

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – February 25, 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 appeals filed by David Yoshida with respect to *Environmental Protection and Enhancement Act* Amending Approval No. 73534-00-06 issued to Imperial Oil Resources Limited, Amending Approval No. 68492-00-10 issued to EnCana Corporation, Amending Approval No. 68023-00-04 issued to EnCana Corporation, Amending Approval 11115-03-02 issued to Canadian Natural Resources Limited, Amending Approval No. 147753-00-02 issued to Husky Oil Operations Limited, and Amending Approval No. 78161-00-01 issued to Blackrock Ventures Inc. (now Shell Canada Ltd.), by the Director, Northern Region, Regional Services, Alberta Environment.

Cite as: *Yoshida v. Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources Limited, EnCana Corporation, Canadian Natural Resources Limited, Husky Oil Operations Limited, and Blackrock Ventures Inc. (now Shell Canada Ltd.)* (25 February 2008) Appeal Nos. 07-076-081-DOP (A.E.A.B.).

I. BACKGROUND

[1] On April 30, 2007, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued the following Amending Approvals (collectively the “Amending Approvals”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to the following Approval Holders (collectively, “the Approval Holders”):

Amending Approval No. 73534-00-06 issued to Imperial Oil Resources Limited (“Imperial Oil”) authorizing the construction, operation and reclamation of the Cold Lake enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta;

Amending Approval No. 68492-00-10 issued to EnCana Corporation (“Encana”) authorizing the construction, operation and reclamation of the Foster Creek enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta;

Amending Approval No. 68023-00-04 issued to EnCana authorizing the construction, operation and reclamation of the Foster Creek enhance recovery in situ heavy oil plant, near Cold Lake, Alberta;

Amending Approval No. 11115-03-02 issued to Canadian Natural Resources Limited (“CNRL”) authorizing the construction, operation and reclamation of the Primrose and Wolf Lake enhanced recovery in-situ oil sands and heavy oil processing plant and oil production site near Cold Lake, Alberta;

Amending Approval No. 147753-00-02 issued to Husky Oil Operations Limited (“Husky Oil”) authorizing the construction, operation and reclamation of the Tucker enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Cold Lake, Alberta; and

Amending Approval No. 78161-00-01 issued to Blackrock Ventures Inc. (“Blackrock”) authorizing the construction, operation and reclamation of the Hilda Lake enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site near Hilda Lake, Alberta.

The Amending Approvals incorporate the Lakeland Industry and Community Association Air Quality Monitoring Program network.

[2] Notices of Appeal, in relation to the Amending Approvals, were received by the Board on May 24, 2007, June 1 and June 8, 2007 from Ms. Gail Wolfe on behalf of herself and

the Cold Lake Fibromyalgia Support Group, Ms. Inez Stone on behalf of herself and the Ethel Lake Intervenors, Ms. Sally Ulfsten, Ms. Rachel Stone, Mr. George Elchuk, Ms. Mary Anne Leroux, Mr. David Lee, Ms. Cathy Urlacher, Ms. Ruth T. Sywak, Mr. David Stone, Mr. Andy Leroux, Mr. David Yoshida, Mr. Jens Peter Harwerth, Ms. Marinda Stander and Ms. Barbara Johnson.¹ This Discontinuance of Proceeding deals only with the Notices of Appeal filed by David Yoshida (07-076-081) (the “Appellant”).

[3] The Board wrote to the Appellant, the Approval Holders and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Approval Holders, 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 the Amending Approvals, and that the Participants provide available dates for a mediation meeting, preliminary meeting or hearing. On July 23, 2007, the Board wrote a letter to the Lakeland Industry and Community Association (“LICA”) notifying them of the appeals because the Amending Approvals incorporate the LICA Air Quality Monitoring Program network.

[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] The Board received a copy of the Record on July 3, 2007, and provided a copy to the Participants on July 12, 2007.

[6] The Board received a letter dated July 2, 2007, from the Appellant requesting a Stay in relation to the Amending Approvals. The Board responded to the Appellant’s letter on July 9, 2007, requesting he answer the following questions in relation to the Stay:

“1. What are the serious concerns that the Appellants have that should be heard by the

1 The appeals of Ms. Gail Wolfe, Ms. Cathy Urlacher, Mr. David Lee and Ms. Ruth Sywak were withdrawn. See: *Wolfe et al. v. Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources Limited, EnCana Corporation, Canadian Natural Resources Limited, Husky Oil Operations Limited, and Blackrock Ventures (now Shell Canada Ltd.)* (07 August 2007), Appeal Nos. 07-022-027, 034-039 and 094-099-DOP (A.E.A.B.); and *Lee. v. Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources Limited, EnCana Corporation, Canadian Natural Resources Limited, Husky Oil Operations Limited, and Blackrock Ventures (now Shell Canada Ltd.)* (29 October 2007), Appeal Nos. 07-082-087-DOP (A.E.A.B.)

Board?

2. Would the Appellants suffer irreparable harm if the Stay is refused?
3. Would each of the Appellants suffer greater harm if the Stay was refused pending a decision of the Board, than Imperial Oil Resources Limited, EnCana Corporation, Canadian Natural Resources Limited, Husky Oil Operations Limited and Shell Canada Ltd., would suffer from the granting of a Stay?; and
4. Would the overall public interest warrant a Stay?"

[7] A response was received in relation to the Stay request however, on October 4, 2007, at the request of the Participants; the Board put the Stay into abeyance and proceeded to schedule a mediation meeting.

[8] On November 20, 2008, the Board wrote to the Participants advising that the Board had set the mediation meeting for February 5, 2008. However, on January 31, 2008, the mediation meeting was postponed to allow time for a "Network Review" to be completed. The Network review will provide an independent review of the LICA Air Quality Monitoring Program, including a review of the existing Network, a statistical analysis for each monitoring station and a list of draft recommendations and changes for the network. Participants were asked to provide their available dates for the mediation meeting for March and April 2008, by February 15, 2008.

[9] On February 12, 2008, the Board received an e-mail from the Appellant withdrawing his appeal.

II. DECISION

[10] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based upon the withdrawal of the appeals by the Appellant, the Board hereby discontinues its proceedings in Appeal Nos. 07-076-081 and closes its files.

Dated on February 25, 2008, at Edmonton, Alberta.

"original signed by"

Dr. Steve E. Hrudehy, FRSC, PEng
Chair