

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – March 9, 2007

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 appeals filed by the River Valleys Committee, and its members S. Meadows, G. McHugh, B. Amell and B. Morrison, with respect to *Water Act* Approval No. 00229111-00-00 issued to the City of Calgary, by the Director, Southern Region, Regional Services, Alberta Environment.

Cite as: *River Valleys Committee et al. v. Director, Southern Region, Regional Services, Alberta Environment* re: City of Calgary (09 March 2007), Appeal No. 06-059-063-DOP (A.E.A.B.).

I. BACKGROUND

[1] On July 12, 2006, the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 00229111-00-00, under the *Water Act*, RSA 2000, c. W-3, (the “Approval”) to the City of Calgary (the “Approval Holder”) authorizing them to complete the reshaping and alterations to an existing unnamed water body (wetland) in the community of Cranston, in the City of Calgary, Alberta.

[2] On July 24, 2006, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from the River Valleys Committee and its members S. Meadows, G. McHugh, B. Amell and B. Morrison, (the “Appellants”) appealing the Director’s decision.

[3] On July 26, 2006, the Board wrote to the Appellants, the Approval Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying the Director and Approval Holder of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the appeals and that the Participants provide available dates for a mediation meeting, preliminary 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 8, 2006, the Board received a letter from the Approval Holder raising preliminary motions challenging the appeals and advising they were not interested in participating in a mediation meeting until the legal issues are addressed. On August 18, 2006, the Board received a letter from the Director also challenging the ability of the River Valleys Committee to have standing to bring an appeal. On August 18, 2006, the Board sent a letter to the Participants advising that a preliminary meeting would be scheduled, and requesting the Participants provide their available dates to the Board for an preliminary meeting.

[6] On August 28, 2006, the Board received a copy of the Record from the Director and on September 5, 2006, provided copies to the other Participants.

[7] On August 29, 2006, the Board received a letter from the Approval Holder advising, that further to a telephone conversation with the Board's General Counsel on August 28, 2006, the Approval Holder agreed to participate in a mediation meeting to discuss the issue of legal standing of the Appellants to file the appeal. On September 1, 2006, the Board responded to the Approval Holder's letter as well as telephone calls it had received from the other Participants. The Board's September 1, 2006 letter stated:

“...The Board understands that the City is prepared to attend and participate in this meeting if the River Valleys Committee withdraws its appeals. The Board understands that the River Valleys Committee is prepared to attend and participate in this meeting based on a written agreement with the City to attend the meeting. This agreement would include a withdrawal of the appeals. If this understanding is correct, the Board requests that the participants indicate that they agree in principle to develop this agreement and participate in this meeting, and that River Valleys Committee also indicates that it is prepared to withdraw its appeal when this agreement is signed. Please provide this information to the Board by September 6, 2006...The Board is prepared to facilitate the preparation of the agreement and the meeting. The participants should understand that once the appeals are withdrawn, the Board has no ability to recommend changes to the approval, and changes to the approval would have to be requested by the City of Calgary and would be subject to the approval of Alberta Environment. Subject to any specific agreements reached by the participants at the meeting, the meeting would have no formal legal status to bind the participants. The meeting would be conducted in accordance with the general rules of mediation, including that it would be conducted pursuant to a confidentiality agreement, and the participants would be expected to participate in good faith...”

[8] On September 5, 2006, the Board received an e-mail from the Approval Holder requesting an extension of the September 6, 2006 deadline. The Board granted the extension until September 14, 2006. On September 5, 2006, the Board also received a letter from the Appellants advising they agreed to withdraw their appeals and to meeting in good faith with the other Participants. On September 14, 2006, the Board received a letter from the Approval Holder agreeing to participate in a mediation meeting provided all appeals were withdrawn.

[9] The Board proceeded to draft the agreement for the Participants' review prior to scheduling the mediation meeting. On February 26, 2007, the Board received a letter from the Appellants withdrawing their appeals. The Appellants also decided not to proceed with a mediation meeting.

II. 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 Notice of Appeal by the Appellants on February 26, 2007, the Board hereby discontinues its proceedings in Appeal Nos. 06-059, 06-060, 06-061, 06-062, and 06-063, and closes its file.

Dated on March 9, 2007, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hruddy, FRSC, PEng
Chair