

ALBERTA ENVIRONMENTAL APPEALS BOARD

Decision

Date of Decision –

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 appeals filed by Gail Wolfe on behalf of the Cold Lake Fibromyalgia Support Group, Inez Stone on behalf of the Ethel Lake Interveners, Sally Ulfsten on behalf of the Cold Lake Fibromyalgia Support Group and the Ethel Lake Interveners, Inez Stone, Rachel Stone, David Stone, George Elchuk, Andy Leroux, Mary Anne Leroux, Marinda Stander with respect to *Environmental Protection and Enhancement Act* Amending Approval No. 73534-00-06 issued to Imperial Oil Resources Limited, Amending Approval No. 68492-00-10 issued to EnCana Corporation, Amending Approval No. 68023-00-04 issued to EnCana Corporation, Amending Approval 11115-03-02 issued to Canadian Natural Resources Limited, Amending Approval No. 147753-00-02 issued to Husky Oil Operations Limited, and Amending Approval No. 78161-00-01 issued to Blackrock Ventures Inc. (now Shell Canada Ltd.), by the Director, Northern Region, Regional Services, Alberta Environment.

Cite as: *Wolfe et al v. Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources Limited, EnCana Corporation, Canadian Natural Resources Limited, Husky Oil Operations Limited, and Blackrock Ventures Inc. (now Shell Canada Ltd.)* (07 August 2007), Appeal Nos. 07-004 – 021, 028 – 033, 040 – 075, 100 – 105 & 112 – 117-D (A.E.A.B.).

I. BACKGROUND

[1] On April 30, 2007, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued the following Amending Approvals (collectively the “Amending Approvals”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to the following Approval Holders (collectively, “the Approval Holders”):

- Amending Approval No. 73534-00-06 issued to Imperial Oil Resources Limited (“Imperial Oil”) authorizing the construction, operation and reclamation of the Cold Lake enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta.
- Amending Approval No. 68492-00-10 issued to EnCana Corporation (“Encana”) authorizing the construction, operation and reclamation of the Foster Creek enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta.
- Amending Approval No. 68023-00-04 issued to EnCana authorizing the construction, operation and reclamation of the Foster Creek enhance recovery in situ heavy oil plant, near Cold Lake, Alberta.
- Amending Approval No. 11115-03-02 issued to Canadian Natural Resources Limited (“CNRL”) authorizing the construction, operation and reclamation of the Primrose and Wolf Lake enhanced recovery in-situ oil sands and heavy oil processing plant and oil production site near Cold Lake, Alberta.
- Amending Approval No. 147753-00-02 issued to Husky Oil Operations Limited (“Husky Oil”) authorizing the construction, operation and reclamation of the Tucker enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta.
- Amending Approval No. 78161-00-01 issued to Blackrock Ventures Inc. (“Blackrock”) authorizing the construction, operation and reclamation of the Hilda Lake enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Hilda Lake, Alberta.

The Amending Approvals incorporate the Lakeland Industry and Community Association Air Quality Monitoring Program network.

[2] Notices of Appeal, in relation to the Amending Approvals, were received by the Board on May 24, 2007, June 1 and June 8, 2007 from Ms. Gail Wolfe on behalf of herself and the Cold Lake Fibromyalgia Support Group, Ms. Inez Stone on behalf of herself and the Ethel Lake Interveners, Ms. Sally Ulfsten, Ms. Rachel Stone, Mr. George Elchuk, Ms. Mary Anne Leroux, Mr. David Lee, Ms. Cathy Urlacher, Ms. Ruth T. Sywak, Mr. David Stone, Mr. Andy Leroux, Mr. David Yoshida, Mr. Jens Peter Harwerth, Ms. Marinda Stander and Ms. Barbara Johnson.

[3] This Discontinuance of Proceeding deals only with the Notices of Appeal filed by Ms. Gail Wolfe on behalf of herself (07-022-027); Ms. Ruth Sywak (07-034-039); and Ms. Cathy Urlacher (07-094-099) (collectively the “Appellants”).

[4] The Board wrote to the Appellants, the Approval Holders and the Director (collectively the “Participants”) acknowledging receipt of the Notices of Appeal and notifying the Approval Holders, and the Director of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the Amending Approvals, and that the Participants provide available dates for a mediation meeting, preliminary meeting or hearing.

[5] 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.

[6] The Board received a copy of the Record on July 3, 2007, and provided a copy to the Participants on July 12, 2007.

[7] On July 13, 2007, the Board received a telephone message from Ms. Gail Wolfe regarding her appeal. The Board responded to Mr. Wolfe’s telephone message by letter on July 13, 2007, stating:

“...the Board is unclear as to whether Ms. Wolfe wishes to continue with her own appeal and the appeal on behalf of the Fibromyalgia Group, whether she requires more time to collect the information she may need for her appeal, or if she would like to appoint another group member to represent the group. Ms. Wolfe is requested to clarify this for the Board, in writing by July 27, 2007....”

On July 30, 2007, the Board received a letter from Ms. Wolfe, withdrawing her appeal. Ms. Wolfe indicated that Ms. Inez Stone would now represent the Cold Lake Fibromyalgia Support Group.

[8] On July 20, 2007, the Board received a telephone message from Mr. Jim Urlacher advising Ms. Cathy Urlacher wished to be “taken off the list”. Board staff contacted Ms. Urlacher to seek clarification as to whether she wished to withdraw her appeal, and on July 23, 2007, Ms. Cathy Urlacher returned the Board’s telephone call advising she wished to be “taken off the list”. The Board responded by letter on July 23, 2007 advising:

“...the Board understands you have withdrawn your appeals. If the Board’s understanding is incorrect, please contact the Board by July 27, 2007. If you do not contact the Board by July 27, 2007, the Board will issue a Discontinuance of Proceedings and will close its file in relation to your appeals...”

The Board did not receive a response, and on August 3, 2007, sent a letter to Ms. Urlacher advising:

“Further to the Board’s letter of July 23, 2007, since the Board has not received a response from you, it confirms its understanding you have withdrawn your appeals. The Board will now issue a Discontinuance of Proceedings and will close its file in relation to your appeals....”

[9] On July 23, 2007, the Board wrote a letter to Mr. Ruth Sywak. The Board’s letter stated:

“Further to the recent Board’s correspondence and Alberta Environment’s Record which you returned to the Board unopened, and further to a telephone conversation with you on July 23, 2007, the Board understands you have withdrawn your appeals. As discussed with you, your appeals may not be re-opened once they have been withdrawn. Because you have confirmed that you have withdrawn your appeals, the Board will issue a Discontinuance of Proceedings and will close its file in relation to your appeals....”

II. DECISION

[10] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based upon the withdrawal of the appeals by the Appellants, the Board hereby discontinues its proceedings in Appeal Nos. 07-022–027, 07-034–039 and 07-094–099 and closes its files.

Dated on August 7, 2007, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hruddy, FRSC, PEng
Chair