

# ALBERTA PUBLIC LANDS APPEAL BOARD

## Report and Recommendations

Date of Report and Recommendations: September 13, 2021

**IN THE MATTER OF** sections 121, 122, and 124, of the *Public Lands Act*, R.S.A. 2000, c. P-40, and sections 211, 212, 213, 226, 227, and 235 of the *Public Lands Administration Regulation*, Alta. Reg. 187/2011;

**-and-**

**IN THE MATTER OF** an appeal filed by Myron Krupinski with respect to the decision of the Director, Environmental Investigations Section North, Regulatory Assurance Division, Alberta Environment and Parks, to issue Notice of Administrative Penalty No. AP-PLA-31203 to Myron Krupinski.

Cite as: *Krupinski v. Director, Environmental Investigations Section North, Regulatory Assurance Division, Alberta Environment and Parks* (13 September 2021), Appeal No. 21-0001-R (A.P.L.A.B.), 2021 ABPLAB 20.

**BEFORE:**

Mr. Gordon McClure, Board Chair & Appeals  
Coordinator.

**PARTIES:**

**Appellant:** Mr. Myron Krupinski, represented by Ms.  
Rachelle Krupinski.

**Director:** Mr. Simon Tatlow, Director,  
Environmental Investigations Section North,  
Regulatory Assurance Division,  
Alberta Environment and Parks.

## **EXECUTIVE SUMMARY**

The Director, Environmental Investigations Section North, Alberta Environment and Parks (the Director), issued Notice of Administrative Penalty No. AP-PLA-31203 (the Administrative Penalty) in the amount of \$3,000.00 to Myron Krupinski (the Appellant) on May 19, 2021, for violating the *Public Lands Act*. Specifically, the Appellant is alleged to have occupied public land near Manning, in the County of Northern Lights, by cutting and bailing hay without being the holder of a disposition authorizing him to do so from Alberta Environment and Parks.

The Appellant appealed the issuance of the Administrative Penalty to the Public Lands Appeal Board (the Board) on May 31, 2021.

A mediation meeting was held on August 12, 2021, which resulted in a resolution whereby the parties asked the Board to recommend to the Minister of Environment and Parks that the Administrative Penalty issued to the Appellant be reduced to \$1,300.00. The reduction included Counts 2 and 3 (occupying public land in 2017 and 2018 for the purpose of cutting and bailing hay) being reduced to \$650.00 for each Count. The Board accepted the mediated agreement and recommended the Minister vary the Administrative Penalty accordingly.

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## I. INTRODUCTION

[1] This is the Report and Recommendations of the Public Lands Appeal Board (the “Board”) to the Minister of Environment and Parks (the “Minister”), arising from a mediation of an appeal filed by Mr. Myron Krupinski (the “Appellant”).

## II. BACKGROUND

[2] On May 19, 2021, the Director, Environmental Investigations Section North, Regulatory Assurance Division, Alberta Environment and Parks (the “Director”) issued Notice of Administrative Penalty No. AP-PLA-31203 (the “Administrative Penalty”) in the amount of \$3,000.00 to the Appellant for alleged contraventions of section 47(1) of the *Public Lands Act*, R.S.A. 2000, c. P-40<sup>1</sup> by occupying public land in Northern Lights County, near Manning, to cut and bail hay without being the holder of a disposition authorizing the activity.<sup>2</sup>

[3] The Director’s Decision dated May 19, 2021, included with the Notice of Administrative Penalty, consisted of the following:

1. Count 1: the Director decided not to assess this count;
2. Count 2: \$1,500.00 for cutting and bailing hay in 2017 on public land while not holding a disposition that authorized the activity; and
3. Count 3: \$1,500.00 cutting the bailing hay in 2018 on public land while not holding a disposition that authorized the activity.

[4] On May 31, 2021, the Appellant filed a Notice of Appeal with the Board appealing the Administrative Penalty. The Appellant stated that by issuing the Administrative Penalty, the Director erred in the determination of a material fact.

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<sup>1</sup> Section 47.1 of the *Public Lands Act* states:

Unauthorized use

- 47(1) A person who occupies public land and
- (a) is not the holder of a disposition authorizing the person to do so, or
  - (b) is not otherwise authorized to do so under this Act or the regulations, is deemed to be a trespasser and any improvements created by the person are the property of the Crown.

<sup>2</sup> Section 59.3 of the *Public Lands Act* states:

- 59.3 The director may, in accordance with the regulations, require a person to pay an administrative penalty in an amount determined by the director if the person...
- (b) without legal authority makes use of public land....

[5] On June 2, 2021, the Board wrote to the Appellant and the Director (collectively the “Parties”), providing the Director with a copy of the Notice of Appeal, and requesting the Director provide a copy of the Alberta Environment and Parks’ records (all documents and all electronic media) (the “Department’s Record”) that were reviewed and that were available when making the decision, including policy documents and records within the compliance group relating to the appeal, along with an index of the records.

[6] The Director provided the Department’s Record on July 6, 2021 and a copy was subsequently provided to the Appellant on July 7, 2021.

[7] The Board scheduled a mediation meeting to be held on August 12, 2021, via videoconference and facilitated by a Board member. The mediation resulted in a resolution of the appeal attached as Appendix A.

### **III. DISCUSSION**

[8] The mediated agreement resulted in the Parties asking the Board to recommend to the Minister that the Administrative Penalty issued to the Appellant be reduced from a total of \$3,000.00 to \$1,300.00 that resulted from Counts 2 and 3 being reduced from \$1,500.00 each to \$650.00 each.

### **IV. RECOMMENDATIONS**

[9] In accordance with section 124(3) of the *Public Lands Act*,<sup>3</sup> the Board recommends the Minister of Environment and Parks order that Notice of Administrative Penalty No. AP-PLA-31203 be varied by reducing the penalty from \$3,000.00 to \$1,300.00 by reducing Counts 2 and 3 from \$1,500.00 each to \$650.00 each.

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<sup>3</sup> Section 124(3) of the *Public Lands Act* provides:

124(3) On receiving the report of the appeal body, the Minister may, by order, confirm, reverse or vary the decision appealed and make any decision that the person whose decision was appealed could have made, and make any further order that the Minister considers necessary for the purpose of carrying out the decision.

[10] With respect to section 124(4) of the *Public Lands Act*,<sup>4</sup> the Board recommends that copies of this Report and Recommendations, and any decision by the Minister regarding this appeal, be provided to:

1. Mr. Myron Krupinski and Ms. Rachelle Krupinski; and
2. Mr. Simon Tatlow, Director, Environmental Investigations Section North, Regulatory Assurance Division, Alberta Environment and Parks.

Dated on September 13, 2021, at Edmonton, Alberta.

“original signed by”

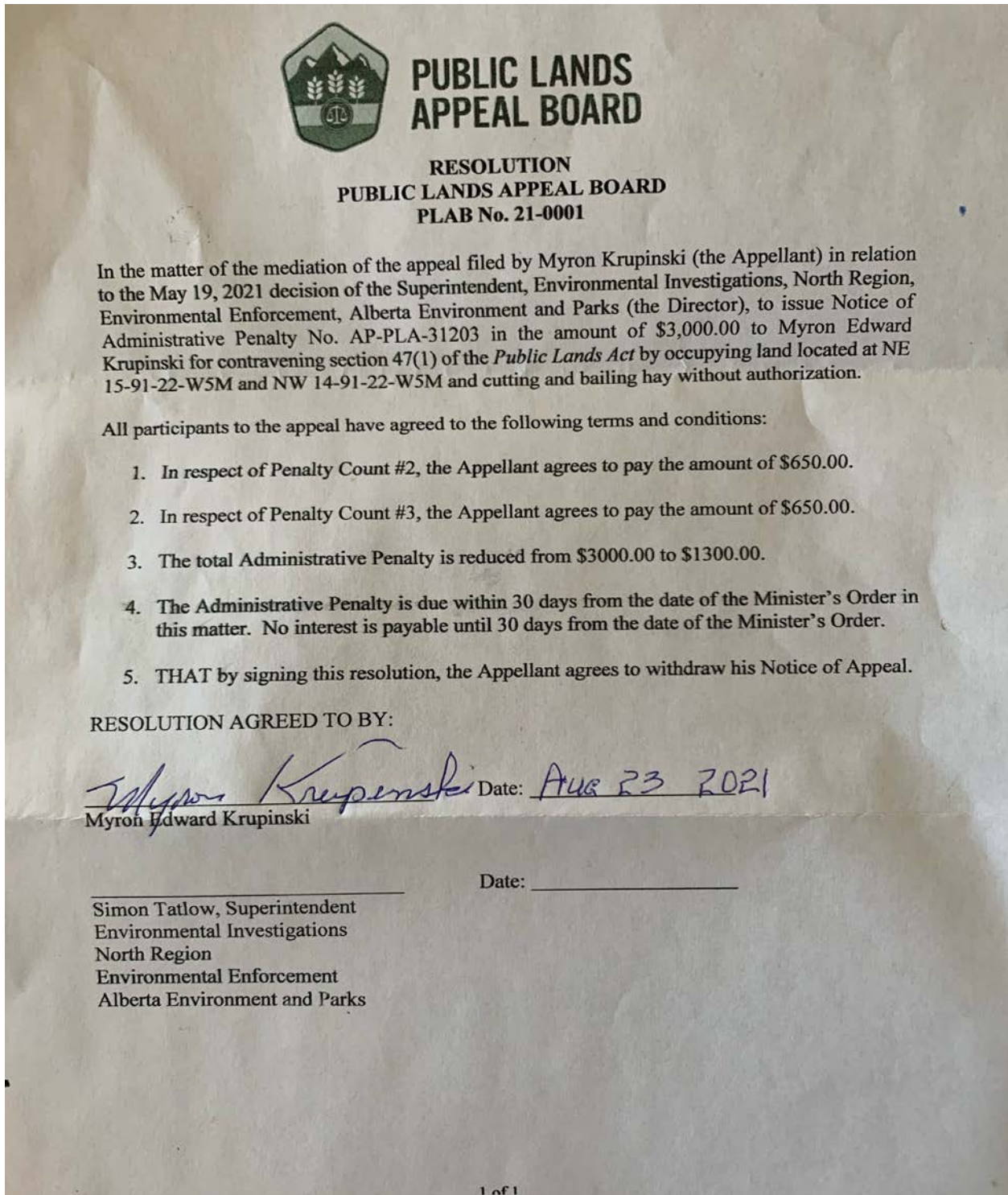
Gordon McClure  
Board Chair &  
Appeals Coordinator

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<sup>4</sup> Section 124(4) of the *Public Lands Act* states:

124 (4) 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.

V. APPENDIX



**PUBLIC LANDS  
APPEAL BOARD**

**RESOLUTION  
PUBLIC LANDS APPEAL BOARD  
PLAB No. 21-0001**

In the matter of the mediation of the appeal filed by Myron Krupinski (the Appellant) in relation to the May 19, 2021 decision of the Superintendent, Environmental Investigations, North Region, Environmental Enforcement, Alberta Environment and Parks (the Director), to issue Notice of Administrative Penalty No. AP-PLA-31203 in the amount of \$3,000.00 to Myron Edward Krupinski for contravening section 47(1) of the *Public Lands Act* by occupying land located at NE 15-91-22-W5M and NW 14-91-22-W5M and cutting and bailing hay without authorization.

All participants to the appeal have agreed to the following terms and conditions:

1. In respect of Penalty Count #2, the Appellant agrees to pay the amount of \$650.00.
2. In respect of Penalty Count #3, the Appellant agrees to pay the amount of \$650.00.
3. The total Administrative Penalty is reduced from \$3000.00 to \$1300.00.
4. The Administrative Penalty is due within 30 days from the date of the Minister's Order in this matter. No interest is payable until 30 days from the date of the Minister's Order.
5. THAT by signing this resolution, the Appellant agrees to withdraw his Notice of Appeal.

RESOLUTION AGREED TO BY:

Myron Krupinski Date: AUG 23 2021  
Myron Edward Krupinski

\_\_\_\_\_  
Simon Tatlow, Superintendent  
Environmental Investigations  
North Region  
Environmental Enforcement  
Alberta Environment and Parks

Date: \_\_\_\_\_





## PUBLIC LANDS APPEAL BOARD

### RESOLUTION PUBLIC LANDS APPEAL BOARD PLAB No. 21-0001

In the matter of the mediation of the appeal filed by Myron Krupinski (the Appellant) in relation to the May 19, 2021 decision of the Superintendent, Environmental Investigations, North Region, Environmental Enforcement, Alberta Environment and Parks (the Director), to issue Notice of Administrative Penalty No. AP-PLA-31203 in the amount of \$3,000.00 to Myron Edward Krupinski for contravening section 47(1) of the *Public Lands Act* by occupying land located at NE 15-91-22-W5M and NW 14-91-22-W5M and cutting and bailing hay without authorization.

All participants to the appeal have agreed to the following terms and conditions:

1. In respect of Penalty Count #2, the Appellant agrees to pay the amount of \$650.00.
2. In respect of Penalty Count #3, the Appellant agrees to pay the amount of \$650.00.
3. The total Administrative Penalty is reduced from \$3000.00 to \$1300.00.
4. The Administrative Penalty is due within 30 days from the date of the Minister's Order in this matter. No interest is payable until 30 days from the date of the Minister's Order.
5. THAT by signing this resolution, the Appellant agrees to withdraw his Notice of Appeal.

RESOLUTION AGREED TO BY:

\_\_\_\_\_  
Myron Edward Krupinski

Date: \_\_\_\_\_

**Simon.Tatlow** Digitally signed by Simon.Tatlow  
Date: 2021.08.13 10:36:48 -06'00'

Date: August 13, 2021

\_\_\_\_\_  
Simon Tatlow, Superintendent  
Environmental Investigations  
North Region  
Environmental Enforcement  
Alberta Environment and Parks



ALBERTA  
ENVIRONMENT AND PARKS

*Office of the Minister  
Government House Leader*

**MINISTERIAL ORDER**  
**78 / 2021**

*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. 21-0001**

I, Jason Nixon, Minister of Environment and Parks, pursuant to section 124 of the *Public Lands Act*, make the order in the attached Appendix, being the Order Respecting Public Lands Appeal Board Appeal No. 21-0001.

Dated at the City of Edmonton, in the Province of Alberta, this 21 day of Sept, 2021.



Jason Nixon  
Minister

## APPENDIX

### Order Respecting Public Lands Appeal Board Appeal No. 21-0001

With respect to the May 19, 2021, decision of the Director, Environmental Investigations North, Regulatory Assurance Division,, Alberta Environment and Parks (the “Director”), to issue under the *Public Lands Act*, R.S.A. 2000, c. P-40, Notice of Administrative Penalty No. AP-PLA-31203 (“Administrative Penalty”) to Myron Krupinski, I, Jason Nixon, Minister of Environment and Parks, order that:

1. The decision of the Director to issue the Administrative Penalty is varied as follows:
  - a. Counts 2 and 3 in the May 19, 2021 Director’s Decision are reduced from \$1,500.00 each to \$650.00 each;
  - b. The total amount of the Administrative Penalty is varied from \$3,000.00 to \$1,300.00;
  - c. Myron Krupinski shall submit payment of \$1,300.00 for the Administrative Penalty within 30 days of the date of this Ministerial Order; and
  - d. No interest is payable on the Administrative Penalty until 30 days after the date of this Ministerial Order.