

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

Date: October 6 1999

File No. 1375 & 1388

Board Order No. 295A

**BEFORE THE MEDIATOR:**

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

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

**BETWEEN:**

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

**AND:**

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

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**ARBITRATION ORDER**

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**BACKGROUND:**

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

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

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

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

An on-site inspection was conducted by Mavis Nelson

### **The Hearing**

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

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

### **Position of the parties:**

#### **Applicant**

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

#### **Respondent**

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

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

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

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

#### **DECISION:**

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

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

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

#### **IT IS HEREBY ORDERED THAT:**

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

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

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

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

MEDIATION AND ARBITRATION BOARD  
UNDER THE  
PETROLEUM AND NATURAL GAS ACT

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Ivor Miller, Acting Chairman

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Mavis Nelson, Member

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Bud Hosker, Member