

ALBERTA ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Withdrawal: November 13, 1996

IN THE MATTER OF Sections 84, 85, 86 and 87 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 Penn West Petroleum Ltd., with respect to Approval No. 9804-01-02 issued by the Director of Air and Water Approvals, Alberta Environmental Protection to Penn West Petroleum Ltd., c/o Macdonald Engineering Group Ltd. The letter of withdrawal from Mr. Bill Bell on behalf of Penn West Petroleum Ltd. dated November 13, 1996, the Board hereby discontinues its proceedings in this matter and will be closing its file pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*.

Cite as: Penn West Petroleum Ltd. v. Director of Air and Water Approvals, Alberta Environmental Protection.

BACKGROUND

On September 12, 1996, Mr. Bill Bell on behalf of Penn West Petroleum Ltd. filed a Notice of Appeal with respect to Amending Approval No. 9804-01-02 and the terms, conditions and requirements attached to approval subsection 4.2.1(b) issued by the Director of Air and Water Approvals to Penn West Petroleum Ltd. Subsection 4.2.1(b) states:

“the concentration of sulphur dioxide in the effluent stream released to the atmosphere shall not exceed a one-hour average of 4,000 parts per million by volume.”

Approval No. 9804-01-00 was issued on April 1, 1996, for the Minnehik-Buck Lake sour gas plant for the processing of natural gas. On April 22, 1996, Amending Approval No. 9804-01-01 was issued and on August 12, 1996, Amending Approval No. 9804-01-02 was issued.

On September 16, 1996, the Board wrote to the Department of Environmental Protection requesting all related correspondence, documents and materials. The Board wrote to the Alberta Energy and Utilities Board (AEUB) and the Natural Resources Conservation Board (NRCB) requesting both advise whether the matter was the subject of a public hearing or review under either of their Boards. On September 27, 1996, the NRCB advised that this appeal did not deal with a matter that had been the subject of any hearing or review under their Board. On September 26, 1996, the AEUB advised the following:

1. Penn West applied for a modification to its existing approval in respect of a sour gas processing facility with a sulphur inlet of greater than 1 t/d. (Application Number 1000745)
2. Two objections were filed (Pembina Institute and Kostuch) causing Penn West to submit an amended application. Based upon the modified application, the two objections were withdrawn. No other objections were filed in respect of this application.
3. The EUB approved the amended application (Approval No. 1996-209 dated August 6, 1996) without hearing. The approval was subject to several conditions some of which were:

sulphur recovery of 94.5%; maximum sulphur emission rate of 2.2 t/d equivalent and Alberta Environmental Protection approval. AEP approval (Approval No. 9804-01-00) was issued in respect of this application in April, 1996.

On October 10, 1996, the Board wrote to Penn West Petroleum requesting comments to the following:

1. In your appeal you state "It is the opinion of Penn West that a reduction in the maximum volume of hydrogen sulphide processed through the facility does not automatically result in a reduction in the concentration of sulphur dioxide in the flue gas as total volume of flue gas is also reduced proportionally to the hydrogen sulphide volume." Would you please explain in some detail the relationship between volume of hydrogen sulphide processed by your plant and flue gas volume?
2. In the event that the Board decides to proceed with this appeal, do you wish to have a pre-hearing meeting under section 11 of the Environmental Appeal Board Regulation? If so, what would you contemplate to be the agenda for that meeting?
3. In your opinion, are there any other persons who have an interest in this matter?

Also on October 10, 1996, the Department of Environmental Protection was requested to comment, by the Board, on the following:

1. In the event that the Board decides to proceed with this appeal, do you wish to have a pre-hearing meeting under section 11 of the Environmental Appeal Board Regulation? If so, what would you contemplate to be the agenda for that meeting? Also, please note that a pre-hearing is not the hearing of the appeal as contemplated under the Act.
2. In your opinion, are there any other persons who have an interest in this matter?
3. Approval 9804-01-02 specifies reductions in the hourly and daily emission rate of sulphur dioxide from those in Approval 9804-01-00. In addition 9804-01-02 requires a reduction in the concentration of sulphur dioxide in the flue gas from 4500 ppm to 4000 ppm. What is the relationship between the emission rate of sulphur dioxide and the concentration of that gas for the Penn West plant?
4. What effect on the ground level concentration of sulphur dioxide will the reduction in flue gas concentration of sulphur dioxide have having regard to the specified reduction in the rate

of emission of that gas?

Written representations were requested and due by October 18, 1996. Responses were received by the Department of Environmental Protection and Mr. Bill Bell on behalf of Penn West Petroleum. In Mr. Bell's response to the Board dated October 22, 1996, he stated:

“As we are currently working with the Air and Water Approvals Division of Alberta Environmental Protection, to resolve this matter outside of the appeal process, and are optimistic that we can resolve that matter in this way, we would like to request that the appeal process be held in abeyance until such other avenues have been exhausted. If this matter is successfully resolved with the Approvals Division, the appeal will be withdrawn.”

On October 25, 1996, the Board wrote to Mr. Bell granting his request and advising that the file would be held in abeyance until November 25, 1996. On November 13, 1996, the Board received written notification from Mr. Bell stating:

“With the issuance of Alberta Environmental Protection Amending Approval No. 9804-01-03 dated 1996-November-12, we consider that the matter of maximum sulphur dioxide in the incinerator flue gas has now been satisfactorily resolved. Therefore, on behalf of our client, Penn West Petroleum Ltd., we hereby withdraw our appeal.”

The Board then reviewed this correspondence and pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, the Board hereby discontinues its proceedings in this matter and will be closing its file.

DECISION

The appeal is therefore withdrawn.

Dated on November 14, 1996, at Edmonton, Alberta.

William A. Tilleman, Chair