ALBERTA

ENVIRONMENT AND PARKS

Office of the Minister
MLA, Lethbridge-West

ENVIRONMENT AND PARKS

Public Lands Act
RSA 2000, c. P-40

MINISTERIAL ORDER
03/2015

Order Respecting Public Lands Appeal Board
Appeal No. 14-0007

I, Shannon Phillips, Minister of Environment and Parks, pursuant to section 124 of the *Public Lands Act*, make the order in the attached Appendix A, being an Order Respecting Public Lands Appeal Board Appeal No. 14-0007.

DATED at the City of Edmonton, in the Province of Alberta, this 15th day of December, 2015.

[redacted]

Shannon Phillips
Minister

208 Legislature Building, 10800 - 97 Avenue, Edmonton, Alberta T5K 2B6 Canada Telephone 780-427-2391 Fax 780-422-6259
402 - 8 Street South, Lethbridge, Alberta T1J 2J7 Canada Telephone 403-329-4644 Fax 403-329-4289

Appendix A

Order Respecting Public Lands Appeal Board
Appeal No. 14-0007

With respect to Public Lands Appeal Board Appeal No. 14-0007, I, Shannon Phillips, Minister of Environment and Parks, order that the Director's decision to refuse the Appellant's application for SML 130122 be confirmed and the appeal PLAB 14-0007 be dismissed without costs.

ALBERTA
PUBLIC LANDS APPEAL BOARD

Report

IN THE MATTER OF sections 121 and 124 of the *Public Lands Act,* R.S.A. 2000, c. P-40, and sections 15, 211, 213, 228 and 235 of the Public Lands Administration Regulation, A.R. 187/2011;

-and-

IN THE MATTER OF an appeal filed by 1712906 Alberta Ltd. under section 211 of the Public Lands Administration Regulation.

Cite as: 1712906 Alberta Ltd. v. Director, Environment and Sustainable Resource Development, Appeal No. PLAB 14-0007.

Appearances

Panel
Gordon McClure, Chair
Eric McAvity, Q.C.
Dr. David Evans

Appellant
Dallas Frith, Appellant
Carter Greshner, Barrister and Solicitor, Bryan & Company LLP

Environment and Sustainable Resource Development
Jeffrey Watson, Section Head, Disposition Services Section
Mike Pasula, Operations Unit Lead
Vivienne Ball, Barrister and Solicitor, Environmental Law Section, Alberta Justice and Solicitor General

Board Staff
Andrew Bachelder, Legal Counsel
Rhonda Hardcastle, Administrative Assistant
Denise Black, Board Secretary, Environmental Appeals Board

Executive Summary

The Appellant filed a Notice of Appeal with the Public Lands Appeal Board, appealing the decision by the Director to refuse the Appellant's application for Surface Material Lease, SML 130122. In a letter to the Appellant, the Director gave the following reasons for refusing the application:

- the Director believed that the Appellant was not planning on developing the deposit for 20 years and was also looking at the development of a rail spur for the loading of the gravel;
- a rail spur line and loading facility were not covered by the SML application; and
- there was insufficient area to reclaim the site.

In the Notice of Appeal, the Appellant alleged that the Director erred in the determination of a material fact, erred in law, and had caused a deemed rejection under section 15 of the Public Lands Administration Regulation. The Appellant sought as relief:

- that the decision of the Director be overturned;
- that the Appellant's SML application be granted; and
- costs.

The Board set the issues for the appeal as follows:

1. Did the Director, in making the decision to deny the application by the Appellant for SML 130122:
    a. err in the determination of a material fact;
    b. err in law; and
2. is the application subject to section 15 of the Public Lands Administration Regulation as a "deemed rejection"?

Prior to the hearing, the Appellant withdrew its appeal regarding the deemed rejection under section 15 of PLAR.

In its submissions, the Appellant alleged that the real reasons for the Director's refusal of the Appellant's application were not included in the Director's reasons provided in the refusal letter. The Appellant alleged that these reasons included:

- the Department favoured another company's application for a Miscellaneous Lease located on the same land;
- The Director had incorrect information regarding the Appellant's plans for developing the lease land and its ability to reclaim the land; and

- The Director relied on irrelevant considerations.

The Director submitted that information he relied on to make the decision was accurate. The Director also submitted that the relief sought by the Appellant exceeds the scope of the jurisdiction of the Public Lands Appeal Board.

The Panel determined that the Director did not err in the determination of a material fact. It was reasonable for the Director to rely upon information provided to him by department staff, who had received information from a meeting with the Appellant. It was also reasonable for the Director to determine that there was not sufficient room for reclamation of the lease site.

The Panel determined that the Director did not err in law. In providing reasons the Director must have sufficient reasons to show the facts were considered appropriately; however, not all of the considerations by the Director need to be included in the reasons for the decision. There must be sufficient evidence in the record to support the Director's decision and the Panel is satisfied that the Director's record supported the decision reached.

The Panel also found that the Director did not err in mixed fact and law by determining that a separate land use proposal was required for the rail spur line and loading facility that the Appellant was planning on developing. There was not sufficient evidence before the Director to demonstrate that the Appellant was planning on developing the rail spur on private land.

The Panel also considered the Doctrine of Collateral Attack, although it did not ultimately rely upon this doctrine for its decision.

The Panel found that the Director did not make any unreasonable errors in fact, law or mixed fact and law in refusing the application by the Appellant for SML 130122.

The Panel recommends that the Minister confirm the Director's decision and dismiss appeal PLAB 14-0007 without costs.

TABLE OF CONTENTS

Background

The Appellant, 1712906 Alberta Ltd. (the "Appellant") appealed the decision of a Director (the "Director") with the Approvals and Dispositions Services Unit, of Alberta Environment and Sustainable Resource Development ("ESRD") refusing an application (the "Application") for Surface Materials Lease Application number SML 130122 (the "SML").

On April 18, 2013 the Appellant submitted a Surface Materials Exploration ("SME") Application for land located near Fox Creek Alberta. The Appellant had an interest in developing a gravel operation and rail spur.

The SME was approved on June 10, 2013. The Appellant received an SME disposition (SME 130058) to conduct exploration work and testing on eight areas, including the area that was later applied for as SML 130122.

On June 13, 2013 Preferred Sands Canada ULC applied for a Miscellaneous Lease. A portion of the lands being applied for by Preferred Sands overlapped the lands sought in the Appellant's SML Application.

The Appellant conducted tests for aggregate within the area approved under the SME. While conducting tests in the area the Appellant noted other companies surveying the land and made inquiries with limited response.

MLL/DML 130122 appears on the Appellant's test hole location map submitted with its SML Site Information Form as early as July 18, 2013.

At the time the application for SML130122 was submitted, ESRD was reviewing a separate application from Preferred Sands Canada, ULC for a miscellaneous lease (MLL/DML 130122) to use portions of the same public land for a commercial development – a rail terminal transfer storage site.

The Appellant submitted a SML Site Information Form for a Surface Material Lease (SML) dated November 1, 2013. An application for a Surface Material Lease for SML 130122 was submitted on December 18, 2013. The application was for use of 7.1 ha of public lands, adjacent to a CN railway right of way and in close proximity to Highway 947, located within NW1/4-03-60-18-W5.

The Department met with the Appellant on March 28, 2014 and Preferred Sands on April 3, 2014 while reviewing both applications.

On May 5, 2014 the Appellant's application was refused. A letter containing a Director's decision and the reasons for that decision was provided to Mr. Dallas Frith, the Appellant. The letter gave the following reasons for refusing the application:

- the Director believed that the Appellant was not planning on developing the gravel deposit for 20 years and was also looking at the development of a rail spur for the loading of the gravel;
- a rail spur line and loading facility were not covered by the SML application; and
- there was insufficient room to reclaim the site.

The Appellant appealed the decision of the Director to the Public Lands Appeal Board on May 28 2014. In the Notice of Appeal the Appellant claimed that the Director erred in the determination of a material fact, erred in law, and had caused a deemed rejection under section 15 of the Public Lands Administration Regulation. The Appellant sought as relief for the decision of the Director to be overturned, and for the Appellant's SML application to be granted, and for costs.

A mediation was arranged by the Board for October 6, 2015, but the parties were unable to reach an agreement. The Board held a hearing for the appeal on February 18, 2015. The Panel reconvened on March 11, 2015, to consider further the appeal and make a recommendation to the Minister.

Submissions

The Appellant's Submission

In the Appellant's Submission, dated January 14, 2015, the Appellant submitted that:

1. The Director erred in fact by determining that the Appellant was not planning on developing the gravel deposit for 20 years;
2. The Director erred in mixed fact and law by determining that a separate land use proposal was required for the rail spur line and loading facility;
3. The Director erred in fact by determining that there was insufficient room to reclaim the site;
4. The Director erred in law by relying on irrelevant considerations that were not reflected in the written reasons provided by the Director.

The Appellant submitted it had plans to develop the SML as part of a larger project which would be developed in four phases. The SML would have been the final phase of the development but the Appellant planned to develop it shortly after the approval of the other phases.

The Appellant submitted that the rail spur that was planned would be on CN Rail's right-of-way on the land and that no application was required for the loading facility or the spur.

The Appellant submitted that it had not completed a Conservation Reclamation Business Plan ("CRBP") as the SML application had not been approved. In the Appellant's opinion there was more than enough room to reclaim the site.

The Appellant alleged that the reasons that the Director provided in the refusal letter for the SML were not raised with the Appellant. Given the opportunity, the Appellant claimed that they would have been able to address any concerns the Director may have had. The Appellant claimed that the concerns listed by the Director in the letter refusing the application were not the primary concerns of the Department, but that the real reason for the refusal of the application was that the Director had decided to grant Preferred Sands a Miscellaneous Lease which overlapped with the Appellant's application.

The Appellant submitted that the Department did not find any fatal deficiencies with the Appellant's SML application, but rather favoured the Preferred Sands application, deeming it to be better for job creation and long-term benefit for the surrounding area. According to the Appellant, these reasons are unofficial and unrecorded and do not appear in the written reasons of the Director. The Appellant submits that, contrary to the Integrated Land Management approach, they were never provided an opportunity to discuss a compromise that would allow Preferred Sands and the Appellant to both operate on the land. The Appellant submitted that they attempted to communicate with the Department numerous times but the Department would not give them any answers. As a result, the Appellant feels it was not provided the same opportunity as Preferred Sands to present a case in favor of their SML application.

The Appellant submitted that the Director was incorrect in determining that Preferred Sands' application was the best use of the land. The Appellant alleged that the Director relied upon incorrect information to reach his conclusion and incorrectly undervalued the Appellant's application.

The Director's Submission

The Director, in its submissions, outlined the legislative and policy procedures that must be followed in approving or refusing applications for dispositions. The Director submitted that there is no entitlement to any disposition, which means that there is no guarantee that the approval of a SME application will result in or guarantee the subsequent issuance of a SML.

The Director submitted that the Preferred Sands application for a MLL/DML was very different in nature from the Appellant's application for an SML. Preferred Sand's application was submitted to a different work unit within the Department, therefore a different decision maker considered the application.

The Director submitted that the Appellant was aware before they applied for SML 130122 that the Preferred Sands application for a MLL/DML 130122 was being considered by the Department.

The Director submitted that at a meeting March 28, 2014 with the Appellant, the Appellant indicated to department staff that the Appellant did not have the equipment necessary for gravel extraction and would be considering subleasing the SML to another developer. The Director also submitted that at this meeting the Appellant indicated that SML 130122 may not be developed for 20 years. The Director submitted that a delay in the development of aggregate resources is a concern within the Department.

The Director submitted that the setbacks required for SML 130122 and reclamation requirements would significantly reduce the area available for gravel operations.

The Director submitted that the relief sought by the Appellant exceeds the scope of the jurisdiction of the Public Lands Appeal Board. The Director stated that a recommendation to the Minister to reverse the Director's decision to approve the application by Preferred Sands would not be appropriate. The Director submitted that the Director's decision to refuse SML 130122 should be upheld.

Rebuttal Submissions

The Appellant submitted the following points, among others, in its rebuttal submission:

- the Appellant was willing to work with Preferred Sands and communicated that intention to the Director;

- the "Guidelines" allow for excavation within the setbacks indicated by the Director in its submissions, as long as there is sufficient overburden. This was the intent of the Appellant as outlined in its informal reclamation plan;
- many of the arguments made by the Director in its submission were not included in the reasons provided by the Director for refusing the Appellant's application;
- the relief that the Appellant is seeking is that the Board should approve the SML application in principle pending the preparation and approval of a CRBP.

The Director did not provide a rebuttal submission, noting that the Appellant's rebuttal submissions do not raise any new facts or issues.

Testimony at the Hearing

Appellant's Testimony

At the hearing, Mr. Firth testified for the Appellant and testified that he had seven years' experience in gravel development and management, had managed 29 gravel pits, and previously sat as a director on the Alberta Sand and Gravel Association.

The Appellant testified that he was not a "gravel broker," as alleged by the department.

The Appellant also testified that he had previous experience with rail development for the transportation of aggregate and that the intent was to have the rail development located on the CN lease adjacent to the SML. The Appellant testified that had the SML application been approved, the plan was to bring gravel from other lease sites to the SML and load them on railcars for transportation.

The Appellant testified that reclamation of the SML site was definitely possible.

The Appellant also testified regarding the procedures followed in applying for an SML, which included some limited communication with Preferred Sands. The Appellant expressed some frustration that the Department did not communicate effectively with him. The Appellant testified that had he been aware that the Department had already decided to grant the application by Preferred Sands he would not have spent further resources and would have discontinued the SML application.

The Appellant spoke of a meeting with Department staff in March 2014, at which time the Appellant explained the plan to develop the SML.

Under cross-examination, the Appellant testified that forestry was his main job, but that he also consults to the gravel industry. The Appellant provided testimony regarding the testing that he did on the SME.

The Panel questioned the Appellant regarding the development of a rail spur on the SML. The Appellant testified that he could have dispensed with his plans for a rail spur and removed the aggregate on the SML, however, the development of a rail spur was viewed as a good economic opportunity. The Panel also questioned the Appellant regarding rail transportation of gravel and reclamation of the SML site.

Director's Testimony

Both the Director, Mr. Jeff Watson, and Mr. Mike Pasula, Department staff in Fox Creek, provided testimony at the hearing. The Director provided testimony regarding the procedures the department follows for processing a SML application. The Director testified that the Department was going through a reorganization at the time of the SML application by the Appellant. As a result, there were some challenges in the department in determining which staff were the point of contact for the files in the Fox Creek region.

The Director also testified regarding the application process under the Public Lands Administration Regulation ("PLAR"), and referred to policy documents such as Guidelines for Acquiring Surface Material Dispositions on Public Land, Supplemental Guidelines for Aggregate Operations in the Woodland Area, and the Alberta Aggregate Allocation Policy for Commercial Use on Public Lands. The Director noted that when there is an inconsistency between PLAR and policy, PLAR trumps the existing policy. The Director also noted that an SME does not guarantee that an SML will be issued. The Director testified that the Department expectation is for the various applicants for use of a particular parcel of land to cooperate and negotiate with each other for access and use. The Director stated that it seemed as though the Appellant had an expectation that they had exclusive rights to the lands in the SME that they had been granted.

Issues

The Board set the issues as follows:

Did the Director, in making the decision to deny the application by the Appellant for SML 130122:

1. err in the determination of a material fact;

2. err in law; and
3. is the application subject to section 15 of the Public Lands Administration Regulation as a "deemed rejection"?

Issue three was waived by the Appellant prior to the hearing and was not considered by the Panel.

The Appellant included an additional issue in its submissions:

> Did the Director err in mixed fact and law by determining that a separate land use proposal was required for the rail spur line and loading facility that the Appellant would be developing?

As the Director had the opportunity to respond and provide rebuttals, the Panel has chosen to consider this issue.

Analysis

In making its decision, the Panel acknowledges section 120 of the *Public Lands Act* which states:

> **Appeal on the record**
> **120** An appeal under this Act must be based on the decision and the record of the decision-maker.

The Board interprets this section to mean that the Panel must examine the decision of the Director and the record or file that the Director used to base the decision on. The Panel has done so and renders the following decision.

Issue one

Did the Director, in making the decision to deny the application by the Appellant for SML 130122, err in the determination of a material fact?

The Appellant submitted that the Director erred in the determination of a material fact in two ways:

i. by determining that the Appellant was not planning to develop the gravel deposit on the SML for 20 years; and

ii. by determining that there was insufficient room to reclaim the SML site based upon the current reclamation requirements and necessary setbacks from the existing rail line.

i. Development of the deposit

The Appellant submitted that the Director erred by determining that the Appellant was not planning to develop the deposit for 20 years. The Appellant testified that the intention was to develop the gravel deposit as the last part of a four phase plan involving other SMLs leased to the Appellant.

The Panel has examined the record that the Director had before him to make the decision. The Director must rely upon the information that is available at the time the decision is made. There is no evidence to show that the Director was aware that the Appellant planned to develop the SML relatively soon. The Appellant pointed to a meeting held in March 2014 where the Appellant alleges Department staff were informed regarding the Appellant's plans for the SML. The Director's Record contains an email from Mr. Kurt Kushner, Acting Approvals Manager, dated April 4, 2014, in which Mr. Kushner informed the Director that Department staff had met with Mr. Dallas Frith, the Appellant on March 28, 2014 to discuss the application for the SML. One of the Department staff involved in that meeting, Mr. Mike Pasula, prepared a memo for the Director after the meeting. In that memo Mr. Pasula stated:

> The SML applicant has indicated that he does not have plans to develop this conflict area for another 20 years. He will be working and developing the other gravel area in the vicinity that was identified as a result of SME 130058 exploration.
>
> Director's Record, Tab 5

Mr. Pasula's statement was written shortly after the March 28, 2014 meeting and was the only information available to the Director regarding the Appellant's plan for the SML. The Appellant provided testimony that contradicts the memo made by Mr. Pasula; however, the Panel finds Mr. Pasula's memo to be reliable, having been written shortly after the meeting when his memory of the event would still be fresh.

The Director was reasonable in relying upon the information provided to him by Department staff who had met with the Appellant and were familiar with the circumstances of the SML application.

The Panel finds that tying up an aggregate deposit for a significant period of time would amount to sterilizing the land and limiting its usefulness. Based upon the information available to the Director, it was reasonable to determine that the aggregate would not be extracted for 20 years and to use this determination as one of the reasons for refusing the Appellant's application for an SML.

ii. Reclamation of the SML site

The Appellant submitted that the Director erred in the determination of a material fact by determining that there was insufficient room to reclaim the site based upon the current reclamation requirements and necessary setbacks from the existing rail line.

As the Appellant's application for the SML had not been approved, a CRBP had not been submitted to the Department for consideration. The Director had to rely upon the information provided to him from Department staff who have experience with aggregate reclamation work.

In testimony before the Panel, the Director acknowledged that it was not impossible to reclaim the site if the SML was granted, but that it would be very difficult for it to be done properly. Ultimately, the Director has the responsibility to determine what the best use of public land is, within the guidelines and legislation set by the government. The Panel finds that the Director exercised his discretion reasonably in determining that there was not sufficient space to effectively reclaim the site and that the Director did not err in determining a material fact

Issue 2

Did the director, in making the decision to deny the application by the appellant for SML 130122, err in law?

The Appellant submitted that the Director erred in law by relying on irrelevant considerations that are not included in the written reasons provided by the Director to the Appellant. The Appellant submitted that had the written reasons provided by the Director in the refusal letter been raised with the Appellant he could have addressed the arguments effectively. The Appellant claimed that the issues that the Director claimed to rely on to make the decision were not the real reasons behind the Director's decision, and that the real reason was that the Department had already decided to grant the Preferred Sands application for a Miscellaneous Lease.

The Director submitted that the decision was based on the reasons provided in the decision letter, as well as policy considerations.

It is unfortunate the Department did not effectively communicate with the Appellant on the status of the Appellant's application. It also appears that the Appellant could have better clarified plans for the development of the SML. As a result of poor communication from both parties, the Director included as reasons for his written decision considerations that may not have accurately reflected the intentions of the Appellant. However, the Panel finds that the Director can only make a decision based on the information available to him. There was no evidence before the Director that suggested anything contrary to the reasons provided in the Director's decision letter.

In formulating reasons, the Director must consider the record as far as it is relevant to the decision. Not all of the considerations by the Director need be included in the reasons for the decision. David Philip Jones and Ann S. de Villars, in their seminal text Principles of Administrative Law, state:

> ... although the reasons must demonstrate (necessarily or by implication) that the delegate considered the matters required by statute, the delegate does not need to enumerate each finding of fact.
>
> Jones and de Villars, Principles of Administrative Law, 6th ed., 2014 at page 393.

The Panel is satisfied that the Director did not rely upon irrelevant considerations but appropriately considered the record and government policy, along with other relevant matters in making the decision.

Issue 3

Did the Director err in mixed fact and law by determining that a separate land use proposal was required for the rail spur line and loading facility that the Appellant would be developing?

Although this issue was not set by the Board, the Appellant has raised it and the Panel has considered it.

The Appellant submitted that the Director erred in mixed fact and law by determining that a separate land use proposal was required for the rail spur and loading facility that the Appellant would be developing.

The Director submitted that it would not be economically feasible to develop a rail spur on the SML lands, and a rail spur and loading facility requires a separate application for land use as it is not covered under the SML application.

The Appellant claimed that the plan for developing the SML included a rail spur, but that the rail spur was not going to be located on public land, but rather on the right away that belonged to CN Rail. As the rail spur was not planned to be on public land, it was not necessary for an application to be filed with the Director.

In testimony before the Panel, Mr. Pasula was asked if the Appellant had stated that he was planning to build a rail spur line on the SML. Mr. Pasula responded that he did not believe at the time that it was differentiated between solely on CN's right-of-way or whether it would be overlapping on the SML lands. The Panel finds that there is no evidence in the Director's record of the Director being informed by the Appellant that the rail spur line was planned to be located on the CN Rail right-of-way. It does not appear in the application or supporting documents. The Appellant claims he advised the Department in the March 28, 2014 meeting of the rail spur plans, but the notes from Mr. Pasula do not contain mention of it and the Department continued to believe that the intent was for the spur to be built on SML lands. In absence of conclusive evidence to the contrary, the Panel finds that Director did not err in mixed law and fact in determining that a separate application would be required for the rail spur line and that the intention of the Appellant, as communicated to the Department, was to build the rail spur on the SML lands.

The Doctrine of Collateral Attack

The Panel also considered the Doctrine of Collateral Attack. Although the Panel did not ultimately rely upon the Doctrine of Collateral Attack, the Panel makes mention of the Doctrine as something it would have relied upon if necessary. The Director raised similar principles of law in its submissions, but did not identify those principles as the Doctrine of Collateral Attack.

The Doctrine of Collateral Attack is described by the Supreme Court of Canada in R. v. Wilson ([1983] 2 S.C.R. 594) as "an attack made in proceedings other than those whose specific object is the reversal, variation, or nullification of the order or judgment." In this appeal, the effect of the Appellant's appeal would be to reverse the decision of the Department to grant a Miscellaneous Lease to Preferred Sands.

As detailed above, the Appellant and Preferred Sands applied for leases on overlapping public land. The Department granted a Miscellaneous Lease to Preferred Sands and refused the Appellant's application for an SML. The Appellant did not appeal the granting of the Preferred Sands lease, although an argument could have been made that the Appellant was an affected party and was eligible to appeal. Instead, the Appellant appealed the Director's decision to deny its application for an SML, seeking to have the Director's decision reversed and the SML approved.

The Appellant, in rebuttal to the Director's submissions, argues that an appeal of the Preferred Sands lease is not required, as the Director's written reasons for refusing the Appellant's application did not mention Preferred Sands. The Appellant argues that it is possible to proceed with the Appellant's appeal without discussing the Preferred Sands' application, but does not provide any suggestions as to how this would occur.

In order to provide the relief requested by the Appellant, the Preferred Sands lease would have to be cancelled. The Appellant in its rebuttal submissions modified the relief being sought to have the SML application approved in principle, pending the acceptance of a CRBP. To proceed with the modified relief would be to ignore the "elephant in the room"- that another leaseholder has a lease for the lands that are the subject of the SML application.

Unintentional though it may be, by appealing the Director's refusal of the SML application and by not appealing the Preferred Sands lease, the Appellant has collaterally attacked the Preferred Sands lease. If the Panel had not found that the Director had acted reasonably and within his jurisdiction in this appeal, the Panel might have been in a position to find that Doctrine of Collateral Attack was relevant in these circumstances.

Decision

Having considered the facts, the Director's Record, the submissions of the parties, both written and oral, the issues, and relevant case law, the Panel has determined that, while there were errors in communications by both parties, the Director acted reasonably in relying on the records available and upon the information provided by the Department staff. The Panel finds that the Director did not make any unreasonable errors in fact, law or mixed fact and law in refusing the application by the Appellant for SML 130122.

Recommendation

The Panel recommends that the Minister confirm the Director's decision to refuse the Appellant's application for SML 130122 and dismiss appeal PLAB 14-0007 without costs.

Dated at Edmonton, Alberta, on 10 April 2015.

[redacted]

Gordon McClure, Chair

"original signed"

Eric McAvity, Q.C.

"original signed"

Dr. David Evans