

ALBERTA  
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

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Date of Discontinuance of Proceedings – May 24, 2005

**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 Buffalo River Dene  
Nation and Metis Nation Clearwater Clear Lake Region.

Cite as: *Buffalo River Dene Nation and Metis Nation Clearwater Clear Lake Region re:  
Devon Canada Corporation. (24 May 2005), Appeal No. 05-004-DOP (A.E.A.B.).*

## **EXECUTIVE SUMMARY**

The Board received a Notice of Appeal from Buffalo River Dene Nation and Metis Nation-Clearwater Clear Lake Region, appealing an Alberta Energy and Utilities Board decision.

The Board advised the appellants that the initial view was that the appeal did not fall within the jurisdiction of the Board, but provided the parties with an opportunity to provide additional comments. As a result, the Appellants withdrew their appeal.

The Board therefore closes its file in this matter.

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## I. BACKGROUND

[1] The Environmental Appeals Board (the “Board”) received a Notice of Appeal, dated May 14, 2005 from the Buffalo River Dene Nation and the Metis Nation-Clearwater Clear Lake Region (the “Appellants”), on May 16, 2005. The appeal was stated to be with respect to a decision by the Alberta Energy and Utilities Board (the “AEUB”) regarding sections 39 and 40 of the *Energy Resources Conservation Act* which reviewed requests by the appellants on Approval No. 9426 issued to Devon Canada Corporation for Devon’s Jackfish SAGD project, original application No. 1321211.

[2] On May 17, 2005, the Board wrote to the Appellants, Devon Canada Corporation and Alberta Environment, acknowledging receipt of the Notice of Appeal and advising:

“...it appears to the Board that the decision to which you have filed an appeal is not within the jurisdiction of the Board and is an appeal of a decision made by the Alberta Energy and Utilities Board (the AEUB). The Board’s jurisdiction is found in section 91 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and section 115 of the *Water Act*, R.S.A. 2000, c. W-3. If this is an appeal of the AUEB decision, then this application should be made under the Alberta Energy and Utilities Act, R.S.A. 2000, c. A-17 which states:

- “26 (1) Subject to subsection (2), an appeal lies from the Board to the Court of Appeal on a question of jurisdiction or on a question of law.
- (2) Leave to appeal may be obtained from a judge of the Court of Appeal on an application made
- a) within 30 days from the day that the order, decision or direction sought to be appealed from was made, or
  - b) within a further period of time as granted by the judge where the judge is of the opinion that the circumstances warrant the granting of that further period of time.”

The Board requested the Appellants, Devon Canada Corporation and Alberta Environment provide their written comments on whether the appeal is properly before the Board by May 24, 2005.

[3] On May 24, 2005, the Board received letters from Alberta Environment and Devon Canada Corporation agreeing with the Board's initial view that the appeal is not within the jurisdiction of the Board. Devon Canada Corporation requested that the appeal be dismissed for "want of jurisdiction."

[4] The Board received also received a letter from the Appellants on May 24, 2005 withdrawing their appeal. The Appellants' letter stated:

"...We acknowledge your assessment of this appeal of the AEUB decision...As a result, your services in this matter are not required..."

## **II. DECISION**

[5] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and based on the withdrawal of the appeal by the Appellants, the Board hereby discontinues its proceedings in Appeal No. 05-005 and closes its file.

Dated on May 24, 2005, at Edmonton, Alberta.

*"original signed by"*

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William A. Tilleman, Q.C.  
Chair