

ALBERTA ENVIRONMENTAL APPEALS BOARD

Decision

Date of Decision – May 13, 2016

IN THE MATTER OF sections 91, 92, 94, and 95 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and section 115 of the *Water Act*, R.S.A. 2000, c. W-3;

-and-

IN THE MATTER OF appeals filed by Roxanne Walsh and Julie Walker with respect to the decisions of the Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development, to issue Amending Approval Nos. 1242-02-02, 1242-02-04, and 1242-02-05 under the *Environmental Protection and Enhancement Act* and Approval No. 00334295-00-00 under the *Water Act* to the Town of Turner Valley.

Cite as: Intervenor Decision: *Walsh and Walker v. Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development*, re:

Town of Turner Valley (13 May 2016), Appeal Nos. 13-022-025, 14-011 and 14-018-ID4 (A.E.A.B.).

BEFORE:

Mr. Alex MacWilliam, Board Chair.

PARTIES:

Appellants: Ms. Roxanne Walsh and Ms. Julie Walker.

Approval Holder: Town of Turner Valley, represented by Mr. Ron Kruhlak and Ms. Jessica Proudfoot, McLennan Ross LLP.

Director: Mr. Brock Rush, Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development,* represented by Ms. Alison Altmiks, Ms. Wendy Thiessen, and Ms. Nicole Hartman, Alberta Justice and Solicitor General.

* AESRD is now called Alberta Environment and Parks. However, all relevant events occurred regarding this appeal while the Department was called AESRD.

EXECUTIVE SUMMARY

Alberta Environment and Sustainable Resource Development (AESRD)* issued three Amending Approvals under the *Environmental Protection and Enhancement Act* and an Approval under the *Water Act* to the Town of Turner Valley (the Town) to construct, operate, and reclaim a waterworks system for the Town and to construct an infiltration gallery below the bank of the Sheep River.

Ms. Roxanne Walsh and Ms. Julie Walker (the Appellants) appealed the decisions to issue the Amending Approvals and *Water Act* Approval.

In response to the Notice of Hearing, the Board received five applications from individuals to participate in the appeals as intervenors. Given the public concerns regarding the issues and the appeals, the Board allowed four of the intervention requests. The Board denied one request because it appeared the applicant merely wanted to receive more information, and there was no indication the applicant actually wanted to participate in the hearing.

The individuals granted intervenor status were allowed to participate in the hearing through written submissions only.

* AESRD is now called Alberta Environment and Parks. However, all relevant events occurred regarding these appeals while the Department was called AESRD.

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I. INTRODUCTION

[1] This is the Environmental Appeals Board's reasons for its decision on the intervenor applications in respect of appeals of Amending Approval Nos. 1242-02-02, 1242-02-04, and 1242-02-05 (collectively, the "Amending Approvals") issued under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 ("EPEA"), and Approval No. 00334295-00-00 (the "Water Act Approval") under the *Water Act*, R.S.A. 2000, c. W-3. The Amending Approvals and the *Water Act* Approval (collectively, the "Approvals") were issued to the Town of Turner Valley (the "Approval Holder" or the "Town") by Alberta Environment and Sustainable Resource Development ("AESRD")¹ for the purposes of constructing, operating, and reclaiming a water works system for the Town, and for the construction of an infiltration gallery below the bank of the Sheep River at NW 6-20-2 W5M. Ms. Roxanne Walsh and Ms. Julie Walker (collectively, the "Appellants") appealed the decision to issue the Approvals.

[2] In response to the Notice of Hearing that was published in the local newspapers and posted at various locations, the Environmental Appeals Board (the "Board") received five applications from individuals to participate at the hearing as intervenors.

[3] Based on these applications and the comments provided by the Appellants, Approval Holder, and AESRD, the Board allowed the applications of four persons and denied one application.

II. BACKGROUND

[4] On February 10, 2014, the Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development (the "Director"), issued the *Water Act* Approval to the Approval Holder and on February 12, 2015, the Director issued Amending Approval No. 1242-02-02.

¹ AESRD is now called Alberta Environment and Parks. However, all relevant events occurred regarding these appeals while the Department was called AESRD.

[5] On February 19, 2014, the Board received Notices of Appeal from the Appellants appealing Amending Approval No. 1242-02-02 and the *Water Act* Approval. Supplemental information regarding the Notices of Appeal was received on February 27, 2014.

[6] On February 24, 2014, the Board wrote to the Appellants, Approval Holder, and the Director (collectively, the “Parties”) acknowledging receipt of the Notices of Appeal and notifying the Approval Holder and Director of the appeals. The Board asked the Director for a copy of the documents upon which the Director made his decision (the “Record”).

[7] On March 27, 2014, the Board notified the Parties that Ms. Walsh was found to be directly affected, but the Board did not grant her application for a stay of the Director’s decision. On April 8, 2014, the Board provided the Parties its reasons for finding Ms. Walsh directly affected and for denying the stay request.²

[8] The Board received the Director’s Record for Amending Approval 1242-02-02 and the *Water Act* Approval on April 11, 2014, and copies were provided to the Parties on April 28, 2014.

[9] On April 28, 2014, the Board set the schedule to receive submissions on the following matters:

1. Is Ms. Walker directly affected by the *Water Act* Approval?
2. What are Ms. Walsh’s and Ms. Walker’s grounds for appeal included in the Notices of Appeal, and are those grounds for appeal properly before the Board?
3. What are the issues to be heard at the hearing of these appeals?

[10] On May 1 and 2, 2014, Ms. Walsh requested reports and additional information from the Approval Holder and Director.

[11] The Board received submissions on the preliminary motions from the Appellants on May 12, 2014. On May 26, 2014, the Board received response submissions from the

² See: Stay Decision: *Walsh v. Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development*, re: *Town of Turner Valley* (08 April 2014), Appeal Nos. 13-022 and 13-023-ID1 (A.E.A.B.).

Approval Holder and Director. Written rebuttal submissions on the preliminary motions were received from Ms. Walsh and Ms. Walker on June 26 and July 7, 2014, respectively.

[12] On July 2, 2014, the Board requested the Parties hold October 6 to 8, 2014, for the hearing.

[13] On July 10, 2014, the Director issued Amending Approval 1242-02-04 to the Approval Holder. Amending Approval 1242-02-04 authorized the Approval Holder to install upgrades to the water treatment plant.

[14] On July 17, 2014, the Board received a Notice of Appeal from Ms. Walsh regarding Amending Approval No. 1242-02-04. The Board acknowledged the appeal on July 18, 2014, and notified the Approval Holder and the Director of the appeal. The Director was asked to provide the Board with copies of all documents upon which the Director based his decision to issue Amending Approval 1242-02-04.

[15] On July 21, 2014, the Board notified the Parties of the issues for the hearing with reasons to follow.³

³ The issues identified as of July 21, 2014, were:

1. Does the conversion from the well capture system to the infiltration gallery increase the level of risk of contamination to the Town's water supply system? The potential sources of contamination include:
 - a. the industrial landfill located across the Sheep River;
 - b. the residential subdivision septic tank and field system located near the infiltration gallery site;
 - c. agricultural activities upstream of the infiltration gallery site;
 - d. historical oil and gas activities upstream of the infiltration gallery site; and
 - e. current and historical oil and gas activities and infrastructure (wells and pipelines) around the infiltration gallery site.

The Board notes that the industrial landfill appears to have been remediated and the residential subdivision septic tank and field system appears to have been decommissioned, in which case the likelihood of any residual contamination from these sources may need to be considered.

2. If the answer to Issue 1 is "Yes", do the terms and conditions of the EPEA Amending Approval 1241-02-02 and the WA Approval 00334295-00-00 adequately address the increased level of risk of contamination?
3. Should the minimum monitoring frequency, detailed in Table 1 for PCBs, NORMs, and Petroleum Hydrocarbon Fractions F3 and F4 be: twice per year; one time prior to water from the infiltration gallery entering the raw water storage reservoir or water treatment

[16] On July 24, 2014, the Director informed the Board that the Record for Amending Approval 1242-02-04 would be provided by September 19, 2014. The Board advised the Parties that they could release the dates previously held for the hearing. The Board requested the Parties provide available dates for a hearing in January 2015.

[17] On August 8, 2014, Ms. Walsh requested an extension of time until after she reviewed the Director's Record in order to add her concerns to her Notice of Appeal regarding Amending Approval 1242-02-04. On August 11, 2014, the Board granted Ms. Walsh's request and extended the date to October 3, 2014.

[18] On August 22, 2014, the Board notified the Parties that, based on the Parties' available dates, the hearing would be held on January 19 and 20, 2014.

[19] The Board's reasons regarding the issues were provided to the Parties on September 9, 2014. In this decision, the Board stated the issues for the hearing, confirmed the circumstances surrounding the Approval Holder's withdrawal of its appeal, and noted the Parties accepted Ms. Walker as directly affected by Amending Approval No. 1242-02-02 and that she would have standing. Because she had standing, she had the right to present arguments and cross-examine the other Parties adverse in interest on all the issues identified by the Board.⁴

[20] On September 19, 2014, the Board received the Director's Record for Amending Approval No. 1242-02-04. On October 1, 2014, the Board provided a copy of the Director's Record regarding Amending Approval No. 1242-02-04 to the Parties.

[21] On October 15, 2014, Ms. Walsh requested a further extension to complete sections of her Notice of Appeal of Amending Approval 1242-02-04. The Board granted the extension to October 20, 2014. On October 20, 2014, Ms. Walsh completed her Notice of Appeal of Amending Approval 1242-02-04.

plant; or some other frequency? (Table 1 is found in section 8 of EPEA Amending Approval 1232-02-02.)

⁴ Preliminary Motions Decision: *Walsh and Walker and Town of Turner Valley v. Director, South Saskatchewan Region, Operations Division, Alberta Environment and Sustainable Resource Development*, re: *Town of Turner Valley* (09 September 2014), Appeal Nos. 13-022-025 and 13-030-ID2 (A.E.A.B.).

[22] On October 24, 2014, the Board asked the Parties for comments regarding the issues to be considered at the hearing for Amending Approval No. 1242-02-04.

[23] On October 29, 2015, the Director issued Amending Approval No. 1242-02-05 to the Approval Holder. Amending Approval No. 1242-02-05 made changes to the monitoring requirements, including the monitoring for the raw water reservoir.

[24] On October 30, 2014, the Approval Holder requested an extension to provide comments on the issues for the hearing. The Board granted the request and the deadline was set to November 5, 2014.

[25] On November 4 and 5, 2014, the Parties provided their submissions on the issues for the hearing for Amending Approval No. 1242-02-04.

[26] On November 4, 2014, Ms. Walsh filed a Notice of Appeal of Amending Approval No. 1242-02-05. The Board notified the Approval Holder and Director of the appeal on November 7, 2014. The Board noted Ms. Walsh had not fully completed her Notice of Appeal and reserved her right to review the Record before completing her Notice of Appeal. The Director was asked to provide the Board with copies of all documents upon which the Director based his decision to issue Amending Approval No. 1242-02-05.

[27] On November 13, 2014, the Director made a motion to dismiss Ms. Walsh's appeal of Amending Approval No. 1242-02-05 on the basis it was incomplete or, alternatively, to have Ms. Walsh complete the Notice of Appeal in a timely fashion. The Director advised the Record regarding Amending Approval No. 1242-02-05 would not be available until January 16, 2015.

[28] On November 14, 2014, the Board advised the Parties that the hearing scheduled for January 19 and 20, 2015, was adjourned given the Record for Amending Approval No. 1242-02-05 would not be available until January 16, 2015. The Board asked the Parties to provide available dates for a hearing in February and March 2015.

[29] On November 24, 2014, the Director advised he was unavailable February and March 2015 for the hearing. On November 28, 2014, the Approval Holder advised that it was

unavailable for a five day hearing in February or March, but it provided available dates in April 2015.

[30] On December 4, 2014, the Board advised the Parties to hold April 27 to May 1, 2015, for the hearing. On December 9, 2014, Ms. Walsh requested a two-week extension to respond to the Board's request for available dates for the hearing. The Board granted the request on December 9, 2104. On December 20, 2014, Ms. Walsh confirmed her availability for the hearing on April 27 to May 1, 2015. On December 22, 2014, the Board confirmed the hearing would be held on April 27 to May 1, 2015.

[31] On January 16, 2015, the Board received a copy of the Director's Record regarding Amending Approval No. 1242-02-05.

[32] On January 21, 2015, the Board provided copies of the Director's Record regarding Amending Approval No. 1242-02-05 to the Appellants and Approval Holder. The Board notified the Parties that it was dismissing the Director's motion to dismiss the appeal of Amending Approval 1242-02-05 (Appeal No. 14-018) since the Notice of Appeal, in this circumstance, was sufficiently complete. The Board gave Ms. Walsh until February 6, 2015, to complete her Notice of Appeal.

[33] On February 6, 2015, the Board received Ms. Walsh's supplemental Notice of Appeal for Amending Approval No. 1242-02-05. The Board set the schedule to receive updated Records, set the schedule to receive submissions for the hearing, and set the hearing procedure.

[34] On February 7, 2015, the Board asked the Parties to provide any preliminary motions, identify the issues for the hearing, and confirmed the hearing would be scheduled for four days from April 28 to May 1, 2015.

[35] On February 11, 2015, the Director requested the appeals of the *Water Act* Approval be dismissed as the appeals were moot given the *Water Act* Approval expired on February 9, 2015. The Director also requested the appeal of Amending Approval No. 1242-02-04 be dismissed because Ms. Walsh did not identify any valid issues for the hearing.

[36] On February 13, 2015, the Board requested the Parties provide submissions on the preliminary issues as identified in the Parties' letters and emails. These preliminary issues were:

1. Are EAB Appeals 13-023 and 13-025, appealing *Water Act* Approval No. 00334295-00-00, moot on the basis that the *Water Act* Approval expired on February 9, 2015?
2. Should EAB Appeal 14-011, appealing EPEA Approval No. 1242-02-04 (the water treatment plant upgrade), be dismissed as Ms. Walsh has not identified any valid issues for the hearing?
3. Subject to questions 1 and 2, what issues should be considered at the hearing of all of the appeals?
4. What additional disclosure and clarification from the Town of Turner Valley and the Director should be provided to the Appellants?

[37] On February 18, 2015, the Parties provided their responses to the preliminary motions and identified the issues for the hearing. On February 25, 2015, the Board received the response submissions from the Parties on the preliminary motions and issues for the hearing.

[38] The Board published a Notice of the Hearing in the Okotoks Western Wheel and the online Gateway Gazette, and provided the Notice to the Town of Turner Valley and the Municipal District of Foothills to post on their public bulletin boards. A news release was forwarded to the Public Affairs Bureau for distribution to media throughout the Province, and the news release was posted on the Board's website. The Notice of Hearing provided an opportunity for persons who wanted to make a representation before the Board to apply to intervene. In response to the Notice of Hearing, the Board received five applications from individuals to intervene.

[39] On March 2, 2015, the Board provided its responses to the preliminary motions and set the issues for the hearing.⁵

⁵ The Board set the following issues for the hearing:

1. Does that Director have the authority to make the changes included in the Amending Approvals given the issuance of Ministerial Order 5/2008 in EAB Appeal 06-071?
2. Does the conversion from the well capture system to an infiltration gallery or the vault system, as currently constructed, increase the risk of contamination to the Town's water supply system? The potential sources of contamination include:
 - a. the remediated industrial landfill located across the Sheep River;
 - b. the decommissioned residential subdivision (Calkins Place) septic tank and field

[40] On March 23, 2015, Ms. Walker provided her initial submission for the hearing.

[41] On March 25, 2015, Ms. Walsh provided her submission and her expert's technical report.

[42] On April 2, 2015, the Board notified the Parties that the intervenor applications of Ms. Irene Waring, Ms. Maureen and Mr. Randy Nelson, Ms. Monica Dragosz, and Ms. Kathy Grill (collectively, the "Intervenors") were allowed and they would be allowed to participate in the hearing through written submissions only. The intervenor application from Ms. Lisa Wilcox was denied. These are the Board's reasons for its decisions.

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- c. system located near the infiltration gallery site;
 - c. agricultural and farming activities upstream of the infiltration gallery site;
 - d. historical oil and gas activities upstream of the infiltration gallery site; and
 - e. current and historical oil and gas activities and infrastructure (wells, pipelines, tanks and flare pits) around the infiltration gallery site.

The Board notes that the industrial landfill appears to have been remediated and the residential subdivision septic tank and field system appears to have been decommissioned, therefore the likelihood of any residual contamination from these sources may need to be considered.

3. If the answer to Issue 1 is "Yes", do the terms and conditions of the EPEA Amending Approval 1241-02-02 and the *Water Act* Approval 00334295-00-00 adequately address the increased level of risk of contamination?
4. Should the minimum monitoring frequency, detailed in Table 1 for PCBs, NORMs, and Petroleum Hydrocarbon Fractions F3 and F4 be: twice per year; one time prior to water from the infiltration gallery entering the raw water storage reservoir or water treatment plant; or some other frequency? (Table 1 is found in section 8 of EPEA Amending Approval 1232-02-02.)
5. Does the use of a granulated activated charcoal filter system decrease the risk of contamination to the Town's water supply system? Is the use of a granulated activated charcoal filter system appropriate to protect the environment, including human health, given potential contaminant sources?
6. Are the changes to the frequency of sampling, monitoring, testing and reporting provide for in the Amending Approvals appropriate to ensure the protection of the environment, including human health? The historical and ongoing oil and gas activities, agricultural, farming, and other industrial activities that have occurred in the area should be considered.
7. Are the changes to the parameters that need to be sampled, monitored, tested and reported provided for in the Amending Approvals appropriate to ensure the protection of the environment, including human health? The historical and ongoing oil and gas activities, agricultural, farming, and other industrial activities that have occurred in the area should be considered.
8. Was it reasonable for the Director to rely on the reports, data, and other information that were provided to him to make the changes in the Amending Approvals to the frequency and parameters described in Issues 6 and 7?

III. INTERVENOR APPLICATIONS

A. Submissions

1. Ms. Lisa Wilcox

[43] Ms. Lisa Wilcox expressed concern about her water safety in relation to heavy metals. She wanted to know more about the water quality and the frequency and nature of contaminants being tested.

2. Ms. Irene Waring

[44] Ms. Irene Waring requested an opportunity to intervene in support of the amendments regarding the infiltration gallery, conversion of the water collection system, and changes to the monitoring system.

[45] Ms. Waring stated the Appellants did not represent her in their concerns. Ms. Waring said she was impacted as much as the Appellants and should have an equal right to participate in the process. She explained her family has lived in Turner Valley since 2005 and were confident all necessary steps have been taken to ensure the quality of their drinking water through the collection, treatment, and distribution processes.

3. Ms. Monica Dragosz

[46] Ms. Monica Dragosz stated that her concern is the transparency of municipal governments in Alberta when it comes to public safety and environmental integrity.

4. Ms. Kathy Grill

[47] Ms. Kathy Grill explained that even though she is a resident in Calgary, she frequently visits Turner Valley.

[48] Ms. Grill expressed concern that there was a proposal to construct a water reservoir in the vicinity of an old landfill site. Ms. Grill said it was upsetting to think she could be harming her health by consuming water products such as coffee or tea.

[49] Ms. Grill stated she would like the opportunity to voice her concerns, and she would like to know the Alberta Government was willing to hear all Albertans and take their concerns seriously.

5. Ms. Maureen and Mr. Randy Nelson

[50] Ms. Maureen and Mr. Randy Nelson stated they did not agree with the need for the appeals, and their best interests regarding safe, clean, and adequate water resources are well served by the Town as per AESRD guidelines. They hoped for a positive change for water testing schedules.

[51] The Nelsons welcomed the addition of the infiltration gallery, because they believed it would help provide reliable water sources to Turner Valley and Black Diamond. They explained they endured a long period of water restrictions after the June 2013 floods, but the work done since to supply treated, safe water has been a relief. The Nelsons said they no longer fear they might run out of water, and they have never feared they are being “poisoned.”

[52] The Nelsons did not believe the Appellants represent the views of other residents of the Town. The Nelsons stated the methods, protocols, and testing in place were beyond the normal parameters required by other communities.

6. Appellants

[53] The Appellants did not oppose any interventions as long as the intervenors’ submissions at the hearing were relevant to the issues set by the Board and there were no personal attacks on the integrity of a party.

7. Approval Holder

[54] The Approval Holder submitted Ms. Wilcox's application should be dismissed because her application to intervene did not address the issues in any substantial way and would likely duplicate evidence presented by the Parties.

[55] The Approval Holder noted Ms. Waring's intervention application was similar to the Nelsons, and these intervenors may wish to jointly present any submissions they intended to make.

[56] The Approval Holder stated Ms. Dragosz's and Ms. Grill's applications did not provide any information to suggest their participation would materially assist the Board in deciding the appeal issues and, therefore, their applications should be rejected.

[57] The Approval Holder stated the Nelsons appeared to present another context to the Appellants' issues and may provide some context for the impact of the Appellants' requests. The Approval Holder said the Nelsons appeared to have evidence relevant for the Board to consider with respect to the impacts of water restrictions and the loss of water resulting from the 2013 flooding.

8. Director

[58] The Director submitted the intervenor applications of Ms. Dragosz, a resident of Canmore, and Ms. Grill, a Calgary resident, should be denied, because they did not indicate how their participation would be relevant to the issues before the Board or how their participation would assist the Board. The Director stated these persons did not demonstrate a tangible interest in the subject matter of the appeals. With respect to Ms. Dragocz's concern regarding government transparency, the Director noted the hearing is open for the public and a copy of the hearing documents is available in the local library. In response to Ms. Grill's concern regarding the construction of a water reservoir in the vicinity of an old landfill site, the Director stated this was not the subject of any of the decisions under appeal.

[59] The Director took no position on the intervention requests of the Turner Valley residents, Ms. Wilcox, Ms. Waring, and Mr. and Ms. Nelson, as long as the intervention requests related to the issues set by the Board and did not duplicate evidence of the Parties. The Director noted Ms. Wilcox appeared only to be interested in learning more about the subject matter.

[60] The Director submitted that, should the Board grant intervention requests, the intervention should be limited to written submissions only.

B. Analysis

[61] Under section 95 of EPEA, the Board can determine who can make representations before it. Section 95(6) states:

“Subject to subsection (4) and (5), the Board shall, consistent with the principles of natural justice, give the opportunity to make representations on the matter before the Board to any persons who the Board considers should be allowed to make representations.”

[62] Section 9 of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93 (the “Regulation”), requires the Board to determine whether a person submitting a request to make representation should be allowed to do so at the hearing. Sections 9(2) and (3) of the Regulation provide:

- “(2) Where the Board receives a request in writing in accordance with section 7(2)(c) and subsection (1), the Board shall determine whether the person submitting the request should be allowed to make representations in respect of the subject of the notice of appeal and shall give the person written notice of that decision.
- (3) In a notice under subsection (2) the Board shall specify whether the person submitting the request may make the representations orally or by means of a written submission.”

[63] The test for determining intervenor status is stated in the Board’s Rules of Practice. Rule 14 states:

“As a general rule, those persons or groups wishing to intervene must meet the following tests:

- their participation will materially assist the Board in deciding the appeal by providing testimony, cross-examining witnesses, or offering argument or other evidence directly relevant to the appeal; the intervenor has a tangible interest in the subject matter of the appeal; the intervention will not unnecessarily delay the appeal;
- the intervenor in the appeal is substantially supporting or opposing the appeal so that the Board may know the designation of the intervenor as a proposed appellant or respondent;
- the intervention will not repeat or duplicate evidence presented by other parties....”

[64] At this point in the appeal process, the Board must determine if each of the intervention applications should be allowed. If an application to intervene is allowed, the Board must then determine the extent to which the intervenor(s) may participate in the hearing.

[65] The issues before the Board in these appeals relate to the safety of the Town’s water supply. As seen in the intervenor applications, some of the residents support the Appellants while others believe the Approval Holder and AESRD are doing a satisfactory job in protecting the water supply.

[66] In order for the Board to accept a person as an intervenor, the applicant must provide an indication of the type of evidence they intend to present to the Board. The evidence should not duplicate the evidence presented by the Parties and it should assist the Board in determining the best recommendations to make to the Minister on the issues identified by the Board.

[67] The applicants in this case provided limited information on the type of evidence they intend to present. It appears most of the applicants intend to provide similar evidence to the Parties.

[68] However, given the degree of public interest in the protection of the Town’s water supply, the Board considers it appropriate to hear from all those who presented a valid interest in the specific issues before the Board.

[69] Ms. Waring and Mr. and Ms. Nelson, who live in the Town, supported the amendments and believed the Approval Holder and AESRD were in the best position to adequately monitor and protect the Town's water supply. Monitoring and protection of the Town's water supply are both issues that will be addressed at the hearing. Therefore, the Board considers it appropriate to allow the participation of Ms. Waring and Mr. and Ms. Nelson as intervenors at the hearing. The Nelsons also noted the impacts on the community of having a shortfall of water after the June 2013 floods. Their evidence could provide additional context to the issues.

[70] Ms. Grill, although not a resident of Turner Valley, visits the Town frequently. She expressed concern that the water reservoir is located adjacent to an old landfill site. The potential for contaminants from the old landfill to reach the infiltration gallery is an issue the Board will consider at the hearing. The Board will allow Ms. Grill to participate at the hearing as an intervenor.

[71] Ms. Dragosz voiced concerns regarding the transparency of the municipal governments. Although it is unsure how her concerns specifically relate to the issues at the hearing, the Board will allow Ms. Dragosz to participate in the hearing as an intervenor. The Board notes the hearing is open to the public for viewing and a copy of the Director's record and the Board's file is available for viewing at the local library.

[72] Ms. Wilcox only stated she wanted additional information. There was no indication she intended to participate in the hearing. Therefore, the Board denies the intervenor application of Ms. Wilcox. The hearing is open to the public for viewing. The Board encourages Ms. Wilcox, and other members of the public, to attend the hearing to learn more about the issues.

[73] Given the length of the hearing and the limited information on what additional information the Intervenors will contribute to the issues, the Intervenors can participate through written submissions only. The Intervenors are reminded that their submissions must relate to the issues identified by the Board for the hearing. Submissions on other issues cannot be considered by the Board.

C. Conclusion

[74] The Board grants the requests of Ms. Irene Waring, Ms. Maureen and Mr. Randy Nelson, Ms. Monica Dragosz, and Ms. Kathy Grill to participate in the hearing through written submissions only. The intervenor application from Ms. Lisa Wilcox is denied.

Dated on May 13, 2016, at Edmonton, Alberta

"original signed by"
Alex MacWilliam
Panel Chair