

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – September 25, 2012

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 Fife Petroleum c/o
Orphan Well Association with respect to the decision of the
Director, Northern Region, Operations Division, Alberta
Environment and Sustainable Resource Development, to cancel
EPEA Reclamation Certificate No. 00264135-00-00 issued to Fife
Petroleum c/o Orphan Well Association.

Cite as: *Fife Petroleum c/o Orphan Well Association v. Director, Northern Region,
Operations Division, Alberta Environment and Sustainable Resource
Development* (25 September 2012), Appeal No. 11-175-R (A.E.A.B).

MEDIATION MEETING BEFORE:

Ms. Christine Macken, Board Member.

APPEARANCES:

Appellant:

Fife Petroleum c/o Orphan Well Association, represented by Ms. Pat Payne, Orphan Well Association; Mr. Steffen Spoelstra, Orphan Well Association; and Mr. Jeff Biegel, Sharp Environmental.

Director:

Mr. Greg Smith, Director, Northern Region, Operations Division, Alberta Environment and Sustainable Resource Development, and Ms. Danielle Siemens, Environmental Protection Officer, Alberta Environment and Sustainable Resource Development, represented by Mr. Jeff Moore, Alberta Justice and Solicitor General.

Board Staff:

Ms. Marian Fluker, Associate Counsel.

EXECUTIVE SUMMARY

Alberta Environment and Sustainable Resource Development cancelled a reclamation certificate held by the Orphan Well Association for a well site previously owned by Fife Petroleum located in the County of Grande Prairie, Alberta. The reclamation certificate was cancelled following a random audit conducted on the well site.

The Orphan Well Association filed an appeal of the cancellation of the reclamation certificate.

The Board held a mediation meeting on February 14, 2012 and a further meeting on May 24, 2012, following which an agreement was reached. Alberta Environment and Sustainable Resource Development and the Orphan Well Association requested that the Board recommend to the Minister of Environment and Sustainable Resource Development to reverse the Director's decision to cancel the reclamation certificate, thereby reinstating it.

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I. INTRODUCTION

[1] This is the Environmental Appeals Board's Report and Recommendations to the Minister of Environment and Sustainable Resource Development regarding the appeal filed by Fife Petroleum c/o Orphan Well Association.

[2] Alberta Environment and Sustainable Resource Development cancelled a reclamation certificate held by the Orphan Well Association because the site did not meet criteria. The Orphan Well Association appealed the decision.

[3] The Board held a mediation meeting on February 14, 2012, and a further mediation meeting on May 24, 2012, following which an agreement was reached by the Parties.

II. BACKGROUND

[4] On October 14, 2011, the Director, Northern Region, Operations Division, Alberta Environment and Sustainable Resource Development (the "Director"), cancelled Reclamation Certificate No. 00264135-00-00 (the "Certificate") under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, held by Fife Petroleum c/o the Orphan Well Association. The Certificate was issued for the Fife LaGlace 11-13-74-8 W6M well site located in the County of Grande Prairie. The Certificate was cancelled because the well site failed a random audit.

[5] On November 10, 2011, the Environmental Appeals Board (the "Board") received a Notice of Appeal from the Orphan Well Association (the "Appellant") appealing the cancellation of the Certificate stating the site met vegetation and contouring criteria.

[6] On November 15, 2011, the Board wrote to the Appellant and the Director (the "Parties") acknowledging receipt of the Notice of Appeal, and notifying the Director of the appeal. The Board also requested the Director provide a copy of the records (the "Record") relating to this appeal, and that the Parties provide available dates for a mediation meeting, preliminary motions hearing, or hearing. On this same date, the Board notified Mr. Peter and Ms. Levke Eggers (the "Landowners") of the appeal and advised them to notify the Board if they wanted to participate in a mediation meeting or hearing.

[7] On December 12, 2011, the Board received a copy of the Record from the Director, and a copy of the Record was forwarded to the Appellant and the Landowners on December 14, 2011.

[8] The Landowners were notified of the February 14, 2012 mediation meeting but the Board did not receive a response until after the date specified by the Board. On February 7, 2012, the Board notified the Landowners of its intent to proceed with the mediation meeting as scheduled on February 14, 2012, noting the Landowners had been provided with notice of the appeal, were provided with a copy of the Record and all subsequent correspondence, and were given four more opportunities to respond to the Board regarding the mediation meeting.

[9] In consultation with the Parties, the Board held the mediation meeting on February 14, 2012, in Edmonton, Alberta, and a further mediation meeting was held in Calgary, Alberta on May 24, 2012.

III. MEDIATION MEETING

[10] Pursuant to section 11 of the Environmental Appeal Board Regulations, Alta. Reg. 114/93, the Board conducted a mediation meeting in Edmonton on February 14, 2012, with a follow-up mediation meeting in Calgary, Alberta, on May 24, 2012, with Ms. Christine Macken, Board Member, as the presiding mediator (the "Mediator").

[11] In conducting the mediation meeting, the Mediator reviewed the appeal and the mediation process and explained the purpose of the mediation meeting. She circulated copies of the Participants' Agreement to Mediate, and all those in attendance signed the Participants' Agreement to Mediate.

[12] Following productive and detailed discussions an agreement was reached at the mediation meeting. The Parties requested the Board recommend to the Minister of Environment and Sustainable Resource Development to reverse the cancellation of the Certificate.

IV. RECOMMENDATIONS

[13] In accordance with section 99 of the *Environmental Protection and Enhancement Act*, the Board recommends that the Minister of Environment and Sustainable Resource

Development reverse the Director's October 14, 2011 decision and reinstate Reclamation Certificate No. 00264135-00-00 as requested by the Parties.

[14] 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:

- Ms. Pat Payne, Orphan Well Association;
- Mr. Jeff Moore, Alberta Justice and Solicitor General, on behalf of Mr. Greg Smith, Director, Northern Region, Operations Division, Alberta Environment and Sustainable Resource Development; and
- Mr. Peter and Ms. Levke Eggers, Landowners.

Dated on September 25, 2012, at Edmonton, Alberta

“original signed by”

Delmar W. Perras
Chair



ALBERTA

ENVIRONMENT AND SUSTAINABLE RESOURCE DEVELOPMENT

*Office of the Minister
MLA, Drayton Valley-Devon*

Ministerial Order
42/2012

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

Order Respecting Environmental Appeals Board
Appeal No. 11-175

I, Diana McQueen, Minister of Environment and Sustainable Resource Development, 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. 11-175.

Dated at the City of Edmonton, in the Province of Alberta, this 13th day of November 2012.

Diana McQueen
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 11-175

With respect to the decision of the Director, Northern Region, Operations Division, Alberta Environment and Sustainable Resource Development (the "Director") to cancel Reclamation Certificate No. 00264135-00-00 (the "Certificate") under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, held by Fife Petroleum Ltd. c/o Orphan Well Association, I, Diana McQueen, Minister of Environment and Sustainable Resource Development, order that:

1. the decision of the Director to cancel the Certificate is reversed; and
2. the Certificate is reinstated and issued to Fife Petroleum Ltd. c/o Orphan Well Association.