

Enviromental Appeals Board



10th anniversary report 1 9 9 3 - 2 0 0 3





Enviromental Appeals Board

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ALBERTA
ENVIRONMENTAL APPEAL BOARD

Office of the Chairman



The Honourable Dr. Lorne Taylor
Minister of Environment
423 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta T5K 2B6

January 31, 2004

Dear Honourable Dr. Taylor:

Re: **Environmental Appeals Board – 1993 to 2003 Ten Year Report**

The Environmental Appeals Board (the "Board") was established on September 1, 1993 by the proclamation of the *Environmental Protection and Enhancement Act*. In 1994, the Board was given jurisdiction under the *Government Organization Act* and in 1999 the Board was also given jurisdiction under the *Water Act*. Since September 1, 1993, the Board has received over 1,129 appeals from the citizens of Alberta, industry, and business.

September 1, 2003, marked the tenth anniversary of the Environmental Appeals Board. In recognition of this, I respectfully submit the Environmental Appeals Board's 1993 to 2003 Ten Year Report for your review.

Yours truly,

William A. Tilleman, Q.C.
Chairman

cc: Mr. Ron Hicks
Deputy Minister
Alberta Environment



Introduction

September 1, 2003, marks the tenth anniversary of the establishment of the Environmental Appeals Board. In recognition of this, the Board has prepared this document entitled Alberta Environmental Appeals Board 10th Anniversary Report 1993 2003, which summarizes our work and accomplishments.

The report contains a description of the development, purpose, structure, and function of the Environmental Appeals Board. It includes an explanation of the appeal process, statistics on the appeals filed, and a summary of the Board's finances. It also discusses the Board's operating principles, objectives, and strategies. Finally, the report includes a number of brief essays on practice before the Board and a summary of the Board's decisions.

From September 1, 1993 to September 1, 2003, the Board received 1,129 appeals. In processing these appeals, the Board has worked diligently to advance the protection, enhancement and wise use of Alberta's environment by providing fair, impartial and efficient resolution of all matters before it.

n o t e t o r e a d e r s

In the fall of 2003, the Board changed its name from the Environmental Appeal Board to the Environmental Appeals Board. This change took place to reflect the Board's ability to deal with many different types of appeals, as well as to clearly communicate to the public that the Board can combine appeals under the Environmental Protection and Enhancement Act and Water Act. The ability to combine appeals will not only increase efficiency and effectiveness, but decrease costs the Board may incur.

On January 1, 2002, 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.

On January 1, 2002, the Water Act, R.S.A. 2000, c. W-3, replaced the Water Act, S.A. 1996, c.W-3.5.

On January 1, 2002, the Government Organization Act, R.S.A. 2000, replaced the c.G-10, Government Organization Act, S.A. 1994, c.G-8.5





Environmental Appeals Board

Message from the Chair

It has been a great pleasure and honour to serve the people of Alberta as Chair of the Environmental Appeals Board for the first ten years of its existence. It has been a challenging and rewarding experience.

I want to take this opportunity to thank all of the people who have made this possible. First and foremost, I want to thank my wife, Sandra, and my children for all of their support. Without them, none of this would be possible. Second, I want to thank all of the Board Members who have served on the Board throughout the years. I am grateful for their support, their expert skill, and their sound judgment. In particular, I want to thank Dr. John Ogilvie, the Board's Vice Chair until his retirement in 2002. John has been, and remains, a great source of inspiration and practical advice. Third, I want to thank the Board's staff members for everything that they do. They epitomize teamwork, and their dedication and commitment never cease to amaze me. I can think of no greater testament to the Board's staff than the comments I receive from parties appearing before the Board, that they have been treated fairly and respectfully.



I also want to thank the Government of Alberta and all of the various Ministers that I have worked with throughout the years for their support of the Board. Starting with Premier Klein who, as Minister of Environment, provided the leadership and vision to enact the Environmental Protection and Enhancement Act and establish the Environmental Appeals Board. Following Premier Klein, was the Honourable Brian Evans, the Honourable Ty Lund, the Honourable Gary Mar, and the Honourable Halvar Johnson. Each provided steadfast support for the Board. Most recently, it has been my great pleasure to work with the Honourable Dr. Lorne Taylor. Dr. Taylor has been a great champion of the environment and continues to provide us with a clear vision and strong leadership.

creation and growth of the board

The Board was created in 1993 when the Environmental Protection and Enhancement Act was proclaimed. The Environmental Protection and Enhancement Act, which replaced and consolidated nine statutes, was developed through an extensive public consultation process. It was through this consultation process that the government, members of the public, business, and industry called for the establishment of the Board, with specialized expertise and technical competence, to provide for an independent review of decisions made by Alberta Environment. As Premier Klein stated when he



introduced the legislation, the Environmental Protection and Enhancement Act includes "...opportunities for appeals for parties directly affected by decisions through the creation of an environmental appeal board. The board will provide an independent review of the decisions made by directors and other people within the department to provide a system of checks and balances on those decisions." (Hansard, June 4, 1992, page 1184.)

In 1993, when we began, we received six appeals. At the time, it seemed like a lot. Since then, our workload has continued to grow and the issues that we are dealing with have become more complex. We initially heard only appeals under the Environmental Protection and Enhancement Act. However, in 1996 we were assigned to hear appeals under the environmental provisions of the Government Organization Act and in 1999 we were assigned to hear appeals under the new Water Act. I am grateful to the Legislature for their vote of confidence in us and I have no doubt the expanded jurisdiction that we were granted was the result of the hard work by the Board's members and staff. With the additional jurisdiction assigned to us, last year (fiscal 2002/2003), we received 152 appeals and in the first six months of this year, we received 122 appeals, with almost 200 appeals anticipated by years end (fiscal 2003/2004). In total, between September 1, 1993 and September 1, 2003, we have received a total of 1,129 appeals. When I look back over the last ten years, at all the things we have accomplished, I am confident that the Board has met and exceeded the expectations of the Government and the citizens of Alberta.

i n n o v a t i o n a n d t h e f u t u r e

One of the key reasons that we have been able to meet and exceed these expectations is that we are always looking for a better way to do things. One of these "better ways" is our mediation program. Shortly after I was appointed to the Board, I was asked how I was going to deal with the appeals that came before the Board. At the top of my list was the use of mediation. As I was examining ways to incorporate mediation into the Board's appeal process, I was referred to Dr. Larry Susskind, President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes Resolution Program at Harvard Law School. It took me some time to get in contact with Dr. Susskind, but eventually I had the opportunity meet with him and discuss my ideas about mediation. I will always be grateful for his assistance. With Dr. Susskind's guidance, and through a lot of hard work by the Board members and Board staff, we have been able to develop a very successful and first of its kind mediation program at the Board. We have never looked back. Mediation provides an opportunity for the parties to resolve their own dispute without the necessity of the Board's hearing process. It is a quick and cost efficient process that gives the parties greater control over the outcome of their appeals. Our mediation program currently has an 81% success rate, and we continue to look for ways to improve and expand the program.

In keeping with the Board's commitment to mediation and coming up with better ways to do things, the Board has held two conferences in conjunction with the Consensus Building Institute, Indian and

Northern Affairs Canada, Alberta Aboriginal Affairs and Northern Development, and the Alberta Solicitor General Aboriginal Justice Initiatives Unit. The purpose of these conferences was to provide opportunities for stakeholders to develop a better understanding of mediation and to provide opportunities to build relationships aimed at the better resolution of disputes, particularly those involving First Nations. These conferences have been an outstanding success and the Board is committed to holding further conferences to further these goals.

The Board has found a number of other better ways to improve our ability to carry out our mandate. Our decisions are widely reported in several leading legal reporting series, as well as available on the internet through the Board's website and commercial on-line sources. We have recently completed renovations to our hearing room to allow for state of the art multimedia presentations. The Board has also been using a timer system to improve the efficiency and effectiveness of its hearings. The list of improvements goes on and the Board continues to look for further innovations to fulfill our mandate.

With our first ten years successfully behind us, I look forward to the further challenges and rewards that face us. With the support of the Government of Alberta and the various Ministers, Board Members, and Board staff, I believe that we have built an outstanding Board that will continue to serve the people of Alberta well into the future.



William A. Tilleman, Q.C.
Chair



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 ("EPEA" or the "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



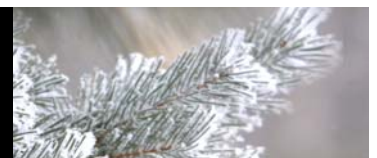
over environmental impacts associated with industrial development, and the concerns of regulated industries. The consultation reflected the concerns of unfair treatment by government regulators, or being required to meet government regulations that were too stringent. The Panel submitted a report to government in January 1991, confirming support for the establishment of an independent appeal process.

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 received third reading and Royal Assent on June 26, 1992. On September 1, 1993, the Environmental Protection and Enhancement Act was proclaimed, creating the Environmental Appeal Board (the "Board").

In 1995, the scope of the Board's mandate was expanded with the implementation 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 purview 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.

In order to reflect the Board's ability to deal with a number of diverse types of appeals, in late 2003, the Board decided to change its name. The Board became the Environmental Appeals Board and in doing so, communicated that it combined appeals under the Environmental Protection and Enhancement Act and the Water Act. The ability to combine appeals not only increases efficiency and effectiveness, but decreases Board costs.





Environmental Appeals Board

Expertise of the Board

One of the key features of the Environmental Appeals Board is that the Board members are collectively "experts" on the environment. Since the Board's inception, Board members have been appointed based on their extensive experience in various areas of environmental science or law. Board members have had backgrounds in medicine, environmental assessment, toxicology, water resources, soil sciences, engineering, land reclamation, veterinarian sciences, geology, and environmental law.



The Court has recognized the strong scientific analyses required in most of the appeals heard by the Board, and the Court has given the Board's decisions great "deference" because of the expertise of its members. The Court will generally "defer" to the environmental decisions of the Board, and not review its environmental decisions, because the Court recognizes that the experts on the Board may be more suited to deal with environmental issues.



EAB Coat of Arms

The Court has also recognized the "institutional expertise" developed by the Board in respect to some of the issues, including standing. Institutional expertise is where an organization like the Board has developed an extensive set of decisions in a particular area that it is assigned to deal with.

The Board has also been recognized for its role in achieving the purposes of EPEA, and its role in balancing several competing policy objectives and conflicting interests of the various parties. The Court has also stated that is one of the proper functions of the Board and will generally not review decisions that deal with these issues.

When a hearing is held, the Board makes every effort to include those Board members with the most relevant expertise on the panel. This not only provides for a fair and expeditious hearing, but also gives the parties involved, and the public in general, the reassurance that decisions are based on fact and sound scientific analyses.

This information is only intended to provide a brief overview on the issue of expertise and deference. For more information on this issue, please see the Board's decisions. Copies of decision relating to the Board are available by contacting the Board's office at (780) 427-6207 or on the Board's website at www.gov.ab.ca/eab.





Environmental Appeals Board



Board Membership

Members of the Environmental Appeals Board are appointed by Cabinet as per section 90(1) of the 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 and eight members:

Chair: Dr. William A. Tillemann, Vice-Chair: Dr. Frederick C. Fisher, Dr. M. Anne Naeth, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey, Mr. Ron Hierath, Dr. James M. Howell, Dr. Alan J. Kennedy, and Mr. Al Schulz

p a s t b o a r d a p p o i n t m e n t s

2001/2002 - Chair: Dr. William A. Tillemann, Vice-Chair: Dr. John P. Ogilvie, Dr. M. Anne Naeth, Dr. Steve E. Hrudey, Mr. Ron V. Peiluck, Dr. Ted Best, Curt Vos, Ron Hierath, Roy Crowther

2000 - Chair: Dr. William A. Tillemann. Vice-Chair: Dr. John P. Ogilvie, Dr. M. Anne Naeth, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey, Dr. Ted W. Best, Dr. Curt Vos, Ms. Patricia Cross, Dr. Roy A. Crowther

1999 - Chair: Dr. William A. Tillemann, Vice-Chair: Dr. John P. Ogilvie, Dr. M. Anne Naeth, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey, Dr. Ted W. Best, Dr. Curt Vos

1998 - Chair: Dr. William A. Tillemann, Vice-Chair, Dr. John P. Ogilvie, Dr. M. Anne Naeth, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey, Dr. Ted W. Best, Dr. Curt Vos

1997 - Chair: Dr. William A. Tillemann, Vice-Chair: Dr. John P. Ogilvie, Mr. Max A. McCann, Dr. M. Anne Naeth, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey, Dr. Ted W. Best

1996 - Chair: Dr. William A. Tillemann, Mr. Max A. McCann, Dr. John P. Ogilvie, Dr. M. Anne, Mr. Ron V. Peiluck, Dr. Steve E. Hrudey

1995 - Chair: Dr. William A. Tillemann, Mr. Max A. McCann, Ms. Joan Copp, Dr. John P. Ogilvie, Dr. M. Anne

1993/1994 - Chair: Dr. William A. Tillemann, Vice-Chair: Mr. David Marko, Mr. Max A. McCann, Ms. Joan Copp, Dr. John P. Ogilvie

c u r r e n t m e m b e r b i o g r a p h i e s

Chair: Dr. William A. Tilleman has studied negotiation and advanced negotiation at Harvard Law School and holds a doctorate in law (J.S.D.) from Columbia Law School. Current work, in addition to the Alberta Environmental Appeals Board, includes acting as counsel to federal environmental boards in Canada, and Professor of Environmental Law and member of the Board of Governors and Senate at the University of Calgary. Major publications include, *Environmental Law and Policy*, 2nd edition 1998 (co-editor) and *Dictionary of Environmental Law and Science*, (2nd edition 1999). Dr. Tilleman was appointed to Queen's Counsel on December 31, 1999.

Vice-Chair: Dr. Frederick C. Fisher is a lawyer and veterinarian. Dr. Fisher graduated from the University of Calgary in 1969 with a Bachelor of Science, obtained his doctorate of veterinary medicine from the Western College of Veterinary Medicine in Saskatoon, Saskatchewan in 1973, graduated with a Bachelor of Law in 1983, and was admitted to the Law Society in 1984. Dr. Fisher is a qualified mediator and has completed a number of interest-based negotiation courses. Dr. Fisher has been practicing law since 1984 and prefers the areas of real estate, corporate/commercial law, personal injury litigation, criminal law and matrimonial law. Dr. Fisher was appointed to Queen's Counsel on December 31, 2001 and prior to becoming a lawyer, Dr. Fisher practiced veterinary medicine from 1973 to 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. Dr. Naeth holds a B.Sc. in biology, a double M.Sc. in soil science and plant science and a Ph.D. in plant science. Her areas of research include applied ecology, reclamation, revegetation and environmental assessment. Her research and work endeavors to restore productivity and diversity of lands disturbed by human use (pipelines, mines, well sites, roadways, agriculture, recreation). Dr. Naeth is currently President of The Canadian Land Reclamation Association and has served on the executives of numerous professional organizations, editorial boards and expert advisory boards. She has authored nearly 200 publications and supervised 40 graduate students.

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, and provides environmental evaluations to a variety of clients. Mr. Peiluck has a BSc from the University of Manitoba in chemistry, microbiology and earth sciences. He obtained a Diploma in Business Administration after successfully completing the first year of the MBA program at the University of Western Ontario. After graduate studies and applied research at the universities of Saskatchewan and Manitoba, he earned an MA in resource planning. Mr. Peiluck obtained his national certification, C.E.S.A., to conduct environmental site assessments. During his position as President of The Lombard North Group, the company grew to become the largest landscape architectural based environmental planning firm in Canada. He has extensive experience as an advisor and witness to numerous judicial and quasi-judicial boards, including the Energy Resources Conservation Board, Alberta Natural Resources Conservation Board, the U.S. Federal Power Commission, and the National Energy Board. Mr. Peiluck has extensive international experience having worked in eight countries including Russia, Saudi Arabia and Brazil.



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. From 2000 to 2002, Dr. Hrudehy also served as a member of the Research Advisory Panel to the Walkerton Inquiry and is the Leader of the Water and Public Health theme of the Canadian Water Network, a Network of Centres of Excellence in water research. He has served as the Chair of the NATO Priority Panel on Environmental Security in Brussels, Chair of the Royal Society Expert Panel assessing Socio-Economic Modeling for the Canada-wide Air Quality Standards for Respirable Particulate and Ozone, Chair of the Expert Advisory Panel of the NSERC Metals in the Environment Research Network and Chair of the Health Canada Expert Panel reviewing health outcomes for deriving drinking water guidelines for trihalomethanes. Dr. Hrudehy has consulted nationally and internationally on a range of environmental health risk issues and is an active researcher with over 200 scientific and technical publications. He has supervised over 50 graduate students in a wide variety of environmental disciplines. Dr. Hrudehy has been awarded a McCalla Professorship at the University of Alberta, the Albert Berry Medal from the Canadian Society for Civil Engineering, an Emerald Award for Environmental Research in Alberta and the prestigious Killiam Annual Professorship Award from Imperial College in the United Kingdom.

Member: Mr. Ron Hierath has been farming in the Milk River area since 1965. He served as a member of the Alberta Legislature from 1993-2001, and during this time served as the Chairman of the Standing Policy Committee on Agriculture and Environment and as Chairman of the Health Facility Review Committee. Mr. Hierath has also served as a Board Member for the Agriculture Development Corporation. He is a former member of the Advisory Board for the Western Barley Association, Advisory Board for the Alberta Grain Commission, Alberta Agricultural Products Marketing Council, Alberta Taxpayers, and former Director for the Western Canadian Wheat Growers Association. Mr. Hierath attended the Masinasin (Milk River), the Southern Alberta Institute of Technology, and the University of Lethbridge.

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

p a s t m e m b e r b i o g r a p h i e s

Dr. John P. Ogilvie, Vice-Chair: Over the past several years, Dr. Ogilvie was involved with rural natural gas co-ops in Alberta. He has also been responsible for conducting studies involving forecasts, through Foster Research, of electricity and natural gas requirements in Alberta, Manitoba, Ontario, Quebec and the Maritime provinces. Dr. Ogilvie received his Doctor of Philosophy (Metallurgy), from the University of California and his Bachelor of Engineering (Metallurgy), from McGill University.



Dr. John P. Ogilvie





Dr. Ted W. Best: An active consultant with a background that includes a Ph.D in Geology and the Advanced Management Program at Harvard Business School.

Dr. Curt Vos: A physician in family practice and industrial medicine, and an active member of numerous community organizations such as the Strathcona Chamber of Commerce, the Strathcona Library Board, and the Strathcona Care Centre.

Dr. Roy A. Crowther: An aquatic ecologist with a Ph.D from the University of Calgary and 20 years of experience as a consultant and advisor. Dr. Crowther's primary areas of expertise are in project management, co-ordination of multi-disciplinary environmental teams, preparation of environmental impact assessments, and water resource management.

Ms. Patricia Cross: A limnologist with 20 years experience and a MSc in Zoology from the University of Toronto. Ms. Cross has experience with water quality, empirical modeling and water resource planning across Alberta.

Ms. Joan Copp: An Edmonton environmental lawyer and counsel to the law firm of Lucas, Bowker & White.

Mr. Max A. McCann: A businessman from St. Albert and former chair of the Public Health Advisory and Appeal Board.

Mr. David Marko (Vice-Chair): A Calgary consultant and the former manager of projects for the Northern River Basins Study.





Environmental Appeals Board



Board Staff

Over the past 10 years, the Board has expanded its staff in order to accommodate the growing number of appeals it processes. In 1993, the Board received six appeals, compared to an average of 100 appeals it currently receives each year for the past five years.

At its inception, the Board employed two full-time staff members consisting of an Executive Director and an Office Administrator. In 1995, the position of Executive Director was changed to Board Secretary. In order to better describe the duties of the position, the position of Board Secretary was renamed to Executive Director and Registrar of Appeals in 1996.

In 1997, the Board hired two more full-time staff members, raising the total to four, consisting of an Executive Director and Registrar of Appeals, Office Administrator, and two Administrative Assistants.

During 1998 and 1999, the Board added to their staff by hiring a Research Assistant.

In 2000, the Board consisted of an Executive Director and Registrar of Appeals, Office Administrator and two Administrative Assistants. In order to keep up with the ever-increasing complexity and volume of appeals, the Board also hired a General Counsel and Settlement Officer and changed its Research Assistant position to that of a Projects Officer.

During 2001, the Board underwent additional changes as the previous position of Executive Director and Registrar of Appeals was divided into two positions. This was a critical reorganization for the Board's success due to the increased complexity and size of appeals coming before the Board. The Board's new staff, consisted of a Registrar of Appeals, a Board Secretary which combined Office Administrator/Executive Director responsibilities, General Counsel and Settlement Officer, Projects Officer and Receptionist. In order to increase the speed, quality and consistency of the Board's publications, the Board also hired a Senior Research Officer. The Board also hired an additional Administrative Assistant to assist the Registrar of Appeals in managing the increasing number of appeals.

current staff biographies

Mr. Gilbert Van Nes, General Counsel and Settlement Officer: Gilbert provides legal advice to the Board and coordinates the Board's alternative dispute resolution activities. Gilbert has been a lawyer with the Government of Alberta for approximately eleven years. His most recent employment history includes that of an Environmental Prosecutor with the Special Prosecutions Branch of Alberta Justice. Mr. Van Nes' experience also includes seven years with the Environmental Law Section of Alberta Justice serving clients in the Departments of Environment, Infrastructure and Alberta Agriculture, Food and Rural Development. While with the Environmental Law Section, Mr. Van Nes assisted in drafting legislation such as the Environmental Protection and Enhancement Act



and the Water Act, developed enforcement programs, appeared before the Alberta Energy and Utilities Board, and joint Natural Resources Conservation Board/Canadian Environmental Assessment Act panels. Mr. Van Nes graduated with a Bachelor of Laws in April 1991 and was admitted to the Bar in July 1992. Mr. Van Nes also has a Bachelor of Science degree in Biology and is currently working on his certificate in Conflict Management from the Alberta Arbitration and Mediation Society.



Gilbert Van Nes

Ms. Denise Black, Board Secretary: Reporting to the Chairman, Denise is responsible for the overall operations of the Board. Denise has served the provincial government for more than twenty years commencing with the Solicitor General's in 1981. She has held various operational and corporate positions in the Department of Justice prior to joining the Environmental Appeal Board in 1996.

Ms. Valerie Higgins Myrmo, Registrar of Appeals: Valerie's duties include the administration of the appeals and clerking at appeal hearings. Valerie has extensive experience within the provincial government and the private sector with emphasis on legal and financial fields.

Ms. Marian Fluker, Senior Research Officer: Marian provides legal and scientific research for the Board. In 1998, she completed her Masters of Science degree from the University of Alberta in Land Reclamation and Remediation. In 2000, Marian completed her law degree at the University of Alberta and articulated at the Environmental Appeal Board in Edmonton and at Martinson & Harder in Olds, Alberta. She was called to the Alberta Bar in October 2001.

Ms. Lisa Awid Goltz, Projects Officer: Using her analytical and research related skills, Lisa is responsible for drafting background information on office inquiries, correspondence and other related materials and a host of research-related projects. Lisa's undergraduate degree is a Bachelor of Arts with Distinction from the University of Alberta in the areas of Sociology and Women's Studies. In 2002, Lisa successfully completed her assessments in interest-based negotiation and mediation for the Alberta Arbitration and Mediation Society's certificate in Conflict Management.

Ms. Debra Makaryshyn, Administrative Assistant: Debra provides administrative support to the Board's Registrar of Appeals. She has 10 years experience in the criminal justice area of the Alberta Government and is a graduate of the Legal Assistant Program at the Red Deer College.

Ms. Theresa Ulvestad, Receptionist: Ms. Ulvestad has a wide variety of office experience from the private sector. Theresa is responsible for general office support.

Since 1993, the Board has also retained temporary administrative support as required.

Board Accommodations

The establishment of the Environmental Appeals Board coincided with the move of the Natural Resources Conservation Board from Calgary to Edmonton. The two Boards decided to share office space in the Pacific Plaza in Edmonton, with a shared boardroom, reception area, coffee room, photocopier and spare office. In its first year, the only expenditures of any significance were a computer, a laser printer and dictation equipment that totaled \$6,160.00. In April 1995, due to a lack of space, the then Environmental Appeal Board moved to a new location on the 4th Floor of the Alberta Treasury Branches Plaza. The purpose of the move from the Pacific Plaza location was also to ensure fairness, impartiality, and independence of the Board from other Boards whose decisions are reviewed. The Board was located at the Alberta Treasury Branches Plaza until 2000, when it moved to its current location on the third floor of the Peace Hills Trust Tower. The Board's current location has a spacious hearing room that can seat approximately 60 people, as well as breakout rooms for independent consultation and a conference room for in-house mediations. The facility offers the space and functionality to allow the Board to meet its mission and purpose efficiently and effectively



EAB Reception



Hearing Room



Board Library



Resource Room





Environmental Appeals Board

Mission Statement



The **Environmental Appeals 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

e c o s y s t e m s u s t a i n a b i l i t y

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.

s u s t a i n a b l e d e v e l o p m e n t

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.

i n f o r m e d d e c i s i o n - m a k i n g

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

p u b l i c i n v o l v e m e n t

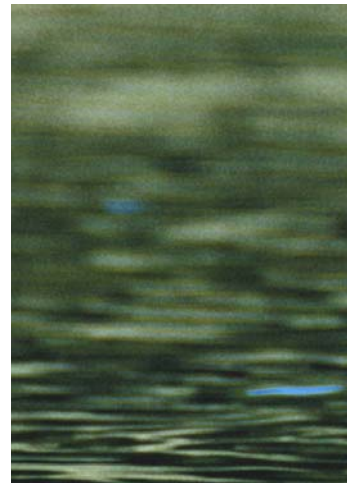
The Board ensures information on its mandate and rules and regulations is freely accessible. The Board provides Albertans with the opportunity to become active participants in appeals and hearings through creative processes such as mediation.

s h a r e d r e s p o n s i b i l i t y

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

p u b l i c s e r v i c e

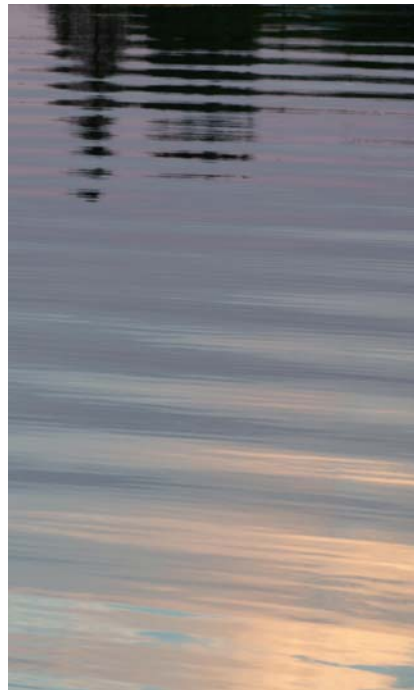
The Board is dedicated to providing excellent service to Albertans in all regions of the province.





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, certificates of qualification, and other matters. The goals of the Board are linked to the core business and goals of the Ministry of Environmental 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.





Environmental Appeals Board



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;*
- 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 fairness and unbiased results, having regard for the purpose of EPEA 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.*





Environmental Appeals Board



Strategies

The Environmental Appeals 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 success;
- 4.* train Board members and staff to mediate those appeals that are amenable to settlement;
- 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;
- 9.* provide all parties, consisting of business, government and the public access to the Board by way of telephone access for out-of-town parties and an internet web site;
- 10.* maintain and update Board documents, rules and procedures, eliminating inaccurate or outdated information;



11. monitor changes to the EPEA, 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/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, the Government Organization Act, Schedule 5, 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 and the Water 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, replaced the c.G-10, Government Organization Act, S.A. 1994, c.G-8.5. The predominant effect of the 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 and the Water Act, the Board has the power to make recommendations on matters brought before it to the Minister of Environment, 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 commission 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 will 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 dispense with compliance 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 fulfil 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.





Environmental Appeals Board



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 Plan, and Annual Report is available from the Board office or the Board's web site. The Board's staff are also available to answer questions about the Board's processes and appeal procedures. Appendix B 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 proceeds to collect 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 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 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 a 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 Report and Recommendation to the Minister of Environment. Where the Board makes a report and recommendation 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.



Public Documents

In its 10 years of existence, the Board has received 1,129 appeals and has produced 418 decisions. (It should be noted that within the 418 decisions written, the Board chose to combine a number of appeals under one decision if necessary.) Many of the Board's decisions have been published in the Canadian Environmental Law Reports, Administrative Law Reports (note Appendix B) 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>

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 provides Albertans with an objective source of 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 Appeals 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 Law Centre**, #204, 10709 Jasper Avenue, Edmonton, AB T5J 3N3; phone: (780) 424-5099, Fax: (780) 424-5133, Alberta toll-free: 1-800-661-4238;

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.





The Board also has a **Practitioner 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, Alberta, T5J 0H8, phone (780) 420-1987, fax: (780) 425-0885, email: lesa@lesa.org, website: www.lesa.org.

o t h e r p u b l i c a t i o n s o n t h e b o a r d

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

TILLEMAN, 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.

TILLEMAN, 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).

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.



Public Presentations

Date: March 22, 1996 **Presented by:** Chairman **Group/Location:** University of Calgary-
Role of the Board.

Date: March 29, 1996
Presented by: Chairman
Group/Location: University of Calgary-Environmental Management and Sustainable Resource
Development Programs

Date: May 7, 1996
Presented by: Vice-Chair
Group/Location: Canadian Prairie and Northern Section of the Air and Waste Management
Association-Appeals, Process and Cases-Calgary

Date: May 27 and 28, 1996
Presented by: Chairman
Group/Location: Canadian Institute-Environmental Law and Regulation in Alberta-Calgary

Date: November 13, 1996
Presented by: Chairman
Group/Location: University of Calgary

Date: January 16, 1997
Presented by: Chairman
Group/Location: Canadian Bar Association-Mediation Edmonton

Date: February 11, 1997
Presented by: Chairman
Group/Location: University of Calgary-Ethics and Natural Resources

Date: February 19, 1997
Presented by: Chairman
Group/Location: University of Calgary-Environmental Appeal Board Powers and Decisions from
an Ethical Perspective

Date: February 24, 1997
Presented by: Chairman
Group/Location: Canadian Institute on Administrative Justice Conference-The Hearing Process-
Calgary

Date: March 19, 1997
Presented by: Chairman



Group/Location: Alberta Arbitration and Mediation Association-Edmonton

Date: June 1, 1997

Presented by: Chairman

Group/Location: Annual Conference of the Council of Canadian Administrative Tribunals-Adding to our Alternative Dispute Resolution Resources -Ottawa

Date: September 17, 1997

Presented by: Registrar

Group/Location: The Canadian Chemical Producers' Association-The Role of the Board-Joffre

Date: November 3, 1997

Presented by: Chairman

Group/Location: British Columbia Council of Administrative Tribunals-Vancouver

Date: November 18, 1997

Presented by: Chairman

Group/Location: University of Calgary, Faculty of Environmental Science

Date: January 13, 1988

Presented by: Chairman

Group/Location: Law Firm of Testa, Hurwitz & Thibeault-Transboundary Effects of Environmental Planning, Boston MA

Date: April 24, 1998

Presented by: Chairman

Group/Location: Alberta Urban Municipalities Association, - EAB Process-Edmonton

Date: May 7, 1998

Presented by: Registrar

Group/Location: Alberta Urban Municipalities Association, Environmental Committee - EAB Mandate and Activities



Date: May 12, 1998

Presented by: Chairman

Group/Location: Calgary Chamber of Commerce - EAB Process

Date: May 21, 1998

Presented by: Board Member

Group/Location: Canadian Land Reclamation Association, Calgary

Date: November 5, 1998

Presented by: Chairman

Group/Location: Russian Environmental Delegates (Arranged by Intergovernmental Affairs),
Calgary-Overview of the EAB

Date: November 26, 1998

Presented by: Chairman

Group/Location: CEA-Consulting Engineer Association-Overview and Mandate of the Board,
Edmonton

Date: December 11, 1998

Presented by: Chairman

Group/Location: University of Calgary-Mediation

Date: February 2, 1999

Presented by: Chairman

Group/Location: Canadian Bar Association, South Alberta Environmental Law Section-
Developments of the EAB, Calgary

Date: February 10, 1999

Presented by: Chairman

Group/Location: Canadian Institute for the Administration of Justice - "Issues of Independence",
Edmonton

Date: April 9, 1999

Presented by: Chairman

Group/Location: Canadian Bar Association, National Symposium on Water Law-Overview of
Water Law Across Canada, specifically Alberta and the role of the Environmental Appeal Board,
Toronto

Date: May 17, 1999

Presented by: Chairman

Group/Location: Nunavut Impact Review Board-Environmental Appeal Registrar Board Process,
Board Office, Edmonton





Date: September 13, 1999

Presented by: Chairman

Group/Location: Alberta Energy and Utilities Board-Environmental Appeal Board Process, Calgary

Date: September 29, 1999

Presented by: Chairman

Group/Location: The Canadian Institute, Environmental Law, Regulation and Management in Alberta Conference-The Environmental Appeal Board: Disputing the Results of an Approval, Calgary

Date: January 24, 2000

Presented by: Chairman

Group/Location: The Canadian Environmental Assessment Act Five Year Review by Centrum Information-Lessons from Case Law: Implications of Significant Recent Decisions, Toronto

Date: March 23, 2000

Presented by: Registrar

Group/Location: Alberta Institute of Agrologists Y2K Annual General Meeting-Role of the Environmental Appeal Board, Calgary

Date: March 24, 2000

Presented by: Chairman

Group/Location: National Environmental Law Section, Continuing Legal Education Committee (Canadian Bar Association), the American Bar Association and the Inter-American Bar Association-Enforcement and Appeal Mechanisms, Calgary

Date: June 12, 2000

Presented by: General Counsel

Group/Location: Council of Canadian Administrative Tribunals Annual Conference-Recent Developments at the EAB, Ottawa



Date: June 23, 2000

Presented by: General Counsel

Group/Location: Learning Program 2000, Chair, Environmental Assessment and Appeal Boards of Toronto, ON. Environmental Adjudication in Alberta and Manitoba, Mandate, Objectives, Process and Issues, Toronto

Date: September 14, 2000

Presented by: Board Counsel

Group/Location: Canadian Bar Association, Environmental Law Section-Recent changes to the EAB, recent decisions, judicial reviews, Edmonton

Date: September 26, 2000

Presented by: General Counsel

Group/Location: The Canadian Institute-Environmental Appeals, latest developments and appeal strategies, Calgary

Date: November 24, 2000

Presented by: General Counsel

Group/Location: Lakeland College-the EAB and Reclamation, Vermillion

Date: February 21, 2001

Presented by: Registrar

Group/Location: Lakeland College-Role of the Board, Vermillion

Date: March 28, 2001

Presented by: Chairman

Group/Location: University of Alberta, Administrative Law-The Environmental Appeal Board, Edmonton

Date: April 12, 2001

Presented by: Board Member (Dr. Steve Hrudehy)

Group/Location: Canadian Bar Association, Environmental Law Section-North Walkerton Inquiry Process-A Scientist's View, Edmonton

Date: July 31, 2001

Presented by: General Counsel

Group/Location: Japanese Exchange Students-U of A, Board Office, Edmonton

Date: September 24, 2001

Presented by: Chair

Group/Location: Canadian Institute (Environmental Law and Regulation in Alberta). The expanding role of the Alberta Environmental Appeal Board: What Industry Must Know, Calgary.

Date: September 24, 2001

Presented by: Board Counsel

Group/Location: Canadian Institute (Environmental Law and Regulation in Alberta). Project





Approvals and Permits: Critical Information for Navigating and Expediting the Process: Where does the Alberta Appeal Board fit in?, Calgary.

Date: October 19, 2001

Presented by: Board Member (Dr. M. Anne Naeth)

Group/Location: Sino-Canada Technology Exchange Centre Chinese Delegation from the Ministry of Water Resources, Soil and Water Conservation, Law and Regulation, Appeal Process, Edmonton.

Date: November 8, 2001

Presented by: Chairman

Group/Location: Consensus Building Institute, Consensus Building and the Environmental Appeal Board, Edmonton (says Calgary in the AR)

Date: November 16, 2001

Presented by: General Counsel

Group/Location: Lakeland College- the EAB Process and its relationship with other regulatory boards, Vermillion.

Date: December 5, 2001

Presented by: Chairman

Group/Location: Canadian Bar Association, Environmental Law Section (Southern), Harmonizing EIA for Northern Pipelines, Calgary.

Date: March 4, 2002

Presented by: Chairman

Group/Location: Alberta Energy and Utilities Board-Environmental Appeal Board, Calgary.

Date: March 12, 2002

Presented by: General Counsel

Group/Location: University of Alberta, Faculty of Law (Job Fair for Public Interest) - Environmental Appeal Board, Edmonton.





Date: April 3, 2002

Presented by: General Counsel

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

Date: April 11, 2002

Presented by: Chairman Canadian Bar Association Environmental Law Section (Northern)-

Group/Location: Environmental Appeal Board and Mediation, Edmonton.

Date: June 4, 2002

Presented by: Chairman

Group/Location: Canadian Counsel 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 Calgary - Natural Resources and Energy and the
EAB, Edmonton.

Date: October 7, 2002

Presented by: Chairman

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

Date: October 8, 2002

Presented by: General Counsel

Group/Location: Canadian Institute (Environmental Law and Regulation in Alberta) - Strategies
for addressing the Alberta Environmental Appeal Board - Calgary.

Date: November 12, 2002

Presented by: Chairman

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)

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.

Date: April 1, 2003

Presented by: General Counsel

University of Alberta, Law School - The Environmental Appeal Board and Mediation.

Date: June 2, 2003

Presented by: General Counsel

Group/Location: Canadian Council of Administrative Tribunals (CCAT) - Changing Roles of Legal Advisors to Tribunals, Gatineau, Quebec.

Date: August 8, 2003

Presented by: General Counsel

Group/Location: Japanese Exchange Students - U of A, Board Office (Edmonton).



Board Accomplishments

A list of the Board's achievements over the past 10 years indicates our commitment to our mission, objectives, the implementation of our strategies, and the achievement of our goals.

- *As of September 1, 2003, 67 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.*
- *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.*



Marian Fluker, Senior Research Officer



Board Staff Members: Sheryl Kozyniak, Valerie Higgins and Denise Black

- *In 2000, 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.*
- *In 1999, the Board commissioned a White Paper entitled Using Mediation in Canadian Environmental Tribunals: Opportunities and Best Practices from which it adopted Settlement Conferencing, an ADR strategy which aims at achieving resolution at an early stage of the appeal process.*

- *The Board co-hosted and participated in a successful October 1999 international conference in Vancouver entitled "Best Practices in Administrative Justice".*
- *In 1997, the Board sought public consultation with 73 stakeholders. Recommendations that came out of that consultation were recorded in a Stakeholder Consultation Report and posted to the Board's web site. The results of the report, along with the incorporation of the Water Act, resulted in the 1999 amendment to the Board's Rules of Practice and further consultation. The Board is committed to continued stakeholder involvement in the form of input on its Rules of Practice and Procedures; as such, another stakeholder consultation was conducted in 1999, the results of which have been considered in relation to updating the Rules of Practice.*
- *The Board developed and implemented effective ADR strategies, and provides ongoing ADR training to Board members.*
- *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 in Canada currently using ADR to such a large degree.*
- *The Board developed a questionnaire which is given to parties to complete following mediation/settlement conference to assess their satisfaction or concerns with the mediation process.*
- *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.*
- *Remaining current with technological advances, the Board developed and maintains a web site. As a result, the Board is continuing to expand, revise and update the web site in order to improve the quality, quantity and applicability of the information it contains.*

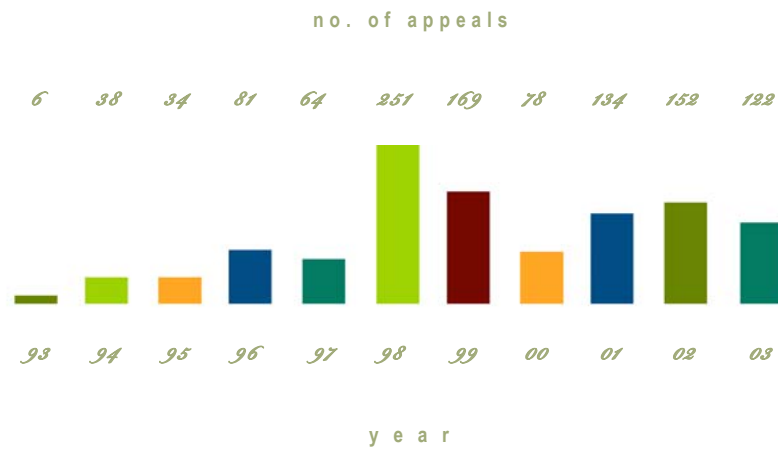




Environmental Appeals Board

Statistics

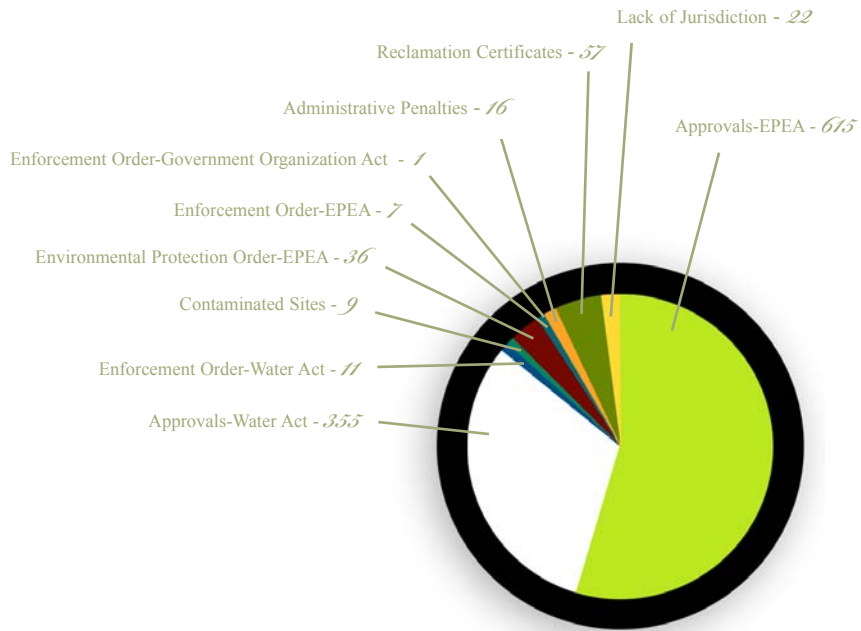
appeals filed by year



Total appeals filed September 1, 1993 to September 1, 2003 is 1,129 appeals. Numbers shown are for a 12 month period except for 2001 which is for a 15 month period and 2003 which is for a 6 month period

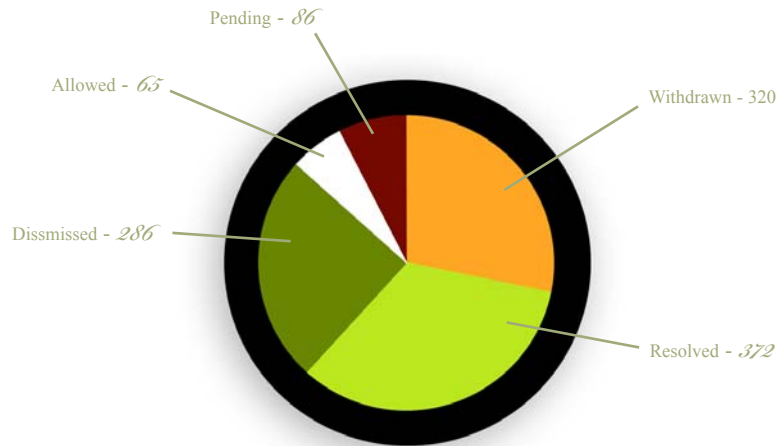


a p p e a l s f i l e d b y t y p e



- Approvals-EPEA - 615
- Approvals-Water Act - 355
- Enforcement Order-EPEA - 7
- Enforcement Order-Water Act - 11
- Enforcement Order-Government Organization Act - 1
- Environmental Protection Order-EPEA - 36
- Environmental Protection Order-Water Act - 0
- Contaminated Sites - 9
- Administrative Penalties - 16
- Reclamation Certificates - 57
- Lack of Jurisdiction - 22

appeals by disposition



Mediations: The Board has conducted mediations in relation to 114 regulatory documents (i.e. approvals, land reclamations, enforcement matters, etc.). The 114 regulatory documents relate to 531 appeals. In relation to the appeals processed before the Board, 51% of the appeals have undergone mediation (not all matters are appropriate for mediation). Over the past 10 years, the Board has an 81% success rate with mediations.

Judicial Reviews: Over the past 10 years, the Board has undergone 29 judicial reviews in relation to 19 appeals. Of the 29 judicial reviews, 12 were upheld by the Courts, 7 were returned to the Board, 6 were withdrawn, 2 pending, and 2 were related to the Minister's decision only and do not directly involve the Board.

Reports and Recommendations: The Board submitted to the Minister of Environment 90 Reports and Recommendations for his decision over the past 10 years in relation to 396 appeals. Of the 90 Reports submitted to the Minister, he has accepted 86, varied 3, and rejected 1.

Decision Reports: The Board has issued 163 Decision reports over the past 10 years in relation to preliminary motions, intervenor requests, stay requests, and requests for reconsideration of previous decisions of the Board.

Costs Decisions: Over the past 10 years, the Board has issued 23 Costs Decisions in relation to final costs requests. Of the 23 Costs Decisions, the Board has awarded costs in 7 cases. The Board has not issued any interim costs.

Processing Time of Appeals: The average time for processing appeals over the past 10 years is 3.21 months.





Environmental Appeals Board

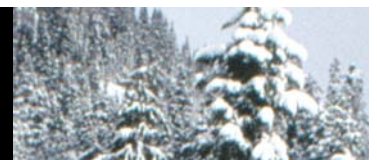


Finances

summary of spending profile

	operating	capital	total
1993/94 actual	\$150,000	0	\$150,000
1994-95 actual	\$365,204	0	\$365,204
1995-96 actual	\$471,631	0	\$471,631
1996-97 actual	\$508,343	0	\$508,343
1997-98 actual	\$593,868	0	\$593,868
1998-99 actual	\$630,685	0	\$630,685
1999-00 actual	\$745,226	0	\$745,226
2000-01 actual	\$898,502	0	\$898,502
2001-02 actual	\$921,169	0	\$921,169
2002-03 actual	\$1,018,518	0	\$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.



Mediation

Over the past 10 years, mediation has become a key tool at the Board. It reduces costs and has allowed the Board to process appeals in an efficient and effective manner. The Board has carried out mediations on 51% of the appeals filed and has been successful in 81% of these cases (not all matters that come before the Board are appropriate for mediation).

Mediation is a form of alternate dispute resolution that allows the parties to come to a resolution of an appeal without going through the Board's hearing process. A key element of mediation is that it is entered into freely by all parties and is designed to assist participants in reaching a mutually acceptable solution that is equitable and in accordance with their values. For this reason, it is important that all parties who attend mediation do so in good faith, and understand that since they will have a hand in shaping their own resolution, the end result will be more meaningful in addressing their own needs.

The type of mediation used by the Board is known as interested based mutual gains dispute resolution. What this means is that the Board's mediators work to uncover the real reason or motivation behind the dispute and find out what is important to the parties in reaching a solution. This is known as the parties' interests. Once the parties' interests have been uncovered, the Board's mediator helps the parties come up mutually agreeable solutions that meet as many of these interests as possible. This is the mutual gain that is being sought. By working out disputes in this way, parties have greater control over the outcome and do not have to go through the Board's formal procedures (i.e., preliminary meetings, hearings, etc.), which reduces the time and cost.

When participating in mediation through the Board's process, the parties need to take into consideration the parameters of the legislation that govern both the Board and Alberta Environment. In mediation, a mediator is used to facilitate open, honest discussion and acts as a neutral who works closely with the parties to uncover underlying interests and assists them in exploring possible solutions. The mediator is not an advocate for either party and does not decide the final outcome. The mediator remains neutral to create an environment of trust within the mediation. Confidence in the mediator's sense of fairness and impartiality creates a greater willingness on behalf of the parties to have frank and open discussions and generate options leading them to a mutually agreeable solution.

Before a mediation takes place, the Board's staff conduct extensive pre-mediation work through written correspondence and telephone conversations. The Board's staff work to educate the parties on mediation, help determine the issues to be discussed, and establish the date, time, location and those who will be in attendance. For many of the parties, it is their first time dealing with the Board and mediation, therefore, educating the parties on what they can expect is incredibly important in creating a fair and level playing field in mediation. The Board's staff can and have been helpful in diffusing tension or emotion before a mediation, by establishing the issues and gaining a greater understanding of the details of the appeal.

The Board uses its members as mediators in conduct appeals, and this approach has proven to be very successful. Each of the Board members has been trained in mediation by Dr. Larry Susskind, President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes





Resolution Program at Harvard Law School. Each of the Board's members are respected experts in their fields and they bring this recognized expertise to the mediation. Board members use their expertise to ensure effective communications between the parties and that a level playing field is established where a complete and open discussion can take place.

The Board believes it is important to continually review and improve the way it conducts mediations, and requests participants provide feedback via confidential evaluation forms. The information provided from participant's assists the Board in determining where improvements can be made. The vast majority of participants indicate that mediation was a positive and effective process in resolving their dispute. They also indicate that they would use the process again. Generally, participants indicated that they thought mediation was useful because it gave them the ability to speak candidly, restored relationships, and they were encouraged to develop their own solutions.

Given the continued success of the Board's mediation program, it is an area that we will continue to expand and improve. The Board has found it a very effective and efficient way to address the appeals that come before us

Standing Before the Board

In interpreting and applying the legislation by which it is given jurisdiction, one of the challenges that the Environmental Appeals Board has faced is the interpretation of the "directly affected" test. In many cases, for an appeal to be validly before the Board, the person filing the appeal must be directly affected by the decision being appealed. That is to say, the person must have standing to file an appeal. Where the Board determines that the person filing an appeal is not directly affected, the Board is required to dismiss the appeal. As a result, the Board's decisions regarding the directly affected test have been of particular interest to the citizens of Alberta, business, and industry.



The Board has developed an approach to assessing whether an individual who files an appeal is directly affected through its various cases. However, the Board has noted that this approach must be flexible. Every appeal that comes before it is unique, and although the Board has developed an approach to enable those filing appeals to understand the basic threshold that must be passed, there cannot be steadfast rules that have to be followed, regardless of the circumstances.

In one of its early decisions, *Kostuch v. Alberta (Director, Air & Water Approvals Division)* (1995), 17 C.E.L.R. (N.S.) 246 (Alta. Env. App. Bd.), (sub nom. *Dr. Martha Kostuch v. Director, Air and Water Approvals Division, Alberta Environmental Protection*) (23 August 1995), Appeal No. 94-017 (A.E.A.B.), the Board developed the basis on which to determine if an individual is directly affected for the purposes of filing a valid appeal. The Board stated that to be considered directly affected, the person who filed the appeal must have a discernible interest other than the abstract interest of all Albertans in generalized goals of environmental protection. There must be an unbroken connection between the harm claimed and the approval challenged on appeal. As the causal connection between the approval and the effect on the individual becomes more remote, the possibility of being found directly affected decreases. The Court of Queen's Bench of Alberta accepted this approach.

Appeals are filed by individuals, companies, and also by groups of individuals. Although the basic principles remain the same, the Board has developed different approaches in determining who is directly affected when dealing with appeals filed by groups of individuals, instead of individuals on their own.

In addition to proving all of the aspects of directly affected as determined for an individual, a group must also show the Board that many of its members would have standing in their own right. A group is required to identify its members and, as stated in *Hazeldean Community League v. Director of Air and Water Approvals, Alberta Environmental Protection* (11 May 1995) Appeal No. 95-002 (A.E.A.B.), provide some indication how the individual members are affected by the Alberta Environment's decision. To demonstrate that a group is directly affected, the Board will generally require a considerable amount of information about the group and its members.



Board Member, Mr. Ron Peiluck and Chairman, Dr. William A. Tilleman.

This information is only intended to provide a brief overview on the issue of standing. For more information regarding standing before the Board, please see the Board's decisions. Copies of the Board's decisions are available by contacting the Board's office at (780) 427-6207 or on the Board's website at www.gov.ab.ca/eab.

Partnership Conference

As part of the Board's ongoing commitment to the resolution of disputes through mediation, an in response to the Government of Alberta's cross-ministry Aboriginal Policy Initiative, the Board initiated an interest-based conference and training session entitled Forging Partnerships Between Federal/Provincial Governments and Members of First Nations Conference / Training Session. The first conference was held in November 2000 and due to its tremendous success, a second conference was held in 2003.

The objective of the cross-ministry initiative is to clarify federal / provincial / Aboriginal roles and



responsibilities, and to support the Alberta/Canada Partnership Forum with Aboriginal participation. The initiative develops collaborative projects to facilitate benefits to Aboriginal communities and increase the capacity within the Alberta government for collaboration with Aboriginal governments, organizations and communities. The Board recognizes the increasing role and importance of First Nations in the environmental regulatory process and wished to bring this to light during the conference.



The Board co-sponsored its first conference/training session in November 2000 with the tremendous help and support of the federal department of Indian and Northern Affairs (Land and Trust Services), Indian Taxation and Advisory Board. Due to its incredible success, a second conference and training session was held in 2003 with the assistance of



Indian and Northern Affairs Canada, Aboriginal Affairs and Northern Development, Aboriginal Initiatives, Alberta Solicitor General, Aboriginal Initiatives Unit. The Board is very grateful for the generosity and support it has received from its co-sponsors.

h i g h l i g h t o f c o - s p o n s o r s :

Indian and Northern Affairs Canada ("INAC"): Working together to make Canada a better place for First Nations, Inuit and Northerners, INAC is responsible for two separate, yet equally important mandates: Indian and Inuit Affairs and Northern Affairs. In general, INAC has primary, but not exclusive, responsibility for meeting the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Northerners. In Inuit and Indian Affairs, INAC support First Nations and Inuit in developing healthy, sustainable communities and in achieving their economic and social aspirations.

Aboriginal Affairs and Northern Development, Aboriginal Initiatives: Aboriginal Affairs and Northern Development leads the implementation of the Government of Alberta's Aboriginal Policy Framework, intended to improve the well-being and self-reliance of Aboriginal people and to guide Alberta's relations with Aboriginal governments, communities and organizations, and other partners.

Mr. Ken Scopick (speaker at 2000 conference) is the Director of Operations and Executive Assistant to the Chairman of the Indian Taxation Advisory Board. He has worked with Chief C.T. (Manny) Jules, Chairman, as Policy Advisor and Senior Staff member since 1985 and began managing the office of the Chairman shortly after the inception of the Board. In his role with the Indian Taxation Advisory Board, Ken's management responsibilities include mediation of conflicts and the development of the Board's policy with respect to dispute mechanism resolutions. Ken is a graduate of the University of Saskatchewan and has a BA and B Ed. His background includes work as: Manager of Interpretation and Public Relations with the Ministry of Lands, Parks and Housing in British Columbia; Facilitator, Community Relations, Province of British Columbia; Designer for the British Columbia Heritage Trust; Director of Planning and Capital Development and Band Administrator for the Kamloops Indian Band.

Solicitor General, Aboriginal Initiatives Unit: The Aboriginal Initiatives Unit was established in 1993 in response to the recommendations of the Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta (Cawsey Report). The unit acts as a liaison between Alberta Solicitor General, Alberta Justice, and other levels of government and key stakeholders within the Aboriginal Community.

Consensus Building Institute ("CBI"): CBI assists public and nonprofit agencies and institutions in the U.S. and abroad in their efforts to develop and employ consensus building and dispute resolution in performing their public interest functions. CBI conducts workshops, seminars, and other training programs and develops instructional materials and practice guides designed to advance





public understanding of the theory and practice of dispute resolution and consensus. CBI also undertakes and publishes the results of independent studies and assessments of dispute resolution and consensus. CBI is also affiliated with the Harvard Law School's Program on Negotiation.

Larry Susskind: President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes Resolution Program at Harvard Law School, Dr. Susskind is a recognized expert on interest-based negotiation. Dr. Susskind also has considerable experience in dispute resolution in environmental matters, including those involving First Nations.

Patrick Field: Patrick Field is a Vice-President at CBI. He has convened and facilitated numerous complex environmental and organizational disputes and is experienced in working with multiple parties in politically and technically complex, multi-year cases. Mr. Field has taught negotiation and mediation skills, co-written and researched numerous consulting reports, conflict assessments, and negotiation games, and has extensive experience facilitating multi-stakeholder dialogues on environmental policy and management issues. In addition to his facilitation work, Mr. Field has assisted agencies in evaluating and improving their dispute handling systems, and has helped to design and present training programs on negotiation and consensus building techniques to numerous environmental agencies and not-for-profit organizations. He is a member of the Society for Professionals in Dispute Resolution.

Conference/Training Sessions: 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. As noted above, 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.





Enviromental Appeals Board

Funding of Parties

People frequently ask the Board whether funding is available to assist them with their appeals.

The legislation gives the Board the ability to award costs and states that: "The Board may award costs of and incidental to any proceeding before it on a final or interim basis and may ... direct by whom and to whom any costs are paid." The Court has said that this provision gives the Board broad discretion in deciding whether and how to award costs.

Many people are familiar with the costs approach before the Court, which is known as loser-pays. Under loser-pays, if you file a lawsuit and win, the person you are suing usually pays the costs for both sides, and if you file a lawsuit and lose, you usually pay the costs for both sides. Many people are also familiar with the costs approach - known as local intervener funding - used by the Alberta Energy and Utilities Board and the Natural Resources Conservation Board. These boards make broad public interest decisions as to whether to issue approvals under the legislation that they administer (decisions of first instance).

The Environmental Appeals Board does not follow either the loser-pays approach or local intervener funding approach. The loser-pays approach would discourage people from filing appeals because they could end up paying the costs of the other side if they lose. Further, the local intervener funding approach is also not applicable because the Environmental Appeals Board does not make decisions of first instance. Rather, the Environmental Appeals Board makes decision respecting appeals of decisions of first instance made by Alberta Environment.

In keeping with this role, with respect to costs, the Board has adopted a starting point that costs incurred by a party in an appeal are the responsibility of that party - each party should expect to pay their own way. The basis of this approach is that the Board is of the view that there is an obligation for each member of the public to accept some responsibilities for bringing environmental issues to the forefront. This approach is founded in section 2(f) of the Environmental Protection and Enhancement Act, which states that: "The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the ... shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual action...." Beyond this, and also founded in section 2(f) of the Environmental Protection and Enhancement Act, the Board has stated that it views costs as a reward to parties for their assistance, their substantial contribution to the Board's understanding of the issues under appeal, and for generally furthering the purposes of the Act.

This information is only intended to provide a brief overview on the issue of costs. For more information on this issue, please see the Board's decisions. Copies of decision relating to costs are available by contacting the Board's office at (780) 427-6207 or on the Board's website at www.gov.ab.ca/eab.

Key Environmental Challenges

One of the principle functions of the Environmental Appeals Board is to balance the various purposes outlined in section 2 of both the Environmental Protection and *Enhancement Act*¹ and the *Water Act*². In carrying out this function, the Board has had the opportunity to look at a number of the environmental challenges facing Alberta and examine how they are being addressed, in particular through the use of public consultation mechanisms.

Some of the challenges facing Alberta are the result of a strong economy. Economic growth and industrial development in Alberta remain strong, and as a result, there are a larger number of authorizations being issued by Alberta Environment in the form of approvals under the Environmental Protection and Enhancement Act and approvals, preliminary certificates and licences under the Water Act. Further, as the Environmental Protection and Enhancement Act has just celebrated its 10th anniversary, there are a number of approval renewals that will be forthcoming. This increased workload for Alberta Environment also translates into an increased workload for the Environmental Appeals Board.

The key part of these challenges is properly balancing this economic growth and industrial development with protection, enhancement and wise use of the environment. One of the main tools being used to address this challenge are the public consultation mechanisms incorporated into the Environmental Protection and Enhancement Act and the Water Act. These acts provide for public notification regarding proposed developments, opportunities for initial public input into the decision-making process by way of a statement of concern, and an appeal process as administered by the Board. These public consultation mechanisms are an efficient and effective way to balance these various interests.

Other challenges arise in the protection of Alberta's air, land, and water. With respect to air, the Board notes work done by Alberta Environment in maintaining air quality through a management system composed of air quality protection and enforcement programs, air quality monitoring, air quality modelling and air emissions inventories. All of these approaches provide Albertans with more information about their environment. The Board also notes the work done by Albertans in working together to establish air shed management groups. The Board encourages such approaches to the environmental challenges facing Alberta.

With respect to land, one of the common concerns that comes before the Board is competing views of land use - often resulting from an expanding population and differences between urban and rural land uses. While land use itself is not a proper issue before the Board, where decisions made by Alberta Environment are involved it is often the driving force behind an appeal. The public consultation mechanism included in both the Environmental Protection and Enhancement Act and the Water Act, including in particular the Board's mediation program, are effective tools in resolving these types of challenges.

Finally, there is the issue of water. Water is clearly one of the main environmental issues for





Albertans, as we are faced with low rainfalls, particularly affecting the agriculture industry, continued population growth, and continued industrial development. This has been reflected in the work of the Board, with the majority of appeals now relating to water. Based on the number and nature of the appeals that come before the Board, there appears to be a growing awareness that water is a precious resource and careful decisions must be made regarding its use.

The Board notes the work being undertaken by Alberta Environment as they develop a new water management program entitled: Water for Life: Alberta's Strategy for Sustainability. Through the use of extensive public consultation, Albertans are being encouraged to put forward their opinions and ideas to develop a water strategy. Albertans have expressed three main goals: 1. safe and secure drinking water supplies; 2. healthy aquatic ecosystem; and 3. reliable quality water supplies for a sustainable economy. The Board supports these objectives and encourages the people of Alberta to continue to work together to ensure that these goals are met.

This discussion is only intended to provide a brief overview of some of the types of environmental issues that come before the Board. Copies of the Board's decisions are available by contacting the Board's office at 427-6207 or on the Board's website at www.gov.ab.ca/eab.

I section 2 of the environmental protection and enhancement act provides:

"The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following:

- (a) the protection of the environment is essential to the integrity of ecosystems and human health and to the well-being of society;*
- (b) the need for Alberta's economic growth and prosperity in an environmentally responsible manner and the need to integrate environmental protection and economic decisions in the earliest stages of planning;*
- (c) the principle of sustainable development, which ensures that the use of resources and the environment today does not impair prospects for their use by future generations;*
- (d) the importance of preventing and mitigating the environmental impact of development and of government policies, programs and decisions;*



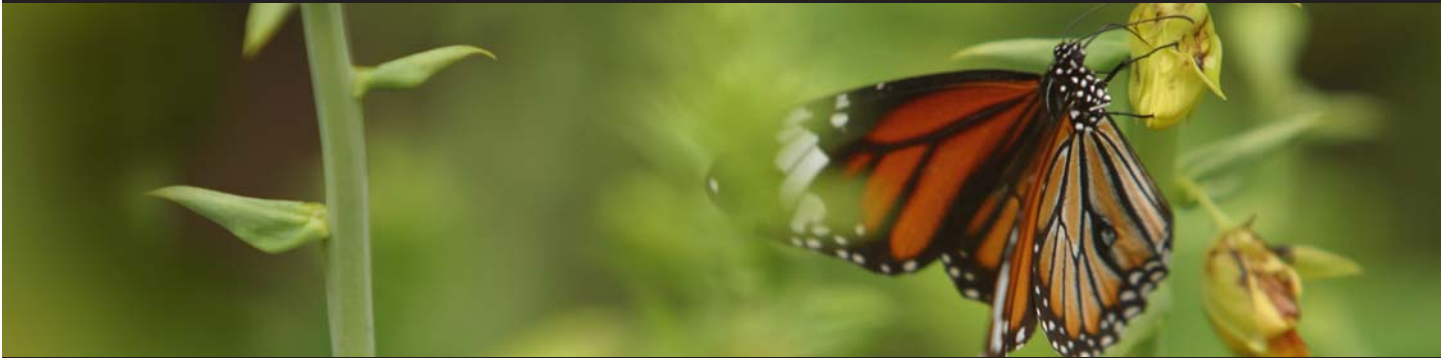
- (e) *the need for Government leadership in areas of environmental research, technology and protection standards;*
- (f) *the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions;*
- (g) *the opportunities made available through this Act for citizens to provide advice on decisions affecting the environment;*
- (h) *the responsibility to work co-operatively with governments of other jurisdictions to prevent and minimize transboundary environmental impacts;*
- (i) *the responsibility of polluters to pay for the costs of their actions;*
- (j) *the important role of comprehensive and responsive action in administering this Act."*

2 s e c t i o n 2 o f t h e w a t e r a c t p r o v i d e s :

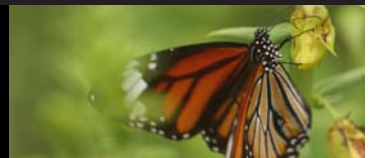
"The purpose of this Act is to support and promote the conservation and management of water, including the wise allocation and use of water; while recognizing

- (a) *the need to manage and conserve water resources to sustain our environment and to ensure a healthy environment and high quality of life in the present and the future;*
- (b) *the need for Alberta's economic growth and prosperity;*
- (c) *the need for an integrated approach and comprehensive, flexible administration and management systems based on sound planning, regulatory actions and market forces;*
- (d) *the shared responsibility of all residents of Alberta for the conservation and wise use of water and their role in providing advice with respect to water management planning and decision-making;*
- (e) *the importance of working co-operatively with the governments of other jurisdictions with respect to trans-boundary water management;*

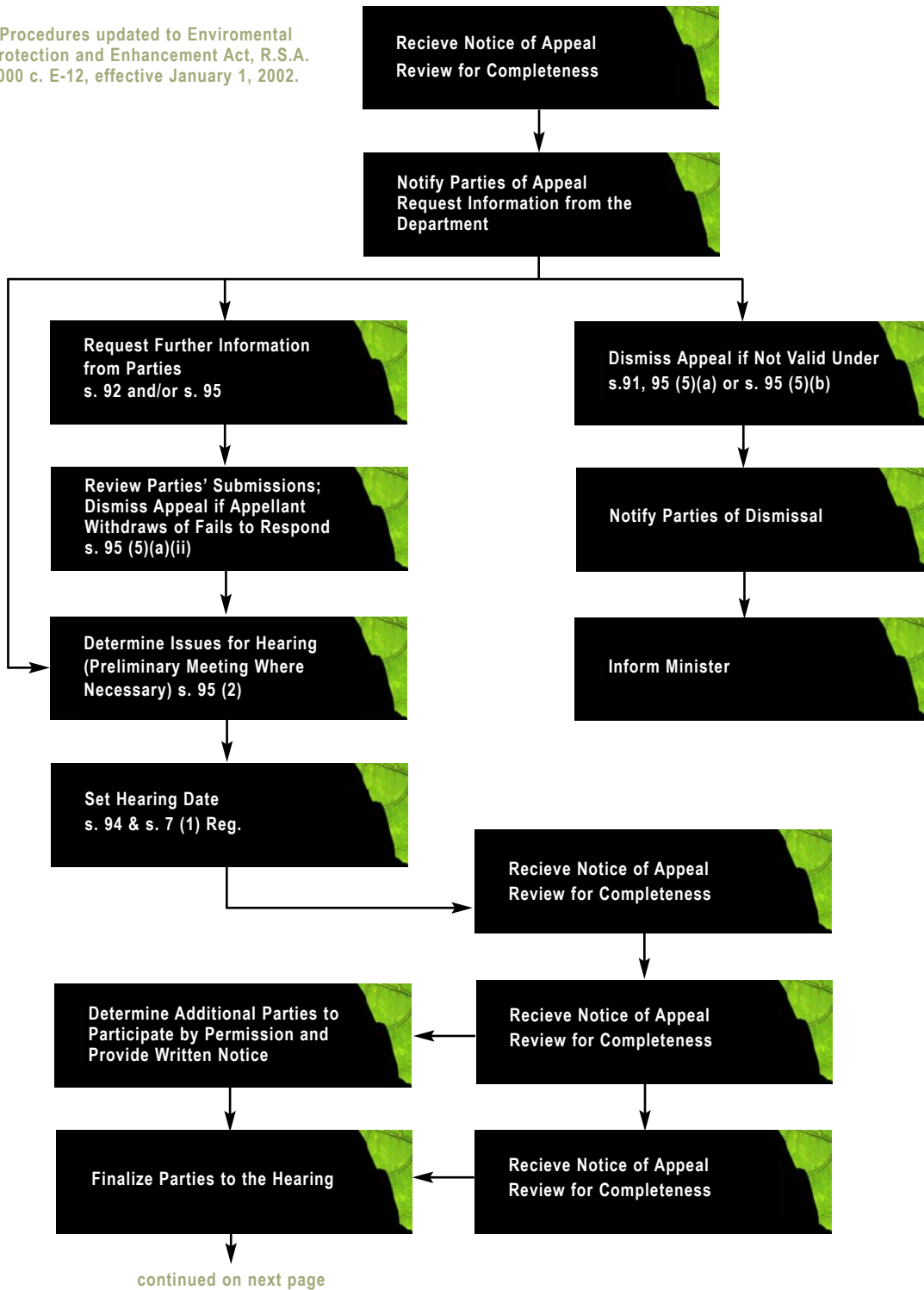
Appendix A



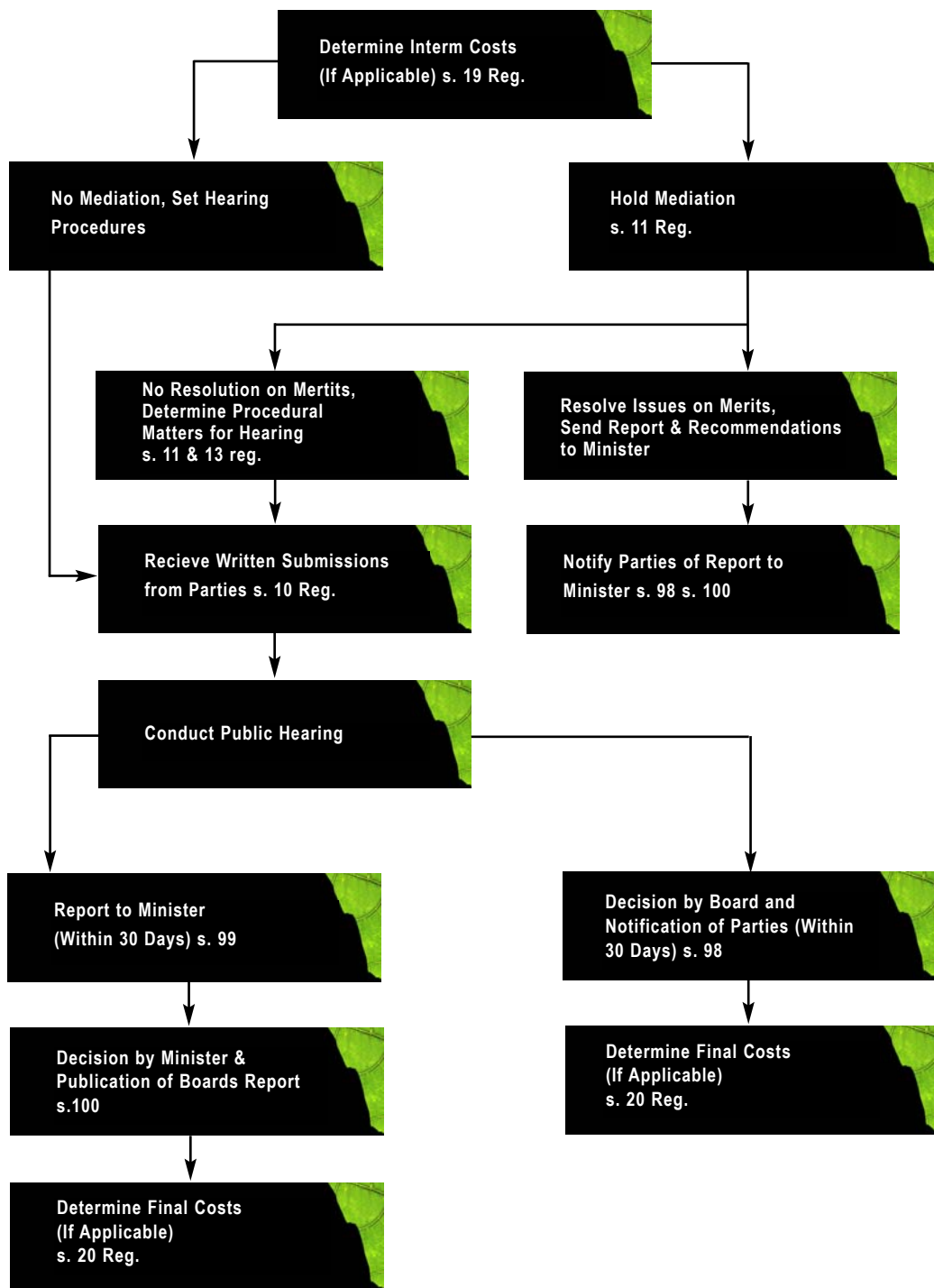
enviromental appeals board p r o c e d u r e f l o w c h a r t



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



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Appendix B



enviromental appeals board **d e c i s i o n s**

as cited in the Canadian Environmental Law Reports and the Administrative Law Reports

Appendix B (Emailed to Marv Jan. 12/04)

Environmental Appeals Board Decisions as cited in the
Canadian Environmental Law Reports and the
Administrative Law Reports

Adams v. Alberta (Director, Approvals, Southern Region, Regional Services, Alberta Environment) (2003), 48 C.E.L.R. (N.S.) 294 (Alta. Env. App. Bd.), (sub nom. Costs Decision re: Kievit et al.) (12 November 2002), Appeal Nos. 01-097, 098 and 101-CD (A.E.A.B.).

AEC Pipelines Ltd. (2001), 38 C.E.L.R. (N.S.) 14 (Alta. Env. App. Bd.), (sub nom. Metis Nation of Alberta Zone II Regional Council v. Director, Bow Region, Environmental Service, Alberta Environment re: AEC Pipelines Ltd.) (20 March 2001), Appeal No. 00-073-D (A.E.A.B.).

Alberta Bottle Depot Assn. (1998), 26 C.E.L.R. (N.S.) 98 (Alta. Env. App. Bd.), (sub nom. Alberta Bottle Depot Association v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection) (17 June 1998), Appeal No. 97-039 and 97-063 (A.E.A.B.).

Ash (1998), 26 C.E.L.R. (N.S.) 227 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: The City of Calgary (Fay Ash)) (5 February 1998), Appeal No. 97-032 (A.E.A.B.).

B & J Schneider Ranching (2002), 41 C.E.L.R. (N.S.) 71 (Alta. Env. App. Bd.), (sub nom. Schafer et al. v. Director, Prairie Region, Natural Resources Service, Alberta Environment, re: B & J Schneider Ranching) (18 July 2001), Appeal Nos. 01-017 - 01-032-R (A.E.A.B.).

Big Lake Environmental Support Society (2002), 46 C.E.L.R. (N.S.) 1 (Alta. Env. App. Bd.), (sub nom. Big Lake Environmental Support Society v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: Genstar Development Company) (10 May 2002), Appeal No. 01-075-D (A.E.A.B.).

Bitz (1997), 23 C.E.L.R. (N.S.) 266 (Alta. Env. App. Bd.), (sub nom. Bitz v. Inspector of Land Reclamation Division, Alberta Environmental Protection) (20 August 1997), Appeal No. 97-030 (A.E.A.B.).

Blodgett (2002), 44 C.E.L.R. (N.S.) 49 (Alta. Env. App. Bd.), (sub nom. Blodgett v. Director, Northeast Boreal Region, Regional Services, Alberta Environment, re: Genstar Development Company) (28 December 2001), Appeal No. 01-074-D (A.E.A.B.).

Bodo Oilfield Maintenance Ltd. (1999), 29 C.E.L.R. (N.S.) 101 (Alta. Env. App. Bd.), (sub nom. Bodo Oilfield Maintenance Ltd. v. Director, Enforcement and Monitoring Division, Alberta Environmental Protection) (16 April 1999), Appeal No. 98-247-D (A.E.A.B.).

Burnswest Corp. (2003), 47 C.E.L.R. (N.S.) 107 (Alta. Env. App. Bd.), (sub nom. Burnswest v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (1 March 2002), Appeal No. 01-090-D (A.E.A.B.).

Burnswest Corp. (2003), 47 C.E.L.R. (N.S.) 135 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: Burnswest Corporation) (14 June 2002), Appeal No. 01-090-CD (A.E.A.B.).

Cardinal River Coals Ltd. (1999), 28 C.E.L.R. (N.S.) 145 (Alta. Env. App. Bd.), (sub nom. Parry et al. v. Regional Director, Northern East Slopes Region, Alberta Environmental Protection, re: Cardinal River Coals Ltd.) (18 January 1999), Appeal Nos. 98-246 and 98-248-D (A.E.A.B.).

Cardston (Municipal District) No. 6 (2000), 31 C.E.L.R. (N.S.) 72 (Alta. Env. App. Bd.), (sub nom. Municipal District of Cardston No. 6 v. Director, Enforcement and Monitoring Division, Alberta Environmental Protection) (17 August 1999), Appeal No. 99-011-D (A.E.A.B.).



Carmichael (2003), 47 C.E.L.R. (N.S.) 21 (Alta. Env. App. Bd.), (sub nom. Adjournment Motion: Carmichael et al. v. Director, Northern East Slopes and Central Region, Regional Services, Alberta Environment re: TransAlta Utilities Corporation) (30 May 2002), Appeal No. 01-080, 01-082, 01-084, 01-085, 01-134, 02-002, 02-003-ID (A.E.A.B.).

Chipewyan Prairie First Nation (2003), 47 C.E.L.R. (N.S.) 282 (Alta. Env. App. Bd.), (sub nom. Preliminary Motions: Chipewyan Prairie First Nation v. Director, Bow Region, Regional Services, Alberta Environment re: Enbridge Pipelines (Athabasca) Inc.) (22 March 2002), Appeal No. 01-110-ID (A.E.A.B.).

Custom Environmental Services Ltd. v. Alberta (1996), 20 C.E.L.R. (N.S.) 287 (Alta. Env. App. Bd.), (sub nom. Custom Environmental Services Ltd. v. Director, Chemicals Assessment and Management, Alberta Environmental Protection) (14 February 1996), Appeal No. 95-020 (A.E.A.B.).

Doull v. Alberta (Director, Northern Region, Regional Services, Alberta Environment) (2003), 49 C.E.L.R. (N.S.) 210 (Alta. Env. App. Bd.), (sub nom. 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.).

Hayspur Aviation Ltd. v. Alberta (Director of Pollution Control, Environmental Protection) (1997), 23 C.E.L.R. (N.S.) 177 (Alta. Env. App. Bd.), (sub nom. Hayspur Aviation Lt. v. Director of Pollution Control, Alberta Environmental Protection) (6 June 1997), Appeal No. 97-001 (A.E.A.B.).

Imperial Oil Ltd. (2002) 42 C.E.L.R. (N.S.) 89 (Alta. Env. App. Bd.), (sub nom. Preliminary Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (26 October 2001), Appeal No. 01-062-ID (A.E.A.B.).

Imperial Oil Ltd. (2002), 42 C.E.L.R. (N.S.) 114 (Alta. Env. App. Bd.), (sub nom. Document Production Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (10 December 2001), Appeal No. 01-062-ID (A.E.A.B.).

Imperial Oil Ltd. v. Alberta (Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (2003), 47 C.E.L.R. (N.S.) 170 (Alta. Env. App. Bd.), (sub nom. Imperial Oil Ltd. and Devon Estates Ltd. v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment re: Imperial Oil Ltd.) (21 May 2002), Appeal No. 01-062-R (A.E.A.B.).

Imperial Oil Ltd. v. Alberta (Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (2003), 48 C.E.L.R. (N.S.) 35 (Alta. Env. App. Bd.), (sub nom. Stay Decision: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment) (23 July 2002), Appeal No. 01-062-ID5 (A.E.A.B.).

Kadutski (2002), 41 C.E.L.R. (N.S.) 257 (Alta. Env. App. Bd.), (sub nom. Kadutski v. Director, Northeast Boreal Region, Natural Resources Service, Alberta Environment, re: Ranger Oil Limited) (28 August 2001) Appeal No. 00-055 (A.E.A.B.).

Kelm v. Director (Director of Air & Water Approvals Division) (1998), 25 C.E.L.R. (N.S.) 172 (Alta. Env. App. Bd.), (sub nom. Selma Kelm v. Director of Air and Water Approvals Division, Alberta Environmental Protection) (13 May 1997), Appeal No. 97-002 (A.E.A.B.).

Kievit (2002), 45 C.E.L.R. (N.S.) 293 (Alta. Env. App. Bd.), (sub nom. Preliminary Motions: Kievit et al. v. Director, Approvals, Southern Region, Regional Services, Alberta Environment re: Lafarge Canada Inc.) (16 April 2002), Appeal Nos. 01-097, 098 and 101-D (A.E.A.B.).

Kostuch v. Alberta (Director, Air & Water Approvals Division) (1995), 17 C.E.L.R. (N.S.) 246 (Alta. Env. App. Bd.), (sub nom. Dr. Martha Kostuch v. Director, Air and Water Approvals Division, Alberta

Environmental Protection) (23 August 1995), Appeal No. 94-017 (A.E.A.B.).

Kozdrowski (1997), 23 C.E.L.R. (N.S.) 269 (Alta. Env. App. Bd.), (sub nom. Bernice Kozdrowski v. Director of Chemical Assessment and Management, Alberta Environmental Protection) (12 June 1997), Appeal No. 96-059 (A.E.A.B.).

Kozdrowski (1999), 27 C.E.L.R. (N.S.) 63 (Alta. Env. App. Bd.), (sub nom. Laidlaw Environmental Services (Ryley) Ltd. request for reconsideration, re: Bernice Kozdrowski v. Director of Chemicals Assessment and Management, Alberta Environmental Protection) (7 April 1998), Appeal No. 96-059 (A.E.A.B.).

Legal Oil & Gas (2001), 36 C.E.L.R. (N.S.) 270 (Alta. Env. App. Bd.), (sub nom. Cost Decisions re: Union Pacific Resources Inc.) (22 January 2001), Appeal No. 98-007-CD (A.E.A.B.).

Lucey (1998), 24 C.E.L.R. (N.S.) 74 (Alta. Env. App. Bd.), (sub nom. Lucey v. Acting Director of Land Reclamation, Alberta Environmental Protection) (22 September 1997), Appeal No. 97-033 (A.E.A.B.).

Macdonald (1998), 24 C.E.L.R. (N.S.) 42 (Alta. Env. App. Bd.), (sub nom. AT Plastics Inc. v. Director of Pollution Control, Alberta Environmental Protection) (26 August 1997), Appeal No. 97-018 (A.E.A.B.).

Maga (2003), 50 C.E.L.R. (N.S.) 77 (Alta. Env. App. Bd.), (sub nom. 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.).

Maga (2003), 50 C.E.L.R. (N.S.) 171 (Alta. Env. App. Bd.), (sub nom. 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.).

Maga (2003), 50 C.E.L.R. (N.S.) 300 (Alta. Env. App. Bd.), (sub nom. Document Production: Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited) (13 February 2002), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID3 (A.E.A.B.).

McCain Foods (2001), 36 C.E.L.R. (N.S.) 1 (Alta. Env. App. Bd.), (sub nom. McCain Foods (Canada) v. Director, Prairie Region, Alberta Environment) (20 July 2000), Appeal No. 99-138-R (A.E.A.B.).

McColl-Frontenac Inc. (2002), 44 C.E.L.R. (N.S.) 209 (Alta. Env. App. Bd.), (sub nom. McColl-Frontenac Inc. v. Director, Enforcement and Monitoring, Bow Region, Environmental Service, Alberta Environment) (7 December 2001), Appeal No. 00-067-R (A.E.A.B.).

Mizera (2000), 32 C.E.L.R. (N.S.) 33 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: Mizeras, Glombick, Fenske, et al.) (29 November 1999), Appeal Nos. 98-231, 232 and 233-C (A.E.A.B.).

New Dale Hutterian Brethren (2001), 36 C.E.L.R. (N.S.) 33 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: Monner) (17 October 2000), Appeal No. 99-166-CD (A.E.A.B.).

Nurani (1998), 25 C.E.L.R. (N.S.) 260 (Alta. Env. App. Bd.), (sub nom. Nurani and Virji-Nurani v. Director of Action on Waste, Alberta Environmental Protection) (22 August 1997), Appeal No. 97-026 (A.E.A.B.).

Nurani (2000), 33 C.E.L.R. (N.S.) 75 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: Nurani and Virji-Nurani) (6 March 2000), Appeal No. 97-026 (A.E.A.B.).



Quimet (2002), 44 C.E.L.R. (N.S.) 114 (Alta. Env. App. Bd.), (sub nom. Quimet et al. v. Director, Regional Support, Northeast Boreal Region, Regional Services, Alberta Environment, re: Ouellette Packers (2000) Ltd.) (28 January 2002), Appeal No. 01-076-D (A.E.A.B.).

Paron (2002), 44 C.E.L.R. (N.S.) 133 (Alta. Env. App. Bd.), (sub nom. Costs Decision: Paron et al.) (8 February 2002), Appeal Nos. 01-002, 01-003 and 01-005-CD (A.E.A.B.).

Penson (2000), 32 C.E.L.R. (N.S.) 15 (Alta. Env. App. Bd.), (sub nom. Reconsideration of costs decision re: Penson and Talisman Energy Inc.) (1 December 1999), Appeal No. 98-005 (A.E.A.B.).

Smoky River Coal Ltd. (2001), 38 C.E.L.R. (N.S.) 135 (Alta. Env. App. Bd.), (sub nom. Bildson v. Director, Northern East Slopes Region, Alberta Environment, re: Smoky River Coals Ltd.) (12 February 2001), Appeal No. 99-164-D (A.E.A.B.).

Sovereign Castings Ltd. (2000), 31 C.E.L.R. (N.S.) 287 (Alta. Env. App. Bd.), (sub nom. Sovereign Castings Ltd. v. Manager of Enforcement and Monitoring, Environmental Service, Bow Region, Alberta Environment) (18 October 1999), Appeal No. 99-130-D (A.E.A.B.).

Stetler (1999), 29 C.E.L.R. (N.S.) 291 (Alta. Env. App. Bd.), (sub nom. Stetler v. Director, Environmental Sciences Division, Alberta Environmental Protection, re: GMB Property Rentals Ltd.) (9 February 1999), Appeal No. 98-243-D (A.E.A.B.).

Superior Vet & Farm Supply v. Alberta (Director of Pollution Control) (1997), 23 C.E.L.R. (N.S.) 193 (Alta. Env. App. Bd.), (sub nom. Superior Vet and Farm Supply v. Director of Pollution Control, Alberta Environmental Protection) (10 April 1997), Appeal No. 96-078 (A.E.A.B.).

Trans Alta Utilities Corp. (2001), 38 C.E.L.R. (N.S.) 68 (Alta. Env. App. Bd.), (sub nom. Baily et al. v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation) (13 March 2001), Appeal Nos. 00-074, 075, 077, 078, 01-001-005 and 011 (A.E.A.B.).

Trans Alta Utilities Corp. (2001), 38 C.E.L.R. (N.S.) 94 (Alta. Env. App. Bd.), (sub nom. Preliminary Motions: Bailey et al. v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation) (17 April 2001), Appeal Nos. 00-074, 077, 078, and 01-001-005-ID (A.E.A.B.).

TransAlta Utilities Corp. (2002), 41 C.E.L.R. (N.S.) 102 (Alta. Env. App. Bd.), (sub nom. Bailey et al. #2 v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation) (18 May 2001), Appeal Nos. 00-074, 077, 078, and 01-001-005-R (A.E.A.B.).

Vetsch v. Alberta (Director of Chemicals Assessment & Management Division) (1997), 22 C.E.L.R. (N.S.) 230 (Alta. Env. App. Bd.), (sub nom. Lorraine Vetsch et al. v. Director of Chemicals Assessment and Management, Alberta Environmental Protection) (28 October 1996), Appeal No. 96-015 to 96-017, 96-019 to 96-067 (A.E.A.B.).

Villeneuve Sand & Gravel Alberta Ltd. (2001), 36 C.E.L.R. (N.S.) 119 (Alta. Env. App. Bd.), (sub nom. Villeneuve Sand and Gravel Alberta Ltd. v. Director, Northeast Boreal Region, Alberta Environment re: Inland Aggregates Limited) (10 November 2000), Appeal No. 00-015-D (A.E.A.B.).

Weber (2003), 47 C.E.L.R. (N.S.) 61 (Alta. Env. App. Bd.), (sub nom. Weber et al. v. Director, Approvals, Bow Region, Regional Services, Alberta Environment re: Corridor Pipeline Ltd.) (10 May 2002), Appeal No. 01-072-D (A.E.A.B.).

Westridge Water Supply Ltd. (2001), 39 C.E.L.R. (N.S.) 119 (Alta. Env. App. Bd.), (sub nom. Westridge Water Supply Ltd. #2 v. Director, Bow Region, Natural Resources Service, Alberta

Environment) (10 May 2001), Appeal No. 00-059-1D1 (A.E.A.B.).

Whitefish Lake First Nation (2000), 32 C.E.L.R. (N.S.) 297 (Alta. Env. App. Bd.), (sub nom. Whitefish Lake First Nation v. Director, Northwest Boreal Region, Alberta Environment, re: Tri Link Resources Ltd.) (20 October 1999), Appeal No. 99-009 (A.E.A.B.).

Whitefish Lake First Nation (2001), 35 C.E.L.R. (N.S.) 296 (Alta. Env. App. Bd.), (sub nom. Whitefish Lake First Nation Request for Reconsideration, re: Whitefish Lake First Nation v. Director, Northwest Boreal Region, Alberta Environment, re: Trilink Resources Ltd.) (28 September 2000), Appeal No. 99-009-RD (A.E.A.B.).

Yakimishyn (2002), 43 C.E.L.R. (N.S.) 142 (Alta. Env. App. Bd.), (sub nom. Yakimishyn v. Director, Enforcement and Monitoring, Parkland Region, Regional Services, Alberta Environment) (14 September 2001), Appeal No. 01-057-R (A.E.A.B.).

Zink v. Alberta (Acting Director, Air & Water Approvals Division, Environmental Protection) (1997), 22 C.E.L.R. (N.S.) 43 (Alta. Env. App. Bd.), (sub nom. Joe Zink v. Acting Director of Air and Water Approvals Division, Alberta Environmental Protection) (28 October 1996), Appeal No. 96-011 (A.E.A.B.).

Zon (1998), 26 C.E.L.R. (N.S.) 309 (Alta. Env. App. Bd.), (sub nom. Cost Decision re: Zon et al.) (22 December 1997), Appeal Nos. 97-005 to 97-015 (A.E.A.B.).

Judicial Reviews as cited in C.E.L.R. and Admin. L.R.

Alberta Cement Corp. v. Alberta (Director, Air & Water Approvals Division, Environmental Protection) (1996), 20 C.E.L.R. (N.S.) 250 (Alta. Q.B.).

Alberta (Director, Environmental Service, Prairie Region) v. Alberta (Environmental Appeal Board) (2000), 33 C.E.L.R. (N.S.) 258 (Alta. Q.B.).

Cabre Exploration Ltd. v. Alberta (Environmental Appeal Board) (2000), 33, Admin. L.R. (3d) 140 (Alta. Q.B.).

Court v. Alberta (Director, Bow Region, Regional Services, Alberta Environment) (2003), 1 C.E.L.R. (3d) 134, 2 Admin. L.R. (4d) 71 (Alta. Q.B.).

Chalifoux v. Alberta (Environmental Appeal Board) (1999), 27 C.E.L.R. (N.S.) 227 (Alta. C.A.).

Fenske v. Alberta (Minister of Environment) (2001), 36 C.E.L.R. (N.S.) 67 (Alta. Q.B.).

Fenske v. Alberta (Minister of Environment) (2002), 46 C.E.L.R. (N.S.) 155 (Alta. C.A.).

Fenske v. Alberta (Minister of Environment) (2003), 43 Admin. L.R. (3d) 249 (Alta. C.A.).

Imperial Oil Ltd. v. Alberta (Director, Enforcement & Monitoring, Bow Region, Regional Services, Alberta Environment) (2003), 2 C.E.L.R. (3d) 236 (Alta. Q.B.).

Kostuch v. Alberta (Director, Air & Water Approvals Division, Environmental Protection) (1997), 21 C.E.L.R. (N.S.) 257 (Alta. Q.B.).

Legal Oil & Gas Ltd. v. Alberta (Minister of Environment) (2000), 34 C.E.L.R. (N.S.) 303 (Alta. Q.B.).



McCain Foods (Canada) (2002), 36 Admin. L.R. (3d) 158 (Alta. Q.B.).

McCain Foods (Canada) (2002), 41 C.E.L.R. (N.S.) 145 (Alta. Q.B.)

McColl-Frontenac Inc. v. Alberta (Minister of Environment) (2003), 2 C.E.L.R. (3d) 75 (Alta. Q.B.)

Nurani v. Alberta (Environmental Appeal Board) (1998), 25 C.E.L.R. (N.S.) 272 (Alta. Q.B.).

Updated November 7, 2003

Appendix C - Summaries (Emailed to Marv Jan 7,04)

Appendix C



s u m m a r i e s



Decisions 1993

9 3 - 0 0 4

Appellant(s) - Mr. Maurice Bouchier et al., Operator - Improvement District No. 17 (W), Location - Peace River, Type of Appeal - Decision

On December 4, 1993, Mr. Maurice Boucher, on his own behalf and 16 other 'concerned residents of Improvement District 17 West' filed a Notice of Appeal with respect to Approval No. 93-MUN-008 issued to Improvement District No. 17(W) for the construction of a water transmission line from the Village of Nampa to the Hamlet of Marie Reine. On February 2, 1994, the Board issued a Decision stating that the Board found the appellants were not 'directly affected' by the proposed water transmission and therefore, dismissed the appeal for lack of standing.

Cite as: Maurice Boucher v. Director, Alberta Environmental Protection.

9 3 - 0 0 5

Appellant(s) - Messrs. Ronald Walker and Roy Haugen on behalf of himself and the Concerned Citizens of West Central Lloydminster, Operator - United Oilseed Products, Location - Lloydminster, Type of Appeal - Decision

On December 15 and 17, 1993, Messrs. Ronald Walker and Roy Haugen on behalf of himself and the Concerned Citizens of West Central Lloydminster respectively, filed Notices of Appeal with respect to Approval No. 92-AL-115D(93)("115D") amending the original approval, 92-AL-115("115") relative to the United Oilseed Products' (UOP) vegetable oil refinery. On April 12, 1994, the Board and all parties conducted a site visit to the existing crushing plant and new refinery. On May 17, 1994, the Board issued a Decision to not proceed with the appeals due to the appellants not raising any new issues (except a health report), and concluded that hearing evidence that is not sufficiently linked to the new refinery would be unfair to the UOP.

Cite as: Walker and Haugen et al. v. Director of Standards and Approvals.

Decisions 1994

9 4 - 0 0 1

Appellant(s)- Mr. Fred Wessley, Operator - University of Alberta Hospitals, Location - Redwater, Type of Appeal - Decision

On January 17, 1994, Mr. Fred Wessley filed a Notice of Appeal with respect to Approval No. 93-IND-011 issued to the University of Alberta Hospitals for biochemical waste incineration. On February 2, 1994, after reviewing the submissions of Mr. Wessley, the Board issued a Decision to dismiss the appeal on the grounds that the appeal was not properly before the Board, Mr. Wessley is not 'directly affected' by the approval and the appeal is either frivolous or vexatious.

Cite as: Fred J. Wessley v. Director, Alberta Environmental Protection.

9 4 - 0 0 2

Appellant(s) - Mr. Ron W. Eade of Capital Industrial Sales and Service, Operator - Custom Environmental Services Ltd., Location - Edmonton, Type of Appeal - Decision. On March 21, 1994, Mr. Ron Eade of Capital Industrial Sales and Service filed a Notice of Appeal with respect to Approval 93-IND-007 relative to the Custom Environmental Services Ltd. waste facility located in Edmonton. On May 18, 1998, the Board issued a Decision to dismiss the appeal on the grounds that the Mr. Eade failed to comply with the Board's written request under section 85 of the Environmental Protection and Enhancement Act.



Cite as: Ron W. Eade v. Director, Alberta Environmental Protection.

9 4 - 0 0 3

Appellant(s) - Mr. Gerald M. Ross, Operator - Mayor, Town of Cochrane, Location - Cochrane, Type of Appeal - Decision

On March 29, 1994, Mr. Gerald M. Ross filed a Notice of Appeal with respect to Approval 94-MUN-009 relating to a storm sewer out-fall to service the Gleneagles subdivision issued to the Mayor, Town of Cochrane. On May 24, 1994, after carefully considering all submissions filed by all of the parties, the Board issued a Decision to dismiss the appeal as Mr. Ross was not directly affected by the approval.

Cite as: Gerald M. Ross v. Director, Alberta Environmental Protection.

9 4 - 0 0 4

Appellant(s) - Cooking Lake Moraine Conservation Association, Sherwood Park Fish and Game Association, Operator - County of Strathcona, Location - Sherwood Park, Type of Appeal - Report and Recommendations

On July 5 and 12, 1994, the Cooking Lake Moraine Conservation Association and the Sherwood Park Fish and Game Association respectively filed appeals with respect to Approval No. 94-SU-043 issued to the County of Strathcona. A pre-hearing meeting was held on September 29, 1994 and a resolution was reached. On October 12, 1994, the Board issued a Report and Recommendations to the Minister which he agreed to on November 2, 1994.

Cite as: Cooking Lake Moraine Conservation Association and Sherwood Park Fish and Game Association v. Director, Chemicals Assessment and Management Division, Alberta Environmental Protection.

9 4 - 0 0 5

Appellant(s) - Mr. Darryl Sawatzky, Operator - Mr. Darryl Sawatzky, Location - Lac La Biche, Type of Appeal - Dismissal

On July 5, 1994, Mr. Darryl Sawatzky filed a Notice of Appeal with respect the refusal by the Director of Action on Waste Division to approve an application submitted by the appellant for the operation of a beverage container depot in Lac La Biche. In a letter of September 20, 1994, the Board stated that "the Board does not know if the refusal of Mr. Sawatzky's application was - or is - valid. The Board is adjourning these proceedings until October 24, 1994...The Board requires the Director to inform it and Mr. Sawatzky about the actions which the Director has taken..." On October 27, 1994, the Board wrote to the department acknowledging receipt of the Director's decision of October 13, 1994, as well, by way of the letter, advised the Appellant that he would have 30 days to continue his appeal. On December 4, 1994, the Board advised the Appellant the appeal would be dismissed on the grounds that the Board did not receive any response to their letter of October 13, 1994.

Cite as: Sawatzky v. Director, Action on Waste, Alberta Environmental Protection.

9 4 - 0 0 6

Appellant(s) - Mr. Jared Brookes et al., Operator - City of Calgary, Location - Calgary, Type of Appeal - Report and Recommendations

From July 7 - 30, 1994, Mr. Jared Brookes, Ms. Fay Katay, Mr. Jack Locke, Ms. Claudia Bosch, Mr. Raphael Thierrin, Ms. Lynn Keating and Ms. Maria Azpiazu filed appeals with respect to Approval No. 94-SU-093 issued to the City of Calgary which authorizes the city to apply pesticides within 30 horizontal metres of open bodies of water, as defined in the approval. On October 27, 1994, a pre-hearing meeting was held and a resolution was reached by all parties. On November 10, 1994, the Board issued a Report and Recommendations to the Minister which he agreed to on November 16, 1994.

Cite as: Six citizens of the City of Calgary v. Director, Chemicals Assessment and Management Division, Alberta Environmental Protection.

9 4 - 0 0 7

Appellants - Mr. Wade and Ms. Frances Tobler, Operator - NOVA Corporation of Alberta, Location - Brooks, Type of Appeal - Report and Recommendations



On July 19, 1994, Mr. Wade and Ms. Frances Tobler filed a Notice of Appeal with respect to Approval No. P-25-94 issued to NOVA Corporation of Alberta for the construction, operation and reclamation of the Eastern Alberta System Mainline Loop #3 (Matzhiwin East Section) Pipeline. A pre-hearing meeting with field inspection was held on August 4, 1994 and a resolution was reached. On August 10, 1994 the Board issued a Report and Recommendations to the Minister which he agreed to on August 24, 1994.

Cite as: Tobler v. Director of Land Reclamation, Alberta Environmental Protection.

9 4 - 0 0 9

Appellant(s) - Mr. John Sheehan of the Friends of the Peace, Operator - Daishowa-Marubeni International Ltd., Location - Peace River, Type of Appeal - Report and Recommendations

On August 29, 1994, Mr. John Sheehan on behalf of the Friends of the Peace filed a Notice of Appeal with respect to Amending Approval No. 93-AL-110B(94) issued to Daishowa-Marubeni International Ltd. On November 25, 1994, a pre-hearing meeting was held and a resolution was reached. On January 20, 1995, the Board issued a Report and Recommendations to the Minister which he agreed to on January 30, 1995.

Cite as: Friends of the Peace v. Director, Air and Water Approvals Division, Alberta Environmental Protection.

9 4 - 0 1 0

Appellant(s) - Mr. Leonard and Ms. Elva Semack, Operator - Pan Canadian Petroleum Ltd., Location - Sexsmith, Type of Appeal - Report and Recommendations

On September 14, 1994, Mr. Leonard and Ms. Elva Semack filed a Notice of Appeal with respect to Reclamation Certificate No. 29600 issued to Pan Canadian Petroleum Ltd. regarding an abandoned well site located at NE ¼ 17-74-4-W6M. On May 30-31, 1995, a site visit and public hearing took place and found that the inspector's actions in issuing the certificate were reasonable, justified and correct. As a result, the Board issued a Report and Recommendations to the Minister on June 29, 1995 dismissing the appeal. The Minister agreed to the report on July 5, 1995.

Cite as: Leonard and Elva Semack v. Inspector, Land Reclamation Division, Alberta Environmental Protection.

9 4 - 0 1 1

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.

9 4 - 0 1 2

Appellant(s) - Carter Group, Operator - Conwest Exploration Company Limited, Location - Sexsmith, Type of Appeal - Decision

On September 20, 1994, the Carter Group filed a Notice of Appeal with respect to Approval No. 94-IND-153 issued to Conwest



Exploration Company Limited for the processing of natural gas in response to Application No. RS 0270. Documents filed by the Appellant addressed the hearing that was conducted by the Energy Resources Conservation Board (ERCB Decision D 94-6). A preliminary meeting was held on November 2 and 3, 1994 in Grande Prairie and on December 8, 1994. The Board issued a Decision to dismiss the appeal on the grounds that it would be unfair to let any appellant raise or reassert the same matters which were heard earlier and decided by the ERCB and second, where the Director has representatives at an ERCB hearing, participants must fully question the proponents and the Director at those proceedings or risk losing the right to do so on appeal.

Cite as: Carter Group v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 4 - 0 1 3

Appellant(s) - Mr. Douglas Blatter, Operator - Mr. Douglas Blatter, Location - Warner, Type of Appeal Report and Recommendations

On October 21, 1994, Mr. Douglas Blatter filed a Notice of Appeal with respect to the refusal of the Director of the Action on Waste Division to issue an approval to run a rural beverage container recycling depot in Warner, Alberta. A hearing was held in Warner on January 31, 1995 and the Board issued a Report and Recommendations to the Minister on March 24, 1995 stating that Mr. Blatter's appeal should be dismissed and the Director's decision to deny a bottle depot approval be affirmed; as well, the Director should be instructed to reconsider the decision-making process for dealing with applications for beverage container depot approvals and to exercise discretion by taking into account appropriate guidelines and individual factors relevant to competing purposes of the Environmental Protection and Enhancement Act. The Minister agreed to the report on March 28, 1995.

Cite as: Douglas Blatter v. Director, Action on Waste Division, Alberta Environmental Protection.

9 4 - 0 1 4

Appellant(s) - Mr. Murray and Ms. Kathleen Williams, Operator - Gulf Canada Resources Ltd., Location - Eckville, Type of Appeal - Report and Recommendations

On November 3, 1994, Mr. Murray and Ms. Kathleen Williams filed a Notice of Appeal with respect to Reclamation Certificate #31843 issued to Gulf Canada Resources Ltd. regarding an abandoned well site. A hearing was scheduled on May 16, 1995 with a pre-hearing meeting on May 2, 1995 in Eckville. The public hearing was adjourned until June 9, 1995 to provide all parties time to prepare. The Board issued a Report and Recommendations on July 7, 1995 stating that the appeal against the issuance of a reclamation certificate be allowed and that the operator be required to reapply for a reclamation certificate. The Minister agreed with the Board's recommendations and ordered they be implemented by July 19, 1995. The Board's decision underwent judicial review resulting in Justice C.L. Kenny's judgment of April 25, 1996 stating that the Board's decision stands.

Cite as: Murray and Kathleen Williams v. Inspector, Land Reclamation Division, Alberta Environmental Protection.

9 4 - 0 1 7

Appellant(s) - Dr. Martha Kostuch, Operator - Alberta Cement Corporation, Location - Rocky Mountain House, Type of Appeal - Decision

On November 28, 1994, Ms. Klimek, on behalf of Dr. Martha Kostuch, filed a Notice of Appeal with respect to Approval No. 93-WP-042B and 93-AP-099B (94) issued to Alberta Cement Corporation. These approvals were to amend the Permits to Construct by extending the deadline for commencement of construction of the cement plant from November 1, 1994 to November 1, 1995 and providing for additional soil and groundwater monitoring. On June 15, 1995 a preliminary meeting was held. A Decision report was issued on August 23, 1995 stating the appellant is not directly affected by the approvals and the appeal is therefore, dismissed. The Board's decision underwent judicial review with a judgment issued on March 29, 1996 by Justice Marceau stating that the Board's decision stands.

Cite as: Dr. Martha Kostuch v. Director, Air and Water Approvals Division, Alberta Environmental Protection.



Decisions 1995

9 5 - 0 0 2

Appellant(s) - Mr. Randall Lawrence and the EcoCity Society, Mr. John E. Logan, and Ms. Cornelia Bolt and the Hazeldean Community League, Operator - Zeidler Forest Industries Ltd., Location - Edmonton, Type of Appeal - As listed below

Overview - On January 10, 12 and 27, 1995, Mr. Randall Lawrence on behalf of himself and the EcoCity Society, Mr. John E. Logan and Ms. Cornelia Bolt on behalf of the Hazeldean Community League (Community) respectively, filed Notices of Appeal with respect to the issuance of Amending Approval No. 94-IND-125A to Zeidler Forest Industries Ltd..

Decision - After reviewing submissions by the parties, the Board issued a Decision on May 11, 1995 concluding that Mr. Lawrence, EcoScience Society and Mr. Logan are not directly affected by this approval, however, the Community is directly affected.

Cite as: Hazeldean Community League and two citizens of Edmonton v. Director of Air and Water Approvals, Alberta Environmental Protection.

Report and Recommendations - A pre-hearing meeting was held on June 23, 1995 and a resolution was reached. On July 6, 1995, the Board issued a Report and Recommendations to the Minister which he agreed to on July 8, 1995.

Cite as: Hazeldean Community League v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 5 - 0 0 3

Appellant(s) - Mr. Roy Hanson, Operator - Fletcher Challenge Petroleum Inc., Location - Cadogan, Type of Appeal - Report and Recommendations

On January 13, 1995, Mr. Roy Hanson filed an appeal with respect to Reclamation Certificate #31851 issued to Fletcher Challenge Petroleum Inc. Specifically, the site in question was taken over by crested wheat grass which was not approved to be in the original mixture of seeds and wanted piezometer maintained for the protection of ground water and also possible gas leaks. On May 9, 1996 a pre-hearing was held which resulted in a resolution. The Board issued a Report and Recommendations to the Minister on May 22, 1996 and on June 6, 1996 the Minister agreed to the Board's report.

Cite as Hanson v. Inspector of Land Reclamation, Alberta Environmental Protection.

9 5 - 0 0 4

Appellant(s) - Mr. Ove Aasen, Operator - Renaissance Energy Ltd., Location - Provost, Type of Appeal - Report and Recommendations

On January 19, 1995, Mr. Ove Aasen filed a Notice of Appeal with respect to Reclamation Certificate No. 32034 issued to Renaissance Energy Ltd. in relation to a well site located at NW 20-38-3-W4M. A pre-hearing meeting was held on May 12, 1995 and after a thorough discussion of the issue, the Appellant accepted Renaissance's regrets for the undesirable load of gravel buried on the site, and all agreed that nothing further could be done to reclaim the site and a resolution was signed. On May 17, 1995, the Board issued a Report and Recommendations to the Minister which he agreed to on May 24, 1995.

Cite as: Ove Aasen v. Inspector, Land Reclamation Division, Alberta Environmental Protection.

9 5 - 0 0 6

Appellant(s) - Lesser Slave Lake Indian Regional Council, Toxics Watch Society, Environmental Resource Centre and Ed Graham, Operator - Chem-Security (Alberta) Ltd., Location - Fort Assiniboine, Type of Appeal - Decision

On January 26, 1995, Mr. Ed Graham filed a Notice of Appeal and on February 8, 1995, the Lesser Slave Lake Indian Regional Council, the Toxics Watch Society, and the Environmental Resource Centre filed Notices of Appeal with respect to Approval No. 94 - IND-223 issued to Chem-Security (Alberta) Ltd. authorizing the operation of the Ford, Bacon and Davis incinerator facility at the Alberta Special Waste Treatment Centre (ASWTC) near Swan Hills. On February 13, 1995, the Environmental Appeal Board (the "Board") was advised that the Natural Resources Conservation Board (NRCB) 'conducted reviews of two reviewable projects in rela-



tion to the ASWTC...' resulting in the NRCB Decision Report 9101 (April 1992) and 9301 (November 1994). On June 5, 1995, the Board held a preliminary meeting which was adjourned to July 28, 1995 in order for the parties to submit 'new' information before the NRCB. After reviewing all the information provided, the Board issued a Decision dismissing the appeals on August 23, 1995.

Cite as: Lesser Slave Lake Indian Regional Council et al v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

9 5 - 0 0 8

Appellant(s) - Ms. Wendy Francis of the Canadian Parks & Wilderness Society and Mr. Mike McIvor on behalf of the Bow Valley Naturalists, Operator - N/A, Location - Canmore, Type of Appeal - N/A

On March 28, 1995, the Board advised Ms. Wendy Francis of the Canadian Parks & Wilderness Society and Mr. Mike McIvor of the Bow Valley Naturalists that their Notice of Appeal would be dismissed on the grounds that the Board has no jurisdiction under Part 3 of the Environmental Protection and Enhancement Act to hear an appeal from the departmental decisions which have been made to date on this matter (impact assessments).

Cite as: Canadian Parks & Wilderness Society and Bow Valley Naturalists v. Director of Environmental Assessment, Alberta Environmental Protection.

9 5 - 0 0 9

Appellant(s) - Mr. Rodney A. Keller, Operator - Municipal District of East Peace No. 131, Location - East Peace, Type of Appeal - Report and Recommendations

On April 25, 1995, the Board received a Notice of Appeal from Mr. Rodney A. Keller with respect to Approval No. SG-8-95 issued to the Municipal District of East Peace No. 131 for the opening up, operation and reclamation of a sand and gravel pit located on NE 33-84-21-W5M. A pre-hearing meeting and a hearing took place on July 5 and November 1, 1995 respectively. On November 24, 1995, the Board advised the parties that it would not make an award of costs to any party in this matter. On December 1, 1995, the Board issued a Report and Recommendations to the Minister.

Cite as: Rodney A. Keller v. Director, Land Reclamation Division, Alberta Environmental Protection.

9 5 - 0 1 2

Appellant(s) - Ms. Victoria Olekshy-Wallace, Ms. Valerie Olekshy-Greenslade and Ms. Risa Olekshy, Operator - Imperial Oil Resources Ltd., Location - Leduc, Type of Appeal - Report and Recommendations

On July 4, 1995, Ms. Victoria Olekshy-Wallace, Ms. Valerie Olekshy-Greenslade and Ms. Risa Olekshy filed a Notice of Appeal with respect to Reclamation Certificate No. 31471 issued to Imperial Oil Resources Ltd. for an abandoned well site located at NE 4-50-26-W4M. On November 8, 1995, the Board held a hearing and heard evidence of the appellants, inspectors and operator. The Board also decided that costs would not be granted to any party. On December 7, 1995, the Board issued a Report and Recommendations to the Minister recommending that the appeal be dismissed. On December 12, 1995, the Minister agreed to the Board's report.

Cite as: Victoria Olekshy-Wallace et al. v. Inspector, Land Reclamation Division, Alberta Environmental Protection.

9 5 - 0 1 8

Appellant(s) - Messrs. Larry McLeod and Don Peterson, Operator - Shell Canada Limited, Location - Caroline, Type of Appeal - Report and Recommendations

On September 6 and October 17, 1995, Messrs. Larry McLeod and Don Peterson respectively, filed Notices of Appeal with respect to Amending Approval No. 92-AL-398C(95) issued to Shell Canada Limited for the Caroline Sour Gas Processing Plant. A pre-hearing meeting took place on December 12, 1995 in Red Deer and a resolution was reached. On December 20, 1995, the Board issued a Report and Recommendations to the Minister which he agreed to on January 3, 1996.

Cite as: Mr. Larry McLeod and the Mountain View Land Holders Group v. J. Nagendran, Acting Director, Air and Water Approvals Division, Alberta Environmental Protection.



9 5 - 0 1 9

Appellant(s) - Ms, Gwen McKendrick, Operator - Foothills Water Utility Corp., Location - Cochrane, Type of Appeal - Report and Recommendations

On September 26, 1995, Mr. Grant McNabb, agent for Ms. Gwen McKendrick, filed a Notice of Appeal with respect to Approval No. 95-MUN-229 issued to Foothills Water Utility Corp. for a waterworks system. On October 18, 1995 a further appeal was filed by Mr. Jack and Ms. Betty Bancroft. The Bancrofts were concerned that the approval had been given to Foothills to service Phase 1 land, of which they owned a significant portion. On October 19, 1995 a further appeal was received from Marvin Laye objecting to the route of the pipeline. On October 25, 1995, the Bancroft's withdrew their appeal. On November 9, 1995 the Board received a notice of withdrawal from Mr. Laye. Upon publication of a Notice of Hearing, the Town of Cochrane, the Municipal District of Rocky View No. 44 and Foothills were granted party status. The Board held a pre-hearing on February 21, 1996. Foothills expressed a willingness to work with the appellant in order to address any concerns. A resolution was agreed to by all parties on February 21, 1996. The Board issued a Report and Recommendations on March 6, 1996 and the Minister agreed with the report on March 11, 1996.

Cite as: McKendrick v. Director of Air and Water Approvals Division, Alberta Environmental Protection.

9 5 - 0 2 0

Appellant(s) - Custom Environmental Services Ltd., Operator - Custom Environmental Services Ltd, Location - Edmonton, Type of Appeal - Report and Recommendations

On October 26, 1995, Custom Environmental Services Ltd. filed an appeal with respect to Approval No. 95-IND-085 as it would curtail the company's waste management and recycling activities. A hearing was set for January 15, 16 and 17, 1996. After considering all evidence, the Board issued a Report and Recommendations stating it confirms the Director's issuance of the approval on February 14, 1996. The Minister agreed with the Board's report on February 21, 1996. The Board's decision was to undergo judicial review, however, the Appellant subsequently discontinued this action on March 3, 1997 in the Court of Queen's Bench.

Cite as: Custom Environmental Services Ltd. v. Director, Chemicals Assessment and Management, Alberta Environmental Protection.

9 5 - 0 2 5

Appellant(s) - Mr. Ed Graham et al. Operator - Chem Security (Alberta) Ltd., Location - Edmonton, Type of Appeal - As listed below

Overview - On December 20, 1995, Mr. Ed Graham of Fort Assiniboine filed an appeal with respect to Approval No. 95-IND-237 which was renewed to Chem-Security (Alberta) Ltd. This appeal relates to the operation of the Alberta Special Waste Treatment Centre. This was the first permanent approval for the operation of the incinerator issued pursuant to the Environmental Protection and Enhancement Act. On December 21, 1995, the Lesser Slave Lake Indian Regional Council and on January 3, 1996, the Toxics Watch Society filed appeals. The Toxics Watch Society subsequently withdrew their appeal.

Decision - On June 28, 1996, the Board issued a Decision advising that Mr. Charlie Chalifoux is the person directly affected and whose appeal may be heard. As well, the Board ordered that matters with regard to PCB fugitive emissions and off-site water discharge will be held on or before September 16, 1996 with Mr. Chalifoux being the sole Appellant. The Board's Decision was the subject of judicial review, and as a result, the scheduled hearing for November 19-21, 1996, was adjourned. The case was heard in special chambers on October 3, 1996, by Justice D.H. Medhurst. On January 13, 1997, Justice Medhurst issued a decision stating that the application by Chem-Security is dismissed. On January 17, 1997, Chem-Security filed an appeal of Justice Medhurst's decision. The appeal was heard on May 16, 1997, by Justices of the Court to Appeal, Berger, Picard and Hunt. On July 16, 1997, the Court issued a decision stating that the appeal by Chem-Security is dismissed.

Cite as: Ed Graham et al. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

Interim Decision - A preliminary meeting was held on April 14, 1997, and the Board issued an Interim Decision advising all parties to file written briefs on items brought forth at the meeting, as well as set guidelines for a Stay hearing.

Cite as: Charlie Chalifoux v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

Discontinuance of Proceedings - On May 11, 1999, Mr. Chalifoux withdrew his appeal and on July 9, 1999, the Board issued a Discontinuance of Proceedings.



Cite as: Chalifoux v. Director of Chemicals Assessment and Management, Alberta Environmental Protection re: Chem-Security (Alberta) Ltd.

Decisions 1996

9 6 - 0 0 1

Appellant(s) - Mr. Michael Bracko, Operator - Gregg River Resources, Location - Hinton, Type of Appeal - Discontinuance of Proceedings

On January 3, 1996, Mr. Michael Bracko filed a Notice of Appeal with respect to Approval No. 11905-00-04 issued to Gregg River Resources. The appellant objected to the development of a settling pond in one of their pits and releasing treated plant process waste water into the Gregg River. On April 2, 1996 the Board received a notice of withdrawal from Mr. Bracko and consequently issued a Discontinuance of Proceedings on the same day.

Cite as: Mr. Michael Bracko v. Acting Director of Land Reclamation, Alberta Environmental Protection

9 6 - 0 0 2

Appellant(s) - Alberta Cement Corporation, Operator - Alberta Cement Corporation, Location - Rocky Mountain House, Type of Appeal - Discontinuance of Proceedings

On February 9, 1996, Alberta Cement Corporation filed a Notice of Appeal with respect to the decision of the Director of Air and Water Approvals Division stating that permits 93-AP-009 and 93-WP-042 for the Rocky Mountain House cement manufacturing plant are null and void. On April 22, 1996 the appeal was held in abeyance pending the judicial review filed by Alberta Cement. The Memorandum of Judgment of the Honourable Justice Veit issued on July 5, 1996, stated that the decision by the Director of Air and Water Approvals Division, Environmental Protection, that the permits of Alberta Cement are null and void, was irrational. On July 11, 1996, parties were notified that the Board would be closing its file within 30 days in light of this decision. On August 12, 1996, the Board issued a Discontinuance of Proceedings.

Cite as: Alberta Cement Corporation v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 6 - 0 0 3 / 9 6 - 0 0 5

Appellant(s) - Alberta Treasury Branches and the City of Drumheller, Operator - Alberta Treasury Branches and the City of Drumheller, Location - Drumheller, Type of Appeal - Report and Recommendations

On February 2, 1996, Alberta Treasury Branches filed a Notice of Appeal objecting to the Designation Order dated January 19, 1996 by the Director of Chemical Assessment and Management. On February 8, 1996, the City of Drumheller filed a Notice of Appeal in relation to the same Order as they had been designated parties as well. A pre-hearing was conducted on May 27, 1996 and a resolution was agreed to. A Report and Recommendations was prepared by the Board on May 31, 1996 and agreed to by the Minister on June 4, 1996.

Cite as: Alberta Treasury Branches and the City of Drumheller v. Director of Chemical and Assessment Management Division.

9 6 - 0 0 4

Appellant(s) - Kanata Environmental Services, Operator - Kanata Environmental Services, Location - Edmonton, Type of Appeal - Decision

On February 15, 1996, Kanata Environmental Services filed a Notice of Appeal with respect to Enforcement Order 96-03 to Kanata Environmental Services. On March 21, 1996 the Board issued a Decision report stating that since the Director's order was issued under section 200(1)(d) and (e) of the Environmental Protection and Enhancement Act, the Board can not be the proper subject of an appeal



and therefore has no jurisdiction to consider the appeal filed. As a result, the Board dismissed the appeal and a copy of the Decision was sent to the Minister on March 21, 1996.

Cite as: Kanata Environmental Service v. Director of Pollution Control.

9 6 - 0 0 6

Appellant(s) - Mr. Bill Lucey, Operator - Western Steel Partnership, Location - Calgary, Type of Appeal - Decision

On March 5, 1996, Mr. Bill Lucey, Leader of the Confederation of Regions Party, filed a Notice of Appeal with respect to Approval 11602-00-01 issued to Western Steel Partnership. The approval was an amendment of an earlier approval for the demolition, decommissioning and reclamation of the primary metal production plant. The Board concluded in its Decision report of April 11, 1996 that the appeal is being dismissed as the Appellant failed to disclose any grounds that may justify an appeal and he failed to comply adequately with the Board's written request. A copy of the Decision report was sent to the Minister on April 12, 1996.

Cite as: Lucey v. Director, Air and Water Approvals.

9 6 - 0 0 7

Appellant(s) - Alberta-Pacific Forest Industries Inc., Operator - Alberta-Pacific Forest Industries Inc., Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On March 7, 1996, the Alberta-Pacific Forest Industries Inc. filed a Notice of Appeal with respect to Environmental Protection Order 95-09 issued to Alberta Pacific for a bleached market kraft pulp mill. On April 11, 1996 the appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Alberta-Pacific Forest Industries Inc. (Alberta-Pacific) v. Director of Pollution Control, Alberta Environmental Protection.

9 6 - 0 0 8

Appellant(s) - Alberta-Pacific Forest Industries Inc., Operator - Alberta-Pacific Forest Industries Inc., Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On April 11, 1996, an appeal was received from Alberta-Pacific Forest Industries Inc. with respect to an amendment of April 2, 1996 to Enforcement Order 95-09 relating to the elimination of offensive odours outside the plant. On June 21, 1996 the appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Alberta-Pacific Forest Industries Inc. (Alberta-Pacific) v. Director of Pollution Control, Alberta Environmental Protection.

9 6 - 0 0 9

Appellant(s) - Ms. Pat Allen, Operator - Town of Ponoka, Location - Lacombe, Type of Appeal - Report and Recommendations

On April 26, 1996, Ms. Pat Allen filed a Notice of Appeal with respect to Approval No. 15385-01-00 issued to the Town of Ponoka for the removal of 66,000,000 gallons of water from the aquifer associated with the opening, operation and reclamation of the gravel pit. On June 17, 1996 the Board conducted a pre-hearing that resulted in Ms. Allen withdrawing her appeal on the basis that her concerns would be best addressed through the Water Resources Administration Division of the Department of Environmental Protection and the County of Ponoka would continue to abide by the restrictions contained within their licence. The Board prepared a Report and Recommendations on June 27, 1996, advising the Minister need not take any further action. A copy of the report was forwarded to the Minister on the same day.

Cite as: Pat Allen et al. v. Director of Land Reclamation, Alberta Environmental Protection.

9 6 - 0 1 0

Appellant(s) - Alberta Power, Operator - Alberta Power, Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On April 26, 1996, Alberta Power filed a Notice of Appeal with respect to Approval Nos. 18260-01-00 and 18261-01-00. A procedural meeting was held on July 11, 1996. Parties requested the appeal be held in abeyance while they attempt to resolve the matter. An



extension was granted and parties were asked to provide a status update September 30, 1996. As the parties were able to resolve the matter, Alberta Power withdrew their appeal on September 11, 1996 and the Board issued a Discontinuance of Proceedings on September 13, 1996.

Cite as: Alberta Power Ltd. v. Director of Chemical Assessment and Management Division, Alberta Environmental Protection.

9 6 - 0 1 1

Appellant(s) - Mr. Joe Zink, Operator - Westridge Water Supply Ltd., Location - Calgary, Type of Appeal - Report and Recommendations

On May 16, 1996, Mr. Joe Zink filed a Notice of Appeal with respect to Amending Approval 1298-00-01 issued to Westridge Water Supply Ltd. for a permanent auxiliary raw water supply intake and pipeline to replace the unapproved temporary supply line installed in 1995. A pre-hearing meeting on August 26, 1996, resulted in an unsuccessful mediation. A hearing was held on October 7, 1996, and the Board issued a Report and Recommendations on October 28, 1996 stating that the application should be returned to the Director of Air and Water Approvals for reconsideration based on new and proper evidence and the Director should exercise his discretion and consider site suitability, water quality, groundwater conditions and site drainage. The Minister agreed to the Board's report on November 13, 1996.

Cite as: Joe Zink v. Acting Director of Air and Water Approvals Division, Alberta Environmental Protection.

9 6 - 0 1 2

Appellant(s) - Mr. Victor Durish of Gammon Resources Ltd., Operator - Gammon Resources Ltd., Location - Calgary, Type of Appeal - Report and Recommendations

On May 23, 1996, Mr. Victor Durish, President of Gammon Resources Ltd., filed a Notice of Appeal with respect to Environmental Protection Order 96-07. Specifically, Gammon Resources objected that no other operators are responsible for the condition of the land. Pre-hearing meetings took place on July 18, 1996 and August 13, 1996, however, mediation was unsuccessful. A hearing took place on October 21, 1996, in Calgary. The Board issued a Report and Recommendations on November 20, 1996, stating that the Inspector acted correctly in issuing the EPO to Gammon alone. The Minister agreed to the Board's report on November 25, 1996. The Appellant filed the decision of the Minister with the Court of Queen's Bench which was subsequently withdrawn by the Appellant.

Cite as: Gammon Resources Ltd. v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 6 - 0 1 3

Appellant(s) - Mr. David and Mrs. Ethel Jessey, Operator - Municipal District (M.D.) of Rocky View No. 44, Location - Langdon, Type of Appeal - Discontinuance of Proceedings

On June 14, 1996, the Environmental Appeal Board received a Notice of Appeal from Mrs. Adrienne Waller on behalf of Mr. David and Mrs. Ethel Jessey with respect to Approval No. 918-01-00 issued to the M.D. of Rocky View No. 44 for the operation, of a Class I wastewater treatment plant (wastewater stabilization ponds) and a Class I wastewater collection system for the Hamlet of Langdon. In consultation with the parties, the Board scheduled a mediation for August 27, and a hearing for September 10, 1996. At the mediation meeting, it was agreed to hold the appeal in abeyance until January 15, 1997, pending submission of a status report by the Department, and adjourning the hearing scheduled for September. On January 9, 1997, the Approval Holder requested a further adjournment in order to consult with third parties not before the Board, and to complete a sewage effluent engineering study brought forward to the Municipal Council. In consultation with the parties, the Board held a mediation meeting on April 23, 1997 in Calgary. As no resolution was reached at the mediation, a hearing was scheduled for July 15 and 16, 1997. However, after requests by the Approval Holder, Appellants and the Department, the Board held the appeal in abeyance pending negotiations between the parties. On May 10, 2000, the Board received a letter from the Appellant's legal counsel advising that an agreement had been reached between the parties and that the appeal would be withdrawn. On May 15, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: Jessey v. Director, Air and Water Approvals, Alberta Environmental Protection re: Municipal District (M.D.) of Rocky View No. 44.

9 6 - 0 1 4

Appellant(s) - Mr. Joe Przybyski, Operator - Cool Spring Dairy, Location - Whitelaw, Type of Appeal - Discontinuance of Proceedings



s u m m a r i e s c o n t i n u e d . . .

On June 14, 1996, Mr. Joe Przybylski filed a Notice of Appeal with respect to a decision of the Director, Pollution Control Division, to Cool Spring Dairy Ltd. in Whitelaw. On June 14, 1996 Mr. Przybylski was advised that it may be pre-mature for the involvement of the Board at this time as an approval had not yet been issued. On July 30, 1996, Mr. Przybylski was asked for a response to the Board's June 14, 1996 letter asking if he wished to pursue any further action. No further correspondence was received and the Board issued a Discontinuance of Proceedings on July 3, 1996.

Cite as: Joe Przybylski v. Director of Pollution Control, Alberta Environmental Protection.

9 6 - 0 1 5 - 9 6 - 0 1 7 , 9 6 - 0 1 9 - 9 6 - 0 6 7

Appellant(s) - Ms. Lorraine Vetsch et al., Operator - Laidlaw Environmental Services (Ryley) Ltd., Location - Ryley Type of Appeal - Decision

From June 18 - July 16, 1996, 59 Notices of Appeal were filed by Ms. Lorraine Vetsch et al. with respect to Approval No. 10348-01-00 issued to Laidlaw Environmental Services (Ryley) Ltd. Ms. Julia Greer, Ms. Elizabeth Schwob, Ms. Alice Dupuit withdrew their appeals. On August 6, C.R. Savoie, Ms. Peggy Biche filed appeals, but were dismissed as they were filed after the 30 day time period. On September 30 and October 1, 1996, a preliminary meeting was held and the Board issued a Decision on October 28, 1996 stating that no appellant other than Mrs. Kozdrowski convinced the Board that they were directly affected. A hearing of this appeal will be held on or before January 24, 1997 with Mrs. Bernice Kozdrowski as the appellant (refer to 96-059 below).

Cite as: Lorraine Vetsch et al. v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

9 6 - 0 1 8

Appellant(s) - Paul First Nation, Operator - TransAlta Utilities Ltd., Location - Duffield, Type of Appeal - Discontinuance of Proceedings

On July 2, 1996, the Paul First Nation filed a Notice of Appeal with respect to Approval No's. 9830-01-00 and 18528-00-00 issued to TransAlta Utilities Ltd.. The appellant stated that the approvals were not adequate to address the water level of Lake Wabamun or the air emissions from the Sundance Thermal Electric Power Plant. A notice of withdrawal was received from the appellant on July 19, 1996, and the Board issued a Discontinuance of Proceedings on August 27, 1996.

Cite as: Paul Band First Nation v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 6 - 0 2 3

Appellant(s) - Ms. Julia Greer, Operator - Laidlaw Environmental Services (Ryley) Ltd., Location - Ryley, Type of Appeal - Discontinuance of Proceedings

On July 4, 1996, Ms. Julia Greer filed a Notice of Appeal with respect to Approval No. 10348-01-00 issued to Laidlaw Environmental Services (Ryley) Ltd. for the operation and reclamation of a hazardous waste storage and hazardous recyclable and processing facility, and the construction, operation and reclamation of a hazardous waste landfill near Beaverhill Lake. On August 1, 1996, Ms. Greer advised the Board that she did not wish to receive any further information in regard to the appeal and on August 26, 1996, she requested that the Board remove her from the Laidlaw 'project'. On August 27, 1996, the Board issued a Discontinuance of Proceedings.

Cite as: Julia Greer v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

9 6 - 0 2 5

Appellant(s) - Ms. Elizabeth W. Schwob, Operator - Laidlaw Environmental Services (Ryley) Ltd., Location - Ryley, Type of Appeal - Discontinuance of Proceedings

On July 5, 1996, Ms. Elizabeth W. Schwob filed a Notice of Appeal with respect to Approval No. 10348-01-00 issued to Laidlaw Environmental Services (Ryley) Ltd. for the operation and reclamation of a hazardous waste storage and hazardous recyclable and processing facility, and the construction, operation and reclamation of a hazardous waste landfill near Beaverhill Lake. On July 28, 1996, Ms. Schwob advised the Board that she considered herself not to be directly affected by the approval. On August 22, 1996, Ms. Schwob withdrew her appeal and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Elizabeth W. Schwob v. Director of Chemical Assessment and Management, Alberta Environmental Protection.



9 6 - 0 3 1

Appellant(s) - Ms. Alice Dupuit, Operator - Laidlaw Environmental Services (Ryley) Ltd., Location - Ryley, Type of Appeal - Discontinuance of Proceedings

On July 9, 1996, Ms. Alice Dupuit filed a Notice of Appeal with respect to Approval No. 10348-01-00 issued to Laidlaw Environmental Services (Ryley) Ltd. for the operation and reclamation of a hazardous waste storage and hazardous recyclable and processing facility, and the construction, operation and reclamation of a hazardous waste landfill near Beaverhill Lake. On August 14, 1996, Ms. Dupuit withdrew her appeal and the Board issued a Discontinuance of Proceedings on August 22, 1996.

Cite as: Alice Dupuit v. Director of Chemical Assessment and Management, Alberta Environmental Protection.

9 6 - 0 5 9

Appellant(s) - Ms. Bernice Kozdrowski, Operator - Laidlaw Environmental Services (Ryley) Ltd., Location - Ryley, Type of Appeal - As listed below

Overview: From June 18-July 16, 1996, 59 Notices of Appeal were filed with respect to Approval No. 10348-01-00 issued to Laidlaw Environmental Services (Ryley) Ltd. (LES) for the operation and reclamation of a hazardous waste storage and hazardous recyclable and processing facility, and the construction, operation and reclamation of a hazardous waste landfill near Beaverhill Lake. On July 10, 1996, Ms. Bernice Kozdrowski filed a Notice of Appeal with respect to this approval.

Report and Recommendations - A preliminary meeting was held on September 30, 1996, and October 1, 1996. A Decision was issued by the Board on October 28, 1996, stating that Ms. Bernice Kozdrowski is directly affected and that a hearing by the Board will take place prior to January 24, 1997 (note 96-015-96-17, 96-019-96-067 above). The hearing of January 22 and 23, 1997, was postponed and rescheduled for March 4, 5, 6 and 7, 1997. A Report and Recommendations was issued by the Board on June 12, 1997, recommending that: the clay liner for the landfill cell be thickened to 1.5 metres from 0.6 metres; the liner be installed using methods and materials that satisfy strict specifications designed to reduce the hydraulic conductivity of the liner system; and, that water wells surrounding the cells be checked regularly and frequently to allow early detection of contaminants. The Board recommended that, provided the cell design be improved as outlined, the appeal be dismissed. The Minister agreed to the Board's report on June 18, 1997.

Cite as: Bernice Kozdrowski v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

Cost Decision - On July 7, 1997, the Board issued a Cost Decision, allowing costs of \$9,796.24, to be paid by Laidlaw Environmental Services (Ryley) Limited, and allocated to the appellant, Ms. Bernice Kozdrowski, as well as, Mr. Mitch Bronaugh, Dr. MacMillan, Ms. Marilyn Fenske and Ms. Leslie Price.

Cite as: Cost Decision re: Bernice Kozdrowski

Decision - On January 30, 1998, LES' counsel requested that the Board 'reconsider Recommendation #1' on the Board's June 12, 1997 Report and Recommendations. On April 7, 1998, the Board issued a Decision stating that the 'public interest' will not be served by granting LES' reconsideration request and also that by refusing LES' request, the Board wishes to make it clear that it has not altered its original decision, or issued a new order or direction.

Cite as: Laidlaw Environmental Services (Ryley) Ltd. request for reconsideration, re: Bernice Kozdrowski v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

Decision - On August 24, 1998, the Appellant's representative, Mr. Mitch Bronaugh, wrote to the Board requesting that the Board 'reconsider' its June 12, 1997 Report and Recommendations "to determine on question: whether the 'clay' liner allowed by...[Director] satisfies the conditions of the Board's...[Report]". On February 9, 1999, the Board issued a Decision denying the Appellant's reconsideration request.

Cite as: Kozdrowski request for reconsideration, re: Bernice Kozdrowski v. Director of Chemicals Assessment and Management, Alberta Environmental Protection.

9 6 - 0 6 8

Appellant(s) - Mr. David Slater of Paramount Resources Ltd., Operator - Paramount Resources Ltd., Location - Calgary, Type of Appeal - Discontinuance of Proceedings



s u m m a r i e s c o n t i n u e d . . .

On July 18, 1996, Mr. David Slater of Paramount Resources Ltd. filed a Notice of Appeal with respect to the magnitude of an Administrative Penalty (\$4,500) for failing to provide monthly reports as required by their Approval 93-AL-112 for the Saleski Sour Gas Plant. On September 13, 1996, Paramount advised the Board that they would be withdrawing their appeal and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Paramount Resources Ltd. v. Director of Pollution Control, Alberta Environmental Protection.

9 6 - 0 6 9

Appellant(s) - Mr. Nick Zon, Operator - TransAlta Utilities Corporation, Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On July 18, 1996, Mr. Nick Zon filed a Notice of Appeal with respect to Approval No's. 18528-00-00 and 9830-01-00 issued to TransAlta Utilities Corporation. Further information was requested from counsel for the appellant and was received. On September 24, 1996, the Board issued a Discontinuance of Proceedings as it is not persuaded that there are sufficient grounds for granting the extension of the time for filing an appeal.

Cite as: Nick Zon v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 6 - 0 7 0

Appellant(s) - Messrs. Joe and Robert Przybylski, Operator - Cool Spring Dairy Farms Ltd., Location - Whitelaw, Type of Appeal - As listed below

Overview - On August 13, 1996, Messrs. Joe and Robert Przybylski filed a Notice of Appeal with respect to Approval No. 18756-00-00 issued to Cool Spring Dairy Farms Ltd. for the construction, operation and reclamation of the Whitelaw forage drying facility.

Decision - A hearing was set for February 25, 1997, but was rescheduled pending resolution of a prosecution of the approval holder. The Appellants then applied for a Stay of the decision of the Director pending the appeal. On April 1, 1997, the Board issued a Decision granting the Stay requested by the Appellants and stating that a hearing date for the appeal would be set upon agreement with the parties following the resolution of the prosecution.

Cite as: Przybylski v. Director of Air and Water Approvals Division, Alberta Environmental Protection.

Report and Recommendations - A hearing was held on June 4 and 6, 1997. On June 6, 1997, the Board issued a Report and Recommendations containing an agreed upon resolution signed by all parties, and including the withdrawal of the appeal by the appellants. The Minister agreed with the Board's report on June 10, 1997.

Cite as: Przybylski v. Director of Air and Water Approvals Division, Alberta Environmental Protection.

9 6 - 0 7 1

Appellant(s) - Mr. David and Ms. Claire Andrews, Operator - Sulfer Works Ltd., Location - Irricana, Type of Appeal - Discontinuance of Proceedings

On August 20, 1996 Mr. David and Ms. Claire Andrews filed a Notice of Appeal with respect to the decision of the Head of the Environmental Impact Assessment Branch to not require Sulfer Works Ltd. to submit to an impact assessment study. On August 21, 1996 the appellant was advised that as there was no approval issued it was premature/lack of jurisdiction for the Board to get involved and the Board issued a Discontinuance of Proceedings on August 28, 1996.

Cite as: David and Claire Andrews v. Director of Environmental Assessment, Alberta Environmental Protection.

9 6 - 0 7 2

Appellant(s) - Mr. Bill Lucey, Operator - Suncor Inc. Oil Sands Group, Location - Calgary, Type of Appeal - Decision

On August 26, 1996, Mr. Bill Lucey of the Confederation of Regions Political Party filed a Notice of Appeal with respect to Approval No. 95-00-18 issued to Suncor Inc. Oil Sands Group. On October 15, 1996, the Board issued a Decision report stating that the appeal was dismissed for lack of sufficient information as requested by the Board. A copy of the Decision was forwarded to the Minister on



October 15, 1996.

Cite as: Lucey #2 v. Director, Air and Water Approvals.

9 6 - 0 7 3

Appellant(s) - Mr. Bill Bell of Penn West Petroleum Ltd., Operator - Penn West Petroleum Ltd., Location - Calgary, Type of Appeal - Discontinuance of Proceedings

On September 12, 1996, Mr. Bill Bell on behalf of Penn West Petroleum Ltd. filed a Notice of Appeal with respect to Amending Approval No. 9804-01-02. The approval was for the expansion of the Minnehik-Buck Lake sour gas plant for the processing of natural gas. Specifically, Penn West objects to the terms and conditions of the approval. On November 13, 1996, Mr. Bell advised the Board that Penn West Petroleum would be withdrawing their appeal as they have resolved the matter with the Department of Environmental Protection. As a result, the Board issued a Discontinuance of Proceedings on November 14, 1996.

Cite as: Penn West Petroleum Ltd. v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 6 - 0 7 4

Appellant(s) -Mr. Steven G. Hertzog of BPCO a Division of Emco Limited, Operator - Canadian Turbo, Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On September 19, 1996, Mr. Steven G. Hertzog of BPCO a Division of Emco Limited filed a Notice of Appeal with respect to Approval No. 9956-01-01 issued to Canadian Turbo for the decommissioning and reclamation of the Edmonton Used Oil Recycling Plant. The appeal was withdrawn by the appellant, BPCO, and the Board issued a Discontinuance of Proceedings on September 19, 1997.

Cite as: BPCO v. Acting Director of Chemicals Assessment and Management, Alberta Environmental Protection.

9 6 - 0 7 5

Appellant(s) - Mr. Robert Steinborn of Land Petroleum International Inc., Operator - Land Petroleum International Inc., Location - Calgary, Type of Appeal - Report and Recommendations

On September 23, 1996, Mr. Robert Steinborn of Land Petroleum International Inc. filed a Notice of Appeal with respect to Environmental Protection Order 96-11 relating to the Majeau well. A mediation was held on December 9, 1996, in Edmonton, and included the landowner, Mr. Frank Wegewitz and a resolution was reached. On February 10, 1997, the Board issued a Report and Recommendations to the Minister. The Minister agreed to the report on March 17, 1997.

Cite as: Land Petroleum International Inc. v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 6 - 0 7 6

Appellant(s) - Mr. Donald Sommers, Operator - Chauvco Resources Ltd., Location - Champion, Type of Appeal - Discontinuance of Proceedings

On September 30, 1996, Mr. Donald Sommers filed a Notice of Appeal with respect to Reclamation Certificate #30906 issued to Chauvco Resources Ltd. The grounds for the appeal are extreme soil compaction and mixed soil classes resulting in poor crop growth in well area. A mediation took place on December 5, 1996, in Champion, Alberta, with the appellant and Chauvco agreeing to private terms. The appeal was then withdrawn by Mr. Sommers, and the Board issued a Discontinuance of Proceedings on December 6, 1996.

Cite as: Donald R. Sommers v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 6 - 0 7 7

Appellant(s) - Mr. Jerome Kasha, Operator - Imperial Oil Ltd., Location - Leduc, Type of Appeal - Discontinuance of Proceedings

On October 7, 1996, Mr. Jerome Kasha filed a Notice of Appeal with respect to Reclamation Certificate #32565 issued to Imperial Oil Ltd. The appellant advised that rocks, grease and contaminants were not removed satisfactorily from the area adjacent to the former well site. A mediation took place on November 29, 1996, in Leduc, Alberta. It was agreed by all parties that the file would be held in



abeyance until September 1, 1997, in order that the department could examine the soil for possible contamination. On October 3, 1997, the appeal was withdrawn by Mr. Kasha and the Board issued a Discontinuance of Proceedings on October 15, 1997.

Cite as: Kasha v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 6 - 0 7 8

Appellant(s) - Mr. Hugh Weis of Superior Vet and Farm Supply, Operator - Superior Vet and Farm Supply, Location - Edmonton, Type of Appeal - Decision

On October 7, 1996, Mr. Hugh Weis of Superior Vet and Farm Supply filed a Notice of Appeal seeking to reduce an administrative penalty of \$6,000 imposed by the Director of Pollution Control. The penalty relates to Approval No. 4736-01 issued by the Director of Chemicals Assessment and Management Division. A hearing was held on March 25, 1997, in the Board's office. The Board issued a Decision on April 10, 1997, confirming the decision of the Director of Pollution Control.

Cite as: Superior Vet and Farm Supply v. Director of Pollution Control, Alberta Environmental Protection.

9 6 - 0 7 9

Appellant(s) - Mr. Sylvester Woytkiw, Operator - Norcen Energy Resources Limited, Location - Elk Point, Type of Appeal - Discontinuance of Proceedings

On October 25, 1996, Mr. Sylvester Woytkiw filed a Notice of Appeal with respect to Reclamation Certificate #33631, issued to Norcen Energy Resources Limited. Mr. Woytkiw stated drilling by Norcen has affected his drinking water. A mediation held January 14, 1997, in Elk Point, was successful. The appeal was withdrawn and the Board issued a Discontinuance of Proceedings on January 24, 1997.

Cite as: Sylvester Woytkiw v. Inspector of Land Reclamation Division.

9 6 - 0 8 0

Appellant(s) - Mr. Paul Emile and Ms. Yvonne Gamache, Operator - Mobil Oil Canada, Location - Fort Kent, Type of Appeal - Report and Recommendations

On November 6, 1996, Mr. Paul Emile and Ms. Yvonne Gamache filed a Notice of Appeal with respect to Reclamation Certificate #28441 issued to Mobil Oil Canada. The grounds for appeal were that vegetation would not grow in the area reclaimed and that the land be reclaimed to its original state. A mediation was held on February 4, 1997, in Fort Kent, where it was agreed by all parties that the Board would hold its file in abeyance until May 15, 1997. A hearing was held on June 9, 1997, in Edmonton. The Board issued a Report and Recommendations on June 27, 1997, recommending that the decision of the Inspector of Land Reclamation Division to issue the reclamation certificate be upheld. The Minister agreed to the Board's report on July 11, 1997.

Cite as: Gamache v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 6 - 0 8 1

Appellant(s) - Castledowns Bottle Depot, Operator - 692987 Alberta Ltd., Location - Edmonton, Type of Appeal - As listed

Overview - On December 20, 1996, Castledowns Bottle Depot Ltd., filed a Notice of Appeal and request for Stay with respect to approval issued to 692987 Alberta Ltd. for application number BC96-0026.

Decision - The Appellant objected to the guidelines the Director considered when making his decision and applied for a Stay of the decision of the Director pending the appeal. A Stay hearing was held at the Board office on January 23, 1997, after which the Board issued a Decision to dismiss the Stay application on the same day.

Cite as: Castledowns Bottle Depot Ltd. v. Acting Director of Action on Waste Division, Alberta Environmental Protection.

Report and Recommendations - A hearing was held on February 18, 1997, at the Board office, and the Board issued a Report and Recommendations on March 3, 1997, recommending that the appeal be dismissed and that the Director examine the standards used in dealing with applications for beverage recycling depot approvals to clearly define them. The Minister agreed with the Board's report on March 18, 1997.



Cite as: Castledowns Bottle Depot Ltd. v. Acting Director of Action on Waste Division, Alberta Environmental Protection.

Decisions 1997

9 7 - 0 0 1

Appellant(s) - Mr. Donald F. Ball of Hayspur Aviation Ltd., Operator - Hayspur Aviation Ltd., Location - Camrose, Type of Appeal - Decision

On February 24, 1997, Mr. Donald F. Ball of Hayspur Aviation Ltd. filed a Notice of Appeal with respect to the dismissal or reduction of an administrative penalty of \$2,500 imposed by the Director of Pollution Control, and for an award of costs. The penalty relates to contravention of Section 34 of the Pesticides Sales, Handling, Use and Application Regulation and Section 99(1) of the Environmental Protection and Enhancement Act. Specifically, the contravention was that Mr. Ball improperly disposed of approximately 100 gallons of pesticide rinsate on a runway at the City of Camrose; and, that this improper disposal resulted in an adverse effect, and was not reported by Mr. Ball as required. A hearing was held on May 8, 1997, and the Board issued a Decision on June 6, 1997 finding that the Director was justified in applying an administrative penalty, but modifying the initial penalty downward to yield a final assessment of \$1,000. The Board denied Mr. Ball's request for an award of costs.

Cite as: Hayspur Aviation Ltd. v. Director of Pollution Control, Alberta Environmental Protection.

9 7 - 0 0 2

Appellant(s) - Ms. Selma Kelm, Operator - City of Edmonton, Location - Edmonton, Type of Appeal - Decision

On April 9, 1997, Ms. Selma Kelm filed a Notice of Appeal with respect to Amending Approval No. 639-01-04 issued to the City of Edmonton, amending an existing approval for the planning, design, construction and operation of a drainage system to include: a sanitary wastewater treatment plant, a sanitary sewage collection system, and stormwater drainage system. A preliminary meeting was held on May 1 and May 6, 1997. A Decision was issued by the Board on May 13, 1997, dismissing Ms. Kelm's appeal on the basis that she was not directly affected by the Directors decision to amend the approval to the drainage system.

Cite as: Selma Kelm v. Director of Air and Water Approvals Division, Alberta Environmental Protection.

9 7 - 0 0 3

Appellant(s) - Mr. Bill Lucey, Operator - Amoco Canada Petroleum Company Ltd., Location - Calgary, Type of Appeal - Decision

On April 10, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Amending Approval No. 11115-02-04 (OS-4-94) issued to Amoco Canada Petroleum Company Ltd. for an amendment of an earlier approval for the construction, operation and reclamation of certain multi well drilling pads and associated infrastructure (access roads, pipelines, etc.). On May 23, 1997, the Board issued a Decision on April 10, 1997, dismissing the appeal for failure to meet any of the criteria necessary for the Board to continue its jurisdiction.

Cite as: Lucey v. Director of Land Reclamation.

9 7 - 0 0 4

Appellant(s) - Mr. Larry Paulgaard, Operator - Husky Oil Operations Ltd., Location - Provost, Type of Appeal - Report and Recommendations

On April 10, 1997, Mr. Larry Paulgaard filed a Notice of Appeal with respect to Reclamation Certificate No. 29385 issued to Husky Oil Operations Ltd. A hearing was held on July 22, 1997, in Provost. On August 6, 1997, the Board issued a Report and Recommendations recommending that the appeal be dismissed, and that the condition attached to the reclamation certificate be varied



by setting a term of 10 years upon that condition. The Minister agreed with the Board's recommendations on August 13, 1997.

Cite as: Paulgaard v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

9 7 - 0 0 5 - 9 7 - 0 1 6

Appellant - Mr. Nick Zon et al., Operator - TransAlta Utilities Corporation, Location - Edmonton, Type of Appeal - As listed below
Overview - On April 16, 1997, Mr. Nick Zon filed a Notice of Appeal with respect to Approval No. 10323-01-00 issued to TransAlta Utilities Corporation for the Wabamun thermal electric power plant. A further eleven appeals were filed.

Decision - A preliminary meeting was held on September 23, 1997, and the Board issued a Decision on September 26, 1997, finding all appellants who filed Notices of Appeal with exception of Mr. Brad Cowley, who responded to the Board's request for written submissions, to be directly affected by the approval, and setting forth the matters that would be discussed at the hearing.

Cite as: Nick Zon et al. v. Director of Air and Water Approvals Division, Alberta Environmental Protection.

Report and Recommendations - A hearing was held on October 7, 8 and 28, 1997, in Edmonton. On December 9, 1997, the Board issued a Report and Recommendations recommending that the approval be varied by: adding a safety clause to address human safety issues associated with open water and thin ice in winter; modified to require the approval holder to develop and document a report which outlines all the options available to reduce or eliminate the impact of thermal pollution into Lake Wabamun, and submit this report no later than April 1, 1999; amending the approval to require monitoring of the temperature of outlet water compared to ambient lake water, measured at points outside the zone of influence of thermal discharge; referencing the 3 degree Celsius delta T Alberta Ambient Surface Water Quality Interim Guideline as the new benchmark in certain clauses; adding a clause requiring two year monitoring of inlet and outlet cooling water for certain elements; amending to include chronic toxicity testing of effluent; requiring TransAlta Utilities to expand its weed harvesting program; adding a clause requiring TransAlta to document the location and accuracy of air emission measurement devices; and, reviewing the oil and grease limit to lower it to a level which more accurately reflects what TransAlta can achieve. On December 18, 1997, the Minister agreed to the Board's report.

Cite as: Zon et al. v. Director of Air and Water Approvals Division, Alberta Environmental Protection, re: TransAlta Utilities Corporation.

Cost Decision - On December 22, 1997, the Board issued a Cost Decision finding that no costs would be awarded. Cite as: Cost Decision re: Zon et al.

9 7 - 0 1 7

Appellant(s) - Mr. Andreas Dzurny, Operator - Dow Chemical Canada Inc., Location - Fort Saskatchewan, Type of Appeal - Discontinuance of Proceedings

On May 21, 1997, Mr. Andreas Dzurny filed a Notice of Appeal with respect to Amending Approval No's. 236-00-15 and 237-00-10 issued to Dow Chemical Canada Inc. for the Fort Saskatchewan chemical manufacturing plant. On June 24, 1997, the appeal was withdrawn and the Board issued a Discontinuance of Proceedings on June 25, 1997.

Cite as: Andreas Dzurny v. Director of Air and Water Approvals, Alberta Environmental Protection.

9 7 - 0 1 8

Appellant(s) - Mr. Ian Macdonald of AT Plastics Inc., Operator - AT Plastics Inc., Location - Edmonton, Type of Appeal - Report and Recommendations

On May 29, 1997, Mr. Ian Macdonald of AT Plastics Inc. filed a Notice of Appeal for a reduction of an administrative penalty of \$23,175 imposed by the Director of Pollution Control for failure to conduct fish bioassay tests in the manner and frequency as required by their Licence-to-Operate. The Board was advised that negotiations were taking place, and the parties requested that the appeal be held in abeyance until August 22, 1997. On August 22, 1997, the parties provided the Board with a resolution of the appeal. The Board issued a Report and Recommendations on August 26, 1997, recommending that the decision of the Director in the administrative penalty be confirmed, subject to all of the conditions of the resolution agreed upon by the parties. The Minister agreed with the Board's report on September 2, 1997.

Cite as: AT Plastics Inc. v. Director of Pollution Control, Alberta Environmental Protection.



9 7 - 0 1 9 , 9 7 - 0 2 0 , 9 7 - 0 2 3 , 9 7 - 0 2 7

Appellant(s) - Shell Canada Limited, Messrs. James Spicer and Anton Planika, Mr. Gerald and Ms. Linda Gjerde, Operator - N/A, Location - Olds, Type of Appeal - Discontinuance of Proceedings

On May 30, June 3, 9 and July 8, 1997, Shell Canada Limited, Messrs. James Spicer and Anton Planika, and Mr. Gerald and Ms. Linda Gjerde respectively, filed appeals with respect to Notice of Designation as a Contaminated Site #01/97 for property in the Town of Olds. A hearing took place on January 21, 1999, and the Board advised that the parties should work together and provide written status reports. On November 26, December 8, 15 and 17, 1999, Shell Canada Limited, Messrs. Planika, and Spicer and Mr. and Ms. Gjerde withdrew their appeals and the Board issued a Discontinuance of Proceedings on December 20, 1999.

Cite as: Shell Canada Ltd., et al. v. Director of Chemical Assessment and Management, Alberta Environmental Protection.

9 7 - 0 2 1

Appellant(s) - Village of Dutchess, the Canadian Imperial Bank of Commerce (the "CIBC") and Shell Canada Limited. ("Shell Canada"), Operator - Village of Dutchess, the CIBC and Shell Canada, Location - , Type of Appeal - Discontinuance of Proceedings

On June 3, 6 and 12, 1997, the Board received appeals from the Village of Dutchess, the CIBC and Shell Canada respectively regarding a Notice of Designation as a Contaminated Site 03/97, including Lots 1-6, Block 1, Plan 1868BA and adjacent affected land. On July 10, the Board also received a letter from Mr. Alan Harvie on behalf of Mr. Ed and Ms. Tammy Asuchak that were not appealing the designation, but requested standing to appear before the Board in any hearing pertaining to the appeals filed. On August 26, 1997, after the Asuchaks requested to be declared an official "party" to the appeal and the parties were consulted, their request was granted in consultation with the parties. The Board held a mediation meeting on August 27, 1997 in Calgary, Alberta and on August 28, 1997 the Board provided the parties with information they agreed to at the mediation and advised that the Director would be submitting a status report to the Board by October 15, 1997. In consultation with the parties, the Board scheduled a hearing, however, it was adjourned to permit rezoning the land by the Village of Dutchess. On May 19, 2000, by copy of a letter sent from the Director to the Village of Dutchess, the Board was advised that the Notice of Designation 03/97 was cancelled by the Director on the grounds that 1. The site was zoned for commercial use and has been returned to ownership by the Village, 2. The contamination remaining on site did not constitute a significant adverse effect to the environment, and 3. The contamination that extends off the site appeared to be confined to the municipal roadway. On May 23, 29 and July 4, 2000, the Village of Dutchess, Shell Canada and the CIBC respectively, wrote to the Board withdrawing their appeals and on October 18, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: Village of Dutchess et al. v. Director, Chemicals Assessment and Management, Alberta Environmental Protection.

9 7 - 0 2 4

Appellant(s) - Legal Oil and Gas Ltd. , Operator - Legal Oil and Gas Ltd., Location - Sturgeon, Type of Appeal - Decision

On June 11, 1997, Legal Oil and Gas Ltd. filed appeals with respect to the decisions of the Director, Land Reclamation Division contained in letters dated May 14, 1997 and June 4, 1997. According to the Appellants, these letters had the effect of amending Environmental Protection Order No. 96-03, issued to Legal Oil and Gas Ltd. on March 11, 1996. A preliminary meeting was held on December 10, 1997, to deal with the jurisdiction of the Board to hear the issues raised by the Appellants. A Decision was issued by the Board on December 22, 1997, dismissing the appeal for want of jurisdiction.

Cite as: Legal Oil and Gas Ltd. v. Director of Land Reclamation Division, Alberta Environmental Protection.

9 7 - 0 2 6

Appellant(s) - Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani, Roper Bottle Depot Operator - Roper Bottle Depot, Location - Edmonton, Type of Appeal - As listed below

Overview - On July 7, 1997, Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani filed an appeal with respect to the failure of the Department of Environment to approve Application No. BC 97-0003 for a new Universal Beverage Container Depot.

Report and Recommendations - On July 31, 1997, a mediation took place, however, a resolution was not reached, and as a result, a hearing was scheduled for August 18, 1997, in Edmonton. The Board issued a Report and Recommendations to the Minister on August 22, 1997, recommending that the appeal be allowed and the approval be granted. The Minister agreed with the Board's report on September 2, 1997.



Cite as: Nurani and Virji-Nurani v. Director of Action on Waste, Alberta Environmental Protection.

97 - 026 , 97 - 039

Decision - On September 10, 1997 the Alberta Bottle Depot Association requested the Board revoke its decision and direct a new hearing on this matter. On September 26, 1997, the Board advised that it would hold a hearing on October 6, 1997, to determine whether it should reconsider its decision and, if so, to hold a new hearing in the matter. On September 29, 1997, Mr. Nazmin Nurani and Zeini Virji-Nurani brought judicial review proceedings in the Court of Queen's Bench of Alberta on the basis that the Board had no jurisdiction to reconsider its decision in that the Board was functus officio in that regard. On October 6, 1997, a Notice of Appeal was filed with the Board by Mr. Ronald Kruhlak on behalf of the Alberta Bottle Depot Association (Mr. David Custer, President) appealing the decision of the Director and requesting that the Approval be revoked as well as making formal application for a stay of the decision. On November 27, 1997, Justice Tellex W. Gallant issued reasons for judgement finding that the Board is not functus and does have jurisdiction to hold the rehearing, and refusing the order. (Nazmin Nurani et al. v. Environmental Appeal Board (November 27, 1997), Edmonton 9703-18343 (Alta. Q.B.)) On January 29, 1998, the Board issued a Decision to reconsider its earlier Report and Recommendations and to proceed with a new (de novo) hearing to consider if the Director was correct in denying the Appellants' application to operate a bottle depot. A hearing date was set for April 7, 1998, and then rescheduled for April 29, 1998, in Edmonton.

Cite as: Alberta Bottle Depot Association request for reconsideration, re: Nurani and Virji-Nurani v. Director of Action on Waste, Alberta Environmental Protection.

Decision - The Board in its Decision of May 22, 1998, stated that it did not find there was a basis to set aside their previous Report and Recommendations, and approval for the establishment of the Roper Bottle Depot stands. On June 18, 1998, the Alberta Bottle Depot Association filed an application in the Court of Queen's Bench (9803-10403) regarding the Board's decision of May 22, 1998. The Honourable Justice Shannon dismissed the action against the Board on March 4, 1999.

Cite as: Nurani and Virji-Nurani #2 v. Director of Action on Waste, Alberta Environmental Protection.

Cost Decision - On March 6, 2000, the Board issued a Cost Decision concluding that the costs of these various proceedings should be born by the parties themselves and that it is not an appropriate case for any award under section 20 of the Environmental Appeal Board Regulation.

Cite as: Cost Decision re: Nurani and Virji-Nurani.

97 - 029

Appellant(s) - Mr. Perry Nelson, Operator - Renaissance Energy Ltd., Location - Edmonton, Type of Appeal - Report and Recommendations

On July 17, 1997, Mr. Perry Nelson filed a Notice of Appeal challenging Reclamation Certificate No. 33825 issued to Renaissance Energy Ltd.. The grounds of the appeal were whether the well site was properly reclaimed, and therefore, free from contamination. A hearing was held on November 17, 1997, in Edmonton. The Board issued a Report and Recommendations on December 1, 1997, recommending that the appeal be dismissed. The Minister agreed with the Board's report on December 3, 1997.

Cite as: Nelson v. Inspector of Land Reclamation Division, Alberta Environmental Protection.

97 - 030

Appellant(s) - Mr. Eugene Bitz, Operator - Imperial Oil Resources Ltd., Location - Oyen, Type of Appeal - Report and Recommendations

On July 30, 1997, Mr. Eugene Bitz filed a Notice of Appeal challenging Reclamation Certificate No. 33950 issued to Imperial Oil Resources Ltd. A mediation meeting was held on August 20, 1997, in Oyen. On August 20, 1997, a resolution was agreed to by all parties and the Board issued a Report and Recommendations recommending that the decision of the Inspector of Land Reclamation Division be confirmed, subject to all of the conditions of the resolution. The Minister agreed to the Board's report on August 27, 1997.

Cite as: Bitz v. Inspector of Land Reclamation Division, Alberta Environmental Protection.



9 7 - 0 3 1 , 9 7 - 0 3 2

Appellant(s) - Ms. Fay Ash and Mr. Don Munroe, Operator - City of Calgary, Calgary Parks and Recreation and Golf Course Operations #136 (47150), Location - Calgary, Type of Appeal - As listed below

Overview - On August 11, 1997, Ms. Fay Ash and Mr. Don Munroe filed appeals with respect to Approval No's. 18445-01 and 47150 issued to the City of Calgary, Calgary Parks and Recreation (18445-01) and Golf Course Operations #136 (47150) for the application of pesticide within 30 horizontal metres of an "open body of water".

(97-031 and 97-032) Decision - The Board held a preliminary meeting on October 23, 1997, in Calgary. The Board issued a Decision on November 13, 1997, finding Ms. Ash directly affected by the Director's decision; dismissing Mr. Munroe's appeal as he is not directly affected; and the issue of surface water quality as it relates to these approvals to be the only matter that will be addressed at the hearing. On November 21, December 21, 1997 and January 13, 1998, Ms. Ash filed requests to the Board for interim costs for legal representation, and to call witnesses.

Cite as: Ash and Munroe v. Director of Southern East Slopes and Prairie Regions, Environmental Regulatory Service, Alberta Environmental Protection.

(97-032) Decision - On January 27, 1998, the Board issued a Decision granting the Appellant, Ms. Ash's request to adjourn the oral hearing scheduled for January 26, 1998. The Board also recommended that the Appellant reconsider settlement negotiations and wished to stress that it takes no position at this time as to whether it agrees with the submission of Ms. Ash or any other participant.

Cite as: Ash v. Director of Southern East Slopes and Prairie Regions, Environmental Regulatory Service, Alberta Environmental Protection, Re: Adjournment and Other Motions.

(97-032) Cost Decision - On February 5, 1998, the Board issued a Cost Decision stating that interim costs would not be awarded because the Appellant failed to satisfy her burden of proof. As well, costs should be denied for a witness based upon conclusory, unsworn statements and indeterminate background documents.

Cite as: Cost Decision re: The City of Calgary (Fay Ash).

(97-032) Report and Recommendations - A hearing took place on April 8 and May 8, 1998 and the Board issued a Report and Recommendations to the Minister on June 8, 1998. The approval was affirmed by the Board subject to a number of specific recommendations which the Minister approved on June 9, 1998. The Board also made a number of general recommendations which the Minister did not approve.

Cite as: Ash v. Director of Southern East Slopes and Prairie Regions, Environmental Regulatory Service, Alberta Environmental Protection Re: City of Calgary.

(97-032) Cost Decision - On July 2, 1998, the Board issued a Cost Decision denying the City's and Ms. Ash's applications for costs and advised that all parties shall bear their own costs in this appeal.

Cite as: Cost Decision #2 re: The City of Calgary (Fay Ash).

9 7 - 0 3 3

Appellant(s) - Mr. Bill Lucey, Operator - NOVA Gas Transmission Ltd., Location - Calgary, Type of Appeal - Decision

On August 11, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Approval No. 46545-00-00 issued to NOVA Gas Transmission Ltd.. The Board issued a Decision on September 22, 1997, dismissing the appeal on the basis that it did not meet any of the criteria related to standing necessary for the Board to continue its jurisdiction.

Cite as: Lucey v. Acting Director of Land Reclamation, Alberta Environmental Protection.

9 7 - 0 3 4

Appellant(s) - Mr. Allan Johnstone of Northern Enviro Network, Operator - Weyerhaeuser Canada Ltd., Location - Edmonton, Type of Appeal - Decision



On August 11, 1997, Mr. Allan Johnstone of Northern Enviro Network filed a Notice of Appeal with respect to Approval No. 113-01-00 issued to Weyerhaeuser Canada Ltd. for the operation and reclamation of a pulp manufacturing plant, a Class II water treatment plant, a sawmill, a planermill and woodroom, and construction of an industrial landfill at the plant. The Board held a preliminary meeting on October 16, 1997, in Edmonton. The Board issued a Decision on October 30, 1997 dismissing the appeal on the basis that Mr. Johnstone was not directly affected by the Acting Director's decision to issue the approval.

Cite as: Johnstone v. Acting Director of Air and Water Approvals Division, Alberta Environmental Protection.

9 7 - 0 3 5

Appellant(s) - Mr. Wayne Henuset of Willow Park Bottle Depot, Operator - Willow Park Bottle Depot, Location - Calgary, Type of Appeal - Report and Recommendations

On August 22, 1997, Mr. Wayne Henuset of Willow Park Bottle Depot filed a Notice of Appeal with respect to the failure of the Director of Chemicals Assessment and Management Division to approve Application No. BC 96-0028 for a beverage container depot. A mediation meeting was held on September 9, 1997. No resolution was reached at the mediation meeting, and a hearing was held on February 27, 1998. The Board issued a Report and Recommendations to the Minister on March 26, 1998 recommending that the appeal be allowed and the Director be directed to issue an approval for the Willow Park Bottle Depot. The Minister agreed with this recommendation on March 26, 1998.

Cite as: Henuset v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

9 7 - 0 3 6

Appellant(s) - Mr. Peter D. Watson, Operator - Mr. Peter D. Watson, Location - Grandview, Type of Appeal - Discontinuance of Proceedings

On September 4, 1997, Mr. Peter D. Watson filed a Notice of Appeal and a request for a Stay with respect to Enforcement Order No. 97-05 issued to Mr. Watson after investigators learned that a home was being constructed over- top of an existing water well. A hearing originally scheduled for October 21, 1997, was adjourned at the request of Mr. Watson to November 18, 1997. On November 14, 1997, Mr. Watson withdrew his appeal, and the Board issued a Discontinuance of Proceedings.

Cite as: Watson v. Acting Director of Pollution Control, Alberta Environmental Protection.

9 7 - 0 3 7

Appellant(s) - Mr. Bill Lucey, Operator - PanCanadian Petroleum Limited, Location - Calgary, Type of Appeal - Decision

On September 23, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Approval No. 46949-00-00 issued to PanCanadian Petroleum Limited. The Board issued a Decision on November 20, 1997, dismissing the appeal on the basis that it did not meet any of the criteria related to standing necessary for the Board to continue its jurisdiction.

Cite as: Lucey #2 v. Acting Director of Land Reclamation, Alberta Environmental Protection.

9 7 - 0 3 8

Appellant(s) - Mr. Maurice and Ms. Paulette Rivard, Operator - Town of Bonnyville, Location - Bonnyville, Type of Appeal - Report and Recommendations

On September 30, 1997, Mr. Maurice and Ms. Paulette Rivard filed a Notice of Appeal with respect to Approval No. 439-01-01 issued to the Mayor of the Town of Bonnyville for the construction of a wastewater storage cell and groundwater monitoring wells. A mediation meeting was held on January 19, 1998. As a result of a resolution reached at the mediation meeting, the Board issued a Report and Recommendations to the Minister on January 20, 1998 which the Minister approved on January 27, 1998.

Cite as: Rivard v. Director of Northeast Boreal and Parkland Regions, Alberta Environmental Protection.



9 7 - 0 3 9 , 9 7 - 0 6 3

Appellant(s) - Mr. Dave Custer of the Alberta Bottle Depot Association, Operator - Mr. Nazmin Nurani and Ms. Zeini-Virji-Nurani, Roper Bottle Depot, Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On October 6, 1997, the Alberta Bottle Depot Association filed a Notice of Appeal with respect to Approval No. 97-BCD-022 issued to Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani for the operation of a Beverage Container and Recycling Depot, Roper Bottle Depot (Appeal No. 97-039). On December 19, 1997, a second Notice of Appeal was filed with respect to Amending Approval 97-BCD-022-1 issued to the Nuranis for the operation of the Roper Bottle Depot. In the Notices of Appeal, the Appellant requested that the approval and amendment be revoked. Written submissions were requested by the Board. On June 16, 1998, the Appellant withdrew the appeals and the Board issued a Discontinuance of Proceedings on June 17, 1998.

Cite as: Alberta Bottle Depot Association v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

9 7 - 0 4 0

Appellant(s) - Mr. Bill Lucey, Operator - Petro-Canadian Oil and Gas, Location - Calgary, Type of Appeal - Decision

On October 20, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Approval No. 47345-00-00 issued to Petro-Canada Oil and Gas for the construction and reclamation of the Willesden Green to Ferrier Pipeline Project. The Board issued a Decision on November 20, 1997, dismissing the appeal on the basis that Mr. Lucey had not, to the Board's satisfaction, raised specific environmental matters related to Petro-Canada's approval, nor had he shown that either he or the Confederation of Regions Political Party (Federal) or any of its members are plausibly directly affected by the Acting Director's decision.

Cite as: Lucey #3 v. Acting Director of Land Reclamation, Alberta Environmental Protection.

9 7 - 0 4 1

Appellant(s) - Mr. Bill Lucey, Operator - Syncrude Canada Ltd. Location - Calgary, Type of Appeal - Decision

On October 28, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Application No. 960552 and Decision No. 97-13 issued by the Alberta Energy and Utilities Board to Syncrude Canada Ltd. for the Aurora Mine. The Board issued a Decision on November 28, 1997, dismissing the appeal for lack of jurisdiction.

Cite as: Lucey v. Alberta Energy and Utilities Board #1, re: Syncrude Canada Ltd.

9 7 - 0 4 2 , 9 7 - 0 4 3 , 9 7 - 0 4 4

Appellant(s) - Mr. Bill Lucey, Operator(s) - Rio Alto Explorations Ltd., Renaissance Energy Ltd., and ProGas Limited Location - Calgary, Type of Appeal - Decision

On November 5, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed appeals with regard to Application No.s 1010333, 1010453 and 1010793 being processed by the Alberta Energy and Utilities Board for Rio Alto Exploration Ltd., Renaissance Energy Ltd., and ProGas Limited for gas removal from Alberta. The Board issued a Decision on November 28, 1997, dismissing the appeals on the basis that it does not have jurisdiction to proceed with the appeals.

Cite as: Lucey v. Alberta Energy and Utilities Board #2, 3 and 4, re: Rio Alto Exploration Ltd., Renaissance Energy Ltd. and ProGas Limited.

9 7 - 0 4 5

Appellant(s) - Mr. Bill Lucey, Operator - Wild Rose Pipe Line Inc., Location - Calgary, Type of Appeal - Decision

On November 5, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Application No. 001-20842 issued to Wild Rose Pipe Line Inc. for the Athabasca Pipeline Project. The Board issued a Decision on December 1, 1997, dismissing the appeal on the basis of prematurity since no decision has been made by the Director pursuant to section 84, which would permit the filing of an appeal.



Cite as: Lucey v. Director of Land Reclamation #2, re: Wild Rose Pipe Line Inc.

9 7 - 0 4 6

Appellant(s) - Mr. Bill Lucey, Operator - Canadian Natural Resources Limited, Location - Calgary, Type of Appeal - Decision

On November 7, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Application No. 1009362 granted to Canadian Natural Resources Limited by the Alberta Energy and Utilities Board, authorizing removal of gas from Alberta. The Board issued a Decision on December 1, 1997, dismissing the appeal on the basis that the Board does not have jurisdiction to proceed with the appeal. In dismissing the appeal the Board stated that it is troubled by the manner in which Mr. Lucey continues to set forth his notices of objection and responses to the Board's request for further information.

Cite as: Lucey v. Alberta Energy and Utilities Board #5, re: Canadian Natural Resources Limited.

9 7 - 0 4 7

Appellant(s) - Mr. Bill Lucey, Operator - Canadian Western Gas Company, Location - Calgary, Type of Appeal - Decision

On November 12, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Decision U97130 made by the Alberta Energy and Utilities Board pertaining to Canadian Western Gas Company. The Board issued a Decision on December 1, 1997, dismissing the appeal, with directions to the Registrar of Appeal to reject and return to Mr. Lucey any documents which the office may receive from Mr. Lucey which do not on their face: plausibly refer to a decision within the scope of section 84 of the Environmental Protection and Enhancement Act; disclose that Mr. Lucey is plausibly directly affected by the decision in question; and, demonstrate compliance with the Rules of Practice of the Environmental Appeal Board regarding the content of Notices of Appeal.

Cite as: Lucey v. Alberta Energy and Utilities Board #6, re: Canadian Western Gas Company.

9 7 - 0 4 8 , 9 7 - 0 5 2 , 9 7 - 0 5 4 - 0 6 1

Appellant(s) - Mr. Barry Marquardson et al., Operator - Yuan Yi (Canada) Co. Ltd., Location - Lethbridge, Type of Appeal - Decision

On December 8, 9, 11, 12, 1997, Mr. Barry Marquardson et al. filed appeals with respect to the issuance of Approval No. 47294-00-00 to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. On February 13, 1998, a preliminary meeting was held whereby the parties were given the opportunity to provide written submissions. The parties requested that the appeals be held in abeyance which was granted by the Board. On February 4, 1999, the Board was notified that the department cancelled the approval issued to Yuan Yi (Canada) Ltd. On March 12, 1999, the Board advised the parties that the file would be closed by March 19, 1999, unless there were any objections - no objections were received. On March 23, 1999, the Board issued a Decision to close its files with respect to the appeals pursuant to Part 3 of the Environmental Protection and Enhancement Act.

Cite as: Marquardson et al. v. Director of Southern East Slopes and Prairie Regions, Alberta Environmental Protection, re: Yuan Yi (Canada) Ltd.

9 7 - 0 4 9

Appellant(s) - Mr. Bill Lucey, Operator - Engage Energy Canada, L.P., Location - Calgary, Type of Appeal - Decision

On November 25, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Application No. 960861 granted to Engage Energy Canada, L.P. by the Alberta Energy and Utilities Board. The Board issued a Decision on December 2, 1997, dismissing the appeal for want of jurisdiction but also without prejudice to Mr. Lucey to refile an appeal if he can submit that this appeal is somehow related to a corresponding environmental approval or decision pursuant to the Environmental Protection and Enhancement Act.

Cite as: Lucey v. Alberta Energy and Utilities Board #7, re: Engage Energy Canada, L.P.



9 7 - 0 5 0

Appellant(s) - Mr. Bill Lucey, Operator - Cabre Exploration Ltd., Location - Calgary, Type of Appeal- Decision

On November 26, 1997, Mr. Bill Lucey of the Confederation of Regions Political Party (Federal) filed a Notice of Appeal with respect to Application No.'s 970459 and 1010982 being processed by the Alberta Energy and Utilities Board for Cabre Exploration Ltd. The Board issued a Decision on December 15, 1997, dismissing the appeal on the basis that it does not have jurisdiction to proceed with the appeal.

Cite as: Lucey v. Alberta Energy and Utilities Board #8, re: Cabre Exploration Ltd.

9 7 - 0 5 1

Appellant(s) - Mr. Richard Stelter, Operator - G.M.B. Property Rentals Ltd., Location - Edson, Type of Appeal - As listed below

Overview - On December 4, 1997, Mr. Richard Stelter filed a Notice of Appeal with respect to the issuance of Approval No. 1069-01-00 to G.M.B. Property Rentals Ltd. for the operation of a Class 1 wastewater treatment plant (wastewater stabilization ponds).

Decision - The Appellant applied for costs and a Stay of the decision of the Director. The Board held a mediation meeting on February 9, 1998 whereby no resolution was reached. On April 23, 1998, a hearing took place. On May 14, 1998, the Board issued a Decision to grant the Stay.

Cite as: Stelter v. Director of Air and Water Approvals Division, Alberta Environmental Protection Stay decision re: GMB Property Rentals Ltd.

Report and Recommendations - On May 22, 1998, the Board issued a Report and Recommendations stating that "the Board recommends that the appeal be allowed to the extent that the approval be varied to require, by amendment, a means of wastewater discharge to the McLeod River which does not infringe the valid interests of the Appellant and which avoids the fisheries concerns which were raised by department staff". The Minister agreed with the Board's report on May 28, 1998.

Cite as: Stelter v. Director of Air and Water Approvals Division, Alberta Environmental Protection re: GMB Property Rentals Ltd.

Cost Decision - The Appellant also made application for costs to be applied against the department. On June 18, 1998, a Cost Decision was issued stating no costs would be awarded.

Cite as: Cost Decision re: GMB Property Rentals Ltd. (Richard Stelter).

9 7 - 0 5 3

Appellant(s) - Mr. Art Dueck of Dueck Equipment Ltd. Operator - Yuan Yi (Canada) Co. Ltd., Location - Lethbridge, Type of Appeal - Discontinuance of Proceedings

On December 9, 1997, Mr. Art Dueck of Dueck Equipment Ltd., filed a Notice of Appeal with respect to the issuance of Approval No. 47294-00-00 to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. On March 25, 1998, Mr. Dueck withdrew his appeal and the Board issued a Discontinuance of Proceedings on March 31, 1998.

Cite as: Dueck v. Director of Southern East Slopes and Prairie Regions, Alberta Environmental Protection.

9 7 - 0 6 2 , 9 7 - 0 6 5

Appellant(s) - 425167 Alberta Ltd., Y & S Recycling Ltd. Operator - Mr. Nazim Nurani and Ms. Zeini Virji-Nurani, Roper Bottle Depot, Location - Edmonton, Type of Appeal - Discontinuance of Proceedings

On December 18, 1997, 425167 Alberta Ltd., operating as Bottle Bin Bottle Depot (Appellant) filed a Notice of Appeal with respect to Amending Approval No. 97-BCD-022-1 issued to Mr. Nazim Nurani and Ms. Zeini Virji-Nurani for the operation of the Roper Bottle Depot (Appeal No. 97-062). A second Notice of Appeal was filed by Y & S Recycling Ltd., operating as Capilano Bottle Depot (Appellant) with respect to the same amending approval issued to the Nurani. On June 23, 1998, the appeals were withdrawn and the Board issued a Discontinuance of Proceedings on June 29, 1998.



s u m m a r i e s c o n t i n u e d . . .

Cite as: Bottle Bin Depot and Capilano Bottle Depot v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

9 7 - 0 6 4

Appellant(s) - Danadam Consulting Incorporated, Operator - Mr. Stanley and Ms. Sharon Csuti Location - Edmonton, Type of Appeal - Decision

On December 23, 1997, Danadam Consulting Incorporated filed a Notice of Appeal with respect to Approval No. 97-BCD-036 issued to Mr. Stanley and Ms. Sharon Csuti for the operation of a beverage container depot operating as Callingwood Bottle Depot. On February 11, 1998, the Board issued a Decision dismissing their appeal on the basis of standing.

Cite as: Danadam Consulting Incorporated v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

Decisions 1998

9 8 - 0 0 1

Appellant(s) - Mr. Alan Iwahkow, Operator - Talisman Energy Inc., Location - Teepee Creek, Type of Appeal - Decision

On January 15, 1998, Mr. Alan Iwahkow filed a Notice of Appeal with respect to Approval No. 1635-01-00 issued to Talisman Energy Inc. for the operation and reclamation of the Teepee Creek sour gas processing plant. The Board issued a Decision on April 30, 1998 dismissing the appeal for lack of standing and failure on the part of the Appellant to provide the Board with additional information as requested.

Cite as: Iwahkow v. Director of Air and Water Approval Division, Alberta Environmental Protection, re: Talisman Energy Inc.

9 8 - 0 0 2

Appellant(s) - Mr. Glen and Ms. Debra Pashniak, Operator - Village of Marwayne, Location - Marwayne, Type of Appeal - Discontinuance of Proceedings

On February 3, 1998, Mr. Glen and Ms. Debra Pashniak filed a Notice of Appeal with respect to Approval No. 964-01-00 issued to the Village of Marwayne to operate the Marwayne wastewater system. The appeal was withdrawn on November 6, 1998 and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Pashniaks v. Director, Northeast Boreal and Parkland Regions, Alberta Environmental Protection.

9 8 - 0 0 3

Appellant(s) - Consolidated Locals of the Municipality of Wood Buffalo, Operator - Shell Canada Limited, Location - Fort McMurray, Type of Appeal - Decision

On February 11, 1998, the Consolidated Metis Locals of the Municipality of Wood Buffalo filed a Notice of Appeal with respect to Approval No. 48275-00-00, issued to Shell Canada Limited for the construction, operation and reclamation of the Lease 13 experimental oil sands processing plant. On April 30, 1998 the Board issued a Decision dismissing the appeal as the Appellant filed his Notice of Appeal 18 days outside of the time lines pursuant to section 84(4)(c) of the Environmental Protection and Enhancement Act without justification or excuse that would cause the Board to exercise its discretion to proceed with this appeal.

Cite as: Consolidated Metis Locals of the Municipality of Wood Buffalo v. Director of Air and Water Approvals Division, Alberta Environmental Protection.



9 8 - 0 0 4

Appellant(s) - G&F Fossen Ranch Ltd., Operator - Discovery West Corporation (Magin Energy Inc.), Location - Edmonton Type of Appeal - Report and Recommendations

On February 10, 1998, G&J Fossen Ranch Ltd. filed a Notice of Appeal with respect to the issuance of Reclamation Certificate No. 36043, issued to Discovery West Corporation (Magin Energy Inc.). A hearing was held August 25, 1998 in Provost. On September 25, 1998 the Board issued a Report and Recommendations to the Minister recommending the appeal be dismissed which the Minister agreed to on October 5, 1998.

Cite as: Fossen and G&J Fossen Ranch Ltd. v. Inspector of Land Reclamation, Alberta Environmental Protection re: Discovery West Corporation.

9 8 - 0 0 5

Appellant(s) - Mr. Wayne and Ms. Laurel Penson, Operator - Pembina Corporation, Location - Valleyview, Type of Appeal - As listed below

Overview - On February 17, 1998, Mr. Wayne and Ms. Laurel Penson filed an appeal with respect to Reclamation Certificate No. 33463, issued to Pembina Corporation.

Report and Recommendations - Hearings were held on June 23 and July 13, 1998, in Grande Prairie. On September 18, 1998, the Board issued its Report and Recommendations to the Minister recommending that the appeal be allowed and that Talisman Energy Inc. be required to carry out further reclamation activities at the site and submit a new application for a reclamation certificate. This report was subsequently approved by the Minister on September 23, 1998.

Cite as: Penson v. Inspector of Land Reclamation, Alberta Environmental Protection re: Pembina Corporation.

Cost Decision - The Board issued a Cost Decision on October 5, 1998, denying the application for costs. On March 10, 1999 the Appellants filed an appeal in the Court of Queen's Bench in regard to the Board's Cost Decision. On June 18, 1999, Justice Moore granted judicial review challenging the Board's decision to not award costs and asked the Board for reconsideration.

Cite as: Cost Decision re: Pembina Corporation.

Decision - On December 1, 1999, the Board issued a Decision that costs should be awarded to the Pensons and further stated that the burden should be carried out by Talisman.

Cite as: Reconsideration of costs decision re: Penson and Talisman Energy Inc.

Decision - On December 9, 1999, the Board received a request from the Appellant asking the Board to reconsider their Decision of December 1, 1999. On February 18, 2000, the Board issued a Decision to not reconsider its December 1, 1999 decision and dismissed the request.

Cite as: Penson request for reconsideration, re: Reconsideration of costs decision re: Penson and Talisman Energy Inc.

9 8 - 0 0 6

Appellant(s) - Mr. Charles W. Forster of Legal Oil and Gas Ltd., Operator - Legal Oil and Gas Ltd., Location - Sturgeon, Type of Appeal - Discontinuance of Proceedings

On February 24, 1998, Mr. Charles W. Forster of Legal Oil & Gas Ltd. filed an appeal with respect to Environmental Protection Order (EPO) No. 98-01 on the grounds that it is not the operator of the site in question. A mediation meeting was held on July 17 and August 21, 1998. A hearing was set, and then changed to a mediation meeting on October 22, 1998. Following the mediation meeting, all parties consented to hold the file in abeyance pending the issuance of a new EPO by the department. The Appellants further requested that the file be held in abeyance, which was granted by the Board. On January 13, 2000, the department issued a new EPO (No. 2000-01) to Legal Oil and Gas Ltd. and Mr. Charles Forster, thereby terminating this appeal. On January 21, 2000, the appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on January 25, 2000.

Cite as: Legal Oil and Gas Ltd. #3 v. Director, Land Reclamation Division, Alberta Environmental Protection.



9 8 - 0 0 7

Appellant(s) - Mr. Charles W. Forster and Legal Oil and Gas Ltd., Operator - Legal Oil and Gas Ltd., Location - Sturgeon, Type of Appeal - As Listed Below.

Discontinuance of Proceedings - On February 24, 1998, the Board received a Notice of Appeal and request for a Stay from Mr. Dennis Thomas on behalf of Mr. Charles W. Forester and Legal Oil and Gas Ltd. with respect to the issuance of Environmental Protection Order (EPO) 98-02 and were seeking a Stay of the EPO. In a letter of March 9, 1998 from the department to Mr. Thomas, the department advised Legal Oil and Gas Ltd. it would not be required to seek a formal Stay, however, if circumstances suddenly changed, the Director may require immediate compliance with the EPO. After consultation with the parties, a mediation meeting/settlement conference took place on July 17, 1998. The Board also provided a copy of the appeal file to the Alberta Energy and Utilities Board, Union Pacific Resources and Mr. Brian Cornelis (landowner) as potential interested parties. At the mediation meeting, it was agreed to hold the appeal in abeyance for 90 days, as well as hold a mediation meeting on October 23, 1998 and a hearing on November 6, 1998. Following the mediation meeting, the parties agreed to develop a remediation plan to resolve the EPO, and the November hearing was adjourned. From October 30, 1998 to March 15, 1999 discussions took place between the parties with respect to the remediation plan and on March 12, 1999 the Appellants suggested that the matter be returned to the Board's mediator. In consultation with the parties, a mediation meeting took place on April 26, 1999, and it was agreed to hold the appeal in abeyance for one month. Again in consultation with the parties, a mediation meeting was scheduled for December 14, 1999 and a hearing on April 17 and 18, 2000. On April 4, 2000, Bennett Jones advised the Board that they would be representing Union Pacific Resources at the hearing. On April 11, 2000, the Appellants advised the Board that they were not in a position to file their written submissions, however, were working toward a resolution of the appeal. On April 14, 2000, Mr. Thomas, on behalf of the Appellants withdrew the appeal and on the same day, the Board issued a Discontinuance of Proceedings.

Cite as: Legal Oil and Gas Ltd. #4 v. Director, Land Reclamation Division, Alberta Environmental Protection.

Cost Decision - This decision concerns an application for costs submitted on behalf of Union Pacific Resources Inc. ("Union Pacific"). Union Pacific seeks costs against two parties: Legal Oil and Gas Ltd. ("Legal") and Mr. Charles W. Forster ("Forster"). The application was put forth with respect to Appeal No. 98-007 and whether Legal and Forster were responsible for contamination on a well site they had taken over from another entity. At one point, Legal and Forster suggested that Union Pacific's predecessors may have been responsible for this contamination as a result of activities related to a neighbouring well. On April 26, 2000, Union Pacific wrote to the Board in response to the Board's notice of Discontinuance and correspondence, with respect to Union Pacific's detailed claim for costs, was sent to the Board on June 20, 2000. On January 22, 2001, the Board issued a Cost Decision dismissing Union Pacific's application for costs on the grounds that Union Pacific submitted their formal request two months after the Board's Discontinuance proceedings. The Board ruled prima facie, which is outside the Board's jurisdiction under section 88 to award costs in respect to any proceedings "before it" and due to the delay, the Board found the application untimely and therefore in need of rejection. The Board also concluded that no specific justification was given with respect to the solicitor-client account for services and that the claim for costs was not immediately brought forth during the mediation process. If substantial costs claims can surface after the mediation or settlement process, particularly from third parties, it will make parties more reluctant to achieve settlements this way and thus increase the overall costs of proceedings before the Board.

Cite as: Cost Decision re: Union Pacific Resources Inc.

9 8 - 0 0 8

Appellant(s) - Mr. Charles W. Forster and Legal Oil and Gas Ltd., Operator - Legal Oil and Gas Ltd., Location - Sturgeon, Type of Appeal - Discontinuance of Proceedings

On February 24, 1998, Mr. Charles W. Forster of Legal Oil and Gas Ltd. filed a Notice of Appeal with respect to Environmental Protection Order No. 98-03, on the grounds that it is not the operator of the site in question. A mediation meeting was held in Edmonton on July 17, 1998. A hearing date of September 8, 1998 was set, but was adjourned by request of the Appellant. On September 23, 1998, the Board advised all parties the hearing scheduled for October 22, 1998 be changed to a mediation meeting and this request was granted. Following the mediation meeting on October 22, 1998, the Appellant agreed to withdraw their Notice of Appeal, and the Board issued a Discontinuance of Proceedings on October 22, 1998.

Cite as: Legal Oil and Gas Ltd. #2 v. Director, Land Reclamation Division, Alberta Environmental Protection.

9 8 - 0 0 9

Appellant(s) - Mr. Charles W. Forster of Legal Oil and Gas Ltd., Operator - Legal Oil and Gas Ltd., Location - Sturgeon, Type of Appeal - Report and Recommendations



On February 24, 1998, Mr. Charles W. Forster of Legal Oil and Gas Ltd. filed an appeal, concerning an Environmental Protection Order No. 98-04, on the grounds that the well site has been shut in and the landowner prevented Legal Oil and Gas Ltd. from accessing the site. Mediations were held on July 17 and November 6, 1998, respectively. A hearing took place on June 3, 1999, and as result, on July 23, 1999, the Board issued a Report and Recommendations concluding that the Director's order was valid and that the Minister of Environment instruct the Director to establish generic criteria for deciding when to name corporate officers, in their individual capacities, in Environmental Protection Orders issued pursuant to the Environmental Protection and Enhancement Act. The report was approved by the Minister of Environment on August 25, 1999.

Cite as: Legal Oil and Gas Ltd. v. Director, Land Reclamation Division, Alberta Environmental Protection.

9 8 - 0 1 0

Appellant(s) - Mr. Bill Lucey, Operator - ANG Gathering and Processing Ltd., Location - Calgary, Type of Appeal - Decision

On February 25, 1998, Mr. Bill Lucey filed a Notice of Appeal with respect to Approval No. 21005-00-00, issued to ANG Gathering and Processing Ltd. for the construction and reclamation of the Central Foothills Gas Gathering System Pipeline Project. The Board issued a Decision on March 31, 1998 dismissing the appeal as Mr. Lucey's Notice of Appeal failed to meet any of the criteria related to standing necessary for the Board to continue its jurisdiction, raise specific environmental matters or show direct affects.

Cite as: Lucey v. Director of Land Reclamation #3, re: ANG Gatering & Processing Ltd.

9 8 - 0 1 1

Appellant(s) - Ms. Wendy Ault of Marwayne Bottle Depot, Operator - Marwayne Bottle Depot, Location - Marwayne, Type of Appeal - Report and Recommendations

On March 3, 1998, Ms. Wendy Ault of Marwayne Bottle Depot, filed a Notice of Appeal with respect to Administrative Penalty No. 97/25-PCD-AP-98/02, issued to the Marwayne Bottle Depot for failing to submit a quarterly container volume report by it due date. A resolution was reached and the Board issued a Report and Recommendations to the Minister on May 21, 1998 which the Minister agreed to on May 28, 1998.

Cite as: Ault v. Director of Pollution Control Division, Alberta Environmental Protection.

9 8 - 0 1 2

Appellant(s) - North Springbank Water Co-op Ltd., Operator - Emerald Bay Water and Sewer Co-op Ltd., Location - M.D. of Rocky View, Type of Appeal - Decision

On March 6, 1998, North Springbank Water Co-op Ltd. filed a Notice of Appeal and request for a Stay with respect to Approval No. 198892-00-00, issued to Emerald Bay Water and Sewer Co-op Ltd. This approval concerned the construction and operation of a Class II wastewater treatment plant and a Class I wastewater collection system and a storm drainage system. On April 17, 1998, the Board issued a Decision dismissing the appeal as the first Notice of Appeal was filed on July 31, 1997, over six months after the 30 day deadline without sufficient reasons.

Cite as: North Springband Water Co-op Limited, Municipal district of Rocky View Director of Southern East Slopes and Prairie Regions, Alberta Environmental Protection.

9 8 - 0 1 3

Appellant(s) - R.L. Stonehouse, Operator - Reeve of the County of Red Deer, Location - Red Deer, Type of Appeal - Discontinuance of Proceedings

On March 9, 1998, R.L. Stonehouse of the County of Red Deer, filed a Notice of Appeal with respect to Approval No. 1176-01-00, issued to the Reeve of the County of Red Deer No. 23 for the operation of a Class I wastewater treatment plant and a Class I wastewater collection system for the Hamlet of Spruce View. The appeal was subsequently withdrawn on March 24, 1998 and the Board issued a Discontinuance of Proceedings on March 25, 1998.

Cite as: County of Red Deer No. 23 v. Director of Northeast Boreal and Parkland Regions, Alberta Environmental Protection.



s u m m a r i e s c o n t i n u e d . . .

9 8 - 0 1 4 , 9 8 - 0 1 6 - 0 2 0 , 9 8 - 0 2 4 - 0 2 6

Appellant(s) - Mr. Walter Hardy et al., Operator - ADM Agri-Industries Ltd., Location - Lloydminster, Type of Appeal - Report and Recommendations

On March 10, 1998, Mr. Walter Hardy et al. filed a Notice of Appeal with respect to Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998, which the Minister approved on June 1, 1998.

Cite as: Hardy et al. v. Regional Director of Northeast Boreal & Parkland Regions, Alberta Environmental Protection.

9 8 - 0 1 5

Appellant(s) - Mr. Bill Lucey, Operator - Bow River Pipe Lines Ltd., Location - Calgary, Type of Appeal - Decision

On March 16, 1998, Mr. Bill Lucey filed a Notice of Appeal with respect to Approval No. 48460-00-00, issued to Bow River Pipe Lines Ltd. for the construction and reclamation of the Mainline Expansion - Princess Station North Loop. On April 3, 1998, the Board issued a Decision dismissing the appeal due to failure to meet criteria related to standing, insufficient environmental matters raised, lack of standing and a failure to respond to the Board's request for information.

Cite as: Lucey v. Acting Director of Land Reclamation #4, re: Bow River Pipe Lines Ltd.

9 8 - 0 2 1

Appellant(s) - Mr. George Miasnikoff and Urban Ore Farms Limited, Operator - Mr. George Miasnikoff and Urban Ore Farms Ltd., Location - Devon, Type of Appeal - Discontinuance of Proceedings

On March 20, 1998, Mr. George Miasnikoff and Urban Ore Farms Limited filed a Notice of Appeal with respect to Environmental Protection Order No. 98-06, for the removal and disposal of Coke Fines and associated materials. A mediation meeting was held in Devon on June 8, 1998, and the parties decided to continue to negotiate. A further mediation meeting was held on August 12, 1998. Following this mediation, and in conjunction with a mediation agreement signed in relation to a corresponding Environmental Protection Order, the Board received a letter from the Appellant stating he would withdraw his appeal. As a result, the Board issued a Discontinuance of Proceedings on August 13, 1998.

Cite as: Miasnikoff and Urban Ore Farms Ltd. v. Director of Pollution Control, Alberta Environmental Protection.

9 8 - 0 2 2

Appellant(s) - Mr. George Miasnikoff and Urban Ore Farms Limited, Operator - Mr. George Miasnikoff and Urban Ore Farms Ltd., Location - Devon, Type of Appeal - Report and Recommendations

On March 20, 1998, Mr. George Miasnikoff and Urban Ore Farms Limited filed a Notice of Appeal with respect to Environmental Protection Order No 98-07, for the implementation of a number of steps in a reclamation plan. A mediation meeting was held in Devon on June 8, 1998 and the parties decided to continue to negotiate. A further mediation meeting was held in Devon on August 12, 1998. Following this mediation, a resolution was reached by the parties and the Board issued a Report and Recommendations to the Minister on August 13, 1998 which the Minister approved on August 18, 1998.

Cite as: Miasnikoff and Urban Ore Farms Ltd. v. Inspector of Land Reclamation, Alberta Environmental Protection.

9 8 - 2 3 0

Appellant(s) - Mr. Brian Bildson, Operator - Smoky River Coal Ltd., Location - Grande Prairie, Type of Appeal - As listed below

Overview - On June 9, 1998, Mr. Brian Bildson filed a Notice of Appeal with respect to Approval No.'s 11929-12 and 11933-00-05 issued to Smoky River Coal Ltd. for the construction and operation of the No. 12 Mine South B2 Project.

Decision - On October 19, 1998, the Board issued a Decision concluding that Mr. Bilson satisfied the requirements in s. 84(1)(a)(iv) of the Act, and satisfied his burden proving the he is directly affected by the approvals. Also, the Board advised that it would proceed to a preliminary meeting to see whether or not the Board should consider the Appellant's appeal in light of previous EUB proceedings.



Cite as: Bildson v. Acting Director of North Eastern Slopes Region, Alberta Environmental Protection, re: Smoky River Coal Limited.

Decision - The Board held a preliminary meeting on November 10, 1998 and the Board issued a Decision on December 8, 1998 dismissing the appeal under section 87(5)(b)(i) of the Environmental Protection and Enhancement Act.

Cite as: Bildson v. Acting Director of North Eastern Slopes Region #2, Alberta Environmental Protection re: Smoky River Coal Limited.

9 8 - 2 3 1 , 9 8 - 2 3 3 , 9 8 - 2 3 4

Appellant(s) - Mr. Rudy and Ms. Gertie Mizera et al., Operator - Beaver Regional Waste Management Services Commission, Location - Ryley, Type of Appeal - As listed below

Overview - On June 17, 22, 27 and 28, 1998, Mr. Rudy and Ms. Gertie Mizera, Mr. Adelhardt H. Glombick on behalf of Glombick Farms, Ms. Marilyn Fenske and Ms. Alice Mahlum respectively, filed appeals with respect to Approval No. 20754-00-01/ Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill.

(98-231-98-234) Decision - A mediation meeting was held on September 9, 1998, in Ryley and a further mediation meeting was held on November 12, 1998, in Edmonton. No resolution was reached at the mediation meeting, and a preliminary meeting was held on November 25, 1998. The Board issued a Decision on December 21, 1998, stating that Ms. Fenske, Mr. Glombick and Mr. and Ms. Mizera are directly affected and dismissed Ms. Mahlum's appeal as she failed to convince the Board that the amendment impacts her directly and personally.

Cite as: Mizera et al. Director, Northeast Boreal and Parkland Regions, Alberta Environmental Protection, re: Beaver Regional Waste Management Services Commission.

(98-231-98-233) Report and Recommendations - The hearing took place on March 15, May 11,12 and 17, 1999. At the end of the hearing, the Board requested cost submissions by June 14, 1999. Mr. Mark and Ms. Faye Garstad and Ms. Cindy and Mr. Doyle Booth acted as intervenors and supported the evidence of the Appellants. On July 13, 1999, the Board issued a Report and Recommendations that was approved by the Minister on August 25, 1999.

Cite as: Mizera et al. v. Director, Northeast Boreal, Parkland Regions #2, Alberta Environmental Protection, re: Beaver Regional Waste Management Services Commission.

(98-231, 232 and 233) Cost Decision - On November 29, 1999, the Board issued a Cost Decision, allowing costs to be paid by Beaver Regional Waste Management Services Commission within 60 days of the issuance of this decision.

Cite as: Cost Decision re: Mizeras, Glombick, Fenske, et al.

9 8 - 2 3 5

Appellant(s) - Mr. Edward W. Grumbach, Operator - Town of Rimbey, Location - Rimbey, Type of Appeal - Report and Recommendations

On June 29, 1998, Mr. Edward W. Grumbach filed a Notice of Appeal with respect to Approval No. 1104-01-01, issued to the Mayor of the Town of Rimbey for the operation of two Class I wastewater treatment plants, a Class II wastewater collection system and a storm drainage system. On September 30, 1998, a mediation meeting took place. Following this mediation, a resolution was reached and the Board issued a Report and Recommendations to the Minister on October 1, 1998 which the Minister approved on October 5, 1998.

Cite as: Grumbach v. Regional Director, Parkland Region, Alberta Environmental Protection re: Town of Rimbey.

9 8 - 2 3 6

Appellant(s) - Mr. Dennis Fenske, Operator - Beaver Regional Waste Management Services Commission, Location - Tofield, Type of Appeal - Decision

On June 25, 1998, Mr. Dennis Fenske filed a Notice of Appeal with respect to Approval No. W1075, issued to Beaver Regional Waste



Management Services Commission for the construction, operation and reclamation of a Class II landfill. The Board issued a Decision on July 14, 1998 dismissing the appeal on the grounds the Mr. Fenske failed to adequately respond and establish a basis for proceeding with the appeal.

Cite as: Fenske v. Director, Northeast Boreal and Parkland Regions, Alberta Environmental Protection re: Beaver Regional Waste Management Services Commission.

9 8 - 2 3 7

Appellant(s) - Mr. Alan Gaskell, Operator - TransAlta Utilities Corporation, Location - Whitewood, Type of Appeal - Decision

On July 9, 1998, Mr. Alan Gaskell filed a Notice of Appeal with respect to Approval No. 11851-01-01 issued to TransAlta Utilities Corporation for the opening up, operation and reclamation of the Whitewood Coal Mine. The Board held a preliminary meeting on October 1, 1998 to consider the parties' positions on the jurisdiction of the Board to hear the appeal. On October 21, 1998 the Board issued a Decision dismissing the appeal, as the appeal did not fall within the Board's jurisdiction.

Cite as: Gaskell v. Regional Director, North Eastern Slopes Region, Alberta Environmental Protection re: TransAlta Utilities Corporation.

9 8 - 2 3 8

Appellant(s) - Mr. Norman Zeer, Operator - County of Newell, Location - Newell, Type of Appeal - Decision

On July 17, 1998, Mr. Norman Zeer filed a Notice of Appeal of Approval No. 49121-00-00 issued to the County of Newell No. 4 for the opening up, construction and reclamation of sand and gravel pit. The Board held a mediation meeting on September 28, 1998, however, the parties agreed to further review the details presented at the mediation. As a result of resolution on January 21, 1999, the Board issued a Report and Recommendations to the Minister on January 28, 1999 wherein the Minister agreed to on February 3, 1999.

Cite as: Zeer v. Director, Bow Region, Alberta Environmental Protection re: County of Newell No. 4.

9 8 - 2 3 9

Appellant(s) - Continental Lime Ltd., Operator - Continental Lime Ltd., Location - Exshaw, Type of Appeal - Discontinuance of Proceedings

On June 30, 1998, Continental Lime Ltd. filed a Notice of Appeal with respect to Approval No. 227-01-00, issued to Continental Lime Ltd. noting that the final approval issued by the department did not ensure consistency with other industrial approvals. On September 29, 1998, the Appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on September 30, 1998.

Cite as: Continental Lime Ltd. v. Director, Alberta Environmental Protection.

9 8 - 2 4 0

Appellant(s) - Mr. Aldo Corti of Solve-Ex Corporation, Operator - Solve-Ex Corporation, Location - Athabasca, Type of Appeal - Discontinuance of Proceedings

On August 12 1998, Solve-Ex Corporation filed an appeal with respect to the refusal to amend Approval No. 16781-01-02 issued to Solve-Ex Corporation, for the construction and operation of a plant for the recovery of mineral values from the mature fine tailings generated by the two oil sands commercial operations in Athabasca. On October 21, 1998, a mediation meeting was held. On October 22, 1998, the Board wrote to the parties illustrating that the appeal would be held in abeyance while the parties continued negotiations until December 1, 1998, and then further until December 14, 1999. By request of the Board, a second mediation was scheduled for April 20, 1999. On April 9, 1999, Mr. Corti withdrew his appeal and the Board issued a Discontinuance of Proceedings on April 12, 1999.

Cite as: Solve Ex Corporation v. Director, Northeast Boreal Region, Alberta Environmental Protection.



9 8 - 2 4 1

Appellant(s) - Ms. Marilyn Fenske, Operator - Beaver Regional Waste Management Services Commission, Location - Ryley, Type of Appeal - Decision

On August 18, 1998, Ms. Marilyn Fenske filed a Notice of Appeal with respect to Interim License No. 26835, issued to Beaver Regional Waste Management Services Commission which authorized the construction of facilities for storing and diverting surface runoff, in conjunction with a storm water management plan for a Class II landfill. The Board issued a Decision on October 20, 1998 dismissing the appeal as the Board lacks jurisdiction to hear appeals of the Interim Licences.

Cite as: Fenske v. Manager, Alberta Environmental Protection re: Beaver Regional Waste Management Services Commission.

9 8 - 2 4 2

Appellant(s) - Mr. Bob Collins, Operator - Gulf Canada Resources Limited, Location - Fenn, Type of Appeal - Discontinuance of Proceedings

On, August 15, 1998, Mr. Bob Collins filed an appeal with respect to Reclamation Certificate No. 33489, issued to Gulf Canada Resources Limited for lands within SW Sec. 35 Tp. 36 Rge. 20 W4M in connection with or incidental to CPR Robert No. 4 well. A mediation meeting was held on November 5, 1998. Following the mediation, the appeal had been held in abeyance until January 25, 1999, and on March 8, 1999 a request was received from Mr. Collins asking that the file continue to be held in abeyance until November 30, 1999. On March 16, 1999, Gulf Canada objected to the abeyance. As there was no agreement amongst the parties to hold the appeal in abeyance, the Board advised it would proceed to a hearing on August 24, 1999. On August 4, 1999, Mr. Collins withdrew his appeal as he came to a verbal agreement with Gulf Canada Resources Limited and the Board issued a Discontinuance of Proceedings on this same day.

Cite as: Collins v. Inspector, Land Reclamation, Alberta Environmental Protection re: Gulf Canada Resources Limited.

9 8 - 2 4 3

Appellant(s) - Mr. Richard Stelter, Operator - GMB Property Rentals Inc., Location - Edson, Type of Appeal - Decision

On August 27, 1998, Mr. Richard Stelter filed a Notice of Appeal with respect to the Variation of Approval No. 1069-01-00 issued to GMB Property Rentals Inc., for the operation of a Class 1 wastewater treatment plant. The Director issued the Variation of approval in response to a Ministerial Order, which followed from a previous Board hearing on an appeal by the Appellant of Approval No. 1069-01-00. On February 9, 1999, the Board issued a Decision dismissing the appeal as the Environmental Protection and Enhancement Act is not designated to allow a new appeal to the Board from a variation of an approval due to a Ministerial Order.

Cite as: Stelter v. Director, Environmental Sciences Division, Alberta Environmental Protection Re: GMB Property Rentals Ltd.

9 8 - 2 4 4

Appellant(s) - Ms. Joanne Vang, Operator - Mr. C.Chase Hoffman, Location - Turner Valley, Type of Appeal - Report and Recommendations

On September 14, 1998, Ms. Joanne Vang filed a Notice of Appeal with respect to Approval No. 17867-00-00 issued to Mr. C. Chase Hoffman for the opening up, construction and reclamation of a sand and gravel pit on SW 17-20-2 W5M located near Turner Valley. A mediation meeting was held on December 18, 1998 in Turner Valley and a resolution was reached. The Board issued a Report and Recommendations to the Minister on December 21, 1998 which the Minister agreed to in January 7, 1999.

Cite as: Vang v. Regional Director, Bow Region, Alberta Environmental Protection Re: C. Chase Hoffman.

9 8 - 2 4 5

Appellant(s) - Mr. Donald Jordan, Operator - Mayor, Town of Rimbey, Location - Rimbey, Type of Appeal - Decision

On June 11, 1998 Dr. Donald Jordan filed a Notice of Appeal with respect to Approval No. 1104-01-00, issued to the Mayor of the Town of Rimbey for the operation of two Class I wastewater collection system and a storm drainage system for the Town of Rimbey.



The Board issued a Decision on October 7, 1998 dismissing the appeal as there were no sufficient reasons for an extension of the deadline for filing the appeal given by the Appellant.

Cite as: Jordan v. Regional Director of Parkland Region, Alberta Environmental Protection re: Town of Rimbey.

9 8 - 2 4 6 , 9 8 - 2 4 8

Appellant(s) - Mr. Buff Parry of the Rocky Mt. Cree Smallboy Camp, Mr. Dale Ladouceur, Operator - Cardinal River Coals, Ltd., Location - 70 km south of Hinton, Type of Appeal - Decision

On October 16 and November 2, 1998, L. Buff Parry on behalf of the Rocky Mountain Cree Smallboy Camp ("Camp") and Mr. Dale Ladouceur respectively, filed Notices of Appeal with respect to Approval No. 46972-00-00 issued to Cardinal River Coals Ltd. The approval authorized the pre-development activities which represent the first phase of the overall mining project. On January 18, 1999, the Board issued a Decision to dismiss the Camp's appeal as it was without merit, and Mr. Ladouceur's appeal as he did not submit a Statement of Concern.

Cite as: Parry et al. v. Regional Director, Northern East Slopes Region, Alberta Environmental Protection, re: Cardinal River Coals Ltd.

9 8 - 2 4 7

Appellant(s) - Bodo Oilfield Maintenance Ltd., Operator - Bodo Oilfield Maintenance Ltd., Location - Bodo, Type of Appeal - Decision

On October 22, 1998, Bodo Oilfield Maintenance Ltd. filed an appeal with respect to Administrative Penalty #98/05-PCD-AP-98/19. An administrative penalty was issued to Bodo Oilfield Maintenance Ltd. for the contravention of Sections 5(1) and 16(a) of the Pesticide Sales, Handling, Use and Application Regulation (AR 126/93). A hearing was held on March 18, 1999, and the Board issued a Decision on August 16, 1999, allowing the appeal and varying the penalty.

Cite as: Bodo Oilfield Maintenance Ltd. v. Director, Enforcement and Monitoring Division, Alberta Environmental Protection.

9 8 - 2 4 9

Appellant(s) - Mr. Werner Schulz, Operator - Renaissance Energy Ltd., Location - Westlock, Type of Appeal - Discontinuance of Proceedings

On November 12 1998, Mr. Werner Schulz filed a Notice of Appeal with respect to Reclamation Certificate No. 37213, issued to Renaissance Energy Ltd. On December 30, 1998 the Appellant withdrew his appeal and the Board issued a Discontinuance of Proceedings on the same day.

Cite as: Schulz v. Inspector, Land Reclamation Division, Alberta Environmental Protection.

9 8 - 2 5 0

Appellant(s) - Mr. Terry O'Neill, Operator - Town of Olds, Location - Olds, Type of Appeal - Decision

On November 30, 1998, Mr. Terry O'Neill filed an appeal of Amending Approval No. 1037-01-01, issued to the Town of Olds to construct a storm water detention pond to serve Park Meadows subdivision with discharge to the Town of Olds' storm drainage system and ultimately Olds Creek. From December 14, 1998 to February 12, 1999, the appeal was pending as Mr. O'Neill was requested to provide the Board with further details about the appeal. On March 12, 1999, the Board issued a Decision dismissing this appeal pursuant to sections 85 and 87 of the Environmental Protection and Enhancement Act.

Cite as: O'Neill v. Regional Director, Parkland Region, Alberta Environmental Protection re: Town of Olds.

9 8 - 2 5 1

Appellant(s) - Mr. Ron Groves on behalf of Cabre Exploration Ltd., Operator - Cabre Exploration Ltd., Location - Provost, Type of Appeal - As listed below

Overview - On December 16, 1998, Mr. Ron W. Groves on behalf of Cabre Exploration Ltd. filed an appeal with respect to the deci-



sion of the Department of Environment to refuse to issue a Reclamation Certificate to Cabre Exploration Limited.

Report and Recommendations - The Board held a mediation on April 6, 1999. As no resolution was reached, hearings took place on August 18 and September 3, 1999. The Board issued a Report and Recommendations allowing the appeal on October 29, 1999, which the Minister agreed to on December 16, 1999. At the end of the hearing, all parties agreed to make written closing arguments and cost applications.

Cite as: Cabre Exploration Ltd. v. Conservation and Reclamation Officer, Alberta Environmental Protection.

Cost Decision - On January 26, 2000 the Board issued a Cost Decision concluding that since Cabre did not seek costs against the landowner, the costs appropriately remain Cabre's own responsibility, and should not be borne by the public through the Board or department, and therefore, no costs were awarded in the appeal.

Cite as: Cost Decision re: Cabre Exploration Ltd.

Decisions 1999

9 9 - 0 0 1

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

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

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

9 9 - 0 0 2

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

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

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

9 9 - 0 0 3

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

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



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

9 9 - 0 0 4

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

On February 24, 1999, Mr. Charles Kazmierczak filed an appeal with respect to an extension of Approval No.80-ML-012-R3'93 to February 1, 2000, which was originally issued to the County of Athabasca No. 12 on February 3, 1993. The Approval authorizes the County of Athabasca to operate or use a wastewater collection system and wastewater stabilization ponds for the Hamlet of Grassland. On April 27, 2000 the Board asked if the parties wished to participate in a mediation meeting. The Department agreed to a mediation meeting/settlement conference, submitted the names of Mr. and Mrs. Jim Zachewich as interested persons in this appeal, and expressed concerns about the Appellant's reason for appeal stating "The extension of the approval does not open the entire approval to appeal". After reviewing the parties' responses to the Department's letter, the Board scheduled a mediation meeting/settlement conference for June 23, 1999, at the residence of the Appellant in Grassland and an interim mediation agreement was signed. Due to concerns in carrying out the interim mediation agreement, the Board scheduled a second mediation meeting/settlement conference for December 17, 1999, which was rescheduled to February 10, 2000 then held in abeyance until May 2, 2000, after consulting with the parties. On May 1, 2000, the Appellant and Department requested that the appeal be held in abeyance as the parties were continuing to work on the interim mediation agreement which included amending the agreement. The request was granted by the Board. On July 18, 2000, a resolution was reached between the parties and Mr. Kazmierczak withdrew his appeal. On October 11, 2000, the Board issued a Discontinuance of Proceeding.

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

9 9 - 0 0 5

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

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

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

9 9 - 0 0 6

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

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

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

9 9 - 0 0 7

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



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

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

9 9 - 0 0 8

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

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

9 9 - 0 0 9

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

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

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

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

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

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

9 9 - 0 1 0

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

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

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

9 9 - 0 1 1

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



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

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

9 9 - 0 1 2 - 0 1 6 , 9 9 - 0 1 9 - 0 2 6 , 0 0 - 0 0 1 - 0 0 2

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

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

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

9 9 - 0 1 7 , 9 9 - 0 1 8

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

On April 15, 1999, Messrs. Dan Keating and Ron Milne filed two Notices of Appeal with respect to Approval No. 144-01-00 issued to ADM Agri-Industries Ltd. for the construction, operation and reclamation of an oil seed plant in the City of Lloydminster. A mediation meeting/settlement conference took place on August 26, 1999 whereby no resolution was reached and a second mediation meeting was scheduled for September 28, 1999, then changed to November 4, 1999 as counsel for ADM Agri-Industries was assembling a draft resolution document for discussion with the Appellants. Following the second mediation meeting, the Board advised the parties that ADM Agri-Industries would continue to draft a resolution and a third mediation would be scheduled for November 30, 1999. On November 18, 1999, Mr. Roy Haugen wrote to the Board advising that another mediation would not be favourable and wanted to proceed directly to an appeal hearing. On November 19, 1999 the Board received and distributed the draft resolution "discussion document" to the parties. On November 22, 1999, the Appellants advised that the document did not meet their requirements and therefore still wished to proceed with a hearing. On November 26, 1999, the Board informed the parties that the November 30, 1999 mediation would be cancelled as the Board did not have consent from all the parties to proceed. On January 31, 2000, after consulting the parties, the Board held a preliminary meeting and issued a letter decision on March 1, 2000, advising that the Board would consolidate the appeals of Approval 144-01-00 and Amending Approval 144-01-01. On March 4, 2000, the Mr. Haugen on behalf of himself and the Appellants requested interim costs. On April 10, Mr. Keating wrote to the Board advising that due to personal and work related reasons, he was withdrawing his appeal. On the same day, Mr. Milne also wrote to the Board advising that he moved from the area



affected by the plant and wished to withdraw his appeal. On April 14, 2000 the Board issued a Discontinuance of Proceedings with respect to these two appeals.

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

9 9 - 1 2 7

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

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

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

9 9 - 1 2 8

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

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

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

9 9 - 1 2 9

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

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

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

9 9 - 1 3 0

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

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

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

9 9 - 1 3 1

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

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

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



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

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

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

9 9 - 1 3 2

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

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

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

9 9 - 1 3 3

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

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

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

9 9 - 1 3 4

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

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

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

9 9 - 1 3 5

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

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

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



9 9 - 1 3 6

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

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

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

9 9 - 1 3 7 , 9 9 - 1 3 9

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

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

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

9 9 - 1 3 8

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

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

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

9 9 - 1 4 0

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



Appeal - Discontinuance of Proceedings

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

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

9 9 - 1 4 2

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

On August 11, 1999, the Environmental Appeal Board received a Notice of Appeal from Westridge Water Supply Ltd. with respect to Licence No. 00074129-00-00 issued under the Water Act authorizing the diversion of 329,341 cubic metres of water annually at a maximum rate of 0.029 cubic metres per second from the water source well hydraulically connected to the Elbow River in NE 06-24-02-W5M for municipal purposes. The Appellant was concerned that the Licence did not reference section 18 of the Water Act and section 12(2) of the Water (Ministerial) Regulation. Upon reviewing the information provided by the parties, the Board concluded that the issues with respect to the appeal are 1. Does the Board have the jurisdiction to deal with the "no expiry date" on the Licence? and 2. Does the Board have the jurisdiction to deal with the "reduction in the water quantity allocation" which the Appellant added to the Notice of Appeal pursuant to their letter of September 17, 1999. Upon reviewing the information, on November 10, 2000, the Board issued a Decision stating "...the Board is of the view that there are no grounds upon which to permit the Appellant to add the issue of the quantity of water allocated under the Licence to the Notice of Appeal. The Board dismisses the request of the Appellant to extend the 30 day deadline."

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

9 9 - 1 4 3

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

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

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

9 9 - 1 4 4

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

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

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

9 9 - 1 4 5 , 9 9 - 1 4 7 , 9 9 - 1 4 9

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

From August 10 - September 1, 1999, Mr. Mardy Skibsted, Mr. and Ms. Don Knight and the Siksika Nation Tribal Association filed



Notices of Appeal with respect to Approval No. 1190-01-02 issued to the Town of Strathmore. On March 1, 2000, the Board wrote to all the parties advising them that the Board would be closing its files on the grounds that: 1. The 1999 approval, factually is moot; 2. The Director is in the process of drafting the approval amendment; 3. The Director and his staff will discuss the draft amendment with the Statement of Concern filers, the Town of Strathmore and the Western Irrigation District; and 4. A decision from the Director is imminent regarding the terms of the amendments to the approval.

9 9 - 1 4 6

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

On August 27, 1999, Shell Canada Limited, filed a Notice of Appeal with respect to sections 2.4.1, 4.2.19 and 4.2.22 of Approval No. 11587-01-01 issued to Shell Canada Limited. After consulting with the parties, the Board scheduled a mediation meeting/settlement conference for March 15, 2000 in Calgary. On February 16 and 23, 2000, the department requested the mediation meeting be changed due to a scheduling conflict, therefore, the Board advised that in consultation with the parties, the mediation meeting would be rescheduled to April 11, 2000 in Calgary. At the mediation meeting, a resolution was signed by all the parties, and on April 12, 2000 the Board issued a Report and Recommendations to the Minister which was approved on April 20, 2000.

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

9 9 - 1 4 8

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

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

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

9 9 - 1 5 0 , 9 9 - 1 5 2 , 9 9 - 1 5 4 , 9 9 - 1 5 5

Appellant(s) - Dogterom et al., Operator - ConAgra Limited, Location - Taber, Type of Appeal - Discontinuance of Proceedings

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

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

9 9 - 1 5 1

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

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

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

9 9 - 1 5 3

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



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

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

9 9 - 1 5 6

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

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

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

9 9 - 1 5 7

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

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

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

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

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

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

9 9 - 1 5 9

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

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



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

9 9 - 1 6 0

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

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

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

9 9 - 1 6 1

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

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

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

9 9 - 1 6 2

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

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

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

9 9 - 1 6 3

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

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

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

9 9 - 1 6 4

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

On November 15, 1999, the Board received a Notice of Appeal from Mr. Brian Bildson with respect to Amending Approval 11929-01-01 issued to Smoky River Coal Ltd. The Amending Approval authorizes the "opening up, operation and reclamation of the Smoky



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

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

9 9 - 1 6 5

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

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

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

9 9 - 1 6 6

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

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

Discontinuance of Proceedings - On December 1, 1999, Mr. Michael Monner advised the Board that his land may be affected by this appeal and wanted to be supplied with all pertinent information. On December 22, 1999, the Board granted the Stay and requested a Stay hearing for January 7, 2000. Consented to by all interested parties at the hearing, the Stay was extended to March 1, 2000. A mediation meeting took place on January 11, 2000, in Calgary and as a result of the mediation the parties continued to work towards resolution of the appeal. On January 17, 2000, the Appellant advised the Board that they would comply with the Enforcement Order and requested that once the action had taken place, the Enforcement Order be cancelled. On January 18, 2000, the Appellant advised the Board that they would not be proceeding further with the appeal and the Board issued a Discontinuance of Proceedings on January 24, 2000.

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

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

Cite as: Cost Decision re: Monner.

9 9 - 1 6 7

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



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

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

9 9 - 1 6 8

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

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

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

9 9 - 1 6 9

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

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

Decisions 2000

0 0 - 0 0 3

Appellant(s) - Legal Oil and Gas Ltd. and Charles W. Forster, Operators - Legal Oil and Gas Ltd. and Charles W. Forster, Location - Sturgeon, Type of Appeal - Decision

On January 14, 2000, the Environmental Appeal Board received a Notice of Appeal and application for Stay from Legal Oil and Gas Ltd. and Mr. Charles W. Forster. The appeal was with respect to Environmental Protection Order (EPO) No. 2000-01 issued to Legal Oil and Gas Ltd. and Mr. Charles W. Forster for contamination of a well known as LWS 3 LEGAL 3-21-57-25("3 of 21 site") located on lands at LSD3-SW-21-57-25-W4M and an interim Stay of the EPO. In consultation with the parties, the Board granted an abeyance pending the outcome of a judicial review of Board appeal file no. EAB 98-009 as the issues were interrelated. On June 9, 2000, Mr. Justice Clackson denied the judicial review of EPO 98-04 and on July 26, 2000, the Appellants filed a Notice of Appeal with the Court of Appeal with respect to the outcome of the first judicial review. On September 26, 2000, the Appellant requested that EAB 00-003 be held in abeyance again pending the Court of Appeal's decision and the Board granted the request on November 8, 2000. On February 5, 2001, the Court of Appeal discontinued the judicial review and on February 9, 2001, the Board wrote to the parties requesting clar-



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ification on their positions and if the Appellant wished to proceed with the appeal. On February 15, 2001, the Appellant advised that he wanted to address factual and legal issues associated EAB 98-009 and EAB 00-003 and on February 26, 2001 the Board provided the opportunity to do so via written submissions. After failing to provide his submission to the Board on March 9, 2001 and being made aware by three separate letters from the Board that failure to respond to a written notice may result in the dismissal of his appeal, the Board, on March 16, 2001, issued a Decision to dismiss the appeal.

Cite as: Legal Oil and Gas Ltd. and Charles W. Forster v. Manager, Enforcement and Monitoring, Northeast Boreal Region, Alberta Environment.

0 0 - 0 0 4 , 0 0 - 0 0 5

Appellant(s) - Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd., Operators - Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd., Location - near High Level and Grande Prairie, Type of Appeal - Report and Recommendations

On January 20 and 21, 2000, the Environmental Appeal Board received Notices of Appeal with respect to Approval No. 76335-00-01 issued to Footner Forest Products Ltd. for the construction, operation and reclamation of an oriented strand board plant near High Level and Amending Approval No. 1622-00-06 issued to Ainsworth Lumber Co. Ltd. for the construction, operation and reclamation of an oriented strand board and value added products plant near Grande Prairie respectively. With consent of the parties, a mediation meeting/settlement conference was held on April 10, 2000 in Edmonton whereby the parties reached an agreement with respect to some of the issues, and also agreed to hold a hearing on May 26, 2000 to address the remaining issues. At the hearing, the Board concluded that the discretion exercised by the Director in issuing the Approval and Amending Approval was within his authority under the Environmental Protection and Enhancement Act and was reasonable. On June 26, 2000, the Board issued a Report and Recommendations to the Minister, which was approved on July 28, 2000.

Cite as: Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd. v. Director, Northwest Boreal Region, Alberta Environment.

0 0 - 0 0 6

Appellant(s) - Mr. William and Ms. Susan Procyk, Operator - Dow Chemical Canada Inc., Location - Fort Saskatchewan, Type of Appeal - Report and Recommendations

On January 29, 2000, the Environmental Appeal Board received a Notice of Appeal from Mr. William and Ms. Susan Procyk with respect to the issuance of Amending Approval 236-01-02 issued to Dow Chemical Inc. for the construction, operation and reclamation of the Fort Saskatchewan chemical manufacturing plant. On February 17, 2000, the Department provided the Board with correspondence regarding the appeal, and in addition, advised that the concerns brought forth by the Appellants did not address Amending Approval 236-01-02, but instead were used to reopen an earlier appeal (EAB Appeal No. 99-137) which was later agreed to by the Approval Holder. In consultation with the parties, the Board held a mediation/settlement conference on April 14, 2000 whereby a resolution was signed. On April 17, 2000, the Board issued a Report and Recommendations which was signed by the Minister on May 2, 2000.

Cite as: Procyk v. Director, Northeast Boreal Region, Alberta Environment re: Dow Chemical Canada Inc.

0 0 - 0 0 8 , 0 0 - 0 0 9 , 0 0 - 0 1 0

Appellant(s) - Mr. Victor and Ms. Elizabeth Chrapko, Ms. Julie Heath, Operator - R.V. Recreational Park Development Inc., Location - near Brosseau, Type of Appeal - Discontinuance of Proceedings

On March 9, 2000, Mr. Victor and Ms. Elizabeth Chrapko and on March 10, 2000, Ms. Julie Heath filed Notices of Appeal with respect to Water Act Approval No. 00077677-00-00 issued to R.V. Recreational Park Development Inc. authorizing the exploration for groundwater at SE 17-056-11-W4. On March 30, 2000, the Board received a letter stating that the Appellants were withdrawing their appeal. On March 31, 2000 the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: Chrapko et al. v. Manager, Regional Support, Parkland Region, Alberta Environment Re: R.V. Recreational Park Development Inc.

0 0 - 0 1 1

Appellant(s) - Mah Family, Operator - County of Red Deer No. 23, Location - Red Deer, Type of Appeal - Discontinuance of Proceedings



On March 28, 2000, Ms. Eva Mah Borsato, on behalf of the Mah family, filed a Notice of Appeal with respect to Approval No. 00075037-00-00 issued under the Water Act to the County of Red Deer No. 23 for the construction of storm water management works located in the NE 20-37-27-W4 McKenzie Industrial Park in Red Deer, Alberta. On April 25, 2000, the Board received a letter from D.C. Commercial Corporation, the registered landowner of McKenzie Industrial Park advising that the landowner was directly affected as they were the developer undertaking construction of the water management works and requested all materials regarding the appeal. On April 26, 2000, the landowner requested full party status, including the right to make submissions to the Board. In consultation with the parties, the Board scheduled a preliminary meeting on June 28, 2000 to deal with jurisdiction. On June 27, 2000, the Board received a letter from the parties advising that a settlement had been reached and therefore the appeal was withdrawn. On July 6, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: Borsato v. Manager, Regional Support, Parkland Region, Alberta Environment, Re: County of Red Deer No. 23.

0 0 - 0 1 2

Appellant(s) - Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd., Operator - Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd., Location - Redwater, Type of Appeal - Decision

On April 7, 2000, Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd. respectively, filed a Notice of Appeal with respect to Environmental Protection Order No. 2000-03 issued to Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd.. On May 3 and May 29, 2000, the parties were requested to provide their written representations to the Board by May 23 and June 2, 2000 respectively. No response was received. On June 5, 12 and 15, 2000, further attempts were made by the Board to contact the Appellants. No response was received. Therefore, on June 20, 2000, the Board issued a Decision dismissing the Notice of Appeal for having failed to comply with the Board's written request under section 85 of the Environmental Protection and Enhancement Act.

Cite as: Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd. v. Manager, Enforcement and Monitoring, Alberta Environment.

0 0 - 0 1 3

Appellant(s) - North Springbank Water Co-op Limited, Operator - Emerald Bay Water and Sewer Co-op Ltd., Location - near Calgary, Type of Appeal - Decision

On April 10, 2000, the North Springbank Water Co-op Limited filed a Notice of Appeal with respect to Amending Approval No. 18892-00-03 issued to Emerald Bay Water and Sewer Co-op Ltd. for the construction and operation of a Class II wastewater treatment plant, a Class I wastewater collection system and a storm drainage system for the Emerald Bay Estates Development. In response to the Appellant's request on April 14, 2000, for additional time to set forth arguments as to why the appeal of Amending Approval 18892-00-03 also operates as an appeal of the original approval, the Board, in consultation with the parties, granted the request. On May 24, 2000, the parties put forth and agreed to participate in a mediation meeting/settlement conference which took place on June 9, 2001 in Calgary, Alberta. At the mediation meeting/settlement conference, the parties reached an agreement (the "June 9th Agreement") to continue discussions, develop a contingency plan and to make a decision on the course of action to be taken with respect to the appeal by September 15, 2000. As a result of information received from the parties after the mediation, a second mediation meeting/settlement conference took place on December 7, 2000, where the parties reached a second agreement (the "December 7th Agreement") and agreed to continue to work together to resolve the issues. On March 2, 2001, the Board received the draft Mediation Agreement from the Appellant and forwarded it to the parties for review. By letters of April 10 and 16, 2001, the other parties approved the draft Mediation Agreement and the Board then forwarded the agreement back to the Appellant for comment. On three occasions, the Board requested a status report from the Appellant by May 1, 16 and 30th, 2001. The Board had not heard from the Appellant and on June 5, 2001, a Decision was issued dismissing the Notice of Appeal for failure to comply with a written notice.

Cite as: North Springbank Water Co-op. v. Director, Bow Region, Environmental Service, Alberta Environment, re: Emerald Bay Water and Sewer Co-op Ltd.

0 0 - 0 1 4

Appellant(s) - Eugene P. Cyr, Operator - Town of Pincher Creek, Location - Kettles Creek (Pincher Creek), Type of Appeal - Report and Recommendation

On April 17, 2000, the Environmental Appeal Board received an appeal via facsimile from Mr. Eugene P. Cyr, objecting to Approval No. 00074194-00 issued to the Town of Pincher Creek under the Water Act for the construction of stormwater drainage works in the SW 23-6-30-W4 discharging into Kettles Creek in Pincher Creek, Alberta. The Board held a mediation meeting/settlement conference on June 27, 2000, after an extension was granted to allow the Appellant to respond to the Board's letter of May 1, 2000. At the mediation, the parties agreed to schedule a second mediation to be held on July 18, 2000, in Pincher Creek which took place and a resolu-



tion was reached. On August 1, 2000 the Board issued a Report and Recommendations to the Minister which he agreed to on August 28, 2000.

Cite as: Eugene P. Cyr v. Regional Water Manager, Prairie Region, Alberta Environment re: Town of Pincher Creek.

0 0 - 0 1 5

Appellant(s) - Villeneuve Sand and Gravel Alberta Ltd., Operator - Inland Aggregates Limited, Location - Sturgeon County, Type of Appeal - Decision

On April 17, 2000, the Board received a Notice of Appeal from Villeneuve Sand and Gravel Alberta Ltd. with respect to Approval No. 72308-01-00 issued to Inland Aggregates Limited to open up, operate and reclaim a pit located on the West ½ of Section 29 and North East ¼ of Section 30 in Township 54, Range 26, West of the 4th Meridian in the County of Sturgeon for the production of sand and gravel. The Appellant claims to be the owner of the sand and gravel rights relating to the pit and has not given consent to the Approval Holder or the registered owner of the lands to open up, operate or reclaim the pit. The registered owners of the land are Mr. Dale and Mrs. Deborah Barrie. On April 17, 2000, the Appellant also requested a "stay of enforcement of the approval" (the "Stay of Application"). After reviewing information submitted by the parties, on May 8, 2000, the Board identified a number of preliminary issues such as 1. Are the Barries a proper party to this appeal and therefore able to bring a preliminary motion, 2. Is the Appellant "directly affected", 3. Does the Board have jurisdiction to hear this matter, particularly given that ownership of the sand and gravel appears to have been determined by the Court of Queen's Bench? and 4. Is the appeal frivolous or vexatious or without merit? Upon reviewing all written submissions, the Board advised that it is bound by the findings of Master Funduk and Madam Justice Johnston, both of the Court of Queen's Bench. Taking their findings into account, the Board holds that 1. The Appellant is not directly affected and 2. The appeal is either frivolous and vexatious, as the Court said in Pocklington Foods, and it is surely without merit. Given this information, the Board dismissed the appeal and deemed it unnecessary to make a decision on the Stay of Application. On November 10, 2000, the Board issued a Decision to dismiss the appeal.

Cite as: Villeneuve Sand and Gravel Alberta Ltd. v. Director, Northeast Boreal Region Alberta Environment re: Inland Aggregates Limited.

0 0 - 0 1 6

Appellant(s) - Sunpine Forest Products Ltd., Operator - Sunpine Forest Products Ltd., Location - Rocky Mountain House, Type of Appeal - Discontinuance of Proceedings

On April 20, 2000, Mr. Masten Brolsma on behalf of Sunpine Forest Products Ltd. filed a Notice of Appeal with respect to Licence No. 00081864-00-00 issued to Sunpine Forest Products Ltd. authorizing the diversion of 25,914 cubic metres of water annually from a well in SW 02-038-09-W5 for the purpose of Commercial (wood products) subject to conditions. The Appellant requested that "Conditions 6(a) and 6(b) be amended to state 'monthly readings' and 'monthly measurements' be taken, respectively". On June 1, 2000, the Appellant wrote to the Board withdrawing their appeal. On June 2, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Sunpine Forest Products Ltd. v. Manager, Regional Support, Parkland Region, Alberta Environment.

0 0 - 0 1 7 , 0 0 - 0 1 8

Appellant(s) - Bryam Industrial Services Limited, Dr. Rosalind Beacom, Dr. Michael Peyton and the Pembina Institute, Operator - Drayton Valley Regional Sanitary Landfill Authority, Location - Drayton Valley, Type of Appeal - Discontinuance of Proceedings

On April 25, 2000, MByram Industrial Services Ltd. (Byram), and Dr. Rosalind Beacom, Dr. Michael Peyton and the Pembina Institute, filed Notices of Appeal with respect to Approval No. 47415-00-01 issued to the Drayton Valley Regional Sanitary Landfill Authority which authorizes the construction, operation and reclamation of the Drayton Valley Regional Landfill. According to standard practice, the Board wrote to the Natural Resources Conservation Board (NRCB) and the Alberta Energy and Utilities Board (AEUB) on April 26, 2000 to see whether this matter had been the subject of a hearing or review under their respective legislation. The AEUB advised that there was a Memorandum of Understanding (MOU) between the AEUB and Alberta Environment that allowed the Drayton Valley Regional Sanitary Landfill to accept petroleum hydrocarbon contaminated soils. On August 9, 2000, the Board received a copy of the MOU. In their letters of July 26 and 27, 2000, the parties advised the Board that they would be agreeable to participate in a mediation meeting/settlement conference. However, on August 11, 2000, the Board received a letter from the Department with respect to the standing of the Pembina Institute and Byram Industrial Services Ltd. On August 15, 2000, the Board advised the parties that the issue of standing would be addressed if the mediation meeting/settlement conference was unsuccessful and the appeal went to a hearing and to file any objections to the Board by August 23, 2000. On August 21 and 22, 2000, the Department and Byram respectively,



objected to the Board's recommendation. In view of the information received, the Board decided to cancel the mediation meeting/settlement conference and hold a preliminary meeting on the issue of standing. On September 8, 2000, the Appellants advised the Board that they were actively engaged in informal mediation and that the Pembina Institute declined to make submissions and attend the preliminary meeting, however, if they did attend, it would be in the capacity of an agent or expert witness for the other Appellants. On September 27, 2000, the Appellants advised the Board that a terms of agreement had been reached between the Approval Holder, Byram and the Appellants and that after meeting with the Department, would consider withdrawing their appeals. On January 4, 2001, the Board received a letter from the Approval Holder advising of the steps being taken to address specific issues raised by the Appellants and on January 8, 2000, the Board requested comments from the Appellants. On January 10 and 24, 2001, Byram Industrial Services Ltd. and collectively, the Pembina Institute, Dr. Rosalind Beacom and Dr. Michael Peyton respectively, withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on February 1, 2001 and closed its file.

Cite as: Byram Industrial Services Limited et al. v. Director, Parkland Region, Alberta Environment, re: Drayton Valley Regional Sanitary Landfill Authority.

0 0 - 0 1 9

Appellant(s) - ABL Ventures Ltd., Operator - ABL Ventures Ltd., Location - Strathmore, Type of Appeal - Discontinuance of Proceedings

On April 26, 2000, ABL Ventures Ltd. filed an appeal with respect to Administrative Penalty No. 00/07-BOW-AP issued to ABL Ventures Ltd., as a result on an alleged contravention, by ABL Ventures Ltd., of section 59 of the Environmental Protection and Enhancement Act, with respect to the construction of an extension to the water distribution and wastewater collection systems at SE 4-23-24-25 W4. In response to the Board's letter of May 10, 2000 asking the parties if they wished to consider mediation or a proceed directly to a hearing, the Director wrote to the Board advising that they would prefer a hearing. In consultation with the parties, the Board scheduled a hearing for September 7, 2000, however, it was adjourned as the department required time to access relevant documents in the Freedom of Information Office. On September 7, 2000, the Board received a letter from the Director advising of Mr. Jay Litke's letter of September 6, 2000 withdrawing the Administrative Penalty. On September 15, 2000, the appellant wrote to the Board withdrawing their appeal and as a result, the Board issued a Discontinuance of Proceedings on September 22, 2000 and closed its file.

Cite as: ABL Ventures Ltd. v. Manager, Enforcement and Monitoring, Bow Region, Alberta Environment.

0 0 - 0 2 0

Appellant(s) - Ms. Gwyn Baily, Operator - Sunset Harbour Developments Ltd., Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings

On April 25, 2000, Ms. Gwyn Baily filed a Notice of Appeal with respect to 00073615-00-00 issued under the Water Act to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. On May 1, 2000, the Board requested that the Appellant clarify the purpose of her letter and provide further information. After not receiving any information, the Board followed-up via a telephone conversation and further telephone message. On June 15, 2000, the Appellant wrote to the Board withdrawing her appeal due to other commitments. On July 6, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Baily v. Manager, Regional Support, Parkland Region, Alberta Environment, re: Sunset Harbour Developments Ltd.

0 0 - 0 2 1 - 0 2 3 , 0 0 - 0 2 5 - 0 2 7 , 0 0 - 0 3 2 , 0 0 - 0 3 6

Appellant(s) - Mr. Frank Cowles, Mr. Ernie Semeniuk, Mr. Kevin Fenemor, the Summer Villages of Sundance Beach and Golden Days, Mr. John Turgeon, Mr. Marcel Normandeau, Dr. Larry Eberlein, Ms. Jane Nagy and Ms. Roberta McLaughlin on behalf of herself, Mr. Gerald McLaughlin, Mr. Brinton McLaughlin and Ms. Jennifer Binnendyke Operator - Sunset Harbour Developments Ltd., Location - Pigeon Lake, Type of Appeal - Report and Recommendations

Between May 5 and May 24, 2000, appeals were received from Mr. Frank Cowles, Mr. Ernie Semeniuk, Mr. Kevin Fenemor, the Summer Villages of Sundance Beach and Golden Days, Mr. John Turgeon, Mr. Marcel Normandeau, Dr. Larry Eberlein, Ms. Jane Nagy and Ms. Roberta McLaughlin on behalf of herself, Mr. Gerald McLaughlin, Mr. Brinton McLaughlin and Ms. Jennifer Binnendyke with respect to Approval 00073615-00-00 issued under the Water Act to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. In consultation with the parties, a two-day mediation meeting/settlement conference took place on September 19 and 21, 2000, in Edmonton and a resolution was reached. On October 5, 2000, the Board issued a Report and Recommendations advising the Minister to vary the Approval



in accordance with the resolution agreed to by the parties which was agreed to on October 18, 2000.

Cite as: Cowles et al. v. Manager, Regional Support, Parkland Region, Alberta Environment, Re: Sunset Harbour Developments Ltd.

0 0 - 0 2 4

Appellant(s) - Alberta Fish and Game Association, Operator - Sunset Harbour Developments Ltd., Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings

On May 9, 2000, the Alberta Fish and Game Association (AFGA) filed an appeal with respect to Approval No. 00073615-00-00 issued under the Water Act to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. In consultation with the parties, a mediation meeting/settlement conference took place on September 19 and 21, 2000 at the Board's office. On September 21, 2000, during the mediation meeting, the Appellant withdrew from the mediation proceedings as the AFGA intended to pursue this matter with the Department of Fisheries and Oceans (DFO). Further, it is the Board's understanding that only if the DFO admits that the quality of fish habitat compensation is inadequate, but is unwilling to reconsider their Approval in relation to this matter, then the AFGA will pursue their appeal with the Board. On October 17, 2000, the Board received a letter from the Appellant dated October 13, 2000 withdrawing their appeal. On October 20, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Alberta Fish and Game Association v. Manager, Regional Support, Parkland Region, Alberta Environment, re: Sunset Harbour Developments Ltd.

0 0 - 0 2 8

Appellant(s) - Westlock County, Operator - Lafarge Canada, Location - Westlock, Type of Appeal - Discontinuance of Proceedings

On May 10, 2000, the Board received a letter from the County of Westlock appealing Approval No. 15084-01-00 issued to Lafarge Canada Inc. for the opening up, operation and reclamation of a sand pit on SE 18-59-23-W4. On May 11, 2000, the Board asked the parties if they wished to attend a mediation meeting/settlement conference with respect to the appeal. On May 18 and 29, June 19 and July 4, 2000, legal counsel for the Appellant requested an extension in order to seek the Appellant's advice with respect to the mediation. On July 5, 2000, the Board received a letter from the Approval Holder advising that the parties had reached a satisfactory arrangement. On July 12, 2000 the Appellant wrote to the Board withdrawing their appeal and on July 18, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Westlock County v. Director, Northern East Slopes Region, Alberta Environment, re: Lafarge Canada Inc.

0 0 - 0 2 9 , 0 0 - 0 6 0

Appellant(s) - Butte Action Committee and the Town of Eckville, Operator - Crestar Energy, Location - near Eckville, Alberta, Type of Appeal - Decision

On May 23 and August 15, 2000, the Butte Action Committee and the Town of Eckville respectively, filed Notices of Appeal with respect to Approval No. 00077822-00-00 issued under the Water Act to Crestar Energy to explore for groundwater in relation to two pre-existing groundwater wells - Well 1966-06-27-01 and Well 1973-11-26-02 both located on LSD 12 in the North West ¼ of Section 28, Township 39, Range 3, West of the 5th Meridian, near Eckville, Alberta. Upon reviewing information submitted by the parties, the Board agreed that the appeals are moot on the grounds that 1. the Approval Holder had met the conditions of the Approval and stated in its letter of January 5, 2001, saying "Since all work under the Approval has been completed [the Board's jurisdiction is lost]" and 2. the Director advised on January 4, 2001, that "The approval activity has been undertaken and completed" Accordingly, the Board dismissed the appeals with one important condition. Since the Board accepts and relied upon the representation of the Approval Holder and the Director that all work under the Approval is spent, if further work under this Approval is done by the Approval Holder, the Board will immediately accept the re-instatement of these appeals with the same status they held prior to this decision. On January 9, 2001, the Board issued its Decision to dismiss the appeals.

Cite as: Butte Action Committee and Town of Eckville v. Manager, Regional Support, Parkland

Region, Natural Resource Service, Alberta Environment, re: Crestar Energy.

0 0 - 0 3 0

Appellant(s) - Mr. Ron Bakken, Operator - Sunset Harbour Developments Ltd., Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings



On May 10, 2000, Mr. Ron Bakken filed a Notice of Appeal with respect to Approval No. 00073615-00-00 issued under the Water Act to Sunset Harbour Developments Ltd. to construct a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. Following a conversation with the Appellant on June 1, 2000, the Board wrote to Appellant requesting that Mr. Bakken confirm in writing that he would be withdrawing his appeal which was received by the Board on June 7, 2000. On June 14, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: Bakken v. Manager, Regional Support, Parkland Region, Alberta Environment, re: Sunset Harbour Developments Ltd.

0 0 - 0 3 1

Appellant(s) - Mr. John Sanders, Operator - Sunset Harbour Developments Ltd., Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings

On May 13, 2000, Mr. John Sanders sent a letter to the Board appealing Approval No. 00073615-00-00 issued under the Water Act to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. On May 16, 2000, the Board requested that the Appellant clarify the purpose of his letter and provide further information in order to proceed with the request for an appeal. On June 16, 2000, the Appellant faxed a letter to the Board advising that he was withdrawing his independent appeal and instead making presentations for others appealing the same approval. On July 6, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Sanders v. Manager, Regional Support, Parkland Region, Alberta Environment, re: Sunset Harbour Developments Ltd.

0 0 - 0 3 3

Appellant(s) - Genesis Exploration Ltd., Operator - Genesis Exploration Ltd., Location - near Valleyview, Type of Appeal - Discontinuance of Proceedings

On May 18, 2000, Genesis Exploration Ltd. filed a Notice of Appeal with respect to the refusal of the Department to issue an Approval for the purpose of constructing a petroleum wellsite at 09-24-069-23-W5. On May 29, 2000, the Appellant wrote to the Board indicating that the application they made "was for the re-entry of an existing suspended well and not the construction of a new well", and requested a site visit to resolve the matter. On June 5, 2000, the Director advised the Board that he would contact the Appellants to coordinate a site visit. After reviewing requests by the Director and the Appellants, on December 21, 2000, the Board advised that the appeal would be placed in abeyance until May 1, 2001 due to the site assessment and construction plans. In a letter received by the Board on February 12, 2001, the Appellants withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on February 12, 2001 and closed its file.

Cite as: Genesis Exploration Ltd. v. Manager, Regional Support, Northwest Boreal Region, Alberta Environment.

0 0 - 0 3 4

Appellant(s) - Elkana Resident's Water Co-Operative Limited, Operator - Elkana Resident's Water Co-Operative Limited, Location - M.D. of Rock View No. 44, Type of Appeal - Decision

On January 7, 2000, the Director, Bow Region, Alberta Environment, issued Amending Approval No. 498410-00-01 modifying Approval No. 498412-00-00 authorizing the construction, operation and reclamation of a Class 1 water treatment plant and distribution system for the Elkana Estates subdivision in the M.D. of Rocky View No. 44. On May 16, 2000, the Appellant filed a Notice of Appeal requesting an amendment to the date for the pipeline construction stated in Section 3.2, Condition 3.2.1 of the Amending Approval. On June 1, 2000, the Board received a letter from the Director requesting that the appeal be dismissed as the Notice of Appeal was filed outside the 30 day time limit. On June 28, 2000, the Appellant wrote to the Board advising that they wished to withdraw the appeal as the Co-Op wanted to pursue alternate avenues with Alberta Environment to get an extension of the water system construction deadline. In the same letter, the Appellant advised that they may wish to re-initiate the appeal process at a later date. On July 7, 2000, the Board responded by advising the Appellants that there are no provisions in the legislation to "re-initiate" an appeal once the Board has been advised in writing of a withdrawal. On July 20, 2000, the Board received a further letter from the Appellants requesting an extension to the appeal due to extenuating circumstances related to water in Bragg Creek and ongoing studies. On August 28, 2000, the Board went on to propose a schedule for written submissions for the parties. Once the submissions were received and reviewed, the Board issued its Decision to dismiss the appeal on November 10, 2000.

Cite as: Elkana Resident's Water Co-Operative Limited v. Director, Bow Region, Alberta Environment.



0 0 - 0 3 5

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, 2001, did not award costs to Ducks Unlimited.

Cite as: Cost Decision re: Ducks Unlimited.

0 0 - 0 3 7

Appellant(s) - Mr. Ken McEachren, Operator - Mr. Allen Pukanski, Location Edmonton, Type of Appeal - Discontinuance of Proceedings

On May 26, 2000, Mr. Ken McEachren filed a Notice of Appeal with respect to Approval No. 00083208-00-00 issued under the Water Act to Mr. Allen Pukanski for the construction of a channel re-alignment and installation of a culvert on an unnamed watercourse, situated at NE 14-051-25-W4. On June 2, 2000, the Board wrote to the Appellant stating "I understand from speaking with Mr. Nash Kara of Alberta Environment that you have resolved your concerns regarding the work done by Mr. Pukanski. Mr. Nash further advises that you wish to drop your appeal...". On June 7, 2000, the Board received a letter from the Appellant withdrawing his appeal. On June 26, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: McEachren v. Manager, Regional Support, Northeast Boreal Region, Alberta Environment, re: Allen Pukanski.

0 0 - 0 3 8

Appellant(s) - Mr. Don Knight, Operator - Town of Strathmore, Location - Strathmore, Type of Appeal - Discontinuance of Proceedings

On May 23, 2000, Mr. Don Knight filed an appeal with respect to Amending Approval No. 1190-01-04. The Amending Approval is an amendment to Approval 1190-01-00 issued to the Town of Strathmore for the operation of a Class I wastewater treatment plant (wastewater stabilization ponds) and a Class II wastewater collection system and a storm drainage system for the Town of Strathmore. On July 17, 2000, the Appellant wrote to the Board advising that after meeting with the Town of Strathmore and Epcor most of his concerns had been met and that he would be releasing his appeal. On September 21, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Knight v. Director, Bow Region, Alberta Environment, re: Town of Strathmore.

0 0 - 0 3 9

Appellant(s) - Mr. Jurgen Preugschas, Operator - Pigs R Us Inc., Location - near Mayerthorpe, Type of Appeal - Decision



On May 26, 2000, Mr. Jurgen Preugschas filed a Notice of Appeal with respect to Water Licence Nos. 00082554-00-00 and 000825613-00-00 issued under the Water Act to Pigs R Us Inc., for the diversion of water subject to certain conditions. On June 19, 2000, the Board requested additional information to supplement the appeal. After attempts to receive the information via a deadline and telephone message, the Board received the completed information on September 8, 2000. At the request of the parties, the appeal was held in abeyance from September 15, 2000 to February 20, 2001, pending discussions between the Appellant and the Director. On February 9, 2001, the Director advised the Board that further amendments to the monitoring requirements within the Licences were being forwarded to the Appellant for approval. On February 20, 2001, the Director further advised the Board that after several unsuccessful attempts, the Director could not reach the Appellant regarding the amendments. The Board also attempted unsuccessfully to contact the Appellant by telephone on February 21 and 23, 2001. Based on factual inconsistencies given by the Appellant with respect to the reasons for not returning calls made to the Board and the Director, the Board issued a Decision to dismiss the Notice of Appeal.

Cite as: Pigs R Us Inc. v. Director, Northern East Slopes Region, Alberta Environment.

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Appellant(s) - Siksika First Nation and Mr. Clinton Blyth, Operator - Town of Strathmore, Location - Town of Strathmore, Type of Appeal - Discontinuance of Proceedings

On June 16 and 20, 2000, the Siksika First Nation and Mr. Clinton Blyth respectively, filed Notices of Appeal with respect to Amending Approval No. 1190-01-04 issued to the Town of Strathmore. The Approval is an amendment to Approval No. 1190-01-00, which authorizes the operation of a Class I wastewater treatment plant, a Class II wastewater collection system and a storm drainage system for the Town of Strathmore. In response to a copy of an August 2, 2001, Statement of Concern letter from Mr. Blyth to the Director regarding the Town of Strathmore's application for a further approval for the addition of tertiary treatment capabilities to the wastewater treatment plant, the Board, on August 10, 2001, wrote to the Appellants advising that the Town of Strathmore's current Approval was still active and that it was the Board's understanding that the Town applied for a new approval to address longer term sewage effluent discharges. The Board further explained that if the approval is granted, the previous approval would be cancelled and therefore, encouraged the Appellants to file a Statement of Concern for the new application to ensure a Notice of Appeal could be filed should the approval be granted. After reviewing the information provided by the parties, the Board wrote to the parties on November 7, 2000, advising that a hearing would take place to address the appeals in relation to the Amending Approval and that the issue of Mr. Blyth's standing would be addressed at the beginning of the hearing which was later scheduled to take place in Calgary on January 17 and 18, 2001. Further to a November 29, 2000, letter from the Operator to the parties proposing a resolution to the Appellants' concerns, on December 18, 2000, the Operator informed the Board that the proposal was not satisfactory to the Appellants and was therefore withdrawn. On the same day, the Siksika First Nation wrote to the Board advising of their intention to withdraw their appeal, however, on January 4, 2001, advised the Board that they would take part in a hearing as their intent to withdraw their appeal depended on the formalization of commitments and the addition to the approval. Further to the Operator's request on January 3, 2001, and in consultation with the parties on January 5, 2001, the Board agreed to adjourn the hearing. On January 7, 2001, the Operator wrote to the parties (including the Siksika First Nation) and provided them a draft "Memorandum of Principles of Settlement" as discussed at a joint meeting on January 5, 2001. On January 29, 2001, the Director advised the Board that application 1190-05 for an amending approval had been signed and distributed to the parties. From January 29 - February 23, 2001, the parties worked toward finalizing the Memorandum of Settlement and on March 5 and April 6, 2001, the Board received notice that Mr. Blyth and the Siksika First Nation respectively, would sign the agreement. On May 28, 2001, the Board received a letter from the Director enclosing the Approval for the tertiary plant and as outlined in the Board's letter of May 25, 2001, issued a Discontinuance of Proceedings on June 4, 2001. The Board then closed its files.

Cite as: Siksika First Nation and Blyth v. Director, Bow Region, Environmental Service, Alberta Environment; re: Town of Strathmore.

0 0 - 0 4 2 - 4 6 , 0 0 - 0 4 8 - 5 3 , 0 0 - 0 5 6 , 0 0 - 0 5 7

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 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 appeals with the Environmental Appeal Board. 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 00-047 Appellant(s) - Mr. Henk Siderius of Siderius Dairy Ltd., Operator - Siderius Dairy Ltd., Location - Millet, Type of Appeal - Discontinuance of Proceedings

On July 11, 2000, Mr. Gordon Harris on behalf of Mr. Henk Siderius of Siderius Dairy Ltd. filed an appeal with respect to Approval No. 00082375-00-00 issued under the Water Act to Siderius Dairy Ltd. authorizing the dairy to explore for groundwater subject to certain conditions. On August 1, 2000, legal counsel for the Appellant wrote to the Board advising that the Mr. Siderius was dealing with his neighbours and Agra Earth & Environmental about the Approval and therefore, the appeal was held in abeyance until September 1, 2000. On August 31, 2000, legal counsel for the Appellant wrote to the Board advising that Mr. Siderius was no longer having difficulties complying with the conditions imposed on Siderius Dairy Ltd. by the Approval. On September 8, 2000, the Appellant withdrew his appeal and as a result, the Board issued a Discontinuance of Proceedings on September 21, 2000 and closed its file.

Cite as: Siderius Dairy Ltd. v. Manager, Regional Support, Parkland Region, Alberta Environment.

0 0 - 0 5 4

Appellant(s) - Mr. Don and Ms. Marjorie Bower, Operator - Mr. Don and Ms. Marjorie Bower, Location - near Red Deer, Type of Appeal - Report and Recommendations

On July 24, 2000, Mr. Don and Ms. Marjorie Bower filed a Notice of Appeal with respect to the decision of the Director, Parkland Region, Natural Resources Service, Alberta Environment, to refuse to issue a licence under the Water Act to Mr. Don and Ms. Marjorie Bower for the diversion of groundwater at NE 30-038-26-W4M for the purpose of a municipal subdivision water supply. In response to the Board's letter to the parties of August 23, 2000, asking if they wished to participate in mediation meeting/settlement conference, Mr. Clisshold, on behalf of the Appellants, suggested informal meetings with the Director's counsel. To allow the meetings to ensue, the Board held the appeal in abeyance until October 27, 2000. On November 14, 2000, the Board received a letter from the Director advising that he did not wish to pursue mediation and requested the Board proceed to a hearing. After determining issues to be addressed at the hearing at a preliminary meeting via written submissions, the Board held the hearing on April 2, 2001 in Edmonton. After considering the evidence, the Board concluded that the Director's decision to deny the licence application failed to serve the purpose of the Water Act as stated in section 2. The Board recommended its Report and Recommendations to the Minister on May 28, 2001, that he vary the decision of the Director and order: the Appellants to complete appropriate remedial actions to repair the improper well completion of WTH 2-97; the Appellants to perform an aquifer test on WTH 2-97 to accepted professional standards; and the Director, provided that the aquifer test of WTH 2-97 does not substantially contradict the previous findings on available groundwater yield, to issue a licence for the diversion of 5,110 cubic metres of water from WTH 1-97. The Board also notes that costs were not awarded as both parties indicated that they did not wish to make an application for costs. On June 20, 2001, the Minister approved the Board's recommendations.

Cite as: Bower v. Director, Parkland Region, Natural Resources Service, Alberta Environment.

0 0 - 0 5 5

Appellant(s) - Mr. Don Kadutski, Operator - Ranger Oil Limited, Location - near Elk Point, Type of Appeal - Decision

On July 28, 2000, the Board received a Notice of Appeal from Mr. Don Kadutski with respect to Approval No. 00082533-00-00 issued under the Water Act to Ranger Oil Limited. The Approval authorizes the Approval Holder to explore for groundwater at 19-055-06-W4M, 20-055-06-W4M, 29-055-06-W4M and 30-055-06-W4M. On September 12, 2000, the Board received a letter from the Appellant advising that Canadian Natural Resource Limited was the successor to Ranger Oil Limited and as a result, was now the Approval Holder. On October 26, the Appellant requested the file be held in abeyance as the matter was before the Energy and Utilities Board (EUB). On November 15, 2000 the Board received a status report from the Approval Holder advising that they had determined that the wells are not required for either remediation purposes or for any other function and the wells are abandoned, they will then request the Department to cancel the Approval. In consultation with the parties, the appeal was held in abeyance until April 2, 2001. From April 6 to June 4, 2001, the Board received information from the parties with respect to actions to take place regarding the abandoned wells. Given the information presented to the Board, on August 28, 2001, it issued a Decision concluding that the Notice of



Appeal was not properly before the Board; it is moot or without merit, and that the proper forum for this matter is the EUB and that the appeal should be dismissed for each of these concerns on their own.

Cite as: Kadutski v. Director, Northeast Boreal Region, Natural Resources Service, Alberta Environment, re: Ranger Oil Limited.

0 0 - 0 5 8

Appellant(s) - Mr. Alan and Ms. Mary Ellen Young, Operator - Mr. Alan and Ms. Mary Ellen Young, Location - Calgary, Type of Appeal - Discontinuance of Proceedings

On August 2, 2000, Mr. Alan and Ms. Mary Ellen Young filed a Notice of Appeal with respect to Enforcement Order No. 2000-WA-01, issued under the Water Act for the construction of erosion control works, without an approval. The works were constructed on the Elbow River, at or near Calgary, Alberta. On August 11 and 31, 2000, the Youngs requested that the appeal be held in abeyance pending a possible resolution, which was granted by the Board. On December 1, 2000, the Board received a letter from counsel for the Director, enclosing a letter from the Director to the Appellants, dated November 3, 2000, stating that the Enforcement Order had been complied with. On December 7, 2000, the Board was advised by the Appellants that Alberta Environment closed the Enforcement Order and therefore, the Appellants would no longer be proceeding with the appeal. On December 11, 2000, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as Young v. Director, Bow Region, Alberta Environment.

0 0 - 0 5 9

Appellant(s) - Westridge Water Supply Ltd., Operator - Westridge Water Supply Ltd., Location - near Calgary, Type of Appeal - As listed below

Overview - On August 15, 2000, the Environmental Appeal Board received a Notice of Appeal from Westridge Water Supply Ltd. objecting to a number of terms and conditions of Preliminary Certificate 00081364-00-00 issued under the Water Act to Westridge Water Supply Ltd. The Preliminary Certificate states that the Appellant will receive a licence, upon compliance with certain conditions, to divert up to 787,101 cubic metres of water annually with the source of water supply being the Elbow River in NE 6-24-2-W5, through two production wells identified as Production Well No. 1 and Production Well No. 2 with Priority No. 1999-09-09-002.

(Interim) Decision - As a threshold matter, the Board needed to decide whether the appeal could continue, given the Appellant has sold its rights under the Preliminary Certificate to a successor company (Westridge Utilities Inc.) and the Director has formally transferred the Preliminary Certificate to that successor. On May 1, 2001, the Board issued a Decision advising 1. Westridge Utilities Inc. will be substituted for Westridge Water as the sole Appellant for jurisdictional purposes, 2. Westridge Water may continue to participate in the Appeal, but as a "party", and lastly, 3. All parties should contact the Board (through its Registrar of Appeals) as soon as possible to set a quick hearing date.

Cite as: Westridge Water Supply Ltd. #2 v. Director, Bow Region, Natural Resources Service, Alberta Environment.

Report and Recommendations - In response to the Notice of Appeal, the Director requested that the Board dismiss the appeal outright as the grounds allegedly lack merit. After receiving the written submissions of the parties on this question, the Board advised all parties that an oral preliminary meeting would be held on April 27, 2001. At the preliminary meeting, the Board concluded that the appeal should continue and that Westridge Utilities Inc. will be substituted for Westridge Water Supply Ltd. as the sole Appellant for jurisdictional purposes and that Westridge Water Supply Ltd. may continue to participate in the appeal. The Board also advised in its letter of May 14, 2001, that it decided the preliminary issues on jurisdiction and that it would schedule a hearing in this matter for July 26 and 27, 2001. On July 5, 2001, Westridge Utilities and Westridge Water Supply Ltd. advised the Board that they reached a settlement with the Director, which the Director later confirmed. Upon notice of the agreement, the Board cancelled the hearing and requested an original copy of the agreement. On July 27, 2001, the Board issued a Report and Recommendations recommending the Minister of Environment vary the expiry date of the Preliminary Certificate. The Minister approved the recommendation on September 27, 2001.

Cite as: Westridge Water Supply Ltd. #3 v. Director, Bow Region, Natural Resources Service, Alberta Environment.

0 0 - 0 6 1

Appellant(s) - Mr. Darren and Mrs. Daphne Fisher, Operator - Taiwan Sugar Corporation, Location - near Hardisty, Type of Appeal - Decision

On September 19, 2000, Mrs. Daphne Fisher on behalf of herself and her husband, Mr. Darren Fisher filed a Notice of Appeal with



respect to Approval No. 00081681-00-00 issued under the Water Act to the Taiwan Sugar Corporation for the purpose of exploring for groundwater near Hardisty, Alberta. The Notice of Appeal filed by the Appellants is one of 14 Notices of Appeal that the Board received in relation to the Approval. The other 13 appeals were filed between July 6 and 31, 2000. Given that the appeal was submitted outside the specified timeline of the Act, on September 27, 2000, the Board requested the Appellants explain the reasons for the delay. On October 5, 2000, the Board received a letter from the Appellants advising that the Notice of Appeal was completed but due to a misunderstanding, failed to be faxed in time. The Board in turn found this to be an insufficient reason to extend the filing deadline. The Board however advised the Appellants that as stated in the Board's letter of September 27, 2000, the Appellants may be able to request intervenor status if the appeal were to proceed to a hearing. For the reasons provided above, on November 14, 2000, the Board its Decision dismissing the Notice of Appeal.

Cite as: Fisher v. Director, Parkland Region, Natural Resource Service, Alberta
Environment re: Taiwan Sugar Corporation.

0 0 - 0 6 2

Appellant(s) - Mr. William Fedoruk, Operator - Canadian Natural Resources Limited, Location - near County of Minburn, Type of Appeal - Decision

On September 22, 2000, the Environmental Appeal Board received a Notice of Appeal from Mr. William Fedoruk appealing the issuance of Reclamation Certificate 38902 to Canadian Natural Resources Limited for the surface of land within NE 9-54-15-W4M in connection with the well known as Prevident Merrill Warwick 10-9-54-15, which is located on Mr. Fedoruk's property. In response to a letter from the Board on November 3, 2000, to the parties asking if they would like to participate in a mediation meeting, settlement conference, the Director requested, on November 17, 2000, that the appeal be held in abeyance until late spring or early summer as mediation would be most likely successful if a site visit was included. In consultation with the parties, the appeal was held in abeyance until May 1, 2001. From April 30 to June 20, 2001, the Board tried to schedule available dates for a mediation meeting/settlement conference but had difficulty doing so based on the parties' schedules. On June 20, Board staff left a telephone message at the Appellant's home asking if he was available September 5 or 25, 2001 for a mediation meeting. Board staff left home and work numbers and no response was received. The Board called again with no response. The Appellant was requested in a letter of June 22, 2001, to provide the Board with information it requested in its June 13, 2001 letter by June 27, 2001. This letter also included a statement indicating that failure to provide the information requested may result in the dismissal of the appeal. On June 28, 2001, the Appellant contacted the Board's office and advised that he wished to proceed with the mediation meeting in August 2001. On June 28, 2001, the Board issued a Decision to dismiss the Notice of Appeal for failure to respond to the Board's requests on a timely basis.

Cite as: Fedoruk v. Director, Environmental Service, Parkland Region, Alberta Environment, re: Canadian Natural Resources Limited.

0 0 - 0 6 3

Appellant(s) - Mr. Wayne Watson, Operator - Danoil Energy Ltd. (now Acclaim Energy Ltd.), Location - Chauvin, Type of Appeal - Discontinuance of Proceedings

On October 10, 2000, the Environmental Appeal Board received a Notice of Appeal from Mr. Wayne Watson appealing the issuance of Reclamation Certificate 39819 to Danoil Energy Ltd. (now Acclaim Energy Ltd.) and Envirsoil Land Management Ltd. which certified the surface of land within NE 25-41-2-W4M in connection with Aledo Et Al Hayter 9D-25-41-2 well complied with the conservation and reclamation requirements. In response to the Board's letter of November 3, 2000, asking the parties if they wished to participate in a mediation meeting, the Operator advised it would like to proceed directly to a hearing. On November 21, 2000, the Board received a request for a mediation meeting at the site to evaluate any concerns and advised that the Operator was in agreement. The Operator later advised that they would be agreeable to a mediation meeting in late May 2001. On December 19, 2000, the Board advised the parties that the appeal would be held in abeyance until May 2001, as there would be vegetation to inspect and the parties could provide available dates at that time. In consultation with the parties, the Board held a mediation meeting/settlement conference and site visit in Chauvin, Albert on June 6, 2001, whereby a resolution was reached. On June 15, 2001, based on the parties' resolution, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: Watson v. Director, Parkland Region, Environmental Service, Alberta Environment, re: Danoil Energy Ltd.

0 0 - 0 6 4

Appellant(s) - Mr. Ken and Ms. Marie Smulski, trustees of the estate of Mr. John Smulski, Operator - Corridor Pipeline Limited, Location - Strathcona County, Type of Appeal - Discontinuance of Proceedings

On October 13, 2000, Mr. Ken and Ms. Marie Smulski, trustees of the estate of Mr. John Smulski, filed an appeal with respect to a Letter of Authorization issued pursuant to Approval No. 69136-00-00 to Corridor Pipeline Limited to undertake the construction and



reclamation of the Redwater River and North Saskatchewan River watercourse crossings with certain conditions. On October 17, 2000, the Appellants wrote a letter to the Board withdrawing his clients' appeal. On October 18, 2000, the Board issued a Discontinuance of Proceedings.

Cite as: Smulski v. Director, Bow Region, Alberta Environment, re: Corridor Pipeline Limited.

0 0 - 0 6 5

Appellant(s) - Mr. Neil Martin, Operator - Mr. Neil Martin, Location - Summer Village of Island Lake, Type of Appeal - Report and Recommendations

On October 30, 2000, the Board received a Notice of Appeal from Mr. Neil Martin with respect to Enforcement Order 2000-WA-02 issued under the Water Act to Mr. Martin. The Order states that the Appellant placed sand on the bed and shore of Island Lake in the Summer Village of Island Lake and is in violation of section 36(1) of the Water Act. The Order requires Mr. Martin to submit a plan to the Director outlining the remedial action to be taken to remove the sand from the bed and shore of Island Lake and requires the Appellant to carry out the plan once reviewed by the Director. The Appellant would like the Order rescinded and the development of a shoreline study. In consultation with the parties, the Board scheduled a hearing for March 2, 2001. The Board received intervenor requests from Mr. Gary and Ms. Cathy Fitzgerald (additional lakefront property owners) on February 16, 2001, and Ms. Lorraine Robertson, the Administrator for the Summer Village of Island Lake, on February 22, 2001. After reviewing written submissions, the Board advised that it would permit the Fitzgeralds to participate at the hearing by making a five-minute statement and that the Fitzgeralds and Summer Village of Island Lake Council's written submissions of February 28, 2001 would be accepted by the Board. A hearing took place on March 2, 2001 and the Board reconvened the hearing on March 9, 2001 to hear closing arguments and ask final questions. The issue before the Board at the hearing was whether the Appellant undertook an activity without an approval when an approval was required, and whether the Director acted reasonably, within his jurisdiction, and properly exercised his discretion to issue the Order. Upon reviewing the evidence presented at the hearing, the Board issued a Report and Recommendations on June 8, 2001, recommending that it believed the Director took too strong an action in dealing with the Appellant, however the Appellant carried out an activity requiring an approval without an approval. The Board recommended that the Enforcement Order be varied to replace the requirement to remove the sand with a requirement for the Appellant to work with the Director to develop a maintenance program for the lakefront of his property that will minimize environmental impacts to be developed within 6 months of the Minister's approval and implemented immediately thereafter. The Minister approved the recommendations on August 9, 2001.

Cite as: Martin v. Director, Northeast Boreal Region, Natural Resources Service, Alberta Environment.

0 0 - 0 6 6

Appellant(s) - Fas Gas Oil Ltd. and Fas Gas Realty Ltd., Operator - Fas Gas Oil Ltd. and Fas Gas Realty Ltd., Location - Provost, Type of Appeal - Decision

On November 1, 2000, Fas Gas Oil Ltd. and Fas Gas Realty Ltd. filed a Notice of Appeal with the Board with respect to Environmental Protection Order No. 2000-9 (the "EPO"). The EPO was issued to the Appellants for soil contamination at a gas station in Provost, Alberta. The Appellants however advised the contamination was on the site prior to Fas Gas taking possession of the gas station. On November 7, 2000, the Board acknowledged a letter from the Appellants requesting a Stay of the Order. On November 15, the Director advised no action would be taken under the EPO until the appeal was resolved. The Board advised the parties that a mediation meeting/settlement conference would be held on December 5, 2000, however it was later cancelled as the Director requested an abeyance until January 19, 2001 to accommodate an ongoing investigation into the EPO. On January 22, April 2, May 9 and June 15, 2001, the Director made further requests to hold the appeal in abeyance to continue the investigation and discuss the matter with the Appellants. The Director submitted another request for an extension, which was refused by the Board. The Board then advised the parties to submit dates for a possible hearing. On November 13, 2001, the Director advised the EPO would be withdrawn. As a result, the Board issued a Decision on November 19, 2001, dismissing the appeal under section 87(5) of the Environmental Protection and Enhancement Act for being either moot, not properly before the Board or without merit.

Cite as: Fas Gas Oil Ltd. and Fas Gas Realty Ltd. v. Director, Enforcement and Monitoring, Bow Region, Alberta Environment.

0 0 - 0 6 7

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 Al'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.

00 - 068 , 00 - 069

Appellant(s) - Mr. Robert and Mrs. Christine Lederer and Mr. Pat and Mrs. Rita Chant, Operator - Spruce Valley Ranch Ltd., Location - near Millarville, Type of Appeal - Decision

On November 9, 2000, Mr. Robert and Mrs. Christine Lederer and Mr. Pat and Mrs. Rita Chant filed Notices of Appeal with respect to Preliminary Certificate 00079765-00-00 issued under the Water Act to Spruce Valley Ranch Ltd. The Certificate states that the Approval Holder will receive a licence to divert 59,018 cubic metres of water annually at a maximum rate of 0.0037 cubic metres per second from the Coulee Tributary of Threepoint Creek in the NW1/4 of Section 2, Township 21, Range 3, West of the 5th Meridian with priority number 1999-09-7-003 upon compliance with certain conditions. In their Notices of Appeal, the Appellants expressed concern regarding the scope of the planned project, the nature of the water storage reservoir, and the downstream effects of the construction on the unnamed creek. On December 5, 2000, the Director wrote to the Board making a motion to dismiss the appeals as the concerns they raised were not contained in the Certificate and wanted to know the "directly affected" status of the Appellants. On January 12 and 16, 2001, the Board received letters from Mr. Daryl Seaman and Mr. R.B. McBride respectively, advising that they were both downstream residents of the proposed developments and designated the Appellants to act as their agents. On January 22, 2001, the Board advised Messrs. Seaman and McBride that the appeal period with respect to the issuance of the Certificate had expired, but they could apply as intervenors should the matter proceed to a hearing. After reviewing initial, response and rebuttal submissions by the parties, the Board issued a Decision on March 6, 2001 to dismiss the appeals as the Appellants did not disclose clear grounds of appeal.

Cite as: Lederer and Chant v. Director, Bow Region, Alberta Environment re: Spruce Valley Ranch Ltd.

00 - 070

Appellant(s) - Mr. Elgar Newsham, Operator - Mr. Elgar Newsham, Location - Innisfail, Type of Appeal - Decision

On November 9, 2000, Mr. Elgar Newsham filed a Notice of Appeal with respect to Approval No. 00141557-00-00 issued under the Water Act, to Mr. Elgar Newsham for the exploration of groundwater subject to certain conditions. On December 4, 2000, the Board received a letter from the Department advising that the Director would be cancelling the Approval issued to Mr. Newsham as the Appellant applied for a Traditional Agriculture Use Registration. On January 11, 2001, the Board received a letter from the Director advising the Approval was cancelled and wrote to the Appellant on January 15, 2001 requesting whether or not he would be withdrawing his appeal. No response was received and after numerous attempts to reach Mr. Newsham via telephone, on January 30, 2001, the Board issued a Decision to dismiss the Notice of Appeal.

Cite as: Newsham v. Manager, Regional Support, Parkland Region, Alberta Environment.

00 - 071 , 00 - 072

Appellant(s) - Mr. Chet Gilmore and Mr. Gary and Ms. Cathy Fitzgerald, Operator - Mr. Chet Gilmore and Mr. Gary and Ms. Cathy Fitzgerald, Location - Summer Village of Island Lake, Type of Appeal - Report and Recommendations

On November 23 and 24, 2000, the Board received a Notices of Appeal from Mr. Chet Gilmore, and Mr. Gary and Ms. Cathy Fitzgerald, respectively. The appeal was with respect to the issuance of Enforcement Order 2000-WA-05 issued to Mr. Gilmore and Enforcement Order 2000-WA-04 issued to the Fitzgeralds by the Director, Northeast Boreal Region, Natural Resources Service,



Alberta Environment. The Orders state the Appellants placed sand on the bed and shore of Island Lake. The Orders outline remedial action (removal of walkways) to be taken to remove the sand from the bed and shore of Island lake. On March 9, 2001, the Board convened a hearing into the appeals. The issues before the Board are whether the Appellants each engaged in an activity, the placing of sand on the bed and shore of Island Lake, without an approval where an approval was required, and whether or not the Director acted reasonably, within his jurisdiction, and properly exercised his discretion to issue the Orders. Following initial deliberations, the Board reopened the hearing to receive written submissions. On June 8, 2001, the Board issued a Report and Recommendations to the Minister that the decision of the Director to issue the Orders should be varied to 1. Replace requirements to remove sand placed on the bed and shore with a requirement for the Appellants to work with the Director to develop a maintenance program for the lakefront of their properties to minimize environmental impacts, and 2. The plans should be developed within six months of the date of the Minister's Orders respecting these appeals and implemented as soon as possible. The Minister approved the recommendations on August 9, 2001.

Cite as: *Gilmore and Fitzgerald v. Director, Northeast Boreal Region, Natural Resources Service, Alberta Environment.*

0 0 - 0 7 3

Appellant(s) - Metis Nation of Alberta Zone II Regional Council, Operator - AEC Pipelines Ltd., Location - near Cold Lake, Type of Appeal - Decision

This decision deals with two Notices of Appeal filed by the Metis Nation of Alberta Zone II Regional Council in relation to AEC Pipelines Ltd.'s Foster Creek Pipeline Project near Cold Lake. The question before the Board is the Appellant's ability to file their Notices of Appeal. On August 8, 2000, the Appellants wrote to the Director to file a Statement of Concern in relation to the project and advised, among other things, that they were prime stakeholders within the region. On November 15, 2000, the Director responded and advised the Appellants that their letter could not be considered a "formal" Statement of Concern as there was no indication of use of the lands in the Cold Lake Air Weapons Range by the Metis as the lands are restricted by the Department of National Defence. On November 16, 2000 the Director issued Approval No. 136570-00-00 to the Approval Holder for the project. On December 14, 2000 the Board received a Notice of Appeal (the "First Notice of Appeal") filed by Mr. Henry Desjarlais, President of the Metis Nation of Alberta Zone II Regional Council requesting the Board order the Director to accept the Statement of Concern. Therefore, the first Notice of Appeal appealed the Director's decision to reject the Statement of Concern and not the decision to issue the Approval. On January 5, 2001, the Appellant filed their second Notice of Appeal which was with respect to the Approval. On January 24, 2001, the Board advised the parties that it intended to hold an oral preliminary meeting, which took place on February 7, 2001. After reviewing the parties' submissions, and hearing their arguments, the Board issued a Decision on March 20, 2001, concluding that the Appellant was not directly affected according to the Environmental Protection and Enhancement Act.

Cite as: *Metis Nation of Alberta Zone II Regional Council v. Director, Bow Region, Environmental Service, Alberta Environment re: AEC Pipelines Ltd.*

0 0 - 0 7 4 , 0 0 - 0 7 5 , 0 0 - 0 7 7 , 0 0 - 0 7 8 , 0 1 - 0 0 1 - 0 1 - 0 0 5 , 0 1 - 0 1 1

Appellant(s) - Ms. Gwen Bailey, Enmax Energy Corporation, Mr. Nick Zon, Mr. Blair Carmicheal, Ms. Donna Thomas and the Summer Village of Kapasiwin, Mr. James Paron, the Village of Wabamun, Mr. David Doull, Lake Wabamun Enhancement and Protection Association, the Summer Village of Point Allison, Operator - TransAlta Utilities Corporation, Location - Village of Wabamun, Type of Appeal - Decision

Overview - On December 28, 2000 and January 2, 3, 4, and 10, 2001 the Board received Notices of Appeal from the following parties (collectively the "Appellants"), Ms. Gwen Bailey and the Summer Village of Point Alison; Mr. Steven J. Ferner on behalf of Enmax Energy Corporation ("Enmax"); Mr. Nick Zon; Mr. Blair Carmichael; Ms. Donna Thomas and the Summer Village of Kapasiwin; Mr. James Paron; His Worship Mayor William Purdy on behalf of the Village of Wabamun; Mr. David Doull; the Lake Wabamun Enhancement and Protection Association ("LWEPA"); and His Worship Mayor C. Gordon Wilson, again, on behalf of the Summer Village of Point Alison (Note: In a letter of February 15, 2001, Point Alison confirmed that His Worship Mayor C. Gordon Wilson would be representing the Summer Village of Point Alison.) with respect to the issuance of Approval 10323-02-00 to TransAlta Utilities Corporation ("TransAlta") for the operation and reclamation of the Wabamun Thermal Electric Power Plant, in the Village of Wabamun.

Decision - Upon request by the Environmental Appeal Board ("the Board"), the Alberta Energy and Utilities Board (AEUB) advised that TransAlta currently held AEUB Approval No. HE 8109 with respect to the Wabamun Power Plant. On January 25, 2001, the Board advised the Appellants that it would proceed to an oral preliminary meeting, which took place on March 1, 2001 at the Board's office, to consider the status of the appeals filed by Enmax and determine which of the issues included in the Notices of Appeal would be included in a hearing. The Board also advised that it would consider "issue estoppel", to prevent it from rehearing issues that already heard and decided in the previous appeals regarding the Wabamun Power Plant. As a result of the preliminary meeting, the Board



issued a Decision on March 13, 2001, concluding that all Appellants, with the exception of Enmax are directly affected by the Wabamun Power Plant, and as a result, have standing. The Board was also prepared to revisit, within specific conditions, the issues of public safety, harvesting weeds, and sediment deposition at Point Alison. Lastly, the Board also concluded that it would accept submissions regarding 4.1.2 and 4.3.27 of the Approval, regarding timing and duration only, but including the length (the term) of the Approval.

Cite as: Bailey et al. v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation.

Decision (Preliminary Motions) - On March 20, 2001, the Board advised the parties that it would hold a hearing on April 18 & 19, 2001 at its office in Edmonton and accepted the following preliminary motions: Reconsideration Requests (lake levels) from Messrs. Zon and Doull on March 15, 2001; Adjournment and Interm Cost Request from Mr. Zon on March 19, 2001; Reconsideration Request (AEUB licence and priority number) from Mr. Zon on March 22, 2001, Interm Cost Request from Mr. Carmichael on March 23, 2001; Reconsideration Request (delta T) from Mr. Zon on March 26, 2001; and Interim Costs Request from LWEPA on March 26, 2001. On April 17, 2001, the Board issued a Decision concluding that the reconsideration request of Mr. Zon of March 15, 22, and 26, and Mr. Doull dated March 15, 2001 are dismissed pursuant to section 87(4) that: 1. only the issues that will be considered at the hearing of these appeals are those specified in the Board's March 13, 2001 Decision; and 2. Representation with respect to other matters will not be permitted. The Board also denied all other preliminary motions and provided specific reason within its Decision.

Cite as: Preliminary Motions: Bailey et al. v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation.

Report and Recommendations - On April 18 and 19, 2001, the Board convened a hearing regarding these appeals which Messrs. Bailey and Thomas did not attend. The issues identified at the hearing included ice safety, alternate technologies to control weeds, sediment deposition at Point Alison, definitions of cooling water and decommissioning, watershed management plan, section 4.1.2 and the ten-year term, sections 4.3.27 and 4.1.3 and public consultation. On May 18, 2001, the Board issued its Report and Recommendations with the following recommendations to the Minister: 1. Confirm the definitions of decommissioning and cooling water in the Approval, being sections 1.1.2(m) and 1.1.2(j) respectively; confirm the provision dealing with the watershed management plan in the Approval, being section 4.3.24, subject to the proposed clerical amendment of the Director should the Director choose to make that amendment; confirm section 4.1.2 and the ten-year term of the Approval; vary the Approval by adding provisions (as outlined in this Report and Recommendations) as proposed by TransAlta - sections 4.3.27.1, 4.3.27; and vary the Approval by deleting section 4.1.3 and replacing it with a new provision. Prior to the close of the hearing, the Board received applications for final costs from LWEPA and the Village of Wabamun and requested that submissions in relation to the cost applications be provided to the Board two weeks from the date of the Minister's Order with respect to the Report and Recommendations. The Minister issued a Ministerial Order approving these recommendations on June 20, 2001.

Cite as: Bailey et al. #2 v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation.

0 0 - 0 7 6

Appellant(s) - Mr. Perry, Ms. June and Ms. Marie Ellis, Operator - Village of Standard, Location Village of Standard, Type of Appeal - Discontinuance of Proceedings

On December 29, 2000, the Board received a Notice of Appeal from Mr. Perry and Ms. June and Ms. Marie Ellis with respect to Approval No. 00082525-00-00 issued under the Water Act to the Village of Standard. The Approval authorizes the maintenance of existing works, upgrade of the water collection system, replacement of water supply line, and the ability to conduct spring supply testing and examination in the Village of Standard. After numerous abeyances of this appeal, the Board finally set the matter down for hearing on October 29, 2001. On October 19, 2001, the Board received a letter from the Appellants advising that an agreement had been reached and they would be withdrawing their appeal. As a result, on October 26, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Ellis v. Director, Bow Region, Natural Resources Service, Alberta Environment, re: Village of Standard.



Decisions 2001

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Appellant(s) - James Paron, the Village of Wabamun and the Lake Wabamun Enhancement and Protection Association, Operator - TransAlta Utilities Corporation, Location - Village of Wabamun, Type of Appeal - Costs Decision

The Board held a preliminary meeting, a mediation meeting and settlement conference, and a hearing related to a number of appeals in relation to Approval No. 10323-02-00 issued to TransAlta Utilities Corporation (TransAlta) for the operation and reclamation of the Lake Wabamun Thermal Electric Power Plant, located in the Village of Wabamun, west of Edmonton, Alberta. Ten appeals were received by the Board in response to the Approval being issued to TransAlta. Among these were appeals filed by the Enmax Energy Corporation (Enmax), Mr. James Paron, the Village of Wabamun, and the Lake Wabamun Enhancement and Protection Association (LWEPA). Enmax was concerned that some of the conditions of the Approval would result in cost increases to Enmax as a result of a Power Purchase Agreement it had entered into with TransAlta, and Enmax sought to have these conditions changed. LWEPA filed an appeal opposing the changes requested by Enmax. (Enmax's appeal was subsequently dismissed by the Board following the preliminary meeting.) Mr. Paron's appeal sought to have certain conditions of the Approval strengthened. The Village of Wabamun's appeal sought to delay the implementation of certain provisions of the Approval. Following the hearing of this appeal, Mr. Paron, the Village of Wabamun, and LWEPA filed requests for final costs. LWEPA only requested final costs in relation to its participation at the preliminary meeting. In the Board's Cost Decision of February 8, 2002, the Board approved the request for final costs by LWEPA (in the amount of \$5,079.25) in relation to the preliminary meeting only and these costs are to be paid by Enmax. The Board has denied the request for final costs by Mr. Paron and the Village of Wabamun.

Cite as: Costs Decision: Paron et al.

0 1 - 0 0 6

Appellant(s) - Talisman Energy Inc., Operator - Talisman Energy Inc., Location - near LaGlance, Type of Appeal - Report and Recommendations

On January 15, 2001, the Board received a Notice of Appeal from Talisman Energy Inc. ("Talisman") with respect to the refusal of the Inspector to issue a reclamation certificate to Talisman for a wellsite and access road on SE 8-74-7 W6M. The Inspector indicated the refusal was due to landscape parameters failing to meet reclamation criteria. In response to the Board's letter of January 31, 2001, the landowner, Mr. Oscar Nordhagen advised the Board that he did not wish to participate in Board proceedings, however, would like to be copied on all correspondence for his information. Also, on February 5, 2001, Talisman advised the Board that the current land occupant, Mr. Peter Eggers, would have an interest in the appeal. In consultation with the parties, the Board held a mediation meeting/settlement conference on March 30, 2001, in Grande Prairie, Alberta. Following productive and detailed discussions, the parties agreed to a continued mediation meeting/settlement conference and site inspection conducted by a non-party expert to be scheduled for June 25, 2001. At the on-site meeting, a resolution evolved. As a result, the Board recommended the Minister of Environment reverse the decision of the Inspector and issue a reclamation certificate to Talisman in accordance with the resolution. The Minister approved the recommendation on August 9, 2001.

Cite as: Talisman Energy Inc. v. Inspector, Northwest Boreal Region, Alberta Environment.

0 1 - 0 0 7

Appellant(s) - Mr. Rod and Ms. Bee Van Metre, Operator - County of Vermillion River No. 24, Location - Vermillion, Type of Appeal - Decision

On January 10, 2001, Mr. Rod and Ms. Bee Van Metre filed a Notice of Appeal with respect to Approval No. 00141216-00-00 issued under the Water Act to the County of Vermillion River No. 24, authorizing the exploration of groundwater on SW 34-052-01-W4, subject to conditions. On January 25, 2001, the Board wrote to the Appellants requesting further clarification with respect to their Notices of Appeal as they did not appear to relate to work authorized by the Approval, but instead related to a licence to divert, that had, to the Board's knowledge, not yet been issued. On January 31, 2001, the Board received a letter from the Approval Holder advising that they were not interested in pursuing exploration of water on SW-34-52-01-W4 and therefore would not require Approval No 00141216-00-00. The Board received confirmation from the Director in a letter dated February 21, 2001, that the Approval had been cancelled and wrote to the Appellants on the same day requesting they confirm whether or not they wished to withdraw their appeal. On March 8, 2001, Board staff spoke with one of the Appellants and advised that the Board would not have jurisdiction to proceed with an appeal unless there was a valid Approval. On March 15, 2001 the Appellants faxed the Board advising that they did not wish to withdraw



their appeal. On March 20, 2001, the Board issued a Decision dismissing the appeal on the grounds that it has no jurisdiction to continue as the Approval was cancelled.

Cite as: Van Metre v. Director Regional Support, Parkland Region, Natural Resources Service, Alberta Environment, re: County of Vermillion River No. 24.

0 1 - 0 0 8 , 0 1 - 0 0 9

Appellant(s) - Ms. Lorna C. McDonald and Mr. Wilmer and Ms. Grace Allen, Operator - County of Vermillion River No. 24, Location - Vermillion, Type of Appeal - Discontinuance of Proceedings

On January 10, 2001, the Environmental Appeal Board received Notices of Appeal from Ms. Lorna McDonald dated January 3, 2001, and Mr. Wilmer and Ms. Grace Allen dated January 2, 2001, with respect to Approval No. 00141216-00-00, issued under the Water Act, to the County of Vermillion River No. 24 authorizing the exploration of groundwater on SW 34-052-01-W4, subject to conditions. On January 25, 2001, the Board wrote to the Appellants requesting further clarification with respect to their Notices of Appeal as they did not appear to relate to work authorized by the Approval, but instead related to a licence to divert, that had, to the Board's knowledge, not yet been issued. On January 31, 2001, the Board received a letter from the Approval Holder advising that they were not interested in pursuing exploration of water on SW-34-52-01-W4 and therefore would not require Approval No 00141216-00-00. The Board received confirmation from the Director in a letter dated February 21, 2001, that the Approval had been cancelled. On March 5, 2001, the Board received a letters from the Appellants stating that they wished to withdraw their respective appeals and on March 20, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: McDonald and Allen v. Director, Parkland Region, Natural Resources Service, Alberta Environment, re: County of Vermillion River No. 24.

0 1 - 0 1 0

Appellant(s) - Kedon Waste Services Ltd. and Lethbridge Regional Landfill Ltd., Operator - Kedon Waste Management Ltd. and Lethbridge Regional Landfill Ltd., Location - County of Lethbridge, Type of Appeal - Decision

On January 17, 2001, Kedon Waste Services Ltd. and Lethbridge Regional Landfill Ltd. filed a Notice of Appeal with respect to Administrative Penalty No. 00/03-BOW-AP-00/34 issued to Kedon Waste Services Ltd. and Lethbridge Regional Landfill Ltd.. The Administrative Penalty was in the amount of \$8,500 for contravening section 213(3) and 173 of the Environmental Protection and Enhancement Act. The offences occurred on February 8, 29 and April 1, 2000, at SW-4-10-21-W4M. The Appellants allegedly failed to have moveable windscreens at the landfill, failed to submit information on the 1999 operations of Class II part of the landfill by March 31, 2000, failed to immediately report contravention of Approval 19028-00-04 and disposed waste on the lands of another person without consent. In consultation with the parties, the Board scheduled a hearing for May 2, 2001, in Calgary. Based on the Appellants, the Board agreed to add a second day for the hearing and confirmed the dates as May 2 and 3, 2001. On the second day of the hearing, the parties asked for an adjournment to pursue settlement. The Board granted the adjournment and encouraged the parties to work toward an agreement beginning that afternoon. Several hours later, the parties advised the Board that a settlement had been reached. The Board issued a Decision establishing that Count 2, 3 and 4 were confirmed with penalties of \$1,500.00, \$1,000.00 and \$1,000.00 respectively. Count 5 and 6 were withdrawn and factors are assessed at plus \$500.00, for a total Administrative Penalty of \$4,000.00 including the factor. Lastly, each party shall bear their own costs.

Cite as: Kedon Waste Services Ltd. and Lethbridge Regional Landfill Ltd. v. Director, Bow Region, Natural Resources Service, Alberta Environment.

0 1 - 0 1 1

Appellant(s) - Summer Village of Point Alison, Operator - TransAlta Utilities Corporation, Location - near the Village of Wabamun, Type of Appeal - Discontinuance of Proceedings

On December 28, 2000, and January 2, 3, 4, and 10, 2001, the Environmental Appeal Board (the "Board") received Notices of Appeal from the following parties (collectively the "Appellants"), Ms. Gwen Bailey and the Summer Village of Point Alison; Enmax Energy Corporation ("Enmax"); Mr. Nick Zon; Mr. Blair Carmichael; Ms. Donna Thomas and the Summer Village of Kapasiwin; Mr. James Paron; His Worship Mayor William Purdy on behalf of the Village of Wabamun; Mr. David Doull; the Lake Wabamun Enhancement and Protection Association ("LWEPA"); and His Worship Mayor C. Gordon Wilson, again, on behalf of the Summer Village of Point Alison (Note: In a letter of February 15, 2001, Point Alison confirmed that His Worship Mayor C. Gordon Wilson would be representing the Summer Village of Point Alison.) with respect to the issuance of Approval 10323-02-00 to TransAlta Utilities Corporation ("TransAlta") for the operation and reclamation of the Wabamun Thermal Electric Power Plant, in the Village of Wabamun. Upon



request by the Board, the Alberta Energy and Utilities Board (AEUB) advised that TransAlta currently held AEUB Approval No. HE 8109 with respect to the Wabamun Power Plant. The Board advised the parties that it would hold an oral preliminary meeting which took place on March 1, 2001, at the Board's office. At the preliminary meeting, it was determined that the Summer Village of Point Alison was one of the Appellants directly affected by the Approval and was granted standing. On March 13, 14, and 19, 2001, the Board held mediation meetings/settlement conferences, however, as they were unsuccessful, an appeal hearing was scheduled for April 18 and 19, 2001. On March 19, 2001, the Board received a letter from His Worship Mayor Gordon Wilson advising that the Summer Village of Point Alison wished to withdraw their appeal as they have entered into a partnership agreement with TransAlta to rectify and remediate their concerns. As a result, the Board issued a Discontinuance of Proceedings on March 26, 2001 and closed its files.

Cite as: Summer Village of Point Alison v. Director, Northern East Slopes Region, Environmental Service, Alberta Environment, re: TransAlta Utilities Corporation.

0 1 - 0 1 2 , 0 1 - 0 1 3 , 0 1 - 0 1 4

Appellant(s) - Mr. Donald Graham, Ms. Helen Brock and Mr. Barry Cunningham, and Mr. Douglas Brock, Operator - Mr. Shawn Morton, Location - near Red Deer, Type of Appeal - Decision

Alberta Environment issued Water Act Approval No. 140153-00-00 to Mr. Shawn Morton for the exploration of groundwater near Red Deer, Alberta for agriculture purposes. The Environmental Appeal Board received Notices of Appeal from Mr. Donald Graham, Ms. Helen Brock and Mr. Barry Cunningham, and Mr. Douglas Brock regarding the Approval. Upon notification from these parties of their Application for Leave to the Court of Appeal with respect to municipal approvals issued for this operation, the Board held the appeals and the applications for a Stay in abeyance pending the decision of the Court of Appeal. However, the Board subsequently received notification from Mr. Shawn Morton that the exploration under the Approval had been complete. The Board then set a schedule for submissions from the parties with respect to the question of whether the appeals are moot given the fact that the work under the Approval was complete. The Board, upon review of the submissions, issued a Decision on March 15, 2002 dismissing the Notices of Appeal for being moot, without merit or not properly before the Board. The Board noted that the parties are free to file Notices of Appeal in relation to the water licence, should it be issued in the future.

Cite as: Graham et al. v. Director, Parkland Region, Regional Services, Alberta Environment re: Shawn Morton.

0 1 - 0 1 5 , 0 1 - 0 1 6

Appellant(s) - Mr. Gordon Grant and Ms. Joan Yule, Operator - Village of Standard, Location - near the Village of Standard, Type of Appeal - Decision

On January 29, 2001, Ms. Joan Yule and Mr. Gordon Grant filed Notices of Appeal with respect to Approval No. 00082525-00-00 issued under the Water Act to the Village of Standard to maintain existing works, upgrade the water collection system, replace a water supply line and conduct spring supply testing and examinations in SE 21-25-22-W4M. On January 31, the Board received letters from the Operator objecting to the Notices of Appeal in that the appeals did not meet the prescribed timelines and that the Appellants did not file Statements of Concern with the Director. On February 5, 2001, the Board received a letter from the Director also objecting that the appeals were not filed in accordance with the statutory requirements of the Water Act. On February 20, 2001, the Board responded to the letters and set a schedule for written submissions to determine if the Notices of Appeal were properly before the Board. After reviewing the written submissions, the Board issued its Decision to dismiss the appeals on May 15, 2001, based on the following grounds: there was no evidence that the Village of Standard's advertisements in the Drumheller Mail was uniquely small or hidden, or otherwise improper in that it prevented Statements of Concern to be filed; notice was placed in a manner such that the area coverage was reasonable, "...everyone had a free subscription (rural and urban) to the Drumheller Mail...", and lastly, the Board agrees with the Director that statutory prerequisites have been met by the Village of Standard and that no special circumstances exist to extend statutory deadlines.

Cite as: Grant and Yule v. Director, Bow Region, Natural Resources Service, Alberta Environment, re: Village of Standard.

0 1 - 0 1 0 - 0 3 2

Appellant(s) - Mr. Louis and Ms. Verna Schafer, Mr. David Hausauer, Mr. Roy Hausauer, Ms. Chryle Bascom, Mr. Ken Benson, Mr. Ivan hausauer, Mr. Donald Elhart, Ms. Bernice Bonneau, Ms. Aaron Elhart, Mr. Edward Aberle, Mr. Bill Hogg, Mr. Merlen Brost, Mr. Neil Hoff and Mr. Darcy Geigle (collectively known as the "Clearwater Clean Air Advocates" or "CCAA"), Mr. Brian Franz and Mr. Tracy Elhart, Operator - B & J Schneider Ranching Ltd., Location - County of Cypress, Type of Appeal - As listed below

Intervenor requests: Mr. Stanley Weiss, Mr. Garth Felesky, Mr. Brian Ziegenhagel, Mr. Pat Liboiron, Mr. Merle and Ms. Barb Brost, Mr. Edgar and Ms. Olga Hofer, Mr. Mel and Ms. Ardeth Witke, Mr. Ed and Ms. Judy Stock, Mr. Larry Brown, Mr. Leo Pugsley, Mr.



Rob and Ms. Bonnie Mather, Mr. Ken Berg, Ms. Bonnie Berg, Mr. Ron and Ms. Patty Roth, Mr. Vern Cook

Overview - From January 21 to February 2, 2001, 16 Notices of Appeal were filed by Mr. Louis and Ms. Verna Schafer, Mr. David Hausauer, Mr. Roy Hausauer, Ms. Chryle Bascom, Mr. Ken Benson, Mr. Ivan Hausauer, Mr. Donald Elhart, Ms. Bernice Bonneau, Ms. Aaron Elhart, Mr. Edward Aberle, Mr. Bill Hogg, Mr. Merlen Brost, Mr. Neil Hoff and Mr. Darcy Geigle (collectively known as the "Clearwater Clean Air Advocates" or "CCAA"), Mr. Brian Franz and Mr. Tracy Elhart with respect to Preliminary Certificate No. 00139098-00-00 issued to B & J Schneider Ranching Ltd. The Preliminary Certificate provides that if conditions of the certificate are met, the certificate holder will be issued a licence which authorizes the use of 21,600 cubic meters of water annually from wells in SE 30-012-03-W4 with priority 2000-08-29-002 for a feedlot operation.

Decision - On June 4, 2001, the Board scheduled a hearing in this matter for June 25, 2001 in Medicine Hat and placed a Notice of Hearing in the Medicine Hat News on May 31, 2001. On June 11, 2001, the Board received 18 requests for intervenors (noted above under intervenor requests). Upon reviewing the requests for intervenor status and reviewing the Director's records in this matter, the Board, on June 22, 2001, issued a Decision to grant intervenor status to Mr. Weiss only and dismiss all other requests.

Cite as: Intervenor Requests: Schafer et al. v. Director, Prairie Region, Natural Resources Service, Alberta Environment, re: B and J Schneider Ranching.

Report and Recommendations - On June 25, 2001, the Board held a hearing on this matter and on July 18, 2001 issued a Report and Recommendations recommending appeals submitted by Messrs. Tracy Elhart and Brian Franz be dismissed as they did not submit written submissions to the Board nor attend the hearing. The Board also recommended that the Director's decision to issue the Certificate be confirmed, however amendments to the Certificate and Licence would require the Certificate Holder to monitor Mr. Weiss' wells and other minor amendments to promote clarity. Lastly, in accordance with section 91 of the Environmental Protection and Enhancement Act confirm the decision of the Director to issue the Certificate, subject to amendments outlined in the Report and Recommendations. The Minister approved the recommendations on August 29, 2001.

Cite as: Schafer et al. v. Director, Prairie Region, Natural Resources Service, Alberta Environment, re: B&J Schneider Ranching.

0 1 - 0 3 3

Appellant(s) - Ms. Hilda Hanson on behalf of the River Breakup Task Force, Operator - TBG Contracting Ltd., Location - near Fort McMurray, Type of Appeal - Discontinuance of Proceedings

On February 9, 2001, Ms. Hilda Hanson on behalf of the River Breakup Task Force in Fort McMurray filed a Notice of Appeal dated February 5, 2001, with respect to Approval No. 00144709-00-00 issued under the Water Act to TBG Contracting Ltd. The Approval pertained to the construction of an ice bridge on the Athabasca River in NW 28 and NE 29-089-09-W4. On March 6, 2001, the Board wrote to the Appellant requesting further clarification with respect to the appeal, and on March 27, 2001, the Director expressed that he would be willing to participate in a "mediative" process. On April 11, 2001, the Appellant e-mailed the Board listing a number of question with respect to the mediation process and the Board responded to her concerns. On April 19, 2001, the Appellant e-mailed the Board again indicating that "...I have come to the decision not to proceed with the appeal/mediation process because I lack the expertise necessary". On April 30, 2001, Board staff spoke with the Appellant to clarify her intentions regarding the appeal and on May 1, 2001, the Board received another e-mail from the Appellant advising that she was withdrawing her appeal and that she did not wish to pursue the mediation process this year. As a result, on May 3, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Hanson v. Director, Northeast Boreal Region, Natural Resources Service, Alberta Environment, re: TBG Contracting Ltd.

0 1 - 0 3 4

Appellant(s) - Mr. Douglas B. Leschert, Operator - Hutterian Brethren Church of Erskine, Location - Erskine, Type of Appeal - Decision

On February 20, 2001, Mr. Douglas B. Leschert filed a Notice of Appeal with respect to Licence No. 00143247-00-00/Water Act issued to the Hutterian Brethren Church of Erskine for the diversion of 2,150 cubic metres of water annually from the well in SW 01-039-21-W4 for the purpose of agricultural (stock water) subject to certain conditions. In response to an April 5, 2001, letter from the Director requesting an abeyance pending a meeting between the Operator and the Appellant for April 10, 2001, the Board granted the request and requested a status report by April 12, 2001, which was later changed to April 20, 2001. Between April 23 and May 16, 2001, the Board and the parties discussed concerns from the meeting and ways to proceed. On May 16, 2001, the Board was informed that an informal meeting between the Director and the Appellant would take place on May 31, 2001, and the Board requested a status report by June 1, 2001. After reviewing correspondence with respect to the meeting, and in consultation with the parties, the Board, on June 14, 2001, advised the parties that it would be proceeding to a preliminary meeting via written submissions on the issue of whether the



Notice of Appeal was properly before the Board given Mr. Leschert's concern with the Licence is that he wants to be compensated for any financial loss due to the actions of the Licencee. To date, the Board has not received the Initial Submission from the Appellant. Courier records indicate that the Board's letter of June 14, 2001 was delivered to Mr. Leschert and signed for on June 20, 2001. On June 28, 2001, the Board issued a Decision dismissing the Notice of Appeal for failure to respond to its written request.

Cite as: Leschert v. Director, Parkland Region, Natural Resources Service, Alberta Environment re: Hutterian Brethren Church of Erskine.

0 1 - 0 3 6

Appellant(s) - Metis Nation of Alberta Zone II Regional Council, Mr. Henry Desjarlais, Mr. Gabe Cardinal, Mr. Gus Cardinal and Mr. Sam Dumais, Operator - AEC Pipelines Ltd., Location - near Cold Lake, Type of Appeal - Discontinuance of Proceedings

Alberta Environment issued Amending Approval No. 136570-00-01 to AEC Pipelines Ltd. for the construction and reclamation of the Foster Creek pipeline. On February 16, 2001, the Board received a Notice of Appeal from the Metis Nation of Alberta Zone II Regional Council and a number of its members appealing the Amending Approval. Before proceeding to a hearing of the appeal the Board first had to deal with the directly affected status of the Metis Nation of Alberta Zone II Regional Council and also their participation in a process before the Alberta Energy and Utilities Board. The Board set a submission process to deal with the issue of the participation of the Metis Nation of Alberta Zone II Regional Council in the Alberta Energy and Utilities Board process, however, before the submission process was complete, the appeal was withdrawn. Consequently, the Board issued a Discontinuance of Proceedings on December 27, 2001 and closed its file.

Cite as: Metis Nation of Alberta Zone II Regional Council et al. v. Director, Bow Region, Environmental Service, Alberta Environment re: AEC Pipelines Ltd.

0 1 - 0 3 6

Appellant(s) - DVP Purchase Corp., Operator - DVP Purchase Corp., Location - Westlock, Type of Appeal - Discontinuance of Proceedings

On March 12, 2001, the Environmental Appeal Board ("the Board") received a Notice of Appeal from DVP Purchase Corp. with respect to the issuance of Administrative Penalty No. 01/01-NES-AP-01/01 ("the Penalty" issued to DVP Purchase Corp. The Penalty was in the amount of \$29,500.00 pertaining to a list of offences occurring between May 10, 1999 to May 1, 2000. The Notice of Appeal objected to the "[l]iability and Quantum respecting every item referred to in the Details of the Notice of Administrative Penalty". On April 2, 2001, the Board received a letter from the Appellant advising they would be willing to meet with the Director to expedite issues surrounding the appeal or resolve the appeal through the use of mediation prior to a hearing taking place. On April 10, 2001, the Director advised the Board that a formal mediation would not be helpful in resolving the issues of this appeal. On April 27, 2001, the Board received a letter from the Appellant advising that the Penalty had been paid and that the appeal would be withdrawn. As a result, on April 30, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: DVP Purchase Corp. v. Director, Northern East Slopes Region, Alberta Environment.

0 1 - 0 3 7

Appellant(s) - Mr. Harry Proft, Operator - Her Majesty the Queen in Right of Alberta, Location - near Barrhead, Type of Appeal - Decision

On November 16, 2000, Approval No. 00140706-00-00 was issued under the Water Act by Alberta Environment to Her Majesty the Queen in Right of Alberta to authorize the construction of a coffer dam and replacement of the spillway of the Tiger Lily Lake Outlet Structure. The Approval incorrectly referred to land location NE 31-59-5-W5M, however, the plan attached to the Approval showed the correct, adjoining land location as SE 31-59-5-W5M. On February 7, 2001, the Director issued Amending Approval 00140706-00-01 under the Water Act which corrected the legal land description in the Approval. On March 28, 2001, the Board received a Notice of Appeal from the Office of the Farmer's Advocate of Alberta, on behalf of Mr. Harry Proft. The appeal referred to the Appellant's land, NE 31-59-5-W5M and with respect to changes to the lease regarding the original project, failure to give notice or obtain input from the landowner, failure to provide proper notice that would have permitted an appeal, and requested compensation for the loss of time and use of property associated with the project. Since the appeal was filed outside the prescribed time limits, and considering the appeal's merits, the Board analysed the areas of timeliness, mootness and appeal of the Amending Approval. The Board concluded that it is not satisfied that sufficient grounds exist to extend the prescribed time limit for filing a Notice of Appeal under the Water Act, and on October 1, 2001, issued a Decision to dismiss the Appeal pursuant to section 87(5)(a) of the Environmental Protection and Enhancement Act, either because it is not properly before the Board, it is moot, or it is without merit.



Cite as: Proft v. Director, Licensing and Permitting Standards Branch, Environmental Assurance, Environmental Operations Division, Alberta Environment, re: Her Majesty the Queen in Right of Alberta.

0 1 - 0 3 8

Appellant(s) - Mr. Ove Minsos, Q.C., Operator - Summer Village of Grandview, Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings

On March 30, 2001, the Board received a Notice of Appeal from Mr. Ove Minsos, Q.C., with respect to Approval No. 00145483-00-00 issued under the Water Act to the Summer Village of Grandview to carry out shoreline protection works at Pigeon Lake adjacent to Lots P, 1, 2 and 3, Block 6, Plan No. 5045KS, and Lot P, Block 4, Plan 4173KS, all in SE 27-46-01-W5. On May 31 and July 5, 2001, the Board received requests to place the appeal in abeyance pending discussions and information-sharing between the parties. On September 6, 2001, the Appellant advised he wished to proceed with the appeal and requested costs. In consultation with the parties, the Board held a mediation meeting/settlement conference on October 31, 2001 in Edmonton. Following detailed discussions, the parties agreed to continue discussions and would provide the Board with a status report by November 16, 2001. On November 13, 2001, the Appellant wrote to the Board withdrawing the appeal. As a result, the Board issued a Discontinuance of Proceedings on November 23, 2001, and closed its file.

Cite as: Minsos v. Director, Parkland Region, Regional Services, Alberta Environment re: Summer Village of Grandview.

0 1 - 0 3 9

Appellant(s) - Mr. Lawson Patten, Operator - Petro-Canada and Enerplus Resources Corporation, Location - County of Wetaskiwin, Type of Appeal - Decision

On April 19, 2001, Mr. Lawson Patten filed a Notice of Appeal with respect to Enforcement Order No. 2001-WA-02 issued under the Water Act to Petro-Canada and Enerplus Resources Corporation to restore natural drainage flows on the Patten and Szkaluba properties. On April 24, 2001, the Board wrote to the Appellant advising that only the person to whom the enforcement order is directed may file an appeal and also noted that an appeal of an enforcement order must be filed no later than 7 days after receipt of a copy of the enforcement order. Although the Appellant is the registered landowner, it is only the recipient of the enforcement order who has the right of appeal. As a result, the Board determined the appeal to be not properly before the Board and expressed that whether or not there should be appeals from landowners whose property is affected by the enforcement orders is a matter for legislators to address. The Appellant expressed many concerns regarding natural drainage on his property. The Board issued a Decision on May 10, 2001, concluding that although it did not have jurisdiction to address the quality or type of work contemplated under the Enforcement Order 2001-WA-02, it expects that, as a courtesy, the Director will work with the Appellant to address these concerns.

Cite as: Patten v. Director, Red Deer Management Area, Parkland Region, Alberta Environment, re: Petro-Canada and Enerplus Resources Corporation.

0 1 - 0 4 2

Appellant(s) - Mr. Stanley Weiss, Operator - B & J Schneider Ranching, Location - Medicine Hat, Type of Appeal - Decision

On April 24, 2001, Mr. Stanley Weiss filed a Notice of Appeal with respect to Preliminary Certificate No. 00139098-00-00 issued under the Water Act to B & J Schneider which authorizes the use of 21,600 cubic meters of water annually from wells in SE 30-012-03-W4 with priority 2000-08-29-002. The Appellant asked to be added to the appeal which had already been filed by sixteen separate Appellants (collectively known as the "Clearwater Clean Air Advocates" or "CCAA") on February 2, 2001. On April 30, 2001, the Board wrote to the Appellant for clarification and also noted that the Appellant did not appear to file a Statement of Concern, a requirement under section 115(1)(b) under the Water Act, with the Director. On May 14, 2001, after receiving additional information from the Appellant, the Board issued a Decision dismissing the appeal and concluded that the circumstances indicated by the Appellant for not filing a Statement of Concern are not special or compelling nor do they indicate an intent to file at any time in the past.

Cite as: Weiss v. Director, Prairie Region, Alberta Environment, re: B and J Schneider Ranching.

0 1 - 0 4 3

Appellant(s) - Mr. Horst Glombick, Operator - Village of Ryley, Location - Village of Ryley, Type of Appeal - Discontinuance of Proceedings

The Board received Notices of Appeal from Ms. Sheila Mizera on behalf of herself and Ms. Gertie and Mr. Rudy Mizera on April 20,



2001, from Mr. Terry and Ms. Fay Mizera on April 24, 2001, and from Mr. Horst Glombick on April 27, 2001. The Board also received Stay applications from Ms. Sheila Mizera and Mr. Horst Glombick. In agreement with the parties, the Board held a mediation meeting on May 7, 2001, in Edmonton at which the parties reached an interim agreement, and agreed that the appeals would be held in abeyance for further discussion. Once the abeyance period expired, the parties reached a second interim agreement, agreeing to continue further discussions with a view towards a resolution of the appeals. A letter of withdrawal was received from Mr. Horst Glombick. The Board therefore issued a Discontinuance of Proceedings regarding Mr. Glombick's appeal only and closed its files.

Cite as: *Glombick v. Director, Central Region, Regional Services, Alberta Environment*, re: Village of Ryley (29 May 2003), Appeal No. 01-043-DOP (A.E.A.B.).

0 1 - 0 4 4

Appellant(s) - Messrs. Brian and Nick Hunka, Operator - Highland Feeders Ltd., Location - Vegreville, Type of Appeal - Report and Recommendations

On April 30, 2001, the Board received a Notice of Appeal from Messrs. Brian and Nick Hunka with respect to Licences 00139015-00-00 (WTH 2-98) and 00139016-00-00 (WTH 4-98), issued under the Water Act to Highland Feeders Ltd., which authorize the annual diversion of 73,000 cubic metres of water from the well in SW 26-054-14-W4 and 76,650 cubic metres of water from the well in SE 24-054-14-W4 respectively, for the purpose of agriculture (a feedlot) subject to certain terms and conditions. In response to a request from the Licence Holder to hold a meeting between the parties to mediate a resolution, the Board requested that dates be provided for a potential mediation meeting/settlement conference. The Appellants advised they would be amenable to mediation, however, later advised they would like to pursue mediation with the exception of the Licence Holder. The Board advised the parties that mediation must involve open dialogue between all parties and as a result, advised that a hearing would take place instead. In consultation with the parties, the Board scheduled a hearing for August 28, 2001. On July 26, 2001, the Board acknowledged two emails from the Director to the Appellants with respect to pursuing discussions. On July 26, 2001, the Board responded to a letter from Mr. Shawn Munro, advising that he had been retained to act on behalf of the Appellants and that the Appellants were willing to fully participate in a mediation meeting with all of the parties. In consultation with the parties, the Board scheduled a mediation meeting/settlement conference for August 13, 2001, however, later rescheduled it to August 21, 2001 at the Board's office in Edmonton. At the mediation meeting, a resolution was reached by the parties and the Board issued a Report and Recommendation on August 31, 2001, recommending that the Minister of Environment vary the Licences in accordance with the resolution. On September 6, 2001, the Minister approved the recommendations.

Cite as: *Hunka v. Director, Water Management Division, Natural Resources Service, Alberta Environment*, re: Highland Feeders Ltd.

0 1 - 0 4 5 , 0 1 - 0 4 6 , 0 1 - 0 4 7

Appellant(s) - Mr. James Paron, Mr. David Doull and Mr. Dan Sorochoan, Operator - Parkland County, Location - near the Village of Wabamun, Type of Appeal - Decision

On May 4 and 7, 2001, the Board received Notices of Appeal from Mr. James Paron, and from Mr. David Doull on behalf of himself and on the same day on behalf of Mr. Dan Sorochoan with respect to Approval No. 00137322-00-00 issued under the Water Act to Parkland County authorizing weed control and the reestablishment of Ascot Beach at SW 09-053-04-W5M on Lake Wabamun. The Appellants object to various decisions made by Parkland County that the Approval should not have been granted as individual property owners have been turned down for similar approvals in the past and that the authorized work under the Approval will increase the number of people using the area. The Notices of Appeal also advised that Mr. Doull would be representing all of the Appellants in this matter. In response to the Board's letter of May 7, 2001, requesting the parties provide comments on whether the Appellants are directly affected, the Board reviewed the information presented by the Director and Approval Holder. After considering all submissions, the Board concluded that the Appellants did not present any evidence beyond a bare statement that they live in proximity to the proposed work - which speaks to the environmental impacts of the work authorized under the Approval. The Appellants have failed to present facts which demonstrate they are directly effected. As a result, the Appellants have failed to discharge the onus that is on them to demonstrate that they are directly affected. On August 1, 2001, the Board issued a Decision to dismiss the appeal on the grounds that the Appellants are not directly affected pursuant to section 115 of the Water Act.

Cite as: *Paron et al. v. Director, Environmental Service, Northern East Slopes Region, Alberta Environment*, re: Parkland County.

0 1 - 0 4 8

Appellant(s) - Ms. Zena Moisy, Operator - Ms. Zena Moisy, Location - near Lac La Biche, Type of Appeal - Discontinuance of Proceedings

On May 17, 2001, Ms. Zena Moisy filed a Notice of Appeal with respect to Enforcement Order No. 2001-WA-05/Water Act, issued to



Ms. Moisy for the placement of rocks and material on the shore and reserve of Lac La Biche, without an approval. On May 24, 2001, the Board received a letter from the Director advising that he would be meeting with the Appellant on May 25, 2001, to discuss her concerns in more detail. On May 30, 2001, the Board received a letter from the Appellant advising that as a result of the meeting, she wished to "call off" the appeal. As a result, the Board issued a Discontinuance of Proceedings on May 31, 2001, and closed its file.

Cite as: *Moisey v. Director, Enforcement and Monitoring, Northeast Boreal Region, Alberta Environment.*

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 to 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 - 050 , 01 - 052 , 01 - 054 , 01 - 055

Appellant(s) - Mr. Tom and Mrs. Mae Adamyk, Mr. Lawrence and Mrs. Evelyn Kucy, Mr. Ted Jakubowski and Mr. Jason Lewyk, Operator - Cam-A-Lot Holdings, Location - near St. Michael, Type of Appeal - As listed below

Overview - The Board received Notices of Appeal and a request for a Stay on May 23, 2001, from Mr. Tom and Mrs. Mae Adamyk on May 28, 2001, from Mr. Lawrence and Mrs. Evelyn Kucy, and from Mr. Ted Jakubowski and Mr. Jason Lewyk, President of the St. Michael Trade and Water Supply Ltd. on May 30, 2001 with respect to Approval No. 00147901-00-00 issued to Cam-A-Lot Holdings to explore for groundwater at SW 17-056-18-W4.

Stay Decision - In their Notice of Appeal, the Kucys and Mr. Lewyk stated they wanted the exploration stopped. The Board also received a letter from the Adamyks requesting a Stay. In response to letters from the Board on June 5, and 6, 2001, Mr. Lewyk, on behalf of the Adamyks, Mr. Kucy and himself confirmed they were seeking a Stay of the Director's decision to issue the Approval until the appeal is heard. After reviewing the submissions provided by the Appellants, the Board issued a Decision on July 9, 2001, advising that the Appellants have not satisfied the Board that a Stay should be granted and noted that this is not a decision on the merits of the appeal.

Cite as: *Adamyk et al. v. Director, Environmental Service, Parkland Region, Alberta Environment, Stay decision, re: Cam-A-Lot Holdings.*

Decision - On June 15, 2001, the Board dismissed Mr. Jakubowski's request for a Stay for failing to comply with a written notice pursuant to section 87(5)(a)(ii) of the Environmental Protection and Enhancement Act. For reasons stated in the Board's Decision dated July 9, 2001, the requests for a Stay filed by Mr. Tom and Mrs. Mae Adamyk and Mr. Lawrence and Mrs. Evelyn Kucy were denied. In response to a letter from the Board, the Director advised that the exploration for groundwater has been completed, however had not been submitted to the Director. The Director also advised the Approval Holder failed to comply with the Approval and would be issued an Enforcement Order requiring it to cease diverting water from the exploration well. On September 18, 2001, the Board received a letter from the Director advising the Approval Holder withdrew its application for a licence to divert water. In response to the Director's



letter, the Board advised it wished to dismiss the appeals based on section 87(5)(a) and offered the parties an opportunity to object. Since no objections were received by the Board, on October 1, 2001, the Board issued a Decision to dismiss the appeals as they are either moot, not properly before the Board or without merit.

Cite as: *Adamyk et al. v. Director, Environmental Service, Parkland Region, Alberta Environment, re: Cam-A-Lot Holdings.*

0 1 - 0 5 1 , 0 1 - 0 5 3 , 0 1 - 0 5 6

Appellant(s) - Vant Erve Dairy Ltd., Mr. Ashley and Ms. Dorothy Heggelund, and Mr. Robert Hill, Operator - D. Ray Construction Ltd., Location - near Beaverlodge, Type of Appeal - Discontinuance of Proceedings

Alberta Environment issued Approval No. 00150120-00-00 under the Water Act to D. Ray Construction Ltd., which authorized the draining of groundwater from a gravel pit near Beaverlodge, Alberta. The Environmental Appeal Board received three appeals opposing the Approval. The Board conducted a number of mediation meetings and settlement conferences in an effort to assist the parties in resolving their appeals. At the mediation meetings and settlement conferences the parties agreed to continue discussions to resolve the appeals. After seven extensions had been granted at the request of the parties to continue settlement discussions, it appeared to the Board that the parties were still unable to reach a resolution. Therefore, the Board scheduled a hearing for March 13, 2002, in Grande Prairie, Alberta, to hear the appeals. On March 6, 2002, the Appellants withdrew their appeals and the Board issued a Discontinuance of Proceedings on March 20, 2002.

Cite as: *Vant Erve Dairy Ltd. et al. v. Director, Northwest Boreal Region, Regional Services, Alberta Environment re: D. Ray Construction Ltd.*

0 1 - 0 5 5

Appellant(s) - Mr. Jason Lewyk, President of St. Michael Trade and Water Supply Ltd., Operator - Cam-A-Lot Holdings, Location - near St. Michael, Type of Appeal - Decision

Decision - Upon reviewing the Records submitted by the Department, it appeared to the Board that the Appellant had not filed a Statement of Concern with the Director prior to filing his Notice of Appeal. The Appellant explained that the Statement of Concern filed was received after the Approval to explore for groundwater had been issued, and as a result, had been accepted as a Statement of Concern with respect to the application for the Licence to divert (a decision with respect to the Licence to divert had not yet been made). After reviewing the written submission of the Appellant, the Board issued a Decision on July 17, 2001 advising that since the Appellant did not file the Statement of Concern in relation to the application for the Approval to explore for groundwater, the Notice of Appeal was not properly before the Board and pursuant to section 87(5)(a)(i.2) of the Environmental Protection and Enhancement Act, the Board dismissed the appeal.

Cite as: *St. Michael Trade and Water Supply Ltd. v. Director, Environmental Service, Parkland Region, Alberta Environment, re: Cam-A-Lot Holdings.*

0 1 - 0 5 7

Appellant(s) - Mr. William Yakimishyn, Operator - Mr. William and Mr. Kelly Yakimishyn, Location - Lamont, Type of Appeal - Report and Recommendations

On June 18, 2001, the Board received a Notice of Appeal and request for a Stay from Mr. William Yakimishyn with respect to Enforcement Order No. 2001-WA-06 issued to Messrs. William and Kelly Yakimishyn for the placement of earthen berms near intermittent watercourses on their land at NW 4-56-17 W4M in the county of Lamont, Alberta. After reviewing information brought forth by the parties, the Board concluded it did not have sufficient evidence before it from the Appellant to grant a Stay. The Board advised that the evidence provided did not demonstrate that the Appellant would suffer greater harm if the Stay was refused than others would if the Stay was granted. On June 18, 2001, the Board advised the parties that a hearing on the merits of the appeal would take place on June 22, 2001, however, was cancelled and rescheduled to take place on August 16, 2001 at the Board's office in Edmonton. On August 9, 2001, the Board received a request for intervenor status from Mr. Alex Stelmach. After receiving no objections from the parties and determining that Mr. Alex Stelmach would materially assist the Board with respect to the appeal and that he has a tangible interest in the subject matter of the appeal, the Board granted Mr. Stelmach full intervenor status giving him the same rights as a party. At the August 16, 2001, hearing, and after reviewing the evidence brought forth by the parties, the Board concluded that it had jurisdiction to review this case and that the Appellant had conducted an activity in contravention of section 36(1) of the Water Act. The Board therefore, found the Order valid and issued a Report and Recommendations on September 14, 2001, recommending the Minister of Environment confirm the Order and dismiss the appeal. On September 27, 2001, the Minister approved the recommendations.



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

0 1 - 0 5 8

Appellant(s) - Summer Village of Gull Lake, Operator - Summer Village of Gull Lake, Location - Gull Lake, Type of Appeal - Discontinuance of Proceedings

On June 19, 2001, the Board received a Notice of Appeal from Mr. Alexander D. Lytle of Lytle Fisher on behalf of the Summer Village of Gull Lake with respect to the decision of the Director to refuse the Summer Village of Gull Lake's application to amend Approval No. 00138869-00-00. The Approval was issued under the Water Act for the construction of community beach areas in Gull Lake located on NW 22, NE 22, SW 26 and SE 27-040-28 and the appeal is with respect to the removal of weeds which would have a negative effect on the fisheries habitat in Gull Lake. In consultation with the parties, the Board held the appeal in abeyance pending discussions between the parties and potential resolution of the appeal. On August 15, 2001, the Appellant advised the Board that a resolution had been reached and that he would be withdrawing his appeal. As a result, on August 21, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Summer Village of Gull Lake v. Director, Water Management, Parkland Region, Regional Services, Alberta Environment.

0 1 - 0 5 9

Appellant(s) - Ronald Pernarowski, Operator - Imperial Oil Resources, Location - Cold Lake, Type of Appeal - Discontinuance of Proceedings

Alberta Environment issued Water Act Approval No. 00148301-00-00 to Imperial Oil Resources authorizing the diversion of water for the purpose of industrial injection from wells near Cold Lake, Alberta. The Board received notices of appeal from Mr. Ronald Pernarowski, and from Ms. Sally Ann Ulfsten of Stop and Tell Our Politicians Society (STOP). In consultation with the parties, the Board held a mediation meeting/settlement conference in Cold Lake, Alberta on August 14, 2001. An Interim Agreement was reached at the mediation and the parties agreed to an abeyance of these appeals in order for the parties to work towards a resolution of the issues. Conference calls were subsequently held between the parties and the Mediator to assist the parties in determining the outstanding issues, with a view to resolving the appeals. During the conference calls it became apparent that although Mr. Pernarowski was close to an agreement with Imperial Oil, while, Ms. Ulfsten had a number of outstanding issues, and wished to proceed to a hearing. Therefore, Ms. Ulfsten's appeal is now proceeding independently from Mr. Pernarowski's appeal. As a result of a further mediation via teleconference, the appeal of Mr. Pernarowski was resolved and the appeal withdrawn. The Board issued a Discontinuance of Proceedings on February 28, 2002.

Cite as: Pernarowski v. Regional Director, Northern Region, Regional Services, Alberta Environment, re: Imperial Oil Resources.

0 1 - 0 6 0

Appellant(s) - Deneschuk Homes Ltd., Operator - Town of Sylvan Lake, Location - Sylvan Lake, Type of Appeal - Decision

On May 15, 2001, Amending Approval No. 1206-01-06 was issued to the Town of Sylvan Lake for the operation of a wastewater treatment plant (Class I), a wastewater collection system (Class II), and a storm drainage system. On June 21, 2001, the Board received a Notice of Appeal from Deneschuk Homes Ltd. stating that the Notice of Application misstated the type of facility for which the Amending Approval was sought. The Appellant indicated that it had not filed a Statement of Concern as it misunderstood the Notice of Application as published in the Sylvan Lake News by the Approval Holder. Given that the Appellant did not file a Statement of Concern, the Board needed to decide if the Notice of Appeal was properly before it. After considering all information brought forth, the Board advised the parties that it believed the Appellant intended to file a Statement of Concern, however, it did not take all reasonable steps to express this intent. On September 6, 2001, the Board issued a Decision to dismiss the appeal on the basis that the Appellant did not formally submit a Statement of Concern and that there is no justifiable reason for the Board to exercise its discretion to exempt the Appellant from this requirement.

Cite as: Deneschuk Homes Ltd. v. Director, Approvals, Parkland Region, Regional Services, Alberta Environment, re: Town of Sylvan Lake.

0 1 - 0 6 1

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 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.

0 1 - 0 6 2

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 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 atten-



dance 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 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 reasonably 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 reasonably 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.

0 1 - 0 6 3

Appellant(s) - Mr. Clinton J. Marr and Spearpoint Cattle Company Ltd., Operator - Spearpoint Cattle Company Ltd., Location - Pincher Creek, Type of Appeal - Decision

On July 10, 2001, the Board received a Notice of Appeal from Mr. Clinton J. Marr and Spearpoint Cattle Company Ltd. with respect to Water Management Order No. 2001-WA-DAM029-PR issued under the Water Act to Spearpoint Cattle Company Ltd. ("Spearpoint"). The Order states that Spearpoint must cease diversion of water from Dungarvan Creek at NW 16-003-29-W4 as the senior priority holder has made a claim because Dungarvan Creek is not able to sustain diversion from both the senior and junior priority user. The appeal advises that the Appellants did not own the land in question nor were they given a licence for diversion by the Director. In consultation with the parties, the appeal was held in abeyance pending discussions between the parties and the potential for resolution. On July 30, 2001, the Director advised the Board that he was satisfied that the Appellants are not the subject of the Order. As a result, the Board requested the Appellants confirm their satisfaction with the meeting and withdraw their appeal. After



not responding to the Board's letter and follow-up message left by Board staff on August 13, 2001, the Board issued a Decision on August 21, 2001 dismissing the Notice of Appeal for failure to respond to the Board's written request.

Cite as: Marr and Spearpoint Cattle Company Ltd. v. Director, Water Management, Prairie Region, Regional Services, Alberta Environment.

0 1 - 0 6 4

Appellant(s) - Golden Nodding Acres Owners Association, Operator - Golden Nodding Acres Owners Association, Location - near Buck Lake, Type of Appeal - Discontinuance of Proceedings

On July 12, 2001, the Board received a Notice of Appeal from the Golden Nodding Acres Owners Association with respect to Approval No. 00151305-00-00 issued under the Water Act to the Golden Nodding Acres Owners Association for weed removal at NE 20-065-17-W4 of North Buck Lake. In consultation with the parties, the Board scheduled a mediation meeting/settlement conference to be held on August 29, 2001 in Athabasca. The Board later received an e-mail from the Appellant advising that the parties were able to resolve their concerns, and as a result, pursuant to section 87(7) of the Environmental Protection and Enhancement Act, the Board issued a Discontinuance of Proceedings on August 30, 2001 and closed its file.

Cite as: Golden Nodding Acres Owners Association v. Director, Regional Support, Northeast Boreal Region, Alberta Environment.

0 1 - 0 6 5

Appellant(s) - Town of Lac La Biche, Operator - Town of Lac La Biche, Location - Lac La Biche, Type of Appeal - Report and Recommendations

On July 13, 2001, the Board received a Notice of Appeal from the Town of Lac La Biche with respect to Table 5-1(2a) and Table 6-1 of Approval No. 911-02-00 issued under the Water Act to the Town of Lac La Biche for the construction, operation and reclamation of a waterworks system for the town. In consultation with the parties, the Board held a mediation meeting/settlement conference in the Town of Lac La Biche on September 18, 2001. At the mediation meeting a resolution was reached and as a result, the Board issued a Report and Recommendations on September 28, 2001, recommending the conditions of the Resolution entered into between the parties be approved. The Minister approved the recommendations on October 1, 2001.

Cite as: Town of Lac La Biche v. Director, Approvals, Northeast Boreal Region, Regional Services, Alberta Environment.

0 1 - 0 6 6

Appellant(s) - Joffre Oils Ltd., Operator - Joffre Oils Ltd., Location - near Okotoks, Type of Appeal - Discontinuance of Proceedings

On July 18, 2001, the Board received a Notice of Appeal from the Alberta Orphan Program on behalf of Joffre Oils Ltd. with respect to the June 6, 2001, decision of the Inspector to refuse to issue a reclamation certificate for the Joffre et al Hartell 11-26-19-1 well. On August 22, 2001, the Board received a request for a 60-day abeyance pending discussions between the parties. On October 12, 2001, the Board received a letter from the Appellant advising that the Director now understood the concerns raised and would make every effort to hold an inquiry after the Appellant's application was received, and the Notice of Appeal would be withdrawn. As a result, on October 25, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Joffre Oils Ltd. v. Inspector, Bow Region, Regional Service, Alberta Environment.

0 1 - 0 6 7

Appellant(s) - Mr. Ronald Sackett, Operator - PanCanadian Petroleum Ltd., Location - near Crossfield, Type of Appeal - Discontinuance of Proceedings

On July 30, 2001, Mr. Ronald Sackett filed a Notice of Appeal with respect to Reclamation Certificate No. 39307 issued to PanCanadian Petroleum Ltd. for its well site at SW 33-28-28-W4. The Appellant is the landowner for which the Certificate was issued. On August 10, 2001, the Board received notice from the Certificate Holder that an agreement had been reached by the parties and on August 22, 2001, the Appellant advised the Board that the matter had been settled and he wished to cancel his appeal. As a result, the Board issued a Discontinuance of Proceedings on August 27, 2001 and closed its file.

Cite as: Sackett v. the Inspector, Bow Region, Regional Services, Alberta Environment, re: PanCanadian Petroleum Limited.



s u m m a r i e s c o n t i n u e d . . .

0 1 - 0 6 8 , 0 1 - 0 6 9 , 0 1 - 0 7 0

Appellant(s) - Mr. Kenneth A. Matier, Mr. Billie and Mrs. Shirley Borys, and Mr. Nick Supina, Operator - Meadowview Sod Farms Ltd., Location - near Fort Saskatchewan, Type of Appeal - Decision

On July 31, 2001, the Board received Notices of Appeal and requests for Stays from Mr. Kenneth Matier, Mr. Billie and Mrs. Shirley Borys, and Mr. Nick Supina with respect to Approval No. 00151115-00-00 issued under the Water Act to Meadowview Sod Farms Ltd. for the exploration of groundwater at SE 04-054-22-W4. Subsequently, Amending Approval No. 00151115-00-01 was issued to correct the location of the exploration to SE 09-054-22-W4. The exploration was in support of two Water Act licence applications for the Fox Run Golf course and for diverting water from a gravel pit to irrigate a sod farm. In consultation with the parties, the Board granted the Appellants' request to extend responses to the Board regarding their Stay requests. On August 30, 2001, the Director notified the Board that the Approval Holder requested the Approval be cancelled. In light of the cancellation, the Board advised the parties on August 31, 2001, that it would be dismissing the appeals. On September 4, 2001, Mr. Mathier advised the Board that he would be withdrawing his appeal. On September 12, 2001, the Board confirmed receipt of Mr. Mathier's letter and advised that it would be proceeding with issuing a Decision dismissing all of the appeal and on September 25, 2001, the Board issued its Decision as the appeals are now moot, not properly before the Board, or without merit.

Cite as: Matier et al. v. Director, Approvals, Northeast Boreal Region, Regional Services, Alberta Environment, re: Meadowview Sod Farms Ltd.

0 1 - 0 7 1

Appellant(s) - Mr. Douglas R. Stanger, Operator - Renaissance Energy Ltd., Location - near Drumheller, Type of Appeal - Decision

On August 7, 2001, the Board received a Notice of Appeal from Mr. Douglas R. Stanger with respect to Reclamation Certificate 39458 issued to Renaissance Energy Ltd. for Renaissance Drumheller 16-16-30-19 Well, located at NE 16-30-19 W4M. The Appellant appealed the Certificate stating that the land has not been restored to his satisfaction. On August 27, 28 and September 7, 2001, the Board received a telephone call from the Certificate Holder, a letter from the Director and a telephone call from the Appellant, respectively advising that a settlement had been reached. In his telephone call, the Appellant advised he would forward a letter with respect to withdrawing his appeal. To date, no letter has been received from the Appellant. On September 17, 2001, the Board issued a Decision dismissing the appeal as the Appellant failed to respond to the Board's written request on August 31, 2001, to confirm that a resolution had been reached and that the Appellant would be withdrawing his appeal.

Cite as: Stanger v. Inspector, Environmental Service, Alberta Environment, re: Renaissance Energy Ltd.

0 1 - 0 7 2

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 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 Pipeline Ltd.

0 1 - 0 7 3

Appellant(s) - Messrs. John, Steven and Ms. Julie and Leanne Jenkins, Operator - AES Calgary, Location - west of Chestermere, Type of Appeal - Decision



On August 9, 2001, the Board received a letter from Messrs. John and Steven and Meses. Julie and Leanne Jenkins regarding a Gas Fired Power Plant (Application No. 2001113). On August 23, 2001, Board staff received a message from one of the Appellants advising they sent in their appeal prematurely as a final decision regarding the Application has yet to be made by the Department. On August 24, 2001, the Department advised that the Alberta Energy and Utilities Board was currently holding a public hearing to determine if this project is in the public interest and that Alberta Environment has not yet made a decision on the matter. Given the fact that no decision has been made with respect to the Application and that the matter was under review by the Alberta Energy and Utilities Board, the Board on September 17, 2001, dismissed the appeal under section 87(5)(a)(i.2) of the Environmental Protection and Enhancement Act.

Cite as: Jenkins et al. v. Alberta Energy and Utilities Board, re: AES Calgary.

0 1 - 0 7 4

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.

0 1 - 0 7 5

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, the Board decided to dismiss BLESS' appeal for not being directly 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.

0 1 - 0 7 6

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 - 077

Appellant(s) - APF Energy Corporation, Operator - APF Energy Corporation, Location - near Drumheller, Type of Appeal - Discontinuance of Proceedings

On August 28, 2001, the Board received a Notice of Appeal from APF Energy Corporation for the refusal of the Inspector to issue a reclamation certificate to APF Energy Corporation for the Harbour Wayne 11-10-27-20 well. On July 31, 2001, the Inspector held a site inquiry and indicated the profile of vegetation did not meet criteria. On October 30, 2001, a mediation meeting/settlement conference was held in Drumheller, Alberta. Following the discussions, APF advised they would be withdrawing their appeal and submitted a letter to the Board to this effect on November 9, 2001. As a result, the Board issued a Discontinuance of Proceedings on November 16, 2001, and closed its file.

Cite as: APF Energy Corporation v. Inspector, Bow Region, Alberta Environment.

01 - 078

Appellant(s) - Landemarc Farming Ltd., Operator - Grey Wolf Exploration Ltd., Location - near Smoky Lake, Type of Appeal - Decision

On August 28, 2001, the Board received a Notice of Appeal from Landemarc Farming Ltd. with respect to Reclamation Certificate No. 40475 issued to Grey Wolf Exploration Ltd. for SE Sec. 6, Tp. 60, Rge. 19, W4M, incidental to Pacalta Woodland 2-6-60-19 Well near Smoky Lake, Alberta. In the Notice of Appeal, the Appellant asked the Board to hold the appeal in abeyance for one year in order to review the condition of the land and growth of vegetation. Thus, she did not intend to proceed on the merits of her complaint. The Board advised that the abeyance would be granted pending any objections from the other parties to the appeal. Grey Wolf Explorations Ltd. advised they did not have any objections, however, the Inspector advised that holding the appeal in abeyance would result in "regulatory uncertainty". The Inspector requested the Appellant withdraw the appeal, on a without prejudice basis, and should the Appellant be dissatisfied with the growth of grass at the site next spring, the right to appeal would remain in tact. On September 28, 2001, upon review of the file, the Board issued a decision dismissing the appeal and determined that the appeal is not properly before the Board in that her intention is to preserve her right to appeal rather than proceed with the appeal. The Appellant has the right to file another appeal in this matter before July 12, 2002.

Cite as: Landemarc Farming Ltd. v. Inspector, Northeast Boreal Region, Regional Services, Alberta Environment.

01 - 079

Appellant(s) - Mr. Eric Nielsen, Operator - Anderson Exploration Ltd. (now Devon Canada Corporation), Location - near Alix, Alberta, Type of Appeal - Discontinuance of Proceedings

On August 30, 2001, the Board received a Notice of Appeal from Mr. Eric Nielsen with respect to the decision of the Director to issue Reclamation Certificate No. 00147144-00-00 to Anderson Exploration Ltd. (now Devon Canada Corporation) for the Ulster Alix 2-



19-29-23 W4 Well located at S Sec. 19 Tp. 039 Rge. 23 W4M. According to standard practice, the Board wrote to the Natural Resources Conservation Board (the "NRCB") and the Energy and Utilities Board (the "EUB") asking whether this matter had been the subject of a hearing or review under their respective Boards' legislation. The EUB responded in the negative and the Board did not hear from the NRCB. Requests for an abeyance and extension were received by the Board on September 17, October 3, 2001 from the Department and the Operator, respectively. On October 22, 2001, the Operator advised that a potential solution had been reached with the Appellant and on November 15, 2001, Board staff received a call from the Appellant advising that he was satisfied with the work completed by the operator. On November 20, 2001, the Appellant wrote to the Board withdrawing his appeal on the grounds that "The drainage ditch has been repaired. The sunken areas were filled and levelled." On November 23, 2001, the Board issued a Discontinuance of Proceeding and closed its file.

Cite as: Nielsen v. Inspector, Parkland Region, Regional Services, Alberta Environment re: Anderson Exploration Ltd.

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

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 the 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.

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.

Decision - 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 there 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.

Decision - 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 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 of 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 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. The Board has subsequently concluded the Hearing, issued its Report and Recommendations on November 18, 2002, and the Minister accepted the Board's recommendations. These reasons complete the Board's file in this matter and the Board issued a Decision on May 15, 2003.

Cite as: Preliminary Motions: Doull et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation (15 May 2003), Appeal Nos. 01-082, 01-084, 02-002 and 02-003-ID4 (A.E.A.B.).

01-080, 01-082, 01-084, 01-085, 01-134, 02-002 and 02-003-E - The Board issued an Erratum for Issues Decision: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment re: TransAlta Utilities Corporation (25 June 2002), Appeal No. 01-080, 01-082, 01-084, 01-085, 01-134, 02-002, 02-003-ID2 (A.E.A.B.) on May 8, 2003. The Board removed and replaced paragraph 44.

Cite as: Erratum: Issues Decision: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation (8 May 2003), Appeal Nos. 01-080, 01-082, 01-084, 01-085, 01-134, 02-002 and 02-003 (A.E.A.B.).

0 1 - 0 8 3

Appellant(s) - OMERS Resources Ltd., Operator - OMERS Resources Ltd., Location - near Hanna, Type of Appeal - Report and Recommendations

On August 31, 2001, the Board received a Notice of Appeal dated August 31, 2001, from OMERS Resources Ltd. with respect to the Inspector's refusal to issue a reclamation certificate to OMERS Resources Ltd. for the Poco Watts 14-13-31-17 Well. The Inspector indicated that the reclamation certificate was refused due to profile, poor vegetation, soil quality, and possible contamination. On September 4, 2001, the Board received a letter from Hart Environmental Land Protection Inc., representatives for the Appellant advising that Mr. Donald and Ms. Ruth Gordon would have an interest in the appeal. In consultation with the parties, the Board scheduled a mediation meeting/settlement conference on October 22, 2001 in Hanna, Alberta, with the landowner, Mr. Gordon, also attending the mediation. Following productive and detailed discussions, a resolution evolved and a resolution was signed. As a result, the Board issued a Report and Recommendations on October 23, 2001, recommending to the Minister of Environment that the application for reclamation certificate be reinstated and that a new inquiry be conducted. The Minister approved the recommendations on October 29, 2001.

Cite as: OMERS Resources Ltd. v. Inspector, Bow Region, Regional Services, Alberta Environment.

0 1 - 0 8 6

Appellant(s) - Devlan Exploration Company Ltd., Operator - Devlan Exploration Company Ltd., Location - Cereal, Type of Appeal - Discontinuance of Proceedings



On September 6, 2001, the Board received a Notice of Appeal from Devlan Exploration Company Ltd. The appeal was with respect to the decision of the Inspector to refuse to issue a reclamation certificate to Devlan Exploration Company Ltd. with respect to well Devlan Canor Sedalia 15-32-29-6-W4M. On September 17, 2001, the Inspector wrote to the Board, making a motion to dismiss the Notice of Appeal on the grounds that the appeal is without merit. In response to the Board's letter of September 18, 2001, asking the Appellant to provide comments on the Inspector's letter, the Appellant advised that he would withdraw the appeal, however, requested the file not be cancelled and a field inquiry be scheduled for 2002 and 2003. In response to the Appellant's request, the Inspector agreed to the proposal and will hold the file open until 2003. As a result, the Appellant withdrew the appeal and the Board issued a Discontinuance of Proceedings on October 11, 2001 and closed its file.

Cite as: Devlan Exploration Company Ltd. v. Inspector, Bow Region, Regional Services, Alberta Environment.

0 1 - 0 8 7

Appellant(s) - ConCerv, Operator - EPCOR Power Development Corporation and EPCOR Generation Inc., Location - Edmonton, Type of Appeal - Decision

On December 10, 1996, Approval N. 1395-01-00 was issued to Edmonton Power Inc. (the predecessor to EPCOR) for the operation of the Rosedale thermal electric generating plant. On August 10, 2001, Amending Approval No. 1395-01-01 was issued to EPCOR Power Development Corporation and EPCOR Generation Inc. (collectively "EPCOR"). The Amending Approval amended specific conditions of the original Approval which authorized the construction of a 170 MW gas turbine generator, designated at Unit 11 at the Rosedale Power Plant. On August 31, 2001, Mr. John Oxenford, President of the Concerned Citizens for Edmonton's River Valley ("ConCerv") filed a Notice of Appeal with the Board on behalf of the members of ConCerv, objecting to the expansion of the Rosedale facility. On September 20, 2001, the Director advised that EPCOR's project was the subject of extensive public hearing before the Energy and Utilities Board ("EUB") and therefore, the appeal should be dismissed under s. 87(5)(b)(i) of the Environmental Protection and Enhancement Act. On September 6, 2001, the Board received documents from the EUB advising that ConCerv participated in a public hearing before the EUB and provided a copy of Decision 2001-33. On November 1, 2001, a meeting between the Director and EPCOR took place to discuss the Amending Approval. Ms. Elaine Solez, President of the Central Area Council of Community League organization requested to be kept informed about the Board's proceeding with respect to this appeal. Further to the Director's meeting with EPCOR and continued discussions, on November 15, 2001, Approval 1395-01-01 was cancelled pursuant to section 67(3)(b) of the Environmental Protection and Enhancement Act and Approval 1395-01-00, as it existed before Approval 1395-01-01 was issued, remains in full force and effect. On November 22, 2001, the Board issued a Decision to dismiss the appeal as it is either moot, not properly before the Board or without merit.

Cite as: ConCerv v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: EPCOR Power Development Corporation and EPCOR Generation Inc.

0 1 - 0 8 8

Appellant(s) - Town of St. Paul, Operator - Town of St. Paul, Location - St. Paul, Type of Appeal - Discontinuance of Proceedings

On September 6, 2001, a Notice of Appeal was filed by the Town of St. Paul. The appeal was with respect to Approval 1183-02-00 issued to the Town of St. Paul for the operation and reclamation of a waterworks system for the Town of St. Paul. In response to the Director's concern that the appeal was filed outside the specified timelines, the Appellant responded with reasons on September 17, 2001. On October 9, 2001, the Board received a letter from the Director advising that some discussion could take place outside the appeal process regarding some of the issues raised. On October 11, 2001, the Appellant wrote to the Board advising that they did not wish to pursue the appeal at this time because it was evident that the Director was not prepared to exercise discretion to extend the appeal limit. The Board then advised the parties on October 15, 2001, that the final decision regarding exercising discretion lies with the Board. On October 23, 2001, Board staff received a telephone call from the Appellant advising that they were withdrawing the appeal and would make application to the Director for an amendment of the Approval in question to address their concerns. As a result, on October 26, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Town of St. Paul v. Director, Approvals, Northeast Boreal Region, Regional Services, Alberta Environment.

0 1 - 0 8 9

Appellant(s) - APF Energy Corporation, Operator - APF Energy Corporation, Location - Drumheller, Type of Appeal - Discontinuance of Proceedings

On August 31, 2001, the Board received a Notice of Appeal from APF Energy Corporation with respect to the decision of the Inspector to refuse to issue a reclamation certificate to APF Energy Corporation Inc. for the Cairn et al Wayne 08-16-027-20 W4M Well. On



September 17, 2001, the Inspector requested the Appellant clarify whether they had filed the appeal on behalf of APF Energy Corporation as well as identify the grounds for the appeal. On September 24, 2001, the Appellant advised the Board that she wished to withdraw the appeal on the grounds that she believed the lease and all three access roads met criteria, and that she would resubmit an application to the Department. On September 28, 2001, the Board issued a Discontinuance of Proceeding and closed its file.

Cite as: APF Energy Corporation v. Inspector, Bow Region, Regional Services, Alberta Environment.

0 1 - 0 9 0

Appellant(s) - Burnswest Corporation, Operator - Burnswest Corporation, Location - Cochrane, Type of Appeal -

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.

0 1 - 0 9 1

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 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.

0 1 - 0 9 2

Appellant(s) - Mr. Stanley Pethybridge, Operator - Village of Alix, Location - Village of Alix, Type of Appeal - Discontinuance of Proceedings



On September 25, 2001, the Environmental Appeal Board received a Notice of Appeal from Mr. Stanley Pethybridge appealing Approval No. 00147207-00-00 issued to the Village of Alix. The appellant advised that he did not authorize any drilling on his land by Westcan Malting Ltd. or the Village of Alix and therefore, did not want the licence to be issued. On October 1, 2001, the Board acknowledged the Appellant's Notice of Appeal, requested additional information and advised that the Notice of Appeal was filed outside the prescribed time limits set out in the Water Act, S.A. 1996, c. W-3.5. Lastly, the Board requested reasons for the extension of time to appeal. On October 10, 2001, the Board acknowledged a telephone conversation with the Appellant wherein it was determined that the principal issue in the appeal was access to land as it relates to the Village of Alix exercising its rights under the Approval. Through ongoing discussions between the Appellant and Westcan Malting Ltd., and the Appellant granted permission to access the land and on November 13, 2001, advised the Board that he would be withdrawing his appeal. As a result, on November 19, 2001, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: Pethybridge v. Director, Parkland Region, Regional Support, Alberta Environment, re: Village of Alix

0 1 - 0 9 3

Appellant(s) - Mount Vista Estates Co-operative Ltd., Operator - Mount Vista Estates Co-operative Ltd., Location - Municipal District of Rocky View No. 44, Type of Appeal - Decision

Alberta Environment issued Approval No. 147324-00-00 to Mount Vista Estates Co-operative Ltd. authorizing the construction, operation and reclamation of a waterworks system for the Mount Vista Estates subdivision located in E ½ 26-26-4-W5M in the Municipal District of Rocky View No. 44. Mount Vista Estates Co-operative Ltd. filed an appeal with the Board, appealing the condition under part 4 of the Approval under which a certified operator is required to operate the waterworks system. A mediation meeting was scheduled, however, it was subsequently cancelled in consultation with the parties and a conference call took place between the Board's General Counsel and Settlement Officer, Alberta Environment and Mount Vista Estates Co-operative Ltd. During the conference call Mount Vista Estates Co-operative Ltd. agreed to pursue further avenues for complying with the requirement to have a certified operator. Discussions and the endeavours of Mount Vista Estates Co-operative Ltd. did not result in the resolution of the appeal and a motion was brought forward by Alberta Environment to dismiss the appeal. In order to bring the appeal to a conclusion, the Board scheduled a hearing via written submissions. The Board did not receive the initial written submission from Mount Vista Estates Co-operative Ltd. on the due date. After writing again to Mount Vista Estates Co-operative Ltd., requesting they submit their written submission, and after telephone conversations with them, it became apparent that they were neither going to provide a written submission or a letter of withdrawal to the Board. The Board issued a Decision on February 25, 2002 dismissing the appeal pursuant to section 95(5) of the Environmental Protection and Enhancement Act for failing to comply with a written notice.

Cite as: Mount Vista Estates Co-operative Ltd. v. Director, Bow Region, Regional Services, Alberta Environment.

0 1 - 0 9 4 , 0 1 - 1 0 9

Appellant(s) - Mr. Robert Lederer on behalf of Mrs. Christine Lederer, Mr. Pat and Mrs. Rita Chant, Mr. and Mrs. Rod McBride and Mr. Daryl Seaman and Dr. E.W. Paul Luxford, Operator - Spruce Valley Ranch Ltd., Location - near Millarview, Type of Appeal - Discontinuance of Proceedings

On October 11, 2001, the Board received a Notice of Appeal from Mr. Robert Lederer on behalf of Mrs. Christine Lederer, Mr. Pat and Mrs. Rita Chant, Mr. and Mrs. Rod McBride and Mr. Daryl K. Seaman with respect to Approval No. 00076520-00-00 issued to Spruce Valley Ranch Ltd.. The Approval authorized the construction of works for the realignment of a coulee and construction of a silt pond and raw water storage reservoir on a coulee tributary to Threepoint Creek in NW 02-021-03-W5 and NE 03-021-03-W5. In consultation with the parties, the Board advised a mediation meeting/settlement conference would be held on December 5, 2001, in Calgary. The Board also received correspondence and later a Notice of Appeal from Dr. E.W. Paul Luxford. In consultation with the parties, the Board decided that Mr. Luxford could participate in the mediation meeting/settlement conference, however did not make a determination on the status of his appeal. The Board informed the parties that the Board would determine the status of the appeal in the event that mediation is not successful. On December 5, 2001, the Board held the mediation meeting/settlement conference and following detailed discussions, the Appellants agreed to withdraw their appeals. On December 7 and 12, 2001, the Board received letters from the Appellants confirming that they would withdraw the appeals. As a result, the Board issued a Discontinuance of Proceedings on December 12, 2001, and closed its files.

Cite as: Lederer et al. v. Director, Bow Region, Regional Services, Alberta Environment re: Spruce Valley Ranch Ltd.

0 1 - 0 9 5

Appellant(s) - River Breakup Task Force, Operator - TBG Contracting Ltd., Location - near Fort McMurray, Type of Appeal - Report and Recommendations



On October 17, 2001, the Board received a Notice of Appeal from Ms. Hilda Hanson, Chair of the River Breakup Task Force of the Regional Municipality of Wood Buffalo, with respect to Approval 00154730-00-00 issued to TBG Contracting Ltd.. The Approval authorizes the construction of an ice bridge on the Athabasca River in NW 28 and NE 29-089-09-W4M. In consultation with the parties, a mediation meeting/settlement conference took place on November 20, 2001 in Fort McMurray. Following productive and detailed discussions, a resolution evolved and on November 21, 2001, the Board received a letter from the Appellant confirming ratification of resolution. On the same day, the Board issued a Report and Recommendations to the Minister of Environment and on November 26, 2001, the Minister approved the recommendations.

Cite as: River Breakup Task Force v. Director, Northeast Boreal Region, Regional Services, Alberta Environment re: TBG Contracting Ltd.

0 1 - 0 9 6

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 Schmold, 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.).

0 1 - 0 9 7 - 1 0 5 , 0 1 - 1 0 7

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. 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 original-



ly 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.).

0 1 - 1 0 6 , 0 1 - 1 0 8

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

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

0 1 - 1 1 0

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.

0 1 - 1 1 1

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.

0 1 - 1 1 2

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.

0 1 - 1 1 3 , 0 1 - 1 1 5

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.



0 1 - 1 1 4

Appellant(s) - Bullshead Water Co-op Ltd., Operator - Bullshead Water Co-op Ltd., Location - near Medicine Hat, Type of Appeal - Discontinuance of Proceedings

The Board received a letter from the Bullshead Water Co-op Ltd. with respect to Preliminary Certificate No. 00158361-00-00 issued by Alberta Environment to the Bullshead Water Co-op Ltd. for the diversion of water and operating a waterworks. The Water Co-op filed an appeal as they did not fully understand the implications of the Preliminary Certificate, the associated conditions and the appendix attached to the Preliminary Certificate. The Board requested the Water Co-op provide further information to the Board including their grounds for appeal and the relief sought. On February 21, 2002, the Board received a letter from the Water Co-op withdrawing their appeal. The Board issued a Discontinuance of Proceedings on February 22, 2002.

Cite as: Bullshead Water Co-op Ltd. v. Director, Southern Region, Regional Services, Alberta Environment.

0 1 - 1 1 6

Appellant(s) - Resorts of the Canadian Rockies Inc., Operator - Resorts of the Canadian Rockies Inc., Location - Bragg Creek, Type of Appeal - Decision

Alberta Environment issued Administrative Penalty No. 01/29-BOW-AP-02/03 to Wintergreen Family Resorts Ltd. and Resorts of the Canadian Rockies Inc. for a contravention of section 213(e) (now section 227 (e)) of the Environmental Protection and Enhancement Act for failing to ensure that the day-to-day operations of the plant and collection system were supervised by an operator holding a Level II Wastewater Treatment Plant Operator Certificate, late submission of the Wastewater Irrigation Report and failing to immediately report a contravention of the Approval. The Approval in question was issued to Wintergreen Family Resorts Ltd. for the operation of the waste water treatment plant. This section of the Environmental Protection and Enhancement Act makes it an offence to violate a term or condition of an Approval. The parties agreed to an amendment of the Administrative Penalty by deleting Resorts of the Canadian Rockies Inc. The Board issued a Decision on March 4, 2002 ordering that the Administrative Penalty be amended by deleting Resorts of the Canadian Rockies Inc.

Cite as: Resorts of the Canadian Rockies Inc. v. Director, Southern Region, Regional Services, Alberta Environment.

0 1 - 1 1 7

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.

0 1 - 1 1 8

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

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.

0 1 - 1 1 9 , 0 1 - 1 2 0

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.

0 1 - 1 2 1

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.

0 1 - 1 2 2

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.

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

0 1 - 1 2 3 - 1 3 1 , 0 2 - 0 0 1 , 0 2 - 0 0 1 , 0 2 - 0 5 0 - 0 5 8

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-WSM 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.).

0 1 - 1 3 2

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 11200-02-00to 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 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.

0 1 - 1 3 3

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.



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0 2 - 0 0 4

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.

0 2 - 0 0 5

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.

0 2 - 0 0 6

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

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.

0 2 - 0 0 7 , 0 2 - 0 0 8

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.

0 2 - 0 0 9 , 0 2 - 0 1 0

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.

0 2 - 0 1 1

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.

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

0 2 - 0 1 2 , 0 2 - 0 1 4

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.

0 2 - 0 1 3

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.).

0 2 - 0 1 5

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 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.).

0 2 - 0 1 6

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.).

0 2 - 0 1 7

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.*

0 2 - 0 1 8 - 0 4 1 , 0 4 7 , 0 6 0 , 0 6 1 , 0 7 3 , 0 7 4 - I D 1

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 Bocock (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.

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. Hodgkinson, 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 Bocock, 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.

Cite as: Darwish 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. Hodkinson, 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 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. On June 27, 2003, the Board issued a Decision awarding costs to the EFCL in the amount of \$31,954.87 and to EFONES in the amount of \$15,775.82. Mr. Hayes was awarded costs in the amount of \$90.32. All costs which total \$47,821.01, are to be awarded by Inland.

Cite as: Costs Decision: Maga et al. (27 June 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-CD (A.E.A.B.). 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 Quartero, 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 Nicol 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.).

0 2 - 0 5 9

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 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.

0 2 - 0 6 2

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

0 2 - 0 6 4

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: Parkbridge Communities Inc. (27 September 2002), Appeal No. 02-064-R (A.E.A.B.).

0 2 - 0 6 5

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.).

0 2 - 0 6 6 , 0 2 - 0 6 8

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 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.).

0 2 - 0 6 7

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.).

0 2 - 0 6 9

Appellant(s) - Mr. Ray Holtzma and Ms. Celine Luchka (Holtzma), 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 Holtzma and Ms. Celine Luchka (Holtzma) 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: *Holtzma 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.).

0 2 - 0 7 0

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.).

0 2 - 0 7 1

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 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.).

0 2 - 0 7 2

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.



s u m m a r i e s c o n t i n u e d . . .

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

0 2 - 0 7 5 , 0 2 - 0 7 6

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.).

0 2 - 0 7 7 - D

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

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 to address the Stay request of Ms. Smith and the question of whether she is directly affected by the Licence. After reviewing submissions of the parties and hearing arguments, the Board determined that Ms. Smith was not directly affected by the withdrawal of the water under the Licence. The Board also determined that the appeal is without merit as the issues Ms. Smith presented were general in nature and not specific environmental concerns. Therefore, the Board issued a Decision on June 6, 2003, dismissing the appeal.

Cite as: Smith v. Director, Northern Region, Regional Services, Alberta Environment re: CCS Energy Services Inc. (6 June 2003), Appeal No. 02-077-D (A.E.A.B.).

0 2 - 0 7 8 , 0 2 - 1 3 8 - R

Appellant(s) - Mr. James and Ms. Annette McClelland, Operator - Mountain Creeks Ranch Inc., Location - near Hinton, Type of Appeal - Report and Recommendations

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 Licence 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. The Board held a mediation meeting in Hinton, Alberta, at which the parties agreed to continue discussions with a view towards resolution of the appeals. The parties also agreed to provide status reports to the Board on a regular basis. The parties subsequently reached a resolution and the Board recommended the Minister accept the resolution. On July 28, 2003, the Minister approved the recommendations and as a result, the Board issued a Report and Recommendations on July 22, 2003.

Cite as: McClelland v. Director, Central Region, Regional Services, Alberta Environment re: Mountain Creeks Ranch Inc. (22 July 2003), Appeal Nos. 02-078 and 138-R (A.E.A.B.).

0 2 - 0 8 1 , 0 2 - 0 8 2 - R

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

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). The Board held a mediation meeting in Red Deer, Alberta on April 29, 2003, following which a resolution was reached by the parties. On May 5, 2003, the Board issued a Report and Recommendations recommending to the Minister of Environment that the licence be varied. The Minister approved the Board's recommendations on May 13, 2003.

Cite as: Graham et al. v. Director, Central Region, Regional Services, Alberta Environment re: Brookfield Pork Ltd. (05 May 2003), Appeal Nos. 02-081 and 02-082-R (A.E.A.B.).

0 2 - 0 8 3 - D O P

Appellant(s) - Mr. Lou and Ms. Betty Coulombe, Operator - Alta Gas Ltd., Location - near Bonnyville, Type of Appeal - Discontinuance of Proceedings

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. On June 25, 2003, the Appellants subsequently withdrew their appeal and as a result, the Board issued a Discontinuance of Proceedings, and closed its files.

Cite as: Coulombe v. Inspector, Northern Region, Regional Services, Alberta Environment re: Alta Gas Ltd. (30 June 2003), Appeal No. 02-083-DOP (A.E.A.B.).

0 2 - 0 8 4

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

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.).

0 2 - 0 8 5

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.).

0 2 - 0 8 6 , 0 2 - 0 8 7

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.).

Erratum - The Board issued an Erratum for Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc. (13 February 2003), Appeal No. 02-086 and 02-087-D (A.E.A.B.) on April 14, 2003. The Board removed and replaced paragraphs 10, 11 and 57.

Cite as: Erratum: Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc. (14 April 2003), Appeal Nos. 02-086 and 02-087-E (A.E.A.B.).

0 2 - 0 8 8

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 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.).

0 2 - 0 8 9 , 0 9 1 , 0 9 2 , 0 9 5 - 1 0 1 , 1 0 5 - 1 2 0 , 1 2 3 , 1 2 4 , 1 3 2 , 1 3 3

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.).

0 2 - 0 9 0

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.).

0 2 - 0 9 3 , 0 9 4 , 1 0 2 , 1 0 3 , 1 2 2 , 1 2 7 , 1 2 8 , 1 2 9 , 1 3 4 , 1 3 5 - D

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 - Decision

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. As a result, four of the appeals were withdrawn, and the Board issued a Discontinuance of Proceedings respecting these four appeals. With respect to the remaining appeals, after giving the parties an opportunity to provide the Board with written submissions, the Board determined the issues raised in the remaining Notices of Appeal were moot. Further, five of the Appellants did not submit a response to the Board's questions as to the effect of the cancellation of the Preliminary Certificate. Therefore, the Board dismissed the remaining appeals as the issues raised were moot, and the five appeals were also dismissed for failing to provide additional information as requested by the Board. The Board noted that in the written submissions of the individuals who filed appeals, they continued to express concerns about the impact of the Town on their water supplies. The Board was satisfied that the Water Act contains mechanisms to address these concerns with respect to the existing uses of water by the Town. The Town is still required to operate within the terms of its existing licences, and it does not have the authority to divert any more water than it did prior to the application for the Preliminary Certificate.

Cite as: Hudson et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith (1 August 2003), Appeal Nos. 02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135-D (A.E.A.B.).

0 2 - 1 0 4

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.).

0 2 - 1 2 1 , 0 2 - 1 2 5 , 0 2 - 1 2 6 , 0 2 - 1 3 0 - D O P

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 - Discontinuance of Proceedings

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 a result, the Board issued a Discontinuance of Proceedings on April 10, 2003, and closed its file.

Cite as: Scarlett et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith (10 April 2003), Appeal Nos. 02-121, 125, 126 and 130-DOP (A.E.A.B.).

0 2 - 1 3 6

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 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.).

0 2 - 1 3 7

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.).

0 2 - 1 3 9

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 April 7, 2003, the Board advised there was no right to appeal a Temporary Permit. Further, it appeared to the Board that the Temporary Permit had expired. The Board therefore, advised the parties that the appeal would be dismissed unless the Appellant, Permit Holder, or Alberta Environment could provide information to the contrary. None of the parties responded to the Board's request and therefore, the Board issued a Decision on April 7, 2003, dismissing the appeal.

Cite as: Skinner v. Director, Alberta Environment re: Consolidated Concrete Ltd. (7 April 2003), Appeal No. 02-139-D (A.E.A.B.).

0 2 - 1 4 3 , 0 2 - 1 5 1 - 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 - Report and Recommendations

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. Cheryl 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. The Board held a Preliminary Meeting on April 24, 2003, to deal with the objections of Mr. and Ms. Blair. After hearing the arguments of the parties at the Preliminary Meeting, the Board denied Mr. and Ms. Blair's request to dismiss Mr. Seidel's Notice of Appeal. The Board held the mediation meeting on April 30, 2003, in Cochrane, Alberta, following which a resolution was reached by the parties. On May 8, 2003, the Board issued a Report and Recommendations to the Minister recommending he accept the resolution. The Minister accepted the Board's recommendation on May 13, 2003.

Cite as: Blair et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Richard and Connie Blair and Lazy H Trail Company Ltd. (08 May 2003), Appeal Nos. 02-143 and 02-151-R (A.E.A.B.).

0 2 - 1 4 4

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 - As Listed

Overview - 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.

02-144-ID1 - The Board held a mediation meeting in Slave Lake, Alberta on April 11, 2003, which was unsuccessful. However, the parties made a joint recommendation to the Board on the issue to be heard at the hearing. On April 28, 2003, the Board issued a Decision accepting the recommendation of the parties that the issue to be addressed at the hearing would be "Interpretation of Alberta Environment's criteria dealing with soil textural classes, comparing the control and the wellsite, access road, and campsite."

Cite as: Preliminary Issue: Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment (28 April 2003), Appeal No. 02-144-ID1 (A.E.A.B.).

02-144-DOP - The Board scheduled a hearing for June 4, 2003. However, the Board received a request from Conoco Phillips Canada for an abeyance of the appeal in order to pursue further mediation toward a resolution of the appeal. The Board granted the request and re-scheduled the hearing for July 25, 2003. Conoco Phillips Canada subsequently withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on June 25, 2003 and closed its files.

Cite as: Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment (25 June 2003), Appeal No. 02-144-DOP (A.E.A.B.).

0 2 - 1 4 6

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 - Discontinuance of Proceedings

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. After considering the submissions of the parties, the Board concluded that it may be more appropriate to deal with the appeals by way of mediation. In consultation with the parties, the Board scheduled a mediation on July 21, 2003, in Airdrie, Alberta. An agreement was subsequently reached between Ducks Unlimited and the Appellants that result-



ed in the Appellants withdrawing their appeals. As a result, the Board issued a Discontinuance of Proceedings on August 29, and closed its file.

Cite as: Hart et al. v. Director, Southern Region, Regional Services, Alberta Environment, re: Ducks Unlimited Canada (29 August 2003), Appeal Nos. 02-146-02-149-DOP (A.E.A.B.).

0 2 - 1 5 0

Appellant(s) - Mr. David Kingcott, Operator - Ducks Unlimited Canada, Location - near Hanna, Type of Appeal - Decision

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. The Board received written submissions from all of the Appellants except Mr. Kingcott. Despite several attempts to contact Mr. Kingcott, a response was not received by the Board. The Board therefore issued a Decision on June 12, 2003, dismissing Mr. Kingcott's appeal for failing to respond to the Board in a timely manner.

Cite as: Kingcott v. Director, Southern Region, Regional Services, Alberta Environment, re:Ducks Unlimited Canada (12 June 2003), Appeal No. 02-150-D (A.E.A.B.)

Decisions 2003

0 3 - 0 0 4

Appellant(s) - Mr. Ben Gadd., Operator - Cardinal River Coal Ltd., Cheviot and Luscar Mine, Location - Cadomin, Type of Appeal - Discontinuance of Proceedings

On April 11, 2003, the Board received a Notice of Appeal from Mr. Ben Gadd with respect to a decision made by Alberta Environment that the Appellant was not directly affected by the private haulroad near Cadomin, Alberta, which was applied for by Cardinal River Coal Ltd., Cheviot and Luscar Mines. The Board began processing the appeal, however it received a request from Alberta Environment to dismiss the appeal for being premature since a decision had not yet been made with respect to the application. The Board scheduled a written submission process to address the request to dismiss the appeal. The Board also received a request from the Appellant for an abeyance in order to allow the parties to work toward a resolution of the appeal. The Appellant subsequently withdrew his appeal and as a result, the Board issued a Discontinuance of Proceedings on May 16, 2003 and closed its files.

Cite as: Gadd v. Director, Central Region, Regional Services, Alberta Environment re: Cardinal River Coal, Cheviot and Luscar Mine (16 May 2003), Appeal No. 03-004-DOP (A.E.A.B.).

0 3 - 0 0 7

Appellant(s) - Ms. Nancy Hohnstein, Operator - Nor-Chris Holdings Inc., Location - Parkland County, Type of Appeal - Discontinuance of Proceedings

On April 30, 2003, the Board received a Notice of Appeal from Ms. Nancy Hohnstein with respect to Approval No. 00189558-00-00 issued under the Water Act to Nor-Chris Holdings Inc. authorizing the construction, operation and maintenance of works for storm water management for Atim Creek Estates, Stage 1, in Parkland County, Alberta. The Board began processing the appeal, However,



Nor-Chris Holdings Inc. requested the appeal be held in abeyance in order to allow the parties to pursue discussions with a view towards resolution. The parties agreed to provide the Board with status reports on a regular basis. Subsequently, Ms. Hohnstein agreed to withdraw her appeal on the condition that Nor-Chris Holdings Inc. amend their plans. Nor-Chris Holdings Inc. applied to Alberta Environment to amend their approval in order to satisfy Ms. Hohnstein's concerns and her appeal. Alberta Environment approved the amendment and on August 1, 2003, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: Hohnstein v. Director, Central Region, Regional Services, Alberta Environment re: Nor-Chris Holdings Inc. (1 August 2003), Appeal No. 03-007-DOP (A.E.A.B.).

0 3 - 0 0 8

Appellant(s) - Mr. Doug McCoy, Operator - Doug McCoy, Location - Clyde, Type of Appeal - Discontinuance of Proceedings

On May 13, 2003, the Board received a Notice of Appeal from Mr. Clyde McCoy on behalf of Mr. Doug McCoy with respect to Licence No. 00194883-00-00 issued to Mr. Doug McCoy, authorizing the diversion of 611 cubic metres of water annually from the well in SE 24-060-25-W4, in Clyde, Alberta for agricultural purposes. After discussions between the Appellant and Alberta Environment, on June 4, 2003, the Board received a telephone message from the Appellant advising that he did not "need to appeal anymore". The Board responded by confirming with the Appellant that the appeal would therefore be withdrawn and requested the Appellant contact the Board immediately if this was not the case. No further response was received from the Appellant. Therefore, the Board issued a Discontinuance of Proceedings on June 13, 2003, and closed its files.

Cite as: McCoy v. Director, Northern Region, Regional Services, Alberta Environment (13 June 2003), Appeal No. 03-008-DOP (A.E.A.B.).

0 3 - 0 0 9

Appellant(s) - Town of Valleyview, Operator - Town of Valleyview, Location - near Valleyview, Type of Appeal - Decision

On June 16, 2003, the Board received a Notice of Appeal from the Town of Valleyview appealing Licence No. 00080224-00-00 issued under the Water Act to the Town of Valleyview, authorizing the diversion of up to 668,400 cubic metres of water annually from the Little Smoky River at SE 12-70-22-W5M near Valleyview, Alberta. The time period in which an appeal may be filed with the Board with respect to a water licence is 30 days, unless the Board finds there is sufficient reason for extending this filing period. The Board requested that the Town provide reasons as to why the Board should extend the time limit for filing the appeal. After reviewing the reasons provided by the Town, the Board found that the Town did not present sufficient reasons to demonstrate that special circumstances existed to warrant an extension of the time limit. Therefore, the Board issued a Decision on August 1, 2003, dismissing the appeal for it being filed outside the time limit.

Cite as: Town of Valleyview v. Director, Northern Region, Regional Services, Alberta Environment (1 August 2003), Appeal No. 03-009-D (A.E.A.B.).

0 3 - 0 1 1

Appellant(s) - The County of Warner No. 5, Operator - Alberta Transportation, Location - County of Warner, Type of Appeal - Discontinuance of Proceedings

On June 30, 2003, the Board received a Notice of Appeal from the County of Warner No. 5 appealing Approval No. 00198269-00-00 to Her Majesty the Queen in Right of Alberta as Represented by the Minister of Transportation authorizing the construction of a drainage ditch, in the County of Warner. The Board began processing the appeal, however, the Board received a letter from the Appellant on July 14, 2003 withdrawing the appeal. As a result, the Board issued a Discontinuance of Proceedings on July 18, 2003 and closed its files.

Cite as: County of Warner No. 5 v. Director, Southern Region, Regional Services, Alberta Environment re: Alberta Transportation (16 July 2003), Appeal No. 03-011-DOP (A.E.A.B.).

0 3 - 0 1 3

Appellant(s) - Mr. Mel Gray, Operator - Bar Kay Cee Club, Location - M.D. of Foothills No. 31, Type of Appeal - Discontinuance of Proceedings

On July 4, 2003, Mr. Mel Gray filed a Notice of Appeal with the Board with respect to Approval No. 186939-00-00 issued to the Bar



Kay Cee Club, authorizing the construction, operation and reclamation of a waterworks system for the Bar Kay Cee Club subdivision in the Municipal District of Foothills No. 31. The Board began processing the appeal and, in consultation with the parties, scheduled a hearing of the appeal for September 10, 2003 in Calgary. On August 18, 2003, the Board received a letter from Mr. Gray withdrawing his appeal as a result of a meeting with Alberta Environment. As a result, the Board issued a Discontinuance of Proceedings on August 29, 2003, and closed its file.

Cite as: Gray v. Director, Southern Region, Regional Services, Alberta Environment, re: Bar Kay Cee Club (29 August 2003), Appeal No. 03-013 (A.E.A.B.).

0 3 - 0 2 0

Appellant(s) - Ms. Davina Daly, Operator - Mr. Hal Willis, Location - Innisfail, Type of Appeal - Discontinuance of Proceedings

On July 22, 2003, the Board received a Notice of Appeal from Ms. Davina Daly with respect to Approval No. 00193447-00-00 issued to Mr. Hal Willis, authorizing placement of clean fill on property adjoining Dodd's Lake located in Block F, Plan P, SW 28-35-28-W4M in Innisfail, Alberta. The Board received 27 Notices of Appeal appealing the Approval, including Ms. Davina Daly. The Board began processing the appeals. However, the Board received a letter from Ms. Daly advising that she wished to withdraw her appeal. As a result, the Board issued a Discontinuance of Proceedings on September 25, 2003, and closed its file.

Cite as: Daly v. Director, Central Region, Regional Services, Alberta Environment re: Hal Willis (25 September 2003), Appeal No. 03-020-DOP (A.E.A.B.).

0 3 - 0 5 9

Appellant(s) - Mr. John Chase, Operator - Town of Innisfail, Location - Innisfail, Type of Appeal - Discontinuance of Proceedings

On April 24, 2003, Alberta Environment issued Amending Approval No. 00076694-00-01 to the Town of Innisfail amending Approval No. 00076694-00-00 to include plan number 00076694-P002 (Dodd's Lake Outlet Improvements) and plan no. 00076694-P003 (Dodd's Lake Water Level Management Plan) as they relate to the control structure constructed at the outlet of Dodd's Lake in Innisfail, Alberta. The Board received 42 Notices of Appeal, one of which was received by the Board on July 25, 2003 from Mr. John Chase, in relation to Amending Approval No. 00076694-00-01 issued to the Town of Innisfail amending Approval No. 00076694-00-00 to include plan number 00076694-P002 (Dodd's Lake Outlet Improvements) and plan number 00076694-P003 (Dodd's Lake Water Level Management Plan) as they relate to the control structure constructed at the outlet of Dodd's Lake in Innisfail, Alberta. The Board began processing the appeals. However, the Board received a telephone call from Mr. Chase (EAB 03-059) advising that he wished to withdraw his appeal. As a result, the Board issued a Discontinuance of Proceedings on September 16, 2003, and closed its file.

Cite as: Chase v. Central Region, Regional Services, Alberta Environment re: Town of Innisfail (16 September 2003), Appeal No. 03-059-DOP (A.E.A.B.).

0 3 - 0 8 3 - 1 1 4

Appellant(s) - John Dennehy, Sheila Thompson, Keith and Carol Quaife, Kelly Calkins, M. Lois Bell, Kevin O'Neil, Vern Shoemaker, Pierrette Doohan, Rae Allen, M. Smith, Hank Hendricks, Marvel Currie, Maurice Juchli, Jerry Hoshowski, Lori and Brent Mikkelsen, Darla and Jim Dragon, G. Mattock, D. Losie, Hank Hendricks, Bob Tomlinson, Brian Vanstone, H.J. Kowalchuk, K. and L. Fenemor, Harley Johnson and Lynne Staples, Andy and Darlene Davidson, Jack Lozeron, Carol Allen, J. and M. Helps, Daryl Allen, Ed and R. Karpluk, Lillian Karpoff, and Harvey Tober, Operator - Gregg Properties Co. Ltd., Location - Pigeon Lake, Type of Appeal - Discontinuance of Proceedings

On July 29, 2003, the Board received a Notice of Appeal from John Dennehy, Sheila Thompson, Keith and Carol Quaife, Kelly Calkins, M. Lois Bell, Kevin O'Neil, Vern Shoemaker, Pierrette Doohan, Rae Allen, M. Smith, Hank Hendricks, Marvel Currie, Maurice Juchli, Jerry Hoshowski, Lori and Brent Mikkelsen, Darla and Jim Dragon, G. Mattock, D. Losie, Hank Hendricks, Bob Tomlinson, Brian Vanstone, H.J. Kowalchuk, K. and L. Fenemor, Harley Johnson and Lynne Staples, Andy and Darlene Davidson, Jack Lozeron, Carol Allen, J. and M. Helps, Daryl Allen, Ed and R. Karpluk, Lillian Karpoff, and Harvey Tober with respect to Approval No. 00191814-00-00 issued under the Water Act to Gregg Properties Co. Ltd. authorizing the construction, operation and maintenance of a storm water management facility in SW 28-047-01-W5 for the purpose of collecting and draining storm water into Pigeon Lake and an unnamed tributary of Pigeon Lake, Alberta. The Board received appeals from 32 Pigeon Lake property owners appealing the Approval. The Board began processing the appeal, however, the Appellants subsequently withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on August 15, 2003, and closed its files.

Cite as: Dennehy et al. v. Director, Central Region, Regional Services, Alberta Environment re: Gregg Properties Co. Ltd. (15 August 2003), Appeal Nos. 03-083-114-DOP (A.E.A.B.).





Enviromental Appeals Board

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