

## Chapter 2

# Acquiring Oil Sands Rights

The owners of mineral rights may lease them to oil and gas companies in exchange for a royalty—a share of production or equivalent revenue. In the case of Crown rights\*, the owner (the Crown) also receives a bonus and an annual rent payment when the rights are leased.

### Disposition

*The Mines and Minerals Act defines a disposition as a grant, a transfer, or an agreement.*

The assignment of mineral rights from one party to another is referred to as disposition\*. The term undisposed\* refers to rights which have not been assigned.

*Oil Sands Tenure Regulation, section 4*

Crown-owned oil sands rights are disposed by means of agreements. Oil sands agreements convey the right to “drill for, win, work, recover and remove” oil sands that are owned by the Crown. Two types of agreements are used

- permits\*
- leases\*

*Mines and Minerals Administration Regulation, section 7 and 12*

The department is authorized to issue oil sands agreements

- by sale\* through public tender, conducted in a manner determined by the Minister,  
See [Public Offerings\\* \(Sales\)](#) for details.
- on application, if the Minister considers the issuance of the agreement warranted ,

Dispositions of this type are referred to as [direct purchases\\*](#).

- by means of registered transfers, and  
See [Transfers](#) for details.
- pursuant to any other procedure determined by the Minister.

Oil sands agreements are discussed in detail in [Chapter 3](#).

## Public Offerings (Sales)

*The public offering process for oil sands is the same as that for petroleum and natural gas.*

The majority of oil sands agreements are issued through public offerings conducted by the department. Public offerings are also referred to as sales or land sales\*.

Although the word “sale” or “land sale” is used by tradition, it is a misnomer: the Crown always retains title to its minerals. What is offered is the right to the minerals associated with a particular piece of land for a set term—in exchange for a bonus payment, annual rental, a fee, and royalty on recovered minerals. Oil sands rights are leased at a public offering, not sold, to the highest bidder.

There is no guarantee that a bidder who wins oil sands rights at a public offering will get a surface lease that allows access to the minerals. Surface leases for Crown land are managed by the Department of Sustainable Resource Development.

Oil sands sales are conducted at scheduled times throughout the year. Oil sands sales follow the same schedule as sales of petroleum and natural gas (P&NG) rights.

The public offerings schedule is published two years in advance, as an attachment to an Information Letter produced by the department and electronically distributed to a list of subscribers.

For more information on how to subscribe, see e-subscriptions in the Appendix. Information letters and schedules of public offerings are also available from the Oil Sands home page, using the left navigation menu.

Sales of oil sands rights are initiated by posting requests submitted by companies or individuals. If no rights have been requested, there is no need to hold a sale.

Oil Sands parcels up for public tender are advertised 8 weeks in advance of a sale.

See [Public Offerings\\* \(Sales\)](#) for details.

## The Process

### Requesting a Posting

Companies or individuals who wish to acquire undisposed oil sands rights request a posting for a specific sale date. The request must be submitted electronically through the department's Electronic Transfer System (ETS). The requestor needs an authorized ETS Account with access to the Posting Request service.

The Posting Request and ETS manuals, and the ETS Account Set Up/Change Form are available from the Oil Sands home page, left menu, ETS icon. See Electronic System and Services in the Appendix for more information.

#### **Note:**

Companies or individuals who request postings are expected to bid on the parcels when the requested rights are made available at a public offering. If you are a requestor of a parcel and fail to bid, you will be charged a penalty of \$625 plus GST for each requested parcel that is not sold.

### Acceptance and Processing

Once a posting request has been received, the department processes the requested rights after which the requestor is notified by an interim posting detail regarding the availability of the rights and current surface restrictions. The available requested rights are forwarded to the Crown Mineral Disposition Review Committee (CMDRC). The members of this committee represent the Alberta Ministry of Environment, the Ministry of Sustainable Resource Development, and the Ministry of Community Development.

#### The committee

- reviews the lands,
- identifies potential surface-access restrictions, and (Restrictions may result from policy, legislation, or legal mandate.)
- advises the department about the nature of the restriction.

Once the department has reviewed CMDRC comments, the requestor is advised about any new restrictions and contacts.

## Parcel: A Definition

The term parcel encompasses two elements:

- the lands to which these rights pertain
- oil sands rights

A parcel is the configuration of land which defines the physical location of oil sands for which rights have been requested by public offering or private sale. The land is identified by means of

- a legal description (section, township, range, and meridian), which locates the surface, and
- a description of the underlying oil sands zones.

## Public Offering Notice

A public offering notice (PON) is published eight weeks prior to a sale date. The notice

- sets out the terms and conditions under which the parcels are offered,
- specifies the place, date, and time of the sale,
- provides instructions for submitting bids,
- lists and describes the parcels being offered,

The notice specifies the parcel number, the total area covered by the parcel, the legal description of the lands, and a description of the oil sands rights being offered.

- lists all relevant Zone Designations\* (ZD) and Deeper Rights Reversion Zone Designations\* (DRRZD), and

Further information is available in department Information Letter 98-14: Application of Zone Designations (ZD) and Deeper Rights Reversion Zone Designations (DRRZD) for Rights.

- includes relevant appendices outlining any surface restrictions which apply to individual parcels.

Electronic copies are distributed to the department's list of Oil Sands subscribers.

For more information on how to subscribe, see e-subscriptions in the Appendix. Public offering notices are also available from the Oil Sands home page, left menu, Oil Sands Public Offering icon.

## The Posting Cycle

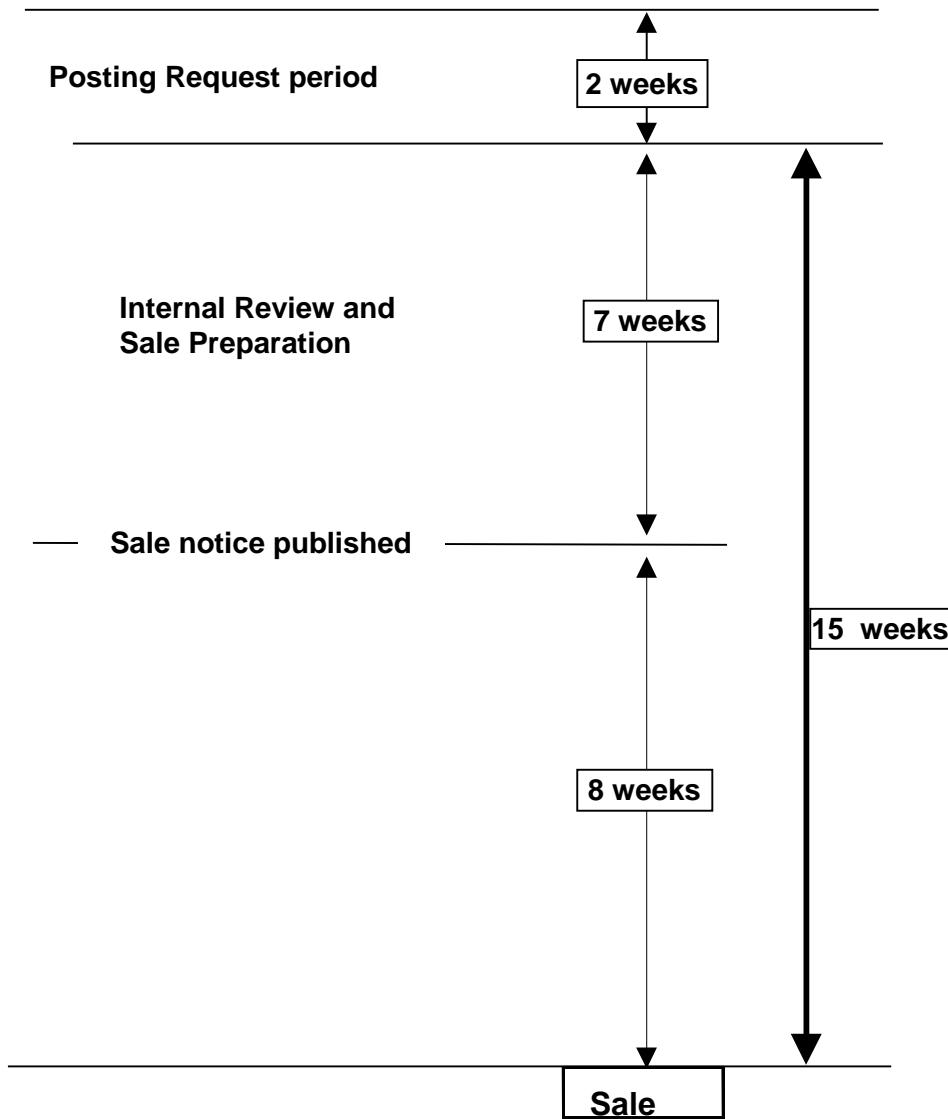


Figure 1: The posting cycle for a public offering normally takes 17 weeks.

## Bidding Requirements

Companies or individuals who wish to bid on oil sands parcels posted by way of a Public Offering Notice must do so electronically through the department's Electronic Transfer System (ETS). The bidder needs an authorized ETS Account with access to the Bidding service and must be an active tenure client. All paper work to allow for an Electronic Funds Transfer (EFT) must be complete, before any bids are considered.

The Bidding and ETS manuals and the ETS Account Set Up/Change Form are available from the Oil Sands home page, left menu, ETS icon. See Electronic Services in the Appendix for more information.

## Bid Request

A Bid Request consists of a bid on one or more parcels; both PNG and Oil Sands parcels may be in the same bid request. Bids on parcels from different sales dates are not allowed. The department's copy of the bid request submitted is the official record of the bid. Before submitting your bid, you are encouraged to read the terms, conditions, and sales procedures, which can be found on the second page of the PON.

Your total bid includes the bonus, rent at \$3.50 per hectare or \$50.00 whichever is greater, and a fee of \$625.00. An offer of less than \$2.50 per hectare for an oil sands lease or \$1.25 per hectare for an oil sands permit will not be considered.

### Note

The department reserves the right to reject any bid.

If the same bidder submits more than one bid for the same parcel, the department reserves the right to accept the highest bid.

If there are two bids with the same highest offer, they will be processed as tie bids and the clients will be contacted by telephone and given a set time to re-bid.

## Payment

The only form of payment acceptable for winning bids is electronic funds transfer (EFT). EFT authorizations are arranged through the department. The EFT Authorization Form is available from the Oil Sands home page, left menu Forms & Reporting. Debits are made on the sale day beginning as soon as the sale is completed and will be reflected in the company's account the following day. Some debits may take longer depending on which bank you conduct your business.

The bidder is responsible for having sufficient funds in the bank on sale day to cover all bids. If an EFT transaction fails due to insufficient funds, the bidder will be contacted and an interest payment of 3 percent will be charged for all parcels awarded. The parcel(s) may also be awarded to the next highest bidder or withdrawn by the department. If the situation occurs more than once, the department reserves the right to refuse future bids and/or posting requests by that company or individual.

## Timelines

Bids can be created and submitted as soon as the public offering notice of available Oil Sands rights are published. At 12:00 noon on the date of the sale, the sale is closed. Any bid request not submitted before that time will not be considered for the sale. The Department of Energy time will be considered the official time. The time clock is available for viewing on the Bid Request screen.

## Sales Results

Oil sands agreements are awarded to the highest bidder.

Accepted offers information will be available on the sale day in the afternoon on the department's website. The name of the successful bidder and the bonus amount paid for each parcel will be announced.

Information about unsuccessful bids is not published.

Electronic copies of the Sales results are distributed to the department's list of subscribers.

For more information on how to subscribe, see e-subscriptions in the Appendix. The Sales results are also available from the Oil Sands home page, left menu, Oil Sands Public Offering icon.

On occasion the department may require additional time to process a sale and this may delay publishing the results. Should this happen, the department will inform industry via our website and electronic mailing lists.

Agreements are issued to successful bidders electronically through the department's Electronic Transfer System (ETS) within two weeks of a sale date. Only the designated representative can pick up the agreement document. Any bidder who wishes to become an agreement holder\* must have an authorized ETS account with access to the Crown PNG and Oil Sands Agreement Documents service.

The ETS bid manual and the ETS Account Set Up/Change Form are available from the Oil Sands home page, left menu, ETS icon. See Electronic System and Services in the Appendix for more information.

Additional information about the bidding process is provided in Information Letters, which are available from the Oil Sands home page, left menu, Information Letter icon. For more information about Information Letters and how to subscribe to them, see Appendix.

## Direct Purchases of Crown Rights

### Direct Purchase of Portions

To facilitate a company or individual in acquiring the lands in a drilling spacing unit, the Crown may lease their portion of the lands through a direct purchase if the applicant meets the requirements outlines below:

1. The Crown rights comprise less than 50 percent of the smallest applicable spacing unit in the lands applied for (i.e. less than 50 percent of an oil spacing unit or a smaller special spacing unit established by the ERCB). Where Crown rights exceed this limit, the normal process for Public Offerings should be used.
2. The application is supported by a statutory declaration stating that you or the company have ownership of or control over the oil sands in the freehold portion of the spacing unit. This control may occur by virtue of being the owner of a percentage of undivided interest in the oil sands or the holder of a percentage of undivided interest in the oil sands under a valid and subsisting freehold lease. The statutory declaration can be found on the Oil Sands home page, left menu Forms & Reporting.
3. The rights granted in the Crown lease will correspond with those included in the freehold agreement.
4. The minimum acceptable bonus is \$500 per hectare or \$2000, whichever is greater, and is non-negotiable. The department reserves the right to adjust the minimum bonus periodically to reflect market trends.
5. The first year's annual rental plus the lease issuance fee is also payable. See [Annual Rent](#) for details.
6. An applicant who does not wish to purchase the portion of rights on the above terms has the option of posting the parcel through the Public Offering process.

## Spacing Units: A Definition

Spacing units are established by the ERCB.

They specify the spacing of wells drilled into individual reservoirs for producing oil, gas, or oil sands products. This regulates production rates and ensures efficient drainage of the resource.

The standard spacing unit for oil and oil sands is one well per quarter section.

Additional information about the direct purchase process is provided in Information Letters, which are available from the Oil Sands home page, left menu. For more information about Information Letters and how to subscribe to them, see Appendix.

## Direct Purchase of Complementing Rights

To facilitate common ownership of Oil Sands rights and Natural Gas rights, the Crown may lease the oil sands rights to the Petroleum & Natural Gas (P&NG) agreement holder by direct purchase if the applicant meets the requirements outlined below:

1. The requested Oil Sands rights must be located in the same zone as the P&NG for which the applicant holds an agreement.
2. The department determines the term for which Oil Sands rights are granted. At the department's discretion, rights are assigned as follows:

A Primary Term P&NG agreement is complemented by a five year Oil Sands Permit,

or

A Continued P&NG agreement is complemented by a 15-year Oil Sands Primary Lease.

3. The Oil Sands rights are granted by means of a separate agreement. They are not consolidated with the applicant's P&NG agreement. Agreements granted through direct purchases are subject to the same terms, conditions, and rules that apply to agreements granted through the public offering process.
4. The bonus price per hectare for an Oil Sands parcel will be an amount that is 125 per cent of the average price per hectare of the amounts received from Oil Sands rights sales (excluding sales in the surface mineable area) occurring in the six months prior to the month in which the department received the direct purchase application.
5. The first year's rental plus the agreement issuance fee is also payable. See [Annual Rent](#) for details.
6. The direct purchase price calculated by the department is not negotiable.

## The Process

### Applying for a Direct Purchase

Only one parcel per request can be entered for a Direct Purchase. The request must be submitted electronically through the department's Electronic Transfer System (ETS). The requestor needs an authorized ETS account with access to the Postings Request service.

The department will review each application received and the purchase price will be added to the requestor's posting request on ETS. An email will be sent to the creator of the posting request advising them of the update. Acceptance or rejection of the purchase price is required before further processing. Should a company choose to reject a purchase price then post the lands in a public sale, the parcel will be placed into the next available sale.

The Posting Request and ETS manuals, and the ETS Account Set Up/Change Form are available from the Oil Sands home page, left menu, ETS icon. See Electronic System and Services in the Appendix for more information.

### Acceptance and Processing

Once the requester has accepted the price, the applicant must pay

- a \$625 issuance fee,
- rental for the first year of the agreement, calculated at the rate of \$3.50 per hectare or a minimum amount of \$50.00, and  
See [Annual Rent](#) for details.
- a bonus - the direct purchase bonus price per hectare can be found on the Oil Sands home page, left menu Sales & Administration.

This is the amount paid for Crown mineral rights. The Crown receives a bonus regardless of whether rights are sold directly or at a public offering.

## Payment

The only form of payment acceptable for direct purchase is **electronic funds transfer (EFT)**. EFT authorizations are arranged through the department. Once the requestor has accepted the price, the funds will be withdrawn from the payor's EFT account within two days of acceptance of the purchase price. Should the department debit an account and find that there are insufficient funds to cover the transaction, the applicant will be contacted and interest of 3 percent will be charged, or the application may be cancelled.

The EFT Authorization Form is available from the Oil Sands home page, left menu Forms & Reporting.

## Transfer of Ownership in Oil Sands Agreements

The following information applies to transfers, which are registered under the *Mines and Minerals Act* and the *Mines and Minerals Administration Regulation*.

The *Act* allows the ownership of existing oil sands agreements to be transferred between parties.

### Note

Transfers are managed by the P & NG Sales & Registrations section, Tenure Branch of the department, not by the Oil Sands Operations Division.

See Appendix for contact information.

## The Process

### Requesting a Transfer

Companies or individuals who wish to transfer their oil sands agreements must apply to the department. The transfer must be submitted electronically through the department's Electronic Transfer System (ETS). The requestor needs an authorized ETS Account with access to the Transfers Ownership and/ or Designated Representative service.

The Transfer of Ownership on Mineral Agreements and ETS manuals, and the ETS Account Set Up/Change Form are available from the Oil Sands home page, left menu, ETS icon. See Electronic System and Services in the Appendix for more information.

### Requesting a Partial Transfer

The department accepts manual submissions when only a part of the location contained in the agreement is being transferred or when special circumstances warrant it.

Transfer of ownership must be completed and submitted in duplicate on the department's Transfer Form. The transfer form must be accompanied by

- a Transfer Transmittal Letter,
- execution documents related to the transfer agreement, as applicable, and
- the appropriate registration fee is \$625.

## Trespass and Compensation

*Mines and Minerals Act, section 54, 55, and 63*

Trespass occurs when Crown minerals are recovered without authorization under the *Act* or without an agreement. To contend with situations of trespass, the Crown has developed a series of policies and procedures.

Additional information about Trespass and Compensation is provided in Information Letters, which are available from the Oil Sands home page, left menu Information Letter' icon. For more information about Information Letters and how to subscribe to them, see Appendix.