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# ENERGY

M A T T E R S

MARCH 2008

## Federal Government Announces Final Regulatory Framework for Industrial Greenhouse Gas Emissions

by John Goetz and Aaron Rogers,  
*Student-at-Law*

On Monday, March 10, 2008, the Government of Canada released the final version of its action plan called “Turning the Corner: Regulatory Framework for Industrial Greenhouse Gas Emissions” (the “Regulatory Framework”). This final version elaborates upon and strengthens the government’s previous “Regulatory Framework for Air Emissions” released in April 2007. The goal remains the same — reduce greenhouse gas emissions to 20% below 2006 levels by 2020. However, there are some new items of particular interest to oil sands producers and coal fired power generators. Draft regulations based on the new Regulatory Framework will be published in the fall of 2008 and are scheduled to become binding on January 1, 2010.

### REDUCTION TARGETS FOR EXISTING FACILITIES

The Regulatory Framework for existing facilities requires an emissions intensity reduction target of 18% below 2006 levels

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by the beginning of 2010, followed by a continuous annual intensity improvement of 2% thereafter. This target will be applied to regulated sectors on either a facility-specific, sector-wide or company-by-company basis. The facility-specific basis will be applied to sectors in which facilities are complex and diverse or where emissions are affected by factors beyond the control of facility operators. This will include oils sands production and upgrading, petroleum refining, natural gas pipelines and upstream oil and gas.

## **NEW FACILITIES – TOUGHER STANDARDS**

New facilities are defined as facilities whose first year of operation was 2004 or later. These facilities will be granted a 3-year grace period during which no emissions intensity targets will apply. Targets will begin to apply in a new facility's fourth year of commercial operation based on emissions intensity in its third year, with a 2% continuous annual emission intensity improvement required. Notably, the definition of new facility has been expanded to include not only greenfield facilities, but also major expansions constituting more than a 25% increase in a facility's physical capacity as well as major transformations to a facility that involve significant changes to its processes. This may capture expansions planned by Suncor (\$21 billion), and Canadian Natural, whose Horizon project is scheduled to start up in August of this year, but which also has several expansion phases planned.

Further, emissions intensity targets for new facilities will be based on a cleaner fuel standard to encourage continuous emissions intensity reductions over time. The method of applying this cleaner fuel standard has yet to be disclosed. For upstream oil and gas and natural gas pipelines, it will be applied using a sector-specific approach. For the oil sands, its application will be process-specific, with a separate standard being applicable to each of mining, in situ recovery and upgrading.

## **LOWER THRESHOLDS FOR REGULATION**

In certain regulated sectors, the Regulatory Framework will apply only to facilities exceeding a minimum annual emissions threshold. For natural gas pipelines, that threshold will be 50,000 tonnes of CO<sub>2</sub> equivalent per year. For

upstream oil and gas facilities it will be only 3,000 tonnes of CO<sub>2</sub> equivalent per facility and 10,000 boe/day/company. These proposed thresholds are significantly stricter than the current Alberta regulatory threshold of 100,000 tonnes of CO<sub>2</sub> equivalent per year per facility, and will capture a much larger number of companies that are not currently required to reduce emissions.

## **Effectively, all oil sands and coal fire generation facilities starting operations in 2012 or later are expected to incorporate CCS.**

### **CARBON CAPTURE AND STORAGE**

The new Regulatory Framework recognizes the importance of carbon capture and storage ("CCS") in meeting overall emissions reduction targets, and referenced the recent report of the ecoEnergy Carbon Capture and Storage Task Force which estimated that the Canada-wide potential for CCS could be as high as one-third to one-half of Canada's projected greenhouse gas emissions in 2050. The Regulatory Framework will provide an incentive for new facilities brought on stream 2004 or later to adopt CCS, although it is not determined exactly what these incentives will be and how they will work. The federal government intends to set targets based on the implementation of CCS for in situ facilities and upgraders in the oil sands sector and for new coal-fired electrical generation plants that begin operating in 2012 or later. While the exact nature of these targets has not yet been determined, they are intended to become operative in 2018. Effectively, all oil sands and coal fire generation facilities starting operations in 2012 or later are expected to incorporate CCS.

### **COMPLIANCE MECHANISMS**

To provide emitters some flexibility in the measures they can take to meet their emission reduction targets, four separate compliance mechanisms are provided in respect of the above targets: Technology Fund contributions, offset credits, clean development credits and credits for early action. The most significant of these compliance mechanisms at the outset will be Technology Fund credits, since they will be the easiest to access and emitters can use

them to meet up to 70% of their reduction obligations. In addition, the Pre-certified credit option will be attractive to oil sands producers and coal fire generating plants to subsidize the construction of their carbon capture and storage systems. Producers can use any combination of the compliance mechanisms, provided they don't exceed the stipulated limits for Technology Fund credits and Clean Development Mechanism credits.

### **TECHNOLOGY FUND**

Regulated entities will be able to contribute to the Technology Fund in order to comply with emissions intensity reductions. The contribution rate will increase over time, beginning at \$15 for the 2010-12 period, rising to \$20 in 2013, and thereafter increasing at the nominal rate of GDP growth. Contribution limits will correspondingly decline from 70% of a firm's total regulatory obligation in 2010 to 0% in 2018. This means that actual reductions by regulated facilities/companies and the purchase of offsets generated by non-regulated emission reductions will become increasingly important to a firm's ability to maintain compliance (see discussion of offsets below). Monies raised through contributions to the Technology Fund will be used to invest in technology to reduce greenhouse gas emissions, emphasizing reductions in the near term. Of key importance to oil sands and coal fired electricity generators is the "Pre-certified Investment Option". This alternative allows companies and facilities to receive credits for investing directly in large-scale and transformative projects that are either its own or a joint venture project, provided they are selected from a menu set out by the federal government. Pre-certified investments will have the same contribution rate as the Technology fund and be subject to similar requirements. The federal government intends to begin discussions with industry and the provinces of Alberta and Saskatchewan to pre-certify CCS projects. To encourage investment in CCS projects, oil sands producers and coal fired generation plants will be able to satisfy 100% of their regulatory obligations by investing in pre-certified CCS projects up to 2018. Contributions to other funds such as provincial technology funds may also be recognized under the Federal Regulatory Framework, provided that they meet all the necessary equivalency requirements.



**...a one-time credit of up to 15 Mt worth of emissions credits will be awarded to regulated entities for emissions reduction activities undertaken between 1992 and 2006.**

## OFFSETS

The offset system is intended to encourage emissions reductions from activities outside of the regulated sphere, allowing non-regulated entities to participate in and benefit from emissions reduction activities. Offset credits will be generated for activities that result in real, incremental, quantified, verifiable and unique emissions reductions. In order to generate offset credits, project proponents must propose and receive approval for emissions reduction activities that will be verified before offset credits will be issued to the project proponent. Those credits can then be sold to regulated entities for use in compliance or non-regulated purchasers that wish to either cancel the offset credits or bank them for future use or sale. It is expected that offsets may be in short supply due to the limited number of offset generating projects that will be available to draw from in the early years. This may cause upward price pressure and make offsets more expensive than Technology Fund credits. Some analysts are expecting prices of \$20-\$25 at the outset. Some emitters, anticipating a shortage or increase in price, have begun buying offsets on a forward basis to ensure they cover their offset requirements.

## CDM CREDITS

Under the Regulatory Framework, regulated entities will also be able to purchase credits created through the Clean Development Mechanism (“CDM”) of the Kyoto Protocol. The purchase of such Emissions Reduction Credits will be restricted to 10% of each firm’s regulatory obligation, with the added restriction that credits generated through forest sink projects will not be available for use in complying with the Canadian regulations.

## EARLY ACTION CREDITS

Finally, a one-time credit of up to 15 Mt worth of emissions credits will be awarded to regulated entities for emissions reduction activities undertaken between 1992 and 2006. These credits will be both tradable and bankable.

## FEDERAL PLAN VS. ALBERTA

The Regulatory Framework appears to be materially different than the existing Alberta greenhouse gas emissions regulations in a number of respects. Regarding the Technology Fund and the comparable Climate Change and Emissions Management Fund in Alberta, only the federal fund incorporates both increasing contribution rates and decreasing contribution

limits over time. The Alberta regulations do not contemplate linkages with Kyoto or other emissions trading schemes and do not provide for recognition of early action towards emissions reductions. However, Alberta’s regulations do allow credits generated from 2002, as opposed to 2008 under the Federal plan. As well, Alberta’s reduction requirements are only 12% for existing facilities, versus 18% under the Federal Regulatory Framework. Unlike the Regulatory Framework, there is also no provision for continuous annual emissions intensity improvements in the Alberta regulation. Alberta will likely have to increase its requirements to match federal reduction targets, but may be able to get credit for 3 years of additional reductions from 2007-2009. Finally, as noted above, the applicability threshold for certain sectors is significantly lower in the Federal Regulatory Framework. Although the federal government has repeatedly indicated an intention to exempt provinces with equally stringent greenhouse gas regulations from the applicability of federal regulations, it remains to be seen whether Alberta’s regulatory scheme will be deemed equivalent or whether Alberta will move towards harmonization with the proposed federal regulations.

# Meet Our New Climate Change & Emissions Trading Team

Our newly formed Climate Change & Emissions Team can provide you with the latest information and advice regarding Climate Change regulations and Emissions Trading. Members of our Team have worked on significant carbon offset purchase agreements, letters of intent, aggregation agreements, CO<sub>2</sub> purchase agreements and regulation reviews.

## AREAS OF SERVICE FOR OUR CLIENTS IN THIS ARE MAY INCLUDE:

- ▮ Advice on the Alberta Climate Change and Emissions Management Act, the Specified Gas Emitter Regulations and the new Federal Regulatory Framework
- ▮ Advice on ramifications for emitters and smaller energy producers
- ▮ Advice on emission trading and credit purchase agreements
- ▮ Advice on offset generation projects for non-regulated entities



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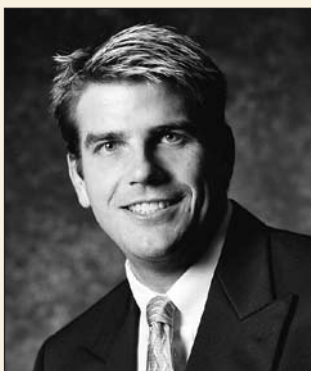
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*If you would like any further information on any members of our team, such as a more detailed resume, please feel free to contact the team member or the managing editor. You may also refer to our website at [www.bdplaw.com](http://www.bdplaw.com).*

# Split of the Alberta Energy and Utilities Board

by Jerrad Kubik

**O**n January 1, 2008, the Alberta Energy and Utilities Board (the “AEUB”) was split into two separate and independent regulatory agencies, the Energy Resources Conservation Board (the “ERCB”) and the Alberta Utilities Commission (the “AUC”). The split represents a return to the model that was in place prior to the formation of the AEUB through the merger of the former Energy Resources Conservation Board and the Public Utilities Board in the mid-1990s.

The ERCB is now responsible for the regulatory framework of Alberta’s petroleum resources and generally focuses on overseeing the “orderly, safe and environmentally acceptable” development of oil, oil sands, natural gas and coal resources in the province. This includes the approval and regulation of oil and gas wells, batteries and other related facilities, coal-producing mines, coal processing facilities, pipeline infrastructure and oil sands projects. The AUC’s responsibility generally focuses on the regulatory approval of power generation facilities, power transmission lines and gas distribution pipelines in the province, as well as the regulation of electric, gas and water utility tariffs.

The AEUB was originally formed in 1995 and was due in large part to the Alberta Government’s provincial budget cuts at the time, and was considered by some as a “forced marriage” of the province’s energy regulators. To some extent, the “marriage” was also driven by the perceived need to have the same regulator that approved the construction of electric facilities in the province also be the regulator to determine their inclusion in the utility’s rate base.

However, the rapid increase in the price of energy resources over the past decade and the resulting growth of the energy industry led to regulatory backlogs, with the AEUB facing the untenable position of having to handle over 60,000 applications in 2006 alone. The former Board was also confronted with a controversial electric transmission line proceeding in 2007, which was eventually terminated at the AEUB’s own instance on the grounds that an apprehension of bias had developed. The recent division is an attempt to improve the overall regulatory efficiency and restore the public’s perception of Alberta’s regulatory system. By taking a more focussed approach to regulation, both of the new tribunals are well positioned to achieve fair and balanced results in the many projects and policy initiatives on their respective agendas.

The ERCB’s and the AUC’s offices are located in downtown Calgary.

## INTRODUCTION

On November 19, 2007, the Alberta Court of Appeal released its judgement in *Amethyst Petroleum Ltd. v. Primrose Drilling Ventures Ltd.* (“*Amethyst Petroleum*”)<sup>1</sup> dealing with title preserving wells under the 1990 CAPL Operating Procedure (the “1990 CAPL”). Although the issue of whether a well is title preserving for the purposes of the 1990 CAPL has significant implications to the parties involved, it has surprisingly been the subject of only two reported decisions.

## FACTS IN AMETHYST PETROLEUMS

*Amethyst Petroleum* dealt with a freehold lease governed by the 1990 CAPL, under which the lessees had already drilled a producing natural gas well on the leased lands. The lease contained a standard offset well obligation and also provided that any defaults un-remedied by the lessee within 30 days would result in the termination of the lease.

After receiving two separate default notices regarding an offset well obligation from lessor Bears paw Petroleum Ltd. (“Bears paw”), the majority lessee and operator Primrose Drilling Ventures Ltd. (“Primrose”) issued an independent operations notice under the 1990 CAPL proposing to drill a title preserving well. When the minority lessees Amethyst Petroleum Ltd. and HillOil (1993) Limited did not agree to participate in the operation, Bears paw drilled the offset well without them and notified them that they had forfeited their interests in both the offset well and the section upon which the well was drilled.

The decision of the Alberta Court of Appeal upheld and substantially endorsed the decision of the Court of Queen’s Bench of Alberta of August 1, 2006<sup>2</sup> in which Mr. Justice Hawco held that the offset well drilled was not a title preserving well for the purposes of the 1990 CAPL. Mr. Justice Hawco based his decision on a number of factors.

## DECIDING FACTORS IN AMETHYST PETROLEUMS

First, Primrose had responded to the first default notice with a letter objecting to the validity of the notice on a number of grounds.

# Title Preserving Wells Under the CAPL Operating Procedure

by Aaron Rogers, Student-at-Law

That objection led to the notice being revoked. Mr. Justice Hawco held that it would be unfair to allow Primrose to now rely on the validity of the second default notice to support its position that the well was a title preserving well, given that the nature and validity of the offset well obligation had not changed between the dates of the two notices.

**Mr. Justice Hawco therefore effectively interpreted the definition of a title preserving well to require the risk of loss of a lessee’s entire interest rather than simply a portion of that interest, contrary to the language of the definition.**

Second, Mr. Justice Hawco questioned the validity of the second default notice upon which Primrose relied. Unlike the first default notice that simply required drilling to prevent termination, the second notice provided the lessees with the option to retain their interests in the currently producing interval of the section and forfeit the remainder of their interests in the lease. As a result of this option, it was held that the second default notice did not satisfy the definition of a title preserving well contained in the 1990 CAPL as one for which “the failure to conduct such operation would result in the forfeiture of all or a portion of the joint lands contained in a title document”. Mr. Justice Hawco wrote that

the second default notice “... could result in the forfeiture of all the lands, assuming the notice was valid. But it could also result in keeping the rights to the glauconite interval and surrendering the other intervals”.

Mr. Justice Hawco’s finding is interesting in this respect because the language used in the definition of a title preserving well contemplates both a complete and partial loss of interest, as did the second default notice. Mr. Justice Hawco therefore effectively interpreted the definition of a title preserving well to require the risk of loss of a lessee’s entire interest rather than simply a portion of that interest, contrary to the language of the definition.

Finally, it was held that Primrose was determined to drill the offset well regardless of the second default notice, having investigated the viability of the proposed well and finding a high likelihood of success. In effect, Mr. Justice Hawco appears to have found that Primrose’s decision to drill was made independently of the second default notice and it could not therefore rely on that notice to claim that the offset well was a title preserving well.

## APL OIL & GAS LTD. CASE

*APL Oil & Gas Ltd. v. Amoco Canada Resources Ltd* (“*APL Oil & Gas*”).<sup>3</sup>, is the only other Canadian case to directly address whether a well was a title preserving well for the purposes of the CAPL Operating Procedure. *APL Oil & Gas* dealt with a situation where a title preserving well was proposed but the relevant Crown

lease had already been continued by an application under the *Mines and Minerals Act*<sup>1</sup> before drilling occurred. Mr. Justice Virtue held that the well in question could not therefore be a title preserving well for two reasons: the lease had already been continued by the successful application, and the parties proposing the independent operation had intended to drill the well in any event.

### CONCLUDING THOUGHTS

Although *Amethyst Petroleum* and *APL Oil & Gas* represent the only two Canadian decisions to have addressed title preserving wells under a CAPL Operating Procedure, their findings can be extended to a broad range of factual circumstances and provide guidance to lessees faced with the need to drill to prevent the loss of leased lands as well as those seeking to justify independent operations made primarily for business reasons.

The overriding principle from these cases is that whether a well is title preserving is a question of fact to be determined by the intention of the parties. A well is unlikely to be a title preserving well where the proposing parties intend to drill the well in any event and fail to either address or believe in the need to drill in order to preserve title. A well is also unlikely to be a title preserving well where options other than drilling are available to prevent the forfeiture of leased lands, including continuation under the *Mines and Minerals Act* in the case of a Crown lease or the payment of a compensatory royalty in lieu of drilling. Importantly, neither decision goes so far as to say that an economic well cannot also constitute a title preserving well. However, if a proposed title well appears to also be economically viable, these decisions serve as a caution to proposing parties to avoid the foregoing circumstances.

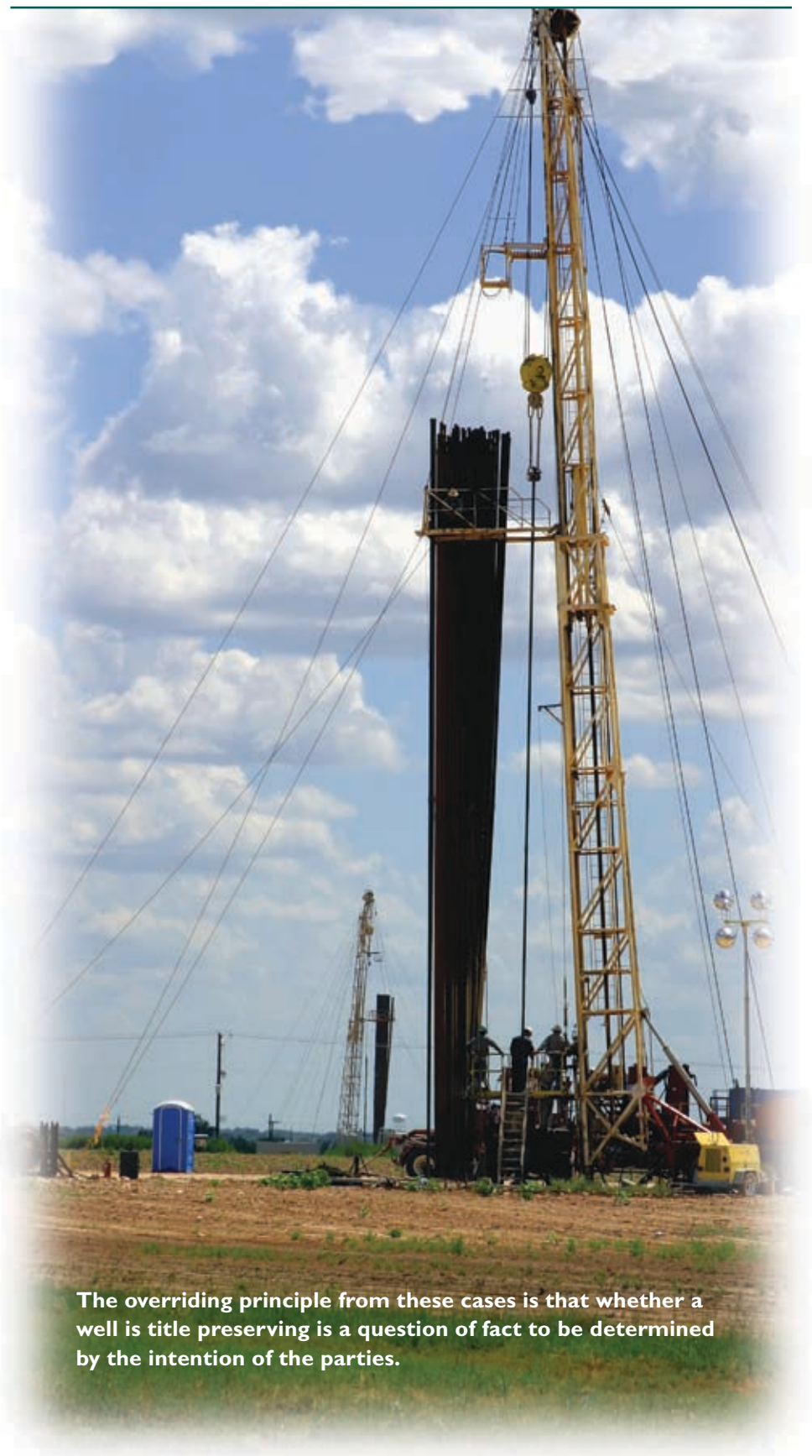
#### Footnotes

<sup>1</sup> [2007] A.J. No. 1242 (C.A.).

<sup>2</sup> *Amethyst Petroleum Ltd. v. Primrose Drilling Ventures Ltd.* [2006] A.J. No. 980 (Q.B.).

<sup>3</sup> [1993] A.J. No. 1031 (Q.B.).

<sup>4</sup> R.S.A. 2000, c.M-17.



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# Builders' Liens for Oilfield Suppliers

by Robert Wood

Alberta's *Builders' Lien Act*<sup>1</sup> ("the Act") provides powerful remedies for persons who work on or supply materials to improvements to land to ensure they are paid for their efforts. Those remedies are often available to oilfield supply and service providers, and it is important for suppliers of services and materials to oil wells to be aware of those remedies so that they can take advantage of them.

Section 6 of the Act provides:

## Creation of lien

6(1) Subject to subsection (2), a person who

- (a) does or causes to be done any work or in respect of an improvement, or
- (b) furnishes any material to be used in or in respect of an improvement,

for an owner, contractor or subcontractor has, for so much of the price of the work or material as remains due to the person, a lien on the estate or interest of the owner in the land in respect of which the improvement is being made.

"Owner" for these purposes is defined to mean "a person having an estate or interest in land, including mineral estate, leaseholders, not only owners in fee simple."

"Improvement" means "anything constructed, erected, built, placed, dug or drilled... on or in land except if a thing that is neither affixed to the land nor intended to be or become part of the land;"

Furthermore, Sections 6(2) and (3) provide

(2) When work is done or materials are furnished

- (a) preparatory to,
- (b) in connection with, or
- (c) for an abandonment operation in connection with,

the recovery of a mineral, then, notwithstanding that a person holding a particular estate or interest in the mineral concerned has not requested the work to be done or the material to be

furnished, the lien given by subsection [6.1] attaches to all estates and interests in the mineral concerned, other than the estate in fee simple in the mines and minerals, unless the person holding the estate in fee simple in the mines and minerals has expressly requested the work or the furnishing of material, in which case the lien also attaches to the estate in fee simple in the mines and minerals but not to that person's estate, in the rest of the land.

- (3) A lien attaching to an estate or interest in mines and minerals also attaches to the minerals when severed from the land.

The effect of the above provisions is that, where work is done or materials furnished with respect to improvements on or to the recovery of a mineral (including oil and natural gas), the supplier of services or material has a lien against the *mineral* itself, both before and after it is extracted.

The lien is created when the work is begun or the first material was furnished<sup>2</sup>, and expires if not registered within the time prescribed by *the Act*. In Alberta, that time is generally 45 days from the day that the last of the materials is furnished or materials supplied or the contract to provide the services is abandoned, or 90 if the improvements were to an oil or gas well or to an oil or gas well site.

The mechanism for registering a lien differs depending on whether the interest against which the lien arises is fee simple in the land itself, or whether it is against minerals. In the former case, liens are generally registered with Land Titles Office, in the latter, through the Ministry of Energy, as governed by the *Mines and Minerals Act*<sup>3</sup>.

For obvious reasons, in order to register a lien against lands and mineral estates for work done or materials furnished, suppliers/service providers must know the location at which services and materials are supplied with sufficient particularity to register a lien. This will be determined easily enough where the supplier attends at the well-site to provide the service; less so where the supplier provides materials or rental equipment at its own location. As a matter of practice, suppliers should insist that legal description/well-site is always provided.

Note that an unregistered lien ceases to exist after 45 days after the last materials are supplied or service provided, 90 days if materials are supplied or work furnished to an oil or gas or well-site. It is important that suppliers take the following steps to ensure the best advantage of the protection afforded by *the Act*:

- determine which period applies,
- diarize the accounts receivable appropriately to ensure adequate time is allowed to register the liens if payment in full is not received, and
- register the liens before they expire<sup>4</sup> in each case.

## Footnotes

<sup>1</sup> R.S.A. 2000 c.B-7

<sup>2</sup> Section 10

<sup>3</sup> R.S.A. 2000, c.M-17.

<sup>4</sup> Note that different time limits apply if the site of the improvement is located outside of Alberta, since Saskatchewan and British Columbia have their own statutory builders' liens regimes.



## Energy

**B**D&P's Energy Team practitioners are recognized and respected leaders in their field, advising on all aspects of domestic and international energy projects and transactions, joint ventures, alliances and mergers and acquisitions.

We represent a diverse range of clients in the petroleum industry including explorers, developers, producers, pipeline and transportation owners and operators, facilities owners and operators, lenders, public and private investors, marketers, aggregators, retailers and traders.

Our Energy Team works closely with other professionals in the firm drawing on the depth of knowledge of lawyers in tax, securities, construction, intellectual property and technology, employment and labour, and oil and natural gas and electricity regulatory law. We are active in a number of professional organizations relevant to the industry including the PJVA, CPLF, SEPAC, CAPL, Natural Resources Subsection of the CBA and the Institute for Energy Law.

The practitioners on BD&P's Energy Team offer strong legal skills, practical and experienced business advice, innovative solutions and timely response to meet the specific needs and objectives of our clients.

### SIGNIFICANT AREAS OF SERVICE:

- ◆ Development of opportunities in Alberta's oil sands including front-end engineering and design, engineering, procurement, construction management and construction
- ◆ Leading edge projects such as coal bed methane projects
- ◆ Joint venture, farmout, operating, royalty, participation and transportation agreements
- ◆ Acquisitions and dispositions of oil and natural gas properties and facilities
- ◆ Share transactions involving both private and public companies
- ◆ Natural gas marketing issues and sales agreements
- ◆ Construction, financing and operating of petrochemical plants and pipelines
- ◆ Corporate reorganizations
- ◆ Environmental issues
- ◆ Oil and natural gas taxation issues including cross-border transactions
- ◆ Oil and natural gas financings
- ◆ Co-generation projects
- ◆ Onshore and offshore drilling contracts
- ◆ International transactions
- ◆ Due diligence reviews, including title reviews and opinions
- ◆ Surface rights work
- ◆ First Nations consultation advice

# Energy Litigation

BD&P's Energy Litigation Team has extensive experience in all oil and gas related issues giving rise to litigation. The team compliments and is complimented by the strength of the firm's energy law practice, enabling the litigators to work closely with colleagues in order to provide all the resources key to resolving the client's oil and gas issues.

This Team regularly appears before all level of Alberta's Courts, in courts of other provincial jurisdictions, and before regulatory and administrative tribunals. In addition, the Energy Litigation Team has significant experience in the alternative dispute resolution forums of mediation and arbitration. In order to accomplish our clients' objectives, the BD&P energy litigators are committed to finding practical, efficient and cost-effective solutions for our clients in all contentious oil and gas related matters.

## SIGNIFICANT AREAS OF SERVICE:

- ▶ Joint Ventures
- ▶ Farmout Agreements
- ▶ AMIs
- ▶ Royalty disputes
- ▶ Royalty or title claims by First Nations or by the Federal Crown as their trustee
- ▶ Accounting disputes
- ▶ Operating disputes
- ▶ Fiduciary duties
- ▶ Lease interpretations including rights of first refusal and other title questions
- ▶ Environmental liabilities
- ▶ Oil and gas evaluation disputes

# Energy Regulatory

BD&P's Regulatory Team has a wealth of experience involving all aspects of oil & gas and electricity regulatory proceedings, including projects subject to federal and/or provincial environmental assessment legislation. Our lawyers appear regularly before the National Energy Board, the Alberta Energy and Utilities Board, the Alberta Environmental Appeal Board, Environment Canada, the Alberta Surface Rights Board, the Northwest Territories Public Utilities Board, the British Columbia Utilities Commission and other regulatory authorities in other provinces and territories. In addition, BD&P has acted as counsel in regulatory appeals and judicial review applications in the Alberta Court of Queen's Bench, the Alberta Court of Appeal, the Federal Court and the Supreme Court of Canada.

The BD&P Regulatory Team represents oil & gas producers, oil sands producers, owners of intra-provincial, inter-provincial and international transporters of natural gas and crude oil pipelines, owners of NGL extraction plants, petrochemical facilities and refineries, proponents of LNG projects, owners and proponents of generating plants, owners of regulated electricity transmission and distribution facilities, regulated and unregulated retailers of electricity and gas services, buyers and owners under Power Purchase Arrangements, and energy marketers and importers/exporters.

In recent years, BD&P has been on the leading edge of restructuring in Alberta's electricity and natural gas marketplaces.

## SIGNIFICANT AREAS OF SERVICE:

### Oil & Gas:

- ▶ securing facility, environmental and land use planning approvals for oil and gas projects of all scale and scope – oil and gas wells, gas processing facilities, pipelines, oil sands projects, NGL extraction plants, petrochemical plants, refineries and LNG terminal facilities
- ▶ representing clients in tolls, tariff and access proceedings for natural gas and crude oil pipelines
- ▶ acting for clients in rateable take disputes, common carrier and common processor applications and resource conservation and enhanced recovery schemes
- ▶ representing project proponents in land acquisition and compensation proceedings
- ▶ providing counsel on regulatory matters involving consultations and disputes with local land owners and non-governmental organizations
- ▶ providing counsel on First Nation matters related to oil and projects, including consultation obligations and treaty and traditional land access
- ▶ advising market participants on issues arising under affiliate codes of conduct.

### Electricity:

- ▶ representing clients in rates and tariff proceedings involving electric utilities and the Alberta Electric System Operator
- ▶ securing facility, environmental and land use planning approvals for electric transmission lines and co-generation, simple/combined cycle and hydro generating facilities
- ▶ advising market participants on issues arising under affiliate codes of conduct, market participation rules and the financial settlement rules of the Alberta Independent System Operator
- ▶ representing project proponents in land acquisition and compensation proceedings
- ▶ providing counsel on regulatory matters involving consultations and disputes with local land owners and non-governmental organizations
- ▶ providing counsel on First Nation matters related to electric facilities, including consultation obligations and treaty and traditional land access



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