

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance: December 20, 1999

**IN THE MATTER OF** sections 84, 85 and 87 of the *Environmental Protection and Enhancement Act*, (SA 1992, ch. E-13.3 as amended);

**-and-**

**IN THE MATTER OF** an appeal filed by Shell Canada Ltd. on May 30, 1997, James Bain Spicer on June 3, 1997, Anton William Planika on June 9, 1997 and Gerald and Linda Gjerde on July 8, 1997 with respect to Notice of Designation as a Contaminated Site #01/97 issued on May 1, 1997 by the Director of Chemicals Assessment and Management, Alberta Environmental Protection.

Cite as: Shell Canada Ltd., *et al.* v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

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## BACKGROUND

[1] Notices of Appeals were received by the Environmental Appeal Board (Board) from Shell Canada Ltd. on May 30, 1997 and dated May 30, 1997, Mr. James Bain Spicer on June 3, 1997 and dated May 30, 1997, Mr. Anton William Planika on June 9, 1997 and dated May 30, 1997, and Mr. Gerald and Ms. Linda Gjerde on July 8, 1997 and dated July 7, 1997, with respect to Notice of Designation as a Contaminated Site #01/97 issued on May 1, 1997, regarding a site in Olds, Alberta, by the Director of Chemicals Assessment and Management, Alberta Environmental Protection (Department).

[2] On June 4 and 10, 1997 the Board wrote to the Alberta Energy and Utilities Board (AEUB) and to the Natural Resources Conservation Board (NRCB), asking if the subject matter of the Notices of Appeals in this matter had been subject of a hearing or review under their respective Board's legislation. In letters of June 18 and 19, 1997 the AEUB advised the Board that the subject matter of the Notices of Appeals was not within the jurisdiction of the *Alberta Energy and Utilities Board Act* and that the AEUB neither reviewed nor held public meetings relating to it. On June 25, 1997 the NRCB advised the Board that none of the appeals deal with matters that have been the subject of a review under the provisions of the *Natural Resources Conservation Board Act*.

[3] The parties to the appeal agreed to a mediation meeting, set for August 14, 1997, in an attempt to resolve the matter. The following items were determined from the mediation meeting:

1. The Department would seek further instructions on the issues brought forth.
2. Dependent on their position, a mediation meeting would be scheduled for September, or also, dependent on their position a full public hearing would be scheduled.

[4] On August 22, 1997, the Board received a letter from the Department advising that they would be maintaining their position with respect to the Notice of Designation as a Contaminated Site #01/97. On August 27, 1997 the Board received a letter from Mr. James Spicer advising that they wished to go directly to a hearing.

[5] An appeal hearing date was set for October 15, 1997. The parties were granted numerous extensions, leading to a hearing date between October 1997 and a further hearing some 15 months later, on January 21, 1999. At the hearing, the Board advised the parties to work together if possible and provide written status reports to the Board by February 22, 1999.

[6] Finally, on November 26, 1999 a letter was received dated November 25, 1999 from Mr. Ronald M. Kruhlak, McLennan Ross, advising that the matter had been resolved amongst the parties. The letter stated:

“We are pleased to advise that the parties have resolved their appeals with respect to Notice of Designation 01/97. Accordingly, we would advise the Board that the appeal filed on behalf of Shell Canada Limited in this matter is withdrawn and we would seek a discontinuance of proceedings.”

[7] On December 8, 1999 a letter was received from Mr. Bradley Gilmour, Bennett Jones, advising that “the appeal filed on behalf of Mr. Anton Planika in this matter is withdrawn and we would seek a discontinuance of the proceedings.”

[8] On December 15, 1999, the Board received a letter via fax dated December 13, 1999 from Mr. James MacInnis advising that “. . . we confirm that in view of the settlement of all outstanding issues that the Notice of Objection to the site designation of the lands being the subject of the appeal filed on behalf of Mr. James Spicer is hereby withdrawn.”

[9] The Board received a letter dated December 17, 1999 via fax on December 20, 1999, from Mr. Daniel Harder, on behalf of his clients, Mr. Gerald and Ms. Linda Gjerde, stating “Let this

letter serve as notice that we are hereby withdrawing out Claim - File Number EAB 97-027.”

[10] The Board is pleased that the parties successfully negotiated a resolution. We commend the parties for their time and efforts.

## **DECISION**

[11] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Kruhlak’s letter of November 26, 1999, Mr. Gilmour’s letter of December 8, 1999, Mr. MacInnis’ letter of December 13, 1999 and Mr. Harder’s letter of December 17, 1999, the Board hereby discontinues its proceedings in these matter and will be closing its files.

Dated on December 20, 1999, at Edmonton, Alberta.

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William A. Tilleman, Chair