



PUBLIC LANDS APPEAL BOARD

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2020 ABPLAB 23

December 2, 2020

Via E-Mail

Ms. Jessica Sabell
Parsons Creek Aggregates
PO Box 25085, RPO Signal
Fort McMurray, AB T9H 5N8
(Appellant)

Mr. Osman Hamid
Director
Lands Delivery & Coordination Division
Northeast District - North Region
Alberta Environment and Parks
3rd Floor, 9915 Franklin Avenue
Fort McMurray, AB T9H 2K4
(Director, AEP)

Dear Ms. Sabell and Mr. Hamid:

**Re: Decision* Parsons Creek Aggregates/Refusal of Amendment Application for SML
070025/Our File No. PLAB 20-0016**

The Board thanks the Director and the Appellant for their submissions.

The Board has reviewed the submissions regarding the Board's question of whether an extension would not be contrary to the public interest to do so. Further, the Board has considered the question raised by the Director of whether the Appellant, Parsons Creek Aggregates, in this matter has legal standing as an appellant under the *Public Lands Act* or the *Public Lands Administration Regulation* ("PLAR") for the purposes of the Director's decision on Graymont's application.

The Board will address the question of the question of legal standing and then the question of whether an extension is against the public interest.

1. Legal Standing to Appeal

The Director has correctly noted section 212(1) of PLAR states:

* Parsons Creek Aggregates v. Director, Lands Delivery and Coordination Division, Northeast District-North Region, Alberta Environment and Parks (2 December 2020), Appeal No. 20-0016-DL1 (A.P.L.A.B.), 2020 ABPLAB 23.

“Who may appeal

212(1) The following persons have standing to appeal a prescribed decision:

- (a) a person to whom the decision was given...”

The Board understands from the rebuttal submission received from Mr. Rob Beleutz, HSE Manager and Chief Auditor for Graymont Western Canada Inc. (“Graymont”), that Parsons Creek Aggregates is a joint venture between Graymont and Lehigh Hanson Materials Limited (“Lehigh”). The Board understands that Graymont owns the material and mineral rights, while Lehigh is the managing and operating partner in the joint venture. Further, the Board understands that Ms. Sabell, as an employee of Lehigh, was authorized by Graymont to file the Notice of Appeal on its behalf as Graymont’s agent, and that “[i]n her haste to file the notice given the issue with the appeal period, she listed the appellant as Parsons Creek Aggregates, which encompasses both entities.”¹

In reviewing the submissions received on behalf of the Appellant on November 4, 2020 and November 25, 2020, it appears to the Board that Ms. Sabell was acting as an agent for Graymont. The November submissions provided a timeline with associated actions that indicated Ms. Sabell was taking actions in her role as an agent. From the November 4, 2020, submission it appears information was provided to Ms Sabell that would affirm she was Graymont’s agent and, as such, would expect to have received notice at the contact information provided. Conversely, if Ms. Sabell was not viewed by AEP staff as the agent for Graymont they would not have authority to discuss Graymont’s confidential application details. The Board’s finds AEP staff, through their discussions with Ms. Sabell, believed she was acting as an agent for Graymont.

The Board understands that Graymont’s agent has in error submitted a Notice of Appeal on behalf Graymont, naming Graymont’s joint venture rather than Graymont as the Appellant. This is a correctable error. **Graymont’s agent is requested to provide an amended Notice of Appeal properly identifying Graymont as the Appellant and indicating its agent appropriately within the Notice of Appeal.**

2. Whether an extension would not be contrary to the public interest to do so

The Director submitted that the Board should not accept the Notice of Appeal as it was not served on the appeals co-ordinator within the provisions of section 217(1) of PLAR, which states:

“A notice of appeal must be served on the appeals co-ordinator within

- (a) 20 days after the appellant received, became aware of or should reasonably have become aware of the decision objected to, or
 (b) 45 days after the date the decision was made, whichever elapses first.”

The Board sought the parties input as to section 217(2) of PLAR, prior to making a decision of whether to extend the time for service of a notice of appeal.

¹ November 25, 2020 submission by Graymont at paragraph 7.

Section 217(2) of PLAR states:

(2) The appeals co-ordinator may, either before or after the expiry of a period described in subsection (1)(a) or (b), extend the time for service of a notice of appeal if, in the opinion of the appeals co-ordinator, it is not contrary to the public interest to do so.

The Director correctly argued the Notice of Appeal was filed late, however, the Director did not address the question of whether an extension of the period to file the Notice of Appeal would be contrary to the public interest.

As previously noted the Appellant's agent had requested, prior to the Director's decision being issued, correspondence also be sent to an address provided by the Appellant's agent and it was not. The Appellant indicated that extenuating circumstances created by the COVID-19 pandemic resulted in the Director's decision being sent to an office operating at a limited capacity, and the decision was not received until after the appeal deadline. Once the Appellant became aware of the Director's decision it took action and filed the Notice of Appeal with the Board.

After reviewing and considering the submissions, the Appeals Co-ordinator is of the opinion that it is not contrary to the public interest to extend the time for the service of the Notice of Appeal.

Decision

The Appeals Coordinator extends the time for service of the notice of appeal. The Appellant is requested to amend its Notice of Appeal to correctly identify Graymont as the Appellant and Ms. Sabell of Lehigh as the agent for Graymont. **An amended Notice of Appeal is to be provided to the Board by December 10, 2020.**

Please do not hesitate to contact the Board if you have any questions. We can be reached toll-free by first dialing 310-0000 followed by 780-427-6207, by e-mail at PLAB@gov.ab.ca, or by fax at 780-427-4693.

Yours truly,



Gordon McClure
Appeals Coordinator

cc: Alberta Environment and Parks, Environmental Law Section

Any information requested by the Public Lands Appeal Board is necessary to allow the Board to perform its function. The information is collected under the authority of the *Freedom of Information and Protection of Privacy Act*, section 33(c). Section 33(c) provides that personal information may only be collected if that information relates directly to and is necessary for the processing of this appeal. The information you provide will be considered a public record.

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