

ALBERTA  
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – September 6, 2006

**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** an appeal filed by Met Inc. and Luke  
Frigon with respect to *Environmental Protection and Enhancement  
Act* Environmental Protection Order No. EPO-2006/09-NR issued  
to Met Developments Inc. and Luke Frigon by the Director,  
Northern Region, Regional Services, Alberta Environment.

Cite as: *Met Inc. and Luke Frigon v. Director, Northern Region, Regional Services,  
Alberta Environment*, (06 September 2006), Appeal Nos. 06-057-058-DOP  
(A.E.A.B.).

## **I. BACKGROUND**

[1] On July 10, 2006, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Environmental Protection Order No. EPO-2006/09-NR (the “Order”) to Met Developments Inc. and Mr. Luke Frigon in relation to the construction of a berm containing contaminated substances near Cooking Lake in the County of Strathcona.

[2] On July 17, 2006, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Met Inc. and Mr. Luke Frigon (the “Appellants”), appealing the Order.

[3] On July 19, 2006, the Board wrote to the Appellants and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the appeal.

[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 July 24, 2006, the Board received an e-mail from the Director advising the Parties were in discussions and would jointly provide the Board with a status report. The Board acknowledged receipt of the Director’s e-mail on July 24, 2006, and requested the Parties provide status reports to the Board by August 1, 2006.

[6] On August 1, 2006, the Board received a letter from the Director, stating:

“Alberta Environment (AENV) has reviewed a proposed plan submitted by Met Inc. and has replied to that proposal requesting some clarification and additional information. Met Inc.’s consultant has advised AENV that Met will reply to those requests this week. At this stage, we can advise that all parties are still working towards a satisfactory resolution.”

The Board acknowledged receipt of the Director’s letter on August 2, 2006, and requested the parties provide further status reports to the Board by August 9, 2006.

[7] Between August 3 and 10, 2006, the Board received several requests for information regarding the appeal from members of the public. The Board responded in writing to the requests, providing information on the appeal and advising that should the matter proceed to a hearing, notice would be provided and they would have an opportunity to apply to intervene in the hearing.

[8] On August 9, 2006, the Board received a letter from the Appellants advising they were continuing to work with the Director and requesting the Board continue to hold the appeal in abeyance. The Board acknowledged receipt of the Appellants' letter on August 11, 2006, granting the request for an abeyance, and requesting further status reports by August 25, 2006.

[9] On August 24, 2006, the Board received a letter from the Appellants stating:  
“..we report that matters are progressing. I hope that we can confirm with you next week whether this appeal should still be proceeding.”

The Board acknowledged the Appellants' letter and requested further status reports by September 1, 2006.

[10] On August 30, 2006, the Board received a letter from the Director advising:  
“The Director can advise the Board that he has conditionally approved the Remediation Plan submitted by the Appellants, and anticipate this matter to continue progressing in accordance with that Plan”

The Board acknowledged the Director's letter on August 25, 2006, and requested status reports by September 1, 2006, as well as a copy of the remediation plan. The Board received a response from the Director on August 30, 2006, advising that he would provide a copy of the remediation plan to the Board should the appeal proceed to a mediation meeting or hearing.

[11] On August 31, 2006, the Board received a letter from the Appellants advising that they are withdrawing their appeal. The Appellants advised they were working cooperatively with the Director to resolve issues related to the Order.

## II. DECISION

[12] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c.E-12, and based on the withdrawal of the appeal by the Appellants, the Board hereby discontinues its proceedings in Appeal Nos. 06-057 and 06-058 and closes its file.

Dated on September 6, 2006, at Edmonton, Alberta.

*“original signed by”*

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Steve E. Hrudey, D.Sc. (Eng.), P.Eng.  
Chair