

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – June 11, 2002

IN THE MATTER OF sections 91, 92 and 95 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12;

-and-

IN THE MATTER OF an appeal filed by the County of Newell
No. 4, with respect to the decision of the Director, Enforcement
and Monitoring, Southern Region, Regional Services, Alberta
Environment to issue Administrative Penalty No. 01/27-BOW-AP-
02/06 to the County of Newell No 4.

Cite as: *County of Newell No. 4 v. Director, Enforcement and Monitoring, Southern
Region, Regional Services, Alberta Environment.*

EXECUTIVE SUMMARY

Alberta Environment issued an Administrative Penalty in the amount of \$10,500.00 to the County of Newell No. 4.

The Administrative Penalty was issued for the alleged contravention, by the County of Newell No. 4, of clause 4.1.1 of the Scandia Water Works Approval by failing to have a certified operator supervising the Scandia Water Treatment Facility; failing to comply with clause 4.2.1 of the Scandia Waterworks Approval, by adding chemicals not approved by the Director into the waterworks system; failing to comply with clause 6.1.1 of the Rainier Waterworks Facility by failing to sample for bacteria in treated water; and failing to immediately report a contravention, as per clause 9.2.1, of the Patricia Wastewater Approval to the Director, Alberta Environment.

The Board received a Notice of Appeal from the County of Newell No. 4. appealing the Administrative Penalty.

In consultation with the parties, the Board scheduled an appeal hearing for June 7, 2002, in Brooks, Alberta. However, on June 6, 2002, the County of Newell withdrew the appeal.

The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On January 22, 2002, the Director, Enforcement and Monitoring, Southern Region, Regional Services, Alberta Environment (the “Director”) issued Administrative Penalty No. 01/27-BOW-AP-02/06 (the “Penalty”) to the County of Newell No. 4 (the “Appellant”) with respect to the operation of water treatment plants and water distribution systems within the County of Newell. The Administrative Penalty states that the Appellant contravened clause 4.1.1 of the Scandia Water Works Approval by failing to have a certified operator supervising the Scandia Water Treatment Facility; failed to comply with clause 4.2.1 of the Scandia Waterworks Approval, by adding chemicals not approved by the Director into the waterworks system; failed to comply with clause 6.1.1 of the Rainier Waterworks Facility by failing to sample for bacteria in treated water; and failed to immediately report a contravention, as per clause 9.2.1, of the Patricia Wastewater Approval to the Director.

[2] On March 1, 2002, the Board received a Notice of Appeal from the Appellant appealing the Penalty. On March 4, 2002, the Environmental Appeal Board (the “Board”), acknowledged receipt of the Notice of Appeal, notified the Director of the appeal, requested the Director provide the Board with a copy of the documents related to this appeal (the “Record”) and requested that all parties provide available dates for a hearing.

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

[4] On March 19, 2002, the Board received a copy of the Record from the Director, and forwarded a copy to the Appellant on March 22, 2002.

[5] On April 18, 2002, in consultation with the parties, the Board scheduled the hearing in this matter for June 7, 2002, in Brooks, Alberta. Notice of Public Hearing Advertisement was placed in the Brooks and County Chronicle on May 13, 2002, the Brooks Bulletin on May 15, 2002 and the Bassano Times on May 14, 2002, advising of a hearing to be held on June 7, 2002, in Brooks, Alberta and asked that if any person, other than the parties,

wished to make representations before the Board, to advise the Board's office by May 17, 2002. No requests for intervention were received.

[6] On May 9, 2002, the Board received a letter from the Appellant, requesting an adjournment of the hearing for three weeks for legal counsel preparation. On May 10, 2002, the Board denied the request advising that the hearing was scheduled, by consent and in consultation with the Appellant on April 18, 2002, and as such the Board felt that the parties had ample time to prepare for the hearing.

[7] On May 31, 2002, the Board received written submissions from the Appellant and the Director, as is required pursuant to section 10(1) of the Environmental Appeal Board Regulation A.R. 114/93¹.

[8] On June 4, 2002, the Board received a letter from the Director with respect to the Appellants written submission. The Director advised that the Appellant's submission, "in some areas, raises new issues which were not outlined in the Notice of Appeal filed by the County..." The Director's counsel, to her credit, went on to say that the Director would "...do its best to address these modifications at this late stage..." The Director requested additional time at the hearing in order to address the new issues.

[9] The Board responded to the Director's letter on June 5, 2002, advising that the Board would hear comments from the parties, regarding the new issues raised by the Appellant, at the start of the hearing on June 7, 2002.

[10] On June 6, 2002, the Board received a telephone call from the Appellant, and a subsequent letter advising the Board that the appeal was withdrawn. The letter stated:

"Further to our telephone conversation of this morning, I am writing to confirm that the County of Newell is withdrawing its appeal as the matter has been resolved to the satisfaction of both parties."

¹Environmental Appeal Board Regulation A.R. 114/93

Section 10(1) A party to an appeal shall file a written submission with the Board

(a) Not later than the date specified for that purpose in the written notice given to the party under section 7(1)(a)(ii), in a case where there will be an oral hearing...

II. DECISION

[11] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and based on the letter of June 6, 2002 from the Appellant, the Board discontinues its proceedings in Appeal 01-118 and closes its file.

Dated on June 11, 2002, at Edmonton, Alberta.

“original signed by”

William A. Tilleman, Q.C
Chair