

ALBERTA ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date Discontinuance of Proceedings – September 22, 2000

IN THE MATTER OF sections 84, 85, and 87 of the
Environmental Protection and Enhancement Act, S.A. 1992, c.E-
13.3.

-and-

IN THE MATTER OF an appeal and stay request filed on April
26, 2000 by Mr. H. Derek Lloyd, Fraser Milner Casgrain, on
behalf of ABL Ventures Ltd. with respect to Administrative
Penalty No. 00-07-BOW-AP issued ABL Ventures Ltd., by the
Manager, Enforcement and Monitoring, Bow Region, Alberta
Environment.

Cite as: ABL Ventures Ltd. v. Manager, Enforcement and Monitoring, Bow Region,
Alberta Environment.

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BACKGROUND

[1] On March 28, 2000, the Manager, Enforcement and Monitoring, Bow Region, Alberta Environment (the “Director”) issued Administrative Penalty No. 00/07-BOW-AP to ABL Ventures Ltd. (the “Appellant”). The Administrative Penalty was issued as a result of an alleged contravention, by ABL Ventures Ltd., of section 59 of the *Environmental Protection and Enhancement Act*, with respect to the construction of an extension to the water distribution and wastewater collection systems at SE 4-23-24-25 W4 in the town of Strathmore, Alberta.

[2] On April 26, 2000, the Environmental Appeal Board (the “Board”) received a Notice of Appeal and Application for Stay, dated April 26, 2000, from Mr. H. Derek Lloyd, Fraser Milner Casgrain, counsel for the Appellant, appealing the Administrative Penalty and requesting a Stay of Enforcement of Penalty.

[3] On April 28, 2000, the Board acknowledged receipt of the Notice of Appeal and, on that same date requested a copy of all correspondence, documents and materials relative to the appeal from the Director. The Board also advised that it was interested in hearing the Department’s comments regarding the Appellant’s request for a stay.

[4] According to standard practice, on April 28, 2000, the Board wrote to the Natural Resources Conservation Board (the “NRCB”) and the Alberta Energy and Utilities Board (the “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 May 3, 2000 and from the AEUB on May 25, 2000, stating that they did not hold any hearing or review under their respective legislation.

[5] On May 9, 2000, the Board received a response to its April 28, 2000 letter from the counsel for the Director, advising that the Department would be agreeable to a stay of enforcement of the administrative penalty until the conclusion of the appeal.

[6] The Board then wrote to the parties on May 10, 2000, asking that the parties advise whether they wished to consider mediation or whether they wished to proceed directly to a hearing.

[7] Counsel for the Director advised, by letter of May 15, 2000, that the Director wished to proceed directly to an appeal hearing.

[8] The Board advised the parties, by letter dated July 10, 2000, that in consultation with the parties, the appeal hearing had been scheduled for September 7, 2000, in Calgary, Alberta.

[9] The Board placed a Notice of Public Hearing ad in the Strathmore Standard on July 18, 2000, advising of the appeal hearing to be held on September 7, 2000 in Calgary, Alberta. The advertisement contained information regarding the date, time and location of the hearing. It also asked that if any person, other than the parties wished to make representations before the Board, to advise the Board office by August 8, 2000. A news release was forwarded to the Public Affairs Bureau regarding the hearing and placed on the Alberta government website on July 11, 2000. It was also distributed on the same day to 95 daily newspapers, radio stations and television stations within Alberta. No requests to make representations were received.

[10] On August 31, 2000 the Board received a letter from counsel for the Director advising that the parties had agreed, that the hearing date of Thursday, September 7, 2000, should be adjourned and be rescheduled for a later date.

[11] The Board replied to the Department's letter of August 31, 2000. The Board's letter stated in part:

“The Board understands from our telephone conversation with Ms. Graham [counsel for the Director] that this adjournment was requested to accommodate a request by Mr. Lloyd for additional documents from the Department. The Board understands that the

documents requested are currently with the FOIP [Freedom of Information] office. As a result, the Department requires additional time to access the documents and provide them to Mr. Lloyd.”

[12] On September 7, 2000 the Board received a letter from counsel for the Director stating:

“Enclosed is Mr. Jay Ltike’s letter of September 6, 2000 withdrawing the administrative penalty.”

[13] The Board received a letter from Mr. Lloyd, counsel for the Appellant, dated September 15, 2000, stating:

“Inasmuch as the administrative penalty has been withdrawn, this letter will serve as notice that we are now abandoning our Appeal in this matter.”

DECISION

[14] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Lloyd’s letter of September 15, 2000, the Board hereby discontinues its proceedings in Appeal No. 00-019 and will be closing its file.

Dated September 22, 2000 at Edmonton, Alberta.

William A. Tilleman, Q.C.