

1984 BILL 86

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 86

GAS RESOURCES PRESERVATION ACT

THE MINISTER OF ENERGY AND NATURAL RESOURCES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 86

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1984

GAS RESOURCES PRESERVATION ACT

(Assented to , 1984)

TABLE OF CONTENTS

Definitions	1
Application for permit	2
Information	3
Hearing of application	4
Hearings	5
Terms and conditions of permit	6
Emergency	7
Assignment	8
Reconsideration	9
Permit without hearing	10
Cancellation of permit	11
Measurement of gas or propane	12
Regulations	13
Powers and jurisdiction	14
Evidence	15
Testifying	16
Bench warrant	17
Costs	18
Removal	19
Offence	20
Penalty	21
Order re exclusion from Act	22
Transitional	23
Repeal	24

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1) In this Act,

- (a) "Board" means the Energy Resources Conservation Board;
- (b) "condensate" means a mixture mainly of pentanes and heavier hydrocarbons, which may be contaminated with sulphur compounds, that is recovered or is recoverable at a well from an underground reservoir and that is gaseous in its virgin reservoir state but is liquid at the conditions under which its volume is measured or estimated;
- (c) "crude oil" means a mixture mainly of pentanes and heavier hydrocarbons, which may be contaminated with sulphur compounds, that is recovered or is recoverable at a well from an

underground reservoir and that is liquid at the conditions under which its volume is measured or estimated, and includes all other hydrocarbon mixtures so recovered or recoverable except raw gas or condensate;

(d) "ethane" means, in addition to its normal scientific meaning, a mixture mainly of ethane, which may ordinarily contain some methane or propane;

(e) "field" means

(i) the general surface area or areas underlain or appearing to be underlain by one or more pools, or

(ii) the subsurface regions vertically beneath the surface area or areas referred to in subclause (i);

(f) "gas" means raw gas or marketable gas or any constituent of raw gas, condensate or crude oil that is recovered in processing and that is gaseous at the conditions under which its volume is measured or estimated;

(g) "marketable gas" means a mixture mainly of methane originating from raw gas, if necessary through the processing of the raw gas for the removal or partial removal of some constituents, that meets specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material;

(h) "methane" means, in addition to its normal scientific meaning, a mixture mainly of methane, which may ordinarily contain some ethane, nitrogen, helium or carbon dioxide;

(i) "oil" means condensate or crude oil, or a constituent of raw gas, condensate or crude oil that is recovered in processing and that is liquid at the conditions under which its volume is measured or estimated;

(j) "permit" means

(i) a permit granted pursuant to this Act, or

(ii) a permit granted under the *Gas Resources Preservation Act*, chapter 19 of the Statutes of Alberta, 1956, chapter 157 of the Revised Statutes of Alberta 1970 and chapter G-3 of the Revised Statutes of Alberta 1980;

(k) "pool" means a natural underground reservoir containing or appearing to contain an accumulation of oil or gas or both separated or appearing to be separated from any other such accumulation;

(l) "propane" means, in addition to its normal scientific meaning, a mixture mainly of propane, which may ordinarily contain some ethane or butanes;

(m) "raw gas" means a mixture containing methane, other paraffinic hydrocarbons, nitrogen, carbon dioxide, hydrogen sulphide, helium and minor impurities, or some of them, that is recovered or is recoverable at a well from an underground res-

ervoir and that is gaseous at the conditions under which its volume is measured or estimated.

(2) Any methane, ethane or mixture containing a substantial amount of methane or ethane that is removed from Alberta, regardless of the conditions under which it is removed from Alberta, shall be considered to be gas for the purposes of this Act.

Application
for permit

2(1) When a person

(a) produces or has the right to produce gas or propane in Alberta,
(b) appears to the Board, on evidence that the Board in its sole discretion considers sufficient, to have made an arrangement

(i) to purchase or otherwise acquire property in gas or propane in Alberta, or

(ii) giving him the exclusive right to dispose of that gas or propane,

or

(c) appears to the Board, on evidence that the Board in its sole discretion considers sufficient, to have made an arrangement with the owner of gas or propane produced in Alberta to transport that gas or propane to a place outside Alberta,

and proposes to remove gas or propane, or cause it to be removed, from Alberta, that person may apply to the Board for a permit authorizing the removal from Alberta of gas or propane, of which the gas or propane referred to in clause (a), (b) or (c) will be, in the opinion of the Board, the substantial part.

(2) With the approval of the Lieutenant Governor in Council, the Board may authorize a person not qualified to make an application under subsection (1) to apply to the Board for a permit authorizing the removal of gas or propane from Alberta on any terms and conditions that seem proper to the Board.

Information

3 Any person who applies to the Board for a permit shall supply to the Board the information that the Board may prescribe or require.

Hearing of
application

4 On receipt of the application, together with the information, if any, prescribed or required by the Board pursuant to section 3, the Board shall

(a) fix a time and place for the hearing of the application,

(b) notify the applicant of the time and place so fixed, and

(c) publish notice of the hearing and order the applicant to pay to it the cost of advertising.

Hearings

5(1) The Board shall inquire into and hear the application and, with the approval of the Lieutenant Governor in Council, may

(a) grant a permit for the period and subject to the other terms and conditions that the Board prescribes,

(b) refuse to grant a permit, or

(c) defer consideration of the application on any terms and conditions that the Board prescribes.

(2) The Board may, in its discretion, adjourn a hearing from time to time and for any periods it considers expedient.

(3) The Board shall not grant a permit for the removal of any gas or propane from Alberta unless in its opinion it is in the public interest of Alberta to do so having regard to, among other considerations,

(a) the present and future needs of persons in Alberta,

(b) the established reserves and the trends in growth and discovery of reserves of gas or propane in Alberta, and

(c) the expected economic costs and benefits to Alberta of the removal of the gas or propane from Alberta.

(4) A permit is subject to the terms and conditions prescribed in the permit and to the regulations and orders made pursuant to this Act.

Terms and
conditions
of permit

6 Without limiting the generality of section 5(1)(a), the terms and conditions prescribed in a permit may include

(a) the pool, field or area from which the permittee may remove gas or propane or the point at which the permittee may remove gas or propane from a pipeline or processing plant in existence or to be constructed;

(b) the annual quantities of gas or propane that may be removed by the permittee from each pool, field or area or from the pipeline or processing plant during the interval or intervals set out in the permit;

(c) the maximum quantity of gas or propane that may be removed daily from each pool, field or area designated in the permit or from the pipeline or processing plant;

(d) conditions relating to the price of the gas or propane to be removed from Alberta or relating to other factors relevant to the expected economic benefits to Alberta of the removal of the gas or propane from Alberta;

(e) the conditions under which the removal of gas or propane by the permittee may be diverted, reduced or interrupted;

(f) a condition that the permittee will supply gas or propane at a reasonable price to any community or consumer in Alberta that is willing to take delivery of gas or propane at a point on the pipeline transmitting the gas or propane or at a processing plant producing the propane and that, in the opinion of the Board, can reasonably be supplied by the permittee;

(g) the period for which the permit is operative.

Emergency

7 Notwithstanding any permit or any Act, if, in the opinion of the Board, an unforeseen emergency jeopardizes an adequate supply of gas or propane to consumers in Alberta, the Board may, with the approval of the Lieutenant Governor in Council, as long as the emer-

gency, in the Board's opinion, continues and for the purpose of meeting the emergency

(a) adjust the allowable rates of production of gas from any well, pool or field, or

(b) require the diversion of any gas or propane intended for industrial use outside Alberta to any other uses the Board directs.

Assignment

8(1) An assignment of a permit has no effect until the assignment has received the consent in writing of the Board, which may, with the approval of the Lieutenant Governor in Council, be given by the Board on application to it.

(2) An application for the consent of the Board to a proposed assignment may be made by the permittee or the proposed assignee of the permit, and on receipt of the application the Board may make any inquiry and require any information that in its opinion is relevant.

(3) When a permit has been assigned, the assignee is subject to the duties, obligations and liabilities of the original permittee, together with any further duties, obligations and liabilities that may be imposed by the Board on giving its consent to the assignment, and the assignor is relieved of all duties, obligations and liabilities under the permit.

Reconsideration

9(1) The Board may hold a hearing in respect of the amendment or reconsideration of a permit

(a) at the direction of the Lieutenant Governor in Council,

(b) when in its opinion circumstances arise that justify the holding of a hearing, or

(c) on the application of the permittee and on receiving the information that the Board requires concerning the application.

(2) The Board shall

(a) fix a time and place for the hearing,

(b) give the permittee in the case of a hearing under subsection (1)(a) or (b), not less than 60 days' notice of the time and place so fixed, or in the case of a hearing under subsection (1)(c), notice of the time and place so fixed that it considers adequate, and

(c) publish notice of the hearing and may order the permittee to pay to it the cost of advertising.

(3) At the conclusion of the hearing the Board, with the approval of the Lieutenant Governor in Council, may make any order that in the opinion of the Board and the Lieutenant Governor in Council is just and reasonable under the circumstances.

Permit without hearing

10(1) Notwithstanding anything in this Act but subject to subsection (2), the Board, without a hearing and without publishing notice, on application may, with the approval of the Lieutenant Governor in Council, grant

(a) a permit authorizing the removal of not more than 3 billion cubic metres of gas or 160 000 cubic metres of propane during the term of the permit, or

(b) an amendment to a permit if the amendment applied for will increase the authorized volumes under the permit by not more than 3 billion cubic metres of gas or 160 000 cubic metres of propane during the balance of the term of the permit.

(2) The Board may grant a permit or an amendment to a permit pursuant to subsection (1) without the approval of the Lieutenant Governor in Council if

(a) the approval of the Minister of Energy and Natural Resources is obtained,

(b) the volumes or additional volumes, as the case may be, sought to be removed from Alberta do not exceed 1 billion cubic metres of gas or 50 000 cubic metres of propane, and

(c) the volumes or additional volumes, as the case may be, are to be removed within a period of not more than 2 years after the date of the permit or the amendment to the permit.

(3) Notwithstanding anything in this Act, the Board, without a hearing, without publishing notice and without the approval of the Lieutenant Governor in Council, on application may grant an amendment to a permit, other than an amendment referred to in subsection (1)(b), if the amendment

(a) is of an administrative nature,

(b) amends the pools, fields or areas in the permit,

(c) extends the permit for a period of less than 2 years,

(d) changes the daily quantity of gas or propane to be removed under the permit but not the annual quantity, or

(e) changes a removal point in the permit to one that is not more than 10 kilometres from the removal point being changed.

Cancellation
of permit

11 The Board, with the approval of the Lieutenant Governor in Council, after due notice to the permittee and any other person interested, may cancel the permit of a permittee who fails to comply with any term or condition of the permit or of the order of the Lieutenant Governor in Council approving the granting of the permit or who wilfully contravenes this Act or the regulations or orders made under this Act.

Measurement of
gas or propane

12 For the purpose of this Act and of any permit, the methods to be used for the measurement of gas or propane produced, purchased or otherwise acquired by a permittee or removed from Alberta and the standard conditions to which those measurements are to be converted shall be the methods and conditions prescribed by the *Oil and Gas Conservation Act* and the regulations under it, unless other methods and conditions are prescribed by the terms and conditions of the permit.

Regulations

13(1) The Lieutenant Governor in Council may

(a) by regulation vest in the Board any authority and powers considered necessary or advisable for the purpose of enabling the Board to conduct and perform its duties, and

	<p>(b) make any regulations considered necessary or advisable for carrying out the provisions of this Act and facilitating the efficient administration thereof.</p> <p>(2) An order of the Lieutenant Governor in Council granting an approval under this Act may be made subject to any terms or conditions that the Lieutenant Governor in Council prescribes.</p>
Powers and jurisdiction	<p>14(1) In performing the duties imposed on it by this Act, the Board has and may exercise all the powers granted to it by the <i>Energy Resources Conservation Act</i> to enable it to perform the duties imposed on it by that Act.</p> <p>(2) An order of the Board need not refer on its face to any proceeding or notice or to any circumstances necessary to give the Board jurisdiction to make the order.</p>
Evidence	<p>15 The Board and every member of it, for the purpose of any hearing, inquiry or investigation pursuant to this Act, have, for the purpose of taking evidence on oath or affirmation and compelling the attendance of witnesses and the production of documents, all the powers of commissioners appointed pursuant to the <i>Public Inquiries Act</i>.</p>
Testifying	<p>16 No person attending an investigation or inquiry by or a hearing before the Board shall be excused from testifying or from producing a book, document or paper, if ordered to do so by the Board, on the ground that the testimony or evidence, book, document or paper required of him may tend to incriminate him or subject him to penalty or forfeiture, and</p> <p>(a) no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he has, under oath, given testimony or produced documentary evidence, but</p> <p>(b) no person so testifying is exempt from prosecution or punishment for perjury committed by him in his testimony.</p>
Bench warrant	<p>17(1) If a person refuses or fails to comply with a notice to attend issued by the Board, a judge of the Court of Queen's Bench, on the application of the Board, may issue a warrant requiring the attendance of the witness before the Board.</p> <p>(2) If a witness refuses to give evidence or to answer as to any matter regarding which he is questioned before the Board, a judge of the Court of Queen's Bench, on the application of the Board, may commit the witness for contempt of the Board, and has the same power of committal in respect of that contempt as he has in respect of contempts of the Court of Queen's Bench.</p>
Costs	<p>18 The Board, in its discretion, may direct, as between the applicant and an intervener and any other parties with a declared interest in an application, hearing or other proceeding, by whom and to what extent the costs of the Board incidental to and in connection with an application, hearing or other proceeding before the Board are to be paid.</p>

Removal	19 A person who removes gas or propane produced in Alberta to a place elsewhere than in Alberta is guilty of an offence unless a subsisting permit has been granted authorizing the removal of the gas or propane from Alberta.
Offence	<p>20(1) A permittee who, in conducting an operation pursuant to his permit, contravenes this Act, the regulations or a term or condition of his permit is guilty of an offence.</p> <p>(2) A person who contravenes this Act or the regulations is guilty of an offence.</p> <p>(3) A person who contravenes a term or condition of an order of the Lieutenant Governor in Council granting any approval under this Act is guilty of an offence.</p>
Penalty	<p>21 A person who is guilty of an offence under this Act is liable</p> <p>(a) to a fine of not less than \$100 nor more than \$2000 in respect of each offence, and</p> <p>(b) in the case of a continuing offence to a fine of not less than \$100 nor more than \$2000 for the first day on which the offence occurs, and of not less than \$50 nor more than \$1000 for each subsequent day during which the offence continues.</p>
Order re exclusion from Act	<p>22(1) Notwithstanding anything in this Act, the Lieutenant Governor in Council, on the recommendation of the Board, may, by general regulations or special order, exclude from the application of this Act, under any conditions he prescribes, any propane that is removed or that is intended to be removed from Alberta by pipeline or by any other means.</p> <p>(2) A regulation or order made under this section</p> <p>(a) does not extend the term of any permit authorizing the removal of propane from Alberta</p> <p>(i) that was issued before the effective date of, and</p> <p>(ii) that would have been in effect during</p> <p>the period of exclusion prescribed in the regulation or order, and</p> <p>(b) may provide that when the period of exclusion is terminated, a permit that would have authorized the removal of propane from Alberta is, on the effective date of termination of the exclusion, effective to authorize the removal of propane from Alberta during any unexpired portion of its term that remains after the termination of the period of exclusion.</p> <p>(3) A regulation or order made under this section</p> <p>(a) shall be published in The Alberta Gazette and comes into force on the day of publication or another day fixed in the regulation or order, and</p> <p>(b) shall be tabled in the Legislative Assembly within 15 days after the commencement of the session next ensuing after the making of the regulation or order.</p>

Transitional

23 *If the Board has inquired into and heard an application for a permit before this Act comes into force, but the permit is granted after this Act comes into force, section 5(3)(c) does not apply to the Board in relation to the granting of the permit.*

Repeal

24 *The following are repealed:*

(a) the Gas Resources Preservation Act, RSA 1980 cG-3;

(b) the Gas Resources Preservation Amendment Act, RSA 1980 c10 (Supp.).

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.