

## GUIDE TO NEGOTIATING LEASE AGREEMENTS

Before negotiating a fair and reasonable compensation package for an oil and gas company to enter your land, it is worth your time to do some homework. We suggest you ask the company some questions about how the activity will impact your use of the land and complete some of your own research regarding the value of your land.

The following worksheet provides:

- questions you should consider presenting to the company about the impact of the project on your agricultural activities.
- information you should gather before arriving at compensation amounts with a company.

Most compensation packages are based on a combination of the following values (full description provided in the pages below):

- Compulsory aspect
- Value of the land
- Loss of use or profit (severance)
- General nuisance and disturbance including tangible and intangible disturbances.

The questions and suggestions included in this worksheet are based on the values noted above and should only be considered a starting point. When landowners and companies are negotiating an agreement, there is flexibility to come up with creative options that bring value to both parties. A landowner might have additional projects on the land that the company can support in place of, or in addition to, the compensation package. The parties can be innovative in formulating agreements that meet those needs.

As you answer the questions in this worksheet, consider other ways the company's work on your land can bring benefit to you. A few examples of work a company might agree to: building an access that adds efficiency to the landowner's work; installing fencing or gates for livestock security; constructing a borrow pit the landowner can use later for their own water supply. A landowner might also be able to negotiate an additional agreement for their own company to do some of the work for the project. The options can be as adaptable as the needs of both the company and the landowner.

The Surface Rights Board (SRB) is a provincial agency with jurisdiction to determine compensation when landowners and companies are not able to come to an agreement. Be mindful that once the SRB is involved, the considerations for compensation packages are limited to what is outlined in legislation.

### The Farmers Information Service is available for support

Decisions made by the SRB regarding compensation and right of entry are available on their [website](#) and can provide valuable insights into the criteria considered and final determinations on compensation packages. For additional guidance on reviewing SRB Orders relevant to your concerns and how to use this guidance document, contact the Farmers Information Service:

Phone: 250-329-4686

Email: [info@farmersinformationservice.ca](mailto:info@farmersinformationservice.ca)

Mail: PO Box 101, RPO Downtown  
Fort St John, BC  
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## Compulsory Aspect

### Description:

Compulsory aspect refers to the fact that you are not able to say 'no' to a company needing access to your land for an oil or gas activity and the fact that your land will be used for something other than what you intended. Sometimes, compulsory aspect is accounted for in the value of the land and sometimes it is a separate amount.

### Questions to ask the company about values they attach to the compulsory aspect:

1. How does the company intend to compensate for compulsory aspect?

## Value of Land

### Description:

Market value of land is determined by having an appraisal completed.

Since the surface is not purchased outright from the landowner and the landowner maintains 'residual rights', a company will often discount the value of the land to account for these residual rights. Compensation at 100 per cent of the per acre value of the land is sometimes intended to include compensation for the compulsory aspect of the entry as well as accounting for the landowner's residual rights.

When compensating for land value for temporary workspace, the per acre value of land may be substantially reduced to account for the short duration of use by a company.

Comparisons to land used for similar agricultural purposes are also essential.

### Questions to ask the company about their determination on the value of your land:

1. How many other comparable properties has the company used to arrive at the value being presented?

### Research completed by landowner about the value of their land:

1. What have other landowners accepted for lease agreements on comparable leases? Provide a range or average.
2. What have other landowners accepted for a sale price on land used for similar agricultural purposes?
3. Have BC Assessment land valuations for your land increased or decreased in previous years?

## Loss of use or profit

### **Description:**

Compensation for crop loss is generally based on evidence of probable gross revenue from the growing of crops or forage for livestock. Consider whether the company's activity will impact any other sources of income.

Compensation for loss of profit on a pipeline right of way is generally calculated on a descending scale from 100 per cent loss over a period of a few years.

**Note:** Compensation for loss of use or profit does not need to be limited to a dollar value per acre. Consider ways the company could accommodate the work on your land to alleviate loss of use or profit.

### **Questions to ask the company about the impact the project will have on your use of the land:**

1. Would the proposed site sever the land, leaving it permanently incapable for me to access with farm equipment or incapable to use for crops or livestock?
2. Will the proposed activity interfere with the landowner's access to a source of water?

### **Research completed by landowner about the loss of use or profit from their land:**

1. Calculate the income you would lose per year if you were not able to grow and produce a crop on the portion of land the company will be using.
2. For a pipeline right of way, calculate your expected income loss for the number of years it will likely take before the right of way is back to the same level of production as the rest of the field.
3. Calculate the costs you would incur if the proposed activity would limit your ability to access parts of your property for care of livestock or to raise crops.
4. Will the proposed activity limit your ability to access a source of water? If so, what are the costs?
5. Will the activity impact your plans to log the land? What monetary value does this hold?

## Nuisance and Disturbance

### Description:

Nuisance and disturbance considerations include both tangible and intangible impacts and should be considered for the life of the activity. Tangible nuisance is generally any nuisance or disruption that can be monetized. Lost time is an example of a tangible nuisance.

Intangible nuisance is any nuisance or disturbance that cannot be monetized. Noise and odour is an example of an intangible nuisance.

**Note:** Compensation for nuisance or disturbance does not need to be limited to a dollar value per acre. Consider ways the company could accommodate the work on your land to alleviate the impacts of these disturbances.

### Questions to ask the company about TANGIBLE nuisance and disturbance:

1. How will the company ensure weeds will not be an issue? How will the company address the problem if I experience an increase in weeds in my crop?

### Research completed by landowner about TANGIBLE nuisance and disturbance:

1. How much of your own time do you anticipate having to spend in dealing with the oil and gas company or monitoring concerns arising from the oil and gas activity?
2. How much additional time and machinery wear and tear do you anticipate having to spend working around an oil and gas installation?

### Questions to ask the company about INTANGIBLE nuisance and disturbance:

1. Where is the lease or activity placed relative to my home or activities on my land?
2. Will there be an increase in traffic past my home or on roads I use to access my land?
3. Will there be an increase in industrial lights near my home?
4. What are the highest noise levels you are anticipating with this site? How will the company address the problem if noise levels exceed regulatory requirements?
5. Will there be dust as a result of the activity and what measures are you putting in place to reduce the impact of dust to my home, livestock or crops?
6. What are the visual impacts to me?
7. How often will the site be accessed after construction is complete and during production?
8. What is the anticipated lifecycle of the project?

**Research completed by landowner about INTANGIBLE nuisance and disturbance:**

1. What would be the impact of increased traffic past your home and on your property?
2. What would be the impact from an increase in industrial lights near your home? (affecting sleeping patterns; impact to livestock)
3. How will the noise from the project impact your daily activities or sleep patterns?
4. Will the activity have visual impacts or cause a loss of privacy?
5. After construction is complete, how will ongoing activity at the site impact you and your family?

**Contact the Farmers Information Service for additional support**

This guide is intended to help you start effective conversations with oil and gas companies when negotiating surface lease agreements. Having a better understanding of the details of projects proposed on your land will help you plan for longer term impacts to your agricultural business.

You are not limited to the questions and considerations outlined in the guide. We encourage you to explore all options in formulating your agreements with companies to be sure the impacts of oil or gas activity to your agricultural business are reduced.

Orders issued by the SRB are available on their website and can provide insights to the criteria mapped out in this guide. The Farmers Information Service is available to discuss the Orders and which ones might be relevant to your concerns.

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