

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings: May 3, 2001

IN THE MATTER OF Sections 84, 85 and 87 of the *Environmental Protection and Enhancement Act*, S.A. c. E-13.3 and section 115 of the *Water Act*, S.A. 1996, c. w-3,5.

-and-

IN THE MATTER OF an appeal filed on February 9, 2001 by Ms. Hilda Hanson with respect to Approval No. 00144709-00-00 issued under the *Water Act*, by the Director, Northeast Boreal Region, Natural Resource Services, Alberta Environment, to TBG Contracting Ltd. for the construction of an ice bridge on the Athabasca River in NW 28 and NE 29-089-09-W4.

Cite as: *Hanson v. Director, Northeast Boreal Region Natural Resource Service, Alberta Environment, re: TBG Contracting Ltd.*

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BACKGROUND

[1] On January 26, 2001 the Director, Northeast Boreal Region, Natural Resource Service, Alberta Environment (the “Director”) issued Approval No. 00144709-00-00 (the “Approval”), under the *Water Act*, S.A. 1996, c. W-3.5, to TBG Contracting Ltd. (the “Approval Holder”), authorizing the construction of an ice bridge on the Athabasca River in NW28 and NE 29-089-09-W4, subject to certain conditions.

[2] On February 9, 2001, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Ms. Hilda Hanson (the “Appellant”), dated February 5, 2001 appealing the Approval.

[3] On February 9, 2001 the Board acknowledged receipt of the Notice of Appeal and at that time requested a copy of all records (the “Records”) related to the appeal from the Director. On that same date the Board also notified the Approval Holder of the appeal.

[4] According to standard practice, on February 9, 2001 the Board wrote to the Natural Resources Conservation Board (the “NRCB”) and the Alberta Energy and Utilities Board (the “AEUB”) asking whether this matter had been the subject of a hearing or review under their respective Board’s legislation. Both the AEUB and the NRCB replied in the negative.

[5] On February 15, 2001 Board staff called the Appellant and asked that given the short term of the work to be completed under the Approval, if she had received the information package sent by the Board which included information regarding Stays. The Appellant confirmed that she had reviewed the material sent by the Board concerning Stays, but did not indicate whether or not she wished to file an application for a Stay.

[6] On February 26, 2001 the Board received the Records from the Director and forwarded copies to the Appellant and to the Approval Holder.

[7] On March 6, 2001 the Board wrote to the Appellant requesting further clarification regarding her Notice of Appeal. Specifically, the Board wrote:

- “1. Explain in more detail the environmental concerns you have with the decision issued by the Director in the above noted Approval.
2. It is the Board’s understanding in reviewing the Approval that TGB Contracting Ltd. ‘shall cease hauling by March 15, 2001, and commence dismantling of the ice bridge.’ The Approval further states ‘removal of the ice bridge shall be completed by April 7, 2001.’ Would you please state whether or not you want to proceed to a hearing or mediation on this matter and the grounds for which the request is made?
3. Please clarify the relief you are seeking and the reasons why you believe the Board should grant the relief.”

A response was requested by March 12, 2001 at which the time Board indicated that it “...must decide whether there are issues raised in this matter which will be included in any hearing of the appeal.”

[8] The Appellant called the Board on March 9, 2001 indicating that she had been away and had only received the Board’s letter of March 6, 2001 on March 8, 2001. She requested additional time to provide her submission indicating that she could send it to the Board by March 15, 2001.

[9] On March 15, 2001, the Board received the response from the Appellant. The Board contacted the Director by telephone on March 15, 2001 to indicate that the response had been received and would be sent to him on the morning of March 16, 2001. A letter addressed to the Appellant dated March 15, 2001 from the Board further stated that “The Board will advise whether or not your appeal shall proceed to a hearing based on your submission.”

[10] On March 27, 2001, the Board received a letter from the Director stating that “the Director would be willing to participate in a “mediative” process. This could commence after the project is complete so that there is an independent forum where Ms. Hanson could voice her concerns...” In a letter dated March 30, 2001, the Board sought comments and available dates from all parties in response to the Director’s letter.

[11] On April 2, 2001, the Board spoke with the Approval Holder who provided dates for the mediation. The Appellant called on April 4, 2001 and indicated availability in the first week of May while the Director wrote to the Board on April 4, 2001 indicating the dates that he was available.

[12] On April 11, 2001, the Board received an e-mail letter from the Appellant listing several questions concerning the mediation process. Specifically, she asked “I need to know what the mediation process means and where it could possibly lead before I proceed any further...Mediation means reaching some form of compromise, but I can’t suggest another crossing site because it is outside my area of expertise.” The Board responded by e-mail (then copied to all parties by way of a letter) on April 12, 2001. The Board responded to her concerns and reiterated the request for dates for a possible mediation meeting/settlement conference.

[13] On April 19, 2001, the Appellant sent a letter to the Board via e-mail indicating that “...I have come to the decision not to proceed with the appeal/mediation process because I lack the expertise necessary...” She further expresses concern about the time limits for the filing of an appeal and requests that the “applicants be required to submit a professional hydrogeological study demonstrating that their proposed course of action will not result in any risk to the environment and public or private property.”

[14] On April 30, 2001, Board staff spoke with the Appellant to clarify her intentions regarding the Appeal. The Appellant indicated that she wished to withdraw the Appeal this year but may decide to file an appeal next year should the construction of the ice bridge be approved next year.

[15] On May 1, 2001, the Board received an e-mail letter from the Appellant stating “The purpose of this letter is to serve notice that I officially wish to withdraw my appeal of the TBG Ice Bridge File, # EAB 01-033 and that I do not wish to pursue a mediation process this year.”

DECISION

[16] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the Appellant's letter of May 1, 2001, the Board hereby discontinues its proceedings in Appeal No. 01-033 and will be closing its file.

Dated on May 3, 2001, at Edmonton, Alberta.

Dr. William A. Tilleman