

ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date of Discontinuance of Proceedings – June 11, 2002

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 Mr. Glenn Good with
respect to Administrative Penalty No. 01/18-BOW-AP-02/04 issued
by the Director, Enforcement and Monitoring, Southern Region,
Regional Services, Alberta Environment to Mr. Good.

Cite as: *Good v. Director, Enforcement and Monitoring, Southern Region, Regional Services, Alberta Environment.*

EXECUTIVE SUMMARY

Alberta Environment issued an Administrative Penalty to Mr. Glenn Good for applying the herbicide “Prestige” (an agricultural herbicide only) to a residential lawn, which allegedly caused damage to trees and bushes on neighbouring property from the treated area.

The Environmental Appeal Board received a Notice of Appeal from Mr. Good appealing the Administrative Penalty.

After the Board began processing the appeal, it received a request from Alberta Environment to put the appeal in abeyance so that the parties could attempt to resolve the appeal amongst themselves.

The Board granted the abeyance, an agreement was reached between Alberta Environment and Mr. Good, and Mr. Good withdrew his appeal.

The Board therefore closes its file in this matter.

TABLE OF CONTENTS

I. BACKGROUND	1
II. DECISION	3

I. BACKGROUND

[1] On January 15, 2002, the Director, Enforcement and Monitoring, Southern Region, Regional Services, Alberta Environment (the “Director”) issued Administrative Penalty No. 01/18-BOW-AP-02/04 (the “Penalty”) in the amount of \$2,000 to Mr. Glenn Good (the “Appellant”) with respect to the application of the herbicide “Prestige” (an agricultural herbicide only) to a residential lawn, located at Plan 7711259, Block 20, Lot 4, in the Town of Oyen, which allegedly caused damage to trees and bushes on neighbouring property from the treated area.

[2] On February 25, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from the Appellant.

[3] On February 26, 2002, the Board acknowledged receipt of the Notice of Appeal. As the Board required further information in order to process the appeal, the Appellant was requested to complete a Notice of Appeal form. Also, as the appeal appeared to have been filed outside of the normal time limit prescribed in the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (the “Act”), the Board requested the Appellant provide an explanation as to why the appeal was filed outside of the 30 day time limit.

[4] In the Board’s letter of February 26, 2002, the Board also notified the Director of the appeal, requested the Director provide the Board with a copy of the records related to this matter (the “Record”), and requested all parties provide the Board with available dates for a hearing.

[5] 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.

[6] On March 6, 2002, the Board received the completed Notice of Appeal from the Appellant. The Notice of Appeal included the requested information regarding the late filing of the appeal.

[7] The Board wrote to the Appellant and the Director on March 7, 2002, acknowledging receipt of Mr. Good's Notice of Appeal and requesting the Director provide comments to the Board with respect to the late filing of the Notice of Appeal.

[8] On March 13, 2002, the Board received a response from the Director, providing comments regarding the late filing of the Notice of Appeal. The Director also requested the Board hold the appeal in abeyance to enable the Director to discuss the matter with the Appellant.

[9] The Board granted the abeyance and requested the parties provide status reports to the Board by March 28, 2002.

[10] On March 14, 2002, the Board received the Record from the Director and on March 15, 2002, the Board provided a copy to the Appellant.

[11] On March 28, 2002, the Board received a letter from the Director advising of its intention to amend the Penalty and issue an Amended Notice of Administrative Penalty. The Director advised that a copy would be forwarded to the Board once it was issued. The Board acknowledged the Director's letter and requested a written status report from the Director by April 11, 2002.

[12] On April 12, 2002, the Board received a letter from the Director, advising that the "...Amended Notice of Administrative Penalty should be sent out next week." The Board requested the parties provide the Board with a further status report by April 19, 2002.

[13] On April 18, 2002, the Board acknowledged receipt of a letter dated April 15, 2002 addressed to the Appellant from the Director, with an Amended Notice of Administrative Penalty in the amount of \$1,000, and copied to the Board. The Board requested that the Appellant advise the Board by April 19, 2002 whether or not he would be withdrawing his appeal.

[14] A response was not received from the Appellant, and on April 23, 2002, the Board wrote to the Appellant again, requesting that he advise if he would be withdrawing his appeal and in the same letter, advised him that failure to respond to the Board in a timely manner could result in the dismissal of his appeal.

[15] On May 6, 2002, the Board received an e-mail from the Appellant advising that he had not received a signed Amended Administrative Penalty from the Director and advised “I think we can forgo the appeal if they will allow me enough time to pay the reduced penalty...”

[16] The Board acknowledged receipt of the e-mail from the Appellant on May 7, 2002, and asked the Director to provide comments with respect to the Appellant’s request.

[17] On May 23, 2002, the Board received a letter dated May 22, 2002, from the Director, addressed to the Appellant, advising that the Appellant would be allowed six months to pay the penalty. The Board acknowledged receipt of the Director’s letter on May 23, 2002, and requested the Appellant advise the Board if he would be withdrawing his appeal.

[18] On June 4, 2002, Board staff contacted the Appellant, as a response had not been received, from him, to the Board’s letter of May 23, 2002. The Appellant advised that he had been having trouble faxing his response to the Board and advised that he wished to withdraw his appeal.

II. DECISION

[19] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based on the telephone conversation on June 4, 2002 with Appellant, where the Appellant withdrew his appeal, the Board discontinues its proceedings in Appeal 01-117 and closes its file.

Dated on June 11, 2002, at Edmonton, Alberta.

“original signed by”
William A. Tilleman, Q.C.
Chair