

# Ministry of Natural Gas Development

## Guide to BC *Petroleum and Natural Gas Act* Lease Continuations

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The information in this guide is for your convenience and guidance and is not a replacement for the legislation or regulations. You can access the legislation and regulations online through [BC Laws](#).

## Summary of Revisions

Revision Date	Section	Description
April 2017	All	Updated to reflect amendments to the <i>Petroleum and Natural Gas Act</i> and Regulations brought into force through BC Reg. 198/2016. Clarified technical information required for continuing a lease for disposal of water under section 61.1. Further clarified section on using seismic in Appendix A. Added Appendix B to outline section 58 (3) (c) program of work report requirements.
May 2016	Appendix A	Amended information on using seismic to delimit a pool, in Appendix A, to clarify isochron data can be used to delimit a pool in a small area (locally) but not over large areas (regionally).
December 2015	All	Updated to clarify information in some sections. Added an appendix with detailed information on applying for continuation under section 58 (3) (a). No changes to policy.

## Introduction

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Section 50 of the *Petroleum and Natural Gas Act* (Act) defines a lease as a petroleum and natural gas lease, which provides the holder with the exclusive right to produce petroleum and natural gas from its location. A lease expires on its 5<sup>th</sup> or 10<sup>th</sup> anniversary depending on its location; however, there are several options for continuing a lease past expiry. This guide details the different lease continuation provisions in the Act, including how to demonstrate eligibility for continuation in an application.

The Ministry has also published online a [Guide to Oil and Gas Land Plats and Tenure Areas](#). This guide explains the process for accessing maps and shape files that illustrate land plats and tenure areas in British Columbia.

Reference is made throughout this document to the Director of Petroleum Lands (Director). The Director is a statutory decision maker established under the *Petroleum and Natural Gas Act* and its Regulations. This authority is typically assigned to the Executive Director of the branch responsible for tenure issuance, administration and management. This guide also references the Division Head. The Division Head is the Assistant Deputy Minister responsible for the division charged with administration of the Act.

## Preparing Your Lease Continuation Application

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You must apply to the Director for a lease continuation. You can continue all or part of your lease – depending on the eligibility requirements for the section of the Act under which you apply. It is important to identify under which provision you wish to apply and how you wish the Ministry to handle those zones or spacing areas not eligible for continuation under that provision. Zones or spacing areas not eligible for continuation under one section (e.g. section 58 (3) (a) of the Act) may be eligible under another section (e.g. section 58 (3) (c) or section 62 of the Act).

When different parts of a lease are eligible for continuation under different sections of the Act, you can subdivide and continue each part in accordance with [section 64](#) of the Act. You can make subdivision contingent on the outcomes of your continuation application. It is your responsibility as the lease holder to determine under which continuation provisions you wish to apply and to structure your application accordingly. Subdivision results in an amendment of the original lease and the creation of at least one new lease. The amended lease and any new leases issued must be at least one spacing area in size and fall within the boundaries of the original lease. New leases will have the same expiry date as the original lease.

You can revise your continuation application up to the deadlines established by the Act, which are outlined in the section on [Lease Continuation Provisions](#) below. The deadlines for continuation applications range from prior to expiry for continuation under section 61 to 60 days

past expiry for all other lease continuation applications. It is important to note the deadlines for an application for lease continuation when applying under more than one section of the Act to ensure your application is submitted on time. For example, you may wish to apply for continuation under section 58 and have spacing areas not continued under section 58 continued under section 61. In this case, you would need to apply before expiry to ensure you meet the deadline for section 61 applications.

Once your lease expires, work cannot take place until an application to continue your lease is approved in accordance with section 110 of the Act. The Ministry accepts continuation applications up to 60 days before lease expiry, but does not issue a decision until expiry. Applications are reviewed in the order they are received.

In summary, to help prevent unwanted lease expiry, ensure your application:

- identifies under which provisions you are applying;
- shows how the zones and spacing areas in your lease meet the eligibility criteria;
- indicates how the Ministry should handle zones or spacing areas which are not eligible for continuation;
- adheres to the application deadlines set for each provision.

## **Issuing the Decision**

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Technical staff at the Ministry will review your continuation application and provide advice and recommendations to the Director on which zones and spacing areas in the lease are eligible for continuation under the Act. If the recommendations by technical staff at the Ministry are different from what you have requested in your continuation application, the Ministry will notify you of the recommendations and the reasons for them via a letter. You will have 30 days to respond to this letter.

If you accept the recommendations, sign the acknowledgement form included with the letter and return it to the Ministry.

If you disagree with the advice and recommendations, you may submit your own interpretation of the technical information contained in your original lease continuation application in support of the continuation you are seeking.

Amendments to lease continuation applications may be made up to the deadlines set out under the Act but no later (see [Lease Continuation Provisions](#) below). New technical information can be submitted only if you are able to provide the information before the deadline has passed.

The final approval of a lease continuation is at the discretion of the Director, who will take into account the recommendations of Ministry technical staff and any information or interpretations provided by the tenure holder in support of their application. Please note a

section 58 (3) (c) - continuation for a program of exploratory work - is at the discretion of the Division Head.

## **Lease Continuation Provisions**

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### **Continuation of “Eligible Spacing Areas” - Section 58 (3) (a)**

**What Can Be Continued:** “Eligible spacing areas” in the location of the lease.

**Eligibility Requirements:** An “eligible spacing area” is a spacing area that meets one of the following criteria:

- contains a petroleum well or a gas well (i.e. a well capable of production);
- is subject to a special project designation under section 75 of the *Oil and Gas Activities Act* (\*Please see note below for change effective August 1, 2017);
- in the opinion of the Director, covers, to the extent of at least one half of its area, a pool of petroleum or natural gas that has been delimited; or
- in the opinion of the Director, may be adequately drained by a petroleum well or a gas well situated on a contiguous spacing area.

**Application Requirements:** You must demonstrate the existence of an eligible spacing area. Please refer to [Appendix A](#) for detailed information on applying. Once approved, your annual payment of rent is considered your application for further continuation under this section. Please see [Appendix A](#) for more information on reduced continuation eligibility and the opportunity to submit a new application.

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** One year; renewed annually on payment of rent subject to eligibility.

**Rights Reversion:** Subject to zone specific retention or deep rights reversion. For more information see section on [Rights Reversion](#) below.

\*Please Note: Effective August 1, 2017, only certain types of special projects will confer eligibility for lease continuation. The types of special projects that will make a spacing area eligible for continuation have been prescribed in the Petroleum and Natural Gas General Regulation as follows:

- development or production of petroleum or natural gas, or both, from a field or pool or portion of a field or pool, using repressuring, recycling or pressure maintenance to enhance recovery;
- operation or use of a storage reservoir, including the disposal of produced water or acid gases;

- disposal of petroleum, natural gas, water produced in relation to the production of petroleum or natural gas or waste.

### **Continuation for a Unit or Royalty Agreement - Section 58 (3) (b)**

**What Can Be Continued:** Entire lease or parts of a lease.

**Eligibility Requirements:** An entire lease or parts of a lease that are subject to a unit or royalty agreement. Section 78 and section 114 of the Act enable the Crown to enter into unit or royalty agreements.

**Application Requirements:** You must submit an application to continue all or part of a lease subject to a unit or royalty agreement to the Director. Once approved, your annual payment of rent is considered your application for further continuation under this section. However, if a lease or portion of a lease is withdrawn from the unit or royalty agreement, a re-application for continuation is required.

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** One year; renewed annually on payment of rent subject to eligibility.

**Rights Reversion:** Subject to zone specific retention or deep rights reversion. For more information see section on [Rights Reversion](#) below.

**Note:** The Ministry maintains copies of unit agreements and unit outlines, which are available for public inspection during business hours.

### **Continuation for a Yearly Program of Exploratory Work - Section 58 (3) (c)**

**What Can Be Continued:** Parts of a lease evaluated by the program of work.

**Eligibility Requirements:** An acceptable program of work designed to delimit a pool of natural gas or oil.

**Application Requirements:** You must provide a written commitment to carry out a yearly program of work designed to delimit a pool, or a field of petroleum or natural gas during the continuation year that describes the nature and location of the work to be conducted. This normally involves drilling new wells or completing existing wells. It is acceptable for a program of work to make drilling or completion commitments contingent on the results of geophysical work. Where a program of work includes geophysical work or the re-evaluation of geophysical work, it is expected that all spacing areas proposed for continuation will be evaluated by this work. Approval of the program of work is at the discretion of the Division Head. If the Division Head approves the program of work, the Director must continue the lease.

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** One year. You can use this provision only once, except in extraordinary circumstances.

**Report Requirements:** If geophysical work is part of the program of work, an interpretive report on the results of the work is required following completion of the program. Detailed information on the report requirements is located in [Appendix B](#) of this guide.

**Rights Reversion:** Portions of the lease covered by the program of work are approved down to the base of the target zone. Parts of a lease not covered by the program of work and ineligible for continuation under another provision of the Act revert to the Crown. For more information see section on [Rights Reversion](#) below.

### **Continuation While Completing Work to Establish a Well - Section 58 (3) (d)**

**What Can Be Continued:** The entire lease.

**Eligibility Requirements:** If drilling or work on the establishment of a well is incomplete at lease expiry, you can apply for continuation to continue the drilling or complete the work. Except under extraordinary circumstances, work to establish a well is firm completion work carried out after the well is drilled.

**Application Requirements:** The Director must be satisfied that the drilling of or work on the well will continue if the lease is continued. Your application must clearly explain the work required to complete establishment of a well. If expiry is imminent, you are advised to inform the Ministry by e-mail, fax or letter that an application under this section will be made.

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** One year. There is no limit to the number of times you can use this provision, so long as the Director is satisfied drilling or work on the establishment of a well is underway at the expiry date of the lease.

**Rights Reversion:** All rights below the base of the deepest target zone identified in the OGC well permit revert to the Crown upon continuation. For more information see section on [Rights Reversion](#) below.

### **Continuation by Commitment to Drill – Section 61**

**What Can Be Continued:** Any or all leases drilled through by the commitment well may be continued for one year if they are expiring.



**Eligibility Requirements:** A commitment to drill a well on the location of the lease to be continued.

**Application Requirements:** You must submit a written commitment to the Director to drill a well on the location of the lease to be continued.

**Application Deadline:** You must apply *prior to the expiry of the current lease term*.

**Duration:** One year. You may apply to continue your lease under this provision in subsequent years with *additional commitments to drill*; however, gas spacing areas capable of production will be split out from the lease and continued under section 58 (3) (a).

**Implications of Non-Performance:** The Director has the authority to cancel the lease if the commitment well is not drilled. Non-performance under section 61 may impact the Ministry's consideration of future applications under section 58 (3) (c), which also hinges on commitment to perform work.

**Rights Reversion:** Leases are not subject to rights reversion while continued under this section.

**Note:** This continuation option is different from a well commitment that is included in a program of work under section 58 (3) (c). Section 58 (3) (c) allows up to 60 days past expiry to apply, is subject to rights reversion, allows multiple leases and spacing areas to be continued beyond the lease being drilled, and has a duration of one year with no subsequent continuations except in extraordinary circumstances.

### **Continuation for Disposal Purposes – Section 61.1**

**What Can Be Continued:** One or more zones in the “eligible spacing area(s)” needed for disposal purposes.

**Eligibility Requirements:** An “eligible spacing area” is a spacing area that is not subject to a special project designation under section 75 of the *Oil and Gas Activities Act*, which meets one of the following criteria:

- contains an eligible disposal well;
- is, in the opinion of the Director, planned to contain an eligible disposal well;
- is, in the opinion of the Director, likely to be needed in relation to an existing or planned eligible disposal well that is situated on a nearby spacing area.

An “eligible disposal well” is used or planned to be used for disposal of water, carbon dioxide, or other waste fluids associated with oil or natural gas exploration, production or processing.

**Application Requirements:** Your application for continuation under this section should identify the eligible disposal well or describe plans to drill and establish disposal wells on the

spacing area. If the spacing area is required to support an existing or planned disposal well on a nearby spacing area, you should provide geological/engineering technical details to demonstrate this need. Approval is at the discretion of the Director who may continue the leases in respect or the one or more zones in the eligible spacing areas the director considers will be needed for the existing or planned disposal well.

PLEASE NOTE: The Director will consider approving lease continuation for planned disposal even if the plans are long-term.

Applications based on planned disposal wells should include:

- Geological/engineering characterizations of the proposed disposal zone to demonstrate disposal suitability. Illustrations (logs/maps) and discussions of the attributes, extent and continuity of prospective disposal intervals within the formation are recommended. Wells close to the expiring spacing area are of particular interest for assessing disposal potential in an undrilled spacing area. A proposed disposal zone that exhibits widespread, consistent properties in numerous wells in the expiring region may be considered a viable candidate for future disposal in an undrilled spacing area, whereas a zone that exhibits considerable variability over short distances may be considered unsuitable for future disposal in undrilled spacing areas. Comparisons with existing analogous disposal wells, if available, are also recommended.
- A discussion of future drilling plans for each expiring spacing area. This may be based on an estimated numbers of wells and spacing areas required/expected for disposal in the region.
- An approximate time frame for future disposal well development. Planned wells do not need to be firm commitments drilled within the next year (as the Ministry expects for section 58 (3) (c), 58 (3) (d) or 61 well commitments); rather, the Ministry may accept long-term drilling plans with approximate timeframes and locations, with drilling contingent on future development and water disposal needs.

In summary, exhibits illustrating the geological and engineering characteristics of each formation proposed for disposal, plus a discussion and approximate timeline for well drilling, completion and disposal operations, are key requirements.

Once approved, your annual payment of rent is considered your application for further continuation under this section. The Ministry will conduct follow-up reviews of disposal plans or activity to reassess continuation eligibility in the future.

If there is a change to the eligibility, the Ministry will send a notice of reduced continuation eligibility to each title holder of record on the date of the notice. The notice will list the affected spacing areas and advise title holders to submit a new continuation application or surrender the spacing areas listed. The Ministry will send the notice a minimum of three months prior to the lease anniversary date. Continuation of the affected spacing areas beyond the next anniversary

date will require the approval of an application by the normal deadline (i.e. 60 days past the anniversary date).

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** One year; renewed annually on payment of rent subject to eligibility.

**Rights Reversion:** The petroleum and natural gas rights granted by the lease that are outside the zone or zones continued under this section revert to the Crown, subject to continuation under section 58.

**Note:** This section does not apply to wells that are approved as a special project under section 75 of the *Oil and Gas Activities Act*. Leases with spacing areas included in a special project are considered eligible spacing areas and may be continued under section 58 (3) (a) of the Act.

### **Continuation by Penalty Payment – Section 62**

**What Can Be Continued:** Effective August 1, 2016 all or part of a 5-year lease may be continued once for one year. All or part of a 10-year lease may be continued for one year up to three times.

**Eligibility Requirements:** A 5-year or 10-year lease

**Penalty amounts:**

	<b>5-year lease</b>	<b>10-year lease</b>
First use	\$15/ha	\$15/ha
Second use	n/a	\$25/ha
Third use	n/a	\$25/ha

**Application Requirements:** If you wish to continue all or part of your lease under this section, you must apply through the ePayments system; no written application is required. In ePayments select a continuation under this section and pay the required rent and penalty amounts.

You can also make your continuation under this section contingent on whether or not your lease is continued under another section of the Act. For example, you can apply for continuation under section 58 (3) (a) “eligible spacing areas” and request that spacing areas not eligible for continuation under section 58 (3) (a) be continued by penalty payment. In this case, a written application is required. For more information refer to the [Preparing Your Continuation Application](#) section above.

**Application Deadline:** 60 days past expiry of the current term.

**Duration:** A 5-year lease can be continued for one year, one time. A 10-year lease can be continued for one year up to three times.

**Rights Reversion:** Leases are not subject to rights reversion while continued under this section.

## **Rights Reversion**

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Leases may be subject to rights reversion when they are continued. Rights reversion refers to the stratigraphic division of a lease where the rights to some zones are continued in the lease while others revert to the Crown.

Leases obtained directly from or belonging to a chain of title originating from a Crown disposition held on or after March 29, 2007 are subject to the stratigraphic reversion rules set out under section 59 of the Act. These rules, also known as zone specific retention, mean some types of lease continuation are determined on the basis of *individual zones in individual spacing areas* within the location of a lease.

Leases obtained from a Crown disposition prior to or belonging to a chain of title originating prior to March 29, 2007 are subject to deep rights reversion rules set out under section 59.1 of the Act – not the zone specific retention rules set out under section 59 of the Act. Deep rights reversion means that rights below the deepest zone eligible for continuation revert to the Crown upon lease continuation.

## **Contact Information**

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## Appendix A: Section 58 (3) (a) Applications

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Section 58 (3) (a) considers lease continuations on a spacing area by spacing area basis. It requires that the Director consider where a pool of hydrocarbons has been “delimited”. Hard control points including new, old, producing and non-producing wells, and soft control such as specific seismic attributes demonstrated to be useful in locating well bores, form the basis for this determination.

Land Plats illustrate in map view the oil or gas spacing areas determined to be delimited in a pool, and name the geological formation in which the pool is recognised. Land Plats are the official record of those spacing areas in which the Director of Petroleum Lands recognizes a pool of hydrocarbons to exist for the purpose of administering oil and gas title.

For conventional reservoirs, a producing well will typically continue only the spacing area drained by that well. If a spacing area has not been drilled, a line of correlation across the spacing area may help to delimit a pool over the undrilled spacing area, provided the offset wells demonstrate reservoir continuity and the presence of hydrocarbons. In some cases, seismic data paired with well control may also be used to delimit a pool over an undrilled spacing area.

In areas where a resource play (such as the Montney, Horn River, Jean Marie or Deep Basin Cadomin) has been demonstrated, the Director’s continuation criteria are more generous than for a conventional reservoir. The Director will allow continuation of a spacing area if the applicant can demonstrate that a pool has been delimited by a control well drilled on the spacing area or in an adjacent spacing area. A control well is one that has tested or produced hydrocarbons, or has certain log characteristics that are analogous to a nearby well that flowed hydrocarbons from the zone of interest. For example, an old abandoned well with similar density-neutron log and mud gas responses to a known successful well nearby is accepted in geographic areas where the resource play has been proven successful. If there is no well control on or adjacent to a spacing area in your lease, there is likely insufficient evidence for us to delimit a Montney pool over the spacing areas, and additional drilling will likely be needed.

If a spacing area has been drilled and tested, or is within a recognized Land Plat, a simple letter noting the successful well and hydrocarbon zone, or the Land Plat, is typically sufficient. However, for undrilled spacing areas or untested wells, a more complex technical package will normally be required. We encourage applicants to include interpretations and conclusions drawn from geological, geophysical, production, completion and well evaluation information to support the case for delimiting a pool. For example, include a discussion of the zone(s) of interest and key wells, highlight the key wells on a map, and include an interpreted cross-section correlating the key wells and clearly identifying prospective pay intervals on well logs. This is particularly important if you are seeking to demonstrate that untested wells or intervals are analogous to wells that tested or flowed hydrocarbons.

In specific cases where seismic data can be clearly demonstrated to result in superior well locations and results, an application that includes a seismic map illustrating the attributes that are successful in locating well bores, along with a representative seismic record section, may result in continuation of undrilled spacing areas. However, to delimit a pool it is necessary that an interpreted seismic feature be intersected or immediately offset by a hard control well, so that a known success can be extended to other spacing areas. In some cases seismic data can result in continuation of spacing areas that are more than one spacing area away from well control.

Geological or net pay maps can be a useful way of presenting your interpretations, but may not be sufficient to delimit a pool if hard well control or useful seismic is absent on or near the spacing area of interest.

The Ministry reviews and maintains a record of proprietary geological interpretations, seismic indications, supporting engineering analysis and all well information, and technical staff make an effort to review relevant wells and data on and near a lease, even if it is not presented in your technical package. However, it is important that you point out key supporting data to ensure that it is examined.

### **Reduced Continuation Eligibility**

Land plats are amended as new technical information is received. If an amendment alters the size of a land plat, all or some of the spacing areas contained in a lease may no longer satisfy the “eligible spacing area” criteria. When this happens the ministry will send a “Notice of Reduced Continuation Eligibility” (notice) to each title holder of record on the date of the notice. The notice will list the affected spacing areas and advise title holders to submit a new continuation application or surrender the spacing areas listed.

The Ministry will send the notice a minimum of three months prior to the lease anniversary date. Continuation of the affected spacing areas beyond the next anniversary date will require the approval of an application by the normal deadline (i.e. 60 days past the anniversary date).

## **Appendix B: Section 58 (3) (c) Geophysical Report Requirements**

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Section 58 (3) (c) enables a lease to be continued on the submission of an acceptable yearly program of exploratory work designed to delimit a pool, or a field of petroleum or natural gas. If a geophysical program or the re-evaluation of a geophysical program is part of the program of work, you must submit a report containing a discussion and interpretation of the results to the Director. Submit the report following completion of the program and before the lease is continued under another section of the Act.

### **Confidentiality**

The Ministry holds all reports, maps and data submitted in support of a section 58 (3) (c) lease continuation confidential for 10 years in accordance with section 16 of the *Oil and Gas Activities Act*. Once this period has elapsed, the reports are made available for public viewing at the Ministry's offices. Where any part of a report is subject to a third-party confidentiality agreement, please obtain the necessary waiver or exception from the information vendor to allow the release of information.

### **Content**

You must prepare reports according to the following requirements. If a discussion and interpretation of the results is not included, the report normally will be rejected.

Please include the following on the cover page:

- title and date of the report;
- list of leases included in the project;
- name, title, and signature of the person submitting the report;
- name, title, signature, and professional seal of the registered engineer, geologist or geophysicist that prepared the report.

Please include in the report:

- a table of contents page listing subcategories and enclosures;
- a reference map showing outlines of leases included in the project and the location or route of the work performed;
- copies of maps and sections required to make reported interpretations.

Prepare maps according to generally accepted drafting standards.

The report should include the following information along with an interpretation and discussion of the results:

- a description of equipment, recording parameters and instrument arrangements in sufficient detail to evaluate data quality;
- statements of total length, in kilometers, of each survey line;

- representative number of record sections interpreted and labelled;
- representative isochron, time-structure, amplitude, attribute or other maps, demonstrating the points made in the discussion section (a horizon appearing in a submitted map must also be clearly identified on the record sections from which the map was generated).



## Appendix C: Frequently Asked Questions

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1. I continued a lease under section 62; however, I would like to continue the lease under section 58. Can I cancel a section 62 continuation and apply under section 58?

No, once your lease is continued, the Ministry cannot issue a new continuation until the next expiry date.

2. I am not sure what section to continue a lease under, how do I keep my options open after the expiry date without paying a late rent payment penalty?

You have 60 days past expiry to apply for continuation under section 58, 61.1 or 62.

You can pay your rent through ePayments if you want to avoid a late rent penalty and note the submission number. Once you know what you are planning to do, please notify the Ministry and quote the submission number so they know what action is required on the title.

3. I would like to apply to continue my lease under two different sections of the Act. How can I do that?

Your covering letter should indicate the rights to be continued under each section. You will pay rent in ePayments as a continuation submission for the entire number of hectares to be continued. Once an application is assessed, the Ministry will split the lease as well as the rents and request funds owing via ePayments.

4. I want to submit my continuation application to the Ministry more than 60 days prior to the expiry of my lease. Can I do that?

Applications for continuation are processed once paid in ePayments. Rents for leases that are being applied for initial continuation cannot be paid in ePayments earlier than 60 days prior to the lease expiry date. The earliest a continuation is issued is on the lease expiry date.

5. I want to apply for continuation by sending an email with technical information attached to it. Can I do that?

All technical information must be in hard copy.

6. I received a response to my application. The letter mentioned that a description amendment was attached, but I don't see one. Where can I get a copy?

Description amendments are sent to all registered title holders of a lease.

7. I received a reply to my application to continue a lease. Can I submit additional technical information or discuss the Ministry's evaluation of our submission?

The Ministry does not allow submission of additional technical information; however, you can offer clarification on existing data up to 30 days after the date of your decision

letter. Send an email to the person who signed the response. In the email your Geologist needs to outline the concerns they have with the Ministry's analysis and give detailed information on why you believe the response should be different from what was received based on interpretation of the original package submitted. Ministry staff will examine any clarifications provided and issue reasons for decision. In the event an error was made in the original decision, the Ministry will correct it.

8. I have several leases I wish to continue, can I apply to continue all of them in one submission?

Yes, if they are related (in close proximity, covering the same or similar zone). The Ministry will advise if your submission covering multiple zones is accepted.