

ALBERTA ENVIRONMENTAL APPEALS BOARD

NOTICE OF APPEAL

Under the *Environmental Protection and Enhancement Act* (Sections 91, 94, 95, 96, 97, 99 and 100) and under the *Water Act* (Section 115)

TO THE ENVIRONMENTAL APPEALS BOARD, TAKE NOTICE THAT:

I, **Anita Alexander**, of Calgary, Alberta consider myself to be affected by a decision made according to the *Water Act* and hereby appeal to the Environmental Appeals Board (the “Board”).

My contact information is:

Anita Alexander

I am represented with respect to this matter by Barry Robinson, Barrister & Solicitor, whose address for service is:

Barry Robinson
Barrister & Solicitor

Decision Being Appealed

1. I am appealing the decisions (“Approval Decisions”) of Todd Aasen, Designated Director under the *Water Act*, Red Deer-North Saskatchewan Region, Alberta Environment and Parks (the “Director”), to issue Approval Nos. 00387959-00-00 and 00391359-00-00, both dated July 15, 2020 (the “Approvals”), in response to an Application by the Town of Blackfalds to construct, operate and maintain a stormwater management system (the “Project”) as described in the Master Stormwater Management Plan, Northwest Area, Town of Blackfalds, dated May 30, 2018, and other related documents.
2. I received notice of the Approval Decisions by way of an email received on July 20, 2020 from Gordon Ludtke, Senior Water Administration Engineer, Southern Region, Alberta Environment and Parks, with an attached letter from Mr. Aasen dated July 15, 2020. The letter from Mr. Aasen indicated that the Approvals were available on the Alberta Environment and Parks Authorization Viewer. However, the Approvals were not available on the Authorization Viewer on July 20, 2020 and were not posted to the Authorization Viewer until sometime on July 22, 2020. Therefore, I was unable to download and view the Approvals prior to July 22, 2020.
3. This Notice of Appeal is submitted pursuant to subsection 91(1)(p) of the *Environmental Protection and Enhancement Act*, RSA 2000, c E-12 and subsection 115(1)(a)(i) of the *Water Act*, RSA 2000, c W-3.

Preliminary Matters

(a) Decision Statement and Record

4. By way of an email to Mr. Aasen and Mr. Ludtke on July 21, 2020, my legal counsel requested a copy of the Decision Statement with respect to the Approvals. My legal counsel requested a copy of the Decision Statement in order to be

apprised of the Director's reasons for the Approvals. As of the date of this Notice of Appeal, neither I nor my legal counsel have been provided with a copy of the Decision Statement.

5. The failure of the Director to provide a copy of the Decision Statement has prejudiced my ability to prepare this Notice of Appeal and to know the case to be met in this Notice of Appeal.
6. Further, I have not received the Director's record with respect to these Approval Decisions.
7. I therefore apply to the Board pursuant to Rules 4 and 10 of the Board *Rules of Practice* for permission to amend this Notice of Appeal within a reasonable time period following receipt of the Decision Statement and Director's record, such period to be determined by the Board.

(b) Stay

8. I also apply for a stay of the Approvals, pursuant to section 97 of the *Environmental Protection and Enhancement Act* and Rules 4, 7 and 10 of the Board *Rules of Practice*, until such time as the Board has made its recommendations to the Minister pursuant to section 99 of the *Environmental Protection and Enhancement Act* and the Minister has rendered a decision pursuant to section 100 of the *Environmental Protection and Enhancement Act*.
9. The motion for a stay of the Approvals is brought on the grounds that:
 - (a) there are serious issues to be considered in the Appeal;
 - (b) I will suffer irreparable harm if the Project is permitted to proceed, resulting in permanent and irreversible changes to natural wetlands

and watercourses that may permanently alter the water flow, water level and water quality of Lacombe Lake;

(c) I will suffer greater harm from the permanent and irreversible alteration of Lacombe Lake and its surrounding environment than the Applicant will suffer from a temporary stay of the Approvals; and

(d) it is in the public interest that the issues raised in this Notice of Appeal be determined before permanent and irreversible changes are made to the potentially affected natural wetlands, watercourses and waterbodies.

10. I reserve my right to make further submissions with respect to this motion for a stay of the Approvals after the Board has determined a process for the hearing of this motion.

Standing

11. I own property within Lacombe County legally described as Plan 7822831 Block 1 Lot 7. This property is on Blackfalds Lake.

12. My parents Lloyd and June Alexander first bought property on Lacombe Lake (the "Lake") in 1960. My mother, June Alexander, continues to own property in Lacombe County located on the Lake, legally described as:

- Plan 0321130 Block 5 Lot 9
- Plan 0321129 Block 5 Lot 8
- Plan 0321129 Block 5 Lot 7

(the "Lake Property")

13. Since my childhood in the 1960's I have visited and used the Lake Property and the Lake every year for swimming, boating, viewing birds and wildlife, and relaxation.
14. Many years ago, my parents, Lloyd and June Alexander, along with other concerned residents, started the Lacombe Lake Watershed Stewardship Society ("LLWSS"). The LLWSS has worked to maintain the health of the lake, have conducted water quality testing and have conducted bird counts. In more recent years, I have been a member of the LLWSS, participated in some of their activities and been a spokesperson for the LLWSS on occasion.
15. I filed a Statement of Concern with respect to the Application by way of a letter to Alberta Environment and Parks on June 14, 2017.

The Approval Decisions

16. I appeal the Approval Decisions on the grounds that:
 - (a) the Director erred in granting the Approvals when the Application failed to identify an adequate outlet for the stormwater management system;
 - (b) the Director erred in granting the Approvals when the Application failed to present an analysis and modelling of stormwater quality in accordance with the *Stormwater Management Guidelines for the Province of Alberta*;
 - (c) the Director erred in granting the Approvals when the Application failed to provide an analysis of the risk of oil, grease and other hydrocarbon contamination to Lacombe Lake and failing to

consider oil, grease and hydrocarbon contamination as a factor in making the Approval Decisions;

- (d) the Director erred in granting the Approvals when the stormwater flows used to calculate the water quality impacts of the Project were inconsistent with the stormwater flows presented in the continuous simulation modelling in the Application;
- (e) the Director erred in failing to require monitoring that would determine the quality of stormwater discharging into Lacombe Lake;
- (f) the Director erred in issuing the Approvals without proper regard to the cumulative environmental impacts of the Project on Lacombe Lake as an important regional ecological and recreational site, including:
 - (i) impacts on water flow through the Lake;
 - (ii) impacts on water quality in the Lake;
 - (iii) impacts on water levels on the Lake;
 - (iv) impacts of water flow and water levels on shoreline erosion; and
 - (v) impacts of water flow and levels on shore nesting birds.

Remedy Requested

17. I request that the Board:

- (a) grant permission to amend this Notice of Appeal within a reasonable time period following receipt of the Decision Statement

and the Director's record, such period to be determined by the Board;

- (b) grant a stay of the Approvals until such time the Board has made its recommendations to the Minister pursuant to section 99 of the *Environmental Protection and Enhancement Act* and the Minister has rendered a decision pursuant to section 100 of the *Environmental Protection and Enhancement Act*.
- (c) determine that I am directly affected by the Application and Approval Decisions;
- (d) recommend to the Minister of the Environment that the Approvals be reversed; and
- (e) grant my costs in this proceeding.

Signed and dated at the City of Calgary, in the Province of Alberta, this 28 day of July, 2020.

Anita Alexander