
ALBERTA
ENVIRONMENTAL APPEAL BOARD

Decision

Date of Decision – March 4, 2002

IN THE MATTER OF sections 91, 92 and 98 of the
Environmental Protection and Enhancement Act, R.S.A. 2000, c.
E-12;

-and-

IN THE MATTER OF an appeal filed by Resorts of the Canadian
Rockies Inc. with respect to Administrative Penalty No. 01/29-
BOW-AP-02/03 issued by the Director, Southern Region, Regional
Services, Alberta Environment to Wintergreen Family Resorts Ltd.
and Resorts of the Canadian Rockies Inc.

Cite as: *Resorts of the Canadian Rockies Inc. v. Director, Southern Region, Regional
Services, Alberta Environment.*

EXECUTIVE SUMMARY

Alberta Environment issued an Administrative Penalty to Wintergreen Family Resorts Ltd. and Resorts of the Canadian Rockies Inc. for a contravention of section 213(e) (now section 227 (e)) of the *Environmental Protection and Enhancement Act* for failing to ensure that the day-to-day operations of the plant and collection system were supervised by an operator holding a Level II Wastewater Treatment Plant Operator Certificate, late submission of the Wastewater Irrigation Report and failing to immediately report a contravention of the Approval. The Approval in question was issued to Wintergreen Family Resorts Ltd. for the operation of the waste water treatment plant. This section of the *Environmental Protection and Enhancement Act* makes it an offence to violate a term or condition of an Approval.

The parties agreed to an amendment of the Administrative Penalty by deleting Resorts of the Canadian Rockies Inc.

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I. BACKGROUND

[1] On January 15, 2002, the Director, Southern Region, Regional Services, Alberta Environment, (the “Director”) issued Administrative Penalty No. 01/29-BOW-AP-02/03 (the “Administrative Penalty”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (the “Act”) to Resorts of the Canadian Rockies Inc. (the “Appellants”) and Wintergreen Family Resorts Inc. (“Wintergreen”). According to the Administrative Penalty, there was a contravention of section 213(e)¹ of the *Environmental Protection and Enhancement Act*, S.A., 1992, c. E-13.3 for failing to ensure that the day-to-day operations of the plant and collection system were supervised by an operator holding a Level II Wastewater Treatment Plant Operator Certificate; late submission of the Wastewater Irrigation Report; and failing to immediately report a contravention of the Approval. The Approval in question had been issued to the Appellants for the operation of the waste water treatment plant.

[2] On February 8, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal dated February 7, 2002 from Resorts of the Canadian Rockies Inc. The Notice of Appeal advised that Wintergreen has been “...granted protection under the Companies Creditors Arrangement Act.”

[3] The Board acknowledged the Notice of Appeal on February 12, 2002, notified the Director of the appeal, and requested that the Director provide copies of the records (the “Record”) relating to this appeal.

[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. The Energy and

¹ Section 213 of the *Environmental Protection and Enhancement Act*, S.A. 1992, c. E-13.3 provides:

“A person who

- (e) contravenes a term or condition of an approval, a certificate of variance, a reclamation certificate, a remediation certificate or a certificate of qualification...is guilty of an offense.”

Section 213(e) of the *Environmental Protection and Enhancement Act* S.A. 1992, c. E-13.3 is now section 227 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12.

Utilities Board replied in the negative. The Board has not yet received a response from the Natural Resources Conservation Board.

[5] On February 25, 2002, the parties to the appeal agreed to an amendment of the Administrative Penalty. A Resolution was prepared by the Board and was signed by the Appellants on February 28, 2002 and by the Director on March 1, 2002 (see page 3 and 4 of this Decision).

II. ORDER OF THE BOARD

[6] In accordance with section 98(2) of Act, the Board has the authority to confirm, reverse or vary the decision of the Director.² In this regard, with respect to the decision of the Director, Southern Region, Regional Services, Alberta Environment, to issue Administrative Penalty No. 01/29-BOW-AP-02/03 dated January 15, 2002 under the *Environmental Protection and Enhancement Act* to Resorts of the Canadian Rockies Inc. and Wintergreen Family Resorts Ltd., the Board orders that the decision of the Director to issue the Administrative Penalty is confirmed subject to the following:

1. That the decision of the Director is varied by amending the Administrative Penalty by deleting the following name: "Resorts of the Canadian Rockies Inc."

Dated on March 4, 2002, at Edmonton, Alberta

"original signed by"

Dr. M. Anne Naeth

² Section 98(2) of the Act Provides

"In its decision, the Board may

- (a) confirm, reverse or vary the decision appealed and make any decision that the Director whose decision was appealed could make, and
- (b) make any further order the Board considers necessary for the purposes of carrying out the decision."

RESOLUTION OF APPEAL NO. 01-116 REGARDING ADMINISTRATIVE PENALTY NO. 01/29-BOW-AP-02/03 ISSUED UNDER THE *ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT* BY THE DIRECTOR, ENFORCEMENT AND MONITORING, SOUTHERN REGION, ALBERTA ENVIRONMENT, TO WINTERGREEN FAMILY RESORTS LTD. AND RESORTS OF THE CANADIAN ROCKIES INC. FOR A CONTRAVENTION OF SECTION(S) 213(E) OF *THE ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT*, BY FAILING TO ENSURE THAT THE DAY-TO-DAY OPERATION OF THE PLAN AND COLLECTION SYSTEM WAS SUPERVISED BY AN OPERATOR HOLDING A LEVEL II WASTEWATER TREATMENT PLANT OPERATOR CERTIFICATE; LATE SUBMISSION OF THE WASTEWATER IRRIGATION REPORT; AND FAILING TO IMMEDIATELY REPORT A CONTRAVENTION OF THE APPROVAL.

All parties to the appeal have agreed to the following terms and conditions:

1. THAT Administrative Penalty No. 01/29-BOW-AP-02/03 will be amended by deleting the Resorts of the Canadian Rockies Inc.
5. THAT in consideration of the foregoing, the Appellant, Resorts of the Canadian Rockies Inc., agrees to withdraw their Notice of Appeal.

RESOLUTION AGREED TO BY:

“original signed by”

Resorts of the Canadian Rockies Inc.
Represented by Mr. Paul Bates

February 28, 2002
Date: _____

“original signed by”

Director, Enforcement and Monitoring
Southern Region, Alberta Environment
Represented by Mr. Martin Chamberlain
Alberta Justice

Date: _____