

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – October 30, 2001

Date of Discontinuance of Proceedings – November 16, 2001

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

-and-

IN THE MATTER OF an appeal filed by Newpark
Environmental Services Inc. on behalf of APF Energy Corporation
with respect to the decision of the Inspector, Bow Region, Alberta
Environment to refuse to issue a reclamation certificate for the
Harbour Wayne 11-10-27-20 Well, near Drumheller, Alberta.

Cite as: *APF Energy Corporation v. Inspector, Bow Region, Alberta Environment.*

APPEARANCES

Appellant: Bob Wilshusen, APF Energy Corporation

Department: Pamela Romanchuk, Inspector, Bow Region, Alberta Environment, Don McCabe, Chris Powter, Alberta Environment.

Other Parties: Lisa Wesner, Rick Weber, Mike Schlegel, Newpark Environmental Services Inc.; Bob Hymas, County of Wheatland; and Barry Pallesen, land occupant.

EXECUTIVE SUMMARY

On August 30, 2001, the Inspector, Alberta Environment, refused to issue a reclamation certificate to APF Energy Corporation for the Harbour Wayne 11-10-27-20 Well near Drumheller, Alberta. The Inspector stated that there are root restrictions in the subsoil, and plant density, height and head size are below 80% of the control vegetation in more than one grid.

Newpark Environmental Services filed an appeal of the Inspector's decision, on behalf of APF Energy Corporation, and on October 30, 2001 a mediation meeting was held in Drumheller, Alberta. As a result of the mediation meeting, Newpark Environmental Services, on behalf of APF Energy Corporation, withdrew their appeal.

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I. BACKGROUND

[1] On August 30, 2001, the Inspector, Bow Region, Alberta Environment (the “Inspector”) refused to issue a reclamation certificate (the “Certificate”) to APF Energy Corporation (“APF”) for the Harbour Wayne 11-10-27-20 Well, near Drumheller, Alberta. The Inspector held a site inquiry on July 31, 2001 and indicated that the profile and vegetation did not meet criteria. There are indications of root restrictions in the subsoil, and plant density, height, and head size are below 80% of control vegetation on more than one grid.

[2] On August 28, 2001, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Newpark Environmental Services on behalf of APF Energy Corporation appealing the Inspector’s decision to refuse to issue a Certificate.

[3] The Board acknowledged the appeal, provided the Inspector with a copy of the Notice of Appeal, and requested a copy of the record (the “Record”) related to the appeal. The Board also requested that the Inspector and APF provide available dates for a mediation meeting/settlement conference and advise if in their opinion there were any other persons who may have an interest in this appeal.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective Boards’ legislation. Both Boards responded in the negative.

[5] The Records were provided by the Inspector in two parts with the initial documents being received on September 5, 2001 and the remainder of the Record on September 18, 2001. Copies were provided to APF on September 5 and 19, 2001.

[6] In the Inspector’s letter of September 5, 2001, it was requested that APF provide further details with respect to their Notice of Appeal prior to the scheduling of a mediation meeting or hearing. The Board requested in its letter of September 5, 2001 that APF provide comments to the Inspector’s letter which were received on September 18, 2001.

[7] In the Inspector's letter of September 18, 2001, the Board was advised that the landowner and occupant may have an interest in this appeal. On September 19, 2001, the Board advised Winter Managerial Services Ltd., the landowner, and Mr. Barry Pallesen, the land occupant, of the appeal, provided a copy of the appeal file and requested they advise if they wished to be involved in the appeal.

[8] The Board advised the parties on September 26, 2001, including the land occupant, of the mediation meeting scheduled for October 30, 2001 in Drumheller, Alberta and provided them with a copy of the Participants' Agreement to Mediate to review prior to the mediation meeting. The Board also requested that parties advise if they wished to include a site visit and no requests were received. On October 3, 2001, a Notice of Mediation Meeting/Settlement Conference was placed in the *Drumheller Mail* advising of the mediation meeting/settlement conference taking place between the parties only.

II. MEDIATION MEETING/SETTLEMENT CONFERENCE

[9] Pursuant to section 11 of the Board's regulations¹, the Board conducted a mediation meeting in Drumheller, Alberta on October 30, 2001 with Dr. Ted Best as the presiding Board member.

[10] In conducting the mediation meeting, Dr. Best reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the "Participants' Agreement to Mediate". All parties signed the Agreement and discussions ensued.

[11] Following discussions, APF advised that they would be withdrawing their appeal and submitting a letter to the Board to this effect by November 9, 2001.

III. DECISION

[12] On November 9, 2001, the Board received a letter from Newpark Environmental Services on behalf of APF stating:

1 A.R. 114/93, Environmental Appeal Board Regulation.

“...please accept this correspondence submitted by Newpark Environmental Services on behalf of APF Energy Corporation as a withdrawal of the appeal filed on August 28, 2001.”

[13] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the letter of November 9, 2001, from Newpark Environmental Services Inc., the Board hereby discontinues its proceedings in Appeal No. 01-077 and is closing its file.

Dated on November 16, 2001, at Edmonton, Alberta.

William A. Tilleman, Q.C.