



ALBERTA WILDERNESS ASSOCIATION

"Defending Wild Alberta through Awareness and Action"

November 24, 2023

Environmental Appeals Board
306, 10011 – 109 Street
Edmonton, Alberta
T5J 3S8

Rebuttal Submission Re: Response to the Respondent, Mountain Ash Limited Partnership to the Proposed Appellants (Board File No. 23-047)

Dear Environmental Appeals Board,

Alberta Wilderness Association (AWA) appreciates the opportunity to provide a rebuttal submission in response to Mountain Ash Limited Partnership's (MALP) response dated November 14, 2023.

In section 3(i) MALP states AWA is "an advocacy organization which has not asserted any specific interest that is distinct from the interest of any other Albertan or member of the public who would be directly affected by the Summit Project".

AWA's private interest is distinct, as our mandate as an organization is not in the interest of every Albertan and member of the public. We are distinctly interested in the conservation of wilderness (including water and water ecosystems), the completion of a protected areas network throughout Alberta, and that the province's ecologically important and significant areas, in which both Big Hill Springs Provincial Park, Big Hill Springs, and the aquifer that supplies it, qualify, are wisely managed and properly protected.

In section 15, MALP states that the issues raised by AWA's NOA on July 27, 2023, are the same as other appellants and that "AWA asserted that the Summit Project would negatively affect the Big Hill Springs Provincial Park."

While part of our appeal has been how MALP's aggregate pit will impact Big Hill Springs Provincial Park, AWA has also listed other concerns regarding potential impacts to water in both our NOA and Oct. 31, 2023, letter which MALP has omitted here, simplifying our appeal. Other issues raised by AWA include concerns that the Water Act approval grants MALP to undertake activities that run contrary to the purposes of the Water Act and in doing so disrupts habitat used by provincially sensitive species, including one threatened under the federal *Species at Risk Act*, threatens water quality and security in drought-prone Southern Alberta, and contributes negatively to the cumulative effects of development in the region, which are already poorly managed.

Our private interests relating to these concerns are distinct from the general public, as we are specifically interested in improving wildlife habitats and protections for species at risk, the effective, ecosystem-based management of Alberta's watersheds, groundwater, river valleys, lakes, and wetlands, and ensuring that industrial development is regulated in a manner that is consistent with the maintenance of wilderness values. MALP cannot suggest these are general shared interests, as if they were, this project would not have proceeded.

In section 34 MALP acknowledges AWA "has asserted it has standing in its own right and has not relied upon the private interests of its members to ground its standing" and proceeds to cite a previous EAB decision (sections 40 – 43) where the same assertion was not made as precedent to disqualify AWA's standing. The board must determine AWA's directly affected standing independent of this previous decision, as it is well established determining whether a potential appellant is directly affected occurs on a case-by-case basis¹.

Further, section 43 continues to erroneously declare that "AWA has not identified any personal or private interest that will be affected, in a reasonable and probable way, by the issuance of the Water Act Approval" and "none of the activities or involvement of AWA in the Big Hill Springs Provincial Park are affected by the granting of the Water Act Approval".

Our private interests as an organization are impacted, as the Water Act Approval and activities it grants, including the removal of 15 waterbodies and permission to mine aggregate down to just one meter above the underlying water table will likely result in harmful impacts to habitat quality and degraded protections for the species at risk present. These impacts reflect ineffective management that is uninformed by ecosystem requirements and do not protect Alberta's watersheds, groundwater, river valleys, lakes, and wetlands, as well as the failure of development to be regulated in a manner that is consistent with the maintenance of wilderness values. All of these adverse outcomes are incompatible with fulfilling our mandate, and again, are distinctly different from the concerns of the general public.

MALP also states that AWA "does not have a personal or private mandate with respect to this park that is distinct from the interest that the public generally have in all Alberta parks", which is untrue and does not consider the specifics or degree of our private interest. We are directly interested in better protections for all ecologically sensitive and important areas in the province, including parks, and as stated in our Oct. 31, 2023 letter, it is well established in both current literature and legislation that protected areas are impacted by the land-uses that surround them, necessitating we participate in ensuring their development and operation is compatible with wilderness values – to say our interests are captured by that of the general public is to say the general public holds the same interests of conservation specialists. Once again, while AWA wishes this were the case, it is evidentially not factual in how this project has proceeded.

MALP asserts in section 44 that the Water Act Approval will not directly affect AWA's mandate. Here, they have misconstrued our mandate – it is not that AWA wants the ability to "advocate for the protection and wise management of ecologically sensitive areas", we want the "protection and wise management of ecologically sensitive areas". Advocating is just one tool to achieve that. This Water Act Approval does the opposite, directly and adversely affecting our mandate. MALP also states we

acknowledged our interests are not “distinct from the interest of any other Albertan”, omitting the key word “also” from our full statement and misrepresenting its meaning:

“As representatives of Albertans on environmental matters and citizens of Alberta ourselves (both through our staff and membership), AWA *also* has a legislated responsibility that necessitates remaining and participating in this process; section 2(f) of the Environmental Protection and Enhancement Act (EPEA) and section 2(d) of the Water Act, state that it is “the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions” and to ensure “the conservation and wise use of water”, by “providing advice with respect to water management planning and decision-making”.”

It is not an admission that we are not directly affected, but rather an additional reason AWA must participate, and a reminder to all those involved of their responsibilities under Alberta’s legislation.

Sections 45 and 46 dispute the validity of the research conducted by Dr. Jon Fennell and call the adverse impacts posed by further aggregate mining in the area “speculative”. AWA disagrees – ultimately it is up to the Board to review both this report and MALP’s technical studies to decide. Regardless, Fennell’s research is the evidence AWA provided to demonstrate there is a “reasonable possibility” our private interests will be impacted¹. Should MALP’s aggregate mining activities permitted through the Water Act Approval adversely impact Big Hill Springs, its aquifer, and the provincial park as identified by Fennell’s report, the quality of this environment will be damaged and degraded, consequently hurting our (social, cultural, economic, environmental) use of this natural resource for events and activities, and our ability to achieve our mandate¹.

For these reasons, AWA continues to assert we are directly and adversely affected and should be granted standing in this appeals process.

Sincerely,

Alberta Wilderness Association



Kennedy Halvorson
Conservation Specialist

References:

1. Response Submission of the Director, Alberta Environment and Protected Areas, October 27, 2023, IN THE MATTER OF MOUNTAIN ASH LIMITED PARTNERSHIP WATER ACT APPROVAL NO. DAUT0012841 AND IN THE MATTER OF THE ENVIRONMENTAL APPEALS BOARD EAB FILE NOS. 23-045-052 AND 23-057.