

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – May 16, 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 appeals filed by Don Faltermeier and Amanda Lee Faltermeier with respect to *Water Act* Licence No. 00207448-00-00 issued to DJ Hog Farms Ltd. by the Director, Northern Region, Regional Services, Alberta Environment.

Cite as: *Faltermeier et al. v. Director, Northern Region, Regional Services, Alberta Environment re: DJ Hog Farms Ltd.* (16 May 2006), Appeal Nos. 05-065 & 05-066-DOP (A.E.A.B.).

I. BACKGROUND

[1] On January 6, 2006, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Licence No. 00207448-00-00 under the *Water Act*, R.S.A. 2000, c. W-3 (the “Licence”) to DJ Hog Farms Ltd. (the “Licence Holder”) authorizing the operation of a works and the diversion of up to 9,137 cubic metres of water annually from the source of water from wells at NE 12-050-02-W4M, near Blackfoot, Alberta, for agricultural purposes (confined feeding operation).

[2] On January 25, 2006, the Environmental Appeals Board (the “Board”) received 13 Notices of Appeal¹ appealing the Licence. This Discontinuance of Proceedings is dealing with the appeals of Don Faltermeier and Amanda Lee Faltermeier (the “Appellants”) only.

[3] On January 30, 2006, the Board wrote to the Appellants, the Licence Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notices of Appeal and notifying the Licence Holder and the Director of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to these appeals, 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. The Alberta Energy and Utilities Board responded in the negative. On February 7, 2006, the Natural Resources Conservation Board (the “NRCB”) wrote to the Board advising that a review had been conducted in relation to the Licence Holder’s confined feeding operation, however, the review was limited to issues relating to the “Minimum Distance Setback”. The NRCB further advised that their review did not deal with concerns regarding groundwater requirements or the Licence issued by Alberta Environment.

¹ Notices of Appeal received from: Mr. Don Gilmour, filed on behalf of himself, the Future of Blackfoot and Area Environmental Association (FOBAEA), Ms. Lori Fradette, Mr. Gerry Fradette, Mr. Dwight and Ms. Lynn Janzer, Mr. John Gerich, Ms. Judy Gerich, Mr. Doug Kuchenbrand, Ms. Anna Kuchenbrand, Mr. Don Faltermeier, Ms. Amanda Lee Faltermeier, Ms. Gail Moore, and Ms. Laura Jacques-Gilmour.

[5] On February 22, 2006, the Board received a copy of the Record from the Director, and on February 28, 2006, forwarded a copy to the Appellants and the Licence Holder.

[6] On April 20, 2006, the Board wrote to the Participants advising that in consultation with the majority of the participants, it had scheduled a mediation meeting for May 17, 2006, in Lloydminster.

[7] On May 1, 2006, the Board received a telephone call from the Appellants withdrawing their appeals. The Board confirmed this conversation in a letter to the Participants on May 1, 2006.

II. DECISION

[8] 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 appeals by the Appellants, the Board hereby discontinues its proceedings in Appeal Nos. 05-065 and 05-066 only and closes its files.

Dated on May 16, 2006, at Edmonton, Alberta.

“original signed by”

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