



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Canadian Natural Resources Limited v Krooshoop, 2025 ABLPRT 411

Date: 2025-07-18

File No: BR2024.0111 (Ref. File No. RC2020.2144)

Order No.: LPRT2025/SR0411

Municipality: County of Forty Mile No. 8

In the matter of a proceeding commenced under section 29 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 24-8-11-W4M as described in Certificate of Title No. 091 073 071 (the “Land”), particularly the area granted for Alberta Energy Regulator (“AER”) Licence No. 0383409 (the “Licence”) and an access road, collectively (the “Site”).

Between:

Canadian Natural Resources Limited,

Applicant,

- and -

Theodorus Krooshoop (Landowner),
Regina Krooshoop (Landowner),
Canstone Energy Ltd.,
Bumper Development Corporation Ltd.,
Manitok Energy Inc.,
Clearview Resources Ltd.,
Petrocapita Oil and Gas L.P.
and
Revitalize Energy Inc.,

Respondents.

Before: Laura Dunham (“the Panel”)

Appearances by written submissions:

For the Applicant: Sander Duncanson, Osler, Hoskin & Harcourt LLP

SECTION 29 ORDERS
SURFACE RIGHTS ACT

The Panel orders that:

- The Tribunal will consider LPRT Order No. LPRT905754/2023 pursuant to section 29 of the *Act* and Rule 37 of the *Surface Rights Rules*.
- The Tribunal shall provide notice of the Application, a copy of the hearing document package, and a copy of this Decision to the Respondents, Theodorus Krooshoop, Regina Krooshoop, Canstone Energy Ltd., Clearview Resources Ltd., the receiver for Petrocapita Oil and Gas L.P., and Revitalize Energy, who shall have thirty (30) days from the date of this Decision to provide submissions.
- Upon expiry of the period for submissions, the Panel will proceed with this reconsideration.

Background

[1] This is an application by Canadian Natural Resources Limited (“CNRL”) under Section 29 of the *Act* to review Order No. LPRT905754/2023 (the “Original Order”) of the Tribunal dated October 12, 2023 (the “Application”). The Original Order arose out of an application under section 36 for the recovery of unpaid compensation arising from a surface lease dated October 16, 2007.

[2] The panel in the Original Order issued a Direction to Pay after finding that the Landowners were entitled to compensation for the years 2018 and 2019 and that the compensation was payable by the operators Petrocapita Oil and Gas L.P. (“Petrocapita”), Canstone Energy Ltd. (“Canstone”), Bumper Development Corporation Ltd. (“Bumper”), Manito Energy Inc. (“Manitok”), Clearview Resources Ltd. (“Clearview”), and CNRL, jointly. The panel found that Revitalize Energy Inc. (“Revitalize”) was not an Operator under section 36 of the *Act* for the years 2018 and 2019, and hence not liable for the compensation for those years, as it had acquired its interest in the Site from the receiver of Petrocapita pursuant to a vesting order dated August 13, 2020 (the “Vesting Order”).

[3] On January 11, 2024, the Alberta Court of King’s Bench granted judicial review of a Tribunal decision that considered vesting orders.¹ The Court found in the JR Decision that when a new operator acquires a surface lease pursuant to a vesting order, the vesting order must be read in conjunction with the related purchase and sale agreement to determine if the new operator is liable for prior unpaid compensation. The Court remitted the matter to the Tribunal for reconsideration.

[4] On February 1, 2024, the Tribunal released the reconsideration decision *Holowath v Trident Exploration (Alberta) Corp.*, 2024 ABLPRT 900301 (the “Reconsideration Decision”). The Tribunal found in that instance that when the vesting order was read in conjunction with its related purchase and sale agreement, the purchaser of the assets remained liable for outstanding compensation under the surface leases that it had acquired.

[5] On July 9, 2024, CNRL, citing the JR Decision and the Reconsideration Decision, applied for reconsideration of the Original Order under section 29 of the *Act* and Rules 37(3)(a), (b), (d) and (e) of the *Surface Rights Rules*, and requested that the Original Order be amended to add Revitalize as an operator.

¹ *Canadian Natural Resources Limited v Trident Exploration (Alberta) Corp.*, Kent Patrick Holowath et al (January 10, 2024), Judicial Centre of Calgary, Action No. 2301-08556 (ABKB) (Unreported) (the “JR Decision”).

CNRL alleges that the Original Order contained an error of law or mixed fact and law by incorrectly interpreting the Vesting Order without reference to the corresponding purchase and sale agreement.

[6] The Panel grants the request for reconsideration of the Original Order. Prior to conducting the reconsideration, the Respondents, with the exception of Bumper and Manito, shall be given notice of CNRL's Application and will have an opportunity to respond to its submissions.

RELEVANT LEGISLATION

Surface Rights Act, RSA 2000, c S-24, ss. 29 and 36.
Surface Rights Rules, Rule 37.

ISSUES

1. Should the Tribunal reconsider the Original Order and, if so, on what basis?
2. If the Application meets the requirements for review, are further submissions required, or does the Panel have sufficient information before it to reconsider its decision?
3. If the Panel can proceed directly to reconsideration, should it vary the Original Order?
4. What orders, if any, should issue?

DECISION

1. The Tribunal will reconsider the Original Order under section 29 of the *Act* and Rule 37(2) by way of written submissions.
2. Further notices and submissions are required before the reconsideration can proceed.
3. It is premature to make a determination on the merits of the Application.
4. Orders shall issue as set out in the "Section 29 Orders" section, above.

REASONS FOR DECISION

1. Should the Tribunal reconsider the Original Order and, if so, on what basis?

[7] Section 29(1) of the *Act* gives the Tribunal jurisdiction to review, rescind, amend or replace an order that it has previously issued:

29(1) The Tribunal may

- (a) rehear an application before deciding it;
- (b) review, rescind, amend or replace a decision or order made by it;
- (c) repealed 2009 c31 s13;
- (d) notwithstanding anything in this Act, and with or without a hearing, amend a compensation order to show as a respondent a person who is neither an owner or occupant

of the land concerned, and to make compensation payable to that person, when the Tribunal is satisfied that that person is legally entitled to receive the compensation that would otherwise be payable to an owner or occupant.

[8] These are discretionary remedies. In *McAllister v Long Run Exploration Ltd*, 2018 ABSRB 603 the Tribunal described the process in these terms:

A reconsideration threshold is not an appeal, but rather a further review of a decision where the Board [Tribunal] decides whether to reconsider its original decision due to extenuating circumstances. The threshold which must be met in the reconsideration process requires the Board to be satisfied that the original decision should be reopened.

[9] Rule 37 provides direction on the factors the Tribunal will consider when determining whether to conduct a review under section 29 of the *Act*. Rule 37 provides, in the relevant part:

37(1) The [Tribunal] may review a decision or order on its own initiative, and, if it does so, will determine a procedure for review, including an opportunity for parties to make submissions.

(2) An application to have the [Tribunal] review a decision or order to rescind, amend, or replace the decision or order must be in writing and:

- (a) include the decision or order number;
- (b) identify the issue or issues in the decision or order for which the review is requested;
- (c) include a brief explanation of how the party is adversely affected by the decision or order, or the damage that has resulted or will result from the decision or order;
- (d) for an application made under rule 37(3)(a-d), be delivered to the [Tribunal] within six (6) months of the date the decision or order was issued; and
- (e) for an application made under rule 37(3)(e), be delivered to the [Tribunal] within six (6) months of the date the evidence was discovered or became available.

(3) The [Tribunal] may only decide to review a decision or order if one of the following basic requirements for review are met:

- (a) the decision or order shows an obvious and important error of law or jurisdiction;
- (b) the decision or order shows an important error of fact, or an error of mixed fact and law, in the decision or order that affects the decision or order;
- (c) the decision or order was based on a process that was obviously unfair or unjust;
- (d) the decision or order is inconsistent with an earlier [Tribunal] decision or order, binding judicial authority, or provision of the relevant legislation, regulation, or rules; or
- (e) there was evidence at the time of the hearing that was not presented because it was unavailable to the party asking for review, and which is likely to make a substantial difference to the outcome of the decision or order.

...

(5) The [Tribunal] shall not grant a request for review without providing all parties an opportunity to make submissions and may consider the application by written submissions or by some other method . . .

[10] The Panel finds that CNRL's Application meets the formal requirements of Rule 37(2) except for Rule 37(2)(d), which requires applications to be brought within six months of the date the decision was issued, and/or Rule 37(2)(e), which requires applications based on Rule 37(3)(e) to be brought within six months of new evidence being discovered or becoming available.

[11] The Original Order was issued on October 12, 2023. The Application was filed more than six months later, on July 9, 2024. However, the Panel has discretion under Rule 6(3) to waive or vary the requirements of the *Surface Rights Rules*. The Panel finds that this is an appropriate case to waive the six-month requirement for the following reasons:

- a) CNRL brought this Application within six months of the Court of King's Bench JR Decision that clarified the law surrounding vesting orders, thereby meeting the intent of Rules 37(2)(d) and (e), which is to prevent undue delay in bringing reconsideration applications.
- b) The Panel finds that the grounds for review that CNRL has alleged would also warrant a Tribunal-initiated review under Rule 37(1), which is not subject to the six-month requirement in Rule 37(2).

[12] The Panel finds that CNRL has met the threshold requirements for the Tribunal to conduct a review of the Original Order and associated Direction to Pay. CNRL's submissions disclose the potential that the Original Order and Direction to Pay arose from an error of law, an error of fact, or an error of mixed fact and law, as a result of the original panel's failure to consider the Vesting Order together with the related purchase and sale agreement.

[13] The Panel therefore finds that the Applicant has met the basic requirement for review set out in Rule 37(3) and that this matter is appropriate for review under section 29 of the *Act*.

2. If the Application meets the requirements for review, are further submissions required, or does the Panel have sufficient information before it to reconsider its decision?

[14] Rule 37(5) provides that the Tribunal shall not grant a request for review without providing all parties an opportunity to make submissions. While Rule 6(3) permits the Tribunal to waive or vary a requirement of the *Surface Rights Rules* at its discretion, the Tribunal finds that further notice and an opportunity for the parties to provide submissions are necessary in this case.

[15] Although CNRL has copied Revitalize on its Application, the other Respondents do not appear to have received notice of this Application. The Panel therefore directs that the Tribunal give Theodorus and Regina Krooshoop, Canstone, Clearview, the receiver for Petrocapita, and Revitalize notice of this Application and this Decision as well as an opportunity to make submissions. The Panel notes that Bumper and Manitok have been struck from Corporate Registry. The Panel therefore waives the requirement to provide Bumper and Manitok with notice and an opportunity to make submissions.

3. If the Panel can proceed directly to reconsideration, should it vary the Original Order?

[16] As the Panel has determined that further notice and an opportunity to provide submissions are necessary in this case, it is premature to make findings on the merits of the reconsideration.

4. What orders, if any, should issue?

[17] Theodorus and Regina Krooshoop, Canstone, Clearview, the receiver for Petrocapita, and Revitalize are to be provided with a copy of the Application and this Decision. They shall have thirty (30) days to make submissions in response to the Application.

[18] Upon the expiry of the time for further submissions, the Panel will proceed with the reconsideration.

[19] Orders shall issue as set out in the “Section 29 Orders” section above.

Dated at the City of Edmonton in the Province of Alberta this 18th day of July, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL



Laura Dunham, Member