

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance: July 3, 1996

**IN THE MATTER OF** Sections 84, 85, 86 and 87 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 Mr. Joe Przybylski with respect to Cool Spring Dairy Farms Ltd. and the Director of Pollution Control, Alberta Environmental Protection, the Board hereby discontinues its proceedings in this matter and will be closing its file pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*.

Cite as: Joe Przybylski v. Director of Pollution Control, Alberta Environmental Protection.

## BACKGROUND

On June 11, 1996, Mr. Joe Przybylski filed a Notice of Appeal with respect to the decision of the Director of Pollution Control, Alberta Environmental Protection, allowing Cool Spring Dairy Farm Ltd. to operate without using fossil fuel.

The Board wrote to the Department of Environmental Protection of June 14, 1996, requesting a copy of all related correspondence, documents and materials. On July 2, 1996, the Department responded stating the following:

“I can advise that the Director of Pollution Control Division, Alberta Environmental Protection, issued an Enforcement Order (“E.O.”) to Cool Spring Dairy Farm Ltd. on May 10, 1996 (as amended by order of the Director dated May 31, 1996). As you are aware, s.84(1)(e) provides that the only person entitled to appeal an E.O. is the person to whom the order is directed. Therefore, assuming the current appeal relates to the E.O. issued by Mr. Schulte, the appellant has no right to file an appeal in this matter.

However, it should be noted that the appellant’s letter references an approval. In this regard, I am advised by Dennis Eriksen, Manager of the Regulatory Approvals Centre, that an approval for Cool Spring Dairy Farm Ltd. has been applied for and two Statements of Concern have been received. One of the Statements of Concern is from the current appellant and is dated June 10, 1996. It is the submission of Alberta Environmental Protection that the proper time to deal with the appropriateness of the approval is if and when the approval is issued. At that point in time, Mr. Przybylski would have the opportunity to file an appeal before this Board in accordance with s.84(1)(a)(iv), at which time he would have the onus of demonstrating that he is directly affected by the approval.”

On July 3, 1996, the Board wrote to Mr. Przybylski, providing him with a copy of the Departments letter dated July 2, 1996, and advising that it would be premature for the Board to further review his appeal related to an approval until it has been issued.

Therefore, pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, the Board hereby discontinues its proceedings in this matter and will be closing its file.

**DECISION**

The appeal is therefore closed.

Dated on July 3, 1996, at Edmonton, Alberta.

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William A. Tilleman, Chair