



Wild Lands Advocate 12(2): 11, April 2004

The Case for Using Saved Water to Save Rivers: Appeal Of Irrigation District Water Licence Amendment

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On October 31, 2003 Alberta Environment granted an amendment to a water licence which will allow an irrigation district in southern Alberta to use water for purposes other than irrigation to the long-term detriment of the aquatic environment. The St. Mary River Irrigation District (SMRID) can now allocate 12,000 acre feet of water, the amount "saved" through publicly funded irrigation efficiency improvements, for other uses such as commercial, industrial, municipal and recreation.

The water allocated to SMRID comes from the stressed southern tributaries of the Oldman River – the St. Mary, Belly and Waterton Rivers. Below the irrigation dams and diversions these rivers flow at regulated minimum flows, which are just 10 per cent of mean flows, most of the time. The aquatic environment has been assessed as heavily impacted and degraded. Fish and cottonwoods are in decline and water quality is adversely affected.

In November 2002 Alberta Environment closed the southern tributaries to further allocations because of their stressed state. At the same time, Phase One of the South Saskatchewan River Basin Plan enabled government-approved transfers of water allocations to accommodate increasing demand for non-irrigation use of water with conservation holdbacks to benefit the aquatic environment, up to 10 per cent of the volume transferred.

The October 2003 amendment to the SMRID licence is contrary to the intent of the basin plan in that it avoids government-approved transfers and denies opportunities to use conservation holdbacks to restore river health. The amendment also ensures that other uses will occur only within the boundaries of the district. The Irrigation District maintains control over the water and gets revenue in perpetuity through capital charges and delivery charges.

The Southern Alberta Environmental Group (SAEG), based in Lethbridge, with support from Trout Unlimited Canada, is appealing Alberta Environment's decision to amend the licence. There are two key challenges in the appeal. One is challenging the precedent which denies opportunities to restore health to rivers in the Bow and Oldman River basins. Most reaches of these rivers and their tributaries already are assessed as moderately to heavily impacted from massive diversion. Over three-quarters of the diverted volume is for irrigation agriculture. Large irrigation districts cannot be allowed to write off our rivers.

The other is challenging the precedent of allowing a private irrigation board to make decisions about how water, a scarce public resource, will be allocated. Irrigation district boards are comprised of irrigation farmers, who are not accountable to the public interest in reallocating water to benefit a growing urban population and changing economy in southern Alberta, let alone to the public interest in restoring rivers to health which was clearly expressed in the Water for Life Strategy.

With such large public investment in irrigation infrastructure efficiency improvements and such large public interest in having healthy rivers, it seems reasonable to suggest that saved water be used to save the rivers.

The Notice of Appeal was filed with the Alberta Environmental Appeals Board on November 24, 2003. The Board denied a request for mediation. The Southern Alberta Environmental Group (SAEG), with assistance from Trout Unlimited Canada, is preparing for a preliminary meeting before the Alberta Environmental Appeals Board (the Board) in Lethbridge on March 31, 2004. Legal counsel has been





retained. At the preliminary meeting, parties to the appeal will make arguments regarding SAEG's status as "directly affected." If the Board determines that SAEG has standing, the matter will proceed to a hearing.

Donations to assist with the appeal are requested and can be sent to SAEG, Box 383, Lethbridge AB, T1J 3Y7. Cheques should be made out to Trout Unlimited Canada, River Health Fund. Charitable tax receipts will be issued. More background information on this matter and on water management in the southern tributaries of the Oldman River can be obtained by contacting Cheryl Bradley at cbradley@shaw.ca.

