



## **Appendix B**

**Aggregate Development in Alberta -  
ASGA Environmental Regulation Process Review  
Public Lands**

Contents

- 1. Introduction..... 2
- 2. Regulatory Requirements ..... 3
  - 2.1 ALR Process ..... 3
    - 2.1.1 Statistics and Timelines..... 6
    - 2.1.2 Constraints with the ALR Review Process..... 7
    - 2.1.3 Proposed Recommendations..... 7
  - 2.2 SME Process ..... 8
    - 2.2.1 Statistics and Timelines..... 11
    - 2.2.2 Constraints with the SME Process ..... 12
    - 2.2.3 Proposed Recommendations..... 14
  - 2.3 SML and CORP Process..... 15
    - 2.3.1 Statistics and Timelines..... 19
    - 2.3.2 Constraints with the SML Process ..... 20
    - 2.3.3 Proposed Recommendations..... 22
  - 2.4 SMC Process..... 23
    - 2.4.1 Constraints with the SMC Process..... 23
    - 2.4.2 Proposed Recommendations..... 23
  - 2.5 Annual Returns and Annual Operating Report..... 23
    - 2.5.1 Constraints with the Annual Return Process..... 25
    - 2.5.2 Proposed Recommendations..... 25
  - 2.6 CORP Renewals..... 25
    - 2.6.1 Constraints with CORP Renewals..... 25
    - 2.6.2 Proposed Recommendations..... 26
  - 2.7 Reclamation Certification Process ..... 27
    - 2.7.1 Constraints with the Reclamation Certification Process..... 29
    - 2.7.2 Proposed Recommendations..... 29
- Appendix B1: List of Abbreviations ..... 30
- Appendix B2: Legend ..... 31

## 1. Introduction

The Alberta Sand and Gravel industry is a pillar of Alberta's economy and development. Sand and gravel have the largest commercial value of any non-energy/non-renewable mineral resource produced in Alberta (Natural Resources Canada, 2017). The industry most commonly supports the development of infrastructure; however, it also supports and provides resources for many other sectors such as manufacturing, forestry, and oil and gas.

Since the 1970s, aggregate development on public land has been regulated in the province of Alberta through various pieces of legislation, including permitting under the *Land Surface Conservation and Reclamation Act*, the *Environmental Protection and Enhancement Act* (EPEA), and the *Public Lands Act* (PLA).

The regulatory process for permitting on public lands changed in 2017. These adjustments were understood to have been implemented to streamline the review and processing of aggregate development applications. The process transitioned from the primary provincial statute governing surface material extraction under the PLA known as the Disposition and Fees Regulation (administered by Alberta Sustainable Resources Development) to the Alberta Aggregate (Sand and Gravel) Allocation Directive for Commercial Use on Public Land and the Aggregate Land Request Process (both administered by Alberta Environment and Parks; AEP) which became effective September 1, 2017.

Developed in 2008, the Guidelines for Acquiring Surface Material Dispositions on Public Land was supposed to provide applicants with the guidance and general requirements for aggregate development on public land. However, there is a tendency for the application process to be more difficult than what is set out in the guiding document as the public perception focuses on the social and environmental effects of aggregate development. At times, the change to the process has led to regulatory uncertainty when applicants prepare permitting documentation to develop an area for sand and gravel extraction.

The Alberta Sand and Gravel Association's (ASGA) Land and Environment Committee, comprised of sand and gravel operators and environmental consultants, reviewed the current regulatory process under the Alberta Aggregate (Sand and Gravel) Allocation Directive for Commercial Use on Public Land and the Aggregate Land Request Process. The review was meant to identify constraints within the permitting process that lead to regulatory uncertainty and to provide recommendations that resolve the observed and experienced obstacles. The limitations and recommendations have been highlighted in this report.

It should be noted that aggregate developments on public land within Alberta are subject to other regulations and rules governed by other regulatory agencies, including those from

municipal, provincial, and the federal government. The focus of this review was on the regulatory process required under the PLA, and while it may speak to municipal permitting items and the *Water Act* (WA), this review does not cover these processes in detail.

## 2. Regulatory Requirements

Under the PLA there are four main regulatory processes that are required from the initial stage of location selection to pit completion and closure. These stages are the Aggregate Land Review Request (ALR), Surface Material Exploration (SME), Surface Material Licence (SMC), or Surface Material Lease (SML).

The process starts with the development and submission of an ALR to demonstrate interest within the desired area. An SME program is conducted to explore the area for aggregate resources before submitting all supporting documentation for an extraction application; either an SMC or SML.

The following sections provide further details for each stage in Surface Material Operations on Public Land.

### 2.1 ALR Process

The submission of an ALR is not a formal application under the Public Lands Administration Regulation. The process was developed to streamline the overall procedure of permitting pits on public land by providing an initial review and screening of land suitability for aggregate development. However, instead of simplifying applications, the ALR has resulted in duplication of process and documentation requirements with SME and SML applications that have ultimately caused delays in permitting.

As shown in **Figure 1** on page 5. The process involves:

1. The applicant conducts a scouting program to determine viable locations for the aggregate resource.
2. Prepare and file the ALR application. ALR components include area sketch plan (meeting department digital plan requirements), Landscape Analysis Tool (LAT) Report, and Public Land Standing Report (PLSR).
3. The Assessments and Continuations Unit reviews the application for completeness and the Applications, Geomatics and Education Unit ensures the digital plan meets the Government of Alberta (GoA) requirements.
4. Once approved to be technically complete by both the Applications, Geomatics and Education Unit and Assessments and Continuations Unit, the file is then circulated to the regional Lands Officer – Operational Approvals District (aggregates department) – who refers it to Fish & Wildlife and local municipalities. Alberta Transportation will also be

## Aggregate Development in Alberta

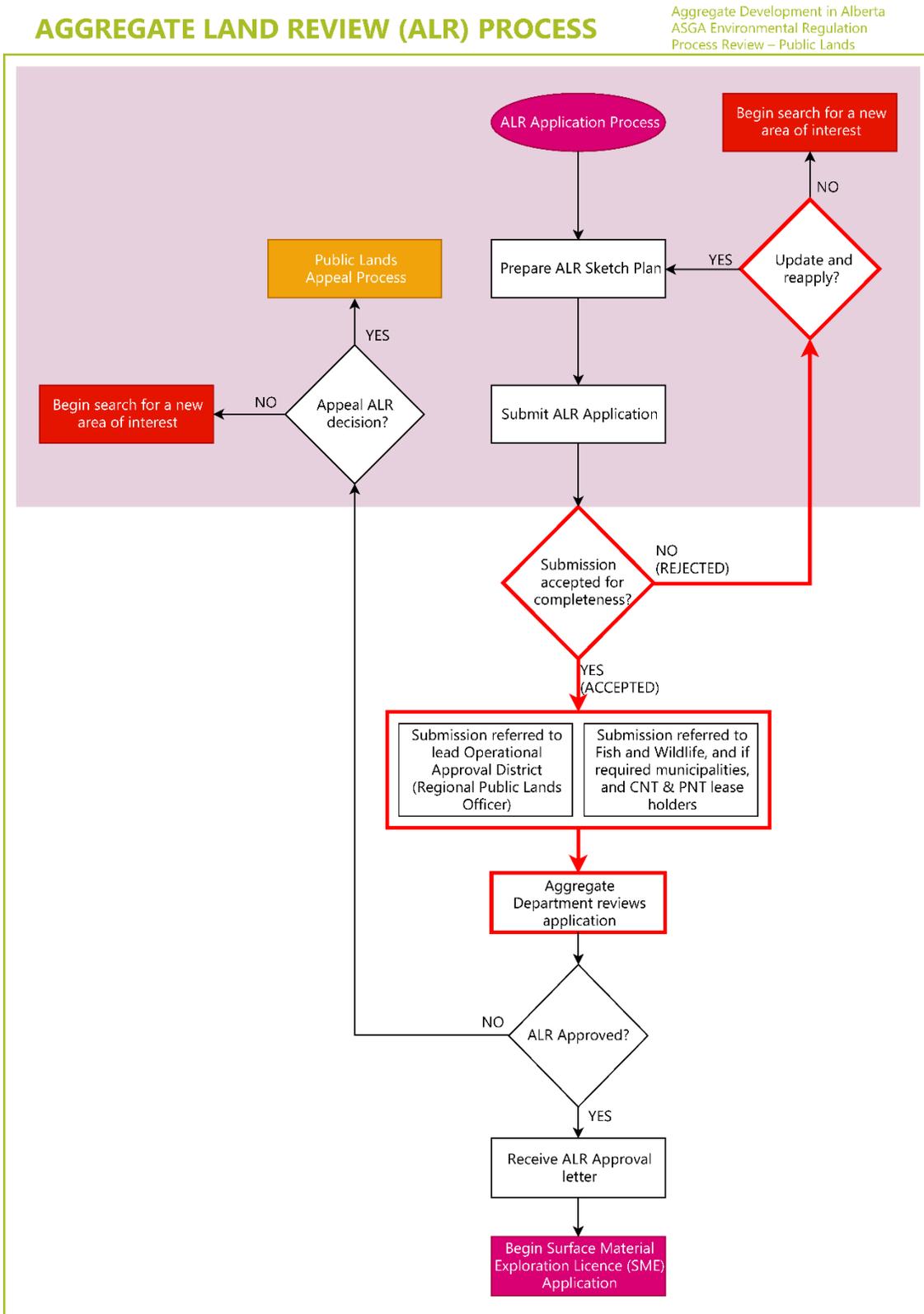
### ASGA Environmental Regulation Process Review – Public Lands

referred to if Consultative Notation (CNT)s and Protective Notation (PNT)s are identified on the PLSR.

5. Municipalities have 30 days to submit comments to the Operational Approvals District regarding infrastructure needs that are identified within the development area. Fish & Wildlife also have 30 days to submit comments and concerns to the AEP Approvals Coordinator. The objective is for AEP Approvals to collect and review comments from those referred to and provide a response with recommendations to the applicant within 45 days.
6. The Assessments and Continuations Unit sends a letter to the applicant with the results of the review. If approved, the letter will notify the applicant to submit an SME application within 30 days. If rejected, the applicant will be required to identify new areas and reapply for the ALR.

**Figure 1 – Below on page 5.**

Figure 1



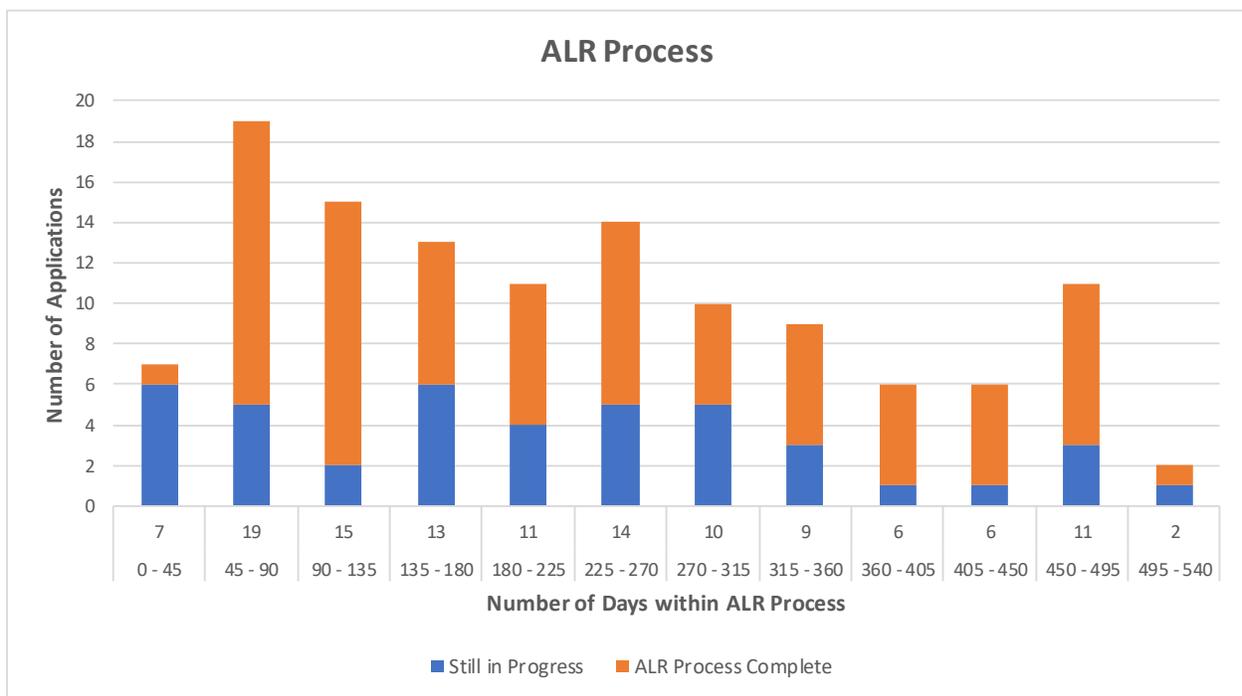
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 ASGA Environmental Regulation Process Review – Public Lands

2.1.1 Statistics and Timelines

ALR Processing Times from September 2017 to June 2019.

Region	Maximum (months)	Average (months)	Number of Applications
Upper Athabasca	15.8	6.8	28
Lower Athabasca	17.6	8.2	42
Peace Region	15.3	7.5	43
North Saskatchewan	13.9	7.6	6
South Saskatchewan	8.0	5.0	4
<b>Overall</b>	<b>17.6</b>	<b>7.5</b>	<b>123</b>

Histogram (Number of Days vs. Number of Applications)



As of June 22, 2019 (when the data was downloaded):

- 94% of ALR applications are in review for more than 45 days;
- 79% of ALR applications are in review for more than 90 days; and
- 20% of ALR applications are still in review for more than 360 days.

## 2.1.2 Constraints with the ALR Review Process

### Timelines

Mandated timelines for processing ALR's are not being met. The average turnaround for applications is six to nine months, and not the 45 days indicated in the 2018 ALR Request Process Document. Timelines appear to be extended due to processing and referral response delays.

Waiting for referral responses is a common issue. Often applications are at a standstill as AEP waits for replies from referral agencies. In some cases, referrals are missed and then identified at the SME stage, which also causes delays or can impact project viability. There does not appear to be consistency in how the process of waiting for referrals is being handled.

### Application Processing

It is unknown if applications are being processed digitally or if they are processed through transmitting paper files following the digital submission. This affects timelines, as paper copies rely on unreliable methods of transfer between AEP units.

The standards expected by the Applications, Geomatics and Education Unit to determine application completeness are continuously changing, and applications are being subject to rejection (if the application is deemed incomplete) rather than allowing for minor deficiencies to be addressed. It is common for deficiencies to occur due to not meeting a specific reviewer's preference rather than not meeting digital plan requirements. The applicant resubmits the application with the deficiencies addressed and then continues to wait for the plan to be reviewed, thus extending the application process significantly and increasing the administrative burden on both the applicant and the GoA.

## 2.1.3 Proposed Recommendations

- Eliminate the ALR process or merge it with the SME process.
- Ensure referral process, whether as part of the ALR or a combined ALR/SME process, is complete the first time so that missed referrals do not stop a project once it has progressed any further.
- Meet mandated timelines. If referrals are not responded to, AEP should consider acceptance.
- ALR application should only require the submission of a shapefile and the Applications, Geomatics and Education Unit review should only ensure that the shapefile is technically sound. The ALR is not a formal application under the Public Lands Administration Regulation, and the submitted plans are not available to the public within open databases such as BADGR or DIDs, as are formal dispositions on public land.

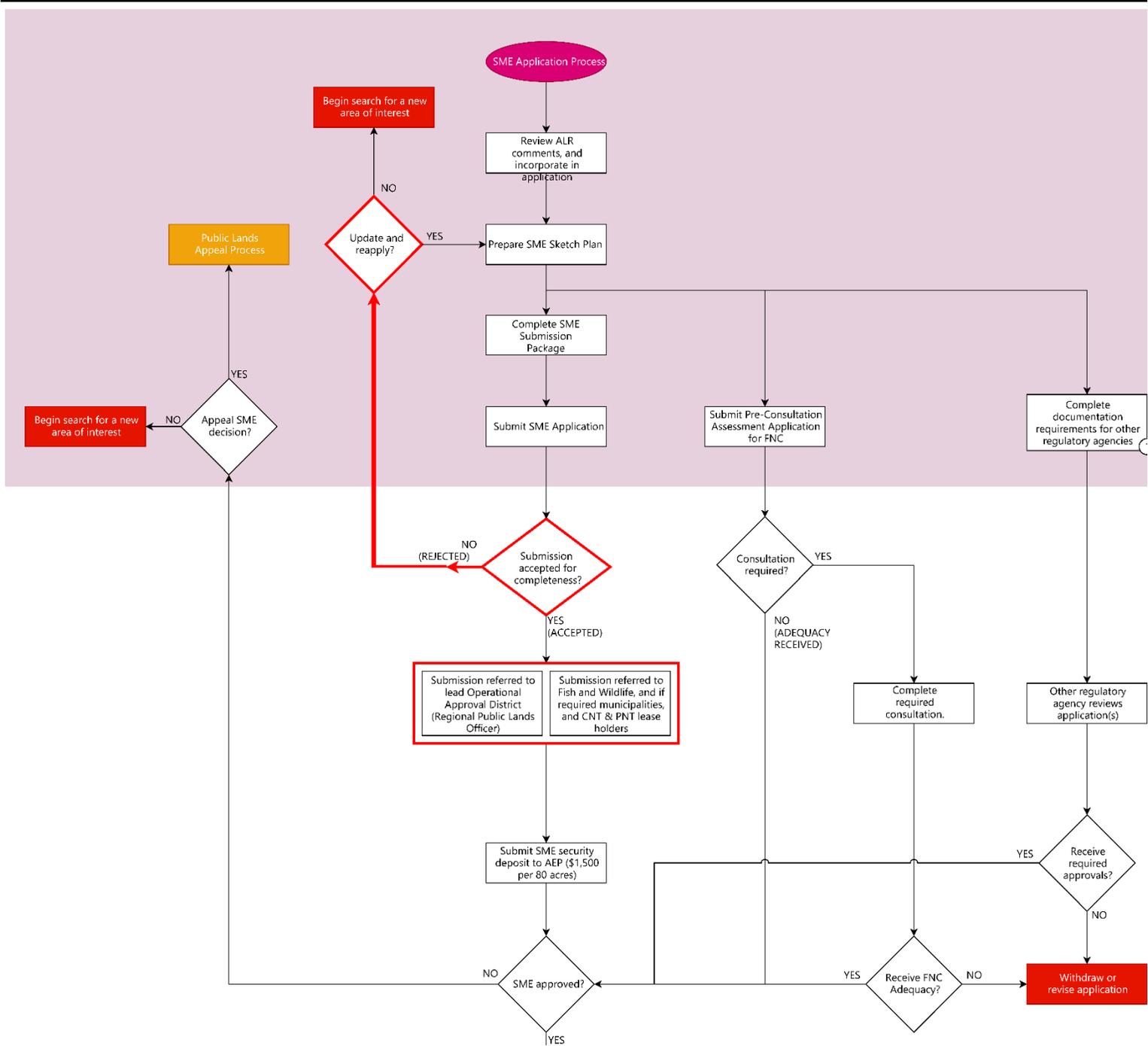
## 2.2 SME Process

When an ALR application is approved, an applicant has 30 days to file an SME application. As shown in **Figure 2.1 and 2.2** on page 9 and 10, this process involves:

1. Prepare and file the SME application. SME components include application supplement, statutory declaration, File Consultation Number, Landscape Analysis Tool (LAT) report, PLSR, occupant consent, and sketch plan (meeting department digital plan requirements). At this stage, an environmental assessment is not a requirement for the application as the aggregate resource on the public land has not been confirmed. However, some AEP representatives mandate that environmental assessments must be completed at this stage.
2. Assessments and Continuations Unit reviews the application for completeness, and the Geomatics and Education Unit ensures the digital plan meets the GoA requirements. If the SME application is deficient, it will be cancelled.
3. Assessments and Continuations Unit will advise the applicant by letter if the application meets all requirements and completeness in accordance with PLAR. The Assessments and Continuations Unit initiates the referral process for the application.
4. The application is now subject to a departmental merit review that considers responses from the affected stakeholders and related government agency referrals. AEP has 30 days to reach a merit decision for approval or refusal of authorization, which will be sent to the applicant in writing. Currently, applicants receive a letter stating an additional 90 days is needed for AEP review, thus extending the timelines to 120 days to reach a merit decision.
5. If authorization of SME is refused, the applicant can resubmit with revisions.
6. When all issues are resolved, and prior to the approval being issued, the applicant submits the security deposit fee to the GoA.
7. The applicant conducts an exploration program.
8. Applicant proceeds with an SML Application if the exploration program shows aggregate, or a Request for Letter of Clearance is submitted by the applicant.

Figure 2.1 – Part 2.2 on page 10

**SURFACE MATERIAL EXPLORATION LICENCE (SME) PROCESS**

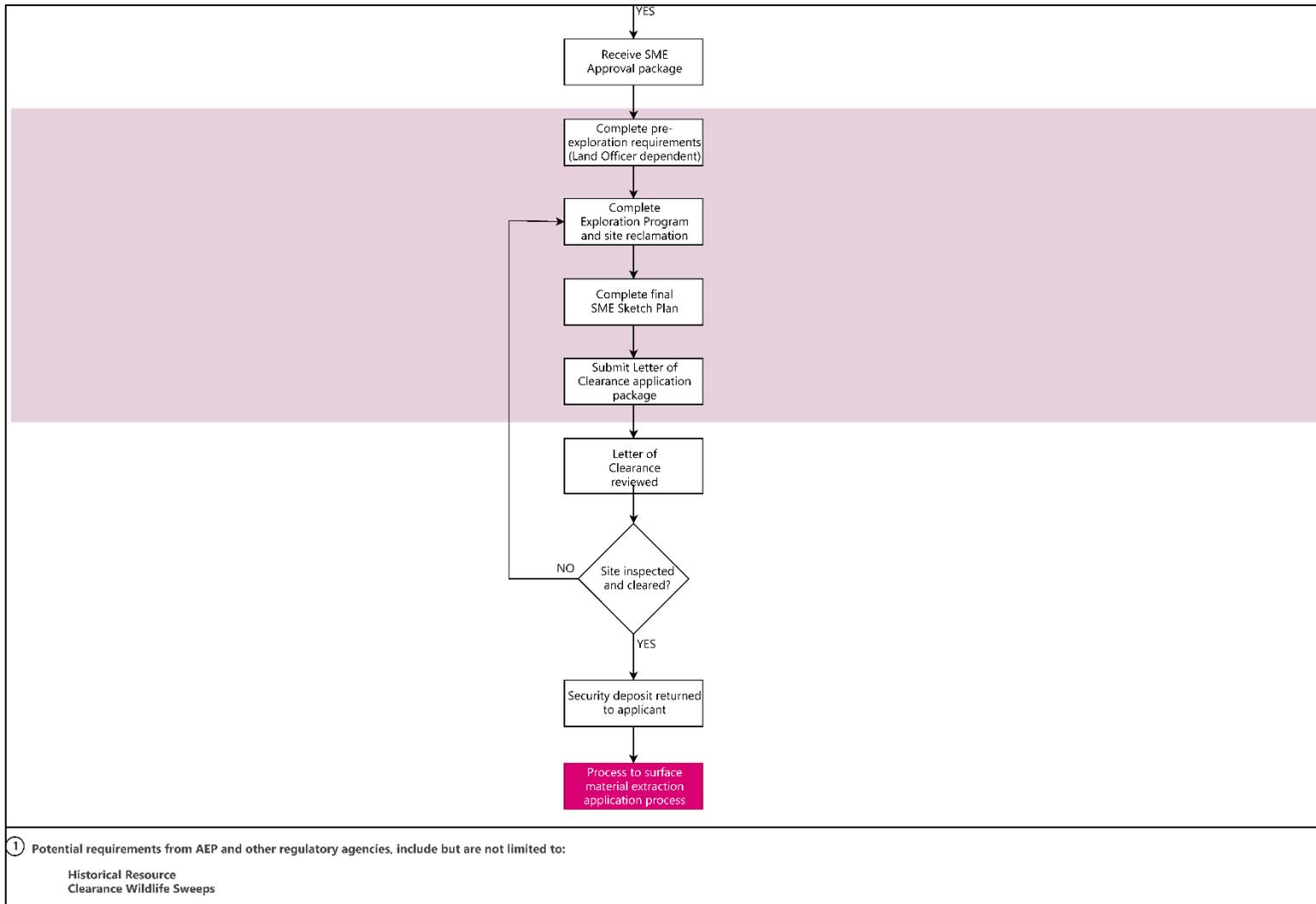


Continued below – Part 2

Figure 2.2 – Part 2

**SURFACE MATERIAL EXPLORATION LICENCE (SME) PROCESS**

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Regulation Process Review – Public Lands



① Potential requirements from AEP and other regulatory agencies, include but are not limited to:

- Historical Resource
- Clearance Wildlife Sweeps

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ASGA Environmental Regulation Process Review – Public Lands

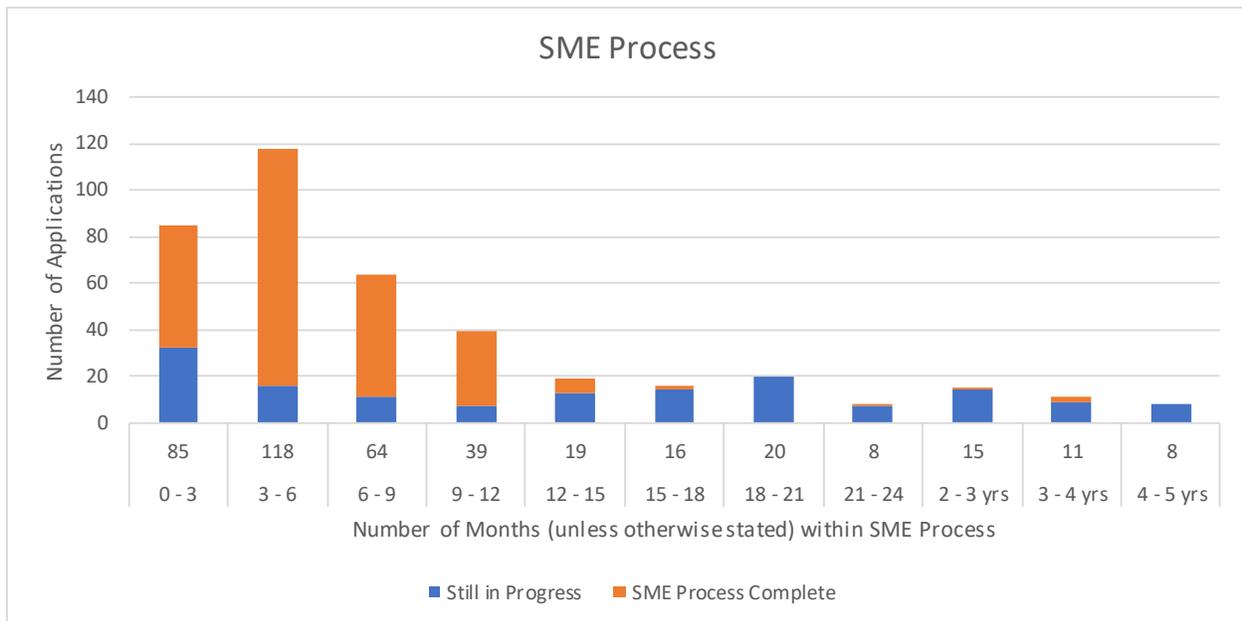
2.2.1 Statistics and Timelines

Using recent historical disposition information from January 2015 to June 22, 2019, the average review timelines for an SME are presented in the following tables.

Average Review Timeline for SME Applications for Aggregate (excluding peat applications):

Region	Maximum (months)	Average (months)	Number of Applications
Upper Athabasca	52.3	11.5	81
Lower Athabasca	51.1	10.2	123
Peace Region	50.4	7.8	178
North Saskatchewan	43.3	14.3	17
South Saskatchewan	48.4	22.3	4
<b>Overall</b>	<b>52.3</b>	<b>9.7</b>	<b>403</b>

Histogram (Number of Months vs. Number of Applications) 2015-2019:



As of June 22, 2019 (when the data was downloaded):

- 79% of SME applications are in review for more than three months;
- 50% of SME applications are in review for more than six months; and
- 10% of SME applications are still in review for more than nine months.

## 2.2.2 Constraints with the SME Process

### Timelines

There are mandated timelines for each step of the review process; however, the prescribed times are not being met by AEP. In contrast, applicants are expected to meet quick turnaround times (when information is requested) or risk the application being withdrawn or rejected if the timelines are not met.

The SME and ALR referral processes are redundant. This stage of the application review is considered a regulatory burden as reviewers appear to be re-evaluating the same parameters and considerations that were assessed and authorized during the ALR process. In some cases, referrals that were missed at the ALR stage are now included in the SME process, which could cause further delay or impact a project.

The 90-day review timeline is not being met, and the applicant has no reliable mechanism to gauge how long the review will take. This can significantly affect field programs as timing restrictions (e.g. Key Wildlife and Biodiversity restrictions; January 15 to April 30) or other factors (e.g. ground conditions) may limit when field activities can occur. The window for field activities is often missed when AEP does not fulfill its mandated timelines.

When a project does not progress past the SME stage, it takes months, if not years, to obtain a Letter of Clearance and have security returned to the applicant.

Changes to the terms for SMEs now dictate that SML applications (including Conservation Operations and Reclamation Plans., CORP) are required before the expiration of the SME authorization (six months). This has severe implications on timing for both aggregate exploration and collection of site-specific data for operational and reclamation planning. Timing restrictions or other factors can limit when aggregate testing can occur and assessments for flora, fauna, or other necessary assessments that cannot be completed outside of the appropriate time of the year (under growing or snow-free conditions).

Under the previous system, an operator could submit an SML application within a period of time after the SME expired, which allowed for field assessments to be conducted under the appropriate conditions. This new requirement, as explained by AEP, was implemented to align the submission requirements for aggregate to other surface material applications, such as peat. However, in the case of other surface material applications (like peat), applicants have two years to complete exploration and collect the required field data. AEP should either revert back to the previous system or extend the approval period for aggregate SME to two years.

### Inconsistencies in Requirements

The standards expected by the Applications, Geomatics and Education Unit to determine application completeness are continuously changing, and applications are being subject to

rejection (if the application is deemed incomplete) rather than allowing for minor deficiencies to be addressed.

It is common for reviewers to list deficiencies that align with their personal preferences, rather than not meeting digital plan requirements. The applicant resubmits the application with the deficiencies addressed and continues to wait for the plan to be reviewed. The resubmission of the SME sketch plan extends the application process significantly and increases the administrative burden on both the applicant and the GoA.

Requesting File Number Consultation (FNC) causes significant delays for a temporary disposition with a 180-day approval. *The Guidelines for Acquiring Surface Material Dispositions on Public Land (2008)* and *The Process for the Issuance and Maintenance of Applications and Dispositions for Surface Material (Excluding Peat) Operations on Public Land (2018)* are inconsistent.

The 2008 guidelines state SME programs will not require FNC consultations by GoA prior to approving an SME application, which is then contradicted in the 2018 process document. Because an SME program is temporary, FNC should be waived until a formal disposition application is submitted, or if consultation is required for an SME, it should not be required for an SMC/SML application. Restrictions in an SME location can make it challenging to complete the aboriginal consultation process as the restrictions may not allow the applicant to adjust pit locations or boundaries of the disposition to try and satisfy aboriginal concerns when there is a conflict.

LAT function should be upgraded to ensure all the limitations, setbacks, and wildlife timing issues are clearly understood. It is common for each biologist to determine and enforce their guidelines and preferences on applications that have met the conditions as identified in the LAT report. For example, biologists have demanded a 300-meter setback on rivers for fisheries concerns when the LAT report requires 100 meters.

This can force applications into PLA arbitration resulting in extending the application process significantly and increasing the administrative burden on both the applicant and the GoA. If the standards change, then the LAT report needs to be updated to reflect new conditions; however, enforcing personal preferences needs to be addressed and should not be considered as a requirement for applications.

Applicants are being requested to complete lengthy and expensive environmental assessments (e.g. Historical Resource Impact Assessments, full-scale wildlife surveys) before proceeding to the SML stage. These studies can significantly impact the upfront and overall cost of the project at a point in the process when there is still uncertainty that an SML application will be approved by AEP. These types of environmental assessments can significantly extend the application process and should be requested at the SML application stage.

### Priority of Resources on the Landscape

Applicants are required to obtain consent from other users of the landscape, such as grazing lease or Forest Management Agreement (FMA) holders. In many cases, other leaseholders or FMA holders attempt to manage the development on the lands rather than provide fair consultation or consent. Often, consultation or consent is refused, or holders demand fees that are above and beyond the relevant loss of use due to temporary reduction of grazing area or limited removal of trees. At this stage, there is no proven aggregate resource on the land. This unethical practice is an abuse of power as the holders only have specific rights to the land (e.g., grazing or trees), and the proper management of resources on the landscape is the responsibility of the GoA.

The lack of a standardized framework for consulting and receiving consents from other leaseholders results in an extended application process, improper management of resources on the landscape, and increased administrative burden on both the applicant and the GoA. It should also be noted that in some cases, consultation or consent is still required with grazing leaseholders with expired dispositions, even though the holder is no longer the formal leaseholders of the land under the *Public Lands Act*.

### Communication

Lack of communication between AEP and the applicant is a significant concern and issue. AEP representatives do not respond to emails or phone calls regarding applications that hinder timely progress or project development. It is also well known that the Assessment and Continuities Unit is understaffed with high workloads.

#### 2.2.3 Proposed Recommendations

- Merge the ALR and SME processes or remove duplicated processes/referrals.
- Enforce or implement mandated review timelines, referral response timelines, and security return timelines.
- Implement a digital application process that allows applicants to know where in the process the application is, and the AEP representative that has been assigned the file.
- Develop an audit process for reclamation/letter of clearance.
- Transfer security fees to the Reclamation Fund instead of the General Revenue.
- Develop or set mandated timelines for security return.
- Consider moving ALR and SME programs under Temporary Field Authorization (TFA). Similar to other activities of a similar nature such as Geotech surveys.
- Allow the Applications, Geomatics and Education Unit to request revisions without refusing applications.
- Change the term in PLAR to allow one year for an SME to give operators/applicants time to prepare a complete SML application.
- Create a standardized framework for compensation of other impacted users/leaseholders on the landscape.

Streamline assessment requirements at the exploration phase, such that applicants should not be required to complete any site assessment **before** submitting an SME application.

### 2.3 SML and CORP Process

At this time, applicants are faced with two streams of SML applications; which stream an application is in correlates to when an application was submitted. During the development of this report, the ASGA Land and Environment Committee received confirmation that AEP has standardized the process to be consistent with the *Alberta Aggregate (Sand and Gravel) Allocation Directive for Commercial Use on Public Land (AEP, 2017)*, thus changing the requirements for submitting SML applications.

Previous conditions allowed for SML applications to be submitted, and for the CORP to be submitted within six months of receiving the Approval in Principle letter from AEP (i.e., Process 1). New conditions dictate that SML applications must include the submission of the CORP at the time of SML application (i.e., Process 2).

Many applicants are currently navigating the regulatory process under Process 1. Based on the analysis of available data, Process 1 takes on average two years, with some files taking significantly longer (up to 12 years). The two processes are depicted in **Figure 3.1 and 3.2** on pages 17 and 18, in addition to being described below.

1. (Process 1 and 2) Once the SME is complete, prepare and file the SML application, including application supplement, statutory declaration, LAT Report, PLSR, exploration results, File Number Consultation, required consents, and SML sketch plan (meeting department digital plan requirements). The applicant provides completed CORP to the Assessments and Continuations Unit, where it is referred to GoA agencies to review (Process 2 only).
2. (Process 1 and 2) The Assessments and Continuations Unit reviews the application for completeness and the Applications, Geomatics and Education Unit ensures the digital plan meets the GoA requirements. The test data from the SME program is also reviewed. If the information is inadequate, a letter is sent to the applicant stating that the application will be cancelled in 30 days if the required information is not received. If the application and data are deemed complete, a letter of acknowledgement is sent to the applicant.
3. (Process 1 and 2) The Assessments and Continuations Unit refers to the application to the registered agencies where the application is reviewed, and comments are directed and coordinated. If more information is required, the applicant will receive and respond to a Supplemental Information Request (SIR).
4. If SML is:

## Aggregate Development in Alberta

### ASGA Environmental Regulation Process Review – Public Lands

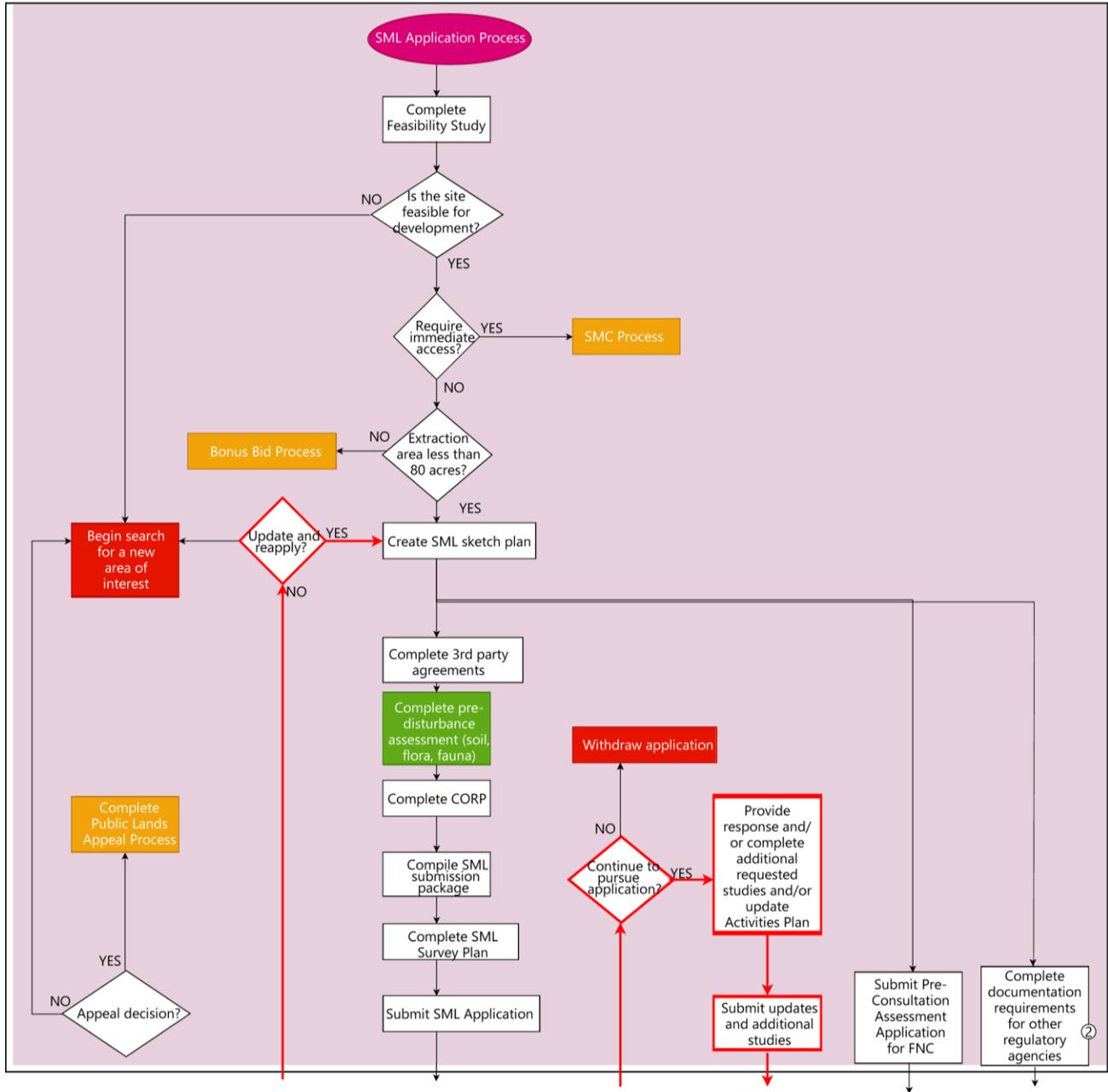
- a. (Process 1 and 2) Not accepted, the application is cancelled, and AEP may place a restrictive PNT on the area.
  - b. (Process 1 only) Accepted and extraction is deemed an acceptable land use; the applicant will be advised that there are no objections to their lease and will request the applicant provide a CORP within six months. This is the stage at which an environmental assessment is completed, not the SME stage, as is sometimes being required by AEP.
5. (Process 1 only) The applicant provides completed CORP to the Assessments and Continuations Unit, where it is referred to GoA agencies to review. If more information is required, the applicant will receive and respond to an SIR (Process 1 and 2).
6. If CORP is:
  - a. Not approved, the application is cancelled and AEP may place a restrictive PNT on the area (Process 1 and 2).
  - b. Approved, AEP will request the applicant to provide the legal survey (Process 1 and 2) and require consents before issuing an approval letter (Process 1 only).
7. AEP issues approval once the security deposit (Process 1 and 2), consents (Process 1 only), and survey are received.

Aggregate Development in Alberta  
 ASGA Environmental Regulation Process Review – Public Lands

Figure 3.1 – (Part 3.2 on page 18)

REGULATORY PROCESS PUBLIC - SURFACE MATERIAL LEASE (SML) PROCESS |  
 CONSERVATION OPERATION AND RECLAMATION PLAN (CORP) PROCESS - PART 1

Aggregate Development in Alberta  
 ASGA Environmental Regulation Process  
 Review – Public Lands



PART 2 OF CHART CONTINUED ON NEXT PAGE

② Potential requirements from AEP and other regulatory agencies, include but are not limited to:

- Historical Resource Clearance - HRIA, Archaeological, Palaeontological, Aboriginal traditional use, etc. Wildlife Surveys
- Water Act Authorizations
- Municipal Rezoning Application
- Development Permits
- Transportation Proximity Agreements/ Roadside Development Permit
- Traffic Impact Assessment
- Environmental Noise Impact Assessment
- Geotechnical Assessment
- Surface Drainage Assessment, etc.

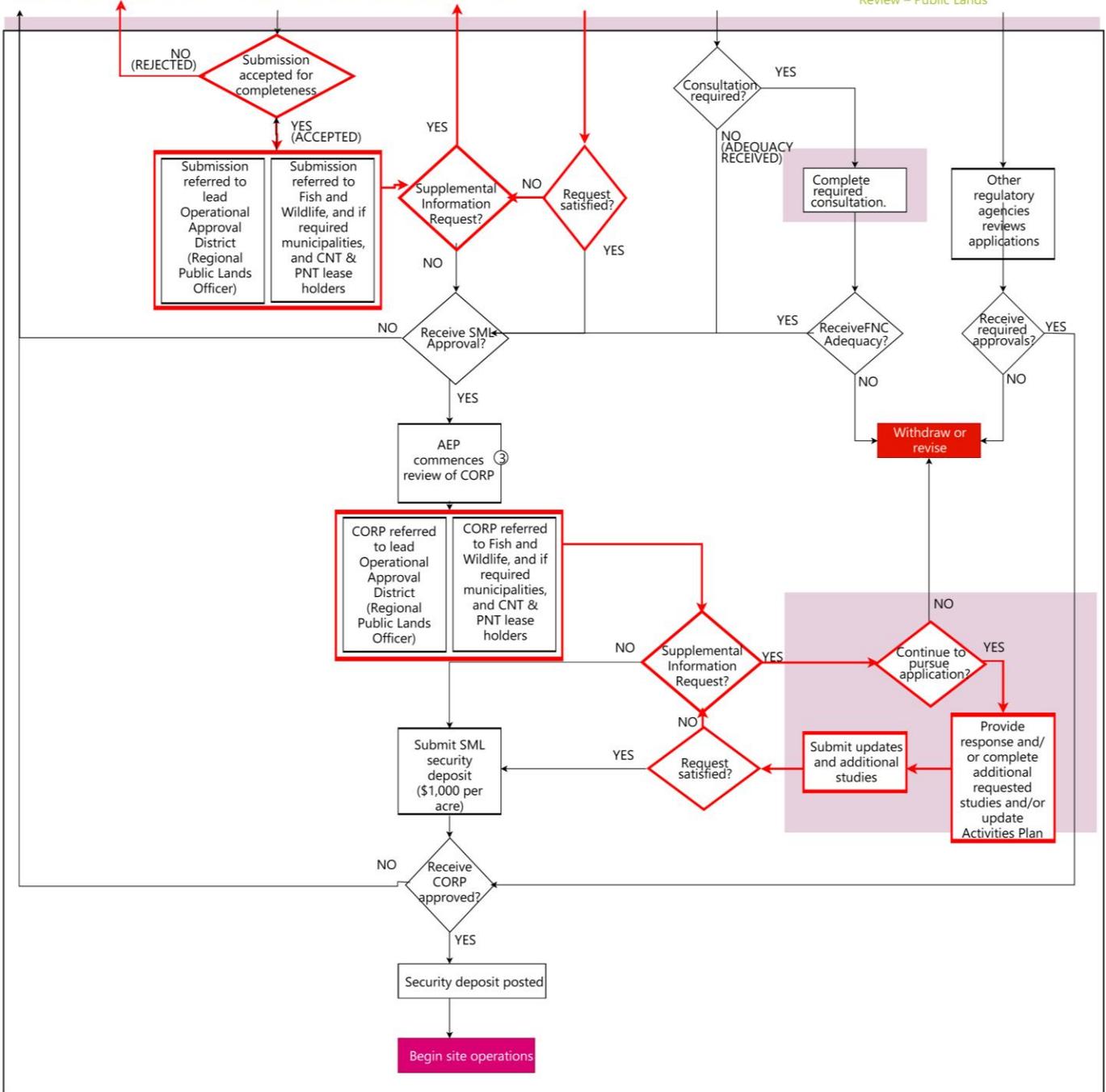
③ If a CORP update is required start here.

# Aggregate Development in Alberta ASGA Environmental Regulation Process Review – Public Lands

**Figure 3.2**

**REGULATORY PROCESS PUBLIC - SURFACE MATERIAL LEASE (SML) PROCESS | CONSERVATION OPERATION AND RECLAMATION PLAN (CORP) PROCESS - PART 2**

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ASGA Environmental Regulation Process Review – Public Lands



2 Potential requirements from AEP and other regulatory agencies, include but are not limited to:

- Historical Resource Clearance - HRIA, Archaeological, Palaeontological, Aboriginal traditional use, etc. Wildlife Surveys
- Water Act Authorizations
- Municipal Rezoning Application
- Development Permits
- Transportation Proximity Agreements/ Roadside Development Permit
- Traffic Impact Assessment
- Environmental Noise Impact Assessment
- Geotechnical Assessment
- Surface Drainage Assessment, etc.

3 If a CORP update is required start here.

Aggregate Development in Alberta  
 ASGA Environmental Regulation Process Review – Public Lands

2.3.1 Statistics and Timelines

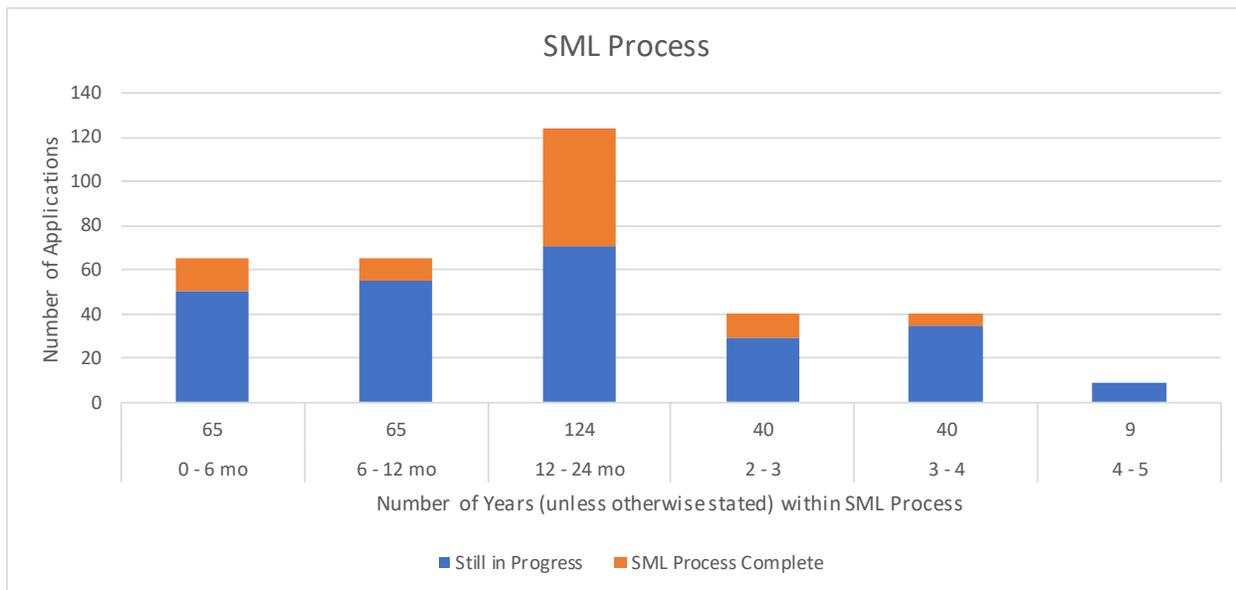
Using recent historical disposition information from January 2015 to June 22, 2019.

SML Application Timelines for Aggregate Extraction by Region (excluding peat applications):

Region	Maximum (years)	Average (years)	Number Application and Percentage Still in Review
Upper Athabasca	3.3	1.7	76 (79%)
Lower Athabasca	3.7	1.6	144 (71%)
Peace Region	3.0	1.3	103 (70%)
North Saskatchewan	1.3	1.1	14 (71%)
South Saskatchewan	3.5	3.5	6 (83%)
<b>Overall</b>	3.7	1.5	343 (73%)

Note that AEP only changes a dispositions status to "Active/Disposed" once both the SML and CORP are approved.

Histogram (Number of Days vs. Number of Applications) 2015-2019:



As of June 22, 2019 (when the data was downloaded):

- 62% of SML applications are in review for more than 1 year;
- 26% of SML applications are in review for more than 2 years; and
- 12% of SML applications are still in review after three years.

### 2.3.2 Constraints with the SML Process

#### Timelines and Application Processing

Application methods are not standardized. Disposition applications are submitted in digital format; however, eight printed and bound copies of CORP's are required to be submitted in person or via mail. The different submission formats can cause delays in the approval process as documentation is received at separate times and ways (electronic vs. manual shipping/receiving).

AEP reviewers delay assessing a submission because of a lack of information as a result of missing submissions or hard copy submissions with unknown whereabouts. AEP Reviewers may also begin reviewing documentation and request further information from the applicant (e.g. SIR) that has been previously submitted but is not currently accessible to the AEP reviewer. This creates confusion and unnecessary delays for the reviewer and applicant.

There is no way for applicants to quickly determine if an AEP representative is reviewing their application or where the application is in the process. This appears to be due to a lack of internal communication between the Assessments and Continuations Unit and the Regional Land Officers, the lack of dialogues between AEP and the applicant, and the inability of AEP to meet process timelines. If timelines were adhered to, applicants could determine where the application was based on the number of days since the application was submitted.

An issued SML only allows for the permitted activity of aggregate operation such as a gravel pit. The disposition/pit cannot be used for any other use (i.e. clay extraction, camps, equipment storage, or field office setups). Instead, a new disposition adjoining the SML disposition is required, in turn, disturbing more areas that may not have had to be disturbed and increasing the administrative burden on AEP and industry.

#### Inconsistencies in Requirements

The standards expected by the Applications, Geomatics and Education Unit to determine application completeness are continually changing, and applications are being rejected (if the application is deemed incomplete) rather than allowing minor deficiencies to be addressed. It is common for specific reviewers to believe an application is deficient because of personal preference rather than not meeting digital plan requirements. The applicant resubmits the application with the deficiencies addressed and continues to wait for the plan to be reviewed again, extending the application process significantly and increasing the administrative burden on both the applicant and the GoA.

There is inconsistency about how guidelines and standards are applied and interpreted, resulting in multiple submissions and additional studies being requested. Applicants are being requested to complete lengthy and expensive environmental assessments (e.g. full-scale wildlife surveys) with little to no rationale for why the study is required.

These types of environmental assessments can significantly extend the application process and result in multiple submissions. It is common for these additional studies to be requested based on the AEP representative's personal preferences or personal interpretation of applicable guidelines, and not site-specific requirements (e.g. LAT report conditions).

#### Priority of Resources on the Landscape

Applicants are required to obtain consent from other users of the landscape, such as grazing lease or FMA holders. In many cases, other leaseholders or FMA holders attempt to manage the development on the lands rather than provide fair and due consultation or consent. Often, consultation or consent is refused, or holders demand fees that are above and beyond the relevant loss of use due to temporary reduction of grazing area or limited removal of trees. This unethical practice is an abuse of power as the holders only have specific rights to the land (e.g. grazing or trees), and the proper management of resources on the landscape is the responsibility of the GoA.

The lack of a standardized framework for consulting and receiving consents from other leaseholders results in an extended application process, improper management of resources on the landscape, and increased administrative burden on both the applicant and the GoA. It should also be noted that in some cases, consultation or consent is still required with grazing leaseholders with expired dispositions even though the holder is no longer the formal leaseholder of the land under the *Public Lands Act*.

#### Conflicting Policy and Legislation

There is no certainty that a CORP submission will be accepted, even though when AEP accepts and approves an SML boundary, the area is deemed acceptable for aggregate extraction. Applicants can make it to the CORP submission stage and provide additional studies to support the application, only to have the application refused or the project denied.

Applicants are being asked to apply for wetland approval (under the *Water Act*) for end-pit lakes with areas that are overall not deep enough to be classified as an end-pit lake or for unintentional creation of wetland on the fringes of the end-pit lake. If this is an opportunistic wetland that is formed through natural processes within the reclaimed area, then no additional permitting should be required, and reclamation should be deemed sufficient. Future conditions are unpredictable, and natural changes in environmental factors can occur.

Failure of AEP to release a Wetland Reconstruction Guideline has delayed applications and proposed benefits to the environment. If wetlands are created, unintentionally or intentionally, the applicant should be rewarded with potential offsets rather than penalized with additional permitting requirements and the financial burdens associated with them.

In general, the argument for requiring the wetland approval (under the *Water Act*) is meant to ensure the wetland will be self-sufficient. Since naturally occurring wetlands are known to change wetland type and appear/disappear based on natural processes, a *Water Act* approval

for an opportunistic wetland that is formed through natural processes within the reclaimed area seems superfluous.

### 2.3.3 Proposed Recommendations

- Continue the transition to an automated online system similar to OneStop, with adoption as soon as possible for straightforward applications (i.e. ALR, SME, SMC, Reclamation Certificates and Letter of Clearance).
- Implement mandated timelines for all applications under the PLA similar to the Department of Fisheries and Oceans, the Alberta Energy Regulator, Canada Energy Regulator (formerly the National Energy Board), or the Alberta Utility Commission. Mandated timelines should include the process of requesting internal referrals.
- Develop a risk-based approach to streamline the permitting process to meet mandated timelines.
- Increase staffing capacity, including ensuring appropriate staffing availability for all regions, including training.
- Issue authorizations for the maximum current legislation framework allowed (25 years terms) as a means to reduce the renewal administrative process on both government and industry.
- AEP should consider developing a land-use management practice to avoid sterilization of aggregate, rather than the first come first serve approach that is currently being applied to the landscape.
- Develop standardized SIRs and/or conform to the guidelines and principals as provided in the LAT report.
- Allow multiple uses for the same piece of land under one disposition if included in the CORP. Some activities, such as a campsite should be allowed without any further approval necessary. The PLA Section 77 Use of Land – shall not make use of the land for any purpose other than which the lease was granted without the consent of the director.
- Allow the Applications, Geomatics and Education Unit to request revisions without refusing applications.
- Increase communication, internally to ensure consistency, externally to set expectations, and individually between applicants and AEP frontline staff.
- Remove the section requiring consent (PLA, 9(1)(e)) and/or determine priorities of the best use for the landscape and create a standardized framework for land-use compensation of other impacts on leaseholders that are currently active and approved.
- Transfer security fees to the Reclamation Fund instead of the General Revenue.
- Proposed wetland construction under the CORP should be enough without having to request end land-use changes and *Water Act* approvals. Applicants are currently reclaiming back to original land use (forested land) because of all the regulatory requirements that are necessary to receive these approvals. Processes should be implemented to make the construction of wetlands easier.
- Release Guidelines for Wetland Reconstruction specific to the aggregate industry.

## 2.4 SMC Process

For aggregate extraction operations of up to five acres, one-year process.

The process involves (takes on average of six months to one year):

1. Once the SME is completed, prepare and file SMC application, including application supplement, statutory declaration, test data, PLSR, LAT, required consents, required fees, and SMC sketch plan (meeting department digital plan requirements).
2. The Assessments and Continuations Unit reviews the application for completeness and the Applications, Geomatics and Education Unit ensures the digital plan meets the GoA requirements. The test data from the SME program is also reviewed. If the information is inadequate, a letter is sent to the applicant stating that the application will be cancelled in 30 days if the required information is not received. If the application and data are deemed complete, a letter of acknowledgement is sent to the applicant.
3. The Assessments and Continuations Unit refers to affected GoA agencies. The volume of aggregate to be removed and the allowable disturbance area is specific in the licence, and all fees are paid in advance
4. If approved, AEP issues a decision and the applicant must follow the approval guidelines in addition to marking the boundaries

### 2.4.1 Constraints with the SMC Process

Review timelines are inconsistent with the intent of this permit process; the length of time a review can take can be longer than the authorization period.

### 2.4.2 Proposed Recommendations

1. Develop a risk-based approach to streamline the permitting process to meet mandated timelines.

## 2.5 Annual Returns and Annual Operating Report

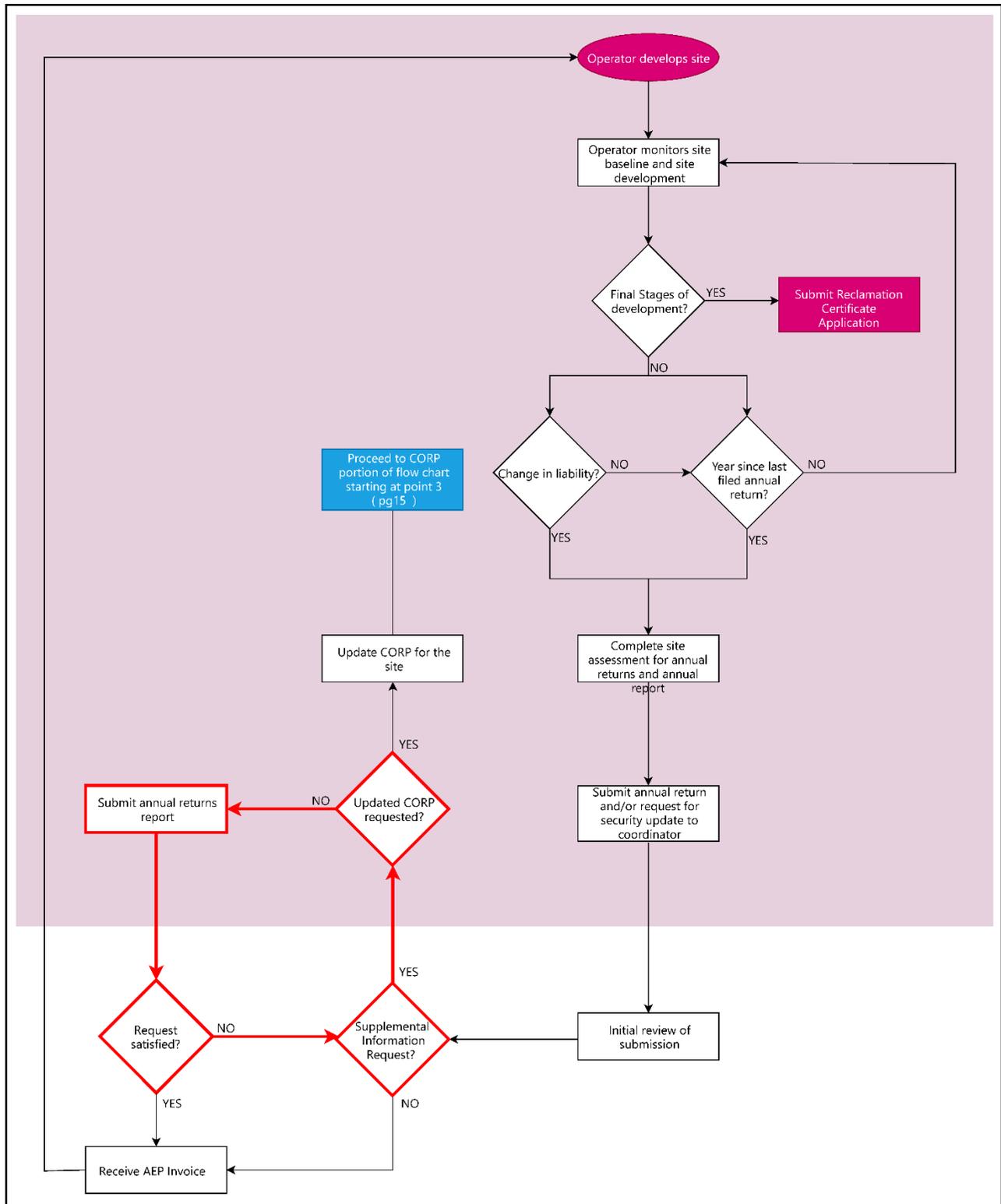
As shown in **Figure 4** on page 24, the process involves:

1. The applicant must report annual aggregate volumes removed to establish the amount of annual return to be paid to the GoA.
2. The applicant submits the annual operating report to accompany annual returns.
3. The applicant submits documents to AEP for review. If AEP requires additional information, a contour survey may be requested.

Figure 4:

**REGULATORY PROCESS-ANNUAL RETURNS**

Aggregate Development in Alberta ASGA  
 Environmental Regulation Process Review – Public  
 Lands



### 2.5.1 Constraints with the Annual Return Process

At this time, there have been no constraints with the annual return or operating reporting process.

### 2.5.2 Proposed Recommendations

To reduce the regulatory burden, it is recommended that the annual operating report should be changed from an annual report to a Five-Year Report to be consistent with the requirements for pits on private land. This recommendation does not include annual royalty reporting, which should be continued annually.

## 2.6 CORP Renewals

Process involves:

1. AEP reviews records to determine if the lease is in good standing or if any additional items are required to make the lease current with department standards.
2. AEP contacts the leaseholder six months prior to the expiry of the term to determine if the holder wishes to retain the lease and to indicate the requirements that must be met to retain the lease.
3. Applicant updates CORP (if required) and submits the renewal to AEP.
4. AEP reviews the renewal. If more information is required, an SIR will be submitted for the applicant to address. If the renewal is accepted, AEP will issue an updated SML to the applicant through a formal letter.

### 2.6.1 Constraints with CORP Renewals

Application methods are not standardized. Disposition applications are submitted in digital format; however, CORP's are submitted in a hard copy paper format that requires eight printed copies in a bound format. The different submission formats can cause delays in the approval process as documentation is received at separate times and ways (electronic vs. manual shipping/ receiving). AEP reviewers delay assessing a submission because of a lack of information as a result of missing submissions or hard copy submissions with unknown whereabouts.

There is no way for applicants to determine what AEP representative is reviewing their application or where the application is in the process. This is due to a lack of internal communication between Assessments and Continuations Unit and Regional Land Officers, the lack of communications between AEP and the applicant, and the inability of AEP to meet process timelines. If timelines were adhered to, applicants could determine where the application was based on the number of days since the application was submitted.

Similar to the SML process, there is inconsistency on how guidelines and standards are applied and interpreted, resulting in multiple submissions and additional studies being requested. Applicants are being asked to complete lengthy and expensive environmental assessments on developed sites (e.g. full-scale wildlife surveys) with little to no rationale for why the study is required. These types of environmental assessments can significantly extend the application process and result in multiple submissions.

It is common for these additional studies to be requested based on the AEP representatives' personal preferences or personal interpretation of the applicable guidelines and not the site-specific requirements (e.g. LAT report conditions). The requests for these studies lead to the uncertainty of access to a resource for applicants or operators that have received permitting for.

Following the review by AEP staff, SIRs that are received by applicants can have contradictory statements and requests for requirements as a result of multiple subject matter experts reviewing the submission. The Regional Land Officer should be responsible for ensuring the SIR comments and requests are applicable and relevant to the submission. Contradictory statements should be removed or discussed internally between the Regional Land Officer and subject matter experts before SIRs are sent to applicants.

An issued SML only allows for the permitted activity of aggregate operation such as a gravel pit. The disposition/pit cannot be used for any other use (i.e. clay extraction, camps, equipment storage, or field office setups). Instead, a new disposition adjoining the SML disposition is required, in turn, disturbing more area that may not have had to have been disturbed, and increasing the administrative burden on AEP and industry.

### 2.6.2 Proposed Recommendations

- Continue the transition to an automated online system similar to OneStop, with adoption as soon as possible for straightforward applications (i.e. ALR, SME, SMC, Reclamation Certificates and Letter of Clearance).
- Implement mandated timelines for all applications under the *Code of Practice for Pits* similar to the Department of Fisheries and Oceans, the Alberta Energy Regulator, Canada Energy Regulator (formerly the National Energy Board), or the Alberta Utility Commission. Mandated timelines should include the process of requesting internal referrals.
- In collaboration with ASGA, develop a risk-based approach to streamline the permitting process to meet mandated timelines.
- Increase staffing capacity, including ensuring appropriate staffing availability for all regions, including training.
- Increase communication internally to ensure consistency, externally to set expectations, and individually between applicants and AEP frontline staff.

## Aggregate Development in Alberta

### ASGA Environmental Regulation Process Review – Public Lands

- Standardize information requests based on regulatory requirements and link back to the applicable regulation when being sent to the Operator.
- AEP should consider developing a land-use management practice to avoid sterilization of aggregate, rather than the first come first serve approach to that is currently being applied to the landscape.
- Develop standardized SIRs and/or conform to the guidelines and principals as provided in the LAT report.
- Allow the Applications, Geomatics and Education Unit to request revisions without refusing applications.

## 2.7 Reclamation Certification Process

The process to obtain a Reclamation Certificate is depicted in **Figure 5**, on page 28 and generally involves:

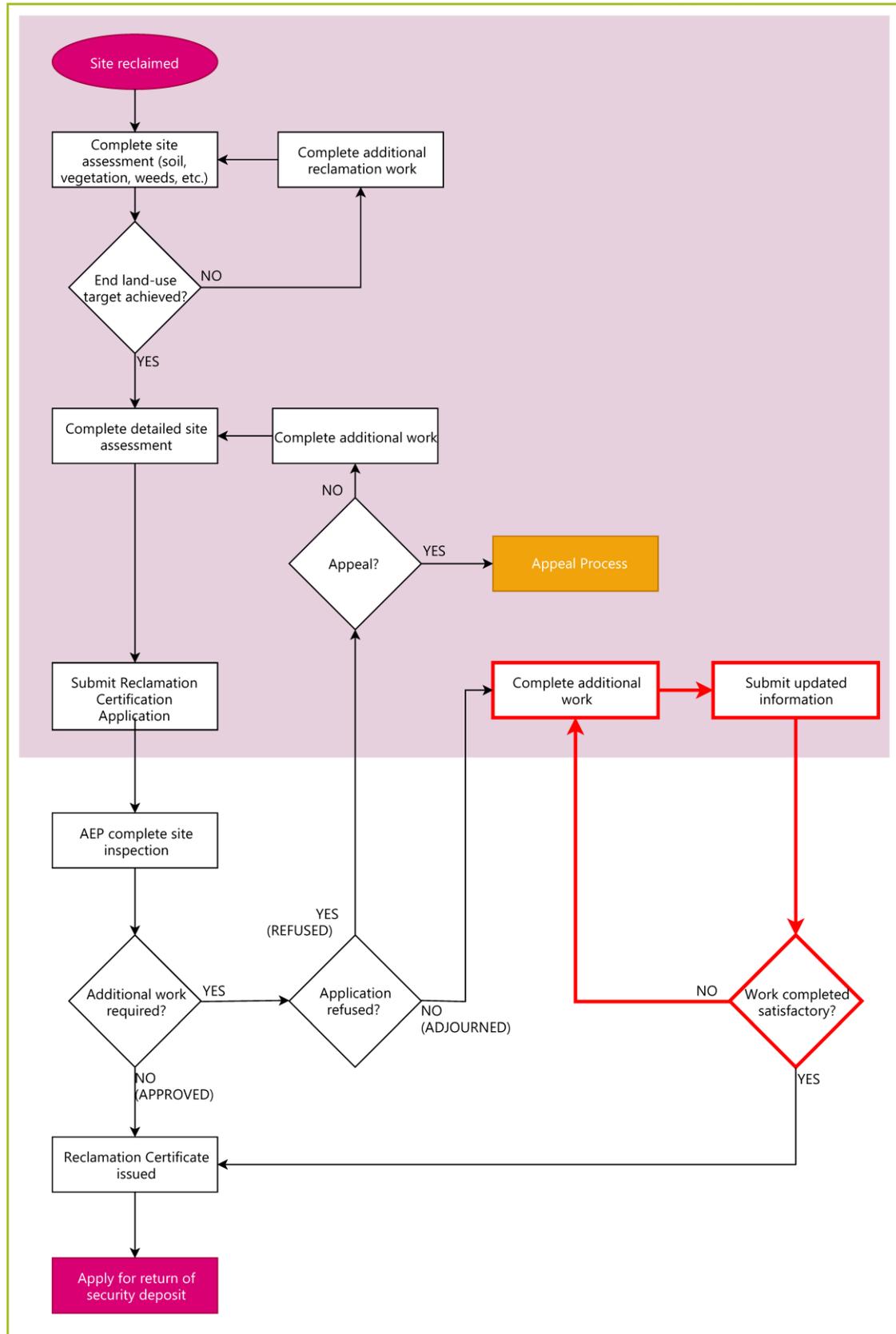
1. The applicant reclaims the landscape as per the reclamation plan on file, including any other requirements as outlined in writing by a Regional Land Officer.
2. Once reclamation is complete, the applicant submits a Letter of Clearance to AEP. AEP reviews the file and refers it to the Regional Land Officer for a site inspection.
3. Security deposit refunded upon the issuance of a Reclamation Certificate.

As timelines for application review to the issuance of reclamation certificates are not readily available, however, it has been noted the reclamation certification process can take upwards of eight years.

Figure 5:

**REGULATORY PROCESS - PUBLIC RECLAMATION CERTIFICATE**

Aggregate Development in Alberta ASGA  
 Environmental Regulation Process  
 Review – Public Lands



## 2.7.1 Constraints with the Reclamation Certification Process

### Security Returns

When an applicant progressively reclaims, they do not receive their security deposit back, or a portion of it as reclamation is ongoing. Partial reclamation certification to get securities back has limited success due to liability commitments, and often applicants must wait for final pit closure to receive the full security deposit back. Since pits can be open for up to 30-50 years, operators can have funds tied up in financial security for many years, impacting their ability to secure future resources.

When a pit receives a Reclamation Certificate, the process for receiving financial securities from AEP can take multiple years. Also, financial security posted on public lands dispositions are not set aside in the Environmental Protection and Enhancement Fund, unlike financial security for private land pits. Since the funds are placed into general revenue, there is no guarantee that the funds will be available to the operator once they receive the Reclamation Certificate.

### Application Processing

Applications for Reclamation Certification are currently submitted through EDS; however, the Regional Lands Officer completes the inspection and provides paper documentation back to the Assessment and Continuations Unit for final processing. By not using electronic forms for documenting, response time is delayed, and concerns cannot be addressed in a timely fashion; in other words, since inspection is completed in the summer and results are not forwarded to the applicant until the fall/winter, the applicant has to wait another six months before any required changes can be made. AEP cannot handle Reclamation Certificates under this method. Timelines for Reclamation Certificate approvals are long and frequently extended as EDS is inconsistently used, and hard copy paper correspondence is preferred by reviewers.

## 2.7.2 Proposed Recommendations

- Develop a guideline for requirements in Reclamation Certificate application submissions.
- Develop or set mandated timelines for security return.

Aggregate Development in Alberta  
ASGA Recommendations Related to Delays and Inconsistencies on Environmental Permitting

**Appendix B1: List of Abbreviations**

ALR – Aggregate Land Review (640 ac)

SME – Surface Material Exploration Program (320ac. 180 day approval)

SMC – Surface Material Licence (Maximum 5 ac, 2 ha. 1-year approval)

SML – Surface Material Lease (Up to 80 ac, 32.29 ha. 10-year approval)

LAT – Landscape Analysis Tool

LSAS – Land Standing Automated

GoA – Government of Alberta

AEP – Alberta Environment & Parks

AER – Alberta Energy Regulator

CORP – Conservation Operation Reclamation Plan (previously CRBP)

CNT – Consultative Notation

PNT – Protective Notation

EPEA – Environmental Protection and Enhancement Act

UAP – Updated Activities Plan

COP – Code of Practice for Pits

RAC – Regulatory Approval Center

GZL – Grazing Lease

DFO – Department of Fisheries and Oceans

NEB – National Energy Board

AUC – Alberta Utilities Commission

PLAR – Public Lands Administration Regulation

SIR – Supplemental information Request

WA -Water Act

TFA - Temporary Field Authorization

FMA – Forest Management Agreements

## Appendix B2 - Diagram Legend



Start of process



End of process (positive outcome)



End of process (negative outcome)



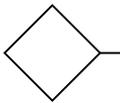
Separate process is initiated (described)



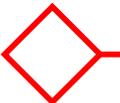
Separate process may be initiated (not described)



Step in process is time sensitive (can only be completed at certain times of the year)



Typical process (limited issues/concerns)



Section of concern in the process (inconsistencies and major time delays)

Pink background shows that proponent is responsible for task.



Additional notes and comments