

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Report and Recommendations – June 19, 2002

IN THE MATTER OF sections 91, 92 and 95 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12;

-and-

IN THE MATTER OF a Notice of Appeal filed by Bouvry
Exports Calgary Ltd. with respect to Approval No. 11200-02-00,
issued by the Director, Southern Region, Regional Services,
Alberta Environment to Bouvry Exports Calgary Ltd.

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

PARTIES:

Appellant: Mr. Ton Niers, Bouvry Exports Calgary Ltd.

Department: Mr. Dave McGee, Director, Southern Region,
Regional Services, Alberta Environment,
represented by Ms. Charlene Graham, Alberta
Justice

EXECUTIVE SUMMARY

Alberta Environment issued an Approval to Bouvry Exports Calgary Ltd. authorizing the construction, operation and reclamation of a red meat processing plant near the town of Fort Macleod, Alberta.

The Board received a Notice of Appeal from Bouvry Exports 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.

The Board recommends the Minister of Environment accept the Resolution.

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I. BACKGROUND

[1] On February 28, 2002, the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 11200-02-00 (the “Approval”) to Bouvry Exports Calgary Ltd. (the “Appellant”) authorizing the construction, operation and reclamation of a red meat processing plant near the town of Fort Macleod, Alberta.

[2] On March 28, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mr. Ton Niers, Bouvry Exports Calgary Ltd., appealing the Approval. On April 5, 2002, the Board acknowledged receipt of the Notice of Appeal, notified the Director of the appeal, and requested the Director provide the Board with a copy of the Record related to the appeal (the “Record”). The Board also requested the parties provide available dates for a mediation meeting and settlement conference or hearing.

[3] 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 hearing or review under their respective legislation. Both Boards responded in the negative.

[4] On April 10, 2002, the Board received a letter from the Director requesting an extension of time to provide the Record to the Board. As no objections were received from the Appellant, the Board granted the extension.

[5] On April 22, 2002, the Board received a copy of the Record from the Director and forwarded a copy to the Appellant.

[6] On May 14, 2002, in consultation with the parties, the Board scheduled the mediation meeting and settlement conference to be held in Lethbridge, Alberta on June 5, 2002.

[7] On June 3, 2002, the Board acknowledged receipt of the letter dated May 31, 2002, from the Appellant requesting that the mediation meeting and settlement conference be postponed as the parties were working towards an agreement. The Board requested a written status report from the parties by June 7, 2002 confirming the resolution or providing available dates for a mediation meeting and settlement conference.

[8] On June 4, 2002, the Board received a letter from the Director requesting an abeyance with respect to the written status report, which was due on June 7, 2002, and advising that the parties were still in discussions. On June 5, 2002, the Board acknowledged this letter and granted the abeyance to June 11, 2002 with status reports due along with available dates for a mediation meeting and settlement conference.

[9] On June 12, 2002, the Board received status reports from the Appellant and the Director advising that only one issue was outstanding and both parties were of the belief that the matter could be resolved. The Board acknowledged receipt of the letters on the same date and at that time set the mediation meeting/settlement conference for June 19, 2002, in Lethbridge, Alberta.

[10] On June 14, 2002, the Board acknowledged receipt of the Director's letter of the same date, in which the Board was advised that a draft resolution agreement had been sent to the Appellant for review and that the Director was no longer available on June 19, 2002. By way of the same letter, the Board advised the parties that the mediation meeting and settlement conference would now be held on June 20, 2002 to accommodate the Director.

[11] The Board received letters from the Appellant on June 17, 2002 and from the Director on June 18, 2002 providing the Resolution. On June 18, 2002, the Board acknowledged the letters and advised that it has cancelled the mediation meeting and settlement conference for June 20, 2002 and that it would now issue a Report and Recommendations containing the Resolution (attached as pages 4 and 5) to the Minister of Environment for his consideration.

II. RECOMMENDATIONS

[12] In accordance with section 100 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, (the "Act") the Board recommends that the Minister of Environment vary Approval No. 11200-02-00, issued by the Director, Southern Region, Alberta Environment, in accordance with the Resolution contained herein. Attached for the Minister's consideration is a draft Ministerial Order implementing this Resolution.

[13] Further, in respect of section 100(2) and 103 of the Act, the Board recommends copies of the Report and Recommendations and any decision of the Minister be sent to:

- Mr. Ton Niers, Bouvry Exports Calgary Ltd.;
- Mr. Kirk M. Morrison, Bel•MK Engineering Ltd.; and
- Mr. Dave McGee, Director, Southern Region, Regional Services, Alberta Environment.

Dated on June 19, 2002, at Edmonton, Alberta.

William A. Tilleman, Q.C.
Chair

III. RESOLUTION

Resolution Agreement
Environmental Appeal Board
Appeal No. 01-132

Respecting EPEA Approval 11200-02-00

Between:

Bouvry Exports Calgary Ltd. (Appellant)

And

Director, Southern Region, Alberta Environment (Director)

Whereas the Appellant filed an appeal in regards to the EPEA Approval No. 11200-02-00 (the "Approval");

Whereas the Appellant and the Director agree as follows:

1. Clause 4.9.6 of the Approval remains unchanged.
2. Clause 4.4.8 of the Approval is deleted and replaced with the following:

The Approval Holder shall:

- (a) submit to the Director on or before June 30, 2002, a written proposal to minimize blood wastes from the kill floor operations entering the wastewater gathering system;
 - (b) correct any deficiencies in this proposal as required by the Director within 30 days of receiving notice of the deficiencies, and
 - (c) implement the proposal as authorized in writing by the Director.
3. Table 4.3-A of the Approval is deleted and replaced with the following:

TABLE 4.3-A: INDUSTRIAL WASTEWATER IRRIGATION LIMITS – STORAGE CELL

PARAMETER	LIMIT	
5-Day Biochemical Oxygen Demand (CBOD)	500 mg/L (until March 1, 2005)	150 mg/L (after March 1, 2005 unless otherwise authorized in

		writing by the Director)
Total Suspended Solids (TSS)	100 mg/L	
PH	6.0 – 9.5 units	
Electrical Conductivity (EC)	2.5 dS/m (after October 31, 2002)	
Sodium Adsorption Ration (SAR)	9.0 (after October 31, 2002)	

4. Clause 4.9.5 of the Approval means that the level of soil mineral nitrogen in the lands to be irrigated, shall be determined by sampling and analysis prior to the first irrigation application of each season, according to the *Guidelines for Municipal Wastewater Irrigation (Alberta Environment, April 2000 as amended)*. For any subsequent irrigation events during that irrigation season, prior to any irrigation event, the level of soil mineral nitrogen in the lands to be irrigated may be determined by alternate methods as set out in the *Guidelines for Municipal Wastewater Irrigation (Alberta Environment, April 2000 as amended)* provided the method provides a reliable estimated level of soil mineral nitrogen in the lands to be irrigated and the methodology is acceptable to the Director.

5. Clause 4.9.7 of the Approval means that the level of soil salinity and sodicity in the lands to be irrigated, shall be determined by sampling and analysis prior to the first irrigation of each season, according to the (*Guidelines for Municipal Wastewater Irrigation (Alberta Environment, April 2000 as amended)*). For any subsequent irrigation events during that same irrigation season, prior to any irrigation event, the level of soil salinity and sodicity in the lands to be irrigated may be determined by alternate methods as set out in the *Guidelines for Municipal Wastewater Irrigation (Alberta Environment, April 2000 as amended)* provided the method provides a reliable estimated level of salinity and sodicity in the lands to be irrigated and the methodology is acceptable to the Director.

The Appellant agrees to withdraw its appeal before the Environmental Appeal Board.

Dated this 17th day of June, 2002.

“original signed by”

Bouvry Exports Calgary Ltd.

“original signed by”

Director, Alberta Environment

IV. DRAFT ORDER

**Ministerial Order
/2002**

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12

**Order Respecting Environmental Appeal Board
Appeal No. 01-132**

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 100 of the *Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order Respecting Environmental Appeal Board Appeal No. 01-132.

Dated at the City of Edmonton, in the Province of Alberta this ____ day of _____, 2002.

Honourable Dr. Lorne Taylor
Minister of Environment

Draft Appendix

Order Respecting Environmental Appeal Board Appeal No. 01-132

With respect to the decision of the Director, Southern Region, Regional Services, Alberta Environment (the “Director”) to issue Approval No. 11200-02-00 (the “Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Bouvry Exports Calgary Ltd. (the “Approval Holder”), I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied as follows:

3. Clause 4.4.8 of the Approval is deleted and replaced with the following:

4.4.8 The Approval Holder shall:

- (a) submit to the Director on or before June 30, 2002, a written proposal to minimize blood wastes from the kill floor operations entering the wastewater gathering system;
- (b) correct any deficiencies in this proposal as required by the Director within 30 days of receiving notice of the deficiencies, and
- (c) implement the proposal as authorized in writing by the Director.

2. Table 4.3-A of the Approval is deleted and replaced with the following:

TABLE 4.3-A: INDUSTRIAL WASTEWATER IRRIGATION LIMITS – STORAGE CELL

PARAMETER	LIMIT	
5-Day Biochemical Oxygen Demand (CBOD)	500 mg/L (until March 1, 2005)	150 mg/L (after March 1, 2005 unless otherwise authorized in writing by the Director)
Total Suspended Solids (TSS)	100 mg/L	
PH	6.0 – 9.5 units	
Electrical Conductivity (EC)	2.5 dS/m (after October 31, 2002)	
Sodium Adsorption Ration (SAR)	9.0 (after October 31, 2002)	

Ministerial Order

15/2002

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12

**Order Respecting Environmental Appeal Board
Appeal No. 01-132**

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 100 of the *Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order Respecting Environmental Appeal Board Appeal No. 01-132.

Dated at the City of Edmonton, in the Province of Alberta this 20 day of June, 2002.

“original signed by”
Honourable Dr. Lorne Taylor
Minister of Environment

Appendix

Order Respecting Environmental Appeal Board Appeal No. 01-132

With respect to the decision of the Director, Southern Region, Regional Services, Alberta Environment (the “Director”) to issue Approval No. 11200-02-00 (the “Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to Bouvry Exports Calgary Ltd. (the “Approval Holder”), I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied as follows:

1. Clause 4.4.8 of the Approval is deleted and replaced with the following:

4.4.8 The Approval Holder shall:

- a. submit to the Director on or before June 30, 2002, a written proposal to minimize blood wastes from the kill floor operations entering the wastewater gathering system;
 - b. correct any deficiencies in this proposal as required by the Director within 30 days of receiving notice of the deficiencies, and
 - c. implement the proposal as authorized in writing by the Director.
2. Table 4.3-A of the Approval is deleted and replaced with the following:

TABLE 4.3-A: INDUSTRIAL WASTEWATER IRRIGATION LIMITS – STORAGE CELL

PARAMETER	LIMIT	
5-Day Biochemical Oxygen Demand (CBOD)	500 mg/L (until March 1, 2005)	150 mg/L (after March 1, 2005 unless otherwise authorized in writing by the Director)
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