

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Decision

Date of Decision – January 18, 2006

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 Camp Okotoks Society with respect to *Water Act* Approval No. 00222483-00-00 issued to the Town of Okotoks by the Director, Southern Region, Regional Services, Alberta Environment.

Cite as: *Camp Okotoks Society v. Director, Southern Region, Regional Services, Alberta Environment re: Town of Okotoks* (18 January 2006), Appeal No. 05-020-D (A.E.A.B.).

BEFORE:

Dr. Steve E. Hrudehy, Chair.

PARTICIPANTS:

Appellant:

Camp Okotoks Society, represented by Mr. Kelly Hettinga, and Mr. David Webber, Macphail Harding.

Director:

Ms. May Mah-Paulson, Director, Southern Region, Regional Services, Alberta Environment, represented by Ms. Charlene Graham, Alberta Justice.

Approval Holder:

Town of Okotoks, represented by Mr. Rick Quail, Municipal Manager, and Ms. Marley Oness, Municipal Engineer.

EXECUTIVE SUMMARY

Alberta Environment issued an Approval under the *Water Act* to the Town of Okotoks authorizing the realignment of the channel and stabilization of the banks on the Sheep River, near Okotoks, Alberta.

The Board received a Notice of Appeal appealing the approval from Mr. Kelly Hettinga on behalf of the Camp Okotoks Society. The Board held a Mediation Meeting on October 24, 2005 at which time an Interim Resolution was reached. On November 25, 2005, December 2 and 13, 2005, the Board wrote to Mr. Hettinga and requested he provide a status report to the Board. Telephone calls were also placed on December 8, 12, and 13, 2005.

On December 15, 2005, Mr. Hettinga advised that he would be withdrawing his appeal and the Board requested written confirmation by December 22, 2005. As no response was received by December 22, 2005, the Board forwarded an e-mail to Mr. Hettinga on December 30, 2005, requesting that he provide written notice of his withdrawal. No response was received to this request.

On January 10, 2006, the Board advised Mr. Hettinga and those persons involved in the appeal, that the appeal of Mr. Hettinga on behalf of the Camp Okotoks Society had been dismissed for failing to respond to the Board in a timely manner.

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I. BACKGROUND

[1] On August 24, 2005, the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 00222483-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to the Town of Okotoks (the “Approval Holder”) authorizing the Town of Okotoks to realign the channel and stabilize the banks on the Sheep River, near Okotoks, Alberta.

[2] On August 31, 2005, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Kelly Hettinga on behalf of Camp Okotoks Society (the “Appellant”) appealing the Approval.

[3] On September 2, 2005, the Board wrote to the Appellant, the Approval Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Approval Holder and the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to this appeal, and that the Participants provide available dates for a mediation meeting, preliminary 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 September 26, 2005, the Board received a copy of the Record from the Director, and on September 28, 2005, the Board forwarded a copy to the Appellant and the Approval Holder.

[6] On October 5, 2005, in consultation with the Participants the Board scheduled a mediation meeting. Pursuant to section 11 of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93, the Board conducted a mediation meeting on October 24, 2005 with Mr. Ron. V. Peiluck, Vice-Chair, acting as the mediator (the “Mediator”).

[7] In conducting the mediation meeting, the Mediator reviewed the mediation process and explained the purpose of the mediation meeting. He then circulated copies of the

Participants' Agreement to Mediate. All persons in attendance signed the Agreement and discussions ensued.

[8] Following productive and detailed discussions at the mediation meeting, an Interim Agreement was reached.

[9] On November 25, 2005, and December 2 and 13, 2005, the Board wrote to Mr. Hettinga and requested he provide a status report to the Board as agreed to in the Interim Agreement. Board staff also placed telephone calls to Mr. Hettinga on December 8, 12 and 13, 2005.

[10] On December 15, 2005, Mr. Hettinga advised that he would be withdrawing his appeal, and the Board requested written confirmation by December 22, 2005. As no response was received by December 22, 2005, the Board forwarded an e-mail to Mr. Hettinga on December 30, 2005, requesting that he provide written notice of his withdrawal. No response to this request was received.

[11] On January 10, 2006, the Board advised the Participants that it was dismissing Mr. Hettinga's appeal pursuant to section 95(5)(a)(iv) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, for failing to respond to the Board in a timely manner.¹

II. DECISION

[12] Pursuant to section 95(5)(a)(iv) of the *Environmental Protection and Enhancement Act*, the Board hereby dismisses Appeal No. 05-020 for the Appellant's failure to comply with a written notice.

Dated on January 18, 2006, at Edmonton, Alberta.

“original signed by”

Steve E. Hrudey, D.Sc. (Eng.), P.Eng.
Chair

¹ Section 95(5)(a)(iv) of the *Environmental Protection and Enhancement Act* provides: “The Board may dismiss a notice of appeal if ... the person who submitted the notice of appeal fails to comply with a written notice under section 92....”