



*April 6, 2005*

## **Discontinuance Of Proceedings Issued By The Environmental Appeals Board Regarding The Lynnview Ridge Matter**

The Environmental Appeals Board has issued a Discontinuance of Proceedings concerning two appeals filed by Imperial Oil Limited and Devon Estates Limited. The appeals related to Environmental Protection Orders EPO-2003/02-SR and EPO-2003/03-SR issued by Alberta Environment after lead and hydrocarbons were found at the Lynnview Ridge residential subdivision, in the City of Calgary.

The Discontinuance of Proceedings was issued because Imperial Oil Limited, Devon Estates, and Alberta Environment reached an agreement to resolve the appeals following a consensual mediation conducted by a mediator selected by the Board. The Calgary Health Region and a number of the current residents of Lynnview Ridge were also involved in some of the discussions. The Environmental Appeals Board is required by its legislation to discontinue its proceedings and close its file when an agreement is reached to resolve an appeal.

"Mediation is the Environmental Appeals Board's preferred way of resolving appeals. The ability to reach an agreement to resolve the appeals in such a complex matter as this demonstrates the benefits of mediation," said Board Chairman Dr. William A. Tilleman. "On behalf of the Environmental Appeals Board, I would like to take this opportunity to thank the mediator, Dr. Frederick (Ted) Fisher, a former member of the Board, for all of his work to help resolve these appeals." The mediation was one of the most extensive and complex that the Environmental Appeals Board has been involved in.

The Environmental Appeals Board is an independent quasi-judicial board that has been established to review certain decisions made by Alberta Environment. The Environmental Appeals Board is separate and apart from Alberta Environment and is composed of environmental experts from a variety of disciplines.

### **Questions and Answers:**

#### Why does the Environmental Appeals Board use mediation?

The Environmental Appeals Board has been using mediation for over 10 years to resolve appeals that come before it. Thanks to the skill of the Board members who conduct the mediations, over 80% of the appeals that have been sent to mediation have been successfully resolved. Mediation allows the parties to an appeal, including the Director for Alberta Environment who is responsible for protecting the environment, to develop their own solution to a dispute, and permits a greater range of solutions than are available to the parties through the hearing process. Mediation is generally faster and less costly for everyone involved in the appeal process.

#### What is mediation?

Mediation is the Environmental Appeals Board's preferred way of resolving appeals. In mediation, the parties to a dispute agree to try to work out the dispute themselves with the assistance of an independent third party facilitator, called the mediator, rather than using more formal or adversarial methods of resolving the dispute, such as a Board hearing or a lawsuit. The mediator helps the parties communicate more efficiently and effectively to reach a common

understanding of the views of everyone involved in the matter. The mediator then helps the parties develop a workable solution to resolve the dispute. In some cases, the parties may not be prepared to meet face to face, and at their request, the mediator carries information back and forth between the parties.

#### Who is involved in mediation?

Mediation often involves discussions with a number of parties at different levels. The main discussion involves the main parties to the dispute, the parties that have the legal ability to settle the dispute. Additional discussions may take place outside the main discussion and involve other parties who may be affected by the outcome of the mediation. Participation in mediation is voluntary, and parties are free to withdraw from the mediation at any time. As long as the main parties to a dispute are prepared to continue the main discussion toward a resolution, the mediation can continue even if other parties withdraw. Mediations are conducted by trained mediators. In the case of the Environmental Appeals Board, mediations are generally conducted by a member of the Board, all of whom are trained in mediation. The mediator's job is help the parties communicate efficiently and effectively, and have a full, frank, and constructive discussion about their dispute.

#### Why is mediation confidential?

Confidentiality is one of the cornerstones of mediation. Confidentiality creates a safe environment and permits the parties to have a full, frank, and constructive discussion about their dispute without the concern that their legal positions could be compromised. Without the promise of confidentiality, parties would be hesitant to openly discuss potential solutions to their dispute and opportunities for settlement would be lost.

#### How long does mediation take?

Mediation continues as long as the main parties are productively working toward a resolution of their dispute. A mediation does not have a defined timeline. Generally, the more complex the issues that have to be addressed, the longer the mediation will take. During mediation, it is common for the discussion to be adjourned so that further information can be collected or work can be done that is essential for the mediation to continue. The discussion between the main parties to the dispute can also be adjourned to permit discussions to take place with other parties that are potentially affected by the resolution of the dispute.

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Send us your comments or questions

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