
ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Mediation - January 19, 1998

Date of Report and Recommendations - January 20, 1998

IN THE MATTER OF Sections 84, 85, 86, 87, 91, 92(2) 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 Mr. Maurice and Mrs. Paulette Rivard with respect to Amending Approval No. 439-01-01 issued to the Mayor of the Town of Bonnyville by Mr. Wayne Inkpen, Director of Northeast Boreal and Parkland Regions, Alberta Environmental Protection.

Cite as: Rivard v. Director of Northeast Boreal and Parkland Regions, Alberta Environmental Protection

MEDIATION MEETING BEFORE Mr. Ron V. Peiluck

APPEARANCES

Appellants: Mr. Maurice and Mrs. Paulette Rivard

Other Parties: Mr. Grant Sprague, Environmental Law Section, Alberta Justice and Mr. Larry Williams, Municipal Water and Wastewater Branch, Alberta Environmental Protection representing the Director of Northeast Boreal and Parkland Regions, Alberta Environmental Protection

Mr. Barry Temple representing the Town of Bonnyville

Other Appearances: Mr. Denis Ducharme, MLA Bonnyville - ColdLake and Mr. Gilles Gamache

BACKGROUND

On September 30, 1997, Mr. Maurice and Mrs. Paulette Rivard filed an appeal with the Environmental Appeal Board (the Board) regarding Amending Approval No. 439-01-01 issued by Mr. Wayne Inkpen, Director of Northeast Boreal and Parkland Regions on August 25, 1997, to the Mayor of the Town of Bonnyville. The Amending Approval allowed for the construction of a wastewater storage cell and groundwater monitoring wells for the Town of Bonnyville wastewater system and provided certain terms, conditions and requirements.

Mr. and Mrs. Rivard's grounds for appeal are that:

“The town has trenched through the berm and is draining sewer into Charlotte Lake which is flooding farm land and polluting a fresh water lake.

When the Town of Bonnyville built the lagoon they held meetings. At these meetings, they guaranteed the adjacent land owners that the holding ponds were lined. They informed us that there would definitely not be any seepage of waste water and sewage into Charlotte Lake and that there would be no smell.

A few years ago, they installed a gate valve through the berm to drain some of the water from the last pond into Charlotte Lake. When I noticed what was happening, I complained, but nothing changed.

This year they have now trenched right through the berm and further trenched from the other adjoining pond. Now the sewage flows faster into Charlotte Lake and is flooding the surrounding farmland which borders the lake.”

The Board wrote to the Department of Environmental Protection (the Department) on September 25, 1997, to request copies of all related correspondence, documents and materials. On that same date the Board wrote to Mr. Barry Temple representing the Town of Bonnyville informing him that an appeal had been filed and providing him with a copy of the Appeal.

On November 13, 1997, the Board wrote to the Natural Resources Conservation Board (NRCB) and the Alberta Energy and Utilities Board (AEUB) asking whether this matter had been the subject of a hearing or review under their respective Boards’ legislation. Replies were subsequently received from both the NRCB and the AEUB stating that they did not hold any hearing or review under either of their Boards’ legislation.

On November 17, 1997, the Department sent materials from the Regulatory Approvals Centre to the Board. The Department’s cover letter stated:

“We have been advised by the Pollution Control Division of Alberta Environmental Protection that an investigation is currently ongoing regarding some or all of the grounds for appeal set out by Mr. Rivard in the Notice of Appeal. The complaint to the Pollution Control Division was made by Mr. Maurice Rivard. Therefore, as this matter is subject of an investigation, we will be unable to provide any further documents, correspondence or materials to the Environmental Appeal Board which may be found in the investigator’s file so as not to adversely affect the investigation and ultimately the rights of the approval holder.”

A copy of the letter and materials were sent to the Appellants and the Town of Bonnyville on November 18, 1997. Along with the correspondence sent, the Board asked all parties to comment on certain preliminary matters, by December 2, 1997.

On December 8, 1997, the Board informed all parties that a mediation meeting would be held on January 19, 1998, in Bonnyville, Alberta.

THE MEDIATION MEETING

On January 19, 1998, the Board conducted a mediation meeting at the Rivards' with Mr. Peiluck as the presiding Board member. Mr. Rivard stated at the outset of the mediation that he was not opposed to the project but did not agree with the discharge of effluent into Charlotte Lake with its consequent adverse impacts on water quality and lake levels.

According to the Board's standard practice, the Board called the mediation in an attempt to mediate or to facilitate the resolution of these appeals or, failing that, to structure procedural arrangements for the oral hearing. The Board invited representatives from each party to participate in the mediation.

In conducting the mediation, Mr. Peiluck reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the "Participants' Agreement to Mediate". Upon reviewing the document, all parties (including the observers) signed the agreement and the mediation continued.

Following lengthy discussions, the attached resolution evolved and was signed (see page 5 of this report).

RESOLUTION OF APPEAL NO. 97-038 REGARDING AMENDING APPROVAL NO. 439-01-01 ISSUED TO THE MAYOR OF THE TOWN OF BONNYVILLE

All parties to the appeal have agreed to the following terms and conditions:

1. The Approval be varied by adding:
 - a) 2.4.2.1 At least three weeks prior to the discharge of wastewater stabilization ponds, the Town of Bonnyville shall notify all persons holding an interest in the lands adjoining Charlotte lake in writing by registered mail of the proposed discharging schedule and hold discussion with those persons as a good neighbour as to timing.
 - b) 2.4.3.1 A copy of the annual report referred to in 2.4.3 shall be provided by the Town of Bonnyville to all persons holding an interest in the lands adjoining Charlotte Lake.
 - c) Table 1 shall be amended to require a full chemistry on the discharge from the storage cell, including total and fecal coliforms.
2. The Town of Bonnyville shall aggressively manage its contract with Bromley – Marr ECOS Inc. regarding the Bonnyville Wastewater System.
3. The Town of Bonnyville shall cause the anaerobic cells to be cleaned as soon as is practicable.
4. Officials from Alberta Environmental Protection will inspect the temporary plug in April 1998.
5. THAT the Appellants, Mr. Maurice Rivard and Ms. Paulette Rivard, agree to withdraw their Notice of Objection.

RESOLUTION AGREED TO BY:

“original signed by”
Mr. Maurice Rivard/Ms. Paulette Rivard

Date: January 19, 1998

“original signed by”
Director, Department of Environmental

Date: January 19, 1998

Protection

“original signed by”
Town of Bonnyville

Date: January 19, 1998

RECOMMENDATIONS

The Board recommends that the Minister of Environmental Protection vary the decision of the Director of Northeast Boreal and Parkland Regions in Amending Approval No. 439-01-01 subject to all of the conditions of the Resolution contained herein.

Further, with respect to section 92(2) and 93 of the *Environmental Protection and Enhancement Act*, the Board recommends that copies of this Report and Recommendations and of any decision by the Minister be sent to the following parties:

- Mr. Maurice and Mrs. Paulette Rivard
- Mr. Grant Sprague, Environmental Law Section, Alberta Justice, representing the Director, Northeast Boreal and Parkland Regions, Alberta Environmental Protection
- Mr. Barry Temple representing the Town of Bonnyville
- The following landowners: Mr. Gilles Gamache, Mr. and Mrs. B. Gamache and Mr. Louis Gamache

Dated January 20, 1997, at Edmonton, Alberta.

“original signed by”
Mr. Ron V. Peiluck

ORDER

I, Ty Lund, Minister of Environmental Protection:

_____ Agree with the Recommendations of the Environmental Appeal Board and order that they be implemented.

_____ Do not agree with the Recommendations of the Environmental Appeal Board and make the alternative Order set out below or attached.

Dated at Edmonton this 27 day of January 1998.

"original signed by"
Honourable Ty Lund
Minister of Environmental Protection

_____ Refer to Attachments (only if applicable)