

# ALBERTA ENVIRONMENTAL APPEAL BOARD

## Discontinuance of Proceedings

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Date of Discontinuance of Proceedings – October 26, 2001

**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 filed by the Town of St. Paul  
with respect to Approval No. 1183-02-00 issued by the Director,  
Approvals, Northeast Boreal Region, Regional Services, Alberta  
Environment, for the operation and reclamation of a waterworks  
system for the Town of St. Paul.

Cite as: *Town of St. Paul v. Director, Approvals, Northeast Boreal Region, Regional  
Services, Alberta Environment.*

## **EXECUTIVE SUMMARY**

Alberta Environment issued an Approval to the Town of St. Paul for the operation and reclamation of a waterworks system for the Town of St. Paul. The Environmental Appeal Board received a Notice of Appeal dated September 6, 2001 from the Town of St. Paul regarding certain conditions contained within the Approval.

In a letter dated October 11, 2001, the Town of St. Paul advised that the Town is not prepared to pursue the appeal at this time and would be submitting an application to Alberta Environment for an amendment of the existing Approval to address their concerns. The Board therefore discontinues its proceedings and closes its file.

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## **I. BACKGROUND**

[1] On September 6, 2001 Mr. Wayne Horner filed a Notice of Appeal with the Environmental Appeal Board (the “Board”) on behalf of the Town of St. Paul (the “Appellant”) with respect to Approval 1183-02-00 (“Approval”) issued to the Town of St. Paul by the Director, Approvals, Northeast Boreal Region, Regional Services, Alberta Environment (the “Director”) for the operation and reclamation of a waterworks system for the Town of St. Paul. The Notice of Appeal states that the concern with the Approval was the required level of monitoring and reporting particle counts and asked that it be deleted from the Approval.

[2] On September 7, 2001, the Board acknowledged receipt of the Notice of Appeal and requested that the Director provide copies of all documents (the “Record”) relating to this appeal to the Board. The letter also requested that the Appellant and the Director advise the Board of available dates for a hearing or mediation meeting/settlement conference.

[3] In accordance with standard practice, on September 7, 2001, the Board wrote to the Alberta Energy and Utilities Board and the Natural Resources Conservation Board asking if this matter had been the subject of a review or hearing under their respective Boards legislation. Both Boards responded in the negative.

[4] On September 19, 2001, the Board received a letter from the Director. The Director’s position was that the appeal was filed outside the time lines and consequently requested that the Board dismiss the appeal. At this time, the Director also enclosed the initial Record relating to this appeal. On September 27, 2001, the Board acknowledged the Director’s letter and forwarded the Record to the Appellant.

[5] On September 17, 2001, the Board received a letter from the Appellant providing reasons as to why the Notice of Appeal was filed out of time. The Board requested that the Director provide a response to the Board by October 4, 2001 with respect to the Appellant’s letter and the Appellant provide a rebuttal response to the Director by October 11, 2001.

[6] On October 9, 2001 the Board received the Director's response submission in which the Director indicated that there could be discussions outside of the appeal process regarding some of the issues raised by the Appellant.

[7] On October 15, 2001, the Board received the rebuttal submission of the Appellant dated October 11, 2001, stating:

“...It is evident from Ms. Craig's letter that, the Director is not prepared to exercise its discretion to extend the appeal time limit in this case. Therefore, we are not prepared to pursue the appeal at this time...”

[8] In response to the Appellant's letter, the Board advised the parties on October 15, 2001, that the Director has merely submitted that the Board should not exercise its discretion by extending the time limit for the filing of the appeal and that the final decision lies with the Environmental Appeal Board.

[9] Board staff received a follow up telephone call from the Appellant on October 23, 2001, as a result of its letter of October 15, 2001, advising that they were withdrawing their appeal and would make application to the Director for an amendment of the Approval in question to address their concerns.

## **II. DECISION**

[10] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the Appellants letter of October 11, 2001 and telephone call to the Board on October 23, 2001, the Board discontinues its proceedings in Appeal No. 01-088 and will be closings its file.

Dated on October 26, 2001, at Edmonton, Alberta.

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William A. Tilleman, Q.C.