

Moving Forward by Looking Back: Toward a Renewable Conservation Scheme in Alberta

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Waste and Conservation

- “Waste occurs in relation to an optimized production baseline that is based on sound engineering and economic principles. Under such an approach, producing less than this baseline would be considered wasteful.”¹
- Limits on exploitation of renewable resources
 - Availability of suitable land
 - Marketing constraints
 - Cumulative regulatory limits—permissible sound levels
- Conservation ensures the “manner of recovery and distribution of use over time [...] maximizes benefit to society.”²

¹ Greg Moores, Mark Andrews & Amanda Whitehead, "Waste Not, Want Not: Waste as a Tool of Resource Conservation in the Atlantic Canadian Offshore" (2018) 56:2 Alta L Rev 315 at 335.

² Stephen L McDonald, "Unit Operation of Oil Reservoirs As an Instrument of Conservation" (1973) 49:2 Notre Dame Law 305 at 308-309.

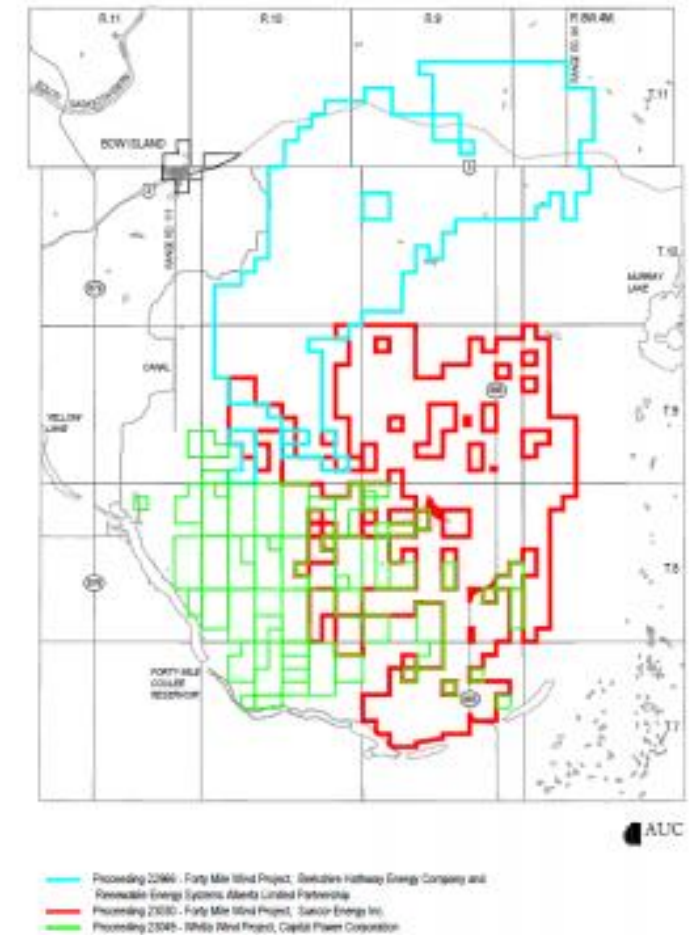
Why now?

- International policy push in favour of renewable energy
- Renewable generation remains in infancy, but is growing fast
- Potentially inefficient development of wind resources already occurring

Wind farm	Number of Wind Turbines			
	Switched Off	Running with Adjustment	Running without Adjustment	Total
Windy Point	11	10	0	21
Welsch	0	0 ⁵	26	26
Heritage	48	50	0	98 ⁶
Summerview Phase I and Phase II	0	0	61	61
Oldman River and Oldman 2	0	0	22	22

Windy Point Wind Park Ltd. Windy Point Wind Park Power Plant (31 July 2012), Decision 2012-205 at page 5.

Figure 2: Proposed projects in the County of Forty Mile No. 8



Lessons from the oil and gas industry

- The race to capture and overproduction
 - Addressed by unitization and curtailment
- Wasteful extraction practices
 - Addressed by the use of drilling spacing units, pooling, and unitization
- Conflict between surface and subsurface owners
 - Addressed by operation of the *Surface Rights Act* and predecessor legislation

Proposed solutions

- Severed “renewable title” vested in Crown, enabling licencing and leasing regime
- Bringing renewable energy development into the *Surface Rights Act*
- Unitizing renewable energy “reservoirs”
- Royalties payable to Crown