

ALBERTA ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Mediation Meeting – November 17, 2005
Date of Discontinuance of Proceedings – November 25, 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 an appeal filed by Wolfgang Artin Dittrich with respect to *Water Act* Enforcement Order No. WA-EO-2005/03-NR issued to Wolfgang Artin Dittrich by the Director, Northern Region, Regional Services, Alberta Environment.

Cite as: *Dittrich v. Director, Northern Region, Regional Services, Alberta Environment* (25 November 2005), Appeal No. 05-009-DOP (A.E.A.B.).

I. BACKGROUND

[1] On June 30, 2005, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”) issued Enforcement Order No. WA-EO-2005/03-NR under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Wolfgang Artin Dittrich for the removal of an obstruction from a water body, in the County of Grande Prairie, Alberta.

[2] On July 20, 2005, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Wolfgang Artin Dittrich (the “Appellant”) appealing the Enforcement Order.

[3] On July 20, 2005, the Board wrote to the Appellant and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the appeal, and that the Parties 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 July 28, 2005, the Board received a letter from the Director requesting an extension of time to provide the Record to the Board and advising that he may make a motion that the appeal was filed “...after the time period for appealing had expired.”

[6] On July 29, 2005, the Board received a letter from the Appellant advising he is in discussions with the Director and “...is hopeful that all outstanding matters will be resolved by mutual agreement and action prior to an actual appeal...”

[7] On August 2, 2005, the Board responded to the Parties, granting an extension of time for the Director to provide the Board with the Record until August 22, 2005, and encouraging the Parties to continue their discussions towards a resolution.

[8] On August 22, 2005, the Board received the Record from the Director. The Director in his letter of August 22, 2005, made a motion to dismiss the appeal for being filed outside the normal time limit prescribed in section 116(1)(a)(i) of the *Water Act*.¹ On August 30, 2005, the Board forwarded a copy of the Record to the Appellant and at the same time scheduled a written submission process to deal with the late filed appeal.

[9] On September 15, 2005, the Board received the Initial Written Submission from the Appellant in relation to the late filed appeal issue, and on September 27, 2005, the Board received the Response Written Submission from the Director. The Director stated in his submission that he would be prepared to have the Board hold the late filed appeal submission process in abeyance, and proceed with a mediation meeting to deal with the appeal. The Board responded on September 27, 2005, advising it would hold the late filed appeal submission process in abeyance and requested the Parties provide available dates for a mediation meeting. The Board also advised that should "...the mediation be unsuccessful, the Board will resume the late filed appeal process...."

[10] In consultation with the Parties, the Board scheduled the mediation meeting for November 17, 2005, in Grande Prairie, Alberta.

II. MEDIATION MEETING

[11] Pursuant to section 11 of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93, the Board conducted a mediation meeting in Grande Prairie, Alberta on November 17, 2005 with Ms. Marilyn Kansky, Board Member, acting as the mediator (the "Mediator").

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

¹ Section 116(1)(a)(i) of the *Water Act* states: "A Notice of Appeal must be submitted to the Environmental Appeals Board not later than 7 days after receipt of a copy of a...enforcement order...."

[13] Following productive and detailed discussions at the mediation meeting, an agreement was reached and the Appellant withdrew his appeal.

III. DECISION

[14] 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 appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 05-009 and closes its file.

Dated on November 25, 2005, at Edmonton, Alberta.

Steve E. Hrudey, D.Sc. (Eng.), P.Eng.
Chair