
ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings - September 30, 1998

IN THE MATTER OF Sections 84, 85, 87 and 90 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 Continental Lime Limited
with respect to Approval No. 227-01-00 issued to Continental Lime
Limited on June 30, 1998, by Mr. Peter Watson, Director, Alberta
Environmental Protection.

Cite as: Continental Lime Ltd. v. Director, Alberta Environmental Protection.

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BACKGROUND

[1] On June 30, 1998, Mr. Peter Watson, Director, Alberta Environmental Protection (the Department) issued Approval No. 227-01-00 (the Approval) to Continental Lime Ltd. (the Approval Holder) for the construction, operation and reclamation of the lime plant in Exshaw.

[2] On July 28, 1998, the Environmental Appeal Board (the Board) received a Notice of Appeal from Continental Lime Ltd. (the Appellant) advising that they wished to appeal with respect to Approval No. 227-01-00 noting the following:

“It appears that several sections of the final Exshaw approval do not reflect commitments by Alberta Environment and do not ensure consistency with other industrial approvals. This situation is not surprising since Continental Lime did not receive a final draft until late in the afternoon on June 30, 1998. Since the new approval had to be issued by June 30, receiving the final draft so late did not provide time for a proper review. Listed below are the corrections required to make the approvals consistent with previous drafts, agreements made at our June 24, 1998 meeting, and other recently issued approvals:

Section 1.1.2 (r), page 2

The definition of “representative grab sample” should be changed to “An individual sample collected in less than 30 minutes and which is representative of the substance sampled”. The definition in the final approval is unnecessarily complicated - the definition listed above has been taken directly from another recently-issued industrial approval.

Section 2.3.1 (c), page 4

For pH analysis of wastes, test methods ASTM C25-96a should be specified. The range of temperature criteria in USEPA SW-846 is not as stringent as that of ASTM C25-96a. Since pH of alkaline materials varies with temperature, the ASTM test method should be clearly identified to ensure accurate pH data are obtained.

Section 4.1.9, page 6

The word “shall” has been inadvertently omitted from this approval condition (“ ... the approval holder *shall* not operate the process equipment...”).

Table 4.1-A, page 8

At the June 24, 1998 meeting, AEP personnel verbally agreed to reduce the stack testing frequency to every other year. The final approval indicates annual testing is required.

Section 4.1.25, page 8

This last part of this condition should refer to the stack survey results required by Table 4.1-A, not Table 4.1-B.

Sections 4.1.27/4.1.28, page 9

Continental Lime understands that Alberta Environment intends to promote and facilitate a study of ambient particulate levels in the Bow River Valley. Continental Lime will participate in development of this monitoring program. Since this program has not yet been established, the requirement to individually submit a proposal and implement a plan is inappropriate. These requirements are especially premature since ambient standards for PM₁₀ and PM_{2.5} have not yet been established by Alberta. Therefore, sections 4.1.27 and 4.1.28 should be deleted.

Table 4.2-B, page 10

The requirement to the monitor Runoff Pond discharge daily during release is inconsistent with other industrial approvals. Other approvals require monitoring only once per week or three times per week while water is being discharged. The Exshaw approval should reflect a reduced monitoring frequency.

Section 4.3.22, page 14

If delineation well groundwater quality indicates remedial measures are required, the stipulation that these measures be “immediately” implemented is not achievable. The requirement should state that any required remedial measures will “proceed to be implemented immediately”.

Table 4. 4-A, page 15

Draft #3 of the approval correctly specified that wells #1, 2, 3a, 4, 5, 6 and 7 are to be monitored semi-annually. With no discussion, the final approval was modified to include well #3 in this list. Well #3a has been installed to replace well #3 (as noted in section 4.3.18(a) of the approval). Therefore, Table 4.4-A should be returned to its original form and well #3 should be deleted from the Table.”

[3] The Board wrote to Mr. Peter Darbyshire of Continental Lime Ltd. on July 29, 1998, acknowledging receipt of the appeal, and by copy of this letter, requested the Department of

Environmental Protection (the Department) provide copies of all related correspondence, documents and materials related to this matter.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board (NRCB) and the Alberta Energy and Utilities Board (AEUB) asking whether this matter had been the subject of a hearing or review under their respective Boards' legislation. Replies were subsequently received from both the NRCB and the AEUB stating that they did not hold any hearing or review under either of their Boards' legislation.

[5] All requested documents were received from the Department on August 20, 1998 and a copy was provided to Continental Lime Ltd. on August 27, 1998.

[6] On September 8, 1998, the Board wrote to Continental Lime Ltd. and the Department requesting they advise whether they wished to participate in a mediation meeting or if they preferred a preliminary meeting be held.

[7] On September 29, 1998, the Board received a letter from Mr. Tony C. Panchyshyn of Continental Lime Ltd. stating:

“Continental Lime Limited is hereby providing notification that the appeal of Exshaw Approval Number 227-01-00 is being withdrawn. This action is comprehensive - the withdrawal [sic] applies to all issues identified in the initial appeal.

Discussions with Alberta Environmental Protection personnel have resulted in the amicable resolution of several issues. Continental Lime understands that Alberta Environmental Protection will make changes to the Exshaw Approval in accordance with the September 28, 1998 letter from Rob Kemp to Michael Brown. Full agreement was not reached regarding ambient monitoring of particulate, however, Continental Lime has clearly outlined its position regarding this issue. Continental Lime will comply with ambient monitoring provisions as written in the June 30, 1998 Approval.”

DECISION

[8] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Panchyshyn's letter of September 29, 1998, the Board hereby discontinues its proceedings in appeal 98-239 and will be closing its file.

Dated September 30, 1998, at Edmonton, Alberta.

Dr. William A. Tilleman