

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – May 12, 2009

IN THE MATTER OF sections 91, 92 and 95 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;

-and-

IN THE MATTER OF an appeal filed by Trilogy Energy Trust with respect to *Water Act* Licence No. 00252327-00-00 issued to Trilogy Energy Trust by the Director, Central Region, Environmental Management, Alberta Environment.

Cite as: *Trilogy Energy Trust v. Director, Central Region, Environmental Management, Alberta Environment* (12 May 2009), Appeal No. 08-035-DOP (A.E.A.B.).

I. BACKGROUND

[1] On December 18, 2008, the Director, Central Region, Environmental Management, Alberta Environment (the “Director”), issued Licence No. 00252327-00-00 (the “Licence”) under the *Water Act*, R.S.A. 2000, c. W-3, to Trilogy Energy Trust authorizing the operation of a works and the diversion of up to 7,556 cubic metres of water annually for industrial (oilfield injection) purposes, near Fox Creek, Alberta.

[2] On January 23, 2009, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Trilogy Energy Trust (the “Appellant”) appealing the Licence.

[3] On January 26, 2009, the Board wrote to the Appellant and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying 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.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board, the Alberta Utilities Commission, and the Energy Resources Conservation Board, asking whether this matter had been the subject of a hearing or review under their respective legislation. All the boards responded in the negative.

[5] On February 20, 2009, the Board received a copy of the Record from the Director, and on February 23, 2009, forwarded a copy to the Appellant.

[6] On March 9, 2009, in consultation with the Participants, the Board requested the Participants hold May 12 and 13, 2009 for a mediation meeting, that they provide an update on their potential meeting, and the Director provide the letters referenced under tab 2 of the Record by March 16, 2009.

[7] On March 17, 2009, the Board acknowledged the Appellant’s e-mail dated March 13, 2009 advising that it had not previously received the letter under tab 13 of the Record and would be providing a response to the Director. The Board’s letter also requested the Participants continue to hold May 12 and 13, 2009 for a mediation meeting at the Board’s office, and the Director provide the letters referenced under tab 2 of the Record. The Director provided the requested information on March 20, 2009.

[8] On March 31, 2009, the Appellant responded to the Director with a copy to the Board, and the Board acknowledged the letter on April 2, 2009 requesting a status on the Participants' potential meeting by April 24, 2009.

[9] On April 24, 2009, the Director advised that he was reviewing the information and would be in a position to make a decision by May 1, 2009, without the Participants meeting. The Board acknowledged the letter and requested an update from the Director by May 4, 2009, and would then decide on the status of the mediation meeting.

[10] On May 6, 2009, the Board received an e-mail from the Director providing a copy of his May 5, 2009 letter to the Appellant enclosing a new water licence, Licence No. 00254791-00-00, that is to be used in conjunction with the existing Licence. The Board also received an e-mail from the Appellant advising that as a result of receiving the new licence, they were withdrawing their Notice of Appeal.

II. DECISION

[11] 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. 08-035 and closes its file.

Dated on May 12, 2009, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudehy, FRSC, PEng
Chair