

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Hearing – August 16, 2001

Date of Report and Recommendations – September 14, 2001

IN THE MATTER OF Section 84, 85, 86, 87, 91, and 93 of the *Environmental Protection and Enhancement Act*, S.A. 1992 c.E-13.3 and Section 115 of the *Water Act*, S.A. 1996 c.W-3.5;

-and-

IN THE MATTER OF an appeal filed by Mr. William Yakimishyn with respect to Enforcement Order 2001-WA-06 issued to Messrs. William and Kelly Yakimishyn by the Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment.

Cite as: *Yakimishyn v. Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment.*

HEARING BEFORE

Steve E. Hrudehy, Panel Chair
John P. Ogilvie
Ted W. Best

APPEARANCES

Appellant: Mr. William Yakimishyn.

Director: Mr. Wayne Boyd, Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment, represented by Ms. Heather Veale, Alberta Justice.

Intervenor: Mr. Alex Stelmach.

WITNESSES

Appellant: Mr. William Yakimishyn, Mrs. Elizabeth Yakimishyn, and Mr. Nestor Kubersky.

Director: Mr. Wayne Boyd, Mr. Doug Jeremy, Mr. Colon Sheppard, Mr. Wayne Edwards, and Mr. Trevor Sellin.

BOARD STAFF

Mr. Gilbert Van Nes, General Counsel and Settlement Officer, and Ms. Valerie Higgins, Acting Registrar of Appeals and Hearing Officer.

EXECUTIVE SUMMARY

Mr. William Yakimishyn filed an appeal of an Enforcement Order that was issued under the *Water Act* to him and Mr. Kelly Yakimishyn. The Enforcement Order states that the Yakimishyns placed earthen berms near intermittent watercourses on their land, in the County of Lamont, in contravention of the *Water Act*. The Enforcement Order requires the Yakimishyns to remove the earthen berms and restore natural drainage flow in the watercourses.

In his Notice of Appeal, Mr. Yakimishyn admitted to placing the earthen berms, but stated that it was to prevent his land from flooding. At the hearing, Mr. Yakimishyn further stated that he placed the berms in an attempt to get attention to resolve the long-standing problem of flooding being caused by the actions of his neighbours. Mr. Yakimishyn told the Board why he built the berm, but did not dispute the basis for the Enforcement Order, nor did he provide any reasons why the Enforcement Order was invalid.

The only decision that the Board is reviewing in this circumstance is the decision to issue the Enforcement Order. The Board finds that Mr. Yakimishyn is in contravention of section 36(1) of the *Water Act* and therefore the Enforcement Order is valid. Mr. Yakimishyn should be required to comply with the order. The Board, therefore, recommends that the Minister of Environment confirm the Enforcement Order and dismiss the appeal.

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I. BACKGROUND

[1] On June 12, 2001, Enforcement Order No. 2001-WA-06 (the “Order”) was issued by Mr. Wayne Boyd, Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment (the “Director”) under the *Water Act*, S.A. 1996, c.W-3.5 to Mr. William and Mr. Kelly Yakimishyn for the placement of earthen berms near intermittent watercourses on their land at NW 4-56-17 W4M in the County of Lamont, Alberta.

[2] The Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mr. William Yakimishyn (the “Appellant”) on June 18, 2001, requesting a stay and appealing the Order.

[3] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether the matter had been the subject of a hearing or review under their respective legislation. Both Boards replied in the negative.

[4] The Board acknowledged receipt of the Notice of Appeal on June 18, 2001, and asked the parties to respond to four questions with respect to the stay request. Further, in response to the short turn-around time specified in the Order, the Board also advised that a hearing on the merits of the appeal would take place on June 22, 2001, and requested that the one-page summaries be provided by the parties. The letter also requested that the Director provide a copy of his records (the “Record”) related to this appeal.

[5] On June 19, 2001, in response to the request for comments on the stay, the Director advised that they were not aware of any information that would support the stay request and that the onus was on the Appellant to support his stay request. Further, the Director stated “... that the primary rationale for the short turn-around [as specified in the Order] for the remedial work had more to do with the limited nature of the work than any imminent impact on adjacent landowners.”

[6] Further, on June 19, 2001, the Appellant provided additional information regarding the circumstances surrounding the issuance of the Order and the problems on his land with the drainage. He indicates that a water licence was issued to his neighbours in 1986 and that since then the amount of water on his land has gone from ½ acre in 1986 to 20 acres in 1995. Further, he indicates that his neighbours to the south and east have been digging ruts that have resulted in wash outs. The Appellant stated that he feels that Alberta Environment should have policed his neighbours to prevent these problems and indicated that the Director, when approached, advised that the issue of the downstream problems is closed.

[7] The Board concluded that it did not have sufficient evidence before it from the Appellant to grant a stay. The evidence provided by the Appellant did not demonstrate that he would suffer irreparable harm if the stay was refused, nor did he demonstrate that he would suffer greater harm if the stay was refused than others would if the stay was granted.

[8] As a result, on June 20, 2001, the Board advised the Director and the Appellant, after reviewing their responses, that the stay request was denied and the hearing scheduled for June 22, 2001 was cancelled and would be rescheduled.

[9] On June 28, 2001, the Board received the Record from the Director. The Director advised that two individuals involved in this matter indicated that they did not want to be identified. The Board wrote to the two individuals requesting that they advise of any reasons why the Board should deviate from its normal process and not provide their names to the parties to this appeal. Mr. Alex Yakimishyn and Mr. Albert Stelmach did not object to their names being included in the Record.

[10] Following consultation with the parties, the Board advised on July 19, 2001, that a hearing would take place on August 16, 2001, at the Board's offices in Edmonton and hearing advertisements were placed.¹ Mr. Albert Stelmach and Mr. Alex Yakimishyn, persons who had been identified by the parties as potentially having an interest in this matter, were also provided

¹ Notices of a Public Hearing were placed in the *Redwater Review* on July 23, 2001 and the *Edmonton Journal* on July 24, 2001 containing details of the hearing and establishing a deadline of July 30, 2001 for receipt of intervenor requests. A news release was also issued on July 20, 2001.

with Notice of Hearing. On August 10, 2001, the Board wrote to the parties and identified the procedures for the hearing. The hearing took place on August 16, 2001, at the office of the Board.

II. INTERVENOR REQUEST

[11] On August 9, 2001, the Board received a letter from Mr. Alex Stelmach in which he requested intervenor status. The Board sought comments from the parties. The Director advised that he had no concerns with Mr. Stelmach's participation and no reply was received from the Appellant.

[12] The Board has recently considered the test that should be used to determine whether a person should be allowed to intervene.² In the *Schafer* case, numerous intervenor requests were received in connection to a groundwater diversion licence granted for an intensive livestock operation. The Board noted that Rule 14 of the Board's Rules of Practice provides:

“As a general rule, those persons or groups wishing to intervene must meet the following tests:

- their participation will materially assist the Board in deciding the appeal by providing testimony, cross-examining witnesses, or offering argument or other evidence directly relevant to the appeal; the intervenor has a tangible interest in the subject matter of the appeal; the intervention will not necessarily delay the appeal; ...
- the intervention will not repeat or duplicate evidence presented by other parties....”

The main consideration expressed is that the participation of the intervenor will assist the Board in making a determination of the matter under appeal without duplicating other submissions.

[13] In various communications to the Board, the Appellant has repeatedly indicated that the problems on his land stem from actions and licences granted to his neighbour – the person requesting intervenor status - Mr. Alex Stelmach.

² Intervenor Request: *Schafer et al. v. Director, Prairie Region, Natural Resources Service, Alberta Environment*, re: *B and J Schneider Ranching* (June 22, 2001), E.A.B. Appeal No. 01-017-032-D.

[14] In Mr. Stelmach's request for intervenor status, he states that "...if material will be presented at this hearing, other than dealing directly with the order or if material is presented in reference to myself or my farm land, then I feel I should be given an opportunity to intervene and present factual information."

[15] Since many of the Appellant's arguments presented to the Board dealt with licences and actions on Mr. Stelmach's land, it is reasonable to assume that Mr. Stelmach had information that was relevant to the appeal. As Mr. Stelmach had knowledge of water flow on his land, the Board decided it would benefit from his testimony in regard to how the Appellant viewed the issue of water flow on the Stelmach land. Therefore, the Board concluded that Mr. Stelmach would materially assist the Board with respect to this matter, and that Mr. Stelmach has a tangible interest in the subject matter of the appeal.

[16] The Board, therefore, decided to grant Mr. Stelmach's request for intervenor status and gave him the same rights as a party to provide an opening statement, provide direct evidence, cross-examine the Appellant, and make a closing statement.

III. THE HEARING EVIDENCE

A. The Appellant

[17] Mr. William Yakimishyn and Mrs. Elizabeth Yakimishyn presented statements concerning the history of events regarding water levels on the Yakimishyn farm located at NW 4-56-17-W4M. Mr. Yakimishyn recounted a history of flooding problems that he attributed to the flow of water onto his land from adjacent quarter sections: to the east at NE 4-56-17-W4M (Mr. Albert Stelmach) and to the south at SW 4-56-17-W4M (Mr. Alex Yakimishyn) and to inadequate drainage of his land to the west via a culvert across Range Road 174 onto NE 5-56-17-W4M (Mr. Nestor Kubersky) and ultimately to the northwest across SE 8-56-17-W4M (Mr. Alex Stelmach).

[18] The Appellant maintained that the flooding problems were caused by his neighbours to the east (Mr. Albert Stelmach) and south (Mr. Alex Yakimishyn) having dug ruts across the fence line causing washouts on his land and the actions of Mr. Alex Stelmach in filling

in the natural channel to the northwest draining from Mr. Kubersky's land thereby causing the drainage to back up and flood the Appellant's land.

[19] The Appellant maintained that the actions by Mr. Alex Stelmach that impaired the drainage across his land occurred because of inadequate policing by Alberta Environment of a 1986 licence issued to Mr. Alex Stelmach under the *Water Resources Act*, R.S.A. 1980 c. W-5³ to perform work on the natural drainage channel across his land. In particular, the Appellant maintains that Mr. Alex Stelmach's work on this natural channel in 1988 reduced its capability to drain flow from Mr. Kubersky's land, leading to drainage backup and flooding of the Appellant's land. The Appellant had several meetings with Mr. Doug Y Jeremy of Alberta Environment between 1989 and 1995 in an attempt to achieve some resolution of the flooding of his land.

[20] The Appellant blamed the actions of Mr. Alex Stelmach for the flooding damage in 1996 to the Appellant's house located at the northwest corner of NW 4-56-17-W4, directly to the north of the wetland located between the Appellant's land and Mr. Kubersky's land. The Appellant acknowledged that there has always been a wetland on his own land, but he maintains that because of the actions of his neighbours, most notably the actions of Mr. Alex Stelmach in disturbing the natural drainage pathway across Mr. Stelmach's land to the northwest, the size of the flooded area has increased substantially.

[21] The Appellant admitted that he constructed the earthen berms that are the subject of the Order that is the subject of this appeal. These berms were constructed on the southern and eastern boundaries of the Appellant's land to block drainage from Mr. Alex Yakimishyn and Mr. Albert Stelmach, respectively, with the specific intent of forcing a resolution of his flooding problems. He had previously requested mediation to resolve the problems and Alberta Environment had agreed to work on mediation, but the Appellant was told that Mr. Alex Stelmach had refused to participate in any mediation unless the Appellant paid him \$3,000. The Appellant maintained that constructing the earthen berms was his last remaining means to obtain a fair resolution of the flooding problem.

³ The *Water Resources Act* was repealed and replaced by the *Water Act* as of January 1, 1999.

[22] The Appellant acknowledged that his actions did bring further attention to the issue. However, he was particularly upset that he was told by Mr. Wayne Boyd (the Director) that the Order related only to the matter of the earthen berms that he had constructed and that the question of what Mr. Alex Stelmach may have done in the past was a “closed” issue.

[23] The Appellant called Mr. Nestor Kubersky⁴ to comment on the possibility of resolving the problems. Mr. Kubersky farms the land owned by his family that is located directly to the west of the Appellant’s land. The wetland that the Appellant is concerned about forms on either side of the road that divides the Kubersky land from the Appellant’s land. Mr. Kubersky stated that it should be possible for all of the parties to work together to find a solution to the drainage in the area. He thought that it would be possible for the parties to have the local municipality apply for a grant from the provincial government to do the necessary work. Mr. Kubersky proposed that the drainage problem could be solved by improving the drainage course from the wetland between his land and the Appellant’s land to the drainage point on the other side of Mr. Alex Stelmach’s land. Mr. Kubersky indicated that this would involve removing the highpoint that has developed between his land and Mr. Alex Stelmach’s land, which is located directly to the north.

B. The Director

[24] The Director noted that the Appellant had admitted constructing the earthen berms that were the subject of the Order that is the subject of this appeal. Furthermore the Director advised that, because the Board advised that it had taken note of the Appellant’s admission, no additional evidence beyond that already provided in the Director’s submission to establish that Mr. Yakimishyn had constructed the berms would be introduced in the interests of using the hearing time effectively.

⁴ Mr. Kubersky indicated that he had previously worked for the local municipality as a backhoe operator and had worked on numerous drainage projects.

[25] The Director's evidence was presented by a panel consisting of: Mr. Wayne Boyd, Director; Mr. Doug Jeremy, Surface Water Administrative Engineer; Mr. Colon Sheppard, Water Administration Technologist; Mr. Wayne Edwards, Conservation Officer; and Mr. Trevor Sellin, Conservation Officer. The panel reviewed the history of Alberta Environment's dealings with this issue, going back to the 1986 licence issued under the *Water Resources Act* to Mr. Alex Stelmach for work on the drainage channel on his land to the northwest of the Appellant's land. Alberta Environment had been willing to mediate a resolution of the drainage issue, but was not able to secure the agreement of all of the parties to enter into mediation.

[26] Mr. Jeremy elaborated on a series of air photos, entered collectively as Exhibit 4. These photos were dated September 11, 1950, May 15, 1962, September 25, 1974, September 8, 1975, April 20, 1980, July 7, 1987 and October 22, 1988. At the Board's request, Mr. Jeremy identified the Appellant's quarter section on each of the photos. The photo originally tendered with a date of April 20, 1980 was not the correct photo because it did not show the Appellant's land. A photocopy of the correct air photo for this date was provided. These photos showed that there was no substantial water evident on the Appellant's land in any of the summer or fall photographs (July 1987, September 1950, 1974, 1975 or October 1988). There was substantial water present on the Appellant's land in the spring photographs (May 1962 and April 1980). The latter two air photos, in particular, contradicted the Appellant's claim that his quarter section only had substantial water after the 1986 work done to the downstream drainage by Mr. Alex Stelmach.

[27] Both of these spring photos appear to support the Appellant's contention that, prior to 1986, there was a obvious drainage pathway across Mr. Kubersky's land and Mr. Alex Stelmach's land. The May 1962 photo, in particular, appears to depict a natural drainage channel because of its meandering character. The existence of this drainage path did not prevent the occurrence of substantial water on the Appellant's land. However, this air photo tendered as evidence by Alberta Environment is not consistent with Alberta Environment's contention, as

expressed in a briefing note prepared by Mr. Jeremy,⁵ that the drainage path between the licenced ditch⁶ and Mr. Kubersky's upstream land was only provided by "an unauthorized drainage ditch". This briefing note also indicates that the "unauthorized ditch has been filled in" and concludes that that Alberta Environment "could not ask his neighbour to re-construct a ditch that did not have an approval under the Water Act." The May 1962 air photo appears to show that the drainage path in question had been a natural waterway, not an unauthorized ditch.

[28] Mr. Wayne Boyd admitted that he did tell Mr. Yakimishyn that the matter of drainage across Mr. Alex Stelmach's land was "closed" because the issue at hand was Mr. Yakimishyn's unauthorized berm construction and the ensuing Order.

[29] The Director's submission was that Appellant had admitted to placing earthen berms that "alters, may alter or may become capable of altering the flow or level of water" making their placement an activity as defined in section 1(1)(b)(i)(a) of the *Water Act*.⁷ This activity was undertaken without an approval and was in contravention of section 36(1) of the *Water Act*.⁸ The Director argues that he correctly issued the Order to the Appellant. In the Director's view, the Appellant has not challenged the basis for the Order, nor has the Appellant specified any relief in terms of modifying the Order.

[30] The Director maintains that the Board only has jurisdiction under section 92(1)(a)⁹ of the *Environmental Protection and Enhancement Act*, S.A. 1992, c.E-13.3 ("EPEA")

⁵ Briefing Note DM00-LCC 0508 at Tab 20 of the Director's Record.

⁶ Licenced under the *Water Resources Act* for modification by Mr. Alex Stelmach in 1986.

⁷ Section 1(1)(b) of the *Water Act* defines "activity" as:

"...(i) placing, constructing, operating, maintaining, removing or disturbing works, maintaining, removing or disturbing ground, vegetation or other material, or carrying out any undertaking, including but not limited to groundwater exploration, in or on any land, water or water body, that (A) alter, may alter or may become capable of altering the flow or level of water, whether temporarily or permanently, including but not limited to water in a water body, by any means, including drainage..."

⁸ Section 36(1) of the *Water Act* provides:

"Subject to subsection (2), no person shall commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this Act."

⁹ Section 92(1) of EPEA provides:

"On receiving the report of the Board the Minister may, by order, (a) confirm, reverse or vary the

in this case to recommend to the Minister to deal with the specific decision of the Director. In this case, the decision in question was to issue the Order. Accordingly, the argument goes, the recommendations must be limited to confirming, reversing or varying the Order that was issued to the Appellant.

[31] The Director submitted that the Order was intended to be remedial in nature – removal of the unauthorized earthen berms constructed by the Appellant – and not otherwise punitive. An administrative penalty or other punitive enforcement action could have been pursued against the Appellant in this case, but the Order represented the most restrained response available to the Director to correct the unauthorized activity.

C. The Intervenor

[32] Mr. Alex Stelmach stated that the water problems dated as far back as 1965. He had a drainage ditch across his land that substantially interfered with his use of this land for farming. Accordingly, Mr. Stelmach applied for a licence under the *Water Resources Act* to reduce the side slope of the drainage channel so that he could farm these sideslopes. Mr. Stelmach disputed the Appellant’s contention that the Appellant had only experienced substantial wetlands on his land since the work that Mr. Stelmach had undertaken in 1986 and thereafter.

[33] Mr. Stelmach stated that he would not consider mediation of this issue unless Mr. Yakimishyn paid him \$3,000. Mr. Stelmach maintained that the Appellant was not justified in his actions nor in his concerns about flooding being caused by his neighbours.

IV. CONSIDERATIONS OF THE BOARD

[34] In his Notice of Appeal, the Appellant admitted to placing the earthen berms because he said: “This was done to prevent my land from being flooded....” At the hearing, the Appellant further stated that he placed the berms in an attempt to get attention to resolve the

decision appealed and make any decision that the person whose decision was appealed could make....”

long-standing problem of flooding being caused by the actions of his neighbours. The Appellant did not dispute the basis for the Order, nor did he provide any reasons why the Order was invalid. The Board concludes therefore that the Order is valid.

[35] The Appellant maintained that his land had not been subject to substantial flooding until after the actions of Mr. Alex Stelmach subsequent to 1986 to interfere with natural drainage to the northwest. The air photos entered as Exhibit 4 clearly show that there was substantial water on the Appellant's land on May 15, 1962 and on April 20, 1980. The Appellant did not challenge the accuracy of these air photos.

[36] The Director maintained that Alberta Environment had no recourse to resolve the Appellant's concerns with the modifications to the drainage across Mr. Alex Stelmach's land because the drainage channel that had apparently been filled in was an "unauthorized ditch". The same air photos tendered as evidence by the Director show that the Appellant experienced substantial flooding of his land prior to the alleged activities of Mr. Alex Stelmach and appear to support the Appellant's contention that there had been a natural drainage course to the northwest, across Mr. Stelmach's land. This contention appears to be contrary to Alberta Environment's position that such drainage to the northwest had only been possible via an "unauthorized ditch".

V. CONCLUSIONS

[37] The decision of the Director to issue the Order, is the decision that the Board has jurisdiction to review in this case.

[38] The Appellant has conducted an activity in contravention of section 36(1) of the *Water Act*. The Board finds that the Order is valid in these circumstances.

VI. RECOMMENDATIONS

[39] The Board recommends that the Minister of Environment confirm the Order and dismiss the appeal. Attached for the Minister's consideration is a draft Ministerial Order implementing this recommendation.

[40] Further, with respect to section 92(2) and 93 of EPEA, the Board recommends that copies of this Report and Recommendations and of any decision by the Minister be sent to the following parties:

1. Mr. William and Mr. Kelly Yakimishyn;
2. Mr. Wayne Boyd, Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment, represented by Ms. Heather Veale, Alberta Justice;
3. Mr. Alex Stelmach;
4. Mr. Nestor Kubersky;
5. Mr. Albert Stelmach; and
6. Mr. Alex Yakimishyn.

Dated on September 14, 2001, at Edmonton, Alberta.

“original signed by”
Steve E. Hrudey

“original signed by”
John P. Ogilvie

“original signed by”
Ted W. Best

VII. EXHIBITS

Exhibit No.	Description
1	Notice of Appeal filed by Mr. Bill Yakimishyn on June 18, 2001.
2	Advertisement placed in the <i>Redwater Review</i> July 23, 2001 and the <i>Edmonton Journal</i> July 24, 2001. News release dated July 20, 2001.
3	Photographs and diagrams of land. Submitted by Mr. Yakimishyn
4	Aerial photographs of Mr. Yakimishyn's property for specific years between 1950 and 1998. Submitted by Ms. Veale.
5	Letter from Henrietta Yurkin. Submitted by Mr. Yakimishyn.
6	Meeting minutes excerpt signed by Reeve Ed Stelmach and the County Manager. Submitted by Mr. Yakimishyn.
7A	Diagram drawn at August 26, 2001 hearing, by Mr. Yakimishyn. Location plan of 4,5,8-56-17-4. Submitted by Mr. Yakimishyn.
7B	Diagram drawn at August 16, 2001 hearing by Mr. Yakimishyn. Location plan NW 4 8 NE 5-56-17-4. Submitted by Mr. Yakimishyn.
7C	Profile, Cross Sections and Plan (1986) of NW 8 S ¹ of SE 8-56-17-4. Submitted by Mr. Yakimishyn.
8	Letter dated May 30, 1996 to Mr. Alex Stelmach from Mr. Patrick Marriott, Alberta Environment regarding inspection and review of licenced project. Submitted by Mr. Yakimishyn.
9	Diagram of Mr. Yakimishyn land. Submitted by Mr. Yakimishyn.
10	Assessment Summary Report – County of Lamont – December 31/93. Submitted by Mr. Stelmach.

Exhibit No.	Description
11	County of Lamont No. 30 meeting minutes November 12/87. Submitted by Mr. Stelmach.
12A	Report: Consulting Engineering Report to D. Yeremy from D. Cardy – June 3, 1982. Submitted by Mr. Stelmach.
12B	Report: Consulting Engineering Report to D. Yeremy from D. Cardy – June 10, 1982. Submitted by Mr. Stelmach.
13	Memorandum from M. Tenove to G. Paranich dated July 5, 1985 regarding Stelmach Waterway. Submitted by Mr. Stelmach.
14	Copy of Location Plan. Submitted by Mr. Stelmach.
15	Letter dated October 25, 1984 from D. Yeremy to G. Paranich. Submitted by Mr. Stelmach.
16	Letter dated January 13, 1988 from D. Yeremy to G. Paranich. Submitted by Mr. Stelmach.
17	Memorandum from D. Yeremy to File dated May 27, 1999 regarding Bill Yakimishyn. Submitted by Mr. Stelmach.
18	Aerial Photo submitted by Alberta Environment.

VIII. DRAFT ORDER

Ministerial Order
/2001

Environmental Protection and Enhancement Act,
S.A. 1992, c.E-13.3
Water Act,
S.A. 1996, c.W-3.5

**Order Respecting Environmental Appeal Board
Appeal No. 01-057**

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 92 of *the Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order respecting Environmental Appeal Board Appeal No. 01-057.

Dated at the City of Edmonton, in the Province of Alberta this ____ day of _____, 2001.

Honourable Dr. Lorne Taylor
Minister of Environment

DRAFT APPENDIX

Order Respecting Environmental Appeal Board No. 01-057

With respect to the decision of Mr. Wayne Boyd, Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment (the “Director), to issue Enforcement Order No. 2001-WA-06, (the “Order”) issued to Mr. William and Mr. Kelly Yakimishyn, on June 12, 2001, I, Dr. Lorne Taylor, Minister of Environment order, that the decision of the Director is confirmed.