginal or decommissioned. So, you know, 3% of the people in Alberta reside within 1.5km of a flare. That means that, you know, gas is actually being released from the well that's supposed to be ignited, but that's often not the case. And the study also looked at the health impacts of the pollution from these wells and the contaminants that go into the air, water and soil, and found that the pollution from Alberta's oil and gas sector increased the odds of having a negative respiratory or cardiovascular health outcome by about between 9 and 21%, depending on the number of oil and gas wells a person lived around. And then the second study I wanted to highlight two is just just how important methane has now become in our talks about combating climate change. And there was a study that came out just very recently this year from McGill that talked about the fact that methane leaks from inactive oil and gas infrastructure that's no longer functioning was seven times more prevalent than what originally was thought. And methane, as we all know, is such a potent greenhouse gas. Right. It's 82 times more potent on a 20 year time scale than carbon dioxide. And so cleaning up these wells is really just vital for our health, for our safety, for combating climate change, and just really for protecting the public. And also, I just want to highlight to you that the public has paid a lot of money in land lease payments. Alberta received \$1 billion of Canadian tax money. Give a little bit of it back to have this well, but I didn't wholly agree with you, Mark, that the taxpayer hasn't paid and also because, you know, health impacts and our land, air and water are hard to quantify. You know, the harm that we all collectively share and have because of the pollution, because these wells are not adequately closed, because they leak, because they, you know, of years of policy that, you know, my fellow panelists have talked about, those are all costs that the public is carrying too.

13:57 - 15:00

MD

Yeah. If I might Suzanne, I agree that I mean, I meant to say we've only paid a small portion of this cost, but I would also add to the leaks thing being from upstream oil and gas industry, this industry purposely vents gas to the atmosphere in massive amounts in Alberta. Absolutely massive amounts, billions of square feet per year. Knowingly. Those aren't leaks. That's planned, purposeful operations. And that's been illegal since 1971, in Alberta. So we could stop most of our emissions just by enforcing the no gas venting laws, which is section 8.08 of gas conservation rules, which simply says that any appreciable amount of gas vented to the atmosphere must be burned. See? So flaring became a bit frowned on in the year 2000. So we just simply started venting, which is far worse. Creates explosion hazards, puts methane directly to the atmosphere, which is more dangerous than CO₂, and creates health hazards all across the province.

15:00 - 15:02

SB

Go ahead there Dwight.

15:02 - 16:18

DP

Yeah. I just wanted to kind of give listeners an example or an idea of how landowners, how many are affected by this thing. And in my particular case, I have Sequoia Resources. Well, there's 900 of us landowners that are affected by this one producer. We know there's 200 more waiting in the wings that could be going under any time. And all of those 900 landowners had been paid by the taxpayers for the last eight years it took for the Sequoia bankruptcy to go through the court system and for the regulator to finally declare these wells orphans. Then they turned around and said to Sequoia landowners that it could take another 10 to 12 years to clean those wells up because they are short funded. And that raises another big, big issue for landowners and for taxpayers. The Orphan Wealth Fund is the safety net that we taxpayers and landowners depend on, that we won't get stuck with the bill of cleaning up after a bank reproducing if that thing is underfunded by \$862 million, what kind of a safety net is it?

Sponsor Break

16:18 - 18:10

SB

We'll get back to the show in a minute. But first, I want to acknowledge some of the Calgary Climate Hub's great sponsors that help keep the hub ticking. Sky fire energy is Western Canada's trusted solar provider since 2001. That's providing real leadership on solar for over 20 years now, starting with the vision to bring the magic of solar power to the world through the stronger, healthier and more sustainable global community. Hub sponsor Green Gate Power has successfully developed renewable energy projects of unprecedented scales in North America and specifically right here in Alberta. As technology continues to advance at a phenomenal rate, Green Gate Power is committed to offering economic, environmentally sound, and reliable ways to continue to meet growing global energy needs. Ever Technology is enabling local energy autonomy everywhere. As a next generation geothermal company, their ever-loop solution represents the world's first truly scalable form of clean baseload energy. We also want to thank the Gasonic Group, our pure Indoor Air Quality partner. Gasonic is on a mission to ensure everyone is breathing clean air. They test air quality with the best trained technicians and best monitoring technology to ensure healthy air from arcade to penthouse. And the Bow Valley Green Energy Cooperative is a grassroots, volunteer run organization creating community owned renewable energy projects in the Bow Valley and beyond. By investing together, you can reduce emissions, support a low carbon economy, and share in the benefits of clean energy. And finally, we really want to thank CJSW for finding this show a spot on Calgary's only campus and community radio station. Broadcasting at 90.9 FM from the University of Calgary, CJSW is your source for music, news and events. Tune in today, donations and volunteering opportunities are available. Okay, back to the show.

Second-Half

18:10 - 18:25

SB

Suzanne, what are the legal avenues for landowners and perhaps taxpayers that can watch this stuff happening in slow motion, and don't want to get stuck with the bill. And, you know, I think when I'm listening to Dwight talk or Mark talking about all these people across Alberta, I do feel like it's a bunch of mini Davids versus these Goliath. What are the legal avenues for all of us on this?

18:25 - 21:57

SC

I think one of the things that just came out recently, in the last few years, is that landowners can nominate their well for closure. So if you have an inactive well on your land and it's been inactive for more than five years, you can fill out a pretty straightforward form on the Alberta Energy Regulator's website, and then your well will be slated for cleanup. Otherwise, there is no time limit in Alberta. You can have an inactive well on your land indefinitely and it just will never be addressed. And as long as you know the company is operating, or I've been told even if they're just answering their phones, you will never get that cleaned up. And I really urge people to push and try to get your well, you know, nominate your well if you have an inactive one on your land. And then I would say join us, you know, join the Care Coalition. I know Philip will talk about clean up your mess, about cleanupyourmess.ca. Share your stories. Go to the ecojustice.ca web page, we have a lot of information there. Something that we've done, and we have the pleasure of representing Dwight, who's on the call here. We looked into how the mature asset strategy was created. And so, and as Mark has hinted, it was led by a man named David Yeager. And he was paid with public funds to develop the mature asset strategy. He was paid \$292,000 to lead it through two sole source contracts, meaning that no one else could bid for the job. But, you know, he developed these just through closed door discussions. So mostly just with oil and gas companies. And there wasn't any public engagement. And he led the process while serving as special advisor to the Premier. So Daniel Smith, the problem, though, is that he had many other jobs and he represents many other competing interests all at the same time. So, you know, he was a special advisor to the Premier. He was running this mass process, but he's also a board member of the Alberta Energy Regulator. So that's the independent regulator we've been talking about that's supposed to oversee oil and gas. And at the same time as that, according to his website, he's a consultant for the oil and gas companies. And he's been advertising for new business. I keep checking his website, it's still up there. His tagline is, quote, helping oil and gas service companies achieve success. I mean, you know, he was paid with public dollars to do this and has all these different, you know, competing interests. And so in our opinion, it's impossible to represent the interests of a Partisan government, an independent regulator, private companies and a consulting work and then supposed to represent the public in creating the mature asset strategy all at the same time to deal with this issue, that we've talked about is so important to so many Albertans. And, you know, if you have a flawed process like that, you get a flawed product. It undermines public trust. So on behalf of Dwight, we filed an investigation request with the Alberta Ethics Commissioner for breaches of the Conflict of Interest Act. And, you know, we're calling on the ethics commissioner to launch an investigation into how the mass was created with all these conflicts. And over 1800 other people joined us. And so there's an action on [ecojustice's](http://ecojustice.ca) website, and you could send your own email saying,

you know how upset you are about these conflicts of interest and encourage the ethics Commissioner to pick up this investigation.

21:57 - 22:32

DP

I was just going to mention the nomination program that Susanne is talking about, and it is an opportunity for landowners to get maybe a well under land cleaned up. But I just wanted to note that it does not include orphans. Okay. That is strictly inactive. So that does lessen some of the chances there too. And it's still requires the producer to say yes, they are willing to do that. So you better have a good relationship with that producer if you've got one. That's not a little bit rocky. Yeah, I mean, may not go forward, but it still requires the producer to say yes to it.

22:32 - 23:13

SB

And then, Philip, how can regular Albertans get involved? We have a sense of, you know what maybe some options are for landowners. I know that we're looking to collect stories from landowners who have this going on, who maybe haven't come forward yet. I think it can probably be very intimidating confronting the Alberta government, especially in rural Alberta. But beyond that, what actions can Albertans take? What actions can my fellow climate concern Calgarians take, for example? How can we help get some critical mass on this?

23:13 - 25:06

PM

Good question. So our coalition, the CARE group, coalition for Responsible Energy, we are currently running the Clean Up Your Mess campaign. So anyone who's interested in learning more and getting involved can visit our website. cleanupyourmess.ca. And on that website there's a number of actions people can take. As Susanne mentioned, Eco Justice has been doing this Ethics Commissioner filing that folks can submit. But on our website, folks are able to submit a letter to their MLA. That's then cc'd to Danielle Smith and cc'd to Brian Jean, the Energy Minister, as well as the NDP's shadow critic on energy. So you can send a letter there to let your MLA know that you want to reject this industry drafted plan that would push cleanup costs onto taxpayers. So that's one thing you can do. For folks who just want to stay informed and aware of what's going on, you can use that website to see what's happening. So upcoming events, we're going to have town halls in rural and urban areas. We have a town hall next week in Fuller, Alberta on October 16th, and one in Vegreville on the 22nd, and one coming up in Calgary at the start of November. On November 5th, plus probably 1 or 2 more that we're going to schedule between now and the end of November. So there's opportunities for people to come out in person and show support and hear about what's going on. But also on our website. Again, cleanupyourmess.ca, you can sign up to our Substack called the Drill and Dash reports. The link is right there on the homepage when you scroll down to receive email updates. And yeah, I mean also through the website, you can just get in touch with us to let us know that you want to get involved, like we're going to need, you know, people power to pull off a lot of this stuff, whether it's organizing these town halls and coming out in supports, bringing people, inviting

friends, family, neighbors. Right now, we have to build a bit of a resistance movement to this mature asset strategy. And that's the work the coalition is trying to do.

25:06 - 26:06

MD

The most central problem we have is the lack of an effective regulator here. That's the core problem. We also have found a challenge on the regulator deciding the amount of the orphan fund levy each year. How much industry pays into this fund to retire orphaned wells that they're delaying that a decision that's critical. But everything that this regulator is supposed to do that's not being done is really the root problem here. We must reform this regulator. We have to have a regulator. You know, industry is now lobbying to repeal the regulation laws federally for pipelines. That's what the industry wants. They want no regulation, no regulators. This is absurd because these very laws allow them to force their way onto our lands. We need a return to the rule of law in all matters oil and gas, because we've gone so far from it, we just can't seem to find our way back. That's the one thing I want to leave everybody with.

26:06 - 27:12

DP

Well, you know, one of the biggest things that people need to understand is we have some of the best laws for oil and gas production in the world here in Alberta. The problem is, we haven't always followed those rules. And had we followed those rules, had our regulator actually regulated, chances are we wouldn't be needing to have these types of conversations right now that a lot of things wouldn't be a problem. And I just also want people to understand that when you hear about the mature asset strategy, you're going to be told that the industry is at no fault in any of this, that we should be feeling sorry for them. But the reality is, the problem with the mature asset strategy is trying to deal with these small producers on the verge of bankruptcy, who all created over 30 years time period through liability dumping. This is an industry treated problem. This is not our problem. This is not our circus or our monkeys. We should not be expected to clean up their mess.

27:12 - 27:56

SC

Yeah. I mean, you know, the polluter pays principle, right? That companies have to pay to clean up their own mess is a fundamental legal concept that really needs to be upheld here in Alberta. And the mature asset strategy really should be put to the side. And the Alberta government should call for a public inquiry. You know, they did this with the renewable energy inquiry that was done a few years ago. They know how to do this. They can. We need real solutions with experts, with the public in the open. Sunlight is the best disinfectant for a huge problem that we need to stop now. So we don't keep handing it down to our children. And our grandchildren.

27:56 - 28:12

SB

And I think the key thing is that if there's enough of us, that's how this happens. It doesn't happen because the government and the industry are going to do things exactly the way they always have until they feel pressure. Philip, you want to close this out for us?

28:12 - 28:18

PM

All to say that we can't do this alone. But when we work together, we can win. So that's the road ahead.

28:18 - 28:32

SB

Philip, Mark, Dwight, Susanne, thanks so much for the important work you do. And I'm very proud to be able to stand with you today. I think it's a critically important thing that, that all Albertans should care about. So kudos for you for doing it. And thanks for coming on the show.

28:33 - 28:34

SC

Thanks for having me, Steve.

28:34 - 28:38

MD

Yeah. Thank you Steve.

Call To Action

28:39 - 29:41

SB

There's a lot of reasons that I care about orphaned oil wells littered across the Alberta landscape, but one of the prime reasons I get fired up about this topic is really simple. Every single Albertan knows what a contract is, and that a deal is a deal. And if one side of the deal gets what it wants, then tries to skip out on its part, then you broke the contract. And in any other walk of life or business, you'll be held accountable and made to pay up for that, a government has to step up, not drive the getaway car. Sometimes right and wrong can be a matter of debate, and reasonable people can disagree, but not in this case. It's crystal clear and it always has been. The polluter pays industry and our Alberta government has an obligation to ensure the deal they made with the landowners, the municipalities and to every single person in Alberta gets honored and to clean up their mess, just like they always said they would.

Episode Ending

29:41 - 30:06

SB

Climate lens is brought to you by the Calgary Climate Hub. We are a volunteer led nonprofit organization that unites a diverse group of Calgarians committed to working together to support meaningful local action on climate change. We represent a variety of communities, industries,

cultures and causes and believe that a broad and diverse range of Calgarians and organizations need to be engaged in the climate crisis to develop impactful solutions that are unique political and economic circumstances.