

# Conservation and Reclamation INFORMATION LETTER

## Compliance and Enforcement Approach For Conservation And Reclamation of Oil And Gas Activities

This Information Letter applies to pipelines, oil wells, gas wells, oil production sites, batteries and any facilities associated with these activities (e.g., access roads, borrow pits, offsite sumps). It clarifies who is considered to be the operator for the purposes of compliance and enforcement action under the *Environmental Protection and Enhancement Act* (EPEA). It also provides an overview of compliance and enforcement tools under EPEA.

### BACKGROUND

EPEA requires an operator to conserve and reclaim specified land and to obtain a reclamation certificate upon abandonment.

EPEA defines an operator as:

- an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration;
- any person who carries on or has carried on an activity on or in respect of specified land other than pursuant to an approval or registration;
- the holder of a licence, approval or permit issued by the Energy Resources Conservation Board [now the Energy and Utilities Board (EUB)], for purposes related to the carrying on of an activity on or in respect of specified land,
- the holder of a surface lease for purposes related to the carrying on of

an activity on or in respect of specified land;

- a successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in any of the subclauses above; and
- a person who acts as principal or agent of a person referred to in any of the subclauses above.

Where an EPEA approval is in place, the approval holder will be considered the operator.

Where no EPEA approval has been issued, the EUB licensee will be the first to be considered the operator for conservation and reclamation compliance and enforcement issues because:

- industry standard practice is to hold the licensee responsible;
- EUB standard practice is to hold the licensee responsible; and
- operators can be tracked through existing EUB records rather than requiring Alberta Environmental Protection to develop a separate records system.

When a company sells or divests pipelines, wells, and associated facilities, the licensee continues to be considered the operator until the transfer of the license has received the written consent of the EUB and the licensee name is changed in the EUB database. It is important for a company to ensure that any sale is in fact registered with the EUB.

Notwithstanding the above approach, the full range of the definition may be used to select one or more operators based on the facts available to the department or through information supplied by the licensee.

This treatment of the licensee as the operator does not prevent civil action between different classes of operators (e.g., licensee deals with previous licensees or a purchaser).

### APPROACH

When an operator fails to conserve and reclaim land, a firm but fair approach will be taken to ensure compliance. For conservation and reclamation matters, compliance and enforcement may be pursued through a Conservation and Reclamation (C&R) Notice or an Order.

Where operators have not complied with EUB and Alberta Environmental Protection requirements, joint enforcement actions may be taken at the same time.

### COMPLIANCE AND ENFORCEMENT TOOLS

#### 1. Conservation and Reclamation Notices

C&R Notices may be issued as a first step to ensure compliance (see C&R/IL/94-2 for more information). C&R Notices may be issued to one or more of the parties identified as operators above.

## 2. Order Before Reclamation Certificate

An Order may be issued following non-compliance with a C&R Notice or an Order may be issued as the first step. Parties that did not receive a C&R Notice may still be named in a follow-up Order. Three types of Orders can be issued:

- Environmental Protection Orders (EPOs) may be issued:
  - If in the Inspector's opinion, the performance or suspension of work is necessary in order to conserve and reclaim specified land; or
  - where an Inspector is satisfied an adverse effect has occurred in a location other than the specified land or a substance has left or escaped from the specified land.
- Enforcement Orders (EOs) may be issued where in the Director's opinion a person has contravened EPEA (e.g., an operator fails to obtain an EPEA approval or contravenes a condition of an approval).
- Emergency Environmental Protection Orders (EEPOs) may be used when an Inspector is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred on specified land. The EEPO suspends all or part of the work for up to seven days. For example, an EEPO may be issued if an operator is not salvaging topsoil or is operating in wet weather thereby causing rutting and soil mixing that is affecting soil capability.

## 3. Order After Reclamation Certificate

An Environmental Protection Order

can be issued after a reclamation certificate has been issued. The Order can be issued to address conservation or reclamation matters that were not evident at the time of the initial reclamation certificate inquiry. Where no inquiry was held before a reclamation certificate was issued, an Order can be issued for any conservation or reclamation matter.

These Orders can be issued for up to five years after the reclamation certificate was issued and are issued to the party that received the reclamation certificate or to their successors.

For oil production sites and pipelines which held an EPEA approval at the time of certification, an Order for conservation and reclamation matters cannot be issued after the reclamation certificate has been issued.

## SUBSTANCE RELEASE

Sections 102 and 103 of the Act deal with EPO's and EEPO's for the release into the environment of a substance that may cause an adverse effect. Operators should contact the Enforcement & Monitoring Division, (780) 427-6209 for more information on these Orders.

## APPEALS

An operator may appeal an Environmental Protection Order and some Enforcement Orders to the Environmental Appeal Board (EAB). See Section 84 of EPEA and the *Environmental Appeal Board Regulation* for more details on the appeal mechanism.

Emergency Environmental Protection Orders cannot be appealed to the EAB.

## OTHER OPTIONS

In addition to the compliance and enforcement approaches noted above, the Department may also use warning letters, administrative penalties, court or-

ders or prosecution. The document *Enforcement Program for the Environmental Protection and Enhancement Act* (Alberta Environmental Protection, Enforcement & Monitoring Division, (780) 427-6209 provides information on enforcement options.

## OTHER ACTS

Where operators have not complied with other legislation (such as the *Oil and Gas Conservation Act*, *Pipeline Act*, *Public Lands Act* or *Water Resources Act*), enforcement actions may be taken by more than one department.

## CONTACTS

### For Green Area public lands:

Alberta Environmental Protection,  
Land and Forest Services,  
7th Floor, Bramalea Building,  
9920 - 108 Street,  
EDMONTON, Alberta T5K 2M4

Phone: (780) 427-8474

Fax: (780) 427-0075

### For White Area public lands:

Alberta Agriculture, Food and Rural  
Development,  
Public Land Management Branch,  
Room 200, J. G. O'Donoghue Bldg,  
7000 - 113 Street,  
EDMONTON, Alberta T6H 5T6

Phone: (780) 427-6597

Fax: (780) 422-4244

### For all other lands:

Alberta Environmental Protection,  
Environmental Sciences Division,  
4th Floor, Oxbridge Place,  
9820 - 106 Street,  
EDMONTON, Alberta T5K 2J6

Phone: (780) 427-5883

Fax: (780) 422-4192