

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

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Date of Discontinuance of Proceedings – June 3, 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 section 115 of the *Water Act*, R.S.A. 2000, c. W-3.

-and-

**IN THE MATTER OF** Notices of Appeal filed by Mr. Jack and Ms. Bev Brannen, and Mr. Cliff and Ms. Mary Soper with respect to *Water Act* Approval No. 00142622-00-00 issued to Tar-ific Construction Ltd. by the Director, Central Region, Regional Services, Alberta Environment authorizing Tar-ific Construction Ltd. to drain groundwater in conjunction with aggregate mining for a two month period at SE 19-039-26-W4, near Blackfalds, Alberta.

Cite as: *Brannen and Soper v. Director, Central Region, Regional Services, Alberta Environment re: Tar-ific Construction Ltd.*

## **EXECUTIVE SUMMARY**

Alberta Environment issued a *Water Act* Approval to Tar-ific Construction Ltd. The Approval authorized Tar-ific Construction Ltd. to drain groundwater from SE-19-39-26-W4, near Blackfalds, Alberta for the purpose of aggregate mining, for a two month period.

Notices of Appeal was received from Mr. Jack and Ms. Bev Brannen, and Mr. Cliff and Ms. Mary Soper appealing the Approval.

The Board began processing the appeal, however the Board received letters from Mr. and Ms. Soper on May 28, 2002 and from Mr. and Ms. Brannen on June 3, 2002 withdrawing their appeals.

The Board therefore closes its files in this matter.

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## **I. BACKGROUND**

[1] On May 8, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued *Water Act* Approval No. 00142622-00-00 (the “Approval”), to Tar-ific Construction Ltd. (the “Approval Holder”) authorizing them to drain groundwater in conjunction with aggregate mining for a two month period at SE 19-039-26-W4, near Blackfalds, Alberta.

[2] On May 21 and May 23, 2002 the Environmental Appeal Board (the “Board”) received Notices of Appeal from Mr. Jack and Ms. Bev Brannen (the “Brannens”), and Mr. Cliff and Ms. Mary Soper (the “Sopers) (collectively the “Appellants”) appealing the Approval.

[3] On May 21 and 24, 2002, the Board acknowledged receipt of the Notices of Appeal, notified the Approval Holder and the Director of the appeals and requested the Director provide the records related to the appeal (the “Record”) to the Board. The Board also requested all parties provide their available dates for a mediation meeting/settlement conference or hearing to the Board.

[4] 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 Board’s responded in the negative.

[5] On May 28, 2002, the Board received a letter from the Sopers withdrawing their appeal. The letter stated in part:

“Having...considered what has taken place since we submitted our appeal, we wish to withdraw our notice of appeal...One or two days after submitting our Notice of Appeal or possibly earlier, Tar-ific Construction Ltd. pumped out the

previously excavated area into the Red Deer River. This is precisely what we were trying to prevent through our appeal...”

[6] On June 3, 2002, the Board received a letter from the Brannens withdrawing their appeal. The letter stated in part:

“...It is very discouraging to find that a gravel company can legally drain your land and surrounding land of water, not just ground water but literally lower the water table.

Therefore we will withdraw our appeal and hope our local environmental people will be more diligent (sic) next time around...”

## **II. DECISION**

[7] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and based on the letters of May 28, 2002 and June 3, 2002 from the Appellants, the Board discontinues its proceedings in Appeals 02-012 and 02-014 and closes its files.

Dated on June 3, 2002, at Edmonton, Alberta.

“original signed by”  
William A. Tilleman, Q.C.