

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – August 1, 2003

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 an appeal filed by Nancy Hohnstein, with respect to *Water Act* Approval No. 00189558-00-00 issued to Nor-Chris Holdings Inc. by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Hohnstein v. Director, Central Region, Regional Services, Alberta Environment*, re: *Nor-Chris Holdings Inc.* (1 August 2003), Appeal No. 03-007-DOP (A.E.A.B.).

EXECUTIVE SUMMARY

Alberta Environment issued an Approval under the *Water Act* to Nor-Chris Holdings Inc. authorizing the construction, operation and maintenance of works for storm water management for Atim Creek Estates, Stage 1, in Parkland County, Alberta.

The Environmental Appeal Board received a Notice of Appeal from Ms. Nancy Hohnstein appealing the Approval.

The Board began processing the appeal. However Nor-Chris Holdings Inc. requested the appeal be held in abeyance in order to allow the parties to pursue discussions with a view towards a resolution. The parties agreed to provide the Board with status reports on a regular basis.

Subsequently, Ms. Hohnstein agreed to withdraw her appeal on the condition that Nor-Chris Holdings Inc. amend their plans. Nor-Chris Holdings Inc. applied to Alberta Environment to amend their approval in order to satisfy Ms. Hohnstein's concerns and her appeal. Alberta Environment approved the amendment and the Board closed its file.

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I. BACKGROUND

[1] On April 23, 2003, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued Approval No. 00189558-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to Nor-Chris Holdings Inc. (the “Approval Holder”). The Approval authorizes the construction, operation and maintenance of works for storm water management for Atim Creek Estates, Stage 1, in Parkland County, Alberta.

[2] The Environmental Appeal Board (the “Board”) received a Notice of Appeal from Ms. Nancy Hohnstein on April 30, 2003 and acknowledged receipt of the Notice of Appeal on May 1, 2003.

[3] The Board notified the Approval Holder and the Director of the appeal and requested that the Director provide the Board with a copy of all documents related to this appeal (the “Record”), and requested that the parties provide available dates for a mediation meeting or hearing.

[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 Boards responded in the negative.

[5] On May 22, 2003, the Director provided the Record and advised that he had no record that the Appellant had filed a Statement of Concern, hence had not complied with the prerequisites for filing a Notice of Appeal. Having said that, the Director was willing to participate in a mediation meeting on a without prejudice basis. Copies of the Record were provided to the Appellant and the Approval Holder on May 23, 2003.

[6] On May 27, 2003, the Approval Holder provided the Board with a copy of a letter to the Director outlining his proposed arrangements with the Appellant in order to satisfy her appeal. The Board sought comments from the Director and the Appellant on May 28, 2003.

[7] On May 29, 2003, the Appellant executed the agreement with the Approval Holder and provided a copy to the Board. The Board advised the parties that it is not in a

position to accept conditional withdrawals and that the withdrawal would be effective once the conditions outlined by the Approval Holder had been met.

[8] On May 30, 2003, the Director advised that it would review an amendment application from the Approval Holder. On July 22, 2003, the Director advised the Board that it had issued an amendment to the Approval on July 10, 2003.

[9] On July 23, 2003, the Board wrote to the parties advising that it appeared that the conditions of the Appellant had been met and if there were any objections to advise the Board immediately. As no objections were received by the due date of July 28, 2003, the Board considered the Appellant's Notice of Appeal withdrawn.

II. DECISION

[10] In accordance with section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and based on the withdrawal of the appeal, the Board hereby discontinues its proceedings in Appeal No. 03-007 and will be closing its file.

Dated on August 1, 2003, at Edmonton, Alberta.

“original signed by”

William A. Tilleman, Q.C.
Chairman