



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Strathcona Resources Ltd. v Hutterian Brethren Church of Grandview, 2025 ABLPRT 391

Date: 2025-07-15

File No.: RE2025.0034

Order No.: LPRT2025/SR0391

Municipality: County of Grande Prairie No. 1

In the matter of a proceeding commenced under section 15 of the *Surface Rights Act*, RSA 2000, c S-24 (the “*Act*”)

And in the matter of land in the Province of Alberta within the:

NE 31-70-7-W6M as described in Certificate of Title No. 042 116 912 (the “*Land*”) particularly the area granted for Alberta Energy Regulator Licence No. 63663 (the “*Site*”).

Between:

Strathcona Resources Ltd.,

Operator,

- and -

Hutterian Brethren Church of Grandview (owner),
and
ATCO Gas and Pipelines Ltd.,

Respondents.

Before: Glenn Selland
(the “*Panel*”)

ORDER GRANTING RIGHT OF ENTRY

[1] The Operator shall have right of entry in respect of 1.14 acres of the surface of the Land as shown outlined in green on Plan A attached and forming part of this Order for or incidental to the construction, operation or removal of a pipeline.

[2] The right of entry is subject to the requirements of Pipeline Licence No. 63663 and the conditions attached as Appendix A and forming part of this Order.

DECISION AND REASONS

BACKGROUND:

[3] The Panel convened on July 15, 2025, to consider the Operator's application for right of entry (the "Application"). The Operator requires access to the Land for or incidental to the construction, operation or removal of a pipeline.

[4] On June 4, 2025, the Operator filed with the Tribunal a Schedule 1 Application, which has been considered by the Panel along with the following documents:

- (a) Certified copy of the title to the Land;
- (b) Copy of the Pipeline Licence No. 63663 issued by the Alberta Energy Regulator ("AER");
- (c) Declaration of Most Recent Written Offer filed on June 4, 2025;
- (d) Declaration in Support of Survey Plan filed on June 4, 2025;
- (e) Declaration of Service confirming service upon Hutterian Brethren Church of Grandview and ATCO Gas and Pipelines Ltd., filed on July 4, 2025.

[5] During the application process, on May 14, 2025, the Tribunal wrote to the Operator to request submissions (the "Request for Submissions"). The Request for Submissions noted that the plan attached to the Application identified an area required for an Emergency Shutdown Valve ("ESDV") Site and Access Road:

The plan attached to the Schedule 1 application shows an area outlined in green. The area is identified as the ESDV Site (0.20 acres) and access road (0.94 acres).

Tribunal administration has identified an inconsistency in the application. The application seeks right of entry pursuant to section 12(1)(c) of the Act (for or incidental to the construction, operation or removal of a pipeline), and seeks right of entry for an access road. However, the Act provides for roads/access and egress in sections 12(3) and 13.2.

[6] Tribunal administration requested that the Operator provide: (a) documentation from the AER indicating that the Access Road was approved under Pipeline Licence No. 63663; and (b) documentation showing that the area identified as Access Road is required and therefore incidental to the activity applied for on the Right of Entry application.

[7] The Operator replied to the Request for Submissions on May 14, 2025, as follows:

The access road, however, is part of the 1.14ac. The access road is necessary to access to ESDV site, so I am not sure what other proof we can get you to show it was approved under the pipeline license.

[8] On May 26, 2025, the Operator further replied to the Request for Submissions, as follows:

I have added the full survey plan that was submitted with the licence application behind the pipeline license. This plan clearly shows the ESDV site & access road included.

[9] The referenced survey plan under the Operator's name was submitted with the updated Application.

[10] Tribunal administration replied on June 4, 2025, requesting the Operator to confirm if the foregoing are all the submissions that it would make and informing the Operator that it would be up to the panel to consider any submissions that the Operator would provide. On the same day, the Operator confirmed that the foregoing are all the submissions that it would make.

ISSUES:

1. Does the AER licence include the ESDV Site and access road?
2. Does the Tribunal have authority under the *Act* to grant right of entry for the ESDV Site, inclusive of the access road?
3. Should the Tribunal grant right of entry to the Operator as applied for?
4. If the right of entry is issued, what conditions, if any, should attach to the right of entry order?

DECISION:

1. The area outlined in green on the survey plan attached to the Schedule 1 Application includes an access road that has been approved by the AER in Pipeline Licence No. 63663.
2. The Tribunal has the authority to grant right of entry for the pipeline, inclusive of the ESDV Site and access road.
3. The Operator shall have right of entry across the portion of the surface of the Land shown outlined in green on the plan attached to the Schedule 1 Application for or incidental to the construction, operation or removal of a pipeline.
4. The right of entry order will be subject to the conditions attached as Appendix A and forming part of this decision.

REASONS FOR DECISION:

Does the AER Licence include the ESDV Site and Access Road?

[11] As part of its Application the Operator seeks entry for an access road to access a ESDV on the Land. The Operator makes its application pursuant to s. 15 of the *Act*, which requires the Tribunal to ensure that the proposed access road is not inconsistent with the pipeline license. The Tribunal must therefore be satisfied that the area outlined in green on the survey plan attached to this Application, which includes the ESDV Site and access road, has been approved by the AER in Licence No. 63663.

[12] It is unclear to the Panel whether the AER had before it the survey plan attached to this Application as well as the survey plan submitted by the Operator in response to the Request for Submissions when it approved the Licence. However, as part of its Application, the Operator provided a Declaration in Support of Survey Plan in which the Operator's agent declared that, "The area outlined or coloured in green identified in the certified Survey Plan(s) attached to this declaration and marked as Appendix A is area approved by the AER in licence No(s). 63663."

[13] In its submissions in response to the Request for Submissions, the Operator indicated that: "The access road, however, is part of the 1.14ac. The access road is necessary to access to ESDV site, so I am not sure what other proof we can get you to show it was approved under the pipeline license". The Operator also indicated that: "I have added the full survey plan that was submitted with the licence application behind the pipeline license. This plan clearly shows the ESDV site &

access road included.” A survey plan which the Operator claims it has submitted during the Licence application with the AER was submitted along with the updated right of entry application.

[14] The Panel therefore finds that the AER issued Licence No. 63663 with knowledge that the sketch plan included an ESDV Site and Access Road. As a result, the Panel finds that the ESDV Site and Access Road was approved by the AER in Licence No. 63663.

Does the Tribunal have authority under the Act to grant right of entry for the ESDV Site, inclusive of the access road?

[15] The Tribunal examined the question of whether the Tribunal has authority under the *Act* to grant right of entry for an Emergency Shutdown Device and related access road in *Encana Corporation v Nayko*, 2019 ABSRB 728 (“*Nayko*”). After canvassing earlier Board authority suggesting that the Board did not have authority to grant right-of-entry for access roads for pipelines, the Board distinguished *Nayko* on the basis that: (a) the AER was aware of the proposed access road when it granted the licence in *Nayko*; and (b) the access road was entirely within the pipeline right-of-way, finding at paragraph [25]:

... [T]he Panel finds that it remains entirely within the scope of the Board’s authority to grant an access road **within the area granted for the pipeline** for a specific purpose incidental to the operations of the pipeline, such as an ESD site where a license has been granted by the AER wherein the road is included within the scope of that license. [emphasis in original]

[16] In the case before this Panel, the proposed road is within the area granted for the pipeline by the AER in pipeline Licence No. 63663 and the Panel is satisfied that the road access to the ESDV Site is required. The area outlined in green on the survey plan attached to the Application includes the access road, and the Panel finds the Tribunal may issue a right of entry order, provided that the Application meets the other requirements of the *Act*.

Should the Tribunal grant right of entry to the Operator as applied for?

[17] The Panel has reviewed the Application and considered the Tribunal’s authority under relevant sections of the *Act* and the requirements of the *Surface Rights Act General Regulation* (AR 195/2007; the “*Regulation*”).

[18] The Application is consistent with the Pipeline Licence.

[19] In accordance with *Surface Rights Rule* 6(3), the Panel varies Rule 17(5) and accepts the filed Declaration of Service as satisfactory evidence that a copy of the Application and Notice to Respondents were properly served on the Respondents.

[20] All legislative requirements have been met. All Respondents have either provided a signed letter of consent or been served more than 14 days prior to the date of this decision.

If the right of entry is issued, what conditions, if any, should attach to the right of entry order?

[21] As to the conditions to be attached to the Order, the Tribunal has the discretion to include conditions “it considers appropriate” under section 15(6)(b) of the *Act* if they are not inconsistent with the licence. The Tribunal is also required to impose conditions that are reasonable both in terms of the Tribunal providing the rationale for imposing those conditions and that conditions themselves be reasonable (*EnCana Corporation v. Campbell*, 2008 ABQB 234).

[22] The Panel also must consider whether the conditions are clear enough to be understood so that the parties (and the Tribunal for that matter) can determine whether a condition has or has not been complied with, and so that the condition is not so vague as to be unenforceable (*Anegada Oil*

Corp. v. Forseth, 2021 ABLPRT 121 (CanLII)). Failure to comply with contractual obligations are a matter solely between the parties but failure to comply with conditions attached to a Right of Entry Order may have more far-reaching consequences.

[23] In the present application, the materials before the Panel include a letter to the Tribunal dated December 19, 2024, requesting that certain conditions enclosed as Schedule A to that letter form part of the Right-of-Entry Order, in addition to the Tribunal's generic conditions.

[24] While the parties here agree as to the conditions to be imposed and this Panel acknowledges that the parties know the issues best, this does not absolve the Tribunal of its responsibility to consider the proposed conditions and to explain the basis upon which this Panel adopts or rejects those proposed conditions. In applying the above case law to the proposed conditions, the Panel finds:

- (a) Proposed condition 1 in Schedule A relates to the cleaning of soil handling equipment prior to entering the Land. The Panel finds that condition 1 is appropriate and has added it to the conditions in Appendix A to this Order. The Panel has re-drafted some of this proposed condition for clarity, and so that the language used conforms to the language and defined terms used in this Order.
- (b) Proposed condition 2 in Schedule A requires the removal of all rocks greater than 6" encountered during construction. This condition is reasonable and will be added to the conditions in Appendix A to this order.
- (c) Proposed condition 3 in Schedule A relates to the access road denoted on IOP dated November 22, 2024 Rev 4 to be undeveloped. This condition is reasonable and will be added to the conditions in Appendix A to this order.

[25] The Panel is satisfied that it is appropriate to grant right of entry as applied for and to attach conditions to the right of entry order.

Dated at the City of Edmonton in the Province of Alberta on July 15, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL



Glenn Selland, Member

APPENDIX A

Conditions

Use and Access

1. The Respondent owner shall have the right to use the area granted for agricultural purposes, subject to the Operator's right to enter to exercise the rights granted by this Order;
2. Any land affected by this Order previously acquired by a Respondent named in this Order shall be held in common by the Operator and the said Respondent;
3. Following installation of the pipeline, other than in an emergency, the Operator shall give the Respondent owner at least 24 hours' notice, and more notice where possible, of access to the Lands;
4. Access to the Lands shall only be by employees, authorized contractors or agents of the Operator and shall only be to the area granted outlined in green in the plan(s) attached to the Right of Entry Order.

Registration at Land Title Office

5. The Operator shall not allow a claim of builder's or other lien arising out of the construction and operation of the company project to be filed or claimed against the Lands.

Operator's Responsibility During Construction and Operation

6. The Operator shall conform to all applicable legislation and regulations and shall follow good oilfield practices including but not limited to:
 - (a) Cleaning of Equipment - All soil handling equipment will be cleaned off-site prior to entering the Lands, including by:
 - i. Knocking or scraping off loose soil and crop debris;
 - ii. After removal of the soil and crop debris, washing the equipment with hot water or steam (2% Chlorine bleach solution); and
 - iii. Ensuring that the trucks used to haul the equipment are cleaned prior to loading and entering the Lands.
 - (b) The Operator shall conserve the top soil in a good and workmanlike manner, having regard to good soil conservation practices and any reasonable request or direction of the owner.
 - (c) The pipeline shall be installed using equipment that minimizes damage to the land.
 - (d) The Operator shall, during the construction of the pipeline and subsequent reclamation work, take all reasonable precautions to ensure that the natural drainage of the land is not obstructed or impeded.
 - (e) If any above-ground installation is authorized by the pipeline permit in connection with the pipeline, the installation shall, subject to any superseding requirement of sound engineering principles, be located to cause minimum inconvenience to farming operations and shall be adequately marked and protected by a pipe or other metal structure clearly visible to the farm operator.
 - (f) Following installation of the pipeline, the Operator must leave the surface of the area granted in a condition that is as close to its condition prior to installation of the

pipeline so that farming operations can continue to be uniform across the Lands.

- (g) All equipment and debris must be promptly removed from the Lands at the end of construction.
- (h) All rocks with a diameter of greater than 6” encountered during construction to be removed from the Lands.
- (i) Weed and disease control on the area granted shall be co-ordinated and integrated into the Respondent owner’s weed and disease control of the entire property.
- (j) The Pipeline must be constructed to a standard such that any surface equipment may cross it at any location.
- (k) The access road denoted on IOP dated November 22, 2024 Rev 4 will be undeveloped.

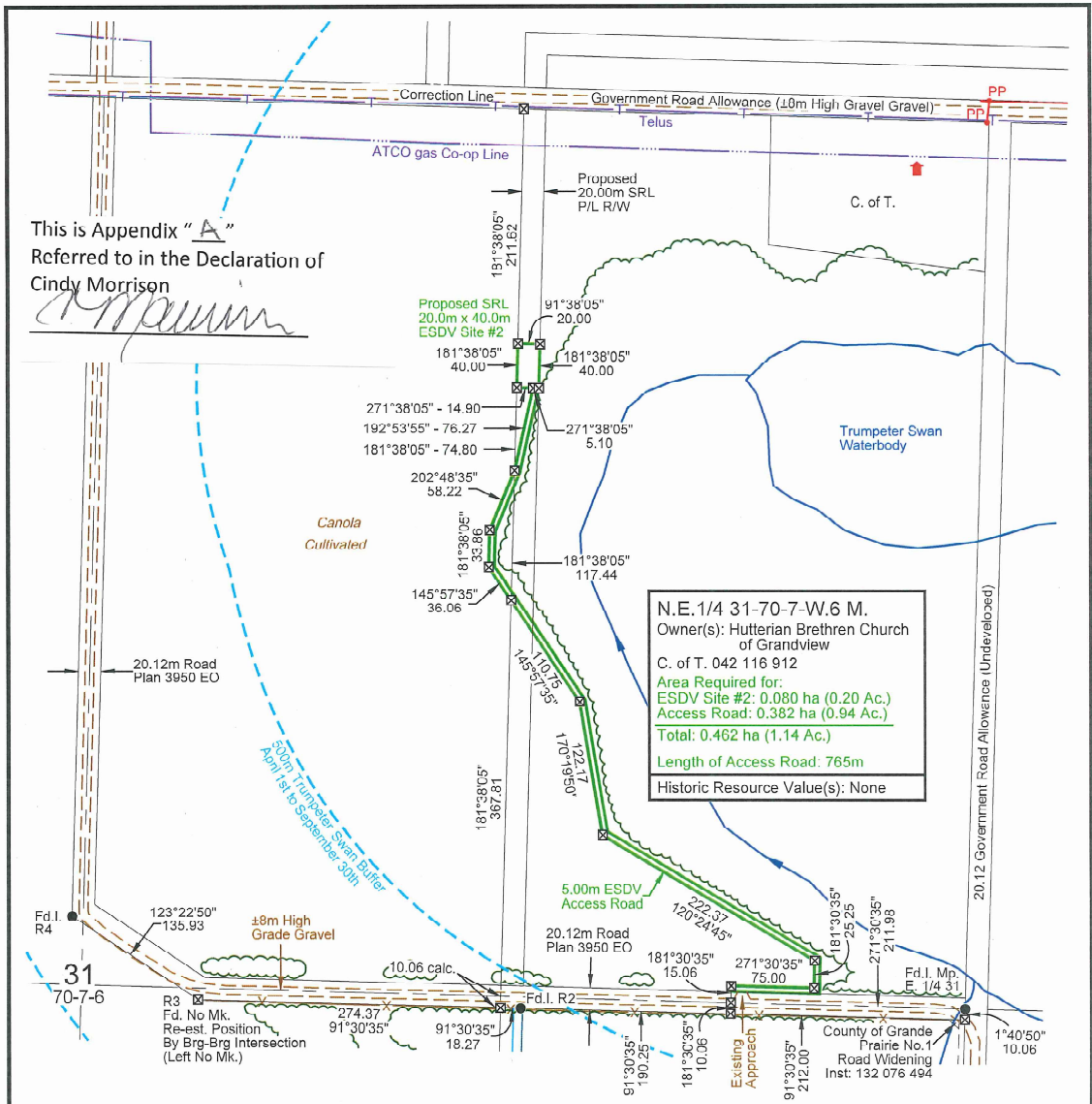
Maintenance

7. The Operator shall practice good stewardship of the surface and operate and maintain the area granted in accordance with good oilfield and environmental practices.

8. The Operator shall be responsible for any damage to crops or personal property of the owner or occupant of the land caused by any entry or re-entry by the Operator.

Communication

9. The Operator shall immediately notify the Respondents of any spill, leak or problem with the pipeline. Notification includes identifying the location of the leak or break and the measures being taken to contain, repair and clean up the leak or break.



This is Appendix "A"
 Referred to in the Declaration of
 Cindy Morrison

N.E. 1/4 31-70-7-W.6 M.
 Owner(s): Hutterian Brethren Church
 of Grandview
 C. of T. 042 116 912
 Area Required for:
 ESDV Site #2: 0.080 ha (0.20 Ac.)
 Access Road: 0.382 ha (0.94 Ac.)
 Total: 0.462 ha (1.14 Ac.)
 Length of Access Road: 765m
 Historic Resource Value(s): None



I, Jason Welcher, Alberta Land Surveyor, of the City of Calgary, Alberta, certify that this plan is true and correct to the best of my knowledge, and was prepared in accordance with the requirements of Section 6 of the Surface Rights Act General Regulation (AR 195/2007 s6; 169/2019).

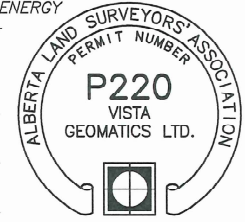
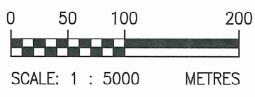
May 22nd, 2025

INDIVIDUAL OWNERSHIP PLAN
 SHOWING
 ESDV SITE #2 AND ACCESS ROAD
 IN N.E. 1/4 SEC. 31 TWP. 70 RGE. 7 W.6 M.
 OWNER(S): HUTTERIAN BRETHREN CHURCH OF GRANDVIEW

CERTIFICATE OF TITLE: 042 116 912
 AREA FOR ESDV SITE #2: 0.080 ha (0.20 Ac.)
 AREA FOR ACCESS ROAD: 0.382 ha (0.94 Ac.)
 LENGTH OF ACCESS ROAD: 765m

The location of ESDV SITE and ACCESS ROAD is agreed to this _____ day of _____, 2025.
 I/We have no objection to ALBERTA ENERGY REGULATOR issuing a pipeline and/or construction permit.

LEGEND:
 Portion referred to is shown thus
 Statutory Iron Posts found are shown thus
 Iron Spike found shown thus
 Established Temporary Position are shown thus
 Distances are in metres and decimals thereof.
 1 metre is equal to 3.281 feet.
 REVISION: 1



VISTA GEOMATICS LTD.
 (403) 270-4048
 FILE No: 24071001