

File No. 1816
Board Order No. 1816-1

July 26, 2013

SURFACE RIGHTS BOARD

**IN THE MATTER OF THE PETROLEUM AND NATURAL GAS
ACT, R.S.B.C., C. 361 AS AMENDED**

**AND IN THE MATTER OF THE
NORTHEAST ¼ OF SECTION 4, TOWNSHIP 77, RANGE 17 WEST OF THE
6TH MERIDIAN, PEACE RIVER DISTRICT EXCEPT PLAN 27392**

(The "Lands")

BETWEEN:

Tourmaline Oil Corp.

(APPLICANT)

AND:

Thomas Meade Lowes and Clinton Van Lowes

(RESPONDENTS)

BOARD ORDER

Tourmaline Oil Corp. ("Tourmaline") seeks a right of entry order to access certain lands legally owned by Thomas Meade Lowes and Clinton Van Lowes to carry out an approved oil and gas activity, namely the construction, operation and maintenance of a flow line.

On July 24, 2013, I conducted a mediation attended by C. Lowes, one of the landowners, B. McCabe, observer for the Public Guardian and Trustee ("PGT"), and J. Berube, P. Briamcombe, and R. Williams for Tourmaline. Thomas Lowes was duly served with the application, however, did not attend the mediation as he is incapacitated. The PGT is in the process of obtaining committeehip of Mr. Lowes' affairs through certification, however, that process has not been completed. During the mediation, the parties discussed Tourmaline's application for a Right of Entry order, and they also discussed the possible terms and conditions. The Oil and Gas Commission approved Tourmaline's permit for the project on or about July 9, 2013.

Mr. Clinton Lowes has come to an agreement with Tourmaline on the Right of Entry and compensation terms, however, due to the incapacity of his father, Thomas Lowe, a surface lease can not be finalized.

The Board is satisfied that Tourmaline requires the Right of Entry for an oil and gas activity, as this project involves moving product through flow lines from its wells to a plant. The fact the Oil and Gas Commission has approved this project supports this finding. Despite Mr. Thomas Lowes' inability to participate in the proceeding, the Board issues the Right of Entry Order pursuant to section sec. 161(1)(a) of the *Petroleum and Natural Gas Act*.

The Board orders partial compensation and an increased security deposit as set out below largely based on the agreement reached between Tourmaline and Clinton Lowes. Once the PGT has received legal authority to act on behalf of Thomas Lowes, they will contact the Board and other parties and terms can then be finalized. Further mediations are not refused.

Given Mr. Thomas Lowes' incapacity and hospitalization, the Board waives the requirement of personal service of this order on him pursuant to sec. 159(6)(b) of the *Act* as set out below.

ORDER

Pursuant to section 159 of the *Petroleum and Natural Gas Act*, the Board orders as follows:

1. Upon payment of the amounts set out in paragraphs 3 and 4, Tourmaline Oil Corp. shall have the right of entry to and access across the portions of

the lands legally described as THE NORTHEAST ¼ SECTION 4, TOWNSHIP 77, RANGE 17 W6M, PEACE RIVER DISTRICT EXCEPT PLAN 27392 as shown outlined in red on the Individual Ownership Plan attached as Appendix "A" (the "Lands") for the purpose of carrying out the approved oil and gas activities, namely the construction, operation and maintenance of flow lines and associated works.

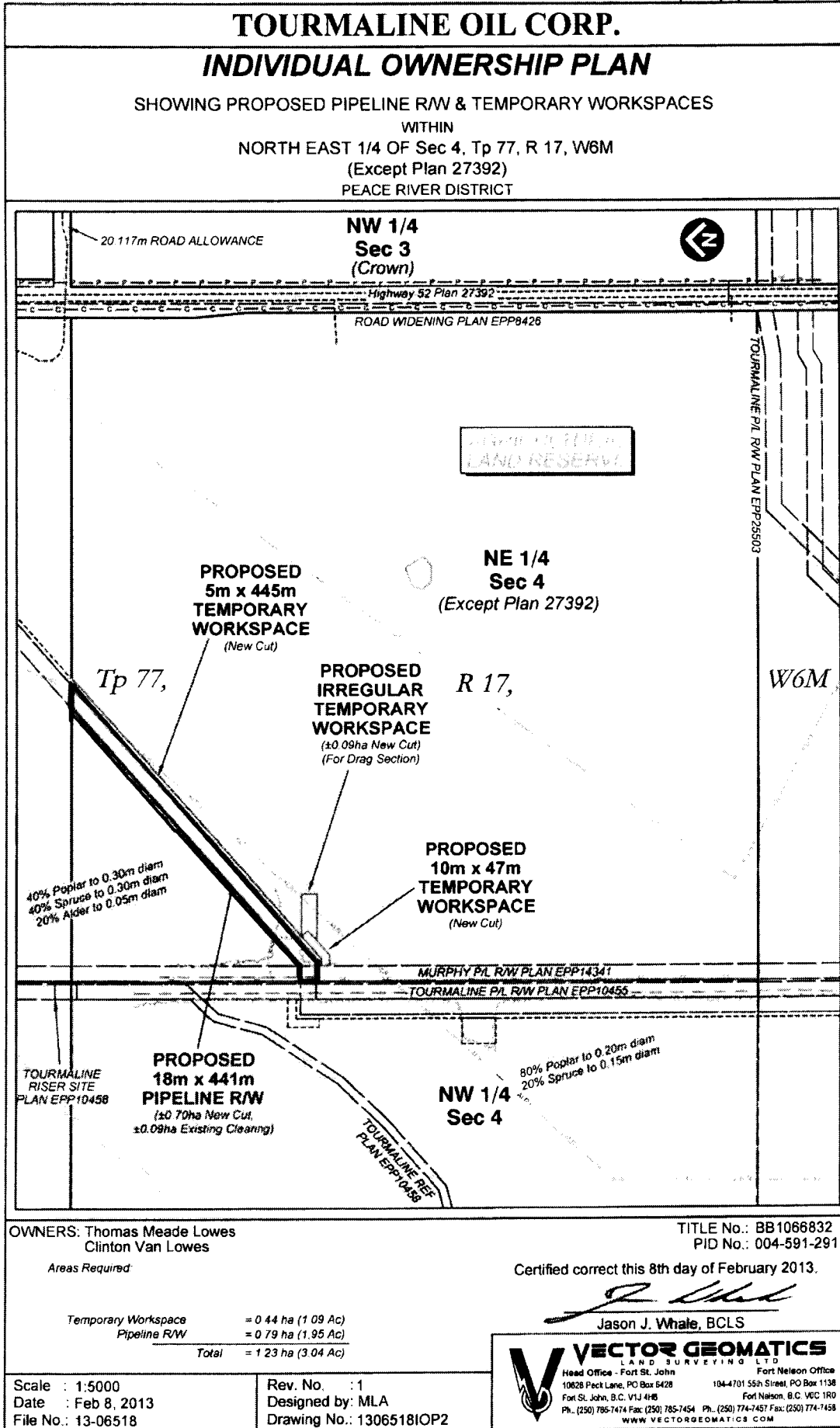
2. Tourmaline's Right of Entry shall be subject to the terms and conditions attached as Appendix "B" to this Order
3. Tourmaline shall deliver to the Surface Rights Board security in the amount of \$10,000.00 by cheque made payable to the Minister of Finance. All or part of the security deposit may be returned to Tourmaline, or paid to the landowners, upon agreement of the parties or as ordered by the Board.
4. Tourmaline shall pay to the landowners as partial compensation (including timber loss) the amount of \$8,720.75, payable as follows:
 - \$4,360.38 payable immediately to Clinton Van Lowes;
 - \$4,360.38 for Thomas Lowes, to be held in trust by Borden Ladner Gervais LLP, for the benefit of Thomas Lowes and not released to anyone until directed to do so by further order of the Surface Rights Board.
5. Nothing in this order operates as a consent, permission, approval, or authorization of matters within the jurisdiction of the Oil and Gas Commission.
6. Pursuant to section 159(6)(b) of the *Act*, the Board orders that service of this Order on Thomas Meade Lowes is deemed to have been met by service of the certified copy of the Order on the Public Guardian and Trustee.

DATED: July 26, 2013

FOR THE BOARD



Simmi K. Sandhu, Mediator



APPENDIX "B"
CONDITIONS FOR RIGHT OF ENTRY

1. All drainages whether manmade or natural will be left in a condition to allow water to travel in its natural pattern. Tourmaline is responsible for any damages caused to drainages as a result of its actions within the subject Lands.