



Tenure Matters

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A column by Sue Slater, Senior Advisor Petroleum, RLMS

Welcome to the fourth issue of Tenure Matters. This month I want to talk about relinquishments and surrenders, particularly in relation to Authorities to Prospect (ATP) and their relevant Environmental Authorities (EA).

As we are all aware, explorers have a mandatory relinquishment requirement every four years. Combined with the relinquishment notice and reporting requirements to the Department of Natural Resources and Mines (DNRM); there is also an obligation to partially surrender the EA with the Department of Environment and Heritage Protection (DEHP). For exploration, this should be a relatively straight forward process, but so often it is not.

As someone famous frequently said, “why is this so?”

Over recent years I have prepared a number of Final Rehabilitation Reports (FRR) and surrender documents for ATPs. Rarely is it a straight forward task. This is partly due to the design of the forms required by DEHP, and partly due to poor or inadequate record-keeping on the part of the explorer. As an explorer, there is not a lot you can immediately do with regard to the forms, but there is a lot that can be done to improve documentation.

As someone who compiles these reports, and frequently has to sign-off on the statements made, the following information is required for each and every site that was entered within the relinquished area:

- Landowner statement, on the appropriate DEHP form (it is now attached at the back of EM 872);
- Photographs of the site, pre-disturbance, immediately post-disturbance and where applicable at some point after rehabilitation;
- A full list of the sites, including the camp sites where used (for which the same documentation should be available) which includes the size of the area used;
- Access details;

- Where work was carried out but no disturbance occurred (e.g. for a seismic survey) - record and document that too (otherwise everyone forgets);
- Where surveys occurred along roads, tracks or other existing disturbances, document those adequately so that it is clear where a property was entered or not (entry without disturbance still requires notification and sign-off); and
- Document any remaining items left with the landowner's agreement, including gates, grids, fences, tracks, hardstand etc. and photographs of those would be useful also.

It is a great idea to identify a GPS-referenced site that can be returned to in order to assess progress; all photos are then taken from the same point of view which is a helpful tool to assess the work.

In the hopes of making the completion of FRRs easier and less painful, here is a list of the top five mistakes I see made – if you avoid these, then the process of preparing the FRR and surrender can be so much easier:

1. Failure to take photographs, or taking photographs that are too blurred, or too under- or over-exposed to show anything clearly – please use a camera, not someone's mobile phone as they lean out the car window while you drive by;
2. Failure to get the landowner statement signed as soon as the rehabilitation work is done – even if you have to come back and follow up that can be noted on the form (and then get a second form completed when you go back);
3. Make sure the landowner statement has the correct Lot on Plan noted – it is easy to get things mixed up when a landowner holds multiple lots, and the site may have moved around during scouting;
4. Obtaining or preparing a clear and concise pre-disturbance report that notes what vegetation was present, if the site was already disturbed, if weeds were present etc. – it doesn't have to be a massive document, just a few paragraphs with a photo – even when you choose a pre-disturbed site;
5. And the big one – failure to properly name and file all these documents so they are easily located when they are needed for a surrender.

As already alluded to, the other problem with FRRs and surrenders involves the application forms following Greentape Reduction legislation. Whilst some improvements have been made under the Greentape Reduction legislation, particularly in the application stages, the surrender stages of an EA are a quagmire.

A recent partial surrender for an ATP, where no actual on-the-ground work had been completed in the relinquished section of the ATP, required the submittal of two forms and three supporting documents! These documents consisted largely of restating numerous times that no work had been undertaken on the relinquished area. (This is without submitting any paperwork to change the Financial Assurance (FA) which would require another form and another attachment.) Where is the Greentape Reduction in this process? On the plus side, the partial surrenders were approved in a timely manner; but most of the paperwork was unnecessary.

The forms are very poorly designed, which is at least partly a consequence of trying to capture all resource activities and all prescribed Environmentally Relevant Activities (ERA) on a single form. They also do not adequately deal with partial relinquishments of resource tenures at all, which for

many explorers is the most frequent scenario they encounter. DEHP is in the process of redesigning these forms, but in the meantime we have the following forms:

- EM 872 (Rehabilitation Report);
- EM 796 (Application to surrender an environmental authority) and
- EM 875 (Application to amend or discharge financial assurance held for an environmental authority).

Each of these forms contains duplicate questions and requires additional attachments. The FA form, which is best lodged after the surrender is accepted, requires the re-attachment of the FRR, and re-attachment or re-submittal of aspects of each of the other two forms – which all just got assessed and accepted!

The EA forms can be downloaded at:

<http://www.business.qld.gov.au/business/running/environment/licences-permits/forms-fees-environmental-authority>

DEHP has made some decent improvements as a result of the Greentape Reduction legislation, but there remains a significant way to go to achieve some more meaningful Greentape reduction, particularly in the post-application stages of an EA.

I am happy to hear suggestions about topics you would like covered. Feel free to email me at sue.slater@rlms.com.au with the subject heading Tenure Matters.

In the meantime, remember “Tenures make the Project; the Project doesn’t make the Tenures”.

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