

# ALBERTA ENVIRONMENTAL APPEALS BOARD

## Decision

Date of Decision – May 18, 2007

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

**-and-**

**IN THE MATTER OF** appeals filed by the Siksika Nation Elders Committee and the Siksika Nation with respect to *Environmental Protection and Enhancement Act* Approval No. 1190-01-13 issued to the Town of Strathmore by the Director, Southern Region, Regional Services, Alberta Environment.

Cite as: Intervenor: *Siksika Nation Elders Committee and the Siksika Nation v. Director, Southern Region, Regional Services, Alberta Environment*, re: *Town of Strathmore* (May 18, 2007), Appeal Nos. 05-053 and 054-ID1 (A.E.A.B.).

**WRITTEN SUBMISSIONS BEFORE:**

Mr. Ron Peiluck, Vice-Chair.

**SUBMISSIONS BY:**

**Appellants:**

Siksika Nation Elders Committee, represented by Ms. Donna Breaker; Siksika Nation, represented by Mr. Rangi Jeerakathil, MacPherson Leslie & Tyerman LLP.

**Director:**

Ms. May Mah-Paulson, Director, Southern Region, Regional Services, Alberta Environment, represented by Ms. Charlene Graham, Alberta Justice.

**Approval Holder:**

Town of Strathmore, represented by Mr. Sabri Shawa, May Jensen Shawa Solomon LLP.

**Intervenor Applicants:**

Wheatland County; Western Irrigation District; Mr. Kelly Breaker; Communities in Bloom Strathmore Chapter; Rich-Lee Custom Homes; Royop Corporation (Pine Centre Development Ltd.); Aztec Real Estate; Strathmore Homes Ltd.; Happy Gang Society; Wild Rose Economic Development Corporation; United Communities L.P.; Ms. Patricia Cross, Madawaska Consulting; and Dr. Steve Stanley, Epcor.

## **EXECUTIVE SUMMARY**

Alberta Environment issued Amending Approval No. 1190-01-13 to the Town of Strathmore authorizing the construction, operation, and reclamation of a wastewater system for the Town of Strathmore near Strathmore, Alberta. The Amending Approval allows for the construction of a 21 kilometre pipeline for treated wastewater with an outfall into the Bow River within one kilometer upstream of the Siksika Nation lands boundary. The Siksika Nation Elders Committee and the Siksika Nation appealed the Amending Approval.

The Board set the hearing for February 12, 13, and 14, 2007, and in response to the published notice of hearing, it received 13 intervenor requests.

After reviewing the submissions from the Town of Strathmore, the Siksika Nation Elders Committee, the Siksika Nation, Alberta Environment, and the intervenor requests, the Board determined the Wheatland County, which represents the interests of its residents including the residents of the Hamlet of Gleichen, and the Western Irrigation District, which received the treated wastewater from the Approval Holder for six years and could provide specific information on the system previously used to dispose of the treated wastewater, would be able to provide evidence at the Hearing and would be subject to cross-examination by the Appellants; Mr. Kelly Breaker, a member of the Siksika Nation, could provide a written submission; the intervenor applications of Communities in Bloom Strathmore Chapter, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose Economic Development Corporation, and United Communities L.P. were denied because The Board believed the environmental issues and concerns raised by these Intervenors would be fully presented by the Approval Holder; and based on the information provided by the Approval Holder, the intervenor requests of Ms. Patricia Cross of Madawaska Consulting and Dr. Steve Stanley of Epcor were withdrawn as they were slated to be members of the Town of Strathmore's panel of witnesses.

## TABLE OF CONTENTS

I.	BACKGROUND .....	1
II.	SUBMISSIONS .....	4
A.	Intervenors .....	4
1.	Kelly Breaker .....	4
2.	Wheatland County .....	4
3.	Western Irrigation District .....	5
4.	Communities in Bloom Strathmore Chapter .....	5
5.	Rich-Lee Custom Homes .....	6
6.	Royop Corporation (Pine Centre Development Ltd.) .....	6
7.	Aztec Real Estate .....	6
8.	Strathmore Homes Ltd. ....	6
9.	Happy Gang Society .....	7
10.	Wild Rose Economic Development Corporation .....	7
11.	United Communities L.P. ....	8
12.	Ms. Patricia Cross, Madawaska Consulting .....	8
13.	Dr. Steve Stanley, Epcor .....	8
B.	Siksika Nation .....	9
C.	Approval Holder .....	10
D.	Director .....	10
III.	DISCUSSION AND ANALYSIS .....	10
A.	Legislation .....	10
B.	Discussion .....	11
IV.	CONCLUSION .....	13

## **I. BACKGROUND**

[1] On November 24, 2005, the Director, Southern Region, Regional Services, Alberta Environment (the “Director”), issued Amending Approval No. 1190-01-13 (the “Amending Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”) to the Town of Strathmore (the “Approval Holder”) authorizing the construction, operation, and reclamation of a wastewater system for the Town of Strathmore, Alberta. The Approval allows for the construction of a 21 kilometre pipeline to discharge treated wastewater at an outfall into the Bow River within one kilometer upstream of the Siksika Nation lands (the “Siksika Nation Lands”) boundary.

[2] On December 20 and 22, 2005, the Environmental Appeals Board (the “Board”) received Notices of Appeal from the Siksika Nation Elders Committee (the “Siksika Elders”) and the Siksika Nation, respectively, (collectively, the “Appellants”) appealing the Amending Approval.

[3] On December 22 and 23, 2005, the Board wrote to the Appellants, the Approval Holder, and the Director (collectively, the “Parties”) acknowledging receipt of the Notices of Appeal and notifying the Approval Holder and the Director of the appeals. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to these appeals, and that the Parties provide available dates for a mediation meeting, preliminary meeting, or hearing. The Record was provided to the Board on January 30, 2006, and copies were provided to the Parties. Additional documents were provided on March 24, 2006, April 28, 2006, and January 22, 2007, and copies were provided to the Parties.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective legislation. Both boards responded in the negative.

[5] On January 16, 2006, the Director notified the Board that Alberta Environment was in the process of attending at or scheduling meetings with the other Parties.

[6] On January 16, 2006, the Siksika Elders filed a Stay request, and on February 1, 2006, the Siksika Nation requested a Stay. The Board asked the Appellants to provide responses

to the Stay questions.<sup>1</sup> The Board received the submission from the Appellants on February 23, 2006. On March 16, 2006, the Board notified the Parties that the Stay was denied, and reasons were provided on May 26, 2006. The Board stated the request for a Stay was premature and the arguments presented by the Appellants did not provide a sufficient basis to grant a Stay at that time.

[7] On January 30, 2006, the Director and the Approval Holder provided a status report explaining that the Director had a meeting with the Siksika Elders and other meetings with the Siksika Nation, the Approval Holder, and the Director were planned.

[8] On April 5, 2006, the Siksika Nation sought confirmation that the Board would not be taking jurisdiction with respect to consultation arguments as referred to in the transitional provisions of the *Administrative Procedures Amendment Act, 2005*, the *Designation of Constitutional Decision Makers Regulation*, Alta. Reg. 69/2006, and specifically section 15 of the *Administrative Procedures and Jurisdiction Act*, R.S.A. 2000, c. A-3.

[9] On May 19, 2006, the Siksika Nation filed a judicial review of the Director's decision to issue the Amending Approval and the decision of the Board denying the Siksika Nation Stay application. On May 24, 2006, the Board notified the Parties that it intended to hold the appeals in abeyance pending the outcome of the judicial review application.<sup>2</sup> The Parties agreed to proceed with the information/technical session and mediation meeting. The information/technical session and mediation meeting was scheduled for August 15 and 16, 2006. The information/technical session was held on August 15, 2006, but the mediation meeting was adjourned.

[10] On August 18, 2006, the Board wrote to the Parties, summarizing the course of action agreed to at the information/technical session of August 15, 2006. The Siksika Nation

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<sup>1</sup> The Appellants were asked to respond to the following questions:

- “1. What are the serious concerns of the [Appellants] that should be heard by the Board?
2. Would the [Appellants] suffer irreparable harm if the Stay is refused?
3. Would the [Appellants] suffer greater harm if the Stay was refused pending a decision of the Board, than the Town of Strathmore would suffer from the granting of a Stay?
4. Would the overall public interest warrant a Stay.”

<sup>2</sup> At the judicial review, only the consultation issues around the Director's decision were addressed. On September 6, 2006, Justice McIntyre dismissed the judicial review application. On November 6, 2006, the Siksika Nation filed an appeal of Justice McIntyre's decision to the Court of Appeal. As of the date of this decision, no date has been set for the hearing at the Court of Appeal.

representatives were to consult with their technical experts, the Chief and Council, and the Siksika Elders to seek instruction regarding the mediation process. The representatives of the Siksika Nation were to consider whether additional mixing modeling should be done, whether there should be a risk analysis done regarding the security of the water wells, and whether additional technical information was required from the Approval Holder. The Approval Holder agreed to provide the additional technical information, if available, as soon as possible, and the Parties agreed to tour each others' water treatment plants. On August 25, 2006, the Approval Holder provided a document in response to a request at the information/technical session. On September 18, 2006, the Siksika Nation stated they were prepared to proceed to a mediation meeting, and on October 13, 2006, the Siksika Elders agreed to enter into mediation.

[11] On October 30, 2006, the Board notified the Parties that it would hold the appeals in abeyance until the dye testing requested by the Appellants, and agreed to by the Approval Holder, was conducted. On December 15, 2006, the Approval Holder notified the Board that it was unable to complete the dye study in December as planned, and instead, the test would be undertaken as early as possible in the spring of 2007. The Approval Holder also informed the Board that the storage capacity of its lagoons would be reached at the end of February 2007. In response, the Board notified the Parties of its intent to schedule a hearing as soon as possible.

[12] On December 15, 2006, the Board notified the Parties that it would set up a submission process to address the Appellants' question about the Board's intention with respect to the transitional provision in section 15 of the *Administrative Procedures and Jurisdiction Act*. Submissions were received between December 21, 2006 and January 3, 2007. On January 22, 2007, the Board notified the Parties that it had determined that it would leave it to the Courts to determine the constitutional issues.

[13] On December 22, 2006, the Board notified the Parties that, based on the dates provided by the Parties, the Board would hold a Hearing on February 12, 13, and 14, 2007, in Strathmore, Alberta.

[14] In response to the Notice of Hearing advertisement regarding the Hearing, the Board received intervenor requests from Wheatland County, Mr. Kelly Breaker, Western Irrigation District (the "WID"), Communities in Bloom Strathmore Chapter ("Communities in Bloom"), Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec

Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose Economic Development Corporation (“Wild Rose EDC”), United Communities L.P., Ms. Patricia Cross of Madawaska Consulting, and Dr. Steve Stanley of Epcor (collectively, the “Intervenors”).

[15] On January 30, 2007, the Board notified the Parties and the Intervenors that Wheatland County and the WID would be able to provide evidence at the Hearing and would be subject to cross-examination by the Appellants; Mr. Kelly Breaker could provide a written submission; the intervenor applications of Communities in Bloom Strathmore Chapter, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose Economic Development Corporation, and United Communities L.P. were denied; and based on the information provided by the Approval Holder, the intervenor applications of Ms. Patricia Cross and Dr. Steve Stanley were withdrawn as they were slated to be members of the Approval Holder’s panel of witnesses.

[16] The following are the Board’s reasons.

## **II. SUBMISSIONS**

### **A. Intervenors**

#### **1. Kelly Breaker**

[17] Mr. Kelly Breaker explained he is a member of the Siksika Nation and has a genuine interest and concern in all issues in and around the Siksika Nation. He stated he has an understanding of proper traditional Blackfoot culture in its modern context and has been following the treated wastewater issue. Mr. Breaker stated he would present a unique open dialogue regarding the Blackfoot and Siksika Nation perspective and understanding of the issues. Mr. Breaker commented that he had toured the Approval Holder’s wastewater treatment plant.

#### **2. Wheatland County**

[18] Wheatland County stated it supported the Approval Holder’s application to discharge its tertiary treated wastewater into the Bow River. Wheatland County explained the Approval Holder currently releases treated wastewater into the WID canal, and the Hamlet of Gleichen, located downstream from Strathmore, receives potable drinking water from the WID

canal.<sup>3</sup> Wheatland County stated the Approval Holder's discharge into the canal has resulted in many challenges in providing a viable, safe, drinking supply to the residents of Gleichen. Wheatland County considered releasing the treated wastewater into the Bow River as the best option for discharging treated wastewater and would have the least impact on the environment.

3. Western Irrigation District

[19] The WID strongly supported the Approval Holder's request to pass tertiary treated wastewater to the Bow River. The WID explained it provided its private canal system as an outlet for the Approval Holder's treated wastewater for six years, first as a straight lagoon release and later for tertiary quality treated wastewater. The WID stated it has incurred costs from increased weed growth, and it received criticism from downstream users who were exposed to the treated wastewater. The WID explained the canal system is a confined channel whose flow rates are determined by the agriculture irrigation demand, and in the past two years, low agriculture demands made the combined operation difficult and provided aggravation to both parties. Therefore, according to the WID, it will no longer provide the canal as an outlet for the treated wastewater.

[20] The WID stated the Approval Holder has achieved a permanent and long term solution for its treated wastewater by installing a state of the art treatment plant and transfer pipeline to the Bow River. The WID argued the release to the Bow River with its superior year round flow is scientifically superior to putting the treated wastewater into a confined irrigation channel with limited flow regime.

[21] The WID stated any emergency release should be to the Bow River since the new pipeline has been constructed to provincial standards with provincial special funding. The WID explained the Director can monitor the effect of the addition. The WID stated there has been too much delay.

4. Communities in Bloom Strathmore Chapter

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<sup>3</sup> At the Hearing, it was clarified that the Hamlet of Gleichen does not receive its potable water from the WID canal but it uses the WID canal as a raw water source for its water treatment plant.

[22] Communities in Bloom supported the Approval Holder's application for the release of tertiary treated wastewater into the Bow River. Communities in Bloom stated it had toured the Approval Holder's tertiary treatment facility and it knew the treated wastewater released from the plant to the Bow River is more environmentally safe than the actual river water.

[23] Communities in Bloom stated the community and the provincial government built the line to the Bow River believing all of the parties were in agreement and compliance, and the project is being delayed because of personnel changes in the Siksika Nation. Communities in Bloom asked that the project be approved without further delay.

5. Rich-Lee Custom Homes

[24] Rich-Lee Custom Homes supported the Approval Holder releasing treated wastewater into the Bow River as Calgary does. Rich-Lee Custom Homes argued it only made sense that this method of releasing treated wastewater be adopted since the construction of the pipeline is complete and ready for operation.

6. Royop Corporation (Pine Centre Development Ltd.)

[25] Royop Corporation explained that, as owner of a shopping centre in Strathmore, it is critical to it to have essential services provided in an efficient and cost effective manner.

7. Aztec Real Estate

[26] Aztec Real Estate argued the Approval Holder needs to be allowed to go ahead and use the treated wastewater line. It explained the Town of Strathmore has grown quickly and has provided goods and services to its residents and those surrounding the community, including the Appellants. Aztec Real Estate stated the line must be used or it will become a crisis for the Approval Holder. Aztec Real Estate argued on behalf of all its business associates that it was imperative the line go into operation.

8. Strathmore Homes Ltd.

[27] Strathmore Homes Ltd. supported the Approval Holder using the constructed line to dispose of treated wastewater. Strathmore Homes Ltd. argued growth of the town would be impeded without an effective means of disposing the treated wastewater, affecting not only Strathmore Homes Ltd. but also the trades people employed by Strathmore Homes Ltd. and the businesses that benefit from people moving into the community. Strathmore Homes Ltd. argued the Approval Holder has the Director's approval to dispose of the treated wastewater in this manner, and therefore, the Approval Holder is not proposing to act in a manner that would be detrimental to the environment.

9. Happy Gang Society

[28] The Happy Gang Society explained it is a senior's organization located in Strathmore and most members are long term residents. The Happy Gang Society supported the Approval Holder regarding the line to the Bow River and the proposed release of treated wastewater into the Bow River. The Happy Gang Society argued that, since the pipeline was almost 95 percent completed, it made no sense to stop the release, and denying the release would create added costs to the Town. The Happy Gang Society also argued denial of the Amending Approval would dissuade families from moving into Strathmore. Therefore, according to the Happy Gang Society, the Approval Holder should be allowed to release treated wastewater to the Bow River as soon as possible.

10. Wild Rose Economic Development Corporation

[29] The Wild Rose EDC supported the Approval Holder's efforts to utilize the pipeline to the Bow River. The Wild Rose EDC explained it is a community owned regional and economic development organization. It stated it was important for the community to accommodate residential, commercial, and industrial growth opportunities offered during this period of provincial growth, which requires the necessary infrastructure in place to deal with the treated wastewater generated by a growing population in an environmentally responsible manner.

[30] The Wild Rose EDC stated millions of dollars had been spent building the pipeline and it was unfortunate the Appellants' objections had not been satisfactorily resolved in view of the regulatory approvals and monies spent. The Wild Rose EDC pointed out that the

City of Calgary has been releasing treated wastewater into the Bow River for many years, and the Approval Holder recently constructed its facility to the most rigorous standards. The Wild Rose EDC argued that, if the pipeline cannot be used, growth would stop, economic opportunities for residents would be impaired, property values would be impacted, questions about Government regulations and approvals would be raised, and tax dollars would have been wasted. The Wild Rose EDC stated there is a more imminent environmental problem if the Approval Holder is unable to use the pipeline to deal with the treated wastewater that has accumulated in the lagoons.

11. United Communities L.P.

[31] United Communities L.P. explained it is a residential land development company that recently bought land and began development in Strathmore. It argued it is critical that the Town of Strathmore be able to expand its infrastructure to accommodate growth. United Communities L.P. supported the conveyance of treated wastewater to the Bow River, and it considered the pipeline the most efficient and practical means of accommodating the wastewater needs of the Town of Strathmore and it is an important part of the ongoing infrastructure improvement process in Alberta.

12. Ms. Patricia Cross, Madawaska Consulting

[32] Ms. Patricia Cross supported the Approval Holder in using the pipeline to release treated wastewater to the Bow River. She explained that, since 1999, she was responsible for the water quality monitoring program associated with the wastewater releases to the WID canal, irrigation pivots, and Freeman Marsh. Ms. Cross stated she has been working with the WID and Wheatland County on water quality issues, but she was not involved in assessing the design or impact of the pipeline.

13. Dr. Steve Stanley, Epcor

[33] Dr. Steve Stanley of Epcor stated Epcor supports the discharge of tertiary treated wastewater from the Approval Holder's wastewater treatment plant and storage cells to the Bow River. Dr. Stanley explained the Approval Holder can only discharge to the WID Canal and

irrigation pivots at certain times of the year and at set flow rates. He stated that as a result of the limitations on release and the heavy rains in 2006, the storage cells are almost at capacity and the release of treated wastewater has become crucial.

[34] Dr. Stanley stated the Approval Holder has not exceeded treated wastewater limits over the past two years. He explained the Approval Holder has completed a number of upgrades over the past three years, improving plant performance and treated wastewater quality from the plant to the holding pond system. He stated the key upgrades included an expansion of the ultraviolet system and a floating decant system, and since these upgrades were completed there have only been three exceedences, which were sent to the lagoons and returned to the treatment plant for further treatment. He explained two of the exceedences were due to outside sources discharging waste into the sewer system, and therefore, waste from outside sources is no longer accepted.

[35] Dr. Stanley explained a safety system is in place to ensure treated wastewater that is discharged to the Bow River always meets approval limits, because if there is an upset, wastewater would be directed to designated holding cells and then directed back through the treatment plant for re-treatment. He also explained that treated wastewater could be discharged to the storage cells if there is a break in the pipeline, allowing time to repair the pipeline without affecting plant performance or discharge quality.

[36] Dr. Stanley stated the Approval Holder's estimated discharge flow to the Bow River (4 to 5 ML per day) is approximately one percent of the flow generated by the City of Calgary, and the approval limits are identical to the City of Calgary.

## **B. Siksika Nation**

[37] The Siksika Nation submitted that little would be gained if Mr. Kelly Breaker was provided intervenor status, and the Board's previous ruling, denying Mr. Breaker appellant status, should apply.

[38] The Siksika Nation did not oppose the intervention of the WID as it may assist the Board.

[39] The Siksika Nation opposed the intervention of Ms. Patricia Cross and Dr. Steve Stanley of Epcor, but it did not oppose Ms. Cross and a representative from EPCOR Water Services Inc. from being a part of the Approval Holder's panel. The Siksika Nation argued it would be a lack of procedural fairness if Ms. Cross and Dr. Stanley were permitted to present separate evidence and cross-examination, because they are more appropriately considered a witness of the Approval Holder.

[40] The Siksika Nation did not object to the intervention requests of Wheatland County, Communities in Bloom, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose EDC, and United Communities L.P., but the Siksika Nation objected to these intervenors giving oral presentations or cross-examinations. The Siksika Nation felt allowing these intervenors the opportunity to make oral presentations would unnecessarily prolong the hearing.

### **C. Approval Holder**

[41] The Approval Holder made no comments regarding Mr. Kelly Breaker's request for intervenor status.

[42] The Approval Holder hoped the Board would allow the other intervenor applications as they supported the Approval Holder.

### **D. Director**

[43] The Director stated she had no comments on the intervention letters but suggested the intervenor involvement be limited to written submissions only.

## **III. DISCUSSION AND ANALYSIS**

### **A. Legislation**

[44] 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.”

[45] 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 submissions should be allowed to do so at the hearing. Section 9(2) and (3) of the Regulation provides:

- “(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.”

[46] 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....”

## **B. Discussion**

[47] Most of the Intervenors identified similar issues to those of the Parties.

[48] Mr. Kelly Breaker is a member of the Siksika Nation. He filed a Notice of Appeal, but the Board did not accept it because it was filed after the appeal deadline, and he did not provide evidence of exceptional circumstances that would be the basis for the Board to extend the appeal period. The Board has no doubt Mr. Breaker is concerned with Siksika Nation

issues that may affect their lands and their people. The Board understands that Mr. Breaker is assisting the Siksika Elders with their presentation to the Board and that many of Mr. Breaker's issues are the same as the Siksika Elders. One of the main reasons the Board allows intervenors is to ensure different perspectives are presented, and if the information appears to be the same as one of the recognized parties, the Board will limit the intervenor's participation. In his intervenor submission, Mr. Breaker stated he would present the Blackfoot and Siksika perspective and understanding of the issues. The Board expects that, because Mr. Breaker is assisting the Siksika Elders, Mr. Breaker's concerns as well as the Siksika Nation perspective will be brought out in the Siksika Elders' presentation to the Board. Therefore, the Board will limit Mr. Breaker's intervention in the hearing process. Mr. Breaker will be allowed to provide a written submission only to describe his own personal interest with the proposed treated wastewater disposal system. He will not be afforded time to speak as an intervenor at the hearing, and therefore, he will not be subject to cross-examination on his intervenor submission.

[49] The WID has a unique interest in this appeal. It received the treated wastewater from the Approval Holder for six years, and it can provide specific information on the system previously used to dispose of the treated wastewater. Therefore, the Board considers the evidence that the WID will bring to the hearing will be beneficial to understanding the issues before the Board and will assist the Board in making its recommendations. The WID will be allowed to provide oral evidence at the hearing and the Appellants will be allowed to cross-examine the WID representative.

[50] The wastewater pipeline goes from the Town of Strathmore through Wheatland County to the Bow River. Wheatland County represents the interests of its residents, including the residents of the Hamlet of Gleichen. Wheatland County explained Gleichen receives its potable drinking water from the WID canal, downstream of Strathmore.<sup>4</sup> Wheatland County wants to ensure safe drinking water is available to the residents of Gleichen, and Wheatland County will have specific knowledge on the water treatment facilities in Gleichen and how the source of water affects the current treatment system used. The public interest is a factor the Board must consider in all of the appeals before it, and there is no question the issue of the disposal of treated wastewater into a river system or irrigation canal used as a potable water

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<sup>4</sup> At the Hearing, it was clarified that the Hamlet of Gleichen does not receive its potable water from the WID canal but it uses the WID canal as a raw water source for its water treatment plant.

source is a concern to those Albertans downstream of the discharge site. The Board will therefore allow Wheatland County to provide oral evidence at the hearing and be cross-examined by the Appellants.

[51] Communities in Bloom, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose EDC, and United Communities L.P. are community based organizations. All of them supported the Approval Holder's application to release treated wastewater to the Bow River. Some of them noted the pipeline has been constructed and it would be a waste of money to prevent the Approval Holder from using the completed pipeline. This is not an environmental issue and would not be considered by the Board. The Approval Holder decided to construct the pipeline, realizing the possibility existed for an appeal. If the Approval Holder chose to proceed, it was its decision to make. The Board believes the environmental issues and concerns raised by these Intervenor requests will be fully presented by the Approval Holder, and therefore the intervenor requests of Communities in Bloom Strathmore Chapter, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose Economic Development Corporation, and United Communities L.P. are denied.

[52] The Approval Holder informed the Board on January 24, 2007, that Ms. Patricia Cross and Dr. Steve Stanley would be participating as part of the Approval Holder's witness panel and the intervenor requests of Ms. Cross and Dr. Stanley were withdrawn. Therefore, the Board did not have to consider the intervenor requests of Ms. Cross and Dr. Stanley.

#### **IV. CONCLUSION**

[53] Pursuant to section 95(6) of the *Environmental Protection and Enhancement Act*, the Board concludes that Wheatland County and the Western Irrigation District will be able to provide oral evidence at the hearing and will be subject to cross-examination by the Appellants; Mr. Kelly Breaker can provide a written submission only; the intervenor applications of Communities in Bloom Strathmore Chapter, Rich-Lee Custom Homes, Royop Corporation (Pine Centre Development Ltd.), Aztec Real Estate, Strathmore Homes Ltd., Happy Gang Society, Wild Rose Economic Development Corporation, and United Communities L.P. are denied; and

the intervenor applications of Ms. Patricia Cross and Dr. Steve Stanley of Epcor were withdrawn as they are slated to be members of the Approval Holder's panel of witnesses at the Hearing.

Dated on May 18, 2007, at Edmonton, Alberta.

*“original signed by”*

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Ron V. Peiluck  
Vice-Chair