

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

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Date of Discontinuance of Proceedings – June 7, 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 section 115 of the *Water Act*, R.S.A. 2000, c. W-3.

-and-

**IN THE MATTER OF** a Notice of Appeal filed by Mr. Robert Bresciani with respect to *Water Act* Approval No. 00183288-00-00 issued on March 22, 2002 by the Director, Central Region, Regional Services, Alberta Environment to Burt Consulting and Development Ltd., to construct, operate and maintain stormwater management works on an unnamed water body in SE 25-38-28-W4, in Red Deer, Alberta.

Cite as: *Bresciani v. Director, Central Region, Regional Services, Alberta Environment re: Burt Consulting and Development Ltd.*

## **EXECUTIVE SUMMARY**

Alberta Environment issued an Approval authorizing Burt Consulting and Development Ltd. to construct, operate and maintain stormwater management works on an unnamed water body in SW 25-38-28-W4 near Red Deer, Alberta.

The Board received a Notice of Appeal from Mr. Robert Bresciani appealing the Approval.

Mr. Bresciani attended a mediation meeting and settlement conference, which was scheduled with respect to another appeal before the Board regarding Burt Consulting and Development Ltd. As a result of discussions that took place at that mediation, Mr. Bresciani withdrew his appeal.

The Board therefore closes its file.

## TABLE OF CONTENTS

I. BACKGROUND .....	1
II. DECISION .....	2

## I. BACKGROUND

[1] On March 22, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued Approval No. 00183288-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to Burt Consulting and Development Ltd. (the “Approval Holder”). The Approval authorizes the Approval Holder to construct, operate and maintain stormwater management works on an unnamed water body in SE 25-38-28-W4, near Red Deer, Alberta.

[2] On, May 8, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mr. Robert Bresciani (the “Appellant”), appealing the Approval.

[3] On May 9, 2002, the Board acknowledged receipt of the Notice of Appeal. As it appeared to the Board that the Appellant had filed his appeal outside the normal time limit prescribed in the *Water Act*, the Board wrote to the Appellant as follows:

“The normal time limit prescribed in the *Water Act* for filing such an appeal is **7 days**. As the Approval was issued on March 22, 2002, your Notice of Appeal appears to be significantly outside the time limit prescribed in the *Water Act*, **you are requested to advise the Board if you wish to request an extension of time to appeal?** Please indicate to the Board the reasons for the extension of time to appeal **and provide an explanation as to why the appeal was filed outside of the 7-day time limit**. The granting of the extension of time is at the discretion of the Board and is not routinely granted. You are requested to provide this information **in writing** to the Environmental Appeal Board by **May 17, 2002.**”  
[Emphasis in original.]

The Board also notified the Director and Approval Holder of the appeal.

[4] On May 24, 2002, the Board received a telephone call and a letter, from the Appellant in response to the Board’s letter of May 9, 2002. The Appellant advised that the reason he had filed his appeal late was because he had not been notified of the Approval by the Director.

[5] The Board acknowledged receipt of the Appellant’s letter and telephone call, by letter of May 28, 2002, and in that same letter requested the Approval Holder and Director provide their comments to the Board with respect to the Appellants letter of May 24, 2002.

[6] On May 27, 2002, the Board received comments to the Appellant's letter of May 24, 2002 from the Approval Holder and the Director. The Approval Holder requested the appeal be "rejected." The Director's letter stated:

"...Mr. Bresciani did not file a Statement of Concern in accordance with section 109 of the *Water Act*. Accordingly, there was no requirement to provide notice of the Decision to Mr. Bresciani pursuant to section 111(2)(b) of the *Water Act*."

[7] On May 28, 2002, the Board acknowledged receipt of the letters of May 27, 2002 from the Director and the Approval Holder and requested Mr. Bresciani provide a final response to the Board by June 3, 2002.

[8] On May 30, 2002, the Appellant attended a mediation meeting and settlement conference, in Red Deer, Alberta, which had been scheduled with respect to another appeal that was already before the Board regarding the Approval Holder.<sup>1</sup>

[9] On June 7, 2002, the Board had not received a response to its letter of May 28, 2002, from the Appellant. Board staff contacted the Appellant and was advised by the Appellant that he was withdrawing his appeal as a result of the discussions that took place at the mediation meeting and settlement conference on May 30, 2002 in Red Deer, Alberta.

## II. DECISION

[10] Pursuant to section 95(7) of the *Environmental Protection and Enhancement Act*, and based on the withdrawal of the appeal by the Appellant, the Board hereby discontinues its proceedings in Appeal No. 02-011 and closes its file.

Dated on June 7, 2002, at Edmonton, Alberta.

"original signed by"

William A. Tilleman, Q.C.

Chair

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<sup>1</sup> *Pitt v. Director, Central Region, Regional Services, Alberta Environment*, re: *Burt Consulting and Development Ltd.* (May 31, 2002.), E.A.B. Appeal No. 01-133.