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ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

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Date of Report and Recommendations - June 27, 1996

Date of Pre-Hearing Meeting - June 17, 1996

**IN THE MATTER OF** Sections 84, 86, 87, 91, 92 and 93 of the  
*Environmental Protection and Enhancement Act*, (S.A. 1992, ch. E-  
13.3 as amended);

**-and-**

**IN THE MATTER OF** an appeal filed by Pat Allen et al., with  
respect to Approval 15385-01-00 issued to the County of Ponoka No.  
3 for a sand and gravel pit at NW 11-42-27-W4M issued by the  
Director of Land Reclamation, Alberta Environmental Protection.

Cite as: Pat Allen et al. v. Director of Land Reclamation, Alberta Environmental Protection



**PRE-HEARING MEETING BEFORE:** Dr. M. Anne Naeth

<b>APPEARANCES:</b>	Appellant	Ms. Pat Allen;
	Approval Holder	Mr. Thomas Webber, Assistant County Administrator, County of Ponoka No. 3, and Mr. Charles Cutworth; and
	Environmental Protection	Mr. Ray Bodnarek, Environmental Law Section, Alberta Justice, representing the Director, Land Reclamation, Alberta Environmental Protection, Mr. Stuart Loomis, Approvals Co-ordinator, Conservation & Reclamation Review Branch, and Ms. Nga de la Cruz, Ground Water Rights Branch.

**BACKGROUND:**

On April 26, 1996, Pat Allen filed a Notice of Appeal with the Environmental Appeal Board regarding the removal of 66,000,000 gallons of water from the aquifer associated with the opening, operation and reclamation of the gravel pit on NW 11-42-27 W4M. The Approval was dated March 29, 1996, and signed by Mr. Larry Brocke, Director of Land Reclamation, Alberta Environmental Protection.

The Board wrote a letter to the Director of Land Reclamation, Alberta Environmental Protection, on April 26, 1996, to obtain information and to determine whether the appeal by Ms. Pat Allen et al. had been validly filed.

Following receipt of written submissions by the parties, on June 4, 1996, the Board wrote to all parties advising that it would be conducting a pre-hearing meeting on June 17, 1996. The Board also

advised that if the meeting did not result in the resolution of the issues in the appeal of Ms. Pat Allen et al., the Board would be requiring written submissions<sup>1</sup> in preparation for a full hearing.

### **THE PRE-HEARING MEETING:**

The pre-hearing meeting was conducted on June 17, 1996, in Ponoka, Alberta. According to the Board's standard practice, the Board called the pre-hearing in an attempt to mediate or to facilitate the resolution of this appeal or, failing that, to make arrangements for the oral hearing. The Board invited representatives from each party to participate and the attendance at this meeting included parties identified on page 2.

In conducting the pre-hearing, Dr. M. Anne Naeth provided a review of the appeal and mediation process and explained the purpose of the pre-hearing meeting. She then circulated copies of "Participants' Agreement to Mediate". In reviewing the document, all parties presented a willingness to enter into mediation, signed the agreement, and the pre-hearing continued.

The Appellants expressed their concerns which formed the basis and grounds of their appeals in relation to the Approval of the pit. The Department provided its response and gave reasons behind the renewal of the Approval for the opening, operation and reclamation of a pit on NW 11-42-27-W4M.

Following the discussion of several issues and the identification of areas of agreement, Ms. Allen agreed to withdraw her appeal on the basis that her concerns would best be addressed through the Water Resources Administration Division of the Department of Environmental Protection. The County of Ponoka indicated they would continue to abide by the restrictions contained within their licence and Ms. Allen signed a letter of withdrawal which is attached.

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<sup>1</sup> This requirement is found in section 10 of the Environmental Appeal Board Regulation (Alta. Reg. 114/93).

**RECOMMENDATIONS:**

In light of the specific resolution of this appeal, the Board proposes to discontinue its proceedings with respect to the notice of objection filed by the appellant.

The Board recommends that no action be taken by the Minister in relation to the licence that was issued.

Further, with respect to section 92(2) and 93 of the *Environmental Protection and Enhancement Act*, the Board also recommends that copies of this Report and Recommendations<sup>2</sup> be sent to the following parties:

- Ms. Pat Allen et al.;
- Mr. Thomas Webber, Assistant County Administrator for the County of Ponoka No. 3; and
- Mr. Ray Bodnarek, Environmental Law Section, Alberta Justice, representing the Director, Land Reclamation, Alberta Environmental Protection.

Dated June 27, 1996, at Edmonton, Alberta.

“original signed by”

Dr. M. Anne Naeth

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<sup>2</sup>As this appeal concluded by resolution of the parties, a copy of this report is being sent to each party pursuant to section 12 of Alta. Reg. 114/93.