

Environment and Sustainable Resource Development—Management of Sand and Gravel Resources Follow-up

SUMMARY

Background

In 2008 we performed an audit of the systems the then Department of Sustainable Resource Development used to manage the province's sand and gravel resources. That department is now the Department of Environment and Sustainable Resource Development.

We made five recommendations to the department in 2008.¹ In 2010 we followed up on one recommendation relating to royalty rates for sand and gravel and concluded that the department had implemented this recommendation.² In the current audit we followed up on the following:

- enforcement of reclamation obligations
- quantity of aggregate removed
- information management

What we found

Six years after we made the above recommendations, we have had to repeat two of them. The department has not implemented an effective process to carry out its responsibilities to enforce land reclamation obligations; nor has it verified aggregate removed by operators.

The department has developed an integrated system for capturing and consolidating information throughout the life of an aggregate holding to facilitate testing of operators' compliance with their legal obligations.

What needs to be done

The department needs to:

- reassess and improve its processes for inspecting aggregate holdings on public land and improve its process to enforce land reclamation requirements
- improve its systems to verify quantities of aggregate reported as removed by industry from public lands so that all revenue due to the Crown can be determined and recorded in the department's financial statements

¹ *Report of the Auditor General of Alberta—October 2008*, pages 355-367.

² *Report of the Auditor General of Alberta—April 2010*, page 139.

Why this is important to Albertans

We did the original audit to determine whether the department was effectively managing Alberta’s sand and gravel resources, and was fulfilling its responsibilities for environmental stewardship of public lands. Albertans should know whether the department has systems to verify aggregate that operators remove, so that the department can ensure that it is collecting all royalties due to the government. Albertans should also know whether operators comply with legislation and whether there is a risk that taxpayers may have to assume costs of land reclamation because of operators’ possible non-compliance with legislation.

Alberta’s sand and gravel are natural resources that play a vital role in every aspect of the construction industry. The Government of Alberta is accountable to Albertans for ensuring that:

- operators fulfill their obligations to reclaim public lands in a timely manner
- the department knows how much aggregate operators remove and obtains all the royalties that operators must pay to the Crown
- the department uses information effectively to manage the province’s resources prudently

AUDIT OBJECTIVE AND SCOPE

Our audit objective was to determine if the department implemented three of our 2008 recommendations.³ In performing the audit, we:

- reviewed legislation and regulation governing management of Alberta’s aggregate resources
- reviewed the policies and procedures implemented by the department to oversee land reclamation, verification of aggregate removed and information management
- tested the operating effectiveness of relevant controls put in place by the department
- interviewed selected department employees
- reviewed a sample of the department’s audit documentation, findings thereof, and follow up on any issues noted by the department

Timing and extent of audit work and auditor responsibilities

We conducted our field work between June 2013 and February 2014. We substantially completed our audit on May 26, 2014. Our audit was conducted in accordance with the *Auditor General Act* and the standards for assurance engagements set by the Chartered Professional Accountants of Canada.

BACKGROUND

Alberta communities are growing and as a result there is an increase in demand for sand and gravel, which are widely used in the construction industry. The department manages these natural resources for Albertans by overseeing and monitoring operators’ compliance with legislation, and it administers access to public lands for sand and gravel extraction. The operations are to be carried out in an environmentally sustainable manner, which includes reclaiming land disturbed. The department also promotes consideration of the environment and economic values, with a view to maintaining and sustaining these resources.

³ *Report of the Auditor General of Alberta—October 2008*, pages 355-367.

FINDINGS AND RECOMMENDATIONS

We frame our findings in terms of the department's implementation of our 2008 recommendations.

Enforcement of reclamation obligations—repeated

Background

In 2008 we recommended that the department improve its processes for inspecting aggregate holdings on public land and enforcing reclamation requirements.⁴

We repeat this recommendation because the department has not implemented an effective process to carry out its responsibilities to inspect holdings and enforce land reclamation.

RECOMMENDATION 4: ENFORCEMENT OF RECLAMATION OBLIGATIONS—REPEATED

We again recommend that the Department of Environment and Sustainable Resource Development improve its processes for inspecting aggregate holdings on public land and for enforcing reclamation requirements.

Criteria: the standards for our audit

The department should have effective processes for inspecting aggregate holdings on public land and enforcing the land reclamation requirements in accordance with legislation and regulations.

Our audit findings

KEY FINDINGS

- The department developed a land management inspection process. However, the process of risk categorization failed to identify 405 aggregate holdings for inspection.
- The department did not meet its inspection targets and did not follow its process to review the inspection results.
- The department identified an increase in unsatisfactory land reclamations of about 63,000 acres by operators from 2009 to 2013.
- The department has not determined the cost of reclamation to be done by operators and does not have a complete list of operators against whom it has initiated enforcement action.
- The department did not levy penalties against operators who did not comply with reclamation regulations.

The department has taken the following steps to improve land inspection since 2008:

- sought amendments to the *Public Lands Act*, which authorizes remedial orders and penalties for non-compliance
- introduced the *Public Lands Administration Regulation*
- developed and delivered land management inspection training

Inspection of aggregate holdings

Management developed a process for inspecting aggregate holdings based on a risk assessment. While inspections were being carried out, the department identified an additional 405 mandatory inspections that its initial risk assessment had not identified, because of errors in the assessment procedures.

We also found that the department did not meet its inspection target. It completed 252 inspections of 440 mandatory, high, moderate and low risk categorized inspections. Management informed us that this was mainly due to a shortage of resources needed for these inspections.

⁴ *Report of the Auditor General of Alberta—October 2008*, page 360.

Reclamation by aggregate holders

The department's records indicated that operators failed to satisfactorily reclaim 63,000 acres from 2009 to 2013, in addition to 30,000 acres that were already unsatisfactorily reclaimed in 2009. The records also showed that the department cancelled 218,637 acres of aggregate holdings, either because operators were not meeting their contractual obligations or because the operators asked the department to cancel their leases. The increased number of unsatisfactory reclamations and cancelled aggregate holdings with outstanding obligations indicate that there is more work to be done to bring operators into compliance with legislation and regulations.

The department did not estimate the cost of the reclamation to be done by operators that failed to meet their obligations to reclaim the land within the required time. It did not levy penalties against any of the non-complying operators, which the department can impose under legislation. The department was also unable to provide a list of operators against whom it had taken enforcement action. Nor could it provide us with information on how long reclamation obligations were outstanding. In these cases, management informed us that it was pursuing these matters to make operators fulfill their obligations.

Implications and risks if the recommendation is not implemented

Without an effective inspection process, operators responsible for reclamation may not remediate the land disturbance or environmental damage they cause when extracting sand and gravel from public lands. There is a risk that taxpayers may have to bear the cost of remediation.

Quantity of aggregate removed—repeated**Background**

In 2008 we recommended that the department develop systems to verify quantities of aggregate the industry reported it had removed from public lands, so that all revenue due to the Crown can be determined and recorded in the department's financial statements.⁵

We repeat this recommendation because although the department developed a process for verifying the industry's reports of how much aggregate it removes, it did not audit operators who had reported royalty income.

RECOMMENDATION 5: QUANTITY OF AGGREGATE REMOVED—REPEATED

We again recommend that the Department of Environment and Sustainable Resource Development improve its systems to verify quantities of aggregate reported as removed by the industry from public lands so that all revenue due to the Crown can be determined and recorded in the financial statements.

Criteria: the standards for our audit

The department should have processes to verify the industry's reports of quantities of sand and gravel it removes from public land. It should also have processes to ensure royalty revenue due to the Crown is accurately determined and recorded in the department's financial statements.

Our audit findings**KEY FINDING**

The department did not carry out audits of operators that had reported royalty revenue.

⁵ *Report of the Auditor General of Alberta—October 2008*, pages 364-365.

The department made the following improvements in the process it follows to verify the amount of sand and gravel operators extract from public lands:

- developed a risk-based, three-year audit plan for 2012–2015
- developed a royalty audit governance process
- purchased a terrestrial laser scanner to help measure the volume of surface material stockpiled by leaseholders

The department did not audit returns submitted for calendar year 2011 by operators who reported they had removed aggregate and, therefore, owed royalties to the government. The returns submitted totaled \$8.5 million in royalties. A total of 1,160 returns were submitted to the department, which completed 199 desktop audits from the nil returns category. The department's audit effort focused on desktop audits of operators who had submitted returns that reported they did not owe royalties to the province.

Implications and risks if the recommendation is not implemented

Without verifying how much material operators remove from gravel pits, the department cannot plan for future needs, nor can it assure Albertans that they are receiving the royalties that are due for the province's sand and gravel resources extracted.

Information management—implemented

Background

In 2008 we recommended that the department capture and consolidate information throughout the life of the aggregate holding and use it to test compliance with legal obligations.⁶

Our audit findings

The department has developed and implemented an integrated system called Geographic Land Information Management Planning System, which consolidates information from three separate legacy databases. The information pertains to elements of leaseholder information, geographic, inspection, as well as financial information from the inception of the leases. The information generated is used to test operators' compliance with legal obligations.

⁶ *Report of the Auditor General of Alberta—October 2008*, page 366.

