

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – October 14, 2020

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 Cargill Limited, with respect to the decision of the Director, Regional Approvals, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks, to issue Approval No. 683-04-00 under the *Environmental Protection and Enhancement Act* to Cargill Limited.

Cite as: *Cargill Limited v. Director, Regional Approvals, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks* (14 October 2020), Appeal No. 20-015-R1 (A.E.A.B.), 2020 ABEAB 25.

BEFORE:

Meg Barker, Acting Chair and Board Member.

PARTIES:

Appellant:

Cargill Limited, represented by Marc McAree and Anand Srivastava, Wilms and Shier LLP.

Director:

Andun Jevne, Director, Regional Approvals, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks, represented by Jodie Hierlmeier and Paul Maas, Alberta Justice and Solicitor General.

EXECUTIVE SUMMARY

Cargill Limited applied for renewal of an Approval issued by Alberta Environment and Parks (AEP), under the *Environmental Protection and Enhancement Act*, to construct, operate and reclaim the High River meat plant. AEP renewed the Approval, but included a number of new conditions. The new conditions implement changes that are current best practices.

Cargill filed a Notice of Appeal with the Environmental Appeals Board (the Board), appealing several of the conditions related to:

1. the definition of “continuous” with respect to the monitoring of air scrubbers;
2. the method of monitoring with respect to the air scrubbers;
3. the requirement for pollution abatement equipment for air scrubber #2;
4. the Grind Products Room exhaust system;
5. correcting the references to meat and bone meal storage silos baghouse vents;
6. correcting the reference to closed container in the inedible rendering room;
7. the concentration and load limits for discharge of chlorides;
8. the concentration and load limits for discharge of total phosphorous;
9. the Industrial Wastewater Chloride Reduction Plan; and
10. the Plan for the Water Quality Monitoring and Assessment of Frank Lake.

AEP and Cargill came to an agreement on issues 1 to 6 listed above. The parties decided to continue their discussion on issues 7 to 10.

The parties requested the Board provide a Report and Recommendations to the Minister, recommending resolved issues 1 to 6 be implemented as soon as possible. Implementation of the agreement will allow the High River meat plant to operate under the agreed-upon changes, without having to wait for resolution of the remaining issues.

A subsequent Report and Recommendations and Ministerial Order may be needed if the remaining issues are resolved through mediation or a hearing.

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I. INTRODUCTION

[1] This is the Report and Recommendations of the Environmental Appeals Board (the “Board”) to the Minister of Environment and Parks (the “Minister”), regarding resolution of some of the issues in the appeal filed by Cargill Limited (the “Appellant”).

II. BACKGROUND

[2] The Appellant operates the High River meat plant under the authority of Approval No. 683-04-00, issued on June 30, 2020 under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”), by the Director, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks (the “Director”).

[3] On July 30, 2020, the Appellant filed a Notice of Appeal with the Board and requested a stay, appealing several of the conditions in the Approval¹ related to:

1. the definition of “continuous” with respect to the monitoring of air scrubbers;
2. the method of monitoring with respect to the air scrubbers;
3. the requirement for pollution abatement equipment for air scrubber #2;
4. the Grind Products Room exhaust system;
5. correcting the references to meat and bone meal storage silos baghouse vents;
6. correcting the reference to closed container in the inedible rendering room;
7. the concentration and load limits for discharge of chlorides;
8. the concentration and load limits for discharge of total phosphorous;
9. the Industrial Wastewater Chloride Reduction Plan; and
10. the Plan for the Water Quality Monitoring and Assessment of Frank Lake.

[4] The Board acknowledged receipt of the Notice of Appeal and request for a stay on July 31, 2020, and requested the Director provide the records (all documents and all electronic media) (the “Director’s Record”) he reviewed and that were available to him when making his decision to issue the Approval, including policy documents. The Director was also requested to

¹ See Appendix A for the exact wording of the Approval conditions that were appealed.

provide his position on the stay request.

[5] On August 12, 2020, the Appellant and the Director (collectively the “Parties”) advised the Board they were working collaboratively to resolve the appeal and the Director’s Record would be provided should the appeals proceed to a hearing. Further, the Parties reached an understanding with respect to the stay. A further update was received on September 25, 2020, whereby the Parties advised they reached an agreement on some of the grounds of appeal listed in the Notice of Appeal, and wished to deal with issues 1 to 6 and continue discussions on issues 7 to 10.

III. DISCUSSION

[6] During a discussion with Board Counsel on September 28, 2020, an agreement (the “Agreement”) prepared by the Parties was presented resolving issues 1 to 6:²

1. the definition of “continuous” with respect to the monitoring of air scrubbers;
2. the method of monitoring with respect to the air scrubbers;
3. the requirement for pollution abatement equipment for air scrubber #2;
4. the Grind Products Room exhaust system;
5. correcting the references to meat and bone meal storage silos baghouse vents; and
6. correcting the reference to closed container in the inedible rendering room.

The Parties agreed to vary the Approval in order to address issues 1 to 6, and agreed that, upon the Minister accepting and implementing these variations to the Approval, the Appellant will withdraw its appeal of these issues.

[7] The Parties agreed they will continue discussions on remaining issues 7 to 10:

7. the concentration and load limits for discharge of chlorides;
8. the concentration and load limits for discharge of and total phosphorous;
9. the Industrial Wastewater Chloride Reduction Plan; and
10. the Plan for the Water Quality Monitoring and Assessment of Frank Lake.

² See Appendix B for a comparison between the appealed conditions and the wording of the conditions that was agreed to by the Parties.

[8] As part of the Agreement, the Parties requested the Board provide a Report and Recommendations to the Minister, recommending the Agreement be implemented as soon as possible. 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 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 between the parties, in mediation or a hearing.

[9] The Board will continue to monitor the progress of the Parties, and the Parties may request the Board convene another conference call with Board Counsel, schedule a mediation meeting or potentially a hearing.

IV. RECOMMENDATIONS

[1] In accordance with section 99 of EPEA,³ the Board recommends the Minister of Environment and Parks order Approval No. 683-04-00 be varied in accordance with the Agreement reached by the Parties.

[2] Under section 100(2) of EPEA,⁴ copies of this Report and Recommendations and any decision by the Minister are to be provided to:

1. Marc McAree and Anand Srivastava, Wilms and Shier LLP, on behalf of the Appellant; and
2. Jodie Hierlmeier and Paul Maas, Alberta Justice and Solicitor General, on behalf of the Director, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks.

³ 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 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.”

Dated on October 14, 2020, at Edmonton, Alberta.



Meg Barker
Acting Chair and Board Member

Appendix A – Appealed Conditions

Condition	Existing Wording
1.1.2(j)	<p>In all PARTS of this approval "continuous" when referring to air scrubber monitoring, means measurement or sample analysis through in-line equipment that creates measurements or discrete sample analysis output at a frequency of:</p> <ul style="list-style-type: none"> (i) at least once every five (5) minutes, or (ii) at least once every 15 seconds and averaged every 5 minutes and includes data recording; or (iii) unless otherwise authorized in writing by the Director.
4.1.2(n)	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <ul style="list-style-type: none"> (n) the four (4) meat and bone meal storage silos baghouse vents;
4.1.2(u)	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <ul style="list-style-type: none"> (u) the space heater exhaust vent(s); and
4.1.2(u.1)	New
4.1.3(a)	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <ul style="list-style-type: none"> (a) the inedible rendering room wet air scrubber #1;
4.1.3(b)	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <ul style="list-style-type: none"> (b) the inedible rendering room wet air scrubber #2;
4.1.3(f)	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <ul style="list-style-type: none"> (f) the four (4) meat and bone meal storage silos baghouse(s);
4.1.11	<p>The approval holder shall not store inedible material outside of the inedible rendering room unless it is contained in a closed container to prevent any odorous emissions to the atmosphere.</p>
4.1.24.1	New
4.1.28(e.1)	New

Appendix B – Comparison of Conditions

Condition	Existing Wording	Agreed to Wording
1.1.2(j)	<p>In all PARTS of this approval</p> <p>(j) "continuous" when referring to air scrubber monitoring, means measurement or sample analysis through in-line equipment that creates measurements or discrete sample analysis output at a frequency of:</p> <p>(i) at least once every five (5) minutes, or</p> <p>(ii) at least once every 15 seconds and averaged every 5 minutes and includes data recording; or</p> <p>(iii) unless otherwise authorized in writing by the Director.</p>	Confirmed as is.
4.1.2(n)	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <p>(n) the four (4) meat and bone meal storage silos baghouse vents;</p>	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <p>(n) the four (4) meat and bone meal storage silos' integrated baghouse;</p>
4.1.2(u)	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <p>(u) the space heater exhaust vent(s); and</p>	<p>The approval holder shall only release air effluent streams to the atmosphere from the following sources:</p> <p>(n) the four (4) meat and bone meal storage silos baghouse vents;</p>
4.1.2(u.1)	New	(u.1) the grind products room exhaust system; and
4.1.3(a)	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <p>(c) the inedible rendering room wet air scrubber #1;</p>	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <p>(c) the inedible rendering room wet air scrubber #1 or the inedible rendering room wet air scrubber #2, or both</p>
4.1.3(b)	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <p>1. the inedible rendering room wet air scrubber #2;</p>	<p>Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution abatement equipment associated with the process equipment is operating:</p> <p>1. [intentionally omitted]</p>
4.1.3(f)	Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution	Subject to 4.1.7, the approval holder shall not operate the process equipment unless the following pollution

Condition	Existing Wording	Agreed to Wording
	abatement equipment associated with the process equipment is operating: (f) the four (4) meat and bone meal storage silos baghouse(s);	abatement equipment associated with the process equipment is operating: (f) the four (4) meat and bone meal storage silos' integrated baghouse;
4.1.11	The approval holder shall not store inedible material outside of the inedible rendering room unless it is contained in a closed container to prevent any odorous emissions to the atmosphere.	The approval holder shall not store inedible material outside of the inedible rendering room unless it is contained in a covered container to prevent any odorous emissions to the atmosphere.
4.1.24.1	New	In the event that the in-line monitoring required in Table 4.1-C fails, requires recalibration or is otherwise not operational, the approval holder shall (a) use manual methods of monitoring at least once every 15 minutes until such time as the method of in-line monitoring is operational; and (b) make best efforts to make operational the in-line monitoring equipment as soon as reasonably possible.
4.1.28(e.1)	New	a month-to-month summary of the: (i) downtime, in hours, (ii) causes of downtime, and (iii) measures taken to reduce the frequency of downtime for each in-line recirculation flow meter and pH probe for each wet air scrubber;



ALBERTA

ENVIRONMENT AND PARKS

Office of the Minister

Government House Leader

MLA, Rimbey-Rocky Mountain House-Sundre

Ministerial Order

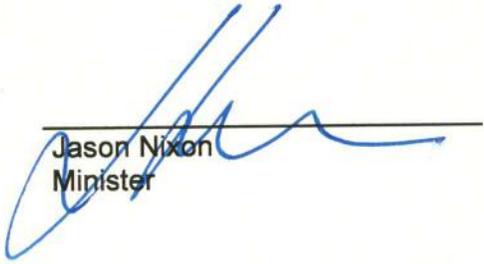
54/2020

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

Order Respecting Environmental Appeals Board Appeal No. 20-015

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. 20-015.

Dated at the City of Edmonton, in the Province of Alberta, this 15 day of oct., 2020.



Jason Nixon
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 20-015

With respect to the decision of the Director, Regional Approvals, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks (the "Director"), to issue Approval No. 683-04-00 (the "Approval") under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Cargill Limited, I, Jason Nixon, Minister of Environment and Parks, order that:

1. The decision of the Director to issue the Approval is confirmed as followed:
 - a. condition 1.1.2(j) is confirmed.
2. The decision of the Director to issue the Approval is varied as follows:
 - a. condition 4.1.2(n) is varied by deleting the phrase "silos baghouse vents" and replacing it with the phrase "silos' integrated baghouse";
 - b. condition 4.1.2(u) is varied by deleting the word "and";
 - c. condition 4.1.2 is varied by adding the following immediately after subsection (u):

"(u.1) the grind products room exhaust system; and";
 - d. condition 4.1.3(a) is varied by deleting the phrase "scrubber #1" and replacing it with the phrase "scrubber #1 or the inedible rendering room wet air scrubber #2, or both";
 - e. condition 4.1.3(b) is varied by deleting the phrase "the inedible rendering room wet air scrubber #2" and replacing it with the phrase "[intentionally omitted]";
 - f. condition 4.1.3(f) is varied by deleting the phrase "silos baghouse(s)" and replacing it with the phrase "silos' integrated baghouse";
 - g. condition 4.1.11 is varied by deleting the word "closed" and replacing it with the word "covered";
 - h. SECTION 4.1 is varied by adding the following immediately after condition 4.1.24:

"4.1.24.1 In the event that the in-line monitoring required in Table 4.1-C fails, requires recalibration or is otherwise not operational, the approval holder shall

 - (a) use manual methods of monitoring at least once every 15 minutes until such time as the method of in-line monitoring is operational; and
 - (b) make best efforts to make operational the in-line monitoring equipment as soon as reasonably possible."

i. condition 4.1.28 is varied by adding the following immediately after subsection (e):

“(e.1) a month-to-month summary of the:

- (i) downtime, in hours,
- (ii) causes of downtime, and
- (iii) measures taken to reduce the frequency of downtime

for each in-line recirculation flow meter and pH probe for each wet air scrubber;”.