
ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings - May 15, 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. David and Mrs. Ethel Jessey with respect to Approval No. 918-01-00 issued to the Municipal District (M.D.) of Rocky View No. 44 on May 21, 1996, by the Director of Air and Water Approvals, Alberta Environmental Protection.

Cite as: Jessey v. Director, Air and Water Approvals, Alberta Environmental Protection *re: Municipal District (M.D.) of Rocky View No. 44.*

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BACKGROUND

[1] On June 14, 1996, the Environmental Appeal Board (Board) received a Notice of Appeal from Mrs. Adrienne Waller from Beaumont Church Barristers and Solicitors, on behalf of Mr. David and Mrs. Ethel Jessey (Appellants) with respect to Approval No. 918-01-00 issued to the Municipal District (M.D.) of Rocky View No. 44 (Approval Holder) for the operation of a Class I wastewater treatment plant (wastewater stabilization ponds) and a Class I wastewater collection system for the Hamlet of Langdon by the Director of Air and Water Approvals, Alberta Environmental Protection (Department).

[2] The Board acknowledged receipt of the Notice of Appeal from the Appellants on June 14, 1996, and at that time requested a copy of all correspondence, documents, and materials relative to the appeal from the Department.

[3] On June 14, 1996, according to standard practice, 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.

[4] On June 28, 1996, copies of the documents requested by the Board were provided by the Department. On July 5, 1996, the Board forwarded the department documents to the Appellants and sent a copy to the Approval Holder and a copy of the letter to the Department. In this same letter, the Board provided information on the powers and duties of the Board, as well as asked procedural questions such as if the parties would like to participate in a pre-hearing meeting under

section 11 of the Environmental Appeal Board Regulation¹ in the event the Board would proceed with the appeal, and if there were any other persons who may have an interest in this appeal.

[5] In consultation with the parties, a pre-hearing meeting was scheduled for August 27, 1996, in Calgary, Alberta. A Notice of Hearing for the pre-hearing meeting and a hearing for September 10, 1996, was subsequently placed in the July 23, 1996, edition of the Strathmore Standard, Calgary Herald and Calgary Sun.

[6] Pursuant to section 11 of the regulations, the Board conducted a pre-hearing meeting in Calgary, Alberta on August 27, 1996, with Dr. John Ogilvie as the presiding Board member.

[7] According to standard practice, the Board called the pre-hearing meeting in an attempt to facilitate a 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 pre-hearing meeting. In conducting the pre-hearing meeting, Dr. Ogilvie reviewed the appeal and mediation process and explained the purpose of the meeting. He then circulated copies of the "Participants' Agreement to Mediate" which all parties signed.

[8] On August 28, 1996, the Board wrote to Mr. Gerry Meek, Director, Calgary Public Library, informing him that the hearing scheduled for September 10, 1996, would be adjourned. On the same day, the Board wrote to the parties advising that the appeal would be held in abeyance until January 15, 1997, as agreed to at the pre-hearing meeting and requested a status report on January 15, 1996. On September 3, 1996, a Notice of Hearing Adjournment appeared in the Strathmore Standard, Calgary Herald and Calgary Sun.

[9] On January 8, 1997, the Department requested a delay to the hearing process as the Approval Holder was looking into creative solutions to the wastewater issue in relation to discharge

¹ AR 114/93.

from its sewage lagoon, and needed to consult with potential interested parties such as Ducks Unlimited and the County of Wetland.

[10] On January 9, 1997, the Board received a letter from counsel for the Approval Holder, requesting an adjournment from January 15, 1997 to March 17, 1997. The request was on the grounds that the Approval Holder commissioned an engineering study to assist with the sewage effluent from the Langdon lagoon which had not yet been before the Municipal Council and was in consultation with third parties, not before the Board, who may be affected by the Municipality's decision. In consultation with all participants of the appeal, on January 13, 1997, the Board advised the parties that the request for adjournment was granted and the appeal would be brought forward on March 17, 1997.

[11] On March 14, 1997, counsel for the Appellants wrote to the Board advising that after reviewing correspondence from the Approval Holder, the Department and the Western Irrigation District (WID), and conversing with the Approval Holder's legal counsel, the M.D. of Rocky View would not be in a position to make a decision with respect to discharge of the sewage lagoons until there was a resolution of issues between the WID and a number of municipalities, including the M.D. of Rocky View.

[12] On April 1, 1997, in response to the Appellants' letter of March 14, 1997, the Board wrote to all the parties, which included Mr. Kevin Haggart of the WID, advising a mediation would take place on April 23, 1997, in Calgary with Dr. Ogilvie as the presiding Board member. A Notice of Mediation and Public Hearing appeared in the Strathmore Standard, Calgary Herald and Calgary Sun on April 8, 1997. In conducting the mediation, Dr. Ogilvie circulated copies of the "Participants' Agreement to Mediate" which all parties signed.

[13] On April 24, 1997, after not reaching a resolution at the mediation and in consultation with the parties, the Board advised the participants to the appeal that a hearing date would be

scheduled for July 15 and 16, 1997, in Calgary. A Notice of Public Hearing appeared in the Strathmore Standard and the Calgary Herald on April 29, 1997.

[14] On July 2, 1997, the Approval Holder requested an adjournment of the July 15 and 16, 1997, hearing dates on the grounds that the Approval Holder and the WID were in the process of drafting an interim agreement in order to alleviate the Appellants' concerns. In consultation with the parties, the adjournment was granted by the Board on July 3, 1997, and a Notice of Hearing Adjournment appeared in the Strathmore Standard and Calgary Herald on July 8 and 15, 1997, respectively.

[15] On September 17, 1997, in consultation with the parties, the Board advised the hearing would take place on October 23 and 24, 1997, in Calgary and placed an advertisement of Rescheduling of Public Hearing in the Strathmore Standard and Calgary Herald for release on September 23, 1997.

[16] On October 1, 1997, the Appellants requested a further adjournment in order for the M.D. of Rocky View and the WID to reach an agreement. In consultation with the parties, the Board granted the request in its letter of October 3, 1997.

[17] On November 14, 1997, the Appellants requested that the appeal be held in abeyance pending the outcome of the negotiations taking place. In consultation with the parties, on November 17, 1997, the Board advised that the file would be held in abeyance until January 6, 1998, which was rescheduled to January 20, 1998, at the request of the Department.

[18] The Appellants requested adjournments on January 14 and June 24, 1998, a six-month adjournment on November 16, 1998, and further adjournments on May 4 and November 3, 1999, in order to allow negotiations between the parties to continue. In consultation with the parties, the

Board granted the adjournment requests on January 21, July 9 and November 17, 1998 and November 16, 1999, respectively.

[19] On May 10, 2000, the Board received a letter from counsel for the Appellants stating:
“Further to your letter dated November 16, 1999, the M.D. of Rocky View and Mr. and Mrs. Jessey have reached an agreement with respect to the matters raised in the two Statements of Concern that they had filed with the Alberta Environmental Appeal Board. We have instructions from Mr. and Mrs. Jessey to withdraw their Statements of Concern and Notices of Appeal filed with the Board.”

DECISION

[20] Pursuant to Section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Ms. Waller’s letter of May 10, 2000, the Board hereby discontinues its proceedings in Appeal No. 96-013 and will be closing its file.

Dated May 15, 2000 at Edmonton, Alberta.

Dr. William A. Tilleman, Q.C.