

EMAIL to laura.friend@nrcb.ca

May 7, 2021

Natural Resources Conservation Board
19th floor, 250 - 5 Street SW
Calgary, AB T2P OR4

Attention: Laura Friend, Manager, Board Reviews

Dear Madam:

**Re: Springbank Off-Stream Reservoir Project (the “Project”)
NRCB Application No. 1701
Calgary River Communities Action Group (“CRCAG”) – Final Cost Claim**

Please find enclosed CRCAG’s application for its final cost claim, in the form prescribed by the Board.

CRCAG is directly affected by the Project and eligible for intervener funding. This was confirmed by the Natural Resources Conservation Board (“**Board**”) in its December 10, 2020 Pre-Hearing Conference Decision Report (Exhibit 156, pages 3 and 8). Further details on how CRCAG is directly affected by the Project can be found in CRCAG’s pre-hearing conference submissions (Exhibit PHC-13), its written submission (Exhibit 237) and its opening statement (Transcript, Volume 2, pages 418 to 442).

In section 5 of the Board’s application form for a final cost claim, it requests information on the intervener voluntary contribution. The voluntary contribution by CRCAG and its members has been considerable. As CRCAG noted in section G of its pre-hearing submissions, in preparation for the submissions and hearing for this application, CRCAG carefully considered which functions required external legal expertise and which functions could be handled by CRCAG and its members.

The CRCAG team, made up of Brenda Leeds Binder, Tony Morris and two other members of CRCAG, organized and drafted the initial drafts of the pre-hearing submissions and evidence (Exhibits 237-241). Moreover, members of CRCAG and other individuals and groups impacted by the 2013 flood contributed to the 218 letters and emails and 393 survey responses included in Appendices B and C of CRCAG’s and FFC’s evidence (Exhibits 239 and 240). The number of hours which represent these voluntary contributions cannot be accurately estimated but is likely in the hundreds of hours.

We, as external counsel, were only used for those functions that required specialized legal assistance, as further detailed in the summary and legal invoices provided in Schedule “A” of the

enclosed application.

Pursuant to s.28(7) of the Board's Rules of Practice, we have provided a copy of CRCAG's application to counsel for Alberta Transportation.

Please do not hesitate to contact me should you have any questions regarding CRCAG's application.

Yours truly,

A handwritten signature in black ink, appearing to read 'Lou Cusano', with a long, sweeping underline that ends in a small loop.

Lou Cusano

cc: Ron Kruhlak, Q.C. – by email.

APPLICATION FORM

Intervener Funding Final Costs Claim

STEP 1 – GENERAL CONSIDERATIONS IN FILING YOUR APPLICATION

To help the NRCB process your application, please be as thorough as possible in providing the information requested in the attached format. A properly completed form will speed up the processing.

Attach all relevant and supporting receipts, invoices, accounts and other documentation.

Don't be late! Within 30 days of the close of the hearing, or the decision that the project can be reviewed without a hearing, your Final Costs Application Form must be submitted to the Board and to the project applicant.

There is no guarantee that any or all of your costs will be awarded. You must first qualify for costs (see the NRCB's Intervener Funding Process Guide) and then only reasonable costs will be awarded.

STEP 2 – YOUR MAILING INFORMATION

NRCB Application No: 1701 Applicant: Alberta Transportation

Hearing held at: Virtually on Zoom.
(location)

Name(s) of Intervener(s) *(attach a list if necessary)*

Calgary River Communities Action Group (CRCAG).

Note: *Attach written authorization by "directly affected" individuals or groups of individuals where a formal association has been requested to represent their concerns and outline specific impacts to be addressed.*

Was a group or coalition formed to intervene in this application? Yes X No

If yes, name of group: Calgary River Communities Action Group (CRCAG)

Name of intervener or group representative: Brenda Leeds Binder and Tony Morris

Mailing address, email address, and local telephone number for intervener or group:

Brenda Leeds Binder and Tony Morris

c/o Torys LLP, 4600 - 525 8 Avenue SW, Calgary AB T2P 1G1

Phone: 403-776-3797; Email: lcusano@torys.com

Has a copy of this claim (with supporting documentation) been sent to the proponent or its lawyer?

Yes X No

STEP 3 – THE DETAILS OF YOUR CLAIM

Note: If the details of your eligibility for an award of costs has not been decided by the Board, please refer to Step 3 & 4 in the Advance Award of Costs application

1. INTERVENER

	Honoraria	Expenses
a) Forming a group *	\$ <u> 500 </u>	\$ <u> 0 </u>
b) Preparing a submission *	\$ <u> 500 </u>	\$ <u> 0 </u>
c) Attending a hearing (½ days x \$50) (Brenda Leeds Binder and Tony Morris)	\$ <u> 100 </u>	\$ <u> 0 </u>
Subtotals	A \$ <u> 1100 </u>	B \$ <u> 0 </u>

TOTAL PERSONAL CLAIM OF INTERVENER	
Subtotals A + B =	\$ <u> 1100 </u> (line 1)
Please transfer total to Section 6 – Line 1 (Page 27)	

** normally the total of these two amounts will not exceed \$500*

2. LAWYER

Name: Lou Cusano and Gino Bruni

Mail/Email Address: Torys LLP
4600 - 525 8 Avenue SW, Calgary AB T2P 1G1
Email: lcusano@torys.com / gbruni@torys.com

Telephone Number: 403-776-3797 / 403-776-3776

TOTAL FEES & DISBURSEMENTS FOR LAWYER'S SERVICES Breakdown of Lawyer's Account

a) Fees for preparation of submission	<u> *</u> hrs x \$ <u> *</u> /hr	\$ <u> *</u>
b) Fees for attendance at hearing	<u> *</u> hrs x \$ <u> *</u> /hr	\$ <u> *</u>
c) Disbursements		\$ <u> *</u>

*See Schedule A for details of fees, hours and totals.

TOTAL CLAIM RESPECTING LAWYER'S ACCOUNT	
	\$ <u>57,718.21</u>
	(line 2)
Please transfer total to Section 6 – Line 2 (Page 27)	

* claimed legal costs should be for legal services only (See Intervener Funding Process Guide, Legal Costs, Page 14)

3. EXPERT/CONSULTANT

Name: N/A

Mail/Email Address: *(where there is more than one expert or consultant, please attach additional information)*

Telephone Number: _____

Services Performed: *(attach work specifications for each consultant/expert)*

Total Fees and Disbursements: *(attach accounts)*

Breakdown of Accounts

a) Preparation of submission	_____ hrs x \$ _____ /hr	\$ _____
b) Attendance at hearing	_____ hrs x \$ _____ /hr	\$ _____
c) Costs of drafting, administrative services, etc. <i>(if applicable, attach a separate breakdown)</i>	_____ hrs x \$ _____ /hr	\$ _____
d) Total disbursements		\$ _____

TOTAL CLAIM RESPECTING EXPERT/CONSULTANT ACCOUNT(S)

\$ 0
(line 3)

Please transfer total to Section 6 – Line 3 (Page 27)

* NOTE: *Personal services already compensated for by others in the form of hourly employment or regular salary will not be compensated for in a cost award (See Intervener Funding Process Guide, Costs of an Expert, Page 15)*

4. WITNESS FEES

(for persons who appear at a hearing to give evidence but who are not interveners making a claim under Step 3, Item 1c)

- a) Meeting with a lawyer ___ witnesses x ___ ½ days at \$50 \$ N/A
- b) Attendance at a hearing to give evidence ___ witnesses x ___ ½ days at \$50 \$ N/A

TOTAL CLAIM RESPECTING WITNESS(ES) FEES

\$ 0
(line 4)

Please transfer total to Section 6 – Line 4 (Page 27)

5. INTERVENER VOLUNTARY CONTRIBUTION

Attach a summary of your voluntary contribution to this intervention. Provide as much detail as possible including anticipated hours to be contributed, tasks performed and types of expenses which may be incurred. Actual expenditures must be supported by invoices. Mileage claims should include kilometres driven, rate per kilometre and purpose of trip.

See cover letter.

6. SUMMARY OF AMOUNT CLAIMED

Please transfer totals from preceding sections to the appropriate lines below

Intervener(s)	(from line 1)	\$ <u> 1100 </u>
Lawyer	(from line 2)	\$ <u> 57,718.21 </u>
Expert(s)/Consultant(s)	(from line 3)	\$ <u> 0 </u>
Witness(es)	(from line 4)	\$ <u> 0 </u>

7. TOTAL AMOUNT OF INTERVENER FUNDING REQUESTED

Total amount of this claim (total of lines 1-4)	=	\$ 58,818.71
Less advance cost award (if any)	-	\$ 0
Total	=	\$ 58,818.21

PLEASE SEND YOUR COMPLETED APPLICATION AND COPIES OF SUPPORTING DOCUMENTS DIRECTLY TO THE NRCB AND THE PROPONENT AS FOLLOWS:

- 1) **Natural Resources Conservation Board**
19th floor, 250 – 5 Street SW
Calgary, AB T2P 0R4

Email: laura.friend@nrcb.ca
Phone: (403) 297-8269 **Toll-Free:** 310-0000

- 2) **The proponent's lawyer, if any, or to the proponent at its business address.**

SCHEDULE "A"

Summary of Legal Fees and Disbursements - Calgary River Communities Action Group (CRCAG)						
Lawyer	Hourly Rate	Hours - preparation	Hours - attendance*	Hours - argument preparation and delivery	Total Hours	Legal Fees
Lou Cusano	\$350.00	33.8	34.3	28	96.1	\$33,635.00
Gino Bruni	\$280.00	48.5	12.4	24.7	85.6	\$23,968.00
Total Legal Fees						\$57,603.00
Disbursements (courier fees)						\$115.21
TOTAL Fees and Disbursements						\$57,718.21
*includes attendance at Pre-Hearing Conference, Adjournment Application and Hearing						

December 15, 2020

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1523401

Time Summary

Date	Lawyer	Narrative	Hours
16/07/20	Lou A. Cusano	conference with S. Geoghan; conference with Province, Province counsel and client team;	1.4
23/07/20	Lou A. Cusano	conference with B. Kennedy; email to client team;	0.5
29/07/20	Lou A. Cusano	emails to and from client team;	0.2
30/07/20	Lou A. Cusano	emails to client team; letter to NRCB;	0.3
14/10/20	Lou A. Cusano	reviewing NRCB correspondence; conference with client team;	2.0
14/10/20	Gino M. Bruni	preparation for call with CRCAG, reviewing documents on NRCB website and summary of issues provided by R. Kobler; attending meeting with members of CRCAG and L. Cusano;	2.5
23/10/20	Lou A. Cusano	correspondence from G. Fitch;	0.2
10/11/20	Gino M. Bruni	review of NRCB process documents and legislation and past cases regarding cost awards; review and revision of pre-hearing conference submission;	4.4
11/11/20	Lou A. Cusano	reviewing NRCB submission;	1.0
12/11/20	Lou A. Cusano	reviewing NRCB submission;	0.4
18/11/20	Lou A. Cusano	email to and from G. Fitch; reviewing submission; email to client team;	0.4
19/11/20	Lou A. Cusano	preparing correspondence and reviewing submission; emails to and from client team;	0.2
24/11/20	Lou A. Cusano	call with client team and review submissions;	0.7
25/11/20	Lou A. Cusano	participation in NRCB test session;	0.5
26/11/20	Gino M. Bruni	drafting bullet point submissions for L. Cusano for pre-hearing conference;	2.0
27/11/20	Gino M. Bruni	revising bullet point submissions based on comments by L. Cusano; phone call with L. Cusano on same; providing copy of submissions to client team;	1.0
27/11/20	Lou A. Cusano	reviewing pre-hearing notes;	0.3
30/11/20	Lou A. Cusano	reviewing pre-hearing notes;	0.2
30/11/20	Gino M. Bruni	incorporating comments from client team and L. Cusano on bullet points for oral submissions for pre-hearing conference; sending final copy to client team;	0.7

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1523401

Time Summary

Date	Lawyer	Narrative	Hours
01/12/20	Gino M. Bruni	review of additional submissions submitted and site visit from NRCB; forwarding same to client team;	0.5
02/12/20	Gino M. Bruni	attending pre-hearing conference, answering emails from L. Cusano and client team;	5.8
02/12/20	Lou A. Cusano	preparing for and attending at pre-hearing conference; email correspondence with client team;	8.4

Lawyer Summary

Timekeeper	Hours	Rate	Amount
Gino M. Bruni	16.9	625.00	10,562.50
Lou A. Cusano	16.7	950.00	15,865.00
TOTAL HOURS & FEES	33.6		\$26,427.50

March 24, 2021

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1532275

Time Summary

Date	Lawyer	Narrative	Hours
06/01/21	Lou A. Cusano	reviewing EIA materials;	0.3
11/01/21	Gino M. Bruni	email correspondence with R. Kobler and J. Chau regarding redactions required for support letters;	0.2
19/01/21	Gino M. Bruni	correspondence with client team on topics that are relevant to CRCAG;	0.2
20/01/21	Lou A. Cusano	reviewing email correspondence and Alberta Transportation submission;	0.2
21/01/21	Gino M. Bruni	correspondence with client team on response to letter from Stoney Nakoda;	0.2
22/01/21	Gino M. Bruni	drafting letter to NRCB in response to letter from Stoney Nakoda and specifically their request for a 3-month extension to deadlines;	1.4
22/01/21	Lou A. Cusano	reviewing correspondence;	0.2
27/01/21	Gino M. Bruni	finalizing letter to NRCB on Stoney Nakoda on request for 3-month extension;	0.3
28/01/21	Gino M. Bruni	review of correspondence from L. Cusano and client team on adjournment application from Stoney Nakoda;	0.1
29/01/21	Gino M. Bruni	review of correspondence from client team on evidence;	0.1
01/02/21	Gino M. Bruni	review of written submission draft;	1.4
02/02/21	Gino M. Bruni	review of written submission and providing revisions and comments;	0.6
02/02/21	Gino M. Bruni	correspondence with client team on adjournment proceeding;	0.2
02/02/21	Lou A. Cusano	reviewing submissions and email correspondence; email correspondence to and from client team;	0.3
03/02/21	Gino M. Bruni	review of written submission, including comments from L. Cusano;	1.7
03/02/21	Gino M. Bruni	review of exhibits filed for adjournment application and pre-hearing conference report in preparation for adjournment proceeding;	1.6
03/02/21	Lou A. Cusano	reviewing evidence; reviewing filed documents;	1.5
04/02/21	Gino M. Bruni	preparation for adjournment hearing and attending adjournment hearing;	3.7
05/02/21	Gino M. Bruni	finalizing comments on written submission and providing updated draft to client team;	0.5

March 24, 2021

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1532275

Time Summary

Date	Lawyer	Narrative	Hours
09/02/21	Lou A. Cusano	reviewing NRCB decision; reviewing email correspondence; email to client team regarding witness prep;	0.5
10/02/21	Gino M. Bruni	review of latest draft of evidence and providing comments on same; incorporating L. Cusano's comments on same;	0.5
10/02/21	Lou A. Cusano	reviewing email correspondence and consider witness preparation; reviewing documents;	0.8
12/02/21	Gino M. Bruni	review of correspondence regarding comments on draft of evidence;	0.2
13/02/21	Gino M. Bruni	email to client team on updated filings on NRCB website;	0.1
16/02/21	Gino M. Bruni	review of correspondence from L. Bell on latest draft of evidence;	0.1
17/02/21	Lou A. Cusano	reviewing Board correspondence and documents;	0.5
17/02/21	Gino M. Bruni	review of correspondence from L. Bell on latest draft of evidence; forwarding NRCB letter on hearing to client team and adjusting calendar for hearing based on same;	0.2
24/02/21	Lou A. Cusano	reviewing submission;	0.8
25/02/21	Gino M. Bruni	correspondence with J. Chau on preparation of CRCAG/FFC evidence;	0.1
26/02/21	Gino M. Bruni	correspondence with J. Chau on finalizing evidence and filing same and witness binders;	1.0
27/02/21	Gino M. Bruni	review of email correspondence from client team on witness binders; drafting email to team on contents for same;	0.6

Lawyer Summary

Timekeeper	Hours	Rate	Amount
Gino M. Bruni	15.0	645.00	9,675.00
Lou A. Cusano	5.1	970.00	4,947.00
TOTAL HOURS & FEES	20.1		\$14,622.00

April 29, 2021

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1535820

Time Summary

Date	Lawyer	Narrative	Hours
03/03/21	Gino M. Bruni	drafting direct evidence and opening statement;	3.3
04/03/21	Lou A. Cusano	conference with G. Bruni; reviewing opening statement;	0.6
04/03/21	Gino M. Bruni	incorporating L. Cusano's edits into opening statement and direct evidence;	0.7
05/03/21	Lou A. Cusano	reviewing opening statement; conference with regulatory team;	0.7
05/03/21	Gino M. Bruni	review of opening statement, incorporating comments from client team; providing copy of opening statement to panel members; correspondence with L. Cusano on same and reaching out to NRCB counsel;	1.4
08/03/21	Lou A. Cusano	preparing for and conducting witness preparation; conference with G. Bruni regarding call with NRCB counsel; reviewing opening statement;	3.1
08/03/21	Gino M. Bruni	attending first witness preparation session;	2.1
10/03/21	Lou A. Cusano	conference with B. Kennedy; conference with R. Kruhlak; reviewing opening statement; conference with G. Bruni regarding hearing issues;	1.0
11/03/21	Gino M. Bruni	revising opening statement based on edits from client team; preparation for witness preparation session; phone call with L. Cusano on same;	2.0
11/03/21	Lou A. Cusano	preparing for and conducting witness preparation; reviewing opening statement; conference with B. Kennedy; conference with R. Kruhlak;	3.4
12/03/21	Lou A. Cusano	conference with B. Kennedy; email to client team;	0.3
15/03/21	Gino M. Bruni	revising opening statement based on edits by client team and call with client team on March 12, 2021;	3.2
15/03/21	Gino M. Bruni	attending witness preparation session;	1.9
15/03/21	Lou A. Cusano	preparing for and attending at witness preparation; reviewing and revising opening statement; conference with client team;	2.8
16/03/21	Gino M. Bruni	review and revision of opening statement and drafting issues cards;	2.5
17/03/21	Lou A. Cusano	preparing for and conducting witness preparation; reviewing opening statement and issue cards;	3.0
17/03/21	Gino M. Bruni	preparing mock cross examination questions for	2.1

April 29, 2021

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1535820

Time Summary

Date	Lawyer	Narrative	Hours
		witness preparation session;	
17/03/21	Gino M. Bruni	attending witness preparation session;	2.4
18/03/21	Lou A. Cusano	preparing for and conducting witness preparation; reviewing opening statement; conference with G. Bruni regarding hearing matters; reviewing Board correspondence; hearing preparation;	4.0
18/03/21	Gino M. Bruni	attending witness preparation session;	2.7
18/03/21	Gino M. Bruni	revising opening statement and issue cards to reflect comments from client team and L. Cusano; call with L. Cusano on same;	1.0
19/03/21	Lou A. Cusano	reviewing Board filings; reviewing Board correspondence; reviewing opening statement;	1.5
19/03/21	Gino M. Bruni	revision of opening statement and correspondence with client team and NRCB on hearing logistics;	0.8
22/03/21	Lou A. Cusano	preparing for and attending hearing; conference with client team;	9.6
23/03/21	Lou A. Cusano	preparing for and attending at hearing; conference with client team; conference with AT counsel; preparing for cross-examination; email to client team;	11.3
24/03/21	Lou A. Cusano	preparing for and attending at hearing; conference with AT counsel; reviewing hearing documents;	5.0
25/03/21	Lou A. Cusano	conference with G. Bruni regarding argument; reviewing evidence;	4.0
25/03/21	Gino M. Bruni	review of submissions of various parties in preparation for drafting oral argument;	2.4
26/03/21	Lou A. Cusano	reviewing hearing documents; reviewing argument outline;	1.7
26/03/21	Gino M. Bruni	review of evidence of AT, the City and SCLG; drafting argument outline;	4.7
29/03/21	Gino M. Bruni	review of comments from client team on argument outline; drafting oral argument;	5.7
29/03/21	Lou A. Cusano	preparing argument outline; reviewing evidence;	2.0
30/03/21	Lou A. Cusano	reviewing argument outline and argument;	1.5
30/03/21	Gino M. Bruni	drafting oral argument;	6.1
31/03/21	Lou A. Cusano	reviewing and revising argument; reviewing evidence;	2.6

April 29, 2021

Re: Springbank Off-Stream Reservoir

Matter: 39463-2001

Invoice: 1535820

Lawyer Summary

Timekeeper	Hours	Rate	Amount
Lou A. Cusano	58.1	970.00	56,357.00
Gino M. Bruni	45.0	645.00	29,025.00
TOTAL HOURS & FEES	103.1		\$85,382.00

Client: Calgary River Community Action Group

Matter: Springbank Off-Stream Reservoir

File Number: 39463-2001

Date: May 7, 2021 – Unbilled Time

Timekeeper Name	Work Date	WIP Hours	WIP Amount	Narrative
Gino M. Bruni	4/1/2021	0.30	193.50	review of comments from client team on oral argument;
Lou A. Cusano	4/1/2021	1.50	1,455.00	reviewing evidence; reviewing argument;
Gino M. Bruni	4/4/2021	2.10	1,354.50	revising oral argument based on comments from client team;
Gino M. Bruni	4/5/2021	3.40	2,193.00	finalizing oral argument based on comments from client team and L. Cusano; finalizing transcript corrections for client team direct and opening statement;
Lou A. Cusano	4/5/2021	4.00	3,880.00	preparing argument; reviewing evidence, statutory scheme and authorities; conference with G. Bruni regarding argument;
Gino M. Bruni	4/6/2021	2.90	1,870.50	observing the oral argument of Alberta Transportation; correspondence with L. Cusano on questions on oral argument;
Lou A. Cusano	4/6/2021	9.50	9,215.00	preparing for and attending hearing regarding argument; preparing for and delivering argument;
Lou A. Cusano	4/7/2021	1.20	1,164.00	attending hearing regarding AT reply;
TOTAL		24.90	21,325.50	

Timekeeper Name	WIP Hours	WIP Amount
Gino M. Bruni	8.70	5,611.50
Lou A. Cusano	16.20	15,714.00
Total	24.90	21,325.50