

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – October 11, 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 Mr. Walter Zarusky,
Seaway Project Management Ltd. on behalf of Devlan Exploration
Company Ltd. with respect to the refusal of the Inspector, Bow
Region, Regional Services, Alberta Environment, to issue a
reclamation certificate to Devlan Exploration Company Ltd. for
the Devlan Canor Sedalia 15-32-29-6-W4M well near Cereal,
Alberta.

Cite as: *Devlan Exploration Company Ltd. v. Inspector, Bow Region, Regional Services,
Alberta Environment.*

EXECUTIVE SUMMARY

Mr. Walter Zarusky of Seaway Project Management Ltd. filed a Notice of Appeal with the Environmental Appeal Board on behalf of Devlan Exploration Co. Ltd. This appeal involves Alberta Environment's refusal to issue a reclamation certificate for the well called Devlan Canor Sedalia 15-32-29-6-W4M at Cereal, Alberta.

Alberta Environment asked that the appeal be dismissed because Devlan Exploration Company Ltd. did not comply with conditions imposed by Alberta Environment. The Inspector suggested that Devlan Exploration Company Ltd. withdraw their appeal, and re-apply for a reclamation certificate.

Devlan Exploration Company Ltd. agreed to withdraw their appeal as long as their file with Alberta Environment remained open until 2002/2003. Alberta Environment agreed and Devlan withdrew their appeal.

The Board, therefore, closes its file.

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I. BACKGROUND

[1] On September 6, 2001, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mr. Walter Zarusky, Seaway Project Management Ltd. on behalf of Devlan Exploration Company Ltd. (the “Appellant”). Mr. Zarusky appealed the decision of the Inspector, Bow Region, Regional Services, Alberta Environment (the “Inspector”), to refuse to issue a reclamation certificate to Devlan Exploration Company Ltd. with respect to well Devlan Canor Sedalia 15-32-29-6-W4M in Cereal, Alberta.

[2] On September 6, 2001, the Board acknowledged the Notice of Appeal and requested that the Inspector provide a copy of its record (the “Record”) related to this appeal. The Appellant and the Inspector were also requested to provide their available dates for a mediation meeting/settlement conference or hearing.

[3] According to standard practice, on September 6, 2001, the Board wrote to the Alberta Energy and Utilities Board and to the Natural Resources Conservation 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 17, 2001 the Board received the Record from the Inspector and forwarded copies to the Appellant on September 18, 2001.

[5] On September 17, 2001 the Inspector wrote to the Board, making a motion to dismiss the Notice of Appeal filed by the Appellant on the grounds that the appeal is without merit. Specifically the Inspector stated:

“... ‘The operator failed to notify Alberta Environment that necessary work was completed fall 2000, and was inspected by operator June 11/2001.’ It is clear that the operator failed to comply with the conditions imposed by the Inspector in his November 2, 2000 correspondence, and as a result, the Inspector refused to issue the Reclamation Certificate. The Inspector has advised that is now too late to conduct a second Inquiry because the crops have been harvested, and a proper assessment can only be done while a crop is growing on site. It is the Department’s position that the Appellant should withdraw his appeal, and re-apply for a Reclamation Certificate.”

[6] On September 18, 2001 the Board requested that the Appellant provide his comments with respect to the Inspector's September 17, 2001 letter by September 25, 2001. On September 24, 2001, the Appellant advised the Board that he would accept the withdrawal of the appeal, but requested that "...the file not be cancelled at this time and a field inquiry be scheduled in the years 2002 and 2003...".

[7] On September 27, 2001 the Board wrote to the Inspector requesting his comments with respect to the Appellant's letter by October 3, 2001. On October 3, 2001, the Board received a letter from the Inspector agreeing to the proposal to hold the file open until 2003.

[8] On October 6, 2001, the Board received a letter from the Appellant withdrawing his appeal and on October 9, 2001 the Appellant verified by telephone that he understood he was withdrawing his appeal.

II. DECISION

[9] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the Appellant's letter of October 6, 2001, the Board discontinues its proceedings in Appeal No. 01-086 and will be closing its file.

Dated on October 11, 2001, at Edmonton, Alberta.

William A. Tilleman, Q.C.