

**COURT OF APPEAL FOR YUKON TERRITORY**

Citation: *May v. Circumpacific Energy Corp,*  
2003 YCKA 14

Date: 20031021  
Docket: YU0505

Between:

**William May, Peter Weichler, Bert Peters  
Robert Schiesser, Dan McCarthur and David Smiddy**

Respondents on Appeal  
(Petitioners)

And

**Circumpacific Energy Corporation**

Appellant  
(Respondent)

Before: The Honourable Mr. Justice Hall  
The Honourable Mr. Justice Thackray  
The Honourable Mr. Justice Hollinrake

**Oral Reasons for Judgment**

W. Hopkins Counsel for the Appellant

Bradley C. Nemetz, Q.C. Counsel for the Respondent

Place and Date: Vancouver, British Columbia  
October 21, 2003

[1] **HALL, J.A.:** It is our conclusion that this is what I would describe as an unperfected appeal in the sense that there has been no order agreed upon, apparently, and entered. This leads us to the question of what ought to be done next.

[2] We have concluded that two results ought to follow from that. Firstly, we propose to adjourn this appeal, since in our view it is not yet perfected for hearing, there being no order before us. It will, of course, be open to counsel to agree on an order, have it entered and then the appeal will be perfected and can be brought on.

[3] The proceedings, we have been told, are still ongoing in the Yukon and there may or may not be a hearing held in about five or six weeks. An order for the appointment of a monitor was made by Mr. Justice McIntyre back in August and that order has been stayed until today, the date set for the hearing of the appeal. We propose to preserve the status quo for a brief period. It will be ordered that the stay of the appointment of the monitor and any activity of the monitor be stayed for one week. That will enable counsel to address the matter further, if thought fit, in the trial court and, of course, if nothing is done presumably then the order of Mr. Justice McIntyre will take effect and the monitor will move on with whatever he wants to do. If, however, an application to

continue the stay is brought on that will be dealt with by the trial court.

[4] I think that is all we really can do today having regard, as I said, to the unperfected state of the appeal. Unless there is anything that I have omitted to address, that is I think the disposition that must be made today of this proceeding.

(discussion with counsel)

[5] **HALL, J.A.:** I think that I will leave it to counsel to work out the terms of how the order ought to be settled. But in light of what Mr. Hopkins has said, I am prepared to order that the stay we have ordered extend to a week Friday. That will give you a chance, Mr. Hopkins, to do what you think necessary. It will, however, ensure that this matter does not drift for an unduly long period.

[6] The stay will continue until a week Friday, 31 October. Of course, if by that time if nothing is done, obviously, certain results will follow. I will leave that matter in the hands of counsel.

[7] The appeal is adjourned for the reasons I have outlined.

[8] **THACKRAY, J.A.:** I agree.

[9] HOLLINRAKE, J.A.: I agree.

"The Honourable Mr. Justice Hall"