

## DECISIONS 1999

99-001

**Appellant(s)** – Mr. Ronald Pernarowski, **Operator** – Suncor Energy Inc., **Location** – Burnt Lake, **Type of Appeal** - Discontinuance of Proceedings

On January 15, 1999, Mr. Ronald Pernarowski filed an appeal with respect to Amending Approval No. 1651-01-01 issued to Suncor Energy Inc. On March 30, 1999, Mr. Pernarowski advised that he would be meeting with department staff on April 7, 1999, and requested the file be held in abeyance. As a result of this meeting, Mr. Pernarowski withdrew his appeal on April 22, 1999, and the Board issued a Discontinuance of Proceedings on April 26, 1999.

Cite as: *Pernarowski v. Director, Northeast Boreal Region, Alberta Environmental Protection re: Suncor Energy Inc.*

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99-002

**Appellant(s)** – Paramount Resources Ltd., **Operator** – Nova Gas Transmission Ltd., **Location** – Calgary, **Type of Appeal** - Discontinuance of Proceedings

On January 19, 1999, Paramount Resources Ltd. filed an appeal with respect to Approval No. 69571-00-00 issued to Nova Gas Transmission Ltd. and sought a Stay of the approval. The Board requested written comments on a number of issues from the Appellant by January 29, 1999, which they provided. On February 17, 1999, the Board requested the parties provide status reports and on February 19, 1999, the Appellant withdrew their appeal. The Board issued a Discontinuance of Proceedings on February 19, 1999.

Cite as: *Paramount Resources Ltd. v. Director, Bow Region, Alberta Environmental Protection.*

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99-003

**Appellant(s)** – West View Water Supply Ltd., **Operator** – West View Water Supply Ltd., **Location** – Calgary, **Type of Appeal** - Report and Recommendations

On February 12, 1999, West View Water Supply Ltd. filed an appeal with respect to Approval No. 18250-00-00 issued to West View Water Supply Ltd. A mediation meeting took place on July 28, 1999, and a resolution was signed by the parties. On July 29, 1999, the Board issued a Report and Recommendations which was approved by the Minister on August 25, 1999.

Cite as: *West View Water Supply Ltd. v. Acting Director, Bow Region, Alberta Environmental Protection.*

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99-004

**Appellant(s)** – Mr. Charles Kazmierczak, **Operator** – County of Athabasca, **Location** – Grassland, **Type of Appeal** – Discontinuance of Proceedings

On February 24, 1999, Mr. Charles Kazmierczak filed an appeal with respect to an extension of Approval No.80-ML-012-R3'93 to February 1, 2000, which was originally issued to the County of Athabasca No. 12 on February 3, 1993. The Approval authorizes the County of Athabasca to operate or use a wastewater collection system and wastewater stabilization ponds for the Hamlet of Grassland. On April 27, 2000 the Board asked if the parties wished to participate in a mediation meeting. The Department agreed to a mediation meeting/settlement conference, submitted the names of Mr. and Mrs. Jim Zachkewich as interested persons in this appeal, and expressed concerns about the Appellant's reason for appeal stating "The extension of the approval does not open the entire approval to appeal". After reviewing the parties' responses to the Department's letter, the Board scheduled a mediation meeting/settlement conference for June 23, 1999, at the residence of the Appellant in Grassland and an interim mediation agreement was signed. Due to concerns in carrying out the interim mediation agreement, the Board scheduled a second mediation meeting/settlement conference for December 17, 1999, which was rescheduled to February 10, 2000 then held in abeyance until May 2, 2000, after consulting with the parties. On May 1, 2000, the Appellant and Department requested that the appeal be held in abeyance as the parties were continuing to

work on the interim mediation agreement which included amending the agreement. The request was granted by the Board. On July 18, 2000, a resolution was reached between the parties and Mr. Kazmierczak withdrew his appeal. On October 11, 2000, the Board issued a Discontinuance of Proceeding.

Cite as: *Kazmierczak v. Director, Northeast Boreal Region, Alberta Environment, re: County of Athabasca No. 12.*

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99-005

**Appellant(s)** – Mr. Robin Cole, **Operator** – Fletcher Challenge Energy Canada Inc., **Location** – Battle River, **Type of Appeal** - Report and Recommendations

On March 12, 1999, Mr. Robin Cole filed an appeal with respect to Approval No. 11432-01-00 issued to Fletcher Challenge Energy Canada Inc. for the operation and reclamation of the Battle River sour gas processing plant located at LSD 2, Section 10, Township 39, Range 10W4M located in the Coronation area. A mediation meeting was held on July 13, 1999, and a resolution was signed by all parties. On July 14, 1999, the Board issued a Report and Recommendations that was approved by the Minister on October 19, 1999.

Cite as: *Cole v. Director, Parkland Region, Alberta Environmental Protection, re: Fletcher Challenge Energy Canada Inc.*

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99-006

**Appellant(s)** – Mr. Gilbert J. Clark, **Operator** – H.N.T. Enterprises Ltd., **Location** – Sylvan Lake, **Type of Appeal** – Discontinuance of Proceedings

On March 16, 1999, Mr. Gilbert J. Clark filed an appeal with respect to Approval No. 00072331-00-00, issued under the *Water Act* to H.N.T. Enterprises Ltd. which authorizes the operator to construct shoreline erosion control works in Sylvan Lake at Lot 15 and 16, Block 2, Plan No. 1823 MC, SW 26-39-02-W5M subject to certain conditions. On April 28, 1999, the Appellant requested that the appeal be held in abeyance pending a Development Appeal Board hearing relating to similar issues. In consultation with the parties, the Board scheduled a mediation meeting/settlement conference on June 28, 1999 in Calgary, Alberta, whereby the parties agreed to hold the appeal in abeyance and provide status reports to the Board by September 8, 1999. In consultation with the parties and in order to discuss outstanding issues, the Board scheduled a second mediation meeting for December 2, 1999, in Calgary, Alberta. Following the mediation meeting, the parties agreed to submit a status report by January 31, 2000 and agreed that if a resolution could not be reached by January 31, 2000, a formal hearing would ensue. The Appellant and the Director wrote to the Board on January 27 and 28, 2000, respectively requesting that the hearing be adjourned as they were working on a solution. After further discussion, and due to differences between the parties, they requested that a hearing be scheduled. On October 20, 2000, the Appellant abandoned his appeal. On October 30, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: *Clark v. Director, Regional Support, Parkland Region, Alberta Environment re: H.N.T. Enterprises Ltd.*

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99-007

**Appellant(s)** – Plainsland Airspray Limited, **Operator** – Plainsland Airspray Limited, **Location** – Lethbridge, **Type of Appeal** – Decision

On March 15, 1999, Plainsland Airspray Limited filed an appeal with respect to Administrative Penalty No. 00/09-PRA-AP-99/10 issued to Plainsland Airspray Limited. A hearing was scheduled for October 1, 1999, however it was adjourned as the Director wished to enter into a mediation resolution with the Appellant to resolve the matter. On November 29, 1999, the Appellant withdrew the appeal. On January 21, 2000, the Board issued a Decision advising that pursuant to section 90(3)(a) of the *Environmental Protection and Enhancement Act* and section 12(2) of the Environmental Appeal Board Regulation, the Notice of Administrative Penalty No. 99/09 PRA-AP-99/10 is void and as a consequence set aside. The Board also confirmed the parties agreement which is without costs.

Cite as: *Plainsland Airspray Limited v. Director of Enforcement and Monitoring, Alberta*

*Environment.*

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99-008

**Appellant(s)** – Mr. D.C. Lund, **Operator** – Rozsa Petroleum Ltd., **Location** – Taber, **Type of Appeal** - Discontinuance of Proceedings

On March 18, 1999, Mr. D. C. Lund filed an appeal with respect to a Reclamation Certificate SR 99-0001 issued by Mr. Lowell Calder, Conservation and Reclamation Inspector, Agriculture, Food and Rural Development to Rozsa Petroleum Ltd. On May 13, 1999, the department advised that the Reclamation Certificate had been cancelled as it was issued in error. On May 14, 1999, the Appellant withdrew the appeal, and as a result, the Board issued a Discontinuance of Proceedings on May 17, 1999.

Cite as: *Lund v. Director, Public Lands, Agriculture, Food and Rural Development*, re: *Rozsa Petroleum Ltd.*

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99-009

**Appellant(s)** – Whitefish Lake First Nation, **Operator** – Tri Link Resources Ltd., **Location** – Little Buffalo, **Type of Appeal** – As listed below

**Overview** - On March 17, 1999, the Whitefish Lake First Nation filed an appeal with respect to Amending Approval 45-00-05 issued to Tri Link Resources Ltd. asserting that its aboriginal rights would be impaired by air pollution and other environmental impacts.

**Decision** - The Board held a hearing via written submissions on October 13, 1999, with final reply submissions on October 20, 1999. On November 19, 1999, the Board issued a Decision dismissing the appeal and concluded that the validity of the First Nation's claimed aboriginal rights was not "properly before" the Board.

Cite as: *Whitefish Lake First Nation v. Director, Northwest Boreal Region, Alberta Environmental Protection*, re: *Tri Link Resources Ltd.*

**Reconsideration Decision** – On December 7, 1999, the Whitefish Lake First Nation asked the Board to reconsider its Decision pursuant to section 92.1 of the *Environmental Protection and Enhancement Act* based on a decision of the British Columbia Court of Appeal – *Halfway River First Nation v. British Columbia* (Minister of Forests) [1999] B.C.J. No. 1880. On September 28, 2000, the Board issued a Reconsideration Decision advising that having considered all matters brought before it, the Board was not persuaded that the *Halfway River* decision illustrates an error in the decision the Board was asked to reconsider.

Cite as: *Whitefish Lake First Nation Request for Reconsideration*, re: *Whitefish Lake First Nation v. Director, Northwest Boreal Region, Alberta Environment*, re: *Tri Link Resources Ltd.*

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99-010

**Appellant(s)** – Marie Lake Landowner's Association, **Operator** – Suncor Energy Inc., **Location** – Burnt Lake, **Type of Appeal** - Discontinuance of Proceedings

On March 25, 1999, Mr. Donald Savard, Chairman of the Marie Lake Landowner's Association filed an appeal with respect to the issuance of Amending Approval No. 1651-01-01 to Suncor Energy Inc. On April 15, 1999, the Appellant met with department staff and on April 28, 1999, the Board received a letter advising that the Appellant withdrew the appeal. On April 28, 1999, the Board issued a Discontinuance of Proceedings.

Cite as: *Marie Lake Landowner's Association v. Director, Northeast Boreal Region, Alberta Environmental Protection*, re: *Suncor Energy Inc.*

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99-011

**Appellant(s)** – Municipal District of Cardston No. 6, **Operator** – Municipal District of Cardston, **Location** – Cardston, **Type of Appeal** - Decision

On March 31, 1999, Municipal District of Cardston No. 6 filed an appeal with respect to Administrative Penalty #99/10-PRA-AP-99/12. At the hearing on July 20, 1999, the Board could not find due diligence or reasonable care by the Appellant, and as a result, on August 12, 1999, issued a Decision to dismiss the appeal and confirmed the penalty.

Cite as: *Municipal District of Cardston No. 6. v. Director, Enforcement and Monitoring Division, Alberta Environmental Protection.*

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99-012-016, 99-019-126 & 00-001-002

**Appellant(s)** – Mr. Roy Haugen on behalf of 113 Appellants, Mr. Mattheus and Ms. Leola Brost, Mr. Gerald Henry Smith (Approval 144-01-00) Mr. Roy Haugen on behalf of himself and the Concerned Citizens of West Central Lloydminster and Mr. Joe and Ms. Patricia Rooks (Amending Approval 144-01-01) **Operator** – ADM Agri-Industries Ltd. **Location** – Lloydminster, **Type of Appeal** – Discontinuance of Proceedings

Between the dates of April 10, 1999 and April 30, 1999, the Board received 113 Notices of Appeal from Mr. Roy Haugen, on behalf of himself and the Concerned Citizens of West Central Lloydminster, Mr. Mattheus and Ms. Leola Brost and Mr. Gerald Henry Duncan Smith with respect to Approval No. 144-01-00 issued to ADM Agri-Industries Ltd. for the construction, operation and reclamation of an oil seed plant in the City of Lloydminster. On January 10 and 14, 2000, Mr. Joe and Ms. Patricia Rooks and Mr. Roy Haugen on behalf of himself and the Concerned Citizens of West Central Lloydminster filed Notices of Appeal with respect to Amending Approval 144-01-01. A mediation meeting/settlement conference took place on August 26, 1999 whereby no resolution was reached and a second mediation meeting was scheduled for September 28, 1999, then changed to November 4, 1999 as counsel for ADM Agri-Industries was assembling a draft resolution document for discussion with the Appellants. Following the second mediation meeting, the Board advised the parties that ADM Agri-Industries would continue to draft a resolution and, in consultation with the parties, a third mediation meeting would be scheduled for November 30, 1999. On November 18, 1999, Mr. Roy Haugen wrote to the Board advising that another mediation meeting would not be favourable and wanted to proceed directly to an appeal hearing. On November 19, 1999 the Board received and distributed the draft resolution “discussion document” to the parties. On November 22, 1999, the Appellants advised that the document did not meet their requirements and therefore still wished to proceed with a hearing. On November 26, the Board informed the parties that the November 30, 1999 mediation would be cancelled as the Board did not have consent from all the parties to proceed. On January 31, 2000, after consulting the parties, the Board held a preliminary meeting and issued a letter decision on March 1, 2000, advising that the Board would consolidate the appeals of Approval 144-01-00 and Amending Approval 144-01-01. On March 4, 2000, Mr. Haugen on behalf of himself and the Appellants requested interim costs which the Board denied. On April 12, 2000, the Board advised the parties that on their (the Board) own merits, it would establish a date for a mediation meeting/settlement conference. Due to lack of consensus among the parties, the mediation did not take place. On April 17, 2000, the Board confirmed the hearing dates of April 25-28, 2000 and reminded the parties of the deadline to submit written submissions. On April 19, 2000, Mr. Haugen requested interim costs, and that the appeal hearing be set aside in order to allow more time to provide further written submissions. On April 20, 2000, the Board wrote to Mr. Haugen, denying his requests on the grounds that Mr. Haugen had ample time to prepare the submissions. On April 20, 2000, the Appellants withdrew their appeals and on April 26, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: *Haugen et al. v. Director, Parkland Region, Alberta Environment re: ADM Agri-Industries Ltd.*

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99-017 & 99-018

**Appellant(s)** – Mr. Roy Haugen on behalf of 113 Appellants including Messrs. Dan Keating and Ron Milne, **Operator** – ADM Agri-Industries Ltd., **Location**– Lloydminster, **Type of Appeal** – Discontinuance of Proceedings

On April 15, 1999, Messrs. Dan Keating and Ron Milne filed two Notices of Appeal with respect to Approval No. 144-01-00 issued to ADM Agri-Industries Ltd. for the construction, operation and

reclamation of an oil seed plant in the City of Lloydminster. A mediation meeting/settlement conference took place on August 26, 1999 whereby no resolution was reached and a second mediation meeting was scheduled for September 28, 1999, then changed to November 4, 1999 as counsel for ADM Agri-Industries was assembling a draft resolution document for discussion with the Appellants. Following the second mediation meeting, the Board advised the parties that ADM Agri-Industries would continue to draft a resolution and a third mediation would be scheduled for November 30, 1999. On November 18, 1999, Mr. Roy Haugen wrote to the Board advising that another mediation would not be favourable and wanted to proceed directly to an appeal hearing. On November 19, 1999 the Board received and distributed the draft resolution "discussion document" to the parties. On November 22, 1999, the Appellants advised that the document did not meet their requirements and therefore still wished to proceed with a hearing. On November 26, 1999, the Board informed the parties that the November 30, 1999 mediation would be cancelled as the Board did not have consent from all the parties to proceed. On January 31, 2000, after consulting the parties, the Board held a preliminary meeting and issued a letter decision on March 1, 2000, advising that the Board would consolidate the appeals of Approval 144-01-00 and Amending Approval 144-01-01. On March 4, 2000, the Mr. Haugen on behalf of himself and the Appellants requested interim costs. On April 10, Mr. Keating wrote to the Board advising that due to personal and work related reasons, he was withdrawing his appeal. On the same day, Mr. Milne also wrote to the Board advising that he moved from the area affected by the plant and wished to withdraw his appeal. On April 14, 2000 the Board issued a Discontinuance of Proceedings with respect to these two appeals.

Cite as: *Keating and Milne v. Director, Parkland Region, Alberta Environment re: ADM Agri-Industries Ltd.*

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99-127

**Appellant(s)** – AT Plastics Inc., **Operator** – AT Plastics Inc., **Location** – Edmonton, **Type of Appeal** - Discontinuance of Proceedings

On May 6, 1999, AT Plastics Inc. filed an appeal with respect to Environmental Protection Order 99-03 issued to AT Plastics Inc. On May 11, 1999, counsel for the Appellant requested that the file be held in abeyance so that the parties could potentially reach a resolution. On May 18, 1999, the Appellant withdrew his appeal and the Board issued a Discontinuance of Proceedings on May 19, 1999.

Cite as: *AT Plastics Inc. v. Manager of Enforcement and Monitoring, Northeast Boreal Alberta Environmental Protection.*

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99-128

**Appellant(s)** – County of Grande Prairie No. 1, **Operator** – County of Grande Prairie, **Location** – Grande Prairie, **Type of Appeal** - Discontinuance of Proceedings

On May 6, 1999, the County of Grande Prairie No. 1 filed an appeal with respect to the decision of the Regional Water Manager to issue an approval under the *Water Act* to the County of Grande Prairie No. 1. After consulting with the Board, on September 20, 1999, the department wrote the Appellant requesting that the appeal be withdrawn and a new application under the *Water Act* be submitted. On September 28, 1999, the Appellant withdrew his appeal and the Board issued a Discontinuance of Proceedings on September 30, 1999.

Cite as: *County of Grande Prairie No. 1 v. Regional Water Manager, Northwest Boreal Region Alberta Environment.*

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99-129

**Appellant(s)** – AEC West Ltd., **Operator** – AEC West Ltd., **Location** – Grande Prairie, **Type of Appeal** - Discontinuance of Proceedings

On May 11, 1999, AEC West Ltd. filed an appeal with respect to Amending Approval No. 10002-00-03 issued to AEC West Ltd. On May 18, 1999, the Appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on May 19, 1999.

Cite as: *AEC West Ltd. v. Director, Northwest Boreal Region, Alberta Environmental Protection.*

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99-130

**Appellant(s)** – Sovereign Castings Ltd., **Operator** – Sovereign Castings Ltd., **Location** – Calgary, **Type of Appeal** - Decision

On May 20, 1999, Sovereign Castings Ltd. filed an appeal with respect to Administrative Penalty 99/14-BOW-AP-99/17. A hearing was held on September 22, 1999, and the Board issued a Decision on October 18, 1999, allowing the appeal and varying the penalty.

Cite as: *Sovereign Castings Ltd. v. Manager of Enforcement and Monitoring, Environmental Service, Bow Region, Alberta Environment.*

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99-131

**Appellant(s)** – Lower Mosquito Creek Water Users Association, **Operator** – Town of Nanton, **Location** – Nanton, **Type of Appeal** – As listed below

**Overview:** On June 4, 1999, Lower Mosquito Creek Water Users Association filed an appeal and Stay with respect to Approval No. 1006-01-00 issued to the Town of Nanton.

**Report and Recommendations:** On September 28, 1999, the Appellant requested that the Stay be adjourned *sine die*. On February 9, 2000, a mediation meeting/settlement conference took place in Nanton and a resolution was reached. On February 15, 2000 the Board issued a Report and Recommendations to the Minister which he agreed to on February 29, 2000.

Cite as: *Lower Mosquito Creek Water Users Association v. Director, Prairie Region, Alberta Environment re: Town of Nanton.*

**Cost Decision:** On May 31, 2000, the Board received a letter from the Lower Mosquito Creek Water Users Association, requesting costs under section 88 of the *Environmental Protection and Enhancement Act*. After reviewing the information provided by the Appellant, the Board issued a Cost Decision on November 6, 2000, dismissing the request for costs on the basis that 1. The mediation meeting/settlement conference resulted in a satisfactory resolution to the Notice of Appeal, and 2. The Board was not convinced that on the facts of this case that the farmers and ranchers of Nanton represented the public's interest in this appeal in a way that was different from the citizens of Nanton, or the taxpayers of Alberta, both of whom pay directly or indirectly for the municipal treatment systems.

Cite as: *Cost Decision re: Lower Mosquito Creek Water Users Association.*

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99-132

**Appellant(s)** – Mr. Carson and Ms. Martina Bruinsma, **Operator** – Inland Cement Limited, **Location** – Edmonton, **Type of Appeal** – Decision

On June 10, 1999, Mr. Carson and Ms. Martina Bruinsma filed an appeal with respect to Approval No. 15484-01-00 issued to Inland Cement Limited. The Board held a preliminary meeting on November 29, 1999. On December 29, 1999 the Board issued a Decision dismissing the appeal and stating that the Appellants' stated grounds of appeal were without merit and without any relevance to the Department of Environment's decision to issue an approval.

Cite as: *Bruinsma v. Director, Northeast Boreal Region, Alberta Environment, re: Inland Cement Limited.*

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99-133

**Appellant(s)** – Gulf Canada Resources Limited, **Operator** – Gulf Canada Limited, **Location** – Fenn, **Type of Appeal** - Discontinuance of Proceedings

On June 15, 1999, Mr. Ed Osborne of Gulf Canada Resources Limited filed an appeal with respect to the refusal of the Department of Environment to issue a reclamation certificate. On July 14, 1999, the Appellant withdrew his appeal and on July 15, 1999, the Board issued a Discontinuance of Proceedings.

Cite as: *Gulf Canada Resources Limited v. Inspector, Parkland Region Alberta Environment.*

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99-134

**Appellant(s)** – Mr. Nick Marshall, **Operator** – Poco Petroleum Ltd., **Location** – Delia, **Type of Appeal** - Discontinuance of Proceedings

On June 16, 1999, Mr. Nick Marshall filed an appeal with respect to Reclamation Certificate 35227 issued to Poco Petroleum Ltd. On September 29, 1999, the Appellant advised the Board that an agreement had been reached with all the interested parties, and as a result, withdrew the appeal. On September 30, 1999, the Board issued a Discontinuance of Proceedings.

Cite as: *Marshall v. Reclamation Inspector, Land Reclamation Services, Bow Region, Alberta Environment*, re: *Poco Petroleum Ltd.*

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99-135

**Appellant(s)** – Mr. David Cameron, **Operator** – Municipal District of Cardston No. 6, **Location** – Cardston, **Type of Appeal** - Decision

On June 21, 1999, Mr. David Cameron filed an appeal with respect to Approval No. 10533-02 issued to the Municipal District of Cardston No. 6. On July 21 and August 16, 1999, the Board requested that the Appellant submit information on how he was directly affected by the approval. Upon review of the information provided, the Board issued a Decision on October 6, 1999, concluding that the Appellant failed to satisfy this burden and dismissed the appeal.

Cite as: *Cameron v. Director of Prairie Region, Alberta Environment*, re: *Municipal District of Cardston No. 6.*

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99-136

**Appellant(s)** – Archean Energy Ltd., **Operator** – Archean Energy Ltd., **Location** – Gordondale, Alberta, **Type of Appeal** – Discontinuance of Proceedings

On April 27, 1994, Samedan Oil of Canada Inc. (“Samedan”) applied for a reclamation certificate for a leased well site located on NW1/4 of 20-79-10-W6M. The site is located on land owned by Mr. Cryil Day. On September 27, 1994, an inquiry was held on the site, and as a result of a fence remaining on the land, a reclamation certificate was not issued. Samedan did not obtain a release from Mr. Day to permit the fence to remain. On January 21, 1998, Archean Energy Inc. (“Archean”), the successor to Samedan, requested the issuance of the same reclamation certificate as they had obtained a release from Mr. Day. On June 7, 1999, the Inspector advised Archean that a new application would need to be submitted and that the site would have to pass a new inquiry under section 121 of the *Environmental Protection and Enhancement Act*. On June 25, 1999, Archean filed a Notice of Appeal with respect to the decision of the Inspector of Alberta Environment to refuse to issue a reclamation certificate to Archean for specified land located at NW ¼ 20-79-10-W6M. In agreement with the parties, a mediation meeting/settlement conference took place on May 24, 1999, in Edmonton, Alberta. At the mediation meeting/settlement conference, the parties signed an “Interim Agreement Toward a Resolution” and also agreed to conduct a site inspection which took place on June 30, 2000. In agreement with the parties, a second mediation meeting/settlement conference took place on September 6, 2000, however, was unsuccessful. On the same day, following the meeting, the Board wrote to the Appellant requesting that they advise as to how they wished to proceed. On October 5, 2000, Archean advised the Board that they were working toward resolving the matter with the parties and submitted a settlement to Mr. Day. As the settlement was refused by Mr. Day, negotiations were not progressing, and the parties did not wish to pursue a third mediation meeting settlement conference, the Board, upon review of the file, decided to conduct a hearing via written submissions. On December 8, 2000, the Board received a letter from Archean advising that they wished to withdraw their appeal and as a result, the Board issued a Discontinuance of Proceedings on January 24, 2001.

Cite as: *Archean Energy Ltd. v. Inspector, Land Reclamation Division, Alberta Environmental Protection.*

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99-137 & 99-139

**Appellant(s)** – Mr. Andreas M. Dzurny of Strathcona Land Owner Group, Mr. William F. Procyk,  
**Operator** – Dow Chemical Canada Inc., **Location** – Strathcona, **Type of Appeal** - Decision

On June 28, 1999, Mr. Andreas M. Dzurny on behalf of himself and as a representative of the Strathcona Land Owner Group and Mr. William F. Procyk filed appeals with respect to Approval No. 236-01-00 issued to Dow Chemical Canada Inc. A preliminary meeting was held on October 26, 1999. The Board issued a Decision on November 24, 1999 dismissing the appeal and stating that the powers provided to the Board by the *Environmental Protection and Enhancement Act* do not provide the scope to resolve this land use zoning conflict because that ability does not fall within the powers of the Director.

Cite as: *Dzurny et al. v. Director, Northeast Boreal Region, Alberta Environment*, re: *Dow Chemical Canada Inc.*

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99-138

**Appellant(s)** – McCain Foods (Canada) a Division of McCain Foods Limited “McCain”, **Operator** – McCain Foods (Canada) a Division of McCain Foods Limited, **Location** – near Chin, **Type of Appeal** - Report and Recommendations

On June 30, 2000, McCain filed an appeal with respect to Approval No. 72062-00-00 issued to McCain allowing the construction, operation and reclamation of a vegetable processing plant near Chin, Alberta in the County of Lethbridge. McCain appealed only Condition 4.2.7 of the Approval, which provides general prohibition on harmful air emissions from McCain’s plant. McCain requested that the Condition be deleted because, in McCain’s view, it exceeded the Director’s jurisdiction under the *Environmental Protection and Enhancement Act* (EPEA) because it prohibits the release of harmful air emissions that cause adverse effects whereas section 98 of the EPEA only prohibits the release of harmful air emissions that cause significant adverse effects. After taking into consideration a number of issues, the Board recommended that the Minister of Environment dismiss the appeal by McCain and confirm the Director’s adoption of Condition 4.2.7. On July 19, 2000, the Board issued a Report and Recommendations to the Minister which was agreed to on August 31, 2000.

Cite as: *McCain Foods (Canada) v. Director, Prairie Region, Alberta Environment*.

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99-140

**Appellant(s)** – Fort McMurray #468 First Nation, **Operator** – Japan Canada Oil Sands Limited, **Location** – Fort McMurray, **Type of Appeal** - Discontinuance of Proceedings

On July 8, 1999, Fort McMurray #468 First Nation filed an appeal with respect to Approval No. 1604-01-02 issued to Japan Canada Oil Sands Limited. On July 9 and 30, 1999, the Appellant requested that the appeal be held in abeyance pending negotiations between the Appellant and the Department of Environment. On August 16, 1999, the Appellant advised the Board that an agreement had been reached between the interested parties and withdrew the appeal. On August 18, 1999, the Board issued a Discontinuance of Proceedings.

Cite as: *Fort McMurray #486 First Nation v. Director, Northeast Boreal Region, Alberta Environment*, re: *Japan Canada Oil Sands Limited*.

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99-142

**Appellant(s)** – Westridge Water Supply Ltd., **Operator** – Westridge Water Supply Limited, **Location** – Calgary (Springbank), **Type of Appeal** – Decision

On August 11, 1999, the Environmental Appeal Board received a Notice of Appeal from Westridge Water Supply Ltd. with respect to Licence No. 00074129-00-00 issued under the *Water Act* authorizing the diversion of 329,341 cubic metres of water annually at a maximum rate of 0.029 cubic metres per second from the water source well hydraulically connected to the Elbow River in NE 06-24-02-W5M for municipal purposes. The Appellant was concerned that the Licence did not reference section 18 of the *Water Act* and section 12(2) of the Water (Ministerial) Regulation. Upon reviewing the information provided by the parties, the Board concluded that the issues with respect to the appeal are 1. Does the Board have the jurisdiction to deal with the “no expiry date” on the Licence? and 2. Does the Board have

the jurisdiction to deal with the “reduction in the water quantity allocation” which the Appellant added to the Notice of Appeal pursuant to their letter of September 17, 1999. Upon reviewing the information, on November 10, 2000, the Board issued a Decision stating “...the Board is of the view that there are no grounds upon which to permit the Appellant to add the issue of the quantity of water allocated under the Licence to the Notice of Appeal. The Board dismisses the request of the Appellant to extend the 30 day deadline.”

Cite as: *Westridge Water Supply Ltd. v. Director, Bow Region, Natural Resources, Alberta Environment.*

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99-143

**Appellant(s)** – Mr. Worley Rosson Jr., **Operator** – Search Energy Corp., **Location** – Little Smoky, **Type of Appeal** - Report and Recommendations

On August 13, 1999, Mr. Worley Rosson, Jr. filed a Notice of Appeal with respect to licence #00074866-00-00 issued under the *Water Act* to Search Energy Corp. In consultation with the parties, the Board scheduled a mediation/settlement conference for February 10, 2000 whereby a resolution was reached. On February 11, 2000 a Report and Recommendations was submitted to the Minister which he approved on February 29, 2000.

Cite as: *Rosson v. Regional Water Manager, Northwest Boreal Region, Alberta Environment*  
re: *Search Energy Corp.*

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99-144

**Appellant(s)** – Cabre Explorations Ltd., **Operator** – Cabre Explorations Ltd., **Location** – Provost, **Type of Appeal** - Report and Recommendation

On August 23, 1999, Cabre Explorations Ltd. filed an appeal with respect to the cancellation of Application #36594 for a Reclamation Certificate. On October 29, 1999, a mediation took place resulting in the Appellant and the department signing a resolution. The Board issued a Report and Recommendations to the Minister on October 29, 1999, which the Minister approved on December 16, 1999.

Cite as: *Cabre Exploration Ltd. v. Inspector, Environmental Service, Bow Region, Alberta Environment.*

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99-145, 147 and 149

**Appellant(s)** - Mr. Mardy Skibsted, Mr. and Ms. Don Knight, Siksika Nation Tribal Association, **Operator** - Town of Strathmore, **Location** – Strathmore, **Type of Appeal** – Dismissal

From August 10 – September 1, 1999, Mr. Mardy Skibsted, Mr. and Ms. Don Knight and the Siksika Nation Tribal Association filed Notices of Appeal with respect to Approval No. 1190-01-02 issued to the Town of Strathmore. On March 1, 2000, the Board wrote a letter to the parties advising them that the Board would be closing its files on the grounds that: 1. The 1999 approval, factually is moot; 2. The Director is in the process of drafting the approval amendment; 3. The Director and his staff will discuss the draft amendment with the Statement of Concern filers, the Town of Strathmore and the Western Irrigation District; and 4. A decision from the Director is imminent regarding the terms of the amendments to the approval.

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99-146

**Appellant(s)** – Shell Canada Limited, **Operator** – Shell Canada Limited, **Location** – Cochrane **Type of Appeal** – Report and Recommendations

On August 27, 1999, Shell Canada Limited, filed a Notice of Appeal with respect to sections 2.4.1, 4.2.19 and 4.2.22 of Approval No. 11587-01-01 issued to Shell Canada Limited. After consulting with the parties, the Board scheduled a mediation meeting/settlement conference for March 15, 2000 in Calgary. On February 16 and 23, 2000, the department requested the mediation meeting be changed due to a scheduling conflict, therefore, the Board advised that in consultation with the parties, the mediation meeting would be

rescheduled to April 11, 2000 in Calgary. At the mediation meeting, a resolution was signed by all the parties, and on April 12, 2000 the Board issued a Report and Recommendations to the Minister which was approved on April 20, 2000.

Cite as: *Shell Canada Limited v. Director, Bow Region, Alberta Environment.*

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99-148

**Appellant(s)** – Pentastar Transportation Ltd., **Operator** – Pentastar Transportation Ltd., **Location** – Red Deer, **Type of Appeal** - Discontinuance of Proceedings

On September 15, 1999, Pentastar Transportation Ltd. filed an appeal with respect to the refusal to issue a Reclamation Certificate to Pentastar Transportation Ltd. On October 20 and 21, 1999, the Appellant advised the Board that they would not be proceeding with the appeal and on October 22, 1999, the Board issued a Discontinuance of Proceedings.

Cite as: *Pentastar Transportation Ltd. v. Director, Parkland Region, Alberta Environment, re: Penstar Transportation Ltd.*

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99-150, 99-152, 99-154 & 99-155

**Appellant(s)** – Dogertom *et al.*, **Operator** – ConAgra Limited, **Location** – Taber, **Type of Appeal** – Discontinuance of Proceedings

On September 13, 17 and 27, 1999, Mr. Francis Dogterom, Mr. Harold Collett, Mr. Dwayne and Ms. Linda Collett and Mr. Brian Anderson respectively, filed appeals with respect to Amending Approval No. 67726-00-02 issued to ConAgra Limited. In consultation with the parties, a mediation meeting was set for March 17, 2000 in Taber. On March 10, 2000, the Appellants withdrew their appeal and the Board issued a Discontinuance of Proceedings on March 13, 2000.

Cite as: *Dogterom et al. v. Director, Prairie Region, Alberta Environment.*

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99-151

**Appellant(s)** – Weyerhaeuser Canada Ltd., **Operator** – Weyerhaeuser Canada Ltd., **Location** – Grande Prairie, **Type of Appeal** - Discontinuance of Proceedings

On September 13, 1999, Weyerhaeuser Canada Ltd., filed an appeal with respect to the refusal by the Department of Environment, of Weyerhaeuser's application of a Water Resources Permit. On September 24, 1999, the Appellant requested that the appeal be held in abeyance pending discussions with the department. The Board granted the request and advised that status reports be submitted by October 25, 1999. On October 15, 1999, the Appellant withdrew the appeal, and as a result, the Board issued a Discontinuance of Proceedings on the same day.

Cite as: *Weyerhaeuser Canada Ltd. v. Director of Northwest Boreal Region, Alberta Environment.*

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99-153

**Appellant(s)** – 362107 Alberta Inc., **Operator** – 362107 Alberta Inc., **Location** – Calgary, **Type of Appeal** - Discontinuance of Proceedings

On September 24, 1999, 362107 Alberta Inc. filed an appeal with respect to the refusal of the Department of Environment to issue a Reclamation Certificate to 362107 Alberta Inc. On November 4, 1999, the Appellant advised the Board that he was withdrawing his appeal and would attempt to resolve the situation through other methods with both the land owner and the department. The Board issued a Discontinuance of Proceedings on the same day.

Cite as: *362107 Alberta Inc. v. Inspector, Parkland Region, Alberta Environment, re: 362107 Alberta Inc.*

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99-156

**Appellant(s)** – Shell Canada Limited, **Operator** – Shell Canada Limited, **Location** – Calgary, **Type of Appeal** - Discontinuance of Proceedings

On October 13, 1999, Shell Canada Limited filed an appeal with respect to the refusal of the Department of Environment, to issue a Reclamation Certificate to Shell Canada Limited. On November 3, 1999, the Appellant advised the Board that they reached an agreement with the department and withdrew the appeal. As a result, the Board issued a Discontinuance of Proceedings on the same day.

Cite as: *Shell Canada Limited v. Reclamation Inspector, Alberta Environment, re: Shell Canada Limited.*

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99-157

**Appellant(s)** – Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd., **Operator** – Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd., **Location** – Calgary, **Type of Appeal** – As listed below

**Overview** - On October 26, 1999, the Board received a Notice of Appeal and Application for a Stay from Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd. with respect to Enforcement Order No. 99-01 issued under the *Government Organization Act*. The Order directs the Appellants to remove a berm constructed on a transportation utility corridor established as a Restricted Development Area.

**Decision** - The Board made numerous attempts to mediate this matter, however, on August 31, 2001, concluded that since the Department did not wish to participate in another mediation, a pre-hearing by written submission would be scheduled as soon as possible. The Board received submissions regarding the issues to be included in the hearing of the appeal. The following issues were agreed upon by the parties 1. Did the Deputy Minister act within his jurisdiction under the *Government Organization Act* in issuing the Enforcement Order? and 2. Was the decision to issue an Enforcement Order correct and reasonable? The issues brought forth by the Appellants were 1. The scope of Discretion, 2. Issue as Landowner, 3. Information provided to the decision-maker, 4. Was the information sufficient?, 5. Additional information, 6. Environmental effects of compliance, 7. Was there a jurisdictional basis?, 8. Was the Enforcement Order properly issued?, 9. What form of order does the Board consider appropriate? and 10. Costs. Upon reviewing the written submissions, the Board issued a Decision on August 27, 2001 concluding that only the first two issues would be included in the hearing of the appeal and are set out in the Decision.

Cite as: *Macalgary Developments (Scenic) Inc. et al. v. Deputy Minister, Alberta Environment.*

**Discontinuance of Proceedings** – In response to the Appellants' request for an extension to compile an agreed statement of facts for the purposes of the hearing, the Board granted the request and requested a status report by September 20, 2001. On September 21, 2001, the Board received a copy of a letter from the Deputy Minister of Environment advising the Enforcement Order had been cancelled. On October 5, 2001, the Appellants advised the Board that they would be removing their appeal. As a result, on October 18, 2001, the Board issued a Discontinuance of Proceedings based on the Appellants' letter of October 5, 2001, and the cancellation of the Enforcement Order.

Cite as: *Macalgary Developments (Scenic) Inc. et al. #2 v. Deputy Minister, Alberta Environment.*

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99-159

**Appellant(s)** – Dominion Energy Canada Ltd., **Operator** – Dominion Energy Canada Ltd., **Location** – Viking, **Type of Appeal** - Report and Recommendation

On November 2, 1999, Dominion Energy Canada Ltd. filed an appeal with respect to the refusal of the Department of Environment to issue a Reclamation Certificate to Dominion Energy Canada Ltd. A mediation took place on January 12, 2000 and a resolution was signed by all the parties. On January 14, 2000, the Board issued a Report and Recommendations to the Minister of Environment which he approved on January 21, 2000.

Cite as: *Dominion Energy Canada Ltd. v. Inspector, Land Reclamation Division, Parkland Region, Alberta Environment.*

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99-160

**Appellant(s)** – Dominion Energy Canada Ltd., **Operator** – Dominion Energy Canada Ltd., **Location** – Bow Island, **Type of Appeal** – Report and Recommendations

On November 2, 1999, Dominion Energy Canada Ltd. filed an appeal with respect to the refusal of the Department of Environment to issue a Reclamation Certificate to Dominion Energy Canada Ltd. A mediation took place on January 20, 2000 and a resolution was signed by all parties. On January 21, 2000, the Board issued a Report and Recommendations to the Minister, which he approved on February 7, 2000.

Cite as: *Dominion Energy Canada Ltd. v. Reclamation Inspector, Environmental Service, Prairie Region, Alberta Environment.*

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99-161

**Appellant(s)** – Talisman Energy Inc., **Operator** – Talisman Energy Inc., **Location** – Wainwright, **Type of Appeal** – Discontinuance of Proceedings

On November 8, 1999, Talisman Energy Inc. filed an appeal (dated October 31, 1999) with respect to the refusal of the Department of Environment to issue a Reclamation Certificate to Talisman Energy Inc. A mediation meeting took place on January 18, 2000 and a resolution was reached. On February 22, 2000, Talisman Energy Inc., sent a letter to the Board stating that they would be withdrawing their appeal as the conditions of the mediation meeting have been met and that the department has certified the well site in question. On February 23, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: *Talisman Energy Inc. v. Inspector, Environmental Service, Parkland Region, Alberta Environment.*

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99-162

**Appellant(s)** – Ms. Margaret Barry **Operator** – Dundee Development Corporation **Location** – Edmonton **Type of Appeal** – Report and Recommendations

On November 8, 1999, Ms. Margaret Barry filed a Notice of Appeal with respect to Approval No. 00076346-00-00 issued under the *Water Act* to Dundee Development Corporation. After consulting with the parties, the Board scheduled a mediation meeting/settlement conference for April 7, 2000 whereby a resolution was signed. On April 10, 2000, the Board issued a Report and Recommendations to the Minister, which he approved on April 20, 2000.

Cite as: *Barry v. Manager, Regional Support, Northeast Boreal Region, Natural Resources Service, Alberta Environment re: Dundee Development Corporation.*

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99-163

**Appellant(s)** – Mr. Julian Nash, **Operator** – Mr. Julian Nash, **Location** – Slave Lake, **Type of Appeal** – Discontinuance of Proceedings

On November 11, 1999, Mr. Julian Nash filed a Notice of Appeal with respect to the refusal of the department to issue an approval under the *Water Act* as requested. On December 1, 1999, the Appellant forwarded a letter dated November 25, 1999 to the Board requesting that the appeal be deferred to spring 2000. On December 9, 1999, the Appellant wrote to the Board advising that the grounds for the deferral is so the wind would hopefully rectify the situation. On December 17, 1999, the Board granted the request, with agreement from the parties, to defer the appeal. On April 19, 2000, the Board received a letter dated April 4, 2000 from the Appellant stating “As this work seems to go against government policy for lakeshore management we have decided to withdraw our application.” On April 25, 2000, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Nash v. Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment.*

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99-164

**Appellant(s)** – Mr. Brian Bildson, **Operator** – Smoky River Coal Ltd., **Location** – Grande Prairie, **Type of Appeal** - Decision

On November 15, 1999, the Board received a Notice of Appeal from Mr. Brian Bildson with respect to Amending Approval 11929-01-01 issued to Smoky River Coal Ltd. The Amending Approval authorizes the “opening up, operation and reclamation of the Smoky River Coal Mine and construction, operation and reclamation of the Coal Processing Plant, including the No. 12 Mine South B2 Pit Extension”. On January 4, 2000, the Board received a notice from the Alberta Energy and Utilities Board (AEUB) indicating that a pre-inquiry meeting would be taking place on January 26, 2000 with respect to a hearing concerning the same coal mine development. Given this information, the Board wrote to the parties on January 12, 2000, proposing that the appeal be held in abeyance pending the outcome of the AEUB process which was agreed to by Mr. Bildson. On July 19, 2000, the Director advised the Board that the Approval Holder had been petitioned into receivership and provided the Board with a copy of an order of the Court, in the matter of *Montreal Trust Company of Canada Ltd. v. Smoky River Coal Limited et al.* (Action No. 0001-05474, Court of Queen’s Bench, Judicial Centre of Calgary) dated July 10, 2000. After discussions with the parties, on February 12, 2001, the Board issued a Decision advising that the appeal was not properly before the Board and as a result, was dismissed. The Board’s Decision was based on the following grounds: 1. Regarding the Order of the Court of Queen’s Bench, the mine is in the hands of the Department and Alberta Resource Development, 2. Based on the Order of the Court that security posted in relation to the reclamation work is in the Environmental Protection and Enhancement Fund, 3. Pursuant to sections 28 and 30 of the *Environmental Protection and Enhancement Act*, and the Conservation and Reclamation Regulation, the money that was realized from the security posted by the Approval Holder will be used in relation to the reclamation work, 4. The Director has advised that work is currently underway to deal with the environmental matters at the mine, and that the Director also issued an Enforcement Order to ensure the reclamation is carried out.

Cite as: *Bildson v. Director, Northern East Slopes Region, Alberta Environment, re: Smoky River Coal Ltd.*

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99-165

**Appellant(s)** – Messrs. Leonard Despins and Allan Parranto, **Operator** – Messrs. Leonard Despins and Allan Parranto, **Location** – Eaglesham, **Type of Appeal** -Discontinuance of Proceedings

On November 17, 1999, Messrs. Leonard Despins and Allan Parranto filed an appeal with respect to the refusal of the Department of Environment to issue a licence under the *Water Act*. A mediation meeting took place on February 7, 2000 and following productive discussions, the Appellants withdrew their appeal on the same day. Therefore, the Board issued a Discontinuance of Proceedings on February 10, 2000.

Cite as: *Despins and Parranto v. Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment.*

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99-166

**Appellant(s)** – New Dale Hutterian Brethren, **Operator** – New Dale Hutterian Brethren, **Location** – Milo, **Type of Appeal** - Discontinuance of Proceedings

**Overview-** On November 25, 1999, the New Dale Hutterian Brethren filed an appeal and application for Stay with respect to Enforcement Order No. 99-WA-02/*Water Act*.

**Discontinuance of Proceedings** - On December 1, 1999, Mr. Michael Monner advised the Board that his land may be affected by this appeal and wanted to be supplied with all pertinent information. On December 22, 1999, the Board granted the Stay and requested a Stay hearing for January 7, 2000. Consented to by all interested parties at the hearing, the Stay was extended to March 1, 2000. A mediation meeting took place on January 11, 2000, in Calgary and as a result of the mediation the parties continued to work towards resolution of the appeal. On January 17, 2000, the Appellant advised the Board that they would comply with the Enforcement Order and requested that once the action had taken place, the Enforcement Order be cancelled. On January 18, 2000, the Appellant advised the Board that they would

not be proceeding further with the appeal and the Board issued a Discontinuance of Proceedings on January 24, 2000.

Cite as: *New Dale Hutterian Brethren v. Lethbridge Area Manager, Prairie Region, Alberta Environment.*

**Cost Decision** – This Cost Decision concerns a request for costs by an intervenor, Mr. Michael J. Monner on March 14, 2000, in the amount of \$2831.80 for out-of-pocket expenses incurred as a result of the original appeal. After reviewing Mr. Monner's written submissions, the Board found that the expenses were not directly and primarily related to the matters contained in the Notice of Appeal and on October 17, 2000 issued a Cost Decision dismissing Mr. Monner's request.

Cite as: *Cost Decision re: Monner.*

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99-167

**Appellant(s)** – Mr. Duncan, Mr. Jack and Ms. Cecile Fleming, **Operator** – Willow Creek Regional Waste Management Services Commission, **Location** – Granum, **Type of Appeal** - Decision

On December 10, 1999, Mr. Duncan, Mr. Jack and Ms. Cecile Fleming filed a Notice of Appeal with respect to the registration of Willow Creek Regional Waste Management Services Commission's landfill. The department requested that the appeal be dismissed as such registrations are not appealable to the Board in accordance with the *Environmental Protection and Enhancement Act*. On February 11, 2000, the Board issued a Decision to dismiss the appeal as the concerns brought forward by the Appellants are not matters properly before the Board.

Cite as: *Fleming v. Director, Prairie Region, Alberta Environment, re: Willow Creek Regional Waste Management Services Commission.*

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99-168

**Appellant(s)** – Mr. Murray and Ms. Joyce Salsauler, **Operator** – Owners Condominium Corporation 9311680, **Location** – Champion, **Type of Appeal** - Decision

On December 17, 1999, Mr. Murray and Ms. Joyce Salsauler filed a Notice of Appeal with respect to Approval No. 16453-00-01 (Application No. 002-16453) issued to the Owners Condominium Corporation 9311680. On January 11, 2000, the department requested that the appeal be dismissed as the filing of the notice was outside the 30 day time limit. On February 11, 2000, the Board issued a Decision dismissing the appeal on the grounds that the appeal is out of time and there are insufficient grounds to extend the appeal process.

Cite as: *Salsauler v. Director, Prairie Region, Alberta Environment, re: The Owners Condominium Corporation 9311680.*

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99-169

**Appellant(s)** – Ramarro Resources Inc., **Operator** – Ramarro Resources Inc., **Location** – Near Medicine Hat, **Type of Appeal** – Discontinuance of Proceedings

On December 16, 1999, Ramarro Resources Inc. ("Ramarro") filed a Notice of Appeal with respect to the department's refusal to issue a reclamation certificate for one of Ramarro's well-sites. On January 11, 2000, the department requested that the appeal be dismissed as the filing of the notice was outside the 30-day time limit. On January 18, 2000, the Board received submissions for an extension from Ramarro. On February 4, 2000, the Board concluded that the appeal was not filed in a timely manner and there were insufficient grounds for the Board to extend the filing date. As part of the same letter, the Board provided the parties with a notice of its decision to dismiss the appeal.