Submission to British Columbia's Royalty Review

Environmental Defence Canada

Prepared by:
Julia Levin
Senior Climate & Energy Program Manager

December 2021

About Environmental Defence Canada
Environmental Defence Canada (EDC) is a leading Canadian environmental advocacy organization that works with government, industry and individuals to defend clean water, a safe climate and healthy communities.

Environmental Defence is encouraged that the government of British Columbia recognizes that the current oil and gas royalty framework is subsidizing fossil fuels and is seeking input on the design of a new framework. We thank the BC government for the opportunity to comment on BC's Royalty Review. Environmental Defence is a leading environmental advocacy organization and has provided advice for decision-makers on how to eliminate fossil fuel subsidies for years.

We recommend that the new royalty framework:

- Aligns its overarching goals with meaningful reconciliation, climate imperatives, and economic assumptions based on global climate success.
- Aligns with a pathway to limiting global temperature rise to 1.5 degrees, as outlined by the IEA in their net zero roadmap.
- Sets a high royalty rate which reflects the true costs of climate change and fossil fuel extraction.
- Eliminates the fossil fuel subsidies embedded in the current system.
- Restores transparency through a simplified system, such as a flat rate on production with no capital recovery mechanism.
- Quickly transitions existing wells into a new royalty system and restrict previously issued credits.

Ensure overarching goals align with meaningful reconciliation, climate imperatives and economic assumptions based on global climate success

The Independent Assessment concludes that the current framework does not support government or societal goals. This must be addressed in the new system. However, the goals outlined in the Discussion Paper - economic development, fair return on the public resource and environmental protection - must be improved to ensure the framework aligns with the scale of action required to tackle the climate crisis, meaningful reconciliation and a strong economy in a decarbonized world.

Environmental Protection and the Climate Crisis

The disasters that have hit British Columbia this year demonstrate the urgency that is required to tackle the climate crisis. In order to avoid even more catastrophic levels of global warming, we must cut our emissions by over half this decade and bring emissions to zero by 2050.

BC's regime is aimed at spurring natural gas production, including through its royalty framework. However, for British Columbia to meet its emissions targets and not perpetuate the climate crisis, it must phase out its fossil fuel industries by mid-century. This means strategically and thoughtfully planning for the coming energy transition, including full decarbonization of the economy by 2050 and a fair transition for workers and resource-dependent communities.[1] In addition, the International Energy Agency (IEA) has laid out a roadmap for limiting global temperature rise to 1.5 degrees, and made clear that any expansion of the oil and gas sector is incompatible with this pathway.[2]

It is therefore irresponsible for the BC government to continue with a business as usual approach of designing a royalty system geared towards expanding oil and gas production. A major overhaul away from the existing system is required in order to ensure the new system aligns with a pathway to limiting global temperature rise to 1.5 degrees, as outlined by the IEA in their net zero roadmap.

It is also important to note that the royalty regime is just one part of an overall regulatory framework for oil and gas that is overly favourable to the industry.

Reconciliation

The Discussion Paper references the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Calls to Action of the Truth and Reconciliation Committee and the Declaration of the Rights of Indigenous Peoples Act (Declaration Act). However, these are not included in the overarching goals of the framework. This must be corrected. Like all policy decisions, the development of a new royalty system must be made in accordance with UNDRIP. Treaty 8 Nations, who are deeply impacted by fracking, are the legitimate decision makers over what happens on their territory.

The Discussion Paper ignores the current reality where LNG projects are being pushed ahead by the government of British Columbia despite opposition from Indigenous Nations, including where the rights of hereditary leadership over traditional territory has been upheld by the courts. This is the case for the ongoing dispute between the Wet'suwet'en clans and the Coastal GasLink Pipeline. The government cannot claim to be living up to its commitments on reconciliation while allowing the pipeline to move forward.

The current share of royalties going to First Nations is a mere 0.1 per cent of total revenues from royalties.[3] In recognition of the disproportionate impact that natural gas industry operations have had and will continue to have on First Nations, the government must ensure that a fair share of revenues go to Treaty 8 First Nations. For example, the CCPA recommends that half of the revenues from royalties should go to First Nations.

---

[1] Lee, M. and Klein, S. (2020) Winding Down BC's Fossil Fuel Industries: Planning for climate justice in a zero-carbon economy. Available: https://www.policyalternatives.ca/publications/reports/winding-down-bc%E2%80%99s-fossil-fuel-industries

[2] IEA (2021) Net Zero by 2050. Available: https://www.iea.org/reports/net-zero-by-2050

[3] Lee, M. & Parfitt, B. (2021) Submission to BC Royalty Review. Canadian Centre for Policy Alternatives. Available: https://www.policynote.ca/key-recommendations-to-the-bc-oil-and-gas-royalty-review/#.YaqRCpA84wk.twitter

Economic Development

The Discussion Paper put forward by the government hinges on the assumption that natural gas is necessary and will continue to play an important role for the foreseeable future to heat homes and businesses, cook and travel. This approach ignores the existing climate solutions, including electrification and energy efficiency, which are currently available and affordable for decarbonizing these applications.

The Discussion Paper also paints a future where there will still be a market for BC's LNG. Given that BC is a higher-cost jurisdiction located far from major markets; it won't retain the final share of a dwindling LNG market. For there to still be a market for BC's LNG, the world will need to have failed to meet the commitments promised in the Paris Agreement. Essentially, the BC government is banking on a future of climate failure to justify a continued role for LNG.

This approach must not be carried forward into the new royalty framework. Economic assumptions must be based on a scenario of successful global decarbonization. In this scenario, any investments in LNG face an enormous risk of becoming stranded assets. Similarly, by doubling down on LNG, BC is failing to prepare its workers for the economy of the future.

The royalty rate must reflect the full costs of climate change and oil and gas extraction.

A new royalty framework must maximize the returns to the public from the extraction of this collectively-owned resource.

As the disasters facing British Columbia have shown, the economic, environmental and social impacts of the climate crisis are enormous.

The royalty rate must reflect the real costs of the climate crisis, as well as the social and environmental costs of the extraction, processing and transportation of oil and gas. For example, a carbon fee should be embedded at the wellhead, reflecting at a minimum the current BC carbon price. Another way to reflect these costs is by incorporating the social cost of carbon into the royalty rate.

The direct and indirect impacts of oil and gas development have led to devastating cumulative impacts across Northeast British Columbia, particularly to the traditional territories of Treaty 8 First Nations. Higher royalties must reflect the need for clean-up of old wells and reclamation of the land so that the public is not saddled with those costs, as well as the need for just transition programs for workers during the phase-out period.

Greater transparency is needed so that the public can assess whether it is getting a fair return on this valuable production.

environmental defence

Ending fossil fuel subsidies provided through the royalty framework

As the Independent Assessment makes clear, British Columbia's current natural gas royalty system is broken and is leading to a significant transfer of value from the public to private industry. BC is unique in its complex subsidy framework for natural gas production. Through an array of measures, the provincial government continues to make concerted efforts to expand natural gas extraction and export supports, in particular for liquefied natural gas (LNG). A glaring example of that is the $3.7 billion that the Government of BC owes to fracking companies for unused royalty credits, representing significant foregone public revenue for future years. In fact, BC is second only to Alberta in the amount of subsidies provided to the fossil fuel industry, mostly to expand the production and export of fracked LNG.[4]

The current royalty system subsidizes oil and gas companies, therefore leading to increased levels of production. This approach is at odds with the need to limit greenhouse gas pollutants and highlights policy incoherence at the provincial level. In fact, the continued subsidization of oil and gas through the royalty framework contradicts current approaches to tackling the climate crisis, including the carbon tax. Expensive subsidies provided through the royalty framework, for example, for drilling wells deeper than would otherwise be justified, must be scrapped.

As the province proceeds with this royalty review, it should also ensure that other provincial fossil fuel subsidies are being reviewed and eliminated.

Restrict previously issued credits and quickly transition to a new royalty system

It is critical that wells drilled under the existing royalty system do not linger in the current broken system for years to come. The fracking industry has gotten a free ride for far too long. The transition to a new system must occur as quickly as possible.

The deep well credit should be abolished as fracking is the dominant technology used already and there is no need for further incentives. Similarly, capital cost recovery should not be considered as it incentives drilling wells which would otherwise be uneconomical and therefore wouldn't have occurred. The capital cost recovery mechanism also puts the public on the hook if profits do not materialize for fracking companies.

Transition to a new royalty regime is complicated by the existence of outstanding royalty credits worth over $3 billion. These credits were accumulated under a broken system and must be extinguished before transition to a new one. If it is not possible to retract these credits without payment of compensation, their usage should be restricted in terms of a cap on amounts that can be claimed in any given year, or similarly, ensuring a minimum net royalty is paid per unit extracted.

---

[4] Stand.earth (2021) Subsidizing Climate Change 2021. Available: https://www.stand.earth/sites/stand/files/bc-ff-subsidies-report-final-rev.pdf