



## Tenure Matters

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*A column by Sue Slater, Senior Advisor Petroleum, RLMS*

Welcome back. One of the many issues to consider when a company takes over acreage is the legacy issues that may be inherited. This month I want to talk about old petroleum wells and what you really need to know about them.

First of all, the database that holds the information on petroleum wells was not designed to hold “post-closure” details, and these are critical in assessing ownership and liability. When a petroleum well has either been unsuccessful, or is no longer required, questions to be asked include:

- Has the well been plugged & abandoned;
- Has tenure been continuous over the well;
- Has the well been converted in accordance with the relevant legislation; and
- Who owns the well?

On the surface these questions seem simple and straight-forward. However, key information has not been properly recorded and made easily accessible that would help determine the answers.

Although the status of the well is recorded in the department’s database, some caution is required in relying on this as accurate. There are numerous examples of wells recorded as plugged and abandoned in the well completion report (from whence much of the database information is gathered) when in reality the well has been plugged back and converted to a water supply bore. Similarly, updated status of wells, required to be submitted by tenure holders under the regulations, may not always be promptly updated in the database. An improvement in MinesOnlineMaps is that a query on the well now records the status and the result, rather than just the result as before, however it is wise to always have an independent verification of the status.

The Act imposes the obligation to decommission a well (or a water observation or supply bore) in the area of a tenure before the land on which it is located ceases to be part of the relevant tenure (except where the relevant tenure progresses to a petroleum lease from an authority to prospect). A well is decommissioned only if it is plugged and abandoned as prescribed in regulation and a notice has been

lodged. Despite decommissioning, the holder continues to be responsible under the Act for the well (or bore) until the area is no longer part of the tenure. At that time the well or bore is taken to have been transferred to the State.

There are therefore four possible ownership scenarios for an old petroleum well. If tenure has been continuous since the well was drilled, and in the absence of any formal transfer, the well will belong to the current tenure holder, irrespective of who held the tenure at the time it was drilled. If tenure has not been continuous, ownership of the well will have reverted to the Crown in the absence of any formal transfer. The remaining two options require a formal transfer process, approved by the Minister, under the relevant petroleum legislation. The well, after conversion to a water supply or water observation bore, can be transferred to the landowner. Since the commencement of the 2004 Act, a petroleum well can also be transferred to another overlapping geothermal or mining tenement holder (without conversion). These transfers can be made by the tenure holder whilst the well or bore is still located on the tenure, or by the State once ownership has reverted to the State.

When dealing with older petroleum wells, the continuity of the tenure may not be as straightforward as might be thought. Under the 1923 Act, conditional surrenders, where parts of existing ATPs were relinquished in favour of including parts of other ATPs or vacant acreage were allowed. Especially in the Roma and Surat areas, some of the still existing ATPs, such as ATP 470 and ATP 471 for example, have very convoluted histories courtesy of the precedent ATP 145. Continuous tenure can be demonstrated in some areas from tenures current in the 1970s or earlier but does not necessarily apply over the whole of the current extent of that tenure or its subsequent tenure. Particular graticular blocks may have been dropped, then subsequently added back in under a conditional surrender, and then later dropped again. The only way to establish this history is by a painstaking search of the old paper records, where the record of the blocks held and relinquished can be tracked. A major flaw of the tenure database is that once blocks are relinquished from the tenure, they are removed from the digital record. (This is why the historic tenure layer is so difficult to use). In an ideal world we should be able to query when each graticular block was held or not held in a tenure, and establish the history in some detail, but unfortunately this is not the case.

Continuous tenure therefore can be difficult to establish, which means ownership of the well (decommissioned or not) can be difficult to establish. If the well or bore can be shown to still belong to the tenure holder, the incoming tenure holder acquires the liability for that well or bore.

Conversion to water supply or observation bores is more rigorously regulated now than it was in the past, and although there have been amnesty periods at times, many of the converted water bores would not meet current water bore completion standards (i.e. probable co-mingling of aquifers). There are still a number of converted petroleum wells in use as water bores where there has been no formal approved transfer. So there are potential issues related to both the actual conversions and to ownership of legacy wells. Once the bore is formally transferred all responsibility for it lies with the landowner, and the tenure holder does not need to hold financial assurance for that well or bore.

Conversely the tenure holder has no right to re-enter a well or bore if the ownership has been transferred or reverted to the State. This can pose numerous liability issues in the case where there may be legacy wells that have not been properly plugged and abandoned and need investigation. Or if the tenure holder had plans to re-enter the wells for further testing. And as recently demonstrated; if a well or bore starts leaking when it is no longer part of anyone's tenure.

None of this even touches on the technical aspects of the completion, which may provide another layer of uncertainty. The competency of the completion will also matter in areas where storage (of gas or CO<sub>2</sub>) might be envisaged.

To summarise, ownership of a legacy well can be complex, and key information that would assist in determining ownership is not recorded on the database. Without understanding ownership and establishing the actual status of the well or bore, we cannot adequately determine our (or the State's) liability with respect to legacy wells.

I am happy to hear suggestions about topics you would like covered. Feel free to email me at [sue.slater@rlms.com.au](mailto: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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