



Ministry of Energy and Mines

Titles Division

Information Letter

Tenure Issues & Administration

TITLES DIVISION

TITLES-05-02

**SUBJECT: MANAGING CO-EXISTING COAL AND PETROLEUM AND
NATURAL GAS RIGHTS (REPLACES E92-11)**

The Ministry of Energy and Mines (MEM) may issue tenures for Crown coal rights¹ and for Crown petroleum and natural gas (P&NG) rights² separately within a single parcel of land. Freehold rights³ for coal or P&NG may also exist on this same parcel. When government receives a request for approval for exploration or development of one resource on this parcel, conflicts may occur with the owner of rights to the other resource.

This information letter outlines the policy for reducing conflicts and managing development where co-existing coal and P&NG rights occur. The policy includes actions for:

- ***Issuing Crown Tenure.*** MEM will inform tenure holders of co-existing coal or P&NG tenures, when issuing new tenures, in order to make tenure holders aware of potential conflicts and to enable them to plan for exploration and development;
- ***Approving Exploration and Development Applications.*** Before submitting requests for approval from MEM for coal work permits, or from the Oil and Gas Commission (OGC) for oil and gas activities, reasonable efforts must be made to identify any co-existing rights holders and develop work programs with them to allow both resources to be accessed and extracted; and
- ***Resolving Conflicts.*** If the parties cannot develop collaborative work programs or resolve conflicts, this information letter sets out a conflict resolution process.

Issuing Crown Tenure

MEM will continue to issue co-existing Crown tenures for coal and P&NG.

To increase certainty and reduce the potential for conflict, MEM will notify new and existing tenure holders of co-existing tenures.

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¹ Coal tenure means Crown coal rights issued as coal licences and coal leases under the *Coal Act*.

² P&NG tenure means Crown P&NG rights issued as permits, leases or licences under the *P&NG Act*.

³ Freehold rights for coal or P&NG are as issued under a Crown grant.

Crown P&NG Tenure

When MEM receives a request to post Crown P&NG rights for public tender, MEM will determine whether coal tenures have been issued or applied for in that parcel of land.

If coal tenures have been issued or applied for in the same parcel of land, or the parcel is within an area identified as a coalfield⁴, the posting of the P&NG rights will include the following notice of the coal tenures or their potential:

Coal tenure may currently exist or in the future be issued in this location, under the provisions of the *Coal Act*, SBC 2004, C.15 as amended from time to time, or any former *Coal Act*. Before commencing any exploration or development work on the location, reasonable efforts must be made to negotiate a compatible exploration and development program with the holder of coal tenure over the location as specified in Information Letter TITLES-05-02, or as amended or replaced.

MEM will also notify the holder of any existing coal tenure, or applicant for coal tenure, of the upcoming public tendering of the Crown P&NG rights in the parcel.

Coal Tenure

To advise all recipients of coal tenures of the potential for co-existing Crown P&NG rights, every coal tenure will include the following notice:

Petroleum and natural gas tenure may currently exist or in the future be issued in this location under the provisions of the *Petroleum and Natural Gas Act* RSBC 1996 C. 361 as amended from time to time. Before commencing any exploration or development work on the location, reasonable efforts must be made to negotiate a compatible exploration and development program with the petroleum and natural gas tenure holder(s) over the location, as specified in Information Letter TITLES-05-02, or as amended or replaced.

MEM will also notify any existing P&NG tenure holders of the issuance of new coal tenures in the same parcel.

Approving Exploration and Development Applications

Each holder of coal and P&NG rights, including both Crown and freehold coal rights, has a right to explore for, develop and produce the resource, regardless of when those rights were acquired. However, regulatory approval is required for exploration or development activity. MEM regulates coal activities⁵ and OGC regulates oil and gas activities⁶.

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⁴ Maps of identified coalfields are available in the publication *Coalbed Gas Potential in British Columbia, Petroleum Geology Paper 2004-1* which can be found at:

http://www.em.gov.bc.ca/subwebs/coalbedgas/Industry_Information.htm

⁵ Coal activities include any mechanical disturbance of the ground, which require approval of a permit under Section 10 of the *Mines Act*.

⁶ Oil and gas activities are those authorized by the OGC under the *P&NG Act*.

Before applying for approvals for coal or oil and gas activities, Crown and freehold rights holders must make reasonable efforts to confirm if there are co-existing rights holders. Where co-existing coal or P&NG rights exist, rights holders must make reasonable efforts to negotiate and develop compatible resource exploration, development and production programs between themselves. Any agreement should consider the timing of development activities, the impact to the development of the other resource, potential impacts on the recovery of each resource, economic factors and environmental impacts.

Resolving Conflicts

If the coal and P&NG rights holders cannot reach agreement on compatible work programs, a three-member review panel from MEM and OGC will examine the issues and facts associated with the development of the resources and recommend a resolution to the appropriate decision maker. The panel may recommend that the decision maker approve, approve with conditions, or not approve an application.

The panel will include the following members or their designates:

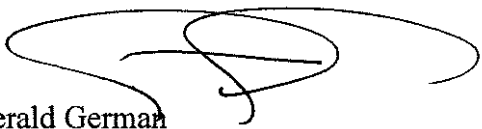
- Chair: Executive Director, Titles Division, MEM
- Members: Manager, Operations Engineering, OGC
Manager, Mining/Mine Engineering, MEM

Before submitting a recommendation to the decision makers, the review panel will submit their draft recommendations to the holders of the coal and P&NG rights and may meet to discuss as appropriate. The coal and P&NG rights holders will have up to 15 business days to resolve their outstanding issues. If the issues have not been resolved within 15 business days, the review panel's recommendations will be forwarded to the decision maker for decision. Recommendations will be based on all relevant factors including, but not limited to, financial feasibility, cost/benefit of each resource activity, social and environmental impacts, resource recovery potential, resource use compatibility and the respective projected program commencement and completion dates of each activity.

The decision makers will consider the case and make a determination:

- The Director of the Project Assessment Branch, OGC will make the decision on proceeding with an application for oil and gas activity; and
- The Chief Inspector of Mines, MEM, will make the decision on an application for a permit for coal activity.

The decision maker may require a party to enter into an indemnity agreement as a condition of activity approval. The decision maker may also impose work schedule restrictions to minimize disruption to the other resource operation.

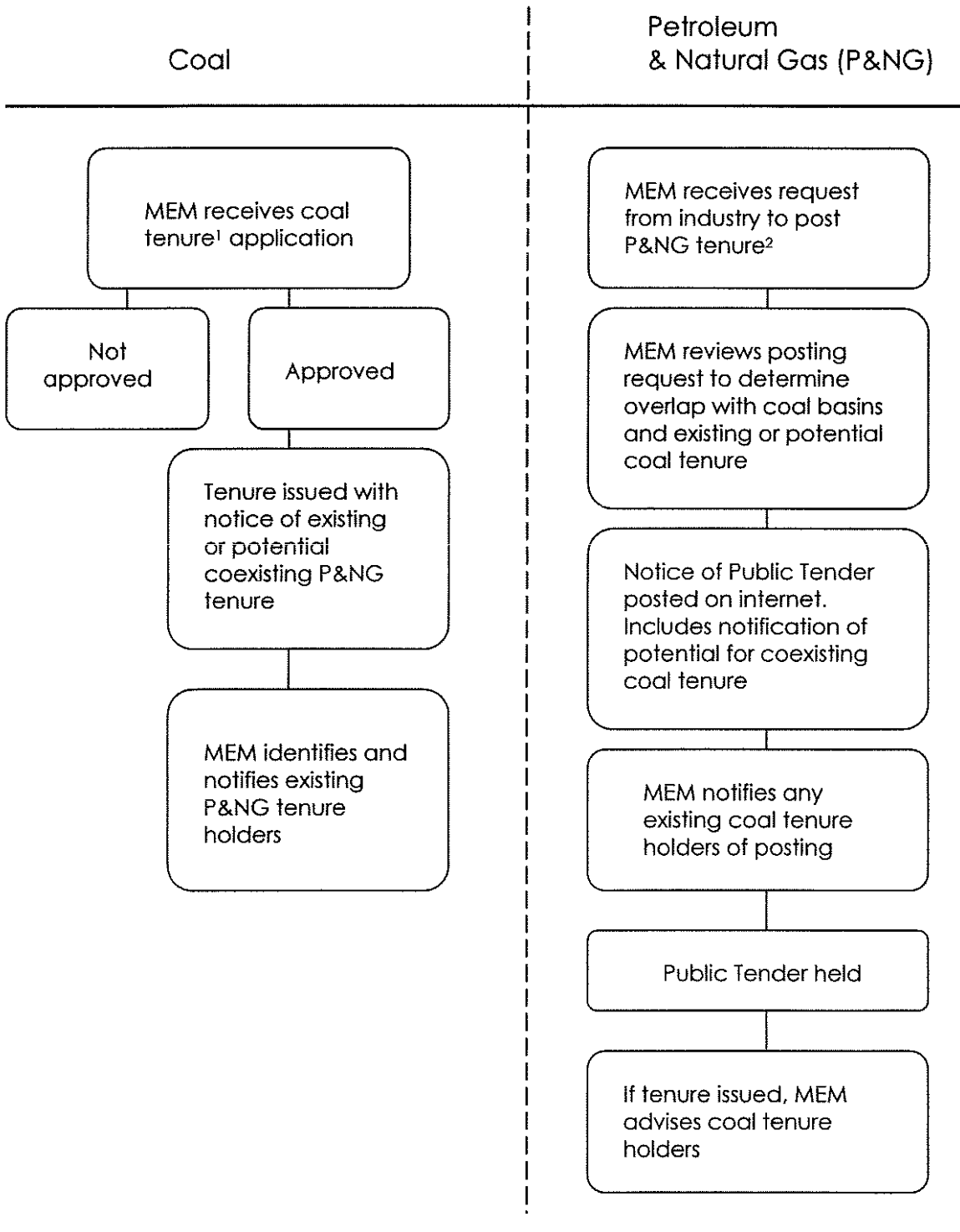

Gerald German
Executive Director, Titles Division

For further information, please
see the attached contacts list.

<p>For more information related to oil and gas tenures, please contact:</p> <p>Colin Magee Director, Oil and Gas Titles Titles Division PO Box 9326, Stn Prov Gov't 6th Floor, 1810 Blanshard Street Victoria, BC V8W 9N3 Telephone: 250-952-0335 Facsimile: 250-952-0331 Email: Colin.Magee@gems8.gov.bc.ca</p>	<p>For more information related to coal tenures, please contact:</p> <p>Rick Conte Director, Mineral Titles Titles Division 303-865 Hornby Street Vancouver, BC V6Z 2G3 Telephone: 604-660-2814 Facsimile: 604-660-2653 Email: Rick.Conte@gems4.gov.bc.ca</p>
<p>For more information related to oil and gas activities, please contact:</p> <p>James Gladysz Director, Project Assessment Branch Oil and Gas Commission 200-10003 110 Avenue Fort St. John, BC V1J 6M7 Phone: 250-261-5705 Facsimile: 250-261-5728 Email: James.Gladysz@gems8.gov.bc.ca</p>	<p>For more information related to coal permit applications, please contact:</p> <p>Fred Hermann Chief Inspector of Mines Mining & Minerals Division PO Box 9320, Stn Prov Gov't 7th Floor, 1675 Douglas Street Victoria, BC V8W 9N3 Telephone: 250-952-0494 Facsimile: 250-952-0491 Email: Fred.Hermann@gems9.gov.bc.ca</p>

Coexistence Coal and P&NG

Tenure Approval



Coexistence Coal and P&NG

Conflict Resolution Process

