

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Mediation Meeting and Settlement Conference – June 10, 2002

Date of Report and Recommendations – June 11, 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 Notices of Appeal filed by Ms. Carol
Kaita and Mr. John F. Tyler with respect Amending Approval No.
452-01-01 issued to the Village of Breton by the Director, Central
Region, Regional Services, Alberta Environment, for the
construction, operation and reclamation of a waterworks system
for the Village of Breton.

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

**MEDIATION MEETING/SETTLEMENT
CONFERENCE BEFORE**

Frederick C. Fisher, Q.C.

APPEARANCES

Appellants: Ms. Carol Kaita and Mr. John F. Tyler

Department: Mr. Darryl Seehagel, Director, Central Region,
Regional Services, Alberta Environment and
Mr. Randy Lewis, Municipal Engineer, Alberta
Environment, represented by Ms. Renee Craig
Alberta Justice

Approval Holder: The Village of Breton, represented by His
Worship, Mayor Alan Barker and Ms. Eileen
Simmers, Municipal Administrator

Board Staff Member: Ms. Denise Black, Board Secretary

EXECUTIVE SUMMARY

Alberta Environment issued an Amending Approval 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 and Mr. John F. Tyler appealing the Amending Approval.

The Board held a mediation meeting and settlement conference in Breton, Alberta, following which a Resolution was reached by the parties. The Board recommends that the Minister of Environment accept the Resolution.

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I. BACKGROUND

[1] On March 20, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Amending Approval No. 452-01-01 (the “Amending Approval”) to the Village of Breton (the “Approval Holder” or the “Village of Breton”). The Amending Approval authorizes the Approval Holder for the construction, operation and reclamation of a waterworks system for the Village of Breton, and includes the continuous disinfection treatment for the waterworks system serving the Village of Breton.

[2] The Environmental Appeal Board (the “Board”) received Notices of Appeal from Ms. Carol Kaita on April 17, 2002 and from Mr. John Tyler on April 22, 2002 (collectively the “Appellants”), appealing the Amending Approval.

[3] The Board acknowledged the Notices of Appeal on April 18 and 22, 2002, notified the Approval Holder and the Director of the appeals and requested the Director provide a copy of the records related to the appeals (the “Record”) to the Board. The Board also requested the parties provide available dates for a mediation meeting and settlement conference or hearing to the Board.

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

[5] On May 2, 2002, the Board received the Record from the Director and provided a copy to the Approval Holder and the Appellants.

[6] On May 16, 2002, in consultation with the parties, the Board scheduled the mediation meeting and settlement conference to be held in Breton, Alberta, on June 10, 2002.

II. THE MEDIATION MEETING AND SETTLEMENT CONFERENCE

[7] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting and settlement conference in Breton, Alberta on June 10, 2002 with Frederick C. Fisher, Q.C. as the presiding Board Member (the “Mediator”).

[8] In conducting the mediation meeting, Dr. Fisher reviewed the appeals and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the Participant’s Agreement to Mediate. All Parties signed the Agreement and discussions ensued.

[9] Following productive and detailed discussions, a Resolution evolved at the June 10, 2002 mediation meeting and is attached as pages 4 and 5.

[10] In reaching a Resolution of the appeals, it became apparent to the Mediator, based on his discussions with the Parties, that a comprehensive water treatment analysis of the treated water in the Village of Breton, and a comparison of such an analysis to the regular analysis conducted by the Village of Breton itself, would provide the citizens of the Village of Breton with a higher comfort level and understanding of the composition of their treated water. The Mediator strongly encourages that Alberta Environment undertake such an analysis and comparison on behalf of the Village of Breton and that this information be provided to the citizens of the Village of Breton.

III. RECOMMENDATIONS

[11] 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 Amending Approval No. 452-01-01, issued by the Director, Central Region, Regional Services, Alberta Environment, in accordance with the Resolution contained herein. Attached for the Minister’s consideration is a draft Ministerial Order implementing this Resolution.

[12] Further, with respect to sections 100(2) and 103 of the Act, the Board recommends that copies of this Report and Recommendations and of any decision by the Minister be sent to the following parties:

- Ms. Carol Kaita;
- Mr. John F. Tyler;
- His Worship Mayor Alan Barker and Ms. Eileen Simmers, Municipal Administrator, Village of Breton; and
- Mr. Darryl Seehagel, Director, Central Region, Regional Services, Alberta Environment, represented by Ms. Renee Craig, Alberta Justice.

Dated on June 11, 2002, at Edmonton, Alberta.

“original signed by”

Frederick C. Fisher, Q.C.

IV. RESOLUTION

RESOLUTION OF APPEAL NOS. 02-007 AND 02-008 REGARDING AMENDING APPROVAL NO. 452-01-01 ISSUED UNDER THE *ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT*, R.S.A. 2000, c. E-12, (EPEA) BY THE DIRECTOR, CENTRAL REGION, REGIONAL SERVICES, ALBERTA ENVIRONMENT, TO THE VILLAGE OF BRETON. AMENDING APPROVAL NO. 452-01-01 AMENDS AN EXISTING APPROVAL ISSUED TO THE VILLAGE OF BRETON, TO INCLUDE CONTINUOUS DISINFECTION TREATMENT FOR THE WATERWORKS SYSTEM SERVING THE VILLAGE OF BRETON.

All parties to the appeal have agreed to the following terms and conditions:

1. THAT the following conditions be added to Approval 452-01-01 after 6.1.9:

SECTION 6.2: SPECIAL MONITORING

- 6.2.1 In addition to complying with 6.1.4, the approval holder shall before June 30, 2002, collect a minimum of one grab sample of raw water from each source well and shall analyze the samples for:
 - (a) turbidity, Total Dissolved Solids, calcium, magnesium, hardness, sodium, Nitrate-N, Ammonia-N, T-Alkalinity, Fluoride, Nitrite-N, Dissolved Organic Carbons, Aluminum, Arsenic, Copper, Iron, Manganese, Lead, and
 - (b) trihalomethanes (THM);
 - 6.2.2 By December 31, 2002 and again by June 30, 2003, the approval holder shall collect a minimum of one grab sample of treated water on each date and shall analyze the samples for:
 - (a) turbidity, Total Dissolved Solids, calcium, magnesium, hardness, sodium, Nitrate-N, Ammonia-N, T-Alkalinity, Fluoride, Nitrite-N, Dissolved Organic Carbons, Aluminum, Arsenic, Copper, Iron, Manganese, Lead, and
 - (b) trihalomethanes (THM);
 - 6.2.3 The approval holder shall have the analyses required in 6.2.1 and 6.2.2 conducted by an independent laboratory.
 - 6.2.4 The approval holder shall make the results of the analyses in 6.2.1 and 6.2.2 available to the public.
 - 6.2.5 The approval holder shall submit a copy of the results of the analyses in 6.2.1 and 6.2.2 to the Director within 30 days after the approval holder has received the results.
2. THAT the Village of Breton shall use the lowest level of chlorine possible in order to maintain the most effective treatment and disinfection of the water, while complying with Approval 452-01-01.
 3. THAT the Village of Breton will explore and review new methods of disinfection as they

become available and make this information available to the community.

4. THAT the Village of Breton shall provide for continuing education for the operator of the waterworks system.

5. THAT in consideration of the foregoing, the Appellants, Ms. Carol Kaita and Mr. John F. Tyler, agree to withdraw their Notices of Appeal.

RESOLUTION AGREED TO BY:

“original signed by”
Ms. Carol Kaita

Date: June 10, 2002

“original signed by”
Mr. John F. Tyler

Date: June 10, 2002

“original signed by”
Village of Breton
Represented by Ms. Eileen Simmers,
Municipal Administrator

Date: June 10, 2002

“original signed by”
Mr. Darryl Seehagel,
(Designated Director under EPEA)
District Approvals Manager
Central Region, Regional Services
Alberta Environment
Represented by Ms. Renee Craig
Alberta Justice

Date: June 10, 2002

V. DRAFT ORDER

**Ministerial Order
/2002**

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

**Order Respecting Environmental Appeal Board
Appeal Nos. 02-007 and 02-008**

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 Nos. 02-007 and 02-008.

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 Nos. 02-007 and 02-008

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Amending Approval No. 452-01-01 (the “Amending Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to the Village of Breton (the “Approval Holder”), I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied by adding the following conditions to the Amending Approval immediately after 6.1.9:

“SECTION 6.2: SPECIAL MONITORING

- 6.2.1 In addition to complying with 6.1.4, the approval holder shall before June 30, 2002, collect a minimum of one grab sample of raw water from each source well and shall analyze the samples for:
- (c) turbidity, Total Dissolved Solids, calcium, magnesium, hardness, sodium, Nitrate-N, Ammonia-N, T-Alkalinity, Fluoride, Nitrite-N, Dissolved Organic Carbons, Aluminum, Arsenic, Copper, Iron, Manganese, Lead, and
 - (d) trihalomethanes (THM).
- 6.2.2 By December 31, 2002 and again by June 30, 2003, the approval holder shall collect a minimum of one grab sample of treated water on each date and shall analyze the samples for:
- (c) turbidity, Total Dissolved Solids, calcium, magnesium, hardness, sodium, Nitrate-N, Ammonia-N, T-Alkalinity, Fluoride, Nitrite-N, Dissolved Organic Carbons, Aluminum, Arsenic, Copper, Iron, Manganese, Lead, and
 - (d) trihalomethanes (THM).
- 6.2.6 The approval holder shall have the analyses required in 6.2.1 and 6.2.2 conducted by an independent laboratory.
- 6.2.7 The approval holder shall make the results of the analyses in 6.2.1 and 6.2.2 available to the public.
- 6.2.8 The approval holder shall submit a copy of the results of the analyses in 6.2.1 and 6.2.2 to the Director within 30 days after the approval holder has received the results.”

**Ministerial Order
14/2002**

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

**Order Respecting Environmental Appeal Board
Appeal Nos. 02-007 and 02-008**

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 Nos. 02-007 and 02-008.

Dated at the City of Edmonton, in the Province of Alberta this 19 day of June , 2002.

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

Appendix

Order Respecting Environmental Appeal Board Appeal Nos. 02-007 and 02-008

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Amending Approval No. 452-01-01 (the “Amending Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, to the Village of Breton (the “Approval Holder”), I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied by adding the following conditions to the Amending Approval immediately after 6.1.9:

“SECTION 6.2: SPECIAL MONITORING

- 6.2.1 In addition to complying with 6.1.4, the approval holder shall before June 30, 2002, collect a minimum of one grab sample of raw water from each source well and shall analyze the samples for:
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 - (b) trihalomethanes (THM).
- 6.2.2 By December 31, 2002 and again by June 30, 2003, the approval holder shall collect a minimum of one grab sample of treated water on each date and shall analyze the samples for:
- (a) turbidity, Total Dissolved Solids, calcium, magnesium, hardness, sodium, Nitrate-N, Ammonia-N, T-Alkalinity, Fluoride, Nitrite-N, Dissolved Organic Carbons, Aluminum, Arsenic, Copper, Iron, Manganese, Lead, and
 - (b) trihalomethanes (THM).
- 6.2.9 The approval holder shall have the analyses required in 6.2.1 and 6.2.2 conducted by an independent laboratory.
- 6.2.10 The approval holder shall make the results of the analyses in 6.2.1 and 6.2.2 available to the public.
- 6.2.5 The approval holder shall submit a copy of the results of the analyses in 6.2.1 and 6.2.2 to the Director within 30 days after the approval holder has received the results.”