



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Brummelhuis v TexCal Energy Canada Inc., 2025 ABLPRT 904701

Date: 2025-07-28
File No: RC2024.0433
Order No: LPRT904701/2025
Municipality: Municipal District of Taber

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:
SW 30-13-16-W4M as described in Certificate of Title No. 081 370 854 (the “*Land*”), particularly the area granted for a well site in L.S. 5 by Alberta Energy Regulator Licence No. 0403712 (the “*Licence*”), collectively (the “*Site*”).

Between:

TexCal Energy Canada Inc.,
Razor Energy Corp.,
and
SanLing Energy Ltd.,

Operators,

- and -

Beverly Brummelhuis,
and
Debbie Mae Odland,

Applicants.

Before: Miles Weatherall (“the Panel”)

Appearances by written submissions:

For the Applicants: Patricia Walker, My Landman Group Inc.

For the Operators: Warren Niles, TexCal Energy Canada Inc.

**DIRECTION TO PAY PURSUANT TO
SECTION 36 OF THE ACT**

The Tribunal directs the Minister to pay out of the General Revenue Fund the total sum of TEN THOUSAND THREE HUNDRED FIFTY-FOUR and 70/100 DOLLARS (\$10,354.70) jointly to Beverly Brummelhuis and Debbie Mae Odland, in the Province of Alberta comprised of compensation that became due in the years 2020 and 2023 (the “Compensation”) and costs awarded in this Order.

DECISION AND REASONS

[1] The Applicants filed an application dated April 5, 2024, under section 36 of the *Act* (the Application) seeking recovery of unpaid compensation due under a surface lease agreement, (the “Right-of-Entry Instrument”) dated December 22, 2008. The Applicants claim \$2,353.20 for the year 2020 and \$7,844.00 for the year 2023 for a total amount of \$10,197.20 under the Application. The Applicant also requests costs in the amount of \$537.47.

[2] Further to the Application and during routine searches of publicly available records maintained by the Alberta Energy Regulator (AER), Alberta Corporate Registry, and Alberta Land Titles, the evidence shows:

- An April 7, 2025, AER Well Summary Report shows that Well Licence No. 0403712 was transferred from Little Rock Resources Ltd. (“Little Rock”) to Razor Energy Corp. (“Razor”) on October 10, 2019.
- The same report for well licence No. 0403712 shows Razor is a working interest participant in this well, effective January 29, 2024.
- An Alberta Corporate Registry Search (CORES) dated January 2, 2025, of Razor shows a legal entity status of Amalgamated and TexCal as amalgamation successor.
- An Alberta Corporate Registry Search (CORES) dated April 7, 2025, of TexCal shows a legal entity status of Active and Razor as amalgamation predecessor.

[3] The Panel acknowledges a November 27, 2020, letter from Razor Energy Corp. to the Applicants advising that, due to the current economic environment for oil and gas production in western Canada, especially in Southern Alberta, they could no longer

afford to pay full surface rentals on its leases. Razor Energy Corp. enclosed its rental payment of \$5,490.80 which equals 70% of the annual rental rate for the year 2020. This payment left an outstanding amount of \$2,353.20 for the year 2020. The Panel is guided by the Court of Queen's Bench decision in *Karve Energy Inc v Drylander Ranch Ltd*, 2019 ABQB 298 – Justice Dilts. That decision held:

[47] *"Under s. 36, the Board is only entitled to determine whether compensation is owed under the Lease. It is not authorized to review the rate of compensation or to intervene in or alter the parties' agreement regarding compensation."*

[4] The Panel finds it cannot consider a variance in the rate of compensation established in the right of entry instrument.

ISSUES

1. Who is an Operator for the purpose of section 36 of the *Act*?
2. Is there money past due and unpaid by the Operators to the Applicants under a Right of Entry Instrument?
3. Should the Tribunal direct the Minister to pay the Applicants any of the money past due under section 36 of the *Act*?
4. Should the Tribunal suspend and terminate the Operators' rights?
5. Should the Tribunal award costs under section 39 of the *Act*?
 - a. If costs are awarded, should the Tribunal direct the Minister to pay those costs to Applicants without further process?

DECISION

1. For the purposes of section 36 of the *Act*, the Operators are TexCal Energy Canada Inc. ("TexCal"), Razor Energy Corp. ("Razor") and SanLing Energy Ltd. ("SanLing").
2. The written evidence proves compensation in the amount of \$10,197.20 is payable to the Applicants by the Operators.
3. Without further notice, the Tribunal directs the Minister to pay the Applicants Compensation in the amount of \$10,197.20 from the General Revenue Fund.
4. The decision to suspend or terminate the Operators' rights is reserved.
5. The Operators shall pay costs to the Applicants in the sum of \$157.50 including GST.
 - a. The Tribunal directs the Minister to pay costs in the amount of \$157.50 without further process.

ANALYSIS*1. Who is an operator for the purpose of section 36 of the Act?*

[5] The Tribunal gave notice pursuant to s. 36(4) to TexCal, Razor and SanLing and the Panel is satisfied that the demand for payment and notice 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] TexCal filed a submission, dated May 9, 2025, noting that TexCal, as an Operator, acquired all the shares of Razor Energy Corp. through the Court approved transaction effective December 11, 2024, per Court of King's Bench of Alberta Approval and Reverse Vesting Order 2401-02680 filed December 6, 2024, which was after the relevant dates in the Application. This Order was not provided to the Panel, so the terms of the agreement are unknown. The AER records confirm that the well licence is now in the name of TexCal. The Panel finds that TexCal Energy Canada Inc. assumed the liabilities related to the Site they now operate.

[7] Section 36(1) and (2) expand the definition of *operator* so that it has a broader meaning than in the rest of the *Act*.

Section 36(1)(c) – Alberta Energy Regulator (“AER”) Licence Holder

[8] Under section 36(1)(c) the holder of a licence issued by the AER and its successors, is an Operator. The Licence for the Site was in the name of Razor as of October 10, 2019, until its transfer to TexCal on March 21, 2025, therefore the Panel finds this party is an Operator under section 36(1)(c) for the year 2020.

[9] The Licence for the Site is in the name of TexCal (amalgamation successor to Razor Energy Corp.) as of March 21, 2025, therefore, the Panel finds this party is an Operator under section 36(1)(c) for the years 2020 and 2023.

Section 36(1)(d) – Working Interest Participants

[10] Under s. 36(1)(d) working interest participants and successors are Operators. The Panel finds that Razor, TexCal (amalgamation successor to Razor Energy Corp.) and SanLing are an Operator under section 36(1)(d) for the years 2020 and 2023 because the AER Well Summary Report dated April 7, 2025, for the Licence shows they were a working interest participant on the Site as of January 29, 2024.

2. Is there money past due and unpaid by the Operators to the Applicants under a Right-of-Entry Instrument?

[11] The current Certificate of Title confirms the Applicants are the owners of the Land and were the owners when the rentals became due, therefore, the Panel finds the Applicants are entitled to receive the money. The Applicants provided evidence of a Right-of-Entry Instrument, and the compensation is supported by the Application and

supporting documentation. The Applicants declared in writing that the Compensation has not been paid for the years claimed.

[12] The Panel is satisfied that compensation is owed to the Applicants for annual payment due under the Right-of-Entry Instrument. This amount is calculated as \$2,353.20 for the year 2020 and \$7,844.00 for the year 2023 for a total amount owing of \$10,197.20. The Site is not reclaimed, and the Right-of-Entry Instrument remains in effect. The Panel finds that at the time the Compensation became due, the Operators are liable for the Compensation due to the Applicants.

3. *Should the Tribunal direct the Minister to pay the Applicants any of the money past due from the General Revenue Fund under section 36 of the Act?*

[13] *Bateman v Alberta (Surface Rights Board)*, 2023 ABKB 640 specified that under s. 36 of the *Act*, the Applicants need only prove there is a Right of Entry Instrument and there is default on the payment, therefore, the Panel directs the Minister to pay the full amount owing. The Panel determined there is a right of entry instrument and money is owing, accordingly the Minister is directed to pay the Applicants \$10,197.20 from the General Revenue Fund.

4. *Should the Tribunal suspend and terminate the Operators' rights?*

[14] The Tribunal can suspend and terminate an operator's rights to access the Site when appropriate. The Panel reserves its decision to suspend and terminate at this time to avoid delay in payment to the Applicants, however, if the Operators attempt to access the Site but still does not pay compensation, the Tribunal may issue a suspension/termination order.

5. *Should the Tribunal award costs under section 39 of the Act?*

[15] Section 39(1) of the *Act* puts costs of and incidental to proceedings under the *Act* in the discretion of the Tribunal. Rule 31(2) the *Surface Rights Board Rules* provides guidance as to the factors the Tribunal may consider when awarding costs.

[16] In *Bear Canyon Farms Holdings Ltd v Apex Energy (Canada) Inc*, 2018 ABSRB 64, ("*Bear Canyon*") the Tribunal held:

[17] A factor weighing towards a lower costs award is the low complexity of the proceedings. Board administration provides a reasonably short application form (2 pages) for section 36 applications and drafts the required statutory declaration for applicants. The vast majority of the information requested on the form, such as Applicant's name, land description, rate of annual compensation, and year(s) claimed for unpaid compensation are generally within the knowledge of applicants. The proceedings are entirely by writing and are usually unopposed by the Operator. In the majority of these kinds of straightforward section 36 applications, applicants are able to file all paperwork by themselves and do so correctly.

[18] Board administration performs all necessary searches, including searches for the responsible operator and its insolvency status; Board administration prepares a statutory declaration which the Applicant is requested to swear before commissioner of oaths; and the Board convenes a Panel to make a determination, generally without an in-person hearing."...

[20] ...in the opinion of the [p]anel, an experienced professional should usually be able to file a section 36 application within one hour or less.

[17] This Panel applies the reasoning in *Bear Canyon* and awards costs for one hour of professional assistance at a rate of \$150.00 per hour plus 5 percent GST \$7.50, for a total cost award of \$157.50.

[18] Costs in the amount of \$157.50 are payable by the Operators to the Applicants.

COSTS ORDER

[19] IT IS ORDERED that costs in the amount of ONE HUNDRED FIFTY-SEVEN and 50/100 DOLLARS (\$157.50) are payable by the Operators to the Applicants.

5a. If costs are awarded, should the Tribunal direct the Minister to pay those costs to Applicants without further process?

[20] The claim for costs is part of the application process and operators have the ability to review the entire Tribunal file which includes the costs claim. Directing the Minister to pay the costs without further process results in efficiency and expeditious payment to the Applicants without incurring further costs.

[21] The Direction to Pay for costs will issue immediately.

Dated at the City of Medicine Hat in the Province of Alberta this 28th day of July, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL



Miles Weatherall, Member