

**File No. 1230
Board Order # 207A-amd**

January 10, 2012

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 WEST ½ OF SECTION 36 TOWNSHIP 85 RANGE 20 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

Progress Energy Ltd.

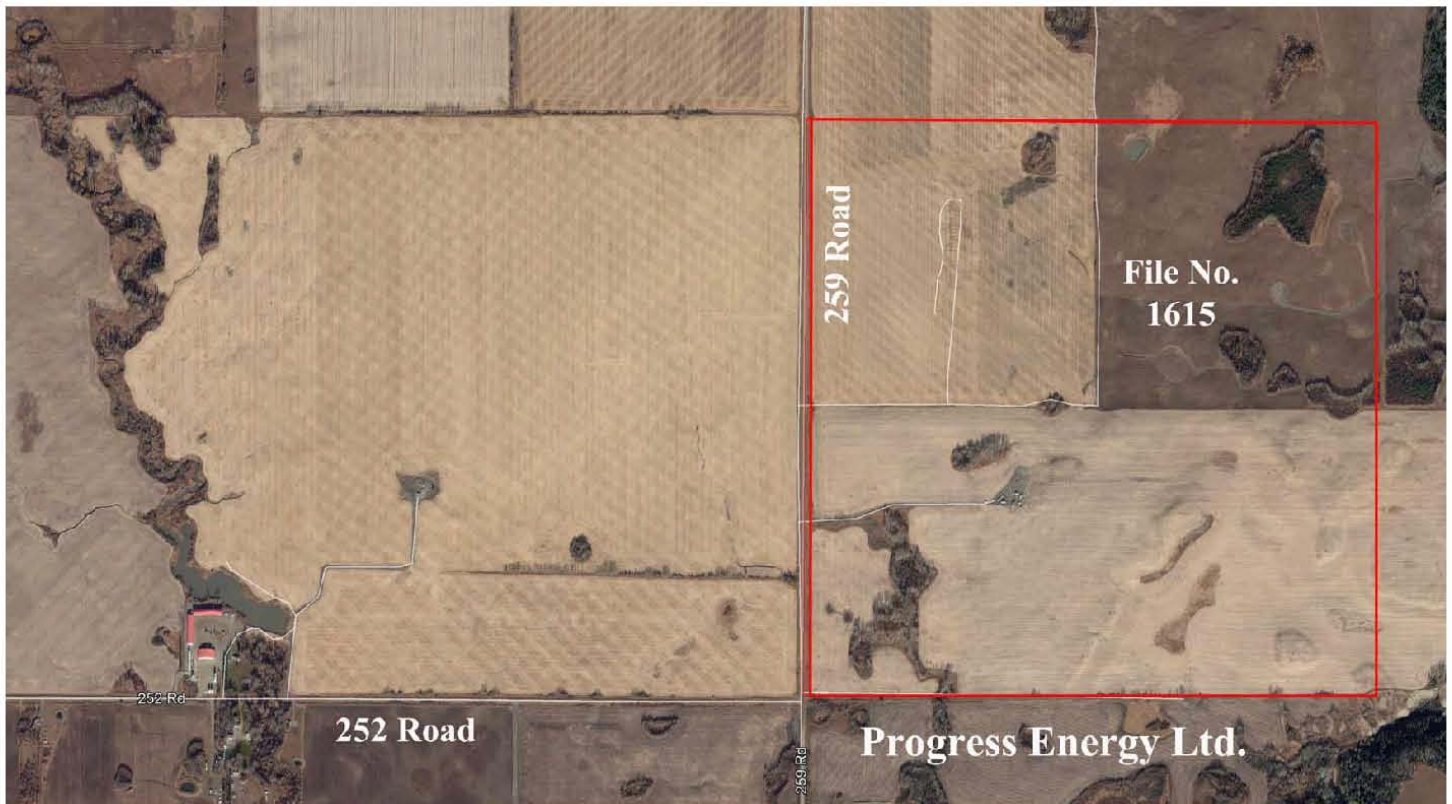
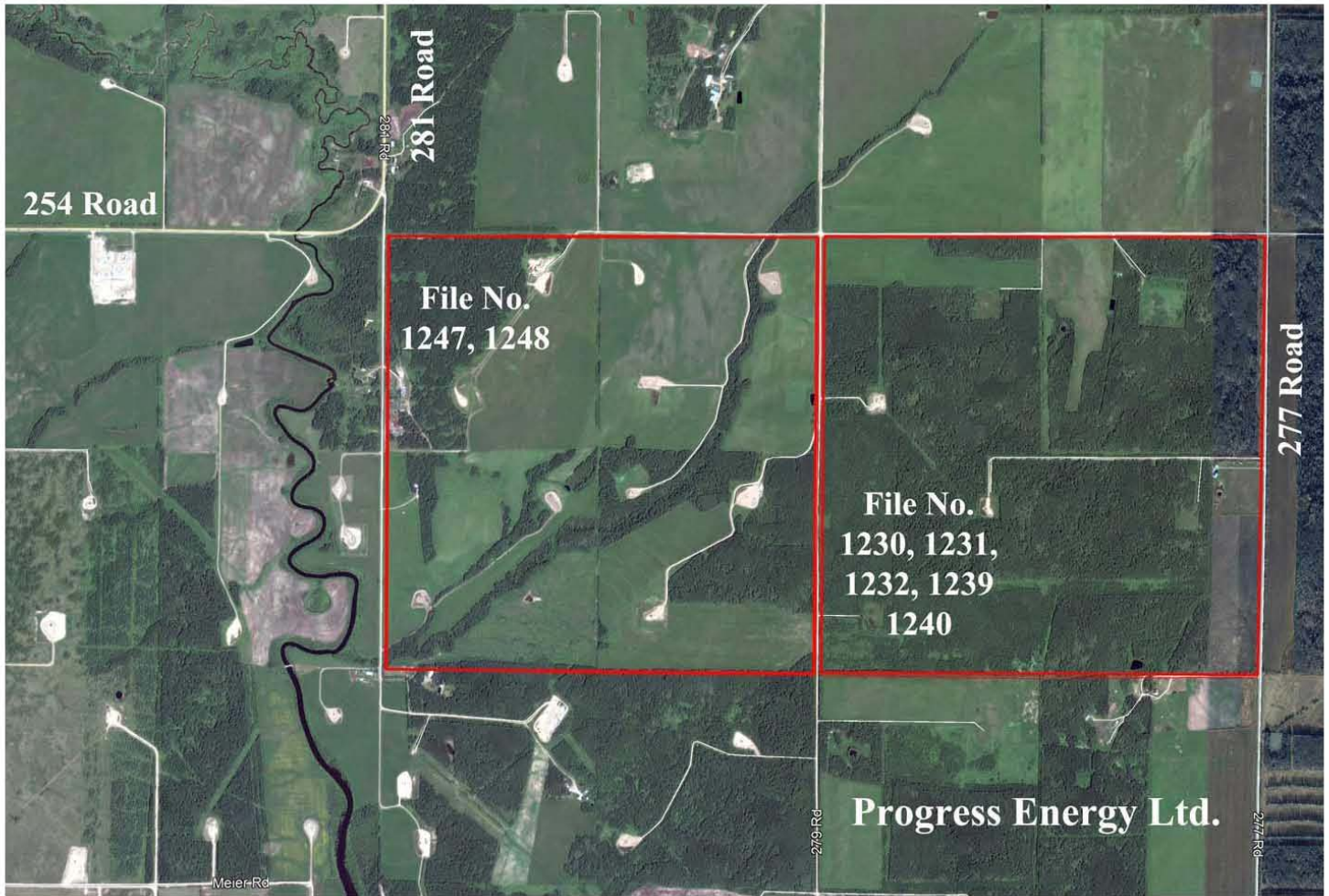
(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER



By Order dated October 11, 1985, (attached to this Order as Appendix "A"), the Mediation and Arbitration Board (now the Surface Rights Board) granted Husky Oil Operations Ltd. right of entry to the Lands to construct and operate a wellsite and for access thereto, and by Order dated April 16, 1987 (attached to this Order as Appendix "B"), the Board confirmed the right of entry and determined the compensation payable. Husky Oil Operations Ltd. constructed the wellsite and on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Husky Oil Operations Ltd. The wellsite on the Lands is currently operated by Progress Energy Ltd. The Lands are currently owned by Paul Bryan Cowger.

The Surface Rights Board orders as follows:

1. Orders 207M and 207A are amended to change Husky Oil Operations Ltd. to Progress Energy Ltd. and to delete Francis Joseph Cowger as a Respondent.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "C" for the purpose of operating a wellsite and for access thereto as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated January 10, 2012

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 207A and

File No. 1230

Board Order No. 207M

FRIDAY, THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOURTEEN (14), WEST 1/2 OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE 6th MERIDIAN (W6M), PEACE RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.
and
PAUL BRYAN COWGER
P.O. BOX 39,
MONTNEY, B.C.

RESPONDENTS

This is an application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of the Petroleum and Natural Gas Act, 1979, for an order of the Mediator under Section 19 of "The Act".

The Applicant having applied for an Order permitting it to enter part of the above described land for the purpose of constructing a wellsite and access thereto and the Mediator having inspected the above described land.

And whereas the Respondents have verbally agreed to Entry by way of a Board Order.

And whereas it appears that issues inhibiting an immediate completion of a Lease Agreement satisfactory to both parties are not resolved and the Mediator being of the opinion that the Applicant's request for Right of Entry, should be granted forthwith.

IT IS HEREBY ORDERED THAT:

1. Further Mediation on the matter be adjourned sine die.
2. The Applicant deposit with the Board a security deposit in the amount of \$500 payable to the Minister of Finance, Province of British Columbia
3. (1) The Applicant pay the Respondents a sum of two thousand, five hundred dollars (\$2500.00) by causing a cheque in that amount to be forwarded by Registered Mail to Francis J. Cowger and Paul B. Cowger, c/o Paul B. Cowger P.O. Box 39, Montney, B.C., which cheque will be accompanied by a copy of this Order or,

(11) By delivering the aforesaid cheque together with a copy of this Order to the Respondent, Paul B. Cowger
4. The Applicant further notify the Respondents and all other interested persons of this Order by causing its servants or agents when entering upon the property herein before described, to have with them and to produce upon request of any person thereon a True Copy of this Order.
5. Following completion of 2,3 and 4, the Applicant shall be permitted to enter that area outlined in red on the Plan of Survey attached hereto as Schedule "A" for the purposes of exploring for, developing or producing Petroleum and Natural Gas or for any purpose connected with or incidental to that purpose.

Dated at the City of Fort St. John, Province of British Columbia, this 11th day of October, A.D. 1985.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

CERTIFIED TRUE COPY

DATE

[Signature]

October 15, 1985

[Signature]

MEDIATOR

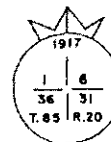
TP 86

RGE. 20

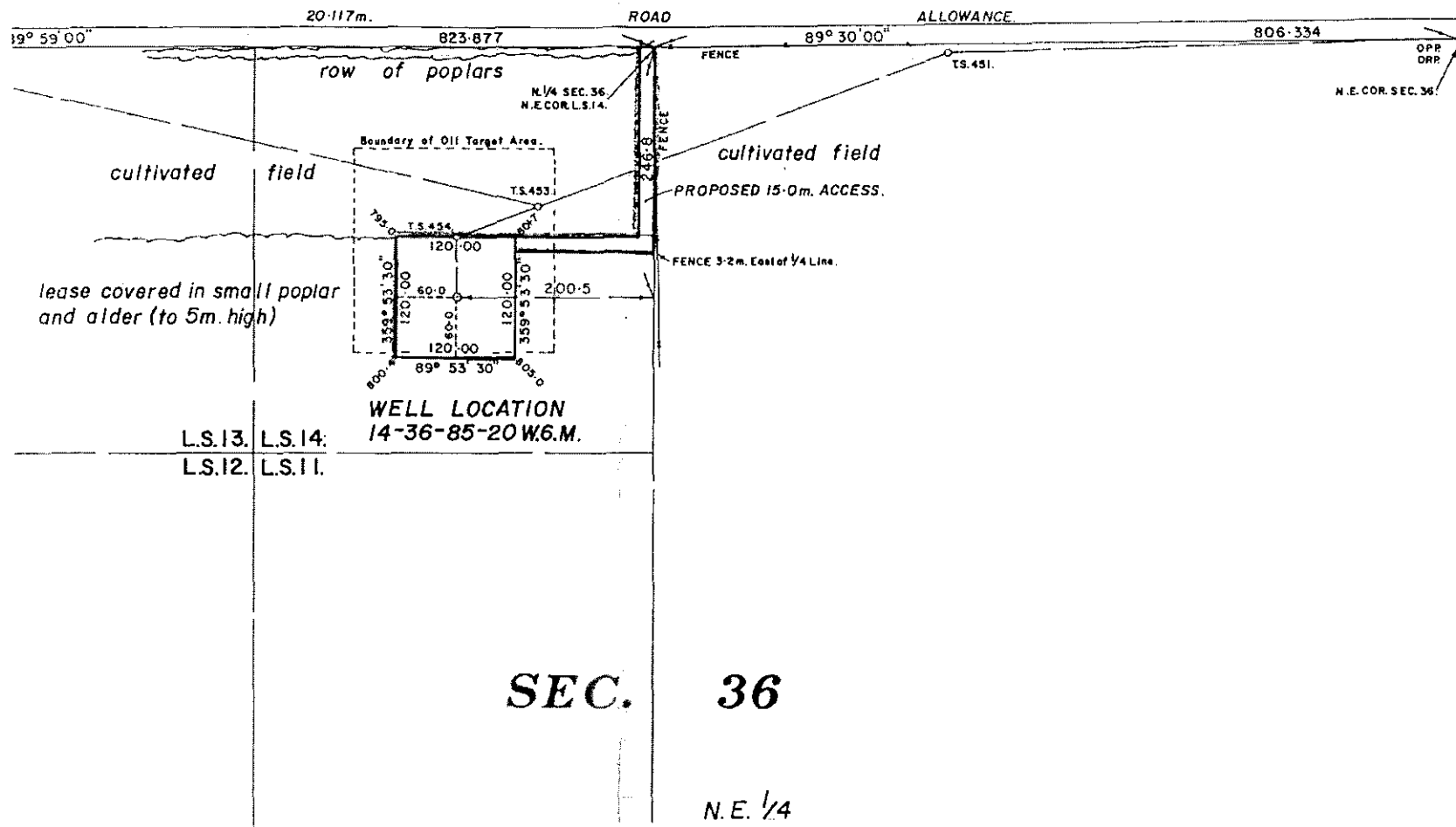
W. 6. M.

SEC.

1.



FINAL



NOTES:

Bearings are Astronomical and are referred to the North Boundary of Section 36, Range 20, West 6. M.

All dimensions are in decimals thereof.

All open traverse legs were independently for direct

LEGEND:

- TS. Traverse
- IP Standard I
- PP Standard P
- CIP Capped I
- PCON Standard C
- PROCK Station F
- W. Loc. Well Location
- ✱ Producing Well
- ◆ PDLS Old Pattern
- Mon. Boundary Monument
- △ Trig. Triangulation Station
- Old
- Sta. Station
- B.T. Bearing Triangulation
- R.P. Reference Point
- P & M. Pits & Monuments
- SP Shot Point

TOTAL CO-ORDINATES

OFFSETS OF W. LOC. 1.

FRIDAY, THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOURTEEN (14), WEST 1/2 OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE 6th MERIDIAN (W6M), PEACE RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH CONGER
P.O. BOX 13
NORTH PINE, B.C.
and
PAUL BRYAN CONGER
P.O. BOX 39,
MONTNEY, B.C.

RESPONDENTS

ORDER

File No. 1230

Board Order No. 207-A

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979 AND AMEND-
MENTS THERETO: (THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. FOURTEEN
(14.), WEST HALF (W½) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

WHEREAS Following an earlier postponement the interested parties were advised that an Arbitration Hearing concerning the Right-of-Entries covered by Board Orders 207-M, 208-M, 209-M dated the 11th day of October A.D. 1985 and 214-M, 215-M dated the 4th day of September A.D. 1985 would be held in the Boardroom, Execuplace, 10142 - 101st Avenue in the City of Fort St. John, British Columbia, commencing at 10:30 a.m.

AND WHEREAS the hearing was convened on the appointed day in the presence of L. Blair Scarratt, Landman representing the Applicant and Mr. and Mrs. P. Cowger representing the Respondents, together with legal counsel Darryl Carter, L.L.B. There were also several other interested parties attending as observers.

AND WHEREAS the Board had reviewed the evidence adduced at the Hearing and the arguments made in support thereof, and in matters where evidence is wanting or inconclusive drawn on its own knowledge and expertise.

AND WHEREAS before setting out the findings in this particular case the Board believes a recital of some of the principles adhered to in determining compensation should be set out for the benefit of the parties hereto, namely.

- 1: The Board recognizes the fact that the Crown Provincial, has issued two separate and distinct bundles of Rights respecting property.
 - a) The surface rights to an owner in fee simple.
 - b) The subsurface rights to a holder of the mineral rights including hydrocarbons.

- 2: The Board accepts the principle referred to by Justice Bouck of the Supreme Court of B.C. in a decision dated Nov. 14, 1979 (Chambers and the Mediation and Arbitration Board and Esso Resources) who observed that the common law provision which granted an implied right to the holder of the (dominate) mineral interest respecting access to the surface of the land has been subjugated to the provisions of the Petroleum and Natural Gas Act. This Act provides a workable method whereby the owner of the mineral (Petroleum and Natural Gas) rights may gain access to explore for the product if entry is not granted or compensation not agreed to by the surface owner, thru a step by step process from application, to mediation, to arbitration and finally to a binding Order.

- 3: The Board concurs with Justice Berger in Dome Petroleum Limited and Mildred E. Juell who observed that entry and occupation is not an Act of Expropriation. No land and no legal interest in the land is taken from the owner.

- 4: The Board also concurs with Justice J.A. Cody who when speaking for the B.C. Court of Appeal in re: Pacific Petroleum Ltd. (1958) stated "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

- 5: The Board accepts Justice Spencer's directive in Scurry Rainbow Oil Limited and C.C. Lamoureux when he stated that the value to be determined (of the land in question) is value to the owner, taking into consideration special value, if any.

- 6: While accepting that value of land is value to the owner, the Board feels weight must be given to Justice Berger's directive in Dome Petroleum and M. Juell when he made clear that placing a value on the land as it were a small parcel is an error and further that the Board is correct in considering the reversionary value thereof.

7: The Board is satisfied that within Section 21, S.S. a-h of the Act there is ample latitude provided for consideration of both objective and subjective areas of compensation in arriving at a final decision.

Mr. Scarratt presented all of the evidence advance on behalf of the Applicant. His offers respecting both first year and annually thereafter were contained in Exhibit #1. He acknowledged co-operation from the land owners in accessing the property and completing the drilling program. According to Mr. Scarratt out of the 12.91 acres required for 3 wellsites only .91 acres of one wellsite was located on improved land. His estimate of value of land was based on what he considered to be fair market value on an enbloc basis. Other headings were assigned a value according to his own best judgement.

Mr. Carter, L.L.B. conducted the direct examination of Mr. and Mrs. P. Cowger, who also appeared on behalf of F.J. Cowger co-owner of the lands involved. The Cowgers placed in evidence a number of surface leases which they had negotiated with other operators as well as several which had been negotiated with adjacent surface owners. A summary prepared by Mrs. Cowger was appended to each lease indicating the first year and annual compensation agreed to on a per acre basis. The Respondents requested compensation equivalent to the sum received from POCO Petroleum for a lease site on L.S.D.#2 of 35-86 which according to them was a site very similar in all respects to the sites occupied by the Applicant.

In summary Mr. Scarratt referred to the fact that all locations were on unimproved land, not affecting the Respondents current family operation. The drilling took place in winter thereby keeping the inconvenience and disturbance to a minimum. The enmass presentation of other negotiated leases without substantiated opinion of the landmen involved should not be given great weight. The compensation contained in the schedules presented by Husky represented a good faith offer by the company.

In summary Mr. Carter suggested Mr. Scarratt's method of determining compensation and the one held by the Cowgers represented two different philosophies. The Applicant placed an over emphasis on fair market value when value to the owner is the important consideration. If an overall pattern of compensation has been established the Board should not depart from that pattern without very good reason.

Mr. Scarratt knew of the agreements the Respondents had negotiated with POCO Petroleum, and further knew they would be relying upon them in the hearing, yet didn't bother to produce any contrary evidence. Mr. Carter suggested including a first year rental in addition to other sums agreed upon was not double compensation as lease agreements provide for a first year rental.

It is the Board's observation after reviewing the transcript and exhibits filed in support thereof that:

- a) Mr. Scarratt's approach to compensation by relating sums to Section 21 of the Act, while in keeping with the method preferred by the Board, contains some deficiencies particularly with regard to value of the land.

- b) The Respondents were successful in negotiating leases with one company, namely POCO Petroleum, which in the Board's opinion appear to be quite generous but in line with leases the same company negotiated with other surface owners in the same general area at or about the same time. The Board is of the opinion that the numbers generated are not supported by demonstrable losses or damages as contemplated by the Act and referred to by Justice J.A. Cody when he said "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

Compulsory Aspect of Entry

The Board concurs with the Applicant's calculation and has therefor set the allowance at \$1,000 for the compulsory aspect of entry, occupation or use.

VALUE OF LAND AND THE OWNER'S LOSS OF A RIGHT OR PROFIT WITH RESPECT

THE LAND

The area granted by Order 207M comprises 4.78 acres of which only 0.91 acres is on improved pasture land. The Board does not accept Mr. Scarratt's calculations based upon a market value of \$93.75 per acre as representative of fair value to the owner. Therefor based upon our knowledge of land values and accepting that value to the owner does not necessarily change in times of depressed markets since this land is not for sale, we have determined that fair value to the owner, after taking into consideration the reversionary value thereof (as the B.C. Court has directed we should do) is \$400 per acre for 0.91 acres and \$250 per acre for 3.87 acres.

The periodic amount is deemed by the Board in the circumstances of this case to be \$666, plus loss of profit (pasture loss) of \$159 which equals \$825 per year.

DAMAGE RESULTING FROM THE ENTRY, OCCUPATION OR USE

Even though most of the land is unimproved there will still be some damage and extra work involved when the land is returned to the Respondents.

The Board considers that \$150 per acre is fair recompense for damage to the land and will be so fixed.

COMPENSATION FOR SEVERANCE

There is little if any severance involved, however the Board concurs with the Applicant's offer of a token amount in the sum of \$100 payable for the first year only.

COMPENSATION FOR NUISANCE AND DISTURBANCE

Compensation for the time lost dealing with the company representatives, consultation with legal counsel and attending the Arbitration Hearing have been agreed to by Applicant and Respondents and will be dealt with under costs.

The Board believes that the Applicant's figure of \$800 for both first year and periodically thereafter, while greater than awarded in most cases involving unimproved land is warranted. Particularly when these wellsites will open up access to unauthorized persons, which in turn will subject the Respondents to added nuisance and disturbance.

The Board therefor concurs with this amount.

OTHER FACTORS

The only other factors that came before the Board were the matter of costs associated with the retention of legal counsel and interest on any balance of compensation payable. There was agreement between the parties on these matters so they will be addressed at the conclusion.

THE BOARD DOES AND HEREBY ORDERS THAT

- (1) The portion of the surface which the Applicant required for the efficient and economical performance of its operation is 4.78 acres (1.93 hectares) and the exact position thereof is delineated and outlined in red on the Plan of Survey attached hereto as Schedule "A".
- (2) The amount of compensation which shall be payable shall be:

| | Amount First Year | Payable Periodically |
|---|----------------------|-------------------------|
| (a) Compulsory aspect of entry, occupation or use | \$1,000.00 | |
| (b) Value of land and the owners loss of a right or profit with respect to the land value of land 0.91 x 400 and 3.87 x 250 | 1,332.00 | 666.00 |
| Loss of profit (pasture) | 159.00 | 159.00 |
| (c) Damage to land 150 x 4.78 | 717.00 | |
| (d) Compensation for severance | 100.00 | |
| (e) Nuisance and disturbance | <u>800.00</u> | <u>800.00</u> |
| | 4,108.00 | 1,625.00 |

The Applicant will pay to the Respondent forthwith the following sums:

| | |
|---------------------------------------|-----------------|
| Compensation awarded for the 1st year | \$4,108.00 |
| Less: Sum paid out under Order 207M | <u>2,500.00</u> |
| Balance of first year compensation | 1,608.00 |
| Periodic compensation for 1986 | <u>1,625.00</u> |
| Total | \$3,233.00 |

The Applicant shall pay to the Respondent annually in advance on the 11th day of October of each year commencing on the 11th day of October A.D. 1987, the sum of \$1,625.00 until such time as this Order be cancelled or amended pursuant to Section 26(2)(b) of the Act, and Amendments thereto.

With a further provision that should the Respondents bring the land adjacent to this access and wellsite into production for hay or other crops prior to the next quinquennial review the Board will consider a written request for a rental review.

Since the Applicant agreed to pay the Respondents interest on any balance due at a rate equal to the average for term deposits for the corresponding time period, it is hereby ordered that interest at the rate of 6 3/4% shall be payable on the balance of first year compensation retroactive to October 11, 1985. On the periodic compensation at the rate of 5 1/4% retroactive to October 11, 1986.

COSTS

While the Board pursuant to Section 27 of the Act, has discretion to award costs and determine by whom they shall be paid, in this matter the Applicant and the Respondents mutually agreed to the following sums:

| | |
|---|---------------|
| 1) Legal fees, including advice, disbursements & presentation | \$2,150.00 |
| 2) Respondents attendance & time | <u>500.00</u> |
| Total: | \$2,650.00 |

There was a further request that these costs be prorated between the five files considered at this Hearing. Therefor the amount applicable to this Right-of-Entry is \$530.00.

Upon payment of the sums aforesaid the Applicant shall be entitled to all rights of an operator to whom the right to enter, occupy or use of land has been granted under the provisions of the Petroleum and Natural Gas Act, 1979, and Amendments thereto, upon the lands hereinbefore described.

Dated at the City of Fort St. John, Province of British Columbia this 16th day of April A.D. 1987.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

CERTIFIED TRUE COPY

[Signature]
DATE April 24 - 1987

[Signature]
CHAIRMAN

[Signature]
MEMBER

[Signature]
MEMBER

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF
BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. FOURTEEN
(14), WEST HALF (W1) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST
OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

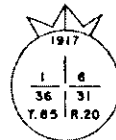
PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

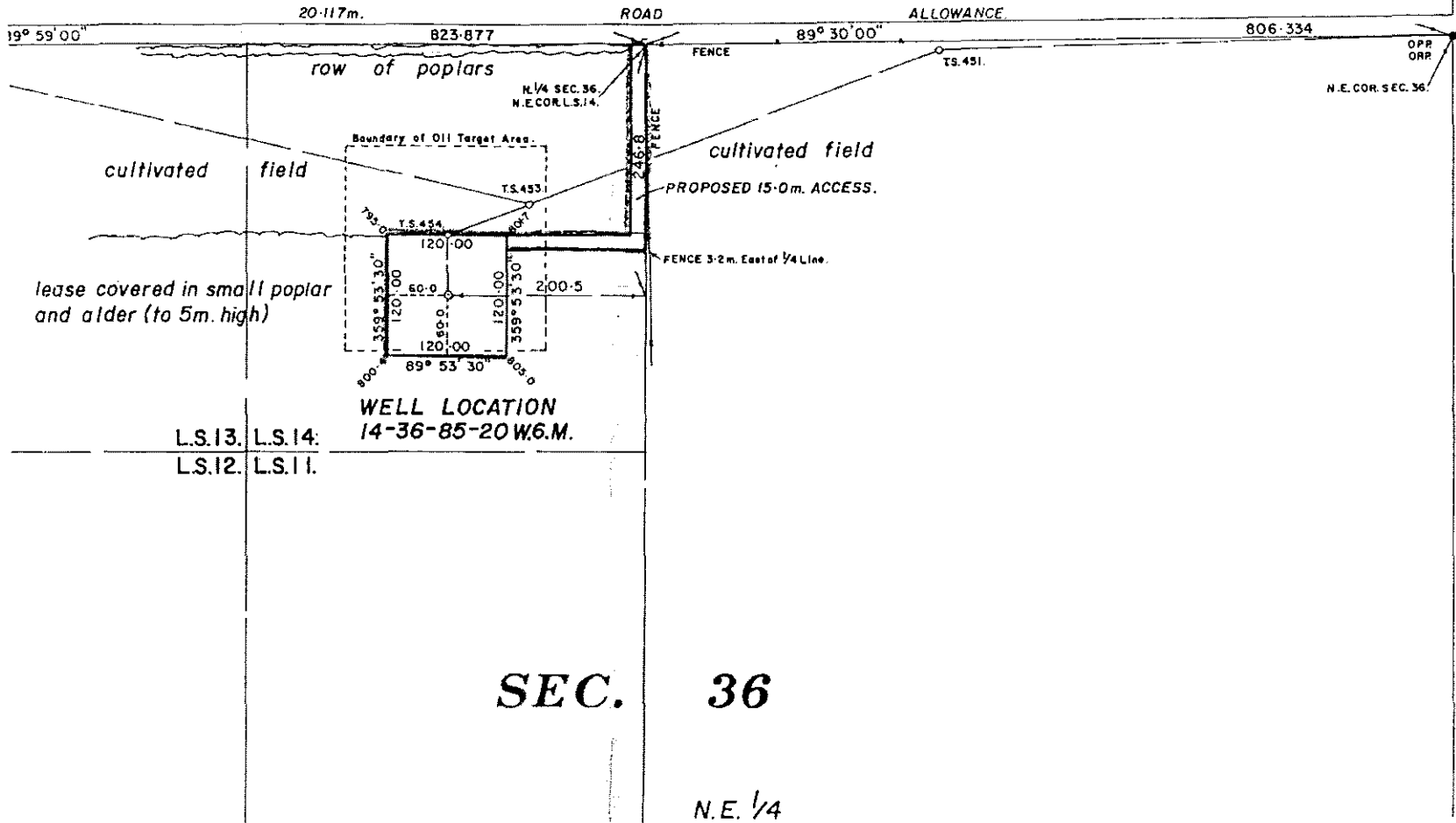
ORDER

TP 86 , RGE. 20 , W. 6. M.

SEC. 1.



FINAL



NOTES:

Bearings are Astronomical and are referred to the North Boundary of Section 1, Township 85, Range 20, West 6. Meridian.

All dimensions are in decimals thereof.

All open traverse legs were independently for direct

LEGEND:

- TS Traverse
- IP Standard I
- PP Standard I
- CIP Capped I
- PCON Standard C
- PROCK Star F
- W. Loc. Well Location
- ⊛ Producing Well
- ◆ PDLS Old Pattern
- Mon. Boundary I
- △ Trig. Triangulation
- Old
- Sta. Station
- B.T. Bearing Triangulation
- R.P. Reference Point
- P. & M. Pits & Monuments
- S.P. Shot Point

TOTAL CO-ORDINATES

OFFSETS OF W. LOC. I

APPENDIX "C" 207A and

SEC. 36

N.E. 1/4

**File No. 1231
Board Order # 208A-amd**

January 10, 2012

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 WEST ½ OF SECTION 36 TOWNSHIP 85 RANGE 20 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

Progress Energy Ltd.

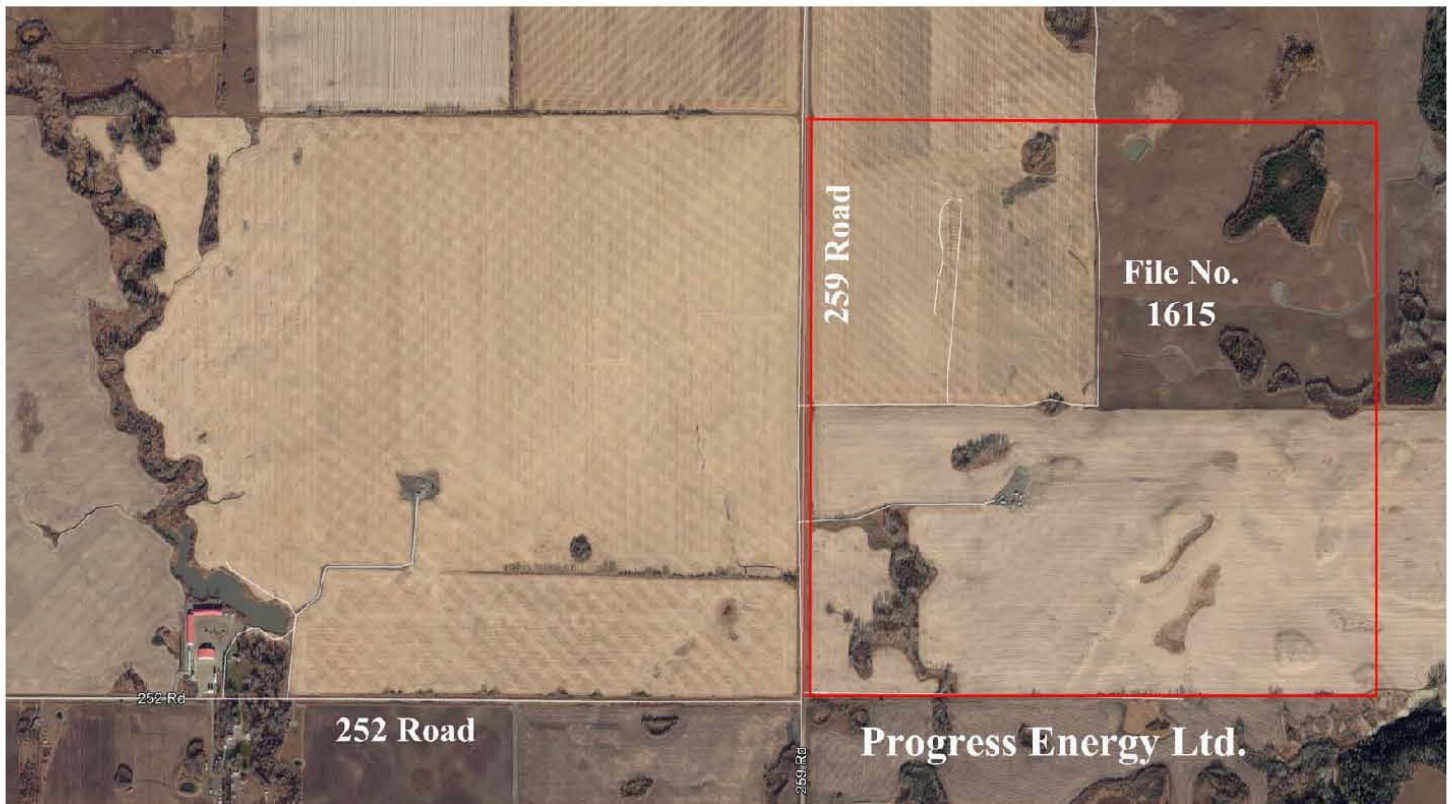
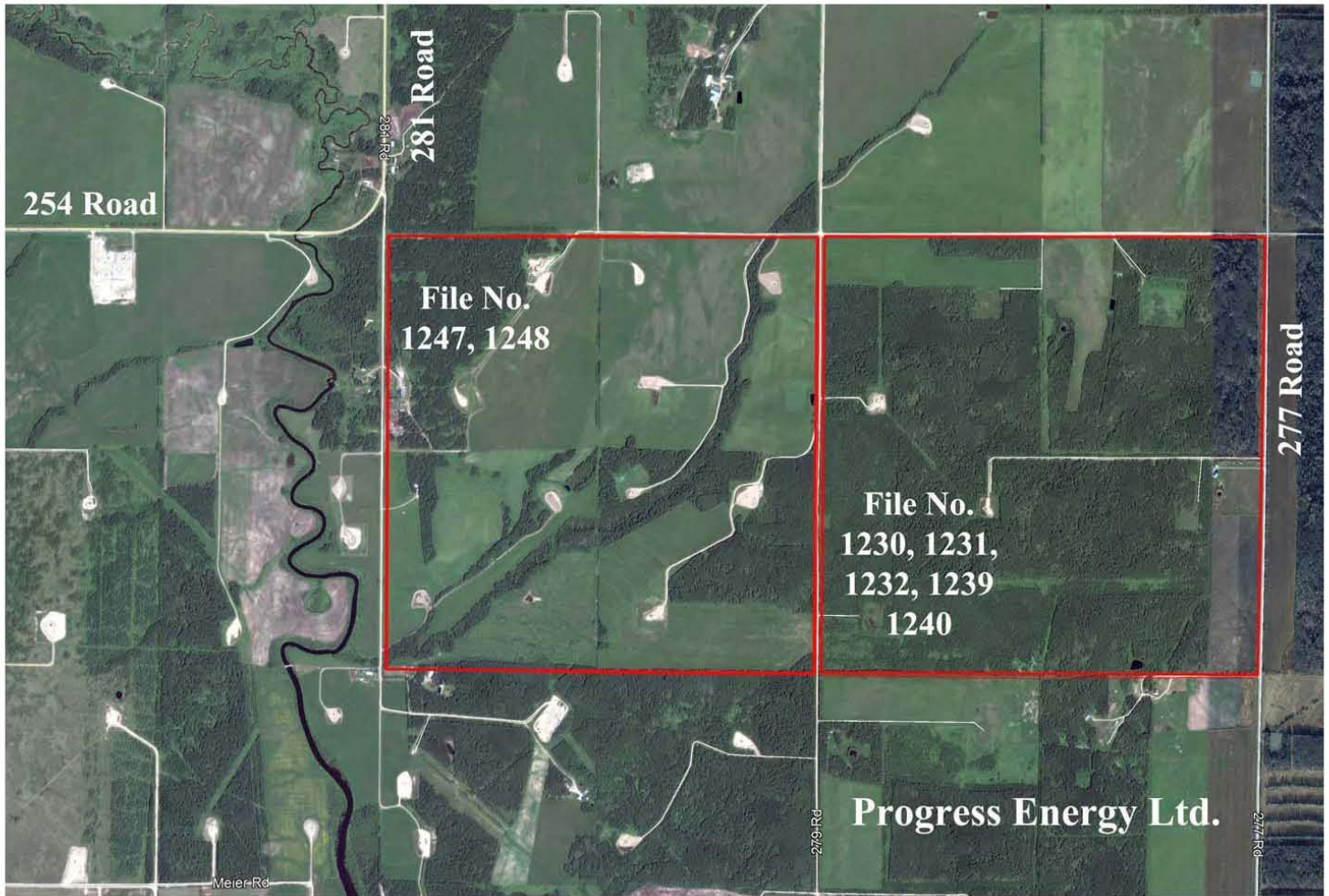
(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER



By Order dated October 11, 1985 (attached to this Order as Appendix "A"), as amended by Order dated September 26, 1986 (attached to this Order as Appendix "B") the Mediation and Arbitration Board (now the Surface Rights Board) granted Husky Oil Operations Ltd. right of entry to the Lands to construct and operate a wellsite and for access thereto, and by Order dated April 16, 1987 (attached to this Order as Appendix "C"), the Board confirmed the right of entry and determined the compensation payable. Husky Oil Operations Ltd. constructed the wellsite and on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Husky Oil Operations Ltd. The wellsite on the Lands is currently operated by Progress Energy Ltd. The Lands are currently owned by Paul Bryan Cowger.

The Surface Rights Board orders as follows:

1. Orders 208M, 208M-1 and 208A are amended to change Husky Oil Operations Ltd. to Progress Energy Ltd. and to delete Francis Joseph Cowger as a Respondent.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "D" for the purpose of operating a wellsite and for access thereto as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated January 10, 2012

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 208A-amd

File No. 1231

Board Order No. 208M

FRIDAY, THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR (4), WEST 1/2 OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13,
NORTH PINE, B.C.
and
PAUL BRYAN COWGER
P.O. BOX 39,
MONTNEY, B.C.

RESPONDENTS

This is an application by Husky Oil Operations Ltd. under the entry, occupation or use provisions of the Petroleum and Natural Gas Act, 1979, for an order of the Mediator under Section 19 of "The Act".

The Applicant having applied for an Order permitting it to enter part of the above described land for the purpose of constructing a wellsite and access thereto and the Mediator having inspected the above described land.

And whereas the Respondents have verbally agreed to Entry by way of a Board Order.

And whereas it appears that issues inhibiting an immediate completion of a Lease Agreement satisfactory to both parties are not resolved and the Mediator being of the opinion that the Applicant's request for Right of Entry, should be granted forthwith.

IT IS HEREBY ORDERED THAT:

1. Further Mediation on the matter be adjourned sine die.
2. The Applicant deposit with the Board a security deposit in the amount of \$500 payable to the Minister of Finance, Province of British Columbia
3. (I) The Applicant pay the Respondents a sum of two thousand dollars (\$2,000) by causing a cheque in that amount to be forwarded by Registered Mail to Francis J. Cowger and Paul B. Cowger, c/o Paul B. Cowger P.O. Box 39, Montney, B.C., which cheque will be accompanied by a copy of this Order or,

(II) By delivering the aforesaid cheque together with a copy of this Order to the Respondent, Paul B. Cowger.
4. The Applicant further notify the Respondents and all other interested persons of this Order by causing its servants or agents when entering upon the property herein before described, to have with them and to produce upon request of any person thereon a True Copy of this Order
5. Following completion of 2,3, and 4, the Applicant shall be permitted to enter that area outlined in red on the Plan of Survey attached hereto as Schedule "A" for the purposes of exploring for, developing or producing Petroleum and Natural Gas or for any purpose connected with or incidental to that purpose.

Dated at the City of Fort St. John, Province of British Columbia, this 11th day of October, A.D. 1985

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

CERTIFIED TRUE COPY

CERTIFIED TRUE COPY

DATE February 11, 1985



MEDIATOR

FRIDAY THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR (4), WEST 1/2 OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.
and
PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER

APPENDIX "B" 208A-and

File No. 1231

Board Order No. 208M-1

FRIDAY, THE 26 DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR (4) WEST HALF (½) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DIST.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

This is an Application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of "THE ACT" for an Amending Order of the Mediator under Section 19, of the said Act.

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purpose of constructing a wellsite and access thereto.

AND WHEREAS the preliminary survey plan referred to as Schedule "A" in Order 208M has been replaced by Plan 31683.

AND WHEREAS a copy of Plan 31683 is appended hereto.

IT IS HEREBY ORDERED THAT:

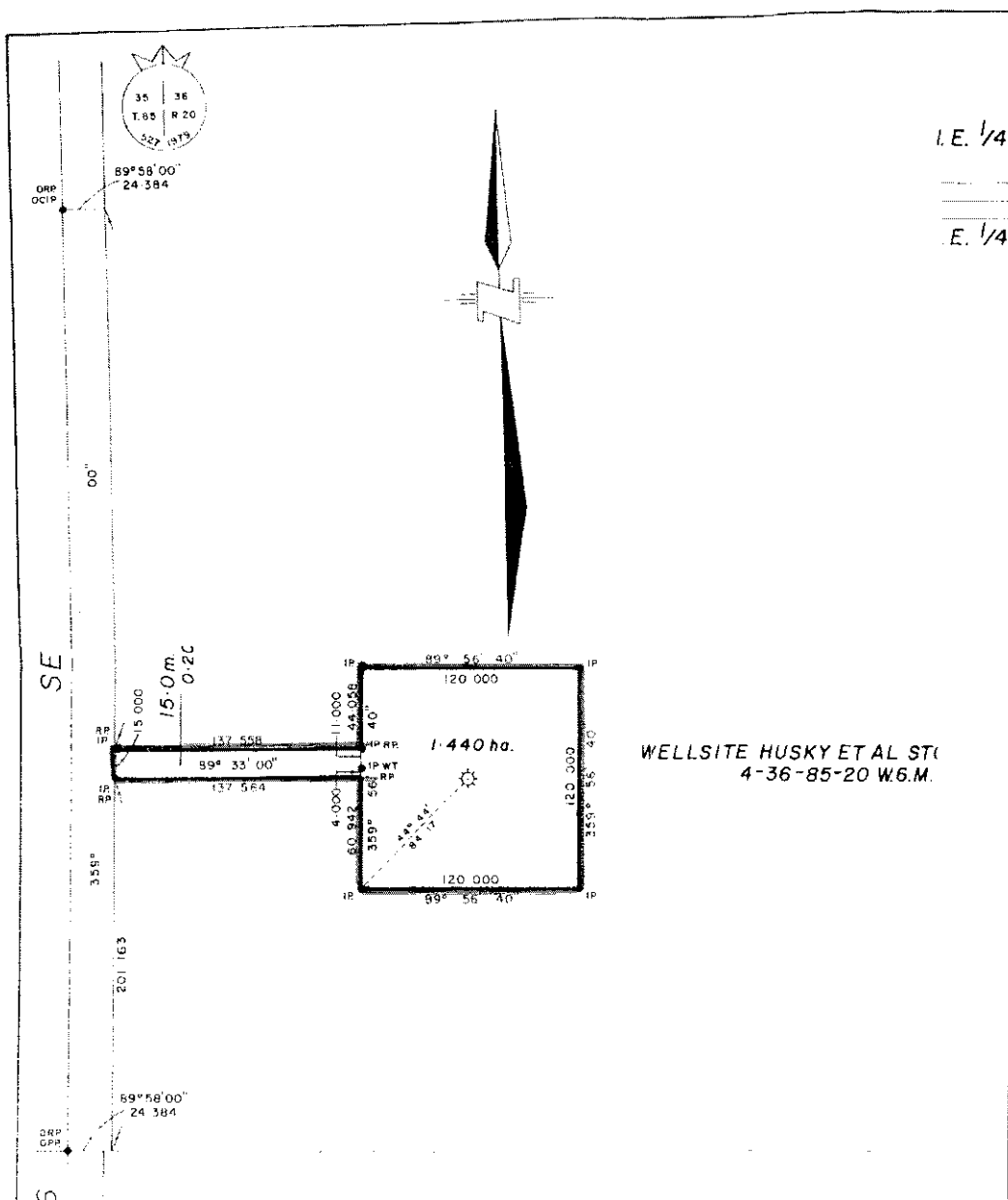
Board Order 208M is hereby amended by deleting therefrom the Preliminary Plan attached thereto and substituting therefor Plan 31683 as Schedule "A".

CERTIFIED TRUE COPY

[Signature]
DATE October 1-1986

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

[Signature]
Mediator



PLAN 31683

I.E. 1/4

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 5TH DAY OF AUGUST 1986

E. 1/4

REGISTRAR

LEGEND

- | | | | |
|---------|---------------------------------------|-----|------------------------|
| ● OIP | DENOTES OLD IRON POST FOUND | RP | DENOTES REFERENCE POST |
| ● IP | DENOTES IRON POST SET | BT | DENOTES BEARING TREE |
| ● OCIP | DENOTES OLD CAPPED IRON POST FOUND | WT | DENOTES WITNESS |
| ● CIP | DENOTES CAPPED IRON POST SET | P&M | DENOTES PITS & MOUND |
| ● OPP | DENOTES OLD STANDARD PIPE POST FOUND | ⊗ | DENOTES PRODUCING WELL |
| ● PP | DENOTES STANDARD PIPE POST SET | (b) | DENOTES BURIED |
| ● OPDLS | DENOTES OLD PATTERN D.L.S. POST FOUND | (c) | DENOTES CALCULATED |
| ● OPDWC | DENOTES OLD STANDARD CONC. POST FOUND | | |
| ○ TH | DENOTES TRAVERSE HUB | | |

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SEC. 35, TP. 85, RGE. 20, AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TP. 85, RGE. 20, W. 6 M.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6 M.,
PEACE RIVER DISTRICT.

"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."

SCALE: 1:2500.

25m 0 25 50 100m

File No. 1231

Board Order No. 208M-1

FRIDAY, THE 26th DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR (4)
WEST HALF (½) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DIST.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER

File No. 1231

Board Order No. 208-A

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979 AND AMEND-
MENTS THERETO: (THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR
(4), WEST HALF (W½) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

WHEREAS following an earlier postponement the interested parties were advised that an Arbitration Hearing concerning the Right-of-Entries covered by Board Orders 207-M, 208-M, 209-M dated the 11th day of October A.D. 1985 and 214-M, 215-M, dated the 4th day of September A.D. 1985 would be held in the Boardroom, Execuplace, 10142 - 101st Avenue in the City of Fort St. John, British Columbia, commencing at 10:30 a.m.

AND WHEREAS the hearing was convened on the appointed day in the presence of L. Blair Scarratt, landman representing the Applicant and Mr. and Mrs. P. Cowger representing the Respondents, together with legal counsel Darryl Carter, L.L.B. There were also several other interested parties attending as observers.

AND WHEREAS the Board had reviewed the evidence adduced at the Hearing and the arguments made in support thereof, and in matters where evidence is wanting or inconclusive drawn on its own knowledge and expertise.

AND WHEREAS before setting out the findings in this particular case the Board believes a recital of some of the principles adhered to in determining compensation should be set out for the benefit of the parties hereto, namely.

1. The board recognizes the fact that the Crown Provincial, has issued two separate and distinct bundles of Rights respecting property.
 - a) The surface rights to an owner in fee simple.
 - b) The subsurface rights to a holder of the mineral rights including hydrocarbons.

2. The Board accepts the principle referred to by Justice Bouck of the Supreme Court of B.C. in a decision dated November 14, 1979 (Chambers and the Mediation and Arbitration Board and Esso Resources) who observed that the common law provision which granted an implied right to the holder of the (dominate) mineral interest respecting access to the surface of the land has been subjugated to the provisions of the Petroleum and Natural Gas Act. This Act provides a workable method whereby the owner of the mineral (Petroleum and Natural Gas) rights may gain access to explore for the product if entry is not granted or compensation not agreed to by the surface owner, through a step by step process from application, to mediation, to arbitration and finally to a binding Order.

3. The Board concurs with Justice Berger in Dome Petroleum Limited and Mildred E. Juell who observed that entry and occupation is not an Act of Expropriation. No land and no legal interest in the land is taken from the owner.

4. The Board also concurs with Justice J.A. Cody who when speaking for the B.C. Court of Appeal in re: Pacific Petroleum Ltd. (1958) stated "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

5. The Board accepts Justice Spencer's directive in Scurry Rainbow Oil Limited and C.C. Lamoureux when he stated that the value to be determined (of the land in question) is value to the owner, taking into consideration special value, if any.

6. While accepting that value of land is value to the owner, the Board feels weight must be given to Justice Berger's directive in Dome Petroleum and M. Juell when he made clear that placing a value on the land as it were a small parcel is an error and further that the Board is correct in considering the reversionary value thereof.

7. The Board is satisfied that within Section 21, S.S. a-h of the Act there is ample latitude provided for consideration of both objective and subjective areas of compensation in arriving at a final decision.

Mr. Scarratt presented all of the evidence advance on behalf of the Applicant. His offers respecting both first year and annually thereafter were contained in Exhibit #1. He acknowledged co-operation from the land owners in accessing the property and completing the drilling program. According to Mr. Scarratt out of the 12.91 acres required for 3 wellsites only .91 acres of one wellsite was located on improved land. His estimate of value of land was based on what he considered to be fair market value on an enbloc basis. Other headings were assigned a value according to his own best judgement.

Mr. Carter, L.L.B. conducted the direct examination of Mr. and Mrs. P. Cowger, who also appeared on behalf of F.J. Cowger co-owner of the lands involved. The Cowgers placed in evidence a number of surface leases which they had negotiated with other operators as well as several which had been negotiated with adjacent surface owners. A summary prepared by Mrs. Cowger was appended to each lease indicating the first year and annual compensation agreed to on a per acre basis. The Respondents requested compensation equivalent to the sum received from Poco Petroleum for a lease site on L.S.D. #2 of 35-86 which according to them was a site very similar in all respects to the sites occupied by the Applicant.

In summary Mr. Scarratt referred to the fact that all locations were on unimproved land, not affecting the Respondents current family operation. The drilling took place in winters thereby keeping the inconvenience and disturbance to a minimum. The enmass presentation of other negotiated leases without substantiated opinion of the landmen involved should not be given great weight. The compensation contained in the schedules presented by Husky represented a good faith offer by the company.

In summary Mr. Carter suggested Mr. Scarratt's method of determining compensation and the one held by the Cowgers represented two different philosophies. The Applicant placed an over emphasis on fair market value when value to the owner is the important consideration. If an overall pattern of compensation has been established the Board should not depart from that pattern without very good reason.

Mr. Scarratt knew of the agreements the Respondents had negotiated with POCO Petroleum, and further knew they would be relying upon them in the hearing, yet didn't bother to produce any contrary evidence. Mr. Carter suggested including a first year rental in addition to other sums agreed upon was not double compensation as lease agreements provide for a first year rental.

It is the Board's observation after reviewing the transcript and exhibits filed in support thereof that:

- a) Mr. Scarratt's approach to compensation by relating sums to Section 21 of the Act, while in keeping with the method preferred by the Board, contains some deficiencies particularly with regard to value of the land.
- b) The Respondents were successful in negotiating leases with one company, namely POCO Petroleum, which in the Board's opinion appear to be quite generous but in line with leases the same company negotiated with other surface owners in the same general area at or about the same time.

The Board is of the opinion that the numbers generated are not supported by demonstrable losses or damages as contemplated by the Act and referred to by Justice J.A. Cody when he said "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

Compulsory Aspect of Entry

The Board concurs with the Applicant's calculation and has therefor set the allowance at \$1,000 for the compulsory aspect of entry, occupation or use.

VALUE OF LAND AND THE OWNER'S LOSS OF A RIGHT OR PROFIT WITH RESPECT

THE LAND

The area granted by Order 208M comprises 4.07 acres all of which is unimproved land possessing agricultural capability. The Board does not accept Mr. Scarratt's calculations based upon a market value of \$93.75 per acre as representative of fair value to the owner. Therefor based upon our knowledge of land values and accepting that value to the owner does not necessarily change in times of depressed markets since this land is not for sale, we have determined that fair value to the owner, after taking into consideration the reversionary value thereof (as the B.C. Court has directed we should do) is \$250 per acre.

The periodic amount is deemed by the Board in the circumstances of this case to be \$509, per year.

DAMAGE RESULTING FROM THE ENTRY, OCCUPATION OR USE

Even though most of the land is unimproved there will still be some damage and extra work involved when the land is returned to the Respondents. The Board considers that \$150 per acre is fair recompense for damage to the land and will be so fixed.

COMPENSATION FOR SEVERANCE

There is little if any severance involved, however the Board concurs with the Applicant's offer of a token amount in the sum of \$100 payable for the first year only.

COMPENSATION FOR NUISANCE AND DISTURBANCE

Compensation for the time lost dealing with the company representatives, consultation with legal counsel and attending the Arbitration Hearing have been agreed to by Applicant and Respondents and will be dealt with under costs.

The Board believes that the Applicant's figure of \$800 for both first year and periodically thereafter, while greater than awarded in most cases involving unimproved land is warranted. Particularly when these wellsites will open up access to unauthorized persons, which in turn will subject the respondents to added nuisance and disturbance.

The Board therefor concurs with this amount.

OTHER FACTORS

The only other factors that came before the Board were the matter of costs associated with the retention of legal counsel and interest on any balance of compensation payable. There was agreement between the parties on these matters so they will be addressed at the conclusion.

THE BOARD DOES AND HEREBY ORDERS THAT

- (1) The portion of the surface which the Applicant required for the efficient and economical performance of its operation is 4.07 acres (1.644 hectares) and the exact position thereof is delineated and outlined in red on the Plan of Survey attached hereto as Schedule "A".
- (2) The amount of compensation which shall be payable shall be:

| | Amount First Year | Payable Periodically |
|--|----------------------|-------------------------|
| (a) Compulsory aspect of entry, occupation or use | \$1,000.00 | |
| (b) Value of land and the owners loss of a right or profit with respect to the land value of land. 4.07 x 250 | 1,018.00 | 509.00 |
| (c) Damage to land 150 x 4.07 | 611.00 | |
| (d) Compensation for severance | 100.00 | |
| (e) Nuisance and disturbance | <u>800.00</u> | <u>800.00</u> |
| | \$3,529.00 | \$1,309.00 |

The Applicant will pay to the Respondent forthwith the following sums:

| | |
|---------------------------------------|-----------------|
| Compensation awarded for the 1st year | \$3,529.00 |
| Less: Sum paid out under Order 208M | <u>2,000.00</u> |
| Balance of first year compensation | 1,529.00 |
| Periodic compensation for 1986 | <u>1,309.00</u> |
| Total: | \$2,838.00 |

The Applicant shall pay to the Respondent annually in advance on the 11th day ^{of each} ~~of~~ ^{one year} October of each year commencing on the 11th day of October A.D. 1987, the sum of \$1,309.00 until such time as this Order be cancelled or amended pursuant to Section 26(2)(b) of the Act, and Amendments thereto. 11-OCT-91

With a further provision that should the Respondents bring the land adjacent to this access and wellsite into production for hay or other crops prior to the next quinquennial review the Board will consider a written request for a rental review.

Since the Applicant agreed to pay the Respondents interest on any balance due at a rate equal to the average for term deposits for the corresponding time period, it is hereby ordered that interest at the rate of 6 3/4% shall be payable on the balance of first year compensation retroactive to October 11, 1985. On the periodic compensation at the rate of 5 1/4 % retroactive to October 11, 1986.

COSTS

While the Board pursuant to Section 27 of the Act, has discretion to award costs and determine by whom they shall be paid, in this matter the Applicant and the Respondents mutually agreed to the following sums:

| | |
|---|---------------|
| 1) Legal fees, including advice, disbursements & presentation | \$2,150.00 |
| 2) Respondents attendance & time | <u>500.00</u> |
| Total: | \$2,650.00 |

There was a further request that these costs be prorated between the five files considered at this Hearing. Therefor the amount applicable to this Right-of-Entry is \$530.00

Upon payment of the sums aforesaid the Applicant shall be entitled to all rights of an operator to whom the right to enter, occupy or use land has been granted under the provisions of the Petroleum and Natural Gas Act, 1979, and Amendments thereto, upon the lands hereinbefore described.

Dated at the City of Fort St. John, Province of British Columbia this 16th day of April A.D. 1987.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT



CHAIRMAN



MEMBER

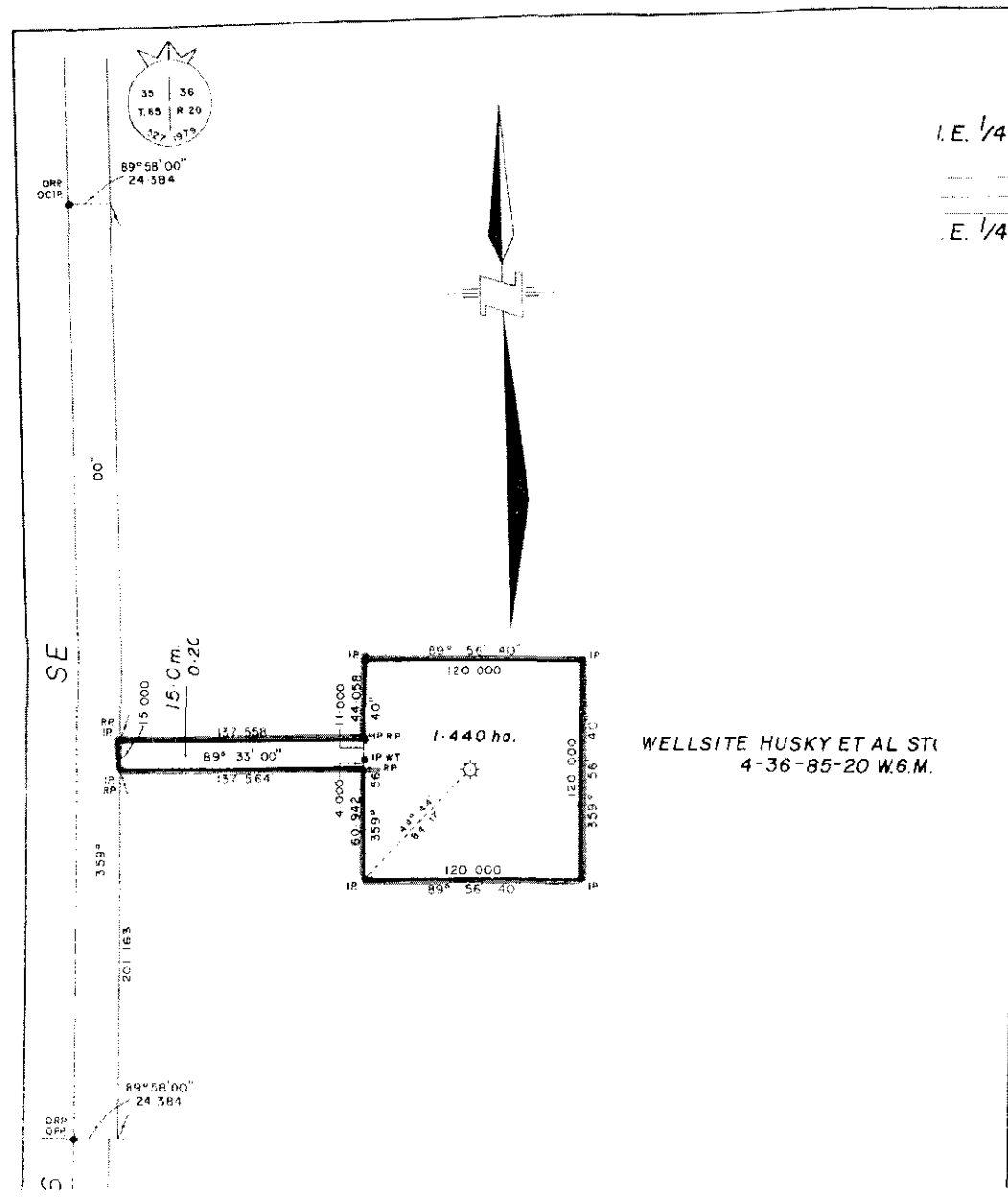


MEMBER

CERTIFIED TRUE COPY



DATE April 24, 1987



PLAN 31683

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 5TH DAY OF AUGUST 1986

E. 1/4
E. 1/4

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPOLS DENOTES OLD PATTERN O.L.S. POST FOUND
- OPOON DENOTES OLD STANDARD CONC. POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- P&M DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SEC 35, TP 85, RGE 20, AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TP 85, RGE 20, W.6 M.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W.6.M.,
PEACE RIVER DISTRICT.

"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."

SCALE : 1 : 2500.
25m 0 25 50 100m

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979 AND AMEND-
MENTS THERETO: (THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. FOUR
(4), WEST HALF (W1) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

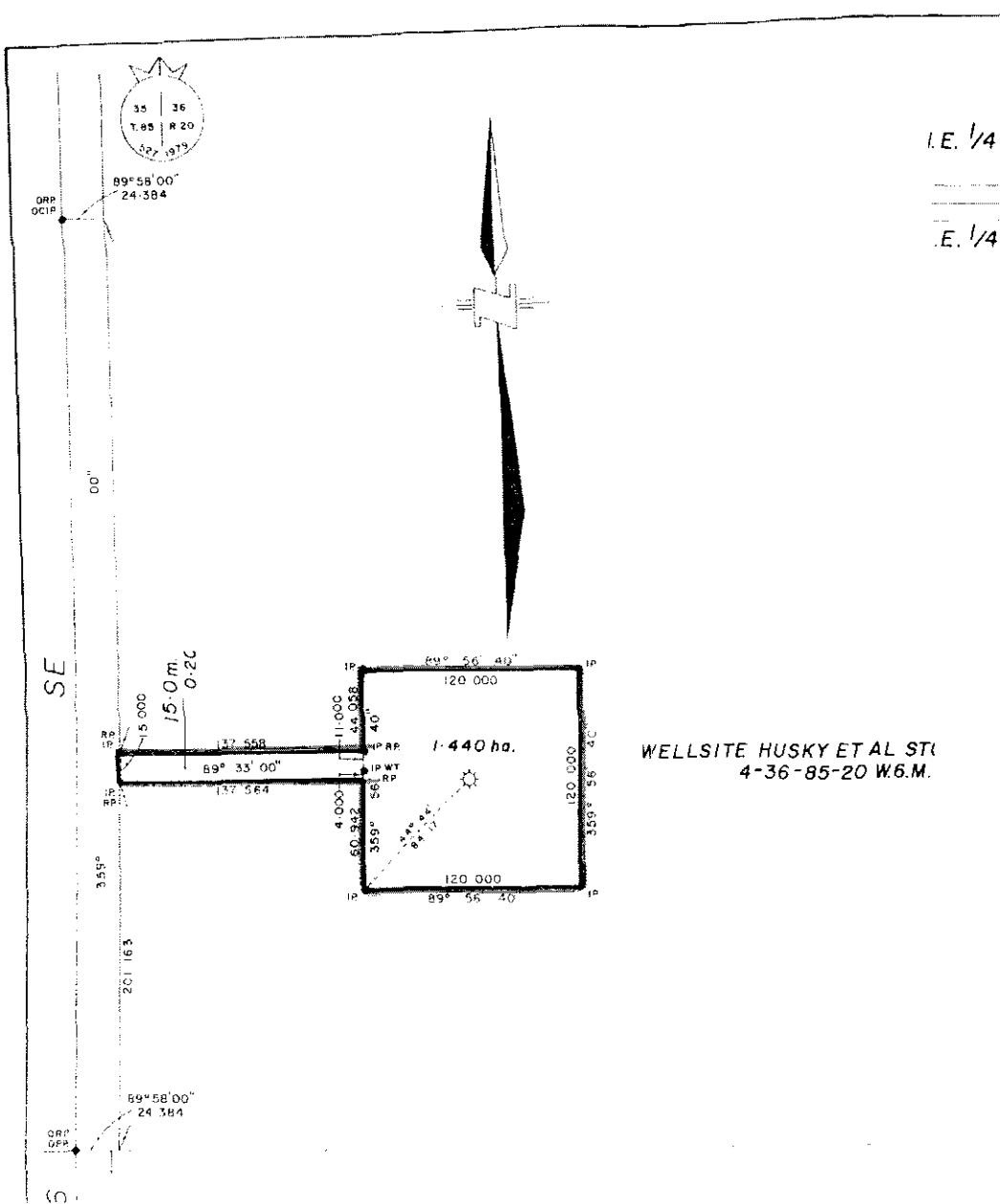
FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER



PLAN 31683

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 5TH DAY OF AUGUST 1986

E. 1/4

E. 1/4

REGISTRAR

LEGEND

- | | | | |
|---------|---------------------------------------|-----|------------------------|
| ● OIP | DENOTES OLD IRON POST FOUND | RP | DENOTES REFERENCE POST |
| ● IP | DENOTES IRON POST SET | BT | DENOTES BEARING TREE |
| ● OCIP | DENOTES OLD CAPPED IRON POST FOUND | WT | DENOTES WITNESS |
| ● CIP | DENOTES CAPPED IRON POST SET | PBM | DENOTES PITS & MOUND |
| ● OIP | DENOTES OLD STANDARD PIPE POST FOUND | ☼ | DENOTES PRODUCING WELL |
| ● PP | DENOTES STANDARD PIPE POST SET | (b) | DENOTES BURIED |
| ● OPDLS | DENOTES OLD PATTERN D.L.S. POST FOUND | (c) | DENOTES CALCULATED |
| ● OPCON | DENOTES OLD STANDARD CONC. POST FOUND | | |
| ○ TH | DENOTES TRAVERSE HUB | | |

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SEC. 35, TP. 85, RGE. 20,
AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TP. 85, RGE. 20, W. 6 M.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6 M.,
PEACE RIVER DISTRICT.

"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."

SCALE: 1:2500.

25m 0 25 50 100m

APPENDIX "D" POST-CARD

File No. 1232
Board Order # 209A-amd

January 10, 2012

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 WEST ½ OF SECTION 36 TOWNSHIP 85 RANGE 20 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

Progress Energy Ltd.

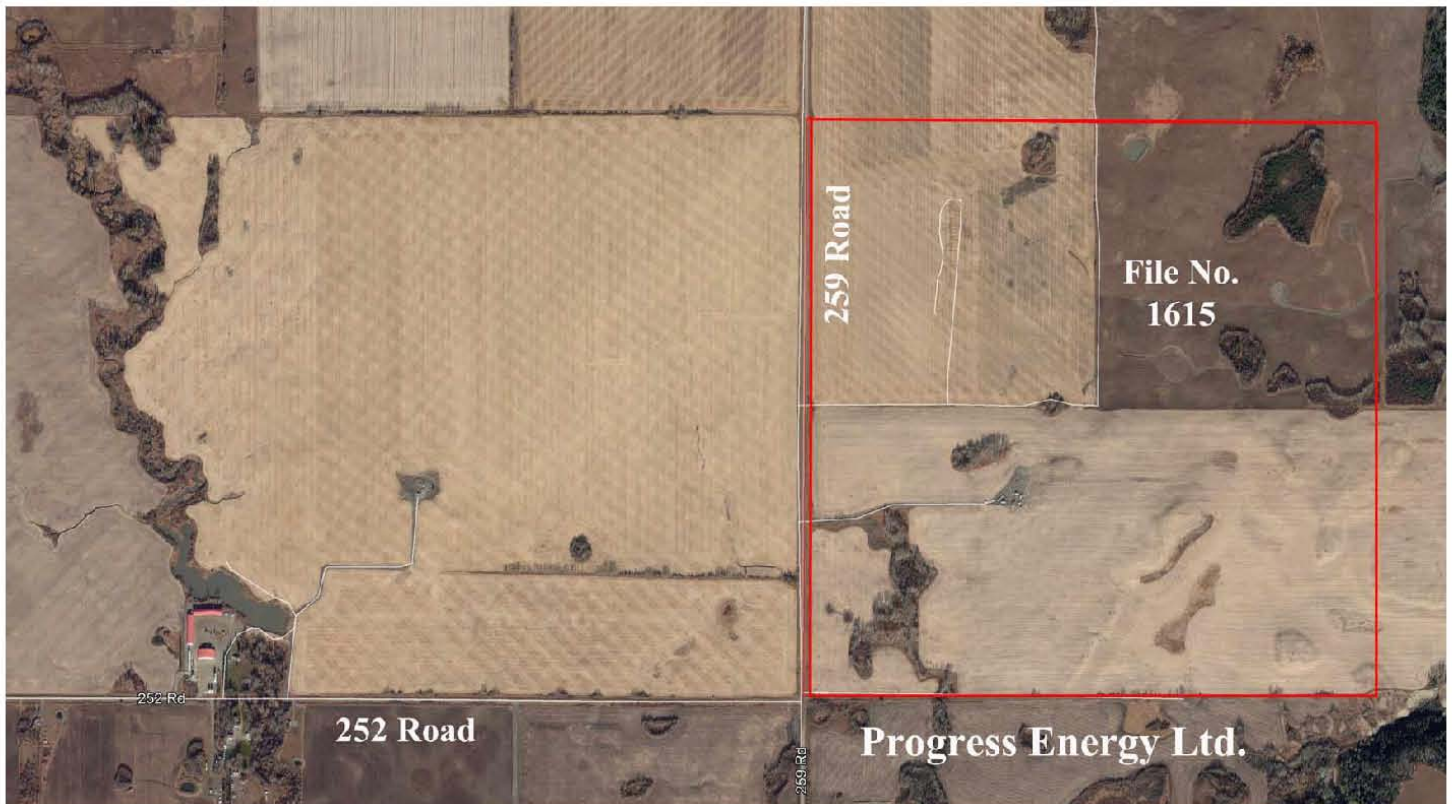
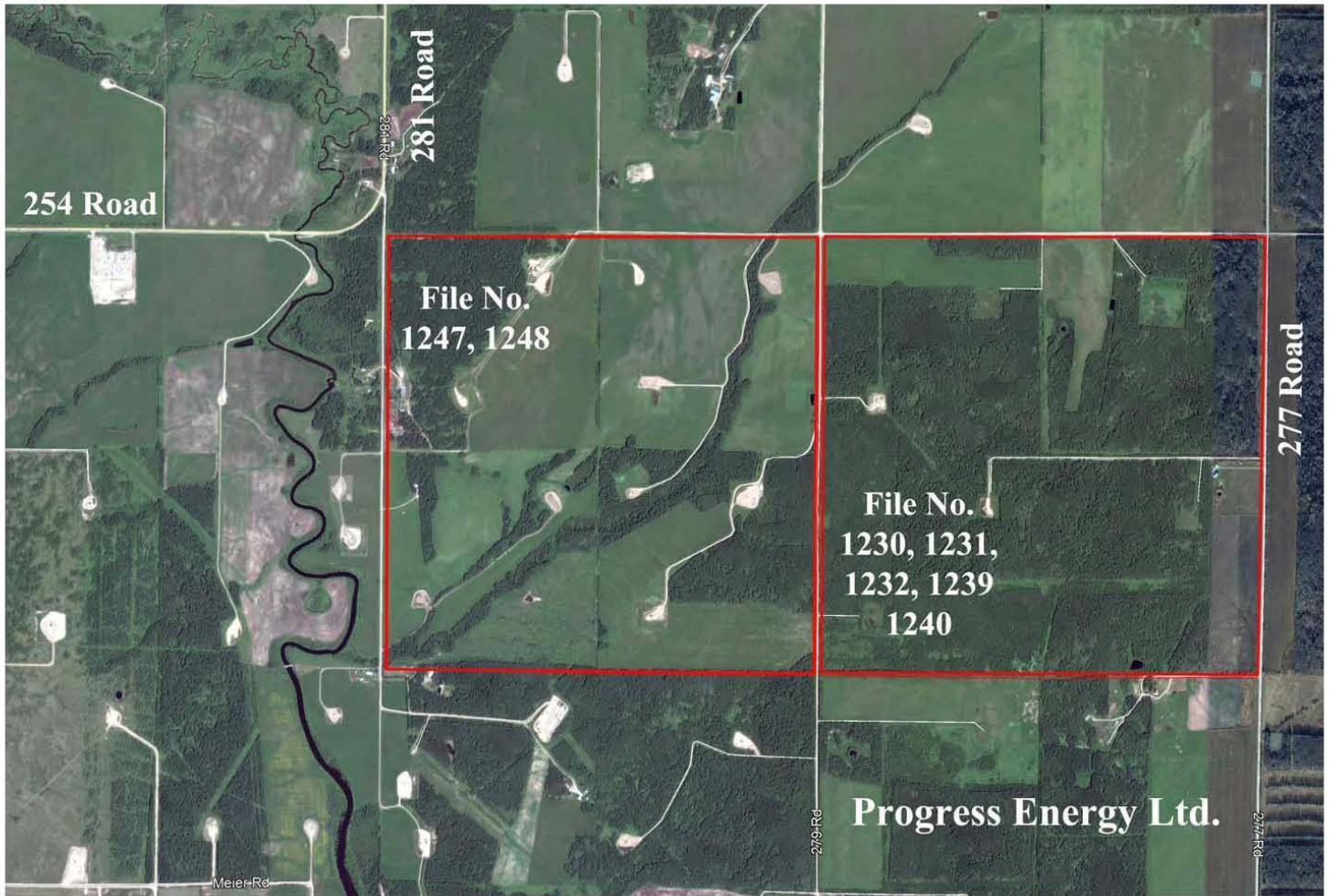
(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER



By Order dated October 11, 1985 (attached to this Order as Appendix "A"), as amended by Order dated September 26, 1986 (attached to this Order as Appendix "B") the Mediation and Arbitration Board (now the Surface Rights Board) granted Husky Oil Operations Ltd. right of entry to the Lands to construct and operate a wellsite and for access thereto, and by Order dated April 16, 1987 (attached to this Order as Appendix "C"), the Board confirmed the right of entry and determined the compensation payable. Husky Oil Operations Ltd. constructed the wellsite and on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Husky Oil Operations Ltd. The wellsite on the Lands is currently operated by Progress Energy Ltd. The Lands are currently owned by Paul Bryan Cowger.

The Surface Rights Board orders as follows:

1. Orders 209M, 209M-1 and 209A are amended to change Husky Oil Operations Ltd. to Progress Energy Ltd. and to delete Francis Joseph Cowger as a Respondent.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "D" for the purpose of operating a wellsite and for access thereto as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated January 10, 2012

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 209A amd

File No. 1232

Board Order No. 209M

FRIDAY THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. TWELVE (12), WEST 1/2 OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE 6th MERIDIAN (W6M), PEACE RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13,
NORTH PINE, B.C.
and
PAUL BRYAN COWGER
P.O. BOX 39,
MONTNEY, B.C.

RESPONDENTS

This is an application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of the Petroleum and Natural Gas Act, 1979, for an order of the Mediator under Section 19 of "The Act".

The Applicant having applied for an Order permitting it to enter part of the above described land for the purpose of constructing a wellsite and access thereto and the Mediator having inspected the above described land.

And whereas the Respondents have verbally agreed to Entry by way of a Board Order.

And whereas it appears that issues inhibiting an immediate completion of a Lease Agreement satisfactory to both parties are not resolved and the Mediator being of the opinion that the Applicant's request for Right of Entry, should be granted forthwith.

IT IS HEREBY ORDERED THAT:

1. Further Mediation on the matter be adjourned sine die.
2. The Applicant deposit with the Board a security deposit in the amount of \$500 payable to the Minister of Finance, Province of Bristish Columbia.
3. (1) The Applicant pay the Respondents a sum of two thousand dollars (\$2,000) by causing a cheque in that amount ot be forwarded by Registered Mail to Francis J. Cowger and Paul B. Cowger, c/o Paul B. Cowger P.O. Box 39, Montney, B.C., which cheque will be accompanied by a copy of this Order or,

(11) By delivering the aforesaid cheque together with a copy of this Order to the Respondent, Paul B. Cowger.
4. The Applicant further notify the Respondents and all other interested persons of this Order by causing its servants or agents when entering upon the property herein before described, to have with them and to produce upon request of any person thereon a True Copy of this Order.
5. Following completion of 2,3, and 4, the Applicant shall be permitted to enter that area outlined in red on the Plan of Survey attached hereto as Schedule "A" for the purposes of exploring for, developing or producing Petroleum and Natural Gas or for any purpose connected with or incidental to that purpose.

Dated at the City of Fort St. John, Province of British Columbia, this 11th day of October, A.D. 1985.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

CERTIFIED TRUE COPY

DATE

Albright
February 11-1988

Albright
MEDIATOR

TP. 85 , RGE.

35

ROAD WIDENING ROAD

SEC.

L.S. 13. L.
L.S. 12. L.

ROAD

24.384m. 4.267m.

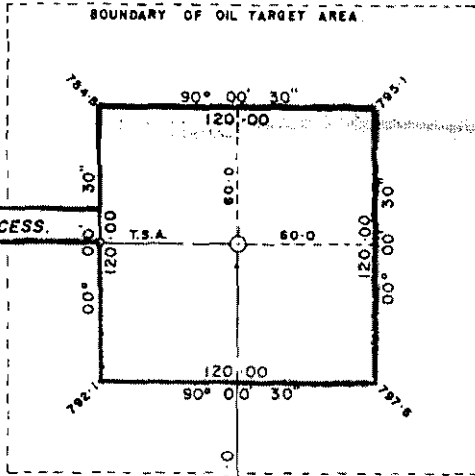
WELL LOCATION
12-36-85-20 W.6.M.

SEC.

T.S. 455

PROPOSED 15-0m. ACCESS.

BOUNDARY OF OIL TARGET AREA.



lease cov
(up to

(AR-35).
O.T.S. 490.

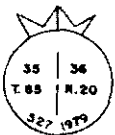
S.W. COR. L.S. 12.
W. 1/4 SEC. 36.

E. 1/4 SEC. 35

ORP
OCIP.

20-117
89° 44' 05"

200-1



NW-14364

FRIDAY THE 11th DAY OF OCTOBER, A.D. 1985

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETOLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979 AND AMEND-
MENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D.
TWELVE (12), WEST 1/2 OF SECTION THIRTY-SIX
(36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY
(20), WEST OF THE 6th MERIDIAN (W6M), PEACE
RIVER DISTRICT.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.
and
PAUL BRYAN COWGER
P.O. BOX 39,
MONTNEY, B.C.

RESPONDENTS

ORDER

APPENDIX "B" 209A-AMD

File No. 1232

Board Order No. 209M-1

FRIDAY THE 26 DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. TWELVE (12), WEST HALF (½) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DIST.

BETWEEN:

HUSKY OIL PRODUCTIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

This is an Application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of "THE ACT" for an Amending Order of the Mediator under Section 19, of the said Act.

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purpose of constructing a wellsite and access thereto.

AND WHEREAS the preliminary survey plan referred to as Schedule "A" in Order 209M has been replaced by Plan 31684.

AND WHEREAS a copy of Plan 31684 is appended hereto.

IT IS HEREBY ORDERED THAT:

Board Order 209M is hereby amended by deleting therefrom the Preliminary Plan attached thereto and substituting therefor Plan 31684 as Schedule "A".

MEDIATION AND ARBITRATION BOARD

UNDER THE
PETROLEUM AND NATURAL GAS ACT

Mediator

CERTIFIED TRUE COPY

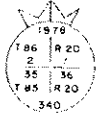
DATE

[Signature]
October 1 - 1986

TR 86 , RGE. 20
SEC.

20-117m. ROAD

ORP
OPP
89° 58' 00"
24-384

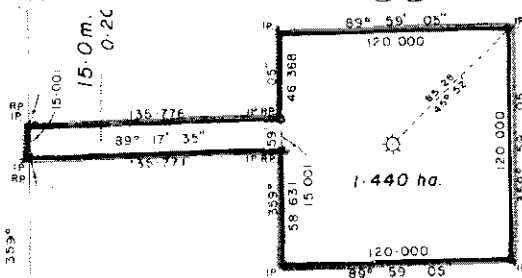


00'

592.504

TR 85 , RGE. 20

SEC.



WELLSITE HUSKY ET AL STODDART
12-36-85-20 W.6.M.

1.440 ha.

PLAN 31684

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 5TH DAY OF AUGUST 1985

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPDLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPCCON DENOTES OLD STANDARD CONC POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- P&M DENOTES PITS & MOUND
- ☆ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SFC 35, TR 85, RGE 20,
AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TR 85, RGE 20, W.6 M.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

| LOCATION | BOOK OF REFERENCE | DESCRIPTION | AREA (Hectares) |
|----------------|-------------------|--------------|-----------------|
| W 1/2 SEC. 36. | | 15.0m ACCESS | 0.2037 |
| W 1/2 SEC 36 | | WELLSITE | 1.440 |

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TR. 85, RGE. 20, W.6.M.,
PEACE RIVER DISTRICT.

"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."

FRIDAY THE 26 DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF L.S.D. TWELVE
(12), WEST HALF (4) OF SECTION THIRTY-SIX (36)
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DIST.

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

**BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)**

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF
BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. TWELVE
(12), WEST HALF (W½) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST
OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

WHEREAS following an earlier postponement the interested parties were advised that an Arbitration Hearing concerning the Right-of-Entries covered by Board Orders 207-M, 208-M, 209-M dated the 11th day of October A.D. 1985 and 214-M, 215-M dated the 4th day of September A.D. 1985 would be held in the Boardroom, Execuplace, 10142 - 101st Avenue in the City of Fort St. John, British Columbia, commencing at 10:30 a.m.

AND WHEREAS the hearing was convened on the appointed day in the presence of L. Blair Scarratt, landman representing the Applicant and Mr. and Mrs. P. Cowger representing the Respondents, together with legal counsel Darryl Carter, L.L.B. There were also several other interested parties attending as observers.

AND WHEREAS the Board had reviewed the evidence adduced at the hearing and the arguments made in support thereof, and in matters where evidence is wanting or inconclusive drawn on its own knowledge and expertise.

AND WHEREAS before setting out the findings in this particular case the Board believes a recital of some of the principles adhered to in determining compensation should be set out for the benefit of the parties hereto, namely.

1. The Board recognizes the fact that the Crown Provincial, has issued two separate and distinct bundles of Rights respecting property.
 - a) The surface rights to an owner in fee simple.
 - b) The subsurface rights to a holder of the mineral rights including hydrocarbons.

2. The Board accepts the principle referred to by Justice Bouck of the Supreme Court of B.C. in a decision dated November 14, 1979 (Chambers and the Mediation and Arbitration Board and Esso Resources) who observed that the common law provision which granted an implied right to the holder of the (dominate) mineral interest respecting access to the surface of the land has been subjugated to the provisions of the Petroleum and Natural Gas Act. This Act provides a workable method whereby the owner of the mineral (Petroleum and Natural Gas) rights may gain access to explore for the product if entry is not granted or compensation not agreed to by the surface owner, through a step by step process from application, to mediation, to arbitration and finally to a binding Order.

3. The Board concurs with Justice Berger in Dome Petroleum Limited and Mildred E. Juell who observed that entry and occupation is not an Act of Expropriation. No land and no legal interest in the land is taken from the owner.

4. The Board also concurs with Justice J.A. Cody who when speaking for the B.C. Court of Appeal in re: Pacific Petroleum Ltd. (1958) stated "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

5. The Board accepts Justice Spencer's directive in Scurry Rainbow Oil Limited and C.C. Lamoureux when he stated that the value to be determined (of the land in question) is value to the owner, taking into consideration special value, if any.

6. While accepting that value of land is value to the owner, the Board feels weight must be given to Justice Berger's directive in Dome Petroleum and M. Juell when he made clear that placing a value on the land as it were a small parcel is an error and further that the Board is correct in considering the reversionary value thereof.

7. The Board is satisfied that within Section 21, S.S. a-h of the Act there is ample latitude provided for consideration of both objective and subjective areas of compensation in arriving at a final decision.

Mr. Scarratt presented all of the evidence advance on behalf of the Applicant. His offers respecting both first year and annually thereafter were contained in Exhibit #1. He acknowledged co-operation from the land owners in accessing the property and completing the drilling program. According to Mr. Scarratt out of the 12.91 acres required for 3 wellsites only .91 acres of one wellsite was located on improved land. His estimate of value of land was based on what he considered to be fair market value on an enbloc basis. Other headings were assigned a value according to his own best judgement.

Mr. Carter, L.L.B. conducted the direct examination of Mr. and Mrs. P. Cowger, who also appeared on behalf of F.J. Cowger co-owner of the lands involved. The Cowgers placed in evidence a number of surface leases which they had negotiated with other operators as well as several which had been negotiated with adjacent surface owners. A summary prepared by Mrs. Cowger was appended to each lease indicating the first year and annual compensation agreed to on a per acre basis. The Respondents requested compensation equivalent to the sum received from POCO Petroleum for a lease site on L.S.D.#2 of 35-86 which according to them was a site very similar in all respects to the sites occupied by the Applicant.

In summary Mr. Scarratt referred to the fact that all locations were on unimproved land, not affecting the Respondents current family operation. The drilling took place in winter thereby keeping the inconvenience and disturbance to a minimum. The enmass presentation of other negotiated leases without substantiated opinion of the landmen involved should not be given great weight. The compensation contained in the schedules presented by Husky represented a good faith offer by the company.

In summary Mr. Carter suggested Mr. Scarratt's method of determining compensation and the one held by the Cowgers represented two different philosophies. The Applicant placed an over emphasis on fair market value when value to the owner is the important consideration. If an overall patten of compensation has been established the Board should not depart from that pattern without very good reason.

Mr. Scarratt knew of the agreements the Respondents had negotiated with Poco Petroleum and further knew they would be relying upon them in the hearing, yet didn't bother to produce any contrary evidence. Mr. Carter suggested including a first year rental in addition to other sums agreed upon was not double compensation as lease agreements provide for a first year rental.

It is the Board's observation after reviewing the transcript and exhibits filed in support thereof that:

- a) Mr. Scarratt's approach to compensation by relating sums to Section 21 of the Act, while in keeping with the method preferred by the Board, contains some deficiencies particularly with regard to value of the land.
- b) The Respondents were successful in negotiating leases with one company, namely Poco Petroleum, which in the Board's opinion appear to be quite generous but in line with leases the same company negotiated with other surface owners in the same general area at or about the same time.

The Board is of the opinion that the numbers generated are not supported by demonstrable losses or damages as contemplated by the Act and referred to by Justice J.A. Cody when he said "Compensation is not for land or an interest in land taken, but is for entry on land and loss or damage by operations carried on thereon."

Compulsory Aspect of Entry

The Board concurs with the Applicant's calculation and has therfor set the allowance at \$1,000 for the compulsory aspect of entry, occupation or use.

VALUE OF LAND AND THE OWNER'S LOSS OF A RIGHT OR PROFIT WITH RESPECT

THE LAND

The area granted by Order 209M comprises 4.06 acres all of which is unimproved land possessing agricultural capability. The Board does not accept Mr. Scarratt's calculations based upon a market value of \$93.75 per acre as representative of fair value to the owner. Therefor based upon our knowledge of land values and accepting that value to the owner does not necessarily change in times of depressed markets since this land is not for sale, we have determined that fair value to the owner, after taking into consideration the reversionary value thereof (as the B.C. Court has directed we should do) is \$250 per acre.

The periodic amount is deemed by the Board in the circumstances of this case to be \$508 per year.

DAMAGE RESULTING FROM THE ENTRY, OCCUPATION OR USE

Even though most of the land is unimproved there will still be some damage and extra work involved when the land is returned to the Respondent.

The Board considers that \$150 per acre is fair recompense for damage to the land and will be so fixed.

COMPENSATION FOR SEVERANCE

There is little if any severance involved, however the Board concurs with the Applicant's offer of a token amount in the sum of \$100 payable for the first year only.

COMPENSTION FOR NUISANCE AND DISTURBANCE

Compensation for the time lost dealing with the company representatives, consultation with legal counsel and attending the Arbitration Hearing have been agreed to by Applicant and Respondents and will be dealt with under costs.

The Board believes that the Applicant's figure of \$800 for both first year and periodically thereafter, while greater than awarded in most cases involving unimproved land is warranted. Particularly when these wellsites will open up access to unauthorized persons, which in turn will subject the Respondents to added nuisance and disturbance.

The Board therefor concurs with this amount.

OTHER FACTORS

The only other factors that came before the Board were the matter of costs associated with the retention of legal counsel and interest on any balance of compensation payable. There was agreement between the parties on these matters so they will be addressed at the conclusion.

THE BOARD DOES AND HEREBY ORDERS THAT

- (1) The portion of the surface which the Applicant required for the efficient and economical performance of its operation is 4.06 acres (1.644 hectares) and the exact position thereof is delineated and outlined in red on the Plan of Survey attached hereto as Schedule "A".
- (2) The amount of compensation which shall be payable shall be:

| | Amount First Year | Payable Periodically |
|---|----------------------|-------------------------|
| (a) Compulsory aspect of entry, occupation or use | \$1,000.00 | |
| (b) Value of land and the owners loss of a right or profit with respect to the land value of land 4.06 x 250 | 1,015.00 | 508.00 |
| (c) Damage to land 150 x 4.06 | 609.00 | |
| (d) Compensation for severance | 100.00 | |
| (e) Nuisance and disturbance | <u>800.00</u> | <u>800.00</u> |
| | \$3,524.00 | \$1,308.00 |

The Applicant will pay to the Respondent forthwith the following sums:

| | |
|---------------------------------------|---------------------------------------|
| Compensation awarded for the 1st year | \$3,5 ²⁴ 24 .00 |
| Less: Sum paid out under Order 207M | <u>2,000.00</u> |
| Balance of first year compensation | 1,524.00 |
| Periodic compensation for 1986 | <u>1,309.00</u> |
| Total | \$2,833.00 |

The Applicant shall pay to the Respondent annually in advance on the 11th day of October of each year commencing on the 11th day of October A.D. 1987, the sum of \$1,309.00 until such time as this order be cancelled or amended pursuant to Section 26(2)(b) of the Act and Amendments thereto.

With a further provision that should the Respondents bring the land adjacent to this access and wellsite into production for hay or other crops prior to the next quinquennial review the Board will consider a written request for a rental review.

Since the Applicant agreed to pay the Respondents interest on any balance due at a rate equal to the average for term deposits for the corresponding time period, it is hereby ordered that interest at the rate of 6 3/4% shall be payable on the balance of first year compensation retroactive to October 11, 1985. On the periodic compensation at the rate of 5 1/4% retroactive to October 11, 1986.

COSTS

While the Board pursuant to Section 27 of the Act, has discretion to award costs and determine by whom they shall be paid, in this matter the Applicant and the Respondents mutually agreed to the following sums:

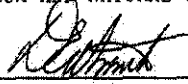
| | |
|---|---------------|
| 1) Legal fees, including advice, disbursements & presentation | \$2,150.00 |
| 2) Respondents attendance & time | <u>500.00</u> |
| Total: | \$2,650.00 |

There was a further request that these costs be prorated between the five files considered at this Hearing. Therefor the amount applicable to this Right-of-Entry is \$530.00.


Upon payment of the sums aforesaid the Applicant shall be entitled to all rights of an operator to whom the right to enter, occupy or use land has been granted under the provisions of the Petroleum and Natural Gas Act, 1979, and Amendments thereto, upon the lands hereinbefore described.

Dated at the City of Fort St. John, Province of British Columbia this 16th day of April A.D. 1987.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT



CHAIRMAN

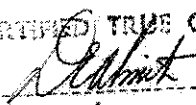


MEMBER



MEMBER

CERTIFIED TRUE COPY



DATE: April 24, 1987

TR 86 , RGE. 20
SEC.

PLAN 31684

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 5th DAY OF AUGUST 1986

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPDLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPDCL DENOTES OLD STANDARD CONC POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- P&M DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SEC 35, TP 85, RGE 20, AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TR 85, RGE 20, W 6 M.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

BOOK OF REFERENCE

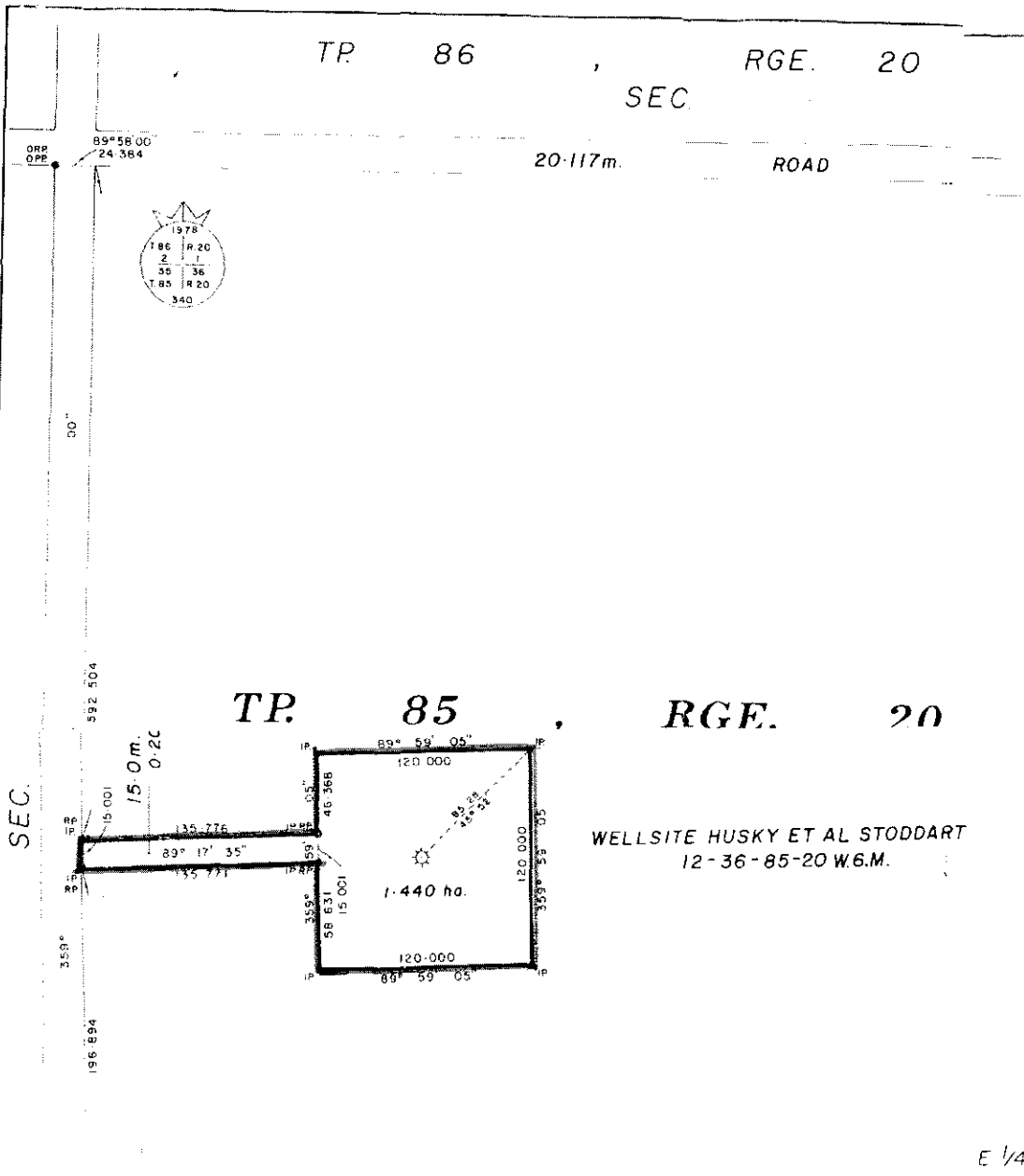
| LOCATION | DESCRIPTION | AREA (Hectares) |
|----------------|---------------|-----------------|
| W 1/2 SEC. 36. | 15.0m. ACCESS | 0.2037 |
| W 1/2 SEC 36 | WELLSITE | 1.440 |

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6 M.,
PEACE RIVER DISTRICT.

"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."



WELLSITE HUSKY ET AL STODDART
12-36-85-20 W.6.M.

THURSDAY, THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:
(THE BOARD)

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF
BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF L.S.D. TWELVE
(12), WEST HALF (W $\frac{1}{2}$) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST
OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

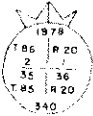
ORDER

TP 86 , RGE. 20
SEC.

20-117m. ROAD

DRP
DPR

89° 58' 00"
24.394



PLAN 31684

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.
THIS 5TH DAY OF AUGUST 1986

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPDLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPDCL DENOTES OLD STANDARD CONC POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- PBM DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM THE EAST BOUNDARY OF SEC 35, TP 85, RGE 20, AND ARE REFERRED TO THE CENTRAL MERIDIAN OF TP 85, RGE 20, W 6 M

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

BOOK OF REFERENCE

| LOCATION | DESCRIPTION | AREA (Hectares) |
|----------------|--------------|-----------------|
| W 1/2 SEC. 36. | 15-0m ACCESS | 0.2037 |
| W 1/2 SEC 36 | WELLSITE | 1.440 |

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

REFERENCE PLAN OF
PART OF THE
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6. M.,
PEACE RIVER DISTRICT.

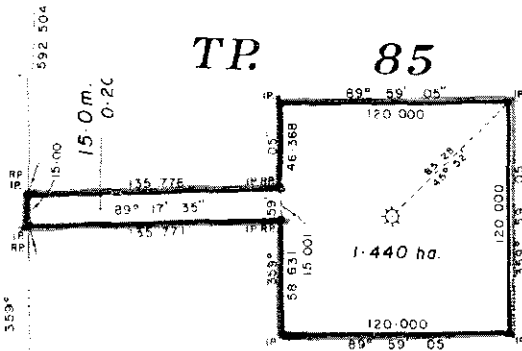
"PURSUANT TO SEC. 99(1)(j), OF THE LAND TITLE ACT."

E 1/4

SEC.

TP 85 , RGE. 20

WELLSITE HUSKY ET AL STODDART
12-36-85-20 W.6.M.



APPENDIX "D" 209M and

File No. 1239
Board Order # 214A-amd

January 10, 2012

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 WEST ½ OF SECTION 36 TOWNSHIP 85 RANGE 20 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

Progress Energy Ltd.

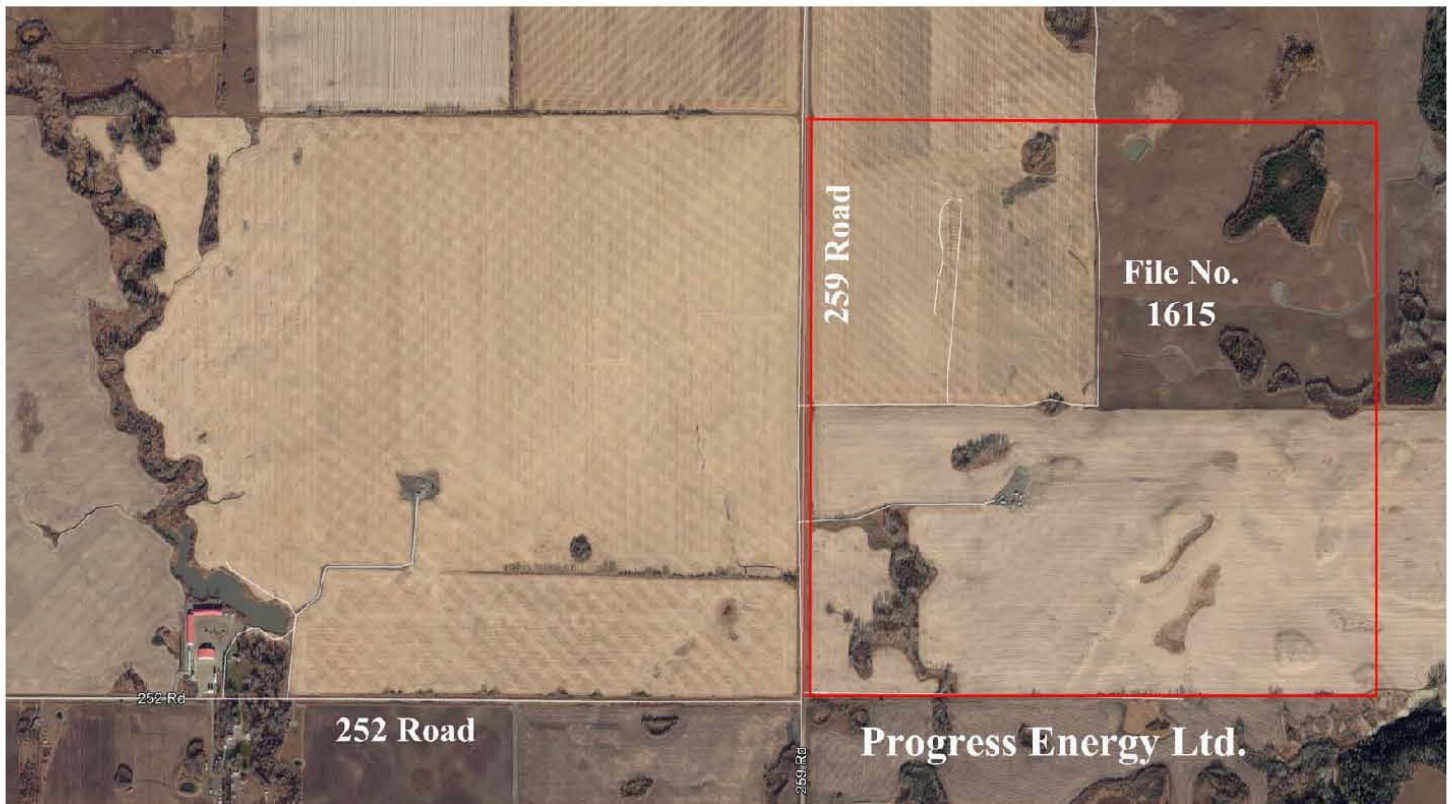
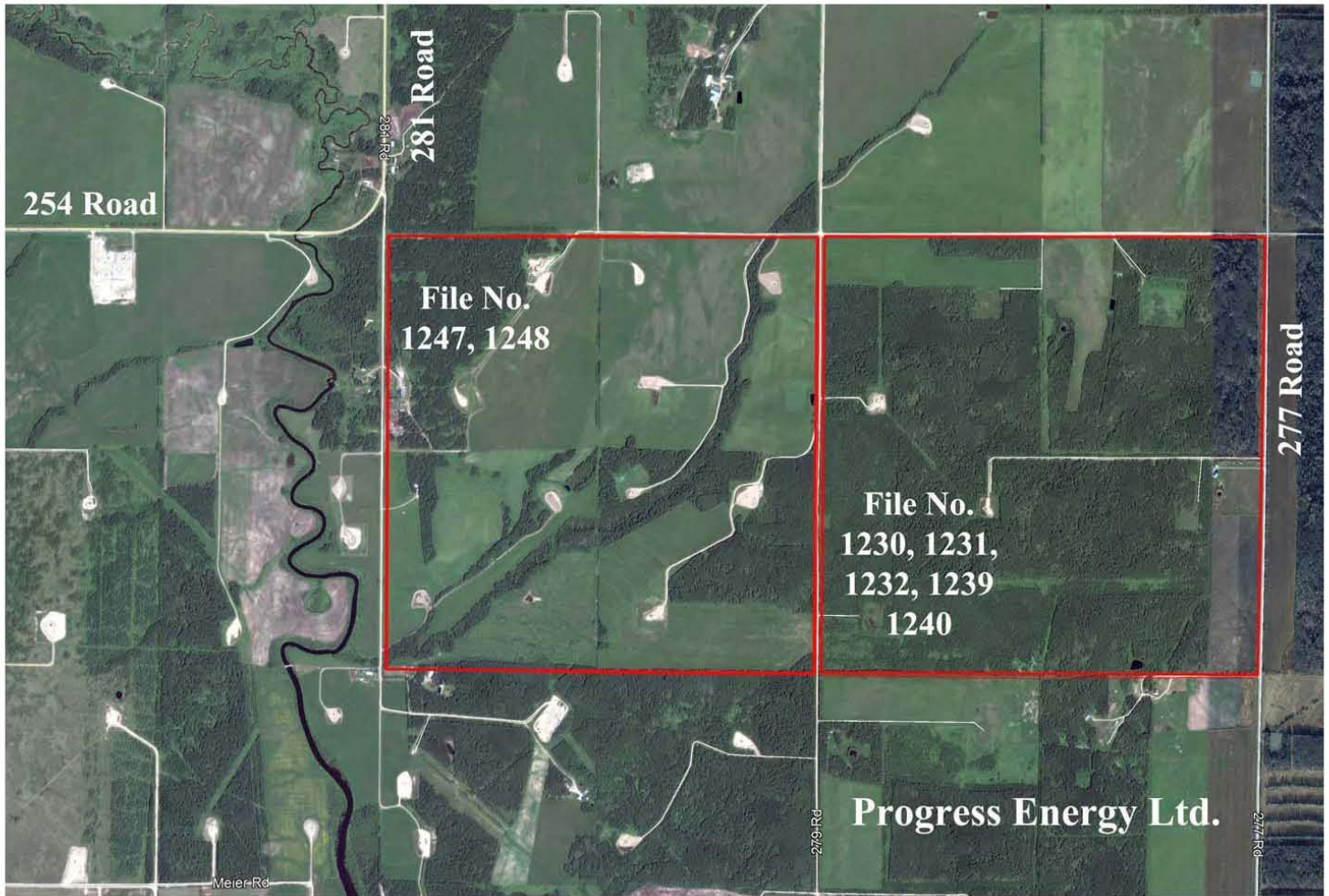
(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER



By Order dated September 4, 1985 as amended by Order dated September 30, 1986 (attached to this Order as Appendix "A"), the Mediation and Arbitration Board (now the Surface Rights Board) granted Husky Oil Operations Ltd. right of entry to the Lands to construct and operate a flowline, and by Order dated April 16, 1987 (attached to this Order as Appendix "B"), the Board confirmed the right of entry and determined the compensation payable. Husky Oil Operations Ltd. constructed the flowline and on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Husky Oil Operations Ltd. The flowline on the Lands is currently operated by Progress Energy Ltd. The Lands are currently owned by Paul Bryan Cowger.

The Surface Rights Board orders as follows:

1. Orders 214M, 214M-1 and 214A are amended to change Husky Oil Operations Ltd. to Progress Energy Ltd. and to delete Francis Joseph Cowger as a Respondent.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "C" for the purpose of constructing and operating a flowline as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated January 10, 2012

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 214A-AMD

File No. 1239

Board Order No. 214M-1

TUESDAY THE 30TH DAY OF SEPTEMBER, A.D. 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE WEST HALF (1/2) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

This is an Application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of "THE ACT" for an amending order of the Mediator under Section 19, of the said Act.

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purpose of having an Oil and Gas Flowline together with the right of ingress and egress for the purposes of maintenance, inspection and repair of all operations in connection therewith.

AND WHEREAS the preliminary survey plan referred to as Schedule "A" in Order 214M has been replaced by Plan 31729.

AND WHEREAS a copy of Plan 31729 is appended hereto.

IT IS HEREBY ORDERED THAT:

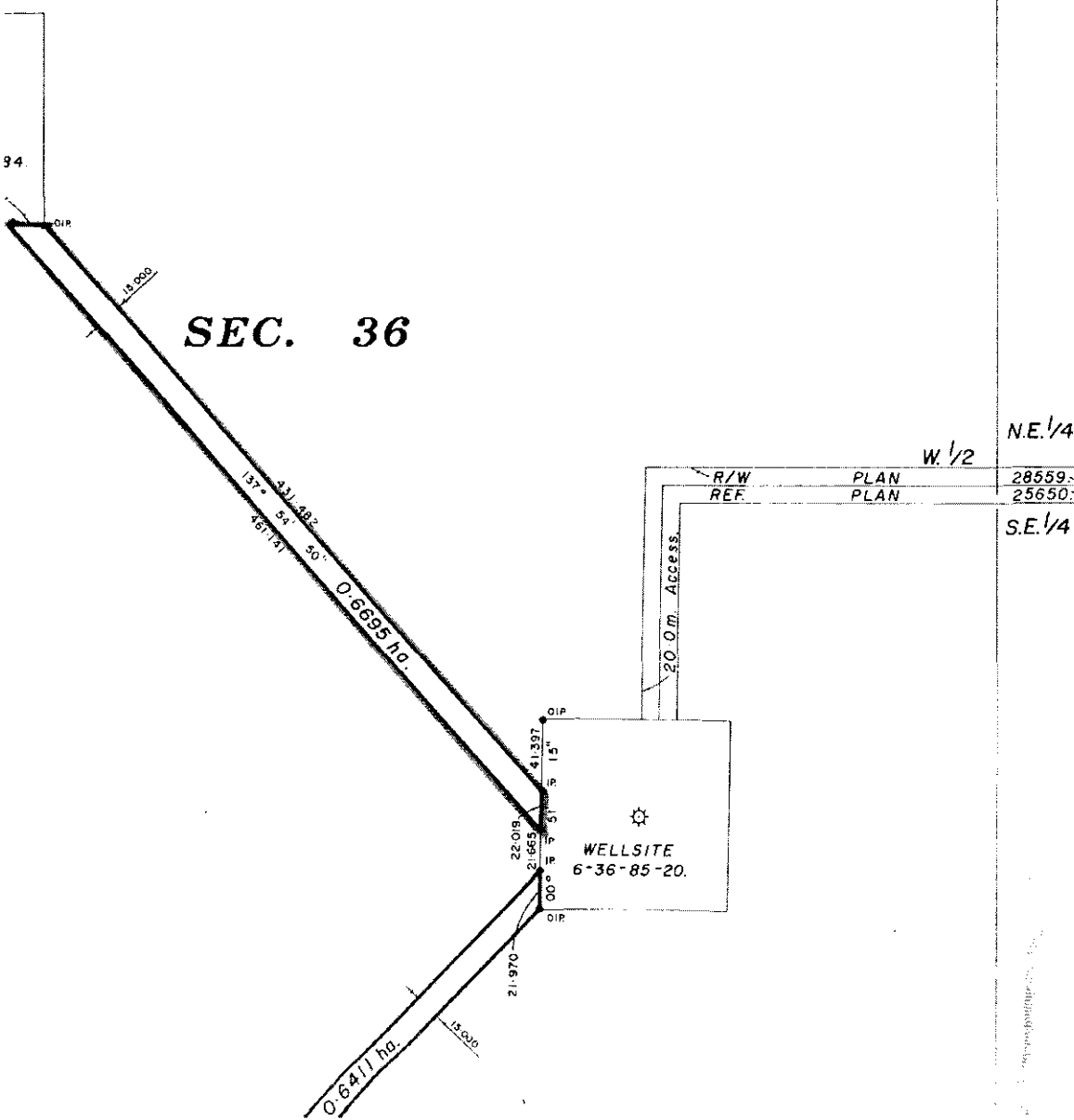
Board Order 214M is hereby amended by deleting therefrom the preliminary plan attached thereto and substituting therefor Plan 31729 as Schedule "A".

CERTIFIED TRUE COPY

DATE *Oct 1 - 1986*

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Mediator



PLAN 31729

DEPOSITED IN THE LAND TITLE OFFICE
 AT PRINCE GEORGE, B.C.,
 THIS 20th DAY OF AUGUST 1986.

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPDLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPDCL DENOTES OLD STANDARD CONC. POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- P&M DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM REF. PLAN 25650.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

| BOOK OF REFERENCE | | |
|-------------------|----------------------|-----------------|
| LOCATION | DESCRIPTION | AREA (Hectares) |
| W. 1/2 SEC. 31 | 15.0m. RIGHT OF WAY. | 1.311 |

STATEMENT BY SURVEYOR

I, R.O. BLACKALL, A BRITISH COLUMBIA LAND SURVEYOR, OF THE CITY OF FORT ST JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
 R.O. BLACKALL, B.C.L.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

File No. 1239

Board Order No. 214M-1

TUESDAY THE 30TH DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979,
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE WEST
HALF (4) OF SECTION THIRTY-SIX (36), TOWNSHIP
EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF
THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER

APPENDIX B " 214A and

File No. 1239

Board Order No. 214-A

THURSDAY THE 16th DAY OF APRIL, A.D. 1987

**BEFORE THE MEDIATION
AND ARBITRATION BOARD:**

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979, AND AMEND-
MENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE WEST HALF
(W₁) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-
FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH
MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525 STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

WHEREAS following an earlier postponement the interested parties were advised that an Arbitration Hearing concerning the Right-of-Entries covered by Board Orders 207-M, 208-M, 209-M dated the 11th day of October A.D. 1985 and 214-M, 215-M dated the 4th day of September A.D. 1985 in the Boardroom, Execuplace, 10142-101st Avenue in the City of Fort St. John, British Columbia, commencing at 10:30 a.m.

AND WHEREAS the hearing was convened on the appointed day in the presence of L. Blair Scarratt, Landman representing the Applicant and Mr. and Mrs. P. Cowger representing the Respondents, together with legal counsel Darryl Carter, L.L.B. There were also several other interested parties attending as observers.

AND WHEREAS following a meeting between the Applicant and the Respondents the Board was advised that an agreement had been reached respecting the amount of compensation payable to the Respondents .

AND WHEREAS the parties also came to an agreement respecting the rate of interest payable on the unpaid balance as well as the amount of costs payable by the Applicant.


THE BOARD DOES AND HEREBY ORDERS THAT:

- 1: The total amount of compensation payable to the Respondents for the rights granted to the Applicant shall be \$1,355.00.
- 2: The balance due to the Respondents after deducting the sums advanced as required by Order 214M is \$530.00
- 3: The Applicant shall pay to the Respondents interest on the unpaid balance of compensation at the rate of 6 3/4% calculated from the 4th day of September A.D. 1985 until the sum aforesaid is paid.
- 4: The amount of costs payable to the Respondents by the Applicant on a prorated basis is \$530.00.

Following payment of the sums aforesaid the Applicant shall continue to exercise all of the rights granted by Order 214-M dated the 4th day of September A.D. 1985, as amended by Order 214M-1 dated the 30th day of September A.D. 1986.

Dated at the City of Port St. John, Province of British Columbia this 16th day of April A.D. 1986.

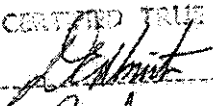
MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

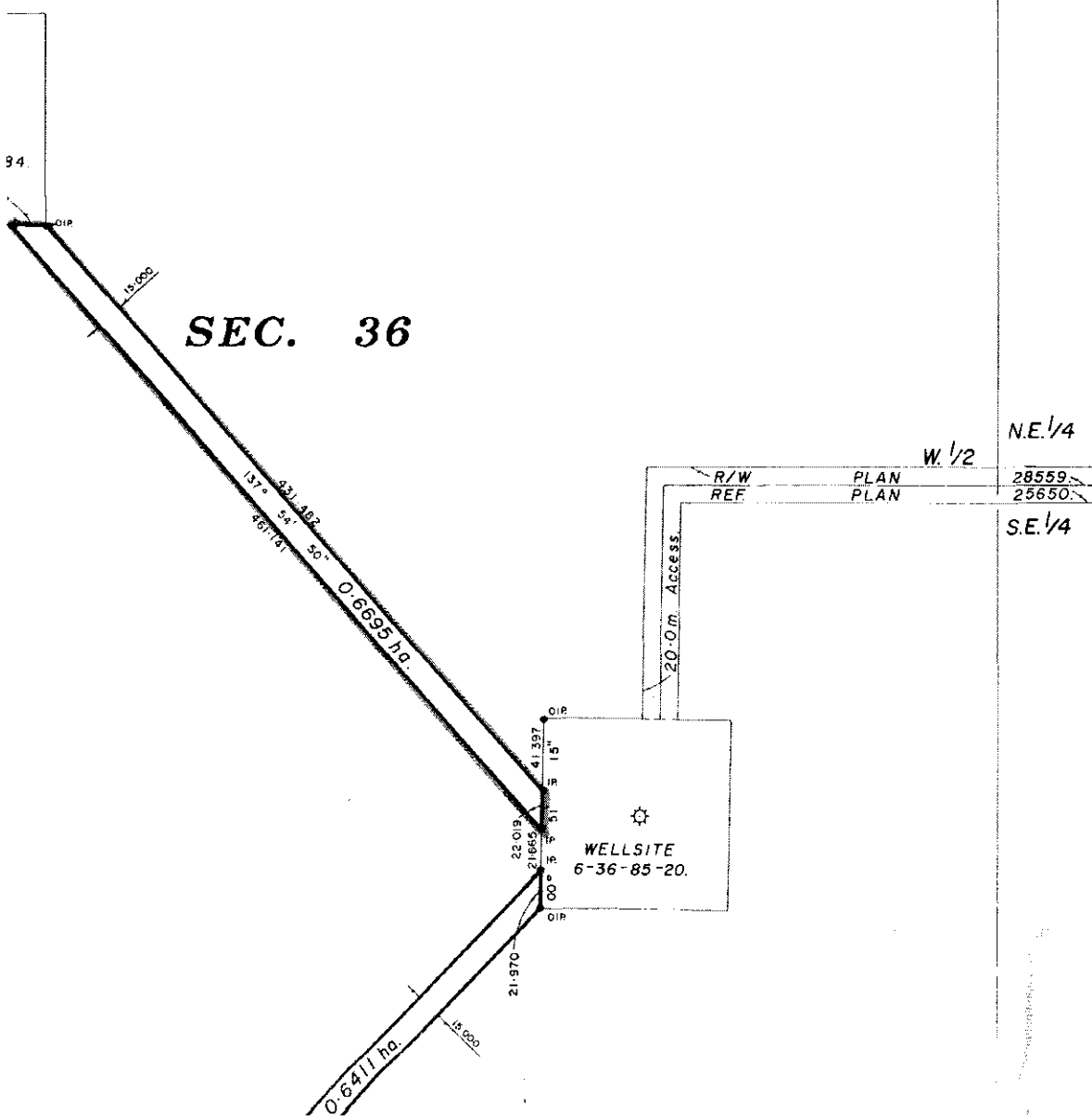

CHAIRMAN


MEMBER


MEMBER

CERTIFIED TRUE COPY


DATE April 24, 1987



PLAN 31729

DEPOSITED IN THE LAND TITLE OFFICE
 AT PRINCE GEORGE, B.C.,
 THIS 20th DAY OF AUGUST 1986

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- OPOLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPCON DENOTES OLD STANDARD CONC. POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- PBM DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM REF. PLAN 25650.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

| BOOK OF REFERENCE | | |
|-------------------|---------------------|-----------------|
| LOCATION | DESCRIPTION | AREA (Hectares) |
| W/2 SEC 31 | 15.0m. RIGHT OF WAY | 1.311 |

STATEMENT BY SURVEYOR

I, R.O. BLACKALL, A BRITISH COLUMBIA LAND SURVEYOR, OF THE CITY OF FORT ST JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
 R.O. BLACKALL, B.C.L.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

File No. 1239

Board Order No. 214-A

THURSDAY THE 16th DAY OF APRIL, A.D. 1987

**BEFORE THE MEDIATION
AND ARBITRATION BOARD:**

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979, AND AMEND-
MENTS THERETO: THE ACT:

AND IN THE MATTER OF A PORTION OF THE WEST HALF
(W½) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-
FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH
MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525 STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

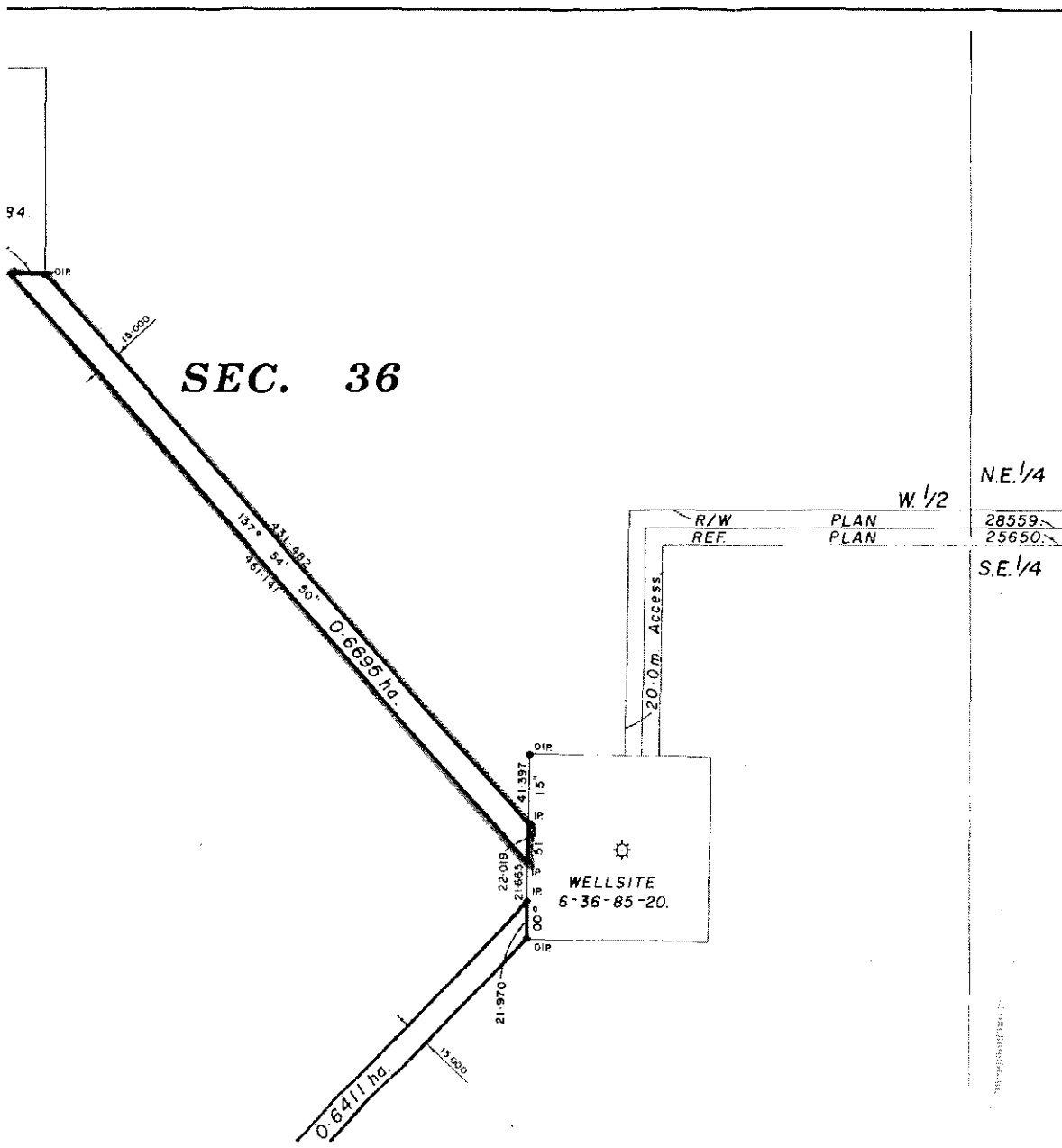
FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH FINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER



PLAN 31729

DEPOSITED IN THE LAND TITLE OFFICE
AT PRINCE GEORGE, B.C.,
THIS 20th DAY OF AUGUST 1986

REGISTRAR

LEGEND

- OIP DENOTES OLD IRON POST FOUND
- IP DENOTES IRON POST SET
- OCIP DENOTES OLD CAPPED IRON POST FOUND
- CIP DENOTES CAPPED IRON POST SET
- OPP DENOTES OLD STANDARD PIPE POST FOUND
- PP DENOTES STANDARD PIPE POST SET
- ◆ OPOLS DENOTES OLD PATTERN D.L.S. POST FOUND
- OPOCN DENOTES OLD STANDARD CONC. POST FOUND
- TH DENOTES TRAVERSE HUB
- RP DENOTES REFERENCE POST
- BT DENOTES BEARING TREE
- WT DENOTES WITNESS
- P&M DENOTES PITS & MOUND
- ☼ DENOTES PRODUCING WELL
- (b) DENOTES BURIED
- (c) DENOTES CALCULATED

BEARINGS ARE ASTRONOMIC, DERIVED FROM REF. PLAN 25650.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.

BOOK OF REFERENCE

| LOCATION | DESCRIPTION | AREA (Hectares) |
|-------------|--------------------|-----------------|
| W/2 SEC. 31 | 15.0m RIGHT OF WAY | 1.311 |

STATEMENT BY SURVEYOR

I, R.O. BLACKALL, A BRITISH COLUMBIA LAND SURVEYOR, OF THE CITY OF FORT ST. JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
R.O. BLACKALL, B.C.L.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

APPENDIX 'C' & 'D' DIVISION

File No. 1240
Board Order # 215A-amd

January 10, 2012

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 WEST ½ OF SECTION 36 TOWNSHIP 85 RANGE 20 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

Progress Energy Ltd.

(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER

By Order dated September 4, 1985 as amended by Order dated September 30, 1986 (attached to this Order as Appendix "A"), the Mediation and Arbitration Board (now the Surface Rights Board) granted Husky Oil Operations Ltd. right of entry to the Lands to construct and operate a flowline, and by Order dated April 16, 1987 (attached to this Order as Appendix "B"), the Board confirmed the right of entry and determined the compensation payable. Husky Oil Operations Ltd. constructed the flowline and on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Husky Oil Operations Ltd. The flowline on the Lands is currently operated by Progress Energy Ltd. The Lands are currently owned by Paul Bryan Cowger.

The Surface Rights Board orders as follows:

1. Orders 215M, 215M-1 and 215A are amended to change Husky Oil Operations Ltd. to Progress Energy Ltd. and to delete Francis Joseph Cowger as a Respondent.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "C" for the purpose of operating a flowline as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated January 10, 2012

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 215A-amd

File No. 1240

Board Order No. 215M-1

TUESDAY THE 30TH DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTHWEST QUARTER (SW¼) OF SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST OF THE SIXTH MERIDIAN (W6M), PEACE RIVER DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. Box 39
MONTNEY, B.C.

RESPONDENTS

This is an Application by Husky Oil Operations Ltd., under the entry, occupation or use provisions of "THE ACT" for an amending order of the Mediator under Section 19, of the said Act.

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purpose of having an Oil and Gas Flowline together with the right of ingress and egress for the purposes of maintenance, inspection and repair of all operations in connection therewith.

AND WHEREAS the preliminary survey plan referred to as Schedule "A" in the Order 215M has been replaced by Plan 31729.

AND WHEREAS a copy of Plan 31729 is appended hereto.

IT IS HEREBY ORDERED THAT:

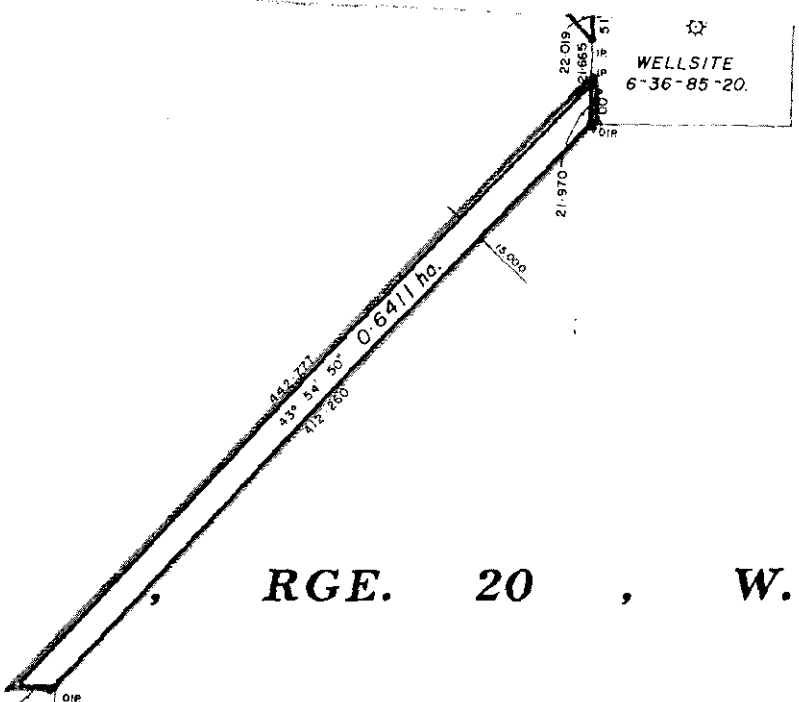
Board Order 215M is hereby amended by deleting therefrom the preliminary plan attached thereto and substituting therefor Plan 31729 as Schedule "A".

CERTIFIED TRUE COPY

[Signature]
DATE October 15 1986

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

[Signature]
Mediator



RGE. 20 , W. 6. M.

PLAN 31729

I, R.O. BLACKALL, A BRITISH COLUMBIA SURVEYOR, CITY OF FORT ST. JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
R.O. BLACKALL, B.C.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

STATUTORY RIGHT OF WAY PLAN
THROUGH PART OF
W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6. M.,
PEACE RIVER DISTRICT.

SCALE: 1: 2500.



PEACE RIVER DISTRICT
IN THE PROVINCE OF BRITISH COLUMBIA

| | | |
|-----------------|--|----------------------------------|
| SCALE: 1: 2500. | McELHANNEY ASSOCIATES PROFESSIONAL LAND SURVEYORS 10014-97th Ave., Ste. 202, Fort St. John, B.C. Phone: 604-767-0356. | 507- JOB N° 00519B. B.M.R. |
|-----------------|--|----------------------------------|

File No. 1240

Board Order No. 215M-1

TUESDAY THE 30TH DAY OF SEPTEMBER, A.D., 1986

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTHWEST
QUARTER (SW $\frac{1}{4}$) OF SECTION THIRTY-SIX (36),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20),
WEST OF THE SIXTH MERIDIAN, (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER

THURSDAY THE 16th DAY OF APRIL, A.D. 1987

**BEFORE THE MEDIATION
AND ARBITRATION BOARD:**

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTHWEST
QUARTER (SW4) OF SECTION THIRTY-SIX (36), TOWN-
SHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST
OF THE SIXTH MERIDIAN, (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

WHEREAS following an earlier postponement the interested parties were advised that an Arbitration Hearing concerning the Right-of-Entries covered by Board Orders 207-M, 208-M, 209-M dated the 11th day of October A.D. 1985 and 214-M, 215-M dated the 4th day of September A.D. 1985 in the Boardroom, Execuplace, 10142 - 101st Avenue in the City of Fort St. John, British Columbia, commencing at 10:30 a.m.

AND WHEREAS the hearing was convened on the appointed day in the presence of L. Blair Scarratt, Landman representing the Applicant and Mr. and Mrs. P. Cowger representing the Respondents, together with legal counsel Darryl Carter, L.L.B. There were also several other interested parties attending as observers.

AND WHEREAS following a meeting between the Applicant and the Respondents the Board was advised that an agreement had been reached respecting the amount of compensation payable to the Respondent.

AND WHEREAS the parties also came to an agreement respecting the rate of interest payable on the unpaid balance as well as the amount of costs payable by the Applicant.

THE BOARD DOES AND HEREBY ORDERS THAT:

- 1: The total amount of compensation payable to the Respondents for the rights granted to the Applicant shall be \$1,348.00.
- 2: The balance due the Respondents after deducting the sums advanced as required by Order 215M is \$558.00.
- 3: The Applicant shall pay to the Respondents interest on the unpaid balance of compensation at the rate of 6 3/4 % calculated from the 4th day of September A.D. 1985 until the sum aforesaid is paid.
- 4: The amount of costs payable to the Respondents by the Applicant on a pro-rated basis is \$530.00.

Following payment of the sums aforesaid the Applicant shall continue to exercise all of the rights granted by Order 215-M dated the 4th day of September A.D. 1985, as amended by Order 215M-1 dated the 30th day of September A.D. 1986.

Dated at the City of Fort St. John, Province of British Columbia this 16th day of April A.D. 1986.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

CERTIFIED TRUE COPY

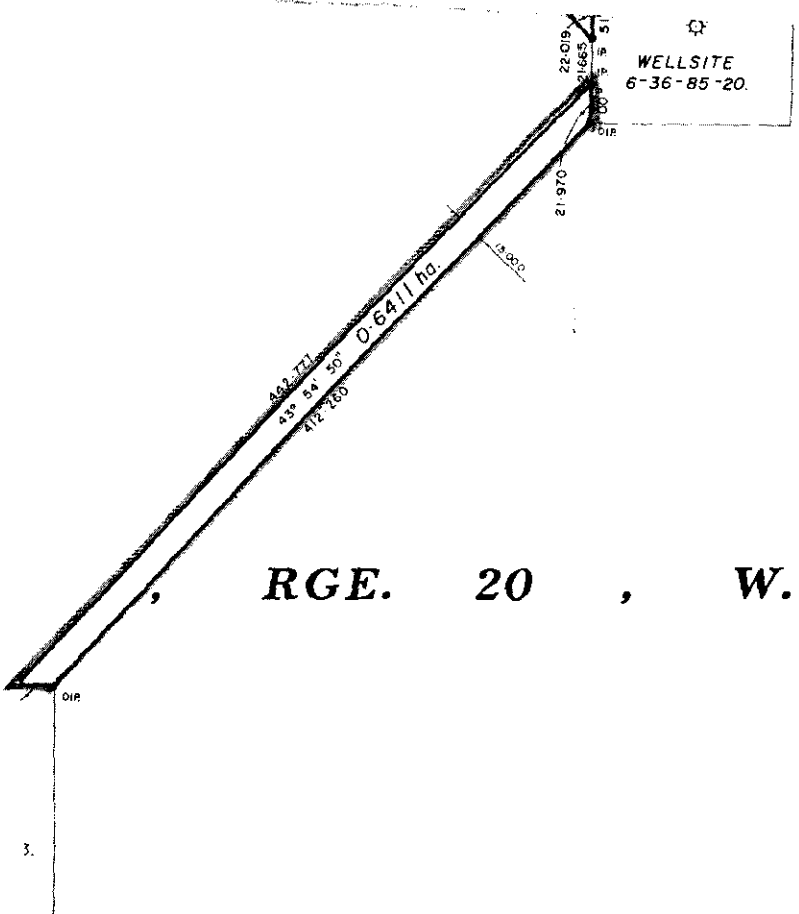
DATE

[Signature]
April 24, 1987

[Signature]
CHAIRMAN

[Signature]
MEMBER

[Signature]
MEMBER



RGE. 20 , W. 6. M.

PLAN 31729

I, R. O. BLACKALL, A BRITISH COLUMBIA SURVEYOR, CITY OF FORT ST. JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
 R. O. BLACKALL, B.C.L.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

STATUTORY RIGHT OF WAY PLAN
 THROUGH PART OF
 W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6. M.,
 PEACE RIVER DISTRICT.

SCALE: 1: 2500.



PEACE RIVER DISTRICT
 IN THE PROVINCE OF BRITISH COLUMBIA

| | | |
|-----------------|---|------------------------|
| SCALE: 1: 2500. | McELHANNEY ASSOCIATES PROFESSIONAL LAND SURVEYORS 10014-97th Ave., Ste. 202, Fort St. John, B.C. Phone: 604-787-0398 | 507- JOB N° 00519B. |
|-----------------|---|------------------------|

File No. 1240

Board Order No. 215A

THURSDAY THE 16th DAY OF APRIL, A.D. 1987

BEFORE THE MEDIATION
AND ARBITRATION BOARD:

IN THE MATTER OF THE PETROLEUM AND NATURAL
GAS ACT, 1979, BEING CHAPTER 323 OF THE
REVISED STATUTES OF BRITISH COLUMBIA, 1979
AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTHWEST
QUARTER (SW¼) OF SECTION THIRTY-SIX (36) TOWN-
SHIP EIGHTY-FIVE (85), RANGE TWENTY (20), WEST
OF THE SIXTH MERIDIAN, (W6M), PEACE RIVER
DISTRICT

BETWEEN:

HUSKY OIL OPERATIONS LTD.
P.O. BOX 6525, STATION "D"
CALGARY, ALBERTA
T2P 3G7

APPLICANT

AND:

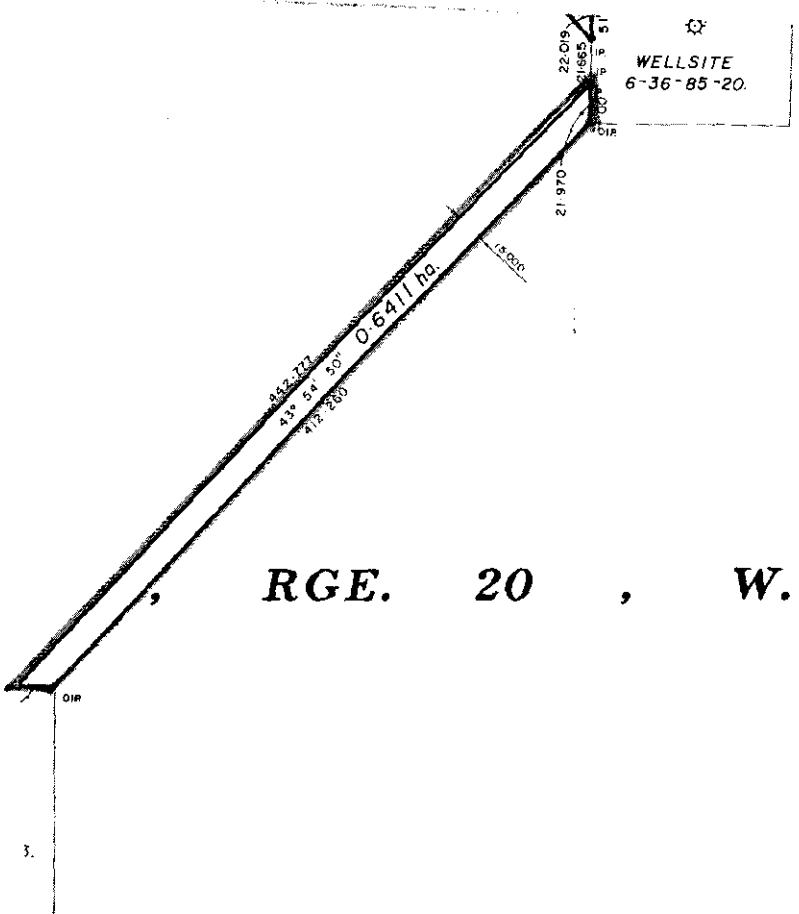
FRANCIS JOSEPH COWGER
P.O. BOX 13
NORTH PINE, B.C.

AND

PAUL BRYAN COWGER
P.O. BOX 39
MONTNEY, B.C.

RESPONDENTS

ORDER



PLAN 31729

I, R. O. BLACKALL, A BRITISH COLUMBIA SURVEYOR, CITY OF FORT ST. JOHN, IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 25th DAY OF JULY, 1986.

R.O. Blackall
 R. O. BLACKALL, B.C.L.S.

THIS PLAN LIES WITHIN THE PEACE RIVER - LIARD REGIONAL DISTRICT.

HUSKY OIL OPERATIONS LTD.

STATUTORY RIGHT OF WAY PLAN
 THROUGH PART OF
 W. 1/2 OF SEC. 36, TP. 85, RGE. 20, W. 6. M.,
 PEACE RIVER DISTRICT.

SCALE: 1: 2500.



PEACE RIVER DISTRICT
 IN THE PROVINCE OF BRITISH COLUMBIA

| | | |
|-----------------|--|------------------------|
| SCALE: 1: 2500. | McELHANNEY ASSOCIATES PROFESSIONAL LAND SURVEYORS 10014-97th Ave., Ste. 202, Fort St. John, B.C. Phone: 804-787-0308. | 507- JOB N° 00519B. |
|-----------------|--|------------------------|

B.M.R.

APPENDIX 'C' of 215A-ann

File No. 1247
Board Order # 217M-amd

December 8, 2011

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 35 TOWNSHIP 85 RANGE 20 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT**

(The "Lands")

BETWEEN:

Progress Energy Ltd.

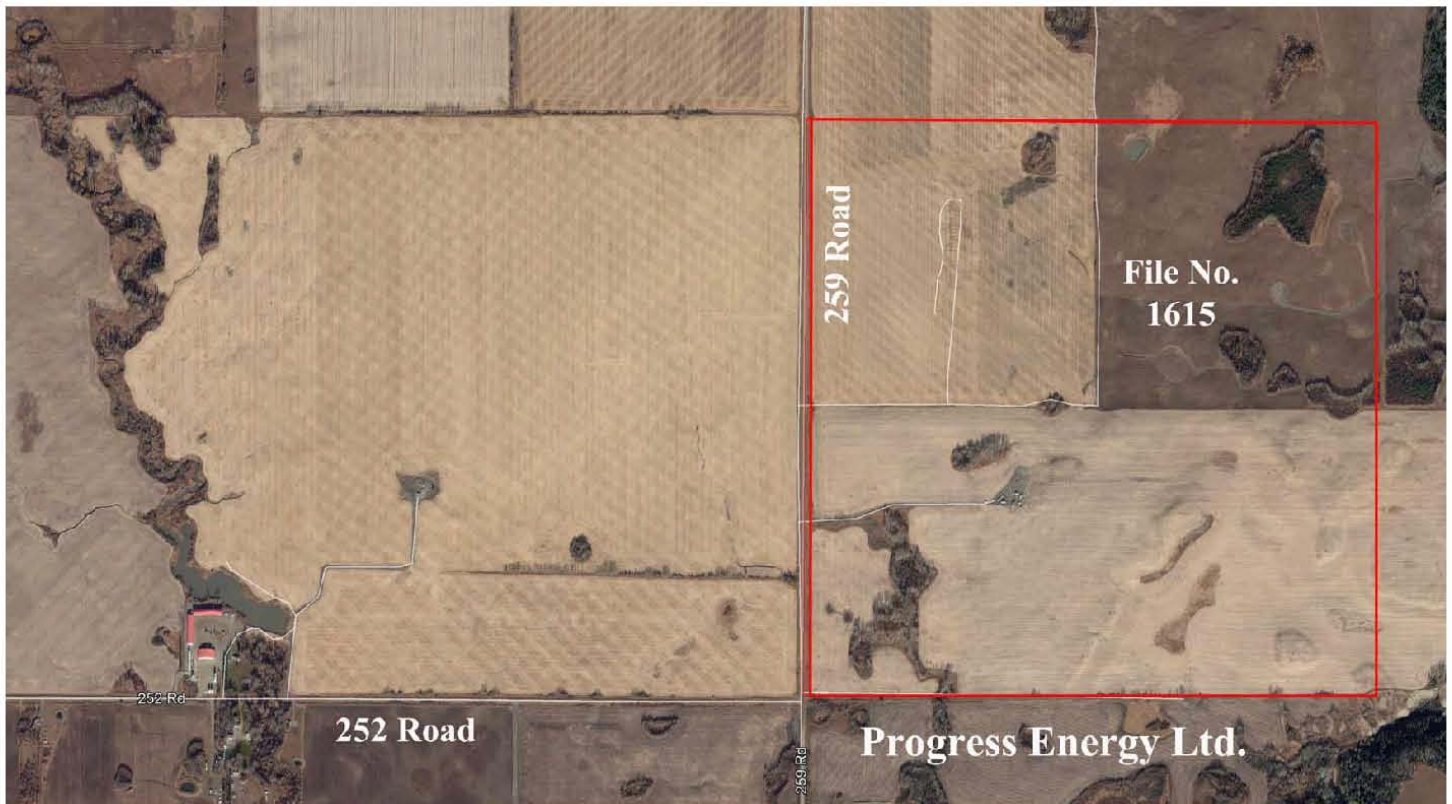
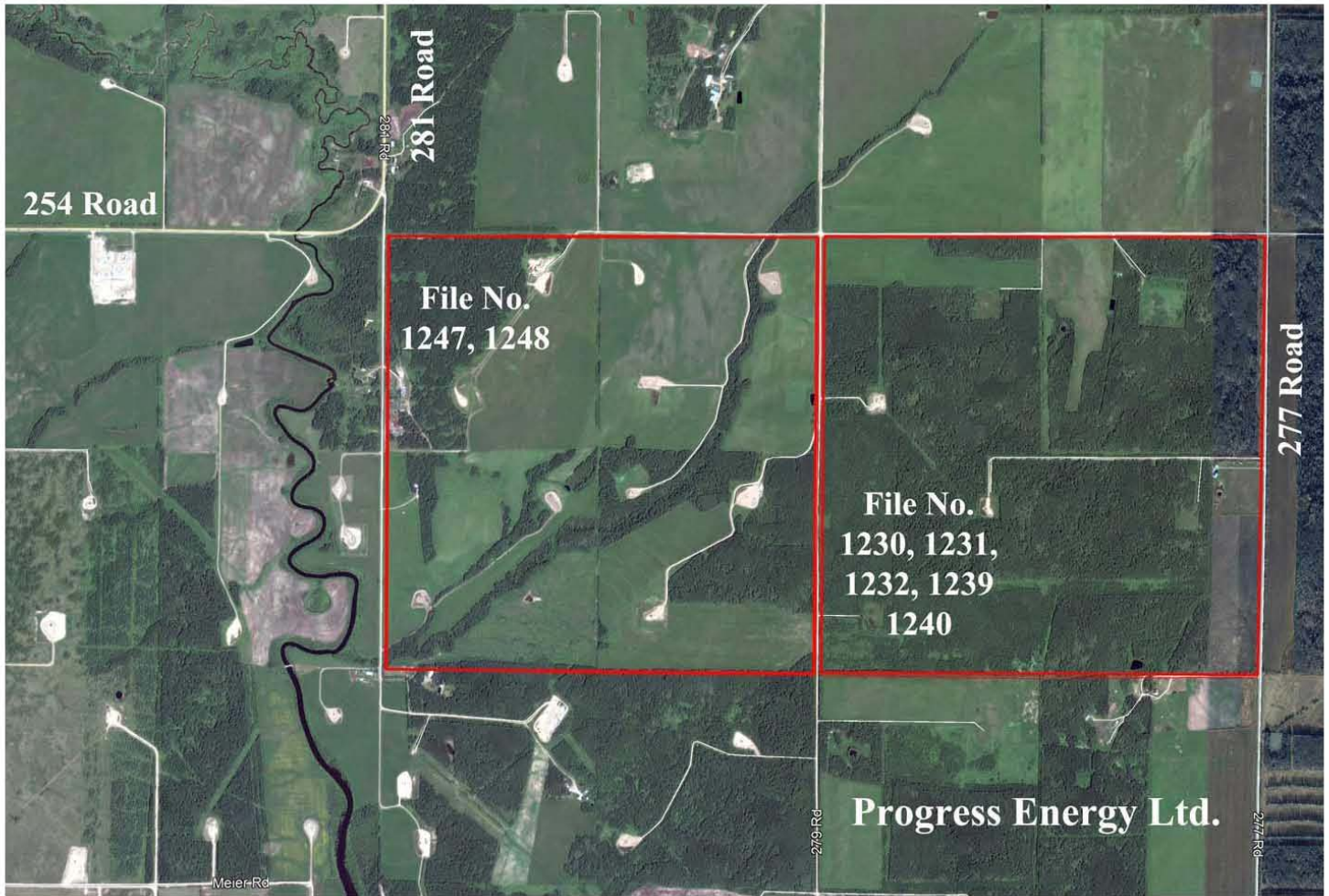
(APPLICANT)

AND:

Paul Bryan Cowger

(RESPONDENT)

BOARD ORDER



By Order dated August 28, 1987 (attached to this Order as Appendix "A"), the Mediation and Arbitration Board (now the Surface Rights Board) granted Poco Petroleum Ltd. right of entry to the Lands to construct and operate a flowline. Poco Petroleum Ltd. constructed the flowline on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to Poco Petroleum Ltd. by way of corporate amalgamation and assignment. The flowline on the Lands is currently operated by Progress Energy Ltd.

The Surface Rights Board orders as follows:

1. Order 217M is amended to change Poco Petroleum Ltd. to Progress Energy Ltd.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "B" for the purpose of operating a flowline as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated December 8, 2011

FOR THE BOARD



Cheryl Vickers
Chair

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT, 1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTH-EAST QUARTER (SE $\frac{1}{4}$) OF SECTION THIRTY-FIVE (35), TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20) WEST OF THE SIXTH MERIDIAN, PEACE RIVER DISTRICT

BETWEEN:

POCO PETROLEUM LTD.
3300 - 205-5th AVE., S.W.
CALGARY, ALBERTA
T2P 2V7

APPLICANT

AND:

PAUL B. COWGER
BOX 39
MONTNEY, B.C.
VOC 1Y0

RESPONDENT

This is an application by POCO Petroleum Ltd., under the entry, occupation or use provisions of the Petroleum and Natural Gas Act, 1979, for an Order of the Mediator under Section 19 of "The Act".

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purposes of construction and having an oil and gas flowline together with the Right of Ingress and Egress for the purposes of maintenance, inspection and repair of all operations in connection therewith.

AND WHEREAS the Respondent has verbally agreed to entry by way of a Mediators Order.

AND WHEREAS it appears that issues inhibiting an immediate completion of an easement satisfactory to both parties are not resolved and the Mediator being of the opinion that the Applicant's request for Right of Entry, should be granted forthwith.

IT IS HEREBY ORDERED THAT:

1. Further Mediation on the matter be adjourned sine die.
2. The Applicant deposit with the Board a security deposit in the amount of \$250.00 payable to the Minister of Finance, Province of British Columbia.

3. a) The Applicant pay to the Respondent a sum of seven hundred and eighty-five dollars (\$785.00) by causing a cheque in that amount to be forwarded by registered mail to Paul B. Cowger, P.O. Box 39, Montney, B.C., which cheque shall be accompanied by a copy of this Order, or;
b) By delivering the aforesaid cheque together with a copy of this Order to the Respondent Paul B. Cowger.
4. The Applicant further notify the Respondent and all other interested persons of this Order by causing its servants or agents when entering upon the property hereinbefore described, to have with them and to produce upon request of any person thereon a true copy of this Order.
5. Following completion of 2, 3, and 4, the Applicant shall be permitted to enter that area outlined in red on the plan of survey attached hereto as Schedule "A" for the purposes of constructing and burying an oil and gas flowline, along with the Right of Ingress and Egress for all operations connected with or incidental to that purpose.
6. The completion of this flowline is subject to a further condition. The Respondent has requested that the Applicant salvage and buck those trees which must be removed from the right-of-way suitable for firewood. Therefor the Applicant's Area Representative, Mr. Mikael Nielsen, in co-operation with the Respondent shall either salvage or substitute wood from an alternate source should salvage prove to be impractical or uneconomic.

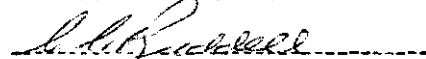
DATED AT THE CITY OF FORT ST. JOHN, PROVINCE OF BRITISH COLUMBIA, this 28th day of August, A.D. 1987.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

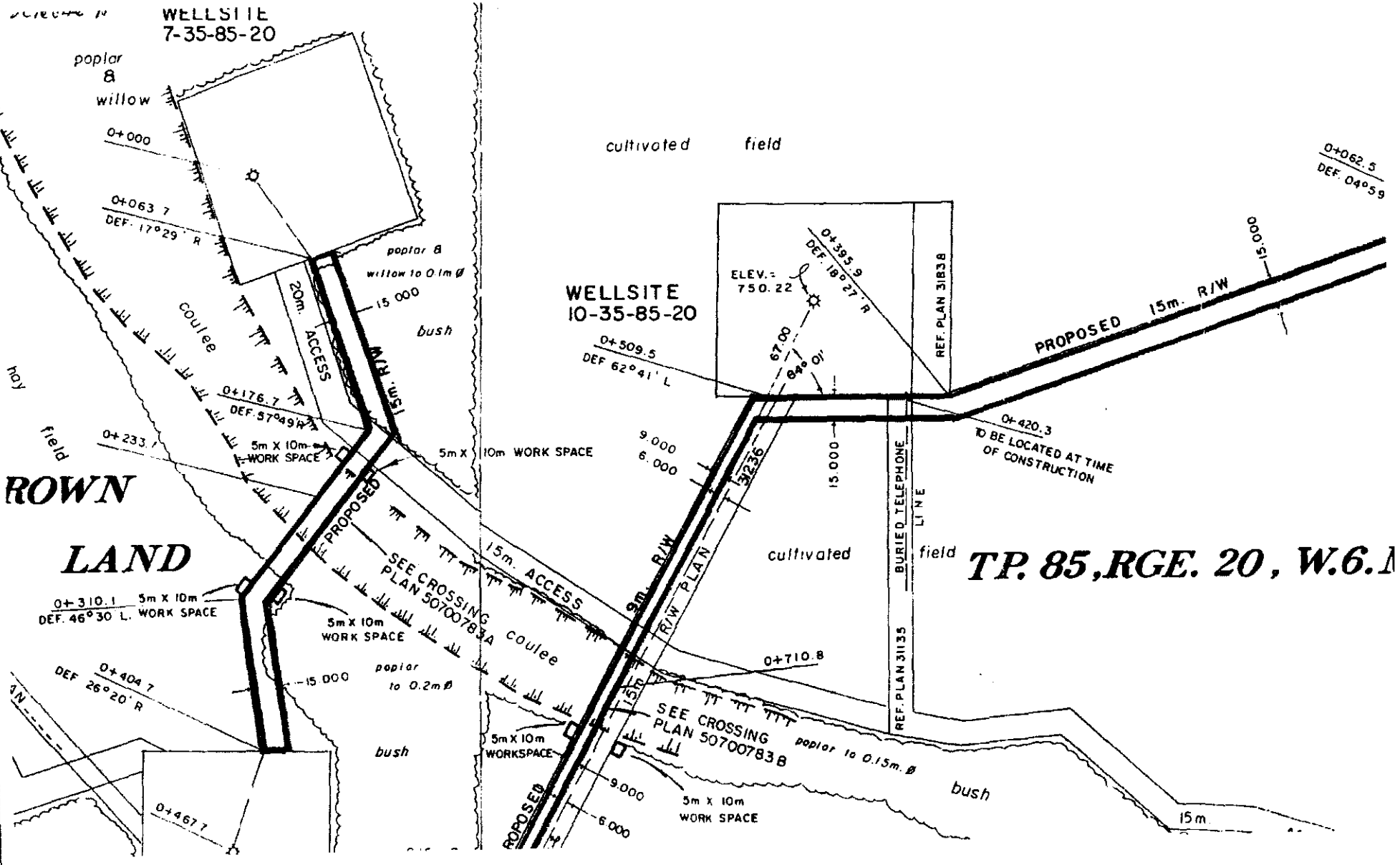


Mediator

CERTIFIED TRUE COPY



DATE Aug 28 1987



BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, 1979, BEING CHAPTER 323 OF THE REVISED
STATUTES OF BRITISH COLUMBIA, 1979 AND AMEND-
MENTS THERETO; THE ACT:

AND IN THE MATTER OF A PORTION OF THE SOUTH-EAST
QUARTER (SE¼) OF SECTION THIRTY-FIVE (35),
TOWNSHIP EIGHTY-FIVE (85), RANGE TWENTY (20)
WEST OF THE SIXTH MERIDIAN, PEACE RIVER DISTRICT

BETWEEN:

POCO PETROLEUMS LTD.
3300 - 205-5th AVE., S.W.
CALGARY, ALBERTA
T2P 2V7

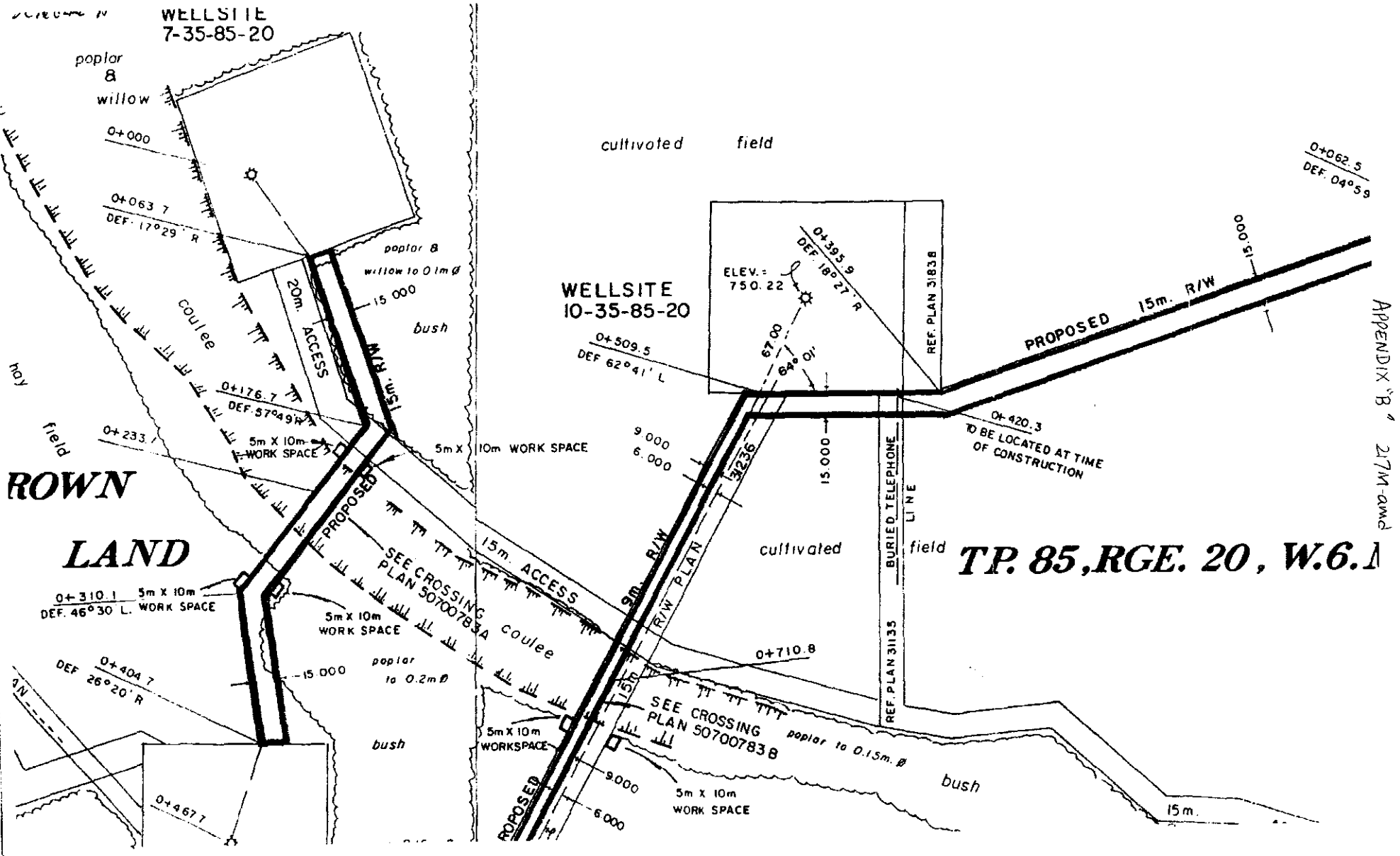
APPLICANT

AND:

PAUL B. COWGER
BOX 39
MONTNEY, B.C.
V0C 1Y0

RESPONDENT

ORDER



WELLSITE
7-35-85-20

WELLSITE
10-35-85-20

**ROWN
LAND**

TP. 85, RGE. 20, W. 6.1

APPENDIX 'B' 217M and

TO BE LOCATED AT TIME
OF CONSTRUCTION

cultivated field

cultivated field

field

REF. PLAN 31838

BURIED TELEPHONE
LINE

REF. PLAN 31135

PROPOSED 15m. R/W

PROPOSED

15m. R/W

15m. R/W

20m. ACCESS

15m. ACCESS

5m X 10m
WORK SPACE

5m X 10m
WORKSPACE

5m X 10m
WORK SPACE

5m X 10m
WORK SPACE

5m X 10m WORK SPACE

5m X 10m
DEF. 46°30' L. WORK SPACE

DEF. 17°29' R

DEF. 57°49' R

DEF. 26°20' R

DEF. 62°41' L

DEF. 18°27' R

0+062.5
DEF. 04°59'

ELEV. =
750.22

0+710.8

0+467.1

0+063.7

0+176.7

0+233.1

0+310.1

0+404.7

0+467.1

0+509.5

0+825.9

0+000

poplar &
willow

poplar &
willow to 0.1m Ø

poplar
to 0.2m Ø

poplar to 0.15m Ø

coulee

coulee

coulee

bush

bush

bush

bush

hay

field

15m.

File No. 1248
Board Order # 218M-amd

December 8, 2011

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 35 TOWNSHIP 85 RANGE 20 WEST OF
THE 6TH MERIDIAN PEACE RIVER DISTRICT

(The "Lands")

BETWEEN:

Progress Energy Ltd.

(APPLICANT)

AND:

Horst Hofmann

(RESPONDENT)

BOARD ORDER

By Order dated August 28, 1987 (attached to this Order as Appendix "A"), the Mediation and Arbitration Board (now the Surface Rights Board) granted POCO Petroleum Ltd. right of entry to the Lands to construct and operate a flowline. POCO Petroleum Ltd. constructed the flowline on the Lands as contemplated by the Right of Entry Order.

Progress Energy Ltd. is the successor to POCO Petroleum Ltd. by way of corporate amalgamation and assignment. The flowline on the Lands is currently operated by Progress Energy Ltd.

Horst Hofmann is the current owner of the Lands.

The Surface Rights Board orders as follows:

1. Order 218M is amended to change POCO Petroleum Ltd. to Progress Energy Ltd and to change Bes Anton Hoffmann c/o Horst Hoffman to Horst Hofmann.
2. Progress Energy Ltd. has the right to enter, occupy and use that portion of the Lands shown on the Individual Ownership Plan attached as Appendix "B" for the purpose of operating a flowline as permitted by the Oil and Gas Commission.
3. Nothing in this order operates as consent, approval, permission or authorization of matters within the jurisdiction of the Oil and Gas Commission.

Dated December 8, 2011

FOR THE BOARD



Cheryl Vickers
Chair

APPENDIX "A" 218M-amd

File No. 1248

Board Order No. 218-M

BEFORE THE MEDIATOR:

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF
BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO;
THE ACT:

AND IN THE MATTER OF A PORTION OF THE NORTH-EAST
QUARTER (NE¼) OF SECTION THIRTY-FIVE (35), TOWNSHIP
EIGHTY-FIVE (85), RANGE TWENTY (20) WEST OF THE
SIXTH MERIDIAN, PEACE RIVER DISTRICT

BETWEEN:

POCO PETROLEUMS LTD.
3300 - 205-5th AVE., S.W.
CALGARY, ALBERTA
T2P 2V7

APPLICANT

AND:

BES ANTON HOPPMANN
C/O HORST HOPPMANN
BOX 135
MONTNEY, B.C.
VOC 1Y0

RESPONDENT

This is an application by POCO Petroleum Ltd., under the entry, occupation or use provisions of the Petroleum and Natural Gas Act, 1979, for an Order of the Mediator under Section 19 of "The Act".

THE APPLICANT having applied for an Order permitting it to enter part of the above described land for the purpose of construction and having an oil and gas flowline together with the Right of Ingress and Egress for the purposes of maintenance, inspection and repair of all operations in connection therewith.

AND WHEREAS the Respondent has verbally agreed to entry by way of a Mediators Order.

AND WHEREAS it appears that issues inhibiting an immediate completion of an easement satisfactory to both parties are not resolved and the Mediator being of the opinion that the Applicant's request for Right of Entry, should be granted forthwith.

IT IS HEREBY ORDERED THAT:

1. Further Mediator on the matter be adjourned sine die.
2. The Applicant deposit with the Board a security deposit in the amount of \$250.00 payable to the Minister of Finance, Province of British Columbia.

3. a) The Applicant pay to the Respondent a sum of twelve hundred and sixty dollars (\$1260.00) by causing a cheque in that amount to be forwarded by registered mail to Bes Anton Hoffman, c/o Horst Hoffmann, P.O. Box 135, Montney, B.C., which cheque shall be accompanied by a copy of this Order, or;
b) By delivering the aforesaid cheque together with a copy of this Order to the Respondent Bes Anton Hoffmann.
4. The Applicant further notify the Respondent and all other interested persons of this Order by causing its servants or agents when entering upon the property hereinbefore described, to have them and to produce upon request of any person thereon a true copy of this Order.
5. Following completion of 2, 3, and 4, the Applicant shall be permitted to enter that area outlined in red on the plan of survey attached hereto as Schedule "A" for the purposes of constructing and burying an oil and gas flowline, along with the Right of Ingress and Egress for all operations connected with or incidental to that purpose.

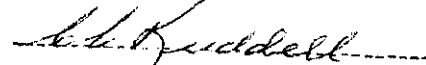
DATED AT THE CITY OF FORT ST. JOHN, PROVINCE OF BRITISH COLUMBIA, this 28th day of August, A.D., 1987.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT



Mediator

CERTIFIED TRUE COPY



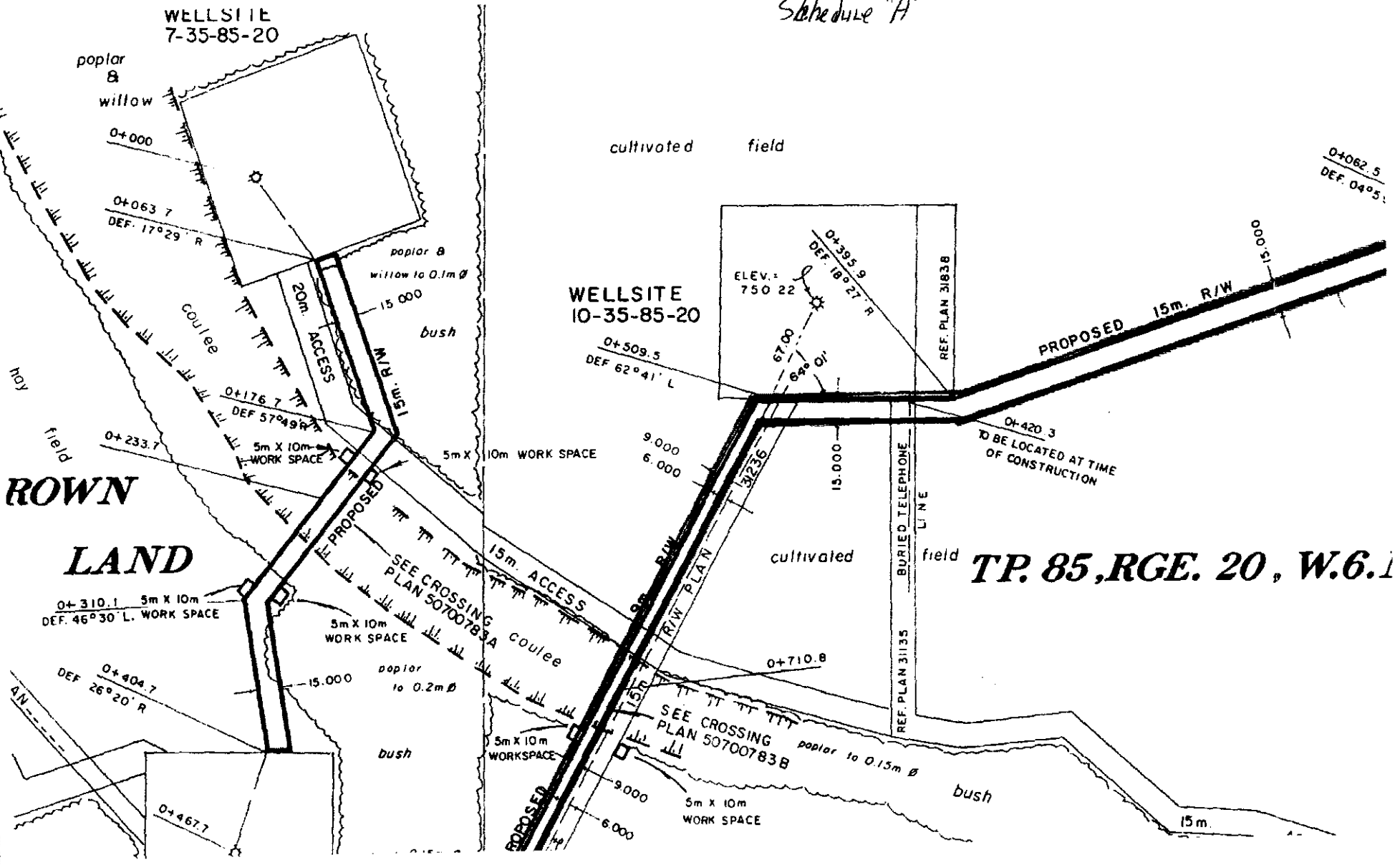
DATE Aug 28 1987

Schedule "H"

WELLSITE
7-35-85-20

WELLSITE
10-35-85-20

TP. 85, RGE. 20, W. 6.1



ROWN
LAND

cultivated field

cultivated field

TO BE LOCATED AT TIME OF CONSTRUCTION

0+962.5
DEF. 04°05'

PROPOSED 15m. R/W

BURIED TELEPHONE LINE
REF. PLAN 31135
REF. PLAN 31838

20m. ACCESS

5m X 10m WORK SPACE

0+509.5
DEF 62°41' L

ELEV. = 750.22

0+395.9
DEF 18°27' R

9.000
6.000

15.000

0+420.3

0+310.1
DEF. 46°30' L. WORK SPACE

5m X 10m WORK SPACE

15m. ACCESS

poplar to 0.2m Ø

SEE CROSSING PLAN 50700783B

0+710.8

5m X 10m WORK SPACE

poplar to 0.15m Ø

9.000
6.000

bush

15m.

BEFORE THE MEDIATOR

IN THE MATTER OF THE PETROLEUM AND NATURAL GAS ACT,
1979, BEING CHAPTER 323 OF THE REVISED STATUTES OF
BRITISH COLUMBIA, 1979 AND AMENDMENTS THERETO;
THE ACT:

AND IN THE MATTER OF A PORTION OF THE NORTH-EAST
QUARTER (NE¼) OF SECTION THIRTY-FIVE (35), TOWNSHIP
EIGHTY-FIVE (85), RANGE TWENTY (20) WEST OF THE
SIXTH MERIDIAN, PEACE RIVER DISTRICT

BETWEEN:

POCO PETROLEUMS LTD.
3300 - 205-5th AVE., S.W.
CALGARY, ALBERTA
T2P 2V7

APPLICANT

AND:

BES ANTON HOPPMANN
C/O HORST HOPPMANN
BOX 135
MONTNEY, B.C.
V0C 1Y0

RESPONDENT

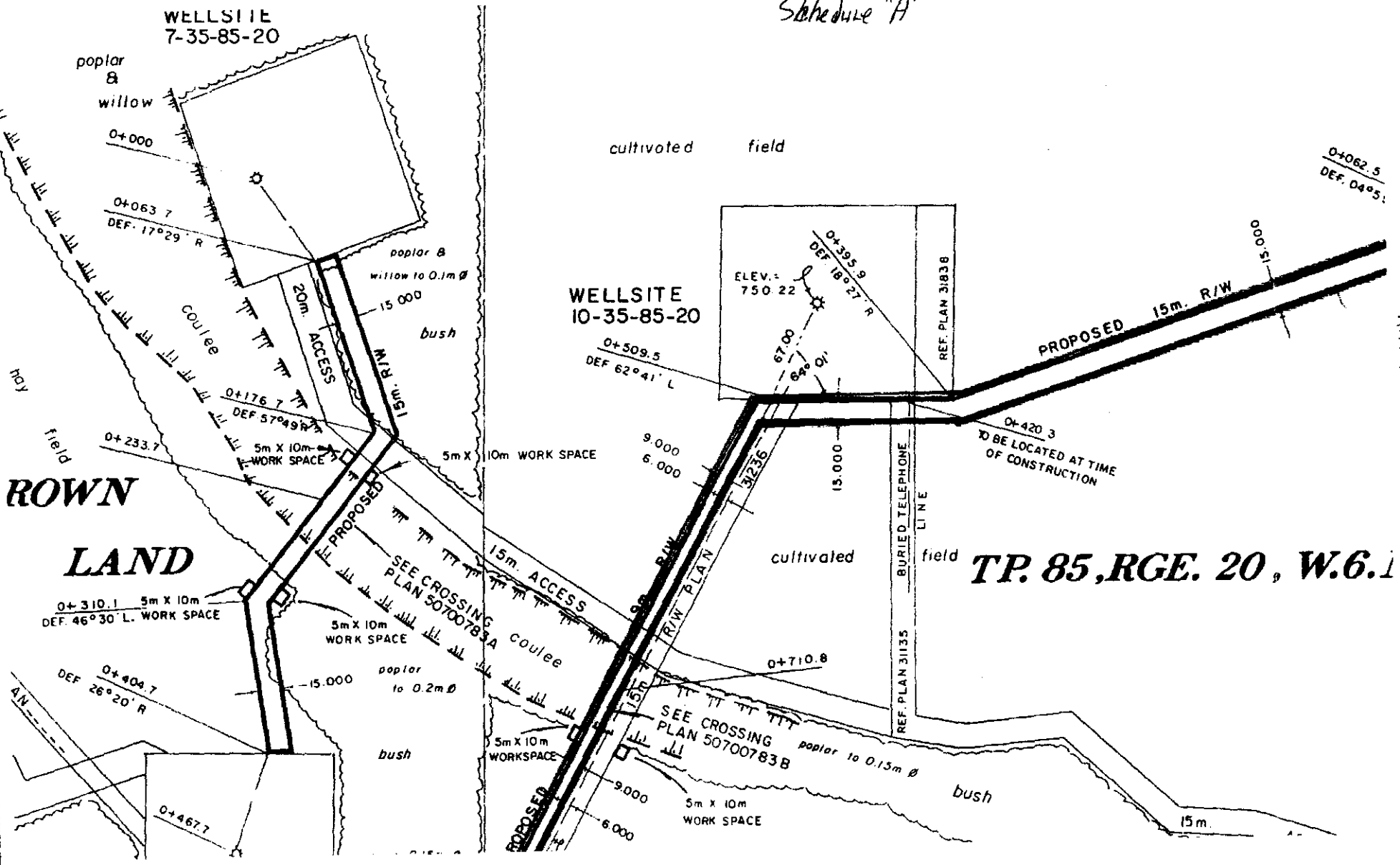
ORDER

Schedule "H"

WELLSITE
7-35-85-20

WELLSITE
10-35-85-20

TP. 85, RGE. 20, W. 6.1



APPENDIX "B" 2/8M-awnd



File: 1518

MEDIATION ORDER 376M

Parties to the Mediation

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta
Applicant

Loucks Farms Ltd. Inc # 42237
C/O Ewart Loucks
9711 108th Avenue,
Fort St.. John, British Columbia
Respondent

Date: 18 February 2004

Location- Mediation and Arbitration Board offices, Fort St. John, BC

Time Commenced 9:00 a. m. Concluded 11:45 am

Parties

Craig Kolochuk, Progress Energy Ltd.,

Ryan DeLeuw, Progress Energy Ltd.

Ewart Loucks, Surface Land Owner

David Loucks, Assisting Surface Land Owner

Jim Sodergren Lead Mediator, Caroline McNabb, Mediation and Arbitration Board

Terms agreed to

A. FINANCIAL

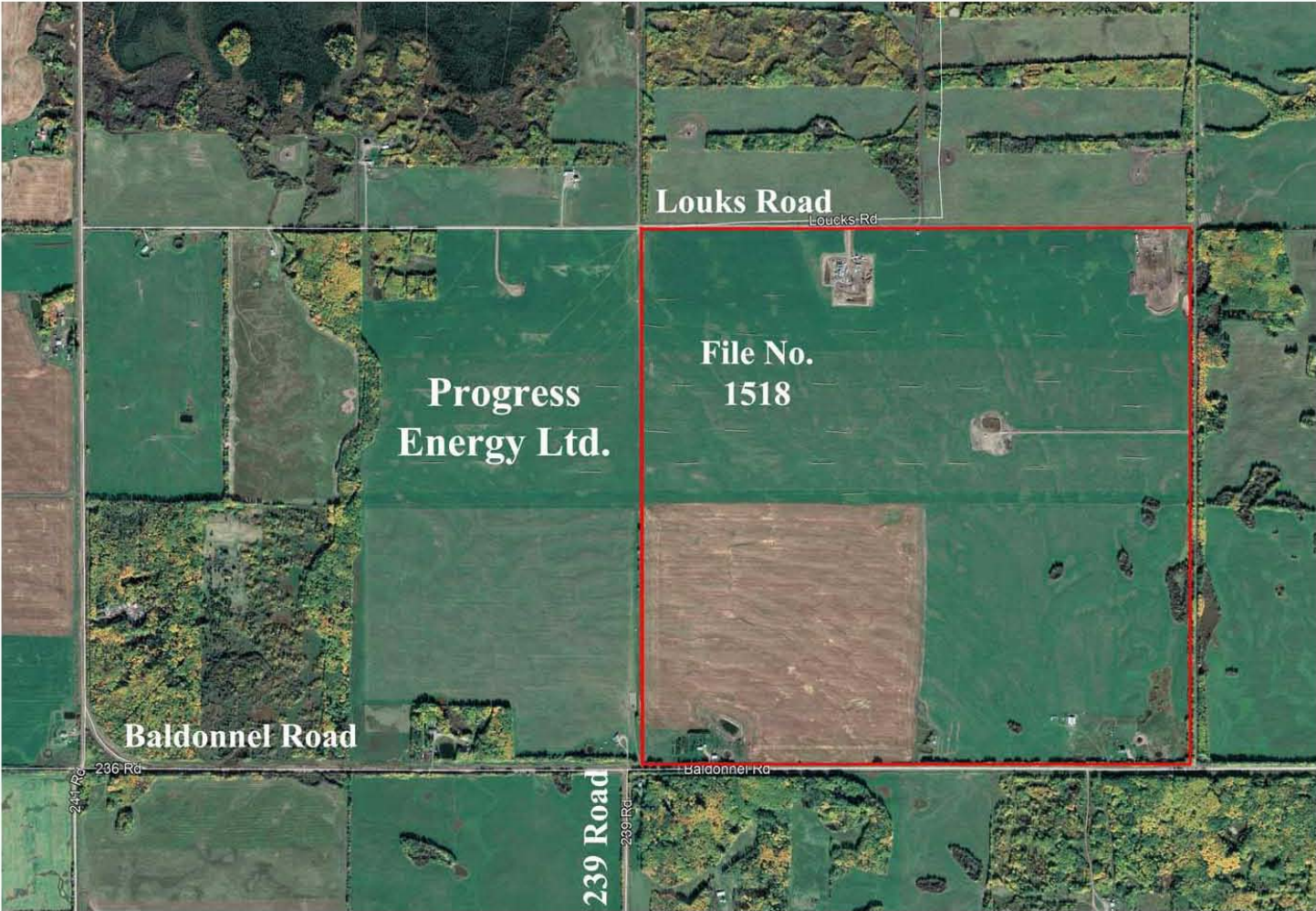
Progress Energy Limited agrees to:

1. Increase annual compensation for the battery site located at 14 - 5 - 83 - 16 W6M to \$6,900.00 per annum effective 12 October 2003.

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email med_arb@pris.bc.ca



Louks Road

File No.
1518

Progress
Energy Ltd.

Baldonnel Road

239 Road

2. The increased compensation (\$6,900.00) is due and payable; and is subject to set off for the annual compensation paid (\$ 3,700.00) to the applicant since 12 October 2003.

ORDER

The Board orders that the parties to this mediation:

- (a) execute a lease adjustment varying the terms of the surface lease incorporating the above terms and incorporating the Surface Lease Regulation (B. C. Reg. 497/74);
- (b) pursuant to section 25 (3) of the *Petroleum and Natural Gas Act*, Progress Energy Ltd. file a copy of the lease adjustment with the Land Title Office for registration; and
- (c) comply forthwith as expeditious as is reasonable.

Dated at the City of Fort St. John, British Columbia, this 18th day of February 2004.

**MEDIATION AND ARBITRATION BOARD
UNDER THE
*PETROLEUM AND NATURAL GAS ACT***

Jim Sodergren, Mediator

Caroline McNabb, Mediator



File: 1524

MEDIATION ORDER 377M

Parties to the Mediation

Harold Verne Goodings
Karen Arlene Goodings
Box 55,
Cecil Lake, British Columbia
Applicant

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta

Respondent

Date: 18 February 2004

Location- Mediation and Arbitration Board offices, Fort St. John, BC

Time Commenced 1:20 p. m. Concluded 2:45 am

Parties

Craig Kolochuk, Progress Energy Ltd.,

John Hagen, Progress Energy Ltd.

H. Verne Goodings, Surface Land Owner

Karen Goodings, Surface Land Owner

Jim Sodergren Lead Mediator, Caroline McNabb, Mediation and Arbitration Board

Terms agreed to

A. FINANCIAL

Progress Energy Limited agrees to:

1. Increase annual compensation for the well sites and access road located at A7 - 20 - 84 - 17 W6M (\$ 3,800.00) and B7 - 20 - 84 - 17 W6M (\$1,730.00) to a total of \$ 5,530.00 per annum effective on the last anniversary date.
2. The increased compensation (\$ 5,530.00) is due and payable; and is subject to set off for the

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email med_arb@pris.bc.ca

Progress Energy Ltd.

**File No.
1526**

**File No.
1524**

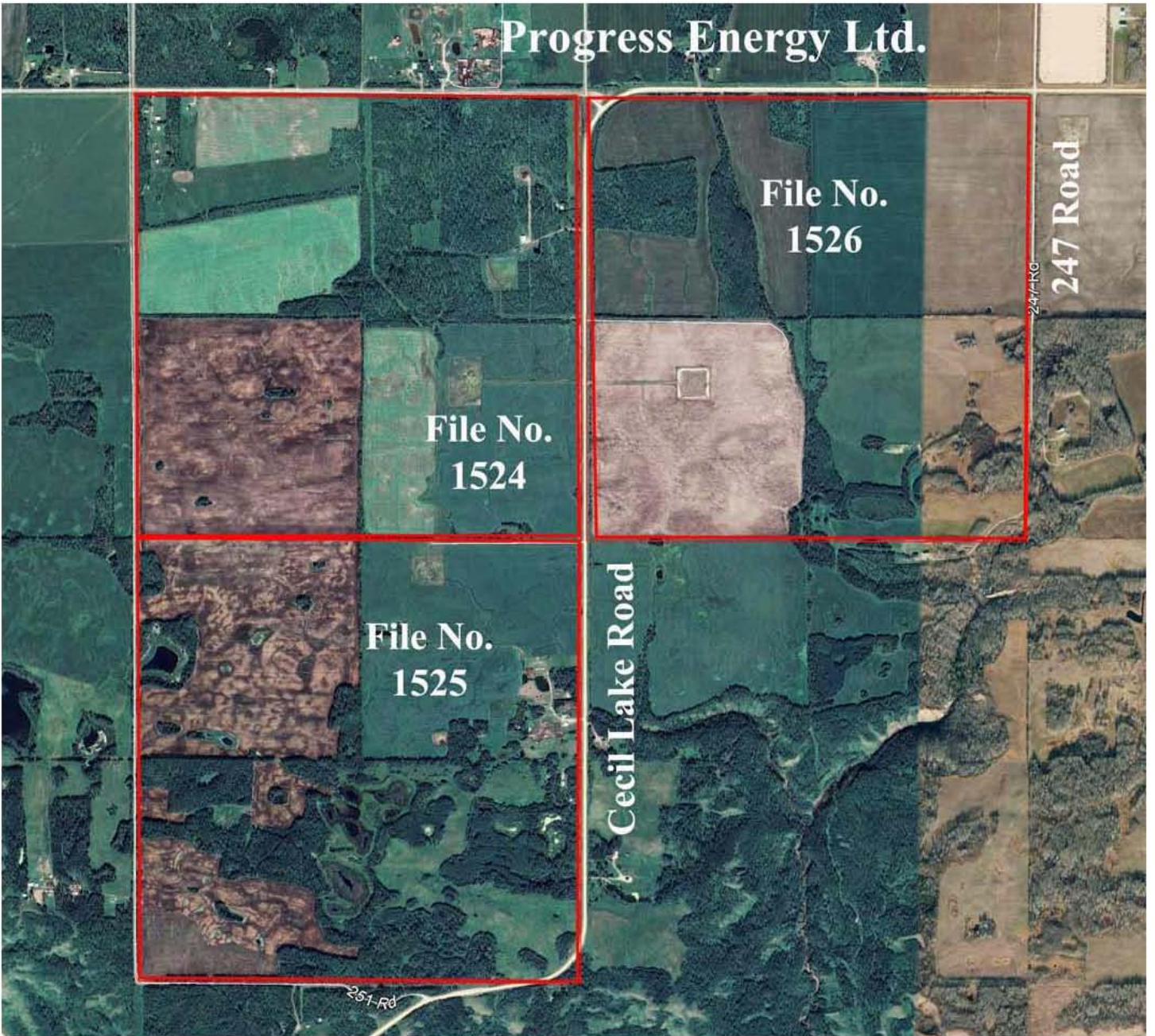
**File No.
1525**

247 Road

Cecil Lake Road

257 RD

247/KO



annual compensation paid to the applicant since the last anniversary date.

B. FACILITIES

3. The access road to the well sites will be looked after and Progress Energy Ltd will undertake weed control.

ORDER

The Board orders that the parties to this mediation:

- (a) execute a lease adjustment varying the terms of the surface lease incorporating the above terms and incorporating the Surface Lease Regulation (B. C. Reg. 497/74);
- (b) pursuant to section 25 (3) of the *Petroleum and Natural Gas Act*, Progress Energy Ltd. file a copy of the lease adjustment with the Land Title Office for registration; and
- (c) comply forthwith as expeditious as is reasonable.

Dated at the City of Fort St. John, British Columbia, this 18th day of February 2004.

**MEDIATION AND ARBITRATION BOARD
UNDER THE
*PETROLEUM AND NATURAL GAS ACT***

Jim Sodergren, Mediator

Caroline McNabb, Mediator



File: 1524

MEDIATION ORDER 377M-1

Parties to the Mediation

Harold Verne Goodings
Karen Arlene Goodings
Box 55,
Cecil Lake, British Columbia
Applicant

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta
T2P 5E9
Respondent

Date: 02 March 2004

BACKGROUND:

The Mediation and Arbitration Board received on 24 February 2004, a request from Karen Goodings for amendments to Board Order 377M, and 378M.

The Mediator is of the opinion that pursuant to Section 26 (2) (b) of the Petroleum and Natural Gas Act, the requested amendment to Board Order 377M should be granted. Progress Energy Ltd. has agreed to the amendment.

Therefore, pursuant to the Petroleum and Natural Gas Act,

IT IS HEREBY ORDERED THAT:

1. The Mediator confirms Board Order 377M.
2. Pursuant to Section 26 (2) of the Petroleum and Natural Gas Act, Board Order 377M is hereby amended by deleting paragraph 1, which reads:

Increase annual compensation for the well sites and access road located at A7 - 20 - 84 - 17 W6M (\$ 3,800.00) and B7 - 20 - 84 - 17 W6M (\$1,730.00) to a total of \$ 5,530.00 per annum effective on the last anniversary date.

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email med_arb@pris.bc.ca

and substituting the following paragraph:

Increase annual compensation for the well sites and access road located at A7 - 20 - 84 - 17 W6M (\$3,800.00) and B7 - 20 - 84 - 17 W6M to a total of \$ 5,530.00 per annum effective on 06 March 2003.

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

Dated at the City of Fort St. John, British Columbia, this 2nd day of March 2004.

**MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT**

Jim Sodergren, Mediator



File: 1525

MEDIATION ORDER 378M

Parties to the Mediation

Harold Verne Goodings
Karen Arlene Goodings
Box 55,
Cecil Lake, British Columbia
Applicant

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta

Respondent

Date: 18 February 2004

Location- Mediation and Arbitration Board offices, Fort St. John, BC

Time Commenced 1:20 p. m. Concluded 2:45 am

Parties

Craig Kolochuk, Progress Energy Ltd.,

John Hagen, Progress Energy Ltd.

H. Verne Goodings, Surface Land Owner

Karen Goodings, Surface Land Owner

Jim Sodergren Lead Mediator, Caroline McNabb, Mediation and Arbitration Board

Terms agreed to

A. FINANCIAL

Progress Energy Limited agrees to:

1. Increase annual compensation for the well site and access road located at 15 - 17 - 84 - 17 W6M to \$ 4,750.00 per annum effective on the last anniversary date.

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email med_arb@pris.bc.ca

2. The increased compensation (\$ 4,750.00) is due and payable; and is subject to set off for the annual compensation paid to the applicant since the last anniversary date.

B. FACILITIES

3. The access road to the well sites will be looked after and Progress Energy Ltd will undertake weed control.

ORDER

The Board orders that the parties to this mediation:

(a) execute a lease adjustment varying the terms of the surface lease incorporating the above terms and incorporating the Surface Lease Regulation (B. C. Reg. 497/74);

(b) pursuant to section 25 (3) of the *Petroleum and Natural Gas Act*, Progress Energy Ltd. file a copy of the lease adjustment with the Land Title Office for registration; and

(c) comply forthwith as expeditious as is reasonable.

Dated at the City of Fort St. John, British Columbia, this 18th day of February 2004.

**MEDIATION AND ARBITRATION BOARD
UNDER THE
*PETROLEUM AND NATURAL GAS ACT***

Jim Sodergren, Mediator

Caroline McNabb, Mediator



File: 1525

MEDIATION ORDER 378M-1

Parties to the Mediation

Harold Verne Goodings
Karen Arlene Goodings
Box 55,
Cecil Lake, British Columbia
Applicant

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta
T2P 5E9
Respondent

Date: 02 March 2004

BACKGROUND:

The Mediation and Arbitration Board received on 24 February 2004, a request from Karen Goodings for amendments to Board Order 377M, and 378M.

The Mediator is of the opinion that pursuant to Section 26 (2) (b) of the Petroleum and Natural Gas Act, the requested amendment to Board Order 378M should be granted. Progress Energy Ltd. has agreed to the amendment.

Therefore, pursuant to the Petroleum and Natural Gas Act,

IT IS HEREBY ORDERED THAT:

1. The Mediator confirms Board Order 378M.
2. Pursuant to Section 26 (2) of the Petroleum and Natural Gas Act, Board Order 378M is hereby amended by deleting paragraph 1, which reads:

Increase annual compensation for the well site and access road located at 15 - 17 - 84 - 17 W6M to \$ 4,750.00 per annum effective on the last anniversary date.

and substituting the following paragraph:

Increase annual compensation for the well site and access road located at 15 - 17 - 84 - 17 W6M to \$ 4,750.00 per annum effective on 01 August 2002.

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email: med_arb@pris.bc.ca

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

Dated at the City of Fort St. John, British Columbia, this 2nd day of March 2004.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Jim Sodergren, Mediator



File: 1526

MEDIATION ORDER 379M

Parties to the Mediation

Harold Verne Goodings
Karen Arlene Goodings
Box 55,
Cecil Lake, British Columbia
Applicant

Progress Energy Ltd.
Suite 1400 440 - 2nd Avenue, SW
Calgary, Alberta

Respondent

Date: 18 February 2004

Location- Mediation and Arbitration Board offices, Fort St. John, BC

Time Commenced 1:20 p. m. Concluded 2:45 am

Parties

Craig Kolochuk, Progress Energy Ltd.,

John Hagen, Progress Energy Ltd.

H. Verne Goodings, Surface Land Owner

Karen Goodings, Surface Land Owner

Jim Sodergren Lead Mediator, Caroline McNabb, Mediation and Arbitration Board

Terms agreed to

A. FINANCIAL

Progress Energy Limited agrees to:

1. Increase annual compensation for the well site and access road located at 6 - 21 - 84 - 17 W6M to \$ 5,000.00 per annum effective on the anniversary date of 2002.
2. The increased compensation (\$ 5,000.00) is due and payable; and is subject to set off for the

**Mediation and
Arbitration Board**

Mailing Address:
114 10142 101 Ave
Fort St John, B.C.
V1J 2B3

Tel: (250) 787-3403
Fax: (250) 787-3228
Email med_arb@pris.bc.ca

annual compensation paid to the applicant since the last anniversary date.

B. FACILITIES

3. The access road to the well sites will be looked after and Progress Energy Ltd will undertake weed control.

ORDER

The Board orders that the parties to this mediation:

(a) execute a lease adjustment varying the terms of the surface lease incorporating the above terms and incorporating the Surface Lease Regulation (B. C. Reg. 497/74);

(b) pursuant to section 25 (3) of the *Petroleum and Natural Gas Act*, Progress Energy Ltd. file a copy of the lease adjustment with the Land Title Office for registration; and

(c) comply forthwith as expeditious as is reasonable.

Dated at the City of Fort St. John, British Columbia, this 18th day of February 2004.

**MEDIATION AND ARBITRATION BOARD
UNDER THE
*PETROLEUM AND NATURAL GAS ACT***

Jim Sodergren, Mediator

Caroline McNabb, Mediator

File No. 1615
Board Order No. 1615-1

June 16, 2009

MEDIATION AND ARBITRATION BOARD

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

AND IN THE MATTER OF
SW ¼ Section 27, Township 85, Range 18 W6M

(The "Lands")

BETWEEN:

Progress Energy Ltd.

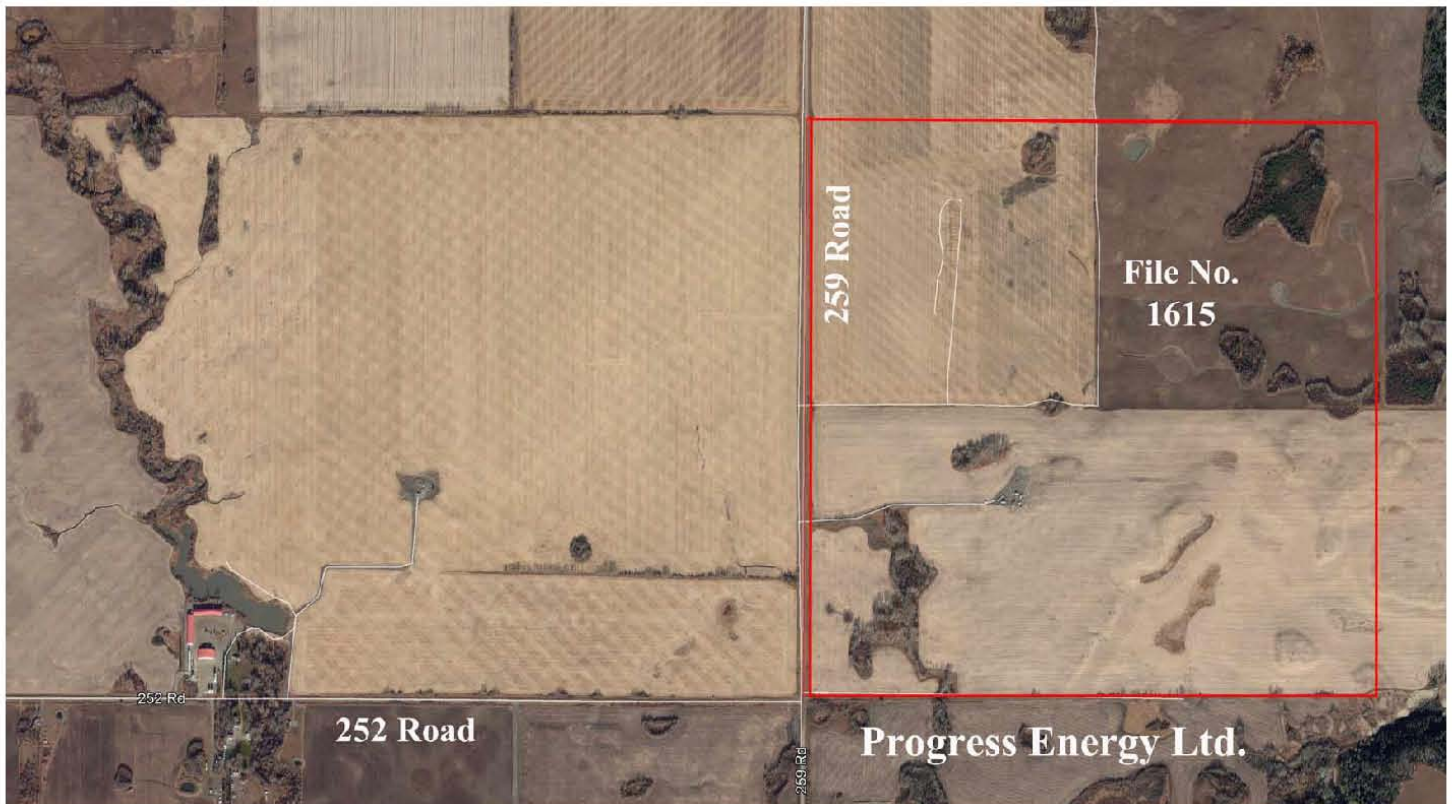
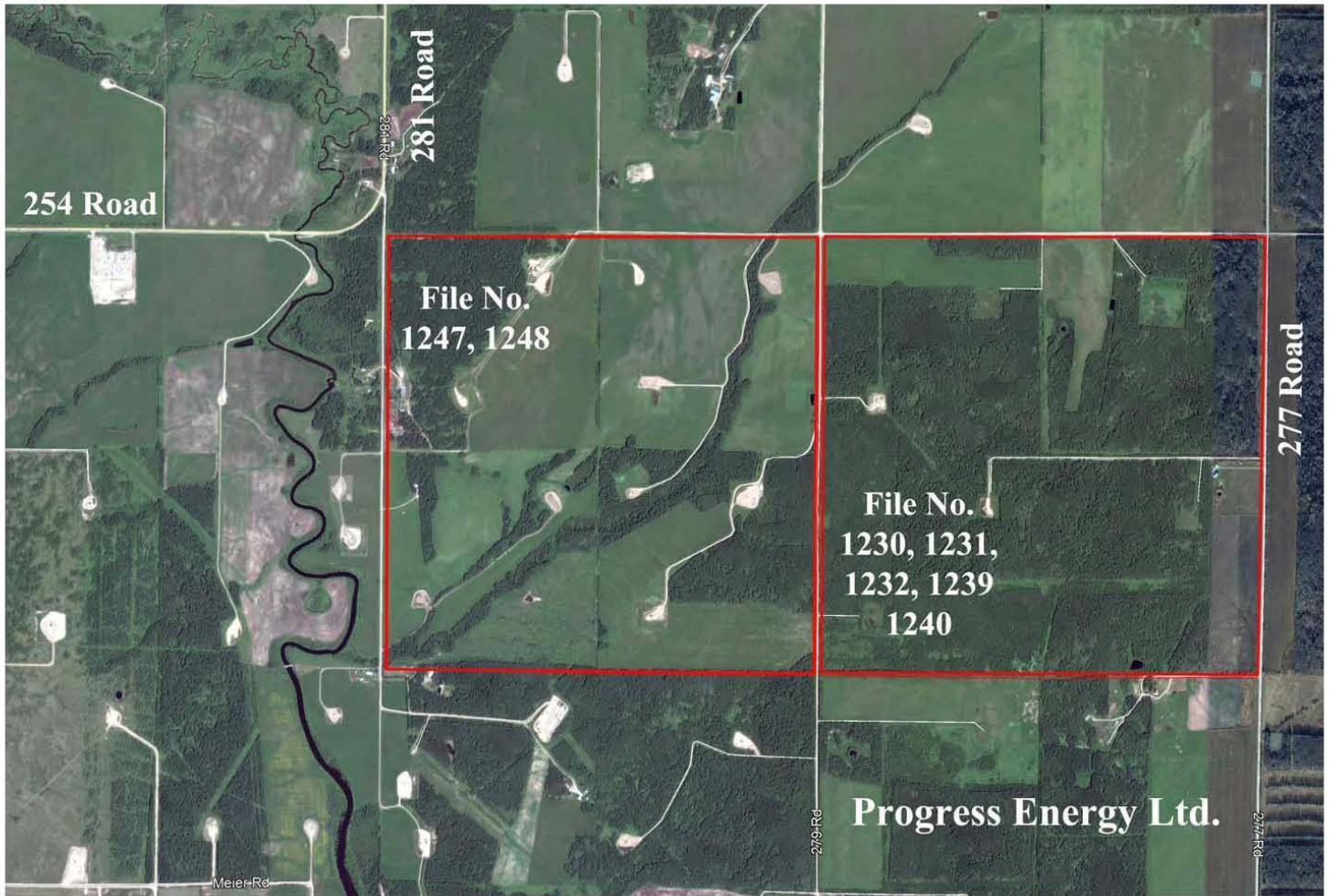
(APPLICANT)

AND:

Squirrel Farms Inc.

(RESPONDENTS)

BOARD ORDER



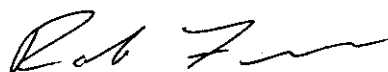
The applicant requires access to build a flow line from Progress Stoddart 13-22-85-W6M to 6-27-85-18-W6M as shown on the attached plan (Appendix A). Right of entry is not opposed and compensation is agreed except for any damages. The parties agree that a right of entry order should be made.

BY CONSENT the Mediation and Arbitration Board orders:

1. The Applicant shall have the right of entry to and access across the portion of the Land shown in Appendix A for the purpose of surveying, soil samples, archeological assessment, construction and operation of a flow line.
2. The parties have agreed to compensation for the right of way and compulsory taking in the amount of \$3,654.00, which compensation was received by the Respondent on December 9, 2008.
3. This Order is subject to the application process required by the Oil and Gas commission and nothing in this order operates as consent, permission, approval or authorization of matters with the jurisdiction of the Oil and Gas Commission.

Dated: June 16, 2009

FOR THE BOARD

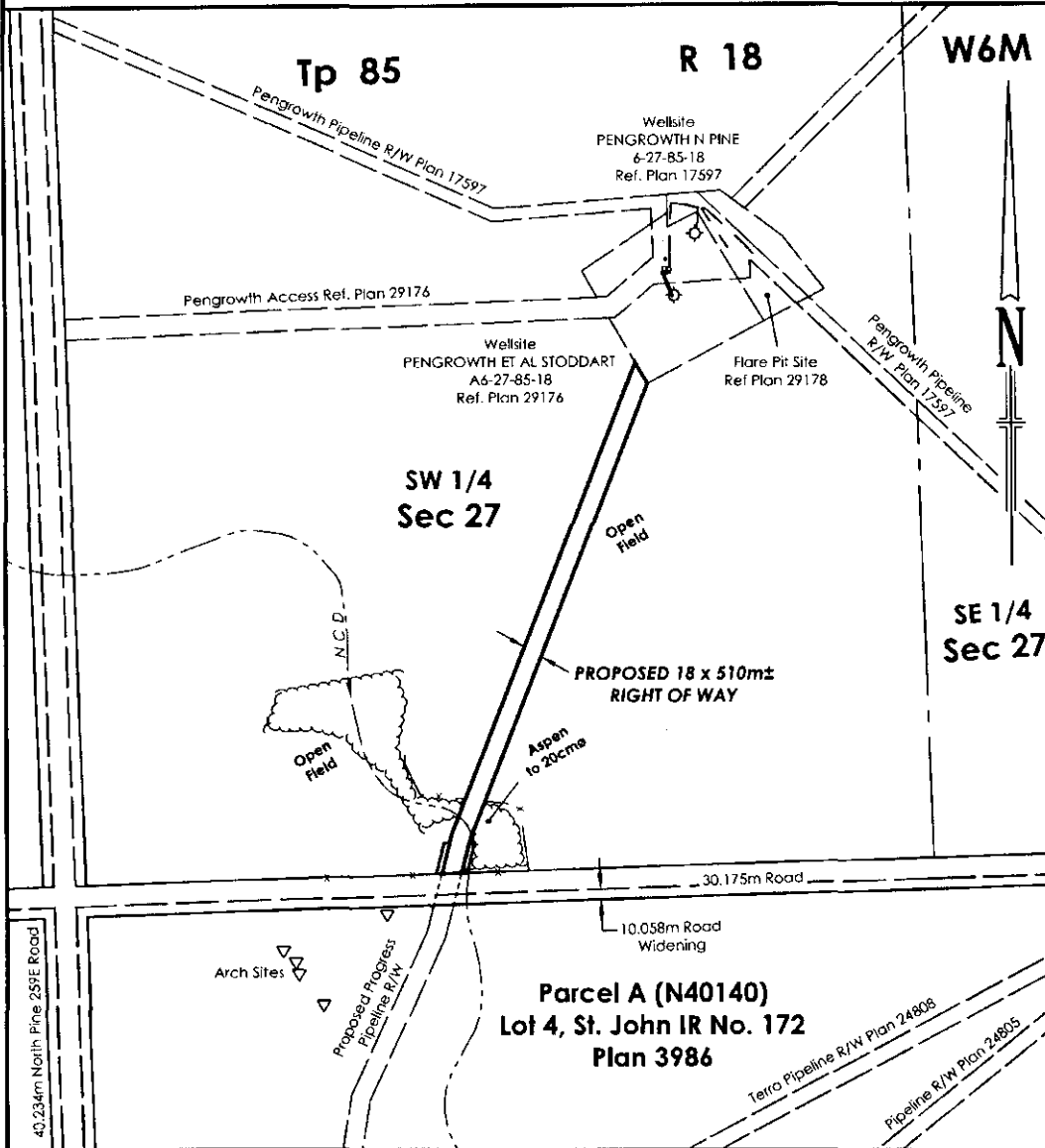


Rob Fraser, Mediator

PROGRESS ENERGY LTD.

INDIVIDUAL OWNERSHIP PLAN

SHOWING PROPOSED
18m PIPELINE RIGHT OF WAY IN
SW 1/4 Sec 27, TP 85, R 18, W6M
PEACE RIVER DISTRICT



Parcel A (N40140)
Lot 4, St. John IR No. 172
Plan 3986

OWNER(S): SQUIRREL FARMS Inc., Inc. No. 830087

TITLE No. CA877045

AREAS REQUIRED:

P.I.D. No. 014-939-533

18m PIPELINE RIGHT OF WAY 0.92 ha (2.27 ac)

CERTIFIED CORRECT THIS 11th DAY OF November, 2008.

TEMPORARY WORKSPACES 0.03 ha (0.07 ac)

TOTAL 0.95 ha (2.34 ac)

BRYAN BATES B.C.I.S.

can-am geomatics bc
#200-9900 100th AVENUE
FORT ST. JOHN, B.C. V1J 5S7
ph (250) 787-7171

NOTES: DISTANCES SHOWN ARE IN METRES UNLESS OTHERWISE NOTED. AREAS REFERRED TO ARE OUTLINED IN BOLD.

SCALE = 1 : 5,000



JOB: **J20080386**
DWG: J20080386(OPB2)
Client File: E-01696
AFE No.: A187148

REVISION: 02

File No. 1634
Board Order No. 1634-1

December 2, 2010

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 ¼ of District Lot 63, Peace River District**

(The "Lands")

BETWEEN:

Bill Helm

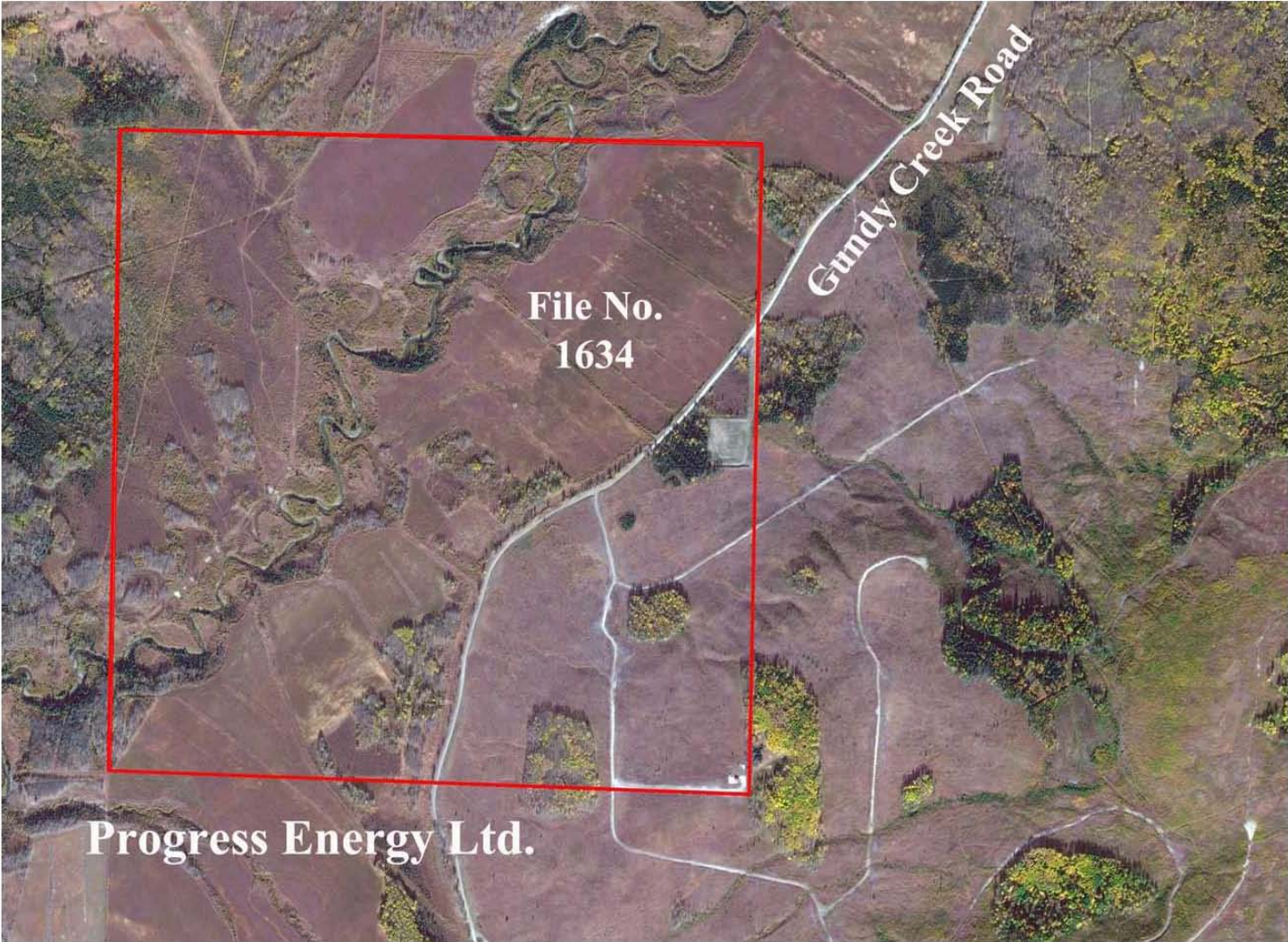
(APPLICANT)

AND:

**Progress Energy Ltd.
(in place of Suncor Energy Inc.)**

(RESPONDENT)

BOARD ORDER



File No.
1634

Gundy Creek Road

Progress Energy Ltd.

Heard: October 20, 2010 at Fort St. John
Panel: Cheryl Vickers
Appearances: Bill Helm, Pat Helm, and Cinda Helm for the Applicant
Aldo Vilani, John Lanaras, and Sacha Plotnikow for the
Respondent

INTRODUCTION

[1] The applicant owner of the Lands, Bill Helm, entered a lease agreement on December 23, 2003 with Suncor Energy Inc. (Suncor) for the use and occupation of 4.79 acres of the Lands for a wellsite and access road (the Lease). In December 2007, Suncor proposed an increase to the annual rent payable under the Lease. Mr. Helm did not accept the proposed increase. Mr. Helm made efforts to negotiate revised annual rent satisfactory to him without success, resulting in this application to the Board in November 2009 under section 12 (as it then was) of the *Petroleum and Natural Gas Act (PNGA)*. Progress Energy Ltd. (Progress) took over the wellsite and obligations under the Lease in early 2010. The Board conducted a mediation between Mr. Helm and representatives of Progress in March 2010 but the parties were unable to agree on a revised rent.

[2] Mr. Helm seeks \$6,000 in annual rent, or approximately \$1,252/acre. His claim is essentially based on a comparison of what is being paid in annual compensation for other comparable leases in the area. Progress argues that the current annual rent of \$3,450 is not justifiable.

[3] Mr. Helm seeks costs of the arbitration proceedings. Progress does not dispute Mr. Helm's entitlement to costs in the circumstances, but asked that I determine the amount payable.

PRELIMINARY ISSUE

[4] Amendments to the *PNGA* came into force on October 4, 2010. This application was filed in November 2009 and the arbitration held on October 20, 2010. The current provisions of the *PNGA* continue to allow a party to a surface lease to seek the assistance of the Board in the mediation and arbitration, if necessary, of renewed rental provisions every four years. The parties agree that any order of the Board varying the rental provisions under the Lease will be effective as of December 23, 2007.

[5] Section 154 of the *PNGA* lists the factors the Board may consider in determining the amount to be paid periodically or otherwise in an application

before it. Prior to the recent amendments to the *PNGA*, the list of factors the Board may consider was set out in section 21 of the then in force *PNGA*. The only factor, relevant to this case, in the current enumerated list that was not expressly enumerated in the previous list is found at section 154(i), specifically, “the terms of any surface lease or agreement submitted to the board or to which the board has access”. Although now specifically enumerated as one of the factors the Board may consider, the British Columbia Supreme Court had determined that evidence of what compensation is paid to other owners in the area is relevant and should be considered by the Board as an “other factor”, previously set out in section 21(g) of the earlier *PNGA*, where the evidence indicates an established pattern of compensation exists (*Scurry Rainbow Oil v. Lamoureux* [1985] B.C.J. No 1430 (BCSC)). For the purpose of this arbitration, therefore, nothing turns on whether section 21 of the old legislation (in force at the time the application was commenced) or the current section 154 of the *PNGA* (in force at the time the application was heard) applies to the determination of the amount payable on an annual basis under the Lease. The relevant factors that the Board may consider have not changed. I will refer to section 154 of the currently in force *PNGA* in my analysis going forward.

ISSUES

[6] The issues are to determine the amount of annual compensation payable by Progress to Mr. Helm under the Lease, effective December 23, 2007, for the continued use and occupation of 4.79 acres of the Lands, and to determine the amount payable to Mr. Helm for costs.

FACTS

[7] Pursuant to the Lease entered December 23, 2003, Progress leases 4.79 acres in the southeast corner of the Lands bordering on the eastern and southern boundaries. The leased area is used for a wellsite, now suspended, and an access road. First year compensation under the Lease was \$10,400.00 inclusive of compensation for the compulsory aspect of the taking, value of the land and loss of profit, temporary and permanent damage, and nuisance and disturbance. The parties agreed to annual compensation of \$3,450.00 subject to periodic review as provided by legislation.

[8] The Lands are part of a large cattle and horse ranch comprising, as of the date of arbitration, 19 quarter sections, and surrounded by 24 sections of range land. Mr. Helm has resided full time on the ranch and worked it since 1977. The ranch is organic utilizing no commercial fertilizers, pesticides or chemicals. It is not serviced by telephone or hydro.

[9] The Gundy Creek Road runs through the ranch. Energy companies including Suncor and Progress use this road to access the Lease area and other facilities, creating dust and disturbance to the ranch lands and livestock.

[10] Prior to the Lease being entered into, the leased area was treed and used by livestock as a shelter. A fresh water spring (since re-directed) ran through the leased area.

[11] In December 2007, Suncor reviewed the Lease and offered to increase the annual rent to \$4,175.00. Mr. Helm did not accept this offer.

[12] In September 2008, Suncor again offered to increase the rent to \$4,175.00 and Mr. Helm again refused the offer.

[13] Mr. Helm tried to communicate with Suncor to express his concerns and to attempt to renegotiate the annual rent, speaking with many different people, but being unable to discuss the file with any single person in charge. He ended up feeling frustrated.

[14] Suncor continued to tender cheques for the offered amount of annual rent, which Mr. Helm did not cash. Mr. Helm wrote to Suncor and continued to make efforts to speak with someone by phone but did not receive a response. In November 2009, he filed this application to the Board for mediation and arbitration. In December 2009, Mr. Helm received another offer from Suncor, which he declined to accept.

[15] In early 2010, Progress took over the wellsite and Lease. Representatives of Progress attended the Board's mediation in March of 2010. The parties continued to disagree on the amount payable for annual rent.

[16] As of the date of arbitration, payments under the Lease are current without prejudice to Mr. Helm's claim for increased rent effective December 23, 2007.

EVIDENCE AND ANALYSIS

[17] Section 154(1) of the *PNGA* lists various factors the Board may consider in determining an amount to be paid periodically or otherwise. The enumerated items include:

- (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) and other factors or criteria established by regulation.

[18] 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.

[19] Section 154(2) 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 granted.

[20] Following consideration of the various factors, the Board must step back and consider whether the award in its totality gives proper compensation, as there may be cases where the sum of the parts exceeds, or where the sum of the parts falls short of proper compensation (*Scurry Rainbow, supra.*)

[21] Mr. Helm, his wife, Pat Helm, and their daughter, Cinda Helm, gave evidence including a brief prepared by Cinda Helm. Aldo Vilani, John Lanaras and Sacha Plotnikow gave evidence on behalf of Progress, including a brief prepared by Mr. Plotnikow. Although not all of the factors enumerated in section 154 are relevant in this case, in the interest of providing some guidance to landowners and companies for future applications, and so as to address, where provided, the evidence of the parties relating to the various factors, I will address each of them in turn.

Compulsory aspect of the entry

[22] A landowner cannot say “no” to surface entry on their land for oil and gas activity if surface entry is required. Compensation for the compulsory aspect of the entry is “intended to be a purely arbitrary amount to compensate the farmer for the loss of his right to decide for himself whether or not he wants to see oil and gas exploration carried out on his land” (*Dome Petroleum Ltd. v. Juell* [1982] B.C.J. No. 1510 (BCSC)). It is made as a one-time payment upon initial entry. An annual payment need not continue to compensate for the compulsory aspect of the entry, but only for ongoing actual losses.

Value of the land

[23] The land is not being purchased, but in the case of a wellsite, being leased. The landowner remains the fee simple owner and has the reversionary interest to

regain the unencumbered title. The value of the land is typically accounted for in the initial payment considering the owner's residual and reversionary interest in the land.

[24] The value of the land may be a relevant consideration in determining annual compensation in the sense that land that is more valuable may command a higher rent than land that is less valuable. Typically, however, the annual payment is to compensate for ongoing annual loss of profit, which will usually account for comparative differences in the value of the land in that land with higher profit potential may have more value than land with lower profit potential. An additional payment specifically to account for the value of the land may result in overcompensation.

[25] In this case, neither party provided appraisal evidence of the value of the land. The Helm's evidence is that it is "good agricultural land". They provided some evidence of the "value of the land to government" indicating what the government was paid in May 2010 for exploration and drilling rights over 9,833 acres close to the Lands. The value of land to the government or to the company is not a relevant consideration for the Board. The Board must consider the value of the land in its current use to the owner (*Dau v. Murphy Oil Company Ltd.*, [1970] S.C.R. 861; applied in BC in *Dome v. Juell*, *supra*; *Scurry Rainbow*; *supra*; *Western Clay Industrial Products Ltd v. Mediation and Arbitration Board*, 2001 BCSC 1458).

[26] In this case, providing compensation for loss of ongoing profit from the land will incorporate consideration of the value of the land to the owner.

Loss of profit

[27] Continued loss of profit is a highly relevant consideration in determining annual rent and in any rent renegotiation. As the lease area is located in what were stands of Aspen and Black Spruce, the initial compensation included an amount for the loss of trees. This loss is not an ongoing loss and need not be compensated for on an annual basis. The annual payment included \$1,400 for loss of pasture within the bush. Mr. Plotinkow's evidence was that the landowner would lose 19 bales of hay based on a better than average hay crop of 4 bales/acre multiplied by 4.79 acres. He calculated the loss at \$1,045/year based on a price of \$55/bale. Mr. Helm's evidence was that he could get 10 bales per acre off the leased area. Using \$55/bale this loss would equate to \$2,634.50. Mr. Helm's evidence was that he would not have been haying the area, but would have put in a dug out for water. The area was previously bush pasture with water and shade. His evidence was that shade is essential to cattle to keep away flies. He said the yearlings should gain 2.5 pounds per day and if they only gain two pounds per day as a result of the loss of shade, that amounts to a considerable amount of money. His evidence was his yearlings sold for anywhere from 90

cents to \$1.17 per pound and that he has had as many as 130 yearlings down to 70 yearlings. His evidence was that even a quarter pound less gain per day on 100 head cost \$750/month (\$9,000 annually assuming loss continues for 12 months). A half pound less gain per day on 100 head would result, therefore, in loss of \$1500.00/month (\$18,000 annually assuming loss continues for 12 months). I have no evidence to substantiate whether or not Mr. Helm in fact experienced a loss, as a result of reduced weight gain to the cattle.

[28] Progress provided a Crop Cost Calculator from Alberta Agriculture indicating revenue per acre for alfalfa hay is \$103.10 suggesting loss of profit for the leased area of about \$500.

[29] The evidence is that loss of profit could be anywhere from \$500 to \$18,000 annually. However, I have no evidence to establish actual loss of profit, in particular actual loss of profit as a result of lost weight gain to cattle from the loss of the shaded area. If used to grow hay, loss of profit would be between \$500 to just over \$2,600. As the evidence is this is "good agricultural land", and in the absence of better evidence to establish actual loss of profit, I conclude that \$2,000 is not an unreasonable estimate of probable loss of profit from the leased area.

Temporary and permanent damage

[30] The Helm's evidence was that the re-directed spring constantly silts off the culverts causing water to overflow the road and wash it away. They say Suncor did not perform consistent maintenance and that Progress has not attended the area to remediate culvert blockage. They say the year round water from the lease area has been diverted into a ditch that runs down the side of the road, silting off the culvert, and eroding the field and ditches adjacent to the culvert during periods of high water volume.

[31] Ms. Helm's brief also indicates that the Helms have lost livestock as a result of oil and gas traffic. It is not clear from the evidence that these losses are attributable to either Suncor or Progress' activity on this particular Lease.

[32] The current annual payment does not include an amount for damage. Mr. Plotnikow's evidence was that if there was flooding to Mr. Helm's field, weeds spread off lease, damage to fences and loss of livestock, Progress would assess damage on an incident by incident basis and make a one time per incident payment to rectify damages. In 2004, Suncor paid Mr. Helm \$2,720 in damages as a result of run off from the lease area.

[33] I agree that in most cases, damage should be compensated as it occurs. If a landowner incurs damage as a result of an entry, and is unable to obtain redress for that damage from the company, the landowner may apply to the

Board to have the claim mediated and ultimately arbitrated. If damage is ongoing, however, it may be practical to include an amount for ongoing damage in an annual payment to enable a landowner to remediate on an ongoing basis, particularly if it is not practical for a company to perform continual remediation or if a company has been unwilling to perform continual remediation. In this way, the landowner is provided with funds to ensure continual remediation is accomplished. As the run off problem seems to be a continuous problem, and given Suncor and Progress' recent lack of attentiveness to either remediating the damage or compensating Mr. Helm so that he can remediate the damage, I find it is appropriate to consider factoring an amount for ongoing damage into the annual payment for the rental period commencing December 23, 2007 and ending December 23, 2011. In future, the parties can consider whether they wish to handle damage claims on an individual basis as they occur or whether an amount for damage should continue to be factored into the annual rent. Other than the evidence that Suncor paid Mr. Helm \$2,720 for damage from run-off in 2004, I have no evidence as to what might be an appropriate amount on an annual basis. I find it likely, however, that damage will be at or close to this amount on at least one occasion during a four year rent review period, and find \$700.00/year to be appropriate.

Compensation for severance

[34] There is no severance of Lands by this Lease and therefore no compensation payable for this factor. Typically if land is severed as a result of an entry such that a landowner not only loses the use of the occupied land but also effectively loses the use of other land, compensation for loss of use of severed land should be included in an initial payment, and where there is loss of use and loss of profit on an ongoing basis, incorporated in an annual payment.

Nuisance and disturbance

[35] Ongoing nuisance and disturbance may be compensated in an annual payment.

[36] Ms. Helm provided evidence of having to retrieve cattle that had relocated as a result of being "pushed" by someone working in the area. The Helms attribute this incident to Progress personnel although it is not clear it is as a result of Progress' activity with respect to this Lease.

[37] Ms. Helm's evidence speaks to the nuisance of oil and gas traffic on the road and the spreading of dust. She said the landowners called Suncor and Progress' offices frequently, often daily or weekly, as numerous vehicles drive through the ranch creating vast amounts of dust and harassing livestock. Her evidence was that before work was initiated on this Lease there was very little road traffic through the ranch. Nuisance from oil and gas traffic includes

disregard of speed limits, jake brakes that can be heard disturbing landowners and stampeding nervous cattle and horses, dust, trucks in the ditch, garbage on the roads, rigs and traffic moving at all hours, blocked roads, and roads damaged by ruts and pot holes.

[38] Ms. Helm expressed concerns about emergency preparedness and the lack of communication with the Helms during a pipeline break in the spring of 2009.

[39] The Helms also provided evidence about their attempts to deal with Suncor to renegotiate the annual payment and the time and frustration involved.

[40] Mr. Plotnikow's evidence is that, as the well is suspended, it gets checked once a year which means minimal traffic to the leased area. He suggests there is no nuisance to the farming operations and there is not increased nuisance as a result of this Lease since the Lease was originally signed. The original payment included \$1,500.00, and the annual payment \$1,000.00, for nuisance and disturbance.

[41] I am satisfied there is increased nuisance and disturbance to the Helms as a result of increased oil and gas activity generally in the area. I am not satisfied that all of this nuisance and disturbance can be laid at the feet of Suncor and now Progress with respect to this particular Lease. All companies operating in the area must be more attentive to landowners concerns with respect to speed, dust control, garbage and disturbance of livestock. Each must do their part to try and alleviate nuisance and disturbance to affected landowners. In considering compensation payable however, the *PNGA Act* specifically provides that the Board may consider nuisance and disturbance from the right of entry. As the wellsite on the leased area is only checked by Progress once a year, this right of entry only contributes to a small extent to the nuisance and disturbance caused by increased oil and gas traffic in the area.

[42] This right of entry does cause nuisance and disturbance to the landowners, however, in the form of time required by them to deal with issues arising under the Lease. The evidence is that, prior to this application being filed, Mr. Helm spent time trying to engage someone at Suncor to negotiate renewal terms. He has spent time in bringing the run off damage to the attention of Suncor and Progress and in trying to have it addressed. It is not an easy thing for Mr. Helm to communicate with the company as the ranch is not serviced by telephone.

[43] An amount should be factored into the annual rent that acknowledges there is nuisance and disturbance to the landowner from this Lease, in that it contributes to some extent to traffic and associated problems, and that it requires Mr. Helm to spend time dealing with issues that arise under the Lease that he would otherwise not have to spend if the Lease did not exist. On the basis that the current annual payment for nuisance and disturbance only accounts for 20

hours of Mr. Helm's time (applying an hourly rate of \$50 applied by the Board in previous cases in compensating for nuisance and disturbance; see for example *Encana Corporation v. Merrick*, Board Order 1599, July 23, 2008), I find compensation for this factor should be increased to \$1,500.00.

The effect, if any, of other rights of entry with respect to the land

[44] I have no evidence of other rights of entry on the land and it is not a relevant factor in this case. This factor was not previously identified in the former section 21 of the *PNGA*, and the Board has not yet had an opportunity to consider it in an application of the new section 154. Discussion of this factor will have to await the appropriate case.

Money previously paid for entry, occupation and use

[45] This is not a relevant factor in this case other than to consider whether the rent originally negotiated continued to be adequate as of December 2007 or whether it should be revised. This factor will usually be relevant where the Board is fixing compensation after having made an order for partial payment in order to deduct amounts already paid under an award for partial payment off an award for final payment.

Other surface leases

[46] The Helms provided examples of 30 leases in the area with annual payments ranging from \$550.08 to \$1,399.18 per acre. They indicated the location and size of the comparable leases, and (in most cases) the year negotiated. They indicated ways in which other leased areas were comparable to the Lands in quality, vegetation, proximity to a residence and other factors, and provided additional information to distinguish some of the leases. The most relevant leases from the Helm's perspective are those on a neighbour's property ranging from \$1,146.50 to \$1,399.18 per acre and a lease with another company on a different $\frac{1}{4}$ section of the Helm ranch for \$1,151.76 per acre for 3.69 acres of similar or lesser quality agricultural land negotiated in 2004.

[47] Mr. Vilani argued that every lease must be considered on its own merits and that no two leases will be identical.

[48] The evidence before me provides examples of a number of leases negotiated in 2006 and 2007 in the range of \$900/acre to as much as almost \$1,400/acre with the majority being in the \$900/acre range. The leases indicate an average overall rate of approximately \$969.00/acre. The Helm's evidence is that many of the \$900/acre leases include additional agreements for the company to maintain a roadway and driveway to the benefit of the landowner effectively adding value to the lease over an above the annual rent paid.

Excluding the leases identified as having additional value other than monetary compensation, the average is \$1,269.00. Mr. Helm's request for annual rent of \$6,000, equaling \$1,252.61/acre, is within the range of other leases referred to in the evidence before me.

Previous orders of the Board

[49] Neither party referred to previous orders of the Board. The only recent decision of the Board on a rent review application is *Miller v. Penn West*, Board Order #1620-2, May 31, 2010. In that case, following consideration of the evidence, arguments and factors in the former section 21 of the *PNGA* the Board found annual compensation of \$4,980.00 for a leased area of 6.90 acres and severed acres of .288 acres, located in the Rolla area, to be appropriate. This amount equals \$692.82/acre. This amount essentially increased the amount being paid under the lease to account for the change in the value of land since the date the surface lease was signed and to add an amount for loss of profit from the severed area not previously compensated for in the annual payment.

Other factors

[50] In their evidence and submissions, the Helms treated other leases as an "other factor" as it would have been under the previous section 21 of the old *PNGA*. As indicated above "other leases" are now expressly included in the factors the Board may consider.

[51] There are no additional "other factors" that either party brought to my attention for consideration in this case. In *Miller v Penn West, supra*, the Board found that the existing compensation is an important factor to consider. In that case, the company presented evidence concluding the annual rent should be approximately half of what was being paid. The Board found this conclusion was not reasonable as it did not consider the current compensation.

Increase in the value of money

[52] Cinda Helm's evidence includes an inflation calculator from the Bank of Canada website. This calculator indicates that \$3,450.00 in 2004 would cost \$3,841.75 in 2010, an increase of 11.35%. As the Lease was originally negotiated in 2003 and any revised rent is effective as of 2007, I have taken the liberty of having the website do the calculation for that period. The Bank of Canada inflation calculator indicates that \$3,450.00 in 2003 would cost \$3,744.47 in 2007, an increase of 8.54%. At a minimum, therefore, as the change in the value of money is a factor the Board must consider, the annual rent should be increased to \$3,744.47, say \$3,745.00 rounded.

Stepping back to determine a global sum

[53] My analysis of the evidence relevant to the various factors set out in the *PNGA* results in the following “sum of parts”:

| Factor | Annual amount |
|--------------------------|----------------------|
| Loss of profit | \$2,000.00 |
| Damage | \$700.00 |
| Nuisance and disturbance | \$1,500.00 |
| Sum of parts | \$4,200.00 |

[54] An award of \$4,200.00 equates to approximately \$877.00/acre, an amount below the preponderance of leases before me for the lease of similar land in the area. The legislation specifically allows the Board to consider other leases, implying there should be some sense of fairness or equity between landowners in compensation paid. Although I do not have detailed evidence of the specific circumstances of each individual lease before me, the pattern of dealings generally suggests that, overall, the annual rent should be higher than \$877.00/acre, and indeed, higher than \$900/acre in the absence of additional value added by non-monetary compensation.

[55] I am mindful that the Board must not exceed its jurisdiction by ordering an amount to be paid that exceeds the actual, or probable, loss sustained (*Western Clay Industrial Products, supra*). I am also mindful, however, that calculating damages for intangible loss, such as for nuisance and disturbance, is not a precise exercise but involves the exercise of judgment and discretion to determine what is appropriate and just in the circumstances of any particular case. Payment for intangible loss should recognize that there is negative impact to landowners from oil and gas activity, and perhaps discourage irresponsible behavior on the part of companies that cause negative impact to landowners, but should not purport to enrich or remunerate landowners beyond the probable loss sustained. Additionally, even in compensating for more tangible loss such as loss of profit, the evidence will often be imperfect and require estimations and assumptions, which may be incapable of proof, but which do not detract from the fact of loss. All in all, determining annual rent involves consideration of the evidence and all of the circumstances, coupled with the exercise of judgment.

[56] In the circumstances of this case, considering the tangible and intangible loss to Mr. Helm from the Lease, the increase in the value of money since the Lease was originally signed, and the rents paid under other leases, I find the annual rent should be increased to \$4,750.00 effective December 23, 2007.

Costs

[57] Section 170 of the *PNGA* provides that the Board may order a party to pay all or part of the actual costs incurred by another party in connection with the application. Mr. Helm seeks payment of his actual costs in connection with this application. Progress does not dispute Mr. Helm's entitlement to costs in the circumstances, but asks that I determine the amount payable.

[58] Section 168 of the *PNGA* defines "actual costs" as including:

- (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.

[59] Mr. Helm produced two invoices for payment, one on account of his own time and disbursements, and one on account of the time and disbursements incurred by Cinda Helm as his agent.

[60] Mr. Helm's invoice includes consultations with Suncor land representatives and travel to Suncor offices in Fort St. John in 2009. It is not clear that these consultations are in connection with the Board's proceedings. Time spent dealing with Suncor or Progress generally, not in connection with a Board proceeding, is compensated as nuisance and disturbance in the annual rent.

[61] Mr. Helm's invoice includes his time (approximately 50 hours billed at \$50/hour) for attendance at the mediation, meetings with Ms. Helm in preparation for the arbitration, phone calls with other landowners to discuss his submission and prepare exhibits, travel involved in the preparation and delivery of exhibits, consultation with the Farmers' Advocate Office and attendance at the arbitration. Additionally the invoice charges for kilometers travelled at \$1.15/km. These costs amount to \$4,118.40.

[62] Ms. Helm's invoice in the amount of \$2,234.87 includes time (approximately 28 hours) to prepare the evidentiary report and submissions to the Board and for travel, kilometers travelled at \$1.15/km, and disbursements for copying, stationary products and other sundry incidental expenses for which receipts are provided. Ms. Helm has also billed her time at \$50/hour.

[63] The accounts from both Mr. Helm and Ms. Helm are reasonable in terms of the amount of time claimed to prepare for the Board's proceedings. I note Ms. Helm's account does not include time to attend the arbitration. The mileage rate claimed is in excess of that normally ordered by the Board, however, Ms. Helm's

evidence is that is the standard rate charged by her company to oil and gas companies in her professional life, and that it is low in the industry. Given that I find Ms. Helm's account is likely on the light side in terms of the time charged to prepare for and attend the arbitration, I am not about to quibble with the mileage claimed, and find that Mr. Helm is entitled to costs in the amount of \$6,300.00 on account of both his and Ms. Helm's time and expenses.

ORDER

[64] The Surface Rights Board orders that the rental provisions under the Lease are amended to provide that effective December 23, 2007, the annual rent payable to Mr. Helm is \$4,750.00. Progress Energy Ltd. shall forthwith pay to Bill Helm any difference in annual rent paid since December 23, 2007 and the revised annual rent effective December 23, 2007.

[65] The Surface Rights Board orders that Progress Energy shall pay Bill Helm \$6,300.00 for costs.

DATED: December 2, 2010

FOR THE BOARD



Cheryl Vickers, Chair