
ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings - April 25, 2000

IN THE MATTER OF Sections 84, 85, 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. Julian E. Nash with respect to a refusal by the Regional Water Manger, Northwest Boreal Region, Natural Resources Service, Alberta Environment, of Mr. Nash's application under the *Water Act* for an Approval for the purpose of shoreline alteration at NW 7-073-05-5.

Cite as: Nash v. Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment.

TABLE OF CONTENTS

BACKGROUND1

DECISION3

BACKGROUND

[1] On November 5, 1999, the Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment (Department), refused to issue an Approval under the *Water Act*, for the purpose of shoreline alteration (removing willows and sand dune) at NW 7-073-05-5, to Mr. Julian Nash, based on section 38(2)¹ of the *Water Act*.

[2] On November 12, 1999, the Environmental Appeal Board (Board) received a Notice of Appeal dated November 11, 1999, from Mr. Julian Nash (Appellant) objecting to the refusal of the Department to issue an Approval as requested.

[3] On November 12, 1999, the Board acknowledged receipt of the Notice of Appeal from Mr. Nash and at that time requested a copy of all correspondence, documents, and materials relative to the appeal from the Department.

¹ 38(2) In making a decision under this section, the Director

- (a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing an approval, as specified in an applicable approved water management plan,
- (b) may consider any existing, potential or cumulative
 - (i) effects on the aquatic environment,
 - (ii) hydraulic, hydrological and hydrogeological effects, and
 - (iii) effects on household users, licensees and traditional agriculture users,that result or may result from the activity, and
- (c) may consider
 - (i) effects on public safety, and
 - (ii) any other matters applicable to the approval that, in the opinion of the Director, are relevant.

[4] According to standard practice, on November 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 and the AEUB stating that they did not hold any hearing or review under their respective legislation.

[5] On December 1, 1999, the Board received a letter dated November 25, 1999, from the Appellant stating the following:

“Further to our Notice of Appeal dated Nov. 11/99. We ask that our appeal be deferred to next spring”.

The Board, in its letter of December 2, 1999, requested other parties to this appeal advise if they had any objections to Mr. Nash's request.

[6] On December 2, 1999, the Board received a letter from the Department stating:

“With respect to Mr. Nash's request to defer the appeal to next spring, we would appreciate being advised of the reason(s) for this request. The Department would have no objections to the request if it is being made on a reasonable basis”.

The Board requested on December 7, 1999, that the Appellant provide comments to the Department's letter of December 2, 1999.

[7] On December 9, 1999, the Board received a further letter from the Appellant stating:

“We are asking that the hearing be deferred to the spring, because we are hoping that the wind will have done the job for us”.

[8] On December 16, 1999, the Department wrote to the Board in response to Mr. Nash's letter advising that they had no objection to Mr. Nash's request to defer this appeal to next spring. The Board then issued a letter of December 17, 1999, advising the parties that the Appellant's request to defer the appeal until spring 2000 is granted.

[9] On April 19, 2000, the Board received a letter dated April 4, 2000, from the Appellant stating the following:

“As this work seems to go against government policy for lakeshore management we have decided to withdraw our application. The seaweed is only a minor inconvenience and the wind seems to be leveling the sand dune.

We are therefore withdrawing our request to appeal the ruling.”

DECISION

[10] Pursuant to Section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Nash's letter of April 4, 2000, the Board hereby discontinues its proceedings in Appeal No. 99-163 and will be closing its file.

Dated April 25, 2000 at Edmonton, Alberta.

Dr. William A. Tilleman, Q.C.