



ALBERTA
ENVIRONMENTAL APPEALS BOARD

NOTICE OF APPEAL

Under the *Environmental Protection and Enhancement Act* (Section 91), under the *Water Act* (Section 115), under the *Emissions Management and Climate Resilience Act* (Section 42), and under the *Government Organization Act* (Schedule 5).

This form must be received by the Environmental Appeals Board within stringent time limits after you receive notice of the decision by Alberta Environment and Protected Areas that you are appealing. These time limits are set out in section 91(4) of the *Environmental Protection and Enhancement Act*, section 116(1) of the *Water Act*, section 42(2) of the *Emissions Management and Climate Resilience Act*, and Schedule 5 of the *Government Organization Act*. **Please Note:** Those wishing to file a Notice of Appeal electronically, must also mail, fax or deliver their appeal with a signature to:

Environmental Appeals Board
306, 10011 – 109 Street
Edmonton, Alberta T5J 3S8
Phone: 780-427-6207 (Toll Free: 310-0000)
Fax: 780-427-4693
E-mail Notice of Appeal to: gilbert.vannes@gov.ab.ca
Website: www.eab.gov.ab.ca

You may wish to send your appeal to the Environmental Appeals Board by registered mail or courier, so that you know your appeal was received by the Board within the required time. It is your responsibility to ensure that your Notice of Appeal is received by the Board. If you do not have a copy of the *Environmental Protection and Enhancement Act* (Part 4), the *Water Act* (Part 9), the *Emissions Management and Climate Resilience Act* (section 42), the *Government Organization Act* (Schedule 5), the Environmental Appeal Board Regulation, or the Board's Rules of Practice, the Environmental Appeals Board will provide copies free of charge. Copies are also available for viewing on the Board's website.

TAKE NOTICE THAT

I, Bighill Creek Preservation Society, of _____, of
40020 Retreat Road (name) (please print)

Rocky View County, Alberta T4C 2W4^(address)

Phone: () 403-510-0875 Fax: () _____ E-Mail: ghbietz@xplornet.ca

consider myself affected by a decision made according to the *Environmental Protection and Enhancement Act*, the *Water Act*, the *Emissions Management and Climate Resilience Act*, or the *Government Organization Act* and hereby appeal to the Environmental Appeals Board.

The information collected on this form 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 your appeal. The information you provide will be considered a public record. If you have concerns with your information being part of the public record or if you have questions about how the Board deals with your information, please contact Gilbert Van Nes, General Counsel, Environmental Appeals Board.

If you are being represented, please provide the following information:

Shaun Fluker, c/o University of Calgary Public Interest Law Clinic

(name of person representing you)

Room 4340 Murray Fraser Hall, 2500 University Drive NW, Calgary, AB T2N 1N4

(address of person representing you)

Phone: 403-220-4939 Fax: E-Mail: sfluker@ucalgary.ca

You must provide all of the information requested. If you have any questions, please contact the Board. The Board is separate and apart from Alberta Environment and Protected Areas and therefore the Board has no information related to any matters until a Notice of Appeal is filed and the Board requests the information from Alberta Environment and Protected Areas. We do not have your Statement of Concern that you filed with Alberta Environment and Protected Areas and if you want the Board to consider the matters raised in your Statement of Concern, you should repeat those concerns in this Notice of Appeal.

1. I am appealing the decision of: Craig Knaus, Designated Director under the Water Act dated July 20, 2023 (name and title of person from Alberta Environment and Protected Areas who made the decision) (date of decision)

issued to Mountain Ash Limited Partnership (name of company/person)

Location of operation or activity which is the subject of Alberta Environment and Protected Areas' decision (municipality, county, etc.): NW-31-026-03-W5, SW-31-026-03-W5 in Rocky View County

On what date and how did you receive notice of Alberta Environment and Protected Areas' decision? July 24, 2023 at 3:05 pm by email to ghbietz@xplornet.ca

Please provide any further information you may have regarding the decision you are appealing. The information can be found on the decision or the notice of decision from Alberta Environment and Protected Areas and will assist us in processing your appeal.

Approval Number DAUT0012841 (Water Act – file, application, licence, approval, enforcement action, or other numbers)

(Environmental Protection and Enhancement Act – file, application, approval, licence, enforcement action, or other numbers)

(Emissions Management and Climate Resilience Act – file, compliance order, administrative penalty, or other numbers)

(Government Organization Act – file, application, or other numbers)

2. Please select one of the following. The Notice of Appeal is submitted under the:

Environmental Protection and Enhancement Act, section 91

Water Act, section 115

Emissions Management and Climate Resilience Act, section 42

Government Organization Act, Schedule 5

Please ensure that you state all your concerns, objections, and reasons in this Notice of Appeal as you may be prevented from raising them later in your appeal if you do not include them here. Please be specific and attach additional sheets if necessary.

3. What parts of Alberta Environment and Protected Areas' decision do you not like? (Please refer to the section of the approval, licence, reclamation certificate, order, etc., issued by Alberta Environment and Protected Areas.)

Attached to this Notice as Appendix "A"

4. (a) What are your concerns with Alberta Environment and Protected Areas' decision?

Attached to this Notice as Appendix "A"

(b) How is Alberta Environment and Protected Areas' decision affecting you?

Attached to this Notice as Appendix "A"

(c) Why do you not like the decision made by Alberta Environment and Protected Areas?

Attached to this Notice as Appendix "A"

5. What would you like the Board to do to resolve the specific concerns you have noted above?

Attached to this Notice as Appendix "A"

Please feel free to attach copies of any additional documents that may be of assistance to the Board.

Signature: (signed) Gerry Bietz

Dated at Rocky View County, Alberta, this 26th day of July, 2023.

Appendix “A” to Notice of Appeal filed by Bighill Creek Preservation Society (BCPS)

July 26, 2023

Primary Concern:

The Decision allows for the construction and operation of a surface mine located on 323 acres of land overlying the aquifer which creates the nationally significant Big Hill Spring (Spring) and which sustains Bighill Creek (Creek). BCPS believes the mine approved by the Decision is a material risk to the region’s groundwater resources and as a result, to the Spring, Creek, and Big Hill Springs Provincial Park and related wetlands and riparian habitats. Further, BCPS is concerned that the cumulative impacts of this mine along with others in the region will have significant adverse impacts on the Spring, Creek and Park.

The Park receives approximately 250,000 visitors annually and was recently renovated at a cost of \$1.2 million due to heavy use. If there is no assessment of the cumulative risks of this and future mines on the Park, this investment will have been entirely wasted. The Park’s ecology was created and is sustained by the main Big Hill Spring that issues from an aquifer extending approximately 30 square miles to the north and west. The aquifer is located underneath the mine site. The aquifer’s water nourishes the Park and provides about half the flow into Bighill Creek. Between the Park and Cochrane, some five miles, the creek flows through a deeply incised valley of extensive and healthy wetlands and riparian zones. A broad range of native and some introduced fish occupy the Creek. BCPS is currently assessing the creek as to its suitability for reintroducing endangered Bull Trout and Westslope Cutthroat Trout.

The Decision makes no substantial reference to impacts on groundwater or the aquifer. BCPS was provided with assurances by the Director that groundwater impacts would be considered by Alberta Environment and Protected Areas, but there is no indication of this consideration in the Decision (correspondence with the Director attached).

BCPS Relationship to Area:

BCPS was registered as an Alberta Society in 2015. Our mandate is to develop a watershed plan for the entire Bighill Creek drainage and to ensure the long-term preservation of this valuable ecological and historical asset. Since formation, the society has worked diligently towards this goal. (A history of our activities is included here. All of our studies are available on our website <bighillcreek.ca>)

Big Hill Springs Provincial Park, one of Alberta’s original parks, lies at the approximate centre of the watershed. The Society is actively engaged in community outreach and education, aided by our

website and our Facebook page. Our supporters include residents in immediate proximity to Big Hill Springs Provincial Park and who live along the Creek and across the region.

BCPS filed a Statement of Concern with Alberta Environment and Protected Areas in relation to the application subject to this Decision, and that Statement of Concern was accepted (letter attached).

BCPS' specific concerns with the Decision:

The Decision fails to address the fact that groundwater and the Big Hill Spring will be put in jeopardy by mining. The mine will be located about 800 metres from the Spring. At this location almost the entire flow issues from the Paskapoo bedrock in an area smaller than the size of an average bungalow. This and other prospective mines in the region will remove the vegetated organic soil, the subsoil, and up to 25 metres of gravel, leaving only one metre of gravel above the estimated and fluctuating level of groundwater and a very short lateral distance to filter recharging surface water that re-emerges at the Spring. Currently, the fluctuation of the water table is not sufficiently known leading to a risk of over-excavation to leave an even thinner layer of remaining gravel as a filter.

Big Hill Spring water quality and quantity will be irreversibly impaired. BCPS has retained an expert who opines that when buried sediments are excavated and exposed to the atmosphere the local geochemical conditions change. The increased chance of mineral oxidation, combined with the unusual weathering and leaching reaction and ultimately the release of various constituents into the local groundwater.

BCPS provided an expert report to Alberta Environment and Protected Areas in relation to the impacts on groundwater and the aquifer that recommends gravel excavations not be allowed within 1.6 kilometres of the Park boundary. For a further 800 metres from the Park boundary, a minimum of a 4 metre separation between excavations and groundwater would be required. BCPS is also of the understanding that Alberta Parks submitted similar concerns. The Decision fails to address any of these concerns.

The Decision fails to consider the cumulative impacts of this mine along with other proposed mines in the immediate vicinity. Adjacent to the Park in addition to the subject lands, six quarter sections or about 1000 acres are controlled by gravel operators. Burnco, with three of those quarter sections immediately across the barbwire fence from the Park, is currently evaluating their lands for gravel mining. With up to five operating gravel mines on its boundary, Park use would be subject to untenable noise, dust and industrial impacts.

The Decision fails to address remediation and reclamation of the subject lands and provides no apparent assurance that the project applicant will be held financially responsible to mitigate, remediate and reclaim any impacts on the Spring, Creek or Park.

Relief Requested:

In our view, the Board through its process should review the decision made by AEP and require the Department to justify the decisions that were made and convince itself whether the application is

consistent with the public interest, taking into consideration the impacts of this mine on groundwater and the aquifer, as well as the cumulative impacts on same of all other current and proposed mining operations in the region. The Board should also allow for the evidence relied upon by AEP to be publicly tested by third party experts.

Should the Board conclude that the Project is not in the public interest it should then recommend to the Minister that she rescind the Decision.

Alternatively, if the Board does conclude that the application has merit but that the decision does not provide adequate protection, the Board should recommend that the Minister add terms and conditions to the Decision to ensure that the mining operations do not have a significant adverse impact on the Spring, Creek or Park.

The Board should recommend that the Minister require that the project proponent post security in the form of a performance bond or other financial assurance to ensure there are funds available to mitigate, remediate and reclaim any impacts on the Spring, Creek or Park.

From: Craig Knaus [mailto:Craig.Knaus@gov.ab.ca]
Sent: May-11-22 5:50 PM
To: Gerry Bietz <ghbietz@xplornet.ca>
Subject: RE: Mountain Ash Limited Partnership Big Hill Springs Gravel Application

Afternoon Gerry,

Potential Groundwater impacts from the activity are one of the things that will be reviewed under the current Water Act application. AEP will have its internal Hydrogeological subject matter experts look at the information to provide their professional opinions on impacts, etc. Hope this helps.

Craig Knaus

Classification: Protected A

From: Gerry Bietz <ghbietz@xplornet.ca>
Sent: Monday, May 02, 2022 10:04 AM
To: Craig Knaus <Craig.Knaus@gov.ab.ca>
Subject: Mountain Ash Limited Partnership Big Hill Springs Gravel Application

CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

Craig, again sorry to bother you with another question regarding the process for the MAPL application:

As you know, foremost among Bighill Creek Preservation Society's concerns regarding this mine are the negative impacts on groundwater. Mountain Ash told us directly that they would not file an application for activities which would alter groundwater. This irrespective of their hydrogeological studies stating their mine will effect groundwater recharge rates. Can you tell me, has or will AEP require Mountain Ash to file an application for this activity?

Thanks very much. I appreciate your help.

Gerry Bietz
403 510 0875

May 31, 2022

File No.: DAPP0001717
ECM 00481044

Big Hill Creek Preservation Society Gerald Bietz

Email: ghbietz@xplornet.ca

Dear :

Subject: Mountain Ash Limited Partnership – *Water Act* Application No. DAPP0001717

Thank you for your Statement of Concern submitted during the qualifying time frame for the Public Notice of January 18 to February 2, 2022, expressing concerns about this Application.

Pursuant to the *Water Act*, the Department has accepted your submission as an official Statement of Concern. Your concerns as detailed in your submission will be considered in the review of the application. Mountain Ash Limited Partnership is being advised that you have concerns regarding this application.

Since your submission will be considered as an official Statement of Concern pursuant to the *Water Act*, you will be advised as to the Director's decision pertaining to this application.

If you have any questions regarding the process that is being followed in our review of this application, please contact Terrina Perley at Terrina.Perley@gov.ab.ca.

Yours truly,

Craig.Knaus Digitally signed
by Craig.Knaus
Date: 2022.05.31
19:33:24 -06'00'

Craig Knaus, B.Sc.
Designated Director under the Act

cc: Terrina Perley, AEP
Judy Tumm, Regulatory Approvals Center