

ALBERTA ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – November 10, 2015

IN THE MATTER OF sections 91, 92, 95, and 99 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12;

-and-

IN THE MATTER OF an appeal filed by Bonavista Energy Corporation with respect to the cancellation of Reclamation Certificate No. 252822-00-00 under the *Environmental Protection and Enhancement Act*, by the Director, Northern Region, Alberta Environment and Sustainable Resource Development.

Cite as: *Bonavista Energy Corporation v. Director, Northern Region, Alberta Environment and Sustainable Resource Development* (10 November 2015), Appeal No. 11-005-R (A.E.A.B.).

BEFORE:

Mr. Alex G. MacWilliam, Board Chair.

PARTIES:

Appellant: Bonavista Energy Corporation.

Director: Mr. Greg Smith,^{*} Director, Northern Region,^{**} Alberta Environment and Sustainable Resource Development,^{***} represented by Ms. Michelle Williamson, Alberta Justice and Solicitor General.

Landowners: Mr. Mark and Ms. Tracy Ginter.

* Mr. Greg Smith was the Director who cancelled the reclamation certificate. Since the decision was made, he is no longer a Director with Alberta Environment and Sustainable Resource Development.

** Since the decision was made to cancel the reclamation certificate, the region in which the site is located is now referred to as the Peace Region.

*** Alberta Environment and Sustainable Resource Development ("AESRD") is now called Alberta Environment and Parks. However, all relevant events occurred regarding this appeal while the Department was called AESRD.

EXECUTIVE SUMMARY

Alberta Environment and Sustainable Resource Development (AESRD) cancelled a reclamation certificate that was issued to Bonavista Petroleum Corporation (Bonavista). The cancellation followed a contamination audit. Bonavista appealed the decision to cancel the reclamation certificate.

The Board held a mediation meeting in December 2012 where an agreement was reached. The Board continued to receive updates while terms of the mediation agreement were fulfilled.

In October 2015, AESRD confirmed the site met reclamation criteria, and AESRD and Bonavista requested the Board recommend to the Minister that the reclamation certificate be reinstated.

The Board recommended to the Minister that AESRD's decision to cancel the reclamation certificate be reversed and the reclamation certificate be reinstated.

TABLE OF CONTENTS

I. INTRODUCTION	1
II. BACKGROUND	1
III. RECOMMENDATIONS.....	3

I. INTRODUCTION

[1] This is the Environmental Appeals Board's Report and Recommendations to the Minister of Environment and Parks regarding the appeal of a cancellation of a reclamation certificate.

[2] Alberta Environment and Sustainable Resource Development ("AESRD")¹ issued a reclamation certificate to Bonavista Energy Corporation ("Bonavista" or the "Appellant") in June 2009, for a well site located near Dixonville. AESRD cancelled the reclamation certificate in April 2011, after it conducted a contamination audit. Bonavista appealed the cancellation of the reclamation certificate.

[3] The Environmental Appeals Board (the "Board") held a mediation meeting in December 2012, with the landowners, representatives of the Appellant, and AESRD. An agreement was reached at mediation. AESRD and the Appellant requested the Board hold the appeal in abeyance while terms of the mediation agreement were fulfilled. Regular status reports were received by the Board from AESRD and the Appellant (collectively, the "Parties").

[4] In October 2015, AESRD confirmed the site met reclamation criteria, and the Parties jointly requested the Board recommend to the Minister to reinstate the reclamation certificate.

[5] The Board reviewed the record, subsequent correspondence, and the mediated agreement and recommended to the Minister that the decision to cancel the reclamation certificate be reversed and the reclamation certificate be reinstated.

II. BACKGROUND

[6] On June 12, 2009, the Director, Northern Region,² Alberta Environment and Sustainable Resource Development (the "Director"), issued Reclamation Certificate No. 252822-00-00 (the "Certificate") to Bonavista under the *Environmental Protection and Enhancement Act*,

¹ AESRD is now called Alberta Environment and Parks. However, all relevant events occurred regarding this appeal while the Department was called AESRD.

² Since the decision was made to cancel the reclamation certificate, the region in which the site is located is now referred to as the Peace Region.

R.S.A. 2000, c. E-12 (“EPEA”). The Certificate was issued with respect to the Bonavista Dixonville well located at 12-11-87-25-W5M, (the “Site”), near Dixonville, Alberta.

[7] On April 19, 2011, the Director cancelled the Certificate based on information obtained during a contamination audit.

[8] On May 25, 2011, the Board received a Notice of Appeal from Bonavista appealing the cancellation of the Certificate.

[9] On May 27, 2011, the Board acknowledged receipt of the appeal and notified the Director of the appeal. The Board also requested the Director provide the Board with a copy of the record (the “Record”) relating to the cancellation of the Certificate, and that the Parties provide available dates for a mediation meeting. The Record was received on June 24, 2011, and a copy was provided to the Appellant on June 27, 2011.

[10] On June 27, 2011, the Board notified the landowners, Mr. Mark and Ms. Tracy Ginter (the “Landowners”), of the appeal.

[11] On July 25, 2011, the Board notified the Parties and the Landowners that the mediation meeting would be held on October 14, 2011.

[12] On September 13, 2011, the Director asked the mediation meeting be put into abeyance until summer 2012 so the Site could be reassessed.

[13] On September 15, 2011, the Appellant confirmed it had no objection to placing the mediation meeting in abeyance. The Board granted the abeyance and cancelled the October 14, 2011 mediation meeting. The Board received regular updates on the progress of the discussions and site assessments.

[14] On November 2, 2012, the Appellant requested a mediation meeting be scheduled.

[15] The mediation meeting was held on December 13, 2012, in Peace River. A resolution was reached amongst the Parties and Landowners.

[16] The Board continued to receive status reports from the Parties while terms of the mediation agreement were fulfilled.

[17] On April 16, 2014, the Board notified the Parties that, pursuant to the *Responsible Energy Development Act*, S.A. 2012, R-17.3, the jurisdiction regarding the Certificate passed to the Alberta Energy Regulator (the "AER") on March 29, 2014, but under the transition provisions, any appeals filed with the Board prior to that date were to be completed under the previous legislation by the Board.

[18] On October 8, 2015, the Director confirmed the Site meets the reclamation criteria. The Director notified AER of the intended recommendation to the Board.

[19] On October 26, 2015, the Appellant confirmed all required releases were signed by the Landowners. The Landowners did not advise the Board of any concerns with the Certificate being reinstated.

[20] The Parties jointly recommended the Certificate be reinstated effective the date of the Minister's Order.

III. RECOMMENDATIONS

[21] In accordance with section 99 of the *Environmental Protection and Enhancement Act*, the Board recommends the Minister:

1. reverse the Director's decision to cancel the Certificate; and
2. reinstate Reclamation Certificate No. 252822-00-00 effective the date of the Minister's Order.

[22] Further, with respect to sections 100(2) and 103 of EPEA, the Board recommends that copies of this Report and Recommendations, and the decision by the Minister, be sent to the following:

- Mr. Colin Hennel, Bonavista Energy Corporation;
- Ms. Tracy and Mr. Mark Ginter;
- Ms. Michelle Williamson, Alberta Justice and Solicitor General, on behalf of the Director, Northern Region, Alberta Environment and Sustainable Resource Development; and

- Mr. Jeff Moore, Alberta Energy Regulator.

Dated on November 10, 2015, at Edmonton, Alberta.

“original signed by”
Alex G. MacWilliam
Board Chair



ALBERTA
ENVIRONMENT AND PARKS

*Office of the Minister
MLA, Lethbridge - West*

Ministerial Order
49/2015

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12.

Order Respecting Environmental Appeals Board
Appeal No. 11-005

I, Shannon Phillips, Minister of Environment and Parks, pursuant to section 100 of the *Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order Respecting Environmental Appeals Board Appeal No. 11-005.

Dated at the City of Edmonton in the Province of Alberta, this 15th day of December, 2015.


Shannon Phillips
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 11-005

With respect to the decision of the Director, Northern Region, Alberta Environment and Parks, to cancel Reclamation Certificate No. 252822-00-00 under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, that was issued to Bonavista Energy Corporation, I, Shannon Phillips, Minister of Environment and Parks, order that Reclamation Certificate No. 252822-00-00 be reinstated.