

The Petroleum Industry and the Future of Russia

by V.A. Nesterov*

In the past few years the situation in Russia's petroleum industry, as well as in the economy as a whole, has sharply deteriorated. With the implementation of radical economic reforms from 1992 onwards, we have encountered serious difficulties in the transition from a centrally-planned to a market-based economy. Nevertheless we remain confident that Russia will remain the major energy producing state, providing for a substantial part of the world energy market supply.

Russia has the largest reserves of natural gas and coal in the world; it is also prominent in hydrocarbon production and export. By 1988 Russia's production of primary energy sources amounted to 13% of the world total. (By comparison, its share of the global population is less than 3%.) This picture changed dramatically in the 1990s, with a sharp decline in primary energy production, especially in the oil and coal industry. In the oil industry output decreased from 1988 to 1994 by 253 million tons, or 44%. As a result the energy security of the country became endangered.

What are the causes of the current crises in the petroleum industry? Their roots pre-date the current political and economic reforms. One can point to the steady shortage of capital investment, limitations in equipment and supplies, and overly-ambitious targets for oil production in the 1970s and 1980s, which led to the premature exhaustion of many major oil fields in Western Siberia and the Ural-Volga region. The situation was aggravated further in the 1990s by other negative factors, including; most importantly, 1) disruption of economic relations as a result of the collapse of the Soviet Union, 2) maintenance by the state for some time of unrealistically low domestic prices for energy, and 3) insolvency of consumers of crude and petroleum products, a rigid tax system, and limitations on crude oil and oil products exports.

The domestic prices for crude, major oil products and natural gas in recent years have reflected the inflation spiral in Russia. For example, in the period from the end of 1991 to the end of 1994, prices (in current roubles) for crude oil, regular gasoline (pump-price) and natural gas (for industrial consumers) skyrocketed more than 1400 times. At

the same time even these galloping prices systematically lagged behind the average inflation rate in the country. Thus, by the beginning of this year the average domestic crude oil price in Russia was still only 33% of the world price. The equivalent ratio for prices of oil products and natural gas ranged from 30% to 56%.

Résumé

Depuis quelques années, l'industrie pétrolière russe, qui était la plus importante au monde, est en difficulté comme l'ensemble de l'économie russe. La crise que traverse le secteur des hydrocarbures est antérieure aux réformes économiques et politiques en Russie, bien que la situation ait été aggravée par les problèmes spécifiques à la transition à l'économie de marché. Pour le long terme, on peut toutefois se montrer optimiste pour le secteur énergétique. La Russie possède encore de vastes réserves non exploitées de pétrole et de gaz naturel, et est en train d'instaurer un régime juridique qui devrait rendre l'exploitation de ces ressources plus attrayante aux yeux des investisseurs nationaux et internationaux.

Nevertheless in the framework of the general economic crisis, and given the huge number of insolvent enterprises (about two thousand), even these relatively low prices prohibit consumers from paying their energy bills, that is to pay their suppliers of energy raw materials and products. Such a situation has triggered the emergence of the most dangerous factor destabilizing the energy sector - that is, the so-called non-payment crisis. Of the total of 44 trillion roubles consumer indebtedness to the Russian energy sector (as of December 1, 1994) the oil industry share, including refining and marketing, was 11.4 trillion roubles, and the natural gas industry share was 13.7 trillion roubles - or 26% and 31% respectively. Also huge, especially for Ukraine, are the debts of the other former Soviet republics for Russian energy supplies, in particular for natural gas. By June 1, 1995 consumer indebtedness to the Russian energy sector had increased to 60 trillion roubles.

It goes without saying that under conditions of low prices, high taxes and lack of payment for a substantial part of its production, the Russian petroleum industry has been unable even to sustain its production, let alone to increase it: in 1990-1994 the capital investments in the Russian energy sector decreased threefold in real prices. The crisis involves all the branches of the petroleum sector. The rate of reserve replacement has deteriorated drastically. For the first time, in 1994, the annual increase in proved petroleum reserves was one third less than annual production. The number of productive oil wells in the country dropped to 105 thousand by June 1995 and the number of shut-in wells rose to 38 thousand.

The gravity of these problems is intensified by the fact that the petroleum industry is vital for the Russian economy: crude oil and natural gas provide for 75% of the

country's primary energy demand. Moreover, this significant exporting industry, providing up to 60% of the state budget income, is being called upon to provide the foundation for Russia's reconstruction as a market economy.

The decline in domestic demand for crude and oil products allows Russia to remain as one of the major world exporters of liquid hydrocarbons. Last year Russia sold outside the former Soviet Union 128 million tons of crude and refined products - an 11% increase over 1993. Russia not only remains the world's largest natural gas exporter, but continues to increase its foreign sales. Even last year, the volume of natural gas exports, (including those to the new Baltic states) soared by 14% to 109 billion cubic meters. However, it should be emphasized again that such accomplishments are somewhat illusory and should not diminish one's appreciation of the grave situation in the Russian energy sector.

In a bid to overcome the acute energy crisis the President and the federal government considered and approved this year an important document entitled "The Energy Strategy of Russia", providing milestones for the implementation of Russian energy policy to the year 2010. It contains a critical analysis of the situation in the Russian energy sector as well as recommending measures that should be taken to stabilize the industry. It also formulates goals, means and mechanisms to implement an energy policy. In the event of proceeding with implementation of the energy program, which is heavily biased towards energy saving, the primary energy production in Russia in 2010, using an "average" scenario, might be 10% lower than it was in 1990. It is noteworthy that similar estimates, compiled in 1992 and 1993, were somewhat higher. In other words, every subsequent forecast of future

energy production is more pessimistic than the previous one; only natural gas production has been slated to increase dramatically. The last version of the Russian energy strategy stipulates that the country should remain a major crude oil and oil products exporter for the next ten to fifteen years, but our main hopes are bound to natural gas, whose volume of sales abroad might increase by a factor of 1.5.

Given this overview of the current, rather difficult (even precarious), situation in the Russian petroleum industry, albeit one that is not without some optimistic notes, I would like to turn now to an issue that is of particular interest to Europeans and North Americans, that is, the question of foreign direct investment in the energy sector.

It is well known that to date Russia has not managed to provide a favourable investment climate, both in the economy as a whole and in the petroleum industry in particular. Its rating among potential investors, including foreign ones, is still very low. Very often in the Western media one encounters critical opinions and even anecdotes, that reflect this perception.

The list of Russian "minuses" or "cons" from the point of view of a foreign oil investor is extensive. These include the lack of the necessary legislative framework; an unclear sharing of rights among federal, regional and local authorities; a cumbersome, unstable and burdensome fiscal system; political instability; underdeveloped transport and communications infrastructure; high customs duties; and bureaucracy, criminality and other impediments to fair business dealings. These "cons" explain the fact that from the start of economic reforms in Russia our country received one twenty-fifth the amount of foreign investment put into the Chinese economy in the

nineties, or less than the amount of direct foreign investment in Vietnam in 1994 alone. Moreover, despite the acute capital deficit in the country, according to some estimates many tens of billions of dollars, belonging to the "new Russians", have been invested in Western economies.

Nevertheless, one can argue that the process of direct foreign investment in the Russian energy sector is gaining ground. In the oil industry this has been accomplished primarily by means of setting up joint ventures (JVs) with Russian partners. These JVs are engaged in the development of oil and gas fields, and in the provision of oil field services (such as hydrofracturing of oilbearing formations). Some of them are also involved in clean-up and other environmental activities.

As of the middle of 1994 the number of oil JVs in Russia numbered 62. According to an estimate of our ministry, the JVs now active in Russia attracted a total of some 800-1000 million U.S. dollars of foreign investment. It is nevertheless true that only a few of them invested really significant capital in Russia. The crude oil production of the biggest JVs in Russia is in the range of 0.5-2 million tons a year; together, all Russian JVs exported approximately ten million tons of crude.

Canadian oil firms are playing an important role in the burgeoning business in the Russian energy sector. They participate in six JVs, which are already substantial oil producers and exporters. Among the Canadian players, I would note Canadian Fracmaster Offshore Ltd. and PanCanadian Petroleum Offshore Ltd.. I recognize the numerous difficulties that Canadian and other foreign firms are encountering in Russia. Working with the ministry I have first hand experience in this respect. Nonetheless, many Western businesses, in opting to invest in

Russia are following the old Russian saying "One who does not take risks does not drink champagne." And I would note that given the success of many operations in Russia, a significant stock of champagne has already been depleted, and the flow of applications to register new JVs with our ministry is not ebbing. This year their share in Russian crude oil output is estimated to attain nearly 6% and their share in crude exports should be at least 12%.

In short, Russia is without any doubt a country of very promising opportunities for potential investors. This assertion is based on the fact that Russia possesses the world's largest - and in many regions most undeveloped - energy resource base. In Western and Eastern Siberia, in the northern European part of Russia, and on the vast continental shelf, unique opportunities exist for Western investors. Let me, illustrate with only one example. In 1993 an American oil company, Amoco, decided to develop, together with its Russian partners, the Priobskoje field in Western Siberia. The company conservatively estimated that this field contains up to five billion barrels (about 700 million tons) of recoverable oil, which is about half of the ultimate recovery from the largest U.S. field - Alaska's giant Prudho Bay. The Priobskoje field alone contains about twice Amoco's proven worldwide liquid reserves. The project, requiring a capital investment of more than 25 billion dollars over the first 20 years, is expected to provide for the profitable operations and long-term stability of this American company.

Obviously, the challenge of attracting into the Russian petroleum sector about 50 billion U.S. dollars of required foreign investment can be met only if we can create in Russia a competitive investment climate - and this will take years. At the same time I would note some positive trends. First of all, there is the necessary

political will. Moreover, some Russian "pluses", or "pros" should not be overlooked and deserve closer consideration. These include the largest energy resource base in the world; low geological risk; a highly skilled workforce; the integration of Russia in the international system of financial organizations and energy policy agreements (especially the European Energy Charter); the development of market relations in the oil industry, including such developments as resource licensing, joint stock companies, privatization, de-monopolization and liberalization of domestic prices; and the creation of a new energy code and other regulations.

Let me just point out that the development of market relations in the oil industry has proceeded consistently, step by step. The reform of oil industry management is being implemented; as a result of restructuring, thirteen vertically integrated joint stock oil companies have been established; the number of business agents in the oil market is increasing; and competition is being promoted. Instead of directive planning and management we have begun to use the control levers inherent in the market economy. Pricing and tax policies are increasingly formulated in accordance with the wishes of domestic and foreign investors.

Serious efforts are being undertaken to improve the relevant legislation, and to set up a comprehensive energy code. Substantial aid in laying the foundation of a market economy in Russia is being provided by the international community, governmental and other organizations, and experts from many Western countries, including Canada. For example, a contract has been concluded with the Control Data consortium to involve Western experts in developing a regulatory system in the Khanty-Mansy Autonomous Region (a region in the

Tyumen Oblast with large reserves of hydrocarbon resources), based on the experience with a similar system in Alberta.

A remarkable event on the path to drafting new Russian petroleum legislation conforming to world standards was the international conference "Energy and Law", held in Moscow in November last year. The recommendations of this conference were passed to the federal government. These include the following:

- Legislation for the Russian petroleum industry must be transparent, clear, predictable and stable. Two areas that require priority consideration are production sharing agreements and transportation.
- The revision of the Laws on Investment Activities and on Foreign Investment should be accelerated.
- The development and adoption of the Laws "On Joint Stock Companies", "On Natural Monopolies", and "On Federal Energy Systems" should be accelerated.
- Anti-monopoly measures and legislation assuring shareholders' rights to relevant information on viability of a joint stock company should be adopted.
- The tax system must be restructured so as to be manageable, understandable, and consistent. The number of taxes must be reduced, and the procedure of levying them simplified. The primary basis of taxation should be profits.

The federal Ministry of Fuel and Energy is making every effort to put in place the necessary preconditions for stimulating the flow of foreign capital into the Russian economy. This investment should be on mutually beneficial terms. However, we cannot merely replicate models that have been designed and

successfully applied in other countries. Typically, other countries which have relied on foreign investment for the development of their petroleum industries had virtually no domestic experience in this respect. But in the special case of Russia, which possesses a giant petroleum industry with a very long history, and which for many years was the biggest oil producer in the world, it is inconceivable that one would allow the slow death and final collapse of Russian petroleum enterprises while foreign companies prospered doing business in Russia.

There are two forms of foreign investment and technology acquisition that we would like to emphasize: first, collaboration between Russian and foreign companies, including the creation of appropriate organizational structures, and, second, the allocation of foreign credits to Russian national companies. The use of foreign capital without involvement of Russian enterprises will be subject to certain limitations; as a rule this approach will be restricted to the new, or frontier, regions such as Eastern Siberia, the Timan-Pechora region, and the continental shelf. And these regions are very promising: for example, Gazprom recently confirmed figures that suggest Russian oilfields discovered in the Barents Sea are "not less in size than the North Sea". Gazprom and its Australian partner, Broken Hill, are already planning to develop and produce the first offshore oilfield in the Barents Sea.

In 1992 the Russian law on mineral resources was enacted. This law articulated the basic principles accepted throughout the world - the compensated use of mineral resources, and the competitive selection of, and equal opportunities, for companies, whatever the structure of their ownership. It also determined the ways in which the relevant authorities in constituent members of the Russian Federation

will exercise their powers over mineral deposits. Recently, further steps have been taken to encourage foreign investment. Beginning in January of this year, export quotas and the necessity of acquiring licences to sell oil abroad have been abolished. This marks an important move in the liberalization of energy trade. Moreover, pursuant to Governmental Order 1446 (December 31, 1994) and subsequent regulations, all crude oil and refined product producers (not traders) received equal access to pipelines in respect of their shares in production and crude processing.

The schedules of competitive licensing for the development of hydrocarbon resources are being specified in many regions. Returning to the Khanty-Mansy example, a program of competitions and auctions has been drawn up until the year 2000, and has been coordinated with the relevant federal government bodies. A list of 132 prospective and already discovered deposits (3 billion tons) has been prepared for submission to annual competitions in this period.

Additionally, the Russian Law on mineral resources was amended last year and in June 1995 the long awaited draft Law on Production Sharing successfully passed final reading in the State Duma (the lower chamber of the federal parliament). Despite the fact that the proposed law was subsequently defeated by the Federation Council (the upper house of the Russian parliament) it is widely expected that the legislation will be resubmitted to the Federation Council and passed by it after the December elections in Russia.

Among other important developments this year, one can cite the repeal of the system of "special oil exporters", a purely Russian tool of oil export control by the state. Also this year the list of JVs granted a temporary exemption from oil

export duties was extended to include fourteen entities.

According to a statement by the Russian Vice Prime-Minister Oleg Davidov, the petroleum export duties will be repealed entirely by the beginning of 1996. There is a clear trend to reduce (from twenty ECU this year to ten ECU in 1996), and finally to abolish, crude export duties for all exporters. Also noteworthy are recent Presidential Decrees On Measures to Streamline State Regulation of Prices and On Measures for State Regulation of Natural Monopolies in the Russian Federation. Some opponents expressed opinions that restrictions on profit levels (50 percent for oil production and 10-20 percent for oil refining), abolished by the price deregulation decree, are a mere formality, since enterprises have long failed to reach the maximum profitability level (largely due to the level of non-payments). Nevertheless, the Ministry of the Economy believes that lifting the last restrictions will double petroleum prices over the year. The data for the first half of this year suggest that this forecast is warranted. From January to June 1995, the domestic crude oil price rose from 38.9 to 55.7 U.S. dollars per ton, attaining nearly half the world price level. The same trend applies to oil products and natural gas, which reached levels amounting to 53-74% of the corresponding world prices.

It is encouraging that, despite roadblocks, there are signs of growing confidence in Russia on the part of foreign investors. In the first half of 1995, the flow of foreign capital into the Russian economy increased by 27%, for a total of 1.5 billion U.S. dollars over this period. One reason might be the growing participation of foreign investors in the Russian securities market, especially in buying stocks of Russian energy companies.

In conclusion, potential foreign investors in Russia should be guided by patience, persistence and a willingness to understand people and establish good relationships. The challenges are significant, but so are potential rewards. Russia and Canada are two large neighbours with much in common. I believe in the bright future of our economic, political and humanitarian links. We in Russia pay high respect to the Canadian experience in solving many political and socio-economic problems and we are trying to make use of this experience in Russia.

** Mr. Nesterov is with the Ministry of Fuel and Energy of the Russian Federation. The views expressed in this article are those of the author and do not necessarily reflect the views of the Ministry.*

Institute News

- In September, 1995 the Institute sponsored a seminar by Olga Maiboroda, of the University of Montana, on "Russian Environmental Issues: Water Quality in the Black Sea Region".
- In October, 1995 the Institute sponsored a seminar by Pal Remman and Oivind Johansen of the Ministry of Industry and Energy, Norway, on "A Free Market in Electricity: A Look at the Norwegian Model in a European Perspective".
- In October, 1995 Lubov Pleshkova and Victor Churashev of the Siberian International Center for Regional Studies in Novosibirsk, Russia visited the Institute as part of the project on the "Socio-Economic Problems of South Kuzbass" which is funded by the Gorbachev Foundation.

New Publication

Forest Management in Canada, by Monique M. Ross, ISBN 0-919269-42-7 390 pages \$59.00

This book provides a comprehensive review of the policy and legal framework of forest management in Canada. It describes the evolution of Canadian forest policy and analyzes issues and conflicts inherent in contemporary forest policy-making. It then addresses the legal aspects of forest management and provides in particular a comparative analysis of forest tenures on Crown lands. The book concludes with a discussion of policy and legal reforms which could facilitate the transition from timber to forest management.

The book incorporates policy, legal and economic analyses and offers a unique comparative perspective on the Canadian situation and the latest developments in forest management. It is a valuable reference for lawyers and non-lawyers in government, industry, academia, consulting firms and non-governmental organizations, with a working familiarity with forestry law and policy.

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Recent Developments in Canadian Mining and Oil and Gas Law

by Susan Blackman*

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MINING

British Columbia — Bentonite and Diatomaceous Earth as Minerals — Whether Reserved to the Crown

In 1921, the federal Crown granted to the predecessors of the defendants, fee simple interest in lands located within the railway belt of British Columbia, reserving “mines and minerals” (whether solid, liquid or gaseous), together with full power to enter upon and use such lands to the extent necessary to work and extract the said minerals”. In 1988, bentonite and diatomaceous earth were brought under the *Mineral Tenure Act*, S.B.C. 1988, c. 5. From 1989 to 1994, the plaintiff staked claims over the defendants’ lands. The defendants disputed the plaintiff’s claim to the bentonite and the diatomaceous earth under the dispute provisions of the Act and asserted that these substances had not been included in the reservation of mines and minerals in 1921. If they had been included in the reservation, they were transferred by the federal Crown to the province in 1925 and so could be the subject of a claim staked by the plaintiff.

Judge MacDonald considered that the onus was on the plaintiff to establish that the reservation included the disputed substances. The guiding principle for the case was what the parties could be expected to have understood in 1921. There was no doubt the consensus in the scientific community in 1921 was that these substances were minerals. However, the ordinary English dictionaries of

the day did not include these substances as minerals but grouped them with “earth”, something separate from “minerals”. Thus conveyancers and landowners in 1921 would not have regarded these substances as minerals. In addition, the government itself did not include these substances as minerals in legislation until 1988. In fact, these substances were not mentioned at all in legislation until 1970. Note however, that this factor could not be used to decide the issue alone because the judge pointed out that an omission from legislation does not necessarily mean that the substance was not regarded as a mineral, only that there was no reason to regulate its extraction at that time. In this case, the substances had little commercial value before 1970. In the result, the judge decided that these substances were not included in the reservation of mines and minerals in 1921 and so they had passed with the grant to the predecessors of the defendants. See *Western Industrial Clay Products Ltd. v. Keeping*, [1995] B.C.J. No. 1050 (S.C.) (QL Systems).

British Columbia — Mineral Resource Tax Act — Treatment of Capital Cost Allowance

British Columbia’s *Mineral Resource Tax Act* (R.S.B.C. 1979, c. 263) (the provincial Act) provided a scheme for taxation of operators of mines on a mine by mine basis. The Act permitted deduction of capital cost allowance and, for these purposes, imported the capital cost allowance provisions of the federal *Income Tax Act* (the federal Act). Under the federal Act, where the sale of assets at fair market value was for a price less than the undepreciated capital cost of those assets, the “excess shall be deducted in computing the income of the corporation ... and shall be deemed to have been

allowed in respect of property of that class ...” This deemed allowance was made in the year of the sale. If the allowance creates a loss for that year, the taxpayer was permitted to carry the loss forward over seven years to offset income from that business or similar businesses. In contrast, the provincial Act did not permit losses to be carried forward, nor could a loss generated by one mine be offset against income from another mine even if they were owned by the same operator. In addition, the provincial Act incorporated by reference the provisions of the federal Act regarding capital cost allowance and the Mineral Resource Tax Regulation (B.C. Reg. 492/80) (the regulation) contained the following provision:

s. 5(2) An operator shall not create a loss by claiming permissive deductions which exceed the gross proceeds from the operation of the mine remaining after deduction of all allowed costs and expenses exclusive of permissive deductions.

“Permissive deductions” were defined to mean capital cost allowance among other items.

In 1988, Similco bought a mine and its associated assets from Newmont at a price substantially below the undepreciated capital cost of the assets. In that year and the two subsequent years, when calculating its mineral resource tax, Similco did not claim the capital cost allowance. It maintained that s. 5(2) of the regulation prohibited it from claiming the capital cost allowance and creating a loss for 1988.

The arguments in the case centred on whether the act of making a “claim” (prohibited by the regulation) was the same thing as having a mandatory allowance (created by the federal Act) imposed.

The conclusion of Preston, J. was that they were two different things. The "deemed allowance" has the effect of bypassing the section of the federal Act that permits "claiming" of capital cost allowance. Therefore, it is not the same thing as the "claim" referred to in s. 5(2) of the regulation. The argument was also made that this interpretation means that s. 5(2) prohibited the doing of something that could not be done anyway. The judge did not accept this argument but speculated there were some circumstances in which s. 5(2) would operate. See *Similco Mines Ltd. v. British Columbia (Minister of Energy, Mines and Petroleum Resources)*, [1995] B.C.J. No. 1112 (S.C.) (QL Systems). Note that the *Mineral Resource Tax Act* was replaced by a substantially different mineral taxation scheme in 1989 (see *Mineral Tax Act*, S.B.C. 1989, c. 55).

Québec — Rehabilitation

Québec's Draft Regulation respecting mineral substances, other than petroleum, natural gas and brine has been amended (O.C. 186-95, 8 February 1995) with the addition of part X.1 dealing with rehabilitation and restoration measures. It mainly addresses the guarantee required by the *Mining Act* (R.S.Q., c. M-13.1).

OIL AND GAS

Income Tax — Source of Income — Income from Production

For Gulf's 1978 taxation year, the Minister of National Revenue deducted capital cost allowance and interest expenses relating to Gulf's interest in the Syncrude project. The deduction was made under s. 1204(1) of the Income Tax Regulations which provides that: "resources profits" of a taxpayer means the amount by which income "from the production of petroleum, natural gas or hydrocarbons from oil or gas wells in Canada" or "the production in Canada of (A)

petroleum, natural gas or related hydrocarbons, or (B) metals or minerals to any stage that is not beyond the prime metal stage or its equivalent," from mineral resources operated by the taxpayer exceeds the aggregate of the taxpayer's losses for the year from the described sources allowing no deductions in computing the income other than certain named deductions and "such other deductions for the year as may reasonably be regarded as applicable to the sources of income described" Gulf protested the deductions on the basis that Syncrude was not a "source of income" in 1978.

The judge reviewed in detail the evidence concerning the operation of Syncrude and noted that, by agreement, production of the 5 billionth barrel of synthetic crude oil would trigger Syncrude's royalty obligation to the province of Alberta. That barrel of oil was produced in 1979. Further, by agreement with the federal government, commercial production did not begin till 1980. The judge felt that "source of income" required that there be a "business" that had a reasonable expectation of profit. "Source of income" could not be equal simply to "production" itself and must include some element of marketing in order for there to be an expectation of profit. The review of Syncrude persuaded the judge that it could not have had any expectation of profit in 1978. Although Syncrude did generate \$7 million of revenue in 1978, that fact had to be considered in light of the enormous investment (\$2,400,000,000) that had been made. Thus there could have been no reasonable expectation of profit from the project even after it started commercial production. Furthermore, the parts of the operation and the equipment used were not all operating in 1978, nor were those that were in operation working together at the design rates without interruption for sustained periods. For these reasons and others dealing with the operation of

Syncrude, the project was not a source of income in 1978. See *Gulf Canada Resources Ltd. v. Canada*, [1995] F.C.J. No. 350 (T.D.) (QL Systems).

Income Tax — Deductions for Capital Cost Allowance — Whether Water-Intake Line is a Pipeline

In 1978, Gulf owned an oil refinery in Ontario. Water was used for cooling and a concrete water-intake line was extended by 2200 feet. The Minister of National Revenue asserted that this line was a pipeline and should be depreciated at the rate for class 2 which included pipelines. The alternative was to include it in class 29 as property manufactured by the taxpayer and depreciate it at a higher rate.

In this case, the onus was on the taxpayer to rebut the Minister's assessment and the issue was whether the definition of pipeline was wide enough to include the water-intake line. After hearing testimony from engineers the judge held that the relevant view was the view of people "conversant with the subject matter with which the statute is dealing". In this case, the defendant's experts persuaded the judge that the normal understanding of the word "pipeline" was at least wide enough to include this water-intake line. See *Gulf Canada Resources Ltd. v. Canada*, [1995] F.C.J. No. 350 (T.D.) (QL Systems).

Alberta Energy Resources Conservation Board and Public Utilities Board Amalgamated

The Alberta Energy Resources Conservation Board and the Alberta Public Utilities Board have been amalgamated as the Alberta Energy and Utilities Board (see *Alberta Energy and Utilities Board Act*, S.A. 1994, c. A-19.5). Céline Bélanger, formerly of the National Energy Board, has been appointed chairman of the new Board.

Alberta — Subsurface Storage Caverns

The *Mines and Minerals Act* of Alberta has been amended so as to include ownership of subsurface storage caverns with ownership of minerals. The amendment also deals with certain rights of storage cavern owners and with some changes to calculation and disposition of the Crown's royalty share of petroleum. See *Mines and Minerals Amendment Act, 1994, S.A. 1994, c. 22*.

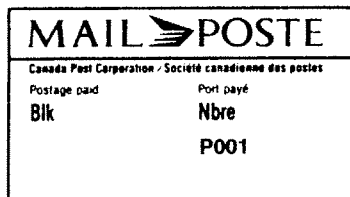
Susan Blackman is a Research Associate with the Canadian Institute of Resources Law and is the Canadian oil and gas and mining law reporter for the Rocky Mountain Mineral Law Foundation Newsletter.

Report on Water Management Institutions

A report on water management institutions prepared by the Canadian Institute of Resources Law (CIRL) was published by the Northern River Basins Study (NRBS). The report, entitled *Interjurisdictional Institutions for the Northern River Basins: A Review of Options*, was written by Steven Kennett and Owen Saunders. CIRL was contracted to assist the NRBS in making recommendations for water management institutions in the Peace, Athabasca and Slave river basins.

This report is one of a series published by the NRBS. It can be obtained from:
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Resources

No. 51 Summer 1995

Resources is the newsletter of the Canadian Institute of Resources Law. Published quarterly, the newsletter's purpose is to provide timely comments on current resources law issues. The opinions presented are those of the authors and do not necessarily reflect the views of the Institute. *Resources* is mailed free of charge to more than 5,400 subscribers throughout the world. (International Standard Serial Number 0714-5918) *Editor: Nancy Money*

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