

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – November 19, 2001

IN THE MATTER OF Sections 84, 85 and 87 of the *Environmental Protection and Enhancement Act*, S.A. 1992, 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 by Mr. Stanley Pethybridge with respect to Approval No. 00147207-00-00 issued under the *Water Act* by the Director, Parkland Region, Regional Support, Alberta Environment, to the Village of Alix to explore for groundwater at NW 02-040-24-W4 near Alix, Alberta.

Cite as: *Pethybridge v. Director, Parkland Region, Regional Support, Alberta Environment, re: Village of Alix.*

EXECUTIVE SUMMARY

Alberta Environment issued an Approval to the Village of Alix for the purpose of exploring for groundwater in the Village of Alix. The Board received a Notice of Appeal from Mr. Stanley Pethybridge appealing the Approval and stating that he did not give the Village of Alix or Westcan Malting Ltd. permission to access his land.

On November 13, 2001, Mr. Pethbridge advised the Board that an agreement had been reached with Westcan Malting Ltd. and that he wished to withdraw his appeal. As a result, the Board is closing its file.

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I. BACKGROUND

[1] On August 20, 2001, Approval No 00147207-00-00 (the “Approval”) was issued to the Village of Alix (the “Approval Holder”) by the Director, Parkland Region, Regional Support, Alberta Environment (the “Director”), for the exploration of groundwater at NW 02-040-24-W4 near Alix, Alberta. The exploration for water was to be carried out by Westcan Malting Ltd.

[2] On September 25, 2001, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mr. Stanley Pethybridge (the “Appellant”) appealing the Approval and advising that he did not authorize any drilling on his land by Westcan Malting Ltd. or the Village of Alix and did not want a licence to be issued.

[3] On October 1, 2001, the Board acknowledged receipt of the Notice of Appeal. At that time, the Board requested the Appellant provide further information as follows:

1. What are the details of the Approval that you object to? (What sections of the Approval do you not like?);
2. What are the grounds for this appeal? (Why do you not like the Approval? How does the Approval affect you?); and
3. What is the relief that you request? (What do you want the Board to do?)

At the same time the Board also advised the Appellant that his appeal was outside the prescribed time limits set out in the *Water Act*, S.A. 1996, c. W-3.5, and requested he provide reasons for the extension of time to appeal. By way of this same letter, the Board requested a copy of all correspondence, documents and materials (the “Record”) relative to the appeal from the Director.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had

been the subject of a review or hearing under their respective legislation. Both Boards responded in the negative.

[5] On October 10, 2001, the Board acknowledged a telephone conversation with the Appellant wherein he advised that the principal issue in this appeal is access to his land as it relates to the Village of Alix exercising its rights under the Approval. The Board also requested the other parties advise if there were other issues to be dealt with and to provide available dates for a mediation meeting/settlement conference.

[6] On October 12, 2001, the Board received the Record from the Director and provided copies to the Appellant and the Approval Holder. The Director responded to the Board's October 10, 2001 letter advising that the sole issue appears to be access to the Appellant's land. The Director wrote, "If the holder of the approval cannot obtain access to the land in question, the approved activity does not take place". The Approval Holder and Westcan Malting Ltd. provided available dates for a mediation meeting/settlement conference on October 17, 2001 and the Board acknowledged these on October 18, 2001.

[7] On October 22 and 23, 2001, Westcan Malting Ltd. advised the Board that discussions were ongoing with the Appellant and provided copies of correspondence between Westcan Malting Ltd. and the Appellant. On the same day, the Appellant provided additional information. The Board acknowledged these letters on October 23, 2001 and requested the Appellant provide comments to Westcan Malting Ltd.'s letter of October 23, 2001.

[8] The Board received a copy of a letter from the Appellant to Westcan Malting Ltd. on November 8, 2001, granting them permission to access his land. This letter was acknowledged along with telephone conversations between Board staff, the Appellant and Westcan Malting Ltd. As a result of the Appellant's letter to Westcan Malting Ltd. and

telephone conversations with the parties, the Board requested on November 8, 2001 that the Appellant advise if he was withdrawing his appeal.

[9] The Appellant responded to the Board's November 8, 2001 letter on November 13, 2001 advising he is withdrawing his appeal.

II. DECISION

[10] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act* and based on Mr. Pethybridge's letter of November 13, 2001, the Board discontinues its proceedings in Appeal No. 01-092 and will be closing its file.

Dated on November 19, 2001, at Edmonton, Alberta.

William A. Tilleman, Q.C.