

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date File Closed: August 11, 1996

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

**-and-**

**IN THE MATTER OF** an appeal filed by Alberta Cement Corporation, with respect to Amending Approval No.'s 93-WP-042B and 93-AP-099B (94) issued by the Director of Air and Water Approvals, Alberta Environmental Protection to Alberta Cement Corporation.

Cite as: Alberta Cement Corporation v. Director of Air and Water Approvals, Alberta Environmental Protection.

## **BACKGROUND**

On February 9, 1996, Alberta Cement Corporation filed a Notice of Appeal with respect to Permit No.'s 93-AP-099 and 93-WP-042, as amended, issued by the Director of Air and Water Approvals to Alberta Cement Corporation for the construction of the Rocky Mountain House cement manufacturing plant being null and void.

On February 16, 1996, the Board wrote to Mr. Richard Secord, counsel for Alberta Cement Corporation, requesting the date when Alberta Cement Corporation received the decision regarding the permits. By copy of this letter, the Board also requested the Department of Environmental Protection provide all related documentation.

Mr. Secord wrote to the Board on March 4, 1996, advising that Alberta Cement Corporation received the decision regarding the permits on January 11, 1996. He also advised that they have sought judicial review and that they request the appeal be held in abeyance pending their application for judicial review.

On March 6, 1996, the Board wrote to the Alberta Energy and Utilities Board (AEUB) and the Natural Resources Conservation Board (NRCB) requesting both advise whether the matter was the subject of a public hearing or review under either of their Boards. On May 14, 1996, the AEUB advised that they had neither reviewed nor held public hearings in this matter under their Board. On March 18, 1996, the NRCB advised that they had received an application from Alberta Cement Corporation for a limestone quarry south west of Rocky Mountain House and that the proposed quarry is a reviewable project pursuant to section 4(c) of the *Natural Resources Conservation Act*.

On March 6, 1996, the Board wrote to all parties requesting response to the question of applicability of the *Environmental Protection and Enhancement Act*, including transitional provisions, as it relates to this appeal. Both parties advised that the approvals were issued under the Clean Air Act and the

Clean Water Act pursuant to section 243(1) of the *Environmental Protection and Enhancement Act*. On March 12, 1996, correspondence was received from Ms. Jennifer Klimek, counsel for Ms. Martha Kostuch, advising that her client requests status to intervene in the appeal and production of all documentation forwarded to the Board with respect to the appeal. The Board wrote to Ms. Klimek informing her that all documentation on this appeal is available to the public and an appointment could be set up to view these documents.

On April 22, 1996, the Board wrote to all parties advising that the Board had decided to adjourn the appeal until after the Court of Queen's Bench has ruled on Alberta Cement's Application for Judicial Review.

On July 10, 1996, the Board received the Memorandum of Judgment of Madame Justice Veit stating:

“Having concluded that the Director’s decision is clearly irrational, I allow the motion for judicial review and set aside the Director’s declaration that Alberta Cement’s permits are null and void.”

On July 11, 1996, the Board wrote to all parties informing that it was in receipt of the Memorandum of Judgment of Madame Justice Veit which was issued on July 5, 1996. Resulting from this decision, the Board would be closing its file in 30 days unless the parties involved provided information that should direct otherwise.

## **DECISION**

The appeal is therefore closed.

Dated on August 12, 1996, at Edmonton, Alberta.

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William A. Tilleman, Chair