

Before:

Metis Settlements Appeal Tribunal  
Land Access Panel

Between:

Terence Piper,

Appellant,

-and-

**Paddle Prairie Metis Settlement,  
Long Run Exploration Ltd.,  
Metis Settlements General Council  
and  
Metis Settlements Land Registry**

Respondents.

Concerning:

Compensation

Decision Date:

August 8, 2017

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**DECISION**

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**MSAT Panel members:**

Don Cunningham, Chairperson  
David Drummond, Panel Member  
Cody Hodgson, Panel Member

**Parties:**

Terence (Terry) Piper, Applicant  
Mervin Bellerose

**MSAT Staff:**

Karen Mustus, Oil and Gas Officer

**Hearing:**

Conference Room, Nova Inn, Manning, Alberta  
June 19, 2017

## 1.0 Context

[1] Terence Piper would like surface rights compensation for a road crossing his land.

[2] By email dated June 15, 2017, Paddle Prairie Metis Settlement wrote to the Appeal Tribunal indicating the hearings will not be held at Paddle Prairie Metis Settlement and that Settlement Council does not agree to participate in any way. On June 16, 2017, the Appeal Tribunal advised the parties, by phone or email, that the Panel directed the hearings would proceed as scheduled but the location was changed to the Nova Inn Meeting Room in Manning. Settlement Council did not attend the hearing.

## 1.1 Evidence before the Panel

### **Terence (Terry) Piper, the Applicant**

[3] Terry confirmed he is a settlement member and he has lived in Paddle Prairie for 50 years. Terry confirmed his appeal involves his land, SW-2-103-24-5.

[4] Terry said the road was built in 1979. In reviewing Registered Road Plan 3890070 (LTO 872-2889), Terry said no one asked him if they could register the road. He questioned how a road could be registered without talking to the land owner.

[5] When asked why he waited 37 years to address the issue about the road. Terry said why not, Council gets paid every year, and he should get paid every year as well.

### **Mervin Bellerose, Observer / Participant**

[6] Mervin Bellerose said he brushed and built the road through Terry's land (SW-2) in 1982 with Terry's permission. Mervin said he built the road to access his own land to the north. After he built the road, oil companies started using the road.

## 1.2 Findings of Fact

[7] This Panel is of the view that the following evidence is relevant and more likely than not to be true:

- 1) Terence Piper is a resident member of the Paddle Prairie Metis Settlement.
- 2) Registered Road Plan 4904 PX was registered at Alberta Land Titles on April 4, 1973

- 3) Right of Entry Order E93/76 dated January 30, 1976 granted Chieftain Development Co. Ltd. surface access for well site 10-3-103-24-5 and an access road through the SW-2-103-24-5, SE 3-103-24-5 and NE-3-103-24-5. The Respondents named were Her Majesty the Queen in Right of Alberta as Represented by the Minister of Social Services and Community Health and Octave Parenteau.
  - a) Amending Order E272/79 amended order by adding Paddle Prairie Metis Colony No. 1 as Respondent.
  - b) Compensation Order E281/78 issued on March 28, 1978, shows compensation payable to the Minister of Social Services and Community Health for Alberta, in trust, (\$200.00) and to Octave Parenteau (\$100.00)
  - c) Amending Order E1445/79 issued on March 30, 1978, amended Respondents to add Terrance L. Poitras (now Piper)
  - d) Amending Order 0724/89 issued on March 23, 1989, further amended Right of Entry Order E93/76 and Compensation Order E281/78. The order amended the orders to show Alberta Energy Company Ltd. as operator and amended Respondents to show Her Majesty the Queen in Right of Alberta as Represented by the Minister Responsible for Native Affairs as Respondent. The compensation provisions were also amended.
  - e) MSAT Order 0002/10 issued February 12, 2010, amended operator to show Cenovus Energy Inc. as Existing Mineral Lease Holder and to show Metis Settlements General Council and Paddle Prairie Metis Settlement as Occupants.
  - f) MSAT Order 0045/12 issued December 17, 2012, amended order to show Long Run Exploration Ltd. as Existing Mineral Lease Holder.
- 4) Historical documentation shows the Metis Development Branch approved a Permit to Entry the SW-2-103-24-5 to Terrance Leslie Piper on November 10, 1978.
- 5) Registered Road Plan 872-2889 was registered at Alberta Land Titles on December 21, 1987.
- 6) Registered Road Plans 3890061<sup>1</sup> (4904PX) and 3890070 (872-2889) were registered at the Metis Settlements Land Registry in accordance with the Metis Settlements Land Registry Regulation.
- 7) Terrance Leslie Piper held a recorded Allocation<sup>2</sup> interest in the SW-2-103-24-5. The interest was recorded on November 1, 1991.

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<sup>1</sup>Existing Road Plans were assigned a Metis Settlements Land Registry ID number.

<sup>2</sup> Land Interests Conversion Regulation, Allocations 4(1) A member of a settlement association under the former Act who holds an allocation when this Regulation comes into force or, if the member has transferred the allocation or died before this Regulation comes into force, the successor in title to the member, may apply to the settlement council in whose area the allocation is located for one of the following interests: (a) Metis title; (b) provisional Metis title; (c) an allotment; (d) any other interest permitted by General Council Policy. (2) An application under this section must be in a form approved by the settlement council.

- 8) Terrance Lester Piper has held the Metis Title interest in the SW-2-103-24-5 since 1995.
- 9) The area for Road Plan 3890061(not applicable in this appeal) and 3890070 are excluded from Metis Title for SW-2-103-24-5.
- 10) Terrance Piper filed an appeal with the Appeal Tribunal on October 18, 2016.
- 11) By letter dated March 28, 2017 to the Appeal Tribunal, Long Run Exploration wrote the following:  
“Long Run Exploration (then Guide Exploration) entered into a Purchase and Sale Agreement with Cenovus Energy to purchase assets in the Boyer field with an effective date of December 1, 2011.

As the Applicant’s concerns are prior to Long Run Exploration having an interest in these lands, Long Run Exploration has no additional documents or comments to submit.”

### 1.3 How the law applies to this matter

[8] The Appeal Tribunal’s authority to update compensation orders or surface lease<sup>3</sup> comes from Part 4, Division 7 of the *Metis Settlements Act (MSA)*. In this case, section 119 of the *MSA* cloaks the Appeal Tribunal—and the Land Access Panel (LAP) in particular—with the authority to determine who the proper occupants are and what compensation, if any, should be paid to them.

#### Rehearing and review of Decisions

119 The Land Access Panel may, without a hearing, amend a compensation order or right of entry order, regardless of who made it, with respect to a person named in it.

- (a) when the Panel is satisfied that there has been a change of existing mineral lease holder or operator, or
- (b) when the Panel is satisfied that there has been a change of occupant and compensation should be properly paid to a new occupant.

[9] LAP must be satisfied both as to the identity of the new occupant and as to their entitlement to compensation. Finally, under s. 121 of the *MSA*, LAP has the jurisdiction to address situations where occupants have not been paid compensation owed to them.

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<sup>3</sup> Section 111(j) “surface lease” means a lease or other instrument under which the surface of a parcel of patented land is held for any purpose for which a right of entry order may be made under this Division, and that provides for compensation.

[10] Terrence Piper is the holder of a Metis Title interest in the SW-2-103-24-5.

[11] Section 111(h)(iii) of the *MSA* states:

111 In this Division,

...

- (h) "occupant" mean
- (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

[12] The portion of the road in question, going through the Applicant's land, is part of Registered Road Plan 3890070. The road was originally registered under Alberta Land Titles in 1987. It has been a public road since 1987. With the passing of the *Metis Settlements Act* and the Metis Settlements General Council Land Policy, the Paddle Prairie Metis Settlement holds road title on all registered road plans.

*Metis Settlements Act*

109 A settlement has the direction, control and management of highways, roads, streets and lanes within the settlement area that are not subject to the direction, control and management of the Crown in right of Alberta.

Metis Settlements General Council Land Policy


2.7(1) The settlement holds a non-transferable road title interest in each road over which the settlement council has the right of direction, control and management.

[13] Because the road is covered by a registered road plan and the road title is held by the Paddle Prairie Metis Settlement, Terance Piper is not an Occupant, insofar as the registered road is concerned, as defined in section 111 of the *Metis Settlements Act* for the purposes of the surface rights compensation under Right of Entry Order E93/76 and is therefore not entitled to surface rights compensation.

## 1.4 Order

[14] The appeal is dismissed.

Dated in the City of Edmonton, in the Province  
of Alberta on this 8th day of August 2017.

  
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Don Cunningham  
Panel Chair

