



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Kelt Exploration Ltd. v Burkinshaw, 2025 ABLPRT 455

Date: 2025-07-29

File No.: RE2025.0033

Order No.: LPRT2025/SR0455

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:

SW 36-73-9-W6M as described in Certificate of Title No. 042 083 835 (the “Land”) particularly the area granted for Alberta Energy Regulator Licence Nos. 64555 and 60641 (the “Site”).

Between:

Kelt Exploration Ltd.,

Operator,

- and -

Dale Burkinshaw (owner),
Inez Burkinshaw (owner),
734984 Alberta Ltd. (occupant),
NGTL GP Ltd.,
Pembina NGL Corporation,
Alliance Pipeline Ltd.,
Ovintiv Canada ULC,
and
Kelt Exploration Ltd.,

Respondents.

Before: Glenn Selland
(the “Panel”)

ORDER GRANTING RIGHT OF ENTRY

[1] The Operator shall have right of entry in respect of 4.98 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 two pipelines.

[2] The right of entry is subject to the requirements of Pipeline Licence Nos. 64555 and 60641 and the conditions attached as Appendix A and forming part of this Order.

DECISION AND REASONS

BACKGROUND:

[3] The Panel convened on July 29, 2025, to consider the Operator's application for right of entry. The Operator requires access to the Land for or incidental to the construction, operation or removal of two pipelines.

[4] On June 6, 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 Nos. 64555 and 60641 issued by the Alberta Energy Regulator;
- (c) Declaration of Most Recent Written Offer filed on June 6, 2025;
- (d) Declaration in Support of Survey Plan filed on June 6, 2025;
- (e) Declaration of Service confirming service upon Dale Burkinshaw, Inez Burkinshaw, 734984 Alberta Ltd., NGTL GP Ltd., Pembina NGL Corporation, Alliance Pipeline Ltd., Oviniv Canada ULC, and Kelt Exploration Ltd., filed on July 28, 2025.

ISSUES:

1. Should the Tribunal grant right of entry to the Operator as applied for?
2. If the right of entry is issued, what conditions, if any, should attach to the right of entry order?

DECISION:

1. 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 two pipelines.
2. The right of entry order will be subject to the conditions attached as Appendix A and forming part of this decision.

REASONS FOR DECISION:

[5] 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*").

[6] The Application is consistent with the Pipeline Licences.

[7] 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.

[8] 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.

[9] 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* as long as 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).

[10] 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.

[11] In the present application, the materials before the Panel include a letter to the Tribunal dated February 4, 2025, 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.

[12] 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 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 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. 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.

[13] 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 29, 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, during construction under frozen ground conditions;
 - ii. After removal of the soil and crop debris, washing the equipment with hot water or steam (2% Chlorine bleach solution). This applies to remediation work to be completed in the spring/summer of 2025; 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.

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.

INDIVIDUAL OWNERSHIP SKETCH**for PIPELINE RIGHT OF WAY**

within the

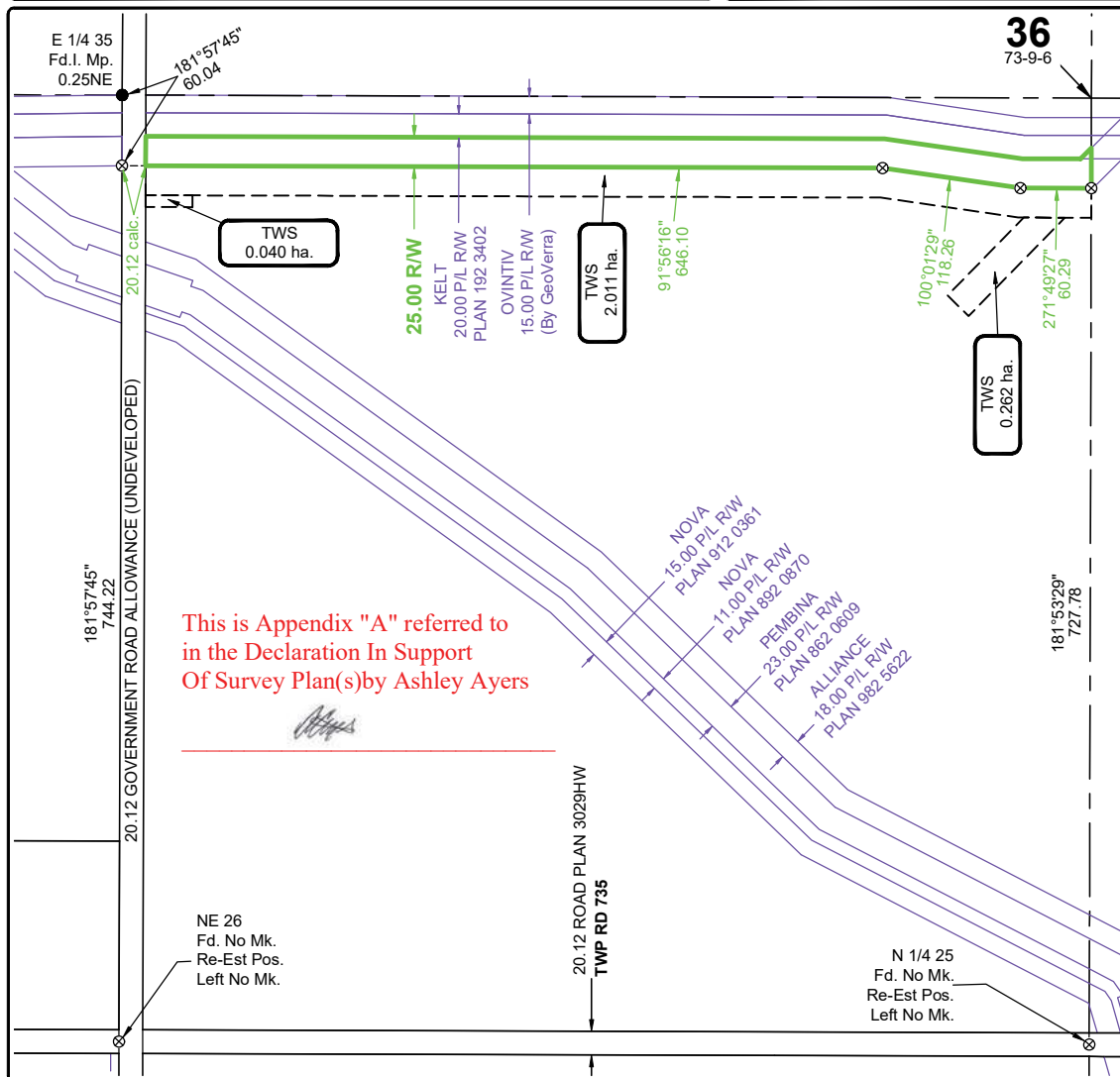
SW 1/4 SEC. 36, TWP. 73, RGE. 9, W6M.

COUNTY OF GRANDE PRAIRIE NO. 1



SCALE: 1:5000

0 50 100 150 200 250 METRES

**KELT EXPLORATION LTD.**

CLIENT FILE: S2292

AFE: _____

AREAS REQUIRED

TYPE	HECTARES	ACRES
PIPELINE R/W	2.015	4.98
TWS	2.313	5.72
-	-	-
-	-	-
-	-	-
TOTAL	4.328	10.70

LEGEND

Distances are ground and in metres and decimals thereof.

Non-monumented position: Placed Found
Statutory Iron Post:

Area referred to by this

plan is outlined thus:

Temporary Workspace (TWS):..... [- - -]

Affected Lands: SW 1/4 SEC. 36, TWP. 73, RGE. 9, W6M.

Title search date: January 8, 2025

C. of T: 042 083 835

Owner(s): Dale Burkinshaw
Inez Burkinshaw

I/We agree to the location of the Pipeline Right of Way as shown and have no objection to the AER issuing a licence for the same.

Owner(s): _____

Rev	Date	Description	pc	dwn	chk
00	Feb 26/25	Original Issue (LPRT)	kd	lfi	ma
01	-	-	-	-	-
02	-	-	-	-	-

I, Bruce C.E. Tattler, Alberta Land Surveyor, of Grande Prairie, 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).

February 26, 2025

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