

## DECISIONS 2002

02-004

**Appellant(s)** – Ms. Judy Fenton, **Operator** – Mr. John Pasztor, Mr. John Burden, Mr. Mervin MacKay and Mr. Bryan Perkins, **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

On March 28, 2002, Alberta Environment issued *Water Act* Approval 00152909-00-00 to Messrs. John Pasztor, John Burden, Mervin MacKay and Bryan Perkins, which authorized them to explore for groundwater, for stock watering purposes, near Irma. The Board received a Notice of Appeal from Ms. Judy Fenton on April 11, 2002 appealing the Approval. The Board held a mediation meeting and settlement conference in Wainwright, following which a resolution was reached by the parties and as a result the Appellant withdrew her appeal. The Board then issued a Discontinuance of Proceedings on June 12, 2002.

Cite as: *Fenton v. Director, Central Region, Regional Services, Alberta Environment re: Pasztor, Burden, MacKay and Perkins.*

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02-005

**Appellant(s)** – Ms. Marion Allred, **Operator** – Mr. John Pasztor, Mr. John Burden, Mr. Mervin MacKay and Mr. Bryan Perkins, **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

On March 28, 2002 Alberta Environment issued *Water Act* Approval 00152909-00-00 to Messrs. John Pasztor, John Burden, Mervin MacKay and Bryan Perkins, which authorized them to explore for groundwater, for stock watering purposes, near Irma. The Board received a Notice of Appeal from Ms. Marion Allred on April 11, 2002 appealing the Approval. The Board began processing the appeal, however, on April 29, 2002, Ms. Allred withdrew her appeal. Therefore, the Board issued a Discontinuance of Proceedings on May 13, 2002.

Cite as: *Allred v. Director, Central Region, Regional Services, Alberta Environment re: Pasztor, Burden, MacKay and Perkins.*

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02-006

**Appellant(s)** – Municipal District of Rocky View No. 44, **Operator** – Apple Creek Golf and Country Club, **Location** – near Airdrie, **Type of Appeal** – Decision

On March 28, 2002, Alberta Environment issued to Apple Creek Golf and Country Club Preliminary Certificate 00137211-00-00 under the *Water Act* authorizing the diversion of 119,929 cubic metres of water annually from McPherson Coulee in SE 35-27-1-W5M, and Approval 00137206-00-00 under the *Water Act* authorizing the construction of a channel improvement, control gates, dykes and a diversion pipe on McPherson Coulee and an unnamed water body in SE 35-27-1-W5M near Airdrie. Eleven appeals were filed with respect to this Preliminary Certificate and Approval. One of the appeals filed was from the Municipal District of Rocky View No. 44. It was received by the Board on April 17, 2002, after the appeal period for the Approval had passed. The Board asked for, and received, submissions regarding whether to allow an extension of the time to file the appeal for the Municipal District. After reviewing the submissions, the Board issued a Decision on June 25, 2002 dismissing the portion of the Municipal District's Notice of Appeal that dealt with the Approval because it was filed out of time and no legitimate reason was given to grant an extension. This decision does not affect the Municipal District's appeal in respect to the Preliminary Certificate.

Cite as: *Municipal District of Rocky View No. 44 v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club.*

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02-007 & 008

**Appellant(s)** – Ms. Carol Kaita and Mr. John Tyler, **Operator** – Village of Breton, **Location** – Breton, **Type of Appeal** – Report and Recommendations

On March 20, 2002, Alberta Environment issued Amending Approval 452-01-01 to the Village of Breton authorizing the construction, operation and reclamation of a waterworks system in the Village of Breton.

The Amending Approval included continuous disinfection treatment for the waterworks system serving the Village of Breton. The Board received Notices of Appeal from Ms. Carol Kaita on April 17, 2002 and from Mr. John F. Tyler on April 22, 2002 appealing the Amending Approval. The Board held a mediation meeting and settlement conference in Breton on June 10, 2002, following which a Resolution was reached by the parties. The Board issued a Report and Recommendations to the Minister of Environment on June 11, 2002 which he agreed with on June 19, 2002.

Cite as: *Kaita et al. v. Director, Central Region, Regional Support, Alberta Environment*, re: *Village of Breton*.

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#### 02-009 & 02-010

**Appellant(s)** – Ms. Tanni Parker and Mr. Darcy Doblanko, **Operator** – Mr. Corne and Ms. Connie Van Bedaf, **Location** – near Calmar, **Type of Appeal** – Report and Recommendations

On May 2, 2002, the Board received Notices of Appeal from Ms. Tanni Parker and Mr. Darcy Doblanko on May 9, 2002, with respect to Licence No. 00179397-00-00 issued under the *Water Act* to Mr. Corne and Ms. Connie Van Bedaf. The Licence authorizes the diversion of 10,220 cubic metres of water annually, for the purpose of agricultural (stock water), from the well in SE 13-049-27-W4M. In consultation with the parties, a mediation meeting was held in Calmar, Alberta on July 5, 2002. At the mediation meeting a resolution was reached and as a result, the Board issued a Report and Recommendations to the Minister on July 8, 2002. The Report recommended the conditions of the resolution entered into between the parties. On July 12, 2002, the Minister approved the recommendations.

Cite as: *Parker and Doblanko v. Director, Central Region, Regional Services, Alberta Environment* re: *Corne and Connie Van Bedaf*.

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#### 02-011

**Appellant(s)** – Mr. Robert Bresciani, **Operator** – Burt Consulting and Development Ltd., **Location** – Red Deer, **Type of Appeal** – Discontinuance of Proceedings

On March 22, 2002, Alberta Environment issued *Water Act* Approval 00183288-00-00 authorizing Burt Consulting and Development Ltd. to construct, operate and maintain stormwater management works on an unnamed water body in SW 25-38-28-W4 near Red Deer. The Board received a Notice of Appeal from Mr. Robert Bresciani on May 8, 2002 appealing the Approval. Mr. Bresciani attended a mediation meeting, which was scheduled with respect to another appeal before the Board regarding Burt Consulting and Development Ltd. As a result of discussions that took place at that mediation, Mr. Bresciani withdrew his appeal and the Board issued a Discontinuance of Proceedings on June 7, 2002.

Cite as: *Bresciani v. Director, Central Region, Regional Services, Alberta Environment* re: *Burt Consulting and Development Ltd.*

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#### 02-012 & 014

**Appellant(s)** – Mr. Jack and Ms. Bev Brannen and Mr. Cliff and Ms. Mary Soper, **Operator** – Tar-ific Construction Ltd., **Location** – near Blackfalds, **Type of Appeal** – Discontinuance of Proceedings

On May 8, 2002, Alberta Environment issued *Water Act* Approval 00142622-00-00 to Tar-ific Construction Ltd. The Approval authorized Tar-ific Construction Ltd. to drain groundwater from SE-19-39-26-W4M, near Blackfalds for the purpose of aggregate mining, for a two month period. Notices of Appeal was received from Mr. Jack and Ms. Bev Brannen on May 21, 2002, and from Mr. Cliff and Ms. Mary Soper on May 23, 2002 appealing the Approval. The Board began processing the appeal, however the Board received letters from Mr. and Ms. Soper on May 28, 2002 and from Mr. and Ms. Brannen on June 3, 2002 withdrawing their appeals. The Board then issued a Discontinuance of Proceedings on June 3, 2002.

Cite as: *Brannen and Soper v. Director, Central Region, Regional Services, Alberta Environment* re: *Tar-ific Construction Ltd.*

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#### 02-013

**Appellant(s)** – Mr. Norman J. Spencer, **Operator** – J. Byrne, D. Cerney and 254175 Alberta Ltd., **Location** – near Lethbridge, **Type of Appeal** – Discontinuance of Proceedings.

On May 21, 2002, the Environmental Appeal Board received a Notice of Appeal from Mr. Norman J. Spencer with respect to Preliminary Certificate No. 00176470-00-00 issued under the *Water Act* to J. Byrne, D. Cerney and 254175 Alberta Ltd. The Preliminary Certificate was for a licence to divert 4935.8 cubic metres of water annually from the well in SE 08-010-22-W4 for an eight home subdivision with priority no. 2001-11-22-004 upon compliance with conditions in the Certificate. On July 15, 2002, the Board scheduled a mediation meeting in Lethbridge, Alberta. Since no resolution was reached, the Board requested the parties provide dates for a hearing. Although the Board scheduled a hearing for December 13, 2002, the parties continued with their discussions and in the end reached a mutually agreeable resolution. On November 27, 2002, the Board received a letter from the Appellant advising he wished to withdraw his appeal. On December 9, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Spencer v. Director, Southern Region, Regional Services, Alberta Environment re: J. Byrne, D. Cerney and 254175 Alberta Inc.* (9 December 2002), Appeal No. 02-013-DOP (A.E.A.B.).

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02-015

**Appellant(s)** – Mr. Robert David Stuart, **Operator** – Mr. Robert David Stuart, **Location** – Calgary, **Type of Appeal** – As listed below.

**Overview** - The Board received a Notice of Appeal from Mr. Robert David Stuart on April 23, 2002 with respect to a research permit that he had applied for from Fish and Wildlife Division, Sustainable Resource Development.

**Decision** - The Environmental Appeal Board hears appeals of decisions made by Alberta Environment, under the *Environmental Protection and Enhancement Act*, the *Water Act* and Schedule 5 of the *Government Organization Act* only. In dealing with these appeals, the Board is limited to dealing with issues regarding land and water, which may include animal and fish habitat. The Board cannot deal with issues concerning the control of wildlife research. Further, the Board cannot hear appeals of decisions made by Sustainable Resource Development, including the Fish and Wildlife Division. The Board therefore issued a Decision on June 12, 2002 dismissing the appeal for lack of jurisdiction.

Cite as: *Stuart v. Fish and Wildlife Division, Sustainable Resource Development.*

**Reconsideration Decision** – On July 2, 2002, the Board received a letter from the Appellant requesting the Board reconsider its Decision regarding this appeal. On July 11, 19 and 30, 2002, August 13 and 16, 2002 and September 4, 2002, the Appellant forwarded additional submissions. On September 5, 2002, the Board issued a Decision to deny Mr. Stuart's reconsideration request on the grounds that he did not provide any new evidence or arguments that would give the Board jurisdiction to hear the appeal. Mr. Stuart was also reminded that the Legislature has not given the Board authority to hear appeals made by Sustainable Resource Development, including the Fish and Wildlife Division.

Cite as: Reconsideration Decision: *Stuart v. Fish and Wildlife Division, Sustainable Resource Development* (5 September 2002), Appeal No. 02-015-RD (A.E.A.B.).

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02-016

**Appellant(s)** – Mr. Albert Walter Potter and Ms. Mary Ann Potter, **Operator** – Municipal District of Rocky View No. 44, **Location** – Hamlet of Langdon, **Type of Appeal** – Discontinuance of Proceedings

On June 12, 2002, the Board received a Notice of Appeal dated June 11, 2002, from Mr. Albert Walter Potter and Ms. Mary Ann Potter with respect to Amending Approval No. 918-02-02 issued to the Municipal District of Rocky View No. 44. The Approval authorized the construction, operation and reclamation of a wastewater system and a storm drainage system located in the NE ¼ 22-23-27-W4M in

the Hamlet of Langdon. The Board held a mediation meeting in Calgary, Alberta on September 16, 2002. Following productive discussions, a resolution was signed, and the Appellants withdrew their appeal. As a result, on September 18, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Potter v. Director, Southern Region, Regional Services, Alberta Environment re: Municipal District of Rocky View No. 44* (18 September 2002), Appeal No. 02-016-DOP (A.E.A.B.).

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02-017

**Appellant(s)** – Mr. Ron and Ms. Cathy Meston **Operator** – Enterprises Lavoie (1999) Inc., **Location** – near Peace River, **Type of Appeal** – Discontinuance of Proceedings

On June 14, 2002, the Board received a Notice of Appeal filed by Mr. Ron and Ms. Cathy Meston with respect to *Water Act* Licence No. 00152911-00-00 issued to Enterprises Lavoie (1999) Inc. (“Enterprises Lavoie”). The Licence authorizes the diversion of 41,885 cubic metres of water annually from the unnamed water body (dugout) in E ½ 33-083-20-W5, for the purpose of stock watering. On July 2, 2002, the Board received a letter from the Appellants advising that an offer to purchase their land on SW 28-83-20 W5 was made and accepted by the Appellants. The letter also stated, “As we will no longer be adjacent landowners to Enterprises Lavoie, the pursuit of our appeal is compromised. We leave this matter in the hands of the appeal board.” On the same day, the Board responded to the Appellants’ letter by stating, “The Board interprets this statement to mean that you do not intend to pursue your appeal and that you are therefore withdrawing your appeal...please notify the Board by noon Tuesday, July 9, 2002, otherwise the Board will discontinue its proceedings and close its file.” The Board did not receive a response from the Appellants and wrote a letter advising the Appellants of its decision to close its file. On July 12, 2002, the Board issued its Discontinuance of Proceedings with respect to this appeal.

Cite as: *Meston v. Director, Northern Region, Regional Services, Alberta Environment re: Enterprises Lavoie (1999) Inc.*

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02-018-041, 047, 060, 061, 073, 074-ID1

**Appellant(s)** – Mr. David Doull (02-018), Mr. James Darwish (02-019), Ms. Verona Goodwin (02-020), Ms. Elena P. Napora (02-021), Mr. Don Stuike (02-022), Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr. (02-023), Mr. Cameron Wakefield (02-024), Mr. David J. Parker (02-025), Mr. A. Ted Krug (02-026), Mr. Bill Bockock (02-027), Mr. Michael Nelson (02-028), Mr. Stanley Kondratiuk (02-029), Mr. Greg Ostapowicz (02-030), Mr. Douglas Price (02-031), Ms. Holly MacDonald (02-032), Mr. Stuart Pederson (02-033), Ms. Linda Stratulat (02-034), Mr. Leonard Rud (02-035), Mr. Marcel Wichink (02-036), Dr. Roger G. Hodkinson (02-037), Ms. Lorraine Vetsch (02-038), Ms. Gwen Davies (02-039), Mr. Garry Marler (02-040), a group of Community Leagues from the City of Edmonton (02-041), Mr. Neil Hayes (02-047), Mr. Robert Wilde (02-060), the Edmonton Friends of the North Environmental Society (“EFONES”) (02-061), Ms. Bonnie Quinn (02-073), and Ms. Anna T. Krug (02-074) **Operator** – Inland Cement Limited, **Location** – Edmonton, **Type of Appeal** – As listed.

**Overview** - Between June 14 and July 2, 2002, the Environmental Appeal Board received twenty-nine appeals with respect to Amending Approval No. 10339-01-03 issued to Inland Cement Limited for the construction, operation, and reclamation of a cement manufacturing plant in Edmonton, Alberta. The Approval allows for the burning of coal instead of natural gas as a fuel source at the cement plant.

**02-018-041, 047, 060, 061, 073, 074-ID1** - The Board held a Preliminary Meeting to determine the standing of the Parties who filed appeals and to determine the issues to be considered at the subsequent Hearing. The majority of the Parties reached an agreement and presented a joint submission to the Board on these questions, which the Board has accepted in principle. In the Board’s view, the agreement was consistent with the purposes of the *Environmental Protection and Enhancement Act* and the public interest. As a result, the Board issued a Decision on October 11, 2002, deciding to accept the standing of Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stan Kondratiuk, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Dr. Roger G. Hodkinson, Mr. Neil Hayes, and Ms. Anna T. Krug. The Board has also decided to make the Edmonton Federation of Community Leagues (“EFCL”) and the Edmonton Friends of the North Environmental Society (“EFONES”) parties to these appeals, however, dismissed Mr. David Doull and Ms. Bonnie Quinn. The Board also determined that the issues that would be considered at the Hearing of these

appeals were: 1. emission limits for particulate matter, sulphur dioxide, nitrogen oxides, heavy metals and radioisotopes; 2. adequacy of existing baseline data; 3. emission monitoring, including the type, location and frequency of monitoring; 4. appropriateness and validity of modeling methods and results; 5. appropriateness of including certain requirements in the Approval as opposed to making them requirements of the application, specifically: a) ambient air monitoring plans, b) trial burn, c) fugitive emission reduction plan, d) use of landfill gas, and e) information regarding the type and source of coal; 6. use of best available demonstrated technology; 7. timeline for installation of a baghouse; 8. number of trips; 9. local residents trip notification system; 10. adequacy of health impact assessment; 11. appropriateness of health impact assessment update; 12. ongoing consultation with local residents and local residents liaison committee; 13. need for the conversion to coal as a fuel source; 14. control of greenhouse gas emissions; and 15. use of tires as kiln fuel, limited to Approval Clause 4.1.17.

Cite as: Preliminary Issues: *Doull et al. v. Director, Northern Region, Regional Services, Alberta Environment* re: *Inland Cement Limited* (11 October 2002), Appeal Nos. 02-018-041, 047, 060, 061, 073, and 074-ID1 (A.E.A.B.).

**02-023, 024, 026, 029, 037, 047 and 074-ID2** – On November 26, 2002, the Board commenced a Hearing into this matter and heard a number of preliminary motions. Among these motions was a request by the EFONES and EFCL groups for an adjournment of the Hearing. The basis for this request was that both groups required more time to respond to a health impact study, and a supplement to that study, that was filed by Lehigh Inland Cement as part of their written submissions. The Board issued a Decision on December 12, 2002, concluding that it was necessary for the Board to accept the studies, as they were directly relevant to the matters before the Board. As a result, the Board granted the adjournment. The Board believes that the principles of natural justice and procedural fairness that gives a party the right to know the case against them and the right to respond to this case, are best served by granting the adjournment and that none of the parties before the Board are prejudiced by granting the adjournment. As human health is a fundamental consideration in these appeals, the Board ordered the Medical Officer of Health for the Capital Health Authority attend the hearing.

Cite as: Adjournment Decision: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment* re: *Lehigh Inland Cement Limited* (12 December 2002), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID2 (A.E.A.B.).

**02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP** – The Board held a Preliminary Meeting on September 17, 2002, in the Board's office in Edmonton. The purpose of the Preliminary Meeting was to discuss: 1. the standing of the Appellants, including their directly affected status and whether they filed statements of concern; 2. the standing of Mr. Doull, whether Mr. Doull's statement of concern was valid and if he was directly affected; 3. the issues to be dealt with at the hearing of these appeals and 4. whether to consolidate the appeals." The majority of parties reached an agreement and presented a joint submission to the Board, which the Board accepted in principle. In the Board's view, the agreement was consistent with the purposes of *the Environmental Protection and Enhancement Act* and the public interest. As a result, Mr. James Darwish, Ms. Verona Goodwin, Ms. Elena Napora, Mr. Don Stuike, Mr. David J. Parker, Mr. Bill Boccock, Mr. Michael B. Nelson, Mr. Greg Ostapowicz, Mr. Douglas Price, Ms. Holly MacDonald, Mr. Stuart Penderson, Ms. Linda Stratulat, Mr. Leonard Rud, Mr. Marcel Wichink, Ms. Lorraine Vetsch, Ms. Gwen Davis, Mr. Garry Marler and Mr. Robert Wilde withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on January 17, 2003, and closed its files.

Cite as: *Darwish et al. v. Director, Northern Region, Regional Services, Alberta Environment* re: *Inland Cement Limited* (17 January 2003), Appeal Nos. 02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP

**02-023, 024, 026, 029, 037, 047 and 074-R** – On November 26, December 16, 17, and 18, 2002, the Board held a hearing in Edmonton regarding widespread community concern over the health and nuisance impacts of emissions from Inland because of its location immediately upwind from Edmonton and Inland's documented track record of "dusting" events affecting the neighbouring community. The issue of particulate emission controls from the cement kiln dominated the evidence. Inland applied for the Amending Approval to avoid remaining the only cement manufacturing plant in Canada to use natural gas, thereby avoiding a serious competitive disadvantage. The Board accepts that it is possible for cement

manufacturing plants to use coal as a fuel and also achieve acceptable emissions by applying the best available demonstrated technology (BADT), as required by Alberta Environment policy. The particulate emission levels from the kiln in the Amending Approval were taken from the Canadian Council of Ministers of the Environment (CCME) National Emission Guideline for Cement Kilns, which make no claim to represent BADT for this industry, but establishes “maximum broad national emission limits” recognizing that “federal, provincial or regional authorities may impose more stringent limits in response to regional or local problems.” In this case, there are valid potential health concerns, related to peak emission levels of fine particulates from the existing electrostatic precipitator (ESP) for this cement kiln. These were predicted to exceed relevant ambient air quality criteria. The body of evidence in support of health concerns in the population arising from exposure to fine particulates provides a credible case for minimizing population exposures to these pollutants. Furthermore, short-term health effects, among sensitive individuals such as asthmatics, that may arise from peak exposures to airborne particulate matter are a concern. However, the Board found no credibility in the prediction of a specific number of fatalities being caused by the emissions from the Inland cement plant. The history of poor operation of Inland’s ESP ranged from periodic complete shutdowns (ESP trips) to periods of poor performance. Only some of these excessive emission events were reportable. Dusting events causing nuisance conditions and potential health concerns in adjacent communities were documented from various fugitive emissions, as well as from the cement kiln’s stack. The Director addressed the problem of fugitive emissions aggressively in the Amending Approval and sought to deal with the excessive peak emissions of particulates from the kiln stack by severely limiting the number of ESP trips that would be allowed in the future. However, based on substantial evidence, the specified improvements with this ESP do not constitute BADT in terms of providing consistent control of peak particulate emissions. Such emissions upwind of a large urban population makes the requirement for emission control by BADT compelling. The Director required installation of a baghouse in the event that Inland could not control the number of ESP trips. This requirement, combined with considerable additional evidence, have convinced the Board that a baghouse, with its capability for superior and consistent performance, constitutes BADT for the kiln stack at Inland. On January 17, 2003, the Board issued a Report and Recommendations to the Minister of Environment recommending the Minister confirm the Amending Approval, subject to the following changes: 1. the existing ESP on the kiln stack should be replaced by a fabric filter baghouse as soon as possible, but no later than 20 months from the date of the Minister’s Order; 2. the number of allowable ESP trips that should be permitted until the baghouse is operational should be 6 per calendar year; 3. until the baghouse is operational, Inland should develop a local residents notification system to contact those residents who request to be advised of ESP trips; 4. the emission limits set for particulate matter should be re-evaluated with a view to lowering them to reflect achievable baghouse performance; and 5. Inland should establish and fund an ongoing Local Residents Liaison Committee to the satisfaction of the Director. The Board believes, that when the baghouse on the kiln stack and the fugitive emission plans are operational, the past concerns with potential health risk and nuisance conditions that have been associated with emissions from the Inland cement plant should be largely resolved. On January 22, 2003, the Minister approved the recommendations.

Cite as: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (17 January 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-R (A.E.A.B.).

**02-023, 024, 026, 029, 037, 047, and 074-ID3** – The Board determined that Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, Ms. Anna T. Krug, Dr. Roger G. Hodkinson, Mr. Neil Hayes, the Edmonton Friends of the North Environmental Society, and a group from the Edmonton Federation of Community Leagues (EFCL) would be granted standing. The EFCL filed a motion for the Board to order Inland to produce 12 documents that Inland had in its possession. After reviewing the Parties’ submissions, the Board determined that the documents requested were relevant and necessary to the issues that were heard by the Board. Therefore, the Board issued a Decision on February 13, 2003, ordering Inland to produce the documents and provide a witness to speak to the documents at the Hearing. The Hearing was held on December 16, 17 and 18, 2002, and on January 22, 2003, the Minister ordered that a baghouse be installed at Inland’s facility in Edmonton.

Cite as: Document Production: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (13 February 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID3 (A.E.A.B.).

**02-023, 024, 026, 029, 037, 047, and 074-CD** – After the Report and Recommendations was issued, the Board received applications for costs from Ms. Anna T. Krug and the EFCL in the amount of \$87,348.10. The costs were in the amount of \$51,976.93 for legal costs and in the amount of \$35,371.17 for witness costs. The Board also received a costs application from EFONES, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, and Dr. Roger G. Hodgkinson in the amount of \$74,706.07, which included \$35,571.76 for legal costs and \$39,134.31 for witness costs. Mr. Neil Hayes also submitted an application for costs in the amount of \$3,519.12. On June 27, 2003, the Board issued a Decision awarding costs to the EFCL in the amount of \$31,954.87 and to EFONES in the amount of \$15,775.82. Mr. Hayes was awarded costs in the amount of \$90.32. All costs which total \$47,821.01, are to be awarded by Inland.

Cite as: Costs Decision: *Maga et al.* (27 June 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-CD (A.E.A.B.).

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02-042-02-046, 048, 049, 063

**Appellant(s)** – Mr. Bob and Ms. Riske Quatero, Mr. Ernie and Ms. Marjory Shewchuk, Mr. William Nicol, Ms. Barbara Potter, Ms. Daphne Varty, Mr. Jim Morison, Mr. Victor and Ms. Mary Neufeld, Mr. Lorne and Ms. Elizabeth Dalrymple and Drs. David and Gail Jardine, **Operator** – Rocky View School Division No. 41., **Location** – Bragg Creek, **Type of Appeal** – Report and Recommendations

Between June 24 and 27, 2002, the Board received Notices of Appeal from Mr. Bob and Ms. Riske Quatero, Mr. Ernie and Ms. Marjory Shewchuk, Mr. William Nicol and Ms. Barbara Potter, Ms. Daphne Varty, Mr. Jim Morison, Mr. Victor and Ms. Mary Neufeld, Mr. Lorne and Ms. Elizabeth Dalrymple, and on August 6, 2002, from Drs. David and Gail Jardine. The Notices of Appeal were with respect to Approval No. 00152694-00-00 issued under the *Water Act* to the Rocky View School Division No. 41, which authorized the exploration for groundwater at NE 1-23-W5M, for the proposed Banded Peak School water supply source in Bragg Creek. On August 20, 2002, the Board held a mediation meeting in Calgary, Alberta. Without prior notification, the following Appellants did not attend the mediation: Mr. Lorne and Ms. Elizabeth Dalrymple, Mr. William Nicol and Ms. Barbara Potter. Following productive discussions, a resolution was signed and on August 21, 2002, the Board contacted those Appellants not in attendance, about the resolution. Based on verbal consent given by those who did not attend, the Board considered those individuals to collectively be parties to the Resolution dated August 20, 2002. On August 26, 2002, the Board issued a Report and Recommendations to the Minister recommending the Minister vary the Approval in accordance with the Resolution. The Minister approved the recommendations on September 12, 2002.

Cite as: *Quatero et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Rocky View School Division No. 41* (26 August 2002), Appeal Nos. 02-042-02-046, 048, 049 and 063-R (A.E.A.B.).

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02-059

**Appellant(s)** – Municipal District of Rocky View No. 44, **Operator** – Apple Creek Golf and Country Club, **Location** – near Airdrie, **Type of Appeal** – Discontinuance of Proceedings

On April 17, 2001, the Board received a Notice of Appeal filed by the Municipal District of Rocky View No. 44 with respect to a Preliminary Certificate issued under the *Water Act* to Apple Creek Golf and Country Club authorizing the diversion of 119,929 cubic metres of water annually from McPherson Coulee in SE 35-27-1-W5M and an Approval under the *Water Act* authorizing the construction of a channel improvement, control gates, dykes and a diversion pipe on McPherson Coulee and an unnamed water body in SE 35-27-1-W5M near Airdrie, Alberta. Eleven appeals were filed with respect to this Preliminary Certificate and Approval. The Municipal District of Rocky View No. 44 appealed both and the Board dismissed the portion of the appeal related to the Approval for filing their Notice of Appeal late. The Board received a motion from Alberta Environment to dismiss the appeal of the Preliminary Certificate

filed by Municipal District as they suggested that they were not directly affected by the Preliminary Certificate. The Board requested submissions and in the process of deliberating, it received a letter dated July 24, 2002, from the Municipal District advising that it would "...no longer pursue the appeal in question". On August 1, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Municipal District of Rocky View No. 44 #2 v. Director, Southern Region, Regional Services, Alberta Environment re: Apple Creek Golf and Country Club.*

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02-062

**Appellant(s)** – Contour Energy Ltd., **Operator** – Contour Energy Ltd., **Location** – near Leduc, **Type of Appeal** – Discontinuance of Proceedings

On July 31, 2002, the Board received a Notice of Appeal dated July 29, 2002 from Contour Energy Ltd. with respect to the refusal of Alberta Environment's to issue a Reclamation Certificate to Contour Energy Ltd. for the Contour et al Leduc 2/6-2-50-27 well, near Leduc, Alberta.. After the Board began processing the appeal, it received a letter from Contour Energy Ltd. withdrawing their appeal. On August 22, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Contour Energy Ltd. v. Inspector, Central Region, Regional Services, Alberta Environment*

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02-064

**Appellant(s)** – Mrs. Elizabeth Poburan, **Operator** – Parkbridge Communities Inc., **Location** – near the County of Parkland, **Type of Appeal** – Report and Recommendations

On August 8, 2002, the Board received a Notice of Appeal from Mrs. Elizabeth Poburan with respect to Approval No. 00186804-00-00 issued under the *Water Act* to Parkbridge Communities Inc. authorizing the construction of a storm water management pond on a tributary of the Atim Creek at NE 15-053-27-W4M near the County of Parkland, Alberta. The Board held a mediation meeting at the Board's office on September 12, 2002, following which a resolution was reached by the parties. The resolution provides for the addition of a synthetic liner to the storm water management pond. The Board issued a Report and Recommendations on September 27, 2002, which recommended the Minister accept the resolution. The Minister approved the recommendations on October 1, 2002.

Cite as: *Poburan v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc. (27 September 2002), Appeal No. 02-064-R (A.E.A.B.).*

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02-065

**Appellant(s)** – Husky Oil Operations Limited (Husky Energy), **Operator** – Husky Oil Operations Limited (Husky Energy), **Location** – County of Flagstaff, **Type of Appeal** – Discontinuance of Proceedings

On August 14, 2002, the Board received a Notice of Appeal from Husky Oil Operations Limited (Husky Energy) with respect to the refusal of Alberta Environment to issue a reclamation certificate to Husky Energy for the Renaissance 2D Killam 2-34-41-13 well in Flagstaff County, Alberta. On September 30, 2002, the Board held a mediation meeting in Forestburg, whereby the Appellant agreed to continue discussions and to provide a status report to the Board. The Department wrote to the Board on October 4, 2002, advising that the Inspector would revoke his decision of July 17, 2002, to refuse to issue a reclamation certificate. On the same day, the Appellants wrote advising that as a result of the Inspector's decision, Husky Energy would withdraw its Notice of Appeal. On October 7, 2002, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Husky Oil Operations Limited (Husky Energy) v. Inspector, Central Region, Regional Services, Alberta Environment (7 October 2002), Appeal No. 02-065-DOP (A.E.A.B.).*

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02-066 and 068

**Appellant(s)** – Mr. Alex and Ms. Elma Shennan, and Mr. Roy and Ms. Charlotte Bohn, **Operator** – Parkbridge Communities Inc., **Location** – near Spruce Grove, **Type of Appeal** – Decision

Between August 8 and August 20, 2002, the Board received Notices of Appeal from Ms. Elizabeth Poburan, Mr. Alex and Ms. Elma Shennan and Mr. Rene Victor and Mr. Roy and Ms. Charlotte Bohn,



respectively. The Notices of Appeal were filed with respect to Approval No. 00186804-00-00 issued under the *Water Act* to Parkbridge Communities Inc. authorizing the construction of a storm water management pond on a tributary of the Atim Creek at NE 15-53-27-W4M near Spruce Grove, Alberta. The Notices of Appeal filed by Mr. Alex and Ms. Elma Shennan, Mr. Rene Victoor and Mr. Roy and Ms. Charlotte Bohn were filed after the deadline for submitting Notices of Appeal. As a result of the late filing of the Notices of Appeal, the Board issued a Decision on February 14, 2003, to dismiss the Notices of Appeal of Mr. Alex and Ms. Elma Shennan and Mr. Roy and Ms. Charlotte Bohn.

Cite as: *Shennan et al. v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc.* (14 February 2003), Appeal Nos. 02-066-068-D (A.E.A.B.).

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02-067

**Appellant(s)** – Mr. Rene Victoor, **Operator** – Parkbridge Communities Inc., **Location** – near Parkland County, **Type of Appeal** – Discontinuance of Proceedings

On August 19, 2002, the Board received a Notice of Appeal from Mr. Rene Victoor with respect to Approval No. 00186804-00-00 issued under the *Water Act* to Parkbridge Communities Inc. The Approval authorized the construction of a storm water management pond on a tributary of the Atim Creek, near Parkland County, Alberta. The Board advised the Appellant that the appeal had been filed outside the prescribed time frame set out in section 116 of the *Water Act*. After no response was received, the Board sent out another letter on August 28, 2002. On September 3, 2002, the Board received a letter from the Appellant advising that he was withdrawing his appeal. The letter advised that the Department of Environment showed him the plans of Parkbridge Communities Inc. and the evaporation ponds which would not affect his land. As a result, the Board issued a Discontinuance of Proceedings on September 6, 2002, and closed its file.

Cite as: *Victoor v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc.* (6 September 2002), Appeal No. 02-067-DOP (A.E.A.B.).

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02-069

**Appellant(s)** – Mr. Ray Holtsma and Ms. Celine Luchka (Holtsma), **Operator** – Ouellette Packers 2000 Ltd., **Location** – Sturgeon County, **Type of Appeal** – Discontinuance of Proceedings

On August 21, 2002, the Board received a Notice of Appeal from Mr. Ray Holtsma and Ms. Celine Luchka (Holtsma) with respect to Approval No. 155185-00-00 issued to Ouellette Packers 2000 Ltd. authorizing the construction, operation and reclamation of the Riviere Qui Barre Red Meat Processing Plant (hog processing plant) in Sturgeon County, Alberta. The Board held a mediation meeting at the Board's office on October 23, 2002, and following productive discussions, the Appellants agreed to withdraw their appeal. As a result, the Board issued a Discontinuance of Proceedings on October 24, 2002, and closed its file.

Cite as: *Holtsma v. Director, Northern Region, Regional Services, Alberta Environment re: Ouellette Packers 2000 Ltd.* (24 October 2002), Appeal No. 02-069-DOP (A.E.A.B.).

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02-070

**Appellant(s)** – Westridge Utilities Inc., **Operator** – Westridge Utilities Inc., **Location** – west of Calgary, **Type of Appeal** – Discontinuance of Proceedings

On September 23, 2002, the Board received a Notice of Appeal from Westridge Utilities Inc. with respect to the refusal of Alberta Environment to issue a Licence regarding *Water Act* Preliminary Certificate No. 00081364-00-00. After the Board began processing the appeal, it received a letter from the Appellant withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on October 24, 2002.

Cite as: *Westridge Utilities Inc. v. Director, Southern Region, Regional Services, Alberta Environment* (24 October 2002), Appeal No. 02-070-DOP (A.E.A.B.).

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02-071

**Appellant(s)** – Mr. Richard Ross, **Operator** – Talisman Energy Inc., **Location** – near Olds, **Type of Appeal** – Discontinuance of Proceedings

On October 1, 2002, the Board received a Notice of Appeal from Mr. Richard Ross with respect to Reclamation Certificate No. 00146944-00-00 issued to Talisman Energy Inc. for the BP ET AL HARME 6-11-32-4 well near Olds, Alberta. The Board held a mediation meeting on November 12, 2002, in Olds, where after detailed discussions, the Appellant agreed he would withdraw his appeal. On November 15, 2002, the Board received a letter from the Appellant withdrawing his appeal. On November 22, 2002, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Ross v. Inspector, Southern Region, Regional Services, Alberta Environment* re: *Talisman Energy Inc.* (22 November 2002), Appeal No. 02-071-DOP (A.E.A.B.).

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02-072

**Appellant(s)** – Mr. Calvin Verbeek and Verbeek Sand and Gravel, **Operator** – Mr. Calvin Verbeek and 742333 Alberta Ltd., operating as Verbeek Sand and Gravel, **Location** – Sturgeon County, **Type of Appeal** – Report and Recommendations

On October 2, 2002, the Board received a Notice of Appeal from Mr. Calvin Verbeek on behalf of himself and 742333 Alberta Ltd., with respect to Enforcement Order No. EO-2002-01, issued to Mr. Verbeek and 742333 Alberta Ltd., operating as Verbeek Sand and Gravel for the operation of a sand gravel pit at W-11-54-27-W4M without an approval, in Sturgeon County, Alberta. The Board held a Hearing on December 3, 2002, and received arguments from Mr. Verbeek and Alberta Environment, following which the Board determined that Mr. Verbeek and Verbeek Sand and Gravel were operating the gravel pit without an approval in contravention of the *Environmental Protection and Enhancement Act*. Therefore, the Board determined the Enforcement Order was properly issued and as a result, the Board issued a Report and Recommendations to the Minister on December 30, 2003, recommending that the Enforcement Order be confirmed, subject to changes in the dates by which the Enforcement Order was to be complied with. On January 21, 2003, the Minister approved the recommendations.

Cite as: *Verbeek et al. v. Director, Northern Region, Regional Services, Alberta Environment* (30 December 2002), Appeal No. 02-072-R (A.E.A.B.).

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02-075 and 02-076

**Appellant(s)** – Mr. Grant and Ms. Beth Spackman and Mr. John G. Evans, **Operator** – Coyote Cove Golf Course Inc., **Location** – near DeWinton, **Type of Appeal** – Report and Recommendations

On October 21 and 23, 2002, the Board received Notices of Appeal from Mr. Grant and Ms. Beth Spackman and Mr. John Evans, respectively, with regard to Preliminary Certificate No. 00182584-00-00 issued under the *Water Act* to Coyote Cove Golf Course Inc., whom under compliance with conditions in the Certificate, will receive a licence to divert 173,415 cubic metres of water annually at a maximum rate of 0.076 cubic metres per second from Pine Creek in NW-04-022-01-W5 near DeWinton, Alberta. The Board held a mediation meeting in Calgary and after productive discussions, a resolution was reached. As a result, the Board issued a Report and Recommendations to the Minister on January 22, 2003, recommending the Minister vary the Preliminary Certificate in accordance with the resolution. On February 4, 2003, the Minister approved the recommendations.

Cite as: *Spackman et al. v. Director, Southern Region, Regional Services, Alberta Environment* re: *Coyote Cove Golf Course Inc.* (22 January 2003), Appeal Nos. 02-075 and 02-076-R (A.E.A.B.).

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02-077

**Appellant(s)** – Ms. Beverly Smith, **Operator** – CCS Energy Services Inc., **Location** – near Lindbergh in the County of St. Paul, **Type of Appeal** – Decision

On November 7, 2002, the Board received a Notice of Appeal from Ms. Beverly Smith with respect to Licence No. 00187391-00-00 issued under the *Water Act* to CCS Energy Services Inc., authorizing the

diversion of up to 2,990, 400 cubic metres of water annually from the North Saskatchewan River on the NE 22-56-5-W4M near Lindbergh in the County of St. Paul, Alberta, for commercial purposes. The Board held a Preliminary Meeting to address the Stay request of Ms. Smith and the question of whether she is directly affected by the Licence. After reviewing submissions of the parties and hearing arguments, the Board determined that Ms. Smith was not directly affected by the withdrawal of the water under the Licence. The Board also determined that the appeal is without merit as the issues Ms. Smith presented were general in nature and not specific environmental concerns. Therefore, the Board issued a Decision on June 6, 2003, dismissing the appeal.

Cite as: *Smith v. Director, Northern Region, Regional Services, Alberta Environment* re: *CCS Energy Services Inc.* (6 June 2003), Appeal No. 02-077-D (A.E.A.B.).

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#### 02-078 and 02-138

**Appellant(s)** – Mr. James and Ms. Annette McClelland, **Operator** – Mountain Creeks Ranch Inc., **Location** – near Hinton, **Type of Appeal** – Report and Recommendations

On November 7, 2002, the Board received a Notice of Appeal with respect to Approval No. 00148782-00-00 issued under the *Water Act*, to Mountain Creeks Ranch Inc. authorizing the construction of a storm water management works on the surface runoff tributary of Maskuta Creek. On January 24, 2003, the Board also received a Notice of Appeal from the Appellants appealing Licence No. 00154364-00-00 issued under the *Water Act* authorizing the diversion of up to a maximum of 3, 272 cubic metres of water annually from the well in SE 25-050-26-W5M for recreational purposes near Hinton, Alberta. The Board held a mediation meeting in Hinton, Alberta, at which the parties agreed to continue discussions with a view towards resolution of the appeals. The parties also agreed to provide status reports to the Board on a regular basis. The parties subsequently reached a resolution, and the Board issued a Report and Recommendations on July 22, 2003, recommending the Minister accept the resolution. The Minister approved the recommendations on July 28, 2003.

Cite as: *McClelland v. Director, Central Region, Regional Services, Alberta Environment* re: *Mountain Creeks Ranch Inc.* (22 July 2003), Appeal Nos. 02-078 and 138-R (A.E.A.B.).

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#### 02-079 and 02-080

**Appellant(s)** – Ms. Katherine McCulloch, Mr. Richard Kelk, Mr. Ross Warner, **Operator** – AAA Cattle Company Ltd., **Location** – near Didsbury, **Type of Appeal** – Report and Recommendations

On November 7 and 8, 2002, the Board received Notices of Appeal from Ms. Katherine McCulloch and Mr. Richard Kelk and Mr. Ross Warner, respectively. The Notices of Appeal were with respect to Licence No. 00188451-00-00 issued under the *Water Act* to AAA Cattle Company Ltd., authorizing the diversion of 126,150 cubic metres of groundwater annually from Production Well Nos. PW5-02, PW6-02, PW7-02 and PW8-02, located in the SW 4-31-27-W4M, near Didsbury, Alberta for agricultural purposes (15,700 head feedlot expansion). The Board held the appeals in abeyance, as the Natural Resources Conservation Board (“NRCB”) had not yet completed their review of their decision relating to AAA Cattle’s operation. The appeals remained in abeyance while the decision of the NRCB was subsequently appealed to the Court of Appeal of Alberta. Once the Court of Appeal process was completed, the Board held a mediation meeting on November 25, 2005, and after productive discussions, the participants reached a resolution. On November 25, 2005, the Board issued a Report and Recommendations proposing that the Minister of Environment accept the resolution and vary the Licence and another water licence held by AAA Cattle Ltd. On December 13, 2005, the Minister approved the recommendations.

Cite as: *McCulloch et al. v. Director, Southern Region, Regional Services, Alberta Environment* re: *AAA Cattle Company Ltd.* (25 November 2005), Appeal Nos. 02-079 and 02-080-R (A.E.A.B.).

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#### 02-081 and 02-082

**Appellant(s)** – Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock, **Operator** – Brookfield Pork Ltd., **Location** – near Lacombe, **Type of Appeal** – Report and Recommendations

On November 14 and 21, 2002, the Board received Notices of Appeal from Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock with respect to Licence No. 00188715-00-00 issued under the *Water Act* to Brookfield Pork Ltd. authorizing the diversion of 8,537 cubic metres of water annually from the well in NE 19-038-25-W4 for agricultural purposes (confined feeding operation). The Board held a mediation meeting in Red Deer, Alberta on April 29, 2003, following which a resolution was reached by the parties. On May 5, 2003, the Board issued a Report and Recommendations recommending to the Minister of Environment that the licence be varied. The Minister approved the Board's recommendations on May 13, 2003.

Cite as: *Graham et al. v. Director, Central Region, Regional Services, Alberta Environment re: Brookfield Pork Ltd.* (05 May 2003), Appeal Nos. 02-081 and 02-082-R (A.E.A.B.).

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02-083

**Appellant(s)** – Mr. Lou and Ms. Betty Coulombe, **Operator** – Alta Gas Ltd., **Location** – near Bonnyville, **Type of Appeal** – Discontinuance of Proceedings

On November 25, 2002, the Board received a Notice of Appeal from Mr. Lou and Ms. Betty Coulombe, landowners, with respect to Reclamation Certificate No. 00138181-00-00 to Alta Gas Ltd. for the surface of land within SW Sec 01 Tp 061 Rge 05 W4M in connection with the Bonnyville Gas 6-1-61-5 well near Bonnyville, Alberta. The Board held a mediation meeting in Bonnyville, Alberta on February 14, 2003. At the mediation meeting, the parties agreed to hold the appeal in abeyance in order for them to pursue further discussions toward a resolution of the appeal, and to provide the Board with a status report on their progress by June 27, 2003. On June 25, 2003, the Appellants subsequently withdrew their appeal and as a result, the Board issued a Discontinuance of Proceedings, and closed its files.

Cite as: *Coulombe v. Inspector, Northern Region, Regional Services, Alberta Environment re: Alta Gas Ltd.* (30 June 2003), Appeal No. 02-083-DOP (A.E.A.B.).

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02-084

**Appellant(s)** – Mr. R. Douglas Herdman, **Operator** – City of Airdrie, **Location** – Airdrie, **Type of Appeal** – Decision

On November 26, 2002, the Board received a Notice of Appeal from Mr. R. Douglas Herdman with respect to Approval No. 00186924-00-00 issued under the *Water Act* to the City of Airdrie authorizing the realignment of Nose Creek at the 1<sup>st</sup> Avenue North Vehicle-Crossing site in Airdrie, Alberta. The Board began to process the appeal, however, Mr. Herdman failed to respond to any of the Board's letters or telephone messages. Therefore, the Board issued a Decision on January 23, 2003, dismissing the appeal for failure to respond to the Board in a timely manner, pursuant to section 95(5)(a)(iv) of the *Environmental Protection and Enhancement Act*.

Cite as: *Herdman v. Director, Southern Region, Regional Services, Alberta Environment re: City of Airdrie* (23 January 2003), Appeal No. 02-084-D (A.E.A.B.).

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02-085

**Appellant(s)** – Seabolt Watershed Association, **Operator** – Mountain Creeks Ranch Inc., **Location** – near Hinton, **Type of Appeal** – Decision

On November 26, 2002, the Seabolt Watershed Association filed a Notice of Appeal with respect to Approval No. 00148782-00-00 issued under the *Water Act* to Mountain Creeks Ranch Inc. authorizing the construction of storm water management works on a surface runoff tributary of Maskuta Creek near Hinton, Alberta. The Board noted that the Appellant filed their Notice of Appeal outside the time prescribed under the *Water Act* to file a Notice of Appeal. The Board then requested the Appellant provide reasons as to why the time limit for filing should be extended. After reviewing the reasons provided, the Board determined that that Appellant failed to present sufficient reasons to demonstrate special circumstances existed to warrant an extension. As a result, the Board issued a Decision on February 14, 2003, dismissing the appeal.

Cite as: *Seabolt Watershed Association v. Director, Central Region, Regional Services, Alberta Environment re: Mountain Creeks Ranch Inc.* (14 February 2003), Appeal No. 02-085-D (A.E.A.B.).

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02-086 and 02-087

**Appellant(s)** – Mr. Ian Skinner, **Operator** – Inland Aggregates Limited and Lafarge Canada Inc., **Location** – Sturgeon County, **Type of Appeal** – As listed.

**Overview** - On November 28, 2002, the Environmental Appeal Board received two Notices of Appeal from Mr. Ian Skinner with respect to Amending Approval No. 19284-01-01 issued to Inland Aggregates Limited (the “Inland Approval”), authorizing the opening up, operation, and reclamation of a pit on portions of sections 19, 20, 29, and 30-54-26-W4M in Sturgeon County, Alberta, and Amending Approval No. 19283-01-01 issued to Lafarge Canada Inc. (the “Lafarge Approval”), authorizing the opening up, operation, and reclamation of a pit on portions of section 16, E 17 and SW 21-54-26-W4M, also in Sturgeon County, Alberta. The Inland and Lafarge Approvals allow Inland and Lafarge to mine through a buffer zone that separates the two pits.

**Decision** - A Preliminary Meeting was held on January 28, 2003, to determine whether Mr. Skinner was directly affected, if a Stay would be granted, and whether the appeals were frivolous or without merit. Mr. Skinner withdrew his Stay application as the removal of the buffer zone as authorized under the Amending Approval was completed. The Board determined that Mr. Skinner failed to demonstrate to the Board that he would be directly affected by the removal of the buffer zone. The Amending Approvals were with respect to a very small portion of the total affected area, and as Mr. Skinner was located approximately six miles from the pits, it was unlikely that his groundwater would be affected. Further, given the fact that the buffer zone has now been removed, the appeals are moot. As a result, the Board issued a Decision on February 13, 2003, to dismiss the appeals.

Cite as: *Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc.* (13 February 2003), Appeal Nos. 02-086 and 02-087-D (A.E.A.B.).

**Erratum** – The Board issued an Erratum for *Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc.* (13 February 2003), Appeal No. 02-086 and 02-087-D (A.E.A.B.) on April 14, 2003. The Board removed and replaced paragraphs 10, 11 and 57.

Cite as: *Erratum: Skinner v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Aggregates Limited and Lafarge Canada Inc.* (14 April 2003), Appeal Nos. 02-086 and 02-087-E (A.E.A.B.).

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02-088

**Appellant(s)** – Murphy Oil Company Limited, **Operator** – Murphy Oil Company Limited, **Location** – near Fairview, **Type of Appeal** – Report and Recommendations

On December 2, 2002, the Board received a Notice of Appeal from Murphy Oil Company Ltd. with respect to the Director’s refusal to issue a Reclamation Certificate to Murphy Oil Company Ltd. for the Murphy Pica 4-29-84-5-W6 well near Fairview, Alberta. The Board held a mediation meeting in Peace River, Alberta on February 26, 2003. Following productive and detailed discussions, a resolution evolved and on March 6, 2003, the Board issued a Report and Recommendations to the Minister to vary the Inspector’s decision of November 1, 2002, to allow for an additional waiting period to permit further evaluation of the conservation and reclamation. The Minister approved the recommendation on March 10, 2003, and the Board closed its file.

Cite as: *Murphy Oil Company Inc. v. Inspector, Northern Region, Regional Services, Alberta Environment* (6 March 2003), Appeal No. 02-088-R (A.E.A.B.).

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02-089, 091, 092, 095-101, 105-120, 123, 124, 132 and 133

**Appellant(s)** – Randy Long, Long’s Hereford Ranch Ltd., Travis Long, Diana Long, Margo Long, Harry Long, Darcie Long, Bernice Long, Marion Allred, and Judy Fenton, **Operator** – Lewisville Pork Farm Inc., **Location** – near Irma, **Type of Appeal** – Discontinuance of Proceedings

Between December 6 and 23, 2002, the Board received a total of 30 appeals from Mr. Randy Long, Long's Hereford Ranch Ltd., Mr. Travis Long, Ms. Diana Long, Ms. Margo Long, Mr. Harry Long, Ms. Darcie Long, Ms. Bernice Long, Ms. Marion Allred and Ms. Judy Fenton, with respect to three Licences issued under the *Water Act*, to Lewisville Pork Farm Inc., by Alberta Environment. Licence No. 00189761-00-00 authorized the diversion of 8,480 cubic metres of water annually from the well in NE 15-044-09-W4M; Licence No. 00189787 authorized the diversion of 10,500 cubic metres of water annually from the well in SE 23-044-09-W4M; and Licence No. 00189788-00-00 authorized the diversion of 2,900 cubic metres of water annually from the well in SW 23-044-09-W4M. All three Licences were issued for the purpose of agriculture (feedlot), near Irma, Alberta. The Board held a mediation meeting in Wainwright, Alberta on February 20, 2003. Following productive discussions, a resolution evolved and the Appellants withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on February 28, 2003, and closed its file.

Cite as: *Long et al. v. Director, Central Region, Regional Services, Alberta Environment*, re: *Lewisville Port Farm Inc.* (28 February 2003), Appeal Nos. 02-089, 091, 092, 095-101, 105-120, 123, 124, 132 and 133-DOP (A.E.A.B.).

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## 02-090

**Appellant(s)** – Mr. Lawrence and Ms. Lisa Strocher, **Operator** – Conoco Canada Resources Limited, **Location** – County of Brazeau, **Type of Appeal** – Discontinuance of Proceedings

On December 5, 2002, the Board received a Notice of Appeal from Mr. Lawrence and Ms. Lisa Strocher with respect to Reclamation Certificate No. 00186641-00-00 issued to Conoco Canada Resources Limited for the Mannville et al Pembina 4-7-50-5 well in the County of Brazeau. After the Board began processing the appeal, it received a letter from the Appellants advising that as a result of ongoing discussions between the Approval Holder and the Appellant, a settlement had been reached and they would be withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on January 22, 2003, and closed its file.

Cite as: *Strocher v. Inspector, Central Region, Regional Services, Alberta Environment* re: *Conoco Canada Resources Limited* (22 January 2003), Appeal No. 02-090-DOP (A.E.A.B.).

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## 02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135

**Appellant(s)** – Mr. Douglas A. Hudson, Mr. Cameron and Ms. Elaine Snoble and Ms. Clara Snoble, Mr. Marvin and Ms. Patricia Loberg, Mr. David and Ms. Sharon Volker, Ms. Shirley Hogg, Mr. L. Bozarth, Mr. Gerald H. and Ms. Judith E. Bozarth, Mr. R. Wayne and Ms. Kerri Badger and family, the County of Grande Prairie No. 1, and Ms. Nellie Sterr, **Operator** – Town of Sexsmith, **Location** – near Sexsmith, **Type of Appeal** – Decision

On November 20, 2002, Alberta Environment issued Preliminary Certificate 00156592-00-00 under the *Water Act* to the Town of Sexsmith. Upon meeting certain conditions, the Preliminary Certificate would grant a water licence to the Town authorizing the diversion of 58,200 cubic metres of water annually from the well in LSD 03-13-74-06-W6M near Sexsmith, Alberta. Fourteen appeals were filed with respect to the Preliminary Certificate. Alberta Environment identified a number of preliminary issues with respect to the appeals. However, the Board decided that it would conduct an information meeting and deal with any preliminary issues after the information meeting was held. Shortly after the Board advised that it wished to hold an information meeting, the Town of Sexsmith withdrew its application for the Preliminary Certificate. In response, Alberta Environment cancelled the Preliminary Certificate. As a result, four of the appeals were withdrawn, and the Board issued a Discontinuance of Proceedings respecting these four appeals. With respect to the remaining appeals, after giving the parties an opportunity to provide the Board with written submissions, the Board determined the issues raised in the remaining Notices of Appeal were moot. Further, five of the Appellants did not submit a response to the Board's questions as to the effect of the cancellation of the Preliminary Certificate. Therefore, the Board issued a Decision on August 1, 2003, dismissed the remaining appeals as the issues raised were moot, and the five appeals were also dismissed for failing to provide additional information as requested by the Board. The Board noted that in the written

submissions of the individuals who filed appeals, they continued to express concerns about the impact of the Town on their water supplies. The Board was satisfied that the *Water Act* contains mechanisms to address these concerns with respect to the existing uses of water by the Town. The Town is still required to operate within the terms of its existing licences, and it does not have the authority to divert any more water than it did prior to the application for the Preliminary Certificate.

Cite as: *Hudson et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith* (1 August 2003), Appeal Nos. 02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135-D (A.E.A.B.).

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#### 02-104

**Appellant(s)** – Mr. Dwain Kadyk, **Operator** – Leduc County, **Location** – near Calmar, **Type of Appeal** – Discontinuance of Proceedings

On December 19, 2002, the Board received a Notice of Appeal from Mr. Dwain Kadyk with respect to Approval No. 00186138-00-00 issued under the *Water Act* to Leduc County authorizing the construction of works for flood control on Winding Creek, near Calmar, Alberta. After the Board began to process the appeal, on December 31, 2001, the Board received a letter from the Appellant stating that: “As of this moment, I am dropping my appeal...that is to say – I am canceling my application to appeal.” As a result, the Board issued a Discontinuance of Proceedings on January 8, 2003, and closed its file.

Cite as: *Kadyk v. Director, Central Region, Regional Services, Alberta Environment re: Leduc County* (8 January 2003), Appeal No. 02-104-DOP (A.E.A.B.).

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#### 02-121, 02-125, 02-126 and 02-130

**Appellant(s)** – Mr. Gordon and Ms. Joan Scarlett, Mr. Grant Berg, Mr. Ray and Ms. Marion Braumberger, and Mr. Ernie and Ms. Louise Braumberger, **Operator** – Town of Sexsmith, **Location** – near Sexsmith, **Type of Appeal** – Discontinuance of Proceedings

Between December 16 and 30, 2002, the Board received 14 appeals in relation to Preliminary Certificate No. 00156592-00-00 issued under the *Water Act* to the Town of Sexsmith stating that they will receive a licence to divert 58,200 cubic metres of water annually from the well in LSD 03-13-074-06-W6, for a term of five years with priority no. 2002-05-13-002, upon compliance with certain conditions in the Certificate. Four of the appeals were filed by Mr. Gordon and Ms. Joan Scarlett (02-121), Mr. Grant Berg (02-125), Mr. Ray and Ms. Marion Braumberger (02-126) and Mr. Ernie and Ms. Louise Braumberger (02-130). Several requests for a Stay were also received. The Board received submissions on the Stay requests and subsequently advised it would not grant a Stay as the request was premature. The Board advised it would hold an information meeting for the parties. On February 25, 2003, the Town of Sexsmith officially withdrew their application with respect to the Preliminary Certificate, and it was subsequently cancelled by Alberta Environment. The Board sought comments from the parties asking how this cancellation affected their appeal. As a result of the cancellation of the Preliminary Certificate, the Board received letters from the Appellants withdrawing their Notices of Appeal. As a result, the Board issued a Discontinuance of Proceedings on April 10, 2003, and closed its file.

Cite as: *Scarlett et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith* (10 April 2003), Appeal Nos. 02-121, 125, 126 and 130-DOP (A.E.A.B.).

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#### 02-131 & 02-140

**Appellant(s)** – Mr. Allan Blomme and Laurence Marketing Group, **Operator** – Mr. Allan Blomme and Laurence Marketing Group, **Location** – near Okotoks, **Type of Appeal** – Discontinuance of Proceedings

On December 18, 2002, Alberta Environment issued Enforcement Order No. 2002-WA-03 under the *Water Act* to Laurence Marketing Group Ltd. and Mr. Allan Blomme for an alleged contravention of sections 36(1) and 142(1)(h) of the *Water Act* by conducting an activity without an Approval at Plan 8911194, Block 1, (Wilderness Campground) in Okotoks, Alberta. On December 23, 2002, the Board received a Notice of

Appeal from Mr. Blomme appealing the Order. On January 8, 2003, the Board received a letter from the Appellant requesting that the Board include Laurence Marketing Group Ltd. as an appellant. In the Board's letter of February 3, 2003, the Board responded to the Appellant's letter of January 8, 2003 stating the final determination of whether to accept the appeal of the Laurence Marketing Group is subject to further consideration by the Board. On February 6, 2003, in consultation with the Director and the Appellant, the Board scheduled a Hearing on March 13, 2003. On February 28, 2003, the Appellant advised that discussions with Alberta Environment were ongoing in order to resolve the appeal and requested the hearing be adjourned. In consultation with the participants, the Board re-scheduled the hearing to April 3, 2003. The Board received a letter dated April 1, 2003, from the Appellant requesting a further adjournment of the hearing due to personal reasons. Instead of the hearing, which was scheduled for April 3, 2003, a preliminary meeting would be held in order to deal with various preliminary motions of Alberta Environment and the Appellant. The Board advised that arguments on the following issues would be heard by the Board at the Preliminary Meeting: What is the proper onus with respect to the hearing of this matter? What hearing procedures will be used for this hearing, including whether the hearing will be conducted in writing and what deadlines should be set? Whether Alberta Environment should be required to provide "will say" statements prior to the hearing or as part of the hearing procedure? Whether the Board should dismiss the appeal as requested by Alberta Environment? On April 3, 2003, the Board held a preliminary meeting in Calgary to deal with the preliminary issues as well as whether to accept the appeal of the Laurence Marketing Group. The Board issued its decision by letter on April 14, 2003, with respect to the Preliminary Meeting. The Board advised Alberta Environment and the Appellant that the appeal of the Laurence Marketing Group is properly before the Board and that the motion to dismiss the appeal by Alberta Environment is denied, and that it would schedule a hearing. On April 19, 2004, the Board received a letter from Alberta Environment requesting the hearing be held in writing. While scheduling the hearing, the Board was advised by the Appellants that they were working together towards a resolution. The Board put the appeals into abeyance to give the participants an opportunity to resolve the Order. On January 13, 2006, the Board advised the participants it would like to schedule a mediation meeting, and in consultation with the participants, the Board scheduled a mediation meeting and a site visit for March 29, 2006. At the mediation meeting an Interim Resolution was reached and the participants agreed to continue discussions. On November 15, 2006, the Board received a letter from Alberta Environment advising that they were closing Enforcement Order No. 2002-WA-03. The Board wrote to the Appellants asking if they were withdrawing their appeals, and on November 21, 2006, the Board received a response advising they wished to withdraw their appeals. On January 3, 2007, the Board issued a Discontinuance of Proceedings, and closed its file.

Cite as: *Blomme et al. v. Director, Southern Region, Regional Services, Alberta Environment* (3 January 2007), Appeal Nos. 02-131 and 140-DOP (A.E.A.B.).

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#### 02-136

**Appellant(s)** – Mr. Al Ridden, **Operator** – Leduc County, **Location** – near Calmar, **Type of Appeal** – Discontinuance of Proceedings

On December 24, 2002, the Board received a Notice of Appeal from Mr. Al Ridden with respect to Approval No. 00186138-00-00 issued under the *Water Act* to Leduc County authorizing the construction of works for flood control on Winding Creek, near Calmar, Alberta. Mr. Ridden objected to the fact that his property was included in the Approval and requested that it be removed. Leduc County and Alberta Environment agreed to the request and the appeal was withdrawn. As a result, the Board issued a Discontinuance of Proceedings on January 30, 2003, and closed its file.

Cite as: *Ridden v. Director, Central Region, Regional Services, Alberta Environment re: Leduc County* (30 January 2003), Appeal No. 02-136-DOP (A.E.A.B.).

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#### 02-137

**Appellant(s)** – Mr. Martin and Mrs. Lillian Dyck, **Operator** – Coyote Cove Golf Course Inc., **Location** – near DeWinton, **Type of Appeal** – Decision

On December 9, 2002, the Board received a letter from the Mr. Martin and Mrs. Lillian Dyck with respect to Preliminary Certificate No. 00182584-00-00 issued under the *Water Act* to Coyote Cove Golf Course



Inc.. The Preliminary Certificate provides that, upon compliance with conditions of the Certificate, Coyote Cove Golf Course Inc. will receive a licence to divert 173,415 cubic metres of water annually at a maximum rate of 0.076 cubic metres per second from Pine Creek in NW 4-22-1-W5M near DeWinton, Alberta. After looking into the file, the Board found that Mr. and Mrs. Dyck had not filed a Statement of Concern nor had they filed their Notice of Appeal within the timeframe required by the *Water Act*. The Appellant's did not provide the Board with a legitimate reason to grant an extension. Therefore, the Board issued a Decision on February 14, 2003, to dismiss the appeal.

Cite as: *Dyck v. Director, Southern Region, Regional Services, Alberta Environment re: Coyote Cove Golf Course Inc.* (14 February 2003), Appeal No. 02-137-D (A.E.A.B.).

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02-139

**Appellant(s)** – Mr. Ian Skinner, **Operator** – Consolidated Concrete Ltd., now Inland Aggregates Ltd., **Location** – County of Sturgeon, **Type of Appeal** – Decision

On December 24, 2002, the Environmental Appeal Board received a Notice of Appeal from Mr. Ian Skinner appealing Temporary Permit No. 16707-2 to Consolidated Concrete Ltd., now Inland Aggregates Limited under the *Water Resources Act*, authorizing the diversion of water up to 891 acre-feet (242 million Canadian gallons) from an aquifer in E1/2 20-54-26-W4M for the purpose of drainage. On April 7, 2003, the Board advised there was no right to appeal a Temporary Permit. Further, it appeared to the Board that the Temporary Permit had expired. The Board therefore, advised the parties that the appeal would be dismissed unless the Appellant, Permit Holder, or Alberta Environment could provide information to the contrary. None of the parties responded to the Board's request and therefore, the Board issued a Decision on April 7, 2003, dismissing the appeal.

Cite as: *Skinner v. Director, Alberta Environment re: Consolidated Concrete Ltd.* (7 April 2003), Appeal No. 02-139-D (A.E.A.B.).

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02-141

**Appellant(s)** – Mikisew Cree First Nation, **Operator** – TrueNorth Energy L.P., **Location** – Municipality of Wood Buffalo, **Type of Appeal** – Decision

On February 12, 2003, the Board received a Notice of Appeal from the Mikisew Cree First Nation with respect to Approval No. 00151636-00-00 issued under the *Water Act* to TrueNorth Energy L.P.. The Approval authorizes the development of the Fort Hills Oil Sands Processing Plant and Mine at SE 11-96-11-W4M in the Municipality of Wood Buffalo, Alberta. The Notice of Appeal was filed after the 7-day appeal deadline. Since there were no special circumstances that warranted extending the filing deadline, on April 21, 2005, the Board issued a Decision to dismiss the appeal.

Cite as: *Mikisew Cree First Nation v. Director, Northern Region, Regional Services, Alberta Environment re: TrueNorth Energy L.P.* (21 April 2005), Appeal No. 02-141-D (A.E.A.B.).

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02-142

**Appellant(s)** – Mikisew Cree First Nation, **Operator** – TrueNorth Energy L.P., **Location** – Municipality of Wood Buffalo, **Type of Appeal** – Decision

On February 12, 2003, the Board received a Notice of Appeal from the Mikisew Cree First Nation objecting to Licence No. 00190012-00-00 issued under the *Water Act* to TrueNorth Energy L.P. The Licence authorizes the construction of a water intake at SE 11-96-11-W4M in the Municipality of Wood Buffalo, Alberta. At issue in this decision was whether the matters brought forth by the Appellant were adequately dealt with at a hearing held by the Alberta Energy and Utilities Board ("AEUB"). The Appellant, initially participants in the AEUB process, withdrew their letter of concern and did not participate in an oral hearing. After reviewing the issues raised by the Appellant, the Board determined all matters had been adequately dealt with by the AEUB, and the Appellant had the opportunity to participate in the review. Therefore, on April 21, 2005, the Board issued a Decision to dismiss the appeal according to the *Environmental Protection and Enhancement Act*.

Cite as: *Mikisew Cree First Nation v. Director, Northern Region, Regional Services, Alberta Environment re: TrueNorth Energy L.P.* (21 April 2005), Appeal No. 02-142-D (A.E.A.B.).

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#### 02-143 and 02-151

**Appellant(s)** – Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. and F.W. (Fritz) Seidel, **Operator** – Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd., **Location** – near Cochrane, **Type of Appeal** – Report and Recommendations

On February 13, 2003, the Environmental Appeal Board received a Notice of Appeal from Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. with respect to Licence No. 00154141-00-00 (the “Licence”) issued under the *Water Act* to Mr. and Ms. Blair and Lazy H Trail Company Ltd., authorizing the diversion of 8,461 cubic metres of water annually from Production Wells No. CW1-91 and CW2-01, located in the NW 25-026-07-W5M for the purpose of Industrial Camp (British Army Training Unit Suffield Wate Supply), near Cochrane Alberta. On March 14, 2003, the Board also received a Notice of Appeal from Mr. F. W. (Fritz) Seidel requesting that he be permitted to participate in the appeal. Mr. Seidel advised that he had filed a Statement of Concern with Alberta Environment with respect to the Licence, but later withdrew the Statement of Concern. The Board contacted Mr. Colone and Ms. Cheryle Trudgeon, Mr. Randall and Ms. Joan Coleman, and Mr. Bryne and Ms. Anne Weerstra, notifying them of the appeals, as they had been named in the Licence as persons to be provided with information regarding monitoring and reporting. The Board then scheduled a mediation meeting involving all parties to be held in Cochrane, Alberta. However, prior to the mediation meeting the Board received a letter from Mr. and Ms. Blair requesting the appeal of Mr. Seidel be dismissed. The Board held a Preliminary Meeting on April 24, 2003, to deal with the objections of Mr. and Ms. Blair. After hearing the arguments of the parties at the Preliminary Meeting, the Board denied Mr. and Ms. Blair’s request to dismiss Mr. Seidel’s Notice of Appeal. The Board held the mediation meeting on April 30, 2003, in Cochrane, Alberta, following which a resolution was reached by the parties. On May 8, 2003, the Board issued a Report and Recommendations to the Minister recommending he accept the resolution. The Minister accepted the Board’s recommendation on May 13, 2003.

Cite as: *Blair et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Richard and Connie Blair and Lazy H Trail Company Ltd.* (08 May 2003), Appeal Nos. 02-143 and 02-151-R (A.E.A.B.).

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#### 02-144

**Appellant(s)** – Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd., **Operator** – Phillips Petroleum Resources Ltd., **Location** – Municipal District of Big Lakes, **Type of Appeal** – As Listed

**Overview** - On February 14, 2003, the Environmental Appeal Board received a Notice of Appeal from Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd. regarding the refusal of the Inspector, Northern Region, Regional Services, Alberta Environment to issue a Reclamation Certificate to Phillips Petroleum Resources Ltd. with respect to the GAO et al Kenzie 6-15-75-18-W5M well in the Municipal District of Big Lakes.

**02-144-ID1** - The Board held a mediation meeting in Slave Lake, Alberta on April 11, 2003, which was unsuccessful. However, the parties made a joint recommendation to the Board on the issue to be heard at the hearing. On April 28, 2003, the Board issued a Decision accepting the recommendation of the parties that the issue to be addressed at the hearing would be “Interpretation of Alberta Environment’s criteria dealing with soil textural classes, comparing the control and the wellsite, access road, and campsite.”

Cite as: Preliminary Issue: *Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment* (28 April 2003), Appeal No. 02-144-ID1 (A.E.A.B.).

**02-144-DOP** - The Board scheduled a hearing for June 4, 2003. However, the Board received a request from Conoco Phillips Canada for an abeyance of the appeal in order to pursue further mediation toward a

resolution of the appeal. The Board granted the request and re-scheduled the hearing for July 25, 2003. Conoco Phillips Canada subsequently withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on June 25, 2003 and closed its files.

Cite as: *Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment* (25 June 2003), Appeal No. 02-144-DOP (A.E.A.B.).

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02-145

**Appellant(s)** – Town of Picture Butte, **Operator** – Town of Picture Butte, **Location** – Picture Butte, **Type of Appeal** – Report and Recommendations

The Board received a Notice of Appeal on February 28, 2003, from the Town of Picture Butte with respect to Approval No. 1064-02-00 issued to the Town of Picture Butte, authorizing the construction, operation and reclamation of a waterworks system for the Town of Picture Butte. A mediation meeting was held on April 9, 2003, and following productive and detailed discussions, the parties reached an interim agreement. The parties agreed to hold the appeal in abeyance until October 25, 2003, with a status report due from Alberta Environment at that time. On October 24, 2003, the Board received a letter from Alberta Environment, which contained another offer for the Appellant, whereby, during a conference call the day after, the Appellant accepted the offer. On November 14, 2003, the Board issued a Report and Recommendations requesting the Minister vary the approval in accordance with Alberta Environment's offer letter and the Appellant's acceptance letter. The Minister approved the Report and Recommendations on December 2, 2003.

Cite as: *Town of Picture Butte v. Director, Southern Region, Regional Services, Alberta Environment* (14 November 2003), Appeal No. 02-145-R (A.E.A.B.).

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02-146-02-149

**Appellant(s)** – Mr. Dean and Ms. Verna Hart, Mr. Randy and Ms. Betty Landis, Ms. Stella Hart and Cattlemen's A.I. Ltd. and Mr. Michael Hart, **Operator** – Ducks Unlimited Canada, **Location** – near Hanna, **Type of Appeal** – Discontinuance of Proceedings

Between March 10 and March 17, 2003, the Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart, Ms. Stella Hart and Cattlemen's A.I. Ltd., Mr. Randy and Ms. Betty Landis, Mr. Michael Hart, with respect to Licence Amendment No. 00036350-00-01 issued under the *Water Act* to Ducks Unlimited Canada, authorizing changes to: the source of supply and point of diversion; the gross diversion; and the reservoir capacity. The Board began processing the appeals, however, received a request from Alberta Environment to dismiss the appeals on the basis that the appeals were not properly before the Board and the individuals who filed the appeals were not directly affected by the Licence Amendment. Alberta Environment also stated that there had been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Finally, Alberta Environment stated that the remedy sought by the Appellants was in relation to the priority system under the *Water Act*, and there was no new impact that resulted from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion. After considering the submissions of the parties, the Board concluded that it may be more appropriate to deal with the appeals by way of mediation. In consultation with the parties, the Board scheduled a mediation on July 21, 2003, in Airdrie, Alberta. An agreement was subsequently reached between Ducks Unlimited and the Appellants that resulted in the Appellants withdrawing their appeals. As a result, the Board issued a Discontinuance of Proceedings on August 29, 2003, and closed its file.

Cite as: *Hart et al. v. Director, Southern Region, Regional Services, Alberta Environment, re: Ducks Unlimited Canada* (29 August 2003), Appeal Nos. 02-146-02-149-DOP (A.E.A.B.).

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02-150

**Appellant(s)** – Mr. David Kingcott, **Operator** – Ducks Unlimited Canada, **Location** – near Hanna, **Type of Appeal** – Decision

The Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart (02-146) on March 10, 2003, Ms. Stella Hart and Cattlemen's A.I. Ltd. (02-147) on March 12, 2003, Mr. Randy and Ms. Betty Landis (02-148) on March 13, 2003, Mr. Michael Hart (02-149) on March 12, 2003, and Mr. David Kingcott (02-150) on March 17, 2003, with respect to Licence Amendment No. 00036350-00-01, issued under the *Water Act*. The Amending Licence was issued to Ducks Unlimited Canada, authorizing the change of the source of supply and point of diversion, change in the gross diversion, change in the reservoir capacity to supersede existing plans near Hanna, Alberta. The Board began processing the appeals, however, the Board received a request from Alberta Environment to dismiss the appeals citing that there have been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Secondly, the Director stated, the remedy sought by the Appellants is in relation to the priority system under the *Water Act*. Finally, the Appellants are not directly affected as the Amendment is merely administrative in nature and there is no "new" impact from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion. The Board received written submissions from all of the Appellants except Mr. Kingcott. Despite several attempts to contact Mr. Kingcott, a response was not received by the Board. The Board therefore issued a Decision on June 12, 2003, dismissing Mr. Kingcott's appeal for failing to respond to the Board in a timely manner.

Cite as: *Kingcott v. Director, Southern Region, Regional Services, Alberta Environment*, re: *Ducks Unlimited Canada* (12 June 2003), Appeal No. 02-150-D (A.E.A.B.)

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#### 02-151

**Appellant(s)** – Mr. F.W. (Fritz) Seidel, **Operator** – Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd., **Location** – near Cochrane, **Type of Appeal** – Decision

On February 13, 2003, the Board received a Notice of Appeal from Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. (the "Appellants") with respect to Licence No. 00154141-00-00 issued under the *Water Act* to the Appellants authorizing the diversion of 8,461 cubic metres of water annually from Production Well No. CW1-91 and CW2-01, located in the NW 25-26-07-W5M for the purpose of an Industrial Camp (British Army Training Unit Suffield Water Supply). The Board scheduled a mediation involving all parties to be held in Cochrane, Alberta. However, prior to the mediation meeting, the Board received a letter from Mr. and Ms. Blair requesting the appeal of Mr. Seidel be dismissed. The Board held a Preliminary Meeting on April 24, 2003, to deal with the objections of Mr. and Ms. Blair prior to proceeding to the mediation meeting. After hearing the arguments of the parties at the Preliminary Meeting, the Board issued a Decision on November 29, 2004, denying the Blair's request to dismiss the Notice of Appeal.

Cite as: Preliminary Motion: *Seidel v. Director, Southern Region, Regional Services, Alberta Environment* re: *Richard and Connie Blair and Lazy H Trail Company Ltd.* (29 November 2004), Appeal No. 02-151-ID1 (A.E.A.B.).

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#### 02-152, 03-001-003 and 03-005-006

**Appellant(s)** – County of Grande Prairie No. 1, Mr. Brock F. Smith, Mr. Ernie Bartsch, Mr. Allan Greber, Mr. David Lowen and Ms. Sidney Hogg, **Operator** – Slave River Exploration Ltd.(now Midnight Oil and Gas), **Location** – near Hythe, **Type of Appeal** – Discontinuance of Proceedings

From March 26 to April 23, 2003, the Board received Notices of Appeal from the County of Grande Prairie No. 1, Mr. Brock F. Smith, Mr. Ernie Bartsch, Mr. Allan Greber, Mr. David Lowen and Ms. Sidney Hogg. The Notices of Appeal were with respect to Licence No. 00192607-00-00 issued under the *Water Act* to Slave River Exploration Ltd. (now Midnight Oil and Gas), authorizing the diversion of 36,500 cubic metres of water annually from the well in LSD 05-30-073-12-W6 for the purpose of industrial (injection) near Hyth, Alberta. The Board also received requests for a Stay from the County of Grande Prairie No. 1 and Mr. Smith. The Board scheduled a written submission process to deal with preliminary motions received from Alberta Environment. However, prior to making a determination on the preliminary motions the Board held a mediation meeting, on July 28, 2003, in Grande Prairie, Alberta, in order to assist the parties in reaching a resolution of the appeals. Three of the Appellants reached an agreement with Slave River

Exploration Ltd. and Alberta Environment at the mediation meeting. Before finalizing the resolution, the Board had to make a decision with respect to the preliminary motions for the three remaining appeals. The Board began processing the remaining appeals; however, it received a request from the Licence Holder to hold the appeals in abeyance to explore options for an alternative source of water. The Board granted the abeyance and in due course received notice from the Licence Holder that they were relinquishing the Licence. As a result, the Appellants withdrew their appeals and on October 5, 2005, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *County of Grande Prairie No. 1 et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Slave River Exploration Ltd. (now Midnight Oil and Gas)* (05 October 2005), Appeal Nos. 02-152, 03-001-003 and 03-005-006-DOP (A.E.A.B.).

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