

**ARTICLE 85-06
MINERALS MANAGEMENT**

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**CHAPTER 85-06-01
OIL AND GAS**

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85-06-01-15. Offset Obligations.

1. If an oil and gas well has been drilled and is producing in commercial quantities from mineral acreage owned by another or from adjacent trust lands leased at a lesser royalty, which well is within one thousand feet of the trust lands, the lessee of the trust lands shall, within one hundred twenty days after completion of such well, exercise one of the following options:
 - a. Diligently begin in good faith the drilling of a corresponding offset well on the leased trust lands, or on lands pooled therewith;
 - b. Pay a compensatory royalty, as determined by the commissioner, in lieu of the drilling of an offset well. If a lessee elects to pay a compensatory royalty, the lessee shall submit to the commissioner, within thirty days of the date such election, a proposed compensatory royalty agreement based on the estimated drainage area of the well located within one thousand feet of the trust lands. Geological, engineering, or other evidence in the form of a narrative and/or maps which form the basis for the offset drainage computation must be included with the proposed agreement;
 - c. Release the leased acreage to avoid the offset requisites; or
 - d. Submit a request to the commissioner for a waiver of the offset obligation as follows:
 - (1) A request for a waiver of the offset obligation must be in writing and provide the grounds for the request. If a request is made, the lessee shall submit to the commissioner, within thirty days of the request, geological, engineering or other evidence in the form of a narrative and/or maps which, in the opinion of the lessee, indicates that an additional well need not be drilled to reasonably develop or protect the trust lands from offset drainage due to the well located within one thousand feet on trust land. After a review of the evidence required to be submitted, the commissioner may:
 - (a) Request that the lessee supply additional evidence to support:

1. The request for a waiver of the offset obligation; or
2. The proposed compensatory royalty agreement submitted by the lessee.

- (b) Grant a waiver of the offset obligation;
- (c) Approve the proposed compensatory royalty agreement of the lessee;
- (d) Require the lessee to pay compensatory royalties as determined by the commissioner;
- (e) Take such other action as the commissioner may deem appropriate, including the acceptance of a release either in whole or in part as to all or less than all strata included in the lease; or
- (f) Cancel the lease in accordance with section 85-06-01-10.

(2) A waiver of offset obligation is effective from the date of approval by commissioner. The commissioner may revoke a waiver of offset obligation if the commissioner determines the action is in the best interests of the trusts. If a waiver of offset obligation is revoked, the department shall provide notice to the lessee by certified mail. In the event of revocation, lessee shall have one hundred twenty days from the date of revocation to exercise one of the options under this section.

(3) Lessee shall submit a report as to the conditions regarding offset drainage from an offset well every five years from the date of approval of waiver of offset obligation. If there is a change of conditions regarding offset drainage from an offset well at any time, lessee shall be required to submit a report notifying the department of the change within one hundred twenty days of the change of conditions.

(4) The commissioner shall notify the lessee of the commissioner's decision.

2. If the lessee fails to exercise any of the options in subsection (1) the oil and gas lease is subject to cancellation under section 85-06-01-10.

3. The commissioner is authorized to approve compensatory royalties on the board's behalf in accordance with this section.

4. If an application does not comply with this section, or if the commissioner determines board review is desirable, the application may be brought before the board for its consideration.

History: Effective _____.

General Authority: NDCC 15-05-09, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 61-33-06, 61-33.1