

ALBERTA ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Withdrawals - June 23, 1998

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

-and-

IN THE MATTER OF appeals filed by 425167 Alberta Ltd., operating as Bottle Bin Bottle Depot and Y&S Recycling Ltd., operating as Capilano Bottle Depot, with respect to Amending Approval Number 97-BCD-022-1 for the operation of a Beverage Container and Recycling Depot, issued to Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani by Mr. Jerry C. Lack, Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

Cite as: Bottle Bin Bottle Depot and Capilano Bottle Depot v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

TABLE OF CONTENTS

BACKGROUND	1
DECISION	3

BACKGROUND

[1] On December 18, 1997, 425167 Alberta Ltd., operating as Bottle Bin Bottle Depot (Appellant) filed a Notice of Appeal with the Environmental Appeal Board (Board) with respect to amending Approval Number 97-BCD-022-1 issued by Mr. Jerry C. Lack, Director of Chemicals Assessment and Management Division, Alberta Environmental Protection (Director), dated November 21, 1997, to Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani for the operation of a Beverage Container and Recycling Depot (file 97-062).

[2] A second Notice of Appeal dated December 31, 1997, was filed by Mr. James H. Song on behalf of Mr. Young Kil Kim, of Y & S Recycling Ltd., operating as Capilano Bottle Depot (Appellant) with respect to the same amending Approval issued by the Director to Mr. Nazmin Nurani and Ms Zeini Virji-Nurani (file 97-065).

[3] The grounds for appeal in Notice of Appeal (file 97-062) were stated as follows:

- (a) “The Approval amendments made by Mr. J.C. Lack in his decision of November 21, 1997 are amendments to an approval which was issued in response to Application No. BC97-0003 (the “Application”), and in contravention of the guidelines and policies developed and consistently applied to new applications for approvals, including those guidelines and policies relating to the form and timing of notice of a hearing before the Board relating to new applications, and, more substantively, those which relate to the physical distance between bottle depot sites and the population in and around bottle depot sites.”
- (b) “The recommendations of the Board with respect to the Application, the Order of the Honourable Ty Lund and the decision to grant the Approval were made without the benefit of the substantive evidence which 425167 Alberta Ltd. is able to provide.”
- (c) “Evidence which 425167 Alberta Ltd. is able to provide relating to the Application which resulted in the Approval was not available prior to the granting of the Approval because 425167 Alberta Ltd.

received insufficient notice of and inaccurate information regarding the hearing before the Board relating to the Application, which appeal was held on August 18, 1997.”

- (d) “The evidence which 425167 Alberta Ltd. is able to provide relating to the Application which resulted in the Approval, provides substantive grounds for revoking the Approval.”

[4] The grounds for appeal in Notice of Appeal (file 97-065) were as follows:

- (a) “the Amendment relates to an Approval granted without providing adequate notice to affected parties, including Capilano Bottle Depot, and without the benefit of relevant evidence from Capilano Bottle Depot and other affected parties; and”
- (b) “this is an inappropriate case for the granting of an extension of time.”

[5] The Appellants requested that the Approval Amendment be revoked.

[6] On June 5, 1998, the Board wrote to the parties that, in regards to file numbers 97-039, 062, 063 and 065,

“[i]t is the Board panel’s view that the matters that now remain to be decided in the appeals can be dealt with adequately by written submissions.”

The letter went on to establish dates when written submissions would be required.

[7] On June 23, 1998, the Board received a letter dated June 17, 1998, via fax from Ms. Mary L. Henderson, counsel for 425167 Alberta Ltd., stating:

“This is to advise that our client, 425167 Alberta Ltd., operating as the Bottle Bin Bottle Depot, does not intend to pursue the Notice of Appeal of the amendment to the Approval provided to the Nuranis, dated December 17, 1997.”

[8] On June 23, 1998, the Board received a letter via fax from Mr. James H. Song, counsel for Y & S Recycling Ltd., stating:

“The writer confirms that his client, Y & S Recycling Ltd. operating as Capilano Bottle Depot, will not be proceeding with Appeal File 97-065 at this time and as such will not be filing any submissions in respect of same.”

DECISION

[9] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Ms. Henderson’s letter of June 17, 1998, and Mr. Song’s letter of June 23, 1998, the Board hereby discontinues its proceedings and will be closing its files numbered 97-062 and 97-065.

Dated on June 29, 1998, at Edmonton, Alberta.

Dr. John P. Ogilvie