

**File No. 1816**  
**Board Order No. 1816-1**

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**July 26, 2013**

**SURFACE RIGHTS BOARD**

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

**AND IN THE MATTER OF THE  
NORTHEAST ¼ OF SECTION 4, TOWNSHIP 77, RANGE 17 WEST OF THE  
6<sup>TH</sup> MERIDIAN, PEACE RIVER DISTRICT EXCEPT PLAN 27392**

**(The "Lands")**

**BETWEEN:**

**Tourmaline Oil Corp.**

**(APPLICANT)**

**AND:**

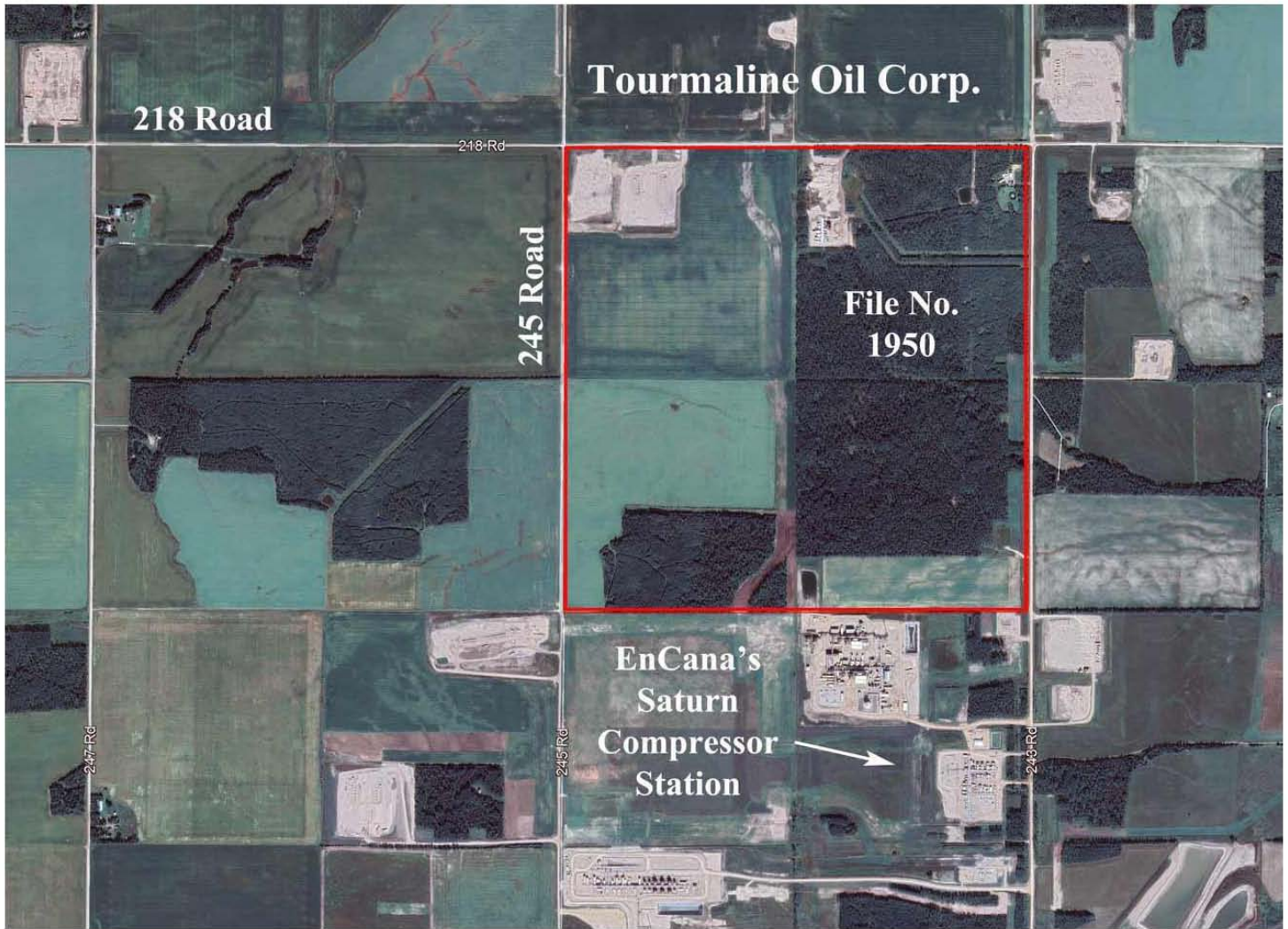
**Thomas Meade Lowes and Clinton Van Lowes**

**(RESPONDENTS)**

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**BOARD ORDER**

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Tourmaline Oil Corp. ("Tourmaline") seeks a right of entry order to access certain lands legally owned by Thomas Meade Lowes and Clinton Van Lowes to carry out an approved oil and gas activity, namely the construction, operation and maintenance of a flow line.

On July 24, 2013, I conducted a mediation attended by C. Lowes, one of the landowners, B. McCabe, observer for the Public Guardian and Trustee ("PGT"), and J. Berube, P. Briamcombe, and R. Williams for Tourmaline. Thomas Lowes was duly served with the application, however, did not attend the mediation as he is incapacitated. The PGT is in the process of obtaining committeehip of Mr. Lowes' affairs through certification, however, that process has not been completed. During the mediation, the parties discussed Tourmaline's application for a Right of Entry order, and they also discussed the possible terms and conditions. The Oil and Gas Commission approved Tourmaline's permit for the project on or about July 9, 2013.

Mr. Clinton Lowes has come to an agreement with Tourmaline on the Right of Entry and compensation terms, however, due to the incapacity of his father, Thomas Lowe, a surface lease can not be finalized.

The Board is satisfied that Tourmaline requires the Right of Entry for an oil and gas activity, as this project involves moving product through flow lines from its wells to a plant. The fact the Oil and Gas Commission has approved this project supports this finding. Despite Mr. Thomas Lowes' inability to participate in the proceeding, the Board issues the Right of Entry Order pursuant to section sec. 161(1)(a) of the *Petroleum and Natural Gas Act*.

The Board orders partial compensation and an increased security deposit as set out below largely based on the agreement reached between Tourmaline and Clinton Lowes. Once the PGT has received legal authority to act on behalf of Thomas Lowes, they will contact the Board and other parties and terms can then be finalized. Further mediations are not refused.

Given Mr. Thomas Lowes' incapacity and hospitalization, the Board waives the requirement of personal service of this order on him pursuant to sec. 159(6)(b) of the *Act* as set out below.

## **ORDER**

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

1. Upon payment of the amounts set out in paragraphs 3 and 4, Tourmaline Oil Corp. shall have the right of entry to and access across the portions of

the lands legally described as THE NORTHEAST ¼ SECTION 4, TOWNSHIP 77, RANGE 17 W6M, PEACE RIVER DISTRICT EXCEPT PLAN 27392 as shown outlined in red on the Individual Ownership Plan attached as Appendix "A" (the "Lands") for the purpose of carrying out the approved oil and gas activities, namely the construction, operation and maintenance of flow lines and associated works.

2. Tourmaline's Right of Entry shall be subject to the terms and conditions attached as Appendix "B" to this Order
3. Tourmaline shall deliver to the Surface Rights Board security in the amount of \$10,000.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to Tourmaline, or paid to the landowners, upon agreement of the parties or as ordered by the Board.
4. Tourmaline shall pay to the landowners as partial compensation (including timber loss) the amount of \$8,720.75, payable as follows:
  - \$4,360.38 payable immediately to Clinton Van Lowes;
  - \$4,360.38 for Thomas Lowes, to be held in trust by Borden Ladner Gervais LLP, for the benefit of Thomas Lowes and not released to anyone until directed to do so by further order of the Surface Rights Board.
5. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.
6. Pursuant to section 159(6)(b) of the Act, the Board orders that service of this Order on Thomas Meade Lowes is deemed to have been met by service of the certified copy of the Order on the Public Guardian and Trustee.

DATED: July 26, 2013

FOR THE BOARD



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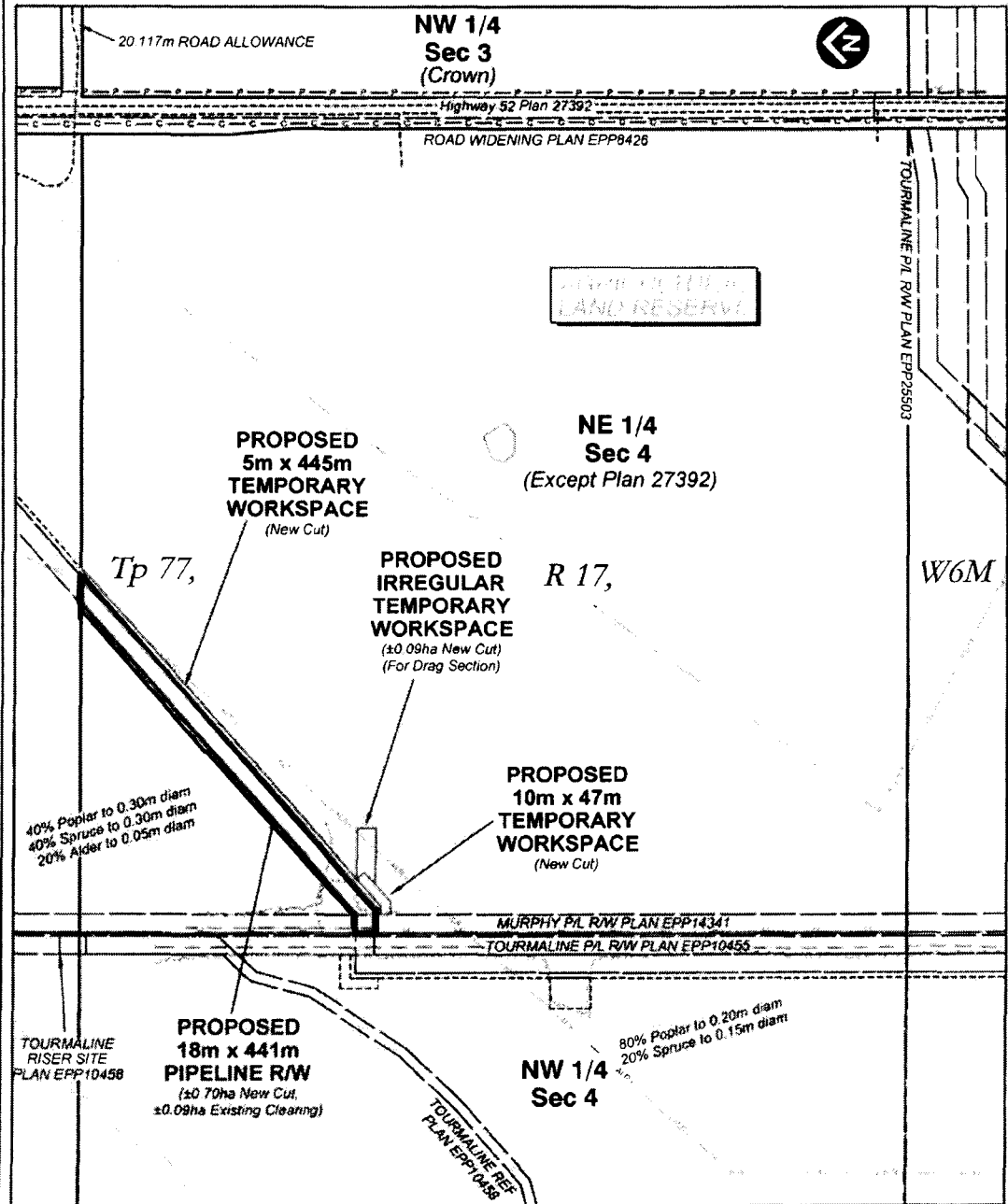
Simmi K. Sandhu, Mediator

Appendix "A" Order 1816-1

# TOURMALINE OIL CORP.

## INDIVIDUAL OWNERSHIP PLAN

SHOWING PROPOSED PIPELINE R/W & TEMPORARY WORKSPACES  
 WITHIN  
 NORTH EAST 1/4 OF Sec 4, Tp 77, R 17, W6M  
 (Except Plan 27392)  
 PEACE RIVER DISTRICT



OWNERS: Thomas Meade Lowes  
 Clinton Van Lowes

TITLE No.: BB1066832  
 PID No.: 004-591-291

Areas Required

Certified correct this 8th day of February 2013.

Temporary Workspace	= 0.44 ha (1.09 Ac)
Pipeline R/W	= 0.79 ha (1.95 Ac)
<b>Total</b>	<b>= 1.23 ha (3.04 Ac)</b>

*Jason J. Whale*  
 Jason J. Whale, BCLS

Scale : 1:5000  
 Date : Feb 8, 2013  
 File No.: 13-06518

Rev. No. : 1  
 Designed by: MLA  
 Drawing No.: 1306518IOP2

**VECTOR GEOMATICS**  
 LAND SURVEYING LTD.

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 10628 Peck Lane, PO Box 5428  
 Fort St. John, B.C. V1J 4H8  
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 Fort Nelson, B.C. VEC 1R0  
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**APPENDIX "B"**  
**CONDITIONS FOR RIGHT OF ENTRY**

1. All drainages whether manmade or natural will be left in a condition to allow water to travel in its natural pattern. Tourmaline is responsible for any damages caused to drainages as a result of its actions within the subject Lands.

October 4, 2017

**SURFACE RIGHTS BOARD**

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

AND IN THE MATTER OF

THE NORTH WEST  $\frac{1}{4}$  OF SECTION 34 TOWNSHIP 79 RANGE 17  
WEST OF THE 6<sup>TH</sup> MERIDIAN PEACE RIVER DISTRICT  
(The Lands)

BETWEEN:

Tourmaline Oil Corp.

(Applicant)

AND:

Tailwind Properties Ltd.

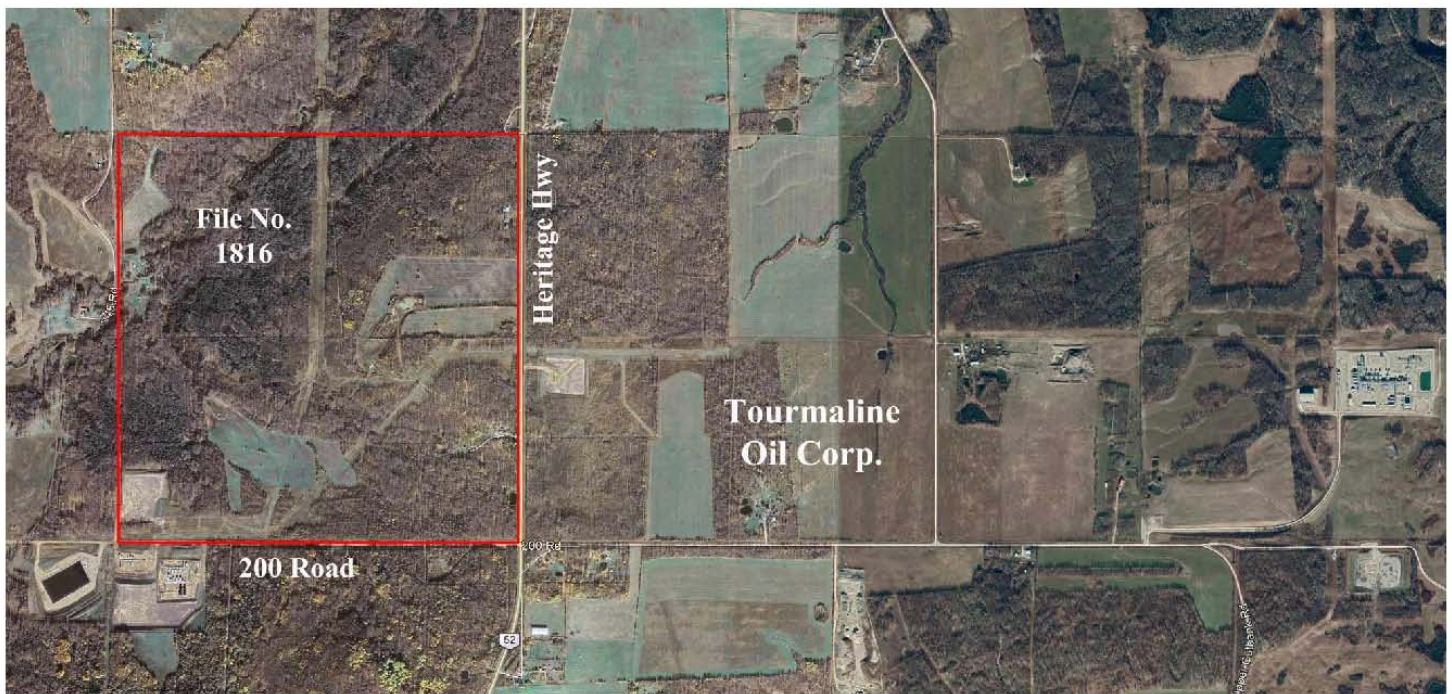
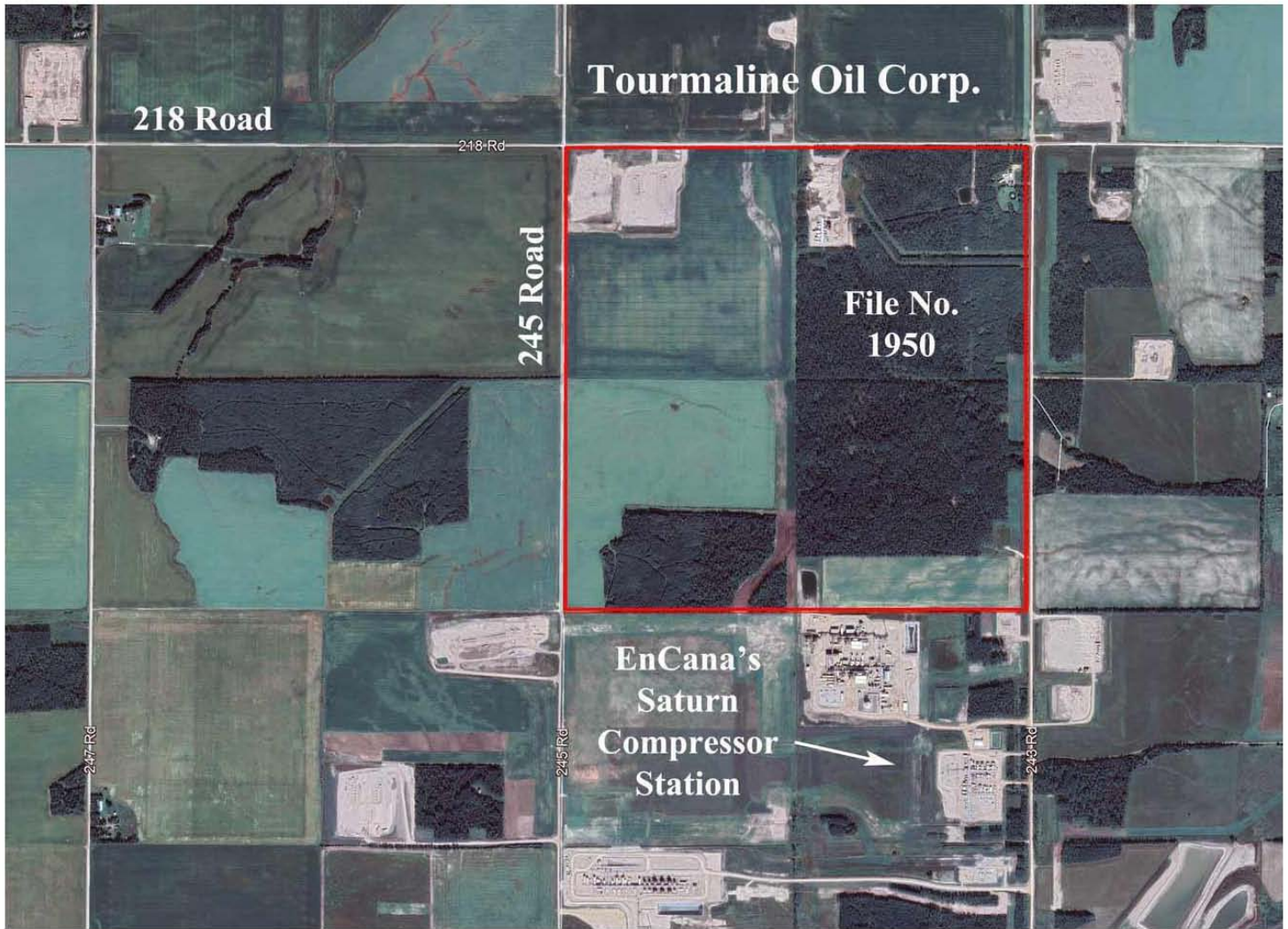
(Respondent)

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**BOARD ORDER**

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Tourmaline Oil Corp. ("Tourmaline") seeks a right of entry order to access certain lands legally owned by Tailwind Properties Ltd. (the "Lands").

Tourmaline requires access to the Lands to travel upon an existing pipeline Right of Way and construct a riser site that will tie into the adjacent compressor site.

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

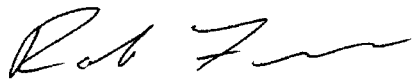
The Surface Rights Board orders:

1. Upon payment of the amounts set out in paragraphs 2 to 4, the Applicant, Tourmaline Oil Corp. ("Tourmaline"), shall have the right to enter and access the portions of lands legally described as THE NORTH WEST <sup>1</sup>/<sub>4</sub> OF SECTION 34 TOWNSHIP 79 RANGE 17 WEST OF THE SIXTH MERIDIAN PEACE RIVER DISTRICT, as shown outlined and delineated on the individual ownership ("IOP") plan attached hereto as Schedule "A" (the 'Lands') for the purpose of constructing, operating, maintaining, and abandoning a riser site that will tie into an adjacent compressor site, including the right to travel upon an existing pipeline right-of-way as outlined in red on the IOP at Schedule "A" and the right to use temporary workspace shown in green on the IOP at Schedule "A" to facilitate a bore into a facility located at 15-34-79-17-W6M, all in accordance with Oil and Gas Commission Authorization No. 100102064.
2. Tourmaline shall pay to the Respondent an initial payment of \$8,220 and subsequent annual payments of \$1,250 on each anniversary date of this right of entry order. Tourmaline bases the compensation at a rate of \$1 ,200.00 per acre of land value The Respondent does not agree with this rate, but agrees to the overall compensation.
3. Tourmaline shall pay to the Respondent \$3,000 plus GST for legal costs in connection with this matter.
4. Tourmaline shall deliver to the Board security in the amount of \$2,500 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to Tourmaline, or paid to the Respondent, upon agreement of the parties or as ordered by the Board.
5. The parties reserve the right to return to the Board to settle the matter of construction damages if necessary.

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

Dated this 4<sup>th</sup> day of October 2017

FOR THE BOARD



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Rob Fraser, Mediator



**File No. 1993**  
**Board Order No. 1993-1**

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**April 10, 2019**

**SURFACE RIGHTS BOARD**

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

AND IN THE MATTER OF

THE NORTH EAST  $\frac{1}{4}$  OF SECTION 21 TOWNSHIP 80 RANGE 15 WEST OF THE  
6<sup>TH</sup> MERIDIAN PEACE RIVER DISTRICT  
(The "Lands")

BETWEEN:

Tourmaline Oil Corp.

(APPLICANT)

AND:

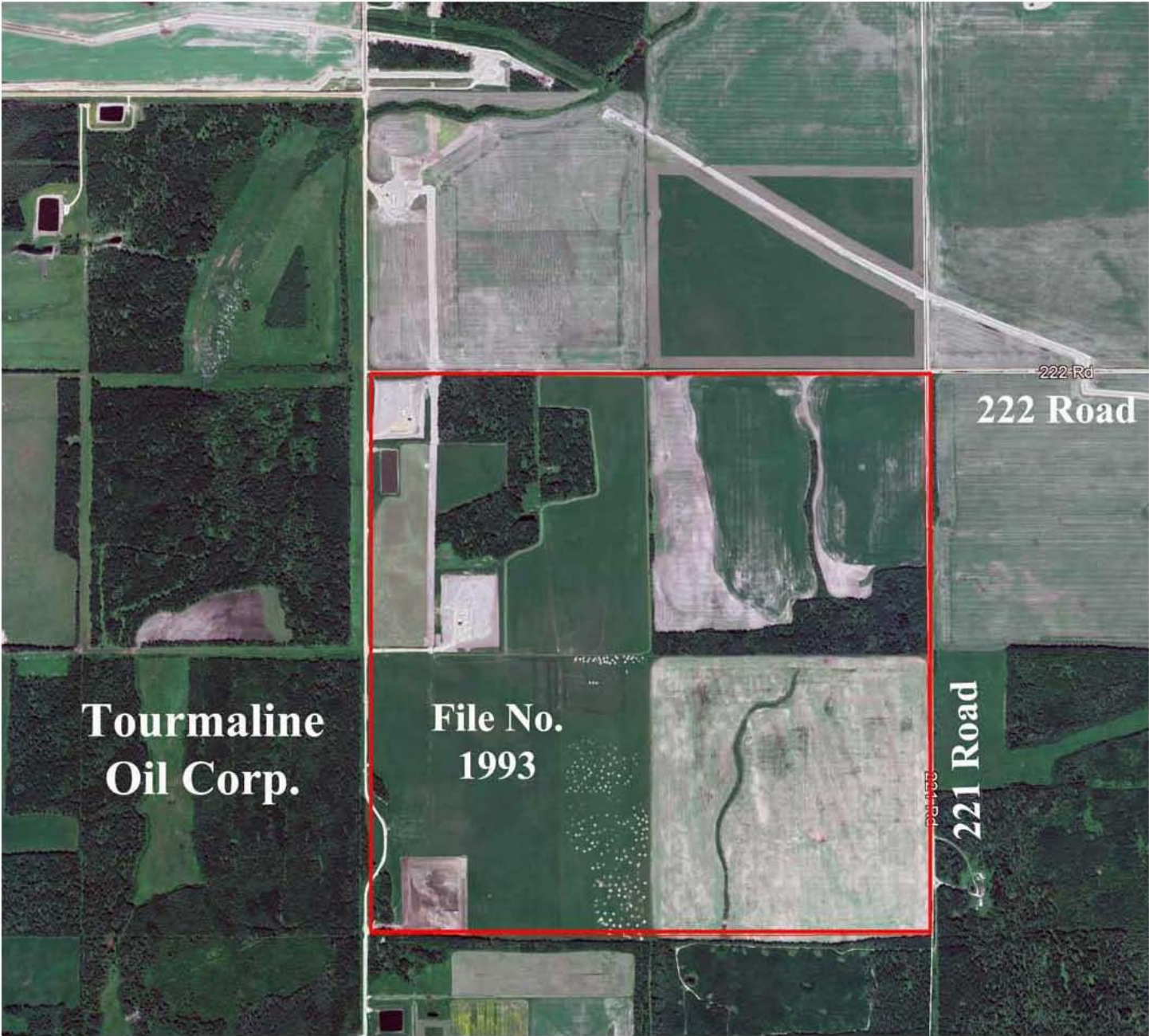
Richard Stanley Graham

(RESPONDENT)

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**BOARD ORDER**

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**Tourmaline  
Oil Corp.**

**File No.  
1993**

222 Rd  
**222 Road**

221 Rd  
**221 Road**

Heard by written submissions.

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## INTRODUCTION AND ISSUE

[1] Tourmaline Oil Corp. (Tourmaline) seeks a right of entry order over Lands owned by Richard Graham to install a pipeline in three segments (the Pipeline). The Oil and Gas Commission (OGC) has issued a permit for the Project.

[2] The Board's jurisdiction to issue a right of entry order for a pipeline is limited to those pipelines that are flow lines as defined in the *Petroleum and Natural Gas Act* and *Oil and Gas Activities Act* as follows:

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

[3] Mr. Graham challenges the jurisdiction of the Board to issue a right of entry on the grounds that the Pipeline is not a flow line. The issue is, therefore, whether the Pipeline is a “flow line”.

## THE PIPELINE

[4] The three segments that comprise the Pipeline will transport well production between a multiwell padsite located at 5-27-80-15-W6M (the 5-27 Pad) to a multiwell padsite located at 5-22-80-15-W6M (the 5-22 Pad) both of which are upstream of Tourmaline's processing plant located at 15-2-80-16 W6M and 2-11-80-16-W6M (the Processing Plant).

[5] Segments 1 and 3 of the Pipeline are bi-directional lines that will transport natural gas and produced water between the 5-27 Pad and the 5-22 Pad. Once the substances conveyed by Segments 1 and 3 reach the Processing Plant, they are processed, and in the case of natural gas, transported to market and, in the case of produced water, either sent to storage ponds to be used for further natural gas development or sent to disposal facilities.

[6] Segment 2 of the Pipeline is a bi-directional line that transports natural gas between the 5-27 Pad and the 5-22 Pad. Once the substance conveyed by Segment 2 reaches the Processing Plant, it is processed and transported to market.

## **FINDINGS**

[7] The Board has considered the definition of “flow line” on numerous occasions. Its decisions respecting what constitutes a “flow line” are summarized in *Encana Corporation v. Jorgensen*, Order 1939-1, May 31, 2016 as follows:

Essentially, the Board has found that pipelines that function as part of the gathering system for the production of natural gas are “flow lines”. They need not connect directly to a well head, but may connect well heads indirectly with scrubbing, processing or storage facilities as long as they are part of the gathering system for the production of natural gas. The Board has found that scrubbing, processing or storage facilities demarcate the extent of the Board’s jurisdiction over pipelines.

[8] Mr. Graham characterizes the Pipeline as a “Sales Line”. He says although their use will eventually be flow lines, their initial use will be Sales lines relying on various statements in Tourmaline’s submission both to the Board and to the OCG. None of the statements referred to indicate the Pipeline will be used to transport processed product to market. All of the statements confirm the use of the various segments of the Pipeline as part of the gathering system for the production of natural gas.

[9] Mr. Graham submits natural gas will be distributed to a third party drilling company to power equipment, and that produced water will be distributed to a third party fracking company to be used for fracking operations. The fact that drilling and hydraulic fracturing may be done by a third party does not take those activities out of the scope of activities for the production of natural gas. Even if one of the segments is to be used as a fuel line to power equipment, which is not clear from Tourmaline’s submission but is Mr. Graham’s assumption from one of the statement’s made, both fuel lines and frac water supply lines have been found to be flow lines used as part of the gathering system for the production of natural gas (*Murphy Oil Company*



*Limited v. Shore*, Order 1745-1, September 13, 2012; *Encana Corporation v. Ilnisky*, Board Order 1823-1, April 11, 2014).

[10] I find the Pipeline and each of its segments is a “flow line”. Each is a “pipeline” as defined in that they convey natural gas or produced water. Each is a “flow line” as defined in that they connect the 5-27 Pad to the Processing Plant via the 5-22 Pad and are upstream of the Processing Plant at which processing of the natural gas occurs before being sent to market.

[11] The Pipeline along with additional flow lines between the 5-22 Pad and the Processing Plant will function as part of Tourmaline’s upstream natural gas gathering system in the area.

[12] The Pipeline and each of its segments perform the same function as pipeline segments previously found by the Board to be flow lines. (See for example: *Encana Corporation v. Ilnisky*). There are no additional circumstances or new arguments raised in this case that causes the Board to reconsider those findings.

[13] The Pipeline is a “flow line” and the Board has jurisdiction to issue a right of entry order.

[14] The application is referred back to the mediator to consider whether a right of order should be granted.

Dated: April 10, 2019

FOR THE BOARD



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Cheryl Vickers, Chair

**File No.1993  
Board Order No. 1993-2  
April 16, 2019**

**SURFACE RIGHTS BOARD**

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

AND IN THE MATTER OF

THE NORTH EAST  $\frac{1}{4}$  OF SECTION 21 TOWNSHIP 80 RANGE 15 WEST OF  
THE 6<sup>TH</sup> MERIDIAN PEACE RIVER DISTRICT

(the "Lands")

BETWEEN:

Tourmaline Oil Corporation

(APPLICANT)

AND:

Richard Stanley Graham

(RESPONDENT)

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**BOARD ORDER**

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Tourmaline Oil Corporation ("Tourmaline") seeks a right of order to access certain lands legally owned by Richard Stanley Graham to carry out an approved oil and gas activity, namely the construction, operation and maintenance of flowlines and associated infrastructure.

February 19, 2019, I convened a telephone mediation to discuss the issues of access and compensation. Subsequent to that meeting Mr. Graham challenged the Board's jurisdiction to hear the application. The Board heard submissions and issued order 1993-1 taking jurisdiction over the application.

Mr. Graham and Tourmaline have attempted to find common ground and enter into a consent order. However, they have not been successful and remain far apart.

Mr. Graham has filed an appeal with the Oil and Gas Appeal Tribunal, who have not rendered a decision. In these circumstances the Board will proceed with considering Tourmaline's application for a right of entry order.

Under the provisions of the *Petroleum and Natural Gas Act*, the Board may grant a right of entry order to privately owned land if it is satisfied that an order authorizing entry is required for an oil and gas activity. The Board is satisfied that Tourmaline requires entry to the Lands for an approved oil and gas activity, namely completing the project authorized by the Oil and Gas Commission.

1. Upon payment of the amounts set out in paragraphs 3 and 4, **Tourmaline Oil Corporation** shall have the right to enter and access the portions of lands legally described as THE NORTH EAST ¼ OF SECTION 21 TOWNSHIP 80 RANGE 15 WEST OF THE 6<sup>TH</sup> MERIDIAN PEACE RIVER DISTRICT, as shown outlined on the individual ownership plan(s) attached as Appendix "A" (the "**Lands**") for the purpose of carrying out an approved oil and gas activity, namely the construction, operation, and maintenance of multiple flow lines and associated works in accordance with Oil and Gas Commission Authorization No. 1001015356.
2. **Tourmaline Oil Corporation's** right of entry shall be subject to the terms and conditions attached as Appendix "B" to this Right of Entry Order.
3. **Tourmaline Oil Corporation** shall deliver to the Surface Rights Board security in the amount of \$2,500.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to Tourmaline Oil Corporation, or paid to the landowner, upon agreement of the parties or as ordered by the Board.
4. **Tourmaline Oil Corporation** shall pay to the landowner as partial payment for compensation the amount of \$5,375.00.

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

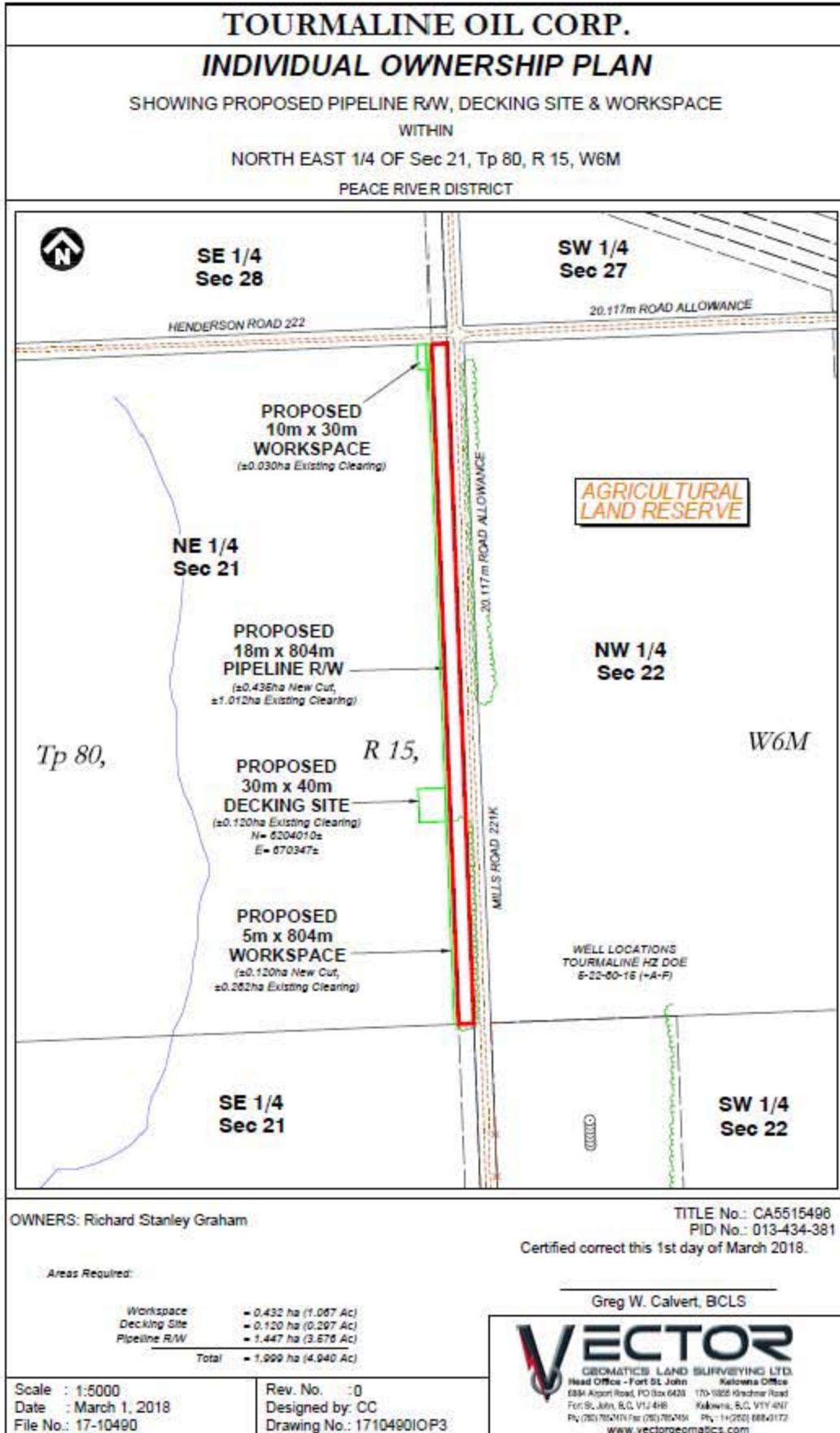
Dated: April 16, 2019

FOR THE BOARD

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

Rob Fraser, Mediator

Appendix "A"



## Appendix "B"

### Conditions for Right of Entry

1. **Tourmaline Oil Corporation** must notify the landowner forty-eight (48) hours prior to entry onto the said Lands.