

ALBERTA  
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – May 6, 2008  
Date of Discontinuance of Proceedings – May 8, 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 Vern McDonald with  
respect to *Environmental Protection and Enhancement Act*  
Reclamation Certificate No. 224627-00-00 issued to Husky Oil  
Operations Limited by the Director, Northern Region,  
Environmental Management, Alberta Environment.

Cite as: *McDonald v. Director, Northern Region, Environmental Management, Alberta Environment*, re: *Husky Oil Operations Limited* (8 May 2008), Appeal No. 07-003-DOP (A.E.A.B.).

## **I. BACKGROUND**

[1] On February 1, 2006, the Director, Northern Region, Environmental Management, Alberta Environment (the “Director”), issued Reclamation Certificate No. 224627-00-00 (the “Certificate”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Husky Oil Operations Limited (the “Certificate Holder”) with respect to the Renaissance Craigend 5-36-64-15-W4M well, near Lac La Biche, Alberta.

[2] On May 15, 2007, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Vern McDonald (the “Appellant”) appealing the Certificate.

[3] On May 17, 2007, the Board wrote to the Appellant, the Certificate Holder, the Kikino Métis Settlement, 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 motions hearing or hearing. The Board’s letter also stated:

“Upon review of the initial limited information, requested by the Board, from Alberta Environment...and the Notice of Appeal, it appears to the Board that the Reclamation Certificate was issued on February 1, 2006, but may not have been received by Mr. McDonald until May 14, 2007. It is also unclear to the Board whether the landowner is Mr. McDonald or the Kikino Metis Settlement.”

[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 May 31, 2007, the Board received a copy of the Record from the Director, and on June 11, 2007, forwarded a copy to the Appellant, the Certificate Holder and the Kikino Métis Settlement. The Board also noted in this letter, that upon review of the Record, it appears to the Board that the Appellant is the registered owner of the land and that he was not notified that the Certificate had been issued to the Certificate Holder. The Board requested the Participants provide the Board with written submissions on the late filed appeal.

[6] Both the Director and the Certificate Holder provided the Board with their submissions, and in each instance stated that, in their view, the appeal was not filed late as the Appellant did not receive notification of the Certificate.

[7] The Board found the Appellant was the registered landowner under the Métis Settlements Land Registry, but he did not receive notice of the Certificate as required under the *Environmental Protection and Enhancement Act*<sup>1</sup> and granted the extension of the period in which the appeal could be filed pursuant to section 91(5) of the *Environmental Protection and Enhancement Act*.

[8] On September 7, 2007, in consultation with the Participants, the Board scheduled a mediation meeting in Lac La Biche, Alberta, for October 3, 2007. On October 3, 2007, the mediation meeting was cancelled at the request of the Appellant.

[9] The Board proceeded to re-schedule the mediation meeting, and between October 3, 2007 and October 31, 2007, the Board was provided with available dates from the Participants. On October 31, 2007, the Board wrote to the Participants stating:

“...the Board notes the issues included are “lack of drainage” and “not enough top soil.” These are issues that may require a site visit during the mediation meeting. Since Mr. McDonald is not available until the end of November, and because there is a possibility that there may be snow on the ground by the end of November, the Board is of the view that it may be more practical to hold this appeal in abeyance until the spring of 2008...”

[10] On January 3, 2008, in consultation with the Participants, the Board re-scheduled the mediation meeting for May 6, 2008, in Lac La Biche, Alberta.

## **II. MEDIATION MEETING**

[11] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Lac La Biche, Alberta on May 6, 2008, with Mr. Ron V. Peiluck, Vice-Chair as the presiding mediator (the “Mediator”).

[12] In conducting the mediation meeting the Mediator reviewed the appeal and the mediation process and explained the purpose of the mediation meeting. He then circulated

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<sup>1</sup> Preliminary Motion: *McDonald v. Inspector, Northern Region, Regional Services, Alberta Environment*, re: *Husky Oil Operations Limited* (27 August 2007), Appeal No. 07-003-ID1 (A.E.A.B.)

copies of the Participants' Agreement to Mediate. All Participants signed the Agreement and discussions ensued.

[13] Following productive and detailed discussions at the mediation meeting, the Appellant withdrew his appeal.

### **III. DECISION**

[14] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based upon the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 07-003 and closes its file.

Dated on May 8, 2008, at Edmonton, Alberta.

*“original signed by”*

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Dr. Steve E. Hrudehy, FRSC, PEng  
Chair