

2014 ABEAB 16**Appeal Nos. 13-028 & 029**

Appellants – Emerald Bay Water and Sewer Co-op Ltd., **Operator** – Springbank Links Golf Course Ltd. and Carefree Estates Ltd., **Location** – Bow River

On March 13, 2014 the Board received a Notice of Appeal dated March 13, 2014 from Emerald Bay Water and Sewer Co-op Ltd. (Appellant), with respect to the January 31, 2014 decisions of the Director, Alberta Environment and Sustainable Resource Development (AESRD), to issue:

- *Water Act* Licence Amendment No. 00158920-00-02 to Springbank Links Golf Course Ltd. (EAB 13-028) to reduce the allocation from 259,020 cubic metres to 73,998 cubic metres of water annually and to reduce the rate of diversion from 0.042 cubic metres per second to 0.012 cubic metres per second, in relation to the diversion of water from the Bow River through the works of TransAlta Utilities in SE 1-25-3-5 and re-diverted at SW 12-25-3-5 for irrigation purposes; and
- *Water Act* Licence No. 00336693-00-00 to Carefree Estates Ltd. (EAB 13-029) which authorizes the operation of a works and diversion of up to 166,520 cubic metres of water annually at a maximum rate of diversion of 0.27 cubic metres per second from the source of water for a municipal water supply. The Licence is a result of the transfer of a water allocation from Licence No. 00158920-00-00 issued to Springbank Links Golf Course Ltd.

On April 8, 2014, in consultation with the parties, the Board scheduled a mediation meeting for May 13, 2014.

In his letter of April 24, 2014, AESRD advised that he wished to make a preliminary application to dismiss these appeals as the Appellant had no standing to bring these appeals. Section 115 (1)(r) of the *Water Act* provides that with respect to AESRD's approval, or refusal, of transfer of an allocation of water, it is only the applicant or person who previously submitted a Statement of Concern, who is directly affected by the decision who may initiate an appeal. As demonstrated by the records AESRD provided to the Board, no Statement of Concern was submitted by the Appellant, nor anyone else, despite public notice. AESRD requested this matter be dealt with prior to mediation.

In its letter of May 2, 2014 the Board stated it would still like to proceed with the mediation on May 13, 2014 as planned as it believed that working to address the concerns of the participants is a better use of resources than preparing legal arguments on the question of standing. Further, the Board notes that if it is unable to accept these appeals, the next step for the parties will likely be civil litigation before the courts.

On May 9, 2014 the Board received a letter from the Appellant withdrawing the appeals. The Board cancelled the mediation meeting scheduled for May 13, 2014 and closed its files.