

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – July 28, 2004

IN THE MATTER OF sections 91, 92 and 95 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12;

-and-

IN THE MATTER OF an appeal filed by RD Flush Systems Ltd.
and Jacob Martens with respect to *Environmental Protection and
Enhancement Act* Enforcement Order No. EO-2003/03-CR issued
to RD Flush Systems Ltd. and Jacob Martens by the Director,
Central Region, Regional Services, Alberta Environment.

Cite as: *RD Flush Systems Ltd. et al v. Director, Central Region, Regional Services,
Alberta Environment* (28 July 2004), Appeal No. 03-115-DOP (A.E.A.B.).

EXECUTIVE SUMMARY

On July 25, 2003, Alberta Environment issued Enforcement Order No. EO-2003/03-CR to RD Flush Systems Ltd. and Jacob Martens for alleged contraventions of the *Environmental Protection and Enhancement Act* in relation to a truck washing facility in Red Deer, Alberta.

The Board scheduled a Hearing of the appeal for October 29, 2003. However, prior to the Hearing, the Board received a request from the Appellants to adjourn the Hearing as the parties were in discussions with a view towards resolving the appeal.

The Board granted the request for an adjournment. The Appellants subsequently withdrew their appeal on July 8, 2004. The Board therefore closes its file in this matter.

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I. BACKGROUND

[1] On July 25, 2003, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued Enforcement Order No. EO-2003/03-CR (the “Enforcement Order”) to RD Flush Systems Ltd. and Mr. Jacob Martens for alleged contraventions of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, in relation to a truck washing facility in Red Deer, Alberta, operated by RD Flush Systems Ltd. and Jacob Martens.

[2] On July 31, 2003 the Environmental Appeals Board (the “Board”) received a Notice of Appeal from RD Flush Systems Ltd. and Mr. Jacob Martens (the “Appellants”) appealing the Enforcement Order.

[3] On August 1, 2003, the Board wrote to the Appellants and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to these appeals, and that the Parties provide available dates for a hearing.

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective legislation. Both boards responded in the negative.

[5] On August 15, 2003, the Board received a copy of the Record from the Director, and on August 19, 2003, forwarded a copy to the Appellants.

[6] On September 4, 2003, in consultation with the Parties, the Board scheduled the Hearing of the appeal for October 29, 2003, in Edmonton, Alberta. However, on October 15, 2003, the Board received a letter from the Appellants requesting an abeyance of the Hearing. The Appellants’ October 15, 2003 letter stated:

“...The reason is that the parties have substantially agreed on the resolution of the matters that are the subject of the Order appealed from, and that remaining matters are close to resolution. We understand that counsel for Alberta Environment is agreeable to the adjournment.”

[7] As both Parties were in agreement and as the Parties appeared to be working successfully on a resolution, the Board granted the request for the abeyance and requested the Parties provide a status report to the Board by November 14, 2003.

[8] On November 14, 2003, the Board received a status report from the Director advising that the Parties were continuing to work towards a resolution and that the Director remained "...optimistic that matters within the Enforcement Order can be fully resolved..."

[9] Status reports were provided to the Board on a regular basis from the Parties, updating the Board on the Parties' progress and on July 8, 2004, the Board received a letter from the Appellants stating:

"...I request that the above-noted appeal be withdrawn..."

II. DECISION

[10] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act* R.S.A. 2000, c W-3, and based upon the withdrawal of the appeal by the Appellants, the Board hereby discontinues its proceedings in Appeal No. 03-115 and closes its file.

Dated on July 28, 2004 at Edmonton, Alberta.

William A. Tilleman, Q.C.
Chairman