

THE ALBERTA ENERGY REGULATOR

IN THE MATTER OF Application No. 1927118  
to the Alberta Energy Regulator

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AER PROCEEDING

VOLUME 1

REMOTE VIDEO

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December 3, 2020

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1 Proceedings Taken via Remote Video

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3 December 3, 2020 Morning Session

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5 C. Low The Chair

6 B. McNaughtan Hearing Commissioner

7 T. Stock Hearing Commissioner

8

9 M. Lavelle AER Counsel

10

11 T. Wheaton AER Staff

12 T. Turner AER Staff

13 B. Dunkle AER Staff

14

15 R. Shields Applicant

16

17 J. Kanderka Vantage Point Resources Inc.

18 S. Wilke

19 G. Finn

20 K. Dembicki

21

22 A. Porco, CSR(A) Official Court Reporter

23

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24

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26

1 (PROCEEDINGS COMMENCED AT 9:00 AM)

2 Opening Remarks

3 THE CHAIR: Good morning, everyone, and  
4 thank you very much for joining us today.

5 We are online in this electronic hearing of Mr.  
6 Robert Shields' regulatory appeal of the AER's decision  
7 to issue a reclamation certificate to Vantage Point  
8 Resources Inc. for reclamation work that was done in  
9 the southeast quarter of LSD 7, Section 23, Township  
10 27, Range 2, west of 4.

11 My name is Cecilia Low, and I will be chairing this  
12 proceeding. The other Panel Members assigned to this  
13 proceeding are Ms. Bea McNaughtan, and you can see --  
14 well, she's in the upper left of my screen; Dr. Tracey  
15 Stock, who is in the centre across the top on my  
16 screen; and our names should be visible to you on the  
17 video, and we each have the blue AER background. So  
18 hopefully we're easy to find.

19 I would like to acknowledge that, as we are --  
20 those of us who are in Alberta, are conducting this  
21 proceeding from various locations in Alberta, that we  
22 are located in the traditional territories of the  
23 treaties -- of the First Nations of the Treaty 6, 7,  
24 and 8, and of the Métis people of Alberta.

25 So that you are aware -- and you probably are  
26 aware already, but just for the record, AER staff are

1 assisting the Panel in this proceeding. I'll ask them  
2 to identify themselves with a hello and a wave as I say  
3 their name.

4 So first we have Maria Lavelle of the AER Law  
5 Branch assisting us.

6 MS. LAVELLE: Hello. Thank you.

7 THE CHAIR: Then Tara Wheaton and  
8 Tammy Turner of Hearing Services. And you could see  
9 Ms. Turner is our zoom host and will be responsible for  
10 bringing anything up on screen that anyone would like  
11 to have brought up. And the technical staff person  
12 assisting the Panel is Mr. Brad Dunkle.

13 Brad, you can give us a quick wave.

14 MR. DUNKLE: Hello.

15 THE CHAIR: Thank you.

16 So as this is an electronic hearing, I want to  
17 outline a few details before we start. I'll try not to  
18 repeat what may have been covered in your practice  
19 session and in the detailed procedures document that  
20 was sent to the parties in September and again on  
21 November 26th of this year.

22 With the added challenge posed by the electronic  
23 format, what I'm going -- first identifying and then  
24 following who is speaking, I'm going to ask everyone to  
25 first identify themselves by stating your name and then  
26 say what you have to say slowly and clearly for the

1 benefit of the court reporter. And please ensure that  
2 the person who is speaking is in the video frame and  
3 that you not speak over each other. Obviously I  
4 notice, for example, Vantage has -- appears to have at  
5 least two people together in one room.

6 If you do need to speak, whether it's to raise a  
7 concern or for some other reason, please let me know by  
8 stating "Madam Chair". My experience, doing these  
9 online hearings in the past, is that's the best way to  
10 get my attention and with an actual wave, not a Zoom  
11 wave.

12 All participants should remain muted when you're  
13 not speaking. And I can say that we will encounter  
14 fewer difficulties if we all slow everything down a  
15 bit.

16 During the hearing, the Panel may be taking notes,  
17 and so we may look away from the camera from time to  
18 time. It will also likely appear that we are not  
19 looking at you when you are speaking because, in fact,  
20 we are looking at you, but we're looking at you in our  
21 frame on our screens; we're not looking at our cameras.  
22 We also have phones at hand in case we have to have a  
23 discussion between Panel Members or Panel and counsel  
24 or a hearing coordinator. I imagine you may as well.  
25 We'll all do our best to juggle our various electronic  
26 devices in a way that is not disruptive or is the least

1 disruptive. Please note that we are still very much  
2 engaged. And this is probably a good time for us all  
3 to check that our phones are, in fact, on mute.

4 Of course, it's best to be prepared, so we will  
5 just assume that we may have a technical glitch or two  
6 over the course of the proceeding this morning. We  
7 will all have to be patient should issues occur. You  
8 did receive instructions about what to do if you do get  
9 disconnected. If you are an active participant and you  
10 are disconnected, we will pause proceeding as soon as  
11 that fact that you become disconnected comes to our  
12 attention.

13 Just as a reminder, if you do become disconnected --  
14 and this is a reminder for us as well -- that you  
15 should -- first thing you should do is try to reconnect  
16 using the Zoom hearing link that was sent to you by  
17 Hearing Services. If that does not work, please text  
18 Ms. Wheaton at the number provided to you, or you can  
19 email [hearing.services@aer.ca](mailto:hearing.services@aer.ca).

20 If your video freezes or we encounter audio  
21 difficulties, you may be asked to repeat portions of  
22 what you said before the video froze or the audio  
23 difficulty started. Please let me know if, on your  
24 end, video is frozen.

25 During breaks, please be sure to mute your audio  
26 if it isn't already muted because otherwise we will

1 hear what you're saying.

2 If you want to have an exhibit brought up on the  
3 screen for the Panel to be looking at as you are  
4 speaking or asking questions, please ask the zoom host  
5 to bring up the document and clearly state the exhibit  
6 number of what you want brought up and the PDF page  
7 number.

8 And if anyone has any questions about process,  
9 please feel free to send a direct message to  
10 Ms. Wheaton or to Ms. Lavelle for assistance.

11 So as set out in the Panel's notice of scheduling  
12 of hearing of November 19th, 2020, this proceeding is  
13 being webcast and is publicly available for people to  
14 listen through the AER's website.

15 Members of the public accessing that link will be  
16 able to listen to the hearing, but cannot participate.  
17 If you have any concerns about being webcast, please  
18 let Ms. Wheaton or Ms. Lavelle know right away.

19 Please note that the webcast is not an official  
20 transcript of the proceeding. The official transcripts  
21 will be posted to the AER's website the next day, so  
22 tomorrow; that's assuming we're done today.

23 So, Ms. Wheaton, now I'll ask you to please read  
24 out the safety procedures and particulars of this  
25 proceeding, as well as the publication of notice of  
26 hearing.



1           You're muted.

2   MS. WHEATON:                   I am.

3           Although this is an electronic hearing, safety is  
4   still very important to us, so we encourage everyone to  
5   carefully review any potential safety hazards in your  
6   homes or the location from which you are participating  
7   in the hearing.

8           If an alarm sounds at your location or any other  
9   safety issue arises, please let me know, and we will  
10   pause the proceeding; then calmly collect your things  
11   and proceed to the nearest safe exit.

12          In the event of a medical emergency, call 911.  
13   Then if you can alert me as to the situation, we will  
14   pause the proceeding. For any other emergency, please  
15   notify me immediately.

16          Vantage Point Resources Inc. applied for a  
17   reclamation certificate for a wellsite and access road  
18   in Legal Subdivision 7, Section 23, Township 27,  
19   Range 2, west of the 4th meridian, about 30 kilometres  
20   from Oyen, about 40 kilometres from Medicine Hat. The  
21   AER issued the reclamation certificate on September 9,  
22   2019.

23          On September 19, 2019, the AER received a request  
24   for a regulatory appeal under Division 3 of Part 2 of  
25   the Responsible Energy Development Act and Part 3 of  
26   the Alberta Energy Regulator Rules of Practice of the

1 AER's decision to issue a reclamation certificate. The  
2 AER granted the request for the regulatory appeal on  
3 February 6th, 2020. The purpose of the hearing is to  
4 determine whether the AER should confirm, vary,  
5 suspend, or revoke its decision to issue the  
6 reclamation certificate. It summarizes the details of  
7 the giving of notice of this hearing.

8 Madam Chair, I would like to remind participants  
9 that materials filed for the proceeding, the notice of  
10 hearing, and other Panel records and correspondence  
11 were marked as exhibits prior to the hearing. All  
12 parties to the hearing were sent a copy of the list on  
13 November 30th, 2020.

14 THE CHAIR: Thank you, Ms. Wheaton.

15 I would now like to register the participants in  
16 the hearing. We do have a court reporter to prepare  
17 the official transcript of these proceedings, so please  
18 speak clearly so an accurate transcript is obtained.  
19 Please unmute your microphone as you get called to  
20 register and then mute it when you are finished. The  
21 hearing coordinator is also able to mute microphones if  
22 they appear to have been left on accidentally.

23 I note first for the transcript that the Hearing  
24 Panel and parties were advised by AER Enterprise  
25 Reclamation Group that they would not be participating  
26 in the evidentiary or final argument phases of this

1 proceeding.

2 In addition, I note that neither of the parties  
3 filed hearing submissions but did advise the Panel that  
4 they intend to rely on the materials already on the  
5 record.

6 So the first person we'll ask to formally register  
7 for the purposes of the record of this appeal is our  
8 regulatory appeal requester. Mr. Shields, that is you.  
9 You'll need to unmute yourself and then state your name  
10 for the record.

11 MR. SHIELDS: Robert Shields.

12 THE CHAIR: Thank you.

13 And is there anyone else with you today who will  
14 be appearing with you?

15 MR. SHIELDS: No, not right now.

16 THE CHAIR: Is there someone who may be  
17 joining us later?

18 MR. SHIELDS: No.

19 THE CHAIR: Okay. Thank you.

20 And I'll just ask you now: Will you have -- each  
21 party in the schedule is allotted some time to make a  
22 brief opening statement. Do you plan to make an  
23 opening statement today?

24 MR. SHIELDS: Yes, I do.

25 THE CHAIR: Okay. Thank you.

26 Vantage Point. So I believe, Mr. Kanderka, you

1 are the authorized representative for Vantage Point  
2 Resources for the purposes of this proceeding. Is that  
3 correct?

4 MR. KANDERKA: Yes, I am. I'm John Kanderka,  
5 a land consultant for Vantage Point.

6 THE CHAIR: And I see you've got at least  
7 one person in the room with you, so if you could  
8 identify each person who is appearing today, whether  
9 actively participating or not, on behalf of Vantage,  
10 that would be helpful.

11 MR. KANDERKA: I have with me Karen Dembicki,  
12 and she's going to be observing. Representing us also,  
13 separately on Zoom, will be Sara Wilke and also Graeme  
14 Finn.

15 THE CHAIR: And what are Ms. Wilke and  
16 Mr. Finn's roles? Are they here to answer any  
17 questions that you're not able to answer but that fall  
18 in their area of knowledge?

19 MR. KANDERKA: I'll be giving just an opening  
20 statement. Sara was a -- she has been working with the  
21 company for years and knows the site and has been  
22 involved directly, so she'll be speaking more in detail  
23 to the site and what was done. And Mr. Finn will be  
24 there to answer questions regarding forage and other  
25 items.

26 THE CHAIR: And I don't see -- we had been

1 advised that Mr. Guy Jones might be observing today.

2 Is he not observing or joining --

3 MR. KANDERKA: He's --

4 THE CHAIR: -- us later?

5 MR. KANDERKA: No. He -- he decided that he  
6 could not make it -- make the meeting. He had another  
7 appointment, so he won't be attending.

8 THE CHAIR: Okay. Thank you for that.

9 MR. KANDERKA: Yes.

10 THE CHAIR: And I'll ask you the same  
11 question: Are you -- you're planning, then, on making  
12 a brief opening statement as well, I gather?

13 MR. KANDERKA: Yes.

14 THE CHAIR: Okay. Thank you.

15 MR. KANDERKA: And then Sara will follow.

16 THE CHAIR: Thank you.

17 So before we get to the opening statements, I'll  
18 briefly explain the process or the procedures that will  
19 follow as we then go forward in this proceeding.

20 In accordance with Section 21 of the Alberta  
21 Energy Regulator's Rules of Practice, all witnesses  
22 must give evidence, including answering questions from  
23 the other party and the AER under oath or affirmation.  
24 The court reporter will provide that; they'll carry out  
25 the conduct of the oath or the swearing at the time the  
26 witnesses are to give evidence.

1           Witnesses who choose to be sworn should have their  
2 Bible or other sacred object at hand. If you do prefer  
3 to take an oath without a Bible or sacred object -- and  
4 that's an oath as opposed to an affirmation -- it's  
5 known as the "Scottish oath", and you may choose to do  
6 that as well. We do ask that you state clearly for the  
7 record at the time which option you have chosen when  
8 the court reporter asks you.

9           We will be following the order of presentations  
10 set out in the AER Rules of Practice without, of  
11 course, the decision-maker. So first we will be  
12 inviting Mr. Shields to make his brief statement, and  
13 then he will be available for questioning, should they  
14 have any, by Vantage Point, and then by AER staff, and  
15 finally by the Panel. Please note that any questions  
16 must relate directly to materials that have been  
17 previously filed and are on the record and the issues  
18 in the hearing.

19           Next, Vantage will have the opportunity to make  
20 its opening statement and then be available for  
21 questioning, should he have any, by Mr. Shields, then  
22 AER staff, and final ly by the Panel. And the same  
23 comment goes about the purpose of questioning in that  
24 case. It's for clarifying, getting more detail about  
25 matters that are on the record and things relating to  
26 the issues that are already -- have already been

1 identified for the parties.

2 And, finally, we'll give Mr. Shields the  
3 opportunity to present any evidence he may wish to  
4 provide that addresses only anything new that Vantage  
5 has raised or that may have come up through the course  
6 of the questioning. And we refer to this as "rebuttal  
7 evidence".

8 If Mr. Shields has rebuttal evidence, it will be  
9 subject to questioning from Vantage, as well as from  
10 the AER staff and the Panel.

11 Once the opening statements, questioning, and any  
12 rebuttal evidence are complete, we will take a break  
13 before giving both parties the opportunity to make a  
14 brief closing summary statement. And just so you know  
15 and so that it's clear for the record, we will also  
16 take a midmorning break, as indicated in the schedule  
17 that Ms. Wheaton had provided to the parties.

18 Of course, how the schedule actually plays out  
19 this morning will depend on various developments with  
20 the electronic process that can alter our schedule. We  
21 will try and be flexible where necessary. If there is  
22 a matter related to the electronic process that you  
23 would like to raise, please let Ms. Wheaton know or AER  
24 counsel. We want to ensure a fair and efficient  
25 process for everyone.

26 So are there any questions that anyone has about

1 the process that we plan to follow today at this point?

2 Okay. I see some heads shaking. I hear no  
3 questions. So then we are ready to proceed.

4 Mr. Shields, if you are ready, I will ask our  
5 court reporter first to swear -- administer the  
6 Scottish oath or affirm you -- your choice -- and then  
7 you may give your statement.

8 MR. SHIELDS: Very good.

9 ROBERT SHIELDS, Sworn

10 THE CHAIR: Thank you, Mr. Shields. You  
11 can go ahead and give us your opening statement.

12 Opening Remarks by Mr. Shields

13 MR. SHIELDS: Well, thank you very much for  
14 giving me the opportunity to speak to you people today.  
15 I appreciate that.

16 The reason we're having this meeting is many years  
17 ago, an oil company came in and expropriated our  
18 property. They drilled a well up on a -- on a hill.  
19 And at that point in time, they produced oil in it for  
20 several years. I -- I don't know how much oil they  
21 produced. But, anyways, probably back in the early  
22 2000s or late -- you know, 1998, 2000, somewhere in  
23 there, they decided at that point in time that they  
24 needed to reclaim that property because the well didn't  
25 produce enough to make it viable, I guess, to make  
26 money.



1           So at that point in time, this field was seeded  
2 down to Altai wildrye, which we use as a seed field,  
3 and at that point in time, when they reclaimed it,  
4 obviously they didn't seed it down to the -- what we  
5 requested; we requested that it be seeded to Altai  
6 wildrye. And it would only make sense, if you were  
7 going to seed a field, that -- down, that it should be  
8 seeded to what is in the vicinity, not some new variety  
9 which they chose to do.

10           So as time went on, they -- there's really not  
11 much happened with the field for quite a few years, and  
12 maybe six -- five, six, seven years ago -- I don't know  
13 exactly the time -- they determined that there was some  
14 kind of a pollution on -- on-site. So they came in,  
15 dug up that site again, and they bought some topsoil  
16 and some fill soil from me and put it on to where the  
17 contaminated soil would be re -- was removed.

18           So then after that was done, then they -- I'm  
19 going to assume -- well, they got some more topsoil  
20 from me and put it on there, and at that point in time,  
21 they seeded it down, and I -- I don't even know who the  
22 people were that did the job, but there was -- a young  
23 lady was working in the vicinity. I don't know what  
24 her name was at that time. And she came out, and she  
25 says, Well, we've got it reclaimed, and we're ready to  
26 proceed with the reclamation certificate. And I

1 pointed out to her at that time again -- I said, You  
2 guys have seeded the wrong grass again. It was -- it's  
3 never been seeded up (AUDIO FEED LOST) needs to -- this  
4 grass needs to be taken out, and you need to seed the  
5 proper grass. That -- this is maybe four or five years  
6 ago, which -- at which time it was -- that was not  
7 completed. They didn't -- they didn't do that.

8 So then, oh, probably a couple years ago, they  
9 requested a -- from the government, I'm assuming, this  
10 reclamation certificate, which they got. And when I --  
11 when I read that information, I said, Well, here we go  
12 again. It was -- my request of seeding it down to the  
13 proper grass was not done, which is really no surprise,  
14 dealing with oil companies, as we have over the years.

15 So at that point in time, I objected to the permit  
16 that you guys had given or whoever had issued it  
17 because I believe that that should be seeded down to  
18 the proper grass.

19 And so that's my whole objection to -- if they  
20 would've seeded it down properly, there would be no  
21 objection to the reclamation certificate, except that  
22 they haven't even finished the reclamation 'cause they  
23 still have posts out in the middle of one of my  
24 sloughs.

25 So that's the long and the short of it. I don't  
26 know that it should take a big, long procedure to

1 figure out that you just don't go in the -- you don't  
2 take somebody's property and then seed whatever's  
3 convenient for you to seed and tell them that they're  
4 going to like it 'cause -- guess what -- we don't like  
5 it. We're not happy with the job that was done. If  
6 anybody did a job like that for any of you people, you  
7 would not be satisfied, and I'm not satisfied. So  
8 that's why I'm appealing to you, and I'm hoping that  
9 some common sense will prevail here today.

10 That would be the end of my opening statement.  
11 Thank you for your time.

12 THE CHAIR: Thank you, Mr. Shields.

13 So, Mr. Kanderka, does Vantage have any questions  
14 or clarification or more detail from Mr. Shields?

15 You're muted, Mr. Kanderka. It's always an  
16 ongoing issue.

17 MR. KANDERKA: Yeah, it is.

18 I'm going to -- I'm going to refer and ask Sara or  
19 Graeme if they have any questions, 'cause it's going to  
20 be more on -- Mr. Shields' comments were basically  
21 based on the -- the grass seed itself and the -- how it  
22 was laid down and why we use crested wheat and other  
23 items. So if I could ask Sara and Graeme to respond if  
24 they need to.

25 THE CHAIR: So just to be clear, we're not  
26 looking for a response at this point from Vantage.

1 MR. KANDERKA: Yeah.

2 THE CHAIR: This is your --

3 MR. KANDERKA: Yeah, just questions.

4 THE CHAIR: -- opportunity to ask

5 questions. Okay.

6 MR. KANDERKA: Yeah. I'm just going --

7 THE COURT REPORTER: Sir, I can't hear you. You're

8 on mute again.

9 MR. KANDERKA: Okay. Sara -- yeah. Sara, do

10 you have any questions for Mr. ...

11 MS. WILKE: I have no questions for his

12 opening statement.

13 MR. KANDERKA: Okay. Graeme?

14 THE CHAIR: So, sorry, let me just be

15 clear. This is Vantage's opportunity --

16 MR. KANDERKA: Yeah.

17 THE CHAIR: -- to ask any questions you

18 have of -- we're not circling back later. So ...

19 Okay.

20 MR. KANDERKA: Yeah. Graeme, do you have

21 anything?

22 You're on mute.

23 Mr. Finn Cross-examines Mr. Shields

24 Q MR. FINN: Yeah. There.

25 So thank you for this. I've never done anything

26 like this, but I -- and think I'm qualified to work --

1 work -- to work -- to appear today.

2 I started looking into this Altai wildrye grass.  
3 I'm a cattle producer, and also we have a company -- a  
4 forage seed supply company as well. So I've been in  
5 the industry for about 20 years. And I could not find  
6 this rye grass available here in Canada --

7 THE CHAIR: So, Mr. Finn -- sorry. Sorry.  
8 My apologies for interrupting. But this is the point  
9 where Vantage -- so you on behalf of Vantage -- gets to  
10 ask questions to Mr. Shields. Vantage is going to have  
11 an opportunity to --

12 MR. FINN: Right. I was leading --

13 THE CHAIR: -- make its statement later.

14 Q MR. FINN: I was leading up to that.

15 My question is that Mr. Shields says that he grows  
16 it and harvests it. Why didn't he sell the seed to the  
17 reclamation company in the first place? Because right  
18 now I can't find any available here in North America  
19 when the job was being done in the first place.

20 THE CHAIR: Mr. Shields?

21 A Well, this seed was readily available back in the '90s.  
22 This seed was readily available up until probably 2010  
23 or maybe later because I have another lease site down  
24 on Section 14 -- the southwest quarter of 14, which is  
25 about a mile and a half south and west of this disputed  
26 lease site.

1           What was the name of the oil company there? I  
2           seeded it for them. It was called "Zapata". And at  
3           that point in time, they had another duster down there,  
4           and they wanted it seeded back to grass. And I  
5           specifically requested Altai wildrye grass. I would  
6           say around 2010, 2012, somewhere in there.

7           And so they said, Well, Mr. Shields, can you find  
8           us some grass seed, and would you seed that for us?  
9           And I said, Absolutely I will do that. That's what I  
10          do. I'm a -- I do custom seeding. I've seeded I don't  
11          know how many thousands of acres of grass in the Oyen  
12          and district for the last -- since about 1995, so  
13          probably in excess of -- well, quite a bit.

14          So I said, Absolutely I will seed that for you.  
15          So I went to the UFA at that point in time, and I  
16          bought a bag of grass seed. This is around 2010. And  
17          I seeded that site, and the site is growing the grass  
18          quite fine.

19          So the reason that I was not -- that it wasn't  
20          seeded properly to begin with is because the oil  
21          companies chose to use an outside consultant, and they  
22          chose to use somebody else to seed the grass. So that  
23          is why it wasn't done properly. I -- I don't know.  
24          Is -- is there any -- do you have any more questions?

25          Mr. Kanderka Cross-examines Mr. Shields

26          Q       MR. KANDERKA:                    Mr. Shields, this is John

1 Kanderka. So at the time they bought topsoil from you  
2 and -- to do the second reclamation to remove the  
3 contaminants there and reseeded it the second time, did  
4 you make an offer to them to reseed it with Altai rye?

5 A At that point in time, I believe that was Penn West,  
6 and they did not -- I did not make that offer, but they  
7 did not make a request. But the problem is -- is that  
8 there was a historical problem on the lease site. The  
9 lease site had been seeded in the '90s to the wrong  
10 type of grass. So when Penn West did their other  
11 reclamation job, when they cleaned up the site -- and  
12 they -- they didn't destroy the whole site. They just  
13 destroyed the piece of ground where they had to take  
14 out the -- they dug a big hole. I don't know how many  
15 yards -- you can probably go back; you probably have  
16 the files -- how many yards of material was removed and  
17 how many was replaced. But they didn't destroy the  
18 whole site at that time. They just destroyed a portion  
19 of the site.

20 But even at that time, there was no request made  
21 to me to get the -- the proper grass and seed it.  
22 Is -- is -- did that answer your question?

23 Q Yeah. Yes, it did. Thank you.

24 A Thank you.

25 THE CHAIR: Any more questions from  
26 Vantage, Mr. Kanderka?

1 MR. KANDERKA: Sara, Graeme, do you have  
2 anything further?

3 No, I don't think so.

4 THE CHAIR: All right. Thank you.

5 So then I will ask Ms. Lavelle to put forward the  
6 questions from AER staff.

7 MS. LAVELLE: Thank you, Madam Chair.

8 Alberta Energy Regulator Staff Questions Mr. Shields

9 Q MS. LAVELLE: So for the record, it's Maria  
10 Lavelle, L-A-V-E-L-L-E. I'm counsel to the AER and, in  
11 this instance, counsel to the Panel.

12 So I don't have that many questions, but I do have  
13 a few, so I'll get started.

14 So I'd like to turn to Exhibit 3.02, page 4, if I  
15 can.

16 THE CHAIR: You can take a minute to get  
17 that up on the screen.

18 MS. LAVELLE: Okay. Great. Thank you.

19 Q MS. LAVELLE: So, Mr. Shields, in  
20 particular, I want to draw your attention to 4.2.2 that  
21 says "Interview Details". Can you see that?

22 THE CHAIR: Mr. Shields, can you see what  
23 Ms. Lavelle is referring to there on your screen?

24 A Yes. Yeah, I'm with you.

25 THE CHAIR: Okay. Great.

26 Q MS. LAVELLE: Okay. Thanks.



1           So it says -- if you go to the far right of 4.2.2  
2           under "Other Notes and Comments", it says: (as read)  
3           Spoke to Robert [which is yourself], who  
4           indicated he was going to look at the site,  
5           as he wasn't sure where it was.

6           Now, this -- just to back up a minute. This is from  
7           the reclamation application, and this is the "Interview  
8           Details", and the date there is 09/06/2018. And then  
9           in the comments next to the other notes, it says:  
10          (as read)

11          No concerns. Work completed. Acceptable.  
12          So I would like to ask you if at -- did you communicate  
13          any concerns to Vantage at the time of this interview,  
14          and, if so, what were they and how did you communicate  
15          them?

16        A    At that point in time, I believe when I received that  
17            phone call, I was -- I was on another project, and so I  
18            didn't exactly know the site that he was talking about.  
19            We probably have 40-some sites on our property, and  
20            there's problems on probably every site that we have.  
21            And so to say the least, we're somewhat aggravated with  
22            the government and with the oil companies.

23            But at that point in time, when I was asked that  
24            question, I said, I will check with the -- the guys  
25            that we -- that work over there, the fieldmen. And I  
26            said, I want them to show me the site, and we'll --

1 we'll proceed from there. I believe that's what  
2 happened.

3 And so because I didn't get back to them in a  
4 timely manner, they sent this form in with, actually,  
5 some incorrect information on it.

6 Q Okay. Thank you.

7 Just to follow up there. So you said you didn't  
8 get back to them in a timely manner and they sent the  
9 form in, but did you get back to them at some point  
10 with regard to your concerns after this interview?

11 A I believe I talked -- I believe I talked to -- I was  
12 over there one day, and I talked to -- not Barry. Oh,  
13 what's the other guy? Grant Kosmiski [phonetic]. He's  
14 a -- he also works there. And -- and when I saw the  
15 site, I said, Well -- but, of course, that's not his  
16 prerogative. He's not the landman; right? But, yeah,  
17 at that point in time, I said, Well, this isn't going  
18 to work. But at that point in time, I guess -- by the  
19 time I'd got over there and talked to them, they'd  
20 already sent in this information that said that we were  
21 happy with the site. But, as you can see, we've never  
22 been happy with that site.

23 Q Okay.

24 A And I guess the reason -- and -- and you're going to  
25 have a question, and I will -- I'll -- I'll answer your  
26 question. A lot of times -- like, even -- even today,

1 as we're sitting here, I'm going to assume that  
2 everybody on the Panel and everybody that's working for  
3 the oil company is getting paid for their appearance  
4 here today except one person. That would be me. I --  
5 I will not be getting paid for this appearance and  
6 this. So I'm just donating my time to this project,  
7 which is fine because I have an interest in it, but I  
8 cannot take time out of my day to run around for the  
9 oil company and -- you know, whenever they call, they  
10 need you -- they want you to come over or do this or do  
11 that. It's impossible for me to do that.

12 Now, at some point in time, if they said,  
13 Mr. Shields, if you will come over, we'll pay you \$250  
14 an hour as a consultant to come and look at this  
15 property, I -- I could probably make the time. But  
16 just -- just to come and do their bid and call, it's  
17 impossible.

18 And just -- let's just leave it at that.

19 Q Okay. Thank you, Mr. Shields. That's actually a good  
20 segue into my second question for you.

21 So talking about, you know, the time when  
22 companies are preparing their reclamation application  
23 and they're coming to consult with landowners to ensure  
24 their concerns are addressed. So I'd actually like you  
25 to think not specifically about this particular  
26 instance but just in general in the future how you see

1           that consultation process could be improved to ensure  
2           that your concerns are addressed prior to the company  
3           submitting a reclamation application.

4    A    Okay.  And what is the question?

5    Q    So how -- how -- so you -- you know, you've had one  
6           experience and probably others of --

7    A    We've had many experiences.

8    Q    -- the reclamation application and how they consult  
9           with you prior to submitting the application.  So --

10   A    Yeah.

11   Q    -- in your view, how could that process of consultation  
12           be improved in the future?

13   A    Well, I think if you look back at how Zapata did their  
14           reclamation, they gave me the opportunity to have a  
15           hands-on approach to the reclamation of the site, and  
16           they said, We would be interested -- they -- they hired  
17           me to do the fencing.  There was -- some dirt had to be  
18           moved.  They hired me to do that.  They said, What kind  
19           of grass would you like?  And I requested this Altai  
20           wildrye, which they objected to.  They said,  
21           Mr. Shields, if we plant Altai wildrye out there -- it  
22           was on a piece of native prairie.  They said, The  
23           special areas actually doesn't like us to plant Altai  
24           wildrye out on the prairie.  And I said, Well, it's  
25           deeded prairie; it's my property; I want Altai wildrye.  
26           And the reason being is this:  I want to leave it Altai

1 wildrye because the Altai wildrye, if you have any  
2 pictures of it, it can grow 3, 4 feet high and big,  
3 wide leaves, and it leaves all kinds of cover out there  
4 for the native -- well, I guess the sharp-tailed grouse  
5 especially in that area; gives them a place where they  
6 can get away from the hawks. And so I'm interested in  
7 the Altai wildrye for one of those -- that's the main  
8 reason that I wanted Altai wildrye in the Zapata lease  
9 site, is because I just wanted to leave a spot there  
10 for -- for the birds.

11 So -- and they said, Well, if that's your reason,  
12 then we're good with that. If you would go ahead and  
13 do that work for us, we'd be good with that. So we did  
14 it. And I'm happy with the site, actually.

15 But -- so I don't -- I don't know if that answers  
16 your question or the answer's too long, but --

17 Q That's fine.

18 A -- you know, just a little -- just a little bit of  
19 respect for the people that are farming the property  
20 would go a long ways.

21 Q Thank you.

22 So I have another question for you, Mr. Shields,  
23 and you spoke a little bit about this already in your  
24 opening statement. So you stated that you had seeded  
25 the 80 acres surrounding the well sites in 1993 with  
26 Altai wildrye. Can you explain the usage of those

1 surrounding fields from 1994 to the present?

2 A Well, we seeded it for the purpose of growing seed on  
3 it, and so from that time 'til the present, that's the  
4 reason that those fields are seeded to grass, to that  
5 particular type of grass. There's just one field.

6 Now, the adjacent field to the east is seeded to  
7 alfalfa right now at this present time and quite a bit  
8 of kochia that's blown off of Vantage Point's lease  
9 sites that they failed to properly take care of in the  
10 summertime.

11 Q All right. Can you walk me a little bit -- so I'm  
12 specifically interested -- I mean, in the -- in the one  
13 that you've seeded to the Altai wildrye.

14 A Yes.

15 Q And so can you walk me a little bit -- a little bit  
16 more, step by step, what you -- what you've done with  
17 that field for each year. I mean, what's happened with  
18 that field?

19 A No, I could not, no. When I seeded the field, that was  
20 the purpose of it. So --

21 Q And have you used it, then, as a seed field each year  
22 since that time, or --

23 A No.

24 Q -- can you -- can you --

25 A Seldom. Seldom has it been used as a seed field.

26 Q And why is that?

1 A We just haven't got around to combining it, but we have  
2 in the past, and we will in the future.

3 Q Okay.

4 A That's our plan.

5 Q All right. Thank you.

6 So I'd like to, then, pull up Exhibit 3.02,  
7 page 158.

8 Okay. It's on the screen. I think you can see  
9 it. And, specifically, I would like to look at 5.3,  
10 which is the vegetation assessment. So if we can  
11 scroll down there.

12 So if we're looking at the -- at the summary, it  
13 says that: (as read)

14 The vegetation growth on-site was comparable  
15 to off-site and met the criteria. [And then  
16 it says] Vegetation on and off-site was  
17 dominated by crested wheatgrass and smooth  
18 brome grass. Weed growth was -- on-site was  
19 comparable off-site and consisted of  
20 dandelions, goat's beard, and Canada thistle.  
21 Vegetation parameters measured on-site were  
22 comparable to off-site and meet criteria.

23 So this is from the detailed site assessment, and this  
24 is a summary, and then there's some more detail further  
25 on into the site assessment.

26 But I just wanted to ask you whether you agree

1 with that assessment. Is the vegetation growth on-site  
2 and the species there comparable both on-site and  
3 off-site?

4 A Absolutely not. There's no comparison at all.

5 Q Can you just elaborate on that a bit more, please.

6 A Well, off-site, I would say there's -- I mean, I'm not  
7 out in the middle of the field right now, but if you  
8 did a count, boy -- well, off-site, there's -- I -- I  
9 don't know how to answer that question properly.  
10 On-site -- you're talking about on the site of the  
11 reclamation where --

12 Q That's correct.

13 A -- Penn West did their reclamation? Is that the --  
14 that's the question; right? On the --

15 Q On-site -- yeah. Basically what I am asking you is:  
16 So the detailed site assessment concluded, you know, in  
17 a summary, that the vegetation that was on the site  
18 that was subject to the reclamation was comparable to  
19 the vegetation that was in the adjacent field. And so  
20 that's the off-site area. And so I'm just asking you  
21 whether you agree with that assessment, and -- and  
22 you've said you don't, but I just want to try and  
23 understand a little bit better, you know, where you see  
24 the differences.

25 A Okay. This would be the difference: There is maybe  
26 one half of 1 percent on-site -- Altai wildrye on the



1 site. Off-site there would be 95 percent Altai  
2 wildrye. Would that -- would that be an accurate --  
3 would -- would you give me that -- it would be like if  
4 you were driving down the Number 9 highway and in the  
5 ditch there's grass and on the highway there's no  
6 grass. So all I can tell you is on-site there is no  
7 Altai wildrye grass. On my field, it would be  
8 95 percent, say. Would that -- would that -- would  
9 that give you a -- a picture -- a word picture that you  
10 could understand?

11 Q Yeah. No. That's -- that's sort of what I'm trying to  
12 understand is --

13 A Okay.

14 Q -- your assessment, so thank you.

15 A Okay.

16 Q And so I have a last question to ask you, and I'm --  
17 just would like to turn to Exhibit 2.01, page 4.

18 So this is your request for regulatory appeal.  
19 This should not come as a surprise to you to see it  
20 here. And so you've said: What outcome are you  
21 seeking? You want to seed the area with Altai rye  
22 grass -- Altai wildrye grass to conform to the rest of  
23 the field.

24 And I'd like to ask you: Apart from having  
25 Vantage reseed the field, as you've described and as  
26 you mentioned in your opening statement, are there any

1 other solutions that you see that could address your  
2 concerns in relation to this site?

3 A Well, I'm going to -- I'm going to assume that --  
4 I'll -- I'll -- I'll give it to you this way: I'm  
5 going to assume that you live in a house and you have a  
6 kitchen. All of you do. And I'm going to assume that  
7 at some point in time that you hired a carpenter to  
8 come in and fix your kitchen. And when he was done  
9 fixing the kitchen, he turned it into a bathroom.  
10 Would you be satisfied with that? I would say no.

11 So at this point in time, we've had this oil  
12 company that has expropriated our property. We did not  
13 invite them to come in. We did not ask them to put the  
14 site where they put it. They determined that on their  
15 own. When they were finished, we requested that they  
16 seed it to Altai wildrye grass, which was readily  
17 available at the time, the initial reseeding of that.  
18 They chose not to reseed it to Altai wildrye for God  
19 knows what reason. If they would have done that, if  
20 they would have spent 50 bucks on a bag of Altai  
21 wildrye when they reseeded it, we wouldn't be wasting  
22 all your time here today. They would have the  
23 reclamation certificate. All God's children would be  
24 happy. But they chose not to do that.

25 So later on, they did another job on there. I  
26 talked to the lady that was out there again. I asked

1           them to reseed it to Altai wildrye, and they chose  
2           again not to do that because it was not convenient for  
3           them. So I don't know what to tell ya. I mean, how  
4           could you be that irresponsible with somebody's  
5           property and -- and do that? But that's what they  
6           chose to do.

7                        So what would you suggest that we do here? I  
8           mean, I'm open to suggestion, but I'm pretty firm on  
9           what I want. I don't -- I don't think what I'm asking  
10          is unreasonable here. I --

11   Q    All right.

12   A    I don't think what I'm asking is unreasonable at all.

13   Q    Okay. Thank you, Mr. Shields.

14   A    I mean --

15   Q    Oh, sorry.

16   A    It's okay.

17   Q    I didn't mean to cut you off. If you wanted to add  
18          anything, go ahead. I just -- I mean, I'm trying to --

19   A    I don't know. I don't -- I don't -- I mean, I  
20          appreciate you guys taking your time and listening to  
21          me rant on here, but I don't know what to tell ya. I  
22          mean, it has been -- the job has not been done  
23          properly. And the problem is this is not the only  
24          lease site on this field. There's another one just  
25          kitty-corner, another 150 yards to the northwest. Same  
26          thing. So I don't know what to tell ya.

1 Q All right.

2 A And -- and the lease roads going in and out all over  
3 the place. So I -- I -- I mean, I'm open to  
4 suggestion, but, I mean, I'd like to see it done --  
5 I'd -- I'd like to see the -- the done -- you know, the  
6 job done properly. If you hired somebody to fix your  
7 kitchen, that's what you want them to do. You want  
8 them to put in a stove and a fridge and do it properly.  
9 You don't want a -- a bathtub and a shower. And I -- I  
10 feel I've got a bathtub and a shower here instead of a  
11 stove and a fridge on my property, if you can  
12 understand what I'm telling you.

13 Q Yeah. Thank you, Mr. Shields.

14 MS. LAVELLE: Madam Chair, those are my  
15 questions for Mr. Shields.

16 THE CHAIR: Thank you, Ms. Lavelle.

17 Ms. McNaughtan, do you have any questions for  
18 Mr. Shields? You're muted.

19 MS. MCNAUGHTAN: Yeah. Thank you, Madam Chair.

20 Alberta Energy Regulator Panel Questions Mr. Shields

21 Q MS. MCNAUGHTAN: Good morning, Mr. Shields.

22 A Good morning.

23 Q In your recent comment to Ms. Lavelle, you stated that  
24 you spoke to the reclamation company both at the  
25 initial reclamation and at the completion of  
26 remediation about the Altai wildrye, and the second

1 remediation was six or seven or eight years ago. Have  
2 you spoken to or contacted Vantage or any of the  
3 companies that may have had control of the site  
4 regarding the Altai wildrye in the subsequent years  
5 since the last reclamation?

6 A Could you be a little more specific, please. I want to  
7 give you the correct answer.

8 Q Did you try to contact or did you get in contact with  
9 the companies once you saw that the seeded -- reclaimed  
10 seeded site was not in Altai wildrye after -- in the  
11 last six or seven years?

12 A Yes. I -- I believe four or five years ago or six  
13 years ago. At some point in time when they did the  
14 second reclamation on the property, they were --  
15 they -- they came in and they took out a bunch of  
16 subsoil and some topsoil -- not on the whole site, just  
17 in a specific area of the site. And then they -- they  
18 did their work, and one of the girls came out and said,  
19 Are you happy with this site? I said, Well, there's  
20 grass on it, but it's the wrong kind of grass.

21 So I -- I think the answer is yes, but I'm not  
22 sure. What -- like, I think -- in the last five years,  
23 yes, we have complained to -- this would be before  
24 Vantage Point took this property over. So that would  
25 be Penn West, I believe. And, yes, we talked to them  
26 about this.

1           There's actually other ongoing things that have  
2 never been cleared up from the Penn West fiasco that  
3 I'm sure Vantage Point will never deal with, but,  
4 anyways, that's another hearing for another day, I'm  
5 sure.

6 Q Thank you.

7 A I hope I answered your question properly.

8 Q In the years between that -- that conversation on the  
9 site when the soil was replaced and two or three years  
10 ago when the reclamation certificate was issued, were  
11 you in touch with the oil companies about the Altai  
12 wildrye?

13 A Yes. Yes.

14 Q Okay. Thank you.

15 A I believe if you could ask Sara Wilke that question,  
16 with that other lady, she has that information that  
17 they -- they -- when I requested it to be seeded to  
18 Altai wildrye, they were having trouble finding seed at  
19 that point in time. I think Sara could answer that  
20 question for you.

21 Q Thank you. No other questions. Thank you.

22 A Thank you.

23 THE CHAIR:                           Dr. Stock?

24 DR. STOCK:                            Thank you, Madam Chair.

25 Q DR. STOCK:                         And hello, Mr. Shields.

26 A Good morning.

1 Q I'm curious about the Altai wildrye being used as seed,  
2 as you've described.

3 A Yes.

4 Q You've said clearly that it was available at the time  
5 of the initial effort to reclaim and that a request for  
6 use of your seed as a source was not made later.

7 A That's correct.

8 Q Looking at photographs, if we could go to them,  
9 Document 3.02, page 187.

10 There we go. Photograph 5, looking west from  
11 wellsite centre. These were taken in 2018, I believe.  
12 And Photo 6, I can see that -- the field. Is the  
13 wild -- I'm looking at 405, and I see clumps of a  
14 taller grass. Is that Altai wildrye that I'm looking  
15 at there?

16 A Yes.

17 Q Okay.

18 A The tallest grass you'll see out there is Altai  
19 wildrye.

20 Q Okay. That's -- that's interesting.

21 A And if you'll notice, in those clumps, it's a perfect  
22 area for wildlife habitat. We have all kinds of mule  
23 deer and white-tailed deer. They'll go out there  
24 during hunting season, and they'll lay down in that  
25 grass, and it makes it extremely difficult for the  
26 hunters to get them there, especially if it snows a

1 little bit. They can't get out into there at all. And  
2 the birds -- the birds like to get in those clumps, and  
3 they nest down in there, and it's the perfect habitat  
4 for them.

5 Q Okay. So just in helping me understand Altai wildrye  
6 being used for seed as a seed crop -- that's what I'm  
7 hearing.

8 DR. STOCK: In the same Document 3.02,  
9 could we go to page 249. This is this -- this --  
10 actually, could we back up to 248. Sorry.

11 Q DR. STOCK: This is the USDA, department  
12 of agriculture, providing a plant guide on Altai  
13 wildrye. In the photograph, we can see on the left  
14 there, Altai wildrye is very tall. I can see that.

15 DR. STOCK: If we go to the next page.  
16 About mid-page on the right, there's another  
17 photograph. There we go.

18 Q DR. STOCK: This is what the USDA document  
19 is showing me Altai wildrye looks like when it's being  
20 used for seed production, and I don't see that in the  
21 previous images of the field that we're talking about.  
22 I'm just -- would appreciate your characterization of  
23 your seed production. Why doesn't it look like this  
24 picture with rows, which I believe in the text it says  
25 it's done this way to -- just above the picture --  
26 second-last sentence above the picture: (as read)



1           To facilitate seed production and weed  
2           control, it is desirable to plant in spaced  
3           rows instead of a solid stand.

4           I'm seeing solid stands in the images of the actual  
5           wellsite reclamation site. I'm not seeing this seed  
6           row -- or, rather, row production, and I'm -- I just  
7           would appreciate some clarification as to why --

8    A    Well, what --

9    Q    -- that is.

10   A    Yeah. That's a very good question. What you're seeing  
11        there -- that looks like maybe 48-inch rows. Maybe --  
12        maybe bigger than that. At the point in time when we  
13        seeded this, our drill was not set up for 48-inch rows.  
14        It was set up for 10-inch rows.

15                So maybe when you're seeding in the 10-inch -- or  
16        in the 48-inch rows, you would maybe seed -- oh, you  
17        could probably get down to 3 pounds an acre maybe,  
18        seeding Altai wildrye in those big, wide rows. When  
19        you would seed it in a 10-inch row like we did, we  
20        would probably put down about 10 pounds of seed, and  
21        then it would give you a little bit thicker stand.

22                Now , some of the issues that we've had with these  
23        big, wide rows is we've had some issues trying to  
24        control the weeds in between the rows.

25   Q    Yeah.

26   A    And so when we seeded it, we determined that for us,

1 out in the special areas -- now, this could be -- do  
2 you have any idea where this particular picture is  
3 taken and what the annual rainfall is there?

4 Q Under the picture, it says a field in North Dakota --

5 A Yeah.

6 Q -- Bismark.

7 A So, I mean, even in -- even in Alberta, it depends a  
8 lot on your rainfall, how -- how thick you want to seed  
9 this stuff. If you get lots of rainfall -- maybe  
10 you're okay here. But where we're at, we can get  
11 several years of where -- not a lot of rain out in the  
12 special areas. So we have a tendency to seed it just a  
13 little bit thicker so that if there's some erosion  
14 problems, you won't have them. If you got -- but  
15 this -- at this point in time, what you're seeing here  
16 is this -- it looks definitely like it's been combined,  
17 where my field hasn't been combined for quite a few  
18 years.

19 Q Okay. So when I look at the Photograph 5 and 6 that I  
20 was looking at just a moment ago with you on page 187  
21 of Exhibit 3.02, I'm not seeing these rows. I'm seeing  
22 what appears to me to be a field of wild grass; I don't  
23 see any rows at all. And I'm hearing you tell me that  
24 that is not -- that I shouldn't be expecting to see  
25 rows because you set them out very narrowly --

26 A Well, I think --

1 Q -- and I don't even see narrow rows.

2 A I -- I think if this -- is this picture from the middle  
3 of the lease site, shooting west?

4 Q Yes.

5 A And is that maybe a fence line over there about  
6 150 yards?

7 Q It might be, yeah.

8 A Okay. So what you're actually seeing there -- and you  
9 will not see rows this way because this field was  
10 seeded north and south, and you're looking across  
11 straight to the west. Now, if you were on the north  
12 side, you may see some rows, but it's an -- it's an  
13 older field. It was seeded in, wow, the early '90s.  
14 So there -- it's been -- it's grown in, and the rows  
15 are going to be -- you're not going to see much for  
16 rows anymore, anyways, 'cause there's been seed falloff  
17 and -- and grow on the ground, and so it's thickened  
18 up. But I -- I think you could still see rows out  
19 there if we went out there and looked north and south.  
20 Probably won't see any rows --

21 Q (INDISCERNIBLE - OVERLAPPING SPEAKERS)

22 A Probably won't see any rows right now 'cause it's all  
23 full of snow.

24 Q Okay. But if I were looking at fields adjacent, I  
25 would see rows of Altai wildrye for seed production; is  
26 that correct?

1 A Say -- answer that -- please, the question again.

2 Q Oh. If I were looking at adjacent lands to the  
3 wellsite, reclaimed site, I would see wild -- Altai  
4 wildrye in rows?

5 A I believe that you would.

6 Q Okay. Do you believe -- you haven't been on the site  
7 recently to know what's -- whether the rows are evident  
8 or not or whether the seed production is ongoing?

9 A We haven't produced seed on that field for several  
10 years.

11 Q Okay.

12 A So I believe that you will see rows out there, but I --  
13 I don't know what this has to do -- the question I  
14 would have to ask you is: What has that got to do with  
15 the absence of Altai wildrye grass on my lease site?

16 I'm -- what I -- what I'm actually trying to  
17 accomplish here today, sir, is get some Altai wildrye  
18 grass seeded on my lease site. I -- I can guarantee if  
19 we could get some pictures of the lease site, you will  
20 see none. This --

21 Q Photograph Number 5 is showing me clumps of Altai  
22 wildrye on the lease site looking west from well  
23 centre? That's Photograph 5.

24 A I don't see that.

25 Q The clumps of Altai wildrye that you've talked to me  
26 about, you said provided habitat for the birds.

- 1 A Right there on -- that's photo -- that's the one we're  
2 look at right now?
- 3 Q Number 5, yeah. That's from well centre, looking west?
- 4 A Yeah. That's out across my field.
- 5 THE CHAIR: Yeah. Maybe, Zoom Host, you  
6 could centre that photo on the screen.
- 7 A There's no Altai wildrye on the lease site. That's the  
8 problem here.
- 9 Q DR. STOCK: I believe this is part of the  
10 lease site.
- 11 A I don't think so.
- 12 Q It's centred on the wellsite. If you go up to  
13 Photograph Number 1 on page 185. That's the well  
14 centre, and the photography series of --
- 15 A Okay. If you --
- 16 Q -- Photo Number 2 is looking north from that centre.
- 17 A Okay. If you just look at -- look right there at  
18 that -- whatever that is, if you look to the left, you  
19 see those seed pods there?
- 20 Q Yeah.
- 21 A Do you know what those are?
- 22 Q What are those, sir?
- 23 A Those are crested wheat. Could you ask your seed  
24 expert, Mr. Kanderka, or whatever his name is? He will  
25 confirm that.
- 26 Q Looking from that spot to the north is Picture

1           Number 2, and from that spot, looking east is Photo  
2           Number 3, so the --

3           DR. STOCK:                            If we could just --

4    A    Okay.  Could we get it up?

5           DR. STOCK:                            -- scroll to Photo 2.

6    A    Could we get it up?

7    Q    DR. STOCK:                            Photo 2, that's looking north  
8           from that well centre; photo 3 is looking east --

9    A    Okay.

10   Q    -- Photo 4 is looking south; and Photo 5, where we saw  
11          the Altai wildrye, is looking west from that well  
12          centre.

13                So there does appear to be some Altai wildrye on  
14          the site; is that correct?

15   A    I think in my statement, I said there would be some  
16          there but very little.

17   Q    Okay.

18   A    It's mostly -- it's mostly Russian wildrye and -- well,  
19          there'll be some crested wheat out there too and smooth  
20          brome.  There will be very little Altai wildrye out  
21          there, sir.

22   Q    Okay.

23                DR. STOCK:                            Can I just see Photo 5 on the  
24          screen, please.

25   Q    DR. STOCK:                            So those clumps of Altai  
26          wildrye are -- or those clumps are Altai wildrye, in

1 your view?

2 A I would say that -- well, I'm going to say that they  
3 are. I mean, if we could walk out there, we could sure  
4 have a good look at it.

5 Q Okay. Well, thank you very much. I appreciate it.

6 A I mean, I could -- if -- if you guys want to -- if you  
7 guys want to postpone your decision until the spring  
8 when we can go out there and walk around, I mean, I'd  
9 be well -- I mean, I'd be good with that, if -- if --  
10 if you want to come out.

11 Q Thank you for your responses, sir. I have no further  
12 questions.

13 THE CHAIR: Thank you, Dr. Stock.

14 Q THE CHAIR: So, Mr. Shields, I do have a  
15 few questions for you as well.

16 Sorry. I'm just going through. I don't want -- I  
17 don't want to repeat questions that you've already been  
18 asked and answered, so I'm just sort of trying to do a  
19 quick edit as I go here.

20 So how would you describe -- so you've talked  
21 about the wellsite surrounding lands; you haven't been  
22 working the surrounding lands for seed for at least the  
23 last five years or so. But if you're just talking  
24 about them generally, they're tame pasture; would that  
25 be a fair way to describe them --

26 A Well --

1 Q -- which is cultivated?

2 A On the east side is a alfalfa field of that.

3 Q So that's just -- sorry.

4 THE CHAIR: It'll help all of us if we can  
5 bring up Exhibit, Zoom Host, 3.02 and PDF page 169.  
6 And I think that's a schematic of the site and then the  
7 surrounding fields. Then we all have a -- can be  
8 oriented to what we're looking at. So you can just  
9 scroll down so we can see the -- the -- little farther  
10 down, please. There. That's good. Whoa. Back up,  
11 just so we can get the -- okay.

12 Q THE CHAIR: So is this sort of a fair  
13 schematic representation, then --

14 A Yes.

15 Q -- in your view?

16 Okay. So if --

17 A I would say that's perfect.

18 Q -- you want to again --

19 A I would say that's perfect.

20 THE COURT REPORTER: I'm sorry. I just need you to  
21 speak one at a time, please. I didn't understand you.

22 A Okay. I would say that this schematic is perfect.

23 Q THE CHAIR: Okay. So where it's showing  
24 tame pasture, you would agree that's tame pasture?

25 A Well, that's Altai wildrye there, yes.

26 Q Okay. And where it's showing "cultivated canola 2018",



1           that was --

2    A    Yes.

3    Q    -- accurate for 2018?

4    A    Yes.

5    Q    And it's something different now?

6    A    Well, we underseeded that to alfalfa.  At the same  
7           time, it was seeded to canola.

8    Q    Okay.  So it's both now?

9    A    No.  The canola is a (AUDIO FEED LOST) and the alfalfa  
10           is a perennial.

11   Q    Okay.

12           THE COURT REPORTER:            You cut out there, sir.  The  
13           canola is a what?

14   A    The canola is an annual.  You put those one year.  And  
15           the alfalfa is a perennial that grows every year until  
16           you take it out.

17   Q    THE CHAIR:                        So does that mean that those  
18           fields are transitioning from cultivated to tame  
19           pasture, then?

20   A    No.

21   Q    They're going to grow on their own for a while?  No?

22   A    No.  They're transitioning from cultivated to alfalfa.

23   Q    Okay.  So that was helpful.

24           How does having the species mix that's on the  
25           reclaimed site, so the Russian wildrye, the smooth  
26           crested wheatgrass -- say that quickly five times --

1           how does that affect how you would work your  
2           surrounding -- the -- the area that's labelled as "tame  
3           pasture", or does it affect how you -- how you work  
4           that?

5     A     Well, this land here hasn't been under cultivation  
6           since the early '90s, this particular piece that you're  
7           talking about. It was seeded to Altai wildrye one time  
8           back in the early '90s. So this land is not being  
9           worked at all. It's just sitting there as a seed  
10          field.

11    Q     Okay. So when I hear where weed -- something's a seed  
12          field, my nonagricultural brain imagines that there is  
13          something that you have to do every year to gather  
14          seeds and to do weed control and make sure that the  
15          next year you're able to -- to get -- but you're not  
16          doing anything like that with this -- with these fields  
17          at this time?

18    A     At the present time, we haven't been.

19    Q     Okay. Thank you. That's helpful.

20                 Is Altai, once it's established -- there is  
21                 information in materials that says that once it's  
22                 established, it is competitive and can spread or is  
23                 moderately creeping. Is that fair to -- a fair way to  
24                 describe it, from your point of view?

25    A     Well, I'm going to assume that what you mean by  
26                 "creeping" is that it's going to expand its range by

1       its roots, which I don't -- it's a clump grass, so it's  
2       not like a quack grass that shoots out roots and  
3       then -- like, a quack -- a quack grass itself can -- it  
4       grows -- it has roots in the ground, and the roots can  
5       shoot out, let's say, 10 feet. They can probably go  
6       longer than that. But a root can shoot out 10 feet,  
7       and then the root can pop up and make another plant.  
8       That would be spreading out from the root. A rye grass  
9       is only going to propagate from the seed.

10    Q    Okay. So that's helpful.

11                So then when the pictures that you were just --  
12       the photographs that we were just looking at where you  
13       identified at least some Altai wildrye on the reclaimed  
14       site but it wasn't seeded to Altai, those, then, would  
15       have got there from seeds blowing from nearby fields  
16       and other means of the Altai spreading its range, as it  
17       were?

18    A    Well, I know what your question is, but I'll answer it  
19       in a different way. I believe that those pictures and  
20       those clumps that we saw were not on the lease site.  
21       But, yes, the Altai wildrye does spread by the seeds  
22       blowing around and then germinating in the ground. I  
23       answered, actually -- give you a little extra  
24       information there.

25    Q    Which was helpful, so thank you.

26                Those are all of my questions, so thank you very

1 much, Mr. Shields. For now, you are done and -- and  
2 off the hot seat, although I hope it doesn't feel that  
3 way.

4 THE CHAIR: So my proposal now -- it's ten  
5 after 10 our time, so let's make it ten after -- are  
6 you two hours ahead of us or three hours ahead of us,  
7 Mr. Shields? I think --

8 MR. SHIELDS: Two.

9 THE CHAIR: -- you're three.

10 So it's ten after 12 your time. If we take a  
11 20-minute break until 10:30, will that give everybody  
12 enough time to stretch a bit, take a bio break, get a  
13 drink of something caffeinated or water, whatever the  
14 case may be, and come back, and we'll move on to  
15 Vantage? Does 20 minutes work.

16 MR. SHIELDS: Sure.

17 THE CHAIR: Is that okay? That works for  
18 you?

19 MR. SHIELDS: Yeah.

20 THE CHAIR: So we'll see everybody back  
21 here in 20 minutes.

22 MR. SHIELDS: Very good. Thank you.

23 (ADJOURNMENT)

24 THE CHAIR: Hello again. With my  
25 apologies for the delay, I gather we've had some  
26 difficulties with the audio webcast quality cutting in

1 and out, so they've tried a new line on that one, and  
2 hopefully that will be better for people who are  
3 listening in.

4 So now that we are back -- Mr. Shields, we  
5 can't -- well, we can just see the top of your head.  
6 There you go.

7 Mr. Kanderka, now that we are back, this is  
8 Vantage's opportunity to provide your opening statement  
9 and then to be available for questions. So, first of  
10 all, I'll ask the court reporter to swear or affirm or  
11 administer the oath to you and, I guess, Ms. Wilke and  
12 to -- now we're missing somebody or maybe --

13 MS. TURNER: Mr. Finn.

14 THE CHAIR: Yeah. Is Mr. Finn rejoining  
15 us? There he is. Okay.

16 MR. KANDERKA: Can you hear me?

17 JOHN KANDERKA, SARA WILKE, GRAEME FINN, Sworn  
18 Opening Remarks by Vantage Point Resources Inc.

19 MR. KANDERKA: If it's me speaking first,  
20 what I'd like to do is -- there was a lot of evidence  
21 and a lot of talk this morning. What I was going to  
22 bring up -- and I think I would just let Sara speak on  
23 behalf of Vantage Point at this point in time, and I  
24 could just -- if required, I'll be there for opening  
25 questions at -- by Mr. Shields. And so we'll just work  
26 with Sara and Graeme, if required, at this point in

1 time.

2 So, Sara, if you want to start off.

3 MS. WILKE: Okay. So thank you for your  
4 time today.

5 I, just for part of my background, am a registered  
6 agrologist in the province of Alberta, and I'm a  
7 consultant to Vantage Point, and I previously was the  
8 environmental coordinator for Penn West and have been  
9 involved in this site since 2016.

10 So Vantage Point inherited this site in [sic]  
11 January 1st, 2018. At that time, they looked at their  
12 liabilities in trying to work with their LMR to get  
13 some rec certs on the books. This site was one of the  
14 ones that was a potential for them. They hired a  
15 third-party consultant, Jorgensen Environmental, to  
16 complete the DSA, who found it met the criteria -- the  
17 2010 criteria.

18 At that time, Mr. Shields had asked for a  
19 mediation to happen because he didn't agree with the  
20 outcome of that thing, so AER and us and Mr. Shields  
21 sat down on the site, and at that time, the AER  
22 employees agreed that it had met criteria. So that's  
23 kind of our positioning.

24 I do agree that there are a couple fence posts  
25 still left out there. That was by mistake. We did  
26 hire a third-party company to remove those, and we

1 didn't complete a site visit. So that is on our part,  
2 and we will have those removed.

3 So that is our opening statement.

4 THE CHAIR: Thank you, Ms. Wilke.

5 Mr. Finn, were you going to provide anything by  
6 way of opening for Vantage or not? Sorry. I'm not  
7 sure.

8 MR. FINN: No, I wasn't. Sara needs me  
9 if she needs me.

10 THE CHAIR: All right. Thank you.

11 So, Mr. Shields, this is your opportunity to ask  
12 any questions that you have for the purposes of  
13 clarifying the information that's on the record of, I  
14 guess, Mr. Kanderka, Ms. Wilke, or Mr. Finn.  
15 Mr. Shields Cross-examines Vantage Point Resources Inc.

16 Q MR. SHIELDS: So I guess the -- I don't have  
17 a lot of questions, but I do have this question: How  
18 do you propose to remove those fence posts since you do  
19 not have access to the property now?

20 A MS. WILKE: We would have to get  
21 permission. And, if not, then I guess they'll have to  
22 stay in place. But we would work with you. And like  
23 we said at the beginning, we would definitely let you  
24 keep the fence posts, and the other ones we'll just  
25 place it where it was. But if you don't want them any  
26 longer or you don't want us accessing the property, I

1           guess we'll have to cross that bridge.

2    Q   Well, I guess the question I would have for Vantage  
3       Point is: Since the fence posts are out there on my  
4       property, you -- you haven't finished your job, as far  
5       as I can see; is that correct?

6    A   MR. KANDERKA:                No -- can you hear me?

7       THE CHAIR:                    Yes, we can hear you.

8    A   MR. KANDERKA:                Oh, okay. It says that my  
9       speaker's not working.

10           The -- the reclamation work has been done. This  
11       is a -- fence posts aren't part of the reclamation  
12       itself, Mr. Shields. I'm -- we're looking at the  
13       vegetation side of it. This was an oversight. I was  
14       there at the site. We promised that those fence posts  
15       would be removed. As Sara said, it was an oversight.  
16       It's in a low-lying area. My understanding is when we  
17       wanted to get them out, it was -- had some water in it.  
18       We waited, and it was just an oversight on our part.

19           As Sara says, we're prepared to work with you in  
20       order to go in there and remove those fence posts and  
21       place them where you want them if you deem to require  
22       them, or we could just take them away and -- and use  
23       them elsewhere. But I -- that -- to me, the part of  
24       the reclamation was only for the vegetation and  
25       recovery of the site itself. Removal of the fence  
26       posts was just another side matter that was overlooked,



1 and we apologize for that. We will address it right  
2 away and try to get this matter cleaned up before  
3 year-end.

4 Q MR. SHIELDS: Well, the fact of the matter  
5 is that you don't have access to the property now, do  
6 you?

7 A No. That's why I'm saying we will have to work with  
8 you on that in order to access that property. That's  
9 correct.

10 Q See, and this is -- this is the general problem. I  
11 know the Board's listening. This is a general problem  
12 that we have in agriculture, is we always have these  
13 oversights, and there's all kinds of oversights on that  
14 property, and this is just another one of them.

15 THE CHAIR: So, Mr. Shields, this isn't  
16 the usual process, but I'm going to, I guess, exercise  
17 my prerogative as Panel Chair and do something a little  
18 bit unusual and ask you at this point: What would you  
19 propose would be the best way to proceed with respect  
20 to those fence posts at this point?

21 MR. SHIELDS: I haven't made a decision on  
22 that yet. But I just wanted to bring the awareness to  
23 you people as the Panel. This is what we deal with on  
24 a daily basis with these people. This is -- this is  
25 nothing unusual that -- this is just another thing.

26 Now, I just thought it was a convenient time for

1 me to bring this up so you'd just be aware of the  
2 issues that we deal with on a regular basis. I don't  
3 have a solution. Look, it's my property. They don't  
4 have access. They want to have access, but I'm -- at  
5 this point in time, I'm probably not really willing to  
6 work with them. So next point.

7 THE CHAIR: Well, now it's still your  
8 opportunity to ask them any other questions that you  
9 have.

10 Q MR. SHIELDS: I would like to ask: What is  
11 the procedure that Vantage Point has when they decide  
12 not to pay their lease rentals? Why are you so slow in  
13 paying the proper amount of lease rentals that we have  
14 agreed to that you do not pay? What is your -- like,  
15 where do you dream up this idea from? This is -- this  
16 would be to Mr. Kanderka --

17 THE CHAIR: Well, sorry, I'm just going  
18 to --

19 A MR. SHIELDS: -- (INDISCERNIBLE -  
20 OVERLAPPING SPEAKERS) lease rentals.

21 THE CHAIR: I'm going to interrupt again.  
22 We're talking here about an appeal of a reclamation  
23 certificate, so maybe you can help me understand how  
24 lease rentals tie into that.

25 MR. SHIELDS: Well, we have an agreement,  
26 and they break their agreements on a daily basis. I

1 thought I'd just bring that up so that you know that  
2 this is just another thing that we deal with out here  
3 on the farm. They have agreements that they break  
4 whenever they feel like it.

5 So to say the least, are we aggravated? Yeah.  
6 When you have an agreement, it should be an agreement.  
7 But not with them.

8 I have no more questions.

9 THE CHAIR: Okay.

10 Mr. Kanderka, did you want to respond in any way  
11 to that last point?

12 A MR. KANDERKA: No, I don't, not at this time.

13 THE CHAIR: Okay. Thank you.

14 So now, Ms. Lavelle, it's your opportunity to put  
15 AER questions to Vantage.

16 MS. LAVELLE: Thank you, Madam Chair.

17 Alberta Energy Regulator Staff Questions Vantage Point  
18 Resources Inc.

19 Q MS. LAVELLE: Good morning. Can you hear  
20 me? Great. Okay.

21 So I don't have that many questions, but I do have  
22 a few, so I'll start.

23 MS. LAVELLE: So if we could pull up,  
24 please, Exhibit 2.01, page 18. Great. And if we'd  
25 just scroll down a little bit on that page.

26 Q MS. LAVELLE: So this is -- this is the

1 response to the request for a regulatory appeal from  
2 Vantage, and I'm just looking here for the -- I have it  
3 in my notes, but I'm just trying to find it on the  
4 page. Yes. If you look at the second paragraph,  
5 second sentence, it says: (as read)

6 Concurrent to Mr. Shields' request of the  
7 location reseeded would result in ecological  
8 damage due to the sandy soil type, as well as  
9 erosional issues due to the wellsite being  
10 situated on higher elevation.

11 You see that?

12 A MS. WILKE: (NO VERBAL RESPONSE)

13 Q So my question is: On what basis did you conclude that  
14 this was a sandy soil type?

15 A Thank you.

16 It is a sandy soil -- like, it's a sandy loam in  
17 that area, as I'm pretty sure it shows in the  
18 reclamation DSA, detailed site assessment. And so when  
19 disturbing that soil in that area, it just blows a  
20 little bit easier.

21 Q Okay. Thank you.

22 That's actually a good segue to what I was hoping  
23 we can do. So if we could pull up Exhibit 3.02, the  
24 detailed site assessment, and particularly page 169.  
25 So stay where you are.

26 So we've looked at this earlier. This is the

1 schematic. And just for everyone -- so we're all on  
2 the same page, you can see that there are C1 to C9  
3 numbered just outside of the site area. Those are the  
4 control sample sites. And then S1 to S9, those are the  
5 samples that are taken on the site. Okay?

6 So if we can now go to page 173 -- sorry, 171  
7 first, actually. So here's the soil detail. This is  
8 for the control samples, C1 to C9. So you can see that  
9 on the side. And if we go to the topsoil quality  
10 ratings. And you can see "texture". And you can  
11 pretty much see straight down there from 'C' -- from C1  
12 to C9 that the topsoil texture is CL(C2). Do you see  
13 that?

14 A (NO VERBAL RESPONSE)

15 Q Okay. So my understanding is that indicates clay loam.  
16 Is that correct?

17 A That is correct.

18 Q Okay. Great.

19 And then if we also go to -- a little bit further  
20 along the road -- along that table, we see the subsoil  
21 quality ratings, and then we see the texture under  
22 that, and we see SCL(C2). And so I think that is what  
23 you were referring to earlier. So the subsoil texture  
24 for the control sites is sandy clay loam; is that  
25 correct?

26 A Correct.

1 Q Okay. So then if we go to page 173. And this is now  
2 for the S1 to S9 on the site. So if we look at the  
3 topsoil quality again, it's saying -- in a similar  
4 place. We can see here, just like the control sites,  
5 it's CL(C2). So that's the clay loam; correct?

6 A (NO VERBAL RESPONSE)

7 Q And then if we look at subsoil quality texture, we can  
8 see it's SCL(C2), which, again, is the sandy clay loam;  
9 correct?

10 A Correct.

11 Q Okay. So I just wanted to bring a little more  
12 specificity to this conversation, and I just wanted to  
13 ask you: Now that we see that there's a clay loam  
14 topsoil and a sandy clay loam subsoil, does that in any  
15 way change the sort of initial assessment in that  
16 letter that there would be ecological damage if the  
17 site was reseeded?

18 A No. It's the same.

19 Q Okay. Thank you.

20 A So -- so the sand -- the clay loam, the loam part of it  
21 and the sandy part of it together is what would cause  
22 the area to be loam.

23 Q Okay. Thank you.

24 Okay. I'd like to pull up Exhibit 3.02, page 4.  
25 So we looked at this page earlier in the morning in  
26 speaking with Mr. Shields, and so I'd like to look at

1 4.2.2, "Interview Details". And, you know, I note that  
2 the "Comments" section says: (as read)

3 No concerns. Work completed. Acceptable.

4 And then the "Other Notes and Comments" says:

5 (as read)

6 Spoke to Robert, who indicated he was going  
7 to look at the site, as he wasn't sure where  
8 it was.

9 And Mr. Shields, this morning, told us that he had to  
10 go look at the field, but the form was submitted prior  
11 to his -- him coming back to -- to S. Sydenham, I  
12 suppose. So my question is --

13 THE COURT REPORTER: I'm sorry. My apologies.

14 What word was that? "Coming back to --"

15 Q MS. LAVELLE: There was an "interviewed by  
16 S. Sydenham" written there, so I'm just -- so I'm  
17 assuming -- I don't know who submitted the form, but I  
18 guess it doesn't -- the name is not particularly  
19 important.

20 The question I have for you is: How do you  
21 reconcile sort of the comments that Robert is going to  
22 look at the site and come back to you and then the  
23 other comment that says: (as read)

24 No concerns. Work completed. Acceptable.

25 So are you able to provide us a little more information  
26 there, please?

1 A MS. WILKE: Yeah. So when those forms are  
2 filled out onto One Stop, it comes directly from our  
3 third-party consultant information. So we pull that  
4 information off of the third party that we hired to  
5 have those comments and questions, and that's the  
6 procedure. It's normally not the company directly  
7 talking to the landowners. It's normally the third  
8 party within completing the detailed site assessment.

9 Q Okay. So if I -- I don't want to paraphrase, but -- so  
10 you wouldn't really know, then, on what basis the  
11 person who filled this out was -- indicated that there  
12 were no concerns or work completed, acceptable?

13 A That's correct. So the third party would be the one  
14 that directed that comment.

15 Q Okay. And I think that actually is a good tie-in to my  
16 last question.

17 So we've heard, you know, a discussion today from  
18 Mr. Shields about how he thought that the process of  
19 consultation with the landowners could be improved  
20 prior to submitting a reclamation application, and I  
21 have the same question for Vantage. If Vantage was  
22 consulting with a landowner prior to submitting a  
23 reclamation application at another site, how could the  
24 consultation process be improved to ensure that the  
25 landowner's concerns are addressed?

26 A So I've been involved in the industry since 2001, and I



1 think that the AER has done a wonderful job at making  
2 sure that consultations do happen. You have this back  
3 in -- when I first started in the industry, you  
4 actually didn't have to have landowner involved in the  
5 conversation at all. Now they have the full package,  
6 they get a copy of the reclamation certificate and all  
7 that kind of stuff going through the whole entire  
8 process, and they have the option to opt in or opt out  
9 of that at any point along the way.

10 From a -- I can't really speak from an industry  
11 perspective on how that might better be. I know that  
12 you have agreements for signing up the land and having  
13 that conversation at the time, but there are many hands  
14 that are involved in the life site -- lifetime of a  
15 wellsite. This one in particular, I think, has seen  
16 five or six producers go through the -- the gamut. So  
17 it's really hard to make sure that that all gets  
18 transferred over to the new person that has to deal  
19 with that end of life.

20 So I think that our industry has done a well -- a  
21 good job at trying to improve, but there's always  
22 improvement for communications styles, and I'm just not  
23 sure what would be the best answer going forward.

24 Q Okay. Thank you.

25 MS. LAVELLE: Madam Chair, those are my  
26 questions.

1 THE CHAIR: Thank you.

2 Ms. McNaughtan, do you have any questions for  
3 Vantage?

4 MS. MCNAUGHTAN: Yes. Thanks, Madam Chairman.  
5 Alberta Energy Regulator Panel Questions Vantage Point  
6 Resources Inc.

7 Q MS. MCNAUGHTAN: Ms. Wilke, you stated that you  
8 had been in an environmental advisor role since 2016  
9 with this site, I believe; is that correct?

10 A MS. WILKE: Yes, that's correct.

11 Q And earlier in asking Mr. Shields whether there had  
12 been discussions or comments or conversations regarding  
13 the seed that he preferred to have on the site, he  
14 suggested I ask you the question, so I will.

15 Since 2016, have you spoken with Mr. Shields about  
16 his preference for Altai wildrye in any conversations  
17 or had any emails back and forth or whatever regarding  
18 it -- regarding this site?

19 A So my -- I personally have never had a discussion with  
20 Mr. Shields regarding what he wanted seeded there.  
21 Consultants that I've hired have had conversations with  
22 Mr. Shields on what he would like seeded there. And  
23 Penn West had a different position because there are  
24 two locations located directly beside each other and  
25 they're a little bit different in their growing season,  
26 which Mr. Shields said, this site in particular has had

1           Altai wildrye encroaching on the seed mix that's placed  
2           there. The other site is a little farther behind and  
3           has very little Altai rye -- wildrye in it.

4           So our position was to skew them together, which  
5           is why we never applied for them previously; that's why  
6           Penn West didn't. Vantage Point is in a different  
7           position in the fact that they are a much smaller  
8           producer and needed to control their LMR. So this site  
9           was ready and able to go as per their third-party  
10          person.

11          So I know that we, in 2016, looked at the sites,  
12          and -- and that was the decision that was made, is that  
13          we wanted to keep them together in the reclamation  
14          process. Penn West, specifically. My consultant was  
15          having a very hard time finding seed at that time, and  
16          we did -- I feel like we did ask Mr. Shields, but I --  
17          I didn't have the direct conversation about seed  
18          source. So I can't say if we did ask him or not for  
19          seed directly, but I know we could not find the seed at  
20          the time it was requested in 2016.

21    Q       Thank you.

22    MS. MCNAUGHTAN:                    I don't have any further  
23       questions.

24    THE CHAIR:                            Dr. Stock?

25    DR. STOCK:                            Thank you, Madam Chair.

26    Q       DR. STOCK:                    I'm just going through the

1           reclamation certificate program criteria report, and in  
2           June 2017 -- no, sorry, 2019, it talks about the fence,  
3           but I'm not sure what question right now.

4           Ms. Wilke, I -- I believe I'm hearing it said that  
5           no effort was made to put Altai wildrye on the  
6           reclamation site. Is that correct?

7    A    MS. WILKE:                    So Penn West did inherit this  
8           site, and it was reclaimed in 1994. And there was  
9           remediation completed on -- in 2010, which was before  
10          my time in inheriting the site, so in 2016 is when I  
11          became involved. And at that time, in 2010, I know  
12          that they were having trouble sourcing the seed also.  
13          So any of the material that -- any of the Altai wildrye  
14          that's on there has been encroaching and not directly  
15          seeded by previous companies. Correct.

16    Q    There was mention in the materials that an effort was  
17          made to source the seed and that it was found that the  
18          nearest source was perhaps in North Dakota and  
19          otherwise -- the name of the place --

20    A    In 2010 when I was looking, the best place I could find  
21          was Siberia. There was no place that I could find in  
22          North America.

23    Q    Could you help me understand by explanations why it  
24          wouldn't be something you'd ask Mr. Shields for since  
25          there's evidence that he was using Altai wildrye as a  
26          seed crop --

1 A So as --

2 Q (INDISCERNIBLE - OVERLAPPING SPEAKERS) source --

3 THE COURT REPORTER: I'm sorry, Dr. Stock. I  
4 missed the last part of your question. "As a  
5 source --"

6 Q DR. STOCK: It would appear that the  
7 nearest source was just over the fence, in the next  
8 field, not in Siberia. So could you explain to me how  
9 the search ended up in Siberia and not just over the  
10 fence?

11 A MS. WILKE: So, as I stated, I didn't have  
12 the conversation with Mr. Shields personally, but my  
13 consultant did, and at the time, he didn't have any  
14 seed available. So, yes, it was over the fence, but it  
15 wasn't combined at any time for us to have it. So I  
16 believe that's how it went down, but, again, I didn't  
17 have the conversation directly with Mr. Shields. My  
18 consultant did.

19 Q Okay. Thank you.

20 And we did see it in the photographs presented  
21 earlier in Exhibit 3.02 at page 2 or -- sorry. I  
22 believe it was at 169 or thereabouts. There is Altai  
23 wildrye on the reclaimed land. But at Exhibit 3.02,  
24 page 216, it states in the materials --

25 DR. STOCK: Could we see this exhibit,  
26 please. This is the reclamation certificate program

1 criteria report. Could that document be brought up?

2 There we are. Yes.

3 Q DR. STOCK: And scrolling down to the  
4 additional comments, underlined about two-thirds down  
5 the report, three-quarters down the page, it says:  
6 (as read)

7 Altai moving onto site naturally.

8 That appears, then, to explain why the photographs  
9 showed clumps of Altai wildrye. Is that a correct  
10 interpretation for me?

11 A MS. WILKE: Yes.

12 Q Okay. And can you shed any light, to the best of your  
13 ability, on the comment made just above where it says:  
14 (as read)

15 Mr. Shields' daughter adamant about wonderful  
16 Altai crop used for seed crop.

17 Just above that.

18 A In what regards?

19 Q Well, have you seen this -- have you seen this report  
20 before?

21 A I have seen it before. As a seed crop, I -- I have  
22 never personally seen this site be combined at all or  
23 harvested at all for seed ever.

24 Q Okay. And that's explaining why it wasn't used for  
25 seed on the reclaimed land; is that correct?

26 A That is my understanding, that we could not attain the

1 seed from Mr. Shields because he hadn't combined any,  
2 is what the consultant had -- which is why we went to  
3 search for it. And our regular seed providers said  
4 that it went out of fashion and that they could not get  
5 it, and that's why the best place we could source it  
6 from was Siberia, where it came from.

7 Q Those are all my questions. Thank you.

8 A Thanks.

9 THE CHAIR: Thank you.

10 I think I may still have a couple left, even after  
11 crossing some off.

12 Q THE CHAIR: This is, I guess, a question  
13 relating specifically to the requirements for the  
14 application form that's filed as part of the  
15 reclamation certificate approval process, so I don't  
16 know if, Sara, this is a question for you.

17 When I looked at the materials that we have on the  
18 record, I didn't find a species mix approval in the  
19 materials, and, more particularly, I didn't find  
20 anything attached to or part of the application. Did  
21 Vantage get a species mix approval from Mr. Shields at  
22 any time or Vantage's consultant?

23 A MS. WILKE: So it's my understanding that  
24 the criteria doesn't require a seed mix approval. The  
25 reclamation was completed long before Vantage Point  
26 ever took over this lease that -- it happened in 1994

1           when seed mixes weren't required to be consulted by the  
2           landowner.  So the predecessors had used a seed mix  
3           that was used during reclamation at the time, and then  
4           when Vantage Point took it over, the -- the criteria  
5           states that it should be back to capable and comparable  
6           equivalency, and, as been proven, the Altai wildrye is  
7           already encroaching on the site.  If it was to be  
8           disturbed, it would set the reclamation back probably  
9           ten years on this location.

10    Q    So I'm a little confused, then, about the timeline  
11           because I had thought that I had understood that there  
12           was a reclamation that Penn West did, and then there  
13           must have been a discovery of some contamination on the  
14           site, so then there had to be site remediation, then  
15           there was a second round of reclamation after the  
16           remediation was carried out?

17    A    So the second round of remediation is -- or reclamation  
18           was only on the remediation spot, from -- from what I  
19           can tell from the third-party reports, that there is  
20           only a small disturbed area on the location, and I  
21           believe that is in the documents, like, 03 to 02, the  
22           remediation documents are in there, and page 72.  I  
23           think it shows the area there.

24    Q    Okay.

25    A    So it's just a smaller spot that was seeded at that  
26           time.  And, again, it was before my time, so I'm not



1           sure how they came about getting the seed mix.

2       Q     Okay.  But I -- all right.  But Vantage applied in  
3           2018, I believe, for a reclamation certificate?

4       A     Correct.

5       Q     Okay.  And at that time, Vantage didn't get a species  
6           mix approval from Mr. Shields?

7       A     That's not part of the requirement, so no.

8       Q     Okay.  And maybe we've covered this ground already,  
9           but, again, I just -- because now I'm understanding it  
10          perhaps a little differently than before in terms of  
11          the timeline.  Can you tell me more about -- if there's  
12          any more to share, about what consultation Vantage did,  
13          whether directly or through your consultant, with  
14          Mr. Shields before the work -- reclamation certificate  
15          application was filed to ensure that the plant species  
16          on-site were acceptable to him?

17      A     So Vantage -- as part of the DSA, that would have been  
18          the comments that were shown on page 4.

19      Q     Okay.

20      A     That -- that would have been the consultation that  
21          happened --

22      Q     Okay.

23      A     -- within that.

24      Q     Okay.  That's helpful.  Thank you.

25                   Mr. Kanderka, this is a question for you.

26      THE CHAIR:                   If we could bring up

1 Exhibit 3.02, at page 197. And I think scrolling down.  
2 Down a bit more. So -- okay. You can stop there.  
3 Thank you.

4 Q THE CHAIR: So you can see the third  
5 bullet up from the bottom, October 16th, 2018:  
6 (as read)

7 John Kanderka spoke to Robert Shields on his  
8 cell [gives the cell number] about the  
9 "wire/post fence" surrounding the well. He  
10 indicated that he wanted the fence.

11 At that time, Mr. Kanderka, did you ask Mr. Shields  
12 about any other concerns or issues he had relating to  
13 the site?

14 A MR. KANDERKA: Not that I am aware of. I'm  
15 just reading that. That was October 18th [sic]. No,  
16 I've -- no, I did not.

17 Q Okay.

18 A Not that I can recall. I'm sorry.

19 Q Okay. Did you talk to him at any other time about  
20 concerns that he had with the reclamation work or seed  
21 species?

22 A The only time we -- I had met with Mr. Shields, I  
23 believe, after that was at site with -- with the AER  
24 regarding their approval towards the reclamation  
25 certificate.

26 Q Okay. And so you didn't speak with him on the phone or

1 in person before that about it?

2 A I -- I can't recall. I can't recall. I'm sorry.

3 Q Okay. Thank you.

4 Those are all my questions.

5 THE CHAIR: So it's ten after 11 our time,  
6 so ten after 1 your time, Mr. Shields. What we had  
7 proposed on the schedule was that we would take a break  
8 between the questioning portion of the hearing and the  
9 time when we were going to give you each -- sorry. Let  
10 me back up.

11 Mr. Shields, have you heard anything new in the  
12 course of the questioning that you think you would like  
13 to speak to?

14 Submissions by Mr. Shields

15 MR. SHIELDS: Well, not really. As you  
16 can -- I guess the only -- I don't really have a  
17 question. I just have a statement. As you can see  
18 that there's been a historical problem with this lease  
19 site, and I guess going forward for the -- you know,  
20 for the government, if there's some possible way that  
21 the -- the farmers could actually have some say in  
22 what's going on out here would be beneficial.

23 I mean, I can remember meeting on a hill way back  
24 there in the '90s somewhere with a -- with a landman.  
25 I don't even know who he was at that point in time.  
26 And we talked about the reclamation of this site. And

1 I pointed out to him the field. And, you know, a  
2 \$50 bag of Altai wildrye seed at that point in time  
3 would have saved a lot of people a lot of trouble here.

4 And I -- I guess at my point in time, I -- you  
5 know, dealing with these people, a lot of times the  
6 government enables the oil companies to come in,  
7 expropriate the property, leave a big mess, and tell us  
8 to like it.

9 This could have all been avoided with a little bit  
10 of consultation and a bag of seed. And here we are  
11 today, not happy with the result that we had -- I don't  
12 think any of us are happy to be here today. And -- I  
13 know I'm not. I -- I would just like my field to be  
14 properly seeded. That -- that would be my statement if  
15 you needed another one.

16 THE CHAIR: Well, I was going to give you  
17 the opportunity to make one, and now you've done that,  
18 so I will then turn to -- and, actually, eliminates the  
19 need to ask the other question I was going to ask,  
20 which is if anybody wanted a break before making their  
21 closing statements.

22 But since we're there, Mr. Kanderka, do you have  
23 anything you'd like to say to us in closing?

24 Closing Remarks by Vantage Point Resources Inc.

25 MR. KANDERKA: We -- we -- as Sara said, we  
26 inherited this site. We did the best we could with it,

1 making sure that all the criterias were followed.  
2 Unfortunately, there has been some past history, but,  
3 you know, ecologically, this site is perfectly in full  
4 grass. The Altai wildrye is reseeding itself slowly  
5 onto the site, and any changes to the site itself would  
6 be disastrous, I guess. It would be, as Sara said,  
7 tens -- a decade to get it back to where it's at.

8 And the Board is basically wanting to -- I would  
9 think, to keep sites as ecologically -- especially in  
10 this area, to it's -- to the condition it's at. And,  
11 unfortunately, communication wasn't there 10, 15 years  
12 ago, but I think it's a lot better today with the Board  
13 and the regulations that we have today. So that's all  
14 I can say.

15 Sara, do you have anything to add?

16 MS. WILKE: I have nothing to add.

17 THE CHAIR: Okay. Thank you.

18 And, Mr. Shields, because you are the reg appeal  
19 requester, you actually get the last word, so is there  
20 anything else you would like the Panel to have in mind  
21 when we are thinking about the information we've heard  
22 and got before us in making our decision?

23 Closing Remarks by Mr. Shields

24 MR. SHIELDS: Well, you know, you took a  
25 little bit of time earlier on concerning the  
26 reclamation of the site, and there was some concern

1 made about disturbing the site and putting it back to  
2 the Altai wildrye, which I want, but there is no  
3 ecological problem with disturbing that site. When  
4 they -- when the oil companies came in to begin with,  
5 if -- if you could go -- I don't know what number it  
6 was, but it showed -- it shows the site on the map  
7 where the road comes in, and then the site is up on top  
8 of the hill.

9           When that -- when that well was originally  
10 drilled, we requested that that site be moved  
11 approximately 200 yards to the west so that there would  
12 be no -- if you looked at the -- at the way that that  
13 lease site is built, there's -- a road comes in through  
14 the middle of a slough where the posts are still  
15 sitting. And the posts are sitting there 'cause it's a  
16 slough; right? And the oil company determined that  
17 their best place for the road was -- was through the  
18 middle of the slough. And we recommended to them at  
19 that time that they move their well and their road  
20 right over to the edge of the quarter section so they  
21 could come in on the existing road that runs to the  
22 west. There was an existing wellsite there which they  
23 could have accessed and came south 400 yards and made  
24 their road, but they determined that they were the  
25 experts and we weren't.

26           So we still have posts out in the middle of the

1 slough that they can't access 'cause of the water, and  
2 they went on top of that hill with their Caterpillars,  
3 and they probably moved 20 or 30 feet of dirt to level  
4 it all out and dig their pits, and then they reclaimed  
5 the site, and that site has never blown one day, even  
6 after they were out there with their Caterpillars  
7 moving all that dirt around. They weren't concerned.  
8 The oil industry was not concerned about land erosion  
9 at that point in time.

10 So I find it quite strange that today we sit here  
11 and the oil companies are now concerned that there  
12 could be erosion on that site if we have to seed it  
13 properly. I just think that's just a no. I mean, I  
14 could seed that site and reseed it, but it's going to  
15 take a while and could guarantee you that it isn't  
16 going to blow. There's ways of doing it that it  
17 doesn't have to blow. But it's totally surrounded by  
18 grass, so that little site is not going to blow, and  
19 there's going to be no erosion problems on that hill.

20 I don't know what else to tell you about that, but  
21 I appreciate your time, and I'm sure you'll come up  
22 with the right answer here. Thank you.

23 THE CHAIR: Nice to have your confidence.  
24 Thank you.

25 Well, thank you, all, very much for your  
26 participation today and for making yourselves

1 available, and, in particular, we'd like to convey our  
2 appreciation for your flexibility and your willingness  
3 to participate in hearings by Zoom. We're all still  
4 relatively new to this. It doesn't always work, the  
5 technology, perfectly, but I think it worked well  
6 enough for us today to get done what we needed to do.

7 I would encourage you to provide any feedback you  
8 might have, actually, about the electronic format and  
9 doing an electronic hearing to our Hearing Services  
10 Group. We have other electronic hearings coming up,  
11 and if there are changes that you think that we could  
12 make that would improve the process from a -- from a  
13 user's -- from the landowners' or a company's  
14 perspective, we'd like to know about them.

15 You've provided us with a great deal to think  
16 about, both the materials that were already filed and  
17 what we hear -- heard from you today. We do have,  
18 according to our legislation, 90 days in which to come  
19 up with and issue our written decision.

20 Please know that if we have finalized our decision  
21 before the 90 days is up, which I think takes us to  
22 March 3rd, we won't hang onto it. We'll issue it when  
23 we're done and we're ready to. Each of the parties who  
24 participate in the hearing will receive a copy. And  
25 with that, the hearing is now closed, and I thank you  
26 all very much.



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PROCEEDINGS CONCLUDED

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CERTIFICATE OF TRANSCRIPT:

I, Angela Porco, certify that the foregoing pages are a complete and accurate transcript of the proceedings, taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 3rd day of December 2020.



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Angela Porco, CSR(A)  
Official Court Reporter

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