

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – February 18, 2009

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 Robert Johnson with
respect to the decision of the Inspector, Central Region,
Environmental Management, Alberta Environment, to issue
Reclamation Certificate No. 00246952-00-00 under the
Environmental Protection and Enhancement Act to Crew Energy
Inc.

Cite as: *Johnson v. Inspector, Central Region, Environmental Management, Alberta Environment, re: Crew Energy Inc.* (18 February 2009), Appeal No. 08-014 (A.E.A.B.).

I. BACKGROUND

[1] On July 9, 2008, the Inspector, Central Region, Environmental Management, Alberta Environment (the “Inspector”), issued Reclamation Certificate No. 00246952-00-00 (the “Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Crew Energy Inc. (the “Certificate Holder”) for the Crew Strome 9-33-44-16 well, near Daysland in the Flagstaff County.

[2] On August 26, 2008, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from the landowner, Mr. Robert Johnson (the “Appellant”), appealing the Certificate.

[3] On August 29, 2008, the Board wrote to the Appellant, the Certificate Holder and the Inspector (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Inspector of the appeal. The Board also requested the Inspector provide the Board with a copy of the records (the “Record”) in relation to this appeal, and that the Participants provide the Board with available dates for a mediation meeting, a preliminary motions hearing or a hearing, by September 29, 2008.

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

[5] On September 25, 2008, the Board received a letter and the Record from the Inspector and on September 29, 2008, forwarded a copy to the Appellant and the Certificate Holder. Further to a telephone message from the Certificate Holder on September 29, 2008, the Board understood that the Certificate Holder had been in contact with the Appellant to discuss the appeal and in the September 29, 2008 letter, the Board requested that the Certificate Holder and the Appellant provide the Board with a status report by October 6, 2008 or prior if available.

[6] On September 30, 2008, the Board received a copy of a letter from the Certificate Holder to the Appellant stating that it appeared to the Board that the Certificate Holder and the Appellant had reached an agreement. In the Board's October 1, 2008 letter, the Appellant was requested to contact the Board by October 6, 2008 to advise if he was withdrawing his appeal.

[7] On October 7, 2008, the Board acknowledged a telephone call from the Appellant and requested a status report regarding his appeal.

[8] On October 22, 2008, the Board acknowledged a letter received on October 21, 2008 from the Appellant to the Certificate Holder setting out terms. The Board requested that the Appellant advise the Board if he was withdrawing his appeal or if the Certificate Holder did not agree with the terms set out in the Appellant's letter, the Board wanted to proceed to schedule a mediation meeting to assist the Certificate Holder and Appellant in finalizing their agreement. The Board requested a response by October 29, 2008.

[9] On October 23, 2008, the Board acknowledged a telephone message from the Certificate Holder on October 22, 2008 where the Board understood that the Certificate Holder was in agreement with the terms set out in the Appellant's October 21, 2008 letter, and that the Certificate Holder would not have any objections to the Appellant withdrawing his appeal. The Board requested the Certificate Holder contact it if this understanding was incorrect, and also noted that the Appellant's comments were due by October 29, 2008.

[10] The Board acknowledged telephone calls with the Appellant on October 29 and 30, 2008 in its letter of October 31, 2008. The Board requested that the Certificate Holder provide written confirmation of his agreement with the Appellant's October 21, 2008 letter by November 5, 2008. The Board also noted in this letter that the Appellant had been advised by Alberta Environment staff that should he encounter problems with the site after withdrawing his appeal, his concerns would be addressed by Alberta Environment. The Board requested that Inspector confirm the accuracy of that statement in writing by November 5, 2008, and noted that once the appeal is withdrawn, the appeal file cannot be reopened.

[11] On November 6, 2008, the Board acknowledged a telephone call from the Inspector and a letter from the Certificate Holder dated November 4, 2008 agreeing with the Appellant's October 21, 2008 letter. The Inspector advised that he was unable to provide a response to the Board's October 31, 2008 letter at that time but that he would endeavor to provide a response by November 12, 2008.

[12] On November 13, 2008, the Board acknowledged a letter dated November 12, 2008 from the Inspector where he advised that:

“It is important to note that if Mr. Johnson settles with the operator and withdraws his appeal, the issue that was complained about is considered resolved. If that issue rises again, Alberta Environment can still investigate, but any agreement between the operator and the landowner may be in jeopardy.”

The Board asked the Appellant to review the November 12, 2008 letter from the Inspector and also the letter of November 4, 2008 from the Certificate Holder, and advise by November 26, 2008 if he was satisfied and prepared to withdraw his appeal. Should he not be satisfied, the Board would proceed to schedule a mediation meeting. On December 9, 2008, the Board advised that it had not heard from the Appellant by November 26, 2008, and requested that the Appellant advise the Board in writing by December 17, 2008.

[13] On December 10, 2008, the Board acknowledged a telephone conversation with the Appellant and since the appeal had not been withdrawn, the Board would proceed to schedule a mediation meeting. Participants were asked to provide available dates for a mediation meeting.

[14] On January 2, 2009, the Board asked the Participants to hold February 23 and 24, 2009 for a mediation meeting in Camrose and on January 9, 2009 confirmed that the mediation meeting would be held on February 24, 2009 in Camrose.

[15] On February 18, 2009, the Board received an e-mail and fax from the Appellant advising that he has reached an agreement with the Certificate Holder and was withdrawing his appeal. On February 18, 2008 the Board wrote to the Participants acknowledging the e-mail and fax, cancelling the mediation meeting scheduled for February 24, 2009, and advising it would be closing its file.

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. 08-014 and closes its file.

Dated on February 18, 2009, at Edmonton, Alberta.

Dr. Steve E. Hrudey, FRSC, PEng
Chair