

16-052-054

2018 ABEAB 23

Appellants – Domtar Inc., Cherokee Canada Inc. and 1510837 Alberta Ltd., **Operators** – Domtar Inc., Cherokee Canada Inc., 1510837 Alberta Ltd., **Location** – Edmonton, **Type of Appeal** – Discontinuance

Notices of Appeal were received on December 22 and December 23, 2016 from Domtar Inc., Cherokee Canada Inc., and 1510837 Alberta Inc., with respect to the December 20, 2016 decision of the Director, Red Deer North Saskatchewan Region, Alberta Environment and Parks to issue Environmental Protection Order No. EPO-2016/05-RDNSR to Domtar Inc., Cherokee Canada Inc., and 1510837 Alberta Ltd. for the clean-up of a site where a wood processing plant that produced treated wood products operated from 1924 to 1987, located at 4439-127 Avenue in Edmonton.

In consultation with the parties, a mediation meeting was held on April 21, 2017. The mediation did not resolve the appeals.

On September 19, 2017 the Board held an oral preliminary motions hearing to hear arguments on: (1) whether the Board had jurisdiction to accept the appeals of the EO (Enforcement Order, Appeal Nos. 16-055-056), (2) whether interim stays issued by the Board should remain in place for the EO and EPO (Environmental Protection Order, Appeal Nos. 16-052-054), (3) document production, and (4) whether the appeals should be consolidated.

At the preliminary motions hearing, the parties agreed to defer discussions on the stay applications, document production, and consolidation of appeals. Based on the submissions and arguments provided, the Board found it had the jurisdiction to hear the appeals of the EO (Appeal Nos. 16-055-056). The conditions of the EO effectively resulted in the ceasing of the operation of the berm, which is an appealable decision under section 91(1)(e) of the *Environmental Protection and Enhancement Act*.

Cite: *Cherokee Canada Inc. et al. v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (4 May 2018), Appeal Nos. 16-052-056-ID1 (A.E.A.B.), 2018 ABEAB 4

On May 18, 2018, the Director cancelled Environmental Protection Order No. EPO-2016/05-RDNSR in his letter to Domtar Inc., Cherokee Canada Inc., and 1510837 Alberta Ltd. In its May 21, 2018 letter, the Board proposed to dismiss the EPO appeals (EAB 16-052-054) as being moot and requested that if there were any objections to advise the Board by May 30, 2018.

No objections were received and on May 31, 2018, the Board declared the EPO appeals as being moot. Based upon the appeals being moot, the Board discontinued its proceedings and closed its file on May 31, 2018 with respect to the EPO appeals (EAB 16-052-054) only.

Cite: *Cherokee Canada Inc. et al. v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (31 May 2018), Appeals Nos. 16-052-054 (A.E.A.B.), 2018 ABEAB 23