

Before:

Metis Settlements Appeal Tribunal  
Land Access Panel

Between:

**Dion Ressler,**

Applicant,

-and-

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

Respondents.

Concerning:

Recovery of Compensation

Decision Date:

August 10, 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:**

Dion, Applicant (via tele-conference)

**Observers:**

Terence (Terry) Piper  
Mervin Bellerose

**MSAT Staff:**

Karen Mustus, Dispute Resolution Officer

**Hearing:**

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

## **1.0 Context**

[1] Dion Ressler (Dion) is seeking unpaid annual compensation under Surface Lease dated November 1, 1990.

[2] Paddle Prairie Metis Settlement alleges that Dion was overpaid oil and gas compensation from 2006 until 2015 totaling approximately \$19,940.00; and it is now withholding all annual compensation payments to Dion until the \$19,940.00 is fully paid back.

[3] Paddle Prairie Metis Settlement Council attempted to stop the hearing into Dion's (and other members') matter(s) by rescinding its earlier written consent to have Dion's hearing at the Paddle Prairie Council Offices. Paddle Prairie Metis Settlement wrote to the Appeal Tribunal on June 15, 2017 indicating the hearings scheduled for June 19, 2017 "will not be held at Paddle Prairie Metis Settlement" and that "Settlement Council does not agree to participate in any way." In response, the Appeal Tribunal quickly found another location for the hearing(s) and advised the parties, by phone and/or email on June 16, 2017, that the hearing(s) would proceed on June 19, 2017 as scheduled but the location was changed to the Nova Inn Meeting Room in Manning, which is approximately 90 km away from Paddle Prairie. Settlement Council did not attend the hearing.

## **1.1 Evidence before the Panel**

### **Dion, the Applicant**

[4] Dion confirmed he is a resident member of Paddle Prairie Metis Settlement and the issue relates to the NW 7-103-22-5.

[5] Dion stated he held a Provisional Metis title interest in the land for 10 years, from 1995 to 2005, and then he lost the land. He was young when he received the land from his Uncle and at the time he did not understand the land process. He said he went to the Settlement office a number of times over the years to ask for the land to be posted. The Settlement finally posted the land with the special condition that any money being held in trust for surface rights will only be paid out to the previous owner. His understanding was that the special condition on the posting applied to him because he was the previous owner and the Settlement knew he was the previous owner. He applied for the land and was granted a Provisional Metis Title with a term starting December 15, 2015 and ending on December 15, 2020.

[6] Dion said the Paddle Prairie Metis Settlement issued a payment of \$19,940 to him in December 2015. He was told the \$19,940 had been held in trust in his name for years. Two weeks later he received a letter from the Settlement stating they wanted the money back. Dion does not

agree that he was overpaid and he added that he did not ask for the money. Dion said he should not be held responsible for the Settlement's mistake if a mistake was made. He confirmed he did not pay any of the money back.

[7] Dion said the Settlement will not pay the annual compensation owed to him for the current year because of the alleged debt of \$19,940 owed to the Settlement. He claims he is owed \$3,000 for annual compensation. Dion also raised the issue about a stale-dated cheque from 2006 for annual compensation. He would like the Settlement to pay him for that as well.

[8] Dion expressed concern about Paddle Prairie Metis Settlement not participating in the hearing.

## **1.2 Findings of Fact**

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

- (a) Dion is a resident member of the Paddle Prairie Metis Settlement.
- (b) On November 1, 1990, Paddle Prairie Metis Settlement and Stealth Resources Limited entered into a Surface Lease (L.S. 11-7 well site and roadway in the NW-7-103-22-5).
- (c) Dion held a Provisional Metis title interest in the NW-7-103-22-5 for ten years from December 5, 1995 until December 2, 2005.
- (d) On July 16, 2012, Metis Settlements Land Registry sent a Notice of Cancellation for NW-7-103-22-5 and cancelled the Provisional Metis title interest.
- (e) The Metis Settlements Land Registry shows Dion Wayne Ressler holds a registered Provisional Metis Title interest in the NW-7-103-22-5 with an expiry date of December 15, 2020.
- (f) By report dated May 30, 2016, Paddle Prairie Metis Settlement wrote that Dion owed \$19,940.00 to the Settlement for payments made for the years 2006-2016.

- (g) By letter dated April 20, 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.

All rental payments are made directly to the Paddle Prairie Metis Settlement and they are responsible for distributing the funds accordingly. Therefore Long Run Exploration has no additional documents or comments to submit”

### 1.3 How the law applies to this matter

[10] The Appeal Tribunal’s authority to update compensation orders or surface lease<sup>1</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.

[11] 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.

[12] Dion is the holder of a registered Provisional Metis Title interest in the NW-7-103-22-5.

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<sup>1</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.

[13] The Panel finds Dion is an occupant as defined in section 111(h)(iii) of the *MSA*:

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

[14] The Panel finds Dion is entitled to compensation under Surface Rights Agreement dated November 1, 1990 for wellsite 11-7-103-22-5 and access road for the period starting November 1, 2016 to October 31, 2017.

[15] He is entitled to compensation because he is an occupant as defined in section 111(h)(iii) of the *MSA*, and he meets the criteria set out in section 8 of the Paddle Prairie Metis Settlement Bylaw No. 106/00, Residency Bylaw:

A Settlement member is eligible to receive surface rights compensation payments from natural resources activity, both the initial and annual payment ONLY IF the member:

- a) has his or her Place of Residence in the Settlement area at the time such payments are payable; and
- b) has resided in the Settlement area for a least twelve (12) consecutive months immediately preceding the date the surface rights compensation payments would have issued or become payable.

[16] Long Run Exploration, by letter dated April 20, 2017, indicated the surface rights compensation is paid to the Paddle Prairie Metis Settlement and the Settlement is responsible for distribution to members. The Panel finds the Paddle Prairie Metis Settlement is responsible for paying Dion.


[17] As set out in section 190(1)(f) of the *MSA*, in any matter before it, the Appeal Tribunal may make a decision granting whole or part of the application or grant any further or other relief in addition to or in substitution for it that seems appropriate to the Tribunal. In this regard, the Panel was not asked to rule on whether Mr. Dion was overpaid or whether there is a mechanism for the Settlement to withhold other oil and gas payments due to Dion and we make no ruling on whether Dion owes the Settlement for an alleged overpayment.

[18] The Panel makes no ruling on the stale-dated cheque from 2006.

**1.4 Order**

[19] The Panel orders Paddle Prairie Metis Settlement to pay surface rights compensation of \$3,000 to Dion Ressler for the wellsite 11-7-103-22-5 and access road for the period starting November 1, 2016 to October 31, 2017 within 50 days of this order.

Dated in the City of Edmonton, in the Province  
of Alberta on this 10th day of August 2017.

  
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for Don Cunningham  
Panel Chair

