

June 2, 1999

Mineral Rights Information Bulletin 99-3

SUBJECT: SOLUTION GAS IN OIL SANDS AREAS

The current definition of "oil sands" in the Mines and Minerals Act (the Act) contains exclusions for natural gas. Part 5 of the Act defines "natural gas" in relation to petroleum and natural gas agreements. Neither Part 6 of the Act, which deals with oil sands agreements, nor the Oil Sands Regulation, define "natural gas". This has led to ambiguity as to whether the right to solution gas in the oil sands zones is granted under oil sands leases or petroleum and natural gas leases.

Several companies have approached the department concerning this issue. Their views are not unanimous. There are arguments supporting either side of the issue. This is reflected in the commencement of at least two legal actions.

Although the department could wait for a ruling by the Courts, the department and those in industry who have shared their views are concerned with the time it will take to achieve a final ruling and the uncertainty that will prevail in the interim. Accordingly, the department is of the view that a legislated solution would be in the public interest.

The department has attempted to determine what was intended by those involved with the legislation when it was prepared in the early 1980's. Although once again views differed somewhat among those canvassed, most felt the intention was to include solution gas as part of oil sands granted under oil sands agreements.

Effective March 1, 1999, the Alberta Energy & Utilities Board (EUB) defined solution gas in an amendment to the Oil Sands Conservation Regulation. Section z.1 reads, "solution gas means gas that is dissolved in crude oil or crude bitumen under reservoir conditions and evolves as a result of pressure and temperature changes." One option is to simply amend the legislation to clarify that solution gas is part of oil sands and leave the determination as to what part of the gas is solution gas up to the EUB, if the petroleum and natural gas lessee and oil sands lessee cannot agree.

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This approach could, however, lead to lengthy hearings. The department would prefer to legislate a Gas Oil Ratio (GOR) to define what solution gas is, for tenure purposes. If initial production from a well is recovered at a gas to oil ratio that is less than the legislated GOR, all the gas produced would be deemed to be oil sands. If initial production is recovered at a gas to oil ratio that is equal to or greater than the legislated GOR, all the gas produced would be deemed to be natural gas. This approach is similar to that used in the Mines and Minerals Act to resolve ownership disputes where Crown petroleum and natural gas rights are separately leased.

The department does not believe however, that the GOR of 1800:1 that is specified in the Act for this latter purpose would be an appropriate cut-off point for natural gas recovered from the oil sands zones. Nor does it necessarily accept the suggestion that the appropriate cut-off point should be anything over 30:1. Therefore, the department is inviting any person or group wishing to make a technical presentation on a fair and equitable GOR cut-off to do so.

Questions, comments and arrangements for technical presentations should be forwarded to me by August 1, 1999 at:

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