



File No.
1442

97

Dawson
Creek

**AEC Oil & Gas
Co. Ltd. - locations**

File No.
1375, 1388

43

File No.
1471

MEDIATION AND ARBITRATION BOARD
Under the Petroleum and Natural Gas Act
114, 10142 101 Avenue
Fort St. John, BC V1J 2B3

Date: October 6 1999

File No. 1375 & 1388

Board Order No. 295A

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM
AND NATURAL GAS ACT BEING CHAPTER 361
OF THE REVISED STATUTES OF BRITISH
COLUMBIA AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PARCEL (P4966) OF
SECTION FOURTEEN, TOWNSHIP TWENTY-NINE,
AND THE NORTH ½ OF SECTION 14, TOWNSHIP
TWENTY-NINE PEACE RIVER DISTRICT EXCEPT THE
WEST 25 METRES, WEST OF THE SIXTH MERIDIAN
(PARCEL A & NORTH ½ 14-29)
(THE LANDS)

BETWEEN:

AEC OIL & GAS CO. LTD.
3700, 707 -8TH AVENUE, SW
CALGARY ALBERTA
T2P 1H5
(THE APPLICANT)

AND:

TAL DOUGLAS PINCOTT
BOX 11
BUFFALO CREEK BC
V0K 3Y3
(THE RESPONDENT)

ARBITRATION ORDER

BACKGROUND:



Pioneer Land Services Ltd. initially contacted Tal Pincott in December of 1998 regarding a proposed wellsite and access road. Negotiations between the two parties did not result in a surface lease agreement. The Mediation and Arbitration Board received from Pioneer Land Services Ltd., Agent for AEC Oil & Gas Co. Ltd. on 8 January 1999 an application for Mediation and Arbitration and Permission to Enter, to the said lands for the purpose of constructing, drilling, producing, testing and/or abandonment of a proposed wellsite and access Right-Of-Way.

Pursuant to Section 18 (1) of the Petroleum and Natural Gas Act, Ivor Miller was designated Mediator. A Mediation Hearing was held via conference call on 15 January 1999, and resulted in Board Order 295M being issued which granted AEC Oil & Gas Co. Ltd. Right-Of-Entry to the said lands.

On 16 August 1999, the Mediation and Arbitration Board received an application for Mediation and Arbitration and Permission to Enter, to the said lands for the purpose of extending an existing wellsite. The main concern of the Applicant was the lack of success in negotiating a satisfactory agreement on compensation for the extension to the existing wellsite. A Mediation Hearing was scheduled for 10 September 1999 via a telephone conference call. The extension was granted under Board Order 295-1M.

As the parties were unable to agree on a compensation package, an Arbitration Hearing was scheduled for 24 September 1999.

An on-site inspection was conducted by Mavis Nelson

The Hearing

The Arbitration hearing was held on 24 September 1999 at 1:00 p.m. in the Boardroom of Execuplace Business Centre, located at 10142 101 Avenue, Fort St. John BC

The Arbitration Panel consisted of Acting Chairman Ivor Miller, Bud Hosker Member and Mavis Nelson Member. Representing the Applicant, was Chris Bakker of Pioneer Land Services Ltd.; and Tal Pincott representing the Respondent.

Position of the parties:

Applicant

Chris Bakker of Pioneer Land Services Ltd. presented Exhibit "A" which included survey plans. Details of meetings and discussions with the Respondent, details of ongoing discussions with the Mediation and Arbitration Board, lease payments to other landowners as detailed on 4 survey plans of comparable size and locations. Prior to the Arbitration Hearing, AEC Oil & Gas Ltd. compensation offer was \$ 7,648.00 for the first year and an annual payment of \$ 2,900.00. This offer was withdrawn and replaced with an offer of \$ 6,368.00 first year and \$ 811 annual.

Respondent

The Respondent did not want any activity what so ever on his property, as he had purchased the land for his own "quiet enjoyment". The Respondent realized that a Right-Of-Entry would be granted to AEC Oil & Gas Ltd. and requested that the property be fenced with proper gates as per verbal agreement outlined on survey plan Exhibit "C". He also wanted the salt lick protected, and a chain link fence to surround the well head and buildings the same as his neighbours.

There was some discussion about the existing road that wandered through the south portion of his property. This road comes under Section 4 of the Highways Act and could not be considered by the Mediation and Arbitration Board as part of the Arbitration.

The Respondent wanted the anniversary date to be back dated to 18 December 1998, as this is the date which he gave verbal approval to the Applicant to survey the lease.

The Respondent's latest compensation request as per Board Order 295-1M was \$ 9,700.00 for the first year and \$ 4,800.00 annual payment. After the Applicant withdrew their offer, the Respondent also withdrew his compensation request and entered a new compensation request of \$ 10,000.00 first year and \$ 5,000.00 annual.

DECISION:

The Arbitration Panel, having reviewed all the evidence presented at the Hearing, and the arguments made in support have considered the following:

1. The Applicant has made a sincere effort to come to an agreement with the Respondent through on going discussions since late 1998 and two mediations to complete the lease agreement and compensation for entry.
2. The Board considered the Respondents position of "quiet enjoyment" which included the wildlife which frequented his property.
3. The Applicant to conform to the Respondents wishes concerning fencing of well head and salt lick, gates as per outlined on survey plan Exhibit "C" to be completed at completion of drilling and construction.

The Arbitration Panel therefore concurs that the Applicant's original offer takes into consideration all aspects of Section 21 (1) of the Petroleum and Natural Gas Act, and has also used comparable leases to reflect market values for the surrounding area.

IT IS HEREBY ORDERED THAT:

1. The Board hereby orders AEC Oil & Gas Ltd. to pay Tal Pincott the amount of \$ 7,434.00 for first year compensation minus the partial payment as per Board Order 295M, and annual rent of \$ 2,934.00. The annual payment will be due and payable before or on the anniversary of the Right-Of-Entry Board 295M until such a time this order may be canceled or amended pursuant to 'section 26 (2) of the Petroleum and Natural Gas Act, or until such time an agreement is renegotiated pursuant to Section 11 (2) of the Petroleum and Natural Gas Act, or until a date stated in the restoration

certificate pursuant to Section 20 (3) (b) of the Petroleum and Natural Gas Act. The balance due for first year compensation payable is \$ 434.00. The first annual payment (of \$ 2,934.00) shall be due on 18 January 2000.

2. Nothing in this order is or operates as consent permit or authorization that by enactment a person is required to obtain in addition to this order.

Dated at the City of Fort St. John, British Columbia, this 6th day of October 1999.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Ivor Miller, Acting Chairman

Mavis Nelson, Member

Bud Hosker, Member

MEDIATION AND ARBITRATION BOARD
Under the *Petroleum and Natural Gas Act*
#114, 10142 - 101 Avenue
Fort St. John, BC V1J 2B3

Date: 21 May 2002

File No. 1442

Board Order No. 352A (Costs)

BEFORE THE BOARD:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT BEING CHAPTER 361 OF THE REVISED STATUTES OF BRITISH COLUMBIA AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF THE SOUTH EAST QUARTER OF SECTION 6, TOWNSHIP 80, RANGE 13 WEST OF THE SIXTH MERIDIAN PEACE RIVER DISTRICT
(THE LANDS)

BETWEEN:

AEC Oil & Gas
3700, 707-8TH AVENUE
CALGARY, ALBERTA
T2P 1H5
(THE APPLICANT)

AND:

FREDERICK SAMUEL NOBBS
BOX 156
BONANZA, ALBERTA
T0H 0K0
(THE RESPONDENT)

ARBITRATION ORDER

Nature of application

Arbitration was held before a panel of the Mediation and Arbitration Board consisting of Ivor Miller, Frank Breault and Rod Strandberg in Fort St. John on 19 November 2001, regarding an application by AEC Oil & Gas Ltd. (the Applicant) to register a flow line on, or have documents for a statutory Right-Of-Way executed for registration on title to property owned by the Respondent, Fred Nobbs.

Mr. Dellow appeared as counsel for the Applicant with Raymond Fromme, a land man working on behalf of the Applicant. Mr. Nobbs appeared on his own behalf.

At the conclusion of the Arbitration the Board asked the parties to provide further submissions. The sole remaining issue to be addressed is Mr. Nobbs's entitlement to cost under Section 27 of the Petroleum and Natural Gas Act.

Background

When Mr. Nobbs provided the additional information requested of him following the arbitration he included an account from Darryl Carter, Q.C. a lawyer in Grande Prairie for which he sought reimbursement. Mr. Nobbs advised that when Mr. Fromme first approached him, representing the Applicant, Mr. Fromme advised that the Applicant would pay for any fees encountered.

Mr. Dellow, counsel for the Applicant, took the position that Mr. Nobbs was not entitled to costs. Citing the British Columbia Supreme Court decision of Viens, the Applicant noted that the decision stood for the proposition that until the Mediation and Arbitration Board developed a scale of costs, that the Tariff of costs used in the Supreme Court would, by default, apply to proceedings before the Board. Rule 57 of the **Rules of Court** provide that a Plaintiff who brings proceedings in Supreme Court but whose claim is less than \$ 10,000.00 is not entitled to costs, only disbursements, in that proceeding.

In the Application before the Board both the amount sought by Mr. Nobbs and the amount ultimately awarded was less than \$ 10,000.00. Accordingly, the Applicant was of the view that Mr. Nobbs was not entitled to costs, either for the arbitration or the mediation which proceeded it.

Discussion

Proceedings before the Board are not the same as proceedings in Court. As an administrative tribunal attempting to balance the rights of the owners of the surface and the subsurface other considerations besides the quantum involved and the success of one part or another govern an award of costs. Costs are as important in the consideration of compensation as any other factor.

The Board rejects the position of the Applicant that the principles, which are applicable in Supreme Court, are of equal application in proceedings before the Board.

Part of the rationale for entitlement to costs in Supreme Court is that, for smaller claims. There is an alternative forum in which a remedy can be obtained, namely Small Claims Court. Depriving a party of costs for proceedings commenced in Supreme Court which were more properly brought in small claims court acts, in part, as a penalty for bringing proceedings in the wrong forum.

In this case, it was the Applicant, and not the Respondent, who made this application. Accordingly, the Applicant chose the forum to deal with this matter. Additionally, there is no other alternative forum available to deal with the issues dealt with in this matter. Therefore, it would be an illogical conclusion for the Board to reach that the Respondent in this case should be deprived his costs.

The Board does not accept that the Applicant is responsible for any of the account of Darryl Carter, Q.C. There is no evidence that this account was paid or intended to be paid by Mr. Nobbs. Mr. Carter appeared neither at the mediation nor the arbitration in these matters.

Mr. Nobbs is entitled to be compensated for his time and out of pocket expenses of having been brought before the Board and attending both a mediation and arbitration as well as making submissions after the arbitration. If the factor of success is to be given any weight, then the award made by the Board exceeded the offer of the Applicant and, accordingly, Mr. Nobbs was entitled to have this process followed.

The Board awards Mr. Nobbs the sum of \$ 600.00 to compensate him for his time and out of pocket expenses necessarily incurred in dealing with the application brought before the Mediation and Arbitration Board by the Applicant.

IT IS HEREBY ORDERED THAT;

1. The Applicant will forthwith pay to the Respondent the sum of \$ 600.00.
2. The Applicant will within 30 days (20 June 2002) provide to the Board proof of this payment.
3. Nothing in this order is or operates as consent, permit or authorization that by enactment a person is required to obtain in addition to this order.

Dated at the City of Fort St. John, British Columbia, this 25th day of May 2002.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Rodney J. Strandberg, Chair

S. Frank Breault, Member

Ivor Miller, Member

MEDIATION AND ARBITRATION BOARD
Under the Petroleum and Natural Gas Act
#114, 10142 - 101 Avenue
Fort St. John, BC V1J 2B3

Date: 29 May 2002

File No. 1471

Board Order No. 353M

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND
NATURAL GAS ACT BEING CHAPTER 361 OF
THE REVISED STATUTES OF BRITISH
COLUMBIA AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF THE
BLOCK A OF DISTRICT LOT 341 WEST OF
THE SIXTH MERIDIAN PEACE RIVER
DISTRICT
(c-91-1/93-P-1 W6M)
(THE LANDS)

BETWEEN:

AEC OIL & GAS CO. LTD.
3900, 421-7TH AVENUE SW
CALGARY, ALBERTA
T2P 4K9
(THE APPLICANT)

AND:

JAMES LETENDRE
KELLY LAKE, BC
V0C 2C0
(THE RESPONDENT)

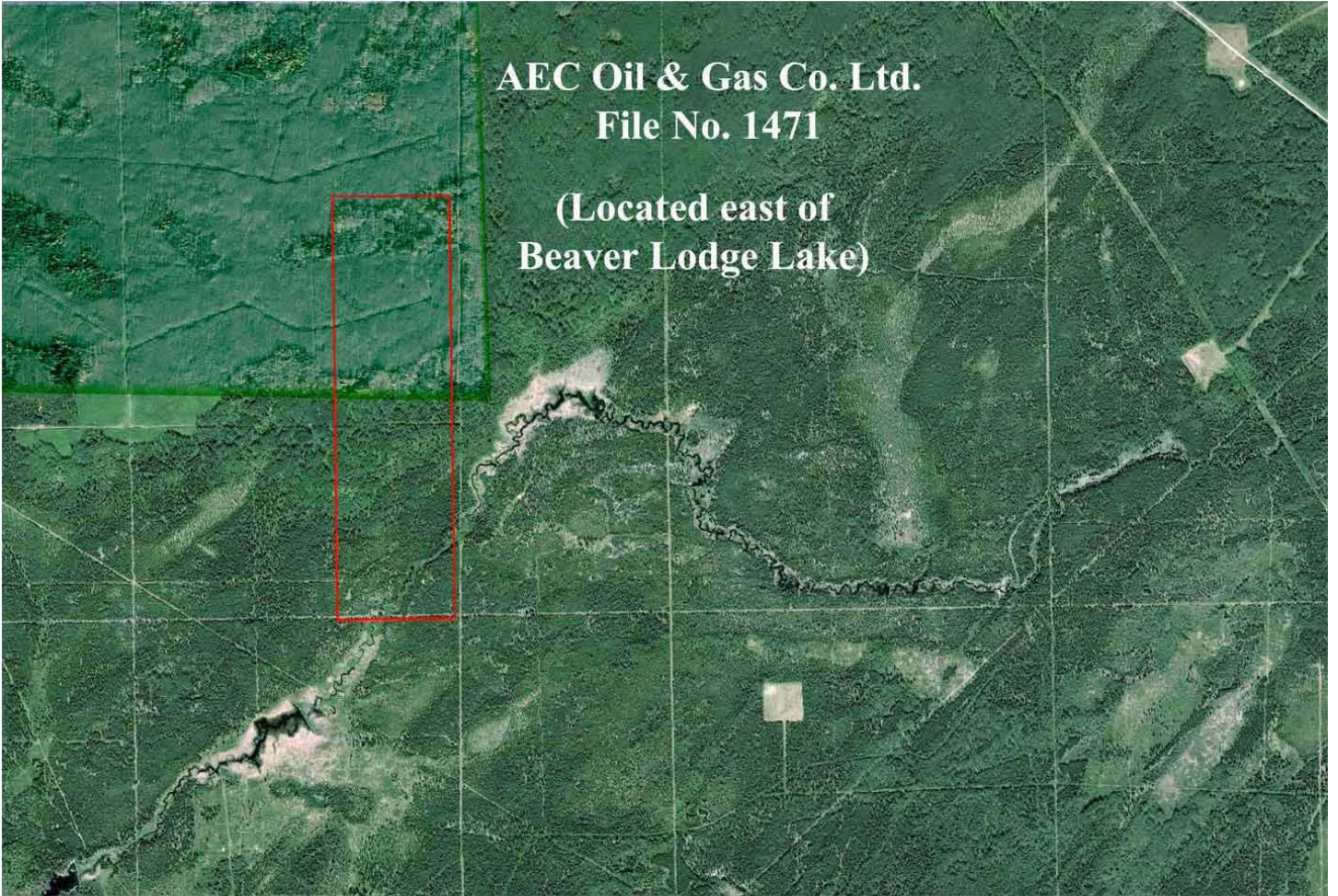
MEDIATION ORDER

BACKGROUND:

AEC Oil & Gas Co. Ltd.

File No. 1471

**(Located east of
Beaver Lodge Lake)**



The Mediation and Arbitration Board received an application for Mediation and Arbitration and Permission to enter on 30 April 2002 from David Damery, agent for AEC Oil & Gas Co. Ltd. The purpose of the application is for permission for the Applicant to enter upon the Respondent's land to construct the proposed well site and access, located at c-91-1/93-P-1.

Pursuant to Section 18 (1) of the Petroleum and Natural Gas Act, Rodney Strandberg was designated Mediator. The Mediator confirms that the application was properly filed.

A Mediation Hearing was conducted by Rodney J. Strandberg, Chair of the Mediation and Arbitration Board in Fort St. John on Tuesday 21 May 2002 regarding an application by AEC Oil & Gas Co. Ltd. for a Right-Of-Entry onto land registered in the name of James Collin Letendre.

Attending on behalf of the Applicant was David Damery. The registered owner is deceased and his will has not yet been probated. The executor appointed in the will of James Letendre, Howard Letendre and the alternate executor, Jeanne Letendre appeared in person. Galena Letendre, wife of the deceased and the person entitled to a life interest in the property did not attend but sent a letter authorizing Howard Letendre to speak to the Board on her behalf.

The Applicant also produced an agreement between Howard Letendre, Jeanne Letendre and Galena Elsie Letendre providing that once the last will of James Letendre was probated the Executor would execute a Lease to be registered against the land. Notwithstanding this, the Applicant seeks a Right-Of-Entry order under section 19 of the Petroleum and Natural Gas Act. This agreement provides that payments pursuant to any lease are to be paid to Stasiuk and Company, solicitors for the estate of James Letendre.

The parties have agreed on compensation for this lease for an access road and well located at c-91-1/93-P-1 and temporary workspace in the amount of \$ 8,000.00 for first year and \$ 3,000.00 annually.

The parties taking no issue with the compensation offered, the Board is prepared to issue a Right-Of-Entry order on the terms sought by the Applicant. In issuing this Right-Of-Entry order the Board should not be viewed as warranting that the Right-Of-Entry is capable of registration at the Land Title office. However, as it appears that all persons who might be viewed as deriving a benefit under the will of the deceased are consenting to this arrangement, the Board makes the following order pursuant to Section 18 (3) of the Petroleum and Natural Gas Act:

IT IS HEREBY ORDERED THAT:

1. Pursuant to Section 18 (2) (c) of the Petroleum and Natural Gas Act, further Mediation Hearings are refused as all issues between the parties are resolved.
2. Pursuant to Section 19 (1) of the Petroleum and Natural Gas Act the Applicant is entitled to enter upon the lands legally described as the Part of Block A of District Lot 341 W6M for the purposes of constructing and bringing into production the proposed well site and access road shown in the Individual Ownership Plan marked Exhibit "A" and attached.

3. Pursuant to Section 19 (2) (a) of the Petroleum and Natural Gas Act, the Applicant is required to deposit security by way of a cheque made payable to the Minister of Finance in the amount of \$ 5,000.00. The Security deposit is to be delivered to the Board forthwith and, in any event, prior to entering onto the land;
4. Pursuant to Section 19 (2) (b) of the Petroleum and Natural Gas Act, the Applicant shall deliver the partial payment in the amount of \$ 8,000.00 to Glen Stasiuk, solicitor for the estate, to be held in trust. This payment is to be made forthwith and, in any event, prior to entering onto the land.
5. The Respondents Howard Letendre, who traveled to Fort St. John from Grande Prairie, a return distance of 410 kilometers, and Jeanne Letendre, who traveled to Fort St. John from Pouce Coupe, a return distance of 180 kilometers are entitled to costs pursuant to Section 27 of the Petroleum and Natural Gas Act. Mr. Damery advised that he is paid \$ 0.70 per kilometer and this is accepted as the freely agreed rate to be paid per kilometer for costs of this Mediation. Accordingly, pursuant to Section 27) of the Petroleum and Natural Gas Act, the Applicant will forthwith pay to Howard Letendre the sum of \$ 287.00 and to Jeanne Letendre the sum of \$ 126.00 and provide proof of payment to the Board within 14 days (12 June 2002). These costs are payable notwithstanding whether the Applicant exercises the Right-Of-Entry granted in this order, or not.
6. Nothing in this order is or operates as consent, permit, or authorization that by enactment a person is required to obtain in addition to this order.

Dated at the City of Fort St. John, British Columbia, this **29th day of May 2002**.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Rodney J. Strandberg, Mediator