



**Environment
Office of the Minister**

PO Box 442, Halifax, Nova Scotia, Canada B3J 2P8 • www.novascotia.ca/nse

Our File number: 23000-30-126

APR 18 2016

Re: Notice of Appeal Form (February 18, 2016)

Approval No. 2008- 061384-A03 dated January 20th, 2016 to Alton Natural Gas Storage LP (the "Industrial Approval "or IAA03)

I am writing regarding your Notice of Appeal Form dated February 18, 2016 respecting Approval No. 2008- 061384-A03, dated January 20th, 2016 to Alton Natural Gas Storage LP.

After careful review of the "grounds for appeal", the information you submitted in support of your appeal, and the applicable statutory provisions, your appeal has been dismissed.

In dismissing the appeal, the reasons for my decision are provided as follows, with reference to the grounds documented in the Notice of Appeal:

- 1. We believe that the Nova Scotia government's departments were remiss in their duty to investigate the proponent's claim of completion of duties. See Section 1.**

This ground refers to the public consultation completed for the 2007 Environmental Assessment Approval. It is noted that some of the excerpts from reports referenced in the grounds involve the consultation process for the pipeline phase of the project, which received its Environmental Assessment Approval from NSE on May 21st, 2013.

NSE recognizes the Industrial Approval captures the requirements in the 2007 Environmental Assessment Approval; however, this did not extend to the pipeline requirements that are addressed in the 2013 Environmental Assessment Approval. As such, consultation that occurred for the 2013 Environmental Assessment Approval cannot be considered as part of this appeal. Note that under the *Environment Act*, environmental assessment approvals cannot be appealed.

For the 2007 environmental assessment, the proponent issued two press releases, launched a project website, held a presentation in Brookfield (advertised through letters of invitation, electronic notifications and media interviews), and held an open house at the Brookfield Fire Hall (publicized via a newsletter distributed to over 1,200 stakeholders and area residents, an ad in the Truro Daily News on November 18th and 19th, and radio announcements on the local radio station). Alton Gas committed to notify the public on the progress of the project through website updates and a regular newsletter. In addition, Alton committed through the Environmental Management Plan to develop an Issues Resolution System, which will include a procedure to deal with project-related complaints/issues from landowners and/or the public. Once the project was registered for environmental assessment, the proponent advertised as required in two newspapers and indicated the deadline to submit comment to NSE. This was also done when they were required to submit additional information.

In addition to the consultation associated with the 2007 environmental assessment, the proponent implemented an interactive website accessible to the public where environmental, safety and community information can be viewed at any time. They also created and circulated a community newsletter providing update and contact information. In November 2015, the company established their Community Liaison Committee (CLC) and hired a community liaison advisor in advance of the operation of the brine storage facility.

The *Approval and Notification Procedures Regulations* under the *Environment Act* gives the Minister discretion to undertake consultation for any project. However, consultation is not mandatory. In 2011, NSE adopted a policy document for the consideration and administration of consultation. Under this policy, any application for an industrial approval preceded by an environmental assessment approval is not subject to the consultation policy.

In light of this and the finding that the public consultation for the 2007 environmental assessment conformed to the procedure for the time, ground #1 for appeal cannot be supported.

2. **We believe that the proponent has been fraudulent in many of their claim in their final reports. See Section 2.**

The appeal states concerns about emergency response plans not being available to the public or having not been prepared. The 2007 Environmental Assessment Approval required the preparation and submission of a Spill Management Plan and an Emergency Response and Contingency Plan with the Industrial Approval application. This was completed and the maintenance of the Emergency Response and Contingency Plan is a condition of approval for the current Industrial Approval. Emergency and environmental management plans are in place in preparation for the operation of the brine storage facility.

Much of ground #2 relates to the construction of wellheads at the cavern site. This work would have taken place under the authority of the Nova Scotia Department of Energy or the Utilities Review Board. The Industrial Approval from NSE is related to the operation of the brine storage pond, as well as the handling and discharge of brine solution into the environment. There is no Ministerial authority to intercede on matters outside of the control of the *Environment Act* and the Industrial Approval. For this reason, ground #2 cannot be supported.

3. **We believe the various departments of the Nova Scotia Government were negligent in their duty to research and verify, using outside sources, any claims made by Alton Gas. See Section 3.**

Independent research, including a review of the Alton Gas project (Energy Research Group, Dalhousie University, July 2007) was submitted as part of this appeal. The report provides an opinion on the current and future supply and demand of natural gas, and concludes that investment in underground storage is unwarranted. This report does not address the associated potential for an environmental impact. In the absence of this evidence, the relationship with supply and demand is inconsequential.

In contrast, the project received an Environmental Assessment Approval in 2007, which states the project can be established and operated without adverse effects or significant environmental effects, provided that the development and operation is in compliance with the conditions of the approval.

The appeal argues that Alton Gas did not commence work within two years of the date of issuance of the 2007 Environmental Assessment Approval. The *Environmental Assessment Regulations* define "commence work" to mean to begin construction or site preparation activity for an undertaking or any part of an undertaking. The appeal does not provide a timeline of inactivity for any length of time to support an alleged non-compliance with the *Environmental Assessment Approval* however, the record does indicate that clearing and grubbing at the site had taken place in 2008.

The appeal identifies several concerns that are not within the oversight of the approval process or the mandate of NSE in general. These include: the employment status of former government staff; procedures to advise all members of the public when an approval is issued, and project employment estimates.

The information submitted to support this ground is either not within the legislated authority of the approval under appeal or the mandate of NSE generally. Therefore, this ground is not supported.

4. **We believe the Nova Scotia department regulators have been remise and/or lax in their dealing with public complaints of violations of the environmental approval issued December 18, 2007. See Section 4.**

The appeal claims that clearing had taken place within dates (May 1 – August 31) not permitted in the 2007 Environmental Assessment Approval. Although proof of the alleged contravention is not provided, the 2007 Environmental Assessment Approval record notes an amendment was issued to Alton Gas on June 2, 2008, to allow for clearing during May and August as long as prescribed, specific steps were taken to protect any breeding species encountered.

The appeal references concerns with runoff, traffic, and noise during drilling of the wellheads. Traffic and noise issues are not controlled by the Industrial Approval issued January 2016. The 2007 Environmental Assessment Approval and the Industrial Approval require the creation of an Issues Resolution System to ensure that Alton Gas tracks and handles complaints. As an additional step to ensure Alton Gas consults and accommodates where necessary, NSE has linked the Issues Resolution System to the Community Liaison Committee.

A review of the NSE records shows the Department has received and dealt with four complaints relating to the project: one in relation to the alleged release of metals in runoff from the cavern or well site; a second involving a noise complaint from a resident near the cavern site; a third involving silt/sediment entering a watercourse during waterline installation work; and a fourth related to a resident alleging nearby waterline installation work had impacted a dug well. None of the four complaints involved the brine storage site.

Regarding the alleged metals release from the construction activity at the cavern site, the cavern site was inspected and samples from a pond were taken and tested by NSE. The sample result was high in these metals, however the Department of Fisheries and Oceans advised the concentrations were naturally occurring and not consistent with the runoff from drilling in a salt formation. On two occasions NSE requested the sample analyses from the complainant but none were provided. The file was closed.

Regarding the noise complaint, NSE contacted Alton Gas about the complaint. The company was aware of the complaint and set up a noise meter near the complainant's home. It appears the company was interacting with the resident and tracking outcomes, as is required through the approvals.

Regarding the noise complaint and the complaint of silt/sediment entering a watercourse during waterline installation work, there was no information provided in the appeal to demonstrate a non-compliance. It appears from the record that any complaints involving noise or runoff were dealt with by the NSE regional office.

The reported complaints do not involve the brine storage pond. An instance of non-compliance with the Industrial Approval was not demonstrated. Based on this, the ground cannot be supported.

Pursuant to Section 138 of the *Environment Act*, you have thirty (30) days to appeal my decision to the Supreme Court.

Sincerely,

A handwritten signature in black ink, appearing to be 'Margaret Miller', written in a cursive style.

Margaret Miller, MLA
Minister