

ALBERTA ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – August 13, 2019

IN THE MATTER OF sections 91, 92, 94, 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 West Fraser Mills Ltd. with respect to *Environmental Protection and Enhancement Act* Approval No. 108-03-00 issued to West Fraser Mills Ltd. by the Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks.

Cite as: *West Fraser Mills Ltd. v. Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks* (13 August 2019), Appeal No. 18-019-R1 (A.E.A.B.), 2019 AEAB 25.

BEFORE:

Mr. Alex MacWilliam, Board Chair.

PARTIES:

Appellant:

West Fraser Mills Ltd., represented by Ms. Janice Walton, Blake Cassells & Graydon LLP.

Director:

Mr. Muhammad Aziz, Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks, represented by Ms. Alison Altmiks, Alberta Justice and Solicitor General.

EXECUTIVE SUMMARY

Alberta Environment and Parks (AEP) issued an approval under the *Environmental Protection and Enhancement Act* to West Fraser Mills Ltd. (West Fraser) for the Slave Lake Chemithermomechanical Pulp Manufacturing Plant (the Plant), located near Slave Lake, Alberta. This is the third approval issued to West Fraser for this Plant under the *Environmental Protection and Enhancement Act*. This approval requires certain changes to the Plant's operations that are being implemented across the pulp industry to ensure current best practices are followed.

West Fraser appealed the approval to the Board, expressing concern over a number of conditions in the approval. The Board held a mediation meeting with AEP and West Fraser (the Parties). At the mediation meeting, the Parties were able to reach an agreement on all but three of the issues raised by West Fraser in its appeal. The Parties agreed to continue their discussion on two of the outstanding issues and agreed that the third issue would likely be referred to a hearing before the Board.

The issues the Parties reached agreement on included:

1. clarifying which aboveground storage tanks require vapour controls;
2. increasing the time the biogas scrubber may be down for maintenance;
3. reducing the frequency of monitoring the biogas incinerator stack;
4. postponing the reduction of the time the continuous monitoring system for the industrial wastewater may be down for maintenance; and
5. permitting the emergency disposal of mechanical pulp mill sludge by incineration.

The Parties requested that the Board issue a Report and Recommendations, recommending to the Minister that the issues they had agreed upon be implemented as soon as possible. This will allow the Plant to operate under the agreed-upon changes, while the Parties continue to try to resolve the remaining issues.

The remaining issues have implementation deadlines that will fall within the next few years, so there will be time for the Parties to continue to work toward resolution of these issues. A subsequent Report and Recommendations and Ministerial Order may be needed if these issues are resolved through mediation or a hearing.

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I. BACKGROUND

[1] On November 30, 2018, the Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks (the “Director”), issued Approval No. 108-03-00 (the “Approval”) to West Fraser Mills Ltd. (the “Appellant”). The Approval, issued under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”), authorizes the Appellant to operate the Slave Lake Pulp Mill, a bleached chemithermomechanical pulp manufacturing plant (the “Plant”) near Slave Lake, Alberta. The Plant has been in operation since 1990, and this is the third approval issued to the Plant under EPEA.

[2] The Approval replaced Approval No. 108-02-00, which expired on the same date the Approval was issued. The Approval requires the Appellant to make changes to its operations in order to be compliant with the current best practices applicable to the pulp industry in Alberta. Many of the changes made to the Approval are being made across the pulp industry.

[3] On December 28, 2018, the Appellant filed a Notice of Appeal with the Board appealing the following conditions of the Approval:

- 2.4.4 – clarification as to which aboveground tanks require vapour controls;
- 4.2.14 – the requirement to stop operating the olivine wood waste incinerator;
- 4.2.16 and Table 4.2-D – clarification as to the time the biogas scrubbers may be down for maintenance;
- 4.2.18 and Table 4.2-E – clarification of the number of times the biogas incinerator stack must be sampled;
- 4.3.15(b)– clarification as to the time the continuous monitoring system for the industrial wastewater control system may be down for maintenance;
- 4.3.44 to 4.3.47 and Table 4.3-H – clarification regarding the requirements of a wetland assessment;

- 4.4.16 – clarification regarding disposal of waste paper in the olivine wood waste incinerator;
- 4.4.18 – clarification regarding the emergency use of the olivine wood waste incinerator to dispose of mechanical pulp mill sludge;
- 4.4.20 to 4.4.23 – clarification regarding the requirements of the Cadmium Monitoring and Management Plan; and
- 4.6.9 – clarification regarding the Groundwater Monitoring Report.

The Appellant submitted the appealed conditions were unworkable, unnecessary, too costly to implement, and would not provide additional protection to the environment.

[4] The Board held a mediation meeting between the Appellant and the Director (collectively, the “Parties”) on April 15, 2019, in Edmonton, with a Board member appointed as mediator.

II. DISCUSSION

[5] The mediation meeting resulted in an agreement between the Parties (the “Agreement”) on most of the issues raised by the Appellant in its appeal. The issues the Parties resolved include:

1. clarifying which aboveground storage tanks require vapour controls;
2. increasing the time the biogas scrubber may be down for maintenance;
3. reducing the frequency of monitoring of the biogas incinerator stack;
4. postponing the reduction of the time the continuous monitoring system for the industrial wastewater may be down for maintenance;
5. permitting the burning of waste paper in the olivine wood waste incinerator;
6. permitting the emergency disposal of mechanical pulp mill sludge by incineration one time per year; and
7. withdrawing the appeal regarding the Groundwater Monitoring Report.

[6] There are three issues raised by the Appellant that remain unresolved. The Parties are continuing to work towards resolving those issues. The unresolved issues involve conditions that have deadlines for implementation that will fall within the next few years, which provides time for the Parties to continue negotiations and potentially reach an agreement. It should be noted, the requirement to stop using the olivine wood waste incinerator may proceed to a hearing.

[7] As part of the Agreement, the Parties requested the Board issue a Report and Recommendations recommending to the Minister that the Agreement be implemented. The Board does not usually issue a Report and Recommendations without a full resolution of all the issues in an appeal. However, in this situation, implementation of the Agreement will allow the Plant to operate under an Approval that reflects the terms of the Agreement without waiting for the remaining issues in the appeal to be resolved. A subsequent Report and Recommendations and Ministerial Order may be required if the remaining issues are resolved in mediation or after a hearing before the Board.

[8] The Board will continue to monitor the progress of the Parties, and the Parties may request the Board convene another mediation or, if necessary, schedule a hearing.

[9] On April 9, 2019, following a request by Appellant, the Board issued a letter granting a stay of the following conditions of the Approval:

- 2.4.4 – the requirement for vapour controls on certain aboveground storage tanks;
- 4.2.14 – the requirement to stop using the olivine wood waste incinerator as of November 30, 2021;
- 4.2.18 and Table 4.2-E – the requirement to take annual stack surveys of the biogas incinerator stack;
- 4.3.15(b) – the requirement to reduce the maintenance downtime of the continuous monitoring system for the industrial wastewater control system;
- 4.3.44 to 4.3.47 and Table 4.3-H – the requirements of the wetland assessment;
- 4.4.18 – the restrictions on the disposal of mechanical pulp mill sludge;

- 4.4.20 to 4.4.23 - the requirements of the Cadmium Monitoring and Management Plan; and
- 4.6.9 – certain requirements of the Groundwater Monitoring Report.

[10] If the Minister issues a Ministerial Order implementing the Agreement, the Board will lift the stays on all the Approval conditions, except for:

- condition 4.2.14 - the requirement to stop using the olivine wood waste incinerator as of November 30, 2021;
- conditions 4.3.44 to 4.3.47 - the requirements of the wetland assessment; and
- conditions 4.4.20 to 4.4.23 - the requirements of the Cadmium Monitoring and Management Plan.

The stay will remain in effect for these conditions until the Board hears the appeal on these conditions and the Minister issues a further order with respect to this appeal, or the Board directs otherwise.

III. RECOMMENDATIONS

[11] In accordance with section 99 of EPEA,¹ the Board recommends the Minister of Environment and Parks order Approval No. 108-03-00 be varied in accordance with the Agreement reached by the Parties. Specifically, the Board recommends the agreement of the Parties regarding the following matters be implemented by way of a Minister's order:

1. clarifying which storage tanks require vapour controls;
2. increasing the time the biogas scrubber may be down for maintenance;
3. reducing the frequency of monitoring of the biogas incinerator stack;

¹ Section 99 of EPEA provides:

“In the case of a notice of appeal referred to in section 91(1)(a) to (m) of this Act or in section 115(1)(a) to (i), (k), (m) to (p) and (r) of the *Water Act*, the Board shall within 30 days after the completion of the hearing of the appeal submit a report to the Minister, including its recommendations and the representations or a summary of the representations that were made to it.”

4. postponing the reduction of the time the continuous monitoring system for the industrial wastewater may be down for maintenance;
5. permitting the burning of waste paper in the olivine wood waste incinerator; and
6. permitting the emergency disposal of mechanical pulp mill sludge by incineration one time per year.

[12] Under section 100(2) of EPEA,² copies of this report and recommendations and any decision by the Minister are to be provided to:

1. Ms. Janice Walton, Blake Cassells & Graydon LLP on behalf of West Fraser Mills Ltd.; and
2. Ms. Alison Altmiks, Alberta Justice and Solicitor General, on behalf of the Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks.

Dated on August 13, 2019, at Edmonton, Alberta.

“original signed by”
Alex MacWilliam
Board Chair

² Section 100(2) of EPEA states:

“The Minister shall immediately give notice of any decision made under this section to the Board and the Board shall, immediately on receipt of notice of the decision, give notice of the decision to all persons who submitted notices of appeal or made representations or written submissions to the Board and to all other persons who the Board considers should receive notice of the decision.”



ALBERTA
ENVIRONMENT AND PARKS

*Office of the Minister
Government House Leader
MLA, Rimbey-Rocky Mountain House-Sundre*

**Ministerial Order
37 /2019**

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

Order Respecting Environmental Appeals Board Appeal No. 18-019

I, Jason Nixon, 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. 18-019.

Dated at the City of Edmonton, in the Province of Alberta, this 14 day of AUGUST, 2019.



Jason Nixon
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 18-019

With respect to the decision of the Director, Upper Athabasca Region, Operations Division, Alberta Environment and Parks (the "Director"), to issue Approval No. 108-03-00 (the "Approval") under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 ("EPEA"), to West Fraser Mills Ltd., I, Jason Nixon, Minister of Environment and Parks, order that:

1. The decision of the Director to issue the Approval is varied as follows.
2. Condition 2.4.4 is repealed and replaced as follows:

"2.4.4 Effective from January 01, 2020, all above ground storage tanks containing liquid hydrocarbons or volatile organic liquids shall conform to the *Environmental Guidelines for Controlling Emissions of Volatile Organic Compounds from Aboveground Storage Tanks*, Canadian Council of Ministers of the Environment, PN 1180, 1995, as amended."

3. Condition 4.2.16 is repealed and replaced as follows:

"4.2.16 Downtime for the pollution abatement equipment due to maintenance shall not exceed the maximum cumulative allowable time limits as specified in TABLE 4.2-D, unless otherwise authorized in writing by the Director."

4. Table 4.2-D Time Limits is repealed and replaced as follows:

TABLE 4.2-D TIME LIMITS

POLLUTION ABATEMENT EQUIPMENT	MAXIMUM CUMULATIVE ALLOWABLE TIME LIMITS DUE TO MAINTENANCE DOWNTIME
Biogas Scrubbers	120 hours per quarter year per scrubber

5. Table 4.2-E Source Monitoring and Reporting is repealed and replaced as follows:

TABLE 4.2-E SOURCE MONITORING AND REPORTING

Emission Source	Parameter	Frequency	Method of Monitoring	Reporting Frequency
3 x 3.02 MW Genset Stacks (Genset #1, #2 and #3)	Nitrogen Oxides (expressed as NO ₂), Sulphur Dioxide, Oxygen, Carbon Monoxide, Volatile Organic Compounds, Air Effluent Stream Flow, PM _{2.5} , and Temperature	Once in 2020 and 2027	Manual Stack Survey	the month following the month in which the survey is done
Steam and Glycol Boiler Stacks	Nitrogen Oxides (expressed as NO ₂), Sulphur Dioxide, Oxygen, Carbon Monoxide, Volatile Organic Compounds, Air Effluent Stream Flow, PM _{2.5} , and Temperature	Once in 2027	Manual Stack Survey	the month following the month in which the survey is done
Ammonia Scrubber Stack	Ammonia, Air Effluent Stream Flow, Temperature	Once in 2027	Manual Stack Survey	the month following the month in which the survey is done

Biogas Incinerator Stack	Sulphur Dioxide, Oxygen, Carbon Monoxide, Hydrogen Sulfide, Air Effluent Stream Flow, and Temperature	Once per Year in 2020, 2021, 2022, and 2027	Manual Stack Survey	the month following the month in which the survey is done
Biogas Incinerator Stack	Nitrogen Oxides (expressed as NO ₂), PM _{2.5} , and Volatile Organic Compounds	Once in 2027	Manual Stack Survey	the month following the month in which the survey is done
Biogas Incinerator Stack	Temperature	Continuous	Temperature Recorder (until December 31, 2019)	Monthly and Annually
Biogas Incinerator Stack	Temperature	Continuous	CEMS Code (from January 01, 2020)	Monthly and Annually
Olivine Wood Waste Incinerator Stack	Temperature	Continuous	Temperature Recorder	Monthly and Annually

6. Condition 4.3.15 is repealed and replaced as follows:

“4.3.15 The approval holder shall limit the downtime for inspection or repair of each continuous monitoring system associated with the industrial wastewater control system to the following maxima:

- (a) 24 consecutive hours; and
- (b) 10% of plant operating time in any month, until December 31, 2021; and
- (c) 5% of plant operating time in any month, on or after January 1, 2022.”

7. The following is added immediately after condition 4.4.16:

“4.4.16.1 The approval holder may, for up to four days per year, dispose of waste paper and cardboard boxes, from the offices at the plant, by combustion in the olivine wood waste incinerator.”

8. Condition 4.4.18(c) is repealed and replaced as follows:

- “(c) by combustion in the olivine wood waste incinerator, one time per year up to a maximum of 180 tonnes (wet weight); or
- (d) as authorized in writing by the Director.”