



## Interior Board of Land Appeals Denies Royalty-Free Fuel Gas Used Off-Lease

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The Interior Board of Land Appeals (IBLA) recently issued a decision rejecting a lessee's request for royalty-free use of gas to operate a compressor located off-lease. See *Plains Exploration & Production Company*, 178 IBLA 327 (2010).

Under the federal regulations (30 C.F.R. § 202.150(b)(1)) and Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A), lessees may use gas for "beneficial purposes" for "oil or gas which is used on or for the benefit of that same lease, same communitized tract, or same unitized participating area for operating or producing purposes."

In their appeal, the lessee argued that the phrase "for the benefit of that same lease" implies that the beneficial use is not specifically limited to operations on-lease, but may also be used for off-lease operations as long as they are "for the benefit" of the lease. The IBLA rejected the lessee's interpretation of the phrase "for the benefit of" and held that royalty-free beneficial fuel gas is limited to circumstances where the gas is used on the same lease or used off-lease in a communitized tract or unitized participating area. *Id.* at 340. The IBLA was unwilling to "greatly expand" NTL-4A to allow lessees to use royalty-free fuel gas off-lease for leases not in units or communitized tracts. *Id.*