

Environmental Review Tribunal

Tribunal de l'environnement



ISSUE DATE: March 19, 2020

CASE NO.: 19-060

PROCEEDING COMMENCED UNDER section 100(4) of the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40

Appellant:	John Sherk (File No. 19-060)
Appellant:	Elizabeth Sherk (File No. 19-061)
Appellant:	Kathryn Stouffer (File No. 19-062)
Appellant:	Estate of Norma Sherk (File No. 19-063)
Respondent:	Director, Ministry of the Environment, Conservation and Parks
Subject of appeal:	Order issued to submit a completed application for a Permit to Take Water for the dam constructed 4567-BDKPTK-1
Reference No.:	4567-BDKPTK-1
Property Address/Description:	Part of Lot 10, and Lot 11, Concession 14
Municipality:	South Frontenac
Upper Tier:	County of Frontenac
ERT Case No.:	19-060
ERT Case Name:	Sherk v. Ontario (Environment, Conservation and Parks)

APPEARANCES:

Parties

John Sherk

Director, Ministry of the Environment,
Conservation and Parks

Counsel

Self-represented

Paul McCulloch

Participant

Robert Sherk

Self-represented

Heard: March 3, 2020 by telephone conference call
Adjudicator: Helen Jackson, Member

PROCEDURAL ORDER

[1] On August 7, 2019, John Sherk, Elizabeth Sherk, Kathryn Stouffer, and the Estate of Norma Grace Sherk (“Appellants”) filed appeals regarding Director’s Order No. 4567-BDKPTK-1 (“Director’s Order”) made on July 24, 2019 by Trevor Dagilis, Kingston District Office, Ministry of the Environment, Conservation and Parks. The Director’s Order requires the Appellants to submit a completed application for a permit to take water for a dam constructed at Part Lot 10 and Lot 11, Concession 14, South Frontenac.

Hearing Adjourned

[2] This procedural order addresses the teleconference held on March 3, 2020. The purpose of the teleconference was to discuss updates from the parties on their preparations for the hearing previously scheduled for April 7-8, 2020 during the pre-hearing conference (“pre-hearing”) held on December 17, 2019.

[3] Since that teleconference, the Province of Ontario declared a state of emergency on March 17, 2020 in response to the COVID-19 pandemic. Due to the ongoing public health crisis and the importance of social distancing measures, the Environmental Review Tribunal is no longer conducting in-person hearings at this time.

[4] As such, the hearing previously scheduled for April 7-8, 2020 is adjourned to a date to be confirmed. The Tribunal will be in contact with the parties, participants and presenters as soon as possible to reschedule the hearing once in-person events can be convened again.

Filing Deadlines

[5] Timelines for the exchange or filing of documents continue to apply as previously set out in the Tribunal's pre-hearing order.

[6] During the teleconference on March 3, 2020, the Director indicated that an Agreed Statement of Facts was close to being finalized and he would attempt to have it filed with the Tribunal along with the Director's witness statements on March 6, 2020.

[7] As set out in the pre-hearing order, the Appellants and Rivendell Golf Corporation (which was granted party status) were ordered to file their materials by March 18, 2020. Those granted participant and presenter status during the pre-hearing are required to file their witness statements by March 27, 2020. The Director is to file his reply materials by March 27, 2020.

[8] During the teleconference on March 3, 2020, Mr. John Sherk concurred with the Director that the Agreed Statement of Facts was nearly complete. Mr. Sherk stated that he intended to summon the Quinte Conservation Officer.

[9] No representative from the golf course attended the teleconference. The Tribunal advised that, as a party, the golf course is expected to attend the hearing to represent its interests and present its case.

[10] During the teleconference, the Tribunal directed the parties to work together to prepare a work plan for the hearing. The work plan is to provide an outline of the order of evidence and will govern the hearing procedure. This work plan is to be provided to the Tribunal case coordinator one week in advance of the hearing, which will be rescheduled once in-person events can be convened again.

Hearing Adjourned

"Helen Jackson"

HELEN JACKSON
MEMBER

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Environmental Review Tribunal

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