

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – October 7, 2004

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 an appeal filed by the Hutterian Brethren of Neu Muehl with respect to the decision of the Director, Central Region, Regional Services, Alberta Environment, to deny a request for a licence to divert water and operating works at SE 12-029-17-W4.

Cite as: *Hutterian Brethren of Neu Muehl v. Director, Central Region, Regional Services, Alberta Environment* (7 October 2004), Appeal No. 04-051-DOP (A.E.A.B.).

EXECUTIVE SUMMARY

Alberta Environment refused to issue a *Water Act* Licence to the Hutterian Brethren of Neu Muehl to divert water and operating works at SE 12-029-17-W4, near Drumheller, Alberta.

The Board received a Notice of Appeal from the Hutterian Brethren of Neu Muehl appealing Alberta Environment's decision.

The Board began processing the appeal. However, the Appellant withdrew the appeal. The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On July 19, 2004, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), denied a request to issue a licence under the *Water Act*, R.S.A. 2000, c. W-3 (the “Licence”) to the Hutterian Brethren of Neu Meuhl to divert water and operating works at SE 12-029-17-W4, near Drumheller, Alberta.

[2] On July 29, 2004 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Edward Waldner, on behalf of the Hutterian Brethren of Neu Muehl (the “Appellant”) appealing the Director’s decision.

[3] On August 3, 2004, the Board wrote to the Appellant and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to this appeal, and that the Parties provide available dates for a mediation meeting or hearing.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective legislation. Both boards responded in the negative.

[5] On August 17, 2004, the Board received a telephone call from the Appellant advising that the Appellant and the Director may be close to resolving the appeal. The Board acknowledged the telephone call and asked the parties to provide the Board with an update with respect to their discussions by August 31, 2004.

[6] On August 31, 2004, the Board received a letter from the Director dated August 30, 2004, advising:

“...there are still ongoing discussions between the parties. Alberta Environment staff attended the site again on August 27, 2004. From that visit, further information was gathered and needs to be evaluated...I propose the next status report be at September 15, 2004.”

[7] On August 31, 2004, the Board acknowledged receipt of the letter of August 30, 2004 from the Director and requested the Parties provide a further update to the Board by September 15, 2004.

[8] On September 8, 2004 the Board received a letter from the Director stating:

“Enclosed please find copies of two licences issued by Alberta Environment to the New Muehl Colony. As the issuance of these licences grants the relief requested in the Colony’s Notice of Appeal, I believe this appeal is no longer necessary.”

[9] On September 9, 2004, the Board acknowledged the September 8, 2004 letter from the Director and asked the Appellant to contact the Board by September 13, 2004 to advise if he intended to withdraw his appeal.

[10] On September 20, 2004, the Board received a letter from the Appellant informing that Board that he would like to withdraw his appeal. The September 20, 2004 letter stated:

“Neu Muehl Colony would like to withdraw the appel (sic)”.

II. DECISION

[11] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and based upon the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 04-051 and closes its file.

Dated on October 7, 2004, at Edmonton, Alberta.

Dr. Fredrick C. Fisher, Q.C.
Chair