



December 21, 2001

DELIVERED BY FAX AND REGISTERED MAIL

Gourlay Spencer Wade
Lawyers
300 – 744 West Hastings Street
Vancouver, BC V6C 1A5
Attention: Alastair Wade

Bert & Linda Vane
Vane Investments Ltd.
[address]

Dear Sirs/Mesdames:

**A COMPLAINT CONCERNING THE OPERATION OF A DUCK FARM AT
7455 256th STREET, ALDERGROVE, BC**

On Thursday December 20, 2001, a Panel of the Farm Practices Board heard four preliminary applications in the above complaint.

The Complainants by letter dated November 14, 2001, have requested production of the following documents:

1. all correspondence with the Ministry of Agriculture, Food and Fisheries pertaining to the proposal, plan or construction of the duck barn facility;
2. all correspondence with the Ministry of Environment, Lands and Parks (now Water, Land and Air Protection), pertaining to the proposal, plan or construction of the duck barn facility;
3. all correspondence with the Township of Langley, pertaining to the proposal, plan or construction of the duck farm facility;
4. copies of all building plans, building permits, engineering drawings and environmental impact studies pertaining to the construction of the duck barn facility;
5. copies of all waste treatment and waste management systems, drawings, estimates, whether proposed or implemented;

Farm Practices Board

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6. copies of all documents pertaining to any remediation of waste management and air pollution associated with the duck barn facility;
7. copies of any specification, plans, drawings, estimates for waste management remediation efforts, including, correspondence with any duck producers such as Brome Lake; and
8. copies of all documents pertaining to ozone treatment testing including test results, cost of treatment and incentives or rebates received.

The Complainants argue that they require the above documents in order to know the case they must meet. The Respondents oppose any disclosure of documents arguing that this proceeding is quasi-criminal and as such, they should not be required to assist the Complainants in making out their case against them.

The Panel agrees that it is incumbent on the Respondents to make the foregoing disclosure. However, the Respondents need disclose only those documents in their possession or control. They are not required to obtain documents from third parties nor are they required to create documents in response to the above request. However, the Respondents are cautioned that should they wish to rely on any documents at the hearing, those documents must be disclosed. The Respondents have raised issues with respect to confidentiality. Documents disclosed in this proceeding cannot be used or relied on by any of the Complainants in other proceedings or actions.

Accordingly, the Respondents are directed to copy all documents in its possession relating to the eight items outlined above. The Complainants are directed to reimburse the Respondents for their reasonable expenses incurred in copying the above documents. The Respondents are directed to deliver their documents to the Solicitor for the Complainants no later than January 14, 2002.

The Complainants have also requested that the Respondents provide their expert report 60 days prior to the commencement of the hearing rather than the 30 days set in the Pre-hearing Conference Report. The Complainants argue that the Respondents have been in possession of their expert report since it was served in a Supreme Court action in March 2001. They argue that they need the Respondents' report sufficiently in advance of the February 25, 2002 hearing to adequately prepare a response.

The Respondents object to producing their report before January 25, 2002. They have not yet retained an expert and they do not want to compromise their ability to prepare for this hearing. Although they have had the report in their possession for some time, until the Pre-hearing Conference they maintain that they were unaware of the Complainants' intention to rely on it in this hearing.

The Panel is of the view that 30 days is an adequate time for the Complainants to seek a rebuttal report from their expert. Accordingly, the Panel denies the Complainants' request to require the Respondents to produce their expert report 60 days prior to the commencement of the hearing.

The Respondents have made two preliminary applications. First, they ask for an extension in the time for providing a list of witnesses. Currently, the Respondents are required to produce a witness list by December 27, 2001. The Complainants oppose this request. The Panel recognises that it is difficult to bind the Respondents to a witness list as the Respondents will not know precisely who to call as a witness until the Complainants conclude their case. However, the Complainants should have an idea of the Respondents' case. Balancing the issue of disclosure and allowing adequate time to prepare, the Panel directs the Respondents to provide their witness list to the Complainants on or before January 14, 2002. The Panel recognises, however, that the Respondents may need to amend this list at the conclusion of the Complainants' case.

Finally, the Respondents have asked that when the hearing commences, it start at 1:00 p.m. and go to 7:00 p.m. to allow Mr. Vane time to run his landscaping business. He argues that a three-week hearing will seriously impair his ability to make a living. The Complainants oppose this application.

The Panel cannot accommodate this request. It is in the interests of everyone that this hearing proceed on a timely and efficient basis. It is hoped that with careful preparation the parties will not need the full three weeks allotted. However, running the hearing from the afternoon into the evening creates logistical problems for the Complainants and the Panel. Accordingly, the hearing will commence as scheduled, on February 25, 2002 at 10:00 a.m.

ORDERS

1. The Respondents are ordered to produce the documents they have in their possession, which fall within the categories set out in the Complainants' letter of November 14, 2001, on or before January 14, 2002. In addition, the Respondents are ordered to produce all other documents which they intend to rely on at the hearing, on or before January 14, 2002. The Complainants are ordered to reimburse the Respondents for their reasonable costs for copying these documents.

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2. The Respondents are ordered to serve their expert report on or before January 25, 2002.
3. The Respondents are ordered to produce a list of witnesses on or before January 14, 2002.
4. The Respondents' request to commence the hearing from the afternoon into the evening is dismissed.

FARM PRACTICES BOARD
Per

Original signed by

Christine J. Elsaesser, Panel Chair