

IN THE MATTER OF
THE FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT, RSBC 1996 C. 131
AND IN THE MATTER OF THREE COMPLAINTS REGARDING NOISE FROM
A PROPANE CANNON FROM BIRD PREDATION MANAGEMENT PRACTICES
ON A NEIGHBOURING FARM IN OLIVER, BRITISH COLUMBIA

BETWEEN:

**MARK MCMILLAN, KATHY MCMILLAN, ERICA SCHREIBER,
GARY CHAMPAGNE & RUTH CHAMPAGNE**

COMPLAINANTS

AND:

ROBIN BONNETT

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia
Farm Industry Review Board:

Pawan Joshi, Presiding Member
Wendy Holm, Member
Abra Brynne, Member

For the Complainant:

Mark McMillan, self-represented
Kathy McMillan, self-represented
Erica Schreiber, self-represented
Gary Champagne, self-represented
Ruth Champagne, self-represented

For the respondent:

Robin Bonnett, self-represented

Date of Hearing:

May 20 - 21, 2026

Place of Hearing

Osoyoos, British Columbia

A. INTRODUCTION

1. This decision relates to three complaints filed with the British Columbia Farm Industry Review Board (**BCFIRB**) under section 3 of the *Farm Practices Protection (Right to Farm) Act*, RSBC 1996, c. 131 (the **Act**), and received by BCFIRB on September 5, 2023, September 19, 2023, and October 5, 2023.
2. The complaints were filed respectively by Mark and Kathy McMillan, Erica Schreiber, and Gary and Ruth Champagne (the **Complainants**). In brief, the Complainants allege that they are aggrieved due to the bird predation management practices employed by their neighbour, Robin Bonnett (the **Respondent**) and in particular the seasonal use of a propane cannon which is disruptively loud and impacts their quality of life. The Complainants further allege that the propane cannon limits their ability to go outside, open their windows or entertain guests at certain times of the year due to the noise.

B. BACKGROUND

3. The Respondent's property is a vineyard of approximately 11.5 acres which produces wine grapes. It is located [REDACTED] in Osoyoos, BC and is included in the provincial Agricultural Land Reserve (**ALR**).
4. The current complaints are in part a re-filing of a previous complaint made in July 2022 by Ms. Schreiber against the Respondent. As part of that process, BCFIRB retained Ministry of Agriculture Agrologists Lindsay Hainstock P.Ag, and Philip Gyug, P.Ag as "Knowledgeable Persons" under section 4 of the Act. Ms. Hainstock and Mr. Gyug prepared an initial report in November 2022, which assessed the Respondent's farm and more specifically his propane cannon use and bird predation management practices and the effects of those practices on Ms. Schreiber's property.
5. In April 2023, the Parties came to a non-binding agreement stipulating that if the Respondent did not adhere to the terms then Ms. Schreiber could re-file her complaint and the matter would proceed to a hearing. The terms of the agreement were as follows:
 - To mitigate bird pressure, the respondent agrees to implement the use of bird scare tape along the east side of the respondent property bordering the creek (Park Rill) and the adjoining vineyard.
 - The respondent agrees to utilize a propane cannon only when necessary and ensure it operates within the Wildlife Damage Control -Interior BC Guidelines, and similar to the observations noted by the KP's in their November 25, 2022 report.
6. In the fall of 2023, the Complainants filed the complaints that are the subject of this decision. In October 2023, the Respondent applied for a summary dismissal of the complaints on the grounds that he was operating well within the Wildlife Damage Control -Interior BC Guidelines. By letter issued December 2023 the

Chair of BCFIRB dismissed the Respondent's application and referred all three complaints to be heard by a panel.

7. In March 2025, Ms. Hainstock returned to the properties to gather context on the McMillan and Champagne properties, as well as to ascertain if the Respondent's bird predation management practices and propane cannon use had changed. Ms. Hainstock and Mr. Gyug both testified as Knowledgeable Persons at the hearing.
8. The BCFIRB hearing panel (the **Panel**) conducted a site visit of the Complainant and the Respondent properties on May 20, 2026.
9. The hearing was held before the Panel in Osoyoos, BC on May 20-21, 2026. The hearing was held in person.
10. The Panel has fully considered all the facts and evidence in the parties' written submissions and adduced during the hearing, but the Panel refers only to the facts and evidence it considers relevant and necessary to explain its reasoning in this decision. The Panel will not comment on the various assumptions and conclusions drawn by the parties, or the criticisms they have directed at each other, in their written submissions or at the hearing.

C. ISSUE

11. Is the propane cannon that is being used as part of the bird predation management practices on the Respondent property being operated in accordance with normal farm practice?

D. FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT

12. The Act contemplates that complaints arising from dust, noise, odours or other disturbances caused by a farm operation that is part of a farm business are to be adjudicated by BCFIRB on the basis of whether those operations are consistent with normal farm practices.
13. Under Section 3(1) of the Act, if a person is aggrieved by a farm operation they can apply to BCFIRB for a ruling as to whether or not the disturbance results from a normal farm practice.
14. To be successful, the complainant must demonstrate both a) that they are aggrieved and b) that the complained of practice is inconsistent with normal farm practice. To determine whether the farm operation in question is consistent with normal farm practices, the Panel typically reviews the evidence of the parties and considers the expert evidence of Knowledgeable Persons.

E. KNOWLEDGABLE PERSONS

15. Ms. Hainstock's title is "Regional Agrologist and Grape Specialist" within the Ministry of Agriculture (the **Ministry**). She has been in this role since 2024 and prior to that served as an Industry Advisor for tree fruits and grapes from 2021-2024. She holds a Bachelor of Science in Agriculture (Plant Science) and a Master of Science (Agriculture). Her role at the Ministry involves working with local governments, industry, and communities to help steer, develop and implement ministry programs and initiatives.
16. Mr. Gyug's title is "Regional Agrologist" within the Ministry. He has been in this role since 2021. He holds a Bachelor of Science in Earth and Environmental Science. His role at the Ministry involves working with local governments, industry, and communities to help steer, develop and implement ministry programs and initiatives.
17. Ms. Hainstock and Mr. Guyg conducted site visits of Ms. Schreiber's and the Respondent's respective properties on September 22, 2022. On November 15, 2024, Ms. Hainstock conducted a supplementary site visit of all the Complainant properties as well as the Respondent property. The KP Reports dated November 22, 2022, (**First KP Report**) and February 26, 2025 (**Second KP Report**) were included as exhibits at the hearing of the complaints.
18. In their testimony, Ms. Hainstock and Mr. Gyug confirmed the findings contained in the First KP Report, and in particular:
 - AF staff could find no evidence of propane cannon use at the Respondent's farm that differed from the use of propane cannons as recommended in published industry guidelines or in other vineyards in comparable situations.
 - The vineyard utilizes approximately 3.9 hectares of the 4.66-hectare property and is within the guidelines of operating one device per 2 hectares of crop land.
 - The observed firing frequency equals approximately 5.05 activations per hour and 15.15 shots to the hour which is about half of the maximum recommended 11 activations and 33 shots in the hour from the guidelines.
 - The device operates within the one-half hour before sunrise and 7:00pm or dusk and the use period of September to October is within the guidelines of May 15 to November 15.
19. In her testimony, Ms. Hainstock confirmed the findings contained in the Second KP Report:
 - There was no evidence presented that demonstrated the use of a propane cannon on the Respondent's property differed from the use of propane cannons as recommended in the published industry guidelines or in other vineyards in comparable situations.
 - ...reports regarding the timing intervals between cannon shots... ranged from three-shots every 8 minutes to every 15 minutes. These all fall within the acceptable

recommended use of no more than 11 activations or maximum of 33 shots in any hour for a multiple-shot device.

- There were no complaints that the propane cannon was operating outside the recommended timing of between one half hour before sunrise and 7:00 p.m. local time or dusk, whichever is of lesser duration (sunrise as provided by Environment Canada).
- Regarding the complaint that the noise is disruptive to farm workers, farm workers regularly work in situations where regular loud noises can be present, and it is the responsibility of the employer to provide the correct protective equipment.

20. In their testimony and in response to cross examination, Ms. Hainstock and Mr. Guyg also provided the following evidence:

- When they visited the vineyard in September, 2022, the propane cannon was operating. They observed significant pressure from bird predation, particularly in the rows adjacent to the Park Rill riparian area. The propane cannon was located in the middle of the property 162 meters from the Schreiber home and 140 meters from the property line and was properly calibrated. Some rows were covered by netting, others had netting rolled up at the end of the rows.
- When the vineyard was revisited in November, 2024, some reflective tape was present, and the propane cannon was level and able to shoot randomly in all directions.
- In her testimony, Ms. Hainstock reiterated that a diversity of bird scare tactics is the best defence and also her recommendation to the parties to develop a communications plan wherein:
 - a) the respondent would let the neighbours know when the propane cannon would begin its seasonal firing,
 - b) the complainants would advise guests so they would not be startled and provide hearing protection to any workers bothered by the noise, and
 - c) that parties endeavour to find a time during the day when the propane cannon might be turned off for a period.

F. COMPLAINANTS' EVIDENCE

Kathy and Mark McMillan

21. Kathy and Mark McMillan gave their oral evidence as a panel. In the course of their oral evidence and in their written submissions they questioned the Respondent's use, placement and timing of the propane cannon; noted the ways in which the Respondent's propane cannon use adversely impacted their ability to enjoy their home, entertain guests and safely handle their horses; and suggested that the propane cannon was operated by the Respondent in a manner intended to deliberately upset his neighbours.

22. The McMillans stated that they have lived at their property for five years and that the propane cannon has had a significant impact on their horses. They acknowledged that the horses eventually habituate to the propane cannon shots as the season progresses, however they noted that the propane cannon is very upsetting to the horses at the beginning of each season, and their startled reactions can make it unsafe for the McMillans to work with them.
23. The McMillans presented four responses to a written survey they had prepared to gather the opinions of neighbours and other vineyard operators unable to attend as witnesses. In the one-page survey, the McMillans acknowledged the Respondent was within his rights to use the propane cannon but argued that the Respondent had failed to respect his neighbours. The four-question survey sought the writer's opinion on the relative effectiveness of propane cannons, scare tape and netting as bird deterrents and whether respect for neighbours should be a priority. The McMillans also submitted two emails and a transcript of a message from a third individual. All seven responses were supportive of the need for orchardists to respect their neighbours and several of the emails described the disturbance that the propane cannon use had caused them personally.
24. The McMillans stated that the Respondent had not used netting as a bird deterrent. They submitted copies of numerous documents on the operation of bird scare devices and on other animals - such as raccoons - that predate on grapes, from various sources (BC Wine Grape Council, Oregon Wine Growers, City of Abbotsford bylaws and Ontario Ministry of Agriculture, Food and Rural Affairs). The McMillans testified that they had set up trail cameras and observed raccoons, deer and coyotes eating the grapes at night. They provided video evidence of these activities.
25. The McMillans claimed that the Respondent's propane cannon was always pointed at their deck, and that it was unlevel and not firing in random directions. They further testified that the model of propane cannon in use by the Respondent (Triple John) could be fitted with a longer barrel to dampen the sound volume of the shots.
26. The McMillans submitted that the propane cannon should be stopped every day at 4:30 so that they and their guests could enjoy their property undisturbed by the noise from the propane cannon.

Erica Schreiber

27. In her oral evidence and her written submissions, Ms. Schreiber stated that the use of the propane cannon greatly disturbed her quality of life and that the Respondent's use of bird scare tape was minimal. She questioned his use of a propane cannon to reduce bird predation, arguing that netting was more effective. She noted that the mountain behind her property made the sound of the

propane cannon ricochet, and claimed that “ninety eight percent of farmers who still use a cannon use a single shot cannon”.

28. Ms. Schreiber testified that she has lived on her property for 35 years. She noted that use of the propane cannon began in 1999 when the Respondent's property was replanted to grapes. She stated that the Respondent had not complied sufficiently with the April 2023 agreement to install bird scare tape on the grape rows in his vineyard which are adjacent to Park Rill. She further stated that the Respondent was rude to her and that he had never introduced her to Mr. Dhaliwal.
29. Ms. Schreiber testified that the propane cannon previously ran from 7 am to 7 pm and now it runs from 7 am to 6 pm. She suggested that the propane cannon was moved closer to her home after the first site visit based on the increase in the volume of the sound and that the interval between shots from the cannon is every 8 minutes and not every 10 to 11 minutes.
30. Ms. Schreiber agreed that the frequency and timing of the propane cannon was within the guidelines for normal farm practices, but stated that the Respondent did not respect her as a neighbour or he would have provided breaks during the day. She acknowledged that there were birds present “from dawn to dusk”. She agreed that the Respondent has used netting but complained that it is “always the cannon”.
31. Ms. Schreiber testified that respect is the central issue of her complaint and she believes that she is owed more respect from the Respondent. She stated that the propane cannon used by the Respondent is too big for the Respondent's property and should be replaced with a single shot cannon. She submitted that the Respondent's use of the propane cannon should include a daily intermission between 3 and 5 pm.

Ruth and Gary Champagne

32. Ruth and Gary Champagne gave their oral evidence as a panel. In both their oral evidence and their written submissions they noted the importance of Park Rill Creek as a wildlife corridor serving the Southern Okanagan Basin Ecosystem and the potential adverse impact of the propane cannon on avian habitat.
33. The Champagnes testified that they understand the commitment and dedication required for farming. They explained that they have four decades of background in cattle ranching in the Cariboo-Chilcotin and the Kettle Valley. They noted that when they sold their ranch in 2018, they bought a vineyard. When COVID reduced their labour force, they sold the vineyard in 2020 and moved to their present 10-acre property where they currently grow peppers.

34. The Champagnes testified that while they appreciated the Respondent's use of the propane cannon falls within normal farm practices, its operation is causing grief for five people. They note that each shot produces 120 to 130 decibels of sound -equivalent to a jetliner taking off – and that shots are fired every 8 minutes for 6 to 8 weeks a year. They said that they do not dispute the Respondent's right to use the cannon, but that he fails to acknowledge how it impacts them in many ways.

Complainant Witness – Dave O'Reilly

35. Mr. O'Reilly has a small cherry orchard on Highway 97 located approximately 1 kilometer away from the Respondent's property. He stated that he uses bird scare tape to manage bird predation which is partially effective. He testified that he knows of other vineyards that operate their propane cannons in the morning and evening hours, leaving a break in the middle of the day.

Complainant Witness – Sukhi Dhaliwal

36. Mr. Sukhi Dhaliwal was called as a witness by the Complainants. Mr. Dhaliwal has leased the Respondent's property since 1999 and at that time the property was planted as an orchard. The lease with the Respondent was Mr. Dhaliwal's first as an orchardist. When he took over management, he replanted the land to grapes, leaving a 20-foot buffer between his grapes and the wildlife corridor.
37. Mr. Dhaliwal explained that he has tried bird scare tape - which he described as much cheaper than a propane cannon - and would use it if it worked, but it does not.
38. Mr. Dhaliwal testified that he had experienced poor economic returns in 2023 and 2024 but that 2025 had been better. He explained that he was paid on the quality of his grapes and so, as a viticulturist, he sought to produce the best quality grapes possible in order to provide for his family. He explained that the proximity to Park Rill meant that he was always looking for cost-effective bird deterrents because he lost approximately one ton of grapes per year to avian predation.
39. Mr. Dhaliwal explained that he uses a variety of bird deterrents, including netting and reflective tape along the edge of the wildlife corridor. He noted that he cannot use bird scare tape above the rows because it interferes with his mechanical pruning equipment. He further noted that selecting the most effective approach each season was one of his most important business decisions as a viticulturist.
40. Mr. Dhaliwal testified that he recognizes that his neighbours have a right to be respected and stated that he feels that he gives them that respect. As an example, he noted that he could legally place 8 propane cannons on the 40 acres of vineyard he leases surrounding the Respondent's property but he is in fact only using one. Mr. Dhaliwal explained that turning off the cannon during the day was not practical as "starlings come when they are hungry". He noted that he has

always agreed to stop the propane cannon when requested by his neighbours for an event, even although this cessation has required him to keep a worker in the vineyard to scare the birds during that time.

G. RESPONDENT'S EVIDENCE

41. The Respondent testified that his property was a third-generation farm that has been in operation since the 1920's. The Dhaliwal family leased the orchard portion of the property in the 1990's.
42. The Respondent noted that he monitors the propane cannon, and its intervals are well within the guidelines for normal farm practices. He testified that the base of the propane cannon is level and the cannon points in random directions after each shot. He testified that netting is also regularly used in the vineyard. He submitted that the propane cannon is being operated in accordance with normal farm practice to mitigate crop damage from bird predation.

Respondent Witness – Gagan Dhaliwal

43. Mr. Gagan Dhaliwal is a family member of Mr. Sukhi Dhaliwal and works in the family's vineyard business. Mr. Dhaliwal noted that in an ideal world, no bangers (propane cannons) would be used, but to not do so would be to risk his family's livelihood.
44. Mr. Gagan Dhaliwal explained that the challenge was to grow top quality grapes, and that while nets were more effective to reduce bird predation, they were also more costly. He reiterated that 2023 and 2024 had been difficult years for their family financially, and that they were paying off debt. He noted that they did not have the manpower nor the money to net all 600 acres of vineyards under their management.
45. With respect to the possibility of reducing the noise by lengthening the cannon's muzzle, Mr. Dhaliwal stated that he was unaware that their model could be so adapted but, in any event, this was not practical as it would reduce effectiveness. He further testified that he did not believe it would be viable to use stops to limit its swing to less than a full circle because it is meant to rotate 360 degrees to be effective.

H. ANALYSIS

46. These complaints were filed pursuant to section 3(1) of the Act which reads as follows:

3(1) If a person is aggrieved by any odour, noise, dust or other disturbance resulting from a farm operation conducted as part of a farm business, the person may apply in writing to the board for a determination as to whether the odour, noise, dust or other disturbance results from a normal farm practice.

Normal farm practice is defined in Section 1 of the Act as follows:

Normal farm practice means a practice that is conducted by a farm business in a manner consistent with:

- a) proper and accepted customs and standards as established and followed by similar farm businesses under similar circumstances, and
- b) any standards prescribed by the Lieutenant Governor in Council, and includes a practice that makes use of innovative technology in a manner consistent with proper advanced farm management practices and with any standards prescribed under paragraph (a).

- 47. When a person files a complaint under the Act, section 3 requires the complainant to demonstrate both that they are aggrieved by the complained of disturbance (which arises out of a farm operation, carried on by a farm business) and that the complained of practice is inconsistent with 'normal farm practice' (proper and accepted customs and standards as established and followed by similar farms in similar circumstances).
- 48. If, after hearing the evidence, the Panel is of the opinion that the odour, noise, dust or other disturbance results from a normal farm practice, the complaint is dismissed. If the disturbance results from a practice that is not a normal farm practice, the Panel may order the farmer to cease or modify the practice.
- 49. In this case, the evidence was clear that the Complainants were negatively affected by the noise arising from the propane cannon. The Respondent did not substantively contest that the volume and the rapidity of the shots fired by the propane cannon could interfere with his neighbours quiet enjoyment of their properties. As such, the Panel finds that the Complainants are aggrieved persons as required by the Act.

Is the Respondent's use of the propane cannon as part of bird predation management practices, consistent with 'normal farm practice'?

- 50. To determine whether a complained of practice falls within the definition of 'normal farm practice', the Panel must determine whether the practice is "consistent with proper and accepted customs and standards as established and followed by similar farm businesses under similar circumstances."
- 51. This determination requires consideration of general industry practices, together with the specific contextual circumstances of the Respondent's farm in relation to properties around it. The analysis may involve asking what, if any, reasonable steps the Respondent should take to mitigate disturbances resulting from the farm operations – sometimes called the "good neighbour principle": see *Harrison v. Mykalb*, (January 30, 2013), *Ollenberger v. Breukelman* (November 18, 2005), and *Eason v. Outlander Poultry Farms Ltd.* (March 10, 2000).

52. The normal farm practice test was discussed in detail in *Swart v. Holt*, January 12, 2016, at para. 89 to 96. We adopt those paragraphs in their entirety, and we quote from paragraphs 96 and 97 of that decision:
96. It is important that the test for normal farm practice be clearly stated. It is pivotal to the operation of the FPPA. BCFIRB has been given primary responsibility to interpret this highly specialized and ambiguous term.
97. BCFIRB is entitled to adopt any reasonable construction that it considers best achieves the objects of the FPPA. In our view, and to address any confusion that may arise from the Holt Court Decision on this issue, we find that the principles set out in Pyke as adopted in BCFIRB decisions, are the principles that best achieve the objects of the FPPA. Only a fully contextual approach can meaningfully account for the words “proper” and “similar circumstances” in their context, and achieve the balancing of interests that is inherent in the very creation of a complaints structure. This also means, as set out by the BC Supreme Court in Ollenberger that this panel will consider if on application of the “good neighbour principle”, it is required to go beyond accepted farm practices to order a farm to do something more in order for its practices to be consistent with normal farm practice. That is the approach we have applied to this case.
53. In this case, the five Complainants have acknowledged and agreed that the Respondent has been operating the propane cannon on his property within the bounds of normal farm practices. No evidence was presented to this Panel to the contrary.
54. The Complainants have instead submitted written statements, photographs and videos to demonstrate how their lives have been negatively impacted by the use of the propane cannon on the Respondent’s vineyard. While the Panel appreciates that the use of the propane cannon can be disruptive to neighboring property owners, the test is not whether a disruption is caused but whether that disruption is in accordance with normal farm practices and therefore in accordance with the Act.
55. The KP Reports showed that the use of the propane cannon on the Respondent’s property did not diverge from the recommended industry practices or the use of similar devices in comparable vineyard operations. The reported firing intervals between every 8 and 15 minutes were within the recommended limit of no more than 11 activations or 33 shots per hour for multiple-shot devices. There was also no evidence that the propane cannon was operated outside the recommended hours of use, being between one-half hour before sunrise and 7:00 p.m. local time or dusk, whichever is earlier. Mr. Dhaliwal provided evidence that a diversity of scare devices were being used to mitigate bird predation; principally the propane cannon and netting but also some reflective bird scare tape along the wildlife corridor.
56. The Panel finds Mr. Dhaliwal took reasonable steps to mitigate disturbances resulting from the farm operations in accordance with the “good neighbour principle” identified in *Swart*.

57. With respect to concerns regarding impacts on farm workers, the KP's noted that agricultural work may involve exposure to loud noises, and employers are responsible for ensuring appropriate workplace safety measures, including the provision of suitable protective equipment. Workplace safety is also not a matter falling within the jurisdiction of BCFIRB except insofar as the concern effectively renders the farm practice in question outside of the bounds of normal farm practice. That is not the case in this instance.
58. With respect to the McMillans' horses, the evidence raised legitimate safety concerns. The Panel notes that the Respondent has agreed to provide two days advance notice to his neighbours regarding the operation of the propane cannon, which again accords with the "good neighbor" principle.
59. With respect to the periodic daytime shutdown of the propane cannon, the Panel agrees with the Respondent's evidence that this would be difficult and potentially costly to implement, as birds continue to frequent the vineyard throughout the day and, in the absence of the propane cannon, workers are required to manually deter them.
60. The second KP Report included recommendations to improve the interactions between the parties with respect to the Respondent's use of the propane cannon, summarized as follows:
- a) A communication plan should be created between all parties.
 - b) The Respondent should provide notice, including the dates and times of intended use of the cannon, to his neighbours.
 - c) All neighbours are responsible for providing notice to anyone visiting or working on their properties during the time period the cannon is being used so they will not be startled by the noise. This includes supplying ear protection to any farm workers who are bothered by the noise during times when the propane cannon is being used.
 - d) All of the parties should work together to find agreed upon time periods during the day when the propane cannon can be turned off so the neighbours can quietly enjoy their properties.
61. The Panel finds that the Respondents use of the propane cannon as part of its bird predation management practices is consistent with normal farm practice. In light of that finding by the Panel, no further orders will be made with respect to modifying the Respondent's bird management practices. The Panel further finds that the Respondent has engaged in, or has committed to, "good neighbor" mitigation efforts to limit the effects of the propane cannon for his neighbors. The Panel encourages the Respondent, in cooperation with his neighbors, to continue in those efforts as described in the KP's recommendations.

I. ORDER

62. The Complaints are dismissed. There is no order for costs.

Dated at Victoria, British Columbia, this 31 day of July 2026

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD
Per:



Pawan Joshi, Presiding Member



Wendy Holm, Member



Abra Brynne, Member