

The personal information on this form is being collected under the authority of the Municipal Government Act, section 460, as well as the Freedom of Information and Protection of Privacy Act, section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

Municipality Name (as shown on your assessment notice or tax notice) FOOTHILLS COUNTY Tax Year 2023

Section 1 - Notice Type

Assessment Notice: [X] Annual Assessment [] Amended Annual Assessment [] Supplementary Assessment [] Amended Supplementary Assessment Tax Notice: [] Business Tax [] Other Tax (excluding property tax and business tax)

Section 2 - Property Information

Assessment Roll or Tax Roll Number 1829250010 Property Address 41, 1014136 S.E.-25-18-29-W4 Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer) S.E.-25-18-29-W4 Property Type [X] Residential property with 3 or fewer dwelling units [] Residential property with 4 or more dwelling units [X] Farm land [] Non-residential property [] Machinery and equipment

Business Name (if pertaining to business tax) Business Owner(s)

Section 3 - Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint? [X] Yes [] No Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company) Delbert R. Edey & HELEN L. EDEY Mailing Address (if different from above) City/Town Province Postal Code Telephone Number (include area code) Fax Number (include area code) Email Address

Section 4 - Complaint Information

Check the matter(s) that apply to the complaint (see reverse for coding) [] 1 [] 2 [X] 3 [] 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 [] 12 [] 13

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

Section 5 - Reason(s) for Complaint

Note: An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form. A complainant must: [] indicate what information shown on an assessment notice or tax notice is incorrect, [] explain in what respect that information is incorrect, [] indicate what the correct information is, and [] identify the requested assessed value, if the complaint relates to an assessment. Requested assessed value: 219,340

AS A RESULT OF THE FLOOD MITIGATION FOR THE TOWN OF HIGH RIDER THE S.W DIKE WAS BUILT. THE DIKE DIVERTS FLOOD WATER AWAY FROM TOWN BUT ONTO OUR PROPERTY. OUR HOME IS IN A FLOOD ZONE.

Section 6 - Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint. If the assessment review board panel makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor, and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Section 7 - Complainant Signature

7/25/23 DENBERT EDEY Date (mm/dd/yyyy) Printed Name of Signatory Person and Title Signature

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.

Assessment Review Board Clerk Use Only Was the complaint filed on time? [] Yes [] No Is the required information included on or with the complaint form? [] Yes [] No Was the required filing fee included? [] Yes [] No [] N/A Date received Was a properly completed agent authorization form attached? [] Yes [] No [] N/A Complaint to be heard by: [] LARB Panel [] CARB Panel

RECEIVED JUL 26 2023

MATTERS FOR A COMPLAINT

A complaint to the assessment review board panel may be about any of the following matters, as shown on an assessment notice or on a tax notice:

- 1 the description of the property or business
- 2 the name or mailing address of an assessed person or taxpayer
- 3 an assessment amount
- 4 an assessment class
- 5 an assessment sub-class
- 6 the type of property
- 7 the type of improvement
- 8 school support
- 9 whether the property or business is assessable
- 10 whether the property or business is exempt from taxation under Part 10, but not if the exemption is given by an agreement under section 364.1(11) that does not expressly provide for the right to make the complaint
- 11 any extent to which the property is exempt from taxation under a bylaw under section 364.1 of the Act
- 12 whether the collection of tax on the property is deferred under a bylaw under section 364.1 of the Act
- 13 a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1 of the Act

Note: To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

ASSESSMENT REVIEW BOARD PANELS

A local assessment review board panel will hear complaints about residential property with 3 or fewer dwelling units, farm land or matters shown on a tax notice (other than a property tax notice).

A composite assessment review board panel will hear complaints about residential property with 4 or more dwelling units or non-residential property.

DISCLOSURE

Disclosure must include:

- All relevant facts supporting the matters of complaint described on this complaint form.
- All documentary evidence to be presented at the hearing.
- A list of witnesses who will give evidence at the hearing.
- A summary of testimonial evidence.
- The legislative grounds and reason for the complaint.
- Relevant case law and any other information that the complainant considers relevant.

Disclosure timelines:

For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 7 days before the scheduled hearing date.

For a complaint about an assessment - local assessment review board panel:

- Complainant must provide full disclosure at least 21 days before the scheduled hearing date.
- Respondent must provide full disclosure at least 7 days before the scheduled hearing date.
- Complainant must provide rebuttal at least 3 days before the scheduled hearing date.

For a complaint about an assessment - composite assessment review board panel:

- Complainant must provide full disclosure at least 42 days before the scheduled hearing date.
- Respondent must provide full disclosure at least 14 days before the scheduled hearing date.
- Complainant must provide rebuttal at least 7 days before the scheduled hearing date.

DISCLOSURE RULES

Timelines for disclosure must be followed;

Information that has not been disclosed will not be heard by an assessment review board panel.

Disclosure timelines can be reduced if the disclosure information is provided at the time the complaint form is filed. Both the complainant and the assessor must agree to reduce the timelines.

PENALTIES

A Composite Assessment Review Board Panel may award costs against any party to a complaint that has not provided full disclosure in accordance with the regulations.

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee are invalid.

An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form.

The clerk will notify all parties of the hearing date and location.

For more details about disclosure please see the *Matters Relating to Assessment Complaints Regulation*.

To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.

RECEIVED
JUL 3 8 2008

Flood mapping Inbox x



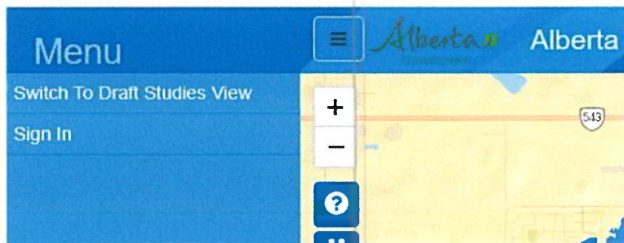
Julie McLean <Julie.McLean@foothillscountyab.ca>
to me

Tue, Jun 6, 3:42

Hi Delbert,

The website with the provincial mapping is found here:
<https://floods.alberta.ca/>

To get to the draft studies view click on the blue box with the three horizontal lines in the upper left corner and you will get the Menu shown below. Then choose "Switch I
Only the inundation mapping is currently available on the Highwood River, but if you look at the inundation map for the 1:100 event it should correspond to the extents of
the hazard mapping is released.
I hope this is helpful.



*ALBERTA ENVIRONMENTAL Appeals BOARD REPORT.
Google - Edey, DELBERT & HELEN*

Appeals

Edey et al. v. Director, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks, re: Town of High River, 19-089 and 093-094-ID3

Collection: Appeals

Date: 2022-08-15

Neutral citation: 2022 ABEAB 33

Environment Decision Nos.: Approval No. 00419723-00-00

Appeal Nos.: 19-089, 19-093, 19-094

EAB Board Member: Anjum Mullick

EAB Decision Type: Interim Decision

Legislation: WA

2022 ABEAB 33

August 15, 2022

Via E-Mail

To Distribution List

Dear Ladies and Gentlemen:

Re: Decision^{*} - Town of High River/Water Act Approval No. 00419723-00-00
Our File Nos.: EAB 19-089, 093 & 094

These are the reasons for the Environmental Appeals Board's (the "Board") November 9, 2020 decision concerning the issues for the hearing of these appeals. Ms. Anjum Mullick, Panel Chair, made the decision.

Background

On January 28, 2020, the Director, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks (the "Director") issued Approval No. 00419723-00-00 (the "Approval") under the *Water Act*, R.S.A. 2000, c.W5 (the "*Water Act*") to the Town of High River (the "Town"). The Approval authorizes the construction and placement of a berm (approximately 2.6 kilometres long) and swale at Section 35-018-29-W4M and S½-01-19-29-W4M within the Highwood River's floodplain (the "Southwest Dike") resulting in the permanent alteration of the flow, direction of flow and the water levels of the Highwood River.

The Approval also changes the location of water for drainage purposes.^[1] The Board received Notices of Appeal from Mr. Delbert and Ms. Helen Edey (the "Edeys"), Mr. James and Ms. Lillian Howie (the

“Howies”), and Mr. Rod and Ms. Nicole Macklin (the “Macklins”) (collectively, referred to as the “Appellants”).^[2]

-2-

On May 5, 2020, the Board proposed issues for the hearing and asked the Appellants, the Director, and the Town (collectively the “Parties”) to provide comments.^[3] The Board received comments from the Parties between May 5 and May 22, 2020.

Submissions

1. Appellants’ Comments

The Appellants expressed concern that the single issue proposed by the Board would result in a hearing that was overly narrow and limited in scope. The Appellants further expressed concern that not all of the relevant issues and concerns would be heard.

The Appellants proposed the issues be worded as follows:

“Issue: Accuracy/reliability of the modeling conducted for the Town that forms the basis for the design of the Southwest Dike

- How accurate/reliable are the modeling results?
- What is the margin of error in the model?

Issue: Appropriateness/suitability of constructing a dike in a floodway /floodplain

- Could protection of the Town of High River from flooding coming from the south be achieved in other ways and with different berth alignments that respect the location of the existing floodway zone and natural overflow path?

Issue: Alignment of the proposed Southwest Dike

- Is the alignment proposed for the Southwest Dike appropriate given the cumulative effects of all the dikes previously constructed by the Town and approved by AEP?

-3-

Issue: Potential Impacts of the Southwest Dike

- What are the downstream impacts of the Southwest Dike Project and has the Town of High River developed a compensation or protection plan that is defensible, equitable and which appropriately addresses future risks and liabilities?”^[4]

The Appellants argued the Board should reject the Town’s arguments that the *Water Act* does not expressly or impliedly provide a flood protection right. The Appellants argued the Town’s arguments were without merit and should be rejected by the Board.

The Appellants stated every property owner has a right to quiet possession and enjoyment of their property. The Appellants further stated that the flooding of land is a recognized type of damage constituting a legal nuisance. The Appellants argued that an activity by a person that causes the release of water onto another person's property is potentially both a trespass and a nuisance, and unreasonable interference with an occupier's interest in the beneficial use and enjoyment of their land. The Appellants commented that they interpreted the Board's proposed issue to be based on the premise that "... when approving an activity as being in the public interest, the Director should have regard to whether that activity will create a trespass and nuisance to the properties of third parties."^[5]

The Appellants also argued the Board should reject the arguments that the proposed hearing issue should not contain a reference to their flood protection rights as it would be inconsistent with the Director's acceptance of their statements of concern. The Appellants argued their statements of concern were accepted because the Southwest Dike directly affected their properties. The Appellants argued if they did not have a right to be protected from flooding caused or contributed to by a third party, the Southwest Dike would not have had a direct effect on them. The Appellants commented that the Director and Town's arguments were an indirect argument that the Southwest Dike does not affect them.

2. Town's Comments

The Town commented that the *Water Act* does not expressly or impliedly provide a flood protection right nor does the *Water Act* provide the Director with the mandate to consider the Town's application in the context of a flood protection right. The Town further commented it did not believe a reference to the Appellants' flood protection right should be included in the statement of the issue.

-4-

The Town proposed the issue be stated as:

"Are the terms and conditions in the Approval adequate having regard to the potential environmental impacts of the approved activity."^[6]

The Town argued that as stated, this issue would include consideration of all of the environmental impacts alleged by the Appellants.

The Town further commented the four issues set out by the Appellants are not appropriately included in the statement of the issue for the hearing and concurred with the Director's arguments. The Town noted the first issue proposed by the Appellants is evidential in nature and may be captured by the issue as proposed by the Board and the Director. The Town further noted the second and third issues proposed by the Appellants relate to policy decisions made by the Town with respect to its flood protection measures for its citizens, and such matters are outside the jurisdiction of the Board. The Town concluded by stating the last issue proposed by the Appellants is related to financial compensation, and is also outside the jurisdiction of the Board.

3. Director's Comments

The Director commented the Approval itself does not create environmental impacts, but acknowledged that the approved activity may. The Director further noted that in reviewing the notices of appeal and previous correspondence, no party had raised a flood protection right. The Director stated it was unclear to the Director what this right was, or how this right related to either the Approval, or the Director's decision to issue the Approval under the *Water Act* and the matters and factors under the *Approved Water Management Plan*

for the South Saskatchewan River Basin. ^[7] The Director submitted a flood protection right should not be an issue or form a part of the hearing.

The Director proposed the issue should be worded as follows:

“Are the terms and conditions of the Approval adequate having regard to the potential environmental impacts of the approved activity?”^[8]

-5-

In response to the Appellants’ first proposed issue, the Director commented the Director considers modelling as a part of making his decision and the Appellants’ proposed issue regarding the modelling could be subsumed under a general issue for the hearing. The Director noted his decision is guided by section 38 of the *Water Act*^[9] and the matters and factors in Table 2 of the SSRB Plan. The Director submitted section 38 of the *Water Act* and Table 2 of the SSRB Plan should be used to determine whether the terms and conditions of the Approval are adequate.

The Director responded to the Appellants’ proposed second issue by stating he reviews a project design as submitted. The Director stated a project redesign would require the approval of the Town, perhaps the involvement of the municipality where the Appellants reside, and notice to others who may be directly affected. The Director stated a redesign would return the Approval to the application stage.

In response to the Appellants’ proposed third issue, the Director commented he must consider certain cumulative effects under the matters and factors contained in Table 2 of the SSRB Plan. He further commented in response to the Appellants’ proposed fourth issue, he must consider downstream impacts of an activity on the aquatic environment, hydraulic, hydrological and hydrogeological effects, and effects on household users, licensees and traditional agricultural users.

The Director concluded by commenting he may consider public safety under section 38 of the *Water Act*, but has no statutory mandate to consider compensation. The Director submitted compensation issues were also out of scope for the hearing as they are similarly outside the jurisdiction of the Board and the Minister of Environment and Parks.

Analysis

Under section 95 of *Environmental Protection and Enhancement Act*,^[10] the Board has the authority to determine the issues that will be heard at the hearing.

-6-

Section 95 of the Act provides in part:

- “95(2) Prior to conducting a hearing of an appeal, the Board may, in accordance with the regulations, determine which matters included in the notices of appeal properly before it will be included in the hearing of an appeal...
- (3) Prior to making a decision under subsection (2), the Board may, in accordance with the regulations, give to a person who has submitted a notice of appeal and to any other

person the Board considers appropriate, an opportunity to make representations to the Board with respect to which matters should be included in the hearing of the appeal.

- (4) Where the Board determines that a matter will not be included in the hearing of an appeal, no representations may be made on that matter at the hearing.”

For a matter to be properly before the Board and set as an issue for the hearing, the matter must be included in the notice of appeal, relate to the decision being appealed and be within the Board’s jurisdiction.

The Appellants have argued that the issue proposed by the Board is overly narrow and does not encompass all of their concerns arising from the Approval and the Southwest Dike. The Appellants have suggested wording that in their view, would more clearly set out the issues for the hearing. The Appellants further asked the Board to reject the Director’s arguments to remove the reference to the Appellants’ flood protection right, as the removal would be inconsistent with the Director’s acceptance of their statements of concern. The Appellants argued their statements of concern were accepted because the Southwest Dike had the direct effect of causing flooding to their properties.

Both Town and the Director argued against the inclusion of the flood protection right. The Director argued that it was unclear what this right was, and that it was not included in the Appellants’ notices of appeal. The Director also commented while a flood protection right does not appear in the legislation and policies, he was obligated to consider the environmental impacts of the proposed activity. The Director proposed wording based on this obligation. Given this information, the Board considers it appropriate not to reference the flood protection right and to more closely follow the considerations the Director must make when issuing the Approval.

With regard to issues related to compensation, both the Town and the Director argued against any reference to monetary compensation as this is also outside the jurisdiction of the Board. The Board agrees with the Town and the Director that monetary compensation is outside of the jurisdiction of the Board and therefore, cannot form an issue for the hearing.

-7-

The Director argued the Appellants’ first proposed issue could be subsumed under the general issue proposed by the Board, as the Director is required to consider modelling when making his decision. The Town similarly argued the Appellants’ concerns could be encompassed in one broad issue. The Board notes the Edeys raised specific concerns regarding the modelling in their notice of appeal.

The Town argued the second and third issues proposed by the Appellants related to policy issues made by the Town which are outside of the jurisdiction of the Board. In regards to the second and third issue proposed by the Appellants, the Director argued he reviews projects as designed, and is required to consider cumulative effects. The Director further argued any changes to the design of the Southwest Dike would require notice to those who are directly affected and return the Approval to the application stage. The Board notes the Macklins raised a concern regarding the construction of the Southwest Dike in the floodplain. All of the Appellants raised concerns to varying degrees regarding the impacts arising from the Southwest Dike to their properties, safety and infrastructure.

The Board finds the Appellants raised issues related to the scientific and technical studies, appropriateness of constructing the Southwest Dike in the Highwood River’s floodplain, and the appropriateness of the Approval’s terms and conditions in their notices of appeal.

Given the wide breadth of concerns raised by the Appellants, the Board finds that it would be appropriate to set out three broad issues, with detailed references below those issues to scope and provide

guidance for those issues.

Conclusion

As stated in its decision letter dated November 9, 2020, the Board determined that the issues for the hearing were:

1. Are the terms and conditions of the Approval appropriate having regard to the potential environmental impact of the approved activity? This includes but is not limited to the potential environmental impact of the Approval on each of the Appellants (i.e. property, business, safety).
2. The accuracy and reliability of the technical and scientific studies that informed the Director's decision to issue the Approval. This includes but is not limited to any modelling that was undertaken.
3. The appropriateness of constructing a dike in a floodway or floodplain as authorized by the Approval under appeal before the Board.

-8-

Please do not hesitate to contact the Board if you have any questions. I can be reached toll-free by first dialing 310-0000 followed by 780-427-4179 or by email at gilbert.vannes@gov.ab.ca.

Yours truly,

Gilbert Van Nes
General Counsel
and Settlement Officer

The information collected by the Board is necessary to allow the Environmental Appeals Board to perform its function. The information is collected under the authority of the *Freedom of Information and Protection of Privacy Act*, section 33(c). Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of these appeals. The information you provide will be considered a public record.

M:\EAB\Appeals 2019\19-089 High River (Edey)\Decisions\Hearing Issues Decision 19-089, 093-094-ID3, Aug 15, 2022.docx

Distribution List
Town of High River
(EAB 19-089-091, 093-094)

Appellants

Mr. Delbert and Ms. Helen Edey
(19-089)

Director, Alberta Environment and Parks

Ms. Jodie Hierlmeier
Ms. Jade Vo
Alberta Justice and Solicitor General
Environmental Law Section

Mr. James Howie

(19-093)

8th Floor, Oxbridge Place
 9820 – 106 Street
 Edmonton, AB T5K 2J6
 (jodie.hierlmeier@gov.ab.ca, jade.vo@gov.ab.ca and
 aep.environmental.law@gov.ab.ca)
 (Representing the Director, AEP)

Mr. Rod and Ms. Nicole Macklin

(19-094)

Approval Holder

Mr. Gavin Fitch
 McLennan Ross LLP
 #1900 Eau Claire Tower
 600 – 3 Avenue SW
 Calgary, AB T2P 0G5
 (gfitch@mross.com)
 (Representing Appellants 19-089, 093 & 094 and
 Intervenor)

Mr. Chris Prosser
 Chief Administrative Officer
 Town of High River
 309B Macleod Trail SW
 High River, AB T1V 1Z5
 (cprosser@hrmdf.net, lalbert@hrmdf.net and
 tgilliss@hrmdf.net)

Ms. Meaghan Conroy
 MLT Aikins LLP
 #2200, 10235 – 101 Street
 Edmonton, AB T5J 3G1
 (mconroy@mltaikins.com)
 (Representing the Town of High River)

Intervenor

Mr. Peter and Ms. Sheila Macklin

(Appeal EAB 19-091 dismissed, on Nov 9, 2020
 permitted to intervene)

* Cite as: *Edey et al. v. Director, South Saskatchewan Region, Regulatory Assurance Division, Alberta Environment and Parks, re: Town of High River* (15 August 2022), Appeal Nos. 19-089 and 093-094-ID3 (A.E.A.B.), 2022 ABEAB 33.

[1] *Water Act* Approval No. 00419723-C0-00, January 28, 2020, at the Purpose and Conditions 3.0(a).

[2] The Board received Notices of Appeal from the Edeys on February 7, 2020, from the Howies on February 10, 2020, and from the Macklins on February 17, 2020.

[3] The Board proposed the following issues:
 Are the terms and conditions in the Approval adequate having regard to the potential environmental impacts of the Approval? This includes but is not limited to:

- The impact of the Approval to each of the Appellants' lands having regard to their flood protection right.

[4] Appellants' Letter, May 11, 2020, at pages 2 and 3.

[5] Appellants' Letter, May 22, 2020, at page 2.

[6] Town's Letter, May 11, 2020, at page 1.

[7] *Approved Water Management Plan for the South Saskatchewan River Basin*, Alberta Environment and Parks, January 1999 ("SSRB Plan").

[8] Director's Letter, May 11, 2020, at page 1.

[9]

Section 38 of the *Water Act* provides in part:

“(2) In making a decision under this section, the Director

- (a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing an approval, as specified in an applicable approved water management plan,
- (b) may consider any existing, potential or cumulative
 - (i) effects on the aquatic environment,
 - (ii) hydraulic, hydrological and hydrogeological effects, and
 - (iii) effects on household users, licensees and traditional agriculture usersthat result or may result from the activity, and
- (c) may consider
 - (i) effects on public safety, and
 - (ii) any other matters applicable to the approval that, in the opinion of the Director, are relevant.”

[10]

Environmental Protection and Enhancement Act, R.S.A. 2000, c. E-12 (the “Act”).