



February 12, 2018

INFORMATION LETTER 2018-05

Subject: Validation of Initial Term Licences and Continuation of Petroleum and Natural Gas (PNG) Leases and Intermediate Term Licences

This information letter replaces Information Letter 2008-13. The purpose of this information letter is to outline best practices for incoming applications which are subject to the Petroleum and Natural Gas Tenure Regulation (the Regulation) effective March 1, 2014 and the implementation of Shallow Rights Reversion for agreements purchased after January 1, 2009. This revised Information Letter now includes licence validation. The validation process applies to expiring initial term licences. The continuation process applies to expiring primary term leases and intermediate term licences. Unless otherwise noted, all sections referenced relate to the Regulation.

Applications for validation and continuation must be submitted through the Electronic Transfer System (ETS). Refer to the Validation and Continuations Guides and ETS online learning modules available on Alberta Energy's website at www.energy.alberta.ca.

1. SECTION 11 – VALIDATING INITIAL TERM LICENCES

Section 11 validates land within an initial term licence and moves it into a five-year intermediate term.

As defined in section 9, a validating well must:

- Drill to a minimum depth of 75 metres;
- Spud during the initial term of the licence; and
- Evaluate the petroleum and natural gas rights contained within the licence.

There are several types of validating wells:

- Drilled on location of the licence to at least 75 metres depth;
- Re-entered on location with additional drilling to at least minimum depth;
- Re-entered on location with additional drilling less than minimum depth with production or good hydrocarbon tests with which Alberta Energy agrees;
- Drilled on location with drilling less than minimum depth with production or good hydrocarbon tests with which Alberta Energy agrees;
- Re-entered on location, with no new meterage drilled, and a zone becomes productive;
- Located on lands outside an initial term licence on a spacing unit that is partly within the licence; and
- Drilled outside the licence due to surface or environmental concerns with prior consent from Alberta Energy.

A validating well may rig release after the expiry date if it was spud prior to expiry. Regardless of the rig release date an application must be submitted prior to expiry. If drilling is completed after expiry, technical data must be submitted in support of the application within one month of the rig release date.

As outlined in Schedule 2 of the Regulation, the total measured depth of a validating well determines the number of sections earned. These earned sections can be used to validate sections in the same initial term licence into its intermediate term. Any unused earned sections can be banked for future use on another expiring initial term licence.

As outlined in section 11.1 of the Regulation, earned sections must meet the following criteria to be used to validate another initial term licence:

- The licence boundary must meet the distance criteria of not more than one intervening section away from the licence containing the validating well and;
- The validating well with unused earned sections must have been drilled during the initial term of the licence using the earned sections and must evaluate the rights in the licence.

Note: A re-entered validating well is a well that is abandoned (cemented or bridge plugged) and for which Alberta Energy Regulator (AER) has issued a new spud and rig release date.

2. CONTINUATION OF PETROLEUM AND NATURAL GAS LEASES AND INTERMEDIATE TERM LICENCES (AGREEMENTS)

Section 15:

A section 15 continuation is an indefinite continuation for rights that are proven productive in paying quantities. All expired agreements are severed to the base of the deepest productive zone; and agreements purchased after January 1, 2009 are also subject to Shallow Rights Reversion.

At this time oil and gas are treated differently. Refer to the *Technical Guidelines for Continuation* for more information.

There are five sub-sections under section 15 to continue an agreement. Technical data requirements vary depending on the sub-section.

- Technical data such as interpreted seismic, isopach and isochron maps, remaining reserves, pressure data etc. are required with a continuation application for proven productivity under section 15(1)(a) and deemed productive under section 15(1)(e).
- Continuation under section 15(1)(b),(c) and (d) does not require technical data; however; submission of a completed application is still required.

Once indefinite continuation is granted, rights can be discontinued in three ways by:

- Surrendering the rights;
- Failing to respond to a rental or royalty default notice; or
- Failing to respond to a section 18 notice of non-productivity.

Section 16:

A section 16 continuation is a short-term continuation based on a recently drilled well or a well being drilled over the agreement expiry. This is referred to as a qualifying well. Rights in the agreement are not severed for this type of continuation.

A continuation under section 16 is for a term of six months from the rig-release date of the qualifying well. A qualifying well must either be spud prior to expiry of the agreement and drilled over expiry or rig-released within the last three months of the term of the agreement. In addition, a qualifying well must either:

- Be targeted to drill into the rights in the agreement or be in a section of land containing all or part of the location of the agreement; or
- Be drilled outside the location of the agreement if Alberta Energy agrees that the well will evaluate PNG rights in the agreement.

The same area of land originally continued under section 16 may be continued for an additional six months with a subsequent qualifying well if a new well is drilled on the same previously continued lands. If a portion of the previously continued section 16 lands is subsequently continued under a section 15 or a portion is not applied for, then the amount of land further continued under a section 16 will be reduced.

A qualifying well can only be used once for a section 16 continuation. One application must be submitted for all agreements using the same well. If the applicant is not the well operator, an authorization must be provided from the well operator in order for Alberta Energy to use that well for the application.

A well that is re-entered will meet the requirements of a qualifying well if the AER assigns a new spud and rig release date.

An applicant can continue up to nine sections from one or more agreements for each qualifying well. If the sections being selected are from more than one agreement, the sections must touch or corner the section containing the qualifying well to be eligible for continuation. This is referred to as the qualifying area.

Each section containing a horizontal qualifying well is treated as having its own qualifying well, thus increasing the qualifying area from which up to nine sections can be selected for continuation under section 16.

If a well is drilled over expiry, the section containing the qualifying well must be selected to avoid being in trespass.

Section 17:

A continuation under section 17 is for one year based on potential productivity. This type of continuation requires technical data and severs rights below the base of the deepest potentially productive zone. Shallow rights reversion does not apply to this type of continuation.

An applicant may select up to nine sections to continue based on an adjacent producing, productive or potentially productive well. A horizontal well increases the eligible area in which to choose nine sections.

Applications including technical data that does not support a section 15 continuation but provides evidence of potential productivity may qualify for a section 17 continuation for the spacing unit. If Alberta Energy offers an applicant a section 17 continuation, the applicant has one month to accept the offer. An acceptance fee of \$25 per hectare (minimum charge is \$1,600), plus any rentals will be charged on the next monthly statement after the agreement is finalized. A new application for either a section 15 or section 16 continuation must be submitted to continue an agreement after the section 17 continuation expires. Refer to the application process, application response section for additional information.

3. SECTION 18 NOTICE OF NON-PRODUCTIVITY

Section 18 of the Regulation provides for issuing a notice of non-productivity for rights previously continued indefinitely under section 15 that Alberta Energy no longer considers productive. The section 18 notice provides one year from the date of the notice to apply for continuation under section 15 or section 16 of the Regulation. Agreements under Section 18 notice are not eligible for a section 17 continuation.

4. EXTENSIONS UNDER THE PETROLEUM AND NATURAL GAS TENURE REGULATION

Within the Regulation, there are three extension categories relating to continuations - a section 16(6), a section 18(6) and a section 26. It is important to note that extensions may or may not be granted and the time requested may be modified by Alberta Energy. Applications for these types of extensions must be submitted through ETS and be received by Alberta Energy on or before expiry.

Section 16(6):

There may be times when a six-month section 16 continuation does not provide adequate time to complete the work required for further continuation or to completely evaluate the rights.

Examples of circumstances which may warrant an extension under section 16(6) include, but are not limited to, a fire closure, a late policy change affecting surface access, or an AER hearing scheduled after the expiry date.

The applicant must indicate why the rights were not evaluated within the section 16 continuation period. Additional extensions may be granted if the circumstances warrant it; however, the applicant must show due diligence before and during the extension period.

Section 18(6):

If an applicant is unable to prove productivity during the one year period stipulated in a section 18 notice and extenuating circumstances existed, then the applicant may apply for an extension under section 18(6).

Examples of circumstances which may warrant an extension under section 18(6) include, but are not limited to, a fire closure, a late policy change affecting surface access, or an AER hearing scheduled after the expiry date.

Section 26:

This section of the Regulation can be utilized if mechanical or other difficulties are encountered during drilling which prevent the well from being completed. If approved, the drilling of a new well must begin within one month in the same spacing unit as the

uncompleted well or, with Alberta Energy's consent, in another spacing unit.

When applying for this type of extension, the applicant must outline the circumstances, timeline of contributing events and the amount of time required.

Note: If an initial term licence is extended under section 26, then the length of the five-year intermediate term period will be reduced by a corresponding amount up to one year less a day.

5. EXTENSION UNDER THE *MINES AND MINERALS ACT*

The primary term of a lease and the initial and intermediate term of a licence are designed so that all the necessary work can be completed during the term of the agreement to obtain a validation or a continuation. Best practice is to work diligently towards meeting obligations under the agreement; however, there are circumstances that may prevent required work from being completed during the term of the agreement.

Section 8(1)(h) of the *Mines and Minerals Act* provides discretion to extend the term of an agreement. An agreement can only be considered for such an extension if it is not eligible for continuation under any section of the Regulation and there are extenuating circumstances. Requests based on business decisions (e.g. economics, late farm-in etc.) or regular occurring circumstances such as spring break-up would not be considered extenuating circumstances.

When applying for this type of extension through ETS, applicants must include all appropriate information such as:

- The reason for the request;
- The length of time needed for the extension;
- The operations performed during the previous time period;
- The timeline of contributing events;
- An explanation of why the applicant could not prove productivity during the original time allotted;
- An explanation of why the delays were beyond the applicant's control; and
- Any other pertinent information that would be beneficial.

The applicant should also submit supporting documentation which may be in the form of pictures, weather office reports, dated documentation, copies of letters or e-mails, etc.

If the reason for the delay was an unforeseen or non-routine government requirement, then the best practice is to attach written evidence from the other government department or agency.

Note: If an initial term licence is extended under section 8(1)(h), then the length of the five year intermediate term period will be reduced by a corresponding amount up to one year less a day.

6. APPLICATION PROCESS

All applications must be submitted through ETS. For more information refer to the Continuations and Validation Guides and ETS online learning modules available on Alberta Energy's website at www.energy.alberta.ca

Best practice is to submit an application, including a comprehensive technical data package for all productive or potentially productive zones, at least two months prior to agreement expiry. Only one application can be submitted per agreement expiry.

Additional data can be provided at any time prior to the agreement expiry providing it supports the original application. To update or modify an application prior to expiry, the application must first be withdrawn and then resubmitted. It is important to resubmit all information on the new application and if applicable refer to any technical data previously sent to Alberta Energy. For Alberta Energy to review technical data previously sent, authorization from the owner of the technical data is required.

An application amended after the agreement has expired to include lands and wells not included in the original application is considered late and may be subject to a late application penalty of \$5,000. **This type of change only applies to continuations since there is no provision in the Regulation for submitting a late validation application for an initial term licence.**

There is no provision in the Regulation for a late application under section 16(6) or section 18(6) of the Regulation. These applications must be submitted prior to the agreement expiry.

Once the agreement has expired, best practice is to cease operations while waiting for a decision from Alberta Energy. If operations continue past agreement expiry and an applicant does not receive the continuation requested, they may be in trespass.

Who Can Apply:

The designated representative of the agreement, or an applicant they authorize, are the only parties who can apply for validation or continuation. The applicant is responsible for applying prior to expiry and including supporting technical data.

Technical Data Requirements:

Most applications require supporting technical data. Exceptions include applying for a section 15 (1)(b), section 15(1)(c), section 15(1)(d), section 16 continuation and solely an extension request. Every other type of application must include the appropriate technical information for Alberta Energy's review. Success of applications is based on the type and detail of documentation and the acceptability of the applicant's technical data and discussion.

The Technical Guidelines for Continuation sets out the conditions under which continuation will be considered. The conditions, in turn, describe the types of data required for each type of continuation. This is not an inclusive list; the applicant's technical staff must use their professional judgment as to the type of data to submit that will best support their application.

Technical data should be clearly marked with legal descriptions and zones, well locations and the location and number of the agreement(s). Copies of well logs and cross-sections should include a full suite of logs and the logs should be annotated. It is important to include synthetics with all seismic data submitted.

All data is kept confidential and used only for the application for which it was submitted. If an applicant wishes to reference previously submitted data, they must indicate that request on their application. If an applicant wishes to use another company's data to support their application, they must receive authorization through ETS to allow Alberta Energy to use that data for their application. The applicant, in their electronic submission, must advise Alberta Energy to refer to that data.

Best practice is to include all supporting technical data with an application:

Alberta Energy has access only to non-confidential data in the AER database and may access this information to confirm data submitted with an application. However, confidential data held by the AER is not available to Alberta Energy and must be submitted with the application. Additionally, non-confidential data submitted to the AER close to the time of application (e.g. within three months) may not yet be available to Alberta Energy. Some data may not be available to Alberta Energy because it had not yet been submitted to the AER.

When Alberta Energy receives incomplete data or data that has not been interpreted by the applicant, it may result in additional work for both the applicant and Alberta Energy. Waiting until Alberta Energy sends out an offer letter to determine if additional data is needed to support an application delays the final letter of continuation and may result in rights not being continued. Best practice is to ensure the quality and quantity of data submitted is sufficient to support the type of continuation being requested.

If Alberta Energy staff has questions regarding the data submitted, they may telephone or email the technical contact identified on the application. Prompt responses to these enquiries will facilitate timely decisions.

Deeper Rights Reversion Zone Designation versus Zone Designation:

Information Letter 1998-14 describes the differences between a zone designation (ZD) and a deeper rights reversion zone designation (DRRZD). A ZD is applied differently than a DRRZD and therefore impacts the rights contained in an agreement. Prior to performing any operations on an agreement, best practice is to ensure the designated representative and/or the well operator reviews the type of designation that has been applied to the agreement. Misinterpreting the agreement's designation may lead to trespass.

Application Response:

An applicant will be offered a continuation based on the Alberta Energy's assessment of submitted technical data. If the technical data supports multiple types of continuations (i.e. section 15, 16, and/or 17) or a continuation different than what was applied for, the available options will be outlined in the offer letter, along with the response deadline. The applicant should submit a response through ETS, by the deadline, indicating their choice amongst the options offered. After the applicant responds, Alberta Energy will issue a final letter after the agreement expires together with an Amended Appendix describing the rights continuing. If a response to the offer letter is not received, the agreement will be finalized as outlined in the offer letter.

If the applicant receives exactly what is applied for, Alberta Energy will issue a final letter after the agreement expires outlining the continuation and an Amended Appendix describing the rights continuing.

Alberta Energy sends the final continuation letter or the agreement cancellation letter to the designated representative with a copy to the applicant. All interim communication will be only with the applicant.

Request for Review:

If an applicant disagrees with Alberta Energy's decision as outlined in the offer letter, they can request a review of the validation or continuation decision through ETS. **Please ensure responses are complete as only one request for review is allowed.** The timeline to respond is outlined in the offer letter. Alberta Energy cannot consider late responses since there is no provision in the Regulation for a late response to an offer letter. For continuations only, Alberta Energy will consider a request for review for lands or zones not included in the original application as a late application and the appropriate penalty will be applied.

Note: The Regulation does not have a provision for a late application for an initial term licence validation.

If new information is submitted to support a request for review it must relate to operations conducted before expiry of the agreement. Data obtained from a well that was deemed confidential by the AER at the time the agreement expired cannot be submitted.

Information submitted that relates to operations conducted after agreement expiry is ineligible and may constitute a potential trespass.

If the applicant does not receive the validation or continuation requested, or needs clarification regarding Alberta Energy's technical review, best practice is to have the applicant's technical staff contact Alberta Energy's technical staff prior to responding to the offer. The land analyst who signed the offer letter can facilitate this conversation.

It generally takes Alberta Energy one month to issue a decision in response to a request for review. A final continuation decision will be issued unless the review results in a decision to issue a new offer letter for a section 17 continuation. No subsequent request for review is allowed.

7. LATE APPLICATIONS

Alberta Energy reviews all agreements that expire whether or not an application has been received. If an application was not received, Alberta Energy may offer a late continuation in three types of situations:

- The spacing unit for a gas or oil well producing over expiry, providing the production data is available in the AER public records;
- The spacing unit for a well targeted to drill into the rights within the agreement that spuds before expiry and continues to drill over expiry; or
- The spacing unit for which a company is paying offset compensation.

If this occurs, Alberta Energy will issue an offer letter to the designated representative of the agreement outlining the continuation offered, along with a request for the annual rental and a \$5,000 late application penalty.

If an application was missed in its entirety, or a productive zone was not applied for, a late

application, including the technical data, may be submitted under section 14 of the Regulation for the following:

- The spacing unit for a gas or oil well producing over expiry;
- The spacing unit for a section 16 qualifying well that has rig released within three months of the expiry date of the expired agreement or is drilling over expiry; or
- The spacing unit for which offset compensation is being paid.

A late application must be made within 60 days after the latest of whichever of the following dates is applicable:

- The date of the cancellation letter; or
- The date of the Agreement Expiry Report confirming cancellation of the agreement.

A \$5,000 late application penalty and annual rental will be required if the late application is successful.

A late application cannot be accepted for the following:

- A section 15(1)(e);
- A section 17; or
- A request to review an offer decision if the deadline to respond to the offer letter has passed.

If rights subject to a unit agreement have not been applied for, the unitized rights will be continued without penalty since Alberta Energy is party to the unit.

Note: There is no provision in the Regulation for a late application to validate an initial term licence unless Alberta Energy identifies a validating well after expiry. In this case Alberta Energy may issue a notice to the designated representative offering them one month to submit a late validation application. A \$5,000 late application penalty and the required rental must accompany a late application.

8. SURRENDERS

Section 11 of the Mines and Minerals Administration Regulation allows an agreement to be surrendered anytime providing the agreement is in good standing. If the surrender is received in ETS after the annual rental due date of the agreement, the full rental for the upcoming year would be required.

9. REINSTATEMENT OF AN AGREEMENT

A reinstatement may be granted under section 8(1)(e) of the *Act* which provides Alberta Energy discretion to reinstate the whole or a portion of an agreement.

Surrendered or Cancelled Expired Agreements

An agreement may be reinstated as to the whole or a portion of the agreement or zone that has been surrendered or cancelled if the request for reinstatement is received within 60 days from the date on the cancellation letter or Agreement Expiry Report confirming cancellation. To request a reinstatement, the designated representative or authorized applicant must submit a letter in ETS outlining the reasons why a reinstatement is required together with the reinstatement penalty of \$5,000 plus any applicable annual rental and interest.

Agreements Cancelled due to Rental or Royalty Default

If the agreement is cancelled due to a rental or royalty default, a request for reinstatement for the entire agreement must be received by Alberta Energy within 60 days from the date of the cancellation letter. The request letter must be submitted in ETS and must outline the reasons for the reinstatement accompanied by the \$5,000 reinstatement penalty plus any outstanding royalty, rental and interest.

10. MEETING WITH ALBERTA ENERGY STAFF

An applicant may request a meeting with Alberta Energy to ensure understanding of the data or to share information on large drilling programs. Meetings are held in Alberta Energy's Edmonton office. If a meeting is required, the applicant should contact the analyst who signed the offer letter (if one has been received) or the team lead in the area.

Information required includes:

- Reason for meeting;
- Preferred date and time (if possible, provide an alternative date and time);
- Crown agreement number(s);
- Zone(s);
- Who will be attending; and
- Audio-visual equipment required.

11. ADVANCE RULINGS

The designated representative or authorized applicant may apply for an advance ruling to receive an early continuation decision one year to two months prior to expiry. Alberta Energy's reply to an advance ruling is generally sent within one month of receipt of the application. An advance ruling provides the applicant the opportunity to acquire new data if needed to achieve their desired outcome. If the applicant accepts the continuation offer prior to expiry and no further changes are made in this regard, the continuation will generally be finalized within one week after agreement expiry.

If an advance ruling is required more than one year prior to expiry due to drilling plans, obligations or other reasons, a written request may be submitted for Alberta Energy's consideration. The written request should clearly state the reason an early advance ruling is required.

Best practice is to apply early enough within the year prior to expiry to allow enough time for further action if the initial application is not successful.

In order to make a change to an application prior to the agreement expiry, the application must be withdrawn and re-submitted. It is important to include all information on the new application and if applicable refer to previously submitted data. Authorization may be required to allow Alberta Energy to review previously submitted data.

Note: There is no provision in the Regulation to apply for an advance ruling on an initial term licence.

12. AUTHORIZATION

If a party other than the designated representative wishes to apply for validation or continuation of an agreement they must be authorized to do so by the designated representative through ETS. Authorization through ETS is also required for an applicant to use another company's data in support of their application. The Authorization Guide

outlines how to request and concur authorization through ETS and is available on Alberta Energy's website.

13. PAYMENT OF RENTALS, FEES AND PENALTIES

Rental, fees and penalties are due upon request except as noted in the Mines and Minerals Administration Regulation. Cheques must be made payable to the Government of Alberta.

14. RESPONSE TIMELINES

Alberta Energy makes every effort to make timely decisions. Please refer to the timelines outlined in Tenure's Frequently Asked Questions available on Alberta Energy's website.

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