

ALBERTA  
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

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Date of Discontinuance of Proceedings – November 8, 2007

**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 Fred Pohr with respect  
to *Environmental Protection and Enhancement Act* Reclamation  
Certificate No. 00223139-00-00 issued to Daylight Energy Trust  
by the Director, Northern Region, Regional Services, Alberta  
Environment.

Cite as: *Pohr v. Director, Northern Region, Regional Services, Alberta Environment, re: Daylight Energy Trust* (8 November 2007), Appeal No. 06-052-DOP (A.E.A.B.).

## **I. BACKGROUND**

[1] On April 5, 2006, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Reclamation Certificate No. 00223139-00-00 (the “Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Daylight Energy Trust (the “Certificate Holder”) for the Genesis Newport Whitelaw 12-21-81-2 well, near Fairview, Alberta.

[2] On June 19, 2006, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Fred Pohr (the “Appellant”) appealing the Certificate.

[3] On June 22, 2006, the Board wrote to the Appellant, the Certificate Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Certificate Holder and the Director of the appeal. The Board also requested the Director provide the Board with a copy of the record (the “Record”) relating to this appeal, and that the Participants provide available dates for a mediation meeting, preliminary 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 20, 2006, the Board received a copy of the Record from the Director, and on July 24, 2006, forwarded a copy to the Appellant and the Certificate Holder.

[6] On August 11, 2006, the Appellant contacted the Board to request an abeyance of the appeal to allow for an assessment of the site after harvest. The Board responded by letter on August 17, 2006, granted the abeyance and requested the Appellant provide the Board with a status report by September 29, 2006. A status report was not received, and on October 4, 2006, the Board wrote to the Appellant requesting a status report by October 6, 2007.

[7] On October 17, 2006, the Appellant contacted the Board advising that he would be contacting the Certificate Holder to discuss the site. The Board requested the Appellant and Certificate Holder provide status reports by October 31, 2006.

[8] On October 31, 2006, the Board received a telephone call from the Certificate Holder regarding a potential agreement. The Board contacted the Appellant on October 12, 2007 to discuss the agreement. The Appellant advised he would conduct another assessment of the site during the week of October 31, 2006, that he would contact the Certificate Holder to schedule a site visit, and contact the Board during the week of October 31, 2006 to provide a status report. The Board did not receive a status report from the Appellant and after attempts to contact him by telephone on November 7 and 17, 2006, the Board wrote to the Participants on December 12, 2006 requesting status reports from the Appellant and Certificate Holder by January 15, 2007.

[9] On December 14, 2006, the Appellant and the Certificate Holder provided the Board with status reports, outlining an agreement they had reached for the reclamation work on the Appellant's land, and advising it would be completed in the spring of 2007. The Board responded by letter on January 12, 2007, advising it would continue to hold the appeal in abeyance until May 1, 2007 and requested the Appellant and Certificate Holder provide status reports to the Board at that time.

[10] On May 7, 2007, the Board received a letter from the Appellant advising the site was under water and since spring seeding would be delayed, there would not be suitable conditions or time to complete the reclamation work. The Appellant advised the work may not be completed until the autumn of 2007. The Board responded by letter on May 8, 2007 requesting the Certificate Holder and Appellant provide status reports by July 3, 2007.

[11] On July 3, 2007, the Board received an e-mail from the Certificate Holder providing a status report and advising the Board that the Appellant was unable to fix the settled area in the spring due to late thaw and poor ground conditions, and that because the site was in crop, it would be inaccessible until after harvest. The Board wrote to the Participants on July 5, 2007, acknowledging the e-mail, and requesting a status report by September 30, 2007.

[12] On October 1, 2007 the Board received an e-mail from the Certificate Holder advising that they had been unable to contact the Appellant, and was unable to provide the Board with an update. The Board wrote to the Participants on October 2, 2007 requesting the Appellant provide a status report by October 5, 2007.

[13] On October 8, 2007, the Board received an e-mail from the Certificate Holder advising the Board that he had been contacted by the Appellant on October 5, 2007, and the Appellant had been busy with harvest and the reclamation work was not completed. The Board attempted to contact the Appellant by telephone on October 9 and 15, 2007, and on October 16, 2007 wrote to the Participants requesting the Appellant provide a status report by October 19, 2007.

[14] On October 23, 2007, the Board received a telephone call from the Appellant advising that he would begin work on the site at the end of October. The Board requested a status report from the Appellant by November 5, 2007.

[15] On November 5, 2007, the Board received a letter from the Appellant, advising that the problem area had been taken care of to his satisfaction and that he wished to withdraw his appeal.

## **II. DECISION**

[16] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based upon the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 06-052 and closes its file.

Dated on November 8, 2007, at Edmonton, Alberta.

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Dr. Steve E. Hrudehy, FRSC, PEng  
Chair