

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – October 25, 2007

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 Richard Holyk with
respect to *Environmental Protection and Enhancement Act*
Reclamation Certificate No. 00230888-00-00 issued to Omers
Energy Inc. by the Director, Northern Region, Regional Services,
Alberta Environment.

Cite as: *Holyk v. Director, Northern Region, Regional Services, Alberta Environment, re:
Omers Energy Inc. (25 October 2007), Appeal No. 06-085-DOP (A.E.A.B.).*

I. BACKGROUND

[1] On November 29, 2006, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Reclamation Certificate No. 230888-00-00 (the “Certificate”), under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Omers Energy Inc. (the “Certificate Holder”), in relation to the Omers Energy Ukalta NE 15-10-57-18-W4M well, near St. Michael, Alberta.

[2] On March 16, 2007, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Richard Holyk (the “Appellant”) appealing the Certificate.

[3] On March 20, 2007, the Board wrote to the Appellant, 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 appeal. 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 April 12, 2007, the Board received a letter and a copy of the Record from the Director. The Director’s letter stated:

“...we note that a surface audit is planned for the site this summer. Given the pending surface audit of the site, it may be appropriate to hold the appeal in abeyance pending the completion of the audit.”

[6] On April 19, 2007, the Board forwarded a copy of the Record to the Appellant and Certificate Holder, and responded to the Director’s letter, advising:

“...the Board is considering holding this appeal in abeyance until the surface audit is completed. However, before making a determination on this matter, the Board requests further information from Alberta Environment. Ms. Peel is requested to advise the Board by April 25, 2007, what the surface audit entails and the

timelines for the audit, including when Alberta Environment's report regarding the audit will be available."

[7] On April 24, 2007, the Board received a letter from the Director stating:

"...site audits generally proceed in late summer when there is a mature crop, but prior to harvest. The audit includes a file review, aerial photo review and site visit. The site visit includes comparisons to control locations. A detailed audit report may include information such as a site diagram, soil characteristics description (such as texture, topsoil depth, compaction, admixing, gravel/rocks, aggregate size, root restrictions, aggregate strength), vegetation description (species, health, % cover, density 0.1m², height, head length), landscape description (drainage, erosion, contour, stability, debris, bare areas), and site photos. Depending on workload demands, the audit report is generally completed within 2 to 3 weeks of the site visit. Therefore an audit and report would likely not be completed and available until August or September of this year."

[8] On May 16, 2007, the Board wrote to the Participants advising it would hold the appeal in abeyance, pending the outcome of the surface audit, and requested a status report from the Director by August 31, 2007.

[9] On August 16, 2007, the Board received a letter from the Director advising the surface audit was conducted on July 13, 2007. The audit "disclosed issues on the lease site with both vegetation and soil." The Director advised that a follow-up visit was planned for August 23-24, 2007, a lab report was expected within 2 to 3 weeks, and that the surface audit would be completed once the lab results were received. On August 20, 2007, the Board acknowledged receipt of the Director's letter and requested a further status report by September 21, 2007.

[10] On September 28, 2007, the Board received a letter from the Director advising the surface audit disclosed issues with vegetation and soil on the lease site resulting in the cancellation of the Certificate.

[11] On October 1, 2007, the Board wrote to the Participants acknowledging receipt of the Director's letter, and as a result of the cancellation of the Certificate, requested the Appellant advise if he would be withdrawing his appeal.

[12] On October 15, 2007, the Board received a telephone call from the Appellant advising that he wished to withdraw his appeal. The Board subsequently issued a letter on October 16, 2007, confirming the Appellant has withdrawn his appeal.

II. DECISION

[13] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based on the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 06-085 and closes its file.

Dated on October 25, 2007, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudehy, FRSC, PEng
Chair