

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

Date: January 28, 2002

File No. 1464

Board Order No. 349ARR

**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  
DISTRICT LOT 1499, d-31-G/94-A-15 PEACE  
RIVER DISTRICT WEST OF THE SIXTH  
MERIDIAN  
(DL 1499, W6M)  
**(THE LANDS)**

**BETWEEN:**

CANADIAN NATURAL RESOURCES LTD.  
BOX 6926, STATION "D"  
CALGARY, AB  
T2P 2G1  
**(THE APPLICANT)**

**AND:**

LAWRENCE PATRICK RYAN  
8932 117<sup>TH</sup> AVENUE  
FORT ST. JOHN, B.C.  
V1J 6P9  
**(THE RESPONDENT)**

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**ARBITRATED RENT REVIEW**

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**BACKGROUND:**

The Mediation and Arbitration Board (Board) received an application from Mr. Lawrence Ryan (Applicant) on 15 November 2001, for a review of the rental provisions of the surface lease pertaining to a well site and access known as d-31-G/94-A-15, located within District Lot 1499 Peace River District.

An Arbitration Hearing was subsequently scheduled and proceeded on 17 December 2001 in the Board Room of the Fort St. John Ministry of Forests building. Mr. Ryan represented himself, as owner of District Lot 1499 and Applicant to the proceedings. Mr. Barry Taylor appeared on behalf of the Respondent, Canadian Natural Resources Ltd. (CNRL).

The Panel of the Board consisted of Julie Hindbo and Rod Strandberg. Observers in attendance included Bruce Baxter, Gordon Hill and Arthur Hadland.

## POSITION OF THE PARTIES

### **A APPLICANT**

The Applicant provided a history of the well site under review. According to the Applicant, the well was drilled, abandoned, and not recorded with the appropriate Crown Ministry. The Applicant acquired District Lot 1499 first by Agriculture Lease in 1978, and later by crown grant into fee simple ownership in 1990 when the appropriate crown requirements were met.

At the time the Agricultural Lease was acquired, and prior to the crown grant, there was no record or knowledge of the drilled well and site. The Applicant discovered the well site while clearing land for a home site.

In the early 1980's and again in 1990 (when the residence near the well site was occupied by renters), there was a problem with gas leaking from the well site, which was reported to the Ministry of Energy Mines and Petroleum Resources.

In approximately 1990, it was determined that the well had been drilled by Dome Petroleum in approximately 1966; later transferred to Amoco who subsequently assigned it to the Respondent in 1992.

Since approximately 1991, when Dome Petroleum corrected the gas leak problem and hooked up a wellhead, there have been no further problems with the shut-in location. The Applicant noted that the land surrounding the well has been cleared and seeded to fescue, and there is a proposed feedlot surrounding the well site location.

A Surface Lease was signed between the Applicant and the Respondent in 1994, with an annual compensation amount of \$ 2,500.00. The Applicant was of the understanding that subject to the Schedule "A" attached to and forming part of the surface lease, a rental review would be conducted when the well was brought into production. Neither the well site nor the surface lease has been recorded on title.

The well site area comprises one acre of land. The Applicant confirmed that the access into the well site was originally a Ministry of Transportation and Highways road, and is designated road allowance into the District Lot. Thus, the access road is not part of the surface lease.

The Quantum of compensation requested by the Applicant is;

1. \$ 80,000.00 for Right-Of-Entry, the presence and location of the well site with respect to the residence and feedlot, which includes inconvenience issues associated with working around the well site, and
2. \$ 8,000.00 annual compensation.

The Applicant indicated these values were arrived at by considering the land value to be comparable to that of recreational acreages, the increased activity with the well being brought into production and the increased value to the Respondent by virtue of a producing well.

## **B RESPONDENT**

The Respondent requested that all previous offers be withdrawn from consideration at this Arbitration Hearing.

The Respondent confirmed the well was tied into a newly constructed flow line in September 2001. In the Respondent's view, the Surface Lease dated 24 March 1994 is a valid and binding agreement, with the annual compensation amount only to be considered for this Hearing, and not any amount for Right-Of-Entry. It is the intention of the Respondent, that the Surface Lease will be registered on title along with a legal survey plan in the near future.

The Respondent noted that the well site under review is unique, thus it was difficult to assess a fair value. Nevertheless, a number of comparable surface leases were submitted for consideration. The Respondent also provided a compensation worksheet based on the headings under Section 21 of the Petroleum and Natural Gas Act. This worksheet indicated \$ 2,200.00 is fair annual compensation. These submissions were labeled as Exhibit "B". In the Respondent's view, the five-year review takes current prices for comparable leases and for compensation values into effect, thus inflation or change in the value of money pursuant to under Section 21 (2) of the Petroleum and Natural Gas Act is not applicable.

In the Respondent's view, they have acted in good faith toward the Applicant. The area for the well site has been kept unusually small to reduce impact and interference with the landowner's use of the surrounding lands. Efforts have been made to keep nuisance and disturbance to a minimum.

The landowner was approached in February of 2001 to resolve any outstanding concerns and issues prior to the well being brought into production. In July of 2001 an attempt was made to negotiate the rental review, but this was not resolved. The Respondent's position is that the current rental amount of \$ 2,500.00 exceeds the value of the surface lease, using both comparables and compensation headings.

## DISCUSSION

The parties expressed some differences of opinion regarding the intent of the Surface Lease dated 24 March 1994, and the comparability of the surface leases submitted by the Respondent.

The parties indicated agreement on the size and location of the area subject to the surface lease, the general history of the well site location, and the current use of the land.

## DECISION

The Board carefully considered the evidence presented at the Hearing, including the submissions of the parties, and the unique factors relevant in the specific facts of this case. It is the value to the owner, not the taker that is before the Board. Thus, considering the current loss and inconvenience to the owner, the Board's award is as follows; the annual compensation for the well site known as d-31-G/94-A-15 located within District Lot 1499, Peace River District, shall be increased from the amount of \$ 2,500.00 to \$ 3,000.00.

Accordingly, the Mediation and Arbitration Board orders as follows;

### IT IS HEREBY ORDERED THAT:

1. Pursuant to Section 12 (2) of the *Petroleum and Natural Gas* Act the rental provisions of the surface lease signed 24 March 1994 paid by the Respondent to the Applicant are varied from \$ 2,500.00 per annum to \$ 3,000.00. The increased rental provisions are effective from 24 March 2001 and are due and payable each year until agreement of the parties or further order of this Board. The next review date shall be 24 March 2006 unless otherwise agreed by the parties;
2. The Respondent will forthwith, and in any event within 60 days of this Order (29 March 2002) provide to the Mediation and Arbitration Board at the Board Office a written accounting of the payment of the retroactive increase less any annual payments made pursuant to the existing lease agreement. The balance due and owing to the Applicant shall be paid within that time period;
3. Nothing in this Order varies expressly or by implication any of the other terms of the existing lease between Lawrence Patrick Ryan and Canadian Natural Resources Ltd.
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, British Columbia, this 28th day of January 2002.

MEDIATION AND ARBITRATION BOARD  
UNDER THE  
PETROLEUM AND NATURAL GAS ACT

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Rod Strandberg, Chair

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Julie Hindbo, Member