
ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Report and Recommendations - May 21, 1998

IN THE MATTER OF Sections 84, 87, 91, 92 and 223 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 Ms. Wendy Ault with respect to Administrative Penalty No. 97/25-PCD-AP-98/02 issued to R. Ault and W. Ault operating as Marwayne Bottle Depot by Mr. Fred Schulte, Director of Pollution Control Division, Alberta Environmental Protection.

Cite as: Ault v. Director of Pollution Control Division, Alberta Environmental Protection

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BACKGROUND

[1] On February 3, 1998, Mr. Fred Schulte, Director of Pollution Control (Director), Alberta Environmental Protection, issued a Notice of Administrative Penalty No. 97/25-PCD-AP-98/02 (Administrative Penalty) to R. Ault and W. Ault operating as Marwayne Bottle Depot. A penalty of \$1,000.00 was issued to R. Ault and W. Ault for failing to submit a quarterly container volume report by its due date of April 30, 1997; therefore, contravening section 17(2) of the Beverage Container Recycling Regulation.¹

[2] On March 3, 1998, the Environmental Appeal Board (the Board) received a letter dated February 2, 1998, from Ms. Wendy Ault (the Appellant) advising the Board of her appeal with respect to Administrative Penalty No. 97/25-PCD-AP-98/02.

[3] The Board wrote to Ms. Ault on March 4, 1998, acknowledging receipt of her letter, and requested that she provide further clarification. By copy of that letter the Board requested the Department of Environmental Protection (the Department) provide all related correspondence, documents and materials.

[4] On March 24, 1998, the Appellant provided the Board with the information requested and in her letter advised that she was objecting to the penalty as the reports in question were provided.

[5] All requested correspondence was received from the Department on April 17, 1998. Along with the information received, counsel for the Director, provided the Board with a proposed resolution of the appeal and requested assistance of the Board to present the resolution to the Appellant.

¹ Alberta Regulation 101/97 with amendments up to and including Alberta Regulation 166/97.

[6] On April 20, 1998, the Board wrote to Ms. Ault informing her that the Board would be appointing a mediator in an attempt to either resolve the appeal or to establish procedural parameters for a hearing. The Board also provided Ms. Ault with a copy of the information received from the Department and a copy of the proposed mediation agreement provided by counsel for the Director.

[7] On May 1, 1998, the Board received, via fax, the signed mediation agreement from Ms. Ault, setting out the terms of the agreement as included on page 5 of this Report.

[8] On May 8, 1998, along with the original signed mediation agreement, the Board received a letter from Ms. Ault dated May 2, 1998, stating:

“... Please take this letter as official notice to drop the Appeal in respect to Administrative Penalty No. 97/25-PCD-AP-98/02.”

RECOMMENDATIONS

[9] The Board recommends that the Minister of Environmental Protection approve the Mediation Agreement regarding Administrative Penalty No. 97/25-PCD-AP-98/02, subject to all of the conditions of the Resolution contained herein.

[10] Further with respect to section 92(2) and 93 of the *Environmental Protection and Enhancement Act*, the Board recommends that copies of this Report and Recommendations and of any decision by the Minister be sent to the following parties:

- Ms. Wendy Ault, Marwayne Bottle Depot; and

- Ms. Maureen Harquail, Counsel, Alberta Justice, representing the Director, Pollution Control Division, Alberta Environmental Protection.

Dated May 21, 1998, at Edmonton, Alberta.

“original signed by”
Dr. William A. Tilleman
Chairman

ORDER

I, Ty Lund, Minister of Environmental Protection:

yes Agree with the Recommendations of the Environmental Appeal Board and order that they be implemented.

_____ Do not agree with the Recommendations of the Environmental Appeal Board and make the alternative Order set out below or attached.

Dated at Edmonton this 28 day of May 1998.

“original signed by”
Honourable Ty Lund
Minister of Environmental Protection

_____ Refer to Attachments (only if applicable)

**MEDIATION AGREEMENT
RESOLUTION OF APPEAL NO. 98-011 REGARDING ADMINISTRATIVE PENALTY
NO. 97/25-PCD-AP-98/02:**

Between

**WENDY AULT
Operating as Marwayne Bottle Depot
("Appellant")**

and

**DIRECTOR OF POLLUTION CONTROL
Alberta Environmental Protection
("Director")**

Whereas on February 3, 1998, the Director issued Administrative Penalty No. 97/25-PCD-AP-98/02 to the Appellant in the amount of \$1,000 for late submission of a quarterly container volume report:

Whereas on March 3, 1998, the Appellant filed a Notice of Objection with the Environmental Appeal Board with respect to Administrative Penalty No. 97/25-PCD-AP-98/02;

Whereas new information relevant to the Director's decision to issue Administrative Penalty No. 97/25-PCD-AP-98/02 came to light after the decision had been made; and

Whereas the parties consented to participate in a mediation before the Environmental Appeal Board;

The parties hereto agree as follows"

- 1) THAT the parties request an order directing that Administrative Penalty No. 97/25-PCD-AP-98/02 is declared VOID.

Dated this 1 day of May, 1993.

May 15/98

“original signed by”

WENDY AULT
Marwayne Bottle Depot

“original signed by”

F.J. SCHULTE
DIRECTOR

