

Guide for Trespass

Contains what constitute trespass on Crown petroleum and natural gas rights and obligations if a trespass occurs.

Overview

Trespass is defined as, “No person shall win, work or recover a mineral or inject any substance into a subsurface reservoir that is the property of the Crown in right of Alberta unless the person is authorized to do so under *section 54(5)* of the [Mines and Minerals Act](#) or by an agreement.”

To summarize, trespass is defined as conducting activities in Crown mineral rights without a valid mineral agreement or Crown mineral activity (CMA) authorization. These activities include terminating in, testing, coring, producing from, or disposing.

Self-declaring a Trespass

If you encounter a potential trespass occurrence, cease all operations immediately. On company letterhead, identify the well(s), outline the circumstances surrounding the potential trespass and email Energy.Trespass@gov.ab.ca. Crown Equity will request information from you and then determine how you should proceed.

Required Technical Data

- Strip logs
- Wireline logs
- Completion Report, if well tested in over hole
- Flow Test Data, if well tested in over hole
- Directional Survey, if it is a directional or horizontal well
- Drilling Prognosis as prepared for well site geologist
- Geologist's morning report
- Daily Drilling Reports

- Any other pertinent information that may be useful

Notes:

There is no difference in Alberta Energy and Minerals' (the department) processes whether a company self-declares a trespass or whether the department identifies the trespass.

In cases of trespass, the company is not allowed to profit from any production and will be required to compensate the department for the production. Production cannot re-commence until the rights are acquired, usually through the public sale process.

There are **two** ways that companies can submit their self-declaration package:

- Mail or courier to Edmonton office:
Alberta Energy and Minerals
11th Floor, North Petroleum Plaza
9945 – 108 St. NW
Edmonton, AB T5K 2G6

OR

- Drop off to Calgary office:
Alberta Energy and Minerals
3rd Floor, AMEC Place
801 – 6th Ave SW
Calgary, AB T2P 3W2

Information Obtained in Trespass

Information obtained with a valid PNG lease or licence provides you with a competitive advantage when you participate at a land sale. Conversely, any information obtained in trespass provides the trespasser with an unfair advantage as they did not receive the Crown's permission and should not possess this information.

In order to maintain the integrity of the Public Offering (Sales) process, all information obtained in trespass must be made public. Any related postings will be withdrawn from the sale until the department is confident that all information obtained in trespass has been made public.

Information must be made public by forwarding it to the Alberta Energy Regulator (Regulator), along with a letter advising the Regulator to make the information public immediately. The department expects the trespasser to examine their business practices to ensure re-occurrences do not occur.

Conducting Activities over Agreement Expiry

Conducting activities such as drilling, coring, completing, testing, perforating or commencing production after the agreement expiry date may result in trespass. The continuation of mineral rights under an agreement is not guaranteed until the final Continuation letter is issued.

Production Over Agreement Expiry

If you are producing over expiry, continuation will be granted for the spacing unit and producing zone. However, a company must ensure they have the rights to the complete spacing unit to avoid action from the Regulator.

Note:

When the department informs you of a trespass, you are required to shut in your well. Immediately shutting in the well minimizes the amount of benefit gained by the trespasser and minimizes the amount of damages payable to the Crown. Production may not resume until you have legally obtained the associated mineral rights.

Accessing Your Leased Rights

You are allowed to drill through the unleased Crown mineral rights to get to your leased mineral rights. Logging and taking samples as required by the Regulator is permitted. You cannot test, terminate in

or produce from Crown mineral rights not covered by a Crown mineral agreement or CMA authorization. For excepted rights, you need to know how they are defined in comparison to your leased rights. Trespass can occur by misinterpreting a Deeper Rights Reversion Zone Designation (DRRZD) with a Zone Designation (ZD). [Information Letter 98-14](#) outlines how to interpret a DRRZD versus a ZD.

Production From an Incomplete Spacing Unit

The entire drilling spacing unit (DSU) must be covered by mineral right agreement(s) to produce the mineral. If you do not have the required DSU, it will result in an incomplete spacing once the well starts producing and you are required to pay for the value of production taken.

Direct purchase of rights are used in very restrictive circumstances. If the unleased Crown mineral rights are less than 50% of the spacing unit, you should contact the department's PNG Agreement Sales Helpdesk [Phone: (780) 644-2500 or Fax: (780) 422-1123] to discuss a direct purchase. [Information Letters 2017-21](#) will provide you with the information you need regarding direct purchases.

Testing must be carried out in accordance with the testing criteria outlined in the Regulator's [Directive 65](#). The Regulator considers testing as production. A company would be in contravention of the Regulator's Oil and Gas Conservation Regulation if they produced without common ownership of a spacing unit.

Notes:

If a "qualifying well" is drilled before the agreement expiry pursuant to *section 16 of the [Petroleum and Natural Gas Tenure Regulation](#)*, a company can continue to work on the spacing unit where the qualifying well is located.

Companies cannot leave a recorder down the well after agreement expiry. The recorder must be removed by midnight on expiry, unless the well is a "qualifying well" under *section 16 of the [Petroleum and Natural Gas Tenure Regulation](#)*.

Trespass Appeal

Companies can appeal the department's trespass decision within 30 days from the date of the trespass letter. The trespass invoice must be paid in full prior to submitting an appeal. A refund will be issued if the appeal is successful. You must also provide supporting evidence to demonstrate a trespass did not occur. The department normally requests data such as well logs (strip/wireline) and daily drilling reports for review.

The department may waive the penalty in exceptional circumstances where our technical staff agree that a company was unable to identify the base of their agreement due to complex geology. If the appeal is not based on complex geology, ensure a compelling case is provided.

Overhole

A company is permitted to drill a maximum of 15m beyond their Crown leased rights, in accordance with the Regulator's [Directive 56](#). This is to allow the setting of logging tools, so that information can be obtained down to the base of the deepest leased zone drilled; however, production cannot be obtained in this overhole portion of the wellbore.

When a company drills past the 15m into unleased Crown rights, they may be provided with an unfair advantage at the land sale. It could also be a safety issue. It is expected that a company knows where the base of their rights are and that they do not drill beyond the 15m.

All references to overhole are in the Regulator's Directives. The Regulator uses the term "Total Depth" ([Directive 56](#) and [59](#)). The department also refers to as the "measured depth". The total depth, not the true vertical depth, is used for reporting and calculating, which the Regulator uses for reviewing.

Road Allowances

Road allowances are undisposed Crown land. Your mineral agreement does not include the rights to any road allowance that lies adjacent to the sections of land contained in the agreement.

Refer to [Information Letter 2015-41](#), Accessing Crown Mineral Rights within a Statutory Road Allowance, to determine what activities are automatically allowed in the road allowance and when you are required to apply for CMA authorization.

A company is in trespass if their well terminated in an un-surveyed road.

There are theoretical roads that are statutory road allowances. Statutory road allowances are owned by the Crown whether they are surveyed or un-surveyed.

