

ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Report and Recommendations - May 17, 1996

Date of Pre-Hearing Meeting - May 9, 1996

IN THE MATTER OF Sections 84, 86, 87, 91, 92 and 93 of the
Environmental Protection and Enhancement Act, (S.A. 1992, ch. E-
13.3 as amended);

-and-

IN THE MATTER OF an appeal filed by Mr. Roy S. Hanson, with
respect to Reclamation Certificate No. 31851 issued by the Inspector
of Land Reclamation Division, Alberta Environmental Protection to
Inverness Petroleum and subsequently assumed on May 26, 1994 by
Fletcher Challenge Petroleum Inc.,

Cite as: Hanson v. Inspector of Land Reclamation, Alberta Environmental Protection

PRE-HEARING MEETING BEFORE: Dr. John P. Ogilvie

APPEARANCES: Appellant: Mr. Roy S. Hanson

Also in attendance with the Appellant: Mr. Bill Hanson;

Mr. Fred Johnson, Fletcher Challenge Petroleum Inc., and Mr. Chris Helland, Land Resource Specialist, Mancroft Resource Consultants Ltd.;

Mr. Gilbert Van Nes, Environmental Law Section, Alberta Justice, representing the Inspector, Land Reclamation Division, Alberta Environmental Protection, and Mr. Andy Etmanski.

BACKGROUND

On January 13, 1995, Mr. Roy S. Hanson (the Appellant) filed a notice of appeal with the Environmental Appeal Board regarding Reclamation Certificate No. 31851 issued to Fletcher Challenge Petroleum Inc. The Certificate was issued on May 26, 1994, by Mr. Andy Etmanski, Land Reclamation Division, Alberta Environmental Protection, and indicated that the operator achieved the objective of satisfying the equivalent land capability standard.

The Board wrote a letter to the Inspector of Land Reclamation Division, Alberta Environmental Protection, on January 16, 1995, in order to determine whether the appeal had been validly filed.

The Board wrote to all parties on March 1, 1996, advising that it would be conducting a pre-hearing meeting on May 9, 1996. The Board also advised that if the meeting did not result in the resolution

of the issues in Hanson's appeal, the Board would be requiring written submissions¹ in preparation for a full hearing.

THE PRE-HEARING MEETING

The pre-hearing meeting was held on May 9, 1996, in Provost, Alberta. According to the Board's standard practice, the Board called the pre-hearing in an attempt to mediate or to facilitate the resolution of this appeal or, failing that, to make arrangements for the oral hearing. The Board invited representatives from each party to participate in this pre-hearing meeting and the attendance at this meeting was as previously listed.

In conducting the pre-hearing, Dr. Ogilvie provided a review of the appeal and mediation process and explained the purpose of the pre-hearing meeting. He then circulated copies of "Participants' Agreement to Mediate". In reviewing the document, all parties presented a willingness to enter into mediation, signed the agreement and the pre-hearing continued.

The Appellant expressed his concerns which were the basis of his appeal. Mr. Hanson stated that the site in question was taken over by crested wheat grass, which was not approved to be in the original mixture of seeds. He indicated he wanted the piezometer maintained for the protection of ground water and he also discussed gas leaks.

Representatives from Fletcher's expressed a willingness to work with the Appellant in order to address any concerns. They explained the history of the wellsite. Following the discussion of several terms and conditions of mediation, the parties agreed to the following resolution of this appeal (see page 4 of this report).

¹ This requirement is found in section 10 of the Environmental Appeal Board Regulation (Alta. Reg. 114/93).

**RESOLUTION OF APPEAL NO. 95-003 REGARDING RECLAMATION
CERTIFICATE NO. 31851-NW-23-37-4W4M.**

All parties to the appeal have agreed to the following terms and conditions:

1. That Fletcher Challenge Petroleum Inc. (FCPI) agrees, in consultation with the land owner, to "wipe" the lease area (approximately 2 acres) twice, with the option of a third "wipe" of round up if required with the aim of getting rid of the crested wheat grass.
2. That FCPI agree to reseed the lease area (approximately 2 acres) with a mixture of grass, including blue gamma, approved by the land owner.
3. That FCPI will monitor the composition of water in the dug out in conjunction with the ongoing EUB approved annual water monitoring program.
4. In accordance with s. 127 of the *Environmental Protection and Enhancement Act* Mr. Hanson, may complain to the Department, on the issue of equivalent land capability if he is not satisfied.
5. That FCPI and Mr. Roy Hanson have entered into another agreement addressing certain other matters between them (which is attached to this resolution).
6. That the two (2) existing piezometers will be removed by FCPI before August 1997 in consultation with the land owner.
7. THAT the Appellant, Mr. Roy S. Hanson agrees to withdraw his Notice of Objection.

RESOLUTION AGREED TO BY:

(Original Signed)
Mr. Roy S. Hanson

Date: May 9, 1996

(Original Signed)
Mr. Andy Etmanski,
Department of Environmental Protection

Date: May 9, 1996

(Original Signed)
Fletcher Challenge Petroleum Inc.
Represented by Mr. Fred Johnson, R.E.T.
Environmental Coordinator

Date: May 9, 1996

RECOMMENDATIONS

The Board recommends that the Minister of Environmental Protection confirm the decision of the Inspector of Land Reclamation in Reclamation Certificate No. 31851, subject to all of the conditions, with the exception of condition #5, of the Resolution contained herein.

Further, with respect to section 92(2) and 93 of the *Environmental Protection and Enhancement Act*, the Board recommends that copies of this Report and Recommendations² and of any decision by the Minister be sent to the following parties:

- Mr. Roy S. Hanson;
- Mr. Fred Johnson, Fletcher Challenge Petroleum Inc.; and
- Mr. Gilbert Van Nes, Environmental Law Section, Alberta Justice, representing the Inspector, Land Reclamation Division, Alberta Environmental Protection.

Dated May 22, 1996, at Edmonton, Alberta.

(Original Signed) _____

Dr. John Ogilvie

²As this appeal concluded by resolution of the parties, a copy of this report is being sent to each party pursuant to section 12 of Alta. Reg. 114/93.

ORDER

I, Ty Lund, Minister of Environmental Protection:

yes Agree with the Recommendations of the Environmental Appeal Board and order that they be implemented.

_____ Do not agree with the Recommendations of the Environmental Appeal Board and make the alternative Order set out below or attached.

Dated at Edmonton this 06 day of June 1996.

(Original Signed) _____

Honourable Ty Lund
Minister of Environmental Protection

_____ Refer to Attachments (only if applicable)

