

ALBERTA ENVIRONMENTAL APPEALS BOARD

Appellant – Waste Connections of Canada & Progressive Waste Solutions Canada Inc.,
Operator – Waste Connections of Canada & Progressive Waste Solutions Canada Inc., **Location**
– Coronation Landfill, **Type of Decision and Date** – Discontinuance December 15, 2021

A Notice of Appeal and request for a stay were received on November 23, 2018 from Waste Connections of Canada with respect to the November 23, 2018 decision of the Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks, to refuse a request of confidentiality under section 35(5)(b) of the *Environmental Protection and Enhancement Act* (EPEA) in relation to the release of Waste Connections of Canada's annual report for the Coronation Landfill. The filing of an annual report is required pursuant to EPEA Approval No. 70686-02-00 held by the Appellant. The Appellant objected to the landfill's annual report being released to the City of Calgary as it contained confidential and commercially sensitive information.

Given the nature of the appeal, the Board advised that if the information was released the appeal would be moot. The Board therefore granted a stay until the parties had an opportunity to submit written submissions to the Board. The schedule for receiving written submissions with respect to the stay request was set in the Board's November 26, 2018 letter.

Additionally, on November 26, 2018 the Board received an email from the Director advising that the information in question was released on November 23, 2018 to the City of Calgary. On the same date, the Board also received an email from the City of Calgary confirming the information that was the subject of Waste Connection's confidentiality request was released to the City on November 23, 2018, and as the appeal is now moot, requested the appeal be dismissed. The City of Calgary also advised it was willing to withhold any viewing or distribution of the materials until such time as the Board made a determination on the appeal.

In its letter of November 28, 2018, the Board requested comments from the parties on how it should move forward with respect to the appeal given the application for the stay and the release of the information to the City of Calgary. On December 5, 2018, the Board agreed that the stay application was moot and therefore the Board would not be making a decision on the stay. Before dealing with any motions as to whether the appeal itself was moot, the Board advised it would like to proceed to mediation and asked the parties to provide dates.

In consultation with the parties, the Board scheduled a mediation in Calgary for February 11, 2019, involving the Appellant, the Director and the City of Calgary. Following the mediation, the Appellant and the City of Calgary continued discussions and they provided regular updates on their discussions to resolve the appeal.

On December 14, 2021, the Appellant advised the Board it was withdrawing their appeal as the appeal had become moot. The Appellant stated that Waste Connections had pursued the appeal in order to challenge the process the Director used to make its confidentiality determination. The Director's process has been remedied by establishing a process for confidentiality applications to be made prior to the filing of annual reports to Alberta Environment and Parks under the Approval. Waste Connections will make a request to the Director prior to filing its annual report in 2022.

Based on the withdrawal of the appeal, the Board discontinued its proceedings and closed its file on December 15, 2021.

Cite: *Waste Connections of Canada and Progressive Waste Solutions Canada Inc. v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (15 December 2021), Appeal No. 18-018 (A.E.A.B.), 2021 ABEAB 38.