

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – January 5, 2009

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 the Hutterian Brethren Church of Lougheed with respect to *Water Act* Licence Amendment No. 00237666-00-00 and Licence 00245033-00-00 issued to the Hutterian Brethren Church of Lougheed by the Director, Central Region, Environmental Management, Alberta Environment.

Cite as: *Hutterian Brethren Church of Lougheed v. Director, Central Region, Environmental Management, Alberta Environment* (05 January 2009), Appeal Nos. 08-023 & 08-024 (A.E.A.B.).

I. BACKGROUND

[1] On October 21, 2008, the Director, Central Region, Environmental Management, Alberta Environment (the “Director”), issued Licence Amendment No. 00237666-00-00 and Licence No. 00245033-00-00 (the “Licences”) under the *Water Act*, R.S.A. 2000, c. W-3, to the Hutterian Brethren Church of Lougheed. The Licence authorizes the operation of a works and the diversion of up to 5,968 cubic metres of water annually for municipal purposes (residential water supply) and 23,874 cubic metres of water annually for agricultural purposes (confined feeding operation) for a total annual diversion of up to 29,842 cubic metres, from the aquifer accessed through wells no. 2 and 3 at SE-05-042-11-W4M. The Licence Amendment reduces the maximum annual diversion for well no. 1 located at SE-05-042-11-W4M from 22,500 to 8,124; corrects a clerical error by adding the purpose of the water to municipal (Colony water supply); and reduces the diversion from 62 to 27 cubic metres per day.

[2] On November 17, 2008, the Environmental Appeals Board (the “Board”) received Notices of Appeal from Ms. Lana Love, Director of the Bellshill Social Society, and on November 26, 2008 from the Hutterian Brethren Church of Lougheed appealing the Licences. This Discontinuance of Proceeding deals only with the Notice of Appeal filed by the Hutterian Brethren Church of Lougheed (the “Appellant”).

[3] On November 27, 2008, the Board wrote to the Appellant, the Certificate Holder 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”) in relation to this appeal, and that the Participants provide the Board with available dates for a mediation meeting, a preliminary motions hearing or a hearing, by December 29, 2008.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board, the Energy Resources Conservation Board and the Alberta Utilities Commission asking whether this matter had been the subject of a hearing or review under their respective legislation. The boards all responded in the negative.

[5] On December 23, 2008, the Board received a telephone call from the Appellant advising they were withdrawing their appeal. On the same date, the Board acknowledged the call, advised that it would be closing its file with respect to the appeals filed by the Appellant

only, and if the Board's account of the conversation was inaccurate to advise the Board by December 30, 2008. As of January 2, 2009, the Board did not receive a call from the Appellant.

II. DECISION

[6] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based upon the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 08-023 and 08-024 and closes its file.

Dated on January 5, 2009 at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudehy, FRSC, PEng
Chair