

12-002

2019 AEAB 9

Appellants – Peter deGraaf and deGraaf Farming Company Ltd., **Operator** – Peter deGraaf and deGraaf Farming Company Ltd., **Location** – near Vauxhall and Retlaw, **Type of Appeal** – Discontinuance

A Notice of Appeal and request for a stay were received on April 19, 2012 from Peter deGraaf and deGraaf Farming Company Ltd. This appeal is with respect to the April 2, 2012 decision of the Director, Alberta Environment and Parks (AEP), to issue *Water Act* Enforcement Order No. WA-EO-2012/01-SR to Peter deGraaf and deGraaf Farming Company Ltd. for infilling a wetland without an approval at SE 19-13-17-W4M, near Vauxhall and Retlaw, Alberta.

The Board requested and received further information from the Appellants regarding their stay application. On May 12, 2012 the Board advised the parties the stay was denied because the Appellants did not demonstrate that they would suffer irreparable harm if a stay was not granted.

In consultation with the parties, a site visit and mediation were set for June 21 and 22, 2012. In addition to the Appellants and AEP in attendance, the Bow River Irrigation District (BRID) and adjacent landowners attended. The adjacent landowners and the BRID were identified by the parties as either being affected by the activities subject of the Order or potentially interested in the matter.

The Board also set a hearing for July 25, 2012 in the event the mediation did not resolve the appeal. An interim resolution was reached at the mediation meeting and the hearing was cancelled.

Intervenor applications were received which the Board continued to process in case it became necessary to reschedule the hearing. On July 26, 2012, the Board provided its decision regarding the intervenor applications granting intervenor status to adjacent landowner Gerald and Diana Geremia, and David and Fran Geremia, and also to the BRID given its possible responsibility for contributing to the water issues.

In a letter dated October 15, 2012, AEP advised the interim resolution reached at the mediation meeting did not result in the appeal being resolved and requested a hearing be scheduled. The Board proceeded to schedule a hearing for May or June, 2013 as requested by AEP. The parties subsequently requested the hearing not be scheduled while discussions were again underway. The Board requested comments from the parties and intervenors before deciding the urgency of setting the hearing. On November 20, 2012 the Board decided that since the parties appeared to be working on resolving the Order, the Board would not be scheduling a hearing, and requested regular status reports from AEP and the Appellants on the ongoing work.

On March 5, 2019 the Appellants advised AEP inspected the wetland and connecting ditch noting the outstanding work was complete. On March 14, 2019 AEP advised the Order was closed on March 13, 2019 and the Appellants requested the Board close its file. On March 20, 2019, the Board advised the parties it was discontinuing its proceedings and closing the file in this matter.

Cite: Peter deGraaf and deGraaf Farming Company Ltd. v. Alberta Environment and Parks (27 March 2019), Appeal No. 12-002 (A.E.A.B.), 2019 AEAB 9