

ALBERTA ENVIRONMENTAL APPEALS BOARD

2022 ABEAB 36

Appeal No. 19-101

Cite: *Dinnie v. Director, Alberta Environment and Parks, re: Paul and Mary Davis* (18 October 2022), Appeal No. 19-101 (A.E.A.B.), 2022 ABEAB 36

Appellant – Gael Dinnie, **Operators** – Paul and Mary Davis, **Location** – Foothills, **Type of Decision and Date** – Discontinuance October 18, 2022

A Notice of Appeal was received on March 9, 2020 from Gael Dinnie with respect to the January 31, 2020 decision of the Director, Alberta Environment and Parks, to issue Preliminary Certificate No. 00315275-00-00 under the *Water Act*, to Paul and Mary Davis stating they will receive a Licence to divert 1,200 cubic metres of water annually from an unnamed tributary to Threepoint Creek in SE 16-021-03-W5M with 915 cubic metres for evaporative loss and up to 285 cubic metres for consumptive use for agricultural (stock watering) and recreational purposes, upon compliance with the conditions in the Preliminary Certificate.

In consultation with the parties, a mediation meeting was held on June 17, 2020, by conference call. The mediation also involved the Davis' appeals of the Preliminary Certificate and an Approval (EAB 19-092 & 099). The mediation was unsuccessful.

The Board scheduled a hearing via conference call for February 17 and 18, 2021 with respect to the appeals of the Preliminary Certificate and Approval. The hearing was cancelled as the Davis' requested to continue to work with the Director. Discussions did not resolve the appeal. A hearing via videoconference was scheduled for June 21 and 22, 2022 regarding the appeals of the Preliminary Certificate and Approval.

On March 2, 2022, Mr. Davis confirmed he was withdrawing his appeals of the Approval and Preliminary Certificate. The Board discontinued its proceedings and closed its files in relation to the appeals filed by Paul and Mary Davis (EAB 19-092 & 099).

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In its letter of March 2, 2022, the Board confirmed that it would proceed to hear Ms. Dinnie's appeal of the Preliminary Certificate (EAB 19-101) via videoconference on June 21, 2022.

On June 15, 2022, the Board agreed to the Director's request to adjourn the hearing based on the concerns raised by the Director, to be fair to the parties, and to assist the Board in its deliberations at the hearing. In this letter, the Board also requested written submissions on an additional issue for the hearing. On July 18, 2022, the Board scheduled the hearing of Ms. Dinnie's appeal for October 27, 2022, via videoconference.

On September 12, 2022, Ms. Dinnie advised she signed a resolution regarding her appeal and that once the terms in the resolution had been completed, the appeal would be withdrawn. The Board understood the contents of the resolution were confidential. Given the resolution reached by the Director, Mr. Davis and Ms. Dinnie, the Board cancelled the October 27, 2022, hearing.

In its letter of October 7, 2022, the Board understood that since the terms of the resolution were met on September 27, 2022 and according to the resolution, Ms. Dinnie would withdraw her appeal within 7 days, the Board considered the appeal withdrawn. Ms. Dinnie was given an opportunity to advise of any concerns by October 14, 2022, otherwise the Board would close its file in this matter.

Because the Board had no correspondence to the contrary and based upon the resolution stipulating that Ms. Dinnie would withdraw her appeal in 7 days, the Board discontinued its proceedings and closed its file on October 18, 2022.