

File No. 1795
Board Order No. 1795-1

February 22, 2013

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF THE
SOUTHWEST ¼ OF SECTION 32, TOWNSHIP 81, RANGE 17 WEST OF THE
6TH MERIDIAN, PEACE RIVER DISTRICT EXCEPT PLAN A938

(The "Lands")

BETWEEN:

ARC Resources Ltd.

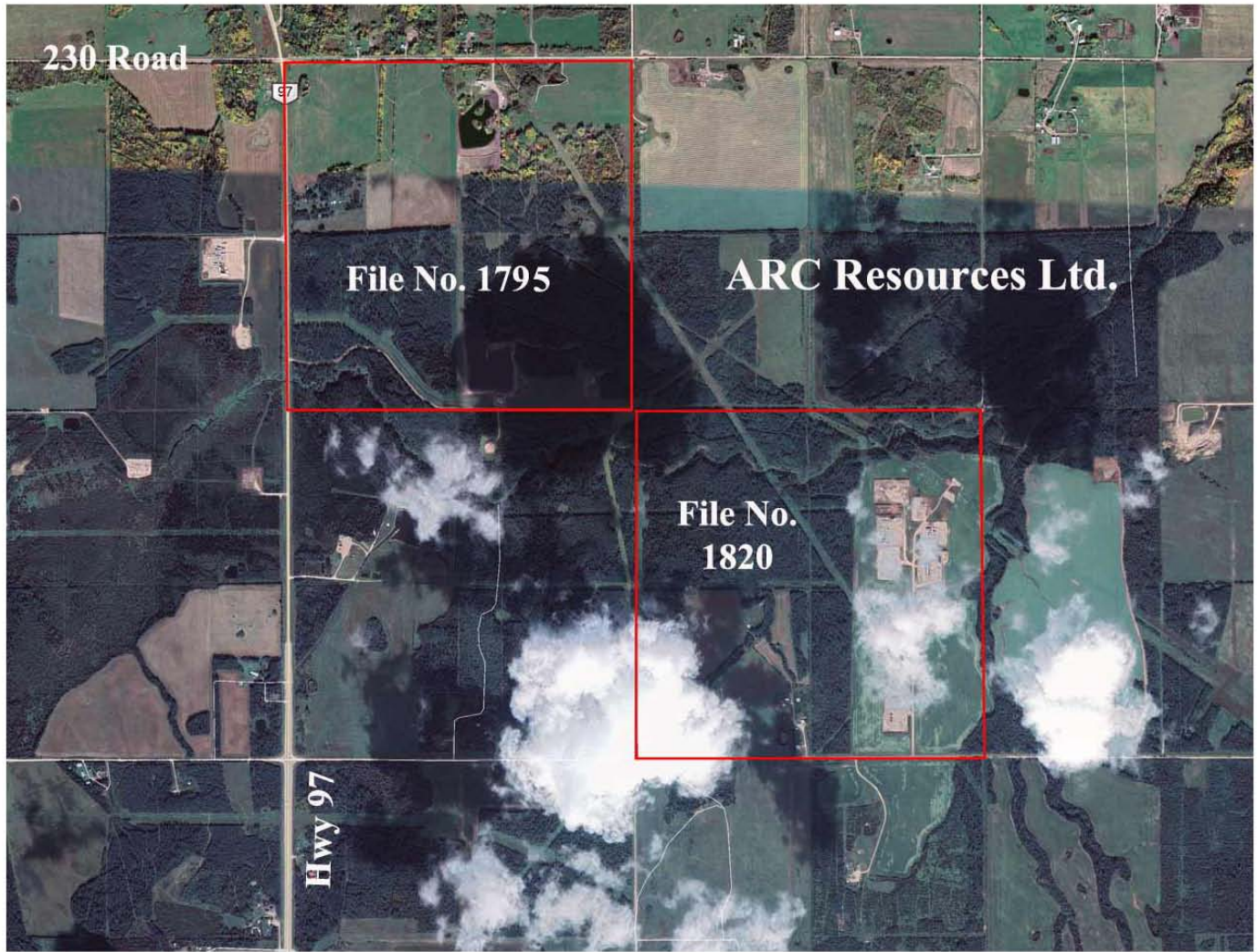
(APPLICANT)

AND:

Daniel Leigh Kerr and Patricia Albra Bell

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Daniel Leigh Kerr and Patricia Albra Bell to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flow lines.

On January 31, 2013, 2012, I conducted a mediation attended by P. Bell and E. Gowman for the landowners, and D. Rosie and R. Williams for ARC. During the mediation the parties discussed ARC's application for a Right of Entry order, and they also discussed the possible terms and conditions. At that time, the Oil and Gas Commission had not approved ARC's permit for the project, but subsequently issued their permit on February 20, 2013.

In the results correspondence I said: "The Board will issue the right of entry order once the OGC has issued its permit. Ms. Bell said she would spend some time examining the draft and may have suggestions for change. If so, I will try to deal with them without convening a further telephone mediation call." Ms. Bell did not provide any further suggestions.

The Board is satisfied that Arc requires the Right of Entry for an oil and gas activity, as this project involves moving product through flow lines from its wells to a plant. The fact the Oil and Gas Commission has approved this project supports this finding.

ORDER

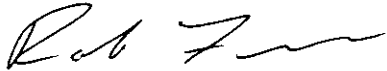
Pursuant to section 159 of the *Petroleum and Natural Gas Act*, the Board orders as follows:

1. Upon payment of the amounts set out in paragraphs 3 and 4, ARC Resources Ltd. (ARC) shall have the right of entry to and access across the portions of the lands legally described as SOUTHWEST ¼ OF SECTION 32, TOWNSHIP 81, RANGE 17 WEST OF THE 6TH MERIDIAN, PEACE RIVER DISTRICT EXCEPT PLAN A938 as shown outlined in red on the Individual Ownership Plan attached as Appendix "A" (the "Lands") for the purpose of carrying out the approved oil and gas activities, namely the construction, operation and maintenance of flow lines and associated works.
2. ARC's right of entry shall be subject to the terms and conditions attached as Appendix "B" to this right of entry Order.

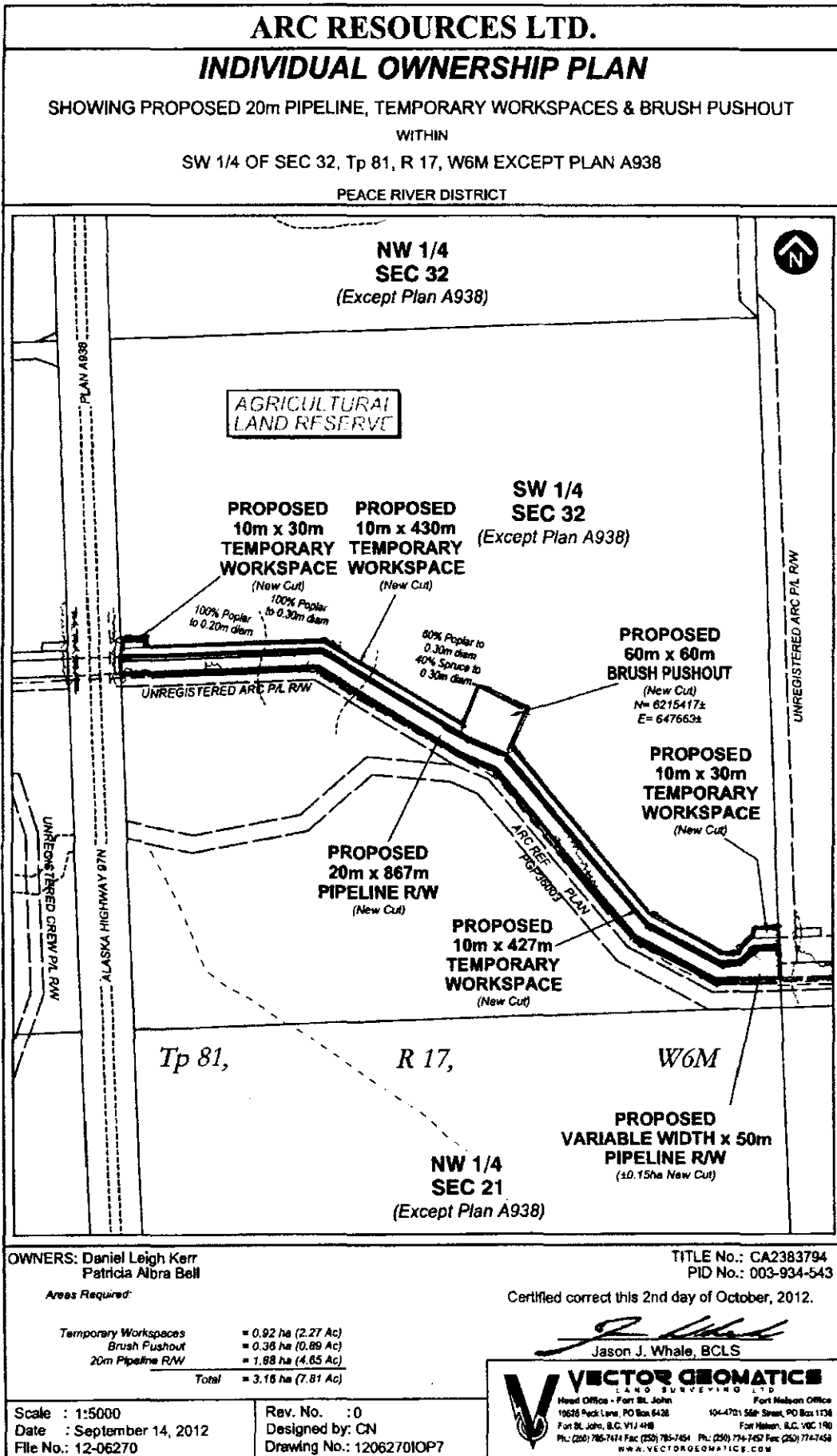
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowners, upon agreement of the parties or as ordered by the Board.
4. ARC shall pay to the landowners as partial compensation (including timber loss) the amount of \$8,000.00.
5. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: February 22, 2013

FOR THE BOARD



Rob Fraser, Mediator



OWNERS: Daniel Leigh Kerr
Patricia Albra Bell

TITLE No.: CA2383794
PID No.: 003-934-543

Areas Required:

Certified correct this 2nd day of October, 2012.

Temporary Workspaces	= 0.92 ha (2.27 Ac)
Brush Pushout	= 0.36 ha (0.89 Ac)
20m Pipeline R/W	= 1.88 ha (4.65 Ac)
Total	= 3.16 ha (7.81 Ac)

Jason J. Whale
Jason J. Whale, BCLS

Scale : 1:5000
Date : September 14, 2012
File No.: 12-06270

Rev. No. : 0
Designed by: CN
Drawing No.: 12062701OP7

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LAND SURVEYING LTD.

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19518 Peck Lane, PO Box 6428
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104-4701 56th Street, PO Box 1138
Fort Nelson, B.C. V0C 1R0
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www.vectorgeomatics.com

APPENDIX "B"
CONDITIONS FOR RIGHT OF ENTRY

1. ARC shall make all reasonable efforts to contain its operations to the areas indicated in red on the Individual Ownership Plan, including but not limited to, the travel and movement of personnel, vehicles, equipment, unless otherwise approved by the landowners.
2. ARC shall make a reasonable effort to prevent the entry and spread of weeds on the Lands caused by ARC's operations.
3. ARC covenants and agrees to indemnify and save harmless the landowner from liabilities, damages, costs, claims, liens, suits or actions arising directly out of ARC's operations on the Lands, other than arising from or related to the wilful conduct or negligence of the landowners.
4. ARC will make all reasonable attempts to notify the landowners if any work, other than routine maintenance or inspection, is to be done on the Lands.

File No. 1820
Board Order No. 1820-1

December 11, 2013

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF THE
NORTHWEST ¼ OF SECTION 28, TOWNSHIP 81, RANGE 17 WEST OF THE
6TH MERIDIAN, PEACE RIVER DISTRICT EXCEPT THE WESTERLY 14 FEET
PARALLEL WIDTH THEREOF

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Daniel Leigh Kerr and Patricia Albra Bell

(RESPONDENTS)

BOARD ORDER

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Daniel Leigh Kerr and Patricia Albra Bell to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flow lines.

On December 10, 2013, I conducted a mediation attended by D. Kerr and E. Gowman for the landowners, and D. Rosie and R. Williams for ARC. During the mediation the parties discussed ARC's application for a Right of Entry order, and they also discussed the possible terms and conditions.

The Board is satisfied that Arc requires the Right of Entry for an oil and gas activity, as this project involves moving product through flow lines from an existing riser to another existing riser. The fact the Oil and Gas Commission has approved this project supports this finding. The parties have agreed on the conditions to this Right of Entry, including partial compensation. The parties will continue their discussions on compensation.

ORDER

Pursuant to section 159 of the *Petroleum and Natural Gas Act*, the Board orders as follows:

1. Upon payment of the amounts set out in paragraphs 3 and 4, ARC Resources Ltd. (ARC) shall have the right of entry to and access across the portions of the lands legally described as NORTHWEST $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 81, RANGE 17 WEST OF THE 6TH MERIDIAN, PEACE RIVER DISTRICT EXCEPT THE WESTERLY 14 FEET IN PARALLEL WIDTH THEREOF as shown outlined in red on the Individual Ownership Plan attached as Appendix "A" (the "Lands") for the purpose of carrying out the approved oil and gas activities, namely the construction, operation and maintenance of flow lines and associated works.
2. ARC's right of entry shall be subject to the terms and conditions attached as Appendix "B" to this right of entry Order.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowners, upon agreement of the parties or as ordered by the Board.
4. ARC shall pay to the landowners as partial compensation (including timber loss) the amount of \$10,570.00.

5. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: December 11, 2013

FOR THE BOARD



Simmi K. Sandhu, Mediator

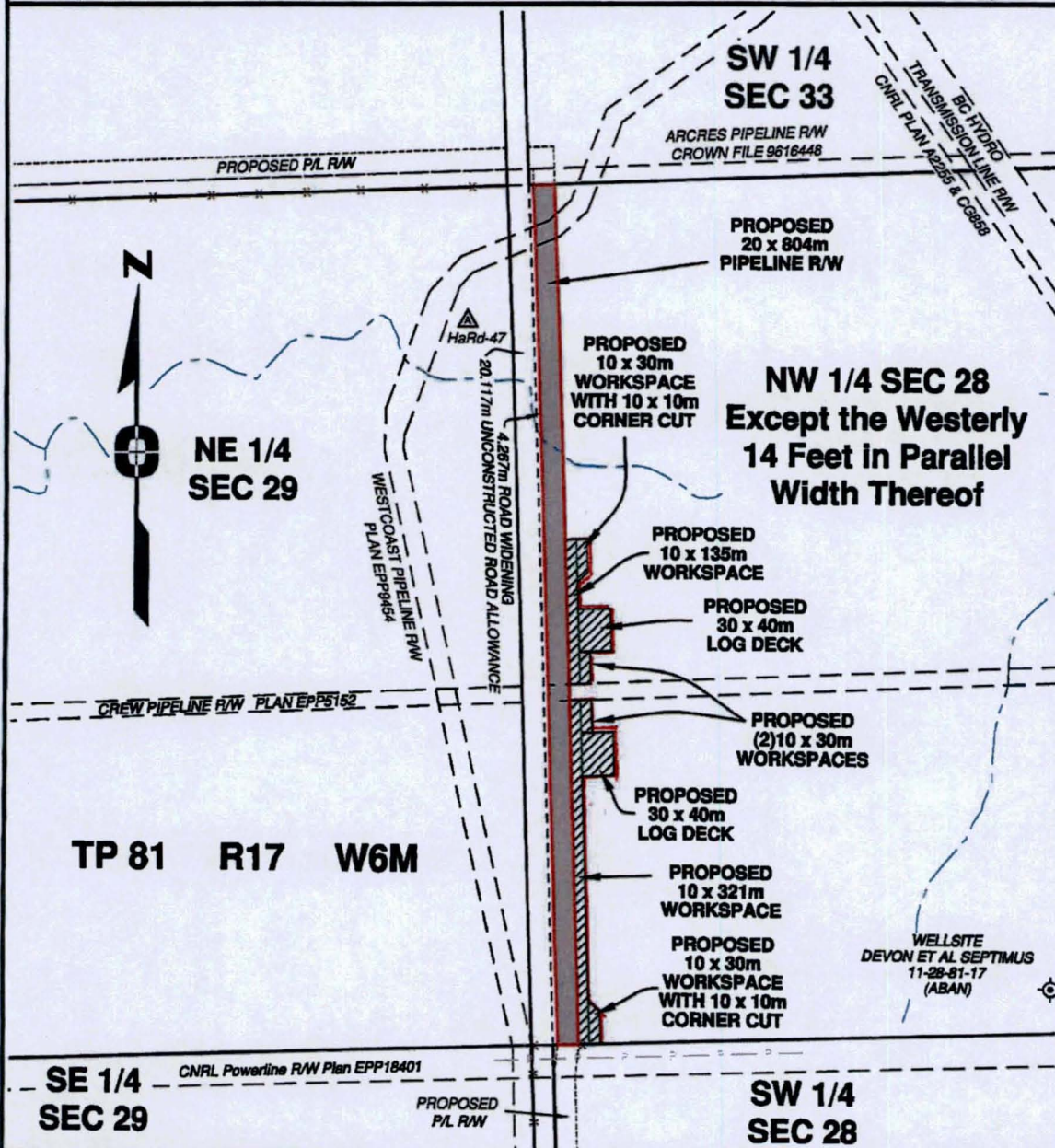
SCHEDULE "A"

Page ___ of ___

Attached to and made part of this Agreement dated this ___ day of _____, 20___, between Daniel Leigh Kerr & Patricia Albra Bell (Grantor) and Arc Resources Ltd. (Grantee).

**INDIVIDUAL OWNERSHIP PLAN SHOWING
PROPOSED 20m PIPELINE R/W WITHIN
NORTH WEST 1/4 OF SECTION 28, TOWNSHIP 81, RANGE 17, W6M
PEACE RIVER DISTRICT**

(Associated with Pipeline R/W from Riser Site at 2-32-81-17 to tie-in at Riser Site at 4-21-81-17)



Owner(s): Daniel Leigh Kerr
Patricia Albra Bell

Title No: CA2383860

Parcel Identifier: 003-921-484

100 0 100 200 300 400

The intended plot size of this plan is 216mm in width by 356mm in height when plotted at a scale of 1: 5000 (use legal size sheet)

Certified correct this 2nd day of July, 2013

Harald Riessner

Harald Riessner, BCLS

Areas		
Permanent	1.61 ha	3.98 ac
Temporary	0.83 ha	2.05 ac
Total	2.44 ha	6.03 ac

FOCUS
FCS Land Services Limited Partnership
10716 - 100th Avenue Fort St John BC
V1J 1Z3 250.787.0300 www.focus.ca

Focus Job No: 120984NP03R0
Ref Dwg: 120984CP01R0
Drafter: SP/TMC

APPENDIX "B"
CONDITIONS FOR RIGHT OF ENTRY

1. ARC shall perform a timber cruise prior to the construction of the pipelines.
2. ARC shall remove all timber cleared during construction from the Lands.

File No. 1825
Board Order No. 1825-1

February 25, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST $\frac{1}{4}$ OF SECTION 16 TOWNSHIP 80 RANGE 16 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT THE MOST
SOUTHERLY 14 FEET IN PARALLEL WIDTH THEREOF AND PLAN 33350
(The "Lands")

BETWEEN:

DAVID RAYMOND MILLER

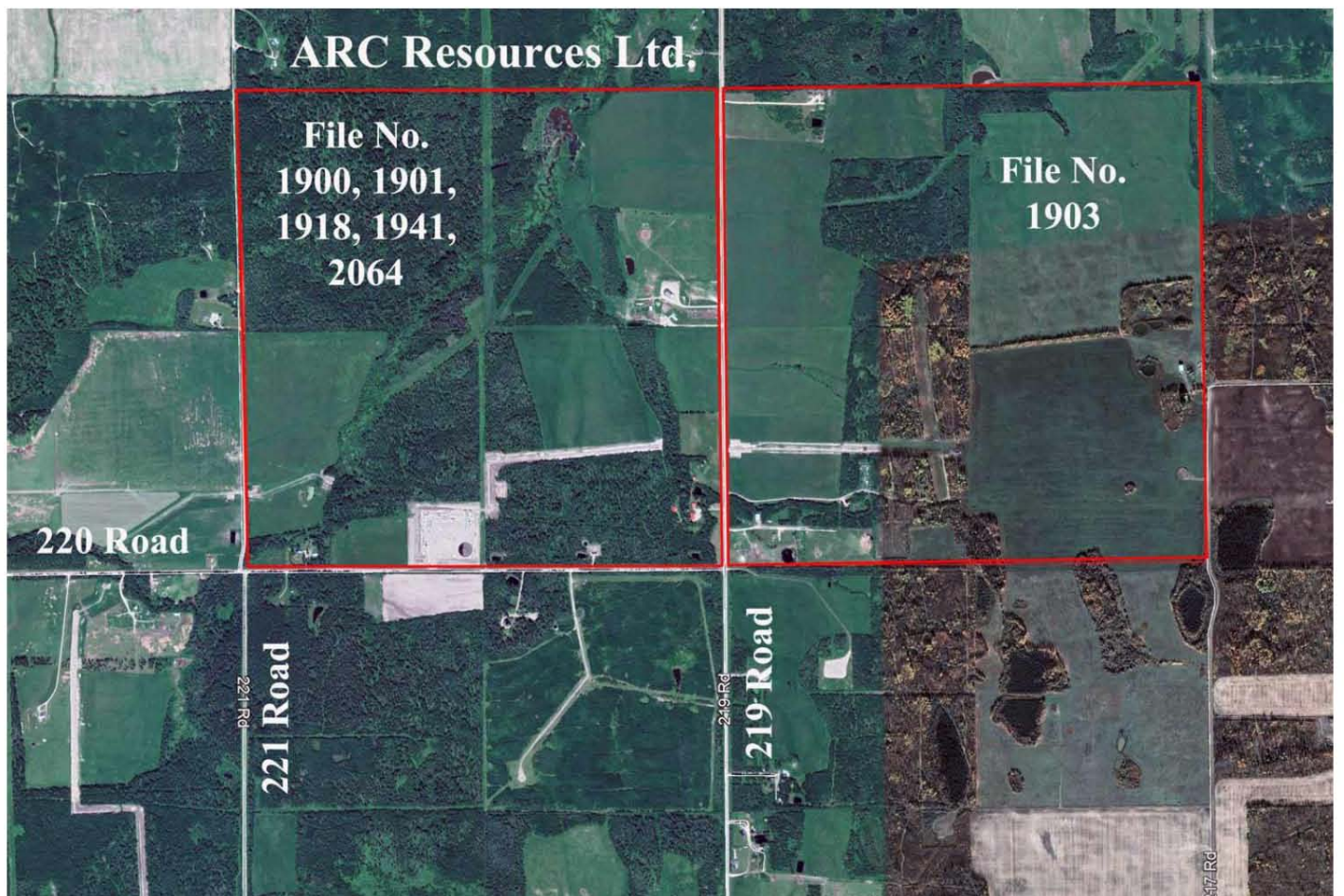
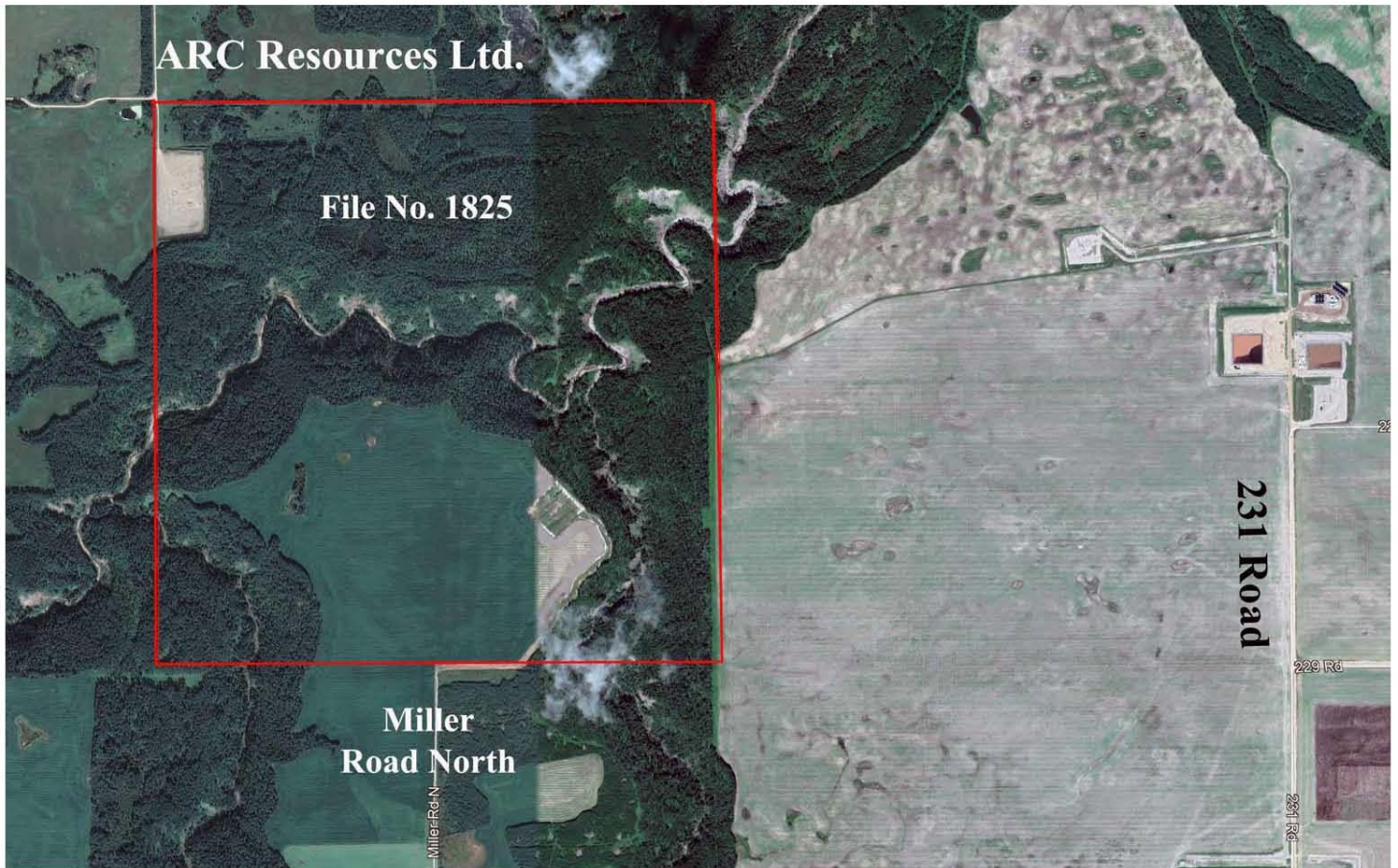
(Applicant)

AND:

ARC RESOURCES LTD.

(Respondent)

BOARD ORDER



Heard: October 23, 2014 and February 4, 2015 at Dawson Creek, BC
Appearances: David Miller and Elvin Gowman, for the Applicant
Rick Williams, Barrister and Solicitor, for the Respondent

INTRODUCTION AND ISSUE

[1] The Applicant, David Raymond Miller (David Miller), is the owner of the Lands legally described as: THE SOUTH EAST ¼ OF SECTION 16 TOWNSHIP 80 RANGE 16 WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT THE MOST SOUTHERLY 14 FEET IN PARALLEL WIDTH THEREOF AND PLAN 33350 (the Lands). In June, 2009, David Miller and Storm Exploration Inc. (Storm) entered a surface lease granting Storm the use of 6.95 acres of the Lands to drill and operate a single well and for an access road (the Lease). The parties agreed to initial compensation of \$13,600 and annual rent of \$5,200. In August 2010, the Respondent, ARC Resources Ltd. (ARC), purchased the well from Storm and the Lease was assigned to ARC. David Miller seeks an increase to the annual rent payable under the Lease in accordance with the provisions for rent review set out in the *Petroleum and Natural Gas Act*. The effective date of this review is June 27, 2013.

[2] The purpose of a rental payment is to address the immediate and ongoing impact to the landowner and to the land of an operator's activity on private land (*Dalgliesh v. Worldwide Energy Company Ltd* (1970) 75 W.W.R. 516 (Sask DC)). The rental payment is to compensate for actual or reasonably probable loss or damage caused by an operator's continuing use of land.

[3] The onus is on the applicant, in this case David Miller, to establish his ongoing prospective loss and to establish that an increase to the rental payment is warranted to compensate for ongoing losses (*Progress Energy Canada Ltd. v. Salustro* 2014 BCSC 960). The Board must base its finding with respect to loss

on the evidence before it. The burden of providing evidence to substantiate loss rests with the applicant.

[4] The issue, therefore, is to determine whether the evidence substantiates that the annual rent payable under the Lease should be revised to reflect the actual and ongoing loss to Mr. Miller arising from ARC's continued use and occupation of the Lands.

[5] David Miller seeks rent of \$1,600/acre. ARC submits the evidence does not support the current rent and that the annual rent should be decreased.

FACTS

[6] The Lands are good agricultural land with Class 2 soil. A portion of the Lands is not within the Agricultural Land Reserve (ALR).

[7] David Miller does not reside on the Lands. He rents the Lands to his brother, Richard Miller, to grow crops as part of Richard Miller's farming operations. Richard Miller has farmed in the area for over thirty years. He has rented the Lands for quite a few years and has done so since before the Lease was in place. He currently pays \$23 per acre per year to rent the Lands for agricultural purposes. Richard Miller rotates annually a canola crop with a cereal crop. David and Richard Miller arrange the rental of the Lands on an annual basis.

[8] David Miller's principle use of the Land is for recreational purposes. He enjoys hiking, quading, snowshoeing, and enjoying the wildlife that uses the Lands as part of their natural habitat. He also uses the Lands for water sales from a dugout constructed by ARC, at ARC's expense. The terms of the Lease required the company to install a dugout if the well was a "producer". There was a dispute between the parties with respect to ARC's obligation to build the dugout as the well had not been brought into production, but ARC nevertheless constructed the dugout in the location requested by David Miller and to his

specifications. David Miller has averaged about \$40,000 per year in water sales from the dugout since 2011.

[9] The well on the lease area is shut in. ARC does not have any plans to bring the well into production. ARC personnel access the site once a year to inspect for the purpose of providing a suspended well report to the Oil and Gas Commission (OGC). This annual inspection takes up to two hours. The site is also accessed in spring or summer by ARC's weed contractor. The weed spraying may take a half day to a day.

[10] The Lease creates a severed area between the berm and the treed area and between the road and the treed area at the northeast edge of the lease, and severs some corners into which farm equipment cannot reach. Mr. Sheehan estimated the severance at .38 acres; Richard Miller estimated it at ½ acre. I accept that up to approximately ½ acre of the Lands is severed by the Lease and cannot be used for agricultural purposes. The total area of the Lands occupied by ARC and severed for agricultural purposes as result of the Lease is, therefore, 7.45 acres.

[11] The access road is constructed along the edge of the tree line where the land drops approximately 150 feet into a ravine.

[12] The well site area is surrounded by a berm.

EVIDENCE AND ANALYSIS

[13] Section 154 of the *Petroleum and Natural Gas Act* sets out the factors the Board may consider in determining the initial compensation or annual rent payable for the use and occupation of private land. Those factors are as follows:

- (a) the compulsory aspect of the entry;
- (b) the value of the applicable land;

- (c) a person's loss of right or profit with respect to the land;
- (d) temporary and permanent damage from the right of entry;
- (e) compensation for severance;
- (f) compensation for nuisance and disturbance from the right of entry;
- (g) the effect, if any of other rights of entry with respect to the land;
- (h) money previously paid for entry, occupation or use;
- (i) the terms of any surface lease or agreement submitted to the Board or to which the Board has access;
- (j) previous orders of the Board;
- (k) other factors the Board considers applicable;
- (l) other factors or criteria established by regulation.

[14] Not all of the above factors will be relevant in every case or in the determination of annual compensation as opposed to initial compensation for an entry. There are no factors or criteria established by regulation.

[15] Section 154(2) of the *Petroleum and Natural Gas Act* further provides that in determining an amount to be paid on a rent review application, the Board must consider any change in the value of money and of land since the date the surface lease was originally granted or last renewed.

[16] I heard evidence from David Miller and Richard Miller with respect to the use of the Lands and the impact of the Lease on the use of the Lands. I also heard evidence from Joseph Breti and Emil Arndt, both of whom own land in the area. I heard evidence from Trevor Sheehan, a Professional Agrologist, and from Darren Rosie, ARC's Senior Surface Landman. I consider the evidence as it relates to the factors set out in the *Petroleum and Natural Gas Act* below.

Value of the land and change in the value of the land

[17] I heard some evidence about increasing land values in the area. None of that evidence is specific to the Lands. The chart provided by David Miller prepared by Aspen Grove Property Services suggests an average annual increase to the value of land of around 3%. No one spoke to this evidence to provide context such as the criteria for selection of sales used to indicate median

price per acre from 2009 to 2014, or to relate the conclusions to the value of the Lands or any change in the value of the Lands.

[18] David Miller and Emil Arndt gave evidence that there had been a “huge increase” in the price of land over a number of years and provided examples of recent sales compared to purchase prices going back as far as the 1970’s. This evidence does not assist with a consideration of any change in the value of the Lands or of land generally from 2009 to 2013.

[19] I accept that the Lands have esthetic and recreational value to David Miller and comprise good agricultural land.

[20] Mr. Rosie’s evidence was that compensation for the value of the Lands and compulsory aspect of the taking was included in the initial lease payment of \$13,600.

Loss of rights

[21] David Miller gave evidence that the access road goes through land that is outside of the ALR and blocks him from subdividing a bench area to the north east of the lease and land to the east of the road that is outside of the ALR. He did not provide any evidence of plans to subdivide the Lands or to support a finding that subdivision of the Lands would be either possible or probable but for the presence of the Lease. He did not provide evidence to value any alleged loss from an inability to subdivide portions of the Lands.

[22] I accept that Mr. Miller has lost rights with respect to quiet enjoyment of the Lands. The impact of this loss is discussed in relation to the evidence of nuisance and disturbance.

Loss of Profit

[23] Mr. Sheehan estimated loss of profit due to crop loss from the lease and severed areas at \$1,685.42. Mr. Sheehan's evidence was that his estimate assumes above average yields and above average quality crops.

[24] David Miller does not experience crop loss as a result of the Lease. David Miller's actual loss of profit from the lease is minimal and equates to the loss of rent at \$23/acre, or \$171.35 (7.45 acres x \$23 = \$171.35). Prior to the Lease, Miller Creek Farms Ltd. rented the entire field. Now Richard Miller rents what is left of the field and the loss to David Miller is the loss of rent from the leased area and the severed area. There is no evidence that the farm land rental rate was reduced as a result of the presence of the Lease.

[25] The Lease includes a condition that the renter receive a one time payment for crop loss of \$2,400 as compensation for loss of use of the 6.95 acre lease area and 1.54 acres of farmed road allowance area impacted by access road construction. The Lease, therefore, has already provided compensation for the renter's crop loss from the lease area.

Temporary and Permanent damage

[26] In his material filed in advance of the arbitration, David Miller expressed a concern that the berms altered the natural drainage of the area. Mr. Rosie's evidence was that this was the first time ARC had been made aware of a concern about drainage. Mr. Rosie and a construction foreman visited the site in September 2014 and did not observe any significant drainage issues off lease although they did observe evidence that there had been pooling in a small area. In an effort at addressing David Miller's concern, and to avoid any pooling of water, ARC opened the berm in a couple of spots to facilitate drainage. David Miller contacted the OGC to inquire about whether water draining off the leased area into the field complied with regulations. The OGC investigated and

determined that no water had gone off site and that there had been no violation of any regulation. Mr. Rosie's evidence was that going forward water will have to be checked and tested if it is going to travel off the leased area. I find the evidence does not support a significant likelihood that there will be significant ongoing damage to the land off the lease area as a result of drainage issues that necessitates compensation in the annual rent.

Nuisance and Disturbance

[27] Most of the evidence related to nuisance and disturbance or adverse affects from the presence of the Lease.

[28] David Miller's evidence was that the presence of the berm makes the Lands and the lease area attractive to hunters and other trespassers who use the site for target practice. Trespassing snowmobilers use the berm as a jump. Trespassers occasionally leave garbage on the lease. The presence of hunters and other trespassers interferes with wildlife in the area.

[29] ARC has installed a gate on the access road to try and deter trespassers, but David Miller's evidence was that the gate has been installed in the wrong place and that vehicles can still get around it. Mr. Breti's evidence was that he has seen the gate left open and unlocked.

[30] I accept that the presence of the access road and bermed lease area may make the Lands more accessible and attractive to trespassers than they might otherwise be, and that the unauthorized use of the site facilitated by the presence of the Lease is a nuisance and disturbance that interferes with David Miller's quiet enjoyment of the Lands. These are intangible losses that are incapable of precise calculation in monetary terms.

[31] Mr. Rosie provided a compensation worksheet that he said had been given to him by Jesse Berube of Storm. He was told that this was the compensation

worksheet used by Storm in negotiating the initial payment and annual rent under the Lease with David Miller and reflected Jesse Berube's judgment of what was fair in the circumstances. The worksheet indicates an annual amount for nuisance and disturbance at \$2,200. David Miller's evidence was that he does not remember negotiating with Jesse Berube, although Jesse Berube witnessed David Miller's signature on the lease. In any event, Mr. Rosie's evidence as to the allocation of \$2,200 for nuisance and disturbance is hearsay and I cannot say it reflects the parties' agreement as to what fair compensation for nuisance and disturbance was when the Lease was negotiated.

[32] Mr. Rosie's evidence was that if he were approaching this situation afresh, he would offer \$1,000 for nuisance and disturbance given the Lease is not on a home quarter, it is on the edge of the field causing less disruption than if it were in the middle of the field, and is a shut in well with less activity than a producing well. ARC provided examples of other leases with the compensation worksheets showing a range of compensation for nuisance and disturbance from \$1,000 to \$2,262.50. Various decisions of the Board provided in the materials show a range of awards for intangible losses of \$600 to \$1,200.

[33] With respect to more tangible nuisance, the evidence was that ARC has generally done a good job at controlling weeds on the lease area other than in 2012 when weed spraying was not done. Mr. Rosie's evidence was that ARC hired a weed contractor in 2013 to address weed issues at all of ARC's sites. Both David and Richard Miller indicated there were some weed issues on the berm and field edges. Richard Miller estimated additional spraying costs of \$200 annually (4 hours at \$50/hour) to deal with the weeds missed between the reach of the field sprayer and the lease area spraying. Mr. Rosie's evidence was that ARC would include areas outside of the lease area in its spraying program with the landowner's permission. I accept that there is some nuisance and disturbance to the landowner in additional weed control as a result of the Lease.

[34] I also accept that the presence of the Lease causes adverse affects and losses to the use of the Lands outside of the lease area for agricultural purposes. These losses are difficult to quantify. I heard evidence from both Richard Miller and Mr. Sheehan estimating loss arising from farming around the lease area. While their estimates quantifying the loss vary, they both agree that there is loss incurred in additional time and equipment costs involved in farming against the lease area, and additional input costs due to overlapping adjacent to the lease area.

[35] Trevor Sheehan estimated farming losses using GIS mapping software and applying various assumptions about equipment size, number of operations, and crop rotation, and using average yield and price data. Mr. Sheehan estimated gross revenue at \$420/acre. He deducted \$120/acre for input costs (seed, fertilizer, chemicals, etc.) and \$70/acre for equipment costs, to estimate net revenue at \$230/acre. Mr. Sheehan estimated farming losses attributable to additional input costs incurred farming around the lease area at \$464.46.

[36] Richard Miller estimated farming losses associated with the Lease at \$2,550 as follows:

- a) Overlap of fertilizer around the well site and in a small area to the south east, 1 acre x \$150 = \$150
- b) Extra compaction reducing yield around the well site, 2.5 acres x \$100 = \$250
- c) Extra equipment time working around the well site, 6 passes per year at ½ hour per pass, 3 hours x \$250/hour = \$750
- d) Poor yields resulting from wet seeding, one acre x \$200 = \$200
- e) Extra care and attention working near the berm, 6 passes along berm length and approximately 200 turns against the berm = \$1,000
- f) Extra spraying, 4 hours x \$50/hour = 200.00

[37] His estimate assumes gross annual revenue of \$400/per acre.

[38] With respect to item d), I heard evidence about how the presence of the berm resulted in additional crop loss because it allows for snow drifts to accumulate with the result that parts of the field are not dry when it is time to seed, and are seeded wet. Richard Miller estimated that approximately one acre of the field is often seeded wet resulting in poorer yields. His estimate of \$200 is based on gross crop revenue, rather than net revenue, and assumes as much as a 50% reduction in yield for a one acre area annually. Mr. Rosie provided photographs taken in July 2014 showing the crop seeded to the edge of the lease with little evidence of reduced yield. Richard Miller agreed the snow conditions fluctuate from year to year. I nevertheless accept that the berm is likely to cause parts of the field to dry at a slower rate and that in some years wet seeding may result in a lower yield in those areas.

[39] With respect to item e), Richard Miller's evidence is that extra care must be taken with farm equipment when making turns against the berm in order to avoid running into the berm and damaging the equipment. His evidence was that the \$1,000 estimated loss for extra care and attention working near the berm was to compensate for risk and did not reflect a calculation of actual time. His evidence was that it does not take additional time to make turns against the berm as you are not going fast in making a turn in any event. His evidence was that the berm is "like a brick wall" and that if you misjudge a turn there could be a lot of damage to the farm equipment. He said \$1,000 doesn't go very far if you have to have equipment repaired or if there is down time. He did not provide evidence of actual damage to equipment as a result of the berm, or actual downtime to equipment as a result of the berm.

[40] As indicated above, compensation is for actual loss, not for risk. The inclusion of \$1,000 for risk of damage is inappropriate as it does not compensate for actual loss. If the \$1,000 for risk is removed, Richard Miller's estimate of actual farm losses attributable to the presence of the Lease is \$1,550.

[41] The Millers were highly critical of Mr. Sheehan's estimates because they were based on assumptions. Although he made assumptions about equipment size, and crop rotation, yield and quality, many of the inputs to the software respecting cost, price and yield are supported by reported information relative to the Peace River Region of Alberta, and favoured the landowner. I find Mr. Sheehan's estimates are likely on the low side, however, as they do not account for additional time involved in farming around the Lease, and do not account for lost yield due to wet seeding.

[42] On the other hand, Richard Miller's estimates while based on his experience are not supported with any empirical data. The estimates as they relate to additional crop loss are also based on gross revenue and do not account for input costs. As such, I find his estimates are likely on the high side.

[43] With respect to Richard Miller's item b), his estimate is based on $\frac{1}{4}$ of the crop being lost due to compaction. Mr. Sheehan's evidence was that he did not observe any significant compaction. Even if $\frac{1}{4}$ of the crop is lost due to compaction, that loss should be based on net revenue, not gross revenue.

[44] With respect to Richard Miller's item c), Mr. Sheehan's evidence was that \$250/hour for equipment was a custom rate as if someone was hired to work the field. On the other hand, his method of just using additional equipment costs attributable to inefficiencies and wear and tear applied to the overlap area does not account for additional time involved in farming around the lease area. I accept Richard Miller's estimate of three hours in time for working around the lease area but would multiply that by an hourly rate of \$50, which is the same rate applied to time for spraying.

[45] I accept that care must be taken when farming against the berm to avoid damaging farm equipment, and that the presence of the berm causes some stress to the operator of farm equipment. I accept that Richard Miller incurs additional time and expenses due to overlap associated with the additional

headlands created by the Lease. Other than in additional time and expense related to additional overlaps however, the evidence does not support that the berm itself has caused or is likely to cause significant additional loss to the farming operation on an ongoing basis.

[46] Considering the evidence as a whole, acknowledging the difficulties in estimating loss from the adverse effect of the Lease on the use of the Lands outside of the lease area, but endeavoring to only account for actual loss as opposed to risk or speculative loss, I find loss attributed to farming around the lease area is in the range of \$615 - \$750. Mr. Sheehan's estimate of \$465 plus \$150 for time equals \$615. Richard Miller's estimate adjusting the equipment time to \$150, removing the \$1,000 risk item, and removing the spraying costs (which I account for above in the discussion on weeds) equals \$750. I find the evidence supports likely ongoing loss to the farm operation resulting from the presence of the Lease at \$700 a year.

[47] While loss to the farming operation is not David Miller's actual loss, but reflects the loss to the farming operation, I accept that accounting for the adverse effect of the Lease on the use of the Lands outside of the lease area, regardless of who actually incurs that loss, is an appropriate consideration in determining compensation payable in the form of rent under a surface lease.

Other Leases

[48] Both parties provided some other leases. David Miller relied in particular on a recent renewal of rent payable under a surface lease between ARC and Loisselle Ranches Ltd. (Loisselle Ranches) of 5.14 acres, not far away, also with Class 2 soil. He calculated the per acre rent at \$1,600. The evidence does not include a breakdown of how the annual rent of \$8,000 payable under this lease was determined. The access road associated with this lease cuts the field in half. The well site is tear-dropped but it contains a flare stack. Mr. Rosie's evidence was that there is more activity on this lease and that the lease creates a greater

severance and causes more farming disruption than the Lease on the Lands. The lease on the Loisselle Ranches land does not include a term requiring the company to build a dugout.

[49] The various leases indicate variations in lease payments. Most of the leases do not include a breakdown of the compensation paid for different types of losses. I find the evidence of other leases does not substantiate a pattern of dealings either with respect to overall compensation or for any particular types of loss.

Other factors

[50] The revenue from water sales represents a significant collateral benefit to David Miller as a result of the Lease. David Miller's evidence was that he likely would not have agreed to the Lease without the provision for a dugout. ARC constructed the dugout at its expense in accordance with the term in the lease requiring construction of a dugout if the well was a "producer" agreed between Storm and David Miller when the Lease was signed. ARC's construction of the dugout enables David Miller to receive additional revenue from the Lands that he would not receive without the dugout. Arguably, the benefit David Miller is likely to receive from water sales will more than offset any ongoing loss to him caused by the Lease.

Determining Total Compensation

[51] As indicated above a rental payment under a surface lease is intended to compensate a landowner for ongoing prospective losses (*Dalgliesh, supra*). In an application for rent review, any revised rent is payable for the period following the effective date, not for past losses. In determining a revised annual rent with reference to actual loss and on consideration of the relevant factors, an analysis of probable future use of the land and probable future losses must be undertaken (*Canadian Natural Resources Ltd. v. Bennett, et al*, 2008 ABQB 19).

[52] Mr. Miller submits he should receive the same amount that Loiselle Ranches receives for similar land, or \$1,600 per acre. On the basis of 7.45 acres, he claims annual rent of \$11,920. To justify this claim the evidence must support that David Miller is likely to incur loss of \$11,920 as a result of the Lease. ARC argues that the evidence does not support an increase to the rent and that it does not demonstrate that David Miller incurs loss equivalent to the current rental payment. ARC submits the Board should consider reducing the annual rent.

[53] Mr. Miller's argument that he should receive the same rent as Loiselle Ranches treats surface lease rent as if it is a market negotiation with the result that the rents agreed by the parties to other leases indicate a market rate for the rental of land for oil and gas activities. They do not. The only way Mr. Miller can expect to receive the same amount as that paid to Loiselle Ranches is if the evidence demonstrates that Mr. Miller can be expected to incur loss equating to that amount, or if the evidence demonstrates that the amount paid reflects a pattern of dealings.

[54] More than one lease is required to demonstrate a pattern of dealings. The other leases in evidence do not support a conclusion that the amount paid to Loiselle Ranches reflects a pattern of dealings.

[55] The fact that Loiselle Ranches and ARC agreed to a certain lease payment to compensate Loiselle Ranches for its anticipated ongoing loss arising from the lease on its lands does not mean Mr. Miller will experience the same loss or entitle any other landowner necessarily to the same payment.

[56] Compensation for loss is just that – compensation for loss (*Western Industrial Clay Products Ltd v. Mediation and Arbitration Board*, 2001 BCSC 1458). Compensation is not remuneration. Rent payable under a surface lease is not intended to remunerate the landowner for an operator's use of their land. Nor does it remunerate for risk associated with an operator's activities. It simply compensates for actual and ongoing loss. While landowners and companies

may negotiate benefits beyond actual loss in order to preserve relationship or secure an agreement, the Board exceeds its jurisdiction if it awards more than the loss likely to be incurred (*Western Clay, supra*).

[57] So what is the evidence of David Miller's loss? He has lost profit in the amount of \$171.35 based on the loss of the rental of 7.45 acres for agricultural purposes. I accept the estimate of loss attributable to extra weed spraying at \$200. I estimate the loss attributable to the adverse effects to the use of the Lands outside of the lease area at \$700.00.

[58] Beyond these losses that are somewhat capable of calculation, David Miller's losses are intangible such as the loss of quiet enjoyment with the resultant nuisance and disturbance. This loss is difficult if not incapable of evaluating in monetary terms. Once the tangible losses are accounted for, the current rent of \$5,200 leaves an excess of \$4,100 for intangible losses. \$4,100 for intangible loss seems excessive in light of the evidence before me of the range paid for nuisance and disturbance. Compensation at the high end of the range would be \$2,200.

CONCLUSION

[59] The evidence does not substantiate that David Miller will incur ongoing losses of \$5,200 annually as a result of the Lease. The most the evidence substantiates for David Miller's prospective ongoing loss is about \$3,200.

[60] ARC submitted that the Board should consider reducing the rent in light of the evidence. As the Board exceeds its jurisdiction if it awards an amount in excess of the loss sustained, I am left in the uncomfortable position of having to reduce the rent. The evidence of loss simply does not support an increase, let alone the amount currently paid. I find annual rent should be revised to \$3,200 to compensate David Miller for his anticipated ongoing prospective loss arising from the Lease.

ORDER

[61] ARC Resources Ltd. shall pay David Raymond Miller annual rent of \$3,200 for its continued use and occupation of the Lands for the rent review period commencing June 27, 2013. ARC may offset any overpayment since June 27, 2013 against rent payable going forward.

DATED: February 25, 2015

FOR THE BOARD



Cheryl Vickers, Chair

**File No. 1829
Board Order No. 1829-1**

February 25, 2014

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THAT PART OF THE NORTH EAST ¼ OF SECTION 24, TOWNSHIP 78,
RANGE 18 WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT
LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873;
AND
THE SOUTH EAST ¼ OF SECTION 24, TOWNSHIP 78, RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN 23873**

(The "Lands")

BETWEEN:

ARC Resources Ltd.

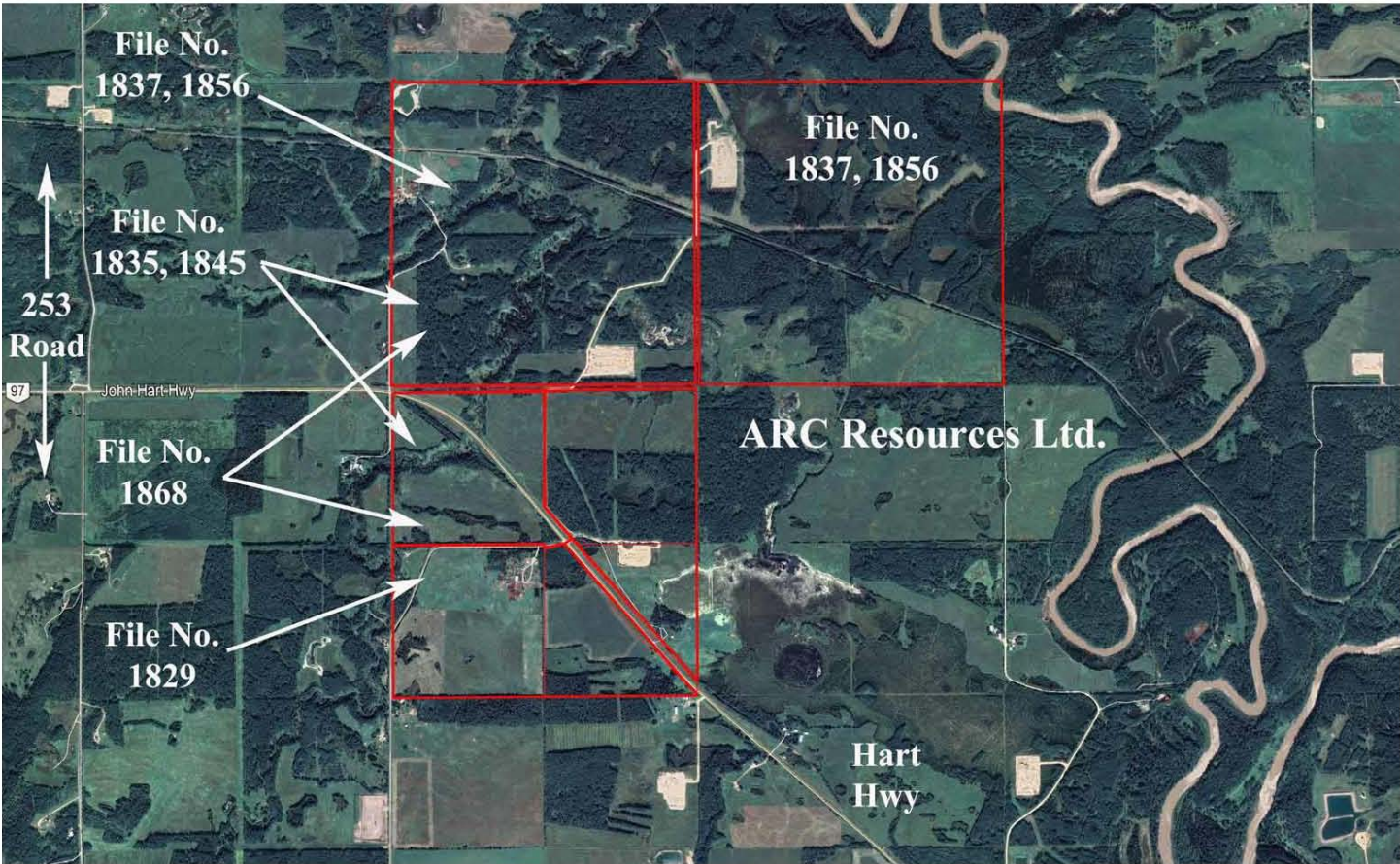
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



On February 19, 2014 I conducted a telephone mediation conference to deal with an application from ARC Resources Ltd. ("ARC") who seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely the construction, operation and maintenance of 13 natural gas wells. Two of the wells have been drilled and completed and are currently operating and ARC has received authorization to drill and complete 11 more wells. A list of all the Oil and Gas Commission permits is attached as Appendix "A".

Subsequent to the telephone mediation, ARC produced a Form 1-A to the Board, amending their application to removing a portion of the lands identified in their original application as a borrow pit plus access to the borrow pit area. The Board accepts the amended application, which includes a revised "IOP".

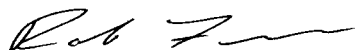
I considered the submissions and found there is no impediment to prevent the Board from issuing the right of entry order. Supported by the fact that the OGC has issued permits for this project, the Board is satisfied that ARC requires the access for the purposes of oil and gas activities.

ORDER

1. Upon payment of the amounts set out in paragraphs 3 and 4, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "B" for the purpose of the construction, operation and maintenance of the natural gas wells, access, and other associated works.
2. ARC's right of entry shall be subject to the terms and conditions attached as Appendix "C" to this right of entry Order.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$5,000.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC shall pay to the landowner as partial compensation the total amount of \$35,000.00.
5. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: FEBRUARY 25, 2014

FOR THE BOARD



Rob Fraser, Mediator

Appendix "A"

OGC Permits

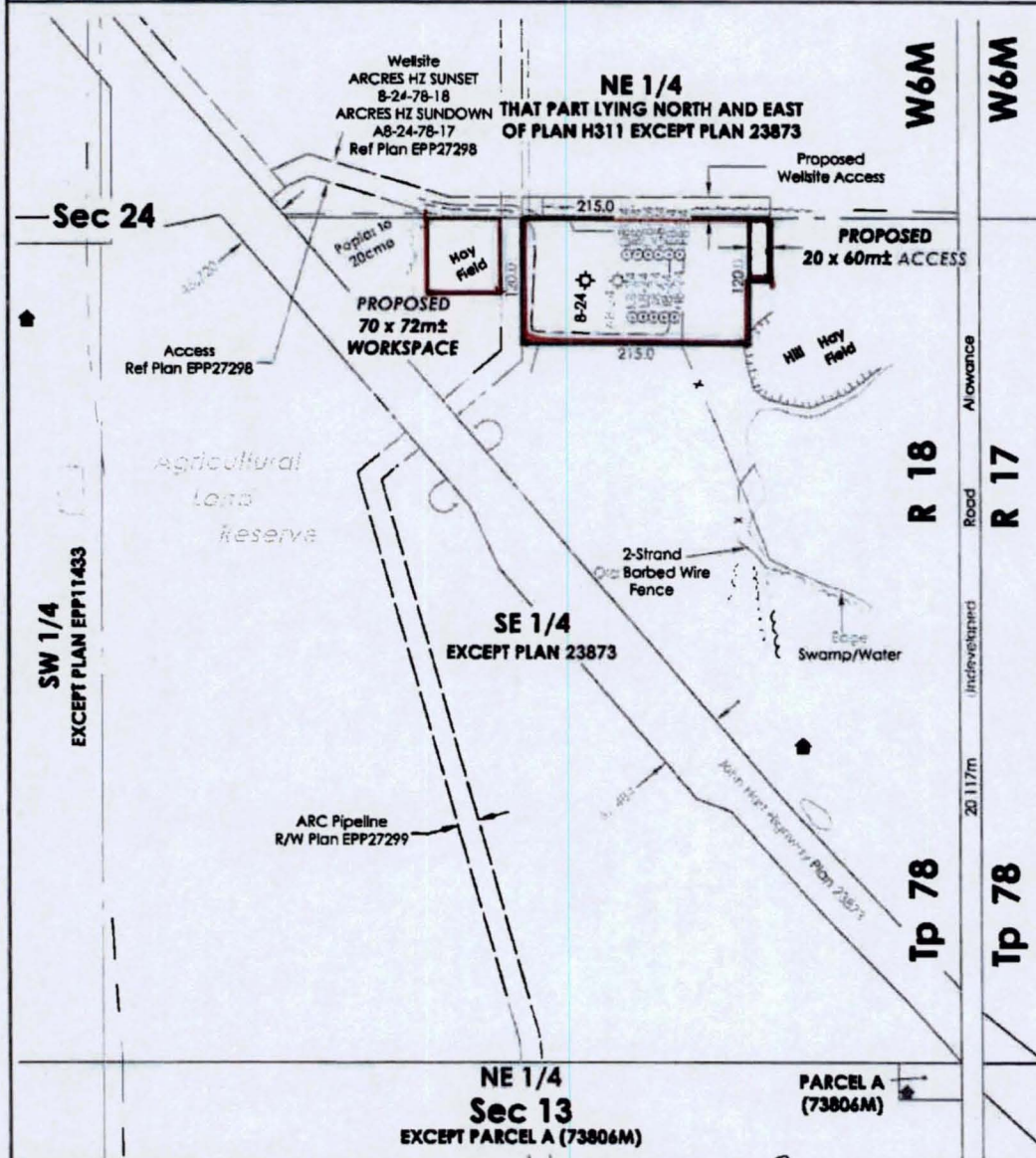
1. Date of Issuance: February 11, 2011
Commission File No. 9634141
WA: 27061
2. Date of Issuance: February 11, 2011
Commission File No 9634142
WA: 27062
3. Date of Issuance: January 18, 2014
Commission File No. 9639284
WA: 29690
4. Date of Issuance: January 18, 2014
Commission File No. 9639285
WA: 29691
5. Date of Issuance: January 18, 2014
Commission File No. 9639286
WA: 29692
6. Date of Issuance: January 18, 2014
Commission File No. 9639287
WA: 29693
7. Date of Issuance: January 18, 2014
Commission File No. 9639288
WA: 29694
8. Date of Issuance: January 18, 2014
Commission File No. 9639289
WA: 29695
9. Date of Issuance: January 18, 2014
Commission File No. 9639290
WA: 29696
10. Date of Issuance: January 18, 2014
Commission File No. 9639291
WA: 29697

11. Date of Issuance: January 18, 2014
Commission File No. 9639292
WA: 29698
12. Date of Issuance: January 18, 2014
Commission File No. 9639293
WA: 29699
13. Date of Issuance: January 27, 2014
Commission File No. 9639283
WA: 29689
14. Date of Issuance: January 27, 2014
Commission File No. 9639283
Road No. 02783

Appendix "B"


ORDER 1829-1
APPENDIX "B"

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
WELLSITE, ACCESS, BORROW PIT AND WORKSPACES IN
SE 1/4 Sec 24, Tp 78, R 18, W6M
EXCEPT PLAN 23873
PEACE RIVER DISTRICT**



TITLE No.: CA3002975 **P.I.D. No.:** 013-049-208
OWNER(S): DARCY DWAYNE HOMMY

LEGEND

SCALE = 1: 5,000
Portions referred to: 
Notes: Distances shown are in metres.
Certified correct this
20th day of February, 2014

AREA REQUIRED:

Wellsite	2.58 ha	6.38 ac
Workspace	0.50 ha	1.24 ac
Access	0.12 ha	0.30 ac
TOTAL:	3.20 ha	7.92 ac

Chris R. Sakundlak, BCLS

NO	DATE	REVISION	DRN	CKD
0	13/09/30	Original plan issued	AB	CS
1	14/01/24	Combined Total Lease Area	RC	CS
2	14/02/20	Borrow Pit and Workspace Removec	RC	CS

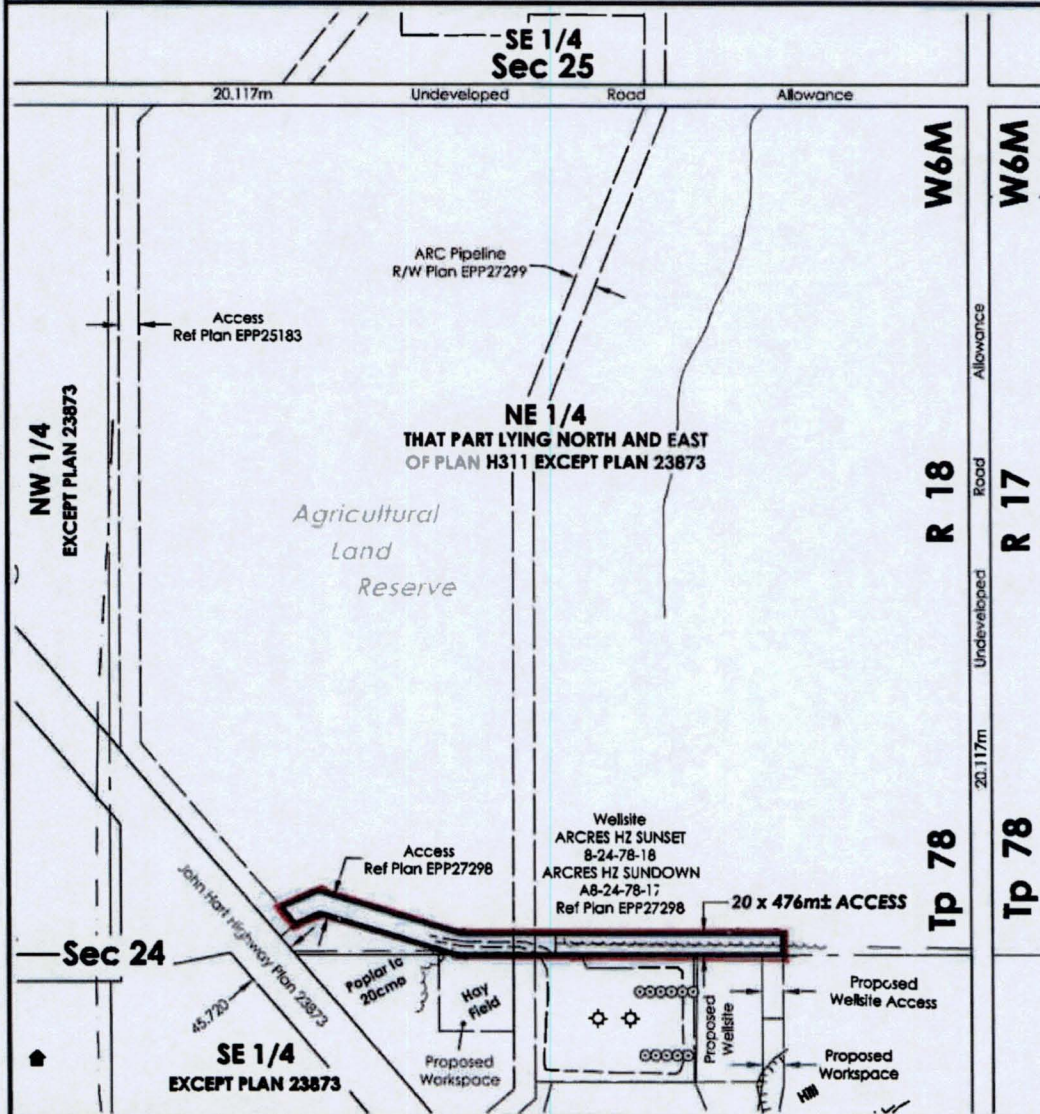
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CAN-AM FILE: J20130701
CAD FILE: J20130701IOP1-2
Client File No.: S11404
AFE No.: 13PRE0118
Land File No.:



**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
ACCESS IN
NE 1/4 Sec 24, Tp 78, R 18, W6M
THAT PART LYING NORTH AND EAST
OF PLAN H311 EXCEPT PLAN 23873
PEACE RIVER DISTRICT**

(Associated with Proposed Wellsite ARCRES HZ SUNDOWN B8-24-78-18)



TITLE No.: CA3002976 **P.I.D. No.:** 008-746-443
OWNER(S): DARCY DWAYNE HOMMY

LEGEND
SCALE = 1: 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
24th day of January, 2014

AREA REQUIRED:

Access	0.95 ha	2.34 ac
TOTAL:	0.95 ha	2.34 ac

Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	13/09/30	Original plan issued	AB	CS
1	14/01/24	Combined Total Access Area	RC	CS

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CAN-AM FILE: J20130701
CAD FILE: J20130701IOP2-1
Client File No.: S11404
AFE No.: 13PRED118
Land File No.:



APPENDIX "C"
CONDITIONS FOR RIGHT OF ENTRY

1. Except in the case of an emergency, ARC shall make all reasonable efforts to contain its operations to the areas indicated in red on the Individual Ownership Plans, including but not limited to, the travel and movement of personnel, vehicles, equipment, unless otherwise approved by the landowner.
2. ARC shall make a reasonable effort to prevent the entry and spread of weeds on the Lands caused by ARC's operations.
3. ARC covenants and agrees to indemnify and save harmless the landowner from liabilities, damages, costs, claims, liens, suits or actions arising directly out of ARC's operations on the Lands, other than arising from or related to the wilful conduct or negligence of the landowner.
4. ARC will meet with the landowner to discuss appropriate fencing and gates of the leased area, as may be required.

July 21, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THAT PART OF THE NORTH EAST $\frac{1}{4}$ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873;

AND

THE SOUTH EAST $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

MEDIATION ORDER

On January 20, 2011, ARC entered into a Lease and Amendment to Surface Lease with the prior landowner, which were assigned to the Respondent through an Assignment and Assumption of Surface Lease Agreement dated February 20, 2013. ARC has continued to pay the Respondent annual compensation in the total amount of \$5,000.

On February 25, 2014, the Surface Rights Board issued Board Order 1829-1 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying out an approved oil and gas activity, namely the construction, operation and maintenance of 13 natural gas wells.

Order 1829-1 included partial compensation in the amount of \$35,000.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. ARC shall pay to the Respondent, DARCY DWAYNE HOMMY, an additional one-time payment of \$4,000 as compensation owing for access to those portions of lands required for the construction, operation and maintenance of 13 natural gas wells.
2. ARC shall pay rent to the Respondent, DARCY DWANE HOMMY in the amount of \$13,000, commencing on February 25, 2016 and annually thereafter.
3. The parties will terminate the Lease and Amendment to Surface Lease both dated January 20, 2011.

DATED: July 21, 2015

FOR THE BOARD



Rob Fraser, Mediator

File No. 1835
Board Order No. 1835-1

November 27, 2014

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THAT PART OF THE NORTH EAST ¼ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873**

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

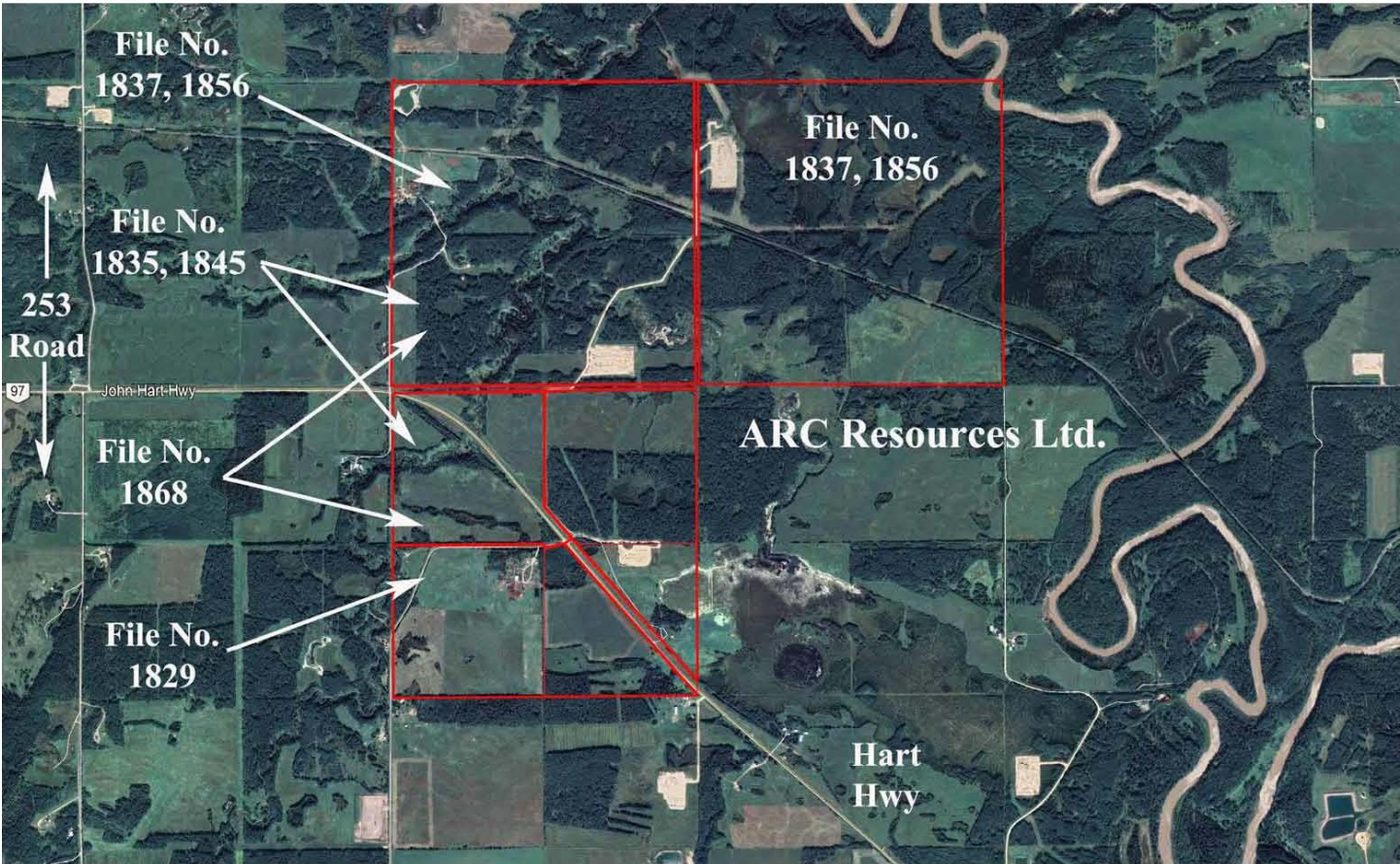
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely to drill, construct and operate a water source well, four natural gas wells and associated infrastructure.

ARC currently operates the four natural gas wells on an unregistered lease. The Oil and Gas Commission ("OGC") has issued a permit for the water source well.

On November 21, 2014 I conducted a mediation dealing with ARC's application to the Surface Rights Board for mediation and arbitration services. During that mediation the parties discussed ARC's project on the Lands.

Based on this discussion plus the fact that the OGC has issued a permit for the water well project I am satisfied that ARC require the Lands for an approved oil and gas activity.

ORDER:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate a water source well, four natural gas wells and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014 and 30592.
2. ARC shall pay to the landowner as partial compensation the total amount of \$1,000.00.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

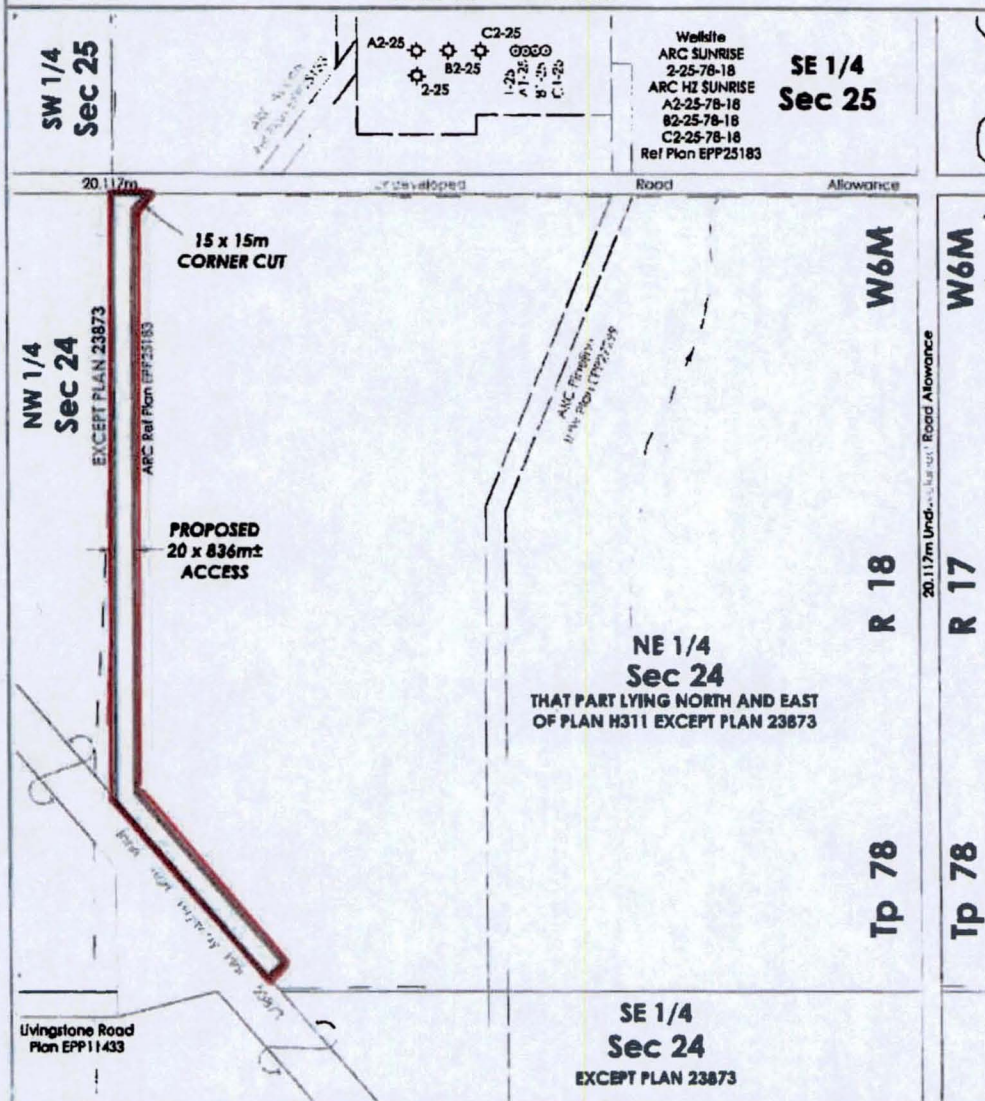
Dated: November 27, 2014

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m ACCESS IN
NE 1/4 Sec 24, Tp 78, R18, W6M
THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873
PEACE RIVER DISTRICT**



TITLE No.: CA3002976 **P.I.D. No.:** 008-746-443
OWNER(S): Darcy Dwayne Hommy

LEGEND
SCALE = 1 : 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
17th day of April, 2014

AREA REQUIRED:

Access	1.68 ha	4.15 ac
TOTAL:	1.68 ha	4.15 ac

Chris R. Sakundlak, BCLS

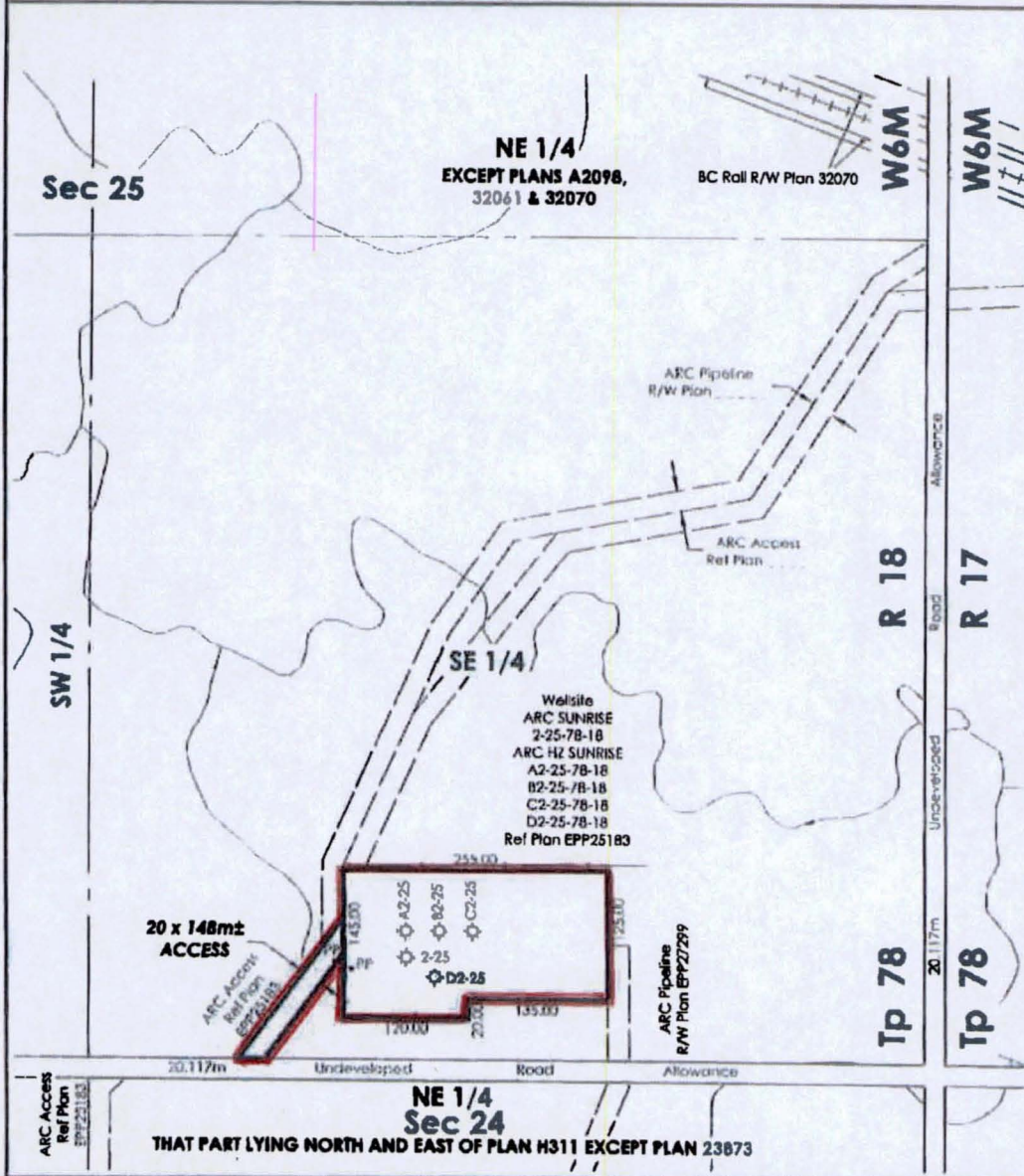
NO	DATE	REVISION	DRN	CKD
0	14/04/17	Original plan issued	WC	CS

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CAN-AM FILE: J20140338
CAD FILE: J20140338IOP1-0
Client File No.: 509963
AFE No.: 13PRE0127
Land File No.: REVISION

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING
WELLSITE AND ACCESS IN
SE 1/4 Sec 25, Tp 78, R 18, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA3002974 **P.I.D. No.:** 014-738-601 **LEGEND**
OWNER(S): Darcy Dwayne Hammy **SCALE = 1: 5,000**
 Portions referred to: ...
 Notes: Distances shown are in metres.
 Certified correct this
 6th day of November, 2014.

AREA REQUIRED:
 Wellsite 3.43 ha 8.48 ac
 Access 0.30 ha 0.74 ac
TOTAL: 3.73 ha 9.22 ac

Scotia Maguire
 Scotia Maguire, BCLS 903

NO	DATE	REVISION	DRN	CKD
0	14/04/06	Original plan issued	AB	CS

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CAN-AM FILE: J20140338
CAD FILE: J20140338IOP-0
Client File No.: S09963
AFE No.: 13PRE0127
Land File No.:

REVISION

File No. 1835
Board Order No. 1835-1amd

February 24, 2015

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THAT PART OF THE NORTH EAST ¼ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873**

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely to drill, construct and operate a water source well, four natural gas wells and associated infrastructure.

ARC currently operates the four natural gas wells on an unregistered lease. The Oil and Gas Commission ("OGC") has issued a permit for the water source well.

On November 21, 2014 I conducted a mediation dealing with ARC's application to the Surface Rights Board for mediation and arbitration services. During that mediation the parties discussed ARC's project on the Lands.

Based on this discussion plus the fact that the OGC has issued a permit for the water well project I am satisfied that ARC require the Lands for an approved oil and gas activity.


This Order amends and replaces the Board's Order 1835-1 dated November 27, 2014.

ORDER:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate a water source well, three natural gas wells and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014 and 30592 and Oil and Gas Commission Order 15-02-002.
2. ARC shall pay to the landowner as partial compensation the total amount of \$1,000.00.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

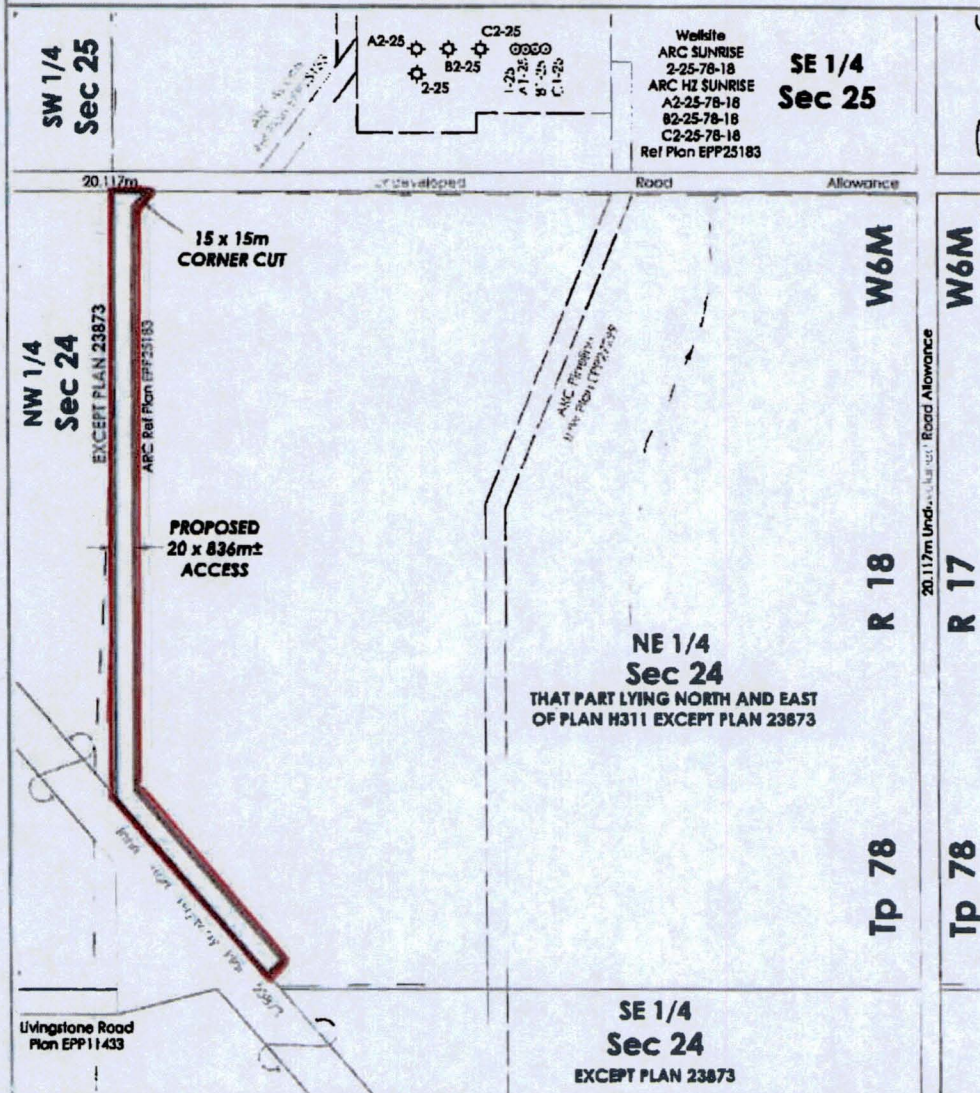
Dated: February 24, 2015

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m ACCESS IN
NE 1/4 Sec 24, Tp 78, R18, W6M
THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873
PEACE RIVER DISTRICT**



TITLE No.: CA3002976 **P.I.D. No.:** 008-746-443
OWNER(S): Darcy Dwayne Hommy

LEGEND
SCALE = 1: 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
17th day of April, 2014

AREA REQUIRED:
Access 1.68 ha 4.15 ac
TOTAL: 1.68 ha 4.15 ac

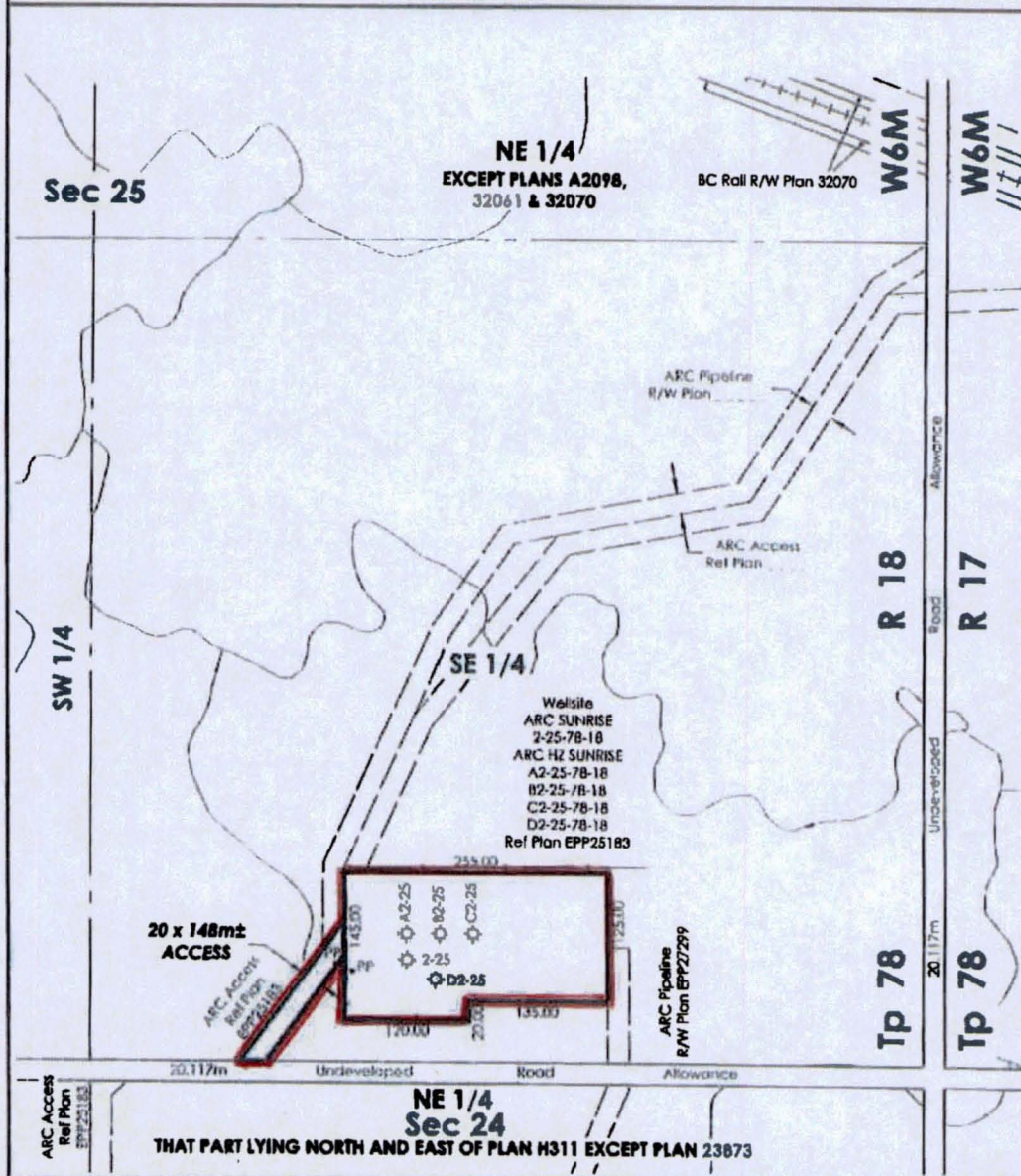
Chris R. Sakundlak, BCLS

NO	DATE	REVISION	DRN	CKD
0	14/04/17	Original plan issued	WC	CS

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CAN-AM FILE: J20140338
CAD FILE: J20140338OP1-0
Client File No.: S09963
AFE No.: 13PRE0127
Land File No.: 3 **REVISION**

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING
WELLSITE AND ACCESS IN
SE 1/4 Sec 25, Tp 78, R 18, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA3002974 **P.I.D. No.:** 014-738-601 **LEGEND**
OWNER(S): Darcy Dwayne Hammy **SCALE = 1: 5,000**
 Portions referred to: ...
 Notes: Distances shown are in metres.
 Certified correct this
 6th day of November, 2014.

AREA REQUIRED:

Wellsite	3.43 ha	8.48 ac
Access	0.30 ha	0.74 ac
TOTAL:	3.73 ha	9.22 ac

Scotia Maguire, BCLS 903

NO	DATE	REVISION	DRN	CKD
0	14/04/06	Original plan issued	AB	CS

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CAN-AM FILE: J20140338
CAD FILE: J20140338IOP-0
Client File No.: S09963
AFE No.: 13PRED127
Land File No.:

REVISION

**File No. 1835
Board Order No. 1835-1amd2**

February 25, 2015

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THAT PART OF THE NORTH EAST ¼ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873**

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely to drill, construct and operate a water source well, four natural gas wells and associated infrastructure.

ARC currently operates the four natural gas wells on an unregistered lease. The Oil and Gas Commission ("OGC") has issued a permit for the water source well.

On November 21, 2014 I conducted a mediation dealing with ARC's application to the Surface Rights Board for mediation and arbitration services. During that mediation the parties discussed ARC's project on the Lands.

Based on this discussion plus the fact that the OGC has issued a permit for the water well project I am satisfied that ARC require the Lands for an approved oil and gas activity.

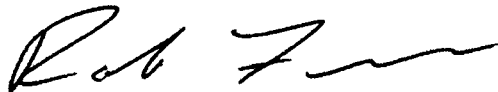
This Order amends and replaces the Board's Order 1835-1amd dated February 24, 2015.

ORDER:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate a water source well, three natural gas wells, a water disposal well and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014 and 30592 and Oil and Gas Commission Order 15-02-002.
2. ARC shall pay to the landowner as partial compensation the total amount of \$1,000.00.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

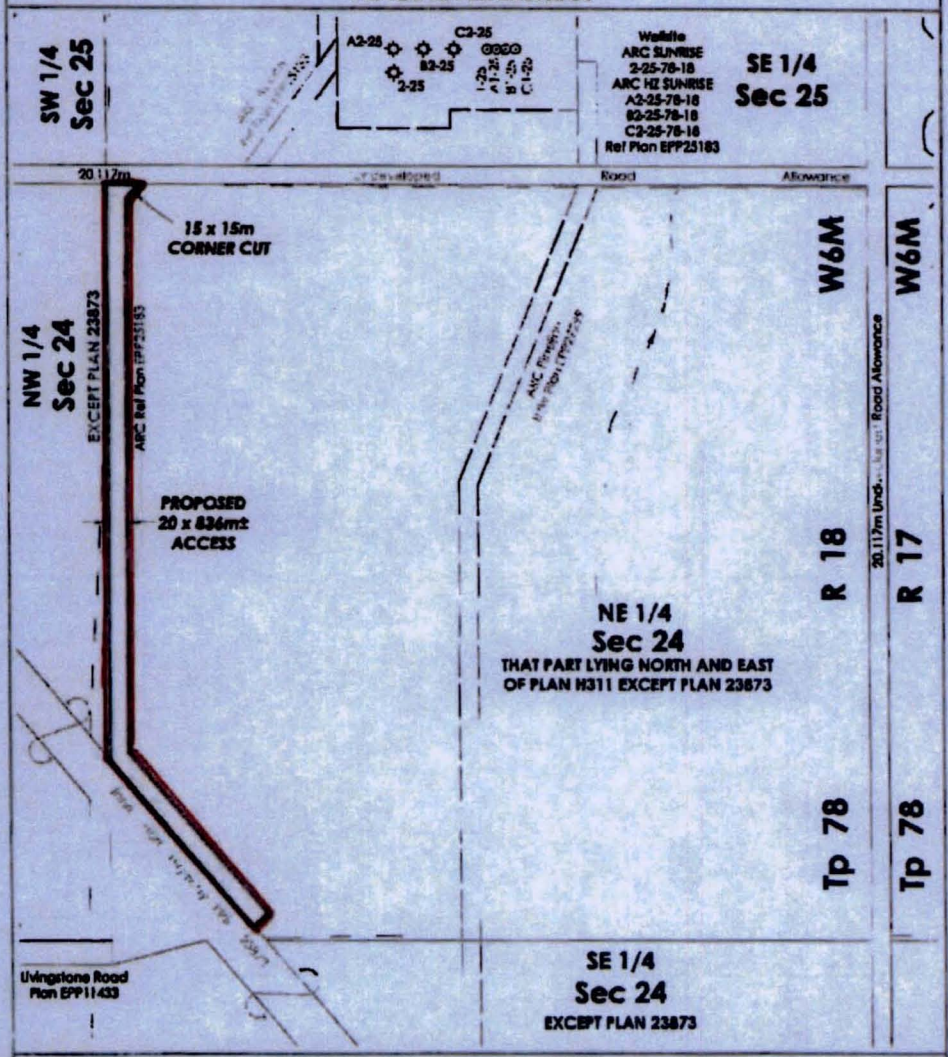
Dated: February 25, 2015

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m ACCESS IN
NE 1/4 Sec 24, Tp 78, R18, W6M
THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873
PEACE RIVER DISTRICT**



TITLE No.: CA3002974 **P.L.D. No.:** 008-746-443
OWNER(S): Darcy Dwayne Hommy

LEGEND
SCALE = 1: 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
17th day of April, 2014

AREA REQUIRED:
Access 1.68 ha 4.15 ac
TOTAL: 1.68 ha 4.15 ac

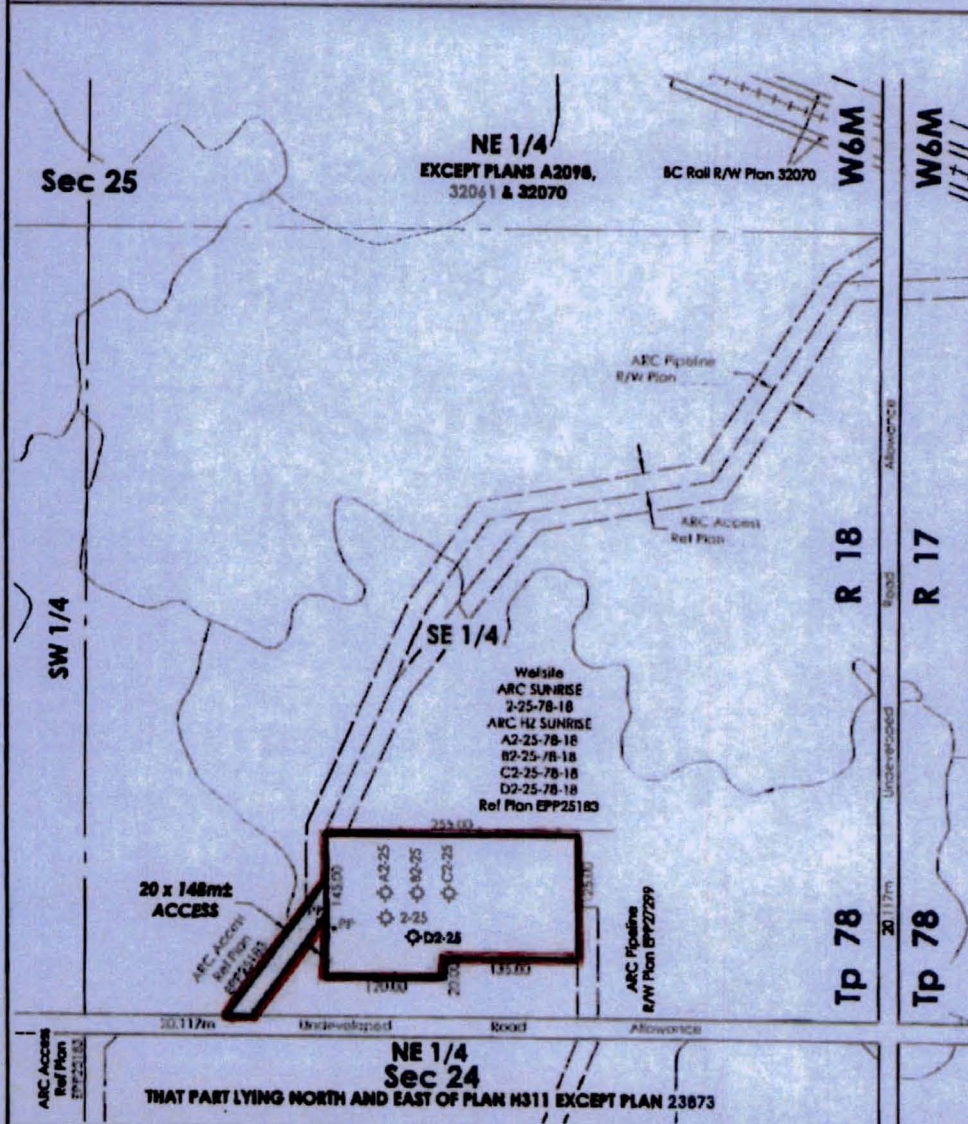
Chris R. Sakundlak, BCLS

NO	DATE	REVISION	DRN	CKD
0	14/04/17	Original plan issued	WC	CS

can-am geomatics
can-am geomatics bc Phone: 250.787.7171
Fort St. John, B.C. Toll Free: 1.866.208.0963
www.canam.com Fax: 250.787.2323

CAN-AM FILE: J20140338
CAD FILE: J20140338IOP1-0
Client File No.: 309963
AFE No.: 13PRE0'27
Land File No.: 2 **REVISION**

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING
WELLSITE AND ACCESS IN
SE 1/4 Sec 25, Tp 78, R 18, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA3002974 **P.I.D. No.:** 014-738-601
OWNER(S): Darcy Dwayne Hammy

LEGEND
SCALE = 1: 5,000
Portions referred to: ...
Notes: Distances shown are in metres.
Certified correct this
6th day of November, 2014.

AREA REQUIRED:
Wellsite 3.43 ha 8.48 ac
Access 0.30 ha 0.74 ac
TOTAL: 3.73 ha 9.22 ac

Scott A. Maguire
Scott A. Maguire BCLS 903

NO	DATE	REVISION	DRN	CKD
0	14/04/06	Original plan issued	AB	CS

can-am geomatics.
can-am geomatics bc Phone: 250.787.7171
Fort St. John, B.C. Toll Free: 1.866.208.0963
www.canam.com Fax: 250.787.2323

CAN-AM FILE: J20140338
CAD FILE: J20140338IOP-0
Client File No.: S09963
AFE No.: 13PRE0127
Land File No.: REVISION

File No. 1835
Board Order No. 1835-2

July 21, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THAT PART OF THE NORTH EAST ¼ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873

THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

MEDIATION ORDER

On April 28, 2008, ARC entered into a Lease and Amendment to Surface Lease on November 26, 2009 with the prior landowner, which were assigned to the Respondent through an Assignment and Assumption of Surface Lease Agreement dated February 20, 2013. ARC has continued to pay the Respondent annual compensation in the total amount of \$8,200.

On November 27, 2014, the Surface Rights Board issued Board Order 1835-1 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying out an approved oil and gas activity, namely to drill, construct and operate a water source well, four natural gas wells and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014 and 30592.

Order 1835-1 included partial compensation in the amount of \$1,000.

On February 24, 2015, the Surface Rights Board issued Board Order 1835-1amd, allowing a water disposal well.

The parties have consented to further amend the right of entry to allow for an additional four natural gas wells.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. ARC shall pay to the Respondent, DARCY DWAYNE HOMMY, an additional one-time payment of \$18,000 as compensation owing for access to those portions of lands required to drill, construct and operate a water source well, seven natural gas wells, a water disposal well and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014, 30592, 31368, 31369, 31370 and 31371 and Oil and Gas Commission Order 15-02-002.
2. ARC shall pay rent to the Respondent, DARCY DWANE HOMMY, in the amount of \$12,500, commencing on November 27, 2015 and annually thereafter.

3. The parties will terminate the Lease dated April 28, 2008 and Amendment to Surface Lease dated November 26, 2009.

DATED: July 21, 2015

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with the first name "Rob" being more prominent than the last name "Fraser".

Rob Fraser, Mediator

File No. 1835
Board Order No. 1835-2amd

July 22, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THAT PART OF THE NORTH EAST $\frac{1}{4}$ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN H311 EXCEPT PLAN 23873

THE SOUTH EAST $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

This Order amends and replaces Order 1835-2 issued July 21, 2015.

On April 28, 2008, ARC entered into a Lease and Amendment to Surface Lease on November 26, 2009 with the prior landowner, which were assigned to the Respondent through an Assignment and Assumption of Surface Lease Agreement dated February 20, 2013. ARC has continued to pay the Respondent annual compensation in the total amount of \$8,200.

On November 27, 2014, the Surface Rights Board issued Board Order 1835-1 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying out an approved oil and gas activity, namely to drill, construct and operate a water source well, four natural gas wells and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014 and 30592.

Order 1835-1 included partial compensation in the amount of \$1,000.

On February 24, 2015, the Surface Rights Board issued Board Order 1835-1amd, allowing a water disposal well.

The parties have consented to further amend the right of entry to allow for an additional four natural gas wells. This Order amends and replaces paragraph 1 of Board Order 1825-1amd-2.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate a water source well, seven natural gas wells, a water disposal well and associated infrastructure related to Oil and Gas Commission Well Authorizations 24139, 26012, 26013, 26014, 30592, 31368, 31369, 31370 and 31371 and Oil and Gas Commission Order 15-02-002.
2. ARC shall pay to the Respondent, DARCY DWAYNE HOMMY, an additional one-time payment of \$18,000 as compensation owing for access to those portions of lands required to drill, construct and operate a water source well, seven natural gas wells, a water disposal well and associated infrastructure related to Oil and Gas Commission Well

- Authorizations 24139, 26012, 26013, 26014, 30592, 31368, 31369, 31370 and 31371 and Oil and Gas Commission Order 15-02-002.
3. ARC shall pay rent to the Respondent, DARCY DWANE HOMMY, in the amount of \$12,500, commencing on November 27, 2015 and annually thereafter.
 4. The parties will terminate the Lease dated April 28, 2008 and Amendment to Surface Lease dated November 26, 2009.

DATED: July 22, 2015

FOR THE BOARD



Rob Fraser, Mediator

September 26, 2014

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST
OF THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098
AND PLAN 32070**

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

ARC Resources Ltd.

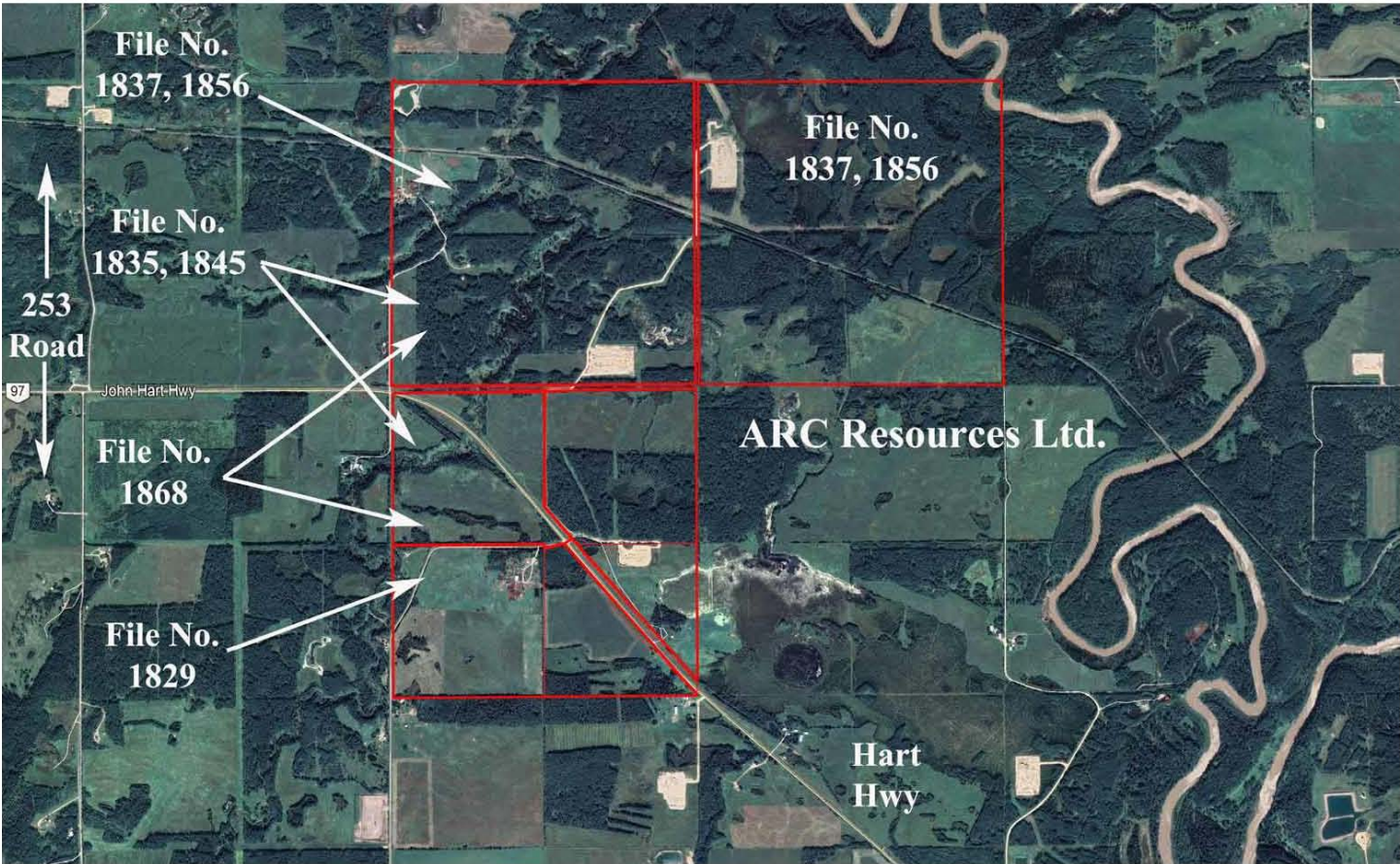
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



Heard: By written submissions and by telephone on September 17,
2014
Appearances: Rick Williams, Barrister and Solicitor for the Applicant
Darryl Carter, Q.C., Barrister and Solicitor, for the Respondent

INTRODUCTION

[1] The Applicant, ARC Resources Ltd. (ARC), has applied to the Board for a right of entry order to Lands owned by the Respondent, Darcy Dwayne Hommy, to construct and operate a pipeline in four segments. An application for a permit to construct and operate the proposed pipeline is pending before the Oil and Gas Commission (OGC).

[2] The proposed pipeline consists of the following four segments:

- a) a 16 inch diameter segment to carry natural gas (Segment 1);
- b) a 6 inch diameter segment licensed for bi-directional service, which will carry both produced water for hydraulic fracturing operations, and natural gas (Segment 2);
- c) a 4 inch diameter segment to carry fuel gas (Segment 3); and
- d) a 4 inch diameter segment to carry produced water for disposal (Segment 4)

[3] Mr. Hommy submits the Board does not have jurisdiction to make a right of entry order with respect to Segments 2 and 4 of the proposed pipeline. He submits Segments 2 and 4 do not meet the definition of "flow line" in the *Oil and Gas Activities Act*, and that the Board, therefore, does not have jurisdiction with respect to them in accordance with section 145(2) of the *Petroleum and Natural Gas Act*.

ISSUE

[4] The issue is whether the Board has jurisdiction with respect to Segments 2 and 4 of the proposed pipeline, assuming the OGC permits the pipeline as proposed. As the Board does not have jurisdiction with respect to a pipeline that is not a "flow line", the issue is whether these two segments of the proposed pipeline meet the legislative definition of "flow line".

THE PROPOSED PROJECT

[5] I received evidence with respect to the proposed pipeline from Tejay Haugen, a Senior Production Operations Technologist employed by ARC, by way of an Affidavit sworn August 21, 2014 and by telephone on September 17, 2014, at which time Mr. Haugen was cross-examined by counsel for Mr. Hommy.

[6] The proposed pipeline will interconnect the following ARC facilities:

- a) an existing ARC well pad located at 2-25-78-18 W6M that presently consists of four natural gas wells and related facilities including an MCC Building, a generator, and a flare stack, for which ARC has received permits to construct four additional natural gas wells, and for which ARC will be applying to convert an existing vertical well into a water disposal well (the 02-25 Well Pad);
- b) a proposed ARC well pad located at 12-30-78-17 W6M, for which ARC has received a permit to construct, drill and operate one well, and for which ARC has applied to the OGC for a permit for 17 additional natural gas wells and related facilities (the 12-30 Well Pad); and
- c) the ARC Sunrise Gas Plant to be located at 13-36-78-18 W6M (the Sunrise Plant).

[7] Natural gas produced at three of the four existing wells at the 02-25 Well Pad is currently transported through an existing 12 inch diameter line to a Murphy gas plant. A fuel gas line from the Murphy plant presently serves the 02-25 Well Pad and a 6 inch diameter bi-directional water/gas line also presently connects the 02-25 Well Pad with the Murphy plant. The Murphy plant does not have the capacity to accept gas from proposed developments at the 02-25 and 12-30 Well Pads, hence ARC's proposal for the new pipeline to connect the 02-25 and 12-30 Well Pads with the Sunrise Plant.

[8] Segment 1 will carry natural gas from wellheads in the Sunrise gas field, including those located at the 02-25 Well Pad and the 12-30 Well Pad to the Sunrise Plant, where it will undergo processing to meet market quality specifications. It will then be transported through the ARC pipeline system to the TransCanada transmission and distribution line. At the 02-25 Well Pad, the 16 inch Segment 1 will connect to a pre-existing 12 inch diameter line, which in turn connects to the 3 inch diameter lines that connect to the wellheads at each of the three producing wells.

[9] Segment 2 will supply water for hydraulic fracturing operations in the Sunrise gas field, including future wells at the 02-25 Well Pad and proposed wells at the 12-30 Well Pad. Segment 2 will also carry natural gas from various wells in the Sunrise gas field to the Sunrise plant including from present and future wells at

the 02-25 Well Pad and proposed wells at the 12-30 Well Pad. ARC has applied to have Segment 2 licensed for bi-directional service.

[10] The produced water carried in Segment 2 will be a byproduct of the natural gas produced at wellheads in the Sunrise gas field, including those located at the 02-25 and 12-30 Well Pads. At the Sunrise Plant, this produced water will be processed through an inlet separator and put in on-site storage facilities. Segment 2 will transport the produced water from the storage facility at the Sunrise Plant to various wellheads in the Sunrise gas field for hydraulic fracturing. Segment 2 may transport natural gas and will be used for pressure management once hydraulic fracturing operations, which generally take one to two months, are complete.

[11] Segment 3 will carry fuel gas originating from the Sunrise Plant to wellheads in the Sunrise gas field, including those at the 02-25 and 12-30 Well Pads. The fuel gas is used to operate these wells and specific wellhead and pipeline components such as the line heaters, the emergency shut down valves, the control valves, and the well alarm system.

[12] Segment 4 will carry produced water from the storage facilities at the Sunrise Plant to an existing vertical well at the 02-25 Well Pad, for injection and disposal. It will connect to a 2 inch diameter line that connects to the wellhead.

[13] ARC proposes to construct all four segments in the same trench, at the same time, in the same 20 metre right of way. If it is unable to construct Segments 2 and 4 at this time, its options will be to use semi-trailer trucks to transport the produced water from the Sunrise Plant to well heads for hydraulic fracturing and to the disposal well at the 02-25 Well Pad for disposal, or to construct the segments at a later date.

POSTIONS OF THE PARTIES

[14] Mr. Hommy agrees Segments 1 and 3 are “flow lines” but submits Segments 2 and 4 are not. He argues that the definition of “flow line” contemplates that a flow line takes product to a processing or storage facility, not that it transports product back from a processing or storage facility to a wellhead. He argues the primary purpose of Segment 3 is for hydraulic fracturing, although later on it may be used as a flow line to transport natural gas from the wellheads to the plant. With respect to Segment 4, he argues it is carrying post process facility product as it is transporting processed water from a storage facility for disposal. He argues a “flow line” must be intended solely for the purpose of connecting a well head with a scrubbing, processing or storage facility preceding

the transfer of the conveyed substance to or from a transmission, distribution or transportation line, and that these lines are not intended solely for that purpose.

[15] ARC argues the proposed pipelines connect storage facilities with wellheads and that there is nothing in the definition of “flow line” that speaks to the direction of travel of the conveyed substance. ARC submits Segments 2 and 4 are part of the gathering system and in accordance with previous Board decisions finding that the definition of “flow line” captures the pipelines forming the upstream gathering system, these pipelines are “flow lines”.

ANALYSIS

[16] The Board may authorize right of entry to private land if it is satisfied entry is required for an “oil and gas activity” (*Petroleum and Natural Gas Act*, section 159(1)). An “oil and gas activity” includes the construction or operation of a pipeline (*Oil and Gas Activities Act*, section 1). The Board’s jurisdiction to authorize right of entry or provide mediation and arbitration services respecting compensation does not apply to the entry, occupation or use of land relating to a pipeline other than a “flow line” (*Petroleum and Natural Gas Act*, section 145(2)).

[17] For pipelines that are not “flow lines”, right of entry may be acquired either by agreement with the landowner or by the process for expropriation set out in section 34 of the *Oil and Gas Activities Act*.

[18] Section 1 of the *Oil and Gas Activities Act* defines “flow line” as follows:

“flow line” means a pipeline that connects a well head with a scrubbing, processing or storage facility and that precedes the transfer of the conveyed substance to or from a transmission, distribution or transportation line.

[19] As the Board said in *Encana Corporation v. Ilnisky*, Order 1823-1, to be a “flow line” the pipeline or its respective segments must connect a wellhead to a facility, and must precede the transfer of the conveyed substance to or from a transmission, distribution or transportation line. The evidence establishes that Segment 2 connects various wellheads with a processing and storage facility, namely the Sunrise Plant. The evidence establishes that Segment 4 connects a specific wellhead at the 02-25 Well Pad to the Sunrise Plant. But does either segment precede the transfer of the conveyed substance to or from a transmission, distribution or transportation line?

[20] In *Encana v. Ilnisky*, *supra*, the Board found that the use of the word “precede” in the definition refers to the location of the pipeline in the oil and gas

system, specifically those pipelines located in the “upstream” or gathering part of the system. The Board said:

The definition of “flow line” carves out a subset of pipeline depending on the location of the pipeline....The upstream or gathering part of the system connects the wellheads with scrubbing, processing or storage facilities, but does not include the transmission, distribution, or transportation of substances beyond those facilities. The gathering system “precedes” or is located “upstream” or in advance of the transfer of substances to or from transmission, distribution, transportation lines “downstream” of, or beyond, those facilities.

[21] *Encana v. Inisky* dealt with two pipeline segments transporting produced water. One of the segments was a hydraulic fracturing water supply pipeline and the other was a hydraulic fracturing water return pipeline. These water pipelines were part of the infrastructure for a produced water recycling scheme that transported water between a water storage hub and processing facility and wellheads. The water hub collected produced water from three sources, including frac water flowback, blended and treated the water, then conveyed the produced water from the water hub to well sites for use in hydraulic fracturing operations via the hydraulic fracturing water supply pipeline. The hydraulic fracturing water return pipeline transported the water produced during well testing and cleanup operations following hydraulic fracturing, the frac water flowback, to the water hub to be blended with other produced water and recycled for use in hydraulic fracturing operations. The Board found that both of these pipeline segments were part of the gathering system for the conveyance of natural gas from a wellhead to a processing facility.

[22] The Board found the water pipelines connected wellheads with a processing facility. As to the second part of the definition of “flow line”, the Board said:

...the substance that is conveyed within these segments (produced water) is not a product that is further distributed through a transmission, distribution or transportation line. The location of the segments, however, precedes the transfer of the natural gas conveyed in Segment 001 to a transmission, distribution or transportation line. They are part of the gathering system for the conveyance of natural gas from a wellhead to a processing facility. The intent of the legislation is to give the Board jurisdiction over pipelines that comprise the gathering system, but not pipelines that comprise the transmission, distribution or transportation system downstream of a processing facility.

[23] The same logic applies to Segment 2 in this case. It is a hydraulic fracturing water supply pipeline. It connects wellheads with a facility, namely the Sunrise

Plant, and precedes the transfer of the natural gas conveyed in Segment 1 of this project to transmission, distribution or transportation lines downstream of the Sunrise Plant. The hydraulic fracturing water supply line is used for the production of natural gas and is part of the gathering system.

[24] As for Segment 4, it also connects a wellhead to a storage facility at the Sunrise Plant. It is also located within the gathering system in that is located on the upstream side of the plant for the processing of natural gas prior to its transfer to a distribution system. The evidence does not support, however, that it is part of the gathering system in that is not used for the production of natural gas or for the conveyance of natural gas to a processing facility prior to the transfer of the processed natural gas for further transmission and distribution. It is used for the disposal of waste water that has been separated from the natural gas in processing. This water is not re-used, as in *Ilinsky*, for hydraulic fracturing operations, but is disposed of as post-production waste. The pipeline disposing of the waste water plays no direct role in the production of natural gas or its conveyance to a facility for processing to market specifications.

[25] ARC refers to the Board's decision in *Murphy Oil v. Shore, supra*, where the Board noted that requiring separate and duplicative processes for obtaining surface rights in respect of pipelines within the same right of way would be an "absurd result that cannot have been the legislature's intent." The Board further noted, citing *Ontario v. Canadian Pacific Ltd.* [1975] 2 SCR 1031, that "[i]nterpretations that lead to absurd consequences should be rejected".

[26] However, as discussed, the Board has found that the legislature's intent was to give the Board jurisdiction over pipelines that comprise the gathering system. The definition of "flow line" captures those pipelines that are part of the gathering system. It is possible that the intent of the definition of "flow line" is to capture all of the lines located on the upstream side of the system whether actually used for gathering or not. That interpretation would avoid duplicative process. But it might also have been the legislative intent that "flow lines" only include actual gathering lines, or pipelines actually used for the gathering of natural gas prior to processing of the gas to market specifications and further transmission and distribution of the processed gas. The legislative scheme of the *Petroleum and Natural Gas Act* and the *Oil and Gas Activities Act* clearly contemplates two kinds of pipelines and two separate processes for a pipeline permit holder to gain entry to private land in the absence of an agreement with a landowner.

[27] If a pipeline connects to a well head and is used for the production of natural gas or the conveyance of natural gas to a processing facility, it is part of the gathering system and is a "flow line". A line carrying natural gas from a wellhead to a processing facility is clearly part of the gathering system. A fuel line is

necessary to the operation of wellheads and integral to the production of natural gas and the gathering system. A hydraulic fracturing water supply line is used for the production of natural gas and part of the gathering system. A pipeline carrying produced water from a wellhead in conjunction with the production of natural gas or flow back from hydraulic fracturing operations is used for the production of natural gas and part of the gathering system. The water disposal line is not used for the production or conveyance of natural gas to a processing facility and does not function as part of the gathering system. It is used to dispose of waste water after the gathering and processing of natural gas has occurred.

[28] Just because a pipeline is proposed to be constructed within a common right of way with other flow lines does not necessarily make it a flow line. Placing the water disposal pipeline within the same trench as other pipelines actually used for the gathering of natural gas may be convenient and efficient, but it does not turn the pipeline into a gathering line or make it part of the gathering system. The legislation contemplates an alternate process to obtain entry for pipelines that are not part of the gathering system.

CONCLUSION

[29] Segments 1, 2 and 3 of the proposed pipeline meet the definition of "flow line". Segment 4 is not a gathering line in that it is not used for the production of natural gas or conveyance of natural gas to a facility for processing and, therefore, does not meet the definition of "flow line". Assuming the OGC permits the pipeline in four segments as proposed, the Board will have jurisdiction to grant a right of entry order and provide mediation and arbitration services with respect to Segments 1, 2 and 3, but will not have jurisdiction with respect to Segment 4.

DATED: September 26, 2014

FOR THE BOARD



Cheryl Vickers, Chair

File No. 1837
Board Order No.1837-2

October 17, 2014

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098 AND PLAN
32070
THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

Telephone Mediation: October 16, 2014
Appearances: Rick Williams, Barrister and Solicitor, for the Applicant
Darryl Carter, Q.C., Barrister and Solicitor, for the Respondent
Mediator: Cheryl Vickers

ARC Resources Ltd. seeks a right of entry order over Lands owned by Darcy Dwayne Hommy to construct, operate and maintain three flow lines. The Oil and Gas Commission has issued a permit authorizing the construction and operation of the flow lines and an additional pipeline over which the Board has found it does not have jurisdiction.

I am satisfied that ARC Resources Ltd. requires access to the Lands for an oil and gas activity. The parties have not agreed on the compensation payable to Mr. Hommy; an order for partial compensation is made below.

ORDER

1. Upon payment of the amount set out in paragraph 3 of this Order, ARC Resources Ltd. shall have the Right of Entry to and access across the portions of Lands legally described as:

THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST
OF THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098
AND PLAN 32070, and
THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT (the Lands)

as shown on the Individual Ownership Plans attached as Appendix "A" for a right of way and temporary workspace required for the construction, operation and maintenance of Segments 1, 2 and 3 of the pipeline that is the subject of a Permit issued by the Oil and Gas Commission on October 2, 2014 (OGC file number 9708487).

2. The Right of Entry granted in paragraph 1 as it relates to those portions of the Lands required for temporary workspace as identified in Appendix "A" shall expire two years from the date of this Order.
3. In accordance with section 159(4) of the *Petroleum and Natural Gas Act*, ARC Resources Ltd. shall pay to Darcy Dwayne Hommy \$10,000.00 on account of compensation that may be ordered under section 162(1)(a) of the *Petroleum and Natural Gas Act* or otherwise agreed by the parties.

4. Nothing in this Order operates as a consent, permission, approval, or authorization of a matter within the jurisdiction of the Oil and Gas Commission.

DATED: October 17, 2014

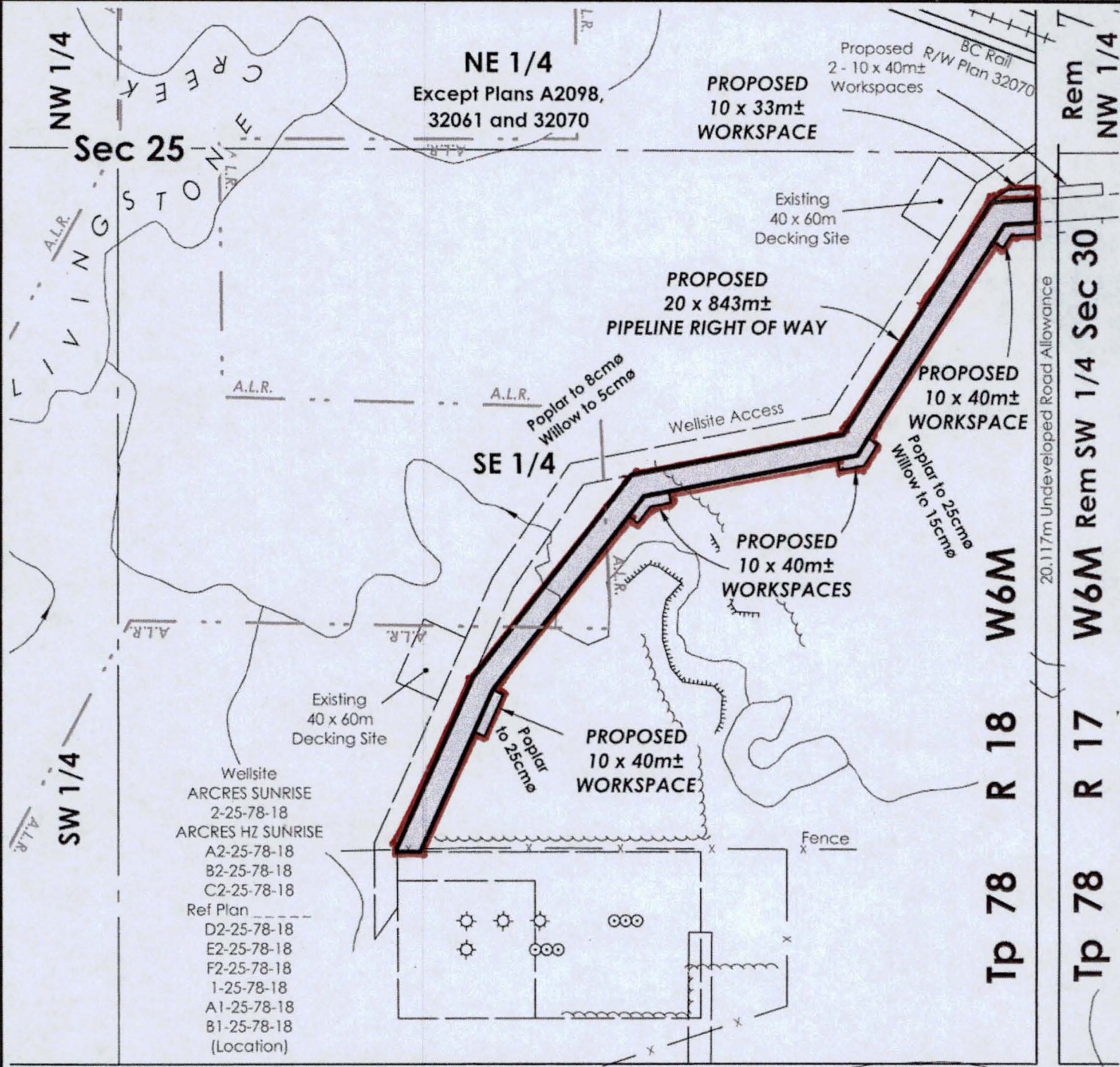
FOR THE BOARD



Cheryl Vickers, Chair/Mediator

ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
 SHOWING PROPOSED
 20m PIPELINE RIGHT OF WAY IN
 SE 1/4 Sec 25, Tp 78, R18, W6M

PEACE RIVER DISTRICT



NW 1/4
 Sec 25

NE 1/4
 Except Plans A2098,
 32061 and 32070

PROPOSED
 10 x 33m±
 WORKSPACE

Proposed R/W BC Rail
 2 - 10 x 40m±
 Workspaces

Existing
 40 x 60m
 Decking Site

PROPOSED
 20 x 843m±
 PIPELINE RIGHT OF WAY

PROPOSED
 10 x 40m±
 WORKSPACE

Poplar to 8cmØ
 Willow to 5cmØ

PROPOSED
 10 x 40m±
 WORKSPACES

Poplar to 25cmØ
 Willow to 15cmØ

Existing
 40 x 60m
 Decking Site

PROPOSED
 10 x 40m±
 WORKSPACE

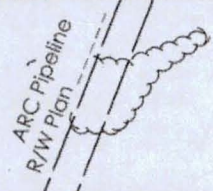
- Wellsite
 ARCRES SUNRISE
 2-25-78-18
 ARCRES HZ SUNRISE
 A2-25-78-18
 B2-25-78-18
 C2-25-78-18
 Ref Plan
 D2-25-78-18
 E2-25-78-18
 F2-25-78-18
 1-25-78-18
 A1-25-78-18
 B1-25-78-18
 (Location)

Fence

20.117m Undeveloped Road Allowance

Rem
 NW 1/4
 Sec 24

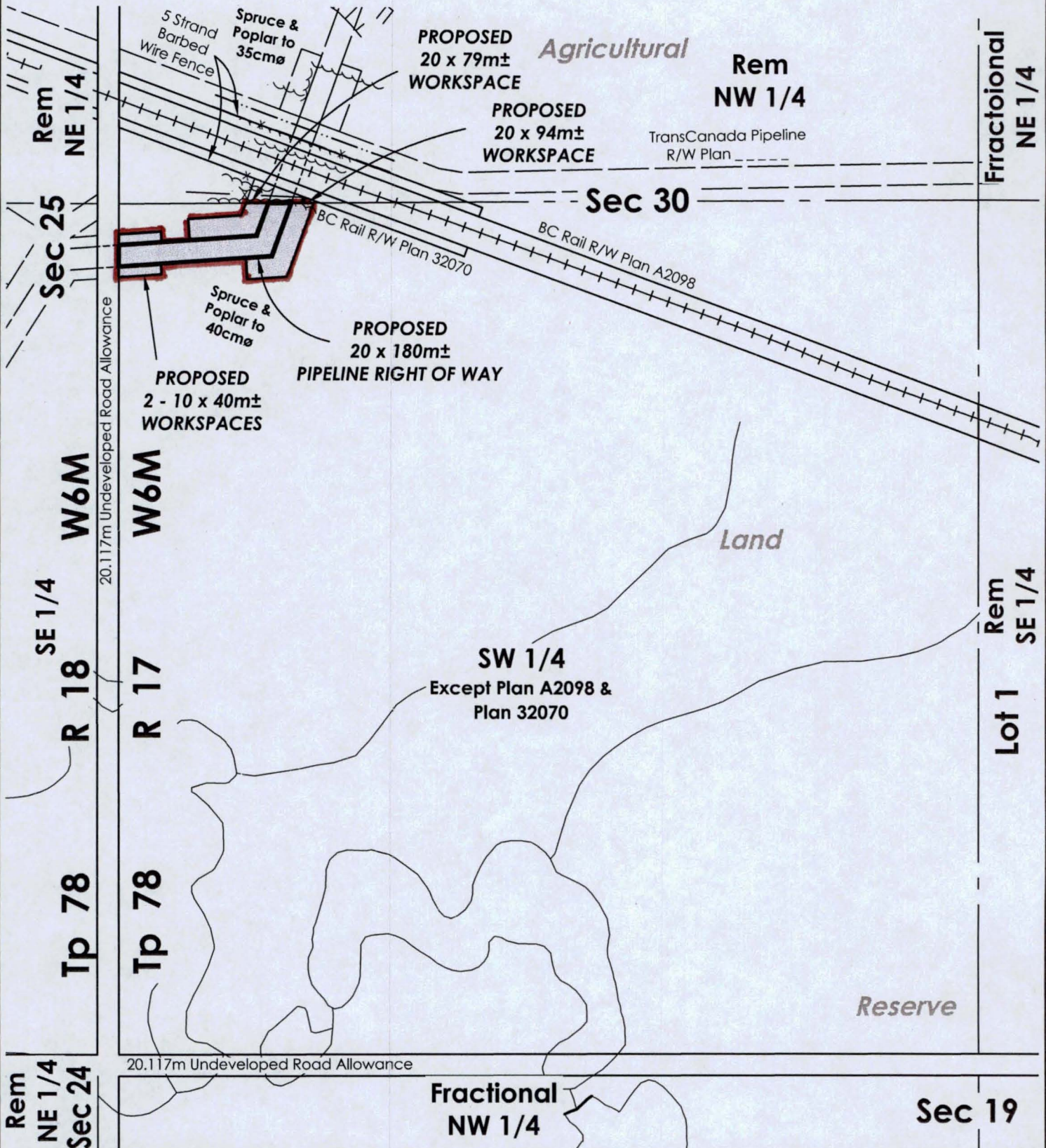
Rem
 NE 1/4



Fractional
 NW 1/4

Rem NW 1/4
 Rem NE 1/4
 Rem SW 1/4
 Rem SE 1/4
 W6M
 R 18
 R 17
 Tp 78
 Tp 78

ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
 SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 30, Tp 78, R17, W6M
 Except Plan A2098 & Plan 32070
PEACE RIVER DISTRICT



File No. 1837
Board Order No. 1837-3

July 21, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098 AND PLAN 32070

THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

MEDIATION ORDER

On October 17, 2014, the Surface Rights Board issued Board Order 1837-2 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying out an approved oil and gas activity, namely to construct, operate and maintain three flow lines.

Order 1837-2 included partial compensation in the amount of \$10,000.

In December 2014, ARC completed the expropriation of a statutory right of way giving ARC access to the Lands for the purpose of constructing, operating and maintaining an additional flow line. An advance payment of \$1,800 was provided to the Respondent for the expropriation.

On April 22, 2015, the Surface Rights Board issued Board Order 1856-1 giving ARC temporary access to the Lands to flow fuel gas through the water disposal line until August 31, 2015.

Order 1856-1 included compensation in the amount of \$500.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. ARC shall pay to the Respondent, DARCY DWAYNE HOMMY, an additional one-time payment of \$3,000 as compensation owing for access to those portions of lands required to construct, operate and maintain four flow lines.

DATED: July 21, 2015

FOR THE BOARD



Rob Fraser, Mediator

File No. 1845
Board Order No. 1845-1

December 23, 2014

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

AND

**THE NORTHEAST ¼ OF SECTION 24 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

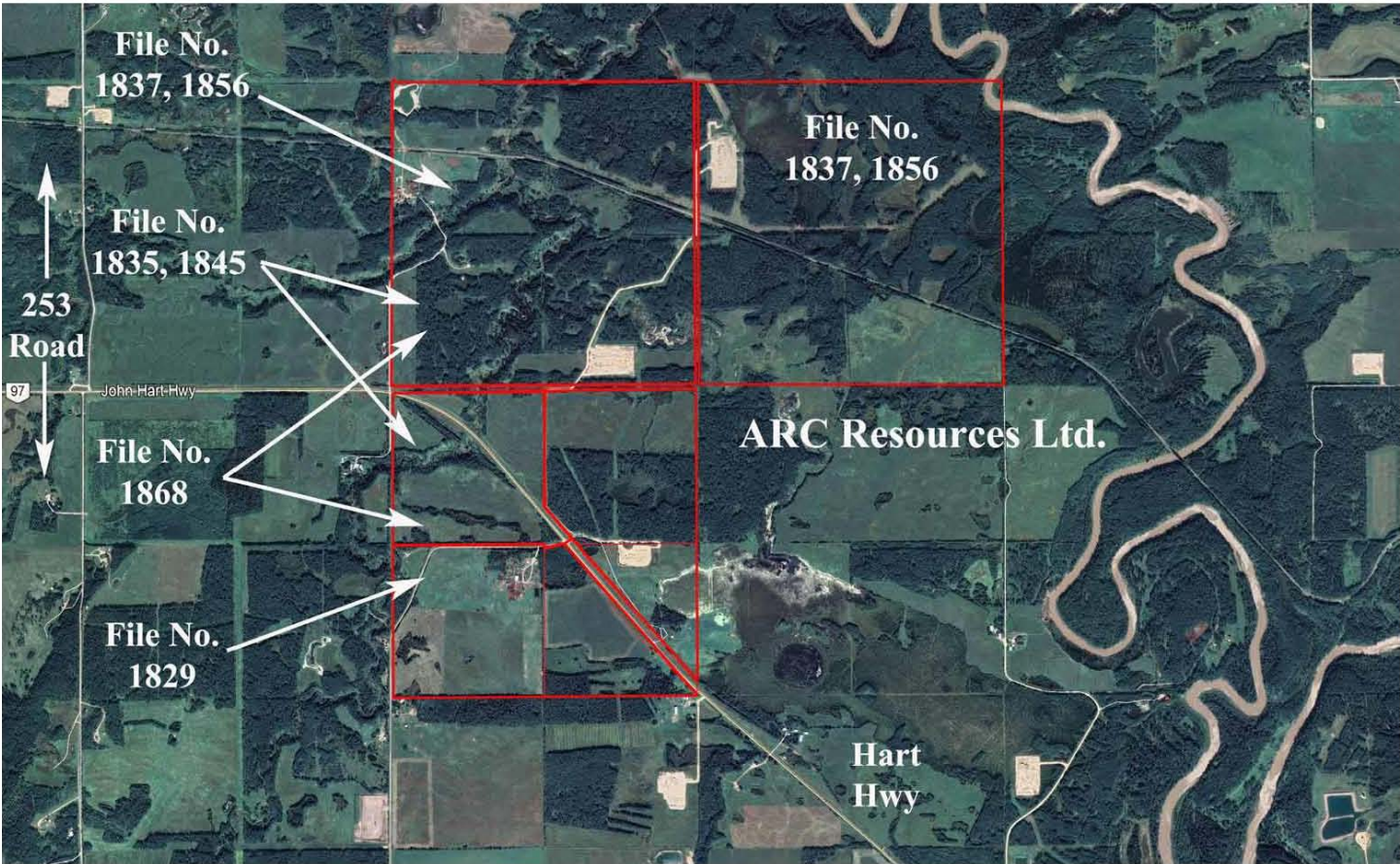
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access the Lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity on an adjacent property.

On December 18, 2014 I convened a telephone conference where the parties discussed ARC's request for a right of entry order to secure access to the Lands.

By consent, the parties agree to the wording of the following order, which is limited to the road access:

ORDER

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in bold on the Individual Ownership Plans attached as Appendix "A" to access a well pad on an adjoining property - 12-30-78-17 W6M.
2. ARC shall pay to the landowner as partial compensation the total amount of \$1000.00.
3. This order does not authorize ARC to construct a power line on the Lands. If ARC intends to construct a power line on the Lands ARC will require either the consent of the landowner or a further order of the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: December 23, 2014

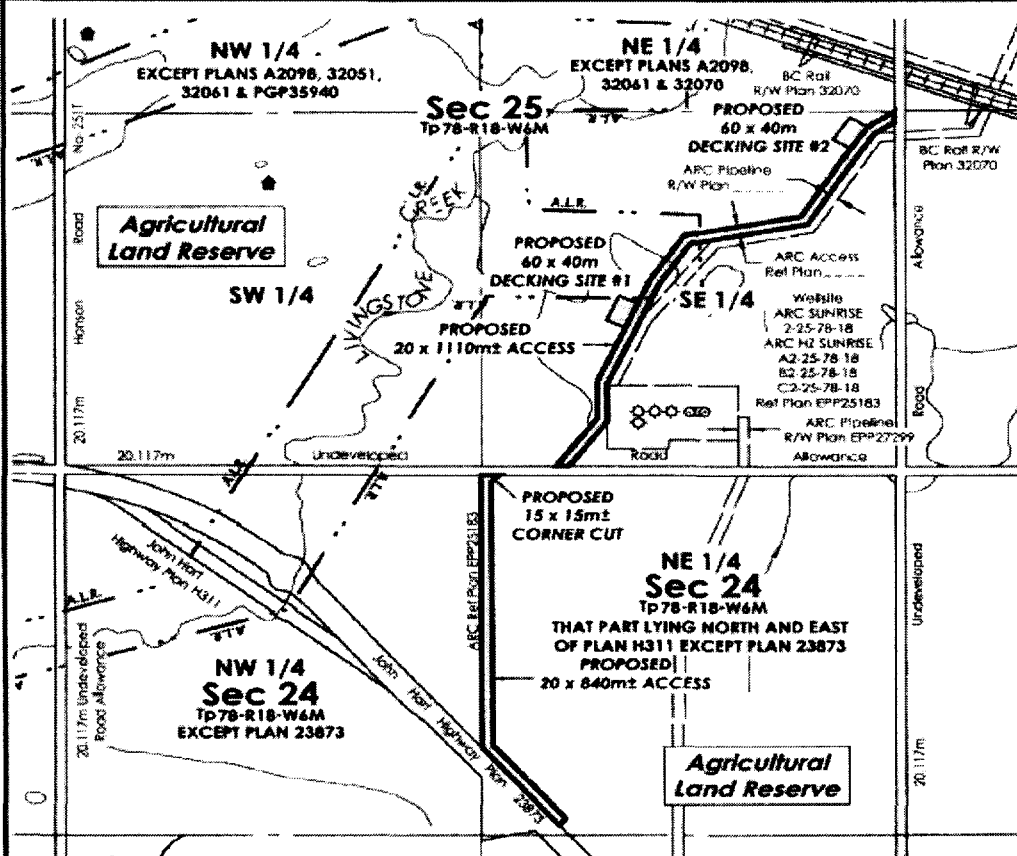
FOR THE BOARD



Rob Fraser, Mediator
Surface Rights Board

Appendix "A"

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m ACCESS, CORNER CUT AND DECKING SITES IN
NE 1/4 Sec 24, Tp 78, R 18, W6M
THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873
AND SE 1/4 Sec 25, Tp 78, R 18, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA3002976 **P.I.D. No.:** 008-746-443
OWNER(S): DARCY DWAYNE HOMMY

TITLE No.: CA3002974 **P.I.D. No.:** 014-738-601
OWNER(S): DARCY DWAYNE HOMMY

AREA REQUIRED:

20m Access	3.90 ha	9.64 ac
Decking Sites	0.48 ha	1.19 ac
TOTAL:	4.38 ha	10.83 ac

LEGEND
SCALE = 1 : 10,000
Portions referred to:
Notes: Distances shown are in metres.

Certified correct this
18th day of December, 2014.

Chris R. Sakundalak
Chris R. Sakundalak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	14/12/18	Original plan issued	AB	CS

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CAN-AM FILE: J20141243
CAD FILE: J20141243HOP-0
Client File No.:
AFE No.:
Land File No.:
REVISION

File No. 1845
Board Order No. 1845-2

July 21, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH EAST $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

AND

THE NORTHEAST $\frac{1}{4}$ OF SECTION 24 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

MEDIATION ORDER

On August 29, 2011, ARC entered into a Lease with the prior landowner, which was assigned to the Respondent through an Assignment and Assumption of Surface Lease Agreement dated February 20, 2013. ARC has continued to pay the Respondent annual compensation in the total amount of \$4,700.

On December 23, 2014, the Surface Rights Board issued Board Order 1845-1 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying out an approved oil and gas activity on an adjacent property.

Order 1845-1 included partial compensation in the amount of \$1,000.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. ARC shall pay to the Respondent, DARCY DWAYNE HOMMY, an additional one-time payment of \$7,500 as compensation owing for access to those portions of lands required for carrying out an approved oil and gas activity on an adjacent property, namely to construct, operate and maintain the wellsites listed in Appendix "A".
2. ARC shall pay rent to the Respondent, DARCY DWAYNE HOMMY in the amount of \$7,500, commencing on December 23, 2015 and annually thereafter.
3. The parties will terminate the Lease dated August 29, 2011.

DATED: July 21, 2015

FOR THE BOARD



Rob Fraser, Mediator

APPENDIX "A"

List of Wellsites

1. 12-30-78-17 W6M (BH 16-35-78-18)
2. A12-30-78-17 W6M (BH 7-35-78-18)
3. B12-30-78-17 W6M (BH 7-35-78-18)
4. C12-30-78-17 W6M (BH 7-35-78-18)
5. D12-30-78-17 W6M (BH 10-35-78-18)
6. E12-30-78-17 W6M (BH 16-19-78-17)
7. F12-30-78-17 W6M (BH 16-19-78-17)
8. G12-30-78-17 W6M (BH 16-19-78-17)
9. H12-30-78-17 W6M (BH 1-30-78-17)
10. I12-30-78-17 W6M (BH 10-35-78-18)
11. J12-30-78-17 W6M (BH 4-29-78-17)
12. K12-30-78-17 W6M (BH 4-29-78-17)
13. 13-30-78-17 W6M (BH 9-35-78-18)
14. A13-30-78-17 W6M (BH 16-35-78-18)
15. B13-30-78-17 W6M (BH 16-35-78-18)
16. C13-30-78-17 W6M (BH 3-29-78-17)
17. D13-30-78-17 W6M (BH 2-29-78-17)
18. E13-30-78-17 W6M (BH 2-29-78-17)

April 22, 2015

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098 AND PLAN 32070**

**THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

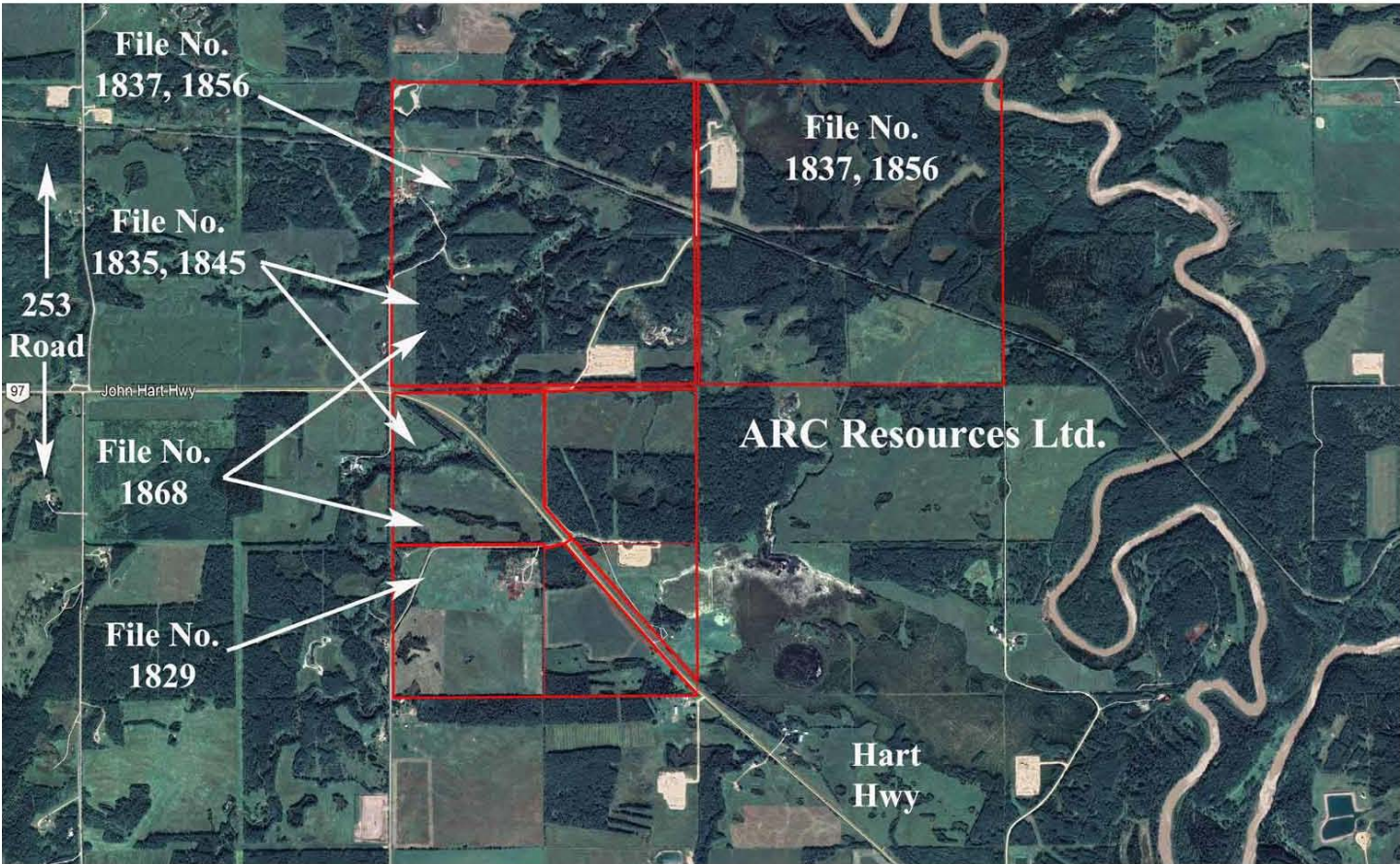
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



Telephone Mediation: April 17, 2015
Appearances: Rick Williams, Barrister and Solicitor, for the Applicant,
Darryl Carter, Q.C., Barrister and Solicitor, for the Respondent
Mediator: Rob Fraser

ARC Resources Ltd. seeks a right of entry order over Lands owned by Darcy Dwayne Hommy to carry sweet natural gas, for a period of four months only, through an existing four inch water disposal line from a well at the 2-25 well-pad to the ARC Sunrise Plant.

The parties consent to the following order.

ORDER

1. Upon payment of the amount set out in paragraph 3 of this Order, ARC Resources Ltd. shall have the Right of Entry to the portions of Lands legally described as:

THE SOUTH WEST ¼ SECTION 30 TOWNSHIP 78 RANGE 17 WEST
OF THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098
AND PLAN 32070, and
THE SOUTH EAST ¼ OF SECTION 25 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT (the Lands)

as shown on the Individual Ownership Plans attached as Appendix "A" (excluding the area referenced as temporary workspace) for operation of Segment 4 of the pipeline that is the subject of a Permit issued by the Oil and Gas Commission on March 20, 2015 (OGC file number 9708487).

2. The Right of Entry shall expire on August 31, 2015.
3. In accordance with 159(4) of the *Petroleum and Natural Gas Act*, ARC Resources Ltd. shall pay to Darcy Dwayne Hommy \$500.00 on account of compensation that may be ordered under Section 162(1)(1) of the *Petroleum and Natural Gas Act* or otherwise agreed by the parties with respect to the amendment of this Order, for the rights granted under paragraph 1.
4. Nothing in this Order operates as a consent, permission, approval or authorization of a matter within the jurisdiction of the Oil and Gas Commission.

Dated: April 22, 2015

FOR THE BOARD

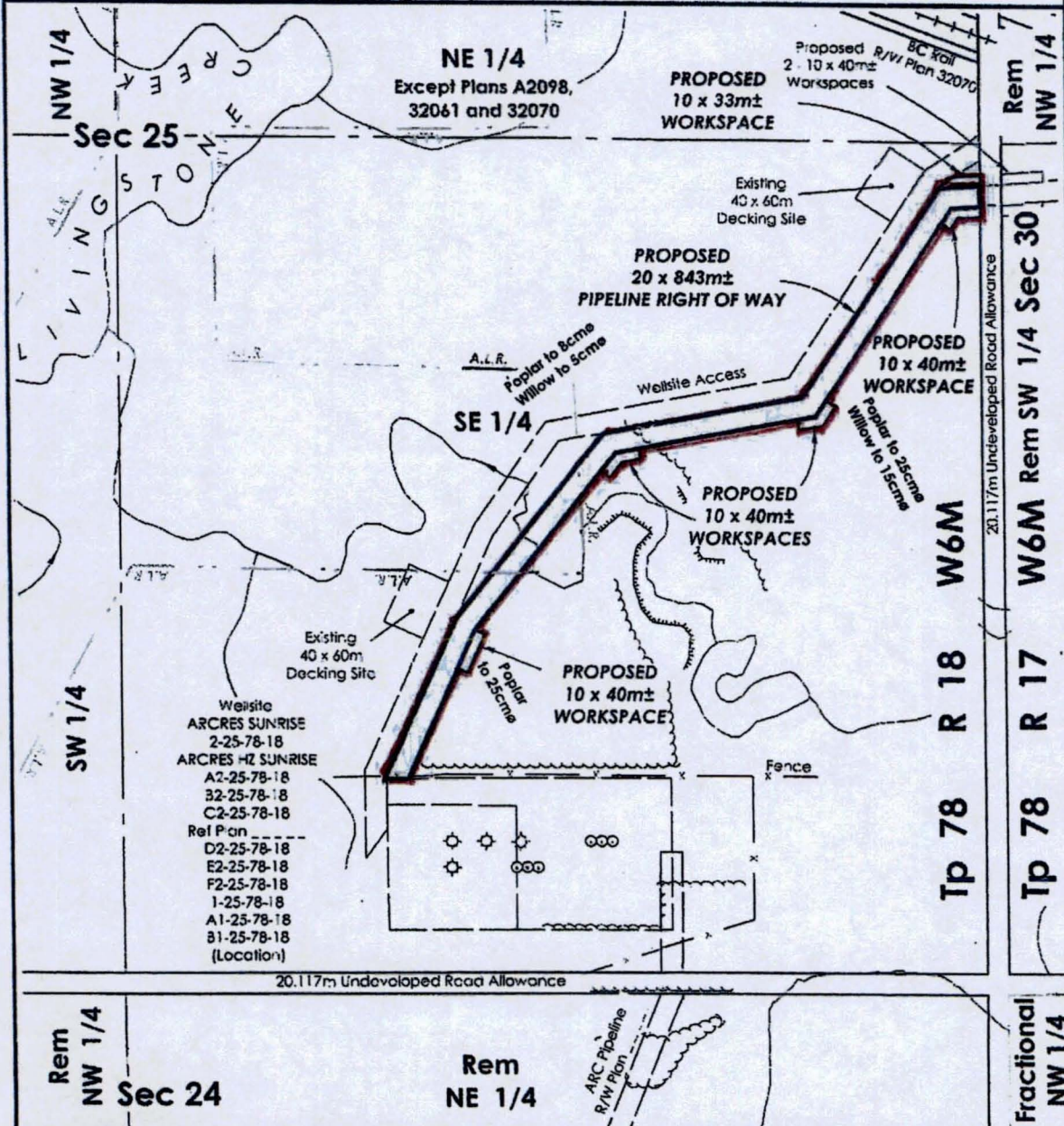


Rob Fraser, Mediator

order 1856-1

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
SE 1/4 Sec 25, Tp 78, R18, W6M**

PEACE RIVER DISTRICT



TITLE No.: CA3002974 P.I.D. No.: 014-738-601
OWNER(S): Darcy Dwayne Hommy

LEGEND
SCALE = 1: 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
10th day of July, 2013.

AREA REQUIRED:

20m Pipeline R/W	1.69 ha	4.18 ac
Workspaces	0.19 ha	0.47 ac
TOTAL:	1.88 ha	4.65 ac

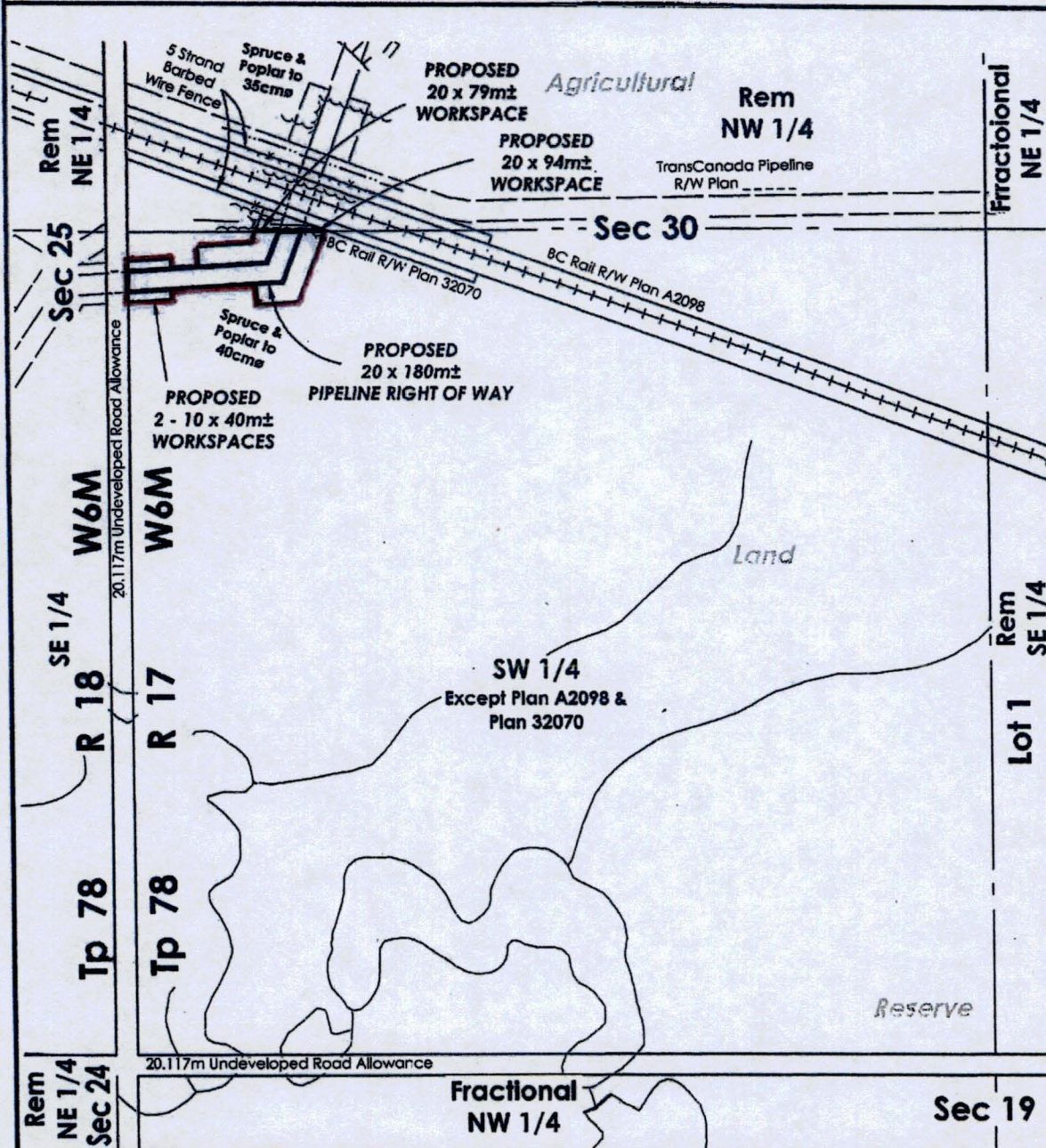
Chris R. Sakundiak, BCLS

NO	DATE	REVISION	DRN	CKD
0	11/08/25	Original plan issued	AB	CS
1	13/07/10	Updated Plan	SC	CS


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CAN-AM FILE: J20100354
CAD FILE: J20100354PL-IOPF-1
Client File No.: E11160
AFE No.:
Land File No.:
REVISION

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 30, Tp 78, R17, W6M
Except Plan A2098 & Plan 32070
PEACE RIVER DISTRICT**



TITLE No.: CA3002980 **P.I.D. No.:** 008-746-311
OWNER(S): Darcy Dwayne Hommy

LEGEND
SCALE = 1 : 5,000
Portions referred to: 
Notes: Distances shown are in metres.
Certified correct this
10th day of July, 2013

AREA REQUIRED:

20m Pipeline R/W	0.36 ha	0.89 ac
Workspaces	0.43 ha	1.06 ac
TOTAL:	0.79 ha	1.95 ac

Chris R. Sakundiak, BCLS

NO	DATE	REVISION	DRN	CKD
0	11/08/25	Original plan issued	AB	CS
1	13/07/10	Updated Plan	SC	CS

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CAN-AM FILE: J20100354
CAD FILE: J20100354PL-IOPE-1
Client File No.: E11160
AFE No.:
Land File No.:



REVISION

File No. 1856
Board Order No. 1856-2

July 21, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST $\frac{1}{4}$ SECTION 30 TOWNSHIP 78 RANGE 17 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN A2098 AND PLAN 32070

THE SOUTH EAST $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 78 RANGE 18 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

MEDIATION ORDER

On April 22, 2015, the Surface Rights Board issued Board Order 1856-1 giving ARC Resources Ltd. ("ARC") access to the Lands for the purpose of carrying sweet natural gas, for a period of four months only, through an existing four inch water disposal line from a well at the 2-25 well-pad to the ARC Sunrise Plant.

Order 1856-1 included partial compensation in the amount of \$500.

The parties have reached an agreement on the amount of compensation, which amounts include a significant bonus payment by ARC to avoid the need for Arbitration.

BY CONSENT, the Surface Rights Board orders:

1. No additional amounts are owing by ARC to the Respondent, DARCY DWAYNE HOMMY.

DATED: July 21, 2015

FOR THE BOARD



Rob Fraser, Mediator

September 18, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH EAST $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

THAT PART OF THE NORTH EAST $\frac{1}{4}$ SECTION 24 TOWNSHIP 78 RANGE 18
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT LYING NORTH AND
EAST OF PLAN h311 EXCEPT PLAN 23873
(the "Lands")

BETWEEN:

ARC Resources Ltd.

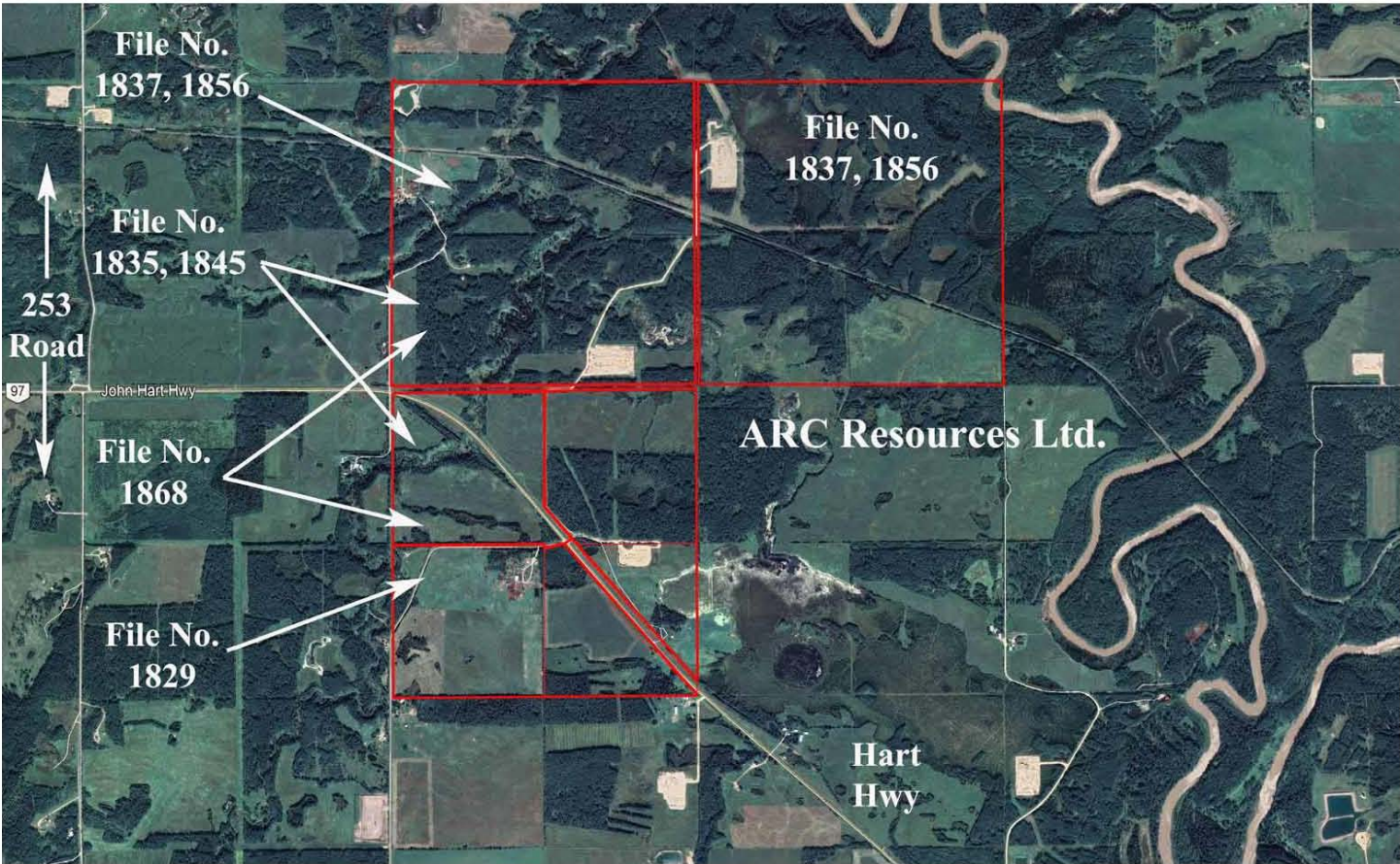
(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely to drill, construct and operate four (4) natural gas wells and associated infrastructure.

The parties agree to the following the Order.

BY CONSENT, the Surface Rights Board orders:

ORDER

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate four (4) additional natural gas wells on the existing well pad and utilizing the existing access road related to Oil and Gas Commission Well Authorizations 31524, 31525, 31526, and 31527.
2. ARC shall pay to the landowner as partial compensation the total amount of \$4,000.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: September 18, 2015

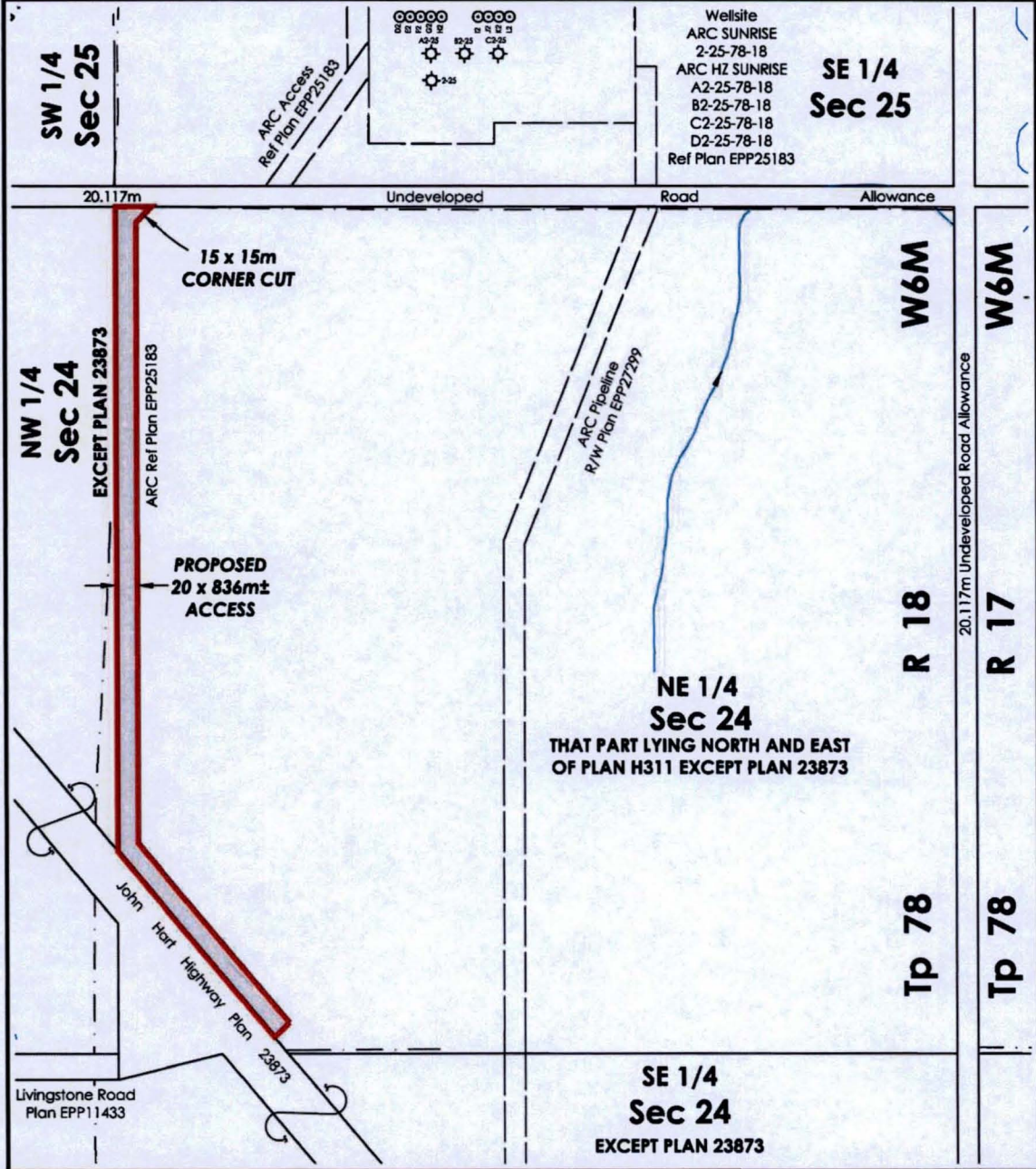
FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.


Rob Fraser
Mediator

APPENDIX "A" - Order 1868-1

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m ACCESS IN
NE 1/4 Sec 24, Tp 78, R18, W6M
THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873
PEACE RIVER DISTRICT**



TITLE No.: CA3002976 **P.I.D. No.:** 008-746-443
OWNER(S): Darcy Dwayne Hommy

LEGEND
 SCALE = 1 : 5,000
 Portions referred to: 
 Notes: Distances shown are in metres.
 Certified correct this
 12th day of August, 2015


AREA REQUIRED:

Access	1.68 ha	4.15 ac
TOTAL:	1.68 ha	4.15 ac

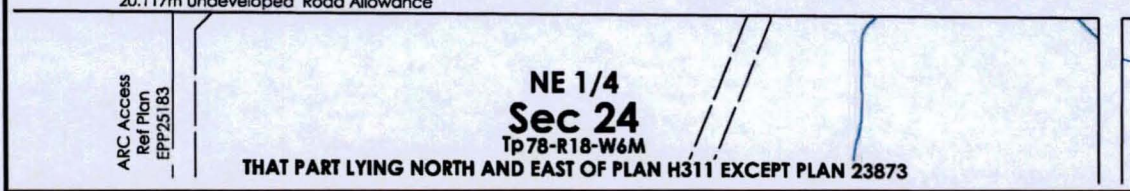
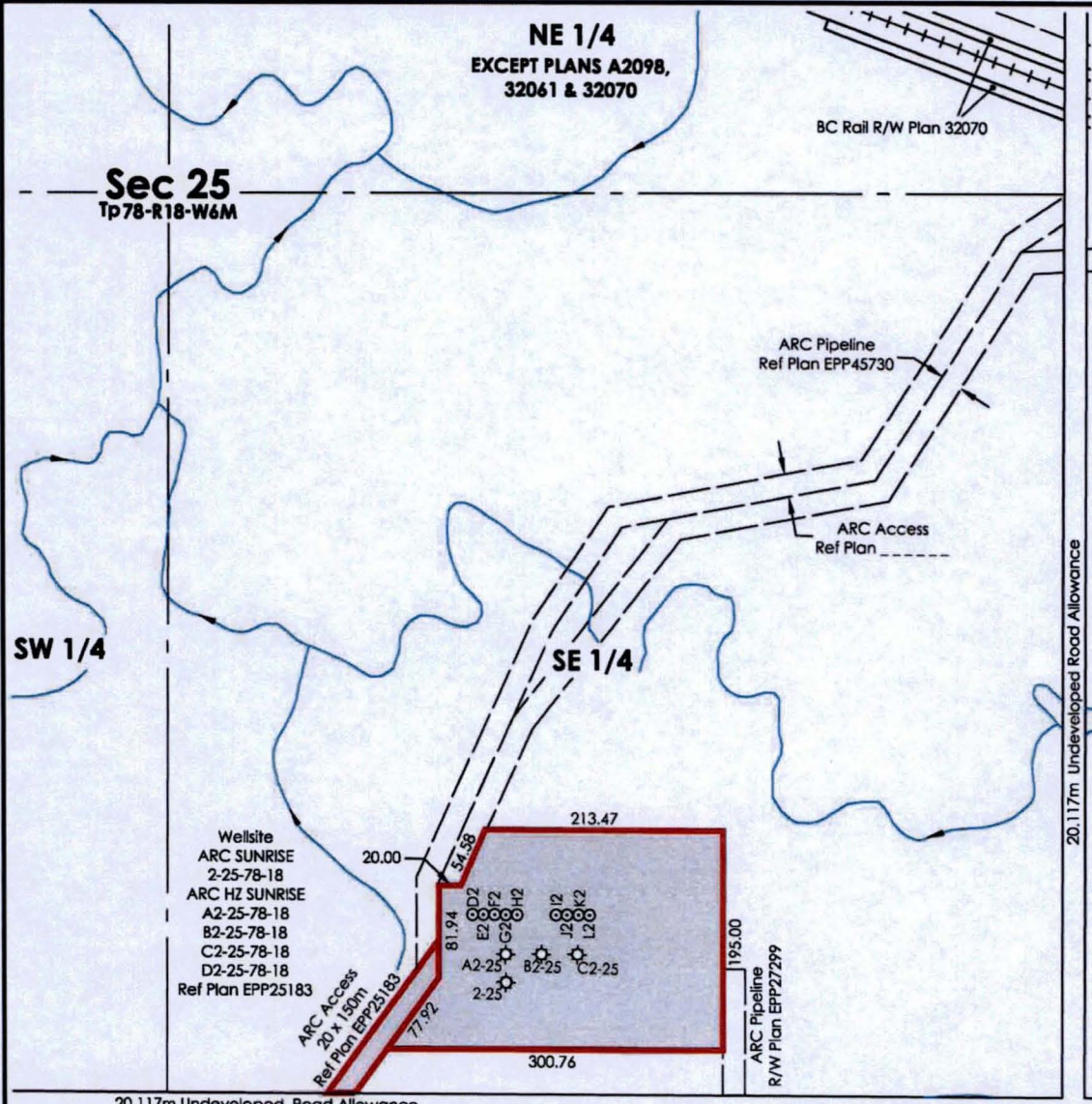

 Chris R. Sakundiak, BCLS

NO	DATE	REVISION	DRN	CKD
0	14/04/17	Original plan issued	WC	CS
1	15/08/12	Added Wells	SJR	CS

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CAN-AM FILE: J20140338
 CAD FILE: J20140338IOP1-1
 Client File No.: S09963
 AFE No.: 13PRE0127
 Land File No.:  REVISION

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING
WELLSITE IN
SE 1/4 Sec 25, Tp 78, R 18, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA3002974 **P.I.D. No.:** 014-738-601 **LEGEND**
OWNER(S): Darcy Dwayne Hommy **SCALE = 1: 5,000**
 Portions referred to:
 Notes: Distances shown are in metres.
 Certified correct this
 12th day of August, 2015.

AREA REQUIRED:

Wellsite	4.96 ha	12.26 ac
Access	0.30 ha	0.74 ac
TOTAL:	5.26 ha	13.00 ac

Chris R. Sakundiak
Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD	can-am geomatics® can-am geomatics bc Fort St. John, B.C. www.canam.com	CAN-AM FILE: J20140639 CAD FILE: J20140639IOP-2 Client File No.: S09963 AFE No.: 13PRE0127 Land File No.:
0	15/03/02	Original plan issued	RC	CS		
1	15/07/17	Removed surface points/added lease & access	CA	CS		
2	15/08/12	Added Wells	SJR	CS		

Phone: 250.787.7171
Toll Free: 1.866.208.0983
Fax: 250.787.2323



File No. 1868
Board Order No. 1868-1amd

April 11, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NE 1/4 OF SECTION 24, TOWNSHIP 78, RANGE 18, W6M THAT PART
LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873,
PEACE RIVER DISTRICT, PID 008-746-443

THE SE 1/4 OF SECTION 25, TOWNSHIP 78, RANGE 18,
W6M PEACE RIVER DISTRICT, PID 014-738-601

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

AMENDED BOARD ORDER

This Order amends and replaces Order 1868-1 issued September 18, 2015.

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Darcy Dwayne Hommy to carry out an approved oil and gas activity, namely to drill, construct and operate ten (10) natural gas wells and associated infrastructure.

The parties agree to the following Order.

BY CONSENT, the Surface Rights Board orders:

ORDER

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right of entry to and access across the portions of the Lands shown outlined in black on the Individual Ownership Plans attached as Appendix "A" to drill, construct and operate ten (10) additional natural gas wells on the existing well pad and utilizing the existing access road related to Oil and Gas Commission Well Authorizations 31524, 31525, 31526, ~~and~~ 31527, 30173, 30174, 30175, 30176, 31941 and 31942.
2. ARC shall pay to the landowner as partial compensation the total amount of \$10,000.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: April 11, 2016

FOR THE BOARD



Rob Fraser
Mediator

File No. 1868
Board Order No. 1868-2

June 9, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE NE 1/4 OF SECTION 24, TOWNSHIP 78, RANGE 18, W6M THAT PART LYING
NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873,
PEACE RIVER DISTRICT, PID 008-746-443

THE SE 1/4 OF SECTION 25, TOWNSHIP 78, RANGE 18,
W6M PEACE RIVER DISTRICT, PID 014-738-601

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

Heard: April 26, 2016 at Dawson Creek, BC
Appearances: Rick Williams, Barrister and Solicitor, for ARC Resources Ltd
Darryl Carter, Q.C., for Darcy Dwayne Hommy

INTRODUCTION

[1] The Applicant, ARC Resources Ltd. (ARC) has a right of entry over a portion of Lands owned by the Respondent, Darcy Dwayne Hommy, for the purpose of drilling and operating a number of wells on a multi-well padsite and for an access road. The parties have been unable to agree on the compensation payable to Mr. Hommy for the loss and damage arising from the construction and operation of ten additional wells on the existing well pad already containing nine wells, where no additional area is being added to the existing padsite or access road.

[2] This is the first time the Board has had to consider the issue of compensation for additional wells on an existing padsite. ARC offers \$1,000 per well; Mr. Hommy seeks \$2,000 per well. The parties also disagree on whether Mr. Hommy should receive annual compensation for each additional well. ARC says no additional annual compensation is required; Mr. Hommy seeks annual compensation of \$1,000 per well.

ISSUE

[3] The issue is to determine the compensation payable to Mr. Hommy arising from ARC's right to enter a portion of the Lands to construct and operate ten additional wells, in all of the circumstances of this case. There are two questions: a) How much should be paid in initial compensation per additional well? And b) Should there be annual compensation, and if so, how much?

EVIDENCE AND FACTS

[4] I heard evidence from Darren Rosie, senior surface landman with ARC; Brian Fast, an assistant in Mr. Carter's law office; and Trevor Sheehan, an Agrologist. Mr. Hommy did not give evidence.

[5] The Respondent, Darcy Dwayne Hommy, owns the Lands legally described as: THE NE 1/4 OF SECTION 24, TOWNSHIP 78, RANGE 18, W6M THAT PART LYING NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873, PEACE RIVER DISTRICT and THE SE 1/4 OF SECTION 25, TOWNSHIP 78, RANGE 18, W6M PEACE RIVER DISTRICT (the Lands). When Mr. Hommy purchased the Lands in October 2012, they were subject to a surface lease allowing ARC to construct and operate four natural gas wells and an access road on the Lands. The previous owner of the Lands assigned his rights under the surface lease, including the right to receive \$8,200 in annual rent, to Mr. Hommy.

[6] Mr. Rosie's evidence is that Mr. Hommy purchased the Lands for \$90,000.

[7] In 2013, ARC approached Mr. Hommy seeking to expand the well pad in order to construct and operate additional wells. The Board granted right of entry orders to give ARC access to additional area on the Lands to construct additional wells. The parties settled the compensation payable to Mr. Hommy for this entry. As part of their settlement, the parties agreed to surrender the existing surface lease and consented to a Board Order granting ARC entry to and access over the Lands to construct and operate the access road, the existing four natural gas wells and five additional wells for a total of nine wells and associated infrastructure. The parties agreed to initial compensation of \$18,000 and annual rent of \$12,500.

[8] ARC now proposes to drill an additional ten wells on the existing pad site. The Oil and Gas Commission has granted permits for the ten wells. The Board issued a Right of

Entry Order by consent, initially to allow for the drilling of four additional wells (Order 1868-1) and on April 11, 2016, amended the right of entry order, again by consent, to allow for the drilling and operation of ten wells (Order 1868-1amd). The right of entry allowing ARC to construct and operate an additional ten wells does not increase the area of the Lands on which ARC may enter and use for their oil and gas activities.

[9] The wells are sweet gas wells. ARC personnel currently visit the pad site once a day. Once the additional 10 wells have been drilled, ARC personnel will continue to visit the pad site once a day. Other than for the initial drilling of each additional well, there will be no additional activity on the well site as a result of additional wells being installed on the area covered by the right of entry order.

[10] ARC initially offered Mr. Hommy \$2,000 per well in initial compensation for the additional wells and \$500 per well in annual compensation. Mr. Rosie's evidence is this is what ARC has been paying to avoid the arbitration process. Mr. Hommy declined this offer. Mr. Rosie's evidence is that while ARC was prepared to make that offer to avoid the arbitration process, he is aware that other oil and gas companies pay less, in the range of \$1,000 to \$2,000 per well for initial compensation and \$250 to \$500 per well in annual compensation. He did not provide copies of any actual agreements.

[11] Mr. Rosie's evidence is that he has not made other offers of \$2,000 initial and \$500 annual per well in any situations involving more than 5 additional wells or in situations where no additional land is being taken.

[12] Mr. Fast provided copies of 11 offers from Encana Corporation provided to their office in the context of negotiations for multi-well padsites that they were involved with on behalf of landowners. All of the offers relate to padsites in Alberta. The offers range from \$2,000 to \$2,500 initial compensation for each additional well, with the majority of the offers being at \$2,500 per well, and all offer \$1,000 annual compensation per well. All of the offers were made in the context of an initial taking; none relate to

compensation for additional wells on an existing padsite. The offers are all for projects involving 2-6 wells. Mr. Fast's evidence is that some of the offers relate to cultivated land and some do not. His evidence is that not all of the offers were accepted. He did not provide evidence of any actual agreements.

[13] The evidence of both Mr. Rosie and Mr. Fast is that the practice that has generally developed over the years in both B.C. and Alberta when negotiating surface leases for oil and gas activity is to compensate for the loss of rights associated with the taking, initial nuisance and disturbance and initial loss of profit in the initial larger lump sum payment, and that smaller annual payments compensate for ongoing nuisance and disturbance and loss of profits.

[14] Trevor Sheehan, an Agrolgist, provided a report and his opinion as to the loss of income from the Lands as a result of ARC's entry for the padsite and access road. Making various assumptions favourable to the landowner, and no deduction for input costs, Mr. Sheehan estimates the maximum gross forage crop loss from the leased area on SE 25 comprising the well site and some of the access road at \$2,059, and from the leased area on NE 24 comprising most of the access road at \$1,032, for a total of \$3,091.

[15] In Mr. Sheehan's opinion, no additional crop loss is incurred as a result of additional wells being installed on the leased area.

[16] Mr. Hommy does not live on the Lands and does not use the Lands for any purpose.

THE LEGAL FRAMEWORK

[17] The legal framework respecting the rights and obligations associated with the entry to private land for oil and gas activities is set out in the *Petroleum and Natural Gas*

Act. In accordance with section 142 of that Act, a person may not enter, occupy or use land to carry out an oil and gas activity unless the entry, occupation and use is authorized by a surface lease with the landowner in the prescribed form or an order of the Board. The Board may make an order, pursuant to section 159 of the Act, authorizing a right of entry if it is satisfied the right of entry is required for an oil and gas activity. Section 143(2) of the Act provides that a right holder, that is the person who holds a right of entry, is liable to pay compensation to the landowner for loss or damage caused by the right of entry and, except where the right of entry relates to a right of way for a flow line, to pay rent to the landowner for the duration of the right of entry.

[18] Section 154 of the Act sets out, without limitation, the factors the Board may consider in determining the compensation to be paid periodically or otherwise. They are:

- (a) the compulsory aspect of the entry;
- (b) the value of the applicable land;
- (c) a person's loss of right or profit with respect to the land;
- (d) temporary and permanent damage from the right of entry;
- (e) compensation for severance;
- (f) compensation for nuisance and disturbance from the right of entry;
- (g) the effect, if any of other rights of entry with respect to the land;
- (h) money previously paid for entry, occupation or use;
- (i) the terms of any surface lease or agreement submitted to the Board or to which the Board has access;
- (j) previous orders of the Board;
- (k) other factors the Board considers applicable;
- (l) other factors or criteria established by regulation.

[19] The Board has previously articulated a number of settled principles relating to compensation for entry under the *Petroleum and Natural Gas Act* that it has found to be

binding upon it (*ARC Petroleum Inc. v. Piper*, Order 1589-2, December 5, 2008 and *Spectra Energy Midstream Corporation v. London*, Order 1694-3, February 24, 2015). A landowner is entitled to compensation for the loss sustained and not for more than the loss sustained. The Board exceeds its jurisdiction if it awards an amount of compensation in excess of the loss sustained (*Western Industrial Clay Products Ltd. v. Mediation and Arbitration Board*, 2001 BCSC 1458).

[20] While compensation for a surface taking is for the loss sustained, loss may include intangible loss that is not capable of precise calculation such as for nuisance and disturbance and for the loss of rights.

ANALYSIS

[21] This case presents the first time the Board has had to consider the compensation payable to a landowner for a right of entry to construct and operate additional wells on an existing well site where no additional land is taken.

[22] The evidence is clear that ARC's right of entry to construct and operate an additional ten wells on the existing well site will not cause any additional tangible loss to Mr. Hommy. No additional land is taken and no additional loss of income or profit will be incurred as a result of the additional wells. Mr. Hommy is already compensated in the current rent of \$12,500 in excess of the estimated loss of income from the area used for the well site and access road. Any additional loss to Mr. Hommy arising from ARC's right of entry to construct the ten additional wells is intangible in nature. The challenge for the Board is to place a monetary value on that loss.

[23] Mr. Carter focuses on the landowner's loss of rights and submits the issue is to compensate for the loss of rights. Loss of right is one of the factors the board may consider under section 154. Certainly, when a right of entry order is granted under the *Petroleum and Natural Gas Act* the landowner has lost rights. As was said in *Dome v*

Juell [1982], B.C.J. No. 1510, the landowner has lost “his right to decide for himself whether or not he wants to see oil and gas exploration and production carried out on his land.” The loss of rights is intangible, and as the Court said in *Dome v. Juell*, “not capable of precise calculation according to some standard or other.”

[24] Mr. Williams submits Mr. Hommy has already lost and been compensated for his loss of right to quiet enjoyment. He purchased the Lands with the lease in place. He lost some additional quiet enjoyment when the lease area was expanded for which he has been compensated. Further, as Mr. Hommy does not live on the Lands, Mr. Williams submits compensation for nuisance and disturbance should be on the low side. He submits any additional nuisance and disturbance or adverse effect should be based on evidence. Mr. Hommy has not provided any evidence of the impact to him or the Lands from the additional wells.

[25] Mr. Carter submits there is an ongoing loss of rights in the circumstances of a partial taking where a landowner is forced to share his land for the purpose of an activity he might not otherwise choose to have on his land. He submits the Board needs to value the loss of rights by looking at the loss from the landowner’s perspective. In this case, I have no evidence from the landowner himself, as Mr. Hommy did not testify. I can infer from his rejection of ARC’s offer, however, that from his perspective, the offer does not adequately compensate for his loss of rights.

[26] Mr. Carter submits the landowner’s perspective may be gleaned from other agreements freely negotiated. I have no evidence of other agreements. I only have evidence of offers. I have Mr. Fast’s evidence of 11 offers from Encana relating to multi-well padsites in Alberta. Mr. Fast’s evidence is that these offers did not all result in agreement. I have no way of knowing which offers did or did not result in agreement or how the landowners in those negotiations valued their loss of rights. None of the offers relate to additional wells on existing well sites where no additional land is being taken; all arise in the context of an initial taking.

[27] Nor do I have examples of any agreements from ARC. All I have is Mr. Rosie's evidence of what other companies are paying, without evidence as to which companies or the circumstances of those payments, and of what ARC offers "to avoid the arbitration process."

[28] As unsatisfactory as it is, the evidence of both Mr. Rosie and Mr. Fast suggests, however, that despite the fact that there may be no additional tangible losses involved for additional well sites, there is certainly an expectation on the part of landowners in both B.C. and Alberta that they will be compensated for additional wells, and an expectation on the part of right holders that they will have to pay additional compensation for additional wells in order to reach agreement with landowners. The evidence suggests that the expected payments are higher in Alberta than in B.C. The evidence before me, while sparse, suggests the expectation in B.C. ranges from \$1,000 to \$2,000 for each additional well as an initial payment and from \$250 to \$500 for each additional well annually. I have no evidence respecting payments offered for additional wells where no additional land is being taken, but these amounts, when paid in the context of an initial taking, are in addition to any payments to compensate for the value of the land, the loss of profit from the land and the nuisance and inconvenience of having to farm around a well site. Whether these payments are made from the companies' perspective to avoid arbitration, or from the landowners' perspective as the value for ongoing loss of rights, the evidence suggests that for there to be a meeting of the minds in surface takings involving additional well sites, an amount per well will be paid both on an initial and annual basis, and that the payment will exceed tangible loss.

[29] Mr. Williams submits that, in this case, there is no need for an annual payment because there is no ongoing tangible loss and no ongoing intangible loss in the nature of nuisance and disturbance. I find, however, on the evidence before me that the industry practice and landowner expectation is that an amount will be paid on an annual basis for each additional well on a multi-well pad site. Further in my view, regardless of

practice and expectation, the clear wording of section 143(2)(b) of the *Petroleum and Natural Gas Act* establishes a right holder's liability to pay rent to the landowner for the duration of a right of entry, except where the right of entry relates to a flowline. Section 143(2) provides:

- 143(2) Subject to subsections 93) and (4), a right holder is liable
- (a) to pay compensation to the landowner for loss or damage caused by the right of entry, and
 - (b) except where the right of entry relates to a right of way for a flow line, to pay rent to the landowner for the duration of the right of entry.

[30] I find a right holder has an ongoing liability to pay rent even where ongoing loss may be minimal and may only relate to intangible loss.

[31] I accept that any ongoing intangible loss associated with nuisance and disturbance in this case is minimal. Other than to drill the additional wells, there will be no increased traffic to the site. There is no evidence that there will be ongoing disturbance from noise, lights or odour. Mr. Hommy does not live on the Lands, and there is no evidence that ARC's activities personally impact or disturb him.

[32] However, I also accept that there is an ongoing loss of rights associated with a multi-well padsite. Not only has the landowner "lost the right to decide for himself whether or not to have to have oil and gas exploration and production carried out on his land", as Mr. Justice Berger said in *Dome v. Juell*, the landowner cannot terminate the lease and his rights with respect to when he may seek a rent increase are controlled by legislation. If the right holder sells his surface rights to another operator, the landowner has no right to object to the new operator taking over the lease. In cases involving multi-well padsites, the landowner also loses any right to control the amount of the oil and gas activity on a site or to say "enough is enough". There is, therefore, an ongoing loss of rights associated with the compulsory aspect of the taking. While the evidence

of both Mr. Rosie and Mr. Fast is that the general practice is to compensate for the loss of rights associated with the compulsory aspect of the taking in an initial payment, that practice does not negate any ongoing liability under the Act to pay rent for the duration of a right of entry. Compensation for the ongoing compulsory aspect of the taking will, as Justice Berger acknowledged in *Dome v. Juell*, be arbitrary.

[33] As I have no evidence of actual agreements to assist in placing a monetary value on the intangible loss associated with a right of entry to construct and operate additional wellsites where no additional land is taken, I am left with the evidence of offers for additional wells in the context of an initial taking. I find appropriate compensation for Mr. Hommy's intangible loss should be in line with what the evidence suggests is the industry standard in B.C. for additional wells. For initial compensation, the evidence suggests the standard in B.C. is \$2,000 for each additional well. This payment is to compensate for intangible loss of rights associated with the right of entry for additional oil and gas activity and for the nuisance and disturbance associated with drilling the additional wells.

[34] As for annual payments, the evidence suggests the standard in B.C. is to pay \$250-\$500 per additional well. As there will be no additional ongoing nuisance and disturbance in this case, I find ARC's liability to pay rent is met with a minimal payment of \$250 per well per year, which accords with the low end of the range before me. This payment is simply to recognize and compensate for the ongoing compulsory aspect of the entry and intangible ongoing loss of rights.

ORDER

[35] ARC Resources Ltd. must pay Darcy Dwayne Hommy \$2,000 for each well drilled pursuant to the right of entry granted by Board order 1868-1amd.

[36] ARC Resources Ltd. must pay Darcy Dwayne Hommy \$250 for each well drilled pursuant to the right of entry granted by Board Order 1868-1amd on an annual basis.

[37] ARC may offset against this award any amount paid to Mr. Hommy as partial compensation in accordance with Order 1868-1amd.

DATED: June 9, 2016

FOR THE BOARD



Cheryl Vickers, Chair

October 13, 2016

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE NE 1/4 OF SECTION 24, TOWNSHIP 78, RANGE 18, W6M THAT PART LYING
NORTH AND EAST OF PLAN H311 EXCEPT PLAN 23873,
PEACE RIVER DISTRICT, PID 008-746-443**

**THE SE 1/4 OF SECTION 25, TOWNSHIP 78, RANGE 18,
W6M PEACE RIVER DISTRICT, PID 014-738-601**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Darcy Dwayne Hommy

(RESPONDENT)

BOARD ORDER

Heard: by written submissions closing August 5, 2016
Appearances: Darryl Carter, Q.C., for Darcy Dwayne Hommy
Rick Williams, Barrister and Solicitor, for ARC Resources Ltd.

INTRODUCTION

[1] This is an application for costs following the arbitration of compensation payable by ARC Resources Ltd. (ARC) to Darcy Dwayne Hommy arising from ARC's right to enter a portion of the Lands owned by Mr. Hommy to construct and operate ten additional wells on an existing padsite. The arbitration was the first time the Board was asked to consider the issue of compensation for additional wells on an existing padsite.

[2] The parties have been unable to resolve the issue of costs. Mr. Hommy seeks to recover \$23,338.26 in legal fees, disbursements and applicable taxes in accordance with accounts rendered by his counsel. ARC submits that the parties should be responsible for their own costs, or alternatively that the costs sought by Mr. Hommy should be substantially reduced.

ISSUES

[3] The issues are:

- a) Should Mr. Hommy receive his costs in connection with ARC's application for right of entry and to determine compensation, and
- b) If so, how much should he receive in costs?

BACKGROUND

[4] The Board granted a right of entry over a portion of Mr. Hommy's Lands allowing ARC to construct and operate ten additional wells on an existing padsite already containing nine wells, and already the subject of a right of entry order and agreement respecting compensation. The right of entry to construct the ten additional wells did not

increase the area of the Lands that ARC may use for its oil and gas activities. The parties were not able to agree on the additional compensation payable to Mr. Hommy arising out of the right of entry to drill the additional ten wells.

[5] At the arbitration, ARC submitted the initial compensation should be \$1,000 per well whereas Mr. Hommy submitted it should be \$2,000 per well. ARC submitted no additional annual compensation was required; Mr. Hommy sought annual compensation of \$1,000 per well. In determining the compensation payable arising from ARC's right of entry to construct and operate the additional ten wells, the Board was required to answer two questions: a) How much should be paid in initial compensation per additional well? And b) Should there be annual compensation, and if so, how much? The Board determined that ARC should pay Mr. Hommy \$2,000 per well in initial compensation and \$250 per well annually (Order 1868-2, June 9, 2016).

[6] ARC made three offers to settle in advance of the arbitration. The Board's award equaled the third offer. The first and second offers exceeded the Board's award. Following ARC's initial offer, Mr. Hommy's counsel responded that ARC would need to offer \$4,000 per well and \$1,000 per well annually to reach a settlement.

LEGAL FRAMEWORK

The Board's authority to award costs

[7] The Board's authority to award costs to a party is found in section 170 of the *Petroleum and Natural Gas Act* which provides:

170 (1) Subject to any regulation, the board may order a party to an application under this Part or an intervener to pay all or part of the following:

(a) all or part of the actual costs incurred by another party or intervener in connection with the application;

(b) ...

[8] There are no regulations limiting or otherwise directing the exercise of the Board's authority under this section.

[9] The term "actual costs" is defined in section 168 of the *Petroleum and Natural Gas Act* as follows:

"actual costs" includes without limitation, the following:

- (a) actual reasonable legal fees and disbursements;
- (b) actual reasonable fees and disbursements of a professional agent or expert witness;
- (c) other actual reasonable expenses incurred by a party in connection with a board proceeding;
- (d) an amount on account of the reasonable time spent by a party in preparing for and attending a board proceeding.

The Board's Rules

[10] The Board has adopted Rules respecting costs. Rule 18(2) sets out a presumptive obligation on the person requiring a right of entry to pay the landowner's costs of the mediation process in connection with an application for a right of entry order. Rule 18(3) speaks to the requirements for an application for costs and Rule 18(4) sets out the factors the Board will consider in making an order for payment. These Rules are set out below:

- 18 (1) The Board may order a party to pay all or part of the actual costs of another party or intervener in connection with an application.
- (2) Regardless of Rule 18(1), unless otherwise ordered by the Board, in an application under section 158 of the Act, the person who requires a right of entry shall pay the landowner's costs in relation to the mediation of the application.
- (2.1) ...

- (3) An application for costs under Rule 18(1) must be in writing and must include
- (a) reasons to support the application;
 - (b) a detailed description of the costs sought; and
 - (c) copies of any invoices or receipts for disbursements.
- (4) In making an order for the payment of a party's costs, the Board will consider
- (a) the reasons for incurring costs;
 - (b) the contribution of counsel and experts retained;
 - (c) the conduct of a party in the proceeding;
 - (d) whether a party has unreasonably delayed or lengthened a proceeding;
 - (e) the degree of success in the outcome of a proceeding;
 - (f) the reasonableness of any costs incurred;
 - (g) any other factor the Board considers relevant.

SUBMISSIONS

Landowner

[11] Mr. Hommy submits he should be fully indemnified as required by principles applied in expropriation cases. Relying on *Dell Holdings Ltd. v. Toronto Area Transit Authority* (1997), 60 L.C.R. 81 (SCC) and *Smith v. Alliance Pipeline Ltd.*, 2011 SCC 7, he submits the *Petroleum and Natural Gas Act* should be read in a broad purposive manner to ensure the landowner is fully compensated. He submits landowners in Surface Rights Board cases ought to be entitled to costs on a solicitor-and-client basis and references *Cochin Pipelines Ltd. v. Rattray* (1981), 22 L.C.R. 198 (Alta. C.A.) and *Robertson v. Calgary Power Ltd.* (1981), 22 L.C.R. 210 (Alta. C.A.).

[12] Mr. Hommy submits that to the extent the Board's rules purport to restrict a presumption in favour of the landowner to mediation costs only and not arbitration costs, the rules are *ultra vires*. He submits the Board cannot use self-made rules to thwart the principle that landowners ought not to be out of pocket. He submits section 11 of the *Administrative Tribunals Act* allows the Board to make rules respecting practice and

procedure to facilitate the just and timely resolution of matters before it but not for other purposes.

[13] He submits that the Board's rule that it may consider the degree of success in the outcome of a proceeding is also *ultra vires*.

[14] He submits previous Board authority limiting costs to those incurred after the filing of an application is wrong, arguing the approach to costs should be no different than the approach to damages in expropriation cases where causation is the important factor. He submits landowners are entitled to be compensated for reasonable costs from the time they are approached by the oil company.

Right Holder

[15] ARC submits that in the circumstances of this case the parties should be responsible for their own costs or, alternatively, that the costs sought by the landowner should be significantly reduced. ARC disagrees with Mr. Hommy's position that the Board's rules are *ultra vires* or that there is any entitlement to full indemnification for costs in surface rights proceedings.

[16] ARC submits that in the circumstances the Board should refuse to exercise its discretion to award costs. ARC submits it made reasonable offers to settle the dispute, and that if Mr. Hommy had accepted those offers, he would have received no less or even more than the Board ultimately awarded.

[17] ARC submits Mr. Hommy has not provided evidence that the costs claimed were actually incurred and that there is insufficient detail to assess whether they are reasonable. ARC submits mere invoices are not sufficient evidence of actual costs.

[18] ARC submits that Mr. Hommy's conduct, in particular in not attending the hearing or providing evidence to substantiate his original claim and in refusing to accept reasonable offers, mitigates against his recovery of costs.

ANALYSIS

Entitlement to Costs under the PNGA

[19] Mr. Hommy argues that the principles of expropriation law should apply to the interpretation of the cost provisions of the *Petroleum and Natural Gas Act* giving rise to an entitlement to the landowner of full indemnification for his costs relating to ARC's right of entry and these proceedings. This submission, however, flies in the face of the clear discretion given to the Board in section 170(1) of the Act to award costs in whole or in part. Section 170(1) says the Board "may" order a party to pay "all or part" of another party's costs. The use of the word "may" gives the Board discretion to award costs, and that discretion extends to awarding "all or part" of a party's costs. In enacting specific provisions around costs giving the Board the discretionary authority to order a party to pay all or part of another party's costs, the legislature clearly distinguishes between costs and compensation, and expressly gives the Board the discretion not to award full costs thereby negating any entitlement in a landowner to full indemnity for costs in a proceeding before the Board. It is clearly not the legislature's intention that any principle of expropriation law with respect to full indemnity, particularly as it relates to costs, will necessarily apply to surface rights proceedings in British Columbia.

[20] *Smith v. Alliance Pipeline, supra*, is distinguishable and does not provide binding authority on this Board for the principle that landowners are entitled to receive full indemnity for costs incurred in proceedings under the *Petroleum and Natural Gas Act*. *Smith v. Alliance Pipeline* involved an interpretation of the *National Energy Board Act*, not the *Petroleum and Natural Gas Act*, and in particular section 99(1) of that Act which provides:

- 99 (1) Where the amount of compensation awarded to a person by an Arbitration Committee exceeds eighty-five per cent of the amount of compensation offered by the company, the company shall pay all legal, appraisal and other costs determined by the Committee to have been reasonably incurred by that person in asserting that person's claim for compensation.

[21] *Smith v. Alliance Pipeline* involved a long drawn out dispute over compensation to a landowner by the company who had failed to reclaim its right of way as required. Proceedings before a first Arbitration Committee were aborted (because a member of the panel had been appointed to the Bench) and a second Arbitration Committee awarded the landowner the costs he had incurred in asserting his claim before it as well as most of his costs incurred in the proceedings before the first Arbitration Committee and in defending related proceedings instituted by the company in Court. The second Arbitration Committee awarded the landowner compensation exceeding eighty-five percent of the amount offered by the company. In making the award for costs, the second Arbitration Committee was interpreting and applying section 99(1) of the *National Energy Board Act* quoted above.

[22] The issue before the Supreme Court of Canada on appeal was whether the second Arbitration Committee could reasonably find that it was entitled under section 99(1) of the *National Energy Board Act* to make the award for costs that it did. The Supreme Court of Canada found that

The relevant words of s. 99(1) make it plain that the Committee was thus entitled – indeed bound – to order Alliance to pay Mr. Smith “all legal, appraisal and other costs determined by the Committee to have been reasonably incurred by [Mr. Smith] in asserting [his] claim for compensation” (emphasis in original judgment).

[23] The question before the second Arbitration Committee was whether “costs” in s. 99(1) of the *National Energy Board Act* refers solely to expenses incurred by an expropriated owner in the proceedings before it. The Committee found the costs awarded, including those incurred in the proceedings before the first Arbitration Committee and the Court to have been reasonably incurred in asserting the landowner's claim for compensation. The Court found that the Committee's broad interpretation of

section 99(1) and decision to award all of the costs that it did was reasonable and accorded with the plain words of the provision, its legislative history, its evident purpose and its statutory context, and rested “comfortably on the foundational principle of full compensation that animates both the NEBA and expropriation law generally.”

[24] The result in *Smith v. Alliance Pipelines* is entirely a result of the statutory language in issue which was capable of being reasonably interpreted as it was and the circumstances of the case. It does not stand for a general proposition that in any expropriation, or indeed any surface rights proceeding, a landowner is entitled to full indemnification for his or her costs. The Supreme Court of Canada acknowledges that “[a]wards for costs are invariably fact sensitive and generally discretionary” (para. 30). Even section 99(1) of the *National Energy Board Act* does not require full indemnification for costs in every case, but only when the compensation awarded to the landowner exceeds eighty-five percent of the company’s offer.

[25] If *Smith v. Alliance Pipelines* stands for any general legal principle with respect to the awarding of costs in expropriation or expropriation like proceedings, it is that where a statute authorizes an award of “all legal, appraisal and other costs”, costs on a solicitor-and-client basis may be awarded. The costs provisions of the *Petroleum and Natural Gas Act* do not contain similar language.

[26] Other authorities cited by Mr. Hommy as supporting an entitlement to recover full indemnification for costs are also distinguishable in that they deal with awarding costs under different expropriation or surface rights regimes involving their own statutory provisions. None involve an interpretation of section 170 of the *Petroleum and Natural Gas Act*. Many of those cases also acknowledge the discretionary nature of costs awards, even in expropriation cases (see for example *Brese et al v. City of Edmonton* (2006), 93 L.C.R. 200 (Alta. C.A.)).

[27] The *Petroleum and Natural Gas Act* does not require landowners to be fully indemnified for their costs but clearly makes an award of costs discretionary and clearly

allows that an amount less than full costs may be awarded. The clear wording of section 170 does not express a legislative intent that landowners must recover their costs incurred in relation to proceedings before the Board on a solicitor-and-client basis.

The Board's Rules

[28] Section 11 of the *Administrative Tribunals Act* authorizes the Board to make rules respecting practice and procedure. Section 11(1) provides:

- 11 (1) Subject to this Act and the tribunal's enabling Act, the tribunal has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of matters before it.

[29] The purpose of the Board's rules is expressed at Rule 1(1) as being "to facilitate the just and timely resolution of applications before the Board".

[30] Mr. Hommy argues that the Board cannot use its rules to circumvent basic legal principles that a landowner is to be fully compensated and not out of pocket. As discussed above, the clear wording of section 170 of the *Petroleum and Natural Gas Act* does not give effect to any such principle in the awarding of costs in proceedings under that Act. On the contrary, section 170 of the Act expressly gives the Board discretion to order payment of "all or part" of a party's costs. The Board's Rules provide some guidance for how the Board will exercise that discretion.

[31] Rule 18(3) provides a presumption in favour of the landowner receiving his or her costs of the mediation process in an application for a right of entry order. Given that section 170 does not create any presumption that a landowner will receive all of his or her costs in any surface rights board application, there is nothing contrary to section 170 with this rule.

[32] Rule 18(3) is intended to encourage settlement of applications at the mediation stage. There is nothing contrary to the *Petroleum and Natural Gas Act, Administrative*

Tribunals Act or otherwise inappropriate about that intent. If reasonable offers are made to settle at mediation, there is no reason for the parties to incur the cost of arbitration. The just and timely resolution of applications is not furthered by encouraging unnecessary or unreasonable process.

[33] The Rules do not, as argued by Mr. Hommy, require that lack of success automatically negates a party's entitlement to costs. The factors set out in Rule 18(4), including the degree of success, are factors the Board will consider, but they do not limit or prescribe how the Board will exercise its discretion in making an award of costs. The Board will consider these and any other factors it considers relevant in any particular case when determining whether costs should be awarded, and if so, how much. No one factor is determinative.

[34] Even in expropriation cases where there is statutory authority to award costs on a solicitor-and-client basis, a number of factors may be taken into account in determining the reasonableness of the costs incurred including the amount of money at stake and the degree of success attained (Mark M. Orkin, *The Law of Costs, Second Edition*, at 232.2(1); *Brese et al v. City of Edmonton, supra*). Enumerating the degree of success as one of the factors the Board will consider in determining an award of costs under the *Petroleum and Natural Gas Act* is not contrary to general costs principles applicable in expropriation proceedings generally.

[35] I find that the Board's Rules are not *ultra vires*.

Should the Applicant get costs in this case?

Sufficiency of the Application

[36] ARC argues the application does not provide proof that the claimed costs have actually been incurred. ARC provides no authority for the proposition that "mere invoices are not sufficient evidence of actual costs". In other expropriation contexts

where legislation authorizes a board to make an order directing an expropriating authority “to pay the reasonable legal and other costs actually incurred by the owner for the purposes of determining the compensation payable” the condition that costs be “actually incurred” requires that a bill, statement of account or invoice for fees be rendered, but that it need not have been paid (*Peloquin et al v. Junction Creek Conservation Authority* 1972 CanLII 672 (ON SC)).

[37] I find that the term “actual costs” including “actual reasonable legal fees and disbursements” in section 168 of the *Petroleum and Natural Gas Act* does not require proof that an account for legal services has been paid.

[38] ARC also takes issue with the description of the costs and the lack of receipts for disbursements. As the disbursements are part of counsel’s bill, in the absence of an unusual or extraordinary disbursement, I find there is no need for separate receipts. The account rendered is sufficiently detailed to meet the requirement of Rule 18(3) that an application include a detailed description of the costs sought. Any deficiency of detail may, however, be a factor in assessing the reasonableness of the costs claimed or in assessing whether the costs have been incurred “in connection with the application”.

Costs “in connection with the application”

[39] ARC submits, in line with previous Board decisions, that Mr. Hommy should not recover any costs in advance of the date of the application being filed to the Board. ARC filed its application for mediation and arbitration services on August 14, 2015. Counsel’s account includes several items prior to that date.

[40] Mr. Hommy submits that a landowner is entitled to costs as soon as he is approached by the company. He submits the approach to costs should be no different that the approach to damages where causation is the important factor, not timing.

[41] Section 170 of the *Petroleum and Natural Gas Act* gives the Board the discretion to order costs “in connection with the application”. This wording is not as broad as provisions in other statutes, for example section 99(1) of the *National Energy Board Act* which allows for the recovery of “costs determined by the Committee to have been reasonably incurred by that person in asserting that person’s claim for compensation”.

[42] I accept that the phrase “in connection with the application” does not necessarily mean that it is the date the application is filed in every case that creates the earliest date for which costs may be claimed. The costs must reasonably be capable of being “in connection with the application” and must not be in connection with a different application or another proceeding altogether, such as for example proceedings before the Oil and Gas Commission. The Board may consider in each case whether costs were incurred “in connection with the application” although an application may not yet have been filed, particularly where it is not the party claiming the costs who filed the application and the timing of the application was not necessarily within that party’s control. Both *Merrick v Encana Corporation*, Board Order 1697-6 and *Schlichting v. CNRL*, Board Order 1750-1, referred to by ARC, involved costs in relation to an application for rent review commenced by the landowner. In both cases, the landowners were not entitled to recover costs incurred in advance of filing the Notice to Negotiate. This case involved an application for right of entry and resolution of associated compensation which was commenced by the right holder.

[43] The first entry in counsel’s account is dated August 4, 2015 and is described as “To receipt and review of email from Dwayne Hommy”. August 4, 2015 is the date of Mr. Rosie’s email to Dwayne Hommy advising when pad construction would commence and indicating the compensation that would be paid. That email was clearly forwarded to counsel as it is found on the trailing email from counsel to ARC’s counsel dated August 10, 2015 with Mr. Hommy’s response to the issue of compensation. The next items on counsel’s account are dated August 10, 11 and 13, 2015 and refer to telephone calls and emails with ARC’s counsel, as well as telephone calls and a meeting with Mr. Hommy. Mr. Hommy’s counsel received an email on August 14, 2015 from ARC’s

counsel's assistant. It is likely this is the same email sent to the Board and copied to Mr. Hommy's counsel attaching ARC's application. The timing of the few entries prior to August 14, 2015 and their correlation with other emails before me dealing with compensation for the additional wells, makes it probable that these entries are "in connection with the application" which was filed on August 14, 2015.

The Factors in Rule 18(4)

a) Reasons for incurring costs

[44] The costs claimed relate entirely to the landowner's legal fees and disbursements expended by counsel. While not expressly set out, the reason for incurring the costs was obviously for the purpose of receiving legal advice and being represented by counsel in connection with the right of entry and compensation proceedings.

[45] A significant portion of the costs relates to counsel's fees in connection with the arbitration. ARC submits that in exercising its discretion the Board should factor in Mr. Hommy's rejection of offers that would have resulted in equal to or more compensation than the Board orders. ARC submits that the arbitration was unnecessary.

[46] The fact that ARC made reasonable offers to settle the compensation that equaled or exceeded the Board's award is a factor that weighs against full recovery for costs.

b) Contribution of counsel and experts

[47] No costs in relation to experts are claimed. Counsel represented the landowner throughout the Board's proceedings including at the arbitration. This factor is not relevant in the circumstances of this case.

c) Conduct of the party

[48] ARC submits that the landowner's conduct in advancing the position early on that he would be willing to settle for \$4,000 per well and \$1,000 per well annually was not a reasonable, good faith effort to resolve the dispute and that, consequently, the presumption in favour of recovering his costs of mediation should not apply. ARC further submits that having rejected reasonable offers thus necessitating the arbitration, Mr. Hommy's failure to attend the hearing and provide evidence about how the additional wells would impact him or the Lands did not assist the Board and should weigh against him in determining costs.

[49] The evidence at the arbitration suggests that Mr. Hommy's original claim was higher than that being offered to others for additional wells. Neither party, however, produced any evidence of agreements involving similar circumstances to this case. This case presented the first opportunity for the Board to consider the issue of compensation for additional wells on an existing padsite. In the circumstances, I am not prepared to find that the presumption in favour of the landowner receiving his costs of the mediation process should not apply.

[50] Nor am I prepared to find that, in the context of this case, the landowner's conduct was egregious or of a nature to significantly negate recovery of all or part of his costs.

d) Whether a party has unreasonably delayed or lengthened a proceeding

[51] Mr. Hommy did not delay or lengthen the arbitration.

e) Degree of success

[52] If measured against the position advanced early on, Mr. Hommy was not successful. If measured against the position advanced at the arbitration, Mr. Hommy was mostly successful. The Board awarded \$2,000 per well, which was the

compensation sought by Mr. Hommy at the arbitration. While not awarding the amount of annual compensation advanced by Mr. Hommy, the Board accepted that annual compensation should be paid, rejecting ARC's position that there should be no annual compensation.

[53] Mr. Hommy's success is a factor that weighs in favour of recovery of costs.

f) The reasonableness of any costs incurred

[54] The lack of detail in counsel's account makes it difficult to assess the reasonableness of some of the costs claimed. Most of the legal fees are billed for 0.2 hours of time in connection with the receipt and review of emails, often with several similar entries on the same day. Some of the communications with members or staff of the Board relate to the scheduling of events, receipt of the right of entry order, receipt of routine correspondence, or other brief communications. It seems unlikely that some of these communications would involve as much as 0.2 hours of counsel's time. Other entries with respect to preparation for and attendance at conference calls, drafting submissions, reviewing submissions, reviewing the law, and preparation for and attendance at the arbitration do not appear to be unreasonable.

[55] The entire account for \$23,338.26 seems high in relation to the amount involved in the proceedings. In assessing the reasonableness of legal fees in expropriation proceedings, the amount of money at stake is a factor that may be taken into account (*Brese, supra*).

[56] Considering all of the factors above, I am satisfied that Mr. Hommy should recover part, but not all, of his costs incurred in connection with ARC's application.

How much?

[57] Considering all of the factors above, I find the legal fees claimed should be reduced by approximately $\frac{1}{4}$ from 36.5 hours to 27 hours, principally because I am not satisfied the whole of the account is reasonable in relation to the services provided and the amount at stake, and because the arbitration could have been avoided. Mr. Hommy shall recover costs in the amount of \$17,010.00 on account of legal fees and GST, and \$343.26 on account of disbursements and GST, for a total of \$17,353.26.

ORDER

[58] ARC Resources Ltd. shall forthwith pay to Darcy Dwayne Hommy the amount of \$17,353.26 in costs.

DATED: October 13, 2016

FOR THE BOARD



Cheryl Vickers, Chair

File No. 1871
Board Order No. 1871-2

December 29, 2015

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 79, RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

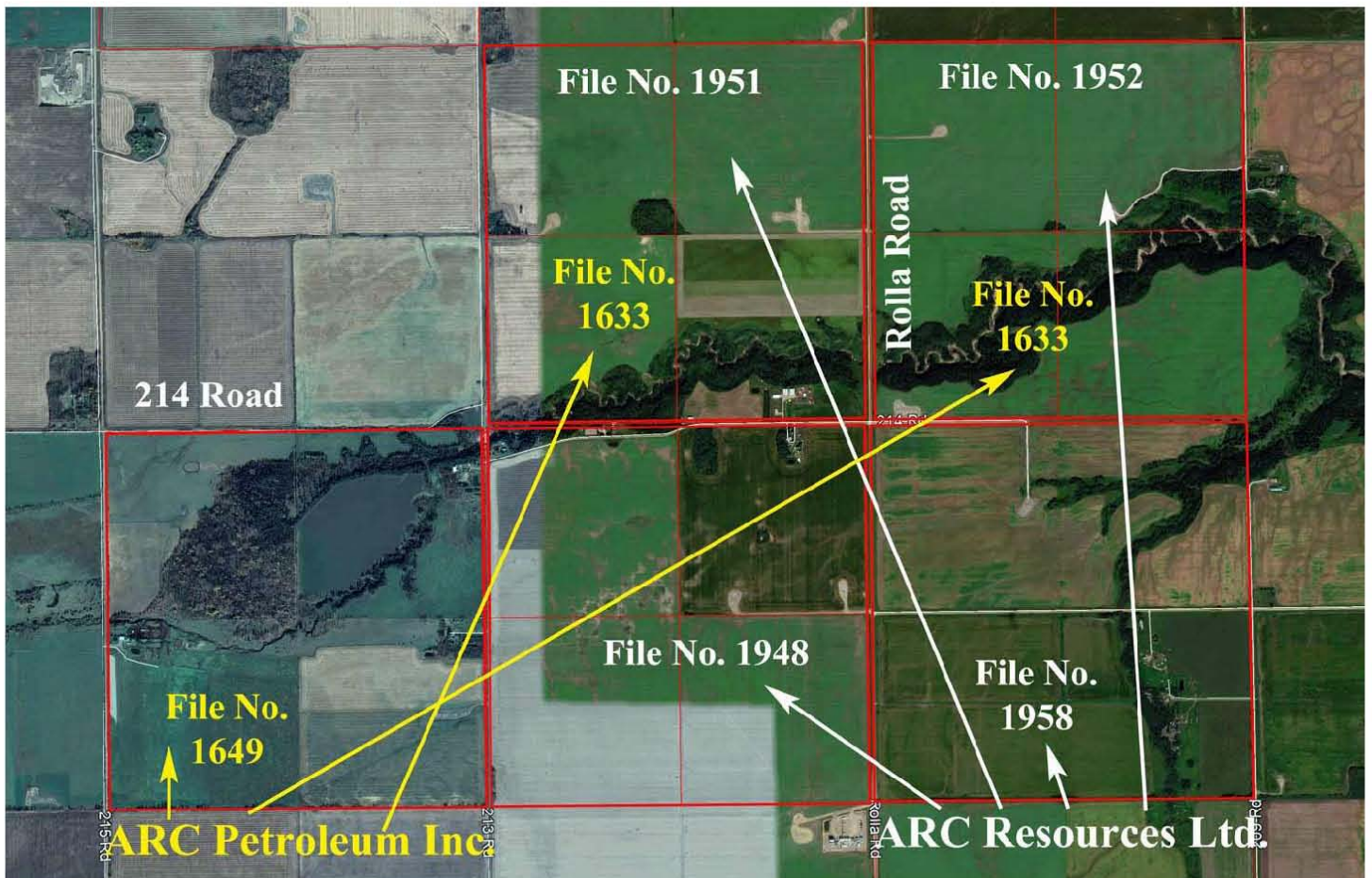
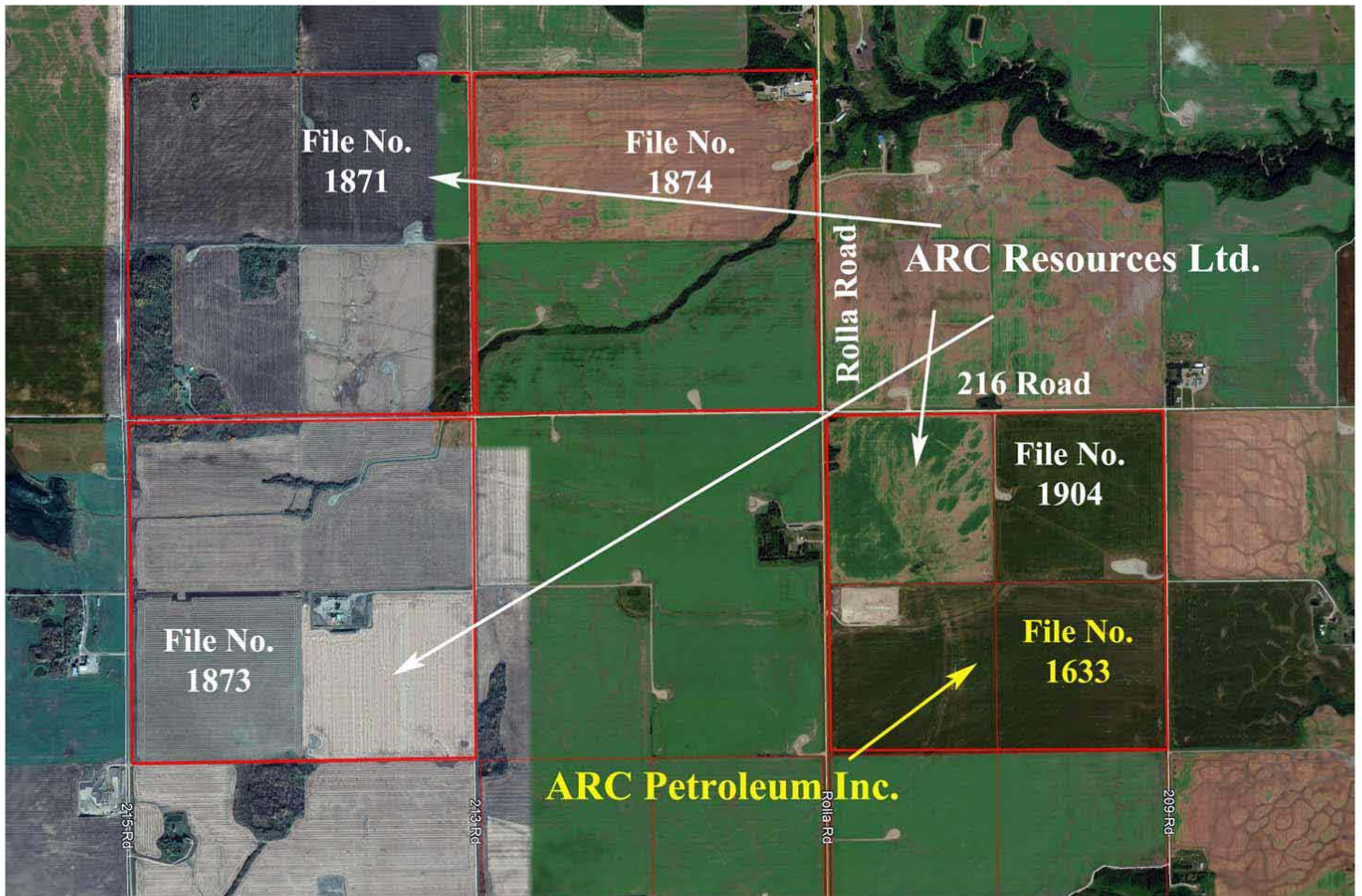
(APPLICANT)

AND:

Miro Ernest Parnell, by his Committee Christine Lee Smith

(RESPONDENT)

BOARD ORDER



On September 2, 2015, ARC Resources Ltd. ("ARC") sought a right of entry order to access certain Lands legally owned by Miro Ernest Parnell, in order to carry out an approved oil and gas activity, namely the construction, operation, and maintenance of a flow line and associated facilities.

On October 21, 2015, the Surface Rights Board issued Board Order 1871-1 granting ARC access to the Lands for the above-noted purposes. Order 1871-1 required ARC to pay the landowner or his legal representative \$8,000 in partial compensation for the right of entry granted.

Pursuant to an Order of the British Columbia Supreme Court dated April 1, 2015, (New Westminster Registry No. NEW-S-S167817) (the "BCSC Order"), Ms. Christine Lee Smith was appointed as Committee of the Person and of the Estate of Mr. Parnell. However, the BCSC Order expressly restricts Ms. Smith from disposing of or encumbering the Lands in her capacity as Committee, without the prior written consent of the Public Guardian and Trustee or a further order of the British Columbia Supreme Court. On or about October 27, 2015, the Office of the Public Guardian and Trustee advised the Surface Rights Board that Ms. Smith is legally authorized to represent Mr. Parnell in her capacity as Committee in all dealings with ARC and in all proceedings before the Surface Rights Board concerning this matter.

The parties have recently advised the Surface Rights Board that ARC has paid Ms. Smith partial compensation in the amount of \$8,000, and that they have reached a final agreement on the amount of additional compensation payable to the Respondent, in order to avoid the need for this matter to proceed to arbitration.

Accordingly, BY CONSENT, the Surface Rights Board orders:

1. ARC shall pay to the Respondent, MIRO ERNEST PARNELL, care of his Committee CHRISTINE LEE SMITH, an additional one-time payment of \$2,000 for the construction, operation and maintenance of a flow line and associated facilities on the Lands.

DATED: December 29, 2015

FOR THE BOARD



Cheryl Vickers, Chair

File No. 1873
Board Order No. 1873-1

November 10, 2015

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

**AND IN THE MATTER OF
THE NORTH EAST ¼ OF SECTION 19 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Georg Hubert Thissen and Birgit Henriette Thissen

(RESPONDENTS)

BOARD ORDER

Telephone Mediation: October 22, 2015
Appearances: Rick Williams, Barrister and Solicitor, and Kevin Buytels
for the Applicant,
Marie-Louise Fast, Barrister and Solicitor, and Elvin
Gowman for the Respondents
Mediator: Rob Fraser

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Georg Hubert Thissen and Birgit Henriette Thissen to carry out an approved oil and gas activity, namely to construct and maintain a flowline and associated infrastructure to convey natural gas.

On October 22, 2015 I conducted a telephone mediation where the parties discussed the project and compensation arising from the project.

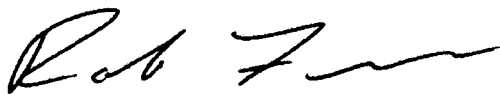
The parties informed the Board on November 5, 2015 that they had reached agreement on the wording of the right of entry order.

BY CONSENT, the Surface Rights Board orders:

1. Upon payment of the amount set out in paragraph 2, and issuance of a permit from the Oil and Gas Commission, ARC shall have the right of entry to and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" to construct and maintain a flowline and associated infrastructure to convey natural gas.
2. ARC shall pay to the landowners as partial compensation the total amount of \$10,000.00.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowners, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

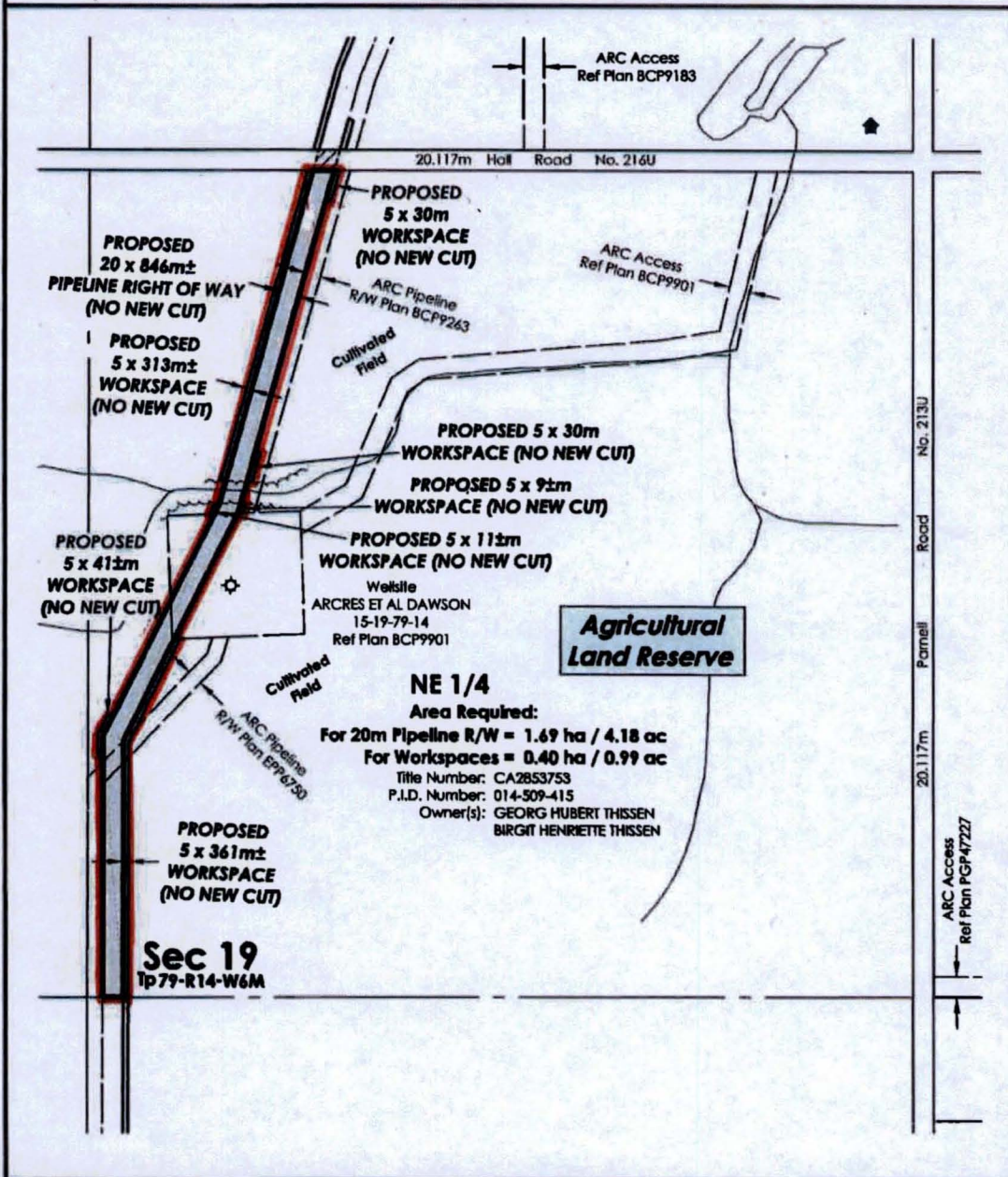
DATED: November 10, 2015

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
NE 1/4 Sec 19, Tp 79, R 14, W6M
PEACE RIVER DISTRICT**



NE 1/4
Area Required:
For 20m Pipeline R/W = 1.69 ha / 4.18 ac
For Workspaces = 0.40 ha / 0.99 ac
Title Number: CA2853753
P.I.D. Number: 014-509-415
Owner(s): GEORG HUBERT THISSEN
BIRGIT HENRIETTE THISSEN

TITLE No.: CA2853753 **P.I.D. No.:** 014-509-415
OWNER(S): GEORG HUBERT THISSEN
BIRGIT HENRIETTE THISSEN

LEGEND
SCALE = 1: 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
27th day of May, 2015.

AREA REQUIRED:

20m Pipeline R/W	1.69 ha	4.18 ac
Workspaces	0.40 ha	0.99 ac
TOTAL:	2.09 ha	5.17 ac

Chris R. Sakundiak
Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	15/05/27	Original plan issued	SDH	CS

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CAN-AM FILE: J20150435
CAD FILE: J20150435OP2-0
Client File No.:
AFE No.: 15PPL0082
Land File No.: **REVISION**

File No. 1874
Board Order No. 1874-1

November 16, 2015

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE NORTH WEST ¼ SECTION 29 TOWNSHIP 79 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Margaret Elizabeth Raven

(RESPONDENT)

BOARD ORDER

Telephone Mediation: November 6, 2015
Appearances: Rick Williams, Barrister and Solicitor, and Kevin Buytels
for the Applicant,
Mary Kathleen Miller for the Respondent
Mediator: Rob Fraser

ARC Resources Ltd. (the "Grantee") seeks a right of entry order to access certain lands legally owned by Margaret Elizabeth Raven to carry out an approved oil and gas activity, namely to construct and maintain one flowline and associated infrastructure to convey natural gas.

On November 6, 2015 I conducted a telephone mediation conference call where the parties reviewed the wording of the draft order and any terms and conditions. After considering the input from the Respondent the Grantee produced a second draft. I received no objections to this second draft which I have incorporated into this order.

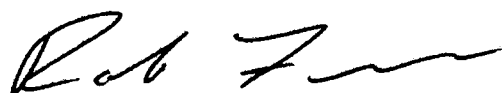
By consent the Board orders:

ORDER

1. Upon payment of the amount set out in paragraph 2, and issuance of a permit from the Oil and Gas Commission, the Grantee shall have the right of entry to and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" to construct and maintain one flowline and associated infrastructure to convey natural gas.
2. The Grantee shall pay to the landowner as partial compensation the total amount of \$10,000.
3. The Grantee's right of entry shall be subject to the terms and conditions attached as Appendix "B" to this right of entry Order.
3. The Grantee shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to the Grantee, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: November 16, 2015

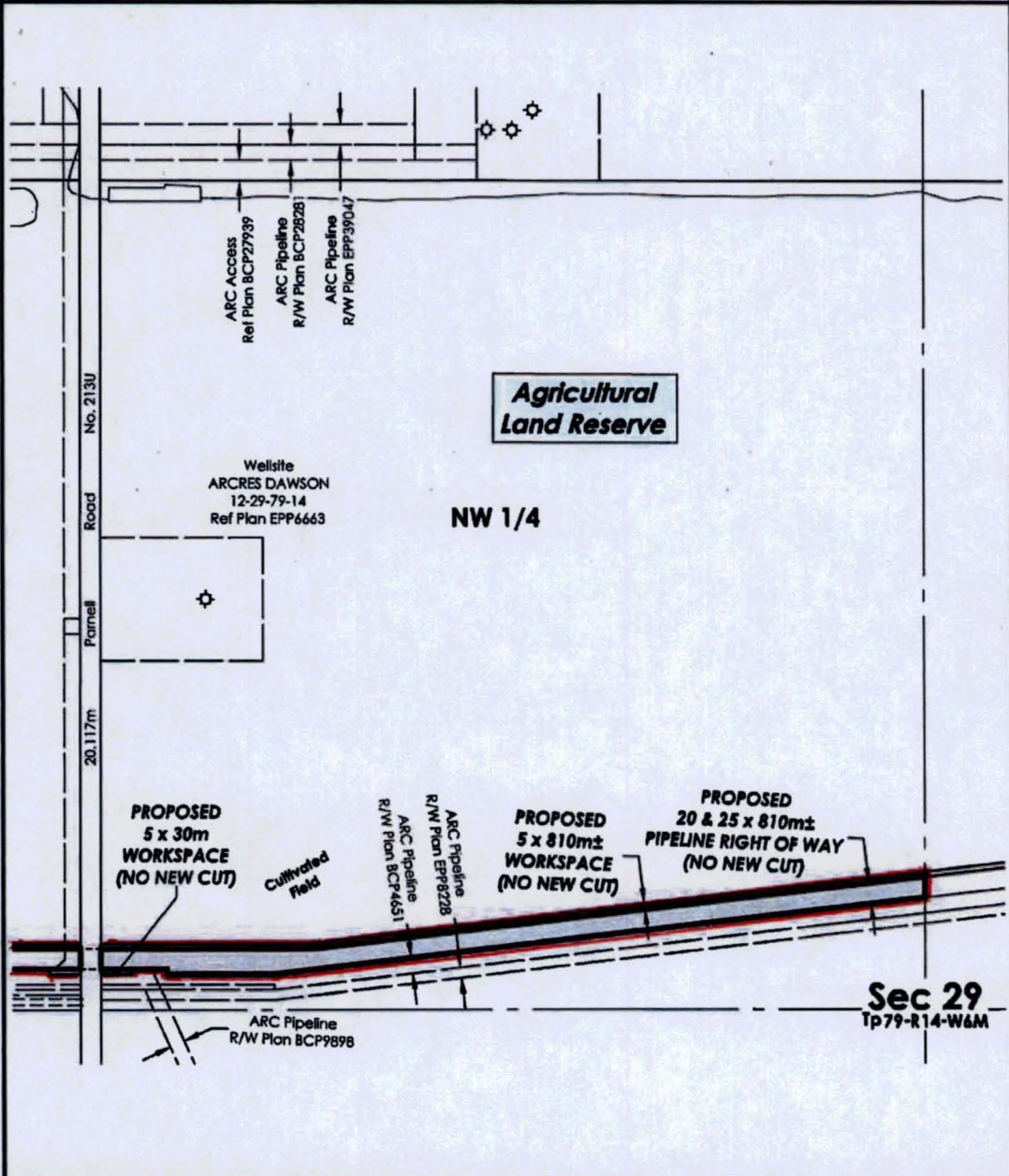
FOR THE BOARD



Mediator

APPENDIX "A"
ORDER 1874-1

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20 & 25m PIPELINE RIGHT OF WAY IN
NW 1/4 Sec 29, Tp 79, R 14, W6M
PEACE RIVER DISTRICT**



TITLE No.: BB951322 **P.I.D. No.:** 008-896-623
OWNER(S): MARGARET ELIZABETH RAVEN

LEGEND
 SCALE = 1: 5,000
 Portions referred to:
 Notes: Distances shown are in metres.
 Certified correct this
 8th day of June, 2015.

AREA REQUIRED:

20 & 25m Pipeline R/W	1.68 ha	4.15 ac
Workspaces	0.42 ha	1.04 ac
TOTAL:	2.10 ha	5.19 ac

Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	15/06/08	Original plan issued	SDH	CS

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CAN-AM FILE: J20150435
 CAD FILE: J20150435IOPS-0
 Client File No.: E12119
 AFE No.: 15PPL0082
 Land File No.: 0 REVISION

APPENDIX "B"
CONDITIONS FOR RIGHT OF ENTRY

1. The access to the lands shall be only by the Grantee's employees, contractors and agents.
2. Should a break or leak occur in the pipeline the Grantee shall immediately notify the landowners of the location of the leak or break and advise the landowner of the measures taken to contain, repair and or cleanup the leak, spill or break. The Grantee shall also prepare a written report for the landowner to provide the measures taken to contain, repair and or clean up the leak, spill or break.
3. The Grantee will be responsible for the removal of rocks that are brought to the surface of the right of way during and following construction and in that regard will consult with the land owner and the lessee in discharging this responsibility.
4. The Grantee will ensure that no lien arises for work carried out under a right of entry against the registered owner over which the right of entry was exercised. If a builder's lien claim is filed against the Lands as a result of the work being carried out by the Grantee on the subject property, the Grantee will cause the lien to be removed, either by way of paying the lien claimant or by paying the amount claimed, into court in accordance with s. 23 of the Builders lien Act.
5. All vehicles used in the farming operations of the landowners will have the right to cross the pipeline right of ways in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm license. For greater certainty, certain vehicles that are used in the farming operation for delivery of fertilizer and other materials incidental to farming operation, as well as for the hauling of crops shall be permitted to cross the pipelines, notwithstanding that these vehicles may carry commercial plates only.
6. The Grantee will compensate the landowner for any above ground installations on the right of way in a separate agreement.

File No. 1874
Board Order No. 1874-1amd

October 13, 2016

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE NORTH WEST ¼ SECTION 29 TOWNSHIP 79 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(the "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Margaret Elizabeth Raven

(RESPONDENT)

BOARD ORDER

This Order amends the Board's Order dated November 16, 2015 to add an additional term by consent.

ARC Resources Ltd. (the "Grantee") seeks a right of entry order to access certain lands legally owned by Margaret Elizabeth Raven to carry out an approved oil and gas activity, namely to construct and maintain one flowline and associated infrastructure to convey natural gas.

By consent the Board orders:

ORDER

1. Upon payment of the amount set out in paragraph 2, and issuance of a permit from the Oil and Gas Commission, the Grantee shall have the right of entry to and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" to construct and maintain one flowline and associated infrastructure to convey natural gas. The Grantee's right of entry to the portions of the Lands on Appendix "A" for temporary workspace is limited to three years from November 16, 2015.
2. The Grantee shall pay to the landowner as partial compensation the total amount of \$10,000.
3. The Grantee's right of entry shall be subject to the terms and conditions attached as Appendix "B" to this right of entry Order.
3. The Grantee shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to the Grantee, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: October 13, 2016

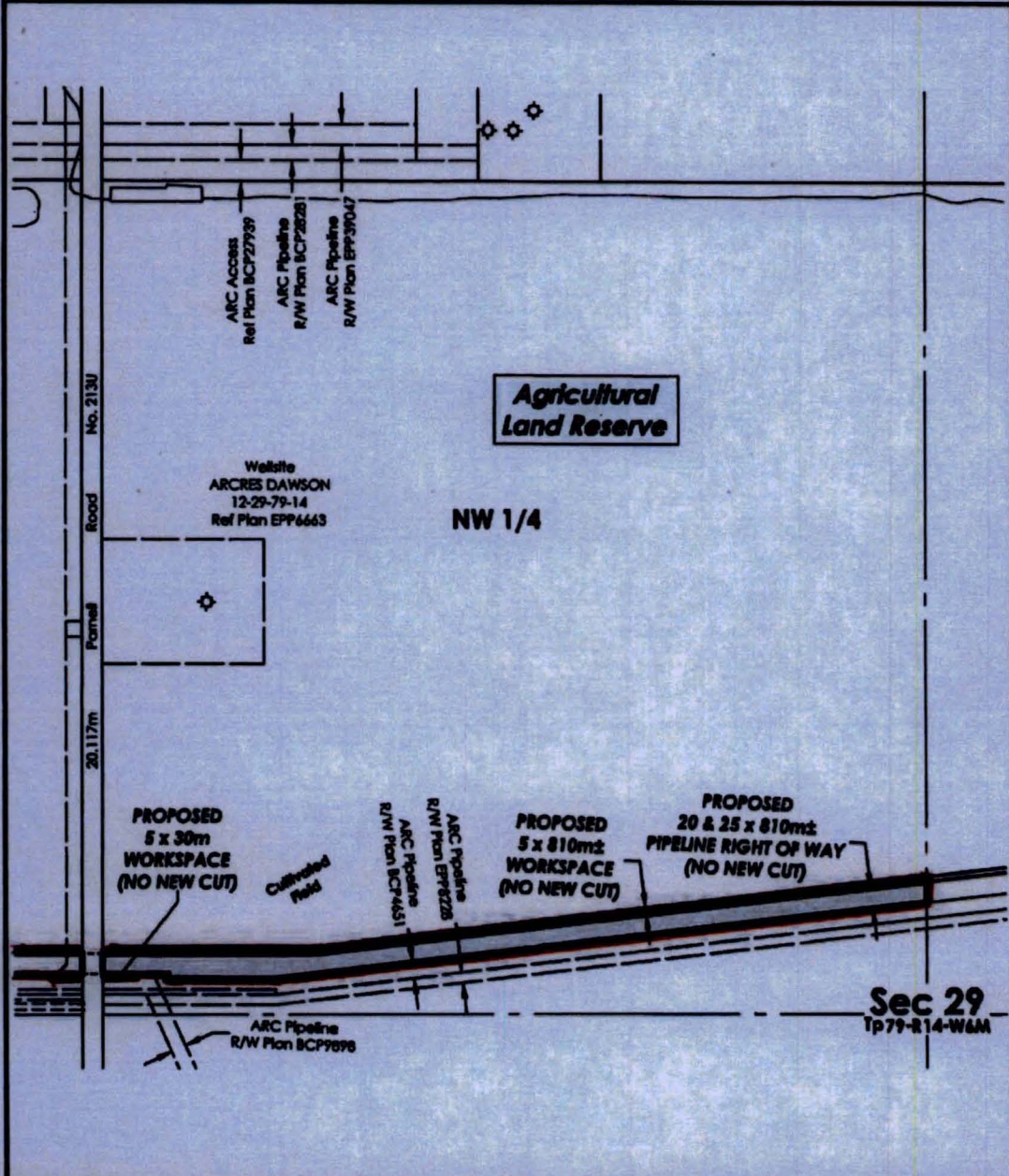
FOR THE BOARD



Cheryl Vickers, Chair

APPENDIX 'A'
ORDER 1874-1

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20 & 25m PIPELINE RIGHT OF WAY IN
NW 1/4 Sec 29, Tp 79, R 14, W6M
PEACE RIVER DISTRICT**



TITLE No.: BB951322 **P.I.D. No.:** 008-896-623
OWNER(S): MARGARET ELIZABETH RAVEN

LEGEND
SCALE = 1 : 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
8th day of June, 2015.

AREA REQUIRED:

20 & 25m Pipeline R/W	1.68 ha	4.15 ac
Workspaces	0.42 ha	1.04 ac
TOTAL:	2.10 ha	5.19 ac

Chris R. Sakundlak
Chris R. Sakundlak, BCLS 846

NO	DATE	REVISION	DRN	CRD
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CAN-AM FILE: J20150435
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Client File No.: E12119
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Land File No.:
REVISION

APPENDIX "B"
CONDITIONS FOR RIGHT OF ENTRY

1. The access to the lands shall be only by the Grantee's employees, contractors and agents.
2. Should a break or leak occur in the pipeline the Grantee shall immediately notify the landowners of the location of the leak or break and advise the landowner of the measures taken to contain, repair and or cleanup the leak, spill or break. The Grantee shall also prepare a written report for the landowner to provide the measures taken to contain, repair and or clean up the leak, spill or break.
3. The Grantee will be responsible for the removal of rocks that are brought to the surface of the right of way during and following construction and in that regard will consult with the land owner and the lessee in discharging this responsibility.
4. The Grantee will ensure that no lien arises for work carried out under a right of entry against the registered owner over which the right of entry was exercised. If a builder's lien claim is filed against the Lands as a result of the work being carried out by the Grantee on the subject property, the Grantee will cause the lien to be removed, either by way of paying the lien claimant or by paying the amount claimed, into court in accordance with s. 23 of the Builders lien Act.
5. All vehicles used in the farming operations of the landowners will have the right to cross the pipeline right of ways in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm license. For greater certainty, certain vehicles that are used in the farming operation for delivery of fertilizer and other materials incidental to farming operation, as well as for the hauling of crops shall be permitted to cross the pipelines, notwithstanding that these vehicles may carry commercial plates only.
6. The Grantee will compensate the landowner for any above ground installations on the right of way in a separate agreement.

**File Nos. 1900 and 1901
Board Order No.1900-1901-1**

July 8, 2016

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED**

**AND IN THE MATTER OF
THE SOUTH WEST ¼ OF SECTION 15 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

ARC Resources Ltd.

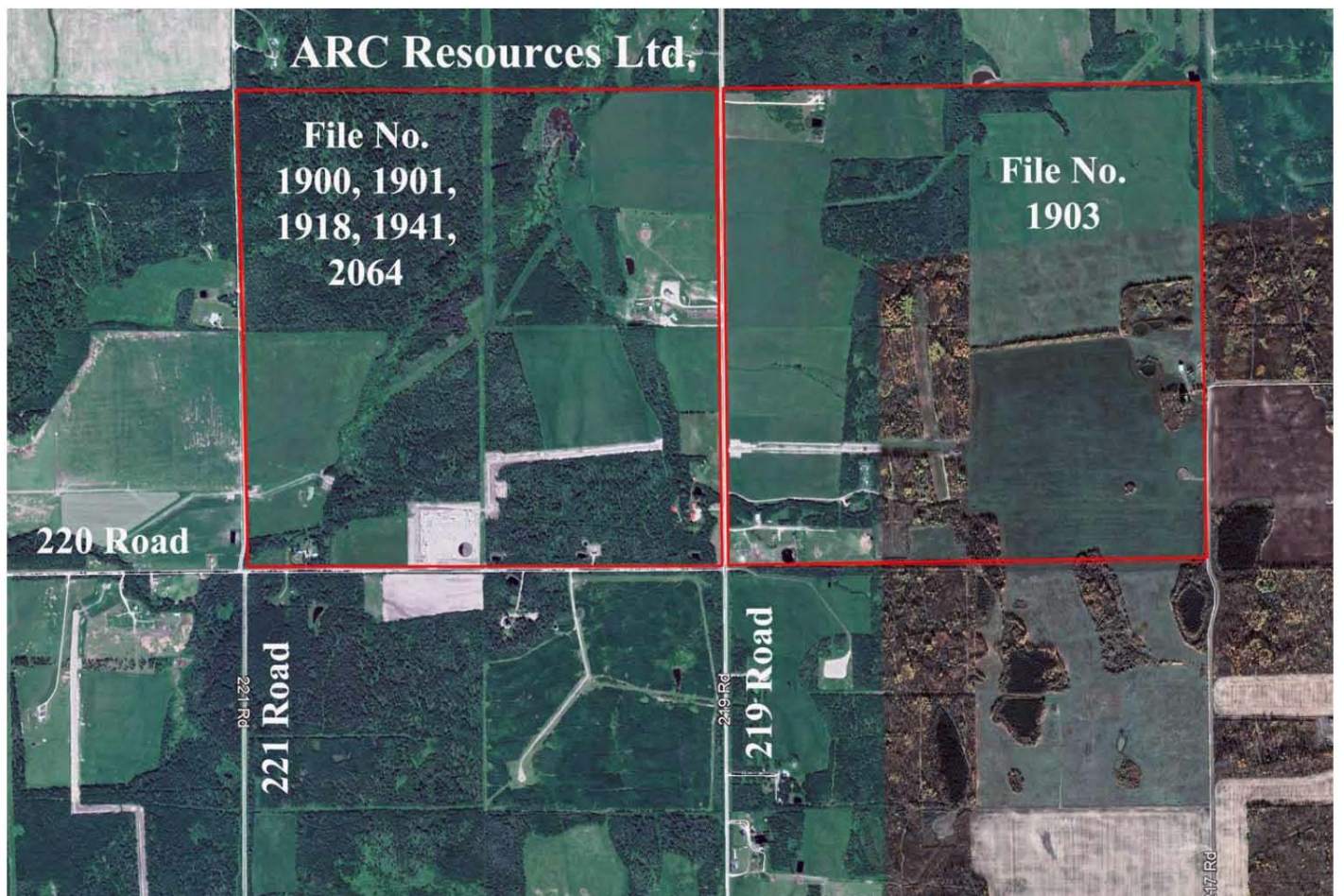
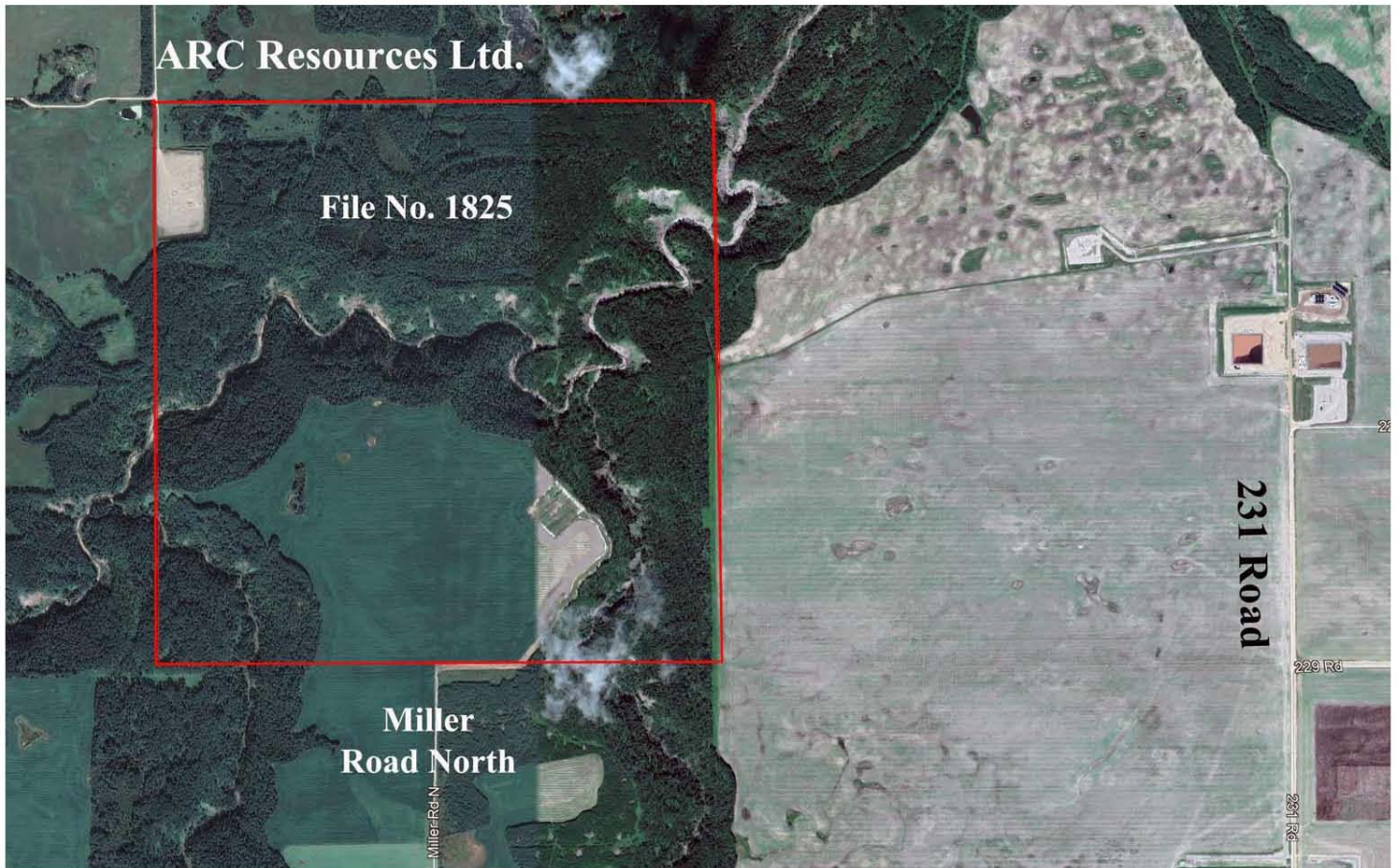
(APPLICANT)

AND:

Keith Allan Hankins and Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands").

ARC proposes two projects: a pipeline (SRB 1900) and a padsite (SRB 1901). The Oil and Gas Commission ("OGC") has issued permits for the pipeline (OGC Permit 9709710) and the padsite (OGC Permits 9643762, 9644159, 9644160, 9644161, 9644162, 9644163, 9644164). ARC requires access to the Lands to construct, operate and maintain flowlines, natural gas wells, a wellsite and associated infrastructure.

On June 14, 2016 I conducted a telephone conference call to discuss these applications. Subsequent to this call, the parties engaged in correspondence dealing with proposed terms and conditions.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of pipelines and natural gas wells.

Based on our discussions and on the fact that the OGC has issued permits for ARC's projects I am satisfied that ARC requires the Lands for an approved oil and gas activity.

I have reviewed the submissions from the parties regarding terms and conditions and I have included those I find relevant and within the Board's jurisdiction. I have included in paragraph 7 a reference to baseline water testing of the dugout, although outside of the right of way area, as ARC has committed to this testing and this testing is integral to ARC's projects in order to ensure the quality of the water is not negatively impacted.

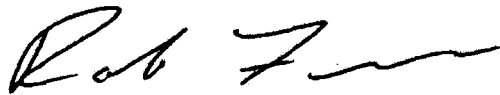
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" and Appendix "B" as necessary for the purpose of constructing, operating and maintaining flow lines and constructing, drilling, completing and operating natural gas wells and associated infrastructure.
2. ARC shall pay to the landowner as partial compensation the total amount of \$35,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.

4. Following the completion of construction, drilling and completion operations ARC will fence the padsite.
5. ARC will construct berms around the padsite, using both hay bales and the surface soils stripped from the padsite during construction, allocating as much as possible of the soil piles to berms located on the western side of the padsite.
6. ARC will make all reasonable efforts to ensure that any artificial lighting at the padsite will be directed away from the residence located on the Lands.
7. ARC will perform baseline water testing of the dugout, once ARC has their right of entry order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated: July 8, 2016

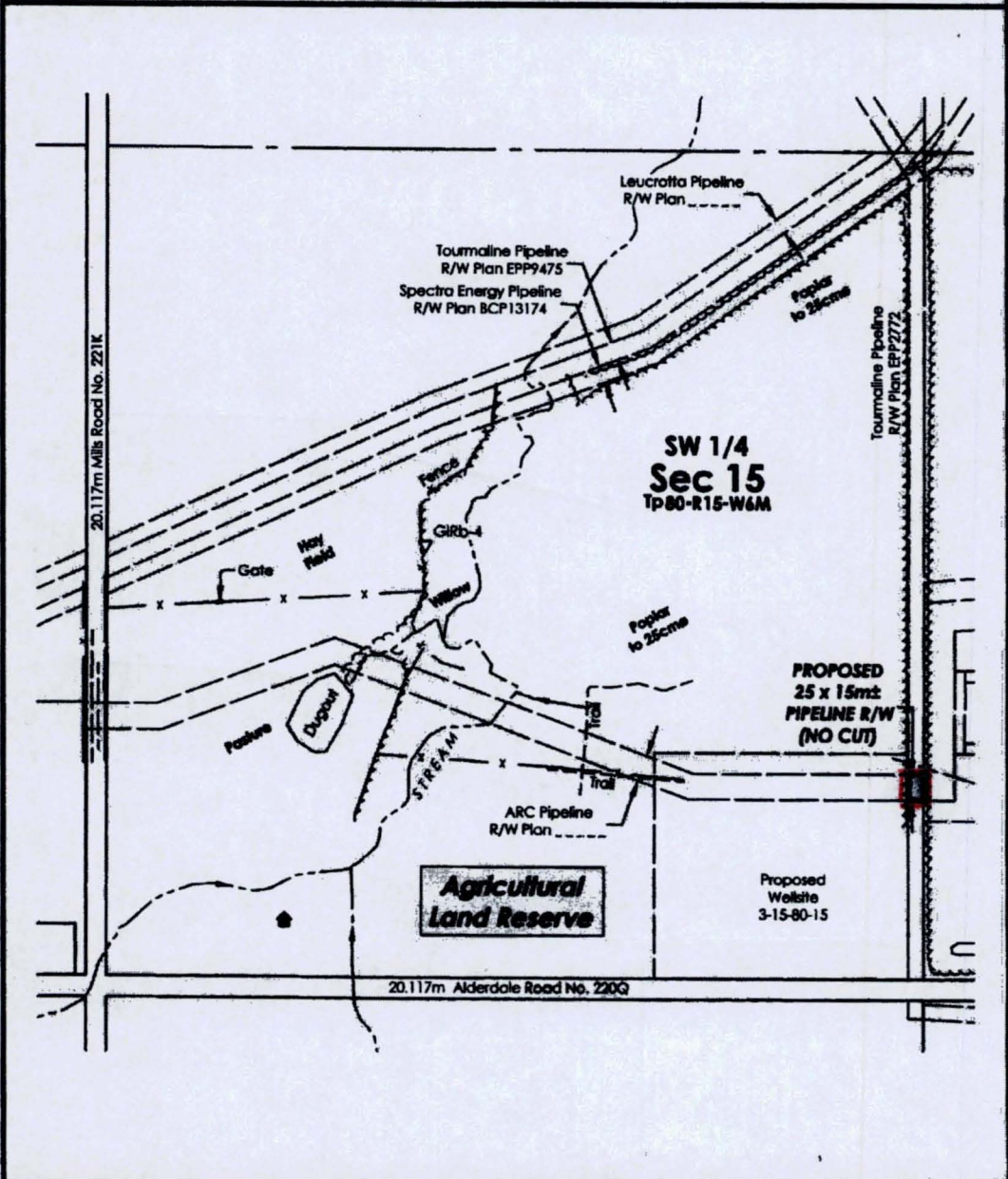
FOR THE BOARD



Rob Fraser, Mediator

order 1900-1901-1 App. A

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
25m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 15, Tp 80, R 15, W6M
PEACE RIVER DISTRICT**



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515 **NOTES**
OWNER(S): Keith Allan Hankins
 Cheri Lee Hankins **SCALE = 1: 5,000**
 Distances shown are in metres.
 Permanent Portions referred to:
 Certified correct this
 7th day of June, 2016.

AREA REQUIRED:
 25m Pipeline R/W 0.04 ha 0.10 ac
TOTAL: 0.04 ha 0.10 ac

Jeff Thompson, BCLS 922

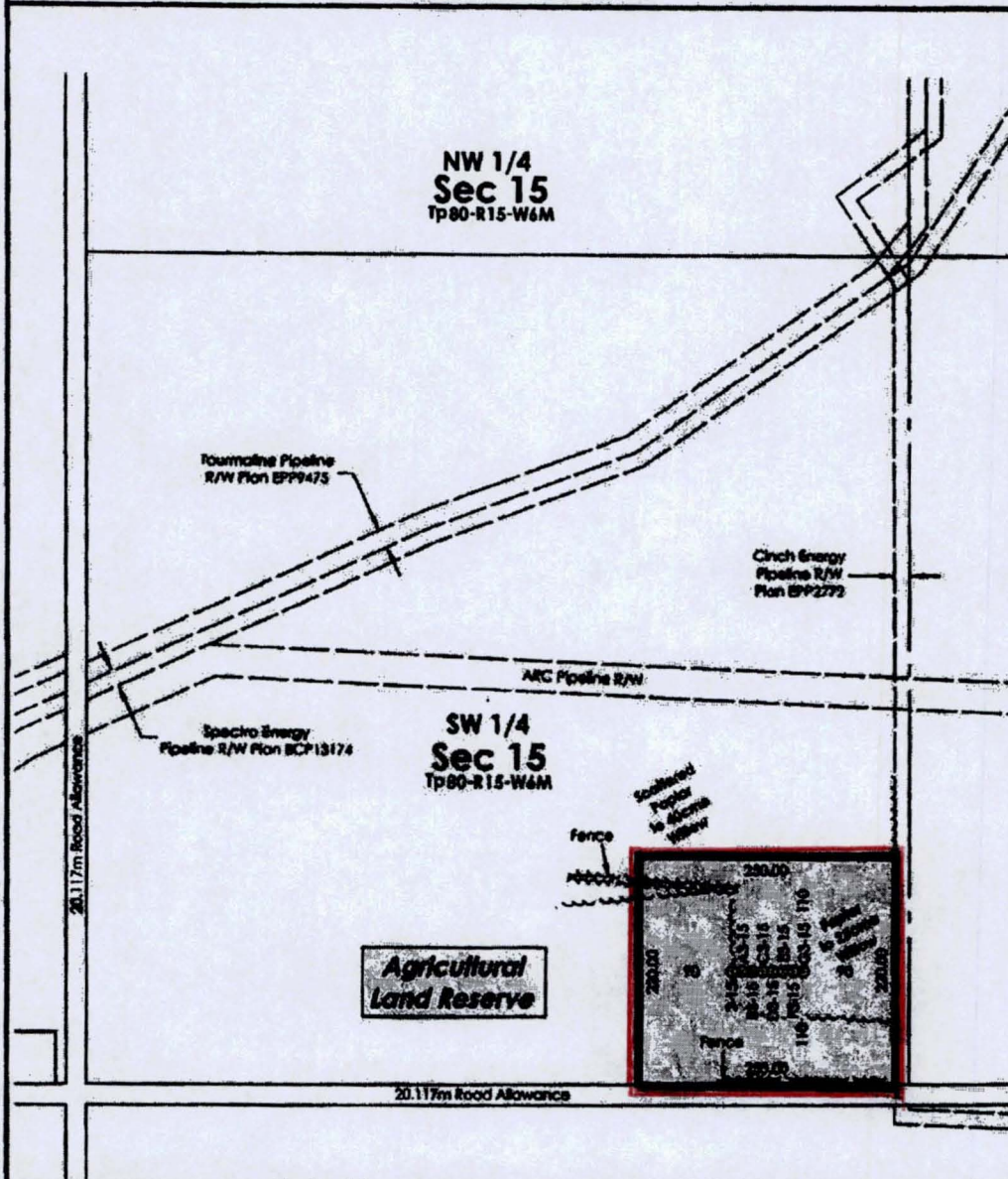
NO	DATE	REVISION	DRN	CKD
0	15/11/20	Original plan issued	SDH	CS
1	16/02/09	Revised Pipeline R/W Route	SDH	CS
2	16/05/10	Revised Workspace	SDH	TC
3	16/06/07	Revised Workspace	SDH	TC

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 can-am geomatics bc Phone: 250.787.7171
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 www.canam.com Fax: 250.787.2323

CAN-AM FILE: J20151145
 CAD FILE: J20151169IOP16-3
 Client File No.: E12180
 AFE No.: 15PPLD132
 Land File No.: 3 REVISION

Order 1900-1901-1 App. B

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
WELLSITE IN
SW 1/4 Sec 15, Tp 80, R 15, W6M
PEACE RIVER DISTRICT**



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515
OWNER(S): Keith Allan Hankins
Cheri Lee Hankins

LEGEND
SCALE = 1 : 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
22nd day of September, 2015.

AREA REQUIRED:
Wellsite 5.50 ha 13.59 ac
TOTAL: 5.50 ha 13.59 ac

Chris R. Sakundia
Chris R. Sakundia, BCLS 846

NO.	DATE	REVISION	DRN	CKD
0	16/09/22	Original plan issued	AB	CS

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CAN-AM FILE: J20120435
CAD FILE: J20130665IOP-0
Client File No.:
AFE No.:
Land File No.:



September 23, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH WEST 1/4 OF SECTION 15, TOWNSHIP 80, RANGE 15, WEST
OF THE 6th MERIDIAN, PEACE RIVER DISTRICT;

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Keith Allan Hankins and Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER

Mediation: September 14, 2016
Appearances: Dionysios Rossi, Barrister and Solicitor, and Kevin Buytels, for
the Applicant
Darryl Carter Q.C., Barrister and Solicitor, and Keith Allan
Hankins and Cheri Lee Hankins, for the Respondents
Mediator: Rob Fraser

On May 11, 2016, the Applicant, ARC Resources Ltd. ("ARC") commenced an application seeking right of entry to the above-noted lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands"), to construct, operate and maintain four flow lines, seven natural gas wells, a wellsite, and associated infrastructure, and to have the issue of compensation determined by the Board.

On May 30, 2016, the Board decided the following:

1. that the application seeking right of entry for the flow lines and the determination of related compensation, would proceed as SRB File No. 1900; and
2. the application seeking right of entry for the seven natural gas wells and wellsite and the determination of related compensation, would proceed as SRB File No. 1901.

On July 8, 2016, the Board granted ARC Resources Ltd. a right of entry to the Lands, pursuant to Board Order No. 1900-1901-1.

On September 14, 2016, I conducted a mediation between the parties during which they resolved the issue of compensation and all other outstanding issues. The parties have requested that the Board grant an Order confirming the terms of settlement.

Accordingly, by consent, the Board Orders:

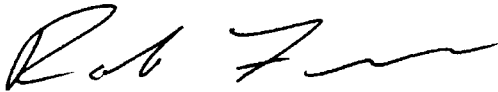
ORDER

1. ARC shall pay to Mr. and Mrs. Hankins the total amount of \$55,000 in respect of initial compensation for the seven natural gas wells and wellsite. The \$55,000 in compensation payable to Mr. and Mrs. Hankins shall consist of the previous payment of \$35,000 in partial compensation paid by ARC pursuant to Board Order No. 1900-1901-1, and an additional payment of \$20,000 to be made within 30 days of the date of this Order.

2. ARC shall pay to Mr. and Mrs. Hankins the total amount of \$13,000 in annual compensation in respect of the seven natural gas wells and wellsite.
3. ARC shall pay to Mr. and Mrs. Hankins the total amount of \$2,500 in compensation for the flow lines, within 30 days of the date of this Order.
4. ARC shall pay to Mr. and Mrs. Hankins the total amount of \$3,000 for their personal time and expenses in dealing with this matter, within 30 days of the date of this Order.
5. ARC shall pay reasonable legal fees to Mr. and Mrs. Hankins c/o Stringam LLP, within 30 days of the date of this Order.

Dated: September 23, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser", written in a cursive style.

Rob Fraser, Mediator

**File Nos. 1900 and 1901 and 1918
Board Order No.1900-1901-1918-1amd**

November 4, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH WEST 1/4 OF SECTION 15 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Keith Allan Hankins and Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands").

By Board Order No. 1900-1901-1, the Board earlier granted ARC a right of entry to the Lands on the terms set out below on July 8, 2016 concerning SRB 1900 and 1901. On October 18, 2016, ARC commenced a subsequent application for mediation and arbitration services in respect of an additional well located on the same padsite (SRB 1918).

ARC proposes two projects: a pipeline (SRB 1900) and a padsite (SRB 1901 and 1918). The Oil and Gas Commission ("OGC") has issued permits for the pipeline (OGC Permit 9709710) and the padsite (OGC Permits 9643762, 9644159, 9644160, 9644161, 9644162, 9644163, 9644164, and 100100194). ARC requires access to the Lands to construct, operate and maintain flowlines, natural gas wells, a wellsite and associated infrastructure.

On June 14, 2016 I conducted a telephone conference call to discuss these applications. Subsequent to this call, the parties engaged in correspondence dealing with proposed terms and conditions. On November 2, 2016, I conducted another conference call to discuss a further application commenced by ARC in respect of an 8th well on the padsite (SRB 1918). The parties agreed that the existing right of entry order should be amended to include the additional well.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of pipelines and natural gas wells.

Based on our discussions and on the fact that the OGC has issued permits for ARC's projects I am satisfied that ARC requires the Lands for an approved oil and gas activity.

I have reviewed the submissions from the parties regarding terms and conditions and I have included those I find relevant and within the Board's jurisdiction. I have included in paragraph 6 a reference to baseline water testing of the dugout, although outside of the right of way area, as ARC has committed to this testing and this testing is integral to ARC's projects in order to ensure the quality of the water is not negatively impacted.

The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plans attached as Appendix "A" and Appendix "B" as necessary for the purpose of constructing, operating and maintaining flow lines and constructing, drilling, completing and operating natural gas wells and associated infrastructure.
2. ARC shall pay the following compensation to the landowner:

- a. a total amount of \$55,000 in respect of initial compensation for the seven natural gas wells and wellsite, consisting of a previous payment of \$35,000 in partial compensation paid by ARC to the Hankins pursuant to Board Order 1900-1901-1, and an additional payment of \$20,000, pursuant to Board Order Board Order 1900-1901-2;
 - b. a total amount of \$13,000 in annual compensation in respect of the seven natural gas wells and wellsite, pursuant to Board Order Board Order 1900-1901-2;
 - c. a total amount of \$2,500 in respect of the flow lines, pursuant to Board Order Board Order 1900-1901-2;
 - d. a total amount of \$3,000 for the Hankins' personal time and expenses, pursuant to Board Order Board Order 1900-1901-2;
 - e. a total amount of \$2,000 in respect of initial compensation for an eighth natural gas well on the existing wellsite, pursuant to Board Order Board Order 1900-1901-1918-1amd;
 - f. a total amount of \$500 in annual compensation in respect of the eighth natural gas well on the existing wellsite, pursuant to Board Order Board Order 1900-1901-1918-1amd;
 - g. reasonable legal fees in an amount to be agreed upon by the parties, pursuant to Board Order Board Order 1900-1901-1918-1amd.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board. Following the completion of construction, drilling and completion operations ARC will fence the padsite.
 4. ARC will construct berms around the padsite, using both hay bales and the surface soils stripped from the padsite during construction, allocating as much as possible of the soil piles to berms located on the western side of the padsite.
 5. ARC will make all reasonable efforts to ensure that any artificial lighting at the padsite will be directed away from the residence located on the Lands.
 6. ARC will perform baseline water testing of the dugout, once ARC has their right of entry order.

7. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

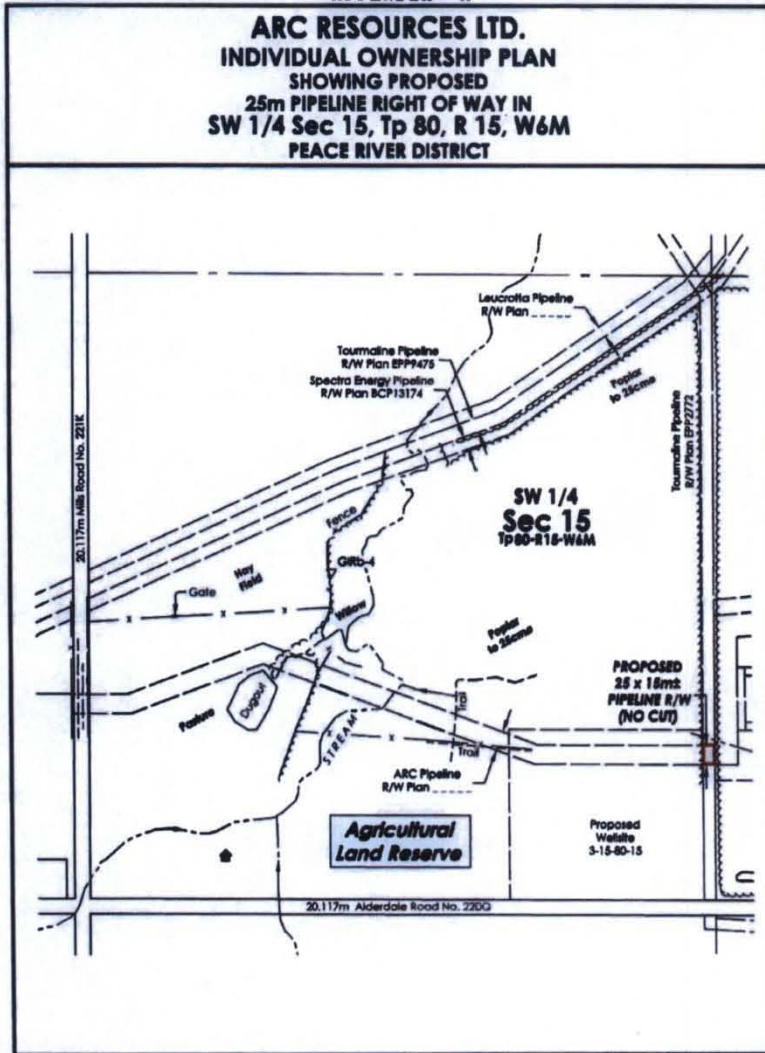
Dated: November 4, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
25m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 15, Tp 80, R 15, W6M
PEACE RIVER DISTRICT**



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515
OWNER(S): Keith Allan Hankins
 Cherf Lee Hankins

NOTES
SCALE = 1:5,000
Distances shown are in metres.
Permanent Portions referred to:
Certified correct this
7th day of June, 2016.

AREA REQUIRED:

25m Pipeline R/W	0.04 ha	0.10 ac
TOTAL:	0.04 ha	0.10 ac

Jeff Thompson, BCLS 922

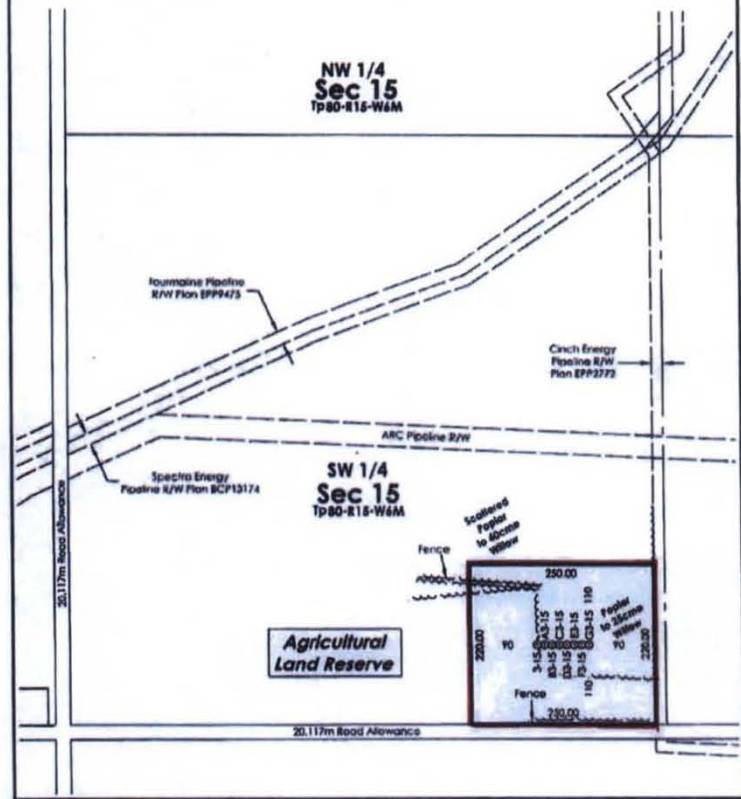
NO	DATE	REVISION	DRN	CKD
0	15/11/20	Original plan issued	SDH	CS
1	14/02/09	Revised Pipeline R/W Route	SDH	CS
2	14/05/10	Revised Workspace	SDH	TC
3	14/06/07	Revised Workspace	SDH	TC

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www.canam.com Fax: 250.787.2323

CAN-AM FILE: J20161148
CAD FILE: J20151148C014-3
Client File No.: E12180
APE No.: 15PFD132
Land File No.:
REVISION

Order 1900-1901-1918-1amd
 APPENDIX "B"

**ARC RESOURCES LTD.
 INDIVIDUAL OWNERSHIP PLAN
 SHOWING PROPOSED
 WELLSITE IN
 SW 1/4 Sec 15, Tp 80, R 15, W6M
 PEACE RIVER DISTRICT**



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515

OWNER(S): Keith Allan Hankins
 Cheryl Lee Hankins

LEGEND
 SCALE = 1: 5,000
 Portions referred to:
 Notes: Distances shown are in metres.
 Certified correct this
 22nd day of September, 2015.

AREA REQUIRED:
 Wellsite: 5.50 ha 13.59 ac
TOTAL: 5.50 ha 13.59 ac

Chris R. Sakundak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	13/09/22	Original plan issued	AS	CS

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 can-am geomatics Inc. Phone: 250.787.7171
 Fort St. John's, B.C. Toll Free: 1.866.208.0963
 www.canam.com Fax: 250.787.2320

CAN-AM FILE: J20150446
 CAD FILE: J20150446IOP-0
 Client File No.:
 AFE No.:
 Land File No.:
 REVISION

File No. 1908
Board Order No.1908-1

August 26, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH WEST ¼ OF SECTION 8 TOWNSHIP 80 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

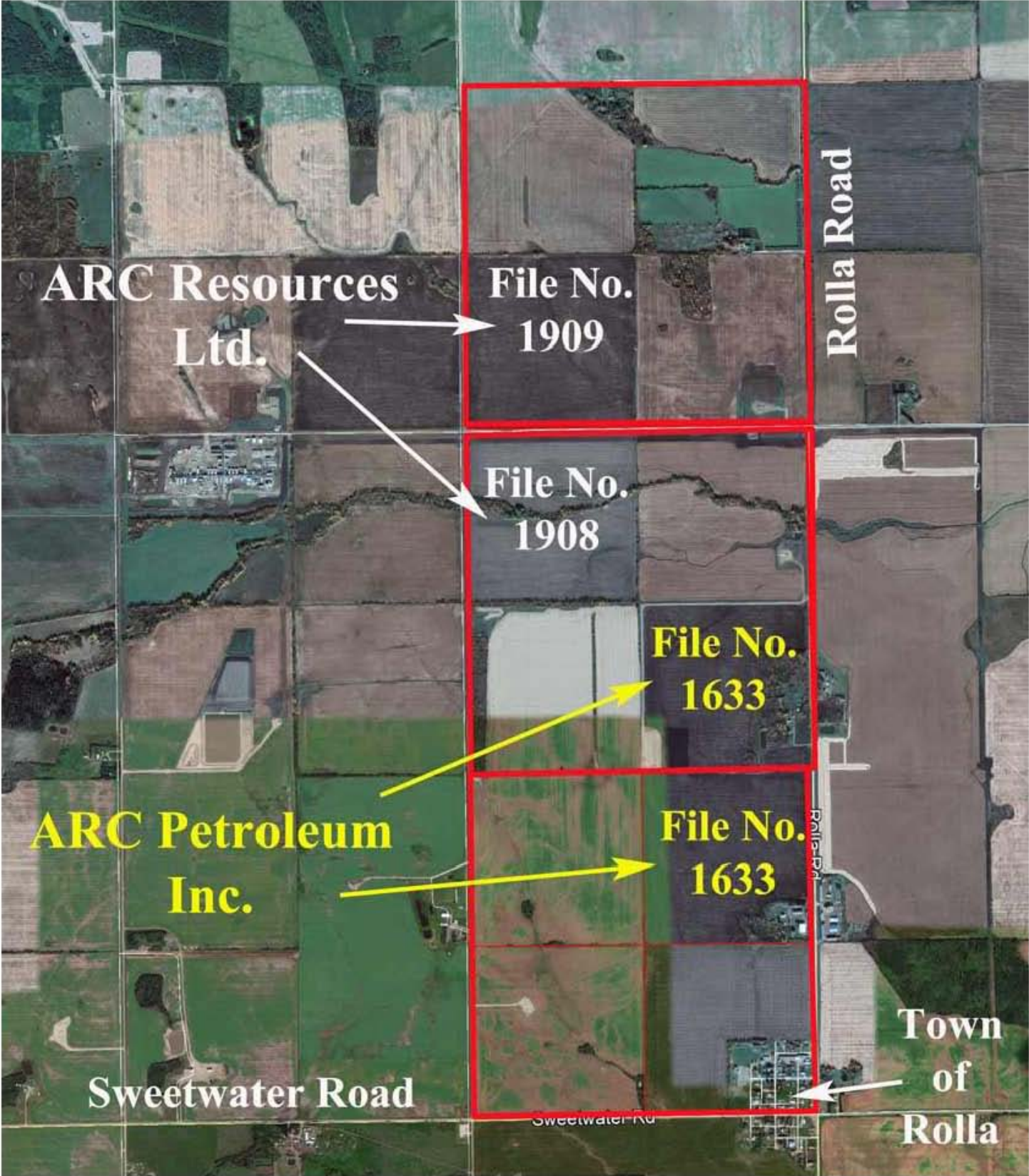
(APPLICANT)

AND:

John Irving Miller

(RESPONDENT)

BOARD ORDER



**ARC Resources
Ltd.**

**File No.
1909**

Rolla Road

**File No.
1908**

**File No.
1633**

**ARC Petroleum
Inc.**

**File No.
1633**

Sweetwater Road

**Town
of
Rolla**

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by John Irving Miller (the "Lands").

ARC requires access to the Lands to construct, operate and maintain a flow line and associated infrastructure.

The parties have advised the Board that they have reached agreement on the right of entry as set out below.

Accordingly, BY CONSENT, the Surface Rights Board orders:

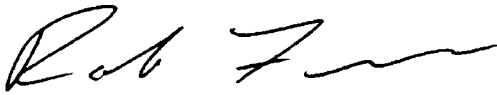
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining a flow line in accordance with British Columbia Oil and Gas Commission Permit No. 9709763.
2. ARC shall pay to the landowner as partial compensation the total amount of \$1,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder's lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.
5. All vehicles used in the farming operations of the landowner will have a right to cross the pipeline right of way in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm license, provided such vehicles shall not alter the depth of cover over the flow line. If vehicles are required to cross the flow line where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.
6. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.

7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

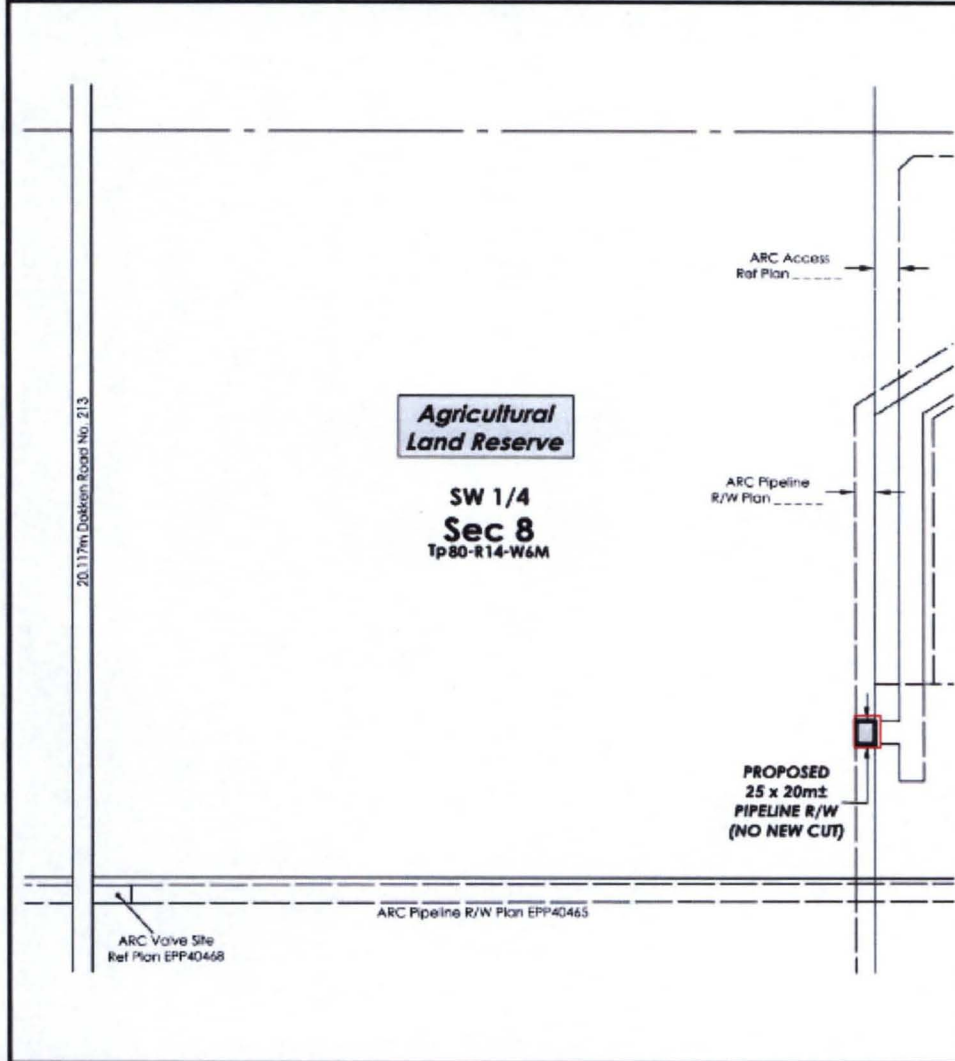
Dated: August 26, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
25m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 8, Tp 80, R 14, W6M
PEACE RIVER DISTRICT**



TITLE No.: S18293 **P.I.D. No.:** 014-209-811 **LEGEND**
OWNER(S): John Irving Miller SCALE = 1: 5,000
 Parcels referred to:
 Notes: Distances shown are in metres.
 Certified correct this
 13th day of April, 2016.
Chris R. Sakundiak
 Chris R. Sakundiak, BCLS 846

AREA REQUIRED:
 For 25m Pipeline R/W 0.05 ha 0.12 ac
TOTAL: 0.05 ha 0.12 ac

NO	DATE	REVISION	DRN	CKD
0	16/04/13	Original plan issued	SDH	CS

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 www.canam.com Fax: 250.767.2323

CAN-AM FILE: J20150678
 CAD FILE: J20150678/OP10-0
 Client File No.: E12169
 AFE No.:
 Land File No.:
 REVISION

File No. 1908
Board Order No.1908-2

September 23, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH WEST 1/4 OF SECTION 8, TOWNSHIP 80, RANGE 14, WEST OF
THE 6th MERIDIAN, PEACE RIVER DISTRICT;

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

John Irving Miller

(RESPONDENT)

BOARD ORDER

On August 3, 2016, the Applicant, ARC Resources Ltd. ("ARC") commenced an application seeking right of entry to the above-noted lands legally owned by Mr. John Irving Miller (the "Lands"), to construct, operate and maintain a flow line and associated infrastructure, and to have the issue of compensation determined by the Board.

On August 26, 2016, the Board granted ARC Resources Ltd. a right of entry to the Lands, on consent, pursuant to Board Order No. 1908-1.

A mediation was scheduled to take place in this matter on September 14, 2016. Prior to the mediation, the parties advised the Board that they had resolved all outstanding issues, and have requested that the Board grant an Order confirming the terms of settlement.

Accordingly, by consent, the Board Orders:

ORDER

1. ARC shall pay to Mr. Miller the total amount of \$2,000 in respect of all claims for compensation. The \$2,000 in compensation payable to Mr. Miller shall consist of the previous payment of \$1,000 in partial compensation paid by ARC pursuant to Board Order No. 1908-1, and an additional payment of \$1,000 to be made within 30 days of the date of this Order.
2. ARC shall pay reasonable legal fees to Mr. Miller c/o Stringam LLP, within 30 days of the date of this Order.

Dated: September 23, 2016

FOR THE BOARD



Rob Fraser, Mediator

File No. 1903
Board Order No.1903-1

July 8, 2016

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED**

**AND IN THE MATTER OF
THE SOUTH EAST ¼ OF SECTION 14 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

ARC Resources Ltd.

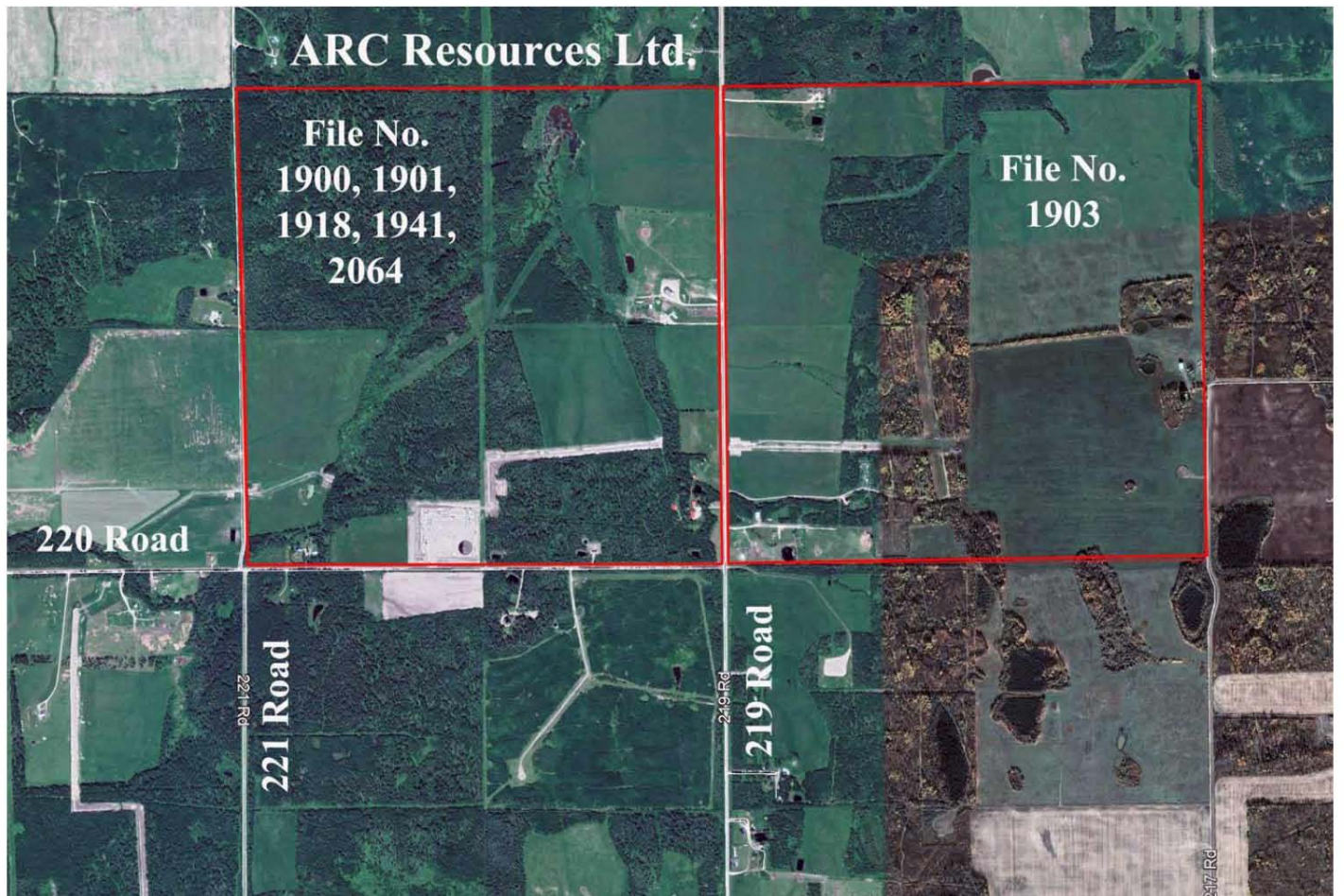
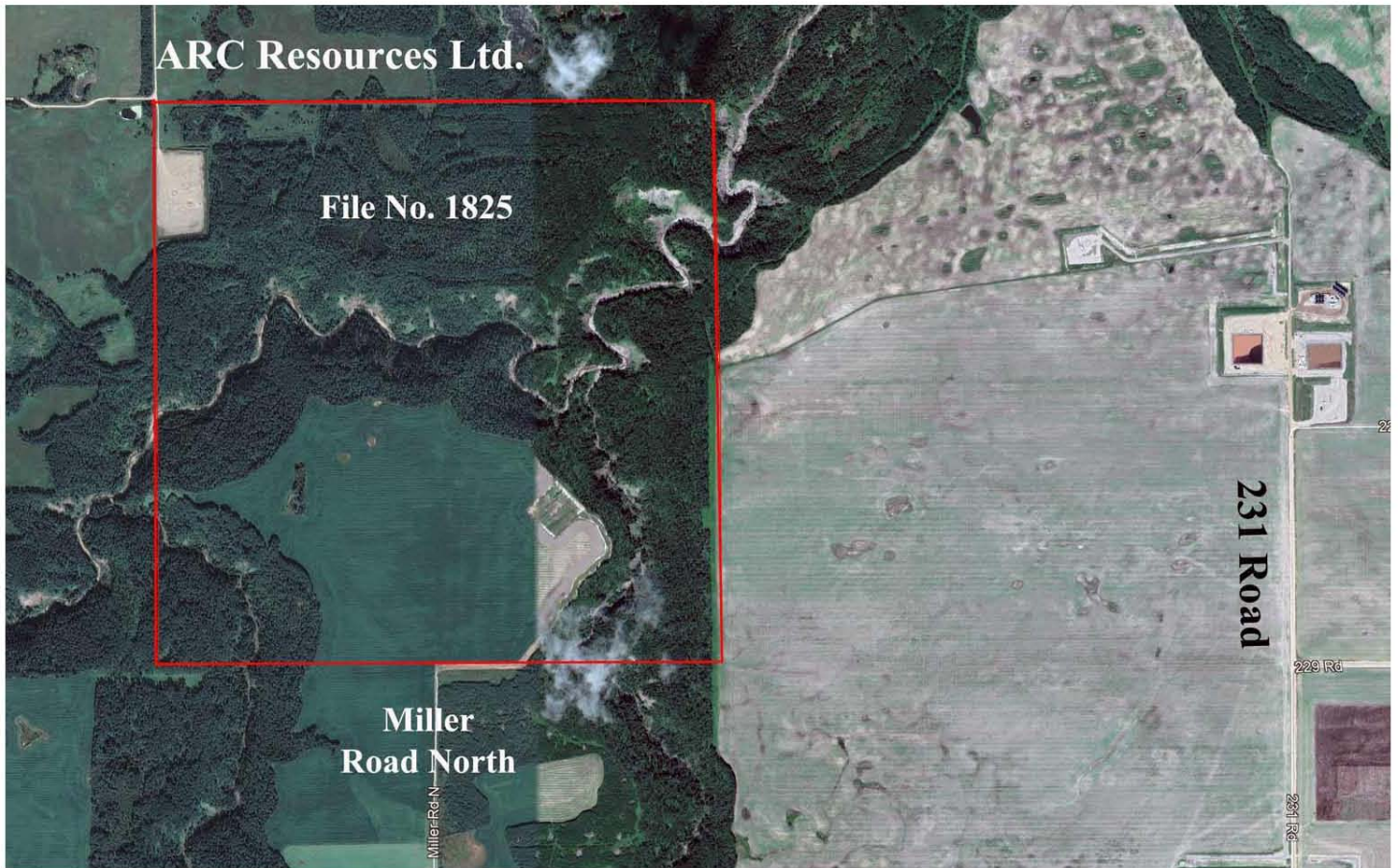
(APPLICANT)

AND:

Nels Ostero Ltd.

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Nels Ostero Ltd. (the "Lands").

On June 14, 2016 I conducted a telephone conference call to discuss ARC's proposed project to construct, operate and maintain four flowlines and associated infrastructure on the Lands. The Oil and Gas Commission has issued permit #9709710 (project #000023844) for this project.

Subsequent to the conference call the parties exchanged proposed terms and conditions. The Landowner asked the Board to expand one paragraph and add another. ARC objected, saying that they can be dealt with as damages or loss. I find the addition too vague to include and I agree that the additional term can be dealt with if damages arise in the future. I have only included those terms and conditions where the parties are in agreement.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of a pipeline.

Based on our discussions and on the fact that the OGC has issued permits for ARC's projects I am satisfied that ARC requires the Lands for an approved oil and gas activity.

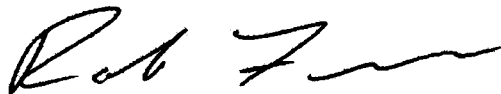
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining flow lines in accordance with British Columbia Oil and Gas Commission Permit No. 9709710.
2. ARC shall pay to the landowner as partial compensation the total amount of \$10,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC shall make reasonable efforts to ensure that construction equipment and vehicles are steam cleaned prior to entry on the Lands.
5. ARC shall make reasonable efforts to minimize the amount of topsoil stripping.

6. The flowlines will be buried with a minimum depth of cover of 1.5 metres.
7. The landowner may cross the pipeline with equipment or vehicles (including loaded trucks and construction equipment) for the lifetime of the flow lines, provided such equipment or vehicles shall not alter the depth of cover over the flowlines. If equipment is required to cross the flow lines where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.
8. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.
9. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

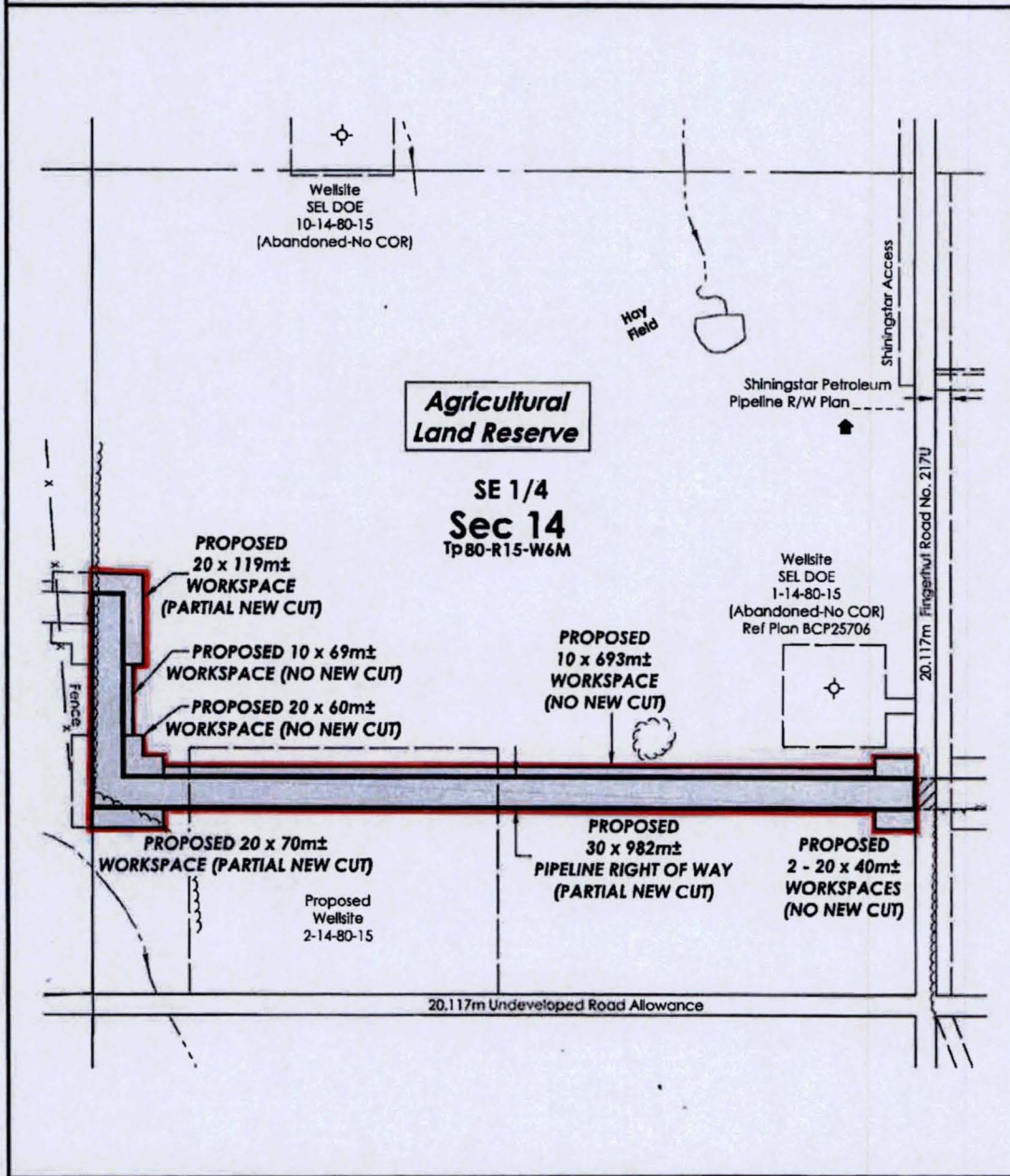
Dated: July 8, 2016

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
30m PIPELINE RIGHT OF WAY IN
SE 1/4 Sec 14, Tp 80, R 15, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA4393265 **P.I.D. No.:** 014-389-495
OWNER(S): Nels Ostero Ltd.
Inc. No. BC0099452

LEGEND
SCALE = 1 : 5,000
Portions referred to:
Notes: Distances shown are in metres.
Certified correct this
13th day of November, 2015.

AREA REQUIRED:

30m Pipeline R/W	2.94 ha	7.26 ac
Workspaces	1.42 ha	3.51 ac
TOTAL:	4.36 ha	10.77 ac

Chris R. Sakundiak
Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	15/11/13	Original plan issued	SDH	CS

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CAN-AM FILE: J20150559
CAD FILE: J20150559IOP4-0
Client File No.: E12156
AFE No.: 1SPPL0132
Land File No.:
REVISION

Appendix "B"

Backfill Ditch Line with Compaction

- Ditch line will be approximately 1 meter in width;
- Lay pipe in ditch
- Sand pad with approximately 300mm of sand, level out
- Lay approximately 600mm of sub-soil, wheel pack with hoe
- Lay approximately 300mm of sub-soil, wheel pack with hoe
- Lay approximately 300mm of sub-soil, wheel pack with hoe
- Lay approximately 300mm of sub-soil, wheel pack with hoe
- Lay final 300mm of sub-soil, pack with sheep's foot
- Lay top soil and pack with sheep's foot
- Disc the top soil.

File No. 1903
Board Order No.1903-1amd

July 11, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST ¼ OF SECTION 14 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Nels Osterro Ltd.

(RESPONDENT)

BOARD ORDER

This Order amends Order 1903-1 to remove Appendix "B".

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Nels Ostero Ltd. (the "Lands").

On June 14, 2016 I conducted a telephone conference call to discuss ARC's proposed project to construct, operate and maintain four flowlines and associated infrastructure on the Lands. The Oil and Gas Commission has issued permit #9709710 (project #000023844) for this project.

Subsequent to the conference call the parties exchanged proposed terms and conditions. The Landowner asked the Board to expand one paragraph and add another. ARC objected, saying that they can be dealt with as damages or loss. I find the addition too vague to include and I agree that the additional term can be dealt with if damages arise in the future. I have only included those terms and conditions where the parties are in agreement.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of a pipeline.

Based on our discussions and on the fact that the OGC has issued permits for ARC's projects I am satisfied that ARC requires the Lands for an approved oil and gas activity.

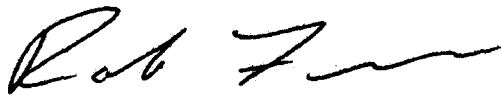
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining flow lines in accordance with British Columbia Oil and Gas Commission Permit No. 9709710.
2. ARC shall pay to the landowner as partial compensation the total amount of \$10,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC shall make reasonable efforts to ensure that construction equipment and vehicles are steam cleaned prior to entry on the Lands.

5. ARC shall make reasonable efforts to minimize the amount of topsoil stripping.
6. The flowlines will be buried with a minimum depth of cover of 1.5 metres.
7. The landowner may cross the pipeline with equipment or vehicles (including loaded trucks and construction equipment) for the lifetime of the flow lines, provided such equipment or vehicles shall not alter the depth of cover over the flowlines. If equipment is required to cross the flow lines where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.
8. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.
9. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

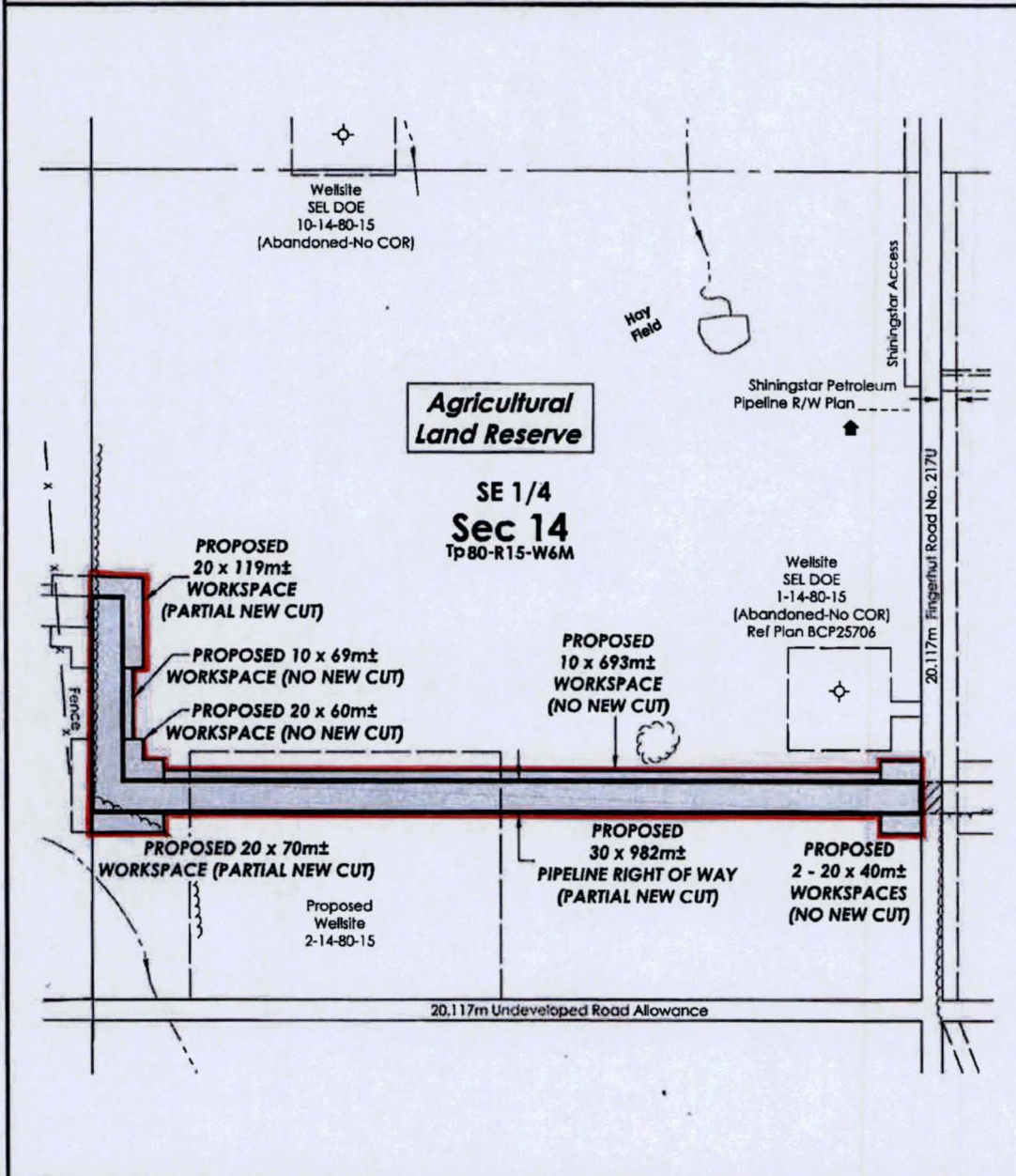
Dated: July 11, 2016

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
30m PIPELINE RIGHT OF WAY IN
SE 1/4 Sec 14, Tp 80, R 15, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA4393265 **P.I.D. No.:** 014-389-495
OWNER(S): Nels Ostero Ltd.
 Inc. No. BC0099452

LEGEND
 SCALE = 1: 5,000
 Portions referred to:
 Notes: Distances shown are in metres.
 Certified correct this
 13th day of November, 2015.

AREA REQUIRED:

30m Pipeline R/W	2.94 ha	7.26 ac
Workspaces	1.42 ha	3.51 ac
TOTAL:	4.36 ha	10.77 ac

Chris R. Sakundiak
 Chris R. Sakundiak, BCLS 846

NO	DATE	REVISION	DRN	CKD
0	15/11/13	Original plan issued	SDH	CS

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CAN-AM FILE: J20150559
CAD FILE: J20150559IOP4-0
Client File No.: E12156
AFE No.: 15PPLD132
Land File No.:



September 23, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST 1/4 OF SECTION 14, TOWNSHIP 80, RANGE 15, WEST
OF THE 6th MERIDIAN, PEACE RIVER DISTRICT;

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Nels Ostero Ltd.

(RESPONDENTS)

BOARD ORDER

Mediation: September 15, 2016
Appearances: Dionysios Rossi, Barrister and Solicitor, and Kevin Buytels, for
the Applicant
Darryl Carter Q.C., Barrister and Solicitor, and Tom Ostero, for
the Respondents
Mediator: Rob Fraser

On April 22, 2016, the Applicant, ARC Resources Ltd. ("ARC") commenced an application seeking right of entry to the above-noted lands legally owned by Nels Ostero Ltd. (the "Lands"), to construct, operate and maintain four flow lines and associated infrastructure, and to have the issue of compensation determined by the Board.

On July 11, 2016, the Board granted ARC Resources Ltd. a right of entry to the Lands, pursuant to Board Order No. 1903-1amd.

On September 15, 2016, I conducted a mediation between the parties during which they resolved the issue of compensation and all other outstanding issues. The parties have requested that the Board grant an Order confirming the terms of settlement.

Accordingly, by consent, the Board Orders:


ORDER

1. ARC shall pay to Nels Ostero Ltd. the total amount of \$37,500 in compensation for the flow lines, within 30 days of the date of this order. The \$37,500 in compensation payable to Nels Ostero Ltd. shall consist of the previous payment of \$10,000 in partial compensation paid by ARC pursuant to Board Order No. 1903-1amd, and an additional payment of \$27,500 to be made within 30 days of the date of this Order.
2. ARC shall pay to Nels Ostero Ltd. the total amount of \$2,000 for the time and expenses incurred by its representative, Tom Ostero, in dealing with this matter, within 30 days of the date of this Order.

3. ARC shall pay reasonable legal fees to Nels Ostero Ltd. c/o Stringam LLP, within 30 days of the date of this Order.

Dated: September 23, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Fraser, Mediator

File No. 1904
Board Order No.1904-1

August 9, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH WEST $\frac{1}{4}$ OF SECTION 21 TOWNSHIP 79 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

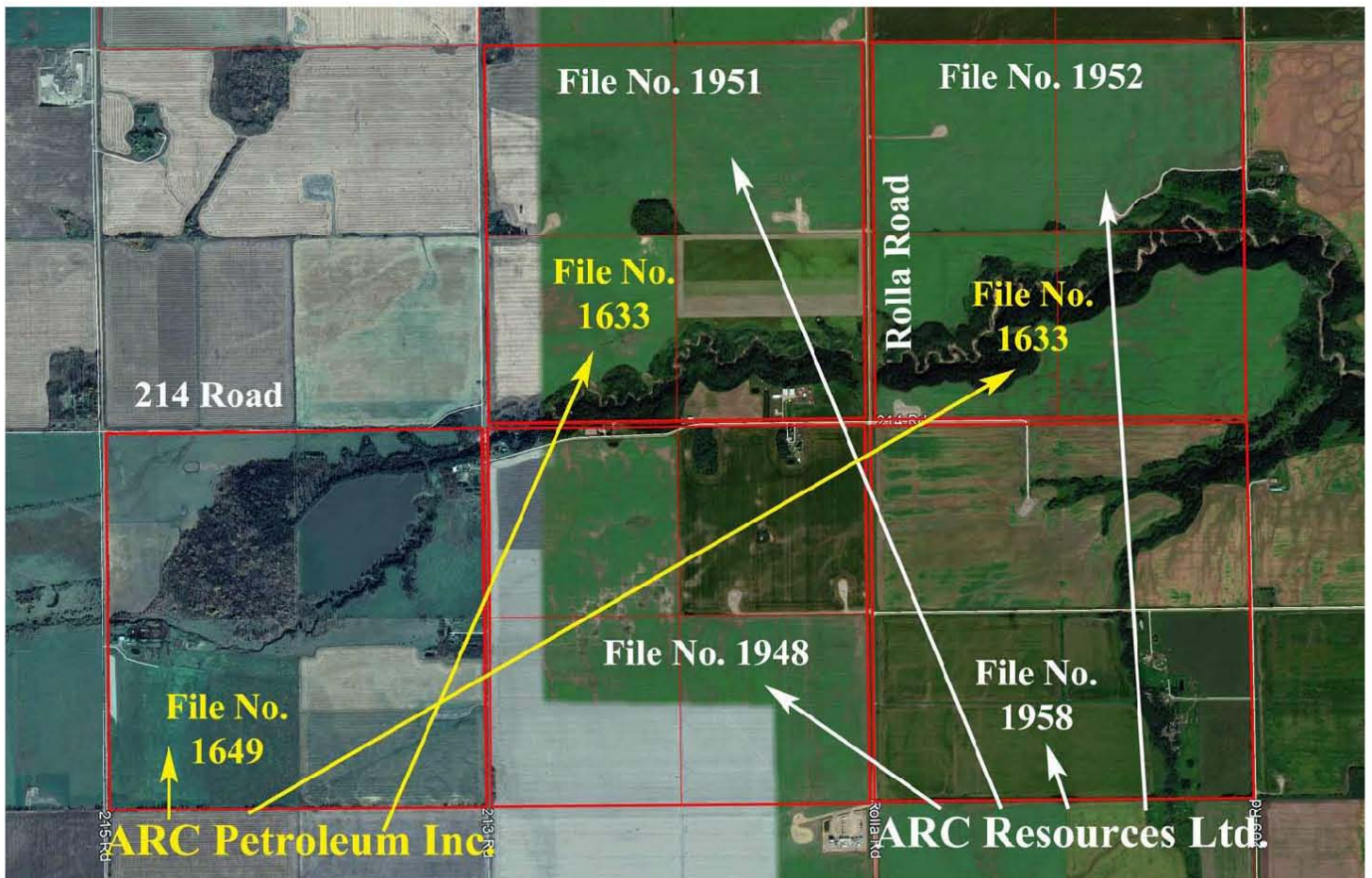
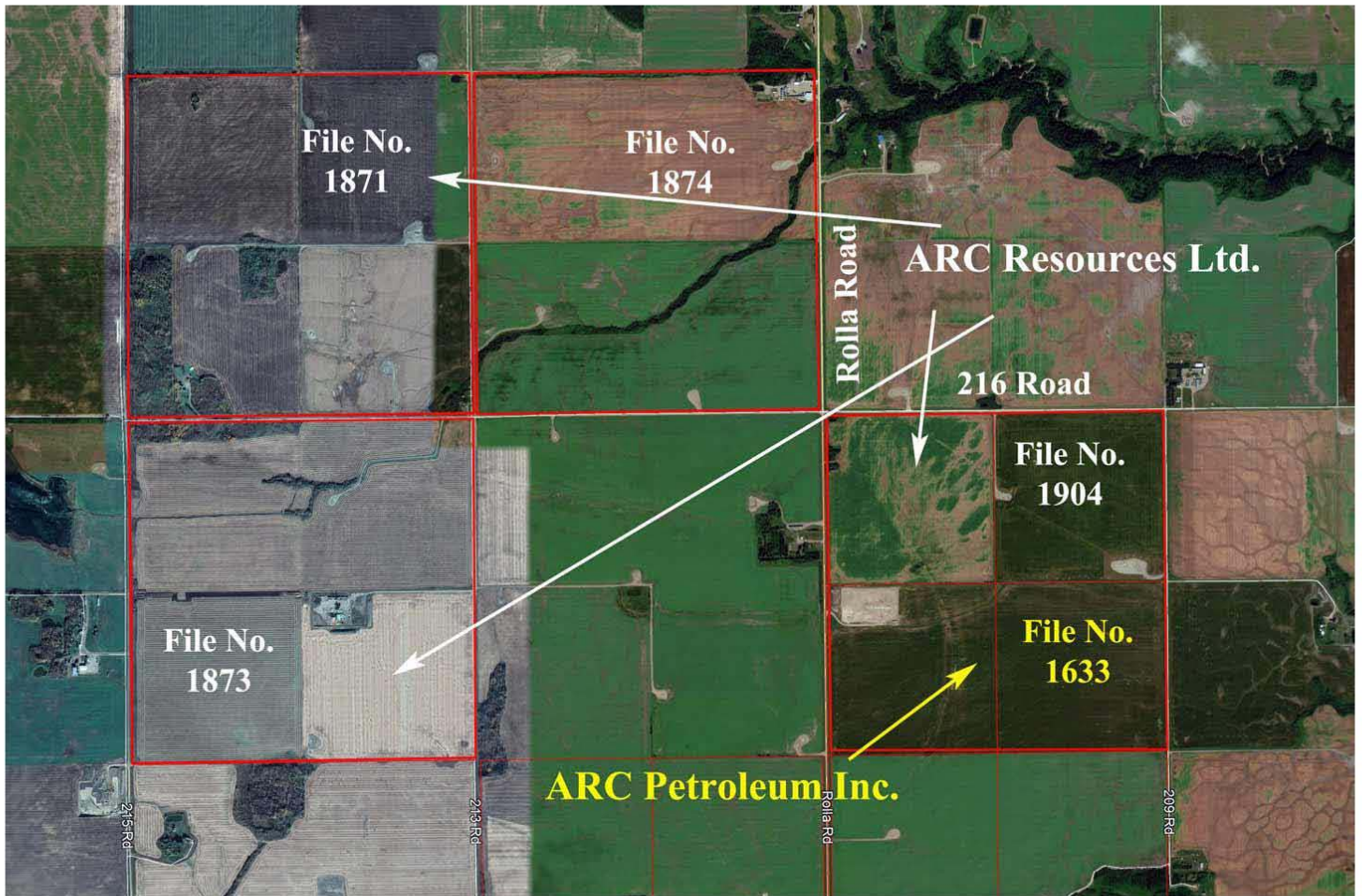
(APPLICANT)

AND:

Mary Kathleen Miller

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. (“ARC”) seeks a right of entry order to access certain lands legally owned by Mary Kathleen Miller (the “Lands”).

ARC proposes to construct operate and maintain a flow line and associated infrastructure. The Oil and Gas Commission (“OGC”) has issued a permit for this project (9709307).

ARC informed the Landowner of what they would like to see in a right of entry order. The Landowner responded and ARC accepted some of the suggestions. I am satisfied that the parties have had an opportunity to provide input regarding the proposed terms and conditions.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. “Oil and gas activity” is a defined term that includes the construction or operation of a pipeline.

Based on the correspondence between the parties and on the fact that the OGC has issued permits for ARC’s project I am satisfied that ARC requires the Lands for an approved oil and gas activity.

The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix “A” as necessary for the purpose of constructing, operating and maintaining a flow line in accordance with British Columbia Oil and Gas Commission Permit No. 9709307.
2. ARC shall pay to the landowner as partial compensation the total amount of \$5,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder’s lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.
5. All vehicles used in the farming operations of the landowner will have a right to cross the pipeline right of way in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm licenses, provided such vehicles shall not alter the depth of cover over the flow line. If vehicles are

required to cross the flow line where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.

6. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.
7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated: August 9, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser", written in a cursive style.

Rob Fraser, Mediator

File No. 1904
Board Order No. 1904-2

October 31, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH WEST 1/4 OF SECTION 21, TOWNSHIP 79, RANGE 14, WEST
OF THE 6th MERIDIAN, PEACE RIVER DISTRICT;

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Mary Kathleen Miller

(RESPONDENT)

BOARD ORDER

On May 30, 2016, the Applicant, ARC Resources Ltd. ("ARC") commenced an application seeking right of entry to the above-noted lands legally owned by Mary Kathleen Miller (the "Lands"), to construct, operate and maintain a flow line and associated infrastructure, and to have the issue of compensation determined by the Board.

On August 9, 2016, the Board granted ARC Resources Ltd. a right of entry to the Lands, pursuant to Board Order No. 1904-1.

On September 14, 2016, I conducted a mediation between the parties during which they resolved the issue of compensation and all other outstanding issues. The parties have requested that the Board grant an Order confirming the terms of settlement.

Accordingly, by consent, the Board Orders:

ORDER

1. ARC shall pay to Mrs. Miller the total amount of \$9,000 in respect of all claims for compensation, excluding crop loss, which ARC shall resolve separately with an affected third party. The \$9,000 in compensation payable to Mrs. Miller shall consist of the previous payment of \$5,000 in partial compensation paid by ARC pursuant to Board Order No. 1904-1, and an additional payment of \$4,000 to be made within 30 days of the date of this Order.
2. ARC shall pay to Mrs. Miller the total sum of \$3,000 in respect of her personal time and expenses in dealing with this matter, within 30 days of the date of this Order.
3. ARC shall pay reasonable legal fees to Mrs. Miller c/o Stringam LLP, within 30 days of the date of this Order.

Dated: October 31, 2016

FOR THE BOARD



Rob Fraser, Mediator

File No. 1909
Board Order No.1909-1

August 26, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST ¼ OF SECTION 17 TOWNSHIP 80 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

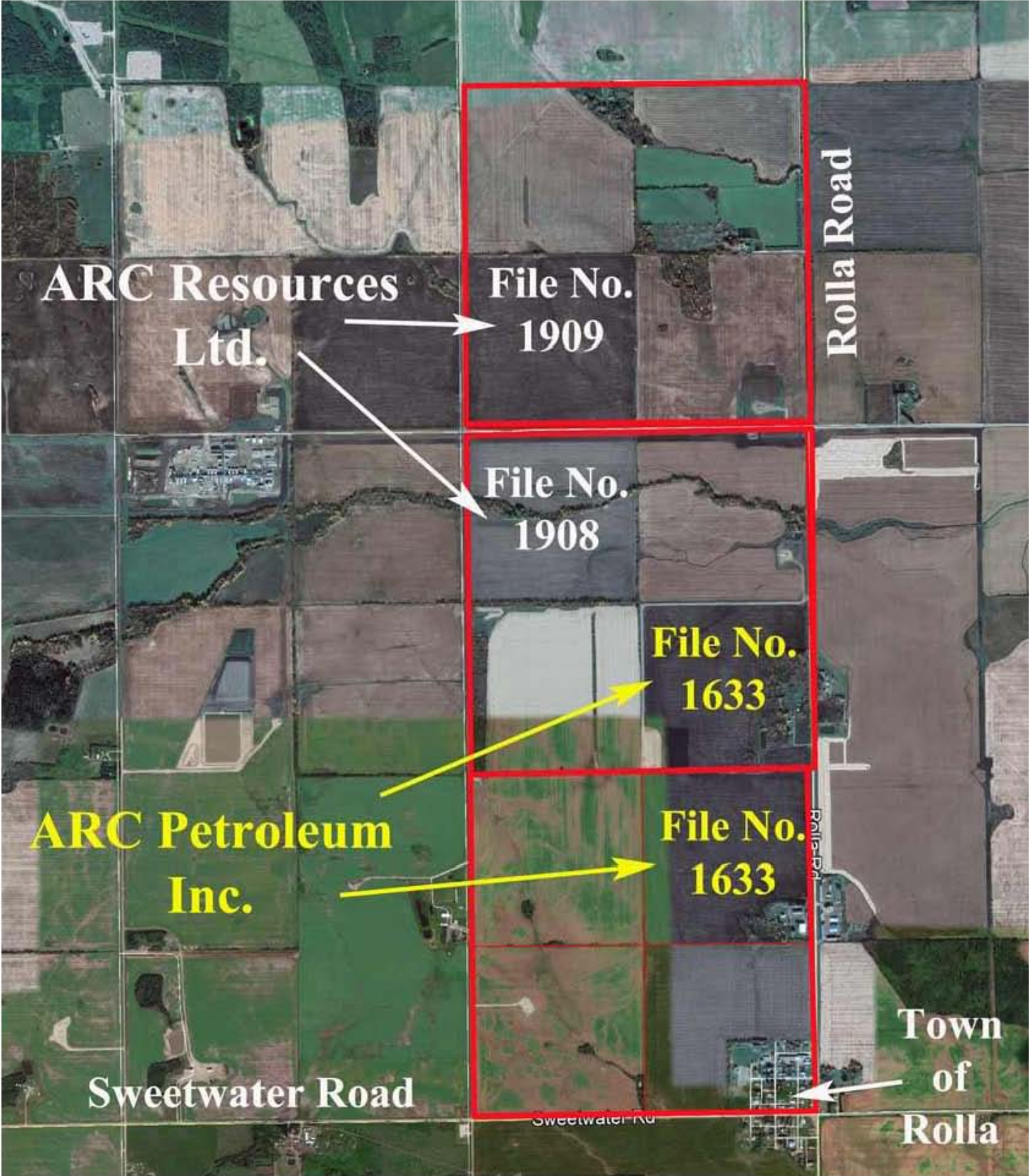
(APPLICANT)

AND:

John Irving Miller and Mary Kathleen Miller

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by John Irving Miller and Mary Kathleen Miller (the "Lands").

ARC requires access to the Lands to construct, operate and maintain a flow line and associated infrastructure.

The parties have advised the Board that they have reached agreement on the right of entry as set out below.

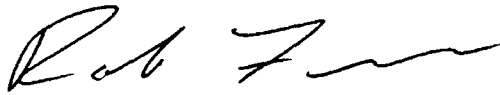
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining a flow line in accordance with British Columbia Oil and Gas Commission Permit No. 9709763.
2. ARC shall pay to the landowner as partial compensation the total amount of \$2,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder's lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.
5. All vehicles used in the farming operations of the landowner will have a right to cross the pipeline right of way in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm license, provided such vehicles shall not alter the depth of cover over the flow line. If vehicles are required to cross the flow line where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.
6. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.
7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board order.

8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

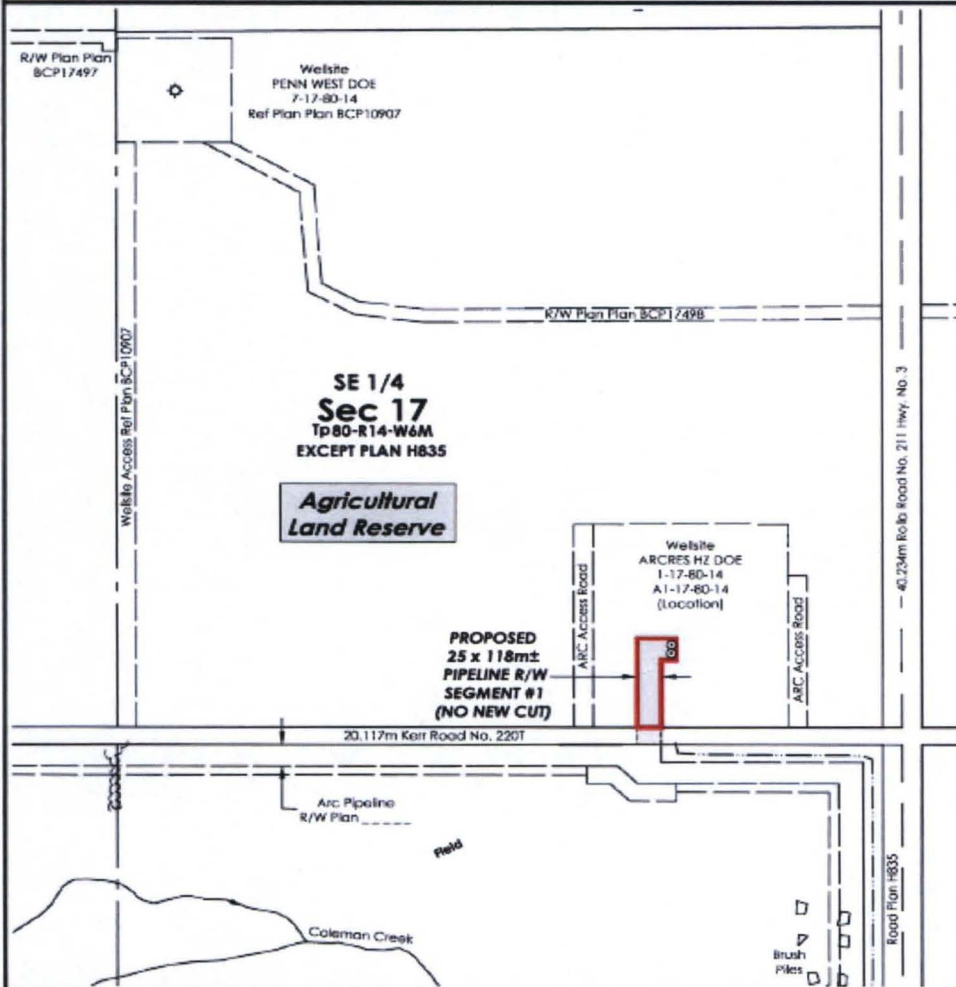
Dated: August 26, 2016

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
25m PIPELINE RIGHT OF WAY IN
SE 1/4 Sec 17, Tp 80, R 14, W6M Except Plan H835
PEACE RIVER DISTRICT**



TITLE No.: N34597 **P.I.D. No.:** 015-973-191
OWNER(S): John Irving Miller
Mary Kathleen Miller

NOTES
SCALE = 1: 5,000
Distances shown are in metres.
Permanent Portions referred to:

Certified correct this
9th day of March, 2016.

Chris R. Sakundiak
Chris R. Sakundiak, BCLS B46

AREA REQUIRED:
For 25m Pipeline R/W 0.29 ha 0.72 ac
TOTAL: 0.29 ha 0.72 ac

NO	DATE	REVISION	DRN	CKD
0	16/03/08	Original plan issued	MM	CS

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CAN-AM FILE: J20150678
CAD FILE: J20150678/BIOP6-0
Client File No.: E12169
AFE No.: ---
Land File No.: ---

0	REVISION
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File No. 1909
Board Order No. 1909-2amd

September 29, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST 1/4 OF SECTION 17, TOWNSHIP 80, RANGE 14, WEST
OF THE 6th MERIDIAN, PEACE RIVER DISTRICT EXCEPT PLAN H835 ;

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

John Irving Miller and Mary Kathleen Miller

(RESPONDENTS)

BOARD ORDER

This order amends Order 1909-2 to correct the legal description of the Lands on the cover page.

On August 3, 2016, the Applicant, ARC Resources Ltd. ("ARC") commenced an application seeking right of entry to the above-noted Lands legally owned by Mr. John Irving Miller and Mary Kathleen Miller (the "Lands"), to construct, operate and maintain a flow line and associated infrastructure, and to have the issue of compensation determined by the Board.

On August 26, 2016, the Board granted ARC Resources Ltd. a right of entry to the Lands, on consent, pursuant to Board Order No. 1909-1.

A mediation was scheduled to take place in this matter on September 14, 2016. Prior to the mediation, the parties advised the Board that they had resolved all outstanding issues, and have requested that the Board grant an Order confirming the terms of settlement.

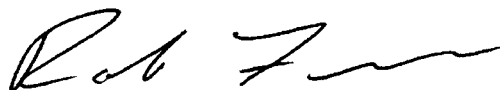
Accordingly, by consent, the Board Orders:

ORDER

1. ARC shall pay to Mr. and Mrs. Miller the total amount of \$3,000 in respect of all claims for compensation. The \$3,000 in compensation payable to Mr. and Mrs. Miller shall consist of the previous payment of \$2,000 in partial compensation paid by ARC pursuant to Board Order No. 1909-1, and an additional payment of \$1,000 to be made within 30 days of the date of this Order.
2. ARC shall pay reasonable legal fees to Mr. Miller c/o Stringam LLP, within 30 days of the date of this Order.

Dated: September 29, 2016

FOR THE BOARD



Rob Fraser, Mediator

File No. 1909
Board Order No.1909-1amd

September 29, 2016

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE SOUTH EAST ¼ OF SECTION 17 TOWNSHIP 80 RANGE 14
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT
EXCEPT PLAN H835

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

John Irving Miller and Mary Kathleen Miller

(RESPONDENT)

BOARD ORDER

This order amends Order 1909-1 to correct the legal description of the Lands on the cover page.

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by John Irving Miller and Mary Kathleen Miller (the "Lands").

ARC requires access to the Lands to construct, operate and maintain a flow line and associated infrastructure.

The parties have advised the Board that they have reached agreement on the right of entry as set out below.

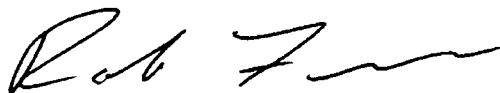
The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining a flow line in accordance with British Columbia Oil and Gas Commission Permit No. 9709763.
2. ARC shall pay to the landowner as partial compensation the total amount of \$2,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder's lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.
5. All vehicles used in the farming operations of the landowner will have a right to cross the pipeline right of way in the normal and ordinary course of such farming operations, regardless of whether the vehicle carries a farm license, provided such vehicles shall not alter the depth of cover over the flow line. If vehicles are required to cross the flow line where additional matting or cover is required upon determination by ARC, on reasonable notice being provided to ARC, ARC will construct the appropriate crossing.
6. No risers or other above ground equipment or structures within the area shown outlined in red in Appendix "A" are permitted without the landowner's consent or a further Board order.

7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

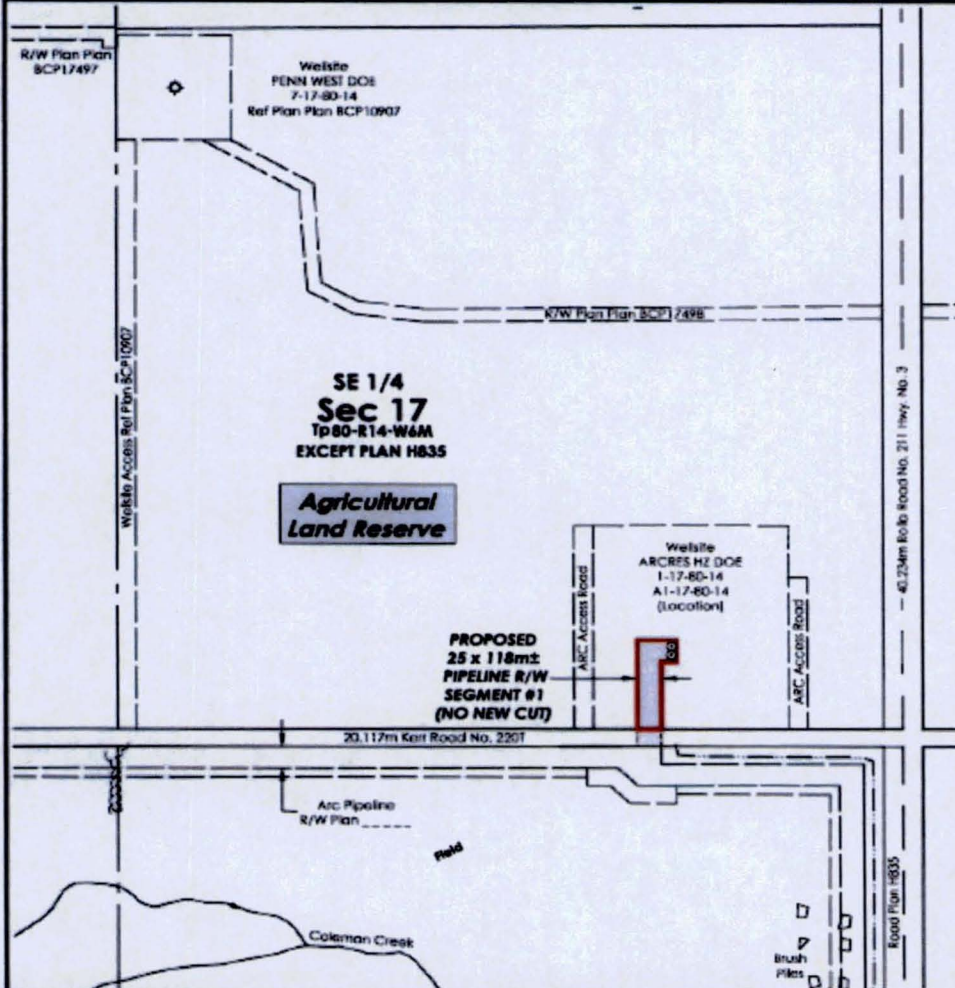
Dated: September 29, 2016

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
25m PIPELINE RIGHT OF WAY IN
SE 1/4 Sec 17, Tp 80, R 14, W6M Except Plan H835
PEACE RIVER DISTRICT**



TITLE No.: N34597 **P.I.D. No.:** 015-973-191
OWNER(S): John Irving Miller
Mary Kathleen Miller

NOTES
SCALE = 1: 5,000
Distances shown are in metres.
Permanent Portions referred to: . . .

Certified correct this
9th day of March, 2016.

Chris R. Sakundlak, BCLS 846

AREA REQUIRED:
For 25m Pipeline R/W 0.29 ha 0.72 ac
TOTAL: 0.29 ha 0.72 ac

NO.	DATE	REVISION	DRN	CKD
0	16/03/08	Original plan issued	MM	CS
1				

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www.canam.com Fax: 250.797.2323

CAN-AM FILE: J20150678
CAD FILE: J20150678/OP6-0
Client File No.: E12169
AFE No.:
Land File No.:

File No. 1941
Board Order No. 1941-1

May 30, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST 1/4 OF SECTION 15 TOWNSHIP 80 RANGE 15 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT
(The "Lands")

BETWEEN:

ARC Resources Ltd.

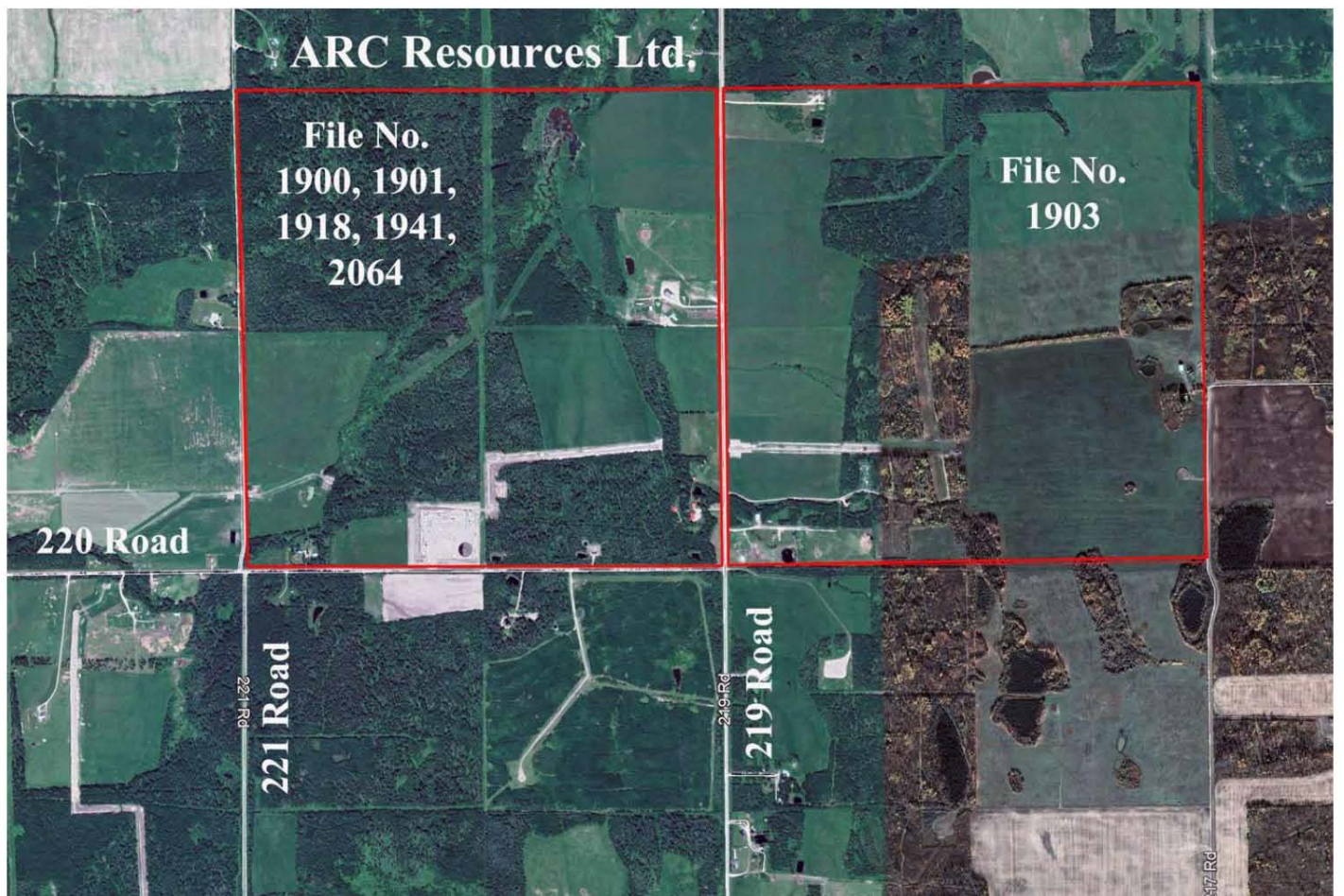
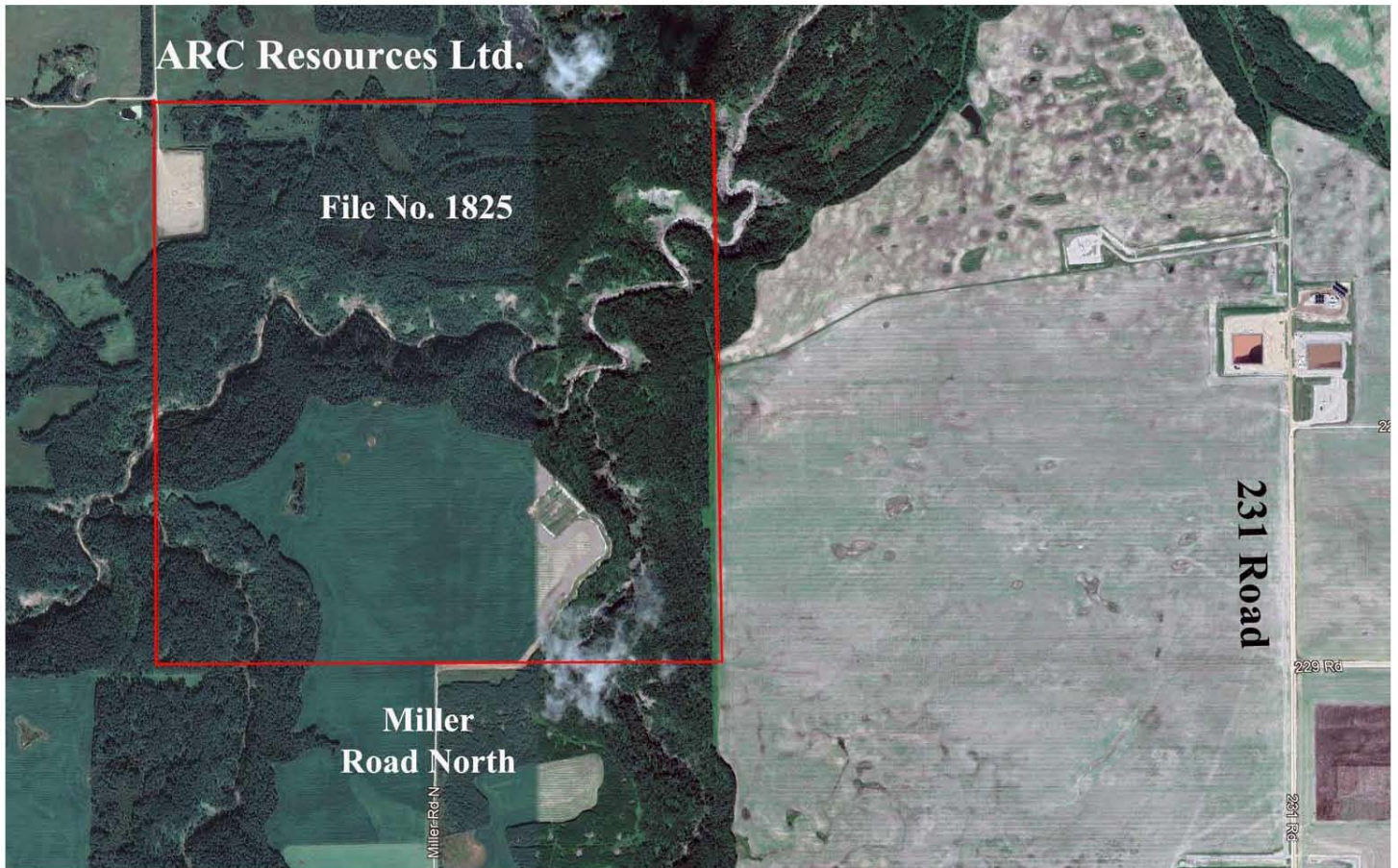
(APPLICANT)

AND:

Keith Allan Hankins and
Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands").

By Board Order Nos. 1900-1901-1 (July 8, 2016) and 1900-1901-1-1918-1amd (November 4, 2016), the Board earlier granted ARC a right of entry to the Lands in respect of a pipeline (SRB 1900) and a padsite (SRB 1901 and 1918) on the Lands. ARC now requires access to the Lands to construct and operate an additional eight natural gas wells and associated infrastructure on the existing padsite, and the parties have reached an agreement on the terms and conditions of access.

On March 31, 2017, the Oil and Gas Commission (the "OGC") issued a permit for the additional wells (OGC Permit No. 100102047).

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of natural gas wells.

As the OGC has issued a permit for the additional eight natural gas wells and the parties have agreed upon the terms and conditions of access, I am satisfied that ARC requires the Lands for an approved oil and gas activity.

The Surface Rights Board orders:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, drilling, completing and operating natural gas wells and associated infrastructure.
2. ARC shall pay the following compensation to the landowner:
 - a) a total amount of \$16,000 in respect of initial compensation for the eight additional natural gas wells;
 - b) a total amount of \$4,000 in annual compensation in respect of the eight additional natural gas wells; and
 - c) reasonable legal fees in an amount to be agreed upon by the parties.

3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated: May 30, 2017

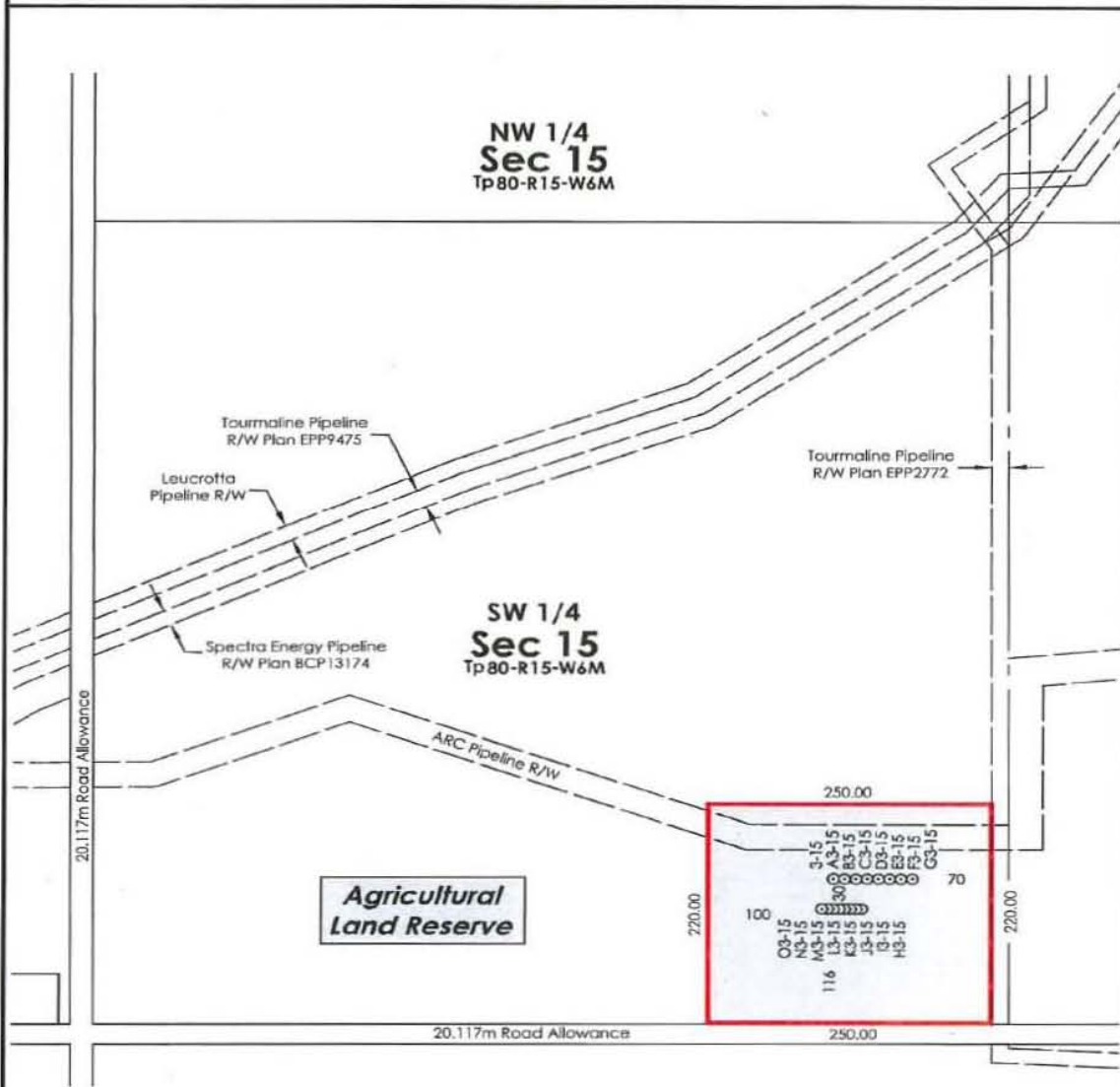
FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Fraser, Mediator

Appendix A

ARC RESOURCES LTD. INDIVIDUAL OWNERSHIP PLAN SHOWING PROPOSED WELLSITE IN SW 1/4 Sec 15, Tp 80, R 15, W6M PEACE RIVER DISTRICT



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515
OWNER(S): Keith Allan Hankins
 Cheri Lee Hankins

LEGEND

SCALE = 1 : 5,000

Portions referred to:

Notes: Distances shown are in metres.

Certified correct this
 23rd day of May, 2017.

AREA REQUIRED:

Wellsite	5.50 ha	13.59 ac
TOTAL:	5.50 ha	13.59 ac

William T. Powley
 William T. Powley, B.S.L.S. 8300

NO	DATE	REVISION	DRN	CKD
0	15/09/22	Original plan issued	AB	CS
1	15/11/30	Updated scenery	CA	AAM
2	17/04/12	Updated Well Locations	JMS	BP
3	17/05/23	Added Well Location O	LMP	BP

can-am geomatics
 can-am geomatics bc Phone: 250.787.7171
 Fort St. John, B.C. Toll Free: 1.866.208.0983
 www.canam.com Fax: 250.787.2323

CAN-AM FILE: J20150665	
CAD FILE: J20150665IOP_3	
Client File No.:	3 REVISION
AFE No.:	
Land File No.:	

File No. 1946
Board Order No. 1946-1

September 11, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH ½ OF SECTION 14 TOWNSHIP 81 RANGE 17 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

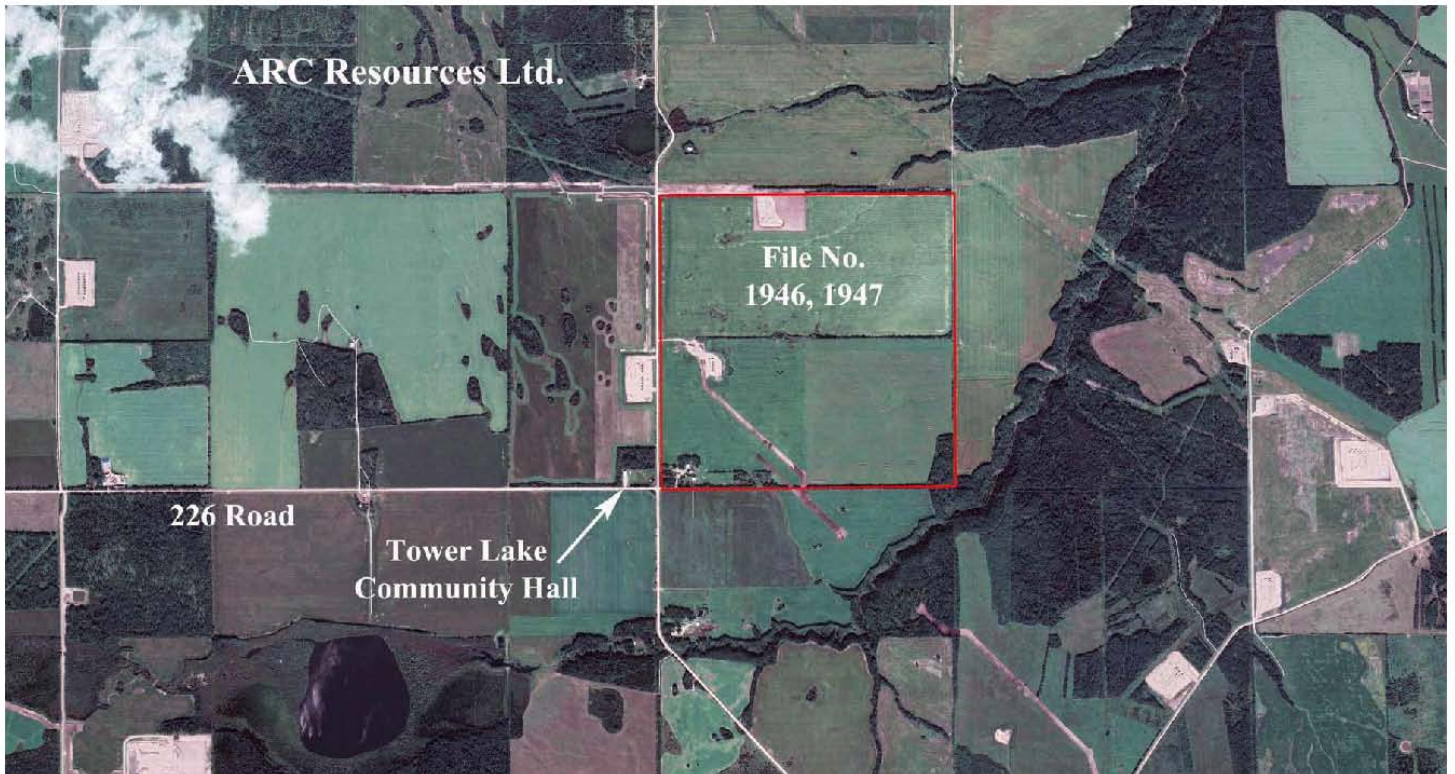
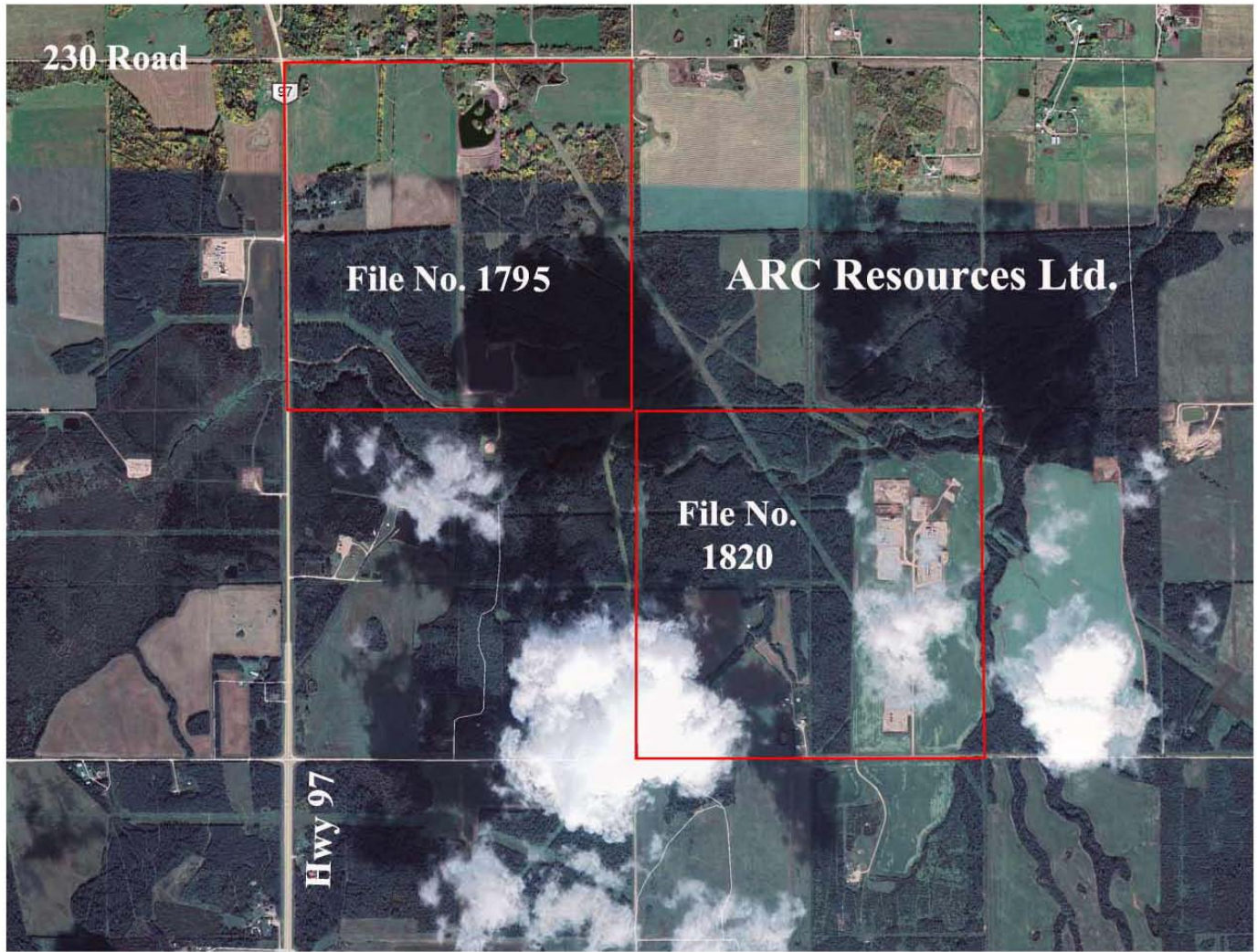
(APPLICANT)

AND:

Barry Critcher and Irmgard Macdalena Critcher

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Barry Critcher and Irmgard Macdalena Critcher to carry out an approved oil and gas activity, namely the drilling, construction, operation and maintenance of natural gas wells and associated infrastructure.

On August 14, 2017, I conducted a mediation to discuss this application and application 1947 that related to an associated project (a flowline). The Oil and Gas Commission ("OGC") has issued a permit for the wellsite and access road project but not for the flowline.

The Critchers are very concerned that ARC's activities may impact on their farming operation. During the mediation, they agreed to attempt to negotiate with ARC terms and conditions suitable to themselves. After some discussion, they were successful in reaching agreement on most of their conditions.

On one point they could not reach an agreement. The Critchers ask the Board to include in the Right of Entry Order a condition relating to the Environmental Farm Plan program. ARC resists incorporating reference to this program, arguing that any reference will be vague and open to multiple interpretations. ARC says it is not necessary to include a reference to the program as ARC is obligated to carry out its operations in compliance with all applicable legislation and regulations and limit its operations to the area covered by the proposed right of entry order.

I decline to include a condition referencing the Environmental Farm Plan program. I am not convinced that such a condition would not be vague or open to different interpretations. If damages arise from ARC's activities the Critchers can advance a claim with the Board, regardless of whether I include a condition referring to this program. Also, it is in ARC's interest to construct and maintain their project in a manner that protects the Critchers' interests.

Under the provisions of the Petroleum and Natural Gas Act, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of natural gas wells and access roads.

As the OGC has issued a permit for this project (Determination of Application Area Number 100101592), I am satisfied that ARC requires the Lands for an approved oil and gas activity.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" for the

purpose of drilling, constructing, operating and maintaining natural gas wells and associated infrastructure.

2. ARC shall pay to the landowner as partial compensation the total amount of \$50,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will provide a minimum of one week advance notice to the landowners prior to commencing construction on the Lands
5. ARC will make all reasonable efforts to comply with the Integrated Weed and Canola Clubroot Management Plan for ARC Resources Ltd. Wellsite 14-14-81-17 W6 dated August 17, 2017.
6. ARC will carry out its activities on the Lands in compliance with all applicable legislation.
7. ARC will not use any soil sterilant without the express consent of the landowners.
8. The landowners will have access to the lands that are subject to the right of entry order at all times, provided it is safe to do so and they do not interfere with ARC's operations.
9. During construction, the landowners or representative of the landowners will have the opportunity to inspect the site, consult and monitor construction, provided it is safe to do so and they do not interfere with ARC's operations.
10. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

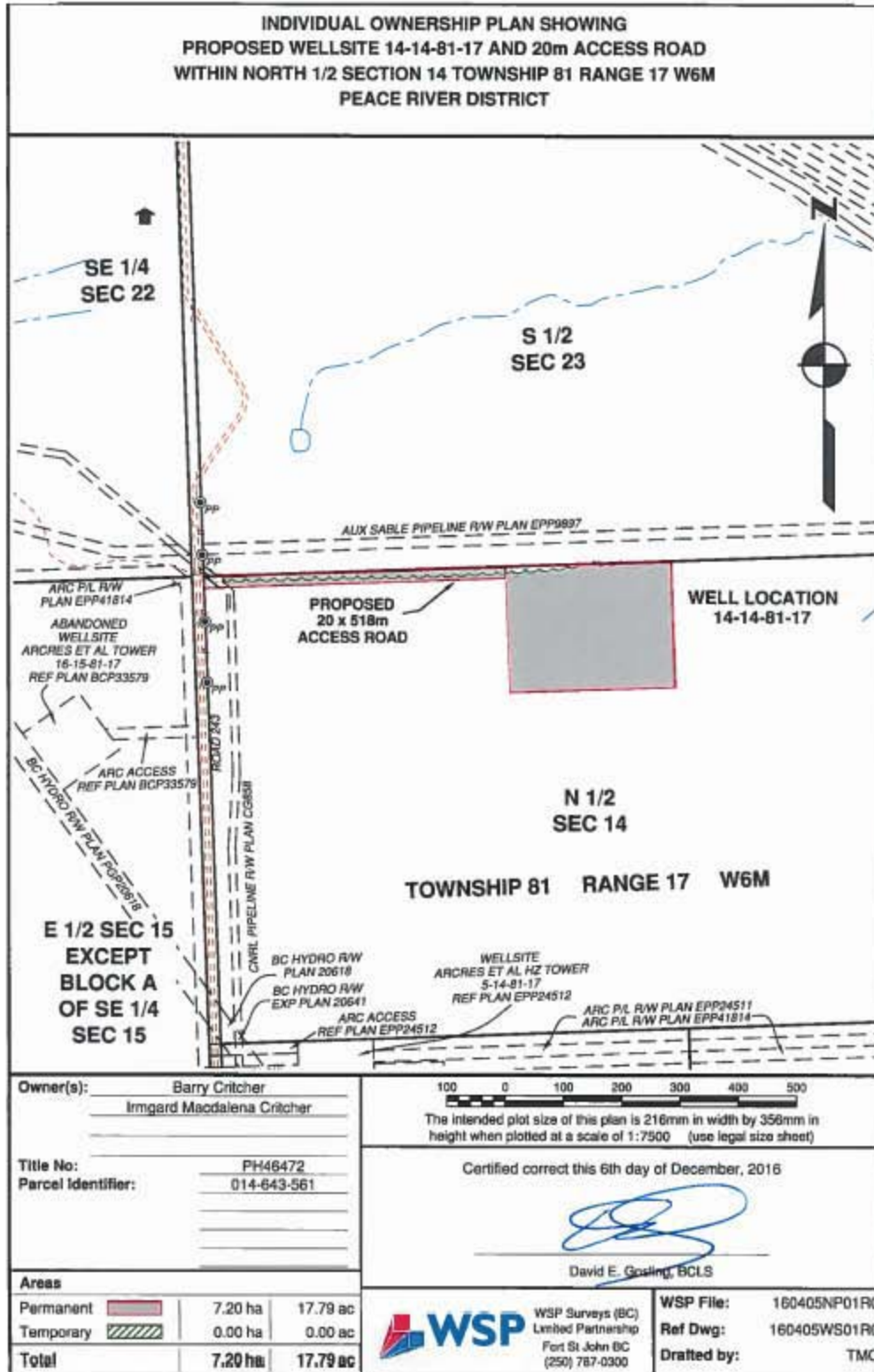
DATED: September 11, 2017

FOR THE BOARD



Rob Fraser, Mediator

APPENDIX "A"



File No. 1946
Board Order No. 1946-2

March 19, 2019

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH ½ OF SECTION 14 TOWNSHIP 81 RANGE 17 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Barry Critcher and Irmgard Macdalena Critcher

(RESPONDENTS)

BOARD ORDER

Heard: January 8 and 9, 2019 at Fort St. John
Appearances: Rick Williams, Barrister and Solicitor, for the Applicant
Barry Critcher, Irmgard Critcher and Jennifer Critcher, for the Respondents

INTRODUCTION AND ISSUE

[1] Barry and Irmgard Critcher are the owners of land known and described as: The North ½ of Section 14 Township 81 Range 17 West of the 6th Meridian Peace River District (the Lands). On September 11, 2017, the Surface Rights Board granted a Right of Entry Order pursuant to section 159 of the *Petroleum and Natural Gas Act* (the *Act*) to ARC Resources Ltd. (ARC) granting ARC the right to enter and access the Lands for the purpose of drilling, constructing, operating and maintaining natural gas wells and associated infrastructure. ARC has subsequently constructed the wellsite and access road and drilled and completed eight wells.

[2] The issue is to determine the compensation payable by ARC to the Critchers in respect of ARC's right of entry to the Lands. In determining compensation, the Board may consider various factors set out at section 154 of the *Act* including: the compulsory aspect of the entry; the value of the land; loss of rights; loss of profit; severance; temporary and permanent damage; nuisance and disturbance; and other agreements and board orders. In consideration of these factors, ARC submits an initial payment of \$51,830.64 and annual rent of \$10,230.64 is appropriate. The Critchers submit initial compensation should be \$87,499.00 and annual rent should be \$21,474.00.

[3] Additionally, the Critchers seek clarification as to whether a power line and power pole on the wellsite are covered by the Right of Entry Order and whether compensation is payable for their presence on the Lands.

BACKGROUND

The Lands and the Farm Operation

[4] The Critchers have been farming in the Peace River region of BC since the mid-1980's. They own and operate Critcher Farms Ltd. which cultivates approximately 4,000 acres comprised of both owned and leased parcels. Their farm is their life's work. The Critchers are committed to the long-term sustainability of their farming operation.

[5] The land comprising Critcher Farms is located in the Tower Lake area between Fort St. John and Dawson Creek in what is known as the "triangle" bounded by the Peace River to the north and the Kiskatinaw River to the south.

[6] The Lands comprise 319.43 acres located approximately 45 kms northwest of Dawson Creek and approximately 40 kms southeast of Fort St. John. The Lands are within the Agricultural Land Reserve (ALR), zoned for large agricultural holdings (A-2), and designated Agricultural Rural in the Peace River Regional District Rural Official Community Plan.

[7] The Critchers purchased the Lands in 1994. The Lands are one of the Critchers' fields that has been farmed the longest. Improvements to drainage, brush and rock removal and accumulated organic matter from long-term zero-till farming practices have substantially improved the Lands for cultivation over the years. Until ARC's wellsite was constructed, the Lands comprised the third largest field farmed by Critcher Farms making it one of their most efficient and profitable fields.

[8] Critcher Farms uses sound agronomic practices such as crop rotations including a mixture of crops and varieties. The principle crops grown are canola, peas and wheat. Critcher Farms also grows oats and barley.

[9] Under the CLI Soil Capability for Agriculture mapping system the Lands fall 100% into Class 4 which is described as having "severe limitations that restrict the range of

crops and/or require special conservation practices.” The soils in this class are described as “low to fair in productivity for a fair range of crops but may have high productivity for a specially adapted crop”. Despite this classification, the productivity of Critcher Farms is more than 25% above area averages and on par with other farms in the area with higher soil classifications.

[10] Critcher Farms, including the Lands, is subject to an Environmental Farm Plan administered by the BC Agriculture Council.

[11] The Critchers’ residence is not on the Lands.

The Oil and Gas Installation

[12] ARC’s wellsite is located on the northern boundary of the Lands in the middle of the half section with its eastern edge along what would be the boundary between two quarter sections. The access road extends along the northern boundary of the Lands from the west. The wellsite comprises 15.22 acres (6.16 ha) and the access road comprises 2.57 acres (1.04 ha) for a total of 17.79 acres (7.20 ha). In constructing the wellsite and access road, ARC cleared 1.95 acres (.79 ha) that had not previously been cultivated.

[13] The wellsite is large enough to accommodate 16 wells, but only 8 wells have been permitted and drilled. Drilling and completion of the wells took 124 days including 20 days of hydraulic fracturing. ARC does not have current plans to drill more wells at this site. ARC plans to “tear drop” the site in 2019.

[14] The wells are powered by electricity from a power line constructed in a right of way on the neighbouring property to the north. A power pole has been installed within the boundaries of the wellsite and a 20 foot power line extends from the north boundary of the site to the power pole wholly within the wellsite area. The powerline is not required to be specifically permitted by the Oil and Gas Commission (OGC).

[15] Current activities at the wellsite involve daily visits by an operator for regular surveillance.

[16] The Critchers did not agree with the location of the wellsite, and would have preferred that it be constructed in either the northwest or the northeast corner of the Lands, rather than in the middle of the Lands.

DETERMINING COMPENSATION

[17] I will review the evidence and submissions of the parties relevant to the factors set out in section 154 of the *Act* for which I received evidence and submissions, and consider that evidence and submissions in light of legal authority and the Board's practice in relation to those factors.

Compulsory Aspect of the Entry/Loss of Rights

[18] There is a compulsory aspect to an entry to private land for oil and gas activity in that a landowner does not have the ability to refuse entry if a company needs access. A landowner, therefore, loses the right to control the use of their land to the extent it is required for an oil and gas activity. The Court has recognized that the loss of intangible rights, such as the loss of quiet enjoyment, or the loss of the right to decide whether land may be used for oil and gas activity, is incapable of valuation in terms of money, and that any value placed on these rights will seem arbitrary (*Dome Petroleum Ltd. v. Juell* [1982] B.C.J. No. 1510 (BCSC)).

[19] The Critchers seek compensation for the compulsory aspect of the entry in the amount of \$500 per acre. They submit it has been standard practice for oil and gas companies to pay \$500/acre capped at \$5,000, which equates to a 10 acre lease. They submit that the \$5,000 cap should be removed given the size of this lease, and that \$500/acre should be paid for 17.79 acres. In support, they refer to the Consent Order in *Tailwind Properties Ltd. v. Encana Corporation*, Order 1917-3, November 21, 2017 indicating the parties agreed to compensation for compulsory aspect of \$7,920 and to

their own agreements with Encana Corporation involving payment for compulsory aspect of \$500/acre for the entire acreage leased.

[20] The Critchers seek payment of \$8,895.00 (\$500 x 17.79 acres) for compulsory aspect in addition to a payment for the value of the land.

[21] The Critchers submissions respecting “common practice” may reflect Alberta practice and regulations but does not reflect the law in British Columbia binding upon the Board. There is no regulatory requirement in British Columbia, as there is in Alberta, with respect to compensation for the compulsory aspect of the taking.

[22] In *Western Industrial Clay Products Ltd. v. Mediation and Arbitration Board*, 2001 BCSC 1458, the Court found in the context of a right of entry for mining purposes, that the upper limit of compensation for the taking itself is the value of the land. If a landowner is compensated for the full value of the land, an additional payment for the compulsory aspect of the taking is not necessary.

[23] The Courts have also instructed that in the oil and gas context, it is appropriate for the Board to consider the landowner’s residual and reversionary interest in the land (*Dome v. Juell*; *Scurry Rainbow Oil v. Lamoureux* [1985] B.C.J. No. 1430 (BCSC)).

[24] Considering the Court’s instruction that the residual and reversionary interests should be taken into account, the acknowledgement that compensation for compulsory aspect of the entry and loss of rights will be arbitrary, that compensation equivalent to the full value of the land includes compensation for the compulsory aspect of the taking, and that compensation for compulsory aspect and loss of rights cannot exceed the value of the land, the Board has found that the value of the land provides an appropriate benchmark with which to determine compensation for compulsory aspect of the taking and loss of rights and that there is no need to deduct for any residual or reversionary interest (*ARC Petroleum Inc. v. Miller*, Order 1633-3, May 24, 2011).

[25] I will determine compensation for the compulsory aspect of the taking and loss of rights following consideration of the evidence relevant to the value of the land and will not include an additional payment in excess of the value of the land for these factors. Neither, however, will I deduct from the value of the land for the interests retained by the landowners, in keeping with the Board's practice. (See *Miller, supra*; also *Encana v. Lumnitzer*, Order 1840/1847-2, November 24, 2016).

Value of the land

[26] "Value of the land" means value to the owner of the land, not the value to the taker (*Dau v. Murphy Oil Company Ltd.*, [1970] S.C.R. 861; applied in BC in *Dome Petroleum, supra*; *Scurry Rainbow; supra*; *Western Clay, supra*). What this typically means is that where the owner's use of the land is for agricultural purposes, the value of the land will likely be reflected by the sale of similar lands used for agricultural purposes (*Spectra Energy Midstream Corporation v. London*, Order 1694-3, February 24, 2015; *Lumnitzer, supra*). The Board should consider, however, whether there are any special factors which give a greater value to this owner for this particular piece of land beyond that shown by the average value of similar land indicated by sales (*Scurry Rainbow; supra*).

[27] The Board received appraisal reports and heard evidence from Jeremy Wasmuth and Bill Hansen. Both are qualified appraisers and members of the Appraisal Institute of Canada.

[28] Both appraisers agreed the highest and best use of the Lands is its continued use for agricultural production. Both used the direct comparison approach to estimate the market value of the Lands for continued agricultural use.

[29] Mr. Wasmuth considered the sales of seven comparable properties with sale prices ranging from \$1,392 to \$2,088 per acre. Qualitatively considering relative comparability to the subject in relation to zoning, parcel size, topography, CLI soil classification and cleared area he estimated market value for the Lands at \$1,650/acre.

[30] Mr. Hansen considered the sales of four comparable properties with sale prices ranging from \$1,844 to \$2,493 per acre. Mr. Hansen applied quantitative adjustments for location, zoning, utility and size indicating an adjusted range of value from \$1,908 to \$2,244 per acre. He estimated market value for the Lands at \$2,000/acre.

[31] The appraisers used one sale in common, that being the August 2017 sale of four contiguous quarter sections for \$1,844/acre (Wasmuth Index #5). Wasmuth Index #5 is located to the northwest of the Lands within the “triangle”. It has the same zoning and CLI classification and similar topography as the Lands. It is only 80% cultivated. Mr. Wasmuth considered it similar to the Lands in all respects except percentage cultivated and, consequently ranked its overall comparability as “Inferior”. His evidence was that subsequent to preparing his report he was able to contact the purchaser of this property who indicated that he paid 15% more than the value indicated by an appraisal obtained prior to purchase. As a result of this information, Mr. Wasmuth indicated he would adjust the sale price of this comparable by negative 15% to indicate a value for the Lands of \$1,567/acre.

[32] Mr. Hansen considered the location of Wasmuth Index #5 inferior compared to the Lands and applied a positive 10% adjustment to the sale price for this factor, for a value of \$2,028/acre.

[33] Mr. Critcher’s evidence was that he was familiar with Wasmuth Index #5 and in his view it was inferior to the Lands because of the amount of bushland and sloughs.

[34] Of all of the comparables used by both appraisers only it and Mr. Wasmuth’s Index # 4 are located within the “triangle”. Both appraisers considered properties in closer proximity to Dawson Creek to be superior to the Lands, with Mr. Hansen applying a negative 10% adjustment for this factor to his comparables located outside of the “triangle” closer to Dawson Creek. Mr. Hansen did not do a paired sales analysis to support his quantitative adjustments.

[35] Mr. Wasmuth adjusted Index #4 to deduct the assessed value of a residence from the overall sale price to estimate land value at \$1,125/acre. I heard conflicting evidence as to the condition of this residence. The Critchers indicated it was in poor condition. Mr. Wasmuth indicated he had been told it was being rented out, and consequently considered it had value. Mr. Hansen did not use this comparable but said he would not have attributed value to the improvement because, in his experience, this particular purchaser does not purchase land for residential use or for the value of the improvements.

[36] There is no evidence before me as to how the contributory value assigned to the residence by BC Assessment, and used to adjust the purchase price of Index #4 by Mr. Wasmuth, was determined or whether any rental income from the residence supports that value. If the assessed contributory value of the improvements is not deducted from the sale price, Index #4 reflects value per acre of \$2,062. Mr. Wasmuth again considered this site to be similar to the Lands in all respects except percentage of cleared area resulting in an overall "Inferior" ranking compared to the Lands. I find that Mr. Wasmuth's adjustment for the residence is not supported although there likely should be some lesser adjustment such that the probable per acre market value of the land lies in between \$1,125 and \$2,062.

[37] The Critchers are one of four large landholders in the "triangle" all seeking to expand their landholdings and farm operations. Because of this circumstance, the Critchers submit there is considerable pressure on land value within the "triangle". Jennifer Critcher gave evidence that she and her husband had recently purchased property close to the Lands for \$2,000/acre. Mr. Critcher said that he had been approached by other major landowners in the area seeking to purchase additional landholdings for their farming operations. He indicated his land is not for sale and that they are still purchasing land to add to their farmland holdings. His evidence was that he had been offered in excess of Mr. Hansen's appraised value for land and expressed confidence that if he put the Lands on the market it would fetch a premium price. The

purchaser of Wasmuth Index #5, also one of the large landowners in the “triangle” paid 15% in excess of reported appraised value also supporting the notion that land within the triangle has special value to landowners with significant landholdings within the triangle trying to increase their landholdings. I find the unadjusted price of Wasmuth Index #5 at \$1,844/acre is a better indicator of land value for inferior land for the purposes of considering the value of the land to the Critchers than the adjusted price. Wasmuth Index #4 was also purchased by one of the four large landholders in the “triangle”.

[38] While I do not necessarily accept Mr. Hansen’s opinion that \$2,000/acre reflects the market value of the Lands to any purchaser, I accept that there are factors that place greater value on the Lands to the Critchers above that shown by the average value of similar land indicated by sales. Not only are the Critchers one of the four large landholders competing to expand their landholdings within the “triangle”, but the Lands comprise one of the Critchers’ most productive and efficient fields. I find that the value of the land to the Critchers will reflect the high end of market value indicated by sales of similar lands as reflected in the sales of potentially similarly motivated purchasers.

[39] Giving most weight to the unadjusted values of Wasmuth Indexes #4 and #5, supported by Jennifer Critcher’s evidence of her recent purchase and the Critchers’ evidence generally of the pressure on land value within the “triangle” and the value of the Lands to them, I accept that \$2,000/acre reflects the value of the Lands to the Critchers in the circumstances, and that use of \$2,000/acre is the appropriate benchmark to provide compensation for compulsory aspect of the taking and loss of rights.

Crop Loss/Loss of Profit

[40] Agrologist Trevor Sheehan provided a report estimating loss of profit as a result of ARC’s entry to the Lands. In estimating loss of profit, Mr. Sheehan relied on crop yield information and price data provided by the Critchers. He utilized a three year crop rotation comprised of Peas, Canola and Hard Red Spring Wheat to calculate average

annual gross revenue from 2017 through 2020 at \$457/acre. Deducting for variable costs (seed, fertilizer and chemical) based on data from Alberta, but not deducting for fixed costs, Mr. Sheehan estimated average annual loss of profit for the same period at \$346/acre.

[41] ARC encouraged me to accept that it is appropriate to deduct variable costs (seed, fertilizer, chemical) from gross revenue to calculate loss of profit but conceded that other variable costs including fuel, hail and crop insurance, repairs and maintenance for equipment and labour, as well as fixed costs ought not to be deducted. As the legislation provides that the Board may consider “loss of profit”, rather than loss of revenue, ARC submitted compensation should be based on net loss accounting for input costs rather than gross revenue. ARC relied on the Board’s decision in *Dietz v. Canadian Natural Resources Limited*, Order 1970-1, March 6, 2017, as precedent for this approach. Relying on *Western Clay, supra*, ARC submitted the Board exceeds its jurisdiction if it awards compensation in excess of probable loss.

[42] The Critchers sought to be compensated for crop loss at \$600/acre. They provided evidence of six agreements with three different companies (including ARC) from 2015 to 2018 compensating for crop loss arising from damage to land farmed by Critcher Farms at \$500 to \$625/acre and referenced two surface lease agreements with Encana compensating for crop loss at \$500/acre submitting this evidence established a pattern of dealings. One 2017 agreement with ARC paid compensation for crop loss at \$600/acre and one 2018 agreement with ARC paid crop loss at \$625/acre.

[43] I do not accept that two damage claims compensating for crop loss at \$600/acre or higher establishes a pattern of dealings for crop loss at \$600/acre. A landowner’s agreement with one company respecting any particular element of compensation does not set a binding precedent for future compensation to be paid by other companies (*Lumnitzer, supra*). Further, settlement of damages where crop that has already been seeded is lost prior to harvest ought appropriately to include the lost input costs. The

evidence suggests a tendency to settle damage claims at levels that exceeds actual loss inclusive of input costs.

[44] The two surface lease agreements referenced by the Critchers compensate for loss of profit at \$500/acre, closer to but still in excess of Mr. Sheehan's evidence of likely average gross revenue.

[45] In determining compensation, loss of profit is one of the factors the Board may consider (section 154(1)(c)). The Board may also consider the terms of other agreements, previous orders of the Board and other factors the Board considers applicable (section 154(1)(i), (j) and (k)). The Board's experience is that surface leases and right of way agreements generally compensate for crop loss at levels that parties expect will exceed anticipated net revenue. The Board has typically awarded compensation for crop loss based on evidence of probable gross revenue. (See for example: *Thiessen v. Canadian Natural Resources Limited*, Order 1870-1, September 29, 2016).

[46] For the following reasons, I decline to follow *Dietz*, as encouraged by ARC, and prefer to follow the Board's practice, applied in *Thiessen*, of compensating for crop loss using evidence of gross revenue.

[47] First, it does not appear from the *Dietz* decision that the member considered the Board's earlier decisions indicating its practice to use gross revenue or that these decisions had even been brought to the member's attention.

[48] Second, the Board's experience is that \$300 to \$350/acre is typically the compensation paid for crop loss from hay fields or pasture. Crop loss from fields cultivated with grain crops is typically higher.

[49] Third, while I do not accept that the Critcher's evidence establishes a pattern of dealings for the compensation payable for this well site and access road, it does

suggest a tendency on the part of operators to compensate for crop loss at levels that exceed Mr. Sheehan's calculations of actual net revenue. ARC submitted that agreements are generally not based on any evidence of actual loss and that it was a mistake for the Board to assume they are based on gross rather than net revenue. I accept that compensation negotiations are typically conducted without the benefit of detailed evidence of actual loss, but I do not accept that either companies or landowners are under the impression that compensation for crop loss will only reflect actual or probable net revenue. Most agreements are reached on the basis of numbers that both parties know or ought to realize will exceed likely net revenue calculated either on the basis of the landowner's actual yields or on the basis of published average yields and prices.

[50] As the evidence does not establish a pattern of dealings for this project, I find it is appropriate to use the evidence of actual gross revenue for the purpose of estimating loss of profit from the land, in conformance with the Board's typical practice and the reasonable expectations of the parties respecting fair compensation.

[51] The best evidence of reasonably probable gross revenue is found in the Critchers' own declarations of yield filed for crop insurance purposes and relied on by Mr. Sheehan in estimating crop loss. Even accepting the evidence that Critcher Farms' yields are higher than other farms in the area, the evidence does not support probable gross revenue as high as \$600/acre as claimed by the Critchers. Relying on Mr. Sheehan's estimates based on the Critchers' yield declarations and commodity contracts, I find \$460/acre fair and appropriate compensation for this loss.

[52] ARC submitted crop loss should be calculated on the basis of 15.84 acres as this is the area of the taking actually under cultivation at the time of the taking. The remaining 1.95 acres of the 17.79 acre taking was cleared by ARC in the construction of the wellsite and access road and had not previously been cultivated.

In the Board's experience, it is common practice to estimate loss of profit from the whole of a leased area regardless of whether the whole area was used prior to the taking or even whether there was any actual profit from the area at all (See for example: *Reid v. Encana Corporation*, Order 1975-1, November 27, 2018). The Critchers provided evidence that every loss of farm land to production has a cumulative effect on the farm operation, and I accept this evidence. While technically speaking the Critchers would not have received revenue from 1.95 acres of the area taken, deducting 1.95 acres in the calculation of loss endeavours to calculate actual loss too precisely and in a manner that does not respect the cumulative impact of the taking to the Critchers' farming operation or the general practice to compensate for loss of income for the whole of an area taken. The Critchers have lost the use of 17.79 acres. I will determine compensation for loss of profit based on their loss of use of this entire area.

Severance/cumulative impacts/damage

[53] The Critchers sought \$1,300 for severance and cumulative impacts. They provided a photograph of an area on the east side of the lease that they say is unable to be farmed due to improper drainage and placement of the lease. This area was addressed for the 2018 season through a separate damage claim and the Critchers were paid \$600/acre. I assume that this is the same damage claim referred to by the Critchers as part of their submissions on pattern of dealings for crop loss and that the area impacted is one acre. It is not clear from the evidence, however, that one acre has actually been severed by the wellsite area and will never be capable of being farmed. If the same problem occurs in future, damage can be addressed as and when it occurs.

[54] The Critchers also gave evidence about having to maintain a bit of distance from the road edge and edges of the lease for safety. The edges need to be managed for weeds. They estimated additional annual maintenance costs of \$1,233.20 for managing for weeds although there is no calculation of land area that cannot be farmed as a result of the lease, thereby creating severance. ARC offered to pay \$1,000 annually to compensate for weed control. I will add \$1,200 (based on a rounding of the Critchers'

estimate) to the nuisance payment (discussed below) to cover the anticipated additional maintenance costs.

[55] Mr. Sheehan's evidence was that the north corners of the wellsite create a small severance of .025 acres because large farm equipment cannot get into the inside corners created by placement of the wellsite against the north boundary. I will add .025 acres to the compensable area for crop loss.

Nuisance and Disturbance

[56] The Critchers sought \$5,000 for nuisance and disturbance. ARC submitted \$2,000 was appropriate.

[57] The lease creates 5.26 acres of additional headland. Both Mr. Sheehan and Mr. Critcher calculated the costs associated with having to work around the additional headlands created by the lease site.

[58] Mr. Sheehan estimated an additional 2.86 hours and used equipment rates from the 2018/2019 Farm Machinery Custom Rental Rate Guide from the Government of Saskatchewan to estimate cost of additional working time at \$958. Mr. Critcher estimated 3.04 hours and used the rates in the Saskatchewan guide for some equipment and higher rates for other equipment to estimate the cost of working additional headlands at \$1,408.39. His evidence was that in the BC Peace River region there is limited access to custom operators so custom rates could be substantially higher. No evidence was provided, however, of custom rates in the BC Peace region or of the cost of machinery from which rates could potentially be derived. Rounding up Mr. Sheehan's estimate, I accept \$1,000 annually as reasonable for the nuisance associated with working around the wellsite and the additional turns necessitated by the additional headlands.

[59] Mr. Sheehan estimated increased input costs and decreased revenue associate with overlap of field operations at \$88 and \$361 annually, respectively. These

estimates assume a 15% overlap, which in Mr. Sheehan's opinion could be reduced with use of GPS systems.

[60] Mr. Critcher's evidence was that they did use GPS systems but nevertheless estimated decreased revenue at headlands of 20% and increased input costs due to overlap at headlands as high as 50% based on his experience. Mr. Critcher also calculated other losses associated with additional headlands including combine losses at headlands for canola and decreased revenue due to sprayer tracks. Mr. Critcher explained how the placement of the lease in the middle of the half section caused additional inefficiencies and time loss when operating the seed drill, grain cart and combine and calculated the cost of the extra working time involved. This additional time is in addition to that associated with the additional turns created by the headlands. Mr. Critcher estimated total additional loss of \$3,245.29 for all of these factors.

[61] I accept the Critchers' evidence respecting additional losses associated with working around the wellsite, but would recalculate the estimated loss on the basis of \$460/acre projected revenue (instead of \$600/acre used by the Critchers) and allowing for the combine loss for canola every third year. With these adjustments, I calculate annual losses at \$2,712.51. I accept \$2,700 as reasonable compensation for these other tangible nuisance factors and losses associated with working around the additional headlands.

[62] The Critchers also gave evidence as to the time and stress involved in monitoring ARC's activities on their land. While they acknowledged that ARC has "stepped up to the plate" and settled damage claims, they spoke to the stress associated with the onus being upon them to contact the OGC with concerns or to advance claims for damages. Their evidence was that they spend considerable time monitoring activities, and pursuing and resolving concerns. I find that an amount for nuisance and disturbance should acknowledge that the landowners have to spend time on matters they would not otherwise have to spend time on and that takes them away from their farming operations. I will allow \$500 annually in acknowledgment of time and stress.

[63] On the evidence before me, I find compensation for nuisance and disturbance should be \$4,200 annually comprised of \$1,000 for additional time working around the headlands, \$2,700 for other losses associated with the additional headlands, and \$500 to acknowledge time and stress related to dealing with the rights holder. To this I will add the \$1,200 (discussed under severance/cumulative impacts/damage) to compensate for the cost associated with additional maintenance for weeds, for a total \$5,400.

Additional Wells

[64] The Critchers sought \$3,000 initial payment and \$500 annually for each additional well based on an agreement they have with Encana. ARC submitted \$2,000 initial payment and \$250 annually for each additional well was appropriate. Mr. Buytel's evidence was that Encana's operations were quite different from ARC's in that Encana operates more than one drill rig at a time and conducts more than one fracturing operation at a time causing more noise and traffic. Mr. Buytel's evidence was that ARC only operates one drill rig at a time and only conducts one fracturing operation at a time resulting in relatively less noise and traffic. As the Encana site referred to also involved considerably more wells than the ARC installation on the Lands, the time over which drilling and fracturing operations would have been conducted would be greater than the time required for drilling and fraccing ARC's wells on the Lands.

[65] The Board has awarded \$2,000 per well initial compensation and \$250 annually for each additional well in other cases involving land that is not a home quarter to compensate for the additional nuisance associated with drilling additional wells and the ongoing loss of rights and compulsory aspect of the taking. (See for example *Lumnitzer, supra*; and *ARC Resources Ltd. v. Hommy*, Board Order 1868-2, June 9, 2016). I find no reason to provide compensation in excess of these amounts in this case. The additional wells will not cause additional loss to the farming operation and the Lands are not a home quarter. The payment is to acknowledge additional nuisance and disturbance during construction and the ongoing loss of rights. I find initial

compensation of \$2,000 per additional well and \$250 per well annually to be appropriate in line with the Board's previous decisions.

The Power Line and Power Pole

[66] The Critchers questioned whether the Right of Entry Order allowed ARC to install the power pole and power line on the Lands and whether additional compensation was payable for the power line and power pole.

[67] The Right of Entry Order permits entry to and access across the portion of the Lands shown on the attached plan for the purpose of drilling, constructing, operating and maintaining oil and natural gas wells and associated infrastructure. The wells are powered by electricity from a power line constructed in a right of way on the neighbouring property to the north. A power pole has been installed within the boundaries of the wellsite and a 20 foot power line extends from the north boundary of the site to the power pole wholly within the wellsite area. The power line and pole were installed during the time frame for construction of the wellsite. The fact that the wells would be powered by electricity was made known to the Critchers in the Notification to Consult.

[68] The evidence is that the wells need a source of power to operate. If not powered by electricity, they would have to be powered by a diesel generator.

[69] The fact that the OGC does not issue a permit for the hydro line is not relevant to the Board's consideration of whether access to land is needed for an oil and gas activity. The construction and operation of natural gas wells is an oil and gas activity for which the Board may grant a right of entry order. Power is necessary to the operation of a wellsite. The power line and power pole are part of the "associated infrastructure" for the operation of the natural gas wells. The use of the Lands for a power line and power pole for the purpose of operating the wellsites is, therefore, covered by the Right of Entry Order.

[70] There is no evidence that the presence of the power line and power pole causes any additional loss to the Critchers. The line and pole are wholly within the area covered by the Right of Entry Order; no additional land has been taken. There is no evidence that the pole and line create additional nuisance and disturbance or in any way affect the farming operations or otherwise cause damage or loss to the Lands or to the landowners. There is, therefore, no additional compensation payable for the presence of the power line and power pole.

Summary and Conclusion

[71] I conclude appropriate compensation to the Critchers for ARC’s taking as follows:

		Initial	Annual
Loss of rights/compulsory aspect of the taking/value of the land	17.79 acres x \$2,000	\$35,580.00	
Loss of profit (wellsite area and severance)	17.82 acres x \$460	\$8,197.20	\$8,197.20
Nuisance and disturbance		\$5,400.00	\$5,400.00
Additional wells	7 x \$2,000 initial 7 x \$250 annual	\$14,000.00	\$1,750.00
		\$63,177.20	\$15,347.20

[72] Stepping back and considering the evidence and compensation factors as a whole I find initial compensation of \$63,200.00 and annual compensation of \$15,350.00 appropriate to compensate the Critchers for their loss arising from ARC’s right of entry.

ORDER

[73] ARC Resources Ltd. shall forthwith pay to Barry and Irmgard Critcher \$63,200.00 less any amount paid as partial compensation pursuant to the Board’s Order of September 11, 2017, representing initial compensation payable for the right of entry to the Lands.

[74] ARC Resources Ltd. shall forthwith pay to Barry and Irmgard Critcher the sum of \$15,350.00 representing the annual rent payable as of September 11, 2018, and shall

pay Barry and Irmgard Critcher \$15,350.00 annually thereafter by the anniversary date of the Right of Entry Order.

DATED: March 19, 2019

For the Board

A handwritten signature in cursive script, appearing to read "Cheryl Vickers".

Cheryl Vickers
Chair

File No. 1946
Board Order No. 1946-2Corr

March 19, 2019

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH ½ OF SECTION 14 TOWNSHIP 81 RANGE 17 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Barry Critcher and Irmgard Macdalena Critcher

(RESPONDENTS)

BOARD ORDER

This Order corrects and replaces paragraph [73] of Board Order 1946-2 to correct a typographical error at paragraph [73] of Board Order . Paragraph [73] of Board Order 1946-2 shall read:

[73] ARC Resources Ltd. shall forthwith pay to Barry and Irmgard Critcher \$63,200.00 less any amount paid as partial compensation pursuant to the Board's Order of September 11, 2017, representing initial compensation payable for the right of entry to the Lands.

DATED: March 19, 2019

FOR THE BOARD



Cheryl Vickers
Chair

File No. 1947
Board Order No. 1947-1

February 19, 2018

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH ½ OF SECTION 14 TOWNSHIP 81 RANGE 17 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

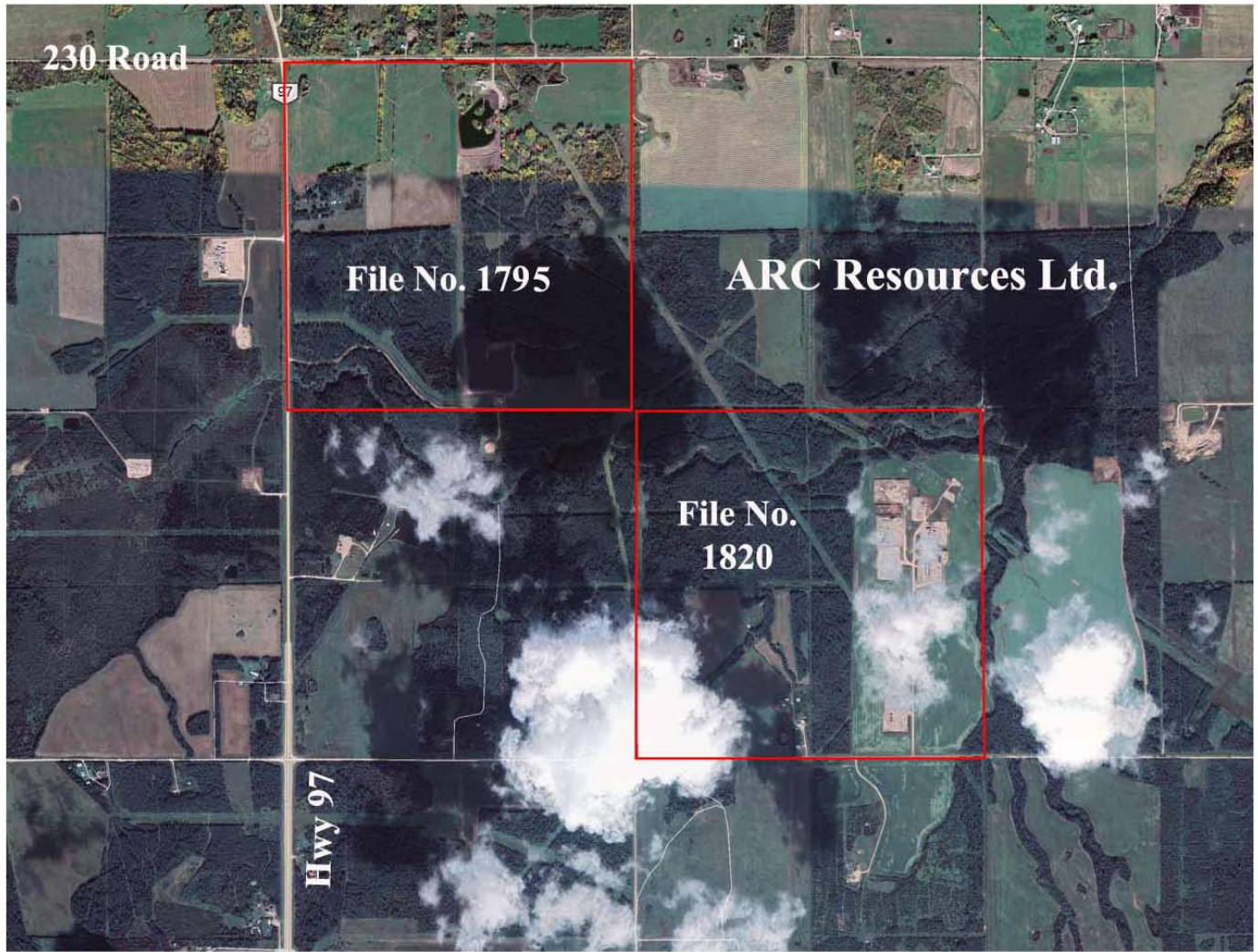
(APPLICANT)

AND:

Barry Critcher
Irmgard Macdalena Critcher

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. (“ARC”) seeks a right of entry order to access certain lands legally owned by Barry Critcher and Irmgard Macdalena Critcher to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flowlines and associated infrastructure.

On February 14, 2018, the Oil and Gas Commission (“OGC”) issued an amended permit for ARC’s project (Application Determination Number 100103472).

During a telephone mediation conducted on February 19, 2017, the parties reached an agreement with respect to the proposed terms of a right of entry order for the flowline project. The parties also reached an agreement on compensation with respect to the flowline project on a lump sum basis.

Accordingly, the Surface Rights Board orders, BY CONSENT:

ORDER

1. Upon payment of the amount specified in paragraph 2 of this Order, ARC shall have the right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix “A” for the purpose of constructing, operating and maintaining flowlines and associated infrastructure.
2. ARC shall pay the landowners the amount agreed upon during the telephone mediation of February 19, 2017 as total lump sum compensation for the flowline project.
3. ARC will provide a minimum of one week advance notice in writing or by email to the landowners prior to commencing construction on the Lands.
4. ARC will make all reasonable efforts to comply with the Integrated Weed and Canola Clubroot Management Plan for ARC Resources Ltd. Wellsite 14-14-81-17 W6 dated August 17, 2017 (the “Plan”), and will make all reasonable efforts to communicate the existence of the Plan to all personnel involved in the construction of the flowlines with supervisory or management duties.
5. ARC will carry out its activities on the Lands in compliance with all applicable legislation.
6. ARC shall ensure that 1-2 suitable pipeline crossings are in place for the flowlines between April 15, 2018 and November 15, 2018, at locations to be determined in agreement with the landowners.
7. The landowner may cross and farm over the pipeline right of way in the normal course of such farming operations, including crossing the pipeline

right of way with vehicles and farming equipment (regardless of whether the vehicle carries a farm license), provided that any vehicles or farming equipment crossing the pipeline right of way do not alter the depth of cover over the flow line. If a permanent crossing is required over the flow line to accommodate heavier vehicles where additional matting or cover is required upon determination by ARC, on reasonable notice being provided, ARC will construct the appropriate crossing.

8. The flowlines will be buried with a minimum depth of cover of 1.5 metres.
9. During construction the landowners or representative of the landowners will have the opportunity to inspect the site, consult and monitor construction, provided it is safe to do so and they do not interfere with ARC's operations.
10. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: February 19, 2018

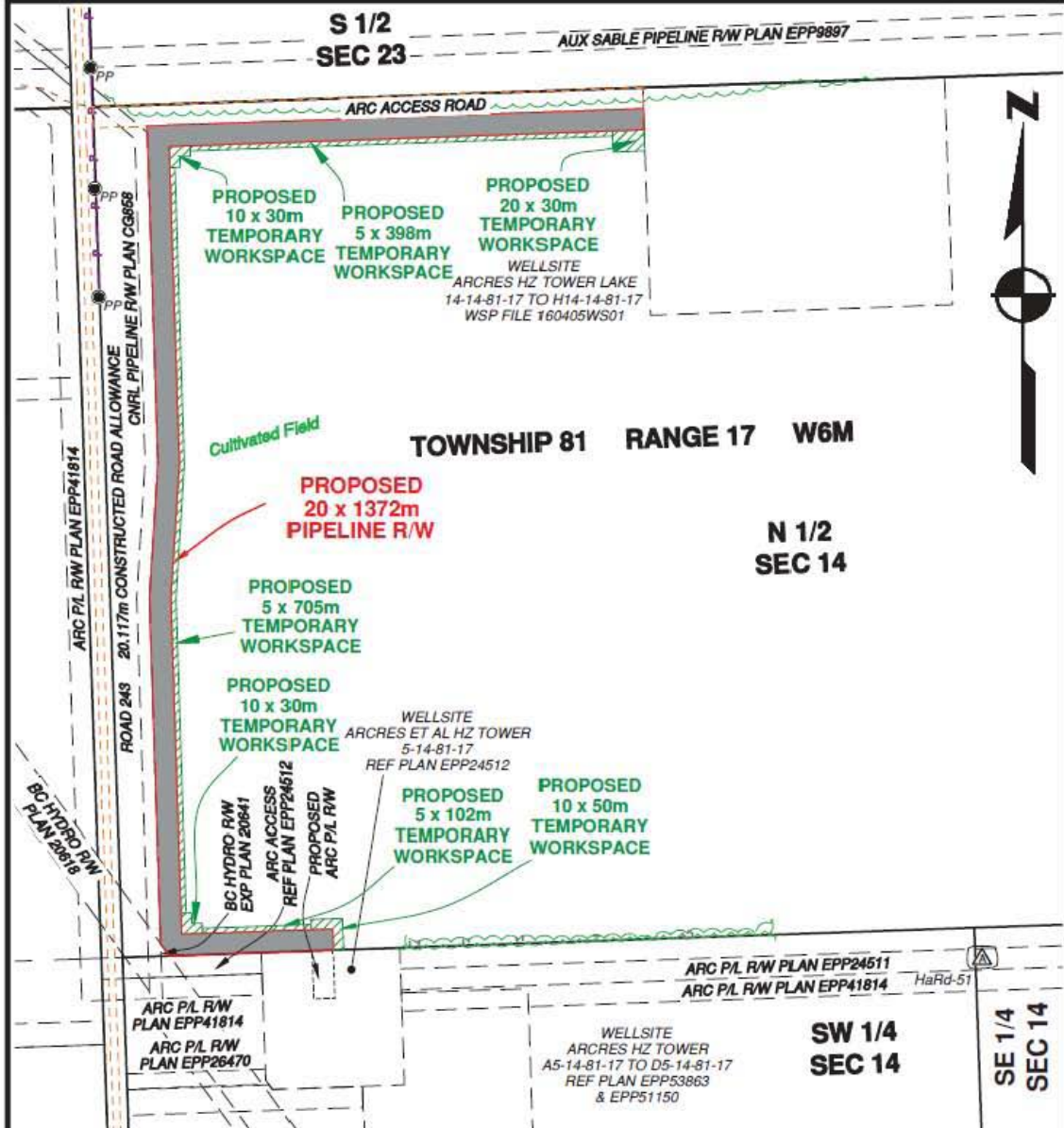
FOR THE BOARD



Rob Fraser, Mediator

APPENDIX "A"

INDIVIDUAL OWNERSHIP PLAN SHOWING
 PROPOSED 20m PIPELINE RIGHT OF WAY WITHIN
 NORTH 1/2 OF SECTION 14 TOWNSHIP 81 RANGE 17 W6M
 PEACE RIVER DISTRICT
 (Associated with Pipeline R/W from 14-14-81-17 to 5-14-81-17)



Owner(s): Barry Critcher
 Irmgard Macdalena Critcher

Title No: PH46472

Parcel Identifier: 014-643-561

100 0 100 200 300 400

The intended plot size of this plan is 216mm in width by 356mm in height when plotted at a scale of 1:5000 (use legal size sheet)

Certified correct this 15th day of January, 2018

[Signature]

David E. Gosling, BCLS

Areas		
Permanent	2.744 ha	6.780 ac
Temporary	0.772 ha	1.908 ac
Total	3.516 ha	8.688 ac

WSP WSP Surveys (BC) Limited Partnership
 Fort St John BC (250) 787-0300

WSP File: 171-61087-00-000-00-PIPIP001-R1
 Ref Dwg: 171-61087-00-000-00-PIPCP001-R1
 Drafted by: KCM/TOP

File No. 1948
Board Order No. 1948-1

October 10, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE NORTH EAST $\frac{1}{4}$ OF SECTION 8 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT
(The "Lands")

BETWEEN:

ARC Resources Ltd.

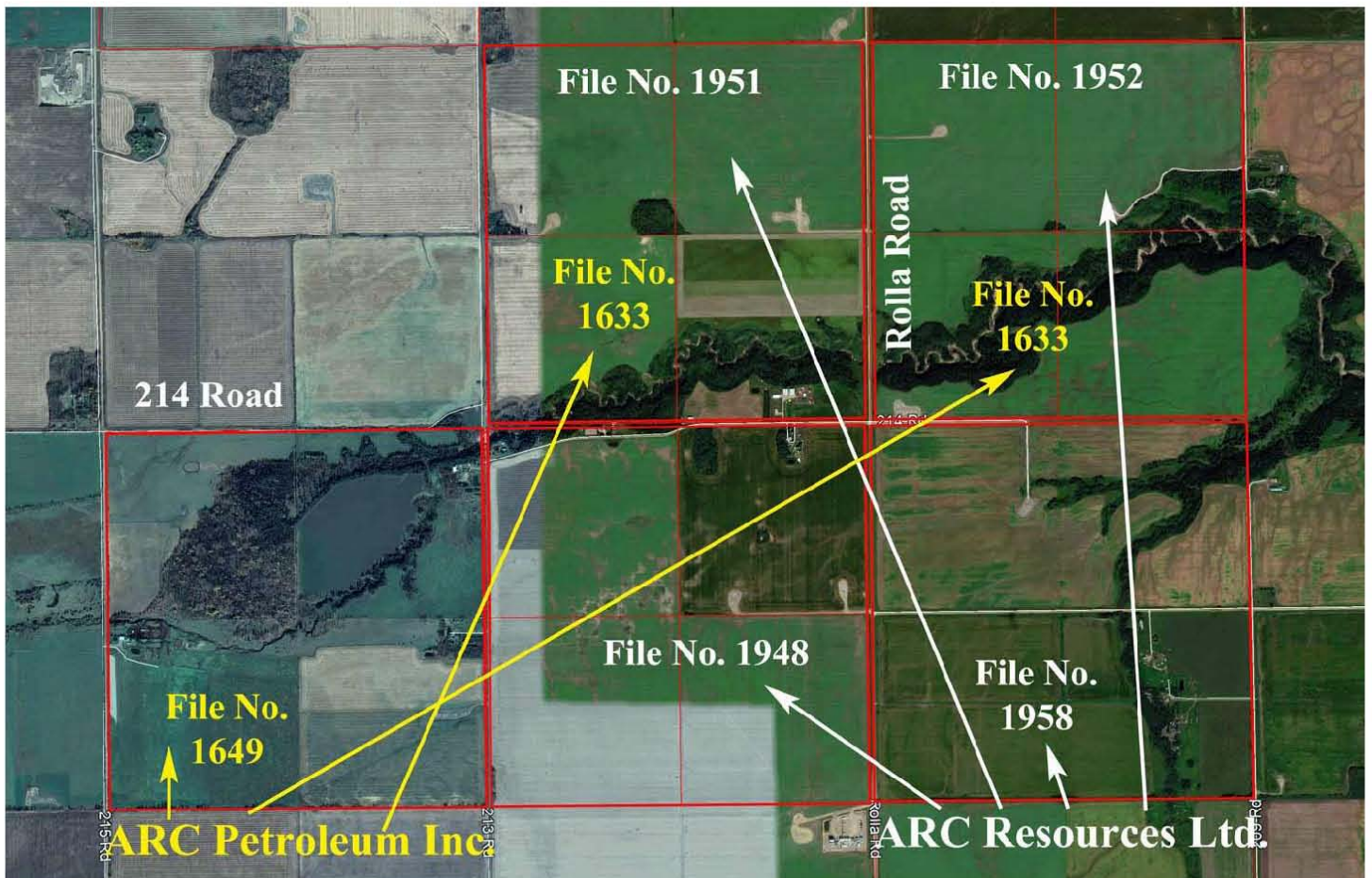
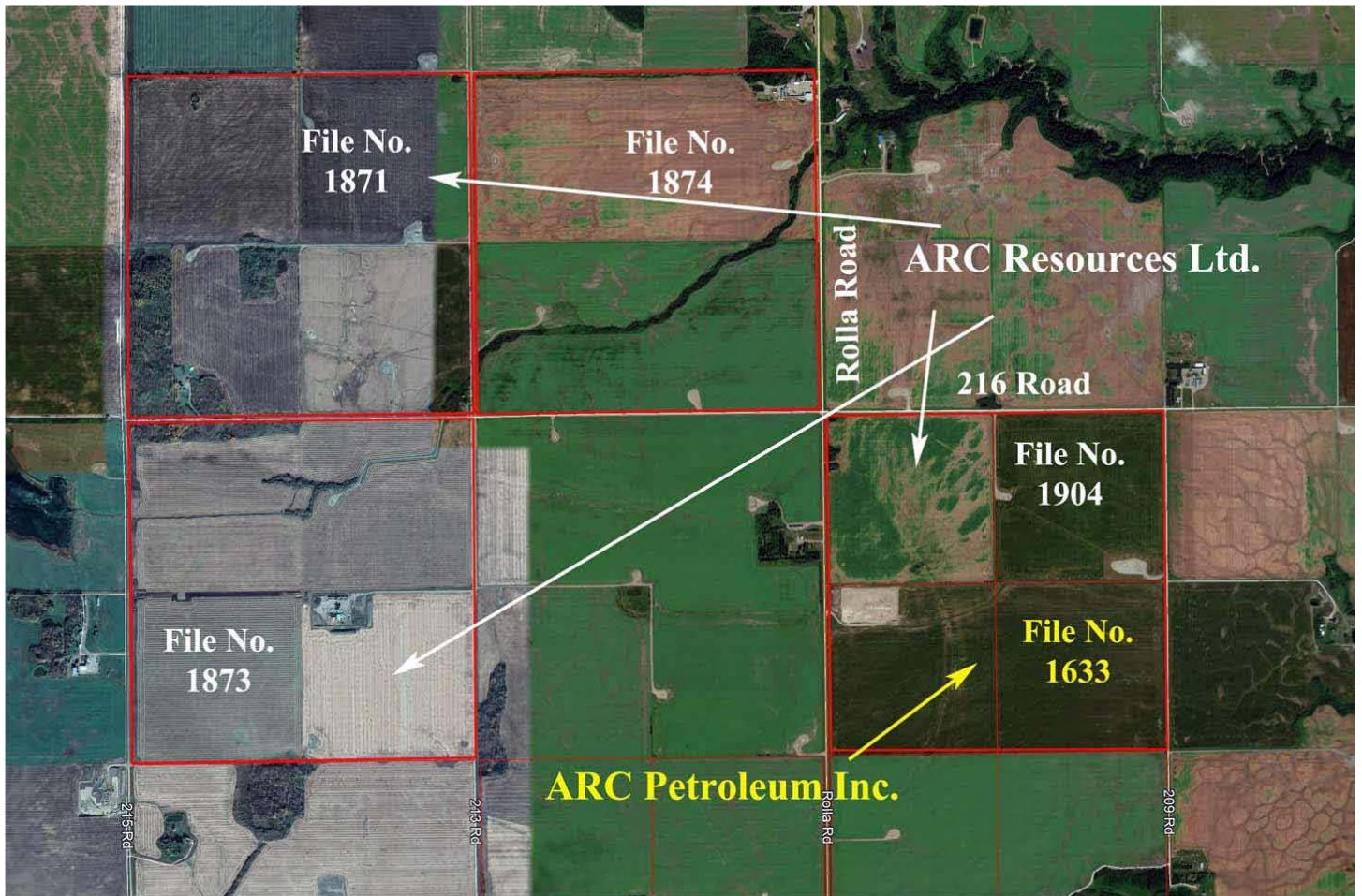
(APPLICANT)

AND:

Richard Bruce Mitchell and Sharon Ann Mitchell

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. (“ARC”) seeks a temporary right of entry order to access certain Lands legally owned by Richard Bruce Mitchell and Sharon Ann Mitchell to carry out an approved oil and gas activity, namely conducting an assessment of the condition of the Lands in the absence of snow cover in compliance with an order of the British Columbia Oil and Gas Commission dated September 29, 2017 (the “Order”).

On October 6, I conducted a telephone mediation conference to give the parties the opportunity to speak to the contents of a draft right of entry order circulated by ARC.

The Oil and Gas Commission has issued an order to ARC to conduct activities on the Lands before the surface is covered in snow. I agree with ARC that there is urgency to this application.

The Landowners have denied ARC access to the Lands and ARC applies to the Board for a right of entry order.

The Landowners object to ARC’s application, and ask the Board to decline to issue a right of entry order. They argue that ARC ought to have sought a variance of the temporary stay of the permit issued by the Oil and Gas Appeal Tribunal. Further they say the OGC’s order is generic, does not identify the Lands and does not identify the Landowners.

I considered the Landowners’ objections and found that in the circumstances of this application it is appropriate for the Board to issue a right of entry order in favor of ARC. I set out my reasons in a separate communication to the parties.

In the circumstances of this application I am satisfied that the Board has the jurisdiction to issue the right of entry order, that it is appropriate for ARC to bring their application to the Surface Rights Board rather than the Oil and Gas Appeal Tribunal, and that ARC requires access to the lands for an approved oil and gas activity, namely fulfilling an order of the Oil and Gas Commission.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the temporary right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix “A” for the purpose of conducting the assessment work described in the Order. This temporary right of entry shall expire on October 31, 2017.

2. ARC shall pay to the landowner as partial compensation the amount of \$250.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$1,000 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

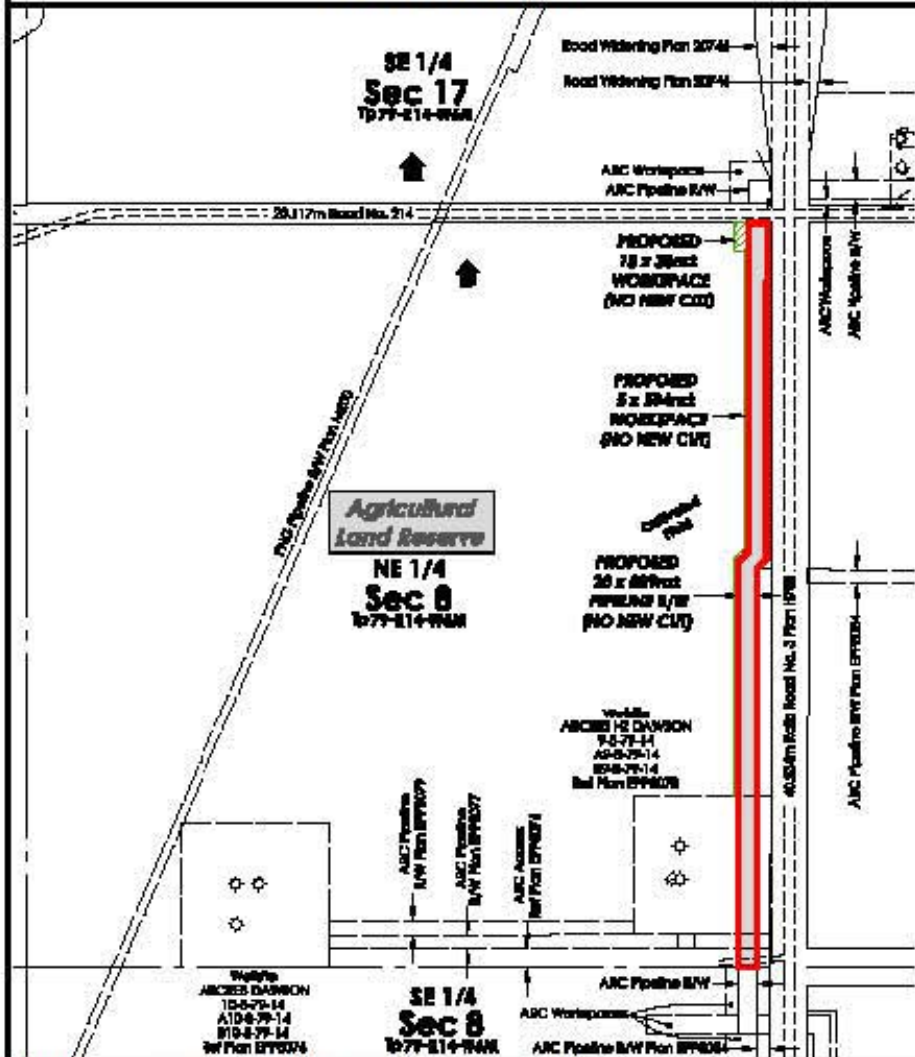
DATED: October 10, 2017

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser", written in a cursive style.

Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
NE 1/4 Sec 8, Tp 79, R 14, W6M
PEACE RIVER DISTRICT**



TITLE No.: CA4067835 **P.L.D. No.:** 014-500-051
OWNER(S): Richard Bruce Mitchell
 Sharon Ann Mitchell

NOTES
 SCALE = 1: 5,000
 Distances shown are in metres.
 Permanent Portions referred to:
 Temporary Portions referred to:
 Certified correct this
 14th day of March, 2017.
 Andrew
 McFarlane 3S15PF
 Andrew W.J. McFarlane, BCLS 874

AREA REQUIRED:

	20m Pipeline R/W	1.62 ha	4.00 ac
	Workspaces	0.34 ha	0.84 ac
	TOTAL:	1.96 ha	4.84 ac

NO	DATE	REVISION	DRN	CKD
0	17/03/14	Original plan issued	AC/A	AKM

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 Part of JACO, S.C.
 www.canam.com

CAN-AM FILE: 20163558
 CAD FILE: 20163558OP7_0
 Client File No.: E12424
 A/E No.: 16PPL0161
 Land Use No.:

File No. 1949
Board Order No. 1949-1

October 6, 2017

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE NORTH 1/2 OF SECTION 4 TOWNSHIP 79 RANGE 14 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT, EXCEPT THE EAST 808.09 METRES
AND PLAN H782**

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Elden Iver Veiner and Jacqueline Carole Veiner

(RESPONDENTS)

BOARD ORDER

ARC Resources Ltd.

File No. 1949

Rolla Road

212 Road



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Elden Iver Veiner and Jacqueline Carole Veiner to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flowlines and associated infrastructure.

On October 6, 2017, I conducted a telephone mediation conference call to discuss access and compensation.

The Landowners did not dispute ARC's requirement for access for this project but cannot agree with the compensation proposed. They will continue with their negotiations and return to the Board if unsuccessful.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. The Board is satisfied that ARC requires entry to the Lands for an approved oil and gas activity, namely completing the project authorized by the Oil and Gas Commission's permit #100102516.

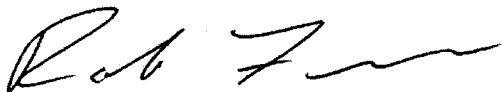
The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" for the purpose of constructing, operating and maintaining flowlines and associated infrastructure.
2. ARC shall pay to the landowner as partial compensation the total amount of \$17,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

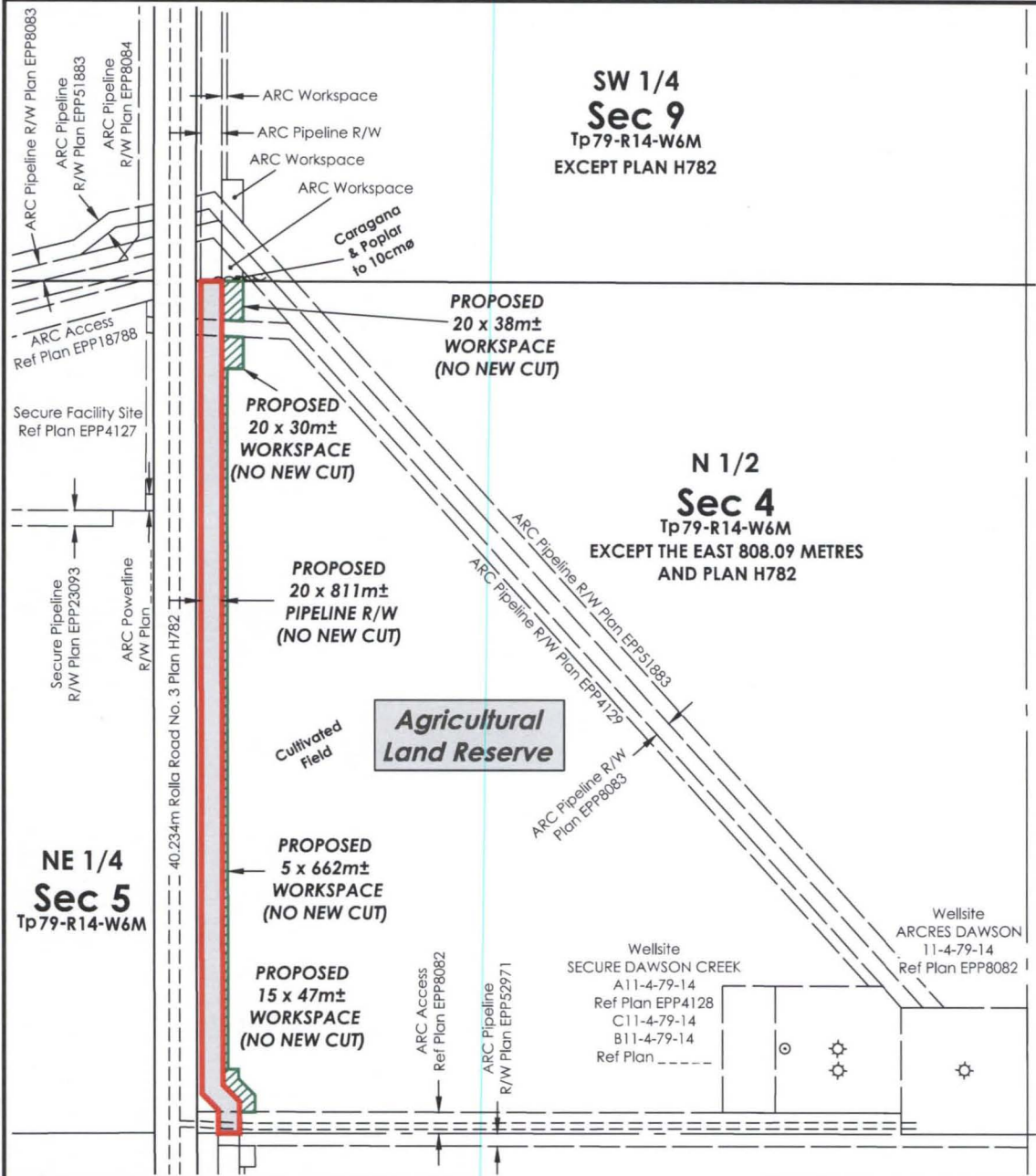
DATED: October 6, 2017

FOR THE BOARD





Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
N 1/2 Sec 4, Tp 79, R 14, W6M
EXCEPT THE EAST 808.09 METRES AND PLAN H782
PEACE RIVER DISTRICT**



TITLE No.: CA1397251 **P.I.D. No.:** 015-972-437
OWNER(S): Elden Iver Veiner
 Jacqueline Carole Veiner

NOTES
 SCALE = 1: 5,000
 Distances shown are in metres.
 Permanent Portions referred to: 
 Temporary Portions referred to: 
 Certified correct this
 28th day of February, 2017.

AREA REQUIRED:


	20m Pipeline R/W	1.62 ha	4.00 ac
	Workspaces	0.54 ha	1.34 ac
TOTAL:		2.16 ha	5.34 ac

Andrew
 McFarlane 3SJS5PF
 Andrew W.J. McFarlane, BCLS 874

Digitally signed by Andrew McFarlane 3SJS5PF
 DN: cn=CA, c=Andrew McFarlane 3SJS5PF,
 o=BC Land Surveyor, ou=Verify ID at
 www.puricert.com/ALXLP.cfm?id=3SJS5PF
 Date: 2017.02.28 13:26:42 -07'00'

NO.	DATE	REVISION	DRN	CKD
0	17/02/28	Original plan issued	MC	WC

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CAN-AM FILE: 20163558
 CAD FILE: 20163558IOP4_0
 Client File No.: E12424
 AFE No.: 16PPL0161
 Land File No.: 



October 30, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE NORTH EAST $\frac{1}{4}$ OF SECTION 17 TOWNSHIP 79 RANGE 14 WEST OF THE
6TH MERIDIAN PEACE RIVER DISTRICT
(The "Lands")

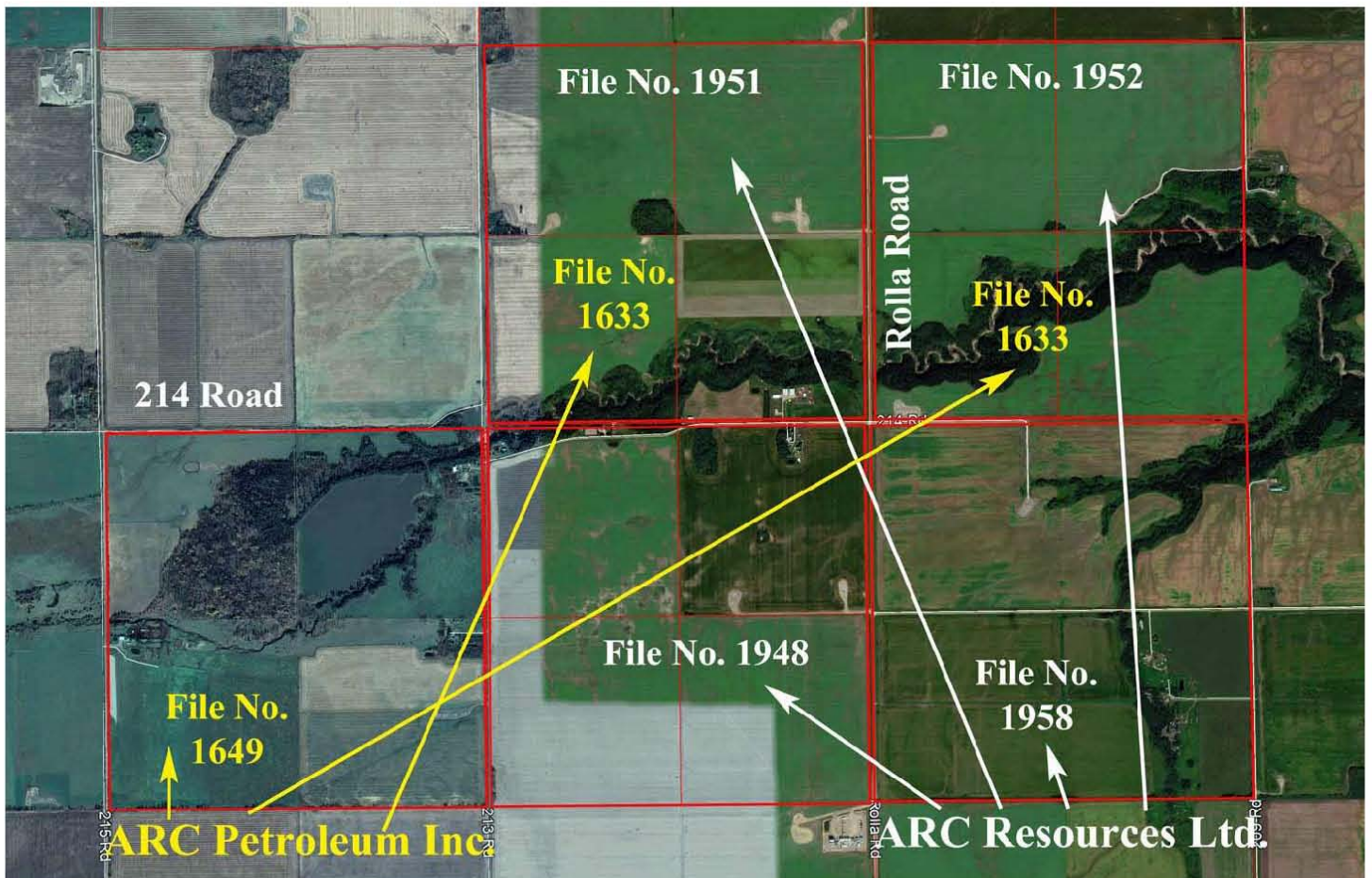
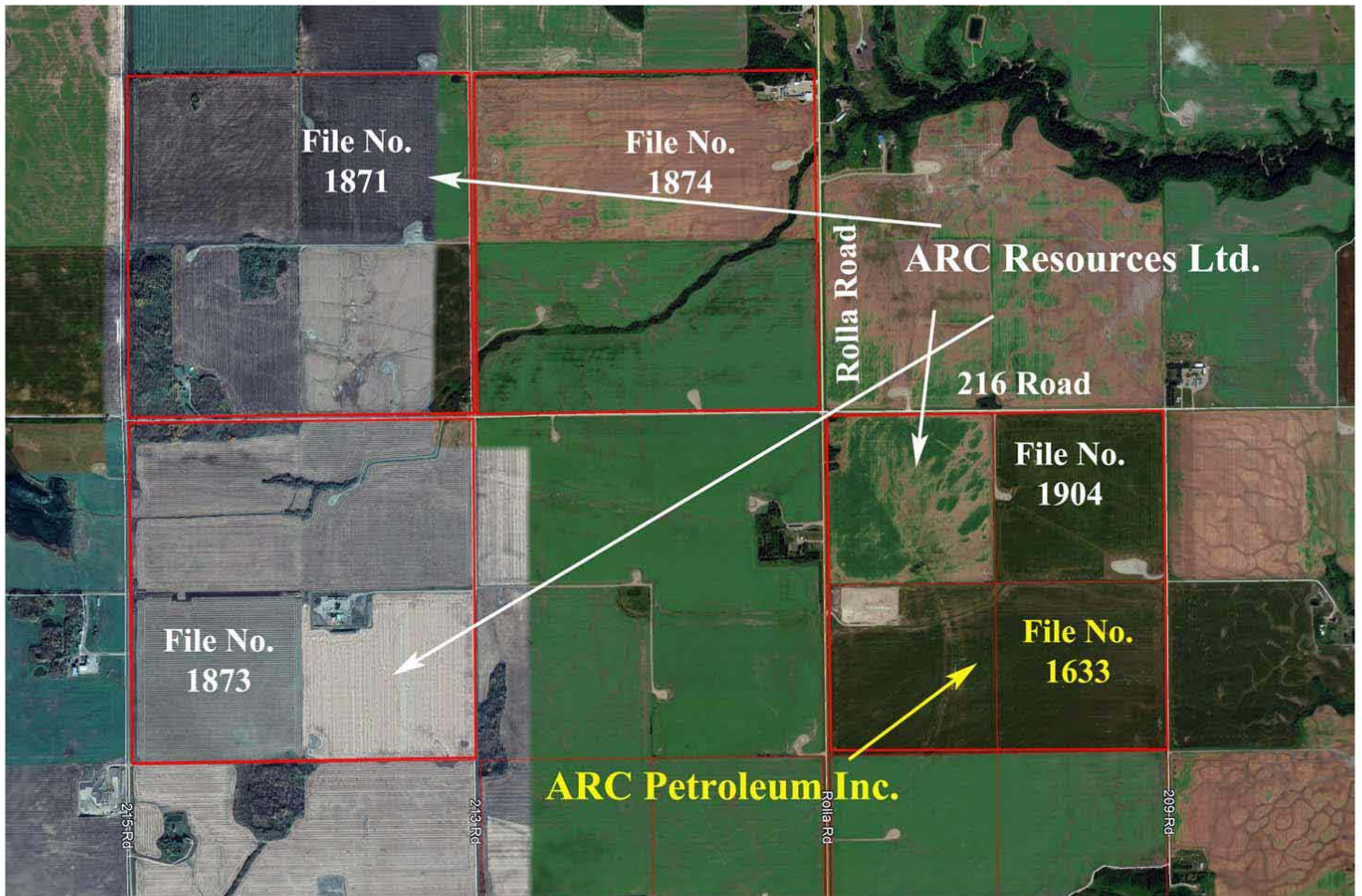
BETWEEN:

ARC Resources Ltd.
(APPLICANT)

AND:

Mary Kathleen Miller
(RESPONDENT)

BOARD ORDER



Heard: By way of written submissions closing October 25, 2017
Appearances: Rick Williams & Timothy Pritchard, Barristers and Solicitors, for the
Applicant, ARC Resources Ltd.
J. Darryl Carter, Q.C., for the Respondent Owner

INTRODUCTION

[1] ARC Resources Ltd. (ARC) has applied to the Board for mediation and arbitration respecting a right of entry application to construct, operate and maintain a natural gas flow line and associated infrastructure on the subject lands, and respecting the appropriate compensation payable to the owner for the entry and operation. Mary Miller is the Respondent to the application and the owner of the lands (the “Owner”) described as: NE ¼ of Section 17, Twp 79, Rge 14, W6M (the “Lands”).

[2] Section 159 (1) of the *Petroleum and Natural Gas Act*, R.S.B.C., 1996, c. 362 (the “PNGA”) provides that the Board “may make an order authorizing a right of entry, subject to the terms and conditions specified in the order.” (emphasis added).

[3] The Owner requests that any right of entry order issued by the Board contain a term or condition requiring ARC to construct the flow line on the Lands by boring instead of trenching. ARC objects to the proposed condition on the basis that the Board does not have jurisdiction to impose such a condition in a right of entry order.

ISSUE

[4] The issue is whether the Board has the jurisdiction to impose a term or condition to a right of entry requiring a flow line to be constructed by boring instead of trenching.

THE LEGISLATION

[5] Section 147(a) of the *PNGA* provides that the Board has jurisdiction in relation to “an application under Division 5 by a person who requires a right of entry or by a landowner”.

[6] Pursuant to section 142 of the *PNGA*, "...a person may not enter, occupy or use land (a) to carry out an oil and gas activity..." or related activity unless the entry, occupation or use is authorized under either a surface lease with the landowner or an order of the Board.

[7] If no surface lease with the landowner is entered into, pursuant to section 159(1) of the *PNGA*, the Board may, on application, "make an order authorizing a right of entry, subject to the terms and conditions specified in the order if the board or mediator, as applicable, is satisfied that an order authorizing the right of entry is required for a purpose described in section 142 (a)...", namely an oil and gas activity.

[8] Section 1 of the *PNGA* provides that an "oil and gas activity" has the same meaning as in section 1 of *Oil and Gas Activities Act*, S.B.C., 2008, c. 36 (the "OGAA") which includes: "... (e) the construction or operation of a pipeline..."

SUBMISSIONS, EVIDENCE, & FACTS

[9] The parties have provided written submissions but no affidavit evidence. Any "facts" referenced in this decision are as provided in the parties' written submissions and are referenced and relied on only for the purpose of making a determination on the issue before me.

[10] ARC says the Board's jurisdiction with respect to conditions it can impose in a right of entry order is limited to terms and conditions that relate to the manner of entry onto private land, not that relate to the nature of the underlying oil and gas activity as that is within the exclusive jurisdiction of the Oil and Gas Commission ("OGC").

[11] In reading the *PNGA* with the *OGAA*, ARC submits that the legislature intended to create two statutory bodies with related but not over-lapping jurisdiction: the OGC

for the regulation of oil and gas activities, and the Board for the regulation of entry onto private land for the purpose of undertaking those activities.

[12] Further, ARC submits that a prerequisite to the Board's jurisdiction to issue a right of entry order is that the OGC has issued a permit for an "oil and gas activity" (sec. 142 and 159(1) of the *PNGA*), as defined by sec. 1(2) of the *OGAA*. The OGC has jurisdiction to impose conditions on the permit that it considers necessary (sec. 25(2)(b) of the *OGAA*). If a landowner is dissatisfied with the lack of inclusion of a condition in a permit, they may appeal the permit to the Oil and Gas Appeal Tribunal.

[13] ARC argues that the Board's jurisdiction cannot extend to the manner of the oil and gas activity itself, i.e. the manner of the construction of a flow line, as this would create a system of overlapping jurisdiction between the OGC and the Board, which cannot have been the legislative intention behind the *PNGA* and the *OGAA* (Board's Information Sheet #1, Hansard excerpt March 31, 2010, Volume 13, Number 3).

[14] The Owner says there is no right to access private land except as permitted by the *PNGA* either by agreement with the landowner or by "expropriation" under the legislation which should be interpreted strictly against the oil and gas company seeking entry (*Dell Holdings Ltd. v. Toronto Area Transit Authority* (1997) 60 LCR 81 (SCC)). The Owner says that landowners, including homeowners in the Lower Mainland, have the right to "resist" entry which right to resist can be "taken away" under the *PNGA* only by agreement with the landowner or by a right of entry order by the Board. Further, the Owner argues that a permit from the OGC does not allow a company to go on private land to construct a pipeline in whatever way the company chooses (sec. 34(2) of the *OGAA*).

[15] Further, the Owner submits that under the *PNGA*, the Board order takes the place of an agreement when the parties are unable to agree. Section 159(1) of the *PNGA* allowing the Board to impose terms and conditions in a right of entry order taking away a landowner's rights should be interpreted strictly against the taker.

She says that reference to terms and conditions of a right of entry order in this section, along with the reference in section 164, is evidence of the legislature's intention to give the Board jurisdiction to impose any terms and conditions. As for the Board's Information Sheet #1, the Owner says that the information in the Sheet is not correct and has no legal status. The Owner does not specifically respond to ARC's submissions on over-lapping jurisdiction with the OGC.

[16] ARC does not dispute that there is "no right to access any land except as permitted by the *Petroleum Natural Gas Act*" or that the Board can "impose terms and conditions in issuing a right of entry order", but ARC says the Board does not have jurisdiction to impose certain terms and conditions that are in the jurisdiction of the OGC. Also, the principles of statutory interpretation that apply in relation to expropriation statutes do not apply as the *PNGA* is not an expropriation statute (see *Murphy Oil Company Ltd. v. Shore*, SRB No. 1745-1). ARC argues that the construction techniques for a pipeline must be determined by the OGC which was specifically established to make such determinations "having regard to environmental, economic and social effects" (sec. 4(b) of *OGAA*).

ANALYSIS

[17] The application for a right of entry is made pursuant to section 158 of the *PNGA*. Section 159 allows the Board to issue an order authorizing a right of entry, "subject to the terms and conditions specified in the order". The *Act* does not specify what terms and conditions can be imposed but the Owner says this provision authorizes the Board to impose terms and conditions on the manner of construction of the flow line over her Lands.

[18] Further, the Owner says that the *PNGA* should be interpreted strictly against the oil and gas company as it is expropriation legislation. The Courts have generally construed expropriation statutes strictly to protect landowners from expropriation of their lands by government without express authorization. However, Courts have also specifically found that the entry and occupation authorized by *PNGA* is not an act of expropriation as no land or legal interest in the land is taken from the

landowner (*Dome Petroleum Ltd. v. Juell* [1982] BCJ No. 1510). The fact that the right of entry may be compulsory and contrary to the wishes of the landowner who wishes to resist the entry and occupation does not (by itself) elevate it to an expropriation because it does not divest the landowner of his or her fee simple interest in the land (*Murphy Oil, supra.*).

[19] For purposes of determining the jurisdiction of the Board in section 159 of the *PNGA*, the overriding modern rule of statutory interpretation to be applied is that words of an enactment must be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the legislature (*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27 (SCC)).

[20] As indicated above, section 159 allows the Board to issue a right of entry subject to “terms and conditions” specified in the order, but the legislation does not define what those terms and conditions may be. An ordinary reading of that section would lead to the conclusion that the terms and conditions that may be imposed would be imposed on the activity that has been authorized.

[22] However, the legislative scheme for exploration, development and extraction of subsurface resources in the province is set out in both the *PNGA* and the *OGAA*. The *PNGA* provides a mechanism by which the holders of rights to subsurface resources can enter private land for an “oil and gas activity” as well as provides a dispute resolution mechanism to determine compensation payable to landowners arising from an entry, use and occupation of their lands. The *OGAA* establishes the regulatory framework for the development of the oil and gas industry in the province. It provides that a person may not carry on an “oil and gas activity” without a permit from the OGC and in compliance with the *OGAA* and its regulations. The OGC may issue a permit and may specify the oil and gas activity, and the manner of the activity, permitted to be carried out. The OGC may impose terms and conditions on that activity in the permit. In this instance, for example, the OGC imposed pipeline conditions on the permit authorizing the activity on the Owner’s Lands (Application

Determination Number 100102516 filed with the Form 1A dated August 29, 2017) that required the permit holder to not undertake directionally drilled pipeline stream crossing work without a submitted feasibility study.

[23] One of the stated purposes and objects of the OGC is to regulate oil and gas activities in British Columbia in a manner that "... ensures safe and efficient practices...." (section 4 of the *OGAA*). In the permits it issues, the OGC "(a) must specify the oil and gas activities the person is permitted to carry out, and (b) may impose any conditions on the permit that the commission considers necessary." (section 25(2)). As noted above, section 1 provides that "oil and gas activities" includes the "construction" of a pipeline. The OGC also has the ability to inspect and monitor oil and gas activities and impose consequences for non-compliance with the Act, regulations, order, or conditions in the permit (Divisions 2-4 of the *OGAA*).

[24] These provisions confirm that the intention of the legislature was to provide separate jurisdiction to Board under the *PNGA* for the authorization of access, occupation and use of private land to explore for, develop, or extract subsurface resources and for the determination of compensation for that access to private land. The *OGAA* provides jurisdiction to the OGC to regulate oil and gas activities, such as the construction of a pipeline, through the permit process and can impose terms and conditions on the manner and nature of those activities. Neither the *PNGA* nor the *OGAA* gives the Board the jurisdiction to regulate and approve an oil and gas activity, such as construction of a pipeline; that jurisdiction lies with the OGC. If a landowner is concerned about the manner of construction of a pipeline, the remedy is to pursue those concerns with the OGC as part of the permit process. The Board does not have jurisdiction to impose terms and conditions on the manner of construction of a pipeline as part of a right of entry order under section 158 and 159 of the *PNGA*. Otherwise, both the OGC and the Board would have over-lapping jurisdiction over this question which can not have been the legislature's intent.

[25] This interpretation is supported by the reading of other sections of the *PNGA* that reference the type of conditions that may be imposed on a right of entry order. For instance, section 159(3) provides that a right of entry may be "conditional on the

person seeking the right of entry receiving approval from the commission to undertake...” an oil and gas activity. Section 159(4) provides that a right of entry order must, “as a condition of the order ”, require the person seeking the right of entry to pay to the landowner an amount as rent or compensation. Section 160(1) provides that a right of entry order may, “as a condition of the order”, require the person seeking the right of entry to deposit to the board security. These provisions confirm that the terms and conditions to be imposed on a right of entry order contemplated by the *PNGA* relate to ensuring the oil and gas activity (including construction of a pipeline) is approved by the OGC and to ensuring adequate compensation to the landowner for the access is provided for. It does not contemplate the Board imposing terms and conditions on the manner or nature of construction of a pipeline or other approved oil and gas activity.

CONCLUSION

[26] Therefore, I find that the Board does not have jurisdiction to impose a term or condition to a right of entry in this matter requiring the flow line to be constructed by boring instead of trenching.

DATED: October 30, 2017

FOR THE BOARD



Simmi K. Sandhu, Vice Chair

File No. 1951
Board Order No. 1951-2

November 1, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE NORTH EAST $\frac{1}{4}$ OF SECTION 17 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Mary Kathleen Miller

(RESPONDENT)

BOARD ORDER

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Mary Kathleen Miller (the "Lands").

ARC proposes to construct, operate and maintain a flow line and associated infrastructure. The Oil and Gas Commission ("OGC") has issued a permit for this project (100102516).

On October 2, 2017, I conducted a telephone conference call to discuss ARC's application for mediation and arbitration services relating to their proposed flowline project on the Lands.

During the conference call the Landowner agreed on the wording of a Board Order, except for one item. The Landowner asked the Board to include a condition requiring ARC to bore rather than trench when installing the flowline. ARC did not agree to this condition.

ARC said the Board lacked jurisdiction to include such a condition, while the Landowner said it fell within the wording and interpretation of the legislative scheme. The parties produced submissions, which are considered in the Board's decision 1951-1, where the Board found that it did not have the jurisdiction to order boring rather than trenching.

Under the provisions of the Petroleum and Natural Gas Act, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. "Oil and gas activity" is a defined term that includes the construction or operation of natural gas wells and access roads.

As the OGC has issued a permit for this project (Determination of Application Area Number 100102516), I am satisfied that ARC requires the Lands for an approved oil and gas activity.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red and green on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, operating and maintaining a flowline and associated infrastructure in accordance with OGC Permit No. 100102516 issued by the Oil and Gas Commission on July 27, 2017.

2. ARC shall pay to the landowner as partial compensation the total amount of \$5,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder's lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.
5. The Grantee will be responsible for the removal of rocks that are brought to the surface of the right of way during and following construction and in that regard will consult with the land owner and the lessee in discharging this responsibility.
6. No risers or other above ground equipment or structures are permitted, except for the existing riser at the 'Riser Site' location, within the area shown outlined in red in Appendix "A" without the landowner's consent or a further Board order.
7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board Order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: November 1, 2017

FOR THE BOARD

A handwritten signature in black ink, appearing to read "Rob Fraser", written in a cursive style.

Rob Fraser, Mediator

File No. 1952
Board Order No. 1952-1

November 1, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH WEST $\frac{1}{4}$ OF SECTION 16 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN H782

(The "Lands")

BETWEEN:

ARC Resources Ltd.

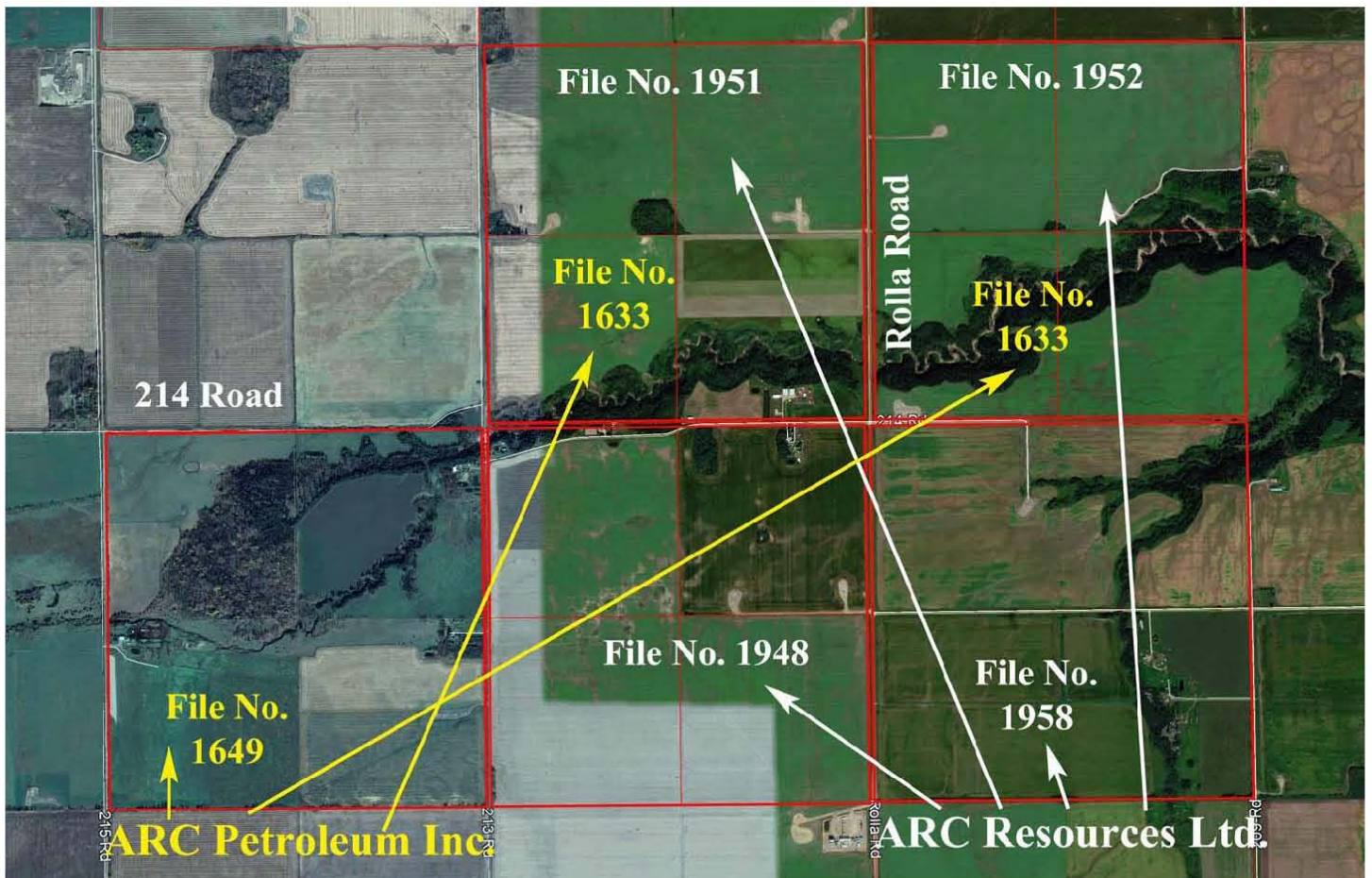
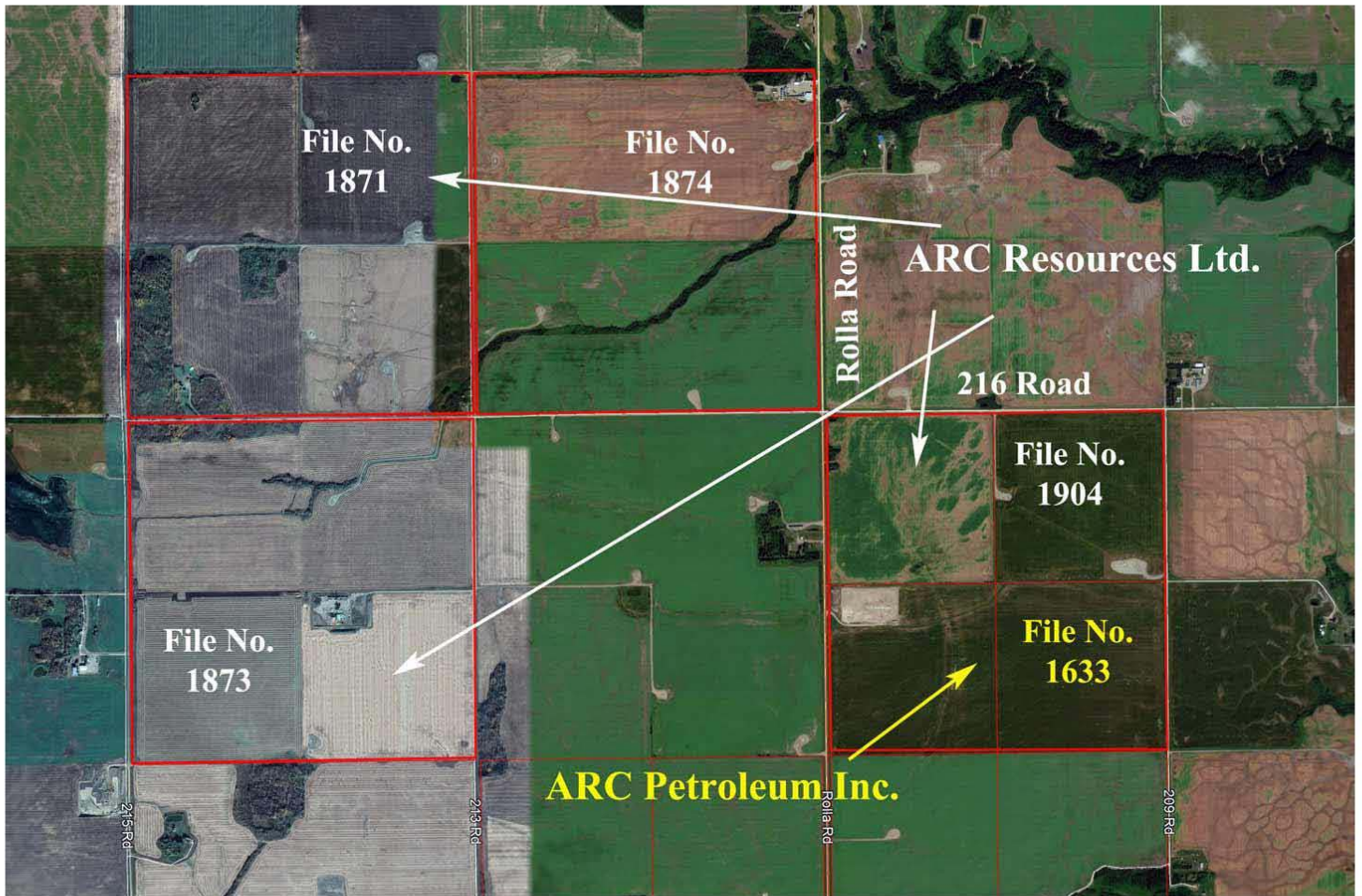
(APPLICANT)

AND:

John Irving Miller

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. (“ARC”) seeks a right of entry order to access certain lands legally owned by John Irving Miller (the “Lands”).

ARC proposes to construct, operate and maintain a flow line and associated infrastructure. The Oil and Gas Commission (“OGC”) has issued a permit for this project (100102516).

On October 2, 2017, I conducted a telephone conference call held as part of the Board’s mediation process, attended by K. Buytels and R. Williams for ARC Resources Ltd. (“ARC”), and M. Miller (owner of the Lands in 1951), J. Miller (owner of the Lands in 1952), D. Carter and B. Fast.

ARC circulated a draft right of entry order which the parties discussed and agreed to amendments that are found in the order below.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. The Board is satisfied that Encana requires entry to the Lands for an approved oil and gas activity, namely completing the project authorized by the Oil and Gas Commission’s permit #100102516.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red and green on the Individual Ownership Plan attached as Appendix “A” as necessary for the purpose of constructing, operating and maintaining a flowline and associated infrastructure in accordance with OGC Permit No. 100102516 issued by the Oil and Gas Commission on July 27, 2017.
2. ARC shall pay to the landowner as partial compensation the total amount of \$5,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder’s lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.

5. The Grantee will be responsible for the removal of rocks that are brought to the surface of the right of way during and following construction and in that regard will consult with the land owner and the lessee in discharging this responsibility.
6. No risers or other above ground equipment or structures are permitted, without the landowner's consent or a further Board order.
7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board Order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: November 1, 2017

FOR THE BOARD



Rob Fraser, Mediator

File No. 1952
Board Order No. 1952-1amd

December 8, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH WEST $\frac{1}{4}$ OF SECTION 16 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT EXCEPT PLAN H782

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

John Irving Miller

(RESPONDENT)

BOARD ORDER

This Order amends and replaces Order 1952-1 to correct an error.

ARC Resources Ltd. (“ARC”) seeks a right of entry order to access certain lands legally owned by John Irving Miller (the “Lands”).

ARC proposes to construct, operate and maintain a flow line and associated infrastructure. The Oil and Gas Commission (“OGC”) has issued a permit for this project (100102516).

On October 2, 2017, I conducted a telephone conference call held as part of the Board’s mediation process, attended by K. Buytels and R. Williams for ARC Resources Ltd. (“ARC”), and M. Miller (owner of the Lands in 1951), J. Miller (owner of the Lands in 1952), D. Carter and B. Fast.

ARC circulated a draft right of entry order which the parties discussed and agreed to amendments that are found in the order below.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. The Board is satisfied that ARC requires entry to the Lands for an approved oil and gas activity, namely completing the project authorized by the Oil and Gas Commission’s permit #100102516.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right to enter and access the portions of the Lands shown outlined in red and green on the Individual Ownership Plan attached as Appendix “A” as necessary for the purpose of constructing, operating and maintaining a flowline and associated infrastructure in accordance with OGC Permit No. 100102516 issued by the Oil and Gas Commission on July 27, 2017.
2. ARC shall pay to the landowner as partial compensation the total amount of \$5,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. ARC will, within seven days of receiving notice of a builder’s lien claim being filed against the Lands as a result of the work being carried out by ARC on the subject property, take all reasonable steps to cause the lien to be removed.

5. The Grantee will be responsible for the removal of rocks that are brought to the surface of the right of way during and following construction and in that regard will consult with the land owner and the lessee in discharging this responsibility.
6. No risers or other above ground equipment or structures are permitted, without the landowner's consent or a further Board order.
7. ARC shall not erect any power poles or transmission lines within the area outlined in red in Appendix "A", permanently or otherwise, without the landowner's consent or a further Board Order.
8. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED: December 8, 2017

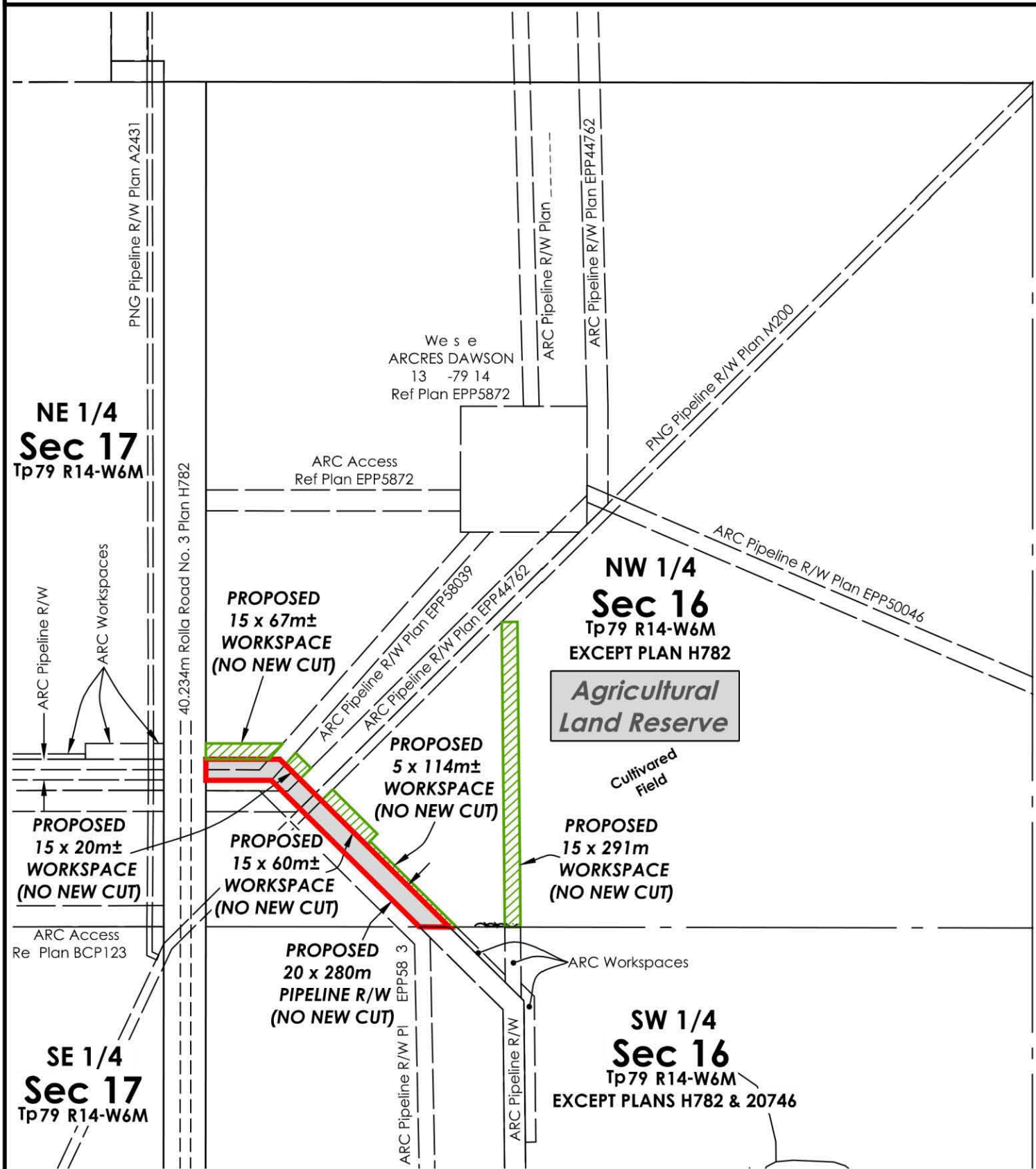
FOR THE BOARD





Rob Fraser, Mediator

ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
NW 1/4 Sec 16, Tp 79, R 14, W6M
EXCEPT PLAN H782
PEACE RIVER DISTRICT

ARC RESOURCES LTD. v.
 MILLER, JOHN
 ORDER 1952-1amd
 Page 4



TITLE No.: PK47339 **P.I.D. No.:** 014-640-287
OWNER(S): John Irving Miller

NOTES
 SCALE = 1: 5,000
 Distances shown are in metres.
 Permanent Portions referred to: 
 Temporary Portions referred to: 
 Certified correct this
 19th day of May, 2017.


AREA REQUIRED:

	20m Pipeline R/W	0.56 ha	1.38 ac
	Workspaces	0.72 ha	1.78 ac
TOTAL:		1.28 ha	3.16 ac

Andrew W.J. McFarlane, BCLS 874

NO.	DATE	REVISION	DRN	CKD
0	17/03/14	Original plan issued	MC JL	WC AAM
1	17/05/19	Moved Pipeline 10m South	LMP	TC

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 www.canam.com Toll Free: 1.866.208.0983

CAN-AM FILE: 20163558
 CAD FILE: 20163558IOP10_1
 Client File No.: E12424
 AFE No.: 16PPL0161
 Land File No.: 

File No. 1958
Board Order No. 1958-1

October 6, 2017

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

AND IN THE MATTER OF

**THE SOUTH WEST 1/4 OF SECTION 9 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT, EXCEPT PLAN H782
(The "Lands")**

BETWEEN:

ARC Resources Ltd.

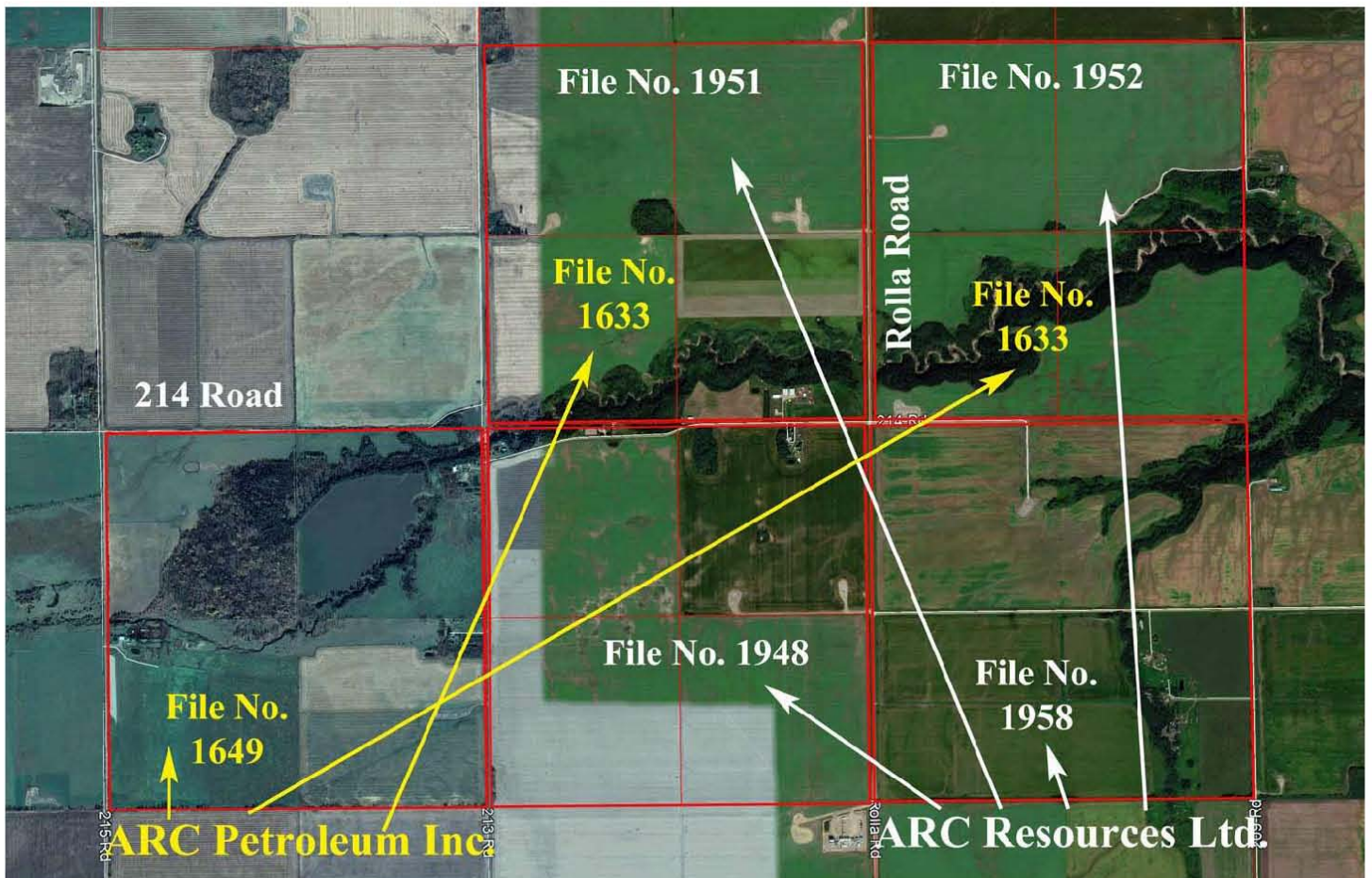
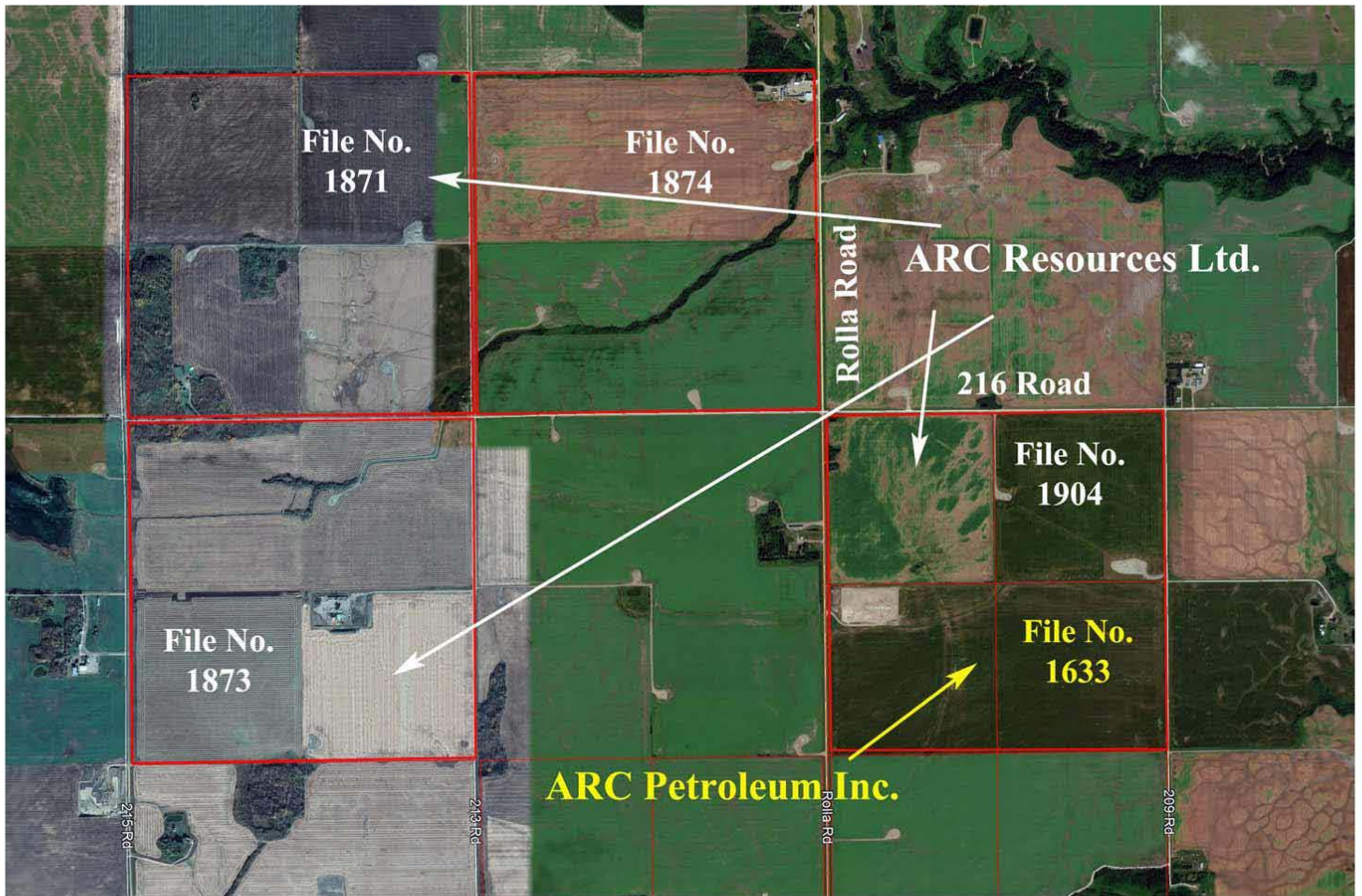
(APPLICANT)

AND:

Clarence Ernest Veiner and Dorothy Maxine Veiner

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Clarence Ernest Veiner and Dorothy Maxine Veiner to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flowlines and associated infrastructure.

The Landowners did not dispute ARC's requirement for access for this project but cannot agree with the compensation proposed. They will continue with their negotiations and return to the Board if unsuccessful.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. The Board is satisfied that ARC requires entry to the Lands for an approved oil and gas activity, namely completing the project authorized by the Oil and Gas Commission's permit #100102516.

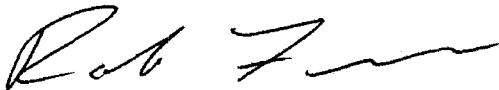
The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" for the purpose of constructing, operating and maintaining flowlines and associated infrastructure.
2. ARC shall pay to the landowner as partial compensation the total amount of \$17,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

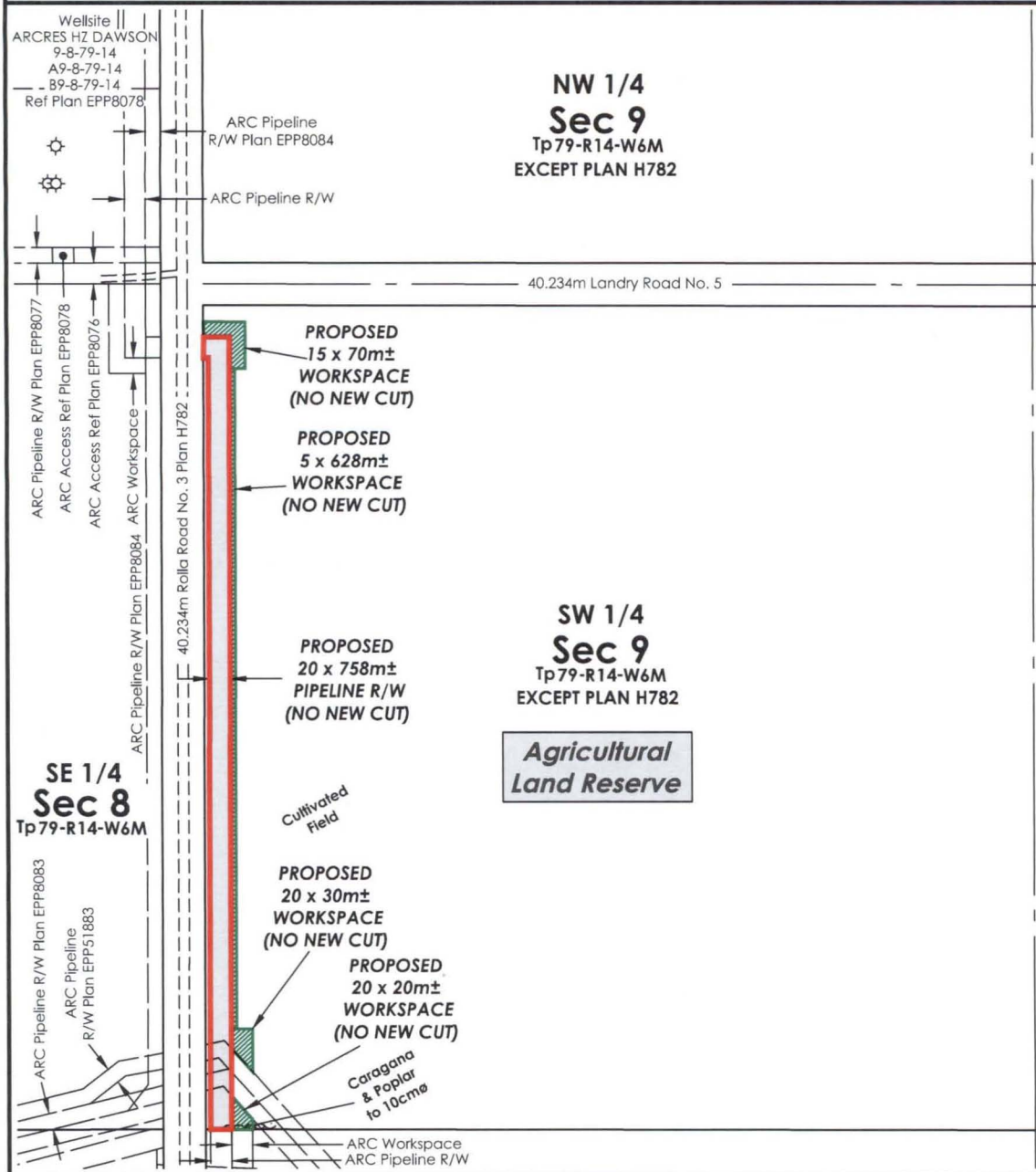
DATED: October 6, 2017

FOR THE BOARD



Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 9, Tp 79, R 14, W6M
EXCEPT PLAN H782
PEACE RIVER DISTRICT**



TITLE No.: PK47335 **P.I.D. No.:** 007-571-976
OWNER(S): Clarence Ernest Veiner
 Dorothy Maxine Veiner

AREA REQUIRED:

	20m Pipeline R/W	1.52 ha	3.76 ac
	Workspaces	0.52 ha	1.28 ac
TOTAL:		2.04 ha	5.04 ac

NOTES
 SCALE = 1 : 5,000
 Distances shown are in metres.
 Permanent Portions referred to:
 Temporary Portions referred to:
 Certified correct this
 28th day of February, 2017.
 Andrew
 McFarlane 3SJS5PF
Digitally signed by Andrew McFarlane 3SJS5PF
 DN: c=CA, ou=Andrew McFarlane 3SJS5PF,
 o=BC Land Surveyors, ou=Verify ID at
 www.juriscert.com/LKUP.cfm?id=3SJS5PF
 Date: 2017.02.28 13:27:05 -0700

Andrew W.J. McFarlane, BCLS 874

NO.	DATE	REVISION	DRN	CKD
0	17/02/28	Original plan issued	MC	WC

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 www.canam.com Toll Free: 1.866.208.0983

CAN-AM FILE: 20163558
 CAD FILE: 20163558IOP5_0
 Client File No.: E12424
 AFE No.: 16PPL0161
 Land File No.: REVISION

File No. 1858
Board Order No. 1858-1amd

April 11, 2016

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED**

**AND IN THE MATTER OF
THE SOUTH EAST 1/4 OF SECTION 23 TOWNSHIP 83 RANGE 16 WEST OF
THE 6th MERIDIAN PEACE RIVER DISTRICT
THE NORTH WEST 1/4 OF SECTION 24 TOWNSHIP 83 RANGE 16 WEST OF
THE 6th MERIDIAN PEACE RIVER DISTRICT
THE NORTHEAST 1/4 OF SECTION 26 TOWNSHIP 83 RANGE 16 WEST OF
THE 6th MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

Fernand Charles Mertens

(APPLICANT)

AND:

Leucrotta Exploration Inc.

(RESPONDENT)

BOARD ORDER

This Order amends and replaces Order 1858-1 to attach the correct Schedule "A".

On April 25, 2015, the landowner, Mr. Mertens, commenced a rent review proceeding before the Surface Rights Board, in respect of three existing surface leases held by the Respondent, Leucrotta Exploration Inc. ("Leucrotta"), over the Lands.

On October 8, 2015, I conducted a telephone mediation call attended by landowner Fernand Charles Mertens and his representative, Thor Skafte, as well as by Kiel Crowe and Rick Williams on behalf of Leucrotta. The parties reached an agreement on the issue of compensation, but not on the issue of costs (which has since been referred to arbitration).

The parties have now requested that the Board grant an Order confirming the terms of settlement. The parties have agreed that this Order shall replace the existing surface leases held by Leucrotta over the Lands.

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, Leucrotta shall have the right of entry to and access across the portions of the Lands shown outlined in red on the Individual Ownership Plans attached collectively as Schedule "A" to this Order, for the purpose of carrying out certain approved oil and gas activities, namely, the operation and maintenance of the depicted natural gas wellsites and associated works depicted therein.
2. Leucrotta shall pay Mr. Mertens the total amount of \$3,000 (\$1,000 for each of the parcels to which this right of entry order applies), within 30 days of the date of this Order.
3. Leucrotta shall pay Mr. Mertens the following amounts in respect of annual compensation, on the anniversary dates set out below:

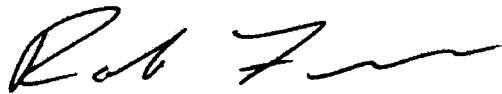
Parcel	Amount	Anniversary Date
SE 1/4 Sec. 23, TP 83, R 16, W6M (PID 013-864-343)	\$5,000.00	November 9, 2016
NW 1/4 Sec. 24, TP 83, R 16 W6M	\$5,241.00	November 13, 2016

(PID 014-577-682)		
NE 1/4 Sec. 26, TP 83, R 16, W6M (PID 010-806-288)	\$4,080.00	February 21, 2016

4. Nothing in this order operates as a consent, permission, approval or authorization of matters within the jurisdiction of the Oil and Gas Commission.
5. Leucrotta shall submit a copy of this Order to the applicable British Columbia Land Title Office to be registered against title to each of the above-noted parcels of the Lands within 30 days of the date of this Order.

DATED: April 11, 2016

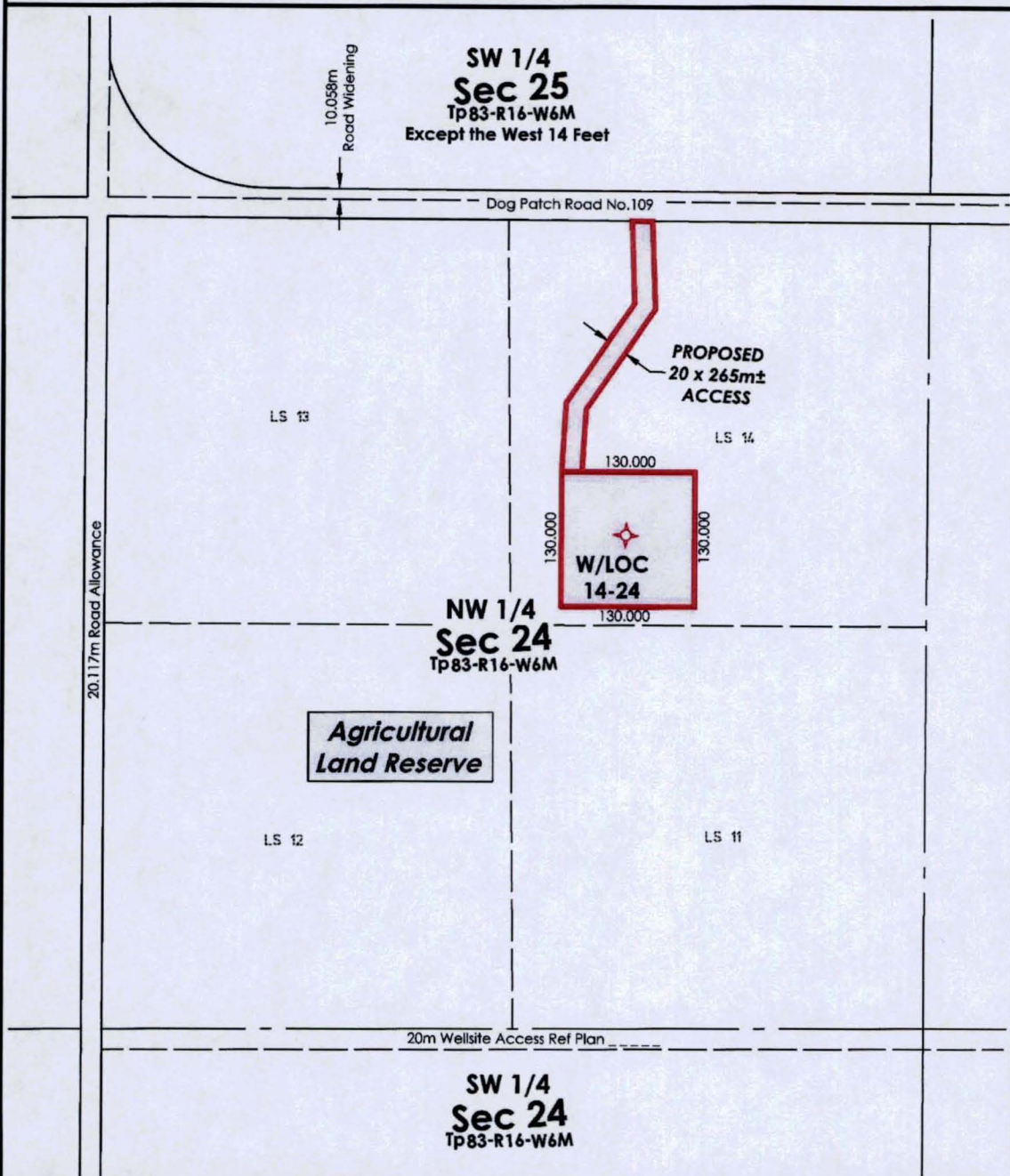
FOR THE BOARD




Rob Fraser, Mediator

SCHEDULE "A" ORDER
1858-1

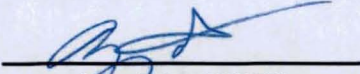
**LEUCROTTA EXPLORATION INC.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
WELLSITE AND ACCESS IN
NW 1/4 SEC 24, TP 83, R 16, W6M
PEACE RIVER DISTRICT**



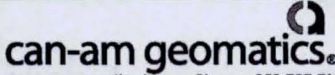
TITLE No.: K32788 **P.I.D. No.:** 014-577-682 **LEGEND**
OWNER(S): Fernand Charles Mertens SCALE = 1: 5,000
 Portions referred to: 
 Notes: Distances shown are in metres.
 Certified correct this
 22nd day of March, 2016.

AREA REQUIRED:

Wellsite	1.69 ha	4.18 ac
Access	0.53 ha	1.31 ac
TOTAL:	2.22 ha	5.49 ac


 Bryan Bates, BCLS 776

NO	DATE	REVISION	DRN	CKD
0	16/03/22	Original plan issued	DL	WC



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Toll Free: 1.866.208.0983
Fax: 250.787.2323


CAN-AM FILE: B20160130

CAD FILE: B20160130IOP-0

Client File No.:

AFE No.:

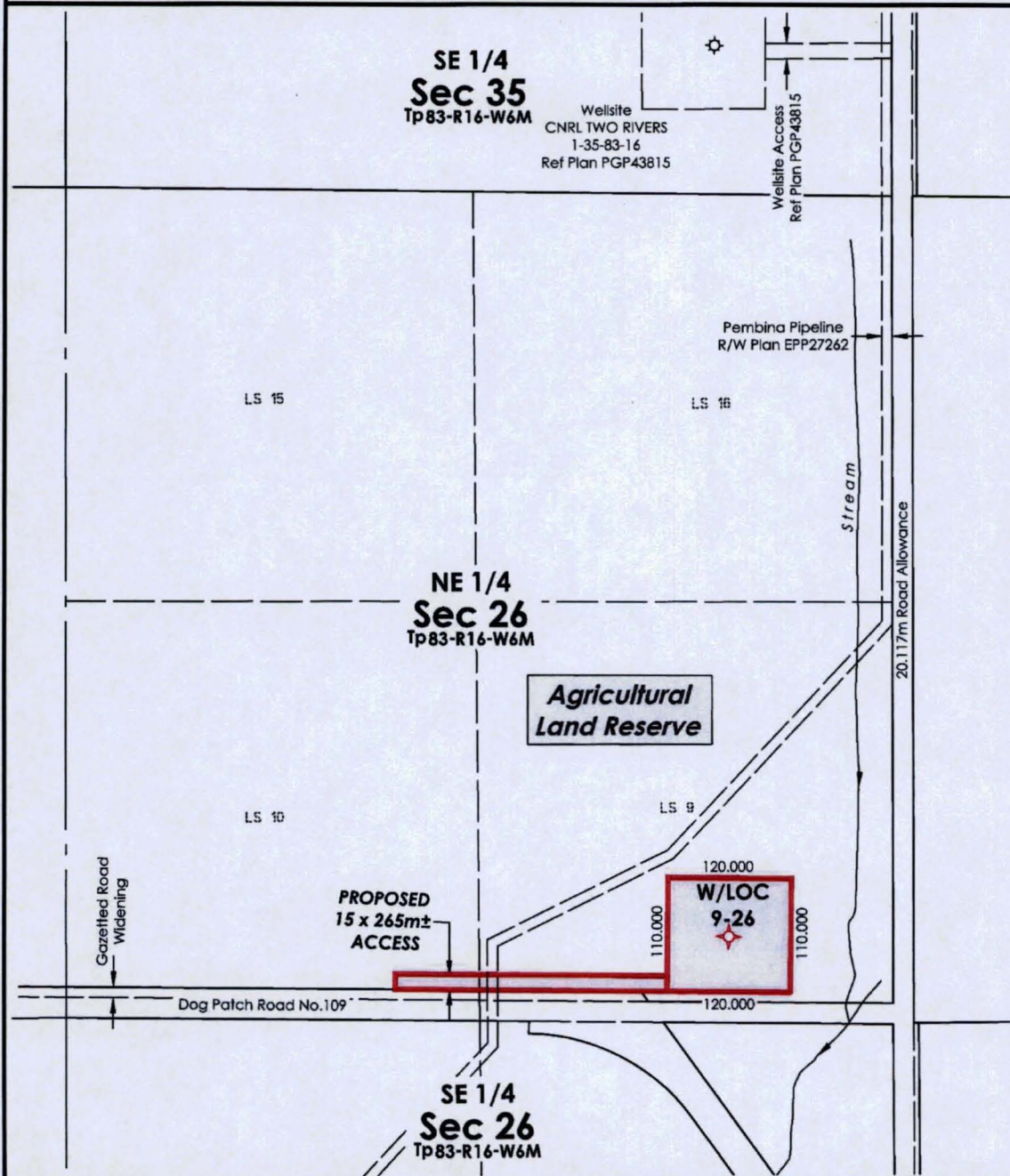
Land File No.:




REVISION

SCHEDULE 'A' ORDER
1858-1

LEUCROTTA EXPLORATION INC.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
WELLSITE AND ACCESS IN
NE 1/4 SEC 26, TP 83, R 16, W6M
PEACE RIVER DISTRICT

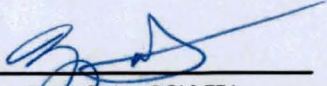


TITLE No.: E6137 **P.I.D. No.:** 010-806-288
OWNER(S): Fernand Charles Mertens

LEGEND
 SCALE = 1 : 5,000
 Portions referred to: 
 Notes: Distances shown are in metres.
 Certified correct this
 22nd day of March, 2016.


AREA REQUIRED:

Wellsite	1.32 ha	3.26 ac
Access	0.40 ha	0.99 ac
TOTAL:	1.72 ha	4.25 ac


 Bryan Bates, BCLS 776

NO	DATE	REVISION	DRN	CKD
0	16/03/22	Original plan issued	DL	WC

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 www.canam.com Fax: 250.787.2323

CAN-AM FILE: B20160133	
CAD FILE: B20160133IOP-0	
Client File No.:	
AFE No.:	
Land File No.:	

File No. 1958
Board Order No. 1958-1amd

November 23, 2017

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST 1/4 OF SECTION 9 TOWNSHIP 79 RANGE 14 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT, EXCEPT PLAN H782
(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Clarence Ernest Veiner and Dorothy Maxine Veiner

(RESPONDENTS)

BOARD ORDER

This Order amends and replaces Board Order 1958-1 previously issued in this matter.

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Clarence Ernest Veiner and Dorothy Maxine Veiner to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flowlines and associated infrastructure.

ARC informed the Board that the Oil and Gas Commission has issued an amendment to permit 100102516 dated November 21, 2017, revising the routing for ARC's project. ARC says the parties have discussed this amendment and agree to the revised right of entry.

As the Oil and Gas Commission has issued an amended permit and the parties are in agreement with the amendment, by consent the Board issues the following amended right of entry order.

The Surface Rights Board orders:

ORDER

1. Upon payment of the amounts set out in paragraphs 2 and 3, ARC shall have the right of entry to and access across the portion of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" for the purpose of constructing, operating and maintaining flowlines and associated infrastructure.
2. ARC shall pay to the landowner as partial compensation the total amount of \$5,000.
3. ARC shall deliver to the Surface Rights Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to ARC, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

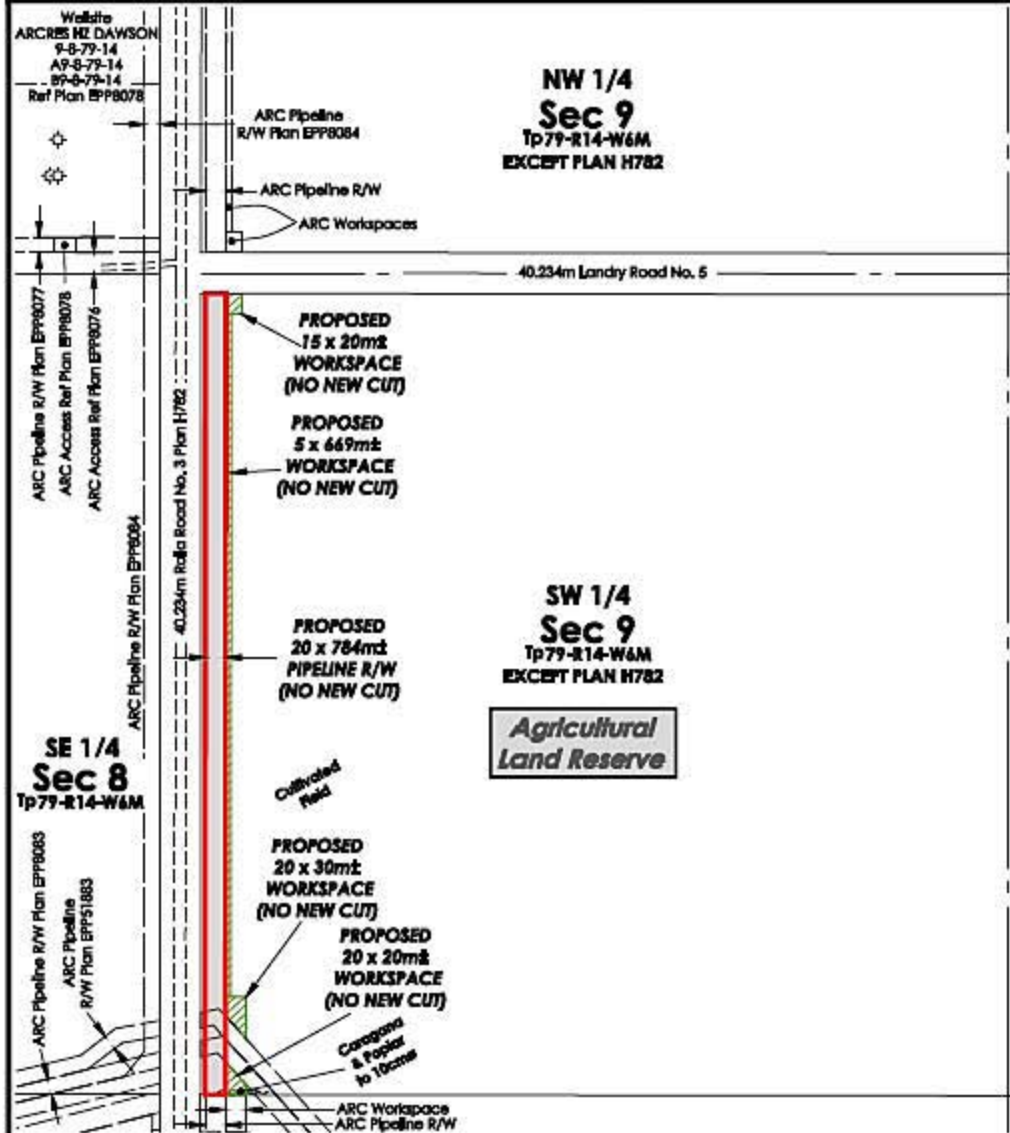
DATED: November 23, 2017

FOR THE BOARD





Rob Fraser, Mediator

**ARC RESOURCES LTD.
INDIVIDUAL OWNERSHIP PLAN
SHOWING PROPOSED
20m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 9, Tp 79, R 14, W6M
EXCEPT PLAN H782
PEACE RIVER DISTRICT**



TITLE No.: PK47335 **P.L.D. No.:** 007-571-976
OWNER(S): Clarence Ernest Veiner
 Dorothy Maxine Veiner

NOTES
 SCALE = 1: 5,000
 Distances shown are in metres.
 Permanent Portions referred to: 
 Temporary Portions referred to: 
 Certified correct this
 10th day of October, 2017
 Andrew
 McFarlane 3SJ5PF
 Andrew W.J. McFarlane, BCIS 874

AREA REQUIRED:

	20m Pipeline R/W	1.57 ha	3.88 ac
	Workspaces	0.47 ha	1.16 ac
	TOTAL:	2.04 ha	5.04 ac

NO.	DATE	REVISION	DRN	CKD
0	17/03/09	Original plan issued	MC/J	WC
1	17/10/10	Pipeline route changed	GJP	AM

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 www.canam.com Toll Free: 1.844.268.0960

CAN-AM FILE: 20163558
 CAD FILE: 20163558OPS_1
 Client File No.: E12424
 ARI No.: 16PPL0161
 Land File No.: 

File No. 2030
Board Order No. 2030-1

November 26, 2018

SURFACE RIGHTS BOARD

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

PARCEL B (20872M) OF THE NORTH WEST $\frac{1}{4}$ OF SECTION 20 TOWNSHIP
80 RANGE 13 WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

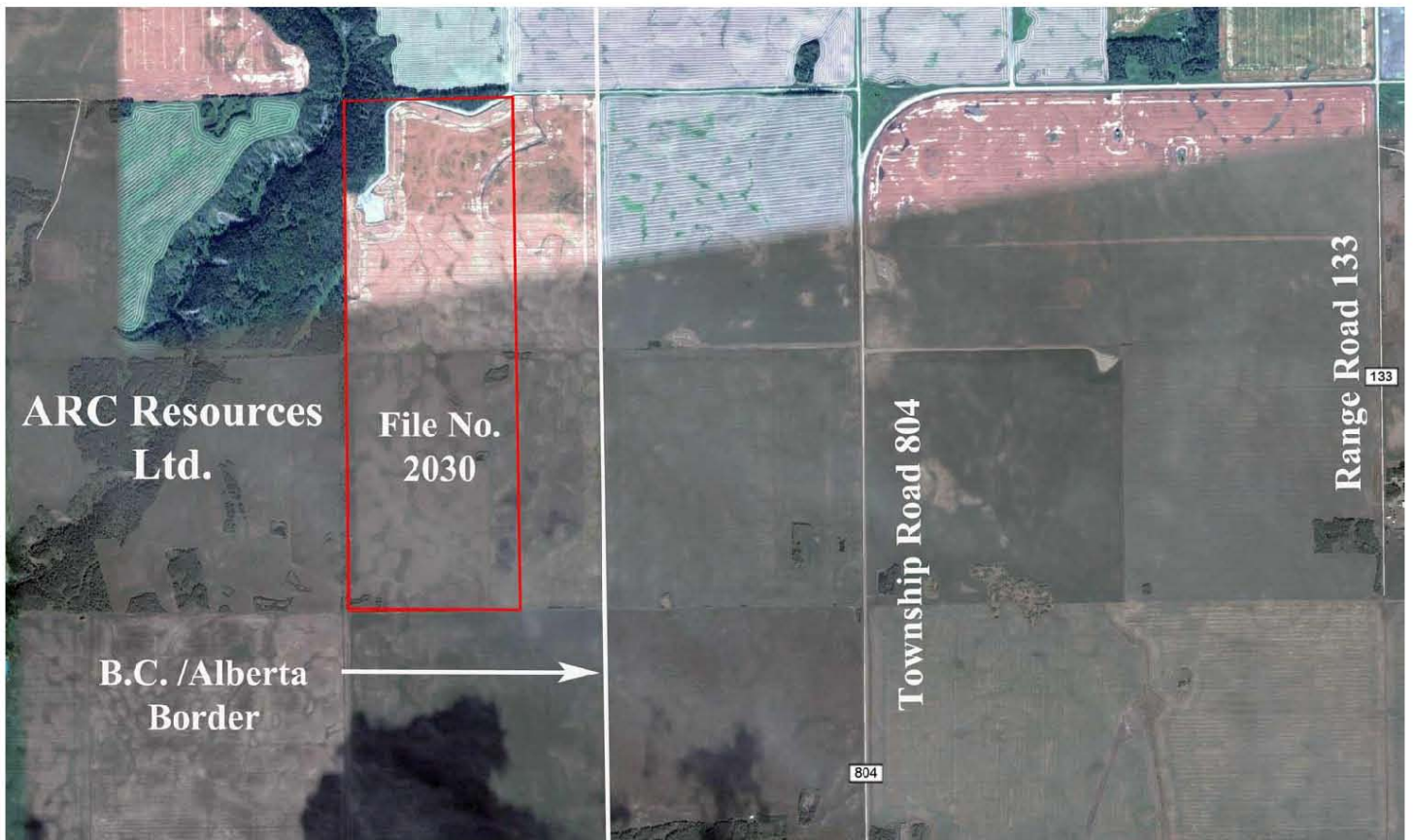
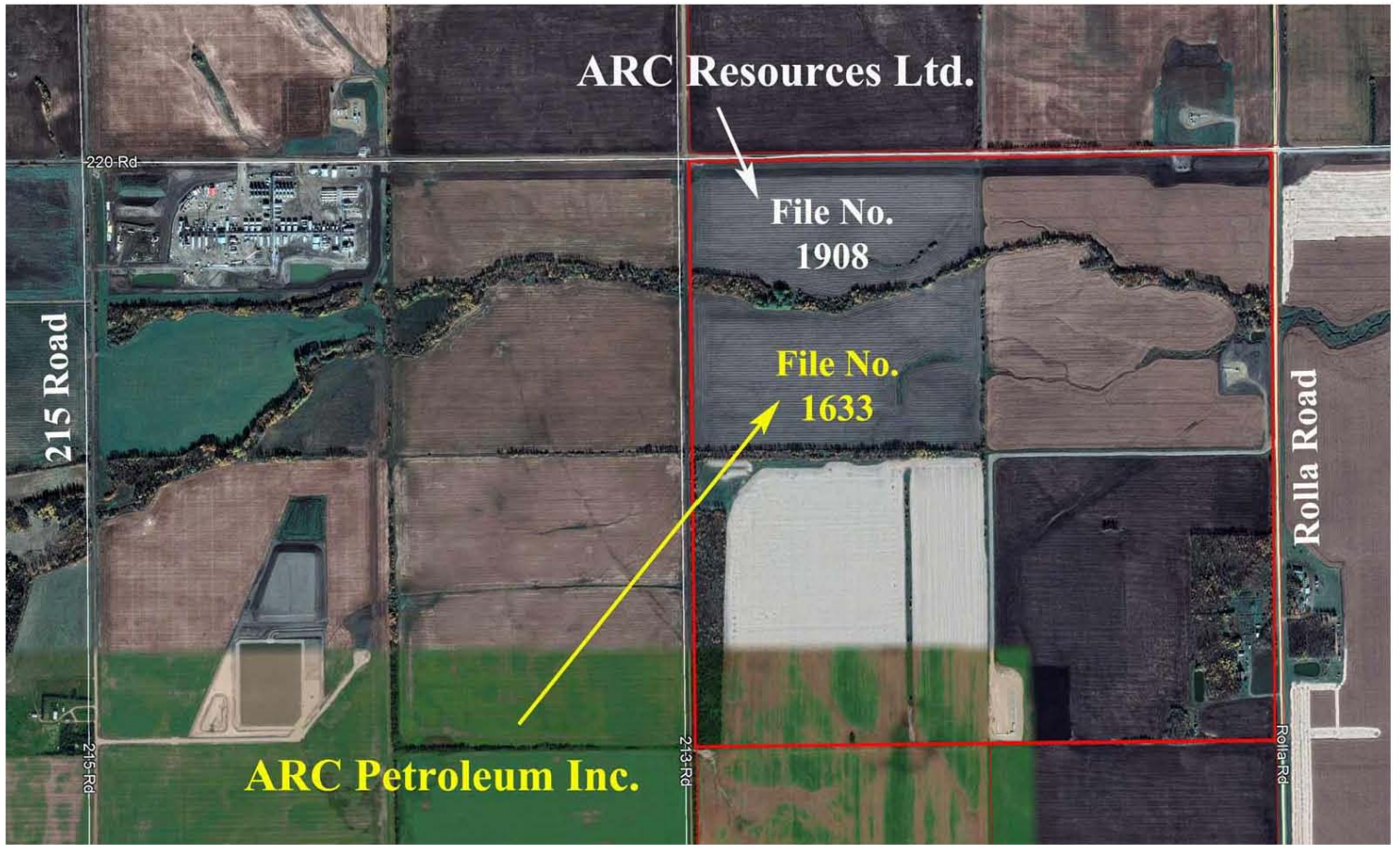
(APPLICANT)

AND:

Mary Kathleen Miller, as Executrix of the Estate
of John Irving Miller

(RESPONDENT)

BOARD ORDER



ARC Resources Ltd. (“ARC”) seeks a consent right of entry order for continued access to certain lands legally owned by John Irving Miller (the “Lands”).

On September 24, 1997, Star Oil & Gas Ltd. entered into a Surface Lease Agreement with the landowner, John Irving Miller, (the “Lease”) to access the Lands for the purpose of carrying out approved oil and gas activity, namely the drilling and operation of a single well or substitute well and associated infrastructure. The Lease was not registered on title to the Lands.

The oil and gas activities within the leased area were approved on October 22, 1997 (W.A. #10707) and July 28, 2000 (OGC File 9604750).

On April 16, 2003, the Lease was assigned to the Applicant, ARC.

In order to address continued access to the leased area and compensation, ARC has reached an agreement with the landowner care of Mary Kathleen Miller, the Executrix of the Estate of John Irving Miller, for compensation and right of entry to replace the Lease.

Accordingly, the Surface Rights Board orders, BY CONSENT:

ORDER

1. Upon payment of the amounts set out in paragraph 2, ARC shall continue to have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix “A” as necessary for the purpose of operating and maintaining a well, riser, and access road in accordance with W.A. #10707 dated October 22, 1997 and OGC approval dated July 28, 2000 (OGC File 9604750).
2. ARC shall pay the following compensation to the landowner care of Mary Kathleen Miller, the Executrix of the Estate of John Irving Miller, with respect to the well, riser and access road:
 - a. a total amount of \$9,500 for initial compensation; and
 - b. a total amount of \$7,000 in annual rent, effective September 24, 2015.
3. The Lease dated September 24, 1997 between Star Oil & Gas Ltd. and John Irving Miller shall be terminated effective as of the date of this Order, pursuant to s. 167(1) and (7) of the *Petroleum and Natural Gas Act*.

4. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

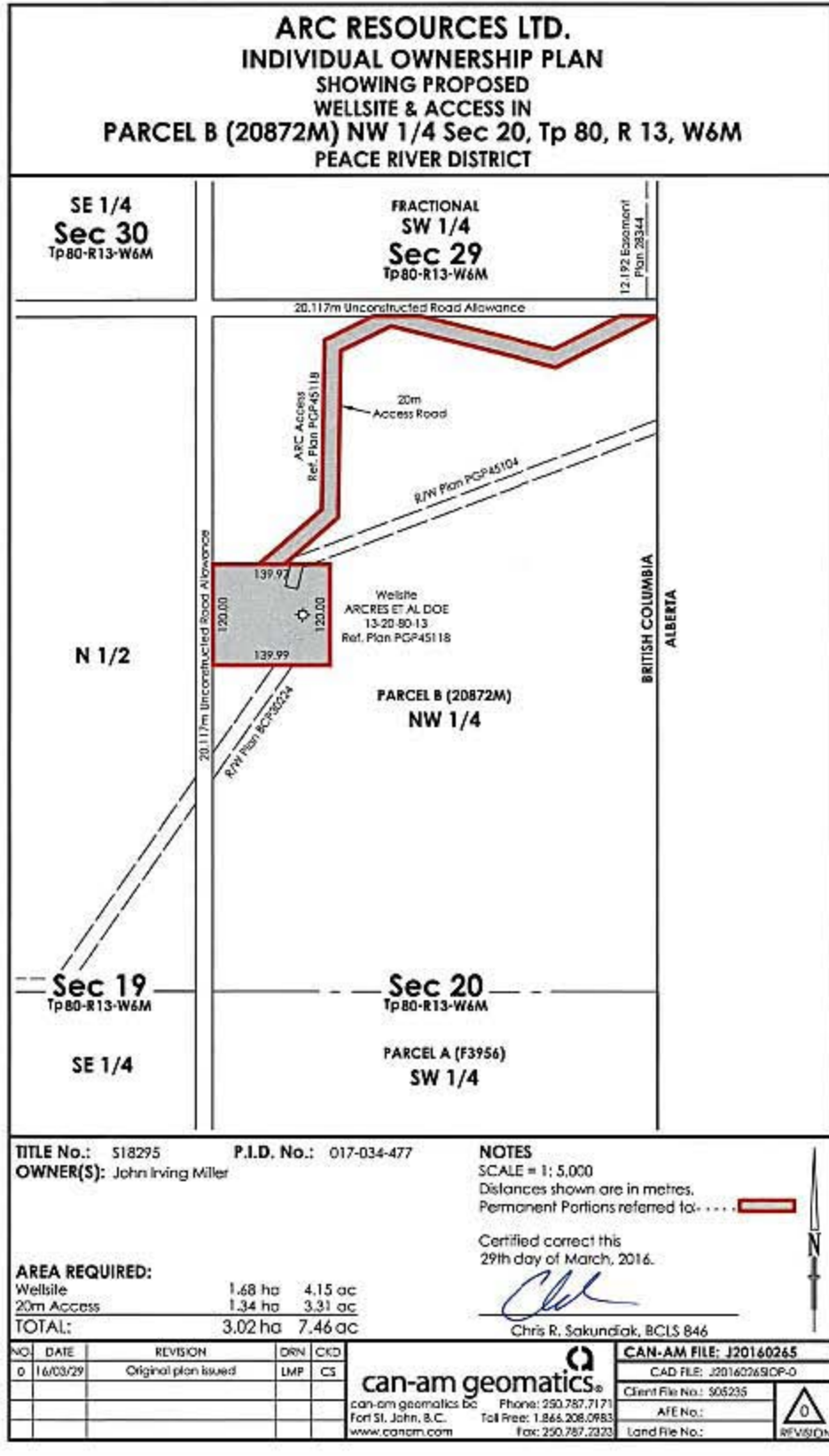
DATED: November 26, 2018

FOR THE BOARD



Cheryl Vickers, Chair

APPENDIX A"



April 5, 2019

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST 1/4 OF SECTION 15 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

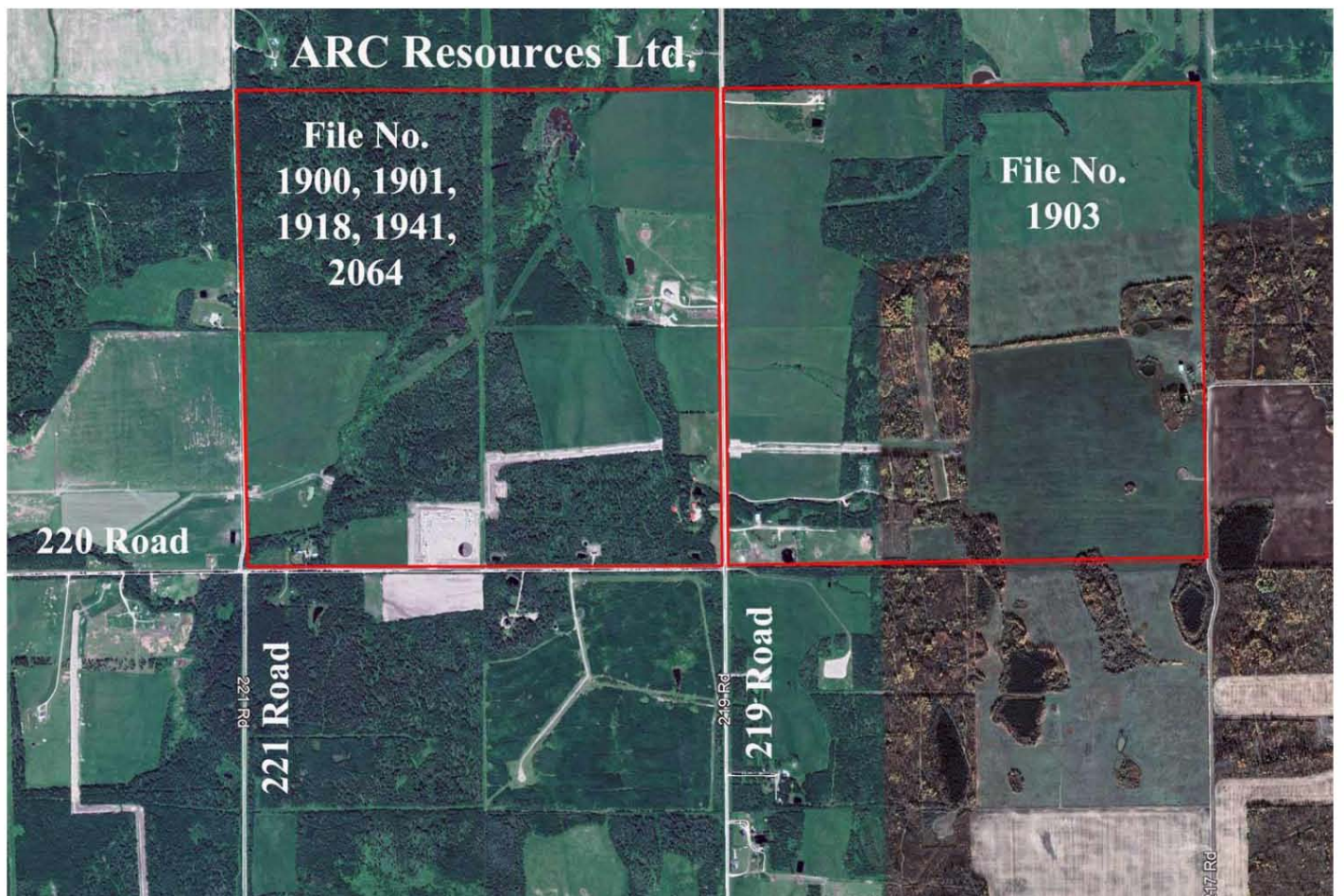
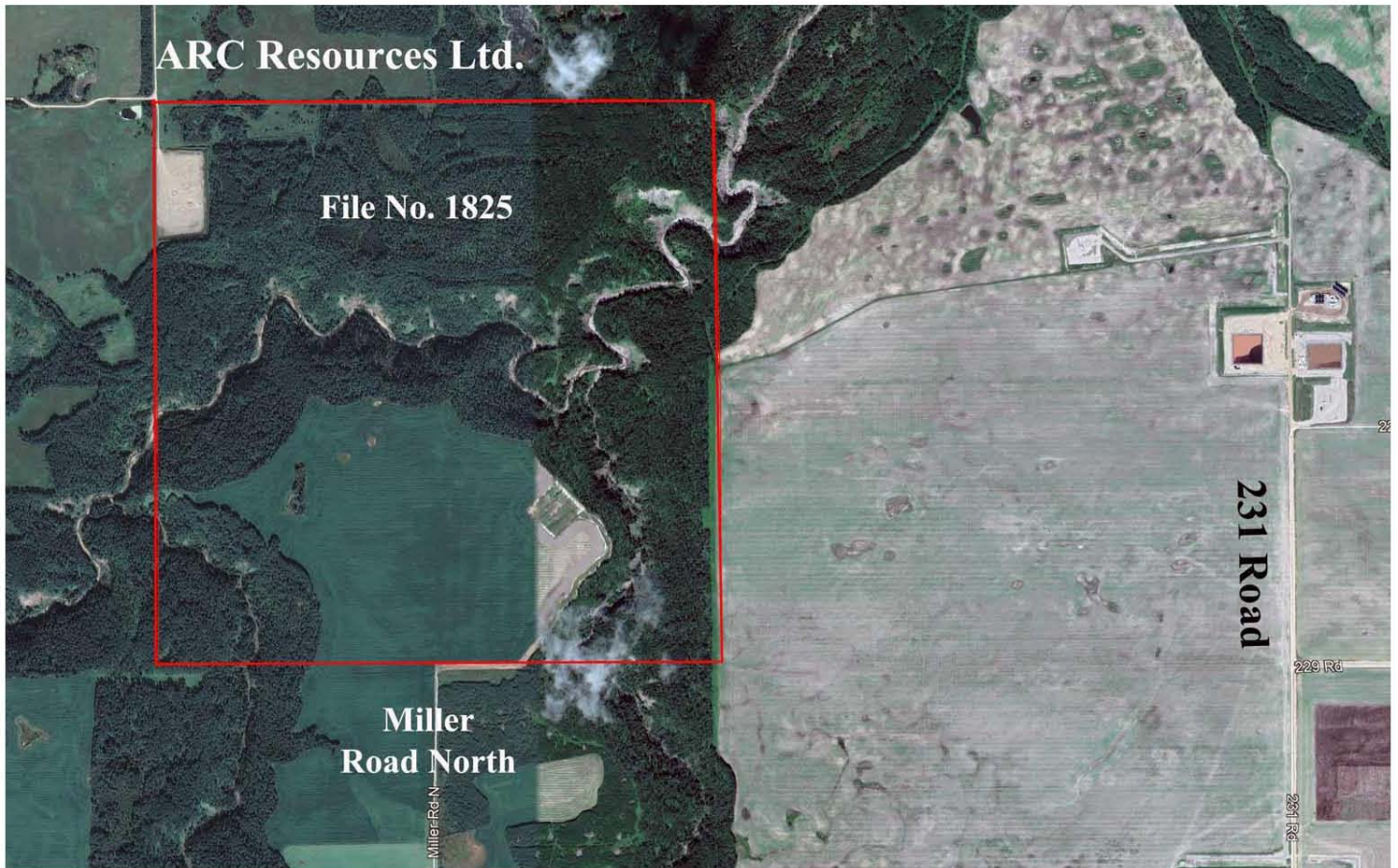
(APPLICANT)

AND:

Keith Allan Hankins and Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER



ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands").

By Board Order Nos. 1900-1901-1 (July 8, 2016), 1900-1901-1-1918-1amd (November 4, 2016) and 1941-1 (May 30, 2017), the Board earlier granted ARC a right of entry to the Lands in respect of a pipeline (SRB 1900), a padsite (SRB 1901 and 1918) and eight natural gas wells (SRB 1941) on the Lands. ARC now requires access to the Lands to construct and operate an additional eight natural gas wells and associated infrastructure on the existing padsite, and the parties have reached an agreement on the terms and conditions of access.

On January 19, 2018, the Oil and Gas Commission (the "OGC") issued a permit for Well Authorization Nos. 35410, 35411, 35412, 35413, 35414, 35415 and 35416 (OGC Permit No. 100104490).

The parties have reached an agreement with respect to access and compensation for the additional wells and have asked the Board to issue a Consent Order.

BY CONSENT the Surface Rights Board orders:

1. Upon payment of the amount set out in paragraph 2, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, drilling, completing and operating natural gas wells and associated infrastructure under OGC Permit No. 100102047.
2. ARC shall pay the following compensation to the landowners:
 - a. a total amount of \$2,000 in respect of initial compensation for each additional natural gas well; and
 - b. a total amount of \$500 in annual compensation for each additional natural gas well.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

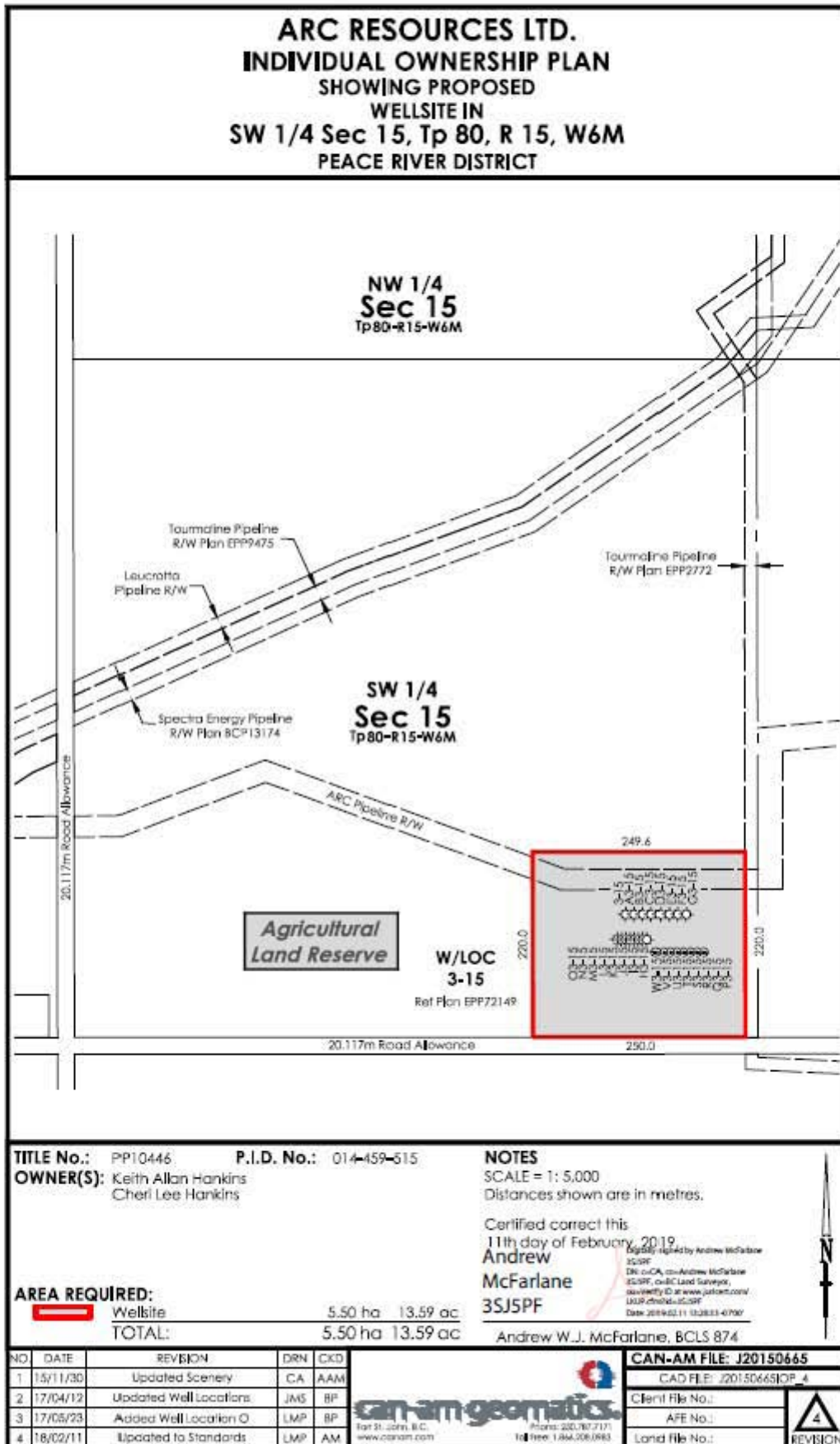
DATED: April 5, 2019

FOR THE BOARD



Cheryl Vickers, Chair

Appendix "A"



**File No. 2064
Board Order No. 2064-1amd
April 15, 2019**

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF

THE SOUTH WEST 1/4 OF SECTION 15 TOWNSHIP 80 RANGE 15
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

ARC Resources Ltd.

(APPLICANT)

AND:

Keith Allan Hankins and Cheri Lee Hankins

(RESPONDENTS)

BOARD ORDER

This order amends by consent and replaces Order 2064-1.

ARC Resources Ltd. ("ARC") seeks a right of entry order to access certain lands legally owned by Keith Allan Hankins and Cheri Lee Hankins (the "Lands").

By Board Order Nos. 1900-1901-1 (July 8, 2016), 1900-1901-1-1918-1amd (November 4, 2016) and 1941-1 (May 30, 2017), the Board earlier granted ARC a right of entry to the Lands in respect of a pipeline (SRB 1900), a padsite (SRB 1901 and 1918) and eight natural gas wells (SRB 1941) on the Lands. ARC now requires access to the Lands to construct and operate an additional eight natural gas wells and associated infrastructure on the existing padsite, and the parties have reached an agreement on the terms and conditions of access.

On January 19, 2018, the Oil and Gas Commission (the "OGC") issued a permit for Well Authorization Nos. 35410, 35411, 35412, 35413, 35414, 35415 and 35416 (OGC Permit No. 100104490).

On April 9, 2019, the OGC issued a permit for Well Authorization No. 38551 (OGC Permit No. 100107742).

The parties have reached an agreement with respect to access and compensation for the additional wells and have asked the Board to issue a Consent Order.

BY CONSENT, the Surface Rights Board orders:

1. Upon payment of the amounts set out in paragraph 2, ARC shall have the right to enter and access the portions of the Lands shown outlined in red on the Individual Ownership Plan attached as Appendix "A" as necessary for the purpose of constructing, drilling, completing and operating natural gas wells and associated infrastructure under OGC Permit No. 100104490 and 100107742.
2. ARC shall pay the following compensation to the landowners:
 - a. a total amount of \$2,000 in respect of initial compensation for each additional natural gas well; and
 - b. a total amount of \$500 in annual compensation for each additional natural gas well.
3. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.

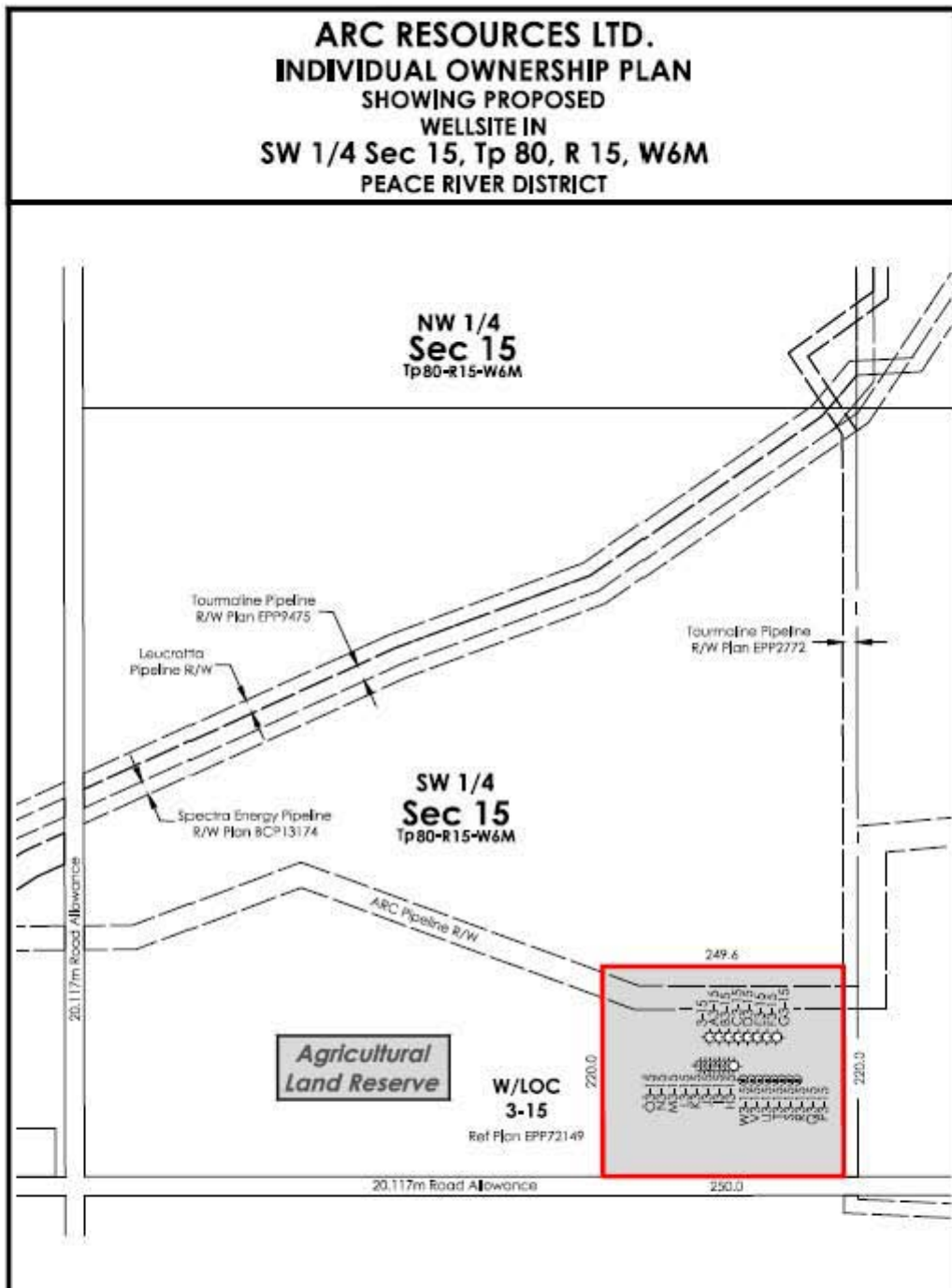
DATED: April 15, 2019

FOR THE BOARD



Cheryl Vickers, Chair

Appendix "A"



TITLE No.: PP10446 **P.I.D. No.:** 014-459-515
OWNER(S): Keith Allan Hankins
 Cheri Lee Hankins

NOTES
 SCALE = 1: 5,000
 Distances shown are in metres.

Certified correct this
 11th day of February, 2019
Andrew
McFarlane
 3SJ5PF
 Andrew W.J. McFarlane, BCLS 874

AREA REQUIRED:
 Wellsite 5.50 ha 13.59 ac
TOTAL: 5.50 ha 13.59 ac

NO	DATE	REVISION	DRN	CKD
1	15/11/30	Updated Scenery	CA	AAM
2	17/04/12	Updated Well Locations	JMS	BP
3	17/05/23	Added Well Location O	LMP	BP
4	18/02/11	Updated to Standards	LMP	AM

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CAN-AM FILE: J20150665
 CAD FILE: J20150665ICP_4
 Client File No.:
 AFE No.:
 Land File No.:
 REVISION