



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

**Indian Oil and
Gas Canada**

**Pétrole et gaz des
Indiens du Canada**

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Your file - Votre référence

November 1999

Our file - Notre référence
E-5855-7, E-5855-8

Information Letter Drainage Notices

Background

Drainage is the subsurface removal of oil or gas by wells located on adjacent lands. Drainage poses a risk to First Nations and IOGC since it could result in a loss of potential revenue. Drainage can only be 'proved' or 'disproved' by first drilling a well and collecting geological and engineering data. Meanwhile, the law of capture applies and delay can potentially result in an unrecoverable loss.

Sections 34 and 35 of the *Indian Oil and Gas Regulations, 1995* (Regulations) address drainage of oil and gas resources from Indian lands.

Offset Requirements

If it is determined jointly by the Band Council and the Executive Director, IOGC, that there may be production or drainage of oil or gas from an Indian lease or permit area by a draining well in a laterally or diagonally adjoining spacing unit (without considering road allowances), as per section 34 (1) and (2) of the Regulations, the Executive Director may give notice in writing to:

- commence drilling one or more offset wells into the zone(s) from which drainage may be occurring and place the wells on production, or
- submit a development and production plan (known as the Plan), or
- pay a compensatory royalty

within 90 days after receipt of the notice, or any longer period as specified in the notice.

The permittee or lessee will be informed in writing if the Plan is approved as submitted or with modification as per section 34 (3) of the Regulations.

Notice may be given even if IOGC's interest in the spacing unit being drained is less than 100% and if IOGC has an interest in the draining spacing unit.

Special Cases

An offset obligation can be satisfied under a Plan, if the lease or permit area within a spacing unit adjoining a spacing unit containing a draining well becomes subject to a unit or pooling agreement, or has a well that is recompleted to produce from the zone being drained.

If the production from the offset well is unduly or unjustifiably less than the draining well, the lessee will be notified regarding IOGC's intention to issue a notice to submit a Plan within a specified period. However, the lessee may submit geological and technical information to establish justification for the level of production.

Alternative to Drilling or Submitting a Development Plan

A permittee or lessee may choose to satisfy the offset obligations without having to drill or submit a Plan by:

- paying compensatory royalty, or
- surrendering, within the time period set out in the drainage notice, the portion of the permit or lease area from which production or drainage may be occurring as described below.

Compensatory Royalty

If required by the Executive Director, the permittee or lessee must pay compensatory royalty as follows:

- *Offset Well* — From the 90th day after receipt of the notice, or a longer period as specified in the notice, until the offset well is drilled and placed on production, or is otherwise proven not to be productive in paying quantity.
- *Development and Production Plan* — From the 90th day after receipt of the approval, or a longer period as specified in the approval, until the implementation of the Plan is completed.

Surrender

The permittee or lessee shall surrender the lease or permit area within a spacing unit adjoining the draining well from the surface to the base of the zone from which production or drainage may be occurring. However, it may retain any producing zone. This option is available only within the time period specified in the notice.

Regulatory Authority

Indian Oil and Gas Canada (IOGC) is a regulatory agency within the Department of Indian Affairs and Northern Development responsible for the management and administration of oil and gas resources located on Indian reserve lands in Canada. The mandate of IOGC is:

- to fulfil the Crown's fiduciary and statutory obligations related to the management of oil and gas resources on Indian reserve lands; and
- to further First Nation initiatives to manage and control their oil and gas resources.

Enquiries

Enquiries related to this Information Letter should be forwarded to:

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