

Southern Alberta Environmental Group

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Government Board's Refusal to Hear Environmental Group's Appeal of Water Licence Decision Still Unexplained After Five Months - This is Not Responsible Government

Five months after deciding to dismiss an appeal by the Southern Alberta Environmental Group (SAEG) of an irrigation district water licence amendment, Alberta's Environmental Appeal Board (the Board) has yet to provide reasons. The Board has informed SAEG that it is "compelled to meet other timelines."

"Providing reasons for a decision is an administrative requirement of law; the decision to deny access to the appeal process should not have been made without articulating reasons," states Cheryl Bradley, representative of SAEG. "This unreasonable delay leads to speculation that either the cabinet-appointed Board is extremely disorganized or that a hasty decision was made in the absence of clear and objective rationale; either way it is not responsible government," says Bradley.

On October 31, 2003 Alberta Environment granted an amendment to a water licence which will allow the Saint Mary River Irrigation District (SMRID) to use water for purposes other than irrigation to the long-term detriment of the aquatic environment in the southern tributaries of the Oldman River. In an April 24th 2004 meeting before the Alberta Environmental Appeals Board, SAEG sought standing to appeal the Director's decision. SMRID argued that SAEG should not be heard.

On May 28, 2004 SAEG was informed by the Board that the group and its members are not directly affected by the licence amendment, the appeal is dismissed, and reasons would be provided in "due course." The Board's decision contradicts an earlier one by Alberta Environment to consider SAEG directly affected because SAEG "is a local interest group" and "the amendment has regional implications related to water supply in the basin."

"SAEG members are concerned about the lack of fair and open process regarding water allocation decisions, particularly when the health of our rivers is threatened," states Bradley. "The seriousness of our concern is reflected in the significant financial (\$15,000) and volunteer commitment required to prepare and file affidavits with the Environmental Appeal Board. It is unjust that a group of informed, concerned citizens is denied a fundamental avenue of appeal regarding these very important decisions."

Water to SMRID comes from the overallocated 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% 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 adversely affected. The amendment to SMRID's licence fails to use saved water to save rivers and allows the private irrigation board to make decisions about how water, a scarce public resource, will be allocated in future. In June 2004 SMRID refused to provide SAEG information on its water conveyance agreements because "disclosure might be harmful to personal privacy and commercial interest."

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