



# Environmental Appeal Board

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## DECISION NO. 2019-WIL-018(a)

In the matter of an appeal under section 105 of the *Wildlife Act*, R.S.B.C. 1996, c. 488.

<b>BETWEEN:</b>	Richard Alan Snyder	<b>APPELLANT</b>
<b>AND:</b>	Deputy Regional Manager, Skeena Region	<b>RESPONDENT</b>
<b>BEFORE:</b>	A Panel of the Environmental Appeal Board Howard Saunders, Panel Chair	
<b>DATE:</b>	Conducted by way of written submissions concluding on October 24, 2019	
<b>APPEARING:</b>	For the Appellant: Richard Alan Snyder For the Respondent: Troy Larden	

## APPEAL

[1] This appeal concerns the rejection of Mr. Snyder's application for a trapping licence. The Respondent, the Deputy Regional Manager for the Skeena Region of British Columbia (the "Regional Manager"), says that while he has discretion to issue a trapping licence, if he issued the licence and Mr. Snyder went trapping, then Mr. Snyder would be in violation of the section 3.10 of the *Commercial Activities Regulation*, B.C. Reg. 338/82. This is because Mr. Snyder has not, since July 1, 1982, completed an approved trapper education course. For that reason, the Regional Manager denied the application.

[2] Mr. Snyder states that he took a trapper education course in 1978. He asks the Board to issue him a licence as he has never been told that he needs to take another course in order to obtain a licence.

[3] The Environmental Appeal Board has the authority to hear this appeal under section 101.1 of the *Wildlife Act* (the "Act"), and has the power to make the following decisions under subsection (5):

- confirm, reverse, or vary the Regional Manager's decision;
- return the matter back to the Regional Manager, with directions; or
- make any decision that the Regional Manager could have made and that the Board considers appropriate in the circumstances.

**BACKGROUND**

[4] Mr. Snyder is a resident of Burns Lake, British Columbia. He took a trapper education course in 1978, when he would have been 13 years old or so. He has not taken an approved trapper education course since then.

[5] On June 15, 2019, Mr. Snyder applied for a five-year trapping licence.<sup>1</sup>

[6] Section 40.1 of the *Act* provides that "A regional manager may issue a trapping licence to a person who is a citizen of Canada or a permanent resident of Canada".

[7] The *Commercial Activities Regulation* specifies requirements for holders of a trapping licence, including:

**Trapper education course**

**3.10(a)** A person who traps commits an offence unless that person, since July 1, 1982, has completed a trapper education course approved by the director.

...

[8] This requirement was introduced with the passage of the *Act* in August 1982, so it has been applicable to trappers since that time.

[9] The Regional Manager observed that Mr. Snyder had not, since July 1, 1982, completed a trapper education course approved by the director. The Regional Manager, therefore, determined that Mr. Snyder would be committing an offence if he trapped without having completed an approved course.

[10] On July 5, 2019, the Regional Manager notified Mr. Snyder that his application for a licence to trap was denied. In the decision, the Regional Manager refers to the trapper education course requirement identified in section 3.10(a) (although he incorrectly states that this was an "eligibility requirement" in the *Act* when it is part of an offence provision in the *Commercial Activities Regulation*). He states that "As your Education Certificate was issued prior to that date, you are required to retake your Trapper Education Certificate in order to be granted a Trapping Licence."

*The Appeal*

[11] Mr. Snyder appealed the Regional Manager's decision on July 31, 2019. As this appeal was deficient, he filed a more detailed revised Notice of Appeal on August 15<sup>th</sup>.

[12] After receiving his Notices of Appeal, the Board responded on August 20, 2019. The Board determined that the appeal would be considered by way of written submissions, barring any objections. Neither party objected.

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<sup>1</sup> Mr. Snyder refers to this as an application for renewal of his existing licence, but the Regional Manager refers to it as an application for a new licence, stating that the previous licence expired in 2016.

[13] The same letter outlined a schedule for the submission of evidence and argument. Mr. Snyder's submissions were due on September 10, 2019. Mr. Snyder did not provide his submissions by that date and did not respond to a letter of September 20, 2019 from the Board. In a follow-up letter, the Board advised that it had reviewed and accepted Mr. Snyder's Notices of Appeal as the basis for a hearing on the merits of the appeal.

[14] The Regional Manager provided his submissions and documents in response to the Notices of Appeal by email letter dated October 15, 2019.

[15] Mr. Snyder was given until October 24, 2019 to submit any rebuttal comments on the submission of the Regional Manager but did not provide any reply submissions.

[16] The written hearing record officially closed on October 24, 2019.

[17] In his July 31, 2019 Notice of Appeal, Mr. Snyder states that he has previously applied for and been granted trapping licences, the most recent was three years ago<sup>2</sup>. In both Notices of Appeal, he asks what has changed in the years since his previous licence was "renewed" such that his application was rejected. In the absence of a change, he says that his application for a licence should be granted.

[18] Mr. Snyder asks the Board to renew his trapping licence for another two to five years. If he is shown that there is a change that requires him to take the course, he says that he will take the approved trapper education course after issuance of a licence.

[19] The Regional Manager asks that Mr. Snyder's appeal be denied.

## **ISSUES**

[20] The Board has the power to hold a new hearing under section 101.1(4) of the *Act* and consider evidence that was not before the Regional Manager. Further, the Board has the jurisdiction to make any decision that the Regional Manager could have made, and that the Board considers appropriate in the circumstances. It can consider the matter afresh. I have exercised my power to consider this case "afresh" while taking into consideration Mr. Snyder's concern with the Regional Manager's decision-making process. The issue that I will decide in this appeal is:

1. Should the Board grant Mr. Snyder's application for a trapping licence in the circumstances?

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<sup>2</sup> In his revised Notice of Appeal, Mr. Snyder states that his licence was renewed two years ago. This discrepancy does not have any impact on this decision.

## THE PARTIES' SUBMISSIONS ON THE APPEAL

### *The Appellant's Submissions*

[21] Mr. Snyder's submission consists entirely of the information in the Notices of Appeal.

[22] Mr. Snyder states that he was granted a licence renewal three years ago and was not informed that his trapper education certificate was not compliant; nor has he been informed of any subsequent changes requiring him to complete a course in order to obtain a licence.

[23] Mr. Snyder states that he was not given any forewarning that the course that he took in 1978, does not meet current requirements. If the course was required, he asks why the Ministry renewed his licence two years ago.

[24] Mr. Snyder argues that he "deserves a chance to renew [his] licence" "for the next 2 – 5 years and I will then take the course again", but asks that he "not have to take the course again" prior to the renewal.

### *The Respondent's Submissions*

[25] The Regional Manager cites the societal interest in trapping and the need to ensure that trapping is conducted ethically and that Canada meets its international legal obligations pursuant to the *Agreement on International Humane Trapping Standards*, ratified by Canada in 1999.

[26] Section 3.10 of the *Commercial Activities Regulation* states that it is an offence to trap unless that person, since July 1, 1982, has completed a trapper education course approved by the director.

[27] The Trapper Education Course, delivered by the Trappers Association, is one of the approved courses<sup>3</sup> and the primary tool for ensuring that BC Trappers are reputable.

[28] The Regional Manager determined that Mr. Snyder had not completed and passed a valid trapper education program course. The certificate he presented was for the course he had taken in 1978, and not "since July 1, 1982" as required by the Regulation. Mr. Snyder had presented this certificate in historical applications and this certificate was "overlooked as a document meeting the criteria required by regulation".

[29] The Regional Manager concluded that he could not exercise his discretion to issue Mr. Snyder a licence as Mr. Snyder would be committing an offence even if he held a licence, since he had not passed an approved course. The Regional Manager concluded that Mr. Snyder assumed that the course had not changed since 1978, which concerned the Regional Manager. He states that there have been substantial changes to trapping regulations over the past 20 years. As it would be an offence for Mr. Snyder to trap, the Regional Manager was concerned that Mr. Snyder might

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<sup>3</sup> The other courses are given in other provincial or territorial jurisdictions.

trap before completing the education course, or commit other offences, because he is not aware of all the trapping standards.

[30] The Regional Manager states that he denied Mr. Snyder's application until such time as he has successfully completed the trapper education program offered by the Trapper's Association. He also states that, once Mr. Snyder has obtained the credentials to be authorized for trapping in the province, his application could be considered. He notes that, based on Mr. Snyder's file, he has no reason to believe that the authorization would not be granted.

## DECISION AND ANALYSIS

### 1. Should the Board grant Mr. Snyder's request application for a trapping licence in the circumstances?

[31] Mr. Snyder states that he held trapping licences prior to the rejection of his current application. While he does not state the periods through which he held licences, he took a trapper education course in 1978. His appeal does not disclose any information about the years between taking the course in 1978 and the issuance of his last licence.

[32] Section 2 of the *Act* states that all wildlife in British Columbia is owned by the provincial government. It also states that to obtain any right to wildlife in the province, a person must have a licence or permit. For trappers, this means a trapping licence. If a person traps fur bearing animals without a trapping licence, that is an offence under section 11(8) of the *Act*.

[33] Under section 40.1 of the *Act*, a regional manager is given the power to issue a trapping licence to a person. The only qualification in that section is that the person be a citizen of Canada or a permanent resident of Canada.

[34] The *Commercial Activities Regulation* describes the type of trapping licences available. There are annual (one-year) trapping licences and five-year trapping licences: each has its own set of fees and surcharges payable to the government, and each has specified effective dates<sup>4</sup> (sections 2.02, 2.04 and 2.04.1). A person is not allowed to have more than one active trapping licence.

[35] Other than the express requirement in the *Act* that a trapper be a Canadian citizen or permanent resident (section 40.1), there are no additional requirements for obtaining a licence in either the *Act* or the *Commercial Activities Regulation*. While it is clear that the government considers completion of the education course after 1982 to be important—as it made it an offence to trap without completing it—the government did not make the course a prerequisite to obtaining a licence. In other words, section 3.10(a) of the *Commercial Activities Regulation* prohibits

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<sup>4</sup> An annual trapping licence is valid from and including the later of: (a) July 1<sup>st</sup> of the year in which it is issued, or (b) the date on which it is issued, to the following June. A five-year trapping licence is valid from and including the later of: (a) July 1 of the year in which it is issued, or (b) the date when it is issued, to June 30<sup>th</sup> of the year 5 years after the year in which the licence was issued.

trapping without having taken the course, it does not prohibit granting a licence without having taken the course.

[36] In addition, although the *Permit Regulation* authorizes a regional manager to issue permits to trap and incorporates specific conditions or requirements, the government chose not to incorporate the wording from the *Permit Regulation* into any of the provisions dealing with trapping licences. Mr. Snyder applied for a trapping licence. I find that the *Permit Regulation* does not apply to the facts of this case.

[37] Given that there are no other prerequisites or preconditions to obtaining a trapping licence in the *Act* or the *Commercial Activities Regulation*, I find that completion of a trapper education course approved by the director is not a precondition to obtaining a trapping licence from the Regional Manager. Rather, the requirement for post-1982 completion of the trapper education course is a legal prohibition placed on the trapper by section 3.10(a) of the *Commercial Activities Regulation*. If a person traps without having completed the course, that is an offence and the person may be prosecuted in court. Section 3.10(a) of the *Regulation* was enacted in 1982 and has remained in force since then.

[38] It appears that when crafting the legislation, the government decided that it would not hold up issuing a trapping licence just to ensure that the course had been completed. Instead, it allows a licence to be issued, but the trapper must have completed the course, since 1982, before actually trapping. This may be why Mr. Snyder has been issued a trapping licence on previous occasions.

[39] There is no dispute that Mr. Snyder is a Canadian citizen or permanent resident. There is no evidence in the record that he has committed any offences that would warrant further investigation as to his fitness to obtain a trapping licence<sup>5</sup>. In fact, the Regional Manager notes that there is no reason a licence would not be granted once Mr. Snyder completes the education requirement. Although I understand and share the Regional Manager's concern that Mr. Snyder has not updated his knowledge by taking the course, it is not enough to deny an application based on a concern that Mr. Snyder *might* trap before completing the education course, or *might* commit other offences, because he has not taken the course since 1982. I note that even if he had taken the course in 1983, this would not address any changes to trapping standards over the past 30 years. The offence provision, itself, does not promote continuing education, and suspicion that a person may commit an offence is not a sufficient basis to deny an application for a trapping licence.

[40] I have considered Mr. Snyder's statements that he was not aware of the section 3.10(a) requirement in the *Regulation* to complete the trapper education course, and his assurance that he will take the course if he is granted a licence. As I said above, I am concerned that he lacks knowledge of his legal obligations as a trapper. However, upon reading this decision, he will be aware that the law requires

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<sup>5</sup> Although section 3.10(a) of the *Regulation* makes it an offence to trap without the required course, there is nothing in the record which demonstrates that Mr. Snyder actually did trap over the many years that he held a trapping licence.

him to complete the course before he traps. Based on my review of the legislation and the information before me, I am prepared to issue him a one-year licence. Whether Mr. Snyder's application is characterized as a new application or a renewal does not impact this decision.

[41] For clarity, I have decided to issue a one-year licence, instead of a five-year licence, so Mr. Snyder is required to reapply in 2021, after the current licence expires: a licence issued at this time does not become valid until July 1, 2020<sup>6</sup>. If he traps prior to completing the course, or for any other issues of concern relevant to his trapping, the Regional Manager may hold a hearing under section 61 of the *Act* and either cancel Mr. Snyder's licence or refuse to issue or renew his licence when it expires on June 30, 2021. This section states:

**Action if conditions of licence, certificate or registration not fulfilled**

**61(1)** If a person holds, held within the last year or applies to renew, a ... trapping licence, ... and the person is convicted of an offence under this Act or does not comply with the conditions contained in or restrictions imposed on his or her licence, ... , or for another cause that the regional manager considers reasonable, the regional manager may conduct a hearing to determine whether the person should continue to enjoy the privileges afforded him or her by the licence ... and may do one or more of the following:

(a) suspend, cancel or refuse to issue or renew the person's licence, certificate or registration;

...

(d) amend the licence, certificate or registration to require the person to meet other conditions or restrictions that the regional manager considers appropriate;

...

(2) The person in respect of whom the hearing under subsection (1) or (1.1) is to be conducted must be given reasonable notice of the time and place for the hearing.

...

[Emphasis added]

[42] In making this decision, I wish to emphasize to Mr. Snyder that he is now aware that it is an offence if he traps without completing the trapper education course, even if he holds a trapping licence. While I have granted the trapping licence based on my review of the law and the facts, I agree with the Regional Manager that the course is not only a legal prerequisite to trap, but also important on a practical basis—particularly if Mr. Snyder has not taken the course since he was 13 years old or so. Trappers need to be aware of the trapping standards and

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<sup>6</sup> See footnote 4, above.

requirements in order to avoid committing offences and to ensure the proper management of wildlife resources in the province.

**DECISION**

[43] In reaching this decision, I have considered all of the evidence and submissions provided, even if I did not specifically reference it in my decision. The evidence and submissions summarized above were as necessary to give context to my decision.

[44] For the reasons set out above, the appeal is allowed. The Regional Manager is directed to issue Mr. Snyder a one-year licence under section 40.1 of the *Act* subject to any conditions that he considers relevant and necessary under section 15 of the *Act*, if that section applies.

"Howard Saunders"

Howard Saunders, Panel Chair  
Environmental Appeal Board

January 3, 2020