

APPROPRIATE DISPUTE RESOLUTION

What is Appropriate Dispute Resolution?

As a regulator, the OGC is in a position to provide objective dispute resolution services and can help parties resolve disputes or concerns. Unresolved concerns will be weighed by the OGC in the application review process.

The OGC encourages the independent resolution of concerns and problems associated with oil and gas applications and related public engagement activities (early public engagement can mean less need for dispute resolution), but if two parties can't agree, the OGC encourages participants to use ADR to help resolve any differences. Early dispute resolution in the pre-application phase is a way of building understanding.

When is ADR Used?

In the OGC's pre-application process, a company outlines its plans for activities on the land. Should a member of the affected public identify an unresolved conflict, the OGC will recommend the use of an ADR process. The OGC appoints an ADR manager to facilitate discussions between parties.

Why is ADR Used?

It is in the best interest of both parties to participate in the ADR process, because the OGC will make its decision based only on available information. If information is not brought forward by affected parties, their interests may not be addressed.

By using the ADR process, the parties involved are likely to gain a sense of ownership over the proceedings and its outcome.

Using ADR has several other benefits:

- It can lead to win-win outcomes
- It improves and maintains relationships
- It is less costly than legal proceedings



How does the OGC's ADR Process Work?

An affected party can express concerns with proposed oil and gas activities by filing a Notice of Unresolved Concern with the OGC. The Notice forms part of the formal record that is reviewed by the OGC during its decision making process. Based on the issues identified, the OGC may offer to facilitate the dispute or encourage more formal ADR with a facilitator as a solution to the impasse. The process moves through a series of stages leading to an ultimate decision.

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What is the OGC's Role?

Once ADR has been initiated, the OGC continues to review the oil and gas application while at the same time monitors the stages of the dispute resolution process. OGC attempts to facilitate resolution through an interest-based approach and remains neutral.

Information gathered during the resolution process is used by the OGC to make a final decision on the oil and gas application. Neither process predetermines the outcome of the other.

Cost and Timing

The oil and gas applicant generally covers the participant's Preliminary Dispute Resolution meeting and the cost of the ADR process. As each ADR is unique, no formal resolution timetable has been established; however the process must be completed prior to the completion of the OGC's review of the oil and gas project.

Mediation and Arbitration

Disputes over right-of-entry and related financial compensation are handled by the Mediations and Arbitration Board and are not part of the OGC's ADR process.

The Oil and Gas Commission (OGC) and the Mediation and Arbitration Board (MAB) have parallel dispute resolution processes for landowners and oil and gas companies with respect to the same land and proposed oil and gas installation.

Both organizations provide dispute resolution services within their respective spheres of jurisdiction. The OGC reviews and adjudicates oil and gas activity applications through an environmental, social, and economic lens within the confines of applicable Acts and regulations and the MAB will hear disputes related to private land access and associated compensation. Both organizations coordinate the dispute resolution practices to better serve their clients.

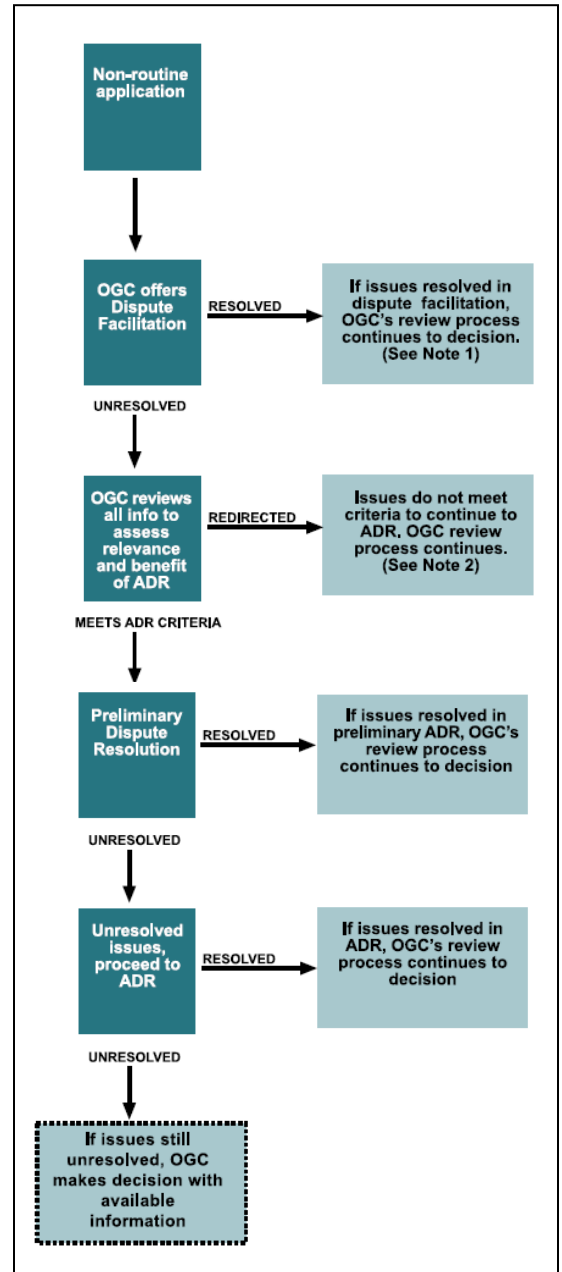


Figure 1 OGC ADR Process



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Information

Websites

Oil and Gas Commission – Landowner Liaison Inspector www.ogc.gov.bc.ca/landliaison.asp

The Canadian Association of Petroleum Producers www.capp.ca

International Association for Public Participation (Public Participation Toolbox) www.iap2.org

Publications

Appropriate Dispute Resolution - Guidelines, NEBC
www.neb.gc.ca/ActsRegulations/ADRGuidelines2003_e.pdf

A Guide to Public Engagement and Appropriate Dispute Resolution, OGC
www.ogc.gov.bc.ca/documents/guidelines/ADR_Guide.pdf

Guide for Effective Public Involvement, CAPP www.capp.ca

Landowner's Information Guide for Oil and Gas Activities in British Columbia, OGC
www.ogc.gov.bc.ca/landpubs.asp

Directive 056, Alberta Energy and Utilities Board www.eub.ca/docs/documents/directives/Directive056.pdf

MoU between Ministry of Energy Mines and Petroleum Resources and The Mediation and Arbitration Board - Dispute Resolution
http://www.em.gov.bc.ca/subwebs/M&ABoard/legislation_links_pubs/OGC_MAB_MOU.pdf