

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – November 3, 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 Merlin Tessman with respect to *Water Act* Licence No. 00210248-00-00 issued to Robert John Armitage by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Tessman v. Director, Central Region, Regional Services, Alberta Environment re: Robert John Armitage* (3 November 2004), Appeal No. 04-050-DOP (A.E.A.B.).

EXECUTIVE SUMMARY

Alberta Environment issued a *Water Act* Licence to Mr. Robert John Armitage for the diversion of 9,955 cubic metres of water annually for agricultural purposes (confined feeding operation), near Kinsella, Alberta.

The Environmental Appeals Board received a Notice of Appeal from Mr. Merlin Tessman appealing the Licence.

The Board held a mediation meeting in Kinsella, Alberta, on November 2, 2004. As a result of the mediation, the Appellant withdrew his appeal and the Board therefore closes its file.

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I. BACKGROUND

[1] On July 16, 2004, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Licence No. 00210248-00-00 under the *Water Act*, R.S.A. 2000 c. W-3 (the “Licence”) to Robert John Armitage (the “Licence Holder”) authorizing the diversion of 9,955 cubic metres of water annually from the well in NE 05-047-10-W4 for agricultural purposes (confined feeding operation) near Kinsella, Alberta.

[2] On July 28, 2004 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Merlin Tessman (the “Appellant”), dated July 25, 2004, appealing the Licence.

[3] On July 30, 2004, 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 August 12, 2004, the Board received a copy of the Record from the Director, and on August 16, 2004, forwarded a copy to the Appellant and the Licence Holder.

[6] On October 18, 2004, in consultation with the Parties, the Board scheduled a mediation meeting for November 2, 2004, in Kinsella, 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 Kinsella, Alberta on November 2, 2004 with Ms. Marilyn Kansky 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. She then circulated copies of the Participants' Agreement to Mediate. All parties signed the Agreement and discussions ensued.

[9] Following productive and detailed discussions at the mediation meeting, the Appellant withdrew his appeal.

III. DECISION

[10] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act* R.S.A. 2000, c W-3, and based upon the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 04-050 and closes its file.

Dated on November 3, 2004, in Edmonton, Alberta.

“original signed by”

Dr. Frederick C. Fisher, Q.C.
Chair