

Date: August 11, 2009

**Environmental Review Tribunal**

P.O. Box 2382  
2300 Young St  
Suite 1700  
Toronto ON M4P 1E4

**Attention: Tracey Wesson**

Delivered via E-mail

cc: Jennifer Mesquita  
Paul McCullough

**RE: Case No.: 09-031/09-032  
Notice of Appeal**

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The Appellants, the Greenspace Alliance of Canada's Capital and the Sierra Club Canada, in accordance with the decision of the Environmental Appeal Tribunal granting leave to appeal certain portions of Permit To Take Water, Surface and Ground Water Number 8130 – 7HNPVW, issued April 27, 2009 pursuant to Section 34 of the Ontario Water Resources Act, hereby appeal the following provisions of the permit:

1. surface water taking from miscellaneous ponded areas as permitted in Section 3.2 Table A item 4 of the PTTW.
2. failure to prescribe trigger elevation for Monitors 03-10 - A and B in Section 4 of the permit.
3. failure to define adverse impact and identification of appropriate mitigation measures, in Section 4.8 of the permit.

The grounds for the appeal are that the Environmental Review Tribunal has granted leave to appeal these specific provisions of the permit for the following reasons:

1. With respect to miscellaneous ponded areas, there is very little record about any studies that support these takings and nothing evident that assesses their volume or potential impacts on groundwater recharge, flows in Findlay Creek or on the natural functions of the ecosystem.
2. With respect to trigger elevations for Monitors 03-10 A and B, trigger levels for these monitors will provide information about the impacts of water taking in the boundary areas of the PSW and provide an early warning system for impacts in the PSW. Removal of these trigger levels may not adequately ensure protection of the natural functions of the ecosystem.
3. With respect to the failure to define adverse impact and identification of appropriate mitigation measures, the absence of adequate direction and controls on the discretion given to the Instrument Holders cannot ensure the protection of the natural functions of the PSW and the surrounding ecosystem.

The relief requested is the following:

1. With respect to miscellaneous ponded areas, that the Director be required to give notice to the public of this proposal as a Category 3 proposal for an instrument, on the Environmental Registry, in accordance with the requirements of section 27 of the Environmental Bill of Rights, 1993.
2. With respect to the trigger elevations for monitors 03-10 A and B, to amend the PTTW imposing trigger levels as follows:
  - for monitor 03-10-A, trigger elevation of 90.9 metres
  - for monitor 03-10-B, trigger elevation of 90.7 metres
3. With respect to the failure to define adverse impact and to identify appropriate mitigation measures, the definition of adverse impacts includes harm of any

type or kind to the natural functions of the ecosystem including flooding or ground water level reduction, structural damage to peat, release of mercury, cadmium, aluminum, lead, copper and manganese to Findlay Creek, reduction in base flow of the Creek, oxygen depletion in the Creek, increase in nutrient levels in the Creek, loss of diversity of plant or animal species in the wetland. Effective means of recharging depleted groundwater levels must be demonstrated.

Enclosed is a true copy of PTTW Number 8130 – 7HNPVW.

Name and Address of Appellant:

THE GREENSPACE ALLIANCE OF CANADA'S CAPITAL and  
THE SIERRA CLUB CANADA

c/o uOttawa-ECOJUSTICE ENVIRONMENTAL LAW CLINIC  
107 – 35 Copernicus Street  
Ottawa, ON K1N 6N5

Name and Address to which Appellant wants notices and other official documents to be delivered:

uOttawa-ECOJUSTICE ENVIRONMENTAL LAW CLINIC  
107 – 35 Copernicus Street  
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Linda McCaffrey Q.C. (LSUC # 11616U)

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