

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting - May 28, 2004
Date of Discontinuance of Proceedings - May 31, 2004

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 Charlie and Pat
Johnson with respect to the decision of the Inspector, Alberta
Environment, to issue Reclamation Certificate No. 00186627-00-
00 to Murphy Oil Company Ltd.

Cite as: *Johnson v. Inspector, Northern Region, Regional Services, Alberta Environment*
re: *Murphy Oil Company Ltd.* (31 May 2004), Appeal No. 03-142-DOP
(A.E.A.B.).

MEDIATION MEETING BEFORE:

Dr. M. Anne Naeth, Board Member.

APPEARANCES:

Appellants:

Mr. Charlie and Ms. Pat Johnson.

Inspector:

Ms. Carrie Fuson, Inspector, Northern Region, Regional Services, Alberta Environment, and Mr. Greg Smith, District Compliance Manager, Alberta Environment, represented by Mr. Jeffrey Moore, Alberta Justice.

Certificate Holder:

Mr. Ross MacKenzie, Murphy Oil Company Ltd., and Mr. Martin Steel, Sharp Environmental (2000) Ltd.

Board Staff:

Ms. Marian Fluker, Senior Research Officer.

EXECUTIVE SUMMARY

The Inspector, Alberta Environment, issued a Reclamation Certificate to Murphy Oil Company Ltd. for the reclamation of the Murphy et al BDYLKS 15-13-84-13-W6M well near Cherry Point, Alberta.

The Board received a Notice of Appeal from Mr. Charlie and Ms. Pat Johnson, the landowners, appealing Alberta Environment's decision.

The Board held a mediation meeting in Cherry Point, Alberta, on May 28, 2004. As a result of the mediation meeting, Mr. and Ms. Johnson withdrew their appeal.

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I. BACKGROUND

[1] On September 17, 2003, the Inspector, Northern Region, Regional Services, Alberta Environment (the “Inspector”) issued Reclamation Certificate No.00186627-00-00 (the “Certificate”) to Murphy Oil Company Ltd. (the “Certificate Holder”) for the reclamation of the Murphy et al BDYLKS 15-13-84-13-W6M well, near Cherry Point, Alberta.

[2] On October 22, 2003 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from the landowners, Mr. Charlie and Ms. Pat Johnson (the “Appellants”) appealing the Inspector’s decision.

[3] On October 23, 2003, the Board wrote to the Appellants, the Certificate Holder and the Inspector (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Inspector and Certificate Holder of the appeal. In the same letter, the Board also requested the Inspector provide the Board with a copy of the record relating to this appeal (the “Record”) and requested that the Parties provide the Board with available dates for a mediation 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 November 5, 2003 the Board received a copy of the Record from the Inspector and on November 6, 2003 forwarded a copy of the Record to the Parties.

[6] On November 19, 2003 the Board wrote to the Parties, advising of its decision to proceed with a mediation meeting, and that upon review of the file was of the view that a site visit may be crucial to a successful mediation meeting. In this regard, the Board proposed an abeyance of the appeal until Spring, 2004, at which time the Board would schedule the mediation meeting and site visit. Parties were requested to provide any comments or objections to the Board with respect to the abeyance of the appeal by November 25, 2003.

[7] On November 28, 2003 the Board received a letter from the Certificate Holder stating they had no objections to scheduling the mediation meeting until March, 2004 but

suggested that a site visit be conducted during the growing portion of the season to better reflect the vegetative cover at the location.

[8] On December 3, 2003 the Board received a letter from the Inspector advising that the Appellants had fenced in the area in question and “is now using the area as pasture”, which, “in turn, could affect the vegetation found on the site in 2004.”

[9] On December 4, 2003 the Board received a letter from the Appellants stating:

“The area fenced in consists of eight quarters of land and not just the well site. Entry date to this pasture cannot be before the first of June as six quarters of this is a Grazing Disposition and this is their regulation. If for some reason any of the parties want the on-site visit to be later than this, it would be easy enough to put up an electric fence around the well site.”

[10] On December 29, 2004 the Board wrote to the Parties informing them that the Board would like to conduct the mediation meeting and site visit in the spring of 2004, “before grazing starts” and that “it may be necessary for Mr. and Ms. Johnson to fence the site, as they have suggested, until such time as the mediation meeting and site visit are concluded.”

[11] On May 6, 2004, in consultation with the Parties, the Board scheduled the mediation meeting for May 28, 2004, in Cherry Point, Alberta.

II. THE MEDIATION MEETING

[12] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting and site visit in Cherry Point, Alberta on May 28, 2004 with Dr. M. Anne Naeth as the presiding Board Member (the “Mediator”).

[13] In conducting the mediation meeting and site visit, 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 Parties signed the Agreement and discussions ensued. Following productive and detailed discussions, the Parties subsequently reached an agreement and the Appellants withdrew their appeal.

III. DECISION

[14] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act* R.S.A. 2000, c W-3, and based upon the withdrawal of the appeal by the Appellants, the Board hereby discontinues its proceedings in Appeal No. 03-142 and closes its file.

Dated on May 31, 2004 at Edmonton, Alberta.

William A. Tilleman, Q.C.

Chairman