

**File Nos. 1792 and 1801
Board Order No. 1792/1801-1Cor**

June 26, 2013

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 ¼ OF SECTION 10 TOWNSHIP 78 RANGE 16
WEST OF THE 6TH MERIDIAN PEACE RIVER DISTRICT
(The "Lands")**

BETWEEN:

James London and Keir London

(APPLICANTS)

AND:

Spectra Energy Midstream Corporation

(RESPONDENT)

**CORRIGENDUM TO
BOARD ORDER**

I write this corrigendum to the Board's decision issued May 14, 2013 in response to the Londons' application to reconsider statements made in that decision.

Upon review of the arguments of counsel, I agree that the Board's jurisdiction to hear the application under section 163 of the *Petroleum and Natural Gas Act* arises from the exercise of a right of entry relating to a flowline and an allegation that the exercise of the right of entry caused damage. The Right of Way agreement between the Londons and Encana Corporation was for right of entry to construct and operate a flowline. Spectra purportedly exercised that right of entry to construct the Bissette Pipeline. The Londons allege that Spectra has caused damage in purportedly exercising that right of entry. Therefore, the Board has jurisdiction to hear the application.

The Board's jurisdiction to grant a remedy under section 163, however, will depend on a finding that "the exercise of the right of entry caused damage". If the evidence does not support that there was an "exercise of the right of entry", that there was "damage", and that the exercise of the right of entry "caused" the damage, then the Board's jurisdiction to award a remedy is questionable. So in other words, if the entry was for an unauthorized purpose under the right of way agreement, and that purpose is not for a "flowline", given section 145(2) of the *Petroleum and Natural Gas Act*, the Board may not ultimately have jurisdiction to provide a remedy.

DATED: June 26, 2013

FOR THE BOARD



Cheryl Vickers, Chair