

Environmental Appeal Board

Annual Report

2002/2003

April 1, 2002 – March 31, 2003



Message from the Chair

I am pleased to submit the Environmental Appeal Board's Annual Report for the period of April 1, 2002 to March 31, 2003.

During this period, the Board experienced a steady increase of appeals, from 134 in 2001/2002 to 152 in 2002/2003.

On the forefront of the Board's mind is the current environmental concerns facing Alberta, including significant pressures on its water resources. Factors including population growth, drought, and agricultural and industrial development, all put stress on our water supply and our water systems. With the implementation of Alberta Environment's *Water for Life* program, the Alberta government has come up with a comprehensive strategy for addressing water management concerns for the future. In line with these concerns, the Board has witnessed an increase in the type and number of *Water Act* appeals it has received. As always, the Board welcomes any opportunity to enhance the opportunity for Albertans to voice their concerns and issues regarding environmental interests.

During 2002, the Board witnessed the retirement of longstanding Board Members, Dr. John P. Ogilvie and Drs. Curt Vos and Ted W. Best. The Board appreciates the hard work, dedication and outstanding service of these members and wishes them the best in their future endeavors – they will be missed. The Board also saw the addition of four new Board Members, Dr. Frederick C. Fisher, Dr. James Howell, Dr. Alan Kennedy and Mr. Al Schulz. We welcome them and look forward to their service.

In March 2003, the Board was pleased to hold its second conference/training session on interest-based dispute resolution entitled: *Forging Partnerships Between Federal/Provincial Governments and Members of First Nations*. The keynote speaker was Dr. Larry Susskind, President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes Resolution Program at Harvard Law School. The Board received many encouraging comments and was exceptionally pleased at the level of interest and diversity of participants that took part.

2002-2003 was an exciting time for the Board, full of change, challenge and growth. We are looking forward to the new challenges in the remainder of the year and what 2004 will hold.

Dr. William A. Tilleman

Introduction

Keeping in line with the Alberta government's business planning schedule, the content contained in this Annual Report includes information from April 1, 2002 to March 31, 2003.

The report contains an explanation of the purpose, structure, and function of the Environmental Appeal Board (Board). It includes an explanation of how the appeal process is conducted, statistics on appeals filed, and a financial overview. It will also describe the principles the Board operates under and the strategies it employs to achieve its objectives.



Background

The Government of Alberta initiated the task of restructuring environmental legislation in Alberta in 1988 by asking the Review Panel on Environmental Law Enforcement to make recommendations to strengthen the enforcement of Alberta's environmental statutes. The initiative resulted in the June 1990 release of a discussion draft of the *Environmental Protection and Enhancement Act*, released by the Honourable Ralph Klein, then Minister of Environment. The draft contained several sections establishing "boards of review" (similar to those under the *Canadian Environmental Protection Act*) to hear appeals on certain specified matters.

In the fall of 1990, the government appointed the Environmental Legislation Review Panel to conduct public meetings throughout the province to gather written and oral submissions. As a result of the public meetings, it came to light that there was a need for a legislative balance between public concerns over environmental impacts associated with industrial development and the concerns of regulated industries. The consultation process identified industry's concerns of unfair treatment by government regulators or being required to meet government regulations that were too stringent. The Panel submitted a report to government in January 1991, confirming support for the establishment of an independent appeal process.

Environmental Appeal Board Annual Report 2002/2003

The report was redrafted and introduced in the Legislative Assembly as Bill 53 in June of 1991, changing "boards of review" to "Environmental Appeal Board". In May of 1992, following further public input, the legislation was re-introduced as Bill 23, and it received third reading and Royal Assent on June 26, 1992. On September 1, 1993, the *Environmental Protection and Enhancement Act* (EPEA or Act) was proclaimed, creating the Environmental Appeal Board.

In 1995, the scope of the Board's mandate was expanded with the passage of the *Government Organization Act*, Schedule 5, section 6, under which the Board can hear appeals of enforcement orders relating to Restricted Development Areas.

The Board's mandate was further expanded in January 1999, with the coming into force of the *Water Act*, which contains a mechanism for appealing water related approvals to the Board. This has increased the scope of the Board's workload and function considerably, as each departmental decision relating to diversion of water, preliminary certificates, and licences are now appealable to the Board. It is evident that the quantity, use, and management of water in Alberta are becoming more contentious issues which are influenced by a variety of factors, many of which are beyond human control. However, decisions on appropriate usage of Alberta's water supply are within the realm of human influence and, as such, there are differing opinions on what constitutes appropriate use and management of Alberta's water supply. As a result, the number of water related appeals is an increasingly large aspect of the Board's business, a challenge which the Board has met with the same standard of fairness and efficiency with which it has been processing EPEA appeals since 1993.



Purpose of the Board

The Board provides Alberta citizens and industry with a statutory vehicle to appeal certain decisions made by the Department of Environment respecting a range of environmental issues stemming from the approval of activities that have environmental consequences. The Board offers those persons who are directly affected by such activities an opportunity to have their concerns heard. As such, the Board plays an important quasi-judicial role in ensuring the protection, enhancement, and wise management of the environment. The Board is committed to taking a proactive stance in the fair, impartial, and efficient resolution of all matters before it.

Organization

The Board is an independent agency established under the *Environmental Protection and Enhancement Act* that has a unique relationship with the Department of Environment and the Minister of Environment. For financial reasons the Board is under the purview of the Minister although it reviews and hears appeals of decisions made by decision-makers within the Department of Environment. In order to maintain its adjudicative objectivity, the Board operates at arms-length from the Department of the Environment, allowing it to maintain a necessary degree of independence. However, for budgetary reasons and for the purpose of providing the Minister with its decisions and reports, and due to the Board's effort to balance environmental and economic interests, the Board remains aligned with the operations and goals of the Ministry of Environment (see Appendix A).



Board Membership

Members of the Environmental Appeal Board are appointed by Cabinet as per section 90(1) of EPEA. All appointments are based on merit, administrative experience, knowledge of environmental issues, and academic, technical, and professional expertise. All members sit on the Board part-time. They are paid on a per-diem basis and reimbursed for their expenses.

The current structure of the Board consists of the Chair, Vice-Chair, and seven members:

Chair: William A. Tilleman, Q.C., a Calgary environmental lawyer and adjunct Professor at the University of Calgary, Faculty of Law. Dr. Tilleman holds a J.S.D. from Columbia University, New York, and has acted for government and private industry and has counselled a variety of Canadian administrative boards.

Vice-Chair: Dr. Frederick C. Fisher is a lawyer and veterinarian. He is a qualified mediator and has completed a number of interest-based negotiation courses. Dr. Fisher has been practicing law since 1984 and enjoys real estate, corporate/commercial law, personal injury litigation, criminal and matrimonial law. Prior to becoming a lawyer, Dr. Fisher practiced veterinary medicine from 1973-1980.

Member: Dr. M. Anne Naeth is currently a Professor and Associate Dean (Academic) at the University of Alberta in the Faculty of Agriculture, Forestry and Home Economics, holding joint appointments with the Departments of Renewable Resources and Agriculture, Food and Nutritional Science. Her research and work endeavors to restore productivity and diversity of lands disturbed by human use (pipelines, mines, well sites, roadways, agriculture, recreation).

Member: Mr. Ronald Peiluck is Managing Director of SCOPE Environmental Auditing Services Limited, an Alberta-based company that specializes in the design, construction and maintenance of aquatic gardens. Mr. Peiluck holds a BSc from the University of Manitoba in Chemistry, Microbiology and Earth Sciences, and a MA in Resource Planning.

Member: Dr. Steve E. Hrudehy has a risk management and environmental health background, with a Ph.D. in Public Health Engineering and D.Sc. (Eng) in Environmental Health Sciences and Technology from the University of London. He is currently a Professor of Environmental Health Sciences in the Department of Public Health Sciences at the University of Alberta.

Member: Mr. Ron Hierath has farmed in the Milk River area since 1965. He has served as a member of the Alberta Legislature from 1993-2001, and during that time served as the Chairman of the Standing Policy Committee on Agriculture and Environment and Chairman of the Health Facility Review Committee. Mr. Hierath has also served as a Board Member for the Agriculture Development Corporation.

Member: Dr. James Howell is a public health physician, active in the areas of consulting and community work. Dr. Howell currently co-teaches at the Department of Public Health

Environmental Appeal Board Annual Report 2002/2003

Sciences at the University of Alberta and serves on the Community Research Ethics Board of the Alberta Heritage Foundation for Medical Research. Dr. Howell was a Medical Officer of Health for 29 years in the Capital Health Region.

Member: Dr. Alan Kennedy has a B.Sc. from the University of Alberta in Zoology specializing in wildlife ecology, a M.Sc. in Land Reclamation concentrating in soil science and plant productivity and a Ph.D. in Environmental Science focusing on environmental assessment and land remediation. Dr. Kennedy started his career with the Canadian Wildlife Service in 1978 and then joined Imperial Oil as an Environmental Scientist specializing in land reclamation. He has worked for Imperial Oil in various capacities.

Member: Mr. Al Schulz holds a B.Sc. in Chemical Engineering and a M.Eng. in Mechanical Engineering from the University of Alberta. He served the Alberta government from 1968 to 1997, concluding his career as the Assistant Deputy Minister of Environmental Regulatory Services with Alberta Environment. Mr. Schulz is currently a consultant to industry, Regional Consultant with the Canadian Association of Chemical Producers, member of the Board of the Tire Recycling Management Association, and Chair of the Environmental Committee of the Alberta Professional Engineers, Geologists, and Geophysicists of Alberta.

Staff and Office Accommodation



The Board has seven full-time staff consisting of a General Counsel and Settlement Officer, Board Secretary, Registrar of Appeals, Senior Research Officer, Projects Officer, as well as two administrative support staff. Further temporary administrative assistance and contract work are retained as required. Staff provide full administrative support to the Board, respond to public, government, and industry queries, and participate in presentations and consultations on behalf of the Board. The staff also ensures that documents regarding

Environmental Appeal Board Annual Report 2002/2003

Board processes and jurisprudence are easily accessible and written in a manner that will be clearly understood.

The Board's office is located at:

306 Peace Hills Trust Tower
10011 – 109 Street
Edmonton, AB T5J 3S8
Phone: (780) 427-6207
Fax: (780) 427-4693
Website: www.gov.ab.ca/eab/

The Board's location has adequate space to accommodate an increasing number of hearings and mediations. The facility consists of a hearing room which can seat approximately 60 people, as well as break out rooms for independent consultation, a conference room for in-house mediation, and office space to accommodate the Board's staffing needs. The facility offers the space and functionality to allow the Board to meet its mission efficiently and effectively.

Mission Statement

The Environmental Appeal Board will advance the protection, enhancement and wise use of Alberta's environment by providing fair, impartial, and efficient resolution of all matters before it.

Operating Principles

Ecosystem Sustainability

Consistent with the legislation, the Board believes that a healthy environment is essential to the integrity of ecosystems and human health and to the well-being of society.

Sustainable Development

The Board hears and processes appeals in a fair and effective manner striving to ensure the wise use of Alberta's renewable resources so that future generations may benefit from them.

Informed Decision-Making

The Board attempts to hear and process appeals on the basis of relevant scientific, technological, and environmental information so that it may make fully informed decisions.

Public Involvement

The Board ensures information on its mandate and rules and regulations is freely accessible. The Board provides Albertans with the opportunity to become active participants in appeals and hearings through creative processes such as mediation.

Environmental Appeal Board Annual Report 2002/2003

Shared Responsibility

The Board shares the responsibility of managing Alberta's renewable resources by providing Albertans the opportunity to have a voice through appeal procedures.

Public Service

The Board is dedicated to providing excellent service to Albertans in all regions of the province.

Core Business

The Board's core business is to hear appeals from applicants and affected parties on decisions regarding environmental approvals, enforcement actions, reclamation certificates, and other matters. The goals of the Board are linked to the core business and goals of the Ministry of Environment and the core business of the Alberta government being people, prosperity, and preservation.

Social (people), economic (prosperity), and environmental (preservation) effects of major resource development are scrutinized through the Board's review process to ensure that Alberta's renewable resources are sustained, the high quality of Alberta's environment is maintained, and resource development contributes to prosperity.

The Board continues to work to find effective ways of reducing its expenditures while maintaining quality services. We continue to look for ways to conduct our business more efficiently and effectively.

The Board is committed to contributing to the sustainable development of Alberta's natural resources for the benefit of Albertans today and in the future.

General Objectives

The following objectives reflect the Board's philosophy in operating its core business and its commitment to its operating principles:

1. strive for correctness and precision in decision-making;
2. maintain fair and simple procedures;
3. give priority to the substance of an appeal rather than the Notice of Appeal form;
4. consider and process appeals as expeditiously as possible;
5. provide sound appeal procedures and issue clear and consistent decisions on the statutory provisions;
6. ensure the availability of Board decisions, rules, and procedures to parties that appear before the Board;

Environmental Appeal Board Annual Report 2002/2003

7. decrease the time needed to process appeals;
8. focus on dispute resolution options in mediation meetings and settlement conferences and monitor their success;
9. recommend sound and well-documented legislative changes;
10. develop closer contacts with various interest groups in order to keep abreast of industry, public, and government concerns and proposals for change;
11. formalize the long-range planning and budget review process for the Board;
12. achieve fair and unbiased results, having regard for the purpose of EPEA, the *Water Act*, and the interests of all parties to an appeal; and
13. make efficient and productive use of the Board's resources in meeting the needs of the parties.

Strategies

The Environmental Appeal Board employs the following strategies to achieve its objectives:

1. minimize costs, where possible, by using written rather than public hearings;
2. use a single Board Member for mediation meetings. The Board encourages the use of alternative dispute resolution mechanisms, such as mediation, wherever possible;
3. use alternative dispute resolution options within the appeal process and monitor its success;
4. train Board Members and staff in mediation;
5. arrange three instead of five-person appeal panels, organized where possible, on a regional basis, to minimize travel and meeting costs. Use single person panels for determining procedural matters where possible;
6. increase the availability of Board decisions, rules, and procedures to parties that appear before the Board;
7. maintain Board rules and procedures in an accessible and understandable manner in order to ensure consistency of application, in order to reduce processing time of appeals, and to focus Board decisions on sustaining a high level of procedural fairness;
8. consolidate individual appeals where possible;

Environmental Appeal Board Annual Report 2002/2003

9. provide all parties, consisting of business, government, and the public, access to the Board;
10. maintain and update Board documents, rules, and procedures, eliminating inaccurate or outdated information;
11. monitor changes to EPEA, the *Water Act*, the *Government Organization Act*, and the regulations which constitute and govern the Board;
12. review as necessary Board staffing requirements; and
13. operate the Board within its budget.



Acts and Regulations

The Board operates consistent with and subject to the purposes of Part 3 of the *Environmental Protection and Enhancement Act*, Part 9 of the *Water Act*, Schedule 5 of the *Government Organization Act*, the Environmental Appeal Board Regulation (Alta. Reg. 114/93), and the Environmental Protection and Enhancement (Miscellaneous) Regulation (Alta. Reg. 118/93). The Board has statutory authority to hear appeals of administrative decisions made with respect to a variety of matters regulated by EPEA, the *Water Act*, and the *Government Organization Act*.

On January 1, 2002, the Government of Alberta brought into force its revision of the Statutes of Alberta (R.S.A. 2000), which has had an effect on the *Environmental Protection and Enhancement Act*, the *Water Act*, and the *Government Organization Act*. As a result, the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, replaced the *Environmental Protection and Enhancement Act*, S.A. 1992, c. E-13.3, *Water Act*, R.S.A. 2000, c. W-3, replaced the *Water Act*, S.A. 1996, c. W-3.5., and the *Government Organization Act*, R.S.A. 2000, c. G-10, replaced the *Government Organization Act*, S.A. 1994, c. G-8.5. The predominant effect of the

Environmental Appeal Board Annual Report 2002/2003

revision on the legislation pertinent to the Board has been the renumbering of the sections of the Acts. The Board has accommodated these changes by revising its publications so that they are consistent with the numbering scheme in the revised statute.

In relation to the Board's continued jurisdiction under the *Environmental Protection and Enhancement Act*, the *Water Act*, and the *Government Organization Act*, the Board has the power to make recommendations to the Minister of Environment on matters brought before it with the Minister making the final decision. On matters relating to standing, timeliness of filing, stays, costs, requests for confidentiality, administrative penalties, and all preliminary matters, the Board is authorized as the final decision-maker. In carrying out its functions, the Board has all the powers of a commissioner under the *Public Inquiries Act*, including the right to retain experts to assist with matters before the Board and to compel persons and evidence to be brought before the Board. Although it is not subject to the provisions of the *Administrative Procedures Act*, the Board has an obligation to operate in accordance with the principles of natural justice. Consistent with common law practice, the Board does not replace or eliminate the right of Albertans to seek civil remedies, by means of judicial review, in the courts.

Rules of Practice

The Board's Rules of Practice are contemplated by section 95 of the *Environmental Protection and Enhancement Act*.

The Act and the corresponding Regulation set out the formal requirements of an appeal and what the Board must do when it receives an appeal. In addition, the Act confers on the Board all the powers of a commissioner of inquiry under the *Public Inquiries Act*. The purpose of the Board's Rules of Practice is to indicate how the Board will exercise its powers to deal with appeals.

The Board wishes to stress that its procedures have to be flexible. Where any matter arises during the course of any proceeding that is not envisioned by these Rules, the Board will do whatever is necessary to enable it to adjudicate effectively and completely on the appeal. Additionally, the Board will comply with any part or all of a particular rule if, in its opinion, the circumstances so require, and it will issue specific directions to govern such cases. In all cases, the Act, Regulation, and other statutory provisions must be complied with and will override these Rules in case of conflict.

The Board intends to use these Rules of Practice to fulfill the spirit of the Act and Regulation. Every effort is made to process appeals in a timely fashion, in accordance with the principles of natural justice, including issuing decisions expeditiously.

The Appeal Process

The following overview provides a brief summary of the Board's appeal process. The Board ensures all information about the Board is freely accessible and understandable to aid the public in determining whether to put forth a Notice of Appeal and how to conduct an appeal. This facilitates awareness of appeal requirements and procedures, which simplifies the appeal application process to ensure consistency of application. Detailed information about the Board, including its Rules of Practice, the regulations under which it is governed, its procedures, Decisions, Report and Recommendations, Business Plans, and Annual Reports are available from the Board's office or website. Board staff are also available to answer questions about the Board's processes and appeal procedures. Appendix A outlines the Board's appeal procedures.

The Board's process essentially consists of three stages. The first stage occurs when the Board receives a Notice of Appeal. As the Board will have no information pertaining to the appeal, it collects information from the parties and Alberta Environment in order to understand the nature of the appeal. During this stage, one or more of the parties may bring forth motions to determine preliminary matters such as standing or whether the matter has been previously dealt with by the Natural Resources Conservation Board or the Alberta Energy and Utilities Board. The Board may also deal with other preliminary matters such as determining issues to be dealt with should a hearing take place.

The second stage involves Alternative Dispute Resolution (ADR). When a Notice of Appeal is brought before the Board, the Board deals with it in one of two ways. First, it looks for ways to resolve the conflict and avoid the potentially formal, lengthy, and costly process of a hearing. The Board does this by employing ADR mechanisms, such as mediation or settlement conferencing, to facilitate resolution at an early stage. Second, if the ADR mechanism is unsuccessful or deemed inappropriate for the resolution of the appeal, a panel of one to three Board Members hears the appeal formally. Please note that elements of stage one and stage two may occur at the same time.

The third stage of the Board's process is the hearing stage. If mediation is not successful or if an appeal is not referred to mediation, then the Board will proceed to a hearing. The Board will hear the substantive issues of the appeal and make either a Decision or submit a Report and Recommendations to the Minister of Environment. Where the Board makes a Report and Recommendations to the Minister, the Minister is the final decision-maker and will make his decision by issuing a Ministerial Order advising of the decision to confirm, reverse, or vary the decision appealed.

Alternative Dispute Resolution

The Board encourages the use of Alternative Dispute Resolution (ADR) as a constructive way to resolve environmental disputes, and is used instead of the often complicated, formal hearing process. A large number of disputes that come before the Board involve multiple parties such as government, industry, public interest groups, and locally affected residents.

Environmental Appeal Board Annual Report 2002/2003

If appeals proceed to a hearing, this can result in time-consuming proceedings that are increasingly complex in their context and legality. The Board has found ADR offers many advantages over formal hearings, and include:

- more efficient use of Board resources;
- more effective promotion of consensus;
- a reduction in the length of hearing times;
- continual dialogue between industry and the public so that affected parties self-determine an agreed upon outcome;
- promotes continual working-relationship;
- reduction of administrative and legal costs;
- an informal and flexible setting that benefits the layperson not experienced with formal Board procedures;
- convenience for the parties, as it can be conducted at a local location in person, in writing, or by telephone, depending upon the wishes of the parties and the Board;
- provides a neutral person (mediator) who facilitates communication between the parties and guides the process by providing basic procedural information; and
- facilitates communication between the parties to an appeal, and as such, can lead to a mutually-agreeable “win-win” solution, which are better suited to the parties’ needs than a discretionary judgement by a third party like the Board.



Environmental Appeal Board Annual Report 2002/2003

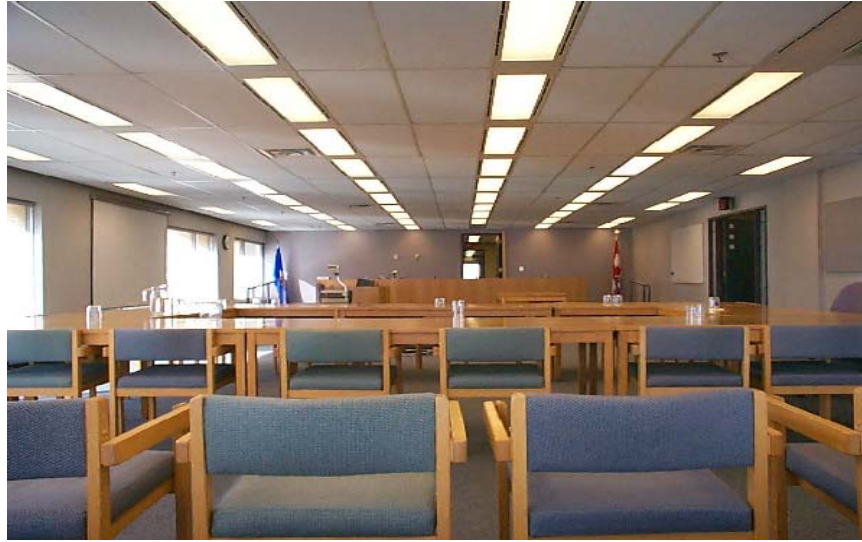
When the parties to the appeal have been determined, the Board may, on its own initiative or at the request of any of the parties, schedule one or more mediation meetings or encourage settlement conferences prior to the date set for the hearing of the appeal. Settlement conferences facilitate open dialogue between the parties, and take place without the use of a Board mediator. Parties are encouraged to meet together and discuss their concerns, however, if they reach an impasse or choose to have a facilitator present, the Board encourages mediation as a next option. The purpose of a mediation meeting is to facilitate the resolution of the appeal or to determine any of the procedural matters set out in the Board Regulation. Parties are expected to come to the mediation meeting voluntarily, and fully prepared for a useful discussion of all issues involved in the appeal, both procedural and substantive, and be authorized to negotiate and make decisions regarding these issues. Reasonable notice of the time, place, and purpose of the mediation meeting is given in writing to the parties and other persons, if any, who are participating or seek to participate in the appeal. Board members have mediation training and, where possible, will attempt to facilitate a resolution of the appeal at a mediation meeting.

When the parties agree to a resolution of the Notice of Appeal at the mediation meeting, the Board shall, within 15 days after the mediation, prepare a Report and Recommendations which includes the agreed upon resolution. The Report and Recommendations shall be submitted to the Minister to be handled in accordance with the *Environmental Protection and Enhancement Act*. A copy of the Report and Recommendations will be sent to each party.

Hearings

The Board is committed to evaluating all scientific evidence presented by a party to an appeal in the context of the best available, current scientific knowledge, that is relevant and applicable to the key matters of the case appealed. However, this commitment must be pursued in a manner that does not place appellants who lack scientific support at any disadvantage in the process.

A Report and Recommendations is prepared for most hearings and is submitted to the Minister within 30 days of the conclusion of a hearing. The Board has been issuing written decisions for all hearings and preliminary meetings regardless of the scope or magnitude of the issues. The intent is to analyse each issue raised during the hearing and provide clear and sound reasons, or at least a thorough explanation, for Board decisions. Clearly written reasons show parties their evidence and arguments were understood, and provide assistance to the courts and the Minister when Board decisions are reviewed. Written decisions also provide a permanent record of the Board's reasoning process which aids future parties in determining whether to appeal similar decisions and, if so, how to conduct their appeal effectively.



Public Documents

Many of the Board's decisions have been published in the Canadian Environmental Law Reports, Administrative Law Reports and the Alberta Law Reports available at most law libraries across Canada.

The Board's Decisions and Recommendations are also available for viewing online:

- ❖ Free Viewing: <http://www3.gov.ab.ca/eab/decision.html> or;
- ❖ Paid Subscription through QuickLaw in their AEAB database.

Cases or issues brought before the Board regularly appear in the Environmental Law Centre News Brief. The Environmental Law Centre is a not-for-profit agency that provides Albertans with information about environmental and natural resources law and policy.

All of the Board's decisions and recommendations are public documents and may be viewed at any of the following locations:

- ✧ Environmental Appeal Board, 306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, AB T5J 3S8, Phone: (780) 427-6207, Fax: (780) 427-4693;
- ✧ University of Calgary Law Library, 2nd Floor, Murray Fraser Hall, 2500 University Drive NW, Calgary, AB T2N 1N4, Phone: (403) 220-5953, Fax: (403) 282-3000;
- ✧ John A. Weir Memorial Law Library, 2nd Floor, Law Centre, University of Alberta, Edmonton, AB T6G 2H5, Phone: (780) 492-3371, Fax: (780) 492-7546;
- ✧ Alberta Environment Library, 6th Floor, 9920 - 108 Street, Edmonton, AB T5K 2M4, Phone: (780) 427-5870, Fax: (780) 422-0170;

Environmental Appeal Board Annual Report 2002/2003

- * Edmonton Law Society Library, Law Courts Building, 1A Sir Winston Churchill Square, Edmonton, AB T5J 0R2, Reference: (780) 415-8590 or toll-free (866) 230-8068, Circulation: (780) 422-2342, Fax: (780) 427-0397;
- * Calgary Law Society Library, Queen's Bench Courthouse, 611 - 4 Street SW, Calgary, AB T2P 1T5, Reference: (403) 297-6148 or toll-free (866) 448-6148, Circulation: (403) 297-5777, Fax: (403) 297-5171; and
- * Alberta Legislature Library, 216 Legislature Building, 10800 - 97 Avenue, Edmonton, AB T5K 2B6, Phone: (780) 427-3837, Fax: (780) 427-5688.

The Board also has a Practitioner's Manual which contains summaries of all the Board's decisions. The manual is available from:

- * The Legal Education Society of Alberta, 2610 Canada Trust Tower, 10104 - 103 Avenue, Edmonton, AB T5J 0H8, Phone: (780) 420-1987, Fax: (780) 425-0885, Email: lesa@lesa.org, Website: www.lesa.org.



Other Publications on the Board

TILLEMANN, W.A. "Environmental Appeal Boards: A Comparative Look at the United States, Canada, and England", (1996) 21 Columbia Journal of Environmental Law, 1-102.

TILLEMANN, W.A. "Public Participation In The Environmental Impact Assessment Process: A Comparative Study Of Impact Assessment In Canada, The United States and The European Community", (1995) 33 Columbia Journal of Transnational Law, 337-439.

TILLEMANN, W.A. "Preview of the Environmental Appeal Board." Insight Information Inc. Conference, Site Reclamation and Abandonment in the Petroleum Industry, Calgary, Alberta (Nov. 19, 1993).

Environmental Appeal Board Annual Report 2002/2003

GOLTZ, R.C. “*Amicable Dispute Resolution: The Mediation Alternative and the Alberta Environmental Appeal Board*”, (2000) – The publication can be found on line at <http://www.cfcj-fcjc.org/full-text/environment.htm> or at the Board’s office in Edmonton.

Finances

The Board’s budget for each fiscal year is discussed with the Deputy Minister of Environment, approved by the Minister of Environment, then sent to Treasury and Cabinet for approval. In terms of administrative budgeting and future business planning the Board keeps in close contact with the policy administrators within the Department of Environment.

The rate and number of appeals put before the Board is externally driven; therefore, the appeal activity is beyond the Board’s control. Board costs vary depending on the number of appeals filed. However, the Board can anticipate an increase in the complexity and number of appeals when additional Acts fall under the jurisdiction of the Board, or when the Department of Environment introduces new rules or regulations. This was demonstrated by the January 1, 1999 inclusion of the *Water Act*. The Board expects annual costs in relation to appeals will continue to rise in correlation with the number of appeals filed.

Generally, as Alberta’s environmental resources become more strained, leading to increasingly stringent environmental standards, and as economic resources become more stretched, the Board anticipates Albertans will demand more from it and the appeal process. The Board will remain committed to meeting the needs of Albertans while concurrently viewing fiscal responsibility as a top priority. Standard business and accounting practices will be used to assess, plan, and monitor the expenditure of the Board’s financial resources.

Summary of Spending Profile

| | 1998-99 Actual | 1999-00 Actual | 2000-01 Actual | 2001-02 Actual | 2002-03 Actual |
|-----------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Operating | \$630,685 | \$745,226 | \$898,502 | 921,169 | 1,018,518 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Total | \$630,685 | \$745,226 | \$898,502 | 921,169 | 1,018,518 |

The workload of the Board is externally driven, and the costs will accordingly vary with the number of appeals that are filed. The generation of appeals is a matter that is beyond the Board’s control.

Presentations

Through requests from various groups, the Board has responded to public awareness regarding its process in the form of public presentations and consultations. Appendix C presents a list of forums in which either the Chair, a Board Member, or Board staff participated and provided information.

Board Achievements

A list of the Board's achievements follows, indicating our commitment to our mission, objectives, the implementation of our strategies, and the achievement of our goals.

- As of March 31, 2003, 60 of the Board's decisions have been reported in *Canadian Environmental Law Reports*. The Board's decisions have also been published in the *Administrative Law Reports* and the *Alberta Law Reports*. Decisions have also been the subject of scholarly analysis in law journals and have been widely reported in other legal and environmental publications. Selection of the Board's hearing decisions into the aforementioned reports is hopefully a reflection of the importance and quality of Board decisions.
- In 2003, the Board's General Counsel and Settlement Officer participated as a judge in awarding the Alberta Emerald Awards. The Emerald Awards recognizes outstanding initiative and leadership Albertans demonstrate in the face of environmental challenges.
- In 2003, Board staff participated on the Premier's Award of Excellence Leadership Team. The Premier's Award of Excellence is presented annually to teams that promote and recognize superior client service and business practices in the Alberta public service.
- As part of the Board's ongoing commitment to the resolution of disputes through mediation, and in response to the Government of Alberta's cross-ministry Aboriginal Policy Initiative, in March 2003, the Board held its second interest-based conference and training session entitled *Forging Partnerships Between Federal/Provincial Governments and Members of First Nations*. The conference/training sessions were held over a two-day period and consisted of a number of presentations, simulations to explain and demonstrate interest-based negotiations in general, and with respect to First Nations participation. Given the overwhelming success of the conference in 2000, the participation in the 2003 session more than doubled from approximately 52 in 2000, to 120 in 2003. The Board received many encouraging comments and were exceptionally pleased at the level of interest and diversity of participants that took part. Overall, the conference was a tremendous success and the Board is very much looking forward to making it an annual event in years to come.



- The Board developed and implemented effective ADR strategies (such as settlement conferencing) and provides ongoing ADR training to Board Members and Staff. Introduction and Advanced Mediation is provided by Dr. Larry Susskind, President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes Resolution Program at Harvard Law School. General ADR courses are provided on a continual basis through the Alberta Arbitration and Mediation Society and Foundations of Administrative Justice,
- The Department of Justice, Canada awarded the Dispute Resolution Award in Law Studies to Mr. Ron Goltz for his paper on the Board entitled *Amicable Dispute Resolution: The Mediation Alternative and the Alberta Environmental Appeal Board*. Presented to only two individuals in the province of Alberta, the highly prestigious award encourages law students to pursue a greater understanding of dispute resolution. The award is presented to those students who best demonstrate the pursuit of new ideas and excellence in the field of dispute resolution.
- The Board annually participates in Alberta Transportation's Caring for Alberta's Highways (Adopt-a-Highway Program) whereby Board staff volunteer to clear litter from a 3-kilometre stretch of highway in Southern Alberta.
- Board staff are actively involved in the executive and canvassing for the United Way Campaign.
- As part of the University of Alberta's MBA program, the Board's General Counsel and Settlement Officer teaches Natural Resource and Environmental Law.
- On an annual basis, the Board's General Counsel and Settlement Officer hosts a discussion/lecture on the Environment and recycling for Japanese exchange students from the University of Alberta, Faculty of Extension. As a key component of their English as a Second Language program, students are introduced to the topic of recycling and how to minimize wastes in their own country.

Environmental Appeal Board Annual Report 2002/2003

- The Board revised its Notice of Appeal form to reflect plain language in order to make Appeals more manageable by the general public. This is part of an overall campaign by the Board to use plain language in its publications in order to make them concise, clear and easily understood by those people who come in contact with the Board.
- The Board is one of only a few environmental appeal boards and Administrative bodies in Canada using ADR to such a large degree.
- The Board continues to use confidential questionnaires/evaluations, given to parties to complete following a mediation, to assess their satisfaction or concerns with the mediation process. The confidential evaluations assist the Board in making improvements to its mediation program.
- The Board's decisions on whether to provide access to information have never been appealed under the *Freedom of Information and Protection of Privacy Act*. This, hopefully, reflects the quality of the Board's decision-making ability.
- Only one complaint against the Board has been put forth to the Ombudsman; it was dismissed.
- The Board participates in the Department of Environment's Business Planning Steering Committee, the Government of Alberta's Integrated Management Information System (IMAGIS) Steering Committee, and the *Freedom of Information and Protection of Privacy* (FOIP) Steering Committee.
- The Board is a member of the Council of Canadian Administrative Tribunals (CCAT) which assists and promotes the philosophy of administrative, quasi-judicial tribunals.
- The Board provides public awareness regarding its process in the form of public presentations.
- The Board participates in the Freedom of Information and Protection of Privacy (FOIP) coordinators meetings.
- The Board is currently updating and expanding its website in order to improve the quality and applicability of the information it contains.

| Year | Number of Hits on the Board's Website |
|------|--|
| 1998 | 2,977 |
| 1999 | 27,032 |
| 2000 | 26,897 |
| 2001 | 71,205 (Jan. 1, 2001 – Mar. 31, 2002) |
| 2002 | 97,322 (April 1, 2002-March 31, 2003) |

Appeal Statistics

Number of Appeals

A total of 152 appeals were put before the Board between April 1, 2002 and March 31, 2003. This brings the total number of appeals brought before the Board throughout its existence to 1,007. (See Appendix C for a summary of appeals.)

Time per Appeal

The average time for processing an appeal, as calculated from the total number of appeals over the Board's existence, is 3.18 months per appeal.

Mediation

Since 1993, 101 matters (calculated by Approval Holder, which corresponds to 480 individual appeals) have undergone mediation of which 80 matters were successfully resolved, an 80 percent rate of success.

Judicial Reviews

Since the inception of the Board there have been 26 instances of judicial reviews stemming from 19 different Notices of Appeal. Of the 26 judicial reviews, ten have upheld the Board's decision, six were returned to the Board, six were withdrawn, and four are pending. The Board has also recorded two judicial reviews which stem from a Ministerial decision based on one of the Board's Reports and Recommendations but which did not directly involve the Board as a party. During this year there were two judicial reviews filed and are still pending judgment.

Report and Recommendations

Since the Board's inception, it has submitted a total of 87 Report and Recommendations to the Minister, with only one of the 87 Report and Recommendations not accepted by the Minister. Of the 87 Report and Recommendations, 14 were submitted to the Minister this year. All 14 of these Report and Recommendations were accepted by the Minister.¹

Decision Reports

The Board has issued 154 Decision reports since 1994. Of the 154 Decision reports, 34 were rendered this year.

Discontinuance of Proceedings

The Board has issued 131 Discontinuance of Proceedings since 1996. Of the 131 Discontinuance of Proceedings, 28 were issued this year.

Costs Decisions

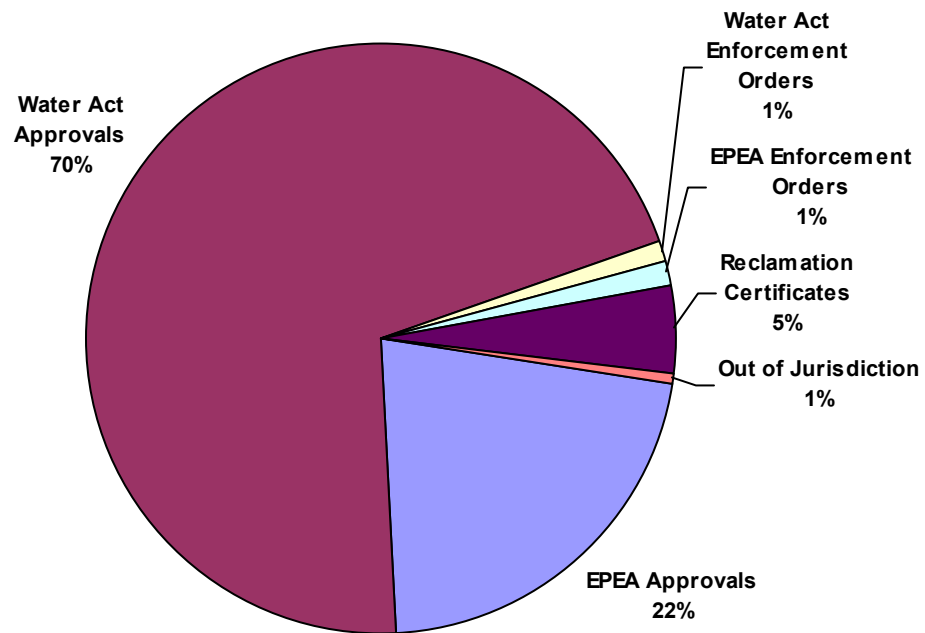
The Board has issued 21 Costs Decisions since 1997. Of the 21 Costs Decisions, 5 were issued this year.

¹ The Minister accepted the main recommendations and varied a portion of the remaining recommendations. See EAB 97-032, EAB 98-231, 232, 233, and EAB 01-062.

Appeal Types

During this year the Board received 152 appeals relating to the following issues: 33 pertained to EPEA approvals, 108 applied to *Water Act* Approvals (including preliminary certificates and licences), 2 were based on enforcement actions under the *Water Act*, 1 was an enforcement action under EPEA, 7 were reclamation certificates, and 1 was outside of the Board's jurisdiction (as per Chart I). A brief summary of each of the 152 appeals is set out in Appendix D. As well, the breakdown of the parties to each appeal and appeal numbers is included in Appendix E.

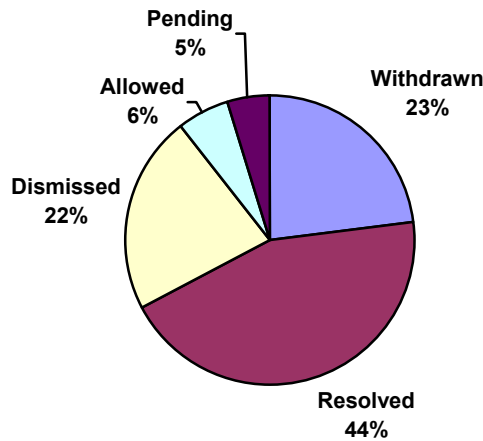
CHART I



Appeal Results

The 152 appeals filed this year, were dealt with as follows: 35 were withdrawn, 67 were resolved, 34 were dismissed, 9 were allowed, and 7 remain pending. The disposition of these appeals is illustrated in Chart II.

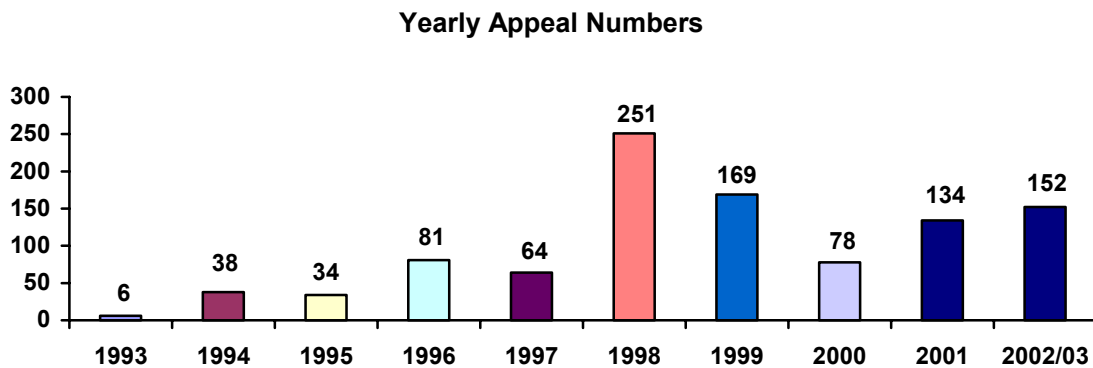
CHART II



Number of Appeals

The following chart illustrates the change in the number of appeals filed over the last eight years.

CHART III



As seen in Chart III, 6 appeals were filed with the Board during the period of September to December, 1993. Presuming a constant rate of appeals filed, it is estimated that 24 appeals would have been filed in total during the 1993 calendar year. During the 1994 calendar year, 38 appeals were filed, representing a 58% increase to the estimated number of appeals for 1993. As appeals are externally driven, there are no obvious factors to account for the increase between 1993 and 1994, other than awareness of the Board's existence to members of the public and industry.

Environmental Appeal Board Annual Report 2002/2003

During 1995, 34 appeals were filed. This represents a decrease of 11% from the previous year, but a 42% increase over the number of appeals in 1993. Again, no rationale is obvious for the decrease from 1994 to 1995. However, at the end of 1996, 81 appeals were filed. This represents a 138% increase over the previous year. During 1997, 64 appeals were filed which would provide an average of 48 appeals per year over the first five years. In 1998 the Board received 251 appeals, of which 209 related to one approval holder. Of the 169 appeals filed in 1999, 115 relate to 1 approval holder. During 2000, 78 appeals were filed which relates well to the 1997 numbers where there was not one particular approval which generated a majority of appeals for that year. 2001 saw an increase in the number of appeals filed to 134, however this increase is somewhat skewed as the reporting period for the 2001 annual report is 15 months as opposed to 12. The Board maintained its average this year as it received 152 appeals.

Based on the cumulative number of 1,007 total appeals, over 9.5 years of Board history, the Board is averaging 106 appeals per year.

Summary of Appeals

Appendix D contains a synopsis of the appeals before the Board during this reporting period, as well as any outstanding appeals from previous years that were dealt with between April 1, 2002 and March 31, 2003.



Conclusion

The Board is proud of its operation and success achieved in 2002 and 2003, as outlined in this report. The Board has fulfilled its commitment to advance the protection, enhancement, and wise use of the environment and has done so in a fair and impartial manner. The Board remains committed to that mission.

Environmental Appeal Board Annual Report 2002/2003

The Board also remains adaptable to change and will strive to continue to increase our efficiency, effectiveness, and the satisfaction of the parties with which we work. We will continue to work in a manner that is fiscally responsible and will strive to meet our performance targets. Our commitment to continued improvement and success remains strong.

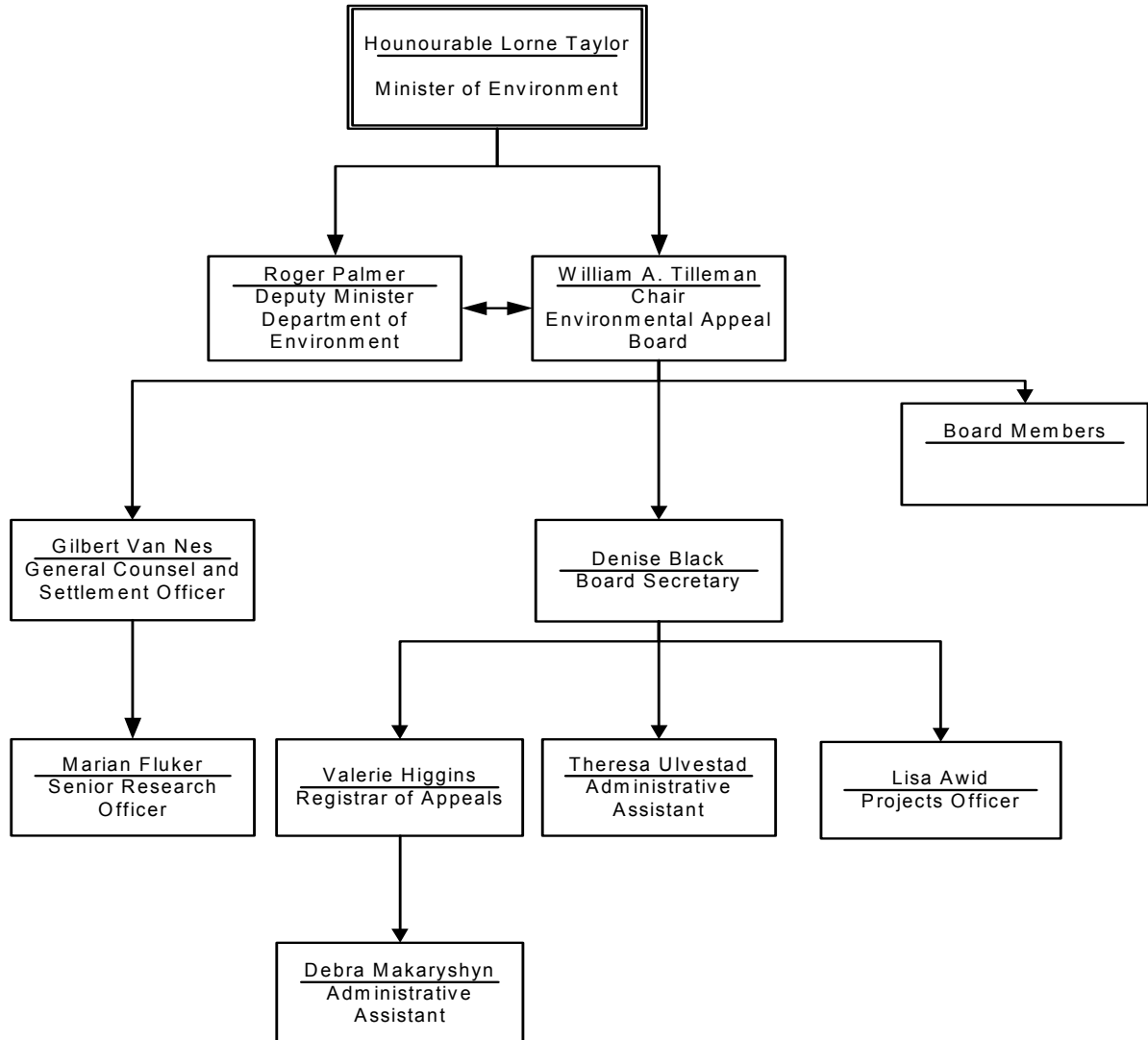
For further information please contact:

Environmental Appeal Board
306, Peace Hills Tower
10011 – 109 Street
Edmonton, Alberta T5J 3S8
Phone (780) 427-6207
Fax: (780) 427-4693
Website: www.gov.ab.ca/eab

APPENDIX A

Environmental Appeal Board Organizational Chart

ENVIRONMENTAL APPEAL BOARD ORGANIZATION CHART



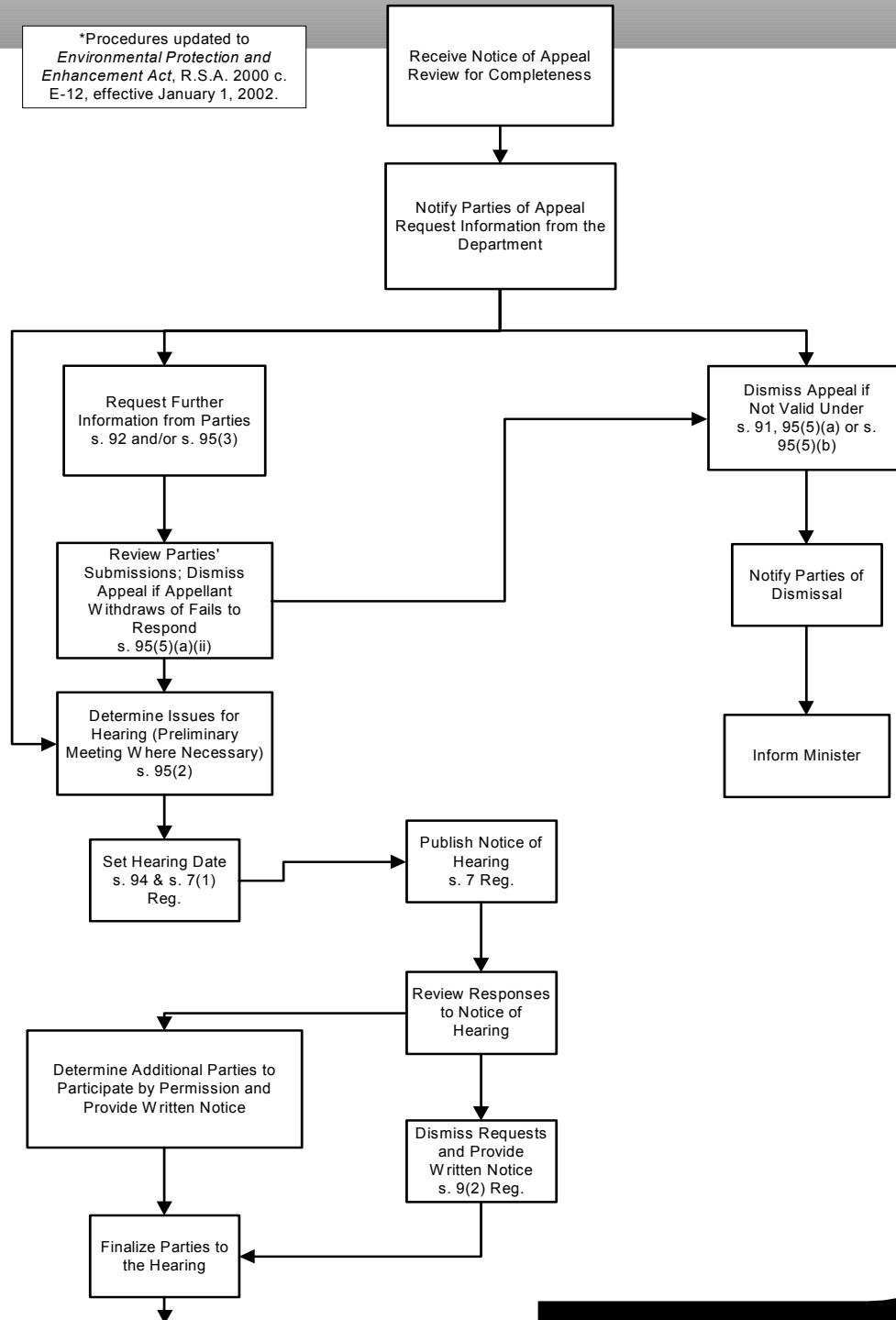
Note: Dr. Roger Palmer was appointed as Deputy Minister of Alberta Environment in September 2001. In 2002, Dr. Palmer became Deputy Minister of Alberta Health and Wellness, and was replaced by Mr. Ron Hicks.

APPENDIX B

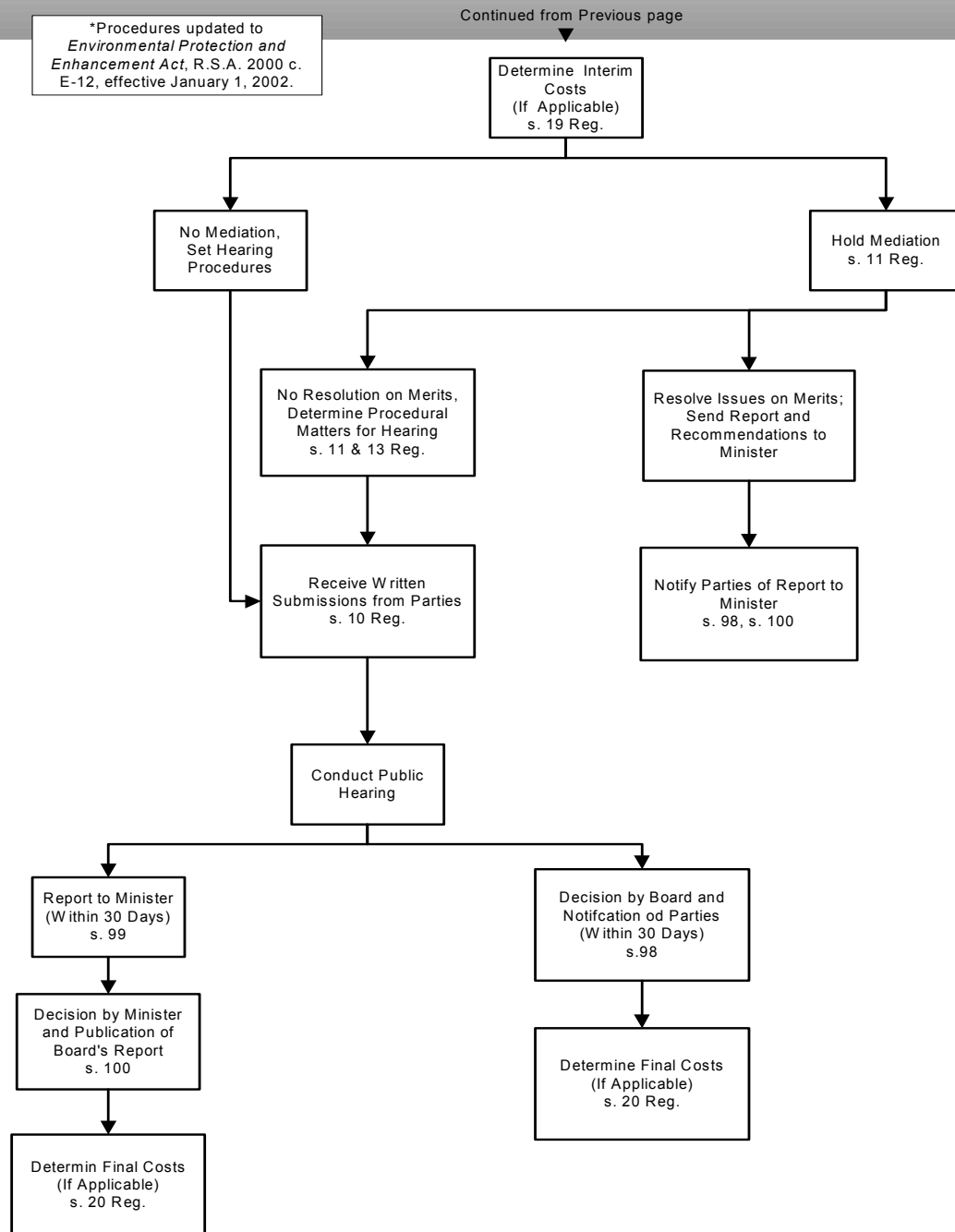
Board Procedures: Flow Chart

ENVIRONMENTAL APPEAL BOARD PROCEDURE FLOW CHART

*Procedures updated to
*Environmental Protection and
Enhancement Act*, R.S.A. 2000 c.
E-12, effective January 1, 2002.



ENVIRONMENTAL APPEAL BOARD PROCEDURE FLOW CHART



APPENDIX C

Public Presentations

Environmental Appeal Board Annual Report 2002/2003

Date: April 3, 2002

Presented by: General Counsel

Group/Location: Canadian Bar Association Environmental Law Section (Southern) - Environmental Appeal Board and Costs - Calgary

Date: April 11, 2002

Presented by: Chair

Group/Location: Canadian Bar Association Environmental Law Section (Northern) - Environmental Appeal Board and Mediation - Edmonton

Date: June 4, 2002

Presented by: Chair

Group/Location: Canadian Council of Administrative Tribunals - Appointments - Ottawa

Date: July 8, 2002

Presented by: General Counsel

Group/Location: Japanese Exchange Students - University of Alberta - Board Office - Edmonton

Date: August 20, 2002

Presented by: General Counsel

Group/Location: Japanese Exchange Students - University of Alberta - Board Office - Edmonton

Date: September 30, 2002

Presented by: General Counsel

Group/Location: MBA Program, University of Alberta - Natural Resources and Energy and the EAB - Edmonton

Date: October 7, 2002

Presented by: Chair

Group/Location: The Canadian Institute, Environmental Law and Regulation in Alberta Conference - Mediation with the Environmental Appeal Board - Calgary

Date: October 8, 2002

Presented by: General Counsel

Group/Location: The Canadian Institute, Environmental Law and Regulation in Alberta Conference - Strategies for addressing the Alberta Environmental Appeal Board - Calgary

Date: November 12, 2002

Presented by: Chair

Group/Location: Canadian Bar Association, Administrative Law Section Calgary - Tribunal Appointments, Tribunal Independence and Musings - Calgary

Date: February 22, 2003

Presented by: Board Member (Mr. Ron Peiluck)

Group/Location: Elbow Drive Lutheran Church - Role of the Environmental Appeal Board - Calgary

Date: March 25, 2003

Presented by: General Counsel

Group/Location: University of Calgary, Faculty of Environmental Science - Role of the Environmental Appeal Board and Mediation - Calgary

APPENDIX D

Summary of Appeals

Environmental Appeal Board Annual Report 2002/2003

94-011

Appellant(s) – Sarg Oils and Sergius Mankow, **Operator** – Sarg Oils, **Location** – Camrose, **Type of Appeal** – As listed below

Overview - On September 19, 1994, 16 appeals were filed by Sarg Oils and Sergius Mankow with respect to the issuance of 16 Environmental Protection Orders (EPOs). The Orders required the Appellants take remedial action with respect to 16 abandoned well sites in Camrose.

Decision – May 11, 1995, the Board issued a Decision indicating that the Director did not err in issuing the EPOs against Mankow and Sarg. The Board's decision underwent judicial review in the Court of Queen's Bench with a judgment stating that the Board must rehear the appeal.

Cite as: *Sarg Oils Ltd. v. Director of Land Reclamation, Alberta Environmental Protection.*

Report and Recommendations - A hearing took place on November 5 and 6, 1996 in Edmonton. The Board issued a Report and Recommendations to the Minister on December 5, 1996, confirming the Inspector issued the EPOs properly; however, directed that the Department of Environment immediately examine the criteria followed when deciding what parties are to be recipients of EPOs; and the criteria should be made publicly available. The Minister agreed with the Board's report on December 16, 1996.

Cite as: *Sarg Oil Ltd. and Sergius Mankow v. Director of Land Reclamation, Alberta Environmental Protection.*

As of April 1, 2003, this appeal is under Judicial Review.

00-035

Appellant(s) – Messrs. Marc and Roch Bremont, **Operator** – Messrs. Marc and Roch Bremont, **Location** – near Falher, **Type of Appeal** – See below

Overview – On May 19, 2000, Messrs. Marc and Roch Bremont filed a Notice of Appeal with respect to the Director's refusal to issue an Approval under the *Water Act*, authorizing an existing ditch used to deal with alleged flooding on the Appellants' land at NW 27-079-21-W5M, adjacent to Lac Magliore. The Appellants' advised the weir structure, constructed by Ducks Unlimited caused flooding on the Appellants' property, and hence, they decided to construct a drainage ditch.

Discontinuance of Proceedings - In consultation with the parties, the Board held a mediation meeting on April 10, 2001, in Falher, Alberta, with conference calls being held with the Director, Appellants, Ducks Unlimited, and Messrs. Hayden, Oliver and Garde Hansen. As the mediation was unsuccessful, the Board proceeded to a hearing on November 7, 2001, in the Board's office. On October 26, 2001, the Board advised the parties that the only issue to be heard was "whether the drainage ditch should be authorized under the *Water Act* or should it be closed and rendered ineffective?" Intervenor requests were received from Ducks Unlimited, and Messrs. Hayden, Oliver and Garde-Hansen, which were granted by the Board on October 26, 2001. On November 2, 2001, the Board wrote to Appellants confirming a telephone conversation between Board staff and the Appellants whereby he advised the Appellants would be withdrawing their appeal. A letter was sent to the Board from the Appellants to this effect on November 2, 2001. On the same day, the Board received a letter from Ducks Unlimited seeking costs related to this appeal, which the Board advised would be dealt with via a separate Decision. As a result of the withdrawal, the Board issued a Discontinuance of Proceedings on November 22, 2001, and closed its file.

Cite as: *Bremont v. Director, Northwest Boreal Region, Natural Resources Service, Alberta Environment.*

Costs Decision - An application for costs was received from Ducks Unlimited, an intervenor, in the amount of \$743.72 for legal fees and air travel associated with the hearing that had been scheduled. As the costs applied for did not relate directly to the matters contained in the Notice of Appeal nor to the preparation and presentation of the submission, the Board, in its Cost Decision of May 8, 2002 did not award costs to Ducks Unlimited.

Cite as: *Cost Decision re: Ducks Unlimited.*

00-042-046, 00-048-053, 00-056 and 00-057

Appellant(s) – Mr. Steve and Ms. Wendy Mazure, Ms. Maxine Dubuc, Ms. Terry Fisher, Mr. Barry and Ms. Lana Love, Mr. Carl Anderson, Mr. Henry Hays, Ms. Ina Fisher, Ms. Rae Fisher, Mr. Jack Potter, Ms. Florence

Environmental Appeal Board Annual Report 2002/2003

Van Koughnett, Ms. Marjory Korth, Mr. Joe and Ms. Pearl Bebee, Mr. Greg and Ms. Jolie Schachtschneider, **Operator** – Taiwan Sugar Corporation, **Location** – Near Hardisty, **Type of Appeal** – Discontinuance of Proceedings

Between July 12 and July 31, 2000, the Board received Notices of Appeal from Mr. Steve and Ms. Wendy Mazure, Ms. Maxine Dubuc, Ms. Terry Fisher, Mr. Barry and Ms. Lana Love, Mr. Carl Anderson, Mr. Henry Hays, Ms. Ina Fisher, Ms. Rae Fisher, Mr. Jack Potter, Ms. Florence Van Koughnett, Ms. Marjory Korth, Mr. Joe and Ms. Pearl Bebee, Mr. Greg and Ms. Jolie Schachtschneider. The Notices of Appeal were with respect to Approval No. 00081681-00-00 issued to Taiwan Sugar Corporation authorizing the exploration of groundwater on 8 & 19-041-01-W4M, 10 & 12-041-11-W4M, 7 & 8-42-10-W4M, 26 & 35-042-11-W4M near Hardisty, Alberta. The Approval provided the basis for an application for a licence to divert groundwater at the same locations in order for Taiwan Sugar Corporation to run a large hog barn operation. The appeals related primarily to the proposed diversion of water and its possible impacts as well as the general impact of the project upon the area, rather than an Approval for groundwater exploration. Since concerns regarding the development and zoning of the Approval Holder's proposed operation fall under the jurisdiction of Flagstaff County, the Appellants requested the Board hold the appeals in abeyance so they could take the matter of the Development Permit before the Development Appeal Board. The appeals were further held in abeyance while the matter proceeded to the Court of Appeal. Once the Court of Appeal issued its decision with respect to the Development Permit, and because the Approval to explore had expired, the Appellants withdrew their appeal. The Board therefore issued a Discontinuance of Proceedings and closed its file.

Cite as: *Mazure et al. v. Director, Parkland Region, Regional Services, Alberta Environment re: Taiwan Sugar Corporation* (8 January 2003), Appeal Nos. 00-042-046, 00-048-053, 00-056 and 00-057-DOP

00-067

Appellant(s) – McColl-Frontenac Inc., **Operator** – McColl-Frontenac Inc., **Location** – Calgary, **Type of Appeal** – Report and Recommendations

This is an appeal of Environmental Protection Order No. 2000-08 (the "EPO") issued by Alberta Environment under the Environmental Protection and Enhancement Act (the "Act"). The EPO requires McColl-Frontenac Inc. (McColl) to assess the extent and nature of pollution at a site in northwest Calgary and to design and implement plan for remediating that pollution. McColl is the successor to several companies that owned the site and operated a gas station on it for roughly twenty-five years. However, the gas station ceased operating in the late 1970s. For much of the time since, the site has been used for the operation of two equipment rental businesses. The Board heard the appeal through written submissions and included AP's Equipment Rentals (1978) Ltd., a previous occupant. In its submission, McColl argues that: (a) Alberta Environment violated the Legislature's intent by applying a section 102 EPO retrospectively to facts that occurred before the Act came into force; (b) Alberta Environment violated McColl's legitimate expectation that would follow the *Guidelines for the Designation of Contaminated Sites*; (c) Alberta Environment erred by failing to name other parties as responsible persons; and (d) Alberta Environment erred by issuing the EPO under section 102 rather than under section 114 of the Act. The Board recommended on December 7, 2001 that the Minister affirm the EPO, while requiring the Director to consider in the future whether to designate the site as a contaminated site under section 110 of the Act and apply the remaining provisions of Part 4, Division 2 of the Act. The Minister agreed with the Board and issued Order 01/2002 on January 10, 2002 stating (1) order that the decision of the Director respecting the EPO is confirmed; and, (2) further order the Director to activate the EPO immediately under section 102 and, if new evidence supports it, to give due consideration to applying the procedures in Part 4 Division 2 to the site.

Cite as: *McColl-Frontenac Inc. v. Director, Enforcement and Monitoring, Bow Region, Environmental Service, Alberta Environment*.

As of April 1, 2003, this appeal is under Judicial Review.

01-040, 041 AND 043

Appellant(s) : Shiela Mizera, Terry and Fay Mizera, and Horst Glombick, **Operator**: Village of Ryley, **Location** - Ryley, **Type of Appeal**: Active

Environmental Appeal Board Annual Report 2002/2003

On April 20, 24, and 27, 2001, the Board received Notices of Appeal from Shiela Mizera, Terry and Fay Mizera, and Horst Glombick, respectively, with respect to Approval No. 00142349-00-00 issued to the Village of Ryley allowing the release of sewage effluent into the Bible Creek. A Mediation Meeting took place on May 7, 2001, and an interim agreement was reached with on-going status report required.

As of April 1, 2003 these appeals are currently outstanding.

01-049

Appellant(s) – Lake Wabamun Enhancement and Protection Association (LWEPA), **Operator** – TransAlta Utilities Corporation, **Location** – County of Parkland, **Type of Appeal** – Decision

On April 27, 2001, Alberta Environment issued Amending Approval 9830-01-10 under the *Environmental Protection and Enhancement Act* to TransAlta Utilities Corporation for the Sundance Power Plant, in the County of Parkland, Alberta. The Board received a Notice of Appeal from the Lake Wabamun Enhancement and Protection Association (LWEPA) on May 23, 2001 appealing the Amending Approval. A mediation meeting and settlement conference was held which failed to resolve the appeal and after several abeyances LWEPA requested that their appeal proceed. The Board subsequently received a request from Alberta Environment to dismiss the appeal because the issues raised in the Notice of Appeal do not relate to the Amending Approval that is being appealed. LWEPA states concerns with inadequate provisions for regulating water and objects to Alberta Environment's failure to incorporate provisions into the Amending Approval for the Sundance Power Plant (9830-01-10) for regulating water, similar to section 4.3.27 of the Approval for TransAlta's Wabamun Lake Power Plant (10323-02-00). Section 4.3.27 of the Approval for the Wabamun Lake Power Plant requires TransAlta to apply to increase the capacity of the Wabamun Lake Water Treatment Plant. (The Board previously heard appeals relating the Wabamun Lake Power Plant that dealt with section 4.3.27 and the Board currently has before it appeals relating to the Wabamun Lake Water Treatment Plant.) The Board decided to conduct a preliminary meeting via written submissions to address the motion by Alberta Environment to dismiss the appeal. Written submissions were received from all parties and the Board, in its Decision of May 10, 2002, concluded that the Notice of Appeal is either moot, without merit or not properly before the Board as there would be no effect achieved by adding a requirement to the Amending Approval that is the subject of this appeal to oblige TransAlta to apply for increased capacity of the Wabamun Lake Water Treatment Plant given that TransAlta has already applied for and received such an approval under the *Environmental Protection and Enhancement Act* and a licence under the *Water Act*.

Cite as: *Lake Wabamun Enhancement and Protection Association v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment re: TransAlta Utilities Corporation.*

01-061

Appellant(s) – Stop and Tell Our Politicians Society (STOP), **Operator** – Imperial Oil Resources, **Location** – near Cold Lake, **Type of Appeal** – Decision

Alberta Environment issued *Water Act* Licence 00148301-00-00 to Imperial Oil Resources authorizing the diversion of 2,920,000 cubic meters of water for the purpose of industrial injection from wells in LSD 05-22-65-W4M, near Cold Lake, Alberta. The Board received a Notice of Appeal from the Stop and Tell Our Politicians Society (STOP) on June 26, 2001. In consultation with the parties to this appeal, the Board held a mediation meeting and settlement conference in Cold Lake. An Interim Agreement was reached at the mediation and the parties agreed to work towards a resolution of the appeal. The Interim Agreement provided in part: "All parties to the appeals have agreed that the appeals be held in abeyance until November 30, 2001, while the following terms and conditions are addressed: 1. Imperial Oil Resources will develop a proposal for a workshop to address the relevant groundwater and potable water issues of the Appellants [(STOP)]. The workshop details will be reviewed by the Appellants, and if acceptable, the appeals will be withdrawn." Following the workshop contemplated in the Interim Agreement, it became apparent that STOP had a number of outstanding issues and wished to proceed to a hearing. During the process of determining the preliminary issues of standing, jurisdiction of the Board, and the issues to be considered at the hearing, a dispute arose as to whether STOP's Notice of Appeal had in fact been withdrawn pursuant to the Interim Agreement. The Board requested submissions on the questions of whether STOP's Notice of Appeal had been withdrawn and whether the Board had jurisdiction to proceed with the appeal. Having considered the submissions of the parties, the Interim Agreement, and all of the evidence before it, the Board has determined

Environmental Appeal Board Annual Report 2002/2003

that STOP's Notice of Appeal has been withdrawn, that the Board does not have jurisdiction to proceed with the appeal, and that the Board is required to dismiss this appeal and discontinue its proceedings in this matter. The Board issued its Decision in this regard on June 14, 2002.

Cite as: *Stop and Tell Our Politicians Society (STOP) v. Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources*

01-062

Appellant(s) – Imperial Oil Limited and Devon Estates Limited, **Operator** – Imperial Oil Limited and Devon Estates Limited, **Location** – Calgary, **Type of Appeal** – As listed below

Overview – Imperial Oil Limited and Devon Estates Limited (“the Appellants”) filed a Notice of Appeal with the Board on July 3, 2001, with respect to Environmental Protection Order #EPO-2001-01 (the “EPO”), issued to the Appellants for the Lynnview Ridge residential subdivision. The EPO states that Imperial Oil ran an oil refinery on the lands that are now the subdivision between 1923 and 1975 and that the majority of lands were transferred to Devon Estates who developed them in conjunction with another company. The EPO also states that analytical results included in a May 2001 draft report indicate that “...numerous high hydrocarbon vapour concentrations [were] confirmed...” and that “...a number of soil samples taken for lead analysis...ranged over 1200mg/kg, and therefore exceed the Canadian Council of Ministers of Environment soil limit of 140mg/kg.”

Decision – The purpose of this Decision is to determine which matters included in the Notice of Appeal will be included in the hearing of the appeal. Authorized under section 87(2), (3), and (4) of the Environmental Protection and Enhancement Act, the Board issued a Decision on August 22, 2001, determining that the following issues would be included: 1. Are the Appellants persons responsible under section 102? This question is limited to the issues of whether section 102 has retroactive effect. 2. Has there been a release within the meaning of section 1(ggg) having regard to its ‘historical nature’ and has this release caused an adverse effect? 3. Does the Director have the discretion to choose between issuing an EPO under section 102 and issuing an EPO under section 114 and was that discretion exercised properly? and, 4. Did the Director exercise his discretion unreasonably by not naming others known to the Director as persons responsible under the EPO?.

Cite as: *Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Decision – In consultation with the parties, the Board set a hearing on September 12, 13 and 14, 2001, in Calgary. However, the hearing was rescheduled and took place on October 16, 17 and 18, 2001. On September 11, 2001, the Director wrote the Appellants a letter indicating it was a “Decision on Conceptual Framework for Remediation at Lynnview Ridge”. On September 12, 2001, the Director provided an additional letter to the Appellants. On September 18, 2001, the Appellants submitted a second Notice of Appeal to the Board with respect to the September 11 and 12 letters. On September 19, 2001, the Board sent letters to the parties requesting submissions on the second Notice of Appeal. The motions were: 1. Should the Board accept the new Notice of Appeal?, 2. Should the Board accept an amendment to the original Notice of Appeal?, 3. Should the Board add a new issue for the purposes of deciding the appeal? and 4. Document Production. On October 26, 2001, the Board issued a Decision that the following issue would be included in the hearing of the appeal: Issue 5: Is the EPO reasonable and sufficiently precise in the circumstances up to the date of the hearing. The Board also confirmed its previous direction regarding how the document production issue would be addressed.

Cite as: *Preliminary Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Decision – This Decision is with respect to two applications for document production. The Board has the power to order a witness to attend and produce documents at a hearing, pursuant to sections 3 and 4 of the Public Inquiries Act. For the Board to order the attendance of a witness and the production of documents, the Board must be satisfied that the evidence is potentially relevant and necessary to the issues that will be considered at the hearing of the appeal. On December 10, 2001, the Board issued a Decision to order Imperial Oil, the City of Calgary (an intervenor in this appeal), and the Director to provide witnesses and produce documents that the Board believes are potentially necessary and relevant to the issues before the Board in this appeal that are subject to certain general conditions. In its decision, the Board also took into consideration

Environmental Appeal Board Annual Report 2002/2003

concerns expressed by the parties with respect to ensuring the search for the ordered documents is conducted properly and completely, that the document issues be brought to a close as soon as possible and that the parties provide documents within the timelines specified in the agreement.

Cite as: *Document Production Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Report and Recommendations – On October 16-18, 2001 and February 5 and 6, 2002, the Board undertook an extensive hearing and received volumes of legal, technical and scientific information regarding the appeal from the parties. Taking all information into account, the Board provided the following recommendations to the Minister in that he should: 1. confirm Alberta Environment’s decision to issue the “substance release” EPO; 2. confirm Alberta Environment’s decision not to name parties other than Imperial Oil and Devon Estates in the EPO; 3. confirm that Alberta Environment’s decision to issue the EPO was reasonable and sufficiently precise so as to provide a proper foundation for the implementation direction to require the removal of soils containing greater than 140 ppm of lead between 0.3 metres and 1.5 metres; 4. confirm that Alberta Environment’s decision to issue the EPO was reasonable and sufficiently precise so as to provide a proper foundation for the implementation direction to require the removal of 0.3 metres of soil under decks, fences, gardens, shrubs, and trees; 5. vary the EPO to make it clear that the implementation direction to remove 0.3 metres of soil under driveways, patios, and sidewalks on private property where they provide an effective barrier to the lead in the soil is not within the scope of the EPO; 6. vary the EPO to require that the work under the EPO shall be performed to the satisfaction of the Director; and 7. direct Alberta Environment to continue to apply the “substance release” EPO and, if new evidence supports it, to apply a “contaminated site” EPO. The Minister agreed to the Board’s recommendations on July 22, 2002.

Cite as: *Imperial Oil Ltd. and Devon Estates Ltd. v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment re: Imperial Oil Ltd.*

Intervenor Decision – This Decision is with respect to intervenor requests filed with the Board by Lynnview Ridge Residents Action Committee, Calhome Properties, the City of Calgary, the Calgary Health Region, and Rio Verde Properties (“Rio Verde”). After reviewing the requests, the Board issued a Decision on July 23, 2002, granting full party status to all parties except for Rio Verde. In the Board’s analysis of the request, it determined that the issues expressed by Rio Verde were already included in the lists of concerns of the other applicants. Hence, Rio Verde would be able to submit a written submission only.

Cite as: *Intervenor Decision: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Stay Decision – This Decision is with respect to a request for a Stay the Board received from Imperial Oil. The Stay was in response to two letters dated September 11 and 12, 2001, issued by Alberta Environment to Imperial Oil. The letters provide further directions in relation to remediation work to be carried out under the EPO. The Board determined Imperial Oil presented a *prima facie* case for a Stay and requested submissions from the other parties to the appeal as to whether a Stay should be granted. After careful review of information presented, on July 23, 2002, the Board issued a Decision advising that even though Imperial Oil had shown there was a serious issue to be determined, it did not convince the Board that a Stay should be granted.

Cite as: *Stay Decision: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

As of April 1, 2003, this appeal is under Judicial Review.

01-072

Appellant(s) – Mr. Tom Weber, Weber Family, Landowners of NE ¼ 32-88-8-W4M, Clearwater River Committee and Majic Country Wilderness Adventures **Operator** – Corridor Pipeline Ltd., **Location** – near Rainbow Creek Alberta, **Type of Appeal** – Decision

The Environmental Appeal Board received a Notice of Appeal on August 8, 2001 from Mr. Tom Weber on behalf of himself, his family, other landowners of the NE ¼ 32-88-8-W4M, members of the Clearwater River Committee, and Majic Country Wilderness Adventures regarding Amending Approval 69136-00-00 issued to Corridor Pipeline Ltd. by Alberta Environment, for the Corridor Pipeline Project Rainbow Creek reroute. The

Environmental Appeal Board Annual Report 2002/2003

Corridor Pipeline connects the oil sands projects in Fort McMurray, Alberta with oil refineries in Fort Saskatchewan, Alberta. Mr. Weber and the parties he represents had notice of and were given the opportunity to participate in proceedings before the Alberta Energy and Utilities Board (AEUB). In this Board's view, the AEUB adequately dealt with the concerns raised in the Notice of Appeal. As a result, the Environmental Appeal Board is required to dismiss the appeal. The Environmental Appeal Board has also reviewed the Notice of Appeal filed by Mr. Weber and has determined that neither he, nor the parties that he represents, are directly affected by the Corridor Pipeline Project Rainbow Creek reroute. As a result, even if all of the concerns raised in the Notice of Appeal had not been adequately dealt with, the Environmental Appeal Board would still dismiss the appeal because the Appellants have failed to demonstrate that they are directly affected by the project. The Board issued its Decision in this regard on May 10, 2002.

Cite as: *Weber et al. v. Director, Approvals, Bow Region, Regional Services, Alberta Environment re: Corridor Pipelines Ltd.*

01-074

Appellant(s) – Elke Blodgett, **Operator** – Genstar Development Company, **Location** – St. Albert, **Type of Appeal** – See below

Overview – Alberta Environment issued Approval No. 00150792-00-00 under the *Water Act* to the Genstar Development Company authorizing the placement of earth fill material on two parcels of land in the flood plains of the Sturgeon River and in the flood plains of Big Lake, in the City of St. Albert. The area where the fill material is being placed is proposed to become part of a new housing development.

Decision - Ms. Elke Blodgett filed a Notice of Appeal objecting to the decision of the Director to reject her Statement of Concern and, in essence, objecting to the issuance of the Approval. The Notice of Appeal argued that Ms. Blodgett was directly affected and that her Statement of Concern should have been taken into account. Ms. Blodgett asked for the Approval to be cancelled and asked for a Stay pending the resolution of the appeal. The Board initially requested and received written submission on the questions of Ms. Blodgett's directly affected status and her request for a Stay. Following a review of these submissions the Board decided to hold a preliminary meeting to hear further submissions from the parties. On December 28, 2001 the Board issued a Decision advising that it is of the view that Ms. Blodgett is not directly affected within the meaning of the *Water Act*. While Ms. Blodgett frequently uses the areas adjacent to the areas to be filled, the Board does not find that this provides a sufficient basis to find that she is directly affected. In the Board's view, the key difference between this case and the *Bildson* case, which Ms. Blodgett relies upon, is that the fill activity that is authorized under this Approval is taking place on private, as opposed to public land.

Cite as: *Blodgett v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: Genstar Development Company.*

Decision – Ms. Blodgett filed a request on March 13, 2002 for the Board to reconsider her directly affected status as outlined in the Board's Decision of December 28, 2001. After a careful review of the file and the original decision, the Board did not find any compelling evidence or arguments in favour of a reconsideration, and thus, Ms. Blodgett's request for reconsideration was denied.

Cite as: *Reconsideration Request: Blodgett v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: Blodgett*

01-075

Appellant(s) – Big Lake Environmental Support Society, **Operator** – Genstar Development Company, **Location** – St. Albert, **Type of Appeal** – Decision

On August 3, 2001, Alberta Environment issued Approval 00150792-00-00 under the *Water Act* to the Genstar Development Company authorizing the placement of earth fill material on two parcels of land in the flood plains of the Sturgeon River and in the flood plains of Big Lake, in the City of St. Albert, Alberta. The area where the fill material is being placed is proposed to become part of a new housing development. A Notice of Appeal was received from Ms. Louise Horstman, secretary for the Big Lake Environmental Support Society (BLESS) on August 14, 2001, appealing the Approval. Written submissions were received from the parties on how Ms. Horstman and BLESS are directly affected by the Approval issued to Genstar. Upon review of the submissions, on May 10, 2002, the Board issued a Decision dismissing BLESS' appeal for not being directly

Environmental Appeal Board Annual Report 2002/2003

affected. BLESS did not provide a complete membership list nor any indication how the members are directly affected as individuals by the Approval. BLESS did not demonstrate to the Board how it had a unique interest over and above the community that is generally affected by the granting of the Approval.

Cite as: *Big Lake Environmental Support Society v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: Genstar Development Company.*

01-076

Appellant(s) – Ms. Margaret Ouimet and CASP Hwy 37, **Operator** – Ouellette Packers (2000) Ltd., **Location** – near St. Albert, **Type of Appeal** – See below

Overview – This appeal relates to Preliminary Certificate 00150725-00-00 and proposed Licence issued to Ouellette Packers (2000) Ltd. under the *Water Act*. The Preliminary Certificate provides that if Ouellette Packers meets the conditions of the Preliminary Certificate, it will be granted a Licence to divert 8,292 cubic meters of water annually from a well located in SW 03-055-26-W4M, near St. Albert, Alberta. Ouellette Packers intends to establish a hog processing plant at this location and the water is required to supply the plant. Ms. Margaret Ouimet and a group of local residents calling themselves “CASP Hwy 37” filed an appeal opposing the issuance of the Preliminary Certificate and proposed Licence.

Decision - The Board issued a Decision on January 28, 2002 stating that it has determined that Ms. Ouimet and the members of CASP Hwy 37 have not provided sufficient evidence to demonstrate that they are directly affected. In addition, the Board is also of the view that Ms. Ouimet’s real concern is the potential release of contaminants into the environment from the hog processing plant. In the Board’s view, if Ms. Ouimet is correct, the proper place to address the potential release of contaminants into the environment from the hog processing plant is in the Approval issued for that plant, under the *Environmental Protection and Enhancement Act*. The Board has also determined that it has not been presented with any evidence that would warrant extending the deadline for the other members of CASP Hwy 37 to file their own appeals.

Cite as: *Ouimet et al. v. Director, Regional Support, Northeast Boreal Region, Regional Services, Alberta Environment, re: Ouellette Packers (2000) Ltd.*

01-080, 081, 082, 084, 085, 134, 02-002, 003

Appellant(s) – Mr. Blair Carmichael, Enron Canada Power Corporation, Mr. David Doull, the Lake Wabamun Enhancement and Protection Association, Mr. Nick Zon, **Operator** – TransAlta Utilities Corporation, **Location** – Wabamun Lake, **Type of Appeal** – See below

Overview – Alberta Environment issued on July 30, 2001 Amending Approval 18528-00-03 and on March 9, 2002 issued *Water Act* Licence Amendment No. 00037698-00-02 to TransAlta Utilities Corporation, for the construction, operation, and reclamation of the Water Treatment Plant to be constructed at the Sundance Power Plant site at Wabamun Lake, County of Parkland, Alberta. The purpose of the plant is to mitigate the effects of he other TransAlta operations on Wabamun Lake. The Board received a five appeals from Mr. Blair Carmichael, Enron Canada Power Corporation, Mr. David Doull, the Lake Wabamun Enhancement and Protection Association and Mr. Nick Zon respecting the Approval for the Wabamun Lake Water Treatment Plant. The Board then received three appeal from Mr. David Doull, the Lake Wabamun Enhancement and Protection Association and Mr. Nick Zon with respect to the *Water Act* Licence.

Decision – Enron Canada Power Corporation filed a Notice of Appeal on August 30, 2001 objecting to the Approval on the basis that it indirectly imposed obligations under the Sundance Power Plant Approval, in which Enron claims an interest. Enron claims that it has the right to appeal the Water Treatment Plant Approval as a result of the Power Purchase Arrangement that it has with TransAlta in relation to the Sundance Power Plant. On June 26, 2002, the Board issued a Decision disagreeing with Enron, and dismissing the appeal because: 1. Enron has sold “all of its interests” in the Power Purchase Arrangement to the ASTC Power Partnership, who has decided *not* to appeal; 2. Enron’s financial and economic interests, which the Board found to be the *major* basis of Enron’s appeal arguments, was not sufficient on the facts of this case to establish that Enron was directly affected; and 3. Enron’s real challenge was not aimed at the decision of Alberta Environment, but at a commercial dispute with TransAlta, and as such, there was nothing claimed against Alberta Environment upon which the Board should decide or Alberta Environment could do.

Environmental Appeal Board Annual Report 2002/2003

Cite as: *Enron Canada Power Corporation v. Director, Northern East Slopes Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

Decision – After reviewing the submissions and hearing the presentations of Mr. Blair Carmichael, Mr. David Doull, Mr. Nick Zon, the Lake Wabamun Enhancement and Protection Association, TransAlta Utilities and Alberta Environment, at the preliminary meeting on April 17, 2002, the Board issued a Decision on June 25, 2002 stating that it has determined that it will consider the following issues at the hearing of these appeals: Issue 1: the adequacy of the water balance model and the factors (e.g. surface runoff) that it relies upon as a basis for establishing the requirements for the quantity of treated water to be returned to Wabamun Lake by means of the water treatment plant; Issue 2: the ability of the water treatment plant, as approved, to be able to deliver the specified quantities of treated water to Wabamun Lake; Issue 3: the water quality of the Sundance cooling pond as it may be a factor in limiting the ability of the approved water treatment plant to deliver the quantities of water specified in the License to the quality required by the Approval; and Issue 4: the method and timing of providing reports to interested individuals and the actual content of the data reported as effective means to assure the Parties that the proposed mitigation is achieving the expected compensation for the impact of the Approval Holder upon water levels in Wabamun Lake.

Cite as: *Issues Decision: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-080, 082, 084, 085, 134, 02-002 and 003-ID – The Board had scheduled a hearing for May 15 and 16, 2002. Shortly before the hearing the Lake Wabamun Environmental Protection Association (“LWEPA”) made a motion to expand the scope of the hearing to more broadly consider water quality issues as a result of recent reports of fish mortality and significant exceedances of heavy metals at Lake Wabamun. The Board asked for written submissions from the parties in response to this request and also heard oral arguments at the beginning of the hearing. The Board also heard oral evidence from two employees of Alberta Environment, one of whom is responsible for the investigation into the reports of fish mortality and exceedances of heavy metals. Considering all of the arguments, including the evidence of the witnesses, the Board decided to adjourn the hearing for 90 days to permit Alberta Environment to complete its investigation and report back to the Board and the parties (subject to the privileges that may apply to investigations and/or prosecutions). The Board decided that while, at this time, there is no reason to expand the scope of the hearing, the Board’s function is to provide the Minister with the most thorough and complete report and recommendations that it can. Given the fact that more information will shortly be available, that according to one of the Alberta Environment witnesses may be relevant to the issues the Board is trying to decide, the Board is required by the principles of natural justice and procedural fairness to adjourn the hearing until this information on fish and heavy metals is available. In making this decision, the Board is mindful that it must balance two competing interests – efficiency and thoroughness. However, in the absence of any prejudice to any of the parties (and all parties noted that their was no prejudice against them save TransAlta’s witnesses being present), the Board decided it was appropriate to adjourn the hearing. At the conclusion of the 90 days, and subject to whatever motions are proper at that time, the Board will proceed with the hearing. The Board outlined its reasons in its Decision of May 30, 2002.

Cite as: *Adjournment Motion: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-085-D - The Board commenced the Hearing on May 15, 2002. Appellant, Mr. Nick Zon, did not attend the hearing, nor did he file any written submissions with the Board as is required by the Environmental Appeal Board Regulation. The Board also wrote to him prior to the hearing to ask if he would be filing a written submission. He did not respond. On May 31, 2002, the Board issued a Decision stating that pursuant to section 95(5) of the *Environmental Protection and Enhancement Act* for failing to comply with a written notice, and pursuant to section 32 of the Board’s Rules of Practice for failing to attend a proceeding, the Board dismissed Mr. Zon’s appeal.

Cite as: *Zon v. Director, Northern East Slopes Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

Discontinuance of Proceedings – The Board commenced the hearing of this matter on May 15, 2002, however the Board received an e-mail from Appellant, Mr. Blair Carmichael, on June 10, 2002 advising that he had reached an agreement with TransAlta Utilities Corporation and as a result is withdrawing his appeals. The

Environmental Appeal Board Annual Report 2002/2003

Board therefore closes its files in the matter of his appeal and issued a Discontinuance of Proceedings on June 13, 2002.

Cite as: *Carmichael v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-082, 01-084, 02-002, and 02-0030-R – Following several motions with respect to the issues to be considered in the hearing, the Board determined that the following issues would be considered: 1. the adequacy of the water balance model as a basis for establishing the quantity of water to be returned to the Lake; 2. the ability of the water treatment plant to deliver the specified quantities of water; 3. the water quality of the Sundance Cooling Pond as a limiting factor on the ability to deliver the quantities of water required to the quality required; and 4. the method and timing of providing reports. Based on the evidence presented, particularly by Alberta Environment and the independent witness Mr. Gan, the Board is of the view that a 10 percent safety factor should be added to the requirement for returning water to Wabamun Lake. Further, some additional information should be collected to improve the water balance model. The Board does not have concerns with the ability of the water treatment plant to return the qualities of water required. The Board also does not foresee that TransAlta's decision to use the Sundance Cooling Pond as the source of water for the water treatment plant makes it inherently likely that it will fail to satisfy the terms of the Approval and the Licence. Finally, with respect to additional reporting requirements, TransAlta has previously agreed to address stakeholder concerns. The Board is of the view that the additional reporting requirements and the additional commitments are reasonable, and where appropriate, should be incorporated into the Approval or Licence. On November 18, 2002, the Board issued a Report and Recommendations to the Minister of Environment to confirm the Licence and Approval subject to provisions listed. The Minister approved the recommendations by the Board on February 11, 2003.

Cite as: *Doull et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation* (18 November 2002), Appeal Nos. 01-082, 01-084, 02-002, and 02-003-R (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-ID3 – The Board held a Preliminary Meeting and commenced a Hearing (that was adjourned after a preliminary motion and subsequently reconvened), and in doing so, requested the participation of potential intervenors. Mr. C.G.P. Spilsted was recognized as a potential interested person and was granted limited intervenor status with respect to these appeals. However, when the Hearing adjourned, Mr. Spilsted requested that the Board reconsider its intervenor decision and grant him the right to participate more actively at the continuation of the Hearing. After receiving submissions from the parties, the Board issued a Decision on February 13, 2003, granting Mr. Spilsted's request for a more active role at the continuation at the Hearing.

Cite as: Intervenor Decision: *Spilsted v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation* (13 February 2003), Appeal No.s. 01-082, 01-084, 02-002, 02-003-ID3 (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-CD – The Board had determined four issues to be heard at the hearing. Prior to the hearing date, the Lake Wabamun Protection and Enhancement Association (LWEPA) filed a motion requesting that the issues be expanded. The Board dismissed LWEPA's motion to expand the scope of the hearing, and granted an adjournment to require Alberta Environment to continue with the studies regarding the fish kills and heavy metals in the lake. The Board asked Alberta Environment to file these reports, and once it had received the reports, the Board would entertain further motions to expand the scope of the hearing, should any of the parties wish to make such motions. Prior to the hearing recommencing, the Board received an application for interim costs from LWEPA requesting funds to engage two experts to review reports provided by Alberta Environment and TransAlta. After reviewing the application and the submission of the parties, the Board determined that the costs requested did not reasonably and directly relate to the issues under appeal. Therefore, the Board issued a Decision on February 13, 2003, to deny the request for interim costs.

Cite as: Costs Decision re: *TransAlta Utilities Corporation* (13 February 2003), Appeal Nos. 01-082, 01-084, 02-002, and 02-003-CD (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-ID4 – Following the adjournment, the Board permitted the parties to file any further motions regarding issues to be heard at the hearing. Mr. Doull filed a motion to expand the issues to include water quality of the Lake in general and to adjourn the hearing until such time that all relevant

Environmental Appeal Board Annual Report 2002/2003

information was available. TransAlta filed a motion that three of the four issues initially identified by the Board are now moot. No motion was received by LWEPA. After receiving and reviewing submissions on these motions, the Board determined: (1) that the issues should not be expanded to include water quality generally as no connection was demonstrated between the fish kills and heavy metals and the Water Treatment Plant; and (2) the issues set by the Board are not moot. The Board directed that the hearing proceed and that the original four issues, as determined by the Board, would be the issues that would be heard.

As of April 1, 2003, these appeals are currently outstanding.

01-090

Appellant(s) – Burnswest Corporation, **Operator** – Burnswest Corporation, **Location** – Cochrane, **Type of Appeal** – As listed below.

Overview – Alberta Environment issued Administrative Penalty No. 01/10-BOW-AP-01/10 to Burnswest Corporation and Tiamat Environmental Consultants Ltd. in the amount of \$3,500 for the contravention of what was section 59 (now section 61) of the *Environmental Protection and Enhancement Act*. This section prohibits a person from carrying out an activity without an approval. Alberta Environment alleged that Burnswest and Tiamat treated more than 10 tonnes of hazardous waste by land treating soil with concentrations of leachable naphthalene greater than 0.5 mg/L at a construction site in Cochrane, Alberta. The treatment of more than 10 tonnes of hazardous waste per month requires an approval.

Decision - Burnswest, supported by Tiamat, appealed the Administrative Penalty on September 10, 2001, and the Board held a hearing on December 11, 2001. During the hearing, it became apparent that the evidence of an additional employee of Alberta Environment would be necessary to conclude the hearing. As this employee was not available to attend the hearing on December 11, 2001, the Board adjourned the hearing and continued on February 1, 2002, to hear this additional evidence. Upon reviewing all the evidence, the Board issued a Decision on March 1, 2002 stating that it has decided to confirm Alberta Environment's decision to issue an Administrative Penalty to the Burnswest and Tiamat. However, the Board reduced the amount of the Administrative Penalty from \$3,500 to \$1,000. In coming to this decision, the Board assessed a greater portion of the penalty than Alberta Environment suggested for failing to obtain an approval from Alberta Environment prior to starting the treatment of hazardous waste. The Board believes that the requirement to obtain an approval is the cornerstone of the regulatory scheme. However, the Board also reduced a portion of the penalty as there was considerable confusion among Alberta Environment employees as to the type of authorization required, resulting in miscommunication and an unacceptably long delay for Burnswest to be informed of what was needed in the application and in assessing the administrative penalty. The Board also decreased the amount of the penalty to \$1,000 taking into account the level of response and cooperation from Burnswest and Tiamat.

Cite as: *Burnswest v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Cost Decision - An application for costs was received from Burnswest in the amount of \$1,067.00 and from Tiamat in the amount of \$1,760.00. The Board issued a Costs Decision on June 14, 2002 denying the requests for costs from Burnswest and Tiamat because: 1. the costs were considered part of doing business, 2. the costs were not appropriate to issue against the Director and effectively the taxpayers of Alberta, and 3. the costs fell within the appropriate responsibility of any party to an appeal.

Cite as: *Cost Decision re: Burnswest Corporation.*

01-091

Appellant(s) – Mr. Grant McNabb, **Operator** – Mr. Axel Steinmann, **Location** – near Cochrane, **Type of Appeal** – Decision

Mr. Axel Steinmann was issued *Water Act* Approval 00151445-00-00 by Alberta Environment, for a channel realignment of a portion of Baymar Creek near Cochrane, Alberta. Mr. Grant McNabb filed a Notice of Appeal on September 27, 2001 stating his principal concern was the steep walled trench and the potential for erosion, and the proximity of the trench to his fence. Alberta Environment advised the Board that the project was completed in accordance with the Approval granted to Mr. Steinmann, and a certificate of completion was submitted. It was Alberta Environment's position that there was nothing further to be done in relation to this Approval. The Board requested written submissions in response to Alberta Environment's motion to dismiss

Environmental Appeal Board Annual Report 2002/2003

the appeal. The Board concluded in its Decision of May 10, 2002 that the appeal is moot, and there is no remedy that could be given to Mr. McNabb. Installing a culvert the length of the diversion or altering the slopes along the trench could create more of a disturbance to the environment. There are no reasonable or logical alternatives available for a remedy.

Cite as: *McNabb v. Director, Bow Region, Natural Resources Service, Alberta Environment re: Axel Steinmann.*

01-096

Appellant(s) – Ms. Linda Court, **Operator** – Lafarge Canada Inc., **Location** – Municipal District of Rocky View No. 44, **Type of Appeal** – As listed below.

Overview - On October 2, 2001, Alberta Environment issued Approval 150612-00-00 to Lafarge Canada Inc. for the opening up, operation, and reclamation of a pit on N 7-22-28-W4M and NE 12-22-29-W4M in the Municipal District of Rocky View, Alberta.

Decision - On November 21, 2001, the Board received a Notice of Appeal from Ms. Linda J. Court appealing the Approval. In consultation with the parties, a mediation meeting was held on January 23, 2002, in Calgary, Alberta. However, the Parties did not reach a resolution. Although the Notice of Appeal stated the grounds of the appeal, the Board decided that it was necessary to more precisely indicate what issues are properly before the Board. After reviewing the submissions, the Board issued a Decision on April 22, 2002, stating that the only issues properly before it are: 1. The effect that dust and other air pollutants from the Lafarge Operation may have directly on the Appellant; 2. The effect that noise from the Lafarge Operation may have directly on the Appellant; and 3. The cumulative effects that dust and other air pollutants and noise from the Lafarge Operation, and as specifically regulated by the Approval, may have directly on the Appellant. The operation of the other facilities in the area is *not* before the Board. The other facilities are only relevant to the extent that they form part of the circumstances in which the Lafarge Operation is proposed to be constructed, and to the extent that they contribute to the determination of the cumulative effects as they directly affect the Appellant. The threshold issue of the directly affected status of the Appellant remains outstanding, and this is an issue that must be addressed as a preliminary matter of jurisdiction at the hearing. No representations may be made on any other matters at the hearing of this appeal.

Cite as: *Court v. Director, Bow Region, Regional Services, Alberta Environment, re: Lafarge Canada Inc.*

Intervenor Decision – After the issues with respect to this appeal were determined, hearing dates of July 24 and 25, 2002 were decided. As a result of posting the Notice of Hearing in local newspapers, the Board received 19 requests for intervenor status from the residents, the Calgary Health Region, the Alberta Roadbuilders and Heavy Construction Association, the Alberta Sand and Gravel Association, Ms. Shirley and Mr. Rick Schmolz, Ms. Joan and Mr. Gerald Marshall, Mr. Brian Evans, Mr. A.G. Soutzo and Burnco Rock Products Ltd. The Board reviewed the requests and the submissions from the parties and on July 12, 2002, issued a Decision advising that the Calgary Health Region would have full party status at the hearing. The remaining individuals, companies, and organizations were permitted to file written submissions only.

Cite as: Intervenor Decision: *Court v. Director, Bow Region, Regional Services, Alberta Environment, re: Lafarge Canada Inc.*

Decision – The Board held a hearing on July 24 and 25, 2002 and received evidence on issues concerning: 1. Ms. Court's directly affected status, 2. The effect that dust and other air pollutants from the Lafarge Operation may have directly on Ms. Court, 3. The effect that noise from the Lafarge Operation may have directly on Ms. Court, and 4. The cumulative effects that dust, other air pollutants, and noise from the Lafarge Operation, as specifically regulated by the Approval, may have directly on Ms. Court. Prior to considering the substantive issues in this appeal, the Board had to determine if Ms. Court was directly affected by the Approval issued to Lafarge. Based on the evidence received and the arguments of the parties, the Board issued a Decision on August 31, 2002, and determined that Ms. Court is not directly affected by the Lafarge Operation. As a result, the Board does not have the jurisdiction to consider the other issues raised in this appeal. The Board was of the opinion that Ms. Court's real concern is the impact of the other existing sand and gravel operations in the area.

Cite as: *Court v. Director, Bow Region, Regional Services, Alberta Environment re: Lafarge Canada Inc. (31 August 2002), Appeal No. 01-096-D (A.E.A.B.).*

Environmental Appeal Board Annual Report 2002/2003

As of April 1, 2003, this appeal is under Judicial Review.

01-097-105 and 107

Appellant(s) – Mr. James Kievit, Mr. Paul Adams, Mr. Marlo Reynolds, Ms. Nadine Reynolds, Mr. Jeff Eamon and Ms. Anne Wilson, Mr. Hal Retzer, the Bow Valley Citizens Clean Air Coalition, Ms. Tracey Henderson, Ms. Amy Taylor and Mr. Gary Parkstrom, **Operator** – Lafarge Canada Inc., **Location** – Exshaw, **Type of Appeal** – See below

Overview – Alberta Environment issued on October 22, 2001 Amending Approval 1702-01-02 to Lafarge Canada Inc. for its cement manufacturing plant near Exshaw, Alberta. The Amending Approval permits Lafarge to change the fuel supply for part of the plant from natural gas to coal. The Environmental Appeal Board received nine individual appeals and one by a Coalition in November 2001. The Coalition was formed by members of the Bow Valley Citizens for Clean Air and members of the Pembina Institute for Appropriate Development for the purpose of these appeals.

Decision – The parties came to an agreement as to who would have standing to have their appeals proceed before the Board. It was agreed that three of the individuals and the Bow Valley Citizens for Clean Air should be granted standing. The Board reviewed the joint submission of the parties respecting this agreement and the Notices of Appeal and decided it would accept the Notices of Appeal filed by the three individuals, but that it would not accept the Notice of Appeal filed in part by the Bow Valley Citizens for Clean Air. However, the Board issued a decision on June 24, 2002, advising that the Bow Valley Citizens for Clean Air would be granted party status. As a result, the Board dismissed the Notices of Appeal of the Coalition and the six remaining individuals. As part of its standard practice, the Board also considered whether the issues in the Notices of Appeal had been considered by the Natural Resources Conservation Board or the Alberta Energy and Utilities Board, and whether the persons filing the Notices of Appeal had an opportunity to participate in any of these decision making processes. On the basis of the evidence provided by these boards and the parties to this appeal, the Board finds the provisions of the *Environmental Protection and Enhancement Act* regarding the Natural Resources Conservation Board and the Alberta Energy and Utilities Board are not applicable with respect to these appeals.

Cite as: *Standing Decision: Kievit et al. v. Director, Approvals, Southern Region, Regional Services, Alberta Environment re: Lafarge Canada Inc.*

Decision - During the course of processing the remaining three appeals of Mr. James Kievit, Dr. Paul Adams and Mr. Jeff Eamon, the Board asked for submissions on what issues identified in the Notices of Appeal should be included in the hearing of the appeals. After reviewing the submissions, the Board decided to hold a preliminary meeting on March 25, 2002, to decide what issues would be addressed at the hearing. The Board issued a Decision on April 16, 2002, stating that the following issues would be included in the hearing of these appeals: 1. SO₂ emissions–Approval Clauses 4.1.13 and 4.1.35; 2. mercury and heavy metals; 3. particulates; 4. monitoring and reporting–Approval Clauses 4.1.24 and 4.1.28; 5. human health impact assessment/vegetation assessment study–Approval Clauses 4.1.30 and 4.1.37; 6. any potential antagonistic environmental effects of burning tires and coal; 7. the environmental effects of burning coal on the viewscape (limited to noise, visible pollutants, blue haze, and odour); and 8. the environmental effects of burning coal on the natural surroundings. The Board notes that greenhouse gases are not an appropriate issue for the hearing of these appeals.

Cite as: *Preliminary Motions: Kievit et al. v. Director, Approvals, Southern Region, Regional Services, Alberta Environment re: Lafarge Canada Inc.*

(01-97, 098 and 101) Report and Recommendations – On April 24 and 25, 2002, the Board held an extensive hearing and received volumes of legal, technical and scientific information regarding the appeal from the parties. Taking all information into consideration, including some of the recommendations Lafarge submitted at the close of the hearing, on May 27, 2002, the Board recommended that the Minister uphold the Amending Approval subject to the following changes: 1. the SO₂ emission reduction plan should be submitted by August 1, 2003, (instead of by June 1, 2005, as originally planned) and a 25% reduction in SO₂ should be implemented by June 1, 2005, (no date originally specified); 2. prior to the application for the renewal of the approval, Lafarge should provide Alberta Environment with information regarding the Best Available Demonstrated Technology for the control of emissions of SO₂, fine particulate, mercury, and heavy metals; 3.

Environmental Appeal Board Annual Report 2002/2003

a continuous SO₂ monitor should be placed at the Barrier Lookout for one complete operational season (as suggested by Lafarge), the results of this monitoring program should analyze the validity of the ambient air quality modelling, this analysis should be provided to Alberta Environment to allow an independent review of the modelling, and all the parties to these Appeals should be encouraged to form and participate in an Air Quality Management Zone; 4. Lafarge should submit the terms of reference for the proposed bioaccumulation study to Alberta Environment for approval and Lafarge should be encouraged to involve the local government and the other parties to these appeals in the review of the terms of reference and, if possible, in the study itself; 5. if the monitoring program reveals that emission levels of mercury and heavy metals are higher than predicted, then Lafarge should develop a program to reduce these emissions; 6. the vegetation study should include an additional vegetation sampling site to the west of Exshaw (agreed to by Lafarge); 7. if blue haze remains an issue, Lafarge should undertake studies on the causes of any portion of the blue haze that they might be responsible for and develop a plan to reduce this problem, and this plan should be provided to Alberta Environment before the application for renewal of this approval is submitted; 8. Lafarge (as they suggested) should have a complaint line for addressing noise complaints from affected neighbours; 9. the Human Health Impact Assessment that Lafarge is required to undertake should involve consultation with all of the parties to these appeals and evaluate the impact of air emissions from the plant using the emerging source, ambient and other available monitoring results; and 10. the proposal for the Human Health Impact Assessment should be provided for approval to Alberta Environment by December 31, 2002, (instead of by June 1, 2003, as originally planned) and it should be completed by December 31, 2003, (instead of by March 1, 2004 as originally planned). The Minister agreed with the recommendations on July 8, 2002.

Cite as: *Kievit et al. v. Director, Approvals, Southern Region, Regional Services, Alberta Environment re: Lafarge Canada Inc.*

01-97, 098 and 101) Costs Decision – After the Report and Recommendations was issued, the Board received an application for costs from Dr. Adams, Mr. Kievit, Mr. Eamon and the Bow Valley Citizens for Clean Air, for a total amount of \$49,510.40. The costs requested were for legal counsel (\$22,682.18) and for two witnesses (\$9,471.68 and \$17,356.54). In the Board's Cost Decision of November 12, 2002, the Board denied the request for costs with respect to the two witnesses because: (1) the submissions made by these witnesses did not assist the Board to the degree necessary to support an award for costs; (2) the bills submitted by these witnesses were presented as though they were accepted as expert witnesses by the Board, which they were not; and (3) these witnesses had, in any event, stated that they were "volunteering their time" as part of the group who originally filed appeals. The Board allowed, in part, the request for costs for legal counsel because the quantum and nature of these costs were reasonable, the legal counsel did an exemplary job in streamlining the appeal process, and the legal counsel was extremely helpful to the Board. Second, the Board awarded these costs as it found the appeals furthered the public interest and goals of the *Environmental Protection and Enhancement Act*. The Board therefore awards costs in the total amount of \$10,559.08 payable by Lafarge Canada Inc. to Dr. Paul Adams, Mr. Jim Kievit, Mr. Jeff Eamon and the Bow Valley Citizens for Clean Air.

Cite as: Costs Decision re: *Kievit et al.* (12 November 2002), Appeal Nos. 01-097, 098 and 101-CD (A.E.A.B.).

01-106 and 108

Appellant(s) – Mr. Andy Dzurny and Mr. William Procyk, **Operator** – Shell Chemicals Canada Ltd., **Location** – near Fort Saskatchewan, **Type of Appeal** – Decision

The Board received Notices of Appeal from Mr. Andy Dzurny on November 26, 2001 and from Mr. William Procyk on November 22, 2001 with respect to Amending Approval 9767-01-09 issued by Alberta Environment to Shell Chemicals Canada Ltd. with respect to the operation of the Scotford Chemical Plant in Fort Saskatchewan, Alberta. The amendment added a number of definitions and amended Table 4.2-1 to allow increased emissions of ethylene during startup of the ethylene glycol plant. The total daily emissions were to remain the same. According to standard practice, the Board wrote to the Alberta Energy and Utilities Board (AEUB) asking whether the matters included in these Notices of Appeal had been the subject of a review or hearing under the AEUB's legislation. The AEUB advised the Board that it had held a hearing in relation to the Shell Scotford Chemical Plant. In response to this, the Board asked for submissions from Mr. Dzurny, Mr. Procyk, Shell Canada, and Alberta Environment as to whether the matters included in the Notices of Appeal had been the subject of a review or hearing under the AEUB's legislation. Upon reviewing the documents provided by the AEUB and the submissions the Board concluded in its Decision of June 15, 2002, that the

Environmental Appeal Board Annual Report 2002/2003

matters included in the Notices of Appeal were previously dealt with by the AEUB. The Board also notes that the real concern of Mr. Dzyrny and Mr. Procyk is one of land use, which is not within the Board's jurisdiction. Therefore, the Board is dismissing the appeals.

Cite as: *Dzyrny et al. v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: Shell Chemicals Canada Ltd.*

01-110

Appellant(s) – Chipewyan Prairie First Nation, **Operator** – Enbridge Pipelines (Athabasca) Inc., **Location** – near Christina Lake, **Type of Appeal** – See below

Overview - The Board received a Notice of Appeal on December 21, 2001 from the Chipewyan Prairie First Nation (CPFN) with respect to Approval No. 153497-00-00 issued by Alberta Environment under the *Environmental Protection and Enhancement Act* to Enbridge Pipelines (Athabasca) Inc. for the construction and reclamation of a pipeline near Christina Lake, Alberta. CPFN asked for a Stay of the Approval pending the resolution of their appeal.

Procedural Decision - Alberta Environment argued that the Board does not have the jurisdiction or expertise to decide constitutional issues relating to: the validity of the alleged aboriginal and treaty rights of CPFN; the alleged infringement of those rights; and the alleged duty of Alberta Environment to consult with CPFN. On this basis, Alberta Environment argues that the appeal should be dismissed. The Board asked for submissions from the Parties on the questions: What steps, if any, have the CPFN taken, since it first knew of the request for the Approval that is the subject of this appeal, to enforce the rights to which it now asks the Board to give effect? 2. Given the nature of the rights the CPFN seeks to enforce, and the likelihood of controversy between the parties over the existence, extent and consequences of those rights, why is the Board the appropriate forum to deal with these issues as opposed to the ordinary courts, which possesses among other powers, the power to grant appropriate interim relief? Following its review of these submissions, the Board issued a Procedural Decision on March 22, 2002 stating that it has decided to adjourn the request for a Stay for 30 days to allow CPFN to commence an action in Court to enforce the rights that they are claiming, should they wish to do so. As part of such an action, CPFN can seek an order against Alberta Environment to restrain the granting of permission to proceed with the pipeline project. If such an injunction is granted, the Board will immediately review it and consider the request for a Stay in light of the terms of such an injunction. CPFN may instead seek a mandatory injunction requiring that the consultation measures they are requesting be carried out. Again, the Board will be guided by the decision of the Court, whatever it may be.

Cite as: *Preliminary Motions re: Chipewyan Prairie First Nation v. Director, Bow Region, Regional Services, Alberta Environment re: Enbridge Pipelines (Athabasca) Inc.*

Discontinuance of Proceedings - The Board issued a Decision on March 22, 2002 advising of its decision to adjourn the request for a Stay for 30 days to allow CPFN to commence an action in Court to enforce the rights that they were claiming, should they wish to do so. CPFN was requested to provide a status report to the Board within 30 days of the Decision being issued. CPFN subsequently withdrew the appeal. The Board therefore closes its file in this matter.

Cite as: *Chipewyan Prairie First Nation v. Director, Bow Region, Regional Services, Alberta Environment re: Enbridge Pipelines (Athabasca) Inc.*

01-111

Appellant(s) – Mr. Ken Hildebrandt, **Operator** – Wascana Energy Inc. (Nexen Canada Ltd.) and Patterson Brothers Consulting Inc., **Location** – near St. Lina, **Type of Appeal** – Discontinuance of Proceedings

On August 21, 2001 Alberta Environment issued Reclamation Certificate 00140250-00-00 to Wascana Energy Inc. (now Nexen Canada Ltd.) and Patterson Brothers Consulting Inc. for the Wascana Sugden 15-21-62-10 well near St. Lina, Alberta. The Board received a Notice of Appeal from Mr. Ken Hildebrandt on December 31, 2001 with respect to a Reclamation Certificate. A mediation meeting and settlement conference, which included a site visit, was held on May 2, 2002. The mediation resulted in a resolution of the appeal and Mr. Hildebrandt withdrew his appeal. As a result of the withdrawal, the Board is closing its file.

Cite as: *Hildebrandt v. Inspector, Northeast Boreal Region, Regional Services, Alberta Environment re: Wascana Energy Inc. (Nexen Canada Ltd.) and Patterson Brothers Consulting Inc.*

Environmental Appeal Board Annual Report 2002/2003

01-112

Appellant(s) – Mr. Steve Seniuk, **Operator** – Mr. Steve Seniuk., **Location** – in Lamont County, **Type of Appeal** – Decision

Alberta Environment issued *Water Act* Enforcement Order No. 2001-WA-08 on September 6, 2001 to Mr. Steve Seniuk requiring the removal of an earthen berm located at SE 7-54-17-W4M, near the Hamlet of Hilliard, in Lamont County, Alberta. An amendment to the order was issued on December 5, 2001 allowing more time to comply with the Order to December 21, 2001. Mr. Seniuk filed a Notice of Appeal with the Environmental Appeal Board on December 31, 2001. As the appeal was filed past the seven-day time limit under the *Water Act*, the Board requested information from Mr. Seniuk. Mr. Seniuk admitted in his submissions that he had constructed the berm and that it was built to prevent flooding onto his land. However, the berm affected the natural flow of the water. This caused the water to backup, flooding adjacent properties and creating the potential of damaging the adjacent county roadway. After repeated attempts to get Mr. Seniuk to remove the berm, the Director issued an Enforcement Order. After review of the submissions, the Board issued a Decision on June 4, 2002 dismissing the appeal stating that it is not satisfied that special circumstances existed to extend the prescribed time limit under the *Water Act* for submitting a Notice of Appeal and as a result dismissed the appeal.

Cite as: *Seniuk v. Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment.*

01-113 & 115

Appellant(s) – Mr. Ross and Ms. Judy Warner, Mr. Richard Kelk and Ms. Katherine McCulloch, **Operator** – AAA Cattle Company Ltd., **Location** – near Didsbury, **Type of Appeal** – Decision

On January 14, 2002 Alberta Environment issued Approval 00160167-00-00 under the *Water Act* to the AAA Cattle Company Ltd., authorizing the exploration for groundwater near Didsbury, Alberta. The Environmental Appeal Board (the Board) received Notices of Appeal on January 21, 2002 from Mr. Ross Warner and Ms. Judy Warner and on January 24, 2002 from Mr. Richard Kelk and Ms. Katherine McCulloch opposing the Approval. The Board found the Appellants had not filed a Statements of Concern with Alberta Environment within the time frames as required by the *Water Act*. Therefore, the Board issued a decision on June 15, 2002 dismissing the Notices of Appeal for being moot, without merit, or not properly before the Board. The Board also found the issues raised in the Notices of Appeal dealt mainly with the Licence to divert rather than with the Approval to explore. The Board notes that Mr. Warner, Ms. Warner, Mr. Kelk, and Ms. McCulloch are free to file Notices of Appeal in relation to the Licence to divert, should it be issued in the future.

Cite as: Warner et al. v. Director, Central Region, Regional Services, Alberta Environment re: AAA Cattle Company Ltd.

01-117

Appellant(s) – Mr. Glenn Good, **Operator** – Mr. Glenn Good, **Location** – Town of Oyen, **Type of Appeal** – Discontinuance of Proceedings

On January 15, 2002, Alberta Environment issued Administrative Penalty No. 01/18-BOW-AP-02/04 in the amount of \$2,000 to Mr. Glenn Good for applying the herbicide “Prestige” (an agricultural herbicide only) to a residential lawn, which allegedly caused damage to trees and bushes on neighbouring property from the treated area. The Environmental Appeal Board received a Notice of Appeal on February 25, 2002 from Mr. Good appealing the Administrative Penalty. After the Board began processing the appeal, it received a request from Alberta Environment to put the appeal in abeyance so that the parties could attempt to resolve the appeal amongst themselves. The Board granted the abeyance, an agreement was reached between Alberta Environment and Mr. Good, and Mr. Good withdrew his appeal. The Board therefore issued a Discontinuance of Proceedings on June 11, 2002.

Cite as: *Good v. Director, Enforcement and Monitoring, Southern Region, Regional Services, Alberta Environment.*

01-118

Appellant(s) – County of Newell No. 4, **Operator** – County of Newell No. 4, **Location** – County of Newell, **Type of Appeal** – Discontinuance of Proceedings

Environmental Appeal Board Annual Report 2002/2003

On January 22, 2002, Alberta Environment issued Administrative Penalty No. 01/27-BOW-AP-02/06 in the amount of \$10,500.00 to the County of Newell No. 4. The Administrative Penalty was issued for the alleged contravention, by the County of Newell No. 4, of clause 4.1.1 of the Scandia Water Works Approval by failing to have a certified operator supervising the Scandia Water Treatment Facility; failing to comply with clause 4.2.1 of the Scandia Waterworks Approval, by adding chemicals not approved by the Director into the waterworks system; failing to comply with clause 6.1.1 of the Rainier Waterworks Facility by failing to sample for bacteria in treated water; and failing to immediately report a contravention, as per clause 9.2.1, of the Patricia Wastewater Approval to the Director, Alberta Environment. The Board received a Notice of Appeal from the County of Newell No. 4. on March 1, 2002 appealing the Administrative Penalty. In consultation with the parties, the Board scheduled a hearing for June 7, 2002, in Brooks, Alberta. However, on June 6, 2002, the County of Newell withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on June 11, 2002.

Cite as: *County of Newell No. 4 v. Director, Enforcement and Monitoring, Southern Region, Regional Services, Alberta Environment.*

01-119 & 120

Appellant(s) – Ms. Tanni Parker and Mr. Darcy Doblanko, **Operator** – Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen, **Location** – near Calmar, **Type of Appeal** – Report and Recommendations

On February 11, 2002, Alberta Environment issued Licence 00176369-00-00 under the *Water Act* to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen authorizing the diversion of 10,220 cubic metres of water annually from the well in NE 01-049-27-W4 for the purpose of agriculture (stock water) near Calmar. The Board received Notices of Appeal on March 11, 2002 from Ms. Tanni Parker and Mr. Darcy Doblanko appealing the Licence. The Board held a mediation meeting and settlement conference in Edmonton on May 17, 2002 following which a resolution was reached by the parties. The Board issued a Report and Recommendations to the Minister of Environment which he agreed to on June 4, 2002. The Board also encouraged Alberta Environment to adopt a policy of sending a copy of any licence that has been issued to any valid Statement of Concern filers.

Cite as: *Parker et al. v. Director, Central Region, Regional Services, Alberta Environment re: Peeters and Peeters-Matijssen.*

01-121

Appellant(s) – Ducks Unlimited Canada, **Operator** – City of Edmonton, Transportation and Streets, **Location** – Edmonton, **Type of Appeal** – Discontinuance of Proceedings

On March 13, 2002, Alberta Environment issued *Water Act* Approval 00157215-00-00 to the City of Edmonton, Transportation and Streets, which authorized them to remove or fill an unnamed water body located west of 184 Street and south of Yellowhead Trail in Edmonton, Alberta. The Board received a Notice of Appeal from Ducks Unlimited Canada on March 20, 2002 appealing the Approval. The Board began processing the appeal, however, on April 8, 2002, the Board received a letter from Ducks Unlimited Canada withdrawing their appeal and the Board issued a Discontinuance of Proceedings on April 12, 2002.

Cite as: *Ducks Unlimited Canada v. Director, Northern Region, Regional Services, Alberta Environment, re: City of Edmonton, Transportation and Streets.*

01-122

Appellant(s) – Mr. Lionel Miller, **Operator** – Mama Santos Holdings Ltd., **Location** – Calmar, **Type of Appeal** – Discontinuance of Proceedings

On September 28, 2001 Alberta Environment issued Reclamation Certificate No. 00139560-0-00 to Mama Santos Holdings Ltd. for the Mama Santos #5 Well located at SE Sec. 24, Tp. 049, Rge. 27 W4M, near Calmar, Alberta. The Environmental Appeal Board received a Notice of Appeal on March 21, 2002 from the landowner, Mr. Lionel Miller, appealing the Reclamation Certificate. The Board held a mediation meeting and settlement conference in Leduc, Alberta, following which a resolution was reached by the parties and as a result Mr. Miller withdrew his appeal and the Board issued a Discontinuance of Proceedings on June 17, 2002.

Environmental Appeal Board Annual Report 2002/2003

Cite as: *Miller v. Inspector, Central Region, Regional Services, Alberta Environment re: Mama Santos Holdings Ltd.*

01-123-131, 02-001, 02-001, 02-050-058

Appellant(s) – Messrs. Ronald Hanson, Frank Jensen, Mark Davy, Daniel Davy, Soren Davy, Ken Reid, Robert Copley, Ms. Irene Hanson, Mr. Wayne Hanson, and the City of Airdrie, **Operator** – Apple Creek Golf and Country Club, **Location** – Municipal District of Rocky View, **Type of Appeal** – see below

Overview - On March 18, 2002, Alberta Environment issued a Preliminary Certificate No. 00137211-00-00 and Approval No. 00137206-00-00 under the *Water Act* to Apple Creek Golf and Country Club with respect to their operations at SE 35-27-01-W5M in the Municipal District of Rocky View, Alberta. The Preliminary Certificate, subject to meeting certain conditions, grants a licence authorizing the diversion of 119,929 cubic metres of water annually from McPherson Coulee. The Approval authorizes the construction of a channel improvement, control gates, dykes, and a diversion pipe on McPherson Coulee and an unnamed water body. McPherson Coulee is a tributary of Nose Creek. Ten appeals were filed regarding the Preliminary Certificate and eleven appeals were filed regarding the Approval. (One person who filed an appeal with respect to the Approval did not file an appeal with respect to the Preliminary Certificate. One of the appeals filed regarding the Preliminary Certificate and one of the appeals filed with respect to the Approval were dismissed in two separate decisions.) The Board decided to conduct an information session with the Appellants, Apple Creek Golf and Country Club, and Alberta Environment to provide the Appellants with an overview of the Approval, the Preliminary Certificate, Alberta Environment's approval process, Apple Creek's project, and the Board's appeal process.

01-123-131, 02-001, 02-001, 02-050-058-D1 - After the information session, Alberta Environment requested the Board dismiss all of the appeals, except those filed by Mr. Ronald Hanson. Alberta Environment argued that because Mr. Frank Jensen, Mr. Mark Davy, Mr. Daniel Davy, Mr. Soren Davy, Mr. Robert Copley and the City of Airdrie did not file Statements of Concern, they are not eligible to file appeals. Alberta Environment also argued that the appeals of Mr. Ken Reid, Ms. Irene Hanson, Mr. Wayne Hanson, and the City of Airdrie should be dismissed because they are not directly affected by either the Approval or the Preliminary Certificate. After reviewing the submissions and the evidence before the Board, the Board issued a Decision on November 29, 2002, advising that it would hear the appeals filed by Mr. Ronald Hanson, Ms. Irene Hanson, and Mr. Wayne Hanson. The Board also decided to make the City of Airdrie a party to these appeals. Lastly, the Board decided to dismiss the appeals of Mr. Frank Jensen, Mr. Mark Davy, Mr. Daniel Davy, Mr. Soren Davy, Mr. Ken Reid, and Mr. Robert Copley and the City of Airdrie. The individuals whose appeals have been dismissed can apply for intervenor status at the Hearing.

Cite as: Preliminary Motions: *Hanson et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club* (29 November 2002), Appeal Nos. 01-123-131, 02-001, 02-050-058-D (A.E.A.B.).

01-123, 01-130, 01-131, 02-050, 02-056 and 02-057-R – The Board held a mediation meeting in Airdrie, Alberta on January 28, 2003. The mediation was held to deal with the appeals of Mr. Ronald Hanson, Ms. Irene Hanson and Mr. Wayne Hanson, following which a resolution was reached by the Hansons, Apple Creek Golf and Country Club and Alberta Environment. As a result, the Board issued a Report and Recommendations on February 3, 2003, recommending the Minister of Environment accept the resolution. The Minister provided approval on February 4, 2003.

Cite as: *Hanson et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club* (3 February 2003), Appeal Nos. 01-123, 01-130, 01-131, 02-050, 02-056 and 02-057-R (A.E.A.B.).

01-132

Appellant(s) – Bouvry Exports Calgary Ltd., **Operator** – Bouvry Exports Calgary Ltd., **Location** – near Fort Macleod, **Type of Appeal** – Report and Recommendations

On February 28, 2002, Alberta Environment issued Approval 11200-02-00 to Bouvry Exports Calgary Ltd. authorizing the construction, operation and reclamation of a red meat processing plant near the town of Fort Macleod, Alberta. The Board received a Notice of Appeal from Bouvry Exports on March 28, 2002 appealing

Environmental Appeal Board Annual Report 2002/2003

certain conditions within the Approval. In consultation with Alberta Environment and Bouvry Exports, the Board scheduled a mediation meeting for June 5, 2002. Bouvry Exports requested that the mediation meeting be postponed as they were in discussions with Alberta Environment and were optimistic that a resolution could be reached. The mediation meeting and settlement conference was twice rescheduled. On June 18, 2002, Alberta Environment and Bouvry Exports provided their Resolution to the Board for consideration by the Minister of Environment and as a result, the Board cancelled the mediation meeting and settlement conference scheduled for June 20, 2002. On June 19, 2002, the Board provided its Report and Recommendations to the Minister of Environment recommending he accept the Resolution. The Minister of Environment the Report and Recommendations on June 20, 2002.

Cite as: *Bouvry Exports Calgary Ltd. v. Director, Southern Region, Regional Services, Alberta Environment*

01-133

Appellant(s) – Mr. Joseph Pitt, **Operator** – Burt Consulting Ltd., **Location** – Red Deer, **Type of Appeal** – Discontinuance of Proceedings

On March 22, 2002 Alberta Environment issued *Water Act* Approval 00183288-00-00 authorizing Burt Consulting and Development Ltd. to construct, operate and maintain stormwater management works on an unnamed water body in SW 25-38-28-W4M near Red Deer. The Board received a Notice of Appeal from Mr. Joseph Pitt on March 28, 2002 appealing the Approval. The Board held a mediation meeting and settlement conference in Red Deer, following which a resolution was reached by the parties and the Mr. Pitt withdrew his appeal. As a result, the Board issued a Discontinuance of Proceedings on May 31, 2002. The Board recommends the parties involved in the mediation meeting and settlement conference continue open conversations with each other with respect to the drainage works being carried out in the area.

Cite as: *Pitt v. Director, Central Region, Regional Services, Alberta Environment, re: Burt Consulting and Development Ltd.*

02-004

Appellant(s) – Ms. Judy Fenton, **Operator** – Mr. John Pasztor, Mr. John Burden, Mr. Mervin MacKay and Mr. Bryan Perkins, **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

On March 28, 2002, Alberta Environment issued *Water Act* Approval 00152909-00-00 to Messrs. John Pasztor, John Burden, Mervin MacKay and Bryan Perkins, which authorized them to explore for groundwater, for stock watering purposes, near Irma. The Board received a Notice of Appeal from Ms. Judy Fenton on April 11, 2002 appealing the Approval. The Board held a mediation meeting and settlement conference in Wainwright, following which a resolution was reached by the parties and as a result the Appellant withdrew her appeal. The Board then issued a Discontinuance of Proceedings on June 12, 2002.

Cite as: *Fenton v. Director, Central Region, Regional Services, Alberta Environment re: Pasztor, Burden, MacKay and Perkins.*

02-005

Appellant(s) – Ms. Marion Allred, **Operator** – Mr. John Pasztor, Mr. John Burden, Mr. Mervin MacKay and Mr. Bryan Perkins, **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

On March 28, 2002 Alberta Environment issued *Water Act* Approval 00152909-00-00 to Messrs. John Pasztor, John Burden, Mervin MacKay and Bryan Perkins, which authorized them to explore for groundwater, for stock watering purposes, near Irma. The Board received a Notice of Appeal from Ms. Marion Allred on April 11, 2002 appealing the Approval. The Board began processing the appeal, however, on April 29, 2002, Ms. Allred withdrew her appeal. Therefore, the Board issued a Discontinuance of Proceedings on May 13, 2002.

Cite as: *Allred v Director, Central Region, Regional Services, Alberta Environment re: Pasztor, Burden, MacKay and Perkins.*

02-006

Appellant(s) – Municipal District of Rocky View No. 44, **Operator** – Apple Creek Golf and Country Club, **Location** – near Airdrie, **Type of Appeal** – Decision

Environmental Appeal Board Annual Report 2002/2003

On March 28, 2002, Alberta Environment issued to Apple Creek Golf and Country Club Preliminary Certificate 00137211-00-00 under the *Water Act* authorizing the diversion of 119,929 cubic metres of water annually from McPherson Coulee in SE 35-27-1-W5M, and Approval 00137206-00-00 under the *Water Act* authorizing the construction of a channel improvement, control gates, dykes and a diversion pipe on McPherson Coulee and an unnamed water body in SE 35-27-1-W5M near Airdrie. Eleven appeals were filed with respect to this Preliminary Certificate and Approval. One of the appeals filed was from the Municipal District of Rocky View No. 44. It was received by the Board on April 17, 2002, after the appeal period for the Approval had passed. The Board asked for, and received, submissions regarding whether to allow an extension of the time to file the appeal for the Municipal District. After reviewing the submissions, the Board issued a Decision on June 25, 2002 dismissing the portion of the Municipal District's Notice of Appeal that dealt with the Approval because it was filed out of time and no legitimate reason was given to grant an extension. This decision does not affect the Municipal District's appeal in respect to the Preliminary Certificate.

Cite as: *Municipal District of Rocky View No. 44 v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club.*

02-007 & 008

Appellant(s) – Ms. Carol Kaita and Mr. John Tyler, **Operator** – Village of Breton, **Location** – Breton, **Type of Appeal** – Report and Recommendations

On March 20, 2002, Alberta Environment issued Amending Approval 452-01-01 to the Village of Breton authorizing the construction, operation and reclamation of a waterworks system in the Village of Breton. The Amending Approval included continuous disinfection treatment for the waterworks system serving the Village of Breton. The Board received Notices of Appeal from Ms. Carol Kaita on April 17, 2002 and from Mr. John F. Tyler on April 22, 2002 appealing the Amending Approval. The Board held a mediation meeting and settlement conference in Breton on June 10, 2002, following which a Resolution was reached by the parties. The Board issued a Report and Recommendations to the Minister of Environment on June 11, 2002 which he agreed with on June 19, 2002.

Cite as: *Kaita et al. v. Director, Central Region, Regional Support, Alberta Environment, re: Village of Breton*

02-009 & 02-010

Appellant(s) – Ms. Tanni Parker and Mr. Darcy Doblanko, **Operator** – Mr. Corne and Ms. Connie Van Bedaf, **Location** – near Calmar, **Type of Appeal** – Report and Recommendations

On May 2, 2002, the Board received Notices of Appeal from Ms. Tanni Parker and Mr. Darcy Doblanko on May 9, 2002, with respect to Licence No. 00179397-00-00 issued under the *Water Act* to Mr. Corne and Ms. Connie Van Bedaf. The Licence authorizes the diversion of 10,220 cubic metres of water annually, for the purpose of agricultural (stock water), from the well in SE 13-049-27-W4M. In consultation with the parties, a mediation meeting was held in Calmar, Alberta on July 5, 2002. At the mediation meeting a resolution was reached and as a result, the Board issued a Report and Recommendations to the Minister on July 8, 2002. The Report recommended the conditions of the resolution entered into between the parties. On July 12, 2002, the Minister approved the recommendations.

Cite as: *Parker and Doblanko v. Director, Central Region, Regional Services, Alberta Environment re: Corne and Connie Van Bedaf.*

02-011

Appellant(s) – Mr. Robert Bresciani, **Operator** – Burt Consulting and Development Ltd., **Location** – Red Deer, **Type of Appeal** – Discontinuance of Proceedings

On March 22, 2002, Alberta Environment issued *Water Act* Approval 00183288-00-00 authorizing Burt Consulting and Development Ltd. to construct, operate and maintain stormwater management works on an unnamed water body in SW 25-38-28-W4 near Red Deer. The Board received a Notice of Appeal from Mr. Robert Bresciani on May 8, 2002 appealing the Approval. Mr. Bresciani attended a mediation meeting, which was scheduled with respect to another appeal before the Board regarding Burt Consulting and Development Ltd. As a result of discussions that took place at that mediation, Mr. Bresciani withdrew his appeal and the Board issued a Discontinuance of Proceedings on June 7, 2002.

Environmental Appeal Board Annual Report 2002/2003

Cite as: *Bresciani v. Director, Central Region, Regional Services, Alberta Environment re: Burt Consulting and Development Ltd.*

02-012 & 014

Appellant(s) – Mr. Jack and Ms. Bev Brannen and Mr. Cliff and Ms. Mary Soper, **Operator** – Tar-ific Construction Ltd., **Location** – near Blackfalds, **Type of Appeal** – Discontinuance of Proceedings

On May 8, 2002, Alberta Environment issued *Water Act* Approval 00142622-00-00 to Tar-ific Construction Ltd. The Approval authorized Tar-ific Construction Ltd. to drain groundwater from SE-19-39-26-W4M, near Blackfalds for the purpose of aggregate mining, for a two month period. Notices of Appeal was received from Mr. Jack and Ms. Bev Brannen on May 21, 2002, and from Mr. Cliff and Ms. Mary Soper on May 23, 2002 appealing the Approval. The Board began processing the appeal, however the Board received letters from Mr. and Ms. Soper on May 28, 2002 and from Mr. and Ms. Brannen on June 3, 2002 withdrawing their appeals. The Board then issued a Discontinuance of Proceedings on June 3, 2002.

Cite as: *Brannen and Soper v. Director, Central Region, Regional Services, Alberta Environment re: Tar-ific Construction Ltd.*

02-013

Appellant(s) – Mr. Norman J. Spencer, **Operator** – J. Byrne, D. Cerney and 254175 Alberta Ltd., **Location** – near Lethbridge, **Type of Appeal** – Discontinuance of Proceedings.

On May 21, 2002, the Environmental Appeal Board received a Notice of Appeal from Mr. Norman J. Spencer with respect to Preliminary Certificate No. 00176470-00-00 issued under the *Water Act* to J. Byrne, D. Cerney and 254175 Alberta Ltd. The Preliminary Certificate was for a licence to divert 4935.8 cubic metres of water annually from the well in SE 08-010-22-W4 for an eight home subdivision with priority no. 2001-11-22-004 upon compliance with conditions in the Certificate. On July 15, 2002, the Board scheduled a mediation meeting in Lethbridge, Alberta. Since no resolution was reached, the Board requested the parties provide dates for a hearing. Although the Board scheduled a hearing for December 13, 2002, the parties continued with their discussions and in the end reached a mutually agreeable resolution. On November 27, 2002, the Board received a letter from the Appellant advising he wished to withdraw his appeal. On December 9, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Spencer v. Director, Southern Region, Regional Services, Alberta Environment re: J. Byrne, D. Cerney and 254175 Alberta Inc.* (9 December 2002), Appeal No. 02-013-DOP (A.E.A.B.).

02-015

Appellant(s) – Mr. Robert David Stuart, **Operator** – Mr. Robert David Stuart, **Location** – Calgary, **Type of Appeal** – As listed below.

Overview - The Board received a Notice of Appeal from Mr. Robert David Stuart on April 23, 2002 with respect to a research permit that he had applied for from Fish and Wildlife Division, Sustainable Resource Development.

Decision - The Environmental Appeal Board hears appeals of decisions made by Alberta Environment, under the *Environmental Protection and Enhancement Act*, the *Water Act* and Schedule 5 of the *Government Organization Act* only. In dealing with these appeals, the Board is limited to dealing with issues regarding land and water, which may include animal and fish habitat. The Board cannot deal with issues concerning the control of wildlife research. Further, the Board cannot hear appeals of decisions made by Sustainable Resource Development, including the Fish and Wildlife Division. The Board therefore issued a Decision on June 12, 2002 dismissing the appeal for lack of jurisdiction.

Cite as: *Stuart v. Fish and Wildlife Division, Sustainable Resource Development.*

Reconsideration Decision – On July 2, 2002, the Board received a letter from the Appellant requesting the Board reconsider its Decision regarding this appeal. On July 11, 19 and 30, 2002, August 13 and 16, 2002 and September 4, 2002, the Appellant forwarded additional submissions. On September 5, 2002, the Board issued a Decision to deny Mr. Stuart's reconsideration request on the grounds that he did not provide any new evidence or arguments that would give the Board jurisdiction to hear the appeal. Mr. Stuart was also reminded

Environmental Appeal Board Annual Report 2002/2003

that the Legislature has not given the Board authority to hear appeals made by Sustainable Resource Development, including the Fish and Wildlife Division.

Cite as: Reconsideration Decision: *Stuart v. Fish and Wildlife Division, Sustainable Resource Development* (5 September 2002), Appeal No. 02-015-RD (A.E.A.B.).

02-016

Appellant(s) – Mr. Albert Walter Potter and Ms. Mary Ann Potter, **Operator** – Municipal District of Rocky View No. 44, **Location** – Hamlet of Langdon, **Type of Appeal** – Discontinuance of Proceedings

On June 12, 2002, the Board received a Notice of Appeal dated June 11, 2002, from Mr. Albert Walter Potter and Ms. Mary Ann Potter with respect to Amending Approval No. 918-02-02 issued to the Municipal District of Rocky View No. 44. The Approval authorized the construction, operation and reclamation of a wastewater system and a storm drainage system located in the NE ¼ 22-23-27-W4M in the Hamlet of Langdon. The Board held a mediation meeting in Calgary, Alberta on September 16, 2002. Following productive discussions, a resolution was signed, and the Appellants withdrew their appeal. As a result, on September 18, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Potter v. Director, Southern Region, Regional Services, Alberta Environment re: Municipal District of Rocky View No. 44* (18 September 2002), Appeal No. 02-016-DOP (A.E.A.B.).

02-017

Appellant(s) – Mr. Ron and Ms. Cathy Meston **Operator** – Enterprises Lavoie (1999) Inc., **Location** – near Peace River, **Type of Appeal** – Discontinuance of Proceedings

On June 14, 2002, the Board received a Notice of Appeal filed by Mr. Ron and Ms. Cathy Meston with respect to *Water Act* Licence No. 00152911-00-00 issued to Enterprises Lavoie (1999) Inc. (“Enterprises Lavoie”). The Licence authorizes the diversion of 41,885 cubic metres of water annually from the unnamed water body (dugout) in E ½ 33-083-20-W5, for the purpose of stock watering. On July 2, 2002, the Board received a letter from the Appellants advising that an offer to purchase their land on SW 28-83-20 W5 was made and accepted by the Appellants. The letter also stated, “As we will no longer be adjacent landowners to Enterprises Lavoie, the pursuit of our appeal is compromised. We leave this matter in the hands of the appeal board.” On the same day, the Board responded to the Appellants’ letter by stating, “The Board interprets this statement to mean that you do not intend to pursue your appeal and that you are therefore withdrawing your appeal...please notify the Board by noon Tuesday, July 9, 2002, otherwise the Board will discontinue its proceedings and close its file.” The Board did not receive a response from the Appellants and wrote a letter advising the Appellants of its decision to close its file. On July 12, 2002, the Board issued its Discontinuance of Proceedings with respect to this appeal.

Cite as: *Meston v. Director, Northern Region, Regional Services, Alberta Environment re: Enterprises Lavoie (1999) Inc.*

02-018-041, 047, 060, 061, 073, 074-ID1

Appellant(s) – Mr. David Doull (02-018), Mr. James Darwish (02-019), Ms. Verona Goodwin (02-020), Ms. Elena P. Napora (02-021), Mr. Don Stuike (02-022), Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr. (02-023), Mr. Cameron Wakefield (02-024), Mr. David J. Parker (02-025), Mr. A. Ted Krug (02-026), Mr. Bill Bockock (02-027), Mr. Michael Nelson (02-028), Mr. Stanley Kondratiuk (02-029), Mr. Greg Ostapowicz (02-030), Mr. Douglas Price (02-031), Ms. Holly MacDonald (02-032), Mr. Stuart Pederson (02-033), Ms. Linda Stratulat (02-034), Mr. Leonard Rud (02-035), Mr. Marcel Wichink (02-036), Dr. Roger G. Hodgkinson (02-037), Ms. Lorraine Vetsch (02-038), Ms. Gwen Davies (02-039), Mr. Garry Marler (02-040), a group of Community Leagues from the City of Edmonton (02-041), Mr. Neil Hayes (02-047), Mr. Robert Wilde (02-060), the Edmonton Friends of the North Environmental Society (“EFONES”) (02-061), Ms. Bonnie Quinn (02-073), and Ms. Anna T. Krug (02-074) **Operator** – Inland Cement Limited, **Location** – Edmonton, **Type of Appeal** – As listed.

Overview - Between June 14 and July 2, 2002, the Environmental Appeal Board received twenty-nine appeals with respect to Amending Approval No. 10339-01-03 issued to Inland Cement Limited for the construction, operation, and reclamation of a cement manufacturing plant in Edmonton, Alberta. The Approval allows for the burning of coal instead of natural gas as a fuel source at the cement plant.

Environmental Appeal Board Annual Report 2002/2003

02-018-041, 047, 060, 061, 073, 074-ID1 - The Board held a Preliminary Meeting to determine the standing of the Parties who filed appeals and to determine the issues to be considered at the subsequent Hearing. The majority of the Parties reached an agreement and presented a joint submission to the Board on these questions, which the Board has accepted in principle. In the Board's view, the agreement was consistent with the purposes of the *Environmental Protection and Enhancement Act* and the public interest. As a result, the Board issued a Decision on October 11, 2002, deciding to accept the standing of Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stan Kondratiuk, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Dr. Roger G. Hodkinson, Mr. Neil Hayes, and Ms. Anna T. Krug. The Board has also decided to make the Edmonton Federation of Community Leagues ("EFCL") and the Edmonton Friends of the North Environmental Society ("EFONES") parties to these appeals, however, dismissed Mr. David Doull and Ms. Bonnie Quinn. The Board also determined that the issues that would be considered at the Hearing of these appeals were: 1. emission limits for particulate matter, sulphur dioxide, nitrogen oxides, heavy metals and radioisotopes; 2. adequacy of existing baseline data; 3. emission monitoring, including the type, location and frequency of monitoring; 4. appropriateness and validity of modeling methods and results; 5. appropriateness of including certain requirements in the Approval as opposed to making them requirements of the application, specifically: a) ambient air monitoring plans, b) trial burn, c) fugitive emission reduction plan, d) use of landfill gas, and e) information regarding the type and source of coal; 6. use of best available demonstrated technology; 7. timeline for installation of a baghouse; 8. number of trips; 9. local residents trip notification system; 10. adequacy of health impact assessment; 11. appropriateness of health impact assessment update; 12. ongoing consultation with local residents and local residents liaison committee; 13. need for the conversion to coal as a fuel source; 14. control of greenhouse gas emissions; and 15. use of tires as kiln fuel, limited to Approval Clause 4.1.17.

Cite as: Preliminary Issues: *Doull et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (11 October 2002), Appeal Nos. 02-018-041, 047, 060, 061, 073, and 074-ID1 (A.E.A.B).

02-023, 024, 026, 029, 037, 047 and 074-ID2 – On November 26, 2002, the Board commenced a Hearing into this matter and heard a number of preliminary motions. Among these motions was a request by the EFONES and EFCL groups for an adjournment of the Hearing. The basis for this request was that both groups required more time to respond to a health impact study, and a supplement to that study, that was filed by Lehigh Inland Cement as part of their written submissions. The Board issued a Decision on December 12, 2002, concluding that it was necessary for the Board to accept the studies, as they were directly relevant to the matters before the Board. As a result, the Board granted the adjournment. The Board believes that the principles of natural justice and procedural fairness that gives a party the right to know the case against them and the right to respond to this case, are best served by granting the adjournment and that none of the parties before the Board are prejudiced by granting the adjournment. As human health is a fundamental consideration in these appeals, the Board ordered the Medical Officer of Health for the Capital Health Authority attend the hearing.

Cite as: Adjournment Decision: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Lehigh Inland Cement Limited* (12 December 2002), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID2 (A.E.A.B).

02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP – The Board held a Preliminary Meeting on September 17, 2002, in the Board's office in Edmonton. The purpose of the Preliminary Meeting was to discuss: 1. the standing of the Appellants, including their directly affected status and whether they filed statements of concern; 2. the standing of Mr. Doull, whether Mr. Doull's statement of concern was valid and if he was directly affected; 3. the issues to be dealt with at the hearing of these appeals and 4. whether to consolidate the appeals." The majority of parties reached an agreement and presented a joint submission to the Board, which the Board accepted in principle. In the Board's view, the agreement was consistent with the purposes of the *Environmental Protection and Enhancement Act* and the public interest. As a result, Mr. James Darwish, Ms. Verona Goodwin, Ms. Elena Napora, Mr. Don Stuike, Mr. David J. Parker, Mr. Bill Boccock, Mr. Michael B. Nelson, Mr. Greg Ostapowicz, Mr. Douglas Price, Ms. Holly MacDonald, Mr. Stuart Penderson, Ms. Linda Stratulat, Mr. Leonard Rud, Mr. Marcel Wichink, Ms. Lorraine Vetsch, Ms. Gwen Davis, Mr. Garry Marler and Mr. Robert Wilde withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on January 17, 2003, and closed its files.

Environmental Appeal Board Annual Report 2002/2003

Cite as: *Darnish et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (17 January 2003), Appeal Nos. 02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP

02-023, 024, 026, 029, 037, 047 and 074-R – On November 26, December 16, 17, and 18, 2002, the Board held a hearing in Edmonton regarding widespread community concern over the health and nuisance impacts of emissions from Inland because of its location immediately upwind from Edmonton and Inland’s documented track record of “dusting” events affecting the neighbouring community. The issue of particulate emission controls from the cement kiln dominated the evidence. Inland applied for the Amending Approval to avoid remaining the only cement manufacturing plant in Canada to use natural gas, thereby avoiding a serious competitive disadvantage. The Board accepts that it is possible for cement manufacturing plants to use coal as a fuel and also achieve acceptable emissions by applying the best available demonstrated technology (BADT), as required by Alberta Environment policy. The particulate emission levels from the kiln in the Amending Approval were taken from the Canadian Council of Ministers of the Environment (CCME) National Emission Guideline for Cement Kilns, which make no claim to represent BADT for this industry, but establishes “maximum broad national emission limits” recognizing that “federal, provincial or regional authorities may impose more stringent limits in response to regional or local problems.” In this case, there are valid potential health concerns, related to peak emission levels of fine particulates from the existing electrostatic precipitator (ESP) for this cement kiln. These were predicted to exceed relevant ambient air quality criteria. The body of evidence in support of health concerns in the population arising from exposure to fine particulates provides a credible case for minimizing population exposures to these pollutants. Furthermore, short-term health effects, among sensitive individuals such as asthmatics, that may arise from peak exposures to airborne particulate matter are a concern. However, the Board found no credibility in the prediction of a specific number of fatalities being caused by the emissions from the Inland cement plant. The history of poor operation of Inland’s ESP ranged from periodic complete shutdowns (ESP trips) to periods of poor performance. Only some of these excessive emission events were reportable. Dusting events causing nuisance conditions and potential health concerns in adjacent communities were documented from various fugitive emissions, as well as from the cement kiln’s stack. The Director addressed the problem of fugitive emissions aggressively in the Amending Approval and sought to deal with the excessive peak emissions of particulates from the kiln stack by severely limiting the number of ESP trips that would be allowed in the future. However, based on substantial evidence, the specified improvements with this ESP do not constitute BADT in terms of providing consistent control of peak particulate emissions. Such emissions upwind of a large urban population makes the requirement for emission control by BADT compelling. The Director required installation of a baghouse in the event that Inland could not control the number of ESP trips. This requirement, combined with considerable additional evidence, have convinced the Board that a baghouse, with its capability for superior and consistent performance, constitutes BADT for the kiln stack at Inland. On January 17, 2003, the Board issued a Report and Recommendations to the Minister of Environment recommending the Minister confirm the Amending Approval, subject to the following changes: 1. the existing ESP on the kiln stack should be replaced by a fabric filter baghouse as soon as possible, but no later than 20 months from the date of the Minister’s Order; 2. the number of allowable ESP trips that should be permitted until the baghouse is operational should be 6 per calendar year; 3. until the baghouse is operational, Inland should develop a local residents notification system to contact those residents who request to be advised of ESP trips; 4. the emission limits set for particulate matter should be re-evaluated with a view to lowering them to reflect achievable baghouse performance; and 5. Inland should establish and fund an ongoing Local Residents Liaison Committee to the satisfaction of the Director. The Board believes, that when the baghouse on the kiln stack and the fugitive emission plans are operational, the past concerns with potential health risk and nuisance conditions that have been associated with emissions from the Inland cement plant should be largely resolved. On January 22, 2003, the Minister approved the recommendations.

Cite as: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (17 January 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-R (A.E.A.B.).

02-023, 024, 026, 029, 037, 047, and 074-ID3 – The Board determined that Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, Ms. Anna T. Krug, Dr. Roger G. Hodgkinson, Mr. Neil Hayes, the Edmonton Friends of the North Environmental Society, and a group from the Edmonton Federation of Community Leagues (EFCL) would be granted standing. The EFCL filed a motion for the Board to order Inland to produce 12 documents that Inland had in its

Environmental Appeal Board Annual Report 2002/2003

possession. After reviewing the Parties' submissions, the Board determined that the documents requested were relevant and necessary to the issues that were heard by the Board. Therefore, the Board issued a Decision on February 13, 2003, ordering Inland to produce the documents and provide a witness to speak to the documents at the Hearing. The Hearing was held on December 16, 17 and 18, 2002, and on January 22, 2003, the Minister ordered that a baghouse be installed at Inland's facility in Edmonton.

Cite as: Document Production: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (13 February 2003), Appeal Nos. 02- 023, 024, 026, 029, 037, 047, and 074-ID3 (A.E.A.B.).

02-023, 024, 026, 029, 037, 047, and 074-CD – After the Report and Recommendations was issued, the Board received applications for costs from Ms. Anna T. Krug and the EFCL in the amount of \$87,348.10. The costs were in the amount of \$51,976.93 for legal costs and in the amount of \$35,371.17 for witness costs. The Board also received a costs application from EFONES, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, and Dr. Roger G. Hodgkinson in the amount of \$74,706.07, which included \$35,571.76 for legal costs and \$39,134.31 for witness costs. Mr. Neil Hayes also submitted an application for costs in the amount of \$3,519.12.

As of April 1, 2003, these appeals are currently outstanding.

02-042-02-046, 048, 049, 063

Appellant(s) – Mr. Bob and Ms. Riske Quartero, Mr. Ernie and Ms. Marjory Shewchuk, Mr. William Nicol, Ms. Barbara Potter, Ms. Daphne Varty, Mr. Jim Morison, Mr. Victor and Ms. Mary Neufeld, Mr. Lorne and Ms. Elizabeth Dalrymple and Drs. David and Gail Jardine, **Operator** – Rocky View School Division No. 41., **Location** – Bragg Creek, **Type of Appeal** – Report and Recommendations

Between June 24 and 27, 2002, the Board received Notices of Appeal from Mr. Bob and Ms. Riske Quatero, Mr. Ernie and Ms. Marjory Shewchuk, Mr. William Nicol and Ms. Barbara Potter, Ms. Daphne Varty, Mr. Jim Morison, Mr. Victor and Ms. Mary Neufeld, Mr. Lorne and Ms. Elizabeth Dalrymple, and on August 6, 2002, from Drs. David and Gail Jardine. The Notices of Appeal were with respect to Approval No. 00152694-00-00 issued under the *Water Act* to the Rocky View School Division No. 41, which authorized the exploration for groundwater at NE 1-23-W5M, for the proposed Banded Peak School water supply source in Bragg Creek. On August 20, 2002, the Board held a mediation meeting in Calgary, Alberta. Without prior notification, the following Appellants did not attend the mediation: Mr. Lorne and Ms. Elizabeth Dalrymple, Mr. William Nichol and Ms. Barbara Potter. Following productive discussions, a resolution was signed and on August 21, 2002, the Board contacted those Appellants not in attendance, about the resolution. Based on verbal consent given by those who did not attend, the Board considered those individuals to collectively be parties to the Resolution dated August 20, 2002. On August 26, 2002, the Board issued a Report and Recommendations to the Minister recommending the Minister vary the Approval in accordance with the Resolution. The Minister approved the recommendations on September 12, 2002.

Cite as: *Quartero et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Rocky View School Division No. 41* (26 August 2002), Appeal Nos. 02-042-02-046, 048, 049 and 063-R (A.E.A.B.).

02-059

Appellant(s) – Municipal District of Rocky View No. 44, **Operator** – Apple Creek Golf and Country Club, **Location** – near Airdrie, **Type of Appeal** – Discontinuance of Proceedings

On April 17, 2001, the Board received a Notice of Appeal filed by the Municipal District of Rocky View No. 44 with respect to a Preliminary Certificate issued under the *Water Act* to Apple Creek Golf and Country Club authorizing the diversion of 119,929 cubic metres of water annually from McPherson Coulee in SE 35-27-1-W5M and an Approval under the *Water Act* authorizing the construction of a channel improvement, control gates, dykes and a diversion pipe on McPherson Coulee and an unnamed water body in SE 35-27-1-W5M near Airdrie, Alberta. Eleven appeals were filed with respect to this Preliminary Certificate and Approval. The Municipal District of Rocky View No. 44 appealed both and the Board dismissed the portion of the appeal related to the Approval for filing their Notice of Appeal late. The Board received a motion from Alberta Environment to dismiss the appeal of the Preliminary Certificate filed by Municipal District as they suggested

Environmental Appeal Board Annual Report 2002/2003

that they were not directly affected by the Preliminary Certificate. The Board requested submissions and in the process of deliberating, it received a letter dated July 24, 2002, from the Municipal District advising that it would "...no longer pursue the appeal in question". On August 1, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Municipal District of Rocky View No. 44 #2 v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club.*

02-062

Appellant(s) – Contour Energy Ltd., **Operator** – Contour Energy Ltd., **Location** – near Leduc, **Type of Appeal** – Discontinuance of Proceedings

On July 31, 2002, the Board received a Notice of Appeal dated July 29, 2002 from Contour Energy Ltd. with respect to the refusal of Alberta Environment's to issue a Reclamation Certificate to Contour Energy Ltd. for the Contour et al Leduc 2/6-2-50-27 well, near Leduc, Alberta.. After the Board began processing the appeal, it received a letter from Contour Energy Ltd. withdrawing their appeal. On August 22, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Contour Energy Ltd. v. Inspector, Central Region, Regional Services, Alberta Environment*

02-064

Appellant(s) – Mrs. Elizabeth Poburan, **Operator** – Parkbridge Communities Inc., **Location** – near the County of Parkland, **Type of Appeal** – Report and Recommendations

On August 8, 2002, the Board received a Notice of Appeal from Mrs. Elizabeth Poburan with respect to Approval No. 00186804-00-00 issued under the *Water Act* to Parkbridge Communities Inc. authorizing the construction of a storm water management pond on a tributary of the Atim Creek at NE 15-053-27-W4M near the County of Parkland, Alberta. The Board held a mediation meeting at the Board's office on September 12, 2002, following which a resolution was reached by the parties. The resolution provides for the addition of a synthetic liner to the storm water management pond. The Board issued a Report and Recommendations on September 27, 2002, which recommended the Minister accept the resolution. The Minister approved the recommendations on October 1, 2002.

Cite as: *Poburan v. Director, Central Region, Regional Services, Alberta Environment re: Parkebridge Communities Inc. (27 September 2002), Appeal No. 02-064-R (A.E.A.B.).*

02-065

Appellant(s) – Husky Oil Operations Limited (Husky Energy), **Operator** – Husky Oil Operations Limited (Husky Energy), **Location** – County of Flagstaff, **Type of Appeal** – Discontinuance of Proceedings

On August 14, 2002, the Board received a Notice of Appeal from Husky Oil Operations Limited (Husky Energy) with respect to the refusal of Alberta Environment to issue a reclamation certificate to Husky Energy for the Renaissance 2D Killam 2-34-41-13 well in Flagstaff County, Alberta. On September 30, 2002, the Board held a mediation meeting in Forestburg, whereby the Appellant agreed to continue discussions and to provide a status report to the Board. The Department wrote to the Board on October 4, 2002, advising that the Inspector would revoke his decision of July 17, 2002, to refuse to issue a reclamation certificate. On the same day, the Appellants wrote advising that as a result of the Inspector's decision, Husky Energy would withdraw its Notice of Appeal. On October 7, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Husky Oil Operations Limited (Husky Energy) v. Inspector, Central Region, Regional Services, Alberta Environment (7 October 2002), Appeal No. 02-065-DOP (A.E.A.B.).*

02-066 and 068

Appellant(s) – Mr. Alex and Ms. Elma Shennan, and Mr. Roy and Ms. Charlotte Bohn, **Operator** – Parkbridge Communities Inc., **Location** – near Spruce Grove, **Type of Appeal** – Decision

Between August 8 and August 20, 2002, the Board received Notices of Appeal from Ms. Elizabeth Poburan, Mr. Alex and Ms. Elma Shennan and Mr. Rene Victoor and Mr. Roy and Ms. Charlotte Bohn, respectively. The Notices of Appeal were filed with respect to Approval No. 00186804-00-00 issued under the *Water Act* to

Environmental Appeal Board Annual Report 2002/2003

Parkbridge Communities Inc. authorizing the construction of a storm water management pond on a tributary of the Atim Creek at NE 15-53-27-W4M near Spruce Grove, Alberta. The Notices of Appeal filed by Mr. Alex and Ms. Elma Shennan, Mr. Rene Victoor and Mr. Roy and Ms. Charlotte Bohn were filed after the deadline for submitting Notices of Appeal. As a result of the late filing of the Notices of Appeal, the Board issued a Decision on February 14, 2003, to dismiss the Notices of Appeal of Mr. Alex and Ms. Elma Shennan and Mr. Roy and Ms. Charlotte Bohn.

Cite as: *Shennan et al. v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc.* (14 February 2003), Appeal Nos. 02-066-068-D (A.E.A.B.).

02-067

Appellant(s) – Mr. Rene Victoor, **Operator** – Parkbridge Communities Inc., **Location** – near Parkland County, **Type of Appeal** – Discontinuance of Proceedings

On August 19, 2002, the Board received a Notice of Appeal from Mr. Rene Victoor with respect to Approval No. 00186804-00-00 issued under the *Water Act* to Parkbridge Communities Inc. The Approval authorized the construction of a storm water management pond on a tributary of the Atim Creek, near Parkland County, Alberta. The Board advised the Appellant that the appeal had been filed outside the prescribed time frame set out in section 116 of the *Water Act*. After no response was received, the Board sent out another letter on August 28, 2002. On September 3, 2002, the Board received a letter from the Appellant advising that he was withdrawing his appeal. The letter advised that the Department of Environment showed him the plans of Parkbridge Communities Inc. and the evaporation ponds which would not affect his land. As a result, the Board issued a Discontinuance of Proceedings on September 6, 2002, and closed its file.

Cite as: *Victoor v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc.* (6 September 2002), Appeal No. 02-067-DOP (A.E.A.B.).

02-069

Appellant(s) – Mr. Ray Holtsma and Ms. Celine Luchka (Holtsma), **Operator** – Ouellette Packers 2000 Ltd., **Location** – Sturgeon County, **Type of Appeal** – Discontinuance of Proceedings

On August 21, 2002, the Board received a Notice of Appeal from Mr. Ray Holtsma and Ms. Celine Luchka (Holtsma) with respect to Approval No. 155185-00-00 issued to Ouellette Packers 2000 Ltd. authorizing the construction, operation and reclamation of the Riviere Qui Barre Red Meat Processing Plant (hog processing plant) in Sturgeon County, Alberta. The Board held a mediation meeting at the Board's office on October 23, 2002, and following productive discussions, the Appellants agreed to withdraw their appeal. As a result, the Board issued a Discontinuance of Proceedings on October 24, 2002, and closed its file.

Cite as: *Holtsma v. Director, Northern Region, Regional Services, Alberta Environment re: Ouellette Packers 2000 Ltd.* (24 October 2002), Appeal No. 02-069-DOP (A.E.A.B.).

02-070

Appellant(s) – Westridge Utilities Inc., **Operator** – Westridge Utilities Inc., **Location** – west of Calgary, **Type of Appeal** – Discontinuance of Proceedings

On September 23, 2002, the Board received a Notice of Appeal from Westridge Utilities Inc. with respect to the refusal of Alberta Environment to issue a Licence regarding *Water Act* Preliminary Certificate No. 00081364-00-00. After the Board began processing the appeal, it received a letter from the Appellant withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on October 24, 2002.

Cite as: *Westridge Utilities Inc. v. Director, Southern Region, Regional Services, Alberta Environment* (24 October 2002), Appeal No. 02-070-DOP (A.E.A.B.).

02-071

Appellant(s) – Mr. Richard Ross, **Operator** – Talisman Energy Inc., **Location** – near Olds, **Type of Appeal** – Discontinuance of Proceedings

On October 1, 2002, the Board received a Notice of Appeal from Mr. Richard Ross with respect to Reclamation Certificate No. 00146944-00-00 issued to Talisman Energy Inc. for the BP ET AL HARME 6-11-32-4 well near Olds, Alberta. The Board held a mediation meeting on November 12, 2002, in Olds, where after

Environmental Appeal Board Annual Report 2002/2003

detailed discussions, the Appellant agreed he would withdraw his appeal. On November 15, 2002, the Board received a letter from the Appellant withdrawing his appeal. On November 22, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Ross v. Inspector, Southern Region, Regional Services, Alberta Environment re: Talisman Energy Inc.* (22 November 2002), Appeal No. 02-071-DOP (A.E.A.B.).

02-072

Appellant(s) – Mr. Calvin Verbeek and Verbeek Sand and Gravel, **Operator** – Mr. Calvin Verbeek and 742333 Alberta Ltd., operating as Verbeek Sand and Gravel, **Location** – Sturgeon County, **Type of Appeal** – Report and Recommendations

On October 2, 2002, the Board received a Notice of Appeal from Mr. Calvin Verbeek on behalf of himself and 742333 Alberta Ltd., with respect to Enforcement Order No. EO-2002-01, issued to Mr. Verbeek and 742333 Alberta Ltd., operating as Verbeek Sand and Gravel for the operation of a sand gravel pit at W-11-54-27-W4M without an approval, in Sturgeon County, Alberta. The Board held a Hearing on December 3, 2002, and received arguments from Mr. Verbeek and Alberta Environment, following which the Board determined that Mr. Verbeek and Verbeek Sand and Gravel were operating the gravel pit without an approval in contravention of the *Environmental Protection and Enhancement Act*. Therefore, the Board determined the Enforcement Order was properly issued and as a result, the Board issued a Report and Recommendations to the Minister on December 30, 2003, recommending that the Enforcement Order be confirmed, subject to changes in the dates by which the Enforcement Order was to be complied with. On January 21, 2003, the Minister approved the recommendations.

Cite as: *Verbeek et al. Director, Northern Region, Regional Services, Alberta Environment* (30 December 2002), Appeal No. 02-072-R (A.E.A.B.).

02-075 and 02-076

Appellant(s) – Mr. Grant and Ms. Beth Spackman and Mr. John G. Evans, **Operator** – Coyote Cove Golf Course Inc., **Location** – near DeWinton, **Type of Appeal** – Report and Recommendations

On October 21 and 23, 2002, the Board received Notices of Appeal from Mr. Grant and Ms. Beth Spackman and Mr. John Evans, respectively, with regard to Preliminary Certificate No. 00182584-00-00 issued under the *Water Act* to Coyote Cove Golf Course Inc., whom under compliance with conditions in the Certificate, will receive a licence to divert 173,415 cubic metres of water annually at a maximum rate of 0.076 cubic metres per second from Pine Creek in NW-04-022-01-W5 near DeWinton, Alberta. The Board held a mediation meeting in Calgary and after productive discussions, a resolution was reached. As a result, the Board issued a Report and Recommendations to the Minister on January 22, 2003, recommending the Minister vary the Preliminary Certificate in accordance with the resolution. On February 4, 2003, the Minister approved the recommendations.

Cite as: *Spackman et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Coyote Cove Golf Course Inc.* (22 January 2003), Appeal Nos. 02-075 and 02-076-R (A.E.A.B.).

02-077-D

Appellant(s) – Ms. Beverly Smith, **Operator** – CCS Energy Services Inc., **Location** – near Lindbergh in the County of St. Paul, **Type of Appeal** – Active

On November 7, 2002, the Board received a Notice of Appeal from Ms. Beverly Smith with respect to Licence No. 00187391-00-00 issued under the *Water Act* to CCS Energy Services Inc., authorizing the diversion of up to 2,990, 400 cubic metres of water annually from the North Saskatchewan River on the NE 22-56-5-W4M near Lindbergh in the County of St. Paul, Alberta, for commercial purposes. The Board held a Preliminary Meeting on February 12, 2003 to address the Stay request of Ms. Smith and the question of whether she is directly affected by the Licence.

As of April 1, 2003, this appeal is currently outstanding.

02-078 and 02-138-R

Environmental Appeal Board Annual Report 2002/2003

Appellant(s) – Mr. James and Ms. Annette McClelland, **Operator** – Mountain Creeks Ranch Inc., **Location** – near Hinton, **Type of Appeal** – Active

On November 7, 2002, the Board received a Notice of Appeal with respect to Approval No. 00148782-00-00 issued under the *Water Act*, to Mountain Creeks Ranch Inc. authorizing the construction of a storm water management works on the surface runoff tributary of Maskuta Creek. On January 24, 2003, the Board also received a Notice of Appeal from the Appellants appealing Licene No. 00154364-00-00 issued under the *Water Act* authorizing the diversion of up to a maximum of 3, 272 cubic metres of water annually from the well in SE 25-050-26-W5M for recreational purposes near Hinton, Alberta.

As of April 1, 2003, these appeals are currently outstanding.

02-079 and 02-080

Appellant(s) – Ms. Katherine McCulloch, Messrs. Richard Kelk and Ross Warner, **Operator** – AAA Cattle Company, **Location** – Didsbury, **Type of Appeal** – Active

On November 7, 2002 the Board received a Notice of Appeal from Ms. Katherine McCulloch and Mr. Richard Kelk, and on November 8, 2002, a Notice of Appeal was received from Mr. Ross with respect to Licence No. 00188451-00-00, issued under the *Water Act* R.S.A. 2000, c. W-3 to AAA Cattle Company Ltd. The Licence authorizes the diversion of 126,150 cubic metres of groundwater annually from Production Well No. PW5-02, PW6-02, PW7-02 and PW8-02, located in the SW 04-031-27-W4, near Didsbury, Alberta, for the purpose of Agriculture (15,700 head feedlot expansion). The Appeal was placed in abeyance pending the outcome of the Natural Resources Conservation Board's hearing, which was held on February 5, 6 & 7, 2003.

As of April 1, 2003, these appeals are currently outstanding.

02-081 and 02-082-R

Appellant(s) – Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock, **Operator** – Brookfield Pork Ltd., **Location** – near Lacombe, **Type of Appeal** – Active

On November 14 and 21, 2002, the Board received Notices of Appeal from Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock with respect to Licence No. 00188715-00-00 issued under the *Water Act* to Brookfield Pork Ltd. authorizing the diversion of 8,537 cubic metres of water annually from the well in NE 19-038-25-W4 for agricultural purposes (confined feeding operation).

As of April 1, 2003, these appeals are currently outstanding.

02-083-DOP

Appellant(s) – Mr. Lou and Ms. Betty Coulombe, **Operator** – Alta Gas Ltd., **Location** – near Bonnyville, **Type of Appeal** – Active

On November 25, 2002, the Board received a Notice of Appeal from Mr. Lou and Ms. Betty Coulombe, landowners, with respect to Reclamation Certificate No. 00138181-00-00 to Alta Gas Ltd. for the surface of land within SW Sec 01 Tp 061 Rge 05 W4M in connection with the Bonnyville Gas 6-1-61-5 well near Bonnyville, Alberta. The Board held a mediation meeting in Bonnyville, Alberta on February 14, 2003. At the mediation meeting, the parties agreed to hold the appeal in abeyance in order for them to pursue further discussions toward a resolution of the appeal, and to provide the Board with a status report on their progress by June 27, 2003.

As of April 1, 2003, this appeal is currently outstanding.

02-084

Appellant(s) – Mr. R. Douglas Herdman, **Operator** – City of Airdrie, **Location** – Airdrie, **Type of Appeal** – Decision

Environmental Appeal Board Annual Report 2002/2003

On November 26, 2002, the Board received a Notice of Appeal from Mr. R. Douglas Herdman with respect to Approval No. 00186924-00-00 issued under the *Water Act* to the City of Airdrie authorizing the realignment of Nose Creek at the 1st Avenue North Vehicle-Crossing site in Airdrie, Alberta. The Board began to process the appeal, however, Mr. Herdman failed to respond to any of the Board's letters or telephone messages. Therefore, the Board issued a Decision on January 23, 2003, dismissing the appeal for failure to respond to the Board in a timely manner, pursuant to section 95(5)(a)(iv) of the *Environmental Protection and Enhancement Act*.

Cite as: *Herdman v. Director, Southern Region, Regional Services, Alberta Environment re: City of Airdrie* (23 January 2003), Appeal No. 02-084-D (A.E.A.B.).

02-085

Appellant(s) – Seabolt Watershed Association, **Operator** – Mountain Creeks Ranch Inc., **Location** – near Hinton, **Type of Appeal** – Decision

On November 26, 2002, the Seabolt Watershed Association filed a Notice of Appeal with respect to Approval No. 00148782-00-00 issued under the *Water Act* to Mountain Creeks Ranch Inc. authorizing the construction of storm water management works on a surface runoff tributary of Maskuta Creek near Hinton, Alberta. The Board noted that the Appellant filed their Notice of Appeal outside the time prescribed under the *Water Act* to file a Notice of Appeal. The Board then requested the Appellant provide reasons as to why the time limit for filing should be extended. After reviewing the reasons provided, the Board determined that that Appellant failed to present sufficient reasons to demonstrate special circumstances existed to warrant an extension. As a result, the Board issued a Decision on February 14, 2003, dismissing the appeal.

Cite as: *Seabolt Watershed Association v. Director, Central Region, Regional Services, Alberta Environment re: Mountain Creeks Ranch Inc.* (14 February 2003), Appeal No. 02-085-D (A.E.A.B.).

02-086 and 02-087

Appellant(s) – Mr. Ian Skinner, **Operator** – Inland Aggregates Limited and Lafarge Canada Inc., **Location** – Sturgeon County, **Type of Appeal** – As listed.

Overview - On November 28, 2002, the Environmental Appeal Board received two Notices of Appeal from Mr. Ian Skinner with respect to Amending Approval No. 19284-01-01 issued to Inland Aggregates Limited (the "Inland Approval"), authorizing the opening up, operation, and reclamation of a pit on portions of sections 19, 20, 29, and 30-54-26-W4M in Sturgeon County, Alberta, and Amending Approval No. 19283-01-01 issued to Lafarge Canada Inc. (the "Lafarge Approval"), authorizing the opening up, operation, and reclamation of a pit on portions of section 16, E 17 and SW 21-54-26-W4M, also in Sturgeon County, Alberta. The Inland and Lafarge Approvals allow Inland and Lafarge to mine through a buffer zone that separates the two pits.

Decision - A Preliminary Meeting was held on January 28, 2003, to determine whether Mr. Skinner was directly affected, if a Stay would be granted, and whether the appeals were frivolous or without merit. Mr. Skinner withdrew his Stay application as the removal of the buffer zone as authorized under the Amending Approval was completed. The Board determined that Mr. Skinner failed to demonstrate to the Board that he would be directly affected by the removal of the buffer zone. The Amending Approvals were with respect to a very small portion of the total affected area, and as Mr. Skinner was located approximately six miles from the pits, it was unlikely that his groundwater would be affected. Further, given the fact that the buffer zone has now been removed, the appeals are moot. As a result, the Board issued a Decision on February 13, 2003, to dismiss the appeals.

Cite as: *Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc.* (13 February 2003), Appeal Nos. 02-086 and 02-087-D (A.E.A.B.).

02-088

Appellant(s) – Murphy Oil Company Limited, **Operator** – Murphy Oil Company Limited, **Location** – near Fairview, **Type of Appeal** – Report and Recommendations

On December 2, 2002, the Board received a Notice of Appeal from Murphy Oil Company Ltd. with respect to the Director's refusal to issue a Reclamation Certificate to Murphy Oil Company Ltd. for the Murphy Pica 4-29-84-5-W6 well near Fairview, Alberta. The Board held a mediation meeting in Peace River, Alberta on

Environmental Appeal Board Annual Report 2002/2003

February 26, 2003. Following productive and detailed discussions, a resolution evolved and on March 6, 2003, the Board issued a Report and Recommendations to the Minister to vary the Inspector's decision of November 1, 2002, to allow for an additional waiting period to permit further evaluation of the conservation and reclamation. The Minister approved the recommendation on March 10, 2003, and the Board closed its file.

Cite as: *Murphy Oil Company Inc. v. Inspector, Northern Region, Regional Services, Alberta Environment* (6 March 2003), Appeal No. 02-088-R (A.E.A.B.).

02-089, 091, 092, 095-101, 105-120, 123, 124, 132 and 133

Appellant(s) – Randy Long, Long's Hereford Ranch Ltd., Travis Long, Diana Long, Margo Long, Harry Long, Darcie Long, Bernice Long, Marion Allred, and Judy Fenton, **Operator** – Lewisville Pork Farm Inc., **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

Between December 6 and 23, 2002, the Board received a total of 30 appeals from Mr. Randy Long, Long's Hereford Ranch Ltd., Mr. Travis Long, Ms. Diana Long, Ms. Margo Long, Mr. Harry Long, Ms. Darcie Long, Ms. Bernice Long, Ms. Marion Allred and Ms. Judy Fenton, with respect to three Licences issued under the *Water Act*, to Lewisville Pork Farm Inc., by Alberta Environment. Licence No. 00189761-00-00 authorized the diversion of 8,480 cubic metres of water annually from the well in NE 15-044-09-W4M; Licence No. 00189787 authorized the diversion of 10,500 cubic metres of water annually from the well in SE 23-044-09-W4M; and Licence No. 00189788-00-00 authorized the diversion of 2,900 cubic metres of water annually from the well in SW 23-044-09-W4M. All three Licences were issued for the purpose of agriculture (feedlot), near Irma, Alberta. The Board held a mediation meeting in Wainwright, Alberta on February 20, 2003. Following productive discussions, a resolution evolved and the Appellants withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on February 28, 2003, and closed its file.

Cite as: *Long et al. v. Director, Central Region, Regional Services, Alberta Environment, re: Lewisville Port Farm Inc.* (28 February 2003), Appeal Nos. 02-089, 091, 092, 095-101, 105-120, 123, 124, 132 and 133-DOP (A.E.A.B.).

02-090

Appellant(s) – Mr. Lawrence and Ms. Lisa Strocher, **Operator** – Conoco Canada Resources Limited, **Location** – County of Brazeau, **Type of Appeal** – Discontinuance of Proceedings

On December 5, 2002, the Board received a Notice of Appeal from Mr. Lawrence and Ms. Lisa Strocher with respect to Reclamation Certificate No. 00186641-00-00 issued to Conoco Canada Resources Limited for the Mannville et al Pembina 4-7-50-5 well in the County of Brazeau. After the Board began processing the appeal, it received a letter from the Appellants advising that as a result of ongoing discussions between the Approval Holder and the Appellant, a settlement had been reached and they would be withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on January 22, 2003, and closed its file.

Cite as: *Strocher v. Inspector, Central Region, Regional Services, Alberta Environment re: Conoco Canada Resources Limited* (22 January 2003), Appeal No. 02-090-DOP (A.E.A.B.).

02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135

Appellant(s) – Douglas A. Hudson, Cameron and Elaine Snoble and Clara Snoble, Marvin and Patricia Loberg, David and Sharon Volker, Shirley Hogg, L. Bozarth, Gerald H. and Judith E. Bozarth, R. Wayne and Kerri Badger and family, the County of Grande Prairie No. 1, and Nellie Sterr, **Operator** – Town of Sexsmith, **Location** – near Sexsmith, **Type of Appeal** – Active

On November 20, 2002, Alberta Environment issued a Preliminary Certificate under the *Water Act* to the Town of Sexsmith. Upon meeting certain conditions, the Preliminary Certificate would grant a water licence to the Town authorizing the diversion of 58,200 cubic metres of water annually from the well in LSD 03-13-74-06-W6M near Sexsmith, Alberta. Fourteen appeals were filed with respect to the Preliminary Certificate. Alberta Environment identified a number of preliminary issues with respect to the appeals. However, the Board decided that it would conduct an information meeting and deal with any preliminary issues after the information meeting was held. Shortly after the Board advised that it wished to hold an information meeting, the Town of Sexsmith withdrew its application for the Preliminary Certificate. In response, Alberta Environment cancelled the Preliminary Certificate. On March 12th, the Board requested the Parties provide comments as to the effect that the cancellation of the Certificate had on the appeals.

Environmental Appeal Board Annual Report 2002/2003

As of April 1, 2003, these appeals are currently outstanding.

02-104

Appellant(s) – Mr. Dwain Kadyk, **Operator** – Leduc County, **Location** – near Calmar, **Type of Appeal** – Discontinuance of Proceedings

On December 19, 2002, the Board received a Notice of Appeal from Mr. Dwain Kadyk with respect to Approval No. 00186138-00-00 issued under the *Water Act* to Leduc County authorizing the construction of works for flood control on Winding Creek, near Calmar, Alberta. After the Board began to process the appeal, on December 31, 2001, the Board received a letter from the Appellant stating that: “As of this moment, I am dropping my appeal...that is to say – I am canceling my application to appeal.” As a result, the Board issued a Discontinuance of Proceedings on January 8, 2003, and closed its file.

Cite as: *Kadyk v. Director, Central Region, Regional Services, Alberta Environment re: Leduc County* (8 January 2003), Appeal No. 02-104-DOP (A.E.A.B.). 02-121, 02-125, 02-126 and 02-130-DOP

02-121, 02-125, 02-126 and 02-130

Appellant(s) – Mr. Gordon and Ms. Joan Scarlett, Mr. Grant Berg, Mr. Ray and Ms. Marion Braumberger, and Mr. Ernie and Ms. Louise Braumberger, **Operator** – Town of Sexsmith, **Location** – near Sexsmith, **Type of Appeal** – Active

Between December 16 and 30, 2002, the Board received 14 appeals in relation to Preliminary Certificate No. 00156592-00-00 issued under the *Water Act* to the Town of Sexsmith stating that they will receive a licence to divert 58,200 cubic metres of water annually from the well in LSD 03-13-074-06-W6, for a term of five years with priority no. 2002-05-13-002, upon compliance with certain conditions in the Certificate. Four of the appeals were filed by Mr. Gordon and Ms. Joan Scarlett (02-121), Mr. Grant Berg (02-125), Mr. Ray and Ms. Marion Braumberger (02-126) and Mr. Ernie and Ms. Louise Braumberger (02-130). Several requests for a Stay were also received. The Board received submissions on the Stay requests and subsequently advised it would not grant a Stay as the request was premature. The Board advised it would hold an information meeting for the parties. On February 25, 2003, the Town of Sexsmith officially withdrew their application with respect to the Preliminary Certificate, and it was subsequently cancelled by Alberta Environment. The Board sought comments from the parties asking how this cancellation affected their appeal. As a result of the cancellation of the Preliminary Certificate, the Board received letters from the Appellants withdrawing their Notices of Appeal.

As of April 1, 2003, these appeals are currently outstanding.

02-131 and 02-140

Appellant(s) – Mr. Allan Blomme, **Operator** – Laurence Marketing Group Ltd. and Mr. Allan Blomme, **Location** – Okotoks, **Type of Appeal** – Active

On December 23, 2002, the Board received a Notice of Appeal from Mr. Allan Blomme appealing Enforcement Order No. 2002-WA-03, issued to The Laurence Marketing Group Ltd. and Mr. Allan Blomme for an alleged contravention of sections 36(1) and 142(1)(h) of the *Water Act* R.S.A. 2000, c. W-3, by conducting an activity without an Approval at Plan 8911194, Block 1, (Wilderness Campground) in Okotoks, Alberta.

As of April 1, 2003, these appeals are outstanding.

02-136

Appellant(s) – Mr. Al Ridden, **Operator** – Leduc County, **Location** – near Calmar, **Type of Appeal** – Discontinuance of Proceedings

On December 24, 2002, the Board received a Notice of Appeal from Mr. Al Ridden with respect to Approval No. 00186138-00-00 issued under the *Water Act* to Leduc County authorizing the construction of works for

Environmental Appeal Board Annual Report 2002/2003

flood control on Winding Creek, near Calmar, Alberta. Mr. Ridden objected to the fact that his property was included in the Approval and requested that it be removed. Leduc County and Alberta Environment agreed to the request and the appeal was withdrawn. As a result, the Board issued a Discontinuance of Proceedings on January 30, 2003, and closed its file.

Cite as: *Ridden v. Director, Central Region, Regional Services, Alberta Environment re: Leduc County* (30 January 2003), Appeal No. 02-136-DOP (A.E.A.B.).

02-137

Appellant(s) – Mr. Martin and Mrs. Lillian Dyck, **Operator** – Coyote Cove Golf Course Inc., **Location** – near DeWinton, **Type of Appeal** – Decision

On December 9, 2002, the Board received a letter from the Mr. Martin and Mrs. Lillian Dyck with respect to Preliminary Certificate No. 00182584-00-00 issued under the *Water Act* to Coyote Cove Golf Course Inc.. The Preliminary Certificate provides that, upon compliance with conditions of the Certificate, Coyote Cove Golf Course Inc. will receive a licence to divert 173,415 cubic metres of water annually at a maximum rate of 0.076 cubic metres per second from Pine Creek in NW 4-22-1-W5M near DeWinton, Alberta. After looking into the file, the Board found that Mr. and Mrs. Dyck had not filed a Statement of Concern nor had they filed their Notice of Appeal within the timeframe required by the *Water Act*. The Appellant's did not provide the Board with a legitimate reason to grant an extension. Therefore, the Board issued a Decision on February 14, 2003, to dismiss the appeal.

Cite as: *Dyck v. Director, Southern Region, Regional Services, Alberta Environment re: Coyote Cove Golf Course Inc.* (14 February 2003), Appeal No. 02-137-D (A.E.A.B.).

02-139

Appellant(s) – Mr. Ian Skinner, **Operator** – Consolidated Concrete Ltd., now Inland Aggregates Ltd., **Location** – County of Sturgeon, **Type of Appeal** – Decision

On December 24, 2002, the Environmental Appeal Board received a Notice of Appeal from Mr. Ian Skinner appealing Temporary Permit No. 16707-2 to Consolidated Concrete Ltd., now Inland Aggregates Limited under the *Water Resources Act*, authorizing the diversion of water up to 891 acre-feet (242 million Canadian gallons) from an aquifer in E1/2 20-54-26-W4M for the purpose of drainage. On March 23, 2003, the Board wrote to the Parties advising “no response was received from the Appellant as to why this matter is properly before the Board...”, and therefore, the Board advised it would be dismissing the appeal.

As of April 1, 2003, this appeal is currently outstanding.

02-141 and 02-142

Appellant(s) – Mikisew Cree First Nation., **Operator** – Mikisew Cree First Nation., **Location** – Municipality of Wood Buffalo, **Type of Appeal** – Active

On February 12, 2003, the Board received a Notice of Appeal from Ms. Bonnie Evans, Director of Industrial Relations, on behalf of the Mikisew Cree First Nation or objecting to the entirety of Approval No. 00151636-00-00 and Licence No. 00190012-00-00, issued under the *Water Act*, R.S.A. 2000, c. W-3, to TrueNorth Energy L.P. The Approval authorizes the development of the Fort Hills Oil Sands Processing Plant and Mine and the Licence authorizes the construction of a proposed water intake at SE 11-096-11-W4 in the municipality of Wood Buffalo.

As of April 1, 2003, these appeals are currently outstanding.

02-143 and 02-151-R

Appellant(s) – Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. and F.W. (Fritz) Seidel, **Operator** – Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd., **Location** – near Cochrane, **Type of Appeal** – Active

Environmental Appeal Board Annual Report 2002/2003

On February 13, 2003, the Environmental Appeal Board received a Notice of Appeal from Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. with respect to Licence No. 00154141-00-00 (the "Licence") issued under the *Water Act* to Mr. and Ms. Blair and Lazy H Trail Company Ltd., authorizing the diversion of 8,461 cubic metres of water annually from Production Wells No. CW1-91 and CW2-01, located in the NW 25-026-07-W5M for the purpose of Industrial Camp (British Army Training Unit Suffield Water Supply), near Cochrane Alberta. On March 14, 2003, the Board also received a Notice of Appeal from Mr. F. W. (Fritz) Seidel requesting that he be permitted to participate in the appeal. Mr. Seidel advised that he had filed a Statement of Concern with Alberta Environment with respect to the Licence, but later withdrew the Statement of Concern. The Board contacted Mr. Colone and Ms. Cheryle Trudgeon, Mr. Randall and Ms. Joan Coleman, and Mr. Bryne and Ms. Anne Weerstra, notifying them of the appeals, as they had been named in the Licence as persons to be provided with information regarding monitoring and reporting. The Board then scheduled a mediation meeting involving all parties to be held in Cochrane, Alberta. However, prior to the mediation meeting the Board received a letter from Mr. and Ms. Blair requesting the appeal of Mr. Seidel be dismissed.

As of April 1, 2003, these appeals are currently outstanding.

02-144

Appellant(s) – Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd., **Operator** – Phillips Petroleum Resources Ltd., **Location** – Municipal District of Big Lakes, **Type of Appeal** – Active

On February 14, 2003, the Environmental Appeal Board received a Notice of Appeal from Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd. regarding the refusal of the Inspector, Northern Region, Regional Services, Alberta Environment to issue a Reclamation Certificate to Phillips Petroleum Resources Ltd. with respect to the GAO et al Kenzie 6-15-75-18-W5M well in the Municipal District of Big Lakes.

As of April 1, 2003, this appeal is currently outstanding.

02-145

Appellant(s) – Town of Picture Butte, **Operator** – Town of Picture Butte, **Location** – Picture Butte, **Type of Appeal** – Active

The Board received a Notice of Appeal on February 28, 2003, from the Town of Picture Butte with respect to Approval No. 1064-02-00 issued to the Town of Picture Butte, authorizing the construction, operation and reclamation of a waterworks system for the Town of Picture Butte. On March 19, 2003, in consultation with the Parties, the Board scheduled a mediation meeting for April 9, 2003.

As of April 1, 2003, this appeal is currently outstanding.

02-146-149

Appellant(s) – Mr. Dean and Ms. Verna Hart, Mr. Randy and Ms. Betty Landis, Ms. Stella Hart and Cattlemen's A.I. Ltd. and Mr. Michael Hart, **Operator** – Ducks Unlimited Canada, **Location** – near Airdrie, **Type of Appeal** – Active

Between March 10 and March 17, 2003, the Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart, Ms. Stella Hart and Cattlemen's A.I. Ltd., Mr. Randy and Ms. Betty Landis, Mr. Michael Hart, and Mr. David Kingcott with respect to Licence Amendment No. 00036350-00-01 issued under the *Water Act* to Ducks Unlimited Canada, authorizing the changes to: the source of supply and point of diversion; the gross diversion; and the reservoir capacity. The Board began processing the appeals, however, received a request from Alberta Environment to dismiss the appeals on the basis that, the appeals were not properly before the Board and the individuals who filed the appeals were not directly affected by the Licence Amendment. Alberta Environment also stated that there had been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Finally, Alberta Environment stated that the remedy sought by the Appellant's was in relation to the priority system under the *Water Act*, and there was no new impact that resulted from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion.

Environmental Appeal Board Annual Report 2002/2003

As of April 1, 2003, these appeals are currently outstanding.

02-150

Appellant(s) – Mr. David Kingcott, **Operator** – Ducks Unlimited Canada, **Location** – near Hanna, **Type of Appeal** – Active

The Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart (02-146) on March 10, 2003, Ms. Stella Hart and Cattlemen's A.I. Ltd. (02-147) on March 12, 2003, Mr. Randy and Ms. Betty Landis (02-148) on March 13, 2003, Mr. Michael Hart (02-149) on March 12, 2003, and Mr. David Kingcott (02-150) on March 17, 2003, with respect to Licence Amendment No. 00036350-00-01, issued under the *Water Act*. The Amending Licence was issued to Ducks Unlimited Canada, authorizing the change of the source of supply and point of diversion, change in the gross diversion, change in the reservoir capacity to supersede existing plans near Hanna, Alberta. The Board began processing the appeals, however, the Board received a request from Alberta Environment to dismiss the appeals citing that there have been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Secondly, the Director stated, the remedy sought by the Appellants is in relation to the priority system under the *Water Act*. Finally, the Appellants are not directly affected as the Amendment is merely administrative in nature and there is no "new" impact from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion.

As of April 1, 2003, this appeal is currently outstanding.

02-151

Appellant(s) – Mr. F.W. (Fritz) Seidel, **Operator** – Mr. Richard and Ms. Connie Blair c/o Lazy H Trail Company Ltd., **Location** – near Cochrane, **Type of Appeal** – Active

On March 14, 2003, Mr. F.W. (Fritz) Seidel submitted a Notice of Appeal to the Board with respect to Licence No. 00154141-00-00, issued under the *Water Act* to Mr. Richard and Ms. Connie Blair c/o Lazy H Trail Company Ltd. authorizing the diversion of 8,461 cubic metres of water annually from production wells No. CW1-91 and CW2-01, located in the NW 25-026-07-W5. The Licence is for the purpose of industrial camp (British Army Training Unit Suffield Water Supply) subject to conditions.

As of April 1, 2003, this appeal is currently outstanding.

02-152, 03-001, 002, 003, 005 and 006

Appellant(s) – County of Grande Prairie No. 1, Mr. Ernie Bartsch, Mr. Brock Smith, Mr. Allan Greber, Mr. David Lowen and Mr. Sidney Hogg, **Operator** – Slave River Exploration Ltd. **Location** – near Hyth, **Type of Appeal** – Active

The Board received Notices of Appeal from the County of Grande Prairie No. 1, Mr. Ernie Bartsch, Mr. Brock Smith, Mr. Allan Greber, Mr. David Lowen and Mr. Sidney Hogg, appealing Licence No. 00192607-00-00, issued under the *Water Act* R.S.A. 2000, c. W-3 to Slave River Exploration Ltd. The Licence authorizes the diversion of 36,500 cubic metres of water annually from the well in LSD 05-30-073-12-W6 for the purpose of industrial (injection) near Hythe, Alberta.

As of April 1, 2003, this appeal is currently outstanding.

APPENDIX E

Appeals filed between
April 1, 2002 and March 31, 2003

APPEALS RELATING TO:

**WATER ACT APPROVALS,
LICENCES, PRELIMINARY CERTIFICATES**

- 02-001** Apple Creek Golf and Country Club/*Water Act* Approval No. 00137206-00-00/*Water Act* (City of Airdrie)
- 02-002** TransAlta Utilities Corporation/*Water Act* Licence Amendment No. 000376988-00-02 (Locke Boros and Lake Wabamun Enhancement and Protection Association)
- 02-003** TransAlta Utilities Corporation/*Water Act* Licence Amendment No. 000376988-00-02 (David Doull)
- 02-004** John Pasztor, John Burden, Mervin Mackay and Bryan Perkins/*Water Act* Approval No. 00152909-00-00 (Judy Fenton)
- 02-005** John Pasztor, John Burden, Mervin Mackay and Bryan Perkins/*Water Act* Approval No. 00152909-00-00/*Water Act* (Marion Alfred)
- 02-006** Apple Creek Golf and Country Club/*Water Act* Approval No. 00137206-00-00 (Municipal District of Rocky View No. 44)
- 02-007** Village of Breton/*Water Act* Approval 452-01-01 (Carol Kaita)
- 02-008** Village of Breton/*Water Act* Approval 452-01-01 (John Tyler)
- 02-009** Corne and Connie Van Bedaf/*Water Act* Licence 00179397-00-00 (Tanni Parker)
- 02-010** Corne and Connie Van Bedaf/*Water Act* Licence 00179397-00-00 (Darcy Doblanko)
- 02-011** Burt Consulting and Development Ltd./*Water Act* Approval No. 00183288-00-00 (Robert Bresciani)
- 02-012** Tar-ific Construction Ltd./*Water Act* Approval No. 00142622-00-00 (Jack and Bev Brannen)
- 02-013** J. Byrne, D. Cerney and 2544175 Alberta Ltd./*Water Act* Preliminary Certificate No. 00176470-00-00 (Norman Spencer)
- 02-014** Tar-ific Construction Ltd./*Water Act* Approval No. 00142622-00-00 (Cliff and Mary Soper)
- 02-017** Enterprise Lavoie (1999) Inc./*Water Act* Licence No. 00152911-00-00 (Ron and Cathy Meston)
- 02-042** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (Rob and Riske Quartero)
- 02-043** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (E. and Marjory Shewchuk)
- 02-044** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (William Nicol and Barbara Potter)

Environmental Appeal Board Annual Report 2002/2003

- 02-045** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (Daphne Varty)
- 02-046** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (Jim Morison)
- 02-048** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (Victor and Mary Neufeld)
- 02-049** Rocky View School Division No. 41/*Water Act* Approval No. 0152694-00-00 (Lorne and Elizabeth Dalrymple)
- 02-050** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Ronald Hanson)
- 02-051** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Frank Jensen)
- 02-052** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Robin Mark Davy)
- 02-053** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Daniel Davy)
- 02-054** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Soren Davy)
- 02-055** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Robert Copley)
- 02-056** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Irene Hanson)
- 02-057** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Wayne Hanson)
- 02-058** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (City of Airdrie)
- 02-059** Apple Creek Golf and Country Club/*Water Act* Preliminary Certificate 00137277-00-00 (Municipal District of Rocky View No. 44)
- 02-063** Rocky View School District No. 41/*Water Act* Approval No. 0152694-00-00 (David Jardine and Gail Jardine)
- 02-064** Parkbridge Communities Inc./*Water Act* Approval No. 00186804-00-00 (Elizabeth Poburan, Poburan Farm)
- 02-066** Parkbridge Communities Inc./*Water Act* Approval No. 00186804-00-00 (Elma and Alex Shennan)
- 02-067** Parkbridge Communities Inc./*Water Act* Approval No. 00186804-00-00 (Rene Victoor)
- 02-068** Parkbridge Communities Inc./*Water Act* Approval No. 00186804-00-00 (Roy and Charlotte Bohn)
- 02-070** Westridge Utilities Inc./*Water Act* Preliminary Certificate 00081364-00-00

Environmental Appeal Board Annual Report 2002/2003

- 02-075** Coyote Cove Golf Course Inc./*Water Act* Preliminary Certificate No. 00182584-00-00 (Beth and Grant Spackman)
- 02-076** Coyote Cove Golf Course Inc./*Water Act* Preliminary Certificate No. 00182584-00-00 (John Evans)
- 02-077** CCS Energy Services Inc./*Water Act* Licence 00187391-00-00 (Beverly Smith)
- 02-078** Mountain Creeks Ranch Inc./*Water Act* Approval No. 00148782-00-00 (James McClelland)
- 02-079** AAA Cattle Company Ltd./*Water Act* Licence No. 00188451-00-00 (Katherine McCulloch and Richard Kelk)
- 02-080** AAA Cattle Company Ltd./*Water Act* Licence No. 00188451-00-00 (Ross Warner)
- 02-081** Brookfield Pork Ltd./*Water Act* No. 00188715-00-00 (Ross Graham)
- 02-082** Brookfield Pork Ltd./*Water Act* No. 00188715-00-00 (Sherry and Douglas Brock)
- 02-084** City of Airdrie/*Water Act* Approval No. 00186924-00-00 (R. Douglas Herdman)
- 02-085** Mountain Creeks Ranch Inc./*Water Act* Approval No. 00148782-00-00 (Bertwistle and Seabolt Watershed Association)
- 02-089** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Randy Long, Travis Long, Diana Long, Margo Long, Harry Long, Darcie Long, Bernie Long and Long's Hereford Ranch)
- 02-091** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Marion Allred)
- 02-092** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Judy Fenton)
- 02-093** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Douglas Hudson and Sharon Hudson)
- 02-094** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (David Volker, Sharon Volker, Cameron Snoble, Elaine Snoble and Clara Snoble)
- 02-095** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Randy Long, Travis Long, Diana Long, Margo Long, Harry Long, Darcie Long, Bernie Long and Long's Hereford Ranch)
- 02-096** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Randy Long, Travis Long, Diana Long, Margo Long, Harry Long, Darcie Long, Bernie Long and Long's Hereford Ranch)
- 02-097** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Randy Long)
- 02-098** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Randy Long)
- 02-099** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Randy Long)
- 02-100** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Margo Long)
- 02-101** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Margo Long)

Environmental Appeal Board Annual Report 2002/2003

- 02-102** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Marvin and Patricia Loberg)
- 02-103** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (David and Sharon Volker)
- 02-104** Leduc County/*Water Act* Approval No. 00186138-00-00 (Dwain Kadyk)
- 02-105** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Margo Long)
- 02-106** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Darcie Long)
- 02-107** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Darcie Long)
- 02-108** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Darcie Long)
- 02-109** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Bernice Long)
- 02-110** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Bernice Long)
- 02-111** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Bernice Long)
- 02-112** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Diana Long)
- 02-113** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Diana Long)
- 02-114** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Diana Long)
- 02-115** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Travis Long)
- 02-116** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Travis Long)
- 02-117** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Travis Long)
- 02-118** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189761-00-00 (Harry Long)
- 02-119** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Harry Long)
- 02-120** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Harry Long)
- 02-121** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Gordon and Joan Scarlett)
- 02-122** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Shirley Hogg)
- 02-123** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787 (Marion Allred)
- 02-124** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Marion Allred)
- 02-125** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Grant Berg)
- 02-126** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Ray and Marion Braumberger)
- 02-127** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (L. Bozarth)

Environmental Appeal Board Annual Report 2002/2003

- 02-128** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Gerald and Judith Bozarth)
- 02-129** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Badger Family)
- 02-130** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Ernie and Louise Braumberger)
- 02-132** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189787-00-00 (Judy Fenton)
- 02-133** Lewisville Pork Farm Ltd./*Water Act* Licence No. 00189788-00-00 (Judy Fenton)
- 02-134** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (County of Grande Prairie No. 1)
- 02-135** Town of Sexsmith/*Water Act* Preliminary Certificate No. 0015692-00-00 (Nellie Sterr)
- 02-136** Leduc County/*Water Act* Approval No. 00186138-00-00 (Al Ridden)
- 02-137** Coyote Cove Golf Course Inc./*Water Act* Preliminary Certificate No. 00182584-00-00 (Martin and Lillian Dyck)
- 02-138** Mountain Creeks Ranch Inc./*Water Act* Licence No. 00154364-00-00 (Annette McClelland)
- 02-139** Consolidated Concrete Ltd. (Inland Aggregates Ltd.)/*Water Resources Act* Temporary Permit 16707-2 (Ian Skinner)
- 02-141** True North Fort Hills Project/*Water Act* Approval No. 00151636-00-00 (Bonnie Evans on behalf of Mikisew Cree First Nation)
- 02-142** True North Fort Hills Project/*Water Act* Licence No. 00190012-00-00 (Bonnie Evans on behalf of Mikisew Cree First Nation)
- 02-143** Richard and Connie Blair/ Lazy H Trail Company/*Water Act* Licence No. 00154141-00-00
- 02-146** Ducks Unlimited/*Water Act* Licence Amendment No. 00036350-00-01 (Dean and Verna Hart)
- 02-147** Ducks Unlimited/*Water Act* Licence Amendment No. 00036350-00-01 (Stella Hart and Cattlemen's A.1 Ltd.)
- 02-148** Ducks Unlimited/*Water Act* Licence Amendment No. 00036350-00-01 (Randy and Betty Landis)
- 02-149** Ducks Unlimited/*Water Act* Licence Amendment No. 00036350-00-01 (Michael Hart)
- 02-150** Ducks Unlimited/*Water Act* Licence Amendment No. 00036350-00-01 (David Kingcott)
- 02-151** Richard and Connie Blair and Lazy H Trail Company/*Water Act* Licence No. 00154141-00-00 (F.W. (Fritz) Seidel)
- 02-152** Slave River Exploration Ltd. and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (County of Grande Prairie No. 1)

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT
APPROVALS

- 02-016** Municipal District of Rocky View No. 44/EPEA Approval 918-0202 (Albert Walter and Mary Ann Potter)
- 02-018** Inland Cement Limited/EPEA Approval No. 10339-01-03 (David Doull)
- 02-019** Inland Cement Limited/EPEA Approval No. 10339-01-03 (James Darwish)
- 02-020** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Verona Goodwin)
- 02-021** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Elena Napora)
- 02-022** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Don Stuike)
- 02-023** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Ron, Gail & Ron Jr. Maga)
- 02-024** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Cameron Wakefield)
- 02-025** Inland Cement Limited/EPEA Approval No. 10339-01-03 (David Parker)
- 02-026** Inland Cement Limited/EPEA Approval No. 10339-01-03 (A. Ted Krug)
- 02-027** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Bill Bocock)
- 02-028** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Michael Nelson)
- 02-029** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Stanley Kondratiuk)
- 02-030** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Greg Ostapowicz)
- 02-031** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Douglas Price)
- 02-032** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Holly MacDonald)
- 02-033** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Stuart Pederson)
- 02-034** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Linda Stratulat)
- 02-035** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Leonard Rud)
- 02-036** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Marcel Wichink)
- 02-037** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Roger Hodgkinson)
- 02-038** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Lorraine Vetsch)
- 02-039** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Gwen Davies)
- 02-040** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Garry Marler)
- 02-041** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Edmonton Federation of Community Leagues)

Environmental Appeal Board Annual Report 2002/2003

- 02-047** Inland Cement Limited/Approval No. 10339-01-03 (Neil Hayes)
- 02-060** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Robert Wilde)
- 02-061** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Edmonton Friends of the North Environmental Society (EFONES))
- 02-069** Ouellette Packers 2000 Inc./EPEA Approval No. 155185-00-00 (Ray and Celine Holtsma)
- 02-073** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Bonnie Quinn)
- 02-074** Inland Cement Limited/EPEA Approval No. 10339-01-03 (Anna Krug)
- 02-086** Inland Aggregates Limited/EPEA Amending Approval No. 19284-01-01 (Ian Skinner)
- 02-087** Lafarge Canada Inc./EPEA Amending Approval No. 19283-01-01 (Ian Skinner)
- 02-145** Town of Picture Butte/EPEA Approval 1064-02-00

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT
RECALAMTION CERTIFICATES

- 02-062** Contour Energy Ltd./Application for Reclamation Certificate
- 02-065** Husky Oil Operation Limited (Husky Energy)/Application for Reclamation Certificate
- 02-071** Talisman Energy Inc./Reclamation Certificate 00146944-00-00 (Richard Ross)
- 02-083** Alta. Gas/Reclamation Certificate No. 001385181-00-00 (Lucien and Betty Coulombe)
- 02-088** Murphy Oil Company Limited and Sharp Environmental (2000) Ltd./Application for Reclamation Certificate
- 02-090** Conoco Canada Resources Limited/Reclamation Certificate No. 00186641-00-00 (Lawrence and Lisa Stocher)
- 02-144** Phillips Petroleum Resources Ltd./Application for a Reclamation

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT
ENFORCEMENT ORDER

- 02-072** Calvin Verbeek and 742333 Alberta Ltd. o/a Verbeek Sand and Gravel/EPEA Enforcement Order EO-2002-01

**WATER ACT
ENFORCEMENT ORDER**

- 02-131** The Laurence Marketing Group Ltd. and Allan Blomme/*Water Act* Enforcement Order No. 2002-WA-03
- 02-140** The Laurence Marketing Group Ltd./*Water Act* Enforcement Order No. 2002-WA-03

LACK OF JURISDICTION

- 02-015** David Stuart/Fish and Wildlife Permit issued by Sustainable Resource Development