



# Environmental Appeal Board

**Citation:** *Tracy Gardhouse v. Regional Manager, Recreational Fisheries & Wildlife Program, 2025 BCEAB 1*

**Decision No.:** EAB-WIL-24-A006(a)

**Decision Date:** 2025-01-08

**Method of Hearing:** Conducted by way of written submissions concluding on July 11, 2024

**Decision Type:** Summary Dismissal

**Panel:** Cynthia Lu, Panel Chair

**Appealed Under:** *Wildlife Act*, RSBC 1996, c. 488

**Between:**

Tracy Gardhouse

**Appellant**

**And:**

Regional Manager, Recreational Fisheries & Wildlife Program

**Respondent**

**Appearing on Behalf of the Parties:**

For the Appellant: Self-represented

For the Respondent: Geneva Grande-McNeill and Karmen Lisaingo, Counsel

# SUMMARY DISMISSAL

## INTRODUCTION

[1] The Environmental Appeal Board (the “Board”) received a notice of appeal from Tracy Gardhouse (the “Appellant”) on June 12, 2024, regarding a permit application under the *Wildlife Act*, RSBC, c. 488 (the “Act”) to import a live racoon to British Columbia. The Appellant made the permit application in May 2024. On June 7, 2024, Jack Evans, Wildlife Biologist and delegate of the Regional Manager of Recreational Fisheries and Wildlife Programs in the Ministry of Water, Land, and Resource Stewardship (the “Respondent”), notified the Appellant that the permit application was denied. The Appellant, a wildlife trainer who works with the motion picture film industry in BC, appeals the permit denial.

[2] On July 10, 2024, the Respondent brought an application that the appeal ought to be dismissed under s. 31(1)(f) of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, (the “ATA”) as the appeal has no reasonable prospect of success.

## ISSUE

[3] The issue before me is whether the appeal should be summarily dismissed under section 31(1)(f) of the ATA.

## RELEVANT LAW

[4] The Act controls import of wildlife to BC. Under section 21(1) of the Act, it is an offence to import live wildlife to BC without a permit issued under the Act.

### **Import and export of wildlife**

**21** (1) Except as authorized by a permit issued under this Act or under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, a person commits an offence if the person

(a) imports into British Columbia live wildlife, or the egg of a wildlife species  
(emphasis added)

[5] Section 4(b) of the *Permit Regulation* (the “Regulation”) under the Act provides the ability for the director to issue permits that authorize persons to import live wildlife:

### **Director's permits**

**4** The director may issue a permit in accordance with this regulation on the terms and for the period the director specifies,

[...]

- (b) authorizing a person to import into British Columbia
  - (i) live wildlife, or
  - (ii) the egg of a wildlife species,

[6] Further, the *Regulation* specifies in section 7(1) and Schedule 1 certain species of wildlife for which an import permit must not be issued. Section 7(2) of the *Regulation* allows the director to issue import permits for Schedule 1 species to educational institutions or scientific organizations in given certain conditions.

### **No permit to import certain wildlife**

**7** (1) For the purpose of section 21 of the Act and section 4 (b) of this regulation, a permit must not be issued to authorize the importation of a species of wildlife listed in Schedule 1.

(2) Despite subsection (1), the director may issue a permit under section 4 (b) for a species of wildlife listed in Schedule 1 if the applicant is an educational institution or scientific organization or an agent of either and the director is satisfied that the importation will not be detrimental to native wildlife or wildlife habitat.

(emphasis added)

[7] Schedule 1 of the *Regulation* lists the mammals, birds, amphibians and reptiles that live import permits must not be issued for. Raccoon, *Procyon lotor*, is listed in Schedule 1 Section 1(q).

### **Schedule 1**

For the purposes of section 7 (1), live import permits must not be issued for the following wildlife:

**1** Mammals of the following species:

[...]

(q) *Procyon lotor* — raccoon;

[9] Section 31(1) of the *ATA* addresses summary dismissal and subsection (f) addresses the specific provision relied on by the Respondent in their application:

### **Summary dismissal**

**31** (1) At any time after an application is filed, the tribunal may dismiss all or part of it if the tribunal determines that any of the following apply:

[...]

(f) there is no reasonable prospect the application will succeed.

## SUBMISSIONS

### Appellant's Submissions

[8] The Appellant is a wildlife trainer for the motion picture industry and submits she has held permits in the past for raccoon and skunk. The Appellant submits she has always maintained a high standard of care for her animals. The Appellant submits, in 2023, her application to possess a raccoon from a rehabilitation centre in BC for commercial purposes was denied. The Appellant submits during that process she was informed she was required to obtain a raccoon from a licenced captive breeder.

[9] In May 2024, the Appellant completed steps to obtain a live captive bred raccoon from a licensed breeder in Ohio, USA. The Appellant applied for a permit to import the live raccoon through the government's online application portal. The application was denied, and a notice was provided by the Respondent on June 7, 2024.

[10] The Appellant seeks to understand the criteria used to evaluate her application, and what additional steps, if any, are necessary to meet the import permit requirements. The Appellant submits that she is aware of other entities that have received permits to bring raccoons into British Columbia for similar purposes. The Appellant is troubled by the fact that other entities can bring raccoons into the province for the film industry, while she, a local trainer, cannot. The Appellant submits she is committed to following all regulations and ensuring the welfare of animals under her care. The Appellant submits letters of support from film production companies, a veterinarian, and colleagues.

### Respondent's Submissions

[11] The Respondent submits the permit application was appropriately denied because *Regulation* section 7(1) prohibits the issuance of a permit to import live raccoons. The Respondent submits the appeal ought to be dismissed under section 31(1)(f) of the *ATA* as there is no reasonable prospect the appeal will succeed.

## DISCUSSION AND ANALYSIS

[12] I recognize the outcome of this appeal may have significant impacts on the Appellant's livelihood. I also acknowledge the Appellant's submissions on the potential impacts of this situation more broadly on wildlife trainers for the film industry. However, without the relevant facts, context, or jurisdiction, I am unable to comment on any permit applications or decisions aside from the application before me in this appeal.

[13] The Board's authority is bound by the legislation that enables it, in this case the *Act*, *Environmental Management Act*, SBC 2003, c. 53, and *ATA*. The Board interprets the language in these laws but has no authority to make or change legislation or regulations.

[14] Section 7(1) of the *Regulation* states that a permit must not be issued to authorize the importation of wildlife species listed in *Regulation* Schedule 1. The raccoon is a species listed in *Regulation* Schedule 1. Therefore, section 7(1) of the *Regulation* prohibits the issuance of a permit to import a live raccoon.

[15] In certain situations, section 7(2) of the *Regulation* provides the director limited discretion in approving importations of Schedule 1 wildlife species if the permit applicant is an educational or scientific organization. The Appellant does not meet this description in section 7(2) and does not argue that this section should apply.

[16] Given the above, there is no reasonable prospect that the Appellant will succeed with their grounds of appeal if the Board were to give a full hearing on the merits. The Board has no legal authority to grant the permit requested by the Appellant, as *Regulation* section 7(1) specifically says that a permit must not be issued to import live raccoon. In other words, the Board cannot grant a remedy that is prohibited by law.

## DECISION

[17] In making my decision, I have carefully considered all the relevant documents and the parties' submissions, whether or not they are specifically referenced in the reasons above.

[18] For the reasons above, I summarily dismiss the Appellant's appeal under Section 31(1)(f) of the *ATA* because there is no reasonable prospect the appeal will succeed given Section 7(1) of the *Regulation*.

"Cynthia Lu"

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Cynthia Lu, Panel Chair  
Environmental Appeal Board