

ALBERTA ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Mediation Meeting – March 22, 2004

Date of Report and Recommendations – March 24, 2004

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 an appeal filed by Dale Clearwater with respect to *Water Act* Licence No. 00196055-00-00 and Licence Amendment No. 00196055-00-01 issued to Larry and Terri Cameron, operating as Wolf Dance Lodge by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Clearwater v. Director, Central Region, Regional Services, Alberta Environment*
re: *Larry and Terri Cameron, o/a Wolf Dance Lodge* (24 March 2004), Appeal
No. 03-149-R (A.E.A.B.).

MEDIATION MEETING BEFORE:

Mr. Al Schulz, Board Member.

APPEARANCES:

Appellant:

Mr. Dale Clearwater and Mr. Kenneth Qually.

Director:

Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment, and Mr. Grant Nielsen, Alberta Environment, represented by Ms. Shannon Keehn, Alberta Justice.

Licence Holder:

Mr. Larry Cameron and Ms. Terri Cameron, operating as Wolf Dance Lodge.

Board Staff:

Mr. Gilbert Van Nes, General Counsel and Settlement Officer.

EXECUTIVE SUMMARY

Alberta Environment issued Licence No. 00196055-00-00 and Licence Amendment No. 00196055-00-01 to Larry and Terri Cameron operating as Wolf Dance Lodge for municipal purposes (water supply for the Lodge) at SW 04-038-07-W5 near Rocky Mountain House, Alberta.

The Board received a Notice of Appeal from Mr. Dale Clearwater appealing the Licence and Licence Amendment.

The Board held a mediation meeting in Rocky Mountain House, Alberta on March 22, 2004, following which an agreement was reached by the parties. The Board recommends that the Minister of Environment accept the agreement.

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I. BACKGROUND

[1] On December 5, 2003, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Licence No. 00196055-00-00 (the “Licence”) to Mr. Larry and Ms. Terri Cameron operating as Wolf Dance Lodge, (the “Licence Holder”), authorizing the diversion of 3,000 cubic meters of water annually from two wells in SW 04-038-07-W5 for Municipal purposes (water supply for the lodge). On December 16, 2004, the Director issued Licence Amendment No. 00196055-00-01 (the “Licence Amendment”) to Mr. Larry and Ms. Terri Cameron of Wolf Dance Lodge correcting a clerical error and now authorizing the diversion of 3,000 cubic meters of water annually from one well only in SW 04-038-07-W5.

[2] On December 18, 2003 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Dale Clearwater (the “Appellant”) appealing the Licence and Licence Amendment.

[3] On December 19, 2003, the Board wrote to the Appellant, the Licence Holder and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Licence Holder and the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to this appeal, and that the Parties provide available dates for a mediation meeting or hearing.

[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 January 19, 2004, the Board received a copy of the Record from the Director, and on January 22, 2004, forwarded a copy to the Appellant and the Licence Holder.

[6] In consultation with the Parties the Board scheduled a mediation meeting for March 22, 2004 to be held in Rocky Mountain House, Alberta.

II. THE MEDIATION MEETING

[7] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Rocky Mountain House, Alberta on March 22, 2004 with Mr. Al Schulz as the presiding Board Member (the “Mediator”).

[8] In conducting the mediation meeting, the Mediator reviewed the appeal and the 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.

[9] Following productive and detailed discussion, a Resolution evolved at the March 22, 2004 mediation meeting and is attached as page 3.

III. RECOMMENDATIONS

[10] In accordance with section 99 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (the “Act”), the Board recommends that the Minister of Environment order that the *Water Act* Licence 00196055-00-00 and Licence Amendment No. 00196055-00-01 be varied. Attached for the Minister’s consideration is a draft Ministerial Order implementing the recommendation.

[11] 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:

- Mr. Dale Clearwater;
- Mr. Kenneth Qually;
- Mr. Larry and Ms. Terri Cameron; and
- Ms. Shannon Keehn, Alberta Justice, representing Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment.

Dated on March 24, 2004, at Edmonton, Alberta.

“original signed by”

Mr. Al Schulz
Board Member

IV. RESOLUTION

RESOLUTION OF APPEAL NO. 03-149 REGARDING LICENCE NO. 00196055-00-00 ISSUED UNDER THE *WATER ACT* BY THE DIRECTOR, CENTRAL REGION, REGIONAL SERVICES, ALBERTA ENVIRONMENT, TO LARRY AND TERRI CAMERON, OPERATING AS WOLF DANCE LODGE LTD., AUTHORIZING THE DIVERSION OF 3,000 CUBIC METERS OF WATER ANNUALLY FROM TWO WELLS IN SW 04-038-07-W5 FOR THE PURPOSE OF MUNICIPAL (LODGE WATER SUPPLY) NEAR ROCKY MOUNTAIN HOUSE, ALBERTA, AND LICENCE AMENDMENT NO. 00196055-00-01 CORRECTING A CLERICAL ERROR AND NOW AUTHORIZING THE DIVERSION OF 3,000 CUBIC METERS OF WATER ANNUALLY FROM ONE WELL IN SW 04-038-07-W5.

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

1. Licence No. 00196055-00-00 and Licence Amendment No. 00196055-00-01 are confirmed for 3000 cubic metres of water annual from one well located in SW 04-038-07-W5.
2. Mr. and Mrs. Cameron, operating as Wolf Dance Lodge Ltd., shall provide a summary of the data from the cumulative meter or other device which registers the quantity of water pumped, collected pursuant to condition 5(a) of the Licence, to Mr. Dale Clearwater on or before February 28th of each year covering the previous calendar year, by mailing the summary by regular mail to Box 583, Rocky Mountain House, Alberta, T4T 1A4.
3. Mr. and Mrs. Cameron, operating as Wolf Dance Lodge Ltd., shall apply for the appropriate permits for their sewage system from Municipal Affairs.
4. Mr. and Mrs. Cameron, operating as Wolf Dance Lodge Ltd., shall make application to Alberta Environment for a bank stabilization project by May 15, 2004.
5. Mr. and Mrs. Cameron, operating as Wolf Dance Lodge Ltd., shall construct a berm on their lands in order to provide additional protection to their project and the associated sewage system from potential flooding. Construction of the berm shall be completed prior to the opening of Wolf Dance Lodge.
6. THAT in consideration of the foregoing, the Appellant, Mr. Dale Clearwater, agrees to withdraw his Notice of Appeal.

RESOLUTION AGREED TO BY:

“original signed by”

Dale Clearwater

Date: March 22, 2004

“original signed by”

Kenneth Qually

Date: March 22, 2004

“original signed by”

Larry Cameron
Wolf Dance Lodge Ltd.

Date: March 22, 2004

“original signed by”

Terri Cameron
Wolf Dance Lodge Ltd.

Date: March 22, 2004

“original signed by”

David Helmer, Director, Central Region, Regional Services, Alberta Environment

Date: March 22, 2004

V. DRAFT ORDER

**Ministerial Order
/2004**

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

**Order Respecting Environmental Appeals Board
Appeal No. 03-149**

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 Appeals Board Appeal No. 03-149.

Dated at the City of Edmonton, in the Province of Alberta this ____ day of _____, 2004.

Honourable Dr. Lorne Taylor
Minister of Environment

Draft Appendix

Order Respecting Environmental Appeals Board Appeal No. 03-149

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Licence No. 00196055-00-00 (the “Licence”) and Licence Amendment No. 00196055-00-01 (the “Licence Amendment”), under the *Water Act*, R.S.A. 2000, c. W-3, to Larry and Terri Cameron operating as Wolf Dance Lodge (the “Licence Holder”), I, Dr. Lorne Taylor, Minister of Environment:

1. Order that the decision of the Director to issue the Licence and Licence Amendment is confirmed.

**Ministerial Order
06/2004**

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

**Order Respecting Environmental Appeals Board
Appeal No. 03-149**

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 Appeals Board Appeal No. 03-149.

Dated at the City of Edmonton, in the Province of Alberta this 29 day of March, 2004.

“original signed by”

Honourable Dr. Lorne Taylor
Minister of Environment

Appendix

Order Respecting Environmental Appeals Board Appeal No. 03-149

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Licence No. 00196055-00-00 (the “Licence”) and Licence Amendment No. 00196055-00-01 (the “Licence Amendment”), under the *Water Act*, R.S.A. 2000, c. W-3, to Larry and Terri Cameron operating as Wolf Dance Lodge (the “Licence Holder”), I, Dr. Lorne Taylor, Minister of Environment:

1. Order that the decision of the Director to issue the Licence and Licence Amendment is confirmed.