

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

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Date of Mediation – October 22, 2001

Date of Report and Recommendations – October 23, 2001

**IN THE MATTER OF** Sections 84, 85 and 87 of the  
*Environmental Protection and Enhancement Act*, S.A. 1992, c.E-  
13.3;

-and-

**IN THE MATTER OF** an appeal filed by OMERS Resources  
Ltd. with respect to the refusal of the Inspector, Bow Region,  
Regional Services, Alberta Environment, to issue a reclamation  
certificate for the Poco Watts 14-13-31-16 Well.

Cite as: *OMERS Resources Ltd. v. Inspector, Bow Region, Regional Services, Alberta Environment.*

**MEDIATION BEFORE**

Dr. Ted E. Best

**APPEARANCES**

Appellant: Mr. Chad Dillabough, Mr. Darren Gillanders, Mr. Byron Wilkie, OMERS Resources Ltd.; and Mr. Wayne Hart, Hart Environmental Land Protection Inc.

Inspector: Ms. Pamela Romanchuk, Inspector, Alberta Environment, Mr. Chris Powter, Team Leader, Land Management Branch, Alberta Environment, represented by Ms. Michelle Williamson, Alberta Justice.

Other: Mr. Donald Gordon, Landowner.

## **EXECUTIVE SUMMARY**

Following an inquiry on July 19, 2001, the Inspector, Bow Region, Regional Services, Alberta Environment, advised OMERS Resources Ltd. on July 26, 2001 that she has refused to issue a reclamation certificate for the Poco Watts 14-13-31-16 Well near Hanna, Alberta as the site failed to meet criteria in the areas of profile, poor vegetation, soil quality and possible contamination.

In consultation with the parties, including the landowner, Mr. Donald Gordon, the Board held a mediation meeting/settlement conference in Hanna, Alberta following which a resolution was reached between OMERS Resources Ltd., Hart Environmental Land Protection Inc. and the Inspector.

The agreement indicates that OMERS Resources Ltd.'s application for a reclamation certificate will be reinstated and a new inquiry will be held involving certain participants.

The Board recommends that the Minister of Environment approve the Ministerial Order reinstating the application for reclamation certificate followed by a new inquiry.

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## **I. BACKGROUND**

[1] On July 26, 2001, the Inspector, Bow Region, Regional Services, Alberta Environment (the “Inspector”) refused to issue a reclamation certificate to OMERS Resources Ltd. (“OMERS”) for the Poco Watts 14-13-31-17 Well near Hanna, Alberta. The Inspector indicated that as a result of an inquiry on July 19, 2001, the reclamation certificate was refused to due to profile, poor vegetation, soil quality, and possible contamination.

[2] On August 31, 2001, the Environmental Appeal Board (the “Board”) received a Notice of Appeal dated August 31, 2001 from OMERS appealing the Inspector’s decision to refuse to issue a reclamation certificate and advising that Mr. Wayne Hart of Hart Environmental Land Protection Inc. (“Hart Environmental”) would be representing OMERS (collectively “the Appellants”). The Board acknowledged receipt of the Notice of Appeal on August 31, 2001, requested the parties provide available dates for a hearing or mediation meeting/settlement conference, requested the parties advise if there were any other persons who may have an interest in this appeal, and requested a copy of all documents related to the appeal (the “Record”) from the Inspector.

[3] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective Boards’ legislation. Both Boards responded in the negative.

[4] On September 5, 2001, the Board acknowledged Hart Environmental’s letter of September 4, 2001 providing available dates, requesting a site visit and indicating that the landowners, Mr. Donald and Ms. Ruth Gordon, would have an interest in the appeal.

[5] The Inspector provided the Inquiry Report, Inquiry Results and Notice of Decision on September 17, 2001 and the Board forwarded to the Appellants on this same day.

[6] On September 21, 2001 the Board advised the landowners of the appeal and requested they advise if they wished to be involved in the appeal. The Board was advised by Mr. Gordon that he would attend the mediation meeting.

[7] The Inspector advised on September 18, 2001 that they were amenable to mediation and provided available dates. On September 24, 2001 the Board wrote to the parties and requested that all parties hold October 10 and October 22, 2001 for a mediation meeting/settlement conference and site visit.

[8] The remainder of the Record was received from the Inspector on September 24, 2001 and the Board advised that a mediation meeting/settlement conference and site visit would be held on October 22, 2001 in Hanna, Alberta. At this time, the Board also provided a copy of the "Participants' Agreement to Mediation" which would be signed by all parties at the mediation meeting/settlement conference.

[9] On October 2, 2001 a Notice of Mediation Meeting/Settlement Conference was placed in the *Hanna Herald* advising of the mediation meeting/settlement conference taking place between the parties only.

## **II. THE MEDIATION MEETING/SETTLEMENT CONFERENCE**

[10] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Hanna, Alberta, on October 22, 2001 with Dr. Ted Best as the presiding Board member. Although a site visit was requested by the Appellants, no site visit was conducted.

[11] In conducting the mediation meeting, Dr. Best reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the "Participants' Agreement to Mediate". All parties signed the Agreement and discussions ensued. During the course of the mediation meeting the landowner departed the mediation meeting.

[12] Following productive and detailed discussions, a resolution evolved and the attached settlement was signed (page 6).

## **III. RECOMMENDATIONS**

[13] The Board recommends that the Minister of Environment approve the settlement attached and signed by all the parties essentially stating that the application for reclamation

certificate be reinstated and that a new inquiry be conducted. Attached for the Minister's consideration is a draft Ministerial Order implementing these recommendations.

[14] Further, with respect to section 92(2) and 93 of *the Environmental Protection and Enhancement Act*, the Board recommends that a copy of this Report and Recommendations, and any decision by the Minister, be provided to:

- Mr. Wayne Hart, Hart Environmental Land Protection Inc.,
- Mr. Chad Dillabough and Mr. Darren Gillanders, OMERS Resources Ltd.,
- Mr. Donald and Mrs. Ruth Gordon; and
- Ms. Michelle Williamson, Alberta Justice, representing Ms. Pamela Romanchuk, Inspector, Bow Region, Regional Services, Alberta Environment.

Dated on October 23, 2001, at Edmonton, Alberta.

□original signed by□

Dr. Ted E. Best

**IV. DRAFT MINISTERIAL ORDER**

**Ministerial Order  
/2001**

*Environmental Protection and Enhancement Act*  
S.A. 1992, c. E-13.3

**Order Respecting EAB Appeal No. 01-083**

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 92(1) of the *Environmental Protection and Enhancement Act*, S.A. 1992, c. E-13.3, make the order in the attached Appendix, being an Order respecting Environmental Appeal Board Appeal No. 01-083.

Dated at the City of Edmonton in the Province of Alberta, this \_\_\_\_ day of \_\_\_\_\_, 2001.

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Honourable Dr. Lorne Taylor  
Minister of Environment



**Draft Appendix**

Order Respecting Environmental Appeal Board Appeal No. 01-083

With respect to the decision dated July 26, 2001 of Ms. Pamela Romanchuk, Inspector, Bow Region, Regional Services, Alberta Environment, to refuse to issue a reclamation certificate to OMERS Resources Ltd. for the Poco Watts 14-13-31-16 Well, I, Dr. Lorne Taylor, Minister of Environment, vary the decision and make the following order that I consider necessary for the purposes of carrying out the decision:

1. The Inspector's decision of July 26, 2001 in relation to the reclamation certificate application dated May 15, 2000 from OMERS Resources Ltd. is quashed.
2. OMERS Resources Ltd.'s application for a reclamation certificate dated May 15, 2000 is reinstated.
3. A new inquiry shall be conducted during the 2002 growing season prior to the first cut on or about June 12, 2002 provided this date is an agreeable date to the landowner. If June 12, 2002 is not agreeable to the landowner, OMERS Resources Ltd. will consult with the landowner to determine the best date for the new inquiry and provide the Inspector with two weeks notice.
4. At a minimum the following persons will be in attendance:
  - Mr. Wayne Hart of Hart Environmental Land Protection Inc.
  - a representative of OMERS Resources Ltd.
  - a soil expert appointed by OMERS Resources Ltd., and
  - an inspector and a soil expert of Alberta Environment.

**V. RESOLUTION**