



LAND AND PROPERTY RIGHTS TRIBUNAL

Date: 2023-07-19

File No.: RC2022.0745

Order No.: LPRT904547/2023

In the matter of a proceeding commenced under section 36 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:

NW 1/4-34-40-7-W4M as described in Certificate of Title No. 072 738 901 (the “Land”), particularly the area granted for the PAD SITE TO 0315324, 0375711, 0283686, 0294375, 0307090, 0375712, 0377951, 0284564, 0284565, 0294945 and 0294948 (the “Site”).

Between:

Bow River Energy Ltd. and Bonavista Energy Corporation,

Operators,

- and -

Kerry Degenhardt,

and

Naomi Degenhardt

Applicants.

SECTION 36(6) DIRECTION TO PAY

The Tribunal directs the Minister to pay out of the General Revenue Fund the sum of FORTY-TWO THOUSAND THREE HUNDRED EIGHTY and 00/100 DOLLARS (\$42,380.00) (the “Compensation”) jointly to Kerry Degenhardt of Hughenden, Naomi Degenhardt of Hughenden in the Province of Alberta for compensation that became due in the years 2021 and 2022.

DECISION AND REASONS

[1] The Applicants filed an application under section 36 of the Act seeking recovery of unpaid compensation due under a Surface Lease Agreement dated February 5, 2003 for the above site (the “Right of Entry Instrument”).

ISSUES

[2] The issues before the Panel are:

- (1) Which of the parties should be named as the Operators for the purposes of section 36 of the *Act*?
- (2) Is there money past due and unpaid by the Operators to the Applicants under the Right of Entry Instrument?
- (3) If money is past due and unpaid, is there any reason why the Tribunal should direct the Minister to pay a reduced amount?
- (4) Should the Tribunal direct the Minister to pay any of the amount owed to the Applicants out of the General Revenue Fund?
- (5) Should the Tribunal suspend and terminate the Operator's rights?

DECISION

[3] The Panel decides:

- (1) For the purposes of section 36 of the *Act*, the Operators are Bow River Energy Ltd. and Bonavista Energy Corporation.
- (2) Compensation of \$42,380.00 is payable to the Applicants by the Operators.
- (3) There is no reason to direct the Minister to pay a reduced amount.
- (4) The Tribunal directs the Minister to pay the full amount of the Compensation payable to the Applicants.
- (5) The decision to suspend or terminate the Operator's rights is reserved.

REASONS

[4] The Operators are as defined under section 36(1) of the *Act* and a reclamation certificate has not issued so the Operators are responsible to pay compensation to the Applicants.

[5] The Panel is satisfied that the demand for payment and notice to the Operators meets the requirements of the *Act* pursuant to s. 36(4) and the *Interpretation of Section 36(4) Surface Rights Act Guideline*, ABSRB 2020-1.

[6] After a review of the completed Application Form, signed declaration and supporting documents, the Panel is satisfied that the Compensation is owed by the Operators to the Applicants for annual payments due under the Right of Entry Instrument. This amount is calculated as two payments of \$21,190.00 due for the years 2021 and 2022.

[7] There is no evidence to convince the Panel that payment of the full Compensation would result in overpayment to the Applicants.

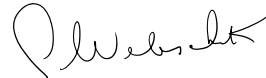
[8] The Minister is directed to make full payment of the Compensation out of the General Revenue Fund.

[9] The Panel is satisfied that the prerequisites to directing the Minister to pay under section 36(6) have been met.

[10] The decision to suspend or terminate the Operator's rights is reserved.

Dated at the City of Calgary in the Province of Alberta this 19th day of July, 2023.

LAND AND PROPERTY RIGHTS TRIBUNAL



Ivan Weleschuk, Member