

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – February 12, 2008

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 Allen and Marie Mucha
with respect to *Environmental Protection and Enhancement Act*
Reclamation Certificate No. 190544-00-00 issued to Devon
Canada Corporation by the Director, Northern Region, Regional
Services, Alberta Environment.

Cite as: *Mucha v. Director, Northern Region, Regional Services, Alberta Environment, re:
Devon Canada Corporation* (12 February 2008), Appeal No. 05-055-DOP
(A.E.A.B.).

I. BACKGROUND

[1] On May 28, 2004, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Reclamation Certificate No. 00190544-00-00 (the “Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c.E-12 (the “Act”), to Devon Canada Corporation (the “Certificate Holder”) with respect to Northstar Radway 9-36-59-2-W4M well in the County of Thorhild, Alberta.

[2] On January 10, 2006 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Allen and Ms. Marie Mucha (the “Appellants”) appealing the Certificate.

[3] On January 13, 2006, the Board wrote to the Appellants, the Certificate Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Certificate Holder and the Director of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to this appeal, and that the Participants provide available dates for a mediation meeting, preliminary 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 January 27, 2006, the Board received a copy of the Record from the Director, and on January 30, 2006, forwarded a copy to the Appellants and the Certificate Holder. The Director, in his January 27, 2006 letter, requested that the Board dismiss the appeal because it was filed outside of the 1 year time frame prescribed in the Act, for filing such appeals. On January 30, 2006, the Board scheduled a written submission process to determine whether the appeal was filed outside the legislated time frame, and whether an extension of time to appeal should be granted.

[6] On February 15, 2006, the Board received a letter from the Appellants advising:

“...the first notification we received that the above site had been issued a certificate of reclamation was dated August 19th in letter form from Devon Canada...”

On February 17, 2006, the Board received a letter from the Certificate Holder advising:

“...Please find attached a registered mail receipt confirming delivery and receipt of the Reclamation application package to John Allen Mucha dated January 8th, 2004. This confirms that the Mucha’s were aware that a reclamation certificate had been applied for prior to August 19, 2005.”

On February 21, 2006, the Board received a letter from the Director advising:

“...we have had an opportunity to review our records and discuss this file with the former inspector. Everything is in order. Mr. Mucha ought to have received a copy of the Reclamation Certificate after it was issued (May 28, 2004) by regular post. However, on the basis of the...letter from Ms. Mucha, advising that their first notice was in fact only in August 2005, we withdraw our preliminary motions for the purpose of mediation, but preserve the right to argue this point in the event of a hearing....”

[7] The Board responded to the Participants’ letters on February 23, 2006, advising that in light of the Director’s February 21, 2006 letter, the Participants are requested to provide available dates for a mediation meeting. On April 19, 2006, in consultation with the Participants, the Board scheduled the mediation meeting and a site visit for July 25, 2006. However, on July 21, 2006, the Board wrote to the Participants advising that the mediation meeting set for July 25, 2006, was cancelled because the mediator was working with the Participants to resolve the appeal, via teleconference.

II. MEDIATION MEETING

[8] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, between August 2006 and February 2008, the Board conducted several mediation meetings via teleconference, with Dr. M. Anne Naeth, Board Member, as the presiding Mediator (the “Mediator”).

[9] As a result of productive and detailed discussions during the mediation meetings, a resolution was reached, and on February 7, 2008, the Board received an e-mail from the Appellants withdrawing their appeal. The Board acknowledged the withdrawal of their appeal on February 8, 2008.

III. DECISION

[10] 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 05-055 and closes its file.

Dated on February 12, 2008, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudehy, FRSC, PEng
Chair