



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Miller v Lexin Resources Ltd, 2025 ABLPRT 445

Date: 2025-07-31

File No: BR2025.0109 (Ref File No. RCR2024.4273)

Order No.: LPRT2025/SR0445

Municipality: Foothills County

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 21-19-27-W4M as described in Certificate of Title No. 191 203 741 +2 (the “Land”), particularly the area granted for a well site and access road on LS 15 by Alberta Energy Regulator Licence No. 0396001 the “Licence”), collectively (the “Site”).

Between:

Lexin Resources Ltd.,

Operator,

- and -

William H Miller
and
Oriol E Miller,

Owners.

Before: Susan McRory (“the Panel”)

SECTION 29 ORDER
SURFACE RIGHTS ACT

Order LPRT901999/2025 that was issued on April 30, 2025 is confirmed.

Order LPRT901999/2025 that was issued on May 14, 2025 is rescinded.

DECISION

SUMMARY

[1] This a Tribunal-initiated review of a duplicate Order that was issued under Order No. 901999/2025. The first Order with that Order number was issued on April 30, 2025. Fifteen days later on May 14, 2025 an identical Order was issued. The panels were dealing with applications requesting compensation for a missed payment in 2024 under an October 5, 2007 surface lease. The annual rate of compensation is \$5,050.00. The only way to distinguish between the two orders is based on the date that they were issued.

[2] The sole Licensee and working interest participant is Lexin Resources Ltd. (LEXIN). LEXIN is insolvent.

[3] While the mistake is obvious, it is critical that the Order that issued on April 30, 2025 be confirmed and that payment to the Landowners be made on the strength of the April 30, 2025 Order.

The Order that was issued on May 14, 2025 must be rescinded.

ISSUES

1. Should the Tribunal initiate its own review of Order LPRT901999/2025 that was issued on May 14, 2025?
2. Should the Tribunal seek submissions from the parties?
3. If there is to be a review, should the Tribunal confirm, amend, rescind or replace LPRT901999/2025 that was issued on May 14, 2025 or order a re-hearing?

DECISION

1. The Tribunal will initiate a review of LPRT901999/2025 that was issued on May 14, 2025.
2. The Tribunal will not seek submissions from the parties.
3. The Tribunal rescinds Order LPRT901999/2025 that was issued on May 14, 2025.

ANALYSIS***Tribunal-Initiated Reviews***

[4] Section 29 allows the Tribunal to review, rescind, amend or replace any decision or order. Rule 37 of the *Surface Rights Rules* sets out the procedure for a review under section 29.

For requests submitted by the parties, reconsideration is a two-step process. An applicant must first establish the pre-requisites for reconsideration on a balance of probabilities. (Canadian Natural Resources Limited v. Main 2020 ABSRB 735). Rule 37(3) provides as follows:

The Tribunal may only decide to review a decision or order if one of the following requirements for review are met:

- (a) the decision or order shows an obvious and important error of law or jurisdiction;

or

- (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; or
- (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 Board decision or order, binding judicial authority, or provision of the 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] However, the Tribunal also has the power under Rule 37(1) to initiate its own review:

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.

For Tribunal-initiated reviews, the Tribunal is not strictly bound by Rule 39(3), but the Tribunal will consider errors in process that are obviously unfair.

[6] In this case, there is an obvious mistake in process: two Orders were issued based on the same application. The first order that was issued is dated April 30, 2025; a second identical order was issued on May 14, 2025. The duplication is an error in process which justifies a review by the Tribunal itself.

Submissions

[7] As referenced above, the Panel will determine the procedure for Tribunal-initiated reviews which may include a request for submissions. There will be cases where fairness demands that the parties be given an opportunity to provide submissions.

In this case, there are only two parties. The rights of the Landowners are not impacted by the decision that this Panel makes today. The sole operator is insolvent and cannot respond.

For these reasons, it would serve no purpose to ask for further submissions.

Options

[8] In determining that a review will proceed, the entire order is under consideration and the Tribunal may confirm, amend, rescind or replace the order that was issued or order a rehearing.

[9] In reviewing the file, this Panel noted that the Certificate of Title for the land names William H Miller and Oriol E Miller as holding a Life Estate Title. While the application form included a Death Certificate of Oriol Ellen Miller who sadly died on September 22, 2024, the Tribunal can only rely upon the persons identified in the Certificate Title as being the persons entitled to be paid.

[10] Also on the file is a Reclamation Certificate 33175145 that was issued by Alberta Environment on February 7, 2025. While the Reclamation Certificate would preclude any recovery of compensation in 2025, it was not in effect on the anniversary date in 2024 which was October 5, 2024.

[11] As there are no other obvious issues with the merits of the decisions that were issued, the only error was the duplication. Therefore, this Panel confirms the Order that was issued on April 30, 2025 as being first in time and rescinds Order LPRT901999/2025 that was issued on May 14, 2025.

Dated at the City of Edmonton, in the Province of Alberta this 31st day of July, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL



Susan McRory, Chair