

ALBERTA ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings - October 24, 2002

IN THE MATTER OF Sections 91, 92, and 95 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12 and section 115 of the *Water Act*, R.S.A. 2000, c. W-3.

-and-

IN THE MATTER OF a Notice of Appeal filed by Westridge
Utilities Inc. with respect to the decision of the Director, Southern
Region, Regional Services, Alberta Environment, to refuse to issue
a licence under the *Water Act* to Westridge Utilities Inc.

Cite as: *Westridge Utilities Inc. v. Director, Southern Region, Regional Services, Alberta
Environment* (24 October 2002), Appeal No. 02-070-DOP (A.E.A.B.).

EXECUTIVE SUMMARY

The Board received a Notice of Appeal from Ms. Judy Stewart on behalf of Westridge Utilities Inc. appealing the refusal of Alberta Environment to issue a Licence.

After the Board began processing the appeal, the Board received a letter from the Appellant withdrawing their appeal. The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On September 23, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Westridge Utilities Inc. (the “Appellant”). The Notice of Appeal was with respect to the alleged refusal of the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), to issue a Licence with respect to *Water Act* Preliminary Certificate No. 00081364-00-00 (the “Certificate”) to the Appellant.

[2] The Board acknowledged receipt of the Notice of Appeal on September 25, 2002, notified the Director of the appeal, and requested the Appellant and Director (collectively the “Parties”), provide the Board with their available dates for a mediation meeting or hearing. The Board also requested the Director provide a copy of the documents related to this appeal (the “Record”) to the Board.

[3] According to standard practice, 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 legislation. On October 4, 2002, the NRCB responded in the negative, and due to the short timelines of this appeal, the Board did not receive the requested information from the AEUB.

[4] On September 30, 2002, the Board received and acknowledged a letter from the Appellant requesting that the appeal be held in abeyance while discussions with the Director continued. The abeyance was granted on the condition that if no resolution was reached by October 18, 2002, dates for a mediation meeting and hearing would be provided by the Parties.

[5] On October 4, 2002, the Board received a letter from the Director stating:

“...the Director would like to raise a preliminary jurisdictional issue with respect to the appeal. The Director respectfully submits that the Notice of Appeal filed by Ms. Stewart on behalf of Westridge is premature as no decision has been made by the Director pursuant to section 115(1)(d) of the *Water Act*, R.S.A. 2000, c .W-3, which would permit the filing of an appeal. Therefore the Board does not have the jurisdiction to proceed with this appeal...”

[6] On October 8, 2002, the Board responded to the Director's October 4, 2002 letter, scheduling a written submission process to address the Director's preliminary jurisdictional issue.

[7] On October 9, 2002, the Board received a copy of the Record from the Director and on October 11, 2002, provided a copy of the Record to the Appellant.

[8] On October 18 and 23, 2002, the Board received letters dated October 16 and 18, 2002 from the Appellant withdrawing their appeal. The letters stated:

“...Westridge Utilities Inc. formally request that the Appeal be withdrawn...”

II. DECISION

[9] Pursuant to section 96(7) of the *Environmental Protection and Enhancement Act* R.S.A. 2000, c. W-3, and based on the Appellant's letters of October 16 and 18, 2002, the Board discontinues its proceedings in Appeal No. 02-070 and will be closing its file.

Dated on October 24, 2002, at Edmonton, Alberta

William A. Tilleman, Q.C., Chair