

MEDIATION AND ARBITRATION BOARD
#114, 10142 - 101st Ave.
Fort St. John, BC
V1J 2B3

Date: April 29, 1999

File No. 1380

Board Order No. 297A

BEFORE THE BOARD

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

AND IN THE MATTER OF A PORTION OF
THE EAST HALF OF SECTION FIFTEEN,
TOWNSHIP EIGHTY, RANGE FOURTEEN,
WEST OF THE SIXTH MERIDIAN (W6M),
PEACE RIVER DISTRICT.
(7-15-80-14 W6M)
(THE LANDS)

BETWEEN:

STAR OIL & GAS LTD.
3500 150- 6th AVENUE, SW
CALGARY, AB
T2P 3Y7
(APPLICANT)

AND:

SKYLINE FARMS LTD.
P.O. BOX 870
DAWSON CREEK, B.C.
V1G 4H8
(RESPONDENT)

BOARD ORDER

BACKGROUND

The Mediation and Arbitration Board received on 26 February 1999, an application for Right-Of-Entry, from Star Oil & Gas Ltd.; after it became apparent that a surface lease agreement could not be reached between the parties on the well site known as Star Doe 7-15-80-14, lease number 42385.

Connie S. Shortt was named Mediator. The Mediator inspected the 2.18 ha (5.39 ac) wellsite and access on Monday 15 March 1999.

A Mediation Hearing was held on 18 March 1999 at 9:00 a.m. in the Boardroom of Execuplace Business Centre, 10142 101 St. Avenue, Fort St. John B.C. The Mediation Hearing was unsuccessful in resolving the outstanding issues. The Mediator issued an order which forwarded all issues to an Arbitration Hearing to be heard by an Arbitration Panel.

HEARING

The Arbitration Hearing was held 12 April 1999 at 10:00 a.m. in Execuplace Business Centre, 10142 101st Avenue, Fort St. John B.C. Present at the Mediation Hearing representing the Applicant Star Oil & Gas was Cal Jaycock (senior geologist), Brock Campbell (coordinator surface rights and aboriginal affairs), Darren Rosie Landman with Longstaff Land Surveying Ltd.

The Respondent Skyline Farms Ltd. was represented by Gene Vipond, owner. The Arbitration Panel consisted of Board Members Connie S. Shortt, Mavis Nelson, Ivor Miller and Bud Hosker. Connie Shortt chaired the hearing.

APPLICANT

Cal Jaycock, senior geologist gave evidence for Star Oil & Gas Ltd. It was the contention of the Applicant that the well should not be directionally drilled for the following reasons.

1. The additional costs could make the project nonviable.
2. Seismic reports and a well in the area show that all possible production zones could not be penetrated at their apex due to the layout of the subsurface formations.
3. A concern was displayed that if this well was forced to be directional drilled that in the future all landowners would insist on wells being placed solely at the convenience of the landowner.

4. Getting stuck in the hole is more likely with directional drilling, while pipe recovery is less likely.

RESPONDENT

Gene Vipond made the following points to back up his request the wellsite not be as surveyed in his field but be relocated on the edge of his field.

1. His fields are large, usually over 320 acres, and the trend is to larger fields and they will likely continue to grow larger yet.
2. It is very difficult to farm around anything with large equipment. The possibility of hooking something and incurring added costs increases with the size of machinery.
3. Low contour roads will not help as fill will have to be placed in low lying spots.
4. A cost sheet was submitted using figures of estimated additional cost.
5. Evidence was given that Mr. Vipond is a certified grain grower and thus his loss of profit may be greater.

DECISION

The Board, having reviewed all the evidence presented at the Arbitration Hearing and giving consideration to the arguments, have decided that a Right-Of-Entry should be granted to allow the drilling program of Star Oil & Gas to proceed as per Exhibit "A" Survey Plan of the Wellsite.

AWARD

Star Oil & Gas Ltd provided a Wellsite Compensation Formula (Exhibit #2). The figures were not disputed by Mr. Vipond.

Compensation payable to the Respondent will be calculated in accordance with Section 21 of the Petroleum and Natural Gas Act, RSBC Chapter 361.

Section 21

(a) **Compulsory Aspect of Entry:**

The landowner has lost the right to farm the land as he is accustomed, and this will continue for the life of the well.

The Board considers \$ 2,000.00 for the Right-Of-Entry (first year payment) and \$ 500.00 annually to be fair compensation.

(b) The Value of the land and the owners loss of right or profit with respect to the Land:

In determining the land value, both parties agree \$ 500.00 per acre and net crop loss would be \$ 200.00 per acre were fair market value.

The Board concurs the land is fairly valued at \$ 500.00 per acre, and \$ 200.00 annually for crop loss.

(c) Temporary and Permanent Damage to the Land:

The Board concurs with the \$ 100.00 per acre to cover soil compaction and erosion due to the construction of the road and site.

The Board considers this to be a one time payment of \$ 524.00 to be fair compensation.

(d) Compensation for Severance

The Board concurs with the figures given in Exhibit A referring to costs due to overlap and misses with big equipment.

The Board awards \$ 100.00 per acre for 1.5 acres.

(e) Compensation for Nuisance and Disturbance from entry occupation or use.

The Board concurs with the figures given in Exhibit A of \$ 750.00 for the first year and \$ 750.00 annually.

(f) Money previously paid for occupation or use:

Not applicable

(g) Other factors:

Mr. Vipond has a reasonable request to have the lease moved to an outside perimeter of his property to avoid the time and inconvenience of farming around the wellsite and access road. However, Star Oil & Gas Ltd. presented evidence to show their necessity of drilling a vertical well on this location. Increased costs being one factor

but mainly the prospect of a successful commercial well could easily depend on encountering the prospective zones at their apex.

The Board awards \$ 800.00 first year and \$ 800.00 annually to compensate Mr. Vipond's concerns.

The Board considers \$ 200.00 (one time payment) to be fair compensation for the temporary workspace.

Summary of the amount to be paid under Section 21 of the Petroleum and Natural Gas Act.

	First Year	Annual
(a) Compulsory aspect of Entry, occupation or use	\$ 2,000.00	\$ 500.00
(b) Value of land and Owner's loss of a right or profit with respect to the land	\$ 2,620.00	
© Temporary & permanent damage from the entry	\$ 1,048.00	\$ 1,048.00
(d) compensation for severance	\$ 524.00	
(e) compensation for nuisance & disturbance from the entry, occupation or use	\$ 150.00	\$ 150.00
(f) money previously paid to an owner for entry, occupation or use	\$ 750.00	\$ 750.00
(g) other factors	N/A	N/A
	\$ 800.00	\$ 800.00
Total Compensation	\$ 7,892.00	\$ 3,248.00
Temporary Workspace	\$ 200.00	
BALANCE DUE	\$ 8,092.00	\$ 3,248.00

IT IS HEREBY ORDERED THAT:

The Board hereby orders Star Oil & Gas Ltd. to pay Skyline Farms Ltd. the amount of \$ 8,092.00 prior to entry, and annual rent of \$ 3,248.00 before or on the anniversary of this Board Order, 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 first annual payment (of \$ 3,248.00) shall be due on 29 April 2000.

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, province of British Columbia this 29th day of April 1999.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Connie Shortt, Vice-Chair

Bud Hosker, Member

Ivor Miller, Member

Mavis Nelson, Member