

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

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Date of Mediation Meeting and Settlement Conference – May 17, 2002

Date of Report and Recommendations – May 29, 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** Notices of Appeal filed by Ms. Tanni Parker and Mr. Darcy Doblanko with respect to Licence No. 00176369-00-00, issued on February 11, 2002 under the *Water Act* to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen for the purpose of diverting 10,220 cubic metres of water annually from a diversion site at NE 01-049-27-W4, for the purpose of agriculture (stock water), by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Parker et al. v. Director, Central Region, Regional Services, Alberta Environment*  
re: *Peeters and Peeters-Matijssen*.

**MEDIATION MEETING BEFORE**

Frederick C. Fisher, Q.C.

**APPEARANCES**

**Appellants:** Ms. Tanni Parker and Mr. Darcy Doblanko.

**Director:** Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment, and Mr. Tim Chau, Alberta Environment, represented by Mr. Darin Stepaniuk, Alberta Justice.

**Licence Holders:** Mr. Petrus Peeters, Ms. Elizabeth Peeters-Matijssen and Mr. Terence Barc (advisor).

**Board Staff:** Mr. Gilbert Van Nes, General Counsel and Settlement Officer.

## **EXECUTIVE SUMMARY**

Alberta Environment issued a licence under the *Water Act* to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen authorizing the diversion of 10,220 cubic metres of water annually from the well in NE 01-049-27-W4 for the purpose of agriculture (stock water).

The Board received Notices of Appeal from Ms. Tanni Parker and Mr. Darcy Doblanko appealing the Licence.

The Board held a mediation meeting and settlement conference in Edmonton, Alberta, following which a resolution was reached by the parties. The Board recommends that the Minister of Environment accept the agreement. The Board also encourages Alberta Environment to adopt a policy of sending a copy of any licence that has been issued to any valid Statement of Concern filers.

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## **I. BACKGROUND**

[1] On February 11, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued *Water Act* Licence No. 00176369-00-00 (the “Licence”) to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen (the “Licence Holders”), authorizing the diversion of 10,220 cubic metres of water annually from the well in NE 01-049-27-W4, near Calmar, Alberta, for the purpose of agriculture (stock water).

[2] On March 11, 2002 the Environmental Appeal Board (the “Board”) received Notices of Appeal, dated February 25, 2002, from Ms. Tanni Parker and Mr. Darcy Doblanko (collectively the “Appellants”). On March 12, 2002, the Board wrote to the Appellants, the Licence Holders and the Director (the “Parties”) acknowledging receipt of the appeals and notifying the Licence Holders and the Director of the appeals. In the same letter, the Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to the Licence and requested available dates from the Parties for a mediation meeting and settlement conference or hearing.

[3] 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.

[4] On March 25, 2002, the Board received a copy of the Record from the Director, and on March 26, 2002, the Board provided a copy of the Record to the Appellants and the Licence Holders.

[5] On April 24, 2002, in consultation with the Parties, the Board scheduled the mediation meeting and settlement conference to be held at the Board’s office in Edmonton, on May 17, 2002.

## **II. THE MEDIATION MEETING AND SETTLEMENT CONFERENCE**

[6] Pursuant to section 11 of the Board's regulations, A.R. 114/93, the Board conducted a mediation meeting and settlement conference in Edmonton, Alberta on May 17, 2002 with Frederick C. Fisher, Q.C. as the presiding Board Member.

[7] In conducting the mediation meeting, Dr. Fisher reviewed the appeals and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the Participant's Agreement to Mediate. All Parties signed the Agreement and discussions ensued.

[8] Following productive and detailed discussions, a resolution evolved at the May 17, 2002 mediation meeting and is attached as pages 4 and 5.

## **III. RECOMMENDATIONS**

[9] In accordance with section 100 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, the Board recommends that the Minister of Environment amend *Water Act* Licence No. 00176369-00-00, issued by the Director, Central Region, Regional Services, Alberta Environment, by deleting conditions 5 and 6 of Licence No. 00176369-00-00 in their entirety and replacing them with the following:

“5. The licensee shall

- (a) equip the diversion sites(s) by June 15, 2002 with a cumulative meter or other device which registers the quantity of water pumped, and
- (b) measure the water levels in the diversion site(s) while the pump is operating.

6.(1) The licensee shall record and retain for each calendar year the following information:

- (a) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
- (b) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
- (c) total annual quantity of water pumped expressed in cubic metres, and any other information requested by the Director.

- (2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:
- (a) on or before October 31, 2002,
  - (b) on or before January 31, 2003,
  - (c) on or before April 30, 2003,
  - (d) on or before July 31, 2003,
  - (e) on or before October 31, 2003, and
  - (f) on or before January 31 of every year thereafter.”

Attached for the Minister’s consideration is a draft Ministerial Order implementing the recommendations.

[10] The Board notes that as in clause 2 of the Resolution, the Director agrees to consider, in consultation with the other Directors at Alberta Environment, adopting a policy of sending a copy of the Licence to valid Statement of Concern filers once it has been issued.

[11] The Board strongly encourages Alberta Environment to adopt a policy of sending a copy of any Approvals, Amending Approvals, Preliminary Certificates and Licences to valid Statement of Concern filers once they have been issued.

[12] Further, with respect to sections 100(2) and 103 of *the Environmental Protection and Enhancement Act*, the Board recommends that copies of this Report and Recommendations and of any decision by the Minister be sent to the following parties:

- Ms. Tanni Parker;
- Mr. Darcy Doblanko;
- Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen; and
- Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment, represented by Mr. Darin Stepaniuk, Alberta Justice.

Dated on May 29, 2002, at Edmonton, Alberta.

“original signed by”

Frederick C. Fisher, Q.C.

#### IV. RESOLUTION

**RESOLUTION OF APPEAL NOS. 01-119 AND 01-120 REGARDING LICENCE NO. 00176369-00-00 ISSUED UNDER THE *WATER ACT*, R.S.A. 2000, C. W-3, BY THE DIRECTOR, CENTRAL REGION, REGIONAL SERVICES, ALBERTA ENVIRONMENT, TO MR. PETRUS PEETERS AND MS. ELIZABETH PEETERS-MATIJSSEN AUTHORIZING THE DIVERSION OF 10,220 CUBIC METRES OF WATER ANNUALLY FROM THE WELL IN NE 01-049-27-W4 FOR THE PURPOSE OF AGRICULTURE (STOCK WATER) USE.**

**All parties to the appeal have agreed to the following terms and conditions:**

1. Conditions 5 and 6 of Licence 00176369-00-00 are deleted in their entirety and replaced with the following:

“5. The licensee shall

(c) equip the diversion sites(s) by June 15, 2002 with a cumulative meter or other device which registers the quantity of water pumped, and

(d) measure the water levels in the diversion site(s) while the pump is operating.

6.(1) The licensee shall record and retain for each calendar year the following information:

(d) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,

(e) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,

(f) total annual quantity of water pumped expressed in cubic metres, and any other information requested by the Director.

(2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:

(g) on or before October 31, 2002,

(h) on or before January 31, 2003,

(i) on or before April 30, 2003,

(j) on or before July 31, 2003,

(k) on or before October 31, 2003, and

(l) on or before January 31 of every year thereafter.”

2. The Director agrees to consider, in consultation with the other Directors at Alberta Environment, adopting a policy of sending a copy of the Licence to valid Statement of Concern filers once it has been issued.

3. In consideration of the foregoing, the Appellants, Ms. Tanni Parker and Mr. Darcy Doblanko, agree to withdraw their Notices of Appeal.

RESOLUTION AGREED TO BY:

“original signed by”  
Ms. Tanni Parker

Date: May 17, 2002

“original signed by”  
Mr. Darcy Doblanko

Date: May 17, 2002

“original signed by”  
Mr. Petrus Peeters

Date: May 17, 2002

“original signed by”  
Ms. Elizabeth Peeters-Matijssen

Date: May 17, 2002

“original signed by”  
Mr. David Helmer, Director  
Central Region, Regional Services  
Alberta Environment

Date: May 17, 2002

**V. DRAFT ORDER**

**Ministerial Order  
/2002**

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

*Water Act*  
R.S.A. 2000, c. W-3

**Order Respecting Environmental Appeal Board  
Appeal Nos. 01-119 and 01-120**

I, Dr. Lorne Taylor, 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 Appeal Board Appeal Nos. 01-119 and 01-120.

Dated at the City of Edmonton, in the Province of Alberta this \_\_\_\_ day of \_\_\_\_\_, 2002.

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Honourable Dr. Lorne Taylor  
Minister of Environment

Draft Appendix

Order Respecting Environmental Appeal Board Appeal Nos. 01-119 and 01-120

With respect to the decision of Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment (the "Director") to issue Licence No. 00176369-00-00 (the "Licence") under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen, I, Dr. Lorne Taylor, Minister of Environment, order that the Licence be varied by replacing Conditions 5 and 6 of the Licence with the following:

- "5. The licensee shall
- (a) equip the diversion sites(s) by June 15, 2002 with a cumulative meter or other device which registers the quantity of water pumped, and
  - (b) measure the water levels in the diversion site(s) while the pump is operating.
- 6.(1) The licensee shall record and retain for each calendar year the following information:
- (a) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
  - (b) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
  - (c) total annual quantity of water pumped expressed in cubic metres,
- and any other information requested by the Director.
- (2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:
- (a) on or before October 31, 2002,
  - (b) on or before January 31, 2003,
  - (c) on or before April 30, 2003,
  - (d) on or before July 31, 2003,
  - (e) on or before October 31, 2003, and
  - (f) on or before January 31 of every year thereafter."

**Ministerial Order  
12/2002**

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

*Water Act*  
R.S.A. 2000, c. W-3

**Order Respecting Environmental Appeal Board  
Appeal Nos. 01-119 and 01-120**

I, Dr. Lorne Taylor, 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 Appeal Board Appeal Nos. 01-119 and 01-120.

Dated at the City of Edmonton, in the Province of Alberta this 4<sup>th</sup> day of June, 2002.

“original signed by”  
Honourable Dr. Lorne Taylor  
Minister of Environment

## Appendix

### Order Respecting Environmental Appeal Board Appeal Nos. 01-119 and 01-120

With respect to the decision of Mr. David Helmer, Director, Central Region, Regional Services, Alberta Environment (the "Director") to issue Licence No. 00176369-00-00 (the "Licence") under the *Water Act*, R.S.A. 2000, c. W-3, to Mr. Petrus Peeters and Ms. Elizabeth Peeters-Matijssen, I, Dr. Lorne Taylor, Minister of Environment, order that the Licence be varied by replacing Conditions 5 and 6 of the Licence with the following:

- "5. The licensee shall
- (a) equip the diversion sites(s) by June 15, 2002 with a cumulative meter or other device which registers the quantity of water pumped, and
  - (b) measure the water levels in the diversion site(s) while the pump is operating.
- 6.(1) The licensee shall record and retain for each calendar year the following information:
- (a) monthly readings of the number of cubic metres of water pumped from the diversion site(s) including dates and times the readings were taken,
  - (c) weekly measurements of water levels for the first year and monthly measurements thereafter from the diversion site(s) including dates and times at which readings were taken,
  - (c) total annual quantity of water pumped expressed in cubic metres,
- and any other information requested by the Director.
- (2) The licensee shall provide the Director with reports including the information required by condition 6(1) on each of the following dates:
- (a) on or before October 31, 2002,
  - (b) on or before January 31, 2003,
  - (c) on or before April 30, 2003,
  - (d) on or before July 31, 2003,
  - (e) on or before October 31, 2003, and
  - (f) on or before January 31 of every year thereafter."