

MEDIATION AND ARBITRATION BOARD
Under the Petroleum and Natural Gas Act
#114, 10142 - 101 Avenue
Fort St. John, BC V1J 2B3

Date: 16 December 2002

File No. 1458

Board Order No. 347ARR-1

BEFORE THE BOARD:

IN THE MATTER OF THE PETROLEUM AND
NATURAL GAS ACT BEING CHAPTER 361 OF THE
REVISED STATUTES OF BRITISH COLUMBIA AND
AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF THE SOUTH
EAST QUARTER OF SECTION 8, TOWNSHIP 85,
RANGE 17 WEST OF THE SIXTH MERIDIAN PEACE
RIVER DISTRICT
(2-8-85-17 W6M)
(THE LANDS)

BETWEEN:

CANADIAN NATURAL RESOURCES LIMITED
220 9900 - 100 AVENUE
FORT ST. JOHN, BC
V1J 5S7
(THE APPLICANT)

AND:

CLIFFORD KIMMIE
SHIRLEY KIMMIE
BOX 71
CECIL LAKE, BC
V0C 1G0
(THE RESPONDENT)

ARBITRATION ORDER OF THE BOARD

BACKGROUND

On 13 December 2001, by Order of this Board following an Arbitration compensation review a panel of the Board consisting of Frank Breault, member and Rodney Strandberg, Chair fixed annual compensation payable by the operator, Canadian Natural Resources Ltd. (C.N.R.L.), to the landowners Cliff and Shirley Kimmie.

C.N.R.L. appealed the Order of the Board. The Honourable Madam Justice Loo heard the appeal. In her decision dated 5 November 2002, she directed that the Board define the compensation payable for the interference and nuisance to the landowners associated with their enjoyment of their land and the compensation payable for the potential for a loss of cattle as a result of the activities of C.N.R.L. The Learned Justice left it to the discretion of the panel as to whether the Arbitration had to be reconvened or whether this clarification could be provided based on the evidence previously taken at the Arbitration on 5 October 2002.

The panel feels that the necessary clarification can be made based on the material presented at the Arbitration.

Value of Land

The Landowners provided adequate comparable information regarding the value of the land in the vicinity of the subject land to allow the Board to determine the prevailing market value for the land affected by the Operator's activities.

In general, the Board accepts that the activities of Operators on land cause disruption to a Landowner. It is generally accepted that these activities cause temporary damage, nuisance and disturbance to a Landowner. The degree of these effects is unique in each case. Some of the effects of Operator's activities creating loss or profit and or severance are not assumed to occur in each case.

When the parties to a hearing before the Board provide evidence by way of comparable lease information, unless the lease refers to special or specific types or heads of damage, the Board proceeds on the basis that the compensation addresses the generally accepted effects of activity on the land.

The Board expects that if there are unusual impacts addressed by compensation in comparable lease information the parties will address this.

Having carefully heard the evidence presented and considering the compensation amount in the comparable lease evidence before it, the Board concludes that the compensation payable for considerations other than the potential lost cattle is \$ 4,000.00 for the well site and access road located at 2 - 8 - 85 - 17.

Value of Cattle

The evidence before the Board on this aspect of compensation would be for effect on the activities of the Landowner that would not be assumed by the Board to generally occur but, rather, would be specific and unique to the Landowners.

The Board finds as a fact that the Landowners sustain a loss of cattle as a result of the failure of the Operator to ensure that gates are closed and locked. The effect of this is that unauthorized persons are allowed entry onto the land. There are at least two consequences of this. The first is that the unauthorized persons increase the degree of nuisance and disturbance to the Landowners. The second is that hunters or other persons may kill cattle or the cattle may escape the property and disappear.

The Landowners stated that they lost 8 calves per year at an average cost of \$ 700.00 per head. The evidence on this point, however, was Spartan. However, the Board has an obligation to make the fairest possible Order based on the evidence that it has received and accepted. Because the Landowners provided no evidence regarding the number of cattle they maintained on the property before the Operator began its activities or the numbers on the property since or the average price received per animal in the relevant years, the Board substantially discounted the values suggested by the Landowners. It would be hoped that in the course of future negotiations between the Operator and the Landowner or at any future arbitrated compensation review this evidence, together with any evidence from the Operator regarding the steps taken to mitigate this loss would be provided.

Accordingly the annual compensation payable by the Operator, C.N.R.L. to the Landowners as compensation for lost cattle is \$ 500.00 for the well site and access road located at 2 - 8 - 85 - 17.

IT IS HEREBY ORDERED THAT:

1. The Mediation and Arbitration Board confirms its order 347A.
2. Commencing on August 20, 2000 and on the 20th day of August each and every year thereafter until altered by agreement of the parties or further Board Order, the annual compensation payable to the Landowners by the Operator for this lease is \$ 4,500.00.
3. The Operator shall within thirty (30) days of this Order pay to the Landowners and provide proof of payment(s) to the Board, the new annual compensation amounts, if it has not already done so.
4. Nothing in this Order varies any terms or conditions of the lease between the Applicants and the Respondent except the compensation payable by the Respondent to the Applicants.

Dated at the City of Fort St. John, British Columbia, this 16th day of December 2002.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Rodney J. Strandberg, Chair

S. Frank Breault, Member