

Hearing Schedule

Revised: October 20, 2017

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
November 30, 2016	Palmer Ranch (1984) Ltd. EAB 14-009	Written Hearing
Written Hearing (outstanding)	<p>A Notice of Appeal was received on May 27, 2014 from Palmer Ranch (1984) Ltd., in relation to the March 31, 2014 decision of the Director, Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Preliminary Certificate No. 00348439-00-00 to Palmer Ranch (1984) Ltd. The Preliminary Certificate states that upon compliance with conditions in the Preliminary Certificate, Palmer Ranch (1984) Ltd. will receive a licence to divert 730 cubic metres of water annually for commercial purposes (water bottling) from a well in NE 29-003-28-W4M that is hydraulically connected to the Waterton River with priority number 2000-04-04-001.</p> <p>The Board agreed to set aside its May 20, 2015 <u>Decision</u> and hear the merits of the appeal in exchange for the Appellant withdrawing their judicial review. As of October 22, 2016, the judicial review has not been withdrawn. A written hearing has been scheduled and the last submission was received on November 30, 2016. On December 19, 2016, the Panel hearing this matter advised it will have questions for the parties and is addressing the parties' motions.</p> <p>The information requested is necessary to allow the Board to perform its function. The information is collected under the authority of the Freedom of Information and Protection of Privacy Act, section 33(c). Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of this appeal. The information you provide will be considered a public record.</p> <p>The Minister will make the final decision on the appeal. The Board must provide the Minister of Environment and Parks with its Report and Recommendations within 30 days of the hearing closing pursuant to the <i>Environmental Protection and Enhancement Act</i>. The due date to provide the Minister with the Report and Recommendations will be determined after the hearing is closed.</p>	A. MacWilliam E. McAvity A. Mullick
February 17, 2017	M. Pidherney's Trucking Ltd. and 1598768 Alberta Ltd. EAB 15-001-002	Hearing
Written Hearing (outstanding)	<p>A Notice of Appeal was received on May 8, 2015 with respect to the April 8, 2015 decision of Alberta Environment and Parks to issue to M. Pidherney's Trucking Ltd. and 1598768 Alberta Ltd. EPEA Administrative Penalty No. 15/03-AP-RDNSR-15/03 in the amount of \$224,542.00 for allegedly operating a pit exceeding 5 hectares without authorization, and failing to report any contravention of the Code of Practice for pits, for a site at SW-5-40-9-W5M in Clearwater County.</p>	A. MacWilliam, AJ Fox, C. Powter

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
----------------------	------------------------	---------------------------------

Two issues only were being addressed through a written hearing, however in May 2017 the Board decided it would proceed to an oral hearing on the two issues. Submissions on the two issues were received in February 2017. Due to the parties' schedules the hearing will be held at the end of September or October 2017. **The hearing is outstanding and as of July 4, 2017 the Board is reviewing comments from the parties on the process set to address this appeal.**

The issues to be heard are: 1. Is the Director obligated to consider what may be an appropriate administrative penalty for a corporation who has been found to have operated a sand and gravel facility without a registration with respect to section 237(2) of the Environmental Protection and Enhancement Act on both subsections (a) and (b)? 2. If the principles of parity and proportionality do apply, what direction would the Board provide as to how a Director ought to consider these principles in the administrative penalty assessment process? Once the Board has made a decision on these issues, it will provide direction on how the remaining issues in this appeal will be dealt with.

Any person, other than the parties, who wished to make a representation before the Board on this appeal was to submit a request to the Board by January 6, 2017. The Board did not receive any applications to intervene.

The information requested is necessary to allow the Environmental Appeals Board to perform its function. The information is collected under the authority of the Freedom of Information and Protection of Privacy Act, section 33(c). Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of this appeal. The information you provide will be considered a public record.

The Board will make the final decision on this appeal. The Board must issue its Decision within 30 days of the hearing closing pursuant to the Environmental Protection and Enhancement Act.

June 14, 2017

Mike and Cathy Hayes
EAB 17-017-018

Mediation Meeting

Strathmore

A Notice of Appeal was received on April 20, 2017 with respect to the April 13, 2017 decision of the Director, Alberta Environment and Parks (AEP), to issue *Water Act* Enforcement Order No. WA-EO-2017/01-SSR to Mike and Cathy Hayes for allegedly conducting an activity which may have impacted a wetland, without authorization, on lands at Block B, Plan 5459JK, in Wheatland County.

N. Tywoniuk

A mediation meeting is scheduled for June 14, 2017. Mediation meetings are not open to the public.

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
<p>June 16, 2017</p> <p>9:00 am</p> <p>Environmental Appeals Board office 306, 10011-109 Street Edmonton</p>	<p>William and Audrey Trenchuk EAB 16-010-023</p> <p>Nine individuals filed Notices of Appeal July 21-25, 2016, with respect to the July 11, 2016 decisions of Alberta Environment and Parks (AEP) to issue to William and Audrey Trenchuk: <i>Water Act</i> Approval No. 00378428-00-00 that authorizes maintaining, removing or disturbing ground, vegetation or other material in or on any land, water or water body for the construction of a dugout in SW-22-059-16-W4M for stock watering purposes; and <i>Water Act</i> Licence No. 00360885-00-00 authorizing the operation of a works and the diversion of up to 18,100 cubic metres of water annually from the source of water known as Dugout #1 in SE-21-059-16-W4M for stock watering purposes and miscellaneous farm use; and up to 10,860 cubic metres of water annually from the source of water known as Dugout #2 in SW-22-059-16-W4M for stock watering purposes, for the Trenchuk Feedlot, in Smoky Lake.</p> <p>A hearing is scheduled for June 16, 2017. The issues for the hearing are: 1. Were the Approval and Licence properly issued ensuring no impact to the water supplies of the Appellants? This issue includes consideration of (a) whether the Trenchuks need the water included in the Licence for their operation, (b) the amount of water available in the basin for the Trenchuks' operation and other water users, and (c) whether the applications were complete (ie. whether sufficient technical information was provided). 2. Are the terms and conditions of the Licence and Approval sufficient to protect local water supplies and the local environment?</p> <p>Any person, other than the parties, who wishes to make a representation before the Board on this appeal must submit a request in writing by fax (780-427-4693) or by e-mail (gilbert.vannes@gov.ab.ca) to the Board. The request must be received by the Board on or before May 24, 2017. It is the applicant's responsibility to ensure their request is received by the Board by May 24, 2017. The request shall (a) contain the name, address, e-mail, and telephone and fax numbers of the person submitting the request, (b) indicate whether the person submitting the request intends to be represented by a lawyer or agent and, if so, the name of the lawyer or agent, (c) contain a summary of the nature of the person's interest in this appeal, and (d) be signed by the person submitting the request. Applications will only be considered if the information will assist the Board in making its decision, and will not duplicate the information provided by the parties. After May 24, 2017, the Board will, in its discretion, determine if other persons may make representations, and the manner in which they can be made. Once the Board makes a decision on any intervenor applications, the hearing will be open to the public for viewing only.</p> <p>Effective May 5, 2017, copies of material filed with the Board respecting this appeal will be available for viewing at the Smoky Lake Public Library, 5010-50 Street, Smoky Lake, Alberta, during its normal operating hours, or by appointment at the office of the Environmental Appeals Board in Edmonton.</p>	<p>Hearing</p> <p>E. McAvity N. Tywoniuk B. Ballachey</p>

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
	<p>The information requested is necessary to allow the Board to perform its function. The information is collected under the authority of the Freedom of Information and Protection of Privacy Act, section 33(c). Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of this appeal. The information you provide will be considered a public record.</p> <p>The Minister of Environment and Parks will make the final decision on this appeal. The Board must provide the Minister with its Report and Recommendations within 30 days of the hearing closing pursuant to section 99(1) of the <i>Environmental Protection and Enhancement Act</i>.</p>	
June 28, 2017	Town of Wainwright EAB 16-009	Mediation Meeting
CANCELLED	<p>A Notice of Appeal was received on July 18, 2016 regarding the July 6, 2016 decision of Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Approval No. 00367709-00-00 on July 6/16 to the Town of Wainwright to infill and disturb wetlands near SE-05-45-06-W4M in Wainwright.</p> <p>The mediation meeting scheduled for June 28, 2017 is being rescheduled. Mediation meetings are not open to the public.</p>	D. Evans
August 3, 2017	Cherokee Canada Inc., 1510837 Alberta Ltd., and Domtar EAB 16-028-029 & 16-034-035	Preliminary Motions Hearing
<p>9:00 am</p> <p>Environmental Appeals Board Office #306, 10011-109 Street Edmonton</p>	<p>Notices of Appeal (EAB 16-028 & 029) were received from Cherokee Canada Inc. and 1510837 Alberta Ltd. on October 3, 2016 regarding the October 3, 2016 decisions of the Director, Provincial Approvals, Alberta Environment and Parks (AEP), 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., with respect to a portion of the Domtar wood processing site located in Edmonton.</p> <p>A preliminary motions hearing is scheduled for August 3, 2017, and is open to the public for viewing only.</p>	<p>A. MacWilliam C. Powter N. Tywoniuk</p>
September 7, 2017	Town of Wainwright EAB 16-009	Mediation Meeting
CANCELLED	<p>A Notice of Appeal was received on July 18, 2016 regarding the July 6, 2016 decision of Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Approval No. 00367709-00-00 on July 6/16 to the Town of Wainwright to infill and disturb wetlands near SE-05-45-06-W4M in Wainwright.</p>	D. Evans

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
September 19, 2017	Cherokee Canada Inc., 1510837 Alberta Ltd., and Domtar EAB 16-052-054 and EAB 16-055-056	Preliminary Motions Hearing
8:30 am Environmental Appeals Board Office #306, 10011-109 Street Edmonton	<p>The mediation meeting scheduled for June 28, 2017 was rescheduled to September 7, 2017, however, the Town requested the mediation be cancelled. Mediation meetings are not open to the public.</p> <p>Notices of Appeal were received from Domtar Inc., Cherokee Canada Inc. and 1510837 Alberta Ltd. on December 22 and 23, 2016 in relation to the December 20, 2016 decision of Alberta Environment and Parks (AEP) to issue Environmental Protection Order No. EPO-2016/05-RDNSR to Domtar Inc., Cherokee Canada Inc. and 1510837 Alberta Ltd. for the clean-up of a site where a wood processing plant that produced treated wood products operated from 1924 to 1987, located at 4439-127 Avenue in Edmonton.</p> <p>Notices of Appeal were received from Cherokee Canada Inc. and 1510837 Alberta Ltd. on December 23, 2016 in relation to the December 16, 2016 decision of Alberta Environment and Parks (AEP) to issue Enforcement Order No. EPEA-EO-2016/03-RDNSR to Cherokee Canada Inc. and 1510837 Alberta Ltd. for the clean-up of a site where a wood processing plant that produced treated wood products operated from 1924 to 1987, located at 4439-127 Avenue in Edmonton.</p> <p>A preliminary motions hearing is scheduled for September 19, 2017, and is open to the public for viewing only.</p> <p>The Board will hear oral submissions on:</p> <p><u>Stay Requests (16-052-054) EPO</u> Interim stays were granted to Cherokee on February 21, 2017 and to Domtar on February 28, 2017.</p> <p><u>Document Production Requests for Director's Records back to 1987 (16-052-054) EPO</u> Submissions were received from Cherokee and Domtar requesting the Director's records back to 1987</p> <p><u>Stay Request (16-055-056) EO</u> An interim stay was granted to Cherokee on January 12, 2017.</p> <p><u>Jurisdiction Issue (16-055-056) EO</u> AEP requested the appeals be dismissed stating EO is not appealable.</p> <p><u>Records Issues (16-055-056) EO</u> Cherokee stated there are documents missing from the documents (judicial review documents for Queen's Bench action) provided by AEP. AEP advised no further documents will be produced.</p>	A. MacWilliam C. Powter M. Barker

Date, Time, Location	Appeal Name and Number	Type of Function & Board Member
	<p><u>Consolidation of Appeals (16-028-029, 034-035; 16-052-054; 16-055-056)</u> Cherokee raised a motion to consolidate the application appeals (16-028-029, 034-035), EPO appeals (16-052-054), and EO appeals (16-055-056). AEP advised the motion is premature.</p>	
<p>October 17, 2017</p> <p>Calgary</p>	<p>Alberta Whitewater Association and 1350774 Alberta Ltd. EAB 17-043 & 17-044</p> <p>A Notice of Appeal was received from Alberta Whitewater Association and 1350774 Alberta Ltd. on June 9, 2017 with respect to the May 10, 2017 decision of Alberta Environment and Parks (AEP) to issue <i>Water Act</i> Administrative Penalty No. WA-17/06-AP-SSR-17/06 in the amount of \$20,000 to the Alberta Whitewater Association and 1350774 Alberta Ltd. for contravening clauses 3.2, 3.3, and 3.7 of Approval No. 00354600-00-00 relating to Canoe Meadows located at S & E1/2 15-24-8-W5M and NW 14-24-8-W5M in the Kananaskis Improvement District</p> <p>A mediation meeting is scheduled for October 17, 2017. Mediation meetings are not open to the public.</p>	<p>Mediation Meeting</p> <p>M. Barker</p>
<p>October 23, 24 & 25, 2017</p> <p>October 23, 9:00 am October 24 & 25, 8:30 am</p> <p>Best Western Village Park Inn 1804 Crowchild Trail NW Calgary</p>	<p>KGL Constructors EAB 17-047 & 17-050</p> <p>Notices of Appeal were received on August 11 and 15, 2017 in relation to the August 11, 2017 decision of Alberta Environment and Parks (AEP) to issue <i>Water Act</i> Approval No. 00388473-00-00 to KGL Constructors for permanently disturbing (in-fill) 24 wetlands for a total of 22.07 ha of wetland loss and changing the location of water for the purpose of dewatering wetlands, subject to the terms and conditions in the Approval. The work is being done as part of the south west Calgary ring road project. The hearing is in relation to the wetlands only. The activity locations are: NW 04-024-02-W5M, SE 03-024-02-W5M, W½ 25-023-02-W5M, E½ 26-023-02-W5M, NW 24-023-02-W5M, SE 24-023-02-W5M, W½ 18-023-01-W5M, E½ 13-023-02-W5M, W ½ 31-022-01-W5M, SE 31-022-01-W5M, E½ 30-022-01-W5M, SW 29-022-01-W5M, NW 20-022-01-W5M, S ½ 28-022-01-W5M, W ½ 21-022-01-W5M, SW 27-022-01-W5M, and N ½ 22-022-01-W5M. A stay has been issued for work related to Wetlands 06 (Beaver Pond), 07, 08, and 09. The wetlands are outlined in the <u>Approval</u>. Watercourse 01 had initially been included in the stay, but the Board determined it did not have the jurisdiction to include the watercourse in the stay. Therefore, the Board released the stay with respect to Watercourse 01.</p> <p>The issues for the hearing are:</p> <ol style="list-style-type: none"> 1. What is the standard for review the Board should apply in the circumstances of this case? 	<p>Hearing</p> <p>A. MacWilliam E. McAvity A. Mullick</p>

In consideration of this issue, the Board has used the word “appropriate” in the remaining issues. The meaning of appropriate will be based on the standard of review determined by the Board. In addressing this issue, the parties are requested to consider the *de novo* jurisdiction of the Board as provided for in section 95(2)(d) of EPEA.

2. Was the decision to issue the Approval appropriate having regard to the potential environmental impacts of the work authorized by the Approval? This includes, but is not limited to:
 - a. the terms and conditions in the Approval;
 - b. the impacts of disturbing the wetlands included in the Approval; and
 - c. the impact of disturbing the wetlands specified in the Approval in the context of all of the wetlands impacted by the development of the Southwest Calgary Ring Road.
3. In making the decision to issue the Approval, was the Director required to apply relevant provincial wetland policies? If so, what are the relevant provincial wetland policies and did the Director appropriately apply these policies?

This issue includes, but is not limited to, consideration of the relationship between the relevant provincial wetland policies and the agreement entered into between the Crown and the Tsuu T’ina, and the relationship between the relevant provincial wetland policies and the legislation passed to establish the Transportation Utility Corridor. For example, does the agreement or the legislation affect the applicability or interpretation of the policies?

Any person, other than the parties, who wished to make a representation before the Board on these appeals was to submit a request to the Board by September 15, 2017. On September 28, 2017, the Board permitted the following intervenors to give a 10 minute presentation at the hearing, be cross-examined by the parties adverse in interest and questioned by the Board: Alberta Transportation, Rocky View County, Ms. Sherry Angevine, Ms. Maureen Bell, Ms. Janice Fraser, Mr. Charles Hansen, Mr. Barry Lester, Mr. Leon Nellissen, Ms. Sarah Nevill, Weaselhead Society, Calgary Nature, and Mr. Manoj Sharma. The intervenors were required to file a submission on October 4, 2017. Rocky View County advised that it did not want to present at the hearing.

Copies of material filed with the Board respecting these appeals will be available for viewing at the Calgary Central Library, 616 Macleod Trail SE, Calgary Alberta, during its normal operating hours, or by contacting the Environmental Appeals Board in Edmonton (780-427-6207).

The information requested is necessary to allow the Board to perform its function. The information is collected under the authority of the *Freedom of Information and Protection of Privacy Act*, section 33(c). Section 33(c) provides that personal

Date, Time, Location

Appeal Name and Number

**Type of Function
& Board Member**

information may only be collected if that information relates directly to and is necessary for the processing of these appeals. The information you provide will be considered a public record.

The Minister of Environment and Parks will make the final decision on these appeals. The Board must provide the Minister with its Report and Recommendations within 30 days of the hearing closing pursuant to section 99(1) of the *Environmental Protection and Enhancement Act*.