

ALBERTA PUBLIC LANDS APPEAL BOARD

Report and Recommendations

Date of Report and Recommendations – November 19, 2018

IN THE MATTER OF sections 121, 123, and 124 of the *Public Lands Act*, R.S.A. 2000, c. P-40, and sections 211, 212, 213, 216, 217, 226, and 227 of the *Public Lands Administration Regulation*, Alta. Reg. 187/2011;

-and-

IN THE MATTER OF an appeal filed by Global Mat Ltd. with respect to the decision of the Director, Provincial Approvals Section, Alberta Environment and Parks, to refuse applications by Global Mat Ltd. for Surface Materials Lease SML 150039 and Department Licence of Occupation DLO 160154.

Cite as: *Global Mat Ltd. v. Director, Provincial Approvals Section, Alberta Environment and Parks* (19 November 2018), Appeal No. 18-0008-R (A.P.L.A.B.).

BEFORE:

Ms. Marian Fluker, Acting Chair.

PARTICIPANTS:

Appellant: Global Mat Ltd., represented by Mr. Tom Owen, Owen Law.

Director: Ms. Corinne Kristensen, Director, Provincial Approvals Section, Alberta Environment and Parks, represented by Ms. Barbara Harnum, Alberta Justice and Solicitor General.

Forest Grazing Licence Holder: Ms. Bobbi-Jo Sever, represented by Mr. Garrett Hamilton, Hamilton Baldwin Law.

EXECUTIVE SUMMARY

Global Mat Ltd. (the Appellant) filed applications with Alberta Environment and Parks (the Department) for a Surface Materials Lease (SML) and a Department Licence of Occupation (DLO) for a road to access the proposed SML. The SML and DLO were located within the boundaries of a Forest Grazing Licence (FGL). The Appellant requested the Department decrease the size of the FGL to allow for the SML and DLO. The Department refused the applications on the grounds there was no consent from the holders of the FGL, and refused the Appellant's request to reduce the FGL boundaries so the SML and DLO could be issued. The Appellant appealed the refusals to the Public Lands Appeal Board (the Board).

A mediation meeting was held, and a resolution was reached where the participants asked the Board to recommend to the Minister that she reverse the decision to refuse the applications and order the SML and DLO be issued to the Appellant, with reasonable terms and conditions as determined by the Director. The Board accepted the mediated agreement and recommended the Minister order the SML and DLO be issued.

TABLE OF CONTENTS

I. INTRODUCTION	1
II. BACKGROUND	1
III. DISCUSSION	1
IV. RECOMMENDATION	2

I. INTRODUCTION

[1] This is the Report and Recommendations of the Public Lands Appeal Board (the “Board”) to the Minister, Alberta Environment and Parks (“Minister”), arising from a mediation held by the Board on an appeal filed by Global Mat Ltd.

II. BACKGROUND

[2] On July 27, 2016, Global Mat Ltd. (the “Appellant”) filed applications for Surface Materials Lease SML 150039 (the “SML”) and Department Licence of Occupation DLO 160154 (the “DLO”) for public lands located at N½ 16, E½ 20, and SW 21-37-9-W5M, southwest of the Town of Rocky Mountain House, in Clearwater County.

[3] On May 10, 2018, the Director, Provincial Approvals Section, Alberta Environment and Parks (the “Director”), advised the Appellant the applications had been refused as the Appellant had not provided consent from the holders of Forest Grazing Licence FGL 140001 (the “FGL”) as required under section 9(e)¹ of the *Public Lands Administration Regulation*, Alta. Reg. 187/2011. The holders of the FGL are Mr. John and Ms. Bobbi-Jo Sever (the “FGL Holders”). The Director also advised the Appellant the FGL boundaries would not be reduced to accommodate the SML and DLO.

[4] On May 25, 2018, the Board received a Notice of Appeal from the Appellant appealing the refusal of the Director to issue the SML and DLO. A mediation meeting was held with the Appellant, the Director, and the FGL Holders (collectively, the “Participants”) on October 25, 2018, in Edmonton, Alberta.

III. DISCUSSION

[5] The mediation meeting resulted in an agreement between the Participants, jointly

¹ Section 9(e) of the *Public Lands Administration Regulation* provides:

“An application to the director for a formal disposition ...

(e) must, if the application relates to public land that is already the subject of a disposition under the Act or a timber disposition, be accompanied with a statement of consent, in a form acceptable to the director, that is signed by the disposition holder or timber disposition holder...”

requesting the Board submit a Report and Recommendations to the Minister recommending the Minister reverse the Director's decision and issue the SML and the DLO to the Appellant.

[6] The Board considers the mediated agreement to be reasonable and recommends the Minister reverse the Director's decision and order the SML and DLO be issued, with reasonable terms and conditions determined by the Director.

IV. RECOMMENDATION

[7] In accordance with section 122(3)² of the *Public Lands Act*, R.S.A. 2000, c. P-40, and the *Public Lands Administration Regulation*, the Board recommends the Minister reverse the Director's decision to refuse the applications for the SML and DLO, and order the Director to issue SML 130035 and DLO 160154 to Global Mat Ltd. with reasonable terms and conditions as determined by the Director.

[8] In accordance with section 124(4)³ of the *Public Lands Act*, a copy of this Report and Recommendations and any decision by the Minister regarding this appeal, are to be provided to:

1. Mr. Tom Owen, Owen Law, on behalf of Global Mat Ltd.;
2. Ms. Barbara Harnum, Alberta Justice and Solicitor General, on behalf of the Director, Provincial Appeals Section, Alberta Environment and Parks; and
3. Mr. Garrett Hamilton, Hamilton Baldwin Law, on behalf of Ms. Bobbie-Jo Sever.

Dated on November 19, 2018, at Edmonton, Alberta.



Marian Fluker
Acting Chair

² Section 122(3) of the *Public Lands Act* provides:

“The appeal body may, with the consent of the parties to the appeal, make its report to the Minister without conducting a hearing of the appeal.”

³ Section 124(4) of the *Public Lands Act* provides:

“The Minister shall immediately give notice of any decision made under this section to the appeal body, and the appeal body shall immediately, on receipt of the notice of the decision, give notice of the decision to all persons who submitted notices of appeal or made representations or written submissions to the appeal body and to all the persons who the appeal body considers should receive notice of the decision.”



ALBERTA
ENVIRONMENT AND PARKS

*Office of the Minister
Minister Responsible for the Climate Change Office
MLA, Lethbridge-West*

**Ministerial Order
41/2018**

*Public Lands Act
R.S.A. 2000, c. P-40;*

and

*Public Lands Administration Regulation
Alta. Reg. 187/2011.*

**Order Respecting Public Lands Appeal Board
Appeal No. 18-0008**

I, Shannon Phillips, Minister of Environment and Parks, pursuant to section 124 of the *Public Lands Act*, make the order in the attached Appendix, being an Order Respecting Public Lands Appeal Board Appeal No. 18-0008.

Dated at the City of Edmonton, Province of Alberta, this

5th day of December

2018.


Shannon Phillips
Minister

Appendix

Order Respecting Public Lands Appeal Board Appeal No. 18-0008

With respect to the decisions of the Director, Provincial Approvals Section, Alberta Environment and Parks, (the "Director"), to refuse to issue Surface Materials Lease SML 150039 and to refuse to issue Department Licence of Occupation DLO 160154, under the *Public Lands Act*, R.S.A. 2000, c. P-40, to Global Mat Ltd., I, Shannon Phillips, Minister of Environment and Parks, order that:

1. The decision of the Director to refuse to issue SML 150039 is reversed.
2. The decision of the Director to refuse to issue DLO 160154 is reversed.
3. The Director shall issue SML 150039 to Global Mat. Ltd. with reasonable terms and conditions as determined by the Director.
4. The Director shall issue DLO 160154 to Global Mat. Ltd. with reasonable terms and conditions as determined by the Director.