

DECISIONS 1994

94-001

Appellant(s)- Mr. Fred Wesley, **Operator** – University of Alberta Hospitals, **Location** – Redwater, **Type of Appeal** – Decision

On January 17, 1994, Mr. Fred Wesley filed a Notice of Appeal with respect to Approval No. 93-IND-011 issued to the University of Alberta Hospitals for biochemical waste incineration. On February 2, 1994, after reviewing the submissions of Mr. Wesley, the Board issued a Decision to dismiss the appeal on the grounds that the appeal was not properly before the Board, Mr. Wesley is not ‘directly affected’ by the approval and the appeal is either frivolous or vexatious.

Cite as: *Fred J. Wesley v. Director, Alberta Environmental Protection.*

94-002

Appellant(s) – Mr. Ron W. Eade of Capital Industrial Sales and Service, **Operator** – Custom Environmental Services Ltd., **Location** – Edmonton, **Type of Appeal** – Decision

On March 21, 1994, Mr. Ron Eade of Capital Industrial Sales and Service filed a Notice of Appeal with respect to Approval 93-IND-007 relative to the Custom Environmental Services Ltd. waste facility located in Edmonton. On May 18, 1998, the Board issued a Decision to dismiss the appeal on the grounds that the Mr. Eade failed to comply with the Board’s written request under section 85 of *the Environmental Protection and Enhancement Act*.

Cite as: *Ron W. Eade v. Director, Alberta Environmental Protection.*

94-003

Appellant(s) – Mr. Gerald M. Ross, **Operator** – Mayor, Town of Cochrane, **Location** – Cochrane, **Type of Appeal** – Decision

On March 29, 1994, Mr. Gerald M. Ross filed a Notice of Appeal with respect to Approval 94-MUN-009 relating to a storm sewer outfall to service the Gleneagles subdivision issued to the Mayor, Town of Cochrane. On May 24, 1994, after carefully considering all submissions filed by all of the parties, the Board issued a Decision to dismiss the appeal as Mr. Ross was not directly affected by the approval.

Cite as: *Gerald M. Ross v. Director, Alberta Environmental Protection.*

94-004

Appellant(s) – Cooking Lake Moraine Conservation Association, Sherwood Park Fish and Game Association, **Operator** – County of Strathcona, **Location** – Sherwood Park, **Type of Appeal** - Report and Recommendations

On July 5 and 12, 1994, the Cooking Lake Moraine Conservation Association and the Sherwood Park Fish and Game Association respectively filed appeals with respect to Approval No. 94-SU-043 issued to the County of Strathcona. A pre-hearing meeting was held on September 29, 1994 and a resolution was reached. On October 12, 1994, the Board issued a Report and Recommendations to the Minister which he agreed to on November 2, 1994.

Cite as: *Cooking Lake Moraine Conservation Association and Sherwood Park Fish and Game Association v. Director, Chemicals Assessment and Management Division, Alberta Environmental Protection.*

94-005

Appellant(s) – Mr. Darryl Sawatzky, **Operator** – Mr. Darryl Sawatzky, **Location** – Lac La Biche, **Type of Appeal** – Dismissal

On July 5, 1994, Mr. Darryl Sawatzky filed a Notice of Appeal with respect the refusal by the Director of Action on Waste Division to approve an application submitted by the appellant for the operation of a beverage container depot in Lac La Biche. In a letter of September 20, 1994, the Board stated that “the

Board does not know if the refusal of Mr. Sawatzky's application was - or is - valid. The Board is adjourning these proceedings until October 24, 1994...The Board requires the Director to inform it and Mr. Sawatzky about the actions which the Director has taken..." On October 27, 1994, the Board wrote to the department acknowledging receipt of the Director's decision of October 13, 1994, as well, by way of the letter, advised the Appellant that he would have 30 days to continue his appeal. On December 4, 1994, the Board advised the Appellant the appeal would be dismissed on the grounds that the Board did not receive any response to their letter of October 13, 1994.

Cite as: *Sawatzky v. Director, Action on Waste, Alberta Environmental Protection.*

94-006

Appellant(s) – Mr. Jared Brookes *et al.*, **Operator** – City of Calgary, **Location** – Calgary, **Type of Appeal** - Report and Recommendations

From July 7 – 30, 1994, Mr. Jared Brookes, Ms. Fay Katay, Mr. Jack Locke, Ms. Claudia Bosch, Mr. Raphael Thierrin, Ms. Lynn Keating and Ms. Maria Azpiazu filed appeals with respect to Approval No. 94-SU-093 issued to the City of Calgary which authorizes the city to apply pesticides within 30 horizontal metres of open bodies of water, as defined in the approval. On October 27, 1994, a pre-hearing meeting was held and a resolution was reached by all parties. On November 10, 1994, the Board issued a Report and Recommendations to the Minister which he agreed to on November 16, 1994.

Cite as: *Six citizens of the City of Calgary v. Director, Chemicals Assessment and Management Division, Alberta Environmental Protection.*

94-007

Appellants – Mr. Wade and Ms. Frances Tobler, **Operator** – NOVA Corporation of Alberta, **Location** – Brooks, **Type of Appeal** - Report and Recommendations

On July 19, 1994, Mr. Wade and Ms. Frances Tobler filed a Notice of Appeal with respect to Approval No. P-25-94 issued to NOVA Corporation of Alberta for the construction, operation and reclamation of the Eastern Alberta System Mainline Loop #3 (Matzhiwin East Section) Pipeline. A pre-hearing meeting with field inspection was held on August 4, 1994 and a resolution was reached. On August 10, 1994 the Board issued a Report and Recommendations to the Minister which he agreed to on August 24, 1994.

Cite as: *Tobler v. Director of Land Reclamation, Alberta Environmental Protection*

94-009

Appellant(s) – Mr. John Sheehan of the Friends of the Peace, **Operator** – Daishowa-Marubeni International Ltd., **Location** – Peace River, **Type of Appeal** - Report and Recommendations

On August 29, 1994, Mr. John Sheehan on behalf of the Friends of the Peace filed a Notice of Appeal with respect to Amending Approval No. 93-AL-110B(94) issued to Daishowa-Marubeni International Ltd. On November 25, 1994, a pre-hearing meeting was held and a resolution was reached. On January 20, 1995, the Board issued a Report and Recommendations to the Minister which he agreed to on January 30, 1995.

Cite as: *Friends of the Peace v. Director, Air and Water Approvals Division, Alberta Environmental Protection.*

94-010

Appellant(s) – Mr. Leonard and Ms. Elva Semack, **Operator** – Pan Canadian Petroleum Ltd., **Location** – Sexsmith, **Type of Appeal** - Report and Recommendations

On September 14, 1994, Mr. Leonard and Ms. Elva Semack filed a Notice of Appeal with respect to Reclamation Certificate No. 29600 issued to Pan Canadian Petroleum Ltd. regarding an abandoned well site located at NE ¼ 17-74-4-W6M. On May 30-31, 1995, a site visit and public hearing took place and found that the inspector's actions in issuing the certificate were reasonable, justified and correct. As a result, the Board issued a Report and Recommendations to the Minister on June 29, 1995 dismissing the appeal. The Minister agreed to the report on July 5, 1995.

Cite as: *Leonard and Elva Semack v. Inspector, Land Reclamation Division, Alberta Environmental Protection.*

94-011

Appellant(s) – Sarg Oils and Sergius Mankow, **Operator** – Sarg Oils, **Location** – Camrose, **Type of Appeal** – As listed below

Overview - On September 19, 1994, 16 appeals were filed by Sarg Oils and Sergius Mankow with respect to the issuance of 16 Environmental Protection Orders (EPOs). The EPOs required the Appellants take remedial action with respect to 16 abandoned well sites in Camrose.

Decision – On May 11, 1995, the Board issued a Decision indicating that the Director did not err in issuing the EPOs against Mankow and Sarg. The Board's decision underwent judicial review in the Court of Queen's Bench with a judgment stating that the Board must rehear the appeal.

Cite as: *Sarg Oils Ltd. v. Director of Land Reclamation, Alberta Environmental Protection.*

Report and Recommendations - A hearing took place on November 5 and 6, 1996 in Edmonton. The Board issued a Report and Recommendations to the Minister on December 5, 1996, confirming the Inspector issued the EPOs properly; however, it directed the Department of Environment immediately examine the criteria followed when deciding what parties are to be recipients of EPOs and the criteria should be made publicly available. The Minister agreed with the Board's report on December 16, 1996.

Cite as: *Sarg Oil Ltd. and Sergius Mankow v. Director of Land Reclamation, Alberta Environmental Protection.*

94-012

Appellant(s) – Carter Group, **Operator** – Conwest Exploration Company Limited, **Location** – Sexsmith, **Type of Appeal** – Decision

On September 20, 1994, the Carter Group filed a Notice of Appeal with respect to Approval No. 94-IND-153 issued to Conwest Exploration Company Limited for the processing of natural gas in response to Application No. RS 0270. Documents filed by the Appellant addressed the hearing that was conducted by the Energy Resources Conservation Board (ERCB Decision D 94-6). A preliminary meeting was held on November 2 and 3, 1994 in Grande Prairie and on December 8, 1994. The Board issued a Decision to dismiss the appeal on the grounds that it would be unfair to let any appellant raise or reassert the same matters which were heard earlier and decided by the ERCB and second, where the Director has representatives at an ERCB hearing, participants must fully question the proponents and the Director at those proceedings or risk losing the right to do so on appeal.

Cite as: *Carter Group v. Director of Air and Water Approvals, Alberta Environmental Protection.*

94-013

Appellant(s) – Mr. Douglas Blatter, **Operator** – Mr. Douglas Blatter, **Location** – Warner, **Type of Appeal** Report and Recommendations

On October 21, 1994, Mr. Douglas Blatter filed a Notice of Appeal with respect to the refusal of the Director of the Action on Waste Division to issue an approval to run a rural beverage container recycling depot in Warner, Alberta. A hearing was held in Warner on January 31, 1995 and the Board issued a Report and Recommendations to the Minister on March 24, 1995 stating that Mr. Blatter's appeal should be dismissed and the Director's decision to deny a bottle depot approval be affirmed; as well, the Director should be instructed to reconsider the decision-making process for dealing with applications for beverage container depot approvals and to exercise discretion by taking into account appropriate guidelines and individual factors relevant to competing purposes of the *Environmental Protection and Enhancement Act*. The Minister agreed to the report on March 28, 1995.

Cite as: *Douglas Blatter v. Director, Action on Waste Division, Alberta Environmental Protection.*

94-014

Appellant(s) – Mr. Murray and Ms. Kathleen Williams, **Operator** – Gulf Canada Resources Ltd., **Location** – Eckville, **Type of Appeal** - Report and Recommendations

On November 3, 1994, Mr. Murray and Ms. Kathleen Williams filed a Notice of Appeal with respect to Reclamation Certificate #31843 issued to Gulf Canada Resources Ltd. regarding an abandoned well site. A hearing was scheduled on May 16, 1995 with a pre-hearing meeting on May 2, 1995 in Eckville. The public hearing was adjourned until June 9, 1995 to provide all parties time to prepare. The Board issued a Report and Recommendations on July 7, 1995 stating that the appeal against the issuance of a reclamation certificate be allowed and that the operator be required to reapply for a reclamation certificate. The Minister agreed with the Board's recommendations and ordered they be implemented by July 19, 1995. The Board's decision underwent judicial review resulting in Justice C.L. Kenny's judgment of April 25, 1996 stating that the Board's decision stands.

Cite as: *Murray and Kathleen Williams v. Inspector, Land Reclamation Division, Alberta Environmental Protection.*

94-017

Appellant(s) – Dr. Martha Kostuch, **Operator** – Alberta Cement Corporation, **Location** – Rocky Mountain House, **Type of Appeal** – Decision

On November 28, 1994, Ms. Klimek, on behalf of Dr. Martha Kostuch, filed a Notice of Appeal with respect to Approval No. 93-WP-042B and 93-AP-099B (94) issued to Alberta Cement Corporation. These approvals were to amend the Permits to Construct by extending the deadline for commencement of construction of the cement plant from November 1, 1994 to November 1, 1995 and providing for additional soil and groundwater monitoring. On June 15, 1995 a preliminary meeting was held. A Decision report was issued on August 23, 1995 stating the appellant is not directly affected by the approvals and the appeal is therefore, dismissed. The Board's decision underwent judicial review with a judgment issued on March 29, 1996 by Justice Marceau stating that the Board's decision stands.

Cite as: *Dr. Martha Kostuch v. Director, Air and Water Approvals Division, Alberta Environmental Protection.*