

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – April 25, 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 an appeal filed by Donald Bieganek with respect to *Water Act* Licence No. 00237605-00-00 issued to Donald Bieganek by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Bieganek v. Director, Central Region, Regional Services, Alberta Environment* (25 April 2007), Appeal No. 06-083-DOP (A.E.A.B.).

I. BACKGROUND

[1] On February 16, 2007, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Licence No. 00237605-00-00 (the “Licence”) to Mr. Donald Bieganek authorizing the diversion of 565 cubic metres of water annually from the source of water for agricultural purposes (stock watering) near Edberg, Alberta, in the County of Camrose.

[2] On February 26, 2007, the Environmental Appeals Board (the “Board”) received Notice of Appeal from Mr. Donald Bieganek (the “Appellant”) appealing the Licence.

[3] On February 27, 2007, the Board wrote to the Appellant, and the Director (collectively the “Participants”) 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 this appeal, 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 March 7, 2007, the Board received a fax and telephone call from the Appellant. The Appellant advised the Board that the Participants were in discussions with a view to resolving the appeal. The Board agreed to hold the appeal in abeyance and requested that the Participants provide the Board with a status report by April 10, 2007.

[6] On April 10, 2007, the Board received letters from the Director advising that a revised Licence had been issued to the Appellant on March 9, 2007 replacing the Licence issued February 16, 2007, which is the subject of this appeal. On April 10, 2007, the Board received a telephone message from the Appellant advising he received the revised Licence. Board staff returned the Appellant’s call on April 11, 2007 and was advised by the Appellant that he would be withdrawing his appeal and would send a letter to the Board confirming the withdrawal.

[7] On April 11, 2007, the Board received a letter from the Appellant stating:

“Please accept this short notice as confirmation that I am going to accept the new water well Licence issued to me on March 9/2007 for an amount of 3650 cu. metres with the agreement that we would look at the volumes again in 1 year.”

[8] It was not clear from the Appellant’s April 11, 2007 letter that he was withdrawing the appeal. Board staff contacted the Appellant by telephone on April 24, 2007 to confirm his intentions regarding the appeal. The Appellant returned the Board’s telephone call on April 25, 2007, confirmed he is withdrawing the appeal, and agreed to the Board confirming the withdrawal by letter. On April 25, 2007, the Board sent a letter to the Participants confirming its understanding that the Appellant has withdrawn the appeal.

II. DECISION

[9] 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. 06-083-DOP and closes its file.

Dated on April 25, 2007, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudey, FRSC, PEng
Chair