

File No. 2227
Board Order No. 2227-1

April 9, 2025

SURFACE RIGHTS BOARD

IN THE MATTER OF THE *PETROLEUM AND NATURAL GAS ACT*,
R.S.B.C., C. 361 AS AMENDED

AND IN THE MATTER OF
THE NORTH EAST $\frac{1}{4}$ OF SECTION 10 TOWNSHIP 80 RANGE 15 WEST OF THE 6TH
MERIDIAN PEACE RIVER DISTRICT ("Lands")

BETWEEN:

Sean Price and
Shelli Price

(APPLICANTS)

AND:

ARC Resources Ltd.

(RESPONDENT)

BOARD ORDER

Heard: by Written submissions closing February 20, 2025

Submissions received from: Shelli Price and Sean Price, for the Applicants
Rick Williams, Barrister and Solicitor, for the
Respondent

INTRODUCTION AND ISSUE

[1] The Applicants, Sean and Shelli Price (the Landowners), are the owners of the Lands described as: THE NORTH EAST ¼ OF SECTION 10 TOWNSHIP 80 RANGE 15 WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT.

[2] The Respondent, ARC Resources Ltd. (ARC) operates oil and gas activities including multiple well sites on adjacent lands described as SOUTH WEST ¼ OF SECTION 15 TOWNSHIP 80 RANGE 15 WEST OF THE 6TH MERIDIEN (the Adjacent Lands). The activities on the Adjacent Lands have been permitted by the British Columbia Energy Regulator (BCER). ARC has right of entry orders from the Surface Rights Board (SRB) for the construction and operation of the permitted oil and gas activities.

[3] The Landowners apply to the Board for mediation and arbitration services using Form 1-C Damages. In the Application, under the heading “Nature of Dispute”, the Landowners write:

The wellsite is less than 0.4 km from our residence. The noise from maintenance and flaring is very disturbing. We don’t always get notice. The noise is loud enough to hear in the house and at times wake us up (*sic*).

[4] While denying that its operations fail to comply with regulated noise levels, ARC submits the SRB does not have jurisdiction to hear an application that seeks to enforce regulatory requirements on the operation of a wellsite. ARC states the issue as whether the SRB has jurisdiction to regulate the noise level from a well that is subject to the *Energy Resource Activities Act*.

[5] The Landowners submit that ARC has misstated the issue. The Landowners submit they are not asking the SRB to regulate the level of noise, the light and other sundry activities emanating from the adjacent well site, but that they are seeking compensation pursuant to section 163(2) of the *Petroleum and Natural Gas Act*.

[6] The issue is whether the SRB has jurisdiction to mediate and arbitrate the Landowners’ application.

ANALYSIS

[7] As ARC submits, the SRB does not have jurisdiction to regulate the level of noise from a well subject to the *Energy Resource Activities Act*. Regulation of the oil and gas activity including whether the activity is compliant with noise regulations, or any other regulation applying to the construction or operation of a wellsite, falls within the jurisdiction of the BCER.

[8] However, the Landowners submit they are not asking the SRB to regulate the alleged noise emanating from the oil and gas activity. They submit they are seeking compensation pursuant to section 163(2) of the *Petroleum and Natural Gas Act*.

[9] The whole of section 163 of the *Petroleum and Natural Gas Act* provides:

163(1) A person may apply to the board for mediation and arbitration if the person

- (a) is a landowner or occupant of land that is subject to a right of entry, and the exercise of the right of entry causes damage to the land or other land of the owner or occupant or causes loss to the owner or occupant, or
- (b) is the owner or occupant of land immediately adjacent to the land that is subject to a right of entry, and the exercise of the right of entry causes damage to the adjacent land or causes loss to the owner or occupant.

(2) On application under subsection (1), the board may order the right holder to pay compensation to the landowner or owner or occupant for damage to the land of the landowner, owner or occupant or loss to the landowner, owner or occupant as a result of the exercise of the right of entry, including, without limitation, compensation relating to negotiation with the right holder before the application was made to the board.

(3) The board may order that interest is payable on an amount payable under subsection (2).

[10] Section 163 of the *Petroleum and Natural Gas Act* gives the SRB jurisdiction to hear an application from the owner of land immediately adjacent to land subject to a right of entry claiming loss or damage to the land or loss or damage to the landowner as a result of the right of entry.

[11] The Landowners' application was filed using Form 1C-Damages. It asserts the Landowners are the owners of land adjoining land subject to a right of entry. The application asserts that noise from flaring and maintenance is very disturbing, can be heard in the house and wakes them up. While the application does not specifically claim

damages for loss to the landowner, it can reasonably be assumed to make such a claim. The Landowners' submissions in response to ARC's jurisdictional challenge clarify that intent.

[12] The SRB cannot assess whether ARC's oil and gas activity is compliant with applicable noise regulations or guidelines. But whether the activity is compliant or not, the SRB can assess whether:

- 1) the Landowners are the owners of land immediately adjacent to land that is subject to a right of entry;
- 2) there is loss to the Landowners as a result of the right of entry; and
- 3) the amount of any compensation payable for that loss.

[13] On the basis that the Landowners claim they are the owners of land immediately adjacent to land that is subject to a right of entry, and that the right of entry causes loss to them, I find the SRB has jurisdiction to mediate and arbitrate this application.

ORDER

[14] The Board has jurisdiction in this application. The application is referred for mediation.

DATED: April 9, 2025

FOR THE BOARD

Cheryl Vickers, Vice Chair