

Calgary, April 23, 2024

Alberta Environmental Appeals Board approves Badlands Racetrack that destroys critical habitat for federally listed species at risk

Board finds that “The *Species at Risk Act* is not within the Director’s or the Board’s jurisdiction to ensure compliance.”

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In January 2020, local landowners, farmers, conservationists, photographers and concerned residents and business owners from Rosebud, Alberta appealed an Alberta Environment and Protected Areas decision to approve the destruction and modification of five wetlands. Those wetlands are relied upon by federally listed species at risk, including the Bank Swallow.

The Appeal was heard by the Environmental Appeals Board and on April 9, 2024, the Environmental Appeals Board and the Minister of Environment and Protected Areas, Rebecca Schulz, released their 215-page report and decision.

In its report, the Alberta Environmental Appeals Board noted: “With 98% of this species extirpated, the Bank Swallows adjacent to the racetrack represent a sizeable portion of the remaining 2% of this Canadian species.” However, the Alberta Environmental Appeals Board refused jurisdiction to protect the Bank Swallow, ruling that: “The *Species at Risk Act* is not within the Director’s or the Board’s jurisdiction to ensure compliance”.

“This decision by the Province of Alberta is totally unacceptable. How is it that a large-scale, high-speed racetrack gets approved in critical habitat for a species at risk that is dying because of collisions with motor vehicles? Alberta just approved the destruction of five wetlands in a federally protected river valley” says Rick Skibsted, an adjacent landowner and winner of the 2018 J. Laslo Legacy Award for conservation.

Rick Skibsted noted that “collision with vehicles” is one of five reasons the Bank Swallow population is declining. He said Badlands will build a racetrack between the Bank Swallow colonies and their source of food. “We all know what will happen to these Bank Swallows once this racetrack is built” he laments.

Richard and Wendy Clark made a freedom of information request of the Environmental Appeals Board. One of the documents they obtained was a cabinet briefing appointing members to the Environmental Appeals Board. The cabinet briefing stated:

The EAB currently has a large number of appeals before it dealing with economic development. For example, there is an appeal before the EAB by Bow City Power, dealing with a new solar power and hydrogen storage facility in the County of Newell.

Another example is the Badlands Motorsports Resort near Rosebud. The timely resolution of the appeals before the EAB is important to ensure that these economically important projects can proceed.

“This shows that the Board was always going to rule against us and in favour of the Badlands Racetrack. The fact that the Minister only took twelve days to agree full scale with the Board’s report shows the decision was pre-determined” say Richard and Wendy Clark. “The worst part” they continue “is that we proved this project is an economic disaster. This will be yet another failed racetrack that is already asking for between \$15 and \$20 million in taxpayer funding to even get started. But not after destroying hectares of wetland habitat.”

The Environmental Appeals Board ultimately ruled that: “Recognizing the need for Alberta’s economic growth does not require an examination by the Director or the Board of the economic viability of this, or any, proposed project associated with a *Water Act* application.” Wendy Clark noted that “this means the province can destroy critical habitat for species at risk without any economic benefit.”

When asked if they will appeal the decision, the Appellants say they are discussing the appeal with their counsel and will decide in the next two weeks.

The report and decision are accessible here:

<https://www.canlii.org/en/ab/abeab/doc/2024/2024abeab7/2024abeab7.html?autocompleteStr=2024%20ABEAB%207&autocompletePos=1&resultId=030bb70344954efd87397f380fd787b4&searchId=2024-04-22T19:52:10:493/63cbe4c3d853423a91aff88596581996>