

1994 BILL 5

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Second Session, 23rd Legislature, 43 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 5

OIL AND GAS CONSERVATION  
AMENDMENT ACT, 1994

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THE MINISTER OF ENERGY

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 5

1994

### OIL AND GAS CONSERVATION AMENDMENT ACT, 1994

(Assented to \_\_\_\_\_, 1994)

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

1 *The Oil and Gas Conservation Act is amended by this Act.*

2 *Section 1 is amended in subsection (1)*

(a) *by repealing clause (l) and substituting the following:*

(l) "licensee" means a holder of a licence according to the records of the Board and includes a receiver-manager of property of the licensee;

(b) *by adding the following after clause (s):*

(s.01) "proportionate share" means, with respect to a working interest participant, the percentage share equal to the participant's undivided interest in the well;

(c) *by adding the following after clause (y):*

(y.1) "well abandonment costs" means the reasonable direct costs related to the abandonment of a well including the costs of restoring the well site to the condition it was in before the abandonment operation was undertaken, but does not include the cost of surface reclamation;

(y.2) "working interest participant" means a person who owns or controls all or part of a beneficial or legal undivided interest in a well under agreements that pertain to the ownership of that well;

## **Explanatory Notes**

- 1** Amends chapter O-5 of the Revised Statutes of Alberta 1980.
- 2** Section 1 presently reads in part:
  - (1) *"licensee" means the holder of a licence according to the records of the Board;*

3 *Section 10 is amended in subsection (1)*

(a) *by adding the following before clause (b):*

- (a.2) requiring the placing by licensees or holders of other approvals of deposits to guarantee the proper suspension or abandonment of wells or other facilities and respecting the form and amounts of deposits;

(b) *by repealing clause (g) and substituting the following:*

- (g) respecting the drilling and completion of wells;
- (g.01) respecting the repair of wells;
- (g.02) respecting the suspension and abandonment of wells;
- (g.03) respecting well abandonment costs;

(c) *by adding the following after clause (i.3):*

- (i.4) respecting the approval, location, equipping, operation and abandonment of facilities to handle oil field waste;

(d) *by adding the following after clause (q):*

- (q.1) prescribing qualifications for a licensee;

4 *Section 11(1) and (2) are repealed and the following is substituted:*

Requirement  
for licence

**11(1)** No person shall commence to drill a well or undertake any operations preparatory or incidental to the drilling of a well or continue any drilling operations, any producing operations or any injecting operations unless

- (a) a licence has been issued and is in full force and effect, and
  - (b) the person is the licensee.
- (2) Notwithstanding subsection (1),
- (a) the site for a well may be surveyed, or

**3** Adds new regulation-making powers to the Board.

**4** Section 11 presently reads:

*11(1) No person shall commence to drill a well or undertake any operations preparatory or incidental to the drilling of a well or continue any drilling operations, any producing operations or any injecting operations unless*

*(a) a licence has been issued and is in full force and effect, and*

*(b) he is the licensee or is acting under the instructions of the licensee.*

*(2) Notwithstanding subsection (1), the site for a well may be surveyed without a licence.*

*(3) No well shall be drilled elsewhere than at the exact location specified in the licence or, if the licence has been amended with respect to the location of the well, at the exact location specified in the amendment.*

- (b) on the direction or with the consent of the Board, operations to suspend or abandon a well may be undertaken,

without a licence or by a person other than the licensee.

5 *Section 17(1) is repealed and the following is substituted:*

Reworking  
abandoned  
wells

**17(1)** When the records of the Board indicate that a well is abandoned, no person other than

- (a) the licensee, or

- (b) a person acting under a direction or with the consent of the Board,

shall undertake any operations until he applies for and obtains a licence.

6 *Section 18 is amended*

- (a) *by adding the following after subsection (1):*

**(1.1)** The Board may consent to the transfer of a licence subject to any conditions, restrictions and stipulations that the Board may prescribe, or the Board may refuse to consent to the transfer of a licence.

- (b) *by repealing subsection (5) and substituting the following:*

**(5)** The Board may direct that a licence be transferred to a person who, in the opinion of the Board, has the right to receive it, and the direction of the Board has the same effect as a transfer of a licence.

**(6)** A transfer of a licence has no effect until the Board has consented to, or directed, a transfer of the licence under this section.

7 *Section 19 is amended by adding the following after clause (a):*

- (a.1) shut in the well for a definite period of time or indefinitely if it is made to appear to the Board that a contravention of this Act, the regulations or an order of the Board has occurred with respect to the well,

**5** Section 17(1) presently reads:

*17(1) When the records of the Board indicate that a well is abandoned no person other than*

- (a) the licensee,*
- (b) a person acting under the instructions of the licensee, or*
- (c) a person acting pursuant to a direction of the Board,*

*shall undertake any operations at the well until he applies for and obtains a licence.*

**6** Section 18 presently reads:

*18(1) A licence shall not be transferred without the consent in writing of the Board.*

*(2) The transfer shall be in the form prescribed and shall have endorsed on or attached to it proof of execution satisfactory to the Board.*

*(3) The transferee shall submit the transfer to the Board together with the prescribed fee.*

*(4) The Board shall keep a record of every transfer to which it has given consent.*

*(5) When the licensee is a corporation that has been dissolved, the Board may direct that the licence be transferred to a person who agrees to accept transfer of the licence and who in the opinion of the Board has the right to receive it, and the direction of the Board has the same effect as a transfer of licence.*

**7** Section 19(a) presently reads:

*19 The Board may*

- (a) cancel a licence or suspend a licence for a definite time or indefinitely if it is made to appear to the Board that a contravention of this Act, the regulations or an order of the Board has occurred with respect to the well for which the licence was granted,*

8 *The following is added after section 20:*

|                                 |   |
|---------------------------------|---|
| Definition                      | <b>20.1</b> For the purposes of sections 20.2, 20.3 and 20.4, a licensee or a working interest participant who is also a licensee includes a person who has actual control of the licensee, including a person referred to in section 2(2) of the <i>Business Corporations Act</i> .  |
| Abandonment of wells            | <b>20.2(1)</b> A licensee shall abandon a well in accordance with the regulations and shall do so when directed by the Board or the regulations.<br><br><b>(2)</b> When directed by the Board or with the consent of the Board, the well shall be abandoned by the other working interest participants in the well.   |
| Costs of abandonment operations | <b>20.3(1)</b> Subject to subsection (2), the well abandonment costs shall be paid by the working interest participants in accordance with their proportionate share in the well.<br><br><b>(2)</b> The well abandonment costs may be determined by the Board<br><br><b>(a)</b> on application by a person who conducted the well abandonment, or<br><br><b>(b)</b> on the Board's own motion.<br><br><b>(3)</b> A working interest participant who fails to pay its share of well abandonment costs within the period of time prescribed by the Board must pay, unless the Board directs otherwise, a penalty equal to 25% of the party's share of the well abandonment costs.<br><br><b>(4)</b> The well abandonment costs as determined under subsection (2) together with any penalty prescribed by the Board under subsection (3) are a debt payable by the working interest participant in accordance with its proportionate share in the well to the party who incurred the well abandonment costs.<br><br><b>(5)</b> A certified copy of the order of the Board determining the costs and penalty under this section may be filed in the office of the clerk of the Court of Queen's Bench and, on filing and on payment of any fees prescribed by law, the order shall be entered as a judgment of the Court and may, in addition to any remedies provided by the Act, be enforced according to the ordinary procedure for enforcement of a judgment of the Court. |

**8** Costs of abandonment.

Determining  
working  
interest  
participants

**20.4(1)** Where a transaction has occurred that results in a person no longer being a working interest participant, that person is deemed to continue to be a working interest participant for the purposes of this Act if

- (a) the transaction occurred after the well ceased producing in paying quantities, and
- (b) there is no successor or the successor working interest participant fails to pay its proportionate share of the well abandonment costs.

**(2)** Subsection (1) does not apply if the successor working interest participant is the licensee of the well.

*9 Section 26 is amended*

*(a) in subsection (1) by adding the following after clause (f):*

- (g) the storage, treatment, processing or disposal of oil field waste

*(b) in subsection (2) by striking out “(b) or”.*

*10 Section 53(1) and (2) are repealed and the following is substituted:*

Liability for  
payment

**53(1)** If the operator who is liable for an administration fee

- (a) was not the operator on the prescribed date of any of the wells or oil sands projects described in the

**9** Section 26 presently reads in part:

*26(1) No scheme for*

- (a) enhanced recovery in any field or pool,*
- (b) the processing or underground storage of gas,*
- (c) the gathering, storage and disposal of water produced in conjunction with oil or gas,*
- (d) the storage or disposal of any fluid or other substance to an underground formation through a well,*
- (d.1) an experiment in any field, pool or well, or*
- (e) the concurrent production of an oil accumulation and its associated gas cap,*
- (f) repealed 1983 cO-5.5 s30,*

*shall be proceeded with unless the Board, by order, has approved the scheme on any terms and conditions that the Board prescribes.*

*(2) Prior to the Board approving a scheme under subsection (1)(b) or (d), it shall refer the application to the Minister of the Environment for his approval with respect to the application as it affects matters of the environment.*

**10** Section 53(1) and (2) presently read:

*53(1) If the Board finds*

- (a) as a result of an appeal under section 51 or an action under section 52 that it is unable to determine who was the operator of a well or oil sands project on the prescribed date, or*

notice or of any particular wells or oil sands projects, or

- (b) is no longer in Alberta, has become bankrupt or insolvent, is no longer carrying on business in Alberta, refuses to pay or does not pay,

the liability for the payment of the administration fee is on the person who was the licensee of the well or holder of the approval under the *Oil Sands Conservation Act* for the project, as the case may be, on the prescribed date.

- (2) If the licensee or the holder of the approval fails to pay the full amount of the administration fee within the time prescribed by the regulations for the purpose of this section and any penalty imposed for the late payment of that fee, the Board may order that the wells and oil sands projects of the licensee or holder of the approval be shut down until such time as the full amount of the fee and penalty is paid.

11 *The following is added after section 56:*

#### **PART 11.1**

##### **ABANDONMENT FUND LEVY**

Abandonment  
fund

**56.1(1)** There is established an abandonment fund to be funded in accordance with this Part and to be administered by the Board.

- (2) The purpose of the fund is

- (a) to pay for well abandonment costs and costs incurred in pursuing reimbursement of those funds where such actions are undertaken by the Board,
- (b) to pay for a defaulting working interest participant's share of well abandonment costs incurred by a working interest participant if the party who conducted the abandonment operations has taken all reasonable steps necessary to collect the funds itself, and
- (c) to pay for any other costs prescribed by the regulations.

- (3) Where payment is made from the abandonment fund, the Board may pursue all remedies provided in this Act for reimbursement of the abandonment fund.

- (b) *that the operator liable for an administration fee in respect of a well or oil sands project is no longer in Alberta, has become bankrupt or insolvent or is no longer carrying on business in Alberta,*

*the liability for the payment of the administration fee shall be on the person who was the licensee of the well or the holder of the approval under section 31 for the project, as the case may be, on the prescribed date.*

*(2) If a person liable for the payment of an administration fee in respect of a well or oil sands project by reason of a finding of the Board under subsection (1) fails to pay the full amount of the administration fee within the time prescribed by the regulations for the purpose of this section and any penalty imposed for the late payment of that fee, the Board, after reasonable notice to the licensee or holder of the approval, may order that the well or oil sands project in respect of which the administration fee and the penalty are unpaid be shut down under the supervision of the representative of the Board until such time as the full amount of the fee and penalty is paid.*

## **11 Creation of abandonment fund.**

(4) If a party that received money from the abandonment fund recovers money from the defaulting working interest participant, that party must reimburse the abandonment fund to the extent of the money recovered.

Regulations re  
abandonment  
fund levy

**56.2(1)** After the commencement of each fiscal year of the Board, the Board may in respect of that fiscal year make regulations

- (a) prescribing classes of wells and the rates of the abandonment fund levy applicable to each class, and
- (b) prescribing a date in the calendar year during which the regulation is made as the date by which the levy prescribed under clause (a) is to be paid to the Board for the account of the well abandonment fund.

(2) The regulations made by the Board under subsection (1) in respect of any fiscal year shall prescribe the abandonment fund levy on a basis that will produce a sum sufficient to pay the costs referred to in section 56.1(2) for that fiscal year, as estimated by the Board, and any deficiency of the past fiscal year.

(3) The Board may, for the purposes of this Part, make regulations

- (a) respecting the imposition and payment of an abandonment fund levy and of penalties for the late payment of the levy,
- (b) respecting the abandonment fund, and
- (c) respecting appeals under section 56.5.

Payment of  
levy

**56.3(1)** An abandonment fund levy prescribed with respect to a well in a fiscal year is payable to the Board by the person who was, on the prescribed date, the licensee of the well.

(2) Unless the Board directs otherwise, any licensee that fails to pay the abandonment fund levy within the time prescribed by the regulations must pay a penalty equal to 25% of the abandonment fund levy.

Notice

**56.4(1)** After the Board has made regulations under section 56.2 for a fiscal year, the Board shall give a notice in accordance with this section to each person who was, according to the records of the Board, a licensee of one or more wells on the prescribed date.



(2) A notice under this section shall

- (a) contain or be accompanied by a copy of the regulations made under section 56.2,
- (b) set out, in respect of each class of wells, a brief description of the wells of which the person to whom the notice is given was the licensee on the prescribed date according to the records of the Board,
- (c) set out the amount of the abandonment fund levy in respect of each well described in the notice, and
- (d) contain a demand for the payment of the total amount of the abandonment fund levy.

(3) A notice under this section is sufficiently given if it is mailed to the person referred to in subsection (1) at his address in Alberta according to the records of the Board at the time of mailing.

(4) If the Board determines as a result of an appeal under section 56.5 or otherwise that a notice has been given under subsection (1) to the wrong person or that the amount of the abandonment fund levy set out in the notice is incorrect, the Board may withdraw the notice and issue a corrected notice in its place.

Appeal

**56.5(1)** A person to whom a notice is given under section 56.4 may appeal to the Board on any one or more of the following grounds:

- (a) that he was not the licensee on the prescribed date of any of the wells described in the notice or of any particular wells described in the notice;
- (b) that the abandonment fund levy set out in the notice for one or more of the wells is incorrect;
- (c) any other ground provided for in the regulations.

(2) The Board shall hear and determine appeals under this section in accordance with the regulations.

Shut down for  
non-payment

**56.6** If a person is liable for the payment of the abandonment fund levy, or any penalty for the late payment of the levy, or owes any money to the abandonment fund, in addition to any other remedies under this Act, the Board may order that the wells of the licensee be shut down until such time as the full amount owing is paid.



*12 Section 80 is amended by striking out “The” and substituting “Subject to section 20.3(3), the”.*

*13 Section 83 is amended by striking out subsections (2) and (3) and substituting the following:*

**(2)** The licensee must apply to the Board to approve the appointment of an agent in accordance with subsection (1).

**(2.1)** The approval of an appointment by the Board does not relieve the licensee of any duty or responsibility to comply with the Act, regulations or an order of the Board, however, if an agent has been appointed and the licensee fails or is unable to comply with a duty or responsibility, the agent is responsible to comply with the duty or responsibility.

**(3)** The licensee and any agent shall register any change of address with the Board within 15 days of the change.

**(3.1)** An agent may not be changed or discharged without the consent, in writing, of the Board, which consent may, at the Board’s discretion, be refused.

**12** Section 80 presently reads:

*80 The obligation or liability of each owner who is responsible for paying a tract's share of the operating expenses of the unit is at all times several and not joint, and in no event is such an owner chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interests in the tract pursuant to the plan of unit operation.*

**13** Section 83 presently reads:

*83(1) Each licensee of a well shall register with the Board his address and,*

*(a) if a resident outside Alberta, shall*

*(i) register with the Board an address for service in Alberta,*

*(ii) appoint an agent within Alberta to carry out his duties and other responsibilities under this Act,*

*(iii) notify the Board in writing of the appointment, and*

*(iv) register with the Board the address in Alberta of his agent,*

*or*

*(b) if resident in Alberta,*

*(i) may carry out his duties and other responsibilities under this Act through an agent, and*

*(ii) if he carries out his duties and responsibilities through an agent, shall notify the Board in writing of the appointment of the agent and register with the Board the address in Alberta of the agent.*

*(2) The appointment of an agent in accordance with subsection (1) and the registration of his appointment and address with the Board does not relieve the licensee of any duty or responsibility under this Act.*

*(3) If any of the addresses required or the agent appointed in accordance with subsection (1) is changed, the licensee shall within 15 days of the change register the change with the Board.*

*(4) If a unit operation has been established by an agreement filed or an order made under Part 12,*

*14 The following is added after section 92:*

Entry on land

**92.1(1)** A person

(a) to whom an abandonment order under section 20.2 is directed, or

(b) with the consent of the Board

may enter on the land concerned for the purpose of carrying out the abandonment order or the direction.

(2) A person shall, before entering any land under subsection (1), give prior written notice of his intention to enter to the owner and to the occupant, unless it is impractical under the circumstances to do so.

(3) If a person who enters any land under subsection (1) is prevented from entering, that person may apply to the Court of Queen's Bench by way of originating notice for an order permitting him to enter the land for the purposes specified in the order, and an order so made may be enforced by the sheriff.

(4) A person who enters any land under subsection (1) shall compensate the land owner or occupant for direct expenses and for any damage to his land, crop or livestock arising directly from that entry.

(5) If a dispute arises as to the compensation payable pursuant to subsection (4), the compensation is to be determined by the Surface Rights Board.

*15 The following is added after section 93:*

Enforcement  
of costs of  
abandonment

**93.1(1)** In this section,

(a) "debtor" includes any person who fails to pay well abandonment costs, an abandonment fund levy or an

*(a) the unit operator, and in the event of a change in the unit operator, the new unit operator, shall advise the Board of his appointment, and*

*(b) the unit operator shall be deemed to be the agent, duly appointed and registered under this section, of the licensee of each well in the unit for purposes relating to that well.*

*(5) When the Board has granted an application under section 84 to permit the keeping of records and the filing of reports for a battery or group of wells, the battery or group operator shall be deemed to be the agent, duly appointed and registered under this section, of the licensee of each well in the battery or group for purposes related to that well.*

**14** Entry on land for abandonment purposes.

**15** Enforcement of costs of abandonment.

administration fee or any penalties that person is required to pay;

(b) “lien” includes a charge;

(c) “payor” means the purchaser of any gas, oil or other hydrocarbon or any operator or any other person who holds or receives money on behalf of the debtor as the result of a sale of the debtor’s proportionate share of any gas, oil or other hydrocarbon produced from any well.

(2) When operations for the abandonment of a well are conducted by the Board, a member of the Board or a person authorized by it, and the sale of any equipment, installation or material under section 93 does not generate sufficient funds to cover the debtor’s proportionate share of the costs of abandonment, or where the licensee fails to pay the administration fee or abandonment fund levy or any penalties in respect of a well or oil sands project, the Board may exercise its rights to a lien.

(3) A lien under this section shall be first and prior to any other lien, charge, mortgage or other security interest, with respect to the interest of a defaulting working interest participant in the well and any other wells, lands and equipment, petroleum substances and production facilities.

(4) On receipt of a lien notice, the payor shall forward any money owing to the debtor to the Board for payment on the account of the debt owed by the debtor to the Board.

(5) The payments to the Board referred to in subsection (3) must continue to be made until the Board advises the payor that the debt has been paid in full.

(6) Any payment made to the Board on the account of the debtor under this section is deemed to be a payment to the debtor and releases the payor from liability in debt to the debtor to the extent of the payments.

(7) A person who fails to comply with a lien notice is guilty of an offence.

*16 Section 97(1) is amended by striking out clauses (b) and (c) and substituting the following:*

(b) either alone or in conjunction or participation with others causes any person to contravene or to default in complying with a provision referred to in clause (a), or

**16** Section 97(1) presently reads:

*97(1) Every person who*

*(a) whether as a principal or otherwise, contravenes or  
defaults in complying with any provision of this Act, the*

- (c) instructs, orders, directs or causes any officer, agent or employee of any person to contravene or to default in complying with a provision referred to in clause (a),

*regulations, an order or direction of the Board made under this Act or the regulations or the terms and conditions under an order of the Lieutenant Governor in Council granting an approval or authorization under this Act,*

*(b) either alone or in conjunction or participation with others causes any licensee of any well to contravene or to default in complying with any such provision, or*

*(c) instructs, orders, directs or causes any officer, agent or employee of any licensee of any well to contravene or to default in complying with any such provision.*

*is guilty of an offence.*