Appeal No. 00-058-DOP

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date Discontinuance of Proceedings – December 11, 2000

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 on August 2, 2000 by Mr. Ronald M. Kruhlak of McLennan Ross, on behalf of Mr. and Ms. Young, with respect to Enforcement Order No. 2000-WA-01 issued under the *Water Act* to Mr. and Ms. Young, by the Director, Bow Region, Alberta Environment.

Cite as: *Young* v. *Director, Bow Region, Alberta Environment*.

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BACKGROUND

[1] On July 24, 2000, Mr. Roger Reilander, the Director, Bow Region, Alberta Environment (the "Director") issued Enforcement Order No. 2000-WA-01, under the *Water Act* to Ms. Mary Ellen Young and Mr. Alan Young (the "Appellants"). The Enforcement Order was issued with respect to a contravention of section 36(1) of the *Water Act* for the construction of erosion control works, without an approval. The works were constructed on the Elbow River, at or near Calgary, Alberta.

[2] On August 3, 2000, the Environmental Appeal Board (the "Board") received a Notice of Appeal, dated August 2, 2000, from Mr. Ronald M. Kruhlak of McLennan Ross, counsel for the Appellants, appealing the Enforcement Order.

[3] On August 4, 2000, the Board acknowledged receipt of the Notice of Appeal and, at that time requested a copy of all correspondence, documents and materials relative to the appeal from the Director.

[4] According to standard practice, on August 4, 2000, the Board wrote to the Natural Resources Conservation Board (the "NRCB") and the Alberta Energy and Utilities Board (the "AEUB") asking whether this matter had been the subject of a hearing or review under their respective Boards' legislation. Replies were subsequently received from the NRCB dated August 10, 2000 and from the AEUB dated August 22, 2000, indicating that this matter had not been the subject of a public hearing or review under their respective jurisdictions.

[5] On August 11, 2000 the Board received a letter from Mr. Kruhlak, counsel for the Appellants stating the following:

> "…there is a possibility of this matter being resolved short of a formal appeal. We would request that this appeal be held in abeyance until September 1st, 2000."

[6] The Board granted the request for abeyance, and on August 31, 2000, the Board received a letter from Mr. Kruhlak stating:

> "We are still hopeful that the above matter may be resolved short of requiring a formal appeal. Accordingly, I would request that the appeal be held in abeyance

until October 1st, 2000..."

[7] The abeyance was granted by the Board, and on September 28, 2000, the Board received a further letter from Mr. Kruhlak, requesting the Board continue to hold the appeal in abeyance until December 1st, 2000. The Board, by letter of September 29, 2000 granted Mr. Kruhlak's request.

[8] On December 1, 2000, the Board received a letter from counsel for the Director, enclosing a letter from the Director to the Appellants, dated November 3, 2000, stating that the Enforcement Order had been complied with.

[9] The Board acknowledged the Director's letter on December 4, 2000 and in that same letter requested that Mr. Kruhlak advise whether his clients would be withdrawing their appeal.

[10] On December 7, 2000, the Board received a letter Mr. Kruhlak, stating:

> "We have been advised by Alberta Environment that Enforcement Order No. 2000-WA-01 has been closed and, accordingly we will not be proceeding with the appeal."

DECISION

[11] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Kruhlak's letter of December 7, 2000, the Board hereby discontinues its proceedings in Appeal No. 00-058 and will be closing its file.

Dated December 11, 2000 at Edmonton, Alberta.

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William A. Tilleman, Q.C.