

ALBERTA ENVIRONMENTAL APPEAL BOARD

Erratum

Date of Decision – April 10, 2012

Date of Erratum – June 22, 2012

IN THE MATTER OF sections 91, 92, 95 and 101 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 Water Matters Society of Alberta, Alberta Wilderness Association, and Trout Unlimited Canada with respect to *Water Act* Licence Amendment Nos. 00045938-00-02 and 00045938-00-03 issued to the Western Irrigation District and *Water Act* Licence Amendment No. 00045808-00-01 issued to the Bow River Irrigation District by the Director, Southern Region, Operations Division, Alberta Environment and Water.

Erratum for: *Water Matters Society of Alberta et al. v. Director, Southern Region, Operations Division, Alberta Environment and Water*, re: *Western Irrigation District and Bow River Irrigation District* (10 April 2012), Appeal Nos. 10-053-055 and 11-009-014-D (A.E.A.B.).

Cite as: *Erratum: Water Matters Society of Alberta et al. v. Director, Southern Region, Operations Division, Alberta Environment and Water*, re: *Western Irrigation District and Bow River Irrigation District* (22 June 2012), Appeal Nos. 10-053-055 and 11-009-014-E (A.E.A.B.).

I. REMOVE

[9] On August 30, 2011, the Board requested the Appellants, WID, BRID, and Director (collectively, the “Participants”) to confirm whether they wanted to proceed through mediation or preliminary motions. The participants requested the matter proceed through preliminary motions.

[61] The WID argued the Appellants are not directly affected for the following reasons:

2. Involvement in water management planning in Alberta is not personal and not the type of interest recognized by the Board as falling into the meaning of directly affected.
3. They did not demonstrate a specific link between the Licence Amendments to divert water for a different purpose and the use of natural resources or that a change in purpose without increasing the amount diverted would create a reasonable probability of harm or impairment to the Appellants’ use of the resources.
4. They did not demonstrate that a significant portion of its members qualify as directly affected.
5. Alberta Wilderness has general concerns for water policy in Alberta.
6. Trout Unlimited does not have any greater right to Jensen Island for fishing purposes than the public at large, and no evidence was provided to demonstrate any link between any harm and the recreational lease.

[89] The Director submitted the Appellants failed to satisfy the requirements of the public interest test. The Director stated:

2. There is no justiciable issue. Justiciability implies and relies on a court’s jurisdiction to consider questions of law. The Appellants considered the elements of justiciability and seriousness together and failed to consider how the question of justiciability relates to forum. The power to grant public interest standing is derived from the Court’s inherent jurisdiction,

but the Board derives its powers from statute and lacks the inherent powers of the Court.

3. Although the Appellants are genuinely interested in the environment and water conservation and management issues in Alberta, they failed to demonstrate a genuine interest in the Licence Amendments. Their concerns are broad and policy based.
4. There is an effective means to bring the issue before the Board, specifically to have a directly affected person or group submit a Notice of Appeal such as what was done in the EID Decision.
5. The proper forum for the Appellants' issues on whether the Board can grant public interest standing may be the Courts.

[123] All of the Appellants are actively involved in the Bow River Basin, water management, and ecosystem protection and this participation is to be commended. However, the arguments provided demonstrate a general interest in the area and water policies and not an interest that will be impacted by the specific Licence Amendments issued.

II. REPLACE WITH

[9] On August 30, 2011, the Board requested the Appellants, WID, BRID, and Director (collectively, the "Participants") to confirm whether they wanted to proceed through mediation or preliminary motions. The participants requested the matter proceed through preliminary motions.

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