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Drilling Down: Oil Prices and Innovation



By [Timothy Bailey](#)

Some economists have recently predicted that it not be until the third fiscal quarter 2015 that oil prices may begin to stabilize (for example, see [ATB Financial's Alberta Economic Outlook Q2 2015](#), published March 31, 2015). ATB Financial predicts, however, that the price stability will begin at around \$50 per barrel rather than at the over \$100 per barrel highs of mid-2014. While economists may disagree about the specific price that the market will agree upon - and the timing of reaching such an agreement - many economists do agree that the global thirst for oil will result in higher prices in the future, as compared with today.

The current low and unstable price of oil has caused a number of Alberta-based companies to make hard financial decisions. News reports often include stories about major exploration and producing companies instituting hiring freezes and cost cutting measures, which include a large number of layoffs. What is not so prevalent in the news reports are stories about the smaller and intermediate oil and gas companies that are cutting costs, also likely through layoffs.

During these tough economic times, we advise many of our oil and gas clients about some pro-active steps that they can take to be better prepared for when the price of oil rises again. In effect, the current climate may provide management a moment to pause and review standard form agreements and company policies to determine if the company is properly securing any innovation-related rights that may arise through the course of its normal operations.

One proactive step that we advise our clients to undertake is to review any innovation(s) that may have been developed while the price of oil was high, but when things were busy company resources may have been directed at the core operations of the company. It is not uncommon for "good ideas" to be put to the side when a company is very busy. Now that companies may be slowing down, it may provide an opportunity to revisit when and how any new solutions to a practical problem in the field were discovered. While it may be some time before oil surpasses \$100 per barrel, new solutions can act as a spark for innovation. Innovation can result in increased operational efficiencies in the field. In our view, innovation and increased operational efficiency

will help many oil and gas companies improve their profits, or create profits, when oil stabilizes at, say, \$50 or \$60 per barrel. Securing rights in innovations - such as through trade secrets or patents - may provide a competitive edge within the market and also a potential revenue stream through licensing of the innovation.

Another proactive step that we advise our clients to undertake is to review all employment and contractor agreements. The purpose of this review is to ensure that all personnel are obliged to transfer any innovation-related rights to the company. If the agreements are not explicit on this point, we propose that now may be a good time to revise the agreements because when the price of oil begins to rise, and the next wave of hiring begins, revising the agreements will likely be deprioritized and forgotten. It is important to get legal advice on the best way to implement changes to agreements for existing employees, to ensure that the changes are enforceable. Including an explicit obligation to transfer innovation-related rights to the company at the time when new employment agreements are made may circumvent protracted negotiations with employees or contractors in the future.

We also advise our clients to pair a review of agreements with a review and, if necessary, update of any company policies that relate to how employees and contractors identify and report when innovation has occurred. The policies may also provide incentives for individuals that do innovate and report the innovation in line with the policies. While the agreements make individuals aware of their obligation to transfer innovation related rights to the company, the policies also help the individuals identify when innovation may have occurred and when those obligations arise. Furthermore, a policy that provides incentives for reporting new ideas and solutions to management may help fan the spark of innovation within the company.

Contact [Timothy Bailey](#) in our [Intellectual Property and Technology Group](#) if you have questions that relate to the proactive steps companies can take to secure and protect innovation.

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Calgary AB T2P 1M7
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Edmonton AB T5J 3G1
780-423-3003

YELLOWKNIFE

601 - 4920 52 ST
Yellowknife NT X1A 3T1
867-920-4542

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