

Kevin O'Reilly—MLA Frame Lake

January 31, 2017

**RETURN TO ORAL QUESTION 371-18(2):
HYDRAULIC FRACTURING REGULATORY SYSTEM**

HON. WALLY SCHUMANN: Mr. Speaker, I have a return to oral question asked by Mr. O'Reilly on October 20, 2016, regarding the Hydraulic Fracturing Regulatory System.

I have worked with my colleagues in the Departments of Environment and Natural Resources and Lands, given their different roles in ensuring securities are in place for resource development projects. We have also engaged with the Office of the Regulator of Oil and Gas Operations.

I would first like to highlight that there is a polluter pay system to ensure that government is not left paying for clean-ups. The polluter pay principle is fundamental to the Mackenzie Valley Resource Management Act and the Oil and Gas Operations Act, which does not place any limits for liability of any oil and gas operator for any damages it might cause.

As you know, the Mackenzie Valley Resource Management Act, or MVRMA, is federal legislation. It established a co-management system that provides for transparency through public registries, and a process that requires security deposits for land use permits and water licences to be held by government to cover clean-up if a company were to become insolvent.

Post-devolution, the Department of Lands has established a new division dedicated to ensuring securities are in place to protect the public purse. Oil and business operators are required to post securities under the terms of their land use permits and water licences.

Outside the Mackenzie Valley, the co-management system developed for the Inuvialuit Settlement Region is governed by the Inuvialuit Final Agreement and the Canadian Environmental Assessment Act. This system also provides for public participation, transparency, and financial accountability by operators.

Your questions were largely focused on abandoned wells, which relate to the authorities of the Government of the Northwest Territories Regulator of Oil and Gas Operations, or OROGO.

The Regulator is a regulatory authority under the Mackenzie Valley Resource Management Act, and therefore part of an integrated resource co-management system established by the Mackenzie Valley. OROGO is an active partner in resource co-management as a preliminary screener and through cooperative arrangements with the MVRMA Boards.

Citizens of the Northwest Territories expect transparency in the oil and gas regulatory system. Section 91 of the Petroleum Resources Act currently puts significant limits on the Regulator's ability to disclose information about oil and gas operations in the NWT.

Therefore, in 2016, the regulator issued an information disclosure guideline, which requires all applicants to complete an information disclosure consent form, outlining what information they agree to make public and what information they wish to keep confidential.

Since these guidelines were issued, OROGO has received five applications for well approvals and these applications, along with information requested from OROGO, responses from the applicant, and the final decision, are all available to the public on OROGO's public registry.

Under the Oil and Gas Operations Act, operators must obtain an authorization for each activity they wish to undertake and must provide the Regulator with proof of financial responsibility in order to receive the authorization. Operators are responsible for cleaning up any spills or debris that occur as a result of operations, including as a result of incidents. Proof of financial responsibility is intended to allow the Regulator to pay for damages caused by incidents, whether or not they were the fault of the operator, up to certain prescribed limits. This could include paying costs incurred by the GNWT for cleaning up spills or debris, if necessary.

The funds accepted as proof of financial responsibility do not limit the total amount for which the operator may be found liable. They are not intended for general site remediation or reclamation, as these matters are the responsibility of other regulatory bodies, such as the land and water boards, and are over and above the amounts collected by these bodies.

Lastly, on the matter of wells that leak after being abandoned, permanently plugged, accordingly to the regulatory requirements, the Oil and Gas Drilling and Production Regulations require that wells be left in a condition that prevents leakage. Consistent with the polluter pay principle, abandoned wells are the responsibility of the company that performed the abandonment, or any successor to that company.

I trust this provides you with assurance that the polluter pay principle is already a well-established part of the regulation of oil and gas activities in the Northwest Territories.

The Department of Industry, Tourism and Investment is also looking to improve upon this system. In the mandate of this Legislative Assembly, ITI has committed to developing and proposing amendments to both the Petroleum Resources Act and the Oil and Gas Operations Act. We are currently in the planning phases of this work, and later this year we anticipate public consultation on amending those Acts. We anticipate that you and your constituents and citizens from across the NWT will participate in that process to support our work to improve our already robust regulatory system to further tailor it to the unique northern landscape. Thank you, Mr. Speaker.