

ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Report and Recommendations - July 29, 1999

IN THE MATTER OF Sections 84, 85, 87, 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 West View Water Supply
Ltd. with respect to Approval No. 18250-00-00 issued to West View
Water Supply Ltd. by the Acting Director, Bow Region, Alberta
Environmental Protection on December 22, 1998.

Cite as: West View Water Supply Ltd. v. Acting Director, Bow Region, Alberta
Environmental Protection.

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MEDIATION MEETING BEFORE

Dr. Ted W. Best

APPEARANCES

Appellant: Mr. D.H. Sundgaard, Director and Vice President, Operations, and Mr. Ken J. Smallwood, West View Water Supply Ltd.

Department: Ms. Charlene Graham, counsel, representing the Director, Alberta Environment, Craig A. Reich, Municipal Approvals Technologist, Rob Kemp, Manager, Approvals, Alberta Environment

BACKGROUND

[1] On December 22, 1998, the Acting Director, Bow Region, Alberta Environmental Protection issued Approval No. 18250-00-00 to West View Water Supply Ltd. for the construction, operation and reclamation of a waterworks system including a Class 1 water treatment plant and water distribution system for the West View Estates subdivision in the Municipal District of Rocky View No 44.

[2] On February 12, 1999, the Environmental Appeal Board (Board) received a Notice of Appeal from Mr. D.H. Sundgaard of West View Water Supply Ltd., advising of their wish to appeal table 6-1 of Approval No 18250-00-00, that deals with the requirement to take daily turbidity measurements.

[3] The Board wrote to the Appellant on February 16, 1999, acknowledging receipt of the Notice of Appeal, and by copy of that letter, requested the Department of Environmental Protection (the Department) provide copies of all related correspondence, documents and materials related to this matter.

[4] According to standard practice, on February 12, 1999, 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 the NRCB on February 19, 1999 and the AEUB on February 24, 1999 stating that they did not hold any hearing or review under their respective legislation.

[5] On March 16, 1999, copies of the documents requested by the Board were provided by the Department and a copy was forwarded to West View Water Supply Ltd. on March 17, 1999.

On March 22, 1999 the Board wrote to the Appellant on procedural matters which included asking

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the appellant if they wished to have a mediation meeting under section 11 of the Environmental Appeal Board Regulation¹, and if there were any other persons who might have an interest in the appeal. On the same date the Board wrote to the Department asking for comments on participating in a mediation meeting and asking whether there were any other persons who may have an interest in the appeal.

[6] The Appellant responded to the Board's letter of March 22, 1998 advising that they were receptive to a mediation meeting. The Director responded to the Board advising that they wished the matter proceed directly to a public hearing. The appeal hearing was scheduled for June 25, 1999, in Calgary. The appeal hearing was re-scheduled for June 22, 1999 and, on July 9, 1999 the appeal was adjourned.

[7] Following a letter received by the Board from Ms. Charlene Graham, counsel for the Director on July 14, 1999, the Board scheduled a mediation meeting to be held on July 28, 1999 in Calgary, Alberta.

THE MEDIATION MEETING

[8] Pursuant to section 11 of the regulations² the Board conducted a mediation meeting

¹ AR 114/93 (hereinafter "the regulations")

² Section 11 of the Environmental Appeal Board Regulation (AR 114/93) states:

11 Where the Board has determined the parties to the appeal, the Board may, prior to conducting the hearing of the appeal, on its own initiative or at the request of the any of the parties, convene a meeting of the parties and any other interested persons the Board considers should attend, for the purpose of

(a) mediating a resolution of the subject matter of the notice of objection, or

in Calgary, Alberta on July 28, 1999 with Dr. Ted Best as presiding Board member.

(b) determining any of the matters referred to in section 13.

[9] According to the Board's standard practice the Board called the mediation meeting in an attempt to mediate or facilitate through a settlement conference the resolution of this appeal; or failing that, to structure procedural arrangements for the oral hearing. The Board invited representatives from each party to participate in the mediation meeting.

[10] In conducting the mediation meeting, Dr. Best reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the "Participants' Agreement to Mediate". All parties signed the Agreement and discussions ensued.

[11] Following productive and detailed discussions, a resolution evolved at the July 28, 1999 mediation meeting and the attached settlement was signed (pages 5 and 6 of this report).

RECOMMENDATIONS

[12] The Board recommends that the Minister of Environment approve the conditions of the Resolution contained herein.

[13] 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. D.H. Sundgaard, Director and Vice President and Mr. K. Smallwood, West View Water Supply Ltd.;
- Ms. Charlene Graham, counsel, Alberta Justice, representing the Director, Alberta Environment; and

- Dr. Richard Musto, Deputy Medical Officer of Health, Calgary Regional Health Authority.

Dated July 29, 1999, at Calgary, Alberta

"Original Signed by"_____

Dr. Ted Best

**RESOLUTION OF APPEAL O. 99-003 REGRADING APPROVAL NO. 18250-00-00
ISSUED TO WEST VIEW WATER SUPPLY LTD.**

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

1. That section 4.1.1 (b)(i) is amended to read:
 - (b) a water treatment plant with treatment capabilities for:
 - (i) pressure filtration by two parallel sand filters followed by two cartridge filters in series, and
2. That the Approval be amended to add 4.1.1.1 to read:

4.1.1.1 The cartridge filters referenced in 4.1.1 shall be a 1 micron primary filter followed by:

 - a) a 0.35 micron filter or:
 - b) a 1 micron absolute filter, as authorized in writing by the Regional Engineer or:

as authorized in writing by the Regional Engineer.
3. Table 5-1 under section 5.1.1 is amended as it relates to volume of treated water entering treated water reservoir to read under limits heading as:
 - Average of 0.6 litres per second filter when inlet turbidity is greater than or equal to 0.5 NTU
 - Average of 3.0litres per second per filter when inlet turbidity is less than to 0.5 NTU
4. Table 5-1 under section 5.1.1 is amended as it relates to turbidity of treated waer prior to entering treated water reservoir to read under limits heading as:
 - Less than or equal to 50% of raw water burbidity or less than or equal to 0.3 NTU if the raw water turbidity is less than 1.6 NTU
5. Table 6-1 under section 6.1.2 is amended as it relates to frequency heading uner a) raw water turbidity and b) treated water turbidity under the parameters heading to read as follow:

-Once per week on a day that treated water is produced
6. Table 6-1 under section 6.1 is amended as it relates to sample type for treated water

turbidity is amended to a grab sample type.

7. THAT the Appellants, Mr. Dennis Sundgaard and Mr. K. Smallwood agree to withdraw their Notice of Appeal.

RESOLUTION AGREED TO BY:

"original signed by"
Mr. Dennis Sundgaard

Date: July 18, 1999

"original signed by"
Designated Director, Bow Region
Alberta Environment

Date: July 18, 1999



ALBERTA ENVIRONMENT

Office of the Minister

MINISTERIAL ORDER

I, Gary Mar, Minister of Environment, pursuant to Section 92 of the *Environmental Protection and Enhancement Act* hereby order:

That the decision of Director Mr. Larry Brocke, Director of Land Reclamation Division to issue Order No. 98-04 to Mr. Charles W. Forster and Legal Oil and Gas Ltd. on February 17, 1998 be confirmed.

DATED at the City of Edmonton, in the Province of Alberta, this 25 day of August, 1999

“original signed by” _____

Honourable Gary Mar,
Minister of Environment

APPENDIX I

1. That section 4.1.1 (b)(i) is amended to read:
 - (b) a water treatment plant with treatment capabilities for:
 - (i) pressure filtration by two parallel sand filters followed by two cartridge filters in series, and
2. That the Approval be amended to add 4.1.1.1 to read:

4.1.1.1 The cartridge filters referenced in 4.1.1 shall be a 1 micron primary filter followed by:

 - a) a 0.35 micron filter or;
 - b) a 1 micron absolute filter, as authorized in writing by the regional Engineer or;

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3. Table 5-1 under section 5.1.1 is amended as it relates to volume of treated water entering treated water reservoir to read under limits heading as:
 - Average of 0.6 litres per second filter when inlet turbidity is greater than or equal to 0.5 NTU
 - Average of 3.0 litres per second per filter when inlet turbidity is less than to 0.5 NTU
4. Table 5-1 under section 5.1.1 is amended as it related to turbidity of treated water prior to entering treated water reservoir to read under limits heading as:
 - Less than or equal to 50% of raw water turbidity or less than or equal to 0.3 NTU if the raw water turbidity is less than 1.6 NTU
5. Table 6-1 under section 6.1.2 is amended as it relates to frequency heading under a) raw water turbidity and b) treated water turbidity under the parameter heading to read as follows:
 - Once per week on a day that treated water is produced
6. Table 6-1 under section 6.1 is amended as it relates to sample type for treated water turbidity is amended to a grab sample type.

