

In the Court of Appeal of Alberta

Citation: Gordeyville and Area Community Members Group v Alberta (Environment and Parks), 2026 ABCA 85

Date: 20260319
Docket: 2403-0277AC
2403-0279AC
Registry: Edmonton

Between:

Docket: 2403-0277AC

Gordeyville and Area Community Members Group

Respondent
(Applicant)

- and -

**Saddle Hills Target Sports Association, Alberta Public Lands Appeal Board
and the Honourable Jason Nixon, Minister of Environment and Parks**

Respondents
(Respondents)

- and -

**Director of the Industrial Charges Unit, Public Land Disposition
Management Section, Alberta Environment and Parks**

Appellant
(Respondent)

And Between:

Docket: 2403-0279AC

Gordeyville and Area Community Members Group

Appellant
(Applicant)

- and -

**Saddle Hills Target Sports Association, Alberta Public Lands Appeal Board,
the Honourable Jason Nixon, Minister of Environment and Parks
and the Director of the Industrial Charges Unit, Public Land Disposition
Management Section, Alberta Environment and Parks**

Respondents

(Respondents)

The Court:

**The Honourable Justice Anne Kirker
The Honourable Justice Alice Woolley
The Honourable Justice Kevin Feth**

Memorandum of Judgment

Appeal from the Judgment by
The Honourable Justice J.D. Lee
Dated the 7th day of November, 2024
Filed on the 11th day of February, 2025
(2024 ABKB 649, Docket: 2203 08336)

Memorandum of Judgment

The Court:

[1] These appeals, brought by the Director of the Industrial Charges Unit, Public Land Disposition Management Section, Alberta Environment and Parks (the “Director”) and the Gordeyville and Area Community Members Group (the “Community Members Group”), are moot. While a court may depart from the usual practice and exercise its discretion to hear a case despite its mootness, we decline to do so. We advised counsel of this decision at the conclusion of the hearing. These are our reasons for that decision.

[2] On January 22, 2021, the Director made a disposition of public lands located in the County of Grande Prairie No. 1¹ pursuant to the *Public Lands Act*, RSA 2000, c P-40 (the “*Act*”) and the *Public Lands Administration Regulation*, Alta Reg 187/2011 (the “*Regulation*”). Specifically, the Director issued a Department Miscellaneous Lease (DML200008) of the lands to the Saddle Hills Target Sports Association (“Saddle Hills”) for a recreational development purpose. Saddle Hills proposed to develop a shooting range. Subject to the terms and conditions set out in DML200008, including the obligation to “obtain federal, provincial, municipal, and other permits and approvals, as applicable, with respect to activities that may take place on the [l]ands”, the disposition gave Saddle Hills the right to “enter, occupy and use” the lands for the limited shooting range development purpose.

[3] The Community Members Group, comprised of approximately 410 people who lived near the proposed shooting range, appealed the Director’s decision to the Alberta Public Lands Appeal Board (the “Appeal Board”): *Act*, s 121(1); *Regulation*, s 211(a). Under section 213 of the *Regulation*, a disposition is appealable only on the grounds that:

- (a) the director or officer who made the decision
 - (i) erred in the determination of a material fact on the face of the record,
 - (ii) erred in law,
 - (iii) exceeded the director’s or officer’s jurisdiction or authority, or

¹ The lands are described as: SW 10-75-6-W6M, SW 3-75-6-W6M, SE 3-75-6-W6M, NW 3-75-6-W6M, and NE 3-75-6-W6M.

(iv) did not comply with an ALSA [*Alberta Land Stewardship Act*] regional plan,

...

The Community Members Group claimed standing to appeal as persons “directly and adversely affected” by the Director’s decision to issue DML200008: *Regulation*, s 212(1)(b). They argued the Director had made various errors in the determination of material facts and in law. A primary concern – and one that anchored the “directly and adversely affected” analysis – was the Community Members Group’s concern about noise from the proposed shooting range.

[4] The Appeal Board’s powers, set out in section 123 of the *Act*, include the power to dismiss an appeal in some circumstances. If the Appeal Board conducts a hearing, it is required to submit a report to the responsible Minister² within 30 days after completion of the appeal hearing. The report must include the Appeal Board’s recommendations and a summary of the representations that were made to it: *Act*, s 124(1). The Appeal Board may recommend confirmation, reversal or variance of the decision appealed: *Act*, s 124(2).

[5] On December 16, 2021, the Appeal Board recommended that the Minister confirm the Director’s decision to issue DML200008, with one variation, which was to add a condition that Saddle Hills “submit a noise mitigation plan to [Alberta Environment and Parks] for review and approval, prior to any clearing, construction or development of the Disposition.”

[6] The Minister is not required to follow the Appeal Board recommendations and did not do so in this case. Exercising his powers under section 124(3) of the *Act*, the Minister confirmed the Director’s decision to issue DML200008, without a requirement that Saddle Hills submit a noise reduction plan to Alberta Environment and Parks for review and approval. The Minister explained that in his view, “the management of noise is best left to recommendations from Alberta’s Chief Firearms Office and the RCMP.” Further, in the Minister’s view, “the County of Grande Prairie No. 1 has the ability to address” the noise issue. He noted that “the County has jurisdiction over noise and has already passed a Bylaw to address noise.”

[7] The Community Members Group filed an originating application seeking an order in the nature of *certiorari* quashing the Appeal Board report, the Minister’s decision, and the associated DML200008. In the alternative, they asked for an order remitting the matter back to the Appeal Board for reconsideration. The Community Members Group argued that the Appeal Board “decision” was unreasonable and contained erroneous findings including, among other things, in relation to the Director’s decision to issue DML200008 without also requiring public consultation,

² At the relevant time, the Minister of Environment and Parks was responsible for the *Act: Designation and Transfer of Responsibility Regulation*, Alta Reg 44/2019, s 10(1)(t). Currently, the Minister of Forestry and Parks is responsible for the relevant aspects of the *Act: Designation and Transfer of Responsibility Regulation*, Alta Reg 11/2023, s 10(1)(g).

a wildlife survey, a reclamation plan, or input from a wetland specialist and wildlife biologist. They further asserted that the Appeal Board ought to have concluded that the Director's exercise of discretion was unreasonable in the absence of these things and that the Director's file was effectively incomplete. The Community Members Group also argued that the Appeal Board breached its duty of procedural fairness by refusing to admit three reports they had obtained with respect to environmental considerations, acoustics and property values.

[8] On this last point, under section 120 of the *Act*, an appeal “must be based on the decision and the record of the decision-maker”, which in this case was the Director. There is no provision in the *Act* that expressly permits the introduction of new evidence on appeal. However, section 123(9) of the *Act* provides that the Appeal Board “may establish its own rules and procedures for dealing with matters before it” and section 228(b) of the *Regulation* states that a panel hearing an appeal may “admit any evidence agreed to by the parties.” The Appeal Board has previously held that “to fulfill its mandate”, it may “hear evidence that is rationally connected to evidence found in the Director's Record, meaning evidence that provides details, clarifies, or helps the [Appeal] Board understand the evidence found in the Director's Record”: *CRC Open Camp & Catering Ltd et al v Director, Regional Compliance, Regulatory Assurance Division, North Region, Alberta Environment and Parks*, 2021 ABPLAB 3 at paras 103 and 137; see also, *1657492 Alberta et al v Director, Provincial Approvals Section, Alberta Environment and Parks*, 2018 ABPLAB 25 at para 147; *Smoking Diesel Contracting Ltd and Trent Zelman v Director, Environmental Investigations, Environmental Enforcement Branch, Regulatory Assurance Division, Alberta Environment and Parks*, 2021 ABPLAB 12 at paras 19 and 22. The Appeal Board in this case refused to admit the three reports submitted by the Community Members Group because: a) the new materials were submitted outside of the Appeal Board's instructions regarding applications; b) admitting the new materials would be unfair to Saddle Hills and the Director; and, c) the new materials did not meet the Appeal Board's criteria for admitting new evidence.

[9] The judicial review judge released his decision on November 7, 2024: *Gordeyville v Saddle Hills Target Sports Association*, 2024 ABKB 649. He found that certain aspects of the Appeal Board's “decision” were unreasonable; namely, its findings that the Director had reasonably exercised her discretion in issuing DML200008 without requiring a wildlife survey or input from a wetland specialist and wildlife biologist. The judicial review judge decided that the Director's file was in this way incomplete, which in his view, “hindered” the Community Members Group's “ability to rationally connect” two of the reports they sought to have admitted “to the Director's record”: *Gordeyville* at para 67. The judicial review judge quashed the Minister's decision and ordered the matter be remitted to the Appeal Board for reconsideration “on the issues deemed unreasonable” with the requirement that the Appeal Board admit two of the Community Members Group's reports regarding environmental considerations and acoustics: *Gordeyville* at para 73. It is not clear what the Appeal Board was to do with the acoustics report given that its recommendation in relation to a noise mitigation plan was not accepted.

[10] Both the Director and the Community Members Group filed notices of appeal of the judicial review decision on December 4 and December 5, 2024, respectively.

[11] The term of the DML200008 expired on January 21, 2025. No application to renew it was made. Saddle Hills has filed no material in relation to the appeals and did not appear at the hearing. The parties present at the hearing agree that with the expiration of DML200008, the “tangible and concrete dispute has disappeared and the issues have become academic”: *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 at 353, 1989 CanLII 123; *Taylor v Newfoundland and Labrador*, 2026 SCC 5 at para 43.

[12] In these circumstances the question is whether the Court should exercise its discretion to hear the case despite its mootness. Considering the factors set out in *Borowski*, we decline to do so. First, we are not satisfied there are collateral consequences that supply the necessary adversarial context to properly enable the Court to decide the issues in this case. Saddle Hills is no longer involved. The Community Members Group says there is no need for the Court to decide the appeal and indicates no desire to remain involved.

[13] The Director and Appeal Board submit that they may benefit from some direction in relation to the Appeal Board process generally, and more particularly about what can be admitted as new evidence on an appeal under the *Act*. The Appeal Board suggests the judicial review judge altered the Appeal Board’s current “rationally connected” approach. We disagree. The judicial review decision is highly fact specific and makes no suggestion the Appeal Board should apply a different test in determining whether it will consider new evidence. The Director further submits that the test the Appeal Board uses to consider the admission of new evidence undermines the statutory process. That position, however, is divorced from this factual context. The Appeal Board held that the new evidence in this case ought not to be admitted and, as noted, we do not understand the judicial review judge’s decision to have altered the Appeal Board’s test for admitting new evidence. There is no issue to decide that remains anchored in any adversarial context.

[14] We are also acutely aware of the need to ration scarce judicial resources. No special circumstances exist that would justify the expenditure of judicial resources to resolve this moot appeal. This Court’s decision would have no practical effect on the rights of the parties, there is no concern that an important question might independently evade review if the appeal is not heard and this is not a case where there is a social cost in leaving an important question of public importance unanswered: see, *Borowski* at 360-362; *Taylor* at paras 54-57.

[15] This being an appeal of a judicial review, the reasoning in *Canadian Union of Public Employees (Air Canada Component) v Air Canada*, 2021 FCA 67 at para 14 is particularly instructive:

The mootness issue assumes greater significance following *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1. There, the Supreme Court underscored that courts must consider expediency and cost-

efficiency when considering applications for judicial review and should not grant remedies when they serve no useful purpose: at para. 140, citing *Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association*, 2011 SCC 61, [2011] 3 S.C.R. 654 at para. 55.

[16] The appeal is dismissed for mootness.

[17] We wish to make clear that these reasons should not be taken as an endorsement of the judicial review judge's approach. In finding that the Appeal Board's decision was unreasonable on several of the grounds raised by the Community Members Group, the judicial review judge's focus appeared to be on a Landscape Analysis Tool report generated by Saddle Hills for its disposition application. He did not meaningfully explain how the Director's decision was unintelligible or unjustified with reference to the statutory provisions governing the Director's exercise of discretion. Nor did the judicial review judge address the issues raised by the Community Members Group in relation to the reasonableness of the Minister's decision.

Appeal heard on March 3, 2026

Memorandum filed at Edmonton, Alberta
this 19th day of March, 2026

Kirker J.A.

Woolley J.A.

Feth J.A.

Appearances:

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A. Yiu

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A.R. Bachelder

A. Gordon

for the Respondent Alberta Public Lands Appeal Board

J.A. Agrios, KC

for the Respondent the Honourable Jason Nixon, Minister of Environment and Parks

A.M. Simmonds

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