

## **DECISION NO. 2009-WAT-003(a) - ADDENDUM**

In the matter of an appeal under section 92 of the *Water Act*, R.S.B.C. 1996, c. 483.

**BETWEEN:** Daniel Sapergia and Vyvian Burton **APPELLANT**

**AND:** Assistant Regional Water Manager **RESPONDENT**

**AND:** GDW Property Development Corporation  
City of Vernon **THIRD PARTY**

**BEFORE:** A Panel of the Environmental Appeal Board  
David H Searle, CM, QC, Panel Chair

**DATE:** Oral hearing dates: June 2 – 4, 2010; January  
10 – 14, 2011  
Concluded by way of written submissions on  
April 14, 2011

**PLACE:** Vernon, BC

**APPEARING:** For the Appellant: Daniel Sapergia/Vyvian Burton  
For the Respondent: Livia Meret, Counsel  
For GDW Property Development  
Corporation: Jared Brown, Counsel  
For the City of Vernon: Gwendolin Allison, Counsel

### **ADDENDUM**

[1] This is an addendum to the Panel's Reasons for Decision dated April 28, 2011.

[2] In my decision of April 28, 2011, I referred to and rejected an application for costs made by the Appellants. However, I did not address a second application for costs which was made by GDW Property Development Corporation ("GDW") against the Appellants, and which had been the subject of full argument by the parties.

[3] Although I dismissed the appeal by the Appellants, the Board does not follow the civil court practice of "loser pays the winner's costs". The general policy of the Board, as set out in the Board's Procedure Manual, is to award costs only in special circumstances.

[4] Having considered the policies set out in the Procedure Manual, I find that there are no special circumstances for awarding costs against the Appellants in this

particular case. The Appellants filed their appeal as they were entitled to do and the submissions made by GDW in support of its application mainly relate to the Appellants' actions or inactions prior to the appeal, as opposed to during the appeal itself.

[5] Accordingly, the application by GDW for costs is denied.

"David Searle"

David H. Searle, CM, QC, Panel Chair  
Environmental Appeal Board

June 29, 2011