

Before:

Metis Settlements Appeal Tribunal

Land Access Panel

Between:

Phillip Ghostkeeper,

Applicant

-and-

**Paddle Prairie Metis Settlement,
Sunstar Resources Inc., Calver Resources Inc.,
and
Metis Settlements General Council**

Respondents

Concerning:

Recovery of Compensation

Hearing Date:

June 21, 2016

Decision Date:

June 30, 2016

DECISION

The Hearing – parties, place and date

MSAT Panel members:

Lorne Dustow, Panel Chair
Phyllis Collins, Panel Member
Cody Hodgson, Panel Member

Parties present at the hearing:

Phillip Ghostkeeper, Applicant

Paddle Prairie Metis Settlement, Respondent
Carmen Laboucane, Councillor

Observers:

Theresa Houle (via tele-conference)
Julia Bergen
James Ghostkeeper
Robert Ghostkeeper
Marie Dustow

MSAT staff present:

BJ Simpson, Dispute Resolution Officer
Karen Mustus, Oil and Gas Officer

Place and date of the Hearing:

Council Chambers
Paddle Prairie Metis Settlement
June 21, 2016 at 10:00 AM

[1] The Land Access Panel of the Metis Settlements Appeal Tribunal held a hearing on June 21, 2016 to consider an application under Section 121 of the *Metis Settlements Act*.

[2] The Appeal Tribunal's Rules of Procedure allow each Panel the discretion over the hearing and decision making process. Given the overlapping issues and evidence, the Panel held one open hearing. Each party spoke to the shared issues and evidence and also talked about his or her particular circumstance. The Panel elected to issue separate decisions for each applicant.

1.1 Background

[3] Phillip Ghostkeeper, the Applicant, filed an application under s. 121 of the *Metis Settlements Act* on April 18, 2016 for two surface leases.

[4] The payment of arrears in annual rental is with respect to Surface Lease Agreement dated March 20, 2006 located in L.S. 13-27 in NW 27-102-23-W5M being land held by Phillip Ghostkeeper. The interest held is a Metis Title.

[5] The payment of arrears in annual rental is with respect to Surface Lease Agreement dated March 20, 2006 located in L.S. 11-27 in NW 27-102-23-W5M being land held by Phillip Ghostkeeper. The interest held is a Metis Title.

[6] The Surface Lease Agreement operates under a Joint Venture Agreement entered into by SunStar Resources Inc. (SunStar) and Calver Resources Inc. effective October 31, 2005.

1.2 Issues

[7] The issues before the Panel are:

- 1) Is there money due and payable by the Operator to the Applicant under a surface lease?
- 2) Does the evidence satisfactorily prove non-payment?
- 3) Should the Panel direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the Applicant is entitled, pursuant to s. 121(2) of the *Metis Settlements Act*?

1.3 Decision

[8] The Panel finds that the total of \$ \$9,630.63 is owing to the Applicant from the Operator for the annual payments under Surface Lease dated March 20, 2006:

- a. March 20, 2014 to March 19, 2015: \$3,210.21
- b. March 20, 2015 to March 19, 2016: \$3,210.21
- c. March 20, 2016 to March 19, 2017: \$3,210.21

[9] The Panel finds that the total of \$9,680.28 is owing to the Applicant from the Operator for the annual payments under Surface Lease dated March 20, 2006:

- a. January 15, 2014 to January 14, 2015: \$3,226.76
- b. January 15, 2015 to January 14, 2016: \$3,226.76
- c. January 15, 2016 to January 14, 2017: \$3,226.76

[10] The Panel directs the President of Treasury Branch and Minister of Finance to pay compensation of \$19,310.91 out of the General Revenue Fund to the Applicant pursuant to s. 121(2) of the Metis Settlements Act.

1.4 Reasons for Decision and Findings of Fact

[11] The Metis Settlements Land Registry Land Search report shows Phillip Ghostkeeper holds Metis Title to the NW 27-102-23-W5M.

[12] Based on the Joint Venture Agreement, dated October 31, 2005, the Panel finds SunStar Resources Inc. and Calver Resources Inc. to be the "operator".

[13] The Panel notes that the Sites have not been reclaimed and accordingly the Surface Leases remain in effect.

1.5 Order

[14] The Panel directs the President of Treasury Board and Minister of Finance to pay Phillip Ghostkeeper \$19,310.91.

Dated in the City of Edmonton, in the Province
of Alberta on this 30th day of June, 2016.



Lorne Dustow
Panel Chair

APPENDIX A

Metis Settlements Act, RSA 2000, Chapter M-14

111 In this division,

...

(h) “occupant” means:

- (i) a settlement council,
- (ii) the person in actual possession of a parcel of patented land, and
- (iii) a person having a right or interest in patented land that is registered in the Metis Settlements Land Registry.

(i) “operator” means the person who authorized or permitted to engage in an authorized project.

Recovery of compensation

121(1) If an existing mineral lease holder or operator fails to pay money

- (a) under a surface lease, or
- (b) ordered to be paid by the Existing Leases Land Access Panel or the Land Access Panel,

within 30 days of the date it is due, the person entitled to receive the money may submit to the Land Access Panel evidence of the failure to pay.

(2) On receipt of satisfactory evidence of failure of the existing mineral lease holder or operator to pay, the Land Access Panel may direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the person is entitled.

(3) If the President of Treasury Board and Minister of Finance pays money to a person under this section, the amount paid constitutes a debt owing by the existing mineral lease holder or the operator to the Crown in right of Alberta.

(4) If a surface lease and a development agreement are combined in one document, this section applies only to that part of the document concerning the surface lease.