

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation – November 23, 2005

Date of Discontinuance of Proceedings – November 25, 2005

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 Michael O'Reilly with respect to the decision by the Director, Southern Region, Regional Services, Alberta Environment, to refuse to issue a *Water Act* Licence to Michael O'Reilly for lands located at E ½-36-019-04-W5M.

Cite as: *O'Reilly v. Director, Southern Region, Regional Services, Alberta Environment* (25 November 2005), Appeal No. 05-024-DOP (A.E.A.B.).

I. BACKGROUND

[1] On August 31, 2005, the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), refused to issued a *Water Act* Licence to Mr. Michael O’Reilly in relation to the diversion of water from the Highwood River Basin, in the E ½ 36-019-04-W5M, near Turner Valley, Alberta, which is a restricted water basin.

[2] On September 12, 2005, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Michael O’Reilly (the “Appellant”) appealing the Director’s decision.

[3] On September 12, 2005, the Board wrote to the Appellant and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Director of the appeal. The Board also requested the Director provide the Board with a copy of the record (the “Record”) relating to this appeal, and 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 October 6, 2005, the Board received a copy of the Record from the Director, and on October 18, 2005, forwarded a copy to the Appellant.

[6] In consultation with the Parties, the Board scheduled a mediation meeting for November 23, 2005, to be held in Calgary, Alberta.

II. MEDIATION

[7] Pursuant to section 11 of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93, the Board conducted a mediation meeting in Calgary, Alberta on November 23, 2005, with Mr. Jim Barlishen, Board Member, as the presiding mediator (the “Mediator”).

[8] In conducting the mediation meeting, the Mediator reviewed the appeal and 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.

[9] Following productive and detailed discussions at the mediation meeting, an agreement was reached, and the Appellant withdrew his appeal.

III. DECISION

[10] Pursuant to 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 by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 05-024 and closes its file.

Dated on November 25, 2005, at Edmonton, Alberta.

“original signed by”

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