

Environmental Appeal Board

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DECISION NOS. 2000-WAT-018(a)/019(a)/020(a)

ENVIRONMENTAL APPEAL BOARD In the Matter of the *Water Act* R.S.B.C. 1996, c. 483

BETWEEN:	ALAN DEFLAME BARNARD AND THERESA BELINDA GREEN	1st APPELLANT
AND:	LAWRENCE RAYMOND MacKENZIE AND GAYLE SHARON MacKENZIE	2nd APPELLANT
AND:	MICHAEL DOUGLAS ZAMARA AND DEBORAH LIVIA ZAMARA	3rd APPELLANT
AND:	ALLAN ZACKODNIK REGIONAL WATER MANAGER	RESPONDENT
AND:	LAWRENCE ALTA SIMON AND BONNIE MARLENE SIMON COLIN & DONNA MORRISON DONALD W. AND CECIL R. MORRISON MAYOOK VALLEY RANCH LTD. REGIONAL WILDLIFE MANAGER	THIRD PARTIES

WHEREAS the Appellants:

1. Alan Deflame Barnard and Theresa Melinda Green,
2. Lawrence Raymond MacKenzie and Gayle Sharon MacKenzie, and
3. Michael Douglas Zamara and Deborah Livia Zamara,

filed appeals to the Environmental Appeal Board (the "Board") against the September 5, 2000 decisions of the Regional Water Manager (the "Respondent") issuing Conditional Water Licences ("CWL") 115602 and CWL 100048 to Lawrence Alta Simon and Bonnie Marlene Simon (the Licensees") and making the September 5, 2000 Engineer's Order;

AND WHEREAS on December 4, 2007, at the resumed hearing before the Board, the Appellants, the Respondent and the Licensee agreed to the following Consent Order;

AND WHEREAS the other Third Parties did not attend the resumed hearing, other than a representative of the Regional Wildlife Manager who was also represented by the Respondent; and

AND WHEREAS, at the request of the Appellants, the Respondent and the Licensee (the "Parties"), the Board approved the following Consent Order on December 4, 2007.

CONSENT ORDER

1. By agreement, the Parties to this appeal agree to make the following additions to the Engineer's Order dated September 5, 2000:
 - To add the following as clause (h):
 - (h) For the purpose of clause (f) of the Engineer's Order, the Licensee will take the following measurements:
 - (i) the level of Bednorski Lake at full pool (maximum storage) or on or about May 31 st;
 - (ii) the level of Bednorski Lake on the following dates:
 - A. July 1st;
 - B. August 1st; and
 - C. August 31st.
 - (iii) the level of Bednorski Lake at its lowest level or on or about September 30th;
 - (iv) cumulative flow measurements (totalizer readings) of quantities of water used for irrigation purpose on a weekly basis during the period of July 15th to August 31st;
 - (v) confirming that a minimum release of 0.25 cfs of water is being made from Bednorski Lake into Ha Ha Creek, measurements on a weekly basis during the period of July 15th to August 31st, such measurements to be made at the invert of the control outlet on Bednorski Lake by setting an appropriate opening on the control outlet gate; and
 - (vi) in the event that the control outlet on Bednorski Lake should fail to function properly, the measurements may be taken at the invert of the control outlet on Betts Road which is in close proximity to the Bednorski Lake boat launch, as shown in the engineer's drawings prepared by

R.T. Banting Engineering Ltd. and dated September 5, 2000.

- To add the following as clause (i):
 - (i) The Licensee must forthwith submit the measurements described in clause (h) to the Cranbrook office of the Water Stewardship Division (to the attention of the Regional Water Manager) with the intention that those measurements will be provided to the downstream licensee on Ha Ha Creek under Final Water Licence 54100 and to any of the Appellants who request the information; and
 - To add the following clause (j):
 - (j) The clauses added by this Consent Order will remain in effect until December 4th, 2012 or until otherwise replaced by an order of the Environmental Appeal Board, whichever is later.
2. Except for the changes to the Engineer's Order, as noted above, CWL 100048 and CWL 115 602 are otherwise confirmed.

Dated as of the 4th day of December, 2007.

"Alan Andison"

Chair, Environmental Appeal Board

APPROVED AND CONSENTED TO:

"Waldemar Brault"

Counsel for the Appellants (Alan D. Barnard and Theresa M. Green; Lawrence R. MacKenzie and Gayle S. MacKenzie; and Michael D. Zamara and Deborah L. Zamara)

"Livia Meret"

Counsel for the Respondent Regional Water Manager

"Lawrence Alta Simon" "Bonnie Marlene Simon"

Licensees (Lawrence Alta Simon and Bonnie Marlene Simon)