

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

Date: October 19, 1999

File No. 1387

Board Order No. 304A

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 THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF THE
SOUTHWEST ¼ SECTION THIRTY THREE,
TOWNSHIP EIGHTY-EIGHT RANGE SIXTEEN, WEST
OF THE SIXTH MERIDIAN (W6M), PEACE RIVER
DISTRICT.
(33-88-16 W6M)
(THE LANDS)

BETWEEN:

ARCHEAN ENERGY LTD.
1000 324 8TH AVENUE, SW
CALGARY, AB
T2P 2Z2
(APPLICANT)

AND:

ELIZABETH ANNE DUPPERON
8046 96A AVENUE
GRANDE PRAIRIE, AB
T8V 3V4
(RESPONDENT)

AND

FRANK CHARLES COOPER
RR#1 WEMBLEY, AB
T0H 3S0
(RESPONDENT)

ARBITRATION ORDER

The Mediation and Arbitration Board received on 14 June 1999, an application for Right-Of-Entry, from Archean Energy Ltd., after unsuccessful attempts to reach a surface lease agreement on a parcel of land described as Archean Rigel A3-33-18-16 W6M.

A Mediation Hearing was held on 25 June, 1999 at 9:00 a.m. in the Boardroom of Execuplace Business Centre, 10142 101st Avenue, Fort St. John BC. Bud Hosker was appointed Mediator. The Mediator issued Board Order 304M, dated July 12, 1999. Board Order 304M granted Right-Of-Entry to the well site with compensation issues to be negotiated between the parties, or arbitrated by an Arbitration Panel.

An Arbitration Hearing was scheduled for 10:00 a.m., 4 October 1999 in the Boardroom of Execuplace Business Centre.

THE HEARING

The Arbitration Hearing was held on 4 October 1999 as scheduled. The Arbitration Panel consisted of Acting Chairman Ivor Miller, Board members Mavis Nelson and Bud Hosker. The Applicant was represented by Christopher Bakker of Pioneer Land Services Ltd. The Respondents were represented by Darryl Carter, and co-owner Frank Cooper.

Position of the Parties

Applicant

Christopher Bakker introduced all correspondence requesting lease agreement and subsequent replies, dating from 1 February 1999 until the Arbitration Hearing. These are marked Exhibit "1". A brief history of the negotiations to date which were done in good faith. The offer of compensation dated 1 February 1999 and replies from Mr. Carter's office and subsequent letter 2 March 1999 withdrawing their previous offer. Presenting the Applicant's revised compensation offer maintains that lease A3-33-88-16 is just an extension of the well site located at 3-33-88-16.

Mr. Bakker's rebuttal to Mr. Carter's letter of evidence concerning the Alberta Surface Rights Board decision of "bonus" payments, was that a bonus was not applicable in this situation as there was no expeditious signing. A "bonus" payment is not applicable to A3-33-88-16 as compared to 14-28-88-16 when a "bonus" was paid as this was under duress in order to have an "expeditious" signing of the lease agreement.

Pictures and soil map of subject area concerning type of crops produced in the immediate area.

The Applicant withdrew all previous compensation offers, submitting a summary of compensation evidence amounting to \$ 5,768.00 for first year payment and \$ 2,196.00 annually.

Respondent

Surface rights taken from owners should be compensated on comparative leases and not from

separate headings as per Section 21 (1) (A-E) of the Petroleum and Natural Gas Act. What is very important, but has not been considered by the Applicant is sub Sections G and F of Section 21 (1). The perception of "bonus" payments should be considered after reviewing the decision of the Alberta Surface Rights Board (No E99/84 - 104184) which is marked Exhibit "A". Mr. Carter produced evidence of well site compensation for 6-33-88-16 and the revised compensation; Exhibits "B" and "C". Mr. Carter also introduced the original payments and extension for annual compensation on 4-33-88-16; Exhibits "D" and "E". Mr. Carter's presentation stating his reasons for the above are documented in Exhibit "F". Mr. Carter submitted a well formula for first years payment including payment for expeditious signing of 14-28-88-16; Exhibit "G". Mr. Carter's invoice to Mr. Cooper and Ms. Dupperon was submitted as Exhibit "H", requesting the invoice be paid by the Applicant.

It was agreed by both parties that Mr. Cooper be reimbursed for his time and expenses to attend the hearings in the amount of \$ 400.00.

DECISION

After hearing the evidence presented and arguments made thereto from both parties, the Arbitration Panel has reached their decision on the following points:

1. A3-33-88-16 is considered to be a new well site, and not an extension of 3-33-88-16.
2. Section 21 (1) (f) of the Petroleum and Natural Gas Act which reads "money previously paid to an owner for entry, occupation or use,". The Arbitration Panel finds that in this situation this Section of the Petroleum and Natural Gas Act is more indicative of the comparative "market value" to the landowner and the amount the lessee is willing to pay.
3. Using Canadian Natural Resources Ltd. (CNRL) lease 14-28-88-16 and Archean 6-33-88-16 as comparative leases as presented in evidence, the Arbitration Panel does not consider Section 21 (1) (g) as included in these leases to be applicable. Considering the time lapse between the request to enter and the Right-Of-Entry Order, indicates that expeditious signing did not occur.

The Arbitration Panel hereby awards compensation to the Respondent;

1st year:

campsite	\$ 500.00
workspace	\$ 100.00
owners time to attend hearings	\$ 400.00
well site compensation	\$ 6,935.00
less partial payment (Board Order 304M)	\$ 5,500.00
Balance due	\$ 2,435.00

Annual compensation: The Board awards annual compensation of \$ 2,574.00 per year.

Section 27

Costs : The Applicant must pay to the Respondent upon assessment pursuant to Appendix B of the Rules of Court, costs of the Respondent at Scale 3 of the said Rules of Court.

IT IS HEREBY ORDERED THAT:

1. The Applicant, must pay to the Respondent the amount of \$ 2,435.00 (two thousand, four hundred and thirty-five dollars) for the balance of the first year compensation; due and payable on or before 1 December 1999.
2. The Applicant must pay annual compensation of \$ 2,574.00 (two thousand, five hundred and seventy-four dollars). The annual payment will be due and payable before or on the anniversary of the Right-Of-Entry Board Order 304M (12 July 1999), until such time as 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 re-negotiated 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 \$ 2,574.00) shall be due on 12 July 2000.
3. The Applicant must pay to the Respondent upon assessment pursuant to Appendix B of the Rules of Court, cost of the Respondent at Scale 3 of the said Rules of Court.
4. Nothing in this order is, or operates as consent, permit or authorization that by enactment, a party is required to obtain in addition to this order.

Dated at the City of Fort St. John, province of British Columbia this 21 day of October 1999.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Ivor Miller, Acting Chairman

Mavis Nelson, Member