

# Status of Active Appeals

Revised: March 20, 2018

## Appeal Name & Number

## Description of Appeal and Status

**719722 Alberta Ltd.**  
EAB 10-031  
March 20, 2018

A Notice of Appeal was received from 719722 Alberta Ltd. on November 19, 2010 with respect to Alberta Environment and Sustainable Resource Development's, now Alberta Environment and Parks (AEP), November 12, 2010 decision to issue Environmental Protection Order No. EPO-2010/48-CR under the *Environmental Protection and Enhancement Act* to 719722 Alberta Ltd. in relation to the clean-up of a retail gas station located at 4710-50 Avenue in Calmar. At the request of AEP and the Appellant, the appeal was placed in abeyance while they are in discussions. On June 10, 2011, the parties requested the appeal proceed to a mediation meeting. A mediation meeting was held July 19, 2011 in Edmonton and a further mediation meeting was held February 27, 2012. Mediation meetings are not open to the public. AEP and the Appellant continued discussions following the mediation, and amendments have been issued to the Order.

Hearings were scheduled for April 11-13 and September 25-27, 2012. Since AEP agreed to the adjournments and was satisfied with the progress of the delineation and remediation work, the Board granted the adjournments, and requested the parties provide regular updates on the progress of the work. **No further amendments have been issued to the Order. Status reports are due from the Appellant and AEP by April 13, 2018. The status reports are to include dates for a mediation meeting and respond to the Town of Calmar's statement that work has come to a standstill due to lack of funds and inquiring on how the cleanup will proceed.**

The Board received applications to intervene from the Town of Calmar, Leduc/Calmar Co-op, and two previous landowners W.W. Importers & Exporters Ltd. and Country Club Inn Ltd. On April 24, 2012, the Board issued its Decision granting full intervenor status to all the applicants because the Appellant intends to argue that other persons, including the intervenor applicants, should be named in the Environmental Protection Order. Therefore, the Board determined that all the applicants have a direct interest in the appeal and should be given the opportunity to participate in the appeal.

Should a hearing be held, the Board will provide the Minister of Environment and Parks with its Report and Recommendations pursuant to the *Environmental Protection and Enhancement Act*. The Minister will make the final decision on this appeal by issuing a Ministerial Order.

**Peter deGraaf and deGraaf Farming**  
EAB 12-002  
October 4, 2017

A Notice of Appeal and request for a Stay were received on April 19, 2012 from Mr. Peter deGraaf and deGraaf Farming with respect to the April 2, 2012 decision of Alberta Environment and Sustainable Resource Development, now Alberta Environment and Parks (AEP), to issue Water Act Enforcement Order No. WA-EO-2012/01-SR to Mr. Peter deGraaf and deGraaf Farming for allegedly infilling a wetland without an approval at SE-19-13-17-W4M near Vauxhaull and Retlaw, Alberta.

**Mediation Meeting** - A mediation meeting was held on June 22, 2012 in Lethbridge that resulted in an interim agreement. Mediation meetings are not open to the public. As a result of that interim agreement, the hearing scheduled for July 25, 2012 was cancelled. **Regular status reports are to be provided and the next status reports are due on June 29, 2018.**

**Hearing** - The issues to be addressed if a hearing is held are those stated in the Notice of Appeal. 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 June 25, 2012. The Board received applications to intervene from two neighbouring landowners and the Bow River Irrigation District (BRID). On July 26, 2012, the Board issued a Letter stating that it was reasonable to expect that any impact to the site that is the issue in the appeal would also impact the adjacent landowners, and therefore the Board granted full intervenor status to the neighbouring landowners. The Appellants raised the possibility that some of the water issues raised in the Enforcement Order are a result of water seeping from the BRID works. This suggests to the Board that the BRID clearly has an interest in the outcome of the appeal hearing, and therefore was granted full intervenor status.

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Should a hearing be held, the Board will provide the Minister of Environment and Parks with its Report and Recommendations within 30 days of the hearing closing, pursuant to the Environmental Protection and Enhancement Act. The Minister would then make the final decision on this appeal by issuing a Ministerial Order.

**Peter Greenways and Greenways Inc.**  
EAB 12-004

February 9, 2018

A Notice of Appeal was received on May 30, 2012 from Peter Greenways and Greenways Inc. with respect to the May 30, 2012 decision of Alberta Environment and Parks (AEP) to issue to Peter Greenways and Greenways Inc. Enforcement Order No. EO-2012/01-NR for failing to properly store hazardous wastes and hazardous recyclables at Greenway's Inc., a former chrome and nickel plating facility located at 52 Street and 73 Avenue in Edmonton.

The mediation meeting scheduled for August 22, 2012 in Edmonton was cancelled at the request of Mr. Greenways as they are complying with the Order. AEP consented to cancelling the mediation. Mediation meetings are not open to the public. The parties are to provide regular status reports on their progress, and the **next status reports are due April 4, 2018.**

**NuVista Energy Ltd.**  
EAB 13-027

October 16, 2017

A Notice of Appeal was received on March 11, 2014 from the landowner with respect to the September 10, 2013 decision of Alberta Environment and Parks (AEP), to issue to NuVista Energy Ltd. Reclamation Certificate No. 00331855-00-00 for the NuVista Alkali 14-13-24-5 well, located at W Sec. 13, Twp. 24, Rg. 5, W4M, near Oyen.

A mediation meeting was scheduled for June 16, 2014. Mediation meetings are not open to the public. On June 9, 2014 AEP requested the mediation meeting be cancelled to allow for two site visits to assess the site conditions and growth. After consulting with the landowner and NuVista, on June 12, 2014 the Board agreed to cancel the June 16, 2014 mediation and requested the parties provide status reports by July 31, 2014 regarding the assessment of the site and discussions. The appeal was placed in abeyance until a site visit was conducted in 2016. Work has taken place on the land and site visits are occurring to monitor the site. NuVista is to provide regular status reports on their progress. On October 16, 2017, **the Board requested NuVista provide their next status report by June 15, 2018.**

**Westar Landfill Ltd.**  
EAB 14-001

November 21, 2017

A Notice of Appeal was received on April 14, 2014 with respect to the April 8, 2014 decision of Alberta Environment and Parks (AEP), to issue to Westar Landfill EPEA Environmental Protection Order No. EPO-2014/04-SSR for allegedly releasing substances from the landfill, located in Cypress County.

The Appellant requested a stay of the Order. AEP agreed to an interim stay and the EPO has been amended by extending the deadlines.

**Mediation Meeting** - On June 17, 2014, in consultation with the parties, a mediation meeting was held on July 15, 2014. Mediation meetings are not open to the public. A second mediation was scheduled for November 4, 2014, however the parties requested the mediation be rescheduled as the Appellant was conducting testing. The mediation was scheduled for February 4, 2015, however, the Appellant requested the mediation be cancelled as they were waiting for testing results and meeting with AEP in early January. On January 2, 2015 the Board cancelled the February 4, 2015 mediation meeting. Regular status reports were provided by the parties on their progress and a further mediation was held on November 17, 2017. Mediation Meetings are not open to the public. **The parties are to provide status reports by May 11, 2018.**

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**Palmer Ranch (1984) Ltd.**  
EAB 14-009  
December 19, 2016

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 Water Act 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.

The Board agreed to set aside its May 20, 2015 Decision 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.

**Hearing** - A written hearing is being held and the last submission was received November 30, 2016. **On December 19, 2016, the Panel hearing this matter advised it will have questions for the parties and is addressing motions from the parties. This hearing remains open.** As of March 20, 2018 there has been no change to the status of this appeal. **The parties are also in discussions to resolve the appeal.**

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 *Environmental Protection and Enhancement Act*. The due date to provide the Minister with the Report and Recommendations will be determined after the hearing is closed.

**M. Pidherney's Trucking Ltd. and 1598768 Alberta Ltd.**  
EAB 15-001-002

July 4, 2017

A Notice of Appeal was received on May 8, 2015 with respect to the April 8, 2015 decision of Alberta Environment and Parks (AEP) 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 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.

**Mediation Meeting** - A mediation meeting was held on September 2, 2015 and a further mediation was held on December 6, 2016. Mediation meetings are not open to the public.

**Hearing** - Two issues only were being addressed through a written hearing and submissions were received in February 2017. In May 2017, the Board decided it would proceed to an oral hearing on the two issues. **The hearing is outstanding. As of July 4, 2017 the Board is reviewing comments from the parties on the process set to address this appeal. As of March 20, 2018 there has been no change to the status of 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 by January 6, 2017. The Board did not receive any applications to intervene.

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*.

**1370996 Alberta**

A Notice of Appeal was received on July 24, 2015 with respect to the July 20, 2015 decision of Alberta Environment and Parks (AEP) to issue EPEA Environmental Protection Order No. EPO-

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<p><b>Ltd.</b> EAB 15-020 January 22, 2018</p>	<p>2015/02-SSR to 1370996 Alberta Ltd. for allegedly releasing a substance into the environment at W 1/2-11-14-23-W4M, which is immediately adjacent to the Little Bow River and that the substance may cause, is causing or has caused an adverse effect on the environment, including impairment of or damage to the environment, human health or safety of property. On July 15, 2015 a fertilizer storage tank ruptured releasing approximately 9800L of urea ammonium nitrate, near Carmangay.</p> <p><b>Stay Request</b> - The Appellant applied to the Board for a stay of the Order. After receiving information from the parties, on August 12, 2015 the Board denied the stay and issued its <u>Decision</u> on October 14, 2015.</p> <p><b>Mediation Meeting</b> - Mediation meetings were held on September 11, 2015 in Lethbridge and via conference call on October 13, 2015. Mediation meetings are not open to the public. The parties are to provide regular status reports on their progress. <b>The next status reports are due April 6 2018.</b></p>
<p><b>Lafarge Canada Inc.</b> EAB 15-021 January 9, 2017</p>	<p>A Notice of Appeal was received on August 28, 2015 with respect to the August 14, 2015 decision of Alberta Environment and Parks (AEP) to issue <i>Water Act</i> Approval No. 00255428-00-00 to Lafarge Canada for the construction and maintenance of an end pit lake for recreational use as a result of reclamation of a sand and gravel extraction operation, and for the construction of river flood protection works including goynes and a rock trenchfill structure for a sand and gravel extraction operation on the NE 34-061-06-W5M and SE 03-062-06-W5M, near Fort Assiniboine.</p> <p><b>Mediation Meeting</b> - A mediation meeting was held on December 14, 2015 in Edmonton. Mediation meetings are not open to the public. Discussions continued, however, the appeal was not resolved and the mediation was closed on September 27, 2016.</p> <p><b>Preliminary Motions</b> - The parties are to provide submissions on whether the appellant is directly affected and what issues should be heard at a hearing (should one be held). The last submission was received on December 9, 2016 and the Board Panel convened on January 9, 2017 to discuss. <b>The Board will make a decision on whether the appellant is directly affected, and if so, what issues should be heard at a hearing. As of March 20, 2018 there has been no change to the status of this appeal.</b></p>
<p><b>Diamond H Farms Ltd., Peter Hebert and Gabriel Hebert</b> EAB 15-027-029 October 18, 2017</p>	<p>A Notice of Appeal was received on October 16, 2015 from Diamond H Farms Ltd., Peter Hebert and Gabriel Hebert regarding the October 9, 2015 decision of Alberta Environment and Parks (AEP) to issue to Diamond H Farms Ltd., Peter Hebert and Gabriel Hebert <i>Water Act</i> Enforcement Order No. WA-EO-2015/05-LAR for allegedly conducting activities in relation to the Columbine Creek without a <i>Water Act</i> authorization.</p> <p><b>Mediation Meeting</b> - A mediation meeting was held on December 10, 2015 in St. Paul. Mediation meetings are not open to the public. <b>The mediation is ongoing and status reports on the parties' progress are due May 30, 2018.</b></p>
<p><b>Benga Mining Ltd.</b> EAB 16-001 October 14, 2016</p>	<p>A Notice of Appeal was received on April 19, 2016 from Benga Mining Ltd. regarding the March 4, 2016 decision of Alberta Environment and Parks (AEP) to cancel <i>Water Act</i> Licence No. 86 in the Oldman River and No. 3 on Gold Creek (NE-31-7-3-W5M). The Licence was issued under the <i>Water Resources Act</i> to Joseph Margetak.</p> <p>On April 21, 2016, Alberta Environment and Parks requested the appeal be dismissed because only the licensee may appeal a cancellation of a licence and Benga is not the licensee (s. 115(1)(g) of the <i>Water Act</i>). AEP further stated that should the Board decide that Benga has standing to appeal, the appeal has been filed outside the 30 day time limit dictated by the legislation (s.</p>

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116(1)(b) of the *Water Act*) and should be dismissed. Submissions were received by June 17, 2016 on whether Benga has standing to appeal and the Board is reviewing. **On October 14, 2016 the Board dismissed the appeal** stating Benga Mining is not a Licencee, in that they neither own the land or the undertaking to which the *Water Act* Licence is appurtenant, therefore they cannot appeal. **The Board's reasons will be issued in due course. As of March 20, 2018, there has been no change to the status of this appeal.**

**Terry and Catherine Gilbertson**  
EAB 16-005

May 18, 2017

A Notice of Appeal was received on June 10, 2016 with respect to the May 2, 2016 decision of Alberta Environment and Parks (AEP) to issue to Terry and Catherine Gilbertson *Water Act* Licence No. 00369196-00-00 for the operation of a works and the diversion of up to 3400 cubic metres of water annually from SW-35-038-09-W4M for agricultural purposes (stock watering), near Brownfield.

**Mediation Meeting** - A mediation meeting was held on August 18, 2016 in Coronation. Discussions continued, however the appeal was not resolved. Mediation meetings are not open to the public.

**Hearing** - The hearing scheduled for March 24, 2017 was cancelled on March 23, 2017 because the Appellant withdrew the appeal.

**Costs** - The Board received cost applications from the Appellant and Licence Holder along with comments on the applications. **As of May 18, 2017, the Board Panel is reviewing the submissions and will decide if any costs will be awarded. As of March 20, 2018 there has been no change to the status of this appeal.**

**728106 Alberta Ltd. and Wolfgang Wendrich (Crowsnest Mountain Resort)**  
EAB 16-006

November 18, 2016

A Notice of Appeal and request for a stay were received on July 4, 2016 from Wolfgang Wendrich on behalf of Crowsnest Mountain Resort in relation to the June 30, 2016 decision of Alberta Environment and Parks (AEP) to issue to 728106 Alberta Ltd. (operating as Crowsnest Mountain Resort) and Wolfgang Wendrich, EPEA Environmental Protection Order No. EPO-2016/03-SSR for allegedly operating or maintaining a non-compliant water delivery system in a manner that may cause or is causing the potable water supplied by that system to be unfit for its intended uses.

The Board requested additional information from the Appellant regarding the stay application. The Appellant provided the information on July 6, and on July 26, 2016 the Board denied the stay request. Since AEP did not want to proceed to a mediation meeting, a hearing was scheduled for October 21, 2016. On September 2, 2016, AEP advised the Order was cancelled and as a result the Board cancelled the hearing. **On November 18, 2016, the Board dismissed the appeal for being moot and stated it will issue its reasons in due course. As of March 20, 2018, there has been no change to the status of this appeal.**

**Town of Wainwright**  
EAB 16-009

February 28, 2018

A Notice of Appeal was received on July 18, 2016 regarding the July 6, 2016 decision of Alberta Environment and Parks (AEP), to issue *Water Act* Approval No. 00367709-00-00 to the Town of Wainwright to infill and disturb wetlands near SE-05-45-06-W4M in Wainwright.

**Mediation Meeting** - The mediation meetings scheduled for June 28, 2017 and September 7, 2017 were cancelled. Mediation meetings are not open to the public. The Town requested the appeal proceed to a hearing.

**Hearing – A hearing has been scheduled for May 29, 2018. The procedures for the hearing are outstanding.** The parties are to comment on the Board's proposed hearing issues and provide any preliminary motions.

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**William and Audrey Trenchuk**  
EAB 16-010-023  
September 11, 2017

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: *Water Act* 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 *Water Act* 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.

**Mediation Meeting** - A mediation meeting was held on November 15, 2016 in Smoky Lake, however the appeals were not resolved. Mediation meetings are not open to the public.

**Hearing** - A hearing was held on June 16, 2017, at the Board's office. 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?

Any person, other than the parties, who wished to make a representation before the Board on this appeal were to submit a request by May 24, 2017. The Board did not receive any requests. The hearing is open to the public for viewing only.

Copies of material filed with the Board respecting this appeal were 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.

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 these appeals. The information you provide will be considered a public record.

The Board provided the Minister of Environment and Parks with its Report and Recommendations within 30 days of the hearing closing pursuant to section 99(1) of the *Environmental Protection and Enhancement Act*. The Minister made a decision by issuing a Ministerial Order. **The Board issued its Report and Recommendations and the Minister's Order on August 11, 2017.**

**Costs** – One Appellant reserved his right to file a cost application. The cost application was received on August 25, 2017. **The parties' comments on the cost application were received on September 8, 2017 and the Board Panel will now make a decision on the cost application.** As of March 20, 2018 there has been no change to the status of this appeal.

**Secure Energy Services Inc.**  
EAB 16-024  
March 5, 2018

A Notice of Appeal was received on July 28, 2016 from NormTek Radiation Services Ltd. regarding the July 14, 2016 decision of Alberta Environment and Parks (AEP), to issue to Secure Energy Services Inc., EPEA Amending Approval No. 48516-01-04 authorizing the construction, operation and reclamation of the Pembina Area Landfill, consisting of a Class 1 and Class II landfill where more than 10,000 tonnes per year of hazardous waste and non-hazardous waste are disposed of, near Drayton Valley.

Secure Energy challenged the Appellant's appeal stating the Appellant is not directly affected by the Amending Approval. Submissions were received and **on October 13, 2016, the Board dismissed the appeal stating NormTek Radiation Services is not directly affected by the Amending Approval. The Board issued its Decision on March 5, 2018 containing the**

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reasons for dismissing the appeal.

On January 11, 2017, NormTek filed two judicial reviews in the Court of Queen's Bench. See the Judicial Review webpage for information.

**Beaverlodge River Arctic Grayling Renewal Society**  
EAB 16-025

January 30, 2017

A Notice of Appeal was received from the Beaverlodge River Arctic Grayling Renewal Society on August 9, 2016 regarding the August 3, 2016 decision of Alberta Environment and Parks (AEP) to return to the Society *Water Act* Application No. 001-00374356 for being incomplete. The application relates to the replacement of a fish ladder at the Town of Beaverlodge weir.

The Board stated that the appeal appears to relate to a decision that is not appealable under section 115 of the *Water Act* and requested the Society provide an explanation as to why they believe AEP's decision is appealable. Submissions were received and **on January 30, 2017, the Board dismissed the appeal** stating that section 37(4) of the *Water Act* allows the Director to require the consent of the owner of the structure as a requirement for the application to be complete. The Appellant was not able to obtain the consent, and therefore the application is incomplete. Section 115 of the *Water Act* outlines the types of decisions made by the Director that can be appealed. The refusal to accept an incomplete application is not listed under section 115, therefore it is not appealable. **The Board will issues its reasons for the decision in due course. As of March 20, 2018, there has been no change to the status of this appeal.**

**Cherokee Canada Inc. and 1510837 Alberta Ltd.**

EAB 16-028-029 and 16-034-035

March 17, 2018

Notices of Appeal were received from Cherokee Canada Inc. and 1510837 Alberta Ltd. on October 3, 2016 regarding the October 3, 2016 decisions of Alberta Environment and Parks (AEP), to suspend an application and refuse to issue an Amending Approval without providing reasons in relation to EPEA Approval No. 9724-04-00, and to suspend an application and 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.

Alberta Environment and Parks stated no decision has been made by AEP that is appealable under section 91 of the *Environmental Protection and Enhancement Act*. On November 10, 2016, AEP provided a submission on their motion the appeals should be dismissed for not being valid appeals. Submissions were received from the parties on AEP's motion to dismiss. AEP has also provided their records regarding this matter. An oral preliminary motions hearing was held on August 3, 2017. The purpose of the preliminary motions hearing was to hear oral legal arguments from the participants on the following motions: refusal to issue an Amending Approval with respect to EPEA Approval No. 9724-04-00; refusal to issue a Remediation Certificate; the decision to suspend the application for an Amending Approval with respect to EPEA Approval No. 9724-04-00); and the decision to suspend the application for a Remediation Certificate.

**On September 13, 2017 the Board issued its decisions on the motions stating the appeals of the refusal to issue an amending approval and remediation certificate (16-028-029) are properly before the Board. The Board's October 31, 2017 letter states the appeals regarding the suspension of the applications are moot (16-034-035).** The Board's reasons for its decision are forthcoming.

On November 10, 2017 a conference call was held with the parties to discuss the next steps to processing these appeals. **The Board is in exchange of correspondence with the parties regarding setting a hearing, the duration of the hearing, and procedural issues.**

**TELUS Communications Inc.**  
EAB 16-042

A Notice of Appeal was received on November 25, 2016 in relation to the October 28, 2016 decision of Alberta Environment and Parks (AEP) to issue *Environmental Protection and Enhancement Act* Administrative Penalty No. EPEA-16/12-AP-UAR-16/12 in the amount of \$634,315.00 to TELUS Communications for allegedly disposing waste without authorization near the Town of Hinton.

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As of January 10, 2017, the appeal is in abeyance while the Appellant and AEP are in discussions. The parties are to provide regular updates on their discussions. **The next status reports are due by April 20, 2018.**

**Lafarge Canada Inc.**

EAB 16-043

March 16, 2018

A Notice of Appeal was received on November 29, 2016 in relation to the October 28, 2016 decision of Alberta Environment and Parks (AEP) to reject Lafarge's reclamation certificate Application No. 001-00378282 in relation to the Mothersole Pit located at NW 3, SE and SW 24-51-03-W5M, in Leduc County.

The parties came to an agreement on the issuance of a reclamation certificate and requested the Board provide the Minister of Environment and Parks with a Report and Recommendations recommending the Minister issue a reclamation certificate to Lafarge for the Mothersole Pit. **On March 16, 2018 the Board advised the parties it will provide a Report to the Minister recommending the reclamation certificate be issued and will advise further once the Report has been forwarded.**

**Lafarge Canada Inc.**

EAB 16-044

March 16, 2018

A Notice of Appeal was received on November 29, 2016 in relation to the October 28, 2016 decision of Alberta Environment and Parks (AEP) to reject Lafarge's reclamation certificate Application No. 001-00378221 in relation to the Gee Pit held under Registration No. 00015079-00-00, located at SE 33-42-26-W4M in Ponoka County.

The parties attended a site visit in June 2017 and are to provide status reports on their ongoing discussions. **Status reports are to be provided by March 23, 2108.**

**Aurora Heights Management Ltd.**

EAB 16-045

December 6, 2017

A Notice of Appeal was received on December 7, 2016 from Aurora Heights in relation to Alberta Environment and Parks' (AEP) failure to process an application dated July 15, 2014, for a *Water Act* Approval for wetland restoration/compensation in relation to lands located at SE 34-39-27-W4M and SW 35-39-27-W4M in the Town of Blackfalds.

Alberta Environment and Parks requested the appeal be dismissed stating AEP has not made a decision that creates a right of appeal under section 115 of the *Water Act*. A schedule has been set to receive submissions on AEP's motion to dismiss the appeal and the final submission was received on February 21, 2017. On July 12, 2017, the Board Panel hearing this matter was reconstituted. On October 6, 2017 the Board stated it will hold an oral preliminary motions hearing on all the motions raised in this appeal 16-045 (failure of the Director to process an application) and in appeals 16-049-051 (enforcement order). **The Board held an oral preliminary motions hearings on December 5, 2017 for appeal 16-049-051 (enforcement order) and on December 6, 2017 for appeal 16-045 (failure of the Director to process an application) in Edmonton.** The preliminary motions hearing are open to the public for viewing only.

The issues heard on December 6, 2017 for appeal EAB 16-045 were:

1. Does the Board have the jurisdiction to accept the Notice of Appeal filed by Aurora Heights Management Ltd. with respect to the application appeal? In other appeals, the Board has characterized this as a deemed refusal.

The Board notes Alberta Environment and Parks has characterized this issue as:

- a. Whether there is a decision that falls within section 115 of the *Water Act*, such that it can be appealed to the Board?

The Board also notes the Appellant has characterized this issue as:

- a. Whether the Notice of Appeal identifies an action that supports the Appellant's

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- claim that AEP Approvals "refuses to issue an approval"?
- b. If so, is the Appellant's claim frivolous, vexatious such that it should be dismissed, or has the Appellant raised a question of merit?
  2. Any document production motions regarding the applications appeal.
  3. The intervenor application of the Town of Blackfalds in the application appeal.
  4. Whether the applications appeal (EAB 16-045) should be consolidated with the EO appeals (EAB 16-049-051)?

**No decisions have been made following the December 6, 2017 preliminary motions hearing.** As of March 20, 2018 there has been no change to the status of this appeal.

**Regional Municipality of Wood Buffalo**  
EAB 16-048

February 26,  
2018

A Notice of Appeal was received from the Regional Municipality of Wood Buffalo (RMWB) on December 16, 2016 in relation to the November 16, 2016 decision of Alberta Environment and Parks (AEP) to issue Administrative Penalty No. EPEA-16/13-AP-RDNSR-16/13 to the Regional Municipality of Wood Buffalo in the amount of \$50,000.00 for allegedly constructing an unauthorized wastewater treatment plant in 2014 at 151 MacDonald Drive, Fort McMurray.

**On February 26, 2018, the Regional Municipality of Wood Buffalo withdrew their appeal and the Board closed its file.**

**Aurora Heights Management Ltd., Ronald Henschel and Garry Will**  
EAB 16-049-051

December 5,  
2017

Notices of Appeal were received from Aurora Heights Management Ltd., Ronald Henschel and Garry Will on December 17, 2016 in relation to the December 16, 2016 decision of Alberta Environment and Parks (AEP) to issue Enforcement Order No. WA-EO-2016/03-RDNSR to Aurora Heights Management Ltd., Ronald Henschel and Garry Will for allegedly infilling a wetland without an approval at SE-34-39-27-W4M and SW-35-39-27-W4M in the Town of Blackfalds.

The Board reviewed the stay application from the Appellants and on January 30, 2017 **granted a temporary stay** until submissions can be received from AEP and the Appellants. The final submission was received on February 17, 2017 and the Board will make a final decision on the stay application. On July 12, 2017 the Board Panel hearing this matter was reconstituted. **A decision on the stay application is outstanding.** On October 6, 2017 the Board stated it will hold an oral preliminary motions hearing on all the motions raised in this appeal (16-045) (failure of the Director to process an application) and in appeals 16-049-051 (enforcement order). There were objections to holding one preliminary motions hearing for both appeals. **The Board held oral preliminary motions hearings on December 5, 2017 for appeal 16-049-051 (enforcement order) and on December 6, 2017 for appeal 16-045 (failure of the Director to process an application) in Edmonton.** The preliminary motions hearing were open to the public for viewing only.

The issues heard on December 5, 2017 for appeal EAB 16-049-051 were:

1. Should the Board maintain the stay with respect to the EO?
2. Any document production motions regarding the EO appeals.
3. The intervenor application of the Town of Blackfalds in the EO appeals.
4. Whether the EO appeals (EAB 16-049-051) should be consolidated with the applications appeal (EAB 16-045)?

**No decisions have been made following the December 5, 2017 preliminary motions hearing.** As of March 20, 2018, there has been no change to the status of this appeal.

**Domtar Inc., Cherokee Canada Inc.,**

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

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**Description of Appeal and Status**

**1510837 Alberta Ltd.**  
EAB 16-052-054  
March 17, 2018

wood processing plant that produced treated wood products operated from 1924 to 1987, located at 4439-127 Avenue in Edmonton.

Domtar, Cherokee and 1510837 Alberta Ltd. filed stay applications and the Board determined that a temporary stay will be granted until the Board receives submissions. The last submission on the stay was received March 28, 2017.

A preliminary motions hearing was held on September 19, 2017 to address the appeals of the Environmental Protection Order (EPO) (16-052-054) and the Enforcement Order (EO) (16-055-056). The preliminary motions hearing is open to the public for viewing only.

The Board heard oral submissions on:

Stay Requests (16-052-054) EPO

Interim stays were granted to Cherokee on February 21, 2017 and to Domtar on February 28, 2017.

Document Production Requests for Director's Records back to 1987 (16-052-054) EPO

Submissions were received from Cherokee and Domtar requesting the Director's records back to 1987

Stay Request (16-055-056) EO

An interim stay was granted to Cherokee on January 12, 2017.

Jurisdiction Issue (16-055-056) EO

AEP requested the appeals be dismissed stating EO is not appealable.

Records Issues (16-055-056) EO

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.

Consolidation of Appeals (16-028-029, 034-035; 16-052-054; 16-055-056)

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.

Following the September 19, 2017 preliminary motions hearing, the Board issued a letter on September 22, 2017 stating: the Appellants document production motions were withdrawn; the stay request of the EPO was adjourned sine die with the interim stay of the EPO remaining in place; the interim stay of the EO remains in place while the Board determines if the appeal of the EO is valid; the motion on the consolidation of the appeals was withdrawn as it was agreed the parties' counsel and Board counsel will discuss the processing of the appeals after the Board makes a decision on the validity of the EO appeal. The letter also stated that additional information will become available as result of sampling conducted by AEP. On November 6, 2017, the Board stated it will issue reasons for its decisions in due course.

On November 2, 2017, Domtar requested the Board make a final decision on Domtar's stay request. The Board Panel hearing this matter convened on February 2, 2018 to decide Domtar's stay request.

On November 10, 2017 a conference call was held with the parties to discuss the next steps for processing these appeals. **The Board is in exchange of correspondence with the parties regarding setting a hearing, the duration of the hearing, and procedural issues.**

**Cherokee Canada Inc., 1510837 Alberta Ltd.**

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.

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**Description of Appeal and Status**

EAB 16-055-056

March 17, 2018

The Appellants requested a stay of the Enforcement Order. The Board granted an interim stay and received submissions from the parties. The last submission on the stay was received January 30, 2017. AEP has requested the appeal be dismissed citing the Board has no jurisdiction in this case. The last submission on this motion was received March 22, 2017.

A preliminary motions hearing was held on September 19, 2017 to address the appeals of the Environmental Protection Order (EPO) (16-052-054) and the Enforcement Order (EO) (16-055-056). The preliminary motions hearing was open to the public for viewing only.

The Board will hear oral submissions on:

Stay Requests (16-052-054) EPO

Interim stays were granted to Cherokee on February 21, 2017 and to Domtar on February 28, 2017.

Document Production Requests for Director's Records back to 1987 (16-052-054) EPO

Submissions were received from Cherokee and Domtar requesting the Director's records back to 1987

Stay Request (16-055-056) EO

An interim stay was granted to Cherokee on January 12, 2017.

Jurisdiction Issue (16-055-056) EO

AEP requested the appeals be dismissed stating EO is not appealable.

Records Issues (16-055-056) EO

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.

Consolidation of Appeals (16-028-029, 034-035; 16-052-054; 16-055-056)

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.

Following the September 19, 2017 preliminary motions hearing, the Board issued a letter on September 22, 2017 stating: the Appellants document production motions were withdrawn; the stay request of the EPO was adjourned sine die with the interim stay of the EPO remaining in place; the interim stay of the EO remains in place while the Board determines if the appeal of the EO is valid; the motion on the consolidation of the appeals was withdrawn as it was agreed the parties' counsel and Board counsel will discuss the processing of the appeals after the Board makes a decision on the validity of the EO appeal. The letter also stated that additional information will become available as result of sampling conducted by AEP. On November 6, 2017, the Board stated it will issue reasons for its decisions in due course.

On November 10, 2017 a conference call was held with the parties to discuss the next steps to processing these appeals. **The Board is in exchange of correspondence with the parties regarding setting a hearing, the duration of the hearing, and procedural issues.**

**Mohinder Gill and Five Pillar Holdings Ltd.**

EAB 16-057, 061-063

November 29, 2017

A Notice of Appeal was received on February 7, 2017 from Mohinder Gill and Five Pillar Holdings Ltd. with respect to Alberta Environment and Parks' (AEP) January 12, 2017 decision to cancel Water Act Licence No. 20320 and to issue Water Management Order No. WMO-2017/01-SSR for a water well that supplied water to the Wheatland Hotel in the Town of Strathmore.

**Mediation Meeting** - The mediation meeting held May 10, 2017 was unsuccessful.

**Preliminary Motions** - AEP has requested the appeal be dismissed for being moot. On June 2, 2017, the Board requested AEP provide their detailed motion and once received the Board will set a schedule to receive submissions. On September 25, 2017 the Board received AEP's detailed

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motion and submission requesting the appeal be dismissed. AEP stated the information contained in the Director's Record and in the submission show that no legal use can be made of the groundwater well at Lot 8, Block 1, Plan 7711503, in the Town of Strathmore, or diversions of groundwater from it. AEP further stated, any decision the Minister could make regarding the appeals of the cancellation of Water Act Interim Licence No. 11738 and the issuance of Water Management Order No.WMO-2017/01-SSR would be moot, and therefore the appeals should be dismissed. Submissions were received on the issues. **The last submission was filed on November 24, 2017, and the Board Panel will now make a decision on AEP's motion to dismiss the appeal.** The Board panel convened on December 11, 2017 and as of March 20, 2018 there has been no change to the status of this appeal.

**KGL  
Constructors**  
EAB 16-059-060,  
17-001-004, 007-  
012, 015-016,  
019-028

June 23, 2017

Twenty-four Notices of Appeal and requests for a stay were received between on March 15, 2017 and April 25, 2017 with respect to Alberta Environment and Parks' (AEP) decisions of March 10 and 24, 2017 to issue to KGL Constructors *Water Act* Approvals. Approval 00390716-00-00 authorizes KGL to disturb 4 wetlands at the Elbow River and Weaselhead crossing at NE 26-023-02-W5M and SE 35-023-02-W5M. Approval 003986014-00-00 authorizes KGL to realign and infill a portion of the Elbow River at NE 26-023-02-W5M and SE 35-023-02-W5M, in the City of Calgary for the construction of the southwest Calgary ring road.

Alberta Environment and Parks requested the appeals be dismissed stating the Appellants are not directly affected and did not file Statements of Concern with AEP, which are pre-requisites for filing an appeal with the Board. The Board has requested the Appellants: answer the questions regarding their stay requests; state how the environmental impacts of the work under the Approvals directly and personally affect them; state if they filed a statement of concern with AEP in response to the advertised public notice for KGL's Approvals; and state whether the notice of the application for the project was adequate. The Appellants provided the information and **on June 23, 2017, the Board dismissed 22 of the 24 appeals for not filing a Statement of Concern with AEP. Reasons for dismissing the appeals will be issued in due course.**

**The 2 remaining appeals have been challenged by AEP stating the Appellant is not directly affected. Directions from the Board on these two appeals (Maureen Bell's appeals) are outstanding. As of March 20, 2018 there has been no change to the status of Ms. Bell's appeals.**

**For information regarding the hearing held on October 23-25, 2017 for Mr. Brookman and Ms. Tulick's appeals of KGL's Approval 00388473-00-00 for disturbing wetlands and changing the direction water – see Appeals 17-047 & 17-050 listed below.**

**Town of  
Beaverlodge**  
EAB 17-029-042

January 17, 2018

Fourteen Notices of Appeal and requests for a stay were received between April 26, 2017 and May 16, 2017 with respect to the December 12, 2016 decision of the Director, Alberta Environment and Parks (AEP), to issue *Water Act* Approval No. 00372572-00-00 to the Town of Beaverlodge for the construction of two fish passage structures to facilitate fish movement past the weir located at SW 34-071-10-W6 and SE 34-071-10-W6M on the Beaverlodge River.

The Board requested the appellants provide an explanation on the timing of the appeals considering the *Water Act* provides for a 7 day period for filing appeals of *Water Act* approvals. The Approval was issued December 12, 2016 and the appeals were filed between April 26 and May 16, 2017.

On July 20, 2017 the Board stated it is of the view that the Appellants have made a *prima facie* case for a stay. Therefore, given the nature of the project, which includes construction of works in a watercourse, the Board has decided to grant an interim (temporary) stay of the Approval, pending a determination of whether the appeals before the Board are valid.

The purpose of the stay is to allow the Board to complete the submission process and determine whether the appeals before the Board are valid. Therefore, taking into account the Director's Record, the Board requested submissions from the parties on the following matters:

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## Description of Appeal and Status

1. Were the Notices of Appeal filed on time?
2. Are the Appellants directly affected by the Approval?
3. Were Statement of Concern required to be filed, and if so, did the Appellants file Statements of Concern?
4. Should the stay remain in place pending the outcome of these appeals? In particular:
  - a. What are the serious concerns of the Appellants that should be heard by the Board?
  - b. Would the Appellants suffer irreparable harm if the stay is refused?
  - c. Would the Appellants suffer greater harm if the stay was refused pending a decision of the Board, than the Town of Beaverlodge would suffer if the Board granted the stay?
  - d. Would the overall public interest warrant a stay?

The Board reviewed the submissions and **on November 8, 2017 dismissed 12 of the appeals** for not filing a Statement of Concern with AEP (in this case a prerequisite to filing an appeal with the Board), **and dismissed 2 appeals** for filing the appeals late as there was no basis for the Board to grant an extension to the filing deadline. **The Board's November 8, 2017 letter also stated the stay (stop order) was lifted and reasons for the Board's decisions to dismiss all of the appeals will be issued in due course.** As of March 20, 2018 there has been no change to the status of this appeal.

**Reconsideration Request** - On November 9 and December 11, 2017 the Appellants requested the Board reconsider its November 8, 2017 decision to dismiss the appeals. Submissions were received on whether the Board should undertake the reconsideration request. **The last submission was received on January 17, 2018 and the Board Panel will now make a decision.** As of March 20, 2018 there has been no change to the status of this appeal.

**Associated  
Aggregates Inc.**  
EAB 17-046

March 20, 2018

A Notice of Appeal was received on August 4, 2017 in relation to the July 28, 2107 decision of the Director, Alberta Environment and Parks (AEP), to issue *Water Act* Enforcement Order No. WA-EO-2017/04-RDNSR to Associated Aggregates Inc. Associated Aggregates operates a sand and gravel pit on public lands located at E1/2-14-49-7-W5M in Drayton Valley. The Order states that Associated Aggregates Inc. has contravened section 36(1) of the *Water Act*, by commencing excavation which resulted in the South End Pit Lake, including the Constructed Berm, without an approval.

**Preliminary Motions** – The Board will receive submissions on the Appellant's stay request and the AEP's motion to dismiss the appeal which argues that the Order is not appealable under section 115(1)(p) of the *Water Act*. On September 1, 2017 the **Board issued an interim stay of the Order** to allow the Board to consider the submissions on AEP's motion and the stay application. On September 6, 2017 **the Board determined that the appeal was valid and stated reasons will be issued in due course.** The last submission on the stay request was received on September 25, 2017. As of March 20, 2018, the Board's reasons are outstanding.

**Mediation Meeting** – A mediation meeting is scheduled for **March 23, 2018**. Mediation Meetings are not open to the public.

**Hearing** – A hearing is scheduled for **April 25, 2018**. The hearing will be held at the Board's office commencing at 8:30 am.

**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 or by e-mail to the Board. The request must be received by the Board on or before March 27, 2018.** It is your responsibility to ensure that your request is received by the Board by March 27, 2018. Such a 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,

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and will not duplicate the information provided by the parties. Please contact the Board for information regarding the file in this matter. After March 27, 2018, 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.

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 provide the Minister of Environment and Parks with its Report and Recommendations within 30 days of the hearing closing pursuant to section 99(1) of the *Environmental Protection and Enhancement Act*. The Minister made a decision by issuing a Ministerial Order.

**KGL  
Constructors  
EAB 17-047-051  
& 17-054-061**

March 20, 2018

Thirteen Notices of Appeal were received between August 11, 2017 and August 18, 2017, along with requests for a stay. These appeals are in relation to the August 11, 2017 decision of the Director, Alberta Environment and Parks (AEP) to issue to KGL Constructors *Water Act* Approval No. 00388473-00-00 authorizing KGL to permanently disturb (in-fill) 24 wetlands for a total of 22.07 ha of wetland loss and change the location of water for the purpose of dewatering wetlands. The work is being done as part of the south west Calgary ring road project.

**Stay** - On August 12, 2017 the Board issued a stay of the Approval. However, on August 18, 2017, the Board modified the stay. The stay is now limited to the work authorized by the Approval in relation to Wetlands 06 (the Beaver Pond), 07, 08 and 09. The wetlands are outlined in the Approval. The stay was modified on September 11, 2017 to remove a reference to Watercourse 01 because there is no work being conducted in Watercourse 01. On September 19, 2017 KGL requested the Board remove the stay on wetlands 07, 08 and 09. The Appellants requested the stay be expanded to include 24 wetlands and Watercourse 01. After receiving submissions on both applications, on October 2, 2017, the Board denied both applications to revise the stay, therefore the stay remains in place for Wetlands 06 (the Beaver Pond), 07, 08 and 09 only. On October 26, 2017, the Board received a request from KGL, based on an agreement reached between KGL and the Appellants, to remove Wetland 09 from the stay. On October 27, 2017, the Board stated that based on the request by the parties and as discussed at the hearing, the Board has released the stay in relation to Wetland 09. The release of the stay with respect to Wetland 09 will accommodate the tie in of the concrete pipe to convey the water that would otherwise flow in Watercourse 01. All other terms of the stay remain in place for Wetlands 06 (Beaver Pond), 07 and 08. On October 30, 2017, the Board received a request from the Appellants for a stay in relation to Wetland 11. Submissions were received and on November 2, 2017, the Board denied the stay with reasons to be issued.

**Standing** - Of the 13 appeals 3 were accepted and 10 were dismissed. The appeals of Mr. Jeff Brookman (17-047) and Ms. Allie Tulick (17-050) will proceed to a hearing. One Appellant that was accepted withdrew their appeal. The other appeals were dismissed for: not being directly affected; or their appeal did not relate to the wetlands covered by this Approval (they appear to be related to the berms and bridge that are not part of this Approval); or they did not file a statement of concern with AEP (a prerequisite to filing a Notice of Appeal in this case); or they did not file a valid statement of concern with AEP (filed their statement of concern 10 days late). The Board is to issue its reasons for its decisions.

**Hearing - A hearing was held on October 23, 24 and 25, 2017.** Initial hearing submissions were received from the Appellants, AEP and the Director on October 4 and response submissions are due October 11, 2017. Intervenors were required to file submissions on October 4, 2017 only. Intervenors were decided (see below). The hearing is open to the public for viewing only.

The issues for the hearing are:

1. What is the standard for review the Board should apply in the circumstances of this case?

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

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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?

**Intervenor Applications** - 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. Sherie 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 would not be presenting at the hearing. Ms. Sherie Angevine withdrew her intervenor request.

The hearing was open to the public for viewing only.

Copies of material filed with the Board respecting these appeals was 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 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.

**Report to the Minister and Minister's Decision** - 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*. The Report and Recommendations was provided to the Minister on November 24, 2017.

On January 29, 2018, the Minister made her decision on these appeals by issuing a Ministerial Order and Reasons of the Minister. The Minister accepted the Board's recommendations but added additional requirements to the Approval. [The Board's Report and Recommendations, the Minister's Order and the Minister's Reasons are contained in one PDF.](#)

**Final Costs** – At the hearing, the Appellants and KGL reserved their right to apply for costs. **The Appellants filed a cost application. On March 20, 2018 comments on the application were received from KGL and AEP. The Board Panel will now make a decision on the cost application.**

Appeal Name & Number	Description of Appeal and Status
<p><b>Tollestrup Construction &amp; Honey Holdings</b> EAB 17-052 &amp; 17-053 March 8, 2018</p>	<p>A Notice of Appeal was filed on August 16, 2017 with respect to the August 10, 2107 decision of the Director, Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Enforcement Order No. WA-EO-2017/05-SSR to Tollestrup Construction (2005) Inc. and Honey Holdings Ltd. for allegedly conducting an activity without authorization which may have impacted a wetland on lands at SE-11-009-22-W4M, SW-12-009-22-W4M, NW-01-009-22-W4M, and NE-01-009-22-W4M in Lethbridge.</p> <p>A stay application was received from the Appellants on August 25, 2017. The Board requested comments from AEP on the application by September 22, 2017 and final comments from the Appellants by September 29, 2017. On September 28, 2017, the Appellant requested the appeal be placed in abeyance while discussions take place with AEP. On October 4, 2017 the Board granted the abeyance, suspended the submission schedule on the stay, and requested the parties provide regular status reports on their discussions. <b>The next status reports are due by April 9, 2018.</b></p>
<p><b>Town of Okotoks</b> EAB 17-062 &amp; 17-063 January 26, 2018</p>	<p>A Notice of Appeal was received on August 22, 2017 with respect to the July 21, 2107 decisions of the Director, Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Licence No. 00391311-00-00 to the Town of Okotoks to operate a works and divert up to 88,810 cubic metres of water annually for municipal purposes (urban water supply), and to issue <i>Water Act</i> Licence No. 00397640-00-00 to Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks for a 10% holdback for conservation purposes.</p> <p><b>Mediation Meeting – The mediation meeting scheduled for December 19, 2017 was rescheduled to January 23, 2018. The mediation meeting is ongoing.</b> Mediation meetings are not open to the public.</p>
<p><b>Alberta Agriculture &amp; Forestry</b> EAB 17-064 December 15, 2017</p>	<p>A Notice of Appeal was received on September 12, 2017 with respect to the August 29, 2017 decision of the Director, Alberta Environment and Parks (AEP), to issue EPEA Approval No. 382974-01-00 to Alberta Agriculture and Forestry authorizing the application of pesticides in or within 30 metres of Lake Isle in Lac Ste. Anne County.</p> <p><b>AEP has challenged the appeal stating the Appellant is not directly affected by the Approval.</b> The Board set a schedule to receive submissions from the parties. <b>The last submission was received December 6, 2017 and the Board Panel will now make a decision on the validity of the appeal.</b> As of March 20, 2018 there has been no change to the status of the appeal.</p>
<p><b>Town of Okotoks</b> EAB 17-065 &amp; 17-066 March 14, 2018</p>	<p>A Notice of Appeal was received on September 19, 2017 with respect to the August 21, 2107 decisions of the Director, Alberta Environment and Parks (AEP), to issue <i>Water Act</i> Licence No. 00385019-00-00 to the Town of Okotoks to operate a works and divert up to 244,229 cubic metres of water annually for municipal purposes (urban water supply), and to issue <i>Water Act</i> Licence No. 00385021-00-00 to Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks for a volume of 27,137 cubic metres per year holdback for conservation purposes.</p> <p>The mediation meeting scheduled for February 14, 2018 was cancelled at the request of the parties to accommodate discussions. Mediation meetings are not open to the public. <b>Status reports are due April 23, 2018.</b></p>
<p><b>Donald Belland</b> EAB 17-067 December 22, 2017</p>	<p>A Notice of Appeal was received on September 27, 2017 with respect to the August 17, 2017 decision of Alberta Environment and Parks (AEP) to issue <i>Water Act</i> Enforcement Order No. WA-EO-2017/06-RDNSR to Mr. Donald Belland for allegedly commencing or continuing an activity without an approval at SW-5-58-9-W4M in the County of St. Paul No. 19.</p>

**Appeal Name & Number**

**Description of Appeal and Status**

AEP has challenged the appeal stating the appeal was filed late and the Appellant was served the Order on August 17, 2017. The *Water Act* states that an appeal of an Order must be filed within 7 days of receiving the Order. On October 17, 2017, the Board requested the Appellant demonstrate when he received the Order, and if the appeal was filed outside of the 7 days, the Appellant is to provide an explanation as to why it was filed late. The Board set a schedule to receive submissions however the appellant has failed to respond to the requests. **Since the Appellant failed to provide a submission, the appeal was dismissed on December 22, 2017 with reasons to follow.** As of March 20, 2018 there has been no change to the status of this appeal.

**Brower  
Ranching Co.**  
EAB 17-068

March 20, 2018

A Notice of Appeal was received on January 26, 2018 with respect to the December 20, 2017 decision of the Director, Alberta Environment and Parks (AEP), to return the 2001 Application, by Brower Ranching, for Licences for three wells and two dams in SE 03-001-08-W4M, one dam in SE 08-001-08-W4M, and two wells in NW 24-001-10-W4M in Aden, Alberta for the diversion of water for household and stockwatering purposes, because the application was considered incomplete under the provisions of Section 29(1) of the *Water Act*.

The decisions appealable under the *Water Act* are listed in section 115. As the appeal may not be valid, the Board requested submissions on whether it has jurisdiction to accept this appeal. The Board received a request from the parties to hold the submission process in abeyance to allow for discussions between the parties. The Board agreed and requested regular updates on their discussions. **The next status reports are due by April 16, 2018.**

**Sears Canada  
Inc. and  
Concord North  
Hill GP Ltd.**  
EAB 17-069 & 17-  
070

March 14, 2018

Notices of Appeal were received on March 6 and 7, 2018 from Sears Canada Inc. and Concord North Hill GP Ltd. with respect to the decision of the Director, Alberta Environment and Parks (AEP), to issue Environmental Protection Order No. EPO-2018/01-SSR, under the *Environmental Protection and Enhancement Act* to Sears Canada Inc. and Concord North Hill GP Ltd. for a release of a substance which has caused, is causing or may cause an adverse effect on the environment in relation to lands located at Plan 8210266, Block 21, in the City of Calgary.

AEP is to provide their records in relation to the Director's decision by April 13, 2018. **The parties are to provide their available dates for a mediation meeting from May 7 until July 13, 2018, by March 23, 2018.**

**1809668 Alberta  
Inc. and Harvest  
Hills Golf Course  
Ltd.**  
EAB 17-071 & 17-  
072

March 15, 2018

A Notice of Appeal was received on March 8, 2018 from Calgary River Forum Society with respect to the February 6, 2018 decisions of the Director, Alberta Environment and Parks (AEP), to issue: *Water Act* Licence No. 00392661-00-00 to 1809668 Alberta Inc. for the operation of a works and the diversion of up to 126,719 cubic metres of water annually for irrigation purposes; and *Water Act* Licence Amendment No. 00027286-00-04 to Harvest Hills Golf Course Ltd. reducing the allocation of water and removing two concrete weirs.

**AEP is to advise by March 23, 2018 when they will provide the Board with their records related to the two decisions.** The Board will then determine how the appeal will be processed.