

Decision

IN THE MATTER OF Sections 84, 85, 86, 87 of the *Environmental Protection and Enhancement Act*, (SA. 1992 ch.E-13.3);

-and-

IN THE MATTER OF an appeal filed by Ron W. Eade of Capital Industrial Sales and Service, of Edmonton, Alberta dated March 21, 1994 with respect to Approval 93-IND-007 issued on February 22, 1994 by Mr. J.C. Lack, Director, Environmental Protection, relative to the Custom Environmental Services Ltd. Special waste facility located in Edmonton, Alberta.

Cite as: Ron W. Eade v. Director, Alberta Environmental Protection

BEFORE: David H. Marko, Vice-chair
Joan C. Copp
Max A. McCann

Mr. Ron W. Eade of Capital Industrial Sales and Service, Edmonton, Alberta wrote a letter of objection dated March 21, 1994, which was received and filed with the Environmental Appeal Board (the "Board") on March 25, 1994. Mr. Eade filed this notice of objection pursuant to section 84(1)(a)(v) of the *Environmental Protection and Enhancement Act* (the "Act"). Mr. Eade's objection was in response to a public notice distributed to all immediately adjacent property holders and tenants of Custom Environmental Services Ltd. ("Custom") as required by Mr. J.C. Lack, Director, Department of Environmental Protection (the "Director") and contained in a letter addressed to Custom on February 25, 1994 by the Department of Environmental Protection when it issued approval 93-IND-007. The approval issued to Custom was an amendment and an extension of an earlier approval issued to it for the operation of a special waste facility.

After having received Mr. Eade's objection on March 25, and a completed Notice Of Appeal on April 12, 1994, the Board wrote to all of the parties to this appeal to seek additional information. The Board set May 10, 1994 as a deadline for submissions. All parties, including Mr. Eade, were advised that the request was being made pursuant to section 87(3) of the Act. In addition, Mr. Eade was cautioned that the request for information from him was also being made pursuant to section 85 of the Act. The Board's letter to Mr. Eade stated:

A WORD OF CAUTION:

You should be aware that the Board has the ability to dismiss an appeal if you do not provide us with all of the information which we need and which we seek at this time. Accordingly, please answer all of the questions as thoroughly as possible and send them to this office within the deadline. Failure to respond to this request may result in the Board's dismissal of your appeal.

Section 85 states:

"Where the Board receives a notice of objection it may be written notice given to the person who submitted the notice of objection require the submission of additional information specified in the written notice by the time specified in the written notice."

The Direction and Custom submitted their replies to the Board on or before May 10, 1994. To date a reply has not been received from Mr. Eade.

Under section 87(5)(a)(ii) of the Act the Board may dismiss a notice of objection when the person who submitted the notice of objection fails to comply with a written notice under section 85. The Board hereby exercises its discretion and dismisses the notice of objection filed by Mr. Ron Eade of Capital Industrial Sales and Services for having failed to comply with the Board's written request under section 85 of the Act.

Dated on May 18, 1994, at Edmonton, Alberta.

David H. Marko, Vice-chair

Joan C. Copp, Board Member

Max. A. McCann, Board Member