
ALBERTA ENVIRONMENTAL APPEALS BOARD

Report and Recommendations

Date of Report and Recommendations – September 29, 2006

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 1096210 Alberta Ltd. with respect to *Water Act* Approval No. 00208086-00-00 issued to 1096210 Alberta Ltd. by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *1096210 Alberta Ltd. v. Director, Central Region, Regional Services, Alberta Environment* (29 September 2006), Appeal No. 06-031-R (A.E.A.B.).

BEFORE:

Dr. Steve E. Hrudehy, Chair.

PARTIES:

Appellant & Approval Holder:

1096210 Alberta Ltd., represented by Mr. Richard DeGroat.

Other Participants:

Lacombe County, represented by Mr. Terry Hager, County Commissioner, and Mr. Allan Williams, Manager, Planning Services.

Director:

Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment, represented by Ms. Michelle Williamson, Alberta Justice.

EXECUTIVE SUMMARY

Alberta Environment issued a *Water Act* Approval to 1096210 Alberta Ltd. for the construction, operation, and maintenance of a storm water management works for a subdivision located in Sylvan Lake, Alberta.

The Environmental Appeals Board received a Notice of Appeal from 1096210 Alberta Ltd., stating that the Approval should be issued under the name of the Lacombe County, and appealing a condition relating to a drawing and design.

Discussions took place between Alberta Environment, 1096210 Alberta Ltd., and Lacombe County. As a result of those discussions, an agreement was reached between Alberta Environment and 1096210 Alberta Ltd. The Board recommends that the Minister of Environment accept the agreement.

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I. BACKGROUND

[1] On April 24, 2006, the Director, Central Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 00208086-00-00 (the “Approval”) to 1096210 Alberta Ltd. authorizing the construction, operation, and maintenance of a storm water management works located in SW 33-39-02-W5M, for a subdivision in Sylvan Lake, Alberta.

[2] On May 1, 2006, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from 1096210 Alberta Ltd. (the “Appellant”) appealing the Approval. The Appellant stated in his Notice of Appeal that the Approval should be issued under the name of Lacombe County, and that he had concerns with a condition relating to a drawings and design.

[3] On May 2, 2006, the Board wrote to the Appellant, Lacombe County, and the Director (collectively the “Participants”) acknowledging receipt of the Notice of Appeal and notifying Lacombe County and 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 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 May 17, 2006, the Board received a letter from the Director, advising that the Director and the Appellant were attempting to resolve the appeal outside of the Board’s process. The Board requested the Participants provide the Board with written status reports by June 12, 2006.

[6] On June 13, 2006, the Board acknowledged receipt of a status report from the Appellant stating that the meeting between the Participants was productive and they were willing to continue to seek a mutually satisfactory resolution to the outstanding issues. The Board requested further written status reports from the Participants by June 28, 2006. A status report was received from the Appellant on June 28, 2006 and included their available dates for a

mediation meeting. On July 4, 2006, the Director provided a copy of a draft resolution that was reached at their meeting on May 30, 2006. The Board acknowledged receipt of the status report and requested the Appellant provide comments with respect to the draft resolution.

[7] On July 6, 2006, the Board received available dates for a mediation meeting from the Director. The Board acknowledged receipt of the Director's letter on July 10, 2006 and the Board advised the Participants that unless they reach a satisfactory mutual agreement, the Board would proceed with the mediation meeting.

[8] The Board received a letter from the Appellant on July 10, 2006, advising the Participants were making progress. The Board responded to the Appellant's letter on July 12, 2006 advising it was hopeful that a resolution would be reached, however, requesting the Participants provide their available dates for a mediation meeting in September 2006, which should allow sufficient time for the Participants to conclude their discussions.

[9] On August 18, 2006, in consultation with the Participants, the Board scheduled a mediation meeting for September 19, 2006, to be held at a location agreed upon by the Participants.

[10] On August 18, 2006 correspondence was received from the Director indicating a resolution of the appeal was progressing, and the Board reconfirmed the mediation meeting scheduled for September 19, 2006 and requested further status reports by September 8, 2006.

[11] On September 12, 2006, the Board wrote to the Participants advising that the procedure proposed by the Participants was acceptable to the Board, and the resolution should be provided to the Board for review, and would then be provided to the Minister of Environment for his consideration.

[12] On September 15, 2006, the Board advised the Participants that the mediation meeting scheduled for September 19, 2006 was cancelled, that their agreement is to be forwarded to the Board as previously indicated, and reconfirmed its requests for a copy of the Record.

[13] On September 19 and 25, 2006 the Board received the agreement from the Appellant and the Director and this document is attached as pages 4, 5 and 6.

II. RECOMMENDATIONS

[14] In accordance with section 99 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c.E-12 (the “Act”), the Board recommends that the Minister of Environment order that *Water Act* Approval No. 00208086-00-00 be varied in accordance with the agreement reached by the Participants. Attached for the Minister’s consideration is a draft Ministerial Order implementing the recommendations.

[15] Further, with respect to section 100(2) and 103 of the Act, the Board recommends that copies of this report and recommendations, and of any decision by the Minister, be sent to the following:

- Mr. Richard DeGroat, 1096210 Alberta Ltd.;
- Mr. Bill Manning, WNM Engineering Ltd.;
- Mr. Terry Hager, County Commissioner, Lacombe County;
- Mr. Allan Williams, Manager, Planning Services, Lacombe County; and
- Ms. Michelle Williamson, Alberta Justice, representing Mr. David Helmer, Director, Central Region, Regional Services.

Dated on September 29, 2006, at Edmonton, Alberta.

“*original signed by*”

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

III. RESOLUTION

The Appellant, 1096210 Alberta Ltd., and the Director of Alberta Environment hereby agree to the following:

The Appellant agrees to withdraw its appeal on condition that the Minister of Environment amend Water Act Approval No. 00208086 pursuant to s. 100 of the Environmental Protection and Enhancement Act as follows:

1. In condition 3, the reference to “plan number 00208086-P001” titled “Phase 1, Sylvan Lake Subdivision in the County of Lacombe for 1096210 Alberta Ltd. (Susan Belcher), Standard Details (Dwg. No. SD, Rev. 1, signed March 10, 2006) is deleted and replaced by the following:

“00208086-P003 titled Phase 1, Sylvan Lake Subdivision in the County of Lacombe for 1096210 Alberta Ltd. (Susan Belcher), Standard Details”
(Dwg. No. SD, Rev. 1, signed June 9, 2006)”.

2. Condition No. 10.8 is added:

“The approval holder shall commence the monitoring and reporting required in Condition 10.4 and 10.5 when the first house becomes occupied in the subdivision.”

3. Condition 10.4 is amended by deleting “Table 9.6” and replacing it with “Table 10.6”.
4. Condition 10.7 is amended by deleting “9.4, 9.5” and replacing it with “10.4, 10.5”.
5. The following conditions shall be added as 15.1, 15.2, 15.3 and 15.4:

STORM WATER QUALITY BEST MANAGEMENT PRACTICES

- 15.1 Following registration of the plan of subdivision for the property, the approval holder shall, on an annual basis,
 - (a) implement and
 - (b) maintaina storm water quality awareness program to educate subdivision residents on best management practices to minimize nutrient and pesticide loading of water bodies and explain the benefits of following these practices.

- 15.2 The storm water quality awareness program shall consist of the following:

(a) an awareness sign installed and maintained at the subdivision or alternatively on any residents' bulletin board maintained at the subdivision;

(b) an annual mail out to all residents of the subdivision of a pamphlet describing best management practices literature on nutrient and pesticide loading reduction and the effect of pollution on water bodies; and

(c) provide a copy of the mail out pamphlet to Alberta Environment and Lacombe County and to residents of the subdivision who request same.

15.3 The approval holder shall include a summary of the storm water quality awareness activities in the monitoring report referred to in Condition 10.5.

15.4 The Director reserves the right to modify the minimum features of the storm water quality awareness program listed in Condition 15.2.

6. Condition 8 is deleted.

Signed this 14 day of September, 2006 by:

“original signed by”

The Appellant,
Richard DeGroat, President of
1096210 Alberta Ltd.

The Respondent,
David Helmer,
Director of Alberta Environment.

(a) an awareness sign installed and maintained at the subdivision or alternatively on any residents' bulletin board maintained at the subdivision;

(b) an annual mail out to all residents of the subdivision of a pamphlet describing best management practices literature on nutrient and pesticide loading reduction and the effect of pollution on water bodies; and

(c) provide a copy of the mail out pamphlet to Alberta Environment and Lacombe County and to residents of the subdivision who request same.

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15.4 The Director reserves the right to modify the minimum features of the storm water quality awareness program listed in Condition 15.2.

6. Condition 8 is deleted.

Signed this 14 day of September, 2006 by:

The Appellant,
Richard DeGroat, President of
1096210 Alberta Ltd.

“original signed by”

The Respondent,
David Helmer,
Director of Alberta Environment.

IV. DRAFT ORDER

**Ministerial Order
/2006**

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12;

and

Water Act
R.S.A. 200, c. W-3.

**Order Respecting Environmental Appeals Board
Appeal Nos. 06-031**

I, Guy Boutilier, Minister of Environment, pursuant to section 100 of the Environmental Protection and Enhancement Act, make the order in the attached Appendix, being an Order Respecting Environmental Appeals Board Appeal No. 06-031.

Dated at the City of Edmonton, Province of Alberta, this _____ day of _____, 2006.

Guy Boutilier
Minister

Draft Appendix

Order Respecting Environmental Appeals Board Appeal No. 06-031

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”), to issue Approval No. 00208086-00-00 (the “Approval”), under the *Water Act*, R.S.A. 2000, c. W-3, to 1096210 Alberta Ltd., (the “Approval Holder”) I, Guy Boutilier, Minister of Environment order that:

1. The decision of the Director to issue the Approval is confirmed subject to the following amendments.
2. Condition 3 of the Approval is amended by deleting
“00208086-P001 “Phase 1, Sylvan Lake Subdivision in the County of Lacombe for 1096210 Alberta Ltd. (Susan Belcher) Standard Details (Dwg. No. SD, Rev. 1, signed March 10, 2006)”

and replacing it with

“00208086-P003 “Phase 1, Sylvan Lake Subdivision in the County of Lacombe for 1096210 Alberta Ltd. (Susan Belcher) Standard Details (Dwg. No. SD, Rev. 1, signed June 9, 2006)”.
3. The Approval is amended by deleting Condition 8.
4. Condition 10.4 of the Approval is amended by deleting “Table 9.6” and replacing it with “Table 10.6 MONITORING - STORM WATER SYSTEM”.
5. Condition 10.7 of the Approval is amended by deleting “9.4, 9.5” and replacing it with “Condition 10.4 and/or 10.5”.
6. The Approval is amended by adding the following immediately after 10.7:
“10.8 The approval holder shall commence the monitoring and reporting required in Conditions 10.4 and 10.5 when the first house becomes occupied in the subdivision”
7. The Approval is amended by adding the following immediately after 14.3:

“15. STORM WATER QUALITY BEST MANAGEMENT PRACTICES

15.1 Following registration of the plan of subdivision for the property, the approval holder shall, on an annual basis,

(a) implement and

(b) maintain

a storm water quality awareness program to educate subdivision residents on best management practices to minimize nutrient and pesticide loading of water bodies and explain the benefits of following these practices.

15.2 The storm water quality awareness program shall consist of the following:

(a) an awareness sign installed and maintained at the subdivision or alternatively on any residents' bulletin board maintained at the subdivision;

(b) an annual mail out to all residents of the subdivision of a pamphlet describing best management practices literature on nutrient and pesticide loading reduction and the effect of pollution on water bodies; and

(c) provide a copy of the mail out pamphlet to Alberta Environment and Lacombe County and to residents of the subdivision who request same.

15.3 The approval holder shall include a summary of the storm water quality awareness activities in the monitoring report referred to in Condition 10.5.

15.4 The Director reserves the right to modify the minimum features of the storm water quality awareness program listed in Condition 15.2.”



ALBERTA ENVIRONMENT
Office of the Minister

**Ministerial Order
23/2006**

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12;

and

Water Act
R.S.A. 200, c. W-3.

**Order Respecting Environmental Appeals Board
Appeal Nos. 06-031**

I, Guy Boutilier, Minister of Environment, pursuant to section 100 of the Environmental Protection and Enhancement Act, make the order in the attached Appendix, being an Order Respecting Environmental Appeals Board Appeal No. 06-031.

Dated at the City of Edmonton, Province of Alberta, this 11 day of October, 2006.

“original signed by”

Guy Boutilier
Minister

Appendix

Order Respecting Environmental Appeals Board Appeal No. 06-031

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”), to issue Approval No. 00208086-00-00 (the “Approval”), under the *Water Act*, R.S.A. 2000, c. W-3, to 1096210 Alberta Ltd., (the “Approval Holder”) I, Guy Boutilier, Minister of Environment order that:

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2. Condition 3 of the Approval is amended by deleting
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and replacing it with

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6. The Approval is amended by adding the following immediately after 10.7:
“10.8 The approval holder shall commence the monitoring and reporting required in Conditions 10.4 and 10.5 when the first house becomes occupied in the subdivision”

7. The Approval is amended by adding the following immediately after 14.3:

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