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ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

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Date Discontinuance of Proceedings – February 13, 2001

**IN THE MATTER OF** Sections 84, 85, and 87 of the *Environmental Protection and Enhancement Act*, S.A. 1992, ch. E-13.3.

**-and-**

**IN THE MATTER OF** an appeal filed on May 18, 2000 by Mr. J.J. (Jim) O'Rourke of O'Rourke Engineering Ltd., on behalf of Genesis Exploration Ltd., with respect to the refusal of the Regional Water Manager, Northwest Boreal Region, Alberta Environment, to grant an Approval for the purpose of constructing a petroleum wellsite.

Cite as: *Genesis Exploration Ltd. v. Manager, Regional Support, Northwest Boreal Region, Alberta Environment.*

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## **BACKGROUND**

[1] On May 9, 2000, the Regional Water Manager, Northwest Boreal Region, Alberta Environment (the “Director”), refused to issue an approval under the *Water Act*, S.A. 1996, ch. W-3.5, to Genesis Exploration Ltd. for the purpose of constructing a petroleum wellsite at 09-24-069-23-W5.

[2] On May 18, 2000, the Environmental Appeal Board (the “Board”) received a Notice of Appeal filed by Mr. J.J. (Jim) O’Rourke of O’Rourke Engineering Ltd., on behalf of Genesis Exploration Ltd. (the “Appellants”). The Appellants stated in their Notice of Appeal that they were “prepared to take any/or all reasonable measures required to satisfy all outstanding environmental concerns” and indicated that it was their intention to meet with representatives of Alberta Environment (the “Department”) to discuss options concerning the construction of the wellsite.

[3] On May 19, 2000, the Board acknowledged receipt of the Notice of Appeal from the Appellants, and at that time requested a copy of all correspondence, documents and materials relative to the appeal (the “Records”), from the Department.

[4] According to standard practice, on May 19, 2000, the Board wrote to the Natural Resources Conservation Board (the “NRCB”) and the Alberta Energy and Utilities Board (the “AEUB”) asking whether this matter had been the subject of a hearing or review under their respective Boards’ legislation. Both the NRCB and the AEUB advised they did not hold any hearings or reviews under their legislation.

[5] On May 29, 2000, the Appellants wrote to the Board indicating that the application they made “was for the re-entry of an existing suspended well and not the construction of a new well.” They further requested a site visit to resolve the matter. On June 1, 2000, the Board acknowledged the request. The Director responded on June 5, 2000, advising they would contact the Appellants to coordinate the site visit. In addition, the Records pertaining

to the appeal were included with this letter.

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[6] On June 9, 2000, the Board requested that the parties specify whether or not they wished to pursue a mediation meeting/settlement conference in relation to the appeal, provide available dates for the mediation meeting/settlement conference, and asked, pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, if there were any other persons who may have an interest in this matter.

[7] On June 29, 2000, the Director requested that the appeal be held in abeyance until August 15, 2000 pending the outcome of the site visit, which had, been scheduled for August 8, 2000. The Appellants responded to the Board's June 9, 2000 letter on June 23, 2000, by listing issues to be discussed at the site visit and any potential mediation meeting, and further stated:

“Mediation is a desirable second step. Genesis would like to avoid going to a hearing on this issue and will seek to find a solution first with the parties involved during the site visit, and then during mediation if required.”

[8] On June 29, 2000, the Board wrote to the parties granting the request to hold the appeal in abeyance until August 15, 2000. On August 15, 2000, a status report was received from the Director requesting a further abeyance period of one month to September 15, 2000. As the Appellants agreed to the abeyance, the Board granted the Director's request on August 30, 2000.

[9] On September 14, 2000, the Appellants wrote to the Board requesting that the appeal be held in abeyance pending the review of a work plan for well re-entry that was subject to review by the Department.<sup>1</sup>

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<sup>1</sup> On September 20, 2000, the Board granted this request and, as there were no objections from the Director, the appeal was placed in abeyance until October 6, 2000. The Appellants requested a further abeyance on October 6, 2000, to December 15, 2000, which was again

[10] On December 19, 2000, the Board requested status reports from the parties. On December 21, 2000, the Director responded stating:

“I am advised by Departmental officials that Genesis Exploration Ltd. submitted assessment and construction plans to the Department on December 14, 2000. In accordance with Mr. O’Rourke’s October 6, 2000 letter the Department had expected these plans by October 30, 2000. The Department supported Mr. O’Rourke’s request that the appeal be held in abeyance until December 15, 2000 on the assumption that Department officials would have six weeks to review, clarify, and assess those plans before December 15, 2000.

In view of its late submission and the ongoing Christmas rush, I would suggest that this appeal be further held in abeyance until January 31, 2001...”

The Board granted the request of the Director on December 22, 2000, and the appeal was placed in abeyance until January 31, 2001, as no objection was received from the Appellants.

[11] On January 31, 2001, the Board received letters from both the Director and the Appellants requesting the appeal be placed in abeyance until May 1, 2001 as, according to the Director:

“Department officials have requested that Genesis Exploration Ltd. provide further comments and clarification concerning certain aspects of the assessment and construction plans.

I have spoken with Mr. Lon Kasha of Genesis Exploration Ltd. who is of the opinion that the parties may be able to resolve this matter by May 1, 2001.”

The further request to place the appeal in abeyance until May 2001 was rejected by the Board as stated in its letter to the parties dated February 6, 2001. In this letter the Board stated:

“The Board is not satisfied that adequate explanation has been received by O’Rourke Engineering as to why a report that was due to the Director on October

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granted by the Board on October 10, 2000 with the agreement of the Director.

30, 2000 was not submitted until December 15, 2000. In addition, the Board also has not received sufficient explanation from the Director as to why a report that required a six-week review period in December 2000 now requires a further extension into May 2001.”

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The Board went on to request that the parties provide dates to attend a Board sponsored mediation meeting/settlement conference or hearing.

[12] On February 12, 2001, the Director called the Board office to confirm his understanding that the Appellants were withdrawing their appeal. Board staff telephoned the Appellants to confirm their withdrawal at which time they indicated that a letter was sent to the Board withdrawing the appeal. The letter dated February 9, 2001, received by the Board on February 12, 2001, stated:

“O’Rourke Engineering Ltd., on behalf of our client Genesis Exploration Ltd., hereby withdraws from the appeal process for the above noted well re-entry.”

[13] The Board wrote to the Director and the Appellants on February 13, 2001, confirming the withdrawal of the Notice of Appeal of Genesis Exploration Ltd., and indicating that the provision of dates for a mediation meeting/settlement conference or hearing was no longer necessary.

## **DECISION**

[14] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the Appellants’ letter of February 9, 2001, the Board hereby discontinues its proceedings in Appeal No. 00-033 and will be closing its file.

Dated on February 13, 2001 at Edmonton, Alberta.

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Dr. William A. Tilleman