File No. 1621
Board Order # 1621-2

February 4, 2011

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
NW ¼ Section 29, Township 79, Range 17 W6M
NE ¼ Section 30, Township 79, Range 17 W6M
SE ¼ Section 30, Township 79, Range 17 W6M and
SW ¼ Section 30, Township 79, Range 17 W6M, all in Peace River District

(The "Lands")

BETWEEN:

EnCana Corporation

(APPLICANT)

AND:

Olaf Jorgenson and Diane Jorgenson

(RESPONDENTS)

BOARD ORDER

Heard:	November 4, 5, & 26, 2010
Panel:	Simmi K. Sandhu and Bill Oppen
Appearances:	Scott Morrison, for the Jorgensens
	Tom Owen, for EnCana

INTRODUCTION

[1] Olaf and Diane Jorgensen own property near Dawson Creek, B.C., jointly or individually (the Lands), upon which EnCana Corporation (EnCana) has constructed and installed flowlines and a riser site. The Jorgensens use their Lands for the grazing and raising of cattle. By way of application to the Board, EnCana obtained right of entry and access to the Lands for the construction and operation of two flowlines and a riser site (Order 1621-1, dated October 9, 2009). None of the quarter sections accessed are home quarters or property on which the Jorgensen's have their home.

[2] The flowlines have now been constructed along with improvements on the riser site. The issue remaining to be determined is the appropriate compensation payable to the Jorgensens pursuant section 154(1) of the *Petroleum and Natural Gas Act*, R.S.B.C. 1996, ch. 361.

[3] Although the application was filed pursuant to the now repealed section 16 and 21 of the *Act*, the compensation provisions and principles of the new section 154, as amended October 4, 2010, are primarily the same. As there has been little change in the provisions pertaining to compensation, we will refer to the current provisions and apply the principles of compensation set out in prior jurisprudence.

[4] There was some discussion of the total acreage taken under Order 1621-1. EnCana says that the riser site, with a permanent area of .398 acres and .356 acres temporary workspace (at SE 30-79-17 WGM), is entirely within the flowline right of way for that property that consists of a permanent area of 4.033 acres and 1.332 acres temporary workspace. EnCana submitted that the total acreage of the rights of way, without duplication, is 25.129 acres for the permanent area and 11.182 acres of temporary workspace. The Jorgensens provide little dispute over this. Therefore, we accept that the appropriate acreage to be used in the calculation of compensation is as outlined by EnCana.

ISSUE

[5] The issue before us is: what is the appropriate compensation to be paid to the Jorgensens by EnCana pursuant to section 154 (1) of the *Act*?

THE LEGISLATION

[6] Section 154 (1) of the *Act* set out factors the Board may consider in determining an amount to be paid as compensation, including,

(a) the compulsory aspect of the right of entry;

(b) the value of the applicable land;

(c) a person's loss of a right or profit with respect to the land;

(d) temporary and permanent damage from the right of entry;

(e) compensation for severance;

(f) compensation for nuisance and disturbance from the right of entry;

(g) the effect, if any, of one or more other rights of entry with respect to the land;

(h) money previously paid for entry, occupation or use;

(i) the terms of any surface lease or agreement submitted to the board or to which the board has access;

(j) previous orders of the board;

(k) other factors the board considers applicable;

(l) other factors or criteria established by regulation.

[7] These factors do not speak to speculative future loss or damage, and compensation under the *Act* is only intended to compensate for loss or damage that has occurred or is reasonably probable and foreseeable; it is inappropriate to make a speculative award *(Arc Petroleum Inc. v. Piper*, MAB Order 1598-2).

EVIDENCE AND ANALYSIS

[8] EnCana submits that the Jorgensens should receive the same compensation agreed to by their neighbours for the same flowlines because the Lands are similar to those of their neighbours. EnCana provided details of the compensation agreed to by the neighbouring landowners.

[9] The Jorgensens submit that they have been "taken" to arbitration by EnCana and that the compensation being offered is less than what has been previously ordered by the Board in other applications. The Jorgensens say this has been a long and drawn out process due to tactics used by EnCana. They also say that the compensation should be paid separately and individually per title and

EnCana does not object to this. However, nothing turns on this as the evidence before us calculates compensation by acre and not by title.

Compulsory Aspect of the Right of Entry:

[10] All of the agreements reached by EnCana for the subject flowlines with other landowners provide $500/acre for the permanent right of way.

[11] Mr. Fred Breurkens, agent for EnCana that negotiated the right of way agreements for the flowlines, provided details of these agreements and testified that the neighbouring lands were similar to the Lands, namely cultivated or pasture land.

[12] EnCana presented expert opinion evidence from Robert Telford, appraiser and land agent, who estimated the additional compensation that should be paid for the riser site effective October 9, 2009. He reviewed compensation for the compulsory aspect of the entry or taking and determined that this would not be applicable to the riser site, as this compensation would be accounted for in compensation for flowline right of way for this property and to compensate for it again for the riser site would be double compensation. We agree as the riser site area is within the flowline right of way.

[13] Mr. Telford also testified that based on his discussions with four oil companies operating in the area, EnCana, Arc, Penn West, and Progress, the going compensation was $500/acre for the compulsory aspect.

[14] The Jorgensens submit that their lands and operations are different and not comparable to these neighbouring properties, although, they do not provide many details to support this argument other than that Mr. Jorgensen operates a company and they are not simple landowners.

[15] They submit that they should receive 150% of the market value of the Lands as compensation for the compulsory aspect of the right of entry or use (Exhibit 6). In support, a short email is provided that sets out an opinion of market value of a realtor, Rick Walters. Mr. Walters states that he would put the four quarter sections at "100K per bare quarter then...150 per quarter with a house on it plus the house." This is the entire extent of Mr. Walter's opinion. Based on this opinion, the Jorgensens say that they should receive $150,000 for farmland (ie 150% of the market value of $100,000 per quarter section), which per quarter section (160 acres), amounts to $937.50/acre, and for a residential quarter section, amounts to $225,000 per quarter section or $1,406.25 per acre.

[16] It is not entirely clear where the 150% of market value is derived from other than reference to compensation for expropriation, which the Jorgensens say this is, under the *Pipeline Act*. There is no evidence that the compensation under the *Petroleum and Natural Gas* Act should be 150% of market value or that this is the

compensation that has been paid in other similar instances. We are not determining compensation for an expropriation as EnCana is not obtaining the fee simple interest of the Lands. Therefore, we cannot accept the Jorgensen's claim for 150% of market value.

[17] Regardless, we can not accept the market value opinion supplied by Mr. Walters in a one sentence email. He gives no basis for his opinion in terms of sales of comparable properties or an analysis, nor did Mr. Walters attend the hearing to be cross-examined or answer questions on his opinion. Therefore, we give Mr. Walter's evidence little or no weight in our determination.

[18] As stated by the Board previously in *Arc v. Merrick et al*, Order 1599-2, the amount for the compulsory aspect of the taking is intended to recognize that the landowner has no choice when the holder of subsurface rights requires access to their lands for the purpose of exploring, developing or producing a subsurface resource and that, absent a legislated amount, this is essentially an arbitrary figure. In that decision, the amount that was agreed to by the parties was also $500/acre.

[19] We accept that the best evidence to rely upon in determining the compensation for the compulsory aspect of the taking is the evidence of what the Jorgensens' neighbours agreed to in the same situation. Evidence of what compensation is paid to other owners in the area is relevant and should be considered by the Board where the evidence indicates an established pattern of compensation exists (*Arc Petroluem Inc. v. Piper*, Order 1598-2, *Scurry Rainbow Oil v.Lamoureux* [1985] B.C.J. No. 1430 (B.C.S.C.). We find that there is a pattern of compensation established in the area by the neighbouring landowners, and for many of the heads of compensation, this is the only reliable evidence that we have before us. This is also supported by the evidence from Mr. Telford that the rate paid as compensation by other oil companies in the area is also $500/acre.

[20] For the compulsory aspect of the taking for the Lands, we find the appropriate compensation is $500/acre for 25.129 acres, or $12,564.50.

Value of the Land:

[21] EnCana submits the appropriate compensation for this head of compensation is $800/acre for the permanent right of way and $400/acre for the temporary workspace, again based largely on what the neighbouring landowners agreed to for these flowlines. All but two of the neighbouring landowners agreed to this compensation, while two agreed to $900/acre for the permanent right of way and $450/acre for the temporary workspace. The evidence from the land agent that negotiated these two agreements, Jason Blanch, was that these two properties were cultivated with seeded fescue with no cattle.

[22] Mr. Telford provided evidence of land value where he reviewed sales of comparable properties in the area and determined an estimated market value of the subject as of October 9, 2009 at $800 per acre, but as the reversionary interest would remain with the property owners, the value of the land would be 75% of the market value or $600 per acre, with an estimate value for the workspace at 50% of the market value or $400 per acre. However, as the riser site is within the land already acquired for the right of way for the flowline, no additional compensation beyond what is to be paid for the flowline right of way would be attributable for the riser site. We agree that no additional compensation for the riser site is payable.

[23] The Jorgensens submit that they should receive $1,200/acre for the permanent right of way and $1,200/acre for the temporary workspace based on a right of way agreement reached between the Pavlis' and Arc Petroleum dated April 19, 2010. The Pavlis agreement is not complete as there is no survey plan attached showing the acreage taken nor a breakdown of how the compensation was arrived at. The Jorgensens also rely upon the agreement reached between Miller and Arc dated January 20, 2007 for $950/acre for the temporary workspace. These other agreements are of little assistance to the Board as there are no details as to the type of land, the use of the lands or what factors were considered by the parties in these circumstances. In addition, there is reference in the Jorgensen's materials (Exhibit 6) to the "Alberta Clipper" or Talisman Energy water pipeline proposals and a compensation formula for the Iniskys'. These were referred to but no details were supplied and no evidence is provided that these are actual agreements entered into. We give this evidence little weight.

[24] The Jorgensens also claim that their land is worth more than their neighbours as their Lands have a view of the valley, which was pointed out in a site visit that was conducted November 26, 2010. They make a claim for injurious affection as there has been a diminishment in the market value of the Lands resulting from the entry and rights of way of the subject flowlines. As stated by the Board in *Grant v. Murphy Oil Company Ltd.*, Order 1629-1, the compensable loss must be actual or reasonably foreseeable and not speculative, and in order to substantiate a claim for injurious affection, the evidence must demonstrate, on a balance of probabilities, that the value of the lands or portion of the lands was greater before the granting of the rights of way and construction of the flowlines than after. This evidence has not been provided by the Jorgensens. There is no evidence that the Lands are building sites. There are no residences located on the Lands currently and there is no evidence that residences will be constructed on them at anytime in the near future. The Lands are not used for a residential use. There is no evidence that the highest and best use of the Lands is something other than its current use. The only evidence before us is that the Lands are currently being used for pasture for cattle or cultivation, in which case, the fact that they have a view would not add value.

This claim by the Jorgensens is entirely speculative and not probable on a balance of probabilities.

[25] The Jorgensens also say that their land is worth more as they are a "no spray" operation, wherein they do not use chemical sprays to grow feed for their cattle or to eliminate weeds, although the operation is not certified organic. Despite not being certified, Mr. Jorgensen testified that he has been practising the same organic standard by keeping sprays out of his farming operation for years. He derided EnCana's efforts to keep his "no spray technique" on the Lands, which he has been following for 10 years. He asked EnCana to steam clean all vehicles, but they refused. As a result, he says that chemical residues and weeds have gotten onto his Lands brought by vehicles used during the construction and installation of the flowlines, but provides little details. However, he provided no evidence of the existence of residue or new weeds on the Lands, and gave no details of what chemicals or weeds he says are now present on the Lands that were not there before.

[26] The Jorgensens claim that this "no spray technique" has increased the value of the Lands, however, they provided no evidence in support. The Jorgensens tendered the opinion of market value of the realtor, Rick Walters, however, we give his evidence little weight for reasons stated above. Nevertheless, as argued by EnCana, even if we did accept Mr. Walter's opinion of land value at $100,000 per quarter section for farmland, this would amount to $625/acre, which is almost half of the Jorgensens' claim.

[27] As stated by the B.C. Supreme Court in *Western Industrial Clay Products Ltd. v. Mediation and Arbitration Board* (20 BCLR (4^{th}) 337 (affd by B.C.C.A. 35 B.C.L.R. (4^{th}) 205), in the absence of special circumstances, the upper limit of compensation is the value of the land. Therefore, awarding compensation that represents more than the value of the Lands with no evidence of special circumstances, is contrary to the existing legal principles regarding compensation under the *Act* and beyond the jurisdiction of the Board.

[28] We do not find any reliable evidence to show there are special circumstances for these Lands that give a greater value to the Jorgensens beyond that shown by the market value of similar properties in the area.

[29] The best evidence of land value is provided by EnCana. Mr. Telford provided sales of comparable properties and determined a value for the Lands as of October, 2009 at $800 per acre. This supports what was negotiated by the neighbouring land owners that have similar pasture lands as the subject. We find that the appropriate compensation for the value of the land is $800/acre for the permanent right of way and $400/acre for the temporary workspace. We find that there should be no additional compensation for the riser site as the area for the riser site is included in the area taken for the flowline for that quarter section. Therefore, the compensation under this head is $20,103.20 ($800/acre for

25.129 acres for the permanent right of way) and $4,472.80 ($400/acre for 11.182 acres for the temporary workspace).

Loss of right of profit or Damage:

[30] EnCana submits that the installation and construction of the flowlines was uneventful and materially the same as what occurred on surrounding properties. They rely on the testimony of Martin Steel and Troy Kissock, who were directly involved in the construction and installation.

[31] EnCana submits the appropriate compensation is $250 per acre for loss of profit for 2 ½ years payable in the first year. For the riser site, EnCana proposes $250/acre payable in the first year or $200.56, and $105.87 annually. Again, EnCana relies upon the majority of agreements reached by the neighbouring landowners in support.

[32] The Jorgensens claim $750/acre ($700/acre for the riser site) for the loss of profit for 7 years, and for the loss of topsoil and time needed to reclaim the "no chemical spray" status. There is no expert evidence provided to support a finding of fact that there has been a loss of topsoil or soil integrity or, if there has, how it should be compensated for. Nor is there evidence that the Jorgensens' lost a "no spray" status such that there is a compensable loss for this lack of status. Even if there was a loss of this status, there is no evidence that the lack of "no spray" status affected or damaged the value of the Lands or resulted in a loss of profits such that compensable loss has occurred.

[33] We only have evidence of what other landowners with similar lands affected by similar activity of EnCana were paid, and we accept that it amounts to $250/acre for 2.5 years or $22,694.38 plus $200.56 for the riser site payable in the first year, and $105.87 annually for the riser site.

Compensation for Severance:

[34] Due to the routing of the flowlines, a portion of the Lands were severed (3.49 acres) such that they are no longer effectively used. EnCana submits the appropriate compensation is $800/acre for this portion, again based on the amount agreed to by another landowner who also suffered severance.

[35] Mr. Jorgensen expressed concerns regarding the different routes for the flowlines that was presented to him and suggested that EnCana engaged in poor planning leading to issues of severance and a protracted construction timeline. These issues of routing and planning are not within the Board's jurisdiction.

[36] The Jorgensens claim $750/acre for loss of profit and $1,000 annually for weed control for the severed portion for 7 years. No evidence is provided to support the loss of profit for the severed area or for the amount for weed control.

We accept the appropriate compensation for the severance is $800/acre, which is supported by what other landowners have agreed to, or $2,792.00.

Nuisance & Disturbance:

[37] EnCana submits the appropriate compensation for nuisance and disturbance should be based on what the neighbouring landowners largely agreed to, namely $50/hour for 8 hours (6 hours for initial meetings plus 2 hours for meeting for a water spray incident) for a total of $400. The Jorgensens say they had to deal with different people coming in with different information at different times. The Jorgensens claim they should receive $70/hour for both Mr. and Mrs. Jorgensen's time (although they also refer to compensation of $125/hour, an amount they negotiated with another oil company) plus $540 annually.

[38] Mr. Bruerkens testified that he spent at least 8 hours directly dealing with the Jorgensens in discussions relating to the flowline, including visits and calls to him, and that no threatening or bullying tactics were used in those discussions. He estimated 4-5 visits with the Jorgensens, individually or jointly, about 90 minutes each, although he agreed some of the discussion had to do with existing wellsites and not these flowlines. In addition, he testified that he made about 10 phone calls to Mr. Jorgensen. Surveyors had also been on the Lands about three times. Martin Steel from EnCana also testified that he met with Mr. Jorgensen and had phone calls with him. As did Bryan Arnold, also from EnCana, who testified that he had discussions with Mr. Jorgensen and met with him twice for one hour, there were also four phone calls totalling about 1 hour and four in field meetings. These calls and meetings, however, also included discussions and negotiating side agreements to compensate Mr. Jorgensen for work that he did for EnCana.

[39] There is no support for the rate for nuisance and disturbance other than what other landowners with similar operations for these flowlines have agreed to, which is $50 per hour. The Jorgensens' claim for $70 per hour is not substantiated. We accept that the rate of $50 per hour is appropriate. We do not accept that both Mr. and Mrs. Jorgensen's time should be accounted for as the evidence shows that Mrs. Jorgensen was not directly involved in the discussions or negotiations with EnCana and only attended some of the meetings peripherally. We accept that Mr. Jorgensen spent more than 8 hours in his dealings with EnCana. Trying to calculate the exact amount of time is difficult without time sheets or notes, which Mr. Jorgensen did not keep. However, we estimate that 15 hours is reasonable based on the evidence before us. Therefore, we find that the appropriate compensation for nuisance and disturbance is $50/hour for 15 hours or $750.

Riser Site:

[40] For the riser site, EnCana proposes $250 per acre for loss of profit and nuisance and disturbance, such that it would pay $540 for the first year and $444 per year thereafter.

[41] Mr. Telford testified that there is some additional compensation payable for the loss of profit or use of the riser site. Mr. Telford reviewed the soils and use of the lands and determined crop returns for it. Based on his analysis, the average gross loss of use would be $266 with a net return of $146 per acre, or $200.56 for initial loss and $105.87 annually. In terms of compensation for nuisance and disturbance, Mr. Telford estimated the nuisance to the farming operations in terms of the equipment and farming patterns and determined an appropriate compensation at $338. The total compensation estimated for the riser site is $540 for the first year and $444 annually thereafter. We accept his evidence on the riser site, as he has provided analysis and support for his conclusions.

Other Claims:

a) stress and anxiety:

[42] Mr. Jorgensen testified that the dealings with EnCana and their activity on his Lands, as well as news reports of the bombings of EnCana's facilities in the area, caused stress and anxiety for himself and his wife, Diane Jorgensen, such that Mrs. Jorgensen was unable to sleep and had to seek medical help. The Jorgensens claim $61,800.

[43] A one page letter from Dr. Pilgrim was tendered that set out what Mrs. Jorgensen had "reported" to the physician. The letter does not outline any details or supporting information as to what caused Mrs. Jorgensen's anxiety or sleeplessness other than what she stated, nor does it set out a medical diagnosis. The physician did not testify. In order for the Board to consider a claim for compensation based on stress and anxiety by the Jorgensen's, we require supporting evidence in the form of a detailed medical report from a physician outlining his or her medical opinion as to diagnosis and, importantly, as to causation of the medical condition; in addition, the physician should attend to answer questions from the other party and the Board. As we do not have this evidence, we give the letter from the doctor little weight in our determination. We have insufficient evidence before us that any stress or anxiety suffered was caused by the specific actions of EnCana, as opposed to something else, to a degree that the Jorgensens should be compensated for it. The Jorgensens have failed to prove that EnCana caused any stress and anxiety suffered by Mrs. Jorgensen that should be compensable and failed to provide any support to quantify their claim for $61,800.

b) sale of cattle:

[44] Mr. Jorgensen testified that due to EnCana's activities last year, he had to sell his 240 head of cattle. He stated that he had to do this as they were being grazed or quarantined on one quarter. Normally, he would rotate the cattle between the quarters, however, due to the construction activity, fences had to be torn down, such that he could only keep the cattle on one quarter which was unaffected by the construction. He said it was untenable to keep 240 head of cattle only on one quarter for a long period of time, therefore, he had no option but to sell and seeks compensation for this. He claims $7,745.00 for the cost of selling the cattle. He provided no evidence of what he received from the sale, however. Also, EnCana pointed out that Mr. Jorgensen sold half of his cattle well before construction began.

[45] EnCana submits that he did not have to sell the cattle and had the option of putting up fences to keep the cattle in other quarters. In support, Rod Kornlachner, another cattle rancher, testified that this was a viable option for Mr. Jorgensen. EnCana stated that they would have put up the fences if Mr. Jorgensen requested it and in fact, were required under the terms of Board Order 1621-1 to work with Mr. Jorgensen to find the best solution to minimize impact of the flowline construction, including moving cattle to different pastures. Mr. Jorgensen indicated that he did not ask EnCana for the fencing as they did not offer it and he was not going to ask them.

[46] We find Mr. Jorgensen had at least one other viable option to selling his cattle, which was to ask EnCana to put up fencing to allow his cattle to graze on the Lands, which option EnCana indicated they would have entertained. But, he did not make this request and therefore, failed to mitigate any damage that may have arisen. He did not try to work with EnCana pursuant to the terms of Board Order 1621-1 to minimize the impact to his livestock. In addition, Mr. Jorgensen owns 12 quarters in the area. It is not clear to us why he did not use these other quarters to graze his cattle. His lack of attempt to avoid the sale of his cattle was not reasonable in the circumstances and, as such, we find he is not entitled to claim for costs or damages arising from the sale.

c) Fencing

[47] The Jorgensens claim $9,000 for fence cuts and repairs to fencing. However, they provided no evidence to support this claim, such as identifying which fences were cut and needed repairs, invoices for the repairs or support for the time claimed. In fact, there is evidence that Mr. Jorgensen was paid for repairs to fence cuts and EnCana produced those invoices (Exhibit 5). We are not satisfied that the Jorgensens should be compensated for this claim beyond what they have already been paid by EnCana.

d) Claim for Each Access

[48] The Jorgensens claim $1,000 per person per quarter section for each time the property was accessed (*Talisman v. Webster*, Board Order 1655-1). However, this Order was for surveying, soil testing and assessment for a period of 60 days and not applicable here. No evidence is provided to support this claim.

e) Time Spent/Costs:

[49] The Jorgensens claim $43,000 for the time spent by Mr. Jorgensen (344 hours at $125/hour), and $35,500 for Mrs. Jorgensen (284 hours at $125/hour). In addition, they claim $165,000 for the cost of Scott Morrison's representation in this matter (1,320 hours at $125/hour). In total, the Jorgensens claim $257,235.00 for time and costs.

[50] Rule 18 of the *Board's Rules of Practice and Procedure* allows the Board to order a party to pay all or part of the actual costs of another party or intervener in connection with an application. In making an order for the payment of a party's costs, the Board will consider factors such as, the reasons for incurring costs, the conduct of a party in the proceeding, whether a party has unreasonably delayed or lengthened a proceeding, the degree of success in the outcome of a proceeding, and the reasonableness of any costs incurred.

[51] The Jorgensens provided no time sheets to justify the amount of time they claim they or Mr. Morrison spent. Both Mr. Jorgensen and Mr. Morrison testified that they did not keep written track of their time. Mr. Morrison did not produce any invoices submitted to the Jorgensens for payment. He agreed that he had no proof to substantiate the number of hours he has spent. There is no evidence as to the terms of agreement reached between Mr. Morrison and the Jorgensens at the time Mr. Morrison was retained, other than Mr. Jorgensen agreed to pay him for his work. The evidence is that Mr. Morrison is related to the Jorgensens and expects to inherit some of the Lands some day. There is no evidence that Mr. Morrison has any expertise in representing landowners regarding compensation matters before the Board or any other agency. In short, no evidence is provided to support the Jorgensens' claim.

[52] Given the above circumstances, we find the Jorgensens' claim for $257,325.00 is unreasonable, excessive, and unsupportable. However, EnCana submitted that they would be prepared to pay costs of $3,000 for Mr. Morrison's time calculated at $50 hour for 60 hours, and $1,250 for Mr. Jorgensen's attendance at the hearing, calculated at $50 per hour for three days of hearing. Given the nature of the application before the Board and the Board's proceedings as well as the hearing, we find that this is reasonable particularly given the length of proceedings which we find were extensive given the nature of the application and evidence. The Jorgensens made a number of claims that were

unsubstantiated and excessive, for example the claim for Mr. Morrison's representation and the Jorgensens' time spent, as well as claims regarding stress and anxiety. Therefore, we allow the Jorgensens $4,250 for costs and time spent in the Board's proceedings.

CONCLUSION AND ORDER

[53] We find that the total compensation to be paid to the Jorgensen's should be $63,916.88 plus $444 annually for the riser site, and costs of $4,250.00. EnCana has already paid $61,534.00 to the Jorgensens as partial payment for compensation pursuant to Board Order 1621-1. EnCana shall pay the balance of $2,382.88, plus $4,250.00 for costs, and $444.00, being the annual payment for 2010, to the Jorgensens forthwith, and shall continue annual payments of $444 every October 9 (the effective date of the entry) in accordance with applicable legislation.

[54] Upon payment of the amounts set out in paragraph [53], EnCana shall be entitled to return of the security deposited in accordance with Order 1621-1.

[55] EnCana also applies for a Board Order pursuant to rule 19 to attach two Individual Ownership Plans to Schedule A of Board Order 1621-1 which were inadvertently omitted from the Order. We amend Board Order 1621-1 by attaching the IOPs set out in Schedule "A" of this decision to that Board Order. The Board will provide the parties with certified copies of Order 1621-1 as amended.

Dated: February 4, 2011

FOR THE BOARD

Simmi K. Sandhu, Panel Chair

Bill Oppen, Member

SCHEDULE "A"

1621-1
1621-2

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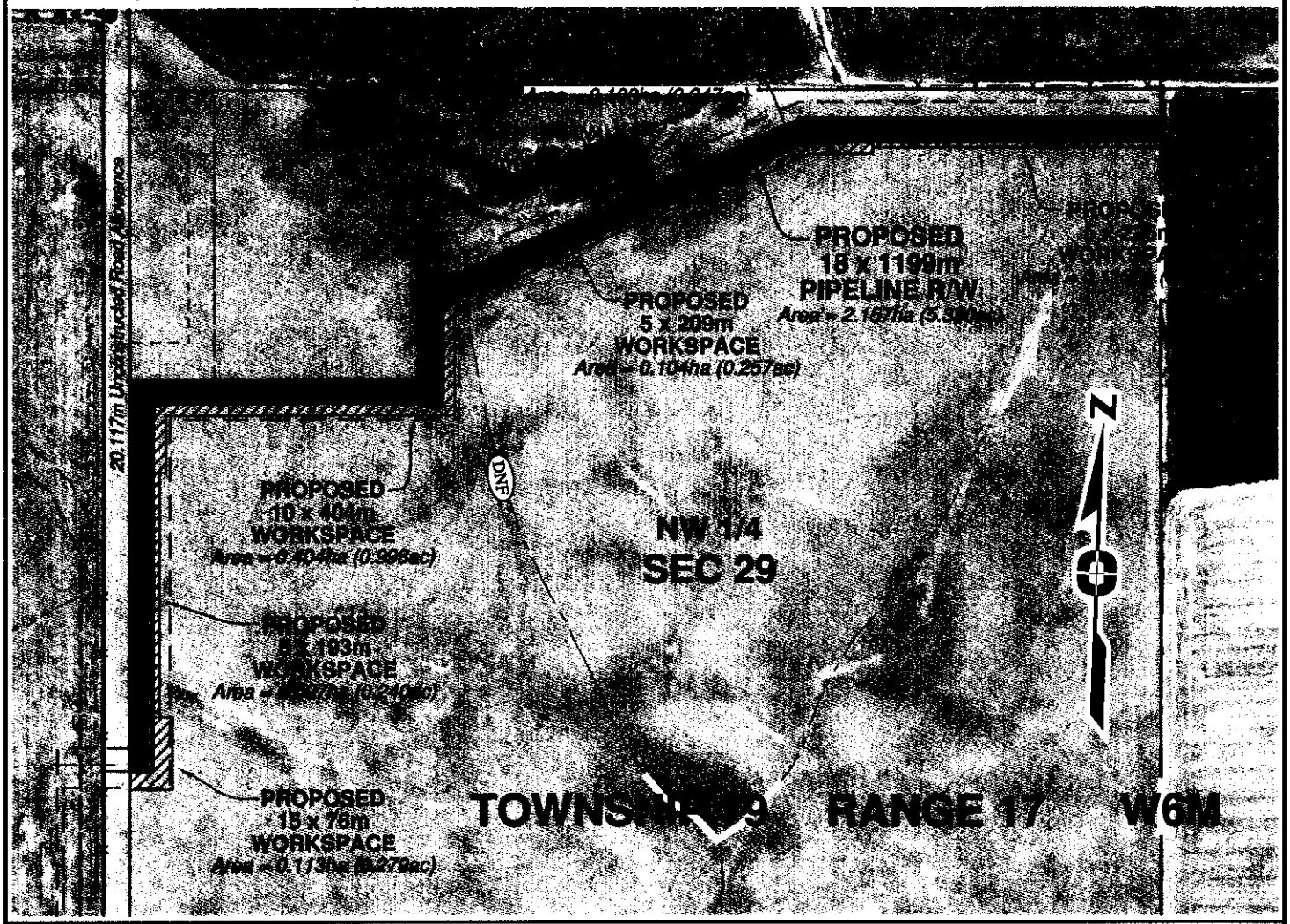
Attached to and made part of this Agreement dated this_____day of _____, 20_____, between Olaf Anton Jorgensen (Lessor) and EnCana Corporation (Lessee).

INDIVIDUAL OWNERSHIP PLAN

SHOWING PROPOSED PIPELINE RIGHT OF WAY WITHIN THE
NORTH WEST 1/4 OF SECTION 29, TOWNSHIP 79, RANGE 17, W6M
PEACE RIVER DISTRICT
(Associated with Pipeline R/W from Wellsite 1-25-79-18 To Compressor Site 9-27-79-17)



Owner(s): Olaf Anton Jorgensen

Landowner File: S452284

Certification Title No.: PP29096
Parcel Identification No.: 014-486-113
EnCana File: S449383

Certified correct this 10th day of March, 2009.

Area(s):

Permanent	2.157 ha	5.330	ac
Temporary	0.931 ha	2.300	ac
Total	3.088 ha	7.630	ac

Area referred to shown thus: Permanent ▬ Temporary ▨

Scale 1: 5000

100 0 100 200

Adam Brash , BCLS

Focus Job No.: 080980NP05R0 **By:** KG
Revision: 0

FOCUS
Focus Surveys
FCS Land Services Limited Partnership
Fort St. John
10716-100th Ave.
BC, V1J 1Z3
Ph. (250)787-0300
Fax (250)787-1611
www.focus.ca

SCHEDULE "A"

1621-1
1621-2

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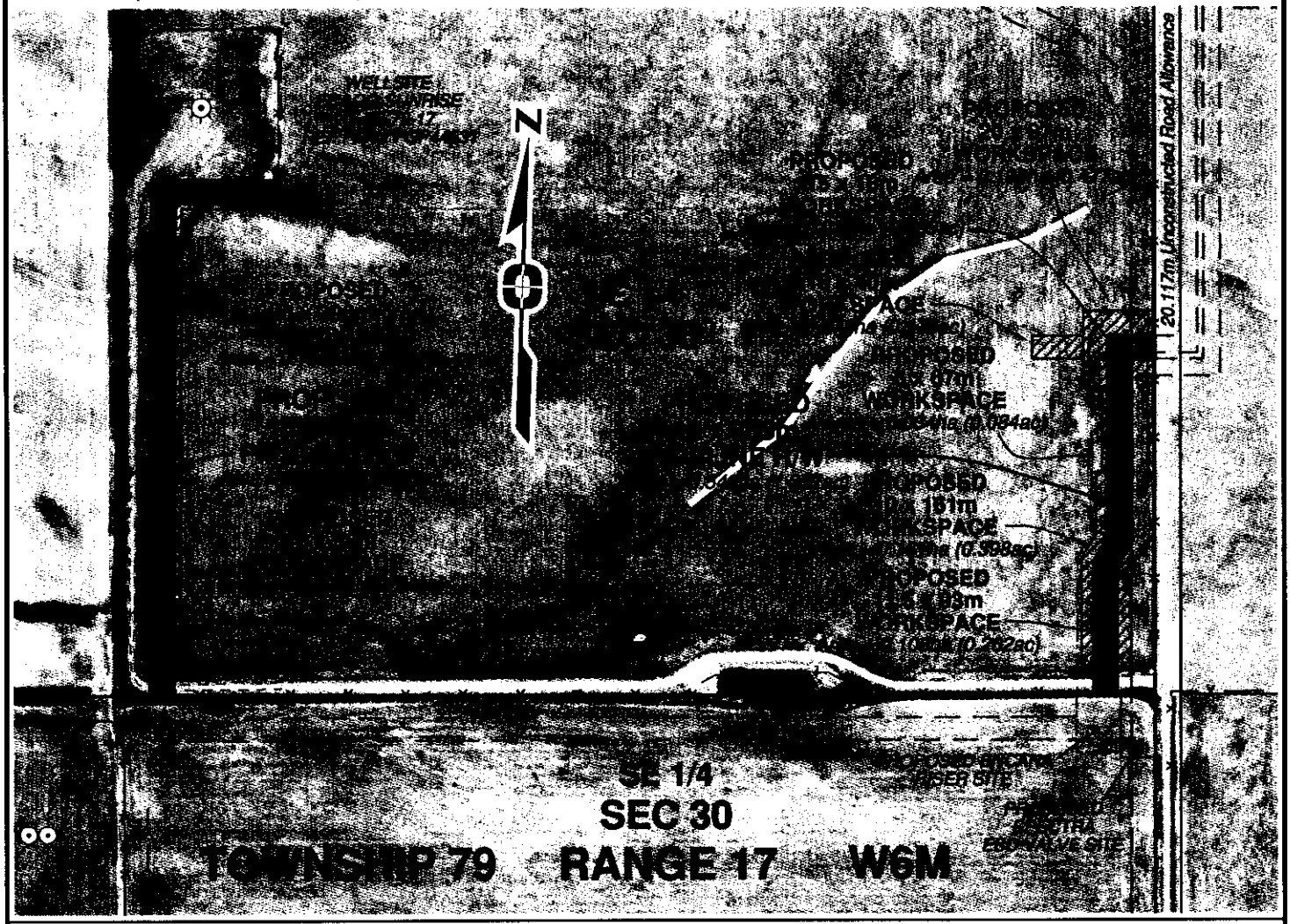
Attached to and made part of this Agreement dated this_____day of _____, 20_____, between Olaf Anton Jorgensen and Frances Diane Turner (Lessor) and EnCana Corporation (Lessee).

INDIVIDUAL OWNERSHIP PLAN

SHOWING PROPOSED PIPELINE RIGHT OF WAY WITHIN THE
NORTH EAST 1/4 OF SECTION 30, TOWNSHIP 79, RANGE 17, W6M
PEACE RIVER DISTRICT
(Associated with Pipeline R/W from Wellsite 1-25-79-18 To Compressor Site 9-27-79-17)



Owner(s): Olaf Anton Jorgensen
Frances Diane Turner

Landowner File: S452283

Certification Title No.: CA201800
Parcel Identification No.: 014-486-148
EnCana File: S449383

Certified correct this 10th day of March, 2009.

Area(s):

Permanent	1.432 ha	3.539	ac
Temporary	0.842 ha	2.081	ac
Total	2.274 ha	5.620	ac

Area referred to shown thus: *Permanent* *Temporary*

Scale 1: 5000

100 0 100 200

Adam Brash , BCLS

Focus Job No.: 080980NP04R0 **By:** KG
Revision: 0

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