

Cause No. MIC/159/13

IN THE COURT OF QUEEN'S BENCH
OF NEW BRUNSWICK

COUR DU BANC DE LA REINE DU
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE PREMIÈRE INSTANCE

JUDICIAL DISTRICT OF MONCTON

CIRCONSCRIPTION JUDICIAIRE DE
MONCTON

BETWEEN:

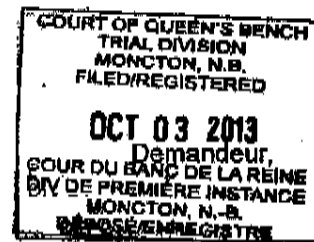
ENTRE:

SWN RESOURCES CANADA, INC.,

Plaintiff,

- and -

- et -



**LORAINÉ CLAIRE, JIM PICTOU, SEVEN
BERNARD, JASON OKAY, GREG COOK,
WILHELMINA ("WILLI") NOLAN, MELANIE
ELWARD, ANN POHL, RACHEL DAIGLE,
SUZANNE PATLES, JOHN DOE AND JANE
DOE,**

Defendants.

Défendeurs.

**NOTICE OF ACTION WITH
STATEMENT OF CLAIM ATTACHED
(Form 16A)**

**AVIS DE POURSUITE ACCOMPAGNÉ
D'UN EXPOSÉ DE LA DEMANDE
(Formule 16A)**

TO:

DESTINATAIRE:

Lorraine Clair

Melanie Elward

Jim Pictou

Ann Pohl

Seven Bernard

Rachel Dalgle

Jason Okay

Suzanne Patles

Greg Cook

John Doe

Wilhelmina ("Willi") Nolan

Jane Doe

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LEGAL PROCEEDINGS HAVE BEEN COMMENCED AGAINST YOU BY FILING THIS NOTICE OF ACTION WITH STATEMENT OF CLAIM ATTACHED.

PAR LE DÉPÔT DU PRÉSENT AVIS DE POURSUITE ACCOMPAGNÉ D'UN EXPOSÉ DE LA DEMANDE, UNE POURSUITE JUDICIAIRE A ÉTÉ ENGAGÉE CONTRE VOUS.

If you wish to defend these proceedings, either you or a New Brunswick lawyer acting on your behalf must prepare your Statement of Defence in the form prescribed by the Rules of the Court and serve it on the plaintiffs or the plaintiffs' lawyer at the address shown below and, with proof of such service, file it in this Court Office, together with the filing fee of \$50,

Si vous désirez présenter une défense dans cette instance, vous-même ou un avocat du Nouveau-Brunswick chargé de vous représenter devrez rédiger un exposé de votre défense en la forme prescrite par les Règles de procédure, le signifier au demandeur ou à son avocat à l'adresse indiquée ci-dessous et le déposer au greffe de cette Cour avec un droit de dépôt de 50\$ et une preuve de sa signification:

a) if you are served in New Brunswick, WITHIN 20 DAYS after service on you of this Notice of Action with Statement of Claim Attached, or

a) DANS LES 20 JOURS de la signification qui vous sera faite du présent avis de poursuite accompagné d'un exposé de la demande, si elle vous est faite au Nouveau-Brunswick ou

b) if you are served elsewhere in Canada or in the United States of America, WITHIN 40 DAYS after such service, or

b) DANS LES 40 JOURS de la signification, si elle vous est faite dans une autre région du Canada ou dans les États-Unis d'Amérique ou

c) if you are served anywhere else, WITHIN 60 DAYS after such service.

c) DANS LES 60 JOURS de la signification, si elle vous est faite ailleurs.

If you fail to do so, you may be deemed to have admitted any claim made against you, and without further notice to you, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE.

Si vous omettez de le faire, vous pourrez être réputé avoir admis toute demande formulée contre vous et, sans autre avis, JUGEMENT POURRA ÊTRE RENDU CONTRE VOUS EN VOTRE ABSENCE.

You are advised that:

Sachez que:

a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;

a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;

b) the Plaintiff intends to proceed in the English language; and

b) le demandeur a l'intention d'utiliser la langue anglais; et

c) your Statement of Defence must indicate the language in which you intend to proceed.

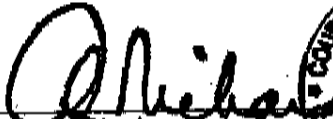
c) l'exposé de votre défense doit indiquer la langue que vous avez l'intention d'utiliser.

If you pay to the plaintiff or his lawyer the amount of his claim, together with the sum of \$100 for his costs, within the time you are required to serve and file your Statement of Defence, further proceedings will be stayed or you may apply to the Court to have the action dismissed.

Si, dans le délai accordé pour la signification et le dépôt de l'exposé de votre défense, vous payez au demandeur ou à son avocat le montant qu'il réclame, plus \$100 pour couvrir ses frais, il y aura suspension de l'instance ou vous pourrez demander à la cour de rejeter l'action.

THIS NOTICE is signed and sealed for the Court of Queen's Bench by Anne Richard, Clerk of the Court at Moncton, on the 3 day of October, 2013.

CET AVIS est signé et scellé au nom de la Cour du Banc de la Reine par Amanda J. Evans, greffier de la Cour à Moncton, ce ___ octobre, 2013.


Anne Richard
Clerk of the Court of Queen's
of New Brunswick
Judicial District of Moncton



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STATEMENT OF CLAIM/EXPOSÉ DE LA DEMANDE

1. SWN Resources Canada, Inc. is a body corporate registered as an extra-provincial corporation pursuant to the laws of New Brunswick. SWN Resources Canada, Inc. has a place of business at 633 Main Street, Moncton, NB E1C 9X9.
2. The Plaintiff is duly licensed and permitted by the government of the Province of New Brunswick to carry out geophysical exploration upon certain lands in New Brunswick and does carry out exploration upon these lands, including upon lands in the vicinity of Rexton, Kent County, and upon other lands in Westmorland and Kent Counties and the related roads, streets and highways along and adjacent to these lands, by conducting licensed exploration associated with hydraulic fracturing and the oil and gas industry.
3. The Plaintiff maintains a storage facility and staging area off Route 134 in Rexton, Kent County. The Plaintiff stores supplies at this facility and a number of pieces of mobile heavy equipment. The use of heavy mobile equipment is essential to the conduct of the Plaintiff's business.
4. The Defendants reside in the Province of New Brunswick and the Defendants John Doe and Jane Doe are unknown persons who also reside in the Province of New Brunswick.
5. The Plaintiff's right to work and carry on business upon lands in New Brunswick and pursuant to its licenses and permits is being unlawfully obstructed and interfered with as a result of the Defendants' activities.
6. The Defendants' conduct, individually and/or collectively (hereinafter collectively referred to as the "Defendants"), described in paragraph 7, below, commenced in late September, 2013, and continues to the present.

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7. The Defendants have:

- a) intentionally blocked the movement of vehicles owned or leased and operated by the Plaintiff and/or its contractors from the storage area to Route 134;
- b) intentionally blocked the movement of vehicles owned or leased and operated by the Plaintiff and/or its contractors along Route 134;
- c) damaged the equipment and vehicles of the Plaintiff and that of its contractors;
- d) harassing, intimidating and threatening bodily harm to the Applicant's employees and the employees of its contractors;
- e) organized and/or participated in multiple assemblies of people who purposely blocked and impeded the progress of the Plaintiff's and/or its contractors' technical personnel, equipment operators, suppliers and other individuals; and
- f) such further acts or omissions as the Plaintiff may prove at or before trial.

8. The Plaintiff states that the Defendants' activities constitute a deliberate and unlawful interference with the Plaintiff's right to conduct business. The Plaintiff states that the Defendants' conduct is unlawful and constitutes intentional interference with the Plaintiff's economic relations as a result of which the Plaintiff has and will suffer damages.

9. The Defendants' conduct amounts to trespass, conversion, detinue, nuisance, false imprisonment, conspiracy, intimidation and interference with economic interests by unlawful means.

10. In addition, the Plaintiff states that the Defendants' activities constitute unlawful assembly contrary to section 63 of the *Criminal Code*, intimidation contrary to section 423 of the *Criminal Code* and mischief contrary to section 430 of the *Criminal Code*.

11. The Defendants' conduct is also contrary to sections 104, 170(1) and 174(2) of the New

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Brunswick Motor Vehicle Act and sections 44.1(13) and 69(1)(h) of the *New Brunswick Highway Act*.


12. The Defendants have conspired in and coordinated their conduct.
13. The Defendants' conduct has and will continue to cause the Plaintiff to suffer damages:
 - a) the Plaintiff's contractors and equipment and suppliers cannot access the Plaintiff's work sites, resulting in wasted expenditure and lost time;
 - b) the Plaintiff's operations will be delayed thereby substantially increasing the costs of operations;
 - c) the Plaintiff will not be able to meet its contractual and licensing obligations;
 - d) the Plaintiff will lose out on future opportunities to extract natural gas in New Brunswick, resulting in unquantifiable financial losses to the Plaintiff; and
 - e) such further and other damages as the Plaintiff may prove at or before trial.
14. The Plaintiff therefore claims from the Defendants the following relief:
 - a) a permanent injunction restraining the Defendants' unlawful conduct described herein;
 - b) special damages for loss of revenue, profit and all expenses incurred as a result of the Defendants' unlawful conduct, particulars of which will be assessed and provided to the Defendants prior to trial;
 - c) general damages for nuisance, inconvenience and interference with the Plaintiff's contractual rights;
 - d) punitive and/or aggravated damages;

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- e) interest on the amounts above where applicable;
- f) solicitor and client costs; and
- g) such further relief as this Honourable Court deems just.

DATED at Saint John, New Brunswick, this 3rd day of October, 2013.

McINNES COOPER
Barristers and Solicitors
Suite 1700 Brunswick Square
1 Germain Street, P.O. Box 6370
Saint John NB E2L 4R8
Telephone: (506) 643-6500
Facsimile: (506) 643-6505
matt.hayes@mcinnescooper.com
Our File 104131



McINNES COOPER
Per: Matthew T. Hayes
Solicitors for the Plaintiff
SWN Resources Canada, Inc.