

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – September 23, 2005
Date of Discontinuance of Proceedings – October 5, 2005

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 appeals filed by Darren and Toni Daniel and Ron and Judy Plett with respect to *Water Act* Approval No. 00197206-00-00 issued to Sanjo and Benchmark Developments Inc. by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Daniel et al v. Director, Central Region, Regional Services, Alberta Environment re: Sanjo and Benchmark Developments Inc.* (05 October 2005), Appeal No. 05-001 and 05-003-DOP (A.E.A.B.).

MEDIATION MEETING BEFORE:

Mr. Al Schulz, Board Member.

APPEARANCES:

Appellants:

Mr. Darren and Ms. Toni Daniel; and Mr. Ron and Ms. Judy Plett.

Director:

Mr. Tom Slater, Director, Central Region, Regional Services, Alberta Environment; and Mr. Doug Jeremy, Alberta Environment. Represented by Mr. Darren Stepaniuk, Alberta Justice.

Approval Holder:

Mr. Bill Musgrave and Mr. Dave Martz, Sanjo and Benchmark Developments Inc.

Other Party:

Ms. Glenda Thomas, County Administrator, and Reeve Don Whittaker, County of Vermilion River.

Board Staff:

Mr. Gilbert Van Nes, General Counsel and Settlement Officer.

EXECUTIVE SUMMARY

Alberta Environment issued an Approval to Sanjo and Benchmark Developments Inc. authorizing the construction, operation and management of a stormwater management facility located within NE 21-050-01-W4 for the purpose of collecting and draining stormwater to an unnamed tributary of Big Gully Creek, near Lloydminster, Alberta.

The Board received Notices of Appeal from Mr. Darren and Ms. Toni Daniel and Mr. Ron and Ms. Judy Plett appealing Alberta Environment's Decision.

The Board held a mediation meeting on September 23, 2005, in Lloydminster, Alberta. As a result of the mediation meeting, a resolution was reached by the participants and the Appellants withdrew their appeals.

The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On July 4, 2005, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 00197206-00-00, under the *Water Act*, R.S.A. 2000, c. W-3 (the “Approval”) to Sanjo and Benchmark Developments Inc. (the “Approval Holder”) authorizing the construction, operation and management of a stormwater management facility located within NE 21-050-01-W4 for the purpose of collecting and draining stormwater to an unnamed tributary of Big Gully Creek, near Lloydminster, Alberta.

[2] On April 14 and 25, 2005 the Environmental Appeals Board (the “Board”) received Notices of Appeal from Mr. Darren and Ms. Toni Daniel and Mr. Ron and Ms. Judy Plett (the “Appellants”) appealing the Approval.

[3] On April 18 and 27, 2005, the Board wrote to the Appellants, the Approval Holder and the Director (collectively the “Participants”) acknowledging receipt of the Notices of Appeal and notifying the Approval Holder and the Director of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to these appeals, and that the Participants provide available dates for a mediation meeting, preliminary 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 April 29, 2005, the Board received a letter from the Director requesting an abeyance of the appeals in order for him to arrange a meeting with the Appellants and the Approval Holder to discuss the issues.

[6] The Board granted the abeyance on May 4, 2005, and requested the Participants provide the Board with a status report by May 20, 2005. The Board granted further abeyances, at the request of the Participants, until September 15, 2005, as they appeared to be making progress.

[7] On August 29, 2005 the Board received a letter from Mr. and Ms. Daniel. On August 30, 2005, the Board requested the other Participants to these appeals provide their comments to Mr. and Ms. Daniel's letter. The Board received responses from the other Participants on September 6, 2005. Upon review of the responses, it appeared to the Board that the Participants were having difficulty in reaching a resolution through their discussions. The Board decided to schedule a mediation meeting in order to assist them in reaching a resolution. The Board also decided to include the County of Vermilion River (the "County") in the mediation meeting as it appeared to the Board from the Participants' letters that the County was involved in their discussions. No objections were received in relation to the participation of the County in the mediation meeting.

[8] On September 19, 2005, the Board received a copy of the Record from the Director, and on September 20, 2005, forwarded a copy to the Appellants, the Approval Holder and the County.

[9] On September 20, 2005, in consultation with the Participants and the County, the Board scheduled the mediation meeting for September 23, 2005, in Lloydminster.

II. MEDIATION MEETING

[10] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Lloydminster, Alberta on September 23, 2005 with Mr. Al Schulz as the presiding Board Member (the "Mediator").

[11] In conducting the mediation meeting, the Mediator reviewed the mediation process and explained the purpose of the mediation meeting. He then circulated copies of the Participants' Agreement to Mediate. All persons in attendance signed the Agreement and discussions ensued.

[12] As a result of productive and detailed discussions at the mediation meeting, a resolution was reached by the Participants and the County, which resulted in the Appellants withdrawing their appeals.

III. DECISION

[13] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c.E-12, and based on the withdrawal of the appeals by the Appellants, the Board hereby discontinues its proceedings in Appeal Nos. 05-001 and 05-003 and closes its file.

Dated on October 5, 2005, at Edmonton, Alberta.

Dr. Steve E. Hrudehy
Chair