

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

Date: 10 June 2002

File No. 1463

Board Order No. 344A

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 PORTION OF THE
SOUTH WEST QUARTER OF SECTION 35,
TOWNSHIP 79, RANGE 15 WEST OF THE
SIXTH MERIDIAN PEACE RIVER DISTRICT
(4-35-79-15 W6M)
(THE LANDS)

BETWEEN:

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

AND:

NEIL GLEN MACLEAN
VICTORIA ANN MACLEAN
BOX 746
DAWSON CREEK, BC
V1G 4H7
(THE RESPONDENT)

ARBITRATION ORDER (COSTS)

BACKGROUND

An Arbitration Hearing was held in the Provincial Building conference room in Dawson Creek, B.C. on 30 May 2002 to resolve outstanding issues arising from an Application filed by Star Oil & Gas Ltd in this matter. The Arbitration Panel consisted of Rodney J. Strandberg and William B. Wolfe. The Applicant was represented by Les Dellow (Mitchell Schuller & Dellow) as legal counsel with John Hagen, (Longstaff Land Surveying Ltd.) as agent for Star, appearing in person and Brock Campbell appearing during part of the Arbitration by telephone. Neil and Victoria MacLean appeared in person on their own behalf, accompanied by Bert Harrod as an observer.

In 2001, Star Oil & Gas Ltd (Star) through their land agent, Mr. John Hagen of Longstaff Land Surveying Ltd. approached Neil and Victoria MacLean (MacLean) concerning proposed plans to drill three exploration holes on the MacLean property. These locations were;

1. NW1/4, Section 34, Township 79, Range 15, W6M;
2. NW ¼, Section 35, Township 79, Range 15, W6M and
3. SW ¼, Section 35, Township 79, Range 15, W6M (hereafter respectively referred to as 14-34, 14-35 and 4-35).

MacLean granted permission to Star to allow the three sites to be surveyed on the understanding that compensation would be paid for any damage caused by the survey activity. Star completed all three surveys and on or about 16/17 October, 2001 Mr. Hagen met with MacLean to discuss the 3 proposed well sites and present terms for lease agreements. MacLean declined to accept the terms proposed by Star and on 20 October 2001 telephoned Mr. Hagen with a counter-offer, which was refused by Star.

Geological data obtained from other wells drilled south and east of the MacLean property gave indications of poor reservoir quality and Star determined that the 14-34 location would likely not be commercially viable. Notice of termination of the application for 14-34 was given to Mr. and Ms. MacLean on 30 October 2001.

On 01 November 2001, the Mediation and Arbitration Board received an application for Mediation and Arbitration from John Hagen, as agent for Star. The purpose of the application was for the grant of Right of Entry to construct well sites and access at the 14-35 and 4-35 locations.

Pursuant to Section 18 (1) of the Petroleum and Natural Gas Act, Mr. Frank Breault was designated Mediator. A brief Mediation Hearing was conducted on 09 November 2001 in the Provincial Building conference room in Dawson Creek, B.C. beginning at 10:00 am. In attendance representing the Applicant were John Hagen, acting as agent for Star and the Respondents, Neil MacLean and Victoria MacLean. Bert Harrod, a neighbour of the MacLeans was also in attendance. It was agreed that because Mr. Brock Campbell, Coordinator of Surface Rights and Aboriginal Affairs in the Calgary office of Star, was not in attendance for personal reasons, a second Mediation Hearing would be scheduled.

On 14 November 2001, a second Mediation Hearing was conducted in the Provincial Building at Dawson Creek, B.C. with the same parties present in addition to Mr., Campbell.

In a Mediation Order dated 30 November 2001, the Mediator declined to issue a Right-of-Entry Order, refused further Mediation Hearings and referred issues of right-of-entry, compensation and any other matters to further negotiation between the parties, or to resolution by an Arbitration Panel of the Mediation and Arbitration Board. In addition, the Mediator directed Star to remove survey stakes and flagging from MacLean's property by a specified date and to pay MacLeans the amount of \$ 500.00 for entry onto the property for the purpose of surveying the three originally proposed well sites and access roads.

On 19 November 2001 Star through its agent, Mr. Hagen reached an agreement to compensate MacLean in the total amount of \$ 1,000.00 for right-of-entry and damages connected with surveying of site 14-34. At the same time, Star tendered final lease offers on 14-35 and 4-35 sites to MacLean. No response was received from MacLean within the 5 day expiry period of these offers.

Further unfavorable geological results in the district led Star to give notices of termination of application for drill site 14-35 on 10 December 2001 and site 4-35 on 06 March 2002.

NATURE OF THE APPLICATION

As the parties were unable to agree on the quantum of costs due to MacLeans pursuant to Section 27 of the Petroleum and Natural Gas Act, this sole remaining issue was dealt with at this Arbitration to determine the awarding of costs to the Respondent in connection with time spent in negotiating, reviewing and evaluating various offers made by Star in connection with proposed well sites 14-34, 14-35 and 4-35.

AGREEMENT OF THE PARTIES

The parties agreed that:

1. Compensation for Right-of-Entry pursuant to the 30 November, 2001 Mediation Order in addition to compensation for timber cut and clean-up of brush related to the surveying activities of Star had already been dealt with by way of previous payments to MacLean of \$1,000.00 for 14-34, \$ 500.00 for 14-35 and \$ 500.00 for 4-35.
2. Compensation for crop losses incurred by Mr. Piper, the farmer leasing the land, would be dealt with by direct negotiation between Star and Piper.
3. This arbitration would be confined to the single issue of costs incurred by the Respondents in connection with lease negotiations for sites 14-35 and 4-35.

POSITIONS OF THE PARTIES

A. Respondents

The Respondents requested costs in the amount of \$ 5,000.00 representing compensation for;

1. time spent directly in dealing with Star and its agents,
2. time spent in educating themselves concerning activities and regulations of the oil and gas business, comparative lease values etc.,
3. time spent preparing for and attending mediation and arbitration hearings,
4. time spent removing survey stakes from their property and,
5. incidental out-of-pocket expenses related to long distance telephone charges, trips to offices of government regulators in Fort St. John etc.

The Respondents did not keep accurate records of their time spent on issues related to Star's proposed activities on their land but based their \$ 5,000.00 figure on an estimated 2 weeks of time for 2 people (160 hours) at \$ 25.00 per hours = \$ 4,000.00 plus an additional sum of \$ 1,000.00 compensation for time spent in attending two mediation hearings and one arbitration hearing. The Respondents also estimated their amount of out of pocket expenses for mileage, postage, meals, long distance charges and the like at \$ 400.00.

B. Applicant

Mr. Dellow disputed the figure of 160 hours of time spent by the Respondent on the Star leasing issue as excessive, particularly in the absence of any firm record of how and when the time was spent. He made reference to two recent orders of the Mediation and Arbitration Board in which landowners seeking total costs of \$ 5,000.00 in connection with two well sites were granted combined costs of \$ 1,250.00. Mr. Hagen presented diarized evidence that he had devoted a total of 25 hours of time to the three Star files – 14-34, 14-35, 4-35 excluding the time spent at the two Mediation Hearings and this Arbitration. He stated that his hourly rate of pay was \$ 16.00.

Mr. Dellow introduced as an exhibit, Appendix B, B.C. Reg. 221/90 Supreme Court Rules describing scales of costs and descriptions of tariffs used in awarding costs in B.C. Supreme Court. Using this template, Mr. Dellow agreed that a reasonable assignment of costs to the Respondent, including costs of attendance at the present arbitration hearing, would be ± \$ 1,520.00.

DECISION

The Respondents sought compensation totaling \$ 5,000.00 for the preparation and attendance at two mediations heard on 09 November and 14 November 2001 and the arbitration hearing of 30 May 2002, as well as additional time spent educating themselves on various aspects of the oil and gas business to better "level the negotiating playing field" and to familiarize themselves with the Board process.

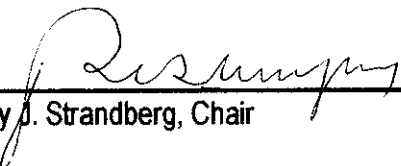
After carefully considering the submissions of the parties and the evidence placed before this Board and giving some weight to the previous inexperience of the Respondents in dealing with oil and gas exploration and development activity, the Board determines that an appropriate award of compensation to the Respondents for their time and out-of-pocket expenses is \$ 2,000.00.

IT IS HEREBY ORDERED THAT:


1. Pursuant to Section 27 of the Petroleum and Natural Gas Act, the Applicant will pay to the Respondent costs in the amount of \$ 2,000.00 within 30 days of the date of this order (10 July 2002).
2. Within 30 days of the date of this Order (10 July 2002) the Applicant will provide to the Board proof of payment of the sum of \$2,000.00 representing the costs to which the Respondent is entitled pursuant to this Order.
3. Should the Applicant not pay costs within 30 days, as ordered, then the Respondents will receive on the unpaid amount interest calculated in accordance with the Court Ordered Interest Act for post-judgment interest.
4. No portion of this Order varies or amends any lease or other contractual agreement between the Applicant and the Respondents.
5. 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 10th day of June 2002

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT



Rodney J. Strandberg, Chair



William J. Wolfe, Member