

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – August 5, 2009

Date of Discontinuance of Proceedings – August 7, 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 Donald Taylor with
respect to the decision of the Inspector, Central Region,
Environmental Management, Alberta Environment, to issue
Reclamation Certificate No. 00241333-00-00 under the
Environmental Protection and Enhancement Act to Husky Oil
Operations Limited.

Cite as: *Taylor v. Inspector, Central Region, Environmental Management, Alberta Environment*, re: *Husky Oil Operations Limited* (07 August 2009), Appeal No. 08-017-DOP (A.E.A.B.).

I. BACKGROUND

[1] On January 24, 2008, the Inspector, Central Region, Environmental Management, Alberta Environment (the “Inspector”), issued Reclamation Certificate No. 00241333-00-00 (the “Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Husky Oil Operations Limited (the “Certificate Holder”) for the Husky Wainwright 13B-27-45-06 well site located near Wainwright, Alberta.

[2] On September 22, 2008, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Donald Taylor (the “Appellant”), the landowner, appealing the Certificate.

[3] On September 22, 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 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 the appeal, and that the Participants provide available dates for a mediation meeting, preliminary motions hearing, or hearing.

[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 October 6, 2008, the Inspector wrote expressing concern about the timing of the mediation due to crop growth and suggested the mediation meeting be held in the spring/summer of 2009. The Certificate Holder also voiced the same concerns. On October 7, 2008, the Board requested the Participants provide their schedules for a mediation meeting in July 2009. The Appellant advised on October 15, 2008 that the field would be in summerfallow in July 2009 and asked that the mediation be held as soon as possible and that he has photographs that would sufficiently depict the crops.

[6] On October 20, 2008, the Board received a copy of the Record from the Inspector, and on October 21, 2008, forwarded a copy to the Participants.

[7] On October 22, 2008, the Board requested the Inspector and Certificate Holder provide their comments on the delay in conducting a mediation meeting and site visit. The Board advised the Participants on October 31, 2008 that it strives to address appeals as effectively as possible without undue delay to any of the participants involved. It further stated that after considering the comments of the Certificate Holder and Inspector it appeared there were 2 options and requested the Appellant advise how he wished to proceed. In this regard, a site visit and mediation could be scheduled in the summer of 2010, or the Appellant could plant the field and a site assessment and mediation meeting could be scheduled in the summer of 2009.

[8] The Inspector advised on October 31, 2008 that it wished to have the field planted along with a representative portion of the surrounding field with a site assessment conducted in the summer of 2009. The Certificate Holder agreed with the Inspector's comments. On December 30, 2008, the Board requested that the Appellant advise by March 9, 2009 if he would be planting the field.

[9] The Appellant advised on March 6, 2009 that he wished to proceed with the mediation meeting. On March 19, 2009, the Board advised that it would proceed to a mediation meeting and would not delay the appeal for a year when potentially the site may or may not be planted. On April 22, 2009, in consultation with the Participants, the Board scheduled the mediation meeting and site visit for August 5, 2009 in Wainwright, and requested that the Appellant and Certificate Holder apprise the Board on the status of their soil sampling results they were undertaking.

[10] The Certificate Holder provided their soil sampling results on July 23, 2009 and on July 24, 2009 the Board provided copies to the Inspector and Appellant. The Appellant did not undertake any soil sampling.

II. MEDIATION MEETING

[11] Pursuant to section 11 of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93, the Board conducted a mediation meeting in Wainwright, Alberta, on August 5, 2009, with Ms. A.J. Fox, Board member, as the presiding mediator (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. She then circulated copies of the Participants’ Agreement to Mediate. All in attendance signed the agreement and discussions ensued. Following productive and detailed discussions at the mediation meeting, a resolution of the appeal was reached between the Participants and the Appellant withdrew his appeal.

III. DECISION

[13] 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. 08-017 and closes its file.

Dated on August 7, 2009, at Edmonton, Alberta.

Justice D. W. Perras (ret.)
Chair