

ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Mediation Meeting and Settlement Conference – July 5, 2002

Date of Report and Recommendations – July 8, 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 section 115 of the *Water Act*, R.S.A. 2000, c. W-3.

-and-

IN THE MATTER OF Notices of Appeal filed by Ms. Tanni Parker and Mr. Darcy Doblanko with respect to Licence No. 00179397-00-00, issued on April 5, 2002 under the *Water Act* to Mr. Corne and Ms. Connie Van Bedaf for the purpose of diverting 10,220 cubic metres of water annually from the well in SE 13-049-27-W4M by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Parker and Doblanko v. Director, Central Region, Regional Services, Alberta Environment re: Corne and Connie Van Bedaf.*

MEDIATION MEETING BEFORE

Mr. Ron Hierath.

APPEARANCES

Appellants: Ms. Tanni Parker.

Director: Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment and Mr. Tim Chau, Alberta Environment, represented by Mr. Dave France, Alberta Justice.

Approval Holder: Mr. Corne and Ms. Connie Van Bedaf.

Board Staff: Mr. Gilbert Van Nes, General Counsel and Settlement Officer.

EXECUTIVE SUMMARY

Alberta Environment issued a Licence under the *Water Act* to Mr. Corne and Ms. Connie Van Bedaf authorizing the diversion of 10,220 cubic metres of water annually from the well in SE 13-049-27-W4M for the purpose of agriculture (stock water), near Calmar, Alberta.

The Board received Notices of Appeal from the Ms. Tanni Parker and Mr. Darcy Doblanko appealing the Licence.

The Board held a mediation meeting and settlement conference in Calmar, 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 April 5, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued Licence No. 00179397-00-00 (the “Licence”) under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Corne and Ms. Connie Van Bedaf (the “Licence Holders”), authorizing the diversion of 10,220 cubic metres of water annually, for the purpose of agriculture (stock water), from the well in SE 13-049-27-W4M, near Calmar, Alberta.

[2] On May 2, 2002, the Environmental Appeal Board (the “Board”) received Notices of Appeal from Ms. Tanni Parker and Mr. Darcy Doblanko (collectively the “Appellants”). On May 9, 2002, the Board wrote to the Appellants, the Licence Holders and the Director (the “Parties”) acknowledging receipt of the appeals and notifying the Licence Holders and the Director of the appeals. In the same letter, the Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the Licence and requested available dates from the Parties 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 May 21, 2002, the Board received a letter from the Director requesting the Board hold the appeals in abeyance until June 24, 2002, in order to allow the Parties an opportunity to discuss the matter and attempt to reach a resolution. The Board granted the abeyance and requested the Parties provide a status report to the Board by June 24, 2002.

[5] On June 11, 2002, the Board received a telephone call from the Licence Holders. The Licence Holders advised that they had not yet heard from the Director or the Appellants with respect to a meeting to discuss the appeals. The Board subsequently wrote to the Director and the Appellants requesting they provide a status report to the Board by June 14, 2002.

[6] The Board received a status report from the Director on June 14, 2002, advising:

“The Department planned to have initial discussions with the Appellants before speaking with the Van Bedafs. To date, the Department is still attempting to

schedule those informal discussions. In the interim, the Department will endeavour to speak with the Van Bedafs to clarify the Department's intentions in terms of a process for arriving at a resolution."

[7] On June 17, 2002, the Board wrote to the Parties, acknowledging a telephone conversation with the Appellants who advised that they had not yet heard from the Director and requesting the Board proceed with a mediation meeting and settlement conference. The Board requested the Parties provide their available dates for a mediation meeting and settlement conference for the weeks of July 1 and July 8, 2002.

[8] On June 19, 2002, the Board received the Record from the Director and on June 20, 2002, forwarded a copy to the Appellants and Approval Holder.

[9] On June 25, 2002, in consultation with the Parties, the Board scheduled the mediation meeting and settlement conference to be held on July 5, 2002, in Calmar, Alberta.

II. THE MEDIATION MEETING AND SETTLEMENT CONFERENCE

[10] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting and settlement conference in Calmar, Alberta on July 5, 2002 with Mr. Ron Hierath as the presiding Board Member.

[11] In conducting the mediation meeting, Mr. Hierath reviewed the appeals and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the Participants' Agreement to Mediate. All Parties signed the Agreement and discussions ensued.

[12] Following productive and detailed discussions, a resolution evolved at the July 5, 2002, mediation meeting and is attached as pages 5 and 6.

III. RECOMMENDATIONS

[13] In accordance with section 100 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, the Board recommends that the Minister of Environment vary *Water Act* Licence No. 00179397-00-00, issued by the Director, Central Region, Regional Services, Alberta Environment, as follows:

1. Condition 6 of Licence 00179397-00-00 is deleted in its entirety and replaced with the following:

“6.(1) The licensee shall record and retain for each calendar year the following information:

- (a) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
- (b) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
- (c) total annual quantity of water pumped expressed in cubic metres, and any other information requested by the Director.

- (2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:

- (a) on or before October 31, 2002,
- (b) on or before January 31, 2003,
- (c) on or before April 30, 2003,
- (d) on or before July 31, 2003,
- (e) on or before October 31, 2003,
- (f) on or before January 31, 2004,
- (g) on or before April 30, 2004,
- (h) on or before July 31, 2004,
- (i) on or before October 31, 2004, and
- (j) on or before January 31 of every year thereafter.”

2. The following condition is added to Licence 00179397-00-00:

“13.(1) Alberta Environment will take a reading of the number of cubic metres of water pumped from the diversion site(s) and a measurement of water levels from the diversion site(s) once during each of the following periods:

- (a) between August 1, 2002 and January 31, 2003,
- (b) between February 1, 2002 and July 31, 2003,
- (c) between August 1, 2003 and January 31, 2004, and
- (d) between February 1, 2004 and July 31, 2004.

- (2) A minimum of 48 hours prior to attending at the diversion site(s) for the readings and measurements specified in condition 13(1), Alberta Environment will notify

the licensee and Mr. Darcy Doblanko or Ms. Tanni Parker.”

Attached for the Minister’s consideration is a draft Ministerial Order implementing the recommendations.

[14] Further, with respect to sections 100(2) and 103 of *the Environmental Protection and Enhancement 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. Tanni Parker;
- Mr. Darcy Doblanko;
- Mr. Corne and Ms. Connie Van Bedaf; and
- Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment, represented by Mr. Dave France, Alberta Justice.

Dated on July 8, 2002, at Edmonton, Alberta.

“original signed by”

Ron Hierath

IV. RESOLUTION

V. DRAFT ORDER

**Ministerial Order
/2002**

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

Water Act
R.S.A. 2000, c, W-3

**Order Respecting Environmental Appeal Board
Appeal Nos. 02-009 and 02-010**

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. 02-009 and 02-010.

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. 02-009 and 02-010

With respect to the decision of Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment (the "Director") to issue Licence No. 00179397-00-00 (the "Licence") under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Corne and Ms. Connie Van Bedaf, I, Dr. Lorne Taylor, Minister of Environment, order that the Licence be varied as follows:

1. Condition 6 of Licence 00179397-00-00 is deleted in its entirety and replaced with the following:

“6.(1) The licensee shall record and retain for each calendar year the following information:

- (a) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
- (b) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
- (c) total annual quantity of water pumped expressed in cubic metres, and any other information requested by the Director.

(2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:

- (a) on or before October 31, 2002,
- (b) on or before January 31, 2003,
- (c) on or before April 30, 2003,
- (d) on or before July 31, 2003,
- (e) on or before October 31, 2003,
- (f) on or before January 31, 2004,
- (g) on or before April 30, 2004,
- (h) on or before July 31, 2004,
- (i) on or before October 31, 2004, and
- (j) on or before January 31 of every year thereafter.”

2. The following condition is added to Licence 00179397-00-00:

- “13.(1) Alberta Environment will take a reading of the number of cubic metres of water pumped from the diversion site(s) and a measurement of water levels from the diversion site(s) once during each of the following periods:
- (a) between August 1, 2002 and January 31, 2003,
 - (b) between February 1, 2002 and July 31, 2003,
 - (c) between August 1, 2003 and January 31, 2004, and
 - (d) between February 1, 2004 and July 31, 2004.
- (2) A minimum of 48 hours prior to attending at the diversion site(s) for the readings and measurements specified in condition 13(1), Alberta Environment will notify the licensee and Mr. Darcy Doblanko or Ms. Tanni Parker.”

**Ministerial Order
18/2002**

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

Water Act
R.S.A. 2000, c. W-3

**Order Respecting Environmental Appeal Board
Appeal Nos. 02-009 and 02-010**

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. 02-009 and 02-010.

Dated at the City of Edmonton, in the Province of Alberta this 12 day of July, 2002.

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

Appendix

Order Respecting Environmental Appeal Board Appeal Nos. 02-009 and 02-010

With respect to the decision of Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment (the "Director") to issue Licence No. 00179397-00-00 (the "Licence") under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Corne and Ms. Connie Van Bedaf, I, Dr. Lorne Taylor, Minister of Environment, order that the Licence be varied as follows:

1. Condition 6 of Licence 00179397-00-00 is deleted in its entirety and replaced with the following:

"6.(1) The licensee shall record and retain for each calendar year the following information:

- (b) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
- (c) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
- (d) total annual quantity of water pumped expressed in cubic metres, and any other information requested by the Director.

(2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:

- (a) on or before October 31, 2002,
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- (c) on or before April 30, 2003,
- (d) on or before July 31, 2003,
- (e) on or before October 31, 2003,
- (f) on or before January 31, 2004,

- (g) on or before April 30, 2004,
- (h) on or before July 31, 2004,
- (i) on or before October 31, 2004, and
- (j) on or before January 31 of every year thereafter.”

2. The following condition is added to Licence 00179397-00-00:

- “13.(1) Alberta Environment will take a reading of the number of cubic metres of water pumped from the diversion site(s) and a measurement of water levels from the diversion site(s) once during each of the following periods:
- (a) between August 1, 2002 and January 31, 2003,
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 - (c) between August 1, 2003 and January 31, 2004, and
 - (d) between February 1, 2004 and July 31, 2004.
- (2) A minimum of 48 hours prior to attending at the diversion site(s) for the readings and measurements specified in condition 13(1), Alberta Environment will notify the licensee and Mr. Darcy Doblanko or Ms. Tanni Parker.”