

DECISIONS 2006

06-001-009

Appellant(s) – Terry and Liviana Backstrom, Gerard Kulcsar and Pearl Blain, **Operator** – Gerard Kulcsar, **Location** – near Didsbury, **Type of Appeal** – Report and Recommendations

On April 5, 2006, Alberta Environment issued *Water Act* Licence No. 00215182-00-00, Preliminary Certificate No. 0022592-00-00 and Approval No. 00209123-00-00 to Gerard Kulcsar for the management and construction of a fish pond, the removal of peat in a water body, and the installation of a V-notch weir on an unnamed tributary of the Little Red Deer River, near Didsbury, Alberta. On April 12 and 13, 2006, the Board received Notices of Appeal from Ms. Pearl Blain, Mr. Gerard Kulcsar and Mr. Terry and Ms. Liviana Backstrom. The Board held Mediation Meetings on June 27, 2006 and November 29, 2007, following which an agreement was reached by the participants. The Board recommended that the Minister of Environment accept the agreement. On December 20, 2007, the Minister issued an Order and accepted the agreement.

Cite as: *Backstrom et al v. Director, Southern Region, Regional Services, Alberta Environment*,
Re: *Gerard Kulcsar* (11 December 2007), Appeal Nos. 06-001 – 06-009-R (A.E.A.B.).

06-010

Appellant(s) – IPSCO Inc., **Operator** – IPSCO Inc., **Location** – near Red Deer, **Type of Appeal** – Discontinuance of Proceedings

On August 30, 2001, Alberta Environment issued Licence No. 00153559-00-00 under the *Water Act* to IPSCO Inc. authorizing the diversion of 8,634 cubic metres of water annually from the well in 14-03-039-27-W4M for commercial purposes (fabrication plant) near Red Deer, Alberta. On April 20, 2006, the Board received a Notice of Appeal from IPSCO Inc. appealing the decision of Alberta Environment to refuse to amend IPSCO Inc.'s Licence by increasing the allocation of water from 8,640 cubic meters to 10,000 cubic meters. On May 4, 2006, the Board received a letter from Alberta Environment advising they were in discussions with IPSCO and requesting the appeal be held in abeyance. Status reports were requested from the participants on July 7, 2006, July 17, 2006, September 30, 2006, and October 31, 2006. On October 31, 2006, Alberta Environment advised the Board that they issued a licence to IPSCO in response to their application, and the Board asked the Appellant if they would be withdrawing their appeal. On November 1, 2006, the Appellant requested the Board hold the appeal in abeyance until they receive "...confirmation from Alberta Environment that no appeals have been placed against our license, which we expect to do by 15 December 2006." On November 7, 2006, the Board requested the Appellant advise if they would be withdrawing their appeal. On December 8, 2006, the Board received a letter dated December 7, 2006, from IPSCO withdrawing their appeal. The Board, therefore, issued a Discontinuance of Proceedings on December 18, 2006, and closed its file.

Cite as: *IPSCO Inc. v. Director, Central Region, Regional Services, Alberta Environment*
(18 December 2006), Appeal No. 06-010-DOP (A.E.A.B.).

06-011-030, 032-034, 038-039, 042-049

Appellant(s) – Don Meredith, Paula McGinnis, Laura Peaire, Mike Agostini, Brenda Reddekopp, Jean Morrison, Jean Siminiuk, and Gordon Phillips, **Operators** – Burnco Rock Products Ltd. and Parkland County, **Location** – near Duffield, **Type of Appeal** – See below.

Overview – On March 23, 2006, the Director, Central Region, Regional Services, Alberta Environment, issued *Water Act* Approval No. 00204375-00-00, *Environmental Protection and Enhancement Act* Approval No. 203803-00-00 and *Water Act* Licence No. 00203992-00-00 to Burnco Rock Products Ltd. for the operation of a gravel pit near Duffield, Alberta, and *Water Act* Amending Approval Nos. 00022289-00-01 and 00022289-00-02 to Parkland County in relation to the gravel pit. Approval No. 00022289-00-01 was an administrative amendment changing the name on the Approval from County of Parkland to Parkland County. Approval Nos. 00022289-00-01 and 00022289-00-02 relate to the Bellhouse Water Management Project and were required as a result of the approvals and licence issued to Burnco.

Between April 27 and May 23, 2006, the Environmental Appeals Board received 33 Notices of Appeal from Mr. Don Meredith, Ms. Paula McGinnis, Ms. Laura Peaire, Mr. Mike Agostini, Ms. Brenda Reddekopp, Ms. Jean Morrison, Ms. Jean Siminiuk, and Mr. Gordon Phillips relating to the approvals and licences issued to Burnco and Parkland County. On July 14, 2006, the Appellants applied for a Stay of the Approvals and Licence and on August 8, 2006, the Board notified the parties it had denied the stay request.

On August 16, 2006, the Board held a mediation meeting, and a series of meetings were subsequently held in an attempt to resolve the issues, however no resolution was achieved. In consultation with the parties, the Board advised the parties on August 17, 2007 the appeals would proceed to a hearing on December 12 and 13, 2007.

Issues Decision – On August 10, 2007, Burnco requested the issues for the hearing be identified. The Board received submissions from Burnco, Parkland County, Alberta Environment, and the majority of the appellants. Based on the submissions, the Notices of Appeal, and the Board's jurisdiction, the Board issued a decision on November 5, 2007 stating that the issues to be heard at the Hearing were:

1. Do the terms and conditions of the Approvals and Licence (including the terms, monitoring, complaints process, mitigation and remedial measures, and reclamation) adequately deal with the direct, indirect, and cumulative impacts of the project on the environment (including air quality, water quality and quantity, land, noise, and vibrations) and the health of the residents?
2. Did the Approval Holders adequately consider alternative methods, practices, and locations for the project, including the washing and crushing facilities?
3. Were the assessments completed and the baseline data collected for the application appropriate to represent the area and therefore be used as a basis for the Director to apply appropriate terms and conditions?
4. Did the Director consider all other applicable legislation, policies, and programs that could have influenced his decision prior to making his decision to issue the Approvals and Licence?

Cite as: Issues Decision: *Meredith et al. v. Director, Central Region, Regional Services, Alberta Environment*, re: *Burnco Rock Products Ltd. and Parkland County* (5 November 2007), Appeal Nos. 06-011-030, 032-034, 038-039, 042-049-ID1 (A.E.A.B.).

06-011, 012, 013, 038 & 039 (Discontinuance of Proceedings): On August 17, 2007 the Board advised the parties that a Hearing would be held on December 12 and 13, 2007. On November 28, 2007, the Board received an e-mail from Don Meredith withdrawing his appeals.

Cite as: *Meredith et al. v. Director, Central Region, Regional Services, Alberta Environment*, re: *Burnco Rock Products Ltd. and Parkland County* (6 December 2007), Appeal Nos. 06-011, 012, 013, 038 & 039-DOP (A.E.A.B.).

06-014-030, 032-034, 042-049 (Report and Recommendations): The Board held a Hearing on December 12 and 13, 2007. After reviewing the submissions and hearing the evidence, the Board recommended that Amending Approval Nos. 00022289-00-01 and 00022289-00-02 to Parkland County be confirmed as issued as no evidence was presented to demonstrate any environmental impact as a result of these amending approvals. One amending approval was administrative, reflecting the name change from the County of Parkland to Parkland County. The second amending approval allowed for the temporary diversion of the Bellhouse Water Management Project. The Board recommended Licence No. 00203992-00-00 be varied to require a minimum of 13 wells be established as and when required by the Director. The Board recommended the Licence be varied to include the nearby subdivisions of Westland Park 1 and 2 and Highland Acres within the minimum distance specified by the Director for the complaint process. The Board recommended Approval No. 00204375-00-00 be confirmed as issued. The Board recommended Approval No. 203803-00-00 be varied: to require that Burnco monitor for TSPs and PM2.5 during the operational phase; to require continuous monitoring for noise for at least one year during operations with

the monitoring reports indicating peak noise levels not just averages; to require regular monitoring of noise after the year of continuous monitoring for noise; and to include a complaint investigation process that mirrors the process outlined in Licence No. 00203992-00-00. The appeals of Ms. Jean Morrison and Mr. Gordon Phillips were dismissed for failing to attend the Hearing and provide the Board with the additional information requested. The Board issued its Report and Recommendations to the Minister on January 14, 2008, and the Minister issued his Order on January 16, 2008.

Cite as: *McGinnis et al. v. Director, Central Region, Regional Services, Alberta Environment*, re: *Burnco Rock Products Ltd. and Parkland County* (14 January 2008), Appeal Nos. 06-014-030, 032-034, 042-049-R (A.E.A.B.).

06-031

Appellant(s) – 1096210 Alberta Ltd., **Operator** – 1096210 Alberta Ltd., **Location** – Sylvan Lake, **Type of Appeal** – Report and Recommendations

On April 24, 2006 Alberta Environment issued *Water Act* Approval No. 00208086-00-00 to 1096210 Alberta Ltd. for the construction, operation, and maintenance of a storm water management works for a subdivision located in Sylvan Lake, Alberta. The Board received a Notice of Appeal from 1096210 Alberta Ltd., stating that the Approval should be issued under the name of Lacombe County, and appealing a condition relating to a drawing and design. Discussions took place between Alberta Environment, 1096210 Alberta Ltd., and Lacombe County. As a result of those discussions, an agreement was reached between Alberta Environment and 1096210 Alberta Ltd. The Board issued a Report and Recommendations to the Minister of Environment on September 29, 2006, recommending the Minister accept the agreement. On October 11, 2006, the Minister approved the agreement.

Cite as: *1096210 Alberta Ltd. v. Director, Central Region, Regional Services, Alberta Environment* (29 September 2006), Appeal No. 06-031-R (A.E.A.B.).

06-035 and 06-037

Appellant(s) – B. Van Laar of Van Laar Farms, and N. Tom Christensen, **Operator** – Van Laar Farms Ltd., **Location** – near Standard, **Type of Appeal** – Report and Recommendations

The Board received Notices of Appeal from Mr. B. Van Laar on behalf of Van Laar Farms Ltd. on May 8, 2006, and from Mr. N. Tom Christensen on May 15, 2006, with respect to Preliminary Certificate No. 00213958-00-00 issued to Van Laar Farms Ltd. authorizing the diversion of 13,950 cubic metres of water annually from Production Well No. PW1-02, located in SW 2-26-22-W4M for agricultural purposes (4,200 feeder hogs) near Standard, Alberta. In consultation with the participants, the Board held a mediation meeting on July 6, 2006 in Standard, Alberta, following which an agreement was reached by the participants. As a result, the Board issued a Report and Recommendations on July 18, 2006, recommending the Minister of Environment accept the agreement. On August 8, 2006, the Minister approved the recommendations.

Cite as: *Van Laar and Christensen v. Director, Southern Region, Regional Services, Alberta Environment* re: *Van Laar Farms Ltd.* (18 July 2006), Appeal Nos. 06-035 and 06-037-R (A.E.A.B.).

06-036

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

On May 9, 2006, the Board received a Notice of Appeal from Husky Oil Operations Limited appealing the April 28, 2006, decision of Sustainable Resource Development to cancel Reclamation Certificate No. SE1-05-51538 for the Renaissance Alderson 100/7-7-15-10-W4M. On May 23, 2006, the Board received a letter from Sustainable Resource Development advising that the cancellation of the Certificate "...was withdrawn due to an error in assessing that an un-reclaimed access road fell within the boundaries of the specified land under the Reclamation Certificate....[T]he un-reclaimed access falls outside the specified land at issue, and therefore, the Reclamation Certificate, as originally issued on September 12, 2005, is in effect as if it had been from the date of issuance....[T]he Director is of the opinion that the circumstances

providing grounds for appeal no longer exist.” On July 13, 2006, the Board received a letter from the Appellant withdrawing the appeal. Therefore, the Board issued a Discontinuance of Proceedings on July 18, 2006 and closed its file.

Cite as: *Husky Oil Operations Limited v. Director, Land Use Operations Branch, Sustainable Resource Development* (18 July 2006), Appeal No. 06-036-DOP (A.E.A.B.).

06-040 & 041

Appellant(s) – Grey Wolf Exploration Inc., **Operator** – Grey Wolf Exploration Inc., **Location** – near Widewater, **Type of Appeal** – Discontinuance of Proceedings

On May 18, 2006, the Board received Notices of Appeal from Grey Wolf Exploration Inc. appealing the April 24, 2006 decision of Sustainable Resource Development to cancel Reclamation Certificate Nos. NW 2-04-92353 and NW 2-04-91612 issued to Grey Wolf Exploration Inc., in relation to the reclamation of well sites located at 10-7-73-7-W5M in Widewater, Alberta. In their Notices of Appeal, the Appellant asked the Board to hold the appeals in abeyance so that an inspection of the land could be conducted during the growing season. The abeyance was granted in the Board’s May 18, 2006 letter and requested the Appellant provide a status report to the Board by July 31, 2006. On June 13, 2006, the Board received a letter from the Appellant withdrawing the appeal as a result of the field inspection. Therefore, the Board issued a Discontinues its Proceedings on July 11, 2006 and closed its files.

Cite as: *Grey Wolf Exploration Inc. v. Sustainable Resource Development* (July 11, 2006), Appeal Nos. 06-040 & 041-DOP (A.E.A.B.).

06-050

Appellant(s) – Seneca Energy Canada Inc., **Operator** – Seneca Energy Canada Inc., **Location** – near Fairview, **Type of Appeal** – Discontinuance of Proceedings

On May 24, 2006, the Board received a Notice of Appeal from Seneca Energy Canada Inc. appealing the May 2, 2006, decision of the Director, Land Use Operations Branch, Sustainable Resource Development, to cancel Reclamation Certificate No. NW2-05-62053 issued to Seneca Energy Canada Inc. with respect to the Otter 8-6-89-12 W5M well, near Fairview, Alberta. In their Notice of Appeal, Seneca Energy asked the Board to hold the appeals in abeyance so that an inspection of the land could be conducted during the growing season. The abeyance was granted in the Board’s May 24, 2006 letter and requested a status report by July 31, 2006. On July 19, 2006, in consultation with the participants, the Board scheduled a mediation meeting to be held on September 27, 2006, in Calgary, Alberta. On July 28, 2006, the Board received a request for an extension to the July 31, 2006 deadline to provide a status report to the Board because weather conditions were preventing access to the site. The Board granted the request and requested a status report by August 14, 2006. On August 11, 2006, the Board received an e-mail from the Appellant withdrawing the appeal. As a result, the Board issued a Discontinuance of Proceedings on August 18, 2006 and closed its file.

Cite as: *Seneca Energy Canada Inc. v. Director, Land Use Operations Branch, Sustainable Resource Development* (18 August 2006), Appeal No. 06-050-DOP (A.E.A.B.).

06-051

Appellant(s) – Husky Oil Operations Limited, **Operator** – Husky Oil Operations Limited, **Location** – near Jenner, **Type of Appeal** – Discontinuance of Proceedings

On June 16, 2006, the Board received a Notice of Appeal from Husky Oil Operations Limited appealing the May 17, 2006 decision of Alberta Environment to refuse to issue a Reclamation Certificate to Husky Oil Operations Limited for the Renaissance 16C Suffield 16-14-20-8 well at Surface Point in LSD 1-23-20-8-W4M, near Jenner, Alberta. On July 4 and 5, 2006, the Board received e-mails from the Appellant and the Director requesting the Board hold the appeal in abeyance as a reclamation certificate would be issued for the site. The Board granted the abeyance and requested status reports by August 8, 2006. On August 4, 2006, the Board received an e-mail from the Appellant advising they are withdrawing their appeal. Therefore, the Board issued a Discontinuance of Proceedings on August 9, 2006, and closed its file.

Cite as: *Husky Oil Operations Limited v. Director, Southern Region, Regional Services,*

06-052

Appellant(s) – Fred Pohr, **Operator** – Daylight Energy Trust, **Location** – near Fairview, **Type of Appeal** – Discontinuance of Proceedings

On April 5, 2006, the Director, Northern Region, Regional Services, Alberta Environment, issued Reclamation Certificate No. 00223139-00-00 under the *Environmental Protection and Enhancement Act* to Daylight Energy Trust for the Genesis Newport Whitelaw 12-21-81-2 well, near Fairview, Alberta. On June 19, 2006, the Board received a Notice of Appeal from Mr. Fred Pohr appealing the reclamation certificate. On August 11, 2006, Mr. Pohr contacted the Board to request an abeyance of the appeal to allow for an assessment of the site after harvest. The Board granted the request on August 17, 2006, and requested Mr. Pohr provide the Board with a status report by September 29, 2006. On October 17, 2006, the Appellant contacted the Board advising that he would be contacting Daylight Energy to discuss the site. The appeal remained in abeyance and status reports were requested regularly. On December 14, 2006, the Appellant and the Daylight Energy provided the Board with status reports, outlining an agreement they had reached for the reclamation work on the Appellant's land, and advising it would be completed in the spring of 2007. Further status reports were requested and on November 5, 2007, the Board received a letter from the Appellant, advising that the problem area had been taken care of to his satisfaction and that he wished to withdraw his appeal. As a result of Mr. Pohr's withdrawal, the Board issued a Discontinuance of Proceedings on November 8, 2007, and closed its file.

Cite as: Pohr v. Director, Northern Region, Regional Services, Alberta Environment, re: Daylight Energy Trust (8 November 2007), Appeal No. 06-052-DOP (A.E.A.B.).

06-053 & 06-054

Appellant(s) – Ida Elliott and Irene Fralick, **Operator** – Enerplus Resources Corporation, **Location** – near Alder Flats, **Type of Appeal** – Discontinuance of Proceedings

On July 5 and 6, 2006, the Board received Notices of Appeal from Ms. Ida Elliott and Ms. Irene Fralick appealing *Water Act* Approval No. 00224381-00-00 issued on June 9, 2006 by Alberta Environment to Enerplus Resources Corporation authorizing the operation of works and diversion of 7,600 cubic metres of water annually for the purpose of coalbed methane extraction near Alder Flats, Alberta. On August 31, 2006, in consultation with the participants, the Board scheduled a mediation meeting for September 14, 2006, in Buck Lake, Alberta. Following productive discussions at the mediation meeting, the Appellants withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on September 22, 2006 and closed its file.

Cite as: *Elliott et al. v. Director, Central Region, Regional Services, Alberta Environment* re: Enerplus Resources Corporation (22 September 2006), Appeal Nos. 06-053 & 06-054-DOP (A.E.A.B.).

06-055-056

Appellant(s) – Katherine McCulloch and Richard Kelk, **Operator** – AAA Cattle Company Ltd., **Location** – near Didsbury, **Type of Appeal** – Discontinuance of Proceedings

On June 26, 2006, Alberta Environment granted an extension to AAA Cattle Company Ltd. to comply with certain conditions pertaining to *Water Act* Licence No. 00188451-00-00; Licence dated 1999-02-03, File No. 80439; Licences 00140731-00-01, 00140731-00-02; and Licence Amendments 00140731-00-01 and 00140731-00-02. The Licence Holder was not in compliance with some of the monitoring and reporting requirements of the Licences and was given an extension of time to comply. Licence No. 0018451-00-00 was issued for the diversion of 126,150 cubic metres of groundwater annually from Production Well No. PW5-02, PW6-02, PW7-02 and PW8-02, located in SW 04-031-27-W4M for agricultural purposes; Licence dated 1999-02-03, File No. 80439; Licences 00140731-00-01, 00140731-00-02 issued for the diversion and use of quantities of water prescribed in Interim Licence No. 22169 with priority numbers 1998-06-30-01, 1998-06-30-02 and 1998-06-30-03 for agricultural purposes; and Licence Amendments 00140731-00-01 and 00140731-00-02 were issued in relation to file No. 80439. On July 7, August 2 and

August 10, 2006, the Board received Notices of Appeal from Ms. Katherine McCulloch, Mr. Richard Kelk, and Mr. Ross and Ms. Judy Warner. The Notices of Appeal were filed in relation to the extension of conditions in the Licences, and the alleged breach by the Licence Holder and Director of the Ministerial Order 28/2005 and the November 16, 2005 mediation resolution, contained in the Board's Report and Recommendations dated November 25, 2005. (*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.)) The Board was in the process of scheduling a mediation meeting, when on July 31, 2006, the Board received an e-mail from Alberta Environment advising AAA Cattle had provided some of the technical information they had requested regarding their noncompliance with the monitoring and reporting requirements contained in the Licences. On August 29, 2006, Alberta Environment advised the technical information was now complete, and requested the Board assist them by facilitating an information meeting with the Ms. McCulloch, Mr. Kelk and Mr. and Ms. Warner, and AAA Cattle, so that Alberta Environment could provide the results of the technical review and discuss any concerns. Board staff facilitated the information meeting on September 22, 2006. At the information meeting Alberta Environment issued a letter stating AAA Cattle has met the requirements of Ministerial Order 28/2005, and may commence production under Licence No. 00188451-00-00 on October 23, 2006. The Board wrote to the participants on September 25, 2006 advising it would like to proceed with the appeals and asked if they wished to proceed to mediation. Alberta Environment and AAA Cattle advised that given the outcome of the September 22, 2006 meeting, they did not feel there is a need for a mediation meeting. They requested the Board set up a process to determine if it has jurisdiction to deal with the appeals. Ms. McCulloch and Mr. Kelk advised via a telephone call to the Board on October 5, 2006 that they did not believe further mediation was necessary. On October 5, 2006, in response to Ms. McCulloch and Mr. Kelk, the Board requested they advise if they wished to proceed with a preliminary meeting to determine the Board's jurisdiction to hear their appeals. The Board requested they advise if they wished to proceed with their appeals. On November 20, 2006, the Board received an e-mail from Ms. McCulloch and Mr. Kelk withdrawing their appeals. On January 3, 2007, the Board issued a Discontinues of Proceedings and closed its file in relation to the appeals of Ms. McCulloch and Mr. Kelk.

Cite as: *McCulloch and Kelk v. Director, Southern Region, Regional Services, Alberta Environment* re: AAA Cattle Company Ltd. (3 January 2007), Appeal No. 06-055 and 06-056-DOP (A.E.A.B.).

06-057-058

Appellant(s) – Met Developments Inc. and Luke Frigon, **Operator** – Met Developments Inc. and Luke Frigon, **Location** – near Cooking Lake, **Type of Appeal** – Discontinuance of Proceedings

On July 10, 2006, Alberta Environment issued EPEA Environmental Protection Order No. EPO-2006/09-NR to Met Developments Inc. and Mr. Luke Frigon in relation to the construction of a berm containing contaminated substances near Cooking Lake in Strathcona County. On July 17, 2006, the Board received a Notice of Appeal from Met Inc. and Mr. Luke Frigon appealing the Order. On July 24, 2006, the Board received an e-mail from Alberta Environment advising they were in discussions with Met Developments and Mr. Luke Frigon and would jointly provide the Board with a status report. Status reports were received from the Appellants and Alberta Environment between August 1, 2006 and August 30, 2006. On August 31, 2006, the Board received a letter from the Appellants advising they are withdrawing their appeal as they were working cooperatively with Alberta Environment to resolve the issues related to the Order. Therefore, the Board issued a Discontinuance of Proceedings on September 6, 2006, and closed its file.

Cite as: *Met Inc. and Luke Frigon v. Director, Northern Region, Regional Services, Alberta Environment* (06 September 2006), Appeal Nos. 06-057-058-DOP (A.E.A.B.).

06-059-063

Appellant(s) – River Valleys Committee, and members S. Meadows, G. McHugh, B. Amell, and B. Morrison, **Operator** – City of Calgary, **Location** – Calgary, **Type of Appeal** – Discontinuance of Proceedings

On July 12, 2006, Alberta Environment issued *Water Act* Approval No. 00229111-00-00, to the City of Calgary authorizing them to complete the reshaping and alterations to an existing unnamed water body

(wetland) in the community of Cranston, in Calgary. On July 24, 2006, the Board received a Notice of Appeal from the River Valleys Committee and its members S. Meadows, G. McHugh, B. Amell and B. Morrison, appealing Alberta Environment's decision.

On July 26, 2006, the Board wrote to the Appellants, the Approval Holder and Alberta Environment acknowledging receipt of the Notice of Appeal. The Board requested Alberta Environment provide the Board with a copy of the records relating to their decision and all participants provide available dates for a mediation meeting, preliminary meeting or hearing.

On August 8, 2006, the Board received a letter from the Approval Holder raising preliminary motions challenging the appeals and advising they were not interested in participating in a mediation meeting until the legal issues are addressed. On August 18, 2006, the Board received a letter from Alberta Environment also challenging the ability of the River Valleys Committee to have standing to bring an appeal. On August 18, 2006, the Board sent a letter to the participants advising that a preliminary meeting would be scheduled, and requesting they provide their available dates to the Board for a preliminary meeting.

On August 29, 2006, the Board received a letter from the Approval Holder advising, that further to a telephone conversation with the Board's General Counsel on August 28, 2006, the Approval Holder agreed to participate in a mediation meeting to discuss the issue of legal standing of the Appellants to file the appeal. On September 1, 2006, the Board responded to the Approval Holder's letter as well as telephone calls it had received from the other participants. The Board's September 1, 2006 letter stated that it understood that the City is prepared to attend and participate in a meeting if the River Valleys Committee withdraws its appeals, that the River Valleys Committee is prepared to attend and participate in this meeting based on a written agreement with the City to attend the meeting and, and withdraw their appeals. The Board requested the participants indicate by September 6, 2006 that they agree in principle to develop this agreement and participate in this meeting, and that River Valleys Committee also indicate that it is prepared to withdraw its appeal when the agreement is signed. The Board indicated it was prepared to facilitate the preparation of the agreement and the meeting and advised that once the appeals are withdrawn, the Board has no ability to recommend changes to the approval, and changes to the approval would have to be requested by the City of Calgary and would be subject to the approval of Alberta Environment, and the meeting would have no formal legal status to bind the participants.

On September 5, 2006, the Board received an e-mail from the Approval Holder requesting an extension of the September 6, 2006 deadline. The Board granted the extension until September 14, 2006. On September 5, 2006, the Board also received a letter from the Appellants advising they agreed to withdraw their appeals and to meeting in good faith with the other participants. On September 14, 2006, the Board received a letter from the Approval Holder agreeing to participate in a mediation meeting provided all appeals were withdrawn. The Board proceeded to draft the agreement for the participants' review prior to scheduling the meeting. On February 26, 2007, the Board received a letter from the Appellants withdrawing their appeals as they decided not to proceed with a meeting. Based upon the withdrawal of the Notice of Appeal by the Appellants on February 26, 2007, the Board issued a Discontinuance of Proceedings on March 9, 2007, and closed its file.

Cite as: *River Valleys Committee et al. v. Director, Southern Region, Regional Services, Alberta Environment* re: City of Calgary (09 March 2007), Appeal Nos. 06-059-063-DOP (A.E.A.B.).

06-066

Appellant(s) – Cristallo Engineering Technologies Inc. and Cristallo Holdings Inc., **Operator** – Cristallo Engineering Technologies Inc. and Cristallo Holdings Inc., **Location** – Biesecker, **Type of Appeal** – Discontinuance of Proceedings

On July 31, 2006, the Director, Southern Region, Regional Services, Alberta Environment issued Enforcement Order No. EO-2006/01-SR under the *Environmental Protection and Enhancement Act* to Cristallo Engineering Technologies Inc. and Cristallo Holdings Inc. for the Biesecker Waste Treatment Plant, a biomedical waste incinerator, for allegedly violating the Approval for the plant. On August 8,

2006, the Board received a Notice of Appeal from Cristallo Engineering Technologies Inc. and Cristallo Holdings Inc. appealing the Order. On August 17, 2006, the Board received a letter from the Appellant requesting a Stay of the Enforcement Order. The Board responded on August 21, 2007 requesting the Appellant provide additional information, however, on August 24, 2006, the Board received a letter from the Appellant advising the Director had issued an amendment to the Order which may impact the Stay request and that they would endeavour to provide submissions on the Stay application as soon as possible. The Appellant went on to say that they were continuing to meet with the Director and requested the Board put the appeal in abeyance. On September 7, 2006, the Board granted the abeyance of the appeal and the Stay application and status reports were received from the participants on a regular basis. On May 9, 2007, the Board received an e-mail from the Director stating a letter had been sent to the participants closing the Enforcement Order. In response to the Director's e-mail, the Board sent a letter to the Appellant on May 15, 2007, requesting the Appellant advise if they would be withdrawing their appeal. On May 18, 2007 the Board received a letter from the Appellant withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on June 1, 2007, and closed its file.

Cite as: *Cristallo Engineering Technologies Inc. and Cristallo Holdings Inc. v. Director, Southern Region, Regional Services, Alberta Environment* (1 June 2007), Appeal No. 06-066-DOP (A.E.A.B.).

06-067

Appellant(s) – Newalta Corporation, **Operator** – Newalta Corporation, **Location** – Calgary, **Type of Appeal** – Discontinuance of Proceedings

On July 10, 2006, Alberta Environment issued a warning letter to Newalta Corporation with respect to an investigation undertaken at property owned by the Hopewell Development Corporation in relation to the improper storage of hazardous waste on or about July 11, 2004, in Calgary. The letter states that the incident contravenes the Waste Control Regulation. It further states “No further enforcement action is contemplated for this incident. However, please note that this warning letter will form part of Newalta Corporation’s enforcement history and will be taken into consideration should any further contraventions occur.” On August 9, 2006, the Board received a Notice of Appeal from Newalta Corporation appealing the Letter and stating “...that the Board must determine as a preliminary issue whether it has jurisdiction pursuant to Section 91 of the *Environmental Protection and Enhancement Act* to hear an appeal in respect of a Warning Letter.” On August 28, 2006, the Board received a letter from Alberta Environment requesting that the preliminary issue of the Board’s jurisdiction to hear the appeal be addressed, and that the Board make a decision before proceeding further. On August 30, 2006, the Board advised the participants that an oral preliminary meeting would be scheduled to hear legal arguments on the preliminary motion regarding the Board’s jurisdiction to hear an appeal of a warning letter and requested their schedules. The Board received the information from the Appellant on September 20, 2006 and on October 6, 2006, the Board received a letter from Alberta Environment advising they were in discussions with Newalta and would provide an update on October 31, 2006. Status reports were then received on October 31, 2006, and November 15, 2006. On December 13, 2006, the Board received a letter from the Appellant withdrawing their appeal. As a result, the Board issued a Discontinuance of Proceedings on December 18, 2006, and closed its file.

Cite as: *Newalta Corporation v. Director, Southern Region, Regional Services, Alberta Environment* (18 December 2006), Appeal No. 06-067-DOP (A.E.A.B.)

06-069

Appellant(s) – Joseph Pitt, **Operator** – Alberta Highway Services Ltd., **Location** – near Red Deer, **Type of Appeal** – Discontinuance of Proceedings

On September 13, 2006, Alberta Environment issued Approval No. 00230839-00-00 under the *Water Act*, to Alberta Highway Services Ltd. authorizing the construction, operation and maintenance of a stormwater management system in E1/2 24-038-28-W4M, near Red Deer. On September 26, 2006, the Board received a Notice of Appeal from Mr. Joseph Pitt appealing the Approval. On November 20, 2006, in consultation with the participants, the Board held a mediation meeting on November 20, 2006, in Red Deer. At the mediation meeting, an interim resolution was reached and the participants agreed to a second mediation

meeting that would include Alberta Infrastructure and Transportation, the City of Red Deer, and Red Deer County. On January 8, 2007, in consultation with the participants, Alberta Infrastructure and Transportation, the City of Red Deer, and Red Deer County, the Board held the second mediation meeting on January 22, 2007, in Red Deer. Following productive and detailed discussions at the January 22, 2007 mediation meeting, Mr. Pitt withdrew his appeal. As a result, the Board issued a Discontinuance of Proceedings and closed its file on January 25, 2007.

Cite as: *Pitt v. Director, Central Region, Regional Services, Alberta Environment re: Alberta Highway Services Ltd.* (25 January 2007), Appeal No. 06-069-DOP (A.E.A.B.).

06-071 and 06-072

Appellant(s) – Roxanne Walsh and Linda Abrams, **Operator** – Town of Turner Valley, **Location** – Turner Valley, **Type of Appeal** – See below

Overview – Alberta Environment issued Amending Approval 1242-01-05 under the *Environmental Enhancement and Protection Act* to the Town of Turner Valley authorizing the construction, operation, and reclamation of a waterworks system. Specifically, the Amending Approval allows for the construction of a raw water storage reservoir. The raw water storage reservoir will supply the Town’s potable water treatment plant, which provides the municipal water supply to the Town’s residents. The Board received Notices of Appeal from Ms. Roxanne Walsh and Ms. Linda Abrams, and a request for a Stay from Ms. Walsh.

Preliminary Motions (06-071 & 072) – A number of preliminary motions were raised by the participants, the majority of which challenged the standing of Ms. Walsh and Ms Abrams. A Preliminary Meeting was held on February 8, 2007, to address these preliminary motions.

The Board found that Ms. Abrams was not directly affected because she lives and works in the Town of Black Diamond, and no evidence was provided that water from the reservoir will be distributed to the Town of Black Diamond at the present time. The Board also found there were no special circumstances to extend the time for Ms. Abrams to file a Notice of Appeal or to allow her to appeal without having filed a Statement of Concern. Therefore, her appeal was dismissed. The Board found Ms. Walsh, a resident of Turner Valley, directly affected because she does use the municipal water supply for Turner Valley, and therefore the Board will hear her appeal. The Board accepted the Town of Turner Valley’s offer to refrain from using water from the raw water storage reservoir until August 15, 2007, or until the Minister releases his decision following a hearing and his decision allows the continued use of the raw water storage reservoir, whichever occurs first. Therefore, the issue of the Stay was not considered. The Board did not have the authority under the legislation to consider the request of the Town for Ms. Walsh to post security to indemnify the Town against losses attributed to any delay. The Town of Turner Valley argued the Amending Approval was not required for the construction of the raw water storage reservoir, but based on the definitions in the legislation the Board did not agree. A raw water reservoir is an activity as defined in the legislation and an Amending Approval is required for this project.

The Board also determined the issues to be heard at the Hearing of Ms. Walsh’s appeal will be:

1. Is the Amending Approval sufficient to protect the Town of Turner Valley’s water supply from contamination to ensure a safe water supply?
2. Is using clay from the site as a liner for the raw water storage reservoir the best practicable technology to protect the stored raw water from contamination arising from previous industrial activity?
3. Was the testing, investigation, and remediation of the site prior to and during construction adequate to identify risks from possible contaminants onsite, including the possible contamination of onsite clay used for the construction of the liner?

Cite as: *Preliminary Motions: Walsh and Abrams v. Director, Southern Region, Regional Services, Alberta Environment, re: Town of Turner Valley* (2 May 2007), Appeal Nos. 06-071 and 072-ID1 (A.E.A.B.).

Intervenor Decision (06-071) – The Board scheduled a hearing of the appeal for June 21, 2007, and in response to the Board’s advertisement notifying the public of the hearing, the Board received intervenor

requests from Ms. Linda Abrams and Ms. Sue Williamson. The Board denied the intervenor requests. Ms. Abrams did not indicate any arguments that related to the specific issues identified by the Board that could not be presented by Ms. Walsh. Ms. Williamson's request was denied because the evidence she provided in her application could also be presented by the Town of Turner Valley.

Cite as: *Intervenor Decision: Walsh v. Director, Southern Region, Regional Services, Alberta Environment, re: Town of Turner Valley* (30 July 2007), Appeal No. 06-071-ID2 (A.E.A.B.).

06-076

Appellant(s) – County of Lethbridge, **Operator** – County of Lethbridge, **Location** – County of Lethbridge, **Type of Appeal** – Discontinuance of Proceedings

On September 26, 2006, Alberta Environment issued EPEA Approval No. 1657-01-00 to the County of Lethbridge authorizing the construction, operation and reclamation of a waterworks system for the Mountain Meadows Estates in the County of Lethbridge. On October 30, 2006, the Board received a Notice of Appeal from the County of Lethbridge appealing two of the conditions of the Approval. On November 30, 2006, in consultation with the Participants, the Board scheduled a mediation meeting for February 1, 2007, in Lethbridge, Alberta. Following productive and detailed discussions at the mediation meeting, the participants agreed to provide the Board with status reports on February 15, 2007 and March 15, 2007. On March 19, 2007, the Board received a letter dated March 12, 2007, from the Appellant withdrawing its appeal. Based upon the withdrawal of the appeal by the Appellant, the Board issued a Discontinuance of Proceedings on March 20, 2007, and closed its file.

Cite as: *County of Lethbridge v. Director, Southern Region, Regional Services, Alberta Environment* (20 March 2007), Appeal No. 06-076-DOP (A.E.A.B.).

06-077

Appellant(s) – ARC Resources Ltd., **Operator** – ARC Resources Ltd., **Location** – near Drayton Valley, **Type of Appeal** – Discontinuance of Proceedings

On October 13, 2006, Alberta Environment decided to refuse to issue a reclamation certificate under EPEA for the Mobil Pem 8-16-49-7 well, near Drayton Valley. On November 17, 2006, the Board received a Notice of Appeal from ARC Resources Ltd. appealing Alberta Environment's decision to refuse to issue a reclamation certificate. On February 21, 2007, in consultation with the Appellant and Alberta Environment, the Board scheduled a mediation meeting for March 16, 2007, in Edmonton. Following productive and detailed discussions at the mediation meeting, the Appellant withdrew their appeal. The Board therefore issued a Discontinuance of Proceedings on March 28, 2007 and closed its file.

Cite as: *ARC Resources Ltd. v. Director, Central Region, Regional Services, Alberta Environment* (20 March 2007), Appeal No. 06-077-DOP (A.E.A.B.).

06-078

Appellant(s) – Metis Nation of Alberta Local 1935, **Operator** – E-T Energy Ltd., **Location** – near Fort McMurray, **Type of Appeal** – Discontinuance of Proceedings

On October 5, 2006, Alberta Environment issued Amending Approval No. 224905-00-01 under the *Environmental Protection and Enhancement Act* to E-T Energy Ltd. authorizing the construction, operation and reclamation of the Poplar Creek Field Test Project enhanced recovery in-situ oil sands or heavy oil processing plant, near Fort McMurray, Alberta. On November 24, 2006, the Board received a Notice of Appeal from the Metis Nation of Alberta Local 1935 appealing the Amending Approval. As the Board was waiting for information from the participants, a letter was received from the Appellants on December 19, 2006, withdrawing their appeal. On January 17, 2007, the Board issued its Discontinuance of Proceedings and closed its file.

Cite as: *Metis Nation of Alberta Local 1935 v. Director, Northern Region, Regional Services, Alberta Environment re: E-T Energy Ltd.* (17 January 2007), Appeal No. 06-078-DOP (A.E.A.B.)

06-079

Appellant(s) – Tom and Gena Kotke, **Operator** – City of Lethbridge, **Location** – Lethbridge, **Type of Appeal** – Discontinuance of Proceedings

On October 25, 2006, the Director, Southern Region, Regional Services, Alberta Environment, issued Approval No. 19028-01-00 under the *Environmental Protection and Enhancement Act* to the City of Lethbridge authorizing the construction, operation and reclamation of the Lethbridge Regional Landfill, in the County of Lethbridge, 10 km North of the City of Lethbridge, Alberta. On December 5, 2006 the Board received a Notice of Appeal from Mr. Tom and Ms. Gena Kotke appealing the Approval. On January 18, 2007, the Board scheduled a mediation meeting for March 23, 2007, to be held in Lethbridge, Alberta. Following productive and detailed discussions at the mediation meeting, the participants agreed to continue discussions and provide status reports to the Board by July 15, 2007. Status reports were received by the Board on July 23, 2007 advising they did not reach a resolution and requested the Board schedule a Hearing. In consultation with the participants, the Board scheduled a Hearing for December 5, 2007. On November 2, 2007, the Board received a letter from the Appellants advising a settlement had been reached and they wished to withdraw their appeal. On November 9, 2007, the Board issued a Discontinue of Proceedings and closed its file.

Cite as: *Kotke v. Director, Southern Region, Regional Services, Alberta Environment*,
re: *City of Lethbridge* (9 November 2007), Appeal No. 06-079-DOP (A.E.A.B.).

06-080

Appellant(s) – Talisman Energy Inc., **Operator** – Talisman Energy Inc., **Location** – Edson, **Type of Appeal** – Discontinuance of Proceedings

On November 30, 2006, the Director, Northern Region, Regional Services, Alberta Environment issued Approval No. 10106-02-00 under the *Environmental Protection and Enhancement Act* to Talisman Energy Inc., authorizing the construction, operation and reclamation of the Sundance sour gas processing plant for the processing of natural gas, near Edson, Alberta. On December 22, 2006, the Board received a Notice of Appeal from Talisman Energy Inc. On January 9, 2007, the Board received a letter from the Director, requesting that the appeal be held in abeyance until April 9, 2007 to allow the participants an opportunity to discuss the issues raised by the Appellant. The Board granted the request for an abeyance until February 9, 2007 and requested that a status report be provided to the Board at that time. Further status reports were requested on March 15, April 30, May 30 and July 31, 2007. On July 31, 2007, the Board received a letter from the Appellant advising the participants had resolved the issues in the appeal and were withdrawing their appeal. Based on the withdrawal of the appeal, the Board issued a Discontinuance of Proceedings on August 2, 2007 and closed its file.

Cite as: *Talisman Energy Inc. v. Director, Northern Region, Regional Services, Alberta Environment* (02 August 2007), Appeal No. 06-080-DOP (A.E.A.B.).

06-082

Appellant(s) – 1030723 Alberta Ltd. and 1031940 Alberta Ltd., **Operator** – 1030723 Alberta Ltd. and 1031940 Alberta Ltd., **Location** – Stettler County, **Type of Appeal** – Discontinuance of Proceedings

On November 3, 2006, Alberta Environment issued *Water Act* Approval No. 00229944-00-00 to 1030723 Alberta Ltd. and 1031940 Alberta Ltd. authorizing the construction and maintenance of a storm water management works located in NW 20-40-20-W4, in Stettler County. On January 24, 2007, Alberta Environment issued a letter to WMN Engineering Ltd. on behalf of 1030723 Alberta Ltd. and 1031940 Alberta Ltd., advising that a further approval would be required for the project. On February 1, 2007, the Board received a Notice of Appeal from 1030723 Alberta Ltd. and 1031940 Alberta Ltd. appealing Alberta Environment's November 3, 2006 and January 24, 2007 decisions. On February 15, 2007, in consultation with the participants, the Board held a mediation meeting on March 1, 2007, in Red Deer. Following productive and detailed discussions at the mediation meeting, the Appellants withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on March 6, 2007, and closed its file.

Cite as: 1030723 Alberta Ltd. and 1031940 Alberta Ltd. v. *Director, Central Region, Regional Services, Alberta Environment* (06 March 2007), Appeal No. 06-082-DOP (A.E.A.B.)

06-083

Appellant(s) – Donald Bieganeck, **Operator** – Donald Bieganeck, **Location** – Edberg, **Type of Appeal** – Discontinuance of Proceedings

On February 16, 2007, the Director, Central Region, Regional Services, Alberta Environment issued Licence No. 00237605-00-00 under the *Water Act* to Mr. Donald Bieganeck authorizing the diversion of 565 cubic metres of water annually from the source of water for agricultural purposes (stock watering) near Edberg, Alberta. On February 26, 2007, the Board received a Notice of Appeal from Mr. Donald Bieganeck appealing the Licence. On March 7, 2007, the Board received a call and letter from the Appellant advising the participants were in discussions with a view to resolving the appeal. The Board agreed to hold the appeal in abeyance and requested that the participants provide the Board with a status report by April 10, 2007. On April 10, 2007, the Board received letters from Environment advising that a revised Licence had been issued to the Appellant on March 9, 2007 replacing the Licence issued February 16, 2007. As a result of a call with the Appellant on April 25, 2007, the Board sent a letter to the participants confirming its understanding that the Appellant has withdrawn his appeal. As a result of the withdrawal of the appeal, the Board issued a Discontinuance of Proceedings on April 25, 2007, and closed its file.

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

06-084

Appellant(s) – Celine Trudel, **Operator** – Hub Oil Company Ltd., **Location** – Calgary, **Type of Appeal** – Discontinuance of Proceedings

On January 23, 2007, Alberta Environment issued EPEA Amending Approval No. 9790-01-06 to Hub Oil Company Ltd. authorizing the remediation and reclamation of the former Hub Oil used oil recycling facility in Calgary, Alberta. The Amending Approval extends the expiry date of Approval 9790-01-00 which authorizes the operation and reclamation of the Calgary facility for the storage and processing of hazardous recyclables and fuel blending. On February 16, 2007, the Board received a letter from Ms. Celine Trudel which the Board believed could have been intended to be a Notice of Appeal. The Board wrote to the Appellant on March 9, 2007, attaching a Notice of Appeal form and requesting further information in order to process the concerns stated in the letter as an appeal. On March 12, 2007, the Board received a letter dated March 9, 2007 from the Appellant advising that her letter of February 12, 2007, was not a Notice of Appeal of the Amending Approval, but a letter of concern regarding the reclamation plan proposed for the former Hub Oil used oil recycling facility, in Calgary. Based upon the clarification and confirmation that Ms. Trudel was not filing an appeal, the Board issued a Discontinuance of Proceedings on March 20, 2007, and closed its file.

Cite as: *Trudel v. Director, Southern Region, Regional Services, Alberta Environment re: Hub Oil Company Ltd.* (20 March 2007), Appeal No. 06-084-DOP (A.E.A.B.)

06-085

Appellant(s) – Richard Holyk, **Operator** – Omers Energy Inc., **Location** – near St. Michael, **Type of Appeal** – Discontinuance of Proceedings

On November 29, 2006, the Director, Northern Region, Regional Services, Alberta Environment, issued Reclamation Certificate No. 230888-00-00 under the *Environmental Protection and Enhancement Act* to Omers Energy Inc. in relation to the Omers Energy Ukalta NE 15-10-57-18-W4M well, near St. Michael, Alberta. On March 16, 2007, the Board received a Notice of Appeal from Mr. Richard Holyk appealing the reclamation certificate. On April 12, 2007, the Board received a letter and a copy of Environment's record from the Director. The Director's letter advised that a surface audit is planned for the site this summer and that it may be appropriate to hold the appeal in abeyance pending the completion of the audit. On April 19, 2007, the Board advised it is considering holding the appeal in abeyance pending the outcome of the surface audit and requested Alberta Environment advise what the surface audit entails and the timelines for the

audit, including when Alberta Environment's report regarding the audit will be available. On April 24, 2007, the Board received a letter from the Director stating that the site audits generally proceed in late summer when there is a mature crop, but prior to harvest, it includes a file review, aerial photo review and site visit, comparisons to control locations, and the report would be completed in August or September 2007. On May 16, 2007, the Board wrote to the participants advising it would hold the appeal in abeyance, pending the outcome of the surface audit. On September 28, 2007, the Board received a letter from the Director advising the surface audit disclosed issues with vegetation and soil on the lease site resulting in the cancellation of the Certificate. On October 1, 2007, the Board wrote to the participants acknowledging receipt of the Director's letter, and as a result of the cancellation of the reclamation certificate, requested the Appellant advise if he would be withdrawing his appeal. On October 15, 2007, the Board received a telephone call from the Appellant advising that he wished to withdraw his appeal. The Board subsequently issued a letter on October 16, 2007, confirming the Appellant has withdrawn his appeal. As a result of the withdrawal, the Board issued a Discontinuance of Proceedings on October 25, 2007, and closed its file.

Cite as: *Holyk v. Director, Northern Region, Regional Services, Alberta Environment, re: Omers Energy Inc.* (25 October 2007), Appeal No. 06-085-DOP (A.E.A.B.).

06-086 and 06-087

Appellant(s) – Marshall Slemko and Linda Slemko, **Operator** – Elkwater Water Co-operative Ltd., **Location** – near Elkwater Lake, **Type of Appeal** – See below

Overview – On February 28, 2007, the Director, Southern Region, Regional Services, Alberta Environment, issued Licence Amendment No. 00153085-00-01 under the *Water Act* to the Elkwater Water Co-operative Ltd. relating to the diversion of water from Elkwater Lake. The Board received Notices of Appeal from Mr. Marshall G. Slemko and Ms. Linda L. Slemko on March 26 and 27, 2007.

Preliminary Motions – The Board received a request from Alberta Environment to determine the issues prior to proceeding to a Hearing. In response to the request, the Board asked the parties to provide written submission on the issues. The Board reviewed the written submissions and issued a Decision on August 7, 2007 stating that it would hear the following issues the Hearing are: 1. What is an appropriate cut off level to allow for the diversion of water from Elkwater Lake? and 2. Is additional clarification regarding the term “water conservation measures” required, and if so, how should it be defined?

Cite as: *Preliminary Motions: Slemko v. Director, Southern Region, Regional Services, Alberta Environment, re: Elkwater Water Co-operative Ltd.* (07 August 2007), Appeal Nos. 06-086 & 06-087-ID1 (A.E.A.B.)

Intervenor Decision – The Board set the hearing for October 18, 2007 and in response to the advertisement of the Hearing published in local newspapers, the Board received intervenor requests from Ms. Evelyn Schuler, the Elkwater Community Association, Dr. David Carter, and Intervenor 1. Intervenor 1 also requested that his personal information be held confidential. The Board reviewed the submissions from the parties and determined that Ms. Evelyn Schuler, the Elkwater Community Association, Dr. David Carter, and Intervenor 1 could participate through written submissions only, because it appeared the evidence they intended to bring forward was similar to the Appellants. The Board denied Intervenor 1's request to hold his personal information confidential, because the Board's process must be open and transparent to the parties of an appeal as well as the citizens of Alberta. The information required by the Board is also commonly found in telephone directories and directory web pages.

Cite as: *Intervenor Decision: Slemko v. Director, Southern Region, Regional Services, Alberta Environment, re: Elkwater Water Co-operative Ltd.* (11 October 2007), Appeal Nos. 06-086 & 06-087-ID2 (A.E.A.B.).

Report and Recommendations – The Board held a Hearing on October 18, 2007. The Board recommended the Licence Amendment be confirmed as issued to the Elkwater Water Co-operative Ltd. The Board found the Licence Amendment provided a reasonable balance of the interests of all the parties while satisfying the requirements of the *Water Act*. The Board found the graduated reductions in allowable water use in the Licence Amendment were implemented to conserve water in Elkwater Lake while providing a more reliable water source for the Elkwater Water Co-operative members. The Board found

that it was not necessary, in these circumstances, to define water conservation measures in the Licence Amendment, because the water usage reduction specified dictates that conservation must be achieved. The Board recognized that the members of the Elkwater Water Co-operative were aware of the importance of practicing, and were practicing, water conservation measures, and the specific measures to be used for conservation can change over time as knowledge and experience increases. Finally, the Director has authority under the *Water Act* to amend the Licence, if warranted, to address any concerns regarding proper water conservation measures. The Board issued its Report and Recommendations to the Minister on November 15, 2007. The Minister agreed with the Board's report and issued his Order on November 22, 2007.

Cite as: *Slemko v. Director, Southern Region, Regional Services, Alberta Environment, re: Elkwater Water Co-operative Ltd.* (15 November 2007), Appeal Nos. 06-086 & 06-087-R (A.E.A.B.).

06-088

Appellant(s) – Husky Oil Operations Limited, **Operator** – Husky Oil Operations Limited, **Location** – near Caroline, **Type of Appeal** – Discontinuance of Proceedings

On March 1, 2007, the Director, Central Region, Environmental Management, Alberta Environment, issued Approval No. 57-02-00 under the *Environmental Protection and Enhancement Act*, to Husky Oil Operations Limited authorizing the construction, operation and reclamation of the Ram River sour gas processing plant for the processing of natural gas, near Caroline, Alberta. On March 30, 2007, the Board received a Notice of Appeal from Husky Oil Operations Limited appealing the Approval. On May 7, 2007, the Board received a letter from the Appellant requesting the Board hold the appeal in abeyance in order for the parties to discuss a potential resolution to the appeal. On May 7, 2007, the Board wrote to the parties, granting the abeyance and requesting status reports by July 9, 2007. The appeal remained in abeyance with regular status reports received. On September 12, 2007, in consultation with the parties, the Board scheduled a hearing for January 31, 2008. The parties continued to work towards a resolution and on January 4, 2008, the Board adjourned the hearing in light of the progress being made by the parties. The Board requested the parties provide status reports by January 11, 2008. On January 14, 2008, the Board received a letter from the Appellant advising that they wish to withdraw their appeal and as a result of the withdrawal, issued a Discontinuance of Proceedings on January 23, 2008 and closed its file.

Cite as: *Husky Oil Operations Limited v. Director, Central Region, Environmental Management, Alberta Environment* (23 January 2008), Appeal No. 06-088-DOP (A.E.A.B.)