

File No. 1643/1644
Board Order No. 1643/44-1

July 22, 2010

MEDIATION AND ARBITRATION BOARD

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

AND IN THE MATTER OF
NE ¼ Section 11, Township 77, Range 17, W6M, Peace River District
SW ¼ Section 14, Township 77, Range 17, W6M, Peace River District
NW ¼ Section 11, Township 77, Range 17, W6M, Peace River District
(The "Lands")

BETWEEN:

MURPHY OIL COMPANY LTD.

(APPLICANT)

AND:

DUANE HALLIDAY and SUZANNE HALLIDAY

(RESPONDENTS)

BOARD ORDER

Heard by telephone conference: July 21, 2010

Mediator: Cheryl Vickers

Appearances: Rick Williams, Ed Johnston, Glen Schafer,
and Lloyd Maxwell for the Applicant, Murphy
Oil Company Ltd.

Duane Halliday, on his own behalf

Brian Halliday, for the Respondent, Suzanne
Halliday

[1] The Applicant, Murphy Oil Company Ltd. (Murphy Oil), applies to the Board for mediation and arbitration respecting right of entry to Lands owned by Duane Halliday and Duane and Suzanne Halliday, and compensation payable for that entry. Murphy Oil seeks access to the Lands to construct and operate a flowline. Murphy Oil has received a permit from the Oil and Gas Commission (OGC) for the construction of the flowline. The Respondents do not consent to Murphy Oil accessing the Lands.

[2] Pursuant to the *Petroleum and Natural Gas Act*, the Board may authorize entry onto private lands if entry is required to explore for, develop or produce petroleum or natural gas, or for an incidental or connected purpose. A company who enters private land for the purpose of developing or producing petroleum or natural gas is liable to pay compensation to the land owner for loss or damage caused by the entry, occupation or use of the land.

[3] The Respondent, Duane Halliday, does not want anything to do with Murphy Oil. He wants "be left in peace". He would prefer that the flowline go around his property and expressed concerns about his inability to build a residence on the property in the future because of the location of the proposed flowline. Mr. Halliday's concerns with respect to the location of the flowline are concerns that should have been brought to the attention of the OGC. It is within the OGC's jurisdiction to determine whether the proposed location for a flowline is appropriate and whether a proposed oil and gas installation otherwise complies with applicable legislation and Regulations. In issuing a permit for Murphy Oil's proposed flowline, the OGC has determined that the proposal is appropriate and has authorized its construction. I am advised by the OGC that Mr. Halliday was not willing to engage with them to deal with his concerns.

[4] Murphy Oil advised that all of the other landowners along the proposed flowline have entered right of way agreements allowing entry to their land for the

purpose of construction and installation of the flowline. Murphy Oil would like to commence construction as soon as possible so as to be able to tie wellsites into their Tupper West gas plant. I am satisfied that Murphy Oil needs access to the Lands to construct and operate the proposed flowline.

[5] On the issue of compensation, I understand Mr. Halliday does not agree that the amount of compensation offered by Murphy Oil is adequate. He suggested compensation should be in line with that paid by two other companies for other pipelines, but was not sure how those amounts were arrived at and was not specific as to what those amounts were for pipeline access. He indicated that a number of trees will have to be removed from the Lands to construct the flowline but no specific amount for compensation was suggested for this loss. Murphy Oil has made a compensation offer that includes compensation for the right of way, the compulsory aspect of the taking, and for temporary workspaces. It does not include an amount for damages or crop loss. Both parties are of the view the Board will have to arbitrate the compensation and that an agreement is unlikely. Given the history of these proceedings, I am inclined to agree.

[6] With respect to the timing of a right of entry order, Mr. Halliday expressed that it should not be made until either the amount of compensation was determined or that it should be held off for one year. The Board has been trying to engage the Respondents in mediated discussion for some time on the issue of compensation but Mr. Halliday has, until today, refused to participate. Mr. Halliday had the opportunity engage with the OGC with respect to his concerns but declined to do so. I see no reason to delay the entry as suggested by Mr. Halliday. The flowline has been permitted by the OGC, all of the other landowners on the flowline have consented to entry, and without the flowline, Murphy is unable to tie in producing wells to their gas plant. I am satisfied that the right of entry order should be made. The matter of compensation may proceed to arbitration if the parties continue to be unable to agree on the appropriate compensation payable.

[7] Pursuant to sections 18 and 19 of the *Petroleum and Natural Gas Act*, the Mediation and Arbitration Board Orders:

1. Further mediation is refused;
2. Upon payment of the amounts set out in items 3, 4 and 5 below, Murphy Oil Company Ltd, including its employees, contractors and assigns shall have the right of entry to and access across those portions of the Lands shown in Schedule "A" for the purpose of constructing and operating the flowline approved by the Oil and Gas Commission to be constructed on the Lands;

3. Murphy Oil Company Ltd shall deposit with the Mediation and Arbitration Board a security deposit payable to the Minister of Finance in the amount of \$10,000.00. All or part of the security deposit may be returned to Murphy Oil Company Ltd. or paid to the Respondents upon the agreement of the parties or as ordered by the Board;
4. Murphy Oil Company Ltd. shall pay to Duane Halliday the amount of \$14,439.00 as partial payment for compensation payable for entry to and use of that portion of the Lands identified as NE ¼ of Section 11, Township 77, Range 17, W6M, Peace River District and SW ¼ of Section 14, Township 77, Range 17, W6M, Peace River District;
5. Murphy Oil Company Ltd. shall pay to Duane and Suzanne Halliday the amount of \$3,035.00 as partial payment for compensation payable for entry to and use of that portion of the Lands identified as NW ¼ of Section 11, Township 77, Range 17, W6M, Peace River District;
6. Murphy Oil shall serve the Respondents with a copy of this Order prior to entry on the Lands. Service may be accomplished by sending a copy of the Order to each of the Respondents by registered mail;
7. Nothing in this Order operates as consent, permission, approval or authorization of matters within the jurisdiction of the Oil and Gas Commission.

DATED July 22, 2010

FOR THE BOARD



Cheryl Vickers, Chair