

17-0013

2018 ABPLAB 16

Appellants – Tim Kalinski, Kalinko Enterprises, **Operator** – Tim Kalinski, Kalinko Enterprises,
Location – MD of Bonnyville, **Type of Appeal** – Discontinuance

A Notice of Appeal was received from Tim Kalinski and Kalinko Enterprises on September 21, 2017 with respect to the September 1, 2017 decision of the Director, Alberta Environment and Parks, to issue Administrative Penalty No. PLA-17/05-AP-LAR-17-04 to Tim Kalinski and Kalinko Enterprises in the amount of \$192,413.45. The penalty states that between June 2015 and September 2, 2015, the parties entered on public land adjacent to SML 010005 (the SMC area) without authorization; caused injury or likely caused injury to the 20 meter undisturbed buffer of the SML; caused loss or damage to public land in the SMC area, and; received money or other consideration for resource extraction on public land without authorization. The Appellants alleged the Director who made the decision erred in the determination of a material fact on the face of the record, erred in law, and exceeded the Director's or Officer's jurisdiction or legal authority. The Appellants were requesting a stay of the decision until the disposition of the Appeal; the reversal of the decision in its entirety; or in the alternative, the reversal of the decision to impose any administrative penalty or any disgorgement of profits. In the further alternative, a variation of the decision so as to reduce the assessed amount of the penalty and/or of the profits to be repaid was requested.

In its letter of October 5, 2017, the Board noted that the Director had agreed to not "initiate collection of the penalty until after the appeal is resolved". With this assurance from the Director, the Board did not consider it necessary to address the stay application at that time and advised the Appellant to contact the Board with reasons on why a stay was necessary if he disagreed. No objection was received.

In consultation with the parties, a mediation meeting was held on November 14, 2017. The mediation did not result in a resolution of the appeal and on November 22, 2017 the Board wrote to the parties requesting available dates for a one day oral hearing. On February 5, 2017 the Board advised the parties that it had scheduled the hearing for April 19, 2018. The Board continued processing the appeal when on March 27, 2018 the Appellants withdrew the appeal. Based upon the withdrawal of the appeal, the Board cancelled the April 19, 2018 hearing and discontinued its proceedings and closed its file on March 27, 2018.

Cite: Tim Kalinski, Kalinko Enterprises v. Director, Alberta Environment and Parks (27 March 2018) Appeal No. 17-0013 (A.P.L.A.B.), 2018 ABPLAB 16