

**REVIEW OF POLICY ON
ACCESS TO INFORMATION
REGARDING
COMPENSATION DETAILS IN
PETROLEUM AND NATURAL GAS SURFACE LEASE AGREEMENTS**

On February 15, 2005, the Ministry of Energy and Mines (the Ministry) hired the firm Perrin, Thorau & Associates Ltd. (Perrin Thorau) to provide the Ministry with recommendations on public disclosure of the compensation provided by holders of oil and gas tenure to landowners for surface access.

Terms of Reference: Summary

Perrin Thorau will advise as to whether all details of surface access compensation, whether under a lease agreement or otherwise, should be publicly available and if so who should provide this information to the public; and provide recommendations on the issues associated with public access to that complete information. Perrin Thorau is required to submit a final report to the Ministry by March 31, 2005.

Terms of Reference: Current Practices

As it makes its recommendation, Perrin Thorau is to report on:

- ◆ What information related to surface leases is currently filed with provincial agencies such as the Mediation and Arbitration Board, the Oil and Gas Commission, the Ministry of Energy and Mines and the Land Titles Office; who is required to file the information; who can access this information and through what mechanism(s)?
- ◆ For what purpose is the information related to surface leases filed with these agencies?
- ◆ What information on compensation (both monetary and non-monetary) is available to each of industry, landowners and provincial agencies in British Columbia?
- ◆ If the above information includes details of compensation provided to landowners for providing access to the oil and gas tenure holder, is the information complete in that it includes all forms of benefits/compensation provided? Do other compensation or benefit agreements exist? Is this compensation or benefit information provided to or recorded by the above agencies? Are there restrictions by any person or agency to the provision of this information to any other person?
- ◆ What information is publicly available, how is access to surface lease information provided, who is responsible, and how is such access funded in other jurisdictions?

Terms of Reference: Consultation

Perrin Thorau is to consult with individuals, agencies and groups that are to include, but not be limited to:

- ◆ Mediation and Arbitration Board;
- ◆ Oil and Gas Commission;
- ◆ Ministry of Energy and Mines;
- ◆ Administrative Justice Office;
- ◆ Representatives of the oil and gas industry;
- ◆ Landowners and representatives of landowner groups in Peace region; and
- ◆ Other jurisdictions.

After consulting with these and other parties, Perrin Thorau is to advise on:

- ◆ The nature of the various stakeholders' interests and the access that each should have to compensation information; and
- ◆ Whether government or a related agency should have a role in addressing the access to this information between industry and landowners or whether it is the role of the private sector; and
- ◆ Are there other issues that must be addressed?

Invitation to Participate in the Consultation Process

Perrin Thorau will hold an open meeting to consult with all interested parties; and any interested party is welcome to attend. This meeting is tentatively scheduled for 17 March, from about 1000 hrs to about 1600 hrs, at the Grand Hotel in Fort. St. John.

In deciding whether to attend, interested parties should be aware of the purpose of the meeting: it is only for stakeholders to provide information to answer the questions that Perrin Thorau will ask about the public release of compensation information. At this meeting there is no need for, nor any opportunity for, stakeholders to make position statements or to engage in debate about their positions.

The format of the meeting will be guided by a series of questions that Perrin Thorau will put to those attending the meeting, along the lines of:

1. What are current practices in British Columbia with respect to the public availability of compensation information?
2. Should all compensation information with respect to surface access be made public?
 - a. Are all parties to such transactions willing to volunteer this information?
 - b. What practical means can assure full and complete disclosure of this information?
 - c. Who should fund and administer those means?

Those wishing to attend the meeting must contact Charles Ormiston of the Ministry of Energy and Mines at (250) 952-0508 or Charles.Ormiston@gems3.gov.bc.ca to advise of their intention to attend **no later than March 11, 2005**, so that

- They can receive a background paper prepared by Perrin Thorau in advance of the meeting (available by e-mail and posted on this website);
- They can receive notice of the time and place of the meeting once it is finalized; and
- The Ministry can make arrangements for an appropriately-sized meeting room.

YOU MUST PRE-REGISTER TO ATTEND THE MEETING

Background

At common law, a holder of a right to exploit subsurface resources has a right to access those resources. For holders of oil and gas tenure, the right of access on private land is modified by section 9 of the *Petroleum and Natural Gas Act (P&NG Act)* which requires the holder to have either entered into a surface lease agreement with the land owner or authorization by the Mediation and Arbitration Board (the Board), created under the authority of section 13, before entering, occupying or using land. Section 10 of the *P&NG Act* requires a copy of such leases to be submitted to the Board.

The Oil and Gas Commission (the Commission) is a Crown corporation established under s. 2 of the *Oil and Gas Commission Act*. The Commission is responsible for the regulation of oil and gas activities and pipelines in British Columbia. The Commission is responsible for the authorization of the drilling and operation of oil and gas wells and related facilities under the *P&NG Act*. Well applicants must be in compliance with the *P&NG Act* in order for the Commission to approve a well authorization. A role of the Stakeholder Relations and Communications Branch of the Commission includes working with all parties affected by oil and gas activities to facilitate issue resolution and information dissemination.

The Board is an independent, quasi-judicial body with authority and jurisdiction under the *P&NG Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act*, the *Mining Right of Way Act*, and the *Coal Act*. The Board may have up to nine Members, including the Chair, Vice-Chair and seven Members, appointed by Order in Council and selected through a merit-based process in accordance with the *Administrative Tribunals Act*. Members are from varied backgrounds including legal, oil and gas, mining and agriculture. The Board office is located in Fort St. John, staffed by a part-time Administrator.

An internet site (www.em.gov.bc.ca/subwebs/M&ABoard/) provides information on decisions of the Board 1999-2004, Board members and their profiles, and Board procedures.

With the growth of the oil and gas industry, landowners have suggested they do not have sufficient access to information about compensation, and that this may impair a landowner's ability to effectively negotiate lease agreements. The following question has arisen:

Whether all details of surface access compensation, whether under a lease agreement or otherwise, should be publicly available and if so who should provide this information to the public? Identified concerns include whether the leases as filed should be required to disclose all forms of compensation payable, including non-monetary benefits. What public or private sector entity is most appropriate to provide adequate public access to this information?