

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – November 2, 2021

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* (2 November 2021), Appeal No. 20-015-R2 (A.E.A.B.), 2021 ABEAB 27.

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 Board provided a Report and Recommendations to the Minister and he issued a Ministerial Order reflecting the agreement between Cargill and AEP (the Parties).

The Parties continued their discussion on issues 7 to 10 and on October 15, 2021, provided a joint agreement to resolve the remaining issues. The Parties requested the Board provide a Report and Recommendations to the Minister, reflecting their agreement. The Board accepted the Parties’ agreement and recommended the Minister vary the Approval.

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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 the remaining 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 (the “Approval”), 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 Approval 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 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.

[6] On September 25, 2020, the Parties advised the Board they reached an agreement on issues 1-6 in the Notice of Appeal, and as a result the Board provided its Report and Recommendations to the Minister recommending the Minister vary the Approval according to the agreement. The Board provided the Parties with its Report and Recommendations and the Minister’s Order on October 26, 2020.¹

III. DISCUSSION

[7] The Parties continued to discuss remaining issues 7 to 10 in the Notice of Appeal:

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.

[8] On October 15, 2021, the Parties advised the Board they had resolved the remaining issues and requested the Board again provide a Report and Recommendations to the Minister recommending the Minister vary the Approval according to their agreement.²

[9] The Parties’ agreement states that the Parties will not file applications for costs with the Board and the Board confirms no costs applications will be accepted with respect to Appeal No. EAB 20-015.

IV. RECOMMENDATIONS

[10] In accordance with section 99 of EPEA,³ the Board recommends the Minister of

¹ *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.

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

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)

Environment and Parks order Approval No. 683-04-00 be varied in accordance with the Agreement reached by the Parties on issues 7-10 in the Notice of Appeal.

[11] 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.

Dated on November 2, 2021, at Edmonton, Alberta.

“original signed by”

Meg Barker
Acting Chair
and Board Member

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.”

Appendix A – Comparison of Conditions

Conditions appealed	Existing Wording	Agreed to Wording
Table 4.2-A	Industrial Wastewater Control System Limits For Release Via Pipeline To Frank Lake	Changes to Total Phosphorous, Chloride, Maximum Daily Average, Maximum Daily Load, and Maximum Annual Load.
4.2.19	The approval holder shall submit an Industrial Wastewater Chloride Reduction Plan to the Director by January 29, 2021.	Confirmed as is.
4.2.20	<p>The Industrial Wastewater Chloride Reduction Plan in 4.2.19 shall include, at a minimum, all of the following information, to meet or exceed the required limits in TABLE 4.2-A.</p> <p>(a) a chloride survey for the industrial wastewater streams from the plant to determine the following:</p> <ul style="list-style-type: none"> (i) every wastewater stream source containing chloride at the plant, (ii) the sources of chloride at the plant site to determine opportunities for chloride reduction, (iii) the total wastewater flow and chloride mass loading to the Industrial Wastewater Control System, and (iv) the percent contribution of each of the plant major production areas to the total wastewater flow and chloride mass loadings in (iii); <p>(b) an assessment of available methods by which:</p> <ul style="list-style-type: none"> (i) industrial wastewater flow, and (ii) chloride mass loadings <p>from each of the streams identified in 4.2.20 (a) may be reduced including, at a minimum, consideration of all the following:</p> <ul style="list-style-type: none"> (A) reduction and reuse of water, (B) reduction in the amount of chloride entering the wastewater, (C) onsite treatment of wastewater, (D) offsite disposal or reuse of wastewater, and (E) introduction of new technologies; <p>(c) an assessment of alternatives to upgrade the wastewater treatment plant to reduce chloride concentration in the effluent discharged to Frank Lake;</p> <p>(d) an assessment of alternate process procedures to reduce or divert chloride</p>	Confirmed as is.

Conditions appealed	Existing Wording	Agreed to Wording
	<p>loadings to the wastewater effluent stream;</p> <p>(e) the procedures and controls that may be put in place to reduce chloride use at the source;</p> <p>(f) a flow diagram of the process system that identifies the potential areas in the process where chloride can be diverted for treatment prior to discharge into the wastewater effluent stream;</p> <p>(g) a plan to perform monthly audits on the plant's wastewater streams containing chloride, including amounts discharged to:</p> <ul style="list-style-type: none"> (i) the brine lagoons, and (ii) Frank Lake; <p>(h) a description of how the success of any modifications made in reducing chloride will be evaluated;</p> <p>(i) a comprehensive plan for continuous improvement to reduce the plant industrial wastewater flow and chloride releases to the environment; and</p> <p>(j) a timeline for the implementation of the Plan.</p>	
4.2.21	<p>If the Industrial Wastewater Chloride Reduction Plan is found deficient by the Director, the approval holder shall correct all deficiencies identified by the Director by the deadline specified in writing by the Director.</p>	<p>Confirmed as is.</p>
4.2.22	<p>The approval holder shall implement the Industrial Wastewater Chloride Reduction Plan as authorized in writing by the Director.</p>	<p>Confirmed as is.</p>
4.4.1	<p>The approval holder shall submit a Plan for the Water Quality Monitoring and Assessment of Frank Lake to the Director by July 1, 2021.</p>	<p>The approval holder shall submit a Plan for the Water Quality Monitoring and Assessment of Frank Lake to the Director by December 31, 2021.</p>
4.4.2(b)	<p>(b) an effluent characterization report for the following parameters once every five (5) years, starting in 2021:</p>	<p>(b) an effluent characterization report for the following parameters once every five (5) years, starting in 2022:</p>
4.4.2(d)	<p>(d) identify treatment options that may be necessary to assure conformance to:</p> <ul style="list-style-type: none"> (i) parameters listed in TABLE 4.2-A, and (ii) the recommendations made by the Highwood Management Plan Public 	<p>Condition is struck.</p>

Conditions appealed	Existing Wording	Agreed to Wording
	Advisory Committee; and	
4.4.2(e)	(e) recommendations to improve the management and reduction of nutrients and salts in Frank Lake.	Conditions is struck.
4.4.3	If the Water Quality Monitoring and Assessment Plan is found deficient by the Director, the approval holder shall correct all deficiencies identified in writing by the Director, within the timeline specified in writing by the Director.	Confirmed as is.
4.4.4.	The approval holder shall implement the Water Quality Monitoring and Assessment Plan as authorized in writing by the Director.	Confirmed as is.
4.4.5	The approval holder shall provide a Report on the Water Quality Monitoring and Assessment of Frank Lake to the Director by March 31 of each year.	Confirmed as is.



ALBERTA

ENVIRONMENT AND PARKS

Office of the Minister

Government House Leader

MLA, Rimbey-Rocky Mountain House-Sundre

Ministerial Order

05/2022

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 Feb, 2022.

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:

- The Approval is varied by deleting Table 4.2-A and replacing it with the following table:

Table 4.2-A INDUSTRIAL WASTEWATER CONTROL SYSTEM LIMITS FOR RELEASE VIA PIPELINE TO FRANK LAKE

PARAMETER	LIMITS		
pH	≥ 6.5 and ≤ 8.5 pH units		
Floating solids	Must not be present except in trace amounts		
Visible foam	Must not be present except in trace amounts		
Oil and Grease	Must not be present in amounts sufficient to create a visible film or sheen		
Fecal coliform counts	≤ 200 / 100 mL monthly geometric mean		
PARAMETER	CONCENTRATION or LOAD LIMITS		
	Maximum Daily Average Concentration (mg/L)	Maximum Daily Load (kg/day)	Monthly Average of Daily
Ammonia-Nitrogen	≤ 12mg/L	N/A	N/A
5-Day BOD	≤ 10.25 mg/L	≤ 120 kg/day	≤ 60 kg/day
TSS	≤ 25.6 mg/L	≤ 300 kg/day	≤ 150 kg/day
PARAMETER	CONCENTRATION or LOAD LIMITS		
	Maximum Daily Average Concentration (mg/L)	Maximum Daily Load (kg/day)	Maximum Annual Load (kg/year)
Total Phosphorous (TP)	≤ 6.0 mg/L until June 30, 2025	≤ 70 kg/day	≤ 12,800 kg/year until June 30, 2025
	≤ 1.5 mg/L from July 1, 2025	≤ 18 kg/day	≤ 3,660 kg/year from July 1, 2025
Chloride	≤ 250 mg/L until June 30, 2025	N/A	≤ 535,000 kg/year until June 30, 2025
	≤ 225 mg/L from July 1, 2025	N/A	≤ 500,000 kg/year from July 1, 2025

- Conditions 4.2.19 to 4.2.22 in the Approval are confirmed as is.

3. Condition 4.4.1 in the Approval is varied by deleting "July 1, 2021" and replacing it with "December 31, 2021".
4. Condition 4.4.2(b) in the Approval is varied by deleting "2021" and replacing it with "2022".
5. Conditions 4.4.2(d) and (e) in the Approval are deleted.
6. Conditions 4.4.3, 4.4.4 and 4.4.5 in the Approval are confirmed as is.