

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – May 10, 2022

IN THE MATTER OF sections 91, 92, 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 Signalta Resources Limited, with respect to the decision of the Director, Regulatory Assurance Division South, Alberta Environment and Parks, to issue Approval No. 469866-00-00 under the *Environmental Protection and Enhancement Act* to Signalta Resources Limited.

Cite as: *Signalta Resources Limited v. Director, Regulatory Assurance Division South, Alberta Environment and Parks* (10 May 2022), Appeal No. 21-020-R (A.E.A.B.), 2022 ABEAB 18.

BEFORE:

Meg Barker, Acting Chair and Board Member.

PARTIES:

Appellant:

Signalta Resources Limited, represented by Mr. Alan Ross and Mr. Curtis Fawcett, Borden Ladner Gervais LLP.

Director:

Darren Bourget, Director, Regulatory Assurance Division South, Alberta Environment and Parks, represented by Erika Gerlock, Environmental Law Section, Alberta Justice and Solicitor General.

EXECUTIVE SUMMARY

Signalta Resources Limited applied to Alberta Environment and Parks (AEP), for an Approval under the *Environmental Protection and Enhancement Act* to construct and operate a natural gas fired peaking power generation plant located north of High River, Alberta. Peaking plants have different operational requirements than baseload power generation facilities and are designed to address elevated and emergency power needs by the grid.

Signalta filed a Notice of Appeal with the Environmental Appeals Board (the Board), appealing conditions related to run time limits for the reciprocating engine units, stack sampling requirements, and conditions related to the nitrogen oxides emissions reduction plan.

AEP and Signalta reached an agreement and requested the Board provide a Report and Recommendations to the Minister of Environment and Parks reflecting their agreement. The Board accepted the agreement and recommended the Minister vary the Approval in accordance with the agreement.

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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 appeal filed by Signalta Resources Limited (the “Appellant”).

II. BACKGROUND

[2] The Appellant operates the High River Peaking Power Plant under the authority of Approval No. 469866-00-00 (the “Approval”), issued on October 26, 2021 under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”), by the Director, Regulatory Assurance Division South, Alberta Environment and Parks (the “Director”).

[3] On November 25, 2021, the Appellant filed a Notice of Appeal with the Board, appealing conditions in the Approval related to run time limits for the reciprocating engine units, stack sampling requirements, and conditions related to nitrogen oxides emissions reduction plan.

[4] The Board wrote to the Director and the Appellant (collectively the “Parties”) acknowledging receipt of the Notice of Appeal on November 26, 2021, and requesting 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.

[5] On December 3, 2021, the Director stated he would advise further on when the Director’s Record would be provided and whether the Parties would engage in collaborative discussions to resolve the appeal prior to entering into the Board’s mediation process. The Board requested the Director provide an update by December 10, 2021.

[6] On December 10, 2021, the Director advised the Board the Parties would meet to discuss the Appellant’s concerns, and would provide the Board with the Director’s Record should the appeal not be solved. The Parties provided further updates on their discussions on January 31, March 1, April 4, and April 25, 2022.

III. DISCUSSION

[7] On April 25, 2022, the Director provided the Parties' agreement resolving the appeal and requested the Board issue a Report and Recommendations to the Minister, recommending the Minister implement the agreement. Upon the issuance of the Ministerial Order, the Appellant's appeal is withdrawn.

[8] 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 21-020.

IV. RECOMMENDATIONS

[9] In accordance with section 99 of EPEA,¹ the Board recommends the Minister of Environment and Parks order Approval No. 469866-00-00 be varied in accordance with the agreement reached by the Parties as follows:

1. Delete condition 1.1.2(v).
2. Vary Table 4.1-D: Source Monitoring and Reporting, under the "Frequency" column, by deleting "such that one third of the installed engines are sampled each year."
3. Delete section Special Conditions, conditions 4.1.17 to 4.1.22.
4. Delete conditions 4.1.24(c) to (i) in section Annual Reporting, and replace with new conditions (c) to (f).

[10] 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 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."

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."

1. Mr. Alan Ross and Mr. Curtis Fawcett, Borden Ladner Gervais LLP, on behalf of Signalta Resources Limited; and
2. Ms. Erika Gerlock, Alberta Justice and Solicitor General, on behalf of Mr. Darren Bourget, Director, Regulatory Assurance Division South, Alberta Environment and Parks.

Dated on May 10, 2022, at Edmonton, Alberta.

“original signed by”

Meg Barker
Acting Chair
and Board Member



ALBERTA

ENVIRONMENT AND PARKS

Office of the Minister

Government House Leader

MLA, Rimbey-Rocky Mountain House-Sundre

Ministerial Order
30/2022

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

Order Respecting Environmental Appeals Board Appeal No. 21-020

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. 21-020.

Dated at the City of Edmonton, in the Province of Alberta, this 24 day of MAY, 2022.

Jason Nixon
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 21-020

With respect to the decision of the Director, Regulatory Assurance Division South, Alberta Environment and Parks (the "Director"), to issue Approval No. 469866-00-00 (the "Approval") under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Signalta Resources Limited (the "approval holder"), I, Jason Nixon, Minister of Environment and Parks, order that the decision of the Director to issue the Approval is varied as follows:

1. Delete condition 1.1.2(v).
2. Vary condition 4.1.13 in TABLE 4.1-D: SOURCE MONITORING AND REPORTING, under the Frequency column, by deleting "such that one third of the installed engines are sampled each year."
3. Delete conditions 4.1.17 to 4.1.22.
4. Delete conditions 4.1.24(c) to (i) and replace with:
 - "(c) for each year in which a manual stack survey is completed as per TABLE 4.1-D:
 - (i) a summary of the survey results;
 - (ii) a comparison of the results relative to the limits specified in TABLE 4.1-B;
 - (iii) the calculated yearly emission rate of Nitrogen Oxides (expressed as NO₂) for each reciprocating engine exhaust stack for which a survey is completed;
 - (iv) the calculated nitrogen oxides emission intensities (expressed in kg/MW_{hr}) for each reciprocating engine exhaust stack for which a survey is completed;
 - (v) an analysis of the actual performance versus the anticipated performance of the reciprocating engines at reducing nitrogen oxides emissions; and
 - (vi) a detailed description of the performance of each of the reciprocating engines installed at the plant;
 - (d) a summary of operating time as per TABLE 4.1-C, including the sum of the cumulative operational hours of all installed reciprocating engines;
 - (e) a summary of all contraventions reported in accordance with 2.1.1; and
 - (f) any other information as required in writing by the Director."