

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – April 21, 2005
Date of Discontinuance of Proceedings – May 3, 2005

IN THE MATTER OF sections 91, 92 and 95 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12,

-and-

IN THE MATTER OF an appeal filed by Myron and Tracey
Fawcett with respect to *Environmental Protection and
Enhancement Act* Reclamation Certificate No. 00190505-00-00
issued to Calpine Canada Resources Company (now Viking
Energy Trust) by the Inspector, Southern Region, Regional
Services, Alberta Environment.

Cite as: *Fawcett v. Inspector, Southern Region, Regional Services, Alberta Environment*
re: *Calpine Canada Resources Company (now Viking Energy Trust)* (3 May
2005), Appeal No. 04-047-DOP (A.E.A.B.).

MEDIATION MEETING BEFORE:

Dr. Alan J. Kennedy, Board Member.

APPEARANCES:

Appellants:

Mr. Myron and Ms. Tracey Fawcett.

Director:

Mr. Brandon Brock, Inspector, Southern Region, Regional Services, Alberta Environment, and Mr. Martin Foy, Alberta Environment, represented by Jeffrey Moore, Alberta Justice.

Approval Holder:

Mr. Bob Boon, Viking Energy Trust and Mr. Stephen Swalm, Envirsoil Land Management.

Board Staff:

Ms. Marian Fluker, Senior Research Officer.

EXECUTIVE SUMMARY

Alberta Environment issued a Reclamation Certificate to Calpine Canada Resources Company (now Viking Energy Trust) for the Encal Provost 7-13-35- well near Consort, Alberta.

On July 21, 2004 the Board received a Notice of Appeal from Myron and Tracey Fawcett, the landowners, appealing Alberta Environment's decision.

The Board held a mediation meeting in Consort, Alberta on April 21, 2005 following which an agreement was reached by the parties and the Appellants withdrew their appeal. The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On June 3, 2004, the Inspector, Southern Region, Regional Services, Alberta Environment (the “Inspector”), issued Reclamation Certificate No. 00190505-00-00 (the “Reclamation Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Calpine Canada Resources Company (the “Certificate Holder”) for the surface of the land held by Calpine Canada Resources Company within SE Sec. 13 Tp. 035 Rge. 04 W4M in connection with or incidental to the Encal Provost 7-13-35-7 well near Consort, Alberta. Calpine Canada Resources is now Viking Energy Trust.

[2] On July 21, 2004, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Myron and Ms. Tracey Fawcett, the landowners (the “Appellants”) appealing the Reclamation Certificate.

[3] On July 21, 2004, the Board wrote to the Appellants, the Certificate Holder and the Inspector (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Certificate Holder and the Inspector of the appeal. The Board also requested the Inspector provide the Board with a copy of the records (the “Record”) relating to this appeal, and that the Parties provide available dates for a mediation meeting or hearing.

[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 legislation. Both boards responded in the negative.

[5] On July 30, 2004, the Board received a copy of the Record from the Director, and on August 4, 2004, forwarded a copy to the Appellants and the Certificate Holder.

[6] As the Board did not receive available dates from the Appellants or Certificate Holder, the Board wrote again on September 16, 2004, asking for available dates for a mediation meeting during October 2004.

[7] On October 18, 2004, Board staff was advised by the Certificate Holder that they were attempting to resolve the appeal directly with the Appellants. However, the Certificate Holder advised that due to snowfall, a site visit, necessary as the issue is topography, could not take place.

[8] On October 19, 2004, the Board wrote to the Appellants and the Certificate Holder acknowledging their attempts to resolve the appeal amongst themselves. The Board granted the abeyance for one month and requested a status report from the Appellants and the Certificate Holder by November 19, 2004. The Board advised that, upon review of the status reports, it would assess whether the appeal should be held in abeyance until spring of 2005 in order to conduct a site visit.

[9] The Board received status reports by telephone from the Appellants and the Certificate Holder. As the Appellants and Certificate Holder did not reach a resolution of the appeal, the Board decided to schedule a mediation meeting in the spring of 2005, so that a site visit could be conducted. The Parties were requested to provide their available dates to the Board for a mediation meeting and site visit in April 2005.

[10] On February 17, 2005, in consultation with the Parties, the Board scheduled the mediation meeting and site visit for April 21, 2005, to be held in Consort, Alberta.

II. MEDIATION MEETING

[11] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Consort, Alberta on April 21, 2005 with Dr. Alan J. Kennedy as the presiding Board Member (the "Mediator").

[12] In conducting the mediation meeting the Mediator reviewed the appeal and the 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.

[13] Following productive and detailed discussions at the mediation meeting, the Appellants withdrew their appeal.

III. DECISION

[14] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c W-3, and based upon the withdrawal of the appeal by the Appellants, the Board hereby discontinues its proceedings in Appeal No. 04-047 and closes it file.

Dated on May 3, 2005, at Edmonton, Alberta.

William A. Tilleman, Q.C.
Chair