

1994 BILL 6

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 6

MINES AND MINERALS AMENDMENT ACT, 1994

MR. COUTTS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 6

1994

MINES AND MINERALS 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 Mines and Minerals Act is amended by this Act.*

2 *Section 1 is amended*

(a) *in subsection (1)*

(i) *by adding the following after clause (f.1):*

(f.2) "fluid mineral substance" means a fluid substance consisting of a mineral or of a product obtained from a mineral by processing or otherwise;

(ii) *by adding the following after clause (t):*

(t.1) "royalty compensation" means money payable to the Crown in right of Alberta as compensation pursuant to regulations made under section 37(2)(h);

(iii) *by repealing clause (u)(i);*

(iv) *by renumbering clause (u.1) as clause (u.4) and by adding the following after clause (u):*

(u.1) "storage rights" means the right to inject fluid mineral substances into a subsurface reservoir for the purpose of storage;

Explanatory Notes

1 Amends chapter M-15 of the Revised Statutes of Alberta 1980.

2 Section 1(1) presently reads in part:

1(1) In this Act,

(u) "spacing unit" means

(i) in relation to a well producing or capable of producing petroleum or natural gas in Alberta, the production spacing unit for the well prescribed by or pursuant to the regulations under the Oil and Gas Conservation Act,

(ii) in relation to a well drilled or being drilled in Alberta, the drilling spacing unit for the well prescribed by or pursuant to the regulations under the Oil and Gas Conservation Act,

(iii) the area in Alberta that would be the drilling spacing unit prescribed for a well by or pursuant to the regulations under the Oil and Gas Conservation Act if the well were drilled, or

(iv) in relation to a well outside Alberta, the area allocated to the well for the purpose of drilling for or producing petroleum or natural gas;

(v.2) "unit operation", except in Part 9, means an operation authorized by a unit agreement or unit operation order;

(u.2) “subsurface cavern” means a subsurface space created as a result of operations for the recovery of a mineral;

(u.3) “subsurface reservoir” means an underground formation or a subsurface cavern;

(v) *by repealing clause (v.2) and substituting the following:*

(v.2) “unit operation” means an operation authorized by a unit agreement or by a unit operation order;

(b) *by adding the following after subsection (1):*

(1.1) If any mineral or any product obtained from a mineral is injected into a subsurface reservoir and a question arises between the Minister and the lessee under an agreement, or any person claiming under the lessee, as to the purpose for which the mineral or mineral product was injected, then, for the purposes of this Act, the question shall be decided by the Minister.

3 *Section 5(1) is amended*

(a) *by repealing clauses (i) and (j) and substituting the following:*

(i) respecting information to be furnished to the Minister, the persons required to furnish that information, the form in which that information must be furnished and the time within which that information must be furnished;

(i.1) prescribing the kinds of information required to be furnished pursuant to any other Act under the Minister’s administration that are deemed to be required to be furnished pursuant to this Act;

(j) respecting the confidentiality of, and the communication of and access to, reports, returns, estimates, declarations, plans, maps, surveys, records and other information obtained under this Act;

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

(k.1) respecting the application of money paid to the Crown in right of Alberta under this Act;

3 Section 5(1) presently reads in part:

5(1) The Lieutenant Governor in Council may make regulations

- (h) respecting the keeping of records for any purpose under this Act and the persons required to keep them;*
- (i) respecting the confidentiality of and the filing with or submission to the Minister of reports, returns, estimates, declarations, plans, maps, surveys or other information, and the form and nature of the content of those reports, returns, estimates, declarations, plans, maps or surveys or of that information;*
- (j) respecting the communication of and access to records, returns or other information obtained under section 47 or 48;*
- (l) respecting the application of credits against the payment of any money owing to the Crown in right of Alberta under an agreement or under this or any other Act under the administration of the Minister;*
- (n) respecting the imposition of pecuniary penalties for*
 - (i) the late filing or submission of any reports, returns, estimates, declarations, plans, maps, surveys or other information required to be filed with or*

(c) by repealing clause (l) and substituting the following:

- (l) respecting the circumstances in which and the conditions on which credits may be established and applied against any liability to the Crown in right of Alberta under an agreement or under this or any other Act under the administration of the Minister, and respecting the payment to persons whose credits exceed their liability to the Crown of amounts not exceeding the excess credits;**

(d) in clause (n)

(i) by repealing subclauses (i) and (ii) and substituting the following:

(i) failure to furnish information in accordance with regulations under clause (i),

(ii) failure to furnish in accordance with another Act under the Minister's administration information that is, by reason of regulations under clause (i.1), deemed to be required to be furnished pursuant to this Act,

(ii) in subclause (iii) by adding "or the failure to pay royalty compensation to the Crown" after "disposal of the Crown's royalty share of a mineral";

(iii) in subclause (iv) by striking out "or" at the end of paragraph (B), by adding "or" to the end of paragraph (C) and by adding the following after paragraph (C):

(D) the amount owing on account of royalty compensation;

4 Section 9(a) is amended by adding the following after subclause (ii):

(ii.1) the storage of substances in subsurface reservoirs;

submitted to the Minister under this Act or an agreement or pursuant to a notice given under this Act or an agreement,

- (ii) filing or submitting any thing referred to in subclause (i) under circumstances where the person filing or submitting the thing knows or ought reasonably to know that the thing is false or misleading or misrepresents or fails to disclose a material fact,*
- (iii) the failure to deliver the Crown's royalty share of a mineral, or the failure to pay a money royalty or money owing in respect of the disposal of the Crown's royalty share of a mineral, as and when required under the regulations, and*
- (iv) engaging in or attempting to engage in an act, agreement, arrangement, transaction or operation that is of a type specified in the regulations in order to reduce*
 - (A) the Crown's royalty share in respect of a mineral,*
 - (B) the amount owing on account of a money royalty, or*
 - (C) the consideration given for the Crown's royalty share when it is disposed of by an agent;*

4 Section 9(a) presently reads:

9 Notwithstanding anything in this Act or any regulation or agreement, the Minister, on behalf of the Crown in right of Alberta and with the authorization of the Lieutenant Governor in Council, may

- (a) enter into a contract with any person or the government of Canada or of a province respecting*
 - (i) the recovery of minerals, the processing of the minerals so recovered and the sale or other disposition of those minerals or the products*

5 *Section 36(1) is amended*

- (a) *by adding “or until the Crown’s title to that royalty share is transferred to a lessee or other person pursuant to the regulations” after “on behalf of the Crown”;*
- (b) *by adding “or transfer of title” after “disposal”.*

6 *Section 37(2) is amended*

- (a) *by adding the following after clause (f):*
 - (g) *respecting the transfer of title to the Crown’s royalty share of a mineral to the lessee or any other person after the recovery of the mineral;*
 - (h) *respecting the determination and payment to the Crown of compensation in respect of the Crown’s royalty share of a mineral, where the Crown’s title to that share is transferred pursuant to regulations under clause (g).*
- (b) *by adding the following after subsection (5):*
 - (6) *A regulation made under this section, or an order made pursuant to a regulation made under this section, may be made effective with reference to a period occurring before it is made.*

7 *Section 38 is amended*

- (a) *by striking out “or” at the end of clause (b) and by repealing clause (c) and substituting the following:*
 - (c) *the amount owing in respect of the disposal of the Crown’s royalty share by an agent, or*

obtained by processing those minerals or by reprocessing those products;

(ii) the development of mines or quarries for the recovery of minerals;

(iii) the royalty reserved to the Crown in right of Alberta on the minerals recovered;

(iv) the provision for a consideration payable to the Crown in right of Alberta in lieu of royalty on the minerals recovered;

(v) any matter that the Minister considers to be necessarily incidental to, in relation to or in connection with any of the matters referred to in subclauses (i) to (iv);

5 Section 36(1) presently reads:

36(1) The Crown in right of Alberta is the owner of its royalty share of the mineral at all times until that royalty share is disposed of by or on behalf of the Crown, notwithstanding that its share is commingled with and indistinguishable from the lessee's share prior to or at the time of the disposal.

6 Section 37(1) and (2) enumerate regulation-making powers of the Lieutenant Governor in Council.

7 Section 38 presently reads:

38 If, in the opinion of the Minister, the result of one or more acts, agreements, arrangements, transactions or operations is to artificially or unduly reduce

(a) the Crown's royalty share in respect of a mineral,

(d) the amount owing on account of royalty compensation,

(b) by striking out "royalty share, the amount owing or the consideration or value" and substituting "royalty share or the amount owing".

8 Section 39 is amended

(a) by repealing subsection (1)(b) and substituting the following:

(b) amounts owing

(i) on account of a money royalty,

(ii) in respect of the Crown's royalty share of a mineral when disposed of by an agent, or

(iii) on account of royalty compensation.

(b) by repealing subsection (3)(a)(ii) and substituting the following:

(ii) the amount owing in a case to which subsection (1)(b) applies,

9 Section 39.01 is amended

(a) by repealing subsection (1)(a) and substituting the following:

(a) the Minister's calculation of the Crown's royalty share of a mineral or an amount owing

(i) on account of a money royalty,

(ii) in respect of the Crown's royalty share of a mineral when disposed of by an agent, or

(iii) on account of royalty compensation,

and

(b) the amount owing on account of a money royalty, or

(c) the consideration given for the Crown's royalty share when it is disposed of by an agent,

the royalty share, the amount owing or the consideration or value shall be calculated as if the act, agreement, arrangement, transaction or operation had not taken place.

8 Section 39(1) and (3)(a) presently read:

39(1) Where the Minister considers it appropriate to do so, the Minister may, in accordance with this section, recalculate or make additional calculations of

(a) the Crown's royalty share of a mineral, and

(b) amounts owing on account of a money royalty or in respect of the disposal of the Crown's royalty share of a mineral by an agent.

(3) A recalculation or additional calculation may be made

(a) within 4 years after the end of the calendar year in which

(i) the mineral that is the subject of the recalculation or additional calculation was recovered, in a case to which subsection (1)(a) applies, or

(ii) the amount owing on account of the money royalty became due to the Crown or the disposal of the Crown's royalty share of the mineral occurred, as the case may be, in a case to which subsection (1)(b) applies,

or

9 Section 39.01 presently reads:

39.01(1) A lessee, an agent of a lessee and any other person authorized by the regulations to make an objection may, in accordance with terms and conditions specified by the Minister and in the form and manner and within the time specified by the Minister, object to

(a) the Minister's calculation of royalty under the regulations under this Act, and

(b) the Minister's recalculation or additional calculation under section 39

with respect to the lessee.

(b) in subsection (2) by striking out “royalty” and substituting “the Crown’s royalty share or an amount referred to in clause (a), as the case may be,”.

10 Section 40 is repealed and the following is substituted:

Application of
payment

40 Unless the Minister directs otherwise, if a person pays money to the Crown in right of Alberta under this Act, the money shall be applied in accordance with the regulations.

11 Section 42(1) is amended by adding “or royalty compensation” after “money royalty”.

12 Section 45(2) is amended by adding “or royalty compensation” after “money royalty”.

13 Section 49 is amended by striking out “section 47 or 48” wherever it occurs and substituting “this Act”.

(2) On receipt of an objection under subsection (1) the Minister may recalculate or make additional calculations of royalty that the Minister considers appropriate.

10 Section 40 presently reads:

40(1) Unless the Minister directs otherwise, if a person pays money to the Crown in right of Alberta in respect of an agreement, the money shall be applied

- (a) first, on any penalties charged under this Act,*
- (b) 2nd, on any interest charged under this Act,*
- (c) 3rd, on rentals in arrears, and*
- (d) 4th, on money owing on account of a money royalty or in respect of the disposition of the Crown's royalty share of a mineral by an agent.*

(2) If a person pays money on account of 2 or more agreements and does not specify the amount of the payment to be applied to each agreement, the Minister may apply the payment to any 1 or more of the agreements.

11 Section 42(1) presently reads:

42(1) In this section, "debtor" means a person indebted to the Crown in right of Alberta for amounts owing on account of a money royalty or in respect of the disposal of the Crown's royalty share of a mineral by an agent.

12 Section 45(2) presently reads:

(2) Notwithstanding the provisions of an agreement, a demand for or acceptance of rental or royalty deliverable or payable under the agreement or of an amount owing on account of a money royalty or in respect of the disposal of the Crown's royalty share of a mineral by an agent shall not be deemed a waiver of the right of the Minister

- (a) to enforce compliance with a regulation or a term or condition of the agreement, or*
- (b) to cancel the agreement for breach of a regulation or a term or condition of the agreement.*

13 Section 49 presently reads:

49(1) Except as provided under the regulations, no person shall communicate or allow to be communicated any record, return or information obtained under section 47 or 48 to a person not legally entitled to that information or allow any person not legally entitled

14 Section 50(1) is amended by adding the following after clause (a):

- (a.1) the operation of any well, installation or equipment used or formerly used for or in connection with the injection of a substance into a subsurface reservoir for the purpose of storage,

15 Section 54(1) is amended by striking out "A person has," and substituting "Subject to section 54.1, a person has,".

16 The following is added after section 54:

Ownership of
storage rights,
etc.

54.1(1) Subject to subsection (2),

- (a) where a person owns the title to petroleum and natural gas in any land, that person is the owner of the storage rights with respect to every underground formation within that land, and
- (b) where one person owns the title to petroleum in any land and another person owns the title to natural gas in the same land, those persons are co-owners of the storage rights with respect to every underground formation within that land.

(2) Where a person owns the title to a mineral in any land and operations for the recovery of the mineral result or have resulted in the creation of a subsurface cavern in that land, that person is the owner of the storage rights with respect to that subsurface cavern to the extent that it lies within that land.

to that record, return or information to have access to any record, return or information obtained under section 47 or 48.

(2) A person who knowingly receives records or information obtained under section 47 or 48 holds the records or information subject to the same restrictions under subsection (1) that apply to the person from whom the records or information were received.

14 Section 50(1)(a) presently reads:

50(1) The Minister may conduct an investigation or inspection in relation to

(a) the operation of any well, battery, mine, quarry, installation or equipment used or formerly used for or in connection with the recovery of a mineral pursuant to an agreement, or of any plant used or formerly used for the processing of a mineral recovered pursuant to an agreement or the reprocessing of the products obtained by processing that mineral,

15 Section 54(1) presently reads:

54(1) A person has, as against the Crown in right of Alberta,

(a) the right to use a well or drill a well for the injection of any substance into an underground formation, if he is required by or has the approval of the Energy Resources Conservation Board to do so, and

(b) the right to remove and withdraw any machinery, tool, plant, building, erection and fixture used in or in connection with the operation of that well, if the removal or withdrawal is approved by the Board.

16 Storage rights in subsurface reservoirs.

(3) A person who has storage rights in respect of a subsurface cavern within any land has the right to recover any fluid mineral substance stored in that cavern, to the exclusion of any other person having the right to recover a mineral from the same land.

(4) In subsections (1) to (3), "person" includes the Crown in right of Alberta.

(5) Where the Crown in right of Alberta owns storage rights in respect of a subsurface reservoir, no person has, as against the Crown, any storage rights in respect of that reservoir except under

- (a) a unit agreement to which the Crown is a party,
- (b) a contract entered into under section 9(a), or
- (c) an agreement issued with the authorization of the Lieutenant Governor in Council,

which expressly conveys storage rights in respect of that reservoir.

17 Section 55 is amended by renumbering it as section 55(1) and by adding the following after subsection (1):

(2) Any person who has storage rights in respect of a subsurface reservoir may work through any mineral in the same tract to which the storage rights relate to the extent necessary to exercise those storage rights, without permission from or compensation to any other person for the right to work through that mineral, subject, however, to this Act and the provisions of any other Act affecting the exercise of that right.

18 Section 56 is renumbered as section 56(1) and the following is added after subsection (1):

(2) A person who has storage rights in respect of a subsurface reservoir and who has obtained a licence under the *Oil and Gas Conservation Act* to drill a well completed or to be completed in that reservoir may, if the orifice of the well is located outside the tract to which the storage rights extend, work through all minerals outside the tract to the extent necessary to drill, complete and operate the well, without permission from or compensation to any other person for the right to work through the minerals outside the

17 Section 55 presently reads:

55 Any person who has the right to any mineral or the right to work it may work through any other mineral in the same tract to the extent necessary to obtain his mineral without permission from or compensation to any other person for the right to work through the other mineral, subject, however, to this Act and the provisions of any other Act affecting the exercise of that right.

18 Section 56 presently reads:

56 Any person who has the right to any mineral or the right to work it in a tract and who has obtained a licence under the Oil and Gas Conservation Act to drill a well for the removal of the mineral may, if the orifice of the well is located outside the tract, work through all minerals outside the tract to the extent necessary to obtain his mineral for the removal of which the licence was granted, without permission from or compensation to any other person for the right to work through the minerals outside the tract, subject, however, to this Act and the provisions of any other Act affecting the exercise of that right.

tract, subject, however, to this Act and the provisions of any other Act affecting the exercise of that right.

19 Section 59(2) is amended

- (a) by striking out “survey or” and substituting “survey, record or”;*
- (b) by striking out “survey, other information” and substituting “survey, record, other information”.*

20 Section 116(2)(b) and (4)(b) are amended by striking out “production spacing unit” wherever it occurs and substituting “drilling spacing unit”.

19 Section 59(2) presently reads:

(2) Every person who, under this Act, files or submits any report, return, estimate, declaration, plan, map, survey or other information or makes any statement or answers any question, whether in connection with an agreement or otherwise, knowing that the report, return, estimate, declaration, plan, map, survey, other information, statement or answer is false or misleading or misrepresents or fails to disclose a material fact, is guilty of an offence and liable

(a) to a fine of not more than an amount of money equal to the value of the Crown's royalty share of a mineral or the amount of money, as the case may be, of which the Crown in right of Alberta was deprived by reason of the commission of the offence, or

(b) to a fine of not more than \$100 000,

whichever is the greater.

20 Section 116(2) and (4) presently read:

(2) For the purpose of ensuring that the maximum amount fixed pursuant to subsection (1) for any month is not exceeded, the Minister may make regulations

(a) respecting the maximum amount of petroleum that may be produced during that month under Crown agreements from the pools specified in the regulations;

(b) in relation to any pool, respecting the maximum amount of petroleum that may be produced during that month under Crown agreements from any production spacing unit, block or project specified in the regulations.

(4) In this section,

(a) "Crown agreement" means an agreement granting petroleum and natural gas rights or petroleum rights;

(b) "block", "production spacing unit" and "project" mean a block, production spacing unit and project, respectively, as defined in the Oil and Gas Conservation Act;

(c) "pool" means a pool designated by the Energy Resources Conservation Board under the Oil and Gas Conservation Act.

21 Section 136 is amended by repealing subsections (3) and (4).

22 Section 145(c) is repealed.

23 Section 146(1) is repealed and the following is substituted:

Unit
agreement

146(1) The Minister may on behalf of the Crown enter into an agreement providing for the combining of interests in a mineral occurring in a subsurface reservoir underlying one or more tracts to facilitate the co-ordinated management of operations for the recovery of the mineral from the subsurface reservoir, with or without also providing for the use of the subsurface reservoir for the purposes of storage of fluid mineral substances and the combining of interests in the storage rights in respect of that subsurface reservoir.

24 Section 149 is amended

(a) by renumbering it as section 149(1);

(b) in subsection (1) by striking out “the agreement is in effect” and substituting “the Crown is a party to the unit agreement”;

(c) by adding the following after subsection (1):

(2) Where a unit agreement provides for the use of the subsurface reservoir for the purposes of storage of fluid

21 Section 136(3) and (4) presently read:

136(3) When a transfer is executed by an attorney or agent, proof of the authority of the attorney or agent, in a form satisfactory to the Minister, shall be submitted to the Department.

(4) Before a transfer may be registered the lessee's copy of the agreement shall be submitted to the Department.

22 Section 145(c) presently reads:

145 In this Part,

(c) "unit operation" means an operation in which a number of tracts are merged, pooled, consolidated or integrated as a unit, without regard to the boundaries of the separate tracts, for operation for

(i) the development or production of a mineral within, on or under the tracts, or any specified stratum or strata or portion thereof within the tracts, or

(ii) the implementing of a program for the conservation of the mineral or the co-ordinated management of interests in the mineral.

23 Section 146(1) presently reads:

146(1) The Minister may on behalf of the Crown enter into an agreement for a unit operation.

24 Section 149 presently reads:

149 When a unit agreement is entered into by the Minister, the minerals that are the property of the Crown and affected by the agreement, and any interest in the minerals, are subject to the terms and conditions of the agreement so long as the agreement is in effect.

mineral substances, storage rights that are the property of the Crown and affected by the unit agreement are subject to the terms and conditions of the unit agreement so long as the Crown is a party to the unit agreement.

25 *The following is added after section 149:*

Regulations

149.1(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the withdrawal by the Crown as a party to a unit agreement where no unit operations have been conducted under the unit agreement for a prescribed period;
- (b) respecting the powers and duties of the Minister with respect to a withdrawal referred to in clause (a) and the procedures to be followed by the Minister before a withdrawal can be effected;
- (c) defining “unit operations” for the purposes of the regulations.

26 *The Natural Gas Royalty Regulation, 1994 (Alta. Reg. 351/93) is validated, effective as of January 1, 1994.*

27 *Section 10 of this Act comes into force on Proclamation.*

25 Regulations respecting procedures for the withdrawal of the Crown from a unit agreement.

26 Validates Alberta Regulation 351/93.

27 Coming into force.