

**ALBERTA  
ENVIRONMENTAL APPEAL BOARD**

**Discontinuance of Proceedings**

**Date of Discontinuance - June 17, 1998**

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

**-and-**

**IN THE MATTER OF** two appeals filed by Mr. Dave Custer of the Alberta Bottle Depot Association, with respect to Approval 97-BCD-022 and Amending Approval 97-BCD-022-1 for a Universal Beverage Container 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: Alberta Bottle Depot Association v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection.

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## **BACKGROUND**

[1] On October 6, 1997, Mr. Dave Custer of the Alberta Bottle Depot Association (Appellant) filed a Notice of Appeal with the Environmental Appeal Board (Board) with respect to Approval No. 97-BCD-022 issued by Mr. Jerry C. Lack, Director of Chemicals Assessment and Management Division, Alberta Environmental Protection (Director) on October 3, 1997, to Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani for the operation of a Beverage Container and Recycling Depot (file 97-039).

[2] A second Notice of Appeal dated December 19, 1997, was filed by the Appellant with the Board with respect to the decision of Amending Approval No. 97-BCD-022-1 issued by the Director on November 21, 1997, to Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani for the operation of the Roper Bottle Depot (file 97-063).

[3] The grounds for appeal in these Notices of Appeal were stated as follows:

- (a) “That the recommendations of the Environmental Appeal Board, the order of the Honourable Ty Lund and the ultimate decision to grant the Approval were made without the benefit of the substantive evidence from the Alberta Bottle Depot Association”;
- (b) “The issuance of this Approval is in contravention of the guidelines and policy which have been developed and consistently applied to all new applications for approvals”;
- (c) “That the evidence of the Alberta Bottle Depot Association was not available prior to the Approval being granted due to insufficient notice of the appeal before the Environmental Appeal Board heard August 18, 1997, as a result of which the Environmental Appeal Board recommended the decision presently under appeal”;
- (d) “That the evidence of the Alberta Bottle Depot Association provides substantive grounds for revoking the Approval” ;

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

[4] The Appellant requested the following relief in his Notices of Appeal:

- (a) “That the Approval be revoked”; and
- (b) “That the Amendment be revoked”.

[5] 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 these appeals can be dealt with adequately by written submissions.”

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

[6] On June 16, 1998 the Board received a letter dated June 15, 1998 via fax from Mr. Ronald M. Kruhlak, counsel for the Alberta Bottle Depot Association stating:

“Further to your letter dated June 5, 1998, we would advise that our client, the Alberta Bottle Depot Association, does not intend to proceed further with the October 6, 1997 Notice of Appeal (file 97-039) or the Notice of Appeal dated December 19, 1997 of the amendment (file 97-063). The appeals were filed to ensure we were consistent in maintaining our client’s objections to the Approval and any amendment thereto. Our withdrawal at this time is conditional upon this having no impact on our client’s ability to dispute the Board’s original decision or challenge the Board’s decision from the *de novo* hearing of May 22, 1998.”

**DECISION**

[7] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on Mr. Kruhlak's letter of June 15, 1998, the Board hereby discontinues its proceedings and will be closing file numbers 97-039 and 97-063.

Dated on June 17, 1998, at Edmonton, Alberta.

  
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John P. Ogilvie