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# Builders' Liens and Provincial Crown Minerals

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Guideline MIN 001

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Updated August 2020

Revision 4.0

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Governing Legislation:

Act: *The Builders' Lien Act*

Regulation: *The Land Titles Regulations, 2001*

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**Record of Change**

Revision	Date	Author	Description
0.0	May 28, 2014	Donna Wilson	Initial draft
0.0	July 31, 2014	Donna Wilson	Final editing of draft
1.0	August 5, 2014	Anette Maxeiner	Completion of final version
2.0	January 13, 2015	Doug MacKnight	Font and address change
3.0	May 2016	Donna Wilson Eric Warren	Include IRIS information and rewrite for easier flow
4.0	August 28, 2020	Adriana Faye	Update Service Desk contact information and Ministry name

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## 1 Introduction

*The Builders' Lien Act* (the Act) gives members of the construction industry the right to claim and register a Builders' lien. The lien secures payment for the work or services performed or materials supplied.

Entitlement to a lien depends on the work done, the services rendered and the materials supplied to complete an improvement for an owner, contractor or subcontractor. An improvement is a thing intended to be constructed, erected, built, placed, altered, repaired, improved, added to, dug or drilled.

Architects, engineers, contractors, subcontractors, labourers, material suppliers, land surveyors and providers of equipment and services may claim a Builders' lien (the Claimant).

The lien arises when the work is begun, services are first rendered, or the first material is supplied. The amount of a Claimant's lien is limited to the actual value of services rendered, subject to the statutory hold-back provisions. No lien exists for a claim of less than \$100. Liens must generally be registered within 40 days of the completion of the work.

## 2 Builders' Liens on Mineral Rights

A Builders' lien registered against a mineral right is an instrument that provides the claimant with a recognized interest if the disposition is transferred or in the event of bankruptcy. The process to register a lien involving Crown minerals must be completed through the Ministry of Energy and Resources (ER). The process to register a lien against freehold minerals must be completed through Information Services Corporation (ISC).

Builders' liens can only be registered against Crown minerals if a provincial Crown mineral disposition (provincial disposition) has been issued. A provincial disposition authorizes the Disposition Holder to explore for or develop Crown mineral rights such as oil, natural gas, potash, uranium, coal, etc. and is issued in the form of a lease, license, permit or claim. A lien does not affect the terms of the provincial disposition and the Disposition Holder can continue to operate as usual.

This document deals with registering a lien against a provincial disposition.

## 3 Integrated Resource Information System

The Integrated Resource Information System (IRIS) is an online business system that supports the development and regulation of Saskatchewan's energy and resources industry. Through

IRIS, the oil and gas industry completes regularly performed business activities and regulatory tasks with the province online at [www.saskatchewan.ca/IRIS](http://www.saskatchewan.ca/IRIS).

All Builders' lien registration and discharge applications associated with Petroleum and Natural Gas (PNG) Crown dispositions must be submitted through IRIS. For instructions on accessing IRIS, please visit [www.saskatchewan.ca/IRIS](http://www.saskatchewan.ca/IRIS) for the IRIS login procedures. Some IRIS business requirements are provided below. For more information on how to operate in IRIS, contact:

**ER Service Desk**

Ministry of Energy and Resources

Email: [er.servicedesk@gov.sk.ca](mailto:er.servicedesk@gov.sk.ca)

Toll Free: 1-855-219-9373

**3.1 IRIS Business Information**

- a) A Business Associate (BA) identification (ID) is required to submit any work in IRIS. The BA ID is for the applicant (the party completing and submitting the application), not the claimant (the party who is owed money), unless the two are the same. Apply for a BA ID online at [www.petrinex.ca](http://www.petrinex.ca). Parties who have submitted Builders' lien applications in the past few years have been assigned a BA ID. To maintain your BA contact information, contact the ER Service Desk.
- b) The payer's BA ID must be identified at the time the application is submitted in IRIS. An invoice will be generated and sent to the payer's IRIS inbox or to the applicant's email, as specified in the account settings. Invoices are generated on a monthly schedule and it may take some time to appear in the IRIS inbox after the application has been reviewed.
- c) IRIS will issue an Instrument Number for each Builders' lien. Previously provided Document Number or Builders' lien number are not searchable through IRIS. To locate information on an existing Builders' lien, search for the disposition number that the lien was registered against.
- d) IRIS will be the only means of communication between ER and the PNG lien applicants. Parties will need to monitor their IRIS accounts to receive updates to the status of the application, including the assessment of fees. No information will be sent by ordinary mail. Users can change their IRIS account settings to allow notifications to be sent via email. However, some activities - including invoicing - are only accessible through IRIS and cannot be sent through email.
- e) IRIS instrument applications are accessed through the Applications tab on the IRIS main page. Click on Tenure Administrative and you will be given the choice under Instrument to either register or discharge a Builders' lien. Enter all required data, scan and upload the original associated document into IRIS, and submit the

- application for ER's review. Once the application has been successfully submitted, IRIS will provide an application number. To follow the status of the application, record the application number for your reference.
- f) Upon completion of ER's review, a notification with a link to the results will be sent to the applicant. Depending on the applicant's IRIS settings, the notification will either be sent by email or to an IRIS inbox. The link will show the results of the application review and, if approved, will provide an Instrument Number. The Instrument Number is a new reference number for the Builders' lien and replaces the Document Number previously assigned to the Builders' lien.
  - g) Once approved, IRIS will automatically generate an invoice that must be picked up and paid. To find an invoice in IRIS, click on the reports tab and then click on "invoices". This will bring you to the Invoice Search screen where you can input your BA code, perform a search, and pick up your invoice(s). Note: the company that you are doing the work on behalf of must set you up with the appropriate securities (I.BLNG.Invoice.View and I.BLNG.Base). There will no longer be a manual invoicing process in place for Builder's liens.

## 4 Instrument Registry

The Builders' lien instrument must be registered to be in effect. As identified below, depending on the ownership and disposition type associated with Crown minerals, there are three different ways to register a Builders' lien.

To register a lien against Freehold minerals, please contact ISC:

Website: [www.isc.ca](http://www.isc.ca)  
Phone: 1-866-275-4721  
Email: [ask@isc.ca](mailto:ask@isc.ca)

To register a lien against provincial Crown PNG dispositions, please use [IRIS](#). For more information on how to operate in IRIS, contact:

**ER Service Desk**  
Ministry of Energy and Resources  
Email: [er.servicedesk@gov.sk.ca](mailto:er.servicedesk@gov.sk.ca)  
Toll Free: 1-855-219-9373

To register a lien against a provincial Crown non-PNG disposition, please submit the application to:

**Records Officer:**  
Lands and Mineral Tenure  
Ministry of Energy and Resources

1000-2103 11<sup>th</sup> Avenue  
REGINA SK S4P 3Z8  
Email: [mineral.rights@gov.sk.ca](mailto:mineral.rights@gov.sk.ca)  
Phone: 1-855-219-9373

The Records Officer will communicate with the applicant in the same manner in which it was contacted.

## 5 Application Preparation

All applications to register or discharge a Builders' lien must be accompanied by an associated document. The associated document varies depending on the action that is being requested (see tables below). The associated document must be scanned and submitted electronically for PNG Crown dispositions in IRIS and can be submitted either electronically or in hard copy for non-PNG Crown dispositions.

The associated document must be complete and accurate before the instrument can be registered. In the case of provincial Crown minerals, the correct provincial disposition number, name of Disposition Holder and land subject to the lien must be identified in order for the lien to be approved. If the associated document is not complete or accurate, the application will be denied and returned to the Claimant. The following online resources are available to find the required information:

- a. **IRIS:** Search for PNG dispositions  
[www.saskatchewan.ca/IRIS](http://www.saskatchewan.ca/IRIS)
- b. **Geological Atlas:** Search for any provincial Crown disposition using GIS  
<https://gisappl.saskatchewan.ca/Html5Ext/index.html?viewer=GeoAtlas>  
Instructions for "How To Use This Site" are available by clicking the wording in the top right corner of the page.

In IRIS, a separate application must be made for each provincial disposition affected by the lien. The same *Claim of Lien* can be attached to each application. The cost to register a Builders' lien is \$50 per disposition included in the lien.

## 6 Register Instrument

The following table identifies the various actions and the required associated document for any lien to be registered against a provincial Crown disposition.

The two IRIS columns provide useful information on completing an IRIS online application but have no meaning for non-PNG Crown dispositions.

Action	Associated Document	Responsibility	IRIS Application Type	IRIS Instrument Type
Register new lien	Form E, <i>Claim of Lien</i>	Claimant	Register	Builders' lien
Reduce the amount of the lien	Form L, <i>Partial Discharge of Lien as it Relates to Amount</i>	Claimant	Register	Amendment of Instrument
Release some of the land registered in the lien	Form M, <i>Partial Discharge of Lien as it Relates to Land</i>	Claimant	Register	Amendment of Instrument
Initiate lapse procedure to remove the lien	<i>Affidavit to Request a Lapse</i>	Disposition Holder	Register	Notice to Lapse
Continue the lapse procedure after a disposition has been transferred to a new holder	<i>Affidavit of Lapse Disposition Transfer During Lapsing Process</i>	Old and new Disposition Holders	Register	Notice to Lapse
Certificate of Action	<i>Copy of Certificate of Action</i>	Claimant	Register	Amendment of Instrument
Transposed lien to new disposition	N/A	ER	N/A	N/A

## 7 Discharge Instrument

The following table identifies the various actions and the required associated document for removing a lien registered against a provincial Crown disposition. There is no fee associated with removing a lien with the exception of a lapse procedure initiated by the disposition holder.

The two IRIS columns provide useful information on completing an IRIS online application but have no meaning for non-PNG dispositions.

Action	Associated Document	Responsibility	IRIS Application Type	IRIS Instrument Type
Discharge by Claimant	<ul style="list-style-type: none"> <li>Form L, <i>Partial Discharge of Lien as it Relates to Amount</i></li> <li>Form M, <i>Partial Discharge of Lien as it Relates to Land</i></li> <li>Form N, <i>Discharge of Lien</i></li> </ul>	Claimant	<b>Form L and M:</b> Register  <b>Form N:</b> Discharge	Builders' lien



Action	Associated Document	Responsibility	IRIS Application Type	IRIS Instrument Type
Lapse	<i>Affidavit to Request a Lapse</i>	Disposition Holder	Register	Notice to Lapse
Withdrawal	Contact the Service Desk by phone prior to the instrument being registered	Claimant	N/A	N/A
Expired Provincial Disposition	N/A	ER	N/A	N/A
Discharge by Court Order	Copy of the Order	Disposition Holder	Discharge	Builders' lien

## 8 Associated Documents/Forms

- i) Form E, *Claim of Lien* – Illustration on how to complete Form E
- ii) Form E, *Claim of Lien*
- iii) Form L, *Partial Discharge of Lien as it Relates to Amount*
- iv) Form M, *Partial Discharge of Lien as it Relates to Land*
- v) Form N, *Discharge of Lien*
- vi) Affidavit to Request a Lapse
- vii) Lapse of Interest
- viii) Affidavit of Lapse Disposition Transfer During Lapsing Process

## 9 Questions and Answers

### a) What is a Builders' lien?

A Builders' lien is a registered instrument that is used to secure payment for the work or services performed or materials supplied.

### b) What is a provincial Crown disposition?

A provincial Crown disposition can be a lease, license, permit or claim issued under *The Crown Minerals Act*. It authorizes the right to explore for or to develop Crown minerals such as oil, natural gas, subsurface minerals (i.e. potash, lithium, etc.) uranium, coal, etc. Provincial Crown dispositions do not include any surface rights.

### c) How does a Builders' lien affect a provincial Crown disposition?

Section 51 of the Act provides for the registration of a Builders' lien against a provincial Crown disposition when a person or company believes it is owed money for work undertaken in relation to a disposed Crown mineral. Registration of a lien against a provincial Crown disposition provides the claimant with a recognized interest if the disposition is transferred or in the event of bankruptcy. All rights provided under the mineral disposition are unaffected by the lien and the disposition holder can continue to operate in a business-as-usual fashion.

**d) How do I register a Builders' lien against a provincial Crown disposition?**

Complete Form E, *Claim of Lien*, Parts A and B and submit to the Records Officer as follows:

- Provincial Crown PNG dispositions: attach a scanned version in the Instrument Register Application in IRIS.
- Provincial Crown Non-oil or gas dispositions: deliver hard copies to the Records Officer or scan and send by email to the email address provided for the Records Officer.

Ensure the disposition number, disposition holder name and the land location subject to the lien are complete and accurate. A Claim of Lien cannot be registered if no disposition exists on the location or if the information is incorrect. Any *Claim of Lien* requiring more information will be denied by ER.

Changes to an existing lien need to be registered using the associated documents identified in the previous tables.

**e) Can anyone obtain a copy of the Builders' lien, once it has been registered?**

Yes. Builders' liens against a provincial PNG disposition can be accessed through IRIS with an active BA ID. Contact the Records Officer for liens registered against a provincial non-PNG disposition.

**f) What fees are applicable to a Builders' lien?**

The cost to register a Builders' lien is \$50 per disposition included in the lien. The payee's BA code must be entered when the lien is submitted onto IRIS and an invoice will be issued once ER has completed its review of the application. There is no cost associated with discharging a Builders' lien.

**g) How do I get information on the provincial disposition?**

Disposition information can be obtained using information available on ER's website. The web links are:

- IRIS: [www.saskatchewan.ca/IRIS](http://www.saskatchewan.ca/IRIS)
- GeoAtlas: <https://gisappl.saskatchewan.ca/Html5Ext/index.html?viewer=GeoAtlas>
- Instructions for "How To Use This Site" (GeoAtlas) are available by clicking the wording in the top right corner of the page. For more information, contact the ER Service Desk.

**h) What is IRIS?**

IRIS is an online business system that supports the development and regulation of Saskatchewan's energy and resources industry. Through IRIS, the oil and gas industry completes regularly performed business activities and regulatory tasks with ER online at [www.saskatchewan.ca/IRIS](http://www.saskatchewan.ca/IRIS). For more information on how to operate in IRIS, contact:

**ER Service Desk**

Ministry of Energy and Resources

Email: [er.servicedesk@gov.sk.ca](mailto:er.servicedesk@gov.sk.ca)

Toll Free: 1-855-219-9373

**i) What is a BA code and how do I get one?**

Any entity that conducts business activities with the Government of Saskatchewan through IRIS is referred to as a Business Associate (BA). Every BA must have an active BA ID (code), which is a five-character numeric identification code. BAs can apply for a BA ID through [www.petrinex.ca](http://www.petrinex.ca). For more information on Petrinex, contact ER Service Desk.

**j) Where can I get a copy of *The Builders' Lien Act*?**

A copy of the Act and its regulations can be obtained at no cost by visiting the Publications Saskatchewan website at <http://www.publications.gov.sk.ca/legislation>.

**k) Can a Builders' lien be registered against a Crown mineral title?**

No. Section 51 of the Act requires the lien to be registered against the provincial Crown disposition. ER will order the removal of any liens registered against a Crown mineral title or abstract registered or recorded in the Saskatchewan Land Titles Registry.

**l) Can a Builders' lien be registered against privately-owned minerals?**

A Builders' lien with respect to work conducted in relation to privately-owned minerals can be registered as an interest against a mineral title registered in the Saskatchewan Land Titles Registry. Please contact ISC for more information. ISC's website is [www.isc.ca](http://www.isc.ca).

**m) Do I need the Mineral Parcel Number or the Mineral Title Number found on ISC?**

No. The mineral parcel number and the mineral title number are not required to register a lien against a provincial Crown disposition.

**n) How is the order of registration determined for Builders' liens registered against provincial Crown dispositions?**

The date and time that the claim is received is used to determine the order of registration on the provincial Crown disposition:

- PNG Crown dispositions: the date and, if necessary, time the application is submitted into IRIS will be used as the registration date. Liens registered prior to IRIS use the registration date and, if necessary, time the Claim of Lien was received.
- Non-PNG Crown dispositions: the date and time the application is received by ER, whether by email, mail or courier, will determine the order of registration.

**o) How can a Builders' lien be removed?**

Builders' liens can be discharged by:

- Removal of a full or partial discharge;
- Court Order (section 60 of the Act);
- removal of the lien by the Disposition Holder through successful completion of the Lapse Procedure (section 58 of the Act);
- provincial disposition expiration without conversion to another disposition; and,
- Withdrawal of the application to register a lien before the lien is registered.

**p) How do I discharge the Builders' lien?**

A lien can be discharge when the Claimant is satisfied that it has been adequately reimbursed for the moneys owing. A Builders' lien can be fully or partially discharged. A partial discharge can reduce either the amount owing or remove certain portions of the encumbered land. The discharge of the Builders' lien can be requested by the claimant or the person representing the claimant.

**q) Discharge by Court Order**

A Builders' lien can be vacated according to section 60 of the Act. When the court declares that a Builders' lien no longer binds the person to whom it was given, the court will order the lien discharged. A copy of the court order is required to discharge the lien.

**r) How do I lapse a Lien?**

Lapse is a procedure during which a notice is placed on the lien in the attempt to remove it from the provincial Crown disposition without making the required payment for the services or materials provided and without going through legal channels. It is typically initiated by the Disposition Holder who may not be in agreement of the services provided.

To initiate the Lapse procedure, the Disposition Holder will submit the *Affidavit to Request a Lapse*. Once approved, ER will notify the Claimant of the request to lapse by registered mail. The Claimant will have 30 days to seek a court order to extend the registration of the lien. The lien will not be removed if the Claimant submits a *Certificate of Action* before the end of the 30 days.

At the end of the 30 day period, the Disposition Holder is required to submit the *Lapse of Interest* to complete the lapse process and discharge the Builders' lien.

Should the Disposition Holder's name change within the 30 day lapse period following the initiation of the lapse, an *Affidavit of Lapse Disposition Transfer During Lapsing Process* will need to be submitted by the Disposition Holder.

**s) Does a Builders' lien expire?**

Builders' liens do not expire. The only two instances where an 'expiry' exists on a Builders' lien are as follows:

- Lapse Procedure: After 30 days, the Notice to Lapse expires and the request to discharge a lien can be made; and,
- Provincial Crown disposition: when a provincial Crown disposition expires and is not converted to another type of disposition, the Builders' lien is no longer valid.

**t) What happens if the provincial disposition expires?**

When a provincial Crown disposition expires it can be converted to a different type of disposition (e.g. permit converted to lease) or, if it is not converted, it simply ceases to exist. If the provincial Crown disposition is being converted, the lien will be transferred to the new provincial Crown disposition by ER. In the event the disposition ceases to exist, the Builders' Lien automatically becomes non-existent and the claimant will be notified.

**u) How do I withdraw a Builders' lien application?**

To withdraw a Builders' lien, the request to withdraw must be received by the Records Officer before the *Claim of Lien* has been registered. If the Records Officer is notified in time, the documents will be returned to the submitting party and the registration fees, if paid, will be refunded.