



PRE-HEARING CONFERENCE DECISION REPORT

NRCB Application No. 1701

Alberta Transportation

Springbank Off-Stream Reservoir
Project in Springbank, Alberta

December 10, 2020

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SECTION 1: BACKGROUND

In October 2017, Alberta Transportation (applicant or proponent) filed its original application (project or SR1) with the Natural Resources Conservation Board (Board or NRCB) and Alberta Environment and Parks (AEP), requesting approval to construct and operate an off-stream reservoir at Springbank, Alberta, in Rocky View County. Alberta Transportation submitted an updated application March 26, 2018.

To consider the application, the NRCB panel was designated to include Peter Woloshyn (panel chair), and members Sandi Roberts, Walter Ceroici, and Daniel Heaney.

The Board issued a letter on September 23, 2020, advising interested parties that the review of the application would include a public hearing, and that in advance of the hearing the NRCB would be convening a pre-hearing conference (pre-hearing). The Notice of Pre-hearing Conference (Notice) was issued on October 5, 2020, advising that the NRCB would hold a virtual oral pre-hearing on December 2, 2020. The Notice invited submissions from parties wishing to make presentations at the pre-hearing.

The agenda items for the pre-hearing included:

- a) a discussion of the major issues to be examined at the hearing;
- b) the appropriate scope and jurisdiction of the review;
- c) the appropriate timing and location for the hearing, the hearing format, and filing deadlines for hearing submissions;
- d) a discussion of procedures to be followed at the hearing;
- e) submissions regarding party standing;
- f) consideration of intervener funding applications made by eligible persons; and
- g) other matters.

Parties were invited to make submissions on these agenda items and were advised that eligible persons who are or may be directly affected by the proposed project could also apply for advance intervener funding to assist in preparing and presenting an intervention.

The NRCB issued a letter on November 5, 2020, with detailed instructions on how to participate in the pre-hearing. This included how to register as a participant and the technical requirements to participate virtually.

The panel conducted the pre-hearing on December 2, 2020 using a virtual format to accommodate the current restrictions and practical limitations associated with the COVID-19 pandemic. The pre-hearing was broadcast live and is available for a limited time on YouTube for those interested parties who chose not to be registered participants in the pre-hearing. The NRCB acknowledges, with gratitude, the contribution of the Alberta Utilities Commission and its staff in facilitating the virtual pre-hearing conference process.

Pre-hearing submissions were filed by:

- Alberta Transportation (applicant)
- Ermineskin Cree Nation
- Blood Tribe/Kainai
- SR1 Concerned Landowners Group (SCLG)

- Robert Madlener
- Calalta Amusements Ltd. and Calalta Waterworks Ltd.
- Flood and Water Management Council (FWMC)
- Charles Hansen
- Scott Wagner (did not join the virtual hearing)
- Erlton Community Association
- Calgary River Communities Action Group (CRCAG) and Flood Free Calgary (FFC)
- City of Calgary
- Kyle Keith
- James Cran (did not join the virtual hearing)

All pre-hearing submissions filed in advance were entered into the record as exhibits to the proceeding. All submission documents are publicly available on the NRCB website and all parties to the review were provided this [link](#) to access copies of each other's submissions.

At the pre-hearing, each party was given an opportunity to address the agenda items detailed in the Notice and other matters preliminary to the hearing. The balance of this decision report presents the panel's decision in response to the submissions and proceedings at the pre-hearing.

SECTION 2: STANDING OF PARTIES AND HEARING PARTICIPATION

The panel is required to give standing to persons who may be directly affected by a reviewable project. Persons with standing have the right to review information relevant to any application, to furnish evidence relevant to an application, to cross-examine, and to provide argument during a hearing.

Parties that the panel has determined not to be a directly affected party do not have standing to make representations or cross-examine other parties at the hearing. However, the panel will provide these parties with the opportunity to file a written submission in advance of the hearing. At the request of a directly affected party, parties determined not to be directly affected may need to make themselves available to respond to questions related to any written submission they file.

In determining whether a party may be directly affected, the panel considers whether the potential effect on that party is different, special, or unique from effects on the general public. The NRCB has interpreted the term "directly affected" to exclude the broad public who may be indirectly affected by a project.

With respect to standing to participate in board hearings, the Board has adopted a "closeness test" in considering whether a person is a directly affected person. Section 8 of the *Natural Resources Conservation Board Act* (NRCBA) provides that the NRCB must provide directly affected persons standing in the review process. To qualify under this test, an uninterrupted chain of cause and effect must exist between a potential intervener and a project. The intervener must satisfy the Board that:

- a chain of causality exists;
- an effect would probably occur; and
- the effect would not be trivial.

In applying these criteria, the Board has placed the burden of proof on the intervener to demonstrate that direct effects exist in the intervener's particular circumstances and these effects are different from the effects felt by the general public. Parties who meet this test should be extended the opportunity to fully participate in the hearing, including the right to test the applicant's evidence through cross-examination.

The Ermineskin Cree Nation and the Blood Tribe/Kainai have asserted treaty and constitutional rights and have been engaged in active consultation with Alberta Transportation. Other parties established a nexus to the SR1 application through their proximity to the project site or as a result of residing in the 2013 Elbow River flood affected area in the City of Calgary.

The panel is satisfied that the following parties have each established that they may be directly affected by the application and have standing as outlined above:

- Ermineskin Cree Nation
- Blood Tribe/Kainai
- SR1 Concerned Landowners Group (SCLG)
- Calalta Amusements Ltd. and Calalta Waterworks Ltd.
- Scott Wagner
- Erlton Community Association
- Calgary River Communities Action Group (CRCAG) and Flood Free Calgary (FFC)
- City of Calgary
- Kyle Keith
- James Cran

In the panel's view, the following parties have not established that they may be directly affected by the proposed project:

- Robert Madlener
- Charles Hansen
- Flood and Water Management Council (FWMC)

Simply stated, the Board does not find that Robert Madlener, Charles Hansen, or the FWMC were able to satisfy the "closeness test" described above.

Robert Madlener, a resident of the community of Woodbine in southwest Calgary, expressed a number of concerns in his pre-hearing submission largely related to dam safety, economics, and transparency of the review process. The Woodbine community is not in the Elbow River flood area. His concerns include physical effects following filling and draining of the dam such as toxins carried into his community with dust. He also stated mental health concerns arising from his understanding that a catastrophic failure of SR1 could destroy the Glenmore Dam, resulting in a loss of life, and the destruction of vital infrastructure. Having regard to distance between the SR1 project and the Woodbine community, as well as the currently described project effects in the NRCB application, the Board is unable to find a plausible chain of causality or uniqueness related to the effects claimed by Mr. Madlener.

Charles Hansen stated that he does not live in either the Elbow River flood area or near the proposed project site. Mr. Hansen stated that he would be directly affected as a user of the City of Calgary's water distribution system. Mr. Hansen asserted that there is a potential for COVID-19 to contaminate the City of Calgary's Glenmore Reservoir water supply as a result of sewage contamination from flooding of upstream holding tanks. The Board finds this to be an unsupported assertion that appears to have little, if any, relation to the proposed SR1 project. As such, it does not satisfy the first measure of the closeness test.

The FWMC described itself as a volunteer organization. However, it failed to provide the Board with any reliable information that would allow the panel to understand the persons who might be included in the FWMC membership. At a minimum, the Board needs to have a sufficient understanding of group membership in order to assess whether those members may be directly affected. As such the Board finds that the FWMC has not established a chain of causality between the proposed SR1 project and the FWMC.

SECTION 3: ISSUES RAISED FOR EXAMINATION AT THE HEARING

The panel considered all issues raised by parties who filed written submissions or participated in the pre-hearing. The issues raised, included:

- Project need and justification
 - Alternatives to the project
 - Social and economic project costs and benefits
- Crown consultation with Indigenous communities
- SR1 design and operation
 - Reservoir capacity
 - Dam safety
 - Flood water management
 - Operating plan
 - Risk management
 - Public safety, including emergency response
 - Public access
- Project effects on:
 - Future land use including the project development area
 - Traditional land use by Indigenous Peoples
 - Hunting
 - Air quality (dust)
 - Human health
 - Biodiversity
 - Vegetation (including weeds)
 - Elbow River water quality
 - Groundwater quality and quantity
 - Surface water quality
 - Fish
 - Soils
 - Wildlife

Subject to the specific comments herein, the Board accepts that each of the above issues have a role in the NRCB's determination of whether the project is in the public interest. The panel encourages all directly affected parties to focus on these matters when preparing their written submissions and presentations during the hearing. At the hearing, the panel will hear evidence and argument relating to the identified reviewable issues. The panel will also be prepared to consider additional matters, provided they are within its jurisdiction and are specifically relevant to its mandate of determining public interest of the project.

In identifying the relevant issues for the hearing, the Board asks that all parties remain mindful of the Board's public interest mandate. The Board needs to understand the proposed project's social, economic, and environmental effects to the degree that they are relevant to the public interest determination. Should the project receive NRCB approval, the NRCB's mandate is complete. The NRCB is not the project regulator and does not anticipate any active role in future required approvals.

The Board acknowledges that various parties are advocates for Elbow River basin flood control alternatives to SR1. In particular, McLean Creek has received significant attention by stakeholders and the applicant. The Board's mandate is limited to determining whether the reviewable project, in this case SR1, is in the public interest. While a general understanding of the relative merits associated with project alternatives may contribute some contextual relevance to a determination of the public interest decision on SR1, the NRCB focus must be on the social, economic, and environmental effects associated with the reviewable project. The Board will entertain submissions on how the proponent's consideration of alternatives is relevant to a public interest determination of SR1. However, the Board does not find merit in the expenditure of significant time and resources assessing projects that are not a reviewable project under the NRCBA.

In assessing project effects, the Board will have regard for various approvals and operating standards that would be required following its review. As an example, the dam safety requirements and approvals required from provincial and federal governments would require further detailed analysis and regulatory oversight that would largely occur after the NRCB review is finalized. The dam safety review process will result in a final project design. While relevant effects associated with dam safety and emergency response need to be understood by the Board, there will be components of these matters that will not be finalized at the time of the NRCB hearing.

SECTION 4: TIMING AND LOCATION OF THE HEARING

Parties provided a wide range of preferences with respect to the appropriate timing for commencing the hearing. Parties identified dates that experts or witnesses would be unavailable to participate. Scheduling preferences ranged from requests for a hearing as early as February 2021 to as late as June 2021.

In considering all of the requests and limitations for various parties to participate directly or have expertise available to participate, the panel wishes to be as accommodating as possible, while respecting a fair and efficient process. In selecting an appropriate hearing date, the panel notes the magnitude and scope of work proposed by the various interveners. The Board acknowledges that its chosen hearing dates will be inconvenient for some. However, having regard for submissions from all parties, the Board is confident that the chosen hearing dates will afford full and fair participation by all directly affected parties.

The panel has determined that the hearing will commence at 9:00 a.m. on March 22, 2021. Given the number of expected participants and reviewable issues, the panel anticipates the hearing should be completed within 10 hearing days. However, parties should allow their schedules to accommodate 15 hearing days.

SECTION 5: HEARING PROCEDURES

5.1: General

All participants are encouraged to review the [Board Review Process Guide under the NRCBA](#) and to contact NRCB staff for guidance.

Parties that the Board has found to be directly affected will have full hearing participation rights. Parties that the Board has not found to be a directly affected person may still file a written submission in advance of the hearing. Such parties will not have the opportunity to present oral evidence, cross-examine hearing participants or present final argument. However, the Board may request the party attend the hearing in order to respond to questions related to their submission from directly affected participants.

5.2: Interrogatories

The Board has decided not to provide for a formal written information request process. This is consistent with the Board's conventional approach in advance of a hearing. In reaching its decision, the Board notes that Alberta Transportation expressed ongoing willingness to respond to reasonable information requests in advance of the hearing.

5.3: Hearing submissions

Written submissions addressing the specific issues set for review must be filed with the panel by 4:30 p.m., February 26, 2021. Alberta Transportation will then have an opportunity to respond to the written submissions by 4:30 p.m., March 12, 2021.

Paper filings are not required. All documents must be filed electronically in PDF format (PDF, OCR searchable, and bookmarked). Submissions are to be provided to Laura Friend, Manager, Board Reviews (laura.friend@nrcb.ca) for public posting to the NRCB website, to allow parties access to each other's written submissions.

5.4: Virtual hearing

In consideration of current and future COVID-19 pandemic restrictions and uncertainty, there was consensus among parties that a virtual hearing would be the most appropriate. The Board will finalize and distribute virtual hearing details well in advance of the hearing date.

The panel anticipates providing a live YouTube feed to provide the public with an opportunity to view the hearing. The Board will also upload daily recordings of the hearing to the YouTube platform for extended access.

5.5: Hearing hours

The panel expects parties will be available to convene between 9:00 a.m. and 5:00 p.m. daily. The panel may also consider evening sittings at the request of the participants.

5.6: Topic-based hearing

The Board will adopt a topic-based hearing format. The Board invites all directly affected parties to provide comment and suggestions on how to allocate topics in order to break the hearing into major topic areas. The Board sees an advantage to identifying topic areas and initial estimates of time allocations early in 2021 to assist all parties with their hearing participation schedule. The Board invites Alberta Transportation to state its suggestions by January 11, 2021 (as the party that is likely to have the most witnesses and be providing evidence under all topic areas); all directly affected parties will be invited to comment by January 18, 2021. The Board offers the following as an initial suggestion:

Topic 1 (Project need and justification)

- a) Project purpose
- b) Social and economic project costs and benefits
- c) Reservoir capacity
- d) Alternatives considered

Topic 2 (Crown consultation and land use)

- a) Crown consultation
- b) Traditional land use by Indigenous Peoples
- c) Future land use and land use plan for the project development area

Topic 3 (SR1 design and operation)

- a) Dam safety
- b) Flood water management
- c) Operating plan
- d) Risk management
- e) Public safety, including emergency response

Topic 4 (Dust and human health)

- a) Air quality (dust)
- b) Human health assessment

Topic 5 (Aquatics)

- a) Elbow River water quality
- b) Fish
- c) Groundwater quality and quantity impacts

Topic 6 (Terrestrial)

- a) Vegetation (including noxious weeds and invasive species)
- b) Wildlife
- c) Soils
- d) Biodiversity

5.7: Hearing time limits and daily hearing schedule

The Board believes that all parties would benefit from the NRCB posting both a daily schedule and a full hearing schedule on the public record. The Board will undertake to do this in advance of the opening of the hearing and will update the schedules throughout the proceeding.

As all directly affected parties are required to provide complete submissions in advance of the hearing, the panel intends to limit the time to introduce their evidence and witnesses to approximately 20 minutes for each topic-based hearing component. On request, the Board will accommodate panels with more than two witnesses with additional time; please state any requests as part of your written filing in advance of the hearing.

As part of their written submission, parties are requested to provide an estimate of the time they are requesting for the cross-examination of specific adverse parties for each hearing component. Parties should provide updated requests as appropriate in order to assist the Board and NRCB staff with posting schedules. The Board will review all requests and establish firm guidelines to assist parties in preparing for the hearing.

5.8: Oral final argument

The Board expects that parties will be prepared to provide oral final argument immediately following the conclusion of the evidentiary portion of the hearing.

SECTION 6: ADVANCE FUNDING REQUESTS

6.1: Eligibility for funding

The *Natural Resources Conservation Board Act* states:

S. 11(1) Individuals or groups of individuals who, in the opinion of the Board, are or may be directly affected by a reviewable project are eligible to apply for funding under this section.

The Board has consistently interpreted this section to require that parties seeking eligibility satisfy the Board that they:

- a) are an “individual or group of individuals”, and
- b) may be directly affected by the reviewable project.

On point a), the City of Calgary and Calalta Amusements Ltd. & Calalta Waterworks Ltd. are not individuals or groups of individuals and so are not eligible for funding. The Board is not satisfied that Flood Free Calgary is a group of individuals, and so it is also not eligible. Flood Free Calgary described itself as “a Calgary-based interest group representing over 40 businesses, business associations, community associations, and other organizations who are focused on protecting Calgary businesses from the effects of flooding.”

On point b), section 2 of this report identifies which participants in the pre-hearing satisfy the directly affected component of the test. Of those requesting advance funding or a determination of eligibility to apply for funding, three parties failed to satisfy the Board that they may be directly affected parties. Those parties are Robert Madlener, Charles Hansen, and the Flood and Water Management Council (FWMC).

Erlton Community Association, Calgary River Communities Action Group (CRCAG), Scott Wagner, Kyle Keith and James Cran did not apply for advance funding. These parties are, however, eligible for intervener funding.

The Board is satisfied that the following three parties are groups of individuals who may be directly affected by the reviewable project and are accordingly eligible to apply for funding:

- Ermineskin Cree Nation
- Blood Tribe/Kainai
- SR1 Concerned Landowners Group (SCLG)

At the pre-hearing conference, Alberta Transportation had the opportunity to reply to the advance funding requests.

6.2: Advance funding

The Ermineskin Cree Nation, the Blood Tribe/Kainai, and the SR1 Concerned Landowners Group each submitted requests for advance intervener funding. Advance cost awards are provided to help eligible parties who require financial assistance to prepare for and to participate effectively and efficiently in the review process. Final cost awards are made upon submission of a final cost claim after the hearing. The amount of the final cost award may vary from the amount recognized in advance based on the conduct and presentation of the party during the hearing.

Interveners receiving advance funding will need to provide an accounting of expenditures (with receipts) and be prepared to explain how the funds were efficiently used. The Board expects each party receiving advance funding to address all relevant assessment criteria identified in the NRCB [Intervener Funding Process Guide](#) as part of their final costs claim.

Typically the Board has limited the award of advance costs to those matters the Board accepted as reasonable and the costs incurred between the time of the advance funding Board decision and the commencement of the hearing. Past reviews have rarely awarded advance costs to prepare for the pre-hearing and hearing appearance fees for experts and/or legal counsel. For SR1, it is the Board's view that advance funding of 50 per cent of the total award, including hearing appearance fees, is appropriate. In part, this is because those parties awarded advance costs (Ermineskin Cree Nation, Blood Tribe/Kainai, and the SCLG) are represented by legal counsel, whose trust accounts are regulated. This provides a level of comfort that the funds will not be distributed before the fees and expenses are incurred. Also in part, this decision is based on past experience demonstrating that final cost awards can be significantly delayed following the hearing. The Board does not meet to decide final cost awards until after the Board decision is issued. A final cost report is issued following that meeting and the applicant has an opportunity to reply, all of which takes time.

During the course of the pre-hearing conference, several parties referenced the scale of costs that have been developed by the Alberta Utilities Commission (AUC) and the Alberta Energy Regulator in reference to hourly rates for lawyers and consultants. Many of the pre-hearing conference participants seemed to agree, or at least accept, that the scale of costs contained in AUC Rule 009 and Alberta Energy Regulator Directive 031 (which are the same) are appropriate. The Board agrees and will assess legal and consultant fees having regard for the scale of costs set out in these rules. The advance funding awards do not include or account for GST; the Board will include a consideration for GST in the final cost awards.

In the interests of expediency, the Board has limited its comments to issues that might be unique to the specific claims, as opposed to the more general policy guidance that can be accessed in the Board's [Intervener Funding Process Guide](#).

6.2.1: Ermineskin Cree Nation and Blood Tribe/Kainai

The Ermineskin Cree Nation and Blood Tribe/Kainai made virtually the same requests for advance funding, predominantly for legal counsel to prepare and participate in the hearing. The Board notes that JFK Law Corporation (JFK), representing Ermineskin Cree Nation, is also representing Blood Tribe/Kainai. The Board does recognize that while there are similarities, these are in fact two separate First Nations and their specific concerns may vary.

The Ermineskin Cree Nation and the Blood Tribe/Kainai funding requests each include \$1,100 for honoraria. The Board views these amounts as reasonable; however, the Board finds that these amounts don't need to form part of the advance funding award. The Board expects these amounts to be included in the interveners' final costs claims.

The Board also notes that the hourly rate for senior counsel was above the adopted \$350/hour cap and appearance fees for counsel were based on a total of 48 hours for the Ermineskin Cree Nation submission plus an additional 48 hours for the Blood Tribe/Kainai submission. The requested total of 96 hours appears somewhat generous for a hearing scheduled for 10 days, where the issues of concern to the two interveners are substantially similar, and with the attendance efficiencies associated with a topic-based virtual hearing.

The Board has recalculated the legal fee budget reducing the hourly rate for senior legal counsel from \$375 to \$350. This reduces the requested budget from \$26,720 to \$25,920.

Given the uncertainty of the total amount of time legal counsel will be required to represent both First Nations, the Board is prepared to provide advance funding based on 50 per cent of the budgeted claim of \$25,920 for a total of \$12,960 for each of Ermineskin Cree Nation and Blood Tribe/Kainai. As indicated above, the Board expects that the final cost claim for legal counsel fees will reflect any efficiencies that can be achieved with a topic-based approach.

- **Advance funding award for Ermineskin Cree Nation is 50 per cent (\$25,920 x 50 per cent = \$12,960)**
- **Advance funding award for Blood Tribe/Kainai is 50 per cent (\$25,920 x 50 per cent = \$12,960)**

6.2.2: SR1 Concerned Landowner Group

The Board is supportive of intervener funding requests that are focused on critical review and analysis of the proponent's Environmental Impact Assessment (EIA). As provided for in the NRCB [Intervener Funding Process Guide](#), the Board is less inclined to support new work. Earlier in this decision the Board concluded that an additional round of information requests is not necessary and final arguments will be made orally at the hearing. As such, the Board has made several adjustments to SCLG's funding request.

Austin Engineering (Engineering)

The Board has revised SCLG's funding request for Austin Engineering that is detailed in the reference table in PHC Exhibit-19 entitled " *Project Fees: Springbank SR1 Offstream Dam – Engineering Review & Inundation Maps*" in the consultant's proposal.

- The Board is not prepared to award funding for lines 2.05, 2.06, 3.02, and all of section 4.00 that totals \$50,964 as this appears to be new work.
- The Board can support funding the amount in line 3.02 if, rather than "Develop Hazard and Failure Modes Matrix," the consultant reviews the hazard/failure work conducted by the proponent. While not awarding any advance funding for this work, should the intervener proceed with a review of the proponent's hazard/failure work, the Board will review an appropriate funding claim when considering the final costs claim.
- As such, the Austin Engineering budget has been adjusted; $\$106,151 - \$50,964 = \$55,187$
- **Advance funding is awarded at 50 per cent ($\$55,187 \times 50 \text{ per cent} = \$27,594$)**

Dr. Jon Fennell (Hydrogeology)

The Board has granted the total hours requested for Dr. Fennell's proposed budget. However, the hourly rate has been adjusted to reflect the fee schedule cap at \$270/hour.

- The budget request has been revised from \$21,000 to \$18,360, which reflects the fee schedule cap of \$270/hour
- **Advance funding is awarded at 50 per cent ($\$18,360 \times 50 \text{ per cent} = \$9,180$)**

Mr. Wallis (Biodiversity)

- The proposed budget for Mr. Wallis has been reduced to reflect the Board's decision that an additional round of information requests is not necessary. In addition, the Board does not see the need for Mr. Wallis to conduct a field visit, in particular, during the winter months.
- As such the budget for Mr. Wallis is reduced by \$9,720 for a total of \$19,710
- **Advance funding is awarded at 50 per cent ($\$19,710 \times 50 \text{ per cent} = \$9,855$)**

Dr. Zelt (Air and dust including mitigation)

- At the pre-hearing conference Mr. Secord updated this portion of the intervener's request, indicating Dr. Zelt will not be participating in the risk assessment associated with dam breach, failure, and inundation.

- With removal of the fees to conduct a review of the risk assessment, the remaining budget to conduct a review of air quality and dust is \$12,000.
- **Advance funding is awarded at 50 per cent (\$12,000 x 50 per cent = \$6,000)**

Dr. Osko (Weeds)

While the Board views the issue of noxious weeds and invasive species as important, it does not believe the number of hours requested to critique this area of the EIA justified. As with other budgeted areas, the Board has also made reductions to reflect its decision that an additional round of information requests is not necessary.

As such, the cost award for Dr. Osko's work has been reduced from 174 hours to 75 hours. A breakdown of the Board's decision based on Dr. Osko's budget follows:

- The proposed budget for pre-hearing review, consultation with client, information requests, and report preparation has been reduced from 130 hours to 50 hours
- The budget for filing evidence and answering information requests has been reduced from 10 hours to 4 hours
- There is no reduction for testifying at oral hearing, no reduction (8 hours)
- The budget for monitoring proceeding in person or by transcript has been reduced from 14 hours to 7 hours
- The budget for final argument and reply submissions, reduced from 12 hours to 6 hours
- **Advance funding is awarded at 50 per cent (\$15,000 x 50 per cent = \$7,500)**

Allan Locke (Aquatic ecology)

- The budget identifies a total of 70 hours for pre-hearing work and completing an expert report at a cost of \$18,900. The Board cannot clearly identify that the budget identifies fees associated with hearing appearance.
- The Board accepts this total as reasonable, subject to the expectation that the identified total would be inclusive of hearing appearance requirements.
- **Advance funding award is 50 per cent (\$18,900 x 50 per cent = \$9,450)**

Ackroyd LLP (Legal counsel)

- The Board discussed the significant time commitment and budget for legal counsel fees. The Board recognizes that the SCLG is a large group and that significant time and resources have been devoted by its members and legal counsel in support of the SCLG submission. The Board acknowledges that there is benefit in having the

interests of such a large group of directly affected (and interested parties) represented by the SCLG. In addition, the Board believes that the hearing will be better served and more efficient given a focused approach by SCLG.

- The Board has decided that an additional information request process is not necessary. It has further decided that oral final arguments at the hearing is appropriate. From the SCLG submission on the legal counsel budget it is difficult to delineate information request and written final argument fees. The Board is prepared to award advance costs totalling 50 per cent of the total budget request of \$161,200 (\$80,600). However, the Board expects that SCLG legal counsel will reduce its time commitment and final cost request to reflect the Board decision of eliminating another round of information requests, and having oral final arguments instead of written arguments at the close of the virtual hearing.
- **Advance funding award is 50 per cent (\$161,200 x 50 per cent = \$80,200)**

For the detailed reasons above, the Board directs that the SR1 Concerned Landowner Group (SCLG) receive advance funding of \$149,780.

SECTION 7: CONCLUDING REMARKS

The panel appreciates the efforts extended by all pre-hearing conference participants. The Board understands that the NRCB's review process is new to many of you. The need to conduct proceedings with the limitations dictated through the use of virtual platform is new to the NRCB. As an organization, the NRCB will endeavour to minimize the challenges to participants as the process continues. Stay safe.

DATED at EDMONTON, ALBERTA, this 10th day of December, 2020.

Original signed by:

Peter Woloshyn

Sandi Roberts

Walter Ceroici

Daniel Heaney

APPENDIX A: PARTICIPANTS

Alberta Transportation
Ron Kruhlak, Q.C.

Ermineskin Cree Nation
Blair Feltmate

Blood Tribe/Kainai
Blair Feltmate

SR1 Concerned Landowners Group (SCLG)
Richard Secord
Ifeoma Okoye
Karin Hunter
Ian Dowsett
David Klepacki

Robert Madlener

Calalta Amusements Ltd.
Bob Williams

Flood and Water Management Council (FWMC)
Noelle Read

Charles Hansen

Scott Wagner

Erlton Community Association
Dean Campbell

Calgary River Communities Action Group (CRCAG) and Flood Free Calgary (FFC)
Lou Cusano, Q.C.

City of Calgary
David Mercer
Frank Frigo

Kyle Keith

James Cran

Natural Resources Conservation Board Staff
Bill Kennedy
Fiona Vance
Laura Friend
Janet Harvey

Contact the Natural Resources Conservation Board at the following offices:
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Copies of NRCB process guides are available by contacting the NRCB.