

16-028-029

2020 ABEAB 17

Appellants – Cherokee Canada Inc. and 1510837 Alberta Ltd., **Operators** – Cherokee Canada Inc. and 1510837 Alberta Ltd., **Location** – Edmonton, **Type of Appeal** – Discontinuance

Notices of Appeal (EAB Appeal Nos. 16-028 and 16-029) were received on October 3, 2016 from Cherokee Canada Inc., and 1510837 Alberta Inc., with respect to the October 3, 2016 decisions of the Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks, to refuse to issue an Amending Approval without providing reasons in relation to EPEA Approval No. 9724-04-00, and to refuse to issue a Remediation Certificate without providing reasons to Cherokee Canada Inc. and 1510837 Alberta Ltd., for a portion of the Domtar wood processing site located in Edmonton.

Further Notices of Appeal (EAB Appeal Nos. 16-034 and 16-035) were received on November 1, 2016 from Cherokee Canada Inc. and 1510837 Alberta Inc., with respect to the October 3, 2016 decisions of the Director, Alberta Environment and Parks, to suspend the Appellants' application for an Amending Approval in relation to EPEA Approval No. 9724-04-00, and to suspend the Appellants' application for a Remediation Certificate for a portion of the Domtar wood processing site located in Edmonton.

In consultation with the parties, a mediation meeting was held on April 21, 2017. The mediation did not resolve the appeals.

A preliminary motions hearing was held on August 3, 2017. The Board's September 13, 2017 letter provided that it had determined that the Director for Alberta Environment and Parks refused to issue an amending approval and refused to issue a remediation certificate, both of which are appealable decisions. Therefore, EAB Appeal Nos. 16-028 and 16-029 were properly before the Board. Further, the Board determined the appeals filed appealing the decisions to suspend the processing of the application for the amending approval and the application for the remediation certificate were moot. Therefore, EAB Appeal Nos. 16-034 and 16-035 were dismissed. The Board issued reasons for its decision.

Cite: *Cherokee Canada Inc. and 1510837 Alberta Inc. v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (21 December 2018), Appeal Nos. 16-028, 029, 034, and 035-ID1 (A.E.A.B.), 2018 ABEAB 22

EAB Appeal Nos. 16-028 and 029 were placed in abeyance pending the outcome of the other enforcement matters involving the appellants (EAB 16-052-054, 055-056, 17-073-084, and 18-005-010). The Board held a 12-day hearing and issued its Report and Recommendations and the Minister's Order regarding the other enforcement matters on February 26, 2019.

Cite: *Cherokee Canada Inc. et al. v. Director, Regional Compliance, Red Deer-North Saskatchewan Region, Operations Division, Alberta Environment and Parks* (26 February 2019), Appeal Nos. 16-055-056, 17-073-084, and 18-005-010-R (A.E.A.B.), 2019 AEAB 1

Given the Board's Report and Recommendations and the Minister's Order, it was the Board's view that the applications by Cherokee and 1510837 Alberta Ltd. for an amending approval and for a remediation certificate were no longer appropriate, and as such EAB Appeal Nos. 16-028 and 16-029 were moot. The Board noted that this view was without prejudice to Cherokee and 1510837 Alberta Ltd. filing subsequent applications to (1) amend the approval and (2) obtain a

remediation certificate once the required work was completed, and potentially filing appeals in the event that they objected to the decisions made by the Director. As a result, the Board proposed to declare appeals EAB 16-028 and 16-029 moot and to close its files regarding these appeals. As no objections were received, the Board discontinued its proceedings and closed its files regarding EAB Appeal Nos. 16-028 and 16-029 on May 4, 2020.

Cite: *Cherokee Canada Inc. and 1510837 Alberta Inc. v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (4 May 2020), Appeal Nos. 16-028-029 (A.E.A.B.), 2020 ABEAB 17